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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, FIRST SESSION

SENATE—*Thursday, December 5, 1985*

(Legislative day of Monday, December 2, 1985)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of Abraham, Isaac, and Israel, this is a time for love and light, for gratitude and celebration. We praise You for this very special time—Thanksgiving, Hanukkah, and Christmas. We celebrate Your manifold blessings to us as a nation. We thank You for the privilege of being a part of Senate life.

Thank You, gracious Father, for our leaders, for their strength, their wisdom, their patience. Thank You for the Senators, their commitment, their hard work, their sacrifices. Thank You for all the faithful men and women whose dedication and tireless labors make it possible for the Senate to do its work. Thank You for administrative assistants and legislative aides, for secretaries, receptionists, and clerks, for committee staffs and directors. Thank You for those who work in the Cloakrooms, in the Secretary's office, in the Sergeant at Arms' office, with the CONGRESSIONAL RECORD. Thank You for the pages. Thank You for the security people, those in food service, elevator and subway operators, and those who maintain buildings and grounds. Thank You, Lord, for the pleasure and privilege of each others' friendship. In His name who is Incarnate Love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader is recognized.

(Mr. CHAFEE assumed the chair.)

A "THANK YOU" FOR THE CHAPLAIN

Mr. SIMPSON. Also, thank you for our Chaplain, as we are thanking the various entities that make this place function.

BIRTHDAY GREETINGS TO SENATOR THURMOND

Mr. SIMPSON. Mr. President, today is Senator THURMOND's 83d birthday, and he is absolutely special. He is an institution within an institution. He is one of the most remarkable men—and I say this sincerely; I am not prone to just firing it around. He is something of substance in the midst of things that are sometimes fantasy in this place. He is a special person. I have the greatest respect, admiration, and love for him, and I think many of us here do.

We say to you, sir, congratulations on this, another milestone in your life, and may you have many more years of life to savor.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. SIMPSON. I yield.

Mr. THURMOND. Mr. President, I thank the distinguished and able Senator for his kind remarks. I do not deserve all the nice things he said, but I am glad to be here and I am honored to be in the U.S. Senate and to work with such outstanding and able people as the distinguished Senator from Wyoming [Mr. SIMPSON] and others who are here.

I am in good health, I feel wonderful, and I am proud to be here and to work with these fine people.

SCHEDULE

Mr. SIMPSON. Mr. President, we have the convening hour of 10:15 a.m.; time for two leaders under the standing order of 10 minutes each; routine morning business not to extend beyond 10:45 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, at 10:45 a.m., the Senate can be expected to turn to either S. 259, the sports franchise bill, or S. 1396, the White Earth Indian bill.

Time agreements are presently being worked on and hopefully can be reached on both those measures, and rollcall votes can be expected.

Then the Senate will be asked to turn to any of the following items:

Executive calendar judges and ambassadors; S. 1017, the regional airport bill, or at least perhaps to try to propound a time agreement there; S. 638, the Conrail bill, with perhaps an opportunity to propound a time agreement there also; and the conference report to accompany Labor-HHS appropriations bill.

Votes can be expected throughout the day today.

As we draw toward the end of this day we will be able to give all Members an idea of what the activity may be tomorrow. But I would certainly hunch that we will be voting tomorrow and be involved in vigorous activity.

MEETING OF SENATORS THIS MORNING

Mr. SIMPSON. Mr. President, each Senator now in the Chamber, including the occupant of the chair [Senator CHAFEE] and Senator GORE and Senator THURMOND, participated in a very important meeting this morning. It consisted of all Senators who wished to attend—nearly 60—with no staff present, in the Mansfield Room. We discussed basically the issue of the quality of life of the U.S. Senate, what we do here, how we do our business, whether we recognize the needs that the Chaplain often speaks of with regard to our families, our lives, the things we do, and the people we are. The meeting was very worthwhile.

I thought Senator STENNIS, our esteemed and revered colleague, said it best when he said the important thing for the thrust for this meeting is that it did not come from the leadership.

The meeting was not established through the leadership, either through Senator DOLE or through Senator BYRD or Senator CRANSTON or myself, or the committee chairmen. It was established through the membership. That membership is the very yeast of this place, and when the Members feel these things upon them, then they are responding.

I think it is an excellent sign.

Senators JACK DANFORTH and DAVE PRYOR are the focal point of the four Democrats and four Republicans who are addressing this issue. They will be our spokesmen and they will be the catalysts for further meetings, where we will be discussing not rules changes but the things that have to do with our daily existence in this place. We are looking toward the true 15-minute rollcall votes, and avoiding asking for the yeas and nays on amendments that pass 99 to nothing, or 98 to 1, that take 15 minutes. We have spent 300-some hours of our time this year on quorum calls and the literally hundreds of rollcall votes in the course of a year. When Senator STENNIS was first here, the rollcall votes were 70 in number per year, and now we have rollcall votes on almost every subject known to possibly come up and often only for the purpose of saying, "I need to show them in conference what powers I had when I got that passed in the Senate by 99 to whatever—" actually is not much whatever after 99.

But that is what we are trying to do. We discussed things such as "holds" which have come into a form of reverence, which was never meant to be. We can still accommodate the needs of our Members and peers without having "permanent" holds.

So those are things that are coming to pass through that group, and I am excited about it. The best thing, even if nothing came of it, would be that we are going to do that again and we will do it soon after we convene in January. We shall meet again and we shall continue to do that, and it comes about from the Members, and I think it can work that way, for whoever may wish to attend. There was good attendance, which was an excellent portent of things to come. I think it augers well for our future together in comity, and eventually we may even get into the dampening of partisanship for pure partisanship's sake and that will certainly be a very important part of it too, I believe.

I thank the Chair. I reserve the remainder of the leader's time and yield to my friend, Mr. GORE, from Tennessee.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order the Democratic leader is recognized.

Mr. GORE. Mr. President, I ask unanimous consent that the Democratic leader's time be reserved for his use later on.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SPORTS BILL

Mr. GORE. Mr. President, I shall say only a few brief words about one of the legislative items just mentioned as being possibly considered today, and that is the sports bill. I simply advise the leadership and my colleagues that negotiations on that matter are continuing but it does not appear likely at the present time that the matters in dispute will be quickly and easily resolved. It is my hope that they will be and those discussions will resume later on today.

So the basic conflict there, if I might just briefly outline it, is that we have an artificial scarcity in the number of NFL teams in the United States today. We, in Congress, granted an exemption from the antitrust laws to the National Football League. Using this exemption, they pool revenues, particularly from television networks, and divide that money between the different team owners.

Now, if you add another team, then each individual slice of the pie becomes thinner. So, as a result, there is a very strong economic incentive for the existing owners to block the addition of any new franchise.

The popularity of the sport, however, has grown rapidly. Moreover, the population in cities such as Memphis, Nashville, Phoenix, Birmingham, and so forth, has also grown rapidly. So there is an artificial scarcity of supply compared to a growing demand.

The problem that Baltimore experienced with their beloved Colts being stolen in the middle of the night was the result of this artificial market scarcity. The problems Philadelphia experienced and that St. Louis has experienced in trying to keep teams from leaving are a result of this artificial market scarcity. The problems that Memphis, TN, has had for a long time trying to get an NFL team stem from the same root cause. Similarly, the problems in Phoenix and Birmingham and in other cities all stem from the same root cause. Oakland, I did not mention.

The NFL has come to Congress and has asked us to increase their antitrust exemption so they can exercise even more power in artificially controlling the supply of teams and the movement of teams because, under the new exemption, they would be given broad new legal authority to prevent any team movement or to prevent a new owner from being established in the league that the majority of present owners did not like for some reason.

Now, I am very sympathetic to the problems of cities that want to retain their franchises, and I hope that we could work something out to provide that measure of stability. But what needs to be done, Mr. President, is the league needs to make a commitment to expand the supply of teams through expansion of franchises, or merger, or by whatever means, in order to accommodate the growing demand for new teams that the sport can easily absorb, in return for the increased exemption from the antitrust laws.

I have never asked for a commitment from the NFL to put a team in Memphis. If I thought I could get such a commitment, I might well consider it. But I have taken the approach that they ought to make a commitment merely to expand. And we are willing to take our chances, along with all of the other cities that are interested in new teams.

But to increase their power to control the supply of teams, to control movement, to control ownership, to control where a team owner goes for television revenues, to increase that power without in return getting a commitment to deal with the underlying problem which is the artificial scarcity in the marketplace, that is simply wrong, in my opinion.

But, as I said, the discussions are continuing. I am very hopeful that the discussions will result in some acceptable compromise, and they will resume today.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10:45 a.m., with statements therein limited to 5 minutes each.

TALES FROM A GROTESQUE LAND

Mr. PROXMIRE. Mr. President, the New York Times Book Review of September 15, 1985, describes the remarkable literary achievement of Mrs. Sara Nomberg-Przytyk, author of Auschwitz: True Tales From a Grotesque Land.

Mrs. Nomberg-Przytyk's remarkable memoir pays close attention to details of human character that emerged in the inhumane conditions of a Nazi death camp.

Mr. President, how does one survive the attempted genocide of one's race? According to Mrs. Nomberg-Przytyk, many gave in to the cynicism and despair inherent to life in a death camp; others were willing to do anything to survive. About her own experience in this irrational environment the author writes, "From the moment I got to

Auschwitz, I was completely detached. I disconnected my heart and intellect in an act of self-defense, despair, and hopelessness."

Always keenly observant, Mrs. Nomberg-Przytyk describes the character of the Nazi's at Auschwitz in detail. For example, the review gives this account of her portrayal of Dr. Mengele, "* * * she describes Dr. Josef Mengele as 'that monster in the body of an Adonis' who was 'so handsome that he inspired trust.' Mengele * * * would sit back in his armchair in the infirmary at Auschwitz, engage the newly arrived female patients in conversation and make them feel so comfortable they would 'forget where they were and start describing their ailments.' Such sick people could never survive the arduous conditions in the death camp, and Mengele would use the women's illnesses as justification—on 'humanitarian grounds—for sending them to their deaths.' "

Mr. President, Mrs. Nomberg-Przytyk attempted to publish this book during the late 1960's in Poland. Her publisher warned her that the book would not be published unless she removed all reference to Jews. She would not remove these references, and finally, "Auschwitz" has seen publication in this country.

The favorable response to Mrs. Nomberg-Przytyk's book "Auschwitz" shows that international concern over the Holocaust and genocide remains strong.

Another indication of international concern with human rights and the prevention of genocide is that 96 nations have already signed the Genocide Convention. This convention requires all signatories to act to prevent as well as punish the perpetrators of genocide.

Let us make a firm stand for the prevention of future Auschwitzes and ratify the Genocide Convention.

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that the Federal Government redistributes income from the haves to the have-nots. Many liberals are warmed by this myth, while conservatives are dismayed by it.

This myth may have contained a grain of truth 10 years ago but no longer. Now, the Federal Government works in favor of those who need help the least. Furthermore, unless Congress acts quickly to get control of the deficit, we will find it increasingly difficult to change this tilt to the well-to-do.

A decade ago in 1976, Federal spending came to 22.7 percent of our gross national product [GNP]. Of that amount, 60 percent went to individuals or to State and local governments as grants. These two categories of spending include all the programs which help the poor—welfare, retirement, housing and nutrition assistance, medical care, and so on.

By contrast, those programs which either have little or no effect on income distribution—defense is one example—or which actually tend to redistribute upward—interest on the national debt—made up about 40 percent of spending as a percentage of GNP.

But by this year, this composition of spending has changed dramatically. Federal spending had jumped to 24.8 percent of GNP. Of this sum, 50 percent went to those spending categories—payments to individuals and State and local governments—which tend to help the poor, while an equal percentage went to categories which are neutral or which work in the other direction.

That swing, from 60-40 to 50-50, might not seem like much but in today's budget, it comes to $95 billion. That is not chickenfeed.

Even more alarming, however, is the source of the increase and what that portends for the future. Net interest payments on the national debt more than doubled during the period, jumping from 1.6 percent of GNP in 1976 to 3.4 percent in 1985. These payments are the one real "uncontrollable" in the budget. And this money goes to individuals or institutions who have money to save. There are not many poor people who fall into this category.

As long as our deficits stay high, these payments will continue their inexorable upward spiral. They will stand as an insurmountable roadblock to efforts to make Federal spending more compassionate. That is another of the reasons why we must reduce the deficit as painful as that might be.

THE SALT II TREATY MUST BE RENEWED

Mr. PROXMIRE. Mr. President, the Strategic Arms Limitation Treaty, known as SALT II, expires at the end of this month. Since the middle of this year, the policy of this administration has been one of "proportionate response." That means any violation of the treaty by the Soviets may meet a proportionate violation by the United States. What is wrong with that? Plenty. This is an obvious formula for the rapid erosion of the treaty even in the event the superpowers agree to extend it when it expires at the end of this month.

Mr. President, this is an appalling situation. For many months now, the most serious criticism of the administration's foreign policy has been that it has made no progress in arms control. President Reagan is the first President since the dawn of the nuclear age who has not even tried to advance the cause of peace by seriously advancing some realistic proposal for an agreement with the Soviet Union that would at least partly restrain the arms race. Now the administration appears to be on the verge of ending the modest and limited restraints imposed by the second Strategic Arms Limitation Treaty. The irony, Mr. President, is that the treaty provides a simple and clear military advantage for the United States. The Arms Control Association has just issued a meticulously documented 70-page report. That report pleads for the continued adherence by our country to the treaty.

Why should the United States continue to adhere to the treaty? First, without this treaty, there will be no limits on the nuclear arms race with respect to offensive nuclear weapons. And what has President Reagan made as his prime purpose in his discussion of arms control? The reduction of offensive nuclear arms. The President's men recognize that whatever hope there may be for the Reagan dream of a successful star wars, or SDI, depends on somehow persuading the Soviet Union not to increase their offensive missiles.

The most obvious and direct way the Soviet Union could overcome an American star wars defense would be by firing enough offensive missiles to overwhelm it. If only 10 percent of the missiles can get through, the Soviets could simply increase their offensive missiles by a factor of 10. Result: The same number of missiles would penetrate the star wars defense, and find their target, as would have found their American target without star wars and with a smaller Russian arsenal.

Mr. President, the effectiveness of SALT II in reducing offensive nuclear arms is not a theory. It is a fact. To comply with SALT II, the Arms Control Association points out that the U.S.S.R. has been compelled to deactivate or remove more than 1,000 ICBM's, 233 sea-based missiles, and 13 ballistic missile submarines. The United States has not had to cut back nearly as much. The United States has removed 320 land-based and 544 sea-based missiles and 11 ballistic missile submarines. So the United States has removed both fewer missiles and fewer submarines.

In the next 5 years, the relative benefits for the United States from SALT II become even greater. Here is a big boost in American security that will save the American taxpayer billions in weapons we do not build without losing any ground in U.S. military strength compared to Soviet military strength. The Soviet Union will have to dismantle about twice the number of strategic systems because of SALT II as the United States. The Soviets must remove at least 500 to 600 ballistic missiles. They must also destroy missile silos equivalent to the number of mobile missiles deployed. The

treaty will also strictly limit the Soviet's ability to upgrade the SS-18 heavy ICBM's, the missiles we consider most threatening. SALT II—if observed—can bring us both a relatively improved military posture vis-a-vis the Soviet Union and a safer world for both superpowers.

Some who disagree with this Senator may jump on my qualifying clause—"if it is observed." They will charge that the Soviets will not observe the treaty. In their view, the Soviets will—as they have in the past—cheat. The critics will charge that this kind of arms control is simply unilateral disarmament. So, how about it? Mr. President, this Senator, is well aware of the fact that the Soviets have in all probability violated this treaty and other other treaties. The Soviets believe that the United States has violated this and other treaties in some respects. The problem is this: With treaties as complex and deliberately ambiguous as these treaties have been, there are bound to be actions by each side that are construed as violations by the other side.

But there is a deeper consideration. That is, have any of these violations provided a militarily significant advantage for the Soviets? Take the most commonly recognized violation of the ABM Treaty by the Soviets: The construction of the Krasnoyarsk radar far inside Russia's borders, obviously well removed from the periphery where the ABM Treaty permitted radars for aircraft monitoring. The Krasnoyarsk facility's location seems to be a direct violation of the ABM Treaty. But does this location have any military significance? It has none. The Soviet Union is decades away from researching, producing, and deploying the capability of doing anything about incoming missiles that the Krasnoyarsk radar might detect.

Mr. President, if the administration is sincere about advancing arms control and strengthening our comparative military position, it should forget about "proportionate responses." It should promptly go to the Standing Consultative Commission—the SCC—that has been set up precisely for the purpose of resolving allegations of violations of arms control treaties. The SCC works. We should use it. Where the United States has done this in the past, the SCC has successfully resolved the differences between the two superpowers. The Standing Consultative Commission is equally manned by Russian and American members. It has repeatedly either succeeded in ending violations, or it has allayed suspicions that violations were occurring.

Mr. President, the life of the SALT II Treaty is hanging by a thread. We can save it and we must. It will be a loss to both to the national security of this country and to the prospect of peace if the treaty is allowed to terminate on December 31.

DECEMBER GOLDEN FLEECE AWARDED

Mr. PROXMIRE. Mr. President, I am giving my golden fleece for the month of December to the Urban Mass Transportation Administration for playing Santa Claus to the Nation's mass transit systems at a 20-year cost of over $30 billion and to what end: transit revenues per vehicle mile have dropped 26 percent, costs have increased by 78 percent, and the taxpayers' subsidy per passenger has jumped by a whopping 1,250 percent. As for the broad social improvements expected—decreased congestion, air pollution, and energy use—not one has come up to snuff.

About the only fact proven by this dismal record is that the taxpayers were taken for a ride. They have gone busted buying buses.

The Federal Government jumped into the mass transit business in 1964. It started with a little putt-putt of an appropriation in 1965—$51 million. Although the money was small, the expectations were enormous: more people were going to use mass transit, air pollution was going down and energy saved up, and the Nation's cities would be revitalized.

Two decades later, that little $51 million putt-putt has grown into a $4 billion a year juggernaut. Although costs have been more powerful than a speeding locomotive, benefits for the taxpayers are tricycle-sized at best:

Despite two energy crises, occasional long gaslines, and a growing taxpayer subsidy, commuters who used public transit to get to work fell from 9 percent in 1970 to 6.4 percent in 1980—a drop of 29 percent.

Meanwhile, after adjusting for inflation, revenues per vehicle mile dropped from 72 cents in 1965 to 53 cents in 1982 but costs during the same period zoomed from 72 cents to $1.28.

The result is what you might expect once Uncle Sam opens his wallet—the taxpayer subsidy went from 2 cents per passenger in 1965 to 27 cents in 1982.

Finally, research demonstrates that air pollution could be cut and energy saved far more effectively by spending millions to improve automobile efficiency instead of billions on mass transit assistance.

The evidence is in. The record is clear and the verdict is long overdue. Federal support of mass transit has been a spectacular flop, the Edsel of Federal programs.

It is time to go back to the drawing board and start anew. Federal assistance to mass transit may be justified in specific situations, but the current program is clearly a lemon. The taxpayers should not have to keep making $4 billion-a-year payments on it.

DECEMBER FLEECE ACCEPTED

Mr. PROXMIRE. Mr. President, usually when I give my golden fleece, I am about as welcome as a skunk at a picnic. But this month something remarkable happened—the Urban Mass Transportation Administration "enthusiastically" accepted the fleece. You can tell it is the Thanksgiving season because everybody recognizes a turkey.

Seriously, Mr. President, I want to congratulate Mr. Ralph Stanley, who administers the Urban Mass Transportation Administration. The Federal Government faces a staggering deficit. Reducing that deficit is going to require some very, very tough decisions.

We are going to have to take a long look at every Federal program and measure its performance against the amount of the taxpayers' money we are spending. If we apply this test to urban mass transit programs, they fail. Mr. Stanley has recognized this and wants to start reforming the programs. To that attitude, I can only say hip, hip, hooray.

Mr. President, I ask unanimous consent that a statement by Mr. Stanley in response to the fleece be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESPONSE TO SENATOR PROXMIRE'S GOLDEN FLEECE AWARD—DECEMBER 4, 1985

Urban Mass Transportation Administrator Ralph L. Stanley enthusiastically accepted Sen. Proxmire's "Golden Fleece Award" given to his agency today and responded by seeking the Senator's help to reform the enormous waste in the current program.

"Unlike most Federal department heads who are embarrassed by this honor, I embrace Sen. Proxmire's Golden Fleece award and totally agree with his criticism.

There can be no question that Sen. Proxmire agrees with the Reagan Administration that the current mass transit program, which has spent nearly $45 billion to subsidize public monopolies, has forgotten the rider and the taxpayer whom it was intended to benefit. We cannot simply measure this program by how much money is spent, but we must look at what we bought.

However, I cannot accept this award alone. I must share the distinction with a strong supporting cast in Congress who have continued to appropriate hundreds of millions of dollars in operating subsidies over the objections of the Reagan Administration. In addition, despite UMTA's own objections, we have just been ordered by Congress to start twelve new projects for which there is a known three to four billion dollar shortfall in the cost to complete.

I plan to work with Sen. Proxmire on proposed legislation that would end those Federal subsidies and substantially reform this program's waste."

IN PRAISE OF SUPER 8 MOTELS, INC.

Mr. PRESSLER. Mr. President, I take this opportunity to congratulate Super 8 Motels, Inc., a nationwide motel chain based in Aberdeen, SD. Super 8 has recently been ranked 81st on the "1985 Inc. 500," an annual list of the fastest growing, privately held companies in the United States. Super 8 Motels is the first South Dakota company to earn placement on the listing, and one of only five companies in the upper Midwest region that has ever made the top 100 of the "Inc 500" listing.

Under the direction of Dennis Bale, Super 8 vice chairman and chief executive officer, Super 8 has increased its annual sales from approximately $1 million in 1980, to over $24.2 in 1984. That is an increase of over 2,000 percent. The chain currently boasts 306 motels with over 19,000 rooms in 37 States. In 1985, Super 8 opened one new motel every 4 days.

Super 8's achievement is particularly noteworthy because of the prominent role Dennis Bale plays in the growth of the U.S. travel and tourism industry. Mr. Bale serves on the Senate Travel and Tourism Industry Advisory Council, which is comprised of the top tourism industry leaders from around the country. The Council was created to advise us on policy issues related to the travel and tourism industry. As a member of the Advisory Council, Dennis serves as a national representative of both Super 8 and the lodging sector of the travel and tourism industry. The Council has provided the Senate Commerce Subcommittee on Business, Trade, and Tourism with invaluable advice and guidance on issues of national interest in the travel and tourism area.

Let me again congratulate Super 8 Motels on its fine accomplishment. The achievements of Dennis Bale and the 182 other Super 8 employees, exemplify the spirit and work ethic of all South Dakota residents. These are accomplishments which make the entire State of South Dakota proud.

Mr. President, I ask unanimous consent to print two articles in the RECORD immediately following my statement. One is from the Aberdeen American News, entitled "Super 8 Listed by Inc. Magazine," and the other is from Inc. magazine titled, "No. 81: Super 8 Motels, Inc.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

No. 81: SUPER 8 MOTELS, INC.

In an industry that is overbuilt and overpriced, Super 8 Motels Inc. has managed to increase revenues a whopping 2,239% over the past five years. How did they do it? Not with marbled lobbies, fern bars, and trendy restaurants, but with franchised, no-frills roadside motels that can provide a family of four with a room for under $30 a night. The 12-year-old, $24-million company now has 296 motels in 38 states and will build 120 more next year. While low overhead is a factor in it success, chief executive officer Dennis Bale attributes the company's growth largely to "just plain old vertical integration."

Founder Dennis Brown, a South Dakota lawyer, had watched business booming at Motel 6, California budget-hotel chain, and decided to go after his own piece of the limited-service facilities market. So in 1973, he teamed up with ex-banker and independent contractor Ron Rivett in Aberdeen, S. Dak., and founded Super 8 Motels (names for the original price of a single room, $8.88), along with a construction company and a motel-supply company. The idea was to create an operation that could offer franchisees a total turnkey package. "We can do everything from just selling a franchise to giving the franchise everything right down to the grand opening," says Bale (Brown and Rivett are no longer involved in day-to-day operations). "We have an edge over our competitors in that way." The company eventually added a property-management company and a telephone company as well.

"Franchisees were not beating down our doors in the first few years," Bale admits. "But then local people became involved, and it was a snowball effect." News of Super 8's success spread quickly—so quickly that the company shunned the use of regional franchise salespeople, preferring to exercise more control over choosing their franchisees. While Super 8 can't require franchisees to use any of its ancillary services, Bale believes that the subsidiary companies are a big selling tool. "We're probably building more motels this year than any other motel chain," he says, adding that 72% of all new developing last year came from existing franchisees. Many of these properties are situated in small communities—markets that Super 8's competitors are not exploiting.

But competition is stiffer than it was at the start. In 1973, there were only 1,500 budget motel rooms; today, there are 230,000. How will Super 8 respond? "We're doing precisely what the founder of Holiday Inn did 30 years ago," says Bale. "But they're pricing themselves out of the market." Super 8 has no intention of following suit.

SUPER 8 LISTED 81ST BY INC. MAGAZINE

(By Mary Just Coome)

The Aberdeen-based Super 8 Motels, Inc., which has opened 306 motels in the almost 12 years since it began here, was listed 81st on the 1985 Inc. 500, the ranking of the fastest growing, privately held companies in the United States.

Sales figures for Super 8 Motels, Inc., increased from just more than $1 million in 1960 to more than $24.2 million in 1984, for a gain of 2,239 percent the past five years.

Super 8 Motels, Inc., is the first South Dakota company to earn placement on the listing, and only five companies in a five-state region have ever made the top 100 companies on the Inc. 500 listing.

In the Inc. 500 annual report, the magazine, which reports economic conditions of the nation's small- and mid-size businesses, reported those companies are making astonishing gains in productivity, sales and employment. Average productivity of the 500 companies listed in 1985, in terms of sales per employee, soared from $78,825 in 1960 to $185,850 in 1984. In the same period, the magazine reported in its December issue, average annual sales jumped from $1 million to $14.8 million, and the average number of employees grew from 25 to 127.

Super 8 Motels, Inc., in its parent corporation and affiliated companies, but not including employees at all Super 8 Motels, now employs 183. In figures released Monday, the economy lodging chain reported 306 motels open in 37 states with a combined room count of 19,076 (compared to a total 230,000 budget motel rooms available). During 1985 the chain opened a new motel every 97 hours and it anticipates opening 120 more motels during 1986.

Inc., which featured a full-page report on Super 8 Motels, Inc., and Dennis Bale, vice chairman and chief executive officer, in this month's issue, selects the top 500 companies based on sales, employment, age of company, profitability and growth. The majority, 456, of the companies operated at a profit; 14 broke even and only 30 of the 500 operated at losses.

Of the firms on the 1984 Inc. 500 list, 217 made the list again in 1985. Of the 283 that did not return to the list this year, at least two went out of business, 16 were acquired by other companies, eight went public (the Inc. 500 companies must be privately held), two filed for protection under Chapter 11 bankruptcy proceedings, two grew too large and 105 grew too slowly to qualify and 36 didn't have sufficient sales volumes to qualify.

At the top of the Inc. 500 list for 1985 was Herbalife International, Los Angeles, Calif., a health and nutrition products company, Inc. reported that Herbalife, whose products reportedly have come under attack from the Food and Drug Administration, the California attorney general and the California Department of Health Services, reported a sales increase over the five-year period of 109,510 percent. The remaining four of the top five were ABC Supply, Beloit, Wis., a building supplies distributor, 76,075 percent sales increase; First Software, Lawrence, Mass., software distributor, 52,996 percent, sales increase; Softsel International, Inglewood, Calif., software distributor, 50,296 percent sales increase; and Fayette Manufacturing, Tracy, Calif., wind energy development, 41,866 percent sales increase.

Inc. editor George Gendron said in a news release, "At a time when employment rolls of the corporate giants are shrinking, these 500 companies generated nearly 51,000 jobs in just the past five years. That's an average of over 100 employees per company on the list. When 100 new jobs are created in any community, that community benefits."

He said that 100 new manufacturing jobs mean nearly $1.5 million in additional retail sales, according to the U.S. Chamber of Commerce, "Considering the employment gain of the 1985 Inc. 500, that translates into some pretty healthy trading. More money is spent not only on necessities such as housing costs, but on 'frills' like entertainment. And this upturn in the economy 'trickles up' to the state and federal levels in increased tax dollars and decreased costs in support services to the unemployed."

Other highlights of the 1985 Inc. 500 survey included:

Twenty percent, or 101, of the 500 companies are located in California.

Of the 500 companies, 105 or 21 percent, are manufacturers or distributors of computer software, software or systems; 400 companies are not related to computers and most are not high technology firms.

More than 40 percent of the companies are service-related, including Super 8 Motels, Inc.

Twenty-five percent were engaged in wholesale or retail distribution.

Twenty-six percent of the companies engaged in manufacturing products. In all 216 companies are in the service sector, 132 in manufacturing, 61 in retail trade, 60 in distribution and 31 in construction.

The total sales of the 500 companies rose from 1,315 percent, or $521.3 million in 1980, to $7,376.5 million in 1984. In order to be included on the list, a company had to grow a minimum of 464 percent over five years.

Total employment for the group jumped 405 percent, from 12,593 to 63,580 since 1980.

In the Inc. magazine article, Super 8 Motels, Inc., chief executive officer Dennis Bale said the motel chain is responding to the rapidly increasing motel room boom by "doing precisely what the founder of Holiday Inn did 30 years ago. But they're pricing themselves out of the market," something Bale said Super 8 Motel, Inc., doesn't intend to do.

SENATE RADON TASK FORCE

Mr. SPECTER. Mr. President, 1 year ago this week, Mr. Stanley Watras of Boyertown, PA, a construction engineer for the Limerick Nuclear Power Plant, walked into his workplace as he would on any other day. To his surprise, to the astonishment of his fellow workers, and to the continuing dismay of his neighbors, however, Mr. Watras set off the plant's radiation alarms, signaling that he had been contaminated by radiation beyond safety.

The past 12 months have been a period of agony, terror, frustration and—hopefully—some progress in tackling radon contamination, one of the foremost health hazards in the United States today. Radon is a colorless, odorless gas that emanates from decaying natural uranium deposits and seeps into the home. It has been linked to lung cancer, and may be responsible for up to 20,000 deaths every year.

Mr. Watras' home, we have discovered, lies along the "Reading Prong," roughly a stretch of land beginning outside Reading, PA, and running northeast into New Jersey, New York, and even into Maine. In a recent visit to a home in the Boyertown area I witnessed the recording of the highest level of radon contamination ever, comparable to smoking several dozen packs of cigarettes a day. Clearly, this is a health danger which local, State, and Federal governments must come to grips with.

In recent months, this body has begun to address this urgent problem. Because we know comparatively little about radon, I have helped in ensuring that the Environmental Protection Agency has adequate funding for research into indoor air pollution, and more specifically radon. Because some experts feel that certain existing technologies may be effective in combatting radon, my colleague from Pennsylvania, Senator HEINZ, and I have introduced legislation which will provide a tax credit of up to $5,000 for those homeowners who are willing to initiate remediation procedures.

Recently, my colleagues from New York, New Jersey, Pennsylvania, and Maine joined me in writing to EPA Administrator Thomas urging that informal contamination guidelines be set to inform homeowners of the risks involved in living in their homes. I hope that this letter represents the first of many similar and legislative initiatives.

I have the pleasure of announcing that this group of eight Senators has decided to form an informal, bipartisan coalition—a Senate Radon Task Force. I know that my colleagues in this group share the deep concerns that I have for the people of the Reading Prong. It is my sincere desire that we and others in the Senate can take—in the second year of our knowledge of this deadly problem—even more profound steps toward the eradication of radon contamination.

ENHANCED SECURITY COUNTERMEASURES CAPABILITIES

Mr. DURENBERGER. Mr. President, I am pleased to note that the Supplemental Appropriations Act for fiscal year 1985, as signed by the President on August 15—Public Law 99-88—contains $35 million for enhanced security countermeasures capabilities for U.S. Government installations abroad. Although the dollar amount is somewhat less than that proposed by the Senate, I am confident that the funds which will be made available will result in effective action to counter potential security compromises at U.S. Government installations abroad.

Mr. President, when Senator LEAHY, the vice chairman of the Intelligence Committee, and I introduced this amendment to the supplemental appropriations bill on June 20, we neglected to inform the Senate that several of our colleagues on the committee had agreed to be cosponsors. I regret this inadvertent omission, and I would like the RECORD to show that Senators COHEN, HATCH, MURKOWSKI, BENTSEN, and HOLLINGS were cosponsors of the enhanced security countermeasures capabilities amendment.

Finally, Mr. President, I would like to express my appreciation to Sentor STEVENS, the distinguished chairman of the Appropriations Subcommittee on Defense, for his assistance in securing enactment of this provision.

WITHDRAWAL BY THE UNITED STATES FROM THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT

Mr. HATCH. Mr. President, on the first Monday of last month, at the beginning of the current session of the Supreme Court, the Department of State announced U.S. withdrawal from compulsory jurisdiction exercised by the International Court of Justice. Henceforth, the United States will not participate in any controversies involving political questions. American participation in other ICJ proceedings will be done on a case-by-case basis.

The reaction of the news media has been almost uniformly hostile. A number of legal scholars have also been outspoken in their criticism of administration policy. They sharply and emotionally compare the domestic rule of law under Supreme Court jurisdiction with what they term administration disregard for the rule of law in the international arena. But, Mr. President, neither the news media nor legal scholars, no matter how distinguished they may be, are the ultimate arbiters of justice and fairness in international law.

The harsh reality is that the International Court of Justice has become politicized, and that issues before the Court are no longer dealt with strictly on their merits. Simply because we call it a court does not mean that the ICJ is a court in the true sense of the word. Use of a particular terminology, that is court, does not guarantee the validity of that terminology, let alone its proper application.

A true court must, first and foremost, rely upon disinterested judges. Most of the judges sitting on the ICJ are not independent of their national governments, but in fact reflect their governments' policies or are under actual governmental control. A true court, whether national or international, must have disinterested judges deciding the issues brought before it. It is my understanding, Mr. President, that the Soviet judge, whose term has just expired, handed in his written decision before the sitting World Court finished hearing the case of Nicaragua versus United States, however one-sided those arguments may have been. If true, this makes an absolute mockery out of any notions of justice and fairness. Article 20 of the Statute of the International Court of Justice requires that each judge, upon assuming his duties, must solemnly and openly declare before the Court "that he will exercise his powers impartially and conscientiously." The record shows, Mr. President, that in all too many instances this has not occurred.

On August 14, 1946, President Harry S. Truman issued a declaration accepting the compulsory jurisdiction of the International Court of Justice, after

two-thirds of the Senate had given their approval. This acceptance, Mr. President, was subject to three reservations, two of which were of extreme importance. The first one of significance, the so-called Connally reservation, stated that the United States would not submit to ICJ jurisdiction in the event of "disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America." This is the same type of reservation I support with respect to the Genocide Convention, and which is contained in the Lugar-Helms reservations package. The second major reservation to the 1946 declaration, the so-called Vandenberg resolution, exempts "disputes arising under a multilateral treaty, unless first, all parties to the treaty affected by the decision are also parties to the case before the Court, or second, the United States of America specially agrees to jurisdiction."

The Vandenberg reservation, Mr. President, has never been accepted by the Court. In the Nicaraguan case, where the United States did not agree to jurisdiction, the World Court rejected the plea by the United States that Nicaragua has failed to bring other "indispensable parties" before the Court—Honduras, Costa Rica, and El Salvador. The Court likewise refused to allow El Salvador to be a third party intervenor and would not even permit it to argue its cause, despite the provisions of article 63 of the Statute of the International Court of Justice. I should add, Mr. President, that the distinguished American international lawyer, Monroe Leigh, a former legal adviser to the Department of State, calls the ICJ's holding, which decided that Nicaragua had previously accepted the Court's compulsory jurisdiction, "preposterous."

The Department of State and the Reagan administration correctly maintain that international organizations and agencies have become more and more politicized, and that they are primarily antidemocratic, anti-Western, and anti-United States. No one can deny that bias has entered into International Court of Justice proceedings. To allow witnesses to come before the Court—which constitutes an essentially appellate-type instrumentality—is virtually unheard of. One noted legal scholar has recently written of the "politicized anti-Western bias" of the ICJ's preliminary findings in the Nicaraguan case.

The crux of the matter, Mr. President, is whether the Court should be permitted to deal with political questions, an approach denied to our own Supreme Court by the Constitution of the United States. The Charter of the United Nations assigns the role of political conflict resolution to the U.N. General Assembly and to the Security Council, however poorly they are doing the job. Up to the Nicaraguan case, the Court had never involved itself in an ongoing political dispute. Issues relating to this type of controversy were taken up either by the Security Council or the U.N. General Assembly. This was the specific intent of the General Assembly's important Uniting for Peace Resolution (1950).

I submit, Mr. President, that the International Court of Justice has permitted itself, partly to offset declining prestige and infrequent use, to intrude into a previously forbidden area. Just as the United States is often the real target of the radical U.N. majority, so will the United States become the jurisprudential hostage of the majority of World Court members, who are selected by the same process that creates U.N. resolutions. The function of the Court as an arbitral panel with approval of all parties is a sound one. The function of the Court as a political decisionmaker is not only unsound, but it may very well further the process of destabilization in the international system.

I should emphasize, Mr. President, that what we are referring to is only the withdrawal from compulsory jurisdiction. That does not mean an absolute withdrawal from the Court. There is a difference. We still intend to consider participation in nonpolitical questions, on the merits of each case or controversy.

Forty-five member states of the United Nations accept compulsory jurisdiction by the ICJ; 114 do not. The United States, for a change, is in harmony with the U.N. majority. The administration has acted wisely and well, Mr. President, I support its decision to withdraw from compulsory jurisdiction exercise by the World Court. I support its refusal to litigate the merits of the Nicaragua case. And I support its determination to oppose aggression and subversion in the Western Hemisphere. The administration also deserves the support of this body and of the American people for its courageous and forthright stand.

The Senate has backed the administration on this issue in a clear and convincing manner, so that the world community is on notice that we as a nation do not approve the politicization of the international rule of law. It is time for the House of Representatives to do likewise. The Congress must speak with one voice on this all-important question.

Then, Mr. President, we will demonstrate to the international community that the rule of reason must operate in concert with the rule of law.

CANADIAN DECISION TO PURSUE A NEW TRADE AGREEMENT WITH UNITED STATES

Mr. MOYNIHAN. Mr. President, it is said that all too often we take for granted those who are closest to us. So, too, a nation and its political relationships.

I refer to our good friend and neighbor to the North. Specifically, our trading relationship with Canada has not been sufficiently appreciated. We have the largest bilateral trading relationship in the world: last year, our two countries traded $113 billion in merchandise. Indeed, our trade with the Province of Ontario alone exceeded our bilateral trade with Japan.

So it is with great interest and satisfaction that I witness recent efforts by our two countries to strengthen and expand that trading relationship.

At the March 18 summit meeting in Quebec City between President Reagan and Canadian Prime Minister Brian Mulroney, the two leaders pledged to explore all possible ways to reduce and eliminate barriers to trade between the two countries.

Six months later, on September 26, Canadian Prime Minister Mulroney informed the House of Commons of his decision to pursue a new, comprehensive, trade agreement with the United States "involving the broadest possible package of mutually beneficial reductions in tariff and nontariff barriers" to trade in goods and services.

As the Prime Minister further explained in a letter to President Reagan a few days later:

> Such an agreement should secure and enhance access to each other's markets . . . and result in a better and more predictable set of rules whereby our trade is conducted.

President Reagan warmly welcomed Prime Minister Mulroney's proposal for a bilateral trade agreement. And on Monday October 28, Secretary of State George Shultz met with Canadian Foreign Minister Joe Clark in Calgary, Alberta, and told him that the administration would like to begin formal bilateral negotiations early next year.

> The road to a bilateral trade agreement will be steep.

Secretary Shultz reminded his Canadian host,

> but it is worth the climb. . . . We have chosen to recognize that dealing with tough issues—remaining tariffs nontariff barriers, subsidies, and market access—will help us pave the way for greater economic efficiency and prosperity in both countries in the next century.

I would like to add my voice supporting prompt negotiations. No doubt the discussions will be, as Prime Minister Mulroney told the House of Commons, "complex and extremely challenging." He noted that "success is not a sure thing," but can we not all support his conclusion that "the results of success

are well worth the enormous effort and good faith required for the negotiations."

Now, to understand just what the Prime Minister has in mind when he talks of a new comprehensive trade agreement, he is not suggesting "a customs union, a common market or any other economic arrangement which would affect Canada's independence of her relations with the rest of the world." Indeed, when I met with Minister of Trade James Kelleher on October 14, he was quite explicit that Canada was not seeking a "free trade agreement."

There remain, however, those on both sides of the border who are concerned about a trade agreement. On October 22, I met with Ontario's Premier David Peterson, who expressed his reservations about such an agreement. Since more than one-third of all Canadians live in the Province of Ontario, and Ontario accounts for over one-half of Canada's manufacturing output and is the most productive agriculture province as well, I have no doubt that the Premier's concerns will be heard in Ottawa.

For our part, we have not clearly defined what we hope to achieve in such negotiations and what concessions we might be called upon to make. The administration has only just begun to consult Congress on these matters.

Still the talks are a step in the right direction—a move to expand and improve the trade that is so important to both our countries.

We are each other's largest export markets. In 1984, 22 percent of all our export went to Canada—roughly the amount we exported to all of the EEC countries and twice the amount we sent to Japan. In return, Canada exported 70 percent of her exports to us last year—fully one-third of her GNP. Approximately 2 million jobs in each country depend on exports to the other country.

Moreover, of the $47 billion in merchandise we exported to Canada last year, 85 percent was in manufactured goods—not raw materials or semifinished products. By comparison, only 25 percent of United States exports to Japan, and 64 percent of United States exports to the EEC, were manufactured goods.

Nor is trade with Canada limited to goods—or even services and investment. We import energy from Canada, primarily cheap, clean, and secure Canadian hydroelectricity. Canadian hydroelectricity costs us 20 to 35 percent less than burning oil. Moreover, by filling our energy needs with Canadian hydropower, we avoid the pollutants—from acid rain to nuclear wastes—that come from using other energy sources. I need not remind my colleagues that Canadian rivers offer a far more secure source of energy than Arabian princes.

Last year, Canadian hydropower supplied 40 billion kilowatt hours of electricity to New York, Boston, Los Angeles, Burbank, and other cities on both coasts. Ontario Hydro and Hydro-Quebec each provided 11.2 billion kilowatt hours of electricity to the Northeastern United States. Just last month, the New England Power Pool signed a long-term contract with Hydro-Quebec for 800 megawatts of uninterruptible power—worth $3 billion. Since 1978, my State of New York has imported 56 billion kilowatt hours, saving some $524 million.

Our own ability to generate additional hydroelectricity in this country—despite considerable interest in developing low-head hydropower—is quite limited. But at most one-third of Canada's potential for hydropower generation has been developed. While there are practical limits to how much we can expect Canada to do—in part, of course, it depends on our willingness to pay for dams and transmission lines—the availability of additional power from the North could be an important aspect of our energy future, particularly in the Northeast.

Despite the range and depth of our existing trading relationship with Canada, impediments and uncertainties to greater trade remain on both sides of the border.

The Canadian Government is concerned about rising protectionist sentiment here in the United States, as Canadian producers in many sectors have faced threatened or actual restrictions on exports to the United States.

Any number of import relief cases have been filed against Canadian products—lumber, urban mass transit equipment, oil country tubular goods, cement, groundfish, rock salt, iron castings, and raspberries, pork, and other agricultural products.

Canadian industries also are affected by United States industries seeking global quotas. For example, Canadian producers were subject to a quota on stainless steel imposed in 1983—although the domestic industry's real complaint was with suppliers in Europe and the Far East. Last year, $1.1 billion in Canadian exports of carbon steel and copper to the United States were at risk, until the President decided not to limit copper imports—the ITC unanimously had recommended doing so following a section 201 investigation—and Canada was exempted from the carbon steel import limitation program.

We have our own list of bilateral trade concerns with Canada. Canada has a number of trade barriers restricting our exports of finished products and limiting our access to Canadian raw materials. Canada also provides various forms of Government assistance that can effectively subsidize some of their exports.

United States exports of dutiable items are currently subject, on average, to tariffs twice as high as those facing dutiable Canadian exports to the United States. The average Canadian tariff rate is 9 percent versus an average United States tariff rate of 4 to 5 percent. High Canadian tariffs protect furniture, textile and consumer goods industries, and deter United States industries from expanding their sales in Canada. Moreover, while 80 percent of Canada's exports to the United States will enter duty free when the Tokyo Round tariff cuts are fully implemented, only 65 percent of United States exports to Canada will enter duty free at that time.

There are other problems identified by USTR. For example, Canada restricts the ability of American companies to sell beer, wine and distilled spirits in Canada. The Government also has imposed a fast track surtax system for some vegetables and required licensing of patented pharmaceutical products.

In communications, the border broadcast dispute remains unresolved. Canadian law C-58 continues to discriminate against United States broadcasters by denying Canadian companies a tax deduction for advertising placed with American broadcasters. And this, despite passage of mirror image legislation last year—section 232 of the Trade and Tariff Act of 1984—that similarly denies a deduction to United States businesses advertising on Canadian stations.

Ottawa has also set in place a policy requiring United States companies to sell any majority interests in Canadian book publishing concerns to Canadian interests. One United States company, Gulf and Western, would be forced to divest itself of two Canadian publishing companies—Prentice Hall and Ginn—acquired before the new policy was announced.

Notwithstanding these problems on both sides of the border, Prime Minister Mulroney has concluded that in the long run, expanded trade with the United States will help improve the competitiveness of Canadian manufacturers, lead to greater sectoral adjustment, and ultimately increase production, investment and employment. And he has concluded that the best way to go about ensuring expanded trade is through a comprehensive agreement reducing trade barriers.

We could also gain from such an agreement. A number of our industries, many important to the future competitiveness of the United States, could benefit from freer trade with Canada—telecommunications equipment; medical equipment; scientific instruments; and heavy machinery. Cosmetics, forest products, paper, alcoholic beverage manufacturers also stand to benefit from such an agreement.

Certainly, no agreement can resolve all our trade problems. As Secretary Shultz said in Calgary:

"The agreement will not remove all economic and trade disputes between our two countries. There will be ongoing problems. That is the very nature of our existing as two independent countries on the same continent.

Given this reality, let me suggest that an important and helpful provision of any agreement would be a joint commission for resolving future disagreements—from the interpretation or application of the agreement, to any other matter that might be submitted by mutual consent.

My friend and colleague, Senator MITCHELL, has proposed creating just such a commission (S. 1576), one authorized to conduct factfinding investigations, analyze major issues, and render advisory opinions or binding decisions on matters referred to it by the two Governments.

There are two useful models for such a commission: the International Boundary Commission and the International Joint Commission.

It took 142 years and 14 treaties and agreements—beginning with the Definitive Treaty of Peace in 1783—to establish the longest international boundary in the world. From Passamaquoddy Bay on the Atlantic seaboard, it spans the continent to the Strait of Juan de Fuca on the Pacific coast, and from the Arctic Ocean it reaches southward to Dixon Entrance on the Pacific Ocean—5,526 miles of contiguous border. It consists of a series of straight line courses varying in length from 23¼ inches in the Quebec-Maine highlands, to 647 miles on the 141st meridian—between Alaska and the Yukon.

It was left to the IBC, created by the Jay Treaty of 1794 and established on a permanent basis in 1925, to delimit and demarcate this boundary. And a splendid and amicable job they did. Today, the boundary is marked with over 8,000 bronze conical monuments and plaques set in cement. Anyone flying over a wooded section of the boundary cannot help notice the 20-foot-wide clearing—the vista—extending as far as the eye can see, that the IBC was directed to cut marking the boundary.

Today, the IBC maintains the border and decides whether proposed projects—such as pipelines, development projects, hydro or highway rights of way—would obstruct the boundary.

The IJC was created more recently, to address a more modern problem: water usage affecting the two countries. Established by the Boundary Waters Treaty of 1909, it has provided a basis for cooperation on questions relating to water pollution, navigation, power development, irrigation and recreation.

From 1912 to 1984, the IJC decided 61 applications from governments, companies and individuals for obstructions, uses or diversions of water which would affect the natural level or flow of boundary waters on the other side of the border, or which would raise the level of a transboundary waterway. In granting approval, the IJC may require remedial works, compensation for affected interests or operational criteria, and may establish a binational Board of Control to monitor compliance.

One of the IJC's first decisions permitted the Greater Winnipeg Water District to take 100 million gallons per day from Shoal Lake. In its most recent decision, it approved construction of the Grand Falls Diversion Dike on the St. Croix River.

The two countries have also referred 50 questions or disagreements to the IJC for investigation. In these cases, including matters of navigation and pollutions, the IJC issues a report and recommendations. The two countries are not bound to follow those recommendations, but have found it in their interests to do so most of the time. The IJC can also arbitrate disputes and issue binding decisions, but has never been called on to do so.

Mr. President, given what happened to the last Prime Minister who proposed a comprehensive trade agreement with the United States, Mr. Mulroney's took some courage. In January 1911, Prime Minister Wilfrid Laurier signed a reciprocal trade agreement with the United States. Nine months later, he met a resounding defeat at the polls.

Today, of course, access of the U.S. market is much more important to Canada than in 1911, when Canada sent two-thirds of her exports to Great Britain. Last year, 76 percent of Canada's exports went to the United States. Nor do I think any Member of Congress believes that a trade agreement would be the first step in the annexation of Canada—something the Democratic Party leader in the House—and soon to be Speaker—James Beauchamp Clark and several other Members actually suggested during the February 1911 floor debate on the proposed United States-Canada trade agreement.

So we can understand and appreciate Mr. Mulroney's insistence that he was proposing simply "a process of purely commercial negotiations," and Minister Kelleher's clear statement to me that Canada is not proposing a "free trade agreement."

But by whatever name we call the proposal—and I am reminded of the aphorism about the rose—movement toward reducing our trade barriers is movement in the right direction. As the Prime Minister put it:

Economics, geography, common sense and the national interest dictate that we try to secure and expand our trade with our closest and largest trading partner.

I quite agree.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWS

Mr. HOLLINGS. Mr. President, for the past 10 years, Members of this body have risen to focus attention on the plight of Soviet Jews. We have instituted the Congressional Call to Conscience for Soviet Jews in an attempt to maintain a constant vigil over the situation. Today, Mr. President, I rise as a participant in this vigil, with the sincere hope that our efforts on behalf of these people will be rewarded by their freedom.

I am not here today to proclaim the moral victor in the ideological battle between the United States and the U.S.S.R. I am here however, to express my confusion over the Soviet reluctance to allow these people to emigrate. The Soviets, especially under the influence of Secretary Mikhail Gorbachev, have become much more adept at projecting a positive image. I do not understand, however, why, in the midst of this worldwide public relations campaign, the Soviets insist on negating all their work by their continued intransigence on the subject of Soviet Jews. It is almost as if they are begging the world to see them in a negative light. It is as if they are deliberately trying to focus attention on the fact that they are a closed society, and they are daring someone to try to look behind the door.

I don't know what the motivation is for this contradictory behavior. I only know that innocent people are being refused a basic freedom, the right to emigrate, and that the refusal of this right often leads to separation of families, isolation from loved ones, loss of jobs, and a denial of religious freedoms.

We all know of cases in which a Soviet Jew has been denied permission to leave the Soviet Union, and we are all very familiar with the frustration and anger created by these denials. The names and faces of the refusniks are many and varied; the circumstances and results are hauntingly similar.

Mr. President, we are not trying to dictate internal policy to the Soviet Union; rather, we are pleading with them to act in a humane and responsible fashion. If, however, we cannot reach them on humanitarian grounds, we can, perhaps, persuade them on purely perceptual grounds. No matter how much money they spend, or how personally magnetic Mr. Gorbachev is, the Soviets will not be able to polish their extremely tarnished image until they show that they respect the basic rights of emigration. The problem of Soviet Jews transcends the personal

trauma that they and their families experience. The case of the Soviet Jews has become a worldwide symbol of Soviet repression and inhumanity. Mr. President, it is time for the Soviets to let them go home.

PROPOSED AMENDMENTS TO THE TITLE X FAMILY PLANNING PROGRAM

Mr. CRANSTON. Mr. President, yesterday I spoke at length about the proposed Kemp-Hatch amendment to title X, both in terms of the legislative history of title X and the adverse consequences that enactment of amendments along the lines described by the Senator from Utah [Mr. HATCH] in his November 6 "dear colleague" letter would have on family planning programs supported by title X.

I also expressed my view that these types of amendments should be carefully considered in the authorizing committee, after adequate hearings and committee deliberations. At the time funding for the title X program was deleted from the regular HHS fiscal year 1986 appropriations bill, H.R. 3424, a commitment was made by the Senator from Utah, the chairman of the Labor and Human Resources Committee, to mark up the reauthorization of title X in that committee before the end of this year and to have these amendments debated in committee at that time.

However, as of this date, such a markup has not occurred although as I indicated yesterday, several members of the committee attempted to have the title X reauthorization considered at the beginning of a committee markup on November 19. That effort was, unfortunately, not successful.

Because of the possibility that an attempt may be made to offer these amendments to the continuing resolution when it is before the Senate next week with little time for debate or consideration, I am taking this opportunity to discuss several of the possible amendments.

Yesterday, I focused upon the most controversial amendment, the so-called Kemp-Hatch amendment. During the October 21 debate on the title X appropriation, the Senator from Utah [Mr. HATCH] also spoke extensively on his intent to propose amendments dealing with eligibility for title X services. Although the text of such a proposed amendment has not been made available since it was first described over 5 weeks ago, the thrust of the remarks made by the Senator from Utah suggest that this amendment will seek to restrict access to title X services in a manner which will exclude many teenagers and focus the program only upon low-income couples.

Like the Kemp-Hatch amendment discussed yesterday, this amendment has been characterized as carrying out the original intent of title X.

INCOME ELIGIBILITY ISSUE

Mr. President, in his remarks on October 21, the Senator from Utah stated that title X was "supposed to be a poor people's program."

That is simply not true.

The issue of whether eligibility for title X services was to be restricted only to "poor" people was carefully considered—and rejected both when title X was first established and subsequently when the authorizations of appropriations were extended.

Section 2 of the Family Planning Services and Population Research Act of 1970, Public Law 91-572, clearly set forth the purpose of the act, among other things, to "assist in making comprehensive voluntary family planning services readily available to all persons desiring such services." Section 6 of the act, which added a new title X to the Public Health Service Act, specified that priority for service in the projects or programs must be provided to persons from low-income families. Lack of economic resources was found to be a major barrier to obtaining these services for many low-income individuals, but it was also recognized that other barriers to access existed. The title X program, therefore, was not established as a means-tested program.

At the time the title X authorizations of appropriations were extended during the 93d Congress, the issue of whether Federal family planning services should be restricted to welfare-eligible families was the focus of considerable attention. The Nixon administration proposals to transform the program in this manner were subjected to heavy criticism from a broad array of organizations.

In 1973, I chaired several days of hearings on this issue and a number of the witnesses raised serious concerns that focusing these services on only welfare-related clients would give the appearance of punitive and genocidal motivations for Federal family planning efforts. Both the House and Senate committees explicitly rejected converting the program into a strictly welfare program.

For example, the House committee report accompanying H.R. 14214 (H. Rept. No. 93-1161, p. 20) in 1974 stated:

> • • • the Committee is concerned that [the Administration's proposal] could limit the provision of subsidized family planning services to public assistance and Medicaid recipients. Such a policy is penny wise and pound foolish and would make it impossible for family planning to assist individuals and couples to avoid the dependency that often results from involuntary pregnancy. The federal family planning effort must serve not only the poorest of the poor but all persons who for economic or other reasons have difficulty in obtaining the services they need and want.

Mr. President, the following year, the Senate committee report accompanying S. 66 (S. Rept. No. 94-29, p. 65) contained similar critical comments regarding attempts to limit subsidized family planning services to only public assistance and Medicaid recipients and stressed the importance of assisting "all persons who for economic or other reasons have difficulty in obtaining the services they need and want."

As the Senate committee further noted:

> Such a policy [of limiting title X services to public assistance and Medicaid recipients] would make it impossible for family planning to assist individuals and couples to avoid the dependency that often results from involuntary pregnancy. (S. Rept. No. 94-29, p. 65.)

In 1975, legislation enacted as Public Law 94-63 amended section 1006(c) of title X to require that the Secretary define the term "low-income" family "so as to insure that economic status shall not be a deterrent to participation in the programs assisted" by title X. This provision was included in both the House- and Senate-passed measures in 1975 and as indicated in the committee reports cited above, was added in specific repudiation of the administration's attempts to limit accessibility to title X services by imposing an income-eligibility test.

Mr. President, the adverse impact that imposing a means-test upon the title X program would have in terms of its potential impact on teenagers was specifically raised during the 1973 hearings I chaired. For example, the American Public Health Association testified in 1973 that such a change would "eliminate for all practical purposes services for those currently without children or to teenagers, even though it is precisely with these groups where the cost-benefit ratio is most favorable in avoiding an unwanted pregnancy" (hearings before the Special Subcommittee on Human Resources on S. 1708, Family Planning Services and Population Research Amendments of 1973, 93d Cong., 1st sess., p. 166).

1978 HEARINGS AND EXTENSION

Mr. President, during the Senate hearings and consideration of legislation to extend the authorizations of appropriations for the title X program during the 95th Congress, it was well established that the services of the title X program were to be made available to persons in need of such services without imposition of rigid means-tests. The Senate committee report accompanying S. 2522 (S. Rept. No. 95-822, p. 21) observed:

> The broad authority for family planning services contained in title X is designed to ensure that these services are available to persons of all incomes who want them but would not otherwise be able to obtain them.

S. 2522 was passed unanimously by the Senate in 1978.

Mr. President, I have stressed this legislative history because I think it is important to rebut the implications raised on October 21 by the Senator from Utah that the changes in eligibility criteria that he or others might propose would restore title X to its "original intent."

The truth is that a change of the title X program into a means-tested, welfare-eligibility related program would represent a fundamental alteration of title X—a change has been consistently rejected by Congresses during the 15 years this program has been in existence. Certainly, any proposal for such a fundamental change deserves the most thorough and careful consideration and hearing process.

Mr. President, there are a multitude of potential adverse consequences of implementing such a change which have certainly not been examined. For example, women of various economic status who reside in rural areas have consistently had difficulties in obtaining access to family planning services. Imposition of a means-test on title X programs could have a serious, adverse impact upon accessibility to family planning services for these rural women. That may not be the purpose of an amendment changing the eligibility criteria, but it certainly could be one of the consequences.

Mr. President, I believe that the reasons for not limiting title X services to only welfare-families are as valid today as they were 15 years ago. Such a policy would be, as the House committee stated in 1973, "pound-foolish and penny-wise" and could create more welfare dependency and greater ultimate cost to the Federal Government and the public.

IMPOSITION OF FEES FOR SERVICES

On the other hand, Mr. President, I wish to point out, so that there is no misunderstanding, that the fact that the title X program is not a means-tested program does not mean that those who can afford to pay are not required to reimburse the program for the services they receive. Title X grantees are prohibited from charging low-income individuals fees for the services provided, but they can and do charge those who can afford to pay for such services.

The 1970 legislation specified in section 1006(a)(2) that no charge for services could be imposed upon low-income families, except to the extent that payment would be made by a third party which is authorized or is under legal obligation to pay such a charge.

The initial title X regulations published in 1971, however, made clear that grantees were allowed to charge for services to other persons in accordance with a schedule submitted and approved as part of the project plan.

The current title X regulations, published in 1980, require that charges be made for such services, but, consistent with the longstanding congressionally established policy, they provide that members of families whose annual family incomes exceed the poverty income guidelines, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services, should be considered "low-income" for the purposes of determining whether such charges can be imposed. The 1980 regulations explicitly refer to unemancipated minors who wish to receive services on a confidential basis as falling into that category, but the policy of providing services to such individuals existed long before the 1980 regulations.

Indeed, as I have indicated previously, the 1975 amendments to title X explicitly required the Secretary to define the term "low-income family" "so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this title." (Section 204(d) of Public Law 94-63.) In response to the 1975 amendments, the Department in April 1977 solicited comments and suggestions on how to revise the title X regulations to comply with the 1975 amendments. The Department's notice in the Federal Register (April 11, 1977, vol. 42, No. 69) stated:

> The legislative history of this section also indicates that Congress intended the term "low-income family" to be defined so as to permit individuals who do not meet whatever income cut-offs are established but who are nevertheless unable to pay for family planning services to be considered "low-income" for the purpose of the program.

Mr. President, the Department solicited comments on whether the regulations should "enumerate specific economic or other circumstances which would constitute a basis under which an individual not meeting the income cut-off could nevertheless qualify as low-income" or whether a general criterion for a waiver of the income cutoff should be adopted. The 1980 regulations, in enumerating teenagers seeking services on a confidential basis as constituting one of the examples of a group unable to pay for family planning services, was based upon the congressional mandate contained in the 1975 amendments, strengthened by the 1978 amendments which added a special emphasis to the title X program on reaching sexually active adolescents.

SERVICES TO UNMARRIED MINORS

Mr. President, I recognize that the eligibility issue was raised by the Senator from Utah in the context of his concern that unmarried minors were receiving services from the title X program irrespective of their family income. In his statement on October 21, the Senator from Utah contended that "ingenious rule-writers at the Department of Health and Human Services a few years ago decided upon a novel way of determining income for purposes of title X eligibility."

That, as with the statement that title X was a "poor people's program," is simply not true.

Although the 1978 amendments created a new emphasis upon reaching this population, the legislative history of title X back to the 91st Congress clearly demonstrates that services to unmarried minors have always been contemplated under the program.

1970 LEGISLATIVE HISTORY

Mr. President, although much of the focus of the 1970 legislation was upon making family planning services available to the millions of low-income women who lacked access to such services, it is simply not correct to state that the authors of title X never intended for the program to serve adolescents who were not from low-income families. The legislative history of the congressional deliberations during the 91st Congress which resulted in enactment of Public Law 91-572 includes numerous references to the need to provide family planning services to help avert unintended pregnancies among sexually-active adolescents.

First, for example, the Harkavy report, a study commissioned by HEW in 1967 to evaluate the Department's population and family planning activities carried out under programs such as Medicaid and the Maternal and Child Health Program which provided a major impetus for the congressional initiatives leading to enactment of title X, specifically addressed the issue of providing family planning services to adolescents:

> The girl who has an illegitimate child at the age of 16 suddenly has 90 percent of her life's script written for her. She will probably drop out of school. . . . Her life choices are few and most of them are bad. ("Family Planning and the Reduction of Poverty in the United States", Attachment A, Implementing DHEW Policy on Family Planning and Population, DHEW Consultants' Report, September, 1967, reprinted at pages 333-337, Hearings on S. 2108, Family Planning and Population Research, 1970, Committee on Labor and Public Welfare, 91st Congress.)

The report included recommendations that any eligibility criteria for family planning programs should be "liberal with respect to the age of unmarried women seeking help. . . . The need to help young women avoid premarital births is particularly urgent in view of the harmful consequences of such births for both the mothers and their children." The Harkavy report and its recommendations were the focus of considerable attention during the Senate hearings on S. 2108.

Second, witnesses who testified at the Labor and Public Welfare Committee hearings on S. 2108 in 1970 specifi-

cally discussed the need to reach sexually-active teenagers at risk of unintended pregnancies. For example, Dr. Joseph D. Beasley, director for the Center for Population and Family Studies at Tulane University, in describing his Louisiana model family planning programs, talked about the importance of program outreach to "the young teenager who has just begun to have intercourse out of wedlock." (Senate Hearing, 1970, p. 75.)

Carl Flemister, Citizens Committee on Children, New York, spoke extensively during his testimony about teenage pregnancy problems:

. . . [M]ore and more young girls, children themselves, are having babies before reaching a reasonably adequate degree of emotional and social maturity. Despite this we know that in most States family planning advice and assistance is available to sexually active young people only after they experienced a first pregnancy, a pretty high price to pay for information.

Family planning services alone will not solve this problem. They may, however, give us time to help sexually active young people find other ways to know more about their sexuality and to find positive ways to deal with it. (Senate Hearing, 1970, p. 98.)

Similar testimony was presented during the House hearings on the 1970 legislation.

Third, repeatedly during the congressional debates, hearings, and in the committee reports, the statistical data that was presented to demonstrate the need for an expanded Federal role in the family planning area referred to women between the ages of 15 to 44. Secretary of HEW Elliot Richardson during his testimony at the House hearing expressed the goal of the Nixon administration as "making high quality family planning services accessible to all women in America in the reproductive age group." (House Hearing, 1970, p. 79.) Neither Congress nor the administration were unaware of the fact that teenagers fall within that group.

Fourth, and perhaps most indicative of the fact that it was understood that sexually-active adolescents were within the scope of those at risk of an unintended pregnancy who were intended to be served under the new program, one of the few opponents of the 1970 legislation attacked it during the House floor debate precisely because unmarried teenagers would be served. Representative Schmitz observed:

The bill contains no restrictions whatever on the age or the martial status of persons who may receive contraceptives paid for by the funds it appropriates.

Representative Schmitz noted that programs which would in all likelihood receive substantial funding from appropriations provided for the new program had testified during the House hearings that they provide contraceptives to teenagers. (CONGRESSIONAL RECORD, Nov. 16, 1970, Vol. 116, Part 28, H37373.)

1972–73 HEARINGS AND REAUTHORIZATION OF APPROPRIATIONS

Mr. President, as Congress began preparing for the reauthorization of the appropriations for the title X program during the 92d Congress, there was a growing concern that the program was not adequately serving the needs of teenagers. At oversight hearings I chaired in 1972, the difficulties of providing services to sexually-active teenagers was addressed. It was clear even then that there was a need to try to develop better mechanisms to reach these teenagers before a pregnancy occurred. HEW told the subcommittee that it was initiating a project to stimulate the development of innovative medical, social, and educational services to protect adolescents against early unwanted pregnancies and was conducting a study dealing with legal barriers to the provision of services to minors. (Hearing before the Special Subcommittee on Human Resources, Committee on Labor and Public Welfare, U.S. Senate, 92d Congress, Family Planning Services Authorization, fiscal year 1973, April 17, 1972.)

As I noted earlier, at the Senate hearings the following year concern was specifically raised about the potential adverse impact of a title X means-test on providing family planning services to teenagers.

The 1974 House Committee report accompanying H.R. 14214 (H. Rept. No. 93-1161), extending the authorization of appropriations for the title X program, expressed concern about the fact that the title X program was not adequately reaching teenagers:

While family planning services have continued to expand and demonstrate their effectiveness and value, it appears that certain population groups requiring these services are not being reached. These groups include teenagers. . . . (H. Rept. No. 93-1161, p. 14.)

The Senate Labor and Public Welfare Committee report in 1975 similarly noted that teenagers were among the population groups requiring these services which were not being reached. The Senate report specifically focused upon serving teenagers:

In reaching these new groups, which have been underserved in the past, the Committee believes that provision of contraceptive services should be preceded by counseling about the consequences and significance of a decision to use contraceptives. In the process of such counseling, the Committee believes that unmarried teenagers, where feasible, should be encouraged to involve their family in their decision about use of contraceptives. (S. Rept. No. 94-29, p. 55.)

1977–1978 HEARINGS AND REAUTHORIZATION OF APPROPRIATIONS

Mr. President, although it is clear that services to sexually active teenagers were always within the "original intent" of title X, the issue became a major focus of the hearings and congressional deliberations during the 95th Congress regarding extension of the authorizations of appropriations for the title X program.

When the title X authorizations of appropriations were extended in 1977 as part of an omnibus health program extension measure, the Health Planning and Health Services Research and Statistics Extension Act of 1977, H.R. 4975, Public Law 95-83 the distinguished Senator from Massachusetts [Mr. Brooke] offered an amendment adopted by the Senate to increase the authorization for title X by $10 million, noting especially the increased need for services to help prevent teenage pregnancies. (CONGRESSIONAL RECORD, May 4, 1977, daily ed., S7027.)

At the time the conference report on H.R. 4975 was considered in the Senate, I spoke extensively about the importance of the increased funding levels in terms of making a major advance against the tragic social problem of teenage pregnancy:

The population for whom this program is intended consists of 5.8 million women between the ages of 15 and 45 whose incomes are below 150 percent of the poverty level. In addition, there are 2.2 million teenagers above that income level who face obstacles other than income in obtaining family planning services, such as shyness about approaching the family physician because of suspected lack of confidentiality, the lack of personal income of a teenager, and their ineligibility for third-party coverage without parental consent or knowledge. (Con. Rec., July 15, 1977, daily ed., S11972.)

The Senate hearings I chaired the following year on the reauthorization of appropriations for the title X program included extensive discussion of the need to increase efforts to reach sexually active teenagers at risk of unintended pregnancies. Indeed, the Senate report accompanying the title X legislation approved by the Senate in 1978 repeatedly emphasized the need to provide family planning services to sexually active adolescents who desired such services in order to avoid unintended pregnancies and noted that all of the witnesses who testified at the 1978 Senate hearings, with a single exception, urged that greater emphasis be placed upon reaching these sexually active teenagers (S. Rept. 95-822, p. 12.). The report stated:

The committee believes that greater emphasis . . . must be placed on reaching teenagers and making family planning services available to them before an unwanted pregnancy occurs. (S. Rept. 95-822, p. 28.)

The distinguished Senator from New York [Mr. Javits] in his floor remarks at the time of Senate passage of the 1978 legislation called specific attention to the need to emphasize services to adolescents. Senator Javits observed:

It is estimated that there are at least 9.7 million women at risk of unwanted pregnancy who have difficulty obtaining family planning services, often due to economic

reasons. A great proportion of these women are teenagers. . . . About 1 million of these adolescents become pregnant each year, and almost 600,000 give birth. Many of these pregnancies are unwanted, and often result in disastrous consequences for these individuals and their families. There is a higher incidence of low birth weight pregnancies, a greater risk of complications of pregnancy and childbirth, and higher rate of school dropouts, unemployment, welfare dependence, and out-of-wedlock births among these adolescents than in the general population. By providing this new emphasis on voluntary services to sexually active adolescents in this legislation, we can begin to confront and preempt the problems facing pregnant teenagers and their families. These amendments to title X continue the authority of the voluntary family planning program to serve persons of all ages and all income levels. (Cong. Rec., daily edition, June 7, 1978, S8629.)

As the floor manager of the 1978 Senate legislation, I also addressed the legislation's emphasis on reaching adolescents:

Teenage pregnancy has become an issue of major concern. These pregnancies are often unwanted and frequently result in adverse health, social, and economic consequences for the individuals and the families involved. An adolescent marriage is also at high risk of divorce. During our consideration of this legislation, we heard troublesome statistics on the consequences of an early pregnancy on a young woman's future. Those statistics made it clear to me that special efforts must be made to help these young women avoid unwanted pregnancies. Testimony received in subcommittee hearings also made it clear that organized family planning clinics have had the greatest success in reaching adolescents. Given the evidence of the success of these programs, I believe common sense dictates that these clinics should form the cornerstone of federal programs to assist sexually active adolescents to avoid unwanted pregnancies and should be an integral part of any program dealing with teenage pregnancy. The provisions of S. 2522 as reported would enable these programs to increase their capacity to provide comprehensive services to adolescents in a compassionate and understanding manner, and to provide these young people with extra support services, such as the counseling and information programs that experience has shown are necessary to the effectiveness of programs designed to meet adolescent needs. (*Cong. Rec.*, June 7, 1978, daily ed., S8613.)

The legislation which was subsequently enacted in 1978, Public Law 95-613, amended section 1001 of title X to provide this special emphasis on providing services to adolescents under the title X program. Section 1001 was amended to read in pertinent part:

The Secretary is authorized to make grants . . . [to projects] which shall offer a broad range of acceptable and effective family planning methods and services (including . . . services for adolescents).

ADHERENCE TO—NOT DEVIATION FROM—LONG-STANDING, CLEARLY ESTABLISHED CONGRESSIONAL POLICY

The above discussion, I believe, makes totally clear that the statement by the Senator from Utah on October 21 that title X grantees are providing services to adolescents "without our permission and contrary to the intentions of those who established title X" (Cong. Rec., daily ed., S13654.) is also completely without foundation.

There may be disagreement about the merits of this title X policy—although I would argue strongly in favor of its continuation. But to suggest that some bureaucrats at HHS or some out-of-control title X grantees have been taking these actions without congressional direction and approval is totally misleading and false. An amendment aimed at cutting off teenagers from title X program is not an effort to get the program back to its original purpose. Rather, such a proposal is an attempt to make fundamental changes in policies which have been explicitly approved and endorsed by Congress over the past 15 years.

Any proposal for such a change ought to be subjected to complete and thorough examination by the authorizing committee with ample opportunity for public comment on such a proposed amendment. It is not a matter which should be hastily disposed of as a rider to an appropriations bill without hearings or committee consideration.

CONSEQUENCES OF TEENAGE PREGNANCY

Mr. President, the purpose of my statement today has been to clarify some of the legislative history surrounding these issues and to make clear that proposals to eliminate teenage eligibility for services or to impose a means-test for title X services would be a major and fundamental change in policy. However, I do want to add a few remarks about the consequences of cutting off access to family planning services to sexually active adolescents.

There is absolutely no question that taking such an action will lead to an increase in unintended pregnancies. We can debate the magnitude of such an increase or the numbers that will end in abortion, but a substantial increase will most certainly follow and so will many more abortions which could be avoided by continuing the present program. That the consequences will be tragic in many of these cases is also without doubt.

I would like to quote briefly from the research findings which were presented by the Department of Health, Education and Welfare during the 1978 Senate hearings:

. . . [W]e know that childbearing during adolescence entails high health and social risks for both mother and child. Compared to women 20-24 years of age, the risk of maternal death is 60 percent higher. The risk of complications of pregnancy and childbirth, such as toxemia, anemia, and premature and prolonged labor, are higher.

The health of the baby is often adversely affected. . . . Babies born to adolescents are two to three times more likely to die during their first year. There is an excessive number of low-birth weight babies born to this group of mothers—we estimate that the frequency of low birth weight infants is 30% higher in comparison to women 20-24 years old. Low birth weight is directly associated with infant mortality, neurological defects, and childhood illness and disability subsequent to infancy. . . .

The social consequences of adolescent pregnancy are also substantial. Childbearing often poses an enormous psychological burden to the adolescent mother. Many do not marry, but for those who do, the statistics are grim—adolescent marriages are two to three times more likely to end in divorce. . . . Adolescent mothers face a high risk of welfare dependency. The younger the adolescent when she first gives birth, the poorer the newly formed family is likely to be. We know that of all children born out-of-wedlock, at least 60 percent end up on welfare. . . .

(Hearings on S. 2522, Family Planning Services and Population Research Act Extension of 1978, Subcommittee on Child and Human Development, Committee on Human Resources, 95th Congress, 2d Sess., p. 87-88.)

Certainly, Mr. President, all of these factors are as true today as they were in 1978.

TEENAGE PREGNANCY PROBLEMS IN CALIFORNIA

Mr. President, during this past summer, the Los Angeles Times published a powerful series on the problems of teenage pregnancies in my own State. In addition to profiling a number of tragic individual cases involving teenage pregnancies, this series presented some staggering statistics relating to the dimensions of this problem in California.

These are unpleasant facts. But we cannot put our heads in the sand, as some would have us do.

First, the most common solution among teenagers to an unintended pregnancy is abortion. According to the most recent report from the California Senate Office on Research, 70,143 or 49 percent of the 143,160 teenagers in California who became pregnant in 1981 had abortions. Thirteen percent of those pregnancies ended in miscarriages, and in 38 percent of the cases, the teenager gave birth.

Second, the public and private costs of these teenage pregnancies is staggering. In California, some 8 out of every 10 pregnant teenage girls drop out of high school. So do about 40 percent of the teenage fathers. As the Los Angeles Times observed in its editorial at the conclusion of this series:

Because they drop out of school, they can expect much lower incomes for the rest of their lives—and taxpayers can expect to help pay the cost of that. . . . Nearly sixty percent of California's total welfare budget goes to women who had teenage pregnancies.

Mr. President, I ask unanimous consent that this editorial from the August 4, 1985 issue of the Los Angeles Times be printed in full at the conclusion of my remarks.

Despite these tremendous costs of teenage pregnancies, State and Federal funding for family planning services

have been cut back significantly. The Federal title X program, for example, is currently funded at $142 million—$20 million less than the level in 1981. The consequences of these cuts for Los Angeles, according to the executive director of the Los Angeles Regional Family Planning Council, Tom Kring, is a decrease in the number of women, including teenagers, who can be served by family planning programs.

CONCLUSION

Mr. President, studies have repeatedly shown that most teenagers do not make their first visit to a family planning clinic until after they have been sexually active for a considerable period of time. In many cases, the purpose of their first visit is to obtain a pregnancy test. Taking family planning services away from teenagers will not bring about an end to teenage sexual activities. What it will do is produce thousands and thousands of individual human tragedies—tragedies for unmarried teenagers who bear a child and where the pregnancy is terminated.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Aug. 4, 1985]

TEEN-AGE PREGNANCY

The heavy price of teen-age pregnancy paid by too many young mothers, fathers, infants—and society—was outlined in distressing detail in a recent series on teen-age pregnancy by staff writer Lynn Smith.

For the most part the stories outlined despair, disappointment, ignorance and broken lives filled with regret and drastically reduced chances for happiness and success. But the stories were enlightening. Thought-provoking. And disturbing. That's good, because teen-age pregnancies are on the rise and the community needs to be enlightened, disturbed—and provoked into action if more pregnancies are to be prevented and young lives saved.

Consider the grim statistics. In the United States each year, 96 out of every 1,000 girls between 15 and 19 become pregnant, four out of every five of them by mistake. That gives the United States one of the highest teen-age birth rates among the world's industrialized nations.

The number of sexually active teen-agers has been growing steadily. Today 49% of all 15- to 19-year-olds are sexually active. If the rate continues to rise, 40% of all 14-year-old girls in the United States today will be pregnant before they are 20.

The future for them is frightful. In California, about eight out every 10 pregnant teen-age girls drop out of high school. So do about 40% of teen fathers. If the teen-agers marry, their chances of separating or divorcing are three times greater than for couples in their 20s.

Because they drop out of school, they can expect much lower incomes for the rest of their lives—and taxpayers can expect to help pay the cost of that. Nearly 60% of California's total welfare budget goes to women who had teen-age pregnancies. A 10% increase in the number of teen mothers finishing high school could save California taxpayers $53 million in welfare payments.

About half of the state's teen-age mothers choose abortion to end unwanted pregnancies. Babies born to teen-age mothers are more likely to die in their first year of life than those born to older women. The death rate for teen-age mothers is also considerably higher, and their attempted suicide rate is seven times greater than the national average.

Those statistics, shocking as they are, won't stop teen-age pregnancies and the costly, demoralizing circumstances that too often accompany them. But more sex-education and family planning programs might. So might more school district programs that help pregnant teen-agers finish their schooling.

It would also help to identify pregnant adolescents so they could receive the counseling, educational programs and medical care they need. According to Smith's research, only 300 of the estimated 3,000 pregnant teen-agers in Orange County are enrolled in the few school programs available for pregnant minors. The other 2,700 are out of school, somewhere. The community owes them, and the teen-agers who could avoid a similar plight with more knowledge and attention, more help than they have been receiving thus far.

DR. GEORGE E. TAYLOR

Mr. GORTON. Mr. President, I should like to bring to the attention of my colleagues a recent article by the dean of Washington State's trade community, Dr. George E. Taylor. Dr. Taylor, who will soon celebrate his 80th birthday, has long been a voice of reason and conciliation in his advocacy of greater international understanding and an open world trading system.

In recognition of his nearly 50 years as an educator and public servant, members of the Seattle academic and business communities have proposed the establishment of the George E. Taylor Foreign Affairs Institute at the University of Washington. If the quality of the institute matches that of its namesake, it will no doubt make a valuable contribution to our understanding of our trading partners, and their understanding of us.

The article I am submitting today illustrates the breadth of thought and vision characteristics of Dr. Taylor's work. In it, he points out the benefits of nurturing our world trading system, particularly the GATT, as a means of developing an orderly mechanism for resolving international disputes. In this manner, he exposes the larger threat posed by protectionist legislation such as the textile bill. As we work to fashion productive solutions to our trade problems, it is important to keep our eyes on the big picture painted by those such as Dr. Taylor. I hope that all my colleagues will take time to consider his views.

Mr. President, I ask unanimous consent that the article from the Seattle Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECHOES OF THE 1930'S: WORLD PEACE TIED TO WORLD TRADE

(George E. Taylor)

Congress may be about to begin unraveling the international trading sytem and with it our one practical model for a world without war. Congress is considering raising tariffs to cut down imports in order, it is said, to save American jobs.

This sort of protectionism combines a net loss of jobs and the eventual danger of armed conflict. The real victim, in the long run, will be world peace.

We went through all this in the Thirties, when the high Smoot-Hawley tariffs of 1930, combined with President Roosevelt's refusal to attend the London economic conference, helped to ruin what was left of the old international trading system and to intensify the struggle for economic turf that brought us into World War II.

In 1930 it was economists who warned Congress and President Hoover that the Smoot-Hawley tariffs would reduce employment, reduce international trade, promote trade wars, and lead to armed conflict; and all this came to pass. Over 1,000 economists from 46 states stated:

"The higher duties proposed in the pending legislation would . . . plainly invite other nations to compete with us in raising further barriers to trade. A tariff war does not furnish good soil for the growth of world peace."

There was an immediate decline in import and export trade. In 1929 commodity exports amounted to $5.517 million; in 1930 they declined to $4.781 million, or 26 percent. The export of crude foodstuffs went down by 34 percent and of manufactured foodstuffs by 25 percent.

Exports of manufactured goods declined 25 percent for finished items and 29.6 percent for semimanufactured goods. Agriculture suffered more than manufacturing, yet one reason for the act was to aid American farmers.

Leaders of the peace movement, our churches, labor and management, and education now have the responsibility to bring the danger of international chaos to the attention of the American people. Today there is no excuse for not combining our efforts to strengthen the economic foundations for a world without war.

The road to peace is crowded with many pilgrims, each one carrying a different banner. Some seek security through strength, others hope to stop nuclear escalation immediately, some rely on the improvement of individual behavior or the rectification of national policies, especially our own.

Few have noticed, however, that we have a working model for peaceful economic relations that has been in operation for 40 years. Right after World War II, the industrial democracies put in place a revolutionary new international trade system, designed to increase the wealth of the world through trade and to head off trade wars through negotiation and adjudication. This unique model for stable economic relations is in jeopardy.

For the first time in history, world trade came to be organized and managed by a voluntary group of 80 nations—not by a single world or regional empire with gunboats at its command.

Initiated by the Truman administration, it was based on such institutions as the World Bank, the International Monetary Fund, and the General Agreement on Tariffs and Trade. It was designed to increase world

prosperity by lowering tariffs, which it did, and to head off tariff wars through voluntary compliance with the rules of GATT, which it did less well.

But the system worked well enough to bring about a great increase in world trade and to maintain peaceful trade relations, at least for 40 years, among the industrial democracies and their allies.

President Truman, Secretary of State Dean Acheson, and Gen. George C. Marshall created something never seen before, voluntary international institutions to regulate economic relations, open to all to join. The Soviet Union refused to join and forced its satellites to do the same.

These institutions, especially GATT, provided the climate that made possible the spectacular growth of companies doing business all over the world, the emergence of a world market, and the beginning of a world economy. National economies are no longer closed units; they are part of the larger world economy.

Production facilities are everywhere. Capital and resources move easily around the globe. This world economy has great powers of attraction even to such countries as China, now a leader in exploiting market forces, and Hungary and Romania, which are now members of the IMF, an institution they formerly scorned.

The danger is that protectionist legislation such as the Textile Trade Enforcement Act would start unraveling the international trading system and thereby the world economy. It is a small move but the first one that is clearly in the wrong direction.

If passed, it would violate the Multi-Fiber Agreement because we would be unilaterally changing negotiated bilateral agreements. It would establish tariff levels far above anything contemplated before. It discriminates, by definition, against most of the Third World countries with which we have conducted about 40 percent of our export trade.

It lowers imports from heavily indebted countries, such as Brazil, which are now, by arrangement with the IMF, trying to reduce their imports and increase their exports. A truly ironic situation. Even from a purely economic point of view, the measure is certain to be counterproductive. Yet the overwhelming consequences would be political.

The leader of the industrial democracies, the proud author of the Marshall Plan, and the generous rebuilder of Japan, the United States, is proposing to undermine confidence in the revolutionary world economic system it did so much to create. This may be a decisive step on the path that ends in brutal trade wars, the eventual dissoluton of our alliances, and the weakening of our national security.

Trade wars not only endanger the consumer by raising prices and limiting access to many goods, but also tend to endanger us all.

The most constructive objective for a U.S. trade policy is the strengthening and management of a world economy. It is to take the initiative once more in helping to construct an economic system that will include all nations, and to devise and create the new institutions by which it can be properly managed.

We have a great opportunity and responsibility to sound the alarm. Congress is deciding whether we go forward with what we have in the way of a world economy, or fall back into a system of preferential trading areas, such as the European community, a North American/Caribbean/Israeli trading zone, and others in Asia.

George Orwell would feel more at home in that case. Let us hope that the forces for peace in this country see the relation between the world economy, with all its shortcomings, and world peace. Surely we can all unite on this issue to appeal to Congress to build, not destroy; to make our trade policy our peace policy. To do anything else is to walk backward into a future of chaos and conflict. Time is short.

HAL CHRISTENSEN

Mr. PACKWOOD. After 28 years, Hal Christensen is soon to retire as the principal lobbyist for the American Dental Association. Oh, I know that lobbyists are now called government relations experts, or consultants, or Washington representatives, or some other such title designed to remove the sting of the word. To me lobbyist is an old-fashioned, honorable term. My father was a lobbyist for 32 years at the Oregon Legislature. Practiced at its best, it is an honest and decent profession. Hal Christensen practices it at its best.

Hal will never mislead you. He will not lie to you. His word is good. He is never careless with facts or loose with opinions. Hal Christensen represents the best of the breed. The Congress will miss him. The country will miss him. And his peers will miss him. He is a beacon of leadership for all of us.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, we are still trying to work out a couple of time agreements, one on the Professional Sports Community Protection Act of 1985—I understand there are a number of Senators involved in discussions on that; second, a bill stating a claim to certain allotted Indian lands on the White Earth Indian Reservation. In that discussion, there is still some effort being made to resolve an issue with the distinguished Senator from Montana [Mr. MELCHER].

Also, most of our colleagues on both sides of the aisle are involved in a series of conferences, either on the debt ceiling and the Gramm-Rudman amendment or are going to be involved in the farm bill or in other conferences. So if we can do any work today, it will be on bills on which we can reach time agreements. We are trying to reach Senator THURMOND by phone to see if he wants to start bringing up some of the judicial nominees who have been on the Calendar for some time, maybe starting sometime shortly after 12.

So, Mr. President, because of the inability to work out a couple of items here, at least at the present time, I am going to ask, if it is cleared with the distinguished minority leader, that the Senate stand in recess until 12 noon.

RECESS UNTIL 12 NOON

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 12 noon today.

The PRESIDING OFFICER (Mr. GORTON). The question is on agreeing to the motion.

The motion was agreed to and, at 11:04 a.m., the Senate recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MCCONNELL].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Kentucky suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, we are still in the process of trying to resolve conflict on a couple of bills we are trying to take up today—the so-called Professional Sports Community Protection Act of 1985, and settling unresolved disputes relating to certain allotted Indian lands on the White Earth Indian Reservation. We might not be able to do that. We may just have to proceed to one or the other, but I do not think we can do that before 1 o'clock, because the principals in each case are in other meetings.

RECESS UNTIL 1 P.M.

Mr. DOLE. Mr. President, I move we stand in recess until 1 p.m. today.

The motion was agreed to and, at 12:12 p.m., the Senate recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DURENBERGER].

The PRESIDING OFFICER. The Chair, as a Senator from Minnesota, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. PRESSLER. Mr. President, I wish to make some remarks at this point. Later this afternoon, I understand that there will be a request on Conrail, a unanimous-consent agreement, and I shall join in objecting to that. I am supposed to be chairing a committee hearing at 2 o'clock. But I will remain on the floor as long as possible because this is an extremely important issue to me and my State of South Dakota. I will come back to the floor if I do have to leave, but I ask unanimous consent to insert a statement in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I was preoccupied for a moment. Did I understand the Senator from South Dakota had indicated he would be one of those objecting to the unanimous-consent agreement?

Mr. PRESSLER. Yes.

Mr. METZENBAUM. Is that in connection with the balanced budget amendment or Conrail?

Mr. PRESSLER. That is in connection with Conrail.

Mr. METZENBAUM. I thank the Senator. I will be on the floor. If I make an objection, I would be happy to do it on his behalf, as well as my own, if he wishes.

Mr. PRESSLER. I appreciate that. Senator SPECTER is also here, of course—I cannot speak for other Senators—but in case I am absent momentarily, I want to make it very clear that I strongly object to bringing up Conrail at this time. I have a hearing today at 2, but I shall try to get back to the floor if I have to leave before this issue is dispensed with.

Mr. METZENBAUM. In this particular situation, one is as good as a thousand.

Mr. PRESSLER. Good.

HIGHWAY PROGRAM SPENDING

Mr. SYMMS. Mr. President, on October 23, the Senate approved H.R. 3244, a bill appropriating funds for the Department of Transportation for fiscal year 1986. The bill included highway trust fund obligation limitation of $12.75 billion—which was reduced to approximately $12.546 billion by the 1.6 percent across-the-board cut, adopted immediately preceding final passage of the bill.

During consideration of the measure, Senator KASSEBAUM offered an amendment to restore some of the $300 million cut from the FAA operations and the $200 million cut from the Coast Guard operations. In order to make possible the increases in FAA and Coast Guard funding without increasing the total cost of the bill, Senator KASSEBAUM's amendment provided a 6-percent across-the-board cut.

I opposed the Kassebaum amendment because of the reductions that would have been required in the highway trust fund obligation limitation. I argued that a lower obligation limitation would result in significant and unjustifiable damage to the financial integrity of, and public confidence in, the Federal-Aid Highway Program. Fortunately, the amendment was tabled, but my concern about the fate of the Highway Program remained because of the strong administration and congressional support for the effort to restore FAA and Coast Guard funding.

On November 15, I wrote a letter to Ray Barnhart, the Federal Highway Administrator, expressing my concern that a congressional mandate to reduce cash outlays in all DOT accounts for fiscal year 1986 might seriously damage the Highway Program. I asked the Administrator to answer several specific questions relating to the effect of outlay reductions on the highway trust fund obligation ceiling.

Mr. Barnhart responded on November 27, and I commend his letter to the attention of my colleagues. After reading these comments, I am convinced that any efforts to further reduce outlays from the highway trust fund must be firmly opposed. We cannot justify the increased fuel taxes enacted under the Surface Transportation Assistance Act of 1982 if we refuse to allow that money to be spent on the construction and maintenance of the Nation's highway and bridge system.

Mr. President, I ask unanimous consent that my letter to Mr. Barnhart and his letter in response be printed in the RECORD following my remarks. I urge my colleagues on the Appropriations Committee—who are beginning their markup of the continuing resolution today—to resist any effort to reduce outlays from the highway trust fund.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, November 27, 1985.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Thank you very much for your kind letter of November 15, 1985, on highway program spending. Let me begin by expressing my appreciation for both your concern regarding total Federal spending and your sensitivity to the particular characteristics of the highway program. Specifically, your letter asked (1) what reduction in the annual obligation ceiling for Federal-aid highways would be required to achieve a $100 million outlay savings in the same year; (2) what reduction in the FY 1986 obligation ceiling for Federal-aid highways would be required to achieve a $500-$600 million savings in FY 1986 outlays; and (3) what impact would the forced outlay savings have on the highway program.

There are two basic ways in which to control outlays in a given fiscal year (1) by adjusting the overall limitation to reduce outlays or (2) no adjustment to the limitation, but control the rate at which the funds are obligated during the fiscal year. This presupposes that exempt programs remain outside the limitation.

We will first address your specific questions:

$100 MILLION ANNUAL OUTLAYS SAVINGS

Assuming controls were to be placed on program obligations at the beginning of a fiscal year, it would be necessary to reduce the obligation level by about $600 million (assuming a straight-line obligation rate over the course of the fiscal year) to achieve a $100 million outlay savings during that same year. it is emphasized, however, that as the fiscal year continues, the reduction in obligations to achieve the same outlay savings would become much more drastic. for example, if a reduction in obligations were not effected until January 1 of the fiscal year, a reduction in total obligations of about $1.063 billion would be required to save $100 million in outlays as compared to the $600 million in the previous example.

$500-$600 MILLION SAVINGS IN FISCAL YEAR 1986

Assuming controls were placed on program obligations at the beginning of the fiscal year, the obligation level would have to be reduced by about $3.0 billion to achieve a $500 million savings in FY 1986 outlays. Since we are already well into the fiscal year and assuming that January 1, 1986, would be the earliest possible date to effect a revised obligation level for FY 1986, a reduction of about $5.3 billion would be required to achieve $500 million in outlay savings. Assuming a January 1, 1986, date for implementing a reduction in obligations, for every $100 million in outlay savings, the FY 1986 program level would have to be reduced by about $1.063 billion, the same as discussed above. Consequently, a reduction of about $6.4 billion would be required to achieve a $600 million reduction.

IMPACT OF A $500 MILLION OUTLAY REDUCTION ON THE HIGHWAY PROGRAM

If, as stated above, a reduction of $500 million in FY 1986 were achieved by reducing the obligation level in Federal-aid highways by $5.3 billion, there would be a significant negative impact on the overall economy in general and the highway industry in particular as follows:

Reduced Employment—Each $1 billion of Federal-aid highway funding generates approximately 23,700 workyears of employment. If the FY 1986 program level were to be reduced by $5.3 billion, almost 126,000 jobs would be lost.

Adverse Effect on Small Business—Reduced program levels could force highway-related businesses such as construction companies and engineering consultants out of business. The smaller firms, many of which are minority owned or operated, would go first and the MBE program would suffer.

Delay in Interstate Completion—Reduced program levels could cause a substantial delay in completing the Interstate highway system.

Special Emphasis Programs—A reduction on total program level would cause the States to reorder their priorities and special emphasis programs such as bridges and safety could receive a disproportionate share of the cut.

Reduced Highway Maintenance—Dependent upon the extent to which Federal highway assistance is reduced, States might divert some of their maintenance dollars to high priority capital projects.

Loss of Credibility—A significantly unannounced reduction in currently planned program levels will adversely affect our credibility with States and private industry. After significantly changing funding availability with little or no advance warning, highway-related organizations would not put much faith in our announced program levels or other plans. A loss in credibility would take far longer to restore than it would to lose. The recent increase in Federal gas taxes was based on the assumption that these additional revenues would be returned to the public in the form of increased highway construction. A further reduction of program levels would tend to increase the credibility gap currently existing due to the obligation limitations already being placed on the highway program.

Planning by State/Local Government—When highway-related organizations are unable to depend upon the stated Federal financial assistance levels, they will develop their own estimate as to the extent of Federal-aid that will be available. If the reduction in obligations is implemented, State and local government plans will have to be entirely redone to adjust for project schedule slippages.

CONTROLLING THE RATE OF OBLIGATIONS

As stated earlier, outlay savings can be achieved in fiscal year 1986 by controlling the rate at which funds are obligated (both within and outside the limitation). Again, assuming a January 1, 1986 effective date and a limitation of $12,750,000, obligations from January through August must remain at $573 million each month with $6,145,000 being obligated in September, to achieve a $500 million reduction in outlays in FY 1986. During September 1985, $2,164,000 was obligated.

Restricting obligations to less than $600 million per month January through August and then permitting over $6.0 billion to be obligated in September would have a negative impact on the highway program and destroy our credibility with the transportation industry. Some examples include:

1. Massive paperwork to implement controls.

2. Totally disrupt the state's current long term planning and budgeting process.

3. Delay the start of critical projects.

4. It would be very difficult administratively to handle the paperwork and go through all of the bid-letting processes in September as a result of the abnormally large increase. Because of the decreased opportunities available to them during the rest of the year, many contractors may drop out of the highways areas and go elsewhere for work. Consequently, it could be difficult to find enough contractors able and willing to bid on all the jobs. In any event there would be reduced competition and this reduced competition would result in higher bid prices.

5. The delay in using available funds would result in increased highway user costs, increased construction costs and increased accidents.

6. The pressure to obligate $6 billion in one month could result in low priority projects being implemented just to obligate funds quickly.

7. The rush to obligate the funds in September could result in potential safety problems being overlooked.

8. A large amount of obligations in September would greatly distort obligation and outlay patterns and would significantly increase outlays in fiscal years 1987 and 1988.

9. The peaks and valleys in the size of bid lettings would make for very inefficient use of contractor personnel and equipment with resulting higher bid prices.

For your ready reference, we have developed and are enclosing a paper entitled "Outlay Reduction Exercise."

We hope that this letter provides an adequate response to your concerns regarding reductions in Federal spending and its possible impacts as applied to the highway program. If you have any further questions, please let us know.

Sincerely yours,

R.A. BARNHART,
Federal Highway Administrator.

OUTLAY REDUCTION EXERCISE FEDERAL-AID HIGHWAY PROGRAM

There are two basic ways in which to control outlays in a given fiscal year (1) by adjusting the overall limitation to reduce outlays or (2) no adjustment to the overall limitation but control the rate at which the funds are obligated during the fiscal year. This presupposes that exempt programs remain outside the limitation. This exercise assumes that legislation is effective 01/01/86 to produce a $500 million reduction in FY 1986 outlays and all but $300 million of the current 1st quarter limitation is obligated prior to 12/01/85 (with $1,345,300 of the limitation obligated in October). The effect of achieving a $500 million reduction in 1986 outlays under each of the methods follows:

A. BY ADJUSTING THE LIMITATION

	Estimated reduction in obligations to achieve $500,000,000 outlay reduction	Estimated revised limitation
Under a limitation of:		
$13,250,000	$5,310,000	$7,940,000
12,750,000	5,310,000	7,440,000
12,546,000	5,310,000	7,126,000

B. CONTROLLING THE RATE BY WHICH FUNDS ARE OBLIGATED (TOTAL PROGRAM)

[In thousands of dollars]

Month	Obligated fiscal year 1985 [1]	$13,250 limitation fiscal year 1986	$12,750 limitation fiscal year 1986	$12,546 limitation fiscal year 1986
October	565	1,336	1,336	1,336
November	992	1,694	1,694	1,694
December	1,183	143	143	143
Subtotal	2,740	3,173	3,173	3,173
January	970	636	573	548
February	832	636	573	548
March	1,671	636	573	548
April	1,509	636	573	548
May	1,243	636	573	548
June	1,014	636	573	548
July	1,030	636	573	548
August	910	636	573	548
September	2,164	6,145	6,145	6,145
Total	14,083	14,406	13,902	13,702

[1] Furnished as reference. Includes obligations within and outside the limitation.

Note.—This exercise ignores outyear outlay projections.

TOTAL LIMITATION

Obligation authority available for distribution in FY 1986 is less than the total apportionments and allocations for the year on which the distribution is based. If the limitation is reduced, the State's percentage of available autority also reduces:

Obligation limitation:	Percent [1]
$13,250,000	85.6
$12,750,000	82.3
$12,546,000	80.9
$7,940,000	50.0
$7,440,000	44.5
$7,126,000	44.5

[1] Percent of authorization each State would receive.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, November 15, 1985.

Hon. RAY A. BARNHART,
Administrator, Federal Highway Administration, Washington, DC.

DEAR RAY: I have followed with interest the machinations in Congress relating to expenditures from the Highway Trust Fund for FY 1986 and beyond. As one who consistently has supported proposals to reduce federal spending, I can understand the views of many of my colleagues who believe the highway program should bear its share of spending reductions.

I am concerned, however, that many Members of Congress may not be aware of the effects that lower cash outlay requirements may have on the nation's highway system. For this reason, your response to the following questions would be very helpful to me and my colleagues as we consider the various appropriation, authorization, and reconciliation bills which affect the highway program:

(1) In order to achieve $100 million in cash outlay reductions for one year, what is the necessary effect on the obligation ceiling?

(2) The House of Representatives and the Senate have passed separate DOT Appropriations bills which include FY 1986 obligation ceilings of $13.25 billion and $12.546 billion, respectively. If further outlay reductions of $500 to $600 million are required in order to bring the Conference Report on H.R. 3244 into conformance with the Budget Resolution, what would be the effect on the obligation ceiling for FY 1986? Also, how would the Federal-aid Highway program be affected by this lower obligation ceiling?

Ray, these are questions of concern to me as Chairman of the Environment and Public Works Subcommittee on Transportation and as a tax paying highway user. Your detailed response will be appreciated.

Best regards,

Sincerely,

STEVE SYMMS,
U.S. Senator.

AID TO UNITA

Mr. SYMMS. Mr. President, I recently submitted a letter to the Washington Post concerning aid to UNITA, which the Post's editorial board evidently refused to print. I will ask unanimous consent to place this article in the CONGRESSIONAL RECORD, because I believe the other side of this issue deserves a hearing, even if the Post does not.

I might add that this letter is particularly relevant, in the light of this Sunday's Post editorial, which reiterated the theme that UNITA should not be assisted because of its South African connections. I cannot help but notice that many who are now criticiz-

ing UNITA's acceptance of South African aid are the same parties responsible for UNITA having to resort to South African aid. UNITA's critics today are many of the same people who supported the Tunney and Clark amendments in 1975 and 1976, depriving UNITA of American assistance, while the Soviets were eagerly supplying and ultimately enthroning the MPLA in Angola. It is obvious that if we decide to aid UNITA, UNITA will be less dependent upon South African support.

South Africa's help to UNITA is a red herring. The core opposition to UNITA aid stems from certain sectors who believe in coddling the Communist regimes in southern Africa and ignoring the gross human rights violation within those dictatorships, and putting pressure solely on South Africa for internal reform.

Mr. President, I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 1985.

LETTER TO THE EDITOR:

If there has ever been any question about the real motives of Mr. Randall Robinson and his organization, TransAfrica, in their professed fight to end apartheid in South Africa, his column in Sunday's Post dispels any such doubts. He showed his hand at last—a hand outstretched to the communist forces in southern Africa, specifically to the MPLA regime in Angola, which Robinson admits is Marxist. TransAfrica is attempting to use American abhorrence for apartheid as justification for the denial of U.S. aid, even humanitarian, to UNITA freedom fighters in Angola.

Mr. Robinson would have us believe that Castro's Cubans and the Soviet, East German, and North Korean troops are in Angola to protect that country from "destabilization" by South Africa. If Mr. Robinson had taken the time to check a history book, he would have known that South African troops, at the encouragement of the U.S., and a number of African nations, entered Angola in October, 1975, a full 8 months after the MPLA invited in white communist bloc troops to help it seize power. The MPLA power grab foreclosed the fulfillment of the Alvor Accord, which UNITA, the FNLA, and the MPLA signed, pledging themselves to free and fair elections. It is the MPLA, not UNITA, that has had to enlist the help of white colonial imperialists to retain its control. While UNITA welcomes material assistance from friendly nations, Dr. Savimbi, President of UNITA has argued that enlisting South African or any foreign troops in its struggle would make UNITA no different from the MPLA. Unlike the MPLA, UNITA is an indigenous fighting force, with the backing of the overwhelming majority of the Angolan population.

Let's look further at the truth. South African forces have entered Angolan territory, in pursuit of SWAPO guerrilla forces conducting a campaign of civilian terror, assassination, and sabotage in Namibia. As a result of the Lusaka agreement between South Africa and Angola of February 1984, South Africa relinquished its position in southern Angola. Angola did not adhere to its commitment in Lusaka, to stop SWAPO incursions into Namibia. As a result of over 150 SWAPO violations, Lusaka collapsed. Similarly, State Department negotiations on Cuban troop withdrawal collapsed, because of MPLA intransigence on the issue. While South Africa was in good faith ceding territorial gains in southern Angola, the Soviet Union was pouring $2 billion worth of weapons into Luanda, and the MPLA was issuing decrees to allow the Cubans to become Angolans, further reducing prospects for Cuban troop withdrawal.

North Korean troops have recently been imported to shore up decimated, demoralized Cuban forces, and they are involved in training SWAPO and ANC terrorists for attacks in Namibia and South Africa. According to Mr. Robinson's skewed view of events in southern Africa, these communist countries are interested in preserving the sovereignty of the MPLA. Although they never held elections, the MPLA is assumed to be a legitimate government.

Robinson says that "oppression and racial subjugation are as worthy of American opposition as communism." I agree, and I have staunchly supported efforts to encourage the South African government to continue and to accelerate its dismantling of apartheid. TransAfrica's interest in the promotion of black political aspirations in South Africa is commendable; its support for which colonialism in Angola, and its silence on racial and tribal subjugation, and flagrant human rights abuses in Zimbabwe, Angola, Mozambique, and elsewhere on the continent, seriously undermines its credibility as a professed defender of black freedom in Africa.

Sincerely,

STEVE SYMMS,
U.S. Senator.

THE COURAGE OF A CONSERVATIVE

Mr. SYMMS. Mr. President, I ask unanimous consent that a book review by William Perry Pendley on "The Courage of a Conservative," written by former Secretary of the Interior James Watt, be printed in the RECORD.

There being no objection, the book review was ordered to be printed in the RECORD, as follows:

[From the Wyoming State Tribune]

THE COURAGE OF A CONSERVATIVE

(By William Perry Pendley)

He was the most famous cabinet officer of all time. The Washingtonian magazine called him the greatest leader in the history of the Department of the Interior. The Sierra Club called him "the most dangerous man in America." His tenure as secretary of the interior was the stormiest in history, and ended just as extraordinarily as it had begun.

Two years ago last month he left a lifetime of public service and entered private life in Washington to make his fortune and, like many former public servants, to write a book. He has written that book, but it is not what we might have expected.

Instead of the behind the scenes look at the Reagan administration's natural resource policies, programs and personalities, Jim Watt has stepped away from a career-long involvement with the Department of the Interior and its issues and written a book of personal an political philosophy.

He deals with his controversial tenure at Interior only tangentially, to make a point or to set a historical framework for his central thesis: The American liberal movement has deserted most Americans, and conservatives must take the lead in changing "the role and performance of government." As he notes, "It is a book calling for change . . . It is about what the modern conservative movement must do . . . to give the nation the leadership that is so sorely needed."

In Watt's view, notwithstanding recent successes, "the conservative counter-revolution has fallen woefully short of victory. Liberalism still reigns, because it is so thoroughly institutionalized . . . whether one is talking about labor, education, business, the media, the arts or even government bureaucracy . . . " Who are these "modern conservatives" to whom Watt is speaking, and what is it that characterizes them? "We are probably the most liberal conservatives the nation has ever known . . . That is why there are now so very many of us." For Watt, the point of reference between liberals and conservatives is not whether to meet the needs of people, but how. Liberals "are willing to compromise the traditional restraints of the American system if it will satisfactorily address the need at hand. Conservatives, on the other hand, look to values and absolutes to direct them.

Watt attributes increasing voter identification as conservatives not to the movement of such voters to the right, but to a movement of the national political debate to the left. Just how far to the left has that debate moved in Watt's view? "We are no longer debating options within the parameters of the American system. We are, in fact, debating that very system itself."

For Watt it is a debate that cannot be avoided. "The contest between liberals and conservatives is a moral battle . . . offering a clear choice and opposite directions for America's future." Those who would assert political indifference with a view that it doesn't really matter who is in power, are merely attempting "to avoid moral responsibility."

What are the "institutions and the laws of the liberal establishment itself" that Watt attacks and seeks to change? What's the "fight," as Watt puts it, all about?

It's about:

a welfare system that Watt calls a "trap of increasing dependence, less self-sufficiency and hopelessness;"

the betrayal of American blacks whose family units "had survived slavery and ugly racial discrimination," only to be nearly decimated by government policies;

five generations of oppressive federal paternalism that has sapped the initiative of the American Indians;

a level of crime in the nation that is intolerable;

"a society that has grown increasingly violent in the home and hospital, on the highways and over the airwaves;"

a secularization of American society that has challenged the "moral absolutes and religious traditions" of Western civilization with little concern for what was left in their place resulting in "an increasingly amoral society."

a never-ending "parade of financial horrors" inflicted by powerful political lobbies on the American taxpayer; and

an American foreign policy which saw its nadir in the ill-fated hostage rescue mission whose "rusting hulks, half buried in sand, (remain as) monuments to a naive people so

sensitive to their own imperfect use of power that they were willing to forfeit it to madmen."

For these and other ills, Watt indicts "liberals" whose belief that the American system is fatally flawed affects the nation's domestic policies—its welfare and criminal system, for example—and its foreign policies as well. Yet his indictment demonstrates more compassion, more balance, more understanding than he has been credited with in the past. The attack, for all of its strength and ideological fervor, is political, not personal.

Little that Watt has written is new. Conservative theorists and political leaders have been discussing such matters for years. But Watt is the best known conservative leader, outside the president, to have so totally embraced the conservative agenda and to have placed it so clearly before the American people.

Yet in his book, Watt is casting a much broader net than ever before. Not only does his discussion span the breath of issues facing America—from abortion to "star wars"—but his characterizations of those issues have an appeal to a much broader audience than the words "conservative" might at first imply.

In his introduction, Watt asks, "Who are the leaders who have the courage to bring about the changes that are needed?" He never answers the question, although on his final page he suggests that "those who have the courage to stand and speak out must do so now."

On the book jacket of "The Courage of a Conservative" a tanned and smiling Jim Watt stands before a majestic white house with tall columns framing heavily curtained windows. It's not the White House, but at first it looks like it. Is Jim Watt answering his own question?

(William Perry Pendley, a native of Wyoming, served as deputy assistant secretary for energy and minerals in the Department of the Interior from 1981 to 1984. Today he practices law in the Washington, D.C. metropolitan area.)

PROPOSED TIME LIMITATION AGREEMENTS

Mr. DOLE. Mr. President, I have a series of unanimous-consent requests to see if we can get agreement on some legislation I would like to dispose of between now and the 13th or the 20th of December, depending on when we may adjourn for the year. One would be with reference to the balanced-budget amendment, one on the Genocide Treaty, one on Conrail, and one on the National-Dulles bill.

I would indicate to those who may wish to object—and I do not expect any objection to any of these—but if there should be an unexpected objection, what I will do is make a short unanimous-consent request and ask that the balance of the request be printed in the RECORD, which lists the amendments and other things.

Mr. PRESSLER. Mr. President, will my colleague yield?

Mr. DOLE. I am happy to yield.

Mr. PRESSLER. Before the majority leader came into the Chamber, I gave a speech that I would object to Conrail, along with others.

Mr. DOLE. Good; that may take care of that one. I believe I will make the request anyway, in case people are not listening. [Laughter.]

Mr. PRESSLER. Mr. President, I would like to say that at 2 o'clock I have to be somewhere else but, in any case so that I do not miss the opportunity, I join in the objection because it threatens the life of the railroad in my State.

I hate to object. This is the first time I have joined in an objection of this sort on the Senate floor. But this matter is critical to my State, and there are many outstanding issues to be resolved before we can go forward.

The Justice Department has given its rather tentative approval to the divestiture plan, but it has done so before it even commissioned, much less completed, a full study on the plan. This half-baked approach is totally unsatisfactory, especially when my State and the entire Midwest will be hardest hit by what I believe to be the enormously anticompetitive impact of this plan.

I support selling Conrail. I have no problems with that. But I do have a problem going forward with a plan that will clearly harm the Midwest. I was all for helping the Northeast corridor preserve its rail system when I first came to Congress 11 years ago. I support the Government package to help that part of the country get back into the railroad business. And now that it is healthy, I am all for turning it back to the private sector, but not at the expense of our railroads in the Midwest.

It is clear that this plan, as presented, will divert traffic from my Midwestern railroads. But the Justice Department is saying "go ahead and sell Conrail now; we will tell you about all the warts when the study is finished." This is a totally unacceptable approach to me.

Midwestern railroads such as the Chicago and North Western, the Grand Trunk, and the Illinois Central Gulf, stand to lose millions of dollars if this plan goes through, and shippers and consumers throughout the Midwest will be paying the price in reduced service and higher costs of transportation.

Today, the Senate is being asked to go forward without seeing the Justice Department's study on this issue, which it says will be forthcoming at a later date. I also asked the Justice Department for specific information on this issue last May an still have not received an adequate answer. I will not jeopardize my railroad without having all the facts before us so we can debate this issue on a level playing field.

The Chicago Northwestern, in particular, has been a good corporate citizen in South Dakota. They have done a tremendous job in working with us to maintain long-term service in our State. I do not want to see the Chicago and Northwestern or anyone else in the Midwest go on trial here today without the evidence.

That is why I am objection to this motion. I am prepared to go forward when the evidence is in, but without more than we have today, it would be improper for the Senate to act.

BALANCED BUDGET

Mr. DOLE. Mr. President, let me at least pose the first request. But that time, the distinguished minority leader may be here. I am sure there will be an objection in any event.

I ask unanimous consent that on Tuesday, December 10, at 3 p.m., the Senate proceed to vote on the question "is it the sense of the Senate that debate be brought to a close on Senate Joint Resolution 13 or Senate Joint Resolution 225, relating to a balanced budget?"

I further ask unanimous consent that if the motion receives an affirmative vote of three-fifths of the Senators duly chosen and sworn, that the following amendments be the only amendments in order, with the exception of the committee reported amendment, and consideration thereof begin 2 hours after the Senate convenes the second session of the 99th Congress: Heflin—exemption for national security reasons, 30 minutes, equally divided; Armstrong—super majority to extend the debt limit, 30 minutes, equally divided; and Hatch/Thurmond technical amendment, 5 minutes, equally divided.

I further ask unanimous consent that there be 20 hours, to be equally divided between the Senator from Maryland [Mr. MATHIAS], and the Senator from South Carolina [Mr. THURMOND] or their designees.

I further ask unanimous consent that no motions to recommit with instruction be in order, and the agreement be in the usual form.

Finally, I ask unanimous consent that following the disposition of the above mentioned amendments, and the conclusion or yielding back of time, the Senate proceed to third reading and final passage of Senate Joint Resolution 13, or Senate Joint Resolution 225, without any intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, with due respect for the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GENOCIDE TREATY

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the Senate go into executive session on Tuesday, December 10, at 2:30 p.m., to proceed to vote on the question: "Is it the sense of the Senate that debate be brought to a close on the resolution of ratification to accompany Executive Calendar No. 2, the International Convention on the Prevention and Punishment of the Crime of Genocide?"

I further ask unanimous consent that if the motion receives an affirmative vote of three-fifths of the Senators duly chosen and sworn, that the treaty be advanced through its various parliamentary stages, up to an including the presentation of the resolution of ratification, and the following amendments be the only first degree amendments in order, with the exception of the committee reported amendments, and consideration of the listed first degree amendments begin following final passage of S. 638, the Conrail Sale Amendments of 1985:

That three amendments germane to the resolution of ratification, to be offered by Senator HELMS, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator MCCLURE, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator DENTON, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator EAST, 30 minutes equally divided, each; three amendments germane to the resolution, to be offered by Senator GARN, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator THURMOND, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator LAXALT, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator SYMMS, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator WALLOP, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator HECHT, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator GRASSLEY, 30 minutes equally divided, each; three amendments germane to the resolution of ratification, to be offered by Senator HATCH, 30 minutes equally divided, each; and five amendments adding Communist countries to the resolution, to be offered by Senator SYMMS, 30 minutes equally divided, each.

I further ask unanimous consent that all second degree amendments be germane to the first degree amendment they propose to amend, and that no motions to recommit with instructions be in order.

Finally, I ask unanimous consent that following the conclusion of the first degree amendments listed above, and any amendments thereto, that the Senate proceed immediately, without any intervening action, to the adoption of the resolution of ratification to accompany Calendar No. 2, the Genocide Treaty.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object—and I shall not object at the moment—this is no time to burden the Senate with this long discussion.

I say to my distinguished majority leader that I have been gratified in recent weeks because a number of people are now becoming aware of the implications of the proposed Genocide Treaty. And, in particular, I have heard from scores of Jewish citizens who previously had strongly supported the treaty.

Mr. METZENBAUM. Mr. President, if we are going to have a debate on this objection, all of us ought to have an opportunity to debate it.

It is my understanding that when there is objection there is no time available to debate the subject.

The PRESIDING OFFICER. Any Senator is permitted to reserve the right to object and debate.

Mr. METZENBAUM. That has not been done. There was no objection, as I understand it.

Mr. HELMS. Mr. President, I will conclude by saying that there are Jewish citizens who previously strongly supported this treaty who now realize that Israel will be most likely the first nation to be victimized by it.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be allowed 2 minutes to respond to the objection of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I heard my colleague from North Carolina address himself to the issue of the Genocide Convention, and he seemed to imply that many Jewish citizens as well as Israel would be harmed if it were to be put into effect.

Let me say that I think I am in a better position to reflect the position of the American Jewish community than he, and I say without any equivocation that the American Jewish community believes that the Genocide Convention should be ratified.

The American Jewish community further believes that on the whole question of genocide Jews of other lands, who suffered more than perhaps any other group in the world, have an impact, and a concern about the whole issue of genocide. This matter has been on the floor of the U.S. Senate for years. We had a firm commitment last session that this matter would be brought to the floor of the U.S. Senate, and we would have an opportunity to vote on it.

We are now in the closing days of the session. I am disappointed that at this point the only way we can bring it to the floor is by a unanimous-consent request. I understand the position of the floor leader. But I would certainly hope that at an early point in the session next year we will do that which we should have done for the last 28 or 30 years when we have not acted on the Genocide Convention.

Mr. HECHT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Mr. President, I ask unanimous consent to speak for no more than 1 minute, please.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HECHT. In reply to the distinguished Senator from Ohio, in this past week many top Jewish attorneys, international attorneys, met on my behalf. I asked them to analyze the Genocide Treaty. It was their unanimous opinion, for which I will have proper documentation, and not being an attorney I will not speak on the merits of what they have come forth with, to date. However, it is their opinion that the Genocide Treaty would not be in the best interest of the State of Israel or the United States of America.

CONRAIL

Mr. DOLE. Mr. President, I ask unanimous consent that on Tuesday, December 10, at 2 p.m., the Senate proceed to vote on the question "Is it the sense of the Senate that debate be brought to a close on S. 638, the Conrail sale amendments of 1985?"

I further ask unanimous consent that if the motion receives an affirmative vote of three-fifths of the Senators duly chosen and sworn, that the

following amendments be the only first degree amendments in order, with the exception of the Committee reported amendments, and consideration of the listed first degree amendments begin 2 hours after the Senate convenes the second session of the 99th Congress:

The Long-Danforth—ESOP; Long—Staggers Rail Act amendments; Specter—Morgan Stanley proposal; Metzenbaum—10 tax related amendments; Pressler—Midwest carrier; Pressler—Antitrust immunity; Specter—Philadelphia-Altoona yards; Dixon—ICC review; Specter—Tighten restrictions on the sale; Specter—Delay transfer of Conrail stock; Specter—Furnishing financial statements and Specter—Norfolk Southern tax shelter.

I further ask unanimous consent that all second degree amendments be germane to the first degree amendment they propose to amend, and that no motions to recommit with instructions be in order.

Finally, I ask unanimous consent that following the conclusion of the first degree amendments listed above, and any amendments thereto, that the Senate proceed immediately, without any intervening action, to third reading and final passage of S. 638, as amended, if amended.

SEVERAL SENATORS. Objection!

Mr. DANFORTH. I wonder if Senators will withold their objections for a couple of minutes until we can discuss this matter.

Mr. PRESSLER. I will withhold.

Mr. DANFORTH. Mr. President—

Mr. HEINZ. Mr. President, reserving the right to object.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, reserving the right to object, and obviously I shall not object, the Senate Commerce Committee has had extensive hearings on the question of the sale of Conrail. We have had at least two different proposals for how to sell Conrail that have been presented to the Commerce Committee.

The administration has gone through a very lengthy process which led to the decision to sell it to Norfolk Southern.

Subsequent to that decision, Morgan Stanley has come forward with a proposal to sell it eventually to the public through an underwriting lead by Morgan Stanley.

There have been perhaps other ideas that have been put forth to sell Conrail, but I do not know of anybody who thinks that we should sell it at all.

Mr. President, if we decide that we are not even going to bring up the bill to entertain the various proposals for selling Conrail, then I would submit that the Government of the United States has turned itself into something of a Chinese fire drill. People wonder about the effectiveness of the Government here in Washington if we cannot even sell a railroad. How effective are we?

Mr. President, I would urge the Senator to withhold his objection. Let us bring the bill to the floor. Let us discuss the administration's proposal, offer amendments for the Morgan Stanley proposal, perhaps for other ideas that Senators have. I know the Senator from Pennsylvania has had some ideas for selling Conrail.

Mr. President, it is not a disaster to the Senator from Missouri if we decide to sell it to somebody other than Norfolk Southern. But every witness who testified over days of testimony before the Commerce Committee said that it would be a very bad thing not to sell it to anybody.

Mr. President, as the Senator from Kansas and the Senator from Wyoming point out, in the budget resolution we already agreed in the Senate to sell it.

There has been absolutely no question that I know of about selling it at all.

So, Mr. President, I would hope that those who are about to offer their objection——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri has the floor and he has a right to the floor under his reservation.

Mr. HEINZ. Will the Senator yield?

Mr. DANFORTH. I am about to sit down.

Mr. President, I would hope that those who are about to object would at least let us get on with the business of deciding to whom we are going to sell it because the result of an objection is to say after all this, after years of hemming and hawing on this issue, we are just not going to sell it to anybody.

SEVERAL SENATORS. Will the Senator from Missouri yield for a question?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Reserving the right to object, in response to the comments of the distinguished Senator from Missouri, the Conrail matter is not ripe for decision by this body at this time because hearings have not been concluded by the Judiciary Committee on the most critical question of all. That question is the issue of violation of the antitrust laws. A hearing on this issue had been scheduled by the Judiciary Committee which was objected to, and which did not formally take place.

In January of this year the Department of Justice, in an opinion letter by the Assistant Attorney General in charge of the Antitrust, Division concluded that acquisition of Conrail by Norfolk Southern would constitute a violation of the antitrust laws unless there was appropriate divestiture.

The facts of record today show very strongly that the proposed divestiture to Guilford and to the Pittsburgh and Lake Erie Railroad would not satisfy the requirements of antitrust consideration.

There was a commitment made that the Secretary of Transportation would testify before the Judiciary Committee regarding this issue. The distinguished Secretary did testify, but not before the Judiciary Committee, and not in a formal hearing. We have not yet had verification of a great many facts concerning the proposed divestiture to Guilford and the Pittsburgh and Lake Erie.

Contrary to what the distinguished Senator from Missouri says, there are many questions unresolved which have not yet had the benefit of a hearing, and which ought to be concluded before this body is called upon to consider the Norfolk Southern Conrail merger proposal.

Mr. HEINZ. Will the Senator yield without losing his right to the floor?

Mr. SPECTER. I do.

Mr. HEINZ. I say to my good friend from Pennsylvania that I want to associate myself with his remarks. I think he has stated very clearly the case concerning consideration today, next week, until we get answers to the question regarding the antitrust issues involved in the sale of Conrail to Norfolk Southern.

It would be irresponsible of the Senate to proceed.

A moment ago this Senator tried to get the Senator from Missouri to yield for a question. It was the intent of this Senator from Pennsylvania to propound the question to the Senator from Missouri whether the Justice Department had yet come to a favorable antitrust conclusion. They have come to two unfavorable conclusions. They are now doing their third study and to this Senator's knowledge there is still no conclusion even to that study.

I wanted to ask him that question. I know he would have answered it accurately, but for reasons known only to him he did not so respond.

I thank the Senator for yielding.

Mr. THURMOND. Will the Senator yield?

Mr. SPECTER. As soon as I answer the comment of the Senator from Pennsylvania.

The Senator is correct that the Department of Justice has not given a conclusive answer to the antitrust question. They have said that, based on a preliminary finding, there may be sufficient divestiture if many, many facts are proved to be correct and are confirmed. But I would say at this stage of the record that the serious impact on competition as presented

would be a violation of the antitrust laws if Norfolk acquired Conrail.

I yield to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Chair will inform the Senate that the majority leader had the floor. Then the junior Senator from Pennsylvania reserved the right to object. The Chair has the right to entertain discussions on that subject to the extent the Chair is edified by it. The Chair is at the end of the period for edification. I will renew the request. Is there objection?

Mr. SPECTER. I do object.

Mr. SARBANES. Mr. President, in view of the fact that S. 638, the Conrail Sale Amendments of 1985, which authorizes the sale of Conrail to Norfolk Southern, may be considered by the Senate, I wanted to take this opportunity to outline my concerns about the proposed sale. I have serious reservations not only about the proposed sale itself but also about consideration of this legislation at this time. It seems to me that the rush to sell Conrail is being conducted under something resembling a fire sale. There is no reason for a decision of this magnitude to be made hastily, prior to the end of this session, given the potential far-reaching consequences for the future of rail service in our region.

Last week I joined in a letter to the distinguished majority leader urging that consideration of the Conrail legislation be postponed until more information is available on the possible effects of the proposed transaction. We still do not have a detailed study from the Justice Department on Norfolk Southern's latest divestiture plan. We do not know whether the proposed divestiture addresses the antitrust concerns raised by the acquisition. We also do not have the Treasury Department's estimates of the net receipts the Federal Government would receive from the proposed sale. Clearly, whether you support or oppose the sale of Conrail to Norfolk Southern, acting with more complete information would help ensure a better decision and help minimize the chances of adverse consequences. Obviously, consideration of the Conrail legislation at this time is premature.

In addition to my reservations about consideration of the legislation at this time, there are a number of aspects of the proposed sale itself that concern me. First, I am not convinced that the bid of $1.2 billion represents an adequate return on the Federal Government's investment of over $7 billion in Conrail. I am particularly disturbed by estimates of the Congressional Budget Office that the Treasury and taxpayers will lose $400 million over the next 5 years because of the tax benefits that would accrue to Norfolk Southern.

Second, I am concerned about the potential anticompetitive aspects of the sale. Conrail's acquisition by Norfolk Southern, if approved by Congress, would constitute the largest railroad merger in history. Testimony presented before the Senate Judiciary Committee and studies completed by the Justice Department and the Interstate Commerce Commission of Norfolk Southern's earlier divestiture agreements revealed significant antitrust problems and the loss of rail competition if Conrail was sold to Norfolk Southern. Until a very detailed study of the latest divestiture agreement announced 2 weeks ago is completed, there is no indication that this newest plan will not present similar anticompetitive problems.

Third, I am concerned about the effect of this merger on jobs. It is clear that there will be a substantial direct loss of railroad jobs as Norfolk Southern and Conrail consolidate. I am disturbed by the prospect that there may be more jobs lost as a result of the anticompetitive effects of the merger.

Finally, I am concerned about the effect of the proposed sale on the economy of the State of Maryland. An efficient and competitive rail system is essential to Maryland's economic well-being, particularly as it relates to the Port of Baltimore and surrounding industrial areas. A Norfolk Southern/Conrail merger holds the potential for route abandonments, loss of markets and rail jobs, and a curtailment of service. Norfolk Southern officials have offered no convincing evidence that Maryland's economy and the port would not be adversely affected if the railroad bought Conrail.

In view of these concerns, I shall oppose the sale of Conrail to Norfolk Southern and urge my colleagues to join me in this effort.

"MUST" LEGISLATION

Mr. DOLE. Mr. President, I ask unanimous consent that in the event cloture is invoked on the motion to proceed to S. 638 during 99th Congress, 1st session, that it be in order for the majority leader, after consultation with the minority leader, to temporarily lay aside the motion, in order to consider any of the following items.

Debt limit increase conference report; reconciliation conference report/House message; continuing resolution and accompanying conference report; conference report to accompany any remaining appropriations bills; farm bill conference report; or the farm credit conference report.

Mr. METZENBAUM. I object.

Mr. SPECTER. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. I guess one Democrat ought to have a chance to object.

NATIONAL-DULLES

Mr. DOLE. Mr. President, now that we have the easy one out of the way, let me move to this one.

I ask unanimous consent that when the Senate turns to the consideration of Calendar No. 424, S. 1017, the National/Dulles bill, it be considered under the following time agreement:

That 2 hours on the bill, all amendments, and debatable motions, to be equally divided between the chairman of the Commerce Committee and the ranking minority member or their designees; that the following amendments be the only amendments in order, with the exception of the committee-reported amendment, and they be limited to the following time limitations, to be equally divided:

Bentsen amendment, germane to the bill, 20 minutes; Sarbanes, germane to the bill, 10 minutes; Sarbanes, germane to the bill, 10 minutes; Sarbanes, germane to the bill, 10 minutes; Sarbanes, germane to the bill, 10 minutes; Trible, germane to the bill, 10 minutes;

That there be 5 minutes for any debatable motions, appeals or points of order, if so submitted to the Senate;

That no motions to recommit with instructions be in order;

And that the agreement be in the usual form.

Finally, I ask unanimous consent that following the disposition of the above mentioned amendments and the conclusion or yielding back of time, the Senate proceed to third reading and passage of S. 1017, without any intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

WHITE EARTH INDIAN RESERVATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 422, S. 1396, the White Earth Indian Reservation bill.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Is this without a time agreement?

Mr. DOLE. This request was intended just to get on the bill. I would otherwise have to move to the bill. I would also like to get a time agreement, I say to my distinguished friend, the Senator from Montana.

Mr. MELCHER. Do I understand the majority leader correctly that he would like to set a time agreement?

Mr. DOLE. I could propound a time agreement amendment that would give the Senator 1 hour, the Senator from Minnesota 30 minutes, that no amendments be in order other than the committee-reported substitute.

Mr. MELCHER. With no amendments? No amendments would be in order?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me withdraw the unanimous-consent request while the two Senators who have a particular interest in this bill are discussing it.

The PRESIDING OFFICER (Mr. NICKLES). The majority leader has that right.

Mr. DOLE. Mr. President, let me indicate so there will be no misunderstanding about the other unanimous requests propounded earlier. I know a number of Senators have objected to these requests and I do not find any fault with that. But I want Members to know that that does not mean there will not be any action on these measures this year. I hope that we can proceed to at least one of the three or four measures between now and the time we adjourn. If not, it will be my intention to lay down a cloture petition on at least one of those as we leave here on the 13th or 20th, whatever date it might be. I indicate to my colleagues who have an interest in passing the various pieces of legislation that they will be scheduled early when we come back, so there will not be one of these sessions when we come back in January and do not do much in February or March.

There is going to be significant legislation pending when we come back. There will be votes when we come back and there will be votes and legislative activity on the floor in January, February, and March. It is hoped that we might be able to leave here next year no later than October 3, 1986.

Mr. President, I must say I am not surprised that I did not get unanimous consent, but I wanted to make the effort so that those who have an interest on the other side—those who want their legislation—are aware of the fact that the effort was made. This is not the end of the effort. We will do our best to schedule legislation at the earliest possible time.

I suggest the absence of a quorum.

Mr. MELCHER. Mr. President, before the majority leader asks for a quorum call, may I say this, dealing with the Indian bill on White Earth?

First, I have to object to taking it up at the very moment that we are supposed to be starting the conference meeting on the farm bill. I know time constraints exist here, but this is the most peculiar time of all as far as I am concerned to call up this bill, which is very complicated, at a time when the conference committee on the farm bill is just beginning to meet.

Second, there is some real question of law involved that should be well laid out on the bill and understood by the Senate before it votes on the issue.

Third, it is a bill that does have to have some amendments. Granted that the State of Minnesota is happy with the bill as it came out of the committee; that very question is the one we have to debate: Why should the State of Minnesota be happy about acquiring Indian land, which is a very unusual procedure?

So, Mr. President, while I am willing to bring up the bill, I would like to bring it up, say, on Monday morning when the farm bill conference probably is not going to meet, have 2 hours of debate at least on our side on the bill, and have it subject to some amendments that can be voted upon, which I think can be framed rather easily by the Senator from Minnesota [Mr. BOSCHWITZ] and his colleague, vote those, and have a final vote on the bill.

Mr. BOSCHWITZ. Is the Senator from Montana reserving the right to object, Mr. President?

Mr. DOLE. I withdrew my request. The only thing I would say is that hopefully we are going to have the continuing resolution up tomorrow. I have been advised by the chairman of the Appropriations Committee that he would like to at least lay that down tomorrow. I will visit with him later this afternoon. But he does expect Monday and Tuesday to be very long and arduous on that one bill. Is there any possibility we could do those tomorrow afternoon? Then if votes were required, we could do the voting next week. We are not going to have the farm bill conference tomorrow afternoon. Do Senators think we could work that out.

Mr. MELCHER. If there is not going to be a farm bill conference tomorrow afternon and we would start, say, at 1 o'clock or whatever, it would be fine with me. But I do want to stress I think amendments are in order to the bill.

Mr. DOLE. Will they require rollcall votes?

Mr. MELCHER. They might require rollcall votes. I am willing to abide by whatever those results are. I am not trying to prolong it by a whole series of amendments. I think probably two or three amendments should be considered.

If it would accommodate any of the interests of the Senate to just have general debate on Friday afternoon on the bill and use up that time—I think it will take about 2 hours to lay out this side—and then go to amendments with a time agreement on the amendments on Monday morning, say, at 9:15, 9:30, any time would be all right with me.

Mr. DOLE. I would just like to move the bill. If the three or four principals can work out the agreement, I am certain I would be happy to present it to the distinguished minority leader. If the principals agree, I do not imagine we would have any objection.

Mr. BOSCHWITZ. I would say to the leader we appear to be quite close to an agreement right now. Maybe we can finalize it as we stand here. I certainly would be prepared to debate the issue tomorrow afternoon or this afternoon. Maybe we should begin the debate now unless the Senator objects, and indeed the farm bill conference committee is now beginning. It probably will not be too active in its first hours. But I am willing to go forward and perhaps at a time certain on Monday we could vote so that we could also proceed with the continuing resolution and not let this bill stand in the way of that.

Mr. DOLE. What about some debate later on this afternoon? What I do not want to do is interfere with the continuing resolution tomorrow. Once the chairman and ranking member are ready to bring up the continuing resolution, I think that certainly has a priority. We could do some of the debate later this afternoon and then——

Mr. BOSCHWITZ. The Senator from Montana has not wanted to be relegated to the evening hours on this debate, and it is an important issue. I agree with him on that. However, I am probably a little more flexible than he is. But perhaps we can——

Mr. DOLE. Let us not do anything right now. Let the three or four Senators who are principals get together and perhaps they can submit a suggestion.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

LEGISLATIVE AGENDA

Mr. BYRD. Mr. President, may I ask the distinguished majority leader, what are the absolute "must" pieces of legislation that we have got to do before we adjourn sine die?

Mr. DOLE. There are not many of them, I would say to the distinguished minority leader: The continuing resolution conference report I think we both agree is must legislation.

Mr. BYRD. At that point may I say to the majority leader, I keep hearing indications that the President may veto that measure no matter what. If that is the case, we are going to have

to pass another resolution. Is the distinguished majority leader in a position to indicate whether or not the administration has tied itself to a veto, or is it flexible?

Mr. DOLE. In my view, it is flexible, depending on what might happen in the conference. I had an opportunity to visit last evening with the Speaker and also the chairman of the House Appropriations Committee. I think there is some hope that maybe any differences can be removed in the first round in conference. If not, I assume it would be vetoed and we would be back doing it a second time. But I think everyone agrees we have to do that.

Mr. BYRD. Yes.

Mr. DOLE. The debt limit conference report, there either has to be some final conclusion or at least an extension of the debt ceiling until we return. So that is two.

Mr. BYRD. That is the legislation that has included in it the Gramm-Rudman——

Mr. DOLE. Hollings amendment.

Mr. BYRD. Yes.

Mr. DOLE. And No. 3 is the reconciliation conference report. It is my understanding the House would appoint conferees this afternoon. As soon as they do, we would appoint conferees, and they would start the conference today or tomorrow. Then there are some conference reports to accompany remaining appropriation bills. Tomorrow we will have the State-Justice-Commerce report, and the HHS report. Then finally the farm bill conference report and the farm credit conference report. Beyond that, there are other things that we would like to do. I just asked consent to do four things, which I did not obtain. But I would say those are the must items. There are six.

Mr. BYRD. So as I understand the distinguished majority leader, there are only two appropriations bills included in his work list.

Mr. DOLE. Yes.

Mr. BYRD. And Interior, is it going anywhere?

Mr. DOLE. Interior, as I understand, will be wrapped up in the continuing resolution.

Mr. BYRD. The distinguished majority leader has laid out a full platter, and I do not think there ought to be any disagreement in this Chamber as to the necessity to act on the items which he has laid out as "must" pieces of legislation.

Mr. DOLE. But again, for the most part, they are conference reports, and so if the conferees can get together, I would assume it would not take a great deal of time on the floor to dispose of those matters. It will take some time on the continuing resolution, but on the conference reports it would seem to me that there is still a possibility of adjourning, finishing our work by next Friday or Saturday.

Mr. BYRD. Normally, what the distinguished majority leader has said is accurate; based on my experience, there is not much fuss made about conference reports. However, these particular conference reports do deal with some nettlesome legislation, Gramm-Rudman, et cetera, et cetera.

Mr. DOLE. Right. That would take some time.

Mr. BYRD. So, as I understand it, the distinguished majority leader is trying hard to make the 13th of December the adjournment sine die date. I would also like to see us meet that date.

Now, the House is going to be tied up in some so-called tax reform legislation.

If the Senate can pass the measures the distinguished majority leader has laid out—almost all of them are conference reports and the final step in the legislative process—if the House wants to go on for a further week and talk about tax reform, since we obviously cannot handle that over here, I do not guess, and the majority leader is the leader—he may think otherwise—what could we contemplate? Could we contemplate adjourning on a pro forma basis until the House goes out, once this Chamber had taken final action on the conference reports laid out in this memo? Is it possible the Senate could go out pro forma rather than wait around and try to enact other legislation which is not on the "must" list?

Mr. DOLE. My thought would be that if in fact we do complete the top half of that sheet, the six items, there is no reason for everybody to wait for the tax bill. We are not going to take any action on it until next May or June in any event. I would not contemplate trying to stir up some other legislative business unless there is some emergency, so we would have pro forma sessions and others who were not required to be in attendance could be elsewhere.

Mr. BYRD. I thank the distinguished majority leader.

Mr. CRANSTON. Will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. CRANSTON. I have gotten the impression from the members of the Appropriations Committee that it is not too likely, although it is possible, they will be ready for action on the continuing resolution tomorrow. In that event, what would we be likely to be doing tomorrow?

Mr. DOLE. In that event, I am advised by the manager of the State-Justice-Commerce appropriations bill, Senator RUDMAN, that he would be prepared to take that up in the morning.

I asked if a rollcall would be required, and he was not certain. There might be that, and there might be some debate on the matter we discussed, the White Earth Indian Reservation bill, but very little activity otherwise.

Mr. CRANSTON. I thank the majority leader.

Mr. BYRD. Mr. President, I should like to ask a further question of the distinguished majority leader.

What is going to happen to the four items which appear on the lower half of this memorandum?

Mr. DOLE. The distinguished minority leader was not able to be present at the time, but I tried to get unanimous consent on those four items, that we would take them up at a later date, and there was an objection. The most that could happen now would be a cloture motion to be filed on a motion to proceed on one or two of those, and maybe have a vote, and that is about it.

Mr. BYRD. A vote on cloture?

Mr. DOLE. A vote on cloture.

Mr. BYRD. I ask the distinguished majority leader one final question, and this may go against the grain of some Senators.

If the drive is on to sine die adjourn no later than next Friday or Saturday—and I hope it is—can we accomplish that by working this coming Saturday? The continuing resolution would be before the Senate.

Mr. DOLE. That is probably one that should be explored. Absent the continuing resolution, there would be no need for a Saturday session. I cannot find anything to do today.

Mr. BYRD. But the Senate is going to have something to do tomorrow, if the continuing resolution gets here.

Mr. DOLE. That is right.

Mr. BYRD. And I hope we will proceed with it. But, as between this coming Saturday and the next Saturday—as I say, this is my opinion only—if we can really work on the continuing resolution this Saturday, I would like all Senators to be so informed, so that they could make whatever arrangements they would need to make. But we are not going to be very realistic, I am afraid, if we hope to get out the next Friday or Saturday, because some of these must items could produce some rather thorny problems.

Mr. DOLE. Let me check with the distinguished chairman of the Appropriations Committee, and I will make an announcement privately to the minority leader, and then publicly, so that our colleagues will be advised.

Mr. BYRD. I thank the distinguished majority leader.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. DOLE. I yield.

Mr. SARBANES. The items on the majority leader's must list are the CR, debt limit, reconciliation, the two appropriation bills, the farm bill, and

farm credit. As I understand it, that is the must list.

Mr. DOLE. That is the must list on the legislative calendar. We would like to clear all the executive items we can, but there are not going to be debates, I assume.

Mr. SARBANES. All the must list items on the legislative calendar are in conference except for the continuing resolution. Is that correct?

Mr. DOLE. That is correct.

Mr. SARBANES. So all the others have passed the Senate the first time through, and all we are doing on those is awaiting—not that that is a small thing to await—but we are awaiting conference reports?

Mr. DOLE. That is right. That is where the Members are.

Mr. SARBANES. I was going to go on to make that point, because it seems to me there is a great deal of sensitivity that "the Senate is not working right now." What the Senate is doing now is working, but it is working in the conference committees, in which various Members of the Senate are involved, and they are working on the most important items on our agenda.

In fact, the absence of floor work and votes enables the Members in those conference committees to address the issues at hand.

We, in fact, had an issue in the Foreign Relations Committee this morning, on the antiterrorism assistance in Central America question, and because there was no interruption for votes, the committee was able to address that issue on a straight-through basis and reach a conclusion, reach a resolution of it. I do not think that would have happened had we had to leave the committee two or three times to come to the floor for votes, not only losing the time, but also breaking the momentum of reaching a decision.

So I think it is important to make the point that there is a great deal of work going on in conference, and that is where the Members are.

Mr. DOLE. The Senator is correct.

I think that anybody passing through or in the visitor's gallery and finding that something is not happening on the floor may leave with the misconception that no work is going on. I would guess that, of the 100 Senators, there may be as high as 75 or 80 right now involved in conferences all over the Capitol. In fact three of us here should be at the agriculture conference.

WHITE EARTH INDIAN RESERVATION

Mr. BOSCHWITZ. As a matter of fact, I am supposed to be on the farm credit conference and the reconciliation conference.

Mr. President, I believe that the Senator from Montana and I and the Senator from North Dakota and my senior Senator from Minnesota can work on this matter. Perhaps we could have a couple of hours sometime between now and the weekend—a couple of hours to explain the bill this week and a couple of hours on Monday morning with respect to amendments if any develop.

Mr. DOLE. Or a couple of hours sometime next week, because there may be another slack day on Wednesday or Thursday. Would that be all right?

Mr. BOSCHWITZ. With the agreement that at the conclusion of the 4 hours, we would bring the matter to a vote.

Mr. DOLE. Let us make that a general agreement among the five of us.

Mr. BOSCHWITZ. If we could obtain some type of unanimous-consent agreement, that the leader will give us 4 hours to debate the bill and the amendments thereto, and at the conclusion of the 4 hours the matter will be voted on.

Mr. MELCHER. My only request on the White Earth bill as to time is that it be done during the daylight hours, because it is quite a proposition to validate several thousand land titles, one which involves 28,000 acres of Indian land that the State of Minnesota now professes to have title to. My only request is that when we do all this, we do it during daylight hours. I think it deserves that.

Mr. ANDREWS. Mr. President, let me point out one other thing, as chairman of the committee. This piece of legislation is extremely important and it is time sensitive. If we dillydally around until midweek or later in the week, the House of Representatives will have no time to consider it. Then we would have done our work for naught.

It is my hope that some arrangement can be worked out so that we will have a maximum amount of time on it this week. We can pick some daylight hours to do it. I hate to legislate in the dark, also.

In this case, we know what the facts are. The bill has been before us for a long time, and I hope we can move expeditiously so that it can clear this Chamber by no later than Tuesday of next week.

Mr. MELCHER. If the House is going to wait for the farm bill conference and the farm credit conference, it will wait just as long as the rest of us. I assume that, just as in this body, that is must legislation over there.

Mr. ANDREWS. I point out to my colleague that the farm bill conference, according to the chairman of the Agriculture Committee, should be concluded by next week, along about Tuesday or so.

Mr. MELCHER. I appreciate the good wishes and good cheer and good hopes of the Senator from North Dakota.

Mr. DOLE. Is there objection to propounding a request now for a 4-hour time agreement on the bill and all amendments thereto? Is there objection to that?

Mr. MELCHER. I have no objection to that, if we have the understanding that it will be done during the daytime.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BOSCHWITZ. And the unanimous-consent agreement, it is my understanding, states that at the end of the 4 hours there will be a vote?

Mr. DOLE. Yes, but I think we have to figure out how we are going to do it so everyone is happy.

Mr. BOSCHWITZ. I thank the majority leader.

Mr. BYRD. Mr. President, I beg the majority leader's pardon. I was talking when I should have been listening. I understand that an order has been entered agreeing to time on a bill.

Mr. DOLE. The White Earth Indian Reservation bill.

The PRESIDING OFFICER. The time agreement entered into is on S. 1396, the White Earth Indian Reservation.

Mr. BYRD. Was there an agreement with respect to amendments thereto?

The PRESIDING OFFICER. The time agreement was on the bill and all amendments thereto.

Mr. BYRD. Mr. President, I beg the pardon of the majority leader again.

That arrangement probably is not one to which I would agree, or to which I would have agreed. I realize that I slept on my rights.

But I shudder to think of what can happen around here if we are going to enter into such agreements that are so loose.

I wonder if the majority leader would give me an opportunity to run that on the hot line. We have not been able to do that. That is, even though I know the principals are here and have agreed themselves.

Mr. DOLE. Mr. President, let me first ask unanimous consent that only germane amendments be in order.

My BYRD. Germane and relevant amendments.

Mr. DOLE. Germane or relevant amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the distinguished majority leader allow me to run that matter on the hot line just to make sure there is no problem out there? I realize I have no complaint. I should have been listening.

Mr. DOLE. It only involves one State here.

Mr. BYRD. I do not contemplate any problem.

Mr. DOLE. Mr. President, I ask unanimous consent that I may withdraw the request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BOSCHWITZ. Mr. President, reserving the right to object.

Mr. BYRD. Mr. President, I do not ask the majority leader to withdraw the request. I will run the hot line. If we run into a problem then, perhaps we could entertain a change.

Mr. BOSCHWITZ. I say to my friend, the majority leader, that I do not suspect there will be any problems. Certainly I do not object to running the trap, so to speak. But I do not believe other Senators other than those now on the floor have interest in it.

Mr. BYRD. I believe that, and I hope that is the case.

I thank the Senator.

Mr. DOLE. We will leave it standing.

Mr. President, I understand then the request has been granted and the addition that it be germane or relevant has been added.

The PRESIDING OFFICER. The Senator is correct.

Mr. BOSCHWITZ. I thank the majority leader.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3:45 P.M.

Mr. DOLE. Mr. President, there are a number of conferences under way. Most of our colleagues are there and that is where this Senator should be.

Rather than to detain the Presiding Officer and others, I ask unanimous consent that the Senate stand in recess until 3:45 p.m. today.

There being no objection, the Senate, at 2:34 p.m., recessed until 3:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. AMSTRONG].

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. I thank the distinguished occupant of the chair.

Mr. President, what is the pending business?

The PRESIDING OFFICER. There is no business currently pending before the Senate.

Mr. BYRD. Has morning business expired?

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak as in morning business for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIO AND TV COVERAGE OF SENATE PROCEEDINGS

Mr. BYRD. Mr. President, sometime back I introduced various resolutions dealing with rules changes and television and radio broadcast coverage of Senate proceedings.

The Committee on Rules and Administration conducted hearings on this proposed legislation and reported a resolution to the Senate, after having marked up Senate Resolution 28 star print, which I offered for myself, Mr. GORE, and Mr. BUMPERS. The Rules Committee reported Senate Resolution 28, as amended, to the Senate.

The resolution, as amended by the Committee on Rules, is on the Senate Calendar as Calendar Order No. 420 and it was reported as of November 19.

The resolution provides that the Senate authorizes and directs that there be both television and radio broadcast coverage, together with video and audio recordings, of proceedings in the Senate Chamber.

It provides also that such broadcast coverage be in accordance with the provisions of this resolution. I read therefrom:

SEC. 2. The radio and television broadcast of Senate proceedings shall be—

(a) supervised and operated by the Senate, and

(b) made available on a "live" basis and free of charge to (1) any accredited member of the Senate Radio and Television Correspondents Gallery, (2) the coaxial cable system of the Architect of the Capitol, and (3) such other news gathering, educational, or information distributing entity as may be authorized by the Committee on Rules and Administration to receive such broadcasts.

It provides that "the television broadcasts of Senate proceedings shall follow the Presiding Officer and Senators who are speaking."

It provides under section 4(a):

The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings:

It provides that the Architect of the Capitol, in carrying out the duties specified shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

It provides for the employment of such staff as may be necessary by the Sergeant at Arms, and such staff would work in conjunction with the Senate recording and photographic studios, to operate and maintain all broadcasts, audio and color video equipment installed pursuant to the resolution.

The resolution provides that audio and video tape recordings would be made of Senate proceedings, copies of such recordings would be made available, upon payment of a fee fixed therefor by the Committee on Rules and Administration, to Members of the Senate and to each person described in this resolution. It provides for the retention of such recordings for 90 days after the day that the Senate proceedings take place, and for transmittal to the Librarian of Congress and to the Archivist of the United States of copies of such recordings. The Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in this resolution, would have to comply with appropriate Senate procurement and other regulations.

It also provides for the receipt and storage and the making available to the public, upon payment of a fee, the recordings of Senate proceedings transmitted to them by the Sergeant at Arms.

The radio coverage of Senate proceedings, under the resolution, as amended in the committee, would begin as soon as the necessary equipment has been installed. The radio coverage would be provided continuously at all times when the Senate is in session or is meeting in Committee of the Whole, which anachronism has been stricken by the Committee at my suggestion that in connection with treaties there would be no Committee of the Whole any longer. But that change is not made in this resolution.

As soon as practicable after the necessary equipment has been installed, there would begin a test period, during which tests the radio and television coverage of Senate proceedings would be conducted by the staffs of the Committee on Rules and Administration and of the Office of Sergeant at Arms and Doorkeeper of the Senate.

During such test period, the final procedures for camera direction control would be established; and it is provided that television coverage of Senate proceedings would not be transmitted to any outside source during that trial period. Video and audio recordings of the Senate proceedings would be made and retained by the Sergeant at Arms and Doorkeeper of the Senate.

Moreover, during the test period provided in this resolution, the Committee on Rules and Administration would report a Senate resolution to the Senate specifying the times when radio and television broadcast would be provided. The coverage of Senate proceedings would begin upon the agreement of the Senate to the resolution reported pursuant to this paragraph in the resolution that is pending on the Senate calendar. The test period would end on the date prescribed by such resolution.

Mr. President, so the resolution, as amended, which is on the Senate Calendar, if adopted by the Senate, would provide only for a test period, but the actual coverage of Senate proceedings and the projection of such coverage to the public would not be provided by the resolution that is on the calendar. There would have to be another Senate resolution reported to the Senate that would specify the times when radio and television broadcast would be had.

The resolution on the calendar also provides that any changes in the regulations would be made only by the Senate by Senate resolution, but the Committee on Rules and Administration may adopt such procedures and such regulations, as may not change or contravene any Senate rule and which do not contravene the regulations made by the resolution, as it deems necessary to assure the proper implementation of the resolution.

The resolution on the calendar provides that up to $3.5 million could be expended from the contingency fund of the Senate to carry out the resolution; in other words, the installation of the equipment, the costs during the trial period, and so on.

Now, the various changes in the Senate rules that I have proposed in Senate Resolution 28 star print which I offered and which was referred to the Committee on Rules and Administration, is still before the Rules Committee. No changes in the Senate rules would be effected merely by the adoption of the resolution that is on the calendar.

Those amendments are, as I say, still before the Rules Committee and, hopefully, during the test period, if the Senate should adopt the proposal to proceed with the test period, the Senate Rules Committee may consider those rules and adopt them, report them out, or amend them, or reject them, whatever the committee may decide to do.

I hope that, at some point, those proposed changes which I have suggested to the committee would be reported to the Senate for its action thereon. I will not go over those proposed changes in the Senate rules at the present time. But most of those rules, I believe, would be beneficial to the Senate and should be adopted by the Senate whether or not television and/or radio coverage is ever approved by the Senate.

At the same time, I feel that if the Senate is inclined to move forward with television and radio coverage of the proceedings—which I hope it will do at some point in the near future—the adoption of the rules changes which I have proposed to the committee, I believe, would help to make television and radio coverage of the Senate proceedings work.

There are certain practical problems concomitant to television and radio coverage in the Senate—especially television coverage, not so much with respect to radio. There ought to be some changes in the standing rules of the Senate to do these two things: One, to implement the television coverage and deal with the practical problems, and, second, to preserve the uniqueness of the Senate as a deliberative body.

I hope that in the very near future the Senate can proceed to the consideration of Senate Resolution 28, Calendar No. 420, which as I say is on the Senate Calendar.

I would like to discuss this with the distinguished majority leader, and see if per chance before the Senate adjourns sine die, Senate Resolution 28 could be adopted, thus allowing the trial period to begin, and allowing the Sergeant at Arms, the Doorkeeper of the Senate, and the Senate Committee on Rules and Administration to take the steps necessary to fulfill the requirements of the test period.

I hope that the majority leader will be willing to call up the resolution, and adopt it, as amended. The resolution would provide for the trial period.

I should think while the Senate is in adjournment over until the 2d session of the 99th Congress the Sergeant at Arms and Doorkeeper of the Senate could proceed, that being a period of time in which the Senate would not be in session, a period of time to allow for the installation of the equipment, and the trial period once the Senate is back in session.

Mr. President, I will be glad to yield to the distinguished Senator from Colorado [Mr. ARMSTRONG], with the understanding that I do not lose the floor.

Mr. ARMSTRONG. Mr. President, I am grateful to the leader for yielding to me briefly.

I have been listening with great interest to the statements which he has made, and indeed I listened with utmost interest to the presentation which he made on this matter before the Senate Rules Committee. I only rise for purposes of congratulating him on his statement, complimenting him for his leadership on this matter, and seeking to associate myself completely with everything he has said.

I think this is an extremely important step for the Senate to take. And under the leadership of the minority leader and with the help of others I believe we are on the verge of taking this step, and doing so in a way that is consistent with the traditions of the Senate—in a thoughful, moderate, step-by-step way without rushing into it, but neither unduly delaying it.

I want to express my own appreciation to the Democratic leader for moving forward on this, and to certainly endorse the hope he has expressed that the majority leader will call this up, that it will be enacted, and that it will be enacted in the form that has been recommended by the committee so we can get on with the necessary administrative work while the Senate is out for the recess.

I thank the Senate for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Colorado for his comments, and for his support of television and radio coverage of Senate debates. I know that his support will be valuable and necessary in order to move the Senate in the direction of favorable action on the resolution, as amended, and following that, enactment of further changes, if the Senate will make them, in the Senate rules—as I say, whether or not we have television or radio coverage.

Those changes, at least most of them, need to be made in the Senate rules, and indeed if television coverage is allowed it will be all the more easily implemented by virtue of the proposed changes in the Senate rules.

I thank the Senator from Colorado. If we are able to have this resolution called up, I welcome his support.

I know that he is very interested, and has indicated thusly on many occasions.

I now yield to the distinguished Senator from Tennessee [Mr. GORE], whose name is on the resolution as a cosponsor and who likewise is very interested in television and radio coverage in the Senate.

I yield without losing my right to the floor.

The PRESIDING OFFICER (Mr. LAXALT). The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I wish to thank the minority leader for yielding, and I wish to thank him for his leadership on this critical issue.

I am totally convinced even as a new Member of this body that the Senate and the country would greatly benefit from the broadcast coverage of our proceedings.

A century and a half ago Daniel Webster rose before the Senate to praise what he called people's government, made for the people, made by the people, and answerable to the people. He believed in the power of the American people to achieve that distinctly American dream—democracy.

In our era, by far the majority of Americans get their news about the actions of government through the broadcast media. If we pretend that the broadcast media did not exist, we are kidding ourselves. We should, therefore, open up our proceedings to broadcast coverage and allow the vast majority of the American citizens to see and hear for themselves what goes on here. However, we have institutional interests which must be carefully safeguarded during the transition to broadcast coverage.

And the leadership of the minority leader has been particularly helpful in moving us to more broadcast coverage while simultaneously protecting the rights and prerogatives of Senators and of the institution itself.

Specifically, the resolution, which could be called up and which we hope will be called up, provides for a test period during which time Senators may see and hear for themselves what broadcast coverage of the Senate would be like were it made available to the American people after a period of time, and during that test period the American people would be able to hear through radio coverage what the Senate proceedings were all about.

The coverage of the Panama Canal debates several years ago, again at the initiative of the minority leader, then the majority leader in control of the debate, proved to be a resounding success for the institution, and for the country.

Yet, since that time, there have been understandable objections and an understandable reluctance to proceed. But the time has obviously come. The experience in the other body has meant a great deal in this respect.

I was formerly a Member of the other body and participated actively in stimulating the transition to broadcast coverage. There were many objections raised, and the objections raised in the other body were very similar to the objections that have been raised by some in this body.

But, Mr. President, most of those objections proved to be groundless in the other body, and I think it is reasonable to express the hope that they will be groundless here as well.

However, in order to satisfy Senators that indeed these concerns are not valid, the test period will give all Senators an opportunity to make that assessment and determine whether or not they believe it is a good idea.

Mr. President, I simply hope that we will move with all deliberate speed in this direction for a variety of reasons; chief among them is the fact that I am convinced this institution will operate better in all of its procedures if more American citizens are able to see and hear what goes on in the Senate.

I want to conclude by commending the minority leader; the Senator from Colorado, Senator ARMSTRONG; the chairman of the Rules Committee, Senator MATHIAS; and many others who have been instrumental in this effort, and express the wish that this Senate Resolution 28 can be brought up, debated, and acted upon during the time when there is an opportunity with not much business being conducted as we await the results of the important deliberations under way in the conference committees and the other meetings that are now under way.

I appreciate the minority leader yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Tennessee who, by virtue of his previous experience in the House, is in a position to give valuable support to this effort and who has already given strong support, who has also been active within the committee to support a trial period for television coverage.

I have appointed an ad hoc working group on this side of the aisle to work with a similar group on the other side of the aisle appointed by the distinguished majority leader to study changes in the Standing Rules of the Senate.

On this side of the aisle I have appointed Mr. FORD, ranking member of the Senate Committee on Rules and Administration, Senator PRYOR, Senator DECONCINI, and Senator MITCHELL. The group on the other side appointed by the distinguished majority leader is headed by the distinguished Senator from Alaska [Mr. STEVENS].

Mr. President, let me give a quick summary of the provisions of Senate Resolution 28 as reported.

Senate Resolution 28, as amended and reported by Rules to the Senate on November 19, 1985, authorizes an indefinite term test period of gavel to gavel coverage of Senate proceedings of public broadcasts by radio, and internal closed circuit broadcasts by television, to begin, separately, as soon as possible after Senate passage of the resolution.

Closed door sessions will not be broadcast, and the test period will end as prescribed in a subsequent resolution to be reported by Rules and approved by the Senate. During the test period, the broadcasts will be operated by the Senate Sergeant at Arms and, for radio, available live free to specified and authorized public organizations. All tapes, video and radio, will be kept by the Sergeant at Arms. TV cameras shall cover only the presiding officer and Senators who are speaking. Rules is to develop further broadcast regulations consistent with the resolution. New regulations not authorized by Senate Resolution 28 will require approval by the Senate.

The Capitol Architect, in consultation with the Sergeant at Arms, shall procure and install all necessary equipment, with contracts to be approved by Rules. Not to exceed $3,500,000 is authorized for these purposes.

When the Senate gives final approval to public broadcasts of both radio and TV coverage, tapes will be kept by the Librarian of Congress and the Archivist, and made available to the public for hearing and viewing at no cost, and for purchase at cost. Political or commercial use of tapes is prohibited.

In the report, 99-190, accompanying Senate Resolution 28, it is provided that during the test period, a review is to be made of proposed rules changes in conjunction with the initiation of public radio and television broadcast coverage. Also, several implementing regulations covering radio and television coverage, which are consistent with the provisions of Senate Resolution 28, are set forth as promulgated by Rules, pages 5 to 7.

Mr. President, may I say that I have today discussed with Senator FORD, have this resolution called up before the Senate. Senator FORD is the ranking member of the Rules Committee. I have discussed off and on with the distinguished chairman of the committee [Mr. MATHIAS] this resolution and the proposed rules changes. I have not today talked with Mr. MATHIAS about calling the resolution up before the Senate adjourns sine die so that the test period could begin.

I would be agreeable to an order that would provide for calling up the resolution with a brief period of time for debate on the resolution with no other amendments in order other than committee amendment, which I have already described.

I have not yet had an opportunity to discuss with the distinguished Senator from Louisiana [Mr. LONG] this resolution that is on the calendar, but I shall discuss it with him.

I am not seeking to do anything at the moment. It is the majority leader's prerogative to decide what the schedule of the Senate should be. I would want to talk with the distinguished majority leader and get his concurrence, if at all possible, for calling up the resolution. As I say, I am willing to enter into any time agreement on the resolution, willing to agree that there be no other amendments offered to the resolution, or whatever. At least, we ought to take this first step toward the full implementation of TV and radio coverage of the Senate debate.

Mr. President, I ask unanimous consent that a copy of the report and the resolution as amended appear in the CONGRESSIONAL RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, I yield the floor.

EXHIBIT 1

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 28) to improve Senate procedures, having considered the same, reports favorably thereon with amendments and recommends that the resolution as amended be agreed to.

PURPOSE

Senate Resolution 28, as reported by the Committee on Rules and Administration, provides for a test period implementation of live, gavel-to-gavel radio broadcast coverage of all proceedings in the Senate Chamber, and a closed circuit test of television coverage of all proceedings, except, in both cases, when a closed-door session is ordered. The Architect of the Capitol, the Sergeant at Arms and Doorkeeper of the Senate, the Librarian of Congress, the Archivist of the United States, and the Committee on Rules and Administration are given certain specified duties by this resolution. Regulations for this coverage are also provided, and a sum not to exceed $3,500,000 for the Architect of the Capitol to carry out the purposes of this resolution is authorized to be expended from the contingent fund of the Senate.

BACKGROUND

The Senate has had a public gallery, open to all citizens and the print media, since 1794. In the mid-1940's, Senator (now Representative) Claude Pepper introduced the first resolution providing for broadcast coverage of the proceedings of the Senate and the House, and in 1947, television cameras were permitted in the House Chamber to cover the opening of the 80th Congress.

During the following three decades, however, the Senate and the House each have accepted or rejected television coverage in various ways according to each body's individual determinations and procedures.

In the Senate, television was permitted in the Chamber in 1974 to cover the swearing-in ceremony of Vice President Nelson Rockefeller, and in 1977, radio broadcast coverage was authorized for the Panama Canal Treaty debates, which were conducted the following year. Also, the Senate Committee on Rules and Administration conducted tests between 1975 and 1979 to determine the lighting requirements for televising Senate floor proceedings and to ascertain if television would require any significant alterations to the Chamber.

In March of 1977, the Speaker of the House of Representatives announced his authorization of a 90-day test of live gavel-to-gavel television coverage of house floor proceedings. In October 1977, the House authorized the Speaker to install a closed-circuit televison system, and in June 1978, the Speaker appointed an Advisory Committee on Broadcasting to develop a closed-circuit viewing system and to make audio and video broadcast signals available to the news media. Television signals were first made available to the broadcast media on March 19, 1979, after a trial of several weeks of closed-circuit telecasts.

Several resolutions meanwhile, had been submitted in the Senate to provide for radio and television coverage of the Senate. The first committee action was taken in 1981, on S. Res. 20, 97th Congress. The Committee on Rules and Administration held extensive hearings on the measure, including testimony from Senators, Representatives, officers of the Senate, public interest groups, and members of the press. S. Res. 20, which would have provided for construction of facilities to provide gavel-to-gavel coverage by both radio and television, was reported favorably without amendment on August 13, 1981.

S. Res. 20 received extensive consideration on the floor of the Senate in February and April of 1982. Because of concern that the resolution did not provide enough detail on issues of implementation, it was amended so that it would become effective only upon the approval of a resolution containing regulations and/or rules changes needed for this implementation. With this amendment, the resolution was agreed to by a vote of 95-1. The Committee on Rules and Administration was given 60 days to report the necessary regulations. This period was later extended by unanimous consent to 90 days and again later to 98 days.

The Committee on Rules and Administration held two days of hearings on the regulations necessary to implement S. Res 20 on May 19 and May 24, 1982. These hearings supplemented all of the previous hearings as well as the floor debate on S. Res 20, during which issues of implementation were discussed.

On July 27, 1982, the Committee on Rules and Administration reported favorably S. Res. 436, an original resolution to implement television and radio coverage of proceedings of the Senate. The 97th Congress adjourned before S. Res. 436 received final action.

S. Res 66, a Resolution substantially the same as the one which died at the end of the 97th Congress, was submitted on February 16, 1983. Hearings were held on April 14 and April 15, 1983, and on June 28, 1983, the Committee reported S. Res. 66. without recommendation. The 98th Congress adjourned before S. Res. 66 was acted on.

COMMITTEE ACTION

Hearings on S. Res. 28 (which is similar to S. Res. 66 except that it provides that broadcasts would occur only when proposed by the leadership and approved by the Senate and it contains numerous provisions revising the Standing Rules of the Senate), S. Res. 29 (similar to S. Res. 28 without the proposed Rules changes) and S. Res. 81 (substantially the same as S. Res. 66), were held on September 17 and 18, 1985.

Also pending before the Committee at its business meeting on October 29, 1985, were S. Res. 245, introduced by Senator Byrd on October 25, 1985, and S. Res. 28 (star print), printed on October 28, 1985.

S. Res. 245 provides that coverage will be gavel to gavel. In all other respects it is a copy of S. Res. 28 (star print).

S. Res. 28 (star print) contains the text of S. Res. 245 in place of the original S. Res. 28 language.

Those who testified on September 17 and 18, 1985, were:

September 17, 1985: Hon. Robert C. Byrd (D-W. Virginia), United States Senate; Hon. William L. Armstrong (R-Colorado), United States Senate; Hon. Albert Gore, Jr. (D-Tennessee), United States Senate.

September 17, 1985: Hon. Robert C. Byrd (D-W Virginia), United States Senate; Robert McFarland, Vice President and Bureau Chief, NBC News, Washington, D.C.; George Watson, Vice President and Bureau Chief, ABC News, Washington, D.C.; Jack Smith, Vice President and Bureau Chief, CBS News, Washington, D.C.; William Headline, Vice President and Bureau Chief, Cable News Network, Washington, D.C.; Ed Godfrey, News Director, WAVE-TV, Louisville, Kentucky; Tom Becherer, News Director, WLKY-TV Louisville, Kentucky; Bob Morse, President and General Manager, WHAS-TV, Louisville, Kentucky; Ralph Gabbard, Executive Vice-President, WKYT-TV, Lexington, Kentucky; Brain Lamb, Chairman, C-SPAN; John P. Frazee, Jr., Chairman, C-SPAN Executive Committee and Vice President, Centel Corporation; Hodding Carter, Correspondent, PBS Capitol Journal, Washington, D.C.; William A. Leonard, representing the National Association of Broadcasters; Ernie Schultz, Executive Vice President, Radio-Television News Directors Association; Bradley B. Niemcek, President, Newslink, Inc., Washington, D.C.; Ms. Elvera Ruby, Bureau Chief, Independent Network News, Washington, D.C.

In addition, the following submitted statements for the record: Hon. James A. McClure (D-Idaho), United States Senate, and the Society of Professional Journalists, Washington, D.C.

COMMITTEE FINDINGS

With respect to the major questions raised by individual Senators concerning the televising of Senate floor proceedings, the Committee, in summary, offers the following answers. (Some of this material was assembled by the Committee during its studies and hearings of S. Res. 20, S. 436, and S. Res. 66, and was included in the Committee's reports on those resolutions.)

POLICY ISSUES

Effect on Senate rules

Authority for television and radio broadcasts.—The authorization for television and radio broadcast granted with the approval of S. Res. 28 will become effective upon its approval by the Senate. Therefore, no change to the Senate Rules will be necessary to permit radio broadcast or closed circuit television transmission.

S. Res. 28 (star print) as originally submitted by Senator Byrd contained numerous provisions revising the Standing Rules of the Senate.

As reported by the Committee, the amendment to S. Res. 28 (star print) deleted the rules changes from the resolution. However, this should not be seen as serving the linkage between the necessity for consideration of rules changes and the decision to televise Senate proceedings. The committee believes that these provisions represent an important effort to streamline Senate proceedings and that they should be the subject of careful and extensive review.

As amended in Committee by the Gore Amendment, S. Res. 28 (star print) establishes a test period during which the Senate proceedings will be broadcast live on radio and will be televised on the in-house closed circuit Congressional system. The test period will end only after a resolution has been considered and either passed or rejected by both the Committee on Rules and Administration and the full Senate. Thus, no TV signal can be sent out to the public, and public radio broadcasts will not be finally authorized without a second affirmative action by the committee and the Senate. The committee intended to break the linkage between rules changes and the vote on the test period, but it did not intend to break the linkage between rules changes and the decision to broadcast the TV signal to the public.

The committee believes that the test period represents an important opportunity for Senators to experience televised proceedings outside of the public spotlight.

The test period also should be used to review and consider the rules changes suggested by Senator Byrd, those changes that appear necessary from the introduction of the television cameras, and any other rules changes suggested by other Senators. The Committee intends to hold extensive hearings on this subject. Whether, in fact, any rules changes will ultimately accompany a resolution to televise Senate proceedings, or will be considered separately, will be determined by the Committee and the Senate. But it is the intention of the Committee that the rules changes be considered concurrently with the closed circuit television broadcast test.

Extent of coverage

The coverage during the test period will be gavel-to-gavel except during "closed door" sessions.

Kind of coverage

Principles of coverage.—Coverage is intended to provide a complete, unedited record of what is said on the floor of the Senate. Coverage is intended to be an informative documentary and not a staged performance, and is to be free from editorial analysis.

During debates.—Only the presiding officer and the persons actually speaking will be covered by the cameras during debates. During colloquies, different cameras will cover the speaking Senators. Cameras will not pan the Chamber.

During roll calls, recesses and votes.—During quorum calls and votes the camera will cover the presiding officer and official clerks. Cameras will be turned off during recesses.

Identification of speakers.—The name of the Senator speaking will be superimposed on the botton of the screen.

Still photography.—The ban on taking photographs in the Chamber (and galleries) will remain in effect.

Other issues.—The Rules Committee may decide other minor issues which may arise during the test period.

ADMINISTRATIVE ISSUES

Procurement

Need for consultants.—It is anticipated that a lighting and camera consultant will be hired by the Architect of the Capitol after consultation with the Sergeant at Arms and the Rules and Administration Committee.

Equipment needed.—

1. Cameras

Six cameras will be installed during the test period. It will be determined during the test period whether this number is sufficient. It is anticipated, the cameras will be directed and focused remotely, from the control room, so as to minimize the visability of the cameras. The cameras will be placed in the galleries, not at ground level.

2. Control room equipment

Control room equipment designed on the advice of the consultant will be installed prior to the test period. It will be determined during the test period whether this equipment is sufficient and satisfactory. The operators in the control room will direct the cameras, choose which camera will be sending the signal at any given time, produce the live feed, and make the tapes of the live feed.

3. Sound equipment

The Architect of the Capitol has recommended replacement of the speech reinforcement system in the Chamber to insure broadcast quality audio.

4. Lighting

A lighting consultant has already determined that it will be necessary to increase wattage in some of the existing lighting fixtures. The exact extent of this work will be determined during the test period. No klieg lights will be necessary: the lighting consultant indicated that no new lighting fixtures of any kind would be necessary.

5. Air-conditioning equipment

The Architect of the Capitol testified during the meeting on S. Res. 66 that the existing cooling capacity is adequate to handle the increased wattage.

Responsibility for procurement.—The Office of the Architect of the Capitol will procure all equipment to be installed. Bids will be requested and purchases will be made according to the normal procurement procedures of the Architect of the Capitol.

Oversight.—Oversight will be exercised by the Senate Committee on Rules and Administration, which must approve all contract awards by the Architect of the Capitol or the Sergeant at Arms for consultants, training, or procurement of equipment.

Installation

Need for consultants.—It is intended that consultants will be hired to assist in the installation of equipment.

Schedule.—It is estimated that installation of the equipment will take six to nine months. The work of the Senate will not be affected during this period.

Responsibility for installation.—The Office of the Architect of the Capitol will be responsible for the installation of the equipment. (Installation of radio service will consist of a simple connection in the chamber public address system.)

Oversight.—Oversight will be exercised by the Senate Committee on Rules and Administration.

Operation

Responsibility for operation of the radio test.—The Architect of the Capitol will have the responsibility for the live broadcasting by radio.

Responsibility for operation of the television test.—The Sergeant at Arms will have primary responsibility for the closed circuit test of television of the Senate floor proceedings.

Hiring.—Hiring will be conducted by the Office of the Senate Sergeant at Arms under normal employment procedures. Some of the existing Recording and Photographic Studio staff will be used in the operation of television equipment.

Training.—Training will be conducted during the test period.

Oversight.—Oversight will be exercised by the Senate Committee on Rules and Administration.

Test period

Responsibility.—The test will be conducted by the Offices of the Architect of the Capitol and the Sergeant at Arms. During the test period, video feeds will be provided only to the Congressional cable system.

Length.—It is estimated that the test period will last three to six months. The work of the Senate will not be affected during this period.

Safeguards against unauthorized use.—No outside use of test period video feeds will be permitted.

Adjustments during the test period.—Changes in operating procedures deemed to be necessary during the test period will be made and tested before the conclusion of the period.

End of test period.—The test period will end only when the Senate acts on the recommendations of the Rules and Administration Committee as mandated by this resolution.

Oversight.—Oversight will be exercised by the Senate Committee on Rules and Administration.

POLICY ISSUES IN TELEVISION/RADIO

RESOLUTION SECTION-BY-SECTION ANALYSIS

Section 1

This resolution would provide for gavel-to-gavel test coverage of the Senate (radio for public broadcast, television limited to closed circuit), including those times when the Senate is meeting in committee of the whole, such as during treaty debates. Coverage will cease only during closed-door sessions. Less than gavel-to-gavel coverage would compromise the credibility which complete an unedited broadcast coverage provides, and would lessen the historical value of the recordings.

The resolution would provide for no changes in the Standing Rules of the Senate; broadcast coverage will be subject to the rules already in effet relating to the gallery.

Section 2

This resolution would provide for the equipment to be owned and operated by the Senate so that the Senate can more effectively supervise the broadcasts and prevent disruption of normal floor proceedings.

The continuous, live broadcast will be provided free to any accredited member of the radio and television correspondents gallery. This should remove any First Amendment questions inherent in requiring a fee or establishing new access restrictions for coverage of the Senate.

The Rules Committee can authorize other entities, such as Government agencies or universities, to receive the broadcast in the same manner as members of the Gallery.

Section 3

The television broadcast will focus only on the speaking Member or the presiding officer and would not pan the chamber; this will insure that only documentary information will be transmitted.

Section 4(b)

The Architect of the Capitol is charged with building the necessary facilities for TV and radio, since the Architect's office is the normal office for construction. The facilities will consist of the control room, new lights, cameras and recording equipment.

The Rules and Administration Committee will approve any necessary contracts.

Section 4(c)

The Sergeant at Arms will operate and maintain the equipment, in conjunction with the Recording Studio. Video and audio recordings will be produced. Senators, Gallery members, and those authorized by the Rules Committee may obtain copies of the tape at the cost of the copy. After 90 days, the tapes will be sent to the Library of Congress and the National Archives.

The Rules and Administration Committee will approve any necessary contracts.

Section 4(d)

The Library of Congress and the National Archives will store the historical copies; these may be viewed and heard free of charge, and copied at the cost of the copy.

Section 5

The public radio broadcast test shall begin immediately upon approval of the resolu-

tion. Television will be limited to closed circuit within the Congressional buildings during the test period. The test will be used to perfect operational procedures and to permit Senators to view the coverage while considering the resolution. The test will end when the Senate disposes of a later resolution to be reported by the Rules Committee.

Section 6

Anyone requesting copies of the tapes of the broadcast must certify that the broadcasts will not be used for non-First amendment commercial or political purposes. This does not preclude, of course, news, information, or educational uses.

Section 7

Any changes in this resolution will require the consent of the full Senate. The Rules and Administration Committee will develop operating procedures during the test period.

Section 8

The Architect of the Capitol is authorized to spend up to $3,500,000 from the Contingent Fund of the Senate for the one time expense of installation. The operating expenses of the Sergeant at Arms, for the purposes of this resolution, will be funded in the normal appropriations process.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 1985.

Hon. CHARLES MCC. MATHIAS, Jr.,
Chairman, Committee on Rules and Administration, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. Res. 28, a resolution to improve Senate procedures.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

NOVEMBER 6, 1985.

1. Bill number: Senate Resolution 28.

2. Bill title: A resolution to improve Senate procedures.

3. Bill status: As ordered reported by the Senate Committee on Rules and Administration, October 29, 1985.

4. Bill purpose: This resolution authorizes implementation of television and radio coverage of proceedings of the Senate. Certain activities are required of the Sergeant at Arms and Doorkeeper of the Senate, and of the Architect of the Capitol, the Librarian of Congress, and the Archivist of the United States. This resolution also authorizes the expenditure of up to $3.5 million from the contingent fund of the Senate to carry out the activities required by this resolution.

5. Estimated cost to the Federal Government.

[In millions of dollars]

	Fiscal years—				
	1986	1987	1988	1989	1990
Estimated authorization level	3.8	0.7	0.9	0.9	1.0
Estimated outlays	3.5	1.0	0.9	0.9	1.0

Note.—The costs of this bill fall within budget function 800.

Basis of Estimate: This cost estimate is based on information provided by the offices that will be required to participate in the purchase, installation, operation, and maintenance of the system and to store and make copies of recordings available to the public.

The cost to the Architect of the Capitol for purchase and installation of equipment is estimated to be $3.5 million. It is estimated that $3.2 million will be expended by the Architect in fiscal year 1986, with the balance spent in fiscal year 1987. Additional costs for other offices will include approximately $35,000 for equipment to be purchased by the Archivist of the United States in fiscal year 1986. Staff time required during the test period is estimated to cost $190,000 in fiscal year 1986. This estimate assumes the system will begin full operation at the beginning of the 100th Congress in January 1987. The 1987 costs to operate, maintain, and repair the system, and to make tapes available to the public are estimated to be approximately $700,000. These costs have been adjusted by CBO's specialized price indices to estimate costs for fiscal years 1988-1990.

6. Estimated cost to State and local governments: None.

7. Estimated comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Hearn.

10. Estimate approved by: James L. Blum (Assistant Director for Budget Analysis).

COMMITTEE ROLLCALL VOTES

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of the rollcall votes in the Committee on Rules and Administration during its consideration of S. Res. 28 (Star Print) is as follows:

On a motion by Senator Byrd to amend the Gore amendment, to have radio broadcast begin when authorized by the joint leadership: Not agreed to: 3 yeas; 6 nays, present and voting.

YEAS	NAYS
Mr. Hatfield [1]	Mr. Mathias
Mr. Warner [1]	Mr. McClure
Mr. Dole	Mr. Ford
Mr. Stevens [1]	Mr. Pell
Mr. Garn	Mr. DeConcini [1]
Mr. Byrd	Mr. Simon
	Mr. Gore

On a motion proposed by Senator Gore to amend the resolution: Agreed to: 6 yeas; 3 nays, present and voting.

YEAS	NAYS
Mr. Mathias	Mr. Warner [1]
Mr. Hatfield [1]	Mr. Dole
Mr. McClure	Mr. Stevens [1]
Mr. Garn	Mr. Pell
Mr. Ford	Mr. Byrd
Mr. DeConcini [1]	
Mr. Simon	
Mr. Gore	

On a motion proposed by Senator Byrd to report the resolution: Agreed to: 8 yeas; 1 nay, present and voting.

AYES	NAYS
Mr. Mathias	Mr. Hatfield [1]
Mr. McClure	Mr. Dole
Mr. Stevens [1]	
Mr. Garn	
Mr. Ford	
Mr. Pell	
Mr. Byrd	
Mr. Simon	
Mr. Gore	

[1]By proxy.

S. RES. 28

Resolved, That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

(b) Such broadcast coverage shall be provided in accordance with the provisions of this resolution.

SEC. 2. The radio and television broadcast of Senate proceedings shall be—

(a) supervised and operated by the Senate, and

(b) made available on a "live" basis and free of charge to (1) any accredited member of the Senate Radio and Television Correspondents Gallery, (2) the coaxial cable system of the Architect of the Capitol, and (3) such other news gathering, educational, or information distributing entity as may be authorized by the Committee on Rules and Administration to receive such broadcasts.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are speaking.

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings:

Provided, That the Architect of the Capitol in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate recording and photographic studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings of Senate proceedings, (3) make copies of such recordings available, upon payment to him of a fee fixed therefor by the Committee on Rules and Administration, to Members of the Senate and to each person described in subsection (b) (1) and (3) of section 2 of this resolution, and (4) retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: *Provided,* That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations.

(d) The Librarian of Congress and the Archivist of the United States shall each receive, store, and make available to the public, at no cost for viewing or listening on the premises where stored and upon payment of fee equal to the cost involved through distribution of taped copies, recordings of Senate proceedings transmitted to

them by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 5. (a) Radio coverage of Senate proceedings shall—

(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b)(1) As soon as practicable after the necessary equipment has been installed, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate.

(2) During such test period—

(A) final procedures for camera direction control shall be established;

(B) television coverage of Senate proceedings shall not be transmitted to any outside source; and

(C) video and audio recordings of Senate proceedings shall be made and retained by the Sergeant at Arms and Doorkeeper of the Senate.

(3) During the test period provided in paragraphs (1) and (2), the Committee on Rules and Administration shall report a Senate resoluton to the Senate specifying the times when radio and television broadcast shall be provided. Coverage of Senate proceedings shall begin upon the agreement of the Senate to the resolution reported pursuant to the preceding sentence. The test period shall end on the date prescribed by such resolution.

SEC. 6. The use of tape duplications of broadcast coverage of the proceedings of the Senate for political or commercial purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political or commercial purposes.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which may not change or contravene any Senate rule and, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of $3,500,000) to carry out this resolution shall be expended from the contingent fund of the Senate.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. Mr. President, I want to advise my colleagues on both sides that there will be no more votes today.

So far as tomorrow is concerned, I am advised by members of the Appropriations Committee that the Labor-HHS conference report will be available tomorrow morning. It can probably be disposed of on a voice vote.

That will be followed by the State-Justice-Commerce conference report. I understand that there will be two votes with respect to the National Endowment for Democracy provisions, and probably a voice vote on final passage.

I have been advised at a staff level—not by the chairman of the Appropriations Committee—that Senator HATFIELD, the chairman of the committee, would like to start the continuing resolution tomorrow afternoon, have votes throughout the afternoon, and then push hard on that on Monday and Tuesday.

So I can advise my colleagues that there will be no more votes today, but there will be votes tomorrow.

I do not believe there will be a Saturday session. I understand that the chairman of the Appropriations Committee did not believe that would be productive. In any event, I will speak with him by telephone in the next few moments.

Mr. SYMMS. Mr. President, I ask unanimous consent to proceed as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENGLISH LANGUAGE AMENDMENT [ELA]

Mr. SYMMS. Mr. President, I think it is most appropriate that during the remarks I am about to make the distinguished senior Senator from Nevada be in the chair, because he comes from a background of an ethnic group, the Basques, who are very prevalent and prominent and important to my State both in its economic life and its cultural life.

Many distinguished citizens in my State, including our Secretary of State, Mr. Pete Cenarrusa, are of Basque origin. Pete happens to be one of my most ardent friends and supports the effort to pass an amendment to the Constitution of the United States, the English language amendment. Pete has told me on repeated occasions of his experiences in the first grade in Belleview, ID, where he was unable to speak a word of English; yet with very strict instructions from his parents he not only immersed himself in English and learned it, but came home and taught them so they could all move into the economic mainstream of the United States and participate in our system.

His own personal achievements in political leadership, in his military service, in his college career, in his business career, and as a distinguished Secretary of State of Idaho, speaks very well to the fact that he has achieved those goals that his mother and father asked him to do at an early age in his life.

There are 14 cosponsors of the English language amendment, which we refer to as the ELA. This amendment was started early in this body by the distinguished Senator from California, Senator Hayakawa, and the Senator from Kentucky, Senator Huddleston. And as they said on numerous occasions, and as the other 14 sponsors of this amendment now have stated, we support the ELA because we seek to unify America and want all to understand that opportunity in America is spelled in English.

In spite of our efforts, there are still critics who continue to label our actions as "racist" and as an attempt to rob immigrants of their cultural identity.

But, Mr. President, as the distinguished occupant of the chair knows, nothing could be further from the truth. We continue to encourage everyone to cherish their heritage and their native language; and on that rich foundation we ask them to add the English language and the American culture.

No citizen of this great country can ever hope to be elected to a prominent State or Federal office without being fluent in English. Nor can they really succeed in business and be able to move about freely in the United States without speaking fluent English.

Mr. President, I was recently contacted by a prominent citizen of Idaho Falls, ID, Mr. Nick Vrontikis, who is a successful small businessman and active chamber of commerce member. Nick is of direct Greek origin, but considers himself a 100-percent American who can attest to the value of the English language.

Nick said to me that although his parents came from Greece and although they spoke Greek in their home, his parents knew the value of learning English.

He said that while he and his brother were average students in school as they struggled to learn English, being immersed in the English language, nevertheless, they both eventually graduated from college and both are now very prominent businessmen.

Nick stressed that he and his brother never could have attained their success had they not entered the American mainstream and learned the American language. He is very proud of his heritage and justifiably upset at policies which isolate limited-English-speaking students in "linguistic ghettos" because of ethnic chauvinism and misguided Federal regulations.

Mr. President, the sponsors of the English language amendment seek to terminate this system of American apartheid, and assist all new citizens in gaining full standing in the world's

greatest economic order—our free enterprise system.

The ELA would in no way affect the use of a non-English language in any private context—at home, in church, in private shools, or in private business. The right to free speech as guaranteed by the first amendment would remain paramount.

However, if adopted, the ELA would make English the official language of our Federal and State governments including our polling places.

Mr. President, we sincerely desire to avoid the political and linguistic nightmare that has afflicted our neighbor to the north. I recently learned that last summer Canada's Supreme Court ordered the Province of Manitoba to translate all its laws passed since 1890 into French. It mattered little that only 5 percent of the Province's population were French-speaking; or that many of the 4,500 laws and 5,000 regulations had been repealed or had expired. Embittered Manitoba voters overwhelmingly have rejected entrenched bilingualism; but nevertheless, because of the court ruling they must pay $50 million in translation costs anyway because of their nation's bilingual status.

The sponsors of the ELA just as earnestly want to help our limited-English-speaking students enter America's economic and social mainstream by making it possible for them to learn English as quickly as possible.

A recent New York Times editorial on September 27, 1985, sums up our arguments for the ELA better than I could:

> Mr. Bennett [the Secretary of Education] is exactly right when he says that American citizens must have a "common language in which to discuss our common affairs." English is the pot in which the melting takes place. Failure to speak and understand the American language hampers any citizen's ability to participate in American life."

I hardly think that the editors of the New York Times are racist or seek to deprive our immigrants of their cultural heritage. They, like those of us who sponsor the English language amendment, understand the reality of the American dream.

Mr. President, I ask that any who wish to join us in this effort please contact my office. We will send you all the information that you want on this subject. I encourage Senators who are listening or their staffs who are listening to seek this information and help us in this effort that is long since overdue, and is rapidly becoming a more important issue and a more important problem as we have bigger and bigger areas of ethnicity developing and separate languages being spoken. It is most important that those people in those areas be given the opportunity to be immersed and to learn English so that they, too, can participate in the American dream which is what all of us would like to have for all of our citizens.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRESSLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WALTER McDOWNEY: NATURAL EXPERTISE

Mr. MATHIAS. Mr. President, in the press of important business and issues in this national capital, we sometimes fail to recognize that life goes on in other parts of Washington as well, fortunately for me, Mrs. Mathias is sensitive to the contributions of some of the remarkable people who make our community a better place and she calls them to my attention.

One of them is the subject of a recent column by Courtland Milloy of the Washington Post. This column, which appeared on November 28, offers a valuable reminder that there are places and people in the Washington area for whom the weighty issues of government are not all there is to life.

Walter McDowney grew up in the Kenilworth Courts housing project among the highways and urban sprawl of Northeast Washington. While many of his classmates and neighbors were lured by anger or despair into life on the streets, Walter McDowney preferred to read books under the trees of the National Aquatic Gardens near his home. His appreciation for the magnificent variety of birds, animals, flowers, and trees that thrive in the Aquatic Gardens led him to become a park ranger.

Now, Walter McDowney lives in Maryland, the State of his birth. But he continues to spend his days just over the District line among the flora of the Aquatic Gardens, where he has devoted his career to understanding the elements of nature that so intrigued him as a child and sharing that knowledge and respect with others. In fact, Walter McDowney has become such an indispensable asset to the Aquatic Gardens that the National Park Service has recently honored him by naming Mr. McDowney one of its "best park interpreters." The story of his dedication is admirable and I commend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 28, 1985]

NATURAL EXPERTISE

As a child, Walter McDowney was afraid of snakes. His parents, who were from Poolesville in upper Montgomery County, believed that all snakes were poisonous and that, during certain times of the year, snakes chased people and then bit them.

McDowney was living in an urban environment in Southwest Washington when he heard those stories, and there was no reason to be afraid. But when the family moved into the Kenilworth Courts housing project in Northeast Washington, one of the first creatures he saw while wandering through nearby woods was a snake.

Now, the snake turned out to be more afraid of McDowney than McDowney was of the snake, and when he realized this, he decided to learn more about these critters and their habitat.

Today, the Prince George's County resident is a ranger for the National Park Service. He was recently honored as a best "park interpreter" in the United States, which means that when you tour the parks of the Washington area with him, you're with a man who knows his woods—and snakes, too.

With the weather being what it has been some recent days—unseasonably great—McDowney stands as a reminder that there still is time to enjoy the world of fields and streams, and that the Washington area has much to offer in natural beauty.

You can start out on McDowney's home turf, the Aquatic Gardens at Eastern and Kenilworth avenues. This is one of the best areas in the country for bird watching, with 235 species of birds, including warblers, owls, great blue herons, wading ducks, pheasant, kingfishers and bald eagles.

You like trees? There are five kinds of oak, including the largest willow oak on the East Coast (this is where the owls nest), five kinds of willows, walnut, hickory and bald cypress.

The Aquatic Gardens is the only park in the Washington area that is dedicated to growing and displaying plants such as water lilies and lotus from all over the world. It is a site to behold, but looking is only half the fun. Listening to an expert interpreter makes the woods come alive.

"Some people like to go out and drink or smoke to get high," says McDowney. "But there are a lot of people who can get high by just walking up to a tree and learning about what is going on inside that tree."

He is detailed temporarily to the park service's Rock Creek center, but when he's on duty at the gardens, his guided tours include lessons on how animals prepare for the winter—or for an extended Indian summer, as the case may be.

McDowney, 37, became a park ranger in 1968. He had been encouraged to become involved with the parks when he was 10 years old by Rhuedine Davis, a resident of the Eastland Gardens neighborhood, which is next to the Aquatic Gardens.

"My brother was a self-taught naturalist, and when I started learning about it I wanted to tell people about it," recalled McDowney, who now lives nearby in the Hillside community. "My parents had trained me to stay off the streets, and since I couldn't dance I decided to go to the parks and read."

Needless to say, he was teased a lot by other youths in the area who were more inclined to go into the Aquatic Gardens and crush the flowers than admire them. But not long after he became a ranger, McDow-

ney addressed that problem by forming a junior ranger corps that each year selects 15 youths, ages 11 to 16, from Kenilworth Courts, and trains them to be park interpreters.

"Actually, I thought I was going to be an artist, but after I graduated from high school I took the first job I could find, which was with the telephone company," McDowney said. "But I just couldn't stand being cooped up inside all day. The park ranger job didn't pay much, but it offered peace of mind."

So much so that he decided to go out and buy a six-foot-long rat snake—his pet—to liven things up.

But for those residents who have yet to experience the more subtle forms of life that exist in the city and suburban parks, McDowney figures that there will be only a few more days to enjoy the outdoors before the cold really hits—after which everything except the trees will head indoors for the winter.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Senate go into executive session to consider the following nominations on the Executive Calendar: No. 559, under "Department of Defense"; No. 560, Sam A. Nixon; No. 561, under "Navy"; No. 562, Russell A. Rourke; No. 563, Joseph Ghougassian; No. 564, Donald J. Bouchard; No. 566, Laurence William Lane, Jr.; No. 567, Paul Matthews Cleveland; No. 568, Jose Manuel Casanova; No. 569, Charles Roger Carlisle; and all nominations placed on the Secretary's desk, except for the Foreign Service nominations beginning with L. Paul Bremer III, and ending with Jerome F. Tolson, Jr.

Mr. BYRD. Mr. President, there is no objection on this side.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the nominations just identified be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

The following-named persons to be members of the Board of Regents of the Uniformed Services University of the Health Sciences for terms expiring June 20, 1991:

Carol Johnson Johns, of Maryland.

Mario Efrain Ramirez, of Texas.

Sam A. Nixon, of Texas, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1991, vice Caro Elise Luhrs, term expired.

IN THE NAVY

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Bruce Demars, 344-28-0946/1120, U.S. Navy.

DEPARTMENT OF DEFENSE

Russell A. Rourke, of Maryland, to be Secretary of the Air Force.

DEPARTMENT OF STATE

Joseph Ghougassian, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Donald J. Bouchard, of Maine, to be an Assistant Secretary of State.

Laurence William Lane, Jr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

Paul Matthews Cleveland, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand.

INTER-AMERICAN DEVELOPMENT BANK

Jose Manuel Casanova, of Florida, to be U.S. Executive Director of the Inter-American Development Bank for a term of 3 years, reappointment.

EXECUTIVE OFFICE OF THE PRESIDENT

Charles Roger Carlisle, of Vermont, for the rank of Ambassador during his tenure of service as United States Negotiator on Textile Matters.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Major Wayne Alden, and ending Major Richard B. Terry, which nominations were received by the Senate on November 25, 1985, and appeared in the CONGRESSIONAL RECORD of December 2, 1985.

Army nomination of Colonel Peter D. Heimdahl, which was received by the Senate on November 25, 1985, and appeared in the CONGRESSIONAL RECORD of December 2, 1985.

Foreign Service nominations beginning Hugh L. Dwelley, and ending John C. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 28, 1985.

Marine Corps nominations beginning Barry W. Mcandrew, and ending Michael T. Simmons, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 22, 1985.

Navy nominations beginning Carl A. Barksdale, and ending Alan R. Pittman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 22, 1985.

DONALD J. BOUCHARD

Mr. MITCHELL. Mr. President, I wish to recommend to the full Senate Mr. Donald Bouchard, a Maine native, whom the President has nominated to be Assistant Secretary of State for Administration.

On November 14, 1985, I introduced Mr. Bouchard at his confirmation hearing before the Senate Foreign Relations Committee. The committee has favorably reported Mr. Bouchard's nomination, and I am pleased to anticipate unanimous approval of his appointment today.

Mr. Bouchard was born in my hometown of Waterville, ME in 1937. He also graduated from Waterville High School several years after myself.

After attending the University of Maryland and serving in the Air Force, Mr. Bouchard joined the Foreign Service in 1962 and spent most of his early career at various posts in Africa. In 1976, he became administrative counselor to our Embassy in Canada and then in 1979 to our Embassy in Spain.

He served as Executive Director of the State Department's Bureau of Inter-American Affairs from 1981 to 1984. He then served as Deputy Assistant Secretary of State for Personnel until April 1985, when he became Executive Assistant to the Under Secretary of State for Management.

Mr. Bouchard is a dedicated, hardworking, experienced man. He has received two State Department awards for superior honor and two awards for meritorious honor. He is fully qualified for the position for which he has been nominated.

I always am glad of course to know that a native son of Maine, especially Waterville, can come to Washington and achieve success in his career. Mr. Bouchard is one such son. His achievements and his nomination reflect well on the State of Maine, and I am confident we will take pride in his service in the State Department in years to come.

I support Mr. Bouchard's confirmation and extend my very best wishes to him and his family.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate

return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. SIMPSON. Mr. President, I have inquired of the minority leader if he is in position to pass or indefinitely postpone any or all of the following items: Calendar No. 203, S. 1354, to indefinitely postpone; Calendar No. 266, H.R. 1789, pass; Calendar No. 440, S. 1818, pass, together with a statement of Senator DENTON.

Mr. BYRD. Mr. President, reserving the right to object, and I shall not object, the reference to postponement I believe goes to Calendar Order No. 203, S. 1354; does it not?

Mr. SIMPSON. That is correct.

Mr. BYRD. Am I correct?

Mr. SIMPSON. The minority leader is correct.

Mr. BYRD. No objection, Mr. President.

AUTHORIZATION FOR CERTAIN COMPONENTS OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Mr. SIMPSON. Mr. President, I ask unanimous consent that the bill, S. 1354, relating to the authorization of appropriations for certain components of the National Wildlife Refuge System be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL WILDLIFE REFUGE SYSTEM AUTHORIZATION

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1789) relating to the authorization of appropriations for certain components of the National Wildlife Refuge system.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1789) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREVENTING THE SEXUAL MOLESTATION OF CHILDREN IN INDIAN COUNTRY

The PRESIDING OFFICER. The next bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1818) to prevent the sexual molestation of children in Indian country.

There being no objections, the Senate proceeded to consider the bill.

Mr. DENTON. Mr. President, on November 1, 1985, Senator DECONCINI and I introduced S. 1818, a bill to prevent the sexual molestation of children in Indian country. On November 21, the bill was considered by the Judiciary Committee and was unanimously reported to the full Senate for consideration.

S. 1818 is designed to fill a gap in the Major Crimes Act, 18 U.S.C. 1153, with regard to serious sexual conduct directed at children. Currently, section 1153 reaches the crimes of rape, involuntary sodomy, and carnal knowledge of a female under the age of 16, when those crimes are committed by an Indian in Indian country. Although recently amended by Public Law 98-473 to add the offense of involuntary sodomy, the statute still lacks adequate coverage of nonforcible sexual conduct committed by an adult on children.

Serious offenses that are not now covered include adult sexual contact with male or female children other than rape, involuntary sodomy and carnal knowledge. Many U.S. attorneys have reported a troubling increase in incidents on Indian reservations. Amendment of the Major Crimes Act is necessary to permit effective enforcement, since without the amendment these serious offenses, which nearly all States treat as felonies, are prosecutable only in a tribal court, which may administer a maximum punishment of up to only 6 months imprisonment and/or a fine of $500, according to 25 U.S.C. 1302(7).

Moreover, amendment of the Major Crimes Act is necessary to increase the protection of children on Indian reservations and to render more similar the punishment for such crimes between Indian and non-Indian offenders. A non-Indian who commits the crime of sexual molestation of a minor in Indian country is punishable under the far more stringent provisions of State law, either in State court when the victim is a non-Indian, or in Federal court by assimilation under 18 U.S.C. 1152 when the victim is an Indian.

The bill adds the offense of "felonious sexual molestation of a minor" to section 1153, thus permitting State law and the accompanying penalties to be used in Federal court to prosecute Indians as well as non-Indian sexual molesters of children in Indian country. The description of the offense as "sexual molestation of a minor" is, like the recent addition of "involuntary sodomy," meant to be generic in nature. Thus, it would not matter whether the particular State denominated its offense as "sexual molestation" or by some other title such as "indecent liberties" or "sexual contact" with children.

So long as the State has on its books a felony offense that proscribes the conduct of nonforcible sexual abuse of the person of a minor, also as defined by State law, that offense will be incorporated into section 1153. The offense must, however, be a felony. This qualification ensures that, as with all other offenses in section 1153, only the major varieties of the offense will be subject to Federal jurisdiction, maintaining exclusive tribal jurisdiction over the lesser offenses.

As the U.S. Supreme Court noted in the famous case of New York versus Ferber, "the prevention of sexual exploitation and abuse of children constitutes a government objective of surpasing importance." It is with that objective in mind that Senator DECONCINI and I introduced this bill to prevent the sexual molestation of children in Indian country.

The bill is endorsed by the Department of Justice, the Bureau of Indian Affairs, and the National Congress of American Indians.

I urge my colleagues to vote in favor of this bill.

Mr. DECONCINI. Mr. President, I am very pleased that the Senate has been able to schedule consideration of this important legislation so quickly. I believe it reflects the importance that the Senate puts on the protection of our children.

S. 1818 amends the Major Crimes Act, section 1153 of title 18 of the United States Code. Section 1153 currently covers the crimes of rape, involuntary sodomy (added in last year's crime bill), and carnal knowledge of a female under the age of 15 when those crimes are committed by an Indian in Indian country. The statute lacks adequate coverage of nonforcible sexual conduct involving children.

Many U.S. attorneys have reported a troubling increase in sexual molestation of children cases on Indian reservations. Without this legislation these serious offenses, which nearly all States treat as felonies, are prosecutable only in tribal courts which may administer punishment only up to 6 months by Federal law. A non-Indian who commits the crime of sexual molestation on an Indian reservation is subject to the far more stringent provisions of State law.

The bill defines "felonious sexual molestation of a minor" according to the definition of the State in which the reservation is situated. Thus, the bill allows Federal courts to prosecute Indian as well as non-Indian sexual molesters of children. Penalties and sentences for the offense would be those prescribed by the State.

The Senate Judiciary Committee held a hearing on S. 1818 on Novem-

ber 19, 1985. I was pleased that both administration and the National Congress of American Indians testified in suport of S. 1818 at the hearing. This mutual support has enabled the Senate to move quickly and I hope will result in expeditious action by the House also.

Mr. President, I want to congratulate and thank Senator DENTON for his efforts in regard to S. 1818. He has consistently shown great concern for the children of this Nation and now he has extended that concern to Indian children. I am pleased to be Senator DENTON's cosponsor of this legislation and I have enjoyed working with him to address this grievous problem.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1153 of title 18, United States Code, is amended by inserting "felonious sexual molestation of a minor," after "involuntary sodomy," each place it appears.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ASSISTANCE IN ESTABLISHING CLEARINGHOUSES TO LOCATE MISSING CHILDREN

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 441, S. 1174, the juvenile justice extension bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1174) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771) is amended—

(1) by redesignating section 402 as section 411;

(2) by transferring section 403 to the end of section 401, redesignating such section as section 402, and inserting after such section the following:

"PART A—GRANTS FOR RESEARCH, DEMONSTRATION PROJECTS, AND SERVICE PROGRAMS";

(3) by redesignating sections 404, 405, 406, 407, and 408 as sections 412, 413, 414, 415, and 416, respectively;

(4) by striking out "406" in section 415 (as redesignated by paragraph (3)) and inserting in lieu thereof "414";

(5) by striking out "title" in sections 411 through 416 each place it appears and inserting "part" in lieu thereof; and

(6) by inserting after section 416 (as redesignated by paragraph (3)) the following new part:

"PART B—GRANTS FOR STATE CLEARINGHOUSES

"FINDINGS

"SEC. 421. Congress finds that—

"(1) State and local law enforcement agencies serve a vital role in the safe and prompt return of missing children;

"(2) State and local law enforcement agencies serve as the initial contact points for parents or guardians of a missing child;

"(3) State and local law enforcement agencies have access to computers that can aid in quickly locating a missing child, and date accumulated on these computers can aid in research to specify the number of children missing each year;

"(4) State and local law enforcement agencies have at their disposal an advanced telecommunications system for working and cooperating with other law enforcement agencies;

"(5) State and local law enforcement agencies can work directly with the National Center for Missing and Exploited Children, a not-for-profit corporation operating under a cooperative agreement with the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice;

"(6) State clearinghouses will aid in the dissemination of information regarding and prompt recovery of missing children;

"(7) cooperation among local, State, and Federal law enforcement agencies that operate similar systems will aid in the prompt recovery of missing children; and

"(8) Federal assistance is needed to help initiate State clearinghouses.

"GRANTS

"SEC. 422. From amounts appropriated under section 425 for any fiscal year, the Administrator shall make a grant for the purpose of establishing and operating, or operating and expanding, a Missing Children Information Clearinghouse, to each State whose application is approved under section 423. Each grant shall be made under such terms and conditions as the Administrator shall prescribe. The amount of a grant to a State for a fiscal year shall not exceed 50 percent of the total cost during such fiscal year of establishing and operating, or operating and expanding, the clearinghouse, as determined by the State under section 423. In no event shall any State be entitled to a grant in excess of $75,000.

"APPLICATIONS

"SEC. 423. (a) Each State that desires to receive a grant for a fiscal year under section 422 shall submit an application to the Administrator. The application shall contain such information and assurances as the Administrator deems necessary. The Administrator shall approve an application if the State qualifies under subsection (b) of this section.

"(b) To qualify for a grant for any fiscal year under this part, a State shall—

"(1) agree to provide for the establishment and operation, or operation and expansion, of a Missing Children Information Clearinghouse within its department of justice or law enforcement, alone or in cooperation with other State agencies, that will—

"(A) work in conjunction with the National Crime Information [Center;] *Center by requiring local law enforcement agencies to enter promptly information on a missing child into the information systems of such Center and to expunge such information when the child is found or reaches the age of majority;*

"(B) educate parents, children, and community agencies and organizations in ways to prevent the abduction and exploitation of children;

"(C) provide public information to assist in locating and returning missing children, including, among other things, the distribution of a monthly bulletin to State and local law enforcement agencies with pictures and descriptions that will aid in locating missing children;

"(D) publish a directory of other organizations, such as *private voluntary organizations,* hospitals, medical clinics, and runaway shelters, the provide assistance in locating missing children;

"(E) establish an in-State toll-free telephone line to allow persons to report a missing child and be provided with information to assist in locating and returning a missing child as quickly as possible;

"(F) cooperate with and act as a liaison for other public and private organizations to locate missing children; and

"(G) work with the National Center for Missing and Exploited Children;

"(2) determine the cost of the establishment and operation, or operation and expansion, of the clearinghouse in such fiscal year and provide assurances that the State will at least pay 50 percent of such cost in cash or in kind; and

"(3) agree to submit to the Administrator a status report on the State's clearinghouse no later than six months after receipt of a grant under this part.

"ADMINISTRATIVE PROVISIONS

"SEC. 424. (a) The Administrator—

"(1) may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this part; and

"(2) shall allocate staff and agency resources which are adequate to properly carry out the Administrator's responsibilities under this part.

"(b) Whenever the Administrator, after reasonable notice and opportunity for a hearing to any State, finds that the State has failed to comply substantially with the requirements of section 423, the Administrator shall withhold payments under this part until the Administrator is satisfied that there is no longer any failure to comply.

"(c) The Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of any State receiving assistance under this part that are pertinent to the sums received and disbursed under this part.

"AUTHORIZATION

"SEC. 425. There are authorized to be [appropriated] *allocated* to the Administrator for grants under section 422 $2,000,000 for

fiscal year 1986 and $2,000,000 for fiscal year 1987.

"DEFINITION

"SEC. 426. For purposes of this part, the term 'State' shall mean any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.".

EFFECTIVE DATE

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment and shall be effective until the end of fiscal year 1987, at which time this Act and the amendments made by this Act shall be repealed.

Mr. SIMPSON. Mr. President, I move that the committee amendments be adopted.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 1322

(Purpose: To make technical amendments)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator MCCONNELL and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. MCCONNELL proposes an amendment numbered 1322.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 12, strike out "section 415" and insert in lieu thereof "sections 413 and 415".

On page 2, line 15, strike out "title" and insert in lieu thereof "this title".

On page 2, line 16, strike out "part" and insert in lieu thereof "this part".

On page 5, lines 11 and 12, strike out "or reaches the age of majority".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 1322) was agreed to.

Mr. MCCONNELL. Mr. President, it is with a great deal of personal pride that I have sponsored S. 1174. This bill was introduced May 21, 1985, and amends the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children. The passage of this legislation is critical to improving our national effort to track and locate missing children.

The issue of child safety has been a major concern of mine throughout my years in public office. In 1979, as the county judge for Jefferson County, KY, I aided in the establishment of the exploited and missing child unit. In 1981, we sponsored the first National Symposium on Missing Children and from that meeting came the National Child Tragedies Coalition. This coalition was chaired by Mr. John Walsh and cochaired by Senator HAWKINS and myself.

Accordingly, I was pleased to witness the opening of the National Center for Missing and Exploited Children here in Washington, DC, in June 1984. The services offered by the National Center were long overdue. In its short history, the National Center has demonstrated the need for its existence but also the need to involve and increase State and local participation in the program.

On August 21 of this year, the Subcommittee on Juvenile Justice held a field hearing in Lexington, KY, concerning S.174. The testimony received confirmed the need to educate and train law enforcement officers and community organizations in ways to efficiently report the disappearance of a child and how to prevent abduction and exploitation from occurring.

There has been a drastic increase in public awareness and child safety programs in recent years. Yet, the need for efficient and effective law enforcement services remain. An improved system for State and local law inforcement offices to report the disappearance of a child is, I feel, a must.

A missing child is a child at risk. Missing children are vulnerable to exploitation, sexual molestation and even death. John Walsh, with the National Center for Missing and Exploited Children, believes that more than 1,000 unidentified bodies of children and adolescents are found each year. I believe every effort should be made to protect our children from such tragedy.

It is the purpose of S. 1174 to reduce the threat of abduction to our children and provide better services at the State and local level where it is now needed most. This bill is important legislation and I thank my colleagues for their support in passing it.

Mrs. HAWKINS. Mr. President, I rise to support S. 1174, a bill to provide Federal financial assistance to encourage the States to establish missing children clearinghouses.

In 1982, the Florida Legislature appropriated funds to the Florida Department of Law Enforcement for the establishment of a missing children information clearinghouse. It has been extremely successful in providing liaison between private citizens and law enforcement officials concerning missing children and providing law enforcement agencies with the appropriate procedures for handling missing children cases.

The clearinghouse, which is established within the division of criminal justice information systems collects and disseminates information about missing children to law enforcement agencies, public and private organizations and the citizens of Florida. A statewide toll-free telephone line is available 24 hours a day, 7 days a week. The clearinghouse publishes a bulletin of missing children that are either missing from Florida, or thought to be in our State. The clearinghouse also provides a directory of resources available in the State to help look for a missing child, they have prepared a list of safety precautions to be utilized by parents and other concerned citizens. They distribute emergency flyers containing physical and situational descriptors of missing children when requested by a law enforcement agency, and they train public and private organizations regarding the operation of the clearinghouse.

The efforts of the State clearinghouse have paid off. As of March 31, 1985, a total of 4,404 persons were entered in the missing children file, in the Florida Crime Information Center. Of this number 3,054 or 69.3 percent are juveniles. A missing juvenile, Laura Strickland was located in San Antonio, TX, as a direct result of having been seen on a missing children information clearinghouse emergency flyer.

Mr. President, I hope that the rest of the States will take advantage of the funding available through this act and establish missing children clearinghouses similar to Florida's excellent program. Mr. President, I want to commend the Senator from Kentucky, Mr. MCCONNELL, and Representative TOM LEWIS, my colleague from Florida, who is the sponsor to the House counterpart of this bill for their continuing advocacy on behalf of missing children. Mr. President, I urge my colleagues to support this legislation.

Mr. HEINZ. Mr. President, it is my pleasure to be a cosponsor of the measure offered by the distinguished Senator from Kentucky [Mr. MCCONNELL]. His State has set an excellent precedent for the Nation with its center for missing children. My own State of Pennsylvania has sent its State police to Kentucky to study ways of combating the problem of missing and exploited children.

The bill before us would allow seed money for those States which establish comprehensive centers to assist in efforts to locate missing children, and combat child exploitation. While we have a National Center for Missing and Exploited Children, it must focus its efforts on a very broad scale. The work of State and local law enforcement agents is essential in any effort to prevent harm to children and to return lost or missing children to their families.

My newsletters now contain pictures and descriptions of missing children and there are far too many in my State. Their families have no idea what has become of them or if they are safe. It is a nightmare which must

be ended. Fast action by State and local authorities might well have made the difference between a lost child and a family reunification.

Moreover, the State centers would be able to perform in tandem with the National Center for Missing and Exploited Children to form an effective, national effort to find the children and discourage those who might take or harm a child.

I commend my friend from Kentucky for taking the initiative and bringing this measure before the Senate. I urge my colleagues to give it their full support.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (43 U.S.C. 5771) is amended—

(1) by redesignating section 402 as section 411;

(2) by transferring section 403 to the end of section 401, redesignating such section as section 402, and inserting after such section the following:

"PART A—GRANTS FOR RESEARCH, DEMONSTRATION PROJECTS, AND SERVICE PROGRAMS"

(3) by redesignating sections 404, 405, 406, 407, and 408 as sections 412, 413, 414, 415, and 416, respectively;

(4) by striking out "406" in sections 413 and 415 (as redesignated by paragraph (3)) and inserting in lieu thereof "414";

(5) by striking out "this title" in sections 411 through 416 each place it appears and inserting "this part" in lieu thereof; and

(6) by inserting after section 416 (as redesignated by paragraph (3)) the following new part:

"PART B—GRANTS FOR STATE CLEARINGHOUSES

"FINDINGS

"SEC. 421. Congress finds that—

"(1) State and local law enforcement agencies serve a vital role in the safe and prompt return of missing children;

"(2) State and local law enforcement agencies serve as the initial contact point for parents or guardians of a missing child;

"(3) State and local law enforcement agencies have access to computers that can aid in quickly locating a missing child, and data accumulated on these computers can aid in research to specify the number of children missing each year;

"(4) State and local low enforcement agencies have at their disposal an advanced telecommunications system for working and cooperating with other law enforcement agencies;

"(5) State and local law enforcement agencies can work directly with the National Center for Missing and Exploited Children, a non-for-profit corporation operating under a cooperative agreement with the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice;

"(6) State clearinghouses will aid in the dissemination of information regarding and prompt recovery of missing children;

"(7) cooperation among local, State, and Federal law enforcement agencies that operate similar systems will aid in the prompt recovery of missing children; and

"(8) Federal assistance is needed to help initiate State clearinghouses.

"GRANTS

"SEC. 422. From amounts appropriated under section 425 for any fiscal year the Administrator shall make a grant for the purpose of establishing and operating, or operating and expanding, a Missing Children Information Clearinghouse, to each State whose application is approved under section 423. Each grant shall be made under such terms and conditions as the Administrator shall prescribe. The amount of a grant to a State for a fiscal year shall not exceed 50 percent of the total cost during such fiscal year of establishing and operating, or operating and expanding, the clearinghouse, as determined by the State under section 423. In no event shall any State be entitled to a grant in excess of $75,000.

"APPLICATIONS

"SEC. 423. (a) Each State that desires to receive a grant for a fiscal year under section 422 shall submit an application to the Administrator. The application shall contain such information and assurances as the Administrator deems necessary. The Administrator shall approve an application if the State qualifies under subsection (b) of this section.

"(b) To qualify for a grant for any fiscal year under this part, a State shall—

"(1) agree to provide for the establishment and operation, or operation and expansion, of a Missing Children Information Clearinghouse within its department of justice or law enforcement, alone or in cooperation with other State agencies, that will—

"(A) work in conjunction with the National Crime Information Center by requiring local law enforcement agencies to enter promptly information on a missing child into the information systems of such Center and to expunge such information when the child is found;

"(B) educate parents, children, and community agencies and organizations in ways to prevent the abduction and exploitation of children;

"(C) provide public information to assist in locating and returning missing children, including, among other things, the distribution of a monthly bulletin to State and local law enforcement agencies with pictures and descriptions that will aid in locating missing children;

"(D) publish a directory of other organizations, such as private voluntary organizations, hospitals, medical clinics, and runaway shelters, that provide assistance in locating missing children;

"(E) establish an in-State toll-free telephone line to allow persons to report a missing child and be provided with information to assist in locating and returning a missing child as quickly as possible;

"(F) cooperate with and act as a liaison for other public and private organizations to locate missing children; and

"(G) work with the National Center for Missing and Exploited Children;

"(2) determine the cost of the establishment and operation, or operation and expansion, of the clearninghouse in such fiscal year and provide assurances that the State will at least pay 50 percent of such cost in cash or in kind; and

"(3) agree to submit to the Administrator a status report on the State's clearinghouse no later than six months after receipt of a grant under this part.

"ADMINISTRATIVE PROVISIONS

"SEC. 424. (a) The Administrator—

"(1) may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this part; and

"(2) shall allocate staff and agency resources which are adequate to properly carry out the Administrator's responsibilities under this part.

"(b) Whenever the Administrator, after reasonable notice and opportunity for a hearing to any State, finds that the State has failed to comply substantially with the requirement of section 423, the Administrator shall withhold payments under this part until the Administrator is satisfied that there is no longer any failure to comply.

"(c) The Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of any State receiving assistance under this part that are pertinent to the sums received and disbursed under this part.

"AUTHORIZATION

"SEC. 425. There are authorized to be allocated to the Administrator for grants under section 422 $2,000,000 for fiscal year 1986 and $2,000,000 for fiscal year 1987.

"DEFINITION

"SEC. 426. For purposes of this part, the term 'State' shall mean any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.".

EFFECTIVE DATE

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment and shall be effective until the end of fiscal year 1987, at which time this Act and the amendments made by this Act shall be repealed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATING THE YEAR 1986 AS THE "YEAR OF THE FLAG"

Mr. SIMPSON. Mr. President, I send a joint resolution to the desk on behalf of Senator THURMOND, and other Senators, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 242) to designate the year of 1986 as the "Year of the Flag."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be

added as a cosponsor of the joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I also ask unanimous consent that my name be added as a cosponsor to the joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today, along with 27 of my colleagues, including 10 members of the Committee on the Judiciary, I am introducing a joint resolution to designate 1986 as the "Year of the Flag." This measure is the Senate companion of House Joint Resolution 424, which passed the House of Representatives on December 3.

Three significant events will take place next year: 1986 will be the bicentennial of the call for a constitutional convention; the restored Statue of Liberty will be dedicated and its centennial observed; and the Great Hall of Ellis Island will be readied for its reopening.

The year 1986 will be a time of renewed patriotism, and it should be a time when we reacquaint ourselves with the relationship of our flag to our heritage. The Stars and Stripes are symbolic of the birth of a new nation and America's territorial development. The colors symbolize qualities of the human spirit: courage, purity, vigilance, and justice.

As we prepare ourselves to enter the 21st century, we need to carry the American legacy to future generations. We need to make all citizens aware of this Nation's ideals, traditions, development, and accomplishments. Renewing an appreciation of the American flag, its history, customs, and symbolism is one way of doing this.

When we raise our flag, we must do so in respect. We must look at it as a symbol of a vibrant, strong, free nation. We must remember the effort, sacrifice, and love of our forebearers in creating and defending this Nation.

As Members of Congress, we should take the initiative in renewing interest among the American people, especially our schoolchildren, in our flag and the rich history of America which the flag symbolizes.

I, therefore, urge my colleagues to join with me in cosponsoring this commemorative resolution designating 1986 as the "Year of the Flag" and in supporting its passage.

I ask unanimous consent that the remarks of Senator ALFONSE D'AMATO be included in the RECORD following my statement.

In addition, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD following the statements.

I want to commend Representatives WILLIAM COBEY, JR. and EDOLPHUS TOWNS for their efforts in introducing the House joint resolution and obtaining its passage in that body. I ask that we now turn to the consideration of House Joint Resolution 424.

Mr. D'AMATO. Mr. President, I rise today in a spirit of patriotism and national pride to cosponsor a resolution, introduced by the distinguished senior Senator from South Carolina, designating 1986 as the "Year of the Flag."

This resolution will encourage the American people to increase their awareness of our Nation's heritage, and thereby increase the respect and admiration due our national flag.

The American flag is a stirring sight as it flies in the wind. Its bright colors and striking design stand as a symbol of our Nation's land, our people, our Government, and our ideals. The American flag can stir people to joy, to courage, and to sacrifice. In the past, many Americans have died to protect our Nation and its flag from dishonor and disgrace. In 1986, all Americans should recommit themselves to the values and ideals represented by the American flag which are the foundation of our Nation.

Mr. President, there is no greater good than the pursuit of liberty, freedom, and peace. As the long-standing symbol of these treasured values and ideals, the American flag deserves our highest respect and admiration. Therefore, let us set aside 1986 as the "Year of the Flag." I urge this respected body to unite in support of this effort to demonstrate Congress' respect and admiration for the flag of the United States of America.

The PRESIDING OFFICER. Are there amendments? If there be no amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to House Joint Resolution 424, the House companion joint resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 424) to designate the year of 1986 as the "Year of the Flag."

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 424) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Thurmond joint resolution, Senate Joint Resolution 242, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Chair lay before the Senate a message from the House on the OPIC Act of 1985, S. 947.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 947) entitled "An Act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SIMPSON. Mr. President, I move that the Senate disagree to the House amendment and agree to the conference requested by the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. PRESSLER] appointed Mr. LUGAR, Mr. MATHIAS, Mr. EVANS, Mr. PELL, and Mr. SARBANES conferees on the part of the Senate.

APPOINTMENT OF CONFEREES—H.R. 3128

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate receives H.R. 3128 from the House, the Senate be deemed to have disagreed to the amendment of the House to H.R. 3128, and have agreed to the conference requested by the House, and that the Chair be deemed to have appointed conferees as follows:

FISCAL YEAR 1986 SENATE RECONCILIATION CONFEREES

Senate Committee	Republican Conferees	Democratic Conferees
Budget—General Conferees.	Domenici, Armstrong, Kassebaum, Boschwitz, Symms.	Hollings, Johnston, Sasser, Metzenbaum.
Agriculture	Helms, Dole, Lugar, Cochran.	Zorinsky, Leahy, Melcher.
Armed Services	Goldwater	Nunn.
Banking	Garn, Heinz, Hecht	Proxmire, Reigle.
Commerce	Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens.	Hollings, Long, Inouye, Ford, Riegle.
Environment and Public Works.	Stafford, Chafee, Simpson, Symms.	Bentsen, Burdick, Lautenberg.
Finance—General Conferees.	Packwood, Roth, Danforth, Chafee.	Long, Bentsen, Matsunaga.
Finance—for PBGC and ERISA Subconference only.	Packwood, Chafee, Heinz	Mitchell, Moynihan.
Finance—for CHAMPUS Medicare Subconference only.	Durenberger	Baucus.

FISCAL YEAR 1986 SENATE RECONCILIATION CONFEREES—Continued

Senate Committee	Republican Conferees	Democratic Conferees
Finance—for Private Health Insurance Coverage Subconference only.	Heinz, Wallop, Durenberger.	Baucus, Pryor.
Governmental Affairs	Roth, Stevens, Mathias, Cohen.	Eagleton, Levin, Gore.
Labor and Human Resources—General Conferees.	Hatch, Stafford, Quayle	Kennedy, Pell.
Labor and Human Resources—for PBGC and ERISA Subconference only.	Hatch, Nickles, Thurmond	Kennedy, Metzenbaum.
Small Business	Weicker, Gorton	Bumpers.
Veterans' Affairs	Murkowski, Simpson	Cranston.
Energy Committee General Conferees.	McClure, Domenici, Wallop	Johnston, Ford.
Energy Committee Conferees on Title VI, sec. 6701 only.	McClure, Hatfield, Domenici.	Johnston, Ford.
Commerce Conferees on Title VI, sec. 6701 only.	Danforth, Packwood, Goldwater.	Hollings, Long.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY COLLEGES: A NEW ROAD FOR EDUCATIONAL EXCELLENCE

Mr. BYRD. Mr. President, we in West Virginia are very proud of our outstanding community college system.

During the month of October, the West Virginia Community College Association had its annual conference at Twin Falls State Park in Pineville, WV. One of the featured speakers at this conference was Dr. Donald J. Senese who served for 4 years as the assistant secretary for educational research and improvement in the U.S. Department of Edcuation (1981-84). Dr. Senese made a number of important points relevant to the West Virginia Community College System and applicable to community colleges throughout our country.

I call the attention of my colleagues to Dr. Senese's remarks entitled "Community Colleges: A New Road to Educational Excellence," and ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

"COMMUNITY COLLEGES: A NEW ROAD FOR EDUCATIONAL EXCELLENCE"

(By Dr. Donald J. Senese)

Greetings. It's great visiting the beautiful state of West Virginia and having the opportunity to meet with the key personnel of West Virginia's community college system. You are the leaders who are making the community college system work so well in this state and I commend you for your work and for the theme of this conference focusing on what community colleges can do to promote excellence in education.

Today, I would like to discuss with you some general ideas—as well as a few suggestions—for new directions for the community colleges.

Usually whenever the topic of community colleges comes up at meetings of educators, there is prolonged debate over the meaning of the term "community college," a focus on "the mission" of community colleges, or an attempt to redefine the whole educational debate in terms of the community college lexicon (e.g. changing the term "student" to "learner"). It is reminiscent of the story of the three blind individuals who tried to describe an elephant gained only from their sense of touch. One felt the large body of the elephant, one felt the snake-like trunk, and the other felt the large ear. Each gave his own description—varying greatly—with each failing to describe the entire animal. The community college system in America is an animal of many diverse parts and I do not intend to get into that educational thicket or we will be here all day. And we would be in a similar situation to the critic who proposed that if one laid every economist in the world end to end, you could predict one result: they still would not be able to reach a conclusion. In fact, it is not important that we do reach a conclusion.

During the past almost two decades—as a professor in a postsecondary institution, as a legislative aide on Capitol Hill in Washington, D.C., and as the Assistant Secretary for Educational Research and Improvement in the U.S. Department of Education for four years—I have had an unique opportunity to watch the great growth of our community college system. It is an unique system and its greatest attribute is its diversity. This diversity allows the community college to adjust to its geographical setting—urban, rural or suburban—and to the nature of the community.

This diversity and ability to adjust has been the strength of our community college system. Aside from these just mentioned qualities, the community college must be a place committed to excellence in education.

I do not mean excellence in the same sense or with the type of structured curriculum that we expect in our postsecondary institutions, our colleges and universities. Certainly, I think we are past the age of accepting the myth that our community colleges are a wasteland, a so-called dumping ground for those who lack the ability or fortitude or determination to pursue studies in a four-year institution.

The community college is rather a new phenomenon on the American scene. In 1862 the Morrill Act, named for Senator Justin Morrill of Vermont, established land grant colleges, sometimes called "people's colleges," which included both subject matter and students previously excluded from higher education. The debate raged here over the "practical" versus "liberal" education as well as the very function of a postsecondary education. This debate in the latter part of the nineteenth century helped pave the way for similar battles fought by community colleges and even presently being fought by community colleges.

Community colleges can play the role of an extension of high school, preparation directly for a career, a basis for additional career training, or education for entrance in a four-year institution. I think this function has been so well stated by Edmund J. Gleaser Jr. in his book "The Community College: Values, Vision and Vitality" (Washington, D.C.: American Association of Community and Junior Colleges, 1980, p. 16): "To encourage and facilitate lifelong learning, with community as process and product."

Along this same line, I hope all of us realize that the education reform reports have messages for the community colleges. Certainly the health of our elementary and secondary schools relates directly to the type of programs which will be offered for entering students. Community colleges, like four-year postsecondary institutions, should not serve as repositories for students to take remedial courses, making up for what was not properly taught in secondary schools rather than new knowledge. The report of the National Commission on Excellence in Education, A Nation At Risk, set a goal which can easily be embraced by the community college system of the state of West Virginia as well as all of our states—the creation of a Learning Society. "A Nation At Risk" described it as follows:

At the heart of such a society is the commitment to a set of values and to a system of education that affords all members the opportunity to stretch their minds to full capacity, from early childhood through adulthood, learning more as the world itself changes. Such a society has as a basic foundation the idea that education is important not only because what it contributes to one's career goals but also because of the value it adds to the general quality of one's life. (p.14).

The National Commission noted that at the heart of the Learning Society remained a commitment to learning opportunities far beyond the traditional institutions, schools and colleges, clearly into homes, workplaces, art galleries, and museums. Any institution in which the individual can develop and mature can contribute to a Learning Society. Observing that formal schooling for youth can provide the essential foundation for learning throughout one's life, it warns that without life-long learning, the skills of the individual will become rapidly dated. Doesn't this define the role and future challenge for the community colleges of our nation?

Before I mention specific avenues of approach, allow me to cite two developments we need to be aware of in our country: future trends in higher education and future trends in economic developments.

The period of the 1970s and the 1980s have been periods of rapid change for institutions of higher education as in the early 1970s we saw college enrollments up because of the "baby boom." In recent years we have witnessed enrollments in our institutions of higher education augmented by the increased attendance of women, part-time students, and older students. In citing this development, the 1985 report on The Condition of Education, issued by the National Center for Education Statistics of the U.S. Department of Education, observed that many of these students are oriented toward the world of work with students focusing on such fields as business and management, health professions, and computer science (The Condition of Education, p. 86). And management consultant Peter Drucker has noted that while there may be a stabilization, even a contraction in enrollments, the demand for education will be going up, not down. What is going down, he observes, is the demand for traditional education in traditional schools. He foresees that the fastest growing industry in America is the continuing professional education of highly schooled mid-career adults. ("The Coming Changes in Our School Systems," The Wall Street Journal, March 3, 1981, p. 30). This development offers a great opportunity for community colleges for during a period when individuals may need to prepare themselves for three or four career changes in a lifetime, the community college may be ca-

tering to the high school graduate or the person with a completed doctorate.

The other trend we should be aware of is the changing nature of our economy. Old jobs are disappearing and new ones are being created. John Naisbitt in Megatrends: Ten New Directions Transforming Our Lives (New York: Warner Books, Inc., 1982) writes of our movement as a society from the Industrial Era to the Information Society and, observing that the type of work we do influences what we are and the nature of our society, summarizes a brief history of the United States by listing our evolution through three major occupations: farmer; laborer; clerk (Megatrends, pp. 13–14). Farmers, who constituted almost one-third of our population at the turn of the century less than one hundred years ago, occupy three percent of our current population's workforce. The current two most popular occupational classifications in our present society are clerk, and then professional. We have more people employed in higher education than in agriculture.

The community college bridges this gap as we move into a fundamental economic structural change in our society. It must be ready to prepare a workforce for new industries and service occupations as well as assisting dislocated workers preparing for retraining and new career opportunities. The community colleges aid us in different regions of our country with smokestack industries, new high-tech industries, low-tech industries, the rise of new and expanding service industries, and special employment opportunities in rural areas.

As the community colleges focus on a role for the 1980s and beyond, there are some specific actions which can be taken. Let me highlight some of the most notable following on your theme of excellence in education.

First, there is excellence in curriculum. As community college leaders develop new courses and programs, they must be willing to establish and keep high standards. Lower standards may attract more students but it will also harm the community college's reputation as people will rush to judgment viewing the entire community college program as a short step up from a high school vocational education.

Excellence is not defined only in terms of the liberal arts or professional preparation such as medicine. In a Nation at Risk, excellence is defined in several ways—for the individual, it is defined as the means to test and push back personal limits and for the school or college, it represents the setting of high expectations and goals for all learners and then tries in every way possible to assist learners to reach these lofty goals. Finally, it is defined for a society which accepts excellence as a goal and tries in every possible way to prepare its citizens for the challenges of a rapidly changing world. The community college with this commitment to excellence can aid our society in reaching high employment, economic health, and increased productivity.

Second, there is excellence in teaching. This represents the effort to recruit an outstanding faculty and one that meets the changing needs in the community. It may require selecting individuals with real working experience in the field as well as academic credentials, combining the best of the practical and the theoretical. We appreciate it best not by one's own institution but a study of the administrators, teachers, and successful learners from successful community colleges throughout our state, our region, and our nation. This "outreach" can help us to end academic isolation plus provide a fertile field for new ideas. Excellent teachers along with excellent administrators create excellent community colleges which turn out excellent learners. It takes a conscious effort as well as a commitment to be introspective and evaluate oneself objectively in order to achieve excellence. A good starting place is taking the attributes of a well run company as defined by Thomas J. Peters and Robert H. Waterman, Jr. in In Search of Excellence: Lessons From America's Best-Run Companies (New York: Harper and Row, 1982) and applying these standards to our own educational institution. It will cause us to raise such questions as: Are we action oriented? Are we close to our customers, the learners and the community we serve? Do we promote productivity through people?

We also need at the community college level to give recognition to our outstanding teachers. We should not be hesitant to consider a "master teacher" status or endowed chairs in our own institutions.

Third, this means excellence in students. This is one of the most critical factors in building a strong community college body of learners and alumni. This is especially important for community colleges where a large majority of those who complete courses and programs will remain in the community.

We had a population explosion of students entering all types of higher education institutions in the 1960s. It aided us as a nation to increase access and opportunities for many who years earlier would not have gone on to education beyond high school. However, we also discovered that many of these students were not sure why they had gone on to higher education or what they were expected to contribute or to get back from their college education. It is a condition pervasive through our educational system—students not sure why they are taking certain courses or the relevance of these courses to their future, students seeking merely to "get by" earning a "C" grade or just passing, students putting forth minimum effort with no goal in mind, and students not sure of the direction of their lives. We are wasting valuable human resources if we are not aiding students to develop a philosophy of self-help, individual improvement, goal-setting, and then assisting them to devise a strategy to reach these goals.

It is significant that this year we are celebrating the 150th anniversary of the birth of Andrew Carnegie, who built his reputation and made his fortune residing in the neighboring state of Pennsylvania. Born in Scotland, he was one of the great entrepreneurs in our country and built the steel industry during the period of the Industrial Revolution in the United States. In that famous article published in the NORTH AMERICAN REVIEW of June 1889 entitled "The Gospel of Wealth" he maintained that the wealthy should serve as trustees for the benefit of the public as a whole and followed his own advice becoming well known as a philantropist providing funds for the study of science and the humanities and establishing public libraries throughout our country. Carnegie gave birth to a project which I believe has special relevance for those in the service of community colleges.

Andrew Carnegie, while being interviewed by a young reporter named Napoleon Hill in 1908, expressed his concern that each generation had to discover the secrets of success. He felt that similar to mathematical and scientific formulas, the elements of personal success could be identified, quantified, and applied to specific situations by each generation. He desired not only to leave money but a formula for others to emulate his success as part of his lasting legacy to posterity. He challenged young Napoleon Hill to devote years of study to identifying these principles of success by interviewing the most successful individuals of the time in different fields and he offered his assistance in introducing him to these individuals. Hill took up the challenge and spent twenty years on this research publishing the results of his research in 1928 in eight volumes under the title "Law of Success." We may be more familiar with the shortened and updated versions published under the titles of "Think and Grow Rich and Grow Rich!—With Peace of Mind." The most recent adaption of these principles can be found in SUCCESS THROUGH A POSITIVE MENTAL ATTITUDE by Napoleon Hill and W. Clement Stone.

These principles, known generally by the generic term "science of success," have been offered to corporate executives, adult learners, inmates in prison, and inner city youth with very positive results by improving individual self-esteem and confidence, aiding individuals to set goals, and aiding these individuals in accomplishing these goals by a steady application of these principles. These seventeen principles (including a positive mental attitude, definiteness of purpose, going the extra mile, self-discipline, teamwork) are taught as learners work on specific tasks to apply these principles to their own lives. Individuals such as W. Clement Stone, Og Mandino, and others and organizations like The Napoleon Hill Foundation are active in promoting these self-help concepts. Perhaps during a time that our educational system may seem like a ship without a rudder, community colleges might take the initiative and the lead incorporating "science of success" courses in their curriculums as meaningful additions to the courses and programs already offered.

Fourth, there is excellence in school and business partnerships. The changes we are experiencing in our economy and will experience in future years present community colleges with the challenge to be more responsive to a changing environment and at the same time to respond in both creative and constructive ways to the new economic changes. Community college administrators and faculty must not only study national trends in the economy but must also be intimately familiar with local trends, data, and developments to seize the initiative for new opportunities.

Let me cite three brief examples. The City College of Chicago is working on a special project in southeast Chicago retraining unemployed steel workers for jobs as security guards, sanitation engineers, and factory workers working with robotics. They have acquired a building from one of the companies and are building another building as a training center in the very neighborhood hard hit by cutbacks in the steel industry and the resulting unemployment. Practical training is being provided for jobs that exist in the local area.

Northern Virginia Community College with its five campuses in Northern Virginia began twenty years ago in a small facility which gave it at that time the name "Warehouse U." In these two decades, it has grown from 350 students to 56,000 full and part-time students making it the second largest community college in the world. The

size is not as important as the service provided. The secret of its success, and a lesson that other community colleges can follow, has been regular contact with business leaders and a partnership developed so that businesses supply the college with the latest and sometimes expensive hardware so that the colleges in turn can train future employees. The major goals of NVCC has been to supply job programs to residents who want to enter local industries and thus we find that it offers 92 occupational and technical degree programs. It has responded to the local needs as Northern Virginia has moved into a changing, high-tech environment. The President of the college meets regularly with the chief executives of two dozen companies in Northern Virginia to keep aware of changing economic needs and opportunities.

Another notable example is taking place in the state of Oregon and was related to me by a public official very interested in the outcome, Mr. William Bain, the Director of the Department of Assessment and Taxation for Lane County (Eugene), Oregon. It is an example of what enlightened leadership can accomplish with initiative and imagination. A candy factory burned down in the Portland, Oregon area and the company considered rebuilding on two other sites, including one out of state. An energetic group of businessmen and community college leaders from Lane County got together and met with company officials to make an appeal for them to consider locating in Lane County. A site was offered near a major highway Interstate 5. This leadership then suggested that because of the location the company open a retail store and offer tours of the candy factory, two ideas which the company officials had not considered in their plans to rebuild the factory. Sensing the opportunity available for employing between 150 to 300 employees in this operation, the Lane County Community College is taking steps to establish a Masters in Confectioners program. The company has now agreed to locate in Lane County opening a factory with a retail store and factory tours. In addition, the company now plans to move another part of their corporate operations from another state to this new plant when completed.

This is a time for the community college leadership of this state to be opportunity oriented, rather than problem proned. Out of each adversity are the seeds of new opportunities. Creative and dynamic leadership can identify these opportunities and mobilize the resources to bring positive results.

Let us avoid delay and lost opportunities because of traditional roles or defining a mission or merely seeking additional bodies to occupy our classrooms. By knowing and understanding your own community, you can discover endless opportunities for service to the community by your community college. The hallmark of that exploration needs to be excellence, flexibility, and opportunity.

When we examine community colleges, we understand certain common elements which can be identified in community colleges judged superior. These qualities include adaptability to new conditions and circumstances, operating with a continuing awareness of the community, extension of opportunities to the unserved, accommodation to diversity, an active role in the community's learning system, and a continuing relationship with the learner. It is important that the community college maintain a high visibility in the community so that each of its administrators, teachers, support staff and business council members become salesmen and saleswomen for the community college and the benefits it offers. It may also require a conscious marketing strategy but it is worth the effort.

All of you have done an outstanding job in building a community college system in West Virginia. However, new challenges are before you and I know you will respond to these in the same positive and creative way you have responded to other challenges in the past. I wish you well in your endeavors as you provide excellence in education and new opportunities for the community college students in West Virginia.

FURTHER CONTINUING APPROPRIATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that a statement by Senator HATFIELD, chairman of the Committee on Appropriations, on House Joint Resolution 465, making further continuing appropriations for fiscal year 1986, be printed in the RECORD.

This statement is provided so that Senators may have an explanation of the committee's action today on the continuing resolution, prior to our beginning consideration of that measure tomorrow. An official report will be filed at a later time.

There being no objection, the statement was orderd to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON HOUSE JOINT RESOLUTION 465

The Committee on Appropriations reported the last of the 13 regular fiscal year 1986 appropriations bills on November 6, 1985. To date, 3 of the 13 regular bills have been enacted into law: Energy-Water Development (Public Law 99-141), Legislative Branch (Public Law 99-151), and HUD-Independent Agencies (Public Law 99-160). Conference action has been completed on four other bills: Treasury-Postal Service, Military Construction, Labor-HHS-Education, and District of Columbia.

Of the remaining six regular fiscal year 1986 appropriations bills, the Senate has passed three bills (Agriculture, Commerce-Justice-State, and Transportation) and has begun consideration of the Interior bill. The Senate has not acted on either the Foreign Assistance or Defense bills. The House of Representatives has passed all these bills, with the exception of the Foreign Assistance bill.

Funding for programs and activities covered by the 10 fiscal year 1986 regular appropriations bills not yet enacted into law is currently provided under a temporary continuing resolution (Public Law 99-154). Funding provided by this short-term resolution will expire on December 12, 1985. Although the Committee is committed to achieving final action on all 13 regular appropriation bills, it is clear this will not occur by December 12. Therefore, this continuing resolution provides full-year funding—through September 30, 1986—for the 10 regular bills not yet completed. Of course, upon enactment into law of any of these bills, the relevant provisions of this resolution will automatically cease to apply and the regular bill will become the funding device.

Although congressional appropriations action is not in strict adherence with the administration's priorities, the spending decisions reflected in the three regular fiscal year 1986 appropriations bill enacted into law, together with this further continuing resolution recommended by the Committee, are well within the total fiscal year 1986 appropriations level requested by the administration.

LEVELS OF FUNDING UNDER THE RESOLUTION

Section 101 (a) through (j) sets forth the levels of funding recommended for each of the appropriations bills covered by this continuing resolution. The level of funding recommended for each bill is as follows, with exceptions as later specified in this report:

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Section 101(a) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3037) as passed by the House, and instead inserts the rate provided in the bill as passed by the Senate on October 16, 1985.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Section 101(b) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 2965) as passed by the House, and instead inserts the rate of operations provided in the conference agreement as filed in the House of Representatives on December 4, 1985 (H. Rept. 99-414). The section also provided that Senate Amendment 134 shall be considered as included in the conference agreement. This amendment prohibits the use of funds appropriated for the U.S. Information Agency by any organization connected in any manner with any political party operating in the United States.

DEFENSE

Section 101(c) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3629) as passed by the House, and instead inserts the rate provided in the bill as reported to the Senate on November 6, 1985.

DISTRICT OF COLUMBIA

Section 101(d) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3067) as passed by the House, and instead inserts the rate provided in the bill as passed by the Senate on November 7, 1985.

INTERIOR AND RELATED AGENCIES

Section 101(e) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3011) as passed by the House, and instead inserts the rate provided in the bill as reported to the Senate on September 24, 1985.

TRANSPORTATION AND RELATED AGENCIES

Section 101(f) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3244) as passed by the House, and instead inserts the rate provided in the bill as passed by the Senate on October 23, 1985 with two exceptions, Coast Guard operating expenses is funded at $1,752,000,000 including trasfers. This level,

augmented by funding made available in Public Law 99-88, the fiscal year 1985 supplemental, and Public Law 99-145, the Department of Defense Authorization Act, 1986, is necessary to continue ongoing Coast Guard activities. In addition, the rate for Federal Aviation Administration operations is $2,714,400,000, the amount originally adopted by the Subcommittee on Transportation.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

Section 101(g) retains House language establishing the rate of operations as that provided in the conference agreement on the regular fiscal year 1986 appropriations bill (H.R. 3424), but includes an amendment to reference changes adopted by the House on December 5, 1985.

MILITARY CONSTRUCTION

Section 101(h) retains House language establishing the rate of operations as that provided in the conference agreement on the regular fiscal year 1986 appropriations bill (H.R. 3327).

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

Section 101(i) retains House language establishing the rate of operations as that provided in the conference agreement on the regular fiscal year 1986 appropriations bill (H.R. 3036) with the deletion of amendment 83 dealing with Office of Personnel Management regulations, and recommends a further proviso reducing appropriations provided for both the Internal Revenue Service and the Postal Service revenue forgone subsidy.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Section 101(j) deletes House language establishing the rate of operations as that provided in the regular fiscal year 1986 appropriations bill (H.R. 3228) as reported to the House with adjustments, and instead inserts the rate contained in the bill (S. 1816) as reported to the Senate on October 31, 1985, with exceptions as enumerated below. The Committee includes in its entirely, by reference, the report, Senate Report 99-167, accompanying S. 1816, with appropriate adjustments to reflect the changes and exceptions enumerated below.

In mark-up of the continuing resolution, the Committee deleted provisions continuing the availability of unused Export-Import Bank budget authority provided in accordance with the limitation on program activity in the fiscal year 1985 appropriations bill. Additionally, the Committee made an adjustment to S. 1816 to establish a $1.8 billion limitation on Export-Import Bank program activity for fiscal year 1986. Finally, the Committee agreed to provide a ceiling of $375 million in appropriations for the fiscal year 1986 U.S. contribution to the seventh replenishment of resources of the International Development Association. Each of the foregoing adjustments to the Senate reported bill, S. 1816, were made in order to bring the Foreign Operations provisions in compliance with the Subcommittee's 302(b) allocation under the budget resolution.

Additionally, the Committee approved a number of adjustments to bring the reported bill (S. 1816) into near conformity to the provisions of Public Law 99-83. These adjustments were taken following consultations with the Committee on Foreign Relations. The adjustments are as specifically noted below as they appear in the bill: $80,000,000 shall be made available for Portugal; $1,000,000 shall be made available for a program to strengthen the judicial system in Peru; up to $20,000,000 may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961; not less than 35 percent of the funds allocated for the Human Rights Fund for South Africa shall be made available in accordance with section 802(d) of Public Law 99-83; $22,500,000 shall be made available for Tunisia; and $15,000,000 shall be made available for Uruguay: *Provided further,* That notwithstanding any other provision of this subsection, of the funds provided under the heading "Foreign Military Credit Sales", up to $10,000,000 may be made available for Guatemala: *Provided further,* That notwithstanding any other provision of this subsection, of the funds provided under the heading "Military Assistance", up to $10,400,000 may be made available for Zaire: *Provided further,* That notwithstanding any other provision of this subsection, of the funds made available under the heading "International Narcotics Control", $1,000,000 shall be made available to carry out the provisions of section 607 of Public Law 99-83: *Provided further,* That notwithstanding any other provision of this subsection, of the funds made available under the paragraph "Energy and selected development activities, Development Assistance", up to $100,000 may be made available in accordance with the provisions of section 714(d) of Public Law 99-83: *Provided further,* That notwithstanding any other provision of this subsection, of the funds made available to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $1,000,000 shall be made available for literacy and other education programs in Haiti.

Refugee Resettlements.—Additionally, the Committee reports favorably a Sense of the Congress provision expressing the expectation that recipients of U.S. foreign assistance will cooperate with international refugee organizations, the United States, and other governments in expediting the resettlement of refugees. The Committee recognizes the magnitude of refugee problems worldwide and the problems faced by governments of countries which give asylum to refugees, particularly developing countries. The Committee further recognizes the generous policies of those developing countries which offer asylum, sometimes on an extended basis, to large populations of refugees who place added burdens on the asylum country's resources. The Committee commends these countries for their contributions to humanitarian assistance and their cooperation in working with the international community to find durable solutions to refugee situations, including voluntary reparation, resettlement in the region of asylum, and resettlement to third countries. It is the intent of the Committee to underscore the need for cooperation in resettling to other countries refugees of interest to those countries, particularly that resettlement of refugees not be impeded by considerations of race, sex, religion, or national origin.

Negotiations and Action Regarding Agreements to Restrain Copper Production Voluntarily.—The Committee directs the United States Trade Representative to undertake negotiations with all major copper producing countries for the purpose of obtaining restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each one-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982. The U.S. Trade Representative shall also undertake negotiations with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each one-year period within the restraint period will not exceed the sum of the aggregate production of unwrought copper by those countries during calendar year 1984, plus the estimated growth in demand for unwrought copper for such one-year period within the restraint period. In addition, the Trade Representative shall submit a quarterly report to the appropriate committees of the House and Senate on the progress, obstacles, terms, conditions, responses and assessment of the restraint agreements.

The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons. The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons. The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States. The term "restraint period" means the five-year period beginning at the close of the agreement negotiations period.

ACTIVITIES NOT OTHERWISE INCLUDED

Section 101(k) continues several programs at the current fiscal year 1985 level.

Trade adjustment assistance

The Committee concurs with House bill language maintaining the current rate ($26,000,000) for direct services under the trade adjustment assistance programs. These services, funded through the Department of Labor, include retraining, job search, and relocation assistance. In addition, the Committee recommends $4,588,000 in a bill language proviso for State administrative expenses necessary to continue Labor Department responsibilities under the Trade Adjustment Assistance Program. Due to lack of renewed authorizing legislation for the balance of fiscal year 1986, the regular Labor-HHS-Education appropriations bill did not include funding for continuation of trade adjustment assistance activities.

Without the proviso recommended by the Committee, Trade Act administrative costs must be absorbed elsewhere in the State employment security area, and the only program of sufficient size to absorb this expense is the grants program to State agencies for administering Federal and State unemployment compensation laws. To date, these unemployment insurance base funds have been fully allocated, as they were last year when this additional requirement was imposed. Without additional funds, the Labor Department would again have to inform those States receiving trade program funds that they will not be separately reimbursed for trade administrative costs but must absorb these costs within available funds. This could prove a hardship to those States allocated a sizable level of Trade Act program resources provided in the "Training and employment services" account.

Office of Refugee Resettlement

The Committee concurs with the House recommendation of $4,000,000 for the voluntary agency matching grant program. In view of the success of the matching grant program the Committee does not concur in the administration's proposed reductions for fiscal 1986. It is the intent of the Committee that the size of the caseload participation in the program not be reduced and that the Federal match remain at its existing level of a $1,000 maximum per refugee.

Foster care

The Committee has included bill language to extend through fiscal year 1986 expiring foster care provisions under title IV-E of the Social Security Act. These provisions would allow States to continue to transfer unused foster care funds to child welfare services, and would continue to allow Federal reimbursement to States for certain children placed voluntarily in foster care for limited periods. There is no additional cost associated with these provisions; funding is already provided for these entitlement activities in the regular fiscal 1986 Labor-HHS-Education appropriations bill, H.R. 3424, which is incorporated into this joint resolution under section 101(g). Similar provisions were also contained in last year's continuing resolution (Public Law 98-473).

Corporation for Public Broadcasting

The Committee has deleted a House provision which would have reduced the fiscal year 1987 funding for the Corporation for Public Broadcasting [CPB] from $214,000,000 to $200,000,000. The conference report on H.R. 3424, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986, provides funding for CPB at the higher level, thus making the House provision in H.J. Res. 465 unnecessary.

OTHER PROVISIONS OF THE RESOLUTION

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Agricultural support programs

The Committee recommends striking section 105 of the House joint resolution. This provision relates directly to price support loans and income support for farmers by mandating (a) that the Secretary provide nonrecourse loans that reflect a fair return above the cost of production and (b) that the cost of commodities resulting from such loan levels be borne by the purchaser rather than by appropriation. The provision would also require export subsidies and mandatory production controls. The issues of price and income supports, export enhancement, and production controls have been addressed by both Houses of Congress in comprehensive authorizing legislation. The Committee feels that an appropriations bill—especially a continuing resolution—is not the proper vehicle for legislation of such potentially expansive impact.

Impact of embargoes

The Committee also recommends striking section 106 of the House joint resolution. This section would require the Secretary of Agriculture to determine the losses incurred by individual farmers due to export embargoes and suspensions which were implemented as part of U.S. foreign policy in 1973, 1974, 1975, and 1980. In addition, this section would require the Secretary to determine which borrowers are unable to continue making payments of principal and interest due to these embargoes or the failure to sell competitively in world trade. Upon such determination, the Secretary would be required to suspend the payment of principal and interest, and forego foreclosure of loans owed to the Federal Government for 12 months or until an adjustment is agreed upon. Other creditors would then be requested by the Secretary to postpone payments due on the same basis.

As stated in the House joint resolution, Congress funded a study in the fiscal year 1985 supplemental appropriation bill (Public Law 99-88) to determine the impact of embargoes on individual farmers. This study has not yet been completed, but preliminary indications are that it would be virtually impossible to establish the amount of such losses for individual farms on a case-by-case basis.

The Committee believes that any action of the nature dictated in the House joint resolution is premature and that no action should be taken prior to the completion of the congressionally mandated study and hearings to determine the validity and possible implementation procedures regarding this proposal.

Cooperative State Research Service

Ruidoso Airport Relocation

The fiscal year 1985 regular supplemental appropriations bill (Public Law 99-88) include a provision which transferred land from the Bureau of Land Management to the Sierra Blanca Airport Commission for the necessary relocation of the Ruidoso, NM, airport. In that provision, there was an erroneous portion of the land description, and the Committee recommends a technical amendment to correct that error.

Soil Conservation Service

Watershed and Flood Prevention Operations

Emergency Watershed Protection Measures

The Committee recommends an additional appropriation of $40,000,000 for emergency assistance needed to repair watersheds that were damaged by Hurricane Juan and torrential rains occurring in late October and early November 1985. All available funds carried forward from previous years and funds provided in the fiscal year 1986 continuing resolution for emergency assistance have been committed. On November 14, an additional $10,000,000 was also made available from other regular construction funds to meet immediate threats.

The Committee believes that there is an urgent need for supplemental funds and that these funds should be used to (a) continue to remove debris from drains, streams, and structure openings to prevent further devastating floods and the resulting hazards to life and property; (b) restore the $5,000,000 emergency contingency fund; and (c) restore the $10,000,000 operating funds that have been redirected to provide immediate emergency assistance.

Farm Credit Administration

Limitation on Revolving Fund for Administrative Expenses

The Committee recommends an increase of $9,549,000 in the limitation on the revolving fund for the administrative expenses of the Farm Credit Administration [FCA]. Although an official budget request has not yet been received, FCA has submitted a request to the Office of Management and Budget [OMB] for this amount. This amount is to be available in addition to the $21,175,000 included in both the House and Senate verisons of the Agriculture Appropriations bill (H.R. 3037).

The Farm Credit Administration is the independent Federal agency responsible for the regulation, supervision, and examination of the borrower-owned banks and associations which comprise the cooperative Farm Credit System [FCS]. All of the program and personnel expenses of the FCA are paid by assessments collected from the banks of the system.

The FCA is now proposing to reclaim many supervisory functions it has previously delegated to units within the FCS. Historically, the FCA has delegated its credit examination responsibility for Federal land bank associations to their lenders, the Federal land banks. Similarly, it has delegated its credit examination responsibility for production credit associations to their lenders, the Federal intermediate credit banks. These delegations were initiated due to a shortage of FCA staff and in order to prevent duplication in effort. FCA has performed a limited number of credit examinations to determine the quality of the lenders' review and supervisory programs.

Deterioration in the stability of the FCS is now a widely known fact. As credit conditions and loan quality have deteriorated, the examinations performed by the banks have proven to be unreliable. Therefore, the FCA is reclaiming its responsibilities not only for credit examinations, but also for supervising the individual associations to ensure their safety and soundness and their compliance with applicable laws and regulations. FCA has the authority under current law to reasume the credit review functions.

The expanded credit examination duties will require an additional 125 full-time permanent personnel in fiscal year 1986. Additional personnel will be required in fiscal year 1987. Because personnel and other administrative expenses are funded through assessments on Farm Credit System banks, the Committee's action increases the limitation on FCA's use of its revolving fund for administrative expenses, but it will not require the expenditure of Federal funds.

Food Safety and Inspection Service

The Committee and learned that the Administrator of the Food Safety and Inspection Service [FSIS] has found it necessary to establish a policy for reallocating existing agency resources due to its current budget situation.

In administering inspection programs mandated by the Federal Meat Inspection Act and the Poultry Products Inspection Act, the Administrator is expected by the Committee to take whatever action is necessary to ensure that requests for inspection service required by law are promptly accommodated. On-site inspection activities should receive priority over some other agency functions.

Citrus Canker Eradication Program

Federal participation in the citrus canker eradication program has significantly contributed to the success of the program; however, the Committee is aware that some recent reimbursement applications and payments to citrus nurserymen and growers in Florida have not been forthcoming under the program. The Committee believes that Federal participation should continue and that timely payment for burned or otherwise destroyed citrus trees is essential to the success of the eradication program. Accordingly, the Committee directs the Secretary to use CCC borrowing authority to make timely reimbursement payment to those nurseries or groves identified as having citrus canker on or before September 30, 1985. This is consistent with fiscal years 1984 and 1985 policy. For those groves or

nurseries found to have the canker after September 30, 1985, the Committee also expects the Department to make applications available and to make reimbursement as expeditiously as possible.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Economic Development Administration

The Committee provides for the use of undisbursed funds previously appropriated for New York City under the authority of the Local Public Works Capital Development and Investment Act of 1976.

Department of Justice, Criminal Code Amendments

The Committee recommends provisons that would amend the Comprehensive Crime Control Act of 1984. These provisions would (1) impose a minimum mandatory 5-year prison sentence on criminals who carry firearms during the commission of serious drug offenses and (2) allow the deputizing of local law enforcement officers for Federal investigations. These provisons are part of a technical corrections package to the Comprehensive Crime Control Act. However, since these two provisions are vital for law enforcement, the Committee recommends their immediate passage. Their inclusion in this bill has the support of the chairman and the ranking minority member of the authorizing committee.

Commission on the Bicentennial of the Constitution

The funds appropriated for the Commission on the Bicentennial of the U.S. Constitution, authorized by Public Law 98-101, are to be used to promote and coordinate activities to commemorate the bicentennial of the Constitution. Specifically, the Commission is to plan and develop activities, encourage participation by private organizations and State and local governments, assist the States in developing activities, coordinate activities throughout the States, and serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans.

Small Business Administration

The demand on the disaster loan fund of the Small Business Administration will be higher than anticipated in fiscal year 1986 due to the number of hurricanes in the summer and fall of 1985. Although sufficient funds exist to meet this demand, additional resources will be needed in the salaries and expenses appropriation for disaster loan making and loan servicing. Therefore, the Committee is recommending a transfer of $10,000,000 from the disaster loan fund to the salaries and expenses appropriation.

MILITARY RETIREMENT

The fiscal year 1986 Defense Authorization Act established ceilings on each of the Military Personnel appropriation accounts which anticipated savings based on enactment of legislation reforming the military retirement system. This legislation would affect entrants into military service beginning in the current fiscal year. As required by the Authorization Act, the Department of Defense has submitted proposed retirement reform legislation which is currently under consideration by the Armed Services Committees. The Senate-reported 1986 Defense Appropriations Bill took the authorized $2,900,000,000 reduction for anticipated retirement savings. The House took a similar reduction.

Supplementing the Committee's statement in its report on the Defense Appropriations Bill (Senate Report 99-176), the Committee recommends a new provision in order to allay concerns about the outlay impact of delays in enacting retirement reform legislation. This provision requires the Secretary of Defense, beginning on May 1, 1986, to reduce the rate of obligations from the individual Military Personnel accounts to insure that none will exceed the amount appropriated for fiscal year 1986. Without any change in current law, this action would require severe reductions in military personnel.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

Federal Emergency Management Agency

Disaster Relief Fund

During the Senate floor debate on the conference report on the fiscal year 1986 HUD-Independent Agencies Appropriations Act (Public Law 99-160), it was noted that the $100,000,000 provided by that measure, together with amounts carried over from previous fiscal years, may not be adequate to fully cover all new obligations of the Federal disaster relief fund of the Federal Emergency Management Agency for fiscal year 1986.

It remains the Committee's intent to provide the necessary funding during the current fiscal year for all diaster relief requirements in States such as West Virginia, and other localities designated as national disasters. At the end of November 1985, however, only $25,000,000 of the estimated $386,000,000 available for this purpose had been obligated. Current estimates of obligational authority required indicate that available balances will be adequate at least until spring.

The Committee will closely monitor the obligation of Federal disaster relief funding, including recoveries from prior year overpayments, during the next few months so that should supplemental appropriations be necessary, such sums can be acted upon by the Congress on a timely basis.

Contracted Advisory and Assistance Services

The Committee has approved a provision that limits certain expenditures for consultants and related services to a level not to exceed the amount that was spent on such services by the Department of Defense in fiscal year 1985. The Committee is aware of the problems that exist in the Department's budget and accounting systems and that result in an inability to budget for and track the expenditures for such services accurately. New systems are being put in place in an effort to remedy this difficulty, and until the department is better able to account for such expenditures, the Committee believes that the requested 7 percent increase should be denied. The Department, however, may exceed this limitation if the Secretary of Defense certifies additional funding is required to meet unforeseen and critical requirements.

Yuma Proving Grounds

Supplementing the Committee's statement in its report on the Defense Appropriations Bill (Report 99-176), the Committee believes the Army may move forward with the contract support functions at the Yuma Proving Grounds rather than recompeting the solicitation, provided that every effort be made to assure that current employees at Yuma continue to retain employment at this facility, either with the winning contractor or through priority placement with the government at the Yuma Proving Grounds.

The Committee further believes the Department of Defense should attempt to follow the above guidance on retention of current employees for all contracted-out base support initiatives.

Navy Emergencies and Extraordinary Expenses

The Committee recommends a provision to raise the limitation on Navy emergencies and extraordinary expenses by $708,000. This provision corrects an error in the Senate reported version of the Defense Approrpriations Bill (Senate Report 99-176) which did not reflect the adjustment addressed in the report.

Environmental Projects Program

The Committee recommends an additional $400,000 for the Environmental Projects Program in fiscal year 1986. The recommended funding in the Army National Guard operation and maintenance account will allow the pilot program to continue at the same level provided in fiscal year 1985. No funds were requested for this Congressionally initiated program because completion of the test in October of 1985 followed the submission of the budget request.

The Environmental Projects Program enables National Guard units in Alaska, Oregon, Hawaii and Idaho to conduct military training engineering projects coordinated with state and other federal agencies in national parks and forests. The projects must enhance military training and must neither compete with private interests nor detract from the primary combat readiness mission of the units.

The Committee recently received preliminary indications from the National Guard of the complete success of the test program and believes it should continue in fiscal year 1986. Further, the Committee directs the Army National Guard to include funding in its fiscal year 1987 budget request for this program if it supports any continuation or expansion of this effort.

Complementary Expendable Launch Vehicle

During consideration of the fiscal year 1986 Department of Defense Appropriation Act the Committee deleted funding for the procurement of a complementary expendable launch vehicle (CELV) under "Missile Procurement, Air Force". This action was taken because of continuing questions over the wisdom of proceeding with the Titan 34D7 launch system selected by the DOD to fulfill this important mission.

Since that action was taken, the Committee carefully reviewed the justifications submitted by the Air force for its selection. The Committee also reassessed the available alternatives in terms of when such systems could be initially available and trade-offs between cost and additional capability, especially with respect to growth potential.

It is the Committee's judgment that the relatively narrow but critical mission addressed by the CELV can best be met at this time with the current procurement plan of the Titan 34D7. Accordingly the Committee recommends deleting funding prohibitions and restoring an allowance of $126,894,000 for Titan 34D7 procurement, of which $46,894,000 is for advance procurement. This allowance increases the appropriation for Missile Procurement, Air Force, to $8,770,831,000, with Titan 34D7 funding subject to the following conditions:

1. Application of these funds must be in a full funding concept unless Congress specifically approves a multiyear procurement program for a 10 missile buy.

2. The DOD will provide a plan for the use of the 10 CELVs that will (a) extend the utilization of these vehicles beyond the 1993 period, unless a contingency need arises, (b) maintain a warm production line for the maximum period that is economically feasible, and (c) maintain ground crew utilization and readiness with surge capability. This plan will be submitted to Congress by March 1, 1986.

3. The Department shall leave open all options for follow-on development and procurement of both intermediate and longer-term launch capability, including a possible 5th orbiter, enhanced space shuttle main engine, shuttle derived expendable launch vehicles, and new heavy-lift launch technology (to be identified and considered following completion of joint NASA-DOD studies next year).

In connection with its recommendations on CELV procurement in the regular fiscal year 1986 Department of Defense Appropriation Bill the Committee expressed reservations over the use of another expendable launch vehicle, the Titan II. Funds for development of this smaller refurbished launch system are provided under the terms of this continuing resolution. The committee believes that the 13 satellites proposed to be launched by the Titan II will not adversely impact on the efficient utilization of the significant investment in space shuttle capability at Vandenberg Air Force Base.

C-21A Aircraft

The Committee notes that there is growing concern within the Air National Guard over the need to replace the aging T-39 operational support aircraft fleet with new, purchased C-21A aircraft, particularly at Andrews Air Force Base Guard Headquarters. Specifically, there is a present need for the purchase of four C-21A operational support aircraft. Although the Committee has neither added nor earmarked new funding for this procurement, the Committee has no objection to the Air National Guard using funds within the National Guard and Reserve Equipment account for this purpose in fiscal year 1986 if the Air National Guard determines this procurement will enhance its ongoing mission.

Demilitarization Concepts—Cryofracture

The Army recently terminated its research into cryofracture technology for the destruction of chemical munitions and stockpiles based on the rationale that this technology could not be available to support the Congressionally mandated 1994 completion date for destruction of the existing chemical stockpile.

The Committee notes that the 1994 target date is contingent on production of binary chemical weapons. That production is currently not guaranteed and the schedule is highly success oriented.

The Committee agrees that the continued development of cryofracture technology is required to insure that an alternative destruction method is available should problems arise in applying the current demilitarization methods. Furthermore, this technology has the potential of significantly reducing the 10 year, $1,500,000,000 program cost. Accordingly, the Department is directed to resume its cryofracture technology program out of appropriate Army R&D funds.

Neurotoxin Detection Research

The Committee encourages the Army to give consideration to a $2,000,000 project specifically related to research aimed at enhanced detection of toxic substances in the environment, evaluation of the effects of toxic substances on neurological processes, and design of biological and chemical procedures for the protection of individuals exposed to these substances. The Air Force should utilize university research resources such as the University of Kansas National and International Resource Center in Environmental Health.

Light Helicopter Program (LHX)

The Army is developing a light helicopter, known as LHX, to replace its aging fleet of 7,300 light helicopters, mainly UH/AH-1 and OH-58 aircraft, which constitutes 85% of the entire Army helicopter force and which have an average age in excess of 15 years. In 1990, those helicopters will have an average age exceeding 20 years.

With the vast majority of the Army helicopter force approaching the end of its service life by 1995, the Committee does not question the need for a new, light helicopter, beginning in the 1990's. What concerns the Committee is that the cost of LHX could be underestimated—possibly by 25 percent or more, according to preliminary Defense Department estimates, and the program is still five years away from production. If the $5,300,000 unit cost goal were breached, then LHX would cease to be competitive with available alternatives, and more importantly the Army would be forced to reduce the quantity of aircraft to be procured and as a result would have to reduce the size of its helicopter force in future years.

For these reasons, the Committee is imposing limitations on the use of the funding provided for the LHX program.

Of the $106,319,000 appropriated for the LHX program, $15,000,000 may not be obligated until the Secretary of the Defense submits a report to the Committee certifying the accuracy of Army LHX cost estimates. That report shall be based on an *independent* assessment of Army cost estimates for LHX as well as for potential alternative programs, including those based on advanced technologies and commercial derivative aircraft. The independent cost analysis shall be conducted within the Office of the Secretary of Defense in accordance with legislative and departmental procedures governing major acquisition programs and shall include a validation of the following goals:

(a) That the LHX helicopter can be procured for an average unit flyaway cost not to exceed $5,300,000 in fiscal year 1984 dollars;

(b) That operation and support (O&S) costs of the LHX fleet will be 30 percent to 40 percent lower than the O&S costs of the helicopter fleet it will replace.

If the Secretary of Defense cannot submit the required certification by August 1, 1986, the LHX program would be terminated on that date.

The Army should determine how to apply the restrictions on obligations to the program elements through which the LHX is funded.

The Committee intends that the language contained under this heading shall modify language contained on page 240 of Senate Report 99-176.

SDI Contracting Policy

The Committee takes note of Administration efforts to encourage participation in the Strategic Defense Initiative by our NATO Allies, both governments and business concerns. While there is a spectrum of opinion on the Committee concerning the desirability of the current pace and scope of the SDI program, the Committee recognizes that foreign participation in SDI can be beneficial under certain limited circumstances, such as where a foreign firm possesses unique technological skills. However, the Committee is concerned about recent reports that some of our allies may be seeking a guaranteed share of SDI funding. The Committee is strongly opposed to any such guarantee under whatever guise and commends Administration efforts to date to resist pressures in this direction. The Committee believes that, particularly in light of recent record-breaking trade deficits, SDI contracts should be awarded to American firms wherever possible so as to minimize the negative impact on the U.S. defense industrial and scientific base, unless such awards would significantly degrade the likely results obtained from such contracts.

Aviation research and development

The Committee encourages the Air Force to give special consideration to a $5,000,000 project specifically related to defense activities in basic and applied aviation research, aviation safety research, productivity enhancement, management for human resource development, and aviation education and training. The Air Force should utilize university research resources such as the proposed Institute for Aviation Research and Development at Wichita State University in Wichita, Kansas.

Emergency flood relief

The Committee concurs with the provision of the House joint resolution authorizing the Secretary of the Army to use Reserve Forces for emergency flood recovery and cleanup measures in certain counties of West Virginia, Pennsylvania, Virginia, and gulf coast areas which suffered recent flood disasters.

EPA Construction Grants

The Congress deferred action on funding the Environmental Protection Agency Wastewater Treatment Construction Grants Program in the regular fiscal year 1986 HUD-Independent Agencies Appropriations Act, pending enactment for the authorization extension of the Federal Water Pollution Control Act. Since final congressional action on the appropriations measure, little progress has been made on the authorization bill currently awaiting conference committee consideration.

It is the Committee's understanding that unless further budgetary authority is provided at this time, serious programmatic disruptions may occur. To prevent such untoward impacts of continued congressional delay, the Committee recommends a new provision appropriating the full $2,400,000,000 anticipated to be required in this fiscal year with a provision that $600,000,000 of this amount may be made immediately available. The balance of this sum will be withheld from obligation until release through a subsequent appropriation act. This initial sum will permit unimpaired progress on municipal wastewater treatment facility development in all States at least through April 1, 1986.

The recommended section provides that the initial fiscal year 1986 funds will be allocated among the States in accordance with the formula in effect for fiscal year 1985. It is not the Committee's intent, however, to in any way prejudice the outcome of further congressional deliberations as to the final distribution of overall construction grant funds for fiscal year 1986. Such a determi-

nation must be addressed and resolved in further action on the authorization measure currently awaiting conference action.

It is the Committee's expectation that the authorizing legislation of the EPA Construction Grants Program will be completed on a timely basis to permit early action on the full availability of the $2,400,000,000 appropriated in this measure.

Superfund

The Committee continues to be concerned that Superfund has not been reauthorized and that a new tax to support Superfund has not been enacted. It believes that the Agency must have the funds necessary to maintain the integrity of the program during the period between the enactment of the HUD appropriations bill and the enactment of the new legislation.

The Committee urges the Agency to take every precaution to insure that sufficient administrative funds are available. It also directs the Agency to advise the Committee at the earliest possible time if it becomes aware that insufficient funding will impair the administrative functions of the Superfund Program.

VA administrative expenses

The Committee is concerned that the level of funding for general operating expenses of the Veterans Administration in the recently enacted HUD-Independent Agencies Appropriations Act for fiscal year 1986 (Public Law 99-160) may require significant reduction in the administration of claims by the Department of Veterans Benefits. Unfortunately, the VA has failed to identify specific program impacts of the level of funding in the administrative account. Furthermore, the agency has not settled on a clear position with respect to the estimated cost of maintaining existing levels of medical care activities.

The Committee remains committed to providing for an adequate level in veterans benefit administration to assure efficient and timely processing of claims. It is equally the Committee's desire to provide sufficient resources under the "Medical care" account to maintain direct patient care activities. Without definitive estimates of these requirements, however, the Committee has no alternative but to provide limited transfer authority, to be exercised by the Administrator of Veterans Affairs upon justification and approval of the Committees on Appropriations of the House and Senate.

This transfer authority in the recommended joint resolution, will permit up to $8,000,000 to be transferred from Medical Care to General Operating Expenses, should all or a part of this sum be necessary to maintain overall VA program balance and priorities.

Emergency veterans' job training

The Committee recommends a new section appropriating $55,000,000 to the Veterans Administration for the payments to employers and other purposes of the Emergency Veterans' Job Training Act of 1983. Both the House and the Senate have passed legislation authorizing appropriations to be provided to continue this program. The amount provided in this joint resolution will become available upon enactment of that legislation.

INTERIOR AND RELATED AGENCIES

Westlands Water District

The Committee recommends striking the House provision which would prevent the Secretary of the Interior from entering into any agreement with respect to a pending court case regarding the Westlands Water District in the State of California and inserting new language which prohibits the expenditure of funds by the Secretary of the Interior to implement any Court approved or ordered settlement agreement in the case of *Westlands Water District* v. *the United States*, et al, for a period of 120 days after receipt by Congress of the proposed settlement. The Committee is aware that the issues raised by this lawsuit are complex and controversial. Any settlement thereof is likely to be equally complex and controversial. The Committee believes that the Secretary and the parties should be given the latitude to negotiate and propose a final settlement of this matter. It is also appropriate that the Court have the opportunity to approve, disapprove or modify the terms of any settlement proposed by the litigants. Since the Committee is unaware of the terms of any such final settlement at this time, it does not have an opinion of the appropriatentess of any agreement in this matter. However, because the Committee is concerned that the intent of Congress as expressed in applicable law, including the Reclamation Reform Act of 1982, should be followed, the provision for a 120 day calendar review of the final settlement, if any, is mandated by this section. The Committee believes that this is a responsible approach which adequately preserves the prerogatives of the Congress to express itself in the future on this matter if necessary, while allowing the Executive and Judicial Branches of the government to exercise their responsibilities without unnecessary intervention.

Freer Gallery of Art

The Committee recommends striking the House provision which would provide $2,500,000 for the first phase of construction of an expansion of the Freer Gallery of Art. As the authorizing committee has not completed action on this project, the Committee recommends delaying further consideration of this matter unitl next year.

Holocaust Memorial Council

The Committee recommends modifying the House provision which would allow persons other than members of the U.S. Holocaust Memorial Council to serve as members of committees associated with the Council by stating that there shall be no additional cost to the Federal Government as a result of such service.

U.S. Fish and Wildlife Service

The Committee recommends a new section making ineffective language included in the Senate-reported Interior appropriation bill relating to funds advanced to or spent by the U.S. Fish and Wildlife Service for costs of the Fish and Wildlife Foundation.

National Park Service

The Committee has replaced bill language included in H.R. 3011 as reported by the Senate Committee on Appropriations with new language. The new language provides for construction of approximately 12 paved miles and maintenance of the Burr Trail National Rural Scenic Road and related facilities, and reflects the recently negotiated agreement with the Director of the National Park Service. The Committee anticipates no future new construction requirements relating to this project.

The Committee recommends a new section authorizing the Wolf Trap Foundation to increase the amount it can borrow from $8,000,000 to $9,500,000, to cover unanticipated beam repair costs and other unanticipated Filene Center reconstruction costs.

U.S. Geological Survey

The Committee recommends a new section adding language to the Senate-reported Interior appropriation bill establishing a separate fund within the Treasury for the deposit of telecommunications user fees available to the U.S. Geological Survey.

Office of Surface Mining

The Committee has recommended a new section deleting two provisos included in the Senate-reported Interior appropriation bill relating to the Office of Surface Mining.

While the Committee agrees with the intent of the language, the Committee feels that it is too restrictive and hopes that it can be modified during the conference.

Bureau of Indian Affairs

The Committee recommends a new section revising the language included in the Senate-reported Interior appropriation bill relating to contracts for Johnson-O'Malley funds available to the Bureau of Indian Affairs so as to require that such funds be used solely for educational programs. The new language will also maintain the current formula distribution of the funds.

The Committee recommends a new section adding a provision to the Senate-reported Interior appropriation bill by directing the Secretary of the Interior to transfer certain supplies and equipment to the St. Labre Indian School of Ashland, MT.

Willow Creek

The Committee recommends a new section adding language to the Office of the Secretary account in the Senate-reported Interior appropriation bill to provide for compensation to certain water users of Willow Creek, ID.

National Forest System

The Committee recommends a new section merging reforestation trust funds with funds available under "National Forest System" account rather than transferring such funds to the general fund of the Treasury as proposed in the Senate-reported Interior appropriation bill.

The Committee also recommends a new section clarifying the source of funds for administering timber salvage sales.

GENERAL PROVISION

The Committee has included bill language providing the Secretary with the same capability within the units of the National Park System to deal with emergency flood damages as he currently has with respect to earthquakes and volcanoes. This will enable the Secretary to take such emergency rehabilitation measures as are deemed necessary in such National Park units as the C and O Canal and Harpers Ferry NHP, and to later request replenishment via the supplemental appropriations process.

The Committee has included $1,500,000 within available facility construction funds to be available for emergency flood repairs in the Monongahela National Forest and at the Parsons, West Virginia Forest Research Laboratory by the Congress to the Secretary as he strives to seek consensus through negotiation. While the Committee does not expect that the negotiating process will attempt to impose binding conditions on either the Secretary or the Congress, the ongoing negotiation process must continue so that this longstanding dispute can be resolved in a positive manner.

The Committee has included bill language which delays the effective date of the provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act by almost five months.

Under those provisions, coal companies are required to have begun coal production activities on certain federally leased tracts by August 4, 1986 in order to be eligible to receive any new lease for any mineral under the Mineral Leasing Act. Primarily because of exceptionally poor coal markets, many companies have been unable to meet this provision of law. The authorizing Committees of Congress are now addressing legislation to remedy this situation. The Committee's language merely provides an additional period of nearly five months so that Congress is assured of adequate time to complete action prior to adjournment of the second session of the 99th Congress.

Synthetic Fuels Corporation rescission

The Committee recommends a new section proposing a rescission of $3,000,000,000 of funds available under the energy security reserve. The Committee understands the need to provide for long-term energy security of the United States. The Committee also understands, however, the need to exercise fiscal restraint on all Federal programs. Therefore, the Committee has agreed to restructure the U.S. Synthetic Fuels Corporation by:

Further rescinding $3,000,000,000 of the Synthetic Fuels Corporation's obligational authority. This will leave SFC with approximately $3,615,000,000 to complete implementation of its restructured business plan (for a total program of approximately $5,900,000,000, which includes those awards that already have been made);

Directing the SFC to complete implementation of its business plan by a date certain (September 30, 1986), after which the SFC will enter its contract monitoring phase, with a significant reduction in staff;

Restricting the SFC's negotiations to the present list of pending proposals, which, in response to SFC solicitations, were submitted prior to October 1, 1985;

Accelerating the SFC's termination date to as early as 1989, but in no event later than 1992, or 5 years earlier than current law; and

Requiring the SFC to submit to the Congress by September 1986, a report reviewing actions taken to implement its business plan and by July 1, 1989, a report fulfilling the same statutory requirements placed on the comprehensive strategy submitted to the Congress this year.

Strategic petroleum reserve

The Committee recommends a new section adding language to the Senate-reported Interior appropriation bill providing for the barter of surplus agricultural products for petroleum to be delivered to the strategic petroleum reserve, providing for a rescission of $160,000,000 available for the purchase of oil. Barter of commodities shall be utilized, on a barrel per barrel basis, to fulfill the requirements of subsection 160(d)(1) of the Energy Policy and Conservation Act (Public Law 94-163), as amended.

Smithsonian Institution

The Committee recommends a new section adding language to the Senate-reported Interior appropriation bill allowing the use of funds available to the Smithsonian Institution to be used to support American overseas research centers.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

Department of Health and Human Services

Health Resources and Services Administration

Disadvantaged Assistance

The Committee has included $500,000 to bring the program of educational assistance to individuals from disadvantaged backgrounds to its fully authorized amount. The Committee is aware of the truly pressing health care needs of our Nation's minorities. In utilizing these funds the Committee urges the Department of Health and Human Services to give priority to proposals which would ensure that minority graduates will serve those who are truly underserved; for example, on Indian reservations, areas with geographical concentrations of native Hawaiians, or inner-city ghettos.

Health Planning

It is the intent of the Committee that funds appropriated for health planning activities for fiscal year 1986 be used to allow all agencies to operate at their full program level until September 30, 1986. This action is taken to ensure that all planning agencies can maintain normal operations during fiscal year 1986 while Congress completes consideration of health planning reauthorization. Therefore, the Committee would bar the initiation of action to close State or local agencies at the end of fiscal 1986, provided that the health planning reauthorization is enacted by July 1, 1986. If supplemental funds are needed at that time to pay the cost of closeout activities, the Department should request such funds. In addition, as provided for in the last several continuing resolutions, the Department is precluded from terminating health systems agencies for not meeting outdated, strict staffing level requirements that many agencies could not attain due to reduced funding.

Health Education Assistance Loans

In 1985, the Office of Management and Budget initiated a procedure of apportioning annual amounts authorized for the Health Education Assistance Loan [HEAL] Guarantee Program. The Committee considers this procedure to be an unnecessary interference with program implementation. Congress intends that the full amount of principal and carryover to be guaranteed be available the entire year to both first-time and repeat borrowers.

Health Care Financing Administration

Demonstration Projects

The Committee has adopted bill language to require the Secretary of Health and Human Services to extend for 3 additional years the four municipal health services demonstration projects now authorized under Medicare's demonstration authority. This provision is also included in the House and Senate versions of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Child Care and Child Abuse Prevention Training

The Committee has included $25,000,000 for the continuation of a program to improve child care training and, specifically, child abuse prevention training. This effort began last year. Section 401 of the continuing resolution for fiscal year 1985 (Public Law 98-473) allocated $25,000,000 to the States for child care and child abuse prevention training. The Committee recognizes that the problem of child abuse and inadequate training of child care providers continues to be an extremely serious one. This allocation of funds will allow the States to target training programs to those individuals who care for the youngest and most vulnerable of our children. These individuals frequently have little or no formal training in the field of child care, and because of their extremely low salary levels, cannot afford to pay for such training themselves.

Bill language is also included which follows up on a provision incorporated into last year's continuing resolution pertaining to child care standards. In order to provide guidance and assistance to the States in utilizing funds allocated pursuant to title XX of the Social Security Act, section 401 of Public Law 98-473 required the Secretary of Health and Human Services to draft and distribute to the States for their consideration, a Model Child Care Standards Act containing minimum licensing or registration standards for day care centers, group homes, and family day care homes. That document was published by the Department of Health and Human Resources in January 1985. In this resolution, recommended bill language provides that a State's allotment of the $25,000,000 in additional title XX funds will not be made unless the State has certified to the Secretary of Health and Human Services that it has completed a process, or has institute or plans to institute a process which it will complete within 6 months, to review its child-care licensing or registration and monitoring standards. States are expected to take into consideration the information and material contained in the Department of Health and Human Services' Model Child Care Standards Act, in order to identify and correct deficiencies in such licensing or registration and monitoring standards in terms of protecting the welfare of children in child-care settings. The Secretary of HHS is expected to report to the Committee on the certifications made pursuant to this provision before the fiscal 1987 Labor-HHS-Education Appropriations Subcommittee hearings on human development activities.

Rural Development Loan Fund

The Committee is aware that for almost 18 months rural development loan fund intermediaries and officials from the Department of Health and Human Services have been negotiating a modification of the RDLF interest rate structure. While a tentative agreement has been reached, final approval has been delay. In the meantime, effective October 1, 1985, interest rates on many RDLF loans jumped to almost 10 percent. This increase will mean double-digit interest rates to RDLF borrowers, a situation incompatible with the intent of the RDLF Program.

Therefore, the Committee instructs the Department to complete negotiations with the intermediaries expeditiously. Until these negotiations are completed, the Committee directs the RDLF interest rates be maintained at the rate in effect prior to October 1, 1985.

DEPARTMENT OF EDUCATION

Secretary's Discretionary Fund

Programs of National Significance

The Secretary of Education's Discretionary Fund for Programs of National Significance provides important support for nationwide science and mathematics education projects. Providing for payment when funds are appropriated will allow continuation of ongoing projects in a timely and orderly manner, and is consistent with the previous

administration of these funds and with other discretionary funds under the jurisdiction of the Secretary. Thus, the Committee has included bill language to ensure that these funds are immediately available for obligation.

LEGISLATIVE BRANCH

Commission on Security and Cooperation in Europe

The Committee recommends a provision to deem the Commission on Security and Cooperation in Europe a standing committee of Congress solely for the purpose of securing the printing and binding services of the Government Printing Office.

U.S. capitol police

The Committee also recommends a provision ensuring that costs associated with the basic training of personnel of the U.S. Capitol Police at the Federal Law Enforcement Training Center at Glynco, Georgia will continue to be borne by the Treasury Department.

Biomedical ethics board

The Committee recommends a provision providing $1,000,000 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee pursuant to section 381 of the Public Health Service Act.

Quadrennial pay commission

The Committee recommends an amendment to the Federal Salary Act of 1967 which changes the statutory requirements for the Quadrennial Pay Commission. The Quadrennial Commission meets every four years and decides salary recommendations for the Congress, high level officials in the executive branch and the judiciary. The Commission has just completed its work this year and has issued a report that does not recommend any salary changes at this time. Rather, the report recommends a change in the process by which salary recommendations may be approved.

Current law requires that for the Commission's recommendations to be effective the President must first present them to Congress for approval. The Department of Justice has determined that this process is constitutionally defective as a result of the *Chadha* decision. The recommended provision will resolve this constitutional defect by establishing a new procedure as recommended by the Commission to meet the requirements of the *Chadha* decision.

Essentially, the Commission will make its decision known to the President. The President will transmit either those recommendations of some alteration of those to the Congress. They will become effective 30 days after their transmission to Congress unless the Congress jointly disapproves of the recommendations.

The next Commission is scheduled to meet at the end of next year and must report to the President by December 15, 1986. The President must transmit the recommendations to Congress with the budget. The Congress will have 30 days to pass a joint resolution disapproving those recommendations.

The provision does not alter any existing salary levels or honorarium limitations for either the legislative, executive, or judicial branches.

U.S. Capitol Police

The Committee concurs with the provision of the House joint resolution pertaining to the treatment of the individual holding the position of Chief of the U.S. Capitol Police as of January 1, 1985, under the provisions os subchapter III of chapter 83 of title 5, United States Code, title II of the Social Security Act, chapter 21 of the Internal Revenue Code of 1954, an title II of Public Law 98-168.

TRANSPORTATION AND RELATED AGENCIES

Private Sector Transit Services

The House report prohibits the use of Urban Mass Transportation Administration [UMTA] funds to regulate or prescribe in any manner the level of private sector services or involvement of any transit property. The Committee agrees that the extent of private sector involvement in the provision of public transit is best decided at the local level. The Committee, however, does not agree with the House's limitation on UMTA and its efforts to encourage greater private participation in the provision of such service, and to involve the private sector in offsetting the costs of public transit. The Committee expects that explicit policy on privatization in the transit industry should be explored by Congress and decided only after the opportunity for public comment.

Metrorail, Dade County, FL

The Committee deletes a section of the House bill which directs the Secretary of Transportation to prepare an environmental impact statement for the north and south legs of the Dade County, FL, metrorail.

State Route 113, California

The Committee deletes a section of the House bill which appropriates $23,500,000 for an expressway gap closing demonstration project on California State Route 113 in northcentral California.

Downtown People Mover, Detroit

The House joint resolution prohibits the use of funds to construct the central automated transit system in Detroit, MI, except for funds available through apportionment to the Detroit Department of Transportation. The Committee deletes this language.

Emergency Relief Highway Funds

The Committee proposes a provision which increases the per-State limitation for receipt of Federal-aid highway emergency relief funds from $30,000,000 to $55,000.000. This increase applies only to grants associated with disasters which occurred in calendar year 1985.

Minimum Drinking Age

The Committee proposes a legislative provision regarding the Uniform Minimum Drinking Age Act (Public Law 98-363). Under Public Law 98-363, States which fail to adopt 21 years of age as their minimum drinking age by October 1, 1986, stand to have 5 percent of Federal highway assistance withheld from them. Another 10 percent will be withheld in fiscal year 1988 if no action is taken. Once States comply with Federal law, funds withheld are reimbursed.

In order that States not sunset their minimum drinking age laws when Federal withholding of highway funds ends, the withholding provisions in Public Law 98-363 are made permanent. Reimbursement of withheld funds will continue for fiscal years 1987 and 1988 if States come into compliance with Federal law during that period. Funds withheld after fiscal year 1988 will not be reimbursed under this provision. States will be allowed to grandfather in those legally entitled to drink on the date of enactment of their complying statute provided such laws are passed by the States by October 1, 1986, or the earliest possible date that State legislatures meet in legislative session. Finally, in the interest of insuring as secure a flow of funds to the States as possible, funds that have been withheld from the States would be returned and usable for the original period of availability.

The Committee stresses the importance of adopting this amendment to existing law this year, so that States meeting to consider minimum drinking age legislation in 1986 will have a clear understanding of congressional intent.

TREASURY POSTAL SERVICE AND GENERAL GOVERNMENT

The President vetoed the Fiscal Year 1986 Treasury, Postal Service, and General Government Appropriations Act (H.R. 3036). Time restraints do not allow the Committee to seek passage of a new bill. It has, therefore, been incorporated in this resolution.

The House included by reference the conference report for H.R. 3036, as passed, with one change. The change strikes a prohibition on issuance of certain personnel regulations by the Office of Personnel Management. Since the passage of the conference report, the matter prohibited has been resolved. The Committee concurs with the proposal to delete this provision (amendment 83 in the conference report).

The Committee is concerned, however, the steps must be made to address the spending targets stressed in the President's veto message, but not addressed in the House version of the resolution. In the veto message (H. Doc. 99-130) the President cited the fact that the bill exceeded budgetary goals by $180,000,000. He specifically cited the funding level for the revenue forgone subsidy.

In order to move toward those funding goals cited by the President, the Committee proposes that the conference report cited in this resolution be incorporated as proposed by the House with additional provisions reducing the conference report by $162,101,000. These reductions will be made as follows:

From revenue forgone subsidy	−$72,000,000
From IRS processing of tax returns	−83,650,000
From IRS investigations and collections	−6,451,000
Total	−162,101,000

In making these reductions, the Committee notes that the revenue forgone reduction meets the reconciliation target. It must be stressed that unless changes in current law are enacted, the organizations intended to receive assistance will be severely impacted by sharply increased postal rates.

The Committee is concerned that its proposals may have possibly adverse impact during fiscal year 1986. This Committee, as well as several others, has spent considerable time and effort in looking at the problems which faced the Internal Revenue Service during the 1984 tax filing season. All quarters have concluded that effort must be made to insure that problems encountered during that time not be repeated.

As the conferees met on H.R. 3036, it was determined that the amount proposed by the President and the Senate-passed version of the bill would not meet those needs. The conferees, therefore, agreed to accept a funding level that exceeded the President's proposed budget by $76,000,000. In order to address the concerns of the President's veto message, however, the Committee is proposing reductions in appropriations for the IRS.

The Committee wishes to stress that these reductions are not necessarily in the best in-

terests of the Nation. However, because the IRS composes well over 50 percent of the discretionary funding in the Treasury bill and all the other nonlaw enforcement accounts have been required to take reductions, the IRS accounts must be reduced in order to meet the President's goals. It should further be noted that these reductions could be the cause of confusion during the coming tax filing season and most certainly will reduce the ability of the Service in its effort to reduce the tax gap.

The Committee is also concerned that the President's veto message cited, as objectionable and unconstitutional, section 606. This section has been contained in every Treasury appropriations bill for over 15 years, and was included in the President's fiscal year 1986 budget request (Budget Appendix I-C11). The Committee found the objection very surprising since the section was included in the bill at the request of the administration.

Child Care Services in Federal Buildings

The Committee has concurred with changes made by the House to the conference report on H.R. 3036 with regard to Federal employee child care. The new language mandates a 50-percent floor of Federal employees using the service, rather than the 95 percent originally stated and requires that Federal employees be given first priority. This action will make the service available at more locations throughout the country.

Flexible Work Schedule

The Committee has concurred with the House in including language making flexible work hours for Federal workers permanent.

Under Secretary of Treasury

Current law provides that the Department of the Treasury have an Under Secretary and an Under Secretary for Monetary Affairs appointed by the President with the advice and consent of the Senate (31 U.S.C. 301(d)). The committee proposes that the department have two Under Secretaries without further designation of specific functional responsibilities. The nonspecific designation of the Under Secretaries would parallel 31 United States Code 301(e), as amended, which provides that the Department have seven assistant secretaries.

The proposal will provide the Secretary with flexibility to structure the duties and powers of principal assistants without artifical limitation. The nonspecific designation of the Under Secretaries is consistent with the provision in section 301(d) that the Under Secretaries shall carry out duties and powers prescribed by the Secretary.

U.S. Postal Service

Revenue Forgone Subsidy

The Committee notes that incorporated in the conference report on the Treasury-Postal Service appropriations bill, that is referenced in this joint resolution; amendment 97, relates to this postal subsidy and restricts postage rate increases for nonprofit and other mailers until January 1, 1986, when rates will rise to step 16.

The Committee also notes that section 617 of amendment 97 directs the Postal Service to request a supplemental appropriation to make up any shortfall that may occur as a result of keeping rates at current levels through the end of 1985 and raising the rates to step 16 on January 1.

The Committee further clarifies that although the funding level for revenue forgone contained in the conference report on the Treasury-Postal Service appropriations bill is $820,000,000 and this continuing resolution contains only $748,000,000, the directions to the Postal Service contained in amendment 97 still apply.

If the Postal Service is unable to maintain step 16 rates for fiscal year 1986, a supplemental request will be considered by the Committee to avoid placing the burden of that shortfall on any mailers.

Board of Governors Meetings

The Committee has included language which will increase compensable days for members of the board of governors from 30 to 42 per year. Presently, the members of the Board of Governors are paid $12,000 a year plus expenses and $300 a day for not more than 30 meetings a year. The board of governors meets for 2 days each month (total 24) to go over general postal policy but they also have numerous committees that meet quite often to go into greater detail on various aspects of the operation of the U.S. Postal Service. By law, however, they can only be paid for the number of authorized meeting days left, six. In order for the governors to complete their work, a change of this nature is necessary.

U.S. Customs Service

Reimbursable Ports of Entry

The Committee has included language to create additional ports of entry to be funded on a reimbursable basis. Congress created a pilot project for user fee airport customs facilities last year. The project has proven successful and this language expands the limitation from 4 to 20 airports.

Many smaller communities are highly dependent on foreign trade, but have limited access to customs facilities under current policy. Many norther States continue to expand trade relationshps with Canada, and trade opportunities would be increased if the pilot project was expanded. The facilities are supported by user fees at no additional cost to the Federal Government. All such applications for the service must continue to meet specific requirements before the Customs Service could grant new facilities.

Secret Service Protection

The Secret Service maintains security for a number of residences not located on Federal property. the Presidential Protection Assistance Act of 1976 requires the Service to maintain a permanent guard detail and permanent facilities, equipment, and service to secure any nongovernmental property in addition to the one nongovernmental property designated by each protectee.

Current law caps the cumulative total of these types of expenditures at $10,000. Because of the cap, the Secret Service must provide temporary security when the property is in use and then remove all equipment when it is not. Constant installation and removal of these security measures is costing much more than permanent installation of security equipment would. To correct this problem, the Committee has included language raising the limitation to $75,000.

White House Security

The Committee has included language which will further secure the grounds of the White House complex by restricting the construction of buildings with line of sight access to 95 feet in height.

Bureau of Alcohol, Tobacco and Firearms

Special Occupational Tax Compliance

The Committee is deeply concerned over the low level of compliance with the Federal special occupational tax provisions under existing law. Estimates by the President's private sector survey on cost control (the Grace Commission) indicates that nearly 60 percent of the Nation's liquor retailers fail to pay the Federal special occupational tax, with a loss of revenue to the Treasury of up to $25,000,000. The Committee understands that legislation is being drafted within the Treasury Department to address this serious tax compliance problem.

The Committee strongly believes that any legislative proposal must leave responsibility for determination, enforcement, and collection of tax liabilities with the Department of the Treasury, and not the private sector. The Committee's strong support of private sector initiatives in a number of governmental areas is tempered by a strong unequivocal concern that Treasury's enforcement of our alcohol tax laws not be abdicated in administration efforts to reduce the cost of tax compliance. Furthermore, the Committee does not believe that any legislative proposal for improving retailers tax compliance in this regard should place the burden upon the liquor wholesale community to police its important retail customers and clients.

In this connection, it is important to note that the erosion of compliance in this area parallels to a striking degree the reduction of administration support for the compliance operations functions of the Bureau of Alcohol, Tobacco and Firearms, which enforce Federal alcohol laws. Across the entire range of its statutory responsibilities, ATF's compliance arm has suffered staffing and resource reductions of a magnitude which belie the critical importance of its functioning at optimum efficiency.

In alcohol and tobacco excise tax collection, in firearms and explosives compliance, in financial investigations or arson-for-profit rings and in other areas, ATF inspectors have proven time and again their great worth and the worth of their mission.

Therefore, the Committee directs the Department of the Treasury to closely review staffing and funding for the Bureau of Alcohol, Tobacco and Firearms' Office of Compliance Operations with a view to development of a plan to raise its staffing to more realistic levels.

General Services Administration

Construction of Public Buildings

The conference report accompanying H.R. 3036 includes a provision with regard to the ability of the General Services Administration to contract for buildings under a 30-year lease-purchase agreement.

The Committee wishes to clarify the intent of this language. The language is intended to provide the GSA with alternative means for meeting Federal building needs. In doing this it is the intention of the Committee that current review practices utilized by the authorizing and appropriating committees be continued. The Committee stresses that this action is intended solely to provide alternative financing mechanisms to the GSA and not intended to circumvent current congressional approval processes.

Oakland Federal Building

Language was included in the statement of managers accompanying the conference report (H. Rept. 99-349) on H.R. 3036 with regard to the construction of a Federal building in Oakland, CA. The Committee wishes to clarify its comments made in the original report (S. Rept. 99-133). Additional information has been received by the Com-

mittee which indicates that the facility is viable only if Federal workers now housed both in San Francisco and Oakland are relocated. An Oakland location is certainly the lowest-cost alternative; in addition, the city of Oakland has cooperated fully with the GSA by the donation of sites and other developmental requirements.

Locating the facility in Oakland also furthers the Committee's aims to improve the utilization of space through space management reform and an efficient and economical locational policy.

International Trade Administration, Boston District Office

The Committee has included language in the resolution directing the General Services Administration to report to the Committee by February 1, 1986, as to steps taken to relocate the International Trade Administation, Boston District Office, into the new World Trade Center in Boston.

Office of Management and Budget

Health Effects of Dioxin

The Committee is most concerned about a recent action by the Office of Management and Budget blocking further gathering of statistics on the Morbidity Study of Persistent Health Effects in Chemical Herbicide Workers and Community Residents being conducted by the National Institute of Occupational Safety and Health [NIOSH]. The Committee believes that the study should go forward without further interference from OMB.

The Committee believes that it is important for policymakers to have accurate information about the health effects of dioxin on chemical workers and community residents. Large expenditures have already been made to compensate citizens who live near dioxin-contaminated sites and to clean these sites and more may have to be spent. Nevertheless, definitive data on the effects of dioxin on workers and other citizens has not been collected. The studies that have been done do not correlate accurate exposure data with health status of the affected individuals. NIOSH has been working on a study design to overcome these shortcomings.

Office of Personnel Management

Extension of Interim Retirement

The Committee has included language extending the time period for the interim retirement program until April 30, 1986.

The new retirement plan is now in conference, but the expectation is that work will not be completed until early next year. The interim arrangement expires on December 31, 1985. Without some relief all Members of Congress and all Federal employees hired after December 31, 1983, will be required to pay 14 percent of pay beginning January 1, 1986.

MESSAGES FROM THE HOUSE

At 10:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 70. Joint resolution to proclaim March 20, 1985, as "National Agriculture Day."

The message also announced that the House has passed the bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, with an amendment; it insists upon its amendment, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FASCELL, Mr. HAMILTON, Mr. BONKER, Mr. MICA, Mr. GEJDENSON, Mr. BERMAN, Mr. BROOMFIELD, Mr. LAGOMARSINO, Mr. ROTH, and Mr. BEREUTER as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Corp.; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

At 1:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3424) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 7, 11, 32, 39, 80, 100, 101, 134, 142, 145, 146, 147, 158, 159, and 166 to the bill and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 18, 25, 26, 31, 37, 47, 49, 53, 57, 69, 70, 92, 94, 106, and 188 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2478. An act to amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to amend the Organic Act of Guam, to provide for the governance of the insular areas of the United States, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 1639. An act to authorize the minting of gold bullion coins.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2067. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Corp.; to the Committee on Energy and Natural Resources.

H.R. 2478. An act to amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to amend the Organic Act of Guam, to provide for the governance of the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES HELD AT THE DESK

Pursuant to the order of the Senate of yesterday, December 4, 1985, the following joint resolution was held at the desk pending further disposition:

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 5, 1985, she had presented to the President of the United States the following enrolled bill:

S. 1639. An act to authorize the minting of gold bullion coins.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day."

S.J. Res. 230. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Deanell Reece Tacha, of Kansas, to be United States Circuit Judge for the Tenth Circuit;

Garrett E. Brown, Jr., of New Jersey, to be U.S. District Judge for the District of New Jersey;

Robert L. Miller, Jr., of Indiana, to be U.S. District Judge for the Northern District of Indiana; and

Stanley A. Twardy, Jr., of Connecticut, to be U.S. Attorney for the District of Connecticut for the term of four years.

By Mr. THURMOND, from the Committee on the Judiciary:

John R. Bolton, of Virginia, to be an Assistant Attorney General.

(The above nomination was reported from the Committee on the Judiciary with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself, Mr. ROTH, and Mr. QUAYLE):

S. 1897. A bill to amend the Export Administration Act of 1979 to prohibit the export to Yugoslavia or Iraq certain articles or technology; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WILSON:

S. 1898. A bill to authorize the construction of the midvalley unit of the Central Valley project; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1899. A bill for the relief of Paula Myrtle Marie Dill; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. NUNN, and Mr. COHEN):

S. 1900. A bill to amend the Foreign Agents Registration Act of 1938 by providing for the 5-year suspension of exemptions provided to an agent of a foreign principal convicted of espionage offenses; to the Committee on Foreign Relations.

S. 1901. A bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes; to the Committee on Foreign Relations.

By Mrs. HAWKINS:

S. 1902. A bill to prohibit leasing in certain areas located in the eastern Gulf of Mexico Outer Continental Shelf; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself and Mr. PACKWOOD):

S. 1903. A bill to improve the safe operations of commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1904. A bill to improve the safe operation of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 1905. A bill to reimburse the city of Frederick, MD, for money paid by the citizens of such city to save and hold harmless valuable military and hospital supplies owned by the U.S. Government; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. BAUCUS, Mr. MCCONNELL, Mr. NICKLES, Mr. BOREN, Mr. ABDNOR, Mr. PRESSLER, and Mr. DURENBERGER):

S. 1906. A bill to provide an opportunity for agricultural borrowers to restructure loans from commercial lenders and farm credit system institutions in order to maintain the viability of their farming operations and thus preserve the family farm system as the backbone of American agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SIMPSON (for Mr. THURMOND (for himself, Mr. MATHIAS, Mr. DECONCINI, Mr. DENTON, Mr. EAST, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. LAXALT, Mr. LEAHY, Mr. SIMON, Mr. ABDNOR, Mr. BUMPERS, Mr. COHEN, Mr. D'AMATO, Mr. DOMENICI, Mrs. HAWKINS, Mr. HOLLINGS, Mr. MCCLURE, Mr. MURKOWSKI, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. STENNIS, Mr. WEICKER, Mr. GLENN, Mr. ZORINSKY, Mr. BYRD, and Mr. SIMPSON)):

S.J. Res. 242. A joint resolution to designate the year of 1986 as the "Year of the Flag"; considered and indefinitely postponed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON (for himself, Mr. METZENBAUM, Mr. HEINZ, Mr. BRADLEY, Mr. RIEGLE, Mr. SIMON, Mr. KERRY, and Mr. LAUTENBERG):

S. Res. 265. A resolution expressing the sense of the Senate that natural gas pipelines should transport natural gas in a nondiscriminatory manner; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. ROTH, and Mr. QUAYLE):

S. 1897. A bill to amend the Export Administration Act of 1979 to prohibit the export to Yugoslavia or Iraq of certain articles or technology; to the Committee on Banking, Housing, and Urban Affairs.

PROHIBITING EXPORT OF CERTAIN AIRCRAFT PARTS AND TECHNOLOGY TO YUGOSLAVIA OR IRAQ

Mr. PROXMIRE. Mr. President, today Senator ROTH and I are introducing a bill to halt the export of military goods and technology to Iraq and Yugoslavia because of their role in allowing the escape of the mastermind of the *Achille Lauro* hijacking. I am particularly delighted that the Senator from Delaware is joining me in introducing this legislation. Senator ROTH has taken strong and principled stands in the past to effectively battle terrorism and his support underscores the importance of this legislation.

This bill proposes an answer to the question we have been forced to ask so often in recent weeks: "What can we do to stop terrorism?" This bill is not a perfect answer, nor a complete answer. Yet, it is a crucial beginning to show the American readiness to take action against governments that provide support and security to terrorists.

PLO official Mohammed Abbas was on the Egyptian airliner intercepted by the United States. Abbas eluded justice because Iraq and Yugoslavia both facilitated his escape. Italy has now issued an international arrest warrant for Abbas and confirmed the American charge that Abbas served as the mastermind behind the hijacking that led to the murder of Mr. Leon Klinghoffer.

This bill would stop the export to Iraq of all aircraft, helicopters or related equipment. Bell Helicopter has contracted to sell 45 helicopters to Iraq. While two have been shipped, further exports could be stopped. While technically classified as civilian aircraft, these large and powerful helicopters were originally designed as military transports and remain well-suited for troop transport or other military missions. Iraq provided Abbas with a diplomatic passport and funds Abbas' faction of the Palestine Liberation Front. These actions further blacken the already blemished Iraqi record on terrorism. If left uncriticized, this Iraqi support for terrorism will continue.

This legislation also would forbid the export to or coproduction in Yugoslavia of aircraft components. Both GE and Pratt & Whitney are conducting negotiations to provide Yugoslavia with the technology to build an engine for an indigenous supersonic fighter aircraft for the Yugoslav Air Force. Yugoslavia summarily rejected the U.S. request for Abbas' extradition.

We do not now seek to end our ties with either of these countries. Many interlocking bonds of trade and other exchanges will continue to insure bilateral relations. But terrorism can flourish only when it has the tacit support of governments: Governments that allow terrorists to elude the grasp of justice, governments that equate hijacking and murder with the U.S. interception, governments that provide funds and political support for terrorist groups.

Mere scolding will never prompt these governments to withdraw their support for terrorists. Meaningful action must be taken to show the U.S. resolve. Otherwise, the spiral of violence will continue, contemptuous of international law and distainful of human life.

I urge my colleagues to support this bill.

● Mr. ROTH. Mr. President, it is with great pleasure that I join today with the senior Senator from Wisconsin in taking what is, in my opinion, the first real step to deal with the rising problem of global terrorism.

I suspect that every Member of this body has experienced my own sense of frustration when contemplating the terrorism question. All too often, we seem like a tied up lion, our massive arsenal and almost limitless firepower often seem useless when faced with a bunch of armed thugs with no respect for human life. The terrorist does not share our values, but he knows our values and uses them to our disadvantage. He knows that we respect human life, so he holds his gun to the head of

an innocent citizen and knows that he thereby neutralizes our military advantage.

How can we deal with such a problem; what tactics can we employ to halt the practices of these ruthless men? Clearly, one option we must maintain and develop is the military option; we must develop our capacity to strike out at terrorists, either in preemptive fashion, a punitive fashion or in order to rescue innocent hostages. However, all of these options have strict limitations.

Recent events on Malta suggest that paramilitary rescue missions may not always achieve their purpose. When our own citizens were hijacked to Beirut, no reasonable military option was open to us, especially after the hostages had been dispersed through Beirut. None of this is meant to suggest that the military option ever should be rejected. On the contrary, our recent success in capturing the hijackers of the *Achille Lauro* suggests that military means can be employed to very good effect. But let us not fool ourselves that the military option will always necessarily be available to us.

What other methods can we adopt in facing up to the terrorist threat. One generalization which I believe we can safely make is that terorists survive with and prosper because of the active support of sovereign governments. Some commentators have asserted that the Soviet Government is actively involved in promoting terrorism in Europe and the Middle East. I am unable to judge the validity of these asserting, but I believe that the kidnapping of Soviet diplomats in Beirut strongly suggests that, if it is so involved, Moscow cannot always control its own surrogates.

However, I do not believe that many of us would experience much difficulty in drawing up a long list of nations more immediately involved in supporting terrorism: Libya, Iran, Syria, Iraq, South Yemen, and Bulgaria. Coupled with these states are others which may not provide terrorists with weapons or training bases but who afford them diplomatic recognition and freedom of movement, enabling the terrorist to move freely into and through their victims societies.

What price have these nations been compelled to pay in return for their sponsorship of global terrorism. There is only one answer; namely, no price at all. Governments such as Syria, Iraqi, and Bulgaria have provided the terrorists with the water in which they swim and we have done nothing about it.

This is an aspect of the terrorism problem with which we can deal to good effect. We cannot order governments to cease supporting terrorists, but we can impose a price for that support, a price which we can reasonably expect to cause many of them to hesitate and possibly change their minds about their current policy.

In the case at hand, two countries, Yugoslavia and Iraq, clearly and unequivocally denied the interests of the United States and, indeed, of the whole civilized international community. When it became known that Mohammed Abbas had organized the *Achille Lauro* hijacking and the consequent death of Mr. Leon Klinghoffer, the Government of Yugoslavia nevertheless openly referred to extradite Abbas to Italy, enabling him to make good his escape to South Yemen. How was Abbas able to travel so freely? His passage throughout Europe was facilitated by the fact that he carried an Iraqi diplomatic passport—note that I say a diplomatic passport, despite the fact that he is a known terrorist.

A firm demonstration of United States displeasure with Yugoslav and Iraqi behavior. The termination of the Jet Engine Development Program with Yugoslavia and the termination of Bell Textron helicopter sales to Iraq will, in our opinion, constitute a clear and unequivocal demonstration of United States intent to take the lead in dealing with governments which foster terrorist groups.

If any Member of this body believes that our approach in singling out the military aerospace sector, I can say with confidence that the Senator from Wisconsin and I will be happy to consider any suggestions for toughening up this legislation. We are, of course, aware of the possibility of alternative supply sources; the United States is not the only country in the world to manufacture helicopters and jet engines. However, if anything is to be done to combat government-sponsored terrorism, this country, of all countries, must take a lead in the effort. Possibly we should consider a series of letters from Senate supporters of this legislation to our European allies, pointing out the rationale of our actions and requesting their cooperation.

This proposal, if adopted, will not, of course, end government support for all terrorist organizations. However, it will serve to put all renegade governments on notice that we are rolling up our sleeves and that we are determined to deal with this problem. From now on, governments which harbor and give succor to terrorists can expect to pay a price and that price will grow even higher.●

By Mr. WILSON:

S. 1898. A bill to authorize the construction of the Mid-Valley Unit of the central valley project; to the Committee on Energy and Natural Resources.

MID-VALLEY UNIT ACT

● Mr. WILSON. Mr. President, today I am introducing legislation to authorize the construction of a major new canal for the Federal Government's central valley project in California. This project—known as the proposed Mid-Valley Canal—is intended to convey Federal project water from an existing canal and reservoir system on the west side of California's San Joaquin Valley to water-poor sections of the valley's east side.

The central valley project, as many of my colleagues know, is a Federal project authorized in the 1930's designed to provide flood protection, power, and water supplies to needy and eligible CVP contractors. This mammoth project is a series of dams, reservoirs, canals and pumping stations throughout the central valley of California. While many components of the CVP have been built, much is still to be constructed.

The Mid-Valley Canal is one of these key CVP components that is yet to be built. Construction of this canal will help complete the project's plumbing facilities that will allow the water that is captured in some of California's massive dams and reservoirs to be distributed to where it is needed most.

And this water is needed in the proposed Mid-Valley Unit service area. Presently, farmers who irrigate their lands on the east side of the valley use large amounts of ground water. Using ground water has worked for a number of years, but so much has been pumped out, farmers are now depleting the ground water basin faster than it is being naturally replenished. Taken to the extreme, farmers will eventually pump their basins dry.

The proposed Mid-Valley Canal is designed as an integral part of the Central Valley Project and will correct for this chronic ground water overdraft problem by bringing much-needed surface water to this area. The bill I am introducing today specifically provides for the construction by the Bureau of Reclamation of an approximately $800 million water delivery system serving agricultural and urban needs in a five-county area of the San Joaquin Valley. As much as 1 million acre-feet of water may ultimately be made available to this area through this canal.

I know many of my colleagues will be interested in the cost-sharing provision of this bill. Section 6 authorizes the Secretary to enter into cost-sharing agreements with local water interests for the construction of any or all of the authorized distribution facilities serviced by this canal. It is my understanding that local water districts have agreed to finance these costs rather than have the Federal Government front the money as it has in other water resource projects.

I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD at this point.

S. 1898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mid-Valley Unit Act of 1985".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is need for a federally constructed project to serve approximately 4 million acres of irrigated agricultural lands located in Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, California;

(2) there is presently an overdraft of groundwater in these counties that would be alleviated by providing irrigation, municipal, and industrial water supplies;

(3) a federally constructed project would facilitate optimum conjunctive use and reuse of surface and underground water supplies enhancing the agricultural stability of the San Joaquin Valley; and

(4) fish and wildlife resources and outdoor recreation opportunities would be enhanced by construction of a project.

SEC. 3. AUTHORIZATION.

(a) AUTHORIZATION.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"), acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain, the Mid-Valley Unit, as an addition to and an integral part of, the Central Valley Project, California, upon completion of a favorable Planning Report/EIS on the San Joaquin Valley Conveyance Investigation.

(b) PRINCIPAL WORKS.—The principal works of the Mid-Valley Unit shall consist of pumping plants, pumping generator plants, power plants, power transmission facilities, canals, channels, levees, drains, flood control works, pipelines, regulating reservoirs, off-stream and on-stream storage reservoirs, deep wells and pumps, and distribution systems and facilities consistent with the recommendations of relevant planning documents. The Secretary is authorized and directed to utilize, whenever feasible, existing water supplies, conveyance and storage facilities.

(c) PROVISION OF WATER.—The Secretary is authorized to provide water supplies for the irrigation of approximately 4 million acres of land in Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, as identified in the Planning Report/EIS on the San Joaquin Valley Conveyance Investigation.

SEC. 4. FISH AND WILDLIFE ENHANCEMENT AND RECREATION

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Mid-Valley Unit shall be in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 5. WATER DELIVERY AND STORAGE AGREEMENTS.

The Secretary is authorized and directed to—

(1) execute a contract with the State of California for the wheeling, delivery, exchange, and storage of water through the facilities of the State Water Project of California for use in the Mid-Valley Unit; and

(2) execute contracts with the State of California for the construction or enlargement of conveyance and storage facilities for joint use.

SEC. 6. LOCAL COST-SHARING AGREEMENTS.

The Secretary may enter into agreements with the Mid-Valley Water Authority, a California Joint Powers Authority, for the provision of all or any portion of the authorized distribution facilities as the local contribution to the cost of the project.

SEC. 7. STATE AND LOCAL PUBLIC INTEREST.

In locating and designing the works and facilities authorized for construction by this Act, and in acquiring or withdrawing any lands as authorized by this Act, the Secretary shall give due consideration to relevant reports by the State of California, and shall consult with local interests who may be affected by the construction and operation of the works and facilities or by the acquisition or withdrawal of lands, through public hearings or in such manner as in his discretion may be found best suited to a maximum expression of the views of such local interests.

SEC. 8. AUTHORIZATION OF FUNDS.

There is authorized to be appropriated for construction of the Mid-Valley Unit as authorized in this Act, the sum of $, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.●

By Mr. SPECTER:

S. 1899. A bill for the relief of Paula Myrtle Marie Dill; to the Committee on the Judiciary.

RELIEF OF PAULA MYRTLE MARIE DILL

● Mr. SPECTER. Mr. President, today I introduce a private immigration relief bill on behalf of Paula Myrtle Marie Dill.

Paula Dill has lived in this country for 9 years since leaving Bermuda. For her entire life she has lived with Ellison and Myrtle Dill who are natives of Bermuda; since 1977 they have been permanent residents of Philadelphia, PA.

Paula was born on May 29, 1956, to Greta Marie Burchall, the sister of Ellison Dill. Ms. Burchall was unable to raise more children at that time, and consequently was compelled to give up her child to her brother. Ellison and Myrtle had taken Paula into their home when she was just a few days old. Paula was baptized by the Dills and always has lived with them as a family.

Paula lived in Bermuda as the daughter of Ellison and Myrtle Dill until 1975, when the Dills came to the United States. At the same time, Paula entered the country as a nonimmigrant student. Paula has not left the United States since 1976.

When Paula completed her studies, the Dills applied for a second preference visa on her behalf. This visa is available for the unmarried son or daughter of a lawful permanent resident. The visa could not be granted because Paula was not the lawful daughter of the Dills. Paula at that time was over the age of 16, and therefore any attempt to formally adopt her by the Dills would have been ineffective under the immigration laws.

All of Paula's relatives are in the United States, except for her natural mother, whom she has never known. The Dills are not able to commute regularly to Bermuda, and Paula—if she is deported—may never be able to return to the United States.

In *Dill* v. *Immigration and Naturalization Service*, 773 F.2d 25 (3d Cir. 1985), the U.S. Court of Appeals for the Third Circuit rejected the determination by the Immigration and Naturalization Service that Ms. Dill's legal actions to delay deportation had been frivolous. While the court upheld the Service's determination that deportation would not cause undue hardship—the relevant issue at the administrative level—it emphasized that it had to give great deference to the Service's judgment and that it might have reached a completely different conclusion on its own. The court stated:

> Had we plenary authority to review the Board's decision, we might press the question whether the Board has not put more weight than is appropriate on petitioner's relatives in Bermuda as a cushion for the hardship she will suffer, given that the only Bermuda relatives identified in the record are petitioner's natural parents with whom it does not appear that she has any continuing connection. *Dill* at 31.

Paula now faces deportation from the United States because of mere happenstance: The unfortunate failure of her adopted parents to obtain a legal adoption. Paula has been an upstanding member of the community with high moral character. Paula has nothing in Bermuda to which to return—her only real family—the people whom she calls her parents and who, for all intents and purposes, are her parents—is in the United States.

Mr. President, this bill would avoid grave injustices and personal suffering. I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the Immigration and Nationality Act, Paula Myrtle Marie Dill shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.●

By Mr. ROTH (for himself, Mr. NUNN, and Mr. COHEN):

S. 1900. A bill to amend the Foreign Agents Registration Act of 1938 by providing for the 5-year suspension of exemptions provided to an agent of a foreign principal convicted of espionage offenses; to the Committee on Foreign Relations.

S. 1901. A bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes; to the Committee on Foreign Relations.

ACCESS INFORMATION AND FACILITIES OF NATIONAL SECURITY INTEREST BY FOREIGN AGENTS

● Mr. ROTH. Mr. President, I rise to introduce two bills designed to enhance the ability of our Government to control the way foreign nationals gain access to information and facilities of significance to our national security.

Nineteen hundred and eighty-five has been a banner year for our counterespionage forces; 11 arrests have been made for espionage in the past 11 months, most of those in the last 4 months. Indeed, we seem to read of almost an arrest a week, so busy have our FBI agents been. Yet successes have not been cause for delight; instead, they have demonstrated very clearly how weak and vulnerable our defenses have been. Many of those accused of espionage have allegedly been divulging our secrets illegally for many years—in some cases, decades—despite what we imagined to be a tight security environment.

Our hopes for an effective security system have not been realized. Recent revelations, as well as hearings conducted by the Permanent Subcommittee on Investigations regarding the espionage threat and our method of clearing individuals for access to secret information, demonstrate the shortcomings of our system. It is wrong not to demand reciprocity in diplomatic numbers; it is wrong to let go unrestricted the movements of certain United Nations Secretariat personnel; and, it is wrong to trust an antiquated bureaucracy with the task of satisfactorily clearing government and contractor employees to handle our most sensitive information.

There are numerous bills pending in the Congress to address these areas of concern, and more will follow. The bills I introduce today will likewise seek to close loopholes in our system that permits hostile agents of foreign powers to access defense secrets.

The Foreign Agents Registration Act requires that person which includes corporations—who act on behalf of a foreign government must notify the Attorney General of such representation and provide to the Attorney General a registration statement that includes a number of important categories of information which give us insight into the operations, purpose, and background of those entities or persons.

Excepted from the requirements of that statute, however, are diplomatic, consular, and official staff of a foreign power as well as "any person engaged in a legal commercial transaction." This latter exemption is troublesome to me. Through testimony before the Permanent Subcommittee on Investigations [PSI] in hearings on technology transfer and foreign-directed espionage, witnesses, which have included the Director of the Federal Bureau of Investigation, Assistant Secretary of Defense, convicted spies and a foreign defector, all emphasized the use by hostile governments of commercial covers for their operatives. The clearest example of this may be the case where an American, William Bell, was turned to spying against his country by Mr. Marian Zacharsky, a Polish intelligence officer working freely in the United States as president of the Polish American Machinery Co., a firm with numerous offices throughout the United States. Despite Mr. Zacharsky's conviction for espionage, the exemption of Polamco under the Foreign Agents Registration Act was not and is not lifted. Likewise, testimony before PSI has clearly demonstrated that commercial fronts are regularly and liberally used by the Soviets and their bloc allies, as well as Cuba, to place intelligence officers and facilitate the collection of our national secrets. One bill I introduce today removes the present exemption from reporting requirements for Soviet, East German, Polish, Hungarian, Czechoslovakian, Bulgarian, Rumanian, and Cuban businesses. For all other countries it requries that the exemption be lifted for a period of 5 years from the date of conviction or plea of nolo contendere for entities used as spy organizations.

The second bill I introduce will amend the Foreign Missions Act to ensure that those provisions regarding restriction on foreign diplomatic travel within the United States applicable to the Soviets apply equally to certain bloc nations, and others, who are proven surrogates in the collection of intelligence. It makes little sense that we restrict the Soviets in their travel privileges yet allow other's who work at their direction free access to our country. It is clear that the Poles, East Germans, Bulgarians, Rumanians, Cubans, and others collect intelligence at the direction of Moscow. In many instances, the data collected goes to the Kremlin even before the collecting country's officials can scrutinize it. We must, therefore, restrict the movements of their diplomats as we do their Kremlin boses.

I ask my colleagues to swiftly join me in passing these bills. They are important tools with which we can combat the surrepetitious gathering of our Nation's most critical secrets by enemies of freedom and democracy. Hostile agents should not be permitted to operate behind the veil of our cherished free enterprise system. To permit them to benefit from our system while actively seeking to undermine it is a notion I find ridiculous.

By Mrs. HAWKINS:

S. 1902. A bill to prohibit leasing in certain areas located in the eastern Gulf of Mexico Outer Continental Shelf; to the Committee on Energy and Natural Resources.

OIL AND GAS LEASING PROHIBITION

● Mrs. HAWKINS. Mr. President, today I am introducing a bill which would prohibit all future oil and gas leasing in environmentally sensitive areas off the coast of Florida. The buffer recently announced simply does not provide enough protection to our Florida beaches. It puts up 36 million acres for auction. This places many very sensitive and delicate areas at risk.

My bill would establish a permanent buffer 20 to 30 miles in width, along Florida's west coast and a 30-mile buffer around the Florida middle grounds. It would prohibit leasing below the 26° N. latitude. This legislation is intended to provide comprehensive, not partial, protection.

Floridians have the right to demand that protection. Our beaches are world famous and attract millions of tourists every year making tourism the State's No. 1 industry. The tropical waters of the keys contain coral reefs unique to our Nation. The wetlands and estuaries which line the west coast form the backbone of the State's commercial fishing industry. In addition, the abundant fish population living in the sea grasses of the Florida middle grounds attract both commercial and sport fishermen.

We cannot risk the tremendous damage which would be incurred by an oilspill. There is no telling what degree of economic and environmental damage we could anticipate. Nothing could replace our valuable natural resources and exotic wildlife should an oilspill wash up on our beaches. Any decline in water quality would essentially wipe out the productivity of the middle grounds.

While the areas below the 26° N. latitude have been under study, those studies are due to be completed next spring. There is no time provision required for analysis of those studies. Hence, drilling could possibly commence in this area once the studies are completed.

I know that the Nation's major oil companies do not share my view. They will point to economic justifications for leasing off Florida's coast. I will point to stronger economic justifica-

tions not to lease off Florida's coast. Thousands of individuals in mid- and small-sized companies depend upon a guaranteed tourist and fishing industry well into the future. They cannot fight 20 to 30 big oil companies on their own. They need this legislation. The welfare of Florida's environment and natural resources demands this legislation.●

By Mr. DANFORTH (for himself and Mr. PACKWOOD):

S. 1903. A bill to improve the safe operation of commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1904. A bill to improve the safe operation of commercial motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

MOTOR CARRIER SAFETY LEGISLATION

● Mr. DANFORTH. Mr. President, motor carrier safety is an extremely serious problem in this country. In 1984, more than 37,000 trucks accidents were reported to the U.S. Department of Transportation's [DOT] Bureau of Motor Carrier Safety. These accidents resulted in nearly 2,800 fatalities and almost 30,000 injuries. Even more alarming is the fact that truck accidents jumped 18 percent between 1983 and 1984. Intercity bus accidents always have been far less numerous than truck-related incidents, but safety in the bus industry also is a serious matter of concern.

Meaningful steps toward improving motor carrier safety have been taken in recent years. First, with the enactment of the motor carrier safety provisions of the Surface Transportation Assistance Act of 1982, States now are able to receive Federal grants to enforce more effectively Federal and compatible State motor carrier safety regulations. More recently, the Motor Carrier Safety Act of 1984 addressed comprehensively the motor carrier safety problem by providing a more effective system of penalties for violations of the Federal motor carrier safety regulations, requiring equipment inspections at least annually, providing a review system whereby State regulations which do not promote safety can be preempted by DOT, and requiring that new entrants into the truck and bus industries meet meaningful safety fitness criteria.

These pieces of legislation make an important contribution to highway safety. However, our work in this area has just begun. Last month, during the Commerce Committee's oversight hearing on the 1984 safety legislation, the testimony of the various witnesses made it clear that a substantial motor carrier safety problem continues to exist and that more needs to be done. The truck and bus industries, among others, have underway numerous initiatives designed to promote safety in motor carrier operations. I have no doubt that these industry initiatives will play a major role in enhancing safety. The testimony at the October hearing on the 1984 bill, however, demonstrated that areas remain where the Federal Government must take decisive action in order to address effectively the motor carrier safety problem.

Mr. President, the St. Louis Post-Dispatch recently ran a series of articles on truck safety. These articles presented disturbing evidence about the magnitude of the truck safety problem in this country and demonstrated the need for continued Government action to improve safety. These articles contain important information on the safety problems and I ask unanimous consent that they be printed in the RECORD in their entirety.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, November 3, 1985]

UNSAFE TRUCKS: AN ACCELERATING PROBLEM, SAFETY PROGRAMS FAULTED

(By Peter Hernon)

On a Friday evening last June, a 1971 Freightliner pulling a trailer loaded with 36 tons of pork was rolling down Log Town Hill in Van Buren, Ark., when the truck suddenly began racing out of control.

As the 20-year-old driver pumped at the truck's brake and pulled at the gears, the tractor-trailer rig bounced across railroad tracks, flew into the air and smashed into a station wagon filled with seven people.

Before finally coming to a halt, the truck shoved the station wagon into a section of town that had been restored to resemble a Civil War-era street.

By the time the ensuing fire had been brought under control eight hours later, three buildings were destroyed. The driver and his 17-year-old wife were among the nine people killed.

The accident on June 21, authorities say, is a textbook example of what can happen when the owners and operators of big trucks are allowed to violate laws and regulations on the nation's roads.

A few weeks before the accident, an employee of the Missouri Highway Patrol had stopped the truck and issued two pages of violations against the driver.

"I wasn't surprised at all when I found out what had happened," said the employee, Fred Dully, who works for the patrol's commercial vehicle enforcement division.

Sentiment is growing that unsafe trucks are turning the nation's highways into deathtraps.

No one who has ever glanced in a rearview mirror to see the gleaming radiator cover of a lurking Freightliner, Peterbuilt, or any other tractor-trailer, would dispute that America's increasingly smaller cars are sharing highway space with the largest, heaviest trucks ever built.

Critics say the risks of highway carnage are heightened by underfinanced, woefully understaffed and mismanaged, federal safety programs.

The situation, critics say, is further darkened by the steady prodding of the administration of President Ronald Reagan to transfer the principal responsibility for such enforcement activities to the states.

An increasing number of trucking companies and long-haul drivers are struggling to survive during the shakeout from deregulation. As a result, warns Forrest Baker, an industry consultant, the nation's $200 billion motor-carrier industry is on a "collision course" with concerns over highway safety.

"Most of these drivers aren't interested in dying or killing anybody, but they're working under conditions that are far from good," Baker said. "We're in the eye of a storm, and we don't know what to do about it."

Recent federal and state safety accident statistics offer little comfort. For example:

About 199,000 big-truck accidents occurred last year, a 4 percent increase over 1983 and nearly a 14 percent rise over 1982.

The number of fatal accidents also climbed last year. The National Highway Traffic Safety Administration reported 4,906 fatalities involving large trucks compared with 4,735 in 1983 and 3,954 in 1982. Of those killed last year, 3,562 were passengers of other vehicles, usually cars.

In Missouri, 1,079 accidents involving big trucks resulted in injuries last year, compared with 842 in 1983, according to the state's Highway and Transportation Department. The Illinois Department of Transportation reported that accidents involving tractor-trailers and other heavy trucks had risen to 20,005 last year from 16,511 in 1983.

The traffic safety administration reports that trucks are involved in 6.5 percent of police-reported accidents but account for 12 percent of all fatal crashes. The latter figure is expected to climb to 14 percent by 1990.

Although big trucks run much of their mileage on the interstate highway system—considered the safest roads in the nation—big trucks are involved in 5.7 fatal accidents for every 1 million miles traveled; that compares with 2.7 fatal accidents for passenger cars, according to figures supplied by the national highway agency.

U.S. Sen. John C. Danforth, R-Mo., says that "the public perception" is that big trucks are less safe than they should be.

Danforth, chairman of the Senate's Commerce, Science, and Transportation Committee, was instrumental in enacting the Motor Carrier Safety Act of 1984, an attempt to improve truck safety and enforcement procedures. The measure requires yearly inspections and sharply increases fines, but critics say it fails to go far enough and will be ineffective.

One official with the Federal Highway Administration's Bureau of Motor Carrier Safety, who spoke only on the condition that his name be withheld, doubted whether yearly inspections would do much to improve truck safety.

"A lot of truckers will treat that as a joke," he said. "Sure, they'll get inspected, but then what will they do for the rest of the year?"

Michael J. Right, public affairs director of the Auto Club of Missouri, said: "The number one complaint from our members is about big trucks. A lot of people are really worried about what they see going on on the roads."

These 18-wheel rigs—many of them longer than a six-story building—were made legal in the closing hours of a lame-duck Congress in 1982. The lawmakers wanted truckers to pay more fuel taxes to finance highway improvements. Engineers say these

trucks cause a disproportionately high amount of damage to roads.

In exchange, 48-foot trailers and "double bottoms"—two 28-foot trailers pulled in tandem—were authorized, the legal width was increased half a foot to 8½ feet and the maximum weight load was increased to 80,000 pounds.

States like Missouri, which had a limit of 73,200 pounds, were forced to accept the new mixes or lose millions in federal highway money.

Before discussing safety problems, Thomas J. Donohue, president of the American Trucking Association, hauled out a list of the industry's economic woes.

During testimony in September before Danforth's committee. Donohue observed that 45 percent of all motor carriers operated at a loss during the first three months of this year. He said that 1,400 companies had gone broke last year compared with 162 in 1978. Last year's total was the highest failure rate in the industry's history.

"The small independent truckers are dropping like flies," agreed Bob Jasmon, director of the Midwest Trucking Association, which is based in Springfield Ill. "A lot of these guys are going broke and don't know it." Where a trucker making a good living can earn up to $2 for every mile driven, many smaller operators commonly run for as little as 20 cents a mile.

Fuel costs, Donohue said, have climbed considerably since 1979 and insurance rates have soared 200 percent to 600 percent in the last year. The tax bite also has shot up. The annual federal highway tax on a typical tractor-semitrailer rose from $1,746 three years ago to more than $4,200 an increase of more than 140 percent.

At the same time, carriers are competing for fewer loads. Truck tonnage for last year totaled 2.072 billion tons, compared with 2.26 billion tons, in 1978. Donohue blames rising imports for the decrease. Slashing of rates has become the rule.

Under the deregulatory Motor Carrier Act of 1980, the Interstate Commerce Commission made it easier for trucking companies to get authority to operate on the nation's interstates. The objective was to increase competition and reduce government regulation. As a result, 30,481 authorized ICC carriers held licenses last year, an increase of 3,000 carriers over 1983.

But that's only a partial view of the industry. About 140,000 independent truckers can lease their services to ICC-approved carriers. There are also 182,000 so-called "nonauthorized" ICC carriers. These include trucking fleets operated by private companies. Those fleets transport their own goods and traditionally have been exempted from the ICC's regulations regarding rates, routes and insurance. Carriers of such items as farm commodities are also exempted.

In all, roughly 17,000 new motor carriers have started trucking since deregulation began.

As these new firms and drivers compete for reduced tonnage, what the American Trucking Associations' Lana Batts called "the economics of non-compliance" comes into play. Faced with diminishing profits, some truckers, she said, try to cut corners by skimping on safety-related maintenance. Companies that take the more costly road of properly servicing their vehicles could find themselves at a serious economic disadvantage, said Batts.

In this cutthroat atmosphere, Baker said, drivers are forced to work far beyond the hourly limits set by federal law. The law says they must rest eight hours after driving 10.

Log books that long-haul operators are required to use to record their working hours are so fraudulent today that filling them out, Baker said, is called "writing fiction."

Most of the nation's drivers are safe, Baker asserts. It's the 5 percent or 6 percent—the hard running debt-ridden "gypsies" or "banditos"—who regularly violate safety laws, he said.

Some carriers are even willing to write off fines for speeding and safety violations as "the cost of doing business," said a staff member for the House transportation subcommittee.

The new federal safety act increased penalties for trucking violations to $10,000 from $500 in some categories. The law also provides for more civil enforcement rather than relying almost exclusively on criminal proceedings, a change that officials say should make it easier to take safety violators to court.

These provisions have already been implemented, but the requirement that the Department of Transportation revise its safety standards and require annual truck inspections for all interstate motor carriers has yet to be completed. The preliminary work was to have been concuded by last Wednesday. That deadline has been extended until early next year. Officials estimate the regulation will be put into effect sometime in 1987.

A major difficulty with any truck enforcement program, many say, is the chronically understaffed federal Bureau of Motor Carrier Safety. The agency was harshly critized for poor enforcement procedures and monitoring in a report issued in september by the U.S. General Accounting Office.

But even the GAO acknowledged the almost hopeless enforcement task the bureau faces. The numbers are crushing.

A motor carrier, the GAO said, runs the risk of being inspected once every 20 years under the federal program.

As equally critical report was prepared last year by the transportation subcommittee. The report says that bureau auditors were "undermotivated, undertrained and ill-equipped." The report concludes that morale was poor because most safety investigations "do not result in enforcement action."

The report states that the average fine, about $2,300, has remained the same since 1979. Only 2 percent to 4 percent of all inspection audits ever result in fines.

Although the Department of Transportation has the authority to suspend or revoke a carrier's ICC authority, this is done only as a last resort, said bureau director Kenneth L. Pierman.

He said the bureau had intervened with the ICC to suspend a license no more than twice a year over the past 15 years.

Officials say the objective is to assure compliance, not put a carrier out of business.

The federal government has tried to shift the lion's share of enforcement to the states through the Motor Carrier Assistance Program. Congress authorized that $150 million be spent from last year through 1988 to help the states enforce federal highway safety requirements. So far, 33 states, including Missouri and Illinois, are participating.

Yet GAO auditors warry that the program has been badly underfinanced. Congress approved $30 million for the program for next year, yet the administration requested only $14 million, said Philip Hazeltine, a deputy assistant secretary for the Transportation Department. Under congressional pressure, the amount was later increased to $20 million.

Patricia F. Walker, of the University of North Carolina's Highway Safety Research Center, regards the state-enforcement program as a positive move. But she also worries that the federal government is trying to back away from safety enforcement.

"On the one hand, they have preempted the states by forcing them to take bigger, heavier trucks, she said. But on the other hand, she said, the federal government has handed over its safety responsibilities to the states.

[From the St. Louis Post-Dispatch, Nov. 4, 1985]

TRUCKER'S CODE OF OPERATION: IGNORING THE LAW

(By Peter Hernon)

LOS ANGELES.—Before Bill left Kansas City for his two-day, 1,600-mile drive to Los Angeles, his wife offered a warning about what to expect during a ride with a long-distance trucker.

"When he says he's going to stop for coffee just down the road, don't you believe him," she said. " 'Down the road' means 150 miles."

A passenger riding in the shotgun seat also learns quickly not to drink anything, not water and certainly not diuretic coffee or soda. No matter how iron-clad the plumbing, fluids eventually will require a pit stop, and pit stops mean time wasted and miles lost.

Pursuing matters of time—and time's winged chariot certainly nudges the back of a trucker—also make it impossible to use Bill's real name. When a man breaks the law by playing "Beat the Clock," naming names can be risky.

Over-the-road truckers are required by federal law to drive no more than 10 hours and then take eight hours of "bunk time." Like most of his hard-running brethren, who can easily cover well over 150,000 miles a year, Bill holds that rule in disdain.

It's often impossible, he claims, to make a legal run from the garden country around Salinas, Calif. to Philadelphia—a common trip for him—and still deliver his tomatoes or strawberries by the "fourth morning." That's the timetable invariably demanded by the produce dealers paying the freight. If a trucker doesn't deliver, he eats what he carries.

The log book rule of 10-on and eight-off is just something the union wants, says Bill, one of the nation's 140,000 non-union independent drivers. It's also a rule that allows states to make some easy pocket change by harvesting fines, he added.

A driver nabbed with an out-of-date log book is required to "rest" for eight hours before the police will let him take off again. But luck like that can blow a tight schedule.

So, playing the game for all it's worth, Bill carries six log books, one to serve every purpose, like the blade of a swiss army knife. Armed for any contingency, he ignored the law on his trip out west just as he has ignored it for most of his 13 years as a professional driver.

With his 45-foot "reefer," or refrigerated trailer, loaded with about 30,000 pounds of Brillo pads and maple syrup, he drove from his home just outside Kansas City, Kan., to Albuquerque, N.M., in a little more than 14

hours. He slept for five and ran another 14 hours into the Los Angeles area.

Other drivers do it considerably faster, he says. Some of them will even make the return from Los Angeles to St. Louis with no stops for sleep.

"If a cop stops someone like that with a two or three-day beard and his eyes all over the place, he's going to throw the book at him and the guy will deserve it," he said.

Bill averaged about 60 mph on the trip. The only time he consistently violated the speed limit in a big way—going downhill doesn't count—was during the 70-odd miles from Barstow, Calif., to Ontario, Calif., a gritty industrial town swept by the dusty Santa Ana winds just outside Los Angeles.

After negotiating the plunging stretch that passes near Sidewinder Mountain, he did about 75 mph and barely managed to keep up with the bumper-to-bumper traffic along I-15.

It was Sunday evening by then and most of the motorists, he said, were returning from a weekend in Las Vegas, Nev.

But all that was two days and a hard 1,400-mile drive down the road. For the present, it was about noon Saturday and Bill, who had just burned up 200 miles since leaving Kansas City, was at the wheel of his royal-blue 1985 Western Star tractor-trailer.

Recently introduced in the United States by its Canadian manufacturer, the 13-gear truck—only one of 100 made—is a head turner. The air-conditioned cab is outfitted with a telephone, stereo, a spacious rear bunk and air-bags seats designed to absorb the steady jolting of the road. Bill considers the seats career-extenders. His previous truck "beat him up" so badly that his body-aches kept him from sleeping. When he talks of blue highways, he means bruises.

Bill takes pains with the truck, regularly shelling out $45 to have it washed. His bunk was neatly made, his rack of clothing freshly pressed. His wardrobe included a sports coat, an unlikely garment for a trucker. But Bill is far from typical for the breed.

He does not have a beard; he does not wear cowboy boots, favoring slip-ons; he does not wear a cowboy hat, preferring a blue baseball cap; he does not smoke or chew or have a sloping belly; nor does he twang his words in the good-buddy, down-home accents that drawl out over the CB airwaves.

For that matter, Bill doesn't much care for the CB. "Too much garbage on it," he snorts. But he will use it when he fears "bears" are patrolling the roads. The radio and his "bird dog" or fuzz-busting radar detector, are his best defense against a speeding ticket when he's running hot.

A few other peculiarities also set Bill apart from his colleagues. Although he shares a trucker's almost ritual love of country music, he dislikes truck stops. He regards most of these gas-restaurant-motels as overpriced, rip-off joints that sling bad food and serve up prostitutes—"Do drugs on their spawling parking lots.

"If I figured I need some pills or something to keep me going, I'm going to get out of the business," he said.

Further breaking the mold, he attended Penn State, where he studied the hotel and restaurant business. College men in his trade are as rare as working truckers who listen to Mozart.

Bill is also making money. Many independents and motors carriers are going bankrupt as the trucking industry struggles with the fallout from deregulation. Although he wouldn't offer specifics, he says he's having a pretty good year after several lean ones. A driver like Bill can earn about $1,800 on a one-way run from Los Angeles to Philadelphia and, depending how hard he pushes, can make two or three round-trips a month.

Bill switched careers in his mid-30s because he was tired of opening and closing restaurants and wanted to be free from the fetters of an office. Now 48, a slender man with thinning blond hair, he admits he's doing something he loves. He is highly regarded by the Chicago trucking firm to which he leases his services.

"He's one of the new breed of drivers," said a company official. "He's a pretty damn smart fellow, and he always gets there on time."

As he edged by high water that lapped over Highway 50 just west of Emporia—the rivers were in flood after a week of heavy rain in Kansas—Bill discussed the rules of his chosen calling.

He smiled when it was suggested that a large number of truck accidents seemed to be caused by brakes that mysteriously fail.

"Like hell they fail," he said. "You just don't lose your brakes. I'll bet most of the time the guys who have their brakes 'go out' were just running in Mexican Overdrive."

Many motor carriers, he explained, put speed governors on their truck engines to prevent a driver from going too fast. To counter this, a driver will sometimes shift into neutral—Mexican—Overdrive—during downhill runs, where they can easily hit 70 or 80 mph.

Problems occur when one of those speeding cowboys suddenly has to use his brakes. When you run in neutral, you lose air pressure and without air pressure—no brakes.

That's stupid, Bill says. It's also stupid for a trucker to drive like a mad dog in heat, weaving between lanes and climbing up the rear bumper of cars.

Of course, it's equally stupid for the driver of a "four-wheeler" to cut in front of a truck, which is what happened to Bill near Newton, Kan., about 20 miles north of Wichita. An elderly gentleman, bullet-headed and bald, swung his red station wagon smack in front of Bill's 8-foot-wide front bumper.

The old man slowed; Bill slowed. The old man slowed again, and so the Mutt-and-Jeff ballet continued until flustered by the hulking shape in his rear-view mirror, the motorist slowly pulled over to the shoulder. With all the dignity of his years, he made several unmistakable gestures as the Western Star lumbered by.

By now Bill had exited Kansas at Liberal on Route 54 and had started to cut across the Oklahoma-Texas panhandle—a tawny, sagebrush region, where the odor of mile-long feed lots can hit a trucker like a brick wall. He filled up in Dalhart, a Texas cow-town that radiates around its gray skies and muddy stockpens. The bill for 100 gallons of diesel fuel was $192.22.

Late that afternoon, Bill still had several more hours of driving to reach Tucumcari, N.M., where he planned to eat dinner. After that, it would be 174 more miles to Albuquerque and a rest.

He was in good spirits, having to stop at only one weight station. The scales at those stations can resemble cattle chutes when the trucks start lining up to be weighed. Long waits are common. When he's running heavy, well over the 80,000-pound maximum allowed on Interstates, Bill will dodge those scales with all the cunning of a bomber pilot trying to sneak past enemy radar. He has made an art of this cat-and-mouse game, knowing by heart where every scale is and how to best to get around it.

In addition to close encounters with elderly drivers, Bill has several other gripes, among them traveling to Hunt's Point, a produce market in New York City known as Fort Apache.

Bill mentioned drivers who have been held up there; who have had burning sofas rolled in front of the trucks to slow them up while thieves rifled the back of their trailers; who have been told upon arrival that their cargo was spoiled when it wasn't; or that they were late when they weren't. Hunt's Point is not a favorite drop off.

Nor is unloading his cargo a favorite task. During a stop near Indianapolis the previous week, Bill had to "break down" several pallets loaded with broccoli and cauliflower, mixing one with the other. "It was a perfectly clean load. I should have been in and out of there in 30 minutes, but I had to do their work for them, and that's wrong."

It was past 7 p.m. and twilight shadows had started to stretch across the road. Bill had entered New Mexico, the "Land of Enchantment" according to the welcoming sign posted at the border. The sky was woven with the same gaudy colors that appear in the Indian blankets hawked at roadside shops—a bleeding maderas of purple, orange and fiery red.

After a pit stop and a steak dinner at the Golden Corral in Tucumcari—where a good meal can be had for well under $4--Bill set out for Albuquerque. Under a blazing canopy of stars, he started the slow climb up I-40 toward the mountains—the Sangre de Christo, the Jemez and further west, the Zuni.

Bill likes driving in New Mexico after dark. "The Highway Patrol," he said, "doesn't work at night. It seems like they all go home."

The first day on the road to California ended around midnight when Bill turned in for the night at a truck stop in Albuquerque—one he couldn't avoid. He was off again by 5 o'clock Sunday morning, driving "a few miles down the road" for breakfast, which came over two hours later at Gallup, N.M.

Bill doesn't particularly like Arizona with its scrub brush, sand and mesas—the desert's end tables—running off to the horizon. He got a speeding ticket there once, one of three he has received in the past two years. Nor does he like what he regards as exorbitant fuel taxes that support some of the worst highways in the nation. Riding through Arizona in a truck can be like riding a wild mustang.

As might be expected, Bill has a Jekyll-and-Hyde attitude toward the various state police troopers he encounters. He appreciates it when they're "fair," but all too often he believes that troopers enjoy making a tough life tougher for truck drivers.

He mentioned the trooper in Illinois who gave him a "safety inspection" but didn't bother to bend down and look under his truck, where the real defects are often hiding. He also mentioned the troopers who let him go when he was running overweight or who reduced his speed on the ticket to 65 mph even though he had been going considerably faster.

After sleeping seven hours in Ontario, just outside of Los Angeles, Bill made his delivery at 7 a.m. Monday at a 20-gate warehouse near Long Beach. After checking with his dispatcher in Chicago, he drove "deadhead," or unloaded, to the "grapevine," the na-

tion's fertile, mechanized Eden near Salinas, Calif., and picked up a load of tomatoes.

By dusk he was back at Barstow Calif., heading east. Three days later he made his drop in Philadelphia—on time.

Why, one may ask, would any man or woman want to lead such a gypsy life?

His wife had perhaps the only answer that makes any sense:

"He likes his solitude," she said.

[From the St. Louis Post-Dispatch, Nov. 6, 1985]

HIGHBALLING: AREA ROADS CALLED HAVENS FOR UNSAFE TRUCKS

(By Peter Hernon)

Officer Tom Magnan wasn't happy. As he headed east on Interstate 70 in a police station wagon, a flatbed truck carrying rolls of coiled steel passed in the westbound lanes. The rolls, Magnan had quickly noticed, were not tied down—a dangerous but all too common safety violation. Unable to turn around and give chase on the divided highway, Magnan fumed for a few moments.

If he had been able to catch the driver, he would have shown him the stack of color photographs he carries—grim mementoes of accident scenes where poorly-secured loads had shifted or fallen. The resulting accidents have caused trucks to tip over or spill their cargo. Sometimes, motorists are killed.

Magnan wondered aloud what automobile drivers might think if they realized how much of the heavy freight ripping past them in tractor-trailers was improperly lashed.

"I guess there are some things it's better not to know," he said. "You might get too worried to get into your car."

As a member of the St. Louis Police Department's traffic division, Magnan admittedly knows a great deal about truck safety. And what he knows can be disturbing.

Consider the following:

About 14,000 tractor-trailers move through the city every day—more than 5 million a year. But Magnan is the only full time police officer assigned to truck inspections. And St. Louis is regarded as a trucking hotspot.

In St. Louis County, even more trucks are on the roll—more than 20,000 a day. But not a single officer in the country inspects trucks for the Police Department. Instead, safety checks are handled by Troop C of the Missouri Highway Patrol. The patrol's two inspection vans with two troopers each must cover 11 counties, said Joe Totten of Troop C's commercial vehicle enforcement division.

Overweight trucks that would be banned on most state highways and interstates can operate perfectly legally within much of the metropolitan area.

Area truck drivers are exempted from federal laws that limit daily driving time and require annual health checkups. They also can avoid federal insurance requirements. In addition, trucks that operate primarily in the metropolitan area often are exempted from getting a state safety inspection certificate, a sizable loophole that Magnan regards as a farce.

Anywhere from a third to half of all trucks pulled over for random inspections in the St. Louis area are so unsafe that they are ordered off the roads until repairs are made.

Police frequently don't know whether a truck is carrying hazardous material. Federal law requires such trucks to have placards indicating a dangerous cargo, but the law isn't always obeyed. Asked how police find violators, one traffic officer smiled and said, "By chance."

City and county streets, some trucking industry observers insist, have become a dumping ground for poorly maintained, unsafe vehicles that motor carriers would never dream of using on the highways.

Nationally, incidents and fatalities involving big trucks have climbed in recent years—an increase blamed on everything from tough economic times that have forced some carriers to skimp on safety maintenance to greatly increased truck traffic. In the city, the number of people killed in accidents involving tractor-trailers jumped to 13 last year from seven in 1983.

The number of big truck accidents was up in both the city and county between 1981 and 1983, the last three years that comparable figures were compiled by the Highway Patrol. Since mid-1984, when a new reporting system was adopted, tractor-trailer accidents increased in the city but apparently declined slightly in the county.

An alarming number of accidents at construction sites—many of them involving over-the-road trucks—was cited when the Highway Patrol announced early last month that it was using unmarked cars to crack down on speeders.

Since the first of the year, more than 700 accidents have been reported at construction areas where reduced speed limits are posted along Interstates 44 and 270 and Highway 40.

"It seems to us that of all the complaints we receive here from citizens, most of those calls deal with large trucks," said Sgt. J.C. Lee of the Highway Patrol.

The loudest public outcry was over a crash on I-44 Aug. 2, when a tanker hauling 8,000 gallons of gasoline plowed into a disabled car parked on the shoulder of the westbound lanes. A 13-year-old girl from Eaton, Ind., was killed in the explosion and fire. The truck driver, Charles Schatz of Sullivan, was charged with careless and imprudent driving.

Police say Schatz ought to have slowed instead of driving between 50 and 55 mph on that stretch of highway, which is often clogged by construction equipment. The posted speed limit was 40 mph.

Troop C's commander, Capt. John H. Ford, said the stepped-up enforcement program showed just as many cars tailgating and speeding. But Ford said the risk of a serious accident was far greater with a 60-foot-long tractor-trailer.

"When you get a big truck loaded down, he's not going to be able to stop so fast," Ford said. "And if he hits you, he's going to go right up on top of you."

The tailgating, high-balling trucker isn't always easy to deal with, especially on a heavily traveled interstate running along the city's downtown corridor, said Mike Walsh, a city policeman who works with Magnan.

Pulling the trucker safely to the side of the road for a ticket is virtually impossible, said Walsh.

"There's really no good way to get them over to the shoulder," he said. "And then when you do, having them parked there could also be a hazard. It's very hard" to ticket them.

There are some wide differences in who handles traffic violations on some of the most congested highways in the county and city. The Highway Patrol, for example, does not work the 23 miles of interstate that pass through St. Louis. But it has joint enforcement jurisdiction with many of the municipalities in the county, which is traversed by 98 miles of interstate—roads not regularly patrolled by the county Police Department.

One driver, who asked that his name not be used said that affer 10 p.m. or 11 p.m. speeding truckers usually had little to worry about in either the city or the county.

"It seems like everyone goes to sleep after 10 p.m.," he said.

Ford admitted that fewer officers worked the graveyard shift from 11 p.m. to 7 a.m., but he denied that police were sleeping on the job.

"That's probably a mindset on the part of some truckers," he said. "I can assure you that the roads are patrolled 24 hours a day."

St. Louis, Magnan said, is the first city in the country to take advantage of a new federal program to help states and communities enforce truck-safety laws. The program filled a void, he said. Before the grant, St. Louis police didn't conduct safety inspections at all.

St. Louis joined the Motor Carrier Assistance Program last year. Federal money supports Magnan's work and also helped provide training for Walsh and 10 other officers, who go after defective, unsafe trucks on a part-time basis. So far, about $20 million has been allotted nationally for the program.

"We certainly don't have to worry about job security," Magnan quipped. "There's lot of junk out there."

On a recent morning, Magnan, 32, and officer Jim Mulford set up shop on the shoulder of Riverview Drive near I-270. Magnan wore a clean blue jumpsuit that was quickly stained with grease and dirt when he started crawling under trucks, checking for faulty brakes and other violations.

Before long, he and Mulford stopped a driver hauling 40,000 pounds of corn from Edwardsville to a grain elevator in St. Louis.

The driver was issued a ticket for a defective tire and for having no Missouri fuel license.

Magnan knows that many trucking companies are skimping on safety maintenance to try to cut corners during a time of rate wars and no-holds-barred competition brought on by the deregulation of the industry in 1980.

He pointed to the two-inch gash in one of the trailer's left rear tires. "The driver told me that he told his boss about this," Magnan said. "He said the boss told him to drive it until it blows."

Even though the truck weighed well below the 80,000-pound maximum set by federal and state law, the truck could have been far heavier and continued to operate legally within the city and county and in a good part of the Metro East.

The reason, Magnan explained, is that most of the urban region is part of a carefully detailed "federal commercial zone," which covers all of St. Louis, most of St. Louis County and parts of Illinois. The zone concept dates to the early 1930's and was described by one state enforcement official as a "politically motivated" attempt to help the country's local trucking lines.

"It's a completely antiquated idea," said the official, one of the Highway Patrol's commercial vehicle enforcement inspectors. "It goes back to a time when there wasn't much motor carrier traffic and it moved slower. But now, the truck traffic in the city can be denser than it is on the open road."

Federal and state commercial zones allow drivers operating wholly within those specified areas to run with heavier weights. Op-

erators within the state and federal zones allow a truck loaded with, say, 140,000 pounds of steel—a weight exceeding state and federal limits by 60,000 pounds—to roll down I-70 downtown. The limit is based on 22,400 maximum pounds for every axle.

A federal commercial zone provides other exemptions from federal safety laws. Drivers who work solely within a designated zone can work unlimited hours. By contrast, interstate drivers are required to take an eight-hour rest period following every 10 hours at the wheel. Driver fatigue has been cited as a serious problem on the nation's highways.

Federal commercial zone drivers also don't have to pass regular health exams, as do their long-distance counterparts.

"That means that a driver with a heart condition or bad vision who wouldn't be qualified to operate on the road can work in the city," said Magnan.

Magnan finds several other commercial zone exemptions particularly grating.

For one thing, he dislikes a loophole that permits trucks with license plates apportioned in Missouri and Illinois that operate within the commercial zone to avoid the annual safety inspections required by Missouri law.

Under the apportionment idea, a trucker can buy a single license plate good in a number of states, which "apportion" the fees for the miles traveled in each. The unwieldy alternative would be to buy plates for all the states a truck travels through and plaster them over the front bumper.

Trucks with apportioned plates and most other interstate carriers passing through Missouri fall under the regulations of the federal Department of Transportation, which exempts them from a yearly state safety inspection. Magnan said that many apportioned trucks worked almost exclusively in the city commercial zone. Unless they're stopped by police at roadside checks, they're almost never inspected, Magnan said.

"If they don't come outside the zone they don't come under DOT (Department of Transportation) regulations," he said. "Unless we stop them these people are never inspected."

One of Magnan's more strenuous crusades is to get the word out to truckers that their loads must be properly secured.

A notorious example of an accident that involved a shifting cargo occurred two years ago, when a tractor truck pulling a 40-foot trailer flipped over on an I-70 exit ramp off the Poplar Street bridge and burst into flames. Two people were killed when their car was crushed and burned.

The driver of the truck later pleaded guilty to manslaughter and driving while intoxicated. He was reported to have been traveling well over the 35 mph speed limit on the ramp when his load of electrical transformers shifted, pulling the truck over on its side.

To get the message across, Magnan has a photograph that shows a 4,000-pound battery and an 18,000-pound forklift that had fallen from the rear of a truck climbing an interstate approach ramp.

Shaking his head at the memory, he recalled the driver's lame comment, one he has heard more than once.

"The guy told me," Magnan said, "that the weight was holding it on."

[From the St. Louis Post Dispatch, Nov. 17, 1985]

TRUCKERS BAND TOGETHER TO SKIRT 55-MPH LIMIT

(By Peter Harmon)

It had been a frustrating afternoon for Sgt. Bruce Hamilton of the Missouri Highway Patrol, who had spent the better part of two hours hunting without success for speeding tractor-trailers along Interstate 70 in St. Charles County.

The passing or "hammer" lane was unusually quiet. The big rigs were out in convoy strength, but they were generally nudging the 55-mph speed limit with all the cautious delicacy of egg haulers. With not a single high-balling cowboy in sight. It was far from a typical traffic flow along that wheel-scoured stretch of highway.

"This is pretty surprising," Hamilton admitted, resting his radar gun on his lap as a row of trucks crept by like so many ducks in a shooting gallery—ducks flapping their wooden tongues in his face. "It seems funny that they're not running faster than this. The only thing I can think of is maybe the word is out about the crackdown."

He was referring to the counter-offensive the patrol implemented after an outbreak of accidents—one of them a fiery fuel tanker crash this summer that killed a young girl—and started public complaints about speeding tailgating truckers.

The push came as the number of accidents and fatal crashes involving heavy trucks increased nationally and as sentiment built that unsafe tractor-trailers risked turning the nation's roads into slaughter houses.

Since the patrol's undercover effort started one month ago, troopers like Hamilton have used Broncos and other unlikely vehicles to try to nab offenders—especially around construction sites where reduced speed limits are posted on Interstates 44, 70 and 270 and U.S. Highway 40. Trucks weren't the only targets, but the patrol admitted that 18-wheelers were responsible for most of the complaints, which had reached the intensity of a firestorm.

On this particular day, Hamilton was driving an unmarked squad car. The twanging chatter on his CB radio made it obvious that every "good buddy" within listening distance knew that a "bear in a plain white wrapper" was on the prowl.

His big white Ford with its black-wall tires and spotlight might as well have been carrying a neon sign. By Hamilton's own admission, it screamed, Police!

"There's a bear on your bumper," one driver quickly warned another seconds after Hamilton pulled out onto the highway.

"A smoky's working the westbound lanes," chimed in another.

Hamilton is used to this kind of early warning system. "Sure, it's frustrating," he admitted as his every move was instantly reported over the crackle of the airwaves. "It's unfortunate, but there are a lot of people who treat this as a cat-and-mouse game."

Equipped with radar detectors, the truckers also knew whenever Hamilton squeezed the trigger of his radar gun. The electronic devices on their dashboards emit a shrill beep the moment they detect a radar beam.

Almost every time Hamilton pulled the trigger, the red taillights lit up like Christmas tree ornaments as a string of truck drivers slammed on their brakes in unison.

"I've seen them lock their wheels up, they've come down on their brakes so hard," said Hamiton, 47, a 22-year veteran.

Using radar to enforce speed limits involves a kind of sacrifice theory. The first driver to "have his picture taken" will be nabbed if he's speeding. But those following behind will often have time to jump on their brakes and slow down thanks to the bark of their detectors, also known as "bird dogs."

It's considered a fair trade-off to Hamilton. You stop one and slow down a dozen.

Every time he steadied his gun and pulled the trigger one night late last week, its digital display recorded legal speeds. Hamilton, a tall, slender man with a pencil-thin moustache, had the cynical look of a hunter who knows wolves really do wear sheep's clothing.

"The word," he repeated, "is certainly out."

But the word apparently hadn't reached Billy Ray Payne, a long-distance hauler from Springfield, Mo., who was on his way to Atlanta with 40,000 pounds of butter he had picked up in Nebraska.

Hamilton, working his favorite hot spots like a master angler, had just pulled into an off-the-road hideaway when Payne's green-and-white tractor-trailer sped by. Convinced that he had just had his first good strike of the day, Hamilton gave chase, rapidly closing the gap with the eastbound truck. Pulling within range near Lake Saint Louis, he leveled his gun and scored a radar bull's-eye. Payne was doing 68 mph.

The trucker pulled to the side of the road as soon as he saw Hamilton's flashing red light. He accepted the ticket with good-natured resignation. When the damage was done, he even shook Hamilton's hand.

Still, the balding 52-year-old trucker, who was traveling with his wife, admitted that he had doubts about the fairness of it all.

"I was just keeping up with the traffic," he said. "It's hard to figure why he singled me out."

It was, Payne said, his first speeding ticket in three years. The first, in fact, since he threw away his radar detector.

More than 700 accidents were reported during a nine-month period earlier this year at construction sites in the metropolitan area—everything from minor fender-benders to gory head-on collisions.

And then, in August, a 13-year-old girl was killed when a tanker hauling 8,000 gallons of gasoline plowed into a disabled car parked on the shoulder of a stretch of I-44 often clogged with construction equipment. The inferno sent up a mushrooming pillar of black smoke.

As if fanned by the same fire, complaints about big trucks began pouring in to Troop C headquarters, said Capt. John H. Ford, the troop's commander.

As a result of the stepped-up enforcement program, those complaints have dropped sharply, Ford said.

Although criticism about tractor-trailers helped precipitate the program, more than half of the 219 tickets issued so far for moving violations—123 of them—have been given to automobile drivers, the captain said. In comparison, 88 truck drivers were ticketed.

Statistics like that wouldn't startle Robert E. Craven, a traffic engineer with the Illinois Department of Transportation.

Data gathered through a network of 70 stations that electronically monitor the traffic flow across the state indicates that motorists usually drive faster than truckers, Cravens said. The department uses special sensors embedded in the pavement, devices

that can measure the speed and length of a vehicle passing over them.

In urban areas, 53 percent of the auto drivers exceeded the 55-mph limit in 1984, compared with 49 percent of the truckers. In rural areas, the figures were 70 percent of auto drivers and 58 percent of truckers.

Even at the top end of the speed scale, motorists were still traveling in the fast lane last year, Craven said.

Eight percent of car drivers exceeded 65 mph in urban areas, compared with nearly 6 percent of the truckers, he said. In rural areas, roughly 12 percent of all motorists exceeded that limit, compared with 8 percent of the truck drivers.

"This may be surprising for a lot of people," Craven said. "You may feel that the trucks are blasting right by you, and some of them are. But when you look at the statistics, they show that this is misleading."

Even though he acknowledged that both motorists and truck drivers were breaking the 55-mph limit, safety investigator Sam Yaksich said the hazards of serious accidents involving tractor-trailers were significantly greater because of their hulking size.

In recent years, the permissible weights of these trucks have increased some 7,000 pounds, so that 80,000-pound trucks are now legal on all of the nation's interstates. Many rigs are more than 60 feet in length.

In addition, the National Highway Traffic Safety Administration reports that trucks are over-represented in fatal crashes. Big trucks, the agency says, were involved in 8.5 percent of police reported accidents, but account for 12 percent of all fatal crashes, a figure expected to climb to 14 percent by 1990.

Tractor-trailers are involved in 5.7 fatal accidents for every 1 million miles traveled, compared with 2.7 fatal accidents for passenger cars, according to figures supplied by the national highway agency. The agency also reported 4,908 fatalities involving large trucks last year, compared with 4,735 in 1983 and 3,954 in 1982.

"When a trucker speeds, it's far more harrowing than when a motorist speeds," said Yaksich, director of the AAA Foundation for Traffic Safety, a non-profit agency in Falls Church, Va. "They're potentially so much more dangerous. The fact is all across the country in urban areas there have been a rash of truck accidents."

Quite often, Yaksich said, speeding truck drivers are simply keeping up with the flow of traffic. The "pugnacious attitude" of many drivers, he said, is frequently their worst enemy.

"The nature of truck drivers," he said, "is to intimidate passenger cars by pulling right up on their tail to make them get out of the way."

Lois Kornfeld of Hazelwood certainly knows what it's like to be forcibly moved out of the way by a trucker.

Last month, as she drove east on I-270 on her way to Illinois to buy lottery tickets, her 1983 Cougar was nudged by a tractor-trailer that had been riding within inches of her rear bumper, she said.

The accident occurred as the truck pulled alongside of her as if to pass and then dropped back, Kornfeld said.

Kornfeld's car slammed into a concrete barrier and was demolished. She escaped with minor neck and back injuries. The driver, she said, was not charged. She said the man had told police he hadn't seen her, a statement she finds impossible to believe.

"I was very angry and very frightened," Kornfeld said. "To me, those trucks are such terrible hazards. If I had had a child in the car, or if I hadn't been wearing my seat belt . . ."

Her voice trailed off at the jarring memory.

For a professional driver like Bill Boedecker, 49, of St. Louis, a "few cowboys" are giving the rest of the nation's over-the-road drivers a terrible name.

"Sure, it's intimidating to see a truck's radiator in your rear-view mirror," he said. "I'll admit it scares the hell out of most people."

Why, Boedecker was asked, do some drivers persist in tailgating?

"It's not that they're trying to run you over," he said, "They're just trying to get you out of the way."

Another driver, Jim Askew, 45, said, tractor-trailers run most efficiently in the low 60 mph range. The financial incentive is not to speed, said Askew, an independent driver who is studying real estate in the hope he can get out of the business. Pushing an engine can cause reduced gas efficiency, which means dollars lost.

Problems arise, Askew admitted, when a trucker has to make a delivery on an impossibly tight timetable. That's when you get the "kamikazes running in the hammer lane," he said.

"Companies can fire you for delay of freight," Askew added. "They want those deliveries made."

He described being told by a dispatcher on a Friday that he had to pick up and load in Lancaster, Ohio and deliver it to Los Angeles by Monday morning.

"I was there on Monday," Askew said. "It wasn't in the morning, but I was there."

Al Young, a driver with 20 years of experience, admitted that truckers had a serious image problem, particularly when it concerns speeding and following too closely.

"Most people don't like truck drivers because they're in the way," he said. "But they don't realize what those trucks are doing for them. They don't realize that almost everything they eat and wear comes by truck."

Young said he had received an award for heroism from the American Trucking Association for helping a woman who had been critically injured when a van crashed into a bridge abutment in Oklahoma. Young had tied a tourniquet to the woman's severed leg.

"You can't believe the pressure a trucker takes out there," he said. "I can't tell you how many times I've tried to keep a safe distance between me and the car in front only to have someone slip into the gap. Too many motorists don't realize what they're doing when they cut in front of a truck."

For his part, Sgt. Hamilton still vividly recalls the tractor-trailer that glued itself to his bumper when he was cruising in an unmarked car as part of the ongoing undercover program.

"I looked in the rear-view mirror, and all I could see was the word MACK in big chrome letters," he said.

Unlike thousands of motorists who have similar experiences daily, Hamilton was able to do something about it.

Mr. DANFORTH. Mr. President, today I am introducing legislation, on behalf of myself and Mr. PACKWOOD, which addresses a number of critical motor carrier safety issues. The first of these two bills, the "Commercial Motor Vehicle Safety Act of 1985," has four major components.

First, the legislation would establish a commercial motor vehicle safety trust fund composed of the fines and penalties paid by violators of the Federal commercial motor vehicle safety regulations. At present, these fines are deposited in the highway trust fund.

Second, using the funds from the commercial motor vehicle safety trust fund, this legislation would establish an incentive grant program under which States would receive funds to conduct more frequent random roadside inspections of truck and bus equipment and to conduct random tests of truck and bus drivers for alcohol and drug use. Testimony received by the Commerce Committee has shown that random roadside equipment inspections are one of the most effective means of ensuring equipment safety and locating unsafe equipment. This provision would encourage States to increase their roadside inspection activities to ensure that a greater proportion of motor carriers are subject to equipment inspections. Coupled with these equipment inspections is the concept of random testing of drivers to ensure that they are not driving under the influence of alcohol or drugs. These random tests are not intended to be a means of harassing drivers.

However, given the increased awareness of the overall drunk driving problem and the extensive driving undertaken by motor carrier operators, it is imperative that steps be taken to reduce and, ultimately, eliminate alcohol and drug use by professional drivers.

Third, this legislation would require the Secretary of Transportation to promulgate a final rule within 18 months of enactment of this bill to provide individuals who operate a motor carrier in interstate commerce with a national commercial motor vehicle operator's license. By establishing a national driver's license for motor vehicle operators, we can all be assured that national standards for testing, both written and on-the-road, are established and utilized. Currently, motor carrier operator's licensing procedures vary from State to State. Some States have excellent programs while others require little more than for a person to have a valid automobile driver's license. We must make certain that motor carrier operators indeed are qualified to operate their equipment on our Nation's highways.

Last, this legislation would increase and extend the funding authorizations for the Motor Carrier Safety Assistance Grant Program, which was established in 1982. Title IV of the Surface Transportation Assistance Act of 1982 provided authorizations for this program through 1988, with authorization levels of $40 and $50 million for fiscal years 1987 and 1988, respective-

ly. Testimony presented to the committee has shown, however, that increased funding is needed for this program. Equally important is the commitment to continue funding for this vital program beyond fiscal 1988. The legislation being introduced today would increase the authorization levels for fiscal 1987 and 1988 to $50 and $60 million, respectively, and provide authorizations of $70 million for fiscal 1989 and $80 million for fiscal 1990.

The second bill I am introducing today would establish a nationwide standard of 0.04-percent blood-alcohol content [BAC] as the level at which any truck or bus operator shall be presumed to be intoxicated. The legislation would accomplish this by requiring State legislatures to enact the 0.04-percent standard, thereby setting a higher standard for professional drivers than that which nonprofessional drivers are required to meet. Each State would be required to adopt the 0.04-percent standard by fiscal 1989; failure by a State to enact this more stringent standard would result in forfeiture of 5 percent of that State's highway construction funds in fiscal 1989 and 10 percent in fiscal 1990 and each year thereafter from the Department of Transportation. As part of this, States also would be required to include provisions which provide for the following:

First, administrative penalties for driving while intoxicated, including suspension of the motor carrier operator's driver's license for 2 years, participation in rehabilitation programs, and community service work;

Second, a stipulation that failure to consent to a BAC test is admissible evidence in any criminal proceeding which requires proof of intoxication; and

Third, a requirement that police must conduct a BAC test of any motor carrier operator involved in an accident.

Mr. President, this safety legislation is urgently needed. I urge my colleagues to join me in supporting these measures. I also ask unanimous consent that the text of these two bills be printed in the RECORD in their entirety.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commercial Motor Vehicle Safety Act of 1985".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States), or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

(A) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; and

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.);

(3) "Secretary" means the Secretary of Transportation;

(4) "State" means a State of the United States and the District of Columbia, and includes a political subdivision of a State; and

(5) "United States" means the fifty States and the District of Columbia.

COMMERCIAL MOTOR VEHICLE SAFETY FUND

SEC. 3. Section 521(b)(9) of title 49, United States Code, is amended to read as follows:

"(9) There is established in the Treasury of the United States the Commercial Motor Vehicle Safety Fund. All penalties and fines collected under this section shall be deposited into such Fund. The Secretary shall use amounts in such Fund only for the purposes specified in section 4 of the Commercial Motor Vehicle Safety Fund of 1985.".

RANDOM INSPECTIONS

SEC. 4. (a) Subject to the provisions of this section, the Secretary shall make incentive grants to those States which adopt and implement an effective program to conduct inspections, on a random basis, of commercial motor vehicles. Such grants may only be used by a recipient State to implement and enforce such a program.

(b) Funds for such grants shall be derived from the Commercial Motor Vehicle Safety Fund established by section 521(b)(9) of title 49, United States Code.

(c)(1) For purposes of this section, a State is eligible for a grant if the program of such State provides—

(A) that commercial motor vehicles are inspected frequently (as determined by the Secretary), and that such inspections are conducted at roadside and on a radom basis;

(B) for the administration, on a random basis, of chemical tests to determine whether the operator of a commercial motor vehecle is intoxicated or under the influenence of a controlled substance while operating such motor vehicle; and

(C) for the prompt suspension, for a period not less than 150 days, of the operator's license of any individual who is determined, as a result of a test administered under paragraph (2) of this subsection, to be intoxicated or under the influence of a controlled substance, or who refused to submit to such a test.

(2)(A) For purposes of this subsection, any person with a blood alcohol concentration of 0.10 percent or greater when operating a commercial motor vehicle shall be deemed to be operating such vehicle while intoxicated.

(B) As used in this subsection, the term "controlled substance" shall have the meaning given to such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

NATIONAL COMMERCIAL MOTOR VEHICLE OPERATOR'S LICENSE

SEC. 5. (a) The Secretary shall, within 18 months after the date of enactment of this Act, promulgate a final rule which establishes procedures under which the Secretary will provide each individual who operates a commercial motor vehicle in interstate commerce with a national commercial motor vehicle operator's license. The Secretary shall specify the manner in which application for such a license shall be made, and the requirements which any applicant for such a license must satisfy.

(b) On and after the date which is 60 days after the Secretary establishes procedures under subsection (a) of this section, no individual shall operate a commercial motor vehicle in interstate commerce unless such individual has in the individual's possession a license issued by the Secretary under this section.

(c)(1) If the Secretary determines that a violation of subsection (b) of this section has occurred, the Secretary may assess a civil penalty not to exceed $5,000 for each offense. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature and circumstances of the violation committed and any history of prior offenses by the violator.

(2) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this subsection may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit in which the violation is alleged to have occurred, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objective that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(d)(1) In order to assist the Secretary in carrying out the provisions of this section, the official in each State responsible for licensing operators of commercial motor vehicles in that State shall transmit to the Secretary a report containing the information specified in paragraph (2) of this subsection regarding any individual—

(A) who is denied a commercial motor vehicle operator's license by such State for cause; or

(B) whose license is canceled, revoked, or suspended by such State, for cause.

(2) Any report regarding an individual which is transmitted by an official pursuant to paragraph (1) of this subsection shall contain—

(A) the legal name, date of birth (including day, month, and year), sex, and (at the Secretary's discretion) the height, weight, eye color and hair color of such individual;

(B) the name of the State transmitting such information; and

(C) the social security account number, if used by the reporting State for operator record or commercial motor vehicle license purposes, and the commercial motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number).

except that any report concerning an occurrence specified in paragraph (1) (A), (B), or (C) of this subsection which occurs during the two-year period preceding the date of

enactment of this Act shall be sufficient if it contains all such information as is available to such official.

(3) Any report required to be transmitted by an official under paragraph (1) of this subsection shall be transmitted to the Secretary not later than thirty-one days after such official first receives or learns of any information specified in paragraph (1) (A), (B), or (C) of this subsection which is the subject of such report.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 6. Section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) is amended—

(1) by striking "40,000,000" and inserting in lieu thereof "$50,000,000";

(2) by striking "and" after "1987,";

(3) by striking "$50,000,000" and inserting in lieu thereof "$60,000,000"; and

(4) by striking "1988." and inserting in lieu thereof "1988; not to exceed $70,000,000 in the fiscal year ending September 30, 1989; and not to exceed $80,000,000 in the fiscal year ending September 30, 1990.".

S. 1904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Operation of commercial motor vehicles by intoxicated persons

"(a) In order not to have withheld an amount in accordance with subsection (b) of this section, a State shall have enacted or adopted and put into effect laws, rules or regulations which provide that—

"(1) for purposes of the laws of such State, a blood alcohol content level of 0.04 in any person while operating a commercial motor vehicle is per se evidence of intoxication;

"(2) the State suspends, for a period of not less than two years, any license to operate a commercial motor vehicle issued to a person who is determined to have a blood alcohol content level of 0.04 while operating a commercial motor vehicle and requires such person, prior to the reissuance of such a license, to participate in rehabilitation programs and to perform services which benefit the community as a whole;

"(3) for purposes of the laws and procedures of such State, failure by the operator of any commercial motor vehicle to consent to the administration of a blood alcohol content test upon the request of an authorized law enforcement officer of such State is admissible evidence in any criminal proceeding against such operator; and

"(4) such State administers a blood alcohol content test to the operator of any commercial motor vehicle which is involved in an accident within such State.

"(b) The Secretary shall withhold—

"(1) 5 per cent of the amount required to be apportioned to any State under each of subsections (b)(1), (b)(2), (b)(5) and (b)(6) of section 104 of this title on the first day of the fiscal year commencing on October 1, 1988; and

"(2) 10 per cent of the amount required to be apportioned to any State under each of subsections (b)(1), (b)(2), (b)(5) and (b)(6) of section 104 of this title on the first day of each fiscal year beginning on or after October 1, 1989.".

(b) The table of sections of chapter 1 of such title is amended by adding at the end thereof the following new item:

"159. Operation of commercial motor vehicles by intoxicated persons.".●

● Mr. PACKWOOD. Mr. President, one of the most important highway safety problems facing this country is that of motor carrier safety. The truck and bus industries log billions of miles of travel each year over our Nation's highways providing essential transportation services. The vast majority of truck and bus companies and their employees are responsible, safety-conscious individuals. Nevertheless, a substantial motor carrier safety problem exists and action must be taken to reduce the death and injury on our highways which result from motor carrier accidents.

The two pieces of motor carrier safety legislation being introduced today builds on the efforts undertaken in 1982 and 1984 by Congress, as well as the important safety initiatives being undertaken by State and local governments, the truck and bus industries, and organized labor. This legislation would provide increased funding to States to conduct random equipment inspections and it would establish a uniform, national driver's licensing system for truck and bus drivers who operate in interstate commerce. Perhaps most important, this legislation would address safety problems associated with the operators of commercial motor vehicles in two ways. First, the legislation would provide incentive grant funding to States to conduct random inspections of drivers for alcohol and drug use as part of the random equipment inspections. Second, the legislation would encourage States to set a 0.04 percent blood-alcohol content level as per se evidence of intoxication. These provisions are in no way meant to lead to harassment of commercial motor vehicle operators. Further, it is imperative that in any drug and alcohol testing procedure developed for motor carrier opeators we must ensure that innocent drivers are protected. I look forward to working with the motor carrier industry and organized labor to develop effective, equitable means of testing for drug and alcohol use.

I also want to note that these drunk driving provisions are not intended to tie the hands of the States in their efforts. We must, however, make sure that operators of commercial motor vehicles do not drive under the influence of drugs or alcohol. By encouraging States to conduct random testing of drivers, motor carrier operators will know that there is a reasonable chance of being tested for alcohol or drug use on any given day. Further, by encouraging States to set a 0.04 percent blood-alcohol content standard as the level of intoxication for commercial motor vehicle drivers, the responsible operation of motor carriers will be further promoted.

Mr. President, this is important legislation. I commend my distinguished colleague Senator DANFORTH for his efforts in the field of motor carrier safety and I look forward to working with him on these important initiatives.●

By Mr. MATHIAS:

S. 1905. A bill to reimburse the city of Frederick, MD, for money paid by the citizens of such city to save and hold harmless valuable military and hospital supplies owned by the U.S. Government; to the Committee on the Judiciary.

FREDERICK RANSOM BILL

Mr. MATHIAS. Mr. President, it is with both patience and confidence that I introduce this bill, once again, into the U.S. Senate. Patience, because since 1889 the Congress of the United States has failed to recognize the sacrifice made by the people of Frederick, MD, in service to their country, during the Civil War. Confidence, because today I am introducing for the 13th time legislation to repay that debt borne by the citizens of Frederick, and think that 13 will be a lucky number.

I have recounted the circumstances of this injustice many times in the Senate and on earlier occasions in the other body. We in Maryland believe that it is never too late to show that a grateful nation appreciates acts of civic responsibility and courage.

Briefly, on July 9, 1864, Gen. Jubal A. Early, commander of the Confederate forces at Frederick, demanded from the city $200,000 or the equivalent in supplies for the support of his army. At the time, warehouses in Frederick held Federal supplies valued at over $1.5 million. Rather than take the easy way out, by giving Early some of those Federal supplies, the city raised the funds by borrowing from local banks. The debt was not retired until 1970 and only at considerable expense to Frederick.

The delay caused by the negotiations and by the Battle of the Monacacy that followed allowed time for Federal troops to reinforce the Nation's Capital, which was poorly defended at the time. Early had intended to capture Washington and free thousands of Confederate prisoners held at Point Lookout in southern Maryland. With the Capital in rebel hands and a newly raised army in the field, there is no way to know how the Federal Government would have reacted, especially when the country was increasingly tired and frustrated about the conduct of the war.

It is also interesting to note that the annual budget for the city of Frederick in 1864 was $8,000. And yet they raised $200,000 to save those Federal supplies from falling into enemy hands and delayed the advance on Washington by Early's forces.

The records of the day show that Washington was indeed in danger. On July 5, 1864, Maj. Gen. George G. Meade wrote to Lt. Gen. Ulysses S. Grant:

The following information obtained from two deserters who came in this morning, is sent to you for what it was worth. They state it to be currently reported at Richmond and Petersburg that Early * * * was making an invasion of Maryland, with a view of capturing Washington, supposed to be defenceless.

A few days later President Lincoln was so concerned about the defenses of Washington that he wrote to General Grant, then with his troops at the seige of Richmond:

Your despatch to General Halleck, referring to what I may think in the present emergency, is shown me. General Halleck says we have absolutely no force here fit to go to the field * * * Now, what I think is that you should provide to retain where you are, certainly, and bring the rest with you personally.

On July 10, Halleck sent the following message to Grant:

* * * What you say about getting into Early's rear is perfectly correct, but unfortunately we have no forces in the field. All such forces were sent you long ago. What we have here are raw militia, invalids, convalescents from the hospitals, a few dismounted batteries, and the dismounted and disorganized cavalry sent up from the James River.

Those weak units were the only troops standing between Early and the capture of Washington. The delay caused by the Battle of the Monocacy which halted the march and buy the time for raising the money to meet the ransom demands allowed Grant the time to move troops up the Potomac River to Washington. Every hour that the Confederates were delayed meant that help was that much closer.

When Early finally did arrive at the outskirts of Washington, his intelligence sources advised him that Union troops were disembarking in force on the wharves along the Washington waterfront. He then knew that it was a practical impossibility to overrun the center of the city. So he wheeled away from the Capital and recrossed the Potomac upstream.

Mr. President, Frederick is not making a claim for the value of private property damaged or destroyed by the enemy, although Congress has enacted bills on numerous occasions authorizing the claims of private citizens for the value of their private property destroyed by the enemy.

The Congress has for many years recognized the merits of claims by Native Americans that arise from colonial days and has reimbursed owners of fishing vessels for fines that had to be paid for the violation of fishing area limitations of various South American countries.

Frederick is justly entitled to reimbursement for the actual costs of the following items:

Bonds and certificates issued to the five banks from which the General Early money was obtained as security for the loan to the city on July 9, 1864, held by banks 1868–88.

Interest paid at 6 percent per annum by the city upon the bonds and certificates to the banks, 1868–88, such interest being derived from taxes imposed by the city.

Interest on the tax loss to pay interest 1868–88, at 4 percent per year.

Tax exemption granted five banks from general special tax levy of 20 cents per $100 on capital stock, 1868–88.

Interest at 4 percent on tax loss in granting exemption to banks, 1868–88.

Interest at 4 percent per annum above costs to the city to repay five banks for their repective loans, the bank loans having been made to the city in 1864, and compromise settlement agreement on debt payment of $125,225.21 of above bonds and certificates accepted July 1, 1868, paid July 1, 1888, by refunding debt 1888–1970.

Interest paid by the city on 24 percent of refunding bond issues of 1888 in amount of $512,500 at 4 percent interest, bank bonds refunded in amount of $123,000, 1888–1917, tax loss to pay interest on 24 percent at 4 percent, 1888–1917.

Interest at 4 percent per annum on tax loss to pay 24 percent of interest 1888–1917, bonds having been partially amortized, 1888–1917.

Interest at 4 percent on interest paid on bonds and on tax loss incurred to pay interest, 1917–70.

Interest paid on 24 percent of refunding bond issue of October 1, 1917, at 4½ percent, attributable to refunded bank bonds, of issue of $380,000, October 1, 1917, to October 1951, tax loss to pay interest on 24 percent at 4½ percent, 1917–51.

Interest at 4 percent on interest paid on bonds on tax loss incurred to pay interest, 1951–70.

History records that many cities suffered damage during the Civil War, yet few of them incurred such a prodigious debt as that of Frederick in its attempt to protect supplies for which there was dire need. Frederick sacrificed money it did not have in order to defend Federal supplies. The negotiations thus bought time so Washington, DC, could be saved from attack and capture.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money in the Treasury not otherwise appropriated to the city of Frederick, Maryland, a sum not to exceed the actual cost to the city, including interest thereon when incurred, to make the payment as hereinafter stated, on the debt incurred until October 1, 1951, and simple interest at the rate of 4 per centum per annum on the cost to the city to liquidate the debt as incurred, until reimbursement is paid of the amount determined by the Secretary of the Treasury to be due as defined herein, as of the date of payment in full satisfaction of the claim of the city, against the United States for reimbursement for the money paid by the city on July 9, 1864, upon demand of Lieutenant General Jubal A. Early (commanding general of the Confederate Armed Forces of over twenty thousand troops then surrounding the city) and under rumored threats that all property in the city would be destroyed; the demand having specified $200,000, and in the alternative medical supplies of $50,000 at current prices, commissary supplies to the same amount, ordnance supplies with the same, and quartermaster's supplies of a like amount (all of such being the property of the United States Government as part of the supply depot and hospital of the command headquarters of the Union Armed Forces in Frederick for the deployment of Union troops at strategic points along the Maryland shores of the Potomac River in western Maryland as a defense against invasion by Confederate troops across the Potomac and in defense of Washington from attack through Maryland, and to supply Union troops moved through the command area during the war; none of such demanded supplies being the property of Frederick) and with all Federal troops (including advance guard and their mobility supplies) having evacuated the city to be deployed for the imminent battle of the Monocacy, the city and the Government supply depot being left defenseless; after pleading negotiations throughout the day with the Confederate command, which failed, and under stress of the rumored threats of destruction, the city demanded the money required of the banks of the city to be delivered to the Confederate general, the city promising the lending banks that the citizens of the city would be taxed to reimburse the banks, and taxes were imposed over a long period by the city to amortize the debt and through a series of refunding bond issues of the city, finally liquidated in the year 1951, at rates of interest of 6 per centum, 4 per centum, and 4½ per centum and upon delivery of the money by the banks to the city and delivered to the Confederate general none of the Government property was destroyed nor molested, and not only was Government property saved harmless, but the daylong negotiations, between city officials and Confederate officers, gave time for better strategic deployment of the limited Union Armed Forces at the Monocacy and the arrival of some reinforcements, and most importantly the relatively short battle of Monocacy, together with the stubborn resistance and difficulty of Frederick in raising the $200,000 demanded, lost a day in the march upon Washington by the Confederate Armed Forces and gave time for the successful reinforcement of the Union defense of Washington—thus the claim of Frederick is for action taken not only to save United States Government property from being destroyed, but also, at great financial cost to the citizens of Frederick to carry the debt, which

contributed greatly in saving Washington from direct attack by over twenty thousand of the Confederate Armed Forces and allowed time for arrival of reinforcements for the Union Armed Forces for the defense of Washington.

By Mr. BOSCHWITZ (for himself, Mr. GRASSLEY, Mr. DURENBERGER, Mr. HARKIN, Mr. BAUCUS, Mr. MCCONNELL, Mr. NICKLES, Mr. BOREN, Mr. ABDNOR, and Mr. PRESSLER):

S. 1906. A bill to provide an opportunity for agricultural borrowers to restructure loans from commercial lenders and Farm Credit System institutions in order to maintain the viability of their farming operations and thus preserve the family farm system as the backbone of American agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CREDIT PARTNERSHIP ACT

● Mr. BOSCHWITZ. Mr. President, today the difficulties of many farm borrowers are severe. And we here in Congress are faced with an urgent need to deal with their problems. If we don't do it soon, we may end up doing it through foreclosures, bankruptcies, and bank failures.

However, I think that the farm credit problem may be much more easily resolved than the one we are facing in conference this next week: that is, the 1985 farm bill and all of the complicated economic questions that stem from it. So I have some optimism about what we can do to help farm borrowers and lenders. That's why earlier this week 10 of my colleagues and I introduced an amendment to the Farm Credit System bill that would have provided some actual relief to farmers—not just to the institutions they borrow from.

Today I am pleased to report that although we lost round one, we are ready to begin again with our efforts to pass legislation that brings credit relief to the farmers.

And I am even more pleased to report that companion legislation is being introduced in the House today by Congressmen PANETTA and STANGELAND, and that they are being joined by the chairman of the House Agriculture Committee Mr. DE LA GARZA, as well as the chairman of the House Agriculture Subcommittee on Credit Mr. JONES.

Mr. President, today I am again being joined by Senators GRASSLEY, ABDNOR, BAUCUS, BOREN, DURENBERGER, HARKIN, MCCONNELL, NICKLES, and PRESSLER as we reintroduce our Farm Credit Partnership Act.

Our bill, is designed to give farmers and their lenders an opportunity to restructure their debts and to stay in business. The primary points of our plan include:

Incentives for banks and the Farm Credit System to write down farmers loans by up to 30 percent. That's debt destruction that is so needed to counter the bottom falling out of land prices. We do this by providing FmHA guarantees on the written down portion of the loan, and then allowing the bank to write the loss off over a 10-year period.

A 5-percent interest rate buydown for a 3-year period which is paid for by the Federal Government, the State government and the lender at a 2-2-1 ratio.

Our goals are simple. We want to provide a program that: First, is targeted to the family-sized farmer and will help reduce their crushing debt load; and second, maintains the solvency of small, rural agricultural lenders.

Mr. President, I request that a section-by-section analysis of the bill, as well as the bill itself be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TITLE I—FARM CREDIT PARTNERSHIP ACT

TITLE II—FEDERAL-STATE-LENDER PARTNERSHIP—INTEREST RATE BUYDOWN

Section 201.—Definitions

"Borrower" is any individual, family corporation or family partnership that has made at least 50 percent of its gross income from farming in four of the past five years, and holds agricultural loan or loans.

"Lender" is any commercial bank, savings and loan association, credit union, insurance company, or farm credit institution that has agreed to participate.

"Institution" is any bank or association of the Farm Credit System.

Section 202.—Farmer eligibility

Borrowers are limited to a $400,000 aggregate loan participation in the case of an individual and $600,000 in the case of family corporation or partnership. To qualify the borrower must also meet the following:

(1) Average gross annual sales above $30,000 for at least three of the past five years;

(2) Debt to asset ratio above 40 percent;

(3) Debt to asset ratio that falls below 100 percent after principal is reduced (Farm Credit System loans do not qualify for the principal reduction provisions);

(4) Can show an ability to repay the restructured debt.

Section 203.—Interest rate buydown

A three-year program allowing eligible borrowers to apply to their lenders any time during the one-year window from the date the program begins. The loan itself must have been in existence as of October 1, 1985. The individual states will administer this part of the program.

The loan will have up to 5 percent interest buydown, with the 5 percent taken off the rate charged on the borrowers loan as of Dec. 1, 1985.

The 5 percent will be provided by the federal government at 2 points, state government up to 2 points, and the lender taking the remaining one point.

All lenders and farm credit institutions listed in definitions are eligible lenders.

State contribution is optional, but to receive federal assistance in its administrative costs, the States must contribute at least one point of interest buydown.

States will submit a plan to the Secretary of Agriculture by March 1 of each year which:

(1) designates a single agency to be responsible for running the program;

(2) assesses the interest subsidy needs of borrowers in the state;

(3) describes the program for administering, and includes the lenders who will be participating;

(4) estimates the state's borrower participation level and the funds needed.

Secretary must review and rule on the plan before April 15.

State agency will then handle the transfer of funds from government to lender.

Section 204.—Farm Credit System foreclosure rules

This section applies only to the Farm Credit System.

An institution cannot take action on a defaulted loan until they have run the borrower through the interest buydown provisions of this Act.

Section 205.—Effective date

This Title becomes effective in any state when that state's State Plan has been accepted by the Secretary of Agriculture.

TITLE III—AGRICULTURAL LOAN PRINCIPAL REDUCTION

Section 301.—General rules

Qualified institutions for this title as those who either have their deposits insured by the FDIC or guaranteed under State law.

Borrower's with loans written down under this Act will not be liable for any of the written-down loan, or the accrued interest attributable.

Any loan that is written down under this title is also eligible for the interest rate buydown in Title II.

If the write-down of principal needed to qualify a borrower for assistance under this Act is equal to or greater than 15%, and the lender is participating in the interest rate buydown set up in Title II, then the lender is not liable for their one point of interest subsidy contribution.

Section 302.—FmHA guarantees for qualified institutions

This section sets up the procedure for the 30 percent write-down for the commercial banks. The Farm Credit System's institutions do not qualify for this assistance.

The FmHA guarantees will be provided by the FmHA to assist the qualified institutions with the losses associated with their participation in the principal write-down.

The guarantees will only be available for up to a 30 percent principal write-down—if a loan is written down more than 30 percent there is no penalty, but no assistance either beyond that point.

These guarantees will allow the bank to stretch out the loss over a ten-year period; however, if a bank should foreclose on a participating borrower, the bank would take all the remaining loss in that year.

To qualify, a bank must have a net worth of at least equal to or greater than four percent of its assets, and it cannot fall below this level after receiving the guarantees.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401

Requires that the FDIC, Comptroller and Federal Reserve set up an interagency task force to assist commercial agricultural banks and their borrowers, and to report to Congress on March 1, 1986 and semi-annually thereafter, its findings and recommendations.

Section 402

This section clarifies that the requirement for fixed rate mortgages in any restructured loan supersedes any state law.

Section 403

Provides for up to $10,000 fine or up to five years in prison for those who steal, forge, misapply, etc., under this act.

Section 404

Authorizes regulations to be issued if necessary.

Section 405

Authorizes appropriations at such sums as necessary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE

SEC. 101. This Act may be cited as the "Farm Credit Partnership Act".

TITLE II. DEFINITIONS

SEC. 201. For the purposes of this Act, as used in the term:

(a) "Borrower" means any individual, family corporation, or family partnership who or which derives not less than fifty percent of gross annual income for not less than 4 out of the past 5 years from production of raw agricultural products, including livestock or poultry and the products of aquaculture, and who or which, on the date of enactment of this Act, holds from a lender a loan or loans for agricultural purposes which is sub-standard.

(b) "Lender" means any commercial bank, savings and loan association, credit union, insurance company, or institution (defined in Subsection (c)), which includes subsidiaries and affiliates of the above which has agreed to participate in the interest subsidy and loan reduction programs established pursuant to this Act and has been designated in a State plan approved by the Secretary under Title II of this Act.

(c) "Institution" means any bank or association of the Farm Credit System established under the Farm Credit Act of 1971, as amended, 12 U.S.C. 2001, et seq.

(d) "State" means each of the several States of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and, to the extent the Secretary of Agriculture determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(e) "State agency" means the official or agency designated by the State to administer the programs established by this Act in that State.

SEC. 202. Assistance to any borrower under this Act shall be limited to an aggregate outstanding amount, including principal and interest, which does not exceed $400,000 in the case of an individual, and $600,000 in the case of a family corporation or family partnership. In order to qualify for assistance a borrower must demonstrate to the satisfaction of the lender:

(a) average gross annual sales in excess of $30,000 for not less than three of the preceding five tax years;

(b) a debt to asset ratio in excess of forty percent;

(c) ability, based upon past performance as a capable producer, to repay the debt after restructuring pursuant to this Act where such restructuring is jointly agreed to by borrower and lender.

SEC. 203. (a) Subject to the availability of funds provided pursuant to subsection (e) of this section, the Secretary of Agriculture thereinafter referred to as the Secretary) in consultation and cooperation with the Secretary of the Treasury, Comptroller of the Currency, Chairman of the Federal Reserve Board, Governor of the Farm Credit Administration, Federal Deposit Insurance Corporation, and each State agency, shall establish a cooperative Federal-State-Lender agricultural loan interest subsidy (AgLIS) program in which, at the request of a State, borrowers and lenders within the State shall be provided an opportunity to participate. During the year beginning on the date of USDA's approval of a State's plan, as defined in this Section and ending on a date one year later a borrower may apply to a lender for an interest rate subsidy with respect to any agricultural loan to that borrower from that lender outstanding on October 1, 1985. Upon such application by a borrower who or which qualifies for assistance under this Act and agreement by the lender, the loan shall be restructured within 90 days of date of application in such a manner that the interest rate of the borrower shall be fixed for a period of three years or the remaining term of the loan, whichever is less, at a rate equal to the rate of the borrower's loan as of December 1, 1985, less up to five percentage points. Of the up to five percentage point reduction or subsidy, two percentage points shall be paid by the Secretary through the State agency to the lender, not less than one percentage point nor more than two percentage points shall be paid to the lender by the State, and, subject to the provisions of Section 301(b) of this Act, one percentage point shall be borne by the lender. Any State which requests participation in the program but declines to bear that State's share of the interest subsidy shall nonetheless be required to file and implement a State plan as required by this section, but shall be ineligible for reimbursement of administrative expenses as provided by this section. The term to maturity of any debt for which interest subsidy is provided under this section shall not be less than the term to maturity of the debt outstanding before such subsidy is provided. Payments on such debt shall be restructured in accordance with the borrower's ability to repay. Accrued interest on such outstanding debt prior to restructuring shall not be capitalized but shall be paid by the borrower to the lender prior to any retirement of principal under the loan agreement as restructured pursuant to this Act. Any balance of principal and interest outstanding at the end of three years on any loan restructured under this Act shall be repaid as agreed between borrower and lender at a rate of interest not to exceed the standard rate then charged by the lender on loans with comparable maturities for similar purposes.

(b)(1)(A) From the sums available pursuant to subsection (e) of this section the Secretary shall, subject to the provisions of this subsection and subsection (c), pay to State agencies an aggregate sum not to exceed $600 million for each of the fiscal years 1986, 1987, 1988 and 1989 to finance the Secretary's share of agricultural loan interest subsidies provided to lenders, and, in states contributing to the subsidy, 50 percentum of the approved State administrative expenses related to the provision of such assistance.

(B) The payment or payments to each State agency for any year shall be in such amount or amounts as the Scecretary may determine and shall not exceed the expenditures by that State during that year for the provision of the Secretary's share of the interest subsidy to participating lenders according to the plan of the State approved under subsection (c) and, in States contributing to the subsidy, 50 percentum of the related approved State administrative expenses.

(2) The Secretary shall, subject to the provisions of subsection (c), pay to each State for the applicable year, at such times and in such manner as the Secretary may determine, the amount estimated by the State pursuant to the subsection (c)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

(c)(1)(A) In order for borrowers and their lenders to receive benefits under this Act for any year, each State shall have a plan for the year approved by the Secretary under this section. By June 1, 1986, and March 1 of each year hereafter, in which the interest subsidy is available, if the State wishes borrowers and their lenders to receive benefits, it shall submit a plan which—

(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such subsidy;

(ii) assesses the interest subsidy needs of borrowers residing in the States;

(iii) describes the program for the provision of such interest subsidy, including the lenders to whom such subsidy will be paid and any agencies designated to provide such payments, which program must meet such requirements as the Secretary may prescribe;

(iv) estimates the amount of expenditures necessary for the provision of the interest subsidy, and, in States contributing to the interest subsidy, related administrative expenses up to the amount allocated by the Secretary for payment in that State out of the total amount available for payment pursuant to subsection (b)(1)(A);

(v) requires any institution participating in the programs established by this Act to provide to any borrower whose loan is or becomes, non-performing between the date of enactment of this Act and 30 days prior to the ending date defined in Sec. 203 (a);

(vi) includes such other information as the Secretary may require.

(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than July 15, 1986, and April 15, in subsequent years, in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that subparagraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate State agency that payments will not be made to it under subsection (b) for the year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and under the Secretary is so satisfied, the Secretary shall make no payments.

(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments of approved State administrative expenses related to provision of assistance in States contributing to the interest subsidy, in

whole or in part, for the year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

(2)(A) The State shall provide for an annual audit of expenditures under its program for the provision of the interest subsidy described in subsection (b)(1)(A) within 60 days of the end of each year in which the interest subsidy is provided and shall promptly report to the Secretary the findings of such audit.

(B) Within 60 days of the end of each year in which the interest subsidy is available the State shall provide the Secretary with a statement as to whether the payments received under subsection (b) for that year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(C)(i) If the Secretary finds that there is a substantial failure by the State to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (c)(1)(A) in the administration of a plan approved under subsection (c)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the State agency in the State that further payments will not be made to it under subsection (b) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments of approved State administrative expenses related to provision of assistance in States contributing to the interest subsidy, in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (c)(1)(A), at which time such withheld payments shall be paid.

(iii) Upon finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (c)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the State and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(d) The Secretary shall provide for review and, in the discretion of the Secretary, audit of the program for which payments are made under this section, and may, as the Secretary deems practicable, provide to the States technical assistance with respect to such a program.

(e) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. In order to make assistance available expeditiously and in a consistent and uninterrupted manner the Secretary is authorized and directed to utilize the funds, personnel and facilities of the United States Department of Agriculture, including those of the Commodity Credit Corporation (CCC), and of any other federal or State agency whose assistance is required to establish and carry out the AgLIS program. However, the Congress shall, not later than the next ensuing appropriation act provide full reimbursement of any sums advanced pursuant to this section and is authorized to appropriate such sums for the AgLIS program as may be necessary based on the Secretary's estimate of anticipated federal costs.

(f) The State agency shall have the authority to monitor lender's compliance with Sect. 203(a). Any lender found in violation of that section shall not be eligible to receive further payments under this Act.

SEC. 204. (a) An institution may take action as the result of a borrower defaulting on an outstanding loan made by such institution to any borrower only if—

(1) a thirty day notice of availability of assistance under this Act has been provided as required by section 203(c)(1)(A)(v) of this Act, and

(2) any such borrower who has applied for assistance has been determined not to qualify for assistance under this Section.

SEC. 205. (a) Provisions of this title shall become effective in particular state upon adoption of that state's State Plan.

TITLE III. AGRICULTURAL LOAN PRINCIPAL REDUCTION

SEC. 301. GENERAL RULES.—(a) For the purposes of this Title, the term a "qualified institution" means an institution the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1823) or insured or guaranteed under State law.

(b) Any lender participating in the programs provided under this Act may during the period beginning 30 days after the date of enactment write down the outstanding principal balance on the loan or loans of such borrower by such amount, as will permit such borrower to qualify for assistance. The balance of the principal remaining after such write-down and the accrued interest attributable thereto shall be rescheduled for payment. The borrower shall not be liable for repayment of that portion of the outstanding principal balance written down pursuant to this section nor for the accrued interest attributable thereto.

(c) Any loan which has had the outstanding principal balance written down pursuant to this section, is also eligible for the interest subsidy once that program is in place.

(d) If the write-down of principal needed to enable the borrower to qualify for assistance under this Act equals or exceeds fifteen percent of the principal balance outstanding, the qualified institution shall not be liable for any portion of the cost of the interest subsidy provided under Title II of this Act. In such case the interest subsidy shall total only such amount as is paid by the Secretary and the State, if such State is contributing to the interest subsidy.

SEC. 302. FMHA GUARANTEES.—(a) Effective only for the period beginning on the date of enactment of this Act and ending September 30, 1988, the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is further amended by adding at the end thereof the following new section:

SEC. 351.(a) The Secretary shall establish and carry out in accordance with this section a guaranteed loan program pursuant to the agricultural loan cancellation program established by this title.

(b) For purposes of this section—

(1) An agricultural loan cancellation program shall not—

(A) be limited to cancellation of not more than thirty per centum of the first $500,000 of agricultural loans made to an individual farmer ($750,000 in the case of a partnership of Corporation engaged in farming); and

(B) be limited to borrowers with gross sales in excess of $30,000 debt to asset ratios in excess of forty per centum prior to cancellation, and debt to asset ratios of less than one hundred per centum after cancellation;

(2) The term "qualified institution" means an institution the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1823) or insured or guaranteed under State law; and

(3) The term "restructured loan" means the agricultural loan that results after loan cancellations made under paragraph (1).

(c) Upon the request of a qualified institution, the Secretary shall issue a guarantee to such qualified institution in an amount equal to 90 per centum of the amount of principal forgiven pursuant to the agricultural loan cancellation program of this section provided that:

(1) the guarantee period is 10 years;

(2) the guarantee declines by 10 per centum per annum;

(3) the restructured loan will not be eligible for other guarantees under this title;

(4) the guaranteed portion of the restructured loan can only be exercised if the qualified institution is totally liquidated by the lender's lead financial regulator;

(5) restructured loans pursuant to this section shall not be transferable; and

(6) the loss incurred by a qualified institution as a result of a loan cancellation under this section shall be recognized in equal annual installments over a period of not to exceed ten years, except that if such institution forecloses on any loan a portion of which was forgiven under this section, the entire remaining balance of the forgiven portion of that loan shall be charged off in the year of the foreclosure.

(d) Guarantees under subsection (c) shall be issued by the Secretary upon certification by the qualified institution that such institution—

(1) has net worth equal to or greater than four per centum of its assets; and

(2) has implemented an agricultural loan cancellation program in accordance with subsection (b).

(e) The amendments made by this section shall apply with respect to loan principal cancellations which are put into effect during the period as defined in Section 301(b).

TITLE IV. MISCELLANEOUS PROVISIONS

SEC. 401. Recognizing the severe economic problems confronted by many agricultural banks and the regulatory responsibilities of the Federal Deposit Insurance Corporation (FDIC), the Comptroller of the Currency (CCC), and the Federal Reserve System, these bank regulatory agencies shall develop within 30 days of enactment of this Act an Inter-Agency Agriculural Task Force to assist commercial agricultural banks and their borrowers to work through the present economic problems and to facilitate commercial bank lending to agriculture in the future. Specifically, the Inter-Agency Task Force should: (1) review existing regulations and policies to facilitate agricultural lending; (2) work with field office personnel to avoid conflicts and inconsistencies between the agencies; and (3) consider meaningful alternatives to assist commercial banks in providing agricultural financing by regulatory or statutory changes including

accounting changes, interest rate buydowns, or other similar methods for assisting banks. Require that no later than March 1, 1986 and semi-annually thereafter, each Agency shall report of its findings and recommendations to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition and Forestry of the Senate, Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate.

SEC. 402. The provisions of the constitution or law of any State imposing any penalty, limitation, or moratorium relating to fixed rate mortgages shall not apply to any extension of credit in the form of a fixed rate mortgage made under this Act.

SEC. 403. Whoever embezzles, misapplies, steals, or obtains by fraud, false statements, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

SEC. 404. There are authorized to be issued such regulations as may be necessary to carry out the provisions of this Act.

SEC. 405. There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.●

ADDITIONAL COSPONSORS

S. 1012

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1012, a bill to amend title 18, United States Code, to provide mandatory minimum sentence for offenses involving the sexual exploitation of children.

S. 1174

At the request of Mr. BRADLEY, his name was added as a cosponsor of S. 1174, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children.

S. 1251

At the request of Mr. DOMENICI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1251, a bill entitled "The Natural Gas Utilization Act of 1985."

S. 1544

At the request of Mr. ROTH, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1544, a bill to extend the Trade Adjustment Assistance Program to place such program on a sound financial basis and to reform such program to emphasize the retraining of workers.

S. 1576

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1576, a bill to amend the Trade Act of 1974 to authorize the President to negotiate an agreement establishing a joint commission to resolve trade and other economic disputes between the United States and Canada.

S. 1723

At the request of Mr. CHAFEE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1723, a bill to establish pilot programs to develop methods for parents of children between the ages of 2 and 8, who may be emotionally at risk, to enroll in adult literacy programs in which they will acquire the skills necessary to prepare their children for school and enhance their children's educational achievement through home learning.

S. 1754

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Michigan [Mr. RIEGLE] were withdrawn as cosponsors of S. 1754, a bill to ensure adequate verification of peaceful uses of nuclear exports from the United States to the People's Republic of China, and for other purposes.

S. 1756

At the request of Mr. SIMON, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. BURDICK], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1756, a bill to authorize the President to present to Sargent Shriver, on behalf of the Congress, a specially struck medal.

S. 1774

At the request of Mr. GRASSLEY, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 1774, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 1817

At the request of Mr. TRIBLE, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1817, a bill to suspend temporarily most-favored-nation treatment to Romania.

SENATE JOINT RESOLUTION 235

At the request of Mr. DANFORTH, the names of the Senator from Washington [Mr. EVANS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 235, a joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

SENATE CONCURRENT RESOLUTION 81

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 81, a concurrent resolution requesting the President to begin talks with the Government of the Soviet Union to establish a United States-Soviet Union student exchange for peace program.

SENATE RESOLUTION 227

At the request of Mr. LUGAR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 227, a resolution urging a joint United States-Soviet effort to achieve worldwide disease immunization by 1990.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Resolution 249, a resolution to honor the achievements of Antonio Meucci.

SENATE RESOLUTION 265—RELATING TO TRANSPORTATION OF NATURAL GAS THROUGH PIPELINES

Mr. DIXON (for himself, Mr. METZENBAUM, Mr. HEINZ, Mr. BRADLEY, Mr. RIEGLE, Mr. SIMON, Mr. KERRY, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 265

Whereas consumers of natural gas, large and small, must have access to nondiscriminatory transportation of natural gas in order to encourage competition among suppliers of natural gas and thereby assure the lowest reasonable prices;

Whereas producers of natural gas, particularly independent producers, must have access to nondiscriminatory transportation of natural gas in order to market their gas at fair prices and to continue exploration and production of natural gas; and

Whereas past natural gas transportation practices unnecessarily restricted the ability of willing sellers of natural gas to sell gas to willing buyers, resulting in shut-in natural gas and high monopoly prices to consumers: Now therefore, be it

Resolved, That it is the sense of the Senate that interstate natural gas pipelines should transport natural gas for any person, including residential and commercial users, and should transport natural gas on a nondiscriminatory basis.

● Mr. DIXON. Mr. President, I rise today to submit a resolution, along with Senators METZENBAUM, HEINZ, BRADLEY, RIEGLE, SIMON, KERRY, and LAUTENBERG, that states the sense of the Senate that interstate natural gas

pipelines should transport natural gas on a nondiscriminatory basis.

For the last month, hundreds of natural gas customers in many States have lost access to low-cost gas because of marketing policy decisions by the pipelines.

In my home State of Illinois, dozens of commercial customers who have lost this access are experiencing price increases for natural gas that will total in the millions of dollars annually. These increases are not the result of the free market at work. They are the result of monopoly at work, and my colleagues and I believe the Senate should let the pipeline industry and the Federal Energy Regulatory Commission [FERC] know that it supports an equitable and competitive system of delivering natural gas.

Mr. President, let me give you a brief history of the issue we address today.

The U.S. Court of Appeals found in Maryland People's Counsel against FERC that the Commission's transportation program was discriminatory. The court determined that interstate pipelines violated the Natural Gas Act because not all producers and consumers could use FERC's transportation program. The court of appeals set November 1, 1985, as the date by which the Commission should have in place a new and nondiscriminatory transportation system.

FERC issued its new administrative order, known as FERC Order 436, on October 9 of this year.

That order initially included very broad changes in the natural gas distribution system, which I and many of my colleagues supported with enthusiasm.

Some of these changes have not survived, including the so-called block billing provisions that would have given the greatest relief to gas consumers. The final decision on block billing was postponed, but Order 436 as it currently stands provides both a more efficient delivery system and some price relief.

Under Order 436, if a pipeline transports natural gas for one customer, it must offer the same contractual terms and conditions to every customer.

The order essentially gives pipelines the option of transporting for everyone under the same rules, or choosing to serve no one. Sadly, they are choosing the second option rather than transport gas to customers who have bought the gas directly from the producer, instead of from the pipeline. This cuts off both existing and potential customers from low-cost gas.

Mr. President, I have supported what I believe is the most equitable and efficient distribution system for natural gas: That is, making the pipelines common carriers, the same as oil pipelines are. We have not achieved that yet, but FERC Order 436 comes close to putting that kind of a system in effect.

If customers do not have access to the pipelines to begin with, obviously, the whole system is torpedoed, to the deteriment of natural gas consumers everywhere.

Mr. President, our resolution states that all interstate natural gas pipelines should transport natural gas on a nondiscriminatory basis for any commercial, residential, or industrial user that requests it.

This is the competitive approach, the fair approach and the right approach.●

● Mr. BRADLEY. Mr. President, I join with Senator DIXON in offering this important resolution. This resolution concerns an issue critical to all consumers and producers of natural gas and a plan I have been advocating for many years. I am referring to the issue of contract carriage by requiring natural gas pipelines to transport natural gas for others when they have available capacity in their pipelines, we can save natural gas consumers and the economy over $10 billion.

At both ends of the natural gas pipeline, Mr. President, competition is working for the consumers and the economy. The 15,000 U.S. producers of natural gas are competing with each other, as well as with Canadian and Mexican producers, to sell gas to the 1,500 local natural gas distributors in this country. These local distribution companies are competing for markets with home heating oil, electricity, and conservation. There is little competition, however, in the middle—in the pipelines that transport gas from the well to the local distributors and consumers.

I have long advocated legislation to require that any pipeline company, which has the available capacity, be required to carry gas between a willing seller and a willing consumer. This is known as mandatory contract carriage. In early 1983, I submitted legislation that, for the first time, would have freed up this segment of the natural gas industry—the pipelines—to competitive forces. In the 98th Congress, the Energy and Natural Resources Committee took a long and careful look at contract carriage. The committee adopted my contract carriage proposal by an 18-to-1 vote. Unfortunately the issue never came before the full Senate for action.

It is safe to say that this is the only aspect of the natural gas issue that has been such a broad base of support. Indeed, I have recently received numerous comments from the pipeline industry that they themselves were shortsighted in their opposition to this bill.

That increased competition which would come from mandatory contract carriage can work to help producers and consumers is well documented in the few programs that have been able to go forth. I point to a program that has worked in my own State of New Jersey to reduce gas costs to consumers, a program that would not be possible without access to gas transportation systems. By going directly to the producers, and finding the lowest cost gas supplies, the Citizens Energy Corporation has generated over $10 million in savings to gas consumers of which $2 million went for low-income fuel assistance.

Earlier this year, however, a critical rulemaking (rule 436) was proposed by the Federal Energy Regulatory Commission (FERC). The focus of this new rule was to create increased competition in the natural gas industry. At oversight hearings on this rulemaking, the FERC Chairman O'Connor was questioned closely on the impact of the proposed rule. He was then quite reassuring: this rule, if implemented, would be equivalent really to carriage.

The rule went into effect on November 1. Unfortunately, as it turns out, there are two problems with the new rule. First, the rule is voluntary. And, second, the pipelines aren't volunteering.

Prior to November 1, limited competition seemed to be taking a hold in the gas industry. However, the pipelines only allowed the fruits of competition to fall on specific consumers—notably those who had the alternative and the threat of another fuel supply, such as oil. The FERC rule was intended to make competitive forces work on a nondiscriminatory basis for all willing consumers and producers. After November 1, instead of progress toward new competition and new and broader markets, the pipelines chose instead to close ranks and stamp out this growing competitive force. The result has been customers cut-off and producers shut-in.

I predict that the pipelines will again consider this action short-sighted, when looking back in the future. I point to the single major pipeline, Columbia Gas, which has agreed to the provisions of rule 436. As a result of this decision, this pipeline, which only recently had a tremendous surplus of capacity, is moving maximum quantities of gas.

Nondiscriminatory transportation will benefit consumers, producers and believe-it-or-not many pipelines. Prices will drop and the gas volumes purchased will dramatically rise. The resolution that we submit today, Senate Resolution 255, is necessary to send an unequivocal message to the pipelines that the Senate is aware of their noncompetitive behavior and that we will not stand for it.●

AMENDMENTS SUBMITTED

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT AMENDMENTS

McCONNELL AMENDMENT NO. 1322

Mr. SIMPSON (for Mr. McCONNELL) proposed an amendment to the bill (S. 1174) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children; as follows:

On page 2, line 12, strike out "section 415" and insert in lieu thereof "sections 413 and 415".

On page 2, line 15, strike out "title" and insert in lieu thereof "this title".

On page 2, line 16, strike out "part" and insert in lieu thereof "this part".

On page 5, lines 11 and 12, strike out "or reaches the age of majority".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled on Thursday, December 5, 1985, at 10 a.m. before the Committee on Energy and Natural Resources will be continued on Friday, December 6, 1985, at 9:30 a.m.

The purpose of the hearing is to consider the following nominations to the Department of Energy: Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary for Conservation and Renewable Energy; John C. Layton, of Virginia, to be Inspector General; and David M.L. Lindahl, of Virginia, to be Director of the Office of Alcohol Fuels.

For further information, please contact Gerry Hardy at (202) 224-5304.

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that a nomination hearing has been scheduled on Thursday, December 12, 1985, at 9:30 a.m. in room SD-366 in the Senate Dirksen Office Building in Washington, DC.

The purpose of this hearing is to consider the following nominations: Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary of Energy (Conservation and Renewable Energy); Mary L. Walker, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health); James R. Richards, of Virginia, to be Inspector General, Department of the Interior; Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior (Policy, Budget and Administration); and C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-358 Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Nan Morrison at (202) 224-7143 concerning the Department of the Interior nominees and Gerry Hardy at (202) 224-5304 concerning the Department of Energy nominees.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 5, 1985 in order to consider proposals to change military retirement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services be authorized to meet in open session followed by a closed session to hold a hearing on strategic defense initiative, during the session of the Senate on Thursday, December 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 5, to hold a hearing on DOD organization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 5, to conduct a business meeting to mark up legislation authorizing assistance to combat terrorism in Central America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, December 5, 1985, in order to conduct a hearing on the Foreign Missions Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 5, at 9:30 a.m., in closed session, to receive a briefing on Angola.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 5, at 4 p.m., in closed session to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DIGNIFIED CARE FOR THE TERMINALLY ILL

● Mr. DURENBERGER. Mr. President, Jacob Javits during his decades of service to this body brought greatness to the "world's greatest deliberative body." History, I believe, will portray him as one of the exemplary Senators of this century for his extraordinary legislative skill and influence.

I feel very fortunate to have served with Senator Javits for 2 years at the beginning of my career here in Washington. I have valued his continuing contributions to our work here, especially in the area of health policy.

A recent article from the American Medical News discusses his present work to affect health policy changes, spurred on by his own experience with amyotrophic lateral sclerosis—Lou Gehrig's disease. The disease has given the Senator a new political goal: dignified care for the terminally ill. As medical technology is able to sustain life longer and longer, few individuals and their families are given the right to decide whether to discontinue life-sustaining treatments. He contends that a uniform national model policy is needed so that the burden of responsibility can be returned from the medical profession, where it overwhelmingly now rests, to the individual and his family.

This perspective offered by Mr. Javits demands our attention. I ask that my colleagues consider the following article and the important statement made by Senator Javits on this issue.

Mr. President, I ask that the text of this article be printed in the RECORD.

The article follows:

FORMER SENATOR PLEADS FOR DIGNIFIED DEATH

(Himself terminally ill, Jacob Javits asks for state and federal laws on the matter.)

Crippled by amyotrophic lateral sclerosis (Lou Gehrig's disease), the former Sen. Jacob Javits is confined to a wheelchair,

breathes through a portable respirator, and props up his head with a supportive collar. He can no longer write or shake hands, and must speak in labored three-word phrases.

But the disease has given Javits a new political goal: dignified care of the terminally ill. Testifying recently before a House Select Committee on Aging, this advocate of rights for the living demonstrated that he is now also fighthing for the rights of the dying.

The mental vigor that marked the New Yorker's fiery 24 years in the U.S. Senate is as inspirational as ever. His voice shows excitement and his blue eyes sparkle when questioned by legislators. Each bundle of words is carefully chosen, as if quotations surround each remark.

"The contemplation of death, as of birth, should be a thing of beauty and not ignobility," he told the legislators. "It must be understood that, as adults, we are all terminal. As the Bible teaches, the road which opens with birth leads to the grave."

Because medical technology can now sustain life even when the ability to think is gone, society must change its laws, he urged. Few states now have laws that give the individual or the family the right to decide when care should be discontinued. Thus the medical profession bears the brunt of responsibility, he said, creating conditions of "uncertainty, in consistency, and injustice."

This is a tough issue politically, he admitted. "But the anguish goes with the job," he told them. "I know it's frightening. I know it requires controversy, and I know the anguish of families who don't know what the ill person would have wanted."

Although it was not mentioned, one experience seems to have been particularly influential in Javits' approach to death and dying. Two years ago, suffering from severe respiratory problems, he was rushed from Florida to a Bethesda, MD, hospital for last-ditch, life-saving treatment. One friend, who asked not to be identified, told *The Washington Post*, "He (Javits) was hooked up to all sorts of machines and respirators. He was out of it. We thought it was the end. There was even discussion of pulling the plug."

"As I am afflicted with a terminal illness, I take profound interest in the subject," Javits told legislators matter-of-factly. "I believe that legislation at the federal and state level is very much in order in dealing with this dilemma."

But federal legislation to implement these two options at the national level could encourage people to consider them as routinely as they now write wills. In the process, the legislation would shift the burden of responsibility from the medical profession to the individual and his family. "It will substantially relieve the medical profession of the current morass of liability that it now faces," he said.

Living wills, now recognized in 35 states, allow a mentally competent individual to decide for himself whether, if he loses all mental power and is terminally ill, life-sustaining equipment should be used to extend his life. The living will could be revoked or challenged in court if abused, Javits noted, or if unusual circumstances—such as a continued obligation to support minor children—are involved.

Durable power of attorney permits friends, relatives, physicians, or attorneys to make medical decisions for the individual who is no longer mentally competent. Although it is lawful in every state, different states give differing authority to physicians and families. Only 12 states give families the responsibility for such decisions; in the other states, family decisions are important but not binding.

Of the two options, Javits prefers the durable power of attorney. Unlike a living will, it is not restricted to persons who are terminally ill, he noted, but can be applied to persons who are in nursing homes, with uncertain prognosis. The living will is most useful for persons who decide to reject dramatic life-saving efforts in the face of terminal disease; the durable power of attorney permits others to make the more subjective decisions about treatment in prolonged decline, he said.

This 80-year-old senatorial institution said simply that he is now "doing my best. . . . I'm alive and fighting." Because of his illness, it takes him nearly three hours every morning to prepare for the day. Yet he gives commencement addresses, lectures on foreign policy to university students, is reviewing a lifetime's collection of personal papers before donating them to the State U. of New York at Stony Brook, and may write a book about his illness.

He remains convinced that he could be an effective senator if re-elected; in 1980, after much ado about his age and illness, Javits lost his seat to right-wing challenger Alfonse D'Amato. "If he runs again, and I'm still alive, I'll see what I can do," he once said. His wife, Marion, recently told former Sen. George McGovern: "George he's still working like he's in the Senate. The only difference is, he can't vote."

Last year, while a patient at New York Hospital, Javits lectured to 150 physicians at the hospital's weekly medical conference. "If there is anything I can leave with you in terms of the treatment of patients with a terminal disease, it is this: We are all terminal—we all die sometime—so why should a terminal illness be different from terminal life? There is no difference."

He urged the physicians to develop ways of helping society decide who should live and who should die. He believes that a "test" of an individual's mind should be the deciding factor. "The more I thought about a test [of mental competence], the more I believed it had worth for serious consideration," he told one reporter.

"You must remember, my own philosophy is that you don't belong only to yourself. You have an obligation to the society which protected you when you were brought into the world, which taught you, which supported you and nurtured you. You have an obligation to repay it."

"Doctors are hearing me," he told AMN. "I believe that the message is getting through. There is a greater effort to consider the patient when making these decisions."

LISA KRIEGER.●

UMTA AND THE GOLDEN FLEECE AWARD

● Mr. SYMMS. Mr. President, just 2 days ago, my friend and colleague from Wisconsin, Senator PROXMIRE, gave his Golden Fleece of the Month Award to the Urban Mass Transportation Administration [UMTA] for playing Santa Clause to the Nation's mass transit systems at a 20-year cost of over $30 billion and to what end: Transit revenues per vehicle mile have dropped 26 percent, costs have increased by 78 percent, and the taxpayers' subsidy per passenger has jumped by a whopping 1,250 percent. As for the broad social improvements expected—decreased congestion, air pollution, and energy use—not one has come up to snuff.

Mr. President, I commend the Senator for using his Golden Fleece Award to raise the public's awareness of the tremendous expenses associated with our Federal Mass Transit Program. Indeed, during this time of burgeoning budget deficits, taxpayers cannot afford to be playing Santa Clause to mass transit systems or any industry which does not provide a service of national significance.

On May 9, 1985, during consideration of the budget resolution, I offered an amendment which incorporated all but one of the mass transit funding proposals included in the President's original budget proposal. According to CBO estimates, my amendment would have saved $8.240 billion in budget authority and $3.848 billion in outlays over a 3-year period, as compared with current assistance levels for urban mass transit programs. Those savings would have been achieved by discountinuing discretionary grants and operating assistance, reducing the level of formula capital grant assistance and expenses for research and administration, and freezing grants for Washington Metrorail construction.

This amendment would have helped to place mass transit management, decisionmaking, and financing back at the local level, where it properly should be. Yet, when the Senate pronounced its decision on this important issue, only 24 of my colleagues joined me in support of the amendment. I am pleased to say that Senator PROXMIRE was among them.

Mr. President, I ask that a press release announcing the Golden Fleece Award for UMTA appear in the RECORD following my remarks. I encourage my colleagues to review the facts presented in this release because they indicate the extent to which UMTA funding places an unwarranted and undesirable drain on the Federal budget.

The press release follows:

UMTA AND THE GOLDEN FLEECE AWARD

Senator William Proxmire (D-Wis.) Wednesday gave his Golden Fleece of the Month Award for December to the Urban Mass Transportation Administration (UMTA) for "playing Santa Claus to the nation's mass transit systems at a 20-year cost of over $30 billion and to what end: transit revenues per vehicle mile have dropped 26 percent, costs have increased by 78 percent, and the taxpayers' subsidy per passenger has jumped by a whopping 1,250 percent. As for the broad social improvements expected—decreased congestion, air pollution, and energy use—not one has come up to snuff.

"About the only fact proven by this dismal record is that the taxpayers were

taken for a ride. They have gone bus-ted buying buses."

Senator Proxmire is the ranking Democrat on the Banking, Housing and Urban Affairs Committee, which has legislative jurisdiction over mass transit programs. He awards a Golden Fleece monthly to the most wasteful, ridiculous, or ironic use of the taxpayers' money for that period.

"The federal government jumped into the mass transit business in 1964. It started with a little putt-putt of an appropriation in 1965—$51 million. Although the money was small, the expectations were enormous: more people were going to use mass transit, air pollution was going down and energy saved up, and the nation's cities would be revitalized.

"Two decades later, that little $51 million putt-putt has grown into a $4 billion a year juggernaut. Although costs have been more powerful than a speeding locomotive, benefits for the taxpayers are tricycle-sized at best:

Despite two energy crises, occasional long gas lines, and a growing taxpayer subsidy, commuters who used public transit to get to work fell from 9 percent in 1970 to 6.4 percent in 1980—a drop of 29 percent.

Meanwhile, after adjusting for inflation, revenues per vehicle mile dropped from 72¢ in 1965 to 53¢ in 1982 but costs during the same period zoomed from 72¢ to $1.28.

The result is what you might expect once Uncle Sam opens his wallet—the taxpayer subsidy went from 2¢ per passenger in 1965 to 27¢ in 1982.

Finally, research demonstrates that air pollution could be cut and energy saved far more effectively by spending millions to improve automobile efficiency instead of billions on mass transit assistance.

"The evidence is in. The record is clear and the verdict is long overdue. Federal support of mass transit has been a spectacular flop, the Edsel of federal programs.

"It's time to go back to the drawing board and start anew. Federal assistance to mass transit may be justified in specific situations, but the current program is clearly a lemon. The taxpayers should not have to keep making $4 billion-a-year payments on it."●

RANDON IN THE READING PRONG

● Mr. BRADLEY. Mr. President, I rise to join my colleagues from Pennsylvania, New York, Maine, and New Jersey to express our shared concern over the problem of radon gas as an indoor pollutant.

One year ago something unusual happened which focused national attention on the radon problem. Stanley Watras, an engineer assigned to the Limerick nuclear powerplant in Boyertown, PA, went to work and he set off radiation monitors. This was unusual because nuclear plant workers rarely come into contact with radioactive substances during their daily routine. What disturbed Mr. Watras even more was that he tripped the detectors, not when he left the nuclear complex but as he entered it. As a result, he requested a radiation level check at his home in Colebrookdale, PA, a few miles from the plant.

Radiation technicians took air samples at the Watras home and discovered extraordinary concentrations of radon, a radioactive gas that can cause cancer. The samples showed their house contained what turned out to be the highest concentration of the colorless, tasteless, orderless gas ever found in the United States.

Mr. President, the Watras home is located in a region called the Reading prong, from which larger than normal quantities of radon rise. The region stretches from Reading, PA, eastward across northern New Jersey and into New York State. More than 250,000 homes are located in the New Jersey area of the Reading prong. Not all of those homes are affected by radon. But no one can say with any certainty today how many are. High levels of indoor radon have also been found in Maine, New Hampshire, Florida, Idaho, Montana, the Carolinas, Georgia, Texas, California, and Washington State. The Environmental Protection Agency estimates that radon is responsible for 10,000 to 20,000 lung cancer deaths each year. That makes it the second leading cause of lung cancer after cigarette smoking.

Mr. President, in the year since Mr. Watras first raised our public awareness of this problem we have addressed the issue of radon contamination in homes, but much more needs to be done. The Environmental Protection Agency must issue prompt and practical guidance for affected homeowners. Radon contamination mitigation programs should be developed quickly. Above all, the public must be informed and educated about the radon threat, measures to combat possible radon pollution, and services available to help them.

Mr. President, with my colleagues from Pennsylvania, New York, Maine, and New Jersey, I will continue to work for long-term solutions to the radon problem in our country.●

FARM CREDIT FLAWED

● Mr. BIDEN. Mr. President, the Senate recently approved legislation to provide financial assistance to the faltering farm credit system.

I have no doubts about the urgent need for such assistance or the propriety of the Federal Government's role in providing it.

However, I could not support the legislation presented to us because I believe there are serious, fundamental flaws in its approach to the farm credit problem.

First and foremost, the legislation does nothing to help farmers who are already in trouble. In effect, it writes them off and only concentrates on shoring up the system to make it solvent for future borrowers. While this latter goal is of course essential, it is an incomplete approach. More could and should have been done for the many farm families who need help now if they are to continue on the land.

Second, the capital corporation which the legislation creates to buy up bad loans has been too loosely proscribed. It is left free to dispose of the land it acquires in any way it sees fit—and the prospect of massive packages of individual land parcels being offered to corporations or other large investors poses a chilling threat to the traditional pattern of family farm ownership which has been the mainstay of our Nation's agriculture.

In casting my vote against this legislation, I fully realized the risk posed by Senate rejection of this measure—the clock is running and time is growing short. But we could and should have produced a better farm credit bill—and in my judgment it would have been worth taking the risk to try once again to achieve that goal.●

DEFICIT REDUCTION AND DEFENSE

● Mr. BIDEN. Mr. President, in recent weeks a number of press articles have reported that some administration officials, including Secretary of Defense Weinberger, are seriously concerned that the Gramm/Rudman/Hollings deficit reduction plan could result in significant cuts in military spending.

There is little doubt that any serious effort to eliminate deficit financing will force reductions in defense spending well below the administration's present targets. In fact, there can be little doubt that serious deficit reduction will require cuts in most Federal activities, as well as increases in revenues. Defense spending constitutes nearly 30 percent of the budget. It has grown rapidly in recent years, doubling since fiscal year 1980. It cannot be exempted from any drive to reduce deficits.

When the President and the Congress prepare a budget next year—under the threat of across-the-board reductions forced by Gramm-Rudman-Hollings—they will have to face the practical and political realities that deficit reduction cannot be accomplished solely through reductions in non-defense spending. Most of these programs have been cut too severely already to be able to withstand further reduction.

Under these circumstances the administration will have to apply the same standards of efficiency and effectiveness to the Defense Department for which it has argued elsewhere. There will be little choice but to take a hard look at the various weapons systems, evaluate their cost and their contribution to the national security, and then make reductions.

Mr. President, I ask that there be printed in the RECORD at this point: the Washington Post articles, "Weinberger Warns on Balanced Budget Plan" and "Regan Fears Antideficit Plan Will Affect Defense" the Wall Street Journal article entitled "Budget Process Measure Sets up Choice of 2 Evils: Raising Taxes or Cut Defense," the National Journal article entitled "Budget Balancing Legislation Would Put Defense Spending on the Chopping Block," a recent Evans and Novak editorial appearing in the Washington Post, entitled "Dancing with a Genie," and a Wall Street Journal article entitled "The Cruel Arithmetic Awaiting Reagan."

The articles follow.

[From the Washington Post, Oct. 24, 1985]

WEINBERGER WARNS ON BALANCED-BUDGET PLAN

(By David Hoffman)

Defense Secretary Caspar W. Weinberger has warned that even if Congress approves the Gramm-Rudman proposal to balance the federal budget, President Reagan has not agreed to cut military spending to meet any "rigid formula" for reducing the deficit.

Weinberger's public statements that defense spending must not be impaired by Gramm-Rudman reflect private concern he has expressed in recent days that the military budget could eventually be seriously restrained if the legislation is approved by Congress.

Although Reagan has strongly backed the legislation, Weinberger, Secretary of State George P. Shultz and national security affairs adviser Robert C. McFarlane reportedly are among top administration officials who have questioned the wisdom and workability of the proposal.

House and Senate conferees are continuing efforts to reach agreement on the legislation, which requires elimination of the deficit by 1991.

In his endorsements of Gramm-Rudman, Reagan has repeatedly offered the caveat that "we'll continue spending what is necessary" for defense.

But Weinberger has warned privately that despite Reagan's pledge, the legislation may force cuts in the military expansion for the rest of Reagan's term. He made that concern public this week.

In an interview with the conservative weekly Human Events, Weinberger said, "We can't have our defense and our security policy be a total prisoner of a rigid formula designed to reduce the budget" He predicted that Reagan "would not feel required to make reductions in defense."

The President wants to—and would have to—retain the authority to request the amounts for defense that the world situation and the threat to the United States requires. And when he first spoke about the Gramm-Rudman amendment, he did not interpret it as restraining or restricting or reducing the amounts that he thought necessary to request for defense in view of whatever world situation existed at the time," he said in the interview.

An administration official familiar with Weinberger's concerns said he is particularly worried that Senate-passed amendments to the proposal—made after Reagan's decision to endorse the legislation—could lead to significant military spending cuts. As part of an earlier budget compromise, Congress has supposedly committed itself to 3 percent growth in military spending above inflation each year for the next two years.

"The fact is, Gramm-Rudman is going to be a disaster for defense, and Weinberger knows that," the official said.

Officials said Weinberger criticized the proposal this week in a White House meeting with Republican congressional leaders and that there are indications Shultz is dubious about the proposal.

White House officials say they are aware of Weinberger's complaints. But these aides claim that Gramm-Rudman will focus budget cuts on domestic spending and that whatever military reductions that are made would otherwise have been made by Congress.

The proposal would require Reagan and Congress to meet deficit targets starting at $180 billion this year and declining about $36 billion each year, to zero in 1991. If the targets are not met, the president would be required to cut spending across-the-board in certain areas, including parts of the defense budget, in order to meet the deficit target. Social Security would be exempt from the automatic cuts.

The plan is already having an impact as new Office of Management and Budget Director James C. Miller III prepares the fiscal 1987 budget Reagan must submit to Congress in January, the beginning of an election year.

The Senate-passed version of Gramm-Rudman would require the president to submit a deficit no lower than $144 billion, compared with $180 billion for the current year. White House chief of staff Donald T. Regan has asked Miller to come up with a budget that meets the $144 billion target. Miller has estimated that if Gramm-Rudman triggered the automatic cuts, they would be split about evenly between military and domestic spending; Weinberger has said defense would suffer more than half the burden.

Specifically, Miller is attempting to preserve a 3 percent increase above inflation in military spending, without tax increases or cuts in Social Security benefits.

To meet the target:

Reagan must hold off pending "budget-busting" legislation, such as the farm bill, that is threatening to send the deficit billions of dollars higher than projected in the budget compromise of August.

Reagan must ask Congress in an election year for all the drastic budget cuts he sought last year in domestic spending—termination of Amtrack, revenue sharing and the Small Business Administration, among other things.

Reagan, at minimum, will have to find another $10 billion to $15 billion in domestic spending cuts, according to the estimate of a senior budget policy-maker.

[From the Washington Post, Nov. 7, 1985]

REGAN FEARS ANTIDEFICIT PLAN WILL AFFECT DEFENSE

(By Helen Dewar and David Hoffman)

The House and Senate reaffirmed support yesterday for conflicting versions of balanced-budget legislation as one of its strongest advocates in the White House, chief of staff Donald T. Regan, privately questioned whether it would have a more severe impact on defense spending than previously estimated, according to administration sources.

Officials said that Regan, who was instrumental in persuading President Reagan to endorse the legislation, took a sharply skeptical approach in a White House senior staff meeting yesterday. Regan indicated to other aides that he feared the legislation would make it impossible for the president to get the defense-spending compromise agreed to earlier this year with Congress.

Regan was "very unhappy" in his questioning about modifications to the Gramm-Rudman-Hollings legislation, the sources said, and suggested that changes made since Reagan endorsed it may force the president to reject it. "We've been bled down," said one official who was present, "and we may be full justified to say, 'Let the thing go.'"

The chief of staff's questioning was important because, until now, he and his subordinates have insisted that Reagan would not have to compromise his defense-spending goals. Previously, Regan had dismissed as unwarranted criticism of the legislation from Defense Secretary Caspar W. Weinberger and others in the administration.

The congressional action yesterday, on legislation to force a balanced budget by 1990 or 1991, set the stage for renewed negotiations to achieve a compromise in the next 10 days.

The issue goes to a House-Senate conference committee, which may convene as early as today in hopes of resolving the dispute before the Nov. 14 or 15 deadline for passage of provisions raising the debt ceiling to $2 trillion.

Senate Finance Committee Chairman Bob Packwood (R-Ore.), chairman of a conference that broke up a week ago in deadlock over the issue, suggested separate negotiations involving House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.), Senate Majority Leader Robert J. Dole (R-Kan.) and the White House.

"This is a political judgment that has to be rendered by people who are in a position to enforce a political decision," Packwood said. Senate Budget Committee Chairman Pete V. Domenici (R-N.M.) agreed, contending that the dispute "ultimately will be resolved by the leadership."

The congressional steps toward resumption of negotiations came as the president renewed criticism of the House plan and called for a compromise that would protect his military buildup.

In action yesterday, the Senate voted 74 to 24 for a modified version of the plan it approved last month by roughly the same margin to reduce deficits from $180 billion to zero by fiscal 1991.

The House voted 248 to 177 to reject for a second time the Senate alternative and stand by its counterproposal of last week, which would achieve a balanced budget by fiscal 1990 by speeding up the process to include bigger spending cuts this year. The House plan would also make heavier cuts from defense, exempt some programs for the poor from cutbacks and lift the restriction during a recession.

Among modifications approved by the Senate were provisions excluding federal pay from cutback requirements, some relaxation of the requirements during economic slowdowns and a slight tightening of the trigger for spending cutbacks this year. The Senate did not consider the House plan.

The Senate wants a first-year ceiling of $180 billion; the House wants a target of $161 billion.

The balanced-budget measure has been tied to the $2 trillion debt-limit proposal, meaning a budget agreement must be worked out before the ceiling can be raised.

[From the Wall Street Journal, Nov. 4, 1985]

BUDGET-PROCESS MEASURE SETS UP CHOICE OF 2 EVILS: RAISE TAXES OR CUT DEFENSE

(By Robert W. Merry And Tim Carrington)

WASHINGTON—GOP Sen. Phil Gramm of Texas was an instant hit when he first went to the White House to explain the Gramm-Rudman plan to revamp the federal budget process. Conservatives particularly liked the expanded presidential authority to rescind congressional appropriations.

But by the time the plan became legislation and received the president's endorsement, it had changed, "Hey, where's the enhanced rescission authority?" asked White House communications director Patrick Buchanan at one meeting."It's gone," replied another participant.

The disappearance of the rescission provision, which would have given the president more flexibility in budget cutting, illustrates how unpredictable the powerful Gramm-Rudman issue has become. Embraced for short-term political gain by a president intent on getting the upper hand on the deficit issue, the legislation seems to contain a host of unintended consequences. Budget experts say it's almost certain to intensify the war of budget priorities that has characterized this administration almost from its outset.

Under the budget plan embraced by the president, Mr. Reagan almost surely will have to choose between what he considers two evils in policy making—slashing defense or raising taxes. And many experts believe he may end up having to do both.

VOTER SENTIMENT

One thing is sure: Gramm-Rudman, which crashed on the Washington scene as lawmakers came to grip with voter sentiment on a balanced budget, inaugurates a new era of deficit politics. The bill has caught major elements of the Reagan government off guard just as it moves into the crunch of drafting the new budget that it will send the Congress in January. Most of the decisions will be made in the next six to eight weeks, and Gramm-Rudman is injecting big new uncertainties. The confusion is particularly acute at the Pentagon, which is proceeding with plans to seek a 3% real increase in arms spending despite predictions by experts that Gramm-Rudman dooms that goal.

In fact, Friday's House passage of a Democratic version of the budget-cutting concept adds to these uncertainties. It served to extend the political maneuvering on the bill at least a week—and puts the issue deeper in the White House budget-writing process.

House passage of the Democratic version also creates added political difficulties for the administration. It would force deep cuts in the current fiscal year rather than waiting until fiscal 1987. And it would protect certain domestic programs from the budget ax, thus creating even greater pressure for deep cuts in the Pentagon budget. Republicans in Congress have strongly resisted these features, but now they may have to compromise on them.

The quickly changing terms of Gramm-Rudman have added to the sense of chaos at the Defense Department. "It's a greased pig," complains Richard Horanburg, a department lobbyist, "but it looks like the pig isn't going away."

Indeed, even after Friday's maneuvering it seemed likely that some form of Gramm-Rudman will clear Congress in the next week or so. The bill's thrust is to tilt the balance of political power in Washington toward those whose first domestic priority is fighting deficits. The aim is to require a balanced budget by 1990 or 1991 with specified budget-reduction targets along the way. Failure by the President and Congress to meet those targets would trigger automatic, across-the-board budget cuts.

ON THE CHOPPING BLOCK

Defense programs are most prominent on the chopping block because once the automatic cuts are triggered, the largest share of them by far would fall on the Pentagon. And the greater the failure in reaching the specified targets, the greater the Pentagon's share of the burden. Although the military budget amounts to about a third of total federal spending, defense might have to bear as much as 55% of the cuts.

By the end of the decade, for instance, the uniformed services might have to be cut by a third, according to a congressional staff analysis. Moreover, it says 16 to 24 naval vessels currently under construction might have to be mothballed. Spare-parts accounts could dry up, warns Gordon Adams, director of a private watchdog group called the Defense Budget Project. "We could have a real readiness crisis," he says.

To prevent the evisceration of his high-priority arms buildup, the president would have to make sure that these automatic cuts never take place. Pentagon budget planners, intent on getting annual real spending increases of 3% in the next two years, expect Mr. Reagan to prevent those automatic cuts by reaching the specified deficit goals through domestic cutbacks.

But it isn't entirely up to the president. Congress inevitably will have its say, and lawmakers historically have shunned deficit attacks they consider too heavily weighted toward domestic cuts.

DRACONIAN DEFENSE CUTBACKS

Under Gramm-Rudman, those lawmakers promoting evenly distributed cuts and even tax increases gain added leverage over Mr. Reagan and his heretofore powerful defense secretary. If Mr. Reagan fails to meet the targets under the so-called balanced approach to protect his arms buildup, he would risk triggering the Draconian defense cutbacks of Gramm-Rudman.

Thus, Defense Secretary Caspar Weinberger, highly successful throughout most of the Reagan years in resisting budget compromises, may find himself forced to plead with the president to accept legislative budget packages nobody in the administration likes in order to forestall an even worse fate under Gramm-Rudman. He could find himself perpetually on the defensive.

Rhetorically asking whether Gramm-Rudman supersedes the president's 3% Pentagon growth goals for the next two years, one White House aide answers sadly, "It sure does."

What's more, congressional advocates of tax increases to combat deficits surely will use this new leverage to press their goals. Thus, to protect his defense buildup from the ravages of Gramm-Rudman, Mr. Reagan could find himself forced to accept some tax increases as part of a broad deficit-reduction package.

RECIPE FOR TAX INCREASE

This bill is a recipe for an eventual tax increase," says John Albertine, head of the Washington-based American Business Conference.

The Gramm-Rudman legislation clearly strengthens the hand of those in Congress most concerned about budget deficits. These are the lawmakers—including many key Senate Republicans—who were instrumental in the 1982 tax-increase legislation and in forging the broad deficit-reduction package that fell apart this year when Mr. Reagan refused to entertain tax increases.

At the Pentagon, top officials have grown increasingly anguished over the measure. On Wednesday, Navy Secretary John Lehman demanded a meeting with Secretary Weinberger to urge all-out opposition to the plan. At a top-level Pentagon meeting on Thursday, "there was sackcloth, ashes and tears," says one Pentagon analyst who was present.

Administration officials said that in cabinet meetings on the plan, Mr. Weinberger stressed the potential devastation of defense programs and urged the president to resist the plan. In such battles in the past, President Reagan went along with Mr. Weinberger's call to expand the military, even if it meant adding to the budget deficit.

MOST POWERFUL VOICE

But those voices weren't any match for those in the White House supporting Gramm-Rudman. Probably the most powerful voice was that of chief of staff Donald Regan, described by one high-level aide as the strongest force in the White House on Gramm-Rudman. Since joining the administration, Mr. Regan has advocated across-the-board cuts—the sort called for in Gramm-Rudman—as an effective means of shrinking the deficit, but until this year he has been outflanked.

Pentagon planners are banking on the president's fending off cuts by sticking within the targets while preserving the arms buildup. Others, including many defense-industry lobbyists, think that's unlikely.

Fears that the automatic cuts will someday be triggered is shared inside the Pentagon. "If it triggers, it would create chaos," one budget planner in the department said, adding, "I'm thinking of early retirement."

BUDGET BALANCING LEGISLATION WOULD PUT DEFENSE SPENDING ON THE CHOPPING BLOCK

(By David C. Morrison)

If nothing else, the debate over a draconian deficit reduction proposal that has tied Congress up in knots for the past several months has begun to force recognition of an inescapable reality: Five years into the Reagan military buildup, there is no quick or easy way to brake the momentum of military spending. For the near term, at least, the very structure of the defense budget threatens to defy efforts to achieve the balanced budgets to which Congress and the Reagan Administration have pledged themselves.

In the eye of this budgetary maelstrom is a proposal crafted by Sens. Phil Gramm, R-Texas, Warren Rudman, R-N.H., and Ernest F. Hollings, D-S.C., that would set successively lower annual deficit limits leading to a balanced budget in the early 1990s. To keep politics-as-usual from hobbling this orderly march toward a zero deficit, every version that Congress has considered during the long weeks of debate would provide for automatic spending cuts whenever a budget climbs through the deficit ceiling.

As Congress struggled to hammer out the details of the proposal, groping through a fog of conflicting views on exactly how it would or should affect military spending, Members largely took it for granted that the budget crisis may force the Reagan defense juggernaut to grind to a halt. The

debate has mostly been about whether the buildup may be in for a major rollback.

The stakes are high. How deeply and how quickly the inevitable defense cuts are made will dramatically shape military priorities for many years to come. The painful new choice Congress and the administration can apparently no longer defer confronting is not so much between guns or butter—that is a perennial dilemma—but between guns or bullets.

According to a worst-case scenario drawn by House Armed Services Committee chairman Les Aspin, D-Wis., if automatic cuts—called "sequestrations"—were triggered in the current fiscal year, defense would be forced to swallow a $7.1 billion share of $12.6 billion in reductions. Depending on how the legislation's fine print is read, this could mean dropping as many as 16 of 26 Navy ships now under construction, reducing F-15 and F-16 fighter aircraft purchases by as much as a third and completely eliminating M-1 tank production.

While few analysts are willing to predict defense trims quite so cataclysmic, the deficit measure, and the budgetary panic that engendered it, have strapped the Pentagon to the chopping block in a way it hasn't been for many years. "The best case is a static defense budget level," said Sen. Sam Nunn of Georgia, the senior Democrat on the Armed Services Committee, "but the more likely case is negative real growth in defense spending." In plain language, that means actual reductions in the defense budget.

Defense looms so large in the deficit reduction debate if for no other reason than its sheer size, accounting for 28 percent of all federal spending. "Today, budget authority for national defense stands at the highest level of any peacetime period in the history of the United States, even after adjusting for inflation," the Congressional Budget Office (CBO) noted in its deficit reduction report for 1985. "This reflects six consecutive years of real, or inflation-adjusted, increases in defense budget authority, a period of sustained real growth unprecedented in the recent past." From fiscal 1980–85, defense authorizations more than doubled, from $141 billion to $283 billion.

The likelihood that further domestic spending cuts to meet deficit reduction targets would have to bite deeply into essential—or, at best, painfully relinquished—programs only intensifies the downward pressure on a defense budget scheduled to keep growing, although at a slower rate than in recent years. *(See this issue, p. 2662.)* Whatever formula is used, applying across-the-board cuts to military spending could produce a nightmare of unintended consequences. The root of the problem is not so much political as structural.

FEW EASY CUTS

Superficially, defense spending appears inherently cuttable. That part of the budget earmarked for "national defense," which also includes Energy Department nuclear warhead and submarine reactor production, makes up a major portion of so-called controllable outlays, or funds neither fenced in by law nor already obligated.

In the fiscal year that just ended on Sept. 30, total outlays, or funds actually spent for national defense, were $254 billion. For the sake of analysis, this budget is often apportioned into two roughly equal accounts: "readiness" and "investment." In fiscal 1985, the readiness account provided $68 billion for personnel and $75 billion for operations and maintenance. In the investment category were $69 billion for weapons procurement, $28 billion for research and development, $7 billion for military construction and family housing and $7 billion for military atomic energy. These categories are not wholly self-contained, however. Research and development contains some funds for civilian pay, for instance, while procurement includes money for spare parts, which are generally considered a component of readiness.

A quarter-of-a-trillion-dollar budget pie should be easy to slice—provided you can decide where to stick the knife. According to calculations by the CBO, $98 billion of those fiscal 1985 defense dollars, including almost all of procurement and military construction and half of research and development, are outlays required by prior-year contracts and therefore considered uncontrollable. The remaining $156 billion, while generally characterized as controllable, comes almost entirely from the Pentagon's readiness account: personnel and operations and maintenance.

Clearly, the easiest route to quick defense trims is to go after the controllable. The Gramm-Rudman-Hollings measure, however, and longstanding political practice, prohibit troop pay cuts, although reductions or cancellations of scheduled pay increases are a time-honored means of at least nibbling at that account. As a result, budget analysts say, meaningful cuts in personnel costs could be effected only at the expense of lower troop levels, and this at a time when the Navy and the Air Force are seeking even larger forces to operate expanding fleets of ships and aircraft.

Dipping into the operations and maintenance account—funds for fuel, spare parts, training hours and so on—has an immediate effect on day-to-day combat "readiness and sustainability," the ability to go to war and keep fighting. One military trend upon which there is widespread, though not universal, agreement is that U.S. forces today are better supplied and trained than five years ago. "Readiness and sustainability problems persist," John M. Collins, senior military specialist at the Congressional Research Service, stated in his spring 1985 "report card" on the Reagan buildup, "but abilities in both respects are much better, regardless of indices measured." Gouging deeply into readiness funds could sharply reverse what progress has been made in this area.

Just as important, there is little budgetary kick in readiness cuts relative to the potential damage done. Nunn last month cited the example of an $8.9 billion sequestration of fiscal 1985 readiness account funds. While eliminating pay raises would save $2.7 billion, firing 100,000 troops would reduce spending by only $1.2 billion, and mothballing every other Navy ship for an entire year would save only $1.4 billion, leaving a further $3.6 billion to be trimmed.

"As we on the Armed Services [Committee] have been saying for several years," Nunn concluded, "the defense budget is one area of the federal budget where it is very difficult and disruptive to get immediate near-term outlay reductions."

Trying to balance the budget with abrupt cuts in military investment accounts generates a different set of problems. "The recent rise in defense spending clearly has been slanted toward the investment accounts," the CBO reported last spring, noting that since 1980, budget authority for defense procurement, R&D and military construction has climbed by 93 percent, compared with only 24 percent growth for the readiness accounts. "The emphasis on investment constrains any attempts to reduce defense outlays quickly."

Procurement funds are actually spent at a very slow rate once they are authorized—only about 14 percent in the first year. As a result, Congress gets little "bang for its buck" by cutting budget authority for weapons procurement because the immediate actual savings in outlays are relatively trival. The deficit is calculated in outlays (money actually spent in a fiscal year), not in budget authority (money an agency is authorized to spend in current or future years).

The Congressional Research Service, in a report last spring, cited as an example 17 weapons in the fiscal 1985 defense budget, ranging from MX missiles to *Ticonderoga*-class cruisers. Had Congress eliminated procurement funds for all of them, it would have saved only $3.9 billion in 1985 outlays, even though the long-term benefits would have been enormous: $97.3 billion over the following five years as unspent budget authority was saved. Military construction authorizations are also spent out slowly, at only about 14 percent the first year, while the outlay rate for R&D is somewhat more active, at 55 percent in the first year.

This phenomenon has generated a huge defense spending backlog of about $250 billion from prior budgets. This so-called bow wave effect—which Sen. Carl Levin, D-Mich., has characterized as a "military entitlement program"— guarantees that even if Congress passes a succession of zero-growth budgets, military spending would continue to surge.

GUNS OR BULLETS?

The choice between quick and easy but undesirable readiness cuts and hard, slow but essential investment cuts will likely be the crux of future defense budget battles. The Administration's traditional practice—to the extent it has been forced to choose—has been to shield hardware modernization programs, especially in the strategic nuclear area, at the relative expense of low-profile conventional weapons programs. This prediction raises for some the specter of a military equipped with rows of shiny new ships, planes and tanks but with insufficient missiles and shells for their magazines and few troops ready or able to operate them.

Defense Secretary Caspar W. Weinberger "has already said, before Gramm-Rudman, that . . . it is the intention of the Administration not to cut strategic or nuclear weapons accounts, that all reductions will be taken out of our conventional forces," said Sen. Gary Hart of Colorado, the ranking Democrat on the Armed Services Subcommittee on Strategic and Theater Nuclear Forces. This, he charged, would be "a prescription for disaster, . . . a warping of the defense priorities of this country and an open invitation to those who wish us ill to take advantage of a weakened America."

The Administration has declined to see the alternatives in such stark terms. The Pentagon, from its perspective, has already bitten the budget bullet. A midsession review by the Office of Management and Budget at the end of August estimated that defense spending would be $291 billion less for fiscal 1986–90 than had been projected as recently as April.

Defense has thus already begun tightening the belt on its five-year plan, and doing it in much the way Hart fears: lowering ambitious targets for Army ammunition stock-

piles, stretching out construction of new *Burke*-class destroyers from five to three per year and dropping altogether plans to buy T-46 trainer aircraft and Blackhawk helicopters.

President Reagan is determined to hang tough on the new military spending targets, which call for an increase solely to cover inflation in the current fiscal year and 3 per cent real growth in 1987 and 1988, in contrast to the average real growth of roughly 9 per cent over the past five years. But, paradoxically, Reagan has also endorsed the balanced budget bill, which even its Republican sponsors acknowledge is guaranteed to force further defense cuts. In a contentious Nov. 12 meeting with House Democrats, Reagan insisted that even absent new taxes, dramatic deficit cuts and continued defense increases were compatible goals.

"We're back to 1981, where we're supposed to raise defense spending and lower the deficit," said Warren L. Nelson, an Aspin aide. "The President will go forward with his defense plan, and yet we're going to cut total government spending by $36 billion each of the next three years. You're talking about gutting the rest of the budget."

There is reportedly also much private anguish in the Pentagon about the possible gutting of *its* budget under the proposed deficit reduction measure. Weinberger has spoken out against the measure in Cabinet meetings, but in deference to the President's support for Gramm-Rudman-Hollings, he held off for more than a month after passage of the initial Senate bill before airing his misgivings more directly.

In a Nov. 14 Senate Armed Services Committee appearance to testify on military reform, Weinberger finally got a chance to press his attack. "I'm very strongly opposed to across-the-board approaches," he said, pledging to urge the veto of any measures that precluded 3 per cent real increases in defense spending for the next two fiscal years. "I'm not aware of any difference between my position and the Administration on these matters," he added, provoking protests from White House officials that he was undermining Administration support for the budget measure.

In common with much of today's balanced budget debate, the episode had overtones of the surreal; support for both Gramm-Rudman-Hollings and the defense formula that calls for zero growth followed by two years of 3 percent real growth seem to be logically irreconcilable. All recently proposed versions of the legislation contain what Sen. Lawton Chiles, D-Fla., has called a "fail-safe" clause, stipulating that if the President attempts to shield defense spending from mandatory cuts, the entire sequestration process becomes null and void.

NO CLEAR ANSWERS

While all parties to the congressional debate agree that automatic cuts would impinge severely on defense, there is less unanimity on how heavily the ax might fall. According to a CBO analysis in early November of how cuts would be distributed in the event of a $25 billion sequestering action—one of several often-conflicting estimates circulating on Capitol Hill—the share of spending reductions the Pentagon would have to shoulder ranged from 42-54 percent.

The percentage spread is attributable to differences in the way medicare, one of the government's largest entitlement programs, would be treated. Democrats wanted it sheltered from deep cuts, thus forcing deeper forays into defense spending, an approach to which Republicans and Reagan objected.

A one-year fiscal beancount, however, does not begin to predict the long-term structural impact of automatic spending cuts on the military. What would the impact be on military readiness, manpower and weapons purchases? The shortage of clear answers has generated some congressional frustration.

"What is the impact of Gramm-Rudman on defense?" Hart asked on the Senate floor on Nov. 5. "The truth is that nobody is really sure. The sponsors do not know. The Pentagon will not say. And Cap Weinberger thinks he is exempt. It would be nice to know before this legislation became law." More than two weeks later, a common data base was still lacking. Hart successfully introduced an amendment requesting reports from the CBO and the Pentagon that would help resolve the many uncertainties. But the reports, due by early January, are unlikely to be of much aid to Congress in voting on the bill.

In the meantime, complications abound. A case in point: If automatic cuts were triggered, should the pot of vulnerable Pentagon funds include prior-year defense contracts? Senate Republicans would include them, except for contracts that cannot legally be modified and those entailing such heavy cancellation penalties that they would cost more to drop than to keep. House Democrats, however, have pushed "special rule" language written by Aspin that would exempt all prior-year obligations and take cuts only from new budget authority.

Most major defense contracts carry cancellation penalties, and cancellation is usually followed by a lengthy process of negotiation—and sometimes litigation—through which the Pentagon and the contractor settle accounts. For this reason, it is difficult to predict in advance exactly what savings might be realized through cancellation. Sequestering prior-year contracts could thus entail detailed review of hundreds of contracts. If nothing else, Gramm-Rudman-Hollings might prove a boon for legions of corporate lawyers.

The two approaches to prior-year obligations may not be all that different in practice, if the bulk of those contracts cost so much to cancel they fail to yield genuine budget reductions. And, a congressional budget analyst noted, if defense funds already committed are granted immunity, "people will just start obligating in the first quarter to avoid having anything cut. By definition, it's very easy to fence defense."

A provision the Senate favors, ordering that all new contracts contain a clause absolving the government from penalty payments if cancellation is attributable to sequestration is designed to plug this potential loophole. Yet if the indemnity clause is crafted tightly enough to preclude circumvention, it could result in unsignable defense contracts and contractor revolt.

Another point of contention: At what level of detail should across-the-board cuts be made? In the original Senate bill, they would have been levied against such broad appropriations categories as "Army military construction" and "Air Force missiles." Levin, arguing that this would allow the President to "protect his pet projects and drastically cut ones he did not like," successfully moved to have the unfiorm cuts made on the much narrower basis of such individual line items as "military construction at Ft. Irwin" and "Sidewinder missiles."

The effect of the Levin amendment cuts both ways. It keeps the President from singling out recalcitrant Members of Congress for punishment by, for instance, sequestering funds for base upgrading projects in their districts. But it also prevents him from picking and choosing between low and high-priority military programs.

In an open letter to Weinberger published in *The Washington Post* on Oct. 27, Aspin called the Levin provision a "stratjacket" and pointed to the division air defense gun (DIVAD), an unsuccessful weapon that Weinberger canceled last summer after a $1.8 billion investment. "Under the Gramm-Rudman formula, an across-the-board cut of 10 percent would mean the Pentagon would only get credit for 10 percent of the savings from killing DIVAD," Aspin wrote. "In other words, there would be no incentive to kill it. We couldn't even use the drastic budget-cutting formula of Gramm-Rudman to get rid of dogs like DIVAD."

"Aspin may be right," a Levin aide conceded. "But keep in mind how Gramm-Rudman works. After a sequester looms up, Congress has a chance to take another bite out of the apple to avoid what Aspin is pointing at. Across-the-board cuts are not the end of the process. It's the monster at the door, and you have one more chance to clean up the house before the monster comes in."

The line-item straitjacket has engendered some of the horror stories told to illustrate the havoc Gramm-Rudman-Hollings could wreak on defense. If triggered, the bill would direct the sequestration of a certain percentage of budget authority in order to cancel a certain percentage of outlays: the actual amount of budget authority would vary according to the outlay rate for a particular weapons system. Because of the extremely slow outlay for tracked vehicles, for instance, Aspin has spun out a possible fiscal 1986 scenario in which a 2.6 per cent across-the-board sequestration could eliminate 112 per cent of the authorization for the M-1 Abrams tank, knocking the weapon out of production. Similar de facto program cancellations could result from across-the-board cuts in ship building, which also has extremely slow outlays.

"That is admittedly an extreme case," Aspin conceded of the M-1 tank example. "There are many ways in which this legislation might even be more damaging than I have outlined, but the vagueness of the language prevents an analysis of the impact." At a Nov. 15 press conference, Aspin predicted that the President "could not get real growth in defense without a tax increase."

That, of course, is exactly what the President is committed not to do. So, as passage of some form of balanced budget legislation seems ever more certain, the guns are being lined up for a classic Washington clash of mutually incompatible policy goals, with defense unavoidably caught in the crossfire.

Of course, the strategy underlying the bill is that the sequestering monster is supposed never to be uncaged. The horrors that would be unleashed would be so unthinkable, so the theory runs, that Congress and the President would do everything in their power not to stray beyond the deficit guidelines.

The budget proposal—which has been unfavorably compared to Frankenstein's monster, Rosemary's baby and the 1964 Gulf of Tonkin Resolution—has also been favorably likened to the policy of massive nuclear retaliation. In the nuclear era, the Soviet Union is deterred from attacking the United States for fear of provoking an all-destroy-

ing nuclear counterattack. In the Gramm-Rudman-Hollings era, supposedly, the President would be deterred from submitting, and the Congress from voting for, deficit budgets out of sheer terror of evoking a budgetary nuclear winter that would lay waste to the fiscal landscape.

Where the analogy breaks down, however, is in the matter of probability. The odds in any particular year of nuclear war breaking out are not particularly great. But, based on recent experience, the likelihood of deficit spending—and of deadlock between Reagan and Congress and between congressional Republicans and Democrats—is nearly certain. Can Weinberger come up with the fiscal equivalent of a "Star Wars" defense to shield the Pentagon from the Gramm-Rudman-Hollings balanced budget bomb?

DANCING WITH A GENIE

[By Rowland Evans and Robert Novak]

President Reagan aides have backed him into Gramm-Rudman no-win corner where he confronts a choice between wrecking military rearmament or battling his congressional Republican leadership.

Soon after the president's return from Geneva, Congress is apt to hand him a compromise Gramm-Rudman. Despite Reagan's pleas for just that, many White House aides will urge a veto of what is certain to be a built-in defense cut.

Some of the president's men would like to see the issue resolved by passing the extension of the federal debt ceiling without any amendment. That is now impossible. It is much too late to put the Gramm-Rudman genie back in the bottle.

The genie need never have left the bottle. With David Stockman departed as director of management and budget, no longer would an annual assault for tax increases defense cuts or both be waged within the administration. The prolonged economic recovery promises to whittle the deficit down to $65 billion by 1991, in short, the great deficit crush is really over.

Why, then, when freshman Republican Sen. Phil Gramm hoisted his deficit-reduction up the flagpole, did chief of staff Donald T. Regan get the president to salute? The partial answer is tactics. Instead of using presidential persuasion to pass an amendment-free debt limit extension, the White House seized on Gramm's amendment to grease passage.

But what began as a tactical gimmick was transformed into grand strategy. Presidential staffers were overjoyed that they had seized the deficit initiative from the Democrats. While presidential aides now concede they cheered too soon, they don't understand why. They think that by letting Speaker Thomas B. O'Neill off the book on a "drop-dead" date for closing down the federal government in the absence of a debt-limit extension, they killed an effective Gramm-Rudman. In fact, even its pristine version doomed Reagan's scaled-down "0-3-3" plan for real defense growth (zero in 1986, 3 percent in 1987, 3 percent in 1988).

What is apt to come out of the Senate-House conference will be much worse. Under the probable 50-50 formula splitting defense and nondefense spending cuts, for example, even a modest $12 billion undershooting of the deficit target would mean $6 billion in defense spending outlays; to get there. Congress would have to cut $27 billion in defense appropriations.

No wonder those rival, frequently feuding Reagan administration policymakers—Secretary of State George Shultz, Secretary of Defense Caspar Weinberger and national security adviser Robert C. McFarlane—are united in branding this as Reaganite heresy. A united veto recommendation from them is likely.

But a veto would inflame resentment between the administration and Reaganite Republicans in Congress. "I think it would be a bad mistake," House GOP Whip Trent Lott told us. Rep. Newt Gingrich informed the House last week of administration officials who "frankly are more closely allied right now with liberal Democrats than they are with House Republicans."

Gingrich's House Republicans, obsessed with the deficit maneuver, are uninterested in the administration's second-term economic initiatives: tax reform and international currency stabilization. But congressional members of the president's party are supposed to be led by the White House. That trumpet has been uncertain.

Thus, when the bipartisan congressional leadership gathered at the White House last week for a pre-summit briefing. Reagan boosted Gramm-Rudman. Nor was he moved when Rep. Les Aspin, Democratic chairman of the House Armed Services Committee, commented that the amendment and military growth are antithetical. The official White House line remains in favor of passing Gramm-Rudman. Instead of shoving the genie of defict reduction back into the bottle, the president is dancing with it at his own peril.

[From the Wall Street Journal, Dec. 2, 1985]

THE OUTLOOK: THE CRUEL ARITHMETIC AWAITING REAGAN

WASHINGTON.—It's probably too late for President Reagan to withdraw his endorsement of the Gramm-Rudman amendment, which Congress plans to submit for his signature in a few days. But as the administration begins assembling its fiscal 1987 budget for submission to Congress early next year, the president and his staff are likely to gain some sobering insights into the implications of the deficit-reduction scheme. The experience may shake Mr. Reagan's opposition to raising taxes.

Gramm-Rudman requires that the president's budget project a deficit no greater than $144 billion for the fiscal year starting next Oct. 1. Congress then must enact enough deficit-reduction measures to meet the $144 billion target; lawmakers can choose methods other than those the president has recommended, but if they breach the target, most federal spending would be cut across the board.

For Mr. Reagan's budget-drafting exercise, problems arise because he has vowed to resist a tax increase, a Social Security cut or a reduction in planned defense spending. Since he can't touch federal interest payments either, that means about $400 billion in federal outlays remains from which he can cut. And to meet the Gramm-Rudman target for fiscal 1987, he must propose savings estimated at $35 billion to $45 billion.

So the Reagan budget will seek cuts averaging 9% to 11% in 1987 outlays for nondefense programs other than Social Security. Sounds tough, but surely we call all tighten our belts a couple of notches. Ready? Inhale . . . wait a minute.

"At first glance, it may not appear that onerous," says John Cogan, of the Hoover Institution. "But once you start getting into it, you see that it is indeed onerous." Donald Moran, vice president of ICF Incorporated, agrees, observing that the new Reagan budget will have to cut at least $10 billion deeper than the Draconian one submitted in February. "Lots of luck," he says.

These aren't wimpy liberals talking. John Cogan and Don Moran served for a combined total of eight years under David Stockman as top officials at the Office of Management and Budget. They are fiercely conservative, but they also understand the budget's peculiar arithmetic—and its politics. They point out that much of the $400 billion in "cutable" spending is, in effect, off the table—certainly for the immediate future; yet hitting the Gramm-Rudman target necessitates fast savings.

For starters, about $20 billion goes to a group of programs the president has given top priority, like military aid for U.S. allies and embassy security. Then there's about $30 billion that goes to improving the nation's infrastructure. A lot of this spending, such as the highway trust fund, is financed from specially-earmarked taxes, so cutting it would probably entail equivalent loss of revenue, which hardly helps the deficit. Much of the rest consists of items like sewer grants, where even deep cuts generate excruciatingly slow outlay savings, because the money appropriated each year gets spent over a long period of time.

Or consider middle-class "social insurance" programs (other than Social Security), which total about $135 billion. As it did last year, the White House can propose skipping cost-of-living adjustments for programs like federal and military requirement, but the savings amount to less than $4 billion. Long-term reforms could save plenty, but very little in early years. Medicare? Payment rates to hospitals and doctors are already frozen. Unemployment insurance? Outlays are governed by state laws.

There's another $30 billion-plus in agriculture and rural programs, but most of that will be off-limits as far as Congress is concerned once a new four-year farm bill is finally hammered out this winter. Low-income benefit programs, which total about $75 billion, were cut substantially in 1981, and the administration—still skittish about the "fairness" issue—can no longer use the argument that it wants to take away public assistance only from people with jobs.

So it goes; you get the idea. How about cutting the $15 billion in veterans' pensions and disability payments? Oh, fine—in an election year?

All of this hardly means that federal programs can't be cut or even eliminated. The administration proposed killing 20 of them in its last budget, including the Small Business Administration (first-year savings: $1.5 billion) and Amtrak ($0.6 billion). Congress rejected most of those cuts. A top White House strategist figures that it probably won't hurt to dust off the old proposals and resubmit them along with some new ones. "For five years now, we've taken everything the Democrats have thrown at us for proposing budget cuts, and the president still has a 65% approval rating," he says.

But he adds: "I'm not belittling the difficulties that will ensue in trying to get (Congress to pass) any of this." There's the rub. It's hard to imagine lawmakers making deep cuts in, say, education programs during an election year with 22 Republican senators facing the voters. Mr. Cogan remembers 1984, when some of the most conservative GOP members of the House pleaded with Mr. Stockman to avoid even proposing reductions in education.

Here, then, is one likely scenario: Congress rejects Mr. Reagan's budget as an un-

realistic starting point. Stalemate sets in, and the threat looms of a Gramm-Rudman across-the-board cut, which would slice indiscriminately into the fat, muscle and bone of the Pentagon and other agencies. The president finally calls for a tax increase as part of a deficit-reduction deal.

Then again, maybe he'll just veto Gramm-Rudman. Ready? Exhale.●

THE CONFERENCE REPORT ON H.R. 3038

● Mr. ABDNOR. Mr. President, when the Congress acted on the HUD and Independent Agencies appropriation last month, it endorsed some important language on emergency planning for nuclear facilities that was agreed to by the conferees on the bill. Since that time, some in the Congress have taken issue with that language. As a member of the conference, I would like to take this opportunity to respond briefly by stating my strong support for our action on the matter.

The language that was agreed to is a solution to a problem that has hampered the nuclear power program for years. I am referring to the persistent danger of a State or local veto of a nuclear facility through an abuse of the emergency planning process. There has been a legitimate concern over the years that States and localities that oppose a nuclear facility would refuse to participate in the planning process and thereby make it impossible for a facility to comply with Nuclear Regulatory Commission licensing requirements.

The conferees on H.R. 3038 have addressed this problem by directing the Federal Emergency Management Agency [FEMA], as a last resort, to compensate for the refusal of any State or local government to take part in emergency preparedness. The conferees have noted that existing law provides FEMA with the authority needed to perform that task. They have also directed FEMA to use that authority to the extent necessary to assure effective emergency preparedness. Thus, future vetoes should no longer be of concern—assuming, of course, that the Agency follows through with the actions that the Congress has now directed it to take. In particular, it must be clearly understood that FEMA will participate both in the exercise and in the actual implementation of emergency plans whenever that is necessary for an adequate emergency response.

I congratulate Senators JOHNSTON and GARN, who together took the lead in developing this solution and in convincing the conferees to adopt it. Thanks to their efforts, the language was finally approved by an overwhelming majority of the conference. I know that I and other members of the conference will now want to monitor closely FEMA's compliance with our instructions. In that regard, I expect the Agency to take its responsibilities in this area as seriously as any under its jurisdiction.

NATIONAL HOME HEALTH CARE WEEK

● Mr. WILSON. Mr. President, I am pleased to rise in support of National Home Health Care Week of 1985.

In recent years, due to cost containment efforts in acute care, there has been a concomitant growth in the number of people needing home health care. Through licensed home health agencies, millions of homebound people are given medically necessary health care services at home by thousands of dedicated individuals—nurses, physical and occupational therapists, speech pathologists, social workers, home health aides, and others. Although home health involves a wide range of services, they all have one common goal: to preserve the home and to improve the quality of life by providing help in the home.

Home health care is structured and designed to accommodate the distinct and separate needs of each recipient. In this way, home health is more able to provide effective, curative health care practices, without having to sacrifice specialized treatment necessary for certain individuals.

Home health also pays off the important ways—ways that cannot be measured in just dollars and cents. It offers the patient the comfort of a familiar environment and maintains the integrity of families. In addition, it preserves the privacy, self-determination and dignity of the individual in need of care, whether that person by young, elderly, or disabled.

Mr. President, I am convinced that home health care is a cost-effective means of delivering medical care. It is also one of the means at our disposal for providing greater access for millions of Americans to the healing miracle of modern medicine. I urge my colleagues to support this commemorative week.●

ORDERS FOR FRIDAY, DECEMBER 6, 1985

RECESS UNTIL 9:30 A.M.

Mr. SIMPSON. Mr. President, I ask unanimous consent that, once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, December 6, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Then, Mr. President, following routine morning business it will be the intention of the majority leader to turn to the consideration of the conference report to accompany H.R. 2965, the State-Justice-Commerce appropriations bill, and also the conference report to accompany H.R. 3424, the Labor-HHS appropriations bill.

It is also the intention of the majority leader to turn to the consideration of S. 1396, the White Earth Indians bill. Rollcall votes can be expected throughout the day on Friday.

It will also be the hope of the majority leader to turn to executive nominations, and later in the day the majority leader will begin consideration of the Continuing Resolution, House Joint Resolution 465.

RUSSELL A. ROURKE

Mr. SIMPSON. Mr. President, let me add one swift note on the confirmation of Russell Rourke to be Secretary of the Air Force.

I have come to know him in my time in the Senate, and have been in several situations where I have come to enjoy his presence. I believe he will do an excellent job, as we all expect him to do. I commend him, and wish him well. Best wishes, also to his wife, Judy, a very fine and delightful lady.

Finally, I would add my commendation to the departing Secretary of the Air Force, Verne Orr. He has served with distinction, and has earned our appreciation and respect. He and his wife are in our thoughts and prayers, and we wish them Godspeed.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SIMPSON. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and, at 6:07 p.m., the Senate recessed until tomorrow, Friday, December 6, 1985, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 5, 1985:

DEPARTMENT OF DEFENSE

Russell A. Rourke, of Maryland, to be Secretary of the Air Force.

DEPARTMENT OF STATE

Joseph Ghougassian, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Donald J. Bouchard, of Maine, to be an Assistant Secretary of State.

Laurence William Lane, Jr., of California to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand.

INTER-AMERICAN DEVELOPMENT BANK

Jose Manuel Casanova, of Florida, to be U.S. Executive Director of the Inter-American Development Bank for a term of 3 years.

EXECUTIVE OFFICE OF THE PRESIDENT

Charles Roger Carlisle, of Vermont, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF DEFENSE

The following-named persons to be members of the Board of Regents of the Uniformed Services University of the Health Sciences for terms expiring June 20, 1991:

Carol Johnson Johns, of Maryland, vice Lauro F. Cavazos, term expired.

Mario Efrain Ramirez, of Texas, vice William R. Roy, term expired.

Sam A. Nixon, of Texas, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1991.

IN THE NAVY

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Bruce Demars, [redacted], 1120, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Maj. Wayne Alden, and ending Maj. Richard B. Terry, which nominations were received by the Senate on November 25, 1985, and appeared in the CONGRESSIONAL RECORD of December 2, 1985.

IN THE ARMY

Army nomination of Colonel Peter D. Heimdahl, which was received by the Senate on November 25, 1985, and appeared in the CONGRESSIONAL RECORD of December 2, 1985.

FOREIGN SERVICE

Foreign Service nominations beginning Hugh L. Dwelley, and ending John C. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 28, 1985.

IN THE MARINE CORPS

Marine Corps nominations beginning Barry W. Mcandrew, and ending Michael T. Simmons, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 22, 1985.

IN THE NAVY

Navy nominations beginning Carl A. Barksdale, and ending Alan R. Pittman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 22, 1985.

HOUSE OF REPRESENTATIVES—*Thursday, December 5, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that Your gift of faith will grow in our lives and the fruits of this faith will be expressed in deeds of good will and service. Teach us to know faith not only with our minds, but to experience Your love in our hearts. May the warmth of Your presence and the blessings of Your spirit be with us at all the times and places of our lives. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 129, answered "present" 2, not voting 42, as follows:

[Roll No. 430]

YEAS—261

Ackerman	Boner (TN)	Combest
Akaka	Bonior (MI)	Conyers
Alexander	Borski	Cooper
Anderson	Bosco	Coyne
Andrews	Boucher	Crockett
Annunzio	Boxer	Darden
Anthony	Breaux	Davis
Applegate	Brooks	de la Garza
Archer	Broomfield	Dellums
Aspin	Brown (CA)	Derrick
Atkins	Broyhill	Dicks
AuCoin	Bruce	Dingell
Barnard	Bryant	DioGuardi
Barnes	Burton (CA)	Dixon
Bateman	Bustamante	Donnelly
Bedell	Carper	Dorgan (ND)
Beilenson	Carr	Dornan (CA)
Bennett	Chapman	Dowdy
Berman	Chappell	Downey
Bevill	Coats	Duncan
Biaggi	Coelho	Durbin
Boggs	Coleman (TX)	Dwyer
Boland	Collins	Early
Eckart (OH)	Lehman (CA)	Rowland (GA)
Eckert (NY)	Lehman (FL)	Roybal
Edgar	Levin (MI)	Rudd
Edwards (CA)	Levine (CA)	Russo
English	Lipinski	Sabo
Erdreich	Livingston	Savage
Evans (IL)	Long	Scheuer
Fascell	Lowry (WA)	Schneider
Fazio	Lujan	Schulze
Feighan	Luken	Schumer
Fish	Lundine	Sharp
Flippo	MacKay	Shelby
Florio	Manton	Shumway
Foglietta	Martinez	Sisisky
Foley	Matsui	Skelton
Fowler	Mazzoli	Slattery
Frank	McCloskey	Smith (FL)
Franklin	McCurdy	Smith (IA)
Frost	McDade	Smith (NE)
Fuqua	McHugh	Smith (NJ)
Garcia	Meyers	Snyder
Gaydos	Mica	Solarz
Gejdenson	Mikulski	Spratt
Gibbons	Miller (CA)	St Germain
Glickman	Miller (WA)	Staggers
Gonzalez	Mineta	Stallings
Gradison	Moakley	Stark
Gray (PA)	Mollohan	Stenholm
Green	Montgomery	Stokes
Guarini	Moody	Stratton
Hall (OH)	Moore	Studds
Hall, Ralph	Morrison (CT)	Sweeney
Hamilton	Mrazek	Swift
Hammerschmidt	Murphy	Synar
Hatcher	Murtha	Tallon
Hawkins	Myers	Tauzin
Hayes	Natcher	Taylor
Hefner	Nichols	Thomas (GA)
Hertel	Nowak	Torres
Hillis	Oakar	Torricelli
Hopkins	Oberstar	Towns
Horton	Obey	Traficant
Howard	Olin	Traxler
Hoyer	Owens	Valentine
Hubbard	Packard	Vento
Huckaby	Panetta	Visclosky
Hughes	Pease	Walgren
Hutto	Pepper	Watkins
Hyde	Perkins	Waxman
Jeffords	Petri	Weaver
Jenkins	Pickle	Weiss
Johnson	Quillen	Wheat
Jones (NC)	Rahall	Whitley
Jones (OK)	Rangel	Whitten
Kanjorski	Ray	Wirth
Kaptur	Regula	Wise
Kastenmeier	Reid	Wolpe
Kennelly	Rinaldo	Wortley
Kildee	Ritter	Wright
Kleczka	Robinson	Wyden
Kolter	Rodino	Wylie
Kostmayer	Roe	Yates
LaFalce	Rose	Yatron
Lantos	Rostenkowski	Young (MO)

NAYS—129

Armey	Conte	Gingrich
Badham	Coughlin	Goodling
Bartlett	Courter	Gregg
Barton	Craig	Grotberg
Bentley	Crane	Gunderson
Bereuter	Dannemeyer	Hansen
Bilirakis	Daub	Hartnett
Bliley	DeLay	Hendon
Boehlert	DeWine	Henry
Boulter	Dickinson	Hiler
Brown (CO)	Dreier	Holt
Burton (IN)	Emerson	Ireland
Callahan	Evans (IA)	Jacobs
Carney	Fawell	Kasich
Chappie	Fiedler	Kindness
Clay	Fields	Kolbe
Cobey	Frenzel	Kramer
Coble	Gallo	Lagomarsino
Coleman (MO)	Gekas	Latta
Leach (IA)	Moorhead	Smith, Robert (NH)
Lent	Morrison (WA)	Smith, Robert (OR)
Lewis (CA)	Nielson	Snowe
Lewis (FL)	Oxley	Solomon
Lightfoot	Pashayan	Spence
Lloyd	Penny	Stangeland
Loeffler	Pursell	Strang
Lott	Ridge	Stump
Lowery (CA)	Roberts	Sundquist
Lungren	Roemer	Swindall
Mack	Rogers	Tauke
Markey	Roukema	Thomas (CA)
Martin (IL)	Rowland (CT)	Vander Jagt
Martin (NY)	Saxton	Volkmer
McCain	Schaefer	Vucanovich
McCandless	Schroeder	Walker
McCollum	Schuette	Weber
McEwen	Sensenbrenner	Whittaker
McGrath	Shaw	Wolf
McKernan	Shuster	Young (AK)
McMillan	Sikorski	Young (FL)
Michel	Siljander	Zschau
Mitchell	Skeen	
Molinari	Slaughter	
Monson	Smith, Denny (OR)	

ANSWERED "PRESENT"—2

Dymally	Gordon

NOT VOTING—42

Addabbo	Gephardt	Neal
Bates	Gilman	Nelson
Bonker	Gray (IL)	O'Brien
Byron	Heftel	Ortiz
Campbell	Hunter	Parris
Chandler	Jones (TN)	Porter
Cheney	Kemp	Price
Clinger	Leath (TX)	Richardson
Daniel	Leland	Roth
Daschle	Madigan	Seiberling
Dyson	Marlenee	Udall
Edwards (OK)	Mavroules	Whitehurst
Ford (MI)	McKinney	Williams
Ford (TN)	Miller (OH)	Wilson

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1185. An act to amend the Act establishing the Petrified Forest National Park; and

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 415) "An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws

relating to the prohibition of discrimination," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. WEICKER, Mr. NICKLES, Mr. KENNEDY, and Mr. KERRY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 720. An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes;

S. 1116. An act to amend the act of October 15, 1982, entitled "An act to designate the Mary McLeod Bethune Council House in Washington, DC, as a national historic site, and for other purposes";

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the farm credit system, and for other purposes; and

S.J. Res. 187. Joint resolution designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry.

The message also announced that Mr. JOHNSTON be a conferee, on the part of the Senate, on the joint resolution (H.J. Res. 372) "Joint resolution increasing the statutory limit on the public debt," vice Mr. CHILES, excused.

APPROVE THE TAX REFORM PACKAGE

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, they said it couldn't be done.

The naysayers and loophole lobbyists told us there was no way the Ways and Means Committee could approve a bill this year which would lower tax rates, close loopholes, and split the tax burden more fairly between individuals and corporations.

Well, they did it. The bill recently reported by the Ways and Means Committee, while it does little to make the Tax Code simpler, does a lot to make the code more fair. If the choice must be made between simplicity and fairness, most people come down on the side of fairness.

That is what the committee has done. The legislation it sent us for our approval reverses a trend of increased personal taxes and decreased corporate taxes. This is accomplished without eliminating the deduction for State and local taxes, without taxing employer-provided fringe benefits, and retaining a liberal exemption for private retirement plans.

The legislation is far from perfect. The toughened minimum tax provisions do raise revenue. But they are, after all, predicated on the use of a laundry list of tax preferences by individuals and corporations. Real tax reform would have us eliminate, not modify, these loopholes.

I am sure that there are at least 435 versions of a perfect tax bill in this House. But the Ways and Means bill is the most comprehensive bill the House has considered in many years. We should give the measure a resounding vote of approval.

THE 30TH ANNIVERSARY OF MONTGOMERY, AL, BUS BOYCOTT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today marks the 30th anniversary of the beginning of the Montgomery bus boycott. On this day in 1955, a group of courageous men, women, and children inspired by Rosa Parks, launched a year long protest against segregation.

This tremendous effort brought national attention to the plight of black Americans in a segregated society. In addition, it served to galvanize a divided black community in its fight to win equality for all people.

Another important part of the Montgomery experience was the use of nonviolent direct action to affect positive social change. This event launched a movement which sought as its goals equality, peace, and freedom for all America's citizens. That people of all ages, races, and religions successfully united to secure these basic rights for all is a tribute to the basic sense of decency found in all people.

In little more than a month we will celebrate the birthday of Dr. Martin Luther King, Jr., an outstanding leader in the crusade for justice and liberty. Let us come together on January 20 to celebrate the accomplishments of the last 30 years and reflect on the tasks that yet await.

ILL-ADVISED COMMENTS OF TOM KING, SECRETARY OF STATE FOR NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, as chairman of the Ad Hoc Congressional Committee for Irish Affairs I wish to convey my strong objections to remarks made yesterday by the Secretary of State for Northern Ireland, Tom King. Speaking in Brussels, King stated that Ireland, in signing the new Anglo-Irish Agreement on Northern Ireland, in his words "has in fact accepted that for all practical purposes and into perpetuity there will never be a united Ireland."

This comment was inappropriate and ill advised at this sensitive time in history. It reveals an attitude which is not constructive to further progress toward a political solution. I have my own reservations about the Anglo-Irish agreement but harbor no predispositions about the future in Ireland based on it.

To her credit, Prime Minister Thatcher did express "regret" over the wording of Mr. King's statement. I believe she should take one further step beyond expressing reservations about his comment. She should relieve him of his duties before he is allowed to let his biases sabotage further movement toward a political solution.

CANCER CLINIC IN THE BAHAMAS REMAINS CLOSED

(Mr. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLINARI. Mr. Speaker, the country, indeed the world, is excited this morning by the news of a new cancer treatment announced by researchers at the National Cancer Institute. It is being hailed as one of the major breakthroughs of recent decades in cancer research.

Yet, amidst all the euphoria, one troubling question arises. The immunology treatment announced by NCI appears on its face to be remarkably similar to the immunology treatment which has been practiced by the controversial Burton clinic, most recently located in the Bahamas but shut down by the Government there in July because of charges of improper laboratory conditions and techniques. I visited the Burton clinic 4 months ago at the request of dozens of cancer patients around the country who came to the Capitol to protest the closing of the clinics. Many of these patients were diagnosed as terminally ill and evidenced some dramatic recoveries.

While I do not have the expertise to determine if Mr. Burton's immunology treatment worked or not, I do know that it did offer hope to many individual cancer patients. I myself had visited the clinic to determine whether the conditions that forced the closing could be corrected and, if so, whether the Bahamian Government would permit a reopening. Yet that did not happen, treatment has been stopped for 4 months and dozens of patients have died in the interim.

I do know that the leading cancer institutions in the United States, including NCI, played a role in closing the Burton clinic. In light of yesterday's announcement, I think we owe it to the Burton clinic cancer patients to examine and explain all the events leading up to the closing of that clinic.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3630

Mr. ROSE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3630.

The SPEAKER pro tempore (Mr. BEILENSON). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WE SHOULD KEEP THE 16-CENT CIGARETTE TAX

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, someone has inadvertently added my name to a piece of legislation that would raise cigarette taxes from 16 to 32 cents a pack.

I am very happy with the cigarette tax staying at 16 cents; I hope that we will extend it and keep it at 16 cents before we leave here for Christmas, or else it will go back to 8 cents, and you will all be in trouble back home.

I am sure the author of that legislation had nothing to do with that error, or maybe someone misunderstood my name when it was called. I hope that is what it is. I do not think at this time that we should raise cigarette taxes above 16 cents.

JAMES ROOSEVELT'S COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as worried as senior citizens are about the Social Security system, it's time to warn them about someone who wants to take money directly from their benefits—and unfortunately it's a group that says it wants to protect them.

It's James Roosevelt and the National Committee to Preserve Social Security with the biggest turkey since Thanksgiving. This time he sends a November 8 "Urgent Action Gram" telling senior citizens that much of the Social Security trust fund has been taken and implying there won't be enough money to pay December's benefits. He has a solution, however—send him an "emergency contribution" of $15 to raise money for lobbyists and lawyers.

Like Mr. Roosevelt, I opposed the disinvestment of the trust fund and supported restoring what had been taken. But seniors should know their December checks were never in doubt and recent legislation restored the drawn down reserves.

What does the Roosevelt committee do besides seek money? I've never been approached by one of their lobbyists on this issue; the lawsuits they talk about were filed by others.

Mr. Speaker, the administration's disinvestment was wrong; Mr. Roosevelt scaring the elderly into contributing part of their Social Security checks is even worse.

REMEMBERING THE HOSTAGES IN THE MIDDLE EAST

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, as we approach this beautiful holiday and Christmas season, I know we will all have on our minds, hopefully, the four or six Americans who are hostages in the Middle East, in Beirut.

During our Thanksgiving break, I flew up to New York and had a meeting with this courageous Englishman, the representative of the Archbishop of Canterbury, Mr. Terry Waite.

□ 1035

At this very moment, he is winging his way back to the world's presently most dangerous city, Beirut, to again meet with the captors of our four Americans that at least are known to be alive and ask for the safety of the other two Americans, the four Frenchmen, and the one fellow Englishman who are there. It will be a year in a few weeks on January 8 that Rev. Martin Jenko of Illinois will have been a prisoner. For him I am sure it is a great religious experience. We are told that he says mass every morning and every afternoon for the three Americans with whom he is held in captivity. For him, my constituent from Orange County, the gentleman who was head of the hospital section of the American University of Beirut, David Jacobson; head of the Agronomy Department, Tom Sutherland; and for the AP reporter, Terry Anderson, our thoughts and prayers are with them and with Terry Waite in his mission of mercy.

KICKING THEM WHEN THEY ARE DOWN

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, yesterday on the way to the House floor to vote for the continuing resolution, we saw White House staffers urging a vote against the bill. Why? Because in the opinion of the White House the continuing resolution was too generous to agriculture. Mr. Speaker, as an indication of the administration's attitude toward American agriculture, I place this attitude right up there with the statements of the President when he said, "Keep the grain, and export the farmers," with Don Regan's suggestion that "farmers in trouble are victims of their own greed," and similar remarks by former OMB Director David Stockman.

Once again, Mr. Speaker, we have the administration singling out agriculture, the most depressed sector of our national economy, as the area where we need to curb Government spending. How could this be? Does not anybody in the executive branch ever read a Midwestern newspaper? Do they not ever talk to farm State Congressmen and Senators, especially those from their own political party? Mr. Speaker, the amount appropriated for agriculture in the continuing resolution was a moderate amount that will keep some, but not all, family farmers in this Nation afloat. It was the very least we could do, and it was certainly not too generous.

Mr. Speaker, with this administration's position on the continuing resolution and a veto threatened of a modest House farm bill, I must ask this question: How hard do you have to kick someone who is already down?

LET US COMPROMISE ON INVESTMENT TAX CREDITS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, within the next few days, we, the Congress shall be voting on a major revision to the tax laws. Before voting, please remember that a Tax Code is an expression of the philosophy of a government.

The 1985 tax bill stepped up the rates on investment tax credits and this expressed a new U.S. philosophy. The United States would follow the successful lead of Germany and Japan, and, actively encourage our factories to modernize as rapidly as technology requires.

But even this strong measure has not stopped the export of manufacturing jobs—2.3 million in the last 3 years.

Let us not undo what we've started. And, rather than totally discarding the tax credit, compromise: Allow an investment tax credit on those goods built by American workers in American plants.

By encouraging increased domestic production, the Treasury will see increased revenues from income as well as corporate taxes.

And, if we the Congress are to express a philosophy, let it be: We shall rebuild our industrial base, for it is this base that will produce the jobs that produce the tax revenues needed to operate the Government. Thus we can reduce the deficit in orderly fashion.

SUPPORT THE COLLEGE ATHLETE EDUCATION AND PROTECTION ACT OF 1985 (H.R. 2620)

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. BUSTAMANTE. Mr. Speaker, last month it was reported that former Washington Bullets basketball great, Elvin Hayes, recently reenrolled at the University of Houston. Mr. Hayes warned that college athletic programs were in danger of becoming "wastelands," unless more attention is paid to the student-athlete's academic performance.

Thanks to Gov. Mark White, Texas implemented the "no pass, no play" rule. This rule requires high school student athletes to maintain an average grade level, if they are to maintain their athletic eligibility. Thus far, 85 percent of student athletes have maintained their eligibility on the field and in the classroom.

Mr. Speaker, our colleague, Representative JAMES HOWARD, has proposed a bill which I am proud to be a cosponsor, the College Athlete Education and Protection Act (H.R. 2620). This legislation goes one step further than the Texas rule by requiring that colleges graduate 75 percent of their student athletes who attend school on scholarships. It's a good idea, and I urge my colleagues to support the Howard bill.

THE ROSTENKOWSKI BILL ALMOST CERTAINLY WILL CAUSE A RECESSION IN 1986

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I simply want to bring to the House's attention the fact that there are newspaper reports that a suppressed report by the Council of Economic Advisers indicates that the Rostenkowski tax bill would almost certainly cause a recession in 1986.

I think every Member of this House before they vote next week ought to think carefully about whether or not the level of tax uncertainty created by the bill which would not be taken up by the other body until June and probably not passed until September or October, and the additional fact that for some people it will be a tax increase for the first 6 months of the year, and that combination apparently, according to the Council of Economic Advisers, means there would be a recession in 1986 with more Americans out of work, with more pressure for protectionism, with a greater threat to the world market.

I think that the President would be well advised to release the Council of Economic Advisers report and let us look at whether or not in fact all of the evidence indicates there will be a recession if the Rostenkowski bill passes.

TRIBUTE TO HON. DON EDWARDS

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I am proud to honor my colleague and friend, Congressman DON EDWARDS, on the occasion of an upcoming tribute by the Americans for Democratic Action.

Much has been said about DON'S contributions to our civil and constitutional rights. Indeed, drawing on his passionate beliefs and his consummate legislative skills, DON has dedicated his public career to preserving the freedoms of all Americans. Within the span of his career, he labored hard for passage of the Voting Rights Act of 1965, and, in the ensuing years, sought to keep alive both the spirit and the letter of that law. Little more than a decade ago, his integrity and his leadership were evident during the traumatic days of the Watergate scandal. His belief that no man—not even a President—is above the law, prevailed in the end.

But, I would like to underscore that DON is also a friend and a colleague with whom I have shared the pleasure of representing Santa Clara County, including our hometown of San Jose. DON is a major reason why our county has grown to be a successful international center for business and trade, and, his constituents have much to be grateful for.

I would like to add one very personal note. There are many of us in Santa Clara County who chose a career in public service, in large measure, because of DON EDWARDS. We chose this path because he established, by his example, a standard of excellence and compassion in government service. And, once in government, we could rely on his counsel, his encouragement, and his help. In short, Mr. Speaker, I regard DON as my mentor.

This Saturday, DON will be honored by the Americans for Democratic Action. I am here today to say that I have been honored to serve with DON, to have learned from him, and to count him among my most treasured friends.

Thank you.

AMENDING THE EPA AUTHORITY WITH REGARD TO TOXIC SUBSTANCES

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, later on today I plan to offer two amendments to strengthen community right-to-know provisions of the Superfund bill. My first amendment would deal with the listing of extremely toxic substances. The bill, as drawn, requires the EPA Administrator to publish a list of extremely toxic substances which are so acutely toxic that their release into the environment may produce an imminent and substantial endangerment to human health. My amendment would direct the Administrator to also incorporate into the EPA's extremely toxic substances list those 400 other substances that EPA has already identified as acutely toxic in their Acute Hazards Program and which may pose potentially serious health dangers to the public.

My second amendment addresses blanket exemptions, which under the bill, the EPA Administrator would be able to offer for groups or facilities regardless of the emission problems the facilities might have.

My amendment would preserve the Administrator's right to issue exemptions. However, it would require that they be applied only on a facility-by-facility basis, rather than by allowing broad exemptions of all facilities handling certain acutely hazardous substances.

I would ask for the consideration of my colleagues when those two amendments are offered. To strengthen the community-right-to-know section of this Superfund bill.

FORMER CONGRESSMAN "ED" ESHELMAN, UNSUNG HERO

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I thank the gentleman from Georgia who, a few moments ago, mentioned the new treatment that has been developed at the National Cancer Institute that has some promise for the future. I think the Members of this body might be interested to know that a former colleague of ours was one of the 25 people who served as human guinea pigs for that new treatment. Congressman Ed Eshelman, who suffered from cancer and died just several months ago, was one of the people who received that experimental treatment. He is obviously one of the people who did not make it, but he was one who, I think, helped prove the technique. I think it is his courage as well as the courage of the other people who have undergone this very, very toxic treatment but who are now proving that it may be successful in the future treatment of cancer, that need to be congratulated along with the researchers who made this whole thing possible.

PRESIDENT REAGAN SHOULD VETO THE ROSTENKOWSKI TAX BILL

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, this morning we learned that the President last night endorsed in a lukewarm fashion the tax reform bill in order to carry the process forward. I would respectfully disagree with the President. I believe that the process itself is flawed. The Committee on Ways and Means put in many, many hours, for which they should be complimented, and they did the best they could. But the problem is that they had to structure too many deals that the product that they have come up with is neither simplification nor is it reform.

I think the time is not right to bring the process forward but to abandon the process and go back and attack the real injustices in the Tax Code and bring them to the floor on a one-by-one basis. This is a responsible way to legislate. I would hope that my colleagues would join me in attempting to defeat the rule so that we can bury this process and start anew next year with real tax reform and tax simplification.

CONFERENCE REPORT ON H.R. 3424, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES, APPROPRIATION ACT, 1986

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 3424) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BARNARD). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 21, 1985.)

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

□ 1050

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on the bill, H.R. 3424.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, the conference report on H.R. 3424 which we present to the House today provides 1986 appropriations for the Departments of Labor, Health and Human Services, and Education, and for 13 related agencies. This marks the third consecutive year in which we have been able to bring a final conference agreement on this bill to the House for its approval. There were 199 Senate amendments in conference. We have reached agreement on all of them, and we have reached an agreement which we believe will be acceptable to the President.

As Members are aware, it has not always been easy to move this bill through the legislative process to final enactment. Although the President signed the bill in 1984 and in 1985, for 3 years prior to that, in 1981, 1982, and 1983, the bill did not pass the other body. Final conference agreement could not be reached on the 1978 and 1980 bills because of the abortion issue. Between 1970 and 1976, seven annual appropriation bills were vetoed by the President. Three of these vetoes were sustained, three were overridden, and one was a pocket veto. In 1973, 1978, 1980, 1981, 1982, and 1983, the Labor, Health and Human Services, and Education programs were funded for the full year through continuing resolutions.

We are pleased to be able to bring the conference report to the House at this time.

Mr. Speaker, let me again state that it is a distinct honor and privilege to work on this bill with my distinguished friend, my colleague from the State of Massachusetts [Mr. CONTE]. Mr. CONTE is the ranking minority member on our subcommittee, as well as being the ranking minority member on the full Appropriations Committee. Mr. Speaker, the gentleman sat with me through the many months of hearings that we conducted on this bill. Because of the time he has spent in mastering the details of this bill, he has played a vital role in getting this conference report to the floor today. At this time I want to personally thank my friend for his efforts in assuring that the Labor, Health and Human Services, and Education appropriation bill, the bill that means so much to the people in this country, will be signed into law. I want my friend SILVIO CONTE to know that it is a distinct honor and privilege for me to serve in the House with him.

Mr. Speaker, I would also like to thank each of the other members of our subcommittee, all of whom have participated in our successful effort to bring this conference report to the House floor at this time.

Mr. Speaker, I would especially like to extend my gratitude to our distinguished full committee chairman, the gentleman from Mississippi [Mr. JAMIE WHITTEN], the dean of the Congress. Mr. WHITTEN has helped us, as he always does, in getting this bill to the floor. We are very fortunate to have such an able gentleman as our full committee chairman presiding over our Committee on Appropriations.

Mr. Speaker, I think every committee and every subcommittee in this House is proud of its staff. I think that applies to every standing committee that we have, the 21 standing committees and all of the subcommittees. On our subcommittee, Mr. Speaker, we have five staff assistants who have now worked together for 10 consecutive years. They know more about this bill than anyone that I know of, Mr. Speaker. They all worked hard on this bill. We have our chief staff assistant, Henry Neil, who sits with me here at this table and who specializes in the budget for the National Institutes of Health; Fred Pfluger, who is responsible for matters pertaining to the Department of Education, and the Office of Human Development Services and Departmental Management in the Department of Health and Human Services, Bob Knisely, who works with us on matters pertaining to the Department of Labor, the related agencies; the Centers for Disease Control, the Office of the Assistant Secretary for Health, and the Office of Community Services; Mike Stephens, who works with us on our subcommittee on matters pertaining to Social Security, Medicare and Medicaid, the Health Resources and Services Administration, and the Alcohol, Drug Abuse, and Mental Health Administration; and Bettilou Taylor, our administrative assistant and coordinator. They have served with the committee for periods ranging from 10 to 17 years. At this time I want to thank these people for the fine work they have done not only this year but all down through the years since I have been on this committee.

Mr. Speaker, after the conference report was filed, we received word from the other body that the amounts in it, together with the amounts provided in the continuing resolution for unauthorized programs not covered in the bill, exceeded the 302(b) allocation for new budget authority, as defined by the other body, by about $38 million. I should note that we are well within the House 302(b) allocation. We are $573 million below the House 302 ceiling. When amendments reported in disagreement are considered, I shall offer a motion which will make reductions in programs to bring this bill within the Senate target. We have

been told by officials of the Office of Management and Budget that these reductions will ensure the signature by the President. I would like to insert in the RECORD at this point a list of those programs, together with the reduction proposed for each:

H.R. 3424 CONFERENCE ADJUSTMENT

[In thousands of dollars]

	House	Senate	Conference	Change
National Health Service Corps	(1)	63,500	63,500	−5,000
NIH administrative costs	NA	NA	381,385	−3,000
Health statistics	41,032	45,491	45,491	−2,000
Child welfare services	200,000	240,000	220,000	−13,000
Community Services block grant: Discretionary activities	31,000	33,135	33,135	−2,135
Impact aid construction	20,000	10,000	20,000	−2,500
Ch. 2, discretionary projects	6,052	6,052	6,052	−3,000
Math and science		90,000	50,000	−5,000
Library construction	23,680	25,000	25,000	−2,500
Total reduction				−38,135

[1] Defer.

Mr. Speaker, the conference agreement on H.R. 3424, as modified to meet the Senate target, that we are presenting to the House today provides a total of $106,549,613,000 for the Departments of Labor, Health and Human Services, and Education and related agencies. This amount includes $6,516,745,000 for the Department of Labor, $80,676,812,000 for the Department of Health and Human Services, $18,372,201,000 for the Department of Education and $983,855,000 for related agencies. The total conference agreement for 1986 includes $72,961,084,000 for mandatory programs, principally medicaid, medicare, aid to families with dependent children and supplemental security income, as well as $32,911,044,000 for discretionary programs where spending levels are set through the annual appropriations process.

The total funding recommended by the conferees for Labor, Health and Human Services, and Education activities is $2,997,457,000 below the fiscal year 1985 appropriations. It is, however, $4,970,337,000 over the President's budget, $1,633,967,000 over the House bill, and $426,294,000 below the Senate bill. Budget requests for an additional $478,991,000 have been deferred pending enactment of authorizing legislation. Mr. Speaker, it should be noted that the large increase over the House bill is primarily the result of the inclusion in this bill of $1,034,814,000 for programs which were not considered at the time of House passage due to lack of authorizing legislation. For discretionary programs considered by both Houses, this bill is $96,835,000 above the House bill.

H.R. 3424 includes funding for hundreds of separate programs in three Cabinet departments and 12 related agencies. Obviously, I cannot review each of the recommendations here today. Nevertheless, some of the more important ones include:

$3,461 million for the Job Training Partnership Act including $640 million for Job Corps.

$234 million for AIDS research and prevention. This amount is $114.5 million over the President's request, $44.5 million over the House recommendation and $12.5 million over the Senate recommendation, reaffirming the commitment of the Congress to eradicating this serious disease as quickly as possible.

$478 million for the maternal and child health block grants.

$5,498 million for biomedical research at the National Institutes of Health. This figure is $350.2 million over the fiscal year 1985 amount and will fund at least 6,100 new and competing grants.

$2,100 million for low-income energy assistance.

$1,087 million for Head Start an increase of $12 million over fiscal year 1985.

$370 million for the community services block grant.

$3,688 million for chapter I grants for the disadvantaged.

$692.5 million for impact aid including $513 million for category "a" students and $130 million for category "b" students.

$1,411 million for Education for the handicapped representing an increase of $90 million over fiscal year 1985.

$838 million for vocational and adult education. This amount is $7.5 million above fiscal year 1985 and $107.5 million above the President's request.

$4,887 million for student financial assistance, including $3,588 million for Pell grants. This level provides sufficient amounts to fund a maximum grant of $2,100 for the neediest students.

For the Pell Grant Program, the conference agreement is intended to continue the policy of a $2,100 maximum award up to 60 percent of the costs of attendance. The amount included in this bill to fund this policy is $3.588 billion, which the House and Senate conferees feel confident is a good estimate. If this amount is later found to be insufficient to fully fund this policy, it is our intent that the Secretary use the authority in the basic law to implement linear reduction, rather than request a supplemental appropriation or draw funds from next year's appropriation. Under these circumstances, awards to those students with the most need would not be reduced, and awards to other students would be minimally affected.

In this connection, the conferees noted with concern, as did our report on the House side, the cumulative unfunded Pell shortfall of some $468 million through fiscal year 1984. We urge the Secretary and the Director of OMB to propose in the 1987 budget a strategy for converting these unfunded Pell obligations from prior years. Continued drawdown of funds from future year appropriations is not good policy.

$151 million for ACTION including $19 million for VISTA and $56 million for foster grandparents.

$214 million for the Corporation for Public Broadcasting for fiscal year 1988.

Mr. Speaker, these are just some of the major items included in H.R. 3424 as agreed to in conference. The full agreement is described in the statement of the managers accompanying this conference report. We believe that this is a good bill, a good compromise between the House and the Senate and a good compromise with the administration. Moreover, we feel that this bill will be signed by the President. Mr. Speaker, it should be noted that while this conference agreement includes increases for some of the Labor, Health and Human Services and Education Programs, it is below the House 302(b) allocation for discretionary programs. We urge the adoption of the conference report.

Mr. Speaker, I wish to revise and extend my remarks and to insert at this point in the RECORD a table showing the adjusted conference agreement for each program, included in the bill, together with appropriate comparisons:

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference*	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill H/B
SUMMARY									
Title I - Department of Labor:									
Federal Funds	6,312,475,000	5,828,673,000	6,676,633,000	6,509,299,000	6,516,745,000	+204,270,000	+688,072,000	-159,888,000	+7,446,000
Trust Funds	(2,632,851,000)	(2,643,468,000)	(2,709,465,000)	(2,685,559,000)	(2,705,119,000)	(+72,268,000)	(+61,651,000)	(-4,346,000)	(+19,560,000)
Title II - Department of Health and Human Services:									
Federal Funds (all years)	83,493,330,000	79,309,447,000	79,914,542,000	81,213,072,000	80,676,812,000	-2,816,518,000	+1,367,365,000	+762,270,000	-536,260,000
Current year	(72,642,561,000)	(67,835,693,000)	(68,440,788,000)	(69,739,318,000)	(69,203,058,000)	(-3,439,503,000)	(+1,367,365,000)	(+762,270,000)	(-536,260,000)
1987 advance	(10,850,769,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(+622,985,000)	---	---	---
Trust Funds	(4,904,868,000)	(5,168,334,000)	(5,248,644,000)	(5,237,371,000)	(5,228,821,000)	(+323,953,000)	(+60,487,000)	(-19,823,000)	(-8,550,000)
Title III - Department of Education:									
Federal Funds	18,744,808,000	15,472,151,000	17,526,805,000	18,273,115,000	18,372,201,000	-372,607,000	+2,900,050,000	+845,396,000	+99,086,000
Title IV - Related Agencies:									
Federal Funds (all years)	996,457,000	969,005,000	767,666,000	980,421,000	983,855,000	-12,602,000	+14,850,000	+216,189,000	+3,434,000
Current year	(796,457,000)	(755,005,000)	(767,666,000)	(766,421,000)	(769,855,000)	(-26,602,000)	(+14,850,000)	(+2,189,000)	(+3,434,000)
1988 advance	(200,000,000)	(214,000,000)	DEFER	(214,000,000)	(214,000,000)	(+14,000,000)	---	(+214,000,000)	---
Trust Funds	(74,524,000)	(68,801,000)	(74,693,000)	(75,881,000)	(74,802,000)	(+278,000)	(+6,001,000)	(+109,000)	(-1,079,000)
Total, all titles:									
Federal Funds (all years)	109,547,070,000	101,579,276,000	104,885,646,000	106,975,907,000	106,549,613,000	-2,997,457,000	+4,970,337,000	+1,663,967,000	-426,294,000
Current year	(98,496,301,000)	(89,891,522,000)	(93,411,892,000)	(95,288,153,000)	(94,861,859,000)	(-3,634,442,000)	(+4,970,337,000)	(+1,449,967,000)	(-426,294,000)
1987 advance	(10,850,769,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(+622,985,000)	---	---	---
1988 advance	(200,000,000)	(214,000,000)	DEFER	(214,000,000)	(214,000,000)	(+14,000,000)	---	(+214,000,000)	---
Trust Funds	(7,610,743,000)	(7,880,603,000)	(8,032,802,000)	(7,997,311,000)	(8,007,242,000)	(+396,499,000)	(+126,639,000)	(-25,560,000)	(+9,931,000)
Unauthorized, not considered, current year	(632,625,000)	(478,991,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
CURRENT YEAR, INCLUDING PRIOR YEAR ADVANCES:									
Mandatory, current appropriations	(65,663,124,000)	(61,626,736,000)	(61,632,497,000)	(62,348,307,000)	(61,950,815,000)	(-3,712,309,000)	(+324,079,000)	(+318,318,000)	(-397,492,000)
Mandatory, prior year advances	(7,922,500,000)	(11,010,269,000)	(11,010,269,000)	(11,010,269,000)	(11,010,269,000)	(+3,087,769,000)	---	---	---
Subtotal, Mandatory	(73,585,624,000)	(72,637,005,000)	(72,642,766,000)	(73,358,576,000)	(72,961,084,000)	(-624,540,000)	(+324,079,000)	(+318,318,000)	(-397,492,000)
Discretionary, current appropriations	(32,833,177,000)	(28,264,786,000)	(31,779,395,000)	(32,939,846,000)	(32,911,044,000)	(+77,867,000)	(+4,646,258,000)	(+1,131,649,000)	(-28,802,000)
(Activities considered by both House & Senate)	(31,784,970,000)	(27,506,949,000)	(31,779,395,000)	(31,851,257,000)	(31,876,230,000)	(+91,260,000)	(+4,369,281,000)	(+96,835,000)	(+24,973,000)
Total, Adjusted current year	106,418,801,000	100,901,791,000	104,422,161,000	106,298,422,000	105,872,128,000	-546,673,000	+4,970,337,000	+1,449,967,000	-426,294,000

* Conference report modified by floor action.

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
TITLE I, DEPARTMENT OF LABOR										
EMPLOYMENT AND TRAINING ADMINISTRATION										
PROGRAM ADMINISTRATION										
Job training programs	8,221,000	6,901,000	---	7,866,000	7,866,000	-355,000	+965,000	+7,866,000	---	D
Employment security	1,035,000	1,100,000	---	425,000	425,000	-610,000	-675,000	+425,000	---	D
Trust funds	(16,200,000)	(15,498,000)	---	(15,498,000)	(15,498,000)	(-702,000)	---	(+15,498,000)	---	TF
Financial control and management systems	14,088,000	15,549,000	---	16,512,000	16,512,000	+2,424,000	+963,000	+16,512,000	---	D
Trust funds	(8,000,000)	(8,871,000)	---	(8,902,000)	(8,902,000)	(+902,000)	(+31,000)	(+8,902,000)	---	TF
Executive direction and administration	2,949,000	2,585,000	---	3,192,000	3,192,000	+243,000	+607,000	+3,192,000	---	D
Trust funds	(2,800,000)	(2,465,000)	---	(2,465,000)	(2,465,000)	(-335,000)	---	(+2,465,000)	---	TF
Regional operations	28,777,000	25,259,000	---	27,293,000	27,293,000	-1,484,000	+2,034,000	+27,293,000	---	D
Trust funds	(18,200,000)	(15,541,000)	---	(15,801,000)	(15,801,000)	(-2,399,000)	(+260,000)	(+15,801,000)	---	TF
Apprenticeship services	12,555,000	11,520,000	---	12,867,000	12,867,000	+312,000	+1,347,000	+12,867,000	---	D
Undistributed, Federal funds	---	---	68,355,000	---	---	---	---	-68,355,000	---	D
Undistributed, Trust funds	---	---	(42,243,000)	---	---	---	---	(-42,243,000)	---	TF
Total, Program Administration	112,825,000	105,289,000	110,598,000	110,821,000	110,821,000	-2,004,000	+5,532,000	+223,000	---	
Federal funds	67,625,000	62,914,000	68,355,000	68,155,000	68,155,000	+530,000	+5,241,000	-200,000	---	
Trust funds	(45,200,000)	(42,375,000)	(42,243,000)	(42,666,000)	(42,666,000)	(-2,534,000)	(+291,000)	(+423,000)	---	
TRAINING AND EMPLOYMENT SERVICES										
Grants to States:										
Block grant	1,886,151,000	1,886,151,000	1,863,151,000	1,886,151,000	1,863,151,000	-23,000,000	-23,000,000	---	-23,000,000	D
Summer youth employment and training program:										
(Summer, 1985 and 1986)	100,000,000	---	100,000,000	---	---	-100,000,000	---	-100,000,000	---	D
(Summer, 1986 and 1987)	724,549,000	664,549,000	724,549,000	664,549,000	664,549,000	-60,000,000	---	-60,000,000	---	D
Dislocated worker assistance	222,500,000	100,000,000	100,000,000	100,000,000	100,000,000	-122,500,000	---	---	---	D
Federally administered programs:										
Native Americans	62,243,000	62,243,000	62,243,000	62,243,000	62,243,000	---	---	---	---	D
Migrants and seasonal farmworkers	65,474,000	60,357,000	60,357,000	60,357,000	60,357,000	-5,117,000	---	---	---	D
Job Corps	617,000,000	---	640,000,000	617,000,000	640,000,000	+23,000,000	+640,000,000	---	+23,000,000	D
Veterans' employment	9,667,000	7,741,000	9,667,000	9,299,000	9,667,000	---	+1,926,000	---	+368,000	D
National activities	61,078,000	24,480,000	61,078,000	54,078,000	61,078,000	---	+36,598,000	---	+7,000,000	D
(Pilots and demonstrations)	(20,698,000)	---	(20,698,000)	(20,698,000)	(20,698,000)	---	(+20,698,000)	---	---	MA
(Research, demonstration and evaluation)	(12,190,000)	(15,190,000)	(15,190,000)	(15,190,000)	(15,190,000)	(+3,000,000)	---	---	---	MA
(Other)	(28,190,000)	(9,290,000)	(25,190,000)	(18,190,000)	(25,190,000)	(-3,000,000)	(+15,900,000)	---	(+7,000,000)	MA
Subtotal, Federal activities	815,462,000	154,821,000	833,345,000	802,977,000	833,345,000	+17,883,000	+678,524,000	---	+30,368,000	
Total, Job Training Partnership Act (comparable)	3,748,662,000	2,805,521,000	3,621,045,000	3,453,677,000	3,461,045,000	-287,617,000	+655,524,000	-160,000,000	+7,368,000	
Trade adjustment program activities	(26,000,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Total, Training and Employment Services	3,748,662,000	2,805,521,000	3,621,045,000	3,453,677,000	3,461,045,000	-287,617,000	+655,524,000	-160,000,000	+7,368,000	
COMMUNITY SERVICE FOR OLDER AMERICANS	326,000,000	326,000,000	326,000,000	326,000,000	326,000,000	---	---	---	---	D

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES										
Trade adjustment assistance	70,000,000	5,000,000	5,000,000	5,000,000	5,000,000	-65,000,000	---	---	---	M
Unemployment assistance and payments under other Federal unemployment programs	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	---	---	---	---	M
Total, FUBA	75,000,000	10,000,000	10,000,000	10,000,000	10,000,000	-65,000,000	---	---	---	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS										
Unemployment Compensation (Trust Funds):										
State Operations	(1,116,602,000)	(1,139,960,000)	(1,149,960,000)	(1,139,960,000)	(1,149,960,000)	(+33,358,000)	(+10,000,000)	---	(+10,000,000)	TF
State integrity activities	(203,375,000)	(222,500,000)	(222,500,000)	(222,500,000)	(222,500,000)	(+19,125,000)	---	---	---	TF
National Activities	(3,145,000)	(2,908,000)	(2,908,000)	(2,908,000)	(2,908,000)	(-237,000)	---	---	---	TF
Contingency	(263,817,000)	(278,732,000)	(278,732,000)	(283,532,000)	(283,532,000)	(+19,715,000)	(+4,800,000)	(+4,800,000)	---	TF
Subtotal, Unemployment Compensation(trust funds)	(1,586,939,000)	(1,644,100,000)	(1,654,100,000)	(1,648,900,000)	(1,658,900,000)	(+71,961,000)	(+14,800,000)	(+4,800,000)	(+10,000,000)	
Employment Service:										
Allotments to States:										
Current year:										
Federal funds	22,200,000	22,700,000	22,700,000	22,700,000	22,700,000	+500,000	---	---	---	D
Trust funds	(755,198,000)	(732,500,000)	(778,000,000)	(769,500,000)	(769,500,000)	(+14,302,000)	(+37,000,000)	(-8,500,000)	---	TF
Subtotal	777,398,000	755,200,000	800,700,000	792,200,000	792,200,000	+14,802,000	+37,000,000	-8,500,000	---	
National Activities:										
Federal funds	1,300,000	900,000	900,000	900,000	900,000	-400,000	---	---	---	D
Trust funds	(51,267,000)	(27,840,000)	(27,840,000)	(27,840,000)	(27,840,000)	(-23,427,000)	---	---	---	TF
Subtotal, Employment Service	829,965,000	783,940,000	829,440,000	820,940,000	820,940,000	-9,025,000	+37,000,000	-8,500,000	---	
Federal funds	23,500,000	23,600,000	23,600,000	23,600,000	23,600,000	+100,000	---	---	---	
Trust funds	(806,465,000)	(760,340,000)	(805,840,000)	(797,340,000)	(797,340,000)	(-9,125,000)	(+37,000,000)	(-8,500,000)	---	
Total, State Unempl. Ins. and Empl. Ser. Opers.	2,416,904,000	2,428,040,000	2,483,540,000	2,469,840,000	2,479,840,000	+62,936,000	+51,800,000	-3,700,000	+10,000,000	
Federal Funds	23,500,000	23,600,000	23,600,000	23,600,000	23,600,000	+100,000	---	---	---	
Trust Funds	(2,393,404,000)	(2,404,440,000)	(2,459,940,000)	(2,446,240,000)	(2,456,240,000)	(+62,836,000)	(+51,800,000)	(-3,700,000)	(+10,000,000)	
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	---	465,000,000	465,000,000	465,000,000	465,000,000	+465,000,000	---	---	---	M
Total, Employment & Training Administration	6,679,391,000	6,139,850,000	7,016,183,000	6,835,338,000	6,852,706,000	+173,315,000	+712,856,000	-163,477,000	+17,368,000	
Federal funds	4,240,787,000	3,693,035,000	4,514,000,000	4,346,432,000	4,353,800,000	+113,013,000	+660,765,000	-160,200,000	+7,368,000	
Trust funds	(2,438,604,000)	(2,446,815,000)	(2,502,183,000)	(2,488,906,000)	(2,498,906,000)	(+60,302,000)	(+52,091,000)	(-3,277,000)	(+10,000,000)	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
LABOR - MANAGEMENT SERVICES										
SALARIES AND EXPENSES										
Labor-management relations service	5,120,000	4,797,000	4,797,000	4,797,000	4,797,000	-323,000	---	---	---	D
Labor-management standards enforcement	24,537,000	23,662,000	23,662,000	23,715,000	23,662,000	-875,000	---	---	-53,000	D
Pension and welfare benefit programs	30,374,000	29,046,000	29,046,000	29,100,000	29,046,000	-1,328,000	---	---	-54,000	D
Total, LMS	60,031,000	57,505,000	57,505,000	57,612,000	57,505,000	-2,526,000	---	---	-107,000	
PENSION BENEFIT GUARANTY CORPORATION										
Program Administration (Trust Funds)	(33,057,000)	(33,040,000)	(33,040,000)	(33,040,000)	(33,040,000)	(-17,000)	---	---	---	TF
EMPLOYMENT STANDARDS ADMINISTRATION										
SALARIES AND EXPENSES										
Enforcement of wage and hour standards	73,744,000	69,980,000	---	73,565,000	73,565,000	-179,000	+3,585,000	+73,565,000	---	D
Federal contractor EEO standards enforcement	46,630,000	44,101,000	---	45,639,000	45,639,000	-991,000	+1,538,000	+45,639,000	---	D
Federal programs for workers' compensation	59,444,000	58,276,000	---	58,921,000	58,921,000	-523,000	+645,000	+58,921,000	---	D
Trust funds	(397,000)	(406,000)	---	(406,000)	(406,000)	(+9,000)	---	(+406,000)	---	TF
Executive direction and support services	12,764,000	11,624,000	---	12,193,000	12,193,000	-571,000	+569,000	+12,193,000	---	D
Undistributed, Federal funds	---	---	191,118,000	---	---	---	---	-191,118,000	---	D
Undistributed, Trust funds	---	---	(406,000)	---	---	---	---	(-406,000)	---	TF
Total, salaries and expenses	192,979,000	184,387,000	191,524,000	190,724,000	190,724,000	-2,255,000	+6,337,000	-800,000	---	
Federal funds	192,582,000	183,981,000	191,118,000	190,318,000	190,318,000	-2,264,000	+6,337,000	-800,000	---	
Trust funds	(397,000)	(406,000)	(406,000)	(406,000)	(406,000)	(+9,000)	---	---	---	
SPECIAL BENEFITS										
Federal employees compensation act benefits	207,000,000	255,000,000	255,000,000	255,000,000	255,000,000	+48,000,000	---	---	---	M
Longshore and harbor workers' benefits	4,400,000	4,500,000	4,500,000	4,500,000	4,500,000	+100,000	---	---	---	M
Total, Special Benefits	211,400,000	259,500,000	259,500,000	259,500,000	259,500,000	+48,100,000	---	---	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
BLACK LUNG DISABILILTY TRUST FUND										
Benefit payments and interest on advances	910,781,000	942,868,000	942,868,000	942,868,000	942,868,000	+32,087,000	---	---	---	M
Employment Standards Admin., salaries & expenses	24,579,000	25,481,000	25,481,000	25,481,000	25,481,000	+902,000	---	---	---	M
Departmental Management, salaries and expenses	13,688,000	15,297,000	19,746,000	19,697,000	19,697,000	+6,009,000	+4,400,000	-49,000	---	M
Departmental Management, inspector general	372,000	376,000	376,000	376,000	376,000	+4,000	---	---	---	M
Subtotal, Black Lung Disablty. Trust Fund, apprn	949,420,000	984,022,000	988,471,000	988,422,000	988,422,000	+39,002,000	+4,400,000	-49,000	---	
Appropriation available in prior year	-7,463,000	---	---	---	---	+7,463,000	---	---	---	M
Total adjusted apprn. including drawdown: Federal Funds	941,957,000	984,022,000	988,471,000	988,422,000	988,422,000	+46,465,000	+4,400,000	-49,000	---	
Treasury administrative costs (indefinite)	756,000	756,000	756,000	756,000	756,000	---	---	---	---	M
Total, Employment Standards Administration	1,347,092,000	1,428,665,000	1,440,251,000	1,439,402,000	1,439,402,000	+92,310,000	+10,737,000	-849,000	---	
Federal funds	1,346,695,000	1,428,259,000	1,439,845,000	1,438,996,000	1,438,996,000	+92,301,000	+10,737,000	-849,000	---	
Trust funds	(397,000)	(406,000)	(406,000)	(406,000)	(406,000)	(+9,000)	---	---	---	
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION										
SALARIES AND EXPENSES										
Safety and health standards	6,165,000	6,161,000	6,161,000	6,161,000	6,161,000	-4,000	---	---	---	D
Enforcement:										
Federal Enforcement	82,443,000	86,206,000	87,043,000	87,043,000	87,043,000	+4,600,000	+837,000	---	---	D
State programs	53,021,000	53,021,000	53,021,000	53,021,000	53,021,000	---	---	---	---	D
Technical Support	13,213,000	14,029,000	14,029,000	14,029,000	14,029,000	+816,000	---	---	---	D
Compliance Assistance	37,755,000	34,968,000	34,968,000	34,968,000	34,968,000	-2,787,000	---	---	---	D
Safety and health statistics	21,697,000	18,013,000	18,013,000	18,013,000	18,013,000	-3,684,000	---	---	---	D
Executive direction and administration	5,358,000	4,810,000	4,810,000	4,810,000	4,810,000	-548,000	---	---	---	D
Total, OSHA	219,652,000	217,208,000	218,045,000	218,045,000	218,045,000	-1,607,000	+837,000	---	---	
MINE SAFETY AND HEALTH ADMINISTRATION										
SALARIES AND EXPENSES										
Enforcement:										
Coal	75,130,000	75,507,000	---	75,507,000	---	-75,130,000	-75,507,000	---	-75,507,000	D
Metal/nonmetal	29,245,000	28,753,000	---	29,985,000	---	-29,245,000	-28,753,000	---	-29,985,000	D
Standards development	928,000	897,000	---	897,000	---	-928,000	-897,000	---	-897,000	D
Assessments	1,901,000	1,755,000	---	1,755,000	---	-1,901,000	-1,755,000	---	-1,755,000	D
Educational policy and development	12,298,000	11,629,000	---	11,629,000	---	-12,298,000	-11,629,000	---	-11,629,000	D
Technical support	18,412,000	18,402,000	---	18,402,000	---	-18,412,000	-18,402,000	---	-18,402,000	D
Program administration	12,636,000	11,968,000	---	12,049,000	---	-12,636,000	-11,968,000	---	-12,049,000	D
Undistributed	---	---	150,215,000	3,000,000	151,679,000	+151,679,000	+151,679,000	+1,464,000	+148,679,000	D
Total, Mine Safety and Health Administration	150,550,000	148,911,000	150,215,000	153,224,000	151,679,000	+1,129,000	+2,768,000	+1,464,000	-1,545,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
BUREAU OF LABOR STATISTICS										
SALARIES AND EXPENSES										
Employment and Unemployment Statistics	55,355,000	50,428,000	---	55,428,000	55,428,000	+73,000	+5,000,000	+55,428,000	---	D
Labor Market Information (Trust Funds)	(34,081,000)	(36,309,000)	---	(36,309,000)	(36,309,000)	(+2,228,000)	---	(+36,309,000)	---	TF
Prices and cost of living	48,779,000	50,187,000	---	50,762,000	50,762,000	+1,983,000	+575,000	+50,762,000	---	D
Wages and industrial relations	16,694,000	17,361,000	---	17,896,000	17,896,000	+1,202,000	+535,000	+17,896,000	---	D
Productivity and technology	4,680,000	4,797,000	---	4,920,000	4,920,000	+240,000	+123,000	+4,920,000	---	D
Economic growth and employment projections	2,959,000	3,138,000	---	3,205,000	3,205,000	+246,000	+67,000	+3,205,000	---	D
Executive direction and staff services	14,768,000	12,684,000	---	13,171,000	13,171,000	-1,597,000	+487,000	+13,171,000	---	D
Consumer Price Index Revision	9,625,000	13,258,000	---	13,258,000	13,258,000	+3,633,000	---	+13,258,000	---	D
Undistributed, Federal funds	---	---	158,616,000	---	---	---	---	-158,616,000	---	D
Undistributed, Trust funds	---	---	(36,309,000)	---	---	---	---	(-36,309,000)	---	TF
Total, Bureau of Labor Statistics	186,941,000	188,162,000	194,925,000	194,949,000	194,949,000	+8,008,000	+6,787,000	+24,000	---	
Federal Funds	152,860,000	151,853,000	158,616,000	158,640,000	158,640,000	+5,780,000	+6,787,000	+24,000	---	
Trust Funds	(34,081,000)	(36,309,000)	(36,309,000)	(36,309,000)	(36,309,000)	(+2,228,000)	---	---	---	
DEPARTMENTAL MANAGEMENT										
SALARIES AND EXPENSES										
Executive direction	11,232,000	10,840,000	11,280,000	11,280,000	11,280,000	+48,000	+440,000	---	---	D
Legal services	39,598,000	39,677,000	39,878,000	39,878,000	39,878,000	+280,000	+201,000	---	---	D
Trust funds	(240,000)	(252,000)	(252,000)	(252,000)	(252,000)	(+12,000)	---	---	---	TF
International labor affairs	4,794,000	4,220,000	4,220,000	4,220,000	4,220,000	-574,000	---	---	---	D
Administration and management	24,666,000	21,841,000	21,841,000	21,841,000	21,841,000	-2,825,000	---	---	---	D
Adjudication	11,693,000	11,124,000	11,124,000	11,124,000	11,124,000	-569,000	---	---	---	D
Promoting employment of the handicapped	2,129,000	2,136,000	2,136,000	1,000,000	2,136,000	+7,000	---	---	+1,136,000	D
Women's Bureau	5,130,000	4,751,000	5,251,000	5,441,000	5,441,000	+311,000	+690,000	+190,000	---	D
Civil Rights Activities	3,268,000	2,896,000	3,307,000	3,383,000	3,383,000	+115,000	+487,000	+76,000	---	D
Total, Salaries and expenses	102,750,000	97,737,000	99,289,000	98,419,000	99,555,000	-3,195,000	+1,818,000	+266,000	+1,136,000	
Federal funds	102,510,000	97,485,000	99,037,000	98,167,000	99,303,000	-3,207,000	+1,818,000	+266,000	+1,136,000	
Trust funds	(240,000)	(252,000)	(252,000)	(252,000)	(252,000)	(+12,000)	---	---	---	
VETERANS EMPLOYMENT AND TRAINING										
Trust funds	(122,172,000)	(124,485,000)	(132,975,000)	(124,485,000)	(132,975,000)	(+10,803,000)	(+8,490,000)	---	(+8,490,000)	TF
OFFICE OF THE INSPECTOR GENERAL										
Audit:										
Federal funds	22,655,000	17,487,000	22,655,000	20,743,000	21,699,000	-956,000	+4,212,000	-956,000	+956,000	D
Trust funds	(3,755,000)	(1,541,000)	(3,755,000)	(1,541,000)	(2,648,000)	(-1,107,000)	(+1,107,000)	(-1,107,000)	(+1,107,000)	TF
Investigation:										
Federal funds	5,504,000	5,862,000	5,504,000	6,077,000	5,790,000	+286,000	-72,000	+286,000	-287,000	D
Trust funds	(545,000)	(620,000)	(545,000)	(620,000)	(583,000)	(+38,000)	(-37,000)	(+38,000)	(-37,000)	TF

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Office of Labor										
Racketeering	5,960,000	6,483,000	5,960,000	6,687,000	6,323,000	+363,000	-160,000	+363,000	-364,000	D
Administration and management	5,204,000	4,538,000	5,204,000	4,629,000	4,918,000	-286,000	+380,000	-286,000	+289,000	D
Total, Office of the Inspector General	43,623,000	36,531,000	43,623,000	40,297,000	41,961,000	-1,662,000	+5,430,000	-1,662,000	+1,664,000	
Federal funds	39,323,000	34,370,000	39,323,000	38,136,000	38,730,000	-593,000	+4,360,000	-593,000	+594,000	
Trust funds	(4,300,000)	(2,161,000)	(4,300,000)	(2,161,000)	(3,231,000)	(-1,069,000)	(+1,070,000)	(-1,069,000)	(+1,070,000)	
SPECIAL FOREIGN CURRENCY PROGRAM	67,000	47,000	47,000	47,000	47,000	-20,000	---	---	---	D
Total, Departmental Management	268,612,000	258,800,000	275,934,000	263,248,000	274,538,000	+5,926,000	+15,738,000	-1,396,000	+11,290,000	
Federal funds	141,900,000	131,902,000	138,407,000	136,350,000	138,080,000	-3,820,000	+6,178,000	-327,000	+1,730,000	
Trust funds	(126,712,000)	(126,898,000)	(137,527,000)	(126,898,000)	(136,458,000)	(+9,746,000)	(+9,560,000)	(-1,069,000)	(+9,560,000)	
Total, Labor Department	8,945,326,000	8,472,141,000	9,386,098,000	9,194,858,000	9,221,864,000	+276,538,000	+749,723,000	-164,234,000	+27,006,000	
Federal funds	6,312,475,000	5,828,673,000	6,676,633,000	6,509,299,000	6,516,745,000	+204,270,000	+688,072,000	-159,888,000	+7,446,000	
Trust funds	(2,632,851,000)	(2,643,468,000)	(2,709,465,000)	(2,685,559,000)	(2,705,119,000)	(+72,268,000)	(+61,651,000)	(-4,346,000)	(+19,560,000)	
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES										
PUBLIC HEALTH SERVICE HEALTH RESOURCES AND SERVICES ADMINISTRATION										
HEALTH RESOURCES AND SERVICES										
Health Care Delivery and Assistance:										
Maternal and Child Health Block Grant	478,000,000	478,000,000	478,000,000	478,000,000	478,000,000	---	---	---	---	D
Primary Care Block Grant:										
Community health centers	383,000,000	360,000,000	DEFER	405,000,000	400,000,000	+17,000,000	+40,000,000	+400,000,000	-5,000,000	D
Black lung clinics	3,300,000	3,300,000	3,300,000	3,500,000	3,400,000	+100,000	+100,000	+100,000	-100,000	D
Migrant health	44,300,000	44,300,000	DEFER	46,500,000	45,400,000	+1,100,000	+1,100,000	+45,400,000	-1,100,000	D
Family planning	(142,500,000)	(142,500,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Subtotal, Primary Care	430,600,000	407,600,000	3,300,000	455,000,000	448,800,000	+18,200,000	+41,200,000	+445,500,000	-6,200,000	
Home health demonstrations and training	3,000,000	---	---	3,000,000	1,500,000	-1,500,000	+1,500,000	+1,500,000	-1,500,000	D
National Health Service Corps	45,726,000	45,793,000	DEFER	63,500,000	58,500,000	+12,774,000	+12,707,000	+58,500,000	-5,000,000	D
Hansen's disease services (Carville)	18,881,000	19,103,000	19,103,000	19,103,000	19,103,000	+222,000	---	---	---	D
Federal employee occupational health	600,000	---	---	600,000	---	-600,000	---	---	-600,000	D
Reimburseable activities (non-add)	(15,750,000)	---	(15,750,000)	(15,750,000)	(15,750,000)	---	(+15,750,000)	---	---	NA
Payment to Hawaii for treatment of Hansen's Dis...	2,500,000	2,500,000	2,500,000	3,300,000	3,300,000	+800,000	+800,000	+800,000	---	D
Pediatric emergency care	2,000,000	---	---	---	---	-2,000,000	---	---	---	D
Total, Health Care Delivery & Assistance	981,307,000	952,996,000	502,903,000	1,022,503,000	1,009,203,000	+27,896,000	+56,207,000	+506,300,000	-13,300,000	
Health Professions:										
Health professions student assistance:										
Exceptional need scholarships	7,000,000	---	DEFER	7,000,000	7,000,000	---	+7,000,000	+7,000,000	---	D
National Health Service Scholarships	2,300,000	---	DEFER	2,300,000	2,300,000	---	+2,300,000	+2,300,000	---	D
Health professions institutional assistance:										
Financial distress	5,600,000	---	DEFER	5,600,000	4,100,000	-1,500,000	+4,100,000	+4,100,000	-1,500,000	D

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THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Public health/health administration:										
Public Health capitation	5,000,000	---	DEFER	5,000,000	5,000,000	---	+5,000,000	+5,000,000	---	D
Health Administration grants	1,500,000	---	DEFER	1,500,000	1,500,000	---	+1,500,000	+1,500,000	---	D
Public Health traineeships	3,000,000	---	DEFER	3,000,000	3,000,000	---	+3,000,000	+3,000,000	---	D
Health Administration traineeships	500,000	---	DEFER	500,000	500,000	---	+500,000	+500,000	---	D
Preventive medicine residencies	1,600,000	---	DEFER	1,600,000	1,600,000	---	+1,600,000	+1,600,000	---	D
Two year medical schools	---	---	DEFER	500,000	500,000	+500,000	+500,000	+500,000	---	D
Subtotal, PH/HA	11,600,000	---	---	12,100,000	12,100,000	+500,000	+12,100,000	+12,100,000	---	
Family Med/Gen Dentistry res. & trns	35,950,000	---	DEFER	36,000,000	36,000,000	+50,000	+36,000,000	+36,000,000	---	D
General Internal Medicine and Pediatrics	18,450,000	---	DEFER	18,500,000	18,500,000	+50,000	+18,500,000	+18,500,000	---	D
Family medicine departments	7,500,000	---	DEFER	7,500,000	7,000,000	-500,000	+7,000,000	+7,000,000	-500,000	D
Physician assistants	4,800,000	---	DEFER	4,800,000	4,800,000	---	+4,800,000	+4,800,000	---	D
Area health education centers	18,000,000	---	DEFER	18,000,000	18,000,000	---	+18,000,000	+18,000,000	---	D
Health professions data analysis	2,000,000	---	DEFER	2,000,000	2,000,000	---	+2,000,000	+2,000,000	---	D
Disadvantaged Assistance	24,000,000	---	DEFER	24,000,000	25,500,000	+1,500,000	+25,500,000	+25,500,000	+1,500,000	D
Health professions spec ed initiatives	3,000,000	---	DEFER	3,000,000	3,000,000	---	+3,000,000	+3,000,000	---	D
Geriatric training initiative	5,000,000	---	DEFER	5,000,000	5,000,000	---	+5,000,000	+5,000,000	---	D
Pacific Basin initiative	2,500,000	---	DEFER	---	---	-2,500,000	---	---	---	D
Nurse training:										
Advanced nurse training	16,450,000	---	16,450,000	16,500,000	16,500,000	+50,000	+16,500,000	+50,000	---	D
Nurse practitioner	12,000,000	---	12,000,000	12,000,000	12,000,000	---	+12,000,000	---	---	D
Special projects	9,500,000	---	9,500,000	9,500,000	9,500,000	---	+9,500,000	---	---	D
Traineeships	11,450,000	---	11,450,000	11,500,000	11,500,000	+50,000	+11,500,000	+50,000	---	D
Fellowships	2,000,000	---	DEFER	2,000,000	2,000,000	---	+2,000,000	+2,000,000	---	D
Research grants	9,400,000	---	9,400,000	10,000,000	9,700,000	+300,000	+9,700,000	+300,000	-300,000	D
Nurse Anesthetists	800,000	---	800,000	800,000	800,000	---	+800,000	---	---	D
Center for Nursing Research	5,000,000	---	DEFER	---	---	-5,000,000	---	---	---	D
Special projects for new purposes	---	---	---	2,700,000	1,350,000	+1,350,000	+1,350,000	+1,350,000	-1,350,000	D
Faculty fellowships	---	---	---	1,100,000	550,000	+550,000	+550,000	+550,000	-550,000	D
Subtotal, Nurse training	59,600,000	---	59,600,000	64,100,000	61,900,000	+2,300,000	+61,900,000	+2,300,000	-2,200,000	
Total, Health professions	214,300,000	---	59,600,000	211,900,000	209,200,000	-5,100,000	+209,200,000	+149,600,000	-2,700,000	
HMO and Resources Development:										
Health Planning	64,986,000	---	DEFER	65,086,000	28,119,000	-36,867,000	+28,119,000	+28,119,000	-36,967,000	D
Organ transplants	800,000	---	400,000	4,200,000	3,000,000	+2,200,000	+3,000,000	+2,600,000	-1,200,000	D
Disaster construction grants	---	---	---	---	5,000,000	+5,000,000	+5,000,000	+5,000,000	+5,000,000	D
Health teaching facilities	1,228,000	1,200,000	1,200,000	1,228,000	1,200,000	-28,000	---	---	-28,000	D
Total, HMO & Resources Development	67,014,000	1,200,000	1,600,000	70,514,000	37,319,000	-29,695,000	+36,119,000	+35,719,000	-33,195,000	
Buildings and facilities	---	750,000	750,000	750,000	750,000	+750,000	---	---	---	D
Program management / Program support, HRSA	98,962,000	58,011,000	DEFER	103,312,000	98,962,000	---	+40,951,000	+98,962,000	-4,350,000	D
Total, Health Resources and Services	1,361,583,000	1,012,957,000	564,853,000	1,408,979,000	1,355,434,000	-6,149,000	+342,477,000	+790,581,000	-53,545,000	
(Activities cons. by both House & Senate)	(569,909,000)	(504,853,000)	(564,853,000)	(577,781,000)	(577,153,000)	(+7,244,000)	(+72,300,000)	(+12,300,000)	(-628,000)	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
MEDICAL FACILITIES GUARANTEE AND LOAN FUND	26,500,000	25,000,000	25,000,000	25,000,000	25,000,000	-1,500,000	---	---	---	M
HMO LOAN AND LOAN GUARANTEE FUND:										
Capital contribution	1,720,000	---	---	---	---	-1,720,000	---	---	---	M
Loan disbursements (non-add)	(2,600,000)	(700,000)	(700,000)	(700,000)	(700,000)	(-1,900,000)	---	---	---	MA
HEAL	(250,000,000)	---	---	(275,000,000)	(275,000,000)	(+25,000,000)	(+275,000,000)	(+275,000,000)	---	MA
CENTERS FOR DISEASE CONTROL										
DISEASE CONTROL										
Preventive Health Services Block Grant	89,500,000	89,525,000	89,525,000	93,441,000	91,483,000	+1,983,000	+1,958,000	+1,958,000	-1,958,000	D
Prevention centers	---	---	---	3,000,000	1,500,000	+1,500,000	+1,500,000	+1,500,000	-1,500,000	D
Sexually transmitted diseases:										
Grants	43,768,000	45,510,000	45,510,000	47,512,000	46,511,000	+2,743,000	+1,001,000	+1,001,000	-1,001,000	D
Direct operations	9,207,000	9,653,000	9,653,000	9,894,000	9,774,000	+567,000	+121,000	+121,000	-120,000	D
Subtotal	52,975,000	55,163,000	55,163,000	57,406,000	56,285,000	+3,310,000	+1,122,000	+1,122,000	-1,121,000	
Immunization:										
Grants	42,256,000	42,400,000	42,400,000	47,359,000	47,359,000	+5,103,000	+4,959,000	+4,959,000	---	D
Direct operations	7,991,000	8,128,000	8,128,000	8,343,000	8,235,000	+244,000	+107,000	+107,000	-108,000	D
Vaccine stockpile	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	---	---	---	---	D
Subtotal	54,247,000	54,528,000	54,528,000	59,702,000	59,594,000	+5,347,000	+5,066,000	+5,066,000	-108,000	
Infectious disease	60,102,000	80,717,000	80,717,000	101,698,000	101,698,000	+41,596,000	+20,981,000	+20,981,000	---	D
Tuberculosis grants	5,000,000	---	5,000,000	5,000,000	5,000,000	---	+5,000,000	---	---	D
Chronic & environmental disease prevention	28,198,000	24,425,000	29,425,000	31,674,000	30,425,000	+2,227,000	+6,000,000	+1,000,000	-1,249,000	D
Occupational Safety and Health (NIOSH):										
Research	57,413,000	58,923,000	58,923,000	60,495,000	58,923,000	+1,510,000	---	---	-1,572,000	D
Training	8,760,000	---	8,760,000	8,760,000	8,760,000	---	+8,760,000	---	---	D
Subtotal, NIOSH	66,173,000	58,923,000	67,683,000	69,255,000	67,683,000	+1,510,000	+8,760,000	---	-1,572,000	
Epidemic services	48,477,000	50,260,000	50,260,000	51,300,000	51,300,000	+2,823,000	+1,040,000	+1,040,000	---	D
Buildings and facilities	6,310,000	3,797,000	3,797,000	4,625,000	3,797,000	-2,513,000	---	---	-828,000	D
Program management	3,042,000	3,096,000	3,096,000	3,176,000	3,096,000	+54,000	---	---	-80,000	D
User fees (non-add)	---	(1,266,000)	(1,266,000)	(1,266,000)	(1,266,000)	(+1,266,000)	---	---	---	MA
Undistributed	---	---	2,000,000	---	---	---	---	-2,000,000	---	D
Total, Disease Control	414,024,000	420,434,000	441,194,000	480,277,000	471,861,000	+57,837,000	+51,427,000	+30,667,000	-8,416,000	
NATIONAL INSTITUTES OF HEALTH										
National Cancer Institute:										
Activities considered by House and Senate	1,160,333,000	1,097,641,000	1,221,590,000	1,234,217,000	1,220,821,000	+60,488,000	+123,180,000	-769,000	-13,396,000	D
Construction	6,500,000	3,000,000	DEFER	6,500,000	6,500,000	---	+3,500,000	+6,500,000	---	D
Research training	30,838,000	30,838,000	DEFER	30,838,000	30,838,000	---	---	+30,838,000	---	D
Total, NCI	1,197,671,000	1,131,479,000	1,221,590,000	1,271,555,000	1,258,159,000	+60,488,000	+126,680,000	+36,569,000	-13,396,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	H/D
National Heart, Lung, and Blood Institute:										
Activities considered by House and Senate	761,490,000	733,941,000	812,882,000	820,146,000	816,066,000	+54,576,000	+82,125,000	+3,184,000	-4,080,000	D
Construction	3,300,000	---	DEFER	3,300,000	3,300,000	---	+3,300,000	+3,300,000	---	D
Research training	40,206,000	40,206,000	DEFER	40,206,000	40,206,000	---	---	+40,206,000	---	D
Total, NHLBI	804,996,000	774,147,000	812,882,000	863,652,000	859,572,000	+54,576,000	+85,425,000	+46,690,000	-4,080,000	
National Institute of Dental Research:										
Activities considered by House and Senate	96,374,000	90,116,000	97,691,000	99,166,000	98,815,000	+2,441,000	+8,699,000	+1,124,000	-351,000	D
Research training	4,562,000	4,562,000	DEFER	4,562,000	4,562,000	---	---	+4,562,000	---	D
Total, NIDR	100,936,000	94,678,000	97,691,000	103,728,000	103,377,000	+2,441,000	+8,699,000	+5,686,000	-351,000	
National Institute of Arthritis, Diabetes, and Dissestive and Kidney Diseases:										
Activities considered by House and Senate	512,796,000	494,886,000	541,298,000	539,194,000	542,867,000	+30,071,000	+47,981,000	+1,569,000	+3,673,000	D
Research training	26,730,000	26,730,000	DEFER	26,730,000	26,730,000	---	---	+26,730,000	---	D
Total, NIADDKD	539,526,000	521,616,000	541,298,000	565,924,000	569,597,000	+30,071,000	+47,981,000	+28,299,000	+3,673,000	
National Institute of Neurological and Communicative Disorders and Stroke:										
Activities considered by House and Senate	382,506,000	362,362,000	418,590,000	415,364,000	420,442,000	+37,936,000	+58,080,000	+1,852,000	+5,078,000	D
Research training	13,153,000	13,153,000	DEFER	13,153,000	13,153,000	---	---	+13,153,000	---	D
Total, NINCDS	395,659,000	375,515,000	418,590,000	428,517,000	433,595,000	+37,936,000	+58,080,000	+15,005,000	+5,078,000	
National Institute of Allergy and Infectious Diseases:										
Activities considered by House and Senate	356,960,000	347,431,000	371,941,000	418,071,000	372,335,000	+15,375,000	+24,904,000	+394,000	-45,736,000	D
Research training	11,382,000	11,382,000	DEFER	11,382,000	11,382,000	---	---	+11,382,000	---	D
Total, NIAID	368,342,000	358,813,000	371,941,000	429,453,000	383,717,000	+15,375,000	+24,904,000	+11,776,000	-45,736,000	
National Institute of General Medical Sciences:										
Activities considered by House and Senate	425,096,000	401,133,000	455,593,000	453,151,000	457,093,000	+31,997,000	+55,960,000	+1,500,000	+3,942,000	D
Research training	57,721,000	57,721,000	DEFER	57,721,000	57,721,000	---	---	+57,721,000	---	D
Total, NIGMS	482,817,000	458,854,000	455,593,000	510,872,000	514,814,000	+31,997,000	+55,960,000	+59,221,000	+3,942,000	
National Institute of Child Health and Human Development:										
Activities considered by House and Senate	296,494,000	280,381,000	306,812,000	309,170,000	308,071,000	+11,577,000	+27,690,000	+1,259,000	-1,099,000	D
Research training	13,901,000	13,901,000	DEFER	13,901,000	13,901,000	---	---	+13,901,000	---	D
Total, NICHHD	310,395,000	294,282,000	306,812,000	323,071,000	321,972,000	+11,577,000	+27,690,000	+15,160,000	-1,099,000	
National Eye Institute:										
Activities considered by House and Senate	173,268,000	156,438,000	188,988,000	178,805,000	189,937,000	+16,669,000	+33,499,000	+949,000	+11,132,000	D
Research training	5,231,000	5,231,000	DEFER	5,231,000	5,231,000	---	---	+5,231,000	---	D
Total, NEI	178,499,000	161,669,000	188,988,000	184,036,000	195,168,000	+16,669,000	+33,499,000	+6,180,000	+11,132,000	

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CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	H/D
National Institute of Environmental Health Sciences:										
Activities considered by House and Senate	185,288,000	175,177,000	188,319,000	190,411,000	189,184,000	+3,896,000	+14,007,000	+865,000	-1,227,000	D
Research training	8,502,000	8,502,000	DEFER	8,502,000	8,502,000	---	---	+8,502,000	---	D
Total, NIEHS	193,790,000	183,679,000	188,319,000	198,913,000	197,686,000	+3,896,000	+14,007,000	+9,367,000	-1,227,000	
National Institute on Aging:										
Activities considered by House and Senate	140,143,000	130,734,000	149,067,000	151,976,000	151,950,000	+11,807,000	+21,216,000	+2,883,000	-26,000	D
Research training	4,642,000	4,642,000	DEFER	4,642,000	4,642,000	---	---	+4,642,000	---	D
Total, NIA	144,785,000	135,376,000	149,067,000	156,618,000	156,592,000	+11,807,000	+21,216,000	+7,525,000	-26,000	
Research Resources:										
Activities considered by House and Senate	304,579,000	262,149,000	304,579,000	304,664,000	304,621,000	+42,000	+42,472,000	+42,000	-43,000	D
Research training	1,075,000	1,075,000	DEFER	1,075,000	1,075,000	---	---	+1,075,000	---	D
Total, Research Resources	305,654,000	263,224,000	304,579,000	305,739,000	305,696,000	+42,000	+42,472,000	+1,117,000	-43,000	
John E. Fogarty International Center	11,529,000	11,464,000	11,529,000	11,606,000	11,568,000	+39,000	+104,000	+39,000	-38,000	D
National Library of Medicine:										
Activities considered by House and Senate	46,972,000	46,334,000	46,972,000	51,352,000	50,166,000	+3,194,000	+3,832,000	+3,194,000	-1,186,000	D
Assistance to medical libraries	7,790,000	7,790,000	DEFER	8,648,000	7,790,000	---	---	+7,790,000	-858,000	D
Total, NLM	54,762,000	54,124,000	46,972,000	60,000,000	57,956,000	+3,194,000	+3,832,000	+10,984,000	-2,044,000	
Office of the Director	37,131,000	36,591,000	117,085,000	37,574,000	117,085,000	+79,954,000	+80,494,000	---	+79,511,000	D
Buildings and facilities	21,730,000	5,000,000	14,900,000	14,900,000	14,900,000	-6,830,000	+9,900,000	---	---	D
Administrative cost savings	---	---	---	---	-3,000,000	-3,000,000	-3,000,000	-3,000,000	-3,000,000	D
Total, National Institutes of Health	5,148,222,000	4,860,511,000	5,247,836,000	5,466,158,000	5,498,454,000	+350,232,000	+637,943,000	+250,618,000	+32,296,000	
(Activities cons. by both House & Senate)	(4,912,689,000)	(4,631,778,000)	(5,247,836,000)	(5,229,767,000)	(5,262,921,000)	(+350,232,000)	(+631,143,000)	(+15,085,000)	(+33,154,000)	
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION										
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH										
Alcohol, Drug Abuse and Mental Health Block Grant:										
State grants	490,000,000	490,000,000	490,000,000	490,000,000	490,000,000	---	---	---	---	D
State planning	2,500,000	---	---	2,500,000	---	-2,500,000	---	---	-2,500,000	D
Block grant program support	1,028,000	1,028,000	1,028,000	1,028,000	1,028,000	---	---	---	---	D
Subtotal, Block Grant	493,528,000	491,028,000	491,028,000	493,528,000	491,028,000	-2,500,000	---	---	-2,500,000	
Mental Health:										
Mental Health Services Demonstrations, (CSP)	10,500,000	---	10,500,000	14,000,000	12,500,000	+2,000,000	+12,500,000	+2,000,000	-1,500,000	D
Research	193,342,000	191,178,000	209,979,000	216,500,000	214,000,000	+20,658,000	+22,822,000	+4,021,000	-2,500,000	D
Research training	18,000,000	18,000,000	DEFER	18,000,000	18,000,000	---	---	+18,000,000	---	D
Clinical training	22,000,000	---	8,000,000	24,000,000	20,000,000	-2,000,000	+20,000,000	+12,000,000	-4,000,000	D
Direct operations	34,413,000	32,397,000	32,897,000	35,758,000	34,675,000	+262,000	+2,278,000	+1,778,000	-1,083,000	D
Protection and advocacy	---	---	---	10,000,000	10,000,000	+10,000,000	+10,000,000	+10,000,000	---	D
Subtotal, mental health	278,255,000	241,575,000	261,376,000	318,258,000	309,175,000	+30,920,000	+67,600,000	+47,799,000	-9,083,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Drug Abuse:										
Research	64,320,000	68,760,000	65,539,000	83,896,000	74,000,000	+9,680,000	+5,240,000	+8,461,000	-9,896,000	D
Research trainins	1,500,000	1,500,000	DEFER	1,500,000	1,500,000	---	---	+1,500,000	---	D
Direct operations	15,305,000	14,282,000	14,282,000	17,105,000	16,307,000	+1,002,000	+2,025,000	+2,025,000	-798,000	D
Subtotal, drus abuse	81,125,000	84,542,000	79,821,000	102,501,000	91,807,000	+10,682,000	+7,265,000	+11,986,000	-10,694,000	
Alcoholisa:										
Research	48,509,000	52,787,000	54,259,000	61,102,000	57,000,000	+8,491,000	+4,213,000	+2,741,000	-4,102,000	D
Research trainins	1,500,000	1,500,000	DEFER	1,500,000	1,500,000	---	---	+1,500,000	---	D
Direct operations	11,958,000	10,880,000	10,880,000	11,956,000	11,658,000	-300,000	+778,000	+778,000	-300,000	D
Subtotal, alcoholisa	61,967,000	65,167,000	65,139,000	74,560,000	70,158,000	+8,191,000	+4,991,000	+5,019,000	-4,402,000	
Buildinss and facilities	---	100,000	100,000	100,000	100,000	+100,000	---	---	---	D
Prosras sanasement, ADAMHA	6,592,000	6,173,000	6,173,000	6,592,000	6,592,000	---	+419,000	+419,000	---	D
Total, Alcohol, Drus Abuse and Mental Health	921,467,000	888,585,000	903,637,000	995,539,000	968,860,000	+47,393,000	+80,275,000	+65,223,000	-26,679,000	
ST. ELIZABETH'S HOSPITAL:										
Total oblisations	126,743,000	132,923,000	132,923,000	132,923,000	132,923,000	+6,180,000	---	---	---	D
Less reimbursements	-78,148,000	-89,227,000	-89,227,000	-89,227,000	-89,227,000	-11,079,000	---	---	---	D
Subtotal, St. Elizabeth's Hospital	48,595,000	43,696,000	43,696,000	43,696,000	43,696,000	-4,899,000	---	---	---	
Total, ADAMHA	970,062,000	932,281,000	947,333,000	1,039,235,000	1,012,556,000	+42,494,000	+80,275,000	+65,223,000	-26,679,000	
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH										
PUBLIC HEALTH SERVICE MANAGEMENT										
Research, Statistics and Technology:										
Health Services Research:										
Research	14,435,000	14,590,000	14,590,000	14,590,000	14,590,000	+155,000	---	---	---	D
Trust funds	(1,050,000)	(1,050,000)	(1,050,000)	(3,500,000)	(1,050,000)	---	---	---	(-2,450,000)	TF
Prosras support	2,024,000	1,852,000	1,852,000	1,852,000	1,852,000	-172,000	---	---	---	D
Subtotal	17,509,000	17,492,000	17,492,000	19,942,000	17,492,000	-17,000	---	---	-2,450,000	
Health Statistics:										
Prosras operations	39,258,000	45,491,000	41,032,000	45,491,000	43,491,000	+4,233,000	-2,000,000	+2,459,000	-2,000,000	D
Prosras support	3,472,000	3,193,000	3,193,000	3,193,000	3,193,000	-279,000	---	---	---	D
Subtotal	42,730,000	48,684,000	44,225,000	48,684,000	46,684,000	+3,954,000	-2,000,000	+2,459,000	-2,000,000	
Adolescent family life	(14,863,000)	(14,729,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Smokins and health	3,538,000	3,526,000	3,526,000	3,000,000	3,526,000	-12,000	---	---	+526,000	D
Health promotion	3,645,000	3,539,000	3,539,000	3,000,000	3,000,000	-645,000	-539,000	-539,000	---	D
Physical fitness and sports	1,364,000	1,379,000	1,379,000	1,000,000	1,379,000	+15,000	---	---	+379,000	D
Public Health Service Manasement	19,885,000	18,510,000	18,510,000	18,510,000	18,510,000	-1,375,000	---	---	---	D
Total, PHS manasement	87,621,000	92,080,000	87,621,000	90,636,000	89,541,000	+1,920,000	-2,539,000	+1,920,000	-1,095,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
RETIREMENT PAY AND MED. BENEFITS FOR COMM. OFFICERS										
Retirement payments	59,803,000	70,169,000	70,169,000	70,169,000	70,169,000	+10,366,000	---	---	---	M
Survivors benefits	3,026,000	3,564,000	3,564,000	3,564,000	3,564,000	+538,000	---	---	---	M
Dependent's medical care	9,292,000	9,781,000	9,781,000	9,781,000	9,781,000	+489,000	---	---	---	M
Contingency reserve	---	16,188,000	---	---	---	---	-16,188,000	---	---	M
Legislative proposal	---	-2,573,000	-2,573,000	-2,573,000	-2,573,000	-2,573,000	---	---	---	M
Total, Retirement pay and medical benefits	72,121,000	97,129,000	80,941,000	80,941,000	80,941,000	+8,820,000	-16,188,000	---	---	
Total, Public Health Service	8,081,853,000	7,440,392,000	7,394,778,000	8,591,226,000	8,533,787,000	+451,934,000	+1,093,395,000	+1,139,009,000	-57,439,000	
HEALTH CARE FINANCING ADMINISTRATION										
GRANTS TO STATES FOR MEDICAID										
Medicaid current law benefits	20,639,831,000	23,382,959,000	22,442,753,000	23,010,552,000	22,650,284,000	+2,010,453,000	-732,675,000	+207,531,000	-360,268,000	M
State and local administration	1,214,660,000	1,247,716,000	1,247,716,000	1,284,940,000	1,247,716,000	+33,056,000	---	---	-37,224,000	M
Subtotal, current law	21,854,491,000	24,630,675,000	23,690,469,000	24,295,492,000	23,898,000,000	+2,043,509,000	-732,675,000	+207,531,000	-397,492,000	
Legislative proposals:										
GMP deficit limit (cap payments)	---	-888,300,000	---	---	---	---	+888,300,000	---	---	M
State and local admin cost freeze	---	-51,906,000	---	---	---	---	+51,906,000	---	---	M
Subtotal, legislative proposals	---	-940,206,000	---	---	---	---	+940,206,000	---	---	
Total, MEDICAID current year program level	21,854,491,000	23,690,469,000	23,690,469,000	24,295,492,000	23,898,000,000	+2,043,509,000	+207,531,000	+207,531,000	-397,492,000	
Less funds advanced in prior year	-5,561,000,000	-5,980,000,000	-5,980,000,000	-5,980,000,000	-5,980,000,000	-419,000,000	---	---	---	M
Total appropriation, current request	16,293,491,000	17,710,469,000	17,710,469,000	18,315,492,000	17,918,000,000	+1,624,509,000	+207,531,000	+207,531,000	-397,492,000	
Subsequent year advance appropriation	5,980,000,000	6,500,000,000	6,500,000,000	6,500,000,000	6,500,000,000	+520,000,000	---	---	---	M
PAYMENTS TO HEALTH CARE TRUST FUNDS										
Supplemental medical insurance	17,898,000,000	19,002,000,000	19,002,000,000	18,197,000,000	18,197,000,000	+299,000,000	-805,000,000	-805,000,000	---	M
Military Service Credits	86,000,000	91,000,000	91,000,000	91,000,000	91,000,000	+5,000,000	---	---	---	M
Hospital insurance for uninsured	762,000,000	554,000,000	554,000,000	554,000,000	554,000,000	-208,000,000	---	---	---	M
Federal uninsured payment	4,000,000	12,000,000	12,000,000	12,000,000	12,000,000	+8,000,000	---	---	---	M
Total, Payment to Trust Funds	18,750,000,000	19,659,000,000	19,659,000,000	18,854,000,000	18,854,000,000	+104,000,000	-805,000,000	-805,000,000	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
PROGRAM MANAGEMENT										
Research, demonstration, and evaluation:										
Federal funds	22,000,000	14,300,000	16,000,000	22,000,000	16,000,000	-6,000,000	+1,700,000	---	-6,000,000	D
Trust funds	(12,000,000)	(7,700,000)	(12,000,000)	(12,000,000)	(15,000,000)	(+3,000,000)	(+7,300,000)	(+3,000,000)	(+3,000,000)	TF
Subtotal, Research and evaluation	34,000,000	22,000,000	28,000,000	34,000,000	31,000,000	-3,000,000	+9,000,000	+3,000,000	-3,000,000	
Medicare Contractors (Trust Funds) 1/	(852,600,000)	(920,000,000)	(957,000,000)	(970,000,000)	(963,500,000)	(+110,900,000)	(+43,500,000)	(+6,500,000)	(-6,500,000)	TF
Contingency fund (Trust Fund)	(20,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(15,000,000)	(-5,000,000)	---	---	---	TF
Subtotal, Contractors	(872,600,000)	(935,000,000)	(972,000,000)	(985,000,000)	(978,500,000)	(+105,900,000)	(+43,500,000)	(+6,500,000)	(-6,500,000)	
State Certification:										
Medicare certification, trust funds 2/	(47,074,000)	(48,434,000)	(48,434,000)	(51,034,000)	(48,434,000)	(+1,360,000)	---	---	(-2,600,000)	TF
General program support, federal funds	2,685,000	1,325,000	1,325,000	3,250,000	3,250,000	+565,000	+1,925,000	+1,925,000	---	D
End Stage Renal Disease (ESRD) Networks (trust funds)	(4,837,000)	---	(4,837,000)	(4,837,000)	(4,837,000)	---	(+4,837,000)	---	---	TF
Federal Administration:										
Federal funds	72,030,000	68,633,000	70,860,000	70,283,000	70,283,000	-1,747,000	+1,650,000	-577,000	---	D
Trust funds	(149,197,000)	(141,664,000)	(145,837,000)	(145,014,000)	(145,014,000)	(-4,183,000)	(+3,350,000)	(-823,000)	---	TF
Subtotal, Federal Administration	221,227,000	210,297,000	216,697,000	215,297,000	215,297,000	-5,930,000	+5,000,000	-1,400,000	---	
Total, Program management	1,182,423,000	1,217,056,000	1,271,293,000	1,293,418,000	1,281,318,000	+98,895,000	+64,262,000	+10,025,000	-12,100,000	
Federal funds	96,715,000	84,258,000	88,185,000	95,533,000	89,533,000	-7,182,000	+5,275,000	+1,348,000	-6,000,000	
Trust funds	(1,085,708,000)	(1,132,798,000)	(1,183,108,000)	(1,197,885,000)	(1,191,785,000)	(+106,077,000)	(+58,987,000)	(+8,677,000)	(-6,100,000)	
Total, Health Care Financing Administration:										
Federal funds:										
Current year	35,140,206,000	37,453,727,000	37,457,654,000	37,265,025,000	36,861,533,000	+1,721,327,000	-592,194,000	-596,121,000	-403,492,000	
Subsequent year advance	5,980,000,000	6,500,000,000	6,500,000,000	6,500,000,000	6,500,000,000	+520,000,000	---	---	---	
Trust funds	(1,085,708,000)	(1,132,798,000)	(1,183,108,000)	(1,197,885,000)	(1,191,785,000)	(+106,077,000)	(+58,987,000)	(+8,677,000)	(-6,100,000)	

1/ Does not incl. $45 m. in FY 85 from PL 97-248.
2/ Medicaid funds totalling 39,610,000 in 1985 and 46,785,000 in 1986 appropriated in "Grants to States".

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
SOCIAL SECURITY ADMINISTRATION										
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	4,012,722,000	497,008,000	497,008,000	497,008,000	497,008,000	-3,515,714,000	---	---	---	*
SPECIAL BENEFITS FOR DISABLED COAL MINERS										
Benefit payments	1,015,000,000	991,389,000	991,389,000	991,389,000	991,389,000	-23,611,000	---	---	---	*
Administration	9,131,000	6,519,000	6,519,000	6,519,000	6,519,000	-2,612,000	---	---	---	*
Subtotal, Black Lung, program level	1,024,131,000	997,908,000	997,908,000	997,908,000	997,908,000	-26,223,000	---	---	---	
Less funds advanced in prior year	---	-270,000,000	-270,000,000	-270,000,000	-270,000,000	-270,000,000	---	---	---	*
Total, Black Lung, current request	1,024,131,000	727,908,000	727,908,000	727,908,000	727,908,000	-296,223,000	---	---	---	
Apprn. available from subsequent year	12,389,000	---	---	---	---	-12,389,000	---	---	---	*
Apprn. available in prior year	---	-12,389,000	-12,389,000	-12,389,000	-12,389,000	-12,389,000	---	---	---	*
Subsequent year advance appropriation	270,000,000	270,000,000	270,000,000	270,000,000	270,000,000	---	---	---	---	*
SUPPLEMENTAL SECURITY INCOME										
Federal benefit payments	8,399,496,000	9,040,551,000	9,040,551,000	9,040,551,000	9,040,551,000	+641,055,000	---	---	---	*
Beneficiary services	5,000,000	6,800,000	6,800,000	6,800,000	6,800,000	+1,800,000	---	---	---	*
Federal fiscal liability	21,115,000	---	---	---	---	-21,115,000	---	---	---	*
Administration	936,175,000	1,010,507,000	1,010,507,000	1,010,507,000	1,010,507,000	+74,332,000	---	---	---	*
Subtotal, Supplemental Security Income, program	9,361,786,000	10,057,858,000	10,057,858,000	10,057,858,000	10,057,858,000	+696,072,000	---	---	---	
Less funds advanced in prior year	---	-2,345,769,000	-2,345,769,000	-2,345,769,000	-2,345,769,000	-2,345,769,000	---	---	---	*
Total, SSI, current request	9,361,786,000	7,712,089,000	7,712,089,000	7,712,089,000	7,712,089,000	-1,649,697,000	---	---	---	
Apprn. available in prior year	-328,618,000	-176,868,000	-176,868,000	-176,868,000	-176,868,000	+151,750,000	---	---	---	*
Apprn. available from subsequent year	176,868,000	---	---	---	---	-176,868,000	---	---	---	*
Subsequent year advance appropriation	2,345,769,000	2,339,250,000	2,339,250,000	2,339,250,000	2,339,250,000	-6,519,000	---	---	---	*
ASSISTANCE PAYMENTS										
AFDC benefit payments	7,219,925,000	7,844,316,000	7,664,316,000	7,844,316,000	7,844,316,000	+624,391,000	---	+180,000,000	---	*
Adult categories	14,014,000	13,743,000	13,743,000	13,743,000	13,743,000	-271,000	---	---	---	*
Emergency assistance	56,100,000	70,100,000	70,100,000	70,100,000	70,100,000	+14,000,000	---	---	---	*
State and local administration	908,083,000	982,416,000	982,416,000	982,416,000	982,416,000	+74,333,000	---	---	---	*
Admin. and training, Territories	5,717,000	6,077,000	6,077,000	6,077,000	6,077,000	+360,000	---	---	---	*
Repatriation	1,520,000	1,069,000	1,069,000	1,069,000	1,069,000	-451,000	---	---	---	*
Research & evaluation	2,575,000	2,925,000	2,925,000	2,925,000	2,925,000	+350,000	---	---	---	*

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Federal administration	34,760,000	33,932,000	33,932,000	33,932,000	33,932,000	-828,000	---	---	---	M
Legislative proposals	---	-180,000,000	---	---	---	---	+180,000,000	---	---	M
Subtotal, current year program level	8,242,694,000	8,774,578,000	8,774,578,000	8,954,578,000	8,954,578,000	+711,884,000	+180,000,000	+180,000,000	---	
Less funds advanced in previous years	-2,073,000,000	-2,095,000,000	-2,095,000,000	-2,095,000,000	-2,095,000,000	-22,000,000	---	---	---	M
Total, Assistance payments, current request	6,169,694,000	6,679,578,000	6,679,578,000	6,859,578,000	6,859,578,000	+689,884,000	+180,000,000	+180,000,000	---	
Appropriation available in prior year	-580,115,000	-620,316,000	-620,316,000	-620,316,000	-620,316,000	-40,201,000	---	---	---	M
Apprn. available from subsequent year	620,316,000	---	---	---	---	-620,316,000	---	---	---	M
Subsequent year advance appropriation	2,095,000,000	2,193,754,000	2,193,754,000	2,193,754,000	2,193,754,000	+98,754,000	---	---	---	M
CHILD SUPPORT ENFORCEMENT										
Program level, current law	635,000,000	592,601,000	592,601,000	592,601,000	592,601,000	-42,399,000	---	---	---	M
Less funds advanced in previous years	-138,000,000	-160,000,000	-160,000,000	-160,000,000	-160,000,000	-22,000,000	---	---	---	M
Current request, Child Support Enforcement	497,000,000	432,601,000	432,601,000	432,601,000	432,601,000	-64,399,000	---	---	---	
Subsequent year advance appropriation	160,000,000	170,750,000	170,750,000	170,750,000	170,750,000	+10,750,000	---	---	---	M
LOW INCOME HOME ENERGY ASSISTANCE 1/										
Energy Assistance Block Grant	2,097,704,000	2,097,840,000	2,097,765,000	2,097,765,000	2,097,765,000	+61,000	-75,000	---	---	D
Federal Administration	2,296,000	2,235,000	2,235,000	2,235,000	2,235,000	-61,000	---	---	---	D
Subtotal, Energy assistance	2,100,000,000	2,100,075,000	2,100,000,000	2,100,000,000	2,100,000,000	---	-75,000	---	---	
OFFICE OF REFUGEE RESETTLEMENT										
Refugee and Entrant Assistance										
Cash and medical assistance	(247,157,000)	(221,654,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
State administration	(40,000,000)	(33,249,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Social services	(71,700,000)	(44,802,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Voluntary agency program	(4,000,000)	(2,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Education assistance for children	(16,600,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Preventive health	(8,400,000)	(9,032,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Targeted assistance	(50,000,000)	---	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Federal Administration	(6,405,000)	(6,025,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
Total, Refugee Resettlement	(444,262,000)	(316,762,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	

1/ President's budget proposes legislation to offset $809,476,000 with oil overcharge recoveries.

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds)...	(3,786,260,000)	(3,992,486,000)	(4,022,486,000)	(3,992,486,000)	(3,992,486,000)	(+206,226,000)	---	(-30,000,000)	---	TF
Total, Social Security Administration:										
Federal funds:										
Current year...	23,066,173,000	17,339,686,000	17,339,611,000	17,519,611,000	17,519,611,000	-5,546,562,000	+179,925,000	+180,000,000	---	
Subsequent year advance appropriations..	4,870,769,000	4,973,754,000	4,973,754,000	4,973,754,000	4,973,754,000	+102,985,000	---	---	---	
Trust funds...	(3,786,260,000)	(3,992,486,000)	(4,022,486,000)	(3,992,486,000)	(3,992,486,000)	(+206,226,000)	---	(-30,000,000)	---	
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES										
SOCIAL SERVICES BLOCK GRANT (TITLE XX)...	2,725,000,000	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	-25,000,000	---	---	---	M
HUMAN DEVELOPMENT SERVICES										
Programs for Children, Youth, and Families:										
Head start...	1,074,959,000	1,075,059,000	1,087,059,000	1,075,059,000	1,087,059,000	+12,100,000	+12,000,000	---	+12,000,000	D
Child abuse:										
State grants...	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	---	---	---	---	D
Discretionary activities...	14,000,000	10,000,000	14,000,000	14,000,000	14,000,000	---	+4,000,000	---	---	D
Challenge grants...	5,000,000	---	---	---	---	-5,000,000	---	---	---	D
Runaway youth...	23,250,000	23,250,000	23,250,000	26,250,000	23,250,000	---	---	---	-3,000,000	D
Dependent Care Planning and Development...	---	---	---	5,000,000	5,000,000	+5,000,000	+5,000,000	+5,000,000	---	D
Family violence...	6,000,000	---	---	5,000,000	2,500,000	-3,500,000	+2,500,000	+2,500,000	-2,500,000	D
Subtotal, CY & Families...	1,135,209,000	1,120,309,000	1,136,309,000	1,137,309,000	1,143,809,000	+8,600,000	+23,500,000	+7,500,000	+6,500,000	
Programs for the Aging:										
Grants to States:										
Supportive Services and Centers...	265,000,000	265,000,000	265,000,000	265,000,000	265,000,000	---	---	---	---	D
Nutrition:										
Congregate meals...	336,000,000	336,000,000	336,000,000	336,000,000	336,000,000	---	---	---	---	D
Home-delivered meals...	67,900,000	67,900,000	67,900,000	67,900,000	67,900,000	---	---	---	---	D
Grants to Indians...	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000	---	---	---	---	D
Research, training, and special projects...	25,000,000	12,500,000	25,000,000	25,000,000	25,000,000	---	+12,500,000	---	---	D
Federal Council on Aging...	200,000	200,000	200,000	200,000	200,000	---	---	---	---	D
Subtotal, Aging Programs...	701,600,000	689,100,000	701,600,000	701,600,000	701,600,000	---	+12,500,000	---	---	
Developmental disabilities program:										
State grants...	50,250,000	50,250,000	50,250,000	53,400,000	53,400,000	+3,150,000	+3,150,000	+3,150,000	---	D
Protection and advocacy...	13,750,000	13,750,000	13,750,000	14,600,000	14,600,000	+850,000	+850,000	+850,000	---	D
Special projects...	2,700,000	---	2,700,000	2,800,000	2,800,000	+100,000	+2,800,000	+100,000	---	D
University affiliated facilities...	9,000,000	9,000,000	9,000,000	9,600,000	9,600,000	+600,000	+600,000	+600,000	---	D
Subtotal, Developmental disabilities...	75,700,000	73,000,000	75,700,000	80,400,000	80,400,000	+4,700,000	+7,400,000	+4,700,000	---	
Native American Programs...	29,000,000	27,300,000	29,000,000	29,000,000	29,000,000	---	+1,700,000	---	---	D
Program direction...	64,842,000	59,458,000	61,113,000	61,113,000	61,113,000	-3,729,000	+1,655,000	---	---	D
Total, Human Development Services...	2,006,351,000	1,969,167,000	2,003,722,000	2,009,422,000	2,015,922,000	+9,571,000	+46,755,000	+12,200,000	+6,500,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
FAMILY SOCIAL SERVICES										
Discretionary activities:										
Child welfare assistance	200,000,000	200,000,000	200,000,000	240,000,000	207,000,000	+7,000,000	+7,000,000	+7,000,000	-33,000,000	D
Child welfare training	3,823,000	3,823,000	3,823,000	3,823,000	3,823,000	---	---	---	---	D
Adoption opportunities	2,000,000	1,400,000	2,000,000	5,000,000	5,000,000	+3,000,000	+3,600,000	+3,000,000	---	D
Child welfare research	11,825,000	8,400,000	11,825,000	12,000,000	11,825,000	---	+3,425,000	---	-175,000	D
Subtotal	217,648,000	213,623,000	217,648,000	260,823,000	227,648,000	+10,000,000	+14,025,000	+10,000,000	-33,175,000	
Entitlement activities:										
Foster care	517,223,000	485,423,000	485,423,000	507,641,000	507,641,000	-9,582,000	+22,218,000	+22,218,000	---	M
Adoption assistance	35,351,000	41,948,000	41,948,000	41,948,000	41,948,000	+6,597,000	---	---	---	M
Subtotal	552,574,000	527,371,000	527,371,000	549,589,000	549,589,000	-2,985,000	+22,218,000	+22,218,000	---	
Total, Family Social Services	770,222,000	740,994,000	745,019,000	810,412,000	777,237,000	+7,015,000	+36,243,000	+32,218,000	-33,175,000	
WORK INCENTIVES										
Grants to States	256,760,000	---	242,000,000	256,760,000	212,000,000	-44,760,000	+212,000,000	-30,000,000	-44,760,000	D
Program direction and evaluation	10,000,000	---	8,000,000	10,000,000	8,000,000	-2,000,000	+8,000,000	---	-2,000,000	D
Total, Work incentives	266,760,000	---	250,000,000	266,760,000	220,000,000	-46,760,000	+220,000,000	-30,000,000	-46,760,000	
Total, Asst. Sec. for Human Development	5,768,333,000	5,410,161,000	5,698,741,000	5,786,594,000	5,713,159,000	-55,174,000	+302,998,000	+14,418,000	-73,435,000	
COMMUNITY SERVICES BLOCK GRANT										
Grants to States	335,000,000	---	326,700,000	335,000,000	335,000,000	---	+335,000,000	+8,300,000	---	D
Discretionary funds	33,135,000	---	31,000,000	33,135,000	31,000,000	-2,135,000	+31,000,000	---	-2,135,000	D
Program support	4,300,000	3,923,000	4,000,000	4,300,000	4,300,000	---	+377,000	+300,000	---	D
Total, Community Services appropriation	372,435,000	3,923,000	361,700,000	372,435,000	370,300,000	-2,135,000	+366,377,000	+8,600,000	-2,135,000	
DEPARTMENTAL MANAGEMENT										
GENERAL DEPARTMENTAL MANAGEMENT:										
Federal funds	132,924,000	123,949,000	123,949,000	139,949,000	139,949,000	+7,025,000	+16,000,000	+16,000,000	---	D
Cancer construction transfer (non-add)	---	---	---	(+4,500,000)	(+4,500,000)	(+4,500,000)	(+4,500,000)	(+4,500,000)	---	NA
Trust funds	(8,000,000)	(8,000,000)	(8,000,000)	(8,000,000)	(8,000,000)	---	---	---	---	TF
Total, Departmental management	140,924,000	131,949,000	131,949,000	147,949,000	147,949,000	+7,025,000	+16,000,000	+16,000,000	---	
OFFICE OF THE INSPECTOR GENERAL:										
Federal activities:										
Federal funds	53,037,000	42,219,000	42,219,000	42,219,000	42,219,000	-10,818,000	---	---	---	D
Trust funds	(20,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(+10,000,000)	---	---	---	TF
Total, Inspector General	73,037,000	72,219,000	72,219,000	72,219,000	72,219,000	-818,000	---	---	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
OFFICE FOR CIVIL RIGHTS:										
Federal funds	17,850,000	15,636,000	15,636,000	16,259,000	16,000,000	-1,850,000	+364,000	+364,000	-259,000	D
Trust funds	(2,350,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(+1,650,000)	---	---	---	TF
Total, Civil Rights	20,200,000	19,636,000	19,636,000	20,259,000	20,000,000	-200,000	+364,000	+364,000	-259,000	
POLICY RESEARCH	9,750,000	6,000,000	6,500,000	6,000,000	6,500,000	-3,250,000	+500,000	---	+500,000	D
Total, Departmental management:										
Federal funds	213,561,000	187,804,000	188,304,000	204,427,000	204,668,000	-8,893,000	+16,864,000	+16,364,000	+241,000	
Trust funds	(30,350,000)	(42,000,000)	(42,000,000)	(42,000,000)	(42,000,000)	(+11,650,000)	---	---	---	
Total, Department of Health and Human Services:										
Federal Funds (all years)	83,493,330,000	79,309,447,000	79,914,542,000	81,213,072,000	80,676,812,000	-2,816,518,000	+1,367,365,000	+762,270,000	-536,260,000	
Current year	(72,642,561,000)	(67,835,693,000)	(68,440,788,000)	(69,739,318,000)	(69,203,058,000)	(-3,439,503,000)	(+1,367,365,000)	(+762,270,000)	(-536,260,000)	
Subsequent year advances	(10,850,769,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(+622,985,000)	---	---	---	
Trust funds	(4,904,868,000)	(5,168,334,000)	(5,248,644,000)	(5,237,371,000)	(5,228,821,000)	(+323,953,000)	(+60,487,000)	(-19,823,000)	(-8,550,000)	
TITLE III--DEPARTMENT OF EDUCATION										
COMPENSATORY EDUCATION FOR THE DISADVANTAGED										
Grants for the Disadvantaged (Chapter 1):										
Grants to local educational agencies	3,200,000,000	3,200,000,000	3,200,000,000	3,200,000,000	3,200,000,000	---	---	---	---	B
State agency programs:										
Migrants	264,524,000	222,976,000	264,524,000	264,524,000	264,524,000	---	+41,548,000	---	---	B
Handicapped	150,170,000	150,170,000	150,170,000	150,170,000	150,170,000	---	---	---	---	B
Neglected and delinquent	32,616,000	32,616,000	32,616,000	32,616,000	32,616,000	---	---	---	---	B
State administration	35,607,000	35,607,000	35,607,000	35,607,000	35,607,000	---	---	---	---	B
Evaluation and technical assistance	5,246,000	5,246,000	5,246,000	5,246,000	5,246,000	---	---	---	---	B
Total, Chapter 1	3,688,163,000	3,646,615,000	3,688,163,000	3,688,163,000	3,688,163,000	---	+41,548,000	---	---	
Migrant education:										
High school equivalency program	6,300,000	---	6,300,000	6,300,000	6,300,000	---	+6,300,000	---	---	B
College assistance migrant program	1,200,000	---	1,200,000	1,200,000	1,200,000	---	+1,200,000	---	---	B
Total, Compensatory Education Programs	3,695,663,000	3,646,615,000	3,695,663,000	3,695,663,000	3,695,663,000	---	+49,048,000	---	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	N/D
IMPACT AID										
Maintenance and operations:										
Payments for 'a' children	513,000,000	513,000,000	513,000,000	513,000,000	513,000,000	---	---	---	---	D
Payments for 'b' children	130,000,000	---	130,000,000	79,000,000	130,000,000	---	+130,000,000	---	+51,000,000	D
Special provisions (Section 2)	22,000,000	20,000,000	22,000,000	20,000,000	22,000,000	---	+2,000,000	---	+2,000,000	D
Subtotal	665,000,000	533,000,000	665,000,000	612,000,000	665,000,000	---	+132,000,000	---	+53,000,000	
Disaster assistance	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	---	---	---	---	D
Construction	20,000,000	---	20,000,000	10,000,000	17,500,000	-2,500,000	+17,500,000	-2,500,000	+7,500,000	D
Total	695,000,000	543,000,000	695,000,000	632,000,000	692,500,000	-2,500,000	+149,500,000	-2,500,000	+60,500,000	
SPECIAL PROGRAMS										
Improving School Programs (Chapter 2):										
State block grants	500,000,000	500,000,000	500,000,000	500,000,000	500,000,000	---	---	---	---	D
Secretary's discretionary fund:										
Inexpensive book distribution (including RIF)	7,000,000	---	7,000,000	7,000,000	7,000,000	---	+7,000,000	---	---	D
Arts in education	3,157,000	---	3,157,000	3,157,000	3,157,000	---	+3,157,000	---	---	D
Alcohol and drug abuse education	3,000,000	---	3,000,000	3,000,000	3,000,000	---	+3,000,000	---	---	D
Law related education	2,000,000	---	2,000,000	2,000,000	2,000,000	---	+2,000,000	---	---	D
National Diffusion Network	10,700,000	---	10,700,000	10,700,000	10,700,000	---	+10,700,000	---	---	D
Discretionary projects	6,052,000	31,909,000	6,052,000	6,052,000	3,052,000	-3,000,000	-28,857,000	-3,000,000	-3,000,000	D
Subtotal, Secretary's discretionary fund	31,909,000	31,909,000	31,909,000	31,909,000	28,909,000	-3,000,000	-3,000,000	-3,000,000	-3,000,000	
Total, Chapter 2	531,909,000	531,909,000	531,909,000	531,909,000	528,909,000	-3,000,000	-3,000,000	-3,000,000	-3,000,000	
Other Special Programs:										
Training and advisory services (Civil Rights IVA)	24,000,000	16,000,000	24,000,000	24,000,000	24,000,000	---	+8,000,000	---	---	D
Follow through	10,000,000	---	7,500,000	7,500,000	7,500,000	-2,500,000	+7,500,000	---	---	D
Territorial teacher training assistance	2,000,000	---	2,000,000	2,000,000	2,000,000	---	+2,000,000	---	---	D
General assistance for the Virgin Islands	2,700,000	---	2,700,000	5,000,000	5,000,000	+2,300,000	+5,000,000	+2,300,000	---	D
Ellender fellowships	1,500,000	---	1,500,000	1,700,000	1,700,000	+200,000	+1,700,000	+200,000	---	D
Women's educational equity	6,000,000	---	6,000,000	6,000,000	6,000,000	---	+6,000,000	---	---	D
Science and mathematics education	100,000,000	100,000,000	---	90,000,000	45,000,000	-55,000,000	-55,000,000	+45,000,000	-45,000,000	D
Magnet schools	75,000,000	---	75,000,000	75,000,000	75,000,000	---	+75,000,000	---	---	D
Excellence in education	5,000,000	---	5,000,000	2,500,000	2,500,000	-2,500,000	+2,500,000	-2,500,000	---	D
LEAD	---	---	---	10,000,000	7,500,000	+7,500,000	+7,500,000	+7,500,000	-2,500,000	D
Subtotal, Other special programs	226,200,000	116,000,000	123,700,000	223,700,000	176,200,000	-50,000,000	+60,200,000	+52,500,000	-47,500,000	
Total, Special programs	758,109,000	647,909,000	655,609,000	755,609,000	705,109,000	-53,000,000	+57,200,000	+49,500,000	-50,500,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986			Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
BILINGUAL EDUCATION										
Bilingual programs	95,099,000	104,165,000	95,099,000	100,000,000	95,099,000	---	-9,066,000	---	-4,901,000	D
Training grants	33,566,000	24,000,000	33,566,000	28,300,000	33,566,000	---	+9,566,000	---	+5,266,000	D
Support services	10,600,000	11,100,000	10,600,000	11,000,000	10,600,000	---	-500,000	---	-400,000	D
Vocational training	3,686,000	3,686,000	3,686,000	3,700,000	3,686,000	---	---	---	-14,000	D
Emergency immigrant education	30,000,000	---	30,000,000	---	30,000,000	---	+30,000,000	---	+30,000,000	D
Total	172,951,000	142,951,000	172,951,000	143,000,000	172,951,000	---	+30,000,000	---	+29,951,000	
EDUCATION FOR THE HANDICAPPED										
Education for the handicapped:										
State assistance:										
State grant program	1,135,145,000	1,135,145,000	1,135,145,000	1,215,550,000	1,215,550,000	+80,405,000	+80,405,000	+80,405,000	---	D
Preschool incentive grants	29,000,000	29,000,000	29,000,000	30,000,000	30,000,000	+1,000,000	+1,000,000	+1,000,000	---	D
Special purpose funds:										
Deaf-blind centers	15,000,000	12,000,000	15,000,000	15,000,000	15,000,000	---	+3,000,000	---	---	D
Severely handicapped projects	4,300,000	4,300,000	4,300,000	5,000,000	5,000,000	+700,000	+700,000	+700,000	---	D
Early childhood education	22,500,000	22,500,000	22,500,000	24,000,000	24,000,000	+1,500,000	+1,500,000	+1,500,000	---	D
Secondary and transitional services	6,330,000	6,330,000	6,330,000	6,600,000	6,600,000	+270,000	+270,000	+270,000	---	D
Postsecondary programs	5,300,000	5,300,000	5,300,000	5,500,000	5,500,000	+200,000	+200,000	+200,000	---	D
Innovation and development	16,000,000	16,000,000	16,000,000	17,000,000	17,000,000	+1,000,000	+1,000,000	+1,000,000	---	D
Media services and captioned films	16,500,000	16,500,000	16,500,000	17,500,000	17,500,000	+1,000,000	+1,000,000	+1,000,000	---	D
Regional resource centers	6,000,000	6,000,000	6,000,000	6,300,000	6,300,000	+300,000	+300,000	+300,000	---	D
Recruitment and information	1,025,000	1,025,000	1,025,000	1,110,000	1,110,000	+85,000	+85,000	+85,000	---	D
Special education personnel development	61,000,000	50,000,000	61,000,000	64,000,000	64,000,000	+3,000,000	+14,000,000	+3,000,000	---	D
Special studies	3,170,000	2,000,000	2,000,000	3,440,000	3,440,000	+270,000	+1,440,000	+1,440,000	---	D
Total, Education for the handicapped	1,321,270,000	1,306,100,000	1,320,100,000	1,411,000,000	1,411,000,000	+89,730,000	+104,900,000	+90,900,000	---	
REHABILITATION SERVICES AND HANDICAPPED RESEARCH										
Rehabilitation services:										
Basic State grants	1,100,000,000	1,100,000,000	1,100,000,000	1,190,000,000	1,190,000,000	+90,000,000	+90,000,000	+90,000,000	---	M
Service projects	33,515,000	29,300,000	32,800,000	40,000,000	40,000,000	+6,485,000	+10,700,000	+7,200,000	---	M
Helen Keller Center	4,200,000	4,200,000	4,200,000	4,300,000	4,300,000	+100,000	+100,000	+100,000	---	M
Client assistance	6,300,000	6,300,000	6,300,000	6,700,000	6,700,000	+400,000	+400,000	+400,000	---	M
Independent living	27,000,000	22,000,000	27,000,000	39,000,000	39,000,000	+12,000,000	+17,000,000	+12,000,000	---	M
Training	22,000,000	15,000,000	22,000,000	27,000,000	27,000,000	+5,000,000	+12,000,000	+5,000,000	---	M
Work transition program	---	---	---	9,000,000	9,000,000	+9,000,000	+9,000,000	+9,000,000	---	M
Subtotal	1,193,015,000	1,176,800,000	1,192,300,000	1,316,000,000	1,316,000,000	+122,985,000	+139,200,000	+123,700,000	---	
National Institute of Handicapped Research	39,000,000	39,000,000	41,000,000	44,000,000	44,000,000	+5,000,000	+5,000,000	+3,000,000	---	M
Evaluation	2,000,000	600,000	600,000	2,000,000	2,000,000	---	+1,400,000	+1,400,000	---	M
Total	1,234,015,000	1,216,400,000	1,233,900,000	1,362,000,000	1,362,000,000	+127,985,000	+145,600,000	+128,100,000	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
VOCATIONAL AND ADULT EDUCATION										
Vocational education:										
Basic grants	782,503,000	716,136,000	782,503,000	782,381,000	782,381,000	-122,000	+66,245,000	-122,000	---	D
National research & data programs	10,178,000	8,178,000	10,178,000	10,000,000	10,000,000	-178,000	+1,822,000	-178,000	---	D
Consumer and homemaker education	31,633,000	---	31,633,000	31,633,000	31,633,000	---	+31,633,000	---	---	D
State advisory councils	7,000,000	7,000,000	7,000,000	7,300,000	7,300,000	+300,000	+300,000	+300,000	---	D
Community based organizations	---	---	---	15,000,000	7,500,000	+7,500,000	+7,500,000	+7,500,000	-7,500,000	D
Subtotal, Vocational education	831,314,000	731,314,000	831,314,000	846,314,000	838,814,000	+7,500,000	+107,500,000	+7,500,000	-7,500,000	
Adult education	101,963,000	100,000,000	101,963,000	100,000,000	101,963,000	---	+1,963,000	---	+1,963,000	D
Total	933,277,000	831,314,000	933,277,000	946,314,000	940,777,000	+7,500,000	+109,463,000	+7,500,000	-5,537,000	
STUDENT FINANCIAL ASSISTANCE										
Pell Grants:										
Current year	3,612,000,000	2,691,000,000	3,612,000,000	3,538,000,000	3,588,000,000	-24,000,000	+897,000,000	-24,000,000	+50,000,000	D
Prior year shortfalls (non-add)	(250,000,000)	---	---	---	---	(-250,000,000)	---	---	---	MA
Subtotal, Pell Grants	3,612,000,000	2,691,000,000	3,612,000,000	3,538,000,000	3,588,000,000	-24,000,000	+897,000,000	-24,000,000	+50,000,000	
Supplemental grants	412,500,000	---	412,500,000	412,500,000	412,500,000	---	+412,500,000	---	---	D
Work-study	592,500,000	850,000,000	592,500,000	592,500,000	592,500,000	---	-257,500,000	---	---	D
Direct loans:										
Capital	192,482,000	---	189,482,000	190,000,000	190,000,000	-2,482,000	+190,000,000	+518,000	---	D
Cancellations	25,000,000	28,000,000	28,000,000	28,000,000	28,000,000	+3,000,000	---	---	---	D
State student incentive grants	76,000,000	---	76,000,000	76,000,000	76,000,000	---	+76,000,000	---	---	D
Total, Student Financial Assistance	4,910,482,000	3,569,000,000	4,910,482,000	4,837,000,000	4,887,000,000	-23,482,000	+1,318,000,000	-23,482,000	+50,000,000	
GUARANTEED STUDENT LOANS										
Guaranteed student loan program	3,798,323,000	2,714,482,000	2,714,482,000	3,300,000,000	3,300,000,000	-498,323,000	+585,518,000	+585,518,000	---	M
HIGHER EDUCATION										
Program development:										
Aid for developing institutions	141,208,000	141,208,000	141,208,000	141,208,000	141,208,000	---	---	---	---	D
Minority institutions science improvement	(5,000,000)	(5,000,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	D
International education and foreign language studies:										
Domestic programs	26,550,000	---	26,550,000	26,550,000	26,550,000	---	+26,550,000	---	---	D
Overseas programs	5,500,000	---	5,500,000	5,500,000	5,500,000	---	+5,500,000	---	---	D
Fund for the Improvement of Postsec. Education	12,710,000	---	12,710,000	12,710,000	12,710,000	---	+12,710,000	---	---	D
Cooperative education	14,400,000	---	14,400,000	14,400,000	14,400,000	---	+14,400,000	---	---	D
Subtotal, Program development	200,368,000	141,208,000	200,368,000	200,368,000	200,368,000	---	+59,160,000	---	---	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Student support services:										
Special programs for the disadvantaged	174,940,000	82,370,000	176,370,000	174,940,000	176,370,000	+1,430,000	+94,000,000	---	+1,430,000	D
Veterans' cost of instruction	3,000,000	---	3,000,000	3,000,000	3,000,000	---	+3,000,000	---	---	D
Academic facilities and projects:										
Interest subsidy grants	18,775,000	23,500,000	23,500,000	23,500,000	23,500,000	+4,725,000	---	---	---	D
Academic facilities construction grants(Title VII)	28,000,000	---	20,000,000	---	10,000,000	-18,000,000	+10,000,000	-10,000,000	+10,000,000	D
Special higher education projects	22,000,000	---	6,000,000	---	6,000,000	-16,000,000	+6,000,000	---	+6,000,000	D
Subtotal, Academic facilities and projects	68,775,000	23,500,000	49,500,000	23,500,000	39,500,000	-29,275,000	+16,000,000	-10,000,000	+16,000,000	
Graduate programs:										
Graduate/professional opportunity fellowships	11,750,000	---	11,750,000	11,750,000	11,750,000	---	+11,750,000	---	---	D
Public service fellowships	2,500,000	---	2,500,000	2,500,000	2,500,000	---	+2,500,000	---	---	D
National Graduate Fellowships	2,500,000	---	2,500,000	3,000,000	2,500,000	---	+2,500,000	---	-500,000	D
Legal training for disadvantaged	1,500,000	---	1,500,000	1,500,000	1,500,000	---	+1,500,000	---	---	D
Law school clinical experience	1,500,000	---	1,500,000	1,500,000	1,500,000	---	+1,500,000	---	---	D
Subtotal, Graduate programs	19,750,000	---	19,750,000	20,250,000	19,750,000	---	+19,750,000	---	-500,000	
Special grants:										
Assistance to Guam	500,000	---	500,000	500,000	500,000	---	+500,000	---	---	D
Land-grant endowments/American Samoa, Micronesia..	6,000,000	---	---	---	---	-6,000,000	---	---	---	D
Robert A. Taft Institute of Government	750,000	---	750,000	750,000	750,000	---	+750,000	---	---	D
Robert C. Byrd Honors Scholarships	---	---	---	5,338,000	---	---	---	---	-5,338,000	D
Carl Perkins Scholarships	---	---	---	10,000,000	10,000,000	+10,000,000	+10,000,000	+10,000,000	---	D
Subtotal, Special grants	7,250,000	---	1,250,000	16,588,000	11,250,000	+4,000,000	+11,250,000	+10,000,000	-5,338,000	
Total	474,083,000	247,078,000	450,238,000	438,646,000	450,238,000	-23,845,000	+203,160,000	---	+11,592,000	
HIGHER EDUCATION FACILITIES LOANS AND INSURANCE	14,094,000	17,996,000	17,996,000	17,996,000	17,996,000	+3,902,000	---	---	---	M
COLLEGE HOUSING LOANS, LOAN LIMITATION (non-add)	(40,000,000)	---	(80,000,000)	(40,000,000)	(60,000,000)	(+20,000,000)	(+60,000,000)	(-20,000,000)	(+20,000,000)	MA
EDUCATIONAL RESEARCH AND STATISTICS										
National Institute of Education	51,231,000	51,231,000	51,231,000	51,231,000	51,231,000	---	---	---	---	D
National Center for Education Statistics	8,747,000	8,747,000	8,747,000	8,747,000	8,747,000	---	---	---	---	D
Total	59,978,000	59,978,000	59,979,000	59,978,000	59,978,000	---	---	---	---	
LIBRARIES										
Public libraries:										
Services	75,000,000	---	75,000,000	75,000,000	75,000,000	---	+75,000,000	---	---	D
Interlibrary cooperation	18,000,000	---	18,000,000	18,000,000	18,000,000	---	+18,000,000	---	---	D
Training and demonstrations	1,000,000	---	1,000,000	1,000,000	1,000,000	---	+1,000,000	---	---	D
Research libraries	6,000,000	---	6,000,000	6,000,000	6,000,000	---	+6,000,000	---	---	D
Construction	25,000,000	---	23,680,000	25,000,000	22,500,000	-2,500,000	+22,500,000	-1,180,000	-2,500,000	D
Literacy Initiative	---	---	---	5,000,000	5,000,000	+5,000,000	+5,000,000	+5,000,000	---	D
Total	125,000,000	---	123,680,000	130,000,000	127,500,000	+2,500,000	+127,500,000	+3,820,000	-2,500,000	

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THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	N/D
PAYMENTS TO SPECIAL INSTITUTIONS										
AMERICAN PRINTING HOUSE FOR THE BLIND	5,500,000	5,510,000	5,500,000	5,500,000	5,500,000	---	-10,000	---	---	D
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF	31,400,000	30,080,000	31,400,000	32,000,000	32,000,000	+600,000	+1,920,000	+600,000	---	D
GALLAUDET COLLEGE	58,700,000	58,889,000	58,700,000	62,000,000	62,000,000	+3,300,000	+3,111,000	+3,300,000	---	D
HOWARD UNIVERSITY	158,230,000	151,230,000	164,230,000	158,230,000	164,230,000	+6,000,000	+13,000,000	---	+6,000,000	D
Total, Payments to Special Institutions	253,830,000	245,709,000	259,830,000	257,730,000	263,730,000	+9,900,000	+18,021,000	+3,900,000	+6,000,000	
DEPARTMENTAL MANAGEMENT										
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	15,312,000	---	15,281,000	15,312,000	15,312,000	---	+15,312,000	+31,000	---	D
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	44,580,000	---	44,181,000	45,000,000	44,580,000	---	+44,580,000	+399,000	-420,000	D
SALARIES AND EXPENSES	238,841,000	283,619,000	224,157,000	225,867,000	225,867,000	-12,974,000	-57,752,000	+1,710,000	---	D
Total, Departmental management	298,733,000	283,619,000	283,619,000	286,179,000	285,759,000	-12,974,000	+2,140,000	+2,140,000	-420,000	
Total, Department of Education:										
Federal funds	18,744,808,000	15,472,151,000	17,526,805,000	18,273,115,000	18,372,201,000	-372,607,000	+2,900,050,000	+845,396,000	+99,086,000	
TITLE IV - RELATED AGENCIES										
Action (Domestic Programs):										
Volunteers in Service to America:										
VISTA operations	17,000,000	17,000,000	18,364,000	19,000,000	19,000,000	+2,000,000	+2,000,000	+636,000	---	D
Service learning	1,757,000	1,368,000	1,368,000	1,757,000	1,368,000	-389,000	---	---	-389,000	D
Subtotal	18,757,000	18,368,000	19,732,000	20,757,000	20,368,000	+1,611,000	+2,000,000	+636,000	-389,000	
Citizen Participation and Volunteer Demonstration Programs	1,801,000	1,801,000	1,801,000	1,801,000	1,801,000	---	---	---	---	D
Older Americans Volunteer Programs:										
Foster Grandparents Program	56,100,000	55,780,000	56,100,000	56,100,000	56,100,000	---	+320,000	---	---	D
Senior Companion Program	18,086,000	17,805,000	18,086,000	18,086,000	18,086,000	---	+281,000	---	---	D
Retired Senior Volunteer Program	29,620,000	29,620,000	29,620,000	29,620,000	29,620,000	---	---	---	---	D
Subtotal, Older Volunteers	103,806,000	103,205,000	103,806,000	103,806,000	103,806,000	---	+601,000	---	---	
Program Support	25,800,000	24,825,000	24,825,000	25,800,000	25,312,000	-488,000	+487,000	+487,000	-488,000	D
Total, Action	150,164,000	148,199,000	150,164,000	152,164,000	151,287,000	+1,123,000	+3,088,000	+1,123,000	-877,000	

CONFERENCE AGREEMENT - HR 3424 - FISCAL YEAR 1986 APPROPRIATIONS FOR
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	FY 1985	FY 1986				Conference compared with				
	Enacted	Estimates	House Bill	Senate Bill	Conference	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill	M/D
Corporation for Public Broadcasting:										
FY 1988 advance (current request) 1/	200,000,000	214,000,000	DEFER	214,000,000	214,000,000	+14,000,000	---	+214,000,000	---	D
Federal Mediation and Conciliation Service	23,845,000	23,394,000	23,394,000	23,394,000	23,394,000	-451,000	---	---	---	D
Federal Mine Safety and Health Review Commission	3,837,000	3,815,000	3,815,000	3,815,000	3,815,000	-22,000	---	---	---	D
National Center for the Study of Afro-American History and Culture	---	---	---	200,000	200,000	+200,000	+200,000	+200,000	---	D
National Commission on Libraries and Information Science	720,000	---	---	690,000	690,000	-30,000	+690,000	+690,000	---	D
National Council on the Handicapped	750,000	704,000	704,000	765,000	765,000	+15,000	+61,000	+61,000	---	D
National Labor Relations Board	137,964,000	134,854,000	134,854,000	134,854,000	134,854,000	-3,110,000	---	---	---	D
National Mediation Board	6,358,000	6,432,000	6,358,000	6,432,000	6,358,000	---	-74,000	---	-74,000	D
Occupational Safety and Health Review Commission	6,143,000	5,901,000	5,901,000	5,901,000	5,901,000	-242,000	---	---	---	D
Prospective Payment Assessment Commission(trust funds)	(2,424,000)	(2,893,000)	(2,784,000)	(2,893,000)	(2,893,000)	(+469,000)	---	(+109,000)	---	TF
Railroad Retirement Board:										
Dual benefits payments account	405,000,000	392,000,000	392,000,000	392,000,000	392,000,000	-13,000,000	---	---	---	D
Federal payment to the Railroad Retirement Account	15,000,000	2,200,000	2,200,000	2,200,000	2,200,000	-12,800,000	---	---	---	D
(Limitation on administration, retirement)	(55,422,000)	(56,501,000)	(55,422,000)	(56,501,000)	(55,422,000)	---	(-1,079,000)	---	(-1,079,000)	TF
(Limitation on administration, unemployment)	(16,678,000)	(9,407,000)	(16,487,000)	(16,487,000)	(16,487,000)	(-191,000)	(+7,080,000)	---	---	TF
Soldiers' and Airmen's Home (trust fund limitation):										
Operation and maintenance	33,276,000	33,506,000	33,276,000	33,506,000	33,391,000	+115,000	-115,000	+115,000	-115,000	D
Capital outlay	9,400,000	4,000,000	15,000,000	10,500,000	15,000,000	+5,600,000	+11,000,000	---	+4,500,000	D
United States Institute of Peace	4,000,000	---	---	---	---	-4,000,000	---	---	---	D
Total, Related Agencies:										
Federal funds (all years)	996,457,000	969,005,000	767,666,000	980,421,000	983,855,000	-12,602,000	+14,850,000	+216,189,000	+3,434,000	
Current year	(796,457,000)	(755,005,000)	(767,666,000)	(766,421,000)	(769,855,000)	(-26,602,000)	(+14,850,000)	(+2,189,000)	(+3,434,000)	
1988 advance	(200,000,000)	(214,000,000)	DEFER	(214,000,000)	(214,000,000)	(+14,000,000)	---	(+214,000,000)	---	
Trust funds	(74,524,000)	(68,801,000)	(74,693,000)	(75,881,000)	(74,802,000)	(+278,000)	(+6,001,000)	(+109,000)	(-1,079,000)	

1/ FY 1985 approp. adv. in FY83 is $150.5 million.
FY 1986 approp. adv. in FY84 is $159.5 million.
FY 1987 approp. adv. in FY85 is $200 million.

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	FY 1985	FY 1986				Conference compared with			
	Enacted	Estimates	House Bill	Senate Bill	Conference*	FY85 Enacted	FY 86 Estimates	House Bill	Senate Bill H/D
SUMMARY									
Title I - Department of Labor:									
Federal Funds	6,312,475,000	5,828,673,000	6,676,633,000	6,509,299,000	6,516,745,000	+204,270,000	+688,072,000	-159,888,000	+7,446,000
Trust Funds	(2,632,851,000)	(2,643,468,000)	(2,709,465,000)	(2,685,559,000)	(2,705,119,000)	(+72,268,000)	(+61,651,000)	(-4,346,000)	(+19,560,000)
Title II - Department of Health and Human Services:									
Federal Funds (all years)	83,493,330,000	79,309,447,000	79,914,542,000	81,213,072,000	80,676,812,000	-2,816,518,000	+1,367,365,000	+762,270,000	-536,260,000
Current year	(72,642,561,000)	(67,835,693,000)	(68,440,788,000)	(69,739,318,000)	(69,203,058,000)	(-3,439,503,000)	(+1,367,365,000)	(+762,270,000)	(-536,260,000)
1987 advance	(10,850,769,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(+622,985,000)	---	---	---
Trust Funds	(4,904,868,000)	(5,168,334,000)	(5,248,644,000)	(5,237,371,000)	(5,228,821,000)	(+323,953,000)	(+60,487,000)	(-19,823,000)	(-8,550,000)
Title III - Department of Education:									
Federal Funds	18,744,808,000	15,472,151,000	17,526,805,000	18,273,115,000	18,372,201,000	-372,607,000	+2,900,050,000	+845,396,000	+99,086,000
Title IV - Related Agencies:									
Federal Funds (all years)	996,457,000	969,005,000	767,666,000	980,421,000	983,855,000	-12,602,000	+14,850,000	+216,189,000	+3,434,000
Current year	(796,457,000)	(755,005,000)	(767,666,000)	(766,421,000)	(769,855,000)	(-26,602,000)	(+14,850,000)	(+2,189,000)	(+3,434,000)
1988 advance	(200,000,000)	(214,000,000)	DEFER	(214,000,000)	(214,000,000)	(+14,000,000)	---	(+214,000,000)	---
Trust Funds	(74,524,000)	(68,801,000)	(74,693,000)	(75,881,000)	(74,802,000)	(+278,800)	(+6,001,000)	(+109,000)	(-1,079,000)
Total, all titles:									
Federal Funds (all years)	109,547,070,000	101,579,276,000	104,885,646,000	106,975,907,000	106,549,613,000	-2,997,457,000	+4,970,337,000	+1,663,967,000	-426,294,000
Current year	(98,496,301,000)	(89,891,522,000)	(93,411,892,000)	(95,288,153,000)	(94,861,859,000)	(-3,634,442,000)	(+4,970,337,000)	(+1,449,967,000)	(-426,294,000)
1987 advance	(10,850,769,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(11,473,754,000)	(+622,985,000)	---	---	---
1988 advance	(200,000,000)	(214,000,000)	DEFER	(214,000,000)	(214,000,000)	(+14,000,000)	---	(+214,000,000)	---
Trust Funds	(7,610,743,000)	(7,880,603,000)	(8,032,802,000)	(7,997,311,000)	(8,007,242,000)	(+396,499,000)	(+126,639,000)	(-25,560,000)	(+9,931,000)
Unauthorized, not considered, current year	(632,625,000)	(478,991,000)	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER	DEFER
CURRENT YEAR, INCLUDING PRIOR YEAR ADVANCES:									
Mandatory, current appropriations	(65,663,124,000)	(61,626,736,000)	(61,632,497,000)	(62,348,307,000)	(61,950,815,000)	(-3,712,309,000)	(+324,079,000)	(+318,318,000)	(-397,492,000)
Mandatory, prior year advances	(7,922,500,000)	(11,010,269,000)	(11,010,269,000)	(11,010,269,000)	(11,010,269,000)	(+3,087,769,000)	---	---	---
Subtotal, Mandatory	(73,585,624,000)	(72,637,005,000)	(72,642,766,000)	(73,358,576,000)	(72,961,084,000)	(-624,540,000)	(+324,079,000)	(+318,318,000)	(-397,492,000)
Discretionary, current appropriations	(32,833,177,000)	(28,264,786,000)	(31,779,395,000)	(32,939,846,000)	(32,911,044,000)	(+77,867,000)	(+4,646,258,000)	(+1,131,649,000)	(-28,802,000)
(Activities considered by both House & Senate)	(31,784,970,000)	(27,506,949,000)	(31,779,395,000)	(31,851,257,000)	(31,876,230,000)	(+91,260,000)	(+4,369,281,000)	(+96,835,000)	(+24,973,000)
Total, Adjusted current year	106,418,801,000	100,901,791,000	104,422,161,000	106,298,422,000	105,872,128,000	-546,673,000	+4,970,337,000	+1,449,967,000	-426,294,000

* Conference report modified by floor action.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman passed out a lot of kudos here a few moments ago. I would like to thank him and the ranking minority member of the subcommittee for the work they did on a particular section of this bill with regard to school prayer.

In the Senate, the language with regard to school prayer as it relates to the Department of Education had been dropped. It was through the work of the gentleman from Kentucky and other members of the subcommittee from this House that assured that that language was preserved, as it has been preserved in law since 1979.

I certainly want to thank the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] for the work that was done in that regard. I think it serves this House well to have been represented that well on the issue, and I thank the gentleman.

Mr. NATCHER. Mr. Speaker, I want to thank the distinguished gentleman from Pennsylvania [Mr. WALKER] for his assistance all down through the years with our bill. I listened to the gentleman during his 1-minute speech a while ago, and I want the gentleman to know that on our subcommittee, we appreciate it.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my chairman, the distinguished gentleman from Kentucky [BILL NATCHER] in bringing the conference report on the fiscal year 1986 Labor, Health and Human Services and Education appropriations bill to the House floor.

I am pleased to say that for the third year in a row, I believe we have formulated an agreement on the funding for these crucial programs affecting the lives and the welfare of the American people that will be signed into law.

I would like to congratulate all of my colleagues who have participated in the long and arduous task of formulating this bill—not only the chairman, BILL NATCHER, but also the chairman of the full committee, my good friend JAMIE WHITTEN, and all the members of the subcommittee, including on my side of the aisle, GEORGE O'BRIEN, CARL PURSELL, JOHN PORTER, and last, but not least, BILL YOUNG.

The conference agreement we bring to the floor contains a total of $106.6 billion, compared with the House-passed total of $104.9 billion and the Senate-passed total of $107 billion.

The major reasons for the increase over the House-passed bill are two. First, the conference report provides funding for a number of programs that were deferred in the House-passed bill due to lack of authorization. Subsequent to House action, a number of these programs were reauthorized, including the health professions programs, and the nursing programs, as well as a number of programs in the National Institutes of Health and the Math and Science Program. Funding for these programs accounts for approximately $1.1 billion of the $1.7 billion increase in the conference report over the House-passed bill.

The second reason is that the Senate included current Congressional Budget Office estimates for entitlement programs, while the House funded these programs at the administration request level. This resulted in a number of additions, such as an increase of $585 million for Guaranteed Student Loans.

The total in this conference agreement, $106.6 billion, is approximately $5 billion over the President's request, but is approximately $3 billion less than fiscal year 1985, and approximately $2.7 billion below the subcommittee's 302(b) allocation, which serves as a guide to how the bill compares to the congressional budget resolution.

For discretionary programs, which is what the spending in this bill is judged by, the conference agreement provides $32.9 billion, which is about $77 million more than last year, and about $4.7 billion more than the administration's request. When you take account of the programs that remain unfunded in this conference report, due to lack of authorization, but which will be funded separately in the continuing resolution, we estimate the total discretionary amount for these departments and agencies in fiscal year 1986 to be $33.5 billion, just slightly above last year, and the level that the administration has indicated is its target for accepting the bill. This $33.5 billion level for discretionary programs is about $600 million below the subcommittee's 302(b) allocation for these programs.

As the overall figures for discretionary programs indicate, the guiding principle throughout consideration of this bill has been that of a freeze, keeping most programs at the same level in fiscal year 1986 as they received in fiscal year 1985. This applies to many of the major programs funded in this bill, such as Chapter 1, Compensatory Education for the Disadvantaged; and most of the block grants, as well as many of the smaller, categorical programs.

But within the overall levels, there are a number of increases and decreases.

The major increases are funding for AIDS, biomedical research, and programs for the handicapped.

For AIDS, the conference report provides a total of $234.2 million, compared with $109 million in fiscal year 1985, distributed among the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] and the Office of the Secretary.

For biomedical research, the conference agreement provides $5.5 billion for NIH, a $353 million increase over fiscal year 1985 (including an increase of $77 million for AIDS) in order to maintain the increased level of grants that the committee fought so hard to obtain in fiscal year 1985. And it provides $1.012 billion for ADAMHA, an increase of $42.5 million over fiscal year 1985.

We were told of some of the results coming from our support of this research by my good friend, the gentleman from Pennsylvania [Mr. WALKER], in his 1-minute speech this morning, regarding a new breakthrough in cancer. That comes as a result of the money that we put into this bill for biomedical research.

For Education for the Handicapped, the conference agreement provides $1.411 billion, an increase of $89.7 million over fiscal year 1985, and for Vocational Rehabilitation, the agreement provides $1.362 billion, an increase of $128 million over fiscal year 1985.

The major decreases include funding for the Job Training Partnership Act, the Work Incentives Program, and the Math and Science Program.

Under the JTPA, both the House and Senate agreed to the administration request for a decrease of $122.5 million for the Dislocated Worker Program, title III, due to a very large carryover that has accumulated since the program began a few years ago. In addition, under the Summer Youth Program, the House had included an additional $100 million for the summer of 1986, and $60 million over the budget request for the summer of 1987, which the Senate did not include. The conference agreement takes the Senate position. There is a carryover in this program, too, but the situation will have to be monitored very closely and corrected if these sums appear insufficient.

Under the Work Incentives Program, the conference agreement provides $220 million, compared with the administration's request to terminate the program, an amount below both the House and Senate figures for this program, and below the $266 million provided in fiscal year 1985.

And with respect to the Math and Science Program, the House bill provided no funding, the Senate provided $90 million, and the conference level

will, after the motion of the chairman which I will explain in a minute, end up at $45 million.

In addition, there are smaller increases and decreases in many other programs.

Mr. Speaker, as the chairman has explained, after we filed our conference report, the Office of Management and Budget indicated it believed that the totals for discretionary programs were $109 million more than the $33.5 billion figure it had indicated it could accept. Of that, $71 million was attributed to underfunding of the Pell Grant Program. We will allay their concern about this by indicating that if funding is insufficient to fully fund the program, then the Secretary is expected to use the statutory ratable reduction process to make do with what we have appropriated.

With regard to the remaining $38 million, the chairman will offer a motion to make additional small reductions in a number of programs to meet that target, which I will support.

If that motion is agreed to, it will remove what we understand to be the last hurdle in forging a good bill that is also acceptable to the administration.

Let me conclude by saying that, as the difficulty decisions that have been made in this bill show, this job is not getting any easier. Trying to keep the funding in this bill responsive to new and emerging needs and priorities, within the context of an overall freeze, makes us play the proverbial zero-sum game. No longer is it possible to keep everyone happy simultaneously.

But accepting that framework as a fact of life, and looking at the overall product of months of effort, with the likelihood that this conference agreement is likely to be signed into law for an unprecedented third year in a row, under the leadership of the gentleman from Kentucky, this Labor, HHS, and Education appropriations bill is getting to be like "Mom and apple pie," one that everyone can support.

This is responsible, responsive spending in this bill, ever-cognizant of the needs of our people, never forgetful of the limits on available resources.

After months of perilous flying, this baby is coming in right on target. As copilot to my chairman, a great pilot, one of the best there is, I ask you to help us land it.

I urge your support for this conference agreement.

Let me, at this point, mention a few items that are of particular interest to me in this conference report.

In the Department of Labor, I am pleased that funding is provided to continue the plant closing and mass layoff survey under the Bureau of Labor Statistics. As serious as the problem of plant closings is, we cannot even begin to appreciate the size or trends of this problem unless statistics are collected, and the $5 million that I sponsored, is provided in this bill to continue this.

I am also pleased that funding has been fully restored for the Women's Bureau's Employment Demonstration Program. In fiscal year 1985, in the House, my amendment provided $1 million to set up the first independent funding for this program. The administration's request for fiscal year 1986 would have cut that back by some $700,000. In the subcommittee markup, I supported restoration of most of those funds, and in conference, we agreed to full restoration of those funds, as proposed by the Senate. These funds will be used to support, among other things, the Displaced Homemaker's Network, as well as to initiate a program that was originally supposed to start last year, the Corporate Linkage Program. I have received the Department's assurance on that.

In addition, the House prevailed in its position, which I argued strongly for, to provide full funding for the President's Committee on the Employment of the Handicapped.

Under the Department of Health and Human Services, the conference agreement provides for a $17 million increase for community health centers. This should allow not only continuations, but selective new starts. I have a very strong interest in following through on the community health center issue that I have been following for quite some time with the Health Resources and Services Administration, and I am pleased that the funding should now be available to permit that issue to be resolved favorably to all parties concerned.

Also under HRSA, I would call attention to the conference report language relating to health professions special education initiatives, calling for the use of up to $500,000 for a program in computer-based simulations for medical training. That language is intended to support the planning of a project involving training in arthroscopy likely to be located in western Massachusetts.

Under the National Institutes of Health, sufficient funding is provided to permit 6,100 new and competing grants to be funded, as well as to pay the full amount of indirect costs without requiring a freeze in the rate of indirect cost reimbursement.

Under the Alchohol, Drug Abuse, and Mental Health Administration, I am pleased that increases in research funding are provided in all three institutes, to continue the progress that we have been supporting there. In addition, I am pleased and grateful to the chairman and to the conferees for agreeing on a figure of $20 million for mental health clinical training.

With respect to the large increase in funding for AIDS research and prevention, the conference report contains language urging the appointment of an AIDS coordinator to provide needed coordination and overall direction to the AIDS effort.

Under the Human Development Service, I would note that the $2½ million agreed upon for the Domestic Violence Prevention and Services Act, together with the $6 million provided through my amendment in the fiscal year 1985 supplemental, which is available through fiscal year 1986, will mean an initial operating level of $8½ million for this program, which should permit a good start to this important effort.

Under Head Start, for which a $12 million increase is provided, I am pleased to say that HDS is supportive of the House report language concerning providing continuation funds for one-time expansions, and I look forward to the resolution of that issue.

Under the Department of Education, I would point to the two pieces of report language under Education for the Handicapped, the first reaffirming the language I sponsored in the House report concerning learning disabilities, and the second, concerning the need for the Department of Education to broaden the captioning agencies with which it contracts. We are quite serious about this matter, and I would say to the Department, they ought to listen to this.

With respect to student financial assistance, I am delighted that we were able to preserve the large increases in funding that we provided in fiscal year 1985. Student aid has always been one of my top priorities, and this Labor/HHS bill continues to reflect student aid as one of the chief priorities in the bill.

In this regard, I am pleased that the conferees agreed to the hold-harmless language for student aid programs like Supplemental Educational Opportunity Grants and Direct Student Loans, which was added in the Senate. This language, because it is subject to a point of order under House rules, could not have been added on the House side. Agreeing to this language, which I argued strongly for, eliminated the possibility of a reallocation by State and by school of student aid funds that could have reduced the allocation coming to Massachusetts by as much as 13 percent.

I would also state that we continue to try to make a dent in the tremendous need for funds for academic facilities, with $10 million under title VII and $60 million under the College Housing Loan Program, an increase of $20 million.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL], a member of the subcommittee.

Mr. ROYBAL. I thank the gentleman from Kentucky for yielding to me at this time.

Mr. Speaker, I would like to commend the chairman for the strong support he has given bilingual education programs, especially the National Clearinghouse on Bilingual Education. I would like to get clarification on the 1986 level of funding for the Clearinghouse. It is my understanding that it is the intent of the conferees that the Clearinghouse is to be continued at last year's level of $1.5 million

□ 1105

Mr. NATCHER. Mr. Speaker, the gentleman is correct. It is the committee's intent that the services provided by the National Clearinghouse on Bilingual Education be continued at the $1.5 million level in fiscal year 1986.

Mr. Speaker, at this time I would also like to state to the distinguished gentleman from California that I appreciate the work that he does as a member of this subcommittee. He is one of the able Members of the Congress, and he is very much concerned about every matter in this bill, and especially on matters pertaining to the closing of Social Security offices, and reductions in staffing.

As the gentleman from California knows, it is not our intent to close offices which are necessary to serve Social Security recipients. We are going to follow this matter carefully; we said that to them during the hearings. As far as a reduction in the number of employees in the Social Security System that work with our aged and the people who are the recipients of this program, certainly we are going to follow it carefully. Through your assistance and your leadership we believe this matter has been successfully resolved for fiscal year 1986.

Mr. ROYBAL. I thank the gentleman for those very kind remarks.

Mrs. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentlewoman.

Mrs. BURTON of California. I thank the gentleman for yielding.

Mr. Speaker, I would ask the gentleman if he could tell me what we have in the Latchkey bill, the bill that I was pleading for?

Mr. NATCHER. The bill includes $5 million for the new Dependent Care Program, commonly called the Latchkey Program. The gentlewoman from California [Mrs. BURTON] appeared before our committee and testified for this program. Many Members appeared before the subcommittee on behalf of funding for newly authorized programs. We said to the gentlewoman from California [Mrs. BURTON] that if any new programs were added in this bill, this program would go in.

I want to say to the gentlewoman that it was your efforts and your hard work that brought about the inclusion of $5 million in the bill for this new program and I commend you for your efforts, not only during the hearings but frequently thereafter.

Mrs. BURTON of California. Chairman NATCHER, I thank you very much. If not for you, we would not have this program. I think that all the Members in the House will see that this is a magnificent program.

The witnesses that came before us when I was on the Education and Labor Committee, and we started working on the program, were superb. We had little children who are "Latchkey" children, and they were fighting for this program. You cannot imagine how grateful I am to you and to the rest of the Appropriations Committee and to the conference for letting us have this magnificent start.

Mr. NATCHER. Mr. Speaker, I would like to say one additional word concerning the gentlewoman from California [Mrs. BURTON]. I have served on the Appropriations Committee now for 30 years. When we would bring this bill out and all of our appropriations bills that meant so much to the people, the gentlewomen's husband, Philip Burton, would walk up this center aisle and he would say to me, "BILL NATCHER, I am for your bill," and he always helped us. Mrs. BURTON, you have heard me say it before, we miss him in this Congress, but you are are a very able and effective replacement.

Mr. PASHAYAN. Mr. Speaker, I want to thank the distinguished chairman of the Appropriations Committee, Mr. WHITTEN, and the distinguished chairman of the Labor-HHS Subcommittee, Mr. NATCHER, for their efforts to assure full funding of the Refugee Targeted Assistance Program in fiscal year 1986. Job training is essential to many refugees who are trying to adjust to American life. The continuing resolution specifically authorizes $50 million for this purpose. In addition, the report accompanying the resolution clearly states that this budget authority shall not be reduced by the $11.5 million that was unexpended in fiscal year 1985, but was just recently released to the States pursuant to court order.

I should also like to commend the members of the conference committee on H.R. 3424, the fiscal year 1986 Labor, Health and Human Services, and Education Appropriations bill for the language inserted in the conference report stating the strong opposition of the conferees to further delays by the administration in this matter.

This action should clearly document congressional intent fully to fund the Refugee Targeted Assistance Program and avoid a recurrence of this year's difficulties.

We thank the gentlemen for their efforts on this very important matter.

Mr. RANGEL. Mr. Speaker, I rise in support of the conference report on H.R. 3424, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1986. As chairman of the Select Committee on Narcotics Abuse and Control, I would like to comment on those provisions in the bill which relate specifically to drug abuse.

The conference report provides $91.807 million for the National Institute on Drug Abuse [NIDA]. This includes $74 million for research, $1.5 million for research training, and $16.307 million for operations. Reflected in the $91.807 million appropriation is $6.4 million that may be spent to confront AIDS. These figures represent an increase over the House recommended appropriations in all categories. I strongly support these increases.

Specifically, the $74 million for research increases NIDA's research budget by $8,461,000 over the House recommendation. I strongly endorse the increase in funding provided in the conference report for several reasons. First, because drug abuse research is essential to the development of effective drug treatment and prevention policies and programs, adequate funding must be provided. Second, because of the national scope of the drug problem in this country, an effective, well-coordinated research program requires Federal leadership and financial support. Third, the spread of AIDS presents a serious threat to the American people. NIDA is playing an important role in investigating the linkages between intravenous drug use and AIDS. The conference report appropriation provides increased moneys for the study of AIDS. Although I would support even greater funding for NIDA's research efforts, I believe the conference report is adequate.

The conference report also provides $1.5 million for research training. Because maintaining an adequate number of skilled drug abuse researchers is critical to high quality drug research efforts, this appropriation is significant.

For direct operations, the conference report appropriates $16.307 million. This is approximately $2 million more than the proposed House appropriation and $1 million more than the 1985 appropriation. It includes approximately $1.8 million for AIDS-related activities. Again, I support this increase, as it more adequately meets the needs of the Agency.

I remain concerned, however, about the level of funding for the alcohol, drug abuse and mental health block grants. The conference report, as did the House bill, provides only $490 million. This is the same amount that was allotted in 1985. I do not believe this is sufficient.

The block grant is the primary source of Federal funding to States to support community-based drug abuse treatment and prevention programs as well as alcohol abuse and mental health services. Since the block grant was implemented in 1982, Federal support for drug abuse services has declined by approximately 40 percent. While treatment capacity has been shrinking, the demand for treatment over the past few years has been growing. Hearings held by the Select Committee in Chicago, New England, Washington, DC and other parts of

the country confirm that States cannot meet the increased need for drug abuse services and that treatment programs are already operating at over 100-percent capacity. As is always the case, those who are denied treatment are those who cannot afford to pay for expensive private care.

Therefore, although I support the recommended appropriation for the block grant for 1986, I feel that it is not enough. Drug abuse is fast becoming our most serious national health problem, and the Federal Government must accept its responsibility to assist State and local treatment and prevention efforts. Again, I urge my colleagues to support H.R. 526, legislation I have introduced that would provide an additional $125 million annually for 5 years to expand State and local drug abuse treatment and prevention programs.

Finally, I continue to have serious reservations about the Department of Education's role in drug abuse education. The Department allocates only $3 million of its more than $18 billion budget for drug abuse education. The Department's school-based drug abuse prevention efforts through the Alcohol and Drug Abuse Education Program are simply inadequate to meet the epidemic of drug abuse among our school age population.

In conclusion, I support the conference report on H.R. 3424 and commend the conferees for their work. I believe that the funds provided better response to the Nation's needs in the area of drug abuse than the original House appropriation. Yet, there is still much that needs to be, and that can be done by the Federal Government in the area of drug abuse treatment, research, and prevention. I urge Congress and the administration to work together to promote a strong Federal leadership role and commensurate financial support to combat drug abuse in our Nation.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 54, not voting 24, as follows:

[Roll No. 431]

YEAS—356

Ackerman	Andrews	Aspin
Akaka	Annunzio	Atkins
Alexander	Anthony	AuCoin
Anderson	Applegate	Barnard
Barnes	Fowler	Mazzoli
Bateman	Frank	McCain
Bates	Franklin	McCloskey
Bedell	Frost	McCurdy
Beilenson	Fuqua	McDade
Bennett	Gallo	McEwen
Bentley	Garcia	McGrath
Bereuter	Gaydos	McHugh
Berman	Gejdenson	McKernan
Bevill	Gekas	McMillan
Biaggi	Gibbons	Meyers
Billey	Gingrich	Mica
Boehlert	Glickman	Michel
Boggs	Gonzalez	Mikulski
Boland	Gordon	Miller (CA)
Boner (TN)	Gray (IL)	Miller (WA)
Bonior (MI)	Gray (PA)	Mineta
Borski	Green	Mitchell
Bosco	Grotberg	Molinari
Boucher	Guarini	Mollohan
Boxer	Gunderson	Montgomery
Breaux	Hall (OH)	Moody
Brooks	Hamilton	Moore
Broomfield	Hammerschmidt	Morrison (CT)
Brown (CA)	Hatcher	Morrison (WA)
Bruce	Hawkins	Mrazek
Bryant	Hayes	Murphy
Burton (CA)	Hefner	Murtha
Bustamante	Hendon	Myers
Byron	Henry	Natcher
Callahan	Hertel	Neal
Carney	Hiler	Nichols
Carper	Hillis	Nowak
Carr	Holt	Oakar
Chandler	Hopkins	Oberstar
Chapman	Horton	Obey
Chappell	Howard	Olin
Chappie	Hoyer	Owens
Clay	Hubbard	Oxley
Coats	Huckaby	Packard
Cobey	Hughes	Panetta
Coble	Hunter	Pashayan
Coelho	Hutto	Pease
Coleman (MO)	Hyde	Penny
Coleman (TX)	Jacobs	Pepper
Collins	Jeffords	Perkins
Conte	Jenkins	Petri
Conyers	Johnson	Pickle
Cooper	Jones (NC)	Porter
Coughlin	Jones (OK)	Pursell
Courter	Jones (TN)	Quillen
Coyne	Kanjorski	Rahall
Crockett	Kaptur	Rangel
Daniel	Kasich	Ray
Darden	Kastenmeier	Regula
Daschle	Kemp	Reid
Daub	Kennelly	Ridge
Davis	Kildee	Rinaldo
de la Garza	Kindness	Robinson
Dellums	Kleczka	Rodino
Derrick	Kolbe	Roe
DeWine	Kolter	Rogers
Dickinson	Kostmayer	Rose
Dicks	LaFalce	Rostenkowski
Dingell	Lantos	Roukema
DioGuardi	Latta	Rowland (CT)
Dixon	Leach (IA)	Rowland (GA)
Donnelly	Leath (TX)	Roybal
Dorgan (ND)	Lehman (CA)	Russo
Dowdy	Lehman (FL)	Sabo
Duncan	Leland	Savage
Durbin	Lent	Saxton
Dwyer	Levin (MI)	Scheuer
Dymally	Levine (CA)	Schneider
Dyson	Lewis (CA)	Schroeder
Early	Lewis (FL)	Schuette
Eckart (OH)	Lipinski	Schulze
Eckert (NY)	Livingston	Schumer
Edgar	Lloyd	Seiberling
Edwards (CA)	Long	Sharp
Edwards (OK)	Lott	Shaw
Emerson	Lowery (CA)	Shelby
English	Lowry (WA)	Sikorski
Erdreich	Lujan	Siljander
Evans (IL)	Luken	Sisisky
Fascell	Lundine	Skeen
Fawell	MacKay	Skelton
Fazio	Madigan	Slattery
Feighan	Manton	Slaughter
Fiedler	Markey	Smith (FL)
Fish	Marlenee	Smith (IA)
Flippo	Martin (IL)	Smith (NE)
Florio	Martin (NY)	Smith (NJ)
Foglietta	Martinez	Smith, Robert (OR)
Foley	Matsui	Snowe
Ford (MI)	Mavroules	Snyder
Solarz	Taylor	Wheat
Spence	Thomas (GA)	Whitehurst
Spratt	Torres	Whitley
St Germain	Torricelli	Whittaker
Staggers	Towns	Whitten
Stallings	Traficant	Wirth
Stangeland	Traxler	Wise
Stark	Udall	Wolf
Stokes	Valentine	Wolpe
Strang	Vander Jagt	Wortley
Stratton	Vento	Wright
Studds	Visclosky	Wyden
Stump	Volkmer	Wylie
Sundquist	Walgren	Yates
Swift	Walker	Yatron
Synar	Watkins	Young (AK)
Tallon	Waxman	Young (FL)
Tauzin	Weaver	Young (MO)
	Weiss	Zschau

NAYS—54

Archer	Gradison	Roemer
Armey	Gregg	Rudd
Badham	Hall, Ralph	Schaefer
Bartlett	Hansen	Sensenbrenner
Barton	Hartnett	Shumway
Bilirakis	Ireland	Shuster
Boulter	Kramer	Smith, Denny (OR)
Brown (CO)	Lagomarsino	Smith, Robert (NH)
Burton (IN)	Lightfoot	Solomon
Cheney	Loeffler	Stenholm
Combest	Lungren	Sweeney
Craig	Mack	Swindall
Crane	McCandless	Tauke
Dannemeyer	McCollum	Thomas (CA)
DeLay	Monson	Vucanovich
Dornan (CA)	Moorhead	Weber
Dreier	Nielson	
Evans (IA)	Ritter	
Fields	Roberts	

NOT VOTING—24

Addabbo	Gephardt	O'Brien
Bonker	Gilman	Ortiz
Broyhill	Goodling	Parris
Campbell	Heftel	Price
Clinger	McKinney	Richardson
Downey	Miller (OH)	Roth
Ford (TN)	Moakley	Williams
Frenzel	Nelson	Wilson

□ 1125

Messrs. THOMAS of California, GREGG, WEBER, McCOLLUM, MONSON, and RALPH M. HALL changed their votes from "yea" to "nay."

Messrs. OXLEY, DEWINE, and NEAL changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 7, 11, 32, 39, 80, 100, 101, 134, 142, 145, 146, 147, 158, 159, and 166 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The text of the several amendments is as follows:

Senate amendment No. 7: Page 5, line 14, after "Fund," insert "and of which not to exceed $250,000, of the amount which may

be expended from said Trust Fund for Employment Service purposes, shall be used by the Secretary of Labor to conduct a study, to be submitted to Congress prior to June 1, 1986, designed to examine the status of automation in the labor exchange process throughout the Employment Service system, and to develop recommendations (including cost estimates) necessary to ensure the most efficient and effective job matching program within each State and among the States (known as the Interstate Job Bank System),".

Senate amendment No. 11: Page 7, line 6, strike out "$191,118,000" and insert "$190,318,000, of which not to exceed $8,000,000 shall be available for obligation through September 30, 1987, for acquisition of computer equipment and software for the Federal Employees' Compensation Level II System".

Senate amendment No. 32: Page 19, line 9, after "7901" insert ": *Provided further,* that during fiscal year 1986, the Secretary of Health and Human Services shall enter into commitments to guarantee loans, under subpart 1 of part C of title VII of the Public Health Service Act, to students who have not previously received loans guaranteed thereunder, and to students who have previously received loans guaranteed thereunder, except that the total of commitments so authorized may not exceed the sum of $275,000,000 plus any uncommitted balances of loan guarantee authority provided for any prior fiscal year which remain available for fiscal year 1986".

Senate amendment No 39: Page 20, line 22, after "immunization" insert ": *Provided further,* That $1,000,000 shall be used for studies of designer or synthetic drug use".

Senate amendment No. 80: Page 28, line 23, after "$727,908,000" insert "to remain available until expended".

Senate amendment No. 100: Page 34, line 8, after "therein" insert ", of which $16,000,000 shall be for the award of grants, under the authority of section 301 of the Public Health Service Act, for four projects demonstrating the delivery of health care services to victims of acquired immune deficiency syndrome, to be conducted by entities located, and providing services to persons residing, in those four standard metropolitan statistical areas having the highest concentration of persons suffering the syndrome".

Senate amendment No. 101: Page 34, line 8, after "therein" insert ": *Provided,* That an additional amount of $4,500,000 shall be transferred from amounts available to the National Institutes of Health, National Cancer Institute, for construction, which additional amount shall be used by the Secretary under the contract provisions of section 301(a)(7) of the Public Health Service Act for construction of the Mary Babb Randolph Cancer Center in West Virginia".

Senate amendment No. 134: Page 44, after line 8, insert:

"For carrying out the provisions of title VI of the Education for Economic Security Act, $2,500,000 to remain available until expended.".

Senate amendment No. 142: Page 44, line 26, after "1987" insert ": *Provided,* That $500,000 of the amounts available under this heading for part F of the Education of the Handicapped Act shall be available for the Theater of the Deaf".

Senate amendment No. 145: page 45, after line 13, insert:

"For special demonstration programs for the severely disabled, under section 311 of the Rehabilitation Act, $20,100,000, of which $750,000 shall be available for a grant to South Carolina to pay the full cost of the construction of the Comprehensive Medical Rehabilitation Center to be located in Columbia, South Carolina.".

Senate amendment No. 146: Page 45, after line 13, insert:

"From the remainder of amounts appropriated to carry out the Rehabilitation Act, $5,000,000, to remain available until expended, shall be available, in accordance with section 311 of the Rehabilitation Act, for a grant to the Oregon hearing Institute, in Portland, Oregon, to pay the full cost of the research activities, and the construction and renovation associated with those activities.".

Senate amendment No. 147: Page 45, after line 13, insert:

"The amounts to carry out title VI-B (pertaining to projects with industry and business opportunities for handicapped individuals) and title VII-B (pertaining to Centers for Independent Living) of the Rehabilitation Act shall be used to assist only those entities assisted thereunder during fiscal year 1985, except for any portion of such amounts made available due either to the failure of any such entity to apply for continued funding or a determination by the Commissioner that there is a substantial failure of any such entity to comply with provisions of its approved application.".

Senate amendment No. 158: Page 46, line 24, after "That" insert "notwithstanding sections 411(a)(2)(A)(i) and 411(b)(5) of the Higher Education Act,".

Senate amendment No. 159: Page 47, line 5, after "1985-86" insert ": *Provided futher,* That notwithstanding section 413D(a), subsections (a) and (b) of section 462, and subsections (a), (b), (c), and (e) of section 442, of that Act, the Secretary shall apportion funds among the States so that each State's apportionment under the Supplemental Educational Opportunity Grant Program, the National Direct Student Loan Program, and the Work-Study Program bears the same ratio to the total amount appropriated under each program: as that State's apportionment in fiscal year 1981 for each program bears to the total amount appropriated for fiscal year 1981 for each program: *Provided further,* That notwithstanding sections 413D(b)(1)(B)(ii) and 446(a) of that Act, from each jurisdiction's allotment of funds under each program, the Secretary shall allocate sums to institutions in that jurisdiction that did not receive an allocation in fiscal year 1979 (award year 1979-80) under each program in a manner that will most effectively carry out the purposes of the Supplemental Educational Opportunity Grant Program and the Work-Study Program: *Provided further,* That notwithstanding section 413D(b)(1)(B)(ii)(II) of the Higher Education Act, the provisions of clause (I) of section 413D(b)(1)(B)(ii) of such Act shall apply to the amount made available for Supplemental Educational Opportunity Grants under this heading".

Senate amendment No. 166: Page 48, after line 12, insert:

For carrying out the provisions of part E of title V of the Higher Education Act of 1965, relating to the Carl D. Perkins Scholarship Program, $10,000,000 to remain available until expended.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendments of the Senate numbered 7, 11, 32, 39, 80, 100, 101, 134, 142, 145, 146, 147, 158, 159, and 166 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 15, line 19, strike out "$99,037,000" and insert "$98,167,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$99,303,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 17, line 18, after "VIII," insert "XV, and parts A and C of title XVI, and titles XIX".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "XV, XVI, XIX".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 17, line 21, strike out "$564,853,000," and insert "$1,408,979,000, of which $500,000 shall be available for assistance to two-year schools

of medicine or osteopathy under section 788(a) of the Public Health Service Act; of which $3,000,000 shall be available for grants under section 371 of the Public Health Service Act;".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "$1,360,434,000, of which $500,000 shall be available for assistance to two-year schools of medicine or osteopathy under section 788(a) of the Public Health Service Act; of which $2,600,000 shall be available for grants under section 371 of the Public Health Service Act; of which $5,000,000 shall be for construction of and equipment for outpatient medical facilities under section 1610(b)".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 19, line 9, after "7901" insert ": *Provided further,* That no funds appropriated to carry out the Public Health Service Act may be used to award grants to, enter into contracts with, or otherwise assist, a State, or any agency thereof, to administer, operate, or monitor any program supported under section 329 or 330, or title XIX-C, of the Public Health Service Act".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided further,* That no funds appropriated to carry out the Public Health Service Act may be used to award grants to, enter into new contracts or cooperative agreements with, or otherwise asssit, a State, or any agency thereof, to administer, or monitor the operation of, or operate (except as provided in section 329(h)(2) and 330(g)(3)) any program supported under section 329 or 339, or title XIX-C, of the Public Health Service Act".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. the question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 37: Page 20, line 12, after "facilities" insert ", and of which $2,000,000 shall be used to establish, maintain, and operate a twenty-four-hour telephone hotline which permits calls to be made without charge to the caller, which provides general information concerning acquired immune deficiency syndrome and information concerning medical services and housing facilities for individuals with such syndrome, and which refers such individuals to counseling services".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment insert the following: ", and of which $6,900,000 shall remain available until September 30, 1987 for the purchase and distribution of drugs, and of which $2,000,000 shall be used to establish, maintain, and operate a twenty-four hour telephone hotline which permits calls to be made without charge to the caller, which provides general information concerning acquired immune deficiency syndrome and information concerning medical services and housing facilities for individuals with such syndrome, and which refers such individuals to counseling services".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 21, line 13, strike out "$541,298,000" and insert "$565,924,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$569,597,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 21, line 18, strike out "$418,590,000" and insert "$428,517,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following "$433,595,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 22, line 4, strike out "$455,593,000" and insert "$510,872,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER. moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$514,814,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 22, line 13, strike out "$188,988,000" and insert "$184,036,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$195,168,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 69: Page 24, line 9, after "expended" insert ": *Provided*, That notwithstanding any other provision of law, these funds shall be used to maintain not less than 1,571 Federal full-time equivalent positions".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided*, That in addition to amounts provided herein, $10,000,000 shall be available for carrying out activities for protection and advocacy for mentally ill persons, to become available upon enactment of authorizing legislation".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 70: Page 25, line 23, strike out "$87,621,000" and insert "$90,636,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$91,541,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 32, line 22, strike out all after "Act," down to and including "1986" in line 24 and insert "$2,009,422,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$2,015,922,000: *Provided*, That $76,349,000 shall be the maximum amount available for Indian and migrant Head Start programs for fiscal year 1986".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 94: Page 33, line 12, strike out "$250,000,000" and insert "$266,760,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 94 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment insert the following: "$220,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 35, after line 16, insert:

SEC. 201. No funds appropriated by this Act may be used by the Department of Health and Human Services to pay an indirect cost rate in excess of the grantee's fiscal year 1985 rate in effect on December 31, 1984: *Provided*, That this section applies only to those grantees that had fiscal year 1985 indirect cost rates in effect December 31, 1984.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

SEC. 202. Funds appropriated in this Act for the National Institutes of Health shall be used to support no fewer than 6,100 new and competing research projects.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 188: Page 55, after line 8, insert:

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1988, $214,000,000: *Provided*, That no funds made available to the Corporation for

Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 188 and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert the following:

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1988, $214,000,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further,* That notwithstanding any other provision of this Act, amount otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES

"National Health Service Corps", $5,000,000;

NATIONAL INSTITUTES OF HEALTH

"Research management and support", $3,000,000;

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

"Health statistics", $2,000,000;

FAMILY SOCIAL SERVICES

"Child welfare services authorized by title IV, part B of the Social Security Act", $13,000,000;

OFFICE OF COMMUNITY SERVICES

"Community services block grant, discretionary funds", $2,135,000, of which $1,570,000 applies to section 681(a)(2)(A), $330,000 applies to section 681(a)(2)(D), and $235,000 applies to section 681(a)(2)(E);

DEPARTMENT OF EDUCATION

IMPACT AID

"School construction authorized by the Act of September 23, 1950", $2,500,000, of which $1,000,000 applies to section 10, $1,000,000 applies to section 14(a) and 14(b), and $500,000 applies to section 5 and 14(c) of said Act;

SPECIAL PROGRAMS

"National impact demonstration or research projects (except educational television programming) authorized under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981", $3,000,000;

"Activities authorized by title II of the Education for Economic Security Act", $5,000,000;

LIBRARIES

"Library construction authorized by title II of the Library Services and Construction Act", $2,500,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2817, SUPERFUND AMENDMENTS OF 1985

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 331 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 331

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and to the amendments made in order by this resolution, and which shall continue not to exceed four hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by such committees now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3852 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment which changes title V of said substitute or which is otherwise within the jurisdiction of the Committee on Ways and Means under clause 1 (v)(1) or (3) of rule X shall be in order except those specified in the succeeding sentence. It shall be in order to consider the following amendments, in the following order only, to title V, all points of order against said amendments are hereby waived, and said amendments shall not be subject to amendment: (1) the amendment printed in the Congressional Record of December 4, 1985 by, and if offered by, Representative Duncan of Tennessee or his designee, and said amendment shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; (2) the amendment printed in the Congressional Record of December 4, 1985 by, and if offered by, Representative Downey of New York or his designee, and said amendment shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; and (3) amendments recommended by the Committee on Ways and Means if neither of the amendments designated (1) and (2) has been adopted. If both amendments designated (1) and (2) above are adopted, only the second such amendment shall be considered as having been finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution, subject to the preceding sentence. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2817, it shall be in order to consider, any rule of the House to the contrary notwithstanding, a motion to take from the Speaker's table the bill H.R. 2005 with the Senate amendments thereto, to agree to the Senate amendments to the text and the title with amendments inserting in lieu thereof the texts of H.R 2817 as passed by the House and its title, respectively, to insist on said amendments, and to request a conference with the Senate thereon, and said amendments shall be considered as having been read.

□ 1140

The SPEAKER pro tempore. The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 331 is a modified open rule providing for the consideration of H.R. 2817 the Superfund Amendments of 1985. The rule provides for 4 hours of general

debate of which 1 hour is to be controlled by the Committee on Energy and Commerce, 1 hour to be controlled by the Committee on Public Works and transportation, 1 hour to be controlled by the Committee on Ways and Means, 30 minutes to be controlled by the Committee on Merchant Marine and Fisheries and 30 minutes to be controlled by the Committee on the Judiciary.

The rule waives section 402(a) of the Congressional Budget Act against consideration of the bill. Section 402(a) prohibits consideration of any legislation which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year. Since the bill authorizes the enactment of new budget authority for fiscal year 1986, and was not reported on or before May 15, 1985, it would be subject to a point of order under the Budget Act.

The rule makes in order consideration of an amendment in the nature of a substitute which consists of the text of H.R. 3852 as original text for the purposes of amendment under the 5-minute rule.

Mr. Speaker, the first four titles of this bill are open to any germane amendments which do not otherwise violate House rules. The rule provides that the substitute is to be read for amendment by titles rather than by sections. All points of order are waived against the substitute.

Title V of the bill would raise revenues and authorize appropriations to finance the Superfund trust fund, and the rule provides that during consideration of the first four titles of the bill, no amendment that would change, affect, or delete title V would be in order. The committee has crafted a rule which will permit consideration of two amendments which propose alternative approaches to the tax provisions.

The rule provides that no amendments shall be in order to title V except an amendment by Representative DUNCAN which is printed in the CONGRESSIONAL RECORD of December 4, 1985, and an amendment by Representative DOWNEY also printed in the CONGRESSIONAL RECORD of December 4, 1985. These amendments shall be considered in the specified order, are not amendable, but shall each be open to debate for 1 hour. I would point out that the amendment by Mr. DOWNEY would be in order even if Mr. DUNCAN'S amendment is adopted. Under the rule, the last amendment adopted would prevail. In the event neither of these amendments is adopted, the rule provides for the consideration of amendments recommended by the Committee on Ways and Means.

At the conclusion of the bill's consideration under the 5-minute rule, no further amendments may be considered to the substitute, and the Committee of the Whole is to rise and report to the House with any amendments and any Member may demand that a separate vote be taken on any amendment adopted in the Committee of the Whole to the bill or the amendment in the nature of a substitute. The rule provides for one motion to recommit with or without instructions.

Finally, the rule provides that after passage of H.R. 2817, all points of order are waived against a motion to take H.R. 2005 from the Speaker's table with the Senate amendments thereto, substitute the text of H.R. 2817 as passed by the House for the Senate amendments, insist on the House amendments, and request a conference with the Senate. This procedure simply facilitates a conference on the Superfund program. Prompt action is important because the taxing mechanism for Superfund expired at the end of October, and the program has been without adequate funds for 2 months.

Mr. Speaker, H.R. 2817 amends and reauthorizes the Comprehensive Environmental Response, Compensation and Liability Act, more normally known as Superfund. The bill would provide $10 billion in funding over the next 5 years to be used to continue the cleanup of the Nation's worst abandoned hazardous waste sites. The bill would provide several important new initiatives including the establishment of a citizen's right to sue polluters, a program to clean up leaking underground gasoline storage tanks, and the creation of new information and emergency planning systems to protect communities against the accidental release of toxic chemicals into the air, land, and water.

The bill would enlarge the Superfund trust fund by raising the level of taxation on petroleum and chemical feedstocks, and by implementing new taxes on manufacturers, on imported chemical products, and on the generators and disposers of hazardous waste. While general revenues will continue to be a source of funding, they will be contributed at a lower rate to limit the impact of the program on our very serious budget situation.

Mr. Speaker, the reauthorization of Superfund has been a lengthy, complex and divisive process.

I would like at this time to extend the warmest thanks of the Committee on Rules, and I believe I speak for this whole House, to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, and the distinguished gentleman from New Jersey [Mr. HOWARD], the chairman of the Committee on Public Works and Transportation, for their extraordinary fidelity to the effort, which succeeded, to come to a compromise between those two important committees, both having jurisdiction of the matter of the contents of the bill now before the House.

□ 1150

We in the Rules Committee know how complex this problem is and if we had been faced with a bitter dispute or sharp difference of opinion between those two important committees, it would have been extremely difficult for the Rules Committee, and I think it would have been extremely difficult for the House to have determined what is the right course in the public interest for us to pursue.

Now, by the kindness and the diligent and dedicated work of these two great committee chairmen and their colleagues and associates, we are presented with a unified bill produced by those two important committees, Energy and Commerce and Public Works and Transportation.

I wish in the warmest way to express the commendation of the Rules Committee and I believe of the whole House toward these two committee chairmen and to their colleagues for the magnificent spirit of compromise and cooperation which they have shown in producing this matter for the consideration of the House.

By adopting the rule, Mr. Speaker, we can get on with the great and important business of cleaning up the thousands of toxic and hazardous waste sites which threaten lives and the environment all across the country.

I urge my colleagues, therefore, to adopt Resolution 331 so that we might proceed to debate, and I hope to an early passage of this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

The able gentleman from Florida, [Mr. PEPPER] has explained in detail the provisions of the rule. It is indeed a complicated rule, one of the most complicated I believe that has come out of the Rules Committee in several months.

We labored hard and long yesterday, all day long as a matter of fact, on the Superfund rule, heard many, many, many witnesses, but came out in the end with a rule that I think everybody can live with. The taxing authority of the Superfund expired September 30, 1985. So we need extension of the Superfund legislation. It is so important to the whole country and I think all the various committees involved agree with this.

For getting together and working out compromises, my hat is off to the committees who worked hard and long to bring this legislation to the floor.

I offered an amendment in the Rules Committee, which unfortunately was turned down, to give credit to the coal industry for the funds that

they pay under the stripmining legislation to restore what needs to be restored. It made sense to me because otherwise the coal industry may be subject to double taxation under Superfund.

Two amendments, the Downey-Frenzel amendment and the Duncan amendment were made in order. I favor the Duncan amendment because it is fair and reasonable and I urge my colleagues to vote against the Downey-Frenzel amendment because it puts a tremendous burden on certain business classifications and industry classifications. But overall, I think it is necessary that we get down to the business of passing this rule.

Here it is, just a few days before Christmas and we face hurdles that should have been faced weeks and months ago. I remember in 1983, we were here the day before Christmas. I remember on other occasions, we were here before Christmas and then met a few days after and then were in session until the end of the year. Hopefully, that will not be true this session.

Mr. Speaker, I urge the adoption of the rule and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

May I just add in reference to the comment of my distinguished friend from Tennessee [Mr. QUILLEN] in respect to the coal industry that that matter would be taken care of, I think satisfactorily to the gentleman from Tennessee, if either the Duncan amendment or the Downey amendment, both of which we made in order, should be adopted by the House.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Speaker, today we indeed approach a most important and significant milestone in the creation of an important regulatory program for the health and welfare of our Nation's citizens. The adoption of the rule and the passage of the bill I sponsored, along with the gentleman from New York, NORM LENT, H.R. 2817, will put this House foursquare in front of strong environmental protection legislation: the Superfund Reauthorization Act of 1985.

The importance of our bill is that it is reasonable and flexible. It is practical, yet holds the regulator's feet to the fire. It is environmentally responsible, yet avoids goldplating, and it is flexible while yet avoiding the open-ended problems of unneeded bureaucratic delay.

Mr. Speaker, H.R. 2817 has been on a long and difficult evolutionary path. I salute my colleagues from the Committee on Public Works and Transportation, the gentleman from Kentucky [Mr. SNYDER], the gentleman from Minnesota [Mr. STANGELAND], the gentleman from New Jersey [Mr. HOWARD], and the gentleman from New Jersey [Mr. ROE]; my colleagues from the Committee on Energy and Commerce, the gentleman from New York [Mr. LENT], and the gentleman from North Carolina [Mr. BROYHILL]; and those from the Committee on Merchant Marine and Fisheries and the Committee on the Judiciary who have walked that extra mile, who have taken that extra step to give us the kind of bill that I believe we all can honestly and truthfully embrace today.

H.R. 2817 is important and necessary because the politics of pollution know no geographic or individual boundaries. it seeps quietly and unseemly into individuals' backyards.

But continuing to perpetuate the politics of business as usual in the cleanup of the Nation's hazardous waste dump sites is neither in our constituents' nor our country's interest. The passage of this rule and the important settlement, scheduling and research and development options that the bill reflects, and which are contained with the adoption of this rule, are necessary truly if we want to take a giant leap forward for both our constituents and our country in the control of hazardous waste pollution that is a danger in all of our backyards across the United States.

Mr. Speaker, I urge the adoption of the rule, and hopefully with timely consideration of the rule and the bill today, we can commence the necessary conference work that needs to be done in order to hammer out the differences between our bill and that which passed the other body.

I urge the adoption of the bill and the rule.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of this rule and the bill. I think it is fair to say that the Superfund essentially has been a super bust. We have spent $1.6 billion and cleaned up virtually no sites in this country.

Literally what we have done is essentially moved these wastes from one site to another, running a toxic waste merry-go-round that does not do anything to protect the health and well-being of the American people.

I think this bill is going to help to turn this situation around. What it does is strike a practical balance. We hold the agency's feet to the fire, and at the same time we come with realistic provisions to make sure that they obtain the goals.

There are a couple of provisions I am particularly happy about. Mr. Speaker, the research and development provision and the waste and tax provisions. Both provisions give us a chance to end the toxic waste merry-go-round that is moving these wastes from one site to another. We lock in place some real incentives to recycle wastes and to treat wastes, to not produce these wastes in the first place. I think that is the way to go. I think that is a fundamental shift from the way we have done business in the past.

If we pass this legislation, this bill will be the first piece of environmental legislation that gives economic incentives to not pollute, to recycle and to treat wastes. I think that is the way to go, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

In analyzing the two amendments authorized by the Rules Committee, as I said, I prefer the Duncan amendment over the Downey amendment. But in the end, the Ways and Means provision on taxation is the best of all.

But the way the Rules Committee crafted the king-of-the-mountain rule is that if the Downey amendment passes, it is a substitute for the Ways and Means Committee language, and we will not get down to debating the Ways and Means proposal on the floor. So remember that, of the two amendments, I prefer and urge you to vote for Duncan, but in the end, I prefer the Ways and Means Committee language because I feel that it is the best.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I do not think anyone doubts the need to reauthorize an important program like the Superfund. One of the problems that we have in this body, though, is weighing relative priorities.

We are caught in that dilemma in this rule because on one hand, you have the importance of reauthorizing Superfund; on the other hand, you have the question of the budget of this country that most Americans regard as being a very important priority. What are we really doing about deficits?

Well, what we are really doing about deficits again in this particular rule is waiving the Budget Act. Once again in this rule, we are coming to the floor and saying, folks, it is time to spend the money, forget the Budget Act. This bill on page 2 waives section 402 of the Budget Act. Section 402 says that you have got to report these bills in a timely manner. This bill was not reported in a timely manner so, therefore, it is subject to a point of order under the Budget Act. The fact is, we are waiving that.

People will say, well, that is not important. The fact is that we would not spend the money—period—if we obeyed the Budget Act. We are not going to do that. We are going to waive the Budget Act.

But more important than that perhaps is the fact that, on page 3, all points of order are waived against the substitute, all points of order are waived against the amendments under this bill. What that means is that you have a major budgetbuster because, according to the information that has been given us by a member of the Ways and Means Committee, between 1986 and 1990 on any of the three plans we are talking about, we have budget exposure to the tune of between $10 billion and $11 billion. Some of that involves exposure not only in terms of revenues, but also in terms of general appropriations, because at least one of the plans we will have before us involves $2 billion of general revenues not included in the tax plan.

All points of order against those as they relate to the Budget Act are waived. That means that you have $10 billion worth of budget exposure over the next 4 years that is being waived.

The point is simply this: We, as a matter of course in these rules, time after time after time, are telling the American people, I think, something very clear, and that is that our system of priorities around here makes the Budget Act a very, very low part of that system. We are saying time and time again that the deficit really does not matter because the only place where we deal with deficits is in the Budget Act. That is the place where we focus on what we are going to do in deficits.

Finally, when we come to the rules that make spending in order, we say time after time after time that the Budget Act does not matter, the whole question of deficits does not matter. Waive the Budget Act, go ahead and spend the money.

We are doing that again in this rule. This rule waives the Budget Act. I think it deserves a "no" vote.

Mr. PEPPER. Mr. Speaker, I yield 4 minutes to the able gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

□ 1205

Mr. DINGELL. Mr. Speaker, I want to pay tribute to my colleagues on the Committee on Rules for having crafted a rule which makes extraordinarily good sense, and which enables the House to work its will on this matter in a fashion which is in the broad public interest.

I want to commend my colleagues who are part of the understandings between the Committee on Energy and Commerce and the Committee on Public Works and Transportation. Their labors have simplified the work of the House, and have made it possible for us to move forward toward a good piece of legislation, which will be of significant help in addressing the problems of this country with regard to hazardous waste sites.

I want to pay particular tribute to the patience and the efforts that all of my colleagues showed in bringing to the House a compromise that has been offered in the form of legislation sponsored by the distinguished majority leader, Mr. WRIGHT, and the distinguished minority leader, Mr. MICHEL.

I believe this action shows the importance that the leadership on both sides of the aisle attach to the programmatic aspects of the bill. I want to make it clear. I take no position at this time and make no suggestions to the House with regard to the tax portions of the legislation. Those matters are, of course, within the jurisdiction of another committee, and that committee should make the necessary recommendations on the tax portions of the bill to my colleagues in the House.

With regard to the content of the legislation, there will be an abundance of time for the explanation of the provisions of the legislation. Suffice it to say, that essentially it is a compromise between the amendments reported by the Committee on Public Works and the Committee on Energy and Commerce, and suffice it to say, that although there has been give on both sides, the package is fully acceptable to, and is supported by, the leadership in both committees on both sides.

My good friend from Pennsylvania recently had some comments about budgets and budget costs. There are certain things that are not subject to quantification. One is the cleanup of hazardous waste sites which threaten not only the environment but the health and the well-being of American people everywhere. More importantly, these sites not only threaten all Americans' health now but, even if there is no new hazardous waste generated from this moment forward, there is significant peril to future generations through contamination of soil and surface water, subsurface water, the water supplies, the air and the other environmental dependencies of this Nation.

I would urge my colleagues to recognize that the cost of this cleanup may be one of the best investments that can be found in the budget document. The need to finance this fully and adequately is extremely important.

The number of sites is something above 10,000, and may be as high as 20,000. The peril is enormous to our citizens. It is particularly obvious when you go to places like Love Canal or Globe, AZ. It is also apparent when you look at the contamination of major aquifers like the Ogallala Aquifer, which begins at the Canadian border and flows south to the gulf. This aquifer has a tremendous impact on the millions of people who are dependent upon it. Remember, a third of our population is dependent upon aquifers for clean water. The effect is enormous.

We have a limited time to deal with this issue. I am urging my colleagues to move speedily to resolve this matter, and it is my hope that consideration of this legislation can be concluded today at least insofar as the programmatic parts are concerned. I am urging action today, not tomorrow, but today, because it is important that we provide funding to clean up one of the major environmental problems of this Nation.

It must be observed that the funding portions expired September 30. At that time there was something like $130 million available in the fund for the cleanup of hazardous waste sites. Those funds are being expended. Not only are the funds approaching an intolerably low level in terms of addressing the problems of cleanup but the program is also beginning to lose momentum. It is extremely important, my colleagues should know, that we move forward rapidly today to pass H.R. 2817 so that the House may appoint its conferees and we may try to reach a conclusion on this matter.

Again, Mr. Speaker, I commend my colleagues for the difficult work that they have done and hope that my colleagues will support the substitute.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in strong support of Resolution 331, granting a rule for H.R. 2817, the Superfund Amendments of 1985. I cosponsored this legislation along with a number of others, including the distinguished gentleman from Ohio [Mr. ECKART], the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and the ranking minority member of the full Committee on Energy and Commerce, our colleague from North Carolina [Mr. BROYHILL].

This rule is very fair in that it waives any points of order so that the compromise bill developed by the Committee on Energy and Commerce and the Committee on Public Works and Transportation can be offered as an amendment in the nature of a substitute of H.R. 2817.

The rule is open to any germane amendments which might be offered to the programmatic titles of the bill, which are under the jurisdiction of the Committee on Energy and Commerce.

No Member's rights to offer germane amendments to these titles will be denied.

Mr. Speaker, the compromise amendment to H.R. 2817, developed jointly by the Energy and Commerce and Public Works Committees, is a very sound piece of legislation. The concerns of a broad range of interests

were considered, including the views of the Committee on the Judiciary and the Committee on Merchant Marine and Fisheries.

There are several programmatic amendments, however, that may be offered today which, if passed, would greatly cripple the strong program we have developed in this bill.

One amendment would give States carte blanche authority to require all sorts of State and local permitting before a remedial action takes place. This will severely hamper cleanups and permit local road blocking. This bill has more than adequate provisions for State participation in cleanup decisions.

Expected amendments to establish very broad and detailed inventory requirements for emissions from industrial facilities would defeat the purpose of our comprehensive community right-to-know program. We want citizens to be aware of the hazards which may be posed by the presence of chemicals in their communities but not impose overly burdensome, impossible, unreliable monitoring requirements on America's industry that will overwhelm local emergency response officials with useless detail.

A Federal facilities amendment may be offered which would actually authorize EPA to sue other Federal agencies. This makes very little sense and ought to be defeated.

Finally, there will be a Federal cause of action amendment, to allow citizens to sue in Federal court to recover damages for potential bodily injury alleged to be due to exposure to hazardous substances.

This amendment was wisely rejected by this House last year and should be again this year. This is a cleanup statute; a cleanup statute and not a new avenue to bog down Federal court dockets.

Mr. Speaker, these are but a few of the bad amendments which may be offered today. Of course, even a good bill can be improved, and we will see some amendments today that I plan, along with others, to support; but overall, I think that the document which we will be deliberating on later today is an excellent bill, and I urge my colleagues to keep its framework intact.

I look forward to quick passage of this important legislation.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I rise in strong support of the rule on H.R. 2817, the bill before us today to reauthorize the Superfund Program. While I will oppose some amendments which the rule allows, consideration of H.R. 2817 this session—as well as the substitute bill which has been worked out to amend it—is of critical importance to the future success of the program.

It is well known that the Superfund Program has been on hold for months pending a resolution of the many issues associated with the reauthorization debate. This has had a weakening effect on the program and promises to further debilitate it if we do not move forward now. The task before us in cleaning up our Nation's thousands of Superfund sites is truly monumental: defeat of this rule would put consideration of Superfund off for another year, a year neither the program nor this Nation can afford.

Thanks to the efforts of leaders and staff within the Public Works and Transportation Committee and the Energy and Commerce Committee, we have before us today—given passage of this rule—a genuine agreement, reached in the true spirit of compromise by Members from across the political spectrum and from both sides of the aisle. If we wait, we may not have such a product again. And that would be a true loss to Members of this body, to the program, and to the citizens of this country who deserve better. To vote against the rule today would be to reject the many hours of hard work, the commitment and dedication of the members and staff who have labored to put together the best possible bill for our consideration today.

I will vote against the Downey and Duncan amendments to title V. I believe they both would worsen our trade imbalance by making U.S. products less competitive in world markets and create further inequities for refining States like my own which already pay the bulk of Superfund taxes. Nevertheless, the question of how to finance a $10 billion Superfund is a difficult one, and should be decided through the kind of amendments this rule envisions.

For these reasons, I urge a "yea" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I have two other requests for time, but the gentlemen are not here at this time, if the gentleman from Florida would desire to yield time at this time.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

□ 1215

Mr. SWIFT. Mr. Speaker, I was an enthusiastic original cosponsor of the Florio bill. I was and am an enthusiastic supporter of the bill that was reported from Energy and Commerce. It was a good bill. The bill as it was reported from the Public Works Committee had many aspects that were excellent, and I am delighted to say that the compromise that has been worked out is very good. The point is, there are a lot of ways to skin a cat, and sometimes in this instruction we get a little territorial or we get a little tied up in our particular scheme for skinning a cat. Often the public interest goes winging away as we sit down and fight about whether we are going to skin that cat "my way" or "your way."

The fact is, we have behaved, I think in a very good way here. We have sat down and worked out our differences. We have come up with a bill that is going to do the job for the American public. It is time to set aside whether "your plan" or "my plan" or somebody else's plan was in some tangential way a little bit better or a little bit worse, and get on with it. This rule will do that. It will allow us to implement the compromise that has been worked out and pass good legislation for the American public, and I urge a "yes" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I urge adoption of the rule. I think it is very critical that we extend the taxing provisions of the Superfund and the authorization. I would caution the membership of the House that even though the committees have reached a compromise this is an open rule on all parts of the bill except the tax provisions. In the closing hours of this year and before Christmas, let us not delay by amendments which are not substantive, let us not delay just because of the desire to speak out; let us get down to business and pass this legislation today as I believe it to be critical.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I would like to identify with the remarks of the gentleman from Washington [Mr. SWIFT], who pointed out the importance of going forward in a cooperative way, to offer my congratulations to the Rules Committee for their role in assisting to craft this rule and bring the parties together and likewise to offer high congratulations to all who played a part in putting forward this very good package we will be bringing to the House floor in a very short period of time.

It is a strong piece of legislation, one that we can all be proud of and all who played a role in bringing it together, particularly Chairman DINGELL, Chairman HOWARD, Chairman ROE, and all the other people who played a part in bringing about this end result.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the chairman.

Mr. Speaker, while we have been quarreling for a number of weeks and months now over the particulars of the bill that we would bring out, I must say that we have, I think, come

to some good terms. Mr. FLORIO is correct, we have ironed out an awful lot of differences that existed in the earlier discussion, and that is to our credit. But we still have work to do on this floor. I think it is important to point out something that is essential to the debate we are going to have today. That is that in Louisiana, as in most States of the Nation, there is a general rule in our codal provision, which says that neighbors are not to use their property so as to damage the property or the lives of other neighbors. That is what we are talking about here today. We are meeting as a legislative body today to address a wrong, the neglect which has been committed by some of us, as neighbors, upon other neighbors in our great society. What we are doing as a body now is addressing the wrong that has been created over the years where hazardous wastes have been placed indiscriminately around the country and are now endangering the lives and properties of the citizens of this Nation.

Now while we still have some elements to debate on this floor today, particularly who ought to pay the cost of redressing that wrong, how that cost ought to be properly spread around the country, I think it is important to note that this bill does something the last Superfund does not do. It moves us in the direction of cleanup rather than litigation. It moves us in the direction of redressing that wrong rather than constantly arguing about who is responsible for it. The truth is, we all are. We have benefited from the products of our great manufacturing establishments in America. We have all benefited from those products as good neighbors. We have all caused each other harm and neglect because we have not taken care of the wastes that have been produced in the manufacture of those products. We all owe an obligation to one another now to come forward with a plan to redress that wrong.

That is what Superfund is essentially all about.

I want to commend the Committee on Rules, the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Public Works and Transportation, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries; all those and others who have worked on this program. We still have a few items to debate, but we are awfully, awfully far along the way of providing a good bill to address those wrongs. I commend the rule to the House.

Mr. PEPPER. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 33, not voting 25, as follows:

[Roll No. 432]

YEAS—376

Ackerman	Daschle	Hiler
Akaka	de la Garza	Hillis
Alexander	Derrick	Holt
Anderson	DeWine	Hopkins
Andrews	Dickinson	Horton
Annunzio	Dicks	Howard
Anthony	Dingell	Hoyer
Applegate	DioGuardi	Hubbard
Aspin	Dixon	Huckaby
Atkins	Donnelly	Hughes
AuCoin	Dorgan (ND)	Hutto
Badham	Dowdy	Hyde
Barnard	Downey	Ireland
Barnes	Duncan	Jacobs
Bartlett	Durbin	Jeffords
Bateman	Dwyer	Jenkins
Bates	Dymally	Johnson
Bedell	Dyson	Jones (NC)
Beilenson	Early	Jones (OK)
Bennett	Eckart (OH)	Jones (TN)
Bentley	Eckert (NY)	Kanjorski
Bereuter	Edgar	Kaptur
Berman	Edwards (CA)	Kasich
Bevill	Emerson	Kastenmeier
Biaggi	English	Kemp
Bilirakis	Erdreich	Kennelly
Bliley	Evans (IA)	Kildee
Boehlert	Evans (IL)	Kindness
Boggs	Fascell	Kleczka
Boland	Fawell	Kolbe
Boner (TN)	Fazio	Kolter
Bonior (MI)	Feighan	Kostmayer
Bonker	Fields	Kramer
Borski	Fish	LaFalce
Bosco	Flippo	Lagomarsino
Boucher	Florio	Lantos
Boxer	Foglietta	Latta
Breaux	Foley	Leach (IA)
Brooks	Ford (MI)	Leath (TX)
Broomfield	Ford (TN)	Lehman (CA)
Brown (CA)	Fowler	Lehman (FL)
Broyhill	Frank	Leland
Bruce	Franklin	Lent
Bryant	Frenzel	Levin (MI)
Burton (CA)	Fuqua	Levine (CA)
Burton (IN)	Gallo	Lewis (FL)
Bustamante	Garcia	Lightfoot
Byron	Gaydos	Lipinski
Callahan	Gejdenson	Livingston
Campbell	Gibbons	Lloyd
Carney	Gingrich	Long
Carper	Glickman	Lott
Carr	Gonzalez	Lowery (CA)
Chandler	Goodling	Lowry (WA)
Chapman	Gordon	Lujan
Chappell	Gradison	Luken
Clay	Gray (IL)	Lundine
Coats	Green	Lungren
Coelho	Gregg	MacKay
Coleman (MO)	Grotberg	Madigan
Coleman (TX)	Guarini	Manton
Collins	Gunderson	Markey
Conte	Hall (OH)	Martin (IL)
Conyers	Hall, Ralph	Martin (NY)
Cooper	Hamilton	Matsui
Coughlin	Hammerschmidt	Mavroules
Courter	Hatcher	Mazzoli
Coyne	Hawkins	McCain
Craig	Hayes	McCandless
Crockett	Hefner	McCloskey
Daniel	Hendon	McCollum
Dannemeyer	Henry	McCurdy
Darden	Hertel	McDade
McEwen	Reid	Staggers
McGrath	Ridge	Stallings
McHugh	Rinaldo	Stangeland
McKernan	Ritter	Stark
McMillan	Robinson	Stenholm
Meyers	Rodino	Stokes
Mica	Roe	Stratton
Mikulski	Roemer	Studds
Miller (CA)	Rogers	Sundquist
Miller (WA)	Rose	Sweeney
Mineta	Rostenkowski	Swift
Mitchell	Roukema	Swindall
Moakley	Rowland (CT)	Synar
Molinari	Rowland (GA)	Tallon
Mollohan	Roybal	Tauke
Montgomery	Rudd	Tauzin
Moore	Russo	Taylor
Moorhead	Sabo	Thomas (CA)
Morrison (CT)	Savage	Thomas (GA)
Morrison (WA)	Saxton	Torres
Mrazek	Schaefer	Torricelli
Murphy	Scheuer	Towns
Murtha	Schneider	Traficant
Myers	Schroeder	Traxler
Natcher	Schuette	Udall
Neal	Schulze	Valentine
Nichols	Schumer	Vander Jagt
Nielson	Seiberling	Vento
Nowak	Sensenbrenner	Visclosky
O'Brien	Sharp	Volkmer
Oakar	Shelby	Walgren
Oberstar	Shuster	Watkins
Obey	Sikorski	Waxman
Olin	Siljander	Weaver
Owens	Sisisky	Weiss
Oxley	Skeen	Wheat
Packard	Skelton	Whitehurst
Panetta	Slattery	Whittaker
Parris	Slaughter	Whitten
Pashayan	Smith (FL)	Wirth
Pease	Smith (IA)	Wise
Penny	Smith (NE)	Wolf
Pepper	Smith (NJ)	Wolpe
Perkins	Smith, Robert (NH)	Wortley
Petri	Smith, Robert (OR)	Wright
Pickle	Snowe	Wyden
Porter	Snyder	Wylie
Pursell	Solarz	Yates
Quillen	Spence	Yatron
Rahall	Spratt	Young (AK)
Rangel	St Germain	Young (FL)
Ray		Young (MO)
Regula		Zschau

NAYS—33

Archer	DeLay	Marlenee
Armey	Dornan (CA)	Monson
Barton	Dreier	Roberts
Boulter	Edwards (OK)	Smith, Denny (OR)
Brown (CO)	Fiedler	Strang
Chappie	Gekas	Stump
Cheney	Hansen	Vucanovich
Cobey	Hartnett	Walker
Coble	Hunter	Weber
Combest	Lewis (CA)	
Crane	Loeffler	
Daub	Mack	

NOT VOTING—25

Addabbo	Martinez	Roth
Clinger	McKinney	Shaw
Davis	Michel	Shumway
Dellums	Miller (OH)	Solomon
Frost	Moody	Whitley
Gephardt	Nelson	Williams
Gilman	Ortiz	Wilson
Gray (PA)	Price	
Heftel	Richardson	

□ 1230

Mr. PORTER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMITTEE ON RULES TO MEET TUESDAY MORNING FOR CONSIDERATION OF H.R. 3838

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, I wish to advise the House that it is the intention of the Rules Committee to meet the latter part of Tuesday morning for the consideration of H.R. 3838, the tax bill from the Committee on Ways and Means.

In order that the Rules Committee might have before it and, of course, the Members of the House might have as much advance information as possible, it is the request of the Rules Committee that those proposing to offer a substitute or an amendment to H.R. 3838, the tax bill from the Committee on Ways and Means, they put the proposed substitute or amendment in the RECORD not later than Friday December 6, any proposed substitute or amendment not now in print.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Is that midnight Friday that the gentleman is requesting, or would it be the end of business Friday?

Mr. PEPPER. Yes, by midnight Friday.

Mr. WALKER. By midnight on Friday?

Mr. PEPPER. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

The Chair hears none.

So ordered.

APPOINTMENT OF CONFEREES, ON H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers and abundance of food and fiber at reasonable prices, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

□ 1245

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none and, without objection, appoints the following conferees:

From The Committee on Agriculture: Messrs. de la Garza, Foley, Jones of Tennessee, Rose, and Bedell (on all matters except title VIII of the House bill and modifications thereof committed to conference); Messrs. Panetta, Huckaby, and Whitley (on all matters except subtitle A of title X, section 1022, section 1314, and subtitle C of title XVIII, of the House bill and modifications thereof committed to conference, and section 1947 and title XX of the Senate amendment): Messrs. Coelho, Madigan, Jeffords and Coleman of Missouri (on all matters except titles II, IV, V, IX, XVI, and XVII, and section 1862, of the House bill and modifications thereof committed to conference); and Messrs. Marlenee, Hopkins, and Stangeland.

In lieu of Mr. Bedell, solely for consideration of title VIII of the House bill and modifications thereof committed to conference: Mr. Hatcher.

In lieu of Mr. Whitley, solely for consideration of subtitle A of title X of the House bill, and section 1314, and modifications thereof committed to conference: Mr. Stenholm.

In lieu of Mr. Whitley, solely for consideration of section 1022 of the House bill and modifications thereof committed to conference: Mr. Burce.

In lieu of Mr. Whitley, solely for consideration of subtitle C of title XVIII of the House bill and modifications thereof committed to conference: Mr Volkmer.

In lieu of Mr. Whitley, solely for consideration of section 1947 of the Senate amendment: Mr. Stallings.

In lieu of Mr. Whitley, solely for consideration of title XX of the Senate amendment: Mr. Brown of California.

In lieu of Mr. Coleman of Missouri, solely for consideration of titles IX, XV, XVI, and XVII of the House bill and modifications thereof committed to conference: Mr. Emerson.

In lieu of Mr. Coleman of Missouri, solely for consideration of title II of the House bill and modifications thereof committed to conference: Mr. Gunderson.

In lieu of Mr. Coleman of Missouri, solely for consideration of section 1862 of the House bill and modifications thereof committed to conference: Mr. Morrison of Washington.

In lieu of Mr. Coleman of Missouri, solely for consideration of titles IV and V of the House bill and modifications thereof committed to conference: Mr. Robert F. Smith.

As additional conferees, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference: Messrs. English, Stenholm, and Roberts.

As additional conferees from the Committee on Merchant Marine and Fisheries, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference: Messrs. Jones of North Carolina, Biaggi, Anderson, Oberstar, Hughes, Lowry of Washington, Lent, Snyder, Young of Alaska, and Davis.

As additional conferees from the Committee on Merchant Marine and Fisheries, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference: Messrs. Jones of North Carolina, Anderson, Breaux, Studds, Lent, Young of Alaska, and Fields.

As additional conferees from the Committee on Foreign Affairs, solely for consideration of title XI, sections 1025, 1421, 1423, 1431 of the House bill, title I, sections 903, 1932, 1943, 1949, and 1952 of the Senate amendment, and modifications committed to conference: Messrs. Fascell, Hamilton, Bonker, Gejdenson, and Kostmayer (except subtitle D of title XI of the House bill and modifications committed to conference); Mr. MacKay (except subtitle D of title XI of the House bill and modifications committed to conference); Messrs. Broomfield and Gilman (except subtitle D of title XI of the House bill and modifications committed to conference); Messrs. Roth and Bereuter.

As additional conferees from the Committee on Ways and Means, solely for consideration of sections 107(d), 108(b), 113, 1002, 1929, 1952, 1953, and 1955 of the Senate amendment and modifications committed to conference: Messrs. Gibbons, Jenkins, Downey of New York, and Frenzel.

There was no objection.

DEFICIT REDUCTION AMENDMENTS OF 1985

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 330 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 330

Resolved, That upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, with the Senate amendments thereto, to have agreed to the Senate amendment to the title, to have agreed to the Senate amendment to the text with an amendment inserting in lieu thereof the texts of the bills H.R. 3128 and H.R. 3500 as passed by the House, and to have insisted on said amendment and to have requested a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 330 provides procedures to hook up two reconciliation bills, passed previously by the House, so a conference with the Senate on reconciliation can get underway.

Specifically, this resolution provides that upon its adoption the House shall be considered to have taken from the Speaker's table the bill H.R. 3128, the Deficit Reduction Amendments of 1985, with the Senate amendment thereto, and to have agreed to an amendment to the Senate amendment. The amendment to the Senate amendment inserts in lieu of Senate reconciliation provisions the tests of the bills H.R. 3128 and H.R. 3500 as passed by the House. Finally, this resolution will provide that the House will have insisted on its amendment and requested a conference with the Senate.

Mr. Speaker, on October 24, 1985, the House passed H.R. 3500, the Budget Reconciliation Act of 1985.

That bill represents the reconciliation savings reported from 10 committees of the House of Representatives.

On October 31, 1985, the House passed H.R. 3128, the Deficit Reduction Amendments of 1985. That bill, reported from the Ways and Means Committee, contains the second important component of the reconciliation effort—revenue increases.

These two bills represent the majority of the reconciliation recommendations reported by the committees of the House. This rule, therefore, provides that these two bills will be linked for purposes of conference with the Senate on reconciliation.

The other Chamber passed a single omnibus reconciliation measure on November 14, 1985. The provisions as adopted in that Chamber were substituted into H.R. 3128, the Ways and Means reconciliation bill which was then pending before the Senate.

I should note, Mr. Speaker, that both H.R. 2100, the Food Security Act of 1985, and H.R. 2817, the Superfund Amendments of 1985, contain provisions which were scored as reconciliation for the Agriculture and Ways and Means Committees, respectively.

Those measures will not, however, be part of the House-Senate conference on reconciliation. Both the farm bill and the Superfund bill will be conferenced separately with appropriate Senate-passed measures. But while these measures will move on their own separate legislative tracks, their ultimate enactment will be a part of this Chamber's fiscal year 1986 reconciliation effort.

Mr. Speaker, the rule before the House today is a simple, Straightforward procedure to link two House-passed bills and to request a conference with the Senate.

As chairman of the Budget Committee Task force on the Budget Process and Reconciliation, I am anxious to get the conference on reconciliation underway. This rule will facilitate that effort.

Mr. Speaker, I urge adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, both the House and the other body have passed budget reconciliation bills. However, the other body put all of its major provisions in a single bill, H.R. 3128, while the House has the bulk of its budget reconciliation provisions in two separate bills.

The purpose of this rule is to combine the text of H.R. 3128 with the text of H.R. 3500, and send them to the same conference.

H.R. 3128 is the bill which contains the budget reconciliation provisions reported by the Committee on Ways and Means and amended by other committees.

H.R. 3500 is the bill which contains the reconciliation provision of most other committees.

At the request of the chairman and the ranking Republican member of the Committee on Agriculture, their budget reconciliation provisions will be considered separately, in the conference on the farm bill, H.R. 2100.

Mr. Speaker, I support this resolution in order to expedite the budget reconciliation process.

Mr. Speaker, I have no requests for time and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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APPOINTMENT OF CONFEREES ON H.R. 3128

The SPEAKER pro tempore. Without objection, the Speaker's designation of the conferees will be printed in the RECORD at this point.

There was no objection.

Conferees on H.R. 3128:

From the Committee on the Budget, for consideration of the entire Senate amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 502(a) and 503 of the House amendment to the Senate amendment: Mssrs. Gray, of Pennsylvania, Derrick, Wolpe, Barnes, and Schumer, Mrs. Boxer, Mssrs. MacKay, Slattery, Atkins, and Latta, Mrs. Martin of Illinois, Ms. Fiedler, and Mssrs. Goodling, Denny Smith, and Weber.

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, and 205, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and or subtitles B and C of title III and section 1974 of division A, and all of division B, of the House amendment to the Senate amendment: Mssrs. Rostenkowski, Gibbons, Pickle, Rangel, Stark, Jones of Oklahoma, Jacobs, Ford of Tennessee, Jenkins, Gephardt, Downey of New York, Duncan, Crane, Gradison, Campbell, Thomas of California, and McGrath.

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment: Messrs. de la Garza, Jones of Tennessee, Panetta, Coelho, Bedell, Madigan, Emerson, Jeffords, and Coleman of Missouri.

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment: Messrs. de la Garza, Rose, Jones of North Carolina, Hatcher, Whitley, Tallon, Thomas of Georgia, Hopkins, Roberts, Franklin, and Combest.

From the Committee on Agriculture, solely for the consideration of section 2502(b) of division B of the House amendment to the Senate amendment: Messrs. de la Garza, Rose, Whitley, Hopkins, and Roberts.

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and of title I of division A of the House amendment to the Senate amendment: Messrs. Aspin, Messrs. Montgomery, Mrs. Schroeder, Messrs. Dickinson, and Hillis.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment: Messrs. St Germain, Gonzalez, Mitchell, and Lundine, Ms. Oakar, Messrs. Vento, Frank, Wylie, and McKinney, Mrs. Roukema, and Mr. Bartlett.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment: Messrs. St Germain, LaFalce, Lundine, Wylie, and Shumway.

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment: Messrs. Hawkins, Ford of Michigan, Biaggi, Williams, Owens, Hayes, Perkins, Bruce, Jeffords, Coleman of Missouri, Gunderson, McKernan, and Henry.

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitles B and C of title III of division A, and of section 2181 and title VI of division B, of the House amendment to the Senate amendment: Messrs. Hawkins, Ford of Michigan, Gaydos, Clay, Biaggi, Kildee, Owens, Hayes, Dymally, Atkins, Jeffords, and Petri, Mrs. Roukema, and Messrs. Bartlett, Chandler, Armey, and Fawell.

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment: Messrs. Hawkins, Murphy, Clay, Williams, Jeffords, Petri, and Bartlett.

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713-716, parts 2-5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)-(4) of section 746), sections 769B, 770, 772, 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B-G of title I, and section 2302 of division B of the House amendment to the Senate amendment: Messrs. Dingell, Waxman, Scheuer, Luken, and Walgren, Ms. Mikulski, Mr. Leland, Mrs. Collins, and Messrs. Wyden, Broyhill, Madigan, Dannemeyer, Whittaker, Bilirakis, and Bliley.

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505(c), (d), and (e) in the Internal Revenue Code: Messrs. Dingell, Eckart of Ohio, Hall of Texas, Tauzin, Dowdy of Mississippi, Luken, Swift, Shelby, Synar, Broyhill, Lent, Ritter, Fields, Coats, and Schaefer.

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521-524, and 536 of the Senate amendment of subtitles A-E of title IV and subtitles B and C of Title VIII of division A of the House amendment to the Senate amendment: Mssrs. Dingell, Sharp,

Markey, Walgren, Swift, Leland, Shelby, Synar, Tauzin, Broyhill, Dannemeyer, Moorhead, Whittaker, Oxley, and Eckert, of New York.

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment: Mssrs. Dingell, Wirth, Scheuer, Luken, Swift, and Leland, Mrs. Collins, and Mssrs. Synar, Tauzin, Broyhill, Rinaldo, Tauke, Oxley, Moorhead, and Nielson of Utah.

From the Committee on Energy and Commerce, solely for the consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794, of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment: Mssrs. Dingell, Florio, Sharp, Tauzin, Ralph M. Hall, Eckart of Ohio, Dowdy of Mississippi, Richardson, Slattery, Broyhill, Lent, Ritter, Coats, Tauke, and Fields.

From the Committee on Government Operations, solely for the consideration of subtitle G of title VII of the Senate amendment: Mssrs. Brooks, Fuqua, Weiss, Horton, and Walker.

From the Committee on Government Operations, solely for the consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment: Mr. Brooks, Mr. Fuqua, Mrs. Collins, Mr. Horton, and Mr. McCandless.

From the Committee on Interior and Insular Affairs, solely for the consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment: Mssrs. Udall, Seiberling, Weaver, Miller of California, Sharp, Rahall, Vento, Huckaby, Gejdenson, Young of Alaska, Lujan, Lagomarsino, Marlenee, Cheney, and Pashayan.

From the committee on the Judiciary, solely for the consideration of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting subsection 4041(C)(2)(B)(iii) in the Employee Retirement Income Security Act, of division A, and section 2124 (b) of division B, of the House amendment to the Senate amendment: Mssrs. Rodino, Glickman, Edwards of California, Fish, and Kindness.

From the Committee on Merchant Marine and Fisheries, solely for consideration of section 405, 406, and 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment: Mssrs. Jones of North Carolina, Biaggi, Anderson, Breaux, and Studds, Ms. Mikulski, Mr. Lowry of Washington, Mr. Bosco, Mr. Hughes (except as listed below), Mr. Tauzin (in lieu of Mr. Hughes solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. Lent, Mr. Snyder, Mr. Young of Alaska (except as listed below), Mr. Davis, Mr. Carney (in lieu of Mr. Young solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. Shumway, and Mr. Fields.

From the Committee on Post Office and Civil Service, solely for the consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment: Mr. Ford of Michigan, Mr. Leland, Ms. Oakar, Mr. Taylor, and Mr. Gilman.

From the Committee on Public Works and Transportation, solely for the consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment: Messrs. Howard, Anderson, Roe, Mineta, Nowak, Edgar, Young, of Missouri, Rahall (except as listed below), Snyder, Hammerschmidt, Shuster, Stangeland, Gingrich, Clinger, and Breaux (in lieu of Mr. RAHALL solely for the consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment).

From the Committee on Science and Technology, solely for the consideration of sections 406 (a)-(c), (e)-(g), and (i) of the Senate amendment: Messrs. Fuqua, Scheuer, Wirth, Lujan, and Mrs. Schneider.

From the Committee on Small Business, solely for the consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment: Messrs. Mitchell, Smith of Iowa, Addabbo, McDade, and Conte.

From the Committee on Veterans' Affairs, solely for the consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment: Messrs. Montgomery, Edgar, Applegate, Hammerschmidt, and Wylie.

(For the text of the Senate amendment to H.R. 3128, see proceedings of the Senate of November 14, 1985, at page S. 15489).

The text of the House amendment to the Senate amendment to H.R. 3128 is as follows:

House amendment to Senate amendment:

In lieu of the matter inserted by such amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1985".

DIVISION A—RECONCILIATION SAVINGS

SEC. 2. TABLE OF CONTENTS.

Title I—Committee on Armed Services.
Title II—Committee on Banking, Finance and Urban Affairs.
Title III—Committee on Education and Labor.
Title IV—Committee on Energy and Commerce.
Title V—Committee on Interior and Insular Affairs.
Title VI—Committee on Merchant Marine and Fisheries.
Title VII—Committee on Post Office and Civil Service.
Title VIII—Committee on Public Works and Transportation.
Title IX—Committee on Small Business.
Title X—Committee on Veterans' Affairs.

TITLE I—COMMITTEE ON ARMED SERVICES

SEC. 1001. COLLECTION BY THE UNITED STATES OF MEDICAL AND DENTAL COSTS INCURRED ON BEHALF OF CERTAIN PERSONS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§1095. Collection from third-party payers of reasonable medical and dental care costs incurred on behalf of retirees and dependents

"(a)(1) In the case of a person who is covered by section 1074(b), 1076(a), or 1076(b) of this title, the United States shall have the right to collect from a third-party payer the reasonable costs of medical and dental care incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such costs on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is the reasonable cost of the care provided less the appropriate deductible or copayment amount.

"(2) A person covered by section 1074(b), 1076(a), or 1076(b) of this title may not be required to pay an additional amount to the United States for medical and dental care by reason of this section.

"(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).

"(c) Under regulations prescribed under subsection (g), records of the facility of the uniformed services that provided medical or dental care to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

"(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

"(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

"(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

"(f) Sums collected pursuant to this section shall be credited to the appropriation from which the costs of the care were paid.

"(g) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of medical and dental care. Computation of such reasonable cost may be based on—

"(1) per diem rates; or

"(2) such other method as may be appropriate.

"(h) In this section, 'third-party payer' means an entity that provides an insurance,

medical service, or health plan by contract or agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Collection from third-party payers of reasonable medical and dental care costs incurred on behalf of retirees and dependents.".

(b) EFFECTIVE DATE.—Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to health care provided on or after the date of the enactment of this Act, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after that date.

TITLE II—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

SECTION 2001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Housing Act of 1985".

(b) TABLE OF CONTENTS.—

Sec. 1051. Short title and table of contents.
Sec. 1052. Findings and purpose.
Sec. 1053. Congressional policy regarding aggregate budget authority.
Sec. 1054. Regulatory authority.
Sec. 1055. Collection of certain data.

Subtitle A—Housing Assistance

PART 1—PROGRAMS UNDER UNITED STATES HOUSING ACT OF 1937

Sec. 1101. Lower income housing authorization.
Sec. 1102. Tenant rental contributions.
Sec. 1103. Grants for public housing development.
Sec. 1104. Public housing child care grants.
Sec. 1105. Additional public housing provisions.
Sec. 1106. Section 8 assistance.
Sec. 1107. Voucher demonstration program.
Sec. 1108. Payments for operation of lower income housing projects.
Sec. 1109. Grants for comprehensive improvement assistance.
Sec. 1110. Additional comprehensive improvement assistance program provisions.
Sec. 1111. Public housing comprehensive grants.
Sec. 1112. Income eligibility for assisted housing.
Sec. 1113. Rental development program.
Sec. 1114. Rental rehabilitation program.

PART 2—MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION

Sec. 1121. Prepayment of mortgages.
Sec. 1122. Management and preservation of HUD-owned multifamily housing projects.
Sec. 1123. Acquisition of insured multifamily housing projects.
Sec. 1124. Tenant participation in multifamily housing projects.
Sec. 1125. Troubled multifamily housing projects.
Sec. 1126. Inapplicability of certain income eligibility restrictions to property disposition contracts.

PART 3—OTHER HOUSING ASSISTANCE PROGRAMS

Sec. 1141. Housing for the elderly and handicapped.
Sec. 1142. Housing for the handicapped.
Sec. 1143. Congregate services.
Sec. 1144. Section 235 homeownership program.
Sec. 1145. Task Force on Family Housing Needs.
Sec. 1146. Energy conservation in assisted housing.
Sec. 1147. Annual report on characteristics of families in assisted housing.
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Sec. 1149. Modification of restriction on use of assisted housing.
Sec. 1150. Exclusion of housing assistance as income.
Sec. 1151. Use of certain excess rental charges for assistance for troubled multifamily housing projects.
Sec. 1152. Housing demonstration project.
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Sec. 1154. Housing assistance technical amendments.

Subtitle B—Rural Housing

Sec. 1201. Program authorizations.
Sec. 1202. Income levels for family eligibility.
Sec. 1203. Plans for allocation of financial assistance.
Sec. 1204. Rural housing escrow accounts.
Sec. 1205. Rural housing guaranteed loans.
Sec. 1206. Study of procedures for appeals of adverse decisions.
Sec. 1207. Use of fee inspectors and appraisers.
Sec. 1208. Loans for rehabilitation of rural rental housing.
Sec. 1209. Management of insured and guaranteed loans.
Sec. 1210. Definition of rural area.
Sec. 1211. Rural housing preservation grant program.
Sec. 1212. Limitation on restrictions on tax-exempt financing.
Sec. 1213. Task Force on Housing Needs of Rural America.
Sec. 1214. Rural housing technical amendments.

Subtitle C—Program Amendments and Extensions

PART 1—FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

Sec. 1251. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 1252. Amount to be insured under National Housing Act.
Sec. 1253. Negotiated interest rates on mortgages insured by Federal Housing Administration.
Sec. 1254. Study of voluntary standards for modular homes.
Sec. 1255. Limitation on certain premium charges.
Sec. 1256. Mortgages on Hawaiian home lands and Indian lands to be obligations of General Insurance Fund.
Sec. 1257. Repeal of requirement to publish prototype housing costs for 1- to 4-family dwelling units.
Sec. 1258. Authority for increased mortgage limits for multifamily projects in high-cost areas.
Sec. 1259. Permissible annual interest rate adjustment for adjustable rate mortgages.
Sec. 1260. Double damages remedy for unauthorized use of multifamily housing project assets and income.
Sec. 1261. Administrative improvements in single-family mortgage insurance program.
Sec. 1262. Refinancing mortgage insurance for hospitals, nursing homes, intermediate care facilities, and board and care homes.
Sec. 1263. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes.
Sec. 1264. Requirement of State approval for mortgage insurance for hospitals.
Sec. 1265. Mortgage insurance technical amendments.

PART 2—FLOOD AND CRIME INSURANCE PROGRAMS

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Sec. 1272. Crime insurance.
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PART 3—SECONDARY MORTGAGE MARKET PROGRAMS

Sec. 1281. Government National Mortgage Association mortgage-backed securities program.
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PART 4—REGULATORY AND OTHER PROGRAMS

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Sec. 1294. Research authorization.
Sec. 1295. Timely payment of subcontractors.
Sec. 1296. Median area income.
Sec. 1297. Manufactured housing construction and safety standards.
Sec. 1298. Removal of maximum fee for interstate land sales registration.
Sec. 1299. Preventing fraud and abuse in Department of Housing and Urban Development programs.
Sec. 1300. Fair housing initiatives program.
Sec. 1301. Lead-based paint poisoning prevention.
Sec. 1302. Regulatory and other programs technical amendments.

PART 5—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION PROGRAMS

Sec. 1311. Community development block grant metropolitan city and urban county classifications.
Sec. 1312. Statement of activities and review.
Sec. 1313. Housing assistance plans.
Sec. 1314. Limited new construction of housing under community development block grant program.
Sec. 1315. Community development block grant public service activities.
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Sec. 1351. Grant assistance.
Sec. 1352. Allocation and distribution of assistance.
Sec. 1353. Eligible activities.
Sec. 1354. Responsibilities of grantees.
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SEC. 1052. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that—

(1) for the past 50 years, the Federal Government has taken the leading role in enabling the people of the Nation to be the best housed in the world;

(2) the efforts of the Federal Government have included a system of specialized lending institutions, favorable tax policies, construction assistance, mortgage insurance, loan guarantees, secondary markets, and interest and rental subsidies, that have enabled people to rent or buy affordable, decent, safe, and sanitary housing;

(3) at no time since the Great Depression has the shortage of housing been more severe, and, unless actions are taken to increase the production of moderately priced homes and affordable rental units, the housing crisis of persons of low and moderate income will deepen;

(4) the tragedy of homelessness in urban and suburban communities across the Nation, involving a record number of people, dramatically demonstrates the lack of affordable residential shelter;

(5) people living on the economic margins of our society (the elderly, the working poor, and the deinstitutionalized) have few available alternatives for shelter;

(6) due to high interest rates and construction costs, the cherished dream of becoming a homeowner is fading for many Americans;

(7) a combination of direct subsidies and beneficial tax expenditures for homeowners and renters has resulted in the Federal Government providing an average to each household of more than 4 times the amount of Federal assistance to households with annual incomes above $50,000 than to households with annual incomes below $20,000; and

(8) continued large Federal Government deficits are anti-housing and such large Federal Government deficits tend to keep interest rates high, thereby denying many otherwise eligible homebuyers the opportunity to own a home.

(b) PURPOSE.—The purpose of this title, therefore, is—

(1) to reaffirm the principle that decent and affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require the addition of new housing units to remedy a serious shortage of housing units for all Americans, particularly for persons of low and moderate income;

(2) to make the distribution of direct and indirect housing assistance more equitable by providing Federal assistance for the less affluent people of the Nation;

(3) to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing;

(4) to reform existing programs to ensure that such assistance is delivered in the most efficient manner possible; and

(5) to provide opportunities through lower Federal expenditures and lower Federal budget deficits, and the resulting lower interest rates, for more Americans to realize the dream of owning their own home.

SEC. 1053. CONGRESSIONAL POLICY REGARDING AGGREGATE BUDGET AUTHORITY.

(a) FINDINGS.—The Congress hereby finds that—

(1) the congressional budget process for fiscal year 1986 has not been completed;

(2) in its consideration of this title, the Committee on Banking, Finance and Urban Affairs of the House of Representatives has been required to operate under new principles of budget accounting, including the inclusion of off-budget accounts;

(3) this title establishes a new direct capital grant program to finance public housing that generates substantial savings in budget authority but has no net effect on the Federal budget, since the new method of financing merely cancels numerous intragovernmental transfers that occur under the current financing system; and

(4) the Congress has established a policy of freezing authorizations of appropriations for fiscal year 1986 at the actual level of appropriations for fiscal year 1985.

(b) POLICY.—It is, therefore, the policy of the Congress that the aggregate amount of funds authorized in this title for any fiscal year not exceed the total amount of funds approved in appropriation Acts for similar programs for fiscal year 1985.

SEC. 1054. REGULATORY AUTHORITY.

(a) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—Section 7(o) of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new paragraphs:

"(7) The Secretary shall, on a quarterly basis, transmit to both Committees a summary (or, upon the request of the Chairman of either Committee, a copy) of each notice or handbook to be issued by the Secretary not less than 15 days before the date of such issuance.

"(8) The Secretary shall include with each rule or regulation, notice, or handbook required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation, notice, or handbook in whole or part.".

(b) FARMERS HOME ADMINISTRATION.—Section 534 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall, on a quarterly basis, transmit to both Committees referred to in subsection (b) a summary (or, upon the request of the Chairman of either Committee, a copy) of each notice or handbook to be issued by the Secretary under this title not less than 15 days before the date of such issuance.

"(e) The Secretary shall include with each rule or regulation, notice, or handbook required to be transmitted to the Committees under this section a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation, notice, or handbook in whole or part.".

SEC. 1055. COLLECTION OF CERTAIN DATA.

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under the community development, housing assistance, and mortgage and loan insurance programs administered by such Secretary.

Subtitle A—Housing Assistance

PART 1—PROGRAMS UNDER UNITED STATES HOUSING ACT OF 1937

SEC. 1101. LOWER INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraph (7)(A)(iv), and for grants for public housing

and comprehensive improvement assistance, is increased by $9,179,498,000 on October 1, 1985.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority which become available during fiscal year 1986, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), $418,000,000, of which amount $108,000,000 shall be available for Indian housing;

"(ii) for assistance under section 8(b)(1), not less than $4,830,592,000, of which amount $43,776,000 shall be available only for use in connection with the Park Central New Community Project;

"(iii) for assistance under section 8(e)(2), not less than $542,748,000;

"(iv) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not less than $1,775,280,000, of which amount not more than $290,400,000 may be made available for entering into contracts under section 202(h)(4) of such Act; and

"(v) for comprehensive improvement assistance grants under section 14(k), $1,132,000,000, of which amount $200,000,000 shall be available only for use with respect to vacant uninhabitable dwelling units in public housing projects and $50,000,000 shall be available only for purposes of assisting public housing agencies to reduce the hazards of lead-based paint in public housing in accordance with the lead-based paint poisoning prevention procedures established by the Secretary under section 302 of the Lead-Based Paint Poisoning Prevention Act.

"(B)(i) Any amount available for Indian housing under subsection (a) that is recaptured may be used only for such housing.

"(ii) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).".

SEC. 1102. TENANT RENTAL CONTRIBUTIONS.

(a) PUBLIC HOUSING ECONOMIC RENT.—Section 3(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) in the last sentence, by striking out "A" and inserting in lieu thereof the following: "Except as provided in paragraph (2), a";

(3) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency shall pay as monthly rent an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

"(A) is established by such agency and approved by the Secretary;

"(B) is not more than the amount payable as rent by such family under paragraph (1); and

"(C) is not more than (i) the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency; or (ii) the fair market rentals established in the housing area for projects under section 8(b)(1).".

(b) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) 10 percent of the earned income of the family, in the case of a family in which any member pays taxes imposed under chapter 2 or 21 of the Internal Revenue Code of 1954.".

(c) UTILITY ALLOWANCE.—Section 3(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the followng new paragraph:

"(4) The term 'rent' means—

"(A) the amount payable by a family to a public housing agency for shelter; and

"(B) in any case in which a family is required to make a separate payment to a public housing agency or a utility supplier based on actual utility consumption, an allowance established annually based on actual utility consumption (excluding telephone service) for each size and type of dwelling unit.".

(d) PUBLIC HOUSING RENT PHASE-IN.—Section 3 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(d) In any case in which the obtaining of employment by a resident of a public housing project will result in an increase in the rent payable by the family of such resident under subsection (a), the public housing agency involved may provide for a gradual increase in such rent to the full amount during a period of not more than 6 months.".

SEC. 1103. GRANTS FOR PUBLIC HOUSING DEVELOPMENT.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 5(a) of the United States Housing Act of 1937 is amended to read as follows:

"(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

"(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for lower income housing use and obtained in the local market.".

(b) CANCELLATION OF OUTSTANDING LOANS AND OBLIGATIONS.—Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

"(2)(A) On the date of the enactment of the Housing Act of 1985, or on September 30, 1985, whichever occurs later, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary pursuant to subsection (b) during the fiscal year ending on such date, together with any such promise to repay, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.".

(c) CONFORMING AMENDMENTS.—

(1) Section 5 of the United States Housing Act of 1937 is amended—

(A) by striking out "ANNUAL" in the section heading; and

(B) by striking out "annual" in subsection (e)(2).

(2) Section 6 of the United States Housing Act of 1937 is amended by striking out "annual" the first place it appears in the first sentence of subsection (g), and each place it appears in subsection (d) and the first sentence of each of subsections (a), (b), and (c).

(3) Section 7 of the United States Housing Act of 1937 is amended by striking out "annual" in the proviso in the first sentence.

(4) Section 9(a)(2) of the United States Housing Act of 1937 is amended—

(A) by striking out "being assisted by an annual contributions contract authorized by section 5(c)" and inserting in lieu thereof the following: "one developed pursuant to a contributions contract authorized by section 5"; and

(B) by striking out "any such annual" and inserting in lieu thereof "any such".

(5) Section 12 of the United States Housing Act of 1937 is amended by striking out "annual".

(6) Section 14 of the United States Housing Act of 1937 is amended—

(A) by striking out "receive assistance under section 5(c)" in subsection (c)(2) and inserting in lieu thereof "assisted under section 5"; and

(B) by striking out "annual" in each of paragraphs (2) and (4)(C) of subsection (d).

(7) Section 15 of the United States Housing Act of 1937 is amended by striking out "with loans or debt service annual contributions" in clause (2).

(8) Section 16(b) of the United States Housing Act of 1937 is amended by striking out "annual".

(9) Section 18(c) of the United States Housing Act of 1937 is amended by striking out "annual contributions authorized under section 5(c)" and inserting in lieu thereof "contributions authorized under section 5".

SEC. 1104. PUBLIC HOUSING CHILD CARE GRANTS.

(a) PROGRAM AUTHORITY.—

(1) The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, carry out a demonstration program of making grants to public housing agencies to assist such agencies in providing child care services for lower income families who reside in public housing.

(2) The Secretary shall design the program described in paragraph (1) to determine the extent to which the availability of child care services in lower income housing projects facilitates the employability of the parents or guardians of children residing in public housing.

(3) The program described in paragraph (1) shall be in addition to any demonstration program carried out under section 222 of the Housing and Urban-Rural Recovery Act of 1983.

(b) ELIGIBILITY FOR ASSISTANCE.—The Secretary may make a grant to any public housing agency under this section only if—

(1) prior to receipt of assistance under this section, such public housing agency does not have a child care services program in operation in the project for which such assistance is requested;

(2) such public housing agency agrees to provide suitable facilities for the provision of child care services;

(3) the child care services program of such public housing agency will serve preschool children during the day, elementary school children after school, or both, in order to permit the parents or guardians of such children to obtain, retain, or train for employment;

(4) the child care services program of such public housing agency is designed, to the extent practicable, to involve the participation of the parents of children benefiting from such program;

(5) the child care services program of such public housing agency is designed, to the extent practicable, to employ in part-time positions elderly individuals who reside in the lower income housing project involved; and

(6) the child care services program of such public housing agency complies with all applicable State and local laws, regulations, and ordinances.

(c) ALLOCATION OF ASSISTANCE.—In providing grants under this section, the Secretary shall—

(1) give priority to lower income housing projects in which reside the largest number of preschool and elementary school children of lower income families;

(2) seek to ensure a reasonable distribution of such grants between urban and rural areas and among lower income housing projects of varying sizes; and

(3) seek to provide such grants to the largest number of lower income housing projects practicable, considering the amount of funds available under this section and the financial requirements of the particular child care services programs to be developed by the applicant public housing agencies.

(d) ADMINISTRATIVE PROVISIONS.—

(1) Applications for grants under this section shall be made by public housing agencies in such form, and according to such procedures, as the Secretary may prescribe.

(2) Any public housing agency receiving a grant under this section may use such grant only for operating expenses and minor renovations of facilities necessary to the provision of child care services under this section.

(3) The Secretary shall conduct periodic evaluations of each child care services program assisted under this section for purposes of—

(A) determining the effectiveness of such program in providing child care services and permitting the parents or guardians of children residing in public housing to obtain, retain, or train for employment; and

(B) ensuring compliance with the provisions of this section.

(4) Nothing in this section may be construed as authorizing the Secretary to establish any health, safety, educational, or other standards with respect to child care services or facilities assisted with grants received under this section.

(e) REPORT TO CONGRESS.—Not later than the expiration of the 3-year period following the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting child care services in lower income housing projects.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(2) The terms "lower income housing project" and "public housing" have the meanings given such terms in section 3(b)(1) of the United States Housing Act of 1937.

(3) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this section $15,000,000 for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.

SEC. 1105. ADDITIONAL PUBLIC HOUSING PROVISIONS.

(a) LIMITATION ON RECAPTURE OF FUNDING RESERVATIONS.—Section 5 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(j) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.".

(b) NEW CONSTRUCTION.—Section 6(h) of the United States Housing Act of 1937 is amended—

(1) by inserting before "is" the following: "in the neighborhood where the public housing agency determines the housing is needed"; and

(2) by inserting "in such neighborhood" after "rehabilitation".

(c) PUBLIC HOUSING AGENCY RECEIVERSHIP.—Section 6 of the United States Housing Act of 1937 is amended—

(1) by redesignating subsection (g) as subsection (f); and

(2) by inserting after such subsection (f) the following new subsection:

"(g)(1) Notwithstanding any other provision of this Act or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default in respect to the covenants or conditions to which the public housing agency is subject, the Secretary or a tenant of the public housing agency may petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated that is authorized under the laws of such jurisdiction to appoint a receiver for the purposes and having the powers prescribed in this subsection. The court shall order appropriate notice of such petition to the tenants of such public housing agency and shall permit the intervention of 1 or more classes of tenants in the proceedings.

"(2) Upon a determination that such a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court shall provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(3) The appointment of a receiver pursuant to this subsection may be terminated upon the petition of any party or when the court determines that all defaults have been cured and that the projects of the public housing agency will thereafter be operated by the public housing agency in accordance with the covenants and conditions to which the public housing agency is subject.".

(d) DEMOLITION AND DISPOSITION.—

(1) Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking

out "or" after "purposes," and inserting in lieu thereof "and".

(2) Section 18(b) of the United States Housing Act of 1937 is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the public housing agency has developed a plan for the addition of public housing dwelling units in an aggregate number equal to the number of such units proposed to be demolished or disposed under such application, and the Secretary has agreed to provide funding for such plan if necessary, except that (A) such 1-for-1 replacement requirement shall not apply if there is no local need for low-income housing; and (B) if necessary funding for public housing dwelling units is not available, project-based dwelling units assisted under section 8 may be substituted.".

(e) TRANSFERS OF PROPERTY UNDER INDIAN MUTUAL HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.—Each homebuyer under the Indian Mutual Help Homeownership Opportunity Program established by the Secretary in subpart D of part 905 of title 24, Code of Federal Regulations, shall be entitled to transfer the dwelling unit involved to any person who complies with the eligibility requirements of such program and will reside in such dwelling unit.

(f) PUBLIC HOUSING MANAGEMENT AND FUNDING REPORT.—Not later than the expiration of the 2-year period following the date on which the public housing profession institutes voluntary professional performance standards for certifying public housing agencies as efficient and well managed, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report evaluating the feasibility of establishing a system under which public housing agencies are permitted to certify compliance with such standards and with other requirements established by the Secretary for purposes of substantially simplifying the procedure for receiving assistance under section 9 or 14 of the United States Housing Act of 1937.

SEC. 1106. SECTION 8 ASSISTANCE.

(a) CONTRACTS FOR EXISTING DWELLING UNITS.—The first sentence of section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting ", which shall be for 15 years," after "annual contributions contracts".

(b) USE OF ASSISTANCE IN CONNECTION WITH RENTAL REHABILITATION.—Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraph:

"(2) Assistance payments may also be made under this subsection for a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family.".

(c) PUBLIC HOUSING AGENCY FEES.—

(1) Section 8(b) of the United States Housing Act of 1937, as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(3) The method of calculation, the preliminary fee, and the percentage established for administrative fees paid to a public housing agency administering a contract under this subsection shall be the method of calculation, the preliminary fee, and the percentage established by the Secretary before January 1, 1985, and in effect on such date.".

(2) The amendment made by this subsection shall be applicable to administrative fees payable with respect to the administrative activities of a public housing agency after December 31, 1984.

(d) FAIR MARKET RENTALS.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

(e) SHARED HOUSING.—Section 8(p) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "Such standards may not require any person residing in a 1-bedroom dwelling to accept another person to share such dwelling, to move to a smaller dwelling, or to pay additional rent due to a refusal to accept another person to share such dwelling or to move to a smaller dwelling.".

(f) PORTABILITY OF CERTIFICATES AND VOUCHERS.—Section 8 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(q) Any family assisted under subsection (b) or (o) may continue to receive such assistance when such family moves to another eligible dwelling unit—

"(1) if such dwelling unit is within the same metropolitan statistical area as the dwelling unit from which the family moves; and

"(2) notwithstanding that such dwelling unit is not within the area of jurisdiction of the public housing agency having jurisdiction in the area of the dwelling unit from which the family moves.".

SEC. 1107. VOUCHER DEMONSTRATION PROGRAM.

(a) OPERATION OF PROGRAM.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking out "In" and all that follows through ", the" and inserting in lieu thereof "The";

(2) by striking out paragraph (4);

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(4) in paragraph (5), as so redesignated by this subsection, by striking out "an initial" and inserting in lieu thereof "a".

(b) USE OF VOUCHERS IN CONNECTION WITH RENTAL REHABILITATION.—The first sentence of section 8(o)(3) of the United States Housing Act of 1937 is amended—

(1) by striking out "or" before "(C)"; and

(2) by inserting before the period at the end thereof the following: ", or (D) a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family".

(c) ADMINISTRATIVE EXPENSES.—Section 8(o) of the United States Housing Act of 1937, as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(8) The assistance under this subsection that is retained by public housing agencies for administrative expenses shall be equal to the assistance under section 8(b) that is retained by such agencies for such expenses.".

(d) STUDY.—Section 8(o) of the United States Housing Act of 1937, as amended by subsections (a) and (c), is amended by adding at the end thereof the following new paragraph:

"(9) For purposes of facilitating congressional consideration of the appropriateness of additional funding for assistance under this subsection, the Secretary shall prepare and submit to the Congress a report comparing the impact of assistance under this subsection with assistance under subsection (b)(1). Such report shall include comparisons with respect to—

"(A) the percentage of income paid by assisted families after receiving assistance for a 3-year period;

"(B) the financial characteristics of assisted families;

"(C) the extent to which rents paid by assisted families exceed 30 percent of adjusted income;

"(D) the security deposits required to be paid by assisted families and the impact of such deposits on the cost of housing for such families;

"(E) the accounting systems used by public housing agencies and the impact of such systems on the administrative costs incurred by such agencies;

"(F) the amount of time needed by assisted families to obtain dwelling units;

"(G) the extent to which families requiring dwelling units with 3 or more bedrooms are able to obtain such dwelling units;

"(H) the characteristics of assisted families, including information with respect to family size, age, race, and sex;

"(I) the extent to which assisted families move to other dwelling units; and

"(J) the extent of improvement in the physical condition of dwelling units occupied by eligible families as a result of assistance.".

SEC. 1108. PAYMENTS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS.

(a) PERFORMANCE FUNDING SYSTEM.—Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by striking out the last sentence of paragraph (1); and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of making payments under this section, the Secretary shall utilize a performance funding system that is substantially based on the system defined in regulations and in effect on November 30, 1983 (as modified by this paragraph), and that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change.

"(B) Under the performance funding system established under this paragraph—

"(i) changes to the allowable expense level shall be made annually to reflect actual inflation rates for the most recent year for which data is available;

"(ii) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual energy rates attributable to actions taken by the agency which lead to such reductions;

"(iii) funds received by any public housing agency from sources other than tenant rents or other tenant payments, investment income, or income earned from commercial leases or receipts, including any amounts recovered through litigation, shall not be counted as income in computing the allowable subsidy nor shall prior receipt of any such funds affect the allowable expense level;

"(iv) payments to public housing agencies may only be ratably reduced if sufficient funds are not available, and, if excess funds are available, they shall be retained by the Secretary for use in the next fiscal year;

"(v) there shall be a formal review process for the purpose of providing such increases to the allowable expense level of a public housing agency as necessary—

"(I) to correct inequities and abnormalities that exist in the base year expense level of such public housing agency;

"(II) to reflect changes in operating circumstances since the initial determination of such base year expense level; and

"(III) to ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government;

"(vi) public housing agencies shall be reimbursed for costs incurred that were beyond their control and the full extent of which were not taken into consideration in the original distribution of funds for the fiscal year involved;

"(vii) subsidy eligibility shall be calculated on the basis of 97 percent occupancy rate, except that a lower occupancy rate shall be permitted if—

"(I) it is due to vacant units in projects funded for modernization activity that is on schedule; or

"(II) it is acceptable to the Secretary as part of the plan of the public housing agency to achieve not less than a 97 percent occupancy rate over a reasonable period of years;

"(viii) public housing agencies shall maintain reasonable operating reserves similar to those established by well-managed, privately owned rental property;

"(ix) the estimate of the rental income for the next fiscal year of a public housing agency shall be based on the actual rent for the fourth, fifth, or sixth month prior to the beginning of the new fiscal year of the public housing agency;

"(x) any revenues resulting from rental income or other income (excluding investment income) in excess of estimated revenues from such items may not be recaptured, used, or computed to reduce assistance provided under this section, unless such estimate—

"(I) was unreasonable according to regulations in effect when the estimate was made; or

"(II) was fraudulent and deceptive; and

"(xi) estimated investment income may be recomputed and appropriate adjustments may be made at the end of the fiscal year to reflect actual average cash availability and average interest rates during such year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "not" the first place it appears and all that follows through ", and by"; and

(2) by inserting before the period at the end thereof the following: ", and $1,279,000,000 for fiscal year 1986 (of which amount not more than $100,000,000 shall be made available for purposes of clauses (v) and (vi) of subsection (a)(3)(B))".

(c) TIME OF PAYMENT.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(e) Assistance to be provided to any public housing agency under this section for any fiscal year of such agency shall commence not later than the 1st month of such fiscal year, and shall be paid in equal monthly or quarterly installments or in accordance with such other payment schedule as may be agreed upon by the Secretary and such agency.".

SEC. 1109. GRANTS FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 14 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(k) The Secretary may make contributions (in the form of grants) to public housing agencies under this section. The contract under which such contributions shall be made shall specify the amount of contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 20-year period.".

(b) CONFORMING AMENDMENTS.—

(1) Section 14(e) of the United States Housing Act of 1937 is amended by striking out "annual".

(2) Section 14 of the United States Housing Act of 1937 is amended by inserting "or (k)" after "subsection (b)" each place it appears in subsections (c), (d), (e), (g), (h), and (i).

SEC. 1110. ADDITIONAL COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM PROVISIONS.

(a) PURPOSES.—Section 14(a) of the United States Housing Act of 1937 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) to maintain the marketability of existing public housing projects and contribute to their long-term viability;".

(b) ADVANCE ARCHITECTURAL ENGINEERING AND PLANNING.—Section 14(e)(3) of the United States Housing Act of 1937 is amended by inserting after "(d)(4)" the following: "(including any such cost incurred in any year before the year in which the application of the public housing agency under subsection (d) is approved)".

(c) VACANT UNIT SET-ASIDE.—Section 14 of the United States Housing Act of 1937 is amended by inserting after subsection (e) the following new subsection:

"(f) Any amount available for financial assistance under subsection (b) or (k) for improving the physical condition of vacant uninhabitable dwelling units in public housing projects shall be made available in a manner to ensure the long-term viability of such dwelling units as public housing.".

(d) REHABILITATION STANDARDS.—

(1) Section 14(j)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary shall provide assistance under this section in accordance with rehabilitation standards established by the Secretary under this paragraph and in effect on June 1, 1984.".

(2) Section 14(j) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraph:

"(3) Not later than the expiration of the 6-month period following the date of the enactment of the Housing Act of 1985, the Secretary shall issue regulations that establish a system for allocating and distributing assistance under this section.".

(e) REPORTS.—

(1) Section 14 of the United States Housing Act of 1937, as amended by section 2109, is amended by adding at the end thereof the following new subsection:

"(l) The Secretary shall include in the annual report under section 8 of the Housing and Urban Development Act a description of the allocation, distribution, and use of assistance under this section on a regional basis.".

(2) Not later than the expiration of the 12-month period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report evaluating the comprehensive improvement assistance program under sections 14 and 20 of the United States Housing Act of 1937. Such report shall include—

(A) an analysis of the current physical condition of public housing projects;

(B) an estimate of the amount of assistance necessary under such sections to improve the physical condition of such projects and to upgrade the management and operation of such projects;

(C) a proposal for the creation of a replacement reserve account for major and nonroutine repairs of public housing projects, and a formula for such replacement reserve;

(D) an evaluation of the feasibility of incorporating such replacement reserve account into the performance funding system under section 9 of the United States Housing Act of 1937;

(E) an estimate of the total annual cost of such replacement reserve account; and

(F) an analysis of the feasibility for distribution of funds under such sections on a formula basis, a description of criteria for such a formula, and an estimate of the amount that each public housing agency with more than 500 dwelling units in public housing could be expected to receive under such formula distribution.

(f) RESIDENT MANAGEMENT IN PUBLIC HOUSING.—Section 14 of the United States Housing Act of 1937, as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(m) During fiscal year 1986, the Secretary may make available up to $1,500,000, from amounts otherwise available during such fiscal year for purposes of this section, for assistance to public housing agencies that obtain, by contract or otherwise (not exceeding $100,000 per project), technical assistance for the development of resident management entities, including (but not limited to) formation of such entities, development of the management capability of newly formed or existing entities, and iden-

tification of project social support needs and securing such support.".

SEC. 1111. PUBLIC HOUSING COMPREHENSIVE GRANTS.

(a) FINDINGS.—The Congress hereby finds that—

(1) the condition of public housing projects financed under the United States Housing Act of 1937 is in some cases substandard, forcing many dwelling units to remain vacant, forcing many lower income families to live in substandard or dangerous living conditions, and preventing many others from obtaining decent, safe, and sanitary rental housing at an affordable rent as provided for under such Act;

(2) the Federal Government has a responsibility to help ensure the maintenance of public housing dwelling units in decent, safe, and sanitary condition, and to provide public housing agencies with funds sufficient to carry out such maintenance;

(3) the current comprehensive assistance improvement program has not provided public housing agencies the flexibility and responsibility essential for establishing priorities for capital improvement expenditures, assessing the relative needs of all public housing projects, and evaluating the relative advantages of repair, major maintenance, and capital replacement;

(4) the current comprehensive assistance improvement program has made it difficult for public housing agencies to plan capital improvements on a multiyear basis; and

(5) the current comprehensive assistance improvement program has resulted in unnecessary paperwork and delay, thereby increasing costs for capital improvements.

(b) PURPOSE.—It is the purpose of the amendments made by this section—

(1) to provide assistance on a reliable basis to public housing agencies to enable them to operate, upgrade, modernize, and rehabilitate public housing projects financed under the United States Housing Act of 1937 to ensure their continued availability as decent, safe, and sanitary rental housing at rents affordable to lower income families;

(2) to increase the reliability of Federal assistance for capital improvements in public housing projects;

(3) to significantly deregulate the program of Federal assistance for capital improvements in public housing projects;

(4) to provide increased opportunities and incentives for more efficient management of public housing projects; and

(5) to afford public housing agencies greater control in planning for the maintenance and improvement of public housing projects.

(c) COMPREHENSIVE GRANT PROGRAM.—The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"COMPREHENSIVE GRANT PROGRAM

"SEC. 20. (a) PURPOSE.—It is the purpose of this section to provide assistance to improve the physical condition of existing public housing projects and to upgrade their management and operation in order to contribute to their long-term physical and social viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families.

"(b) AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—The Secretary may make available, and contract to make available, financial assistance to public housing agencies in accordance with the provisions of this section with respect to public housing (as defined in section 3(b)(1)) owned or operated by such agencies.

"(c) COMPREHENSIVE PLAN.—No financial assistance may be made available to a public housing agency under this section unless the Secretary approves a 5-year comprehensive plan submitted by the public housing agency on a date determined by the Secretary, except that the Secretary may provide such assistance if it is necessary to correct conditions that constitute an immediate threat to the health or safety of tenants. The comprehensive plan shall contain—

"(1) a comprehensive assessment of—

"(A) the current physical condition of each public housing project owned or operated by the public housing agency;

"(B) the physical improvements necessary for each such project to permit the project to be rehabilitated to a level at least equal to the minimum property standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan; and

"(C) the replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the comprehensive plan;

"(2) a comprehensive assessment of the improvements needed to upgrade the management and operation of the public housing agency and of each such project so that decent, safe, and sanitary living conditions will be provided such projects, which assessment shall include at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the public housing agency that are related to such projects;

"(B) the adequacy and qualifications of personnel employed by the public housing agency (in the management and operation of such projects) for each category of employment; and

"(C) the adequacy and efficacy of—

"(i) tenant programs and services in such projects;

"(ii) the security of each such project and its tenants;

"(iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(iv) other policies and procedures of the public housing agency relating to such projects, as specified by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards and criteria prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably ensure the long-term physical and social viability of each such project at a reasonable cost;

"(4) an action plan for making the improvements and replacements identified under paragraphs (1) and (2) that are determined under the analysis described in paragraph (3) to reasonably ensure long-term viability of each such project at a reasonable cost, which action plan shall include at least a schedule, in order of priority, of the actions that are to be completed over a period of not more than 5 years from the date of approval of the comprehensive plan by the Secretary and that are necessary—

"(A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and

"(B) to upgrade the management and operation of the public housing agency and its public housing projects as described in paragraph (2);

"(5) a statement, to be signed by the chief local government official (or Indian tribal official, if appropriate), certifying that—

"(A) the comprehensive plan was developed by the public housing agency in consultation with appropriate local government officials (or Indian tribal officials, if appropriate) and with tenants of the housing projects eligible for assistance under this section, which shall include not less than 2 public hearings (i) at least 1 of which shall be held prior to the initial adoption of any plan by the public housing agency for use of such assistance, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency; and (ii) at least 1 of which shall be held prior to final submission of the plan to the Department of Housing and Urban Development for its approval, to provide tenants and other interested parties an opportunity to comment on the plan of action proposed by the public housing agency in its submission; and

"(B) the comprehensive plan is consistent with the assessment of the community of its lower income housing needs and that the unit of general local government (or Indian tribe, if appropriate) will cooperate in the provision of tenant programs and services (as defined in section 3(c)(2));

"(6) a statement, to be signed by the chief public housing official, certifying that the public housing agency will carry out the comprehensive plan in conformity with title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968 (commonly known as the Civil Rights Act of 1968), and section 504 of the Rehabilitation Act of 1973;

"(7) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(8) such other information as the Secretary may require.

"(d) REVIEW OF COMPREHENSIVE PLANS.—

"(1) STANDARD FOR APPROVAL.—The Secretary shall approve a comprehensive plan unless—

"(A) the comprehensive plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing projects of the public housing agency or the management and operations of the public housing agency, the Secretary determines that the identification by the public housing agency of needs is plainly inconsistent with such facts and data;

"(C) on the basis of the comprehensive plan, the Secretary determines that the action plan described in subsection (c)(4) is plainly inappropriate to meeting the needs identified in the comprehensive plan, or that the public housing agency has failed to demonstrate that completion of improvements and replacements identified under paragraphs (1) and (2) of subsection (c) will reasonably ensure long-term viability of 1 or more public housing projects to which they relate at a reasonable cost; or

"(D) there is evidence available to the Secretary that tends to challenge in a substantial manner any certification contained in the comprehensive plan.

"(2) SCHEDULE FOR APPROVAL.—The comprehensive plan shall be considered to be approved, unless the Secretary notifies the

public housing agency in writing within 75 calendar days of submission that the Secretary has disapproved the comprehensive plan as submitted, indicating the reasons for disapproval and modifications required to make the comprehensive plan approvable.

"(e) ANNUAL STATEMENT.—

"(1) Each public housing agency receiving assistance under this section shall submit to the Secretary, at a date determined by the Secretary, an annual statement of the activities and expenditures projected to be funded, in whole or in part, by such assistance during the immediately following fiscal year of the public housing agency. The annual statement shall include a certification by the public housing agency that the proposed activities and expenditures are consistent with the approved comprehensive plan of the public housing agency. The annual statement also shall include a certification that the public housing agency has provided the tenants of the public housing and other interested parties the opportunity to review the annual statement and comment on it, and that such comments have been taken into account in formulating the annual statement as submitted to the Secretary.

"(2) A public housing agency may propose an amendment to its comprehensive plan under subsection (c) in any annual statement. Any such proposed amendment shall be reviewed in accordance with subsection (d), and shall include a certification that (A) the proposed amendment has been made publicly available for comment prior to its submission; (B) tenants and other interested parties have been given sufficient time to review and comment on it; and (C) such comments have been taken into consideration in the preparation and submission of the amendment.

"(3) The Secretary shall approve the annual statement unless the Secretary determines that it is inconsistent with the comprehensive plan. The annual statement shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following submission of the annual statement that the Secretary has disapproved the annual statement as submitted, indicating the reasons for disapproval and the modifications required to make the annual statement approvable. The annual statement shall be approved before the public housing agency receives any assistance under this section for the fiscal year to which the annual statement relates.

"(f) ANNUAL PERFORMANCE REPORTS; REVIEWS AND AUDITS.—

"(1) PERFORMANCE AND EVALUATION REPORTS.—Each public housing agency receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by tenants and other interested parties prior to its submission to the Secretary.

"(2) REVIEWS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(B) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, which shall include at least that the public housing agency shall—

"(i) maintain all occupied dwelling units in public housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) maintain at least a 97 percent occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 9(a), equal to at least 20 percent of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14.

"(3) AUDITS OF FINANCIAL TRANSACTIONS.—Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) CORRECTIVE ACTION.—The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with paragraph (1) or (2) or if an audit under paragraph (3) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.

"(g) ELIGIBLE COSTS.—A public housing agency may use financial assistance received under subsection (b) only—

"(1) to undertake activities described in its approved comprehensive plan under subsection (c) or its annual statement under subsection (e);

"(2) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for such correction is indicated in its comprehensive plan or annual statement;

"(3) to prepare a comprehensive plan under subsection (c), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e), an annual performance and evaluation report under subsection (f)(1), and an audit under subsection (f)(3); and

"(4) to operate public housing projects consistent with the requirements that apply to amounts provided under section 9, except that not more than 20 percent of the funds secured under this section may be used for such purposes.

"(h) ALLOCATION OF ASSISTANCE.—The system for allocating assistance under section 14 in effect on May 21, 1985, shall remain in effect until the Congress, by law, establishes criteria for a formula or other allocation method to be used by the Secretary under this section in determining—

"(1) for each public housing agency, the amounts that are necessary to address current needs for capital improvements;

"(2) for each public housing agency, the amounts that are necessary to address the future needs for capital improvements through a replacement reserve; and

"(3) the relative needs of public housing agencies of different sizes for the amounts described in paragraphs (1) and (2).

"(i) ANNUAL REPORT.—The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act a description of the allocation, distribution, and use of assistance under this section on a regional basis.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) CURRENT NEEDS.—

"(A) There are authorized to be appropriated under this section to provide assistance for the current needs for capital improvements of public housing agencies such sums as may be necessary for fiscal years 1987, 1988, and 1989.

"(B) Of the amounts appropriated under subparagraph (A), 3 percent shall be reserved by the Secretary to provide assistance to correct conditions in public housing agencies that constitute an immediate threat to the health or safety of tenants.

"(2) REPLACEMENT RESERVE.—There are authorized to be appropriated under this section to provide assistance for the future needs for capital improvements in replacement reserves for public housing agencies such sums as may be necessary for fiscal years 1987, 1988, and 1989.

"(3) AVAILABILITY.—Any amount appropriated under this subsection shall remain available until expended.

"(k) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the provisions of this section.".

(d) USE OF OPERATING ASSISTANCE.—Section 9(a)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "A public housing agency may also use any available amounts provided under this section in accordance with the purpose and requirements of section 20.".

(e) ASSISTANCE FOR PREPARATION OF COMPREHENSIVE PLANS.—Of the amounts approved in appropriation Acts for fiscal year 1986 for financial assistance under section 14 of the United States Housing Act of 1937, the Secretary shall, not later than November 1, 1985, provide such sums as may be reasonable and necessary to public housing agencies that request funds to prepare comprehensive plans under section 20(c) of the United States Housing Act of 1937, as added by this section.

(f) APPLICABILITY.—

(1) IN GENERAL.—The amendments made by subsections (c) and (d) shall be applicable in fiscal year 1987 and succeeding fiscal years, but in no event before the date of the enactment of the law referred to in section 20(h) of the United States Housing Act of 1937, as added by this section. Except as provided in paragraph (2), the provisions of section 14 of the United States Housing Act of 1937 shall continue to apply to amounts

appropriated for any prior fiscal year to carry out such section 14.

(2) TRANSITION PROVISION.—Any amount obligated by the Secretary of Housing and Urban Development to a public housing agency under section 14 of the United States Housing Act of 1937 from amounts appropriated for any fiscal year beginning on or before the date of the enactment of the law referred to in section 20(h) of the United States Housing Act of 1937, as added by this section, shall be used for the purposes for which such amount was provided, or for purposes consistent with a comprehensive plan submitted by the public housing agency and approved by the Secretary under such section 20 as added by this section, as the public housing agency considers appropriate.

SEC. 1112. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

The United States Housing Act of 1937 is amended by striking out section 16.

SEC. 1113. RENTAL DEVELOPMENT PROGRAM.

(a) BUDGET AUTHORITY.—Section 17(a) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraph:

"(4) ADDITIONAL AUTHORIZATION.—There are authorized to be appropriated not to exceed $150,000,000 for fiscal year 1986 for development grants.".

(b) PROGRAM REQUIREMENTS.—Section 17(d)(4) of the United States Housing Act of 1937 is amended—

(1) in subparagraph (E)—

(A) by inserting "(i)" after the subparagraph designation;

(B) by striking out "lower income families" and inserting in lieu thereof the following: "families who are lower income families on the date of initial occupancy";

(C) by adding "and" at the end of clause (i), as so redesignated by this paragraph; and

(D) by adding at the end thereof the following new clause:

"(ii) a family shall be considered to meet the requirements of clause (i) until it pays a rent equal to the lowest rent for a unit of the same size in the same project that is occupied by a family that does not meet the requirements of clause (i);";

(2) by striking out "and" at the end of subparagraph (G);

(3) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.".

(c) RENT PROVISIONS.—Section 17(d)(8)(A) of the United States Housing Act of 1937 is amended—

(1) in the first sentence by striking out "lower income families" and inserting in lieu thereof the following: "families that meet the requirements of paragraph (4)(E)"; and

(2) in the second sentence, by striking out "30" and all that follows through "families" and inserting in lieu thereof the following: "the amount permitted under section 3(a) for lower income families".

(d) ENFORCEMENT OF PROGRAM REQUIREMENTS.—Section 17(d)(7)(A) is amended by striking out the penultimate sentence.

SEC. 1114. RENTAL REHABILITATION PROGRAM.

(a) ELIGIBLE PROPERTY.—Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by inserting after "property" the following: ", or of real property that will be privately owned upon the completion of rehabilitation,".

(b) AVAILABILITY OF AMOUNTS.—Section 17(a)(3)(A) of the United States Housing Act of 1937 is amended by inserting before the semicolon the following: "(and such amounts may be permitted by appropriation Acts to remain available until September 30, 1987)".

PART 2—MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION

SEC. 1121. PREPAYMENT OF MORTGAGES.

Section 250(a)(1) of the National Housing Act is amended by striking out "or" and all that follows through "needs" the last place it appears.

SEC. 1122. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking out "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage and dispose of multifamily housing projects that are owned by the Secretary, or whose mortgages are held by, assigned to, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are formerly subsidized projects; and

"(B) in all other multifamily housing projects, at least those units that are, on the date of assignment, occupied by low- and moderate-income persons or vacant;".

(b) MANAGEMENT SERVICES.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended by striking out ", owned by the Secretary" and inserting in lieu thereof "to which subsection (a) applies".

(c) MAINTAINING OF PROJECTS.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c) The Secretary shall—

"(1) to the greatest extent possible, maintain all occupied multifamily housing projects to which subsection (a) applies in a decent, safe, and sanitary condition;

"(2) to the greatest extent possible, maintain full occupancy in all such projects; and

"(3) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.".

(d) FINANCIAL ASSISTANCE.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall, to the extent provided in appropriation Acts, take one or both of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937 with owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary. Such contracts shall be attached to the project involved for a period of not less than 15 years and shall be sufficient to assist all units that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, or that are vacant at such time (which units shall forthwith be made available for such families). In order to make available to families any units that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall apply to the Secretary for additional assistance to the project involved under the same terms as the original assistance. The Secretary shall provide such contracts at fair market rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register. Such contracts shall not be subject to section 16 of the United States Housing Act of 1937.

"(2) Provide purchase-money mortgages to the owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary on terms that will ensure that the project will remain available to and affordable by low- and moderate-income persons for a period of not less than 15 years.".

(e) PARTIAL CLAIM PAYMENTS.—Section 203(e)(1) of the Housing and Community Development Amendments of 1978, as so redesignated in this section, is amended by striking out "owned by the Secretary" and inserting in lieu thereof "to which subsection (a) applies".

(f) LIMITATIONS ON CERTAIN TRANSFERS.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (g) and (h), as so redesignated in this section, as subsections (h) and (i); and

(2) by inserting before such subsection (h) the following new subsection:

"(g)(1) The Secretary may not approve the transfer of any mortgage insured by the Secretary on any formerly subsidized project unless such transfer is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by such mortgage.

"(2) The Secretary may not approve a transfer of the physical assets of any formerly subsidized project subject to a mortgage held or insured by the Secretary unless the proposed owner agrees to maintain the low- and moderate-income character of such project for a period of not less than the remaining term of such mortgage.".

(g) FORMERLY SUBSIDIZED PROJECTS.—Section 203(h) of the Housing and Community Development Amendments of 1978, as so redesignated in this section, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on

such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section).".

SEC. 1123. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 1124. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) APPLICABILITY.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end thereof the following: "or section 202 of the Housing Act of 1959".

(b) NOTICE AND COMMENT.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "or" the third place it appears;

(2) by inserting after "alterations," the following: "transfer of physical assets, or application for capital improvements loan,"; and

(3) by striking out "and the Secretary deems it appropriate" and inserting in lieu thereof the following: "or where the Secretary proposes to sell a mortgage securing a multifamily housing project".

(c) NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS.—Section 202(b)(2) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end thereof the following: ", and such owners agree not to refuse unreasonably to lease any vacant dwelling unit in the project that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section solely because of the status of such prospective tenant as a holder of such certificate".

SEC. 1125. TROUBLED MULTIFAMILY HOUSING PROJECTS.

Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end thereof the following: "and to apply for sufficient assistance under this section, section 8 of the United States Housing Act of 1937, or any other appropriate housing assistance program to permit the owner to maintain both the financial soundness and the low- and moderate-income character of the project, except that such agreement shall also provide that the agreement of the owner to maintain the low- and moderate-income character of the project for such period shall be binding only as long as such sufficient assistance is available and offered and the project receives such sufficient assistance".

SEC. 1126. INAPPLICABILITY OF CERTAIN INCOME ELIGIBILITY RESTRICTIONS TO PROPERTY DISPOSITION CONTRACTS.

Section 16 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c) Subsections (a) and (b) shall not be applicable to contracts entered into under section 8 of the United States Housing Act of 1937 with owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary under section 203 of the Housing and Community Development Amendments of 1978.".

PART 3—OTHER HOUSING ASSISTANCE PROGRAMS

SEC. 1141. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) BUDGET AUTHORITY.—

(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(A) by striking out "and" the first place it appears; and

(B) by inserting after "1984," the following: "and to such sums as may be approved in an appropriation Act on October 1, 1985,".

(2) Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end thereof the following new sentence: "Not more than $601,000,000 may be approved in appropriation Acts for such loans for fiscal year 1986.".

(b) INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

(c) COMMUNITY PARTICIPATION.—

(1) Section 202(a) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraph:

"(8) To the maximum extent practicable, the Secretary shall encourage each corporation to provide for appropriate community participation in the development of the housing project assisted under this section.".

(2) Section 202(d)(2)(B) of the Housing Act of 1959 is amended to read as follows:

"(B) that owns and is responsible for the operation of the housing project assisted under this section; and".

SEC. 1142. HOUSING FOR THE HANDICAPPED.

(a) FINDINGS AND PURPOSE.—

(1) The Congress hereby finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

(G) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(H) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) HOUSING FOR HANDICAPPED FAMILIES.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows:

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1985, not less than 15 percent or $100,000,000, whichever amount is greater, shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number

of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing Act of 1985, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility and services allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families".

(c) SUPPORTIVE SERVICES FOR ELDERLY AND HANDICAPPED FAMILIES.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.".

(d) TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1986, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1987 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.—

(1) The provisions of, and amendments made by, this section shall become effective on October 1, 1985.

(2)(A) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations under section 202 of the Housing Act of 1959 using authority approved in appropriation Acts for fiscal years beginning before October 1, 1985.

(B) Notwithstanding subparagraph (A), the Secretary may apply the provisions of, and amendments made by, this section to any project in order to facilitate the development of such project in a timely manner.

SEC. 1143. CONGREGATE SERVICES.

Section 411(a) of the Congregate Housing Services Act of 1978 is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) for fiscal year 1986, not to exceed $8,000,000.".

SEC. 1144. SECTION 235 HOMEOWNERSHIP PROGRAM.

(a) CONTRACT AUTHORITY.—The second sentence of section 235(h)(1) of the National Housing Act is amended—

(1) by striking out "and" the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and by $7,500,000 on October 1, 1985".

(b) BUDGET AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by inserting after the third sentence the following new sentence: "The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on October 1, 1985, may not exceed $75,000,000.".

(c) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(d) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(e) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

SEC. 1145. TASK FORCE ON FAMILY HOUSING NEEDS.

(a) ESTABLISHMENT.—There hereby is established a task force to be known as the Task Force on Family Needs in Assisted Housing (hereafter referred to in this section as the "task force"), which shall examine—

(1) the problems of families with children living in highrise buildings assisted by the Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary");

(2) the problems of such families who are on waiting lists for housing assistance provided by, or housing assisted by, the Secretary; and

(3) the need for construction of additional dwelling units for such families.

(b) MEMBERS.—

(1) The task force shall consist of not less than 20 members appointed by the Secretary as follows:

(A) 5 members appointed from persons who are officials of the Department of Housing and Urban Development;

(B) 5 members appointed from persons who are public housing agency directors;

(C) 5 members appointed from persons who are representatives of tenants in assisted housing; and

(D) 5 members appointed from persons who are representatives of units of general local government.

(2) Each member of the task force shall serve without pay, allowances, or benefits by reason of such service. Each such member shall be reimbursed for actual expenses, including travel expenses, incurred in the course of performing the duties vested in the task force.

(c) MEETINGS.—The task force shall meet as necessary to carry out the purposes of this section, at the call of the Secretary.

(d) STAFF AND OFFICES.—The Secretary shall provide the task force with such staff and office facilities as the Secretary, following consultation with the task force, considers necessary to permit the task force to carry out its functions under this section.

(e) REPORT.—Not later than the expiration of the 1-year period following the date of the enactment of this Act, the task force shall submit to the Secretary and the Congress a report setting forth its findings as a result of its study under subsection (a). Such report shall include any recommendations of the task force for actions to resolve the problems identified in such study.

SEC. 1146. ENERGY CONSERVATION IN ASSISTED HOUSING.

(a) IN GENERAL.—Any housing project, for which development is assisted under the United States Housing Act of 1937 or section 202 of the Housing Act of 1959 and commences after the 1-year period following the date of the enactment of this Act, shall be developed in accordance with life-cycle cost-effective energy conservation performance standards established by the Secretary of Housing and Urban Development and designed to ensure the lowest total construction and operating costs over the estimated life of the building.

(b) CONSTRUCTION COST LIMITS.—The Secretary shall revise the cost limits applicable to the development of housing assisted under the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 for purposes of taking into consideration life-cyle costs of the structure and major energy consuming heating and cooling systems.

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall, not later than the expiration of the 1-year period following the date of the enactment of this Act, issue regulations establishing the standards referred to in subsection (a) and revising the cost limits referred to in subsection (b).

SEC. 1147. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;

(2) amount and sources of family income;

(3) the age, race, and sex of family members; and

(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

SEC. 1148. PROCEDURES AND POLICIES FOR MANDATORY MEALS PROGRAMS IN ASSISTED HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary"), in consultation with owners, managers, and tenants of housing projects for the elderly that are assisted under section 202 of the Housing Act of 1959, section 236 of the National Housing Act, and section 8 of the United States Housing Act of 1937 and that have mandatory meals programs, shall develop and implement within 1 year following the date of the enactment of this Act procedures and policies governing the operation of such programs to facilitate the sound and equitable administration of all such programs and to ensure that meals provided under such programs are at the least possible cost to all tenants.

(b) SPECIFIC REQUIREMENTS.—Procedures and policies prescribed by the Secretary under subsection (a) shall include rules to—

(1) require sponsors of mandatory meals programs to accept food stamps toward payment for meals;

(2) require, when the lease is renewed or within 12 months of the date of the enactment of this Act, whichever occurs earlier, the contract for any meals service to be separate from the lease for the housing unit and to prohibit the eviction of any tenant for nonpayment of the meals service contract;

(3) require exceptions from participation in mandatory meals programs where such programs cannot satisfactorily accommodate the special dietary or health needs of a tenant, as certified by the tenant's physician, or the special diet or food practice tenets of a tenant's religion, or where such programs substantially interfere with a tenant's employment;

(4) require sponsors of mandatory meals programs to provide refunds or otherwise excuse tenants from payment for meals not eaten during periods of temporary absence from a housing facility due to confinement in a hospital, nursing home, or other health care or rehabilitative facility, or, where prior notification is provided to the sponsor by tenants, during periods of extended absence from the facility; and

(5) encourage sponsors of mandatory meal programs to make meals available to tenants who are confined to units within the facility due to illness or other temporary incapacitation that prevents participation in congregate dining or otherwise to compensate tenants for meals not eaten during such temporary incapacitation.

(c) LIMIT ON TENANT PAYMENTS.—

(1) The Secretary shall prescribe rules requiring sponsors of mandatory meals programs to exempt from participation in such programs tenants for whom participation in such programs constitutes an unbearable financial hardship, especially for the very lowest income tenants, or to provide such tenants with financial assistance toward the cost of participation in such programs.

(2) In determining unbearable financial hardship under paragraph (1), the Secretary shall take into consideration the cost to tenants of meals not covered by the program and other necessary living costs remaining after payment of charges for the mandatory meals program.

(d) STUDY.—For purposes of facilitating congressional consideration of the appropriateness of mandatory meals programs in assisted housing projects for the elderly, the Secretary shall, not later than the expiration of the 18-month period following the date of the enactment of this Act, submit to the Congress a report reviewing the operation of mandatory meals programs and actions of the Department of Housing and Urban Development implementing the provisions of this section. Such report shall include information with respect to—

(1) the cost effectiveness of mandatory meals programs in comparison to comparable meals programs offered on a voluntary basis;

(2) the benefits to tenants provided by mandatory participation in meals programs;

(3) the extent of compliance among sponsors of mandatory meals programs with rules required by this section;

(4) the extent to which tenants of assisted housing projects with mandatory meals programs have been required to participate in such programs against their wishes due to limited availability of alternative assisted housing projects for the elderly; and

(5) the availability of funding under the Congregate Housing Services Act of 1965, title III of the Older Americans Act of 1965, or other Federal programs for facilitating the conversion of current mandatory meals programs to voluntary participation by tenants.

(e) MORATORIUM ON NEW MANDATORY MEAL PROGRAMS.—During the 18-month period following the date of the enactment of this Act, the Secretary—

(1) shall permit the establishment of only voluntary meals programs in assisted housing projects for the elderly with respect to which funds for assistance are reserved by the Secretary after September 30, 1985; and

(2) shall not permit the conversion of a voluntary meals program in existence as of September 30, 1985, to a mandatory meals program.

SEC. 1149. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING.

(a) IN GENERAL.—Section 214 of the Housing and Community Development Act of 1980 is amended to read as follows:

"RESTRICTION ON USE OF ASSISTED HOUSING

"SEC. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any nonimmigrant student-alien.

"(b) For purposes of this section:

"(1) The term 'financial assistance' means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

"(2) The term 'nonimmigrant student-alien' means—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.".

(b) CONFORMING AMENDMENT.—The Housing and Community Development Amendments of 1981 is amended by striking out section 329(b).

SEC. 1150. EXCLUSION OF HOUSING ASSISTANCE AS INCOME.

Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of benefits payable to, any person living in such unit for assistance under any State program receiving payments under part A of title IV of the Social Security Act.

SEC. 1151. USE OF CERTAIN EXCESS RENTAL CHARGES FOR ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.

Section 236(f)(3) of the National Housing Act is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 1152. HOUSING DEMONSTRATION PROJECT.

(a) REPORT.—Section 225(h) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1986"; and

(4) by adding at the end thereof the following new paragraph:

"(2) The report required in paragraph (1) shall include an analysis of the condition in urban areas commonly known as roving slums. Such analysis shall evaluate in particular—

"(A) the extent to which such condition is affected by—

"(i) a lack of coordination between housing assistance programs administered by the Secretary and shelter allowances provided to families receiving public assistance payments under programs administered by the Secretary of Health and Human Services; and

"(ii) the manner in which such housing assistance and shelter allowances are provided; and

"(B) possible approaches to eliminating or reducing such condition through improved coordination between the programs referred to in subparagraph (A)(i).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 225(i) of the Housing and Urban-Rural Recovery Act of 1983 is amended to read as follows:

"(i) There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 1153. FLEXIBLE SUBSIDY ASSISTANCE FOR CERTAIN HOUSING PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.

(a) PURPOSES.—Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(b) ELIGIBILITY FOR ASSISTANCE.—Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end thereof the following: ", or received a loan under section 202 of the Housing Act of 1959 before October 1, 1970".

SEC. 1154. HOUSING ASSISTANCE TECHNICAL AMENDMENTS.

(a) RENTAL HOUSING FOR LOWER INCOME FAMILIES.—The last sentence of section 236(i)(1) of the National Housing Act is amended by striking out "(h)" and inserting in lieu thereof "(f)(4)".

(b) DEFINITION OF DISABILITY.—Section 3(b)(3)(A) of the United States Housing Act of 1937 is amended—

(1) by striking out "or" the first place it appears and inserting in lieu thereof a comma; and

(2) by striking out "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting in lieu thereof the following: ", has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(c) LOWER INCOME HOUSING CONTRACT PROVISIONS.—The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by inserting "The" before "Secretary".

(d) HOUSING DEVELOPMENT GRANTS.—Section 17(d)(7)(A) of the United States Housing Act of 1937 is amended by striking out "title" and inserting in lieu thereof "subsection".

(e) HOUSING FOR THE ELDERLY AND HANDICAPPED.—

(1) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking out "is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting in lieu thereof the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(2) Section 202(f) of the Housing Act of 1959 is amended by striking out "section 134" and inserting in lieu thereof "section 133".

(3) Section 202(l) of the Housing Act of 1959 is amended by striking out "difference" and inserting in lieu thereof "different".

(f) RENT SUPPLEMENTS.—Section 101(j)(1)(D) of the Housing and Urban Development Act of 1965 is amended by striking out "divided" and inserting in lieu thereof "dividend".

Subtitle B—Rural Housing

SEC. 1201. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal year 1986 in an aggregate amount not to exceed $2,266,000,000 as follows:

"(A) for insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 502(f), $1,328,000,000;

"(B) for loans under section 504, $17,000,000;

"(C) for insured loans under section 514, $20,000,000;

"(D) for insured loans under section 515, $900,000,000; and

"(E) for site loans under section 524, $1,000,000.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal year 1986, and to remain available until expended—

"(1) for grants under section 504, $20,000,000;

"(2) for purposes of section 509(c), $2,000,000;

"(3) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(4) for financial assistance under section 516, $15,000,000;

"(5) for grants under section 523(f), $15,000,000;

"(6) for grants under section 533, $20,000,000; and

"(7) such sums as may be necessary for the Secretary to administer the provisions of sections 235 and 236 of the National Housing Act and section 8 of the United States Housing Act of 1937.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c) The Secretary, to the extent approved in appropriation Acts for fiscal year 1986, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $198,000,000. Such authority as is approved in appropriation Acts shall be used by the Secretary to renew rental assistance payment contracts that expire during such fiscal year and to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(e) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—

(1) Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(2) Section 523(g) of the Housing Act of 1949 is amended by striking out "fiscal year 1985" and inserting in lieu thereof the following: "fiscal years 1985 and 1986, respectively".

SEC. 1202. INCOME LEVELS FOR FAMILY ELIGIBILITY.

(a) IN GENERAL.—Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 1203. PLANS FOR ALLOCATION OF FINANCIAL ASSISTANCE.

Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

"(h) Not later than 30 days after the allocation to any State office of any financial assistance available under this title, there shall be made available to the public in each State, county, and district office in such State a statement of the amount of such assistance that will be available for each pro-

gram under this title within the area of jurisdiction of such office.".

SEC. 1204. RURAL HOUSING ESCROW ACCOUNTS.

(a) ESCROW PROCEDURES.—Section 501(e) of the Housing Act of 1949 is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall, not later than 60 days after the date of the enactment of the Housing Act of 1985, establish procedures under which borrowers under this title shall make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary determines to be appropriate.".

(b) PREPAYMENT OF TAXES AND OTHER EXPENSES.—Section 502(a)(1) of the Housing Act of 1949 is amended by striking out the last sentence and inserting in lieu thereof the following: "The borrower shall prepay to the Secretary as escrow agent, on terms and conditions prescribed by the Secretary, such taxes, insurance, and other expenses as are required in accordance with section 501(e).".

SEC. 1205. RURAL HOUSING GUARANTEED LOANS.

Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

"(f)(1) Of the total loans under this section for any fiscal year beginning after September 30, 1985, the following percentage shall be guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A):

"(A) for fiscal year 1986, 10 percent;

"(B) for fiscal year 1987, 20 percent; and

"(C) for fiscal year 1988 and each succeeding fiscal year, 30 percent.

"(2) Loans guaranteed pursuant to this subsection shall be made only to borrowers with moderate or above-moderate incomes that do not exceed 115 percent of the median income of the area, as determined by the Secretary with adjustments for smaller and larger families.".

SEC. 1206. STUDY OF PROCEDURES FOR APPEALS OF ADVERSE DECISIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall study, and submit to the Congress a report evaluating, the procedures established by the Secretary under section 510(g) of the Housing Act of 1949. Such study and report shall include (1) an analysis of the advantages of providing that any appeal of an adverse decision shall be heard by an impartial person disinterested in the result of such appeal; and (2) any additional recommendations of the Secretary for improving such procedures.

SEC. 1207. USE OF FEE INSPECTORS AND APPRAISERS.

(a) IN GENERAL.—Section 510(j) of the Housing Act of 1949 is amended by inserting after "grant applications" the following: "(as determined by the Secretary under section 532(c))".

(b) DETERMINATION OF SECRETARY.—Section 532 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

"(c)(1) Each county or district office shall immediately notify the Secretary in any case in which such office is unable to process any loan or grant application before the expiration of the 30-day period following the receipt of such application. Such notification shall include a statement of the reason for such delay in application processing.

"(2) Upon the receipt of any notification under paragraph (1), the Secretary shall determine whether the delay in application processing by the county or district office involved is likely to continue without the use of the services of fee inspectors and fee appraisers, as provided in section 510(j). If the Secretary determines that such delay is likely to continue without the use of such services, the Secretary shall require the use of such services by such office until such office is able to expeditiously process loan and grant applications without such services.".

SEC. 1208. LOANS FOR REHABILITATION OF RURAL RENTAL HOUSING.

Section 515(l) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall, not later than the expiration of the 90-day period following the date of the enactment of the Housing Act of 1985, issue regulations to establish the standards required in paragraph (1).".

SEC. 1209. MANAGEMENT OF INSURED AND GUARANTEED LOANS.

(a) SALE OF INSURED AND GUARANTEED LOANS TO PUBLIC.—Section 517(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Any loan made and sold by the Secretary under this section after the date of the enactment of the Housing Act of 1985 (and any loan made by other lenders under this title that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this title between the Secretary and the Federal Financing Bank occurring on or before such date.".

(b) INTEREST SUBSIDY ON INSURED AND GUARANTEED LOANS OFFERED FOR SALE TO PUBLIC.—Section 517(d) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.".

(c) PROTECTION OF BORROWERS UNDER LOANS SOLD TO PUBLIC.—Section 517(d) of the Housing Act of 1949, as amended by subsection (b) of this section, is amended by adding at the end thereof the following new paragraph:

"(3) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this title;

"(B) upon any default of the borrower, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this title, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.".

(d) USE OF RURAL HOUSING INSURANCE FUND.—Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(e) ELIGIBILITY FOR GUARANTEED LOANS.—Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

(f) REGULATIONS.—Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Not later than the expiration of the 90-day period following the date of the enactment of the Housing Act of 1985, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.".

SEC. 1210. DEFINITION OF RURAL AREA.

The last sentence of section 520 of the Housing Act of 1949 is amended by striking out "through" and inserting in lieu thereof the following: "until determined to no longer be such an area on the basis of data obtained in a decennial census conducted after".

SEC. 1211. RURAL HOUSING PRESERVATION GRANT PROGRAM.

Section 533(h) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall, not later than the expiration of the 90-day period following the date of the enactment of the Housing Act of 1985, issue regulations to carry out the program of grants under subsection (a)(2).".

SEC. 1212. LIMITATION ON RESTRICTIONS ON TAX-EXEMPT FINANCING.

Title V of the Housing Act of 1949 is amended by adding at the end thereof the following new section:

"LIMITATION ON RESTRICTIONS ON TAX-EXEMPT FINANCING

"SEC. 536. In addition to the limitations established in section 817 of the Housing and Community Development Act of 1974, the Secretary may not issue any regulation or take any other action that may have the effect of prohibiting or preventing the issu-

ance of tax-exempt bonds or other obligations to provide financing for use in connection with assistance provided under this title.".

SEC. 1213. TASK FORCE ON HOUSING NEEDS OF RURAL AMERICA.

(a) ESTABLISHMENT.—There hereby is established a task force to be known as the Task Force on Housing Needs in Rural America, which shall examine—

(1) the problems of supplying low and moderate income families in rural areas with adequate housing through existing Federal programs;

(2) the access to affordable credit for housing for low and moderate income families in rural areas;

(3) the availability of housing stock in rural areas suitable for rehabilitation;

(4) the feasibility of assisting low and moderate income families in rural areas with existing programs, new programs, or a combination of such programs; and

(5) the need for new construction and additional dwelling units for low and moderate income families in rural areas.

(b) MEMBERS.—

(1) The task force shall consist of not less than 8 members appointed by the Secretary of Agriculture as follows:

(A) 2 members appointed from persons who are officials of the Department of Agriculture;

(B) 2 members appointed from persons representative of for-profit and non-profit organizations and agencies engaged in housing development in rural areas;

(C) 2 members appointed from persons who reside in rural housing assisted under title V of the Housing Act of 1949; and

(D) 2 members appointed from persons who are representatives of units of general local government in rural areas.

(2) Each member of the task force shall serve without pay, allowances, or benefits by reason of such service. Each such member shall be reimbursed for actual expenses, including travel expenses, incurred in the course of performing the duties vested in the task force.

(c) MEETINGS.—The task force shall meet as necessary to carry out the purposes of this section, at the call of the Secretary.

(d) STAFF AND OFFICES.—The Secretary shall provide the task force with such staff and office facilities as the Secretary, following consultation with the task force, considers necessary to permit the task force to carry out its functions under this section.

(e) REPORT.—Not later than the expiration of the 1-year period following the date of the enactment of this Act, the task force shall submit to the Secretary and the Congress a report setting forth its findings as a result of its study under subsection (a). Such report shall include any recommendations of the task force for actions to resolve the problems identified in such study. The task force shall cease to exist after filing such report.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "rural area" has the meaning given such term in section 520 of the Housing Act of 1949.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "task force" means the Task Force on Housing Needs in Rural America established in subsection (a).

SEC. 1214. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 501(b)(3) of the Housing Act of 1949 is amended by striking out "is a developmentally disabled individual as defined in section 102(7) of the Development Disabilities Services and Facilities Construction Act" and inserting in lieu thereof the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(b) FARM LABOR HOUSING.—Section 514(f)(1) of the Housing Act of 1949 is amended by striking out "and" at the end thereof.

(c) HOUSING FOR ELDERLY FAMILIES.—Section 515(o)(1) of the Housing Act of 1949 is amended by striking out "effective".

(d) LOANS TO LOW- AND MODERATE-INCOME FAMILIES.—Section 521(a)(1)(A) of the Housing Act of 1949 is amended by striking out ", except" and all that follows through "charges".

(e) HOUSING FOR RURAL TRAINEES.—Section 522(a) of the Housing Act of 1949 is amended by striking out the comma after "Health".

(f) CONDOMINIUM HOUSING.—

(1) Section 526(a) of the Housing Act of 1949 is amended by striking out "and" the first place it appears.

(2) Section 526(c) of the Housing Act of 1949 is amended by striking out "and" the first place it appears.

(g) HOUSING PRESERVATION GRANTS.—

(1) Section 533(e)(1)(B)(iii) of the Housing Act of 1949 is amended by inserting "to" before "refuse".

(2) Section 533(g) of the Housing Act of 1949 is amended by striking out "persons of low income and very low-income" and inserting in lieu thereof "low income families or persons and very low-income families or persons".

Subtitle C—Program Amendments and Extensions

PART 1—FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 1251. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "October 1, 1985" in the first sentence and inserting in lieu thereof "October 1, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "September 30, 1985" in the fifth sentence and inserting in lieu thereof "September 30, 1986".

(d) CO-INSURANCE.—

(1) Section 244(d) of the National Housing Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(2) Section 244(h) of the National Housing Act is amended by striking out "October 1, 1985" in the last sentence and inserting in lieu thereof "October 1, 1986".

(e) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(f) ARMED SERVICES HOUSING INSURANCE.—

(1) Section 809(f) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(2) Section 810(k) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(g) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(h) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "September 30, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

SEC. 1252. AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.

Section 531 of the National Housing Act is amended by striking out "and 1985" and inserting in lieu thereof the following: ", 1985, and 1986".

SEC. 1253. NEGOTIATED INTEREST RATES ON MORTGAGES INSURED BY FEDERAL HOUSING ADMINISTRATION.

(a) NURSING HOME FIRE SAFETY EQUIPMENT INSURANCE.—Section 232(i)(2)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(b) ARMED SERVICES HOUSING INSURANCE.—The first sentence of section 810(h) of the National Housing Act is amended—

(1) by striking out "(exclusive of" and all that follows through "207" and inserting in lieu thereof the following: "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) by striking out before the period at the end thereof the following: ", and shall bear interest at not to exceed the rate applicable to mortgages insured under section 203".

SEC. 1254. STUDY OF VOLUNTARY STANDARDS FOR MODULAR HOMES.

(a) IN GENERAL.—In order to facilitate the construction of less costly housing, the Secretary of Housing and Urban Development shall prepare and submit to the Congress not later than 6 months after the date of the enactment of this Act a report describing feasible alternative systems for implementing a voluntary preemptive national code for modular housing, including the method for inspecting the structures to ensure compliance with the recommended code. Such code shall provide for the development of modular housing standards for construction, design, and performance that ensure quality, durability, and safety and are in accordance with life-cycle cost-effective energy conservation standards established by the Secretary of Housing and Urban Development and designed to ensure the lowest total construction and operating costs over the estimated life of such housing.

(b) DEFINITION.—For purposes of this section, the term "modular housing" means factory-built single-family housing not subject to the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974.

SEC. 1255. LIMITATION ON CERTAIN PREMIUM CHARGES.

Section 530 of the National Housing Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provisions of this Act, no loan or mortgage insurance premium charge pursuant to subsection

(a)(1) may exceed 3.8 percent of the principal obligation of the loan or mortgage involved.".

SEC. 1256. MORTGAGES ON HAWAIIAN HOME LANDS AND INDIAN LANDS TO BE OBLIGATIONS OF GENERAL INSURANCE FUND.

(a) MORTGAGES ON HAWAIIAN HOME LANDS.—Section 247 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund created pursuant to section 519 of this Act. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 of this Act with respect to mortgages insured pursuant to this section, except that all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(b) MORTGAGES ON INDIAN RESERVATIONS.—Section 248 of the National Housing Act is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively;

(2) by inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund created pursuant to section 519 of this Act. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 of this Act with respect to mortgages insured pursuant to this section, except that all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured."; and

(3) in the last sentence of subsection (g)(3) and the first sentence of subsection (g)(5), as so redesignated by paragraph (1), by striking out "insurance fund" each place it appears and inserting in lieu thereof "General Insurance Fund".

SEC. 1257. REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR 1- TO 4-FAMILY DWELLING UNITS.

The Housing and Community Development Act of 1977 is amended by striking out section 904.

SEC. 1258. AUTHORITY FOR INCREASED MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS IN HIGH-COST AREAS.

Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by striking out "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting in lieu thereof the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

SEC. 1259. PERMISSIBLE ANNUAL INTEREST RATE ADJUSTMENT FOR ADJUSTABLE RATE MORTGAGES.

The last sentence of section 251(a) of the National Housing Act is amended by striking out "1 percent" and inserting in lieu thereof "2 percent".

SEC. 1260. DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) ACTION TO RECOVER ASSETS OR INCOME.—

(1) The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, the term "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) INITIATION OF PROCEEDINGS AND TEMPORARY RELIEF.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) AMOUNT RECOVERABLE.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act.

(d) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

SEC. 1261. ADMINISTRATIVE IMPROVEMENTS IN SINGLE-FAMILY MORTGAGE INSURANCE PROGRAM.

The National Housing Act is amended by inserting after section 532 the following new section:

"ADMINISTRATIVE IMPROVEMENTS IN MORTGAGE INSURANCE PROGRAM

"SEC. 533. (a) ANNUAL REPORT.—The Secretary shall annually prepare and submit to the Congress a comprehensive report regarding the non-subsidized single-family mortgage insurance programs carried out by the Secretary under title II in metropolitan cities and urban counties. Each such report shall describe the types of dwellings insured, the individual income eligibility, the delinquency in foreclosure rates, the condition of the dwellings, and the status of the homeowners (including whether such homeowners are first-time homeowners or single-parent families). Each such report shall be made available to the public in all regional and local offices of the Secretary.

"(b) SPECIAL OVERSIGHT.—The Secretary shall establish procedures to analyze in detail and conduct scrutinized oversight of the single-family mortgage insurance operations of the Department of Housing and Urban Development under title II, with specific attention to Milwaukee, Camden, and other cities having recent single-family mortgage foreclosure difficulties.

"(c) FEE APPRAISAL STANDARDS.—The Secretary shall review the fee appraisal standards used under title II with respect to single-family dwellings, and shall develop a higher standard of appraisal with respect to such dwellings for fee appraisers in predominately low and moderate income neighborhoods.

"(d) FEE APPRAISERS.—The Secretary may not use the services of fee appraisers who are not employees of the Federal Housing Administration for purposes of appraising single-family dwellings subject to mortgages insured under title II and located in any metropolitan city or urban county.

"(e) COORDINATION OF ACTIVITIES WITH PUBLIC HOUSING AGENCIES AND COMMUNITY GROUPS.—The Secretary shall require each regional and local office of the Department of Housing and Urban Development to provide on a priority basis, to public housing agencies and community advocacy groups located within the area of its jurisdiction, adequate and timely information regarding the single-family mortgage insurance activities of such office under title II.

"(f) PUBLICIZING OF AVAILABILITY OF MORTGAGE INSURANCE.—The Secretary shall take such actions as may be necessary, including improved marketing and advertising practices, to publicize the availability of single-family mortgage insurance under title II.".

SEC. 1262. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) STATE CERTIFICATION REQUIREMENT.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

"(D) such existing hospital has received such certification from the State in which the hospital is located as is comparable to the certification required for hospitals under section 242.".

(b) REFINANCING INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—Section 223(f) of the National Housing Act, as amended by subsection (a), is amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: ", existing nursing home, existing intermediate care facility, or existing board and care home"; and

(2) in paragraph (4)—

(A) by inserting after "existing hospital" each place it appears the following: ", existing nursing home, existing intermediate care facility, or existing board and care home";

(B) by inserting after "the hospital" the following: ", nursing home, intermediate care facility, or board and care home"; and

(C) by inserting after "section 242" the following: "or for nursing homes, intermediate care facilities, or board and care homes insured under section 232, as the case may be".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 1263. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) INSURANCE FOR PUBLIC NURSING HOMES.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) REQUIREMENT OF STATE APPROVAL.—Section 232(d)(4)(A) of the National Housing Act is amended by striking out "(i)" and all that follows through "(ii)" and inserting in lieu thereof the following: "(i) the facility has received such approval as the State in which the facility is located requires for the facility, and (ii)".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 1264. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) IN GENERAL.—Section 242(d)(4) of the National Housing Act is amended by striking out "(A)" and all that follows through "(B)" and inserting in lieu thereof the following: "(A) the facility has received such approval as the State in which the facility is located requires for the facility, and (B)".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 1265. MORTGAGE INSURANCE TECHNICAL AMENDMENTS.

(a) ADMINISTRATIVE PROVISIONS.—The second sentence of section 1 of the National Housing Act is amended by striking out the last comma.

(b) APPLICABILITY.—Section 9 of the National Housing Act is amended by inserting the following section heading:

"APPLICABILITY"

(c) CO-INSURANCE.—Section 244(h) of the National Housing Act is amended by striking out "coinsurance" each place it appears and inserting in lieu thereof "co-insurance".

(d) INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(a)(2) of the National Housing Act is amended by striking out "Mortgagor" and inserting in lieu thereof "mortgagor".

PART 2—FLOOD AND CRIME INSURANCE PROGRAMS

SEC. 1271. FLOOD INSURANCE.

(a) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1986".

(c) AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.—Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title $36,902,000 for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.".

(d) FLOOD INSURANCE PREMIUMS.—The premium rates charges for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1986.

(e) PREMIUM RATES FOR COMMUNITY MAKING ADEQUATE PROGRESS.—For purposes of the determination of premium rates under the National Flood Insurance Act of 1968, the flood protection system in Winfield, in the State of Kansas, shall be considered to comply with the requirements and conditions of section 1307(e) of such Act.

SEC. 1272. CRIME INSURANCE.

(a) GENERAL AUTHORITY.—Section 1201(b)(1) of the National Housing Act is amended in the matter preceding subparagraph (A)—

(1) by striking out "parts A, C, and D" and inserting in lieu thereof "part A"; and

(2) by inserting after "1985," the following: "and parts C and D shall terminate on September 30, 1986,".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1)(A) of the National Housing Act is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

(c) CRIME INSURANCE PREMIUMS.—The premium rates charged for crime insurance under any program established pursuant to part C of title XII of the National Housing Act may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1986.

SEC. 1273. FLOOD AND CRIME INSURANCE TECHNICAL AMENDMENTS.

(a) CRIME INSURANCE PROGRAM AUTHORITY.—Section 1201(b) of the National Housing Act is amended—

(1) by striking out paragraphs (2) and (3);

(2) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(3) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively.

(b) REINSURANCE AGREEMENTS.—Section 1222(c) of the National Housing Act is amended by striking out "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))," and inserting in lieu thereof "section 1341(a) of title 31, United States Code,".

(c) NATIONAL INSURANCE DEVELOPMENT FUND.—Section 1243(d) of the National Housing Act is amended by striking out "by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting in lieu thereof "by sections 9103 and 9104 of title 31, United States Code,".

(d) NATIONAL FLOOD INSURANCE FUND.—Section 1310(e) of the National Flood Insurance Act of 1968 is amended by inserting a comma after "Code".

(e) FEMA TREASURY BORROWINGS.—The third sentence of section 15(e) of the Federal Flood Insurance Act of 1956 is amended by inserting a comma after "Code".

PART 3—SECONDARY MORTGAGE MARKET PROGRAMS

SEC. 1281. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE-BACKED SECURITIES PROGRAM.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended by striking out "and 1985" and inserting in lieu thereof the following: ", 1985, and 1986".

SEC. 1282. PROHIBITION OF CERTAIN FEES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 304 of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new subsection:

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.—Section 306(g) of Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) No fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guarantee under this subsection, unless such fee or charge is not more than the applicable percentage amount in effect on June 1, 1985.".

(c) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(i) Except for fees paid pursuant to section 303(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation.".

SEC. 1283. SECONDARY MORTGAGE MARKET TECHNICAL AMENDMENTS.

Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "such Act" and inserting in lieu thereof "the National Housing Act".

PART 4—REGULATORY AND OTHER PROGRAMS

SEC. 1291. SOLAR ENERGY AND ENERGY CONSERVATION BANK.

Section 522(a) of the Solar Energy and Energy Conservation Bank Act is amended by inserting before the period at the end thereof the following: "and $15,000,000 for fiscal year 1986".

SEC. 1292. COUNSELING.

Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended by inserting before the period in the first sentence the following: ", and for fiscal year 1986 there is authorized to be appropriated not to exceed $4,000,000 for such purposes".

SEC. 1293. HOME MORTGAGE DISCLOSURE.

(a) APPLICABILITY TO MORTGAGE BANKING AFFILIATES.—

(1) Section 303(2) of the Home Mortgage Disclosure Act of 1975 is amended—

(A) by striking out "or" the first place it appears; and

(B) by inserting before the semicolon at the end thereof the following: ", mortgage banking subsidiary of a bank holding company or savings and loan holding company, or savings and loan service corporation that originates or purchases mortgage loans".

(2) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended by adding at the end thereof the following new subsection:

"(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

"(1) made by any mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

"(2) approved by the Secretary for insurance under title I or II of the National Housing Act.".

(3) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 is amended by inserting after "306(b)" the following: "(and for each mortgagee making mortgage loans exempted under section 304(g))".

(4) The amendments made by this subsection shall be applicable to calendar years beginning after December 31, 1985.

(b) RECORDS ON MORTGAGE LOANS SECURED BY PROPERTY OUTSIDE METROPOLITAN STATISTICAL AREAS.—Section 304(a)(2)(B) of the Home Mortgage Disclosure Act of 1975 is amended by inserting ", by State," after "paragraph (1)".

(c) AVAILABILITY OF DISCLOSURE STATEMENTS.—Section 304(f) of the Home Mortgage Disclosure Act of 1975 is amended by adding at the end thereof the following new sentence: "Disclosure statements shall be made available to the public at such central depository of data not later than June 1 of the year following the calendar year on which the statements are based.".

(d) EXTENSION OF GENERAL AUTHORITY.—The Home Mortgage Disclosure Act of 1975 is amended by striking out section 312.

(e) STUDY OF DATA COLLECTION REQUIREMENTS.—

(1) The Federal Financial Institutions Examination Council shall conduct a study to assess the following:

(A) the estimated cost incurred by depository institutions for the preparation and dissemination of disclosure reports pursuant to the requirements of the Home Mortgage Disclosure Act of 1975, based upon the results an independent analysis of the actual costs incurred by a representative sample of such institutions located in at least 3 and not more than 6 metropolitan statistical areas;

(B) the estimated usage of the data available to the public pursuant to the Home Mortgage Disclosure Act of 1975, based upon the results of a survey of both direct and indirect usage of such data over a 12-month period following the date of the enactment of this Act; and

(C) the obstacles to the usage by the public of the data made available pursuant to the Home Mortgage Disclosure Act of 1975 and recommendations for action to be taken by the Federal financial institutions regulatory agencies to increase public awareness about the availability of such data.

(2) The Council shall submit a report on the results of such a study to the Congress not later than 36 months following the date of the enactment of this Act.

SEC. 1294. RESEARCH AUTHORIZATION.

The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended—

(1) by striking out "and" the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and $17,000,000 for fiscal year 1986".

SEC. 1295. TIMELY PAYMENT OF SUBCONTRACTORS.

It is the policy of the United States that each prime contractor of the Department of Housing and Urban Development should establish procedures to ensure the timely payment of amounts due pursuant to the terms of the subcontracts of such prime contractor.

SEC. 1296. MEDIAN AREA INCOME.

For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974, the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

(1) the median income of the county in which the area is located; or

(2) the median income of the entire nonmetropolitan area of the State.

SEC. 1297. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

Not later than the expiration of the 6-month period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a detailed report describing the fees collected by the Secretary during the 4-year period preceding the date of the enactment of this Act in connection with inspection of manufactured homes under section 614 of the National Manufactured Housing Construction and Safety Standards Act of 1974. Such report shall include the amount of such fees collected, the allocation of expenses, the costs of the program, and any available reserves.

SEC. 1298. REMOVAL OF MAXIMUM FEE FOR INTERSTATE LAND SALES REGISTRATION.

Section 1405(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "a fee, not in excess of $1,000" and inserting in lieu thereof "a reasonable fee".

SEC. 1299. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) VERIFICATION OF INFORMATION.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of the income of an applicant or participant, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) sign a consent form approved by the Secretary authorizing (1) the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify the information furnished by the applicant or participant, and (2) any Federal, State, or local agency or private person or entity to release information related to the determination of eligibility and benefit level. The information may include, but is not limited to, data concerning wages (not including return information as defined in section 6103(b)(2) of title 26, United States Code), unemployment compensation, benefits made available under the Social Security Act, and veterans benefits under title 38, United States Code. Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code. An applicant or participant shall have the right to obtain, examine, and correct any information that the Secretary, public housing agency, or owner responsible for determining eligibility or level of benefits has received under this section before the Secretary, public housing agency, or owner takes any action on the basis of such information, unless a criminal investigation is pending. An applicant or participant shall also have the right to file a statement disputing or augmenting any such information and to have such statement included in any records of such information.

(c) DEFINITIONS.—For purposes of this section:

(1) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(2) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 1300. FAIR HOUSING INITIATIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary") may make grants to, or enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities

that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) PROGRAM ADMINISTRATION.—

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

(c) REGULATIONS.—

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(3) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(4) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $10,000,000 for fiscal year 1986. Any amounts appropriated under this section shall remain available until expended.

SEC. 1301. LEAD-BASED PAINT POISONING PREVENTION.

(a) LEAD-BASED PAINT POISONING PREVENTION PROCEDURES.—Section 302 of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) in clause (1) of the second sentence, by inserting after "exposed" the following: ", including intact lead-based paint on the interior and exterior surfaces of such housing";

(2) by striking out the third sentence;

(3) by inserting "(a)" after the section designation; and

(4) by adding at the end thereof the following new subsections:

"(b) The Secretary shall make a periodic determination of whether housing constructed during or after 1950 presents hazards of lead-based paint. The Secretary shall apply the procedures established under this section to housing constructed during or after 1950 if such housing presents immediate hazards of lead-based paint.

"(c) The Secretary shall take such actions as may be necessary to ensure that each public housing agency owning or operating housing assisted under the United States Housing Act of 1937 complies with the procedures established by the Secretary under this section.".

(b) REGULATIONS.—Not later than the expiration of the 90-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section.

SEC. 1302. REGULATORY AND OTHER PROGRAMS TECHNICAL AMENDMENTS.

(a) HUD ADMINISTRATIVE PROVISIONS.—

(1) Section 502(a) of the Housing Act of 1948 is amended by striking out the fourth sentence.

(2) Section 502(b) of the Housing Act of 1948 is amended—

(A) by striking out "United States Housing Authority" each place it appears and inserting in lieu thereof "Secretary of Housing and Urban Development"; and

(B) by striking out "the Authority" each place it appears and inserting in lieu thereof "the Secretary of Housing and Urban Development".

(3) Section 502(c)(2) of the Housing Act of 1948 is amended by adding "and" at the end thereof.

(b) ANNUAL REPORT OF SECRETARY.—Section 802 of the Housing Act of 1954 is amended by inserting the following section heading:

"ANNUAL REPORT OF SECRETARY".

(c) ENERGY CONSERVATION IN NEW BUILDINGS.—Section 303(11) of the Energy Conservation Standards for New Buildings Act of 1976 is amended by striking out "Secretary of Housing and Urban Development" and inserting in lieu thereof "Secretary of Energy".

(d) WEATHERIZATION ASSISTANCE.—Section 412(9)(G) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out the first comma after "determine".

(e) SOLAR ENERGY AND ENERGY CONSERVATION BANK.—Sections 506(f)(1), 509(b)(2)(E), 515(b)(1)(A)(iii), 515(b)(1)(B), 515(b)(1)(C)(ii), 515(b)(1)(D), and 515(b)(2) of the Solar Energy and Energy Conservation Bank Act are amended by striking out "38" and "44C" each place they appear and inserting in lieu thereof "23" and "38", respectively.

(f) NATIONAL INSTITUTE OF BUILDING SCIENCES.—Section 809(g)(4) of the Housing and Community Development Act of 1974 is amended by striking out "and its" and inserting in lieu thereof "of its".

PART 5—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION PROGRAMS

SEC. 1311. COMMUNITY DEVELOPMENT BLOCK GRANT METROPOLITAN CITY AND URBAN COUNTY CLASSIFICATIONS.

(a) CENTRAL CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city under clause (A) of the first sentence for purposes of assistance under any section of this title shall retain such classification until such city is determined to no longer qualify as a metropolitan city on the basis of data obtained in a decennial census conducted after the end of fiscal year 1985.".

(b) OTHER CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974, as amended by subsection (a), is amended by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city under clause (B) of the first sentence for purposes of assistance under any section of this title shall retain such classification notwithstanding a decrease in population below 50,000 if the population of such city is not measured by 2 consecutive decennial censuses (including the 1980 census) to be below 50,000.".

(c) URBAN COUNTIES.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end of the first sentence the following: ", or (D) has a current population in excess of 177,000, with more than 50 percent of the housing units of the area unsewered and with the unsewered housing units contributing to the degradation of an aquifer that has been declared a sole source aquifer by the Environmental Protection Agency".

SEC. 1312. STATEMENT OF ACTIVITIES AND REVIEW.

Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

SEC. 1313. HOUSING ASSISTANCE PLANS.

Section 104(c)(1)(A) of the Housing and Community Development Act of 1974 is amended—

(1) in the second parenthetical phrase, by inserting "homeless persons," after "assistance,"; and

(2) in the last parenthetical phrase, by inserting "and homeless persons" after "persons".

SEC. 1314. LIMITED NEW CONSTRUCTION OF HOUSING UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate new construction or substantial reconstruction in instances in which persons of low and moderate income own and occupy a home that the grantee determines is not suitable for rehabilitation.".

SEC. 1315. COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICE ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "paragraph unless"; and

(2) by inserting before the semicolon at the end thereof the following: "; or (B) the Secretary authorizes such unit of general local government to use more than 15 percent (but not more than the highest amount permitted to be used under subparagraph (A) by another unit of general local government located in the same metropolitan area) of the assistance received under this title for such activities following (i) a determination by such unit of general local government that the activities carried out using the amounts authorized under this subparagraph are appropriate to support proposed community development activities; and (ii) submission to the Secretary of a request for such authorization by such unit of general local government".

SEC. 1316. STATE CERTIFICATIONS FOR RECEIVING COMMUNITY DEVELOPMENT BLOCK GRANTS FOR NONENTITLEMENT AREAS.

Section 106(d)(2) of the Housing and Community Development Act of 1974 is amended—

(1) in subparagraph (C), by striking out "the Governor must certify that the State" and inserting in lieu thereof "the State must certify that it"; and

(2) in subparagraph (D), by striking out "the Governor of each State" and inserting in lieu thereof "the State".

SEC. 1317. DISCRETIONARY FUND.

Section 107(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Of the amount set aside for grants under subsection (b) for fiscal year 1986, not more than $5,000,000 shall be made available by the Secretary for purposes of grants under subsection (b)(1) for the Park Central New Community Project.".

SEC. 1318. COMMUNITY DEVELOPMENT BLOCK GRANT LOAN GUARANTEES.

(a) MORATORIUM FOR FISCAL YEAR 1986.—Section 108(a) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary may not enter into any commitment to guarantee a note or obligation under this section during fiscal year 1986.".

(b) PROHIBITION ON FEES.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(1) No fee or charge may be assessed or collected by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section.".

SEC. 1319. URBAN DEVELOPMENT ACTION GRANT SELECTION CRITERIA.

(a) SELECTION FOR 40 PERCENT OF FUNDS BASED ON PROJECT QUALITY.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "(d)(1)";

(2) by inserting before the first comma the following: "or as otherwise provided in subparagraph (B)";

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively; and

(4) by adding at the end thereof the following new subparagraph:

"(B)(i) Of the aggregate amount awarded for grants for any fiscal year under this paragraph, 40 percent shall be awarded for grants made solely on the basis of the selection criteria established by the Secretary under subparagraph (A)(iii).

"(ii) In evaluating applications for grants under this paragraph, the Secretary shall first evaluate such applications in accordance with the provisions of this subparagraph. The Secretary shall then evaluate the applications that are not to be selected under such provisions under the selection criteria established under subparagraph (A).".

(b) MODIFICATIONS IN SELECTION CRITERIA RELATING TO PROJECT QUALITY.—

(1) Section 119(d)(1)(A)(iii) of the Housing and Community Development Act of 1974, as so redesignated by subsection (a), is amended by inserting before the last semicolon the following: "; the failure of the city or urban county to receive a preliminary grant approval under this section on or after December 21, 1983".

(2) Section 119(d)(1) of the Housing and Community Development Act of 1974, as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(C) In determining the score to be awarded each of the criteria under subparagraph (A)(iii) for applications for grants for housing activities, the Secretary shall compare such applications only with other applications for grants for housing activities. For purposes of this subparagraph, an application shall be considered an application for a grant for housing activities if such application proposes that—

"(i) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and

"(ii) not less than 20 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available for occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income.".

(3) Section 119(r) of the Housing and Community Development Act of 1974 is amended by striking out "In" and inserting in lieu thereof the following: "Except as provided in subsection (d)(1)(C), in".

(c) MODIFICATIONS IN SELECTION CRITERIA RELATING TO URBAN COUNTIES.—Section 119(d)(1) of the Housing and Community Development Act of 1974, as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

"(D) In determining the score to be awarded each of the criteria under clauses (i), (ii), and (iii) of subparagraph (A) for applications for grants for urban counties, the Secretary shall compare such applications only with other applications for grants for urban counties.".

(d) NUMBER OF COMPETITIONS FOR GRANTS.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3)(A) For each fiscal year, the Secretary shall hold—

"(i) three competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (i) (relating to small cities) and urban counties; and

"(ii) three competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately one-third of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(e) REPORTS TO CONGRESS.—

(1) Not later than the expiration of the 6-month period following the date of the enactment of this Act and each year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974. Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties. Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Secretary shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Secretary shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section. Such report shall also describe in detail the standards and criteria utilized by the Secretary to evaluate project quality under section 119(d)(1)(A)(iii) of such Act.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(A) the targetting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grant funds among regions of the United States;

(C) the number and types of projects receiving grants; and

(D) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p), receiving assistance under this section.

(f) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of the enactment of this Act.

(g) APPLICABILITY.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such date.

SEC. 1320. PROHIBITION ON USE OF URBAN DEVELOPMENT ACTION GRANTS FOR BUSINESS RELOCATIONS.

Section 119(h) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting after the subsection designation the following: "(1) SPECULATIVE PROJECTS.—";

(2) by adding at the end of paragraph (1), as so redesignated, the following new sentence: "The provisions of this paragraph shall apply only to projects that do not have identified intended occupants."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) PROJECTS WITH IDENTIFIED INTENDED OCCUPANTS.—No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

"(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

"(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

"(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

"(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

"(3) SIGNIFICANT AND ADVERSE EFFECT.—The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

"(4) DEFINITION.—For purposes of this subsection, the term 'operation' includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

"(5) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).".

SEC. 1321. CONSIDERATION OF CERTAIN COUNTIES AS CITIES UNDER URBAN DEVELOPMENT ACTION GRANT PROGRAM.

Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii.".

SEC. 1322. URBAN DEVELOPMENT ACTION GRANT LOAN GUARANTEES.

Section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(s)(1) The Secretary shall, to the extent provided in appropriation Acts, guarantee (in accordance with the provisions of this subsection), the repayment of loans made to neighborhood-based nonprofit organizations.

"(2) Such guarantees may be made only if—

"(A) the organization is based in a neighborhood in which activities financed with funds from a grant under this section are being or will be carried out;

"(B) the funds from the loan are to be used to finance neighborhood revitalization activities that are designed to meet housing and other related needs of persons of low and moderate income in the neighborhood and that have been developed with the approval of the city or urban county receiving the grant described in subparagraph (A);

"(C) the amount guaranteed at any time does not exceed 90 percent of the outstanding unpaid principal balance of the loan;

"(D) the amount of the loan does not exceed 95 percent of the cost of the neighborhood revitalization activities financed by the loan;

"(E) the organization meets requirements established by the Secretary;

"(F) there is reasonable assurance of repayment of the loan;

"(G) the guarantee is requested by a financial institution in the manner and form required by the Secretary;

"(H) the loan is not available from financial institutions without the guarantee; and

"(I) the guarantee meets terms and conditions prescribed by the Secretary with respect to the interest rate and amortization of the loan, security required for the loan, proceedings in the event of default, and other matters defined by the Secretary.

"(3) In making available guarantees under this subsection, the Secretary shall give a priority to assisting neighborhood revitalization activities designed primarily to mitigate the displacement of persons of low and moderate income that is likely to occur as a result of commercial or other activities in the neighborhood.

"(4) The aggregate amount of loans that may be guaranteed under this subsection during fiscal year 1986 may not exceed an amount equal to 10 percent of the amount approved in appropriation Acts for urban development action grants during such fiscal year.

"(5) The full faith and credit of the United States is pledged to the payment of all guarantees made under this subsection. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed loan.

"(6) With respect to any proceedings conducted in connection with the default of any loan guaranteed under this subsection, the Secretary shall have the authority described in paragraphs (3) through (8) of section 402(c) of the Housing Act of 1950.".

SEC. 1323. URBAN HOMESTEADING.

(a) CONVEYANCES OF PROPERTY BY STATE AND LOCAL GOVERNMENTS FOR CONSIDERATION.—Section 810 of the Housing and Community Development Act of 1974 is amended—

(1) in subsection (b)(1), by inserting after "consideration" the following: "in the case of a lower income family or individual, or for such consideration (if any) as may be agreed upon by the entity and the family or individual in the case of a family or individual that is not a lower income family or individual";

(2) by striking out "and" at the end of subsection (b)(3)(C);

(3) by inserting "and" after the semicolon at the end of subsection (b)(3)(D);

(4) by adding at the end of subsection (b)(3) the following new subparagraph:

"(E) pay the agreed upon consideration (if any) for the property, in the case of a family or individual that is not a lower income family or individual;";

(5) in subsection (b)(5), by inserting after "consideration" the following: "in the case of a lower income family or individual, or for such consideration (if any) as may be agreed upon by the entity and the family or individual in the case of a family or individual that is not a lower income family or individual,";

(6) in subsection (b)(7)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(D) prohibits the unit of general local government, State, or public agency designated by a unit of general local government or a State, from considering the amount of consideration it desires to charge for a property, if such charge results in excluding any prospective recipient qualified for the special priority under subparagraph (A); and

"(E) prohibits the conveyance of any property under this section to a family or individual that is not a lower income family or individual, if there is a qualified applicant who is a lower income family or individual.";

(7) by adding at the end of subsection (b) the following new sentences: "Any unit of general local government, State, or public agency designated by a unit of general local government or a State, that receives consideration in connection with the conveyance of a property to an individual or family under this section shall remit to the Secretary any amount received, in such manner and at such time as the Secretary may prescribe. The Secretary shall deposit any amount remitted under the preceding sentence in the miscellaneous receipts of the Treasury of the United States."; and

(8) in subsection (h)(3), by striking out "subsection and subsection (i)" and inserting in lieu thereof "section".

(b) INCREASED ASSISTANCE FOR COMMUNITIES HAVING HIGH RATES OF FORECLOSURES.—Section 810 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k)(1) Any unit of general local government in which the rate of foreclosure on mortgages on single-family dwellings insured under title II of the National Housing Act exceeds by more than 20 percent such rate of foreclosure in such unit of general local government during the preceding year may apply to the Secretary for an increase in its assistance under this section.

"(2) Any unit of general local government applying for an increase in assistance under

this subsection shall provide the Secretary with documentation describing the rate of foreclosure referred to in paragraph (1), the administrative capacities of the homestead program of such unit of general local government, and the likely effect of the use of additional assistance under this subsection on such rate of foreclosure.

"(3) The Secretary may not approve an increase in assistance under this subsection that exceeds an amount equal to 50 percent of the assistance requested by the unit of general local government under this section in its original application.".

(c) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 810(l) of the Housing and Community Development Act of 1974, as so redesignated by subsection (b), is amended—

(1) by striking out "and" the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and $12,000,000 for fiscal year 1986".

SEC. 1324. REHABILITATION LOANS.

(a) LOAN AUTHORITY.—Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986"; and

(2) by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

(b) PROHIBITION OF FEES ON REHABILITATION LOANS.—Section 312(g) of the Housing Act of 1964 is amended by adding at the end thereof the following new sentence: "No risk premium or loan fee may be assessed or collected by the Secretary or any other Federal agency on or with respect to a loan made by the Secretary under this section.".

SEC. 1325. NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and $15,500,000 for fiscal year 1986".

SEC. 1326. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended by inserting before the period at the end thereof the following: ", and not to exceed $10,000,000 for fiscal year 1986".

SEC. 1327. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS.

Notwithstanding any other provision of law or other requirement, the City of Boston in the State of Massachusetts is authorized to retain any land disposition proceeds from the financially closed-out Government Center Urban Renewal Project (NO. MASS. R-35) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Boston shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

SEC. 1328. LIMITATION ON RECAPTURE OF CERTAIN RESERVATIONS OF ASSISTANCE.

After the reservation of assistance for any person or governmental entity under section 312 of the Housing Act of 1964 or section 810 of the Housing and Community Development Act of 1974, the Secretary of Housing and Urban Development shall not recapture any of the assistance included in such reservation due to the failure of such person or governmental entity to utilize, obligate, or expend such assistance during the fiscal year in which such amount is received or during the succeeding fiscal year.

SEC. 1329. COMMUNITY DEVELOPMENT AUTHORIZATIONS OF APPROPRIATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.—Section 103 of the Housing and Community Development Act of 1974 is amended by striking out the second sentence and inserting in lieu thereof the following: "There is authorized to be appropriated for purposes of assistance under sections 106 and 107 not to exceed $2,980,000,000 for fiscal year 1986.".

(b) URBAN DEVELOPMENT ACTION GRANT PROGRAM.—Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking out the second and third sentences and inserting in lieu thereof the following: "There is authorized to be appropriated to carry out the provisions of this section not to exceed $352,000,000 for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.".

SEC. 1330. COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS.

Section 123(e)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "Act" and inserting in lieu thereof "section".

Subtitle D—Shelter Assistance for the Homeless and Displaced

PART 1—NATIONAL BOARD OF CHARITIES PROGRAM

SEC. 1331. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Emergency Management Agency to carry out an emergency program equivalent to the emergency food and shelter program established in the Second Supplemental Appropriations Act, 1984 (98 Stat. 1382), $66,000,000 for fiscal year 1986. Any amount appropriated under this section shall remain available until expended.

SEC. 1332. ELIGIBLE ACTIVITIES.

Any amount appropriated under section 401 may be used for the activities carried out under the emergency food and shelter program referred to in such section, other than renovation of buildings to be used as emergency shelters.

PART 2—SECOND STAGE HOUSING FOR THE HOMELESS AND DISPLACED

SEC. 13411. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a demonstration program in accordance with the provisions of this part to determine the effectiveness of assisting nonprofit organizations in providing housing and supportive services for homeless persons.

(b) PURPOSES.—Such demonstration program shall be designed to determine—

(1) the cost of acquisition, rehabilitation, or acquisition and rehabilitation of existing structures for the provision of housing for homeless persons;

(2) the cost of operating such housing and providing supportive services to the residents of such housing;

(3) the social, financial, and other advantages of such housing and supportive services as an alternative to continued institutionalization of handicapped persons; and

(4) the social, financial, and other advantages of such housing and supportive services as a means of assisting homeless persons.

SEC. 1342. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—The Secretary may provide the following assistance to any eligible nonprofit organization under the demonstration program established in this part:

(1) a non-interest-bearing advance equal to the aggregate cost of acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in the provision of housing and supportive services for homeless persons;

(2) annual payments for operating expenses of such housing, not to exceed 80 percent of the annual operating expenses of such housing; and

(3) technical assistance in establishing and operating such housing and providing supportive services to the residents of such housing.

(b) NONREPAYMENT OF ADVANCES.—Any advance provided under subsection (a)(1) shall not be required to be repaid if the nonprofit organization involved utilizes the structure for which such advance is made as housing for homeless persons in accordance with the provisions of this part for not less than the 10-year period following initial occupancy of such housing.

(c) ASSISTANCE CONTRACTS.—The Secretary shall, to the extent approved in appropriation Acts, enter into a contract with each nonprofit organization receiving annual payments under subsection (a)(2) to provide for the making of such payments for not more than a 10-year period.

SEC. 1343. PROGRAM REQUIREMENTS.

(a) APPLICATIONS.—Applications for assistance under this part shall be made in such form and in accordance with such procedures as the Secretary shall establish.

(b) SELECTION CRITERIA.—In selecting nonprofit organizations for assistance under this part, the Secretary shall consider—

(1) the ability of such nonprofit organization to develop and operate housing for homeless persons and to provide or coordinate supportive services for the residents of such housing;

(2) the need for such housing and supportive services in the area to be served; and

(3) such other factors as the Secretary determines to be appropriate for purposes of carrying out the demonstration program established in this part in an effective and efficient manner.

(c) REQUIRED AGREEMENTS.—Each nonprofit organization receiving assistance under this part shall agree, with respect to each structure for which such assistance is provided—

(1) to conduct an assessment of the supportive services required by the residents of such structure;

(2) to employ a full-time residential supervisor with sufficient expertise to provide, or supervise the provision of, supportive services to the residents of such structure;

(3) to utilize such structure as housing for homeless persons in accordance with the provisions of this part for not less than the 5-year period following initial occupancy of such housing; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the demonstration program established in this part in an effective and efficient manner.

(d) OCCUPANT RENT.—Each homeless person residing in housing assisted under this part shall pay as rent an amount determined in accordance with the provisions of

section 3(a) of the United States Housing Act of 1937.

SEC. 1344. REGULATIONS.

(a) IN GENERAL.—Not later than the expiration of the 180-day period following the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this part.

(b) ADVANCE CONSULTATION.—Before issuing regulations under this section, the Secretary shall consult with persons and entities having expertise with respect to the problems and needs of homeless persons or experience in providing housing or supportive services for such persons.

SEC. 3445. REPORTS TO CONGRESS.

The Secretary shall submit to the Congress—

(1) not later than 3 months after the end of fiscal year 1986, an interim report summarizing the activities carried out under this part during such fiscal year and setting forth any preliminary findings or conclusions of the Secretary as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1987, a final report summarizing all activities carried out under this part and setting forth any findings, conclusions, or recommendations of the Secretary as a result of such activities.

SEC. 3446. DEFINITIONS.

For purposes of this part:

(1) The term "elderly person" means an individual who is not less than 62 years of age.

(2) The term "handicapped person" means an individual having a physical, psychological, or other impairment that substantially impedes the ability of such individual to live independently without supportive services.

(3) The term "homeless person" means an individual who—

(A) is a lower income person, elderly person, or handicapped person;

(B) lacks permanent housing; and

(C) cannot live independently without supportive services.

(4) The term "housing for homeless persons" means a single- or multifamily structure suitable for the provision of housing and supportive services for not more than 12 homeless persons.

(5) The term "lower income person" means an individual whose income does not exceed 80 percent of the median income of the area involved.

(6) The term "nonprofit organization" means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term "operating costs" means expenses incurred by a nonprofit organization operating housing for homeless persons under this part with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing;

(C) the conducting of the assessment required in section 413(c)(1); and

(D) the provision of supportive services to the residents of such housing.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "supportive services" means assistance in obtaining permanent housing, medical and psychological counseling and supervision, employment counseling, nutritional counseling, and such other services essential for maintaining independent living as the Secretary determines to be appropriate. Such term includes the provision of assistance to residents of housing for homeless persons in obtaining other Federal, State, and local assistance available for such persons, including mental health benefits, employment counseling, and medical assistance.

SEC. 3447. LIMITATION ON BUDGET AUTHORITY.

The aggregate amount of non-interest bearing advances and annual payments for operating expenses made by the Secretary under this part in fiscal year 1986 may not exceed $50,000,000. Such amount shall remain available until expended.

PART 3—EMERGENCY SHELTER GRANTS

SEC. 1351. GRANT ASSISTANCE.

The Secretary of Housing and Urban Development shall, to the extent of amounts approved in appropriation Acts, make grants to States and units of local government (and to private nonprofit organizations providing assistance to the homeless, in the case of grants made with reallocated amounts) in order to carry out activities described in section 423.

SEC. 1352. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to units of general local government in the States) in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) MINIMUM ALLOCATION REQUIREMENT.—If, under the allocation provisions applicable under this part, any metropolitan city or urban county will receive a grant of less than $30,000 for any fiscal year, such amount shall instead be allocated to the State in which such city or county is located and shall be included in the amount available for distribution to units of general local government in the State.

(c) DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS.—Any unit of general local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to the homeless.

(d) REALLOCATION FUNDS.—

(1) The Homeless Assistance Council established in section 425 shall, not less than twice during each fiscal year, reallocate any assistance provided under this part that is unused or returned to the Secretary.

(2) The Council shall provide such reallocation funds—

(A) to units of general local government demonstrating extraordinary need or large numbers of homeless individuals;

(B) to private nonprofit organizations providing assistance to the homeless; and

(C) to meet such other needs consistent with the purposes of this part.

SEC. 1353. ELIGIBLE ACTIVITIES.

Assistance provided under this part may be used for the following activities relating to emergency shelter for the homeless:

(1) renovation of buildings to be used as emergency shelters;

(2) provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

(A) such services have not been provided by the unit of general local government during any part of the immediately preceding 12-month period; and

(B) not more than 15 percent of the amount of any assistance to a unit of general local government under this part is used for activities under this paragraph; and

(3) maintenance, operation (other than staff), utilities, and furnishings.

SEC. 1354. RESPONSIBILITIES OF GRANTEES.

(a) SUBMISSION OF HOMELESS ASSISTANCE PLAN.—Following notification by the Secretary of eligibility for assistance under this part, each State, metropolitan city, and urban county shall submit to the Secretary a plan describing the proposed use of such assistance. The Secretary shall provide the appropriate amount of assistance to such State, metropolitan city, or urban county before the expiration of the 60-day period following the date of the submission of such plan, unless the Secretary determines before the expiration of such period that such plan is not in compliance with this part.

(b) MATCHING AMOUNTS.—

(1) Each grantee under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this subtitle. Each grantee shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) In calculating the amount of supplemental funds provided by a grantee under this part, a grantee may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the grantee, and the value of the time contributed by volunteers to carry out the program of the grantee (calculated at a rate of $5 per hour).

(c) ADMINISTRATION OF ASSISTANCE.—Each grantee shall act as the fiscal agent of the Secretary with respect to assistance provided to such grantee.

(d) CERTIFICATIONS ON USE OF ASSISTANCE.—Each grantee shall certify to the Secretary that—

(1) it will maintain as a shelter for the homeless for not less than a 3-year period any building for which assistance is used under this part, or for not less than a 7-year period if such assistance is used for the substantial rehabilitation of such building;

(2) any renovation carried out with assistance under this part shall be sufficient to ensure that the building involved is safe and sanitary; and

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals.

(e) USE OF INTEREST ON ASSISTANCE.—Any interest received by any grantee under this part on assistance provided under this part shall be used in accordance with this part or returned to the Secretary for reallocation.

SEC. 1355. HOMELESS ASSISTANCE COUNCIL.

(a) ESTABLISHMENT.—There hereby is established a commission to be known as the Homeless Assistance Council.

(b) MEMBERSHIP.—The Council shall be composed of 9 members as follows:

(1) the Secretary of Housing and Urban Development, or the designee of the Secretary;

(2) the Secretary of Health and Human Services, or the designee of the Secretary;

(3) 1 individual appointed by the Secretary of Housing and Urban Development from individuals recommended jointly by the National League of Cities, the National Conference of Mayors, the National Association of Counties, and the National Association of Towns and Townships;

(4) 1 individual appointed by the Secretary of Housing and Urban Development from individuals who are representative of the providers of services to the homeless;

(5) 3 individuals appointed by the Secretary of Housing and Urban Development from individuals who are members of, and are recommended by the members of, the national board of charities constituted under the emergency food and shelter program established in the Second Supplemental Appropriations Act, 1984 (98 Stat. 1382);

(6) 1 individual appointed by the Secretary of Housing and Urban Development from individuals recommended by the Speaker of the House of Representatives; and

(7) 1 individual appointed by the Secretary of Housing and Urban Development from individuals recommended by the Majority Leader of the Senate.

(c) TERM OF MEMBERSHIP.—

(1) Each member of the Council described in paragraphs (3) through (7) of subsection (b) shall be appointed for a term of 2 years.

(2) Any vacancy in the Council occurring before the expiration of a term shall be filled in the manner in which the original appointment was made. Any member appointed to fill such a vacancy shall be appointed only for the remainder of such term.

(d) MEMBERS NOT FEDERAL EMPLOYEES.—The members of the Council shall not, by reason of their membership on the Council, be considered to be officers or employees of the Federal Government.

(e) PAY AND EXPENSES.—

(1) Each member of the Council shall serve without pay, allowances, or benefits by reason of such service.

(2) Each member of the Council shall, while attending meetings of the Council or while engaged in duties relating to such meetings or in other activities of the Council under this part, be allowed (except in the case of members of the Council who are Members of Congress or officers or employees of the Federal Government) travel expenses while away from their homes or regular places of business, including per diem in lieu of subsistence, equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) POWERS.—The powers of the Council are—

(1) to review plans submitted by recipients of emergency shelter grants;

(2) to reallocate unexpended emergency shelter grant funds in accordance with section 422(d);

(3) to recommend to the Secretary that action be taken against recipients of emergency shelter grants who use such grants improperly;

(4) to call meetings of the Council, elect a chairperson of the Council, and to empower the chairperson to convene the Council; and

(5) to request additional temporary staff from the Secretary.

SEC. 1356. ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—Not later than the expiration of the 30-day period following the date of the enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall not be subject to section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act. The Secretary shall issue regulations based on the initial notice before the expiration of the 12-month period following the date of the enactment of this Act.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 30-day period following the date of the enactment of a law providing appropriations to carry out this part, the Secretary shall notify each State, metropolitan city, and urban county of its allocation of assistance under this part. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue regulations under subsection (a).

(c) STAFF AND OFFICES OF COUNCIL.—The Secretary shall provide the Council with such staff and office facilities as the Secretary, following consultation with the Council, considers necessary to permit the Council to carry out its functions under this part.

(d) RECAPTURE OF UNUSED ASSISTANCE.—The Secretary shall recapture any assistance provided under this part that is not used by the grantee within a reasonable period of time.

SEC. 1357. DEFINITIONS.

For purposes of this part:

(1) The term "Council" means the Homeless Assistance Council established in section 425.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 1358. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this part $100,000,000 for fiscal year 1986 and such sums as may be necessary for fiscal year 1987. Any amount appropriated under this section shall remain available until expended.

Subtitle E—Nehemiah Housing Opportunity Grants

SEC. 1361. STATEMENT OF PURPOSE.

It is the purpose of this subtitle—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 1362. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Fund" means the Nehemiah Housing Opportunity Fund established in section 509(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this subtitle in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

SEC. 1363. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this subtitle. Such assistance shall be made in the form of grants.

(b) APPLICATIONS.—Applications for assistance under this subtitle shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 1364. USE OF ASSISTANCE.

(a) IN GENERAL.—Any nonprofit organization receiving assistance under this subtitle shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this subtitle.

(b) SPECIFIC REQUIREMENTS.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale or other transfer of such property.

SEC. 1365. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Assistance provided under this subtitle may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(b) FAMILY NEED.—Each family purchasing a home under this subtitle shall—

(1) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(A) 115 percent of the median income for a family of 4 persons in the metropolitan statistical area involved; or

(B) the national median income for a family of 4 persons; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) DOWNPAYMENT.—

(1) Each family purchasing a home under this subtitle shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(2) Any downpayment made under this subsection shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) LEASING PROHIBITION.—No family purchasing a home under this subtitle may lease such home.

SEC. 1366. TERMS AND CONDITIONS OF ASSISTANCE.

(a) LOCAL CONSULTATION.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this subtitle unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) PROGRAM SCHEDULE.—Each nonprofit organization applying for assistance under this subtitle shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) MINIMUM PARTICIPATION.—No nonprofit organization receiving assistance under this subtitle may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) FINANCIAL FEASIBILITY.—The Secretary may not provide any assistance under this subtitle to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) HOME QUALITY AND LOCATION.—A Nehemiah housing opportunity program may be approved under this subtitle only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(B) 250 homes;

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local buiiding code standards; or

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(B) the energy performance requirements established under section 526 of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by subsection (e)(1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhood; and

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this subtitle upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 1367. PROGRAM SELECTION CRITERIA.

(a) IN GENERAL.—In selecting Nehemiah housing opportunity programs for assistance under this subtitle from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this subtitle, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

SEC. 1368. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) RESERVATION OF AMOUNTS.—Following the selection of any Nehemiah housing opportunity program for assistance under this subtitle, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) DISTRIBUTION OF ASSISTANCE.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this subtitle, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) MAXIMUM ASSISTANCE.—The assistance provided to any nonprofit organization under this subtitle may not exceed $15,000 per home.

SEC. 1369. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 503.

(b) ASSETS.—The Fund shall consist of—

(1) any amount appropriated under section 512;

(2) any amount received by the Secretary under section 504(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) ADMINISTRATION.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this subtitle shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 1370. ANNUAL REPORT.

The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this subtitle. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this subtitle during the preceding year, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this subtitle during the preceding year;

(3) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this subtitle during the preceding year;

(5) an analysis of the amounts of the grants made to programs under this subtitle during the preceding year; and

(6) any recommendations of the Secretary for modifications in the program established by this subtitle in order to ensure the effective implementation of such program.

SEC. 1371. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subtitle. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

SEC. 1372. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the provisions of this subtitle $100,000,000 for fiscal year 1986. Any amount appropriated under this section shall be deposited in the Nehemiah Housing

Opportunity Fund, and shall remain available until expended.

Subtitle F—Multifamily Housing Preservation Loans

SEC. 1381. PURPOSE.

The purpose of this subtitle is to provide loans to the owners of certain multifamily housing projects assisted by the Secretary of Housing and Urban Development to permit such owners to make capital improvements required to maintain such projects as decent, safe, and sanitary housing and to maintain the low- and moderate-income character of such projects.

SEC. 1382. DEFINITIONS.

For purposes of this subtitle:

(1) The term "capital improvement" means any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Such term does not include maintenance of any such item.

(2) The term "Fund" means the Multifamily Housing Preservation Fund established in section 606.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "low- and moderate-income character" means the character of a multifamily housing project with respect to tenant admission and rental charges that have been agreed to by the owner of such project and the Secretary in connection with assistance or insurance provided by the Secretary.

(5) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 1383. AUTHORITY TO PROVIDE LOANS.

(a) IN GENERAL.—The Secretary may provide and, to the extent approved in appropriation Acts, contract to provide loans to owners of rental or cooperative housing projects meeting the requirements of this subtitle for purposes of assisting such owners to make capital improvements required to maintain such projects as decent, safe, and sanitary housing and to maintain the low- and moderate-income character of such projects.

(b) APPLICATIONS.—Applications for loans under this subtitle shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 1384. ELIGIBILITY FOR LOANS.

(a) PROJECT REQUIREMENTS.—The owner of any rental or cooperative housing project shall be eligible for a loan under this subtitle only if such project—

(1)(A) is assisted under section 236 of the National Housing Act, the proviso of section 221(d)(5) of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965, without regard to whether such project is insured under the National Housing Act;

(B) is assisted under section 8 of the United States Housing Act of 1937 following conversion to such assistance from assistance under section 236(f)(2) of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965;

(C) is assisted under section 23 of the United States Housing Act of 1937, as in effect before January 1, 1975; or

(D) was a project described in subparagraph (A) before the acquisition of such project by the Secretary, and has been sold by the Secretary subject to an agreement that provides that the low- and moderate-income character of such project will be maintained; and

(2) meets such other requirements consistent with the purposes of this subtitle as the Secretary may prescribe.

(b) LOAN AND BORROWER REQUIREMENTS.—No loan may be provided under this subtitle to the owner of any rental or cooperative housing project unless the Secretary determines that—

(1) such loan, when considered with other resources available to and financially feasible for such project, is necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to seriously deteriorate or fail in the near future, in such project;

(2) the owner of such project agrees to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate, except that—

(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such project for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan; and

(C) the Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or association;

(3) the owner of such project agrees to maintain the low- and moderate-income character of such project for a period of not less than the remaining term of the project mortgage;

(4) the management of such project is conducted by persons who meet levels of competency and experience prescribed by the Secretary and are approved by the Secretary;

(5) such project is structurally sound, or will be made structurally sound as a result of the capital improvements involved, as determined on the basis of information obtained as a result of an onsite inspection of such project;

(6) such loan, when considered with other resources available to and financially feasible for such project, will maintain the financial soundness of such project;

(7) such project is operated and managed in accordance with a management improvement and operating plan that has been determined to be necessary and approved by the Secretary and that includes the following:

(A) a detailed maintenance schedule;

(B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements;

(C) a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary;

(D) a plan to improve or maintain financial and management control systems;

(E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary to be appropriate; and

(F) such other items as the Secretary may determine to be appropriate;

(8) the reserve funds established by the owner of such project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such loan is requested and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds; and

(9) such loan will be less costly to the Federal Government than other reasonable alternatives available to the Secretary for maintaining the low- and moderate-income character of such project.

(c) PRIORITIES IN PROVIDING LOANS.—In providing, and contracting to provide, loans under this subtitle, the Secretary shall give priority to—

(1) the extent to which the capital improvements for which such loans are requested are immediately required;

(2) the extent to which the projects for which such loans are requested serve as the residences of lower income families, and the extent to which other suitable housing is unavailable for such families in the areas in which such projects are located;

(3) the extent to which the capital improvements for which such loans are requested involve the life, safety, or health of the residents of the projects or involve major capital improvements in the projects; and

(4) projects that demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (b)(6).

SEC. 1385. AMOUNT AND CONDITIONS OF LOANS.

(a) PRINCIPAL AMOUNT OF LOANS.—Subject to section 604(b)(2), the principal amount of any loan provided under this subtitle to the owner of any project shall not exceed 80 percent of the sum of—

(1) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to seriously deteriorate or fail in the near future, in such project;

(2) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

(3) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) CONDITIONS OF LOANS.—

(1) The term of any loan provided under this subtitle shall not exceed the remaining term of the mortgage on the project with respect to which such loan is provided.

(2) Subject to subsection (c), each loan provided under this subtitle shall bear interest at a rate determined by the Secretary to be appropriate, except that such rate shall not be less than 6 percent or more than the rate determined under section 221(d)(5)(B) of the National Housing Act.

(3) Each loan provided under this subtitle shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

(4) The Secretary may establish such additional conditions on loans provided under this subtitle as the Secretary determines to be appropriate.

(5) The Secretary may provide more than one loan to any project under this subtitle, if each such loan complies with the provisions of this subtitle.

(c) MINIMIZATION OF RENT INCREASES.—In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan provided under this subtitle, and that would be incurred by residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, the Secretary may take any or all of the following actions:

(1) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

(2) Reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

(3) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

(4) Increase the amount of assistance to be provided by the owner of such project under section 604(b)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.

SEC. 1386. MULTIFAMILY HOUSING PRESERVATION FUND.

(a) ESTABLISHMENT OF FUND.—For purposes of carrying out the provisions of this subtitle, there hereby is established in the Treasury of the United States a revolving fund, to be known as the Multifamily Housing Preservation Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary for purposes of carrying out the provisions of this subtitle.

(b) ASSETS OF FUND.—The Fund shall consist of (1) any amount appropriated under section 608; (2) any amount repaid on a loan provided under this subtitle; and (3) any other amount received by the Secretary under this subtitle.

(c) MANAGEMENT OF FUND.—Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 1387. REGULATIONS.

The Secretary shall, not later than the expiration of the 180-day period following the date of the enactment of this Act, issue such regulations as may be necessary to carry out the provisions of this subtitle.

SEC. 1388. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the provisions of this subtitle $60,000,000 for fiscal year 1986. Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended.

Subtitle G—Enterprise Zone Development

SEC. 1391. DESIGNATION OF ENTERPRISE ZONES.

(a) DESIGNATION OF ZONES.—

(1) DEFINITION.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by 1 or more local governments and the State or States in which it is located for designation as an enterprise zone (hereafter in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) LIMITATION ON DESIGNATIONS.—

(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary of Housing and Urban Development shall prescribe by regulation not later than 4 months following the date of the enactment of this Act, after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (e).

(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

(i) the 1st day of the 1st month following the month in which the effective date of the regulations described in subparagraph (A) occurs; or

(ii) July 1, 1985.

(C) NUMBER OF DESIGNATIONS.—

(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate more than 75 nominated areas as enterprise zones during the period beginning with the 1st day of the 36-month period described in subparagraph (B).

(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least 1/3 must be areas that—

(I) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available) and are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas; or

(II) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget).

(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprise zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled;

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe;

(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(2)(D)(ii); or

(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) AREA AND ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of the local government;

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of at least—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (b)(2)(C)(ii)(I)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or greater; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Devel-

opment Act of 1974, as in effect on the date of the enactment of this Act; and

(C) 1 of the following criteria is met:

(i) the unemployment rate, as determined by the appropriate available data, was at least 1.5 times the national unemployment rate for that period;

(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relate;

(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974); or

(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census data available).

(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area.

(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of efficiency of local services within the enterprise zone, such as crime prevention (particularly through experimentation with providing such services by nongovernmental entities);

(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone; and

(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area.

(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

(1) the nominated areas with respect to which the strongest and highest quality contributions other than those described in subsection (d)(2) have been promised as part of the course of action;

(2) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation;

(3) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

(A) that are near areas with concentrations of disadvantaged workers or long-term unemployed individuals; and

(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone;

(4) the nominated areas the size and location of which—

(A) will primarily stimulate new economic activity; and

(B) minimize unnecessary tax losses to the Federal Government;

(5) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities; and

(6) the nominated areas that best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

(A) consistent with the intent of the enterprise zone program; and

(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

(f) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT.—If more than 1 government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) LOCAL GOVERNMENT.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development; and

(C) the District of Columbia.

(3) STATE.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

SEC. 1392. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this subtitle.

SEC. 1393. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 701(d) shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 701 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 701 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

SEC. 1394. WAIVER OR MODIFICATION OF CERTAIN AGENCY RULES IN ENTERPRISE ZONES.

(a) IN GENERAL.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 701, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule that it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

(b) LIMITATION.—Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) SUBMISSION OF REQUESTS.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) CONSIDERATION OF REQUESTS.—In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest that the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if such waiver or modification would—

(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.)); or

(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

(e) NOTICE OF DISAPPROVAL.—If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum

extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) PERIOD FOR DETERMINATION.—Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) APPLICABLE PROCEDURES.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

(h) EFFECT OF SUBSEQUENT AMENDMENT OF RULES.—In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) EXPIRATION OF WAIVERS AND MODIFICATIONS.—No waiver or modification of a rule under this section shall remain in effect for a period longer than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) DEFINITIONS.—For purposes of this section:

(1) AGENCY.—The term "agency" means the Department of Housing and Urban Development and, with respect to any rule issued under title V of the Housing Act of 1949, the Department of Agriculture.

(2) RULE.—The term "rule" means (A) any rule as defined in section 551(4) of title 5, United States Code; or (B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

SEC. 1395. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall—

"(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing Act of 1985;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into 1 summary report submitted at such intervals as may be designated by the Secretary.".

TITLE III—COMMITTEE ON EDUCATION AND LABOR

Subtitle A—Amendments to the Higher Education Act of 1965

PART 1—AMENDMENTS RELATING TO FEDERALLY INSURED AND GUARANTEED STUDENT LOANS

SEC. 1401. RECOVERY OF OUTSTANDING ADVANCES TO GUARANTY AGENCIES.

Section 422 of the Higher Education Act of 1965 (hereafter in this subtitle referred to as "the Act") is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this paragraph and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $50,000,000 during fiscal year 1988.

"(2) In determining the amount of advances which shall be repaid by a State or nonprofit private institution or organization under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances; and

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection.".

SEC. 1402. DISBURSEMENT OF STUDENT LOANS TO INSTITUTIONS REQUIRED.

(a) FISL LOANS REQUIREMENT.—Section 427(a)(2)(I) of the Act is amended to read as follows:

"(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made copayable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

(b) GSL LOANS REQUIREMENT.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;".

(c) CONFORMING AMENDMENT.—Section 433A(a) of the Act is amended by striking out "to a borrower" in the first sentence.

SEC. 1403. NEED REQUIREMENTS AND SCREENING OF PELL GRANT—ELIGIBLE STUDENTS.

(a) REQUIREMENT THAT FISL AND GSL BORROWERS FIRST OBTAIN PELL GRANT ELIGIBILITY DETERMINATION.—Section 428(a)(2)(A) of the Act is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(iii) in the case of any student other than a graduate or professional student (as defined in regulations of the Secretary), have obtained a determination of eligibility or ineligibility for a grant under subpart 1 of part A of this title.".

(b) NEED ANALYSIS REQUIRED FOR ALL FISL AND GSL BORROWERS.—Section 428(a)(2)(B) of the Act is amended to read as follows:

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need, subject to the provisions of subparagraph (F).".

SEC. 1404. MULTIPLE DISBURSEMENTS OF STUDENT LOANS REQUIRED.

(a) REPEAL OF INCENTIVES TO LENDERS TO MAKE MULTIPLE DISBURSEMENTS.—Section 428(a) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)) is amended by striking out paragraph (8).

(b) MULTIPLE DISBURSEMENT REQUIRED IN FISL PROGRAM.—Section 427(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period.

For purposes of paragraph (3), all loans issued for the same period of enrollment shall be considered as a single loan.".

(c) MULTIPLE DISBURSEMENTS REQUIRED IN GSL PROGRAM.—Section 428(b)(1) of such Act is amended—

(1) by redesignating subparagraph (P) as subparagraph (Q); and

(2) by inserting after subparagraph (O) the following new subparagraph:

"(P) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period, or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph; and".

(d) ORIGINATION FEE TO BE DEDUCTED PROPORTIONATELY FROM EACH INSTALLMENT.—Section 438(c)(2) of the Act is amended by striking out "which may be deducted from the proceeds of the loan prior to payment to the borrower" and inserting in lieu thereof "which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower".

(e) CONFORMING AMENDMENTS.—(1) Section 425(a)(1) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A), by striking out subpara-

graph (B), and by redesignating subparagraph (C) as subparagraph (B); and

(B) by striking out the last sentence.

(2) Section 428(a)(3)(A) of the Act is amended—

(A) by striking out "Except as provided in paragraph (8) and subject" and inserting in lieu thereof "Subject"; and

(B) by striking out "but, except as provided in paragraph (8) of this subsection, such portion" and inserting in lieu thereof "but such portion".

(3) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "and" at the end of division (i);

(B) by striking out division (ii) and by redesignating division (iii) as division (ii); and

(C) in the matter following such division, by striking out "annual limit," and all that follows and inserting in lieu thereof "annual limit;".

SEC. 1405. INSURANCE PREMIUM.

Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) provides for collection of an insurance premium equal to 3 per centum per loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;".

SEC. 1406. AGREEMENT FOR AUDITS.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after such subparagraph the following:

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.".

SEC. 1407. PRE-CLAIM COLLECTION ACTIVITIES.

(a) DELAY REQUIRED BEFORE SUBMISSION OF CLAIMS BY GUARANTY AGENCIES.—Section 428(c)(1)(A) of the Act is amended by adding at the end thereof the following new sentence: "In no case shall a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) file a claim for such reimbursement with respect to such losses prior to 210 days after the loan becomes delinquent with respect to any installment thereon.".

(b) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Section 428(c)(6) of the Act is amended—

(1) in subparagraph (A), by inserting after "assistance for default prevention," the following: "the administrative costs of supplemental preclaims assistance for default prevention,";

(2) in such subparagraph, by striking out "as such terms are defined in subparagraph (B)" and inserting in lieu thereof "as such terms are defined in subparagraph (B) or (C)"; and

(3) by adding at the end thereof the following new subparagraph:

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaims assistance' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised pre-claims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required or permitted to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 per centum of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.".

SEC. 1408. STATUTE OF LIMITATIONS.

Section 428(d) of the Act is amended—

(1) by redesignating clauses (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" before "No provision of any law"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(A) a guaranty agency which has an agreement with the Secretary under subsection (c) may file suit for collection of the amount due from a borrower on a loan made under this part during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

"(B) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for collection of the amount due the Secretary from a borrower pursuant to subsection (c)(2)(D) of this section until six years following the date on which the loan is assigned to the Secretary under this part.".

SEC. 1409. ADMINISTRATIVE COST PAYMENTS.

Section 428(f) of the Act is amended—

(1) by striking out "is authorized to make payments" each place it appears in the first sentence of paragraphs (1) and (2) and inserting in lieu thereof "shall make payments";

(2) by striking out "shall not exceed" each place it appears in the second sentence of such paragraphs and inserting in lieu thereof "shall be equal to"; and

(3) by striking out the third and fourth sentences of each such paragraph.

SEC. 1410. RECOVERY OF COSTS.

Section 430(b) of the Act is amended—

(1) by striking out "(b)(1)" and inserting in lieu thereof "(b)";

(2) by striking out "(including reasonable administrative costs)" and inserting in lieu thereof the following: "(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)"; and

(3) by striking out paragraph (2).

SEC. 1411. CREDIT BUREAU REPORTS.

Part B of the Act is amended by adding immediately after section 430 the following new section:

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

"SEC. 430A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency having a guaranty agreement with the Secretary under section 428, shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary, concerning loans covered by Federal loan insurance, or by a guaranty agency, concerning loans covered by a guaranty agreement, to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary or the guaranty agency, as appropriate, to disclose to such organizations, with respect to any loan under this part—

"(1) the date of disbursement and the amount of the loan;

"(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, which-

ever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

"(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary or the guaranty agency unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purposes of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary or the guaranty agency with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the guaranty agency, eligible lender, or subsequent holder (A) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) A guaranty agency or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

"(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

"(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account on a loan guaranteed under this part until—

"(1) seven years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty, or

"(2) with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, seven years from that date.".

SEC. 1412. CIVIL PENALTIES.

Section 432 of the Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(2) No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure or substantial misrepresentation referred to in that paragraph resulted from—

"(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material.

"(3) A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged (unless the lender or agency has in the case of a final agency determination commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding).".

SEC. 1413. EXTENSION OF PROGRAM.

(a) EXTENSION OF AUTHORITY.—Part B of title IV of the Act is amended—

(1) in section 424(a)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992";

(2) in section 428(a)(5)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992"; and

(3) in section 439(l), by striking out "1988" and inserting in lieu thereof "1990".

(b) EXTENSION OF FAMILY CONTRIBUTION SCHEDULES.—Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in subsection (a), by striking out "and from July 1, 1986, through June 30, 1987," and inserting in lieu thereof "from July 1, 1986, through June 30, 1987, from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,"; and

(2) in subsection (c)—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the comma at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(C) by inserting after such paragraph the following new paragraphs:

"(5) April 1, 1987, for the period of instruction from July 1, 1987, through June 30, 1988;

"(6) April 1, 1988, for the period of instruction from July 1, 1988, through June 30, 1989; and

"(7) April 1, 1989, for the period of instruction from July 1, 1989, through June 30, 1990,".

PART 2—AMENDMENTS RELATING TO THE NATIONAL DIRECT STUDENT LOAN PROGRAM

SEC. 1421. ASSIGNMENT AND REFERRAL OF LOANS FOR COLLECTION.

Section 463(a)(5) of the Act is amended to read as follows:

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

"(B) if the institution is not one described in clause (A), the Secretary may allow it to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan, less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs, shall be repaid to such institu-

tion and treated as if a part of Federal capital contributions from funds appropriated under section 461;".

SEC. 1422. REPORTING BY CONSUMER REPORTING AGENCY.

Section 463(c) of the Act is amended by adding the following new paragraph:

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reports the account to a consumer reporting agency, if that account has not been previously reported by any other holder of the note.".

SEC. 1423. DEFAULT PENALTY.

Section 463A(a)(7) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan".

SEC. 1424. STUDENT LOAN AGREEMENTS.

(a) CHARGES FOR LATE PAYMENTS.—Section 464(c)(1)(H) of the Act is amended to read as follows:

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and".

(b) CONFORMING AMENDMENT.—Section 464(c)(4) of the Act is amended to read as follows:

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.".

SEC. 1425. REFERRAL FOR COLLECTION.

Section 467(a) of the Act is amended—

(1) by inserting immediately after "attempt to collect" a comma and "by any means authorized by law, including referral to the Attorney General for litigation, for collecting claims of the United States"; and

(2) by striking out the comma after "any loan".

SEC. 1426. FEDERAL COLLECTION PROCEDURE.

Section 467(b) of the Act (20 U.S.C. 1087gg(b)) is amended to read as follows:

"(b) The Secretary shall continue to attempt to collect any loan referred or assigned under section 465(a)(5) or (6) until all appropriate collection efforts, as determined by the Secretary, have been expended.".

SEC. 1427. STATUTE OF LIMITATIONS.

Part E of title IV of the Act is amended by adding immediately after section 467 the following new section:

"STATUTE OF LIMITATIONS

"SEC. 467A. Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under this part during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(2) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned or referred to the Secretary under this part.".

PART 3—AMENDMENTS RELATING TO STUDENT ASSISTANCE GENERALLY

SEC. 1431. EXCLUSION OF LIQUIDATION PROCEEDS FROM FAMILY CONTRIBUTION COMPUTATIONS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.".

SEC. 1432. STUDENT ELIGIBILITY.

Section 484(a) of the Act is amended—

(1) by striking out the word "such" each place it appears in paragraph (4) and inserting in lieu thereof "any"; and

(2) by striking out "(which need not be notarized)" in paragraph (5) and inserting in lieu thereof "(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)".

SEC. 1433. STATUTE OF LIMITATIONS.

Part F of title IV of the Act is amended by adding immediately after section 484 the following new section:

"STATUTE OF LIMITATIONS

"SEC. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due; and

"(2) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due.

"(b) Notwithstanding any provision of State law to the contrary, a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs.".

SEC. 1434. PROGRAM PARTICIPATION AGREEMENTS.

(a) USE OF INTEREST ON FUNDS RECEIVED.—Section 487(a)(1) of the Act is amended to read as follows:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in and in accordance with the provision of that program.".

(b) AUDIT AND RECOVERY OF FUNDS.—Section 487(b)(1) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;".

PART 4—EFFECTIVE DATES

SEC. 1441. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on October 1, 1985.

(b) EXCEPTIONS.—(1) The amendments made by sections 1402, 1423, and 1424 shall apply to loans to cover the cost of attendance for any period of enrollment beginning on or after July 1, 1986.

(2) The amendments made by sections 1403(a) and 1404 of this Act shall take effect on July 1, 1986.

(3) The amendment made by section 1405 shall take effect on October 1, 1986.

(4) The amendments made by sections 1406, 1408, 1410, 1411, 1412, 1421, 1422, 1425, 1426, and 1427 shall apply to all loans, including loans made before the enactment of this Act, and shall take effect ninety days after the date of enactment of this Act.

(5) The amendment made by section 1409 shall apply to any fiscal year beginning after September 30, 1984.

(6) The amendment made by section 1432 shall apply to grants, loans, or work assistance to cover the cost of attendance for any period of enrollment beginning on or after July 1, 1986.

(7) The amendment made by section 1433 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect ninety days after the date of enactment of this Act.

(8) The amendment made by section 1434 shall apply to all grants, loans, or work assistance, including such assistance awarded before the date of enactment of this Act, and shall take effect ninety days after the date of enactment of this Act.

Subtitle B—Single-Employer Plan Termination Insurance Premiums

SEC. 1441. SHORT TITLE.

This subtitle may be cited as the "Single-Employer Pension Plan Termination Insurance Premium Act of 1985".

SEC. 1442. PREMIUM INCREASE.

(a) GENERAL RULE.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking out, "for plan years beginning after December 31, 1977, an amount equal to $2.60" and inserting in lieu thereof "for plan years beginning after December 31, 1985, an amount equal to $8.50".

(b) CONFORMING AMENDMENT WITH RESPECT TO PLAN YEARS AFTER 1977.—Section 4006(c)(1) of such Act (29 U.S.C. 1306(c)(1)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) in the case of each plan which was not a multiemployer plan in a plan year—

"(i) with respect to each plan year beginning before January 1, 1978, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(ii) with respect to each plan year beginning after December 31, 1977, an amount equal to $2.60 for each individual who was a participant in such plan during the plan year, and".

SEC. 1443. INCORPORATION OF CERTAIN FORMER PROVISIONS IN LIEU OF CROSS REFERENCE THERETO.

Section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended—

(1) in paragraph (1), by striking out the last sentence; and

(2) by adding at the end thereof the following new paragraph:

"(6)(A) In carrying out its authority under paragraph (1) to establish premium rates and bases for basic benefits guaranteed under section 4022 with respect to single-employer plans, the corporation shall establish such rates and bases in coverage schedules in accordance with the provisions of this paragraph.

"(B) The corporation may establish annual premiums for single-employer plans composed of the sum of—

"(i) a charge based on a rate applicable to the excess, if any, of the present value of the basic benefits of the plan which are guaranteed over the value of the assets of the plan, not in excess of 0.1 percent, and

"(ii) an additional charge based on a rate applicable to the present value of the basic benefits of the plan which are guaranteed.

The rate for the additional charge referred to in clause (ii) shall be set by the corporation for every year at a level which the corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the corporation from the charges referred to in clause (i) of this subparagraph.

"(C) The corporation may establish annual premiums for single-employer plans based on—

"(i) the number of participants in a plan, but such premium rates shall not exceed the rates described in paragraph (3),

"(ii) unfunded basic benefits guaranteed under this title, but such premium rates shall not exceed the limitations applicable to charges referred to in subparagraph (B)(i), or

"(iii) total guaranteed basic benefits, but such premium rates shall not exceed the rates for additional charges referred to in subparagraph (B)(ii).

If the corporation uses two or more of the rate bases described in this subparagraph, the premium rates shall be designed to produce approximately equal amounts of aggregate premium revenue from each of the rate bases used.

"(D) For purposes of this paragraph, the corporation shall by regulation define the terms 'value of assets' and 'present value of the benefits of the plan which are guaranteed' in a manner consistent with the purposes of this title and the provisions of this section.".

SEC. 1444. APPROVAL BY JOINT RESOLUTION OF RECOMMENDATIONS OF THE PENSION BENEFIT GUARANTY CORPORATION.

Title IV of the Employee Retirement Income Security Act of 1974 is amended as follows:

(1) The last sentence of subsection (a)(2) of section 4006 (29 U.S.C. 1306(a)(2)) is amended by striking out "the Congress approves such revised schedule by a concurrent resolution" and inserting in lieu thereof "a joint resolution approving such revised schedule is enacted".

(2) Subsection (a)(4) of section 4006 (29 U.S.C. 1306(a)(4)) is amended by striking out "approval by the Congress" and inserting in lieu thereof "the enactment of a joint resolution".

(3) Subsection (b)(3) of section 4006 (29 U.S.C. 1306(b)(3)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" before the period preceding the quotation marks.

(4) Subsection (f)(2)(B) of section 4022A (29 U.S.C. 1322a(f)(2)(B)) is amended by striking out "Congress by concurrent resolution" and inserting in lieu thereof "the enactment of a joint resolution".

(5) Subsection (f)(2)(C) of section 4022A (29 U.S.C. 1322a(f)(2)(C)) is amended by striking out "approved" and inserting in lieu thereof "so enacted".

(6) Subsection (f)(3)(B) of section 4022A (29 U.S.C. 1322a(f)(3)(A)) is amended by striking out "Congress by a concurrent resolution" and inserting in lieu thereof "enactment of a joint resolution".

(7) Subsection (f)(4)(A) of section 4022A (29 U.S.C. 1322a(f)(4)(A)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(8) Subsection (f)(4)(B) of section 4022A (29 U.S.C. 1322a(f)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" immediately before the period preceding the quotation marks.

(9) Subsection (g)(4)(A)(ii) of section 4022A (29 U.S.C. 1322a(g)(4)(A)(ii)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", and by striking out "adopted" and inserting in lieu thereof "enacted".

(10) Subsection (g)(4)(B) of section 4022A (29 U.S.C. 1322a(g)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress disapproves the" and inserting in lieu thereof "The", and by inserting "is hereby disapproved" immediately before the period preceding the quotation marks.

SEC. 1445. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this subtitle shall be effective for plan years commencing after December 31, 1985.

(b) SPECIAL RULE.—The amendments made by section 1443 shall be effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

Subtitle C—Single-Employer Plan Termination Insurance System Amendments

SEC. 1451. SHORT TITLE AND TABLE OF CONTENTS.

This subtitle may be cited as "Single-Employer Pension Plan Amendments Act of 1985".

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Sec. 1465. Conforming, clarifying, technical, and miscellaneous amendments.
Sec. 1466. Effective date.

SEC. 1452. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) single-employer defined benefit pension plans have a substantial impact on interstate commerce and are affected with a national interest;

(2) the continued well-being and retirement income security of millions of workers, retirees, and their dependents are directly affected by such plans;

(3) the existence of a sound termination insurance system is fundamental to the retirement income security of participants and beneficiaries of such plans; and

(4) the current termination insurance system in some instances encourages employers to terminate pension plans, evade their obligations to pay benefits, and shift unfunded pension liabilities onto the termination insurance system and the other premium-payers.

(b) ADDITIONAL FINDINGS.—The Congress further finds that modification of the current termination insurance system—

(1) is desirable to increase the likelihood that full benefits will be paid to participants and beneficiaries of such plans; and

(2) is desirable to provide for the transfer of liabilities to the termination insurance system only in cases of severe hardship, and to keep the premium costs of such system at a reasonable level.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to encourage the maintenance and growth of single-employer defined benefit pension plans,

(3) to increase the likelihood that participants and beneficiaries under single-employer defined benefit pension plans will receive their full benefits, and

(4) to provide for the transfer of unfunded pension liabilities onto the single-employer pension plan termination insurance system only in cases of severe hardship, and to keep the premium costs of such system at a reasonable level.

SEC. 1453. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974, unless otherwise specified.

SEC. 1454. DEFINITIONS.

Section 4001(a) (29 U.S.C. 1301(a)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) 'substantial employer', for any plan year of a single-employer plan, means one or more persons—

"(A) who are contributing sponsors of the plan in such plan year,

"(B) who, at any time during such plan year, are members of the same affiliated group (within the meaning of subsection (a) of section 1563 of the Internal Revenue Code of 1954, determined without regard to subsections (a)(4) and (e)(3)(C) of such section), and

"(C) whose required contributions to the plan for each plan year constituting one of—

"(i) the two immediately preceding plan years, or

"(ii) the first two of the three immediately preceding plan years,

total an amount greater than or equal to 10 percent of all contributions required to be paid to or under that plan for such plan year;";

(2) in paragraph (11), by striking out "and";

(3) in paragraph (12), by striking out "corporation." and inserting in lieu thereof "corporation;" and

(4) by adding after paragraph (12) the following new paragraphs:

"(13) 'contributing sponsor', of a single-employer plan, means a person—

"(A) who is responsible for meeting the funding requirements under section 302, or

"(B) who is a member of the controlled group of a person described in subparagraph (A), has been responsible for meeting such funding requirements, and has employed a significant number (as may be defined in regulations of the corporation) of participants under such plan while such person was so responsible;

"(14) in the case of a single-employer plan—

"(A) 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person; and

"(B) the determination of whether two or more persons are under 'common control' shall be made under regulations of the corporation which are consistent and coextensive with regulations prescribed for similar purposes by the Secretary of the Treasury under section 414(c) of the Internal Revenue Code of 1954;

"(15) 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan;

"(16) 'benefit entitlements', of a participant or beneficiary as of any date under a single-employer plan, means all benefits provided by the plan with respect to the participant or beneficiary which—

"(A) are guaranteed under section 4022,

"(B) would be guaranteed under section 4022, but for the operation of subsection 4022(b), or

"(C) constitute—

"(i) early retirement supplements or subsidies,

"(ii) plant closing benefits, or

"(iii) death benefits,

irrespective of whether any such benefits are guaranteed under section 4022, if the participant or beneficiary has satisfied, as of such date, all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefits, except for the submission of a formal application, retirement, completion of a required waiting period, death, or designation of a beneficiary;

"(17) 'amount of unfunded guaranteed benefits', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of the participant or beneficiary under the plan which are guaranteed under section 4022, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to those benefits under section 4044;

"(18) 'amount of unfunded benefit entitlements', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit entitlements of the participant or beneficiary under the plan, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to such benefit entitlements under section 4044;

"(19) 'outstanding amount of benefit entitlements', of a participant or beneficiary under a terminated single-employer plan, means the excess of—

"(A) the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit entitlements of such participant or beneficiary under the plan, over

"(B) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of such participant or beneficiary which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;

"(20) 'person' has the meaning set forth in section 3(9);

"(21) 'affected party' means, with respect to a plan—

"(A) each participant in the plan,

"(B) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

"(C) each employee organization representing participants in the plan, and

"(D) the corporation,

except that, in connection with any notice required to be provided to the affected party, if an affected party has designated, in writing, a person to receive such notice on behalf of the affected party, any reference to the affected party shall be construed to refer to such person; and

"(22) 'section 4049 trustee', in connection with a terminated single-employer plan, means the trustee appointed under section 4049(a) in connection with the plan.".

SEC. 1455. CLARIFICATION OF AUTHORITY TO FREEZE PLANS.

(a) FREEZING OF PLANS UNDER TITLE IV.—Section 4001 (29 U.S.C. 1301) is amended by adding at the end thereof the following new subsection:

"(c)(1) For purposes of this title, the term 'terminate', when used in connection with a single-employer plan, means to terminate in accordance with section 4041 or 4042.

"(2)(A) The adoption and operation of a provision of a single-employer plan amendment is not a termination for purposes of this title if such provision constitutes a freezing of the plan.

"(B)(i) Except as provided in clause (ii), a provision referred to in subparagraph (A) constitutes a freezing of a plan if and only if the sole effect of the provision is to provide that some or all service performed on or after a specified date (which is or follows the effective date of the amendment) will not be taken into account under the plan solely for purposes of determining (in accordance with section 204 of this Act benefits accrued on or after such specified date.

"(ii) A provision referred to in subparagraph (A) shall not be treated as failing to constitute a freezing of the plan solely because the provision also provides that some or all relevant factors used to determine benefits based on service performed prior to such specified date shall remain constant.

"(C) A provision referred to in subparagraph (A) shall not constitute a freezing of the plan if an effect of the provision is to provide that some or all service performed on or after such specified date will not be taken into account under the plan for purposes of determining (in accordance with section 203) nonforfeitability of benefits accrued before such specified date or for purposes of determining satisfaction of any other requirements for eligibility for benefits accrued before such specified date.".

(b) FREEZING OF PLANS UNDER TITLE I.—

(1) IN GENERAL.—Part 2 of subtitle B of title I is amended—

(A) by redesignating section 211 as section 212; and

(B) by inserting after section 210 the following new section:

"FREEZING OF PLANS

"SEC. 211. (a) The adoption and operation of a provision of a single-employer plan amendment is not a violation of this title if such provision constitutes a freezing of the plan.

"(b)(1) Except as provided in paragraph (2), a provision referred to in subsection (a) constitutes a freezing of a plan if and only if the sole effect of the provision is to provide that some or all service performed on or after a specified date (which is or follows the effective date of the amendment) will not be taken into account under the plan solely for purposes of determining (in accordance with section 204) benefits accrued on or after such specified date.

"(2) A provision referred to in subsection (a) shall not be treated as failing to constitute a freezing of the plan solely because the provision also provides that some or all relevant factors used to determine benefits based on service performed prior to such specified date shall remain constant.

"(c) A provision referred to in subsection (a) shall not constitute a freezing of the plan if an effect of the provision is to provide that some or all service performed on or after such specified date will not be taken into account under the plan for purposes of determining (in accordance with section 203) nonforfeitability of benefits accrued before such specified date or for purposes of determining satisfaction of any other requirements for eligibility for benefits accrued before such specified date.

"(d) A single-employer plan may not be amended on or after the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985 so as to provide for a freezing of the plan, unless, after adoption of the plan amendment and not less than 60 days before the effective date of the plan amendment, the plan administrator provides to each affected party (as defined in section 4001(a)(21)) a written notice setting forth the plan amendment and its effective date.".

(B) CLERICAL AMENDMENT.—The table of contents in section 1 is amended by striking out the item relating to section 211 and inserting in lieu thereof the following new items:

"Sec. 211. Freezing of plans.
"Sec. 212. Effective dates.".

SEC. 1456. GENERAL REQUIREMENTS RELATING TO TERMINATION OF SINGLE-EMPLOYER PLANS BY PLAN ADMINISTRATORS.

(a) IN GENERAL.—Section 4041 (29 U.S.C. 1341) is amended by striking out subsections (a) through (c) and inserting in lieu thereof the following:

"SEC. 4041. (a) GENERAL RULES GOVERNING SINGLE-EMPLOYER PLAN TERMINATIONS.—

"(1) EXCLUSIVE MEANS OF PLAN TERMINATION.—Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 4042, a single-employer plan may be terminated only in a standard termination under subsection (b) or a distress termination under subsection (c).

"(2) 60-DAY NOTICE TO AFFECTED PARTIES.—Not less than 60 days before the proposed termination date of a plan termination under subsection (b) or (c), the plan administrator shall provide to each affected party a written notice stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

"(3) PROCEDURE IN THE EVENT OF RELATED ADJUDICATORY PROCEEDINGS.—

"(A) PROCEDURE IN THE CASE OF STANDARD TERMINATION.—In any case in which, during the period beginning on the date on which the plan administrator provides the notice required under paragraph (2) and ending on the proposed termination date specified in such notice, the plan administrator receives written notice from an affected party that there is pending a related adjudicatory proceeding with respect to the proposed standard termination of the plan under subsection (b), the plan administrator—

"(i) shall suspend the termination, by refraining from further processing or implementing the termination during the pendency of such proceeding, or

"(ii) may proceed with the termination, except that, in so proceeding, the plan administrator shall take such actions (including, but not limited to, providing for segregation of plan assets or maintenance of plan records) as are necessary and appropriate to assure that the plan may be effectively restored if the plan is finally determined in any such proceeding to have been terminated in violation of the contractual or statutory rights of any affected party and is ordered in such proceeding to be restored.

During any period of time for which the plan administrator suspends the termination pursuant to clause (i), any applicable time limitation in the termination procedure shall cease to run.

"(B) PROCEDURE IN THE CASE OF DISTRESS TERMINATION.—In the case of a related adjudicatory proceeding with respect to a proposed distress termination of the plan under subsection (c), subparagraph (A) shall apply with respect to such termination and proceeding in the same manner and to the same extent as it applies in the case of a standard termination, except that any reference in subparagraph (A) to the plan administrator shall be considered a reference to the plan administrator and to the corporation or other person serving as trustee under section 4042.

"(C) RELATED ADJUDICATORY PROCEEDING.—For purposes of this paragraph, the term 'related adjudicatory proceeding' means any proceeding (including timely appeals therefrom) commenced by an affected party as—

"(i) a grievance proceeding before an appropriate adjudicative entity,

"(ii) an administrative proceeding before an appropriate governmental agency, or

"(iii) a civil action in a court of competent jurisdiction,

in which the affected party alleges that the proposed termination would violate the contractual or statutory rights of any affected party.

"(D) PENDENCY OF PROCEEDING.—For purposes of this paragraph, a related adjudicatory proceeding shall be treated as pending from the date on which it is commenced until the earlier of—

"(i) the date of a final determination in the proceeding that the proposed termination would not violate the contractual or statutory rights referred to in subparagraph (C), or

"(ii) the date of a preliminary decision by the presiding adjudicative entity, governmental agency, or court that, taking into consideration all the facts and circumstances, the affected party is not likely to prevail in such proceeding and the equities clearly favor discontinuing compliance with clauses (i) and (ii) of subparagraph (A).

"(E) EFFECTS OF SUSPENSION OF TERMINATION.—In any case in which a termination is suspended pursuant to the preceding provisions of this paragraph, if the proposed termination is finally determined in a related adjudicatory proceeding not to be in violation of the contractual or statutory rights of any affected party, the termination of the plan shall be effective as of the proposed termination date.".

(b) DEFINITIONS RELATING TO SUFFICIENCY.—Section 4041(d) (29 U.S.C. 1341(d)) is amended to read as follows:

"(d) SUFFICIENCY.—For purposes of this section—

"(1) SUFFICIENCY FOR BENEFIT ENTITLEMENTS.—A single-employer plan is sufficient for benefit entitlements if there is no amount of unfunded benefit entitlements under the plan.

"(2) SUFFICIENCY FOR GUARANTEED BENEFITS.—A single-employer plan is sufficient for guaranteed benefits if there is no amount of unfunded guaranteed benefits under the plan.".

SEC. 1457. STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by section 3306 of this Act) is further amended by inserting after subsection (a) the following new subsection:

"(b) STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) GENERAL REQUIREMENTS.—A single-employer plan may terminate under a standard termination only if—

"(A) when the final distribution of assets occurs, the plan is sufficient for benefit entitlements (determined as of the termination date),

"(B) the plan administrator provides the 60-day advance notice to affected parties required under subsection (a)(2),

"(C) the requirements of subparagraphs (A) and (B) of paragraph (2) are met, and

"(D) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2).

"(2) TERMINATION PROCEDURE.—

"(A) NOTICE TO THE CORPORATION.—As soon as practicable after the termination date proposed in the notice provided pursuant to subsection (a)(2), the plan administrator shall send a notice to the corporation setting forth—

"(i) certification by an enrolled actuary—

"(I) of the amount of the assets of the plan (as of a proposed date of final distribution of assets),

"(II) of the actuarial present value (as of such date) of the benefit entitlements under the plan, and

"(III) that the plan will be sufficient (as of such date) for benefit entitlements,

"(ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

"(iii) certification by the plan administrator that the information on which the enrolled actuary based the certification under clause (i) and the information provided to the corporation under clause (ii) is accurate and complete.

"(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES OF BENEFIT ENTITLEMENTS.—At the time a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan specifying the amount of such person's benefit entitlements (if any), expressed in terms of the normal form of benefits under the plan. Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary

and as may be prescribed in regulations of the corporation.

"(C) NOTICE FROM THE CORPORATION OF NONCOMPLIANCE.—

"(i) IN GENERAL.—Within 60 days after receipt of the notice under subparagraph (A), the corporation shall provide the plan administrator with a notice of noncompliance if—

"(I) it has reason to believe that the requirements of subsection (a)(2) and subparagraphs (A) and (B) have not been met, or

"(II) it otherwise determines, on the basis of information provided by affected parties or otherwise obtained by the corporation, that there is reason to believe that the plan is not sufficient for benefit entitlements.

"(ii) EXTENSION.—The corporation and the plan administrator may agree to extend the 60-day period referred to in clause (i) by a written agreement signed by the corporation and the plan administrator before the expiration of the 60-day period. The 60-day period shall be extended as provided in the agreement and may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 60-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

"(D) FINAL DISTRIBUTION OF ASSETS IN ABSENCE OF NOTICE OF NONCOMPLIANCE.—The plan administrator shall commence the final distribution of assets pursuant to the standard termination of the plan as soon as practicable after the expiration of the 60-day (or extended) period referred to in subparagraph (C), but such final distribution may occur only if—

"(i) the plan administrator has not received during such period a notice of noncompliance from the corporation under subparagraph (C), and

"(ii) when such final distribution occurs, the plan is sufficient for benefit entitlements (determined as of the termination date).

"(3) METHODS OF FINAL DISTRIBUTION OF ASSETS.—

"(A) IN GENERAL.—In connection with any final distribution of assets pursuant to the termination of the plan, the plan administrator shall distribute the assets in accordance with section 4044. In distributing such assets, the plan administrator shall—

"(i) purchase irrevocable commitments from an insurer to provide when due the benefit entitlements under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044, or

"(ii) otherwise fully provide when due the benefit entitlements under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044 in accordance with the provisions of the plan and any applicable regulations of the corporation.

"(B) CERTIFICATION TO THE CORPORATION OF FINAL DISTRIBUTION OF ASSETS.—Within 30 days after the final distribution of assets is completed pursuant to the termination of the plan, the plan administrator shall send a notice to the corporation certifying that the assets of the plan have been distributed in accordance with the provisions of subparagraph (A) so as to pay when due the benefit entitlements under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044.

"(4) CONTINUING AUTHORITY.—Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph (3)(B) shall not affect the corporation's obligations under section 4022.".

(b) CONFORMING AMENDMENTS.—Section 4041(f) (29 U.S.C. 1341(f)) is amended—

(1) by inserting after "(f)" the following: "CONVERSION OF A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN TREATED AS A STANDARD TERMINATION.—";

(2) by striking out "subsection (a)" and inserting in lieu thereof "this section"; and

(3) by inserting "in a standard termination" after "terminated".

SEC. 1458. DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.

Section 4041 (as amended by sections 3306 and 3307 of this Act) is further amended by inserting after subsection (b) the following new subsection:

"(c) DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—A single-employer plan may terminate under a distress termination only if—

"(A) the plan administrator provides the 60-day advance notice to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraph (A) of paragraph (2) are met, and

"(C) the corporation determines that the requirements of subparagraph (B) of paragraph (2) are met.

"(2) TERMINATION REQUIREMENTS.—

"(A) INFORMATION SUBMITTED TO THE CORPORATION.—As soon as practicable after the termination date proposed in the notice provided pursuant to subsection (a)(2), the plan administrator shall provide the corporation, in such form as may be prescribed by the corporation in regulations, the following information:

"(i) such information as the corporation may prescribe by regulation as necessary to make determinations under subparagraph (B) and paragraph (3);

"(ii) certification by an enrolled actuary of—

"(I) the amount (as of the proposed termination date) of the current value of the assets of the plan,

"(II) the actuarial present value (as of such date) of the benefit entitlements under the plan,

"(III) whether the plan is sufficient for benefit entitlements as of such date, and

"(IV) whether the plan is sufficient for guaranteed benefits as of such date;

"(iii) in any case in which the plan is not sufficient for benefit entitlements as of such date—

"(I) the name and address of each participant and beneficiary under the plan as of such date, and

"(II) such other information as shall be prescribed by the corporation by regulation as necessary to enable the section 4049 trustee to be able to make payments to participants and beneficiaries as required under section 4049; and

"(iv) certification by the plan administrator that the information on which the enrolled actuary based the certifications under clause (ii) and the information provided to the corporation under clauses (i) and (iii) is accurate and complete.

"(B) DETERMINATION BY THE CORPORATION OF NECESSARY DISTRESS CRITERIA.—Upon receipt of the notice of distress termination required under subsection (a)(2) and the information required under subparagraph (A), the corporation shall determine whether the requirements of this subparagraph are met as provided in clause (i), (ii), (iii), or (iv).

"(i) RECENT FUNDING WAIVERS.—The requirements of this subparagraph are met if a funding waiver has been granted with respect to the terminating plan with respect to not fewer than three of the five plan years immediately preceding the termination date, and such a waiver has also been granted to each other single-employer plan of which any of the contributing sponsors of the terminating plan or the substantial members of their controlled groups (if any) is a contributing sponsor with respect to at least one of the three plan years immediately preceding the termination date. For purposes of this clause, the term 'funding waiver' means a waiver of the minimum funding standard under section 303.

"(ii) LIQUIDATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this subparagraph are met if each of the contributing sponsors and the substantial members of their controlled groups (if any) has filed or has had filed against it as of the termination date a petition seeking liquidation in a case under title 11, United States Code (or under any similar law of a State or political subdivision of a State) which has not, as of the termination date, been dismissed or converted to a case under chapter 11 of such title (or under any similar law of a State or political subdivision of a State) in which reorganization is sought.

"(iii) TERMINATION REQUIRED TO ENABLE PAYMENT OF DEBTS WHILE STAYING IN BUSINESS.—The requirements of this subparagraph are met if a contributing sponsor provides to the corporation substantial evidence that, unless a distress termination occurs, the contributing sponsors and the substantial members of such sponsors' controlled groups (if any) will each be unable to pay their respective debts when due and will be unable to continue in business.

"(iv) UNREASONABLY BURDENSOME PENSION COSTS CAUSED BY DECLINING WORKFORCE.—

"(I) IN GENERAL.—The requirements of this subparagraph are met if, as determined under regulations of the corporation, solely as a result of a decline in the workforce covered as participants under all single-employer plans maintained by the contributing sponsors of the terminating plan and the members of their controlled groups, the costs of providing pension coverage have become unreasonably burdensome.

"(II) REQUIREMENT MET BY DOUBLING OF COST RATIOS.—The requirements of subclause (I) shall be considered met if and only if the contribution-wage ratio for the plan year in which the termination date occurs is at least twice the contribution-wage ratio for the applicable preceding plan year, and the contribution-income ratio for the plan year in which the termination date occurs is at least twice the contribution-income ratio for the applicable preceding plan year. The corporation may provide by regulation for application of this clause with respect to the plan year of the terminating plan preceding the year in which the termination date occurs, in lieu of the plan year in which the termination date occurs, in any case in which the corporation determines that such application will enable the corporation to carry out the purposes of this title more equitably and effectively.

"(III) CONTRIBUTION-WAGE RATIO.—For purposes of this clause, the contribution-wage ratio is the ratio of the total required contributions under all single-employer plans of which the persons who are contributing sponsors of the terminating plan or who are members of their controlled groups are contributing sponsors, to the total annualized wages with respect to the active participants under such plans.

"(IV) CONTRIBUTION-INCOME RATIO.—For purposes of this clause, the contribution-income ratio is the ratio of the total required contributions under all single-employer plans of which the persons who are contributing sponsors of the terminating plan or who are members of their controlled groups are contributing sponsors, to the consolidated gross income of such persons.

"(V) APPLICABLE PRECEDING PLAN YEAR.—For purposes of this clause, the applicable preceding plan year is the later of the plan year following the initial effective date of the plan, the earliest of the five immediately preceding plan years (if the plan has completed five or more plan years), or the plan year following the effective date of the most recent plan amendment (if any) increasing benefits which was adopted and took effect before the termination date.

"(C) SUBSTANTIAL MEMBER.—For purposes of subparagraph (B), the term 'substantial member' of a controlled group means a person whose assets comprise 5 percent or more of the total assets of the controlled group as a whole. Such term includes any member of the controlled group who does not meet the requirements of the preceding sentence but did meet such requirements—

"(i) for purposes of subparagraph (B)(i), as of the beginning of the earliest applicable plan year referred to therein, or

"(ii) for purposes of subparagraph (B)(ii), as of the date of the filing of the petition referred to therein.

"(D) NOTIFICATION OF DETERMINATIONS BY THE CORPORATION.—The corporation shall notify the plan administrator as soon as practicable of its determinations made pursuant to subparagraph (B).

"(3) TERMINATION PROCEDURE.—

"(A) DETERMINATIONS BY THE CORPORATION RELATING TO PLAN SUFFICIENCY FOR GUARANTEED BENEFITS AND FOR BENEFIT ENTITLEMENTS.—If the corporation determines that the requirements for a distress termination set forth in paragraphs (1) and (2) are met, the corporation shall—

"(i) determine whether the plan is sufficient for guaranteed benefits (as of the termination date) or that the corporation is unable to make such determination n the basis of information made available to the corporation,

"(ii) determine whether the plan is sufficient for benefit entitlements (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation, and

"(iii) notify the plan administrator of the determinations made pursuant to this subparagraph as soon as practicable.

"(B) IMPLEMENTATION OF TERMINATION.—After the corporation notifies the plan administrator of its determinations under subparagraph (A), the termination of the plan shall be carried out as provided in clause (i), (ii), or (iii).

"(i) CASES OF SUFFICIENCY FOR BENEFIT ENTITLEMENTS.—In any case in which the corporation determines that the plan is sufficient for benefit entitlements, the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), and take such other actions as may be appropriate to carry out the termination of the plan.

"(ii) CASES OF SUFFICIENCY FOR GUARANTEED BENEFITS WITHOUT A FINDING OF SUFFICIENCY FOR BENEFIT ENTITLEMENTS.—In any case in which the corporation determines that the plan is sufficient for guaranteed benefits, but further determines that the plan is not sufficient for benefit entitlements (or that it is unable to determine whether the plan is sufficient for benefit entitlements on the basis of the information made available to it)—

"(I) the plan administrator shall proceed to distribute the plan's assets in the manner prescribed in section 4044,

"(II) the corporation shall appoint a section 4049 trustee as provided in section 4049(a), notify the plan administrator of the identity of the section 4049 trustee, and submit to such trustee copies of the notice of distress termination and other information provided to the corporation pursuant to subsection (a)(2) and clauses (ii), (iii), and (iv) of paragraph (2)(A), and

"(III) the plan administrator shall notify each contributing sponsor and member of such sponsor's controlled group of the identity of the section 4049 trustee and that they may be liable under section 4062 in connection with the termination.

"(iii) CASES WITHOUT ANY FINDING OF SUFFICIENCY.—In any case in which the corporation determines that the plan is not sufficient for guaranteed benefits (or that it is unable to determine whether the plan is sufficient for guaranteed benefits on the basis of the information made available to it)—

"(I) the corporation shall commence proceedings in accordance with section 4042, and

"(II) the corporation and the plan administrator shall take the respective actions required under subclauses (II) and (III) of clause (ii) relating to the section 4049 trustee, unless the corporation determines that all benefit entitlements under the plan are benefits guaranteed by the corporation under section 4022.

"(C) FINDING AFTER AUTHORIZED COMMENCEMENT OF TERMINATION THAT PLAN IS UNABLE TO PAY BENEFITS WHEN DUE.—

"(i) FINDING WITH RESPECT TO GUARANTEED BENEFITS ONLY.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B)(i) or (ii), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay when due all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall institute appropriate proceedings under section 4042.

"(ii) FINDING WITH RESPECT TO BENEFIT ENTITLEMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay when due benefit entitlements which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall take the actions set forth in subparagraph (B)(ii)(II) relating to the section 4049 trustee.

"(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—During the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), the plan administrator—

"(i) shall refrain from distributing assets or taking any other actions to carry out the proposed termination under this subsection,

"(ii) shall pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(iii) shall not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(iv) shall continue to pay when due all benefit entitlements under the plan, except that, commencing on the proposed termination date, the plan administrator shall limit the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan is later determined not to have terminated in a distress termination, any benefits which are not paid solely by reason of clause (iv) shall be due and payable immediately (together with interest).

"(4) RESTORATION OF PLAN TERMINATED ON THE BASIS OF BANKRUPTCY OR INSOLVENCY UPON CONVERSION OF LIQUIDATION PROCEEDINGS TO REORGANIZATION PROCEEDINGS.—In any case in which—

"(A) a single-employer plan has been terminated under a distress termination and the requirements of paragraph (2)(B) in connection with such termination were met solely on the basis of the filing of a petition seeking liquidation in a case under title 11, United States Code (or under a similar law of a State or a political subdivision of a State), as provided in paragraph (2)(B)(ii), and

"(B) during the one-year period following the date of the filing of the petition, such case is dismissed or converted to a case under chapter 11 of such title (or under a similar law of a State or a political subdivision of a State) in which reorganization is sought,

the distress termination shall be void and the plan shall be restored to pretermination status (effective as of the proposed termination date), unless the plan administrator obtains a determination by the corporation that the requirements of paragraph (2)(B) as provided in clause (i), (iii), or (iv) thereof were met as of such date.".

(b) CONFORMING AMENDMENTS.—Section 4041 (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 1459. TERMINATION PROCEEDINGS; DUTIES OF THE CORPORATION.

(a) MANDATORY COMMENCEMENT OF PROCEEDINGS UPON INABILITY OF SINGLE-EMPLOYER PLAN TO PAY BENEFITS THAT ARE CURRENTLY DUE.—

(1) IN GENERAL.—Section 4042(a) (29 U.S.C. 1342(a)) is amended by striking out in the second sentence "The corporation" and inserting in lieu thereof the following: "The

corporation shall as soon as practicable institute court proceedings under this section to terminate a single-employer plan whenever it determines that the plan does not have assets available to pay benefits that are currently due under the terms of the plan. The corporation".

(2) CONFORMING AMENDMENTS.—

(A) Section 4042(b)(1) (29 U.S.C. 1342(b)(1)) is amended, in the first sentence, by inserting "or is required under subsection (a) to institute court proceedings under this section," after "to a plan".

(B) Section 4042(c) (29 U.S.C. 1342(c)) is amended in the first sentence by striking out "If the corporation" and all that follows down through "it may," and inserting in lieu thereof the following: "If the corporation is required under subsection (a) of this section to commence court proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator, has determined (whether or not a trustee has been appointed under subsection (b)) that the plan should be terminated under this section, it shall,".

(b) CLARIFICATION OF POWER TO COLLECT AMOUNTS DUE THE CORPORATION.—Section 4042(d)(1)(B)(ii) (29 U.S.C. 1342(d)(1)(B)(ii)) is amended by inserting after "amounts due the plan" the following: ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan".

(c) CONFORMING AMENDMENT.—The heading for section 4042 is amended to read as follows:

"INSTITUTION OF TERMINATION PROCEEDINGS BY THE CORPORATION"

SEC. 1460. AMENDMENTS TO LIABILITY PROVISIONS; LIABILITIES RELATING TO BENEFIT ENTITLEMENTS IN EXCESS OF BENEFITS GUARANTEED BY THE CORPORATION.

(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended by striking out so much as precedes subsection (e) and inserting in lieu thereof the following:

"LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS UNDER A DISTRESS TERMINATION OR A TERMINATION BY THE CORPORATION

"SEC. 4062. (a) IN GENERAL.—In any case in which a single-employer plan is terminated in a distress termination under section 4041(c) or a termination otherwise instituted by the corporation under section 4042, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

"(1) liability to the corporation to the extent provided in subsection (b), and

"(2) liability to the section 4049 trustee to the extent provided in subsection (c).

"(b) LIABILITY TO THE CORPORATION.—

"(1) IN GENERAL.—The liability to the corporation of a person described in subsection (a) shall consist of the sum of—

"(A) the amount of the plan's funding shortage (as defined in subsection (d)(1)), and

"(B) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan,

together with interest calculated from the termination date.

"(2) PAYMENT OF LIABILITY TO THE CORPORATION.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

"(B) PAYMENTS TO CORPORATION UNDER PROFITS SCHEDULE.—Notwithstanding subparagraph (A), if any person subject to liability under this subsection in connection with a plan termination demonstrates to the satisfaction of the corporation that the liability described in paragraph (1)(B) exceeds 30 percent of the collective net worth of persons subject to liability, any person subject to such liability may satisfy the liability described in paragraph (1)(B) in excess of such 30 percent amount by means of payments under the profits schedule as provided in paragraph (3).

"(3) ANNUAL LIABILITY PAYMENTS UNDER PROFITS SCHEDULE.—

"(A) FORM OF PAYMENTS.—Each person making liability payments under the profits schedule shall be liable to the corporation for an annual payment, in cash or securities acceptable to the corporation, for each of the ten liability payment years in connection with the terminated plan (subject to earlier satisfaction of the liability under paragraph (4)(B)).

"(B) AMOUNT OF ANNUAL PAYMENT.—The amount of each annual payment for a liability payment year shall be equal to 10 percent of the sum of the individual pretax profits (if any) of all persons liable under this section in connection with the plan termination for their respective fiscal years ending during such liability payment year.

"(C) DUE DATE.—A person's liability for each annual liability payment referred to in subparagraph (A) for a liability payment year shall accrue as of the end of such year and shall be paid (together with interest accrued from the end of such year) not later than 30 days after the later of—

"(i) the end of such liability payment year, or

"(ii) the latest date on which any person liable for such payment is required to file a Federal income tax return for a fiscal year ending during such liability payment year (taking into account any applicable extensions of time to file such return).

"(4) SATISFACTION OF LIABILITY UNDER PROFITS SCHEDULE.—Notwithstanding paragraph (3)(A)—

"(A) SATISFACTION OF ANNUAL LIABILITY UPON RECEIPT BY CORPORATION OF 10-PERCENT AMOUNT.—The liability to the corporation of all persons who are subject to the profits schedule under this subsection in connection with the same plan termination shall be satisfied with respect to any liability payment year upon receipt by the corporation of one or more liability payments under paragraph (3) for such liability payment year which equal, in the aggregate, the 10-percent amount described in paragraph (3)(B).

"(B) SATISFACTION OF ENTIRE LIABILITY UNDER PROFITS SCHEDULE.—All liability to the corporation under this subsection in connection with the same plan termination with respect to which payment has commenced under the profits schedule under this subsection may be satisfied with respect to all liability payment years at any time by payment by any person to the corporation of the excess of—

"(i) the total amount of liability to the corporation under this subsection subject to payment under the profits schedule in connection with such termination (plus interest), over

"(ii) the total amount of prior liability payments previously made by all persons to the corporation under the profits schedule under this subsection in connection with such termination (plus interest).

"(C) REFUNDS OF EXCESS PAYMENTS.—The corporation shall refund to the payor (with interest) any amounts paid to the corporation as profits liability payments which are in excess of amounts necessary for satisfaction of liability under subparagraph (A) or (B).

"(5) ALTERNATIVE ARRANGEMENTS.—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

"(c) LIABILITY TO SECTION 4049 TRUSTEE.—

"(1) IN GENERAL.—A person described in subsection (a) shall be subject to liability to the section 4049 trustee under this subsection if there is an outstanding amount of benefit entitlements under the plan.

"(2) ANNUAL LIABILITY PAYMENTS.—

"(A) FORM OF PAYMENTS.—The liability of any person under this subsection shall consist of an annual payment to the section 4049 trustee, in cash or securities acceptable to the section 4049 trustee, for each of the ten liability payment years in connection with the terminated plan (subject to earlier satisfaction of the liability under paragraph (3)(B)).

"(B) AMOUNT OF ANNUAL PAYMENT.—The amount of each annual payment for a liability payment year shall be equal to 5 percent of the sum of the individual pretax profits (if any) of all persons liable under this section in connection with the plan termination for their respective fiscal years ending during such liability payment year.

"(C) DUE DATE.—A person's liability under this subsection for a liability payment year shall accrue as of the end of such year and shall be paid (with interest accrued from the end of such year) not later than 30 days after the later of—

"(i) the end of such year, or

"(ii) the latest date on which any person subject to liability under this subsection in connection with such termination is required to file a Federal income tax return for a fiscal year ending during such liability payment year (taking into account applicable extensions of time to file such return).

"(3) SATISFACTION OF LIABILITY.—Notwithstanding paragraph (2)(C)—

"(A) SATISFACTION OF ANNUAL LIABILITY UPON RECEIPT BY TERMINATION TRUSTEE OF 5-PERCENT AMOUNT.—The liability to the section 4049 trustee of all persons who are subject to liability under this subsection in connection with the same plan termination shall be satisfied with respect to any liability payment year upon receipt by the section 4049 trustee of one or more liability payments under this subsection for such liability payment year which equal, in the aggregate, the 5-percent amount described in paragraph (2)(B).

"(B) SATISFACTION OF ENTIRE LIABILITY TO SECTION 4049 TRUSTEE.—All liability to the section 4049 trustee of all persons who are subject to liability under this subsection in connection with the same plan termination may be satisfied with respect to all liability payment years at any time by payment by any person to the section 4049 trustee of an amount equal to the excess of—

"(i) the total outstanding amount of benefit entitlements of all participants and beneficiaries under the plan (plus interest), over

"(ii) the total amount of prior liability payments previously made by all persons to the section 4049 trustee under this subsection in connection with such termination (plus interest).

"(C) REFUNDS OF EXCESS PAYMENTS.—The section 4049 trustee shall refund to the payor (with interest) any amount paid to the section 4049 trustee as liability payments which is in excess of amounts necessary for satisfaction of liability under subparagraph (A) or (B).

"(d) DEFINITIONS.—For purposes of this section—

"(1) FUNDING SHORTAGE.—The term 'funding shortage', in connection with a terminated plan, means an amount (as of the termination date) equal to the sum of—

"(A) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2)) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all applications for waivers of the minimum funding standard under section 303 and for extensions of the amortization period under section 304 which are pending with respect to such plan were denied),

"(B) the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303 (if any), and

"(C) the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304 (if any).

"(2) COLLECTIVE NET WORTH OF PERSONS SUBJECT TO LIABILITY.—

"(A) IN GENERAL.—The collective net worth of persons subject to liability in connection with a plan termination consists of the sum of the individual net worths of all persons who—

"(i) have individual net worths which are greater than zero, and

"(ii) are (as of the termination date) contributing sponsors of the terminated plan or members of their controlled groups.

"(B) DETERMINATION OF NET WORTH.—For purposes of this paragraph, the net worth of a person is—

"(i) determined on whatever basis best reflects, in the determination of the corporation, the current status of the person's operations and prospects at the time chosen for determining the net worth of the person, and

"(ii) increased by the amount of any transfers of assets made by the person which are determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11, United States Code, if the person were a debtor in a case under chapter 7 of such title.

"(C) TIMING OF DETERMINATION.—For purposes of this paragraph, determinations of net worth shall be made as of a day chosen by the corporation (during the 120-day period ending with the termination date) and shall be computed without regard to any liability under this section.

"(3) PRETAX PROFITS.—The term 'pretax profits' means—

"(A) except as provided in subparagraph (B), for any fiscal year of any person, such person's consolidated net income (excluding any extraordinary charges to income and including any extraordinary credits to income) for such fiscal year, as shown on audited financial statements prepared in accordance with generally accepted accounting principles, or

"(B) for any fiscal year of an organization described in section 501(c) of the Internal Revenue Code of 1954, the excess of income over expenses (as such terms are defined for such organizations under generally accepted accounting principles),

before provision for or deduction of Federal or other income tax, any contribution to any single-employer plan of which such person is a contributing sponsor at any time during the period beginning on the termination date and ending with the end of such fiscal year, and any amounts required to be paid for such fiscal year under this section. The corporation may by regulation require such information to be filed on such forms as may be necessary to determine the existence and amount of such pretax profits.

"(4) LIABILITY PAYMENT YEARS.—The liability payment years in connection with a terminated plan consist of the ten consecutive one-year periods, the first of which is the earlier of—

"(A) the first of the consecutive one-year periods, following the last plan year preceding the termination date, in which any person liable under this section in connection with the plan termination earns a pretax profit, or

"(B) the fourth of the consecutive one-year periods following the last plan year preceding the termination date.".

(b) CLERICAL AMENDMENT.—Subsection (e) of section 4062 is amended by inserting "TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS.—" after "(e)".

SEC. 1461. DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUSTEE.

Subtitle C of title IV is amended by adding at the end thereof the following new section:

"DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUSTEE

"SEC. 4049. (a) APPOINTMENTS OF TRUSTEE; ESTABLISHMENT OF TRUST.—Whenever the corporation is required under section 4041(c)(3)(B)(ii) or (iii) to appoint a section 4049 trustee, it shall appoint either itself or another person to act as the section 4049 trustee. The trustee appointed under this section shall establish a separate trust with respect to the terminated plan. The trust established by the section 4049 trustee shall be used exclusively for—

"(1) receiving liability payments under section 4062(c) from the persons who were (as of the termination date) contributing sponsors of the terminated plan and members of their controlled groups,

"(2) making distributions as provided in this section to the persons who were (as of the termination date) participants and beneficiaries under the terminated plan, and

"(3) defraying the reasonable administrative expenses incurred by the section 4049 trustee in carrying out its responsibilities under this section.

The section 4049 trustee shall establish and maintain such trust with respect to the terminated plan for such period of time as is necessary to receive all liability payments required to be made to the trustee under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.

"(b) DISTRIBUTIONS BY TRUSTEE.—

"(1) IN GENERAL.—Not later than 30 days after the end of each liability payment year (described in section 4062(d)(4)) with respect to a terminated single-employer plan, the trustee appointed under this section with respect to such plan shall distribute from the trust maintained by the trustee pursuant to subsection (a) to each person who was (as of the termination date) a participant or beneficiary under the plan—

"(A) in any case not described in subparagraph (B), an amount equal to the outstanding amount of benefit entitlements of such person under the plan (including interest calculated from the termination date), to the extent not previously paid under this paragraph, or

"(B) in any case in which the balance in the trust at the end of such year (after taking into account liability payments received under subsection (a)(1) and administrative expenses paid under subsection (a)(3)) is less than the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan, the product derived by multiplying—

"(i) the amount described in subparagraph (A) in connection with each such person, by

"(ii) a fraction—

"(I) the numerator of which is such balance in the trust, and

"(II) the denominator of which is equal to the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan.

"(2) CARRY-OVER OF MINIMAL PAYMENT AMOUNTS.—The trustee may withhold a payment to any person under this subsection in connection with any liability payment year (other than the last liability payment year with respect to which payments under paragraph (1) are payable) if such payment does not exceed $25. In any case in which such a payment is so withheld, the payment to such person in connection with the next following liability payment year shall be increased by the amount of such withheld payment.

"(c) REGULATIONS.—The corporation may issue such regulations as it considers necessary to carry out the purposes of this section.".

SEC. 1462. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION.

Subtitle D of title IV is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION

"SEC. 4069. (a) TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.—If a principal purpose of any person in entering into any transaction is to evade liability under this subtitle in connection with the termination of a single-employer plan under sections 4041 or 4042 and the transaction becomes effective within five years before the termination date, then such person and the members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this subtitle in connection

with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

"(b) EFFECT OF CORPORATE REORGANIZATION.—For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

"(1) CHANGE OF IDENTITY, FORM, ETC.—If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

"(2) LIQUIDATION INTO PARENT CORPORATION.—If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

"(3) MERGER, CONSOLIDATION, OR DIVISION.—If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.".

SEC. 1463. ADDITIONAL ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS.

Subtitle D of title IV (as amended by section 3312) is further amended by adding at the end thereof the following new section:

"ADDITIONAL ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS

"SEC. 4070. (a) IN GENERAL.—A person who is with respect to a single-employer plan a fiduciary, employer, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and who is adversely affected by an act or practice of any party in violation of any provision of section 4041, 4042, 4049, 4062, 4063, 4064, or 4069, or an employee organization which represents such a participant or beneficiary for purposes of collective bargaining with respect to such plan, may bring an action—

"(1) to enjoin such act or practice, or

"(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

"(b) STATUS OF PLAN AS PARTY TO ACTION AND WITH RESPECT TO LEGAL PROCESS.—A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon the corporation shall constitute such service. The corporation, not later than 15 days after receipt of service under the preceding sentence, shall notify the administrator or any trustee of the plan of receipt of such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

"(c) JURISDICTION AND VENUE.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

"(d) RIGHT OF CORPORATION TO INTERVENE.—A copy of the complaint in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

"(e) RIGHT OF CORPORATION TO ATTORNEY REPRESENTATION.—In all civil actions under this section, attorneys appointed by the corporation may represent the corporation.

"(f) VENUE OF SUITS AGAINST THE CORPORATION.—Suits under this section to review a final determination or order of the corporation, to restrain the corporation from taking any action contrary to the provisions of sections 4041, 4042, 4062, 4063, 4064, and 4069, or to compel the corporation to take action required under such provisions, may be brought in the district court of the United States for the district where the plan has its principal office or in the United States District Court for the District of Columbia.

"(g) AWARDS OF COSTS AND EXPENSES.—

"(1) GENERAL RULE.—In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

"(2) SPECIAL RULE FOR STANDARD TERMINATION VIOLATIONS.—If, in any action brought under this section the plaintiff alleges a violation of any requirement of section 4041(b) (relating to the termination of a single-employer plan in a standard termination), and, in the judgment of the court, the plaintiff substantially prevails on such allegation, the court shall award to the plaintiff the costs and expenses incurred in connection with such action (including reasonable attorney's fees).

"(3) SPECIAL RULE FOR FAILURE TO MAKE LIABILITY PAYMENT.—In the case of a failure to make timely payment of any liability payment under section 4062(c), the court, in any action for enforcement under this section relating to such failure, shall award to the plaintiff the costs and the expenses incurred in connection with such action (including reasonable attorney's fees), unless the defendant demonstrates that the failure to make the liability payment was based on reasonable cause.

"(4) EXEMPTION FOR PLANS.—Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

"(h) TIME LIMITATION.—An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.".

SEC. 1464. SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) IN GENERAL.—Part 3 of subtitle B of title I is amended—

(1) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(2) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

"SEC. 306. (a) IN GENERAL.—Except as provided in subsection (c), the Secretary may require security to a single-employer plan as a condition for granting or modifying a waiver of the minimum funding standard with respect to such plan under section 303 or an extension of an amortization period with respect to such plan under section 304. The providing of such security to the plan in accordance with this section shall not be considered an extension of credit for purposes of part 4 of this subtitle. Such security may be perfected and enforced only by the Pension Benefit Guaranty Corporation or by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such a sponsor's controlled group at the direction of the Corporation.

"(b) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION AND OTHER INTERESTED PARTIES.—Except as provided in subsection (c), before granting or modifying a waiver of the minimum funding standard with respect to a single-employer plan under section 303 or an extension of the amortization period with respect to such plan under section 304 or taking any other action under this section, the Secretary shall—

"(1) provide the Pension Benefit Guaranty Corporation notice of the proposed waiver, extension, modification, or other action and a reasonable period of time to comment with respect to such waiver, extension, modification, or action and consider any comments of such Corporation relating to such waiver, extension, modification, or action which are provided to the Secretary during such period, and

"(2) consider the views of any other interested parties relating to such waiver, extension, modification, or action which are submitted in writing to such Secretary.

"(c) EXCEPTION.—The requirements of subsections (a) and (b) shall not apply in the case of any waiver, extension, modification, or other action referred to in such subsections with respect to a plan if the sum of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2)) of the plan (which, for purposes of this paragraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all applications for waivers of the minimum funding standard under section 303 and for extensions of the amortization period under section 304 which are pending with respect to such plan were denied),

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303, and

"(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304,

is less than $1,000,000.".

(b) CLERICAL AMENDMENT.—The table of sections in section 1 is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.
"Sec. 307. Effective dates.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to—

(1) waivers of the minimum funding standard granted on or after the date of the enactment of this Act with respect to a single-employer plan under section 303 of the Employee Retirement Income Security Act of 1974,

(2) extensions of an amortization period granted on or after such date with respect to a single-employer plan under section 304 of such Act, and

(3) modifications granted on or after such date of waivers of the minimum funding standard granted with respect to a single-employer plan under such section 303 on or after such date and modifications granted on or after such date of extensions of the amortization period granted with respect to a single-employer plan under such section 304 on or after such date.

SEC. 1465. CONFORMING, CLARIFYING, TECHNICAL, AND MISCELLANEOUS AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO PLAN TERMINATIONS.—

(1) CREDITS TO PENSION BENEFIT GUARANTY FUNDS.—Section 4005(b)(1)(C) (29 U.S.C. 1305(b)(1)(C)) is amended by inserting "terminated under section 4041(c) or" after "a plan".

(2) APPLICABILITY OF ASSET ALLOCATION RULES.—Section 4044(c) (29 U.S.C. 1344(c)) is amended—

(A) in the first sentence, by striking out "Any" and inserting in lieu thereof "In the case of a distress termination under section 4041(c) or a termination by the corporation under section 4042, any", and by striking out "the period beginning" and all that follows down through "is to be allocated" and inserting in lieu thereof the following: "the period beginning on the date a trustee is appointed under section 4042(b) and ending on the termination date is to be allocated"; and

(B) in the second sentence, by inserting "in such a termination under section 4041(c) or 4042" after "terminated".

(3) TERMINATION DATE.—Section 4048(a) (29 U.S.C. 1348(a)) is amended—

(A) by striking out "date of termination" and inserting in lieu thereof "termination date";

(B) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(C) in paragraph (2) (as redesignated), by inserting "in a distress termination" after "terminated" and by striking out "section 4041" and inserting in lieu thereof "section 4041(c)";

(D) by inserting before paragraph (2) (as redesignated) the following new paragraph:

"(1) in the case of a plan terminated in a standard termination in accordance with the provisions of section 4041(b), the date specified in the notice provided under section 4041(a)(2),";

and

(E) in paragraph (4) (as redesignated), by striking out "in accordance with the provisions of either section" and inserting in lieu thereof "under section 4041(c) or 4042".

(4) CONFORMING AMENDMENTS TO SPECIAL LIABILITY RULES RELATING TO CERTAIN SINGLE-EMPLOYER PLANS WITH MULTIPLE CONTROLLED GROUPS.—

(A) LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.—

(i) Section 4063(a) (29 U.S.C. 1363(a)) is amended—

(I) by striking out "plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan which has two or more contributing sponsors at least two of whom are not under common control";

(II) in paragraph (1), by striking out "withdrawal of a substantial employer" and inserting in lieu thereof "withdrawal during a plan year of a substantial employer for such plan year";

(III) in paragraph (2), by striking out "of such employer" and all that follows and inserting in lieu thereof "of all persons with respect to the withdrawal of the substantial employer.";

(IV) by striking out "whether such employer is liable for any amount under this subtitle with respect to the withdrawal" and inserting in lieu thereof "whether there is liability resulting from the withdrawal of the substantial employer"; and

(V) by striking out "notify such employer" and inserting in lieu thereof "notify the liable persons".

(ii) Section 4063(b) (29 U.S.C. 1363(b)) is amended—

(I) by striking out "an employer" and all that follows down through "shall be liable" and inserting in lieu thereof "any one or more contributing sponsors who withdraw, during a plan year for which they constitute a substantial employer, from a single-employer plan, to which section 4021 applies and which has two or more contributing sponsors at least two of whom are not under common control, shall, upon notification of such contributing sponsors by the corporation as provided by subsection (a), be liable, together with the members of their controlled groups,";

(II) by striking out "such employer's";

(III) by striking out "the employer's withdrawal" and inserting in lieu thereof "the withdrawal referred to in subsection (a)(1)";

(IV) in paragraph (1), by striking out "such employer" and inserting in lieu thereof "such contributing sponsors";

(V) in paragraph (2), by striking out "all employers" and inserting in lieu thereof "all contributing sponsors"; and

(VI) by striking out "the liability of each such employer" and inserting in lieu thereof "such liability".

(iii) Section 4063(c) (29 U.S.C. 1363(c)) is amended—

(I) in paragraph (1), by striking out "In lieu of payment of his liability under this section the employer" and inserting in lieu thereof "In lieu of payment of a contributing sponsor's liability under this section the contributing sponsor";

(II) in paragraph (2), by inserting "under section 4041(c) or 4042" after "terminated", by striking out "of such employer", and by striking out "to the employer (or his bond cancelled)" and inserting in lieu thereof "(or the bond cancelled)"; and

(III) in paragraph (3), by inserting "under section 4041(c) or 4042" after "terminates".

(iv) Section 4063(d) (29 U.S.C. 1363(d)) is amended—

(I) by striking out "Upon a showing by the plan administrator of a plan (other than a multiemployer plan) that the withdrawal from the plan by any employer or employers has resulted" and inserted in lieu thereof "Upon a showing by the plan administrator of the plan that the withdrawal from the plan by one or more contributing sponsors has resulted";

(II) by striking out "by employers"; and

(III) in paragraph (1), by striking out "their employer's" and inserting in lieu thereof "the".

(v) Section 4063(e) (29 U.S.C. 1363(e)) is amended—

(I) by striking out "to any employer or plan administrator"; and

(II) by striking out "all other employers" and inserting in lieu thereof "contributing sponsors".

(vi) The heading for section 4063 is amended by adding at the end thereof the following "FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.".

(B) ALLOCATION OF LIABILITY UPON TERMINATION OF CERTAIN SINGLE-EMPLOYER PLANS.—

(i) Section 4064(a) (29 U.S.C. 1364(a)) is amended—

(I) by striking out "all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control"; and

(II) by inserting "under section 4041(c) or 4042" after "terminated".

(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended—

(I) by striking out "liability of each such employer" and inserting in lieu thereof "liability with respect to each contributing sponsor and each member of its controlled group";

(II) by striking out "under section 4062(b)(1)";

(III) by striking out "each employer" the first place it appears and inserting in lieu thereof "each contributing sponsor and member of its controlled group";

(IV) in paragraph (1), by striking out "each employer" and inserting in lieu thereof "members of such controlled group";

(V) in paragraph (2), by striking out "such employers" and inserting in lieu thereof "contributing sponsors";

(VI) by striking out "5 years," in paragraph (2) and all that follows down through "employer." and inserting in lieu thereof "5 years."; and

(VII) in the last sentence, by striking out "of each such employer" and inserting in lieu thereof "of each such contributing sponsor and member of its controlled group".

(iii) The heading for section 4064 is amended to read as follows:

"LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS".

(C) ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.—Section 4066 (29 U.S.C. 1366) is amended—

(i) by striking out "each plan under which contributions are made by more than one employer (other than a multiemployer plan)" and inserting in lieu thereof "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control";

(ii) by striking out "any employer making contributions under that plan" and inserting in lieu thereof "any contributing sponsor of the plan"; and

(iii) by striking out "that he is a substantial employer" and inserting in lieu thereof "that such contributing sponsor comprises with others a substantial employer".

(5) ADDITIONAL AMENDMENTS RELATING TO RECOVERY OF AMOUNTS OF LIABILITY.—

(A) Section 4067 (29 U.S.C. 1367) is amended—

(i) by striking out "employers" and inserting in lieu thereof "contributing sponsors and members of their controlled groups"; and

(ii) by inserting "of amounts of liability to the corporation accruing as of the termination date" after "deferred payment".

(B)(i) Section 4068 (29 U.S.C. 1368) is amended—

(I) in subsection (a), by striking out "employer or employers" each place it appears and inserting in lieu thereof "person", and by striking out "neglect or refuse" and inserting in lieu thereof "neglects or refuses";

(II) in subsection (d)(1), by striking out "employer" and inserting in lieu thereof "liable person";

(III) in subsection (d)(2), by striking out "employer" each place it appears and inserting in lieu thereof "liable person"; and

(IV) in subsection (e), by striking out "employer or employers" and inserting in lieu thereof "liable person".

(ii) Section 4068 is further amended by striking out the second sentence in subsection (c)(1) (29 U.S.C. 1368(c)(1)) and inserting in lieu thereof the following:

"Such section 6323 shall be applied for purposes of this section by disregarding subsection (g)(4) and by substituting—

"(A) 'lien imposed by section 4068 of the Employee Retirement Income Security Act of 1974' for 'lien imposed by section 6321' each place it appears in subsections (a), (b), (c)(1), (c)(4)(B), (d), (e), and (h)(5);

"(B) 'the corporation' for 'the Secretary' in subsections (a) and (b)(9)(C);

"(C) 'the payment of the amount on which the lien is based' for 'the collection of any tax under this title' in subsection (b)(3);

"(D) 'a person whose property is subject to the lien' for 'the taxpayer' in subsections (b)(8), (c)(2)(A)(i) (the first place it appears), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B), and (c)(4)(C) (in the matter preceding clause (i));

"(E) 'such person' for 'the taxpayer' in subsections (c)(2)(A)(i) (the second place it appears) and (c)(4)(C)(ii);

"(F) 'payment of the loan value of the amount on which the lien is based is made to the corporation' for 'satisfaction of a levy pursuant to section 6332(b)' in subsection (b)(9)(C);

"(G) 'section 4068 lien' for 'tax lien' each place it appears in subsections (c)(1), (c)(2)(A), (c)(2)(B), (c)(3)(B)(iii), (c)(4)(B), (d), and (h)(5); and

"(H) 'the date on which the lien is first filed' for 'the date of the assessment of the tax' in subsection (g)(3)(A).".

(b) CLARIFICATION OF DESCRIPTION OF CERTAIN INFORMATION REQUIRED TO BE FILED IN ANNUAL REPORT.—

(1) IN GENERAL.—Section 103(d)(6) (29 U.S.C. 1023(d)(6)) is amended to read as follows:

"(6) Information required in regulations of the Pension Benefit Guaranty Corporation with respect to:

"(A) the current value of the assets of the plan,

"(B) the present value of all nonforfeitable benefits for participants and beneficiaries receiving payments under the plan,

"(C) the present value of all nonforfeitable benefits for all other participants and beneficiaries,

"(D) the present value of all accrued benefits which are not nonforfeitable (including a separate accounting of such benefits which are benefit entitlements, as defined in section 4001(a)(16)), and

"(E) the actuarial assumptions and techniques used in determining the values described in subparagraphs (A) through (D).".

(2) CONFORMING AMENDMENT.—Section 104(a)(2)(A) (29 U.S.C. 1024(a)(2)(A)) is amended by striking out the second sentence.

(3) TRANSITION RULES.—Any regulations, modifications, or waivers which have been issued by the Secretary of Labor with respect to section 103(d)(6) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the date of the enactment of this Act) shall remain in full force and effect until modified by any regulations with respect to such section 103(d)(6) prescribed by the Pension Benefit Guaranty Corporation.

(c) ADDITIONAL AMENDMENTS.—

(1) DEFINITIONS FOR TITLE I.—Section 3 (29 U.S.C. 1002) is amended—

(A) in paragraph (37)(A), by inserting "pension" before "plan"; and

(B) by adding after paragraph (40) the following new paragraph:

"(41) The term 'single-employer plan' means any pension plan which is not a multiemployer plan.".

(2) NOTICE OF REQUEST FOR WAIVERS OF MINIMUM FUNDING STANDARDS AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 303 (29 U.S.C. 1083) is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Before granting a waiver under this section, the Secretary shall require that the applicant provide evidence satisfactory to the Secretary that the applicant has notified each affected party (within the meaning of section 4001(a)(21)) that the waiver has been requested.

"(2) After granting a waiver under this section, the Secretary may (subject to section 306) modify the terms and conditions under which the waiver was granted if the Secretary determines that this is appropriate taking into account all the facts and circumstances.

"(3) The Secretary shall consider any relevant information submitted by a recipient of the notification described in paragraph (1) relating to the propriety of granting the waiver or of subsequently modifying the terms and conditions thereof.".

(3) NOTICE OF REQUEST FOR EXTENSIONS OF AMORTIZATION PERIOD AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 304 (29 U.S.C. 1084) is amended by adding at the end thereof the following new subsection:

"(c)(1) Before granting an extension under this section, the Secretary shall require that the applicant provide evidence satisfactory to the Secretary that the applicant has notified each affected party (within the meaning of section 4001(a)(21)) that the extension has been requested.

"(2) After granting an extension under this section, the Secretary may (subject to section 306) modify the terms and conditions under which the extension was granted if the Secretary determines that this is appropriate taking into account all the facts and circumstances.

"(3) The Secretary shall consider any relevant information submitted by a recipient of the notification described in paragraph (1) relating to the propriety of granting the extension or of subsequently modifying the terms and conditions thereof.".

(4) TECHNICAL CORRECTION.—Section 4003(f) (29 U.S.C. 1303(f)) is amended, in the first sentence, by striking out "employee" and inserting in lieu thereof "employer".

(5) REPEAL OF EXPIRED AUTHORITY.—Section 4004 (29 U.S.C. 1304) is repealed.

(6) VOTING BY CORPORATION OF STOCK PAID AS LIABILITY.—Section 4005 (29 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(g) Any stock in a person liable to the corporation under this title which is paid to the corporation by such person or a member of such person's controlled group in satisfaction of such person's liability under this title may be voted only by the custodial trustees or outside money managers of the corporation.".

(7) EFFECTIVE YEARS.—Section 4022(b)(7) (29 U.S.C. 1322(b)(7)) is amended by striking out "following" and inserting in lieu thereof "beginning with".

(8) TREATMENT OF PRE-RETIREMENT SURVIVOR BENEFITS.—Section 4022 (29 U.S.C. 1322) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a), a pre-retirement survivor benefit with respect to a participant under a terminated single-employer plan shall not be treated as forfeitable solely because the participant has not died as of the termination date.".

(9) CONFORMING AMENDMENT.—Section 4042(d)(3) (29 U.S.C. 1342(d)(3)) is amended by striking out "same duties as a trustee appointed under section 47 of the Bankruptcy Act" and inserting in lieu thereof "same duties as those of a trustee under section 704 of title 11, United States Code".

(10) CLERICAL CORRECTIONS.—Section 4044(a)(4) (29 U.S.C. 1344(a)(4)(A)) is amended—

(A) in subparagraph (A), by striking out "section 4022(b)(5)" and inserting in lieu thereof "section 4022B(a)"; and

(B) in subparagraph (B), by striking out "section 4022(b)(6)" and inserting in lieu thereof "section 4022(b)(5)".

(11) RELEASE OF LIEN.—Section 4068(e) (29 U.S.C. 1368(e)) is amended by striking out ", with the consent of the board of directors,".

(d) AMENDMENTS TO THE TABLE OF CONTENTS OF ERISA.—The table of contents in section 1 is amended—

(1) by striking out the item relating to section 4004;

(2) by striking out the item relating to section 4042 and inserting in lieu thereof the following new item:

"Sec. 4042. Institution of termination proceedings by the corporation.";

(3) by inserting after the item relating to section 4048 the following new item:

"Sec. 4049. Distribution to participants and beneficiaries of liability payments to section 4049 trustee."; and

(4) by striking out the items relating to subtitle D of title IV and inserting in lieu thereof the following new items:

"Subtitle D—Obligations of the Corporation; Liability of Employers and Other Persons

"Sec. 4061. Amounts payable by the corporation.

"Sec. 4062. Liability for termination of single-employer plans under a distress termination or a termination by the corporation.

"Sec. 4063. Liability of substantial employer for withdrawal from single-employer plans under multiple controlled groups.

"Sec. 4064. Liability on termination of single-employer plans under multiple controlled groups.
"Sec. 4065. Annual report of plan administrator.
"Sec. 4066. Annual notification of substantial employers.
"Sec. 4067. Recovery of employer liability for plan termination.
"Sec. 4068. Lien for liability of employer.
"Sec. 4069. Treatment of transactions to evade liability; effect of corporate reorganization.
"Sec. 4070. Additional enforcement authority relating to terminations of single-employer plans.".

SEC. 1466. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the provisions of this subtitle shall take effect on the date of enactment of this Act.

(b) TRANSITIONAL RULE.—If a single-employer plan which has not terminated under title IV of the Employee Retirement Income Security Act of 1974 fails to meet the requirements of the amendments made by this subtitle but is administered in a manner which meets such requirements, such plan need not be amended to meet such requirements until the earlier of—

(1) the date on which such plan is first amended after the date of the enactment of this Act, or

(2) the beginning of the first plan year beginning after December 31, 1989.

Subtitle D—Continuation Coverage Under Group Health Plans

SEC. 1471. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR FAMILY MEMBERS OF DECEASED, DIVORCED, OR MEDICARE-ELIGIBLE WORKERS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new part:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"SEC. 601. REQUIRED OPTION OF CONTINUATION COVERAGE WHEN QUALIFIED BENEFICIARY WOULD LOSE COVERAGE.

"The plan sponsor of each group health plan shall provide under such plan, in accordance with this part, to each qualified beneficiary who would lose coverage under the plan because of a qualifying event the option of electing continuation coverage under the plan.

"SEC. 602. ELECTION.

"(a) ELECTION PERIOD.—The option of electing continuation coverage must be offered during a period that—

"(1) begins not later than the termination date (as defined in section 603(2))

"(2) is of at least 60 days duration, and

"(3) ends not earlier than 60 days after the date the qualified beneficiary is notified under section 606(4) or the termination date, whichever date is later.

"(b) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Unless otherwise specified in the election, any such election by a qualified beneficiary described in section 607(3)(A) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary whose coverage would, but for continuation coverage provided in accordance with this paragraph, be affected by the qualifying event.

"SEC. 603. QUALIFYING EVENT AND TERMINATION DATE.

"For purposes of this part—

"(1) QUALIFYING EVENT.—A 'qualifying event' under a group health plan, with respect to a covered employee, is any of the following events if coverage of a qualified beneficiary under the plan would, but for continuation coverage provided in compliance with this paragraph, be terminated by the occurrence of the event:

"(A) The death of the covered employee.

"(B) The divorce or separation of the covered employee from the employee's spouse.

"(C) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(2) TERMINATION DATE.—The term 'termination date' means, with respect to a qualifying event, the date on which coverage of a qualified beneficiary under a group health plan would be terminated under the plan but for continuation coverage provided in compliance with this part.

"SEC. 604. TERMS OF CONTINUATION COVERAGE.

"Any continuation coverage elected by or on behalf of a qualified beneficiary shall meet the following requirements:

"(1) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(2) CONTINUED BENEFITS.—The coverage shall consist of coverage which is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(3) PERIOD OF CONTINUED COVERAGE.—The coverage shall be for a period commencing upon the termination date and ending not earlier than the earliest of the following:

"(A) MAXIMUM OF FIVE YEARS.—Five years after the termination date.

"(B) END OF PLAN.—The date on which the plan sponsor ceases to provide any group health plan to employees.

"(C) FAILURE TO PAY PREMIUMS.—The date on which there is a failure in making timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes or could become, after the date of the election, a covered employee under any other group health plan or becomes entitled to benefits under title XVIII of the Social Security Act.

"(E) REMARRIAGE OF SPOUSE.—In the case of a qualified beneficiary described in section 607(3)(A), the date on which the beneficiary remarries and becomes (or could become) covered under a group health plan as the spouse of a covered employee.

"(F) CHILD TURNING MAJORITY.—In the case of an individual who is a qualified beneficiary by reason of having been a covered dependent child of a covered employee, the date on which the individual ceases to be a covered dependent child of the covered employee.

"(4) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continued coverage expires under paragraph (3)(A), the plan must provide to the beneficiary, during the 180-day period ending on the date of expiration of the period of continued coverage, the option of enrollment under a conversion health plan otherwise generally available to beneficiaries under the plan.

"SEC. 605. PREMIUMS FOR CONTINUATION COVERAGE.

"(a) AMOUNT.—The total premium charged under a group health plan with respect to any qualified beneficiary for continuation coverage under the plan shall not exceed the sum of employer premiums and employee premiums generally charged with respect to coverage under the plan of similarly situated beneficiaries with respect to whom a qualifying event has not occurred. The total of all premiums charged under the plan in any plan year may be based upon reasonably anticipated community costs for such plan year of the entire pool of covered employees and other beneficiaries under the plan, including qualified beneficiaries receiving continuation coverage under the plan under this part.

"(b) PAYMENTS.—The plan may provide for payment of the total premium by the qualified beneficiary receiving such coverage, or for payment of all or part of such premium by the plan sponsor, employer, or other party and payment of the remainder of such premium by such beneficiary. The plan shall provide for payment of any premium by a qualified beneficiary in monthly installments if so elected by such beneficiary. If an election is made during an election period but after the termination date, the plan shall permit payment of any premium for continuation coverage during the preceding period to be made within 45 days of the date of the election.

"(c) PREMIUM CHARGED DEFINED.—As used in this section, the term 'premium charged' means any amount payable with respect to the provision of coverage under a group health plan.

"SEC. 606. NOTICE REQUIREMENTS.

"In accordance with regulations of the Secretary—

"(1) the group health plan must provide, at the time of commencement of coverage under the plan, for written notice to each covered employee and spouse of the employee (if any) of the rights provided under this part;

"(2) the employer of an employee under the plan must notify the group health plan administrator if the employer knows or has reason to know that the covered employee has died;

"(3) each covered employee is responsible for notifying the group health plan administrator of the occurrence of any qualifying event (other than that described in section 603(1)(A)) with respect to such employee; and

"(4) the group health plan administrator must notify each qualified beneficiary, within a period of 14 days after the date the administrator is notified concerning the occurrence of a qualifying event affecting such beneficiary, of—

"(A) the termination date with respect to such beneficiary, and

"(B) such beneficiary's right to elect continuation coverage under this part and the election period established under section 602(a) during which such beneficiary can exercise that right.

For purposes of paragraph (4), any notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 607. DEFINITIONS.

"For purposes of this part—

"(1) GROUP HEALTH PLAN.—

"(A) IN GENERAL.—The term 'group health plan' means any employee welfare benefit plan of, or contributed to by, a plan sponsor to provide medical care to employees, former employees, or the families of such employees or former employees, directly or

through insurance, reimbursement, or otherwise.

"(B) MEDICAL CARE.—For purposes of this paragraph, the term 'medical care' means amounts paid—

"(i) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,

"(ii) for transportation primarily for and essential to medical care referred to in clause (i), or

"(iii) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in clauses (i) and (ii).

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the date before the date of a qualifying event for that employee—

"(A) is a beneficiary under the plan as the spouse of the employee and has been married to the employee for at least the immediately preceding 30-day period, or

"(B) is a beneficiary under the plan as a covered dependent child of the employee.

"(4) COVERED DEPENDENT CHILD.—The term 'covered dependent child' means, with respect to a covered employee, an individual who meets the generally applicable requirements of the plan for treatment as a dependent child covered under the plan by reason of the coverage of the employee under the plan.

"(5) GROUP HEALTH PLAN ADMINISTRATOR.—The term 'group health plan administrator' means, in connection with a group health plan, the plan administrator.

"SEC. 608. REGULATIONS.

"The Secretary may prescribe regulations to carry out the provisions of this part.".

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by inserting after "such request" the following: ", or who fails to meet the requirements of paragraph (1) or (4) of section 606 with respect to a participant or beneficiary,".

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"Sec. 601. Required option of continuation coverage when qualified beneficiary would lose coverage.
"Sec. 602. Election.
"Sec. 603. Qualifying event and termination date.
"Sec. 604. Terms of continuation coverage.
"Sec. 605. Premiums for continuation coverage.
"Sec. 606. Notice requirements.
"Sec. 607. Definitions.
"Sec. 608. Regulations.".

SEC. 1472. EFFECTIVE DATES.

(a) GENERAL RULE.—The amendments made by this subtitle shall apply to plan years beginning on or after January 1, 1986.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this subtitle shall not apply to plan years beginning before the earlier of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 1987.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 1473. NOTIFICATION TO COVERED EMPLOYEES.

At the time that the amendments made by this subtitle apply to a group health plan (within the meaning of section 607(1)) of the Employee Retirement Income Security Act of 1974, the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle (B) of title I of such Act. The notice furnished under this section is in lieu of notice that may otherwise be required under section 606(1) of such Act.

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Synthetic Fuels

SEC. 1501. SHORT TITLE.

This subtitle may be cited as the "Synthetic Fuels Fiscal Responsibility Act".

SEC. 1502. FINDINGS AND PURPOSES.

Section 100 of the Energy Security Act (42 U.S.C. 8701) is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 100. (a) The Congress finds and declares that—

"(1) the reduction of unnecessary Federal spending is essential to reducing the budget deficit, and important to the health of the national economy and the well-being of our citizens;

"(2) the United States Synthetic Fuels Corporation has failed in its mission, has spent funds on unreasonable and excessive personnel and administrative costs, and is not the appropriate institution to carry out a scaled down synthetic fuels assistance program;

"(3) such a program can best be carried out by the Department of Energy under standard Government procedures regarding conflicts-of-interest, salaries and benefits, and public access to information;

"(4) the achievement of energy security for the United States is essential to the long-term health of the national economy, the well-being of our citizens, and the maintenance of national security;

"(5) the petroleum industry and petroleum consumers have been subject to alternating cycles of shortage and oversupply, which has disrupted and inhibited the orderly development of alternatives to continually depleting petroleum supplies; and

"(6) the vulnerability of the United States to oil supply interruptions or world energy price increases can be reduced by a limited program to develop the capability to produce synthetic fuels from the vast available domestic resources.

"(b)(1) The purposes of this Act are to reduce the budget deficit, to improve the Nation's balance of payments, to reduce the threat of economic disruption from oil supply interruptions or price increases, to improve the Nation's environmental quality, and to increase the Nation's security by reducing its future dependence on imported oil.

"(2) Congress declares that these purposes can be served by—

"(A) abolishing the United States Synthetic Fuels Corporation, transferring to the Department of Energy its functions and authorizing funds for a smaller synthetic fuels assistance program to be administered by the Secretary of Energy; and

"(B) providing limited financial support for capital and operating expenses of commercial scale synthetic fuel plants at the smallest scale which will encourage the replication of commercial scale technologies.".

SEC. 1503. ABOLITION OF THE UNITED STATES SYNTHETIC FUELS CORPORATION.

Subtitle B of part B of title I of the Energy Security Act is amended to read as follows:

"SUBTITLE B—ABOLITION OF CORPORATION

"CESSATION OF COMMITMENTS

"SEC. 115. The Corporation shall not enter into any legally binding commitment, including any increase or addition to an existing commitment, under this part after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act.

"TEMPORARY OPERATIONS

"SEC. 116. (a) The Board of Directors of the Corporation is disestablished and the Directors shall be discharged on the date of enactment of the Synthetic Fuels Fiscal Responsibility Act.

"(b) The Secretary, or the designated representative of the Secretary, shall be the Chief Operating Officer of the Corporation.

"(c) The Secretary shall dispose of all assets of the Corporation not necessary for the operation of the synthetic fuels assistance program described in sections 125 and 126, shall transfer to the Department of Energy all other assets of the Corporation, and shall take such other steps as are necessary to terminate the affairs of the Corporation.

"(d) No officer or employee of the Corporation shall receive a salary for the period after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code.

"(e)(1) The Director of the Office of Personnel Management shall, within 90 days after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act, determine—

"(A) the amount of compensation rights which have vested under contract with respect to each Director, officer, or employee of the Corporation; and

"(B) the extent of compensation claims made by each such Director, officer, or employee that are not vested under contract and are unreasonable or excessive.

"(2) No payments of any amounts described in paragraph (1)(B) shall be made to any Director, officer, or employee of the Corporation by the Secretary, the Corporation, or the United States.

"ABOLITION

"SEC. 117. The Corporation shall be abolished and all officers and employees of the Corporation discharged 90 days after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act.".

SEC. 1504. SYNTHETIC FUELS ASSISTANCE PROGRAM.

Subtitle C of part B of title I of the Energy Security Act is amended to read as follows:

"SUBTITLE C—SYNTHETIC FUELS ASSISTANCE PROGRAM

"SECRETARY'S RESPONSIBILITIES

"SEC. 125. (a)(1) The Secretary shall assume the responsibility for administering under this part the synthetic fuels program formerly administered by the Corporation, and shall assume all legally binding obligations and contractual rights and responsibilities of the Corporation in connection therewith. Liability to the United States under this paragraph is limited to the extent of budget authority for such purposes provided by law before the date of enactment of the Synthetic Fuels Fiscal Responsibility Act.

"(2) This subsection shall take effect on the date of enactment of the Synthetic Fuels Fiscal Responsibility Act or on October 1, 1985, whichever occurs later.

"(b)(1) The Secretary shall administer the modified synthetic fuels assistance program described in section 126(a), to the extent provided in advance in appropriation Acts.

"(2)(A) For purposes of determining the Secretary's compliance with the limitation contained in paragraph (1)—

"(i) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

"(ii) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

"(iii) price guarantees and purchase agreements shall be valued by the Secretary as of the date of each such contract, based upon the Secretary's estimate of the maximum potential liability of the United States;

"(iv) joint ventures and Department construction projects shall be valued at the current estimated cost to the United States, as determined annually by the Secretary; and

"(v) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Department construction project shall be counted.

"(B) Determinations made under subparagraph (A) shall be made in accordance with generally accepted accounting principles, consistently applied.

"(C) If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the United States to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(D) Any commitment by the Secretary to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of paragraph (1).

"MODIFIED ASSISTANCE PROGRAM

"SEC. 126. (a) The Secretary shall undertake a program to encourage the synthetic fuels industry in the United States by providing financial assistance for commercial scale projects in the United States on the smallest, least expensive, scale practicable that would encourage the replication of commercial scale synthetic fuels technologies, including those which may face economic or other risks in order to compete in the marketplace.

"(b)(1) To the extent possible in carrying out the program described in subsection (a), the Secretary shall avoid duplication of effort by adapting work done by the Corporation and by applicants for financial assistance on solicitations and projects already in negotiation.

"(2) In carrying out the program described in subsection (a), the Secretary shall first give consideration to projects, as originally proposed or as modified within 90 days after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act, with respect to which the Corporation issued a letter of intent before February 5, 1985.

"ASSISTANCE PLAN

"SEC. 127. (a) The Secretary shall, within 90 days after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act, submit to the Congress an assistance plan, consistent with section 126(a) and the purposes of this part, setting forth the anticipated methods and schedules for the attainment of the synthetic fuels assistance program of the United States described by sections 125 and 126. Such plan shall address—

"(1) which synthetic fuel resources and technologies deserve Federal support;

"(2) the economic and technical feasibility or potential of each technology;

"(3) the anticipated improvements in later commercial scale projects to be derived from projects under this part;

"(4) the anticipated environmental effects associated with each technology and resource, including water requirements; and

"(5) the most advantageous combination of technologies and resources to be supported.

"(b) To the extent possible in preparing the assistance plan required by subsection (a), the Secretary shall avoid duplication of effort by adapting information and materials compiled by the Corporation.

"ASSISTANCE STRATEGY

"SEC. 128. (a) In order to assure achievement of the purposes of this title and the assistance plan developed under section 127, the Secretary—

"(1) shall, pursuant to subtitle D, solicit proposals for synthetic fuel projects;

"(2) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Secretary;

"(3) shall, after soliciting proposals pursuant to paragraph (1) and reviewing such proposals, if in the judgment of the Secretary, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

"(4) may, only after fulfilling the requirements of paragraphs (1), (2), and (3), and subsection (c), if in the judgment of the Secretary, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in subsection (b) and the assistance plan developed under section 127, undertake a construction project under subtitle E as necessary to achieve the purposes of this title.

"(b)(1) The Secretary, in discharging responsibilities under subsection (a), shall employ financial assistance pursuant to subtitle D or construction projects under subtitle E in such manner as will, in the judgment of the Secretary, (A) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock, and (B) offer the potential for achieving the assistance plan developed under section 127.

"(2) For the purposes of this subsection, the term 'domestic resource' shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources.

"(c) Prior to undertaking a construction project under subtitle E, the Secretary shall publish in the Federal Register the intention to undertake a project and the objectives of such a project, and shall solicit proposals to meet such objectives through the use of other financial assistance mechanisms established under subtitle D. If the Secretary does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Secretary may undertake such a construction project under subtitle E.

"SOLICITATION OF PROPOSALS

"SEC. 129. (a) The Secretary is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques) for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D. The Secretary shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings.

"(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

"(c) Any concern may request the Secretary to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Secretary, if the action is in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

"(d) Each solicitation for proposals pursuant to the authority of this section shall set forth general evaluation criteria, as determined by the Secretary, taking into account—

"(1) the achievement of the assistance plan developed under section 127; and

"(2) the requirements of the assistance strategy set forth under section 128.

"(e) The Secretary shall consult with the Governor of any State in which a proposed construction project under subtitle E or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed, and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Secretary on all aspects of such project development, licensing, and operation.

"EMPLOYEES

"SEC. 130. The Secretary may hire former employees of the Corporation who have special expertise or experience to assist the Secretary in carrying out the synthetic fuels

assistance program under this part, subject to the laws of the United States with respect to Federal employment.".

SEC. 1505. ENVIRONMENTAL PLAN.

Section 131(e) of the Energy Security Act (42 U.S.C. 8731(e)) is amended to read as follows:

"(e) Any proposed legally binding obligation for financial assistance not entered into before the date of enactment of the Synthetic Fuels Fiscal Responsibility Act shall include a plan, acceptable to the Secretary and the Administrator of the Environmental Protection Agency, for the monitoring of environmental and health related effects of the construction and operation of the synthetic fuel project. Such plan shall be developed by the applicant for financial assistance in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and appropriate State, regional, and local agencies, and shall—

"(1) provide for the collection of data of environmental significance;

"(2) identify all known or potentially significant pollutants and emissions associated with the project;

"(3) provide for the testing of mitigation methods and control, monitoring, and assessment technologies;

"(4) provide for the accumulation of a data base for assessing solid waste disposal problems;

"(5) ensure the operation of such project in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);

"(6) provide information with respect to the anticipated effect of such project on regional and local water supplies;

"(7) provide information with respect to the anticipated health effects on workers and other persons connected to the project, including any carcinogenic effects;

"(8) provide information with respect to the anticipated social and economic impacts on local communities which will be most directly affected by the project; and

"(9) provide for the participation in appropriate activities under such plan by representatives of the Environmental Protection Agency.".

SEC. 1506. FUNDING LIMITATION.

Section 131(o) of the Energy Security Act (42 U.S.C. 8731(o)) is amended by adding at the end the following new sentence: "No financial assistance may be extended under this part after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act from funds authorized under section 109(a) of such Act (1) to the extent such assistance would cause the total amount of assistance under this part for any one synthetic fuel project or module to exceed 60 percent of the capital and operating costs of such project or module, or (2) for any synthetic fuel project which received, before November 1, 1984, more than $1,000,000,000 pursuant to a Federal Financing Bank Agreement guaranteed by the Department of Energy.".

SEC. 1507. PRICE GUARANTEE LIMITATION.

Section 134 of the Energy Security Act (42 U.S.C. 8734) is amended—

(1) by inserting "(a)" after "SEC. 134."; and

(2) by adding at the end a new subsection as follows:

"(b) No price guarantee shall be made under this section after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act from funds authorized under section 109(a) of such Act at a level in excess of 125 percent of the projected market price of comparable energy over the term of the guarantee.".

SEC. 1508. CONGRESSIONAL REVIEW.

Section 138 of the Energy Security Act (42 U.S.C. 8738) is amended to read as follows:

"CONGRESSIONAL REVIEW PROCEDURE

"SEC. 138. (a) No legally binding obligation, or accumulation of such obligations for one project, for an amount in excess of $20,000,000 may be entered into by the Secretary under this part after the date of enactment of the Synthetic Fuels Fiscal Responsibility Act unless a proposal for such obligation, or accumulation of such obligations for one project, is submitted to the Congress under this section.

"(b) For purposes of this section, the term 'synthetic fuel action' means any matter required under subsection (a) to be submitted to the Congress.

"(c) Along with any synthetic fuel action submitted to the Congress under this section the Secretary shall attach—

"(1) a detailed analysis of the aid proposal, including the amount and type of assistance;

"(2) an assessment by the Secretary of the potential of the resource and technology being assisted;

"(3) a cost-benefit analysis, including projections of net monetary gains and losses for the United States;

"(4) a copy of the environmental plan required under section 131(e); and

"(5) an explanation of how the proposed project and its technology relates to the assistance plan submitted by the Secretary under section 127, including a justification of resource applicability and reproducibility.

"(d) The Secretary shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(e) No synthetic fuel action shall take effect if a joint resolution disapproving such synthetic fuel action is enacted within the first period of 90 calendar days of continuous session of Congress beginning on the date after the date such synthetic fuel action is received by the Congress.".

SEC. 1509. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Energy for carrying out part B of title I of the Energy Security Act, as amended by this subtitle, $500,000,000.

(b) ADDITIONAL REQUESTS.—The Secretary may from time to time request the Congress to authorize additional funds for such purposes.

SEC. 1510. RESTRICTIONS.

(a) USE OF FUNDS.—None of the funds appropriated by section 1510 or any other provision of law may be used by the United States Synthetic Fuels Corporation, the Secretary of Energy, or any other agent or officer of the United States for making payments with respect to obligations entered into by the United States Synthetic Fuels Corporation after July 31, 1985, and before the date of enactment of this Act.

(b) IMMUNITY FROM SUIT.—The United States hereby withdraws any stated or implied consent for the United States, any officer or agent of the United States, or the United States Synthetic Fuels Corporation to be sued by any person with respect to any claim arising out of obligations described in subsection (a).

SEC. 1511. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SHORT TITLE.—Section 111 of the Energy Security Act is amended by striking out "United States Synthetic Fuels Corporation Act of 1980" and inserting in lieu thereof "United States Synthetic Fuels Assistance Act".

(b) DEFINITIONS.—Section 112 of the Energy Security Act (42 U.S.C. 8702) is amended—

(1) by inserting after paragraph (15) the following new paragraph:

"(15A) The term 'Secretary' means the Secretary of Energy."; and

(2) by adding at the end the following new paragraph:

"(19) The term 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(c) ADDITIONAL LOAN AMOUNTS.—Section 132(a)(3)(B) of the Energy Security Act (42 U.S.C. 8732(a)(3)(B)) is amended by striking out ", except that" and all that follows through "has not been disapproved".

(d) ADDITIONAL LOAN GUARANTEES.—Section 133(a)(3)(B) of the Energy Security Act (42 U.S.C. 8733(a)(3)(B)) is amended by striking out ", except if" and all that follows through "pursuant to such section".

(e) JOINT VENTURES.—Section 136(a) of the Energy Security Act (42 U.S.C. 8736(a)) is amended—

(1) by striking out the second sentence; and

(2) by striking out ": *Provided, however*" and all that follows through "joint venture agreement".

(f) FEES AND RECEIPTS.—

(1) FEES.—Section 139 of the Energy Security Act (42 U.S.C. 8739) is amended to read as follows:

"USER FEES

"SEC. 139. (a) The Secretary may charge and collect fees in connection with the financial assistance provided under this part, except that such fees shall not exceed 1 percent of the amount of such financial assistance. Fees received by the Secretary shall be deposited in the general fund of the Treasury.

"(b) The Secretary shall prescribe and collect an annual fee, in connection with each loan guarantee provided under this part, of one-half of one percent of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the general fund of the Treasury.".

(2) RECEIPTS.—Section 154 of the Energy Security Act (42 U.S.C. 8754) is amended to read as follows:

"RECEIPTS

"SEC. 154. All receipts collected by the Secretary in connection with the synthetic fuels assistance program under this part shall be deposited in the general fund of the Treasury.".

(g) POWERS.—Section 171 of the Energy Security Act is amended—

(1) by amending subsection (a) to read as follows:

"(a) In carrying out the provisions of this part, the Secretary may lease, purchase, accept gifts or donations of, or otherwise acquire, and own, hold, improve, use, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise

dispose of, any property, real, personal, or mixed, or any interest therein."; and

(2) by striking out subsection (b).

(h) REPEALS.—Sections 113, 131(d), (j), (k)(2), (k)(3), and (u), 142, 151, 152, 153, 155, 172, 173(e) and (g), 174, 175, 177, 179, 180, and subtitles G, I, J, and K of part B of title I of the Energy Security Act are repealed.

(i) MISCELLANEOUS TERMINOLOGY CHANGES.—Part B of title I of the Energy Security Act is amended—

(1) in the title of such part by striking out "Corporation" and inserting in lieu thereof "Assistance Program";

(2) by striking out "Board of Directors" and inserting in lieu thereof "Secretary" each place it appears in sections 112(15), 131(a), (b)(2), (b)(4), (o), (p), and (r), 132(a)(2)(B) and (d), 133(a)(1), (a)(4), and (b), 134, 136(b), (c), and (f)(1), 137(b)(1) and (5), 141(d), and 173(a) and (b)(2), and in the last sentence of section 171(c);

(3) by striking out "127" and inserting in lieu thereof "129" each place it appears in sections 131 and 141(c);

(4) by striking out "Corporation" and inserting in lieu thereof "Secretary" each place it appears in sections 131(a), (b)(3), (c), (f), (g), (h), (i), (o), (p), (q), (s), and (t), 132(a) and (b), 133(a), 134, 135(a), (b), (d), and (e), 136(a), 141(b)(4), and 173(b); the first two places it appears in section 131(b)(1) and (r); the first place it appears in sections 131(l) and (n), 136(f)(1), 141(e), and 173(c), (d), and (f)(1); the second place it appears in sections 143(a), 144, and 173(a); the first and third places it appears in section 132(d); the fourth, fifth, and sixth places it appears in section 133(b); the second and third places it appears in section 137(c); the first, second, and fifth places it appears in section 140; the second and fourth places it appears in section 141(a); the third and fourth places it appears in section 141(d); the first, third, and fourth places it appears in section 145; the second and sixth places it appears in section 171(c); and each place it appears in the section headings for sections 132, 133, 134, 135, and 136;

(5) by striking out "Corporation" and inserting in lieu thereof "United States" each place it appears in sections 131(b)(2) and (k)(1), 133(b)(1) and (2), 135(c), 136(c), (d)(2), and (f)(2), 137(a), and 173(f)(1)(B) and (C); the second place it appears in sections 131(b)(1)(C), (l), and (n), and 136(f)(1); the third place it appears in section 131(r); the second and fourth places it appears in section 132(d); the first place it appears in sections 133(b)(3), 137(c), 141(a) and (b), and 173(a); all but the last two places it appears in section 137(b); the third and sixth places it appears in section 140; and the second, third, fourth, and fifth places it appears in section 173(d);

(6) by striking out ", upon such terms and conditions as the Board of Directors shall determine" in section 131(b)(1);

(7) by striking out "national synthetic fuel production goal established under section 125" and inserting in lieu thereof "objectives set forth in the assistance plan developed under section 127" in sections 131(b)(2) and (4) and 132(b);

(8) by striking out "national synthetic fuel production goal set forth in section 125" and inserting in lieu thereof "objectives set forth in the assistance plan developed under section 127" in section 136(b)(1);

(9) by striking out "126" and inserting in lieu thereof "128" in section 131(b)(4);

(10) by striking out ", except as provided in section 151" in section 131(f);

(11) by striking out "or its designee" each place it appears in sections 131(i) and 173(d);

(12) by striking out "as it deems" and inserting in lieu thereof "as the Secretary deems" in section 131(i);

(13) by striking out ", as computed in accordance with section 152" in section 131(k)(1);

(14) by striking out ", in its judgment," in section 131(r);

(15) by striking out "its determination of" and inserting in lieu thereof "determining" in section 131(t);

(16) by striking out ", on such terms and conditions as the Board of Directors may prescribe," in sections 132(a)(1), 134, 135(a), 136(a), and 137(c);

(17) by striking out "Corporation" the last two places it appears in section 137(b), the last two places it appears in section 137(c), and the fifth and sixth places it appears in section 141(d);

(18) by striking out "128" and inserting in lieu thereof "138" in sections 137(b) and (c) and 141(d);

(19) by striking out "not been disapproved" and inserting in lieu thereof "been approved" in sections 137(b) and (c) and 141(d);

(20) by striking out "in its sole discretion" in section 134;

(21) by striking out "of Energy" in sections 135(a) and (d) and 143(b);

(22) by striking out ", subject to section 172(d)," in section 135(d);

(23) by striking out "Prior to the approval of a comprehensive strategy pursuant to section 126(c), the" and inserting in lieu thereof "The" in section 136(a);

(24) by striking out "pursuant to section 181" in section 136(c);

(25) by striking out "Corporation" and inserting in lieu thereof "United States" in section 136(e);

(26) by striking out "Corporation's" and inserting in lieu thereof "United States" in section 136(e) and (f)(1);

(27) by striking out ", prior to the approval of the comprehensive strategy pursuant to section 126(c)," in section 137(b);

(28) by striking out "until it has submitted" and inserting in lieu thereof "until the Secretary has submitted" in section 137(b) and (c);

(29) by striking out "Corporation" and inserting in lieu thereof "Department" each place it appears in sections 112(5), 141(c), and 143(b); the fourth place it appears in section 140; the third and fifth places it appears in section 141(a); the second place it appears in sections 141(b) and (e) and 145; the first and second places it appears in section 141(d); the first place it appears in sections 143(a) and 144; the first, third, fourth, fifth, and seventh places it appears in section 171(c); and each place it appears in the headings for subtitle E and section 141;

(30) by striking out "126(a)(1)(D), section 126(a)(3), and section 142" and inserting in lieu thereof "128(a)(4) and (c)" in section 141(a);

(31) by striking out ", prior to the approval of a comprehensive strategy pursuant to section 126(c)," in section 141(a);

(32) by striking out ", in the judgment of the Board of Directors," in section 141(a);

(33) by striking out "126(a)(2)" and inserting in lieu thereof "128(b)" in section 141(a);

(34) by striking out "subject to section 172(d)," in section 141(b);

(35) by striking out ", in its sole discretion," in section 141(d);

(36) by striking out "addition to the powers granted under subsections (a) and (b), and only in" in section 171(c);

(37) by striking out "by its Board of Directors" in section 171(c);

(38) by striking out "it holds the patent but it" and inserting in lieu thereof "the United States holds the patent but the Secretary" in section 173(b)(1);

(39) by striking out "it holds the patent" and inserting in lieu thereof "the United States holds the patent" in section 173(b)(2);

(40) by striking out "including provision for the Corporation," in section 173(c);

(41) by striking out "and its designees" in section 173(d); and

(42) by striking out "Chairman of the Board of Directors" and inserting in lieu thereof "Secretary" in section 173(f)(1)(A).

(j) TABLE OF CONTENTS.—The table of contents for part B of title I of the Energy Security Act is amended to read as follows:

"Part B—United States Synthetic Fuels Assistance Program

"SUBTITLE A—GENERAL PROVISIONS

"Sec. 111. Short title.
"Sec. 112. General definitions.

"SUBTITLE B—ABOLITION OF CORPORATION

"Sec. 115. Cessation of commitments.
"Sec. 116. Temporary operations.
"Sec. 117. Abolition.

"SUBTITLE C—SYNTHETIC FUELS ASSISTANCE PROGRAM

"Sec. 125. Secretary's responsibilities.
"Sec. 126. Modified assistance program.
"Sec. 127. Assistance plan.
"Sec. 128. Assistance strategy.
"Sec. 129. Solicitation of proposals.
"Sec. 130. Employees.

"SUBTITLE D—FINANCIAL ASSISTANCE

"Sec. 131. Authorization of financial assistance.
"Sec. 132. Loans made by the Secretary.
"Sec. 133. Loan guarantees made by the Secretary.
"Sec. 134. Price guarantees made by the Secretary.
"Sec. 135. Purchase agreements made by the Secretary.
"Sec. 136. Joint ventures by the Secretary.
"Sec. 137. Control of assets.
"Sec. 138. Congressional review procedure.
"Sec. 139. User fees.
"Sec. 140. Disposition of securities.

"SUBTITLE E—DEPARTMENT CONSTRUCTION PROJECTS

"Sec. 141. Department construction and contractor operation.
"Sec. 143. Environmental, land use, and siting matters.
"Sec. 144. Project reports.
"Sec. 145. Financial records.

"SUBTITLE F—CAPITALIZATION AND FINANCE

"Sec. 154. Receipts.

"SUBTITLE H—GENERAL PROVISIONS

"Sec. 171. General powers.
"Sec. 173. Patents.
"Sec. 176. Severability.
"Sec. 178. Water rights.".

Subtitle B—Strategic Petroleum Reserve

SEC. 1521. STRATEGIC PETROLEUM RESERVE.

(a) STRATEGIC PETROLEUM RESERVE FILL RATE.—Notwithstanding any other provision of law, the Strategic Petroleum Reserve shall be filled at an annual average rate of 35,000 barrels per day for each of the fiscal years 1986, 1987, and 1988. Authorizations

under subsection (b) are made for this purpose.

(b) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated the following amounts for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve:

(A) For fiscal year 1986, $358,000,000.

(B) For fiscal year 1987, $334,000,000.

(C) For fiscal year 1988, $357,000,000.

(2) There are authorized to be appropriated the following amounts for the implementation of the Strategic Petroleum Reserve Plan, including planning, administration, and acquisition and construction of storage and related facilities but excluding the acquisition of petroleum products for such Reserve:

(A) For fiscal year 1986, $136,000,000.

(B) For fiscal year 1987, $359,000,000.

(C) For fiscal year 1988, $157,000,000.

(3) Amounts authorized by this subsection are in lieu of any other amount authorized to be appropriated for the purposes and fiscal years referred to in paragraphs (1) and (2).

(c) LIMITATION ON UNITED STATES' SHARE OF NAVAL PETROLEUM RESERVE.—(1) Section 160(d)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6240(d)(1)) is amended—

(A) by striking out "500,000,000 barrels" each place it appears in subparagraphs (A) and (C) and inserting in lieu thereof "527,000,000 barrels"; and

(B) by striking out "100,000 barrels" in subparagraph (B) and inserting in lieu thereof "35,000 barrels".

(2) The amendment made by this subsection shall take effect on October 1, 1985.

Subtitle C—Uranium Enrichment and Power Sales

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In accordance with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is authorized to be appropriated to the Department of Energy for each of the fiscal years 1986, 1987, and 1988 to carry out uranium enrichment service activities an amount equal to the difference between—

(1) the revenues to be received during such fiscal year by the Department of Energy in providing uranium enrichment service activities, as estimated in the budget submitted by the President to the Congress for such fiscal year; and

(2) the amount specified in section 1532(a) for such fiscal year.

(b) ADJUSTMENTS.—If the estimate referred to in subsection (a)(1) for any fiscal year is increased or decreased in the budget submitted by the President to the Congress for the subsequent fiscal year, the authorization of appropriations in subsection (a) for such subsequent fiscal year shall be increased or decreased by an equal amount, as the case may be.

SEC. 1532. REPAYMENTS TO UNITED STATES TREASURY.

(a) PARTIAL REPAYMENT OF APPROPRIATED AMOUNTS.—In partial repayment of amounts appropriated from the general fund of the Treasury of the United States for uranium enrichment service activities, the Secretary of Energy shall deposit in the general fund not less than the following amount of the revenues received by the Department of Energy in providing uranium enrichment service activities:

(1) $110,000,000 for fiscal year 1986;

(2) $150,000,000 for fiscal year 1987; and

(3) $150,000,000 for fiscal year 1988.

(b) REPAYMENT SCHEDULE.—The Secretary of Energy may make the repayments required in subsection (a) for any fiscal year on a quarterly basis.

SEC. 1533. SALE OF UNNECESSARY ELECTRIC ENERGY.

(a) IN GENERAL.—The Secretary of Energy shall attempt to sell to electric utilities any electric energy that the Secretary has the right to buy under any Federal law or contract in effect on the date of the enactment of this Act for use in the provision of uranium enrichment service activities under section 161 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) that the Secretary determines to be unnecessary to the conduct of such activities.

(b) CONSENT TO SALE.—Notwithstanding any other Federal law or contract in effect on the date of the enactment of this Act, no Executive agency may withhold its consent to the sale of electric energy under subsection (a).

(c) TRANSMISSION.—Notwithstanding any other Federal law or contract in effect on the date of the enactment of this Act—

(1) any Executive agency selling electric energy to the Department of Energy shall make such electric energy available to the location requested by the Secretary of Energy; and

(2) the Secretary of Energy, acting through the organizational entities described in subparagraphs (A) and (B) of section 302(a)(1) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(1)) shall assist in the transmission of any electric energy sold under subsection (a).

(d) REVENUES FROM SALE.—In partial repayment of amounts appropriated from the general fund of the Treasury of the United States for uranium enrichment service activities, the Secretary of Energy shall deposit in the general fund any revenues derived from the sale of electric energy under subsection (a) that are in excess of the energy charge incurred by the Secretary. Any amount required to be repaid under this subsection shall be in addition to any amount required to be repaid in section 1532(a).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "electric utility" has the meaning given such term in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)). Such term does not include any person or entity that sells electric energy solely from cogeneration facilities or small power production facilities, as such terms are defined in paragraphs 17(A) and 18(A) of section 3 of the Federal Power Act (16 U.S.C. 796).

(2) The term "energy charge" means any fee or payment associated with the purchase of electric energy that is supplied by an electric energy seller to an electric energy purchaser and does not include any fee or payment made exclusively for the availability of electric energy or the right to purchase specified amounts of electric energy.

(3) The term "Executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(f) EXPIRATION.—This section shall cease to be effective on December 31, 1992.

Subtitle D—Energy-Related User Fees

SEC. 1541. PIPELINE SAFETY USER FEES.

(a) ESTABLISHMENT.—

(1) SCHEDULE.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish a schedule of fees based on the usage, in reasonable relationship to volume-miles, miles, or an appropriate combination thereof, of natural gas and hazardous liquid pipelines.

(2) COLLECTION.—The Secretary shall establish procedures for the collection of such fees and shall collect such fees.

(3) LIABILITY.—Fees established under this section shall be assessed to the persons operating the pertinent pipeline facilities.

(b) TIME OF ASSESSMENT.—The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

(c) USE OF FUNDS.—Funds received under subsection (a) shall be used, to the extent provided for in advance in appropriation Acts, only—

(1) in the case of natural gas pipeline safety fees, for activities authorized under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); and

(2) in the case of hazardous liquid pipeline safety fees, for activities authorized under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.).

(d) FEE SCHEDULE.—

(1) SUFFICIENT TO MEET COSTS.—Fees established by the Secretary under subsection (a) shall be assessed against all natural gas and hazardous liquids transported by pipelines subject to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 after September 30, 1985, and shall be sufficient to meet the ongoing costs, beginning on October 1, 1985, described in subsection (c).

(2) NON-HYDROCARBON RATES.—Fees established for the transportation through pipelines of substances other than hydrocarbons may be set at a rate higher than those for the transportation of hydrocarbons.

(3) UNUSUAL DRAIN ON SAFETY RESOURCES.—The Secretary may charge additional fees to any user of pipelines if the use results in an unusual drain on the pipeline safety resources of the United States.

(e) STATE FEES.—If a State establishes a pipeline safety fee mechanism compatible with the mechanism established by the Secretary under this section, the Secretary may by agreement with such State administer the collection of such State fees.

SEC. 1542. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

(a) IN GENERAL.—

(1) The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall assess and collect annual charges from its licensees on a fiscal year basis, beginning with fiscal year 1986.

(2) The amount of such charges shall be established by rule.

(b) MATTERS TO CONSIDER IN ESTABLISHING ASSESSMENTS.—

(1) In establishing the amounts of such assessments, the Commission shall take into consideration the relative cost of regulating different categories of its licensees and other factors determined to be appropriate by the Commission, including the impact of such assessments on research and medical treatment.

(2) In establishing the amounts of such assessments with respect to any utilization or production facility for industrial or commercial purposes issued a license under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)), the Commission shall also take into consideration the rated capacity of such facility.

(c) LIMITATION.—The maximum amount of assessments made under this section with respect to any fiscal year may not exceed an

amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 50 percent of the costs incurred by the Commission with respect to such fiscal year.

(d) TIME OF PAYMENT.—The Commission may make estimates in assessing charges under this section and shall provide that the charges assessed under this section shall be paid by the end of the fiscal year for which they are assessed.

(e) USE OF FUNDS.—To the extent approved in appropriation Acts, amounts collected under this section may be retained and used for costs incurred by the Commission and shall remain available for such purpose until expended.

SEC. 1543. FEDERAL ENERGY REGULATORY COMMISSION ANNUAL CHARGES.

(a) IN GENERAL.—The Federal Energy Regulatory Commission shall assess and collect annual charges on a fiscal year basis, beginning with fiscal year 1986, from interstate natural gas pipelines, interstate oil pipeline carriers, and public utilities in amounts determined under subsection (b).

(b) AMOUNT OF ASSESSMENTS.—The Commission shall assess and collect charges under this section—

(1) in the case of an interstate natural gas pipeline, in an amount that bears the same relationship to the adjusted costs of the Commission for the fiscal year as the volume of natural gas sold or transported by the pipeline during such year bears to the total volume of natural gas sold or transported by all interstate natural gas pipelines during such year;

(2) in the case of an interstate oil pipeline carrier, in an amount that bears the same relationship to the adjusted costs of the Commission for the fiscal year as the total barrels delivered (subject to the jurisdiction of the Commission) by the pipeline carrier during such year bears to the total barrels delivered (subject to such jurisdiction) by all interstate oil pipeline carriers during such year; and

(3) in the case of a public utility, in an amount that represents the public utility's proportional share of the adjusted costs of the Commission for the fiscal year, taking into consideration the public utility's proportional share of the total of the kilowatt hours transmitted under interchange hour agreements and the total jurisdictional kilowatt hours sold by all public utilities during such fiscal year.

(c) TIME OF ASSESSMENT.—The Commission shall assess charges under this section during the fourth quarter of the fiscal year for which the charge is being determined by making estimates based on data available to the Commission at the time of assessment.

(d) TIME OF PAYMENT.—The Commission shall provide that the charges assessed under this section shall be paid by the end of the fiscal year for which they were assessed.

(e) ADJUSTMENTS.—The Commission shall, after the completion of a fiscal year, make adjustments in the assessments for such fiscal year. Such adjustments shall be made on the basis of the complete data applicable to the fiscal year concerned, as determined by the Commission, and shall be used for making adjustments in assessments made under subsection (b) for the following fiscal year.

(f) USE OF FUNDS.—To the extent approved in appropriation Acts, amounts collected under this section may be retained and used for costs incurred by the Commission in administering its jurisdictional statutes and shall remain available for such purpose until expended.

(g) NATURAL GAS CHARGES IN RATES.—The Commission shall provide that charges assessed under this section shall be included in the rates of an interstate natural gas pipeline as a uniform charge on each thousand cubic feet (Mcf) or million Btu (MmBtu), as determined appropriate by the Commission, of natural gas sold or transported by the pipeline.

(h) DEFINITIONS.—For purposes of this section—

(1) the term "adjusted costs of the Commission" means—

(A) in the case of the assessment of charges on interstate natural gas pipelines, costs incurred by the Commission (but not to exceed the amount authorized by law for such costs) in administering the Natural Gas Act and the Natural Gas Policy Act of 1978 for a fiscal year, reduced by the amount of fees collected by the Commission during such fiscal year under section 9701 of title 31, United States Code, with respect to the regulation of the sale or transportation of natural gas,

(B) in the case of the assessment of charges on interstate oil pipeline carriers, costs incurred by the Commission (but not to exceed the amount authorized by law for such costs) as a result of regulating the transportation of oil under title 49, United States Code, reduced by the amount of fees collected by the Commission during such fiscal year under such section 9701 with respect to the regulation of the transportation of oil, and

(C) in the case of the assessment of charges on public utilities, costs incurred by the Commission (but not to exceed the amount authorized by law for such costs) in administering titles II and III of the Federal Power Act (other than for the regulation of cogeneration and small power production under sections 201 and 210 of such Act) for a fiscal year, reduced by the amount of fees collected under such section 9701 for services or benefits rendered under such titles during such fiscal year;

(2) the term "Commission" means the Federal Energy Regulatory Commission;

(3) the term "interstate natural gas pipeline" means any person engaged in the transportation or sale of natural gas subject to the jurisdiction of the Commission under the Natural Gas Act;

(4) the term "pipeline carrier" has the meaning given such term in section 10102 of title 49, United States Code;

(5) the term "natural gas sold or transported" means—

(A) sales or deliveries of natural gas to distribution utilities for sales or use, and

(B) sales or deliveries of natural gas to consumers for ultimate use; and

(6) the term "public utility" has the same meaning given such term by section 201(e) of the Federal Power Act, except that such term does not include a qualifying small power producer or a qualifying cogenerator.

Subtitle E—Federal Energy Conservation Shared Savings

SEC. 1551. SHARED ENERGY SAVINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 and following) is amended by adding at the end the following new title:

"TITLE VIII—SHARED ENERGY SAVINGS

"SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

"The head of a Federal agency may, notwithstanding any other provision of law, enter into contracts under this title for the purpose of achieving energy savings. Each such contract may be for a period not to exceed 25 years and shall provide that the contractor shall incur the initial cost of implementing energy savings measures in exchange for a share of any savings resulting from such implementation.

"SEC. 802. PAYMENT OF COSTS.

"Any amount paid by a Federal agency pursuant to any contract entered into under this title, including any costs of terminating any such contract, may be paid only from funds appropriated, after the date of enactment of this title, for the payment of utility costs (and related operational and maintenance costs) of such agency.

"SEC. 803. REPORTS.

"Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to Congress under section 550 a description of the progress made by each Federal agency in—

"(1) including the authority provided by this title in its contracting practices; and

"(2) achieving energy savings under contracts entered into under this title.

"SEC. 804. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Federal agency' means an agency defined in section 551(1) of title 5, United States Code, and

"(2) the term 'energy savings' means a reduction in the energy consumption, or in the energy-related costs, of an existing building or buildings as a result of—

"(A) equipment, supplies, improvements, altered operation and maintenance, technical services, or other means; or

"(B) the increased efficient use of existing energy sources by cogeneration, heat recovery, or other means."

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by adding the following at the end:

"TITLE VIII—SHARED ENERGY SAVINGS

"Sec. 801. Authority to enter into contracts.

"Sec. 802. Payment of costs.

"Sec. 803. Reports.

"Sec. 804. Definitions."

Subtitle F—Charges to Cover the Cost of Federal Communications Commission

SEC. 1561. CHARGES TO COVER THE COST OF FEDERAL COMMUNICATIONS COMMISSION.

(a) SCHEDULE OF CHARGES.—(1) The Federal Communications Commission (hereafter in this section referred to as the "Commission") shall assess and collect charges listed in this subsection at the rates listed or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

Schedule of Charges

	Service	Fee amount
	PRIVATE RADIO BUREAU	
1.	Marine Coast Stations (new, modifications, renewals).	$60
2.	Operational Fixed Microwave Stations (new, modifications, renewals).	135
3.	Aviation (ground stations) (new, modifications, renewals).	60
4.	Land, Mobile Radio Licenses (new, modifications, renewals).	30

Schedule of Charges—Continued

Service	Fee amount
EQUIPMENT APPROVAL SERVICE	
1. Certification	
a. Receivers (except TV and FM receivers).	250
b. All other devices	650
2. Type Acceptance	
a. Approval of subscription TV systems.	2,000
b. All others	325
3. Type Approval	
a. Ship (radio telegraph) automatic alarm systems.	6,500
b. Ship and lifeboat (radio telegraph) transmitters.	3,250
c. All others (with testing)	1,300
d. All others (without testing)	150
4. Notifications	100
MASS MEDIA BUREAU	
1. Commercial TV Stations	
a. New and major change construction permits application fees.	2,250
b. Minor changes application fee.	500
c. Hearing charge	6,000
d. License fee	150
2. Commercial Radio Stations	
a. New and major change construction permits.	
(1) Application fee AM station.	2,000
(2) Application fee FM station.	1,800
b. Minor changes application fee—AM and FM.	500
c. Hearing charge	6,000
d. License fee	
(1) AM	325
(2) FM	100
e. Directional antenna license fee (AM only).	375
3. FM/TV Translators and LPTV Stations (new and major change construction permits)	
a. Application fee	375
b. License fee	75
4. Station Assignment and Transfer Fees	
a. AM, FM, and TV commercial stations	
(1) Application fee (Forms 314/315).	500
(2) Application fee (Form 316).	70
b. FM/TV translators and LPTV stations.	75
5. Auxiliary Services Major Actions—Application Fee.	75
6. Renewals—All Services	30
7. Cable Television Service	
a. Cable television relay service—construction permits, assignments and transfers, renewals and modifications.	135
b. Cable special relief petitions—filing fee.	700
8. Direct Broadcast Satellite New and Major Change CP's	
a. Application for authorization to construct a direct broadcast satellite.	1,800
b. Issuance of CP and launch authority.	17,500
c. License to operate satellite	500
d. Hearing charge	6,000
COMMON CARRIER BUREAU	
1. Domestic Public Land Mobile Stations (Base, Dispatch, Control and Repeater Stations)	
a. New or additional facility authorizations, assignments and transfers (per transmitter/per station).	200
b. Renewals and minor modifications (per station).	20
c. Air-Ground individual license renewals and modifications.	20
2. Cellular Systems	
a. Initial construction permits and major modification applications (per cellular systems).	200
b. Assignments and transfers (per station).	200
c. Initial covering license (per cellular system)	
(1) Wireline carrier	525
(2) Nonwireline carrier	50
d. Renewals	20
e. Minor modifications and additional licenses.	50

Schedule of Charges—Continued

Service	Fee amount
3. Rural Radio (Central Office, Interoffice Relay Facilities)	
a. Initial construction permit, assignments and transfers (per transmitter).	90
b. Renewals and modifications (per station).	20
4. Offshore Radio Service	
a. Initial construction permits, assignments and transfers (per transmitter).	90
b. Renewals and modifications (per station).	20
5. Local television or point-to-point microwave radio service	
a. Construction permits, modifications of construction permits, and renewals of licenses.	135
b. Assignments and transfers of control (per station).	45
c. Initial license for new frequency.	135
6. International Fixed public radio (public and control stations)	
a. Initial construction permits, assignments and transfers.	450
b. Renewals and modifications	325
7. Satellite services	
a. Transmit Earth stations	
(1) Initial station authorizations.	1,350
(2) Assignments and transfers of station authorizations.	450
(3) All other applications	90
b. Small transmit/receive Earth stations (2 meters or less)	
(1) Lead authorization	3,000
(2) Routine authorization	30
(3) All other applications	90
c. Receive only Earth stations	
(1) Initial station authorization.	200
(2) All other applications	90
d. Applications for authority to construct a space station.	1,800
e. Applications for authority to launch and operate a space station.	18,000
f. Satellite system application	
(1) Initial station authorization.	5,000
(2) Assignments and transfers of systems.	1,333
(3) All other applications	90
8. Multipoint distribution service	
a. Construction permits, renewals and modifications of construction permits.	135
b. Assignments and transfers of control (per station).	45
c. Initial license (per channel)	400
9. Section 214 applications	
a. Applications for overseas cable construction.	8,100
b. Applications for domestic cable construction.	540
c. All other 214 applications	540
10. Tariff filings	
a. Filing fee	250
b. Special permission filings	200
11. Telephone equipment registration	135
12. Digital electronic message service	
a. Construction permits, renewals and modifications of construction permits.	135
b. Assignments and transfers of control (per station).	45
c. Initial license (first license or license adding a new frequency).	135

(2) The schedule of charges established by this subsection shall be implemented not later than 360 days after the date of enactment of this subsection.

(b) SUBSEQUENT INCREASES OR DECREASES IN CHARGES.—(1) The schedule of charges established by this section shall be reviewed by the Commission every 2 years after the date of enactment of this section and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5 in the case of fees under $100, or 5 percent in the case of fees of $100 or more. All fees which require adjustment will be rounded upward to the next $5 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

(c) PENALTIES FOR LATE PAYMENTS.—(1) The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of charges required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the charge which was not paid in a timely manner.

(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any charge or penalty under this section.

(d) EXEMPTIONS AND WAIVERS.—(1) The charges established in this section shall not be applicable—

(A) to the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio; or

(B) to governmental entities licensed in other services.

(2) The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.

(e) DEPOSIT OF MONEYS RECEIVED.—Moneys received from charges established in or prescribed pursuant to this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions.

(f) RULES AND REGULATIONS.—The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

Subtitle G—Local Rail Service Assistance

SEC. 1571. LOCAL RAIL SERVICE ASSISTANCE.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended by adding at the end the following new sentence: "No funds are authorized to be appropriated under this section after September 1, 1985.".

Subtitle H—Amtrak

SEC. 1581. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) in subparagraph (A) by striking out "and" after "403(b) of this Act;";

(2) in subparagraph (B) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) not to exceed $603,500,000 for the fiscal year ending September 30, 1986.".

(b) LIMITATION.—Such section 601(b) is further amended by adding at the end a new paragraph as follows:

"(5) Unless sufficient funds are otherwise available to operate the Corporation's rail system at substantially the same level of service, maintenance, and equipment overhauls in effect on the date of the enactment of this paragraph, funds appropriated to or for the benefit of the Corporation under this section before the date of the enactment of this paragraph which the Corpora-

tion has designated for nonoperational capital projects shall be used as necessary to maintain the operations of the system at such level.".

SEC. 1582. STUDY COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Railroad Passenger Corporation Financial Status Commission (hereafter in this subtitle referred to as the "Commission").

(b) PURPOSE OF COMMISSION.—The purpose of the Commission is to study—

(1) the ability of the National Railroad Passenger Corporation (hereafter in this subtitle referred to as "Amtrak") to continue to improve, or to accelerate the improvement of, its financial performance;

(2) the short-term and long-term capital needs of Amtrak; and

(3) alternative funding mechanisms for Amtrak.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of seventeen members as follows:

(A) Two State legislators appointed by the National Conference of State Legislators, one from the area comprised of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, and one from outside such area.

(B) Two members of the National Association of Railroad Passengers appointed by the President of such Association; one who lives in the area comprised of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, and one who lives outside such area.

(C) A Member of the United States Senate appointed by the President pro tempore of the Senate.

(D) A Member of the United States House of Representatives appointed by the Speaker of the House.

(E) A State transportation official from a State financially participating in the program established under section 403(b) of the Rail Passenger Service Act, appointed by the Executive Director of the National Conference of State Railway Officials (NCSRO).

(F) A State transportation official from a State not participating in the program established under section 403(b) of the Rail Passenger Service Act, appointed by the Executive Director of the National Conference of State Railway Officials (NCSRO).

(G) A representative of the Department of Transportation designated by the Secretary of Transportation.

(H) A person appointed by the Railway Labor Executives' Association.

(I) A representative of freight railroads appointed by the Association of American Railroads or its successor.

(J) Two commuter authorities, as such term is defined for purposes of the Rail Passenger Service Act, appointed by the American Public Transit Association; one that operates exclusively within the area comprised of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia and one that operates exclusively outside such area.

(K) A person from the private sector, appointed by the President, with no financial interest in Amtrak or any competing mode of transportation.

(L) A representative of the passenger bus industry appointed by the President.

(M) A representative of Amtrak appointed by the President of Amtrak.

(N) A representative of the Office of Management and Budget appointed by the Director of such Office.

(2) SELECTION.—The members of the Commission shall be selected in accordance with paragraph (1) within sixty days after the date of enactment of this Act.

(3) EXPENSES.—Members of the Commission shall each be reimbursed actual expenses incurred in the actual performance of duties vested in the Commission.

(4) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members of the Commission from among such members.

(6) ORGANIZATIONAL MEETING.—The members of the Commission shall hold their first meeting for the purpose of organizing the Commission and electing a Chairman under paragraph (4) within ninety days after the date of enactment of this Act.

(7) All meetings of the Commission shall be open to the public.

(d) STAFF OF COMMISSION.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission, or, if so authorized by the Commission, any three members of the Commission, may, for the purpose of carrying out this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit to the Congress a report not later than March 30, 1986. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the purpose of carrying out this section not to exceed $1,000,000 for the fiscal year ending September 30, 1986, to remain available until expended.

SEC. 1583. CAPITAL ASSETS.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

SEC. 1584. GOVERNMENT TRAVEL.

Section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) is amended by inserting ", which shall include allowing the Corporation to participate in the contract air program administered by the General Services Administration in markets where service provided by the Corporation is competitive as to rates and total trip times" before the period.

SEC. 1585. REPORT CONSOLIDATION.

Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, passenger miles, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance.".

SEC. 1586. CHARTER TRAINS.

Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended:

(1) by repealing subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 1587. MISCELLANEOUS AMENDMENTS.

(a) AUDITS.—Section 805 of the Rail Passenger Service Act (45 U.S.C. 644) is amended:

(1) in subsection (2)(A) by striking out "shall conduct annually a" in the first sentence and inserting in lieu thereof "may conduct"; and

(2) in subsections (2)(A) and (2)(B) by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(b) REPEAL OF STUDIES AND REPORTS.—Sections 306(k), 806, 810, and 811 of the Rail Passenger Service Act (45 U.S.C. 546(k), 645, 649, and 650) are repealed.

(c) EMERGENCY ASSISTANCE.—Title VII of the Rail Passenger Service Act (45 U.S.C. 621 and 622) is repealed.

(d) NORTHEAST CORRIDOR REPORTS.—Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed, effective October 1, 1986.

(e) PERFORMANCE EVALUATION CENTER.—Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

SEC. 1588. REVENUE-COST RATIO.

Section 404(c)(4)(A) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(a)) is amended by adding at the end the following

new sentence: "Commencing in fiscal year 1986, the Corporation shall set a goal of recovering an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 61 percent.

SEC. 1589. LABOR-RELATED COST SAVINGS.

Amtrak and the representatives of employees of Amtrak shall negotiate changes in existing agreements between such parties that will result in substantial cost savings to Amtrak, and shall report the results of such negotiations to the Congress within six months after the date of enactment of this Act.

SEC. 1590. ROUTE DISCONTINUANCE.

(a) PROHIBITION.—Amtrak shall not, by reason of any provision of this subtitle, including section 1581, reduce the frequency of service on any line on which, as of May 1, 1985, three or fewer trains operate per week.

SEC. 1591. UNSAFE FACILITIES.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end the following new section:

"SEC. 812. UNSAFE FACILITIES.

"(a) The Corporation, or the owner of any facility which presents a danger to the employees, passengers, or property of the Corporation, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this section.

"(b) If the Secretary determines that—

"(1) a facility which is the subject of a petition under subsection (a) presents a danger of death or serious injury to any employee or passenger of the Corporation or serious damage to any property of the Corporation; and

"(2) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger,

the Secretary shall recommend to the Congress that the Congress, as a part of its periodic reauthorizations of this subtitle, authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

"(c) Petitions may be submitted under subsection (a) of this section with respect to any relocation or remedial measures undertaken on or after January 1, 1978.".

SEC. 1592. EMPLOYMENT VACANCY FILING.

(a) LIABILITY.—Section 704(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797c(c)) is amended—

(1) by inserting "(1)" after "VACANCY NOTICES.—"; and

(2) by adding at the end a new paragraph as follows:

"(2)(A) As soon as the Board becomes aware of any failure on the part of a railroad to comply with paragraph (1), the Board shall issue a warning to such railroad of its potential liability under subparagraph (B).

"(B) Any railroad failing to comply with paragraph (1) of this subsection after being warned by the Board under subparagraph (A) shall be liable for a civil penalty in the amount of $1,000 for each vacancy with respect to which such railroad has so failed to comply.".

(b) EXTENSION.—Section 704(f) of such Act (45 U.S.C. 797c(f)) is amended by striking out "4-year" and inserting in lieu thereof "6-year".

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act, and the amendment made by subsection (b) shall be effective as of August 1, 1985.

SEC. 1593. TRANSPORTATION OF UNOCCUPIED VEHICLES.

Section 103(3) of the Rail Passenger Service Act (45 U.S.C. 502(3)) is amended by inserting ", and, when space is available, of unoccupied vehicles" after "and their occupants".

SEC. 1594. RAIL EMPLOYEE TAXES.

Section 11504(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title to an employee who performs his regular assigned duties as such an employee on a railroad in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than a State or subdivision thereof described in paragraph (2) of this subsection.".

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

SEC. 1601. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

"(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) all information from all sources concerning the geographical, geological, and ecological characteristics of such region;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any potentially hydrocarbon-bearing area or areas located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire potentially hydrocarbon-bearing area.

The confidentiality provisions of section 26 of this Act shall apply to all information provided under this paragraph.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, royalties, and other revenues, excluding Federal income and windfall profits taxes, derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of any coastal State. Except as provided in paragraph (5), not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the United States Treasury.

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the potentially common hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any potentially common hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest available interest rates.

"(5)(A) For all existing and future disputes, including *United States* v. *Alaska*, Supreme Court No. 84, Original, between the United States and any State regarding the location of that State's seaward boundary, the Secretary shall deposit in the separate Treasury account described in paragraph (2) all revenues not put into a separate escrow account of the Treasury escrowed pursuant to section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) which are attributable to tracts which are wholly or partially within three nautical miles of the seaward boundary claimed by the coastal State in that dispute. Upon final agreement of the parties or upon a final determination by a court of competent jurisdiction resolving such dispute, the Secretary shall distribute such revenues pursuant to paragraph (2) based upon the results of the boundary dispute.

"(B) After distribution to any State of its direct entitlement under any final agreement by the parties or any final determination by a court of competent jurisdiction concerning any controversy arising under section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) that portion of any remaining revenues which is attributable to lease tracts which are wholly or partially within three nautical miles of such State's seaward boundary as established by such agreement or court decree shall be deposited and then distributed in accordance with the process established under paragraph (2). This paragraph applies to all existing accounts for revenues attributable to leased tracts sold in the Federal/State Joint Beaufort Sea Oil and Gas Lease Sale BF, Sale 71 and Sale 87, all of which involve tracts related to the dispute under section 7 of the Outer Continental Shelf Lands Act in *United States* v. *Alaska*, Supreme Court No. 84, Original, as well as to all future Outer Continental Shelf oil and gas lease sales which may involve tracts subject to an ownership dispute.

"(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would other-

wise result under this section shall be divided equally among such States.".

SEC. 1602. DISTRIBUTION OF 8(g) ACCOUNT.

(a) Prior to January 1, 1986, the Secretary shall distribute to the designated coastal States the sum of—

(1) the amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

(2) the amounts due each such State under subsection (b) for the period prior to October 1, 1985.

(b)(1) The funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of this Act shall be distributed in the following manner as a fair and equitable disposition of such funds derived from bonuses and rents and accrued interest thereon through September 30, 1985:

Louisiana	$635,000,000
Texas	$424,000,000
California	$375,000,000
Alabama	$73,000,000
Alaska	$56,000,000
Mississippi	$15,000,000
Florida	$30,000

(2) The Secretary shall distribute to each coastal State 27 percent of the royalties derived from any lease of Federal lands within three miles of the seaward boundary of such coastal State and accrued interest thereon which have been deposited through September 30, 1985, in the separate account described in paragraph (1), as a fair and equitable disposition of such royalties.

(3) Of the funds attributable to bonuses, rents, royalties, and accrued interest remaining in the separate account after payment is made to the States in accordance with paragraphs (1) and (2) of this subsection, $4,300,000,000 shall be credited to the miscellaneous receipts of the Treasury. The remainder of the money shall be paid to the affected coastal States. Each State shall receive an amount equal to its proportional share of the total additional amount that would have been due to the States if all revenues derived from any lease of any Federal tract which lies wholly or partially within three miles of a State's seaward boundary had been deposited in the separate account in the Treasury of the United States in accordance with section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)), as in effect prior to the date of enactment of this Act. A State's proportional share of the total additional amount due is based on an amount equal to—

(A) 27 percent of all bonuses, rents, and royalties, plus accrued interest derived through September 30, 1985, from any lease of any Federal tract which lies wholly or partially within three miles of the seaward boundary of such coastal State, less

(B) the amounts paid to such coastal State under paragraphs (1) and (2) of this subsection.

SEC. 1603. IMMOBILIZATION OF BOUNDARIES.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end of the subsection the following: ", except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

SEC. 1604. RECOUPMENT.

(a) As a fair and equitable disposition of revenues derived between September 18, 1978, and September 30, 1985, from all bonuses, royalties, other revenues, excluding Federal income and windfall profits taxes, and accrued interest through September 30, 1985, from any Federal leases within three miles of the seaward boundary of any coastal State, including all such revenues which should have been, but which were not, deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of this Act, such coastal State shall be entitled to an additional amount equal to—

(1) 27 percent of all bonuses, rents, royalties, other revenues, and accrued interest through September 30, 1985, derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of such coastal State, less

(2) the amounts paid to such coastal State under section 1602(b) of this Act.

(b) The additional amount due each State under subsection (a) shall be paid from a separate Treasury account which is constituted as set forth in subsection (c). The total amount contained in such account on the last business day of each month shall be paid to each State in an amount proportional to that State's share of the total additional amounts due to all States under subsection (a).

(c) Beginning on October 1, 1986, the Secretary shall deposit into the account described in subsection (b) from the separate account described in section 8(g)(2) of the Outer Continental Shelf Lands Act, as amended by this title, 10 percent of all revenues deposited after October 1, 1986, into the account described in such section 8(g)(2) until such time as the amount due to all coastal States under subsection (a) has been paid.

SEC. 1605. REVISION OF SECTION 19(c).

(a) Section 19(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1345(c)) is amended to read as follows:

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government unless he determines, based on substantial evidence and after having provided the opportunity for consultation, that acceptance of such recommendations would significantly impair the national interest. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall inform the Governor in writing of his decision to accept or reject a recommendation or to implement any alternative means to protect the national interest identified in consultation with the Governor, and the reasons for his decision. Should the Secretary reject a recommendation, he shall, no less than thirty days prior to proceeding with the proposed action, provide the Governor with the findings on which his decision is based.".

(b)(1) Section 19(d) of such Act is repealed.

(2) Subsection (e) of section 19 of such Act is redesignated as subsection (d).

TITLE VI—COMMITTEE ON MERCHANT MARINE AND FISHERIES

Subtitle A—Boating Safety Fund

SEC. 1701. BOATING SAFETY FUND.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Charts

SEC. 1711. NOAA CHARTS.

(a) Section 1307 of title 44, United States Code (relating to the sale and distribution of charts and associated reference materials published by the National Oceanic and Atmospheric Administration) is amended to read as follows:

"§ 1307. National Oceanic and Atmospheric Administration: charts; sale and distribution

"(a) GENERAL RULE.—Each nautical or aeronautical product shall be sold at a price established by the Secretary of Commerce as follows:

"(1) The Secretary shall increase the price annually, from the price in effect immediately before the date of the enactment of this paragraph, so that by the end of the three-year period beginning on such date it is equal to the costs attributable to data base management, compilation, printing, and distribution which are allocable to the nautical or aeronautical product.

"(2) At all times after the end of such three-year period the price shall be equal to the costs attributable to data base management, compilation, printing, and distribution which are allocable to the nautical or aeronautical product unless the Secretary determines that a lower price is necessary for reasons of air and marine safety.

"(b) EXCEPTIONS AND LIMITATIONS.—

"(1) FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.—The Secretary of Commerce may distribute nautical and aeronautical products without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost.

"(2) DEPARTMENTS AND AGENCIES OF THE UNITED STATES.—The Secretary of Commerce may distribute nautical and aeronautical products to officers and employees of the United States requiring them for official use at such prices as the Secretary may establish.

"(3) EXCHANGES FOR CONTRIBUTIONS OF INFORMATION.—The Secretary of Commerce may distribute nautical and aeronautical products without charge, or at a reduced charge, if the Secretary determines that it is a reasonable exchange for a voluntary contribution of information by the recipient to the National Oceanic and Atmospheric Administration.

"(4) LIMITATION ON COSTS OF ACQUIRING AND PROCESSING DATA.—Prices established under this section shall not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(c) ANNUAL PUBLICATION OF PRICES.—The Secretary of Commerce shall establish and publish annually the prices at which nauti-

cal and aeronautical products are sold to the public under this section.

"(d) DEPOSIT OF REVENUES IN TREASURY.—Revenues from the sale of nautical and aeronautical products shall be deposited in the general fund of the Treasury and credited to miscellaneous receipts.

"(e) REPORT.—Not later than the end of the three-year period beginning on the date of the enactment of this subsection, the Secretary of Commerce shall report to Congress on the effects of raising prices for nautical and aeronautical products under subsection (a), including the effect on air and marine safety.

"(f) DEFINITION OF NAUTICAL AND AERONAUTICAL PRODUCTS.—For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.

"(g) SAVINGS PROVISION.—The collection of fees under this section does not—

"(1) alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected; or

"(2) constitute an express or implied undertaking by the United States to perform any activity in a certain manner.".

(b) The table of sections for chapter 13 of title 44, United States Code, is amended by striking out the item relating to section 1307 and inserting in lieu thereof the following:

"1307. National Oceanic and Atmospheric Administration: charts; sale and distribution.".

Subtitle C—Amendments to Fishery Conservation and Management Act of 1976

SEC. 1721. AMENDMENTS TO FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)) is amended—

(1) in the third sentence thereof by striking out "and the territorial waters of the United States"; and

(2) by striking out the last sentence of such paragraph and inserting in lieu thereof the following: "The Secretary shall transfer the amount collected during any fiscal year under this paragraph as follows:

"(A) The fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), for so long as such fund exists, shall be credited with an amount that bears to the total cost of carrying out the provisions of this Act (as described in the preceding sentence) during the fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during the preceding year. Such amount may be used for the purpose of making loans from the fund to the extent and in amounts provided for in advance in appropriation Acts.

"(B) The general fund of the United States Treasury shall be credited with any portion of the amount collected during the fiscal year that remains after the Secretary completes the transfer under subparagraph (A)."

SEC. 1722. EFFECTIVE DATE.

The amendments made by section 1721 shall apply to permits issued under section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)) on October 1, 1985.

Subtitle D—Amendments to the Outer Continental Shelf Lands Act

SEC. 1731. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended in subsection (4) of section 3 by deleting the word "and" at the end of paragraph (A); deleting the semicolon at the end of paragraph (B) and inserting in lieu thereof, a period; designating paragraph (B) as paragraph (C); and inserting the following new paragraph (B):

"(B) the distribution of a portion of the receipts from the leasing of mineral resources of the Outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which shall be used for the mitigation of adverse economic and environmental effects related to the development of such resources;".

SEC. 1732. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

"(g) Leasing of lands within three nautical miles of seaward boundaries of coastal States:

"(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)-(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions or subsections (c) and (e)-(h) of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to federal lands beyond three nautical miles of the seaward boundary of such coastal State.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, royalties and other revenues, excluding federal income and windfall profits taxes, derived from any lease of any federal tract which lies wholly or partially within three nautical miles of the seaward boundary of any coastal State. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the United States Treasury.

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the potentially common hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any potentially common hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2) of this subsection.

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest available interest rates.

"(5) (A) For all existing and future disputes, including *United States v. Alaska*, Supreme Court No. 84, Original, between the United States and any State regarding the location of that State's seaward boundary, the Secretary shall deposit in the separate Treasury account described in paragraph (2) of this subsection all revenues not put into a separate escrow account of the Treasury escrowed pursuant to section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) which are attributable to tracts which are wholly or partially within three nautical miles of the seaward boundary claimed by the coastal State in that dispute. Upon final agreement of the parties or upon a final determination by a court of competent jurisdiction resolving such dispute, the Secretary shall distribute such revenues pursuant to paragraph (2) of this subsection based upon the results of the boundary dispute.

"(B) After distribution to any State of its direct entitlement under any final agreement by the parties or any final determination by a court of competent jurisdiction concerning any controversy arising under section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) that portion of any remaining revenues which is attributable to lease tracts which are wholly or partially within three nautical miles of such State's seaward boundary as established by such agreement or court decree shall be deposited and then distributed in accordance with the process established under paragraph (2) of this subsection. This paragraph applies to all existing accounts for revenues attributable to leased tracts sold in the Federal/State Joint Beaufort Sea Oil and Gas Lease Sale BF, Sale 71 and Sale 87, all of which involve tracts related to the dispute under section 7 of the Outer Continental Shelf Lands Act in *United States v. Alaska*, Supreme Court No. 84, Original, as well as to all future Outer Continental Shelf oil and gas lease sales which may involve tracts subject to an ownership dispute.

"(6) This section shall be deemed to take effect on October 1, 1985 for purposes of determining the amounts to be deposited in

the separate account and the States shares described in paragraph (2) of this subsection.

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States."

SEC. 1733. DISTRIBUTION OF 8(g) ACCOUNT.

(a) Prior to January 1, 1986, the Secretary shall distribute to the designated coastal States the sum of:

(1) The amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

(2) The amounts due each such State under subsection (b) of this section for the period prior to October 1, 1985.

(b)(1) The funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 1732 of this title shall be distributed in the following manner as a fair and equitable disposition of such funds derived from bonuses and rents and accrued interest thereon through September 30, 1985:

	($ million)
Louisiana	635
Texas	424
California	375
Alabama	73
Alaska	56
Mississippi	15
Florida	0.03

(2) The Secretary shall distribute to each coastal State 27 percent of the royalties derived from any lease of Federal lands within 3 miles of the seaward boundary of such coastal State and accrued interest thereon which have been deposited through September 30, 1985, in the separate account described in paragraph (1) of this subsection, as a fair and equitable disposition of such royalties.

(3) The amounts derived from bonuses, rents and royalties, and accrued interest thereon through September 30, 1985, remaining in the account after distribution to the States under this subsection shall be transmitted to the miscellaneous receipts account of the United States Treasury.

(4) The acceptance of payment under this section shall satisfy and release any and all claims against the United States arising under, or related to, former section 8(g) of the Outer Continental Shelf Lands Act, as amended.

SEC. 1734. IMMOBILIZATION OF BOUNDARIES.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end of the subsection the following: ", except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

SEC. 1735. RECOUPMENT.

(a) As a fair and equitable disposition of revenues derived between September 18, 1978 and September 30, 1985 from all bonuses, royalties, other revenues, excluding Federal income and windfall profits taxes, and accrued interest through September 30, 1985, from any Federal leases within three miles of the seaward boundary of any coastal State, including all such revenues which should have been, but which were not, deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 1732 of this title, such coastal State shall be entitled to an additional amount equal to:

(1) 27 percent of all bonuses, rents, royalties, other revenues and accrued interest through September 30, 1985, derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of such coastal State, less

(2) the amounts paid to such coastal State under section 1733(b) of this title.

(b) The additional amount due each State under subsection (a) of this section shall be paid from a separate Treasury account which is constituted as set forth in subsection (c) of this section. The total amount contained in such account on the last business day of each month shall be paid to each State in an amount proportional to that State's share of the total additional amounts due to all States under subsection (a) of this section.

(c) Beginning on October 1, 1986, the Secretary shall deposit into the account described in subsection (b) of this section from the separate account described in section 8(g)(2) of the Outer Continental Shelf Lands Act, as amended by this title, 10 percent of all revenues deposited after October 1, 1986, into the account described in such section 8(g)(2) until such time as the amount due to all coastal States under subsection (a) of this section has been paid.

SEC. 1736. LOCAL PASSTHROUGH.

Unless otherwise prohibited by its constitution, or a constitutional amendment pending as of the date of enactment of this title, subsequently approved, each State receiving payment under sections 1732, 1733, and 1735 of this title, shall provide no less than 33 percent of the funds to local coastal governments for the mitigation of economic and environmental effects related to OCS mineral leasing, exploration, development, and production. In the case of the State of Alaska, the State shall be considered the local coastal community for the Unorganized Borough.

Subtitle E—Ocean and Coastal Resources Management and Development Block Grant Act

SEC. 1741. DEFINITIONS.

For purposes of this subtitle—

(1) "block grant" means a National Ocean and Coastal Resources Management and Development Block Grant;

(2) "coastal population" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927;

(3) "coastal-related energy facilities" means any equipment or facility that (A) is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource or for the manufacture, production, or assembly of equipment, machinery, products, or devices that are involved in any such energy-resource activity, and (B) is, or is likely to be, sited, constructed, expanded, or operated in, or in close proximity to, the coastal zone of any State because of technical requirements;

The term includes, (i) electric generating plants; (ii) facilities associated with the transportation, transfer, or storage of coal; (iii) petroleum refineries and associated facilities; (iv) gasification plants; (v) facilities associated with the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities, including deepwater ports, for the transfer of petroleum; (viii) facilities used for alternative ocean energy activities, including those associated with ocean thermal energy conversion; and (ix) pipelines, transmission facilities, and terminals associated with any of the foregoing.

For the purposes of this subtitle, the siting, construction, expansion, or operation of any coastal-related energy facilities is "in close proximity to the coastal zone of any state" if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(4) "coastal state" means the Commonwealth of Puerto Rico and any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(5) "coastal territory" means the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, or Guam;

(6) "Fund" means the Ocean and Coastal Resources Management and Development Fund;

(7) "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native villages;

(8) "outer Continental Shelf planning area" means one of the geophysical regions of the outer Continental Shelf which is so designated in the Outer Continental Shelf Leasing Program (43 U.S.C. 1344), dated July 21, 1982, or as so designated in subsequent outer Continental Shelf leasing programs;

(9) "proportionately" means in the same ratio as a state's allocation;

(10) "Secretary" means the Secretary of Commerce;

(11) "shoreline mileage" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927; and

(12) "state" means any coastal state or coastal territory.

SEC. 1742. OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Management and Development Fund.

(b)(1) Beginning in fiscal year 1988 and in each fiscal year thereafter, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 4 per centum of the average amount of all sums deposited in the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the three previous fiscal years.

(2) The amount deposited in the Fund in fiscal year 1988 shall not exceed

$150,000,000. The amount deposited in fiscal year 1989 shall not exceed $300,000,000. Beginning in fiscal year 1990, and in each fiscal year thereafter, the amount deposited in the Fund shall not exceed 105 per centum of the amount deposited in the Fund in the prior fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, section 1743 of this title.

SEC. 1743. NATIONAL OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANTS.

(a) Subject to the provisions of section 1742(c) and this section, for fiscal year 1988 and for each subsequent fiscal year, the Secretary shall provide to each state a national ocean and coastal resources management and development block grant from amounts paid into the Fund during such fiscal year under section 1742(b).

(b)(1) No state may receive a block grant for a fiscal year unless such state has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such state of the block grant among coastal zone management activities, coastal energy impact activities, living marine resource activities, and natural resource preservation, enhancement and management activities under section 1744(a); and

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible to receive a block grant pursuant to this subtitle and before submitting the report required under paragraph (1), each state shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the state convenient for encouraging maximum public participation.

(c) A block grant shall not be paid from the Fund to a state until the state has established a trust fund for the receipt of such grant.

(d) The amount of each block grant provided under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

(1) For each state, the equal combination of—

(A) the amount of actual leasing with respect to oil and gas which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) during the previous fiscal year which occurs within the outer Continental Shelf planning area to which such state is adjacent; and

(B) the volume of oil and gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state during the previous fiscal year.

(2) For each state, any proposed oil and gas lease sales specified by the outer Continental Shelf leasing program prepared under section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and scheduled to occur within the outer Continental Shelf planning area to which such state is adjacent.

(3) The coastal-related energy facilities (including coal facilities) located within each state during the previous fiscal year. For any state for which the Secretary has not approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), this criterion shall be reduced by fifty per centum. The amounts resulting from such reduction shall be reallocated proportionately, under this paragraph, among states for which the Secretary has approved such a management program.

(4) The shoreline mileage of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(5) The coastal population of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) For purposes of paragraphs (4) and (5) of subsection (d)—

(1) the Secretary shall be presumed to have approved the coastal zone management program of any state if the Secretary determines that, in any fiscal year, such state is making satisfactory progress toward the development of a coastal zone management program which will be approvable under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455). Such presumption may be renewed only once and for a period not to exceed one additional fiscal year if the Secretary makes such determination under this subsection for such additional fiscal year; and

(2) a state shall not receive in excess of 30 per centum of the amounts attributable to either criterion. If any state would receive an allotment greater than 30 per centum, the Secretary shall reduce such allotment to 30 per centum. The amounts resulting from such reduction shall be reallocated proportionately among those states that receive less than 30 per centum of the amounts attributable to such criterion.

(f)(1) For states for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), a coastal state shall receive not less than one and sixty two one-hundredths per centum, and a coastal territory not less than one-half of one per centum, of the total amount available for block grants under section 1742(c) during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal state or coastal territory is to receive a block grant that is less than the respective minimum grant levels established under paragraph (1), the Secretary shall increase such state's block grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the block grant of each state which, as determined under subsection (d), exceeds the respective minimum level under paragraph (1).

(3) For the purposes of the implementation of section 1744(b), block grant levels may fall below the respective minimum levels established under this section.

(g) If, after the calculations required under subsections (d), (e) and (f), any state would receive a block grant which is greater than 15 per centum of the funds appropriated under section 1742(c), the Secretary shall reduce such state's block grant to 15 per centum. The amounts resulting from such reduction shall be reallocated proportionately among states receiving less than 15 per centum of such funds and more than the minimum grant levels under subsection (f).

SEC. 1744. REQUIREMENTS ON THE USE OF BLOCK GRANTS.

Block grants provided to a state under section 1743(a) shall be used for the enhancement and management of ocean and coastal resources and for the amelioration of any adverse impacts that result from the siting, construction, expansion, or operation of coastal-related energy facilities.

(a) Such block grants shall be used only for each of the following activities:

(1) activities of such state authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(2) activities of such state pursuant to the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457);

(3) activities of such state for the enhancement, management and development of living marine resources; and

(4) activities of such state for the preservation, enhancement and management of its natural resources including coastal habitats.

(b) Nothing in this subtitle shall be construed to repeal or modify, by implication or otherwise, section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C 1461). The Secretary shall reduce any block grant, provided under this subtitle to a state that has an approved program under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455), by no more than 30 per centum of the amount of such state's block grant that is attributable to paragraphs (4) and (5) of section 6503(d) of this subtitle, if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act.

SEC. 1745. LOCAL GOVERNMENTS.

(a) Each State receiving a block grant in any fiscal year under section 1743(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the state; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 1744(a).

(b) In carrying out its responsibilities under subsection (a)(2), the State shall give particular emphasis to the activities of local governments in—

(1) providing public services and public facilities required as a result of the siting, construction, expansion, or operation of coastal-related energy facilities; and

(2) preventing, reducing, or ameliorating any unavoidable loss of valuable environmental or recreational resources if such loss results from the siting, construction, expansion, or operation of coastal-related energy facilities.

(c) In carrying out its responsibilities under this section, each State shall provide no less than 33⅓ per centum of each block grant received under section 1743(a) to its local governments.

SEC. 1746. AUDIT.

(a) Under regulations promulgated by the Secretary, any State receiving a block grant under section 1743(a) shall, for each fiscal year that it receives such grant, submit to the Secretary a financial audit of the trust fund established pursuant to section 1743(c). The income derived from such trust fund for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such State for the fiscal year;

(2) include a statement of all financial assistance provided to such State's local governments pursuant to section 6505;

(3) be conducted by an entity which is independent of any agency or official administering or using funds provided by such block grant; and

(4) be conducted in accordance with the financial and compliance element of the standards for audit of governmental organizations, activities, and functions established by the Comptroller General of the United States.

(c) After receiving a State's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a State's audit, that all or any part of the block grant has not been used as required by this subtitle, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the state with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within sixty days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the sixty-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

SEC. 1747. RULES AND REGULATIONS.

The Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle F—Amendments to the Coastal Zone Management Act

SEC. 1751. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 1752. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 1753. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking, "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state provides for the applicable fiscal year: 20 per centum of the grant for fiscal year 1986; 30 per centum of the grant for fiscal year 1987; 40 per centum of the grant for fiscal year 1988; and 50 per centum of the grant for each fiscal year thereafter. The Secretary may make the grant only if the Secretary—".

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state provides for the applicable fiscal year: 20 per centum of the grant for fiscal year 1986; 30 per centum of the grant for fiscal year 1987; 40 per centum of the grant for fiscal year 1988; and 50 per centum of the grant for each fiscal year thereafter.".

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking all that follows after the first sentence, and inserting in lieu thereof, the following: "Provided that—

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change;

"(2) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after it has been approved by the Secretary, and the Secretary may not authorize any federal financial assistance for such implementation until the Secretary approves the amendment; and

"(3) Within four months from the date on which any proposed amendment is received by the Secretary, the Secretary shall notify the state of the decision to approve or disapprove it. This period may be extended only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321).".

SEC. 1754. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"(a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before October 1, 1985; and

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After September 30, 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

"(1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

"(2) The Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environmental for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

"(e) FINANCIAL ASSISTANCE.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

"(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) ANNUAL REPORT.—Beginning with fiscal year 1987, the Secretary shall provide to the Congress an annual report that sets forth, with respect to the period covered by the report—

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f). "The Secretary shall submit the report within three months after the end of the fiscal year covered by the report.".

SEC. 1755. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and tehnical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 1756. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended as follows:

(1) by amending paragraph (1) to read as follows:

"(1) such sums, not to exceed $36,600,000 for the fiscal year ending September 30, 1987; $37,900,000 for the fiscal year ending September 30, 1988; $38,800,000 for the fiscal year ending September 30, 1989; and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;".

(2) By striking paragraph (2) and renumbering subsequent paragraphs—

(3) By amending the new paragraph (3) to read as follows:

"(3) such sums, not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended;".

(4) By amending the new paragraph (4) to read as follows:

"(4) such sums, not to exceed $3,800,000 for the fiscal year ending September 30, 1987; $4,500,000 for the fiscal year ending September 30, 1988; $5,000,000 for the fiscal year ending September 30, 1989; and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended;" and

(5) By amending the new paragraph (5) to read as follows:

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1987; $3,300,000 for the fiscal year ending September 30, 1988; $4,000,000 for the fiscal year ending September 30, 1989; and $4,000,000 for the fiscal year ending September 30, 1990, as may be necesssary for administrative expenses incident to the administration of this title.".

SEC. 1757. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subtitle G—Use of American-Built Rigs For OCS Drilling

SEC. 1761. USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following new subsection:

"(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which, by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1985.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States, and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

TITLE VII—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SEC. 1801. PAY ADJUSTMENTS DURING FISCAL YEARS 1986, 1987, AND 1988.

(a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—(1) Notwithstanding any other provision of law, adjustments under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and in the rates of pay under the other statutory pay systems shall be as follows:

(A) In the case of fiscal year 1986, no adjustment under such section shall be made.

(B) In the case of fiscal year 1987, the overall percentage of the adjustment under such section shall be an increase of 5 percent.

(C) In the case of fiscal year 1988, the overall percentage of the adjustment under such section shall be an increase of 5 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to subparagraph (B) or (C) of paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1 of the fiscal year involved.

(b) ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.—(1) Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2)) during—

(A) fiscal year 1986, shall (except to the extent permitted by section 616(a)(2) of H.R. 5798, incorporated by reference in sec-

tion 101(j) of Public Law 98-473 (98 Stat. 1963)) be equal to zero;

(B) fiscal year 1987, shall not exceed an increase of 5 percent; and

(C) fiscal year 1988, shall not exceed an increase of 5 percent.

(2) Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1987 or 1988 (determined without regard to this paragraph) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase is so scheduled to take effect.

(3) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1985.

(4) Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) The Office may make exceptions from the limitations imposed by paragraph (1) if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

(c) ASSUMPTION.—Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the respective adjustments described in subparagraphs (B) and (C) of subsection (a)(1), and subparagraphs (B) and (C) of subsection (b)(1), shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, and with respect to the fiscal year involved, absorb 33 percent of the increase in total pay for such year, as defined in subsection (d)(2).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "total pay" means, with respect to a fiscal year—

(A) the total amount of basic pay which, in the case of employees covered by the statutory pay systems, will be payable to such employees for service performed during such year; and

(B) the total amount of basic pay which, in the case of prevailing rate employees described in section 5342(a)(2) of title 5, United States Code, and employees covered by section 5348 of such title, will be payable to employees under those respective provisions for service performed during such year;

(2) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(3) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

SEC. 1802. AMENDMENTS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES.—(1) The Office of Personnel Management—

(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

(B) shall require the carrier to refund to the Employees Health Benefits Fund any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

Any refund made by a carrier under this subsection shall be credited to the contingency reserve of the health benefits plan of such carrier (as described in section 8909(b) of such title).

(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

(A) during fiscal year 1986 shall be not less than $800,000,000; and

(B) during fiscal year 1987 shall be not less than $300,000,000.

(3) No amount in any of the contingency reserves referred to in paragraph (1) may be transferred to the general fund of the Treasury of the United States, to the United States Postal Service, or to the government of the District of Columbia as a result of a refund made under this subsection.

(b) ELIMINATION OF 75 PERCENT LIMITATION ON GOVERNMENT CONTRIBUTIONS FOR FISCAL YEARS 1986 AND 1987.—Effective for each of the contract years commencing in fiscal years 1986 and 1987, respectively, the maximum biweekly Government contribution allowable under section 8906(b)(2) of title 5, United States Code, for any individual shall be 100 percent of the applicable subscription charge.

SEC. 1803. CONVERSION OF ANNUAL TO HOURLY RATES OF PAY BASED ON 2,087 HOURS PER YEAR.

(a) CONVERSION.—Section 5504(b) of title 5, United States Code, is amended—

(1) by striking out the first sentence;

(2) in the second sentence, by striking out "When" and inserting in lieu thereof "When, in the case of an employee,";

(3) in paragraph (1), by striking out "2,080" and inserting in lieu thereof "2,087"; and

(4) in the last sentence, by striking out "title." and inserting in lieu thereof "title other than an employee or individual excluded by section 5541(2)(xvi) of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of the beginning of the first applicable pay period commencing on or after October 1, 1985.

(c) TERMINATION DATE.—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall cease to have effect as of the beginning of the first applicable pay period commencing on or after October 1, 1988.

SEC. 1804. SAVINGS UNDER POSTAL SERVICE PROGRAMS.

(a) REDUCTION OF AUTHORIZATION FOR REVENUE FORGONE.—Notwithstanding subsection (c) of section 2401 of title 39, United States Code, the amount authorized to be appropriated pursuant to such subsection for fiscal year 1986 shall be $749,000,000.

(b) REDUCTION OF TRANSITIONAL APPROPRIATIONS.—(1) Notwithstanding section 2004 of title 39, United States Code—

(A) no sum is authorized to be appropriated pursuant to such section for fiscal year 1986; and

(B) for fiscal year 1989, there is authorized to be appropriated—

(i) such sums as may be necessary to carry out such section in such year; and

(ii) such sums as may be necessary to reimburse the Postal Service Fund (established by section 2003 of such title) for any expenditures made from such Fund under paragraph (2).

(2) The United States Postal Service, during fiscal year 1986, shall carry out section 2004 of title 39, United States Code, using any amounts available in the Postal Service Fund.

TITLE VIII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Highway Programs

SEC. 1851. REDUCTIONS IN HIGHWAY APPORTIONMENTS.

(a) PRIMARY SYSTEM.—The first sentence of section 105(a)(1) of the Highway Improvement Act of 1982 is amended by striking out "$2,450,000,000" and inserting in lieu thereof "$2,300,000,000".

(b) BRIDGE REPLACEMENT AND REHABILITATION.—Section 202(1) of the Highway Safety Act of 1982 is amended by striking out "$2,050,000,000" and inserting in lieu thereof "$1,750,000,000".

(c) INTERSTATE 4R.—The first sentence of section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out "$3,150,000,000" and inserting in lieu thereof "$2,800,000,000".

(d) APPORTIONMENT ADJUSTMENTS.—

(1) DETERMINATION OF ADJUSTMENT AMOUNT.—On the first day following the effective date of this Act, the Secretary of Transportation shall determine—

(A) the amount of funds that would have been apportioned to each State on October 1, 1985—

(i) for the Federal-aid primary system program if the amendment made by subsection (a) had been in effect on such date;

(ii) for the highway bridge replacement and rehabilitation program if the amendment made by subsection (b) had been in effect on such date; and

(iii) for the program to resurface, restore, rehabilitate, and reconstruct routes on the National System of Interstate and Defense Highways if the amendment made by subsection (c) had been in effect on such date; and

(B) the amount by which the amount which was apportioned to such State on October 1, 1985, for such program exceeds the amount determined under subparagraph (A) for such program.

(2) ADJUSTMENTS TO CURRENT APPORTIONMENT.—To the extent that any funds—

(A) which were apportioned to a State on October 1, 1985, for any program referred to in paragraph (1)(A); and

(B) which are unobligated on the first day following the effective date of this Act;

do not exceed the amount determined under paragraph (1)(B) for such program, such apportioned and unobligated funds shall lapse on such first day.

(3) ADJUSTMENT TO FUTURE APPORTIONMENT.—If the amount determined under paragraph (1)(B) with respect to the apportionment made on October 1, 1985, to any

State for any program referred to in paragraph (1)(A) is greater than the amount of funds which lapse from the apportionment to such State for such program under paragraph (2), the Secretary of Transportation shall reduce the amount which, but for this paragraph, would otherwise be apportioned to such State for such program on October 1, 1986, by the amount of such excess.

SEC. 1852. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $13,250,000,000 for fiscal year 1986;

(2) $13,800,000,000 for fiscal year 1987; and

(3) $14,400,000,000 for fiscal year 1988.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 157 of such title;

(3) under section 320 of such title;

(4) under section 147 of the Surface Transportation Assistance Act of 1978;

(5) under section 9 of the Federal-Aid Highway Act of 1981;

(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(7) under section 118 of the National Visitor Center Facilities Act of 1968; and

(8) for completion of the Zilwaukee Bridge required because of construction failure.

No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(c) DISTRIBUTION OF OBLIGATIONAL AUTHORITY.—For each of fiscal years 1986, 1987, and 1988, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation as follows:

(1) 95 percent of such limitation shall be allocated among the States in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(2) 5 percent of such limitation shall be allocated among the States in the ratio which sums apportioned or allocated for Federal-aid highways and highway safety construction which remain available for obligation to each State and are unobligated on the last day of the fiscal year preceding such fiscal year and which will not lapse at the end of such last day bears to the total of the sums apportioned or allocated for Federal-aid highways and highway safety construction which remain available for obligation to all the States and are unobligated on such last day and which will not lapse at the end of such last day.

(d) LIMITATION ON OBLIGATIONAL AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1986, 1987, and 1988, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATIONAL AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary of Transportation shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1986, 1987, and 1988, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and Federal lands highways programs.

(f) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "and section 8102(c) of the Omnibus Budget Reconciliation Act of 1985.".

SEC. 1853. OHIO RIVER BRIDGE FUND REPROGRAMMING.

Section 147 of the Federal-Aid Highway Act of 1978 is amended by inserting "(a)" after "SEC. 147." and by adding at the end thereof the following new subsection:

"(b)(1) Funds which have been set aside previously pursuant to the fourth and fifth sentences of subsection (a) of this section and which are in excess of the amounts needed to complete the projects authorized by such subsection shall be available to the Secretary of Transportation to carry out the following state-of-the-art technology projects:

"(A) Construction of a bridge (including approaches thereto) across the Ohio River between Newport, Kentucky, and Cincinnati, Ohio, to replace a bridge on a highway designated as a United States route.

"(B) Construction of a bridge (including approaches thereto) across the Ohio River near Covington, Kentucky, and Cincinnati, Ohio, to replace a bridge on a Kentucky State highway.

"(C) Construction of a bridge (including approaches thereto) across the Ohio River between Maysville, Kentucky, and Aberdeen, Ohio, to replace a bridge on a highway designated as a United States route.

"(2) In order to demonstrate the latest high-type geometric design features (including safety hardware) and new advances in highway bridge construction, the projects authorized by this subsection shall utilize state-of-the-art technology, and all design elements, including the decking, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance and rehabilitation costs.

"(3) The Secretary of Transportation shall provide necessary technical assistance in the design and construction of projects under this subsection.

"(4) Not later than one year, six years, 11 years, and 21 years after the completion of the state-of-the-art technology projects under this subsection, the Secretary of Transportation shall submit reports to Congress, including but not limited to the results of such projects, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other bridge projects, and any changes that may be necessary by law to permit further use of such features.

"(5) In allocating funds made available to carry out this subsection, the Secretary shall assure that sufficient funds are allocated to the projects described in subparagraphs (A) and (B) of paragraph (1) to complete such projects. Any remaining funds shall be used to carry out the project described in subparagraph (C) of such paragraph.

"(6) Funds made available to carry out this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended and shall not be subject to any obligation limitation. The Federal share of the projects carried out under this subsection shall be that provided in subsection (a).".

Subtitle B—Pipeline Safety

SEC. 1861. NATURAL GAS PIPELINE SAFETY AUTHORIZATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) $3,450,000 for the fiscal year ending September 30, 1986; and

"(5) $3,600,000 for the fiscal year ending September 30, 1987.".

SEC. 1862. AUTHORIZATIONS FOR FEDERAL GRANTS-IN-AID.

(a) COMBINED PROGRAM.—Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsections:

"(c) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) there are authorized to be appropriated—

"(1) $5,000,000 for the fiscal year ending September 30, 1986; and

"(2) $5,230,000 for the fiscal year ending September 30, 1987.

"(d) Not less than 5 percent of any amounts appropriated for carrying out the Federal grants-in-aid provisions for any fiscal year beginning after September 30, 1985, shall be available only for carrying out the Federal grants-in-aid provisions of section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(d)(2) of such Act (49 U.S.C. App. 1674(d)(2)) is amended—

(A) by striking out "authorized to be appropriated by section 17(b) of this Act" and

inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection"; and

(B) by striking out "(1) of this section" and inserting in lieu thereof "(1) of this subsection".

(2) Section 205(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)(2)) is amended by striking out "authorized to be appropriated by section 214 of this title" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection".

(3) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by inserting after "subsection (b)" the following: "or section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c))".

(4) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by inserting after "subsection (b)" the following: "or (c)".

SEC. 1863. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) $875,000 for the fiscal year ending September 30, 1986; and

"(5) $912,000 for the fiscal year ending September 30, 1987.".

SEC. 1864. TAX DISCRIMINATION AGAINST NATURAL GAS TRANSMISSION PROPERTY.

(a) IN GENERAL.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671-1686) is amended by adding at the end thereof the following new section:

"TAX DISCRIMINATION AGAINST NATURAL GAS TRANSMISSION PROPERTY

"SEC. 20. (a) As used in this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'natural gas transmission property' means property owned or used for the transportation of natural gas by a natural gas company providing transportation of natural gas by pipeline in interstate commerce;

"(4) 'commercial and industrial property' means all real and personal property, other than transportation property, and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

"(5) 'natural gas company' has the meaning natural gas company has under the Natural Gas Act; except that such term shall not include any person not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act solely by reason of section 1(c) of such Act (15 U.S.C. 717 and following).

"(b) The Congress finds and declares that the following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) assess natural gas transmission property at a value that has a higher ratio to the true market value of the natural gas transmission property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection; and

"(3) levy or collect an ad valorem property tax on natural gas transmission property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28, United States Code, and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to enjoin, suspend, restrain, or set aside, any tax of any State or local unit of government which is in violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of natural gas transmission property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the assessment jurisdiction. The burden of proof in determining such assessed value and true market value shall be governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study, the court shall find that—

"(1) an assessment of the natural gas transmission property at a value that has a higher ratio to the true market value of the natural gas transmission property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

"(2) the collection of an ad valorem property tax on the natural gas transmission property at a tax rate that exceeds the tax rate applicable to taxable property in the taxing district;

are violations of this section. Any sales assessment ratio study conducted pursuant to this subsection shall be carried out under statistical principles applicable to such study.

"(d) It is the sense of the Congress that any savings accruing to any person (including any natural gas company) by reason of the enactment and implementation of this section should be passed on to the ultimate consumers of natural gas.

"(e) The Federal Energy Regulatory Commission shall submit to Congress—

"(1) an interim report two and one half years after the effective date of this section, and

"(2) a final report five years after such effective date,

on the amount of savings, through reduced rates, accruing to consumers as a result of the enactment and implementation of this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect two years after the date of the enactment of this Act.

SEC. 1865. PROHIBITION ON THE ASSESSMENT AND COLLECTION OF CERTAIN FEES AND CHARGES.

(a) SECRETARY OF TRANSPORTATION.—Notwithstanding any other provision of this Act (including any amendment made by this Act), the Secretary of Transportation may not assess or collect any fees based on the usage of any natural gas pipeline or hazardous liquid pipeline, except those fees assessed or collected pursuant to a law approved before the date of the enactment of this Act.

(b) FEDERAL ENERGY REGULATORY COMMISSION.—Notwithstanding any other provision of this Act (including any amendment made by this Act), the Federal Energy Regulatory Commission may not assess or collect any charges from any interstate natural gas pipeline or any interstate oil pipeline carrier, except those charges assessed or collected pursuant to a law approved before the date of the enactment of this Act.

Subtitle C—Tennessee Valley Authority

SEC. 1871. SALE BY SECRETARY OF ENERGY OF CERTAIN UNNECESSARY ELECTRIC ENERGY.

(a) AUTHORITY TO SELL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Energy shall attempt to sell to electric utilities any electric energy that the Secretary has the right to buy under any Federal law or contract in effect on the date of the enactment of this Act for use in the provision of uranium enrichment service activities under section 161 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) and that the Secretary determines to be unnecessary to the conduct of such activities.

(2) EXCEPTION.—The Secretary of Energy may not sell any electric energy referred to in paragraph (1) that the Secretary has the right to buy from any federally chartered or Federal regional power marketing authority.

(b) CONSENT TO SALE.—Notwithstanding any other Federal law or contract in effect on the date of the enactment of this Act, no Executive agency (other than a federally chartered or Federal regional power marketing authority) may withhold its consent to the sale of electric energy under subsection (a).

(c) TRANSMISSION.—Notwithstanding any other Federal law or contract in effect on the date of the enactment of this Act—

(1) any Executive agency (other than a federally chartered or Federal regional power marketing authority) selling electric energy to the Department of Energy shall make such electric energy available to the location requested by the Secretary of Energy; and

(2) the Secretary of Energy, acting through the organizational entities described in subparagraphs (A) and (B) of section 302(a)(1) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(1)), shall assist in the transmission of any electric energy sold under subsection (a).

(d) REVENUES FROM SALE.—In partial repayment of amounts appropriated from the general fund of the Treasury of the United States for uranium enrichment service activities, the Secretary of Energy shall deposit in the general fund of the Treasury any revenues derived from the sale of electric energy under subsection (a) that are in excess of the energy charge incurred by the Secretary.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "energy charge" means any fee or payment associated with the purchase of electric energy that is supplied by an electric energy seller to an electric energy purchaser and does not include any fee or payment made exclusively for the availability of electric energy or the right to purchase specified amounts of electric energy.

(2) The term "Executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(f) EXPIRATION.—Subsections (a) through (e) of this section shall cease to be effective on December 31, 1992.

(g) TENNESSEE VALLEY AUTHORITY.—Notwithstanding any other provision of this Act (including any amendment made by this Act)—

(1) the Tennessee Valley Authority shall comply with section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4);

(2) the Tennessee Valley Authority shall, under any contract for the sale of electric power and energy with the Department of Energy in effect on September 25, 1985, make available and deliver electric power and energy to the Department of Energy only in such amounts as the Tennessee Valley Authority may lawfully make available and deliver, and under such terms and conditions as are provided, under such contract, the Tennessee Valley Authority Act of 1933, and other laws, as such contract, Act, and laws are in effect on September 25, 1985; and

(3) the Department of Energy shall comply with all payment and contract terms under any Department of Energy contract with the Tennessee Valley Authority providing for the sale of electric power and energy.

TITLE IX—COMMITTEE ON SMALL BUSINESS

SEC. 1901. Section 20 of the Small Business Act is amended by adding the following:

"(u) The following program levels are authorized for fiscal year 1986—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $80,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,862,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $900,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $50,000,000.

"(v) There are authorized to be appropriated to the Administration for fiscal year 1986, $593,340,000. Of such sum, $376,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (u), paragraphs (1) through (3); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $205,340,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(w) The following program levels are authorized for fiscal year 1987—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $80,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,862,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $900,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $50,000,000.

"(x) There are authorized to be appropriated to the Administration for fiscal year 1987, $627,340,000. Of such sum, $410,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (w), paragraphs (1) through (3); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $205,340,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(y) The following program levels are authorized for fiscal year 1988—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $80,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $45,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,862,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $900,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $50,000,000.

"(z) There are authorized to be appropriated to the Administration for fiscal year 1988, $634,340,000. Of such sum, $417,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (y), paragraphs (1) through (3); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $205,340,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 1902. Section 20(t) of the Small Business Act is amended as follows:

(a) by striking "each of fiscal years 1985 and 1986," and by inserting in lieu thereof "1985"; and

(b) by striking "for each of such years".

SEC. 1903. (a) Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.".

(b) The amendment made by subsection (a) shall take effect on the ninetieth day after the date of the enactment of this Act.

SEC. 1904. (a) Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"GUARANTEED OBLIGATIONS NOT ELIGIBLE FOR PURCHASE BY FEDERAL FINANCING BANK

"SEC. 320. Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire after September 30, 1985—

"(1) any obligation the payment of principal or interest on which has at any time been guaranteed in whole or in part under this title,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) The table of sections for such title III is amended by adding at the end thereof the following new item:

"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Financing Bank.".

SEC. 1905. (a) Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES

"SEC. 321. The Administration or its agent is authorized to issue trust certificates representing ownership of all or a fractional part of the guaranteed debentures issued by small business investment companies and guaranteed by the Administration under this Act under the same authority, terms and conditions as are applicable to trust certificates issued for loans pursuant to the authority of subsection 5(g) of the Small Business Act.".

(b) The table of sections for such title III is amended by adding at the end thereof the following new item:

"Sec. 321. Issuance and guarantee of trust certificates.".

SEC. 1906. (a) Section 7(b) of the Small Business Act is amended as follows:

(1) by striking "The" after "(b)" and inserting in lieu thereof "Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the,";

(2) by adding "and" to the end of paragraph (1);

(3) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(4) by striking paragraphs (3) and (4).

(b) Section 7(c)(4) of such Act is amended by striking out the last, undesignated paragraph.

(c) Section 18(a) of such Act is amended by striking all of the first sentence that follows "Federal Government," and precedes "and nothing".

SEC. 1907. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following:

"(16) The Administration shall collect a guarantee fee equal to three percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less or a loan under paragraph (13). The fee shall be payable by the participating lending institution and may be charged to the borrower.".

SEC. 1908. The Small Business Investment Act of 1958 is amended by adding the following new section to title V:

"SEC. 504. (a) Notwithstanding any other law, rule or regulation, the Administration is authorized and directed to conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $235,000,000; and

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed $280,000,000.

"(b) The sales may be for all or a fractional part of such amounts and the Administration or its agent further is authorized to issue trust certificates for such debentures under the same authority, terms and conditions as are applicable to trust certificates issued for loans pursuant to the authority of section 5(g) of the Small Business Act.

"(c) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of the Small Business Investment Act of 1958 and which is being sold pursuant to the provisions of the pilot program authorized in this section,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).

"(d) The Administration shall report to the President and the Congress on the conduct of such pilot program not later than 90 days after the date on which the last sale is made pursuant to paragraph (a) in each fiscal year and unless a report has been made by October 1 of each of 1986 and 1987, the Administration shall make an interim report by such dates.".

SEC. 1909. Section 16 of the Small Business Act is amended by adding to the end thereof the following new subsection:

"(d) Whoever makes any statement knowing it to be false, or whoever knowingly makes or uses any false document, writing or entry, for the purpose of misrepresenting the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

"(1) prime contract to be awarded pursuant to section 9 or 15;

"(2) subcontract to be awarded pursuant to section 8(a);

"(3) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(4) prime or subcontract to be awarded as a result or in furtherance of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility,

shall be punished by a fine of not more than $50,000 or by imprisonment for not more than five years, or both.".

SEC. 1910. Not later than December 15, 1985, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the Senate and House of Representatives an internal report on the options available to providing a guarantee on loans under section 7(a) of the Small Business Act from sources outside the Federal Government, together with such recommendations as the Administrator may have with respect to such options. One option which shall be evaluated in such report is the creation of a corporation owned by the Federal Government to make such guarantees.

SEC. 1911. Subsection (a) of section 7 of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(17)(A) No financial assistance shall be available under this subsection which benefits any applicant—

"(i) which performs abortion,

"(ii) which engages in research which relates, in whole or in part, to methods of, or the performance of, abortion,

"(iii) which promotes or recommends abortion, or

"(iv) which trains any individual to perform abortion.

"(B) Subparagraph (A) shall not apply to any activity described in clause (i) or (iii) of subparagraph (A) if all of the abortions performed, promoted, and recommended in such activity are in cases where the life of the mother would be endangered if the fetus were carried to term.".

SEC. 1912. (a) Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of law, the Administrator shall prescribe regulations which impose fees for services provided by the Administration. Such fees shall be in such amounts (subject to the limitation in paragraph (2)) as the Administrator determines to be appropriate, and apply only to the following services—

"(A) publications provided by the Administration,

"(B) processing applications for guaranteed or other loans, and

"(C) determining whether any business is a small business concern (or any type of such concern) for purposes of enabling such business to be eligible for any assistance or preferential treatment under this or any other Act.

"(2) With respect to any fee imposed under this subsection—

"(A) In the case of fees imposed for publications, such fees shall not exceed the lesser of $5 per publication, or the actual publication costs of said publication.

"(B) In the case of fees imposed for processing applications for loans, such fee shall not exceed $100.

"(C) In the case of fees imposed for designation as a small business concern (or any type of such concern), such fee shall not exceed $100 but shall be refunded to the applicant if such designation is not made.

"(3) Amounts collected pursuant to this subsection shall be deposited in the general fund of the Treasury as proprietary receipts of the Small Business Administration to be retained and used by such Administration to cover the costs of such services and publications to the extent and in the amounts as provided in advance in appropriations Acts. There shall be an annual verification by the Administrator of amounts collected and expended for services and publications as provided herein.".

(b) Within one year of the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and Appropriations of the Senate and House of Representatives a report with his findings and recommendations as to:

(1) the imposition of fees for counseling services provided by the Administration; and

(2) the imposition of each participating lender in the guaranteed loan program under section 7(a) of the Small Business Act of an annual fee of between one-quarter of one percent and one percent of the value of the unpaid balance of any loan made under such program, particularly on the revenues that could be expected and whether such revenues could be used for a loss reserve fund or to defray the cost of administration of the program.

(c) Not later than 60 days after the enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and Appropriations of the Senate and House of Representatives a report detailing the fees which the Administrator is considering to impose under the amendment made by subsection (a) and his proposed timetable for imposing such fees.

TITLE X—COMMITTEE ON VETERANS' AFFAIRS

SEC. 1951. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Veterans' Compensation and Health Care Amendments of 1985".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subtitle A—Compensation Rate Increases

SEC. 1961. SHORT TITLE.

This subtitle may be cited as the "Veterans' Compensation Rate Amendments of 1985".

SEC. 1962. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$127";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$192";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$276";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$390";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$492";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$620";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$718";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$808";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,343";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,669" and "$2,338", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,669";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,840";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,092";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,338";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$1004" and "$1,495", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,503"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$290".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 1963. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—1

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$137" and "$44", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$44", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$148"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 1964. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$349" and inserting in lieu thereof "$362".

SEC. 1965. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$494	W-4	$707
E-2	508	O-1	624
E-3	521	O-2	644
E-4	555	O-3	690
E-5	569	O-4	729
E-6	582	O-5	804
E-7	611	O-6	905
E-8	644	O-7	979
E-9	[1]673	O-8	1,073
W-1	624	O-9	1,152
W-2	649	O-10	[2]1,262
W-3	668		

"[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $726

"[2]If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,353.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$148"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$73".

SEC. 1966. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$249";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$358";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$463"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$463" and "$93", respectively.

SEC. 1967. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$148";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$249"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$127".

SEC. 1968. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this part shall take effect on December 1, 1985.

Subtitle B—Health-Care Eligibility Reform

SEC. 1971. SHORT TITLE.

This subtitle may be cited as the "Veterans' Health-Care Eligibility Reform Act of 1985".

SEC. 1972. ELIGIBILITY FOR HEALTH CARE OF VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES.

(a) HOSPITAL CARE AND NURSING HOME CARE.—(1) Subsection (a) of section 610 of title 38, United States Code, is amended to read as follows:

"(a) The Administrator shall furnish hospital care which the Administrator determines is needed and may (within the limits of Veterans' Administration facilities) furnish nursing home care which the Administrator determines is needed—

"(1) to any veteran for a service-connected disability;

"(2) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

"(3) to a veteran who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation, for any disability;

"(4) to a veteran who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

"(5) to a veteran as provided in subsection (e) of this section;

"(6) to a veteran who is a former prisoner of war, for any disability;

"(7) to a veteran of the Spanish-American war, Indian wars, Mexican border period, or World War I, for any disability;

"(8) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care; and

"(9) to a veteran for a non-service-connected disability if, in the case of hospital care (as well as nursing home care), the Administrator determines that the care may be provided within the limits of Veterans' Administration facilities.".

(2) Subsection (e)(1) of such section is amended by striking out "may be furnished hospital care or nursing home care" in subparagraphs (A) and (B) and inserting in lieu thereof "shall be furnished hospital care and may (within the limits of Veterans' Administration facilities) be furnished nursing home care".

(3) Such section is further amended by adding at the end the following new subsections:

"(f)(1) Except as provided in paragraph (2) of this subsection, the Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care solely because of subsection (a)(9) of this section unless the veteran agrees to pay to the United States the lesser of—

"(A) the cost of furnishing such care, as determined by the Administrator; and

"(B) the amount of the inpatient Medicare deductible in effect on the date of the veteran's admission for such care.

"(2) A veteran may not be required to make a payment under paragraph (1) of this subsection for care furnished during any 12-month period to the extent that such payment would cause the total amount paid by the veteran under such paragraph for hospital and nursing home care furnished during that period and under section 612(f)(3) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect for services provided during the first month of such 12-month period.

"(3) An amount collected or received by the Veterans' Administration under this subsection shall be deposited in the Treasury as a proprietary receipt.

"(4) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(g) Nothing in this section—

"(1) requires the Administrator to furnish hospital care in a facility other than a Veterans' Administration facility;

"(2) requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty to provide care in an institution of such government; or

"(3) restricts the Administrator's discretion to determine—

"(A) the appropriateness of furnishing medical services, therapies, or programs under this chapter; or

"(B) in what manner they will be furnished.".

(b) MEDICAL SERVICES FURNISHED ON AN OUTPATIENT OR AMBULATORY BASIS.—(1) Subsections (a) and (g) of section 612 are amended by striking ", within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "shall".

(2) Subsection (f) of such section is amended—

(A) by striking out "The Administrator, within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "(1) Except as provided in paragraph (3) of this subsection, the Administrator shall";

(B) by redesignating clause (1) as clause (A) and redesignating subclauses (A) and (B) of such clause as subclauses (i) and (ii), respectively;

(C) by redesignating clauses (2) and (3) as clauses (B) and (C), respectively;

(D) by designating the second sentence as paragraph (2);

(E) by striking out the third sentence; and

(F) by adding at the end the following:

"(3)(A) The Administrator may not furnish medical services under paragraph (1) of this subsection or home health services under paragraph (2) of this subsection to a veteran who is eligible for such care solely because of section 610(a)(9) of this title unless the veteran agrees to pay to the United States, in the case of each visit in which such medical or home health services are furnished, the amount equal to 20 percent of the estimated average cost of an outpatient visit in a Veterans' Administration facility during the fiscal year in which the services are furnished. Such estimated average cost shall be determined by the Administrator.

"(B) Subparagraph (A) of this paragraph does not apply to services furnished under paragraph (1)(A)(ii) of this subsection.

"(C) A veteran may not be required to make a payment under this paragraph for services furnished under this subsection during any 12-month period to the extent that such payment would cause the total amount paid by the veteran under this paragraph for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect for services provided during the first month of such 12-month period.

"(D) For the purposes of this paragraph, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(E) An amount collected or received by the Veterans' Administration under this paragraph shall be deposited in the Treasury as a proprietary receipt.".

(3) Subsection (i) of such section is repealed.

(4) Subsection (j) of such section is amended—

(A) by striking out "pursuant to" and inserting in lieu thereof "under";

(B) by striking out "(voluntarily requesting" and inserting in lieu thereof "who voluntarily request";

(C) by striking out the parenthesis after "immunizations";

(D) by striking out "facility, utilizing" and inserting in lieu thereof "facility. Any such immunization shall be made using";

(E) by striking out "Administration," and all that follows through "to provide" and inserting in lieu thereof "Administration. For such purpose, the Secretary may provide"; and

(F) by striking out "cost and the provisions of section" and inserting in lieu thereof "cost. Section".

(c) DETERMINATION OF ABILITY TO PAY.—Section 622 of such title is amended—

(1) by inserting "(a)" before "For the purposes";

(2) by striking out "610(a)(1)(B)" and inserting in lieu thereof "610(a)(8)"; and

(3) by adding at the end the following new subsection:

"(b)(1) An individual who does not qualify as having sufficient evidence of inability to defray necessary expenses by reason of subsection (a) of this section shall nevertheless be presumed to be unable to defray necessary expenses for the purpose of the sections referred to in that subsection if the individual's attributable income during the 12-month period preceding the date of the individual's application for care under one of those sections is not greater than the health-care income threshold.

"(2) Notwithstanding paragraph (1) of this subsection, the Administrator may refuse to determine that an individual is unable to defray necessary medical expenses for the purpose of the sections referred to in subsection (a) of this section if the corpus of the estate of the individual (and of the individual's spouse and dependent children, if any) is such that under all the circumstances (including consideration of the annual income of the individual and of such spouse and dependent children) it is reasonable that some part of the corpus of such estates be consumed for the individual's maintenance.

"(3) For purposes of this subsection, an individual's attributable income shall be determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such individual under section 521 of this title would be reduced if such individual were eligible for pension under that section.

"(4) For purposes of paragraph (1) of this subsection, the health-care income threshold for an individual—

"(A) in the case of an application for care made during the 12-month period beginning on December 1, 1985, is the amount equal to the product of—

"(i) 3.34, and

"(ii) the applicable current maximum annual rate of pension (as determined under paragraph (5) of this subsection); and

"(B) in the case of an application for care made during a 12-month period beginning on December 1 of a calendar year after 1985, is the amount in effect for purposes of this paragraph during the previous 12-month period increased by the percentage by which benefits have been increased under section 3112(a) of this title during that period.

"(5) For purposes of paragraph (4)(A)(ii) of this subsection, the current maximum annual rate of pension for a veteran is—

"(A) the amount in effect under section 521(b) in the case of a veteran who is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing; and

"(B) the amount in effect under section 521(c), in the case of a veteran who is married and living with or reasonably contributing to the support of such veteran's spouse or if there is a child of the veteran in the veteran's custody or to whose support the veteran is reasonably contributing.".

(d) CONFORMING AMENDMENTS.—(1) Section 525(a) is amended by striking out "and special priority with respect to such care and services under section 612(i)(5) of this title".

(2) Section 601 is amended—

(A) in paragraph (4)(C)(ii) by striking out "in clause (1)(b) or (2) of the first sentence, or in the third sentence," and inserting in lieu thereof "in paragraph (1)(A)(ii), (1)(B), or (1)(C)";

(B) in paragraph (6)(A)(i) by striking out "section 612(f)(1)(A)" and inserting in lieu thereof "section 612(f)(1)(A)(i)"; and

(C) in paragraph (6)(B)(ii) by striking out "section 612(f)(1)(B)" and inserting in lieu thereof "section 612(f)(1)(A)(ii)".

(3) Section 612A is amended—

(A) by striking out "clause (1)(b)" in subsection (b)(1) and inserting in lieu thereof "paragraph (1)(A)(ii)"; and

(B) by striking out "612(f)(2)" in subsection (e)(1) and inserting in lieu thereof "612(f)(1)(B)".

(4) Section 618(e) is repealed.

(5) Section 620(f)(1)(A)(ii) is amended by striking out "612(f)(2)" and inserting in lieu thereof "612(f)(1)(B)".

(6) Section 663(a)(1) is amended by striking out "612(f)(2)" both places it appears and inserting in lieu thereof "612(f)(1)(B)".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to hospital care, nursing home care, and medical services furnished after the end of the 60-day period beginning on the date of the enactment of this Act.

(2) The provisions of sections 610 and 622 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital and nursing home care and medical services furnished after the end of such 60-day period to veterans who were furnished such care or services on the day before the end of such period, but only to the extent that such care or service is furnished with respect to the same spell of illness for which it was furnished on such day as determined by the Administrator.

(f) SUNSET PROVISION.—The amendments made by this section shall expire on October 1, 1988.

SEC. 1973. RECOVERY OF THE COST OF CERTAIN CARE AND SERVICES.

(a) IN GENERAL.—Section 629 of title 38, United States Code, is amended to read as follows:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a)(1) In any case in which a veteran is furnished care or services under this chapter for a disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable costs of such care or services (as determined by the Administrator under subsection (d)(2)) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive reimbursement or indemnification for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

"(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

"(A) that is incurred incident to the veterans' employment and that is covered under a workers' compensation law or plan that provides reimbursement for or indemnification of the cost of health care and services provided to the veteran by reason of the disability;

"(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

"(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

"(D) that is incurred by a veteran who—

"(i) does not have a service-connected disability; and

"(ii) is entitled to care (or reimbursement for the expenses of care) under an insurance policy, contract, medical, or hospital service agreement, membership, or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for health services.

"(b)(1) With respect to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

"(2)(A) In order to enforce any right or claim to which it is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

"(B) The United States may institute and prosecute legal proceedings against the third party if—

"(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care and services for which recovery is sought are furnished to the veteran by the Veterans' Administration under this chapter;

"(ii) the United States sends written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

"(iii) a period of 60 days has passed following the mailing of such notice.

"(c) The Administrator may compromise, settle, or waive a claim of the United States under this section.

"(d)(1) The Administrator may enter into contracts or agreements with individuals or organizations for services to recover or collect amounts due the United States under this section. Notwithstanding section 3302(b) of title 31, such a contract or agreement may provide that a fee an individual or organization charges to recover or collect amounts due the United States is payable from the amount recovered or collected. Any such contract or agreement shall provide that—

"(A) the Administrator retains the authority to—

"(i) resolve a dispute;

"(ii) compromise a claim;

"(iii) end collection action; and

"(iv) refer a matter to the Attorney General to bring a civil action; and

"(B) with respect to any such recovery or collection, the individual or organization is subject to—

"(i) section 552a(m) of title 5 and sections 3301 and 4132 of this title; and

"(ii) laws and regulations of the United States and of the States related to collection practices.

"(2) The amount that may be recovered by the United States under subsection (a) of this section may not exceed the lesser of—

"(A) an amount equal to the reasonable cost of the care and services furnished the veteran under this chapter, as determined by the Administrator; or

"(B) the maximum amount specified (as applicable)—

"(i) by the law of the State or political subdivision concerned; or

"(ii) by any relevant contractual provision to which the veteran was a party or was subject.

"(3) For the purpose of determining the reasonable cost of care and services under subsection (a)(1) of this section and paragraph (2)(A) of this subsection, the Administrator—

"(A) shall prescribe regulations; and

"(B) may enter into agreements with insurance, medical service, and health-plan carriers and contractors.

"(4) Regulations prescribed under paragraph (3) of this subsection shall be prescribed only after notice and opportunity for public comment.

"(5) A determination for the purposes of this subsection of the reasonable cost of care and services furnished a veteran under this chapter shall be made in accordance with regulations prescribed and agreements entered into under paragraph (3) of this subsection.

"(e) A veteran eligible for care or services under this chapter may not be denied such care or services by reason of this section.

"(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement entered into, renewed, or modified (including any modifications of premiums or coverage) after the date of the enactment of the Veterans' Health-Care Eligibility Reform Act of 1985, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

"(g) Any moneys collected or received by the Veterans' Administration under this section shall be deposited in the Treasury as a proprietary receipt.

"(h) The Administrator shall make available clinical records of the Veterans' Administration for a veteran who is a beneficiary of any kind of policy, contract, agreement, or other arrangement which is referred to in subsection (a)(2)(D) of this section and with respect to which recovery or collection is sought under this section for inspection and review by the parties to such policy, contract, agreement, or other arrangement for the sole purpose of permitting such parties to verify that services for which recovery or collection is sought were furnished.

"(i)(1) For purposes of this section, the term 'third party' means—

"(A) a State or political subdivision of a State;

"(B) an employer or an employer's insurance carrier;

"(C) an automobile accident reparations insurance carrier;

"(D) an insurance, medical service, or health plan carrier; or

"(E) a contractor.

"(2) Such term does not include—

"(A) the insurance programs under parts A and B of title XVIII of the Social Security Act; or

"(B) a State plan for medical assistance approved under title XIX of such Act.".

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall apply to care and services provided on or after the date of the enactment of this Act, but shall not affect any policy, contract, agreement, or other ar-

rangement referred to in section 629(a)(2)(D) of title 38, United States Code, as amended by subsection (a), that was entered into before such date and is not modified or renewed on or after such date.

(2) For purposes of paragraph (1), the term "modified" includes any change in premiums or coverage.

SEC. 1974. ACCEPTANCE OF VA BENEFICIARIES BY PROVIDERS WHO ACCEPT MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Chapter 17 is amended by inserting after section 624 the following new section:

"§ 625. Requirement that providers accept Medicare and Veterans' Administration beneficiaries on similar basis and accept Veterans' Administration payments as payments in full

"(a) A non-Federal provider of hospital services to any Medicare beneficiary—

"(1) must accept Veterans' Administration beneficiaries on a similar basis; and

"(2) must accept payments made by the Administrator in accordance with Veterans' Administration regulations as payments in full.

"(b) Upon a finding by the Administrator, made in accordance with procedures developed in consultation with the Secretary of Health and Human Services, that a Medicare provider has failed to comply with subsection (a) of this section, the Administrator shall report such finding to the Secretary for possible corrective action or for possible termination of the provider's agreement with the Secretary entered into under the Social Security Act (42 U.S.C. 1395cc(a)). Thereafter, in addition to the bases for termination set forth in such Act, the Secretary may terminate such agreement with the provider if the Secretary determines that the provider has failed to comply with this section.

"(c) For purposes of this section, the term 'Veterans' Administration beneficiaries' means all veterans and other persons for whose hospital care outside Federal facilities the Administrator is authorized to pay.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 624 the following new item:

"625. Requirement that providers accept Medicare and Veterans' Administration beneficiaries on similar basis and accept Veterans' Administration payments as payments in full.".

SEC. 1975. REPORT.

(a) REPORT ON PROVISION OF HEALTH CARE.—The Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing in detail—

(1) the number of veterans receiving health care from the Veterans' Administration during the report period;

(2) the number of veterans applying for health care from the Veterans' Administration during the report period who did not receive such care; and

(3) the reasons why veterans who applied for such care did not receive such care.

(b) DEADLINE FOR REPORT.—The report shall be submitted not later than 30 days after the end of the report period.

(c) REPORT PERIOD.—For the purposes of this section, the term "report period" means the 12-month period beginning on the effective date of the amendments made by section 1962.

Subtitle C—Miscellaneous

SEC. 1981. ADVISORY COMMITTEE ON AMERICAN INDIAN VETERANS.

(a) ESTABLISHMENT OF COMMITTEE.—The Administrator of Veterans' Affairs shall establish, by January 15, 1986, an advisory committee to be known as the Advisory Committee on American Indian Veterans (hereinafter in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of American Indian veterans. Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, outreach, and other programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.— The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of American Indian veterans, including such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including specific health care needs of such veterans and the delivery of health care services by the Veterans' Administration to such veterans.

(d) PARTICIPATION BY OTHER AGENCIES.— The Administrator may invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the Committee.

(e) EXPENSES.—The members of the Committee appointed by the Administrator shall be paid for reasonable and necessary expenses, as determined by the Administrator, incurred in carrying out the duties of the Committee.

(f) REPORTS.—(1) Not later than November 1, 1986, and not later than November 1, 1987, the Committee shall transmit to the Administrator a report on the matters described in paragraphs (1) and (2) of subsection (b) that were examined and evaluated by the Committee during fiscal year 1986 in the case of the first report and during fiscal year 1987 in the case of the second report.

(2) Within 60 days after receiving each such report, the Administrator shall transmit to the Congress a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

(g) TERMINATION.—The Committee shall terminate on the date on which the second report is transmitted by the Committee pursuant to subsection (f)(1).

SEC. 1982. AGENT ORANGE STUDY FOR FEMALE VETERANS.

(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1) The Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse gender-specific health effects in females of service in the Armed Forces of the United States in the Republic of Vietnam during the period of the Vietnam conflict as such health effects may result from exposure to—

(A) phenoxy herbicides (including the herbicide known as Agent Orange); and

(B) the class of chemicals known as the dioxins produced during the manufacture of such herbicides.

(2) In providing for such study, the Administrator may expand the scope of the study to include an evaluation of any long-term adverse gender-specific health effects in females of such service as such health effects may result from other factors involved in such service (including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions).

(3) The Administrator may also include in the study an evaluation of the means of detecting and treating adverse gender-specific health effects found through the study.

(4) The Administrator shall provide for the study to be conducted through contracts or agreements with public or private agencies or persons.

(b) FUNCTIONS OF OFFICE OF TECHNOLOGY ASSESSMENT.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(2) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(3)(A) Concurrent with the approval or disapproval of any protocol under paragraph (1), the Director shall submit to the appropriate committees of Congress a report—

(i) explaining the basis for the Director's action in approving or disapproving the protocol; and

(ii) providing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

(B) If the Director has not approved such a protocol during the 180 days following the date of the enactment of this Act, the Director—

(i) shall submit to the appropriate committees of Congress a report describing the reasons why the Director has not given such approval; and

(ii) shall submit to such committees an update report on such initial report each 60 days thereafter until such a protocol is approved.

(4) The Director shall submit to the appropriate committees of Congress, at each of the times specified in the second sentence of this paragraph, a report on the Director's monitoring of the conduct of such study pursuant to paragraph (2). A report under the preceding sentence shall be submitted—

(A) before the end of the six-month period beginning on the date of the approval of the protocol by the Director;

(B) before the end of the 12-month period beginning on such date; and

(C) annually thereafter until the study is completed or terminated.

(c) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the submission of the first report under subsection (d)(1) as the Administrator may determine reasonable in light of the possibility of developing through such study significant new information on the long-term gender-specific adverse health effects in females of exposure to dioxins.

(d) REPORTS TO CONGRESS.—(1) Not later than 24 months after the date of the ap-

proval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of Congress a report containing—

(A) a description of the results thus far obtained under the study conducted pursuant to such subsection; and

(B) such comments and recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of such results.

(2) Not later than 90 days after the submission of each report under paragraph (1), the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator proposes to take with respect to programs administered by the Veterans' Administration. Each such description shall include a justification or rationale for any such action the Administrator proposes to take. Any such proposal shall be based on the results described in the report under paragraph (1) and the comments and recommendations on that report and any other available pertinent information.

(3) The requirement in paragraph (1) for the submission of annual reports expires upon the submission of a report after the completion of the study under subsection (a).

(e) BUDGET ACT PROVISIONS.—(1) This section does not authorize the enactment of new budget authority for a fiscal year before fiscal year 1987.

(2) A contract to carry out the study under subsection (a) may be entered into only to the extent that—

(A) appropriated funds are available to carry out the contract; or

(B) the contract provides that the obligation of the United States to make payments under the contract is contingent upon the availability of appropriated funds for such payments.

(f) DEFINITION.—For the purposes of this section, the term "gender-specific health effects in females" includes effects on female reproductive capacity, reproductive organs, and reproductive outcomes, effects on female-specific organs and tissues, and other effects unique to the physiology of females.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION B—

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Deficit Reduction Amendments of 1985".

(b) TABLE OF CONTENTS.—

Title I. Health care programs.

Title II. Trade and customs laws amendments.

Title III. Provisions relating to aid to families with dependent children.

Title IV. Provisions relating to railroad unemployment repayment tax and unemployment compensation.

Title V. Revenue provisions.

Title VI. Amendments relating to single employer plans.

TITLE I—HEALTH CARE PROGRAMS

SEC. 2100. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1985".

TABLE OF CONTENTS OF TITLE

Part A—Changes Relating Primarily to Part A of the Medicare Program

Subpart 1—Hospital Payment Rates

Sec. 2101. Rate of increase in payments for inpatient hospital services.

Sec. 2102. One-year extension of DRG transition.

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Sec. 2105. Computation of additional payment amounts for hospitals serving a disproportionate share of low-income patients.

Sec. 2106. Treatment of certain rural osteopathic hospitals as rural referral centers.

Sec. 2107. One-year prohibition on freezing cost increases that may be recognized for direct medical education.

Sec. 2108. Return on equity capital for inpatient hospital services and other services.

Sec. 2109. Continuation of medicare reimbursement waivers for certain hospitals subject to regional hospital reimbursement demonstrations.

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Sec. 2112. Report on impact of outlier and transfer policy on rural hospitals.

Sec. 2113. Information on impact of PPS payments on hospitals.

Subpart 2—Benefits, Coverage, Premiums, and Provider Agreements

Sec. 2121. Extension and payment for hospice care.

Sec. 2122. Limiting the penalty for late enrollment in part A.

Sec. 2123. Medicare coverage of, and application of hospital insurance tax to, newly hired State and local government employees.

Sec. 2124. Responsibilities of medicare hospitals in emergency cases.

Part B—Changes Relating to Parts A and B of the Medicare Program

Sec. 2131. Extension of working aged provisions to individuals over 69.

Sec. 2132. Provisions relating to health maintenance organizations and competitive medical plans.

Sec. 2133. Evaluation of preadmission and pre-procedure certification programs.

Sec. 2134. Prohibition of administrative merger of renal disease networks with other organizations.

Sec. 2135. Extension of certain medicare municipal health services demonstration projects.

Sec. 2136. Technical corrections.

Part C—Changes Relating Primarily to Part B of the Medicare Program

Sec. 2141. Extension of physician fee freeze for non-participating physicians and improvements in the participating physician program.

Sec. 2142. Expansion of membership and duties of the Prospective Payment Assessment Commission to include review of payments for physicians' services.

Sec. 2143. Part B premium.

Sec. 2144. Determinations of inherent reasonableness of charges and customary charges for certain former hospital-compensated physicians.

Sec. 2145. Occupational therapy services.

Sec. 2146. Payment for durable medical equipment.

Sec. 2147. Payment for assistants at surgery for certain cataract operations and other operations.

Sec. 2148. Limitation on medicare payment for post-cataract surgery patients.

Sec. 2149. Demonstration of preventive health services under medicare.

Part D—Other and Additional Changes Relating to Part B (or to Parts A and B) of the Medicare Program

Sec. 2151. Extension of physician fee freeze for non-participating physicians and improvements in the participating physician program.

Sec. 2152. Physician Payment Review Commission and development of relative value scale.

Sec. 2153. Payment for durable medical equipment.

Sec. 2154. Payment for clinical laboratory services.

Sec. 2155. Vision care.

Sec. 2156. Second opinions.

Sec. 2157. Changing medicare appeal rights.

Sec. 2158. Extension of On Lok waiver.

Part E—Changes Relating to the Medicaid Program

Sec. 2161. Services for pregnant women.

Sec. 2162. Modifications of home and community-based waiver under section 1915(c).

Sec. 2163. Optional hospice benefits.

Sec. 2164. Medicaid payments for direct medical education costs of hospitals.

Sec. 2165. Treatment of potential payments from medicaid qualifying trusts.

Sec. 2166. Written standards for provision of organ transplants.

Sec. 2167. Deemed residence for out-of-state adoptive and foster care placements.

Sec. 2168. Extension of MMIS deadline.

Sec. 2169. Extension of certain waiver project.

Sec. 2170. Report on adjustment in medicaid payments for hospitals serving disproportionate numbers of low income patients.

Sec. 2171. Reference to provisions of law providing coverage under, or directly affecting, the medicaid program.

Part F—Private Health Insurance Continuation

Sec. 2181. Temporary extension of coverage at group rates for family members of deceased, divorced, or medicare-eligible workers.

Part G—Task Force on Long-Term Health Care Policies

Sec. 2191. Guidelines for long-term health care policies.

PART A—CHANGES RELATING PRIMARILY TO PART A OF THE MEDICARE PROGRAM

Subpart 1—Hospital Payment Rates

SEC. 2101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) SETTING APPLICABLE PERCENTAGE AT ONE PERCENT.—The second sentence of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended to read as follows: "Notwithstanding the previous sentence or subsection (e), for purposes of subparagraph (A) for cost reporting periods beginning during fiscal year 1986 and for purposes of subsection (d)(3)(A) for discharges occurring during that fiscal year, the applicable percentage increase shall be one percent.".

(b) APPLICATION TO DRG PAYMENT SYSTEM.—Section 1886(d)(3)(A) of such Act is amended by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986".

(c) NO SECRETARIAL DISCRETION FOR FISCAL YEAR 1986.—Section 1886(e)(4) of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

SEC. 2102. ONE-YEAR EXTENSION OF DRG TRANSITION.

(a) MAINTAINING CURRENT BLEND FOR ONE YEAR.—Section 1886(d)(1) of the Social Security Act (42 U.S.C. 1395ww(d)(1)) is amended by striking out "1985" and "1986" and inserting in lieu thereof "1986" and "1987", respectively, each place either appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods, and discharges in fiscal years, beginning on or after October 1, 1985.

SEC. 2103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

(a) APPLICATION OF REVISED INDEX PROSPECTIVELY.—(1) Subsection (b) of section 2316 of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1081) is amended to read as follows:

"(b) The Secretary shall adjust the payment amounts for hospitals for discharges occurring during fiscal year 1986 to reflect the changes the Secretary has proposed (in the Federal Register on June 10, 1985) in regulations respecting the hospital wage index under section 1886(d)(3)(E) of the Social Security Act, as that proposal relates to the use of total gross hospital wages. For discharges occurring after September 30, 1986, the Secretary shall provide for such periodic adjustments in the appropriate wage index used under that section as may be necessary, taking into account changes in the wage differences of full-time and part-time workers.".

(2) The amendment made by paragraph (1) shall be effective as if it had been included in the Deficit Reduction Act of 1984.

(b) STUDY OF METHODOLOGY FOR AREA WAGE ADJUSTMENT FOR CENTRAL CITIES.—(1) The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, shall collect information and shall develop one or more methodologies to permit the adjustment of the wage indices used for purposes of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E) of the Social Security Act, in order to more accurately reflect hospital labor markets, by taking into account variations in wages and wage-related costs between the central city portion of urban areas and other parts of urban areas.

(2) The Secretary shall report to Congress on the information collected and the methodologies developed under paragraph (1) not later than May 1, 1986. The report shall include a recommendation as to the feasibility and desirability of implementing such methodologies.

SEC. 2104. CHANGE IN FORMULA FOR INDIRECT TEACHING ADJUSTMENT.

(a) SUBSTITUTION OF NEW FORMULA.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(1) by inserting "(i)" after "(B)",

(2) in the first sentence—

(A) by inserting "for discharges occurring during fiscal years 1984 and 1985" after "except that", and

(B) by inserting before the period at the end the following: ", and except that for discharges for fiscal years after fiscal year 1985 the payment amount shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii)", and

(3) by adding at the end the following new clause:

"(ii) For purposes clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) during fiscal years 1986 and 1987, is equal to $2 \times [(1+r)^{.4} - 1]$, where 'r' is the ratio of the hospital's full-time equivalent interns and residents (including those assigned to outpatient departments of the hospital) to beds and '.4' is .405, or

"(II) after fiscal year 1987, is equal to $1.5 \times [(1+r)^{.4} - 1]$, where 'r' is the same as 'r' under subclause (I) and '.4' is .5795.".

(b) ADJUSTMENT OF PAYMENT AMOUNTS.—

(1) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT CHANGE IN FORMULA.—Section 1886(d)(2)(C)(i) of such Act is amended by inserting "(taking into account, for discharges occurring after September 30, 1985, the amendments made by section 2104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)" after "medical education costs".

(2) PROVIDING FOR SYSTEM SAVINGS FROM CHANGE IN FORMULA.—Subparagraph (C) of section 1886(d)(3) of such Act is amended—

(A) by inserting "(i)" after "(C)",

(B) by inserting "FOR FISCAL YEAR 1985" after "NEUTRALITY",

(C) by striking out "The Secretary" and inserting in lieu thereof "For discharges occurring in fiscal year 1985, the Secretary", and

(D) by adding at the end the following new clause:

"(ii) REDUCING FOR SAVINGS FROM AMENDMENT TO INDIRECT TEACHING ADJUSTMENT FOR SUBSEQUENT FISCAL YEARS.—For discharges occurring after fiscal year 1985, the Secretary shall further reduce each of the average standardized amounts (in a proportion which takes into account the differing effects of the standardization effected under paragraph (2)(C)(i)) so as to provide for a reduction in the total of the payments (attributable to this paragraph) made for discharges occurring during—

"(i) each of fiscal years 1986 and 1987, of an amount equal to the estimated reduction in the additional payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 2104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 if the factor described in clause (ii)(II) of paragraph (5)(B) were applied for each respective fiscal year instead of the factor described in clause (ii)(I) of that paragraph, and

"(ii) each fiscal year thereafter, of an amount equal to the estimated reduction in the additional payment amounts under paragraph (5)(B) for that fiscal year that has resulted from the enactment of the amendments made by section 104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985.".

(3) CONFORMING AMENDMENT.—Clauses (i)(I) and (ii)(I) of section 1886(d)(3)(D) of such Act are each amended by inserting "or reduced" after "(B), and adjusted".

SEC. 2105. COMPUTATION OF ADDITIONAL PAYMENT AMOUNTS FOR HOSPITALS SERVING A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) REQUIRING ADJUSTMENT.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(F)(i) The Secretary shall provide under this subparagraph, for discharges occurring during fiscal years 1986 and 1987, for an additional payment amount, for discharges occurring in a cost reporting period of a hospital, for a subsection (d) hospital that is located in an urban area, that has 100 or more beds, and that—

"(I) serves a significantly disproportionate number of patients who have low income (as defined in clause (iv)(I)), or

"(II) can demonstrate that its net inpatient care revenues (excluding any of such revenues attributable to this title or State plans approved under title XIX) during the cost reporting period for indigent care from State and local government sources exceed 30 percent of its total of such revenues during the period.

"(ii) The amount of such payment for each discharge shall be the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) for that discharge multiplied by the disproportionate share adjustment percentage established under clause (iii) for the cost reporting period in which the discharge occurs.

"(iii) The disproportionate share adjustment percentage for a cost reporting period—

"(I) for a hospital described in clause (i)(II) is equal to 16 percent, and

"(II) for other hospitals is equal to seventenths of the excess low income patient percentage (as defined in clause (iv)(IV)) for that period,

but in no case may the percentage for any hospital for any period exceed 16 percent.

"(iv) In this subparagraph:

"(I) A hospital 'serves a significantly disproportionate number of patients who have low income' for a cost reporting period if the hospital has a low income patient percentage (as defined in subclause (II)) for that period which equals, or exceeds, 15 percent.

"(II) The term 'low income patient percentage' means, with respect to a cost reporting period of a hospital, the percentage of its total number of patient days of inpatient hospital services it provided during periods which are attributable to low income patients (as defined in subclause (III)).

"(III) The term 'low income patient' means, with respect to inpatient hospital services provided to a patient, a patient who was, or is determined to have been, entitled to medical assistance under title XIX with respect to some or all of such services during the hospital stay, and includes such an individual notwithstanding the fact that

some or all of such services were actually paid for under this title.

"(IV) The term 'excess low income patient percentage' means, for a cost reporting of a hospital, the hospital's low income patient percentage (as defined in subclause (II)) for that period minus 15 percent.".

(b) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT DISPROPORTIONATE SHARE PAYMENTS.—Section 1886(d)(2)(C) of such Act is amended—

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iv) for discharges occurring during fiscal years 1986 and 1987, excluding an estimate of the additional payments to certain hospitals to be made under paragraph (5)(F).".

SEC. 2106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOSPITALS AS RURAL REFERRAL CENTERS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by inserting before the period at the end of the second sentence the following: "and which shall not require a rural osteopathic hospital to have more than 3,000 discharges in a year in order to be classified as a rural referral center".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

SEC. 2107. ONE-YEAR PROHIBITION ON FREEZING COST INCREASES THAT MAY BE RECOGNIZED FOR DIRECT MEDICAL EDUCATION.

(a) RULE.—The Secretary of Health and Human Services may not implement any regulation that would limit, under the authority of section 1861(v) of the Social Security Act, the costs that may be recognized as reasonable under title XVIII of that Act with respect to the net costs of approved educational activities for a cost reporting period based upon the net costs of those activities for any previous cost reporting period.

(b) EFFECTIVE PERIOD.—The prohibition of subsection (a) shall apply to the cost reporting periods beginning during the one-year period beginning on July 1, 1985.

SEC. 2108. RETURN ON EQUITY CAPITAL FOR INPATIENT HOSPITAL SERVICES AND OTHER SERVICES.

(a) INPATIENT HOSPITAL SERVICES.—(1) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(P) Such regulations may not provide for any payment, with respect to the reasonable costs of inpatient hospital services, for a return on equity capital for hospitals.".

(2) Section 1886(g) of such Act (42 U.S.C. 1395ww(g)) is amended—

(A) by striking out "(1)" after "(g)", and

(B) by striking out paragraph (2).

(b) OTHER SERVICES.—(1) Section 1861(v)(1)(P) of such Act, as added by subsection (a)(1), is amended by inserting "(i)" after "(P)" and by adding at the end the following new clause:

"(ii) If such regulations provide for the payment for a return on equity capital, the rate of return to be recognized, for determining the reasonable cost of services furnished in a cost reporting period, shall be equal to the average of the rates of interest, for each of the months any part of which is included in the period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2) Section 1861(v)(1)(B) of such Act (42 U.S.C. 1395x(v)(1)(B)) is amended—

(A) by striking out "any fiscal period" and "such fiscal period" and inserting in lieu thereof "any cost reporting period" and "the period", respectively, and

(B) by striking out "not exceed one and one-half times" in the second sentence and inserting in lieu thereof "be equal to".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to payments made, on the basis of reasonable cost, for hospital cost reporting periods beginning on or after October 1, 1986. Costs attributable to a return on equity capital shall not be included in determining national and regional adjusted DRG prospective payment rates (under section 1886(d) of the Social Security Act) for discharges occurring on or after October 1, 1986.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985.

SEC. 2109. CONTINUATION OF MEDICARE REIMBURSEMENT WAIVERS FOR CERTAIN HOSPITALS SUBJECT TO REGIONAL HOSPITAL REIMBURSEMENT DEMONSTRATIONS.

For purposes of section 1886(c) of the Social Security Act (including paragraph (4) thereof), a hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been approved by the Secretary of Health and Human Services under section 222(a) of the Social Security Amendments of 1972 shall be deemed (as of the date of the enactment of this Act) to meet the requirements of section 1886(c)(1)(A) of the Social Security Act if the system applies—

(1) to substantially all non-Federal acute care hospitals (as defined by the Secretary for purposes of that section) in the geographic area served by the system on January 1, 1985; and

(2) to the review of at least 75 percent—

(A) of all revenues or expenses in such geographic area for inpatient hospital services, and

(B) of revenues or expenses in the geographic area for inpatient hospital services provided under the applicable State plan approved under title XIX of the Social Security Act.

SEC. 2110. FOUR-YEAR TEST FOR STATE WAIVERS FOR CERTAIN STATES.

(a) IN GENERAL.—Section 1886(c) of the Social Security Act (42 U.S.C 1395ww(c)) is amended by adding at the end the following new paragraph:

"(7) In the case of a State which made a request under paragraph (5) before December 31, 1984, for the approval of a State hospital reimbursement control system and which request was approved—

"(A) in applying paragraphs (1)(C) and (6), a reference to a '36-month period' is deemed a reference to as '48-month period', and

"(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 2111. SPECIAL RULE FOR TREATMENT OF DEPRECIATION AND CAPITAL INDEBTEDNESS FOR DONATIONS OF STATE PROPERTY TO NON-PROFIT CORPORATIONS.

(a) GENERAL RULE.—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting ", except as provided in clause (iv)," in clause (i) after "such regulations shall provide", and

(2) by adding at the end the following new clause:

"(iv) In the case of the transfer of a hospital or skilled nursing facility from ownership by a State to ownership by a non-profit corporation without monetary consideration, clause (i) shall be applied without regard to the acquisition cost of the hospital or facility to the new owner.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applied as though they were included in the Deficit Reduction Act of 1984.

SEC. 2112. REPORT ON IMPACT OF OUTLIER AND TRANSFER POLICY ON RURAL HOSPITALS.

(a) REVIEW.—The Secretary of Health and Human Services shall review the impact of policies respecting outliers and patient transfers on payments under section 1886(d) of the Social Security Act to rural hospitals (particularly on rural hospitals with less than 100 beds).

(b) REPORT.—The Secretary shall report to Congress on the findings of the review not later than May 1, 1986, and shall include in the report recommendations on changes in policies respecting outliers and patient transfers to the extent they adversely affect rural hospitals.

SEC. 2113. INFORMATION ON IMPACT OF PPS PAYMENTS ON HOSPITALS.

(a) DISCLOSURE OF INFORMATION.—The Secretary of Health and Human Services shall make available to the Prospective Payment Assessment Commission, the Congressional Budget Office, and to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the most current information on the payments being made under section 1886 of the Social Security Act to individual hospitals. Such information shall be made available in a manner that permits examination of the impact of such section on hospitals.

(b) CONFIDENTIALITY.—Information disclosed under subsection (a) shall be treated as confidential and shall not be subject to further disclosure in a manner that permits the identification of individual hospitals.

Subpart 2—Benefits, Coverage, Premiums, and Provider Agreements

SEC. 2121. EXTENSION AND PAYMENT FOR HOSPICE CARE.

(a) ELIMINATION OF SUNSET.—Section 122(h)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, 96 Stat. 362), relating to the end of the effective date for hospice care, is amended—

(1) in subparagraph (A)—

(A) by striking out "(h)(1)(A) Subject to subparagraph (B), the" and inserting in lieu thereof "(h)(1) The", and

(B) by striking out ", and before October 1, 1986", and

(2) by striking out subparagraph (B).

(b) INCREASE IN PAYMENT OF DAILY RATES FOR HOSPICE CARE FOR FISCAL YEAR 1986.—(1) Subparagraph (B) of section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended to read as follows:

"(B) Notwithstanding subparagraph (A) and for hospice care furnished on or after October 1, 1985, the daily rate of payment per day for routine home care shall be $63.17 and the daily rate of payment for other services included in hospice care shall be the daily rate of payment recognized under subparagraph (A) as of July 1, 1985, increased by $10.".

(2) Subparagraph (C) of such section is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 2122. LIMITING THE PENALTY FOR LATE ENROLLMENT IN PART A.

(a) LIMITING PENALTY TO 10 PERCENT AND TWICE THE PERIOD DURING WHICH NOT ENROLLED.—Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(7) any percent increase effected under section 1839(b) in an individual's monthly premium may not exceed 10 percent and shall only apply to premiums paid during a period equal to twice the number of months in the full 12-month periods described in that section.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(3) shall apply to premiums paid for months beginning with January 1986.

(2) In applying that amendment, months (before, during, or after January 1986) in which an individual was required to pay a premium increased under the section that was so amended shall be taken into account in determining the month in which the premium will no longer be subject to an increase under that section as so amended.

SEC. 2123. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (u) of section 3121 of the Internal Revenue Code of 1954 (relating to application of hospital insurance tax to Federal employment) is amended to read as follows:

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

"(1) FEDERAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.

"(2) STATE AND LOCAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (b) shall be applied without regard to paragraph (7) thereof.

"(B) EXCEPTION FOR CERTAIN SERVICES.—Service shall not be treated as employment by reason of subparagraph (A) if—

"(i) the service is included under an agreement under section 218 of the Social Security Act, or

"(ii) the service is performed—

"(I) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(II) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.

"(C) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

"(i) such service would be excluded from the term 'employment' for purposes of this chapter if subparagraph (A) did not apply;

"(ii) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(II) who is a bona fide employee of that employer on December 31, 1985, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(iii) the employment relationship with that employer has not been terminated after December 31, 1985.

"(D) TREATMENT OF AGENCIES AND INSTRUMENTALITIES.—For purposes of subparagraph (C), under regulations—

"(i) All agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer.

"(ii) All agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified government employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraphs (1) and (2), but

"(B) would not be employment (as so defined) without the application of such paragraphs."

(2) CONFORMING AMENDMENTS.—

(A)(i) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) STATES.—Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1)."

(ii) The section heading for such section 3125 is amended by inserting "STATES," before "GUAM".

(iii) The item relating to section 3125 in the table of sections for subchapter C of chapter 21 of such Code is amended by inserting "States," before "Guam".

(B) Subsection (b) of section 1402 of such Code is amended by striking out "medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "medicare qualified government employment (as defined in section 3121(u)(3))".

(C) Section 3122 of such Code (relating to Federal service) is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "including such service which is medicare qualified government employment (as defined in section 3121(u)(3))".

(D) Subsection (a) of 6205 of such Code (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(E)(i) Section 6413(a) of such Code (relating to adjustment of certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(ii) Section 6413(c)(2) of such Code (relating to special refunds of certain employment taxes) is amended—

(I) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F), respectively, and inserting in lieu thereof "3125(b)", "3125(c)", and "3125(d)", respectively, and

(II) by adding at the end thereof the following new subparagraph:

"(G) EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS.—In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer."

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

"Medicare Qualified Government Employment

"(p)(1) For purposes of sections 226 and 226A, the term 'medicare qualified government employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(A) subsection (a)(5), or

"(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

"(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

"(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(D) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

"(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—

"(A) such service would be excluded from the term 'employment' for purposes of this section if paragraph (1)(B) did not apply;

"(B) such service is performed by an individual—

"(i) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(ii) who is a bona fide employee of that employer on December 31, 1985, and

"(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(C) the employment relationship with that employer has not been terminated after December 31, 1985.

"(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1954)—

"(A) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and

"(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph (A).".

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER AND FOR DISABLED INDIVIDUALS.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out "medicare qualified Federal employment" in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof "medicare qualified government employment".

(B) FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 226A(a) of such Act (42 U.S.C. 426-1(a)) is amended by striking out "medicare qualified Federal employment" in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof "medicare qualified government employment".

(C) CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out "Federal employment" in clauses (1) and (2) and inserting in lieu thereof "government employment".

(ii) Section 226(g) of such Act (42 U.S.C. 426(g)) is amended by striking out "medicare qualified Federal employment" and inserting in lieu thereof "medicare qualified government employment by virtue of service described in section 210(a)(5)".

(c) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to services performed after December 31, 1985.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) shall be effective after December 31, 1985, and the amendments made by paragraph (3) of that subsection shall apply to services performed (for medicare qualified government employment) after that date.

(B) TREATMENT OF CERTAIN DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b), no individual may be considered to be under a disability for any period beginning before January 1, 1986.

SEC. 2124. RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.

(a) REQUIREMENT OF MEDICARE HOSPITAL PROVIDER AGREEMENTS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable.".

(b) REQUIREMENTS.—Title XVIII of such Act is amended by inserting after section 1866 the following new section:

"EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

"SEC. 1867. (a) MEDICAL SCREENING REQUIREMENT.—In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this title) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists or to determine if the individual is in active labor (within the meaning of subsection (e)(2)).

"(b) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—If any individual (whether or not eligible for benefits under this title) comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor, the hospital must provide either—

"(1) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor, unless the examination or treatment is refused, or

"(2) for transfer of the patient to another medical facility in accordance with subsection (c).

"(c) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZED.—

"(1) RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(4)(B)) or is in active labor, the hospital may not transfer the patient unless—

"(A) a physician (within the meaning of section 1861(r)(1)) has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time, the benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer, and

"(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

"(2) APPROPRIATE TRANSFER.—An appropriate transfer to a medical facility is a transfer—

"(A) in which the receiving facility—

"(i) has available space and qualified personnel for the treatment of the patient, and

"(ii) has agreed to accept transfer of the patient and to provide appropriate medical treatment, and

"(iii) is being provided appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring facility;

"(B) in which the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring hospital;

"(C) in which the transfer is effected through qualified personnel and transportation equipment, including the use of medically appropriate life support measures during the transfer; and

"(D) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of patients transferred.

"(d) ENFORCEMENT.—

"(1) AS REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—Failure of a hospital to meet the requirements of this section subjects the hospital to termination of its medicare provider agreement under this title, in accordance with section 1866(b).

"(2) CIVIL MONETARY PENALTIES.—In addition to the other grounds for imposition of a civil money penalty under section 1128A(a), a participating hospital that knowingly violates a requirement of this section and the responsible physician in the hospital with respect to such a violation are each subject, under that section, to a civil money penalty of not more than $25,000 for each such violation. As used in the previous sentence, the term 'responsible physician' means, with respect to a hospital's violation of a requirement of this section, a physician who—

"(A) is employed by, or under contract with, the participating hospital, and

"(B) acting as such an employee or under such a contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual, with respect to which the violation occurred.

"(3) CIVIL ENFORCEMENT.—Any individual who suffers personal harm and any medical facility which suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain damages and other appropriate relief. No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(2) The term 'active labor' means labor at a time at which—

"(A) delivery is imminent,

"(B) there is inadequate time to effect safe transfer to another hospital, or

"(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

"(3) The term 'participating hospital' means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section.

"(4)(A) The term 'to stabilize' means, with respect to a medical condition, to provide such medical treatment of the condition as may be necessary to assure that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

"(B) The term 'stabilized' means, with respect to a medical condition, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

"(5) The term 'transfer' means the movement (including the discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of a patient who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

"(f) PREEMPTION.—The provisions of this section do not preempt any State or local law requirement respecting hospitals, except to the extent that the requirement directly conflicts with a requirement of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

PART B—CHANGES RELATING TO PARTS A AND B OF THE MEDICARE PROGRAM

SEC. 2131. EXTENSION OF WORKING AGED PROVISIONS TO INDIVIDUALS OVER 69.

(a) EXTENSION OF MEDICARE AS SECONDARY PAYOR.—Section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out "who is under 70 years of age during any part of such month" and ", if the spouse is under 70 years of age during any part of such month", and

(2) in clause (iii), by striking out "and ending with the month before the month in which such individual attains the age of 70".

(b) EXTENSION OF ANTI-DISCRIMINATION PROVISIONS.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out "through 69" and inserting in lieu thereof "or older" each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting "(except the provisions of section 4(g))" after "Act".

(c) CONFORMING AMENDMENTS.—

(1) SPECIAL ENROLLMENT PERIOD.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later.".

(2) EFFECTIVE DATE OF ENROLLMENT.—Subsection (e) of section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended to read as follows:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3)—

"(1) in the first month of the special enrollment period, the coverage period shall begin on the first day of that month, or

"(2) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls."

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to items and services furnished on or after January 1, 1986.

(2) The amendments made by subsection (b) shall become effective on January 1, 1986.

(3) The amendments made by subsection (c) shall take effect on January 1, 1986, but shall not apply to any individual with respect to whom a special enrollment period under section 1837(i)(3) began before that date.

SEC. 2132. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) FINANCIAL RESPONSIBILITY FOR PATIENTS HOSPITALIZED ON THE EFFECTIVE DATE OF AN ENROLLMENT OR DISENROLLMENT.—(1) Subsection (c) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new paragraph:

"(7) A risk-sharing contract under this section shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(A) enrollment with an eligible organization under this section—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this section; or

"(B) termination of enrollment with an eligible organization under this section—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this section during the period the individual is not enrolled.".

(2) Subsection (a)(3) of such section is amended by striking out "Payments" and inserting in lieu thereof "Subject to subsection (c)(7), payments".

(3) Subsection (a)(6) of such section is amended by striking out "If" and inserting in lieu thereof "Subject to subsection (c)(7), if".

(b) DISENROLLMENTS.—

(1) EFFECTIVE DATE.—Subsection (c)(3)(B) of such section is amended by striking out "a full calendar month after" and inserting in lieu thereof "the date on which".

(2) INFORMATION.—Such subsection is further amended by adding at the end the following: "In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.".

(c) REVIEW OF MARKETING MATERIAL.—Subsection (c)(3)(C) of such section is amended by adding at the end the following: "No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this section unless (i) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review and (ii) the Secretary has not disapproved the distribution of the material. The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.".

(d) PROMPT PUBLICATION OF AAPCC.—Subsection (a)(1)(A) of such section is amended by inserting after "The Secretary shall annually determine" the following: ", and shall publish not later than September 7 before the calendar year concerned".

(e) EFFECTIVE DATES.—

(1) FINANCIAL RESPONSIBILITY.—The amendments made by subsection (a) shall apply to enrollments and disenrollments that become effective on or after October 1, 1985.

(2) DISENROLLMENTS.—The amendments made by subsection (b) shall apply to requests for termination of enrollment submitted on or after October 1, 1985.

(3) MATERIAL REVIEW.—(A) The amendment made by subsection (c) shall not apply to material which has been distributed before October 1, 1985.

(B) Such amendment also shall not apply so as to require the submission of material which is distributed before November 15, 1985.

(C) Such amendment shall also not apply to material which the Secretary determines has been prepared before the date of the enactment of this Act and for which a commitment for distribution has been made, if the application of such amendment would con-

stitute a hardship for the organization involved.

(4) PUBLICATION.—The amendment made by subsection (d) shall apply to determinations of per capita rates of payment for 1987 and subsequent years.

(5) NECESSARY MODIFICATION OF CONTRACTS.—The Secretary of Health and Human Services shall provide for such changes in the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

SEC. 2133. EVALUATION OF PREADMISSION AND PRE-PROCEDURE CERTIFICATION PROGRAMS.

(a) EFFECTIVENESS OF 100 PERCENT REVIEW.—The Secretary of Health and Human Services shall evaluate the relative effectiveness of peer review organizations that require preadmission certification of 100 percent of elective inpatient surgical procedures with other peer review organizations that require such certification of a lesser percentage of such procedures.

(b) FEASIBILITY OF PRE-PROCEDURE CERTIFICATION FOR OUTPATIENT SURGICAL PROCEDURES.—The Secretary also shall evaluate the feasibility of extending the pre-procedure certification activities of peer review organizations to cover elective surgical procedures conducted in outpatient and ambulatory care settings. In doing the evaluation, the Secretary shall consider the extent to which entities with contracts with the Secretary under section 1842 of the Social Security Act and other entities might perform such activities more efficiently and effectively than peer review organizations.

(c) REPORT.—The Secretary shall report to Congress, not later than December 31, 1986, on the results of the evaluations conducted under this section.

(d) DEFINITIONS.—In this section, the term "peer review organization" means a utilization and quality control peer review organization with a contract under part B of title XI of the Social Security Act.

SEC. 2134. PROHIBITION OF ADMINISTRATIVE MERGER OF RENAL DISEASE NETWORKS WITH OTHER ORGANIZATIONS.

The Secretary of Health and Human Services may not provide for the merger of any renal disease network (established under section 1881(c) of the Social Security Act) into a utilization and quality control peer review organization (with a contract under part B of title IX of such Act) or another entity without express statutory authorization.

SEC. 2135. EXTENSION OF CERTAIN MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

The Secretary of Health and Human Services shall extend, for a period of three additional years, approval of three municipal health services demonstration projects (located in Cincinnati, Milwaukee, and San Jose) authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 2136. TECHNICAL CORRECTIONS.

(a) WORKING AGED TECHNICAL CORRECTIONS.—

(1) PREMIUM PENALTY.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)".

(2) SPECIAL ENROLLMENT PERIODS.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(B) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

(B)(i) The amendments made by paragraph (2) shall apply to enrollments in months beginning with the first effective month (as defined in clause (ii)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(ii) For purposes of clause (i), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additional ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction Act of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additional ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983.

PART C—CHANGES RELATING PRIMARILY TO PART B OF THE MEDICARE PROGRAM

SEC. 2141. EXTENSION OF PHYSICIAN FEE FREEZE FOR NON-PARTICIPATING PHYSICIANS AND IMPROVEMENTS IN THE PARTICIPATING PHYSICIAN PROGRAM.

(a) ONE-YEAR EXTENSION FOR NON-PARTICIPATING PHYSICIANS.—

(1) EXTENSION.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 12-month period beginning October 1, 1985, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after October 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous fiscal year for physicians who were participating physicians during that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause:

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 12-month period beginning October 1, 1985, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the periods beginning after September 30, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for

the limitations contained in subparagraph (A)(ii).''; and

(D) in subparagraph (D)—

(i) by striking out ''who at no time'' and all that follows through ''subsection (h)(1))'' and insert in lieu thereof ''who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985'',

(ii) by inserting ''(i)'' after ''(D)'', and

(iii) by adding at the end the following new clause:

''(ii) In determining the customary charges for physicians' services furnished during the 12-month period beginning October 1, 1986, or October 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on September 30, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 12-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.''.

(2) CONTINUED ENFORCEMENT.—The first sentence of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended to read as follows: ''In the case of a physician who is not a participating physician for items and services furnished during a portion of the 27-month period beginning July 1, 1984, the Secretary shall monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after October 1, 1985.

(b) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) ONE-YEAR EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

(A) by striking out ''and 1985'' and inserting in lieu thereof '', 1985, and 1986'',

(B) by striking out ''the amendments made by this section'' and inserting in lieu thereof ''subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act'',

(C) by striking out ''for fiscal year 1985'' and inserting in lieu thereof ''for each of fiscal years 1985 and 1986'', and

(D) by adding at the end the following new sentence: ''A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program.''.

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out ''a directory'' and inserting in lieu thereof ''directories (for appropriate local geographic areas)'', and

(ii) by inserting ''for that area'' before ''for that fiscal year'';

(B) in the second sentence of paragraph (2), by striking out ''The directory'' and inserting in lieu thereof ''Each directory'';

(C) in paragraph (3)—

(i) by striking out ''directory'' the first place it appears and inserting in lieu thereof ''the directories'', and

(ii) by striking out ''directory'' the second place it appears and inserting in lieu thereof ''the appropriate area directory or directories''; and

(D) in paragraph (4)—

(i) by striking out ''directory'' and inserting in lieu thereof ''the directories'', and

(ii) by adding at the end the following: ''The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.''.

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended—

(A) by striking out ''(i)(1)'' and all that follows through the end of paragraph (1),

(B) by striking out ''subsection (h)(1)'' in paragraph (2) and inserting in lieu thereof ''paragraph (1)'',

(C) by striking out ''such list and'' and ''the list and'' each place either appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

''(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include—

''(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

''(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

''(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).''.

(5) EFFECTIVE DATE.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than April 1, 1986) as the Secretary of Health and Human Services shall specify.

SEC. 2142. EXPANSION OF MEMBERSHIP AND DUTIES OF THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION TO INCLUDE REVIEW OF PAYMENTS FOR PHYSICIANS' SERVICES.

(a) EXPANSION AND ESTABLISHMENT OF SUBCOMMITTEES.—

(1) IN GENERAL.—Section 1886(e)(6) of the Social Security Act (42 U.S.C. 1395ww(e)(6)) is amended—

(A) by amending subparagraph (A) to read as follows:

''(A)(i) The Commission shall consist of 23 members. Fifteen members of the Commission shall first be appointed no later than April 1, 1984, and the remaining members shall first be appointed no later than January 1, 1986, for a term of three years, except that the Director may provide for such shorter terms as will insure that (on a continuing basis) the terms of no more than eight members expire in any one year. The Director shall appoint a member to serve as Chairman.

''(ii) The Chairman of the Commission shall provide for two subcommittees of the Commission, one with functions and responsibilities relating primarily to hospital payment issues and the other with functions and responsibilities relating primarily to physician payment issues. The Chairman may assign members of the Commission to serve on either or both subcommittees of the Commission.''; and

(B) in subparagraph (B), by inserting ''representatives of consumer and elderly groups,'' after ''third party payors,''.

(2) INITIAL ASSIGNMENT OF MEMBERS TO SUBCOMMITTEES.—The Chairman of the Commission shall initially assign—

(A) to serve on the hospital payment subcommittee of the Commission—

(i) all the members of the Commission serving in positions established before the date of the enactment of this Act, and

(ii) two of the members appointed to the Commission for additional positions established by the amendment made by paragraph (1), and

(B) to serve on the physician payment subcommittee of the Commission the six remaining members of the Commission who are appointed to serve in the additional positions so established.

(b) ADDITIONAL FUNCTIONS RELATING TO PHYSICIANS' PAYMENTS.—Section 1886(e) of such Act is amended by adding at the end the following new paragraph:

''(7)(A) The Commission shall make recommendations to the Congress, not later than February 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under part B.

''(B) In making its recommendations, the Commission shall—

''(i) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under part B which are based on differences in geographic location or specialty;

''(ii) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

''(iii) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of clauses (i) and (ii);

''(iv) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

''(v) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under part B on an assignment-related basis;

''(vi) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under part B based on (I) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to hospital inpatients on the basis of diagnosis-related groups) and (II) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under part B);

''(vii) identify those procedures, involving the use of assistants at surgery, for which

payment for those assistants should not be made under this title without prior approval; and

"(viii) identify those procedures for which an opinion of a second physician should be required before payment is made under this title.

"(C) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under section 1845.".

(c) STUDY OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES.—Part B of title XVIII of such Act is amended by adding at the end the following new section:

"STUDY OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES

"SEC. 1845. (a) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part.

"(b) In developing the scale, the Secretary shall consider among other items—

"(1) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984,

"(2) the recommendations of the Prospective Payment Assessment Commission under section 1886(e)(7)(C), and

"(3) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(A) the differences in costs of furnishing services in different settings,

"(B) the differences in skill levels and training required to perform the services, and

"(C) the time required, and risk involved, in furnishing different services.

"(c) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than April 1, 1987. The report shall include recommendations for the application of the scale to the payment for physicians' services furnished under this part on or after October 1, 1987.".

(d) MODIFICATION OF FUNDING FORMULA.—Section 1886(e)(6)(I)(ii) of such Act is amended by striking out "Eighty-five" and "15" and inserting in lieu thereof "Fifty" and "50".

(e) STAFFING.—Section 1886(e)(6)(C)(i) of such Act is amended by striking out "25" and inserting in lieu thereof "35".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 2143. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking out "1988" and inserting in lieu thereof "1989" each place it appears;

(2) in subsection (f)(1), by striking out "or 1986" and inserting in lieu thereof ", 1986, or 1987"; and

(3) in subsection (f)(2), by striking out "or 1987" and inserting in lieu thereof ", 1987, or 1988".

SEC. 2144. DETERMINATIONS OF INHERENT REASONABLENESS OF CHARGES AND CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.

(a) REGULATIONS RELATING TO INHERENT REASONABLENESS OF CHARGES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(8) The Secretary by regulation shall—

"(A) describe the factors to be used in determining the cases (of particular items or services) in which the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.".

(b) COMPUTATION OF CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.—(1) In applying section 1842(b) of the Social Security Act for payment for physicians' services performed during fiscal year 1986, in the case of a physician who during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (2)) but who, as of January 31, 1985, was no longer a hospital-compensated physician, the physician's customary charges shall—

(A) be based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who is not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) on October 1, 1985, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians' services) by multiplying the physician's customary charges by .83.

(2) In paragraph (1), the term "hospital-compensated physician" means, with respect to services furnished to patients of a hospital, a physician who is compensated by the hospital for the furnishing of physicians' services for which payment may be made under this part.

SEC. 2145. OCCUPATIONAL THERAPY SERVICES.

(a) COVERAGE.—Subparagraph (C) of section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended to read as follows:

"(C) outpatient physical therapy services (other than services to which the second sentence of section 1861(p) applies) and outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1861(g));".

(b) LIMITATION ON PAYMENTS.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) by striking out "next to last sentence" and inserting in lieu thereof "second sentence", and

(2) by adding at the end thereof the following new sentence: "In the case of outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g), with respect to expenses incurred in any calendar year, no more than $500 shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(c) CERTIFICATION STANDARD.—(1) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended—

(A) by inserting "or outpatient occupational therapy services" after "outpatient physical therapy services",

(B) in clause (i), by inserting "or occupational therapy services, respectively" after "physical therapy services", and

(C) in clause (ii), by inserting "or qualified occupational therapist, respectively" after "qualified physical therapist".

(2) The second sentence of section 1835(a) of such Act and section 1866(e) of such Act (42 U.S.C. 1395n(a), 1395cc(e)) are each amended—

(A) by inserting "(or meets the requirements of such section through the operation of section 1861(g))" after "1861(p)(4)(A)" and after "1861(p)(4)(B)", and

(B) by inserting "or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services" after "(as therein defined)".

(d) DEFINITION AND INCLUSION WITH OTHER PART B SERVICES.—(1) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by inserting after subsection (f) the following new subsection:

"Outpatient Occupational Therapy Services

"(g) The term 'outpatient occupational therapy services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that 'occupational' shall be substituted for 'physical' each place it appears therein.".

(2) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting "and outpatient occupational therapy services" after "outpatient physical therapy services".

(3) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by inserting "(including through the operation of section 1861(g))" after "section 1861(p)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred for outpatient occupational therapy services furnished on or after October 1, 1985.

SEC. 2146. PAYMENT FOR DURABLE MEDICAL EQUIPMENT.

(a) LIMITING TO ONE PERCENT INCREASES IN CUSTOMARY AND PREVAILING CHARGES FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON RENTAL BASIS.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(k)(1) In determining the customary and prevailing charge levels under the third and fourth sentences of subsection (b)(3) for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement) during the 12-month period beginning on October 1, 1985, the Secretary shall not set any such level higher than 101 percent of the same level as was set for the 15-month period beginning July 1, 1984.".

(b) REQUIRING PAYMENT ON AN ASSIGNMENT BASIS FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A RENTAL BASIS.—Section 1842(k) of such Act, as added by subsection (a), is amended by adding at the end the following new paragraph:

"(2) Payment under this part for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement) may only be made on an assignment-related basis (as defined in subsection (h)(8)) or to a provider of services with an agreement in effect under section 1866.".

(c) LIMITING INCREASE IN PREVAILING CHARGES FOR DURABLE MEDICAL EQUIPMENT TO CONSUMER PRICE INDEX.—Section 1842(k) of such Act, as previously amended, is further amended by adding at the end the following new paragraph:

"(3) In the case of durable medical equipment, the prevailing charge levels determined for purposes of clause (ii) of the third sentence of subsection (b) for any 12-month period (beginning after September 30, 1986) may not exceed (in the aggregate) the levels determined under such clause (taking into

account paragraph (1), if applicable) for the preceding 12-month period by a percentage which exceeds the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average), as published by the Secretary of Labor, for the 12-month period ending in March of that preceding 12-month period.".

(d) CLARIFICATION OF PREVIOUS EFFECTIVE DATE.—Section 2306(b)(2) of the Deficit Reduction Act of 1984 is amended by adding before the period at the end the following: "and to durable medical equipment furnished on or after July 1, 1985".

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to durable medical equipment furnished on or after October 1, 1985.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to durable medical equipment furnished on or after January 1, 1986.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to durable medical equipment furnished on or after October 1, 1986.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall take effect as though it were included in the enactment of the Deficit Reduction Act of 1984.

SEC. 2147. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) LIMITATION ON PAYMENT.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out "or" at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.".

(b) ADDITIONAL PRO FUNCTIONS.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by inserting before the period at the end the following: "or as may be required to carry out section 1862(a)(15)".

(c) PROHIBITION FOR SUBMITTING BILL FOR WHICH PAYMENT MAY NOT BE MADE.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(1) in subsection (j)(2), by inserting "or subsection (l)" after "paragraph (1)", and

(2) by adding after subsection (k), added by section 146(a) of this title, the following new subsection:

"(l)(1) If a physician knowingly and willfully bills an individual enrolled under this part for actual charges for services as an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(2) If a physician knowingly and willfully bills an individual enrolled under this part for actual charges that includes a charge for an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(d) EXTENSION OF PROHIBITION TO OTHER PROCEDURES.—The Secretary of Health and Human Services, after consultation with the Prospective Payment Assessment Commission, shall develop recommendations and guidelines respecting other surgical procedures for which an assistant at surgery is generally not medically necessary and the circumstances under which the use of an assistant at surgery is medically appropriate with prior approval of an appropriate entity. The Secretary shall report to Congress, not later than April 1, 1986, on these recommendations and guidelines.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after October 1, 1985.

SEC. 2148. LIMITATION ON MEDICARE PAYMENT FOR POST-CATARACT SURGERY PATIENTS.

(a) PAYMENT FOR REPLACEMENT OF LOST OR DAMAGED CATARACT EYEGLASSES AND CATARACT CONTACT LENSES.—With respect to the payment for replacement cataract eyeglasses and cataract contact lenses under title XVIII of the Social Security Act in the case of an individual beneficiary—

(1) payment may be made for the replacement only once every year of lost or damaged cataract eyeglasses, and

(2) payment may be made—

(A) in the first year after surgery, for one original cataract contact lens for each eye and for the replacement only twice of a lost or damaged cataract contact lens for each eye, and

(B) in each subsequent year, for the replacement only twice of a lost or damaged cataract contact lens for each eye.

(b) DETERMINATION OF SEPARATE PAYMENT AMOUNTS FOR PROSTHETIC LENSES AND PROFESSIONAL SERVICES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding after paragraph (8), added by section 2144(a) of this Act, the following new paragraph:

"(9) In providing payment for cataract eyeglasses and cataract contact lenses, and professional services relating to them, under this part, each carrier shall—

"(A) provide for separate determinations of the payment amount for the eyeglasses and lenses and of the payment amount for the professional services, and

"(B) not recognize as reasonable for such eyeglasses and lenses more than such amount as the Secretary establishes in guidelines relating to the inherent reasonableness of charges for such eyeglasses and lenses.".

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall apply to items and services furnished on or after October 1, 1985.

(2) In applying the amendment made by subsection (a), there shall not be taken into account any cataract eyeglasses or contact lenses replaced before October 1, 1985.

SEC. 2149. DEMONSTRATION OF PREVENTIVE HEALTH SERVICES UNDER MEDICARE.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a demonstration program designed to reduce disability and dependency through the provision of preventive health services to individuals entitled to benefits under title XVIII of the Social Security Act (hereinafter in this section referred to as "medicare beneficiaries").

(b) PREVENTIVE HEALTH SERVICES UNDER DEMONSTRATION PROGRAM.—The preventive health services to be made available under the demonstration program shall include—

(1) health screenings,

(2) health risk appraisals,

(3) immunizations, and

(4) counseling on and instruction in—

(A) diet and nutrition,

(B) reduction of stress,

(C) exercise and exercise programs,

(D) sleep regulation,

(E) injury prevention,

(F) prevention of alcohol and drug abuse,

(G) prevention of mental health disorders,

(H) self-care, including use of medication, and

(I) reduction of smoking.

(c) CONDUCT OF PROGRAM.—The demonstration program shall—

(1) be conducted under the direction of accredited public or private nonprofit schools of public health;

(2) be conducted in no fewer than five sites, which sites shall be chosen so as to be geographically diverse and shall be readily accessible to a significant number of medicare beneficiaries;

(3) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in the program; and

(4) be designed—

(A) to test alternative methods of payment for preventive health services, including payment on a prepayment basis as well as payment on a fee-for-service basis,

(B) to permit a variety of appropriate health care providers to furnish preventive health services, including physicians, health educators, nurses, allied health personnel, dieticians, and clinical psychologists, and

(C) to facilitate evaluation under subsection (d).

(d) EVALUATION.—The Secretary shall evaluate the demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical financing mechanisms exist to provide payment for preventive health services under title XVIII of the Social Security Act.

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

(A) the evaluation described in subsection (d), and

(B) recommendations for appropriate legislative changes to incorporate payment for cost-effective preventive health services into the medicare program.

(f) FUNDING.—Expenditures made for the demonstration program shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secre-

tary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

PART D—OTHER AND ADDITIONAL CHANGES RELATING TO PART B (OR TO PARTS A AND B) OF THE MEDICARE PROGRAM

SEC. 2151. EXTENSION OF PHYSICIAN FEE FREEZE FOR CERTAIN NON-PARTICIPATING PHYSICIANS AND IMPROVEMENTS IN THE PARTICIPATING PHYSICIAN PROGRAM.

(a) ONE-YEAR EXTENSION FOR NON-PARTICIPATING PHYSICIANS.—

(1) EXTENSION.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 12-month period beginning October 1, 1985, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983; except that in the case of a physician described in subparagraph (E)(i), the Secretary shall not set any level higher than the increase percentage (described in subparagraph (E)(ii)) above the level that was set for the 12-month period beginning July 1, 1983.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after October 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous fiscal year for physicians who were participating physicians on the last day of that year; except that in the case of a physician described in subparagraph (E)(i), the Secretary shall not set any level higher than the increase percentage (described in subparagraph (E)(ii)) above the level that was set for services furnished during the previous fiscal year for physicians who were participating physicians on the last day of that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause:

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 12-month period beginning October 1, 1985, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983; except that in the case of a physician described in subparagraph (E)(i), the customary charges may not exceed the customary charges that were recognized under this section for the 12-month period beginning July 1, 1983, increased by the increase percentage (described in subparagraph (E)(ii)).";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during periods beginning after September 30, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)(ii).";

(D) in subparagraph (D)—

(i) by striking out "who at no time" and all that follows through "subsection (h)(1))" and insert in lieu thereof "who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985",

(ii) by inserting "(i)" after "(D)", and

(iii) by adding at the end the following new clause:

"(ii)(I) In determining the customary charges for physicians' services furnished during the 12-month period beginning October 1, 1986, or October 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on September 30, 1986, except as provided in subclause (II) the Secretary shall not recognize increases in actual charges for services furnished during the 12-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.

"(II) In the case of a physician who was a participating physician on September 30, 1985, the Secretary shall recognize increases in actual charges for services furnished during the 12-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984, but only to the extent that the percentage of such an increase does not exceed one-half of the percentage increase in the physician's actual charges for services furnished over the period beginning July 1, 1984, and ending September 30, 1985."; and

(E) by adding at the end the following new subparagraph:

"(E)(i) With respect to services furnished during a 12-month period beginning on October 1, a physician described in this clause is a physician who is not a participating physician at the time of furnishing the services but who either (I) was a participating physician on September 30 before that period, or (II) accepted payment on an assignment-related basis (as defined in subsection (h)(8)) for all claims received during the immediately preceding 12-month period for services furnished by the physician under this part during that period.

"(ii) The 'increase percentage' described in this clause is, with respect to a physician for items and services furnished during a 12-month period beginning on October 1, one-half of the percentage increase that otherwise would be applicable to services furnished by the physician if the physician (I) had been a participating physician on the date before the first date of the period, and (II) were to sign up to be a participating physician for items and services furnished during the period.".

(2) CONTINUED ENFORCEMENT.—Section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) by amending the first sentence to read as follows: "In the case of a physician who is not a participating physician for items and services furnished during a portion of the 27-month period beginning July 1, 1984, the Secretary shall monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period."; and

(B) in the second sentence, by inserting ", or, in the case of items and services furnished during fiscal year 1986 by a physician who was a participating physician on September 30, 1985, if such physician knowingly and willfully bills individuals enrolled under this part for actual charges which are more than the increase percentage (which may be recognized under subparagraph (D)(ii)(II)) above such physician's actual charges for the calendar quarter beginning on April 1, 1984" after "April 1, 1984".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after October 1, 1985.

(b) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) ONE-YEAR EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

(A) by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986",

(B) by striking out "the amendments made by this section" and inserting in lieu thereof "subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act",

(C) by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986", and

(D) by adding at the end the following new sentence: "A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program.".

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out "a directory" and inserting in lieu thereof "directories (for appropriate local geographic areas)", and

(ii) by inserting "for that area" before "for that fiscal year";

(B) in the second sentence of paragraph (2), by striking out "The directory" and inserting in lieu thereof "Each directory";

(C) in paragraph (3)—

(i) by striking out "directory" the first place it appears and inserting in lieu thereof "the directories", and

(ii) by striking out "directory" the second place it appears and inserting in lieu thereof "the appropriate area directory or directories";

(D) in paragraph (4)—

(i) by striking out "directory" and inserting in lieu thereof "the directories", and

(ii) by adding at the end the following: "The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.".

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended—

(A) by striking out "(i)(1)" and all that follows through the end of paragraph (1),

(B) by striking out "subsection (h)(1)" in paragraph (2) and inserting in lieu thereof "paragraph (1)",

(C) by striking out "such list and" and "the list and" each place either appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

"(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include—

"(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

"(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which a beneficiary may obtain information on participating physicians and suppliers.

"(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).".

(5) EFFECTIVE DATE.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than April 1, 1986) as the Secretary of Health and Human Services shall specify.

SEC. 2152. PHYSICIAN PAYMENT REVIEW COMMISSION AND DEVELOPMENT OF RELATIVE VALUE SCALE.

(a) ESTABLISHMENT OF COMMISSION.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PHYSICIAN PAYMENT REVIEW COMMISSION

"SEC. 1845. (a)(1) The Director of the Congressional Office of Technology Assessment (hereinafter in this section referred to the the 'Director' and the 'Office', respectively) shall provide for the appointment of a Physician Payment Review Commission (hereinafter in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of physicians' services appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed no later than December 1, 1985, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than four members expire in any one year.

"(3) The membership of the Commission shall include physicians, other health professionals, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and representatives of consumers and the elderly. The Director shall seek nominations from a wide range of groups, including—

"(A) national organizations representing physicians, including medical specialty organizations,

"(B) organizations representing the elderly and consumers,

"(C) national organizations representing medical schools,

"(D) national organizations representing hospitals, including teaching hospitals, and

"(E) national organizations representing health benefits programs.

"(b)(1) The Commission shall make recommendations to the Congress, not later than February 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under this part.

"(2) In making its recommendations, the Commission shall—

"(A) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under this part which are based on differences in geographic location or specialty;

"(B) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

"(C) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of subparagraphs (A) and (B);

"(D) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

"(E) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under this part on an assignment-related basis;

"(F) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under this part based on (i) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to hospital inpatients on the basis of diagnosis-related groups) and (ii) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under this part);

"(G) identify those procedures, involving the use of assistants at surgery, for which payment for those assistants should not be made under this title without prior approval;

"(H) identify those procedures for which an opinion of a second physician should be required before payment is made under this title; and

"(I) evaluate the method for calculating the number of full-time-equivalent residents set forth in section 1902(h)(4)(D) and make recommendations regarding revisions in, or alternatives to, that method.

"(3) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under subsection (e).

"(c)(1) The following provisions of section 1886(e)(6) shall apply to the Commission in the same manner as they apply to the Prospective Payment Assessment Commission:

"(A) Subparagraph (C) (relating to staffing and administration generally).

"(B) Subparagraph (D) (relating to compensation of members).

"(C) Subparagraph (F) (relating to access to information).

"(D) Subparagraph (G) (relating to reports and use of funds).

"(E) Subparagraph (H) (relating to periodic GAO audits).

"(F) Subparagraph (J) (relating to requests for appropriations).

"(2) In order to carry out its functions, the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice. In collecting and assessing information, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate for the development of useful and valid guidelines by the Commission, and

"(C) adopt procedures allowing any interested party to submit information with respect to physicians' services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) DEVELOPMENT OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES.—Section 1845 of the Social Security Act, as added by subsection (a), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part or under State plans approved under title XIX.

"(2) In developing the scale, the Secretary shall consider among other items—

"(A) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984,

"(B) the recommendations of the Physician Payment Review Commission under subsection (b)(3), and

"(C) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(i) the differences in costs of furnishing services in different settings,

"(ii) the differences in skill levels and training required to perform the services, and

"(iii) the time required, and risk involved, in furnishing different services.

"(3) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than April 1, 1987. The report shall include recommendations for the application of the scale to payment for physicians' services furnished under this part on or after October 1, 1987.".

SEC. 2153. PAYMENT FOR DURABLE MEDICAL EQUIPMENT.

(a) FREEZING CUSTOMARY AND PREVAILING CHARGES FOR ITEMS FURNISHED ON RENTAL BASIS AND HOME OXYGEN SERVICES.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(k)(1) In determining the customary and prevailing charge levels under the third and fourth sentences of subsection (b)(3)—

"(A) for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement), and

"(B) for oxygen therapy services furnished,

during the 12-month period beginning on October 1, 1985, the Secretary shall not set any such level higher than the same level as was set for the 15-month period beginning July 1, 1984. As used in this subsection, the term 'oxygen therapy services' means durable medical equipment, accessories, and supplies for the provision of oxygen therapy in a patient's home.".

(b) REQUIRING PAYMENT ON AN ASSIGNMENT BASIS FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A RENTAL BASIS AND FOR OXYGEN THERAPY SERVICES.—Section 1842(k) of such Act, as added by subsection (a), is amended by adding at the end the following new paragraph:

"(2) Payment under this part for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement) and for oxygen therapy services may only be made on an assignment-related basis (as defined in subsection (h)(8)) or to a provider of services with an agreement in effect under section 1866.".

(c) LIMITING INCREASE IN PREVAILING CHARGES FOR DURABLE MEDICAL EQUIPMENT TO CONSUMER PRICE INDEX.—Section 1842(k) of such Act, as previously amended, is further amended by adding at the end the following new paragraph:

"(3) In the case of durable medical equipment, the prevailing charge levels determined for purposes of clause (ii) of the third sentence of subsection (b) for any 12-month period (beginning after September 30, 1986) may not exceed (in the aggregate) the levels determined under such clause (taking into account paragraph (1), if applicable) for the preceding 12-month period by a percentage which exceeds the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average), as published by the Secretary of Labor, for the 12-month period ending in March of that preceding 12-month period.".

(d) CLARIFICATION OF PREVIOUS EFFECTIVE DATE.—Section 2306(b)(2) of the Deficit Reduction Act of 1984 is amended by adding before the period at the end the following: "and to durable medical equipment furnished on or after July 1, 1985".

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to durable medical equipment (including oxygen therapy services) furnished on or after October 1, 1985.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to durable medical equipment furnished on or after January 1, 1986.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to durable medical equipment furnished on or after October 1, 1986.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall take effect as though it were included in the enactment of the Deficit Reduction Act of 1984.

SEC. 2154. PAYMENT FOR CLINICAL LABORATORY SERVICES.

(a) CHANGING MONTH OF ANNUAL UPDATE FROM JULY TO OCTOBER.—

(1) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) by striking out "June 30, 1987" and "July 1, 1987" and inserting in lieu thereof "September 30, 1987" and "October 1, 1987", respectively, each place either appears, and

(B) in paragraph (2), by inserting "(to become effective on October 1 of each year)" after "adjusted annually".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to clinical laboratory diagnostic tests performed on or after July 1, 1986.

(3) TRANSITION.—The Secretary of Health and Human Service shall provide that the annual adjustment under section 1833(h) of the Social Security Act for 1986—

(A) shall take effect on October 1, 1986,

(B) shall apply for the 12-month period beginning on that date, and

(C) shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) occurring over a 15-month period, rather than over a 12-month period.

(b) PROVIDING CEILING ON RATES.—

(1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting after "lesser of the amount determined under such fee schedule" the following: ", the limitation amount for that test determined under subsection (h)(4)(B),".

(2) ESTABLISHMENT OF LIMITATION AMOUNT.—Section 1833(h)(4) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraph:

"(B) For purposes of subsections (a)(1)(D)(i) and (a)(2)(D)(i), the limitation amount for a clinical diagnostic laboratory test performed—

"(i) on or after January 1, 1986, and before October 1, 1986, is equal to 115 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(ii) after September 30, 1986, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 110 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1986.

(c) REPORT ON MINIMUM STANDARDS FOR CLINICAL LABORATORIES THAT ARE PART OF, OR ASSOCIATED WITH, PHYSICIANS' OFFICES.—The Secretary of Health and Human Services shall report to Congress, not later than 12 months after the date of the enactment of this Act, on the standards that might be established under the medicare program for clinical laboratories which are part of or associated with a physician's office to assure the health and safety of individuals with respect to whom the laboratories perform clinical diagnostic laboratory tests for which payment may be made under the program. In recommending standards, the Secretary shall consider the differences in the scope, type, and complexity of tests performed by such laboratories and such other factors as may indicate a need for different standards for laboratories with different characteristics.

SEC. 2155. VISION CARE.

(a) DEFINING SERVICES AN OPTOMETRIST CAN PROVIDE.—Clause (4) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) is amended to read as follows: "(4) a doctor of optometry, but only with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1986.

SEC. 2156. SECOND OPINIONS.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by adding at the end the following new section:

"SECOND OPINIONS FOR CERTAIN SURGICAL PROCEDURES

"SEC. 1890. (a) CONDITION OF PAYMENT.—No payment shall be made under part A or part B with respect to items or services furnished in connection with a surgical procedure listed by the Secretary pursuant to this section unless the individual undergoing the procedure obtains a second opinion as to the necessity and appropriateness of such procedure, in accordance with this section. For purposes of determining whether an opinion is the second opinion, the first opinion must be made by a physician who is qualified to perform the surgical procedure, and the second opinion is any subsequent opinion made by a physician of the appropriate speciality, as determined under subsection (b)(3). Such second opinion need not necessarily agree with the first opinion in order for payment to be made.

"(b) SURGICAL PROCEDURES TO WHICH CONDITION APPLIES.—

"(1) SECRETARY TO ESTABLISH LIST.—The Secretary shall establish a list of not less than 10 surgical procedures to which the requirements of this section shall apply. The Secretary shall establish such list based upon the following criteria:

"(A) The procedure is one which generally can be postponed without undue risk to the patient.

"(B) The procedure is a high volume procedure among patients who are covered under the programs established under this title, or is a high cost procedure.

"(C) The procedure has a comparatively high rate of nonconfirmation upon requesting a second opinion, based upon data available to the Secretary from any sources.

"(2) LIST VARIATIONS.—The Secretary may vary the list on a State-by-State basis, or within areas of a State, if data available with regard to volume and costs of procedures suggest that to do so would be cost effective and would better serve the purposes of this section.

"(3) LIST TO SPECIFY SPECIALISTS WHO MUST RENDER SECOND OPINION.—The Secretary shall specify, for each procedure on a list established under this subsection, the type or types of board certified or board eligible specialists who must be consulted for the second opinion, based upon the nature of the procedure.

"(c) REFERRAL MECHANISM FOR SECOND OPINIONS.—

"(1) USE OF PRO AS REFERRAL CENTER.—The Secretary shall enter into or modify contracts with utilization and quality control peer review organizations under which such organizations shall serve as referral centers for second opinions required under this section.

"(2) REFERRAL OF PATIENT.—The organization shall maintain a list of physicians qualified to provide a second opinion and shall advise the patient as to which physicians are participating physicians (within the meaning of section 1842(h)) and which physicians have agreed to accept assignment for second opinions. If the patient seeking the second opinion so requests, the organization shall refer such patient to a physician of the appropriate specialty for purposes of providing the second opinion.

"(3) FREEDOM OF CHOICE OF PATIENT TO CHOOSE PHYSICIAN.—Subject to paragraph (4), the patient may choose any physician of the proper specialty to provide the second opinion.

"(4) PHYSICIANS PROHIBITED FROM PROVIDING SECOND OPINION.—For purposes of this section, a second opinion may not be provided by a physician who is affiliated with, or has any direct or indirect common financial interest with, the physician who rendered the first opinion that the procedure was necessary.

"(5) FORWARDING OF RELEVANT MEDICAL RECORDS.—Each such organization shall, if the patient seeking the second opinion so requests, obtain the relevant medical records from the physician who rendered the first opinion that the procedure was necessary, and provide the relevant information to the physician selected by the patient to render the second opinion in such form so as not to identify the physician who rendered the first opinion.

"(6) USE OF OTHER ENTITIES AS REFERRAL CENTERS.—(A) If no utilization and quality control peer review organization is available to perform the functions described in this subsection, the Secretary may enter into an agreement with a State or local agency or appropriate private entity to perform such functions.

"(B) If a State is utilizing an entity other than a utilization and quality control peer review organization to provide referrals for second opinions for purposes of title XIX, the Secretary may enter into an agreement under this section with such entity (rather than with a utilization and quality control peer review organization) to perform the functions described in this section if the Secretary determines that such arrangement would be more cost effective and would adequately protect the patients receiving benefits under this title.

"(C) If the Secretary determines that a utilization and quality control peer review organization is not able to perform the referral services described in this subsection in a manner that adequately protects patients, the Secretary may enter into an agreement with a State or local agency or appropriate private entity to perform such functions.

"(d) EXCEPTIONS TO REQUIREMENT.—The requirements of this section shall not apply—

"(1) if delay in providing the surgical procedure would result in a risk to the patient;

"(2) if no physician is available (within such reasonable limits as the Secretary shall determine by regulation) who is (A) an appropriate specialist, and (B) a participating physician or a physician who has agreed to accept assignment for the second opinion; or

"(3) the surgical procedure is to be performed on a patient who is a member of a health maintenance organization or competitive medical plan having a risk-sharing contract with the Secretary under section 1876(g).

"(e) DUTIES OF PHYSICIANS, HOSPITALS, AND AMBULATORY SURGICAL CENTERS TO NOTIFY PATIENTS.—

"(1) NOTICE.—Any physician, before performing a surgical procedure which requires a second opinion pursuant to this section, and any hospital or ambulatory surgical center, before a patient is furnished services at the hospital or center in connection with the performance of such a procedure, shall inform the patient in writing of the necessity of obtaining a second opinion, and make available to the patient, or to the entity performing referral services under subsection (c) if so requested by the patient, any medical records available to such physician, hospital, or center that are necessary in order for the patient to obtain such second opinion.

"(2) SANCTIONS.—(A) In the case of any physician, hospital, or ambulatory surgical center which fails to notify a patient of the need to obtain a second opinion or fails to make available medical records, as required under paragraph (1), the Secretary may—

"(i) impose a civil monetary penalty and assessment, in the same manner as such penalties are authorized under section 1128A(a), or

"(ii) in the case of a second or subsequent failure, bar the physician, hospital, or ambulatory surgical center from participation under the program under this title for a period not to exceed 5 years, in accordance with the procedures of paragraphs (2) and (3) of section 1862(d),

or both. No payment may be made under this title with respect to any item or service furnished by a physician, hospital, or ambulatory surgical center during the period when it is barred from participation in the program under this title pursuant to this subsection.

"(B) The Secretary may not bar a physician, hospital, or ambulatory surgical center pursuant to subparagraph (A) if such physician, hospital, or ambulatory surgical center is a sole source of essential services in a community.

"(C) The Secretary shall take into account access of beneficiaries to physicians' services, hospital services, and other surgical facility services for which payment may be made under this title in determining whether to bar a physician, hospital, or ambulatory surgical center from participation pursuant to subparagraph (A).

"(D) In any case where payment under this title is denied by reason of this section, and a physician, hospital, or ambulatory surgical center failed to notify the patient as required by paragraph (1), the Secretary shall, out of any civil monetary penalty or assessment collected from such physician, hospital, or ambulatory surgical center pursuant to this subsection, make a payment to the patient in the nature of restitution for amounts paid by such patient to such physician, hospital, or ambulatory surgical center which otherwise would have been paid under this title.

"(f) NOTICE BY SECRETARY.—

"(1) NOTICE TO PHYSICIANS, HOSPITALS, AND AMBULATORY SURGICAL CENTERS.—The Secretary shall notify all physicians, all hospitals having agreements under section 1866, and all ambulatory surgical centers having an agreement with the Secretary described in section 1832(a)(2)(F) of the requirements of this section. The notice shall include the applicable list of surgical procedures to which such requirements apply, and a description of the penalties for failure to notify a patient concerning such requirements.

"(2) NOTICE TO BENEFICIARIES.—The Secretary shall provide for periodic notice to all beneficiaries under this title of the requirements of this section, including the applicable list of the surgical procedures to which such requirements apply and information about the availability of the referral services described in this section. The Secretary shall make the applicable lists and information about referral services available at district and branch offices of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.".

(b) WAIVER OF DEDUCTIBLE AND COPAYMENTS.—

(1) DEDUCTIBLE.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking out "and" before "(4)", and by inserting before the period at the end of the first sentence the following: ", and (5) such deductible shall not apply with respect to items and services furnished in connection with obtaining a second opinion required under section 1890 (or a third opinion, if such second opinion was in disagreement with the first opinion)".

(2) COPAYMENTS.—(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking out "and" before "(F)", and by adding at the end thereof the following: "and (G) with respect to items and services furnished in connection with obtaining a second opinion required under section 1890 (or a third opinion, if such second opinion was in disagreement with the first opinion), the amounts paid shall be 100 percent of the reasonable charges for such items and services;".

(B) Section 1833(a)(2)(A) of such Act (42 U.S.C. 1395l(a)(2)(A)) is amended by inserting ", items and services furnished in connection with obtaining a second opinion required under section 1890 (or a third opinion, if such second opinion was in disagreement with the first opinion)," after "(other than durable medical equipment)".

(C) Section 1833(a)(2)(D) of such Act (42 U.S.C. 1395l(a)(2)(D)) is amended by striking out "or to a provider having an agreement under section 1866" and inserting in lieu thereof "to a provider having an agreement under section 1866, or for tests furnished in connection with obtaining a second opinion required under section 1890 (or a third opinion, if such second opinion was in disagreement with the first opinion)".

(c) CONFORMING AMENDMENTS.—

(1) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395g(a)), as amended by section 2147(a) of this Act, is amended—

(A) by striking out "or" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(16) furnished in connection with a surgical procedure if a second opinion is required under section 1890 but is not obtained.".

(2) PROVIDER AGREEMENTS.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking out "and" at the end of subparagraph (G);

(B) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and"; and

(C) by inserting after subparagraph (H) the following new subparagraph:

"(I) to notify beneficiaries under this title for whom surgery is to be performed of the need to obtain a second opinion if such surgery is a procedure listed pursuant to section 1890.".

(3) FUNCTIONS OF PEER REVIEW ORGANIZATIONS.—Section 1154(a) of such Act (42 U.S.C. 1395c-3(a)) is amended by adding at the end thereof the following new paragraph:

"(12) The organization shall perform the referral functions for second opinions described in section 1890(c).".

(d) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first month which begins more than 6 months after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall promulgate final regulations necessary to implement the amendments made by this section within 6 months after the date of the enactment of this Act.

(e) INTERIM LIST.—(1) If the Secretary of Health and Human Services has not established a list or lists of surgical procedures requiring second opinions, as required under section 1890 of the Social Security Act, within 6 months after the date of the enactment of this Act, then the following list shall be in effect for purposes of such section:

Coronary artery bypass.
Cardiac pacemaker implantation.
Cataract surgery.
Gall bladder surgery.
Prostate surgery.
Knee surgery.
Hysterectomy.
Back surgery.
Hernia repair.
Hemorrhoidectomy.

(2) The list in paragraph (1) shall remain in effect until such time as the Secretary establishes a new list for the applicable State or area pursuant to section 1890.

(f) STUDY.—The Secretary of Health and Human Services shall conduct a study of the results of the amendments made by this section. Such study shall include any changes in utilization of surgical procedures, changes in nonconfirmation rates of second opinions, and outcomes in cases where surgery is not done after a second opinion failed to confirm the necessity of the surgical procedure. The Secretary shall report the results of the study to the Congress within 30 months after the date of the enactment of this Act.

SEC. 2157. CHANGING MEDICARE APPEAL RIGHTS.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item.".

(b) REVIEW OF PART B DETERMINATIONS.—(1) Section 1869 of such Act (42 U.S.C. 1395ff) is further amended—

(A) by inserting "or part B" in subsection (a) after "amount of benefits under part A",

(B) by inserting "or part B" in subsection (b)(1)(C) after "part A", and

(C) by amending paragraph (2) of subsection (b) to read as follows:

"(2) Notwithstanding paragraph (1)(C), in the case of a claim arising—

"(A) under part A, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $100 and judicial review shall not be available to the individual under that paragraph if the amount in controversy is less than $1,000; or

"(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than $1,000.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.".

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking out "$100 or more" and inserting in lieu thereof "at least $100, but not more than $500".

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking out "section 1869(b)" and all that follows through "part B)" and inserting in lieu thereof "sections 1869(b) and 1842(b)(3)(C) (as may be applicable)".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to claims submitted on or after October 1, 1985.

SEC. 2158. EXTENSION OF ON LOK WAIVER.

(a) CONTINUED APPROVAL.—

(1) MEDICARE WAIVERS.—Notwithstanding any limitations contained in section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services shall continue approval of the risk-sharing application (described in section 603(c)(1) of Public Law 98-21) for waivers of certain requirements of title XVIII of the Social Security Act after the end of the period described in that section.

(2) MEDICAID WAIVERS.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, the Secretary shall approve any application of the Department of Health Services, State of California, for a waiver of requirements of title XIX of such Act in order to continue carrying out the demonstration project referred to in section 603(c)(2) of Public Law 98-21 after the end of the period described in that section.

(b) TERMS, CONDITIONS, AND PERIOD OF APPROVAL.—The Secretary's approval of an application (or renewal of an application) under this section—

(1) shall be on the same terms and conditions as applied with respect to the corresponding application under section 603(c) of Public Law 98-21 as of July 1, 1985, except that requirements relating to collection and evaluation of information for demonstration purposes (and not for operational purposes) shall not apply; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with the terms and conditions described in paragraph (1).

PART E—CHANGES RELATING TO THE MEDICAID PROGRAM

SEC. 2161. SERVICES FOR PREGNANT WOMEN.

(a) EXPANDED COVERAGE.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "; or" at the end of subparagraph (A) and inserting in lieu thereof a comma,

(2) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof ", or", and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and".

(b) OPTIONAL EXPANSION OF PREGNANCY-RELATED SERVICES.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma, and

(2) by inserting before the semicolon the following: ", and (V) the making available to all pregnant women covered under the plan of services relating to pregnancy (including pre-natal, delivery, and post-partum services) or to any other condition which may complicate pregnancy shall not, by reason of subparagraph (B), require the making available of these services, or the making available of such services of the same amount, duration, and scope, to any other individuals".

(c) POST-PARTUM ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall be deemed to remain pregnant, for purposes of the provision of all pregnancy-related and post-partum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) EFFECTIVE DATES.—

(1) EXPANDED COVERAGE.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1985, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(2) OPTIONAL SERVICES.—The amendments made by subsection (b) shall take effect on October 1, 1985.

(3) CONTINUED COVERAGE.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after October 1, 1985.

SEC. 2162. MODIFICATIONS OF HOME AND COMMUNITY-BASED WAIVER UNDER SECTION 1915(c).

(a) EXPLICIT INCLUSION OF CERTAIN VOCATIONAL, PREVOCATIONAL, AND EDUCATIONAL SERVICES.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended

by adding at the end the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings, and

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services, but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency, and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) PERMITTING HOSPITAL LEVEL OF CARE FOR CERTAIN PARTICIPANTS.—(1) Paragraph (1) of such section is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end.

(2) Paragraph (2)(C) of such section is amended—

(A) by inserting "hospital or" after "provided in a", and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) PROHIBITING IMPOSITION OF CERTAIN REGULATORY LIMITS.—Such section, as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed", and

(2) by adding at the end the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

(d) COMPUTATION OF EXPENDITURES FOR CERTAIN DISABLED PATIENTS.—Such section, as amended by subsection (c), is further amended by adding at the end the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

(e) PERMITTING FLEXIBILITY IN ESTABLISHING MAINTENANCE INCOME STANDARDS.—Paragraph (3) of such section is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

(f) EFFECTIVE DATES.—

(1) HABILITATION SERVICES AND HOSPITALIZED PATIENTS.—The amendments made by subsections (a) and (b) are effective for services furnished on or after October 1, 1985.

(2) PROHIBITION OF REGULATORY LIMITS AND TREATMENT OF CERTAIN PHYSICALLY DISABLED INDIVIDUALS.—The amendments made by subsections (c) and (d) shall apply to applications for waivers filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(3) INCOME STANDARDS.—The amendment made by subsection (e) shall apply to waivers approved on or after the date of the enactment of this Act.

(g) TASK FORCE ON ALTERNATIVE CARE FOR TECHNOLOGY-DEPENDENT, CHRONICALLY ILL CHILDREN.—(1) The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in paragraph (5)).

(2) The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(3) The task force shall—

(A) identify barriers that prevent the provision of appropriate care in a home or community-setting to meet the special needs of technology-dependent chidren, and

(B) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology- dependent children.

(4) The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(5) In this subsection, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 2163. OPTIONAL HOSPICE BENEFITS.

(a) COVERAGE OF HOSPICE CARE AS AN OPTIONAL MEDICAID BENEFIT.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (17),

(B) by redesignating paragraph (18) as paragraph (19), and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) hospice care (as defined in subsection (o)); and"; and

(2) by adding at the end the following new subsection:

"(o)(1) The term 'hospice care' means the care described in section 1861(dd)(1) furnished by a public, or private nonprofit, hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to receive hospice care instead of certain other benefits (described in section 1812(d)(2)) under the plan.

"(2) An individual's voluntary election under this subsection—

"(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2),

"(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish, and

"(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.".

(b) ELIGIBILITY.—

(1) LIMITATION TO TERMINALLY ILL INDIVIDUALS.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 2161(b) of this Act, is further amended, in the matter following subparagraph (D), by striking out "and" before "(V)" and by inserting before the semicolon the following: ", and (VI) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals".

(2) HIGHER INCOME STANDARD PERMITTED.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) by striking out "or" at the end of subclause (V),

(B) by striking out the semicolon at the end of subclause (VI) and inserting in lieu thereof ", or", and

(C) by adding at the end the following new subclause:

"(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);".

(c) PAYMENT FOR HOSPICE CARE.—

(1) USE OF MEDICARE RATES.—Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) for payment for hospice care in the same amounts, and using the same methodology, as used under part A of title XVIII; and".

(2) LIMITATION ON COPAYMENTS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out "; and" at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end the following new subparagraph:

"(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out "(18)" and inserting in lieu thereof "(19)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out "through (17)" and inserting in lieu thereof "through (18)".

(e) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance provided for hospice care furnished on or after October 1, 1985.

SEC. 2164. MEDICAID PAYMENTS FOR DIRECT MEDICAL EDUCATION COSTS OF HOSPITALS.

(a) MEDICAID PAYMENT METHODOLOGY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 2163(c)(1) of this Act, is further amended—

(1) in paragraph (13) of subsection (a)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) for payment to hospitals for direct medical education costs in amounts determined in accordance with subsection (h); and"; and

(2) by inserting before subsection (i) the following new subsection:

"(h) PAYMENTS FOR DIRECT MEDICAL EDUCATION COSTS.—

"(1) SUBSTITUTION OF SPECIAL PAYMENT RULES.—Instead of any amounts that are otherwise payable under a State plan with respect to the costs of hospitals for direct medical education costs, the State shall provide for payments to hospitals for such costs in accordance with paragraph (3) of this subsection.

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each residency year beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, based on data from the most recent available audited cost report of the hospital, the average amount recognized as reasonable under title XVIII for direct medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING UP THROUGH JUNE 1985.—The Secretary shall update each average amount determined under subparagraph (A) through June 1985 by the percentage increase in the consumer price index from the midpoint of the cost reporting periods used under subparagraph (A) to the end of December 1984.

"(C) AMOUNT FOR RESIDENCY YEAR BEGINNING JULY 1, 1985.—For the residency year beginning July 1, 1985, the approved FTE resident amount for each hospital is equal to the amount determined under paragraph (B) for that hospital updated, to the end of December 1985, by projecting the estimated percentage increase in the consumer price index during the 12-month period ending with December 1985.

"(D) AMOUNT FOR SUBSEQUENT RESIDENCY YEARS.—

"(i) GENERAL RULE.—Except as provided in clause (ii), for each residency year beginning after July 1, 1985, the approved FTE resident amount for each hospital is equal to the amount determined under this paragraph for the previous residency year updated by projecting the estimated percentage change in the consumer price index during the 12-month period ending with December of that residency year, with appropriate adjustments to reflect previous under- or over-estimations under this paragraph in the projected percentage change in the consumer price index.

"(ii) LIMITATION ON APPROVED FTE RESIDENT AMOUNTS.—The approved FTE resident amount for a hospital for a residency year may not exceed—

"(I) for the residency year beginning on July 1, 1986, 175 percent,

"(II) for the residency year beginning on July 1, 1987, 150 percent, and

"(III) for residency years beginning on or after July 1, 1988, 125 percent,

of the median amounts determined under clause (i) for all the hospitals in the United States for that residency year.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program and was not participating in the program under title XVIII for a cost reporting period ending before 1985, the Secretary shall provide, for the first such period for which it has such a residency training program and is participating under this title, for such approved FTE resident amount as the Secretary determines to be appropriate, based on comparable approved FTE resident amounts for similar programs of similar hospitals located in similar areas.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after October 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicaid patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in subparagraph (A), the term 'aggregate approved amount' means, for a hospital cost reporting period, the sum of the products, for each residency year occurring during the cost reporting period, of—

"(i) the fraction of that residency year that occurs during the period,

"(ii) the hospital's approved FTE resident amount (determined under paragraph (2)) for that residency year, and

"(iii) the number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that year.

"(C) MEDICAID PATIENT LOAD.—As used in subparagraph (A), the term 'medicaid patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the reporting period which are attributable to patients with respect to whom payment may be made under the State plan approved under this part.

"(4) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that time so spent by a resident under an approved medical residency training program in an outpatient clinic, facility of a health maintenance organization, or other ambulatory setting shall be counted towards the determination of full-time equivalency.

"(C) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a residency year with a hospital or simultaneously with more than one hospital.

"(D) WEIGHTING FACTORS FOR PRIMARY CARE AND OTHER SPECIALTIES.—Subject to subparagraphs (E) and (F), such rules shall provide, in calculating the number of full-time-equivalent residents in approved residency program for residency years beginning on or after July 1, 1987, for the application of a weighting factor for residents determined in accordance with the following table:

"For the residency year beginning in—	The weighting factor for each—		
	(i) primary care resident is—	(ii) other resident—	
		(I) during the initial residency period is—	(II) during any other period is—
1987	01.10	.90	.75
1988	1.20	.80	.50
1989 or later	1.30	.70	.50

"(E) ALTERNATIVE COMPUTATIONS OF FULL-TIME EQUIVALENTS.—For residency years beginning on or after July 1, 1989, the Secretary may change the weighting factors described in the table in subparagraph (D) or may establish alternative methods for calculating the number of full-time equivalent residents, based on recommendations of the Physician Payment Review Commission (established under section 1845).

"(F) SPECIAL RULES FOR FOREIGN MEDICAL GRADUATES.—

"(i) REQUIRED TO PASS FMGEMS EXAMINATION.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident for a residency year beginning on or after July 1, 1986, unless the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)) before the beginning of the residency year.

"(ii) TRANSITION FOR CURRENT FMGS.—For the residency year beginning on July 1, 1986, in the case of a foreign medical graduate who—

"(I) has served as a resident before that year and is serving as a resident during that year, but

"(II) has not passed the FMGEMS examination before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(iii) TREATMENT OF CERTAIN ECFMG-CERTIFIED INDIVIDUALS.—For purposes of this subparagraph, the Secretary may provide for an individual to be treated as having passed the FMGEMS examination if the individual is unable to take that examination because the individual has previously received certification from the Educational Commission for Foreign Medical Graduates.

"(5) DEFINITIONS.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—As used in this paragraph, the term 'consumer price index' refers to the Consumer Price Index for All Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT MEDICAL EDUCATION COSTS.—The term 'direct medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means an individual who is a graduate of a medical school not accredited by a body or bodies approved for this purpose by the Secretary of Education (regardless of whether the school of medicine is in the United States).

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means, in the case of a resident, the minimum number of years of formal training necessary to satisfy the requirements (as specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education) for initial board eligibility in the particular specialty for which the resident is training; except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of residency of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is a resident in the field of geriatric medicine or the field of public health and preventive health shall not be counted towards the initial residency period.

"(G) PRIMARY CARE RESIDENT.—The term 'primary care resident' means an individual during the individual's first three years of postgraduate medical training in the field of internal medicine, pediatrics, or family medicine, but does not include such an individual who—

"(i) has been accepted for postgraduate medical training in a field other than internal medicine, pediatrics, family medicine, geriatric medicine, or public health and preventive medicine, and

"(ii) is receiving such training as part of the initial training for that field.

Such term also includes an individual during up to two years of postgraduate medical training in the field of geriatric medicine or the field of public health and preventive medicine.

"(H) RESIDENCY YEAR.—The term 'residency year' means a 12-month period beginning on July 1.

"(I) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after July 1, 1986, under State plans approved under title XIX of the Social Security Act; except that such amendments shall not apply to such payments for costs incurred (or services rendered) before that date.

(d) REPORT ON UNIFORMITY OF APPROVED FTE RESIDENT AMOUNTS.—The Secretary of Health and Human Services shall report to Congress, not later than December 31, 1986, on whether section 1902(h) of the Social Security Act should be revised to provide for greater uniformity in the approved FTE resident amounts established under paragraph (2) of that section, and, if so, how such revisions should be implemented.

SEC. 2165. TREATMENT OF POTENTIAL PAYMENTS FROM MEDICAID QUALIFYING TRUSTS.

(a) AMOUNTS TREATED AS BEING AVAILABLE FROM GRANTOR TRUSTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(k)(1) In the case of a medicaid qualifying trust (described in paragraph (2)), the amounts from the trust deemed available to a grantor, for purposes of subsection (a)(17), is the maximum amount of payments that may be permitted under the terms of the trust to be distributed to the grantor, assuming the full exercise of discretion by the trustee or trustees for the distribution of the maximum amount to the grantor. For purposes of the previous sentence, the term 'grantor' means the individual referred to in paragraph (2).

"(2) For purposes of this subsection, a 'medicaid qualifying trust' is a trust, or similar legal device, established by an individual (or an individual's spouse) under which the individual may be the beneficiary of all or part of the payments from the trust and the distribution of such payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the individual.

"(3) This subsection shall apply without regard to—

"(A) whether or not the medicaid qualifying trust is irrevocable or is established for purposes other than to enable a grantor to qualify for medical assistance under this title, or

"(B) whether or not the discretion described in paragraph (2) is actually exercised.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first day of the second month beginning after the date of the enactment of this Act.

SEC. 2166. WRITTEN STANDARDS FOR PROVISION OF ORGAN TRANSPLANTS.

(a) DENIAL OF FEDERAL PAYMENTS FOR ORGAN TRANSPLANTS UNLESS PROVIDED UNDER WRITTEN STANDARDS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

"(A) similarly situated individuals are treated alike, and

"(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance furnished on or after July 1, 1986.

SEC. 2167. DEEMED RESIDENCE FOR OUT-OF-STATE ADOPTIVE AND FOSTER CARE PLACEMENTS.

(a) GENERAL RULE.—Section 1902(b) of the Social Security Act (42 U.S.C. 1396a(b)) is amended by adding at the end the following:

"For purposes of this title, any individual receiving aid or assistance under any plan of a State approved under part E of title IV shall be deemed to be receiving such aid or assistance from the State in which the individual actually resides.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

SEC. 2168. EXTENSION OF MMIS DEADLINE.

(a) NEW DEADLINE.—Section 1903(r)(1)(B) of the Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by striking out "the earlier of" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "September 30, 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment under section 1903(a) of the Social Security Act for calendar quarters beginning on or after October 1, 1982.

SEC. 2169. EXTENSION OF CERTAIN WAIVER PROJECT.

(a) CONTINUED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act but subject to subsection (b) of this section, the Secretary of Health and Human Services, upon application, shall continue approval of demonstration project number 11-P-97473/6-06 ("Modifications under the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged"), previously approved under that section, until December 31, 1988.

(b) TERMS AND CONDITIONS.—The Secretary's continued approval of the project under subsection (a)—

(1) shall be on the same terms and conditions as applied to the project as of the date of the enactment of this Act, and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with such terms and conditions.

SEC. 2170. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS FOR HOSPITALS SERVING DISPROPORTIONATE NUMBERS OF LOW INCOME PATIENTS.

The Secretary of Health and Human Services shall transmit to Congress, not later than July 1, 1986, a report that—

(1) describes the methodology used by States under section 1902(a)(13)(A) of the Social Security Act, in their making payments to hospitals, in taking into account the situation of hospitals that serve a disproportionate number of low income patients with special needs,

(2) identifies each of those hospitals that have had the amount of their payments under that title adjusted under that section, and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

SEC. 2171. REFERENCE TO PROVISIONS OF LAW PROVIDING COVERAGE UNDER, OR DIRECTLY AFFECTING, THE MEDICAID PROGRAM.

Title XIX of the Social Security Act is amended by adding at the end the following new section:

"REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

"SEC. 1919. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law that make additional individuals eligible for medical assistance under this title, see the following:

"(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

"(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

"(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

"(2) SSI.—Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

"(3) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

"(4) MISCELLANEOUS.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons).

"(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

"(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

"(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

"(E) Section 503 of Public Law 94-566 (popularly known as the 'Pickle Amendment', relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

"(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

"(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

"(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).".

PART F—PRIVATE HEALTH INSURANCE CONTINUATION

SEC. 2181. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR FAMILY MEMBERS OF DECEASED, DIVORCED, OR MEDICARE-ELIGIBLE WORKERS.

(a) IN GENERAL.—Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to deduction for trade or business expenses with respect to group health plans) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) CONTINUATION COVERAGE.—

"(A) REQUIRING OPTION OF CONTINUATION COVERAGE WHEN QUALIFIED BENEFICIARY WOULD LOSE COVERAGE.—The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section unless each qualified beneficiary who would lose coverage under the plan because of a qualifying event is given, in accordance with this paragraph, the option of electing continuation coverage under the plan.

"(B) ELECTION.—

"(i) ELECTION PERIOD.—The option of electing continuation coverage must be offered during a period that—

"(I) begins not later than the termination date (as defined in subparagraph (C)(ii)),

"(II) is of at least 60 days duration, and

"(III) ends not earlier than 60 days after the date the qualified beneficiary is notified under subparagraph (F)(iv) or the termination date, whichever date is later.

"(ii) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Unless otherwise specified in the election, any such election by a qualified beneficiary described in subparagraph (G)(ii)(I) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary whose coverage would, but for continuation coverage provided in accordance with this paragraph, be affected by the qualifying event.

"(C) QUALIFYING EVENT AND TERMINATION DATE.—For purposes of this paragraph—

"(i) A 'qualifying event' under a group health plan, with respect to a covered employee, is any of the following events if coverage of a qualified beneficiary under the plan would, but for continuation coverage provided in compliance with this paragraph, be terminated by the occurrence of the event:

"(I) The death of the covered employee.

"(II) The divorce or separation of the covered employee from the employee's spouse.

"(III) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(ii) The term 'termination date' means, with respect to a qualifying event, the date on which coverage of a qualified beneficiary under a group health plan would be terminated under the plan but for continuation coverage provided in compliance with this paragraph.

"(D) TERMS OF CONTINUATION COVERAGE.—Any continuation coverage elected by or on behalf of a qualified beneficiary shall meet the following requirements:

"(i) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(ii) CONTINUED BENEFITS.—The coverage shall consist of coverage which is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(iii) PERIOD OF CONTINUED COVERAGE.—The coverage shall be for a period commencing upon the termination date and ending not earlier than the earliest of the following:

"(I) MAXIMUM OF FIVE YEARS.—Five years after the termination date.

"(II) END OF PLAN.—The date on which the employer ceases to provide any group health plan to employees.

"(III) FAILURE TO PAY PREMIUMS.—The date on which there is a failure in making timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(IV) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes or could become, after the date of the election, a covered employee under any other group health plan or becomes entitled to benefits under title XVIII of the Social Security Act.

"(V) REMARRIAGE OF SPOUSE.—In the case of a qualified beneficiary described in subparagraph (G)(ii)(I), the date on which the beneficiary remarries and becomes (or could become) covered under a group health plan as the spouse of a covered employee.

"(VI) CHILD TURNING MAJORITY.—In the case of an individual who is a qualified beneficiary by reason of having been a covered dependent child of a covered employee, the date on which the individual ceases to be a covered dependent child of the covered employee.

"(iv) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continued coverage expires under clause (iii)(I), the plan must provide to the beneficiary, during the 180-day period ending on the date of expiration of the period of continued coverage, the option of enrollment under a conversion health plan otherwise generally available to beneficiaries under the plan.

"(E) PREMIUMS FOR CONTINUATION COVERAGE.—

"(i) AMOUNT.—The total premium charged by a group health plan with respect to any qualified beneficiary for continuation coverage under the plan shall not exceed the sum of employer premiums and employee premiums generally charged with respect to coverage under the plan of similarly situated beneficiaries with respect to whom a qualifying event has not occurred. The total of all premiums charged by the plan in any plan year may be based upon reasonably anticipated community costs for such plan year of the entire pool of covered employees and other beneficiaries under the plan, including qualified beneficiaries receiving continuation coverage under the plan under this paragraph.

"(ii) PAYMENTS.—The plan may provide for payment of the total premium by the qualified beneficiary receiving such coverage, or for payment of all or part of such premium by the employer or other party and payment of the remainder of such premium by such beneficiary. The plan shall provide for payment of any premium by a qualified beneficiary in monthly installments if so elected by the beneficiary. If an election is made during an election period but after the termination date, the plan shall permit payment of any premium for continuation coverage during the preceding period to be made within 45 days of the date of the election.

"(iii) PREMIUM DEFINED.—As used in this subparagraph, the term 'premium' means any amount payable with respect to the provision of coverage under a group health plan.

"(F) NOTICE REQUIREMENTS.—In accordance with regulations of the Secretary—

"(i) the group health plan must provide, at the time of commencement of coverage under the plan, for written notice to each covered employee and spouse of the employee (if any) of the rights provided under this paragraph;

"(ii) the employer of a employee under the plan must notify the group health plan administrator if the employee dies;

"(iii) each covered employee is responsible for notifying the group health plan administrator of the occurrence of any qualifying event (other than that described in subpara-

graph (C)(i)(I)) respecting that employee; and

"(iv) the group health plan administrator must notify each qualified beneficiary, within a period of 14 days after the date the administrator is notified concerning the occurrence of a qualifying event affecting that beneficiary, of—

"(I) the termination date with respect to the beneficiary, and

"(II) the beneficiary's right to elect continuation coverage under this paragraph and the election period established under subparagraph (B)(i) during which the beneficiary can exercise that right.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(ii) QUALIFIED BENEFICIARY.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the date before the date of a qualifying event for that employee—

"(I) is a beneficiary under the plan as the spouse of the employee and has been married to the employee for at least the immediately preceding 30-day period, or

"(II) is a beneficiary under the plan as a covered dependent child of the employee.

"(iii) COVERED DEPENDENT CHILD.—The term 'covered dependent child' means, with respect to a covered employee, an individual who meets the generally applicable requirements of the plan for treatment as a dependent child covered under the plan by reason of the coverage of the employee under the plan.

"(iv) GROUP HEALTH PLAN ADMINISTRATOR.—The term 'group health plan administrator' means, in connection with a group health plan, any person who provides for administrative functions relating to enrollment of individuals under the plan. For purposes of this subparagraph, the term 'person' includes one or more individuals, governments or agencies of the United States or any State or political subdivision thereof, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint ventures, joint stock companies, societies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 162(i) of such Code is amended by striking out "GENERAL RULE" and inserting in lieu thereof "COVERAGE RELATING TO END STAGE RENAL DISEASE".

(c) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(d) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan described in section 162(i) of the Internal Revenue Code of 1954, the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under paragraph (2) of that section. The notice furnished under this subsection is in lieu of notice that may otherwise be required under paragraph (2)(F)(i) of that section.

PART G—TASK FORCE ON LONG-TERM HEALTH CARE POLICIES

SEC. 2191. GUIDELINES FOR LONG-TERM HEALTH CARE POLICIES.

(a) ESTABLISHMENT OF TASK FORCE.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a Task Force on Long-Term Health Care Policies (hereinafter in this section referred to as the "Task Force"). The Task Force shall be established not later than 60 days after the date of the enactment of this Act and in consultation with the National Association of Insurance Commissioners.

(b) COMPOSITION OF TASK FORCE.—The Task Force shall be composed of 18 members, which shall include—

(1) two members representing the National Association of Insurance Commissioners,

(2) three members representing Federal and State agencies with responsibilities relating to health or the elderly,

(3) three members representing private insurers,

(4) three members from organizations representing consumers or the elderly, and

(5) three members from organizations representing providers of long-term health care services.

The Secretary shall designate a member of the Task Force as chair.

(c) DEVELOPMENT OF GUIDELINES.—The Task Force shall develop guidelines for long-term health care policies, including guidelines designed—

(1) to limit marketing and agent abuse for those policies,

(2) to assure the dissemination of such information to consumers as is necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage,

(3) to assure that benefits provided under the policies are reasonable in relationship to premiums charged, and

(4) to promote the development and availability of long-term health care policies which meet these guidelines.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall report to the Secretary and Congress respecting—

(1) the guidelines developed under subsection (c), including an explanation of the reasons for their selection, and

(2) such recommendations for additional activities respecting long-term health care policies as the Task Force finds appropriate.

The Secretary, in cooperation with the National Association of Insurance Commissioners, shall provide for the dissemination of the report to each of the States.

(e) ANNUAL REPORT OF SECRETARY.—The Secretary shall annually report to Congress on—

(1) actions taken by the States to implement the guidelines developed under this section,

(2) recommendations for the development of additional guidelines (or modification of proposed guidelines), and

(3) recommendations for legislative and administrative action needed to respond to issues raised by the Task Force or to improve consumer protection with respect to long-term health care policies.

(f) LONG-TERM HEALTH CARE POLICY DEFINED.—In this section, the term "long-term health care policy" means an insurance policy, or similar health benefits plan, which is designed for or marketed as providing (or making payments for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

TITLE II—TRADE AND CUSTOMS LAWS AMENDMENTS

PART A—TRADE ADJUSTMENT ASSISTANCE

SUBPART 1—WORKER ADJUSTMENT ASSISTANCE

Sec. 2201. Group eligibility requirements.
Sec. 2202. Qualifying requirements.
Sec. 2203. Limitations on trade readjustment allowances.
Sec. 2204. Worker training.
Sec. 2205. Agreements with States regarding training.

SUBPART 2—FIRM ADJUSTMENT ASSISTANCE

Sec. 2211. Petitions.
Sec. 2212. Approval of adjustment proposals.
Sec. 2213. Technical assistance.
Sec. 2214. Financial assistance.
Sec. 2215. Protective provisions.

SUBPART 3—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE

Sec. 2221. Extension of adjustment assistance for workers and firms.

SUBPART 4—EFFECTIVE DATES

Sec. 2231. Effective dates.

PART B—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

Sec. 2241. United States International Trade Commission.
Sec. 2242. United States Customs Service.
Sec. 2243. United States Trade Representative.

PART C—USER FEES FOR CUSTOMS SERVICES

Sec. 2251. Fees to offset expenses incurred in processing arrivals in the United States.
Sec. 2252. Conforming amendments.
Sec. 2253. Advisory committee.
Sec. 2254. Effective period for fees.

PART A—TRADE ADJUSTMENT ASSISTANCE

Subpart 1—Worker Adjustment Assistance

SEC. 2201. GROUP ELIGIBILITY REQUIREMENTS.

Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"The Secretary shall certify a group of workers as eligible to apply for adjustment assistance under this part if he determines—

"(1) that—

"(A) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production; or

"(2) that a significant number or proportion of the workers in such workers' firm (if the firm has no subdivision) or subdivision of a firm have become totally or partially separated, or are threatened to become totally or partially separated, by reason of the relocation of the production functions of that firm or subdivision to a foreign country or instrumentality.

For purposes of paragraph (1)(C), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

SEC. 2202. QUALIFYING REQUIREMENTS.

The last sentence of section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all that follows after subparagraph (C) and inserting in lieu thereof "shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in paragraph (A) or (C), or both, may be treated as weeks of employment under this sentence.".

SEC. 2203. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

Section 233(a)(2) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended by striking out "52-week period" and inserting "104-week period".

SEC. 2204. WORKER TRAINING.

Section 236(a)(1) of the Trade Act of 1974 (19 U.S.C. 2296(a)(1)) is amended by adding at the end thereof the following new sentence: "For purposes of applying subparagraph (C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training under this section.".

SEC. 2205. AGREEMENTS WITH STATES REGARDING TRAINING.

Section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by amending subparagraph (B) (as so redesignated) to read as follows: "(B) where appropriate, but in accordance with paragraph (2), will afford adversely affected workers testing, counseling, referred to training, and placement services, and"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Each cooperating State agency must, in carrying out paragraph (1)(B)—

"(A) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances); and

"(B) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding, and review, suitable training opportunities available to the worker under section 236.".

Subpart 2—Firm Adjustment Assistance

SEC. 2211. PETITIONS.

Section 251(c)(2) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

"(2) sales or production, or both—

"(A) of the firm have decreased absolutely, or

"(B) of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and".

SEC. 2212. APPROVAL OF ADJUSTMENT PROPOSALS.

Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended—

(1) by amending the second sentence of subsection (b)(1) by striking out "adjustment assistance" and inserting in lieu thereof "technical assistance under section 253(a)(3) or financial assistance under section 254"; and

(2) by striking out subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 2213. TECHNICAL ASSISTANCE.

Section 253(b)(2) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by inserting "to a certified firm in the implementation of its adjustment proposal" immediately after "furnished".

SEC. 2214. FINANCIAL ASSISTANCE.

Section 254(b) of the Trade Act of 1974 (19 U.S.C. 2344(b)) is amended by inserting ", either through a single loan or a combination of loans," immediately before "to the firm—" in subsection (b).

SEC. 2215. PROTECTIVE PROVISIONS.

Section 258(d) of the Trade Act of 1974 (19 U.S.C. 2348(d)) is amended by striking out "them and".

Subpart 3—Extension of Trade Adjustment Assistance

SEC. 2221. EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding 2271) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1989".

Subpart 4—Effective Dates

SEC. 2231. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part shall take effect October 1, 1985.

(b) SPECIAL PROVISIONS.—(1) The amendments made by sections 2201, 2202, and 2211 shall apply with respect to all petitions for certification filed after September 30, 1985, under section 221 or 251, as the case may be, of the Trade Act of 1974.

(2) The amendment made by section 2204 shall apply with respect to workers covered under certifications issued under section 222 of such Act of 1974 after September 30, 1985.

PART B—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

SEC. 2241. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1986 not to exceed $28,901,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 2242. UNITED STATES CUSTOMS SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $769,067,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

"(A) $27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

"(B) $50,425,000 is for the operation and maintenance of the air interdiction program of the Service; and

"(C) not to exceed $14,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.

"(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (6) is completed, shall include life cycle costs.

"(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal 'request for proposal' process.

"(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

"(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986—

"(A) not to exceed $8,000,000 from the Customs Forfeiture Fund for the making of payments under section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b), of which not to exceed $5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction; and

"(B) from the Treasury account established under section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) such sums

as may be necessary for the provision of customs services at airports under that section, but not to exceed $75,000 for each such airport.; and

"(6) As soon as possible after the date of the enactment of this paragraph, but not later than 12 months after that date, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study."; and

(2) by adding at the end thereof the following new subsection:

"(f) USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.".

(b) ELIMINATION OF SURETIES ON CUSTOMS BONDS.—(1) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

(A) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(i) the text of the draft final rule;

(ii) an analysis of the revenue impact of the rule;

(iii) a regulatory impact analysis;

(iv) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(v) a justification for each revision to be effected by the rule; and

(B) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under subparagraph (A).

SEC. 2243. UNITED STATES TRADE REPRESENTATIVE.

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by inserting before the semicolon at the end of subsection (d)(1) the following: ", except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code"; and

(2) by amending subsection (f)(1)—

(A) by striking out "$14,179,000 for fiscal year 1985" and inserting in lieu thereof "$13,582,000 for fiscal year 1986", and

(B) by striking out "$80,000" and inserting in lieu thereof "$68,000".

PART C—USER FEES FOR CUSTOMS SERVICES

SEC. 2251. FEES TO OFFSET EXPENSES INCURRED IN PROCESSING ARRIVALS IN THE UNITED STATES.

Section 214 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a) is amended to read as follows:

"SEC. 214. (a) The Secretary of the Treasury shall charge and collect the following fees to cover the expenses incurred by the Customs Service in processing arrivals at ports of entry in the customs territory of the United States:

"(1) For the arrival of a commercial vessel of 100 or more tons, $425.

"(2) For the arrival of a commercial truck, $5.

"(3) For the arrival of a railroad car, whether passenger or freight, $5.

"(4) For all arrivals made during a calendar year by a private aircraft or private vessel, $25.

"(5) For the arrival in the United States of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States other than a place described in paragraph (6), $5.

"(6) For the arrival in the United States of each passenger aboard a commercial vessel, commercial aircraft, or train from Canada, Mexico, a territory or possession of the United States, or any island that is an adjacent island within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)), $1.

"(b) Each person providing transportation for hire by vessel, aircraft, or train shall—

"(1) separately identify the fee charged under subsection (a)(5) or (6), as the case may be, as a Federal inspection fee on the document or ticket issued to each passenger for that transportation;

"(2) collect the fee from the passenger at the time the documentation or ticket is purchased; and

"(3) remit to the Secretary the fees collected under paragraph (2) during each calendar quarter before the 31st day after the last day of that quarter.

"(c) Except with respect to those services for which fees are imposed under subsection (a), the Secretary of the Treasury may charge such fees as may be necessary to cover the costs of providing those services which customs officers were authorized to provide under subsection (a), as in effect before the date of the enactment of this subsection.

"(d) Notwithstanding any other provision of law, the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when and where needed at no cost to airlines and airline passengers other than the fees imposed under subsection (a).

"(e) The receipts for reimbursable charges, including those collected under subsection (a), and expenses which have been paid for out of any appropriation for collecting the revenue from customs that are covered into the Treasury as miscellaneous receipts under the first section of the Act of March 4, 1907 (19 U.S.C. 527), shall be placed in a proprietary account."

SEC. 2252. CONFORMING AMENDMENTS.

(a) REPEAL OF APPROPRIATION REFUND AUTHORITY.—Section 524 of the Tariff Act of 1930 (19 U.S.C. 1524) is repealed.

(b) RAIL PASSENGER SERVICE ACT.—Section 305(i) of the Rail Passenger Service Act, as amended (45 U.S.C. 545(i)), is amended by striking out the last sentence thereof.

(c) AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—Section 53(e) of the Airport and Airway Development Act of 1970 (49 U.S.C. App. 1741(e)) is repealed.

SEC. 2253. ADVISORY COMMITTEE.

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the Customs Service for the purpose of covering expenses incurred by the Customs Service. The advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the customs services. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

SEC. 2254. EFFECTIVE PERIOD FOR FEES.

The fees authorized under section 214(a) of the Customs Procedural Reform and Simplification Act of 1978 (as amended by section 2251) shall be charged with respect to arrivals in the United States occurring after the 180th day after the date of the enactment of this Act and before the close of the 3-year period beginning on that day.

TITLE III—PROVISIONS RELATING TO AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 2301. Improvements in AFDC quality control standards and procedures.
Sec. 2302. Grants for programs to prevent teenage pregnancies and to assist pregnant individuals and teenage parents in achieving self-sufficiency.
Sec. 2303. Mandatory provision of aid with respect to dependent children in two-parent families.

SEC. 2301. IMPROVEMENTS IN AFDC QUALITY CONTROL STANDARDS AND PROCEDURES.

(a) IN GENERAL.—Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) In order to establish and maintain improved quality control standards and procedures in the operation and administration of State plans approved under this part—

"(i) each State, in accordance with a timetable and standards which shall be established by the Secretary in regulations, shall—

"(I) collect a statistically reliable sample of the cases under its approved State plan under this part for each fiscal year or (at the option of the State) for each of the two six-month periods in such year, for purposes of quality control review under this subsection,

"(II) review the sample so collected and (on the basis of such review) make its original findings with respect to errors for the period involved, and

"(III) submit such findings to the Secretary;

"(ii) the Secretary, after studying the State's original findings as submitted under clause (i)(III), shall select specified cases for further review and notify the State thereof; and the State shall submit to the Secretary

the records of the cases so selected and specified;

"(iii) the Secretary shall review and analyze the case records submitted under clause (ii) and (on the basis of such review and the State's original findings) shall determine the State's error rate for the period involved (without any adjustment under paragraph (2)(C)) and notify the State of such error rate within six months after the close of the fiscal year or within six months after the date on which the sample is submitted, whichever is later; and

"(iv) the State shall develop and submit to the Secretary (except as provided by subparagraph (B)) a corrective action plan for eliminating or reducing errors identified as a result of the reviews under clauses (i) and (iii) (whether or not such errors are subject to inclusion for purposes of disallowances under paragraph (2)(A)) and, after such plan has been reviewed and approved by the Secretary in accordance with subparagraph (C), shall implement the corrective actions provided for in such plan in accordance with a timetable established by the Secretary in regulations; and the Secretary shall continuously monitor the State's corrective action process under such plan.

"(B) The requirement (in subparagraph (A)(iv)) that States submit corrective action plans for eliminating or reducing errors may be waived by the Secretary in the case of any State which has consistently had an error rate below its error rate tolerance level (as determined by the Secretary, upon the request of the State, in the manner provided in subparagraphs (B) and (C)(i) of paragraph (2)).

"(C) The Secretary shall establish criteria for corrective action plans submitted by States under subparagraph (A)(iv), and shall approve any plan so submitted upon determining that it meets such criteria. If a plan so submitted is disapproved, the Secretary shall specify (in notifying the State of such disapproval) the respect or respects in which the plan fails to meet the criteria so established, and shall provide appropriate advice and assistance to the State in eliminating such failure with the objective of facilitating the resubmission and approval of the plan at the earliest possible time.

"(D) The sample obtained under subparagraph (A)(i) by a State which collected such sample on an annual basis rather than electing to collect two six-month samples for the fiscal year involved shall in no case include a smaller number of cases than the number that the Secretary determines would be required for a statistically reliable sample if the State had elected to collect two six-month samples for that fiscal year.

"(E) The requirements imposed upon a State by subparagraph (A) with respect to the collection and review of samples and the submission of the results thereof, and the requirement that a State (under subparagraphs (A)(iv) and (C)) submit a corrective action plan which meets the Secretary's criteria established under subparagraph (C), shall be deemed for purposes of section 404 to be included in the State's plan approved under section 402.

"(2)(A) Notwithstanding subsection (a)(1) (but subject to subparagraph (C) and paragraph (3)), if a State's error rate for any fiscal year (as defined in paragraph (5)(A)) exceeds the error rate tolerance level determined for the State (for that year) under subparagraph (B), then the Secretary shall disallow Federal payments for such fiscal year with respect to the State's erroneous payments (as defined in paragraph (5)(B)) to the extent that the inclusion of such erroneous payments in determining the State's error rate caused such rate to exceed the tolerance level so determined.

"(B) A State's error rate tolerance level for any fiscal year shall be 3.5 percent, increased by—

"(i) 0.5 percentage points if, throughout such fiscal year, the plan of such State approved under this part provides for the payment of aid with respect to dependent children of unemployed parents as provided in section 407,

"(ii) 0.1 percentage points for each full 20 percent increment (up to a maximum of five such increments) by which (I) the ratio of the number of families with earned income who are receiving aid under such State's plan approved under this part to the total number of families receiving such aid exceeds (II) the average ratio, per State, of the number of families with earned income who are receiving aid under all of the State plans approved under this part to the total number of families receiving such aid, and

"(iii) 0.1 percentage points for each full 20 percent increment (up to a maximum of five such increments) by which (I) the population per square mile of land area in such State exceeds (II) the average population per square mile of land area, per State, in all of the States having plans approved under this part.

"(C) In determining the error rate in any State for purposes of this paragraph—

"(i) such rate shall be fixed at the midpoint of the standard interval for errors within which the State's true error rate falls (as determined without regard to this clause on the basis of the sample or samples collected by the State under paragraph (1)(A)(i)), or at the lower bound of such standard interval in the case of a State which has collected a sample or samples sufficiently large to produce a lower limit of such interval no more than 2.5 percentage points below the midpoint; and

"(ii) errors which are technical in nature, and which would not change the AFDC payment levels involved, shall be disregarded.

For purposes of clause (i), the lower limit of the standard interval for errors within which a State's true error rate falls shall be calculated in accordance with regulations prescribed by the Secretary to adjust for variability among the States in the number, proportion, or dollar value of cases in which the State's findings under paragraph (1)(A)(i)(II) (with respect to errors in its sample or samples collected under paragraph (1)(A)(i)(I)) differ from the Secretary's findings with respect to the State's error rate under paragraph (1)(A)(iii).

"(D) The total amount of the disallowances that would otherwise be imposed with respect to any State under subparagraph (A) on account of an error rate in excess of the applicable error rate tolerance level for any fiscal year shall be reduced by the Federal share of any overpayments collected by such State (on account of erroneous payments) during that fiscal year.

"(3)(A) The Secretary, in accordance with this paragraph, may waive all or any part of any disallowance that would otherwise be imposed with respect to a State under paragraph (2)(A) if such State is unable to reach the applicable error rate tolerance level for the fiscal year involved despite a good-faith effort by such State.

"(B) Any State may request a waiver of all or part of any disallowance that would otherwise be imposed with respect to such State for any fiscal year under paragraph (2)(A), basing such request upon a showing—

"(i) that the State has made (and is continuing to make) a good-faith effort to reduce or eliminate the erroneous payments involved but was unable to reach the applicable error rate tolerance level for such fiscal year despite that effort; or

"(ii) that (I) the Secretary's determination of the State's error rate for such fiscal year was made incorrectly or in a manner inconsistent with the provisions of this subsection, and (II) the State's error rate, if determined correctly and in a proper manner, would be lower than the rate so determined by the Secretary.

The Secretary shall consider and review such request, and either approve it or disapprove it in whole or in part, in accordance with a timetable which shall be specified in regulations. If the Secretary disapproves the request, the State may appeal the Secretary's decision to the Grant Appeals Board in the Department of Health and Human Services for such further action as may be provided for by law or regulations (including judicial review of the Secretary's decision or the Board's determination).

"(C) In considering and reviewing any request for a waiver submitted by a State under this paragraph, the Secretary shall take into account—

"(i) factors beyond the State's control (including disasters, strikes by State or other staff personnel engaged in determining eligibility or processing cases, sudden workload changes resulting from changes in Federal or State laws or regulations or from rapid caseload growth, and State actions resulting from incorrect policy interpretations by Federal officials);

"(ii) factors relating to agency commitment, including demonstrated commitment by upper level State officials to the error reduction program under this subsection, the sufficiency and quality of operational systems designed to reduce errors, the use of effective systems and procedures for the statistical and program analysis of quality control and related data, and effective management and execution of the corrective action process;

"(iii) the State's past performance with respect to erroneous payments, including past error rate levels and past error rate reduction efforts;

"(iv) the cost effectiveness of error rate reduction, both in general and in the particular circumstances existing within the State; and

"(v) such other factors as the Secretary may determine to be appropriate, as specified in regulations or as detailed by the State in its waiver request.

The Secretary's regulations shall specify the factors to be considered and the criteria to be used in assessing waiver requests under this paragraph, and shall indicate the relative weight or importance of each of such factors and criteria in order to assist States in determining the appropriateness of proposed requests.

"(D) Notwithstanding the preceding provisions of this paragraph, the Secretary shall in any case grant a waiver requested by a State under subparagraph (B) for any fiscal year if such State's corrective action plan submitted under paragraph (1)(A)(iv) or (1)(C), or a separate plan for the reduction of errors submitted by such State along with its waiver request, provides in detail for the expenditure of additional State and local funds for the reduction of errors in

such fiscal year in a total amount (over and above the amount of State and local funds that would otherwise be expended in such fiscal year for the administration of the State plan approved under this part) equal to or exceeding one-half of the net amount of the disallowances that would otherwise be imposed with respect to such State under paragraph (2)(A) for such fiscal year. Expenditures of additional State and local funds for the reduction of errors as provided for in the corrective action plan or separate plan described in the preceding sentence shall be considered (for purposes of subsection (a)) to be expenditures for the proper and efficient administration of the State plan approved under this part.

"(4)(A) Each State agency administering a plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous payments made in connection with its administration of such plan, together with any other data which the Secretary may request that are reasonably necessary for the Secretary to carry out the provisions of this subsection.

"(B) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through such contractual or other arrangements as the Secretary may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available and in accordance with such techniques for sampling and estimating as the Secretary may find appropriate.

"(C) In any case in which it is necessary for the Secretary to exercise the authority under subparagraph (B) to determine a State's error rate for a fiscal year, the amount that would otherwise be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making such determination.

"(5) For purposes of this subsection—

"(A) the term 'error rate', with respect to any State for any fiscal year, means the ratio of such State's erroneous payments for such year (as defined in subparagraph (B)) to its total payments under the State plan approved under this part for such year, determined (except as otherwise specifically provided) subject to the adjustments provided for in paragraph (2)(C); and

"(B) the term 'erroneous payments' means—

"(i) payments to ineligible families receiving assistance, and

"(ii) overpayments to eligible families receiving assistance.

"(6) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective only with respect to quarters in the fiscal year 1983 and subsequent fiscal years; except that such amendment may also be effective in the case of any State, at the election of the State made in such manner and within such time as the Secretary of Health and Human Services shall by regulation prescribe, with respect to quarters in the fiscal year 1982 or with respect to quarters in the fiscal years 1981 and 1982.

SEC. 2302. GRANTS FOR PROGRAMS TO PREVENT TEENAGE PREGNANCIES AND TO ASSIST PREGNANT INDIVIDUALS AND TEENAGE PARENTS IN ACHIEVING SELF-SUFFICIENCY.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PROGRAMS TO PREVENT TEENAGE PREGNANCIES AND TO ASSIST PREGNANT INDIVIDUALS AND TEENAGE PARENTS OF YOUNG CHILDREN IN ACHIEVING SELF-SUFFICIENCY

"SEC. 416. (a)(1) For the purpose of assisting States and localities in establishing and carrying out programs—

"(A) to reduce the rate of teenage pregnancies in AFDC families; and

"(B) to help pregnant individuals and teenage parents of young children in such families, who might otherwise become long-term recipients of aid to families with dependent children, in achieving self-sufficiency,

there are authorized to be appropriated the sum of $50,000,000 for the fiscal year 1986 and the sum of $100,000,000 for the fiscal year 1987, to be used by the Secretary in making grants for such programs in accordance with this section. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section shall be entitled to receive a grant under this section for each such fiscal year, in an amount determined under subsection (d).

"(2) The State agency administering or supervising the administration of the State's plan approved under section 402 shall be responsible for administering or supervising the administration of the State's programs described in paragraph (1) for which grants under this section are made. Such grants shall be made directly to the State agency, and may be—

"(A) used by such agency for the purpose of conducting and providing in accordance with this section (directly or under contracts with others) the activities and services required to carry out the program or programs involved, or

"(B) paid by such agency to local school districts or to other local agencies or public or private nonprofit entities meeting the requirements of this section, under arrangements made with such districts or (through such districts) with such other agencies and entities, for use by such districts, agencies, or entities in conducting and providing in accordance with this section (directly or under contracts with others) the activities and services required to carry out the program or programs involved;

but such grants may be used only in areas which are determined by the State agency to be areas of high teenage pregnancy or high infant mortality, and it must be the objective of any program for which such grants are used to carry out both the purpose described in subparagraph (A) of paragraph (1) and the purpose described in subparagraph (B) of such paragraph.

"(3) In order to qualify for a grant under this section for any fiscal year with respect to a program or programs described in paragraph (1) in any State, the State agency must submit to the Secretary no later than 3 months after the beginning of such year, in such manner and form as the Secretary may prescribe, a full and complete description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section.

"(4) Grants made under this section—

"(A) shall be in addition to any amounts payable to States under section 403, and shall supplement and not replace any other funds which may be available for the same general purposes, or for the provision of services of any kind to needy individuals, in the localities involved, and

"(B) shall not be used to provide any individual with services which are available to that individual under a State plan approved under section 1902.

"(b)(1) In carrying out the purpose described in subparagraph (A) of subsection (a)(1), it shall be the objective of each program under this section (subject to the availability of funds) to—

"(A) conduct activities and provide services which may help to reduce pregnancies among children, targeting such activities and services to children who are eligible for aid to families with dependent children, in order to assure that such children will not be prevented from achieving self-sufficiency by parental responsibilities imposed upon them before they reach adulthood;

"(B) identify and address all of the factors which may play important roles in determining teenage sexual activity and contraceptive use;

"(C) encourage active participation by the parents of the children involved in the activities and services being conducted or provided under the program; and

"(D) encourage the children involved to develop education and employment goals for the future, combining new and existing resources to assist such children in achieving those goals and encouraging such children to postpone sexual activity and child bearing and to assume responsibility for family planning in order to achieve them.

"(2)(A) To the maximum extent appropriate and feasible, the activities conducted and services provided in carrying out the purpose described in subparagraph (A) of subsection (a)(1) shall include the services which are made available to pregnant individuals and teenage parents with young children under the program as more specifically described in subsection (c).

"(B) None of the activities conducted or services provided under this subsection or subsection (c) as a part of any program under this section may include the performance of abortions, or include the counseling of individuals to have abortions except where the life of the mother would be endangered if the fetus were carried to term.

"(c)(1) In carrying out the purpose described in subparagraph (B) of subsection (a)(1), it shall be the objective of each program under this section (subject to the availability of funds) to help achieve self-sufficiency for individuals under the age of 25 who are eligible for aid to families with dependent children, who (at the start of their participation in the program) are pregnant or are teenage parents with children under the age of 6, and who voluntarily elect to participate in the program, by—

"(A) requiring such individuals to seek a high school diploma or its equivalent or to take part in appropriate training,

"(B) providing each participant with academic or vocational training, job counseling, employment readiness, and job placement services,

"(C) integrating and coordinating services otherwise available to participants, and

"(D) providing each participant with other services and assistance designed to meet such objective, including an individual-

ized assessment and plan, as more particularly described in paragraph (3).

"(2) Participation in program activities conducted and services provided with the objective specified in paragraph (1) shall be limited to individuals under the age of 25 residing within the area covered by the program who are pregnant, or who are teenage parents of dependent children under the age of 6, and shall include any such individual only if he or she (at the time of initial participation in the program)—

"(A) has not graduated from high school or its equivalent, and

"(B) voluntarily elects (subject to subsection (e)) to participate;

and the funds made available under this section may be used only for activities and services so conducted or provided in the case of individuals (described in the preceding provisions of this paragraph) who are eligible under this part (individually or as members of families) for aid to families with dependent children under the State's plan approved under section 402, or whose children are eligible for such aid.

"(3) A program described in subsection (a)(1) meets the requirements of this section only if the activities conducted and services provided with the objective specified in paragraph (1) include—

"(A) provision for the assignment to each participant of an agency staff person who, utilizing the case management approach and in coordination with the participant, will establish an individualized program, based on an individualized assessment of need and set forth in an individualized written plan, to meet the health needs of the participant and his or her dependent (or unborn) child, and to ensure the provision and coordination (on behalf of such participant and child) of such other services as the State determines to be necessary or appropriate to carry out the objective of this section, including, at a minimum, academic and vocational services, health services, training in parenting skills, job counseling, employment readiness, job placement, transportation, and child day care;

"(B) provision for the integration and coordination of services which are otherwise available at the local level to individuals under age 25 who are pregnant or are teenage parents with children under age 6 and which are offered under this part, under parts B and C of this title, under title V, under title XX, under the Job Training Partnership Act, and under other Federal and State programs that would assist in achieving the objectives of the program under this section;

"(C) provision for the coordination (with the local school system) of academic and vocational programs leading to a high school diploma or its equivalent, with a requirement of active participation in an educational program leading to a high school diploma or its equivalent, or in an appropriate training program, as a condition of participation in the program under this section;

"(D) provision for job counseling, training, employment readiness, and job placement and relevant supportive services independently or in conjunction with one or more programs of employment and training under this part or part C of this title, under the Job Training Partnership Act, or under another Federal or State law;

"(E) provision of child care at the program site or of other child day care services which have been contracted for on a reimbursable basis, to the extent necessary for teenage parents to participate effectively in the program, with a requirement that such care and services meet applicable State and local standards and with emphasis upon services that are compatible with the goal of achieving self-sufficiency;

"(F)(i) assurances that all such child care and services, and any transportation to and from work which may be necessary for a teenage parent or pregnant individual to participate effectively in the program, will be provided or arranged for without any charge to such parent or individual while he or she is participating in any phase of the program, and

"(ii) assurances that such care, services, and transportation will be provided or arranged for on a sliding scale basis (with charges based on ability to pay) during at least the first 6 months of work after the teenage parent or pregnant individual has completed his or her participation in the program, in order to ensure a smooth transition into the workforce;

"(G) provision for variations in the selection and offering of services to individual participants to the extent necessary to take account of differences in the needs of such participants and in their age, family composition, cultural background, and geographic location;

"(H) assurances that, in order to encourage participants to take advantage of the full range of services offered, as many of such services as possible will be provided at a single site, with programs and activities being conducted in the local schools to the maximum extent feasible;

"(I) provision for the establishment of peer groups of participants, led by experienced group counselors, to enable such participants to meet and discuss program-related problems and issues and to share their common concerns, and to serve as a medium for the communication and dissemination of relevant information; and

"(J) provision for the establishment of an outreach program designed to attract pregnant individuals and teenage parents of young children who would be eligible to participate.

Program activities conducted and services provided with the objective specified in paragraph (1) must include but need not be limited to the services and assistance set forth in the preceding provisions of this paragraph, and may include such other health, family planning, educational, training, and social services as may be needed to achieve such objective in cases where the necessary funding is not available from other sources.

"(4) In the case of a teenage parent participating in program activities conducted or services provided with the objective specified in paragraph (1), absences from his or her child for the purpose of attending a secondary or post-secondary school or participating in other education or training activities as a part of the program shall not be considered 'absences from the child' in determining whether he or she is exempted under clause (v) of section 402(a)(19)(A) from the requirement of registration under that section.

"(5) As used in this section, the term 'teenage parent' means a male or female individual who is the parent of a child under the age of 6 and who (A) has not attained the age of 20 or (B) became the parent of such child before attaining the age of 20.

"(d)(1) The grant to which any State is entitled from the sum appropriated pursuant to subsection (a)(1) for any fiscal year shall be in an amount bearing the same ratio to the sum so appropriated as the amount expended by such State during the preceding fiscal year as aid to families with dependent children under its plan approved under section 402 bears to the total amount expended by all the States during such preceding year as aid to families with dependent children under their plans so approved.

"(2) If any State does not qualify for a grant under this section for any fiscal year within the time provided in subsection (a)(3), the amount of the grant to which it would have been entitled for such year shall be reallocated to one or more other States on the basis of their relative need for additional assistance under this section (as determined by the Secretary).

"(e) If any State wishes to require participation in activities and services provided under subsection (c) by all individuals who are eligible to participate in such activities and services (or would be eligible to so participate if they satisfied paragraph (2)(B) of such subsection) and with respect to whose participation funds made available under this section may be used, such State may request that the Secretary waive the requirement of such paragraph (2)(B) and permit the State to make participation mandatory for all such individuals. The Secretary shall grant any such request and permit the State to require participation by all such individuals if he or she determines that—

"(1) the funds available for the program from Federal, State, local, and other sources (including this section) are sufficient to conduct all of the activities and provide all of the services which would be necessary to serve such individuals; and

"(2) mandatory participation in the program by all such individuals can be effectively administered and enforced by the State and the locality or localities involved.

"(f)(1) Prior to expenditure by a State of any grant payments made to it under this section for any fiscal year, the State shall report to the Secretary on the intended use of such payments; and such report shall be revised from time to time throughout the fiscal year involved if and to the extent that there are significant changes in such use.

"(2) No later than March 1, 1987, each State shall submit to the Secretary a full and complete report on the activities carried out with the proceeds of the grant or grants theretofore made to it under this section. The report—

"(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the grant funds were spent, to indicate the extent to which such funds were spent in a manner consistent with the report or reports submitted under paragraph (1), and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the objectives for which the grant was made, and

"(B) shall specifically contain such information as the Secretary may require in order to include in his or her evaluation under paragraph (3) the overall description referred to in subparagraph (B) thereof.

"(3)(A) No later than July 1, 1987, the Secretary, on the basis of the reports submitted by a State under paragraphs (1) and (2) for the fiscal year 1986 and of such additional information as he or she may obtain or develop, shall evaluate the use by such State of the grant or grants made to it under this section for that year in the light of the purposes of this section, with the objective of appraising the achievements of

the programs for which such grants were made and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the desirability of providing further assistance in subsequent years. The Secretary shall report such evaluation to the Congress.

"(B) As a part of the evaluation under subparagraph (A) the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided, and the results achieved, and shall set forth in detail his or her findings and comments with respect to the various State programs and a statement of his or her plans and recommendations for the future.

"(C) If as a result of the evaluation the Secretary determines that any such grant was used in a manner inconsistent with the purposes of this section or the objective stated in subparagraph (A) or if the reports submitted by the State were insufficient to indicate whether or not the grant was so used, the Secretary shall notify the State of his or her disapproval, and the inconsistent use of such grant shall be subject to sanctions of the type described in section 404(a) as though this section were a part of the approved State plan and such inconsistent use were a failure to comply with a provision required by section 402(a) to be included in such plan.

"(g) Grant payments to a State under this section for any fiscal year—

"(1) shall be used only for the specific purposes described in this section;

"(2) may be made on an estimated basis in advance of the determination of the exact grant amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

"(3) shall be expended by such State in that fiscal year or in the succeeding fiscal year.

"(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining their eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402, or for purposes of determining the level of such aid.".

(b) DURATION OF PROGRAM.—Subject to section 416(g)(3) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall be in effect only from October 1, 1985, until September 30, 1987.

SEC. 2303. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) REQUIREMENT THAT AID BE PROVIDED.—Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) CONFORMING AMENDMENTS.—(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(40), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) QUARTERS OF WORK BASED ON EDUCATION OR TRAINING.—(1) Section 407(d)(1) of such Act is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end thereof the following: ", or (B) if the State plan so provides (but subject to the last sentence of this subsection), in which such individual (i) was in regular full-time attendance as a student at an elementary or secondary school, (ii) was in regular full-time attendance in a course of vocational or technical training designed to fit him or her for gainful employment, or (iii) participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is further amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"No individual shall be credited during his or her lifetime (for purposes of subsection (b)(1)(C)(i)) with more than 4 'quarters of work' based on attendance in a course or courses of vocational or technical training as described in paragraph (1)(B)(ii) of this subsection.".

(3) Section 407(b)(1)(C)(i) of such Act is amended by inserting after "6 or more quarters of work (as defined in subsection (d)(1))" the following: ", including 2 or more quarters of work as defined in subsection (d)(1)(A),".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1986.

TITLE IV—PROVISIONS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX AND UNEMPLOYMENT COMPENSATION

Sec. 2401. Railroad unemployment repayment tax.
Sec. 2402. Extension of borrowing authority under the Railroad Unemployment Insurance Act.
Sec. 2403. Supplemental unemployment compensation for certain individuals.

SEC. 2401. RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) RATE OF TAX.—Subsection (c) of section 3321 of the Internal Revenue Code of 1954 (relating to rate of railroad unemployment repayment tax) is amended to read as follows:

"(c) RATE OF TAX.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

"(A) the basic rate for such period, and

"(B) the surtax rate (if any) for such period.

"(2) BASIC RATE.—For purposes of paragraph (1)—

"(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

"(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

"(ii) 4.7 percent for the 1987 taxable period, and

"(iii) 6 percent for the 1988 taxable period.

"(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

"(i) 2.9 percent, plus

"(ii) 0.3 percent for each preceding taxable period after 1988.

In no event shall the basic rate under this subparagraph exceed 5 percent.

"(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

"(A) 3.5 percent for any taxable period if, as of September 30 of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(B) zero for any other taxable period.

"(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990."

(b) BASE OF TAX TO BE COMPENSATION USED FOR RAILROAD RETIREMENT TAX PURPOSES.—Subsection (b) of section 3323 of such Code (defining rail wages) is amended to read as follows:

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail wages' means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

"(2) MODIFICATIONS.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

"(A) ONLY EMPLOYMENT COVERED BY RAILROAD UNEMPLOYMENT INSURANCE ACT TAKEN INTO ACCOUNT.—Such subsection (e) shall be applied—

"(i) by substituting 'rail employment' for 'services' each place it appears,

"(ii) by substituting 'rail employer' for 'employer' each place it appears, and

"(iii) by substituting 'rail employee' for 'employee' each place it appears.

"(B) $7,000 WAGE BASE.—Such subsection (e) shall be applied by substituting for 'the applicable base' in paragraph (2)(A)(i) thereof—

"(i) except as provided in clauses (ii) and (iii),'$7,000',

"(ii) '$3,500' for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

"(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), '$5,250' for the taxable period beginning on January 1, 1990.

"(C) SUCCESSOR EMPLOYERS.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply."

(c) USE OF TAXES.—

(1) IN GENERAL.—Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 (relating to tax used to repay loans made to railroad unemployment insurance account) is amended to read as follows:

"(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

"(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954 shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

"(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 3321(c)(1)(B) of such Code shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985."

(2) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOAN REPAID.—Subsection (c) of section 232 of such Act is amended—

(A) by striking out "the amount" in paragraph (1) and inserting in lieu thereof "the amount described in subparagraph (A) or (B) of subsection (a)(2)", and

(B) by inserting before the comma at the end of paragraph (2) "against which the amount described in such subparagraph may be credited under such subparagraph".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 3322 of such Code (relating to taxable period) is amended—

(A) by adding "and" at the end of paragraph (1), and

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) each calendar year after 1986."

(2) Subsection (b) of section 3322 of such Code (relating to earlier termination if loans to rail unemployment fund repaid) is amended—

(A) by striking out "The tax imposed by this chapter shall not apply" and inserting in lieu thereof "The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply", and

(B) by inserting "made before October 1, 1985," after "no balance of transfers" in paragraph (1) thereof.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after June 30, 1986.

SEC. 2402. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out the last sentence thereof.

SEC. 2403. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—If—

(1) an individual was receiving Federal supplemental compensation for the week which includes March 31, 1985, or a series of consecutive weeks which began with such week, and

(2) such individual did not meet the consecutive-week eligibility requirements of the Federal Supplemental Compensation Act of 1982 during any period of 1 or more subsequent weeks by reason of performing temporary disaster services described in subsection (e),

weeks in such period shall be disregarded for purposes of the consecutive-week requirement of section 602(f)(2)(B) of such Act, and, notwithstanding the requirements of State law relating to the availability for work, the active search for work, or the refusal to accept work, such individual shall be entitled to payment of Federal supplemental compensation for each week of unemployment which is described in subsection (b) and for which a certification of unemployment is made by such individual in accordance with subsection (c).

(b) WEEKS FOR WHICH PAYMENT SHALL BE MADE.—A week of unemployment for which payment shall be made under subsection (a) is a week which occurred during the period which commences with the first week beginning after the close of the period described in subsection (a)(2) and ends with the beginning of the first week in which the individual was employed after the close of such period.

(c) CERTIFICATION.—The certification of unemployment referred to in subsection (a) shall be a certification—

(1) that is made on a form provided by the State agency concerned and signed by the individual; and

(2) that identifies the weeks of unemployment for which the individual is making the certification.

(d) LIMITATION ON AMOUNT OF PAYMENT.—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Federal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

(e) DEFINITION.—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

(f) MODIFICATION OF AGREEMENT.—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensation Act of 1982 in order to carry out this section.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

(g) EFFECTIVE DATE.—The provisions of this section shall apply to weeks beginning after March 31, 1985.

TITLE V—REVENUE PROVISIONS

Sec. 2501. Restoration of proposed cuts in Internal Revenue Service budget and further increases in funds for revenue enforcement and related purposes.
Sec. 2502. Increase in rate of tax on cigarettes made permanent; portion of tax revenues dedicated to tobacco price support program.
Sec. 2503. Increase in excise tax on coal.
Sec. 2504. Only railroad retirement benefits equivalent to social security benefits treated as tier 1 benefits.
Sec. 2505. Temporary increase in pension benefit guaranty corporation premiums for single employer plans.

SEC. 2501. RESTORATION OF PROPOSED CUTS IN INTERNAL REVENUE SERVICE BUDGET AND FURTHER INCREASES IN FUNDS FOR REVENUE ENFORCEMENT AND RELATED PURPOSES.

It is the sense of the Congress that—

(1) the restoration of the cuts in the budget for the Internal Revenue Service for fiscal year 1986, and

(2) the further increase in such budget total,

recommended by the Committee on Appropriations of the House of Representatives are necessary for the efficient operation of the Government and to carry out the purposes of this Act.

SEC. 2502. INCREASE IN RATE OF TAX ON CIGARETTES MADE PERMANENT; PORTION OF CIGARETTE TAX REVENUES DEDICATED TO TOBACCO PRICE SUPPORT PROGRAM.

(a) INCREASE IN TAX MADE PERMANENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before October 1, 1985".

(b) DEDICATION OF PORTION OF CIGARETTE TAX REVENUES FOR TOBACCO PRICE SUPPORT PROGRAM.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. TOBACCO EQUALIZATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Tobacco Equalization Trust Fund', consisting of such amounts as may be appropriated or credited to the Tobacco Equalization Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TOBACCO EQUALIZATION TRUST FUND.—There is hereby appropriated to the Tobacco Equalization Trust Fund an amount equal to so much of the taxes received in the Treasury after September 30, 1985, and before October 1, 1990, under section 5701(b) (relating to tax on cigarettes) as is attributable to such tax determined at the rates of—

"(1) 50 cents per thousand in the case of cigarettes taxable under section 5701(b)(1), and

"(2) $1.05 per thousand in the case of cigarettes taxable under section 5701(b)(2).

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Tobacco Equalization Trust Fund shall be available, as provided in appropriation Acts, for the reimbursement of the Commodity Credit Corporation for part or all of the amount of any net realized losses sustained after September 30, 1985, by such Corporation under section 106, 106A, or 106B of the Agricultural Act of 1949 (or any successor tobacco support provision hereafter enacted) with respect to crop years of tobacco after 1981.

"(2) REPAYMENTS AND CREDITS.—The Secretary shall pay from time to time from the Tobacco Equalization Trust Fund to the general fund of the Treasury amounts equivalent to the same proportion of the credits allowed, and refunds made, after September 30, 1985, and before October 1, 1990, with respect to the tax imposed by section 5701(b) as the portion the tax imposed by section 5701(b) appropriated to the Tobacco Equalization Trust Fund bears to the aggregate tax imposed by section 5701(b)."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended

by adding at the end thereof the following new item:

"Sec. 9505. Tobacco Equalization Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1985.

SEC. 2503. INCREASE IN EXCISE TAX ON COAL.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4121 of the Internal Revenue Code of 1954 (relating to imposition of tax on coal) are amended to read as follows:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on coal from mines located in the United States sold by the producer a tax equal to the rate per ton determined under subsection (b).

"(2) LIMITATION ON TAX.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

"(b) DETERMINATION OF RATES AND LIMITATION ON TAX.—For purposes of subsection (a)—

In the case of sales during calendar year:	The rate for coal from underground mines is:	The rate for coal from surface mines is:	The applicable percentage is:
1986 through 1990	$1.50	$.75	6
1991 through 1995	$1.60	$.80	6.4
After 1995	$1.50	$.75	6."

(b) REDUCTION OF TAX AFTER 1995 IF LOANS MADE TO BLACK LUNG DISABILITY TRUST FUND REPAID.—Section 4121 of such Code is amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e) REDUCTION OF TAX AFTER 1995 IF LOANS MADE TO BLACK LUNG DISABILITY TRUST FUND REPAID.—

"(1) IN GENERAL.—In the case of sales during any calendar year to which this subsection applies, for purposes of subsection (a)—

"(A) the rate of tax on coal from underground mines shall be $1.00,

"(B) the rate of tax on coal from surface mines shall be $.50, and

"(C) the applicable percentage shall be 4 percent.

"(2) CALENDAR YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any calendar year after 1995 (and all calendar years thereafter) if throughout the 2 most recent fiscal years ending before the beginning of such calendar year there was—

"(A) no balance of repayable advances made to the Black Lung Disability Trust Fund, and

"(B) no unpaid interest on such advances."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1985.

SEC. 2504. ONLY RAILROAD RETIREMENT BENEFITS EQUIVALENT TO SOCIAL SECURITY BENEFITS TREATED AS TIER 1 BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 86(d) of the Internal Revenue Code of 1954 (defining social security benefits) is amended to read as follows:

"(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means—

"(A) the amount of the annuity under the Railroad Retirement Act of 1974 equal to the amount of the benefit to which the taxpayer would have been entitled under the Social Security Act if all of the service after December 31, 1936, of the employee (on whose employment record the annuity is being paid) had been included in the term employment as defined in the Social Security Act, and

"(B) a monthly annuity amount under section 3(f)(3) of the Railroad Retirement Act of 1974."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any monthly benefit for which the generally applicable payment date is after December 31, 1985.

SEC. 2505. TEMPORARY INCREASE IN PENSION BENEFIT GUARANTY CORPORATION PREMIUMS FOR SINGLE EMPLOYER PLANS.

(a) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 is amended by inserting "($8.00 for plan years beginning after December 31, 1985, and before January 1, 1989)" after "$2.60".

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 4006(a)(3)(C) of such Act is amended by striking out "The maximum" and inserting in lieu thereof "In the case of a multiemployer plan, the maximum".

(2) Clause (iv) of section 4006(a)(3)(C) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "In the case of a multiemployer plan, the provisions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1985.

TITLE VI—AMENDMENTS RELATING TO SINGLE EMPLOYER PLANS

SEC. 2601. EXCISE TAX ON UNPAID LIABILITY TO PENSION PLAN AT PLAN TERMINATION.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1954 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

SEC. 4979. TAX ON UNPAID EMPLOYER LIABILITY TO PENSION PLAN AT PLAN TERMINATION.

"(a) INITIAL TAX.—

"(1) IN GENERAL.—In the case of an employer who maintains a plan to which section 4062 of the Employee Retirement Income Security Act of 1974 applies, there is hereby imposed a tax equal to 5 percent of the portion of any required payment which is not paid on the date such payment is required.

"(2) REQUIRED PAYMENT.—For purposes of this section, the term 'required payment' means, with respect to any date, the portion of the termination liability of the employer which is required to be paid on such date pursuant to section 4062 of the Employee Retirement Income Security Act of 1974 plus interest on such portion at the adjusted rate applicable under section 6621(b).

"(b) ADDITIONAL TAX WHERE LIABILITY REMAINS UNPAID.—

"(1) IN GENERAL.—If any required payment remains unpaid as of the close of the 90-day period beginning on the date such payment is required, the tax imposed by subsection (a) shall be increased by—

"(A) 5 percent of the portion of such payment which is unpaid as of the close of such 90-day period, and

"(B) an additional 5 percent of the portion of such payment which is unpaid as of the close of each 30-day period thereafter.

"(2) LIMITATION ON ADDITIONAL TAX.—The amount of the additional tax imposed by reason of this subsection with respect to any required payment shall not exceed the portion of such payment which is not paid before the close of the 90-day period beginning on the date such payment is required.

"(c) TERMINATION LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'termination liability' means the excess of—

"(A) the current value of the plan's benefits guaranteed under title IV of the Employee Retirement Income Security Act of 1974 on the date of termination, over

"(B) the current value of the plan's assets allocable to such benefits on the date of termination.

For purposes of subparagraph (B), the current value of the plan's assets shall be determined without regard to any receivable which is attributable to any accumulated funding deficiency.

"(2) LIMITATION ON LIABILITY WHERE EMPLOYER CEASES TO EXIST.—

"(A) IN GENERAL.—In the case of an employer which ceases to exist (and with respect to which no other person is liable under section 4062 of the Employee Retirement Income Security Act of 1974 for the liability under such section of such employer), the excess of—

"(i) the amount of the termination liability under paragraph (1) (determined without regard to this paragraph), over

"(ii) the accumulated funding deficiency (if any) as of the date of termination,

shall not exceed 30 percent of the net worth of the employer.

"(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the determination of the net worth of the employer shall be made—

"(i) as of a day, chosen by the Pension Benefit Guaranty Corporation but not more than 120 days before the date of termination, and

"(ii) without regard to any liability under section 4062 of the Employee Retirement Income Security Act of 1974.

"(3) RULES RELATING TO ACCUMULATED FUNDING DEFICIENCY.—For purposes of this subsection—

"(A) WAIVED FUNDING DEFICIENCY INCLUDED IN ACCUMULATED FUNDING DEFICIENCY.—The accumulated funding deficiency of an employer shall include the amount of any waived funding deficiency (as defined in section 412(d)(3)) of such employer.

"(B) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term by the last 2 sentences of section 412(a).

"(4) COORDINATION WITH DETERMINATION OF LIABILITY UNDER SECTION 4062 OF ERISA.—Subtitle D of title IV of the Employee Retirement Income Security Act of 1974 shall apply for purposes of determining termination liability under this subsection.

"(d) CREDIT AGAINST ADDITIONAL TAX.—There shall be allowed as a credit against the tax imposed by this section with respect to any termination liability an amount equal to the lesser of—

"(1) the amount paid, not later than 2 years after the date of final determination,

to the Pension Benefit Guaranty Corporation with respect to such liability, or

"(2) the amount of the tax imposed by reason of subsection (b).

"(e) SPECIAL RULES.—For purposes of this section—

"(1) LIABILITY ONLY AFTER FINAL DETERMINATION.—The tax imposed by this section shall apply to any termination liability only after a final determination of the amount of such liability.

"(2) LIABILITY OF CONTROLLED GROUP.—

"(A) IN GENERAL.—Any liability under this section of any member of a controlled group shall be a joint and several liability of all members of such group.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(3) TITLE 11 AND SIMILAR CASES.—In the case of an employer which is in a title 11 or similar case (as defined in section 368(a)(3)(A))—

"(A) the date such case begins shall be treated as the date of the final determination, and

"(B) the period of the pendency of such case shall be substituted for the 2-year period described in subsection (d)(1).

"(4) REFERENCES TO ERISA.—For purposes of this section—

"(A) except as provided in subparagraph (B), any reference to a provision of the Employee Retirement Income Security Act of 1974 shall be treated as a reference to such provision as in effect on the date of the enactment of this section, and

"(B) for purposes of subsection (a), section 4062 of such Act shall be treated as applying to a plan if such section would have applied to such plan as such section was in effect on such date of enactment."

(b) LIABILITY UNDER SECTION 4062 OF ERISA TO BE JOINT AND SEVERAL AMONG MEMBERS OF CONTROLLED GROUP.—

(1) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (relating to liability of employer) is amended by adding at the end thereof the following new subsection:

"(f)(1) Any liability under subsection (a) of any member of a controlled group shall be a joint and several liability of all members of such group.

"(2) For purposes of paragraph (1), the term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1954."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 404(g) of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), (m), or (o)".

(c) NET WORTH LIMITATION ON LIABILITY OF EMPLOYER TO APPLY ONLY WHERE EMPLOYER GOES OUT OF BUSINESS.—Subsection (b) of section 4062 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(b)(1) Any employer to which this section applies shall be liable to the corporation in an amount equal to the excess of—

"(A) the current value of the plan's benefits guaranteed under this title on the date of termination, over

"(B) the current value of the plan's assets allocable to such benefits on the date of termination.

For purposes of subparagraph (B), the current value of the plan's assets shall be determined without regard to any receivable which is attributable to any accumulated funding deficiency.

"(2)(A) In the case of an employer which ceases to exist (and with respect to whose liability under this section no other person is liable), the excess of—

"(i) the amount of the liability under paragraph (1) (determined without regard to this paragraph), over

"(ii) the accumulated funding deficiency (if any) as of the date of termination,

shall not exceed 30 percent of the net worth of the employer.

"(B) For purposes of subparagraph (A), the determination of the net worth of the employer shall be made—

"(i) as of a day, chosen by the corporation but not more than 120 days before the date of termination, and

"(ii) without regard to any liability under this section.

"(3) For purposes of this subsection—

"(A) the accumulated funding deficiency of an employer shall include the amount of any waived funding deficiency (as defined in section 412(d)(3) of the Internal Revenue Code of 1954) of such employer, and

"(B) the term 'accumulated funding deficiency' has the meaning given such term by the last 2 sentences of section 412(a) of such Code."

(d) PBGC MUST OFFER OPTIONS TO PAY LIABILITY OVER 5 AND 15 YEARS.—Section 4067 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by inserting "(a)" before "The corporation", and

(2) by adding at the end thereof the following:

"(b) Among the options offered by the corporation shall be—

"(1) a 5-year amortization of the liability, and

"(2) a 15-year amortization of the liability.

If the employer has not ceased business and if the corporation deems that to do so will not jeopardize the collection of the liability, no security shall be required in the case of the 5-year amortization of the liability.

"(c) In any deferred payment arrangement under this section, interest from the date of termination shall be charged at the adjusted rate applicable under section 6621(b) of the Internal Revenue Code of 1954."

(e) DEDUCTION FOR EMPLOYER LIABILITY PAYMENTS TO PBGC.—Subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended by inserting "(as such sections and part were in effect on the date of the enactment of this parenthetical material)" after "1974".

(f) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4979. Tax on unpaid employer liability to pension plan at plan termination."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to terminations with respect to which notification is filed with the Pension Benefit Guaranty Corporation after the date of the enactment of this Act.

(2) DEDUCTION FOR EMPLOYER PAYMENTS.—The amendment made by subsection (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2602. SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(B) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

"SEC. 306. (a) IN GENERAL.—Except as provided in subsection (c), the Secretary of the Treasury may require security to a single-employer plan as a condition for granting or modifying a waiver of the minimum funding standard with respect to such plan under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 or an extension of an amortization period with respect to such plan under section 304 of this Act or section 412(e) of such Code. The providing of such security to the plan in accordance with this section shall not be considered an extension of credit for purposes of part 4 of this subtitle or section 4975 of such Code. Such security may be perfected and enforced only by the Pension Benefit Guaranty Corporation or by the employer acting at the direction of the Corporation.

"(b) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subsection (c), before granting or modifying a waiver of the minimum funding standard with respect to a single-employer plan under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 or an extension of the amortization period with respect to such plan under section 304 of this Act or section 412(e) of such Code, the Secretary of the Treasury shall provide the Pension Benefit Guaranty Corporation notice of the proposed waiver, modification, or extension and 15 days to comment with respect to such waiver, modification, or extension and shall consider any comments of such Corporation relating to such waiver, modification, or extension which are provided to such Secretary during such period.

"(c) EXCEPTION.—The requirements of subsections (a) and (b) shall not apply in the case of any waiver, modification, or extension referred to in such subsections with respect to a plan if the sum of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (which, for purposes of this paragraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all applications for waivers and modifications of the minimum funding standard under section 303 of this Act or 412(d) of such Code and for extensions of the amortization period under such section 304 of this Act or 412(e) of such Code which are pending with respect to such plan were denied),

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

"(3) the outstanding balance of the amount of decreases in the minimum fund-

ing standard allowed under section 304 of this Act or section 412(e) of such Code,

is less than $1,000,000."

(2) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

"Sec. 307. Effective dates."

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to requirement that benefits may not be increased during waiver or extension period) is amended—

(1) by striking out "BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—" and inserting in lieu thereof "REQUIREMENTS RELATING TO WAIVERS AND EXTENSIONS.—";

(2) in paragraph (1), by striking out "IN GENERAL.—" and inserting in lieu thereof "BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—"; and

(3) by adding at the end thereof the following new paragraph:

"(3) SECURITY FOR WAIVERS AND EXTENSIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require security to a single-employer plan as a condition for granting or modifying a waiver of the minimum funding standard with respect to such plan under subsection (d) or an extension of an amortization period with respect to such plan under subsection (e). The providing of such security to the plan in accordance with this paragraph shall not be considered an extension of credit for purposes of section 4975 or part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974. Such security may be perfected and enforced only by the Pension Benefit Guaranty Corporation or by the employer acting at the direction of the Corporation.

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), before granting or modifying a waiver of the minimum funding standard with respect to a single-employer plan under subsection (d) or an extension of the amortization period with respect to such plan under subsection (e), the Secretary shall provide the Pension Benefit Guaranty Corporation notice of the proposed waiver, modification, or extension and 15 days to comment with respect to such waiver, modification, or extension and shall consider any comments of such Corporation relating to such waiver, modification, or extension which are provided to the Secretary during such period.

"(C) EXCEPTION.—The requirements of subparagraphs (A) and (B) shall not apply in the case of any waiver, modification, or extension referred to in such subparagraphs with respect to a plan if the sum of—

"(i) the outstanding balance of the accumulated funding deficiencies (within the meaning of subsection (a)) of the plan (which, for purposes of this clause, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all applications for waivers and modifications of the minimum funding standard under subsection (d) and for extensions of the amortization period under subsection (e) which are pending with respect to such plan were denied),

"(ii) the outstanding balance of the amount of waived funding deficiencies of the plan waived under subsection (d), and

"(iii) the outstanding balance of the amount of decreases in the minimum funding standard allowed under subsection (e),

is less than $1,000,000."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to applications filed after the date of the enactment of this Act.

SEC. 2603. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.

(a) IN GENERAL.—Subtitle D of title IV of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY

"SEC. 4069. If, within 10 years before the date of termination, a person undertakes a transaction a principal purpose of which is to fraudulently evade any liability to the corporation, such transaction shall not be treated as transferring such liability (or any portion thereof) away from such person or any member of a controlled group which included such person."

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act is amended by adding after the item relating to section 4068 the following new item:

"Sec. 4069. Treatment of transactions to evade liability."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 2604. STUDY OF RISK RELATED PREMIUM.

The Secretary of the Treasury shall conduct a study on the feasibility of imposing a risk related premium under title IV of the Employee Retirement Income Security Act of 1974 which is based on the different risk exposures imposed on the Pension Benefit Guaranty Corporation by employers with different histories and in different circumstances. The results of such study shall be submitted, not later than 2 years after the date of the enactment of this Act, to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and the Committees on Finance and Labor and Human Resources of the Senate.

CONFERENCE REPORT ON H.R. 2965, THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1986

Mr. SMITH of Iowa. Mr. Speaker, pursuant to the order of the House of December 4, 1985, I call up the conference report on the bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the order of the House of Wednesday, December 4, 1985, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 4, 1985, at page 34251.)

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes and the gentleman from Illinois [Mr. O'BRIEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and the amendments in disagreement on the bill under consideration, and that I may insert a table following my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring to the Members a conference report on this bill which contains $11,919,618,000 for fiscal year 1986. It is $345,635,200 less than the appropriations that were enacted for fiscal year 1985 for these programs. The bill is $8,542,000 less than the Senate bill, and it is $2,403,000 less than the bill that passed the House on July 17.

Mr. Speaker, in comparison with our House section 302 allocation, this bill is $123,382,000 less than that in budget authority and $21,657,000 less in outlays.

There are a number of these programs for which it would be desirable to have more money, but there is some difference of opinion as to the scoring of the budget authority and the outlay effect of these various programs, the way they were scored in the Budget Committee and down at the Office of Management and Budget. So what we finally did was to trim the bill. We are within all the maximums that have been set forth in budget authorizations and in budget agreements in the House and the Senate.

This bill in its present form, I have every reason to believe, should be signed. At least I feel that way. I do not speak for the administration, that is for sure, but I have reason to believe that we have complied with their requests enough so that this bill, I am hopeful at least, will be signed. That is the hope of the conferees. I think, myself, that it is a good conference report.

Mr. Speaker, the bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes, as agreed to by the conferees contains a total of $11,919,618,000 in new budget authority for fiscal year 1986. It also contains $299,500,000 for liquidation of contract

authority in the operating subsidy program of the Maritime Administration.

The total amount agreed to for fiscal year 1986 is $345,635,200 less than appropriations enacted for fiscal year 1985 and is $244,313,000 more than the total amount requested for fiscal year 1986. The total in the bill is $8,542,000 less that the Senate bill. The total is also $2,403,000 less than the bill as it passed the House on July 17.

For the Department of Commerce, the conference agreement includes $175 million for economic development assistance programs, $18,500,000 for trade adjustment assistance and $1,169,949,000 for the National Oceanic and Atmospheric Administration. For the Department of Justice, the conference agreement provides $70,282,000 for the Office of Juvenile Justice and Delinquency Prevention; $305,500,000 for the Legal Services Corporation; $872,450,000, including $18 million for the National Endowment for Democracy, for the U.S. Information Agency; and $385,500,000 for the Small Business Administration.

I should also point out that amendment No. 134, concerning a prohibition of payments to political parties from funds appropriated for the National Endowment for Democracy, is reported in disagreement and a motion will be made at the proper time concerning this matter. The bill contains $18 million for NED regardless of the way in which this amendment is handled.

With respect to the Federal Trade Commission, amendment No. 108 of the conference agreement provides $65,500,000, which is the same amount as provided by the Senate. The conference agreement concerning the FTC also extends the restrictions and limitations, currently in force, of the Federal Trade Commission Improvement Act of 1980. These restrictions and limitations were extended in the fiscal year 1985 Appropriations Act.

Mr. Speaker, Members should be pleased with the way we were able to take care of the matters in which they had indicated special interests. Please support the committee in adopting the conference report and opposing all amendments.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a summary table showing, by department or agency, the conference action compared with the amount provided for fiscal year 1986, the budget estimates for 1986, the House bill, and the Senate bill.

The table follows:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
TITLE I - DEPARTMENT OF COMMERCE										
General Administration										
Salaries and expenses	36,483,000	36,227,000	31,609,000	32,343,000	32,300,000	-4,183,000	-3,927,000	+691,000	-43,000	D
Special foreign currency program	500,000	---	---	---	---	-500,000	---	---	---	D
Bureau of The Census										
Salaries and expenses	85,259,000	90,639,000	88,662,000	90,400,000	90,400,000	+5,141,000	-239,000	+1,738,000	---	D
Periodic censuses and programs	81,000,000	108,523,000	105,111,000	105,687,000	105,600,000	+24,600,000	-2,923,000	+489,000	-87,000	D
Total, Bureau of the Census	166,259,000	199,162,000	193,773,000	196,087,000	196,000,000	+29,741,000	-3,162,000	+2,227,000	-87,000	
Economic and Statistical Analysis										
Salaries and expenses	30,652,000	30,331,000	30,543,000	30,168,000	30,500,000	-152,000	+169,000	-43,000	+332,000	D
Economic Development Administration										
Economic development assistance programs	230,730,000	---	180,000,000	192,100,000	175,000,000	-55,730,000	+175,000,000	-5,000,000	-17,100,000	D
(Limitation on loan guarantees)	(150,000,000)	---	(150,000,000)	(150,000,000)	(150,000,000)	---	(+150,000,000)	---	---	D
Salaries and expenses	28,380,000	15,467,000	26,000,000	24,450,000	26,000,000	-2,380,000	+10,533,000	---	+1,550,000	D
Total, Economic Development Administration	259,110,000	15,467,000	206,000,000	216,550,000	201,000,000	-58,110,000	+185,533,000	-5,000,000	-15,550,000	
International Trade Administration										
Operations and administration	192,418,000	175,824,000	196,472,000	192,980,000	192,000,000	-418,000	+16,176,000	-4,472,000	-980,000	D
(Limitation on direct loans)	(6,500,000)	---	(3,500,000)	---	(8,100,000)	(+1,600,000)	(+8,100,000)	(+4,600,000)	(+8,100,000)	D
(Limitation on guaranteed loans)	(15,000,000)	---	(10,000,000)	---	(6,000,000)	(-9,000,000)	(+6,000,000)	(-4,000,000)	(+6,000,000)	D
Participation in United States expositions	-6,000	---	---	---	---	+6,000	---	---	---	D
Minority Business Development Agency										
Minority business development	49,580,000	45,163,000	44,802,000	45,090,000	45,000,000	-4,580,000	-163,000	+198,000	-90,000	D
United States Travel and Tourism Administration										
Salaries and expenses	11,532,000	4,011,000	12,000,000	12,000,000	12,000,000	+468,000	+7,989,000	---	---	D
National Oceanic and Atmospheric Administration										
Operations, research, and facilities	1,239,166,000	964,905,000	1,121,228,000	1,131,699,000	1,133,699,000	-105,467,000	+168,794,000	+12,471,000	+2,000,000	D
(By transfer)	(4,860,000)	---	---	---	---	(-4,860,000)	---	---	---	D
(By transfer from Promote and Develop Fund)	(25,900,000)	(40,000,000)	(30,000,000)	(35,700,000)	(35,700,000)	(+9,800,000)	(-4,300,000)	(+5,700,000)	---	D
(By transfer from Coastal Energy Impact Fund)	(9,300,000)	(8,000,000)	(8,000,000)	(8,000,000)	(8,000,000)	(-1,300,000)	---	---	---	D
(By transfer from SBA disaster loan fund)	---	---	---	(3,000,000)	---	---	---	---	(-3,000,000)	D
Aviation weather services program	27,000,000	28,000,000	28,000,000	28,000,000	28,000,000	+1,000,000	---	---	---	D
Fishermen's contingency fund	750,000	750,000	750,000	750,000	750,000	---	---	---	---	D
Foreign fishing observer fund	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	---	---	---	---	D

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Fishermen's guaranty fund	4,300,000	1,800,000	1,800,000	4,200,000	3,000,000	-1,300,000	+1,200,000	+1,200,000	-1,200,000	D
Fisheries loan fund	2,500,000	---	2,500,000	---	---	-2,500,000	---	-2,500,000	---	D
Federal ship financing fund, fishing vessels	25,104,000	---	---	---	---	-25,104,000	---	---	---	D
Portion applied to debt reduction	-20,700,000	---	---	---	---	+20,700,000	---	---	---	D
Total, National Oceanic and Atmospheric Administration	1,282,620,000	999,955,000	1,158,778,000	1,169,149,000	1,169,949,000	-112,671,000	+169,994,000	+11,171,000	+800,000	
Patent and Trademark Office										
Salaries and expenses	100,159,000	89,484,000	84,739,000	88,535,000	84,700,000	-15,459,000	-4,784,000	-39,000	-3,835,000	D
National Bureau of Standards										
Scientific and technical research and services	123,485,000	122,415,000	123,985,000	125,916,000	123,985,000	+500,000	+1,570,000	---	-1,931,000	D
National Telecommunications and Information Administration										
Salaries and expenses	13,511,000	13,527,000	13,186,000	13,686,000	13,400,000	-111,000	-127,000	+214,000	-286,000	D
Public telecommunications facilities, planning and construction	23,968,000	---	24,000,000	24,000,000	24,000,000	+32,000	+24,000,000	---	---	D
Total, National Telecommunications and Information Administration	37,479,000	13,527,000	37,186,000	37,686,000	37,400,000	-79,000	+23,873,000	+214,000	-286,000	
Total, title I, Department of Commerce: New budget (obligational) authority	2,290,271,000	1,731,566,000	2,119,887,000	2,146,504,000	2,124,834,000	-165,437,000	+393,268,000	+4,947,000	-21,670,000	
TITLE II - DEPARTMENT OF JUSTICE										
General Administration										
Salaries and expenses	72,052,000	72,364,000	72,533,000	72,710,000	70,800,000	-1,252,000	-1,564,000	-1,733,000	-1,910,000	D
Working capital fund	3,000,000	---	---	---	---	-3,000,000	---	---	---	D
United States Parole Commission										
Salaries and expenses	9,173,000	9,609,000	9,681,000	9,836,000	9,800,000	+627,000	+191,000	+119,000	-36,000	D
Legal Activities										
Salaries and expenses, general legal activities	197,575,000	207,283,000	200,277,000	205,400,000	205,000,000	+7,425,000	-2,283,000	+4,723,000	-400,000	D
Salaries and expenses, Antitrust Division	44,119,000	44,782,000	43,476,000	44,520,000	44,500,000	+381,000	-282,000	+1,024,000	-20,000	D
Section 511 reduction	-1,000,000	---	---	---	---	+1,000,000	---	---	---	D
Subtotal, Antitrust Division	43,119,000	44,782,000	43,476,000	44,520,000	44,500,000	+1,381,000	-282,000	+1,024,000	-20,000	

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Salaries and expenses, Foreign Claims Settlement Commission	929,000	900,000	700,000	850,000	700,000	-229,000	-200,000	---	-150,000	D
Salaries and expenses, United States attorneys and trustees 1/	448,503,000	489,203,000	471,500,000	335,000,000	332,000,000	-116,503,000	-157,203,000	-139,500,000	-3,000,000	D
(By transfer)	(3,000,000)	---	---	---	---	(-3,000,000)	---	---	---	D
U.S. Marshals Service /1	(137,932,000)	(147,610,000)	(148,589,000)	149,000,000	150,000,000	+150,000,000	+150,000,000	+150,000,000	+1,000,000	D
(By transfer)	(1,636,000)	---	---	---	---	---	---	---	---	D
Support of United States prisoners	63,240,000	58,240,000	62,240,000	52,000,000	57,000,000	-6,240,000	-1,240,000	-5,240,000	+5,000,000	D
Fees and expenses of witnesses	41,091,000	48,300,000	47,900,000	47,400,000	47,400,000	+6,309,000	-900,000	-500,000	---	M
(By transfer)	(1,500,000)	---	---	---	---	(-1,500,000)	---	---	---	D
Salaries and expenses, Community Relations Service	33,092,000	33,378,000	33,217,000	29,900,000	29,900,000	-3,192,000	-3,478,000	-3,317,000	---	D
Assets forfeiture fund	5,000,000	20,000,000	10,000,000	10,000,000	10,000,000	+5,000,000	-10,000,000	---	---	D
Total, legal activities	832,549,000	902,086,000	869,310,000	874,070,000	876,500,000	+43,951,000	-25,586,000	+7,190,000	+2,430,000	
Interagency Law Enforcement										
Organized crime drug enforcement	2,178,000	1,000,000	---	1,000,000	1,000,000	-1,178,000	---	+1,000,000	---	D
Federal Bureau of Investigation										
Salaries and expenses	1,160,388,000	1,207,182,000	1,194,132,000	1,209,468,000	1,209,000,000	+48,612,000	+1,818,000	+14,868,000	-468,000	D
Drug Enforcement Administration										
Salaries and expenses	353,794,000	351,349,000	353,421,000	380,000,000	380,000,000	+26,206,000	+28,651,000	+26,579,000	---	D
Immigration and Naturalization Service										
Salaries and expenses	585,031,000	591,540,000	577,510,000	598,490,000	593,800,000	+8,769,000	+2,260,000	+16,290,000	-4,690,000	D
Federal Prison System										
Salaries and expenses	511,244,000	555,980,000	550,434,000	554,360,000	556,900,000	+45,656,000	+920,000	+6,566,000	+2,540,000	D
(By transfer)	(6,633,000)	---	---	---	---	(-6,633,000)	---	---	---	D
National Institute of Corrections	14,000,000	13,166,000	12,226,000	12,000,000	11,000,000	-3,000,000	-2,166,000	-1,226,000	-1,000,000	D
Buildings and facilities	86,043,000	46,137,000	46,063,000	46,063,000	46,063,000	-39,980,000	-74,000	---	---	D
Federal Prison Industries, Incorporated: (Limitation on administrative and vocational training expenses)	(9,068,000)	(8,990,000)	(8,990,000)	(9,120,000)	(9,120,000)	(+52,000)	(+130,000)	(+130,000)	---	D
Total, Federal prison system	611,287,000	615,283,000	608,623,000	612,423,000	613,963,000	+2,676,000	-1,320,000	+5,340,000	+1,540,000	

1/ Note: U.S. Attorneys & Trustees and U.S. Marshals Service Accounts previously combined in U.S. Attorneys & Marshals Account

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Office of Justice Programs										
Justice Assistance	145,551,000	140,015,000	210,479,000	197,100,000	203,982,000	+58,431,000	+63,967,000	-6,497,000	+6,882,000	D
Total, Department of Justice:										
New budget (obligational) authority	3,775,003,000	3,890,428,000	3,895,689,000	3,955,097,000	3,958,845,000	+183,842,000	+68,417,000	+63,156,000	+3,748,000	
(Limitation on expenses)	(8,068,000)	(8,990,000)	(8,990,000)	(9,120,000)	(9,120,000)	(+52,000)	(+130,000)	(+130,000)	---	
TITLE III - DEPARTMENT OF STATE										
Administration of Foreign Affairs										
Salaries and expenses	1,417,011,000	1,488,861,000	1,452,689,000	1,459,000,000	1,455,000,000	+37,989,000	-33,861,000	+2,311,000	-4,000,000	D
(By transfer)	(12,781,000)	---	---	---	---	(-12,781,000)	---	---	---	D
Reopening consulates	1,929,000	---	1,700,000	---	1,700,000	-229,000	+1,700,000	---	+1,700,000	D
Representation allowances	4,500,000	4,700,000	4,700,000	4,700,000	4,700,000	+200,000	---	---	---	D
Protection of foreign missions and officials	9,500,000	9,900,000	9,900,000	9,500,000	9,500,000	---	-400,000	-400,000	---	D
Acquisition, operation, and maintenance of buildings abroad	406,579,000	337,392,000	341,992,000	331,800,000	337,000,000	-69,579,000	-392,000	-4,992,000	+5,200,000	D
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	21,353,000	2,707,000	2,707,000	---	---	-21,353,000	-2,707,000	-2,707,000	---	D
Emergencies in the diplomatic and consular service	6,000,000	4,400,000	4,400,000	4,400,000	4,400,000	-1,600,000	---	---	---	D
Payment to the American Institute in Taiwan	9,800,000	10,000,000	10,000,000	9,800,000	9,800,000	---	-200,000	-200,000	---	D
Payment to the Foreign Service Retirement and Disability Fund	112,137,000	118,174,000	118,174,000	118,174,000	118,174,000	+6,037,000	---	---	---	M
Total, administration of foreign affairs	1,988,809,000	1,976,134,000	1,946,262,000	1,937,374,000	1,940,274,000	-48,535,000	-35,860,000	-5,988,000	+2,900,000	
International Organizations and Conferences										
Contributions to international organizations	501,667,200	495,235,000	460,235,000	475,000,000	463,000,000	-38,667,200	-32,235,000	+2,765,000	-12,000,000	D
Contributions for international peacekeeping activities	47,400,000	51,000,000	47,400,000	29,400,000	29,400,000	-18,000,000	-21,600,000	-18,000,000	---	D
International conferences and contingencies	10,000,000	7,339,000	6,839,000	6,039,000	6,000,000	-4,000,000	-1,339,000	-839,000	-39,000	D
Section 511 reduction	-400,000	---	---	---	---	+400,000	---	---	---	D
Subtotal, International conferences and contingencies	9,600,000	7,339,000	6,839,000	6,039,000	6,000,000	-3,600,000	-1,339,000	-839,000	-39,000	
Total, international organizations and conferences	558,667,200	553,574,000	514,474,000	510,439,000	498,400,000	-60,267,200	-55,174,000	-16,074,000	-12,039,000	

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
International Commissions										
International Boundary and Water Commission, United States and Mexico:										
Salaries and expenses	12,000,000	10,416,000	11,392,000	11,340,000	11,300,000	-700,000	+884,000	-92,000	-40,000	D
Section 511 reduction	-400,000	---	---	---	---	+400,000	---	---	---	D
Subtotal, salaries and expenses	11,600,000	10,416,000	11,392,000	11,340,000	11,300,000	-300,000	+884,000	-92,000	-40,000	
Construction	2,400,000	2,557,000	2,257,000	2,257,000	2,257,000	-143,000	-300,000	---	---	D
American sections, international commissions	3,685,000	3,755,000	3,755,000	3,755,000	3,755,000	+70,000	---	---	---	D
International fisheries commissions	9,100,000	11,505,000	11,300,000	11,300,000	11,300,000	+2,200,000	-205,000	---	---	D
(By transfer)	(1,200,000)	---	---	---	---	(-1,200,000)	---	---	---	D
Total, international commissions	24,785,000	28,233,000	28,704,000	28,652,000	28,612,000	+1,827,000	+379,000	-92,000	-40,000	
Other										
United States Bilateral Science and Technology Agreements	---	2,000,000	2,000,000	2,000,000	2,000,000	+2,000,000	---	---	---	D
Payment to the Asia Foundation	9,600,000	9,785,000	10,000,000	9,800,000	10,000,000	+400,000	+215,000	---	+200,000	D
Soviet-East European research and training	4,800,000	5,000,000	5,000,000	4,800,000	4,800,000	---	-200,000	-200,000	---	D
Contribution to United States - India Fund for Cultural, Educational and Scientific Cooperation	(110,000,000)	---	---	---	---	(-110,000,000)	---	---	---	D
Fishermen's Protective Fund	1,000,000	---	---	---	---	-1,000,000	---	---	---	D
Total, Department of State	2,589,661,200	2,574,726,000	2,506,440,000	2,493,065,000	2,484,084,000	-105,575,200	-90,640,000	-22,356,000	-8,979,000	
TITLE IV - THE JUDICIARY										
Supreme Court of the United States										
Salaries and expenses	14,143,000	15,176,000	15,000,000	15,000,000	15,000,000	+857,000	-176,000	---	---	D
Care of the building and grounds	2,242,000	2,426,000	2,200,000	2,275,000	2,275,000	+33,000	-151,000	+75,000	---	D
Construction	---	---	---	2,000,000	---	---	---	---	-2,000,000	D
Total, Supreme Court of the United States	16,385,000	17,602,000	17,200,000	19,275,000	17,275,000	+890,000	-327,000	+75,000	-2,000,000	
United States Court of Appeals for the Federal Circuit										
Salaries and expenses	5,237,000	5,720,000	5,500,000	5,500,000	5,500,000	+263,000	-220,000	---	---	D
United States Court of International Trade										
Salaries and expenses	6,168,000	6,538,000	6,400,000	6,400,000	6,400,000	+232,000	-138,000	---	---	D

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Courts of Appeals, District Courts, and Other Judicial Services										
Salaries of judges	79,548,000	104,826,000	103,000,000	103,000,000	103,000,000	+23,452,000	-1,826,000	---	---	M
Salaries of supporting personnel	384,926,000	509,010,000	480,000,000	472,690,000	474,900,000	+89,974,000	-34,110,000	-5,100,000	+2,210,000	D
Defender services	64,367,000	68,955,000	64,000,000	61,830,000	61,800,000	-2,567,000	-7,155,000	-2,200,000	-30,000	D
Fees of jurors and commissioners	43,700,000	46,200,000	45,000,000	43,400,000	43,400,000	-300,000	-2,800,000	-1,600,000	---	D
Expenses of operation and maintenance of the courts	110,609,000	144,926,000	139,000,000	135,000,000	135,000,000	+24,391,000	-9,926,000	-4,000,000	---	D
Bankruptcy courts, salaries and expenses	119,490,000	---	---	---	---	-119,490,000	---	---	---	D
Space and facilities	142,384,000	155,018,000	150,000,000	147,000,000	147,000,000	+4,616,000	-8,018,000	-3,000,000	---	D
Court security	26,992,000	38,116,000	32,000,000	33,500,000	32,750,000	+5,758,000	-5,366,000	+750,000	-750,000	D
Total, courts of appeals, district courts, and other judicial services	972,016,000	1,067,051,000	1,013,000,000	996,420,000	997,850,000	+25,834,000	-69,201,000	-15,150,000	+1,430,000	
Administrative Office of the United States Courts										
Salaries and expenses	28,788,000	32,217,000	30,000,000	29,200,000	29,200,000	+412,000	-3,017,000	-800,000	---	D
Federal Judicial Center										
Salaries and expenses	9,471,000	9,923,000	9,700,000	9,600,000	9,600,000	+129,000	-323,000	-100,000	---	D
Total, title IV, new budget (obligational) authority, the Judiciary	1,038,065,000	1,139,051,000	1,081,800,000	1,066,395,000	1,065,825,000	+27,760,000	-73,226,000	-15,975,000	-570,000	
TITLE V - RELATED AGENCIES										
Department of Transportation										
Maritime Administration										
Operating-differential subsidies (liquidation of contract authority)	(286,250,000)	(299,500,000)	(299,500,000)	(299,500,000)	(299,500,000)	(-86,750,000)	---	---	---	M
Research and development	2,900,000	9,900,000	9,900,000	9,900,000	9,900,000	+7,000,000	---	---	---	D
(By transfer)	(7,000,000)	---	---	---	---	(-7,000,000)	---	---	---	D
Operations and training	77,467,000	60,467,000	69,812,000	68,736,000	69,700,000	-7,767,000	+9,233,000	-112,000	+964,000	D
(By transfer)	(552,000)	---	---	---	---	(-552,000)	---	---	---	D
Federal ship financing fund (limitation on guaranteed loans)	---	(900,000,000)	---	---	---	---	(-900,000,000)	---	---	D
Total, Maritime Administration	80,367,000	70,367,000	79,712,000	78,636,000	79,600,000	-767,000	+9,233,000	-112,000	+964,000	
Arms Control and Disarmament Agency										
Arms control and disarmament activities	23,602,000	26,243,000	25,614,000	26,100,000	25,850,000	+2,248,000	-393,000	+236,000	-250,000	D

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Board for International Broadcasting										
Grants and expenses	111,251,000	142,149,000	98,000,000	106,822,000	102,700,000	-8,551,000	-39,449,000	+4,700,000	-4,122,000	D
Christopher Columbus Quincentenary Jubilee Commission										
Salaries and expenses	---	220,000	---	---	---	---	-220,000	---	---	D
Commission on the Bicentennial of the United States Constitution										
Salaries and expenses	331,000	775,000	775,000	775,000	775,000	+444,000	---	---	---	D
Commission on Civil Rights										
Salaries and expenses	12,869,000	12,386,000	12,061,000	12,320,000	12,300,000	-569,000	-86,000	+239,000	-20,000	D
Commission on Security and Cooperation in Europe										
Salaries and expenses	625,000	550,000	550,000	550,000	550,000	-75,000	---	---	---	D
Commission on the Ukraine Famine										
Salaries and expenses	400,000	---	---	400,000	400,000	---	+400,000	+400,000	---	D
Equal Employment Opportunity Commission										
Salaries and expenses	163,655,000	163,094,000	165,000,000	163,240,000	165,000,000	+1,345,000	+1,906,000	---	+1,760,000	D
Federal Communications Commission										
Salaries and expenses	95,441,000	94,904,000	92,285,000	94,400,000	94,400,000	-1,041,000	-504,000	+2,115,000	---	D
Federal Maritime Commission										
Salaries and expenses	12,292,000	11,940,000	11,606,000	11,873,000	11,870,000	-422,000	-70,000	+264,000	-3,000	D
Federal Trade Commission										
Salaries and expenses	69,572,000	65,626,000	63,900,000	65,500,000	65,500,000	-4,072,000	-126,000	+1,600,000	---	D
International Trade Commission										
Salaries and expenses	25,130,000	28,901,000	28,900,000	28,060,000	28,600,000	+3,470,000	-301,000	-300,000	+540,000	D
Japan - United States Friendship Commission										
Japan - United States Friendship Trust Fund	1,600,000	1,550,000	---	1,550,000	775,000	-825,000	-775,000	+775,000	-775,000	D
(Foreign currency appropriation)	(1,200,000)	---	---	(1,200,000)	(1,200,000)	---	(+1,200,000)	(+1,200,000)	---	D

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate	
Legal Services Corporation										
Payment to the Legal Services Corporation	313,000,000	305,000,000	305,500,000	306,400,000	305,500,000	-7,500,000	+500,000	---	-900,000	D
Marine Mammal Commission										
Salaries and expenses	929,000	800,000	900,000	900,000	900,000	-29,000	+100,000	---	---	D
Office of the United States Trade Representative										
Salaries and expenses	13,582,000	11,510,000	13,158,000	13,158,000	13,158,000	-424,000	+1,648,000	---	---	D
Securities and Exchange Commission										
Salaries and expenses	106,382,000	110,874,000	109,767,000	110,355,000	111,100,000	+4,718,000	+126,000	+1,333,000	+745,000	D
Small Business Administration										
Salaries and expenses	206,239,000	227,200,000	205,000,000	204,360,000	208,800,000	+2,561,000	-18,400,000	+3,800,000	+4,440,000	D
(By transfer)	(72,400,000)	---	(80,000,000)	(80,000,000)	(80,000,000)	(+7,600,000)	(+80,000,000)	---	---	D
White House Conference on Small Business	2,000,000	2,700,000	3,000,000	2,700,000	2,700,000	+700,000	---	-300,000	---	D
Business loan and investment fund	511,601,000	61,000,000	201,400,000	149,400,000	167,000,000	-344,601,000	+106,000,000	-34,400,000	+17,600,000	D
Surety bond guarantees revolving fund	8,910,000	10,000,000	7,000,000	7,000,000	7,000,000	-1,910,000	-3,000,000	---	---	D
Total, Small Business Administration	728,750,000	300,900,000	416,400,000	363,460,000	385,500,000	-343,250,000	+84,600,000	-30,900,000	+22,040,000	
State Justice Institute										
Salaries and expenses	---	8,883,000	8,883,000	5,000,000	8,000,000	+8,000,000	-883,000	-883,000	+3,000,000	D
United States Information Agency										
Salaries and expenses	524,477,000	593,457,000	569,672,000	569,000,000	571,000,000	+46,523,000	-22,457,000	+1,328,000	+2,000,000	D
Salaries and expenses (special foreign currency program)	8,000,000	---	---	---	---	-8,000,000	---	---	---	D
Educational and cultural exchange programs	140,000,000	159,136,000	144,412,000	141,000,000	138,000,000	-2,000,000	-21,136,000	-6,412,000	-3,000,000	D
Acquisition and construction of radio facilities	91,648,000	167,947,000	124,310,000	124,000,000	114,000,000	+22,352,000	-53,947,000	-10,310,000	-10,000,000	D
Radio broadcasting to Cuba	8,500,000	11,432,000	8,500,000	11,500,000	10,700,000	+2,200,000	-732,000	+2,200,000	-800,000	D
Center for Cultural and Technical Interchange Between East and West	19,000,000	19,490,000	19,000,000	21,000,000	20,750,000	+1,750,000	+1,260,000	+1,750,000	-250,000	D
National endowment for democracy 2/	18,500,000	31,300,000	19,300,000	10,000,000	18,000,000	-500,000	-13,300,000	-1,300,000	+8,000,000	D
Total, United States Information Agency	810,125,000	982,762,000	885,194,000	876,500,000	872,450,000	+62,325,000	-110,312,000	-12,744,000	-4,050,000	

2/ FY 1985 amount appropriated under salaries and expenses, but shown here for comparison purposes.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
United States Sentencing Commission									
Salaries and expenses	2,350,000	---	---	1,100,000	1,100,000	-1,250,000	+1,100,000	+1,100,000	---
Total, title V, new budget (obligational) authority, Related agencies	2,572,253,000	2,339,534,000	2,318,205,000	2,267,099,000	2,286,028,000	-286,225,000	-53,506,000	-32,177,000	+18,929,000
RECAPITULATION									
Grand total:									
New budget (obligational) authority	12,265,253,200	11,675,305,000	11,922,021,000	11,928,160,000	11,919,618,000	-345,635,200	+244,313,000	-2,403,000	-8,542,000
(Limitation on expenses)	(9,068,000)	(8,990,000)	(8,990,000)	(9,120,000)	(9,120,000)	(+52,000)	(+130,000)	(+130,000)	---
(By transfer)	(145,126,000)	(48,000,000)	(118,000,000)	(126,700,000)	(123,700,000)	(-21,426,000)	(+75,700,000)	(+5,700,000)	(-3,000,000)
(Limitation on direct loans)	(6,500,000)	---	(3,500,000)	---	(8,100,000)	(+1,600,000)	(+8,100,000)	(+4,600,000)	(+8,100,000)
(Limitation on guaranteed loans)	(165,000,000)	(900,000,000)	(160,000,000)	(150,000,000)	(156,000,000)	(-9,000,000)	(-744,000,000)	(-4,000,000)	(+6,000,000)
Memoranda:									
(Appropriations to liquidate contract authorizations)	(386,250,000)	(299,500,000)	(299,500,000)	(299,500,000)	(299,500,000)	(-86,750,000)	---	---	---
Total appropriations, including appropriations to liquidate contract authorizations	(12,651,503,200)	(11,974,805,000)	(12,221,521,000)	(12,227,660,000)	(12,219,118,000)	(-432,385,200)	(+244,313,000)	(-2,403,000)	(-8,542,000)
Department of Commerce	2,290,271,000	1,731,566,000	2,119,887,000	2,146,504,000	2,124,834,000	-165,437,000	+393,268,000	+4,947,000	-21,670,000
Department of Justice	3,775,003,000	3,890,428,000	3,895,689,000	3,955,097,000	3,958,845,000	+183,842,000	+68,417,000	+63,156,000	+3,748,000
Department of State	2,589,661,200	2,574,726,000	2,506,440,000	2,493,065,000	2,484,086,000	-105,575,200	-90,640,000	-22,354,000	-8,979,000
The Judiciary	1,038,065,000	1,139,051,000	1,081,800,000	1,066,395,000	1,065,825,000	+27,760,000	-73,226,000	-15,975,000	-570,000
Related Agencies:									
Arms Control and Disarmament Agency	23,602,000	26,243,000	25,614,000	26,100,000	25,850,000	+2,248,000	-393,000	+236,000	-250,000
Board for International Broadcasting	111,251,000	142,149,000	98,000,000	106,822,000	102,700,000	-8,551,000	-39,449,000	+4,700,000	-4,122,000
Christopher Columbus Quincentenary Jubilee Commission	---	220,000	- -	---	---	---	-220,000	---	---
Commission on the Bicentennial of the United States Constitution	331,000	775,000	775,000	775,000	775,000	+444,000	---	- -	---
Commission on Civil Rights	12,869,000	12,386,000	12,061,000	12,320,000	12,300,000	-569,000	-86,000	+239,000	-20,000
Commission on Security and Cooperation in Europe	625,000	550,000	550,000	550,000	550,000	-75,000	---	---	---
Commission on the Ukraine Famine	400,000	---	---	400,000	400,000	---	+400,000	+400,000	---
Equal Employment Opportunity Commission	163,655,000	163,094,000	165,000,000	163,240,000	165,000,000	+1,345,000	+1,906,000	---	+1,760,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Federal Communications Commission	95,441,000	94,904,000	92,285,000	94,400,000	94,400,000	-1,041,000	-504,000	+2,115,000	---
Federal Maritime Commission	12,292,000	11,940,000	11,606,000	11,873,000	11,870,000	-422,000	-70,000	+264,000	-3,000
Federal Trade Commission	69,572,000	65,626,000	63,900,000	65,500,000	65,500,000	-4,072,000	-126,000	+1,600,000	---
International Trade Commission	25,130,000	28,901,000	28,900,000	28,060,000	28,600,000	+3,470,000	-301,000	-300,000	+540,000
Japan - United States Friendship Commission	1,600,000	1,550,000	---	1,550,000	775,000	-825,000	-775,000	+775,000	-775,000
Legal Services Corporation	313,000,000	305,000,000	305,500,000	306,400,000	305,500,000	-7,500,000	+500,000	---	-900,000
Marine Mammal Commission	929,000	800,000	900,000	900,000	900,000	-29,000	+100,000	---	---
Maritime Administration	80,367,000	70,367,000	79,712,000	78,636,000	79,600,000	-767,000	+9,233,000	-112,000	+964,000
Office of the United States Trade Representative	13,582,000	11,510,000	13,158,000	13,158,000	13,158,000	-424,000	+1,648,000	---	---
Securities and Exchange Commission	106,382,000	110,974,000	109,767,000	110,355,000	111,100,000	+4,718,000	+126,000	+1,333,000	+745,000
Small Business Administration	728,750,000	300,900,000	416,400,000	363,460,000	385,500,000	-343,250,000	+84,600,000	-30,900,000	+22,040,000
State Justice Institute	---	8,883,000	8,883,000	5,000,000	8,000,000	+8,000,000	-883,000	-883,000	+3,000,000
United States Information Agency	810,125,000	982,762,000	885,194,000	876,500,000	872,450,000	+62,325,000	-110,312,000	-12,744,000	-4,050,000
United States Sentencing Commission	2,350,000	---	---	1,100,000	1,100,000	-1,250,000	+1,100,000	+1,100,000	---
Grand total	12,265,253,200	11,675,305,000	11,922,021,000	11,928,160,000	11,919,618,000	-345,635,200	+244,313,000	-2,403,000	-8,542,000

Mr. Speaker, I would be willing to yield to any Member who has any question concerning any particular part of the conference report, and I now reserve the balance of my time.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the distinguished gentleman from Iowa, Mr. NEIL SMITH, for his diligence in getting the bill to the floor today. I would like to commend our friends on the committee and our colleagues in the other body, to say nothing about the members of both staffs which contributed much to this bill.

The chairman of the subcommittee has provided a detailed overview of the funding levels in clear figures. What the bill demonstrates is a firm commitment to control spending and reduce the deficit. If we have achieved nothing more than this, surely we can be proud of this accomplishment.

What we have before us represents a prudent and judicious use of available resources balanced against program needs and objectives. Common sense and reason seem to have prevailed not only in our negotiations with the other body but in the compromise we have reached.

We have brought back in disagreement one item which Members will have an opportunity to comment on and express their views. The issue at hand is whether or not various representatives of political parties should be entitled to received funds from the National Endowment for Democracy to perform valuable work in the service and promotion of democracy abroad, particularly in countries without a democratic tradition and where democracy stands the best chance of improving the lives of those yearning for the freedom it gives. We felt it imperative to include the parties and make them eligible for funding as they form pillars of any viable democracy. We hope that Members will agree that the work done to promote democracy is worthy of support and vote to allow the parties to be eligible for funding.

As has already been pointed out, this bill is $1 million below the OMB target for signing, and OMB has signaled its satisfaction with it. The administration had wanted to eliminate the Small Business Administration, the Economic Development Administration, and the National Oceanic and Atmospheric Administration, but because of strong congressional support for these programs, we have continued to fund them.

All in all, we have a good bill here. With that thought in mind and in good faith and conscience, I urge my colleagues to support our chairman and to support this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I rise in strong support of the conference report, and I wish to commend our chairman, the gentleman from Iowa, Mr. NEIL SMITH, and our ranking member, the gentleman from Illinois, Mr. GEORGE O'BRIEN, as well as all who took part in the conference on both sides in both bodies. I wish to commend this report to the membership of this body.

Many of the programs of importance to many Members of the House, I think, are retained in this conference report at adequate levels. For example, the export promotion program in the Department of Commerce were retained and adequately funded, and I think that is of terrible importance to us at this particular time and in this particular year.

Of particular interest to those who may represent a small-business constituency, we have expanded the break-out procurement program to encourage small-business participation in Government procurement. Those who may be interested in the public telecommunications planning facilities and construction grants will be, I think, pleased to note that this bill contains continued adequate funding for those purposes.

For those who are interested in the juvenile-justice programs around the country—and that is of particular interest to this Member—the bill maintains adequate funding for the continuation of these very important juvenile-justice programs throughout the country. The bill also continues and maintains adequate funding for the Economic Development Administration. For those of us who may represent some of the more distressed areas of the country, that is of particular importance in this bill.

Mr. O'BRIEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, before yielding time to others, I yield myself such time as I may consume in order to say this because I neglected to do so before:

I want to commend the staff and all the members of the subcommittee for their work on this bill on both the majority and the minority sides. We worked together on this bill, and it is truly a subcommittee bill as we bring it to the floor.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentleman from Iowa for yielding me this time. I would like to enter into a brief colloquy at this time with the gentleman from Iowa.

I notice that the conferees have included $112 million in this conference report for EDA public works grants. As the gentleman from Iowa knows, there is a proposal to acquire, demolish, and build new infrastructure at the site of the abandoned General Motors plant in the city of South Gate, CA. With EDA funds, this site could be developed into a working industrial park and a commercial park as well providing for over 6,000 permanent jobs. Right now, as my colleague knows, the site is abandoned, and the unemployment rate in the surrounding communities is about 26 percent.

Should this not be the type of project encompassed by the appropriations in this bill?

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, it is true that this is the type of project that would qualify udner EDA, if the resources were available. We have a total amount of only $112 million for the United States now for these kinds of projects.

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As far as I know, this kind of a project would qualify if resources are available.

I am familiar with this proposal and the impact that it would have in alleviating economic problems.

The bill's intent with regard to EDA is to help to provide a relatively small amount of money where it will generate local activity that brings about more jobs; that is, of course, within the resources that are available on a nationwide basis.

As I said, we only have $112 million nationwide and obviously not all of them can be funded; but I know of no reason why this project would not meet the requirements and the criteria within the resources available.

Mr. TORRES. Mr. Speaker, I thank the chairman for his assurances and I thank the gentleman for giving me this time.

Mr. ALEXANDER. Mr. Speaker, I rise in support of the conference report on H.R. 2695. This agreement was not easily reached. There were some strong disagreements with the other body on some issues. Our subcommittee chairman, Mr. SMITH, and ranking minority member, Mr. O'BRIEN, in cooperation with our subcommittee members, worked very hard to bring back a conference report this House can approve.

This report provides $345.7 million less than was appropriated for the past year. It is below the amounts approved by both the House and the Senate. It is just 2 percent above the President's request.

There is one group of programs funded in this bill that I particularly want to mention. These programs have been generating private sector jobs and resulting in net income to the Federal Treasury for two decades.

I refer, of course, to the economic development assistance programs administered by the Economic Development Administration. There is $175 million in this conference report for these programs. That is less

than was provided for in 1985. It is nearly 64 percent less than was provided in 1981. Nevertheless, this is critically important money because it has a single goal, helping generate or save private sector jobs for American working people.

Across this Nation, from Maine to Hawaii and from Alaska to Florida, rising numbers of State and local leaders are focusing top priority efforts toward creating new job opportunities and saving existing jobs in their communities, towns, cities, and States.

Generating private sector job opportunities, saving such jobs for the U.S. workers who hold them, takes a partnership between private enterprise and the public sector. Since EDA began making seed money investments in the future of working Americans it has become the Federal partner in one of the most successful programs of private and public commitment to private sector job generation in the Nation's history.

In the most recent overview and assessment report by the authorizing committee, data gathered showed that for every EDA dollar invested in job producing projects nearly $2 in private investment is leveraged. Furthermore, the committee found that each year U.S. workers holding the jobs generated or saved through EDA's investments pay into the Federal, State, and local treasuries more in taxes than the total investments EDA had made since it began operations.

Other estimates indicated that U.S. workers, during each 18-month period, pay to the Federal Treasury taxes at least equal to EDA's investments. In other words, these economic development assistance programs are money makers for the Federal, State, and local treasuries.

EDA's programs are the workhorses of economic development. Its investments are made in projects chosen and developed at the grassroots level by local government officials and community leaders. These are the people who know best the jobs needs and opportunities of their communities, towns, and cities. Congress recognized that when it insured that the economic development projects decisions be made at the local level.

Earlier this year, during debates on these economic development assistance programs, I cited one of the many examples from First District, Arkansas, which I represent, where EDA's job impact is felt.

That example is the industrial park in Trumann, AR, where EDA made a $576,000 investment. One of the industries located there will bring 400 jobs for Arkansas workers. Their estimated annual earnings will be $3,328,000. The estimated Federal taxes they will pay in 1 year—$655,600—will more than repay EDA's investment.

Trumann is just one of the 19 communities, towns, and cities in First District where EDA investments have brought private sector jobs to U.S. workers through the creation of industrial parks. Such facilities, though, are not the only kinds of investments EDA makes.

In First District, alone, EDA investments have helped bring into being such facilities as river ports at Osceola and West Memphis. Footwear workers have been assisted through investments aiding their employers combat threats from the flood of shoe imports.

Workers in small and mid-sized food processing firms and other product manufacturers in places like Batesville and Jonesboro have been aided through EDA investments helping their employers find export markets for their goods.

In places like Clarendon, Stuttgart, Wheatly, Wynne, Pocahontas, Clinton, and Heber Springs, AR, workers in business and industry have benefited from EDA investments in local public water systems.

Since it began operations, EDA has invested more than $167 million in more than 450 private sector job opportunity generating or saving projects in Arkansas. Direct jobs resulting for Arkansans working in the private sector have exceeded 80,000. The annual payroll income from these jobs is estimated to exceed $646 million. Annual tax payments from these jobs is estimated to be more than $129 million.

The story of EDA and First District is repeated throughout the State of Arkansas, and in State after State across the Nation.

The kinds of businesses and industries where U.S. workers have benefited from EDA investments are numerous and varied. They range from acquaculture to tourism, from cattle feed lots to transportation. And, in between are businesses and/or industries involved in food processing, plastics, furniture, textiles and apparel, electronics, metal fabrication, retail sales, health, and on and on.

EDA investments are the building blocks that put and keep U.S. workers on the payroll and help keep them out of the jobless lines. I am proud to have had a part in seeing that this program continues to work to help American workers earn the paychecks they need to feed, clothe, and house themselves and their families.

Mr. SMITH of Iowa. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 3, line 3, after "principal" insert ": *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorney's fees in connection with grants and contracts made by the Economic Development Administration.".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment to the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. O'BRIEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 4, line 14, strike out "$196,472,000" and insert "$192,980,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following "$192,000,000".

The motion was agreed to.

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to consider en bloc the following amendments, which are reported in technical disagreement and on which the managers on the part of the House propose to recede and concur in the Senate amendments:

Senate amendments numbers 10, 16, 18, 19, 27, 47, 49, 55, 66, 73, 85, 109, 133, 137, 140, and 141.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The text of the several amendments is as follows:

Senate amendment No. 10: Page 4, line 14, after "$196,472,000," insert "of which $7,090,000 is for the Office of Textiles and Apparels, including $3,500,000 for a grant to the Tailored Clothing Technology Corporation,".

Senate amendment No. 16: Page 6, line 21, after "pended," insert "of which $600,000 shall be for enhancements to the EROS Data Center in Sioux Falls, South Dakota,".

Senate amendment No. 18: Page 7, line 2, strike out "unobligated" and insert "unexpended".

Senate amendment No. 19: Page 7, line 7, after "$450,000" insert ": *Provided further,*

That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary intgeragency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.".

Senate amendment No. 27: Page 9, line 15, after "amended" insert ": *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.".

Senate amendment No. 47: Page 14, after line 15, insert:

INTERAGENCY LAW ENFORCEMENT

PRESIDENTIAL COMMISSION ON ORGANIZED CRIME

For expenses necessary for the Presidential Commission on Organized Crime, $1,000,000.

Senate amendment No. 49: Page 15, line 21, after "services" insert ": *Provided further*, That $13,120,000 shall remain available until expended for constructing and equipping new facilities at the FBI Academy, Quantico, Virginia".

Senate amendment No. 55: Page 17, line 13, after "year" insert ": *Provided further*, That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota".

Senate amendment No. 66: Page 22, after line 2, insert:

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigation operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if desigated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on the Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), and (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1986,

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(I) all criminal proceedings (other than appeals) are concluded, or

(II) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Senate amendment No. 73: Page 23, line 24, after "expended" insert ": *Provided*, That balances of previous appropriations

for "Acquisition, operation, and maintenance of buildings abroad" shall be transferred to and merged with this appropriation.

Senate amendment No. 85: Page 29, after line 5, insert:

SEC. 302. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

Senate amendment No. 109: Page 39, line 23, after "$63,900,000" insert ": *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374)".

Senate amendment No. 133: Page 46, after line 9, insert:

GENERAL PROVISIONS—UNITED STATES INFORMATION AGENCY

Senate amendment No. 137: Page 46, after line 9, insert:

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $1,100,000, to remain available until expended.

Senate amendment No. 140: Page 47, strike out line 15, insert:

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Senate amendment No. 141: Page 47, after line 15, insert:

SEC. 607. None of the funds appropriated by the Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion. Except where the life of mother would be endangered if the fetus were carried to term.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendments of the Senate numbered 10, 16, 18, 19, 27, 47, 49, 55, 66, 73, 85, 109, 133, 137, 140, and 141, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 4, line 18, strike out all after "activities." down to and including "principal." in line 23.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

During fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $8,100,000. During fiscal year 1986, commitments to guarantee loans shall not exceed $6,000,000 of contingent liability for loan principal.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 7, line 7, after "$450,000," insert "In addition, $3,000,000 for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions to be derived by transfer from the "Disaster loan fund, Small Business Administration".".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

In addition, $3,000,000 shall be for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 8, line 1, strike out "$1,800,000," and insert "$4,200,000, of which $2,400,000 is to be derived from the general fund of the Treasury and of which $1,800,000 is".

MOTION OFFERD BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$3,000,000, of which $1,200,000 is to be derived from the general fund of the Treasury and of which $1,800,000 is.".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CONYERS. Mr. Speaker, reserving the right to object, may I ask the distinguished chairman where number 134 is at this point?

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, it will come a little later. We are going through them one by one.

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 8, line 15, strike out "$84,739,000" and insert "$88,535,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur

therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$84,700,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 10, after line 12, insert:

SEC. 105. None of the funds made available in this or any other Act shall be obligated or expended to plan to relocate, or to relocate the National Marine Fisheries Service's Sandy Hook Laboratory, or any of its activities or programs, out of New Jersey.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 104. None of the funds made available in this or any prior Act shall be obligated or expended to relocate the National Marine Fisheries Service's Sandy Hook Laboratory, or any of its activities or programs, out of New Jersey. Notwithstanding the previous sentence, the Secretary of Commerce shall submit a report to the Appropriations Committees of both Houses of Congress by February 1, 1986, evaluating options for restoring or replacing that portion of the Sandy Hook Laboratory destroyed by fire: *Provided*, That any proposed relocation or replacement of the Laboratory pursuant to said report shall be subject to the reprogramming procedures in section 606 of this Act.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 10, line 19, strike out "$72,533,000" and insert "$72,710,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$70,800,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 38: Page 12, after line 14, insert:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND TRUSTEES

For necessary expenses of the Offices of the United States attorneys and bankruptcy trustees, $335,000,000: Provided, That not less than $450,000 shall be used for the investigation and prosecution of individuals indicted for violations of obsecenity statutes.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND TRUSTEES

For necessary expenses of the Offices of the United States attorneys and bankruptcy trustees, $332,000,000.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 12, after line 14, insert:

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $149,000,000.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$150,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 13, line 16, after "safesites" insert : *Provided*, That restitution of not to exceed $25,000 shall be paid to the estate of victims killed as a result of crimes committed by persons who have been enrolled in the Federal witness protection program, if such crimes were committed within two years after protection was terminated, notwithstanding any limitations contained in part (a) of section 3525 of title 18 of the United States Code.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: "*Provided*, That restitution of not to exceed $25,000 shall be paid to the estate of victims killed before October 12, 1984 as a result of crimes committed by persons who have been enrolled in the Federal witness protection program, if such crimes were committed within two years after protection was terminated, notwithstanding any limitations contained in part (a) of section 3525 of title 18 of the United States Code",

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 50: Page 15, line 23, after "expenses" insert ": *Provided fur-*

ther, That of the funds appropriated by this section, not less than $1,000,000 shall be spent for the purpose of countering the interception of domestic American telecommunications by agents of the Soviet Union and its allies, from foreign missions maintained in the United States by those governments: *Provided further,* That by June 1, 1986, the Director of the FBI shall submit to the appropriate committees of the Congress a report on the FBI's capabilities and efforts to counter the electronic interception of American telecommunications by foreign agents".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate Numbered 50 and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amemdment, insert the following: ": *Provided further,* That by June 1, 1986, the Director of the FBI shall submit to the appropriate committees of the Congress a report on the FBI's capabilities and efforts to counter the electronic interception of American telecommunications by foreign agents".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considerd as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 56: Page 17, line 21, strike out "$550,334,000" and insert "$554,360,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$556,900,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 18, line 7, strike out "$12,226,000" and insert "$12,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$11,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 58: Page 18, line 18, after "$46,063,000," insert "of which $7,100,000 shall be used to renovate or construct a facility to be used as a maximum security penitentiary for the incarceration of illegal alien felons".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "and from this amount and any unobligated balances of previous appropriations for "Buildings and Facilities", not to exceed a total of $7,100,000 shall be available to renovate or construct a facility for the incarceration of illegal alien felons, in accordance with the standards and procedures of the Federal Bureau of Prisons,".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 61: Page 20, line 8, strike out "$135,197,000" and insert "$130,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$128,700,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of section 222(b), 223(d), and 228(e) of title II of such Act, $9,300,000 shall be made available for programs authorized under Parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 78: Page 25, line 24, strike out "$6,839,000" and insert "$6,039,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$6,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 26, line 18, strike out "$11,392,000" and insert "$11,340,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows: In lieu of the sum in said amendment, insert "$11,300,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 32, line 8, strike out "$64,000,000" and insert "$61,830,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$61,800,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 37, line 7, strike out "$25,614,000" and insert "26,100,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment insert the following: "$25,850,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 103: Page 38, after line 8, insert:

COMMISSION ON THE UKRAINE FAMINE

For necessary expenses for the Commission on the Ukraine Famine, as provided for in section 136 of Public Law 98-473, $400,000, to remain available until expended.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

COMMISSION ON THE UKRAINE FAMINE

For necessary expenses of the Commission on the Ukraine Famine to carry out the provisions of S. 2456 (98th Congress) as passed the Senate on September 21, 1984, $400,000, to remain available until expended, and the Commission on the Ukraine Famine as contained in S. 2456, is hereby established, with modifications as follows:

ESTABLISHMENT

SECTION 1. There is established a commission to be known as the "Commission on the Ukraine Famine" (in this Act referred to as the "Commission").

PURPOSE OF THE COMMISSION

SEC. 2. The purpose of the Commission is to conduct a study of the 1932-1933 Ukraine famine in order to—

(1) expand the world's knowledge of the famine; and

(2) provide the American public with a better understanding of the Soviet system by revealing the Soviet role in the Ukraine famine.

DUTIES OF THE COMMISSION

SEC. 3. The duties of the Commission are to—

(1) conduct a study of the 1932-1933 Ukraine famine (in this Act referred to as the "famine study"), in accordance with section 6 of this Act, in which the Commission shall—

(A) gather all available information about the 1932-1933 famine in Ukraine;

(B) analyze the causes of such famine and the effects it has had on the Ukrainian nation and other countries; and

(C) study and analyze the reaction by the free countries of the world to such famine; and

(2) submit to Congress for publication a final report on the results of the famine study no later than two years after the organizational meeting of the Commission held under section 6(a) of this Act.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of fifteen members, who shall be appointed within thirty days after the date of enactment of this Act, as follows:

(1) Four members shall be Members of the House of Representatives and shall be appointed by the Speaker of the House of Representatives. Two such members shall be selected from the majority party of the House of Representatives and two such members shall be selected, after consultation with the minority leader of the House, from the minority party of the House of Representatives. The Speaker also shall designate one of the House Members as Chairman of the Commission.

(2) Two members shall be Members of the Senate and shall be appointed by the President pro tempore of the Senate. One such member shall be selected from the majority party of the Senate and one such member shall be selected, after consultation with the minority leader of the Senate, from the minority party of the Senate.

(3) One member shall be from among officers and employees of each of the Departments of State, Education, and Health and Human Services and shall be appointed by the President, after consultation with the Secretaries of the respective departments.

(4) Six members shall be from the Ukrainian-American community at large and Ukrainian-American chartered human rights groups and shall be appointed by the Chairman of the Commission in consultation with congressional members of the Commission, the Ukrainian-American community at large, and executive boards of Ukrainian-American chartered human rights groups.

(b) The term of office of each member shall be for the life of the Commission.

(c) Each member of the Commission who is not otherwise employed by the United States Government shall be paid from the sum appropriated to carry out this Act, the daily equivalent of the rate of basic pay payable for GS-18 of the General Schedule for each day, including travel time, during which he or she is attending meetings or hearings of the Commission or otherwise performing Commission related duties as requested by the Chairman of the Commission. A member of the Commission who is an officer or employee of the United States Government or a Member of Congress shall serve without additional compensation. Each member of the Commission shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

ADMINISTRATIVE PROVISIONS

SEC. 5 (a) Not later than thirty days after all members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures under which it will carry out its responsibilities.

(b) The Commission shall hire experts and consultants in accordance with section 3109 of title 5, United States Code from the academic community to assist in carrying out the famine study. Such experts and consultants shall be chosen by a majority vote of the Commission members on the basis of their academic background and their experience relevant to research on the Ukraine famine. No person shall be otherwise employed by the Federal Government while serving as an expert or consultant to the Commission.

(c) The Commission shall have a staff director, who shall be appointed by the Chairman.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission or any member it authorizes may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission or

any such member may administer oaths or affirmations to witnesses appearing before it.

(b)(1) The Commission may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) The subpenas of the Commission may be issued by the Chairman of the Commission or any member designated by him and may be served by any person designated by the Chairman or such member. The subpenas of the Commission shall be served in the same manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(3) If a person issued a subpena under paragraph (1) refuses to obey such subpena, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished as a contempt of the court.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(c) The Commission may obtain from any department or agency of the United States information that it considers useful in the discharge of its duties. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission to the extent permitted by law.

(d) The Commission may appoint and fix the pay of such personnel as it considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter 53 of such title, relating to classification and General Schedule pay rates. No individual so appointed may receive pay in excess of the maximum annual rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(e) The Commission may solicit, accept, use, and dispose of donations of money, property, or services.

(f) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) The Commission may procure by contract any supplies, services, and property, including the conduct of research and the preparation of reports by Government agencies and private firms, necessary to discharge the duties of the Commission, in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate sixty days after the report of the Commission is submitted to Congress under section 4(4) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated the sum of $400,000, to remain available until expended, to carry out this Act.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 111: Page 40, line 7, insert:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,550,000 to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $775,000 to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 114: Page 41, line 20, strike out "$109,767,000" and insert "$110,355,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. Smith of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the sum stricken and proposed by said amendment insert the following: "$111,100,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 43, line 3, strike out "$80,400,000" and insert "$73,400,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 118 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$66,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 121: Page 43, line 17, after "$8,883,000" insert ", of which not to exceed $550,000 shall be available for administration".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 121 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$715,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 122: Page 44, line 11, strike out "$569,672,000" and insert "$569,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$571,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 44, line 11, after $569,672,000" insert ", of which not to exceed $1,200,000 in addition to the base shall be available only for the worldwide book program initiative notwithstanding section 205 of Public Law 99-93".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 123 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ", none of which shall be restricted from use for the purposes appropriated herein".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 127: Page 45, line 3, after "Programs" insert ", $12,984,000, of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program".

MOTION OFFERED BY MR SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert: ", $9,894,000, of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 45, line 9, strike out "$124,310,000" and insert "$124,000,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$114,000,000".

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 134: Page 46, after line 9, insert:

SEC. 501. None of the funds provided in this Act for the United States Information Agency shall be awarded to the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, or any other organization connected in any manner with any political party operating in the United States.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 501. None of the funds provided in this Act for the United States Information Agency shall be awarded to the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, or any other organization connected in any manner with any political party operating in the United States, unless said Institutes agree that such funds received from the National Endowment for Democracy shall not be expended to finance the campaigns of candidates for public office in any country; shall not be used to finance activities of the Republican National Committee or the Democratic National Committee; shall not be used for partisan activities on behalf of either the Republican National Committee or the Democratic National Committee or on behalf of any candidate for public office; and agree that no officer or employee of the Republican or Democratic National Committees may serve as an officer or member of the Board of Directors of either Institute.

The SPEAKER pro tempore. Does the gentleman from Iowa wish time on this amendment?

Mr. SMITH of Iowa. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of Iowa. All I have to say, Mr. Speaker, is that I think the amendment is self-explanatory. I have nothing further to say.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. Yes, I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, if the chairman would enlighten me, it is my impression that this amendment tracks precisely the disposition of this matter as it was handled in the authorizing committee, with the exception of the additional reference at the end indicating that no officer or employee of the Republican or Democratic National Committees may serve as an officer or member of the board of

directors of either institute. Is that correct?

Mr. SMITH of Iowa. That is correct. It tracks the authorizing legislation, with an additional limitation.

Mr. O'BRIEN. So it is congruent with the constraints laid on by the authorizing committee?

Mr. SMITH of Iowa. That is right, all the constraints, plus the additional one that is there.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman. .

Mr. CONYERS. Mr. Speaker, the National Endowment for Democracy [NED] was established to promote democracy around the world, a noble and lofty goal that sounded patriotic and reasonable. But the incestuous nature of its structure raised eyebrows from the very beginning, permitting more than 80 percent of its funds to be distributed to private sector organizations whose leaders sat on NED's board and determined where the money would go. A very pleasant arrangement indeed.

How are these funds used? Last year, in Panama, NED money was discovered being secretly funneled through labor's Latin American affiliate to support the Presidential candidate backed by the Panamanian Army, causing acute embarassment to the United States and our Ambassador publically demanded that these funds from NED be cut off.

Now it has been revealed that NED has been secretly funding groups in France actively opposing the democratically elected Mitterand Government; $830,000 was given to an anti-Mitterand labor union, the Force Ouvriere, engaged in demonstrations against Mitterand. In addition, $575,000 was given to a student group called Union Nationale Inter-Universitaire, which has been linked to an extreme rightwing terrorist organization, known as Service d'Action Civique, which is now outlawed in France.

The National Endowment for Democracy has become an endowment against democracy; an agency funded by the United States which conducts programs which interfere with or subvert the political processes in other countries.

This new language contained in the conference report on the Commerce, State, and Justice appropriations to restrict the party institutes' involvement in foreign elections does not rule out their general support for favored parties abroad.

While section 501, as amended by Chairman SMITH, now specifically prohibits the expenditures of NED funds to "finance the campaigns of candidates for public office in any country," it does nothing to prevent these funds from being used to support other non-campaign-related partisan political activities such as polling, precinct organizing, public relations, or fundraising.

This language, while looking like a step forward, does little to prevent abuses like those that have already been uncovered. As a result, they are quite likely to continue and NED will continue to be resented by our foreign friends, just as Americans would resent their involvement in our political process. This is an unacceptable attempt to resolve scandalous and illegal conduct.

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The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 138: Page 47, line 11, after "Senate" insert ": *Provided further,* it is the sense of the Congress that—

(1) the antitrust enforcement policy guidelines stated in 'Vertical Restraints Guidelines', published by the Department of Justice on January 23, 1985—

(A) are not an accurate expression of the Federal antitrust laws or of congressional intent with regard to the application of such laws to resale price maintenance and other vertical restraints of trade;

(B) should not be accorded any force of law or be treated by the courts of the United States as binding or persuasive; and

(C) should be recalled by the Attorney General for review and should not be reissued before providing fair procedures for public participation in the formulation of such policy guidelines, including public notice and hearings;

(2) any antitrust enforcement policy guidelines formulated or adopted by the Department of Justice—

(A) cannot and do not have the force of law; and

(B) cannot modify or supersede the antitrust laws, regardless of the fact that public participation may be permitted in the formulation or adoption of such policy guidelines.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That whereas on January 23, 1985, the Department of Justice published a document entitled "Vertical Restraints Guidelines", for the stated purpose of explaining Federal policy for enforcing the Sherman Act and the Clayton Act with respect to nonprice vertical restraints of trade;

Whereas such policy guidelines extend beyond the matter of nonprice vertical restraints of trade and propose the avoidance of the per se rule of illegality applied by the Supreme Court in 1911 in Dr. Miles Medical Company against John D. Park and Sons Company (220 U.S. 373) to price-related restraints of trade and subsequently applied by the Supreme Court and endorsed by the Congress on many occasions;

Whereas such policy guidelines are inconsistent with established antitrust law, as reflected in Supreme Court decisions and statements of congressional intent, in maintaining that such policy guidelines do not treat vertical price fixing when, in fact, some provisions of such policy guidelines suggest that certain price fixing conspiracies are legal if such conspiracies are "limited" to restricting intrabrand competition; by blurring the distinction between price and nonprice restraints in analyzing a distribution program containing both types of restraints, thereby qualifying the accepted rule that vertical price fixing in any context is illegal per se; in stating that vertical restraints that have an impact upon prices are subject to the per se rule of illegality only if there is an "explicit agreement as to the specific prices"; in stating that restraints imposed by a manufacturer at the request of dealers are vertical in nature and therefore not subject to the per se rule of illegality; in aggregating the factors of collusion and foreclosure, thereby failing to distinguish adequately between the separate antitrust concerns associated with vertical territorial restraints and with exclusive dealing practices; in stating that less than absolute territorial restraints are "always legal"; and in arbitrarily specifying a 30 per centum minimum market share in the tying product for assessing the legality of tying arrangements;

Whereas such policy guidelines state that the Department of Justice may refuse to attribute to corporations the illegal conduct of their low-level employee acting within the scope of the authority conferred upon such employees by such corporations, contrary to the common law of corporate responsibility and agency in the antitrust context;

Whereas the general business community would be at risk if it accepted and relied upon such policy guidelines as an accurate statement of existing federal antitrust laws in the area of vertical restraints of trade;

Whereas such policy guidelines relate to an area in which the Department of Justice has brought no enforcement actions in more than four years and may have been published, in part, as an attempt to influence the courts of the United States to pursue a very narrow and limited vertical restraint analysis in deciding private enforcement antitrust cases;

Whereas previous antitrust enforcement policy guidelines issued by the Department of Justice have been substantially based on existing jurisprudence and congressional intent, and therefore have been given considerable weight by the courts of the United States in evaluating the facts in antitrust litigation; and

Whereas the "Vertical Restraints Guidelines" may affect the development of antitrust law to the detriment of competitive pricing of branded goods and services by direct or mail order retailers: Now, therefore, be it

Resolved, That it is the sense of the Congress that the antitrust enforcement policy guidelines stated in "Vertical Restraints Guidelines", published by the Department of Justice on January 23, 1985—

(1) are not an accurate expression of the Federal antitrust laws or of congressional intent with regard to the application of such laws to resale price maintenance and other vertical restraints of trade;

(2) shall not be accorded any force of law or be treated by the courts of the United States as binding or persuasive; and

(3) should be recalled by the Attorney General

Mr. O'BRIEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

SUPERFUND AMENDMENTS OF 1985

The SPEAKER pro tempore. Pursuant to House Resolution 331 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2817.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, with Mr. HOYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, the gentleman from New York [Mr. LENT] will be recognized for 30 minutes, the gentleman from New Jersey [Mr. HOWARD] will be recognized for 30 minutes, the gentleman from Kentucky [Mr. SNYDER] will be recognized for 30 minutes, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 30 minutes, the gentleman from Kansas [Mr. GLICKMAN] will be recognized for 15 minutes, the gentleman from Ohio [Mr. KINDNESS] will be recognized for 15 minutes, the gentleman from North Carolina [Mr. JONES] will be recognized for 15 minutes, and the gentleman from New York [Mr. LENT] again will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2817 amends the Comprehensive Environmental Response Compensation and Liability Act [CERCLA] or as we refer to it, the Superfund bill. This bill will provide $10 billion in additional funding over the next 5 years to clean up the Nation's worst abandoned hazardous waste sites and uncontrolled leaking underground storage tanks.

Superfund is one of this Nation's most important environmental programs designed to protect human health and the environment. It is also the most beleaguered program the Environmental Protection Agency [EPA] administers. When enacted, H..R 2817 will give EPA the flexibility to revitalize the Superfund Program, ensure cleanup of abandoned hazardous waste sites, and protect communities now exposed to the dangerous and toxic chemicals that have been dumped at those sites.

Before I continue my general discussion of the legislation itself, there are a few specific matters which I would like to address.

No change has been made in the standard of liability that applies under CERCLA. As under section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1321, liability under CERCLA is strict, that is, without regard to fault or willfulness. Where appropriate, liability under CERCLA is also joint and several, as a matter of Federal common law.

Explicit mention of joint and several liability was deleted from CERCLA in 1980 to allow courts to estabish the scope of liability through a case-by-case application of "traditional and evolving principles of common law" and preexisting statutory law. The courts have made substantial progress in doing so.

The uniform Federal rule on joint and several liability established in the case of *United States* v. *Chem-Dyne Corporation,* 572 F. Supp. 802 (S.D. Ohio 1983), is correct and should be followed. It is unnecessary and would be undersirable for Congress to modify this uniform rule. Thus, nothing in this legislation is intended to change the application of the uniform Federal rule of joint and several liability enunciated by the Chem-Dyne court.

The Environmental Protection Agency Administrator in testimony on this legislation described aggressive enforcement of the law, including the use of strict, joint and several liability, as the very heart of EPA's success in promoting private party cleanups. While Superfund's liability provisions may be considered extraordinary, the hazardous waste problem in this country is also extraordinary. Estimates of the number of hazardous waste sites in this country to be cleaned up range well over 20,000. During the next 5 years, EPA plans to begin cleanup work at approximately 1,000 national priority sites. According to EPA's Administrator, it is only through the effective use of strict, joint and several liability that EPA will be able to achieve a significant level or private party involvement in our priority cleanup program.

Further, the settlement provisions in this legislation should greatly encourage and facilitate the cleanup of hazardous waste sites by responsible parties pursuant to negotiated settlements with the Environmental Protection Agency. However, the emphasis in the legislation on settlement should not be construed to mean that EPA should settle under all circumstances. The settlement provisions are not intended to replace or weaken, in any fashion, government enforcement efforts under CERCLA.

They simply complement the enforcement approach, leading to a Superfund Program that is balanced between fund-financed cleanups, negotiated voluntary private party cleanups, and litigation where necessary.

The legislation encourages the Administrator to enter into agreements with potentially responsible parties, but only where it is in the public interest to do so. In this respect, the legislation endorses the EPA settlement policy, which gives the Administrator the discretion he needs to ensure that all settlements are in the public interest. There is no intent to codify the entire EPA settlement policy, however, since the terms needed in particular settlement agreements will vary from case to case and the Administrator may include in each agreement, whenever terms are needed, to ensure that CERCLA goals are met.

Further, the legislation provides procedures for making information available to potentially responsible parties and also establishes discretionary special procedures that the Administrator can choose to use if he thinks they will expedite settlement.

The committee did not include in its substitute for H.R. 2817, as reported by the Energy and Commerce Committee, the amendment to section 107 included in the Energy and Commerce bill that expressly authorized recovery of pre-CERCLA, post-RCRA government response costs. The committee did not include such a provision in its bill because, as with the standard of liability under CERCLA, the courts are currently adequately addressing this issue under CERCLA as enacted in 1980. In addition to recovery under section 107 of CERCLA, the United States may also recover under an equitable restitution theory the response costs it has incurred pursuant to the Solid Waste Disposal Act.

I will now return to my more general comments on the very important legislation we are considering today.

Superfund was passed in 1980 to address what many then believed was a relatively limited problem. The EPA was instructed to find 400 hazardous waste sites. Most people believed that cleaning up a site was relatively inexpensive and involved removing a few containers or scraping only a few inches of soil off the ground. EPA was given $1.6 billion to do the job.

Today, 5 years later, our understanding of the problem posed by abandoned hazardous chemicals is entirely different. The Office of Technology Assessment now estimates there may be as many as 10,000 Superfund sites across the Nation, or an average of 23 sites per congressional district. These sites range from industrial plants to river beds to city dumps where small businesses and households have disposed of solvents, paints and cleaning fluids. We now understand that a cleanup frequently goes far beyond simple removal of barrels. It often involves years of pumping contaminated water from aquifers. The total cost of completing the Superfund Program is estimated to be as much as $100 billion. The total time will be decades.

The resources given to EPA in 1980 were simply inadequate to fulfill the promises that were made to the American people

that we would clean up the abandoned hazardous wastes in this country. The sense of urgency about cleaning up each individual site was overwhelmed by the inadequacy of the law and the Agency's funding.

To compound the problem, the program was initially victimized by mismanagement and policies that limited expenditures for site cleanups, in part in an effort to dissuade Congress from extending the funding for the program beyond its scheduled expiration date of October 1, 1985.

As a result of the intensive investigation of the Superfund Program by the Energy and Commerce Committee's Subcommittee on Oversight and Investigations in 1982 and 1983, more than 20 top-level officials, including the Administrator of EPA, resigned or were fired from their jobs. One was convicted of perjury and sent to prison.

Understandably, this gross mismanagement of the program, together with the problems created by limited resources that made fulfillment of our promises to the Nation impossible, have created mistrust in the public and in Congress.

The current reauthorization, coming when it does, forces us to face a very fundamental policy question: How do we ensure the provision of adequate resources in the future while making certain that past mismanagement problems are not repeated?

As reported from the Committee on Energy and Commerce, H.R. 2817 focused on ways to ensure rapid and thorough cleanup of abandoned hazardous waste sites rather than on past mistakes. It was the intent of the committee to facilitate cleanups of hazardous substances by the responsible parties while assuring a strong EPA oversight role with a set of tough legal enforcement standards. Equally important was our committee's determination to involve the communities situated around Superfund sites.

But H.R. 2817 was jointly referred to three committees when it was first introduced. The Committees on Energy and Commerce, Ways and Means, and Public Works and Transportation. When the Committee on Energy and Commerce reported the bill on August 1, 1985, the bill was sequentially referred to the Committees on the Judiciary and Merchant Marine and Fisheries. The Committee on Ways and Means reported the bill on October 28 with the Committees on the Judiciary and Merchant Marine and Fisheries reporting on October 31. The Committee on Public Works and Transportation ordered the bill reported on October 10 and filed its report on November 12, 1985. And, Mr. Chairman, as you well know, other committees took a slightly different approach to achieving the cleanup of hazardous wastes sites than that taken by Energy and Commerce.

During the past several weeks, members and staff of the various committees have been meeting almost continuously to develop a consensus bill. The urgent need for this legislation was the driving force that kept our negotiations going. The funding authority for Superfund expired on September 30. This legislation was desperately needed, and we did not dare delay further. Our negotiations had their ups and downs, but they succeeded. The result is a comprehensive compromise which, I trust, will be approved by an overwhelming majority of our colleagues.

By achieving a compromise on the basic provisions, we have shortened the amount of time that will be needed for floor consideration, thus allowing such consideration to occur prior to the Christmas recess. Moreover, the expedited conference procedure will allow Members of both bodies to begin work on the Superfund issue over the holidays.

I believe that most of us in this House want a strong Superfund bill. I have certainly supported strong Superfund legislation over the years, and so have the overwhelming majority of the members of my committee. The Committee on Energy and Commerce has been the lead committee on this matter, starting with Superfund's initial passage in 1980 and again in 1984. And this year, my committee has put aside many of its own jurisdictional concerns in order to achieve a compromise on this most important legislation. It would have been very simple for those of us on the Committee on Energy and Commerce to remain inflexible, but this would not have served the Nation's overriding interests in the health of our citizens and the quality of our environment.

Mr. Chairman, we need a strong Superfund bill. The legislation before us today is just that. It is a consensus bill that deserves the support of every Member of this body, as evidenced by the bipartisan list of sponsors who have brought it to the floor today—from the leadership of the House to the leadership of every committee and subcommittee that has handled the issue. And it is a bill that we can take to conference with pride.

Mr. Chairman, the procedure before the body has been outlined in the discussion of the rule. The rule is a very simple one.

When the House addresses the question of amendments, an amendment in the nature of a substitute will be considered as offered. This is the consensus bill introduced late yesterday by the distinguished majority leader and the distinguished minority leader, and the leadership of the two principally affected committees, the Committee on Public Works and Transportation and the Committee on Energy and Commerce.

That substitute embodies the goals of the two committees, and also the hopes of the two committees that we will be able to shift from litigation and expenditure to money on lawyers to an effective use of the cleanup process.

It brings the industries affected into the cleanup process at an early time. It sees to it that the necessary steps are taken in a rational and orderly fashion to bring about the needed cleanup. It is, in effect, a means of carrying out the concerns that the committees have developed over the years since the original Superfund bill was enacted.

The situation is a serious one. I would urge my colleagues to attend very carefully to the need to move this legislation forward. I would want my colleagues to understand that early this fall the entire funding process of the Superfund bill lapsed and that now the Environmental Protection Agency is functioning at a very reduced level.

It is urgently necessary, with money running out and the program's momentum being lost that this legislation move forward speedily so that we may effectively cleanup hazardous waste, which is perhaps the largest single environmental problem that we face in this country.

There is an urgent need for full and speedy action by this body. There is no time for delay, and I urge my colleagues to make all haste in the enactment of this legislation and the compromise at the earliest possible moment.

Mr. Chairman, I defer to my distinguished friend, the gentleman from New York [Mr. LENT], the senior member of the subcommittee which considered this, with my commendations for an excellent job well done.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to return the compliment to the distinguished chairman, the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce, for the outstanding leadership that he has demonstrated and the patience that he has shown in shepherding this very important piece of legislation through a very difficult committee process and then a very protracted negotiation process.

Mr. Chairman, the reauthorization of Superfund is the most critical environmental legislation facing this Congress. We are all painfully aware of the need to reauthorize and increase the funding of this program, which expired September 30, 1985, but I want to emphasize that it is not only the fund that must be addressed, we must address and we do address the workings of the program itself.

I do not know anyone, on whatever side of the aisle, on whatever side of any issue with respect to Superfund, who is satisfied with the results of the first 5 years of Superfund. Everyone agrees that improvements are needed. There are differences of opinion, however, and we will learn of some of these differences today, over just what changes might be needed.

Some believe that the Administrator of EPA must have complete flexibility to design and manage the program. On

the other hand, there are those who believe that the only way to make the program work is to direct the EPA along some very narrow, some very rigid lines.

The legislation that we bring to the floor today is the result of a broad, bipartisan compromise. This compromise has produced a balance between the need for flexibility on the part of the EPA to develop and manage hazardous waste cleanups and the desire on the part of some to set narrow confines in which the EPA is permitted to operate. While still striking this balance, considerable improvements have been made over the existing program.

First and foremost, the agency is given ample funds to pay for the next 5 years of cleanup activity. National, uniform cleanup standards are incorporated in the legislation. The agency is given reasonable and, I believe achievable annual schedules for the commencement of the initial site studies and for the cleanup itself.

The bill also contains some groundbreaking settlement provisions that are designed to harness the energy and resources of the private sector to undertake cleanup. The substitute contains provisions which will allow citizens to sue in the Federal courts to compel cleanup and which will correct any injustices done by the diverse State statutes of limitations.

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Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS], a member of the full Committee on Energy and Commerce.

Mr. FIELDS. Mr. Chairman, the timely cleanup of hazardous waste sites is one of the most significant environmental concerns facing our Nation and my congressional district today. Unfortunately, hazardous waste site cleanup is also one of the most complex problems facing the 99th Congress. We are only beginning to learn the extent of the hazardous waste problem and develop technology to deal effectively with hazardous waste cleanup.

We all agree that hazardous waste sites must be cleaned up as rapidly and effectively as possible. But, how we, in Congress can best craft Superfund legislation to achieve the goals of rapid and effective hazardous waste site cleanups has been a matter of legitimate disagreement.

For the past 7 months, the Energy and Commerce Committee, along with several other House committees, has worked diligently to craft a compromise package which would merit the support of a majority of the House of Representatives.

As with any compromise, the bill before us today will not completely satisfy every Member of Congress. I am not happy with every provision of the compromise package. I am concerned that the funding level of H.R. 2817 is too high, the scope is too broad and the incentives for responsible parties to settle, not litigate, are not strong enough.

Further, I strongly believe the expanded citizen suits provision in the compromise is unwise. Allowing citizens to sue in Federal court when a release or threatened release of a hazardous substance presents an "imminent and substantial endangerment" to human health and environment will effectively take management of hazardous waste site cleanup away from the EPA and turn it over to every Federal district court judge in the Nation. Valuable time and money which should be spent on hazardous waste site cleanup will instead be spent on more litigation—trying to define and discern what imminent and substantial endangerment means.

Despite my reservations, I believe H.R. 2817 is a reasonable compromise. And, more importantly, it is workable. Because, when all the rhetoric on Superfund has ended, the bill Congress passes must be implemented in the real world to cleanup hazardous waste sites.

H.R. 2817 properly emphasizes the cleanup of hazardous waste sites as the primary goal of the Superfund Program. The bill's authors have resisted the temptation to make Superfund an environmental Christmas tree.

H.R. 2817 takes some major steps toward increasing voluntary settlement among responsible parties, rather than increasing expensive litigation, by providing EPA with discretionary authority to grant releases from liability under certain circumstances and by codifying EPA's settlement procedures which give responsible parties the assurance that set guidelines will be followed in the settlement process.

H.R. 2817 requires cleanups to achieve the standards of other environmental laws when those laws are relevant or appropriate but does not eliminate EPA's flexibility in selecting remedies which are appropriate for widely divergent sites with widely divergent problems.

The bill puts the heat on EPA to accelerate cleanups but avoids unattainable schedules which would only damage the Superfund Program.

H.R. 2817 ensures that citizens and local health and safety officials will have access to vital health information from companies which produce or utilize potentially hazardous chemicals, but does so in a way which is reasonable and not overly burdensome for companies.

Finally, the bill spreads the tax burden for hazardous waste site cleanup more fairly. Currently 12 companies pay approximately 70 percent of Superfund taxes, even though EPA has identified over 4,000 businesses and entities as potential contributors at hazardous waste sites.

Texas pays almost 60 percent of the current petrochemical feedstocks tax and 28 percent of the taxload levied against crude oil. My district, alone, pays a full 9 percent of all feedstocks tax. Combining feedstock and crude oil taxes, Texas pays close to 50 percent of all taxes levied for hazardous waste cleanup.

As hearings in the Energy and Commerce Committee so vividly highlighted, the trade balance of the U.S. petrochemical industry is being squeezed already. An unbearable tax burden on the petrochemical industry will further hamper the industry's international competitiveness, increase our trade deficit, and result in lost jobs for American workers.

The Downey amendment, which will be before us later in debate, would increase the petroleum tax 1,500 percent and increase chemical feedstocks taxes by 66 percent. These increases coupled with a $2 billion waste-end tax will cripple the U.S petrochemical industry. I urge my colleagues to soundly reject the Downey proposal.

In conclusion, I believe H.R. 2817 strikes a reasonable balance between environmental and economic concerns. And, it does so without compromising the health and safety of the American public. I urge my colleagues to support the bill in its present form and to reject undesirable amendments.

Mr. DINGELL. Mr. Chairman, at this time I have no requests for time, and I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, today we take another step toward a cleaner and safer environment. Today, we finally take up the Superfund bill.

The message from across the country is clear. This is the time to establish tough standards and tough schedules. This is the time to expedite the cleaning up of hundreds of sites ranging from Eagle Harbor in my district to the Butler Tunnel site which was reactivated by Hurricane Gloria. The compromise worked out by the leaders of the five committees goes a long way toward achieving this goal.

This Superfund bill, Mr. Chairman, requires the Environmental Protection Agency to begin construction at 600 sites over the next 5 years. This bill will help clarify Federal environmental standards by linking major laws like the Clean Water Act to the standards used to evaluate Superfund sites. This bill will also allow meaningful suits by citizens who face "imminent and substantial endangerment" from toxic wastesites. Last, this bill will provide the needed funds to ensure that

we get a real start on cleaning up toxic dumps.

Mr. Chairman, I urge my colleagues to support this strong Superfund bill.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. ECKART] who is a major architect of the language in the legislation in the Committee on Energy and Commerce.

Mr. ECKART of Ohio. Mr. Chairman, as primary sponsor of H.R. 2817, the Superfund amendments of 1985, I am very pleased to be able to come before you today, with my colleagues from the Energy and Commerce Committee, the Public Works and Transportation Committee, and the Committees on the Judiciary and Merchant Marine and Fisheries, and report to you that we have reached a sound, comprehensive compromise on the Superfund reauthorization bills reported from all committees.

Mr. Chairman, the compromise package we bring to you today is the result of countless hours of intensive, difficult negotiations. Particularly with respect to the Committees on Energy and Commerce, and Public Works and Transportation. Several areas of initial disagreement were hammered out. It was tough going. But, as we promised you and all our colleagues in the House, we were committed to resolving these issues so that we might bring to the House floor a united position on this most important environmental legislation of the decade. We have succeeded.

I urge my colleagues to support this bill and proceed expeditiously now to enactment of this most important environmental legislation.

Mr. Chairman, as I have noted, the compromise package before us today is the product of intense negotiations among all parties concerned, both within this body and without. There is no finer example of the success of those deliberations than the amendment embodied in section 121—cleanup standards—relating to the issue of State involvement in the Superfund process.

Mr. Chairman, this amendment is the result of untold hours of discussion and debate among representatives of the Federal Government, the States, and members of several House committees. Represented at countless meetings convened on this issue were the National Governors' Association, the Association of State and Territorial Solid Waste Management Officials, the States of Illinois, New Hampshire, Florida, Colorado, New Mexico, Minnesota, and my own State of Ohio. From the Federal perspective, we had the Environemntal Protection Agency, the Departments of Justice, Defense, and Energy. And finally, we heard from the Committees on Armed Services, Public Works and Transportation, and Energy and Commerce. The staffs and members of these committees provided advice and counsel to the State and Federal participants in all the discussions. The ultimate goal of all concerned was to fashion a statutorily mandated procedure whereby the legitimate and important interests of the States in the Superfund cleanup process were recognized, protected, and enforced, and at the same time to protect the integrity of the Federal Superfund Program so that it can move forward expeditiously to achievement of its purpose—cleaning up the hazardous waste that threatens the health and environment of the citizens in all States of our Nation.

Mr. Chairman, I believe that all concerned succeeded admirably in these goals. The provisions for mandated State involvement adopted in this compromise package represent important new strides in the hazardous waste cleanup effort. Under these provisions, the administrator is required to promulgate regulations providing for extensive State involvement in the initiation, development, and selection of all cleanup action. At a minimum, these regulations must include:

State involvement in decisions whether to perform preliminary assessments and site inspections at possible hazardous waste dumpsites.

State concurrence in listing sites on the national priorities list [NPL].

State concurrence in deleting sites from the NPL.

State participation in long-term planning process for all remedial sites within the State.

A reasonable opportunity for States to review and comment on:

The remedial investigation and feasibility study and all data and technical documents leading to its issuance;

The planned remedial action identified in the RI/FS;

The engineering design following selection of the final remedial action; and

Other technical data and reports relating to implementation of the remedy.

In addition, this provision includes a statutorily mandated presumption that all State cleanup standards automatically apply to Superfund cleanups. This presumption may only be defeated in a narrow, specifically enumerated set of circumstances. States are given for the first time an absolute right to have EPA's decision on State standards reviewed by a Federal court. Only if a court finds that, under one of the limited circumstances I just mentioned, the EPA's decision not to apply the State standard was supported by the evidence and in the best interest of protecting human health and the environment will a State be required to pay the additional cost of having the cleanup action meet the State standard. Important to note here is that, even if a court finds that the EPA Administrator's decision is justified, the State still has an absolute right to insist that its standards be met.

Further, States are allowed to require that permits be issued for Superfund cleanups under the State programs authorized by the Federal Clean Air Act, the Safe Drinking Water Act, and State groundwater protection programs. These permits will be issued by the State in accordance with the remedial action mutually agreed upon by the State and the EPA, under the new regulations for the State participation in selection of that remedial action. The State has an absolute right to enforce the terms of its permit against potentially responsible parties—or Federal agencies in the case of Federal hazardous waste sites—in Federal court.

In the case of Superfund enforcement actions against potentially responsible parties, States must be given an opportunity to participate in negotiations between EPA and the responsible parties regarding all aspects of the proposed cleanups, and to become a signatory to the consent decree which must be lodged with the court upon settlement. The State, of course, has the right to enforce the terms of the consent decree in court.

Mr. Chairman, these provisions establish a fair, enforceable process to protect the rights of all States, and thus their citizens, in the Superfund cleanup process. I am very proud of the fine work we have accomplished on this most important issue, and I urge my colleagues to give it their well-deserved support.

Mr. Chairman, another issue of crucial importance to the success of the Superfund Program is the ability of the EPA and the Justice Department to force responsible parties to undertake cleanup actions. The key element of the enforcement program is the Superfund liability scheme of strict, joint, and several liability. H.R. 2817 absolutely protects this standard of liability. Under this legislation, no change has been made in the standard of liability that applies under CERCLA. As under section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1321, liability under CERCLA is strict, that is, without regard to fault or willfulness. Where appropriate, liability under CERCLA is also joint and several, as a matter of Federal common law.

Explicit mention of joint and several liability was deleted from CERCLA in 1980 to allow courts to establish the scope of liability through a case-by-case application of "traditional and evolving principles of common law" and preexisting statutory law. (See 126 CONGRESSIONAL RECORD H11787 (Daily Ed. Dec. 3, 1980) (Statement by Mr. FLORIO); 126 CONGRESSIONAL RECORD

S14967 (Daily Ed. Nov. 24, 1980) (Statement by Senator STAFFORD).) The courts have made substantial progress in doing so. The Committee on Energy and Commerce and the other committees involved in this bill fully subscribe to the reasoning of the court in the seminal case of *United States* v. *Chem-Dyne Corporation*, 572, F. Supp. 802 (S.D. Ohio 1983), which has established a uniform Federal rule allowing for joint and several liability in appropriate CERCLA cases as that court held:

A reading of the entire legislative history in context reveals that the scope of liability and term joint and several liability were deleted to avoid a mandatory legislative standard applicable in all situations which might produce inequitable results in some cases. (Citations omitted.) Rather, the term was omitted in order to have the scope of liability determined under common law principles, where a court performing a case by case evaluation of the complex factual scenarios associated with multiple-generator waste sites will assess the propriety of applying joint and several liability on an individual basis. (*U.S.* v. *Chem-Dyne*, supra, at 808).

(W)hen two or more persons acting independently caused a distinct or single harm for which there is a reasonable basis for division according to the contribution of each, each is subject to liability only for the portion of the total harm that he had himself caused. But where two or more persons cause a single and indivisible harm, each is subject to liability for the entire harm. Furthermore, where the conduct of two or more persons liable under (section) 9607 has combined to violate the statute, and one or more of the defendants seeks to limit his liability on the ground that the entire harm is capable of apportionment, the burden of proof as to apportionment is upon each defendant. 572 F. Supp. at 810 (citation omitted).

This uniform Federal rule on joint and several liability is correct and should be followed. It is unnecessary and would be undesirable for Congress to modify this uniform rule. Thus, nothing in this bill is intended to change the application of the uniform Federal rule of joint and several liability enunciated by the Chem-Dyne court.

A third important element of the Superfund Program is the way in which EPA determines "how clean is clean" in selecting and implementing a cleanup remedy. For this reason, this bill contains a section devoted specifically to establishing cleanup standards, section 121, and encouraging whenever possible the implementation of permanent cleanup measures at hazardous waste facilities.

Under these provisions, EPA is required, to the maximum extent practicable, to implement a cleanup remedy which will achieve permanent destruction of the hazardous substances involved. I am convinced that only in this way will we ever be able to finally solve the hazardous waste problem and prevent the irreversible poisoning of our Nation's environment, particularly its ground water. This is so important that, for sites where a permanent remedy is not implemented, we have required that EPA and the States assure that those sites are periodically monitored and reviewed to determine whether the technology allowing for a permanent remedy has yet been developed, and if so, to implement that remedy when necessary to protect human health and the environment. This must be a paramount priority in EPA's implementation of the provisions relating to cleanup standards.

Another issue that has been the subject of much debate over "how clean is clean" is the applicability of water quality criteria under the Federal Water Pollution Control Act to Superfund cleanups. Under this provision, the Administrator of EPA must apply water quality criteria, which are health-based standards existing for about 120 hazardous substances, whenever they are relevant and appropriate under the circumstances presented by the release into the environment at the facility. It is important that these criteria, along with other standards promulgated under the Federal environmental laws, be applied to Superfund cleanups in a uniform manner so as to assure the maximum protection of human health and the environment possible, consistent with all requirements of section 121.

Working hand in hand with this bill's provisions on cleanup standards are two other provisions—requirements for public participation in selection of the cleanup measure—section 117—and the implementation of new health assessment and protection authorities—section 116.

Communities affected by Superfund sites will demonstrate much stronger support for actions necessary to clean up those sites if the community is involved from the beginning in determining the actions which will be necessary to complete the cleanup.

The bill requires the Administrator to provide a reasonable opportunity for public comment on any proposed plan for remedial action before such plan is made final, including holding a public meeting and keeping a transcript of the proceeding. The Administrator is also required to publish an explanation of his reasons if he or she rejects significant aspects of such comments upon adopting a final plan. The section further provides that if any response action is taken pursuant to a court order or consent decree which differs in significant respects from the final remedial plan adopted by the Administrator, he or she shall publish an explanation of such differences. The section defines publication as including, at a minimum, publication in a major local newspaper of general circulation.

The provision is not intended to be unreasonably burdensome for the Administrator. Published information must be adequate to inform the community of the proposed remedial action but the committee does not intend that the Administrator must publish in local publications every shred of evidence or communication which is available. It is intended, however, that all information be made available to the community, and the public meeting be held in a convenient, central location so that individuals who choose to pursue a full understanding of the proposed remedial plan and its alternatives may do so.

Under this section, the committee also gives the Administrator authority to make technical assistance grants to communities. Such grants are limited to one for each facility listed on the national priorities list, and the group seeking the grant must provide one-fifth of the funds necessary for the grant project, unless the Administrator waives this matching requirement on the basis of the requesting groups' financial need. The amount of the grant is limited to $25,000, except that the Administrator may allocate more funds where he or she determines a higher amount is necessary to carry out the purpose of this section.

Such grants could play a significant role in reducing the level of distrust among communities, responsible parties, and the governmental agency taking the lead in cleanup. The intent of the provision is to allow communities affected by Superfund facilities on the national priorities list to hire a competent scientific or other expert consultants to review and assess data and information which has been prepared by the EPA Administrator with respect to the facility.

Among the documents most important for communities to understand will be assessments, conducted by the Agency for Toxic Substances and Disease Registry at HHS, of the health risks posed by the hazardous substances, pollutants, and contaminants found at the facility. Under this new provision, health assessments will now be required to be performed at virtually every site on the national priorities list, as well as sites which may not be on the list, but which nonetheless may pose a danger.

The information developed in these health assessments on the links between exposure to hazardous substances and adverse human health effects is crucial to the sound implementation of the Superfund Program. Currently, we are plagued by uncertainty about what is happening to the health of our Nation's citizens as a result of what they are drinking in their water and breathing in their air because of hazardous substance releases. We know it isn't good, but we do not know just how bad it is. We desperately need this information in order to

better determine how to respond to the problems posed by hazardous waste. Implementation of the health assessments provision of H.R. 2817 will assure that finally we begin to collect this vital, concrete evidence.

Finally, there is one last issue I wish to specifically address. The Superfund reauthorization bill approved by the Energy and Commerce Committee contained a provision which expressly made responsible parties liable for Government response costs incurred before the passage of CERCLA in 1980 but after the passage of RCRA in 1976. The bill that this House is being asked to approve does not include such a provision. The provision was not included because, as with the standard of liability under CERCLA, that is joint and several liability. The courts are currently addressing this issue under the law as enacted in 1980, and we are moving in the right direction in holding polluters accountable.

With respect to section 107, the liability section, I would also like to add that we are pleased with the way in which most courts have been construing the limited nature of the defenses the Congress has made available under section 107(b). The listed defenses are the only defenses which are available to avoid liability under section 107(a). There should be no other defenses, including equitable defenses, that defeat liability under sections 106 and 107 of the act. One of our principal goals in this reauthorization is to maintain and build upon the effective liability scheme which applies under CERCLA.

Mr. Chairman, I have not attempted to address every major issue embodied in this compromise bill. Several others are of great importance to me, and I will speak on those, along with my colleagues from the other committees, as they arise during today's consideration. Suffice it to say that I am very proud to be the primary sponsor of this legislation. It is a fine product, sound environmentally and programmatically. It deserves the wholehearted support of this body.

□ 1345

Mr. LENT. Mr. Chairman, I have no further requests for time at this time, and I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. FLORIO], the chairman of the subcommittee of our committee.

Mr. FLORIO. Mr. Chairman, I am pleased to rise today in support of this consensus piece of legislation that is the product of many hours of hard work by Members on both sides of the aisle throughout the House.

As we are all aware, this has been a controversial bill. Unfortunately most of the controversy arises because of the dismal performance of the Environmental Protection Agency. If EPA were aggressively implementing the existing law, many of the provisions of this bill would be unnecessary. But EPA has performed poorly and any Superfund reauthorization must establish standards and goals for cleaning up the Nation's hazardous waste sites.

Five years ago, the Congress passed the original Superfund law that committed $1.6 billion to the cleanup of abandoned hazardous waste sites. EPA has listed more than 800 sites as national priority sites for cleanup, out of the 23,000 such facilities that are known to exist across the country.

Unfortunately, after 5 years of EPA effort, not a single site on the National Priorities List has been cleaned up. EPA's record on all other parts of this program is equally dreadful.

I believe firmly that we must set this program straight, and the only way to do that is to give the Agency firm direction and requirements that it must meet. To do less is simply to forsake any hope that we will make meaningful progress in cleaning up hazardous waste sites around the country.

If we have learned anything from the experiences of the past 5 years, it is that without a clear directive from Congress the EPA will do nothing. Leaving the agency to follow its preferences is not helpful to the environment, to public health, or even to the companies whose money is being used to pay for these cleanups. If someone is not performing up to expectations, there is no alternative but to establish requirements for them to meet.

I have stated repeatedly that a credible effort to reform the Superfund Program must contain, at a minimum, the following provisions:

A strict, mandatory annual schedule for the initiation of cleanup at priority sites;

Uniform national cleanup standards to determine when work at a site has been sufficient to protect human health and the environment. Such standards must mandate permanent treatment of Superfund wastes whenever such technologies are feasible and achievable;

Establishment of a citizen's right to sue polluters for cleanup when EPA and the States are not acting at a site;

Prohibition of sweetheart deals in which polluters' future liability for undetected contamination is waived and the fund is left to absorb all cleanup costs;

Creation of a cleanup program for leaking underground gasoline storage tanks which preserves appropriate liability for the major oil companies that often own and operate such tanks; and

Establishment of a strong and effective community right to know program which requires the disclosure of basic information about the nature and scope of toxic emissions from operating chemical plants.

I am extremely pleased that this compromise incorporates the items which I have mentioned. There are strong annual schedules, real cleanup standards, liability for future releases, a strong underground tank program, citizens' suits, and a community right-to-know program.

I believe the bill can be improved in some areas, and I think there will be various amendments offered which address these important concerns and deserve our support. But there is no question that we can be proud of the basic bill we are considering today.

I would like to congratulate all involved in producing this agreement. Chairman DINGELL has worked diligently to reach accommodation. Chairman HOWARD and Congressman ROE have worked mightily over the past several months, in their committee and in these negotiations, and I think the compromise they have produced is as good a product as we could hope for. Mr. LENT, Mr. SNYDER, Mr. STANGELAND, and Mr. BROYHILL have worked hard to reach this compromise.

I also believe that all the Members, and there are many, who have worked so hard over the last several months to ensure that the House considers a bill that can be described as good for the environment, deserve congratulations for this compromise. Nearly all the issues we set out to include in a Superfund reauthorization are included in this compromise, and members can be fully satisfied with the work they have done.

One key issue that we will have an opportunity to vote on today is how we are to fund the $10 billion effort called for by this legislation. As members know, the Ways and Means Committee narrowly approved a value-added tax to support Superfund. This approach is opposed by the administration, by many industries and by the environmental community because it is a regressive tax that does not target the obligation to pay for cleanup on those firms that created the problem in the first place.

Mr. DUNCAN will offer an amendment which is unfortunately a disaster for Superfund. It means a smaller Superfund, fewer cleanups and more disease and destruction across the country. The program we are considering today requires $10 billion, and the Duncan amendment simply does not provide it.

Mr. DOWNEY will offer an amendment to the bill which would restore the principle of "polluter pays" to the funding mechanism we will use to support Superfund. Chairman ROSTENKOWSKI strongly supports the Downey amendment, as do a broad-based and unusual coalition of industry and environmental representatives.

The President has threatened to veto any Superfund legislation that relies on a broad-based tax. To safeguard the future of the program and to restore the important principle of "polluter pays," I urge my colleagues to support the Downey amendment.

Mrs. ROUKEMA. Mr. Chairman, it is the unfortunate reality that nothing has changed since I took to the floor of this House earlier this year to urge swift enactment of Superfund reauthorization legislation. Superfund continues to be the highest environmental priority for the people of New Jersey and the citizens of our Nation. The gravity of the National Toxic Waste Program demands that Congress move swiftly to enact an effective reauthorization bill.

I deeply regret that Congress has been racked by delay and indecision over the past several months on this issue. But I now urge my colleagues to put aside their personal differences and, in a spirit of compromise, adopt strong Superfund reauthorization legislation and do it now! Superfund reauthorization cannot wait until next year.

At thousands of sites across the country, toxic chemcials are poisoning our ground water, land and air. Unfortunately, the extend of this problem and the future costs involved in correcting it remain unknown. The Office of Technology Assessment last summer estimated that as many as 10,000 sites may require cleanup at a cost of $100 billion over the next 50 years.

Nationwide there are 850 sites on the national priority list. Ninety-eight of these sites are in New Jersey alone, more than in any other State. My own district in northern New Jersey contains four sites listed on the national priority list. The A.O. Polymer Co. in Sparta, the Maywood Chemical Co. in Maywood, Rochelle Park, the Metaltech/Aerosystems Co. in Franklin, and the Ringwood Mines and Landfill in Ringwood are all presently in various stages of cleanup actions under the Superfund Program. Recognition of such sites has been belated, However, and official reaction has been too slow.

It is hard to overstate the need for enactment of the bill before us today. With each passing day, both the damage to the environment and to human health increase. In the long run it is in everyone's interest to deal with the hazardous waste problem today, rather than tomorrow. I urge my colleagues to support the Superfund package which is before the House today.

H.R. 2817 reauthorizes the Superfund Program at a $10 billion funding level for 5 years. It directs the EPA to evaluate the hazardous waste sites currently on its inventory, and to place those posing the most serious health threats on the National Priorities List. EPA will be required to begin remedial investigations at 150 sites next year and at even greater numbers in future years. In addition, this bill estimates uniform, national cleanup standards for Superfund cleanup actions.

Other important provisions of H.R. 2817 include community right-to-know regulations which require owners and operators of hazardous waste facilities to file important safety information with State and local officials. The bill also permits citizens to sue private parties to compel cleanup of hazardous waste sites under certain circumstances.

Overall this legislation represents a compromise which will allow critical cleanup actions to continue without undue delay. As I encourage my colleagues to support this bill, I am hopeful that we can move forward swifty towards final enactment of this crucial legislation.

The CHAIRMAN. The Chair would inform the gentleman from Michigan [Mr. DINGELL] that he has 16 minutes remaining, and the gentleman from New York [Mr. LENT] has 18 minutes remaining.

The Chair's intention, as has been expressed to the various chairs involved in the various committees of assignment is that we would have the two major committees of direct assignment, joint assignment, the Committee on Energy and Commerce and the Committee on Public Works and Transportation taking their time and reserving part of their time to be utilized at the end and after they conclude, and then to have the Committee on Merchant Marine and Fisheries, the Committee on the Judiciary, and the Committee on Ways and Means, not necessarily in that order, utilize their time in the middle.

Mr. DINGELL. That ruling, Mr. Chairman, is eminently acceptable to the majority on the Committee on Energy and Commerce, and we reserve the balance of our time at this point.

Mr. LENT. I would also, with that understanding, Mr. Chairman, reserve the balance of my time.

Mr. CHAIRMAN. The chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD] is recognized for 30 minutes.

Mr. HOWARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure for me to bring to the floor the bill H.R. 2817, the Superfund Amendments of 1985. It is a good bill that will strengthen and expand the Superfund Program and it is worthy of the endorsement of this House.

Before describing the major features of this important legislation, I want to acknowledge the contributions of the people who worked on this bill. There were hundreds of hours, including all-night sessions and complete weekends, put in on this bill by my colleague, BOB ROE, the chairman of the Water Resources Subcommittee. He worked those long hours preparing the original committee bill and then on the torturous negotiations with the other committees. I also want to thank the gentleman from Minnesota [Mr. STANGELAND], the ranking minority member of the subcommittee, and the gentleman from Kentucky [Mr. SNYDER], for their work on the bill.

H.R. 2817 was jointly referred to the three committees of major jurisdiction—our Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Ways and Means. It was later sequentially referred to the Committee on Merchant Marine and Fisheries and the Committee on the Judiciary because of these committees' interest in specific aspects of the bill. After these five committees reported the bill in varying forms, the committees worked together to produce a bill which effectively combines the knowledge and experience of all those involved. This new bill was introduced yesterday by the distinguished majority leader, the genleman from Texas [Mr. WRIGHT] and the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], and was jointly referred to our Committee on Public Works and Transportation and the Committees on Energy and Commerce and Ways and Means. The rule makes the text of this new bill in order as the original text of H.R. 2817 for the purpose of floor action.

This substitute is the product of long and paintaking negotiations on numerous issues, sometimes on a word-by-word basis. It was truly a difficult process but it produced a bill of which all of the committees involved can be proud. It is a bill that the American public can view as protecting its interests on an issue on which there should be no compromise.

This bill expands the Superfund Program by increasing the funding available to clean up these frightening hazardous waste sites and to research means of developing new technology for permanent treatment of hazardous materials. Under this bill, $10 billion will be available for the Toxic Waste Program over 5 years.

For a variety of reasons, ranging from mismanagement to a lack of sufficient funding and legislative direction, the first 5 years of the Superfund Program have been very disappointing. The bill we are considering today is designed to correct the deficiencies in the program and to ensure that it will continue at an effective rate in order to speed the cleanup of hazardous waste sites which are presenting threats to human health and environment. This substitute does that by requiring the Environmental Protection Agency to meet a firm schedule for the initiation of remedial action on sites now listed on the National Priorities List. The bill also expands the scope of the program by requiring that the NPL be increased to 1,600 sites by January 1, 1988, and by directing the initiation of remedial investigations and feasibility studies.

This substitute includes a strong provision requiring the users of toxic substances to report data on those substances and the emission of extremely toxic substances to local officials and to develop emergency response plans.

It applies the standards of existing environmental laws or their equivalent to any discharge from a hazardous waste site and allows individual citizens to sue EPA for failing to take action on a release or threatened release from a hazardous waste site.

Most important of all, this bill establishes the control of hazardous wastes and the cleanup of abandoned hazardous waste sites as a top priority of the Federal Government. The effort of the last 5 years was just not good enough. It was not administered properly and it is up to us to direct EPA to get to work. There were only six sites cleaned up in 5 years, one of which is already leaking, and this Nation cannot tolerate that kind of record.

It is time for us to get moving on this problem. There are thousands of sites that need to be evaluated—some say more than 10,000 sites. The cost of those cleanups could be $100 billion or more. We have identified the worst of the worst but we have not seen the type of progress that we expected when this program was first authorized. This substitute will produce action. Action is what anyone living near an abandoned hazardous waste site damands and we must respond. Those of us who have districts with Superfund sites know these problems and we know the urgency of getting the cleanups started. We cannot tell people whose water and air are threatened by poisonous releases to wait. They can't wait and they won't wait. And they should not have to wait.

This bill is a big step toward moving this program in the right direction. I urge my colleagues to support it so we can continue the process of attacking these hazardous waste sites. With this environmentally oriented bill that represents a major advance in the protection of the American people from hazardous waste, we can do that.

□ 1355

Mr. Chairman, I reserve the balance of my time.

Mr. SNYDER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in strong support of H.R. 2817, the Superfund Amendments of 1985. The Public Works Committee has looked forward to this moment when we could begin consideration of a comprehensive and farsighted Superfund bill. As with the rest of the Nation, we sense the extreme urgency of the toxic waste threat. After the judicious deliberations that have taken place over the last 5 months and particularly the last 3 weeks, we are now ready to act with swiftness and sensitivity.

First, let me congratulate the subcommittee chairman, BOB ROE, and the ranking minority member, ARLAN STANGELAND, as well as the committee chairman, JIM HOWARD, for their leadership on the Public Works Committee. The legislation before us today is a major accomplishment and they are largely responsible. I can personally attest to the extremely through and open review of each and every issue during countless sessions conducted by the committee's leadership. Given the personal, indepth time that has been spent on crafting this legislation, I am confident that its general direction is the proper one for the Nation and one which should gain wide-ranging support.

Second, let me congratulate the leadership of all the other committees—particularly the Energy and Commerce Committee. We deeply appreciate the cooperative contributions of Chairman JOHN DINGELL and ranking minority member JAMES BROYHILL, and other primary players such as DENNIS ECKART and NORMAN LENT.

In recent months, five committees have reported differing versions of the House Superfund reauthorization bill. For the last 3 weeks, at least six committees have been negotiating to produce a single, consensus bill as the vehicle for floor consideration. During these meetings, the goal has been to reach a sound compromise among all the competing versions so that we could avoid an all-out floor fight. All of us realize that without such constructive cooperation, we run the risk of postponing Superfund reauthorization until 1986. Mr. Chairman, neither a bloody floor fight nor congressional inaction would benefit anyone.

The primary players in these crucial negotiations have been the Public Works and Energy and Commerce Committees, the main committees of jurisdiction. Together, we have worked extensively with the Judiciary Committee, the Merchant Marine and Fisheries Committee, the Science and Technology Committee, the Armed Services Committee, and other interested Members in striving to reconcile any and all differences.

Mr. Chairman, rarely have I seen such bipartisanship and willingness to work toward compromise on legislation as crucial as this. Recognizing the extreme need to reauthorize Superfund this year, each committee has made a yeoman's effort to craft a workable, consensus bill.

Today's legislation embodies the most sensible and comprehensive approach to Superfund to date. The substitute not only manages to incoroprate widely disparate views on a wide range of topics, it does so in a coordinated, sensible manner. This bill represents a middle-ground approach. At the same time, it bears the identifiable mark of each committee and the support of the leadership as evidenced by the cosponsorhiip of the compromise by the majority leader Mr. WRIGHT and the Republican leader Mr. MICHAEL.

Congress enacted the Superfund law in 1980 to give the Federal Government the authority it needed to clean up hazardous waste sites and otherwise protect public health and the environment from releases of manmade hazardous substances. The legislation before us today does not change the basic thrust of the original Superfund Program. Instead, the consensus bill amends and refines the program to reflect what 5 years of experience and detailed analysis have taught us.

Title I of the legislation amends response authorities and liability provisions in the 1980 act. The bill establishes cleanup schedules and standards that give EPA and other agencies specific direction, without—as a general rule—depriving them of needed flexibility.

I do have some concern over specific portions of the mandatory scheduling provisions. For example, the bill requries EPA to begin remedial actions at an annual rate that goes from 125 in the first year to 175 in the fourth year—600 in all over 4 years. While I would never want to grant EPA complete discretion, I do feel the Agency needs some flexibility in working such a complex program. To address these concerns, I proposed that EPA be required to report to Congress if it cannot achieve the schedules. Unfortunately, the final compromise does not embody this approach.

I am concerned about the feasibility of mandatory schedules partly because of my prior experiences in Congress. If there's one lesson I have learned, it is that trust fund programs are not always used for the same purposes under which they were established. With the Gramm-Rudman legislation and other restraints, it is almost certain that the Appropriations Committee would not appropriate the full funding amount contemplated in this bill. The temptation to Finance the deficit or offset other expenditures by not spending trust fund moneys has led to artificial slowdowns in the Highway Program, for example. I predict the same outcome with the Superfund. Thus, with EPA's greatly increased duties but continually restricted funding, affected citizens will likely have EPA into court and, as a result, court-ordered cleanup programs will be the actual mechanism by which cleanups occur.

On balance, however, title I has some very good and workable provisions. Each State's important right to participate in the cleanup process is jealously guarded. At the same time,

the Federal Government will be able to carry out a uniform, nationwide program. The bill contains a comprehensive new section of settlements designed to encourage and facilitate negotiated private party cleanups. This will lead to fewer lawsuits and more cleanups. Specfically, EPA may issue covenant not to sue to private parties who enter into certain settlements and may limit the future liability of de minimis—or minimal—contributors to the hazardouis waste problem.

The bill expands the health related authorities under Superfund. Toxicological profiles and health assessments are provided for in the bill so that Superfund remains, first and foremost, a public health statute. The bill aslo establishes a badly needed program to develop alternative and innovative treatment technologies. Our bill also remedies the unnecessary problems facing response action contractors so that the Nation can count on cleanups in the future.

Title II of the legislation squarely addresses some of the shortcomings in the current Superfund Program. Our bill directs the bipartisan Government Accounting Office to study the insurance crisis which, in recent months, has captured the attention of the entire Nation and which may threaten the very existence of the Cleanup Program.

The substitute also provides for the cleanup of leaking underground storage tanks—a newly discovered problem that endangers the Nation's water supplies, by expanding upon the Regulatory Program in the Resource Conservation and Recovery Act [RCRA] established last year.

One of the bill's major accomplishments is in the area of citizen suits, which authorize litigation by affected parties, including private citizens acting as attorney general. The bill allows affected citizens to sue alleging either: First, the violation of any Superfund requirement; second, the failure of EPA or other Federal agencies to perform ministerial duties; or, third, the release of a hazardous substance from a hazardous waste disposal site posing an imminent and substantial threat to public health or the environment.

This compromise embodies the middle ground approach of the Public Works committee. The Energy and Commerce's bill omitted the third leg of the triad—the imminent and substantial endangerment language. On the other hand, the Judiciary Committee contained a much broader citizen suits provision which included the controversial third leg. The Public Works bill, and the final compromise among all the committees, contains the imminent and substantial endangerment language but limits the citizen suits to situations involving releases or threatened releases from hazardous waste disposal sites. This properly narrows the scope of the Judiciary's original provision which would have allowed suits for releases from any facilities.

In response to the Bhopal and Institute, WVA, crises, title III of our bill provides for comprehensive community right-to-know and emergency response programs.

Title IV addresses oil pollution liability and compensation in the most comprehensive, systematic manner to date. The Public Works Committee has worked closely with the Merchant Marine and Fisheries Committee to draft this important legislation that will coordinate the existing patchwork of Federal laws regarding oil spill liability. Tragically, Congress has failed to enact this badly needed legislation during the last five sessions of Congress. We can do something about that today.

Title V of the legislation generally provides for a $10 billion, 5-year Superfund Program. This will give the Nation the extra time and money which it so desperately needs.

This vital compromise bill, deserves the favorable consideration of every Member. Mr. Chairman, we have come too far and worked too hard to stop now. The Nation has been waiting for us to help solve the toxic waste threat. It is time we stopped talking and started delivering. This bill represents the first step in responding to the public's needs. We must continue this progress and we can do so by strongly supporting today's consensus bill and opposing amendments that disturb the balance we have achieved.

The CHAIRMAN. The gentleman from Kentucky [Mr. SNYDER] has consumed 4 minutes.

Mr. HOWARD. Mr. Chairman, I yield such time as he may consume to the chairman of the Subcommittee on Water Resources of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I am pleased to bring to the floor today the Superfund Amendments of 1985. This bill is the culmination of the efforts of five committees of the House to which the bill was jointly and was sequentially referred. It was jointly referred to the three committees of primary jurisdiction—our Committee on Public Works and Transportation and the Committees on Energy and Commerce and Ways and Means. It was also sequentially referred to the Committees on Merchant Marine and Fisheries and the Judiciary, in view of their interest in specific aspects of the legislation.

These committees, after reporting the bill, developed a new compromise bill, H.R. 3852, representing the benefits of their respective knowledge and experience. This new bill also includes provisions worked out with the Committee on Armed Services and Science and Technology.

The Superfund Amendments of 1985 is the culmination of extensive hearings and analysis of the Superfund Program and the need for change in the program to better address the problem of hazardous wastes. The bill which is now before us represents a strong commitment to solving our Nation's hazardous waste problem while assuring that those efforts proceed in a manner which is fair to all interests concerned.

One of the major provisions of the bill extends the fund through fiscal year 1990 and increases the amount in the fund from $1.6 billion to $10 billion. This will greatly increase the ability of the Environmental Protection Agency to address the serious problem of toxic wastes. The Office of Technology Assessment estimates that 10,000 or more sites may require cleanup by Superfund with costs to Superfund in excess of $100 billion. An increase in the size of the fund to $10 billion represents a strong commitment toward achieving our ultimate goal of cleaning up our Nation's hazardous waste.

The bill imposes mandatory cleanup schedules to assure that the Superfund Program promptly addresses the problem of hazardous wastes. One of the major criticisms of the Superfund Program is the slow pace at which actions have occurred. In 5 years and after spending over $1 billion, EPA has determined only six sites to be cleaned up, and one of these, the Butler Tunnel in Pennsylvania, is now in need of further cleanup measures following major rainfall. The schedules are designed to assure that much more rapid progress is made by the program. The schedules require that the national priorities list, or NPL, be expanded from its current size of 850 listed and proposed sites to 1,600 sites by January 1, 1988. Remedial investigations and feasibility studies, that is, the detailed investigation and study of a site on the NPL prior to the design and construction of remedial measures, must be commenced at NPL sites at the rate of 150 the first year, 175 the second year, and 200 the third and subsequent years.

Remedial actions, long-term actions consistent with a permanent solution, must be commenced at a rate of 125 in fiscal year 1987, 140 in fiscal year 1988, 160 in fiscal year 1989, and 175 in fiscal year 1990. In addition, preliminary assessments, the collection and review of available information for a given site, must be conducted on all sites currently on the comprehensive environmental response, compensation, and liability information system list, prior to January 1, 1987. If this assessment reveals that a more detailed site inspection is necessary, this in-

spection must be completed by January 1, 1988.

The final element of the schedules provision requires the Administrator of EPA to ensure that remedial actions are completed for all sites currently on the NPL within 5 years of enactment of this legislation. If such action is not completed within 5 years, the Administrator must publish an explanation why it could not be completed.

These mandatory schedules are designed to assure that EPA actions are taken in a timely and responsive manner while at the same time recognizing the valid concerns and limitations of that Agency.

The bill requires EPA to revise the national contingency plan which establishes procedures and standards for responding to releases to reflect amendments made by this act to assure the proper assessment of the hazards posed by sites which are evaluated by EPA for inclusion on the NPL.

Cleanup standards for Superfund sites are included in the bill, the basic requirement is that a level or standard of control to protect human health and environment must be provided. The provision favors permanent solutions over nonpermanent solutions and requires the application of the standards of other Federal environmental laws to the extent they are legally applicable, or relevant and appropriate under the circumstances. These standards address the "how clean is clean" issue which has remained a major issue of Superfund. The Superfund Program will now have definitive standards to use to assure that EPA and private party actions result in a proper response.

Provisions have also been included to create a right of citizens to sue any person alleged to be in violation of Superfund or to abate a release from a hazardous waste disposal site which may present an imminent and substantial endangerment to human health and the environment. Suit may also be brought against the Administrator of EPA, or any other department of the United States, for failure to perform any nondiscretionary act or duty under Superfund. These citizen suit provisions have been included to both encourage diligent Federal enforcement of the Superfund Program and to assist in locating and taking actions against violators of Superfund's provisions.

Also contained in the bill are definitive public participation requirements guaranteeing a notice and comment period prior to adoption of a remedial plan. These requirements are designed to assure that appropriate cleanup actions are taken while at the same time assuring that undue delay does not occur. As further protection of citizens, the bill includes comprehensive provisions on community right to know to assure that information is available to local communities concerning the hazardous chemicals which are located in the community. Information on hazardous chemicals is of extreme importance to communities in preparing for and preventing disasters such as that which occurred at Bhopal, India, 1 year ago this week. The required information may include types and amounts of chemicals, maps showing location of chemicals, and potential routes of human exposure. For extremely toxic substances, additional information is required on the amount of such substances which may be released into the environment. This information may be provided by monitoring or by reasonable estimates if data is not readily available. In addition, emergency response provisions require the establishment of local emergency response committees and emergency response plans to improve the ability of State and local governments to provide protection of the community if a release should occur.

The bill addresses the serious problem of cleaning up petroleum from leaking underground storage tanks. The Solid Waste Disposal Act is amended to authorize EPA to undertake corrective actions or to require the owner or operator to take corrective actions relative to a release or threatened release. Limitations on liability are established at $1 million in the case of an operator who operates 7 or fewer tanks, $3 million in the case of an owner who owns seven or fewer tanks, and $5 million in the case of an owner or operator who owns or operates more than seven tanks at a facility. These limits are increased to $10 million if the owner or operator has gross assets of more than $1 billion but not more than $5 billion, $25 million if the owner or operator has gross assets of more than $5 billion but not more than $10 billion and $50 million if the owner or operator has gross assets of more than $10 billion. These limitations may be reduced by EPA by regulation.

These amendments also include a research and development program designed to develop new information on toxic wastes and effective technologies for eliminating them as hazards. These provisions specifically address the serious lack of information and technology which impede the ability of the Superfund Program to successfully eliminate the problem of hazardous wastes.

The bill also includes provisions to require response actions at Federal facilities, thereby assuring that the provisions of Superfund apply to hazardous wastes generated by departments of the Federal Government. A new Federal agency hazardous waste compliance docket is established to provide information concerning materials located at Federal facilities and the agencies must report annually to Congress on their progress in addressing hazardous waste. This provision recognizes the need for Federal facilities to be as responsive to the dangers of hazardous waste as are non-Federal facilities.

The EPA is given specific authority to enter into settlement agreements with potentially responsible parties. These agreements can limit future liability of the parties with such terms and conditions as the bill provides and the Administrator of EPA determines. A fund is authorized to be established as part of the settlement for the future protection of ground water and surface water. To avoid the so-called sweetheart deals which may occur if the settlement process is abused, settlement agreements under the section must be entered as consent and decrees and must be open for public review and comment. In addition, special provisions are included for rapid, final settlements with de minimis contributors of hazardous waste.

The bill continues the ability of the fund to be available to pay for the loss of natural resources from hazardous wastes through restoration or other means in those instances where a responsible party is not available to pay for such damages.

The bill expands the provisions of Superfund relating to health assessment and protection by revising and expanding the statutory responsibilities of the Agency for toxic substances and disease registry. The bill recognizes adequate health related activities are necessary to support Superfund response actions through toxicological profiles, health effects studies, health assessments, research and training, health surveillance programs, and other efforts designed to improve the ability to make pubic health decisions through expanding the existing body of scientific knowledge.

The bill also contains provisions addressing oil pollution liability and compensation relative to spills in the inland and territorial waters of the United States. The provisions establish a separate industry-financed marine oil pollution compensation fund to compensate those suffering economic loss as the result of an oil spill. The bill imposes strict liability on those producing or transporting oil and encourages prompt and complete cleanup of oil spills. The result of these provisions is a clear and predictable legal and regulatory framework to address oil pollution matters.

Mr. Chairman, while the 1980 Superfund law significantly advanced the Federal Government's ability to respond to the problem of hazardous wastes, it nonetheless has proven to be in need of amendment, not only for the purpose of expanding and continu-

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ing the trust fund, but also for addressing other factors relative to the nature and rate of addressing our hazardous waste problem. The Superfund amendments as contained in this bill represent a strong and fair approach for continuing our progress toward eliminating our Nation's hazardous waste problem. I strongly urge its passage.

Mrs. JOHNSON. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the amendment in the nature of a substitute to H.R. 2817, the Superfund Amendments of 1985.

This compromise bill is the result of many hours of negotiations between the leadership and staff of those committees with jurisdiction over this legislation. The final product before us today is a strong, sensible response to the deadly serious threat of contamination from toxic chemicals and hazardous substances which have been dumped into our environment.

It provides for a 5-year, $10 billion Superfund Program, which should allow our Nation the additional time and funding needed to deal with the growing problem of hazardous waste sites.

For their bipartisan leadership in getting us to this point, I commend Chairman JIM HOWARD, and ranking minority member GENE SNYDER of the full Committee on Public Works and Transportation; our Water Resources Subcommittee Chairman BOB ROE, and ranking minority member ARLAN STANGELAND; and the leadership and staff of the Committees on Energy and Commerce, the Judiciary, Merchant Marine and Fisheries, Armed Services, and Ways and Means.

The compromise bill before the House today builds on our 5 years of experience since enactment of the 1980 Superfund law. It provides strong new requirements while allowing the Environmental Protection Agency sufficient flexibility to carry out its responsibilities under the new law.

That important combination of direction and flexibility are part of the bill's requirement of mandatory, legally enforceable cleanup schedules for the listing of future national priority list sites and the commencement and completion of cleanup studies and remedial actions.

I would be less than frank, however, if I did not express some reservations about the mandatory cleanup schedules in the compromise bill. While I support the general concept of some mandatory schedules, I am concerned that the specific schedules in the compromise bill may be too strict, especially given the current condition of the Federal budget and the spending cuts that we all know will be coming once the Gramm-Rudman proposal is enacted. If EPA's budget is cut as a result of congressional action and/or Gramm-Rudman, then EPA probably will not be able to meet the strict schedules in the bill. If that happens, then EPA will be subject to citizen lawsuits to force it to meet the schedules. As a result, the cleanup program would not be run by Congress or EPA. Instead, it would be run by a Federal district court judge and the parties to the lawsuit. In my view this is not the ideal situation. I am hopeful that the bill, when it comes out of conference, will call for reasonable schedules that EPA can meet.

Cleanup measures must also meet mandatory cleanup standards which must conform to legally applicable or relevant and appropriate environmental laws or water quality criteria under the Clean Water Act, to the extent that a cost-effective remedy is available to meet those standards.

In an effort to reduce the number of lawsuits and increase the number of cleanups, the bill contains a comprehensive new section on settlements.

The compromise also establishes a new program for the cleanup of leaking underground storage tanks, expanding on the regulatory mechanisms established for such tanks in the Resource Conservation and Recovery Act amendments approved in the last Congress. This is a newly discovered problem that endangers the Nation's water supplies.

A comprehensive emergency response and community right-to-know program would be established, providing for the creation of State and local response organizations. Reporting requirements would be imposed on those who handle hazardous substances, and local citizens would have access to information concerning the impact on their communities of a company's procedures in handling hazardous material.

EPA would be required to establish an inventory and notification requirement for facilities handling hazardous substances which are so acutely toxic that release of any amount in any form presents an imminent and substantial endangerment to human health.

Still fresh in our minds is the terrible tragedy that struck Bhopal, India, only 1 year ago this week. That disaster took the lives of thousands, and it serves as a grim reminder to us of the dangers inherent in toxic waste and the need to give our Environmental Protection Agency the authority it needs to prevent such incidents. I believe that this compromise legislation provides an important impetus to such critically important efforts.

The bill also addresses oil pollution liability and compensation by establishing a compensation program, to be administered by the Department of Transportation and funded through a tax of 1.3 cents-per-barrel on petroleum.

Mr. Chairman, this compromise legislation encompasses our best efforts to meet the pressing need to reauthorize Superfund this year. I believe we have before us a good bill to take to conference. It represents a consensus among the varied interests involved and, most importantly, it will meet the extreme urgency of the toxic waste threat.

Accordingly, I urge my colleagues to support the compromise amendment in the nature of a substitute.

□ 1410

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BREAUX], a distinguished member of our committee.

Mr. BREAUX. I thank the chairman for yielding, and I would like to commend all of the various committees who have participated in bringing us together on the reauthorization of the Superfund Program, which I strongly support.

I would like to just address my comments very briefly to later amendments dealing with the taxation provisions on the question of who is going to pay for the Superfund provisions.

The question is not really whether you want to stick it to the oil and gas companies or whether you somehow want other industries in the country to also pay for cleaning up the Superfund sites. The real goal is actually very simple. The real goal is that we should all be able to support a policy that says those who are responsible for depositing the waste should also participate in paying for the cleanup of those wastes.

The Downey amendment to the committee bill, which I oppose, says let those companies who produce the chemicals pay for all of the cleanup costs. I ask you, is there any one single legitimate reason for saying, as the Downey amendment says, that you should completely relieve all of the companies who have actually caused the pollutants to be deposited and who have created the Superfund sites, to let them continue to illegally dump and somehow avoid having to pay any cost of cleanup? I would say, for course, there is no legitimate reason for that.

Virtually all types of businesses and industries have contributed to abandoned hazardous waste sites. More than 4,000 businesses, industries, Government, and consumer firms have been identified by EPA as being potential contributors to waste at the Superfund sites. EPA's list of potential responsible parties who have actually caused the problem run from automobiles, banking, electronics and electrical manufacturing, furniture, aircraft and aerospace, optical products, com-

puters, food, beverage and grocery manufacturers, paper and packaging product companies, airlines, rubber products, communications, textiles, and utilities.

The Downey amendment, in effect, would say that we are going to give a blank check to all of these industries that have illegally dumped these toxic wastes and created these sites to continue to do so, instead of trying to make them help, too, in a small way. And it is a small way, because the broad base tax is projected to cost .08 percent of the sales price of their products. It is a small price to contribute to help clean up America.

I say vote for the committee provisions and against the Downey amendment, vote for the proposition that all industries that have helped cause the problem should also help solve the problem.

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. I thank the gentleman for yielding time to me.

Mr. Chairman, as we well know, the authority to collect taxes for Superfund expired on September 30, 1985. With an EPA estimate of 1,500 to 2,500 hazardous waste sites requiring attention, the time is past due for House action on H.R. 2817.

As a member of the Committee on Public Works and Transportation and of its Subcommittee on Water Resources, I rise in support of this bill to reauthorize the Superfund. I have seen the time and effort exerted through staff preparation and during committee deliberations. The Committees on Energy and Commerce, and Public Works and Transportation, Merchant Marine and Fisheries, and Judiciary have scrutinized, synthesized, negotiated, and renegotiated the contents for our Nation's Superfund policy. This Superfund bill is the best vehicle for hazardous waste cleanup. H.R. 2817 will not only be environmentally comprehensive, and financially sound, but most importantly, the Superfund should respond to the safety and health of the public.

The national importance of H.R. 2817 is obvious. The Superfund is a societal, environmental, and political issue. Every American is affected either directly or indirectly by the national problem of hazardous waste storage and disposal and, consequently, the Superfund.

Therefore, with a new version of H.R. 2817 and an open rule, let us today not lose sight of the work which has been done and undo its good. The bill introduced today is a consensus proposal. Due to the intense controversy of Superfund reauthorization, we are late in bringing H.R. 2817 to the floor, but better to have the good bill passed late, than none at all.

Mr. HOWARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in support of the reauthorization legislation.

Mr. SNYDER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this Superfund reauthorization and wish to commend the chairman of the Committee on Public Works, the gentleman from New Jersey [Mr. HOWARD], and the chairman of the Water Resources Subcommittee, the gentleman from New Jersey [Mr. ROE], the ranking minority members, the gentleman from Kentucky [Mr. SNYDER] and the gentleman from Minnesota [Mr. STANGELAND], and also the leadership of both the committee and the subcommittee on both sides of the aisle of the Committee on Energy and Commerce, not on a mere reauthorization of Superfund legislation but on a thoughtful and thorough review of both America's laws and her programs whose purpose it is to clean up toxic disposal sites throughout our 50 States. The compromise package addresses many changes I felt were essential to expedite the cleanup of the Nation's hazardous waste sites and to obviate the need for excessive, costly and time-consuming litigation. If we are serious about preserving our environment for future generations, it is time we put shovels in the ground, not lawyers in the courtroom.

As prompt cleanup is our overall goal, I want to note particularly three provisions of this bill that have not been spoken to previously that will facilitate getting those shovels in the ground. First, the section addressing response action contractors will enable them to enter into agreements with EPA or responsible parties to begin remedial projects. Under current law, such contractors who had no role in creating hazardous waste sites, who contributed no waste thereto, were caught in the web of joint, strict, and severe liability as participants at the site.

Obviously, we cannot have timely participation by cleanup contractors if they are forced to place company assets at unbounded risk.

I also am pleased to see congressional recognition of our responsibility to encourage the development of new technology for permanently cleaning up toxic wastes. As Chairman ROE has said many times, current technology permits us to contain wastes, not permanently destroy them or render them harmless. With fast-track treatment of promising new technology, and with provisions addressing the current lack of liability insurance for the commercial testing of new technology, we will accelerate the development of the tools we need to move away from containment and toward permanent cleanup of our Nation's toxic wastesites.

Third, this legislation moves toward more realistic settlement procedures which will reduce costly and time-consuming litigation and enable participants to reduce their future liability under specific conditions.

Because we are unable to clean up most sites and are primarily containing problems, Government will rarely be able to completely release private sector parties from further liability. However, under the Public Works bill, we clarified and explicitly gave the Environmental Protection Agency the authority to constrain the future liability of settling parties to the same proportion of costs they assumed under their settlement. We thereby limited future liability of settling parties in a manner that was fair to the individuals, many of whom are small, family-owned businesses, and to the public. While the Public Works Committee's precise language was not retained in the compromise bill, I believe the intent was retained. While I would have preferred clearer assurances on this point in the language of the bill before us, I believe the legislation does represent a significant step forward in legislating a process that will accelerate settlement agreements to clean up hazardous wastesites.

I commend the leaders of the various committees who worked so hard on reviewing and evaluating the strengths and weaknesses of current law and protecting our Nation's environment. They have crafted a decidedly better, indeed, strong, Superfund bill.

Mr. HOWARD. Mr. Chairman, I reserve the balance of my time.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. I thank the gentleman for yielding time to me.

Mr. Chairman, Members of this body can be very pleased today that we are effectively dealing with one of the most important issues to face Congress this year. Reauthorizations of the Superfund is crucial to the health and safety of millions of Americans and is essential to the future of our common environment.

I rise today in support of this bill. As a member of the Public Works and Transportation Committee, I am proud of this effort, which reflects the thinking of our committee. Chairman JAMES HOWARD and subcommittee chairman ROBERT ROE deserve a great deal of service for the strength and farsighted provisions contained in this bill.

I rise, in particular, to talk about one aspect of the bill that has commanded a great deal of my time and attention since this summer, when I conducted a tour of the 11 Superfund sites in my district.

I am talking about the provision of this bill that creates a national reporting network to give our communities the information they need to respond to emergency situations involving hazardous materials.

We have all heard news reports about emergencies that could have been controlled more easily, if emergency personnel had had the right information at the right time.

These incidents, which were clear threats to the public health and safety, prompted me to introduce H.R. 2969, the community right-to-know bill, on July 11.

I have subsequently introduced, with the gentleman from West Virginia, Mr. ROBERT WISE, an additional community right-to-know bill, H.R. 3300, to deal with this important problem.

I am proud that my colleagues on the Public Works and Transportation Committee have included this community right-to-know language in the Superfund bill.

Simply, this community right-to-know provision sets a minimum national standard for gathering specific information about the types of substances either stored or used in our communities.

This information, which will include not only listings of substances, but also suggested actions that should be taken by emergency services personnel, is the first of its kind in Federal law.

It includes Superfund sites in the reporting aspect of the proposal. But, it goes beyond those sites to include the use and storage of a long list of hazardous materials.

Many States and local communities already make these requirements, and they will continue to do so under this provision. Creating a national standard will assist emergency services personnel in training and other preparations for quick response.

Through the creation of regional emergency response committees, we will give communities across the country the tools they need to develop realistic responses geared to local needs.

We will not create unnecessary bureaucratic requirements that often slow emergency responses with unneeded paperwork.

The need for a national standard based on effective local response to emergencies is clear. I feel strongly that this provision of the Superfund bill does the job effectively.

I thank the gentlemen from New Jersey, Mr. HOWARD and Mr. ROE, for their faith in this proposal as our strong committee Superfund bill was being developed. I thank them for their persistence as this bill made its way through Congress. I think we have produced a sound bill that deserves the support of this body. I urge your support.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I commend the dedication and legislative skills of all who have brought us this compromise today. I strongly support it. I would like to emphasize a provision in this compromise that is very important to my district and very important to the overall management of hazardous waste, the so-called siting provision. This section of the bill encourages the establishment of hazardous waste disposal and treatment facilities. Under the provision, the States would have to assure the availability of hazardous waste disposal and treatment facilities for all waste expected to be generated within the State during a 20-year period. Those facilities could be within the State or outside it, in accordance with an interstate or regional agreement. While the ultimate goal is and should be to encourage on-site treatment of toxic wastes, there will probably always remain the need for some landfill storage.

Located within my district is Casmalia Resources, one of only two class 1 hazardous waste sites in the entire southern California area. The only other class 1 site is under enforcement action by EPA. What this means is that Casmalia is receiving an unfair amount of the most toxic wastes that are produced in all of southern California.

Further, the California State health director, Ken Kizer, has issued a warning to Casmalia stating that unless that facility can bring an existing odor problem under control, complete a reengineering study and conduct daily air and water monitoring tests, then, as of December 21 of this year, the facility will not be allowed to accept any liquid hazardous waste. It is clear to me and should be to everybody that these two hazardous waste sites are just not sufficient for the amount of toxic wastes that southern California generates. Dr. Kizer's action is an attempt to make other California counties aware that they need to share the responsibility for the toxic wastes they produce.

□ 1425

Mr. Chairman, I feel that the Superfund provision that forces States to provide adequate disposal and treatment facilities is necessary to ensure that situations like Casmalia do not occur nationwide. Each and every county needs to feel responsible one way or another for the toxic wastes they produce.

The problem in southern California is that Casmalia, which was orginally designed to handle waste products from the Santa Barbara County area only is now receiving truckloads that were orginated several hundred miles away. It is a hazard to transport this highly toxic waste on overcrowded highways. We have had some incidence of spills, and yet, only two such facilities can legally handle these products.

I urge my colleagues to support reauthorization of Superfund in the hopes that provisions such as this one will lead to safer and more practical solutions to the Nation's toxic wastes.

Mr. SNYDER. Mr. Chairman, I wish to reserve the balance of my time, and I would like to confirm that I have consumed 18 minutes.

The CHAIRMAN. The Chair will state that the gentleman from Kentucky [Mr. SNYDER] has 12 minutes remaining and the gentleman from New Jersey [Mr. HOWARD] has 16 minutes remaining.

Consistent with the Chair's initial announcement that he would then go to the committees to whom the bill was sequentially referred, we do not see the Committee on Ways and Means represented on the floor. The Chair understands the Committee on the Judiciary is prepared to proceed.

The gentleman from Kansas [Mr. GLICKMAN] is recognized for 15 minutes.

Mr. GLICKMAN. Mr. Chairman, before I begin my own remarks, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding time to me.

Mr. Chairman, the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980—Superfund—is one of the most important matters currently before the Congress.

The Committee on the Judiciary had a sequential referral of H.R. 2817, the reauthorization bill that is before this House. The purpose of this referral was to allow the committee to examine and make recommendations on those provisions of the bill that are within the committee's jurisdiction.

The Judiciary Committee focused its consideration on those provisions which establish administrative and settlement procedures, and on those provisions which address access to, and standards of, judicial review.

Among the most important amendments recommended by the Judiciary Committee, which have now been incorporated in the compromise version before the House today, is one which allows citizens to sue for the abatement or clean-up of any hazardous substance that poses an imminent and substantial endangerment to their

health or environment. This provision is essential so that citizens can adequately protect the health and safety of themselves and their communities.

The committee also amended H.R. 2817 to provide for somewhat expanded access to judicial review of the selection of a cleanup remedy by the Administrator of EPA. At the same time, this modification requires cleanups to continue while these court challenges are being decided.

In addition, the committee amendments encourage EPA to settle with—and not to sue—two classes of alleged polluters: responsible parties who contributed only a small amount of waste which is low in toxicity, and individuals who became owners of land without any knowledge or responsibility for the fact that it contained a hazardous waste site.

By these and other amendments, the Judiciary Committee strongly affirmed its commitment to cleaning up hazardous waste sites. At the same time the committee took into account the legitimate interests of those who have to pay for these clean-ups. Nearly all of these amendments have been included in the compromise developed by the five committees with jurisdiction over the bill. This compromise constitutes a strong and effective reauthorization of the act, and I support its adoption.

At the same time, the Judiciary Committee intends to offer a committee amendment to the compromise. This amendment would modify section 207 of H.R. 2817—new section 310 of Superfund—the section which provides for citizens suits under the act.

The Judiciary amendment would strike the language of the compromise which describes the sites which may be the subject of a suit for imminent and substantial endangerment and replace it with the language adopted by the Judiciary Committee. The Judiciary Committee believes that its version provides citizens with important opportunities to act to protect their health and environment which are not covered by the compromise.

Finally, Mr. Chairman, I emphasize Superfund reauthorization is of critical importance to every citizen of this Nation. I urge the House to enact this necessary legislation.

Mr. GLICKMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today to enact legislation to reauthorize the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund). Reauthorization and strengthening of this act is one of the most important issues facing Congress.

At the heart of Superfund are many complex legal and judicial issues that reflect the tensions inherent in the act itself: First, the need for effective and speedy cleanup of hazardous waste sites in order to protect human life and the environment; second, the need to protect the interests and rights of those affected by these sites in obtaining effective and speedy cleanup; and third, the need to protect the legitimate interests and rights of those who may be held liable for such cleanups.

These legal procedures—such as citizens' suits; strict, joint, and several liability; judicial review; and contribution—are within the jurisdiction and expertise of the Judiciary Committee. It is through these legal procedures that cleanup takes place, liability is imposed, and costs are recovered. For this reason, the Judiciary Committee received a referral of H.R. 2817.

The Judiciary Committee carefully examined the complex legal, judicial, and administrative provisions that are at the heart of the operations of the Superfund. After reviewing H.R. 2817, the committee recommended a number of amendments to the bill. It also recommended adoption of provisions contained in other committees' versions of the bill.

The Judiciary Committee amendments and recommendations balance the need for effective and expeditious cleanups with the rights of responsible parties and the rights of those affected by hazardous waste sites. These amendments and recommendations substantially improve the existing Superfund Act.

The committees with jurisdiction over H.R. 2817—Energy and Commerce, Public Works, Ways and Means, Judiciary, and Merchant Marine and Fisheries—have worked together over the last several weeks to produce the compromise which is before the House today and which incorporates elements contained in each of their versions. While each committee would have preferred to have its own approach adopted without change, we have nevertheless succeeded in creating a bill which contains a reauthorization of Superfund that substantially strengthens its provisions. This compromise incorporates nearly all of the changes recommended by the Judiciary Committee.

While the Judiciary Committee supports adoption of the compromise version, the committee is concerned about a portion of the citizens suit provision contained in this compromise. This provision would allow citizens suits to prevent imminent and substantial endangerment to their health and environment against only "hazardous waste disposal sites," rather than against "any facility" from which hazardous substances are released, as had been recommended by the Judiciary Committee. It would also expand the provision by allowing suits to abate hazardous substance releases into the air. Thus, while the committee generally supports the compromise, it intends to offer an amendment to change this language to that of the original Judiciary Committee language.

Mr. Chairman, H.R. 2817, as set forth in the compromise version drafted by the committees of jurisdiction, is important legislation that must be adopted in this session of the 99th Congress. The people of this Nation want no further delay in the important task of cleaning up hazardous waste sites. I urge enactment of this reauthorization.

Mr. Chairman, I ask to include in the RECORD at this point an explanation of those portions of the compromise which incorporate the amendments recommended by the Judiciary Committee. This document explains the purpose and intent of those amendments as they were modified by the compromise.

Mr. Chairman, the compromise version of the Superfund reauthorization, which is the basic document for floor consideration, incorporates nearly all of the amendments recommended by the Committee on the Judiciary in its report on H.R. 2817 (H. Rept. 99-253, part 3). This explanation states the purpose and intent of the Judiciary Committee amendments and recommendations as they were set forth in or modified by the compromise.

EXPLANATION OF PURPOSE AND INTENT

SECTION 113 OF THE COMPROMISE: LITIGATION, JURISDICTION, AND VENUE

Section 113 of H.R. 2817 amends existing section 113 of CERCLA, which is entitled "Litigation, Jurisdiction, and Venue". This section sets forth a number of administrative and judicial procedures applicable to Superfund decision-making and litigation. It also clarifies the availability of judicial review regarding contribution claims and settlements, and places limits on judicial review of the selection of a clean-up remedy.

I. Contribution: New Subsection 113(f) of CERCLA

New subsection 113(f) of CERCLA deals with the availability of contribution for claims under Superfund. This provision confirms that potentially responsible parties have a right of contribution under CERCLA.

New subsection 113(f)(1) changes "defendant alleged or held to be liable" to "person potentially liable or held to be liable". This simply clarifies and emphasizes that persons who settle with EPA (and who are therefore not sued), as well as defendants in CERCLA actions, have a right to seek contribution from other potentially responsible parties.

New subsection 113(f)(1) of CERCLA also ratifies current judicial decisions that the courts may use their equitable powers to apportion the costs of clean-up among the various responsible parties involved with the site. Courts are to resolve claims for apportionment on a case-by-case basis pursuant to Federal common law, taking relevant equitable considerations into account. Thus, after questions of liability and remedy have been resolved, courts may consider any criteria relevant to determining whether there should be an apportionment.

Relevant criteria for the courts to use in deciding whether to grant apportionment may include: the amount of hazardous substances involved; the degree of toxicity or hazard of the materials involved; the degree of involvement by parties in the generation, transportation, treatment, storage, or disposal of the substances; the degree of care exercised by the parties with respect to the substances involved; and the degree of cooperation of the parties with government officials to prevent any harm to public health or the environment. See *United States* v. *A & F Materials Co.*, 578 F. Supp. 1249 at 1256 (S.D. Ill., 1984). Of course, the burden of proof is on the defendant or party seeking apportionment to establish that it should be granted. *United States* v. *Chem-Dyne Corp.*, 572 F. Supp. 802 at 810 (S.D. Oh., 1983).

New subsection 113(f)(2) of CERCLA also clarifies that entry into a judicially approved settlement with the government protects a party only against the contribution claims of other potentially liable parties, and not against indemnification claims. Contribution is a statutory or common law right available to those who have paid more than their equitable share of an entire liability. Indemnity is a right arising from a contract or a special relationship between parties. Settlement with the government under CERCLA should not abrogate independently existing rights of persons to indemnity.

This subsection also makes clear the distinction between parties to the settlement agreement (who are discharged from liability by the agreement) and other persons who are potentially liable under section 107. These other persons remain potentially liable for the amounts not received by the government through the settlement. The subsection emphasizes this distinction by using the terms "person" and "potentially liable persons" in place of the terms "party" and "parties."

The last sentence to subsection 113(f)(2) precludes protection from claims for contribution if the settlement was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

New subsection 113(f)(3)(A) of CERCLA affirms the ability of the United States or a State to maintain an action for injunctive relief under section 106 or cost recovery under section 107 against nonsettlors when a settlement does not provide complete relief. The right of the United States to proceed under section 106 or 107 is unaffected by its status as an owner or operator of a facility of a generator of waste at the site. In addition, when the United States has been required to pay response costs as a liable party, the United States may maintain an action to recover costs from other responsible parties.

New subsection 113(f)(3)(B) of CERCLA expressly provides to those who enter into administrative or judicially approved settlements with EPA the right to seek contribution from other responsible parties who do not enter into settlements. This provision was included to encourage settlements and to avoid problems that might otherwise arise due to the courts' reluctance to imply new private rights of action under federal statutes.

Finally, new subsection 113(f)(3)(C) provides that the United States' rights against nonsettling parties under the section are superior to the rights of private settlors, but should not necessarily be superior to the rights of the States against nonsettling parties. This subsection ensures that the United States and the States have equivalent rights under the section.

II. Statutes of Limitations: New Subsection 113(g) of CERCLA

Cost recovery and damages actions should be brought at the most appropriate time in light of the response action taken. In general, these actions should be brought as early as EPA has the necessary information to do so. Therefore, this subsection provides revised statutes of limitation for bringing natural resource damages actions and cost recovery actions under section 107.

New section 113(g)(1) of CERCLA alters the statute of limitations for natural resource damages. It ensures that actions for natural resource damages are filed at the most appropriate time for the particular site involved. Because a remedial action at the site may include the restoration, rehabilitation, or replacement of natural resources, and action for natural resource damages for a site on the National Priorities List (NPL) should not take place before the remedy has been selected, unless the Administrator is diligently proceeding with a remedial investigation and feasibility study under section 104(b). The limitation established by the subsection on filing damages actions before selection of the remedy does not apply to actions filed before expiration of the original statutory deadline for recovery of pre-CERCLA damages. Actions filed subsequent to that time in cases where the remedy has not yet been selected should be dismissed without prejudice by the courts as unripe for review.

This subsection recognizes that the natural resource damages assessment at NPL sites should, whenever possible, take place while the remedial investigation and feasibility study (RI/FS) is underway. It also recognizes that the planning of any restoration or rehabilitation efforts should, whenever possible, be integrated with the planning of the remedial action. The limitation period running from completion of the remedial action will allow integration of cost recovery and damages actions. The subsection also contemplates that the court will review the record compiled to determine the remedy together with the record compiled for assessing damages, and will, wherever practicable, rule on them together. For sites not on the NPL or not otherwise scheduled for remedial action, the three-year limitations period (following discovery of the loss) will apply.

New subsection 113(g)(2) of CERCLA provides that, as to removal actions under subsection 113(g)(2)(A), the government will be required to bring a cost recovery action within three years after completion of the removal action, except when a waiver to allow for continued response actions has been granted under section 104(c)(1)(C). In the event of such a waiver, the cost recovery action must be brought within six years of the granting of the waiver. For remedial actions under subsection 113(g)(2)(B), the government will be required to initiate its action within six years of the initiation of physical, on-site construction of the remedy.

New subsection 113(g)(2) contemplates that there may be successive cost recovery actions brought at various points during implementation of a remedial action. The statute of limitations for the intital cost recovery action for a remedial action is six years from the commencement of physical on-site construction of the remedial action, that is, after the RI/FS and after design of the remedy. However, the final cost recovery action must be commenced within three years of the completion of the remedial action. If a remedial action is commenced within three uears of the completion of a removal action, costs incurred in the removal action may be added to those sought for the remedial action. In other words, there is no intention to mandate separate cost recovery actions for removal and remedial actions so long as they follow each other within a three year time period. In the initial cost recovery action, in order to conserve judicial time and resources, the court is to enter a declaratory judgment on liability for response costs; this judgment will be binding in future cost recovery actions to obtain additional costs. This provision addresses the concerns raised by the court in *United States* v. *Mottolo*, No. 83-547-D (D.N.H. July 18, 1985, and August 15, 1985) (orders issued). Of course, the alternative of a single phased trial dealing sequentially with the recovery of costs for different segments of the response action remains available.

III. Pre-enforcement Review: New Subsection 113(h) of CERCLA

H.R. 2817 adds a new subsection 113(h) to CERCLA. This subsection is based on the premise that somewhat broader access to judicial review of the selection of a response action need not prevent expeditious cleanups, and that the availability of such review is necessary as a check on agency decisionmaking and to assure the selection of proper action.

At the same time, however, the subsection ensures that the clean-up of sites will not be delayed by this additional access judicial review. Thus, in the absence of a government enforcement action, judicial review of the selection of a response action should generally be postponed until after the response action is taken. Similarly, in an enforcement action, the scope of judicial review is limited to reviewing the enforcement requested.

New subsections 113 (h)(1) and (h)(2) reiterate the current ability of affected parties to obtain review of the Administrator's selection of response actions when the government has instituted an action for cost recovery, an action to enforce an order under sections 104(b) or 106(a), or an action to recover penalties for the violation of such an order. However, when the government seeks to enforce an order for an RI/FS under section 104(b), the court's review of the order is limited to issues concerning performance of that study, and may not extend to questions relating to the scope of the remedy. These two paragraphs now set forth in statutory language the only type of review that courts have generally interpreted as being available under the CERCLA as originally enacted.

New section 113(h)(3) provides an opportunity for review of an action brought under new section 106(b)(2)—when a party has received and complied with the terms of a 106(a) order and then petitions the Administrator for reimbursement of costs associated with compliance. Because the reasonableness of the order will be explored in the reimbursement hearing, and because the parties receiving the order have cooperated with the Administrator in complying with the order, review at this point will be desirable for the parties and will not needlessly disrupt the clean-up process.

New subsection 113(h)(4) clarifies the right of persons to seek review of response actions under the new citizens suits provision of CERCLA which would be established

by this Act (Section 207 of H.R. 2817, new Section 310 of CERCLA). Actions under this provision will be subject to all the bars and time limits set forth in the citizens suits provision.

This subsection is not intended to allow review of the selection of a response action prior to completion of the action: the provision allows for review only of an "action *taken* . . ." (Italics added). Thus, after the RI/FS has been completed, the remedial action has been selected and designed, and the construction of the selected action has been completed, persons will be able to maintain a suit to ensure that a response action is consistent with the requirements of the Act.

New subsections 113(h)(7) and (8) provide two additional narrow exceptions to the general rule postponing review until the government undertakes enforement activities. These subsections were included because potentially responsible parties who are willing to commit to undertaking a remedial action should be able, like those under new subsection 113(h)(6), to petition the court for early resolution of disputes over the Administrator's selection of a remedial action. Thus, new subsection 113(h)(7) allows for review when a consent decree under section 106 specifically provides for the party's performance of the remedial action and the only issue outstanding is the scope of the remedial action. New subsection 113(h)(8) allows for review when a potentially responsible party has agreed, without admitting liability, to the terms of an administrative order except for the scope of the remedy. Such parties will have obligated themselves to perform the remedy and the only issue the court will be reviewing under the order will again be the scope of the remedy.

Subsection (h) states that in actions brought under subsections 113(h)(6), (7), and (8), where review of the remedy is occurring pursuant to a consent decree or administrative order, the courts should rule expeditiously. This will allow remedial actions to proceed without delay in order to ensure rapid cleanups. Furthermore, to avoid undue delay, the subsection provides that all parties will be bound by the district court's decision and that the parties may not appeal that decision.

In general, new subsection 113(h) contemplates that the courts will grant a stay of the performance of a response action only rarely, if at all, because of the importance of expeditious clean-up of hazardous waste sites. A litigant seeking a stay must, as in any similar action, be able to establish irreparable harm and the likelihood of success on the merits. Financial loss to a potentially responsible party will not suffice to establish irreparable harm, particularly in view of the reimbursement provision set forth in new subsection 106(b)(2) of CERCLA (discussed below). Moreover, in these under CERCLA, a party seeking a stay must establish that the stay would be in the public interest.

IV. Intervention: New Subsection 113(i) of CERCLA

New subsection 113(i) of CERCLA provides that any person may intervene as a matter of right when that person has a direct interest which is or may be adversely affected by the action, and the disposition of the action may, as practical matter, impair or impede the person's ability to protect that interest. When a motion to intervene is granted under this section, the intervenor shall only be able to raise issues relating to the selected remedy. Issues not directly related to the selection of remedy should not be entertained by the court because the purpose of review under new subsection 113 of CERCLA is only to resolve issues relating to the remedy. Moreover, nothing in this provision is intended to make intervenors necessary parties to any consent decree referred to in this section or to interfere with the rights of the United States to enter into settlements with potentially responsible parties under this Act.

V. Judicial Review: New Subsection 113(j) of CERCLA

New subsection 113(j) sets forth new administrative procedures so that Superfund decision-making will more closely parallel standard administrative practice.

New subsection 113(j)(1) clarifies that judicial review of the Administrator's selection of a response action shall be based on the administrative record developed pursuant to subsection 113(k)(2). The purpose of this modification is to ensure that the Administrator's decision will be based on adequate information to which the public and potentially responsible parties have access.

New subsection 113(j)(2) provides that the administrative record which is the basis for judicial review may be supplemented by new objections and evidence that were not reasonably available when the administrative record was developed. This is consistent with accepted administrative practice.

New subsection 113(j)(2) states that the appropriate standard of judicial review for EPA decisions on response actions is "arbitrary and capricious or otherwise not in accordance with the law." This standard also applies to property reimbursement actions under new subsection 106(b)(2)(B) of CERCLA as established by subsection 113(d) of H.R. 2817. This standard, in use for many years under 5 U.S.C. 706(2)(a), is one with which courts and litigants are familiar and is the standard of review best suited to the type of decisions reached under the Act. Its application to these proceedings will produce a minimum amount of litigation in order to define its scope and application. The creation of new and ill-defined standards of judicial review is unnecessary. Moreover, the creation of such standards, without any clear definition of their impact, results in a waste of judicial resources. Additionally, such new standards generally result in pointless costs to litigants.

VI. Administrative Record and Participation Procedures: New Subsection 113(k) of CERCLA

New subsection 113(k) provides minimum participation requirements for removal actions in new subsection 113(k)(2)(A) and for remedial actions in new subsection 113(k)(2)(B). Generally, these provisions require that EPA base its selection of a clean-up remedy on the administrative record established under section 113(k) and that judicial review of EPA's decision be based on the same administrative record.

In addition, EPA is required under new subsection 113(k)(2)(A) to develop procedures for participation in the selection of a removal action. New subsection 113(k)(2)(B) sets forth specific participation procedures for the selection of a remedial action, including the requirements that: the material generated pursuant to the "on site" public participation procedures of new section 117 of CERCLA be placed in the administrative record established pursuant to section 113; the administrative record be available at or near the specific Superfund site; and the potentially responsible parties, as well as other interested persons, be notified of the intent to select a remedy and of the participation process.

New subsection 113(k)(2)(C) states that the failure of EPA to satisfy the requirement that it notify potentially responsible parties and others of its intent to select a remedy will not constitute a defense to liability under CERCLA. While potentially responsible parties will be notified when feasible, this provision also ensures that the failure of EPA to notify such parties will in no way prevent or delay a clean-up action or increase legal rights or remedies available to these parties.

VII. Reimbursement: New Subsection 106(b) of CERCLA

Section 113 of H.R. 2817 adds a new provision to section 106(b) of the CERCLA regarding reimbursement. Under this provision, responsible parties may seek reimbursement not only when they comply with an administrative order, but also when they enter into a consent decree and agree to undertake the work even though they believe that the administrator's remedy is arbitrary or capricious. (See discussion of the reason for selecting this standard of judicial review in paragraph V, above.) If a court determines that a portion of the remedy is arbitrary and capricious or otherwise not in accordance with the law, the responsible party shall be reimbursed for the reasonable costs attributable to the portion of the response action held to be arbitrary and capricious or otherwise not in accordance with the law. By virtue of this provision, responsible parties are expected to continue work during judicial review.

NEW SECTION 117 OF CERCLA: PUBLIC PARTICIPATION

New section 117 of CERCLA requires EPA to involve the community affected by a particular hazardous waste site in the process of deciding what actions are necessary to complete clean-up of that site. As the Energy and Commerce Committee stated in its report:

"The Energy and Commerce Committee is of the strong opinion that communities affected by Superfund sites will demonstrate much stronger support for actions necessary to clean up those sites if the community is involved from the beginning in determining the actions which will be necessary to complete the cleanup." *Superfund Amendments of 1985*, H. Rpt. 99-253, Part 1, August 1, 1985, p. 90.

New section 117 of CERCLA contains a provision in subsection 117(d) which conforms the requirements of this section to new subsection 113(k). Thus, materials produced under section 117 shall be included in the administrative record on which the decision is based and the entire administrative record shall be available at or near the specific Superfund site. Persons who are directly affected by the hazardous waste site should have ready access to these important documents.

NEW SECTION 119 OF CERCLA: RESPONSE ACTION CONTRACTORS

Response action contractors (contractors) carry out the clean-up of hazardous waste sites under Superfund. Historically, contractors have sought sufficient insurance to protect against potential liabilities from third party claims and government lawsuits. These claims and suits are made on the basis of evolving state and Federal laws (in-

cluding CERCLA), which have increasingly subjected contractors to strict or near absolute liability standards.

At present, insurance availability for response action contractors is diminishing, limits of coverage are being reduced, and premium rates are increasing by more than 50%-200%. Insurance industry sources estimate that only 10% of contractors' market needs are currently being met by insurers, and that by January, 1986, no insurance will be available. The present lack of insurance is already causing a reduction in the number of qualified contractors willing to participate in Superfund cleanups. As insurance becomes increasingly unobtainable over the next year, the availability of qualified contractors could diminish to the point of being acute, and the Superfund clean-up program could come to an abrupt halt.

It is important to understand that the principal risks normally covered by liability insurance are to defend against claims alleging negligence, and, if negligence is proven, to satisfy such claims. Put more simply, liability insurance covers negligence.

New section 119 of CERCLA eliminates strict, joint and several liability for response action contractors. Instead, these contractors will be liable only if their actions at a site are negligent or grossly negligent, or if they constitute intentional misconduct. This limitation on liability was included in order to ensure that companies will be willing to perform clean-ups in the future, and in order to give a reasonable incentive for insurers to provide prospective insurance based on the traditional standard of performance that insurers cover (i.e. negligence). However, the current condition of the insurance industry (e.g., financial instability, lack of adequate insurance capacity) will probably prevent insurers from providing adequate coverage to contractors for several years, even with the inclusion of this provision.

Currently, EPA tries to address this problem by agreeing to provide contractors with indemnification in the event of their negligence, except for cases involving gross negligence. Contractors contend that these EPA indemnification agreements are ineffective as substitutes for insurance for several reasons. First, Superfund does not directly authorize the obligation of resources for the purpose of indemnification. Consequently, claims based on these agreements may be held invalid under the Anti-Deficiency Act. Second, EPA indemnification is not available for all contractors (e.g., those performing clean-ups for States, other Federal agencies, and potentially responsible parties) who work under superfund. Third, the indemnification agreements use Superfund as the source of funding as opposed to general appropriations (the typical source of funding for Federal indemnification). Consequently, the indemnification is only good for the life of Superfund, and, therefore, does not provide sufficient "longterm" protection from liability.

For those reasons, new section 119 of CERCLA authorizes indemnification agreements as a substitute for liability insurance when such insurance is either unavailable or insufficient.

New subsection 119(c) authorizes the EPA Administrator to agree to indemnify response action contractors (including subcontractors) for liability arising out of the contractor's performance. The indemnification agreements may cover only liability which results from negligence; they may not cover liability arising from gross negligence or intentional misconduct on the part of the contractor. Thus, this section allows EPA to provide coverage equivalent to liability insurance. In combination with the new standard of liability for contractors contained in H.R. 2817, this will provide adequate incentives for contractors to continue to participate in Superfund clean-ups.

The indemnification authority provided by this section may be offered *in the discretion* of the Administrator. Moreover, the provisions set forth a series of requirements and limitations to ensure that EPA agrees to provide indemnification only in appropriate cases and in an appropriate fashion. In particular, the provision continues to give contractors a financial incentive to operate in a safe fashion by requiring the imposition of deductibles and limits on the amount of indemnification that will be available.

New subsection 119(c)(3) directly exempts EPA indemnification authority from Anti-Deficiency Act provisions and establishes general appropriations, not Superfund, as the source of funds for indemnification. Again, these steps are necessary to address the legitimate hazardous waste long-term liability concerns of contractors.

It is important to emphasize the requirement that indemnification agreements may be made by EPA only when a contractor has made genuine efforts to obtain adequate insurance and has found it to be unavailable. Moreover, any indemnification agreement may provide protection only as to harm resulting from the fact that the contractor is cleaning up a hazardous waste site. Worksite accidents and injuries for which insurance is available cannot be covered by these agreements. If, for example, a truck driver for a contractor hits and injures a person, this accident should not fall within the scope of an indemnification agreement. In addition, if in the same accident property is damaged or destroyed, the indemnification agreement should not cover these losses. However, coverage would be triggered if the truck were carrying hazardous wastes from the site and the accident caused leakage of hazardous waste. In such a situation, the indemnification should cover harm resulting from that leak.

In general, any indemnification agreed to should relate to the nature and magnitude of the risks involved in the response action being undertaken by the contractor. The main purpose of this provision is to ensure that these contractors will reenter the market, thus any indemnification agreement must address the legitimate risks their work entails.

Finally, by simply authorizing EPA to provide indemnification, the Committee intends to allow for flexibility if regular marketplace forces lead to the availability of insurance for response action contractors in the future. In this event, EPA should not agree to provide indemnification.

In summary, this provision for indemnification, in combination with the new liability standards for contractors established by H.R. 2817, addresses two major problems created by the current liability insurance shortage. First, it provides a reasonable incentive for insurers to provide prospective insurance to contractors. Second, it recognizes that regardless of the liability standard, it will be some time before insurers can provide adequate insurance, and, therefore, it provides an interim form of protection to keep the Superfund clean-up program functioning until insurers re-enter the market.

NEW SECTION 122 OF CERCLA: SETTLEMENTS

New section 122 of CERCLA sets forth a series of provisions designed to encourage and facilitate negotiated private party clean-ups of hazardous substances in those situations where negotiations have a realistic chance of success. Such negotiated clean-ups will accelerate the rate of clean-ups and reduce their expense by making maximum use of private sector resources, although an emphasis on negotiated clean-ups should not replace or diminish a strong and aggressive enforcement policy. Rather, it should complement such a policy.

I. New Subsection 122(a) of CERCLA

New subsection 122(a) of CERCLA requires the Administrator to provide notice and an explanation to potentially responsible parties whenever the Administrator decides not to use the settlement provisions of the Act. This notice and decision shall not, however, be subject to judicial review. This provision is intended to encourage the Administrator to carefully consider entering into settlement procedures in appropriate cases; it is *not* intended to create any new legal rights for potentially responsible parties.

In connection with subsection 122(a), it is important to note that the authorization to enter into a settlement agreement with any person to "perform" a remedial investigation or any other response action includes more than an agreement by that person to directly undertake a response action. This subsection also contemplates that the Administrator may reach agreements where the parties to the settlement undertake to arrange for performance of the response action. Circumstances may vary widely, from site to site, including the number of potentially responsible parties; the legal obligations of specific parties; the rights of parties as against each other; the geological and other characteristics of the sites; and the quantities and types of materials taken to the sites. It is therefore important that the Administrator have the flexibility to reach settlements required to avoid unnecessary delays and excessive transaction costs. Agreements in which potentially responsible parties arrange for the work to be performed may be reached by the Administrator and may be preferable to the other parties, since the site may be located far from their facilities or personnel. Thus, a settling party may agree to hire a contractor to carry out a response activity, or may agree to establish and fund a trust, along with other responsible parties, that will in turn hire a contractor to perform the needed work. Such agreements to arrange for performance are clearly authorized by this section.

This type of settlement was reached, at the Enviro-Chem site in Zionsville, Indiana, where 269 companies entered into a consent decree to fund a trust that, in turn, paid an independent contractor (backed by a performance bond) to perform the work in accordance with technical specifications approved by the Administrator. This approach worked well. Negotiations and clean-up proceeded expeditiously; the contributing companies received an incentive in the form of a release when the trust was funded; transaction costs were held to a minimum; and both the Administrator and the State have subsequently concluded that the clean-up met applicable standards. Nothing in new section 122 of CERCLA should be construed to restrict or prohibit such settlements.

II. De Minimis Settlements: New Subsection 122(g) of CERCLA

New subsection 122(g) of CERCLA provides authority to the Administrator of EPA to enter into settlement with "*de Minimis*" contributors at a site. This provision authorizes the Administrator to enter into small "cash out" settlements with individual potentially responsible parties where the circumstances warrant such settlements.

The Judiciary Committee amendment strengthens the *de minimis* settlement provision in several respects.

First, new subsection 122(g) encourages the Administrator promptly to exercise his authority to settle with de minimis parties whenever such settlements are practicable and in the public interest. This requirement applies only when the resulting settlement would in any event involve only a minor portion of the response costs at the facility concerned and when the person seeking to settle satisfies certain criteria.

The first set of criteria defining the persons who may fall within the *de minimis* provision is set forth in subsection 122(g)(1)(A). If a person is a contributor of waste to the facility in issue, both the quantity and the hazardous effects of the substances contributed by the person to the facility must be minimal compared to the other substances at the facility in order for a *de minimis* settlement to be available.

These criteria are useful with respect to most of the categories of persons who may be liable under section 107(a) of CERCLA. However, they do not easily apply to a landowner who is liable as an "owner" of a "facility" under section 107(a), but who otherwise may be minimally related to the hazardous substance problem at the facility. Therefore, new subsection 122(g)(1)(B) provides that landowners may qualify for these expedited settlements. The criteria for this type of *de minimis* settlement require that the potentially reponsible party: (1) own the real property on or in which the facility is located; (2) not have conducted or allowed the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility; and (3) not have contributed to the release or threatened release through any act or omission.

In addition, such a landowner must not have had actual or constructive knowledge at the time the landowner purchased the property that such property was being or had been used for the generation, transportation, storage, treatment, or disposal of any hazardus substance. This additional requirement is intended, among other things, to preclude a settlement where a transfer of land is undertaken in order to avoid liability for a hazardous waste clean-up. In the event such a transfer occurs and there is a later settlement, the transfer would fatally taint that settlement and, if discovered at a later time, would be grounds for setting aside the setlement on the basis of fraud. It would also trigger the provision of new subsection 122(g)(5) of CERCLA which states that a fraudulent settlement does not provide protection against suits for contribution (discussed below).

To ensure that settlements with *de minimis* parties provide such parties with an appropriate level of finality, new subsection 122(g)(2) authorizes the Administrator to provide covenants not to sue or releases from liability when doing so is in the public interest.

Both types of *de minimis* settlements are intended to relieve the covered parties from prolonged and costly litigation. Thus, new subsection 122(g)(3) requires the Administrator to reach settlements in these cases as soon as the necessary information is available to establish the party's *de minimis* status. It is the clear intention that such settlements should be expedited and that every effort be made to reach them at the earliest possible moment. In the case of a landowner who meets the criteria for this subsection, settlements should be reached as soon as these criteria are established. There should be no need to wait until the completion of an RI/FS if the party's only connection to the hazardous waste site is ownership.

The settlement with a *de minimis* party may be incorporated into either a consent decree or an administrative order (as provided under new subsection 122(g)(4)). These settlements will protect the party against the contribution claims of other persons who are liable under the Act, unless a person seeking contribution can show that the settlement was achieved through fraud, misrepresentation, other misconduct, or a mutual mistake of fact (new subsection 122(g)(5)).

Although this provision is primarily directed toward private parties who are minimal contributors of waste or who are otherwise minimally related to the hazardous substance problems at a facility, federal agencies may also satisfy the *de minimis* criteria at particular facilities. Thus, when federal agencies fall within the criteria of this subsection, they too should be treated as *de minimis* parties.

In sum, as amended, the *de minimis* settlement provision is intended to confirm EPA's authority to enter into settlements which involve only small portions of total clean-up costs when the settlements are with potentially responsible parties who would not be responsible for a significant portion of such costs in any case. Settling with such parties early can simplify and expedite site negotiations. Allowing minor responsible parties to cash out also avoids the imposition of unnecessary negotiation or litigation costs on such parties.

III. EPA Cost Recovery Settlement Authority: New Subsection 122(h) of CERCLA

New section 122(h) of CERCLA authorizes EPA to enter into administrative settlement agreements for EPA claims under section 107, that is, for the recovery of costs that EPA has incurred in cleaning up a site on its own under section 104.

Such settlements will allow the Federal government to expeditiously resolve cost recovery disputes under CERCLA section 107 in order to replenish the Fund promptly and to minimize government and private legal costs. The government should also have the flexibility to use alternative forms of dispute resolution to reach such agreements, such as administrative negotiation and settlement or arbitration rather than only litigation.

Therefore, new subsection 122(h) to CERCLA gives EPA and other relevant agencies express authority to administratively settle claims of the United States for response costs and damages under section 107. It also provides express authority to engage in arbitration of disputed claims under section 107.

Confirming that EPA has such authority will enable the burden of non-complex cost recovery cases that are likely to settle to be shifted from the Department of Justice to EPA. It will also help to reduce the number of cases filed in federal courts and will foster the use of new methods of resolving Superfund cases. When potential settlements include claims for natural resource damages, the federal trustee for the resources in issue must be involved in the settlement process.

New subsection 122(h)(1) provides that claims in excess of $500,000 may be compromised only with the prior written approval of the Attorney General or his designee. This approval requirement for large settlements follows the general approach used in the Federal Claims Collection Act, 31 U.S.C. 2671. The $500,000 figure accounts for the scale of many response actions, particularly emergency removal actions that EPA and the Coast Guard perform on a regular basis. The Attorney General specifically retains his authority to approve settlements of claims greater than $500,000 because review and approval by the Justice Department will ensure that these large settlements do not adversely affect ongoing or potential litigation at a site. Such centralized review and oversight will also ensure that settlements of significant claims by diverse agencies and regional offices will be consistent nationally and over time. Finally, evaluating large settlement proposals involves the consideration of factors with which the Justice Department has had much experience, including the litigative risks of trying the case and the possible precedential value of the case.

New subsection 122(h)(3) provides, in conjunction with new subsection 122(h)(5), that the settlements or arbitrations will be binding absent some showing of misconduct or a mutual mistake by the parties to the settlement. New subsection 122(h)(4) provides that if a settling party fails to comply with the terms of the settlement, the Administrator or Secretary or other relevant department or agency head will request the Attorney General to enforce the settlement agreement in district court.

New subsection 122(h)(5) provides that parties who settle with EPA for past response costs are protected from the contribution claims of non-settling parties, whether or not the administrative settlement is entered as a judicially approved consent decree. If the plaintiff in a contribution action shows that the settlement was achieved through fraud or other misconduct, or a mutual mistake of fact between EPA and the settling party, the settlement will not provide immunity from contribution claims.

IV. Comment Period for Administrative Settlement: New Subsection 122(i) of CERCLA

New Subsection 122(i) provides for a thirty-day comment period before any settlement embodied in an administrative order under new subsection 122(h) (including settlements arrived at through arbitration) or any settlement reached under new subsection 122(g).

NEW SECTION 310 OF CERCLA: CITIZENS SUITS

Eleven Federal environmental laws now contain citizens suits provisions. These laws include the Clean Air Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act (RCRA), the Noise Control Act, the Safe Drinking Water Act, the Endangered Species Act, the Deep Water Port Act, the Outercontinental Shelf Land Act, the Surface Mine Control and Reclamation Act, and the Marine Protection, Research, and Sanctuaries Act.

New section 310 of CERCLA would authorize citizens suits under Superfund. This

provision would authorize citizens suits against persons alleged to be in violation of any requirement which is effective pursuant to the Act, as well as suits against government officials who are alleged to have failed to perform mandatory duties under the Act. It also authorizes suits to abate an imminent and substantial endangerment to health or the environment. Such suits will be available whenever an actual or threatened release of a hazardous substance poses an imminent and substantial endangerment to health or the environment.

One of the main reasons this authority to sue for "imminent and substantial endangerment" was added to CERCLA is that it is unclear whether citizens can use the citizen suits provision currently contained in RCRA to address all waste site threats. Each time a citizen currently brings a case under RCRA, the court must decide whether the substance is a solid waste under RCRA criteria in order to allow the suit to proceed. Thus, the only way to ensure that citizens have protection from all hazardous substances, including those that are not RCRA "hazardous wastes", is to authorize citizens suits under CERCLA. With this amendment, plaintiffs and the courts will not have to waste time and resources in determining that a non-listed substance is a solid waste under RCRA. Citizens should be able to sue to protect themselves from dangerous chemicals regardless of whether EPA has formally listed the chemical under RCRA.

Another reason for this provision is that currently existing nuisance and trespass laws are inadequate to deal with hazardous waste sites. In most states, nuisance law allows only landowners to sue. In addition, nuisance law in most states can only provide monetary compensation for injury already suffered, whereas this provision authorizes suits for threatened releases with the result that citizens suits could *prevent* health risks to people from exposure to toxics. Trespass law is also inadequate because it normally allows only landowners to sue, and each landowner can usually sue only to protect himself rather than the entire community. Also the landowner must usually meet the difficult burden of proving that hazardous substances have trespassed onto his property.

Under new subsection 310(i), suits for imminent and substantial endangerment would be precluded as to any federally permitted release.

Under new subsection 310(j), suits would be precluded for the normal application of pesticides registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or for any application of a pesticide otherwise authorized under FIFRA. This provision recognizes that FIFRA, originally enacted as Public Law 94-51 and classified 7 U.S.C. 136 *et seq.*, specifically authorizes the use of pesticides in the following instances in addition to the uses for which they are registered: 7 U.S.C. 136c(c) authorizes experimental use permits; 7 U.S.C. 136p authorizes emergency use; 7 U.S.C. 136v(c)(1) authorizes use for a special local need; and 7 U.S.C. 136a(c)(1)(ii) and 136d(a)(1) authorize the use of accumulated stocks when the registration is cancelled or suspended.

Allowing citizens to sue those responsible for imminent and substantial endangerment will not make it difficult for EPA to carry out orderly action on its priority sites. These suits will be against the responsible party, not EPA. As with any other citizen suit, the citizens must notify EPA 60 days prior to filing suit so that EPA will have the opportunity to take enforcement action against the endangerment. To ensure that these suits, as well as those brought under new subsection 310(a)(1)(A), will in no way interfere with government enforcement actions, new subsection 310(d)(2) precludes citizens from bringing suits under the entire section if EPA is diligently pursuing an administrative order or civil action against the parties responsible for the hazardous waste. A similar bar is established by new subsection 310(d)(3) if a state is diligently pursuing action against the endangerment. Only if EPA or the State chooses not to become involved can the suit proceed. Thus, the suit would in no way burden EPA or divert EPA's resources from the priority sites or from ongoing enforcement activities. As modified, these bars apply to suits alleging violations of CERCLA as well as to those alleging an imminent and substantial endangerment.

The terms "diligently pursuing" and "diligently prosecuting", as applied to the type of activity by EPA or a State that bars citizens suits, mean that aggressive Federal or State enforcement action is underway regarding the subject of the suit. The purpose of these bars is to ensure that such enforcement actions will not be deterred by the diversion of resources that such suits might otherwise engender. The bars are also necessary to avoid the confusion or termination of settlement negotiations because EPA, a State, or potentially responsible parties face citizen suit litigation relative to the matters under negotiation. The basic concept is that the purpose of citizens suits is to augment, not duplicate, government enforcement efforts. Consequently, instances where EPA or a state are involved in good faith negotiations will be protected from the drain and disruption that might otherwise be created by citizens suits.

On the other hand, "diligent pursuit" *does* require a vigorous and active enforcement effort as to the subject of the suit. It certainly does not contemplate "intentions" or "plans" on the part of EPA or a State to address the matter at some time in the future. Moreover, EPA or State action must be capable of providing relief similar to that which courts can dispense in citizens suits. In other words, a necessary condition of a finding of diligent government action is the expenditure and commitment of resources by EPA or the State to actively address the subject of the suit.

New section 310(c) of CERCLA states the type of relief that courts are authorized to grant in actions claiming an imminent and substantial endangerment: "to immediately restrain any person contributing to the endangerment . . . to order such person to take response actions as provided for under this Act". Under this language, the courts are authorized to grant only that injunctive relief which is consistent with the kinds of response actions that EPA is authorized to take under CERCLA. This will avoid the creation by the courts of response actions and remedies that vary widely from the actions selected or approved by EPA under the Act, and will lessen the necessity for EPA to intervene in these suits to ensure that these actions do not result in anomalous and potentially troublesome remedies. This language confirms that the cause of action for abatement of an imminent and substantial endangerment, like the one added to the Solid Waste Disposal Act in 1984, is designed solely to aid in the clean-up of hazardous substances.

The type of relief set forth in new subsection 310(c) is consistent with that available for other actions authorized by this new citizens suits provision. These suits may also be brought for injunctive relief only, i.e., citizens may seek a restraining order against private parties and/or a mandamus order to require the EPA or other relevant agency to perform a mandatory duty under CERCLA. None of these actions are for money damages. They are actions directly related to the principal purpose of the Superfund law—i.e., to bring about quick identification and effective clean-up of dangerous hazardous substance releases.

New subsection 310(h)(2) of CERCLA provides a right to intervene in actions brought under section 310 to any person who has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest, unless the Administrator or the State shows that the person's intent is adequately represented by existing parties in the action".

This provision creates a statutory right for citizens who would be affected by actions brought under new section 310 to intervene in these actons. It is designed primarily to protect the interests of those who own property in proximity to a Superfund site, and is similar to statutory intervention provisions contained in other federal statutes, including RCRA, the Toxic Substance Control Act, the Clean Air Act, and the Safe Drinking Water Act.

Without this provision, Rule 24 of the Federal Rules of Civil Procedure would govern the right of citizens to intervene in such cases. In order to succeed to a Rule 24 motion, a party has the burden of establishing that no other party to the suit, such as EPA or a state, adequately represents the moving party's interest. The case law that has been developed under Rule 24 creates a presumption of adequate representation by government agencies, which essentially can be overcome by the moving party only by demonstrating bad faith or malfeasance. That is a very difficult burden to meet. Citizens, under Rule 24, are thus forced to spend a substantial store of their resources merely in establishing their right to be in court. This obviously depletes the resources that they would otherwise have available to address the substance of their claim. This amendment would shift to the EPA or to the State the burden of establishing that it adequately represents the citizen's interest.

Given the very broad authority that courts have today to deny intervention motions, citizens with limited resources face almost insurmountable barriers to protecting their interests. This amendment, with ample precedent in the federal statutes mentioned above, would appropriately lower those barriers.

The new citizens suits provision set forth in Section 310 will assist in accomplishing the goals of CERCLA: the clean-up of hazardous waste sites. It provides important safeguards to protect against government inaction or violations of the Act. In view of the government's limited and overburdened enforcement authority, citizens suits are essential to assure compliance with the law.

Mr. Chairman, I would like to say that this legislation not only is critically important in order to ensure the process of cleaning up sites, but it is clearly the most complicated piece of legislation I have ever had the oppor-

tunity to deal with since I have been in Congress.

I would like to pay special tribute to the staff of not only this committee but all committees who worked incredibly hard to come up with a Rubic's Cube arrangement that works, I think. At least we hope it will work to clean up sites.

On the Judiciary Committee we have Janet Potts and Bill Shattuck and Kevin Richardson on the minority side, but in all the committees, if it were not for the staff, this whole process would have broken down and we would have had no bill whatsoever.

Finally, I would like to say one point unrelated to the Judiciary Committee. While I have not been involved in the Ways and Means aspects of the bill, it does seem to me that if we are going to ask Americans to pay for a cleanup involving waste sites all over this country. That the tax to pay for those sites ought to be broad-based and not limited to a certain number of industries. It is true that the oil industry and the chemical industry are responsible for the raw product, but the fact of the matter is that hazardous wastes are used by everybody else in our society, from the medical profession to agriculture to all sorts of business. Therefore, the broad-based tax does seem to be more fair and reasonable than does a tax geared and designated to those who just produce the chemicals in the first place. I would urge the adoption and retention of the Ways and Means Committee tax provisions.

Mr. Chairman, I reserve the balance of my time.

Mr. KINDNESS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House considers this compromise version of the Superfund Reauthorization bill, and I am very happy to see this day arrive. I, for one, am pleased that we finally brought this legislation to the floor in a setting that suggests that there will be prompt action by this House and presumably by the other body so that within the paramenters of what we had to consider within the Committee on the Judiciary, I have a few comments to make.

□ 1435

I would be remiss if I did not mention those areas in which I think there could still be additional work done, and I would like to offer my compliments to those members of the various committees and the staffs of the various committees that were involved for the excellent work that has been done.

Perhaps one of the most important issues within the entire Superfund Program is the establishment of the citizens suit provision. Some might say, well, we have so many of them in the law already, we have too many, and this has created quite a burden upon the Federal court system.

Well, I intend to support the compromise bill on this and other points, but I feel that the House might want to call special attention to certain portions of this provision in its conference negotiations with the other body.

Although the Commerce and Public Committees, along with the Judiciary Committee, all reported citizen suit provisions, they were quite different in scope and impact.

The substitute bill contains portions of each of the three committee versions that attempts to balance the rights of citizens with the need to have prompt cleanup of sites without needless and expensive litigation.

Despite the substantial efforts of those involved in the compromise negotiations to encourage and facilitate greater use of preenforcement settlement negotiations as an element of the Government's cleanup program, the substitute approach still could leave some question as to whether citizens can bring their actions during active negotiations by the Federal Government or by a State government which has given notice of its intent to bring suit.

States and private citizens are not obliged to observe the negotiation procedures applicable to the Federal Government. Litigation apparently could occur during that time.

Time prohibited the committees and staff people from adding appropriate language in the compromise substitute to address this issue very specifically, but I would hope the language to solve the problem could be worked out in conference with the other body.

Mr. Chairman, I understand there is at least one remaining area of disagreement concerning the critical issue of claims being created by this new citizen suit language. The Judiciary Committee amendment to the original bill provided grounds for citizen suits against any person who has contributed or is contributing to the actual or threatened relief of any hazardous substance from a facility, if such release may present an imminent or substantial endangerment to health or to the environment.

The compromise version provides for a suit against any person who has contributed or is contributing to the release or the threatened release of any hazardous substance from a hazardous waste disposal site, not a facility.

Now, I understand that my good friend, the gentleman from Kansas [Mr. GLICKMAN], will offer an amendment to return to the original language as reported by the Judiciary Committee. I am afraid I will certainly have to oppose that amendment, as I believe the compromise approach better serves the interests of balancing the rights of citizens with a need to assure prompt cleanup of waste sites.

I believe in the spirit of the compromise that has been worked out, we ought to go with the language that we have before us.

My second principal concern is that of liability affecting response action contractors, those people who clean up our Nation's hazardous waste disposal sites. At present, insurance availability for contractors is diminishing and limits of coverage have been reducing and premium rates have been increasing, some by as much as 50 percent to 200 percent. Insurance industry sources estimate that only 10 percent of contractors' market needs are currently being met. By January 1986, possibly no new insurance will be available at all. The present lack of insurance is already causing a reduction in the number of qualified contractors willing to participate in Superfund cleanups. As insurance becomes increasingly unavailable over the years and over the next year in particular, the availability of qualified contractors could diminish to the point of being acute. As a result, the Superfund cleanup program could indeed come to an abrupt halt.

Although the substitute bill still requires fine tuning, it goes a long way toward addressing most of the concerns that I have described. It is still my hope, as well as my understanding, that what is in the bill will be maintained through conference with the other body.

Finally, Mr. Chairman, I must state my strong opposition to a Federal cause of action for personal injury and property damage. It is my understanding that our colleague, the gentleman from Massachusetts [Mr. FRANK] will offer an amendment to provide such a cause of action. It is my hope that the House will again this year reject this ill-conceived notion, as it did in last year's Superfund legislation.

To begin with, my opposition to a Federal cause of action is based on the fact that this Superfund is a cleanup law, not a compensation law. The bill being considered by the House today is focused on cleanup activities and all the committees which worked on the bill specifically excluded Federal cause of action. Such a proposal should have had an airing in the Committee on the Judiciary if it was to be considered seriously.

The gentleman did not offer the amendment in the Committee on the Judiciary. I think it is too late. This is not the time and a separate bill ought to be considered in that committee for that purpose.

Mr. Chairman, I would urge my colleagues to favorably consider the content of the compromise portion of this bill and urge that it be adopted substantially as is.

Additionally, I might just note a couple of other points I consider important for the House to examine:

First, proponents fail to recognize that liability under the Frank proposal would be triggered by such nonevents as the mere deposit or storing of a hazardous substance. Consequently, given the liability standard of near-absolute, joint and several liability imposed by the amendment, liability could attach to a party without that party having contributed to the event that actually causes the harm.

Second, one of the so-called defenses provides relief from liability if the defendant established by a preponderance of the evidence that it took precautions against foreseeable acts or omissions of any (such) third party and the consequences that could foreseeably result from such acts or omissions."

This effectively casts each party to a site in the role of insurer of all other site-users/participants. This is almost certainly an impossible task to meet and provides absolutely no meaningful relief. In fact, each site user not only becomes liable for the actions of all concurrent users but all past users—over which control is absolutely impossible.

Third, persons held liable under the amendment include "any person who owned or operated the facility at which the release occurred at the time any hazardous substance was disposed of at such facility." This means that past site owners/operators can be held liable for damages for substances that were not even disposed of when they owned or operated the site.

Fourth, pain and suffering are compensable except to the extent that they are a result of an individual's unreasonable fear of physical injury, illness or death. This departs from long-established tort law which has never granted relief for speculative damages. The Frank amendment language would cast Federal courts into the role of determining what "reasonable" fear might be in any given circumstance, hence requiring them to speculate as to what any person's damages may or may not be.

Fifth, the Frank amendment would effectively repeal rule 23 of the Federal rules of Civil Procedure. By requiring that actions under the title arising from the same release be certified as a class, differences between each individual's condition "in the class" are ignored.

Sixth, lastly, proponents of this cause of action have specifically exempted the United States, States and local governments from liability under this statement. The Congressional Budget Office last year stated that the potential liability of the United States under such a cause of action would be impossible to estimate and could add significantly to the costs of the Federal Government. By specifically removing the United States, States and local governments from this liability, the proponents have admitted that liability under this title is essentially indefensible given its scheme of near-absolute, joint, several and noncausal nexus liability. Given this admission, can Congress truly entertain such a proposal?

I would add, Mr. Chairman, my commendations and thanks for the fine and professional staff work of William Shattuck, Janet Potts, and Kevin Richardson of the Committee on Judiciary staff, in dealing with this legislation.

The balance of my time, Mr. Chairman, I would like to reserve, subject to first yielding, if the gentleman from Kansas has no other speakers to yield to at the moment.

The CHAIRMAN. The gentleman from Kansas does have another speaker. It is the intent of the Chair to recognize the gentleman from Kansas and then come back to the gentleman from Ohio.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. BOUCHER].

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Kansas for yielding time to me.

Mr. Chairman, I join my colleagues on the Judiciary Committee in urging passage of H.R. 2817. The bill is a thoughtful measure which will facilitate the cleanup of hazardous waste sites nationwide.

I want to pay special tribute to the provision which allows citizens to sue in Federal court to obtain compliance with the Superfund law and to protect themselves from the release of hazardous substances which threaten their health or the environment.

This right is essential to proper Superfund law enforcement in those cases where there is an imminent and substantial endangerment and where the proper Government authorities fail to act.

It is carefully drafted to ensure that citizen suits will not interfere with EPA enforcement of the Superfund law. In fact, citizen suits are prohibited where either the EPA or a State is diligently enforcing the law or moving to abate an imminent and substantial endangerment. Under this provision citizens can sue only after the failure of EPA or a State, following 60 days notice, to move to abate the problem.

Under this measure, only injunctive relief may be obtained in citizens suits. Since money damages cannot be awarded, there will be no incentive to abuse this right of action.

I think it is appropriate to emphasize that 11 Federal environmental statutes, including the Clean Air Act, presently contain citizen suit provisions essentially similar to this provision. There is no evidence that the exercise of these statutory rights have overburdened the Federal courts. At the same time, they have provided, as would this new citizen suit provision, a critically important avenue for citizens to obtain enforcement of the law.

The intent underlying the citizen suit provision is to allow citizens to augment, not duplicate, Government enforcement efforts, and to permit citizens to obtain prospective protection of their communities from grave hazards to health and the environment.

I would also note a new subsection which provides a right for intervention in actions to any person who has a direct interest in the action and who is so situated that the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest.

This provision creates a statutory right for citizens to intervene. It is designed primarily to protect the interest of those who own property in proximity to a Superfund site and is similar to statutory intervention provisions contained in other Federal statutes, including RCRA, the Toxic Substance Control Act, the Clean Air Act and the Safe Water Drinking Act.

Without this provision, citizens are relegated to the permissive intervention provisions of rule 24 of the Federal Rules of Civil Procedure, under which they must spend a substantial portion of their resources in pretrial proceedings to establish that no other party to the litigation adequately represents their interests. By shifting to EPA or to the State the burden of establishing that it adequately represents the citizen's interest, the statutory right of intervention will permit citizens to spend the major portion of their resources addressing the substance of their claims.

This provision is consistent with numerous other Federal statutes, and it was adopted without controversy in the Judiciary Committee. I urge the adoption of H.R. 2817.

Mr. KINDNESS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this bill. It has been a long and arduous process of compromise, but the bill is essential to the future of our Nation, to its health and to its economy, and I urge support for the bill.

Mr. KINDNESS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I wonder if I could engage the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] for a moment, please.

Mr. DINGELL. Yes.

Mr. DAVIS. I would like to have a colloquy with the chairman of the committee.

Mr. Chairman, there is a national priority list site in my congressional district which is receiving EPA Superfund cleanup money. The EPA has

sent a copy of the record of decision for the Charlevoix site to the Michigan Department of Natural Resources, recommending that a limited action alternative be implemented consisting of long-term surface water and ground water monitoring. Under this recommended alternative, the contaminated ground water would continue to flow into Lake Michigan under natural flow conditions and no cleanup of the contaminated ground water would be attempted. The Michigan Department of Natural Resources has expressed their concern for the EPA's inaction at this site with respect to a final remedial action. Governor Blanchard has written to the EPA asking that the EPA reevaluate the feasibility study and to amend the record of decision for the Charlevoix site.

Mr. Chairman, I would like to make it clear that it is the intent of Congress, in providing a major nationwide program through Superfund, that the sites be clean up. I am concerned that the EPA has avoided a final solution to the Charlevoix problem. We would like to see the EPA reevaluate their earlier recommendation and attempt to find an equitable solution to the problem.

Thank you Mr. Chairman, for this opportunity to bring this critical matter to the attention of our colleagues and to clarify the position of Congress with respect to Superfund cleanup actions.

Mr. DINGELL. Mr. Chairman, will my good friend the gentleman from Michigan, yield?

Mr. DAVIS. Yes; I yield to the chairman.

Mr. DINGELL. Mr. Chairman, I thank my good friend.

I first want to agree with my good friend and colleague from Michigan that instances such as the one the gentleman has described pose a threat to the health and water quality of the Great Lakes.

Second of all, I observe that I am aware of the situation to which the gentleman alludes and that our Governor, Governor Blanchard, has been extremely interested in this matter.

The reason we are here today, I would observe to my good friend, if he would continue to yield to me, engaged in legislation to reauthorize this important Superfund law, is to ensure that the Superfund cleanup of critical toxic waste sites proceeds in accordance with the law in the most speedy and expeditious fashion.

I will observe to my good friend, if he will continue to yield to me, that I am confident that passage of this legislation will send a clear signal to the EPA that it should be diligent in its responsibility to see to it that sites such as Charlevoix will not be overlooked and that the necessary actions are to be taken there and elsewhere to abate threats to public health.

Mr. DAVIS. Mr. Chairman, I thank the chairman of the full committee for those comments, I say to my colleague, the gentleman from Michigan, who has always been most helpful. I think this will help in this particular situation.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me?

Mr. DAVIS. Yes; I yield.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DAVIS] has expired.

Mr. KINDNESS. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. CONTE. Mr. Chairman, if the gentleman will yield, I would like to ask the gentleman from Michigan, the town of Whately in my district has a large number of private wells and the ground water which feeds those wells is found to be contaminated with pesticides, primarily EDB and temik.

I also understand the issue of ground water contamination is a major one facing the country.

The gentleman from Hawaii [Mr. HEFTEL] has been studying this problem in his own State.

Is it the understanding of the gentleman from Michigan [Mr. DINGELL] that the substitute preserves the ability of the Superfund to pay for cleanup of ground water contaminated with pesticides?

□ 1450

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the purpose of the legislation here is to clean up all sites which constitute a threat to the health and the environment which happen to fall on the list published by the Environmental Protection Agency.

The purpose is to address not only sites which contribute one kind of pollutant, but other kinds. That would include, obviously, pesticides and things of that kind.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DAVIS] has again expired.

Mr. DINGELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I yield further to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I would observe, Mr. Chairman, that with a potential of 10,000 to 20,000 suits and $100 billion, cleanup is not going to proceed as fast as we want, but we are going to try to see to it that it is done, and that is the purpose of the legislation.

Mr. CONTE. I thank the gentleman from Michigan.

Mr. GLICKMAN. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I join with those urging passage of this very critical bill, and I would like to compliment my chairman and the staff. It has been a pleasure working with them and I appreciate the hard work they put into it.

But I would also like to compliment, from the other side of the aisle, the gentleman from Colorado [Mr. BROWN] for the efforts that he took to reach a compromise, above and beyond what most of us would go through to reach a compromise.

The Committee on the Judiciary passed a very good citizens' suit provision for Superfund. Such a provision will ensure that private citizens have an opportunity to sue companies for abatement from imminent and substantial endangerment from hazardous waste sites. I would repeat that: Imminent and substantial endangerments.

Citizen suits will provide this legislation with an important enforcement tool. I would add that all other environmental laws have this provision in them. I believe that the Superfund bill must contain this provision. If citizens can demonstrate that a site possesses an imminent and substantial risk to their health, they should be given an opportunity to force a cleanup. This provision is critical to ensure the future health of the Nation.

Mr. KINDNESS. Mr. Chairman, I have one additional speaker who has not arrived on the floor yet. If the gentleman from Kansas has other speakers, would he consider yielding to them at this time?

Mr. GLICKMAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Kansas [Mr. GLICKMAN] has 4½ minutes remaining. The gentleman from West Virginia only used 1 minute.

Mr. GLICKMAN. Mr. Chairman, I yield myself such time as I may consume.

I would just make a few comments in conclusion of my time. What the Committee on the Judiciary tried to do in this bill, and I think what the other committees tried to do in this bill is to achieve balance, to try to pursue cleanup without being ridiculously impractical or onerous in the process.

That is the whole idea of why this Superfund bill, I think, makes a lot of sense. To give some examples of how we on the Committee on the Judiciary tried to achieve that balance, one thing we did was have respect for what we call de minimis generators. These are people who generate very, very small quantities of waste both in terms of quality and quantity. There ought to be a way of getting these people out of very, very expensive cleanup situations or serious litigation. A lot of these are very small business people and we have focused in on them.

We also pursued sections to encourage settlements so that there would not have to be an unnecessary amount of litigation. We give greater access for judicial review for the selection of the cleanup remedy, so that both business and citizens would be able to go into court if they felt that the cleanup remedy did not comply with the sections of the law.

The fourth thing that we did was to provide citizen suits for equitable relief—not damages, equitable relief—in the event of substantial and complete endangerment to their health or safety.

So these things, I think, reflect the fact that in pursuing the remedies involved in Superfund, we have to be strong, but we have to be reasonable, and that is what we tried to do on our aspect of this committee consideration.

Mr. Chairman, I yield back the balance of my time.

Mr. KINDNESS. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. KINDNESS] has 3½ minutes remaining.

Mr. KINDNESS. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. I thank the gentleman from Ohio for yielding this time to me.

Mr. Chairman. I feel it important to once again bring forth the concerns surrounding the concept of possessory liability. The compromise substitute does not make some progress in the related area of de minimis generator releases but does not adequately address the fact that a small business is still potentially liable for all the cleanup costs at a disposal site, even though it has done everything legally and technologically possible to dispose of its waste properly. The resulting potential liability can run into the hundreds of millions of dollars and is virtually uninsurable. Attorney's fees alone can bankrupt a small business trying to defend itself against this liability.

It should be possible for a small business that generates small quantities of waste of low toxicity, if it follows all EPA rules and deposits its waste at an EPA-approved facility, to be relieved of further liability. This problem can be solved as state-of-the-art disposal facilities, approved and monitored by the Environmental Protection Agency, become available. I was disappointed that language relieving small generators who use these facilities of further liability could not be added to the substitute.

An amendment which addresses these problems would not only encourage accelerated compliance with the new standards put forth under the 1984 RCRA amendments, but also provide much needed relief for the thousands of small businesses who face ruinous liability and litigation costs because of their totally legal disposal of hazardous waste. These small businesses are not "midnight dumpers". Rather, they are honest, law-abiding businesses that simply want to dispose of the wastes associated with their day-to-day operations. Such businesses include gasoline stations, dry cleaners, hospitals, car washes, colleges and universities.

EPA estimates that there are 175,000 small quantity generators. According to an EPA study, all these small generators combined produce about three-tenths of 1 percent of all the hazardous waste generated. The grocery stores, body shops, paint stores, car washes, colleges and universities are not the source of our environmental problems and will be less so if they can be encouraged to use safe, modern disposal sites. The EPA would be able to focus its enforcement activities against major polluters, who are responsible for over 99 percent of the hazardous waste.

Furthermore, this immeasurable and unending liability presents immediate practical problems for small business. Financial institutions are extremely wary of lending capital for operations when the borrower may or may not be subject to huge liabilities created by the legal disposal of hazardous waste. The impact of this ripples through the economy as small business finds itself unable to borrow needed capital for expansion and investment due to the contingent liabilities generated under the CERCLA liability system.

No system of liability should be such that it actively discourages economic growth and job creation.

Most small generators lack the money and expertise to institute on-site disposal methods. They are forced, essentially, to transport their wastes off site regardless of the status of liability. The imposition of retroactive, strict, joint and several liability for small businesses who have placed their wastes in RCRA permitted facilities, ironically creates a strong inducement to improper behavior. Any small business that deposits its waste at a facility requiring waste to be manifested is documenting its own liability. It is, in effect, creating evidence that can be used against it in the future. This creates a powerful disincentive for disposing of waste in EPA-approved facilities. Allowing small generators a defense against liability would remove this disincentive and encourage environmentally sound disposal. In addition, it would provide further incentive for owners and operators of disposal facilities to upgrade their sites to obtain final permits under RCRA. In this way, environmental laws can be made both more fair and more effective.

I thank you, Mr. Chairman, for the opportunity to share my views with the committee and hope you will allow amendments in both the citizen suit and possessory liability sections of the bill.

The CHAIRMAN. The gentleman from Colorado [Mr. BROWN] utilized 2 of the 3 minutes and yields back 1 minute. The gentleman from Ohio [Mr. KINDNESS] has 1½ minutes remaining.

Mr. KINDNESS. Mr. Chairman, I yield my remaining time to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding this time to me.

Mr. Chairman, there is no doubt in my mind that the Superfund Program can be improved. The Supefund record has been something less than spectacular, ranging from sweetheart deals to mass resignations by EPA officials to jail sentences.

At the conclusion of the program's 5-year authorization, and after Hurricane Gloria washed millions of gallons of chemicals from a cleaned Superfund site into Pennsylvania's Susquehanna River, EPA admitted that it had not cleaned up any of the sites on the National Priority List. If Congress can't improve on that record, we're all in trouble.

I have just recently had my first opportunity to see the Superfund Program in action. EPA has begun work on the first NPL site in Nebraska that requires a remedial solution. At this site, EPA has drawn a line around a contaminated water well and has called it a Superfund site needing millions of dollars' worth of studies.

Never mind the fact that the well is not being used and EPA's data shows that the contamination is decreasing. Never mind that—according to EPA—if water from the well were being used, drinking the water would be less harmful than smoking a cigarette.

Mr. Chairman, my constituents think that EPA is determined to steamroll their expensive studies right through the town.

Only at my insistence has EPA been forthcoming with information about its plans for study and cleanup of this site. Because the city was unaware of the public comment period on the site, I have been somewhat successful in obtaining EPA's promise to consider the late comments submitted by the city.

For these reasons, I especially favor the provisions of this bill that require EPA to provide greater opportunity for public comment and participation in the development of its cleanup plans.

And while I recognize the need for a strong national policy on toxic waste cleanup, it is my hope that this reauthorization will result in a more flexible program that will be responsive to

the unique needs of each State and each Superfund site.

Mr. Chairman, the number of abandoned waste sites necessitates an expanded Superfund Program. We're all in agreement about that.

This bill certainly has its positive and negative points. But I am hopeful that whatever version of the Superfund is finally passed by this Congress will result in a more effective, efficient, and economical Superfund.

□ 1500

Mr. GLICKMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, this bill establishes a negligence standard for the work done by response action contractors in cleaning up Superfund sites. What is the negligence standard?

Mr. GLICKMAN. If the gentleman will yield, the negligence standard is the existing, normal standard used to judge the adequacy of work done by professionals, such as doctors, lawyers or engineers. The negligence standard measures the adequacy of the professional's work by comparing it to standards of practice used by other reasonable and competent professionals doing the same kind of work at the same time. The negligence standard is the standard covered by professional liability insurance policies—errors and omissions or malpractice policies.

Mr. BROOKS. Does the negligence standard allow response action contractors to use outmoded technologies or solutions just because they were once considered satisfactory?

Mr. GLICKMAN. No, the negligence standard judges the actions of a professional as of the time the services are performed. If an action is outdated and no longer generally recognized as appropriate at the time it is taken, the response action contractor can be held liable for damages caused by the inappropriate conduct.

A surgeon is not held liable for failing to use technologies or techniques not in existence or not generally recognized as appropriate when an operation is performed. Neither should response action contractors be for Superfund work.

The CHAIRMAN. All time has expired for the Committee on the Judiciary.

The Chair will now recognize the Committee on Merchant Marine and Fisheries. The gentleman from North Carolina [Mr. JONES] will be recognized for 15 minutes and the gentleman from New York [Mr. LENT] will be recognized for 15 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank you for the opportunity to speak on behalf of H.R. 2817, a bill to reauthorize the Superfund Program. I realize that many words have and will be said today about the importance of the Superfund Program, and I will, therefore, be brief.

Mr. Chairman, I rise today in strong support for H.R. 2817. As my colleagues know, the Merchant Marine Committee received a sequential referral of H.R. 2817 to examine three areas of the Superfund Program, in tion: First, the Superfund responsibilities of the U.S. Coast Guard, which shares cleanup responsibilities with EPA; second, the natural resource areas of the Superfund program, in which the Federal and State Governments are designated as trustees of our natural resources; and third, the components of the Superfund Program relating to the marine environment, including spills of hazardous substances into marine and coastal waters.

As evidence of our strong support of this legislation, our committee reported H.R. 2817 with a nearly unanimous vote with several amendments relating to these three areas. In preparing for floor action on H.R. 2817 by the full House, our committee has worked closely with the other four legislative committees of jurisdiction in developing the substitute compromise text which, I am pleased to report, contains the majority of amendments reported by the Merchant Marine Committee. I want to express my appreciation for the cooperation of the other committees in this effort, and pledge the efforts of the Merchant Marine Committee in support of H.R. 2817.

I would like to draw your attention to one amendment reported by the Merchant Marine Committee which has been incorporated as a new title in the substitute—the Comprehensive Oil Pollution Liability and Compensation Act. This oil spill title is essentially the same as the amendment added by the House to the Superfund bill in the last Congress. Our committee has devoted considerable time over the years to the development of this legislation, which has the support of the administration, industry groups, and environmentalists. We have together with the Public Works Committee and the Ways and Means Committee have reached a compromise in principle on the oilspill components of H.R. 2817. I urge my colleagues to support this important addition to the legislation.

The CHAIRMAN pro tempore (Mr. MCCURDY). The gentleman from North Carolina [Mr. JONES] has consumed 3 minutes.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to commend all of the committees of the House of Representatives which have worked so long and so hard on the Superfund reauthorization. I especially want to commend my colleagues on the Committee on Merchant Marine and Fisheries, particularly the distinguished chairman of that committee, the gentleman from North Carolina [Mr. JONES], and the gentleman from New York [Mr. BIAGGI], as well as the gentleman from Massachusetts [Mr. STUDDS], and also the committee staff for their diligent and thoughtful efforts in ensuring that the bill before us properly addresses several matters involving marine pollution in the marine environment, authority of the U.S. Coast Guard to respond to Superfund incidents, and vital coordination between EPA and Federal natural resources trustee agencies in responding to Superfund incidents and assuring that sufficient information regarding damage to natural resources will be available to allow prosecution of claims against responsible parties. I am pleased to say that all interested committees have agreed to these provisions as they appear in the bill before us today.

This bill contains other provisions which I and many of my colleagues have, for many years now, strongly supported and cosponsored in legislation—a comprehensive system of liability and compensation for oilspill damage and cleanup costs. There is virtually no dispute over the fact that we need a comprehensive system to replace the several separate Federal oilspill statutes that presently exist. This oilspill provision is fully consistent with the overall environmental and liability objectives of Superfund.

The oilspill provisions would bring certainty and uniformity, in contrast to the hodgepodge of State and Federal laws in existence today that govern oilspills. The oilspill provisions consolidate several existing Federal oilspill liability and compensation funds, and greatly enhance the likelihood that innocent victims of an oilspill will be properly compensated.

This language represents a delicate but fair balance among all affected interests. I believe that the administration, the oil industry, shipowners, environmentalists, the insurance industry, potential claimants, and the States should recognize this. I urge all of these interests to assist us to make sure that this comprehensive system of liability and compensation for oilspill damage—a goal we have been seeking for nearly a decade—is promptly enacted into law.

Mr. Chairman, Superfund was reported by the Merchant Marine and Fisheries Committee with overwhelming support—by a vote of 38 to 1. I urge my colleagues here on the floor of the House to support reauthorization of Superfund.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the

gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, as one of the members of the Committee on Merchant Marine and Fisheries who argued that my committee should have the right to a sequential referral on this legislation, and—far more importantly—as one who represents a congressional district that has had four hazardous waste sites placed on the national priority list—I rise in strong support of the bill.

In so doing, I recognize, as I believe we all do, that this bill is not perfect. A perfect hazardous waste cleanup program, after all, would guarantee rapid and complete removal of toxic substances through the use of technology that is both environmentally acceptable and economically feasible. A perfect system would be financed entirely by persons and companies clearly responsible and deservedly liable for the pollution.

Current law, as we all know, does not provide for a perfect hazardous waste cleanup program; and neither will the bill before us today. But if this legislation is approved, we will have a program that should provide cleanup that is more rapid, more thorough, and more equitable by far than the miserable record developed over the past 5 years.

I think even the most vigorous supporters of the Reagan Presidency will concede that valuable time was squandered, especially in 1981 and 1982, in the battle against hazardous waste. We had leadership at EPA that refused to acknowledge the very existence of the problem, and whose efforts were aimed not at making the Superfund Program work, but instead at making the Superfund Program go away. I think that situation has changed, but the legacy of the period persists—in public impatience, and in skepticism about the willingness of the Government to commit either the effort or the resources that this problem so urgently and obviously requires.

That skepticism has grown stronger with each passing month, as congressional consideration of this legislation has dragged on and on. More than a year ago, the House approved a bill by an overwhelming margin that would have accomplished all that we are seeking to achieve in this bill, and more. But the Senate failed to act. As a result, we are here once again, in December, during the waning days of a session of Congress, arguing about a bill that ought to be too important to consider during a period as hectic and hurried as this, but which is also too urgent to further delay.

From a personal perspective, I am very pleased that the bill before us includes more than a dozen of the amendments that I offered to the bill during its consideration by the Committee on Merchant Marine and Fisheries.

The most important of these would—

First, establish a prompt and equitable means of compensating those suffering economic loss as a result of an oil spill;

Second, require the Environmental Protection Agency to take into account the importance of cleaning up hazardous waste sites to the extent that affected fish and shellfish resources are able to meet Federal public health standards governing their commercial sale; and

Third, make certain that funds recovered by the Government in a claim for damage to natural resources will be used to repair that damage, and not for some other purpose. This is particularly important with respect to a situation existing in my district, in New Bedford Harbor, where a Government suit for damage to natural resources is now pending. Under current law, the Government would win that case, and then use the recovered funds for whatever purpose the barely discernible heart of the Office of Management and Budget might desire, ranging from star wars to subsidies for sugar beets. I believe—and my amendment will require—that this money be used, and only be used, to repair or restore the natural resources that have been damaged as a result of contamination from hazardous waste.

Other amendments that I developed will preserve the role of the Coast Guard in responding to spills of hazardous waste from vessels. Among these is a provision that will guarantee the ability of the Coast Guard to require any person responsible for such a spill to clean it up in a prompt and effective manner, consistent with the national contingency plan.

These amendments, and others offered by our committee regarding damage to natural resources and liability for damages caused by spills from ocean incineration vessels, reflect the unique and valuable perspective brought to this issue by the Committee on Merchant Marine and Fisheries. I believe our committee was correct to seek jurisdiction over this legislation; I believe we have improved it; and I hope we will play a substantial role in guaranteeing its successful implementation by the Coast Guard, NOAA, EPA, and other Federal agencies who have been assigned responsibilities under this law.

The overall merits of the compromise legislation that we are considering today are obvious, I believe, particularly when you compare the provisions on this bill with those in existing law. Of greatest importance are those that—

Expand the size of the Superfund from $1.6 billion to more than $10 billion;

Provide a specific timetable for EPA to investigate and clean up hazardous waste sites;

Establish strict standards for cleaning up waste sites;

Establish a program for encouraging the most rapid possible development of new technology to clean up, process, and transport hazardous materials;

Create a separate fund to be available to clean up contamination from abandoned underground petroleum storage tanks, when an owner or operator is unwilling or unable to do so. This provision is a crucial element of any plan to deal with the threat to human health posed by pollution problems, and it has been particularly important for southeastern Massachusetts.

Another important feature of this legislation is that it seeks to deal with the question of liability for cleaning up hazardous waste sites, but without weakening the standard of liability in existing law. Instead, the bill seeks to encourage the negotiation of cleanup settlements between EPA and private parties that will protect the public interest, while also providing fair treatment to those required by law to bear all or part of the financial cost.

The question of liability is not merely a theoretical problem. It is very important, very real, and very difficult. In my own district, the question of liability for the pollution that exists in New Bedford Harbor has not yet been resolved. Nor is it clear that procedures exist within current law that will guarantee the question will ever be settled in an equitable manner.

This is because there is no clear connection within the law between proportional responsibility for pollution and proportional liability for the costs of cleaning up that pollution. Nor is there clear guidance with respect to the assignment of liability to companies that purchased facilities from which pollution once emanated, but which have been responsible for little or no pollution under the current management.

The evidence indicates, in the New Bedford case, that the vast majority of the discharges of PCB's occurred during the 1950's and 1960's, when one of the major dischargers, Aerovox, was under different management than it is today. The company that operated Aerovox until 1972 has been renamed AVX, and no longer operates anywhere in the New Bedford area.

Under the law, all companies owning the Aerovox facilities since the time of the discharges are potentially liable for all of the cleanup costs and damages caused by that pollution. Thus, the present owners—and employees—face the possibility of economic hardship, or even potential bankruptcy, as a result of discharges that occurred for the most part 15 to 30 years ago

under different management. This is true despite the fact that fairness would seem to dictate that the old company—AVX—should bear the major share of responsibility for the pollution cleanup costs.

In the New Bedford case, as in many other cases around the country, there is a very strong public interest in reaching a settlement of the liability question. This is true because both EPA and private resources ought to be devoted to cleaning up hazardous waste sites, not arguing about them in court. According to some estimates, the costs of ligitation resulting from the existing Superfund law are equal to one-third of all the money that has been spent both by the Government and by private parties to clean up hazardous wastes since the bill was enacted 5 years ago. Any law that primarily benefits lawyers is far more often than not a bad law. Unfortunately, as long as large sums of money are involved, and as long as the legal issues are both cloudy and complicated, this situation will continue.

Prolonged controversy over liability questions also serves, in many cases, to delay the selection and implementation of an effective option for cleaning up hazardous waste sites. This is because potentially liable parties have a strong interest in discouraging the Government from selecting a relatively ambitious cleanup option even if the Government intends to use money from the Superfund to carry out the initial cleanup. The potentially liable party is well aware, after all, that the Government will seek to recover its costs in full.

A goal of the law, therefore, must be to create incentives for all those involved in the process—the Federal Government, State government, the victims of pollution, and those who may be liable for the costs of cleanup—to work together to select an effective and long-lasting cleanup option. The new proposed bill includes a section aimed at achieving this goal by permitting the Government to settle questions of liability with those individuals and companies who demonstrate a willingness to pay an equitable portion of the cleanup costs.

The new amendments will not eliminate completely the inequities that exist within the current statute as they affect the situation in New Bedford. I am hopeful, however, that they will encourage a process of negotiations under which each of the potentially liable companies will be able to settle with EPA, and pay a share of the cleanup costs that is at least roughly proportional to their individual responsibility for the discharges that have contaminated the harbor.

In closing, I want simply to restate my belief that this is a vitally important, albeit imperfect, piece of legislation. I reserve the right to support amendments aimed at improving it further. But I also believe that those involved in bringing us to this point deserve an immense amount of credit for the work that has been done. I hope the House will act promptly and favorably on the bill, that negotiations for a final text will commence as rapidly as possible with the Senate, and that the Superfund amendments will be law by early next year.

Mr. LENT. Mr. Chairman, I have a number of requests from members of the Committee on Energy and Commerce who were unable to be here earlier.

I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER], a new member of the Committee on Energy and Commerce.

Mr. SCHAEFER. Mr. Chairman, certainly I do want to offer my gratitude to the gentleman from New York for giving me time to talk briefly here, being a member of the Committee on Energy and Commerce. I would have to reflect a lot on what a lot of other Members have said, of course, pertaining to the hard work that has been put on this particular piece of legislation, not only by members of the Merchant Marine and Fisheries Committee, but all of the committees, including our own chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from North Carolina [Mr. BROYHILL], the gentleman from New York [Mr. LENT], and particularly the gentleman from Ohio [Mr. ECKART]. I also would have to say that I have to give a lot of credit to the gentleman from New Jersey [Mr. FLORIO], who indeed has looked upon this as a key piece of legislation in this whole Congress.

The Superfund bill of 1985 provides a fair and equitable balance between the environmental and economic concerns that have been considered during reauthorization of the entire Superfund.

Like most major measures of this magnitude, there was a certain amount of give and take that was necessary to pull together the wide range of concerns. Although there are a number of provisions in the bill that I would rather see altered, this measure has many important provisions that I can support and I do support. And more importantly, it is a bill that can get through the entire House, and I hope through the entire Senate, and I hope to become law.

Mr. Chairman, a few years ago, it was a rare individual who could tell you what the word Superfund really meant. Today it can be defined by a large segment of our population. What indeed has happened to turn this all around in the last few years?

□ 1515

Basically, it is because the general public and Congress have concluded that there are hazardous waste sites in our country that have to be cleaned up, by the Government if need be, in order to protect the public health and the environment of this country.

That is what was responsible for the original Superfund bill becoming law just a few years after the issue was originally raised. It will also be responsible, I am certain, for the reauthorization of new Superfund legislation.

Mr. Chairman, I think that one of the most important parts is the effort made to try and reduce the litigation necessary, and I feel that this bill will indeed do that; and what we have to have is a law that will work and not one that ends in litigation and does indeed get the job done.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Chairman, I rise in support of title IV cited as the Comprehensive Oil Pollution Liability and Compensation Act. The Committee on Merchant Marine and Fisheries has for more than 10 years been directly involved in the development of legislation to provide a comprehensive, equitable, and effective means of establishing liability and providing compensation for cleanup costs and injuries resulting from oil spills. As a matter of fact, the committee has been involved with oil pollution liability and compensation issues since prior to the catastrophic grounding and breakup of the crude oil tanker *Torrey Canyon* off the coast of Great Britain in 1967.

I have been personally involved with these issues since I was first elected to Congress in 1969. During the 95th Congress—as chairman of the Subcommittee on Coast Guard and Navigation, I was able to see to the passage of the first oil pollution liability and compensation legislation by the House by a recorded vote of 332 to 59.

I do not want to belabor you with the details of what occurred during the following sessions of Congress. However, I remind you that we have worked very hard for many years to develop legislation to provide a comprehensive, equitable, and effective means of establishing liability and for providing compensation for cleanup costs and injuries resulting from oil spills. With continuing vigor the House was successful in passing similar legislation a number of times. This legislation failed to be enacted primarily due to problems associated with hazardous substances liability and compensation and hazardous waste dump sites and not those associated with oil.

For many years, this type of legislation has had strong administration support. About 4 years ago, however, the administration reversed its position and opposed the legislation due

to, I believe, a misunderstanding of the effects of funding and operation of the oil pollution fund. Fortunately, the administration reversed its position in 1984 and is again in strong support of this legislation.

The administration continues to be concerned with the oil pollution threat and has been active in attempting to improve international oil pollution liability and compensation schemes. In 1984, this concern culminated in a diplomatic conference that amended existing treaties so as to be more compatible with U.S. interests. This will be a significant contribution to arriving at solutions that are internationally as well as domestically acceptable.

Public concern over the need for this type of legislation was generated when the tank vessel *Torrey Canyon* grounded off the southwest coast of England in 1967, spilling approximately 100,000 tons of crude oil that fouled the shores of the British Isles and the coast of France. Public concern was again highlighted in 1969 when a production platform off Santa Barbara, CA, suffered a blowout that discharged untold amounts of oil before it could be brought under control.

Since then, numerous other casualties have highlighted the oil pollution problem and the need for a national comprehensive oil spill liability and compensation scheme. A most noteworthy one was the grounding of the tank vessel *Argo Merchant* off Nantucket in 1976. The grounding of the very large crude carrier *Amoco Cadiz* off the coast of France on March 16, 1978, is a more memorable reminder of the need to establish such a scheme.

Another significant casualty that affected our coastal environment and economic well-being was the blowout of Ixtoc I in the Bay of Campeche, Mexico, on June 3, 1979. The impact of this spill and the resulting oil pollution of the Texas coastal environment and the waters of the Gulf of Mexico was extensive. The litigation arising out of this incident has been extensive and protracted. Had this legislation been in place, the alternative would have been fair, adequate, and prompt compensation to those who were victimized.

Casualties continue to occur and it continues to be necessary to provide for adequate compensation to those who suffer damage from the effects of oil pollution incidents. While existing oil pollution legislation permits compensation for cleanup and removal costs, there is no legislation that adequately and timely compensates those who have been victimized.

Prevention of oilspills is still the most effective means of protecting our coastal and estuarine environment from damage. The Port and Tanker Safety Act of 1978—which I was privileged to sponsor and pursue during the 95th Congress—has been effective in this area. However, we cannot preclude the possibility of oilspills occurring due to mechanical failures and the carelessness of individuals.

In the United States, the public's concern has led to enactment of a number of measures to improve the quality of our waters and to control pollution. The Water Quality Improvement Act of 1970—which was subsequently amended by the Federal Water Pollution Control Act Amendments of 1972—and later amended by the Clean Water Act of 1977—declared, as a national policy, that there should be no discharges of oil into or upon our waters. In addition to numerous specific measures for the protection of the marine environment, these statutes established liability on the part of spillers for the cost of cleanup. These acts, however, do not address themselves to the question of damages other than for the cost of cleanup.

The concepts of this legislation have had broad support from the users of oil, from the oil industry itself, from the insurance industry—which does the underwriting—and from many environmental groups. The bill:

Establishes strict liability for the owners and operators of the source of oil discharges;

Provides for a simple and practical system for the compensation of a broad range of oil discharges;

Imposes reasonable and insurable limits of liability on the owner or operator of the vessel, thereby insuring frontline responsibility for responding to an oil pollution incident;

Creates a backup compensation fund to respond to damage claims that are not satisfied;

Guarantees that those who have been harmed by oil pollution will be quickly and fairly compensated for their economic loss;

Encourages prompt and complete cleanup of oil spills;

Provides for the establishment of an oil pollution fund supported by a tax on crude oil and petroleum products;

Provides for superseding duplicative funds and procedures that now exist in various Federal and State statutes; and

Provides a simple and workable claims settlement procedure.

The objective of this oil spill liability and compensation legislation is to:

Establish one fund at the Federal level that will provide ample money for prompt compensation for oil spill damage;

Establish one set of oil spill liability laws for the entire Nation, covering all types of oil spills from all sources;

Remove the overlaps and bare spots of the present patchwork system; and

Minimize the bureaucracy.

I reiterate my prior conviction that this legislation is practicable in application—and fully considers the needs of those who are victimized by oil pollution. I firmly believe that we must act now in the public interest to provide comprehensive oil pollution liability and compensation legislation. I therefore, urge all Members to support this important legislation.

I would be remiss, Mr. Chairman, if I did not take this opportunity to commend the gentleman from Massachusetts [Mr. STUDDS], the chairman of the full committee, the gentleman from North Carolina [Mr. JONES], and the ranking minority member, the gentleman from New York [Mr. LENT], for their consistent and indefatigable efforts in this regard.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. ECKERT].

Mr. ECKERT of New York. Mr. Chairman, H.R. 2817 sets up a responsible and effective program for cleaning up hazardous waste. I support the bipartisan compromise bill worked out between the Energy and Commerce Committee and the Public Works Committee and urge my colleagues to join in supporting this critical environmental legislation.

Superfund is very important to the people in my district and throughout western New York.

There is currently one national priorities list site in my district and another is under review. An adjoining congressional district has the famous Love Canal site.

Superfund is also very important to the people in my district who are employed by numerous chemical producing and using businesses. I want to ensure that none of the approximately 60,000 persons employed by Eastman Kodak, Du Pont, Olin Corp., Jones Chemical, Dow Chemical, or the hundreds of other persons employed by chemical using or producing businesses in my district, are thrown out of work as a result of being taxed out of business, regulated to the point of losing their competitive edge, having their important trade secrets opened up to their foreign or domestic competitors or unfairly subjected to endless lawsuits that would surely follow from a Federal cause of action.

We need a clean environment. I am committed to a clear environment and reauthorization of Superfund. I am also committed to protecting the jobs of the thousands of people working in the Greater Rochester area in these important industries which have helped to create a quality of life which a recently prepared study for the U.S. Environmental Protection Agency ranked Rochester third in the Nation, the only community east of the Mississippi River so acclaimed, for outstanding quality of life in economic, political, environmental, health, education, and social components of urban living.

This bill is a bipartisan effort that strikes a balance betweem the need to continue full economic growth and employment and the need to keep the environment in as clean a State as possible. I have some reservations about the bill, including the provision that calls for a spending level of $10 billion—a sum which exceeds what the EPA says it can effectively spend. On the positive side, I find that the bill moves away from confrontation and the courtroom and toward cleanup of sites around the country.

The bill is a positive improvement on current law for a number of reasons.

First, the bill establishes a schedule which requires EPA to start cleanup studies at a rate of 150 in the first year, 175 in the second year, and 200 each year thereafter. H.R. 2817 also establishes a reasonable and achievable annual schedule for the start of cleanups, 125 starts in fiscal year 1987, 140 in fiscal year 1988, 160 in fiscal year 1989 and 175 in fiscal year 1990.

Second, the bill establishes reasonable cleanup standards at national priority list sites which provide guidance for the EPA in carrying out its duties.

Third, the bill insures the protection of the community by establishing a workable community right to know plan that will provide those involved in responding to emergency situations the information necessary to carry out their responsibilities.

Fourth, the bill emphasizes the cleanup of sites over endless legal maneuvering and judicial gridlock, while still providing citizens the right to sue to compel cleanup of hazardous waste facilities where such facility may present an imminent and substantial endangerment to health or the environment.

Fifth, the bill provides for adequate contractor cleanup by reducing the exposure to liability except in those cases where contractors have acted negligently, grossly negligent, or purposely in violation of Superfund. This should help move us along with cleanup and help ease some of the excessive pressures businesses are facing in the area of environmental liability insurance.

The bottom line is a bill that is a bipartisan consensus that reflects the give and take of the legislative process, a bill that moves the cleanup of hazardous waste forward without costing thousands of workers their jobs.

I urge my colleagues to support this important compromise, this very positive contribution to a better environment.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I rise in support of H.R. 2817 and urge my colleagues to join me in enacting this program so that we can begin the important work of cleaning up our Nation's most dangerous hazardous waste sites.

The Superfund law enacted in 1980 called for a fund of $1.6 billion to pay for the cleanup of abandoned hazardous waste sites around the country. But we know far more about the problem today than we did then. According to estimates furnished by the Office of Technology Assessment, there may be as many as 10,000 such sites around the country; cleaning them up could cost as much as $100 billion.

Clearly, the dimensions of the problem we face are far beyond what Congress anticipated in 1980 and what the existing Superfund law can hope to accomplish. We need to adopt this bill and swiflty enact this new program to show our constituents that we are serious about addressing this national problem.

The bill we are debating today goes far beyond the 1908 law. It would require the Environmental Protection Agency to start cleanup studies at a rate of 150 in the first year, 175 in the second, and 200 each year thereafter. It also establishes a schedule for the start of actual cleanups, allows private suits where hazardous waste facilities may present an imminent endangerment to the health of the environment, establishes a broad-based funding mechanism and includes right-to-know provisions that are essential to safeguard the public's rights in this area.

There have been very difficult negotiations over the last few days between representatives of the committees with jurisdiction, and I want to commend in particular the chairmen and ranking members of my committee and subcommittee, Representatives DINGELL, BROYHILL, FLORIO, and LENT, and my colleagues and friends within the New Jersey delegation, Representatives HOWARD AND ROE, for their efforts in fashioning a workable bill that can meet with broad, bipartisan support.

As a senior member of the House Committee on Energy and Commerce, I was active in the fight within my committee to assure passage of a strong Superfund reauthorization bill. My home State of New Jersey has 98 toxic dump sites and more of the Nation's 850 Superfund sites than any other State.

I am pleased that the committee adopted my amendment providing financial relief to the States by requiring the Federal Government to pay 90 percent of the cost of decontaminating polluted water at Superfund sites. Had my amendment not been adopted, States would have faced almost insurmountable obstacles in providing for the decontamination of ground water.

Mr. Chairman, I am pleased that the House finally has the opportunity to pass a strong Superfund bill, and I urge my colleagues to join with me in voting in favor of this important legislation.

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Mr. LENT. Mr. Chairman, I yield such time as I have left to the gentleman from Florida [Mr. BILIRAKIS].

The CHAIRMAN. The gentleman from Florida [Mr. BILIRAKIS] is recognized for 2 minutes.

Mr. BILIRAKIS. Mr. Chairman, I appreciate the gentleman from New York yielding me this time.

Mr. Chairman, when Superfund legislation was considered by the House Energy and Commerce Committee in July, I indicated my support for an expanded program which could be quickly signed into law.

I supported a $10-billion dollar fund which could be used to clean up this Nation's hazardous waste sites. And, I made it clear that I supported a program which would promote actual remedial work—not just endless courtroom litigation. I made it clear that I wanted taxpayer money to be spent on cleanups—not lawyers.

It was also my strong concern that any Superfund legislation serve the best interests of my home State of Florida. In this regard, I attempted to incorporate the concerns of the Florida Department of Environmental Regulation into my final position—and votes—within the Energy and Commerce Committee.

The bill before us today is not a perfect bill, and I indeed may support amendments to the legislation. But I believe on the whole that it is a good bill and a bill that will get the job done. The basic elements of the present Superfund law are preserved and expanded, a cleanup schedule is set and the funds are provided to begin the long task ahead.

So I hope that we will proceed today with this bill and get the job done. Our Nation's hazardous waste sites—and the people who are affected by such sites cannot wait any longer for Congress to act. Congress must be part of the solution and not part of the problem.

Mr. YOUNG of Alaska. Mr. Chairman, today we consider the Superfund Amendments of 1985. I rise in support of the provision concerning title IV, the Comprehensive Oil Pollution Liability and Compensation Act. This title establishes a comprehensive system of liability and compensation for damages caused by oil pollution. It is legislation that I and many of my colleagues have worked on for nearly a decade. The need for a uniform law to provide a comprehensive system as proposed is

well recognized. I recommend that we all support this title.

It is my understanding that the report language reported by the Merchant Marine and Fisheries Committee in House Report 99-253, part 4, will be considered as part of the legislative history for this proposal except where the title has been amended in the substitute bill we are considering today. In particular, I would note that the language regarding the Trans-Alaska Pipeline Liability Fund be referred to as part of the legislative history of that fund. I note that the report states a concern regarding the liability of officers and trustees of the TAPFL Fund that may continue after that fund is ended. It was noted that the fund could take all steps necessary and proper to defray any of the lawful costs associated with officer and trustee liability, including purchasing insurance and securing releases from satisfied claimants or contributors receiving rebates. Further, the TAPFL provision provides for the assumption of liability under this act for all TAPFL claims beginning on the effective date of this provision.

In summary, I support the oil spill title and again urge my colleagues to support this important provision.

The CHAIRMAN. All time for the Committee on Merchant Marine and Fisheries has expired.

The Chair will recognize the Committee on Ways and Means as soon as its chairman arrives. Pending that, the Chair recognizes the gentleman from New Jersey [Mr. HOWARD] the chairman of the Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Chairman from the time allocated to the Committee on Public Works and Transportation on the majority side, I am happy to yield 2 minutes to a member of our committee, the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. I thank the gentleman for yielding time to me.

Mr. Chairman, as an early cosponsor of the bill reported by the Energy and Commerce Committee and as a member of the Public Works Committee, which reported a widely divergent document, I rise in support of this compromise legislation.

The compromise before us today contains elements which I both like and dislike. That is the nature of the compromise. But as I have said earlier, it is the product of difficult and sincere negotiations and has been reached in the true spirit of compromise. An inordinate amount of time and work has gone into the creation of this agreement, and I commend the leaders and staff of my committee and the Energy and Commerce Committee for their fine achievement.

Since 1980, it has become increasingly clear that the threats to human safety posed by hazardous waste sites and the technological barriers to their permanent cleanup and maintenance are truly monumental. EPA has estimated that there may be as many as 22,000 such sites in America with 2,200 of them posing such an extreme danger to human health that they will be placed on the agency's National Priority List. Other experts estimate that in the long run there may be as many as 10,000 priority sites requiring as much as $100 billion over 50 years to cleanup. It is critical that Congress act now to reauthorize Superfund. Before we lose more momentum in our cleanup efforts, we should enact this responsible, well-crafted, and bipartisan bill before us today in the House. It is tough, environmentally sound, and well-funded. It deserves our support.

Several issues have been of particular concern to me as the Superfund reauthorization debate has moved forward. The first is the new Superfund Research Program, under section 212. The Science and Technology Committee staff, and staff of the Energy and Commerce and Small Business Committees deserve our commendation for their hard work in crafting a new research and demonstration program under the EPA and the HHS which will spark new private sector involvement and initiatives in development of innovative technologies to reduce and detoxify hazardous waste in years to come. It is a groundkeeping new program which promises to deliver new ways to permanently rid us of these toxic wastes.

The compromise before us today would require 125 cleanup starts in fiscal year 1987, 140 in 1988, 160 in 1989 and 175 in 1990. This is a schedule EPA should be able to meet. This schedule will set the program on a realistic path toward important progress toward our tough cleanup goals.

The bill includes a settlement policy which conforms with the goals of achieving maximum private contribution and cleanup participation and citizen involvement. The compromise allows private parties a role in conducting remedial investigations and feasibility studies which is critical to ensuring private parties a greater role and deeper involvement in cleaning up the thousands of sites which will be on the NPL in years ahead.

The bill allows EPA the tools and discretion it needs to effect effective settlement agreements in a wide range of Superfund site situations. It allows releases from future liability where such a release is in the public interest as long as the remedial action is complete.

I believe these are good compromises. This bill represents an important step toward the critical goal of reauthorizing a strong, environmentally sound Superfund program over the next 5 years.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, from the time of the Committee on Energy and Commerce, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank my colleague from Ohio for yielding to me.

Mr. Chairman, it seems to me that my colleagues have touched on the key issue, and that is that Superfund is very definitely a fund but it certainly is not very super.

We have spent substantial sums of money and cleaned up very few sites. I think the central problem, Mr. Chairman, is that there is no such thing as a safe landfill. There is no such thing as a safe landfill in this country. You see that with Love Canal, for example, a dangerous site where the wastes were taken to a state-of-the-art landfill, they began to leak, and then we had to take them somewhere else. I think what we have to come up with is permanent ways to get rid of wastes. My colleagues, the gentleman from Texas [Mr. ANDREWS], the gentleman from New Jersey [Mr. TORRICELLI], the gentleman from Texas [Mr. STENHOLM], I, and a number of other colleagues have come up with a way to do it, I think. That is to set aside a significant amount of money for research. Down the road it is my view that this provision which has been worked out by a number of committees is the provision in the bill that is going to make a difference. It is the provision that is going to give us the way to make sure we do not generate these wastes in the future.

We are going to offer up several hundred million dollars for programs of research and development in the Department of Health and Human Services, the Environmental Protection Agencies, as well. It is my view that this provision which in the years ahead can take the Superfund Program which, as I said earlier, has been a super bust and turn it into a program that does not produce waste in the first place.

Mr. Chairman, I thank my colleagues from Ohio for the tremendous job that he has done and also my chairman, the gentleman from Michigan, as well.

Mr. ECKART of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I rise in support of the legislation.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to a member of the committee, the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise in support of the Superfund legislation. Probably no district has been under more national scrutiny than the Kanawha Valley

that I am privileged to represent. Out of that has come legislation drafted by myself and the Congressman from New Jersey, DEAN GALLO, dealing with community right to know. What is it that the communities have a right to know?

Mr. Chairman, I appreciate the leadership of both committees for including this language almost in toto in the compromise version.

So when you vote for Superfund today, you will vote on several new areas, and one of them deals with the community's right to know. When you vote for community right to know, you will have the ability to tell your constituency that you voted for a bill in which every citizen of this country is now protected because they are guaranteed within 2 years there will be an emergency response plan if there is not one already, but there will be an emergency response plan to protect them.

You will also put into Federal law a right-to-know provision, a right-to-know provision that sets up not only one but two classes of chemicals so that those which are the most acutely toxic will have one set of reporting requirements requiring additional information; the other not quite as toxic but still very serious will also have reporting requirements. Indeed, the emergency response forces will have the ability and the knowledge to respond to every situation that should arise. You will also have the public availability of this information.

You will also be voting for civil penalties. You will be voting for civil penalties so that should there be a release, that there must be immediate notification of local authorities. You will be voting for the EPA to consider mandating criminal penalties.

Finally, for the first time, you will be directing the Federal Emergency Management Agency and giving them money, $5 million a year for several years, to assist States in developing these emergency response plans. So we will put into effect a protection across this country that every citizen in the country can take pride in. I am proud to have been part of this and to join with Congresssman GALLO, and I urge strong support of the Superfund legislation before us.

Mr. HOWARD. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. TORRICELLI], a member of the Committee on Science and Technology which had input into this legislation.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Mr. Chairman, I want to address an issue today that is not a point of controversy in this legislation. Six months ago, the Committee on Science and Technology heard testimony that led to an exciting addition to this legislation. We were told that one-half of all the storage facilities currently under construction could themselves become Superfund sites; that 87 percent of the repositories now in use are in danger of leaking their toxic contents into the environment.

The simple truth, Mr. Chairman, is that we have not been cleaning our toxic wastes at all. We have been involved in a toxic shell game. Moving toxic wastes from your State to my State is no answer—from your town to my town is no answer. It has, however, in the past, been the best that we could do. The answer now is in the future, however, and that is new technologies. Twenty-five biological or chemical processes in our country and countless technologies in Japan and Europe are destroying toxic wastes, not moving them but destroying them; not temporarily but permanently.

In Japan, these technologies have been so effective that a nation which once had the most toxic materials in storage now has none at all. Our legislation introduces this future to America. It requires EPA to evaluate these technologies, to provide samples from Superfund sites, to initiate at least 10 projects per year to evaluate their effectiveness.

In addition to Superfund legislation, it provides an impetus for companies to begin their own work. The irony of this approach is that these same companies that helped created Superfund problems will now help create a permanent solution. The same profit motive that helped spoil America can now be used to invite private enterprise to develop a solution.

Our amendment has many authors, but in particular, the gentleman from Florida [Mr. FUQUA], we are indebted to the chairman and to the ranking member [Mr. LUJAN], and the chairman of the subcommittee [Mr. SCHEUER]. I also want to give my thanks to Mr. ROE and to Mr. HOWARD. We are beginning an exciting new process in America, ending the movement of toxic wastes and beginning their destruction.

□ 1540

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise for the purpose of entering into a colloquy with the distinguished chairman of the subcommittee, my colleague, the gentleman from New Jersey [Mr. ROE].

Mr. Chairman, as you are well aware and have demonstrated through your work on this subject, a new and potentially deadly environmental problem has come to the attention of Congress since the establishment of the Superfund 5 years ago. Higher concentrations of radioactive radon gas have been discovered in homes and businesses along a naturally occurring geologic formation in New Jersey, Pennsylvania, New York, and Connecticut, known as the Reading Prong. Potentially, over 250,000 homes in my district alone, the fifth district of New Jersey, could be affected by radon infiltration.

To date, the scientific community has been unable to develop conclusive data on both the exact nature and extent of the radon problem. I am aware of instances where, in the same neighborhood, adjacent homes have vastly different radon infiltration levels. Further, there is no clear understanding of just how much radon exposure is too much to maintain good health.

Therefore, I applaud your efforts to include funding in H.R. 2817 for radon gas research on the Reading Prong area. This bill properly requires the Administrator of EPA to determine levels of radon gas which pose a threat to human health. I am informed by local health officials, however, that national recommendations for remediation methods are vitally important.

Is it your understanding that the demonstration program included in H.R. 2817 will lead to Federal recommendations of methods to remediate radon contamination in homes?

Mr. ROE. If the gentlewoman will yield, I want to compliment the gentlewoman on her in-depth knowledge and understanding of this serious environmental problem affecting many of our States throughout the Nation. Her summation is totally correct, and that is the intent that is in the legislation. That is what we mean.

Mrs. ROUKEMA. I thank the chairman for his leadership. He provides a fine service.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, we are hearing this afternoon a great deal about the complexities and the complications and the intricacies of this bill before us, but we must not lose sight of the overriding purpose of this bill, that of protecting the lives, the health, the safety, and the well-being of the American people now and for generations to come.

Mr. Chairman, the very same technology that has improved the quality of life for our people over the last half century or more has also left us with some deadly byproducts. We have heard the expression, "Better living through chemistry." It is true; but there has been a price tag. Our Nation has inherited a legacy of toxic chemicals capable of damaging the brain, the kidneys, the liver, and causing other serious ailments for the elderly among us, pregnant mothers, infants and, most poignantly, Mr. Chairman, for the unborn.

Mr. Chairman, I fear that more families are going to be forced out of their homes and out of their communities. More families will lose hope and be thrust into despair, more families will suffer sickness and death before we learn how to cope effectively with the toxic waste problem.

While I had to vote against that bill, I expressed hope that it could be improved and strengthened in subsequent days.

Fortunately, that hope has come to pass. The compromise bill corrects most of the deficiencies which I saw in the Energy and Commerce bill.

This bill is a major step forward. It is a quantum jump forward. It specifies deadlines, targets, cleanup levels. This bill limits the discretion of the EPA and the OMB to procrastinate and delay action and to frustrate the will of the Congress and the American people.

More importantly, it protects the public's right to know and the public's right to sue. It also subjects big oil companies to appropriate levels of liability for damages caused by leaking underground storage tanks. The compromise bill also contains an important new program on research, development, and demonstration of new treatment technologies for cleaning up Superfund sites.

This program includes provisions contained in H.R. 3065, legislation reported by the Science and Technology Subcommittee on Natural Resources, which I chair, and the full Science and Technology Committee.

New technologies which can permanently clean up Superfund sites by destroying or detoxifying hazardous wastes are necessary if we are ever to end the present shell game of moving wastes from one leaking site to another.

The research program in the compromise bill will enable EPA, leading academic institutions, and the private sector, working together, to develop innovative techniques for cleaning up Superfund sites.

The compromise bill before us, if vigorously implemented, will get Superfund back on track. I congratulate Chairman DINGELL, Chairman ROE, Chairman HOWARD, and the minority members, who have helped achieve this marvelous compromise. It is not a compromise at all. It is far greater. It is a case where the whole is far greater than the sum of its parts. It is light years ahead of the bills that the two committees reported out to us months ago.

Mr. ECKART of Ohio. Mr. Chairman, from the time of the Committee on Energy and Commerce, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY], who has been very helpful in engineering a provision dealing with the Federal facilities.

Mr. MCCURDY. Mr. Chairman, I want to join my colleagues in expressing my strong support for the compromise superfund legislation we are considering today. This bill reflects the widespread concern about the threat to public health and the environment posed by hazardous waste, and represents a strong national commitment to clean up toxic waste sites as quickly as possible. Its provisions have been developed by drawing upon the best environmental expertise, by intense negotiations among concerned interests, and with a lot of hard work.

As chairman of the environmental restoration panel of the House Committee on Armed Services, I can speak from personal experience when it comes to the role of intense negotiations and hard work in shaping this legislation over the past several months. Since its creation on July 29 of this year, the panel has been actively reviewing legislation and developing recommendations designed to strengthen and steamline the Department of Defense's Hazardous Waste Cleanup Program, and ensure its compliance with the Superfund statute.

The panel's immediate task was to review a bill introduced by Mr. FAZIO, H.R. 1940, that was a comprehensive legislative proposal to place DOD hazardous waste cleanup efforts within the context of Superfund. Specifically, it would establish a Defense Environmental Restoration Program, improve coordination with the Environmental Protection Agency, State and local officials, enhance research and development efforts, and address special funding requirements.

Shortly thereafter, the panel's focus was expanded when the House Energy and Commerce Committee reported H.R. 2817, the Superfund reauthorization bill. For the first time, Superfund legislation specifically addressed cleanups at Federal facilities, including those belonging to DOD and the Department of Energy involved in the military applications of nuclear energy.

Although the magnitude of the DOD environmental restoration effort would have justified seeking sequential referral of H.R. 2817 by the Armed Services Committee, it was decided to allow the panel to develop recommendations that could be incorporated in amendments, or reflected in a common vehicle for floor consideration.

On September 26, the panel received testimony from the Department of Defense, the Environmental Protection Agency, and proenvironmental Members of Congress regarding toxic waste cleanup efforts at Federal facilities. On October 10, after extensive discussions with all interested parties, the panel unanimously approved amendment language.

The panel recommendations, I believe, would streamline hazardous waste cleanup efforts by Federal agencies. At the same time, our recommendations would allow meaningful State and local participation in the development and execution of response actions at Federal facilities. They would provide for the observance of promulgated State standards and siting requirements while retaining a means for reasonable Federal review. Finally, they would protect vital national security interests and data while preserving sensible notice requirements.

Ever since the panel acted, we have been engaged in intense and extensive discussions with the Energy and Commerce and Public Works and Transportation Committees, and other interested parties, in working out compromise language which could be incorporated into the Superfund bill. This has not been an easy task. The issues are complicated, there have been strong opinions on how to proceed, and the negotiations have been difficult.

Nevertheless, I believe that the result has been worth the effort and the bill before us deserves our support. It represents a responsible and balanced approach to toxic waste cleanup effort at Federal facilities. We are involved in an area where there are few textbook solutions and much uncertainty about how to proceed. Under the circumstances, the best approach is one which encourages innovation, cooperation, and good faith negotiation among all interested parties. This bill provides just such a framework.

This success would not have been possible without a tremendous amount of effort by the panel members and staff. I would specifically like to commend Mr. FAZIO and his staff for their hard work and spirit of cooperation. I would also like to express my appreciation to Chairman DINGELL, Chairman ROE, and their staffs for playing an instrumental and constructive role in accommodating the concerns of the Armed Services Committee panel members.

Mr. Chairman, I urge strong support for this Superfund reauthorization bill, and I believe its passage will be another important milestone in the effort to preserve the environment which we all share and wish to pass on to the next generation.

The CHAIRMAN. The Chair now intends to recognize the chairman of the Committee on Ways and Means.

The Chair advises the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], that he has 12 minutes remaining, and the gentleman from New York [Mr. LENT] has 18 minutes remaining.

With respect to the Committee on Public Works, the gentleman from New Jersey [Mr. HOWARD] has 5 minutes remaining on his time, and the

gentleman from Kentucky [Mr. SNYDER] has 12 minutes remaining on his time.

Mr. SNYDER. Mr. Chairman, I ask unanimous consent that the 12 minutes that I have remaining be given to the minority side of the Committee on Energy and Commerce.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. That will mean that the gentleman from New York [Mr. LENT], from the minority side of the Committee on Energy and Commerce, will have 12 additional minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, who has 30 minutes, following which the Chair will recognize the gentleman from Tennessee [Mr. DUNCAN], who also has 30 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, title V of the bill before us today is the financing title which provides $10 billion in revenue for the Superfund cleanup program. The level of funding is not at issue. Both amendments that will be offered to title V provide similar amounts of revenue.

The issue before us is the method we choose to finance hazardous waste cleanup. Let me provide a broad overview of the funding mechanism in the committee title and the two proposed amendments. Under title V, as reported by the Committee on Ways and Means, the following sources of revenue are provided for the Superfund Toxic Waste Cleanup Program:

First, a petroleum tax of 3.85 cents per barrel would raise $1 billion over the 5 years.

Second, a chemical feedstock tax on 43 organic and inorganic substances would raise $1.5 billion over the period. The taxable feedstocks would include only those taxed under present law, plus lead and certain feedstocks that are derived from coal.

The committee also agreed to impose a tax on certain imported feedstock derivatives.

Third, a waste management tax would raise $1.5 billion over the period. A backup tax would be imposed on the generation of certain otherwise untaxed hazardous wastes. Several specific exemptions and credits are provided for the waste management tax.

Fourth, to raise an additional $4.5 billion, the committee agreed to impose an excise tax of $8 per $10,000 on the sale, lease or import of tangible personal property by the manufacturer or importer. Exports, unprocessed agricultural products, fertilizer and food products would be exempt from the tax.

Manufacturers would be allowed a credit for the amount of tax previously imposed on their purchases. In this sense, the tax is a multistage excise tax like a value-added tax or VAT. Small manufacturers and small import shipments would be exempt from the tax.

Fifth, to fund cleanup and related costs of leaking under-ground storage tanks, a tax of two-tenths of 1 cent per gallon would be imposed on gasoline, diesel fuel, and special motor fuels using the same base as present law excise taxes.

Last, the committee authorizes to be appropriated to the Superfund $180 million of general revenues over the period. Recoveries, penalties, damages, and interest would continue to be deposited into the fund.

Under the committee amendment, amounts in the Superfund would be available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment. Funds would not be available for costs relating to natural resource damage claims.

The committee agreed to repeal the present Post-Closure Liability Trust Fund and the associated disposal tax. Previously paid taxes would be refunded with interest to the original taxpayers.

In response to proposals of the Committees on Merchant Marine and Fisheries and Public Works and Transportation, the Committee on Ways and Means agreed to establish an Oil Spill Liability Trust Fund financed by a petroleum tax of 1.3 cents per barrel. Amounts in the Fund would be available for cleanup costs incurred in connection with offshore oil spills.

Amounts in the Fund could not be expended to compensate certain damage claims or lost State and local tax revenues.

The amendments which will be offered by the gentleman from Tennessee and New York retain many of these same revenue measures contained in the committee title. However, the rates of tax imposed under the various measures are different. Also, the basic difference between the proposed amendments and the committee provision is that both amendments replace the proposed value-added tax contained in the committee's version of title V.

The amendment to be offered by the gentleman from Tennsessee would substitute both general appropriations and a triggered environmental surcharge. That amendment authorizes appropriations of $2.3 billion of general revenues over the 5 years this bill would be effective. Its environmental surcharge would be based on industry categories (SIC codes) and historical waste generated within those categories. The tax would be based on the number of employees in a company, using the Federal Unemployment Tax or FUTA base.

The amendment to be offered by the gentleman from New York contains a slightly smaller appropriation authorization of $1.6 billion of general revenues. It would include no value-added tax and no broad based environmental surcharge. Under that amendment, the petroleum and chemical feedstock taxes would be increased as would the waste management tax which taxes those who create wastes.

Both these amendments will be discussed in more detail later. As I indicated in a "Dear Colleague" letter circulated to members earlier, I will be supporting the amendment which will be offered by the gentleman from New York.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend our chairman for the hard work that he has done on this particular hard subject.

The House has before it the opportunity to choose from three very different alternatives of financing Superfund. My amendment does not include a value-added tax and does not provide a balanced funding package consistent with programmatic needs as approved by the committee of jurisdiction in those particular areas.

□ 1555

The committee bill contains a VAT which operates much like a sales tax but is hidden from the ultimate consumer and would be vetoed by the President. The amendment which I expect to be offered by my colleague, Mr. DOWNEY, would rely on large increases in taxes on chemical and petroleum feed stocks and waste-end taxes. It would cripple certain U.S. industries, particularly the chemical industry already handicapped in world competition.

My amendment recognizes the economic expansion and the protection of our environment are not mutually exclusive goals. There is no question but that the House will increase the economic resources committed to the clean up of hazardous waste. For us to fail to assure that the next generation is protected by the dangers posed by hazardous waste sites would be unthinkable. The amendment would fund the desired cleanup on a fair and efficient basis and encourage the prevention of future waste problems. I hope my colleagues will support my amendment which does not rely on hidden taxes and does not unduly burden our Nation's industries.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to discuss for a few minutes the amendment that I will be offering and also to try and deal with some of the arguments that are going to be made both pro and con.

I think the most appropriate place to start would be in 1984 when this issue was before the full House of Representatives. Then there were 322 Members of the House that voted for a bill that included a $5 billion revenue hit on chemical feed stocks and $2.7 billion in crude oil.

The amendment that I will be offering will be one that will have a $2 billion revenue impact on the chemical industry and a $3.1 billion on crude oil taxes. That simply means that we will be taxing the chemical industry far less than we did in the 1984 bill which had broad support, and taxing crude oil just slightly more than last year's bill.

The reason we do that and the reason I believe it is appropriate to support my amendment is that it preserves the idea that the polluter should pay and bear the responsibility for cleanup of toxic waste sites. The EPA has indicated time and again, most recently in one of their reports, that—and let me quote their report:

> Information about the past activities of responsible parties that is sufficient to operate a tax system is generally not available at a broad industrial level. Responsibility for past problems can be assigned, and it is more equitable for the tax burden to fall on the chemical industry and their customers than on the public at large.

This is the critical issue: Shall we deviate from the past where we have said while we cannot always tell who is responsible, we know pretty much that the people who generate the chemicals—the petrochemical industry, the oil industry, the chemical industry—are responsible for the toxic waste problem, and that their chemicals have been found in these hazardous waste sites. Or should we say to them, "Well, we understand that you are in part responsible, but we would like to tax a lot of other people who have absolutely nothing to do with the generation of hazardous waste or have had nothing to do with the creation of toxic waste sites."

It seems as though that by a very narrow margin, by one vote, that that was what the Ways and Means Committee has done. But I believe that the vast majority of Members on this floor want to preserve the idea that polluters pay.

Let us take a look at some of the more substantive reasons why the chemical and petroleum industries are concerned. According to the EPA, in 1981 they generated 71 percent of the waste, 29 percent was generated by other industries. Under their industrial share of the tax, under the value-added tax, a national sales tax, if you will, all other industries will pay 82 percent of Superfund and the chemical and petroleum industries will pay 18 percent. So it is quite clear, my colleagues, that they want to reduce their burden, and under a value-added tax, that burden is substantially reduced. A value-added tax would be an enormous mistake.

Not only is the value-added tax breaking this connection between who is responsible and who should pay, it is a bad value-added tax on top of that. It exempts, for instance, persons and entities that create waste but do business under $10 million. They could continue to pollute; they can continue to generate waste. They would bear no responsibility for their mess.

On top of that, as the Treasury Department has pointed out in a letter that has been widely circulated, it is a tax that can be avoided by shifting manufacturing and retailing within a vertically integrated corporate operation. That is not the sort of thing we want to do.

In addition, it also is expensive to administer, and in many ways, as I said before, it can be avoided. So before we take this leap into the unknown on the substance, we should be aware of what its shortcomings are.

No. 2, we should also understand something about the politics. I come from a marginal district, and I know many of my colleagues do. Do they really want to go home in an election year and explain that they were the vanguard of the value-added tax; that they saw the future, and the future was a national sales tax? And while it was only narrowly applied to Superfund, the door will have been wedged open for those who see the value-added tax as a way of generating money. I think not.

I believe that we want to preserve the idea that people who are responsible for the problem should bear the cost. We want to be the people who say to the American public at large that we had some difficult times raising revenue and dealing with revenue, but we believe in a broad-based income tax and not a sales tax as a way of financing activities of the National Government.

So we are going to, probably tomorrow or on Tuesday, get into this amendment in more detail. But if you keep these facts in mind and keep in mind as well—and before we shed any crocodile tears for this poor industry—the fact that the chemical industry is not on its back economically. The last year's revenue projections have indicated that they are in very good financial shape; they are not dying. The oil industry which laments this crude oil tax has far more of a concern with the severance taxes that their States levy on them. This is going to add 0.3 cents per gallon on the cost of gasoline, or a $1.50 for people who drive their car 10,000 miles or more. It is a minuscule tax; it can be easily assumed by the chemical industry, it will not hurt them. It can be easily assumed by the oil industry.

So we are here at the edge of the unknown or the beginning of the edge of the unknown, I would say to my colleagues. I would hope that they will view with very, very dim eyes the idea of a value-added tax, Mr. Chairman.

Mr. DUNCAN. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 7 minutes to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. I thank the gentleman for yielding me this time.

Mr. Chairman, I too rise in support of the Superfund extension. I think we have to clean up these orphan toxic sites, but I want to concentrate on that title of the bill that will finance the $10 billion that the other committees want to spend to clean up these sites.

In doing so, I would like to correct a number of myths that have come about in this debate. First of all, let me point out that this title of the bill, from the Ways and Means Committee, that Ways and Means had only one responsibility: Not how the money was to be spent, but how was the money to be raised.

Essentially, you have three ways in which to raise the money to increase the fund to $10 billion, which is what both the Public Works and the Energy and Commerce Committee asked us to raise. I would point out that both of those committees suggested that the bulk of that revenue be raised in a broadly based tax. That is precisely what the Ways and Means Committee did.

□ 1605

Now, the administration opposed a broadly based tax. They opposed it fundamentally because they did not believe $10 billion was needed to be spent to clean up the environment, to clean up these orphan toxic waste sites. They wanted to spend no more than $5.5 billion.

One of the fallacies of the Duncan substitute is that the remainder of the money, the $4.5 billion, would be borrowed or would be from general treasury to add to the Federal deficit. I think that is the wrong approach.

The other way to raise the money is to say let us forget about the other polluters; let us give them a free ride for what they have already done and what they are going to do in the future; and let us just pile this on two industries, the petroleum and the petrochemical industries. After all, that is who is paying most of the bill now. Let us just increase their tax about 15 times.

The question is, is that fair? I think that it is not.

The petroleum and chemical industries are not the major polluters. Last year when we dealt with EPA and with the Superfund, the EPA studies had not been completed. This year as we are dealing with this, we have an updated EPA study, as well as a Congressional Reference Service study. Those studies show that the chemical and petroleum industries only are responsible for less than one-fourth of the polluters in these toxic waste sites. Yet, under the Downey substitute, it would sock new taxes on these two industries. They would be responsible for paying about 80 percent of the cleanup costs, and they are only responsible, according to these studies, for about 23 percent of the problem, and a whole range of other industries would be let off scot free.

I would point to a couple of studies of EPA. One, a New York study of the toxic waste sites, the home State of my colleague from New York [Mr. DOWNEY], and it shows that 171 other types of industries are responsible for the pollution, and that chemicals are only responsible for about 17 percent and oil about the national average of about 4.5 percent.

In Indiana there is another study by EPA. It pointed out 171 potentially responsible parties identified and ranked as contributors of hazardous contaminants at the Northside Sanitary Landfill.

The point is if you put all the burden on these two industries, you are going to make them noncompetitive. They are going to be noncompetitive because they are going to have the burden of tax and their foreign competition will not, and I do not think that is fair.

Mr. Chairman, let me deal with some of the myths. In the committee when several approaches were taken as to how to raise the money, all of them were beaten and some of them soundly beaten, the only approach that raised a substantial amount of money that gained substantial support was a broad-based tax. A similar tax was defeated on a tie vote; this tax passed on a one-vote margin.

Now, when those who were on the other side lost, basically they started using myths and using terms that are not accurate to discredit the broad-based tax. They said it is a value-added tax.

Well, it is not a value-added tax, and I would support my contention in that by quoting from the Department of the Treasury as to what a value-added tax is. It is a multistate sales tax that is collected at each stage or point in the production and distribution process. This is not that. This is an excise tax imposed on the manufacture of tangible personal property at 0.08 percent, $8 out of every $10,000 of liability.

Furthermore, this committee broad-based tax does not, as some would argue, hurt small business. It specifically exempts small business. It specifically exempts retailers, wholesalers, and distributors. It applies only at the point of manufacture for domestic companies or at the point of importation for foreign companies. It is the only tax that affects foreigners as well as domestic producers.

Now, it is charged that it is regressive. Again, that simply does not hold up.

A Yale University study showed that this tax of only 0.08 percent is not regressive, would not even be a blip on the Consumer Price Index, and it is clearly less regressive than the Downey amendment approach, which would go directly into the increased costs of gasoline and home heating oil which affects lower income people disproportionately to higher income people.

So I think these myths need to be understood for what they are. They are simply myths. I think we ought to adopt the committee position. It is the fair way to clean up these orphan toxic sites, and it is the only way to make U.S. industry competitive in the international marketplace.

Mr. DUNCAN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I do not think there is any question that almost all the people in this body and in the county want to have a Superfund extension bill. They think we ought to have one this year. So do I.

The Ways and Means Committee jurisdiction only includes the financing necessary to fund the programs which were designed by other committees. The Ways and Means challenge was to find $10 billion over 5 years to finance the bill sent to us by committees of primary jurisdiction. All of us on this committee have some strong feelings about the bill, but our attention was concerned solely with the tax provisions.

As we worked trying to find $10 billion, we found quickly that there is no painless way to raise that amount of money. The current Superfund tax, which raises less than one-fifth of the $10 billion that we are looking for now, is a combination of an oil tax and a feed stock tax. It was based on the idea that the taxpayers who foot the bill, that is, oil and petrochemical companies, had some relationship with, used, created materials which were said to have caused the problem. It was not a bad way to finance the first phase of Superfund cleanup.

Now we are coming to the second phase. It is represented in this bill. This bill requires a great deal more money. The higher levels of expense caused the committee to go beyond those taxpayers who could be directly linked to the problem, and yet every proposal before us does still try to maintain such a linkage as is possible.

As we looked for other alternatives, the committee turned toward a value-added tax, called in this case a business transaction tax; and also looked at other financing sources.

The committee determined by the narrowest of margins, I believe an 18-to-17 vote, that a financing plan, including a value-added tax, or what is called a broad-based excise tax, or a business transaction tax, was the right way to go.

There was much feeling in the committee that we ought to look for other ways to finance as well.

The reason that I joined my colleague, the gentleman from New York [Mr. DOWNEY] in having a substitute made in order by the Rules Committee to stand as an alternate means of financing, is because of my great concern about the value-added tax which is called upon by the committee bill to fund nearly half of Superfund costs. I hate to be out of step with my good friend, the gentleman from Oklahoma [Mr. JONES], the previous speaker, but I do feel that the VAT creates a good deal of uncertainty.

The environmentalists who weigh in heavily on these matters are a little nervous that the tax may not be as reliable as its revenue estimates, and that therefore, it is, at least until we get used to it, an uncertain financing source.

Probably more important to me is that it goes way beyond the linkage basis that we established in the first Superfund legislation. It causes people who have no association with the problem to be obliged to pay for it. Maybe some of that is necessary, but in the committee bill nearly half of the financing is done through the VAT.

Business groups, particularly those who do not have association with the problem, retailers, food converters, and manufacturers and distributors especially, believe that the VAT unfairly penalizes their high volume business, which has little to do with the orphan dumps which we are trying to cure in the Superfund bill.

I believe as a matter of tax policy that the country is not quite ready for a VAT. Eventually we may need one. Nevertheless, before we impose any new tax, we need a national debate.

Certainly we need a national debate on the VAT. Most people equate it with a sales tax, competitive to States and local governments. People think it is regressive. I think we could tailor a progressive one, but I do not think we can do it without much additional work and discussion.

I am especially afraid that the weakest link of a value-added tax is that it can be raised without those who pay it, that is, the consumers of America, knowing what happened to them until it has happened. Because I do not like the value-added tax recommended by the committee, I join my friend, the gentleman from New York [Mr. DOWNEY] in supporting a different way of financing, which I hope that this House will accept.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Would the gentleman let me complete my discourse.

Mr. STARK. In due course.

Mr. FRENZEL. I believe, Mr. Chairman, that the tax which the gentleman from New York [Mr. DOWNEY] and I are supporting is an onerous one, particularly on the petrochemical industry. I wish there were a better way to structure it. However, this House, under the rule, will not consider any better, more certain, way to do it. Therefore, I would respectfully request that Members scrutinize the Downey-Frenzel amendment, and give it their favorable consideration.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, like others, I rise in support of the Superfund bill, but to comment specifically on the revenue section of the bill which was in the jurisdiction of the House Ways and Means Committee.

I come down on the side of the amendment which will be offered shortly by the gentleman from New York [Mr. DOWNEY] and the gentleman from Minnesota [Mr. FRENZEL], which would strike from the bill the value-added tax, or business transfer tax, which was proposed by the Ways and Means Committee, I would emphasize, by a margin of only one vote.

I would like to point out to our colleagues in the House that the proposal contained in the Downey-Frenzel amendment is very similar, indeed in some cases less onerous, than the bill which passed this House overwhelmingly last year.

H.R. 5640 which was enacted by this House in the last Congress would have taxed chemical feed stocks to the tune of $4.3 billion.

The Downey-Frenzel amendment would tax chemical feed stocks by only $2 billion. Regarding petroleum, the bill we passed last year overwhelmingly would have taxed the petroleum interests $2.4 billion. There is a slight increase to $3.1 billion in the Downey-Frenzel substitute.

General revenue last year was in the bill at $2.3 billion. In this substitute, it will be $1.5 billion in recognition of the problems we have balancing the Federal budget.

Importantly, in the Downey-Frenzel amendment there will be $2 billion raised from the waste end tax, which clearly and directly derives revenue from the waste products themselves.

It seems to me that this is a fair approach. It is not new. It is one essentially that all Members of this House voted on 1 year ago and that the overwhelming majority of Members of this House voted for 1 year ago.

Like my colleagues before me, the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from New York [Mr. DOWNEY], I am concerned about starting down the path of a VAT tax. VAT taxes are very widespread in Europe. They are known to be very regressive. If we start down this path, as has been pointed out, it will be only too easy to expand the tax and the taxpayer never knows the difference because it is in fact a hidden sales tax.

I think it would be unfortunate if we started down that path.

It seems to me understandable completely that the oil industry and the chemical industry would prefer to have somebody else paying for their bills, when in truth the waste end products that are polluting are derived essentially from those industries.

I hope when the time comes you will support the Downey-Frenzel amendment.

□ 1620

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. DAUB], a member of the committee.

Mr. DAUB. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me say first I want to congratulate the Committee on Rules on bringing to the House a bill under a rule which I think is more than appropriate, particularly in light of the extensive debate we had on this subject a year ago. I vote generally against rules, and I did this time, which have budget waivers in them, but nonetheless, the rule itself does allow the committee, I think, to do its work and do it well.

Second, I wish to offer my congratulations to the five committees whose input, I think, has genuinely improved upon the effort that did occur here in the full House a year ago, and lastly indicate, before I make my own personal remarks about the bill in general, that I enjoy this particular subject because I had the chance to serve my own citizenry in the State of Nebraska on our own Environmental Protection Board and had a chance for 2 years to more fully appreciate and learn about and watch the real world effect on business and industry and individuals, on neighborhoods and communities with respect to issues like particulate emissions, sludge management, toxic waste and dumpsite cleanup and all those things that occur relative to resource recovery.

So I followed this bill with interest not only in the Committee on Ways and Means, of which I am a member and the tax implications that attach thereto, but as well the other subjects contained in Superfund legislation.

Mr. Chairman, I have been a strong supporter of an expanded Superfund because it is vital to expedite the cleanup process of hazardous wastes which threaten the health of our citizens.

The bill before us makes a substantial contribution to advancing Superfund's goals. I am especially pleased that this bill recognizes the importance of affordable insurance for response action consultants, engineers, and contractors. Their efforts are central to the success of carrying out the main function of Superfund: toxic waste cleanup.

The present court-ordered practice of subjecting those hired to fix a mess left behind by someone else is leading to a loss of insurance coverage driving out those who want to engage in the cleanup business.

Don't take my word for it, ask Ralph Nader. Even he has recognized that cleanup firms aren't getting the necessary insurance. Of course, our diagnoses of the reasons behind this problem differ. Mr. Nader declares that the problem is some sort of dark conspiracy foisted on cleanup contractors in an effort to reap unjustified profits.

I see the problem more in terms of wide-open Liability imposed on cleanup firms for the actions of others who may not be available for suit.

In my district, a reputable firm, Henningson, Durham & Richardson Environmental Technologies, Inc., had been supplying about $5 million annually in engineering services for Superfund cleanup. However, because of the liability risks under current law, their insurer withdrew their policy. This firm has subsequently stopped all cleanup activities nationwide.

The situation has been magnified across the country. On Janury 1, 1985, fewer than a dozen companies offered professional liability insurance to engineering firms attempting to neutralize toxic hazards under Superfund. Since that date, three of these companies have decided not to offer this service. Of the remaining companies, only two are said to be considering taking applications for coverage from previously uninsured firms.

During hearings on H.R. 3852, I urged the Public Works Committee to provide that cleanup agents are only liable for negligent or grossly negligent actions. I am pleased to see that all committees involved recognized this problem and adopted this remedy. Without these changes, increasing numbers of responsible cleanup agents will leave the market, ensuring that the least responsible parties are the

only ones which participate in carrying out the basic goal of Superfund: getting rid of toxic waste.

Mr. Chairman, I want to indicate that I do not like the tax provisions and thought the chairman's original proposition before the Committee on Ways and Means was much better than all the alternatives being offered. I think the figure ought to be $7.5 billion. I do not think we ought to have a VAT, but I am pleased to see that food and food processing has been exempted from the process of what might turn out to be a very onerous and burdensome tax.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of the Frenzel-Downey amendment and I would ask the author, the gentleman from Minnesota, if, as I read a definition of a sales tax from Webster's dictionary as a tax levied on the sale of goods and services that is calculated as a percentage of the purchase price and collected by the seller, if that is not exactly what the distinguished gentleman from Oklahoma [Mr. JONES] has in this bill, a sales tax.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. STARK. I would be glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the distinguished gentleman for yielding.

Mr. Chariman, I have always thought that if a tax had feathers and webbed feet and quacked like a sales tax, it was likely to be a sales tax.

In my judgement, the business transaction tax in this bill comes as close to being a sales tax as pretty near anything I can imagine. Transactions at every state of production will be taxed. It will be a burden, in my judgment, on the consumer.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield, since my name was mentioned?

Mr. STARK. In just a moment.

Since the gentleman comes from farm country in Minnesota where they have many great dairy farms, it is possible there that manure could pollute the water in Minnesota in some cases. Is that not the case?

Mr. FRENZEL. Feedlots have been a problem.

Mr. STARK. Would the gentleman in that case tax milk if he were going to clean the manure out of the water stream?

Mr. FRENZEL. No politician in his right mind in my State would tax milk, I will tell the gentleman.

Mr. STARK. But in effect, would this not be the case? Would we not be taxing the milk cartons under this bill to help in the cleanup?

Mr. FRENZEL. In my judgment, we will be taxing every item encompassed.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. STARK. I would be glad to yield to the gentleman from Oklahoma, the author of the sales tax.

Mr. JONES of Oklahoma. The gentleman is very humorous, but he obviously has not read the committee's bill because both of the examples which the gentleman uses are exempt.

Mr. STARK. But it would tax the wagon that spreads the manure.

Mr. JONES of Oklahoma. The gentleman might be better advised to read the committee bill and the Tax Code than the dictionary because he might be more enlightened in that way.

Mr. STARK. I thank the gentleman for his advice.

I think in all seriousness that this country, before it enters upon the path of having a value-added tax, which is insidious in the way it can be constantly ratcheted up without the consumers or the taxpayers even recognizing that we are doing that to them, that we stop that, we nip it in the bud, we support the Downey-Frenzel amendment which would prohibit a sales or value-added tax from coming into our law at this point. It is a dangerous, dangerous precedent and I hope we can stop it here today.

Mr. JONES of Oklahoma. If the gentleman would yield further, it is neither a value-added tax nor a sales tax, and I would point out that next week we are taking up a tax reform bill out of our committee. There are 15 excise taxes administered the same way as this excise tax. I will not call those excise taxes a value-added tax next week and I would appreciate the gentleman not calling this an excise tax.

Mr. STARK. Mr. Chairman, reclaiming my time, I hate to correct the gentleman, but excise taxes are collected by the Government, sales taxes are collected by the seller, as would be the case under the Jones sales tax. I urge support for the Downey-Frenzel amendment.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. GRADISON], a member of the committee.

Mr. GRADISON. I thank the gentleman for yielding this time to me.

Mr. Chairman, both the Senate and the Ways and Means Committee have voted to fund the Superfund, in part, through a broad-based Superfund excise tax, or "SET." I support this approach as one element of Superfund funding because it is equitable and reliable, and because it won't increase the deficit. I believe that it is the only practical way to achieve an expanded Superfund of $10 billion.

The original Superfund Program, enacted in 1980, taxed primarily the petroleum and chemical industries. These two industries have paid more than 95 percent of the feedstock taxes that have financed the bulk of Superfund. A major increase in current petroleum and feedstock taxes would, in my judgment, unfairly burden the chemical and oil and gas industries and place them at an unfair disadvantage with foreign competitors.

Opponents of a SET argue that a broad-based tax violates the "polluter must pay" philosophy. A year ago, however, EPA identified wastes from more than 4,000 existing businesses and governmental units at Superfund sites. The potentially responsible parties identified by EPA include virtually every size and type of company and industry, all sectors of government, universities, and even religious organizations. A broad-based tax such as SET would ensure that all those responsible for hazardous wastes found a Superfund sites would contribute a small portion to the financing of the Superfund.

We have before us today alternatives to a broad-based tax. Both the Downey and Duncan approaches would increase funding from general revenues to help compensate for eliminating SET. But with the Federal deficit at close to $200 billion, it makes no sense to me to place a greater strain on the general fund by adding to the deficit. Some also advocate use of borrowing authority as an alternate funding source; this, however, is essentially equivalent to taking money from the general fund and adding to the deficit.

I agree with those who argue that hazardous waste is a societal problem. I do not agree, however, that we should therefore add to the deficit through use of the general fund as a means of financing Superfund. SET provides a way of spreading the societal burden in a broadbase equitable manner.

SET would be a reliable tax, which is essential for any funding source. It would tax all manufacturers, except small companies. It would not apply to retailers, wholesalers, or distributors. SET would be imposed at a very low rate—80 cents for $1,000 of taxable revenues.

Furthermore, SET would be applied to imports, but not to exports, thus putting foreign manufacturers on an equal footing with domestic producers. Thus, goods leaving this country would not carry the tax, which would help even the competition between foreign and U.S. manufacturers. Finally, SET would require little or no additional recordkeeping because it is calculated from figures and information already required on income tax returns.

In summary, I believe a broad-based tax is necessary if we are to have a $10 billion Superfund and avoid further increases in the deficit.

□ 1630

Mr. ROSTENKOWSKI. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 5 minutes remaining and the gentleman from Tennessee [Mr. DUNCAN] has 16 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, when the Superfund Program was first debated back in 1979, as much as anything, it was because we had some oil spills on the gulf coast and on the eastern coast and we also discovered the Love Canal area of New York. It was important that we start the program and start to clean up these abandoned sites. This was done. Some progress has been made.

Now after 5 years, it is time to ask ourselves as we reauthorize the program, who should pay for it. At this time, the oil and chemical industries are paying anywhere from 85 to 95 percent of the cost of this program.

One might argue that 8 years ago that was proper because we did not have the facts. That is not true today. Today, we know there is virtually no correlation between those who pay the tax and those who contributed to the waste problems. We have those facts.

In all fairness, we ought to have a broad-based tax to fund this program. Today there are over 2,000 sites that need attention. The EPA has been too slow in asking that these various sites be cleaned up. We ought to pursue this cleanup more aggressively, and we ought to do it with funds that come from a broad-based tax.

It is easy to say that you want to be opposed because you "call" it a sales tax, or it is easy to say we will finance it by increasing the general revenues and the Federal deficit by $3 or $4 billion. Very few of us, I think, in our right mind, want to add to the national deficit another $4 billion.

So surely the fair and equitable thing to do is take this broad-based tax to pay for the cleanup of these orphan sites.

This funding approach was passed by our committee. It was passed by a close vote, but it was endorsed by the committee, and there are not many on the committee who are from what you would call just the oil or chemical states. It was the decision of the Committee on Ways and Means that we ought to have a fair, broad-based tax, and that is why that is in this bill.

So I hope that you approach this decision tomorrow without prejudice and ask yourself what is fair, what is equitable. Why should we not have a broad-based tax?

If we do that, then I think we can renew this program as it ought to be renewed and go forward and attack abandoned hazardous waste sites on a fair and equitable basis.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I would like to commend my colleagues for finally getting H.R. 2817 to the floor. This is a very important piece of legislation.

Mr. Chairman, I rise today in support of the Downey-Frenzel amendment, a bit reluctantly, but we really do not have a choice. The most crucial vote today will be on this amendment, because the Ways and Means Committee package contains a value-added tax. You can call it anything you want. I have heard it called an excise tax. You can make it pretty by claiming it is a trade-neutral tax. But it is nothing more than a national sales tax. That is what it is, VAT tax which unnecessarily jeopardizes the entire Superfund Program.

I cannot support the Ways and Means funding package due to the negative groundbreaking precedent of a VAT tax included in this package. The Congress consistently has opposed a national sales tax which amounts to disproportionately distributed taxes on society with the burden of the tax on many of the necessities in life, the poor and the elderly.

While I recognize the societal nature of the problem which we face, a general revenue-funding provision for Superfund addresses this concern. The principle of polluter pays is grounded in environmental law, and Downey-Frenzel is consistent with this major principle.

A VAT tax jeopardizes unnecessarily the entire Superfund Program. The administration will certainly veto the tax and the program. In addition, as a tax increase, the Ways and Means Committee VAT tax is unacceptable.

For years, the Manchester Union Leader in my district has been a leader in reflecting or molding public opinion in New Hampshire and the surrounding area.

I note that Mr. Jim Finnegan on the editorial page of that paper points out that "Once the citizenry has been alerted, the response should be overwhelming," and that not even the House of Representatives' leaders "could stay a national revolt against this levy once the Nation's taxpayers were alerted."

This is a point which I believe should be made as we debate H.R. 2817.

The body politic of America basically does not know that our first national sales tax could be passed by both Houses of Congress by the end of this week.

Neither the Senate nor the House has held public hearings on the VAT. No congressional hearings.

The Nation's press scrutiny of the measure has been meager, at best. We in the House this week will vote on a value-added tax, or a national sales tax, completely in the dark. We have received no massive mail campaigns, no petition drives, resolutions from town councils or civic groups.

The reason is obvious. The American public does not know the reality or the ramifications of this vote.

Do you want to be on record, I ask my colleagues, do you want to be on record supporting the first national sales tax in the United States of America? Superfund is too important, it is too important to pit it against a national sales tax.

I urge my colleagues to support the Downey-Frenzel amendment and kill the national sales tax which I feel is inappropriate.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Chairman, I would like to wholeheartedly throw my support behind the Frenzel-Downey amendment, most enthusiastically. I think that there is very little question that the proposal that we are looking at today for the Frenzel-Downey amendment is the most fair and the most effective way for us to finance the Superfund.

Insofar as looking at establishing a philosophy in dealing with future environmental problems, of focusing on the polluter-must-pay concept, I would like to share with you a little bit of insight that has been brought to my attention by Murray Weidenbaum, who says that what we need is a tax on pollution, a tax approach that will help reduce the amount of hazardous waste generated in the first place.

"The pollution tax approach is inherently fair, by focusing on the generation of hazardous waste directly and giving them a strong incentive to reduce the amount they generate. In contrast," what we are talking about in the committee bill is, "the manufacturer's excise tax falls equally on 'the just and the unjust.' Two companies with the same sales volume will pay the same tax even if one generates 10 times as much hazardous waste as the other."

Moreover, if one of the companies should happen to invest in our latest technology, which this country is fortunately providing some competitive edge as a result of the President's investigation into our international competitiveness, we would be providing an incentive for investment in the technological changes necessary for recycling and reuse.

"As for the proposed financing mechanism being considered by the committee, it has many negative char-

acteristics. Because it bears no relationship to the generation of hazardous waste and yet it is so broadly based, the tax really is a form of national sales tax."

I think it is a very bad precedent, as previous speakers have indicated. I think that it is important to point out that when a tax bears no relationship to the policy that environmental protection is attempting to establish, that we are taking the wrong approach.

I think it is also important to point out that Superfund financing, by establishing a value-added tax, is opposed by the President.

I might also point out to the chairman of the Ways and Means Committee that a very large coalition of manufacturers, unions such as the American Federation of State, County, and Municipal Employees, and also the Citizens for Tax Justice are opposed to the value-added tax.

And last but not least, I would like to point out, as the previous speaker had indicated, that the citizens are, in fact, aware of the impact of this particular tax, and through the National Taxpayers Union, they are voicing their opposition. Not only have these various organizations indicated their opposition to the committee's proposal for financing, but the Chicago Tribune, the Minneapolis Star and Tribune, the Seattle Times, the Detroit News, the Sacramento Bee, the St. Louis Globe and Oregonian and many other newspapers across the country made it quite clear that we are not at all anxious to have a value-added tax.

Therefore, I urge my colleagues to support the Frenzel-Downey amendment.

CENTER FOR THE STUDY OF
AMERICAN BUSINESS,
November 18, 1985.

Hon. WILLIAM FRENZEL,
U.S. House of Representatives,
1026 Longworth House Office Building,
Washington, DC.

DEAR BILL, I am taking the liberty of offering some personal comments on the way in which the Ways and Means Committee is dealing with the Superfund financing question.

At least to this economist, the Congress is missing a great opportunity. Given the immense task to which Superfund is addressed, the financing mechanism should—and can—be used to help directly. What I have in mind is a tax on pollution, a tax approach that will help reduce the amount of hazardous waste generated in the first place.

The pollution tax approach is inherently fair, by focusing on the generation of hazardous waste directly and giving them a strong incentive to reduce the amount they generate. In contrast, the manufacturers excise tax falls equally on "the just and the unjust." Two companies with the same sales volume will pay the same tax even if one generates ten times as much hazardous waste as the other.

Moreover, if one of the companies cuts its hazardous waste in half that will not reduce its Superfund tax. Similarly, if the other doubles its hazardous waste that will not increase its tax. The Congress has developed here a recipe for a perpetual motion machine!

As for the proposed financing mechanism being considered by the committee, it has many negative characteristics. Because it bears no relationship to the generation of hazardous waste and yet it is so broadly based, the tax really is a form of national sales tax. It is a hybrid VAT/manufacturers excise tax. Not too surprisingly, it has aroused fears of opening the door to a full-fledged value-added tax. It is a bad precedent.

The Congress seems to have lost sight of its original objective, to make the polluters pay. Of course, the existing tax focuses on just two industries, and on inputs rather than outputs. But my suggestion is to start with that tax and convert it into a true pollution tax. In that way, Congress will get a "twofer"—financing for Superfund and a new incentive for industry to reduce the magnitude of the hazardous waste problem.

I hope that these thoughts may be of some help. All the best.

Sincerely,

MURRAY L. WEIDENBAUM.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, there has been a lot of talk on the floor about how the polluters should be the payers, and I agree. All three competitive tax measures have a waste and tax. It is only the Downey-Frenzel amendment which goes a half a billion dollars plus on the waste and tax. So in all the measures, the polluters are being called upon to pay.

We should recognize that there have been some collection problems thus far in States that have "waste end" tax. The revenues have fallen short. Actually, we are not even sure of the impact of a national "waste end" tax. Reducing pollution, which is good, will also reduce revenues.

We have also heard about consumers paying. Let us be very clear: A tax is a tax is a tax, and the consumer will pay that tax one way or another, whether he pays it at the gas pump (Downey-Frenzel), whether he pays it at the department store (Ways and Means approach) or whether he pays it in his heating oil bill (Downey-Frenzel). The consumer will pay that tax.

Now let us talk about jobs, let us talk about jobs in basic industries. The tax plan of Downey-Frenzel treats imports more favorably than domestic products whereas the committee bill, the Ways and Means bill, treats them the same. So in one approach, the Ways and Means approach, will not have an advantage over domestic products.

Our basic industries are reeling, our basic industries are hanging on by their fingernails, and we are going to put on them a new tax that treats imports better than domestic products produced by American workers.

We talk about feedstock tax being a petrochemical industry tax. Baloney. A feedstock is used by all of our manufacturing industry who buys feedstocks? Consumers are not buying feedstocks. Your automobile industry is buying feedstocks, producers of American manufactured products are buying products made by feedstocks, paper producers and plastic products producers are buying products made from feedstocks. Those product costs will go up, our domestic manufactured product costs will rise making imports more attractive which will hurt American jobs.

So I urge my colleagues to put aside some of these myths and to take a clear look at who is responsible for polluting, because that is really the bottom line. If you look at the waste sites, something like 15 to 20 percent comes from petroleum and chemical companies. The rest is "manufacturing America." Everybody is using chemicals. Chemicals are the grease for the gears of a technological society, and they are pervasive, everybody who produces products is using them; the majority of polluters are a broad cross-section of American manufacturers. Therefore, the majority or a goodly portion of the tax should be shared by those same manufacturers.

□ 1645

Mr. DUNCAN. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

My colleagues, coming from Louisiana as I do, cause me to have a very unique view of all this process, because we are on both sides of the problem. We have the toxic waste sites; too many of them, I might add. We also have the people who pay the taxes.

As a matter of fact, 25 percent of all the money paid into Superfund came out of Louisiana employers. That is in a State, which I might remind the membership, happens to be the second highest unemployed State in the union; 11.6 percent.

Now we are talking about increasing this fund from $1.6 billion to $10 billion; and I agree with that, it should be done, we have a serious problem. The question is, Who is going to pay for it?

It is very easy to sit here in piousness and talk about, "the polluter should pay," as if we have all the facts and we know all the answers, and these people in Louisiana, Texas, and Oklahoma that have been paying all the tax now, do all the polluting.

This is wrong, and we are not listening to the evidence. I hope overnight

we will stop and take a look at it; that is not the case.

The question is, who are we going to put this tax burden on when we increase this tax? The truth of the matter is, there is really no absolute way to find out who should pay what percent and resolve that across the board; it really cannot be done.

There are people who pollute once in a while; there are people who pollute on a regular basis. It is very difficult to assess exact responsibility so anything we draw up is going to be imperfect in that regard, but we have to draw up something.

So the question is, Who should pay? If the truth of the matter is known, if we stop and think about this for a minute we should admit that everybody in America ought to pay an environmental surtax. That is right—everybody in America, every individual, every business, everybody; because everybody receives the benefits from cleaning up toxic waste in this country; and to a great extent, everybody contributed to it.

If you are using consumer goods that caused toxic wastes, why should you not pay part of it? If you are the manufacturer that made it, why should you not pay part of it? But we don't, and we won't.

We know why we are not going to pass such an environmental surtax; because no one here really wants to pass a tax on the American people and all business people and your constituents. No one here will do that. That is not politically palatable.

So instead let us raise the tax—you may be thinking—only on those hapless souls that are paying it now, whether they caused all the waste or not. Maybe when it was $1.6 billion that was a tolerable, but unfair thing. But when you raise it to $10 billion, it is not only unfair; it is unpalatable and it cannot be tolerated.

So let us face it; we really do not want to be fair; we do not really want to have anybody in our congressional district pay part of those taxes; we want someone else to pay it, and so we stand up and say, "Oh, this is a VAT tax." It is not a VAT tax. It is not a tax at every stage of production, which is what a VAT tax is; it is an excise tax; just like on cigarettes or gasoline. So it is not a VAT tax.

And do not stand up here and say that only polluters should pay and those paying now are the only polluters because that is wrong again.

The EPA says only 13 percent of these toxic waste sites across the country were caused by chemical companies; 13 percent. Who caused the other 87, my friends? Who caused them?

Let me give an example. The EPA says that at a site they looked at in Zionsville, IN, they found that more than 200 companies contributed hazardous wastes at that site. The top 20 contributors to the Northside site, came from all across corporate America.

Eli Lilly, pharmaceutical manufacturer is listed by EPA as the largest contributor to that site. They pay nothing now and would not, under the Downey amendment. Others were Alcoa, Ford Motor Co., Fred's Frozen Food, Anheuser-Busch, Best Foods, Coca-Cola, Frito-Lay, General Foods, Chevrolet, General Electric, Honeywell, Kodak, McDonnell Douglas, the University of Minnesota, Western Electric, Westinghouse, Whirlpool, and many others.

The second biggest contributor at that site was the Indianapolis Department of Public Works.

None of these would pay any taxes under Downey; and my point is they should and would under the broad-based excise in this bill.

Now what is fair? Before we run the chemical industry out of the country and completely overseas, worsening unemployment in my State and elsewhere just like we perhaps have done with steel and with automobiles by unwise Government decisions in the past, think twice.

The people we are about to have pay 100 percent of these taxes, as they have done in the past, and under Downey are contributing nowhere near that amount of the toxic waste. Fairness would dictate that we look for a broad-based tax that spreads that burden across all people who are creating the waste, or enjoying the benefits of cleaning up those wastes.

The best the Committee on Ways and Means could do is this excise tax. The Downey amendment is nothing more than an opportunity to simply shield all of you from having to pay any taxes, and just increase it on those who are now paying all of an unfair tax, an unpalatable tax.

Mr. DUNCAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Committee on Energy and Commerce has 30 minutes remaining, the gentleman from New York [Mr. LENT] has 30 minutes remaining, and on the majority side, the gentleman from Michigan [Mr. DINGELL] has 12 minutes remaining.

With respect to the Committee on Public Works and Transportation, the gentleman from Kentucky [Mr. SNYDER] yielded back the balance of his time, and the gentleman from New Jersey [Mr. HOWARD] has 5 minutes remaining.

The Chair recognizes the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, on behalf of the Committee on Energy and Commerce, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I would first like to express my deep personal appreciation to the chairman of the Committee on Energy and Commerce, and the chairman of the subcommittee, Mr. FLORIO, and the gentleman from New York [Mr. LENT] on the other side of the aisle for their dedicated work in trying to craft a compromise on this very complicated and technical piece of legislation.

I am sure there are many of my colleagues who find themselves in the position oftentimes of having to vote for one extreme or the other; and I am happy to report in this particular case I think we do have a compromise, one that will not satisfy the extremes on either side of this issue, but one that is certainly a responsible piece of legislation.

I am especially pleased that we were able to work out a very sensible compromise on the question of cleanup schedules, which was very troublesome at the committee level.

We will have a schedule that will require the Environmental Protection Agency to commence cleanup on 125 sites in 1987. That number will increase gradually to 175 by fiscal year 1990.

In addition to that, we were able to resolve the question of cleanup standards, which was equally troublesome at the committee level. We also have some good language in this legislation dealing with the question of Federal facilities. Federal hazardous waste sites are made part of the Superfund Program under this bill, and placed on a schedule to clean up, and I think that is extremely important.

Community right-to-know provisions in this bill are excellent. The compromise bill does contain language that will assure that the public has access to important information about hazardous chemicals being stored in their community.

Leaking underground storage tanks have been addressed in this bill, and I think in a responsible fashion.

Finally, Mr. Chairman, I would point out that the funding level of $10 billion is a reflection of the realization on the part of the committee, that we have a serious problem that demands immediate action, and I think that the $10 billion funding level is a reasonable response to the kind of problems that we have in this country, with hundreds of toxic waste sites that are literally threatening the health and the environment of our country.

So, Mr. Chairman, I rise in support of this bill, and I urge my colleagues to support it.

□ 1655

The CHAIRMAN. The Chair would like to clarify that the Chair misstated

the time remaining. Because of the fact that the gentleman from Kentucky [Mr. SNYDER] yielded the balance of his time, which at that point in time was 12 minutes, and there were 18 minutes remaining, the gentleman from New York [Mr. LENT], ranking member of the Committee on Energy and Commerce, has 30 minutes remaining, for the Committee on Energy and Commerce, the gentleman from Ohio [Mr. ECKART] has 10 minutes remaining, and the gentleman from New Jersey [Mr. HOWARD], chairman of the Committee on Public Works and Transportation, has 5 minutes remaining.

The gentleman from Kentucky [Mr. SNYDER], in light of the fact that he yielded back the balance of his time, has no time left.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, I rise in support of this compromise measure. I would like to congratulate all the parties associated with arriving at this compromise. This compromise started about 10 months ago and went through a variety of difficult times. But I think it is a tribute to the legislative process and the ability to forge bipartisan relationships and compromises that led to the point at which we are on the floor today.

In the beginning there were some great differences over how far the bill should extend, and we were able to narrow down the scope. Basically, we were interested in cleaning up hazardous waste dumps, not solving all of the pollution problems which America faces.

In the beginning we had controversies over schedules and whether or not we should be bound by mandatory deadlines for cleanups of sites that we were really quite unfamiliar with. I think the resulting compromise reflects both the necessity to hold EPA's feet to the fire and the necessity to give the Environmental Protection Agency some flexibility in these matters.

In terms of how clean is clean, we came a long way from the beginning where we were quite far apart on how strong, how strict, the standards should be. Obviously, we all wanted to have the cleanest possible sites after cleanup, but we knew that the fund had only a limited amount of money and that to get realistically health-protecting standards was our goal. I think by and large we have achieved that.

Very important was the feature of settlements. I think we were fairly close at the beginning, but there was still a question of "releases." At some point the release of the private, responsible party has to be given. There had to be some ability of the Environmental Protection Agency to let go so that there is an incentive for private, responsible parties to settle, as opposed to hold off and forever litigate. We've made progress on that front too.

On "community right to know," there still may be some differences. But we came from a point where there was no community right to know built into the Superfund bill to what I think is a workable procedure to inform those parties who are indeed responsible for cleanup when the necessity for cleanup of an emergency situation arises; there will be amendments that we will be faced with in the area of community right to know. I urge my colleagues to just ponder the situation as it exists. We have gone very far to provide heretofore unknown levels of community right to know. We have gone very far in providing really vast quantities of new information to communities and community organizations who are not accustomed to dealing with such information. We will also face amendments in the area of citizens suits, to expand the citizens suit capability via a new "Federal cause of action." We have already gone very far, perhaps too far, in allowing citizen suits to be taken against potentially liable parties outside of EPA Superfund activity.

Mr. LENT. Mr. Chairman, I yield 3 minutes and 15 seconds to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. I thank the gentleman.

Mr. Chairman, I rise in support of H.R. 2817, as amended. In general, I think it is an appropriate approach, and I commend all of those various committees working so diligently together on this piece of legislation. While I am not totally happy with the overall compromise bill, it appears to be a reasonable approach to reauthorizing the Superfund law. It contains strong but achievable cleanup standards and schedules and encourages settlements and therefore should expedite cleanup of hazardous waste sites. In general, it vastly improves the current inadequate and unworkable Superfund Program.

There are some areas, however, that I am concerned about, and I would like to point these out. First of all, the size and scope of the bill. As many of you know, the other body has approved a bill that has about $7.5 billion in size. We heard testimony early on in the Committee on Energy and Commerce indicating that the EPA felt that about a billion or a little over a billion dollars a year was more than adequate for their ability to deal with the cleanup procedures.

I hope, diligently and fervently hope, that our committee, and group of committees, have not created a $10 billion monster that we are going to have some difficulty feeding through the Ways and Means Committee and the various efforts they have come forth with to try to come up with the funding levels. In that area, Mr. Chairman, the use of the VAT or so-called SAT to specifically finance Superfund cleanup, in my estimation, opens the door to future dedicated taxes to finance a variety of national problems to be determined in the future, certainly a bad precedent to set in this body.

In the area of citizen suit provisions, again, I have some real concerns. I think most people are concerned today about the plethora of activities in courts and the amount of litigation that is going on. In my estimation, the citizen suit provision does nothing more than provide an open opportunity for suits at all levels, thereby in many cases bringing down the process. I am going to participate later in a colloquy with my friend from Texas, Representative FIELDS, in determining the extent of the language used in the legislation, particularly the imminent and substantial endangerment that is contained in the bill. In terms of amendments, there will be an amendment later offered by the gentleman from Massachusetts Mr. FRANK, that I have a great deal of difficulty with in the area of opening up a Federal cause of action for Superfund. It is my estimation that this amendment, if it goes hand in hand with the citizen suit provision, would provide some very, very difficult language for EPA and for everyone seriously concerned with dealing with this problem. It would tie their hands to the extent that the Superfund Program would be, in my estimation, unworkable or certainly not as effective as it could have well been.

So, in essence, we have come up with a good compromise, but there are some areas that still need some work, and I am looking forward to the consideration during the 5-minute rule to amend and to clean up this legislation.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding and commend him for his effort and his leadership in this matter.

Mr. Chairman, I rise in strong support of H.R. 3852 offered as an amendment in the nature of a substitute for H.R. 2817.

The compromise bill under consideration consists of a redraft of H.R. 2817, a bill which was originally referred jointly to the Committee on Energy and Commerce, Ways and Means, and Public Works and Transportation. After the bill was reported out by the Committee on Energy and Commerce, it was sequentially referred to the Committees on Merchant Marine and Fisheries and the Judiciary. The compromise bill, H.R. 3852, is the result of extensive negotiations between the various committees

with jurisdiction over the bill—negotiations that have been difficult but, I believe, extremely productive.

Let me begin by expressing my deep appreciation to the leadership of the Committee on Public Works and Transportation for their efforts in developing not only the bill reported out of our committee, but more importantly, the amendments to Superfund which embody the compromise bill which has been developed. I believe our success in working with all of the other committees toward a resolution of our differences is due in large part to the hard work, openness and bipartisanship of Chairman JIM HOWARD and the ranking Republican member, GENE SNYDER, of the full Committee on Public Works and Transportation, and the Chairman of the Subcommittee on Water Resources, BOB ROE. I also want to take a moment to express my appreciation to the leadership of the Committee on Energy and Commerce and all of the other committees which have an interest in the reauthorization of Superfund. It would not be possible for us to be here today supporting a compromise bill if it has not been for the willingness of all parties involved in this process to negotiate in good faith on numerous controversial and deeply-held positions with respect to this legislation.

Mr. Chairman, this week the Environmental Protection Agency celebrates its fifteenth birthday. During those 15 years, this country has made tremendous strides in cleaning up our air and water through the operation of the Clean Air Act and the Federal Water Pollution Control Act. Despite our efforts under those two statutes, another form of pollution poses perhaps a more serious threat to our lives and our environment than the threat posed by regulated air emissions and water discharges. That threat is the threat of contamination from toxic chemicals and hazardous substances which have been dumped into and are contaminating our environment.

Although the issue of cleaning up abandoned hazardous waste sites was brought to the Nation's attention a little over 5 years ago, it is an issue which is likely to remain in the forefront of our concern for perhaps decades to come. The Superfund Cleanup Program is very much in its infancy, having as its origin the problem of toxic contamination at the Love Canal in upstate New York which captured our attention at the end of the last decade. Since then, EPA and the States have examined over 20,000 sites involving releases or potential releases of hazardous substances and have identified 850 of the Nation's worst dump sites requiring remedial action under Superfund. Unfortunately, during the first 5 years of the program, EPA has completed cleanup at only a handful of sites. While EPA is now accelerating their cleanup efforts, current estimates indicate that the cleanup program could involve as many as 10,000 sites, requiring upwards of $100 billion to complete.

With this background, it is understandable that many are dissatisfied with the level of effort that EPA has shown in the past in cleaning up toxic wastes. It is not surprising. Therefore, that some of our colleagues have urged the adoption of very tough amendments to the Superfund law to ensure that the cleanup effort moves more quickly in the future. Others have noted with approval the significant strides that EPA has clearly demonstrated in the past few years in undertaking studies and cleanups at a much more aggressive pace than before. Recognizing this renewed commitment by EPA, many in Congress have urged that we give EPA all of the authority needed to address the problem without unnecessarily limiting their flexibility.

It has been said that the bills developed by the Committee on Energy and Commerce and the Committee on Public Works and Transportation represent these two divergent approaches to the problem. I, for one, have felt that while our bills contain a number of significant differences, they also contained fundamental similarities and that by building on our similarities and our common goals the two committees could develop a compromise position calling for tough new requirements while retaining the flexibility that the Agency needs to meet those requirements.

Allow me to briefly summarize some of the bill's major provisions as agreed to between the Committee on Energy and Commerce and the Committee on Public Works and Transportation and embodied in H.R. 3852.

The compromise vehicle would establish mandatory, legally enforceable cleanup schedules for the listing of future NPL sites and the commencement and completion of studies and remedial actions. The schedules have been carefully developed to spur EPA on to an accelerated cleanup effort based on a timetable that we believe EPA can meet. Under the schedules provided for in the bill, EPA would be required to list at least 1,600 sites on the national priorities list by January 1988, initiate 600 remedial investigation and feasibility studies (RI/FS) within 4 years at an annual rate that rises from 125 in the first year to 175 by the fourth year, and, to the maximum extent practicable, complete remedial action at all sites currently listed on the NPL within the next 5 years.

The compromise calls for mandatory cleanup standards designed to ensure use of legally applicable or relevant and appropriate Federal environmental standards to the extent that a cost-effective remedy is available to meet those standards. The standards would include those pertaining to the hazardous substances involved which have been developed under the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. They would also include water quality criteria developed by EPA under the Federal Water Pollution Control Act. The State would be actively involved in the selection of the remedy. Where a State with an aggressive State cleanup program, such as my State of Minnesota, has a tougher State standard, that tougher standard would be entitled to a presumption that it should be applied.

The compromise also addresses the central issue of how best to encourage cleanup settlements with private parties while, at the same time, ensuring adequate protection of the public interest. H.R. 3852 authorizes EPA to limit the liability of a private party who enters into an approved settlement, including limitations on future liability encompassing unknown conditions. Limits on liability would, however, be subject to stringent requirements including a requirement that, except for de minimis contributors, any limitation of liability for unknown conditions include either reopeners needed to protect the public interest from liability for unknown conditions or a requirement that the responsible party contribute to a contingency fund which would be used to respond to the unknown conditions for which liability would be limited.

The compromise bill calls for a comprehensive program for the cleanup of leaking underground storage tanks. The program is an expansion of a regulatory mechanism established for underground tanks in the amendments to the Resource Conservation and Recovery Act approved late last year. The bill would establish a six-tiered limitation of liability for any EPA or State cleanup costs based on the number of tanks at the facility and the assets of the company involved. The limits are established at levels of between $1 million and $50 million with an authority for EPA to establish lower limits through formal rulemaking.

H.R. 3852 establishes a comprehensive Emergency Response and Community Right-To-Know Program as a separate title under the bill. It is modeled upon legislation developed by Congressmen DEAN GALLO and BOB WISE, both members of the Committee on Public Works and Transportation. It calls for creation of State and local emergency response organizations, reporting requirements for those who handle hazardous chemicals and certain covered hazardous substances, and public access to information relevant to the impact of a company's handling of hazardous material upon the local community. One of the key provisions of this title is a requirement that EPA establish a program for reporting releases of extremely toxic substances. This is in response to the disaster in Bhopal, India, which happened just 1 year ago this Tuesday. EPA is also called upon to establish a pilot program to demonstrate whether we have the technology to inventory all hazardous substances which enter and leave the facilities selected for the program. The pilot program would be undertaken at 10 Federal facilities which are representative of facilities in the private sector.

Mr. Chairman, I believe that the compromise we have achieved represents a major improvement to the bill reported out by the Committees on Public Works and Energy and Commerce. The bill incorporates not only a synthesis of our separate vehicles, but also the recommendations we have received from the Committees on the Judiciary, Merchant Marine and Fisheries, Ways

and Means, and other committees which did not request referrals but participated actively in the compromise's development.

It is my hope that we can act quickly and decisively in this body and proceed to an expeditious conference with the Senate. If we do so, I believe we can send a bill to the President before the end of the year. The compromise is the best way to achieve that, and it is a bill that I wholeheartedly endorse and recommend that my colleagues support.

Mr. LENT. Mr. Chairman, I yield 1 minute to the United States from Indiana [Mr. HILER].

Mr. HILER. I thank the gentleman for yielding time to me.

Mr. Chairman, today's debate on the reauthorization of the Superfund program hits very close to home for me.

I have several Superfund sites in my district and I would like to tell my colleagues the saga of one of them.

First discovered in April 1981, the contamination of Elkhart, IN's groundwater kicked off a convoluted chronology of action by Federal, State, and municipal health authorities to both locate the source and clean up the problem of tricholoethylene, commonly referred to as TCE, an industrial degreaser.

One of the actions that took place was in response to the discovery of TCE in individual wells. Last May, after several months of testing, it was determined that a significant number of homes on the eastern side of the city had wells which were contaminated with TCE. While in past years city water had been extended to some homes, most of the residents had continued to depend upon their individual wells as a source of drinking water, a source that now appears to be highly contaminated. My office joined with city, county, and State officials in requesting that an emergency response team from the Environmental Protection Agency come to Elkhart to investigate.

To the EPA's credit, action was fairly swift. As an interim measure, bottled water was provided to all residents with proven or suspected contaminated wells. Concurrently, the remedial action group studied the situation, and early this fall, with the urging of everyone concerned, the EPA announced plans to hookup all residents with affected wells to the municipal water supply while continuing to study and plan a long-term clean up effort.

While there is considerable debate in the Elkhart community as to the actions of EPA in prior years, once the EPA sent its emergency response team into Elkhart to investigate the contamination of individual wells, what followed was a reasonable example of how Superfund was designed to operate, with one major exception. During the period of time which elapsed between the emergency response team arriving in Elkhart at the end of May, and the announcement in October of the remedial action, many residents took it upon themselves to pay for connection to city water. In addition, the city of Elkhart extended many water mains to previously unserved areas. These actions were taken not only to protect the health of affected citizens, but also because the affected parties believed that Superfund would take care of them. Many of the individuals who took action believed that EPA officials had implied in public statements that "everything would be taken care of." However, as the current Superfund legislation prohibits, by law, reimbursements for actions taken prior to the announcement by EPA of an approved remedial action, those people who took steps in good faith to protect their health are forced to bear the full financial burden of connecting to the city water supply. Those residents who either waited, or did not have access to a water line, in effect being rewarded through the assistance of the Superfund Program.

When Congress passed the original legislation, this ban on reimbursement for actions taken prior to specific approval by EPA was felt to be a necessity.

Without such a prohibition, the Superfund Program could be asked to pay for a multitude of activities which could sap the resources of the fund and misdirect the intent of the program. While in Elkhart the actions that individual citizens and the city took were actions that would have been approved under EPA's plan, I recognize and appreciate that EPA must have control of all expenditures to safeguard the fund. Only by explicitly authorized expenditures can the integrity of Superfund be maintained.

However, EPA should be directed to inform the citizens and community leaders in an affected area fully and accurately of the limitations of the Superfund Program as it pertains to reimbursements, and I believe that EPA's responsibility should be spelled out in the law. Only by explicitly informing citizens and community leaders of the limitations on Superfund reimbursements at the earliest possible time in EPA's involvement with a hazardous waste site, can we minimize the problem of non-EPA approved actions that took place in Elkhart as well as other communities.

I might add at this point that EPA itself believes it has a problem. In a memo dated November 25, 1985, from Henry L. Longest II, Director of the Office of Emergency and Remedial Response, to all Superfund branch chiefs, it was stated,

In several communities, residents paid the costs for hooking-up their homes to the public water supply when local well water was found to be contaminated. Since this action was taken without prior EPA approval, the residents could not be reimbursed from the Fund, even though the actions taken were approved in the scope of work for that removal.

To avoid such situations in the future, when a removal action that will affect private residences is approved, the OSC shall attempt to notify all residents involved that expenses incurred by residents are incurred at their risk and expense, and are not reimbursable by the Federal government. When time is sufficient for consideration of preauthorization requests, the OSC should advise residents of CERCLA and NCP provisions regarding private party reimbursement. Such notification might well involve printed statements that only preauthorized actions by private parties are eligible for reimbursement. Further, the OSC should be cautious in making statements that can be construed by community members as a promise by EPA to reimburse them for cleaning costs.

The Superfund Program, like every new effort, is plagued with certain unforeseen problems. The general intent of the program, to identify and correct hazards to our environment, is one which I, and certainly most everyone, endorses. As technology moves forward we are becoming cognizant of the detrimental effects many of our prior actions have had upon our environment. During this debate on reauthorization, we should strive to pass a bill which adheres to the original intent of the Superfund Program while correcting some of the imperfections in the process. As part of that corrective action, I firmly believe that the Environmental Protection Agency should be directed to more fully and accurately communicate the responsibilities and limitations of the Superfund Program to the local citizens and civic leaders in affected communities in order to avoid the unfortunate situation which was recently experienced in Elkhart, IN.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2817, the Superfund Amendments of 1985. This bill will reauthorize and expand this country's Toxic Waste Cleanup Program. While this much-needed and long-awaited proposal is far from a perfect measure, it goes a long way toward achieving our goal of cleaning up hazardous waste sites in this country.

We all recognize that there has not been enough action taken to address the cleanup of hazardous waste in the past. Our progress to date, in utilizing the original $1.6 billion fund, has fallen far short of our expectations. The Environmental Protection Agency [EPA], which oversees the Superfund law, has identified more than 22,000 potential hazardous waste sites, including more than 700 in my home State of Indiana. Nearly 800 of those sites have been included on the Super-

fund list of the Nation's worst sites, and emergency actions have been initiated at 469 sites. However, since the original Superfund law was written, we have learned the problem is far worse than originally thought.

The bill under discussion today is a compromise effort. Few, if any of us, are happy with all the provisions contained in this proposal. However, it is the product of literally hundreds of hours of negotiations, hearings, markups, input from various sources and the result is the best product, under the circumstances, the House has been able to devise to address the cleanup of abandoned hazardous wastes.

H.R. 2817 recognizes that the existing Superfund Program is not working well, and therefore, institutes a number of structural changes and improvements. We have been expending almost as much of our resources on litigation costs as we do on cleanup. There has been little encouragement for responsible parties to come forward and volunteer to clean up the waste sites they helped to create. However, the settlement procedures incorporated into this bill will help to take the toxic waste cleanup effort out of the courtrooms and to the abandoned waste sites where it belongs.

In addition to the settlement procedures, H.R. 2817 contains a number of strengthening measures. It guarantees protection of the public health and the environment by establishing cleanup standards for each hazardous substance, pollutant or contaminant at each National Priorities List [NPL] site. But by the same token, it contains some waiver provisions that will provide the Administrator of EPA flexibility in certain circumstances as long as public health and the environment are ensured.

H.R. 2817 greatly accelerates the pace of the program by requiring EPA to start cleanup studies at 150 sites the first year, escalating to 200 sites per year by the third year following enactment. It also establishes a reasonable and achievable annual schedule for the start of cleanups; and if EPA cannot finish cleanup at all existing NPL sites within 5 years, EPA must publish an explanation of reasons.

This proposal also protects the public from the hazards of leaking underground storage tanks by giving EPA the money and authority to clean up petroleum releases, and it expands public health authorities by requiring the evaluation of health risks at each site.

Citizens are guaranteed information about the hazards associated with the chemicals produced, used, or stored in their communities, and this bill requires the development of emergency response programs that will ensure community protection from accidental catastrophic releases of hazardous substances.

H.R. 2817 provides far more protection against hazardous waste than any law has ever done before. This bill will go a long way toward achieving our goal of implementing an expedited and workable schedule of cleaning up the Nation's abandoned hazardous sites.

In the past, we have found ourselves in a politically divisive process that has resulted in no real progress in addressing this critical national problem. It is incumbent upon each and every member in this legislative body to assure that we adopt a bill that will actually bring about meaningful, effective and efficient cleanup of our Nation's abandoned hazardous waste sites. The consensus building that has gone into H.R. 2817 provides a compromise for reauthorizing Superfund. I intend to support H.R. 2817 and urge my colleagues to support this measure as well.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI]

Mr. PETRI. I thank the gentleman for yielding time to me.

Mr. Chairman, it is good that the House is taking action on Superfund. Many people had given up hope that this legislation would be considered before we adjourned for the recess. Cleaning up the Nation's toxic waste sites should be a top priority. This threat to our environment and to the public health must be reduced and if possible be eliminated.

As a member of both the Education and Labor and the Public Works and Transportation Committees, I am particularly interested in commenting on one section of the legislation before us today.

Section 128 of H.R. 2817 directs the Secretary of Labor to promulgate regulations under the OSHA statute related to the exposure of workers at hazardous waste sites.

While I believe that workers ought to be protected by safety regulation, I have two specific areas of concern: One is that section 128 amends the OSHA statute by extending its jurisdiction to cover local and State workers. No hearings have been held on this issue and I believe we ought to make this kind of amendment through the statutory rather than the regulatory process. The potential financial impact on all levels of local government deserves full consideration, quite apart from the Superfund legislation.

Second, I am concerned about the specificity of the language governing the regulations.

For example, the Secretary of Labor is directed to establish maximum levels of exposure to hazardous wastes. Such a requirement is unworkable because we simply do not know what levels of exposure to certain toxics are harmful. We ought to be considering how best to protect workers from various levels of exposure and we should be monitoring the degree of exposure to toxics.

When the other body considered Superfund, one Member was going to offer a separate amendment which contained the language of section 128 in the bill before us. All interested parties held informal discussions about the issues I have outlined. I call my colleagues' attention to the generalized language that was ultimately adopted by the other body. Not only does this language not extend the jurisdiction of OSHA without due process, it also allows OSHA the latitude to promulgate the most appropriate regulations.

Apart from these concerns, I would like to commend the leadership of both the Public Works and the Energy and Commerce Committees for achieving a workable compromise on this legislation.

□ 1710

Mr. ECKART of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FAZIO), who was very instrumental in working out the Federal facilities provisions in the compromise.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of the compromise Superfund reauthorization bill. It establishes the essential elements of a strong Superfund Program, one that seeks to address this critical problem in a comprehensive fashion. The bill will ensure the cleanup of at least 600 hazardous waste dumps across the country and sharply reduce the current risk to the environment and public health posed by these sites.

In California, toxics have contaminated the drinking water supplies of an estimated 4 million people, and that number is growing. From the small individuals wells near one of the several Superfund sites in Sacramento to whole municipal water systems that supply drinking water to hundreds of thousands of people living near the Stringfellow acid pits, more and more Californians are being threatened by toxics seeping into the ground water.

The health care implications of such contamination are enormous. For example, a University of California public health physician estimates that 6 percent of all cancer deaths in the State—2,700 deaths a year—are related to toxic chemical exposure.

And toxic contamination represents one of the most potent threats to the long-term vitality of the American economy. The damage to natural resources and the high cost of cleaning up these sites represents an incalculable economic loss.

In the San Francisco Bay, the example, high concentrations of toxic pollutants have been found in fisheries and are at least partially to blame for

the huge declines in fish populations. The decline in striped bass alone is costing the State's fishing industry $32 million a year. And studies show that if fishermen were able to once again harvest shell fish from the bay, another $50 million a year industry could be supported.

There are currently 90 California sites on the EPA Superfund list. None, however, have been completely cleaned up since the Federal law was enacted in 1980. And the cleanup has only begun at a handful of these dumps, while more and more sites are being discovered nearly every week.

Again, Mr. Chairman, the compromise Superfund bill is a strong proposal that will ensure that the legacy of inaction in Superfund is not repeated over the next 5 years.

Mr. Chairman, I commend all of the Members who worked so hard over the last several months to bring this compromise Superfund bill to the floor today. Mr. Chairman, I would particularly like to acknowledge and thank Chairman DINGELL, Chairman HOWARD, Chairman FLORIO, and Chairman ROE for their support and guidance is developing section 213 of title II of the bill which reflects the basic provisions of H.R. 1940, the Defense Environmental Restoration Act of 1985, which I introduced, earlier this year. Without their strong support and interest our success here today would not have been possible.

Mr. Chairman, I would also like to commend the chairman of the House Armed Services Committee, Mr. ASPIN, who earlier this year established the House Armed Services Task Force on Environmental Restoration to investigate the military toxic waste problem and develop recommendations to improve the cleanup effort. The task force, under the strong and able leadership of Mr. MCCURDY, worked tirelessly to fashion the soundest and most workable approach to this enormous problem. The members of the task force, Mr. MCCURDY, and their staffs played an invaluable role in perfecting the Defense Environmental Restoration Act, and I thank them.

Briefly, Mr. Chairman, the Federal facilities section of title I combined with section 213 of title II, which again reflects the provisions of H.R. 1940, proposes significant changes in the procedures, pace, and scope of the existing Department of Defense Environmental Restoration Program.

These provisions will bring to an end the double standard that has existed over the last 5 years with respect to the application of CERCLA to Federal facility cleanups. No longer will less be expected of Federal agencies, and the Defense Department in particular, than is expected of private entities. This compromise Superfund reaffirms that we have one set of environmental laws and that they apply to everyone equally. Whether they are the largest Federal agency or the smallest corporation, the laws should be applied in the same manner and with the same commitment to protecting the public health and environment. This bill ensures that that will occur.

One of the most important accomplishments of the bill is that it will speed the cleanup of military toxic waste dumps. Congressional investigations have identified the cumbersome DOD funding process as a major obstacle to an accelerated cleanup effort. The bill tears down these needless bureaucratic hurdles and establishes a centralized account to finance all aspects of the DOD cleanup program, including military construction.

The bill also restores EPA authority to oversee DOD cleanups. Unlike other Federal agencies and private entities, DOD has over the last 5 years overseen its own toxic waste cleanup program. This bill will restore EPA authority to select the final cleanup action at all DOD sites on the national priorities list and thus provide the public with additional assurances that the public health and environment are protected.

In addition, the bill requires EPA and the Agency for Toxic Substances and Disease Registry to generate health risk assessment data and toxicological profiles on the contaminants most commonly found at DOD hazardous waste sites. Such studies will help ensure that these sites are cleaned up fully and completely to protect the long-term health of the public.

The bill also requires greater DOD coordination with Federal, State, and local health and environmental authorities. The military is mandated to coordinate all aspects of the cleanup program—from the identification of any possible contamination to the details of the final, permanent cleanup phase. To assist in this effort, DOD is mandated to establish technical review committees or task forces made up of representatives of the military, EPA, local citizens, and State and local regulatory agencies to monitor DOD cleanup plans at each of its facilities.

And, the bill requires DOD, as well as other Federal agencies and private entities, to meet any and all State cleanup standards for pollutants or contaminants which are more protective of the public health or environment than the applicable Federal standard.

This latter provision, which is found in section 121 of title I represents a fair and reasonable approach to one of the most controversial issues—that of State permits and standards—which faced the negotiators on the bill. I applaud the Energy and Commerce Committee and the Public Works Committee as well as the Armed Services Task Force, which made an important contribution to developing this compromise, for their efforts to ensure meaningful State participation in the development and execution of all response actions. While technical amendments may still be offered to this section that are worthy of the Members' careful consideration, this compromise represents a sound and fair approach to this complicated problem.

Mr. Chairman, the public is demanding that we take action to clean up the poisons that threaten the environment and the health and welfare of generations of Americans. We must act. Each day we delay the pollutants sink lower into our soil, each day our rivers, streams, and bays are becoming more foul with toxic waste. This bill must pass.

Again, Mr. Chairman, I commend all the Members who helped fashion this proposal and urge its adoption.

Mr. LENT. Mr. Chairman, by previous agreement, I yield 5 minutes of my remaining time to the gentleman from Ohio [Mr. ECKART] so that he may further distribute the time.

Mr. ECKART of Ohio. I thank my friend for his courtesy.

The CHAIRMAN. The gentleman from Ohio [Mr. ECKART] now has 13 minutes remaining.

Mr. ECKART of Ohio. Mr. Chairman, I yield 2 of those minutes to my colleague, the gentleman from Texas [Mr. RALPH M. HALL].

Mr. RALPH M. HALL. Mr. Chairman, I rise in support of the compromise bill that has been introduced by my colleague and distinguished majority leader, the gentleman from Texas [Mr. WRIGHT], and the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Now, the bill before us today is the end result of what I consider one of the most difficult debates that I have participated in since I have been here, and I think it is a true compromise in every sense of the word. I do not really believe that there is a Member in this body who is enthusiastic about all of its provisions.

I want to commend my chairman, the gentleman from Michigan [Mr. DINGELL], for his continuing efforts to report a bill from the Committee on Energy and Commerce and to reach a reasonable resolution of the outstanding issues among the other committees of jurisdiction. And, of course, I thank the chairman of the subcommittee, the gentleman from New Jersey [Mr. FLORIO], for the kindness he extended during consideration of this bill, and my colleague, the gentleman from Ohio [Mr. ECKART], for his ushering the bill through the Committee on Energy and Commerce and, hopefully, successfully ushering the bill to its completion.

Mr. Chairman, I want to turn now, briefly, to the financing portion of the bill. Title V of the bill, of course, rep-

resents what we consider a true compromise on the source of the funding, but it will still result in a substantial proportion of the funding coming from two States, Texas and Louisiana.

Under the compromise, we are willing to accept a disproportionate part, but the magnitude of the program is such that we cannot accept it all. The broad-based tax provision represents an effort to spread the burden more equitably.

While not a perfect alternative, a broad-based manufacturing excise tax is the best we could find, since it puts a portion of the burden on manufacturing industries that either use chemicals or products made from chemicals, or have benefited from past economic expansions and lower waste disposal costs.

Our colleaagues in the other body looked at this issue closely and came to the conclusion that the broad-based tax was the best alternative. If we were to adopt the Downey amendment, I believe we might create a situation that might be unresolvable in the conference with the result that we would have to produce a new bill next year. That would be a tragedy for the country that desperately needs the certainty of an ongoing program to continue the cleanup process.

Mr. Chairman, I urge the Members to support the bill and oppose the Downey amendment.

Mr. ECKART of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN], a member of the Committee on Energy and Commerce.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman and Members of the Committee, there are really three things wrong with the current law that has failed us miserably. The first is that the current law does not provide enough money to do the job. We have only collected $1.6 billion and, unfortunately, spent it, which is the second problem, in courts in litigation rather than cleaning up sites. EPA claims that only six sites have been cleaned up. We have learned that really only 5 were cleaned up, when they predicted that 150 would be cleaned up in the last 5 years.

The law has failed us in that regard. Not enough money, too much time spent in court, not enough cleaning up the waste sites around the country.

And the last thing that was wrong with the current law is that it taxed the wrong people. There are 12 companies right now paying 70 percent of the $1.6 billion collected in the last 5 years. Twelve companies paying 70 percent. And they have been cited as responsible parties at Superfund sites only 1 percent of the time.

Now, Ways and Means Committee and the other committees, Energy and Commerce, all of us who have worked on this bill, have tried to cure those 3 problems: First, to provide a bill that will really clean up sites; second, to provide enough money to do the job, $10 billion; and, third, Ways and Means has given us a formula that will tax the real polluters.

EPA has identified 4,000 potential contributors to hazardous waste sites around this country, 4,000. Of the 4,000, 87 percent are not taxed under the current law but will be taxed under the Ways and Means formula.

Do not let my friends from New York fool you. The provisions of the tax-raising mechanism provided by the Ways and Means goes after the real polluters. The current bill misses them badly. The current bill provides for a tax on the wrong parties. If we adopt the Ways and Means Committee revenue-raising mechanism, we will finally be asking those who have contributed to those sites to pay a fair share of cleaning them up.

In Stringfellow alone, in California, we found out that the 25 biggest contributors to the site there are not currently being taxed. Is it not time we taxed the real polluters?

I commend this bill to you as Ways and Means and Energy and Commerce, and others, bring it to you, a good bill.

Mr. LENT. Mr. Chairman, I take great pleasure in yielding 5 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader of the House of Representatives.

Mr. MICHEL. I thank the gentleman for yielding time to me.

Mr. Chairman, as the Members know, I have joined with the majority leader in cosponsoring this compromise version of the Superfund bill, and I urge its adoption.

The bill obviously is not fully to my liking, as I'm sure is the case with most of the members of this body. The tax section, in particular, represents an area where many of us will be voting for an approach other than that approved by the Ways and Means Committee.

Taxes not withstanding, however, the bill represents a reasonable compromise, worked out by both Republicans and Democrats from the two committees primarily involved with the structuring of the Superfund Program, Energy and Commerce and Public Works.

The important thing for us to do is to move this legislation through so that we can achieve final enactment this year. I regret that it's taken so long to bring it to the floor. The Senate completed action in September. The Energy and Commerce Committee reported the bill in July, and the Public Works Committee marked it up in October.

A month ago I wrote the Speaker urging expedited procedures in order to bring the bill to the floor before Thanksgiving.

I am including that letter in the RECORD at this point:

OFFICE OF THE REPUBLICAN LEADER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 6, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives,
H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing to express my extreme concern and disappointment in the lack of progress being made in the House to reauthorize the Superfund program. The Superfund program was enacted in 1980 to provide the necessary resources to begin the cleanup of our nation's worst abandoned hazardous waste sites. At the time of its enactment in 1980, a 5-year funding mechanism was put into place to generate $1.5 billion to aid in this cleanup effort.

Recognizing that the funding for this critically important environmental program was expiring this year, efforts were undertaken in both bodies early in the session to reauthorize the program. The Senate completed its consideration of Superfund in September before the funding authority for this program expired. The Senate bill, S. 51, has been at the Speaker's desk since that time.

Regrettably the process has broken down in the House. Although the Energy and Commerce, Merchant Marine and Fisheries, Judiciary, and Ways and Means Committees have all completed work on this legislation, the bill continues to languish in the Public Works and Transportation Committee. This despite a representation by Chairman Roe on October 1, in response to a question by Mr. Lott concerning legislation to extend the existing Superfund tax authority for 45 days, that the Public Works Committee at that time had completed 95% of its work on Superfund and that it would mark up the bill by October 11. (The Public Works Committee did complete mark-up on October 10, but has yet to file its report.)

As you will recall, Trent Lott engaged several Chairmen of the relevant Committees in a colloquy as to the need for the 45 day extension and when the Membership of the House could expect to see H.R. 2817 on the Floor. It was represented at that time, in response to Mr. Lott's questions, that you had indicated in a Democratic Leadership meeting earlier that day that it was your intention to move H.R. 2817 as speedily as possible.

It has been over a month since funding for Superfund has expired, and over a month since the colloquy I have referenced took place. EPA Administrator Lee Thomas has been compelled to slow down cleanup efforts under the Superfund program at over 57 hazardous waste sites. All interested parties have testified in support of increased funding in order to proceed with this essential cleanup effort. The three Committees to which H.R. 2817 has been referred have recommended over a six-fold increase in the funding levels for this program, from $1.5 billion to $10 billion. Needed changes to the 1980 law remain unmade despite the clear recognition on the part of all that the Superfund statute is in need of significant revision.

Under the circumstances, further delay in consideration of H.R. 2817, which has been ordered reported to the House by all of the Committees to which it was referred, is simply unacceptable. If the Public Works Committee cannot file its report on this leg-

islation by the end of this week, I would urge you to discharge that Committee from further consideration of the bill. Assuming that Committee can meet this deadline, I believe one week should be set aside in order to allow the Energy and Commerce and Public Works Committees to meet in an effort to work out a compromise between the two Committee versions.

Whether or not this compromise can be achieved, I believe the Rules Committee should meet the week of November 18 to report a rule to the House that would govern consideration of H.R. 2817. The House would then be in a position to act on H.R. 2817 before the Thanksgiving recess.

In order to establish this type of schedule, I would urge you to chair a meeting later this week of the following Members: Messrs. Wright, Foley, Dingell, Howard, Michel, Lott, Broyhill, and Snyder. Only through your leadership in the establishment of this type of schedule can we assure our colleagues and the American people that the House of Representatives is serious about addressing this major environmental issue this year. To do any less would be an abdication of our responsibility.

I look forward to working with you in making sure that the House is able to pass a comprehensive Superfund reauthorization bill in the next few weeks.

Sincerely,

ROBERT H. MICHEL,
Republican Leader,
U.S. House of Representatives.

I never did hear back from the Speaker, and of course Thanksgiving is now past and we have only a week to go before the projected adjournment.

Such delays put into jeopardy the prospects of finalizing action on Superfund this year. It is essential that we enact the bill this year, because without authorization and without adequate funding, EPA cannot effectively move ahead with the cleanup of the many hazardous waste sites.

Some amendments will be offered today which, if enacted, will have the effect of slowing the process down even further. I would hope those would be rejected. The bill before us is a reasonable and balanced approach. Any effort to turn this program into a slush fund for the legal profession or to hamstring the ability of the EPA Administrator to effectively carry out the cleanup program will only serve to undermine the prospects for early enactment of this legislation.

The bill represents a carefully negotiated compromise that should be enacted essentially as is without further delay.

Mr. ECKART of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], one of our subcommittee chairmen from the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I want to begin by first complimenting the gentleman who recognized me, the gentleman from Ohio [Mr. ECKART], the chairman of our full committee, the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. ROE], the gentleman from New Jersey [Mr. HOWARD], and especially the original father of Superfund, the gentleman from New Jersey [Mr. FLORIO], for the long and hard and tough battle he has engaged in in bringing the bill to this point, and to all of the Members here who have worked on this issue.

The compromise which has been produced I think is a satisfactory one. It is not an ideal one, but I think it is one that substantially advances from where we have been on this issue over the past 5 years.

When we first passed this bill 5 years ago, there was an identified crisis in this country and one that Congress took a long time in coming to the point where we finally dealt with it, but we passed a piece of legislation. Unfortunately, over that 5-year period, very little was done to implement it at the EPA. My district is a classic example. Woburn, MA, along with Love Canal and two or three other sites in this country, have been given the most attention nationally by "60 Minutes" and every other national network. I have the fifth worst site in the country.

□ 1725

It has been identified for 5 years. There have been leukemia and cancer deaths far above the national average in children and adults all across this city. They have yet to turn the first shovel of dirt on the fifth worst site in the United States 5 years into the job.

This bill provides standards. This bill provides deadlines. This bill restricts the flexibility which EPA will have in order to allow them to continue to delay so that the fifth worst site in the country takes 10 years to clean up as a message, as a window into seeing what will happen to the 500th or 5,000th worst site in the country. Probably never or indefinitely before it would be reached.

This is an important piece of legislation. It puts teeth and additional money and more manpower into an agency which up until now has not been able, either by design or by lack of resources to be able to get the job done. But now, with this bill, we finally have reached the point where we have been identified and given the resources to begin to really get this job done.

Mr. ECKART of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. I thank the gentleman for yielding me this time.

Mr. Chairman, I think one of the most important sections of this bill with regard to the local communities' ability to deal with health problems is the community right-to-know provisions. Various chemical and other industries have, I think, a legitimate right to protect trade secrets, but the legislation was somewhat unclear as to what was a trade secret. This legislation lays out carefully what the parameters are. It is not just a case of anyone being able to assert that there is a trade secret. There are specific provisions which must be met so that it in fact is a legitimate trade secret.

Even so, the bill provides means by which those authorities in a community that would need to know in order to be able to deal with the communities' health do have availability to them of information about chemicals and other hazardous substances that are available in their community. Essentially, it says that health professionals will have this information if they need it for diagnosis or treatment. It essentially says those people who have to deal with medical emergencies can get that information. In certain instances, types of research that have to be done can have, to the researchers, information made available so that they can do that adequately.

It provides, of course, that those officials who have this information agree that the information will be kept confidential in order to protect legitimate trade secrets. But the diagnosis, treatment, medical emergencies, and appropriate research that needs to be done in communities can all be done in spite of a trade secret being applicable. This we think is a very balanced and useful goal between the rights of entrepreneurs and the rights of the community to know what is going on in its community, and the ability of the health professionals in that community to be able to see that they are taking care of the health and safety of all of the citizens.

This is one good part of a bill that contains many good provisions, and I would certainly urge all of my colleagues to support the excellent compromise that has been worked out here over the last few weeks.

Mr. MAVROULES. Mr. Chairman, the issue we are addressing today involves our future, our children's future, and the future of our country as does no other bill in Congress. The clean up of toxic waste is a No. 1 priority for us, since it involves the health and safety of our people and our environment. I am very pleased to have this opportunity to voice my support for the Superfund proposal before us today. A lot of hard work went into this legislation, and I give credit to the committee members and their staffs for the fine work they have turned out. They were able to set their priorities and stick by them.

With three sites on the National Priority List in my district, I am extremely concerned that we pass a strong, effective, and environmentally stringent Superfund bill. For this reason, I strongly support H.R. 2817.

Mr. Chairman, our greatest concern, of course, is to make sure that the cleanup gets done. We must begin the cleanup process in at least 100 sites each year. Also,

within the next few years, all of the Nation's 20,000 hazardous waste sites, whether or not they are currently endangering anyone, must be investigated. The mandatory schedules set by H.R. 2817 would establish such priorities and deadlines, and thus ensure immediate action toward a cleaner environment. Along with establishing schedules, we must set strict standards. I am pleased to see that the Clean Water Act is included in H.R. 2817 as a basis for cleanup.

Many of my constituents back home have been adamant on their right to know what hazardous wastes are being generated in their backyards. The community right-to-know provision of H.R. 2817 addresses this concern. The community spirit is very strong in my district. Those communities are very aware of what is going on around them and care about improving their health and safety. The citizen suit provision of H.R. 2817 gives these communities and individual citizens a way to protect themselves from environmental law violators and from EPA inaction.

Mr. Chairman, I think the last word is that we must pay the piper. In a society as industrialized as ours, where we have so many comforts and conveniences that we take for granted, we must realize that there is a price to pay. We must pay that price now if we hope to leave behind a country in which our children and grandchildren can live. Once we have passed this Superfund bill and the cleanup of our toxic waste sites is underway, we can dream of a future without the threat of hazardous wastes, a future of responsible use of nature's resources, a future for mankind.

Mr. LEHMAN of California. Mr. Chairman, in 1980, the Nation was shocked to learn of the environmental disaster at Love Canal. This was assumed to be an isolated and manageable incident; however, today we know of tens of thousands of such sites with identical potential for disaster across the Nation. Millions of metric tons of hazardous wastes are contaminating our water, our air, and our land, and pose the No. 1 environmental health threat facing our Nation today.

In response to the Love Canal incident, Congress enacted the Superfund Program to clean up the waste sites across the country. Of great concern to me, however, is the fact that Federal waste facilities have been entirely exempt from the provisions of this bill. The Defense Department has been left to its own devices to clean up its 800 hazardous waste sites, 39 of which have been labeled at the country's worst hazardous waste sites. This allowing of the Defense Department to take care of its own problems might have seemed like a good idea to avoid extra layers of bureaucracy in the cleanup effort. The Pentagon's efforts, however, have been wrought with delays, ineffectiveness, and outright errors.

I am pleased that the Superfund reauthorization bill being considered on the House floor today firnally addresses the issue of military waste facilities. The measure includes the provisions of H.R. 1940, the Defense Environmental Restoration Act of 1985, of wich I am a cosponsor. These provisions will set up a centralized account to finance the military cleanup program; require DOD to coordinate its cleanup plans with all Federal, State, and local health and environmental regulatory authorities; authorize a full-scale research, development, and demonstration program to identify new, cost-effective cleanup technologies; and require DOD to involve the affected communities in the cleanup process. Most importantly, this measure will require EPA to select the final remedial action at all DOD sites on EPA's national priority list.

These provisions represent a major step forward to clean up hazardous waste dumps on our Nation's military bases and do away with a dangerous double standard. With the Superfund bill being considered on the floor today, we establish one set of hazardous waste cleanup laws that apply equally to everyone, military and nonmilitary alike. I support the efforts made in today's Superfund reauthorization bill.

Mr. MINETA. Mr. Chairman, I rise in strong and enthusiastic support for this legislation, the reauthorization and renewal of the Superfund law.

We have been struggling with this bill for some time, as Members know all too well, and I congratulate all of my colleagues whose hard work has brought us to this point.

The bill before us today is a good bill, and we must pass it. The people of this Nation, who confront the awful reality of toxic waste every day, know how important this bill is. We must act with firmness and with speed.

I would like to mention a few provisions of this bill that I am particularly concerned about.

There is a provision in this bill that instructs the Environmental Protection Agency to give high priority to those sites which have led to the contamination of drinking water supplies. I first authored this provision in last year's bill, and am delighted to have this provision included again in this year's bill.

I am also pleased to see a provision to expand and target the work of the Agency for Toxic Substances and Disease Registry. With the provisions of this bill, ATSDR will be able to carry out its longstanding mandate to provide the health effects studies that are so central to an active Superfund program.

This bill also includes a requirement that EPA initiate cleanups at 600 sites over the next 5 years. I know that there are many provisions which can be described as the heart of Superfund, and certainly the 600-site requirement is one such provision. What good does it do us to have a complex costly program if we do not mandate actual cleanups?

I know some believe that we do not need to impose such detailed requirements upon EPA, and that we should leave such matters as schedules to administrative discretion.

I strongly disagree with that view. We want these sites cleaned up; we know they must be cleaned up. Let us at least have the good sense to be explicit about what we want the administration to do. We know what leaving these matters to broad administrative discretion has gotten us in the past. Only a handful of sites have been listed as clean, and now even those are leaking again.

We will have a long debate today. I hope we will not be deterred, and will approve this bill. Several amendments to strengthen these provisions will be offered, and I urge my colleagues to support those as well.

Again, I congratulate everyone whose efforts have brought us to this point, and urge passage of the strongest possible bill.

Thank you.

Mr. DASCHLE. Mr. Chairman, today the House begins consideration on Superfund amendments. Without question, this is the most important environmental legislation to be addressed in the 99th Congress and it deserves the strong support of my colleagues.

The cleanup of hazardous waste in America should be a top national priority. We must take steps to ensure that our land, our water, and our air are made clean and safe for ourselves and our children. The extension and improvement of Superfund is a major contribution toward doing so.

The Superfund amendments being considered on the House floor today are the result of weeks and months of negotiation and contain the valuable input of many different interested parties. I believe that the program provisions included in the compromise version are a very good beginning toward a strong and effective Superfund. Cleanup schedules and standards, as well as important citizen rights and community right-to-know clauses are, for the most part, already well-established in the Superfund package. I would, however, urge my colleagues to consider seriously the addition of further strengthening amendments.

Finally, with respect to the means of financing the Superfund Program, I urge my fellow Members to support the Downey-Frenzel amendment, which I believe best matches responsibility for cleanup with the parties most responsible for pollution. This amendment retains the policy that the polluter, not the general public, pays the largest share of financing the solution.

Again, Mr. Chairman, I would like to reaffirm my strong support for the goals of an effective and evironmentally sound Superfund.

Mr. WOLPE. Mr. Chairman, it is with great pleasure that I rise today in support of this well-crafted compromise for the reauthorization of the Superfund. From the striking drawing that appeared on the cover of Time magazine to the indepth analysis of the Office of Technology Assessment, it has been made abundantly clear that we are facing a toxics crisis which is truly alarming. In the last 5 years, we have become increasingly aware of the enormous number of the hazardous waste sites that threaten public health. According to the Office of Technology Assessment, there could be as many as 10,000 dumps in

need of cleanup across the Nation. Furthermore, it is increasingly clear that these sites will be much more difficult to effectively cleanup than was originally anticipated. The recent recurrence of problems at the Butler Mine Tunnel site in Pennsylvania is an unfortunate example of this problem and underlines the importance of physically destroying or deactivating waste instead of simply moving it from one location to another. In this regard, I applaud the research provision in this bill which is designed to encourage the development of innovative new technologies that will provide permanent solutions to the various problems present at toxic waste sites.

As a Representative from the State of Michigan, I am particularly concerned about the magnitude of the toxics crisis. With 64 sites currently on the national priorities list, we rank second in Superfund sites nationwide. In addition, we are currently saddled with a number of extremely complex problems which the present Superfund Program is not adequately equipped to address. For example, the Environmental Protection Agency is considering simply writing off a Charlevoix, MI, aquifer that has been contaminated by cancer causing organic chemcials because they feel it would simply be too costly to clean up. By ignoring the problem the EPA is not only forcing Charlevoix to abandon its municipal water supplies, but also allowing the lethal contaminants to drain into Lake Michigan.

My experience in my own district, where contamination was discovered in a public well system, has been more positive, however. It indicates that, with the proper resources and guidelines—and a little prodding—EPA is capable of effectively addressing these difficult situations. I am convinced that the bill before us today will create a program that provides the Agency with the means to make such successful cleanup activities the rule and not the exception.

Specifically, the reauthorization creates strong requirements for permanent cleanups which incorporate the important standards Congress has worked so hard to create in other Federal environmental laws. The bill addresses the backlog of sites in need of clean up by putting EPA on a strict schedule which requires the Agency to start "substantial and continuous physical onsite" cleanups at approximately 125 sites in 1986 and a total of some 600 sites within 5 years. Another provision that will be very important to Michigan in the coming years is the new program to address leaking underground storage tanks which contribute substantially to the current ground water crisis in Michigan.

In short, this proposal for a $10 billion Superfund, with significant programmatic improvements over the previous authorization, is an essential and positive step in our attempt to address the toxics crisis. I applaud the extensive committee efforts in producing this reauthorization and urge all my colleagues to support it.

Mr. BROWN of California. Mr. Chairman, I would like to take this opportunity to praise everyone who has had a part in bringing this bill to the floor today to reauthorize Superfund. This compromise is the result of a great deal of work by many people, and contains many of the best aspects of the many versions reported by the many committees who had jurisdiction. But, as is the case with any compromise, important aspects have been left out and inappropriate parts included. It does, however, address the issues that most people assume critical to assuring that hazardous waste sites are cleaned in an effective and responsive manner. It also assures that citizens may act to bring about action, and it will provide information to citizens about potential risks to health from chemicals. Chairmen DINGELL, HOWARD, and ROE are to be commended for seeing that this compromise was reached, permitting us to proceed with toxic waste cleanup.

As is true with any legislation, however, our responsibility does not end with enactment, leaving responsibility to the appropriate agency. This lesson has been bitterly brought home to me with regard to the Stringfellow acid pits, located in my district. I have for the past 13 years grappled with this site, including delays in action, mismanagement and intrusion of political factors into the decisionmaking.

Stringfellow today, after 5 years as a priority Superfund site, remains health threat to thousands of residents in my district. Toxic ground water from the site today flows beneath an elementary school attended by hundreds of students and beneath many homes, including some that are being sold to people who will only later learn of the full threat of this site. The remedial investigation/feasibility study, mandated by Superfund, is today running at three to four times the cost of the original contract and will not be completed until at least a year after the original completion date. I have little reason to believe that this study will not again recommend containment as a preferred alternative rather than waste treatment—the only means by which we can be assured that Stringfellow will no longer threaten the health of the people of my district.

I am encouraged that the bill before us addresses the issue of cleanup schedules. I must point out, however, that without the goodwill of the Environmental Protection Agency [EPA], we may find that, as has been the case in California, simple, easy-to-clean sites will take priority over such sites as Stringfellow, which are complex, difficult to understand and will require major expenditures for final cleanup. I am encouraged, too, that this bill contains cleanup standards. Again though, I must point-out that without the goodwill of EPA, standards may be mainpulated, ignored or waived such that public health may still be endangered.

The best part of this bill for my constituents is that it augments the funds available for cleanup. The threat posed by Stringfellow alone will probably cost at least $100 million to remedy. The funds made available by this bill may make it possible for EPA to do the necessary work at this site. I must remind by colleagues, however, that money alone will not solve the threat of Stringfellow or any other waste site. If EPA is permitted to approve and implement another containment strategy at the site, the residents of my district may expect their ground water and their health to continue to be threatened. And, though we do not typically have hurricanes in California, such as the one that opened the Butler Tunnel in Pennsylvania, we do have occasional heavy rains, floods, and earthquakes that could again send toxic chemicals down the streets and through the yards and homes of nearby residents.

I appreciate all the work that has gone into drafting this legislation. It is a significant improvement over the old Superfund bill and earlier draft versions. I, however, intend to remain skeptical and vigilant, and I encourage my colleagues with waste sites in their districts, who are, by the way, the majority of my colleagues, to do the same. Thank you.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 2817, the Superfund Amendments of 1985, which would reauthorize the Superfund Program for 5 years providing $10 billion through fiscal year 1990. This legislation establishes mandatory cleanup schedules and requires the EPA to begin actual cleanup at roughly 600 sites over the 5-year period. This bill would, for the first time, require that cleanup at Superfund sites meet statutory standards. H.R. 2817 will also require that following cleanup, sites must meet the standards established by existing Federal law, such as the Clean Water Act.

This legislation would work to protect our citizens and communities. Citizens would be given the right to sue polluters when release of a hazardous substance from waste disposal facilities represents an imminent and substantial danger to public health and the environment. I strongly support the right of citizens to sue polluters and support this provision. I also urge my colleagues to support a strengthening amendment to be offered by our distinguished colleague, Congressman BARNEY, FRANK, That would allow persons to sue in Federal court for injuries caused by toxic substances.

Communities located in proximity to chemical plants and hazardous waste sites and facilities would be given the right to know what chemicals are being handled or stored in those facilities. Companies would be under the obligation to provide information to help communities respond to emergencies caused by the sudden release of toxic chemicals, including information on emissions of acutely toxic chemicals. H.R. 2817 also authorizes a new program to clean up leaking underground petroleum storage tanks.

Mr. Chairman, the presence of an estimated 10,000 toxic waste sites in the neighborhoods of America represents a clear and present danger to all Americans. While the problem of toxic waste sites presents a clear and present danger, it also presents an opportunity to engage in united action

and coalition building with all the peoples of our Nation—blacks, whites, Native Americans, Latinos, and Asian Americans, rich and poor alike in defending against the health threatening existence of toxic and hazardous wastes. The Superfund amendments, H.R. 2817, is an instructive example of legislation which is in the common interest and around which we should all unite.

In order to raise the funds necessary for H.R. 2817, I would urge support of an amendment to be offered by our colleagues, Congressmen TOM DOWNEY and BILL FRENZEL. This amendment, in the nature of a substitute to H.R. 2817's taxing provision, would not include a broad based excise tax which would shift the burden of financing Superfund away from those industries generating products and wastes found at abandoned sites on to low-income consumers and companies which have little if any culpability in generating toxic and hazardous wastes and the creation of dangerous sites.

The tax burden for financing Superfund should adhere to the principle that those responsible for pollution should pay for its cleanup. The oil and chemical industries are responsible for the generation of most toxic wastes. The Environmental Protection Agency reports that 93 percent of all hazardous wastes generated in the United States emanate from the chemical, oil, and metal related industries. Indeed, when Congress first enacted the Superfund Program, and when we in this body voted to reauthorize the program last year, we imposed a tax on oil and chemical companies because they were most responsbile for the toxic waste problem.

The amendment proposes to raise funds for Superfund from the following sources:

Two billion dollars from chemical feedstock taxes, $500 million more than the bill. The amendment contains the same list of chemicals that would be taxed that are in the bill and the same exemptions, but establishes a higher tax rate.

The sum of $3.1 billion from an 11.9-cent-per-barrel tax on crude oil, $2.1 billion more than would be raised by the bill's 3.85-cent-per-barrel tax.

Two billion dollars from a waste-end tax similar to the $1.5 billion waste-end tax established by the bill. The amendment and the bill would implement the tax in the same way, but the amendment's waste-end tax has a higher tax rate for land disposal—$35 per ton in 1986 increasing to $45 per ton in 1990, instead of $27 per ton in 1986, and $3 per ton in 1987 through 1990 as in the bill.

A greater reliance on general revenues—$1.6 billion from general revenues, compared to the bill's $180 million.

Sixty-seven million dollars from imported chemical derivatives, the same as the bill; $850 million in gasoline taxes to finance the leaking underground storage tank cleanup program, the same as the bill; and $400 million in interest.

Mr. Chairman, I believe that this is the most equitable way to finance the Superfund Program.

I would urge my colleagues to support the two amendments offered by Congressman FRANK and by Congressmen DOWNEY and FRENZEL and to adopt H.R. 2817 for it is clearly in our national interest.

Mr. EDGAR. Mr. Chairman, I am very pleased that the House is being presented a compromise Superfund bill that preserves many of the crucial elements of the strong legislation passed overwhelmingly by the House last year. This bill, together with the adoption of strengthening amendments offered by myself and other Members will provide a much more aggressive and effective Superfund cleanup program than the inadequate program we have today.

I am proud to have had the opportunity to work with the members of the Public Works and Transportation Committee on which I serve which endorsed an excellent bill. This bill provided the momentum that made the development of the bill we are voting on today possible.

However, the commitment of many Members not on the Public Works Committee to strong Superfund legislation was an important factor in the development of the compromise bill, as well. I would like to pay special recognition to those Members who signed a letter coauthored by Mr. WIRTH and myself to the Speaker and the minority leader expressing that commitment. The signers of the enclosed letter were willing to demonstrate their commitment at a point during the development of the legislation that provided important leadership and helped assure that the bill presented to the House for approval would be a strong one.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 4, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

Hon. ROBERT H. MICHEL,
Minority Leader, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER AND MINORITY LEADER: Legislation to extend and expand the Superfund program is the most important environmental bill to come before the Congress this year. This legislation will determine for millions of Americans how quickly toxic waste sites in their neighborhoods will be cleaned up.

Nearly all the Committees have completed their consideration, and the bill will soon be ready to go to the House floor. We are writing to inform you of our concern that this legislation, at a minimum, contain provisions which will provide some hope to Americans that we are serious about the problems of toxic waste. While we hope that the House will pass a stronger bill, the following are the areas that we believe are the minimum requirements for a credible Superfund bill:

Cleanup schedules. The legislation must establish an annual schedule of cleanups that EPA must begin. Over the last five years EPA has managed to clean up only five sites, a miserable record. The version of the bill reported by the Public Works Committee contains an annual, enforceable schedule and requires that EPA clean up the sites on its National Priorities List within five years, or provide the public with an explanation why this goal has not been met.

Cleanup standards. The bill must establish uniform, national standards for cleanup so that when EPA acts all will have confidence that the toxic wastes are indeed cleaned up. It should also require EPA to treat wastes permanently whenever feasible so we will not be merely moving wastes from one leaking landfill to another. The Public Works version of the bill contains provisions which deal with these issues.

Citizens Suits. Citizens should have the right to sue companies to stop pollution if EPA and the states are not acting to clean up a toxic site and the site presents an imminent and substantial endangerment to public health. The legislation reported by the Judiciary Committee contains this provision.

Liability. The bill should maintain polluters' liability for future cleanup and their responsibility for present problems. Liability is the most effective tool that EPA has for bringing the responsible parties to the bargaining table to negotiate a cleanup agreement. The Public Works version of the bill contains these provisions.

Health Effects Studies. The bill should guarantee citizens the right to information about the effects on their health of exposure to toxic wastes. The Energy and Commerce version of the bill contains this provision.

Community Right-To-Know. The legislation should give to citizens the right to know about the use and discharge of toxic chemicals within their community and set local standards for disclosure. The Public Works version of the bill takes an important step in this direction, but its version of the bill should be strengthened by giving EPA a specific list of chemicals, including those with chronic and acute health hazards, as part of the inventory of covered chemicals.

Leaking Underground Gasoline Storage Tanks. The legislation should provide funding for the cleanup of leaking underground gasoline storage tanks and impose liability on those responsible for such leaks. The Public Works version of the bill contains this provision.

Last year the House passed a bill by an overwhelming margin of 323-33 which provided for a strong Superfund cleanup program. It is our hope that we will do no less this year, and the provisions mentioned above are the minimum to accomplish that goal.

We believe most strongly that the provisions listed above are a minimum for acceptable House Superfund legislation. We urge your support for a strong Superfund bill.

Sincerely,

Garv L. Ackerman, Daniel K. Akaka, Les Aspin, Chester G. Atkins, Les AuCoin, Michael D. Barnes, Jim Bates, Berkley W. Bedell, Charles E. Bennett, Howard L. Berman, Mario Biaggi, Sherwood L. Boehlert, William H. Boner, Robert A. Borski, Douglas H. Bosco, Frederick C. Boucher, Barbara Boxer, George E. Brown, Jr., Terry L. Bruce, Sala Burton, Albert G. Bustamante, Thomas R. Carper, William Clay, Cardiss Collins, Silvio O. Conte, John Conners, Jr.

Jim Cooper, Lawrence Coughlin, Thomas A. Daschle, Robert W. Davis, Ronald V. Dellums, Norman D. Dicks, Julian C. Dixon, Brian J. Donnelly Byron Dorgan, Thomas J. Downey, Richard J. Durbin, Bernard J. Dwyer, Mervyn M. Dymally, Robert W. Edgar, Don Edwards, Ben Erdreich, Lane Evans, Dante B. Fascell, Walter E.

Fauntroy, Vic Fazio, Edward F. Feighan, Hamilton Fish, Jr., Wyche Fowler, Jr., Barney Frank, Robert Garcia, Samuel Gejdenson.

Benjamin A. Gilman, S. William Green, Frank J. Guarini, Lee H. Hamilton, Augustus F. Hawkins, Charles Hayes, Carroll Hubbard, Jr., William J. Hughes, Andrew Jacobs, Jr., James M. Jeffords, Paul E. Kanjorski, Marcy Kaptur, Robert W. Kastenmeier, Barbara B. Kennelly, Peter H. Kostmayer, Tom Lantos, Richard H. Lehman, William Lehman, Mel Levine, Cathy Long, Mike Lowry, Stanley Lundine, Edward J. Markey, Robert T. Matsui, Nicholas Mavroules, Frank McCloskey.

Joseph M. McDade, Matthew F. McHugh, John R. McKernan, Jr., Stewart B. McKinney, Dan Mica, Barbara A. Mikulski, George Miller, Norman Y. Mineta Parren J. Mitchell, Jim Moody, Bruce A. Morrison, Robert J. Mrazek, Stephen L. Neal, Bill Nelson, Henry Nowak, James L. Oberstar, David R. Obey, Major R. Owens, Leon E. Panetta, Donald J. Pease, Timothy J. Penny, Charles B. Rangel, Bill Richardson, Tommy Robinson, Edward R. Roybal, Martin Olav Sabo.

Gus Savage, H. James Saxton, James H. Scheuer, Claudine Schneider, Charles E. Schumer, Gerry Sikorski, Lawrence J. Smith, Christopher H. Smith, Olympia J. Snowe, Stephen J. Solarz, John M. Spratt, Jr., Fernand J. St Germain, Richard Stallings, Fortney H. Stark, Louis Stokes, Gerry E. Studds, Robin Tallon, Esteban Edward Torres, Robert G. Torricelli, Edolphus Towns, James A. Traficant, Jr., Morris K. Udall, Bruce F. Vento, Peter J. Visclosky, Doug Walgren, James H. Weaver, Ted Weiss, Charles Wilson, Timothy E. Wirth, Sidney R. Yates, Gus Yatron.

Mr. WYDEN. Mr. Chairman, I rise in strong support of the compromise legislation we have before us. It is the product of long, hard negotiations among several committees and it is a product we can be proud of.

The reason all of us have worked so hard on this legislation is because the current Superfund, while certainly a fund, definitely has not been super. We can do better. We must do better. And clearly, the legislation before us today will do better.

One of the reasons it will do better is that it squarely addresses what we now know about toxic wastes that we did not know 5 years ago. It puts the heat on EPA in areas where EPA needs a fire lit under it. It provides EPA flexibility in the areas where it has demonstrated it needs some flexibility. In response to several disastrous chemical leaks at home and abroad, this legislation includes a strong community-right-to-know law that will ensure local communities are not taken by surprise in time of an industrial emergency and that emergency response is swift and effective.

Moreover, just as this legislation addresses problems we were fully aware of 5 years ago, it also recognizes there is much more we need to learn about cleaning up toxic wastes and protecting human health and the environment. Specifically, this compromise includes a provision that could do more to protect human health and the environment in the future than any other feature of this bill.

The provision is based upon an amendment I offered during Energy and Commerce Committee consideration of the Superfund amendments. This provision establishes a 5-year research and training program funded out of the Superfund. It is designed to increase our knowledge on the health effects of hazardous substances, how to assess, detect and evaluate these health affects, how to detect hazardous substances in the environment, methods to reduce the toxicity of hazardous substances, innovative cleanup technologies and improved safety practices in handling hazardous substances.

The funding is relatively modest—approximately 2 percent of the Superfund—yet we stand to gain so much by spending so little. There is exciting research being conducted in our labs—for example, the development through biotechnology of microorganisms that can actually devour toxic waste—and this program will ensure that such valuable research continues and grows.

This provision also builds upon concepts contributed by Mr. TORRICELLI and the Science and Technology Committee and Mr. STENHOLM and the Small Business Committee designed to provide a greater opportunity for EPA to test new cleanup technologies. Specifically, a new Office of Demonstration is established at EPA, which will have responsibility for testing new cleanup technologies that EPA will be able to use at sites in the future.

We have heard from many entrepreneurs who have developed unique cleanup technologies but cannot get EPA to use them on real live toxic waste sites. This program will make sure these entrepreneurs are provided the opportunity to show their technology can work. Only in this way will America's entrepreneurs take the risks to develop technologies we must have to rid the Nation of abandoned toxic waste sites in the future.

Right now, these technologies are not being developed because EPA has been reluctant to test and use new technologies. Why should an inventor spend money inventing something if EPA's track record shows that it is not willing to test new technologies? It is a chicken and egg situation, and what we have tried to do in this provision is create an egg that will produce the chicken we want—in this case, technologies that will permanently clean up toxic wastes.

While this provision has not received the attention other provisions of the compromise have received, it is a vitally important provision that has the potential to create quantum leaps in our knowledge of the key Superfund issue: protecting human health and the environment by eliminating the hazards caused by abandoned toxic waste sites.

In conclusion, in addition, to the gentleman from New Jersey [Mr. TORICELLI] and the gentleman from Texas [Mr. STENHOLM], I want to thank Chairman DINGELL, Mr. COEHLO, Mr. ANDREWS, and Mr. SUNDQUIST for their input on this provision. It is a stronger and more comprehensive provision because of their contributions.

Mr. TRAFICANT. Mr. Chairman, today the House considers H.R. 2817, to reauthorize the Superfund for hazardous waste site cleanup. As a member of the Public Works and Transportation Committee I was glad to have the opportunity to play an active role in forging a strong Superfund bill, one that will protect the health of the general public, our environment, and the rights of citizens and communities.

Overall, I am strongly supportive of the compromise bill we are considering today. It retains many of the provisions of the Public Works and Transportation Committee version—provisions I feel are vitally important. One of the more important provisions in the compromise bill would require minimum annual schedules for the initiation of remedial investigation and feasibility studies and cleanup construction. This provision is vitually important because it would require EPA to actually begin cleanup of hazardous waste sites starting in fiscal year 1986, to total 600 cleanup construction starts by fiscal year 1990. This will ensure that our most pressing hazardous waste sites are cleaned expeditiously.

Another provision, to require minimum cleanup standards that meet the standards and criteria of other Federal laws and require the use of permanent technologies where they are feasible and achievable, will ensure that these cleanups are done in accordance with strict environmental laws and standards.

This bill also will allow citizens to sue responsible parties for the abatement of an imminent hazard at a hazardous waste disposal site where EPA is taking no action. This provision is important because it will give individuals and communities the legal right to protect themselves and their communities in instances where EPA has not taken action or has been lax in its duties.

Most importantly, the compromise bill would establish a community-right-to-know provision that requires reporting of the use or storage of acutely hazardous chemicals identified by EPA and reporting of emissions to the environment for some acutely hazardous chemicals. I think the grave tragedy in Bhopal, India, underscores the urgent need for this important provision. Communities have a right to know not only what chemicals are being produced and stored by a local chemical plant, but they also have a right to know what the hazards are of those chemicals, and at what levels those chemicals are being emitted into the environment.

This bill would also restrict EPA's ability to grant releases of liability for unknown hazards until after the completion of remedial action. This provision will ensure that if a liable party can be found, that the polluter is made liable for the cost of the cleanup action.

The State of Ohio has very strict standards relating to the cleanup of hazardous waste sites. During consideration of this

bill by the Public Works and Transportation Committee, I worked hard to ensure that State standards would be applied in cleanup actions and that States had the opportunity to participate in the remedy selection process, including an opportunity to review and comment on each proposed remedial action and to consult with the Administrator concerning each proposed action. I am pleased to see that the compromise bill includes language that presumes that State standards apply in all cases. The EPA Administrator can waive State standards only under the following conditions: First, when the State has agreed with the decision of the Administrator not to apply the State standard; second, when the remedial action selected by EPA provides protection of public health and the environment equivalent to that provided under the State standards; third, when the Administrator determines that the State has not consistently applied the State standard under similar circumstances at other hazardous waste sites; and fourth, when the Administrator determines that cleanup based on the States standard would upset the balance of the Superfund (so-called fund balancing requirements).

Mr. Chairman, I have no objections to the first three waiver provisions, however, I strongly object to the fourth waiver provision, the so-called fund balancing requirement. Mr. MARKEY, my esteemed colleague from Massachusetts, has offered an amendment that I strongly support. I feel is very important in addressing the inequity and grave problems associated with this particular waiver provision.

The whole concept of fund balancing was designed as an attempt to allow the Administrator to deploy limited resources. I do not deny or oppose the necessity of this concept when Federal funds have to be used in a cleanup action. But I see no reason why fund balancing requirements should apply in private party cleanups. If a responsible party can be found, then that responsible party should have to pay 100 percent of the cost of the cleanup, and that cleanup should be based on the strictest standards. State standards should never be waived in private party actions based upon fund balancing requirements. I fear that without passage of the Markey amendment cleanup actions will be delayed and the safety of the general public and the environment will be compromised because many sites will not be completely cleaned up—even though there is a responsible party. Polluters should pay the entire cost of cleaning the mess they created and the grave hazards they caused. Again, keep in mind that the Markey amendment preserves fund balancing for the Federal fund—but it eliminates fund balancing as a way of protecting private responsible parties.

Other amendments to the legislation I support are the Wirth amendment to require onsite Superfund cleanup actions to conform with applicable State laws governing the location of hazardous waste sites; and the Atkins amendment to establish a new category of Superfund sites—interim sites—similar to provisions in the Public Works version, which I strongly supported. The Wirth amendment would prevent the placement of a new hazardous waste facility at the site location of an existing dump site cleaned up under Superfund if State laws prohibit putting a hazardous waste facility at that location. This amendment would preserve the important right of States to enforce their own laws relative to environmental and public safety. The Atkins amendment would ensure that at sites where a permanent cleanup could not be accomplished, those sites be placed on an interim list. Every 5 years for the next 15 years, EPA would be required to revisit those sites to ensure that hazardous wastes were not escaping and to determine, on an individual basis, if a permanent remedy had become available. Mr. Chairman, this amendment is extremely important because it would ensure that those sites that are not completely cleaned are simply taken off the national priorities list and forgotten about. This amendment would serve to minimize the threat posed by partially cleaned hazardous waste sites and would ensure that those sites are eventually completely cleaned where possible and feasible.

I would also like to urge my colleagues to support action to strengthen community-right-to-know language in the bill to prevent unfair blanket exemption from such reporting requirements. Where feasible and possible, communities should have access to all information regarding what chemicals are being produced, stored, and emitted into the environment—and they should be informed of the hazards of such chemicals. Chemical companies should also be required to work the local community on emergency response and evacuation procedures.

In closing, Mr. Chairman, I want to remind my colleagues of the enormous threat to the environment, public health, and our natural resources posed by hazardous waste. Enactment of the compromise version of H.R. 2817 along with the strengthening amendments I have outlined, will be a significant and important step forward in addressing the disturbing threat and growing problem. I urge all of my colleagues to support this bill.

Mr. LENT. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. ECKART of Ohio. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

The CHAIRMAN. All time having expired, pursuant to House Resolution 331, the text of H.R. 3852 is considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the Committees on Energy and Commerce, Ways and Means, the Judiciary, Merchant Marine and Fisheries, and Public Works and Transportation, and each title is considered as having been read.

No amendment which changes title V of said substitute or which is otherwise within the jurisdiction of the Committee on Ways and Means under clause 1(v)(1) or (3) of rule X is in order except those specified below. It is in order to consider the following amendments, in the following order only, to title V, which shall not be subject to amendment and amendments numbered (1) and (2) shall be debatable for 1 hour equally divided and controlled by the proponent and a Member opposed thereto: (1) the amendment printed in the CONGRESSIONAL RECORD of December 4, 1985, by, and if offered by, Representative DUNCAN or his designee; (2) the amendment printed in the CONGRESSIONAL RECORD of December 4, 1985, by, and if offered by, Representative DOWNEY or his designee; and (3) amendments recommended by the Committee on Ways and Means if neither of the amendments designated (1) and (2) has been adopted.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Superfund Amendments of 1985".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. CERCLA and Administrator.
Sec. 3. Limitation on contract and borrowing authority.

TITLE I—PROVISIONS RELATING PRIMARILY TO RESPONSE AND LIABILITY

Sec. 101. Amendments to CERCLA definitions.
Sec. 102. Reportable quantities.
Sec. 103. Notices; penalties.
Sec. 104. Response authorities.
Sec. 105. National contingency plan.
Sec. 106. Abatement actions.
Sec. 107. Liability.
Sec. 108. Financial responsibility.
Sec. 109. Penalties.
Sec. 110. Section 110.
Sec. 111. Uses of Fund.
Sec. 112. Claims procedure.
Sec. 113. Litigation, jurisdiction, and venue.
Sec. 114. Relationship to other law.
Sec. 115. Delegation of functions.
Sec. 116. Public health assessment and protection authorities.
Sec. 117. Public participation.
Sec. 118. Miscellaneous provisions.
Sec. 119. Response action contractors.
Sec. 120. Federal facilities.
Sec. 121. Cleanup standards.
Sec. 122. Settlements.
Sec. 123. Reimbursement to local governments.
Sec. 124. Landfill gas operators.
Sec. 125. Section 3001(b)(3)(A)(i) waste.
Sec. 126. Worker protection standards.
Sec. 127. Liability limits for ocean incineration vessels.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Post closure.
Sec. 202. Transportation of hazardous materials.

Sec. 203. State procedural reform.
Sec. 204. Conforming amendment to funding provisions.
Sec. 205. Cleanup of petroleum from leaking underground storage tanks.
Sec. 206. Citizens suits.
Sec. 207. Indian tribes.
Sec. 208. Commencement of drilling fluids, etc., study.
Sec. 209. Insurability study.
Sec. 210. Pollution liability insurance.
Sec. 211. Releases associated with brine disposal.
Sec. 212. Research, development, and demonstration.
Sec. 213. Department of Defense Environmental Restoration Program.
Sec. 214. Oversight and reporting requirements.
Sec. 215. Radon gas.

TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

Subtitle A—Emergency Planning

Sec. 301. Establishment of State commissions and local committees.
Sec. 302. Comprehensive emergency response plans.

Subtitle B—Notification Requirements

Sec. 311. Basic notification requirements.
Sec. 312. Public availability of plans, data sheets, reports, status sheets, and emergency bulletins.
Sec. 313. Provision of information to health professionals, doctors, and nurses.
Sec. 314. Hazardous substance emergency notice and bulletin.

Subtitle C—General Provisions

Sec. 321. State and local law.
Sec. 322. Trade secrets.
Sec. 323. Enforcement.
Sec. 324. Exemption.
Sec. 325. Emergency training and pilot program.
Sec. 326. Definitions.

TITLE IV—COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 400. Short title.

Subtitle A—Oil Pollution Liability and Compensation

Sec. 401. Definitions.
Sec. 402. Coordination with international conventions.
Sec. 403. Damages and claimants.
Sec. 404. Liability.
Sec. 405. Financial responsibility.
Sec. 406. Designation and advertisement.
Sec. 407. Claims settlement.
Sec. 408. Subrogation.
Sec. 409. Jurisdiction and venue.
Sec. 410. Relationship to other law.
Sec. 411. Penalties.
Sec. 412. Authorization of appropriations.

Subtitle B—Marine Oil Pollution Compensation Fund

Sec. 421. Marine Oil Pollution Compensation Fund.
Sec. 422. Premiums.
Sec. 423. Limitation on Fund's liability.
Sec. 424. Services and facilities of other agencies.
Sec. 425. Penalty for failure to pay premium.
Sec. 426. Coordination with other provisions of this title.
Sec. 427. Definitions and special rules.

Subtitle C—Regulations, Effective Dates, and Savings Provisions

Sec. 441. Effective dates.
Sec. 442. Conforming amendments.
Sec. 443. Regulations.
Sec. 444. Separability.

Subtitle D—Implementation of Conventions

Sec. 461. Recognition of the International Fund.
Sec. 462. Service of process and intervention.
Sec. 463. Exemption from taxation.
Sec. 464. Payment of contributions.
Sec. 465. Jurisdiction of district courts.
Sec. 466. Recognition of judgments.
Sec. 467. Financial responsibility.
Sec. 468. Civil penalty.
Sec. 469. Waiver of sovereign immunity.
Sec. 470. Rules and regulations.
Sec. 471. Definitions.

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

Sec. 501. Short title; table of contents.

PART I—SUPERFUND AND ITS REVENUE SOURCES

Sec. 511. Extension of environmental taxes.
Sec. 512. Increase in tax on petroleum.
Sec. 513. Increase in tax on certain chemicals.
Sec. 514. Repeal of post-closure tax and trust fund.
Sec. 515. Waste management tax.
Sec. 516. Tax on certain imported substances derived from taxable chemicals.
Sec. 517. Imposition of superfund excise tax.
Sec. 518. Hazardous Substance Superfund.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

Sec. 521. Additional tax on gasoline, diesel fuel, and special motor fuels.
Sec. 522. Leaking Underground Storage Tank Trust Fund.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

Sec. 531. Increase in environmental tax on petroleum.
Sec. 532. Oil Spill Liability Trust Fund.

PART IV—STUDIES

Sec. 551. Study of impact of waste management tax on domestic manufacturers.
Sec. 552. Study of lead poisoning.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

Sec. 551. Coordination.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENTS OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I have a series of technical amendments that I offer jointly with the Committee on Commerce and Energy.

Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read as follows:

Technical amendments offered by Mr. HOWARD: Page 6, after line 20, insert the following:

(f) FEDERALLY LICENSED DAMS.—Section 101(a)(20) of CERCLA is amended by adding the following at the end thereof:

"(D) in the case of a hazardous substance, pollutant, or contaminant which—

"(i) has been released into the environment upstream of a dam which is licensed under part 1 of the Federal Power Act; and

"(ii) has subsequently come to be located in the reservoir created by such dam;

the term 'owner or operator' does not include the owner or operator of the dam, unless such owner or operator is a person who would otherwise be liable for such release or threatened release under section 107;

Redesignate the subsequent subsections of section 101 of the bill accordingly.

Page 7, after line 17, insert the following new subsection:

(e) STATE.—Section 101(a)(27) of CERCLA is amended by inserting before the semicolon at the end thereof the following: "; the term 'State' as used in sections 107(a)(4)(A) and 107(f) does not include a municipality or other political subdivision of a State".

Page 7, line 18, strike out "(e)" and insert in lieu thereof "(f)".

Page 45, line 11, strike out the quotation marks and last period, and add the following after line 11:

"(c) AWARDS.—The Administrator of the Environmental Protection Agency may pay an award of up to $10,000 to any individual who provides information leading to the arrest and conviction of any person for a violation subject to a criminal penalty under this Act, including any violation under section 103 and under this section. The Administrator shall by regulation prescribe criteria for such an award and may pay any award under this subsection from the Fund, as provided in section 111.".

Page 48, line 4, strike out "and";

Page 48, line 8, strike out the quotation marks and each period and substitute "; and"; and

Page 48, after line 8, add the following:

"(13) the costs of any awards granted under section 109(c).".

Page 53, after line 25, insert the following new subsection:

(k) CERTAIN NOTIFICATION PROCEDURES.—Section 111 of CERCLA is amended by inserting after subsection (o) the following new subsection:

"(p) NOTIFICATION PROCEDURES FOR LIMITATIONS ON CERTAIN PAYMENTS.—Not later than 90 days after the date of the enactment of this subsection the Administrator shall develop and implement procedures to adequately notify, as soon as practicable after a site is included on the National Priorities List, concerned local and State officials and other concerned persons of limitations, set forth in subsection (a)(2) of this section, on the payment of claims for necessary response costs incurred with respect to such site.".

Page 147, line 25, strike out "involving" and insert in lieu thereof the following: "which involves treatment of".

Page 149, line 20, strike out the quotation marks and the final period.

Page 149, after line 20, insert:

"(m) PERMITS FOR ONSITE CLEANUP UNDER STATE AUTHORITY.—In the case of remedial actions specifically involving mobile incinerator units in a State which has specifically authorized the use of such units (as of the date of enactment of this section), if such remedial actions are undertaken by the State under the authority of a State Superfund law or equivalent authority, the State may waive any permit requirement under subtitle C of the Solid Waste Disposal Act which would be otherwise applicable to such action to the extent that the following conditions are met:

"(1) The State files notice with the Administrator of its intention to waive the permit requirement of and the Administra-

tor does not object to such waiver within 120 days.

"(2) The incinerator does not involve the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to an offsite facility.

"(3) The remedial action provides each of the following:

"(A) changes in the character or composition of the hazardous substance or pollutant or contaminant concerned so that it no longer presents a risk to public health.

"(4) Protection against accidental emissions during operation.

"(5) Protection of public health considering the multimedia impacts of the treatment process.

"(6) The State provides procedures for public participation regarding the response action which are at least equivalent to the level of public participation procedures applicable under this Act and under the Solid Waste Disposal Act.

The waiver of any permit requirement under this subsection shall not be construed to waive any standard or level of control which is applicable to any hazardous substance or pollutant or contaminant involved in the remedial action involved and which would otherwise be contained in the permit. Such waiver of any permit requirement under subtitle C of the Solid Waste Disposal Act shall only apply to the extent that the facility or remedial action involves the onsite treatment with a mobile incineration unit of waste present at such site. The waiver shall not apply to any other regulated or potentially regulated activity, including the use of the mobile incineration unit for actions not authorized by the State. The authority of this subsection shall terminate at the end of three years unless the State shall demonstrate, to the satisfaction of the Administrator, that the operation of mobile incinerators in the State has sufficiently protected public health and the environment and is consistent with the criteria required for a permit under subtitle C of the Solid Waste Disposal Act.".

Page 150, line 8, insert after the period the following: "As a matter of public policy the Administrator is encouraged to facilitate agreements under this Act that are in the public interest and consistent with the National Contingency Plan in order to expedite effective site cleanups and minimize litigation.".

Page 155, strike out lines 14 through 16 and insert in lieu thereof the following:

"(B) To the extent such information is available, the volume and nature of substances contributed by each potentially responsible person identified at the facility.

Page 208, line 20, strike out "to enforce the contract or to recover any funds advanced or any costs incurred because of the breach of the contract by the Indian tribe." and insert in lieu thereof the following: "for specific enforcement of the terms of the contract or to recover any funds paid under the contract in an amount not to exceed the costs incurred by the Administrator because of the breach of the contract by the Indian tribe.".

Page 210, insert after line 20 the following (and redesignate subsection (f) as subsection (i)):

"(f) COMMUNITY RELOCATION.—Should the Administrator determine that proper remedial action is the permanent relocation of tribal members away from a contaminated site because it is cost effective and necessary to protect their health and welfare, such finding must be concurred in by the affected tribal government before relocation shall occur. The Administrator, in cooperation with the Secretary of the Interior, shall also assure that all benefits of the relocation program are provided to the affected tribe and that alternative land of equivalent value is available and satisfactory to the tribe. Any lands acquired for relocation of tribal members shall be held in trust by the United States for the benefit of the tribe.

"(g) STUDY.—The Administrator or his agent shall conduct a survey, in consultation with the Indian tribes, to determine the extent of hazardous waste sites on Indian lands. Such survey shall be included within a report which shall make recommendations on the program needs of tribes under this Act, with particular emphasis on how tribal participation in the administration of such programs can be maximized. Such report shall be submitted to Congress along with the President's budget request for fiscal year 1988.

"(h) LIMITATION.—Notwithstanding any other provision of this Act, no action under this Act by an Indian tribe shall be barred until the later of—

"(1) the applicable period of limitations has expired, or

"(2) two years after the United States, in its capacity as trustee for the tribe, given written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this Act.

Page 209, after line 25, add the following: "No liability to an Indian tribe shall be imposed under section 107(a) where the damages to natural resources complained of were the result identified in section 107(b).".

Page 215, line 22, strike out "and the District of Columbia." and insert thereof the following:

, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

In section 214(a) of the bill (relating to radon gas)—

(1) Strike out "and" at the end of paragraph (2);

(2) Strike out the period at the end of paragraph (3) and insert in lieu thereof "; and"; and

(3) Insert after paragraph (3) the following:

(4) determine methods of reducing or eliminating the threat to human health of radon gas and radon daughters.

Page 339, strike out lines 22 and 23 and insert in lieu thereof the following:

(5) the payment of costs and expenses of administration of this title, but only to the extent that the costs and expenses are necessary for and incidental to the implementation of this title; and

Page 125, after line 4, insert:

"(1) SEPARATE CATEGORY ON NPL.—Whenever a permanent solution has not been selected according to the requirements of subsections (a) and (b) with respect to a release at any site or facility, the site or facility shall be placed in a separate category on the National Priorities List labeled 'Interim Category'.

Page 125, line 5, strike out "(1)" and substitute "(2)".

Page 125, line 18, strike out "(2)" and insert in lieu thereof "(3)".

Page 126, line 1, strike out "(3)" and substitute "(4)".

Page 126, line 9, strike out "(4)" and substitute "(5)".

Page 125, line 9, after the period insert: "The review of each site or facility in the Interim Category on the National Priorities List shall be no less frequent than every 5 years following placement in such category.".

Page 99, line 20, after the period insert closing quotation marks and another period.

Page 99, strike out line 21 and all that follows through line 8 on page 100 and insert in lieu thereof the following:

(b) REMOVAL AND TEMPORARY STORAGE OF CONTAINERS OF RADON CONTAMINATED SOIL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall make a grant of $7,500,000 to the State of New Jersey for transportation from residential areas in the State of New Jersey and temporary storage of approximately 14,000 containers of radon contaminated soil which is the subject of a remedial action for which a remedial investigation and feasibility study has been initiated before such date. Such containers shall be transported to and temporarily stored at any site in the State of New Jersey designated by the Governor of such State. For purposes of section 111(a) of CERCLA, the grant under this subsection for transportation and storage of such containers shall be treated as payment of governmental response cost incurred pursuant to section 104 of CERCLA.

Page 100, line 9, strike out "(b)" and insert in lieu thereof "(c)".

Page 101, line 1, strike out "(c)" and insert in lieu thereof "(d)".

Page 102, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Page 133, line 20, after 1972, insert: "the Clean Air Act,"

Page 300, line 18, strike out "covered hazardous substance" and substitute "hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980)".

Page 32, after line 3, insert:

(g) MINORITY CONTRACTORS.—(1) Section 105(a)(9) of CERCLA is amended by adding the following after "therefor": "and including consideration of minority firms in accordance with subsection (d)".

(2) Section 105 of CERCLA is amended by adding the following new subsection at the end thereof:

"(d) MINORITY CONTRACTORS.—In awarding contracts under this Act, the Administrator shall consider the availability of qualified minority firms. The Administrator shall describe, as part of any annual report submitted to the Congress under this Act, the participation of minority firms in contracts carried out under this Act. Such report shall contain a brief description of the contracts which have been awarded to minority firms under this Act and of the efforts made by the Administrator to encourage the participation of such firms in programs carried out under this Act.".

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I will not object, but I would simply ask if those are the agreed-upon amendments that the staffs of our two committees and the minority have agreed upon and are offered pursuant to the understanding that I had with my dear friend from New Jersey.

Mr. HOWARD. If the gentleman will yield, I will tell him he is absolutely correct.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. LENT. Mr. Chairman, reserving the right to object, and I will not object, I just would like to say that our minority staff, has had an opportunity to go through all of these amendments; they are noncontroversial, and we think they improve the bill. They will make it even more workable. We have no objection.

I yield to the gentleman from Kentucky [Mr. SNYDER].

Mr. SNYDER. Mr. Chairman, we have an understanding on this and everything is all right.

Mr. LENT. Mr. Chairman, I withdraw my reservation of objection.

Mr. HILER. Mr. Chairman, the purpose of the amendment relating to certain notification procedures, is to correct a problem related to the sections of CERCLA which provide that any claim on Superfund for payment of necessary costs incurred by individuals or State and local governments as a result of carrying out the national contingency plan must have prior approval and authorization from EPA.

This amendment does not change that requirement but does require the administrator to notify affected persons and State and local officials of the requirement of prior approval or authorization by EPA before payment on a claim can be made.

Earlier this year, a number of individual wells around Elkhart, IN, which provide drinking water to certain homes in the community were found to be contaminated with trichloethylene, an industrial degreaser. The Environmental Protection Agency, according to procedure, implemented interim measures to provide safe drinking water to the residents with contaminated wells while a long-term solution which included hook-ups of property dependent on the water in question to municipal water supplies and to clean up the contamination was developed. The community was assured by EPA that "everything would be taken care of."

With this assurance, some residents took the initiative to proceed with, and pay for, hook ups to municipal water supplies, assuming that they would be reimbursed for these expenses. These assumptions were not corrected until a number of people had taken this action.

Current Superfund law prohibits reimbursements for remedial action taken without prior approval from EPA. This is an understandable and necessary requirement. The problem that hurt residents in Elkhart, and that has occurred in other instances in States other than Indiana, is that it was not made clear that preauthorization was required. Thus, residents who waited for EPA to assist in the hook-ups were taken care of at no expense, while those who were understandably anxious to have access to fresh water lost a significant amount of money for the privilege.

EPA acknowledges that this has been a problem in other areas. In a memo dated November 25, 1985, from Henry L. Longest II, Director of the Office of Emergency and Remedial Response, to all Superfund Branch Chiefs, it was stated that "in several communities, residents paid the costs for hooking up their homes to the public water supply when local well water was found to be contaminated. Since this action was taken without prior EPA approval, the residents could not be reimbursed from the fund, even though the actions taken were approved in the scope of the work for that removal.

This amendment will require the Environmental Protection Agency to develop and implement procedures to provide clear and timely notification of the reimbursement limitations to relevant State and local officials, and affected individuals, as soon as practicable after an area has been placed on the national priorities list. This will insure that this type of confusion does not reoccur. Again, it does not attempt to change the current pre-authorization requirement, but will insure that EPA and Superfund assistance is provided fairly within a site, and that all parties—individuals, local and State governments, and the EPA—are operating with the same understanding regarding reimbursement.

Mr. YOUNG of Alaska. Mr. Chairman, I commend the committees for providing this opportunity to consolidate many technical and conforming amendments to this important legislation.

In particular, I want to voice my support for the amendment to section 421(c)(5) which provides for a limitation or restriction on the payment of costs or expenses of administration of the oil spill title. This restriction is the same one that applies to section 111 of the CERCLA law and is intended to apply in the same manner as it applies to the EPA regarding the costs of the chemical spill and cleanup program. What this means is that these funds may only be used to the extent that the costs or expenses are necessary for and incidental to the implementation of this title. Thus, this prevents the bureaucratic temptation to expand a program merely because funds are available in the oil spill fund. The oil spill fund is set up to compensate innocent victims and to perform all necessary cleanup work that needs to be done in the case of a spill. It should not be used to pay for personnel or other expenses that would be handled in the normal appropriations process for the agency that is given responsibility to carry out the functions of this title.

I urge my colleagues to support this amendment as a needed cost control measure.

Mr. SMITH of New Hampshire. Mr. Chairman, today I was prepared to offer an amendment to H.R. 2817 with my colleague, Representative ATKINS of Massachusetts, to establish an interim list provision for implementing permanent solutions in Superfund. I understand that this amendment has been included in the committee-approved package of amendments offered by Chairman HOWARD of the Public Works Committee. I commend the chairman and the committee for their foresight and understanding of the hazardous waste threat, and I am pleased that our amendment was included.

I believe the following prepared statement presents an interesting case for the need for an interim list and permanent clean up treatment of hazardous waste sites.

HOUSE OF REPRESENTATIVES,
Washington, DC.

PERMANENT TREATMENT OF SUPERFUND SITES—LET'S COMPLETE THE JOB

This past April, a special investigation by a House oversight subcommittee revealed that in a majority of cases hazardous wastes removed from Superfund sites here taken to landfills that themselves were polluting in violation of the law. The survey showed that fifty four percent of the facilities receiving Superfund wastes either have inadequate groundwater monitoring systems or the status of their well systems is under review or unknown.

Case studies of Superfund sites conducted by the Office of Technology Assessment found that temporary remedial measures were less effective than had been anticipated, and in several instances had created new threats to groundwater. Another study of the six NPL sites which EPA has declared as "clean" found that at four of them, surrounding communities still could be exposed to serious hazards. One of them, the Butler Tunnel in Pennsylvania, had its cover blown of by Hurricane Gloria, with the resulting spill of hundreds of thousands of gallons of oil and chemical waste into the Susquehanna River.

Revelations such as these underscore the need to develop permanent solutions to Superfund problems. We simply cannot continue to deal with such toxic hazards by moving the wastes from one leaking pit in the ground to another. We must stop the Superfund shell game.

The Superfund legislation coming to the floor contains significant provisions on permanent treatment. It requires EPA to use permanent treatment technologies whenever such solutions are feasible and achievable.

This bill marks an important step in moving away from the "out of sight, out of mind" approach of the past five years. But even with the greater use of permanent treatment, temporary containment technologies will still be required at sites where no permanent treatment is feasible and achievable.

We plan to offer an amendment to the Superfund bill which would require EPA to keep those sites at which temporary remedial actions are implemented on an interim category on the National Priority List. The requirement of an interim listing was a fea-

ture of the Public Works version of the bill. We believe it is especially important because it will guarantee that sites that receive temporary, inadequate remedies do not disappear from public view by being removed from the NPL.

The amendment would further require EPA to make scheduled reviews of sites at which interim measures have been adopted. In the reviews, EPA would determine whether the interim solution was protecting human health and the environment. If they determined it was not, they would have to further determine whether a permanent solution had become feasible and achievable, or whether further interim measures were required.

The ultimate solution to the toxic waste problem in our country is for us to enhance our capability to incinerate, neutralize or immobilize hazardous substances on a permanent basis. If we have learned anything in the first five years of Superfund, it is that as long as the wastes remain hazardous they present a threat to public health.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. HOWARD].

The amendments were agreed to.

The CHAIRMAN. The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. CERCLA AND ADMINISTRATOR.

As used in this Act—

(1) CERCLA.—The term "CERCLA" refers to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (52 U.S.C. 9601 et seq.).

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

The CHAIRMAN. Are there any amendments to section 2?

Mr. ECKART of Ohio. Mr. Chairman, I move to strike the requisite number of words for the purpose of engaging in a colloquy with the gentleman from Wisconsin [Mr. MOODY].

I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. I thank the gentleman for yielding to me.

Mr. Chairman, I am considering offering an amendment to the Federal facilities provision that would allow EPA to bring enforcement actions in court against Federal agencies to clean up their hazardous waste sites at those Federal facilities. This was debated and passed by the House last year as floor amendment to H.R. 5640. It was the view of many Members then that this provision was necessary to ensure that Federal facilities are brought into compliance with the act. I would ask the gentleman, given his expertise on this bill, that such an amendment is necessary to absolutely ensure that Federal facilities meet the full requirements of H.R. 2817?

Mr. ECKART of Ohio. I do not think it is necessary in this bill for several reasons which I will explain. But first I want to commend the gentleman from Wisconsin for his fortitude and concern on this issue. Certainly all of us agree that Federal facilities are bound to abide by this law just as are private parties, and we have written that requirement into the statute. I agree, also, that Federal facilities have been too slow in coming into compliance and that we need to take steps to ensure that they do so—soon and fully. However, I think there are several provisions in this bill that make your amendment unnecessary.

First, Federal facilities will now have to identify their sites, and put them on a cleanup schedule. This is a requirement of our new amendment.

Second, with respect to each Federal facility on the NPL, the Administrator of the EPA will be selecting the remedy. Therefore, he or she can ensure that the remedy is adequate to protect human health and the environment.

Third, and perhaps even most important, the States will play a much larger role in selecting and implementing remedies at Federal sites. They will be concurring in cleanup agreements for NPL sites and, indeed, they may ultimately sue Federal agencies if they believe a remedy is not adequate.

Fourth, citizens may also sue either the Federal agency or the Administrator if a requirement of the act is not being met.

I believe that these are very strong enforcement provisions that do permit recourse to courts to ensure that Federal facilities will have to come into full and timely compliance.

□ 1735

We have written that requirement into the statute. I agree also with my colleague that Federal facilities have been much too slow in coming into compliance, and we need to take steps to ensure that they do so soon and completely. The gentleman's amendments which were considered in H.R. 5640 and adopted may not be necessary and in fact are not in this version.

First, Federal facilities will now have to identify their sites and put them on a cleanup schedule. This is a requirement of our new amendment.

Second, with respect to each Federal facility on the NPL the Administrator of the EPA will be selecting the remedy. Therefore, he or she can ensure that the remedy is adequate to protect human health and the environment.

Third, and perhaps even more important, the States will play a much broader role in selecting what that remedy must be, implementing the remedy at the site, and also concurring in the cleanup agreements for the NPL sites. And in fact they may ultimately sue Federal agencies if they believe a remedy is not adequate.

Fourth, citizens may also sue either the Federal agency or the Administrator if any requirements of the act are not being met.

I believe that these very strong enforcement provisions do permit recourse to courts, will ensure that Federal facilities will come into full and timely compliance, and frankly I believe they are in this version of the bill simply because of the gentleman's persistence and insistence that Federal facility cleanups meet the same tough, high standards that we hope to have at other either settlement provision or sites that would be covered by the orphan fund.

Mr. MOODY. Mr. Chairman, I thank the gentleman from Ohio, and agree with his interpretation of the bill. I do not think that in the context of the new draft that we have this year, for H.R. 2817 the enforcement mechanism of recourse to courts of one agency against another would be necessary, and I believe the bill is adequate without it.

The CHAIRMAN. Are there further amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. LIMITATION ON CONTRACT AND BORROWING AUTHORITY.

Any authority provided by this Act, including any amendment made by this Act, to enter into contracts to obligate the United States or to incur indebtedness for the repayment of which the United States is liable shall be effective only to such extent or in such amount as are provided in appropriation Acts.

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—PROVISIONS RELATING PRIMARILY TO RESPONSE AND LIABILITY

SEC. 101. AMENDMENTS TO CERCLA DEFINITIONS.

(a) USE OF TERM "PRESIDENT".—

(1) ADMINISTRATOR.—CERCLA is amended by striking out "President" each place it appears (except in subsections (e)(2) and (f) of section 301 and section 307(b)) and inserting in lieu thereof "Administrator".

(2) DEFINITION.—Section 101(2) of CERCLA (defining the term "Administrator") is amended by inserting before the semicolon at the end thereof the followings: ", except as provided in subsection (b)".

(3) DELEGATIONS OF AUTHORITY.—Section 101 of CERCLA is amended by inserting "(a) IN GENERAL.—" after "101." and by adding at the end thereof the following new subsection:

"(b) USE OF TERM 'ADMINISTRATOR'.—

"(1) DELEGATIONS RETAINED.—Where, before the date of the enactment of the Superfund Amendemts of 1985, any authority under this Act was delegated to the head of any other department, agency, or instrumentality of the United States (or where any such authority has been retained by the President), the term 'Adminstrator' refers to the head of such department, agency, or instrumentality (or to the President in the

case of an authority retained by the President).

"(2) EXCEPTION FOR FEDERAL FACILITIES.—Paragraph (1) shall to apply to any authority delegated to a department, agency, or instrumentality with respect to any facility owned or operated by that department, agency, or instrumentality. With respect to such facilities, the term 'Administrator' when used in this Act refers to the Administrator of the Environmental Protection Agency.".

(b) RELEASE.—Section 101(22) of CERCLA is amended by inserting after "environment" the following: "(including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant)".

(c) REMEDIAL ACTION.—Section 101(24) of CERCLA (relating to the definition of "remedy" or "remedial action") is amended—

(1) by striking out "welfare. The term does not include offsite transport" and all that follows down through the semicolon at the end of such paragraph and inserting in lieu thereof "welfare; the term includes offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials;"; and

(2) by striking out "or" before "contaminated materials" and inserting in lieu thereof "and associated".

(d) RESPONSE.—Section 101(25) of CERCLA is amended by striking out "and" and by inserting before the semicolon at the end thereof the following: ", and enforcement activities related thereto".

(e) POLLUTANT OR CONTAMINANT.—

(1) DEFINITION.—Section 101 CERCLA is amended by striking out "and" at the end of paragraph (31), by striking out the period at the end of paragraph (32) and inserting in lieu thereof "; and" and by adding the following new paragraph at the end thereof:

"(33) 'pollutant or contaminant' shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term 'pollutant or contaminant' shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).".

(2) CONFORMING AMENDMENT.—Section 104(a) of CERCLA is amended by striking out paragraph (2).

SEC. 102. REPORTABLE QUANTITIES.

Section 102(a) of CERCLA is amended by adding the following new sentence at the end thereof: "The Administrator shall promulgate regulations establishing such reportable quantities for all hazardous substances by December 31, 1986.".

SEC. 103. NOTICES: PENALTIES.

Section 103(b) of CERCLA is amended by striking out "paragraph" in the last sentence and inserting in lieu thereof "subsection" and by adjusting the left hand margin of the text of such subsection following "federally permitted release," the third place it appears so that there is no indentation of such text.

SEC. 104. RESPONSE AUTHORITIES.

(a) PUBLIC HEALTH THREATS.—Section 104(a)(1) of CERCLA is amended by adding the following at the end thereof: "The Administrator shall give primary attention to those releases which he deems may present a public health threat.".

(b) RESPONSE BY POTENTIALLY RESPONSIBLE PERSONS.—Section 104(a)(1) of CERCLA is amended by striking out ", unless the President determines" and all that follows down through "party." and inserting in lieu thereof a period and the following: "When the Administrator determines that such removal and remedial action will be done properly and promptly by the owner or operator of the facility from which the release or threat emanates, or by any other responsible party, the Administrator may allow such owner or operator or party to carry out the removal or remedial action in accordance with section 122. The Administrator may permit the owner or operator of the facility from which the release or threat of release emanates, or any other responsible party, to conduct a remedial investigation to determine the nature and extent of the problem presented by the release or threat of release or a feasibility study of alternatives to remedy the problem presented by the release or threat of release only if the person conducting such investigation or study for the responsible party is qualified to conduct such investigation or study and is approved by the Administrator, if the Administrator enters into a contract with any qualified objective person to oversee and review the conducting of such investigation or study, and if the responsible party agrees to reimburse the Fund for any cost incurred by the Administrator under the oversight contract.".

(c) REMOVAL ACTION.—Section 104(a) of CERCLA is amended by adding at the end the following new paragraph:

"(2) REMOVAL ACTION.—Any removal action undertaken by the Administrator under this subsection (or by any other person referred to in section 122) shall contribute to the efficient performance of any long term remedial action to the maximum extent practicable with respect to the release or threatened release concerned.".

(d) COORDINATING OF INVESTIGATIONS.—Section 104(b) of CERCLA is amended by inserting "(1) after "(b)" and by adding the following new paragraph at the end:

"(2) The Administrator shall promptly notify the appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from releases under investigation pursuant to this section and shall seek to coordinate the assessments, investigations, and planning under this section with such Federal and State trustees."

(e) INITIAL OBLIGATION OF FUND.—

(1) LIMITATION.—Section 104(c)(1) of CERCLA is amended by striking out "$1,000,000" and "six months" and inserting in lieu thereof "$2,000,000" and "12 months", respectively.

(2) CONTINUED RESPONSE.—Section 104(c)(1) of CERCLA is amended by inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with the remedial action to be taken,".

(f) FACILITIES OWNED AND OPERATED BY STATES.—

(1) IN GENERAL.—Paragraph (3) of section 14(c) of CERLA is amended—

(A) by striking out "and (C)" and inserting in lieu thereof "(C) the State will assure the availability of hazardous waste treatment or disposal facilities which (i) have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the 20-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed, (ii) are within the State or outside the State in accordance with an interstate agreement or regional agreement or authority, (iii) are acceptable to the Administrator, and (iv) are in compliance with the requirements of subtitle C of the Solid Waste Disposal Act; and (D)"; and

(B) by striking out the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect on the date of the enactment of this Act, except that the amendment made by paragraph (1)(A) shall take effect three years after such date of enactment.

(g) STATE CREDITS.—Section 104(c) of CERCLA is amended by inserting the following new paragraph after paragraph (3) and by redesignating paragraph (4) as paragraph (5):

"(4) STATE CREDITS.—

"(A) GRANTING OF CREDIT.—The Administrator shall grant a State a credit against the share of the costs, for which it is responsible under paragraph (3) with respect to a facility listed on the National Priorities List under the National Contingency Plan, for amounts expended by a State for remedial action at such facility pursuant to a contract or cooperative agreement with the Administrator. The credit under this paragraph shall be limited to those State expenses which the Administrator determines to be reasonable, documented, direct out-of-pocket expenditures of non-Federal funds.

"(B) EXPENSES BEFORE LISTING OR AGREEMENT.—The credit under this paragraph shall include expenses for remedial action at a facility incurred before the listing of the facility on the National Priorities List or before a contract or cooperative agreement is entered into under subsection (d) for the facility if—

"(i) after such expenses are incurred the facility is listed on such list and a contract or cooperative agreement is entered into for the facility, and

"(ii) the Administrator determines that such expenses would have been credited to the State under subparagrpah (A) had the expenditures been made after listing of the facility on such list and after the date on which such contract or cooperative agreement is entered into.

"(C) ADMINISTRATIVE EXPENSES.—The credit under this paragraph shall include amounts expended or obligated by the State or political subdivision for administration of this Act. The Administrator shall promulgate such rules as may be necessary to implement this subparagraph.

"(D) RESPONSE ACTIONS BETWEEN 1978 AND 1980.—The credit under this paragraph shall include funds expended or obligated by the State or a political subdivision thereof after January 1, 1978, and before December 11, 1980, for cost-eligible response actions and claims for damages compensable under section 111.

"(E) STATE EXPENSES AFTER DEC. 11, 1980, IN EXCESS OF 10 PERCENT OF COSTS.—The credit under this paragraph shall include 90 percent of State expenses incurred at a facility owned, but not operated, by such State or by a political subdivision thereof. Such credit applies only to expenses incurred pursuant to a contract or cooperative agreement under subsection (d) and only to expenses incurred after December 11, 1980, but before the date of the enactment of this paragraph.

"(F) ITEM-BY-ITEM APPROVAL.—In the case of expenditures made after the date of the enactment of this paragraph, the Administrator may require prior approval of each item of expenditure as a condition of granting a credit under this paragraph.

"(G) USE OF CREDITS.—Credits granted under this paragraph for funds expended with respect to a facility may be used by the State to reduce all or part of the share of costs otherwise required to be paid by the State under paragraph (3) in connection with remedial actions at such facility. If the amount of funds for which credit is allowed under this paragraph exceeds such share of costs for such facility, the State may use the amount of such excess to reduce all or part of the share of such costs at other facilities in that State. A credit shall not entitle the State to any direct payment.".

(h) CROSS REFERENCE TO CLEANUP STANDARDS.—Section 104(c)(5) of CERCLA, as redesignated by subsection (g) of this section, is amended to read as follows:

"(5) SELECTION OF REMEDIAL ACTION.—The Administrator shall select the remedial actions to carry out this section in accordance with section 121 of this Act (relating to cleanup standards).".

(i) TREATMENT OF CERTAIN ACTIVITIES AS MAINTENANCE OR REMEDIAL ACTION.—Section 104(c) of CERCLA is amended by adding the following new paragraph after paragraph (5):

"(6) OPERATION AND MAINTENANCE.—For the purposes of paragraph (3) of this subsection, in the case of groundwater or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore groundwater and surface water quality to a level that assures protection of human health and the environment. Activities required to maintain the effectiveness of such measures following the completion of remedial action shall be considered maintenance.".

(j) COOPERATIVE AGREEMENTS WITH STATES.—Section 104(d) of CERCLA is amended by inserting "COOPERATIVE AGREEMENTS WITH STATES.—" after "(d)" and by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—

"(A) STATE APPLICATIONS.—A State or political subdivision thereof may apply to the Administrator to carry out actions authorized in this section. If the Administrator determines that the State or political subdivision has the capability to carry out any or all of such actions in accordance with the criteria and priorities established pursuant to section 105(a)(8) and to carry out related enforcement actions, the Administrator may enter into a contract or cooperative agreement with the State or political subdivision to carry out such actions. The Administrator shall make a determination regarding such an application within 90 days after the Administrator receives the application.

"(B) TERMS AND CONDITIONS.—A contract or cooperative agreement under this paragraph shall be subject to such terms and conditions as the Administrator may prescribe. The contract or cooperative agreement may cover a specific agreement may cover a specific facility or specific facilities.

"(C) REIMBURSEMENTS.—Any State which expended funds during the period beginning September 30, 1985, and ending on the date of the enactment of this subparagraph for response actions at any site included on the National Priorities List and subject to a cooperative agreement under this Act shall be reimbursed for the share of costs of such actions for which the Federal Government is responsible under this Act.".

(k) INFORMATION GATHERING AND ACCESS AUTHORITIES.—Section 104(e) of CERCLA is amended by redesignating paragraph (2) as paragraph (8) and aligning such paragraph with paragraphs (1) through (7) of such section, by inserting "CONFIDENTIALITY OF INFORMATION.—" before "(A) Any records", by striking out paragraph (1), and by striking out "(e)" and inserting in lieu thereof the following:

"(e) INFORMATON GATHERING AND ACCESS.—

"(1) ACTION AUTHORIZED.—Any officer, employee, or representative of the Administrator, duly designated by the Administrator, is authorized to take action under paragraph (2), (3), or (4) (or any combination thereof) at a vessel, facility, establishment, place, property, or location or, in the case of paragraph (3) or (4), at any vessel, facility, establishment, place, property, or location which is adjacent to the facility, establishment, place, property, or location referred to in such paragraph (3) or (4). Any duly designated officer, employee, or representative of a State under a contract or cooperative agreement under subsection (d)(1) is also authorized to take such action. The authority of paragraphs (3) and (4) may be exercised only if there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance or pollutant or contaminant. The authority of this subsection may be exercised only for the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title.

"(2) ACCESS TO INFORMATION.—Any officer, employee, or representative described in paragraph (1) may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to such matter:

"(A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.

"(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

"(C) Information relating to the ability of a person to pay for or to perform a cleanup.

In addition, upon reasonable notice, such person either shall grant any such officer, employee, or representative access at all reasonable times to any vessel, facility, establishment, place, property, or location to inspect or copy all documents or records relating to such matters copy and furnish to the officer, employee, or representative all such documents or records, at the option and expense of such person.

"(3) ENTRY.—Any officer, employee, or representative described in paragraph (1) is authorized to enter at reasonable times any of the following:

"(A) Any vessel, facility, establishment, or other place or property where any hazardous substance or pollutant or contaminant, may be, or has been generated, stored, treated, disposed of, or transported from.

"(B) Any vessel, facility, establishment, or other place or property from which or to which a hazardous substance or pollutant or contaminant has been or may have been released.

"(C) Any vessel, facility, establishment, or other place or property where such release is or may be threatened.

"(D) Any vessel, facility, establishment, or other place or property where entry is needed to determine the need for response or the appropriate response or to effectuate a response action udner this title.

"(4) INSPECTION AND SAMPLES.—

"(A) AUTHORITY.—Any officer, employee, or representative described in paragraph (1) is authorized to inspect and obtain samples from any vessel, facility, establishment, or other place or property referred to in paragraph (3) or from any location of any suspected hazardous substance or pollutant or contaminant. Any such officer, employee, or representative is authorized to inspect and obtain samples of any containers or labeling for suspected hazardous substances or pollutant or contaminants. Each such inspection shall be completed with reasonable promptness.

"(B) SAMPLES.—If the officer, employee, or representative obtains any samples, before leaving the premises he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. A copy of the results of any analysis made of such samples shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(5) COMPLIANCE ORDERS.—

"(A) ISSUANCE.—If consent is not granted regarding any request made by an officer, employee, or representative under paragraph (2), (3), or (4), the Administrator may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

"(B) COMPLIANCE.—The Administrator may ask the Attorney General to commence a civil action to compel compliance with a request or order referred to in subparagraph (A). Where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance or pollutant or contaminant, the court shall take the following actions:

"(i) In the case of interference with entry or inspection, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection.

"(ii) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents.

The court may assess a civil penalty not to exceed $25,000 for each day of noncompliance against any person who unreasonably fails to comply with the provisions of paragraph (2), (3), or (4) or an order issued pursuant to subparagraph (A) of this paragraph.

"(6) OTHER AUTHORITY.—Nothing in this subsection shall preclude the Administrator from securing access or obtaining information in any other lawful manner.

"(7) CLEARANCE.—Notwithstanding this subsection, entry to locations and access to information property classified to protect the natural security may be granted only to any officer, employee, or representative of the Administrator who is properly cleared.".

(l) REPEAL OF SECTION 104(i).—Section 104(i) of CERCLA is repealed. For related provisions, see section 116 of this Act.

(m) MANDATORY SCHEDULE.—Section 104 of CERCLA is amended by adding the following at the end thereof:

"(i) MANDATORY SCHEDULE.—

"(1) LISTING OF FACILITIES ON NPL.—The Administrator shall list not fewer than 1,600 facilities on the National Priorities List by January 1, 1988.

"(2) COMMENCEMENT OF RIFS.—The Administrator shall ensure commencement of remedial investigations and feasibility studies for all facilities listed on the National Priorities List in accordance with the following schedule:

"(A) 150 facilities during the first 12-month period after the date of the enactment of this subsection.

"(B) 175 facilities during the second 12-month period after such date.

"(C) 200 facilities during each 12-month period thereafter.

"(3) COMMENCEMENT OF REMEDIAL ACTION.—The Administrator shall take such steps as may be necessary to ensure that substantial and continuous physical on-site remedial action commences at facilities on the National Priorities List at a rate of not fewer than—

"(A) 125 facilities during the fiscal year beginning on October 1, 1986;

"(B) 140 facilities during the fiscal year beginning on October 1, 1987;

"(C) 160 facilities during the fiscal year beginning on October 1, 1988; and

"(D) 175 facilities during the fiscal year beginning on October 1, 1989.

"(4) COMPLETION OF PRELIMINARY ASSESSMENTS.—Not later than January 1, 1987, the Administrator shall complete preliminary assessments of all facilities which are listed, as of the date of the enactment of the Superfund Amendments of 1985, on the Comprehensive Environmental Response, Compensation, and Liability Information System list. Each preliminary assessment shall include a statement as to whether a site inspection is necessary and by whom it should be carried out.

"(5) COMPLETION OF SITE INSPECTIONS.—Not later than January 1, 1988, the Administrator shall complete site inspections at all facilities for which the Administrator has stated under paragraph (4) that a site inspection was necessary.

"(6) COMPLETION OF REMEDIAL ACTION AT EXISTING NPL FACILITIES.—The Administrator shall take such steps as may be necessary to ensure that remedial action is completed, to the maximum extent practicable, for all facilities listed on the National Priorities List, as of the date of the enactment of the Superfund Amendments of 1985, within five years after such date of enactment. If remedial action is not completed at such facilities within such five-year period, the Administrator shall publish an explanation of why such remedial action could not be completed within such period.".

(n) ACQUISITION OF PROPERTY.—Section 104 of CERCLA is amended by adding the following new subsection at the end thereof:

"(j) ACQUISITION OF PROPERTY.—

"(1) AUTHORITY.—The Administrator is authorized to acquire, by purchase, lease, condemnation, donation, or otherwise, any real property or any interest in real property that the Administrator in his discretion determines is needed to conduct a remedial action under this Act. There shall be no cause of action to compel the Administrator to acquire any interest in real property under this Act.

"(2) STATE ASSURANCE.—The Administrator may use the authority of paragraph (1) for a remedial action only if, before an interest in real estate is acquired under this subsection, the State in which the interest to be acquired is located assures the Administrator, through a contract or cooperative agreement or otherwise, that the State will accept transfer of the interest following completion of the remedial action.

"(3) EXEMPTION.—No Federal, State, or local government agency shall be liable under this Act solely as a result of acquiring an interest in real estate under this subsection.".

SEC. 105. NATIONAL CONTINGENCY PLAN.

(a) REVISION OF PLAN.—

(1) AMENDMENTS MADE BY THIS ACT.—Not later than 18 months after the enactment of this Act, the Administrator shall revise the National Contingency Plan (NCP) referred to in section 105 of CERCLA in order to reflect the amendments made by this Act.

(2) NEW RESPONSE ACTIONS.—Any provision of the NCP adopted pursuant to any other provision of law which is inconsistent with the requirements of the amendments made by this Act shall not apply to response actions commenced, after the enactment of this Act, under CERCLA.

(3) HAZARD RANKING SYSTEM.—

(A) REVIEW OF HAZARD RANKING SYSTEM.—Not later than 12 months after the enactment of this Act and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the Administrator shall commence a proceeding to review the hazard ranking system in effect under the NCP. Such review shall assure, to the maximum extent feasible, that the hazard ranking system appropriately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review.

(B) HEALTH ASSESSMENT OF WATER CONTAMINATION RISKS.—In conducting the review under this paragraph, the Administrator shall ensure that the human health risks associated with the contamination or potential contamination of surface water, either directly or as a result of the runoff of any hazardous substance or pollutant or contaminant from sites or facilities subject to review, which are, or can be, used for recreation or potable water consumption, are appropriately assessed. In making the assessment required pursuant to the preceding sentence, the Administrator shall take into account the potential migration of any hazardous substance or pollutant or contaminant through such surface water to downstream sources of drinking water.

(C) COMPARISON WITH PRELIMINARY POLLUTANT LIMIT VALUE SYSTEM.—In conducting the review under this paragraph, the Administrator shall evaluate the preliminary pollutant limit value system used by the Department of Defense to assess the risks of hazardous substances and compare such system with the hazard ranking system. In particular, the Administrator shall study the effectiveness of each system in appropriately assessing the relative degree of risk to human health and the environment posed by facilities subject to each such system.

(D) CONTENTS OF REVIEW.—The review under this paragraph shall include—

(i) an explanation of the hazard ranking system, including the manner in which it was developed and the method of determining the relative hazard at different facilities under the system;

(ii) a determination of the relationship between the value determined for a facility under the hazard ranking system and the potential danger to human health and the environment;

(iii) an examination, based on the determination under clause (ii), of the effect of establishing a threshold value of 28.5 for facilities to be included on the National Priorities List;

(iv) a determination, based upon the determination under clause (ii) and the examination under clause (iii), of whether a new threshold value should be established for inclusion of facilities on such list; and

(v) a determination of the relationship between the value determined for a facility under the hazard ranking system and the types of remedial actions that are appropriate at such facility.

(E) REEVALUATION NOT REQUIRED.—The Administrator shall not be required to reevaluate, after the enactment of this Act, the hazard ranking of any facility which was evaluated in accordance with the criteria under section 105 of the CERCLA before such enactment and which was assigned a national priority under the National Contingency Plan.

(F) NEW INFORMATION.—Nothing in subparagraph (E) shall preclude the Administrator from taking new information into account in undertaking response actions under CERCLA.

(b) PRELIMINARY ASSESSMENT AND EVALUATION.—Section 105 of CERCLA is amended by inserting "(a) REVISION AND REPUBLICATION.—" after "105)." and by adding the following new subsection at the end thereof:

"(b) PETITION FOR ASSESSMENT OF RELEASE.—Any person who is, or may be, affected by a release or threatened release of a hazardous substance or pollutant or contaminant, may petition the Administrator to conduct a preliminary assessment of the hazards to public health and the environment which are associated with such release or threatened release. If the Administrator has not previously conducted a preliminary assessment of such release, the Administrator shall, within 12 months after the receipt of any such petition, complete such assessment or provide an explanation of why the assessment is not appropriate. If the preliminary assessment indicates that the release or threatened release concerned may pose a threat to human health or the environment, the Administrator shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in paragraph (8)(A) of subsection (a) to determine the national priority of such release or threatened release.".

(c) HAZARD RANKING SYSTEM.—Section 105(a)(8)(A) of CERCLA is amended by inserting the following after "ecosystems,": "the damage to natural resources which may affect the human food chain and which is associated with any release or threatened release, the contamination or potential contamination of the ambient air which is associated with the release or threatened release,".

(d) NATIONAL PRIORITY LIST.—Subparagraph (B) of section 105(a)(8) of CERCLA is amended as follows:

(1) Strike out "at least four hundred of" when it appears.

(2) Strike out "at least" following the word "facilities" the second time it appears.

(3) Insert "A State shall be allowed to designate its highest priority facility only once." after the third full sentence thereof.

(e) STANDARDS AND PROCEDURES FOR INNOVATIVE TREATMENT TECHNOLOGIES.—Section 105(a) of CERCLA is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and by inserting after paragraph (9) the following new paragraph:

"(10) standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this Act.".

(f) RELEASES FROM EARLIER SITES.—Section 105 of CERCLA is amended by adding the following new subsection at the end thereof:

"(c) RELEASES FROM EARLIER SITES.—Whenever there has been, after January 1, 1985, a significant release of hazardous substances or pollutants or contaminants from a site which is listed by the Administrator as a 'Site Cleaned Up To Date' on the National Priorities List (revised edition, December 1984) the site shall be restored to the National Priorities List, without application of the hazard ranking system.".

SEC. 106. ABATEMENT ACTIONS.

Section 106 of CERCLA is amended by adding the following new subsection after subsection (c):

"(d) PESTICIDES.—The Administrator shall not take action under this section with respect to any release or threatened release resulting from the normal application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act. Nothing in this subsection shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law, for damages, injury, or loss resulting from a release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action for such hazardous substance.".

SEC. 107. LIABILITY.

(a) FOREIGN VESSELS.—Section 107(a)(1) of CERCLA is amended by striking out "(otherwise subject to the jurisdiction of the United States)".

(b) COSTS AND DAMAGES.—Section 107(a)(4) of CERCLA is amended as follows:

(1) In subparagraph (A) insert after "not inconsistent with the national contingency plan" the following: "and all costs incurred by the United States Government or a State under section 104(b)".

(2) Strike out "and" at the end of subparagraph (B), strike out the period at the end of subparagraph (C) and insert in lieu thereof "; and", and insert at the end of such section the following:

"(D) the costs of any health assessment or health effects study carried out under section 116.

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D). Such interest shall accrue from 90 days after the date on which an action for recovery of such amounts is filed. The rate of interest on the outstanding unpaid balance of the amounts recoverable under this section shall be the same rate as is applicable to investments of the Fund under section 9602 of the Internal Revenue Code of 1954. For purposes of applying section 9602 of the Internal Revenue Code of 1954, the term 'comparable maturity' shall be determined with reference to the date 90 days after the date of filing of the action for recovery under this section.".

(c) EMERGENCY RESPONSE ACTIONS.—

(1) LIABILITY FOR.—Section 107(d) of CERCLA is amended by striking out "damages" each place it appears and inserting in lieu thereof "costs and damages" and by inserting before the second sentence the following: "This subsection shall not alter the liability of any person who is liable or potentially liable under subsection (a) of this section who subsequently undertakes a response action.".

(2) GOVERNMENTAL RESPONSE TO EMERGENCY.—Such section 107(d) is further amended by inserting "(1) RENDERING CARE OR ADVICE.—" after "(d)" and adding the following new paragraph at the end thereof:

"(2) GOVERNMENTAL RESPONSE TO EMERGENCY.—

"(A) IN GENERAL.—No Federal, State, or local government agency shall be liable under this title for costs and damages resulting from actions taken by the agency in response to an emergency created by the release or threatened release of a hazardous substance, pollutant, or contaminant from a vessel, facility, or site owned by another person. This paragraph shall not affect the liability of any Federal, State or local government agency for negligence.

"(B) PERSONS RETAINED OR HIRED.—Any person retained or hired by a State to take any action described in subparagraph (A) shall have the same exemption from liability provided to the State under subparagraph (A).".

(d) NATURAL RESOURCES.—

(1) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—Section 107(f) of CERCLA is amended by inserting "(1) NATURAL RESOURCES LIABILITY.—" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—

"(A) FEDERAL.—Each Federal agency designated as a natural resource trustee under the National Contingency Plan published under section 105 of this Act shall assess damages for injury to, destruction of, or loss of natural resources under its trusteeship resulting from a release of hazardous substances for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act and may, upon request of and reimbursement from a State, assess damages for those natural resources under the State's trusteeship.

"(B) STATE.—The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act and shall notify the Administrator of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and such section 311 for those resources under their trusteeship.

"(C) REBUTTABLE PRESUMPTION.—Any determination assessment of damages to natural resources for the purposes of this Act and section 311 of the Federal Water Pollution Control Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Federal Water Pollution Control Act.".

(2) USE OF RECOVERED FUNDS.—Section 107(f)(1) of CERCLA (as designated by paragraph (1) of this subsection) is amended by striking out the third sentence and inserting in lieu thereof the following: "Sums recovered by the United States Government as trustee under this subsection shall be retained by the Administrator, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subparagraph (C) of subsection (a) shall not be limited by the sums which can be used to restore or replace such resources.".

(e) NORMAL APPLICATION OF PESTICIDES.—Section 107(i) of CERCLA is amended by inserting "normal" before "application of a pesticide".

(f) FEDERAL AGENCIES.—Section 107(g) of CERCLA is amended to read as follows:

"(g) FEDERAL AGENCIES.—For provisions relating to Federal agencies, see section 119 of this Act.".

(g) FEDERAL LIEN.—Section 107 of CERCLA is amended by adding at the end thereof the following new subsections:

"(k) FEDERAL LIEN.—

"(1) IN GENERAL.—All costs and damages for which a person is liable to the United States under subsection (a) of this section (other than the owner or operator of a vessel under paragraph (1) of subsection (a)) shall constitute a lien in favor of the United States upon all real property and rights to such property which—

"(A) belong to such person; and

"(B) are subject to or affected by a removal or remedial action.

"(2) DURATION.—The lien imposed by this subsection shall rise at the later of the following:

"(A) The time costs are first incurred by the United States with respect to a response action under this Act.

"(B) The time that the person referred to in paragraph (1) is provided (by certified or registered mail) written notice of his potential liability.

Such lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113.

"(3) NOTICE AND VALIDITY.—The lien imposed by this subsection shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected under applicable State law before notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is located. Any such purchaser, holder of a security interest, or judgment lien creditor shall be afforded the same protections against the lien imposed by this subsection as are afforded under State law against a judgment lien which arises out of an unsecured obligation and which arises as of the time of the filing of the notice of the lien imposed by this subsection. If the State has not by law designated one office for the re-

ceipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is located. For purposes of this subsection, the terms 'purchaser' and 'security interest' shall have the definitions provided under section 6323(h) of the Internal Revenue Code of 1954.

"(4) ACTION IN REM.—The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.

"(l) MARITIME LIEN.—All costs and damages for which the owner or operator of a vessel is liable under subsection (a)(1) with respect to a release or threatened release from such vessel shall constitute a maritime lien in favor of the United States on such vessel. Such costs may be recovered in an action in rem in the district court of the United States for the district in which the vessel may be found. Nothing in this subsection shall affect the right of the United States to bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.".

SEC. 108. FINANCIAL RESPONSIBILITY.

(a) DEADLINE FOR ISSUANCE OF REGULATIONS.—Section 108(b)(1) of CERCLA is amended by inserting after "this Act" the first place it appears the following: "and not later than one year after the date of submission of the insurability study under section 301(g) to Congress".

(b) EVIDENCE OF FINANCIAL RESPONSIBILITY.—Section 108(b)(2) of CERCLA is amended by adding the following at the end thereof: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

(c) PHASE-IN PERIOD.—Section 108(b)(3) of CERCLA is amended by striking out "over a period of not less than three and no more than six years" and inserting in lieu thereof "as quickly as can reasonably be achieved but in no event more than four years".

(d) DIRECT ACTION; LIABILITY.—Subsections (c) and (d) of section 108 of CERCLA are amended to read as follows:

"(c) DIRECT ACTION.—

"(1) RELEASES FROM VESSELS.—In the case of a release or threatened release from a vessel, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such vessel under subsection (a). In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. The guarantor may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but the guarantor may not invoke any other defense that the guarantor might have been entitled to invoke in a proceeding brought by the owner or operator against him.

"(2) RELEASES FROM FACILITIES.—In the case of a release or threatened release from a facility, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such facility under subsection (b), if the person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or if, with reasonable diligence, jurisdiction in the Federal courts cannot be obtained over a person liable under section 107 who is likely to be solvent at the time of judgment. In the case of any action pursuant to this paragraph, the guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and all rights and defenses which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) LIMITATION OF GUARANTOR LIABILITY.—

"(1) TOTAL LIABILITY.—The total liability under this Act of any guarantor for a vessel or facility shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the person liable under section 107.

"(2) OTHER LIABILITY.—Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractural, or common law liability of a guarantor, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed, interpreted, or applied to diminish the liability of any person under section 107 of this Act or other applicable law.".

SEC. 109. PENALTIES.

(a) SECTION 103.—

(1) CRIMINAL PENALTY.—Section 103(b) of CERCLA is amended by—

(A) inserting after "knowledge of such release" the following: "or who submits in such a notification any information which he knows to be false or misleading"; and

(B) striking out "not more than $10,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "in accordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both".

(2) CIVIL PENALTY.—Section 103(b) of CERCLA is amended by inserting the following before the last sentence: "Any such person shall also be subject to a civil penalty of not more than $25,000 for each day during which such failure continues.".

(3) DESTRUCTION OF RECORDS.—Section 103(d)(2) of the CERCLA is amended by striking out "not more than $20,000, or imprisoned for not more than one year or both." and inserting in lieu thereof "in accordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both. Any such person shall also be subject to a civil penalty of not more than $25,000 for each day during which such violation continues.".

(b) SECTION 104.—Section 104(e)(2) of CERCLA is amended by adding the following at the end thereof:

"(9) CIVIL PENALTY.—Any person who fails or refuses to comply with a request or order under this subsection shall be subject to a civil penalty of not more than $25,000 for each day during which such failure or refusal continues.".

(c) SECTION 106.—Section 106(b) of CERCLA is amended—

(1) by striking out "who willfully" and inserting in lieu thereof "who, without sufficient cause, willfully"; and

(2) by striking out "$5,000" and inserting in lieu thereof "$25,000".

(d) SECTION 108.—Section 108 of CERCLA is amended by adding at the end the following:

"(e) CIVIL PENALTY.—Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of this section, the regulations issued under this section, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $25,000 for each day of violation.".

(e) ASSESSMENT AND COLLECTION OF CIVIL PENALTIES.—Section 109 of CERCLA is amended to read as follows:

"SEC. 109. ASSESSMENT AND COLLECTION OF CIVIL PENALTIES.

"(a) UNDER SECTION 16 OF TOSCA.—Any civil penalty under this Act (other than section 106(b)) shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16 of the Toxic Substances Control Act

"(b) SUBPOENAS.—In any proceeding for the assessment of a civil penalty under this Act (other than section 106(b)), the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures.".

(f) SECTION 112.—Section 112(b)(1) of CERCLA is amended by striking out "up to $5,000 or or imprisoned for not more than one year, or both" and inserting in lieu thereof "in accordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both".

SEC. 110. SECTION 110.

Section 110 is not amended.

SEC. 111. USES OF FUND.

(a) AMOUNT OF FUND.—Section 111 of CERCLA is amended by inserting after "(a)" the following: "IN GENERAL.—For the purposes specified in this section there is authorized to be appropriated from the Hazardous Substance Superfund established under section 221 not more than $1,830,000,000 for each of the first 5 fiscal years beginning after September 30, 1985 (plus for each such fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection as has been appropriated before the beginning of the fiscal year involved).".

(b) USE OF FUND FOR GRANTS.—Section 111(a) of CERCLA is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(5) the cost of grants under section 117(e) (relating to grants for technical assistance).".

(c) USES INCLUDED. (1) Section 111(c) of CERCLA is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding the following new paragraphs at the end thereof:

"(7) costs incurred by the Administrator in evaluating facilities pursuant to petitions under section 105(b);

"(8) the costs of contracts entered into under section 104(a)(1) to oversee and review the conduct of remedial investigations and feasibility studies undertaken by persons other than the Administrator and the costs of appropriate Federal and State oversight of remedial activities at National Priorities List sites resulting from consent orders or settlement agreements, where the responsible party or parties have been determined, but where inadequate oversight assistance has been provided by that responsible party or parties;

"(9) the costs incurred by the Administrator in acquiring real estate or interests in real estate under section 104(j);

"(10) the cost of carrying out section 311(b) (relating to research, development, and demonstration of alternative and innovative treatment technologies and training programs), section 311(c) (relating to hazardous waste research), and section 311(d) (relating to university hazardous substance centers), except that the amounts available for such purposes shall not exceed the amounts specified in subsection (o);

"(11) reimbursements to local governments under section 123, except that during the 5-fiscal year period beginning October 1, 1985, not more than 0.1 percent of the total amount appropriated from the Fund may be used for such reimbursements; and

"(12) the costs of worker training and education grants under section 126(e), to the extent that such costs do not exceed $10,000,000 for each of the fiscal years 1986, 1987, 1988, 1989, and 1990.".

(2) Section 111(c)(4) of CERCLA is amended by striking out "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies, health assessments, preparation of toxicologic profiles".

(d) DEFINITION OF HEALTH ASSESSMENT.—Section 111(c) of CERCLA is amended by adding the following at the end thereof: "As used in paragraph (4), the term 'health assessment' shall have the meaning provided by section 116(f)(7).".

(e) NATURAL RESOURCE DAMAGE CLAIMS.—Section 111(b) of CERCLA is amended as follows:

(1) Insert "(1)" after "(b)".

(2) Add the following new paragraph at the end thereof:

"(2) PAYMENT OF NATURAL RESOURCE CLAIMS.—

"(A) GENERAL REQUIREMENTS.—No natural resource claim may be paid from the Fund unless the Administrator determines that the claimant has exhausted all administrative and judicial remedies to recover the amount of such claim from persons who may be liable under section 107. All natural resource claims filed after December 1, 1985, may be paid only if a natural resource damage assessment has been carried out in accordance with regulations promulgated by the Secretary of the Interior.

"(B) CLAIMS PENDING AS OF DECEMBER 1, 1985.—(i) The Administrator shall determine the sum of natural resource claims against the fund which were pending but unpaid as of December 1, 1985.

"(ii) The Administrator may pay all or a portion of any claim referred to in clause (i) in accordance with the applicable requirements of this Act, except that the total amount paid from the Fund for the total of such claims shall not exceed 50 percent of the sum determined under clause (i). The Administrator may not pay any such claim unless the claim has been determined to be valid.

"(C) DEFINITION.—As used in this paragraph, the term 'natural resource claims' means claims for injury to, or destruction or loss of, natural resources. The term includes claims for the cost of natural resource damage assessment.".

(f) AMENDMENT TO SECTION 111(e).—Section 111(e)(1) of CERCLA is amended by inserting "pursuant to subsection (a)(2)" after "Fund" the first place it appears.

(g) INSPECTOR GENERAL.—Section 111(k) of CERCLA is amended to read as follows:

"(k) INSPECTOR GENERAL.—In each fiscal year, the Inspector General of each department, agency, or instrumentality of the United States which is carrying out any authority of this Act shall undertake the following:

"(1) AUDIT.—The conduct of an annual audit of all payments, obligations, reimbursements, or other uses of the Fund in the prior fiscal year, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The audit shall include an examination of a random sample of agreements with States carrying out response actions under this title and an examination of remedial investigations and feasibility studies prepared for remedial actions.

"(2) STATUS REPORT.—The preparation of a report on the status of all remedial and enforcement actions undertaken during the prior fiscal year. The status report shall include a comparison to remedial and enforcement actions undertaken in prior fiscal years.

"(3) ESTIMATE.—The preparation of an estimate of the amount of resources, including the number of work years or personnel, which would be necessary for the department, agency, or instrumentality to complete the implementation of all duties vested in the department, agency, or instrumentality under this Act.

The Inspector General shall submit to the Congress an annual report regarding the audit and status report required under this subsection. The report shall contain such recommendations as the Inspector General deems appropriate. Each Federal agency shall cooperate with the Inspector General in carrying out this subsection.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 111 of CERCLA is amended by adding the following subsection after subsection (l):

"(m) GENERAL REVENUE SHARE OF SUPERFUND.—

"(1) IN GENERAL.—The following sums are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund:

"(A) For fiscal year 1986, $250,000,000.
"(B) For fiscal year 1987, $250,000,000.
"(C) For fiscal year 1988, $250,000,000.
"(D) For fiscal year 1989, $250,000,000.
"(E) For fiscal year 1990, $250,000,000.

In addition there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Revenue Act of 1980 as has not been appropriated before the beginning of the fiscal year involved.

"(2) COMPUTATION.—The amounts authorized to be appropriated under paragraph (1) of this subsection in a given fiscal year shall be available only to the extent that such amount exceeds the amount determined by the Secretary under section 221(b)(1)(B) for the prior fiscal year.".

(i) ATSDR.—Section 111 of CERCLA is amended by adding the following new subsection after subsection (m):

"(n) AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.—For fiscal year 1986 and each fiscal year thereafter, not less than $30,000,000 shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 116. Any funds so made available which are not obligated by the end of the fiscal year in which made available shall be returned to the Fund."

(j) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—Section 111 of CERCLA is amended by adding the following new subsection after subsection (n):

"(o) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(1) For each of the fiscal years 1986, 1987, 1988, 1989, and 1990, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) (relating to research, development, and demonstration) other than basic research. Such amounts shall remain available until expended.

"(2) From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a) (relating to hazardous substance research, demonstration, and training activities):

"(A) For the fiscal year 1986, $3,000,000.
"(B) For the fiscal year 1987, $10,000,000.
"(C) For the fiscal year 1988, $20,000,000.
"(D) For the fiscal year 1989, $30,000,000.
"(E) For the fiscal year 1990, $35,000,000.

No more than 10 percent of such amounts shall be used for training under section 311(a) in any fiscal year.

"(3) For each of the fiscal years 1986, 1987, 1988, 1989, and 1990, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d) (relating to university hazardous substance research centers).".

SEC. 112. CLAIMS PROCEDURE.

Section 112(d) of CERCLA is amended to read as follows:

"(d) STATUTE OF LIMITATIONS.—

"(1) CLAIMS FOR RECOVERY OF COSTS.—No claim may be presented under this section for recovery of the costs referred to in section 107(a) after the date six years after the date of completion of all response action.

"(2) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when he reaches eighteen years of age or the date on which a legal representative is duly appointed for him, or

"(B) against an incompetent person until the earlier of the date on which his incompetency ends or the date on which a legal representative is duly appointed for him.".

SEC. 113. LITIGATION, JURISDICTION, AND VENUE.

(a) NATIONWIDE SERVICE OF PROCESS.—Section 113 of CERCLA is amended by adding the following new subsection at the end thereof:

"(e) NATIONWIDE SERVICE.—In any action by the United States under section 106 or 107, process may be served in any district where the defendant if found, resides, transacts business, or has appointed an agent for the service of process.".

(b) CONTRIBUTION; STATUTE OF LIMITATION.—Section 113 of CERCLA is amended by adding the following new subsections after subsection (e):

"(f) CONTRIBUTION.—

"(1) CONTRIBUTION.—Except as provided in paragraph (2), any person potentially liable or held to be liable in an action under section 106 or section 107 may bring an action for contribution or indemnity against any other person liable or potentially liable. In any such action in a court of the United States the Federal Rules of Civil Procedure shall apply. In any such contribution action in a court of the United States, the court may use its equitable powers to apportion costs among the liable parties, taking relevant equitable considerations into account. Except as provided in paragraph (2) of this subsection, this subsection shall not impair any right of contribution or indemnity under existing law.

"(2) SETTLEMENT.—A person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement which was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(3) PERSONS NOT PARTY TO SETTLEMENT.—(A) If the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in an administrative or judicially approved settlement, the United States or the Secretary may bring an action against any person who has not so resolved its liability.

"(B) A person who has resolved its liability to the United States or a State for some or all of a response action or for some or all of the costs of such action in an administrative or judicially approved settlement may bring an action for contribution or indemnification against any person who is not party to a settlement referred to in paragraph (2).

"(C) In any action under this paragraph, the rights of any person who has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be governed by federal law.

"(g) STATUTE OF LIMITATIONS.—

"(1) ACTIONS FOR NATURAL RESOURCE DAMAGES.—Except as provided in paragraph (3), no action may be commenced for damages (as defined in section 101(6)) under this Act, unless that action is commenced within 3 years after the later of the following:

"(A) The date of the discovery of the loss.

"(B) The date on which regulations are promulgated under section 301(c).

With respect to any facility listed on the national priorities list, any Federal facility identified under section 120, or any facility at which a remedial action is otherwise scheduled, an action for damages must be commenced within 3 years after the completion of the remedial action (excluding operation and maintenance activities), but in no event may an action for damages with respect to such a facility be commenced before selection of the remedial action if the Administrator is diligently proceeding with a remedial investigation and feasibility study under section 104(b). The limitation in the preceding sentence on commencing an action before selection of the remedial action does not apply to actions filed on or before December 11, 1983.

"(2) ACTIONS FOR RECOVERY OF COSTS.—An initial action for recovery of the costs referred to in section 107 must be commenced—

"(A) for a removal action, within 3 years after completion of the removal action, except that such cost recovery action must be brought within 6 years after a determination to grant a waiver under section 104(c)(1)(C) for continued response action; and

"(B) for a remedial action, within 6 years after initiation of physical on-site construction of the remedial action, provided that, if the remedial action is initiated within 3 years after the completion of the removal action, costs incurred in the removal action may be recovered in the cost recovery action brought under this subparagraph.

In any such initial action, the court shall enter a declaratory judgment on liability for response costs that will be binding on any subsequent action or actions to recover further response costs. A subsequent action or actions under section 107 for further response costs at the facility may be maintained at any time during the response action, but must be commenced no later than 3 years after the date of completion of all response action. Except as otherwise provided in this paragraph, an action may be commenced under section 107 for recovery of costs at any time after such costs have been incurred.

"(3) CONTRIBUTION.—No action for contribution for any response costs or damages may be commenced more than 3 years after—

"(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

"(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

"(4) SUBROGATION.—No action based on rights subrogated pursuant to this section by reason of payment of a claim may be commenced under this title more than 3 years after the date of payment of such claim.

"(5) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when he reaches eighteen years of age or the date on which a legal representative is duly appointed for him, or

"(B) against an incompetent person until the earlier of the date on which his incompetency ends or the date on which a legal representative is duly appointed for him.".

(c) PRE-ENFORCEMENT REVIEW.—

(1) CONFORMING AMENDMENT.—Section 113(b) of CERCLA is amended by striking out "subsection" and inserting in lieu thereof "subsections" and inserting "and (h)" after "(a).

(2) TIMING OF REVIEW: ADMINISTRATIVE RECORD.—Section 113 of CERCLA is amended by adding at the end thereof the following new subsections:

"(h) TIMING OF REVIEW.—No court shall have jurisdiction to review any challenges to removal or remedial action selected under section 104 or any order issued under section 104(b) or to review any order issued under section 106(a), in any action other than one of the following:

"(1) An action under section 107 to recover response costs or damages or for contribution or indemnification.

"(2) An action to enforce an order issued under section 104(b) or 106(a) or to recover a penalty for violation of such order.

"(3) An action for reimbursement under section 106(b)(2).

"(4) An action under section 310 alleging that the removal or remedial action taken under section 104 or secured under section 106 was in violation of any requirement of this Act. Such an action may not be brought with regard to an ongoing removal where a remedial action is to be undertaken at the site.

"(5) An action by the United States under section 106 for injunctive relief.

"(6) A motion by a potentially responsible party to review the Administrator's selection of the remedy under a consent decree which has been entered under section 106 and in which such potentially responsible party has made a commitment to undertake a remedial investigation and feasibility study and to perform or cause to be performed all of the judicially approved remedial action.

"(7) A motion by a potentially responsible party to review the Administrator's selection of the remedy under a consent decree which has been entered under section 106 and in which such potentially responsible party has agreed to perform or cause to be performed all of the judicially approved remedial action.

"(8) A motion by a potentially responsible party who is a recipient of an administrative order under section 106 to review the Administrator's selection of the remedy, where the recipient of the order has, without admitting that the release in question constituted an imminent and substantial endangerment under section 106 and without admitting liability, agreed to the terms of the order except for the Administrator's selection of the remedy. In such cases, the order shall be entered in the District Court as a consent decree.

In ruling on motions under paragraphs (6), (7), and (8), and District Court shall act without delay and shall rule expeditiously. There shall be no right of appeal by any party from such ruling.

"(i) INTERVENTION.—In any action commenced under subsection (h), any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest.

"(j) JUDICIAL REVIEW.—

"(1) IN GENERAL.—For the purposes of judicial review under this section, the administrative record shall consist of—

"(A) in the case of a removal action, the record developed under regulations issued pursuant to subsection (1) (2) (A); and

"(B) in the case of a remedial action, the record developed under subsection (1) (2) (B).

"(2) LIMITATION.—In any judicial action under section 106 or 107, judical review of any issues concerning the adequacy of any response action taken or ordered by the Administrator shall be limited to the administrative record. Objections and evidence

which were not made a part of the administrative record may be considered by the court only if such objections and evidence were not reasonably available when the record was being developed.

"(3) STANDARD.—In considering objections raised in any judicial action under section 106 or 107, the court shall uphold the Administrator's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law.

"(4) REMEDY.—If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award only the response costs or damages or other relief being sought to the extent that such relief is not inconsistent with the national contingency plan.

"(5) PROCEDURAL ERRORS.—In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.

"(k) ADMINISTRATIVE RECORD AND PARTICIPATION PROCEDURES—

"(1) ADMINISTRATIVE RECORD.—The Administrator shall establish an administrative record upon which the Administrator shall base the selection of a response action. The record shall consist of—

"(A) in the case of a removal action, the record developed under regulations issued pursuant to paragraph (2)(A); and

"(B) in the case of a remedial action, the record developed under paragraph (2)(B).

The administrative record shall be available to the public at or near the facility at issue. The Administrator also may place duplicates of the administrative record at any other location.

"(2) PARTICIPATION PROCEDURES.—

"(A) REMOVAL ACTION REGULATIONS.—The Administrator shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code establishing procedures for the appropriate participation of interested persons in the development of the administrative record on which the Administrator will base the selection of removal actions and on which judicial review of removal actions will be based.

"(B) REMEDIAL ACTION REQUIREMENTS.—The Administrator shall provide for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the Administrator will base the selection of remedial actions and on which judicial review of remedial actions will be based. The administrative record under this subparagraph shall include, at a minimum, the following:

"(i) Notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered.

"(ii) A reasonable opportunity to comment and provide information regarding the plan.

"(iii) An opportunity for a public meeting in the affected area, in accordance with section 117(a)(2).

"(iv) A response to each of the significant comments, criticisms, and new data submitted in written or oral presentations.

"(v) A statement of the basis and purposes of the selected action.

For purposes of this subparagraph, the administrative record shall include all items developed and received under this subparagraph and all items described in the second sentence of section 117(d). The Administrator shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code to carry out the requirements of this subparagraph.

"(C) POTENTIALLY RESPONSIBLE PARTIES.—The Administrator shall make reasonsible efforts to identify potentially responsible parties as early as possible before selection of a response action. Nothing in this paragraph shall be construed to be a defense to liability under this Act.".

(d) REIMBURSEMENT.—Section 106(b) of CERCLA is amended as follows:

(1) Insert "(1)" after "(b)".

(2) Strike out "who willfully" and insert "who, without sufficient cause, willfully".

(3) Add at the end thereof the following new paragraph:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within 60 days after completion of the required action, petition the Administrator for reimbursement from the Fund for the reasonable costs of such action, plus, interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate that applies to investments of the Fund under section 223(b) of this Act.

"(B) If the Administrator refuses to grant all or part of a petition made under this paragraph, the petitioner may within 30 days of receipt of such refusal file an action against the Administrator in the appropriate United States district court seeking reimbursement from the Fund.

"(C) Except as provided in subparagraph (D), to obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order.

"(D) A petitioner who is liable for response costs under section 107(a) may also recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the Administrator's decision in selecting the response action ordered was arbitrary and capricious or was otherwise not in accordance with law. Reimbursement awarded under this subparagraph shall include all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.

"(E) Reimbursement awarded by a court under subparagraph (C) or (D) may include appropriate costs, fees, and other expenses in accordance with subsection (a) and (d) of section 2412 of title 28 of the United States Code. A petitioner who has established pursuant to subparagraph (C) that it is not liable for any response costs may also receive compensatory damages. Any reimbursement awarded under this subparagraph shall not be paid from the Fund.

"(F) In any action under section 113(h), if the remedial action conducted under an administrative order or consent decree is determined to be arbitrary and capricious or otherwise not in accordance with law, any person who has complied with the terms of any administrative order or consent decree issued under subsection (a) may petition the Administrator for reimbursement from the Fund for the reasonable costs of such action, including interest. The Administrator shall grant such petition for all reasonable response costs incurred by the petitioner pursuant to the portions of the administrative order for consent decree found to be arbitrary and capricious or otherwise not in accordance with law.".

SEC. 114. RELATIONSHIP TO OTHER LAW.

Section 114(c) of CERCLA is amended to read as follows:

"(c) STATE FUNDS.—Notwithstanding any provision of this or any other law, a State may require any person to contribute to any fund the purpose of which is to pay for any costs of response or damages.".

SEC. 115. DELEGATION OF FUNCTIONS.

Section 115 of CERCLA is amended to read as follows:

"SEC. 115. AUTHORITY TO DELEGATE FUNCTIONS AND ISSUE REGULATIONS.

"(a) DELEGATION OF FUNCTIONS.—

"(1) THE PRESIDENT.—The President is authorized to delegate and assign any duties or powers imposed upon or assigned to him necessary to carry out the provisions of this title.

"(2) THE ADMINISTRATOR.—The Administrator is authorized to delegate and assign to officers and employees of the Environmental Protection Agency any duties or powers imposed upon or assigned to him necessary to carry out the provisions of this title.

"(b) REGULATIONS.—The Administrator is authorized to issue any regulations necessary to carry out the provisions of this title.".

SEC. 116. PUBLIC HEALTH ASSESSMENT AND PROTECTION AUTHORITIES.

Title I of CERCLA is amended by inserting the following new section after section 115:

"SEC. 116. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

"(a) ESTABLISHMENT.—There is hereby established within the Public Health Service an agency, headed by an administrator, to be known as the Agency for Toxic Substances and Disease Registry (hereinafter in this Act referred to as 'ATSDR'). The Administrator of ATSDR shall report to the Secretary of the Department of Health and Human Services.

"(b) DUTIES.—The Administrator of ATSDR shall effectuate and implement the health-related authorities of this Act with the cooperation of—

"(1) the Administrator,

"(2) the Commissioner of the Food and Drug Administration,

"(3) the Directors of the National Institutes of Health, the National Institute of Environmental Health Sciences, the National Institute of Occupational Safety and Health, and the Center for Disease Control,

"(4) the Administrator of the Occupational Safety and Health Administration,

"(5) the Administrator of the Social Security Administration,

"(6) the Secretary of Transportation, and

"(7) appropriate State and local health officials.

"(c) LIST OF RESTRICTED AREAS.—In cooperation with the States and other agencies of the Federal Government, the Administrator of ATSDR shall establish and maintain a complete listing of areas closed to the public or otherwise restricted in use because of contamination by hazardous substances.

"(d) LIST OF SUBSTANCES.—

"(1) INITIAL 100.—Within six months after the date of the enactment of this section, the Administrator of ATSDR and the Administrator shall prepare a list, in order of

priority, of at least 100 hazardous substances which are most commonly found at facilities on the National Priorities List and which are posing the most significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances at facilities on the National Priorities List or at facilities to which a response to a release or a threatened release under section 104 is under consideration.

"(2) REVISION.—Within 24 months after the date of the enactment of this section, the Administrator of ATSDR and the Administrator shall revise the list prepared under paragraph (1). Such revision shall include, in order of priority, the addition of 100 or more such hazardous substances. In each of the three consecutive 12-month periods that follow, the Administrator of ATSDR shall revise, in the same manner as provided in the two preceding sentences, such list to include not fewer than 25 additional hazardous substances. The Administrator of ATSDR and the Administrator shall not less often than once every year thereafter revise such list to include additional hazardous substances in accordance with the criteria in paragraph (1).

"(e)" INFORMATION ON HEALTH EFFECTS.—

"(1) LITERATURE, STUDIES, ETC.—The Administrator of ATSDR shall establish and maintain an inventory of research literature, reports, and studies on the health effects of each hazardous substances listed pursuant to subsection (d).

"(2) TOXICOLOGICAL PROFILES.—Bases on all available information, including information maintained under paragraph (1) and data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator of ATSDR shall prepare toxicological profiles of each of the substances listed pursuant to subsection (d). The toxicological profiles shall be prepared in accordance with guidelines developed by the Administrator of ATSDR and the Administrator. Such profiles shall include, but not be limited to—

"(A) an examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on hazardous substances in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects;

"(B) a determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects; and

"(C) where, appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

The profiles required to be prepared under this paragraph for those hazardous substances listed under paragraph (1) of subsection (d) shall be completed, at a rate of 25 per year, within four years after the date of the enactment of this section. A profile required on a substance listed pursuant to paragraph (2) of subsection (d) shall be completed within three years after addition to the list. The profiles prepared under this paragraph shall be of those substances highest on the list of priorities under subsection (d) for which profiles have not previously been prepared. Profiles required under this paragraph shall be revised and republished as necessary, but no less than once every three years. Such profiles shall be provided to the States and made available to other interested parties.

"(3) HEALTH EFFECTS RESEARCH.—For any hazardous substance for which adequate information is not available (or for which such information is under development as determined under paragraph (2)(B)), the Administrator of ATSDR shall assure the initiation of a program of research designed to determine the health effects of such hazardous substance. Where feasible, such program shall seek to develop methods to determine the health effects of such hazardous substances in combination with other hazardous substances with which it is commonly found. Before assuring the initiation of such program, the Administrator of ATSDR shall consider recommendations of the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act on the types of research that should be done and on who should do the research.

"(4) COORDINATION.—The Administrator of ATSDR and the Administrator shall coordinate the development and implementation of any research program under this subsection. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate in the discretion of the Administrator and the Administrator of ATSDR and consistent with such purpose, a research program under this subsection may be carried out using programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act.

"(f) HEALTH ASSESSMENTS.—

"(1) FACILITIES ON NPL.—The Administrator of ATSDR shall perform a health assessment for each facility on the National Priorities List established under section 105 which meets each of the following criteria:

"(A) The presence of a hazardous substance has been confirmed at the facility.

"(B) Pathways of human exposure to hazardous substances have been demonstrated to exist at the facility, especially if such pathways involve direct contact with hazardous substances.

"(C) A human population has been exposed, or there exists a significant possibility that a human population has been exposed, to hazardous substances through the identified pathways and there may exist a significant threat of current or future adverse health effects for the population so exposed.

The determination of whether any facility on such list meets such criteria shall be based on information provided by the Administrator regarding such criteria. Nothing in this paragraph shall preclude the Administrator of ATSDR from performing, where appropriate and consistent with the National Contingency Plan, health assessments of releases of hazardous substances from any other facilities, including facilities which are not on such list. The Administrator or any State may request the Administrator of ATSDR to perform a health assessment under this section. The Administrator of ATSDR and the Administrator shall coordinate the performance of health assessments under this section.

"(2) PETITION TO ADMINISTRATOR OF ATSDR.—Any individual or group of individuals may submit a petition to the Administrator of ATSDR to perform a health assessment under this subsection. The petition shall provide evidence demonstrating that such individual or group is being exposed to a hazardous substance, and an empirical analysis of the level of exposure. The Administrator of ATSDR shall take action under paragraph (3)(A) if the Administrator of ATSDR determines that there is a reasonable likelihood that the exposure may present a significant risk to human health and that there is a reasonable likelihood that the hazardous substance is from one of the following facilities:

"(A) A facility where such substance is (or was in the past) treated, stored, recycled, or disposed of, on a regular basis.

"(B) A facility at which removal action is being taken (or was taken in the past) under any provisions of this Act.

"(3) INITIATION OR EXPLANATION REQUIRED.—Within 45 days after receipt of a petition under paragraph (2), the Administrator of ATSDR shall do one of the following:

"(A) Initiate a health assessment.

"(B) Publish a written explanation of one of the following:

"(i) A determination that there is not a reasonable likelihood that the substance is from a facility referred to in paragraph (2).

"(ii) A determination that there is not a reasonable likelihood that the exposure presents a significant risk to human health.

"(iii) A determination that the evidence submitted or information available to the Administrator of ATSDR is not adequate to determine whether there is a reasonable likelihood that the substance is from a facility referred to in paragraph (2) or there is a reasonable likelihood that the exposure presents a significant risk to human health. If the Administrator of ATSDR determines under this clause that the evidence submitted is not adequate, the Administrator of ATSDR shall, in the written explanation, identify the additional information necessary for the Administrator of ATSDR to determine whether there is a reasonable likelihood that the substance is from a facility referred to in paragraph (2) or there is a reasonable likelihood that the exposure may present a significant risk to human health.

"(C) Respond in writing to the petition submitted under paragraph (2) by setting forth a schedule for review of the petition or a schedule to initiate a health assessment.

Each assessment under this paragraph shall be completed within six months after the date on which the health assessment is initiated.

"(4) PRIORITIES OF ASSESSMENTS.—In determining the priority in which to conduct health assessments under this subsection, the Administrator of ATSDR, in consultation with the Administrator, shall give priority to those facilities at which there is documented evidence of the release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of ATSDR existing health assessment data are inadequate to assess the potential risk to human health as provided in paragraph (7). In determining the priorities for conducting health assessments under this subsection, the Administrator of ATSDR shall consider the National Priorities List schedules and the needs of the Environmental Protection Agency pursuant to schedules for remedial investigation and feasibility studies.

"(5) RIFS.—Where a health assessment is done at a site on the National Priorities

List, the Administrator of ATSDR shall complete such assessment promptly and, to the maximum extent practicable, before the completion of the remedial investigation and feasibility study at the facility concerned.

"(6) NOTICE AND REPORTING.—Any State or political subdivision carrying out a health assessment for a facility shall report the results of the assessment to the Administrator of ATSDR and the Administrator and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of ATSDR shall state such recommendation in any report on the results of any assessment carried out directly by the Administrator of ATSDR for such facility and shall issue periodic reports which include the results of all the assessments carried out under this subsection.

"(7) DEFINITION.—For the purposes of this section and section 111(c)(4), the term 'health assessment' means a determination of the potential individual and population human health risks posed by a facility. A health assessment shall be based on but not limited to the following information:

"(A) The nature and extent of contamination.

"(B) The existence, scope, and magnitude of potential pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination).

"(C) The size, population characteristics, and potential susceptibility of the community within the likely pathways of exposure.

"(D) The comparison of measured or estimated human exposure levels which are identified for hazardous substances and any exposure levels for such hazardous substances which are determined to be of significance to human health, including but not limited to those determined in the toxicological profiles under subsection (e)(2).

"(E) The comparison of appropriate existing morbidity and mortality data, relevant to the suspected population at risk of exposure, on diseases that may be associated with the observed levels of exposure.

If a significant excess of disease in a population is identified under subparagraph (E), the health assessment shall include, to the maximum extent practicable, an assessment of attributable risk for the purpose of determining the most likely explanations for that excess. A health assessment may include literature searches, information summarization and evaluation of existing environmental data, pilot samples, testing for food chain contamination, and similar activities. The Administrator of ATSDR shall utilize appropriate data available from the Administrator to avoid duplication of efforts.

"(8) PURPOSE.—The purpose of health assessments under this section shall be to assist in determining whether actions under subsection (k) of this section should be taken to reduce human exposure to hazardous substances from a facility and whether additional information on human exposure and associated health risks is needed and should be acquired by conducting epidemiological studies under subsection (g), establishing a registry under subsection (h), establishing a health surveillance program under subsection (i), or through other means. In using the results of health assessments for determining additional actions to be taken under this section, the Administrator of ATSDR may consider additional information on the risks to the potentially affected population from all sources of such hazardous substances including known point or nonpoint sources other than those from the facility in question.

"(9) RESULTS, RECOMMENDATIONS, AND EVALUATIONS.—At the completion of each health assessment, the Administrator of ATSDR shall provide the Administrator and each affected State with the results of such assessment, including recommendations concerning the need to further reduce exposure. In addition, if the health assessment indicates that the release or threatened release concerned may pose a serious threat to human health or the environment, the Administrator of ATSDR shall so notify the Administrator who shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in section 105(a)(8)(A) to determine whether the site shall be placed on the National Priorities List or, if the site is already on the list, the Administrator of the ATSDR may recommend to the Administrator that the site be accorded a higher priority.

"(10) RECOVERY OF COSTS.—In any case in which a health assessment performed under this subsection (including one required by section 3019(b) of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance from a facility, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act.

"(g) STUDIES.—

"(1) PILOT HEALTH EFFECTS STUDIES.—Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of a health assessment, the Administrator of ATSDR shall conduct a pilot study of health effects for selected groups of exposed individuals in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population.

"(2) FULL SCALE.—Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of such pilot study or other study or health assessment, the Administrator of ATSDR shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects on the population exposed to hazardous substances from a release or threatened release.

"(h) REGISTRY.—

"(1) AUTHORITY TO ESTABLISH.—In any case in which the results of a health assessment or epidemiological study indicate a potential or observed significant risk to human health, the Administrator of ATSDR shall evaluate whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection. The Administrator of ATSDR shall establish such registry when such evaluation determines that an effective mechanism can be established to satisfactorily maintain such registry over a sufficient period of time to accomplish the desired purposes of this paragraph and either—

"(A) the registry could benefit its participants by prevention or early detection of serious adverse health effects from exposure to hazardous substances; or

"(B) the registry could provide significant information not currently available on human health effects of exposure to one or more hazardous substances.

"(2) UNLAWFUL DISCLOSURE.—The identity of any individual listed on a registry shall not be disclosed to any person except as may be necessary to carry out this section. Any person violating this paragraph shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and shall be required to pay the costs of prosecution.

"(i) HEALTH SURVEILLANCE PROGRAM.—Where the Administrator of ATSDR has determined that there is a significant increased risk of adverse health effects in humans from exposure to hazardous substances based on the results of a health assessment conducted under subsection (f), an epidemiological study conducted under subsection (g), or an exposure registry that has been established under subsection (h), and the Administrator of ATSDR has determined that such exposure is the result of a release from a facility, the Administrator of ATSDR shall initiate a health surveillance program for such population. This program shall include but not be limited to—

"(1) periodic medical testing where appropriate of population subgroups to screen for diseases for which the population or subgroup is at significant increased risk; and

"(2) a mechanism to refer for treatment those individuals within such population who are screened positive for such diseases.

"(j) REPORT EVERY TWO YEARS.—Two years after the date of the enactment of this subsection and every two years thereafter, the Administrator of ATSDR shall prepare and submit to the Administrator and Congress a report on the results of the activities of ATSDR regarding—

"(1) health assessments and pilot health effects studies conducted;

"(2) epidemiologic studies conducted;

"(3) hazardous substances which have been listed under subsection (d), toxicological profiles which have been developed, and toxicologic testing which has been conducted or which is being conducted under subsection (e);

"(4) registries established under subsection (h); and

"(5) an overall assessment, based on the results of activities conducted by the Administrator of ATSDR, of the linkage between human exposure to individual or combinations of hazardous substances due to releases from facilities covered by this Act or the Solid Waste Disposal Act and any increased incidence or prevalence of adverse health effects in humans.

"(k) REDUCTION OF EXPOSURE.—

"(1) SIGNIFICANT HUMAN EXPOSURE LEVEL.—If a health assessment or other study carried out under this Act identifies an individual or individuals exposed to a hazardous substance in a manner which presents a significant risk to human health, the Administrator shall take such steps as may be necessary to abate the risk. Such steps may include the following:

"(A) Provision of alternate household water supplies.

"(B) Temporary or permanent relocation of individuals.

"(2) INSUFFICIENT INFORMATION.—In any case in which information is insufficient, in the judgment of the Administrator of ATSDR or the Administrator to determine a significant human exposure level with respect to a hazardous substance, the Administrator may take such steps as may be necessary to reduce the exposure of any person to such hazardous substance to such level as the Administrator deems necessary to protect human health.

"(1) NO DELAY OF OTHER ACTION.—In the case of any hazardous substance which is subject to a petition or study under this section, nothing in this section shall be construed to delay or otherwise impair the authority of the Administrator to exercise any

authority vested in the Administrator under any other provision of law, including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act or the response and abatement authorities of this Act.

"(m) PEER REVIEW.—All studies and results of research (other than health assessments) conducted under this section shall be reported or adopted only after appropriate peer review. Such peer review shall be completed, to the maximum extent practicable, within a period of 60 days and shall be conducted by panels consisting of no less than three nor more than seven members, who shall be scientific experts selected for such purpose by the Administrator of ATSDR on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Administrator of ATSDR.

"(n) EDUCATIONAL MATERIALS.—In the implementation of this section and other health-related authorities of this Act, the Administrator of ATSDR shall assemble, develop, as necessary, and distribute to the States, and upon request to medical colleges, physicians, and other health professionals, appropriate educational materials on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease related to exposure to hazardous substances (giving priority to those listed in subsection (d)), through such means as the Administrator of ATSDR deems appropriate.

"(o) DIRECT ACTION AND COOPERATIVE AGREEMENTS.—The activities described in this section and section 111(c)(4) shall be carried out by the Administrator of ATSDR, either directly or through cooperative agreements with States (or political subdivisions thereof) which the Administrator of ATSDR determines are capable of carrying out such activities. Such activities shall include provision of consultations on health information, the conduct of health assessments, including those required under section 3019(b) of the Solid Waste Disposal Act, health studies, registries, and health surveillance.

"(p) MINIMUM NUMBER OF EMPLOYEES.—The President shall provide adequate personnel for ATSDR, which shall not be fewer than 100 employees. For purposes of determining the number of employees under this subsection, an employee employed by ATSDR on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek.

"(q) FEDERAL FACILITIES.—In accordance with section 120, the Administrator of ATSDR shall have the same authorities under this section with respect to facilities owned or operated by a department, agency, or instrumentality of the United States as such Administrator has with respect to any nongovernmental entity.

"(r) EMERGENCIES.—In cases of public health emergencies caused or believed to be caused by exposure to toxic substances, the Administrator of ATSDR—

"(1) shall provide medical testing and care to exposed individuals, including, but not limited to, tissue sampling, chromosomal testing, epidemiological studies, or any other assistance appropriate under the circumstances;

"(2) shall offer technical assistance and consultation to local and State health authorities that are providing medical testing and care to exposed individuals; and

"(3) shall use any authority provided under this section;

whether or not the determinations or other preliminary steps otherwise required under this section have been made or taken. Nothing in this subsection shall be construed to create an entitlement program.

"(s) POLLUTANTS AND CONTAMINANTS.—If the Administrator of ATSDR determines that it is appropriate for purposes of this section to treat a pollutant or contaminant as a hazardous substance, such pollutant or contaminant shall be treated as a hazardous substance for such purpose.".

SEC. 117. PUBLIC PARTICIPATION.

Title I of CERCLA is amended by adding the following new section after section 116:

"SEC. 117. PUBLIC PARTICIPATION.

"(a) PROPOSED PLAN.—Before adoption of any plan for remedial action to be undertaken by the Administrator or by a State or by any other person at any site, the Administrator or State, as appropriate, shall take both of the following actions:

"(1) Publish a notice and brief analysis of the proposed plan and make such plan available to the public.

"(2) provide a reasonable opportunity for submission of written and oral comments and an opportunity for a public meeting at or near the facility at issue regarding the proposed plan and regarding any waivers under section 121 (relating to cleanup standards). The Administrator shall keep a transcript of the meeting and make such transcript available to the public.

The notice and analysis published under paragraph (1) shall include sufficient information as may be necessary to provide a reasonable explanation of the proposed plan.

"(b) FINAL PLAN.—Notice of the final remedial action plan adopted shall be published and the plan shall be made available to the public before commencement of any remedial action. Such final plan shall be accompanied by a discussion of any significant changes (and the reasons for such changes) in the proposed plan and a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under subsection (a).

"(c) EXPLANATION OF DIFFERENCES.—After adoption of a final remedial action plan—

"(1) if any remedial action is taken,

"(2) if any enforcement action under section 106 is taken, or

"(3) if any settlement or consent decree under section 106 is entered into,

and if such action, settlement, or decree differs in any significant respects from the final plan, the Administrator shall publish an explanation of the significant differences and the reasons such changes were made.

"(d) PUBLICATION.—For the purposes of this section, publication shall include, at a minimum, publication in a major local newspaper of general circulation. In addition, each item developed, received, published, or made available to the public under this section shall be available for public inspection and copying at or near the facility at issue.

"(e) GRANTS FOR TECHNICAL ASSISTANCE.—

"(1) AUTHORITY.—In accordance with rules promulgated by the administrator, the Administrator may make grants available to any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List under the National Contingency Plan. Such grants shall be for the purpose of enabling the group to obtain technical assistance to review and assess data and information which has been prepared by the Administrator with respect to such facility and which is required to be published under this subsection.

"(2) AMOUNT.—The amount of any grant under this subsection may not exceed $25,000 for a single grant recipient. The Administrator may waive the $25,000 limitation in any case where such waiver is necessary to carry out the purposes of this subsection. Each grant recipient shall be required, as a condition of the grant, to contribute at least 20 percent of the total of costs of the expert advice and technical assistance for which such grant is made. The Administrator may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility. Not more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action.".

SEC. 118. MISCELLANEOUS PROVISIONS

(a) GENERAL PROVISIONS RELATING TO RESPONSE UNDER TITLE I.—Title I of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 118. GENERAL PROVISIONS RELATING TO RESPONSE UNDER TITLE I.

"(a) SCOPE OF PROGRAM. The Administrator shall not respond under this Act to any of the following:

"(1) A release or threat of a release of a hazardous substance or pollutant or contaminant from residential dwellings or businesses or community structures where such dwellings or structures are not used for the deposition, storage, processing, treatment, transportation, or disposal of hazardous substances.

"(2) A release or threat of release of a hazardous substance or pollutant or contaminant into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(3) A release or threat of release resulting exclusively from the mining of coal for which a timely response action is available and authorized under the Surface Mine Control and Reclamation Act of 1977.

"(4) A release or threat of a release of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found.

Notwithstanding the preceding provisions of this subsection, the Administrator may respond under this Act to any release or threat of release of a hazardous substance or pollutant or contaminant (including radon) in any form if the Administrator determines, in his discretion, that the release or threat of release constitutes a major public health or environmental emergency. As used in this subsection the term 'respond under this Act' includes response action under section 104 and abatement action under section 106.

"(b) HIGH PRIORITY FOR WELLS AND CERTAIN AQUIFERS.—For purposes of taking action under section 104 or section 106 and listing facilities on the National Priorities List, the Administrator shall give high priority to facilities where the release of hazardous substances or pollutants or contaminants has resulted in the closing of drinking water wells or has contaminated a sole or principal drinking water source designated under sec-

tion 1424(e) of title XIV of the Public Health Service Act (the Safe Drinking Water Act).

"(c) RADON CONTAMINATED SOIL.—Any radon contaminated soil that is in a residential area and is the subject of a remedial action for which a remedial investigation and feasibility study has been initiated before the enactment of this subsection shall be disposed of at a facility licensed by the Nuclear Regulatory Commission, or by a State pursuant to an agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), for the land disposal of low-level radioactive waste. Any such remedial action which has been started, or for which a draft remedial investigation and feasibility study has been issued for public comment, before the date of the enactment of this subsection shall be completed as soon as is practicable after such date.".

(b) UNCONSOLIDATED QUARTERNARY AQUIFER.—Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quarternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This subsection may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this subsection shall be considered a violation of section 301 of such Act.

(c) STUDY OF SHORTAGES OF SKILLED PERSONNEL.—The Comptroller General shall study the problem of shortages of skilled personnel in the Environmental Protection Agency to carry out response actions under CERCLA. In particular the Comptroller General shall study—

(1) the types of skilled personnel needed for response actions for which there are shortages in the Environmental Protection Agency,

(2) the extent of such shortages,

(3) pay differential between the public and private sectors for the skilled positions involved in response actions,

(4) the extent to which skilled personnel of Federal and State governments involved in response actions are leaving their positions for employment in the private sector,

(5) the success of programs of the Department of Defense and the Office of Personnel Management in retaining skilled personnel, and

(6) the types of training required to improve the skills of employees carrying out response actions.

The Comptroller General shall complete the study required by this subsection and submit a report on the results thereof to Congress not later than 12 months after the date of the enactment of this Act.

(d) STATE REQUIREMENTS NOT APPLICABLE TO CERTAIN TRANSFERS.—No State or local requirement shall apply to the transfer and disposal of any hazardous substance or pollutant or contaminant from a facility at which a release or threatened release has occurred to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act is in effect if the following conditions apply—

(1) Such permit was issued after January 1, 1983 and before November 1, 1984.

(2) The transfer and disposal is carried out pursuant to a cooperative agreement between the Administrator and the State.

The terms used in this section shall have the same meaning as when used in CERCLA.

SEC. 119. RESPONSE ACTION CONTRACTORS.

Title I of CERCLA is amended by adding the following new section after section 118:

"SEC. 119. RESPONSE ACTION CONTRACTORS.

"(a) LIABILITY OF RESPONSE ACTION CONTRACTORS.—

"(1) RESPONSE ACTION CONTRACTORS.—Notwithstanding section 114, a person who is a response action contractor with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a vessel or facility shall not be liable under this title, under any other Federal law, under the law of any State or political subdivision, or under common law to any person for injuries, costs, damages, expenses, or other liability (including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness or loss of or damage to property or economic loss) which results from such release or threatened release.

"(2) NEGLIGENCE, ETC.—Paragraph (1) shall not apply in the case of a release that is caused by conduct of the response action contractor which is negligent, grossly negligent, or which constitutes intentional misconduct.

"(3) EFFECT ON WARRANTIES.—Nothing in this subsection shall affect the liability of any person under any warranty under Federal, State, or common law.

"(b) SAVINGS PROVISIONS.—

"(1) LIABILITY OF OTHER PERSONS.—Nothing in this section shall affect the liability under this Act or under any other Federal or State law of any person, other than a response action contractor.

"(2) BURDEN OF PLAINTIFF.—Nothing in this section shall affect the plaintiff's burden of establishing liability under this title.

"(c) IDEMNIFICATION.—

"(1) IN GENERAL.—The Administrator may agree to hold harmless and indemnify any response action contractor meeting the requirements of this subsection against any liability (including the expenses of litigation or settlement) for negligence arising out of the contractor's performance in carrying out response action activities under this title, unless such liability was caused by conduct of the contractor which was grossly negligent or which constituted intentional misconduct.

"(2) APPLICABILITY.—This subsection shall apply only with respect to a response action carried out under written agreement with—

"(A) the Administrator;

"(B) another Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this title; or

"(D) any potentially responsible party, as defined by section 122.

"(3) NONAPPLICABILITY.—This subsection shall not be subject to section 1301 or 1341 of title 31 of the United States Code or section 3732 of the Revised Statutes (41 U.S.C. 11).

"(4) REQUIREMENTS.—An indemnification agreement may be provided under this subsection only if the Administrator determines that each of the following requirements are met.

"(A) The liability covered by the indemnification agreement exceeds or is not covered by insurance available, at a fair and reasonable price, to the contractor at the time the contractor enters into the contract to provide response action, and adequate insurance to cover such liability is not generally available at the time the response action contract is entered into.

"(B) The response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover such liability.

"(C) In the case of a response action contract covering more than one facility, the response action contractor agrees to continue to make such diligent efforts each time the contractor begins work under the contract at a new facility.

"(5) LIMITATIONS.—

"(A) LIABILITY COVERED.—Indemnification under this subsection shall apply only to response action contractor liability which results from a release of any hazardous substance or pollutant or contaminant if such release arises out of response action activities.

"(B) DEDUCTIBLES AND LIMITS.—An indemnification agreement under this subsection shall include deductibles and shall place limits on the amount of indemnification to be made available.

"(C) CONTRACTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(i) DECISION TO INDEMNIFY.—In deciding whether to enter into an indemnification agreement with a response action contractor carrying out a written contract or agreement with any potentially responsible party, the Administrator shall determine an amount which the potentially responsible party is able to indemnify the contractor. The Administrator may enter into such an indemnification agreement only if the Administrator determines that such amount of indemnification is inadequate to cover any reasonable potential liability of the contractor arising out of the contractor's negligence in performing the contract or agreement with such party. The Administrator shall make the determinations in the preceding sentences (with respect to the amount and the adequacy of the amount) taking into account the total net assets and resources of potentially responsible parties with respect to the facility at the time of such determinations.

"(ii) CONDITIONS.—The Administrator may provide indemnification for the amount determined under clause (i) under an indemnification agreement referred to in clause (i) only if the contractor has exhausted all administrative, judicial, and common law claims for indemnification against all potentially responsible parties participating in the clean-up of the facility with respect to the liability of the contractor arising out of the contractor's negligence in performing the contract or agreement with such party. Such indemnification agreement shall require such contractor to pay any deduction established under subparagraph (B) before the contractor may recover any amount from the potentially responsible party or under the indemnification agreement.

"(D) RCRA FACILITIES.—No owner or operator of a facility regulated under the Solid Waste Disposal Act may be indemnified under this subsection with respect to such facility.

"(E) PERSONS RETAINED OR HIRED.—A person retained or hired by a person de-

scribed in subsection (f)(2)(A) shall be eligible for indemnification under this subsection only if the Administrator specifically approves of the retaining or hiring of such person.

"(6) REGULATIONS.—Within one year after the date of the enactment of this section, the Administrator shall promulgate regulations for carrying out the provisions of this subsection.

"(7) STUDY.—The Comptroller General shall conduct a study in the fiscal year ending September 30, 1989, on the application of this subsection, including whether indemnification agreements under this subsection are being used, the number of claims that have been filed under such agreements, and the need for this subsection. The Comptroller General shall report the findings of the study to Congress no later than September 30, 1989.

"(d) EXCEPTION TO EXEMPTION.—The exemption provided under subsection (a) and the authority of the Administrator to offer indemnification under subsection (c) shall not apply to any person covered by the provisions of paragraph (1), (2), (3), or (4) of section 107(a) with respect to the release or threatened release concerned if such person would be covered by such provisions even if such person had not carried out any actions referred to in subsection (e) of this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RESPONSE ACTION CONTRACT.—The term 'response action contract' means any written contract or agreement entered into by a response action contractor (as defined in paragraph (2)(A) of this subsection) with—

"(A) the Administrator;

"(B) any other Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this Act; or

"(D) any potentially responsible party; to provide any response action under this Act with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility or to provide any evaluation, planning, engineering, surveying and mapping, design, construction, equipment, or any ancillary services thereto for such facility.

"(2) RESPONSE ACTION CONTRACTOR.—The term 'response action contractor' means—

"(A) any—

"(i) person who enters into a response action contract with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility and is carrying out such contract; and

"(ii) person, public or nonprofit private entity, conducting a field demonstration pursuant to section 311(b); and

"(B) any person who is retained or hired by a person described in subparagraph (A) to provide any services relating to a response action.

"(3) INSURANCE.—The term 'insurance' means liability insurance which is fair and reasonably priced, as determined by the Administrator, and which is made available at the time the contractor enters into the response action contract to provide response action.

"(f) COMPETITION.—To protect the health and safety of the public and to assure the selection of technically superior response action contractors, no potential offeror of a bid or proposal for a contract, subcontract, or cooperative agreement to be performed and funded under the authority of this Act shall be denied the opportunity to compete for such contracts. Response action contractors and subcontractors for program management, construction management, architectural and engineering, surveying and mapping, and related services shall be selected in accordance with title IX of the Federal Property and Administrative Services Act of 1949. The Federal selection procedures or equivalent State requirements shall apply to appropriate contracts negotiated by all governmental agencies involved in carrying out this Act under memoranda of understanding, State cooperative agreements, or other means. Such procedures (or equivalent requirements) shall be followed by response action contractors and subcontractors.".

SEC. 120. FEDERAL FACILITIES.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 119:

"SEC. 120. FEDERAL FACILITIES.

"(a) APPLICATION OF ACT TO FEDERAL GOVERNMENT.—

"(1) IN GENERAL.—Each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) shall be subject to, and comply with, this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 107 of this Act. Nothing in this section shall be construed to affect the liability of any person or entity under sections 106 and 107.

"(2) APPLICATION OF GUIDELINES, ETC., TO FEDERAL FACILITIES.—All guidelines, rules, regulations, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priorities List, or applicable to remedial actions at such facilities shall also be applicable with respect to facilities which are owned or operated by a department, agency, or instrumentality of the United States in the same manner and to the same extent as such guidelines, rules, regulations, and criteria are applicable with respect to other facilities. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act.

"(3) EXCEPTIONS.—This subsection shall not apply to the extent otherwise provided in this section with respect to applicable time periods. This subsection shall also not apply to any requirements relating to financial responsibility. Nothing in this Act shall be construed to require a State to comply with section 104(c)(3) in the case of a facility which is owned or operated by any department, agency, or instrumentality of the United States.

"(4) STATE LAWS.—State laws concerning removal and remedial action, including State laws regarding enforcement, shall apply to removal and remedial action at facilities owned or operated by a department, agency, or instrumentality of the United States when such facilities are not included on the National Priorities List. The preceding sentence shall not apply to the extent a State law would apply any standard or requirement to such facilities which is more stringent than the standards and requirements applicable to facilities which are not owned or operated by any such department, agency, or instrumentality.

"(b) NOTICE.—Each department, agency, and instrumentality of the United States shall add to the inventory of Federal agency hazardous waste facilities required to be submitted under section 3016 of the Solid Waste Disposal Act (in addition to the information required under section 3016(a)(3) of such Act) information on contamination from each facility owned or operated by the department, agency, or instrumentality if such contamination affects contiguous or adjacent property owned by the department, agency, or instrumentality or by any other person, including a description of the monitoring data obtained.

"(c) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—

"(1) ESTABLISHMENT.—The Administrator shall establish a special Federal agency hazardous waste compliance docket for each department, agency, or instrumentality of the United States which shall contain each of the following:

"(A) The inventory required to be submitted by the department, agency, or instrumentality in accordance with section 3016 of the Solid Waste Disposal Act and subsection (b) of this section.

"(B) Information submitted by the department, agency, or instrumentality under section 3005 or 3010 of such Act.

"(C) Information submitted by the department, agency, or instrumentality under section 103 of this Act.

"(2) INSPECTION.—The docket established under this subsection shall be available for public inspection at reasonable times. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the docket under this subsection.

"(3) PERIODIC NOTICES.—Six months after establishment of the docket under this subsection and every six months thereafter, the Administrator shall publish in the Federal Register a list of the Federal facilities which have been included in the docket during the preceding six-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket.

"(d) EVALUATION.—

"(1) DEADLINE.—Not later than January 31, 1987, where the Administrator determines that such evaluation is warranted on the basis of a site inspection or preliminary assessment, the Administrator shall evaluate each facility included in the docket established under subsection (c) in accordance with the criteria established under the National Contingency Plan for determining priorities among releases for inclusion on the National Priorities List. Upon the receipt of a petition from the Governor of any State, the Administrator shall make such an evaluation of any facility included in the docket.

"(2) DEADLINE FOR INCLUSION.—Within 12 months after completion of the evaluation of a facility, the Administrator shall include the facility on the National Priorities List if the facility meets the criteria for inclusion on such list. Such criteria shall be applied in the same manner as the criteria are applied to facilities which are owned or operated by other persons.

"(e) REQUIRED ACTION BY DEPARTMENT.—

"(1) RIFS.—Not later than six months after the inclusion of any facility on the Na-

tional Priorities List, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator, commence a remedial investigation and feasibility study for such facility. In the case of any facility which is listed on such list before the date of the enactment of this section, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator, commence such an investigation and study for such facility within one year after such date of enactment.

"(2) COMMENCEMENT OF REMEDIAL ACTION; INTERAGENCY AGREEMENT.—The Administrator shall review the results of each investigation and study conducted as provided in paragraph (1). Within 180 days thereafter, the head of the department, agency, or instrumentality concerned shall enter into an interagency agreement with the Administrator for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. Substantial continuous physical onsite remedial action shall be commenced at each facility not later than 15 months after completion of the investigation and study. For purposes of completing the remedial action as promptly as practicable, each department, agency, or instrumentality shall request adequate funding in the President's annual budget submittal to the Congress. For purposes of public participation in accordance with section 117, the proposal of a plan for remedial action in an interagency agreement shall be treated as the proposal of a plan for remedial action and the adoption of such an agreement shall be treated as the adoption of a final plan.

"(3) CONTENTS OF AGREEMENT.—Each interagency agreement under this subsection shall include, but shall not be limited to, each of the following:

"(A) A review of alternative remedial actions and selection of a remedial action plan by the Administrator.

"(B) A schedule for the completion of each such remedial action.

"(C) Arrangements for long-term operation and maintenance of the facility.

"(4) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to, each of the following items:

"(A) A report on the progress in reaching interagency agreements under this section.

"(B) The specific cost estimates and budgetary proposals involved in each interagency agreement.

"(C) A report on progress in conducting investigations and studies under paragraph (1).

"(D) A report on progress in conducting remedial actions.

"(E) A report on progress in conducting remedial action at facilities which are not listed on the National Priorities List.

"(5) SETTLEMENTS WITH OTHER PARTIES.—If the Administrator, in consultation with the head of the relevant department, agency, or instrumentality of the United States, determines that remedial investigations and feasibility studies or remedial action will be done properly at the Federal facility by another potentially responsible party within the deadlines provided in paragraphs (1), (2), and (3) of this subsection, the Administrator may enter into an agreement with such party under section 122.

"(f) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by executive order of the President or otherwise, to any other officer or employee of the United States or to any other person.

"(g) PROPERTY TRANSFERRED BY FEDERAL AGENCIES.—

"(1) NOTICE.—After the last day of the six-month period beginning on the effective date of regulations under paragraph (2) of this subsection, wheever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any federally regulated hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency, or instrumentality shall include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

"(2) FORM OF NOTICE: REGULATIONS.—Notice under this subsection shall be provided in such form and manner as may be provided in regulations promulgated by the Administrator. As promptly as practicable after the date of the enactment of this subsection but not later than 18 months after such date of enactment, and after consultation with the Administrator of the General Services Administration, the Administrator shall promulgate regulations regarding the notice required to be provided under this subsection.

"(3) CONTENTS OF CERTAIN DEEDS.—After the last day of the six-month period beginning on the effective date of regulations under paragraph (2) of this subsection, in the case of any real property owned by the United States on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity shall contain—

"(A) to the extent such information is available on the basis of a complete search of agency files—

"(i) a notice of the type and quantity of such hazardous substances,

"(ii) notice of the time at which such storage, release, or disposal took place, and

"(iii) a description of the remedial action taken, if any, and

"(B) a covenant warranting that—

"(i) all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer, and

"(ii) any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

The requirements of subparagraph (B) shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party (as defined in section 122(j) with respect to such real property.

"(h) OBLIGATIONS UNDER SOLID WASTE ACT.—Nothing in this section shall affect or impair the obligation of any department, agency, or instrumentality of the United States to comply with any requirement of the Solid Waste Disposal Act (including corrective action requirements).

"(i) STATE COORDINATOR.—A State may request and be granted by the Administrator the role of on-scene coordinator for Federal facility projects within its boundaries. The necessary and reasonable expenses of the on-scene coordinator shall be paid to the State by the Agency.

"(j) NATIONAL SECURITY.—

"(1) SITE SPECIFIC PRESIDENTIAL ORDERS.—The President may issue such orders regarding response actions at any specified site or facility of the Department of Energy or the Department of Defense as may be necessary to protect the national security interests of the United States at that site or facility. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title or under title III of the Superfund Amendments of 1985 with respect to the site or facility concerned. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed 1 year. Additional exemptions may be granted each upon the President's issuance of a new order under this paragraph for the site or facility concerned. Each such additional exemption shall be for a specified period which may not exceed 1 year. It is the intention of the Congress that whenever an exemption is issued under this paragraph the response action shall proceed as expeditiously as practicable. The Congress shall be notified periodically of the progress of any response action with respect to which an exemption has been issued under this paragraph.

"(2) CLASSIFIED INFORMATION.—Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all Executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable to any grant of access to classified information under the provisions of this Act or under title III of the Superfund Amendments of 1985.".

(b) LIMITED GRANDFATHER.—Section 120(a) of CERCLA shall not apply to any response action or remedial action for which a plan is under development by the Department of Energy on the date of the enactment of this Act with respect to facillities—

(1) owned or operated by the United States and subject to the jurisdiction of such Department,

(2) located in St. Charles and St. Louis counties, Missouri, or the city of St. Louis, Missouri, and

(3) published in the National Priorities List.

In preparing such plans, the Secretary of Energy shall consult the Administrator of the Environmental Protection Agency.

SEC. 121. CLEANUP STANDARDS.

Title I of CERCLA is amended by adding the following new section after section 120:

"SEC. 121. CLEANUP STANDARDS.

"(a) BASIC REQUIREMENTS.—The Administrator shall select appropriate cost-effective remedial actions to be carried out under section 104 or secured under section 106. Such actions—

"(1) shall be in accordance with the National Contingency Plan,

"(2) shall be in accordance with the requirements of this section, and

"(3) shall require that level or standard of control of each hazardous substance or pollutant or contaminant at the facility which is necessary to protect human health and environment.

"(b) PERMANENT SOLUTIONS.—

"(1) GENERAL REQUIREMENT.—If a permanent solution meets the requirements of subsection (a) with respect to a facility and such solution is feasible and achievable, the Administrator shall, to the maximum extent practicable, select such solution as the remedial action for the facility.

"(2) DETERMINATION OF PRACTICABILITY.—For purposes of this section, the Administrator shall determine whether or not a remedial action is practicable by taking into consideration the following factors, among others: availability of technology, installation period, uncertainties related to level of performance of the solution or remedial action, level of public support for the solution or remedial action, and whether or not the solution or remedial action has been achieved in practice at any other facility or site which has characteristics similar to the facility or site concerned.

"(c) NONPERMANENT MEASURES.—If the Administrator determines that a permanent solution is not feasible and achievable with respect to any release or threatened release of a hazardous substance or pollutant or contaminant, the Administrator shall provide such remedial action as he deems necessary to protect human health and the environment in accordance with the provisions of this section.

"(d) TREATMENT OF SITES AND FACILITIES WITH NONPERMANENT SOLUTION.—

"(1) PERIODIC REVIEW.—The Administrator shall assure (in cooperation with the State) periodic monitoring and shall periodically review each facility for which the remedy selected under this section does not provide a permanent solution. The purpose of such monitoring and review shall be to determine each of the following:

"(A) Whether or not a permanent solution is available for such facility in accordance with subsections (a) and (b).

"(B) Whether or not the remedy selected is adequately protecting human health and the environment.

"(2) PERMANENT SOLUTION AVAILABLE.—If the Administrator determines that a permanent solution is available for the facility in according with subsections (a) and (b), the Administrator shall require that remedial action be undertaken to implement such solution unless the Administrator determines that the existing remedy being implemented at the facility is adequately protecting human health and the environment.

"(3) ADDITIONAL MEASURES.—If the Administrator determines that a permanent solution is not available for the facility in accordance with subsections (a) and (b) and that the remedy implemented at the facility is not adequately protecting human health and the environment, the Administrator shall take or require to be taken such additional remedial action as may be necessary to protect human health and the environment.

"(4) ABOVE-GROUND STRUCTURES.—If the Administrator determines that a permanent solution is not feasible and achievable, the Administrator shall consider remedial actions in which hazardous substances and pollutants and contaminants are securely contained in such above-ground engineered structures.

"(e) SELECTION OF REMEDIAL ACTION.—In evaluating alternative remedial actions (including whether to utilize onsite or offsite remedial actions), the Administrator shall specifically assess the long-term effectiveness of various alternatives, including an assessment of permanent solutions and alternative treatment technologies and resource recovery technologies that, in whole or in part, will result in a permanent and significant decrease in the toxicity, mobility, or volume of the hazardous substance, pollutant, or contaminant, taking into account each of the following:

"(1) The long-term uncertainties associated with land disposal.

"(2) The goals, objectives, and requirements of the Solid Waste Disposal Act.

"(3) The persistence, degradability in nature, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents.

"(4) The potential threat to human health and the environment associated with excavation, transportation, and redisposal.

"(5) Short- and long-term potential for adverse health effects from human exposure.

"(6) Long-term maintenance costs.

"(f) PREFERRED ACTIONS.—Remedial actions which significantly reduce the volume, toxicity, or mobility of the hazardous substance or pollutant or contaminant are to be preferred over medical actions which do not result in such reductions.

"(g) ONSITE REMEDIAL ACTION.—

"(1) APPLICABILITY.—This subsection shall apply only to hazardous substances and pollutants and contaminants which remain onsite.

"(2) APPLICATION OF OTHER FEDERAL ENVIRONMENTAL STANDARDS AND CRITERIA.—If any—

"(A) standard under one or more provisions of the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, the Federal Water Pollution Control Act, or the Solid Waste Disposal Act, or

"(B) water quality criteria under any provision of the Federal Water Pollution Control Act,

is legally applicable to the hazardous substance or pollutant or contaminant concerned or is relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant, the remedial action selected under section 104 or secured under section 106 shall require, at the completion of the remedial action, a level or standard of control for such hazardous substance or pollutant or contaminant which is at least equivalent to such legally applicable or relevant and appropriate standards or criteria. In determining whether or not any water quality criteria under the Federal Water Pollution Control Act is relevant and appropriate under the circumstances of the release or threatened release of a hazardous substance or pollutant or contaminant, the Administrator shall consider the following: the designated or potential use of the surface or groundwater, the environemntal media affected, the purposes for which such criteria were developed, and the latest information available. In determining a level or standard of control for a hazardous substance or pollutant or contaminant the Administrator shall consider any tolerance level established under the Federal Food, Drug, and Cosmetic Act which is applicable to that hazardous substance or pollutant or contaminant.

"(3) MORE STRINGENT STATE STANDARDS.—In case in which there is a promulgated standard under a State environmental law which is—

"(A) legally applicable to the hazardous substance or pollutant or contaminant concerned or relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant; and

"(B) more stringent than the standard which would otherwise be selected under this section,

and there is a cost-effective remedial action which will achieve such State standard and meets the requirements of this section, the provisions of subsection (j) shall govern the use of such State standard for purposes of remedial action selected under section 104 or secured under section 106.

"(4) CONTAINMENT.—Where the remedial action selected under section 104 or secured under section 106 at any facility does not include the removal of all hazardous substances and pollutants and contaminants from such facility, any remedial action providing for the containment of any such substance or pollutant or contaminant at such facility shall comply with the standards applicable to facilities required to obtain permits under section 3005 of the Solid Waste Disposal Act.

"(5) CONTAMINATION FROM OTHER SOURCES.—The level or standard of control required in accordance with this subsection shall be required only regarding remedial actions taken with respect to the release or threatened release of a hazardous substance or pollutant or contaminant from the facility concerned and shall not be applicable to contamination from other sources.

"(h) OFFSITE REMEDIAL ACTION.—

"(1) TRANSFER TO A COMPLYING FACILITY.—In the case of any removal or remedial action involving the transfer of any hazardous substance or pollutant or contaminant offsite, such hazardous substance or pollutant or contaminant shall only be transferred to a facility which is operating in compliance with sections 3004 and 3005 of the Solid Waste Disposal Act (or, where applicable, in compliance with the Toxic Substances Control Act). Such substance or pollutant or contaminant may be transferred to a land disposal facility only if the Administrator determines that both of the following requirements are met:

"(A) The unit to which the hazardous substance or pollutant or contaminant is transferred is not releasing any hazardous waste, or constituent thereof into the groundwater or surface water.

"(B) All such releases from other units at the facility are being controlled by a corrective action program approved by the Administrator under subtitle C of the Solid Waste Disposal Act.

"(2) DEFINITION OF LAND DISPOSAL.—As used in this subsection, (A) the term 'land disposal' has the meaning provided by section 3004 of the Solid Waste Disposal Act, and (B) the term 'hazardous waste' means hazardous waste listed or identified under section 3001 of that Act.

"(i) WAIVERS.—

"(1) IN GENERAL.—The Administrator may waive the application of the requirements of subsection (g) with respect to any facility and select alternative remedial or abatement action which does not comply with such requirements if the Administrator makes any of the following findings:

"(A) The Administrator finds that such alternative remedial or abatement action will provide protection of human health and the environment substantially equivalent to the remedial or abatement action which would

be necessary to comply with such requirements.

"(B) The Administrator finds that compliance with such requirements at that facility will result in greater risk to human health and the environment than alternative options. This finding shall be on the basis of a quantitative assessment to the maximum extent possible.

"(C) The Administrator finds that compliance with such requirements is technically impracticable from an engineering perspective.

"(D) The Administrator finds that compliance with such requirements at that facility will consume a disproportionate share of the Fund, taking into account the size and complexity of the facility and benefits to human health and the environment which may be obtained through other uses under this Act of the sums available in the Fund which would be expended to comply with such requirements.

"(E) The Administrator finds and certifies in writing that compliance with such requirements will require the expenditure of private party resources, which expenditure would substantially exceed the expenditures associated with the remedy which would have been selected by the Administrator if the remedy had been financed by the Fund and if the Administrator, without regard to amounts in the Fund, had invoked the waiver under paragraph (4). In applying this subparagraph, the Administrator shall consider the Fund as having a level of funding equivalent to that authorized.

"(2) PRIVATELY FINANCED ACTIONS.—A finding under subparagraph (A), (B), or (C) of paragraph (1) may also be made with respect to remedial action financed in whole or in part by private parties. In such case, the finding shall be made on the basis of the same considerations as would be used with respect to remedial action financed by the Fund.

"(3) RESTRICTIONS.—

"(A) PROHIBITION ON VIOLATION OF CERTAIN LAWS.—No waiver may be granted under this subsection if it would result in a violation of any of the following: the Federal Water Pollution Control Act, the Marine Protection, Research, and Sanctuaries Act of 1972, and the Safe Drinking Water Act.

"(B) SUBPARAGRAPH (e) WAIVERS.—The Administrator may not grant a waiver under subparagraph (E) of paragraph (1) unless—

"(i) the Administrator has first promulgated final regulations establishing procedures for implementing such subparagraph, including health and environmental impact procedures; and

"(ii) the Administrator explains why granting such waiver is in the public interest.

"(j) ONSITE CLEANUP; PERMITS; STATE STANDARDS.—

'(1) FEDERAL AND STATE PERMITS.—This paragraph applies to any remedial action selected by the Administrator under this Act which does not involve the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to an offsite facility. No Federal or State permits shall be required for such remedial actions other than permits under the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, and State groundwater laws, if any. For purposes of expediting such remedial actions, the Administrator may, in consultation with the States, establish consolidated procedures applicable to the issuance of Federal and State permits. No permits shall be required under Federal, State, or local law for any removal action under emergency circumstances under this Act.

"(2) LIMITATIONS REGARDING STATE PERMITS.—

"(A) STANDARDS IDENTIFIED IN NOTIFICATION.—Permits may be required only for those State standards which the State identifies in its notification to the Administrator during the remedial investigation and feasibility study.

"(B) DEADLINE FOR ISSUANCE OF STATE PERMITS.—If a State permit is not issued before completion of the final remedial engineering design, construction and implementation of the remedy shall proceed. The State shall have an additional 30 days to issue the permit. If the States does not issue the permit within such period, the requirement for its issuance shall be deemed to be waived.

"(C) RELATIONSHIP TO REMEDIAL ACTION PLAN.—The permit shall conform to and may not modify the terms of the remedial action plan, including estimated costs. All conflicts between the provisions of the Acts referred to in subparagraph (A) and this Act shall be resolved in favor of this Act. There shall be no separate State or Federal procedures under any other laws for obtaining or reviewing the permit. Only the procedures provided for under this Act shall apply for such purposes. Nothing in this subparagraph shall be deemed to affect any requirements under the Federal Water Pollution Control Act.

"(D) INJUCTIONS DURING REVIEW.—Remedial action which is unrelated to or not inconsistent with the State permit shall not be enjoined pending a proceeding to review the permit.

"(E) JURISDICTION TO REVIEW.—The appropriate Federal district court shall have exclusive jurisdiction to resolve all conflicts, disputes, and disagreements over the permit. The court shall not have jurisdiction to review the selection of the remedial action during an action to enforce or review the permit. Only the State attorney general or the Administrator shall have authority to enforce the permits.

"(3) REGULATIONS FOR STATE INVOLVEMENT.—The Administrator shall promulgate regulations providing for substantial and meaningful involvement by each State in initiation, development, and selection of remedial action to be undertaken in that State. The regulations, at a minimum, shall include each of the following:

"(A) State involvement in decisions whether to perform a preliminary assessment and site inspection.

"(B) Allocation of responsibility for hazard ranking system scoring.

"(C) State concurrence in deleting sites from the National Priorities List.

"(D) State participation in long-term planning process for all remedial sites within the State.

"(E) A reasonable opportunity for States to review and comment on each of the following:

"(i) The remedial investigation and feasibility study and all data and technical documents leading to its issuance.

"(ii) The planned remedial action identified in the remedial investigation and feasibility study.

"(iii) The engineering design following selection of the final remedial action.

"(iv) Other technical data and reports relating to implementation of the remedy.

"(v) Any decision by the Administrator to exercise the waiver authority of subsection (i).

"(F) Notice to the State of negotiations with potentially responsible parties regarding the scope of any response action at a facility in the State and an opportunity to participate in such negotiations. Such regulations shall also provide for the States to be given notice and an opportunity to comment on the Administrator's proposed plan for remedial action as well as on alternative plans under consideration. The Administrator's final decision regarding the selection of remedial action shall be accompanied by a response to the comments submitted by the State. Such response shall be provided to the State.

"(G) Prompt notice and explanation of each proposed action, including an explanation regarding any decision under paragraph (4) on compliance with promulgated State standards to the State in which the facility is located.

"(4) STATE SUBSTANTIVE STANDARDS.—The State standards referred to in subsection (g)(3) shall apply to remedial actions selected under section 104 or secured under section 106 unless the Administrator determines that one or more of the following circumstances exists:

"(A) The State has agreed with a decision by the Administrator not to apply the State standard.

"(B) The remedial action selected provides protection of public health and the environment that is substantially equivalent to that provided by the State standard.

"(C) The State has not consistently applied the standard (or planned to apply the standard) in similar circumstances at other remedial actions within the State.

"(D) The Administrator exercises one of the waivers under subsection (i) with respect to the State standard. No waiver under subsection (i)(1)(D) shall apply at any facility owned or operated by an agency or instrumentality of the United States. If the Administrator determines, under this paragraph not to apply a State standard, the application of the State standard shall be determined in accordance with paragraph (5), (6), or (7).

"(5) STATE CONCURRENCE PROCEDURE FOR FUND-FINANCED REMEDIAL ACTIONS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to remedial action undertaken pursuant to section 104.

"(B) OPPORTUNITY TO CONCUR.—Within 30 days of the publication of the Administrator's final remedial action plan, the State shall notify the Administrator that it concurs or does not concur with any decision of the Administrator under paragraph (4) not to comply with a promulgated State standard or siting requirement. If the State concurs in the decision, the remedial action selected by the Administrator shall proceed through completion. If the State fails to act within 30 days after the close of the comment period, such failure shall be deemed concurrence for purposes of this paragraph.

"(C) STATE PAYMENT.—If the State notifies the Administrator within 30 days of the close of the comment period that it does not concur with the decision under paragraph (4) not to comply with a promulgated State standard or siting requirement, and within 60 days after close of the comment period provides assurances deemed adequate by the Administrator that the State will pay or assure payment of the additional costs attributable to compliance with the State standard or requirement, as determined by

the Administrator, the remedial action shall comply with such State standard or requirement and shall proceed through completion. If the State fails to provide such assurances within 60 days, the remedial action selected by the Administrator shall proceed through completion.

"(D) ENFORCEMENT.—The State may enforce any Federal or State standard or requirement to which the remedial action is required to conform under this Act in the United States district court in which the facility concerned is located.

"(E) COST RECOVERY.—In any action under section 107 to recover from responsible parties any additional costs paid by the State to have a remedial action conform to a State standard, the State may recover such additional costs if it establishes, on the administrative record, that the Administrator's decision not to require the remedial action to conform to the State standard was not supported by substantial evidence.

"(6) STATE CONCURRENCE PROCEDURE FOR ACTIONS UNDER SECTION 106.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply to remedial actions secured under section 106.

"(B) OPPORTUNITY TO CONCUR OR REFUSE TO CONCUR.—Within 30 days of the lodging of the consent decree, the Administrator shall provide an opportunity for the State to concur or not to concur that the remedial action plan embodied in the consent decree properly takes State standards into account. If the State concurs, the State may become a signatory to the consent decree.

"(C) STATE NONCONCURRENCE.—If the State does not concur in the remedial action plan embodied in the consent decree on the basis that State standards have not been properly taken into account, and the State desires to have the remedial action conform to such standards, the State may intervene in the action under section 106, as a matter of right, prior to entry of the consent decree to seek to have the action conform to such State standards. The remedy shall conform to the State standard if the State establishes, on the administrative record, that the Administrator's decision not to have the remedial action conform to the State standard was not supported by substantial evidence. If the court determines that the remedy shall conform to a State standard, the consent decree shall be so modified and the State may become a signatory to the decree. If the court determines that the remedy need not conform to the State standard, and the State pays or assures payments of the additional costs attributable to meeting the State standard, the consent decree shall be modified to incorporate the State standard, and the State shall become a signatory to the decree.

"(D) AUTHORITY OF EPA.—The Administrator may conclude settlement negotiations and enter into consent decrees with potentially responsible parties without State concurrence.

"(E) CONDITIONS.—The Administrator and the State may request the court to include reasonable conditions in any consent decree under section 106 to assure that the remedial design and its implementation meet the conditions and requirements of the remedial action plan.

"(7) STATE CONCURRENCE PROCEDURE FOR REMEDIAL ACTIONS AT FEDERAL FACILITIES.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply to remedial action at facilities owned or operated by an agency or instrumentality of the United States.

"(B) OPPORTUNITY TO CONCUR OR NOT TO CONCUR.—The State may participate in the development and selection of the remedy and seek to have the remedial action conform to State standards. Within 30 days of the publication of the Administrator's final remedial action plan, the State may concur or not concur that the Administrator has taken proper account of State standards in the final remedial action. If the State concurs, or does not act within 30 days, the remedial action may proceed.

"(C) STATE NONCONCURRENCE.—If the State does not concur as provided in subparagraph (B), and desires to have the remedial action conform to the State standard, the State may maintain an action as provided in subparagraph (D).

"(D) REVIEW OF EPA DECISION.—

"(i) AUTHORITY TO BRING ACTION.—If the Administrator has notified the State of its decision not to require a remedial action which conforms to a State standard, the State may bring an action within 30 days of such notification for the sole purpose of determining whether the Administrator's decision not to adopt the State standard is supported by substantial evidence. Such action shall be brought in the United States district court in the district in which the facility is located.

"(ii) REJECTION OF EPA DECISION.—If the State establishes, on the administrative record, that the Administrator's decision not to adopt a State standard is not supported by substantial evidence, the remedial action shall be modified to conform to such standard.

"(iii) EPA DECISION UPHELD.—If the State fails to establish that the Administrator's decision was not supported by substantial evidence and if the State pays, within 60 days of judgment, the additional costs attributable to meeting the State standard, the remedial action shall be selected to meet the State standard. If the State fails to pay within 60 days, the remedial action that does not meet the State standard shall proceed through completion.

"(E) ENFORCEMENT.—The State may enforce any Federal or State standard or requirement to which the remedial action is required to conform under this Act in the United States district court in the district in which the facility is located.

"(F) INJUNCTIONS.—Nothing in this Act precludes, and the court shall not enjoin, the Federal agency from taking any remedial action unrelated to or not inconsistent with the State standard.

"(G) CONDITIONS.—During an action brought by the State regarding the Administrator's notification of the State requirement to pay the additional costs associated with meeting the State standard, the State may also request the court to establish reasonable conditions to assure that the remedial design and implementation meets the conditions and requirements of the remedial action plan.

"(8) CORRECTIVE ACTION AT FEDERAL FACILITIES.—The waiver under this subsection of any requirement for a permit shall not be construed to exempt any solid waste management unit within the boundaries of a facility owned or operated by a department, agency, or instrumentality of the United States from the corrective action required by section 3004(u) of the Solid Waste Disposal Act for releases of hazardous waste or constituents, unless such unit is within the scope of the response action taken at a site on the National Priorities List under this Act.

"(9) ATTORNEY AND WITNESS FEES.—Whenever a State recovers its additional costs under this subsection from any responsible person, such person shall be liable for the costs incurred by the State in such action, including reasonable attorney and witness fees. Whenever the court upholds a determination under paragraph (4), the State which brought the action under this subsection shall be liable for the costs incurred by the Administrator and the responsible person in such action, including reasonable attorney and witness fees.

"(10) SAVINGS PROVISIONS.—(A) Nothing in this section shall be deemed to affect the authority of any State to undertake a response action under this Act.

"(B) Nothing in this section shall affect the authority of any State to impose, after remedial action is completed, any requirement (including a fee) with respect to any operation and maintenance activities required with respect to a hazardous substance or pollutant or contaminant.

"(11) STATE ENVIRONMENTAL IMPACT REQUIREMENTS.—Prior to commencement of a remedial investigation and feasibility study, the Administrator shall notify the State of such action. If within 60 days thereafter, the State notifies the Administrator of any State procedural requirements which would be applicable under State statutes requiring preparation of environmental impact statements, the Administrator shall, in consultation with the State, establish functionally equivalent procedures governing the preparation of such investigation and study which adopt such State requirements unless the State waives such requirements. Compliance with this subsection shall be deemed to be compliance with such State environmental impact statutes.

"(12) OFFSITE.—Nothing in this subsection shall be construed to affect any requirement of Federal, State, or local law to the extent that such requirement applies to response action involving the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to another facility.

"(13) CONSOLIDATION OF PERMIT PROCEDURES.—If one or more State or Federal permits are required for any response action, the Administrator shall consolidate the procedures, including any requirements for public participation, of such permits with the procedures under this Act. Nothing in this paragraph shall affect the substantive requirements of such permits.

"(k) DESTRUCTION OF DIOXIN WASTES.—

"(1) TREATMENT TECHNOLOGY.—With respect to any remedial action involving a hazardous substance or pollutant or contaminant containing chlorinated or halogenated dioxins or chlorinated or halogenated dibenzofurans, the Administrator shall, to the maximum extent practicable, require treatment technology that provides each of the following:

"(A) A destruction and removal efficiency meeting or exceeding 99.9999 percent.

"(B) A treatment process which minimizes accidental emissions of chlorinated or halogenated dioxins, dibenzofurans, and other highly toxic materials to the environment.

"(C) Protection against emissions of any hazardous substance or pollutant or contaminant into the air during normal operation and equivalent protection during nonsteady operations including start-up, shutdown, and power failures.

"(D) Protection against secondary formation of halogenated dioxions and dibenzofurans.

"(2) REQUIREMENTS.—The requirements specified in paragraph (1) shall not apply if the Administrator determines that—

"(A) an alternative method of treatment or disposal provides comparable or greater protection of human health and the environment, or

"(B) there will be no human exposure to the hazardous substance or pollutant or contaminant containing chlorinated or halogenated dioxins or chlorinated or halogenated dibenzofurans.

"(1) VALUE ENGINEERING REVIEW.—In any evaluation under this section of the cost effectiveness of a response action, the Administrator shall require value engineering review in accordance with this subsection. The Administrator shall require value engineering review for any response action to be carried out under this Act by the United States, a State, or a political subdivision of a State if the cost of the response action, including the cost of removal and construction related to hazardous substances and pollutants and contaminants, and including the cost of operation and maintenance, is projected to exceed $4,000,000. For purposes of this subsection, the term 'value engineering review' means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.".

SEC. 122. SETTLEMENTS.

Title I of CERCLA is amended by adding the following new section after section 121:

"SEC. 122. SETTLEMENTS.

"(a) EPA AUTHORITY TO ENTER INTO AGREEMENTS.—The Administrator, in his discretion, may enter into an agreement with any person (including the owner or operator of the facility from which a release or substantial threat of release emanates, or any other potentially responsible person), to perform any action described in subsection (b) of section 104 or in subsection (a) of section 106 if the Administrator determines that such action will be done properly by such person. If the Administrator decides not to use the procedures in this section, the Administrator shall notify in writing potentially responsible parties at the facility of such decision and the reasons why use of the procedures is inappropriate. The decision of the Administrator not to use the procedures in this section is not subject to judicial review.

"(b) AGREEMENTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(1) MIXED FUNDING.—An agreement under this section may provide that the Administrator will reimbuse the parties to the agreement from the Fund, with interest, for certain costs of actions under the agreement that the parties have agreed to perform but which the Administrator has agreed to finance.

"(2) REVIEWABILITY.—The Administrator's decisions regarding the availability of fund financing under this subsection shall not be subject to judicial review under subsection (d).

"(3) RETENTION OF FUNDS.—If, as part of any agreement, the Administrator will be carrying out any action and the parties will be paying amounts to the Administrator, the Administrator may, notwithstanding any other provision of law, retain and use such amounts for purposes of carrying out the agreement.

"(c) EFFECT OF AGREEMENT.—

"(1) LIMITATION OF LIABILITY.—Whenever the Administrator has entered into an agreement under this section, the liability under this Act of each party to the agreement with respect to liability, including any future liability, arising from the release or threatened release that is the subject of the agreement shall be limited as provided in the agreement in accordance with subsection (f). Nothing in this paragraph shall limit or otherwise affect the authority of any court to review in the consent decree process under subsection (d) any limitation on liability contained in an agreement under this section. In determining the extent to which the liability of parties to an agreement shall be limited under this subsection, the Administrator shall be guided by the principle that a more complete limit of liability shall be given for a more permanent remedy proposed by such parties.

"(2) ACTIONS AGAINST OTHER PERSONS.—If an agreement has been entered into under this section, the Administrator may take any action under section 106 against any person who is not a party to the agreement, once the period for submitting a proposal under subsection (e)(2)(B) has expired. Nothing in this section shall be construed to affect either of the following:

"(A) the liability of any person under section 106 or 107 with respect to any costs or damages which are not included in the agreement.

"(B) The authority of the Administrator to maintain an action under section 106 or 107 against any person who is not a party to the agreement.

"(d) ENFORCEMENT.—

"(1) CLEANUP AGREEMENTS.—

"(A) CONSENT DECREE.—Whenever the Administrator enters into an agreement under this section with any potentially responsible party with respect to action under section 106, following approval of the agreement by the Attorney General, the agreement shall be entered in the appropriate United States district court as a consent decree under that section. The Administrator need not make any finding regarding an imminent and substantial endangerment to the public health or the environment.

"(B) EFFECT.—The entry of any consent decree under this subsection shall not be construed to be an acknowledgement by the parties that the release or threatened release concerned constitutes an imminent and substantial endangerment to the public health or welfare or the environment. The participation by any party in the process under this section shall not be considered an admission of liability for any purpose, and the fact of such participation shall not be admissible in any judicial or administrative proceeding, including a subsequent proceeding under this section.

"(C) STRUCTURE.—The Administrator may fashion a consent decree so that (i) the entering of such decree and compliance with such decree or with any determination or agreement made pursuant to this section shall not be considered an admission of liability for any purpose, and (ii) the entering of such decree and such compliance and such determination or agreement shall not be admissible in any judicial or administrative proceeding, including a subsequent proceeding under this section.

"(2) PUBLIC PARTICIPATION.—

"(A) FILING OF PROPOSED JUDGMENT.—At least 30 days before a final judgment is entered under paragraph (1), the proposed judgment shall be filed with the court.

"(B) OPPORTUNITY FOR COMMENT.—The Attorney General shall provide an opportunity to persons who are not named as parties to the action to comment on the proposed judgment before its entry by the court as a final judgment. The Attorney General shall consider, and file with the court, any written comments, views, or allegations relating to the proposed judgment. The Attorney General may (i) withdraw or withhold its consent to the proposed judgment if the comments, views, and allegations concerning the judgment disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper, or inadequate, or (ii) oppose an attempt by any person to intervene in the action.

"(3) 104(b) AGREEMENTS.—Whenever the Administrator enters into an agreement under this section with any potentially responsible party with respect to action under section 104(b), the Administrator shall issue an order setting forth the obligations of such party. The United States district court for the district in which the release or threatened release occurs may enforce such order. Any party to an agreement under this section who fails or refuses to comply with the requirements of the order shall be liable for a civil penalty in an amount not to exceed $25,000 for each day during which such failure or refusal continues.

"(e) SPECIAL NOTICE PROCEDURES.—

"(1) NOTICE.—Whenever the Administrator determines that a period of negotiation under this subsection would facilitate an agreement under this subsection with potentially responsible parties for taking action under subsection (b) of section 104, or action under section 106, the Administrator shall so notify all such parties and shall provide them with information concerning each of the following:

"(A) The identity of other notice recipients.

"(B) The volume and nature of hazardous substances at the facility, to the extent such information is available.

"(C) A ranking by volume of the substances at the facility, to the extent such information is available.

The Administrator shall make the information referred to in this paragraph available in advance of notice under this paragraph upon the request of a potentially responsible party in accordance with procedures provided by the Administrator. The provisions of subsection (e) of section 104 regarding protection of confidential information apply to information provided under this paragraph.

"(2) NEGOTIATION.—

"(A) MORATORIUM.—Except as provided in this subsection, the Administrator may not commence action under section 104(a) or take any action under section 106 for 120 days after providing notice and information under this subsection with respect to such action. Except as provided in this subsection, the Administrator may not commence action under section 104(b) for 90 days after providing notice and information under this subsection with respect to such action.

"(B) PROPOSALS.—Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section 106 shall have 60 days from the date of receipt of such notice to make a proposal to the Administrator for undertaking or financing the action under section 106. Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section 104(b) shall have 60 days from the date of receipt of such notice to make a proposal to the Ad-

ministrator for undertaking or financing the action under section 104(b).

"(C) ADDITIONAL PARTIES.—If an additional potentially responsible party is identified during the negotiation period or after an agreement has been entered into under this subsection concerning a release or threatened release, the Administrator may bring the additional party into the negotiation or enter into a separate agreement with such party.

"(3) FAILURE TO PROPOSE.—If the Administrator determines that a good faith proposal for undertaking or financing action under section 106 has not been submitted within 60 days of the provision of notice pursuant to this subsection, the Administrator may thereafter commence action under section 104(a) or take an action against any person under section 106 of this Act. If the Administrator determines that a good faith proposal for undertaking or financing action under section 104(b) has not been submitted within 60 days after the provision of notice pursuant to this subsection, the Administrator may thereafter commence action under section 104(b).

"(4) SIGNIFICANT PUBLIC HEALTH THREATS.—Nothing in this subsection shall limit the Administrator's authority to undertake response action regarding a significant threat to public health within the negotiation period established by this subsection.

"(f) COVENANT NOT TO SUE.—

"(1) IN GENERAL.—The Administrator may, in his discretion, provide any person with a covenant not to sue concerning any liability under this Act, including future liability, resulting from a release or threatened release of a hazardous substance addressed by a remedial action, whether that action is onsite or offsite, if each of the following conditions are met:

"(A) The covenant not to sue is in the public interest.

"(B) The covenant not to sue would expedite response action consistent with the National Contingency Plan under section 105 of this Act.

"(C) The person is in full compliance with a consent decree under section 106 (including a consent decree entered into in accordance with this section) for response to the release or threatened release concerned.

"(D) The response action has been approved by the Administrator.

"(2) REQUIREMENT THAT REMEDIAL ACTION BE COMPLETED.—A covenant not to sue concerning future liability shall not take effect until the Administrator certifies that remedial action has been completed in accordance with the requirements of this Act at the facility that is the subject of such covenant.

"(3) GROUNDWATER AND SURFACE WATER PROTECTION FUND.—

"(A) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the 'Groundwater and Surface Water Protection Fund', consisting of amounts required to be contributed under a covenant not to sue under this subsection.

"(B) USE OF FUND.—Amounts of contributions made to the Groundwater and Surface Water Protection Fund with respect to a facility shall be available for a period of ten years only for remedial actions required at such facility after the Administrator makes the certification with respect to such facility under paragraph (2). After the end of such period, such amounts shall be available for remedial actions at any facility for which a certification has been made under paragraph (2) and with respect to which contributions are made under this subsection.

"(4) FACTORS.—In assessing the appropriateness of a covenant not to sue and any condition to be included in a covenant not to sue (including the amount of contributions required to be paid to the Groundwater and Surface Water Protection Fund), the Administrator shall consieer whether the covenant or condition is in the public interest on the basis of such factors as the following:

"(A) The effectiveness and reliability of the remedy, inlight of the other alternative remedies considered for the facility concerned.

"(B) The nature of the risks remaining at the facility.

"(C) The extent to which performance standards are included in the order or decree.

"(D) The extent to which the response action provides a complete remedy for the facility, including a reduction in the hazardous nature of the substances at the facility.

"(E) The extent to which the technology used in the response action is demonstrated to be effective.

"(F) Whether the Fund or other sources of funding would be available for any additional remedial actions that might eventually be necessary at the facility.

"(G) Whether a waiver has been granted under section 121(i)(1)(E).

"(5) SATISFACTORY PERFORMANCE.—Any limitation of liability provided to a party under this subsection shall be subject to the satisfactory performance by such party of its obligations under the agreement concerned.

"(6) ADDITIONAL CONDITIONS FOR FUTURE LIABILITY.—A convenant not to sue a person concerning future liability shall include one of the following:

"(A) An exception to the convenant that allows the Administrator to sue such person concerning future liability resulting from the release or threatened release that is the subject of the convenant where such liability arises out of conditions which are unknown at the time the Administrator certifies under paragraph (2) that remedial action has been completed at the facility concerned.

"(B) A requirement that such person make contributions to the Groundwater and Surface Water Protection Fund sufficient to provide resources likely to be adequate to clean up any groundwater or surface water contamination resulting from conditions which were unknown or reasonably could not have been known at the time the Administrator certifies under paragraph (92) that remedial action has been completed at the facility concerned. The Administrator shall determine whether resources are adequate to clean up such contamination on the basis of—

"(i) the likelihood of groundwater or surface water contamination resulting from conditions which are unknown at the time the remedial action is completed, and

"(ii) the probable cost of cleanup in the event of groundwater or surface water contamination.

"(g) DE MINIMIS SETTLEMENTS.—

"(1) EXPEDITED FINAL SETTLEMENT.—Whenever practicable and in the public interest, as determined by the Administrator, the Administrator shall as promptly as possible reach a final settlement with a potentially responsible party in an administrative or civil action under section 106 or 107 if such settlement involves only a minor portion of the response costs at the facility concerned and, in the judgment of the Administrator, the conditions in either of the following subparagraph (A) or (B) are met:

"(A) Both of the following are minimal in comparison to other hazardous substances at the facility:

"(i) The amount of the hazardous substances contributed by that party to the facility.

"(ii) The toxic or other hazardous effects of the substances contributed by that party to the facility.

"(B) The potentially responsible party—

"(i) is the owner of the real property on or in which the facility is located;

"(ii) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility; and

"(iii) did not contribute to the release or threat of release of a hazardous substance at the facility through any action or omission.

This subparagraph does not apply if the potentially responsible party purchased the real property with actual or constructive knowledge that the property was used for the generation, transportation, storage, or disposal of any hazardous substance.

"(2) RELEASE FROM LIABILITY.—The Administrator may provide a covenant not to sue with respect to the facility concerned, or grant a release from liability with respect to the facility concerned, to any party who has entered into a settlement under this subsection unless such a covenant or release would be inconsistent with the public interest as determined under subsection (f).

"(3) EXPEDITED RELEASES.—The Administrator shall reach any such settlement, grant any such convenant not to sue, or grant any such release from liability as soon as possible after the Administrator has available the information necessary to reach such a settlement, grant such a covenant, or grant such a release from liability.

"(4) CONSENT DECREE OR ADMINISTRATIVE ORDER.—A settlement under this subsection shall be entered as a consent decree or embodied in an administrative order setting forth the terms of the settlement. The district court for the district in which the release or threatened release occurs may enforce such order.

"(5) EFFECT OF RELEASE.—A party who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement that was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(6) SETTLEMENTS WITH OTHER POTENTIALLY RESPONSIBLE PARTIES.—Nothing in this subsection shall be construed to affect the authority of the Administrator to reach settlements with other potentially responsible parties under this Act.

"(h) EPA COST RECOVERY SETTLEMENT AUTHORITY.—

"(1) AUTHORITY TO SETTLE.—The head of any department or agency with authority to undertake a response action under this Act pursuant to the national contingency plan may consider, compromise, and settle a claim under section 107 for costs incurred by the United States Government if the

claim has not been referred to the Department of Justice for further action. Any claim for costs and damages which in the aggregate is in excess of $500,000 (excluding interest) may be compromised only with the prior written approval of the Attorney General or his designee.

"(2) FINALITY OF SETTLEMENT.—A settlement under this subsection shall be final and conclusive as to the matters addressed in the settlement, unless the settlement was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact. No court shall have jurisdiction to review the settlement unless there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, other misconduct, or mutual mistake of fact.

"(3) USE OF ARBITRATION.—Arbitration in accordance with regulations promulgated under this subsection may be used as a method of settling claims of the United States Government under this section. After consultation with the Attorney General, the department or agency head may establish and publish regulations for the use of arbitration or settlement under this subsection. An arbitration under this subsection shall be final and conclusive to the extent provided in paragraph (2).

"(4) RECOVERY OF CLAIMS.—If any person fails to pay a claim that has been settled under this subsection, the department or agency head shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount of such claim, plus costs, attorneys' fees, and interest from the date of the settlement. In such an action, the terms of the settlement shall not be subject to review.

"(5) CLAIMS FOR CONTRIBUTION.—A person who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement which was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(i) SETTLEMENT PROCEDURES.—

"(1) PUBLICATION IN FEDERAL REGISTER.—At least 30 days before any settlement (including any settlement arrived at through arbitration) may become final under subsection (h), or under subsection (g) in the case of a settlement embodied in an administrative order, the head of the department or agency which has jurisdiction over the proposed settlement shall publish in the Federal Register notice of the proposed settlement. The notice shall identify the facility concerned and the parties to the proposed settlement.

"(2) COMMENT PERIOD.—For a 30-day period beginning on the date of publication of notice of a proposed settlement under paragraph (1), the head of the department or agency which has jurisdiction over the proposed settlement shall provide an opportunity for persons who are not parties to the proposed settlement to file written comments relating to the proposed settlement.

"(3) CONSIDERATION OF COMMENTS.—The head of the department or agency shall consider any comments filed under paragraph (2) in determining whether or not to consent to the proposed settlement and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

"(j) NATURAL RESOURCES.—

"(1) NOTIFICATION OF TRUSTEE.—Where a release or threatened release of any hazardous substance that is the subject of negotiations under this section may have resulted in damages to natural resources under the trusteeship of the United States, the Administrator shall notify the Federal natural resource trustee of the negotiations and shall encourage the participation of such trustee in the negotiations.

"(2) COVENANT NOT TO SUE.—An agreement under this section may contain a covenant not to sue under section 107(a)(4)(C) for damages to natural resources under the trusteeship of the United States resulting from the release or threatened release of hazardous substances that is the subject of the agreement, but only if the Federal natural resource trustee has agreed in writing to such covenant. The Federal natural resource trustee may agree to such covenant if the potentially responsible party agrees to undertake appropriate actions necessary to protect and restore the natural resources damages by such release or threatened release of hazardous substances.

"(k) DEFINITION OF POTENTIALLY RESPONSIBLE PARTY.—As used in this section and section 119, the term 'potentially responsible party' means, with respect to any release or threatened release, a person against whom an action could be brought under section 106 with respect to such release or a person who would be liable under section 107 if response costs were incurred by the Administrator with respect to such release or threatened release.

"(l) SECTION NOT APPLICABLE TO VESSELS.—The provisions of this section shall not apply to a release from a vessel.".

SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

(a) Title I of CERCLA is amended by adding the following after section 122:

"SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

"(a) APPLICATION.—Any general purpose unit of local government for a political subdivision which is affected by a release or threatened release at any facility may apply to the Administrator for reimbursement under this section.

"(b) REIMBURSEMENT.—

"(1) TEMPORARY EMERGENCY MEASURES.—The Administrator is authorized to reimburse local community authorities for expenses incurred in carrying out temporary emergency measures necessary to prevent or mitigate injury to human health or the environment associated with the release or threatened release of any hazardous substance or pollutant or contaminant. Such measures may include, where appropriate, security fencing to limit access, response to fires and explosions, and other measures which require immediate response at the local level.

"(2) PROTECTION OF PUBLIC DRINKING WATER.—The Administrator is authorized to reimburse local communities for expenses incurred in carrying out emergency measures for the protection of public drinking water supplies as a result of contamination by the release of any hazardous substance or pollutant or contaminant into existing sources of public drinking water. Such measures may include, where appropriate, treatment to remove contaminants and other measures which require immediate response at the local level.

"(c) AMOUNT.—The amount of any reimbursement to any local authority under subsection (b)(1) may not exceed $25,000 for a single response. The reimbursement under this section with respect to a single facility shall be limited to the units of local government having jurisdiction over the political subdivision in which the facility is located.

"(d) PROCEDURE.—Reimbursements authorized pursuant to this section shall be in accordance with rules promulgated by the Administrator within one year after the date of the enactment of this section.".

SEC. 124. LANDFILL GAS OPERATORS.

Title I of CERCLA is amended by adding the following after section 123:

"SEC. 134. LANDFILL GAS OPERATORS.

"(a) EXEMPTION FROM CERTAIN LIABILITY.—

"(1) GENERAL RULE.—Notwithstanding the provisions of section 114, a landfill gas operator shall not be liable for the following in an action under section 106 or 107 of this Act (including an action for contribution or indemnification);

"(A) Any amount with respect to a release or threatened release from a landfill gas operation.

"(B) Any amount resulting from the operation of a landfill gas operation.

"(C) Costs of cleanup, removal, response and remedial actions, and claims for natural resources damages.

The exemption from liability under this paragraph also applies in any action with respect to a release or threatened release of a hazardous substance from a landfill gas operation for recovery of any amount referred to in subparagraph (A), (B), or (C) under the laws of any State or political subdivision of a State.

"(2) NEGLIGENCE, ETC.—Paragraphs (1) and (2) shall not apply in the case of a release that is caused by conduct of the landfill gas operator which is negligent or grossly negligent or which constitutes intentional misconduct.

"(b) SAVINGS PROVISIONS.—

"(1) LIABILITY OF OTHER PERSONS.—Nothing in this section shall affect the liability under this Act or under any other authority of Federal or State law of any person, other than a landfill gas operator.

"(2) BURDEN OF PLAINTIFF.—Nothing in this section shall affect the plaintiff's burden of establishing liability under this title.

"(c) CONDENSATE.—

"(1) EXCLUSION.—Except as provided in paragraph (2), a landfill gas operation shall not be deemed to be management, generation, transportation, treatment, storage, or disposal of any hazardous or liquid waste within the meaning of subtitle C of the Solid Waste Disposal Act.

"(2) REGULATION.—If the aqueous or hydrocarbon phase of the condensate or any other waste material removed from gas recovered from a landfill meets any of the characteristics identified under section 3001 of the Solid Waste Disposal Act, such condensate phase or other waste material shall be deemed a hazardous waste under subtitle C of the Solid Waste Disposal Act and shall be regulated accordingly under such subtitle.

"(3) RETURN OF CONDENSATE.—Condensate removed from gas recovered by a landfill gas operator shall not be returned to the landfill in a container, unless such condensate is treated so that it is no longer a free liquid.

"(d) DEFINITIONS.—As used in this section—

"(1) LANDFILL GAS OPERATION.—The term 'landfill gas operation' means the installation or operation of a system for the recovery or processing of methane from a landfill.

"(2) LANDFILL GAS OPERATOR.—The term 'landfill gas operator' means the owner or operator of a landfill gas operation.".

SEC. 125. SECTION 3001(b)(3)(A)(i) WASTE.

Title I of CERCLA is amended by adding after section 124 the following new section:

"SEC. 125. SECTION 3001(b)(3)(A)(i) WASTE.

"(a) REVISION OF HAZARD RANKING SYSTEM.—This section shall apply only to facilities which are not included or proposed for inclusion on the National Priorities List and which contain substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act. As expeditiously as practicable, the Administrator shall revise the hazard ranking system in effect under the National Contingency Plan with respect to such facilities in a manner which assures appropriate consideration of each of the following site-specific characteristics of such facilities:

"(1) The quantity, toxicity, and concentrations of hazardous constituents which are present in such waste and a comparison thereof with other wastes.

"(2) The extent of, and potential for, release of such hazardous constituents into the environment.

"(3) The degree of risk to human health and the environment posed by such constituents.

"(b) INCLUSION PROHIBITED.—Until the hazard ranking system is revised as required by this section, the Administrator may not include on the National Priorities List any facility which contains substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act on the basis of an evaluation made principally on the volume of such waste and not on the concentrations of the hazardous constituents of such waste. Nothing in this section shall be construed to affect the Administrator's authority to include any such facility on the National Priorities List based on the presence of other substances at such facility or to exercise any other authority of this Act with respect to such other substances.".

SEC. 126. WORKER PROTECTION STANDARDS.

Title I of the CERCLA is amended by adding the following new section after section 125.

"SEC. 126. WORKER PROTECTION STANDARDS.

"(a) ISSUANCE.—The Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, issue, within one year after the date of the enactment of this section, standards for the health and safety protection of employees, including employees of State and local governments, engaged in hazardous waste operations.

"(b) MINIMUM GENERAL REQUIREMENTS.—Such standards shall include, but not be limited to, the following worker protection provisions:

"(1) SITE ANALYSIS.—Requirements for a formal hazard analysis of the site and development of a site specific plan for worker protection.

"(2) TRAINING.—Requirements for contractors to provide initial and routine training of workers before such workers are permitted to engage in hazardous waste operations which would expose them to toxic substances.

"(3) MEDICAL SURVEILLANCE.—A program of regular medical examination, monitoring, and surveillance of workers engaged in hazardous waste operations which would expose them to toxic substances.

"(4) PROTECTIVE EQUIPMENT.—Requirements for appropriate personal protective equipment, clothing, and respirators for work in hazardous waste operations.

"(5) ENGINEERING CONTROLS.—Requirements for engineering controls concerning the use of equipment and exposure of workers engaged in hazardous waste operations.

"(6) MAXIMUM EXPOSURE LIMITS.—Requirements for maximum exposure limitations for workers engaged in hazardous waste operations, including necessary monitoring and assessment procedures.

"(7) INFORMATIONAL PROGRAM.—A program to inform workers engaged in hazardous waste operations of the nature and degree of toxic exposure likely as a result of such hazardous waste operations.

"(8) HANDLING.—Requirements for the handling, transporting, labeling, and disposing of hazardous wastes.

"(9) NEW TECHNOLOGY PROGRAM.—A program for the introduction of new equipment or technologies that will maintain worker protections.

"(10) DECONTAMINATION PROCEDURES.—Procedures for decontamination.

"(11) EMERGENCY RESPONSE.—Requirements for emergency response and protection of workers engaged in hazardous waste operations.

"(c) SPECIFIC TRAINING STANDARDS.—

"(1) OFFSITE TRAINING; FIELD EXPERIENCE.—The training standards issued under subsection (b)(2) shall require that general site workers such as equipment operators, general laborers, and other supervised personnel receive a minimum of 40 hours of initial instruction off the site, and a minimun of three days of actual field experience under the direct supervision of a trained, experienced supervisor, at the time of assignment. Workers who may be exposed to unique or special hazards shall be provided additional training.

"(2) TRAINING OF SUPERVISORS.—Such training standards shall require that onsite management and supervisors directly responsible for the hazardous waste operations, such as foremen, receive the same training as general site workers set forth in paragraph (1) of this subsection and at least eight additional hours of specialized training on managing hazardous waste operations.

"(3) CERTIFICATION; ENFORCEMENT.—Such training standards shall contain provisions for certifying that general site workers and supervisors have received the specified training and shall prohibit any individual who has not received the specified training from engaging in hazardous waste operations covered by the standard.

"(4) TRAINING OF EMERGENCY RESPONSE PERSONNEL.—Such training standards shall set forth requirements for the training of workers who are responsible for responding to hazardous emergency situations who may be exposed to toxic substances in carrying out their responsibilities.

"(d) DEADLINE FOR INTERIM REGULATIONS.—The Secretary of Labor shall issue interim final rules under this section within 60 days after the date of the enactment of this section which shall provide no less protection under this section for workers employed by contractors and emergency response workers than the protections contained in the Environmental Protection Agency Manual (1981) 'Health and Safety Requirements for Employees Engaged in Field Activities' and existing standards under the Occupational Safety and Health Act of 1970 found in subpart C of part 1926 of title 29 of the Code of Federal Regulations.

"(e) GRANT PROGRAM.—

"(1) GRANT PURPOSES.—Grants for the training and education of workers who are or may be engaged in activities related to hazardous waste removal or containment or emergency response may be made under this subsection.

"(2) ADMINISTRATION.—Grants under this subsection shall be administered by the National Institute of Occupational Safety and Health.

"(3) GRANT RECIPIENTS.—Grants shall be awarded to nonprofit organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be engaged in hazardous waste removal or containment or emergency response operations.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the general fund of the Treasury for grants under this subsection $10,000,000 per fiscal year for each of the fiscal years 1986, 1987, 1988, 1989, and 1990.".

SEC. 127 LIABILITY LIMITS FOR OCEAN INCINERATION VESSELS.

(a) DEFINITION.—Section 101 of CERCLA is amended by adding at the end the following new paragraph:

"(33) 'incineration vessel' means any vessel which carries hazardous substances for the purpose of incineration of such substances, during any period when such substances or residues of such substances are on board the vessel.".

(b) LIABILITY.—Section 107 of CERCLA is amended—

(1) in subsection (a)(3) by inserting "or incineration vessel" after "facility";

(2) in subsection (a)(4) by inserting ", incineration vessels" after "facilities";

(3) in subparagraph (A) of subsection (c)(1) by inserting ", other than an incineration vessel," after "vessel";

(4) in subparagraph (B) of subsection (c)(1) by inserting "other than an incineration vessel," after "other vessel,"; and

(5) in subparagraph (D) of subsection (c)(1) by inserting "any incineration vessel or for" before "any facility".

(c) FINANCIAL RESPONSIBILITY.—Section 108(a) of CERCLA is amended—

(1) in paragraph (1) by inserting "to cover the liability prescribed under paragraph (1) of section 107(a) of this Act" after "whichever is greater)";.

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out "paragraphs (1) of" in paragraphs (3) and (4), as so redesignated; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In addition to the financial responsibility required by paragraph (1) of this subsection, the Administrator may require additional evidence of financial responsibility for incineration vessels in such amounts as the Administrator deems appropriate, taking into account the potential risks posed by incineration and transport for incineration, and by any other factors deemed relevant.".

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 49, line 23, strike out "AMENDMENT" and insert in lieu thereof "AMENDMENTS".

Page 49, line 23, insert "(1)" after "SECTION" 111(e).—".

Page 49, after line 25, insert the following:

(2) Section 111(e)(3) of CERCLA is amended by inserting before the period at the end thereof the following: "; except that if any groundwater which is used as a water supply source by any municipality or the residents of any municipality is contaminated as a result of a release of a hazardous substance from a federally owned facility and if the United States is not the only potentially responsible party with respect to such release, money in the Fund shall be available for reimbursement of any costs incurred after December 11, 1980, by such municipality for provision or acquisition of alternative water supplies".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, I rise to offer an amendment to the Superfund bill.

Briefly stated, this amendment, which I have discussed with the minority and the majority, authorizes the expenditures from the hazardous substance response fund to reimburse municipalities for their costs in providing or acquiring alternative water supplies in cases involving ground water contamination where an agency of the Federal Government is one of the responsible parties.

The problem with the current law is that it of course forbids that type of expenditure unless it is made by the Federal Government or made by a State agency.

In other words, they are forbidden to reimburse a municipality. I have a list I have shared with the minority and the majority. This is a National Priority List, on which there are at least 32 sites, that are impacted. These are Department of Defense sites that are on that list.

As a consequence, these municipalities potentially—and especially one in my district—fall between cracks of the Superfund law because while the DOE may be partially responsible, they do not and cannot receive access to the Superfund Program, for instance, to remediate and supply water to the municipality. If the municipality spends the money, they cannot receive the type of remediation or compensation, so as a consequence small municipalities that are trying to meet the health and safety needs of their communities really are left falling between the cracks of what is intended by the Superfund law simply because DOD is not solely responsible and because under the law and DOD cannot or will not reimburse where there is potentially a Federal responsibility or another agency that has some responsibility. This has resulted in a $4 million cost for one municipality in my community.

Under the law, of course, the act provides the fund may be used to pay for the cost of the Federal or State reimbursement. While section 213, as amended by the committee of jurisdiction, goes far in addressing the problems of federally owned hazardous waste sites—and the gentleman from California [Mr. FAZIO] commented on that particular provision which I cosponsored with him—no section of the legislation under consideration directly addressed the issue of reimbursing municipalities for the costs incurred in providing past alternative water supplies in the case where the Federal Government agencies is one of the responsible parties.

Under section 120(a)(1), the EPA has the right to be reimbursed from the responsible Federal agency for funds they expend. So, in other words, this money would not be a drain on the Superfund. In fact, it would be reimbursed or subrogate the National Government agency that is responsible.

My amendment simply seeks to enhance the fine work done by my colleagues, the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. ROE], and the gentleman from New Jersey [Mr. HOWARD], and their minority counterparts, the gentleman from North Carolina [Mr. BROYHILL], the gentleman from Kentucky [Mr. SNYDER], and others.

I would also like to point out that a similar amendment has been adopted in the Superfund legislation passed in the other body. I believe it is essential that we do act on this particular provision. I just think it is a situation where municipalities are falling between the cracks when they are left with these types of costs, which I do not think is intended but which is the result of the law the way it functions today.

Mr. Chairman, I know that concerns have been expressed with regard to the overall cost of this, and I hope we can get some dialog going with regard to this issue.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, I have a series of questions, not intending in any way to embarrass or denigrate the amendment.

Does the gentleman have any idea how much financial exposure there would be, where the money would come from, and how many sites might be involved?

Mr. VENTO. Well, as I said to the gentleman, I have shared with him the National Priority List. Those sites that are on the National Priority List have been placed there by the EPA. There are some 32 sites on the list that I gave to the gentleman.

That is not an all-inclusive list. There are others that would obviously be eligible. As an example, my municipality is not on that particular list. So it is a broad-based problem.

Of course, the end result is that as long as there is someone responsible for damage to the water supply, the fund would be subrogated to receive the payment benefit. In this case the municipality that I talked about spent $4 million. They have expended that much so far to drill wells for the water supply.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. In certain instances these costs may be offset against appropriated items of the individual Government agency, the Federal facility in question. Would there be a subrogation right of the fund to collect to offset that, or would it just be limited to the direct appropriation moneys taken from that particular Government agency?

Mr. VENTO. I do not know. I guess you would have to interpret the section you added to the bill in order to fully explain that. My understanding is that it would be subrogated to the agency.

In other words, in that application, section 120 of this particular bill speaks to this particular point. It says; "Each department, agency, and instrumentality of the United States Government * * * shall be subject to, and comply with, this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity * * *."

So I think what this says is that they themselves would remain liable. The problem here is, of course, and rightfully so, that these entities of the National Government do not admit their liability, so as a consequence they will not assume particular responsibility at this time. Very frequently we have a mixture of other private entities, of course, which would normally fall under the Superfund law and be covered by it, that may indeed share some of the responsibility.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(On request of Mr. ECKART of Ohio, and by unanimous consent, Mr. VENTO was allowed to proceed for 3 additional minutes.)

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. Mr. Chairman, do I understand that the gentleman contemplates that this amendment would in fact make money available for the construction of water mains, pump stations, and water delivery systems in individual communities, including buildings, trucks, maintenance, et cetera?

Mr. VENTO. It is possible that this would be necessary, but the only money that would be spent under this amendment would have to be authorized by the EPA to remediate the water supply for human consumption for safety and health purposes. The point is that it would not speak, for instance, to a complete remediation of an aquifer, and, in other words, the EPA would have to do whatever is reasonable and necessary to meet that requirement.

□ 1745

Today the example is in some instances, for instance, where a Federal facility, if it is a DOD facility, the only thing it will do is provide bottled water. In some cases they have gone further than that; but the problem with some of these facility pollution problems is that while they are fully capable and they are only willing to remediate the problem onsite on the Federal land not dealing with the plume of pollution that might be present in the aquifer and cause the expense to the municipality. This is where we have the problem; but indeed, we are not talking about remediation of the entire situation. We are only talking about meeting the water need, health and safety need, which is the goal of municipalities that have been subjected to this particular problem; so it is a somewhat narrow amendment that I've presented in that particular sense, but I think it deals with what is a critical problem that should be addressed.

Mr. ECKART of Ohio. Does the gentleman have any idea what the number of sites may be and what the potential dollar exposure of the fund would be if his amendment were adopted?

Mr. VENTO. Well, I think we have 33 sites. The site in my area is $4 million. If you multiply that out, assume every site had the same type of problem that we have, it would be something in excess of $100 million. That would be the exposure to the fund potentially, but not each one would necessarily have the same water problems, the same type of remediation. Some Federal departments, the Department of Defense or other Federal entities might be meeting some communities need.

In other words, we found instances where they went off the public reservation, but that is not very common.

I think, though, that this exposure is one that is the expressed intention of this legislation to attempt to cover.

We hold Superfund out as covering this particular exposure. The fact of the matter is, of course, that it does not. We have, as I said, these municipalities falling between the cracks.

Mr. ECKART of Ohio. The last question I have, if the gentleman will yield, given the provisions of ground water protection earlier in the bill, can the gentleman envision that included in the construction of these water systems would be additional funds for the operation and maintenance of them as well?

Mr. VENTO. Well, I cannot anticipate that would be a cost that would be dealt to the fund. I think that would be a normal operation maintenance cost and we could not assume that the fund normally would be responsible for that. We are just talking about the remediation and the extra and the unusual costs that would be attributed to the pollution, not to the maintenance of such facilities.

Mr. ECKART of Ohio. Mr. Chairman, I thank my friend for yielding.

Mr. VENTO. I thank the gentleman for his questions.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to thank Chairman HOWARD and Chairman DINGELL and the members of the coalition who have accepted my amendment providing for the authorization to the Director of the Environmental Protection Agency to pay rewards up to $10,000 to individuals who provide information leading to the arrest and conviction of any person who violates and is subject to the criminal penalties of this act.

I think this should go a long way to providing an incentive for private citizens to get involved in cleaning up the environment.

I hope it will stimulate environmental watch groups very similar and analogous to the criminal watch group that has been very successful in this country in stopping the crime rate.

I think in areas such as mine where abandoned mines exist and throughout the country where illegal dumpers and polluters have existed, without the protection or watch of the private citizen, this amendment will offer the opportunity for private citizens to get involved in helping the environment.

I want to thank all members of the coalition for accepting this amendment as part of the package of this bill.

The CHAIRMAN. For the clarification of the body, the question before the Committee is the amendment of the gentleman from Minnesota [Mr. VENTO].

Is there any further debate on the amendment of the gentleman from Minnesota?

Mr. LENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, getting back to the amendment offered by the gentleman from Minnesota [Mr. VENTO], I am going to very regrettably have to oppose the gentleman's amendment, because it will allow fund moneys to be spent on contamination caused by Federal operations and Federal facilities. Is that the gentleman's understanding of his amendment?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LENT. Yes.

Mr. VENTO. The amendment would permit the reimbursement of dollars spent by municipalities for water supplies where a Federal entity is partially responsible for the damage to that water supply; that is, if the gentleman will continue to yield, we do permit the National Government, of course, the EPA can spend money directly on that or other entities can, according to law, as well as States can spend money for that particular purpose, as well as for others; but if it is a municipality that spends the money, the law specifically denies reimbursement on that basis.

Mr. LENT. But my understanding of the way this amendment would work is that the gentleman would permit Superfund moneys, which are not government moneys per se, they are moneys that have been contributed or raised through taxes on feed stock and other taxes, to be used to clean up a problem that is caused by Federal action.

I think that goes against the philosophy and the grain of the Superfund Act.

Mr. VENTO. Well, Mr. Chairman, if the gentleman will yield further, in section 120 of the bill, we deal with Federal facilities in this bill; so I think this provides a safeguard, it is my belief that it provides a safeguard so that it would subrogate the Federal entity or agency that is responsible to the same extent that private entities are.

The point would be that you can recover those dollars when liability is determined from the Federal entity, so that we are only talking about a very narrow use in those instances where municipalities spend the money for remediation of the water suppy and that would have to have the approval of the Administrator of the EPA. It would simply permit them to do that. It would not mandate it.

I think we leave the EPA directors' flexibility in place. We do not do violence to the basic concept of the law.

Mr. LENT. Mr. Chairman, I am sure the gentleman understands that the legislation as it is now written, even

without the benefit of this proposal that is on the floor now, provides the Administrator with the authority to supply alternative water supplies if he believes that those water supplies are necessary to a community to protect public health in that community. That is already the law.

As I read the gentleman's amendment, he proposes to go much further than that and require that that water supply be cleaned up, where it was Federal action that occasioned the contamination.

Mr. VENTO. Well, if the gentleman will yield further, I appreciate his insight, but the fact of the matter is that the sites that I am talking about that are on the national priority list happen to be, for instance, DOD sites, or at least Federal entities partially have contributed to the pollution problem. I think the record should show that the EPA has not taken a role in these instances.

The consequence has been that the burden has fallen almost solely on the local governments in those instances. If the State or the National Government spent the money, obviously that would take care of the problem, but we are here with the amendment because indeed that has not been the case.

I would just point out to the gentleman that his concern I think is reasonable with regard to invading the fund, but under section 120 of the bill, of course, we provide for subrogation or recovery, which I think that should satisfy the concerns the gentleman has with respect to the full reimbursement.

Mr. LENT. Just to conclude, Mr. Chairman, it does seem there are many issues which this particular amendment seems to raise that are not quite clear. We have not had any hearings on it. I think it may undermine other provisions that are contained in the legislation.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has expired.

(At the request of Mr. SNYDER, and by unanimous consent, Mr. LENT was allowed to proceed for an additional 3 minutes.)

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I thank the gentleman for yielding.

What we have got to realize here, what we cannot lose sight of, is there are a lot of good things that need to be done in this country, but this bill is keyed in to and focuses upon cleaning hazardous waste sites and if we want to use the Superfund fund to do all the good things that need to be done in this country, we had better get $100 billion instead of $10 billion.

There is no question but what the gentleman from Minnesota has a problem, but to attempt to address all the problems that exist in this country by dealing with the Superfund legislation is going to get this whole program out of focus.

We need to get on with the job of cleaning up hazardous waste sites and not going into all these ancillary things that happen to go off one way or the other, good things that need to be done in the country. We need to oppose this amendment on the bill and seek redress in the forum, which is probably clean water.

Mr. VENTO. Mr. Chairman, will the gentleman from New York yield?

Mr. LENT. If I have enough time, I am glad to yield.

Mr. VENTO. Well, Mr. Chairman, I just think this is not an ancillary problem. The thing is that the law does provide for the utilization of money for the remediation of the water supply, so that is one of the legitimate purposes.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has again expired.

(At the request of Mr. VENTO, and by unanimous consent, Mr. LENT was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Minnesota.

Mr. VENTO. The fact is that under the law that is an appropriate utilization. The only question here is whether we are going to let municipalities that are concerned about trying to meet the safety and health needs of their communities receive the type of reimbursement for that narrow scope of activities, an activity that is compensated and paid for under the fund.

The problem here is that we have a dual responsibility in terms of a national Government agency contributing and the private sector potentially contributing. The fact is that they are denied the funds under the law the way it is. I think the Administrator needs this particular direction. I think we should give it to him.

Mr. LENT. Well, the gentleman makes some good points and he definitely pinpoints a problem that exists in our country, but I would respectfully respond to the gentleman that I think the legislation that we have before us now already, to some degree at least, responds to the concerns voiced by the gentleman.

I frankly think that the entire amendment that the gentleman is offering would have the effect of diverting some very important resources in the Superfund toward some purposes that we really did not have in mind.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would like to ask a question through the gentleman from Minnesota.

What the gentleman is asking for, as I understand it, which I do not think the amendment provides for, but with some modifications might, is to use the existing law which allows the Administrator the discretion to provide alternative water suppliers, to use his example, in the event of a problem associated with a dump site. His concern is that the Federal Government, perhaps a defense facility, has been the cause of the problem and that there has been some difficulty getting the Defense Department to be responsive in terms of reimbursement or paying for the cost.

The gentleman, as I understand it, has said that he thinks other provisions in the bill allow the Defense Department, really direct the Defense Department, to reimburse for damages flowing from Defense Department violations of the waste disposal laws.

The gentleman is asking that the Superfund be required to pay that money. What he does not do is to require the Defense Department to reimburse the Superfund, as it is required to reimburse for damages flowing from Defense Department miscalculations or errors.

I think the gentleman's amendment could be modified in such a way as to make that explicitly a responsibility of the Defense Department, thereby addressing the concern that the gentleman from New York has, which is a legitimate one, that the people who are contributing to the Superfund should not be contributing to cleaning up the Government's problems, or problems caused by the Defense Department.

So I would suggest as a means of being helpful to the gentleman from Minnesota that he modify his amendment as to make it explicit that moneys paid out of the Superfund to provide for alternative water supplies, as currently can be done, but are caused by problems of the Federal Government, can be paid, but the Federal Government is required to reimburse the fund as a responsible party, as any other responsible party would have to do.

I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has again expired.

(By unanimous consent, Mr. LENT was allowed to proceed for 2 additional minutes.)

Mr. LENT. Mr. Chairman, if I can just respond to the gentleman from New Jersey on that, I think he makes a good suggestion. Perhaps the author of the amendment will take the suggestion.

But there is another problem, it would seem to me. How do you get the Defense Department, or whatever the Federal agency might be, to then appropriate funds for the purpose of reimbursement of the Superfund?

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, under provisions of the law, the Defense Department is responsible for damages that it causes. Therefore, what we are saying is they are responsible now.

The concern I think of the gentleman is that they have not been responsive quick enough. They have not been forthcoming in terms of the money they are required to pay out and that the Superfund system is designed to provide for emergency response capability, one aspect of which is providing for alternative water supplies, which is the gentleman's problem, as I understand it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, that is very nice thinking, but the Defense Department, the Department of Energy, and all the other Federal agencies are perhaps amongst the very worst of the establishers and maintainers of Superfund sites and similar hazardous waste dumps. They have never been before the Congress for a nickel to cleanup. They have no desire to have this in their budget. It does not buy weapons. It does not do the other things that are important and they spend their money on their basic mission.

□ 1800

That is why the principle of this amendment, or the suggestions, simply do not deal with the real world. The amendment should be rejected, and at the appropriate time I will get time so I may oppose it in greater detail.

Mr. DICKS. Mr. Chairman, will the gentleman yield just for a brief comment?

Mr. LENT. I would be happy to yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I am always very reluctant to enter into a colloquy in which it might seem that we were in disagreement because I have great respect for the gentleman from Michigan, but as I understand it, we have already appropriated money to the Department of Defense for cleanup, and in fact I have received money for the cleanup efforts out near the Ft. Lewis area in my district, but we had to beat them over the head to get the money.

So I want to tell the gentleman he is absolutely right on their reluctance, but what I think we should do, the money is there, it has been appropriated for cleanup, and it is a kind of Defense Department superfund. They have not used it. What I think we need to do here is to require that when they have a problem like this that the money shall come out of the Defense Department fund that we have already appropriated money for, to reimburse the local governments that have had to carry this responsibility.

I agree with those who have suggested that the gentleman from Minnesota should modify his amendment, because the money is available.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has again expired.

(By unanimous consent, Mr. LENT was allowed to proceed for 2 additional minutes.)

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding.

Mr. Chairman, I would only say that as the chairman of the panel on environmental restoration programs in the Committee on Armed Services that wrote the language in this bill to try to provide a process within the Department of Defense and other Federal facilities, I would state to the gentleman, and certainly to the author of this amendment, that the Department of Defense this year spent $329 million on their environmental restoration programs, and in the past 2 years in excess of $400 million.

But the issue here, as I understand it, is that the actual judgment or determination of liability has not been made. So they are trying to receive money when there has not even been a declaration of fault of responsibility. So it is inconsistent for us to be standing here and saying we are divvying out money when there has not been a clear adjudication. So it confuses the process that we are trying to establish in the program that is already in place where they identify problems and go to try to have a cleanup.

So I would reluctantly at this point oppose this amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, the point that is being missed here, and I appreciate the time and the consideration of the Members on this issue, is that the military and other Federal agencies are perfectly willing to cleanup their own sites, and they are doing it, and that is what they are spending the money on. They provided some bottled water. They have not had a clear or consistent policy with regard to this issue, but they are on site.

The question now is that we are offsite and we are dealing with water out of an aquifer and a municipality's well becomes contaminated with trichlorethylene or other heavy metals and they are met with the responsibility of providing clean, wholesome water to that particular municipality. The Department of Defense or other Federal agencies, and rightfully so, are in a situation of determining who is at fault.

The fact of the matter is, the municipality has had to drill the wells deeper and has had to do other things to provide that water, and has literally spent millions of dollars across this Nation, our municipalities have, to meet those water needs.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has again expired.

(On request of Mr. VENTO and by unanimous consent, Mr. LENT was allowed to proceed for 3 additional minutes.)

Mr. VENTO. If the gentleman will yield further, the point is that we should not hold hostage those communities and those municipalities to fault-finding to the absolute extent that is necessary and justified in many instances here. It is not a rap on the Department of Defense and other Federal entities. What we are doing is making the municipalities carry this because we have not definitively defined who is responsible.

This is what the Superfund law is supposed to address. I am not asking in this particular amendment to remedy or to correct the entire problem with the aquifer and to correct the entire water supply. I am saying to help meet health and safety water needs. That is all we are asking is to help pay for the water supplies.

The gentleman from Oklahoma, who happens to have one of those sites in his district, I think would be well served by this.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LENT. Before I yield any further time, just let me say that the law as it is presently written does permit the Environmental Protection Agency to supply water where it is an emergency situation and where it is necessary to protect public health and the environment. That is already in the law.

Mr. VENTO. If the gentleman will yield further, can he cite any of these particular locations on the list that I provided, which EPA has provided to me, where they have in fact done that? There are none. In fact, there are installation restoration programs in place on-site by DOD and so forth, but there is not an action by EPA.

Mr. LENT. Mr. Chairman, if I may reclaim my time, I said that they must be able to demonstrate that it is necessary to protect public health and the environment. If you do not have an emergency situation, then the law is not triggered. But you have a problem;

there is no question about it. The Federal Government ought to respond in a better way.

But I am saying that the way to satisfy your problem is not to simply dip into this Superfund, which is, after all, money which has another purpose entirely. It is contributed through a feedstock tax and others, not to clean up Federal Government problems, but to clean up problems created by the people who pay the taxes.

Mr. VENTO. If the gentleman would yield, I think the major problem here is that we are tripping up on the basic supposition on which Superfund was created to resolve, and that is the question of fault finding. That is really what is the trip wire here with regard to the national Government, the question of fault finding. What we are saying here is that we are not going to get the Federal agencies to admit to being at fault in these particular instances when there is any question with regard to that.

The final consequence is that we are holding these municipalities and communities hostage with regard to that test.

Mr. DICKS. Mr. Chairman, if the gentleman from New York will yield, I had an exact situation like this in my district where the area was off the base and we had the polluted area from the base migrated out into the aquifer outside.

I happen to be on the Defense Appropriations Subcommittee and we were able to catch their attention, but for other people who may not have that same leverage we have a problem here. The problem is that the Defense Department says, "We are not sure we are responsible. We have to continue to study the issue," and it goes on and on and on.

Finally, out in our areas, EPA said, "Well, we think you are responsible. The evidence we have is that you are responsible," and then finally they had to do something about it. So I think this is a very serious problem and one that we are going to have to deal with.

Mr. LENT. Mr. Chairman, if I may reclaim my time, I would agree with all of the gentlemen who have spoken on this.

The CHAIRMAN. The time of the gentleman from New York [Mr. LENT] has again expired.

(By unanimous consent, Mr. LENT was allowed to proceed for 1 additional minute.)

Mr. LENT. Mr. Chairman, this is a problem, but I am very reluctant to support the amendment offered by the gentleman because it seems that he is setting the Superfund off on an uncharted course toward unspecified goals. If we are going to achieve the goal that we really intend to achieve; namely, the cleaning up of hazardous waste sites, we are not going to be able to reach into this fund to solve every problem that civilization and mankind have.

We are going to have to keep the fund on the track toward cleaning up hazardous waste sites. In an emergency, the law now provides on an interim basis for providing water supplies to a community where there is a hazard to public health or where there is a hazard to the environment. But to simply reach in long-term and cleanup scores of these sites that have water supplies that have been contaminated through some fault of the Federal Government, I do not think that is what we have in mind with the Superfund.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important that we should understand the purpose of the legislation before us, and then I think it is important that we should understand the purpose of the amendment offered by the gentleman from Minnesota.

The Superfund legislation is established to do two things: One, to provide a program for cleaning up of hazardous waste dumps established by industry and private sources. The financing of that is to be by a tax upon industry.

Let us look at the magnitude of the problem. The magnitude of the problem is that we may have 10,000 or we may have 20,000 sites according to the Office of Technology Assessment.

□ 1810

This does not count the Federal dumps. It counts only those which are established by private industry.

The purpose of this bill is to tax private industry to clean up for private wrongdoing, not to clean up for wrongdoing by the Federal Government.

Now let us look at the amendment offered by my good friend from Minnesota. I want to observe that it causes me great pain to oppose his amendment because I am sure it is offered in the best of good faith, and I have great respect and affection for the gentleman. But the hard fact of the matter is it is a very bad amendment. It does not prospectively clean up the dumps. It will compensate a community for any expense which was incurred after December 11, 1980, by such municipalities. That is, any of the many thousands of municipalities in the United States may receive compensation for purposes of acquiring alternative water supplies, construction of water mains, purchase of tank trucks, filtration systems, pump systems, whatever expenditure might be. There is no criteria here for how the expenses shall be judged as to whether they conform or not, and there is no criteria here as to establishing liability. And it is not for the wrongdoing of private citizens who are paying the taxes, rather it is to pay for the acquisition of alternative water sources over the past 5 years, since December 11, 1980, by the Federal Government.

Now the gentleman referred to sections of the bill which deal with cleanup by the Federal Government. The bill specifically provides that behavior by the Federal Government shall be paid for from appropriated funds, not, I repeat, not, from Superfunds.

Now we are talking about 10,000 to 20,000 sites in this country, and it may very well be many more times that. The amount of money that we are raising by a tax which is approaching the level of extortion is $10 billion over 5 years. That will not clean up all of the sites that we are trying to clean up. It will only clean up a fragment of them. We may very well see that the Superfund Program is going to have to be renewed as long as the youngest of us and the most recently arrived of our colleagues in this Chamber are sitting here.

The question before us is should we expand the coverage of the Superfund Program while we face perhaps $100 billion in liability. The amendment would provide money for costs incurred in providing water for as long ago as 5 years which resulted from actions by the Federal Government at Federal installations. The money will be provided with no standards before us as to what constitutes wrongdoing by the Federal Government, with no standards about the fashion in which the community has spent the money, with no requirements for proper behavior by the municipal corporations, and with no provisions to prevent goldplating where municipalities run out and say, Well, we are going to put in a first-class waterworks using oversized mains, and the very best of modern technology where our old system was clearly inadequate. And if there is no establishment here that there be clear separation between Federal wrongdoing and private wrongdoing, municipalities can simply run in, present a bill to the Federal Government, walk out with a pile of money and a new water system. If you want to address the most difficult, dangerous, and serious single environmental problem in this country, abandoned waste sites, and if you want to expend well the limited amount of money that is available in this particular piece of legislation, then my colleagues, I urge you to reject this amendment. It is well-meaning, but it is not well thought out, and it has a most mischievious effect.

Mr. SIKORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of my good friend from Minnesota [Mr. VENTO] and his excellent amendment

to H.R. 2817. For too long, Federal agencies and facilities have enjoyed special privileges that no water waste disposers have.

What is good for the goose is good for the gander. What is good for the private sector is good for the public sector.

This amendment will stop Federal agencies responsible for contaminating municipal water supplies from using the poor excuse of overlapping budgetary jurisdictions to go slow, say no on providing decent, wholesome water supplies, one of the necessities of life that my chairman so eloquently talked about as he opened the debate on Superfund today.

The amendment will provide an incentive for faster resolution of these disputes. My congressional district, BRUCE VENTO's congressional district, share a common problem, the Twin Cities Army Ammunition Plant. It is a major source of regional ground water contamination. And the site is a perfect example of how damaging Federal agency inaction can be. Citizens and local cities were forced to find alternative water supplies at great cost to them. The citizens and the communities in that area of Minnesota cannot wait until EPA and the Department of Defense argue over the bill or the method of cleanup. They and their children are at risk and the danger grows as the seconds tick away.

The concern is not over gold-plated systems. It is purely at the discretion of the EPA Administrator. A million Minnesotans, and a third of the Americans who depend on ground water for their drinking water, share this concern, and they want action now, not 5 years from now. This is the time. We have a chance to amend the Superfund.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I am pleased to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the gentleman and respond just a little to the distinguished chairman. The fact is that just like the provisions of this law and the rules and regulations that deal with the type of reasonable expenditures that are provided for restoration of water supplies, they would fall under the same type of administrative proceedings. In other words, the Administrator would have to make the decisions.

The fact is he may have the authority to do so today, but the fact is he has not done so.

Mr. SIKORSKI. That is right. If it is good enough to give the Administrator discretion in cleaning up 10,000 sites nationwide in the standard of cleanup, it is good enough for giving the Administrator the discretion in other sites.

Mr. VENTO. I think my colleagues who have spoken in opposition are really begging the question. Superfund was presented as a solution which doesn't worry about the last definitive fact with regard to who is at fault. In other words, to try and remediate and correct the problem.

The fact is, in this particular instance, the Federal agencies are guilty of not admitting to their faults. The private sector is not admitting to their faults. They are pointing the finger at the Federal agencies, and municipalities and local governments are caught in between, and municipalities are left holding the bill while they are debating in court with regards to these issues.

This deny's the supposed promise of Superfund, we are denying it to these municipalities when there is potential National Government involvement, and in the case of my municipality, and with regard to others, I think the costs here are not so significant because it would be subrogated, that is to say the fund would be subrogated to the appropriation, and to our process. If we find it is an expensive process, then I would say we had better go to our friends on the Appropriations Committee and appropriate the money and provide it so that DOD can do what we intend.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, could the gentleman tell me how much this amendment is going to drain from the Superfund? How much is it going to cost the fund? How much is it going to cost?

Mr. VENTO. If the gentleman will yield to me, I cannot give the gentleman, cannot tell him what the cost would be in this one instance.

Mr. DINGELL. How much is the total cost going to be? Or what is the ceiling on it?

Mr. VENTO. The costs of this is repairing municipal water supplies across the Nation that have been damaged, in combination by the Department of Defense, by other Federal agencies and in conjunction with the private sector.

Mr. DINGELL. How much is that, $1 billion?

Mr. SIKORSKI. I think the answer is as much as EPA and the administrator allow in the construction of these facilities.

Mr. DINGELL. Is it $10 billion?

Mr. SIKORSKI. It is as much as the EPA Administrator allows.

Mr. VENTO. If the gentleman will yield, I think the same question could be asked with regard to any of the proposals that we have before us. What is the total cost of remediating and then repairing the environment and all of the damage that has been done? We take a guesstimate. If some say it is $100 billion, then why is this bill not at $100 billion, and why does the bill not have $100 billion in it if that is the case because we are going to do it, we are going to do it in a reasoned, measured proposal.

I am not going to suggest that the gentleman's bill is inadequate because it does not provide $100 billion. In this same instance, I would say that the cost of this, I assume, would be met in a reasonable and a reasoned manner by the EPA in terms of providing the water supplies.

I do not think the amendment specifically breaks the back of this measure. It intends to meet the promise of Superfund.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. SIKORSKI] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. SIKORSKI was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Michigan.

Mr. DINGELL. Every billion dollars that is spent under this provision will not be spent to clean up Superfund sites. Every nickle that is spent on this is going to do nothing to contribute to the public health, but it is going to prevent major expenditures from being made to eliminate hazardous wastesites that are polluting aquifers, that are endangering the health of people, that are jeopardizing clean air, safe drinking water, ground water, surface water, and the lives of people in the area.

Mr. SIKORSKI. I think the only nickels that will go out will go out at the express discretion of the EPA Administrator who is aware of the constraints of the fund, and beyond that, only go to take care of decent, wholesome drinking water which does benefit health and safety.

Mr. VENTO. If the gentleman will yield again, I thank the gentleman for his helpful comments. But I would say that the pollution that occurs on these or approximately close to these Federal facilities, that Federal pollution is just as harmful as pollution that comes from a private source. I think it is the goal of this Congress to address the totality and the total question of what the pollution is, not necessarily only the source of it.

We have tried, and I think the law does provide for safeguards so that the dollars would come from the Federal sector if we are committed. I think that just as we are committed in committing the private sector to this that we would commit and do commit the public sector to meet those same standards and meet those needs. I think the problem here is we have a

combined responsibility that we should not walk away from and say, because it is combined, we are not going to help you and local government and the people are on their own.

The people in New Brighton and the people in other parts of this country that are subjected to this type of problem, they are not interested necessarily in where the pollution comes from. They need the problem solved, they need a clean drinking water supply. They need the clean air and the other things that we hold up as a promise of Superfund. We cannot wash our hands of it and walk away saying we are not going to solve that particular problem.

People are using this law to hide behind and avert and circumvent that remediation of these particular sites, and you ought to be aware of that. I know it is the intent of the authors to address that particular concern. I think the amendment would further that particular cause.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I would like to inquire of the gentleman if he has a figure as to the cost of the alternative water supply that was developed for New Brighton?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, we have expended $4 million in terms of drilling the wells deeper in the area. That really is what the expense has been for the New Brighton area.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to attempt to in a sense join with my friend from Minnesota by indicating that we all feel the anxiety that he does in his community. The gentleman from Oklahoma [Mr. McCURDY], the gentleman from Washington [Mr. DICKS], all of us have had this similar experience.

The Department of Defense, as well as other Federal agencies, have been very slow to respond to the legitimate concerns of communities around the bases that have had their water supply polluted. But, in fact, I think we have moved in this bill to remedy this problem directly. We have, through the McCurdy task force, which has, I think, borne the brunt of the work in this regard, and through the creation of a separate military superfund with DOD dollars, not Superfund dollars, I say to assure the gentleman from Michigan [Mr. DINGELL], chairman of the Energy and Commerce Committee in his concern about the invasion of funds, we will be in a position to expedite the cleanup of these sites. Further, we will clean up these sites under the approval of EPA, because under the bill as currently drafted, and I am sure in the form it will pass in, EPA has final say on all NPL site cleanups regardless of whether they are military or other Federal agency sites. That is the first time that has ever occurred.

□ 1825

Up to now we have always given DOD, through the use of an Executive order, carte blanche to do it its own way; and as a result, they have failed miserably to satisfy the Members and their constituents.

I think what we have accomplished in the provisions that have been agreed to by both the Committee on Public Works and by the Committee on Energy and Commerce is a future solution to the problem that the gentleman from Minnesota [Mr. VENTO] very accurately and pointedly outlines for us here on the floor today.

We have no track record; we cannot prove it. It is always nice to have the problem solved sometime in the future, Mr. VENTO, I understand, but I believe we will not be required to use this vehicle if the bill that we currently have before us is enacted and is functioning the way it is intended.

I am happy to yield to my friend from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding, and I commend him again for his statement and his hard work in this area. I would just point out again to the Members that for the first time we have a central account where there is going to be specific, appropriated money that can be readily identified for the cleanup of these sites that have been caused by Federal facilities.

So it is an area that we are going to be able to go and look at, and hold them accountable for what they are doing in this area. Also, for the first time, the EPA Administrator is put over this fund and he is given much broader authority than he has had in the past, and I think this is crucial.

I identify with the problem of the gentleman from Minnesota [Mr. VENTO]. I have one of those sites; we have a similar problem, but in many of these instances, the particular Federal agency; Air Force or whatever, has gone out and supplied alternative water sources, and they are trying to provide this when they can determine that they are at fault.

Mr. FAZIO. Mr. Chairman, I am happy to yield to my friend from Michigan.

Mr. DINGELL. I can sympathize with the frustrations of the gentleman from Minnesota [Mr. VENTO]. The gentleman from California and the gentleman from Oklahoma have dealt with the issue with the assistance of the two committees.

Section 213 is the section the gentleman refers to. That is available for precisely the kind of expenditures we are talking of here. It is available from appropriated funds. It does not violate Superfund, and it does not prevent Superfund moneys then from being spent for the cleanup.

So the gentleman from California, the gentleman from Oklahoma, and the two committees have already addressed the problem, and though I commend the gentleman for his interest and his sincerity, section 213 deals with the problem and I would urge the House to support section 213 and reject the amendment.

Mr. FAZIO. Reclaiming my time, I think it is most important for the gentleman from Minnesota to understand that if the source of the money was clear, but the power to trigger that source was still in question, I would share the level of anxiety that the gentleman has.

However, giving EPA that responsibility, removing it from a DOD budget officer, I think goes a long way to getting to where we all know we need to go; and that is an end to the endless delays that have made it impossible for these communities to get the kind of attention they need.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was rejected.

Mr. PACKARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to engage my chairman, Mr. ROE, in a colloquy to clarify the Public Works Committee's intent regarding de minimis settlements as they affect title holders. While we discussed this issue informally during consideration of Superfund in committee, it came to my attention that underlying title holders of property where toxic wastes are generated or disposed of could be held liable under section 121 of the committee's version of H.R. 2817. These title holders include individuals, development companies, public and private institutions of all kinds. Could my chairman take a moment and explain exactly what was the committee's intent in addressing the issue of settlements and third-party title holders?

Mr. ROE. If the gentleman will yield, Mr. Chairman, I completely understand his concerns. The report language we originally agreed upon was inadvertently left out of the print we released last month. The gentleman from California has been active in addressing the issues involving liability and de minimus settlements, although those matters were under consideration in the Judiciary Committee, which has primary responsibility for this facet of Superfund. It has come to my attention that Princeton Universi-

ty has also expressed concern about their liability for toxic waste cleanups on land they own, but over which they do not have management oversight.

Mr. PACKARD. Reclaiming my time, is it correct for me to state that the committee recognizes that landowners whose participation is limited to ownership of the fee title to or equity interest in the property on which a toxic-generating or disposal facility is located and who have no management control over activities at the facility giving rise to a response action? Further, the committee believes it to be inequitable to consider such noncontributory parties as owners or operators of a facility? Finally, I would hope that the understanding which came out of our informal discussions leads the committee to expect the administrator of the Environmental Protection Agency to actively utilize his authority under this act to enter into de minimus final settlements and grant releases from liability to eligible potentially responsible parties.

Mr. ROE. The gentleman's statements do, indeed, reflect the committee's position on this point.

Mr. PACKARD. Mr. Chairman, I sincerely appreciate the colloquy, and it will solve some major concerns that I have had in this particular section of the bill.

Mr. ROE. I thank the gentleman.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 39, line 24, strike out the closing quotation marks.

Page 39, after line 24, insert:

"(m) LANDOWNER LIABILITY.—There shall be no liability under subsection (a)(1) of this section for a person otherwise liable who can establish by a preponderance of the evidence that he—

"(1) is the owner of the real property on or in which the facility is located;

"(2) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility, the release or threatened release of which causes the incurrence of a response cost;

"(3) did not contribute to the release or threat of release of a hazardous substance at the facility through any act or omission; and

"(4) did not acquire the property with actual or constructive knowledge that the property was used prior to the acquisition for the generation, transportation, storage, treatment, or disposal of any hazardous substance.".

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, let me, to clarify things, say at the outset that this is not the Federal cause of action. Indeed, this happens to be an amendment that I am mildly chagrined to say the chamber of commerce probably supports, but it has a lot of good on its side as well.

I am a strong supporter of the Superfund Program. I think we ought to have one that is tough and comprehensive. Part of having a tough and comprehensive program is having provisions that allow innocent individuals to be treated as innocent individuals.

In other words, nothing can be more damaging to our efforts to have a program like this work, nothing is more damaging to a good regulatory scheme that having anything in it that could inadvertently sweep out within its coils innocent individuals.

This amendment says that wholly innocent landowners will not be held liable. We have had problems before with the leases being granted improvidently. This amendment, I must say, is drafted in a way to make that extremely unlikely.

To get a release from liability under this section, a landowner must not have himself or herself allowed or permitted any storage, not have contributed to the release of any substance and, and this is very important, the landowner has the burden of proof to show that this landowner had neither actual nor constructive knowledge at the time of purchase that the property had been used for hazardous waste materials.

In other words, you can get a release under this only if you can show by the preponderance of the evidence that you not only did not contribute to it; you did not even know when you bought it that it had this there.

Mr. BREAUX. Will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. BREAUX. I thank the gentleman for offering his amendment. Let me ask a question, and perhaps the chairman of the committee may be able to respond, or the author of the amendment.

Without the gentleman's amendment, am I to understand that a person would be able to buy property, a tract of land and have in the deed of conveyance a covenant that this property is transferred and there is no toxic waste located on this property, there is no way that person can visually find out or reasonably know that there is any kind of toxic waste underneath that property; and then 5 years or some time period down the road discover for the first time that that property has some toxic wastes that had been buried years before under his property, that without the gentleman from Massachusett's amendment that that property owner would then be somehow held responsible?

Mr. FRANK. Let me respond by saying we are not sure of the answer to this. I think all of us would agree that you should not be held responsible. I would hope that frankly even under the current law you might ultimately be held not responsible, but no one can have that assurance.

As people know, if you are in business, if you have got a public corporation or whatever, a contingent liability can be a problem for you.

□ 1835

Even if you get legal advice that says ultimately you might be held not liable if the possibility exists, and the possibility would exist under this set of circumstances, it could be a real problem for you. The only way to be sure that there would be no liability in the circumstances described by my friend from Louisiana would be to adopt this amendment.

Mr. BREAUX. Mr. Chairman, would the gentleman yield further?

Mr. FRANK. I yield to the gentleman from Louisiana.

Mr. BREAUX. Could the gentleman from the Committee on Public Works respond to my question? Without the gentleman's amendment, could the situation which I outlined, could that type of a property owner be held liable for damages?

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New Jersey.

Mr. ROE. I am not legally trained. I am technically trained.

Mr. FRANK. That should get us a straight answer.

Mr. ROE. Well, you are going to get it.

Mr. ROE. You would have to write something, if I may respond to the gentleman, you would have to write something into the law that would say: "Buyer beware." If a person buys a piece of property, and he does a record search and, as you well know, gets his deed, and he gets the details in his deed that something is there that he is unaware of and nobody knew about, he would be responsible for it under existing law. Unless you make provisions to waive that issue.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Louisiana.

Mr. BREAUX. It looks like we should try to craft some type of provision that really protects the innocent landowner who has not done anything to put the waste there, or would have no way of knowing that the waste was there, and somehow wind up down the

road years in advance that the property has toxic wastes on it. That person should not be held liable.

Mr. BERMAN. Mr. Chairman, will the gentleman yield

Mr. FRANK. I yield to the gentleman from California.

Mr. BERMAN. The gentleman from Louisiana is exactly correct. And I am aware of a case where a person, in totally good faith, purchased a tract of land and then was unable to get out of any liability even though they were able to demonstrate they had no knowledge, there was a total arm's length transaction, and they were acting totally in good faith. I think this points out very clearly the need for this amendment.

Mr. DAUB. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman's amendment. I think from a legal point of view and from my experience with the problem that exists, posed particularly by the example of the gentleman from Louisiana, the amendment is a good one. I think we do have to make some effort to clarify the confusion that exists in the case law on this point. While an argument could be made that we do not need this amendment, that it is already taken care of in the law, courts have differed on that point. So this is a way of establishing some causation, some nexus, some connection on a point, however small it may be to some, that someone who is in this position, who did not contribute to the toxic waste, to the cleanup, to the identification, to the response that is needed, is not going to be held liable.

For that reason, I really want to commend the gentleman for his careful craftsmanship, for the limitations contained in his amendment, and I urge the committee to accept it.

Mr. MOAKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my good friend and colleague—the gentleman from Massachusetts.

In 1983 PCB's were found on a 9-acre industrial site located in a largely residential neighborhood in my congressional district. The site had been abandoned for several years and had been used during recent years as a local fair grounds.

In 1979, Grant Gear, a small manufacturer with 80 to 100 employees, purchased the then vacant property for their manufacturing facility, only after they had bought the site and begun production did they discover that previous owners, going back to the 1930's and 1940's had disposed of PCB's on the site.

It is my understanding that Grant Gear has never used PCB's had no reason to believe PCB's were located on the site, and purchased the PCB's from a prior owner who apparently did not use PCB's. The result of the discovery of PCB's by Grant Gear has been a residential community alarmed with the revelation of PCB's in their neighborhood and a small company simply by misfortune facing uncertainty and frustration as the owners of a Superfund site.

Grant Gear has attempted to do the right thing by cooperating with both Federal and State agencies in the cleanup and removal of the PCB's. Grant Gear has sued the previous owners and opeators for response costs incurred to date, including site testing for hazardous materials and health testing of employees. Grant Gear anticipates additional expenses for the remedial investigation and feasibility study.

Unfortunately the disovery of PCB's came just as Grant Gear was preparing to make several needed capital investments in new equipment—equipment which is necessary for Grant Gear to remain competitive.

Because of the pending liability, financial institutions are obviously unwilling to finance the capital investment thereby striking a second blow to a company who simply bought the wrong property.

Grant Gear contacted me last year to request assistance in helping them ascertain what policy EPA had for dealing with innocent property owners. Grant Gear informed me that they had been unable to get EPA to explain their policy for reaching settlements with innocent landowners.

Much to my dismay, EPA notified me that they do not have a policy on innocent landowners. More than this, EPA has a policy for de minimis contributors, but would not extend this same policy to innocent landowners. EPA informed me that no policy will be established until final liability regulations are issued.

The Frank amendment establishes a fair policy toward dealing with the truly innocent landowner. I believe that we all agree that those who are responsible for the illegal disposal of hazardous wastes should be held accountable. Unfortunately, under present law and EPA policy, we also hold an innocent landowner equally responsible. The Frank amendment will correct this injustice by establishing a fair policy for dealing with the truly innocent landowner, the Frank amendment deserves our support.

Mr. FLORIO. Mr. Chairman, would the gentleman yield to me for a question, through the gentleman from Massachusetts, to the author of the amendment?

Mr. MOAKLEY. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

I think the apprehension about this amendment is that someone might use what appears, on its face, to be a good amendment providing for a legitimate defense in some way to cloak their real intentions. I would like to ask the author of the amendment: in paragraph 4, the language "did not acquire the property with actual or constructive knowledge," I think that the constructive knowledge language is extremely important. Wouldn't that language address the concerns that some might have about this defense being used by those who only pretend not to be aware of problems on the land? The constructive knowledge, it seems to me, addresses some of the legitimate complaints that some might have.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK. I appreciate the gentleman from New Jersey making that point. He is absolutely right. And let me strengthen what he said. Not only would you lose this defense if you had constructive knowledge, you have the burden of proof to show that you did not have constructive knowledge. The way this is drafted, it says you must establish by a preponderance of the evidence that you did not have constructive knowledge. In other words, if it was widely known in the neighborhood to be not just a hazardous waste site but if anything had been dumped there, if it was known at all, you would have to go to court and prove the negative. We all know that could be hard. So this is not a problem in that sense. I appreciate what the gentleman has pointed out. You have to go to court and prove by the preponderance of the evidence that you did not have even constructive knowledge, that is, that a reasonable person could not have been expected to know that, not even a reasonable person in the neighborhood. You, as a diligent purchaser, would have been under some obligation to find out, and it is only in that case where you failed to be a diligent purchaser that you would be liable.

Mr. FLORIO. Mr. Chairman, I think the amendment is a good amendment and urge support for it.

Mr. ECKART of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I propose to engage in a colloquy with the author of the amendment.

Mr. Chairman, I have several concerns of particular interest to me. First, in subparagraph 2, commencing with the phrase at line 9, "the release or threatened release which causes the incurrence of a response cost." As you and I both know, you could have releases which do not necessarily result in a response cost. You can pollute the ground water, but they can come out and say it is not bad enough and therefore there is no cost, but pollution has resulted. You have thousands

of sites, only 800 of which are on the NPL which can incur response costs. So that does not mean that the pollution has not occurred, it just means that it is not bad enough to make it on the NPL.

Does the gentleman have an objection to striking the language after the comma in line 9?

Mr. FRANK. Would the gentleman yield to me?

Mr. ECKART of Ohio. I yield to the gentleman.

Mr. FRANK. Is the gentleman's concern—as I understand, his concern is the part in paragraph 2 which says "the release or threatened release of which causes the incurrence of a response cost." I understand that concern. On the other hand, I would not be satisfied if you would strike that altogether. In other words, any release, because the words could be read very strictly. Now, we want this bill, the gentleman and I agree. Where we have language here, we want it read strictly, which means any release whatever, even that which did not cause any environmental damage would then lose you the defense. So I can see his problem with the response cost, but I would not want there to be a truly harmless provision that we could have. So maybe we could negotiate some language in the middle there.

Mr. ECKART of Ohio. If I can reclaim my time, what I would rather do, if we can get to the point of accepting this amendment with that change, I would rather err on the side of being conservative, that there will be as few releases as possible in the innocent landowner provisions, erring on the side of maximizing the environmental protection and limiting the use of this landowner liability because I think there will be greater protection to the health and environment. I think there is some doubt that you could have a big release that does not incur response costs, yet you say there could be a de minimis release which would preclude the liability from an effective affirmative defense from being raised.

Mr. FRANK. It looks like we may not be able to reach agreement. I agree that we should err on the side, if we err at all, of conservatism in this regard. I think this is already fairly conservatively drafted. If we simply struck altogether what the gentleman is proposing, we would have no amendment left at all, because if you disturb anything at all, you would have a serious problem and you would lose the benefit of this amendment. I think it is pro-Superfund to see that purely innocent people are not swept up under the restrictive provisions.

Mr. DINGELL. Mr. Chairman, will the gentleman from Ohio yield?

Mr. ECKART of Ohio. I yield to the chairman.

Mr. DINGELL. I really feel that this would be helpful. If the gentleman could accept the suggestion made by the gentleman from Ohio, I have every reason to believe I could arrange to get the amendment accepted and would urge the gentleman to accept it.

Mr. FRANK. Will the gentleman yield?

Mr. ECKART of Ohio. Yes; I yield to the gentleman.

Mr. FRANK. Well, I thank the gentleman, but I can count, too. I am not sure the gentleman can arrange to have it defeated without that. I am not sure. I did try to talk to people earlier about this amendment. No one wanted to talk to me about it. It was a little bit like trying to negotiate with the Polish Diet of 1870 where there was a unanimous veto. Now, what the gentleman from Ohio has proposed guts the amendment, because if you have any release whatever under this thing, if a gas tank punctures and spills on to a rock, that is a release, and we could have problems. That is not a reasonable offer of a compromise.

Now, if you had been shown some broad support here in the House, and I would be willing to talk about something reasonable; I was even more willing to talk about something reasonable about an hour ago when I asked these gentleman if they wanted to talk to me about it, and none of them did.

Mr. ECKART of Ohio. Mr. Chairman, I would just say that I have a particular problem with the amendment. I think it poses a dangerous erosion in the joint and several liabilities section. There is a difference, a dramatic difference, between providing for a pre-suit position before there is an establishment of liability under the de minimis settlement provision, which restates this language, as opposed to creating an affirmative defense in the strict joint and several liabilities area.

The problem, very simply, I submit to the Members of the Committee, is that there are probably only a few, very narrow set of circumstances—two, I am advised—to which this could apply. I am not prepared at this point in time to pass a single, very narrow, special interest escape clause to a very important, strict joint and several liabilities provision that I think needs to be in place, given the fact I think this measure is covered under subparagraph (g), under de minimis settlements, the PRP could do it.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to speak in support of the amendment for the reason that we have probably just heard the most eloquent argument for the amendment in the remarks of the gentleman just in the well. If we are to have liability that is based upon an unreasonable premise, that is, no wrongdoing on the part of the person held liable, we ought to at least be careful where we place that liability, upon whom we place that liability. If we are going to be selective about whether we are going to go by right and wrong and we say, "No, we are going to have strict liability, joint and several, for all time, frontwards and backwards," let us at least not take the innocent landowners and put them to the task of paying for the release that is referred to in this amendment.

□ 1850

I would like to give you an example that just came to my attention this afternoon. I am not really at liberty to disclose the location of this one, but a volunteer fire department is one who would be caught in the situation that exists in my district.

There is a distinct liability on the part of someone and some aggregate number of people, but actually the present owner of the land is a volunteer fire department that had no idea that the site had been used for a fill in the past and contained hazardous substances, a volunteer fire department that has no assets with which to respond, but consider that whatever assets they have are devoted to protecting the community from fires and other emergencies.

I think that might help to exemplify the kind of thing we are talking about.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. First of all, I would say that the gentleman and I share the role as the chairman and ranking minority member on the Judiciary subcommittee of jurisdiction. The gentleman from Massachusetts [Mr. FRANK] talked about this amendment in subcommittee. We did not offer it. I do not think he offered it there because of jurisdictional concerns.

I do not think it is particularly unreasonable. I think that somebody who buys a piece of ground in good faith, without actual or constructive knowledge, that is, any reasonable cause to believe whatsoever that any of these criteria were on the land, that it was ever used for toxic waste-dumping purposes, ought to have this as a defense. Besides, you have to prove each one of these things by a preponderance of the evidence, anyway. So the burden is against you. You have the burden to prove these kinds of things.

I do not see this as a major inroad into the bill. I do not think it affects joint and several liability at all. I am strongly supportive of that concept.

So I would urge my colleagues to adopt the Frank amendment.

Mr. KINDNESS. May I ask the gentleman to apply his legal expertise to

this question: In the absence of Mr. FRANK's amendment, applying the circumstances artificially to the Love Canal situation, would not this apply to the individual homeowners of the Love Canal area?

Mr. GLICKMAN. I would say that conceptually it would apply to a homeowner with respect to any kind of toxic waste site that is underneath that land, and that could be Love Canal. That is clearly not what we are getting at here.

Mr. KINDNESS. But it is the type of situation that does deserve protection, an innocent purchaser, who ought not to have any liability.

Mr. GLICKMAN. Now, what Mr. ECKART said has some truth. He said that the de minimis provisions in the bill, that it, allowing a release for a de minimis generator, a small generator would take care of this particular case.

The problem is, it does not really take care of it because you are in the litigation, and then you would have to be settled out of the litigation. This offers a defense with somebody who is truly an innocent bystander, and that is the difference between utilizing that methodology and this one.

Mr. KINDNESS. Indeed, and beyond that, as the gentleman would agree, I am sure, the de minimis clause does not take care of the situation where it is a large problem, but you still have an innocent landowner, purchaser of the land.

Mr. GLICKMAN. That is correct.

Mr. KINDNESS. So I would certainly urge the adoption of the amendment.

I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding, and I agree with what he has said.

The de minimis provision does not take care of the situation of the innocent landowner, for the reasons the gentleman said, and, in addition, because it still is a discretionary matter with the EPA. When you have a truly innocent party at arm's length, acting in good faith, who had no actual or constructive knowledge, then it is not a matter of a de minimis contributor, it is truly a matter of an innocent landowner. This is not an exemption from liability. It is an affirmative defense which he has to prove by the preponderance of the evidence, and I might say that the organizations which have been——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. KINDNESS was allowed to proceed for 30 additional seconds.)

Mr. KINDNESS. I yield further to the gentleman from California.

Mr. BERMAN. I might say that the organizations which have been pushing for the strongest possible Superfund bill have looked at this amendment and have indicated that they have no problem with it.

I share the gentleman's support for this amendment.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

If I could have the attention for a moment of my colleagues, as we go through this torturous trail inch by inch, which is getting the attention it is tonight, there is a cause that is just. We in this legislation as we have written this legislation in both committees have provided different mechanisms where people who are not involved in liability should not be charged with liability. We relieved the response action contractors, which was the right thing, and we said to them that they should not be subject to joint and several liability if they were the contractors. They are the good guys, they are the white hats, they are going to clean it up, they should not be in the chain. The architects and engineers, we came back and we relieved them of liability, of joint strict, and several liability. We said, "You should not, if you are the architect, you are the doctor, you are the surgeon, if you are going to perform the operation, and because you perform the operation you are guilty of a crime." So we have made this progress in this bill, which is sensible and just, because we are looking to expedite progress, to get the job done.

Now, in addition to that, in this legislation we have recognized exactly the point the gentleman is saying. We came back in this legislation and we provided on page 120, we make a provision that on any real property owned by the United States on which any hazardous substance was stored for 1 year or more, known to have been released or disposed—we have made all kinds of provisions in the bill to protect the citizen who buys property from the Federal Government where the hazardous waste material has been placed in the ground, and so forth, and so on.

Here we are coming back and we are debating a point of view where an innocent citizen buys a piece of land, and we are simply coming back and saying, "Should that innocent citizen, or every citizen in the country, if there is some release that takes place and poisons the ground water underneath a private piece of property which was 20 miles away from where the toxic waste material was, is a person who buys a piece of property and drills a well obligated then for all of the joint and several responsibility of somebody's waste?"

The point is ridiculous.

What is just and is right and is fair is what this bill is about. I would respectfully suggest to my colleagues and the members of the coalition and the different committees that are working, this cause is just on this amendment.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. If I may, on the time of the gentleman from New Jersey, I would like to suggest, in order to address the question about the fact that response must occur, would be to ask unanimous consent to delete the words "the incurrence of a response cost," and to replace them with the phrase "significant environmental hazard," so that it will read, "* * * which causes significant environmental hazard."

Mr. FRANK. Reserving the right to object, Mr. Chairman—

Mr. ROE. I believe it is my time, Mr. Chairman.

I will yield to the gentleman.

Mr. FRANK. I thought the gentleman made a unanimous-consent request.

Mr. ECKART of Ohio. I did not propose. I said I was willing.

Mr. FRANK. I thank the gentleman for yielding.

Let me say that I appreciate the suggestion of the gentleman from Ohio. That sounds reasonable to me. We were talking about it. I would say this: I would hope we could go ahead with that kind of language, with the understanding that it is always hard to work things out exactly here. When we get to conference, maybe that has to be perfected some way.

The gentleman raised the point, in my discussion, which I thought was reasonable, about the response cost. That sounds like better language, and maybe we can even perfect it better in conference.

So with that, I will certainly agree to it.

Mr. ECKART of Ohio. Mr. Chairman, I would like to propose a unanimous-consent request.

Mr. Chairman, I ask unanimous consent to change the amendment in lines 10 and 11 by striking the expression "the incurrence of a response cost," and replace it with "significant environmental hazard;"

Mr. WAXMAN. Mr. Chairman, I reserve the right to object.

Mr. ROE. Mr. Chairman, I believe it is my time, but I will yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I assume there is a unanimous-consent request pending.

Mr. ECKART of Ohio. That is correct.

The CHAIRMAN. Does the gentleman yield?

Mr. ROE. Yes, I yield to the gentleman from California.

The CHAIRMAN. The gentleman from New Jersey yielded for the pur-

poses of the unanimous-consent request being made; is that correct?

Mr. ROE. No, I had not, but I will now, if that would expedite the matter and be done with it.

The CHAIRMAN. It is going to expedite it.

Mr. ROE. Then I yield to the gentleman from California.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] reserves a right to object.

The Chair recognizes the gentleman from California under his reservation of objection.

Mr. WAXMAN. I thank the Chair.

Mr. Chairman, "significant environmental damage" means——

Mr. ECKART of Ohio. "Significant environmental hazard."

Mr. WAXMAN. "Significant environmental hazard" has a different meaning than "incurrence of a response cost."

Now, we have heard the purpose of this amendment as explained by the gentleman from Massachusetts [Mr. FRANK]. We want to protect, as he has put it, the innocent landowner. And I am concerned that the choice of that phrase might be interpreted in a different manner than was intended by this proposal, and the point that was just raised a minute ago was that should that be the case, where those words have a different meaning than what was intended and would frustrate the importance of protecting an innocent landowner, is it the gentleman's intent in conference to agree to accomplish the objectives of the gentleman from Massachusetts, as he has explained his amendment?

Mr. ECKART of Ohio. If the gentleman will yield to me, the answer is, yes, based on our discussion that neither one of us wants to cause undue environmental jeopardy.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

Mr. FRANK. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WAXMAN. Mr. Chairman, reserving the right to object, I yield to the gentleman from Massachusetts [Mr. FRANK].

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] is yielding to the gentleman from Massachusetts [Mr. FRANK], under his own reservation.

Mr. FRANK. Mr. Chairman, let me say that having discussed this with the gentleman from Ohio and the gentleman from Michigan, I appreciate their spirit of trying to improve my amendment. I am confident that if we adopt it with this language change we will go to conference and adopt language that will serve all of our purposes, so I hope it is accepted.

Mr. ECKART of Ohio. If the gentleman will yield, I will say that——

The CHAIRMAN. The gentleman from Massachusetts does not have any time. The gentleman from California [Mr. WAXMAN] has the time.

Is there objection to the request of the gentleman from Ohio [Mr. ECKART].

[Mr. WAXMAN addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.] .

Under those circumstances, Mr. Chairman, I withdraw my objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Beginning on line 10 strike out "the incurrence of a response cost;" and insert "significant environmental hazard."

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. FRANK, as modified: Page 39, line 24, strike out the closing quotation marks.

Page 39, after line 24, insert:

"(m) LANDOWNER LIABILITY.—There shall be no liability under subsection (a)(1) of this section for a person otherwise liable who can establish by a preponderance of the evidence that he—

"(1) is the owner of the real property on or in which the facility is located;

"(2) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility, the release or threatened release of which causes significant environmental hazard;

"(3) did not contribute to the release or threat of release of a hazardous substance at the facility through any act or omission; and

"(4) did not acquire the property with actual or constructive knowledge that the property was used prior to the acquisition for the generation, transportation, storage, treatment, or disposal of any hazardous substance.".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK], as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DAUB

Mr. DAUB. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAUB: Page 39, after line 24, insert the following new subsection:

(h) DEFENSE AND LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Section 107 of CERCLA is amended by adding at the end theroof the following new subsection:

"(m) ADDITIONAL DEFENSE.—There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of any hazardous substances, which caused the incurrence of response costs at any site, does not include any hazardous substance with respect to which such person had any relationship described in subsection (a).

"(n) LIMITATION ON LIABILITY.—In any case in which a person liable under subsection (a) establishes by a preponderance of the evidence that—

"(1) at any site at which response costs are incurred as a result of the release or threat of release of any hazardous substances, the hazardous substance or substances with respect to which such person had any relationship described in such subsection is not physically mixed with hazardous substances with respect to which other persons had any relationship;

"(2) such person has taken or is in the process of taking a removal action with respect to the hazardous substance or substances with respect to which such person had such relationship;

the liability of such person under subsection (a) shall be limited to the costs of such removal action.".

(2) CONFORMING AMENDMENT.—Section 107(a) of CERCLA is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (m)".

Mr. DAUB (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. DAUB. Mr. Chairman, throughout the 200 years of American jurisprudential experience, and centuries of British legal history, for that matter, a connection between a person's act and damages incurred had to be established for liability. This principle of causation requiring a connection between an act and damages has been a hallmark of common law simply because it makes common sense. An actor cannot protect himself or predict the outcome of a course of action without knowing what the rules are and when they are broken. He cannot protect himself by making his conduct conform to a prescribed set of rules, and the cannot protect himself with insurance because there is no rational limit on liability.

A number of courts have indicated that this vital connection between a person's conduct and harm incurred may not have to be established.

The Federal Government has urged that Superfund permit liability without proof or claim that a person's waste deposit contributed in any way to a hazardous release. In other words, a drycleaner who used solvents and when found in new drums in a corner of a waste disposal site may be forced to contribute to the cost of cleaning up someone else's leaky drums elsewhere on the same site.

□ 1905

As you can imagine, this set of liability rules is a nightmare for companies

trying to get insurance for their businesses, particularly small businesses. Holding persons responsible for the actions of others means their current insurance policies will not cover them and they will not get coverage in the future.

Insurers cannot be asked to cover risks for which no premiums are collected and no projected loss forecasts can be made. If they do, the industry's ability to write coverage for homes, cars, boats, workers' compensation, and all other business lines are threatened.

My amendment is a small step toward ensuring a connection between conduct and damage in a very narrow sense. Let us remember that Superfund liability is being imposed retroactively. A business which has complied with all relevant rules and regulations at the time paid handsomely for waste storage and its waste does not even spill, still finds itself liable from a law put into effect long after wrongful actions by others may have taken place.

My amendment is not a comprehensive revision of Superfund's liability scheme, it is not going as well to totally resolve the insurability dilemma in my opinion. But it will put some rationality to the law. It is a modest step in the right direction. So that this amendment would result in a generator who can show that all material he has placed at a site did not contribute to a release, for example, his barrels have not leaked, would not be liable for the release of other materials by others at that same site.

It is important to note that the burden of proof on the defendant generator who must establish his noninvolvement with other hazardous releases by a preponderance of the evidence does not change. The Government as well is not required to prove anything new.

We must ensure at a minimum that courts recognize the modest link this amendment provides between culpable conduct and financial responsibility. Mr. Chairman, let us not allow the courts to so hastily discard centuries of jurisprudential tradition which has always found the need for the principle I am talking about.

Let me indicate that this is on the merits very much like the Frank amendment which has just been accepted. It would seem to me that all of the statements in support of Mr. FRANK'S amendment, particularly, may I say, the very eloquent statement by Mr. ROE, about this kind of thing would apply to the attempt I am asking this committee to make by accepting this amendment.

I would be happy to answer any questions that any member of the committee might have at this time to expedite matters.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to ask the gentleman from Nebraska some questions. Is this what we would call a fingerprinting amendment which is an attempt to try to split up and divide the wastes and so if you prove that waste was yours you would be liable?

I yield to the gentleman for his response.

Mr. DAUB. That is not the case. I do not want to change current law, but I do know that courts are in conflict over connection. If in fact you have, like in the last amendment, a piece of land after acquired, and you did not know there was a problem, and we now have accepted that that person should not be held liable. In the case of someone who was properly stored or their transporter has caused to be properly stored, a material that might be otherwise subject to the act at a targeted site for cleanup, and those barrels do not leak, and they have not caused any problem, that defendant, alleged defendant generator ought to be able to come in, prove that, and pay for removal of those barrels.

Mr. GLICKMAN. It would seem to me that this provision would encourage people to litigate; that settlements would be very difficult to achieve ever in these cases. That most cases would go to trial and that this would be contrary to all of the settlement encouragement provisions of the bill. Let us take a hypothetical for a minute.

You dump 5 barrels of benzene into a waste disposal site that leaks, but let us say that the site is pretty bad but the benzene does not leak; something else actually leaks at the site because the site is not a very good site. Well, we would be spending hundreds and hundreds of hours, you would be pulling yourself out of liability. The EPA could never get any settlement of that situation because everybody would be in court proving it was not exactly their hazardous material that leaked. So it would be very counterproductive.

I yield to the gentleman.

Mr. DAUB. Quite the opposite is the case.

Our goal is the same; that that business who has the barrels of benzene who would still have the burden of proving those barrels did not leak or cause any damage to that site and still be responsible once that is determined for paying to get them out of there, ought to have protection under the law, and certainly there is still joint, strict and several liability for all those did cause damage.

Let me further say one other thing. That is that what I seek to do by the amendment is to extricate, that is, to expediture the opportunity of that noncontributor to get out and not be involved in the lawsuits and exposed to the paperwork and the liability and the threat that hangs over that person's head because they may be held accountable after they have not contributed.

Mr. GLICKMAN. Let me just say that I know this amendment is offered in good faith, but this is significantly different from the Frank amendment that was offered before. That was a piece of land bought by an innocent purchaser with no idea that there had ever been any disposal whatsoever historically on that site.

What you have here is people who have been dumping, they have been dumping into a site which leaks; that is a Superfund site. That somebody has to clean that site up. Now you will have every one of the dumpers coming in and alleged that they had nothing to do with the leak at all. You will spend hours and months and years of litigation that will prevent any sort of settlement, any sort of disposition of the problem other than under a very litigious situation.

So I think what this amendment basically does is to disturb the parts of the bill that lead toward settlements and lead toward disposition other than in a litigative situation. I think what the gentleman's amendment does, it is offered in good faith, but what I think it does is encourage an incredible lawyers' relief act in this country. It will encourage massive amounts of litigation for people to prove themself noncontributing in an almost impossible type of situation.

I yield to the gentleman.

Mr. DAUB. Very briefly, I am sure the gentleman would not want to cause ultimately liability to someone who did not cause one drop of pollution in a toxic waste site that is targeted. Further, that that expense to which that individual you referred to might have to go could be in the end, even if costly, far less costly, allowing that person to continue to get insurance by summary judgment action if no one comes forward to disprove his allegation that he did not contribute to the site, then he is off the hook and I think he ought to be.

Mr. GLICKMAN. Let me just make two points. One is that there are de minimis provisions in this bill which will allow people to pull themselves out if they contributed very little in terms of quantity or quality into this kind of mess and I think that that is very important.

The fact of the matter is if you contribute X material into a waste site, and it leaks, and Y material leaks out of the waste site, it may in fact have been because of the X material that was dumped in the site that caused the entire leak to occur. And by your kind of amendment you make it impossible for that person to ever become part of the settlement process.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am trying to understand the amendment offered by the gentleman from Nebraska. I would ask the gentleman, does this exempt a person from liability under the bill if he has deposited hazardous waste on the site?

Mr. DAUB. If the gentleman will yield, I would say no.

Mr. DINGELL. Does this exempt the person from liability if he has contributed substances to the site or has had activity on the site?

Mr. DAUB. Only in the event he can prove that none of that material has contributed because of its deposit and which way it was deposited at the site.

Mr. DINGELL. How about if his actions have contributed to the release of the substance on the site?

Mr. DAUB. I would think this amendment would not let him off the hook.

Mr. DINGELL. I must confess with regret I do not see in here that the amendment does not exempt a person under those circumstances.

Mr. DAUB. Will the gentleman yield?

Mr. DINGELL. I will be delighted to yield to the gentleman.

□ 1915

Mr. DAUB. The alleged defendant generator, would the gentleman not agree, would have to establish by a preponderance of the evidence that the release or the threat of the release of his hazardous substances would have to have had some causation or connection with the condition of the dump site?

Mr. DINGELL. Now the gentleman is coming to the point that we are talking about.

A group of people have deposited hazardous wastes on the site. One of them has put hazardous waste on the site which is being released; another has put hazardous waste on the site which is not being released. The one who has put hazardous waste on the site which is not being released but which is present there does not incur any liability on the part of that particular depositor if he has not caused it to be released on the site, in other words, if the substance is still under containment; is that correct?

Mr. DAUB. That is correct.

Mr. DINGELL. So what this amendment does, then, is it releases a person who has put hazardous waste on a hazardous-waste site when that depositor simply has put hazardous waste on the site which is either not being released at the time or which is not causing the release of other substances.

Now, there is more to the amendment than that. The gentleman's amendment also deals with additional limitations on liability. I have been referring to additional defenses. On the additional limitations on liability, the amendment goes on to say this:

In any case in which a person liable under subsection (a) establishes by a preponderance of the evidence that—

"(1) at any site at which response costs are incurred as a result of the release or threat of release of any hazardous substances, the hazardous substance or substances with respect to which such person had any relationship described in such subsection is not physically mixed with hazardous substances with respect to which other persons had any such relationship;

So what this says is that even though a person has put a hazardous waste on the site, if it has no relationship to the deposit of hazardous waste by another person which is escaping, then that depositor who has put the hazardous waste there which is not escaping escapes liability; is that the meaning of the section?

Mr. DAUB. That is the meaning of the section.

Mr. DINGELL. Now, the problem that I have with the amendment offered by my good friend, the gentleman from Nebraska, is that we have all these hazardous-waste sites around the country. If the gentleman were seeking to release a person who has not deposited any hazardous waste but who had just, let us say, put an innocent substance there like paper or tin cans which had been used for holding grapefruit juice or tomato juice or something of that kind, I really would not have a significant problem.

But the problem is that you now have a site which is an active site, one which is leaking hazardous waste. In many instances the identity of the person who put the hazardous waste there cannot be identified by the character of the drums or the deposit because these sites now are old and the hazardous-waste containers have rusted and their identity is now lost. One 55-gallon drum looks just like another 55-gallon drum, and as a consequence you have all these hazardous-waste containers on the site.

The CHAIRMAN pro tempore (Mr. MOAKLEY). The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, to continue, this second depositor is now able to say, "Well, I didn't put any of this there. I put hazardous waste there, but none of this hazardous waste that I put there is leaking, and, therefore, I ought not be liable, and I ought not have to pay a share of the cost of cleanup."

We remember that once the cleanup starts, you have hazardous waste that is leaking and you have hazardous waste that is not leaking. So you absolve this individual from his proper share of liability for the cleanup of the hazardous waste he has put there simply because he has established an affirmative defense that none of what he has put there is leaking.

You have also absolved him of his joint and several liability under the statute. That, of course, creates an additional problem in terms of litigating out the cleaning of these sites, and it also makes additional difficulties for the cleanup and paying the cost of litigation. One of the things the bill before us is trying to do is to avoid the cost of litigation and to assure that the litigation goes forward.

Now, I will observe to my good friend, the gentleman from Nebraska, that if a person has made a deposit of hazardous waste at a site that has been covered by deposits by a large number of persons or any number of persons, there is a mechanism elsewhere in the bill whereby the liability of the several parties can be adjudicated among themselves by action taken before the court once the matter is joined.

I am sure the amendment is offered in the best of good faith by the gentleman from Nebraska, but regrettably, it has the practical effect of allowing a person to simply cause himself to be absolved from the deposit of waste and cleanup simply by reason of the fact that the waste containers are not leaking on the site. They might present as much hazard as any leaking container a day, a week, a month, or a year hence, but they then do not have to be cleaned up and there is no liability that attaches to the depositor of those particular containers.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DAUB. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to my friend, the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I am very concerned that this be done correctly. I know that it is not a very clear argument to say that the law now provides for the circumstances I am trying to correct. I am not sure the law is clear, nor that the drafting of the bill before the committee is clear, but let me ask the gentleman a couple of questions based upon his argument.

Does the gentleman agree that there is the possibility that harm is divisible?

Mr. DINGELL. There is a possibility that harm is divisible; there is a possibility that it cannot be divided. We really do not know because of the character of these sites and the enormous difficulty of identifying the depositor or which of the containers or which of the depositors created the mischief, and we know that that mischief may occur the day after tomorrow.

Mr. DAUB. So the gentleman would agree that harm could be divisible?

Mr. DINGELL. I have not said that it is divisible. I have said that it could be divisible.

Mr. DAUB. Would the gentleman agree, then, that joint and several liability for that particular event that could be divisible would not be attached?

Mr. DINGELL. I happen to support the concept of joint and several liability because elsewhere in the law there is a provision which enables the parties who have made the deposits at the hazardous waste sites later to be identified in the course of the proceeding and to share out the costs in an appropriate fashion, according to the law before the judge.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I now yield to my good friend, the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would just like to reinforce what my colleague, the gentleman from Michigan, said.

In the contributions sections of the bill, it says that once liability is established the court may use its equitable powers to apportion costs among liable parties, taking into account relevant equitable considerations. I think that deals with this issue of separating out the relative culpability of the parties about as much as we possibly can do.

Mr. DAUB. Mr. Chairman, will the gentleman yield further on that point?

Mr. DINGELL. I am glad to yield to the gentleman from Nebraska, although my time is running out.

Mr. DAUB. Very quickly, on the point the gentleman from Kansas just raised, the fact of the matter is, though, that this particular defendant generator has been engaged in that suit throughout the whole course of the litigation, he has had to incur all the costs and undergo all the burden and probably sustain the loss of the additional ability to gain liability coverage in the conduct of his business, and what I seek to do is resolve that problem earlier in the process.

Mr. DINGELL. With all due respect, Mr. Chairman, I must oppose the amendment.

Mr. ROE. Mr. Chairman, I move to strike the requiste number of words.

Mr. Chairman, I have studied this amendment, now that things have settled down a bit and as we are getting this fine debate under way.

I say to my distinguished friend, the gentleman from Nebraska, that I realize what he is trying to do. Again I say his cause is just and his cause has merit. But we have got to visualize the isolation of three or four barrels of material, although some of them legitimately may not be leaking, or whatever, mixed into a whole morass of material. Now, are we going to apply a rule? I hope the gentleman from Nebraska is with me.

If we are going to be providing a generic response in our concern with equity and fair play, then it has got to relate to something. In effect, this particular amendment may be helpful in a smaller isolated type of area, but just in a smaller isolated type of area. But in the order of magnitude of what we are dealing with in this whole bill, a generic fix, if you like, or a generic response of this type would mean fundamentally that every single part and piece would be heard and everyone will have a chance to request and say, "Well, I am not really responsible. I put two drums in. One drum got caught up with a little acid. This one is leaking, and this one didn't leak."

Who is going to determine that, and how is it going to be studied out in this great morass that we are dealing with?

□ 1925

Mr. DAUB. Mr. Chairman, will the gentleman yield on that?

Mr. ROE. Of course.

Mr. DAUB. Indeed, Mr. Chairman, the defendant-generator is going to have to prove that. I do not change the approach that the committee bill or the current law takes to require the alleged contributor to that site that has been identified for cleanup, but I do say to the gentleman that if it was one or two or four barrels in this huge moral of ugliness that we are seeking to assure the neighbors that we are going to clean up, in fact that person if they did not contribute still ought not to be liable at some point in the procedure.

Mr. ROE. Well, if they did not contribute, there is no way of really telling that unless they can go in and pick up their five drums and say in this morass, "Here is my five drums. I am not the bad guy." They have got to move it someplace else.

Mr. DAUB. I do think we ought to give them that chance at some point in the procedure, that is my point.

The CHAIRMAN pro tempore (Mr. MOAKLEY). The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 2 additonal minutes.)

Mr. ROE. We would have to give them time at that point. We would have to go into every site.

I think the gentleman's cause is just, but believe me, I do not think this does the job. I think we have to object to the amendment the way it is written at this point.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I reluctantly have to agree with the gentleman.

I say to the gentleman from Nebraska that his amendment does have some merit on its face, but the gentleman from New Jersey is absolutely correct. For better or worse, we have decided to maintain the strict joint and several liability scheme which the courts have found exist in this bill.

The second part of the gentleman's amendment would chip away at that idea by legislatively apportioning liability under a certain set of circumstances.

The courts and the EPA, of course, can do this in an individual case when they have all the circumstances before them at their discretion. I do not think we can legislatively carve out a certain type of exemption to the overall joint and several scheme that we have heretofore followed with respect to the Superfund.

So, regrettably, I have to vote against the amendment.

Mr. MOLINARI. Mr.Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise to oppose the amendment of my good friend, the gentleman from Nebraska [Mr. DAUB].

What we are talking about here basically is the guts of the Superfund legislation that we have been dealing with now for 5 years. This and other amendments that are going to tamper with the liability sections that we have dealt with are very risky. It is the heart of the Superfund Program.

Yes, on its face it appears that this would not have a great impact on it, but I am deeply concerned. I can see many circumstances where this would open the door for joint tort feasors; for example, somebody is delivering a drum to a site and while dumping it on a site they rupture other drums that are on that site. How do you prove that that individual ruptured those drums? How do you prove the synergistic effect of the mix that your chemicals have with the other chemicals that may be onsite?

When we start to chip away at that liability, we are chippng away at the whole program. It is the guts of the program. If we start tamering with it, we are going to create a system that is not going to work.

If you look at EPA and what it has done over the years, there has been a lot of criticism levied in its direction. I do not think enough credit has been given to them for the good that they have done. The good that they have done in negotiating settlements is due to the liability features that we have in the law today.

I think we should resist this amendment and any others that tend to disturb the liability provisions that we have today.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I am concerned as well. The gentleman raises a good point about the trucker or transporter that takes a drum to a site and maybe in some way ruptures the container as it is being deposited or moved around on the site, unbeknownst to the person who hired that contractor or conveyer to move the drum from the place of origination to the place of site containment.

It seems to me, as a matter of fact, what we do is that we say to the generator, "Look, be sure that when it moves and it is deposited in the site that it is safely contained. You are going to be responsible for following that all the way to the site and if in fact it is laid to rest and ends up being safely contained, you will be more certain under the law of not being responsible if somebody else comes along and messes up that site that your stuff gets into and you didn't know it in the first place."

It is my intention in fact to get quite the opposite result by this amendment than how the gentleman characterizes its intention.

Mr. MOLINARI. Reclaiming my time, Mr. Chairman, I do not mean to misinterpret what the gentleman from Nebraska [Mr. DAUB] is saying; but what I am suggesting is that under the gentleman's language "establishing by a preponderance of the evidence," it would be very difficult in some circumstances, dealing with the sensitive and complex subject matter, for EPA and Justice to be able to prevail in litigation.

I think we are opening the door to real problems.

For that reason, I reluctantly oppose the gentleman's amendment.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman.

Mr. BROWN of Colorado. Mr. Chairman, the gentleman from New York raised I think an important point and that is the problem involved in proving an item. If I understand the amendment of the gentleman from Nebraska, though, he places the burden of proving that the particular defendant is totally innocent on the defendant. So if I am interpreting the gentleman's amendment correctly, the EPA does not have the burden of proving it. Rather, the burden is on the defendant. Would the gentleman agree with that assessment?

Mr. MOLINARI. On its face, yes; but take it to the courtroom now and I suggest that we are dealing with a different subject matter whatsoever.

For the EPA now to come in to face these innumerable legal contests that I think are going to arise if this amendment were to pass, you are putting them to a test, I agree with the gentleman from Kansas [Mr. GLICKMAN] that you are going to encourage a great deal of litigation with the enactment of this kind of amendment.

Although on its face it appears to be harmless, I think it is quite to the contrary. You are opening the door. Those who have good lawyers and have financial access to top attorneys, will be putting a great burden on the EPA that I do not think is justified or should be in place, if we want to get the job done; the job that we set out in enacting the Superfund legislation.

Mr. DAUB. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman that those who have good evidence ought to be exonerated, rather than those who have good lawyers ought to get off.

Mr. BROWN of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Nebraska about his amendment.

Some important points have been made about the gentleman's amendment. I would hope the gentleman would be willing to clarify some of those points with the body.

First of all, let me ask the gentleman, does his amendment provide any exemption for someone who is not totally innocent of contributing to leakage on the site?

Mr. DAUB. There is no possibility of someone who in fact contributes or there is reasonable evidence presented that that person's materials so stored contributed to the pollution in that dump site could get off under this amendment.

Mr. BROWN of Colorado. A point has been raised about the difficulties of proof in court. May I inquire, under the gentleman's amendment, who has the burden of proof?

Mr. DAUB. With the person who is seeking to be relieved of the joint, strict, and several liability, of those who caused the pollution, the so-called generator of the alleged hazardous materials.

Mr. BROWN of Colorado. The gentleman is telling me that the person has to prove he is innocent?

Mr. DAUB. That is correct.

Mr. BROWN of Colorado. Or he is held to the liability under the law?

Mr. DAUB. Of those who otherwise are found liable for the dangerous condition of that dump site.

Mr. BROWN of Colorado. It has been pointed out that the EPA in this process is sometimes willing to negotiate a settlement with someone who has not been a major contributor. What is the gentleman's assessment of the cost that would go to a small company that is totally innocent? What is their cost in negotiating through their attorneys a settlement?

Mr. DAUB. Well, I do not want to paint the "what-if" scenario, because the opponents to this piece of legislation are really painting the "what-if" scenario.

I want this to be very strictly interpreted. I am principally concerned about two kinds of costs on the innocent party that may be involved in suggesting they ought to pay for a cleanup for something they did not cause; that is the cost of defending and the cost of their continuing premiums to have liability insurance to cover them in fact when they may be found liable for having contributed some kind of toxic material to a dump site or caused harm to health or to personal property otherwise; so I am very concerned about two kinds of costs.

I want to provide a mechanism by which folks not contributing one single ounce of hazardous material to a site can in a reasonable way prove they did not cause any harm and pay for getting themselves out of their mess.

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman.

I would like to make several observations with regard to this amendment. This amendment is a very simple proposition. Are we going to hold people liable that are totally innocent? That is what we have got to face here, someone who is totally, completely innocent, of any wrongdoing, are we going to hold them liable?

I think we have to answer in our own consciences whether or not it is right to take someone who is innocent and make them liable.

I would put it to this body that that is not fair play. Fair play involves taking the people who polluted and caused the problem and holding them responsible. I think we ought to do it, but to take people who are totally innocent and hold them responsible, I think is a travesty. It does not meet the concept of fair play of anyone in this country, not Democrat or Republican, not liberal or conservative, not conservationist, not businessmen, not anyone, to take someone totally innocent and ruin their lives and their businesses when they have done nothing wrong.

There is another observation that I think it is important to note. It has been suggested that it is no problem for innocent people to get out of liability because the EPA will negotiate a reasonable settlement. But, these innocent people have to hire an attorney at great expense to negotiate a settlement with the EPA.

Incidentally, if you have ever borrowed money as a businessman or a businesswoman, you often have to come up with an audited financial statement. An audited financial statement by a CPA in this country will footnote contingent liabilities, if they are significant.

What you are saying is that people who are innocent, who are dragged into these suits, may have to footnote on their financial statements a contingent liability for the cost, because that is what this law provides. It makes them jointly and severally liable up to the entire cost of cleanup.

What you are saying is that a small business that is innocent is going to have to note that on their finanical statement. Mr. Chairman, let me remind this body, if you think you can go borrow with a financial statement like that, you have an extraordinary banker.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado [Mr. BROWN] has expired.

(At the request of Mr. MOLINARI, and by unanimous consent, Mr. BROWN of Colorado was allowed to proceed for 2 additional minutes.)

Mr. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from New York.

Mr. MOLINARI. Mr. Chairman, I just would like to make the observation to the gentleman from Colorado that I think there is a difference, we keep using the term innocent, and I would suggest to the gentleman that it is one thing to be innocent and it is another thing to be able to prove by the preponderance of the evidence doctrine that is set up in this bill; so what I am suggesting, you may not be innocent and yet be able to meet the test of the preponderance of evidence as set forth by this amendment.

I think we should be careful in the terms that we use.

Mr. BROWN of Colorado. Mr. Chairman, I appreciate the gentleman's point. As I read the amendment, it is even a tougher test than most might think fair. It is not enough that you are innocent. You lose the presumption that you are innocent and under this amendment you have to prove that you are innocent.

In other words, under normal jurisprudence the prosecutor has to prove that you are guilty and you are presumed innocent.

Under this amendment, you even have the burden of proving your innocence. If we are comparing this to normal jurisprudence, we have to conclude that this is even a tougher test than what we have provided under other circumstances.

Mr. MOLINARI. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Colorado. Yes, I am glad to yield.

Mr. MOLINARI. Mr. Chairman, I would suggest to the gentleman that, yes, the test may be tough, but when you think about the subject matter, necessarily the test must be tough. If we start to disturb that test, we are in deep trouble, in my judgment.

Mr. DAUB. Mr. Chairman, if the gentleman will yield, let me remind the body, if I could, that we are not dealing here with super-rich large corporations. We are dealing with a pharmacist, we are dealing with the owner of a bowling alley, we are dealing with someone who changes their own crankcase oil, we are dealing with the local garage, we are dealing with small businesses, men and women who work for a living with their hands. They do not have sophisticated attorneys. What they are doing is trying to make this country go and work and what we are imposing on them is liability when they are not at fault.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. DAUB].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DAUB. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 62, noes 330, not voting 42, as follows:

[Roll No. 433]

AYES—62

Anderson	Fiedler	Regula
Armey	Fields	Ridge
Badham	Franklin	Ritter
Bartlett	Goodling	Roberts
Barton	Gradison	Rudd
Bateman	Hansen	Schulze
Boulter	Hiler	Shumway
Brown (CO)	Hopkins	Skeen
Broyhill	Hubbard	Smith (NE)
Campbell	Hyde	Smith, Denny (OR)
Chappie	Lewis (CA)	Smith, Robert (NH)
Cobey	Lewis (FL)	Smith, Robert (OR)
Coble	Lightfoot	Strang
Combest	Loeffler	Stump
Crane	Lungren	Taylor
Dannemeyer	Mack	Vucanovich
Daub	Marlenee	Walker
DeWine	McCandless	Zschau
Eckert (NY)	McCollum	
Edwards (OK)	McMillan	
Evans (IA)	Miller (WA)	
Fawell	Nielson	

NOES—330

Ackerman	Bosco	Coyne
Akaka	Boucher	Craig
Andrews	Boxer	Crockett
Annunzio	Breaux	Daniel
Anthony	Brooks	Darden
Applegate	Bruce	Daschle
Aspin	Bryant	Davis
Atkins	Burton (CA)	de la Garza
AuCoin	Burton (IN)	Derrick
Barnard	Bustamante	Dicks
Barnes	Byron	Dingell
Bates	Callahan	DioGuardi
Bedell	Carney	Dixon
Beilenson	Carper	Donnelly
Bennett	Carr	Dorgan (ND)
Bentley	Chandler	Dowdy
Bereuter	Chapman	Downey
Berman	Chappell	Dreier
Bevill	Clay	Duncan
Biaggi	Coats	Durbin
Bilirakis	Coelho	Dwyer
Bliley	Coleman (MO)	Dymally
Boehlert	Coleman (TX)	Dyson
Boggs	Collins	Early
Boland	Conte	Eckart (OH)
Boner (TN)	Conyers	Edgar
Bonior (MI)	Cooper	Edwards (CA)
Bonker	Coughlin	Emerson
Borski	Courter	English
Erdreich	Lent	Roybal
Evans (IL)	Levin (MI)	Russo
Fascell	Levine (CA)	Sabo
Fazio	Lipinski	Savage
Feighan	Livingston	Saxton
Fish	Lloyd	Schaefer
Flippo	Long	Scheuer
Florio	Lowery (CA)	Schroeder
Foglietta	Lowry (WA)	Schuette
Foley	Luken	Schumer
Ford (MI)	Lundine	Seiberling
Ford (TN)	MacKay	Sensenbrenner
Fowler	Madigan	Sharp
Frank	Manton	Shaw
Frenzel	Markey	Shelby
Frost	Martin (IL)	Shuster
Fuqua	Martin (NY)	Sikorski
Gallo	Martinez	Sisisky
Gaydos	Matsui	Skelton
Gejdenson	Mavroules	Slattery
Gekas	Mazzoli	Slaughter
Gibbons	McCain	Smith (FL)
Gilman	McCloskey	Smith (IA)
Gingrich	McCurdy	Smith (NJ)
Glickman	McDade	Snowe
Gonzalez	McEwen	Snyder
Gordon	McGrath	Solarz
Gray (IL)	McHugh	Spence
Gray (PA)	McKernan	Spratt
Green	Meyers	St Germain
Gregg	Mica	Staggers
Grotberg	Michel	Stallings
Guarini	Mikulski	Stangeland
Gunderson	Miller (CA)	Stark
Hall (OH)	Mineta	Stenholm
Hall, Ralph	Mitchell	Stokes
Hamilton	Moakley	Stratton
Hammerschmidt	Molinari	Studds
Hatcher	Mollohan	Sundquist
Hawkins	Monson	Sweeney
Hayes	Montgomery	Swift
Hefner	Moody	Swindall
Hendon	Moore	Synar
Henry	Moorhead	Tallon
Hertel	Morrison (WA)	Tauke
Holt	Mrazek	Tauzin
Howard	Murphy	Thomas (CA)
Hoyer	Myers	Thomas (GA)
Huckaby	Natcher	Torres
Hughes	Nowak	Torricelli
Hunter	Oakar	Towns
Hutto	Oberstar	Traficant
Ireland	Obey	Traxler
Jacobs	Olin	Udall
Jeffords	Oxley	Valentine
Jenkins	Packard	Vento
Johnson	Panetta	Visclosky
Jones (NC)	Parris	Volkmer
Jones (OK)	Pashayan	Walgren
Jones (TN)	Pease	Watkins
Kanjorski	Penny	Waxman
Kaptur	Pepper	Weaver
Kasich	Perkins	Weber
Kastenmeier	Petri	Weiss
Kennelly	Pursell	Wheat
Kildee	Rahall	Whitehurst
Kindness	Rangel	Whitley
Kleczka	Ray	Whittaker
Kolbe	Reid	Wilson
Kolter	Richardson	Wirth
Kostmayer	Rinaldo	Wise
Kramer	Robinson	Wolf
LaFalce	Rodino	Wolpe
Lagomarsino	Roe	Wortley
Lantos	Roemer	Wright
Latta	Rogers	Wyden
Leach (IA)	Rose	Yates
Leath (TX)	Rostenkowski	Yatron
Lehman (CA)	Roukema	Young (AK)
Lehman (FL)	Rowland (CT)	Young (FL)
Leland	Rowland (GA)	Young (MO)

NOT VOTING—42

Addabbo	Heftel	Ortiz
Alexander	Hillis	Owens
Archer	Horton	Pickle
Broomfield	Kemp	Porter
Brown (CA)	Lott	Price
Cheney	Lujan	Quillen
Clinger	McKinney	Roth
DeLay	Miller (OH)	Schneider
Dellums	Morrison (CT)	Siljander
Dickinson	Murtha	Solomon
Dornan (CA)	Neal	Vander Jagt
Garcia	Nelson	Whitten
Gephardt	Nichols	Williams
Hartnett	O'Brien	Wylie

□ 1959

Messrs. MARTINEZ, HUNTER, DUNCAN, BERMAN, and LOWERY of California changed their votes from "aye" to "no."

Mr. STUMP, Mr. McMILLAN, Ms. FIEDLER, and Mr. BATEMAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON: On page 492, after line 13 of H.R. 2817 (Nov. 12, 1985 version) insert the following new subsection:

"(5) In order to evaluate the availability and suitability of establishing future potential regional hazardous waste storage and disposal centers on property owned by an agency of the Federal Government (other than those lands designated as environmentally critical or necessary for the national defense), the Administrator shall, within 90 days of the enactment of this section, select up to 3 sites to be studied to determine their feasibility to pose the greatest protection of human health and the environment, provided that such sites are (A) located in areas in which the regional planning agency has determined that such facilities are needed to accommodate near-term levels of hazardous waste generated in the area and in which access to surface transportation modes are available, (B) a maximum of 15,000 acres and no residence is within one mile, no highway is within two miles, and no incorporated community is within five miles, (C) proven to have no groundwater within a depth of 300 feet.

"Such sites shall be selected from application of persons, public entities or nonprofit private entities which have majority ownership interest, title, option and/or lease to lands surrounded by or contiguous to the proposed site. Within one year of the Administrator's selection of sites for study, the applicants who conduct such studies shall submit their findings and report to the Administrator who, after review and verification, shall, within 90 days of receipt of such reports, submit his findings on the suitability of such sites as regional hazardous waste storage and disposal centers to the Congress with his recommendations that such sites shall be made available to those applicants for such purposes."

Mr. ANDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. APPLEGATE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Ohio.

Mr. APPLEGATE. Mr. Chairman, I would like to take this opportunity to offer my support for a strong Superfund Program that will begin the massive job of cleaning up hazardous waste. A strong bill, similar to H.R. 5640, from last session and the public works substitute to H.R. 2817, will also send a warning to those industries who have violated our environment and abused the system over the years.

Although this legislation is vital, it is not enough to halt the flow of hazardous waste. We must now turn our attention to the transportation of this hazardous waste and the gross abuses in this system.

On January 3, 1975, the Hazardous Material Transportation Act, became law. Unfortunately the Department of Transportation failed to implement certain sections of this important legislation. The intent of Congress was not completely carried out and many communities and citizens have suffered and will continue to suffer from this neglect. Section 109(d)(2) states that the Secretary shall "establish and maintain a central reporting system and data center so as to be able to provide the law enforcement and firefighting personnel of communities, and other interested persons and government officers, with technical and other information and advice for meeting emergencies connected with the transportation of hazardous materials." At the time of enactment, this technology was not available. A system was implemented shortly thereafter by the Chemical Manufacturing Association. However, this system is fatally flawed and obviously not sufficient in today's society.

Ten years after enactment, we still hear the horror stories of accidents involving overturned trucks that require massive evacuations, and accidents that take 4 to 5 hours to clear simply because of the "unknown." We now have the technology and the system that would eliminate the unknown. It is my purpose to inform my colleagues of this system and to alert them to the major problems still plaguing the transportation industry in their efforts to deal with hazardous waste disposal.

One could argue that as a result of the high risks currently involved in the transportation of hazardous waste and because there are not adequate controls and guarantees, the trucking industry is facing attacks on all fronts. The insurance crisis in the industry and the discrimination that truckers face on our Nation's highways and in our communities is a result of the industry's past record, a record that is based on a few dishonest and unethical truckers and companies. Because of a flawed system the whole industry is suffering. We must act now to implement a new system that provides all parties with certain controls and offers a truly centralized, computerized data center. We allowed the industry, not the Department of Transportation, to implement the law and control the transportation themselves; they have failed. For the safety of our constituents, our environment, and the future of the trucking industry, I ask for the support of my colleagues in implementing the Hazardous Material Transportation Act of 1974.

Mr. ANDERSON. Mr. Chairman, this amendment is designed to allow the Environmental Protection Agency to examine some of the vast areas of our country—the federally owned and controlled areas—as potential sites for future hazardous waste storage and disposal sites.

Under this proposal, the EPA would be required to permit up to three sites [located on Federal properties that are not environmentally sensitive, nor located on property that is necessary for the national defense] for study by individuals, public or private entities, that may wish to develop these sites at some future date for the disposal of hazardous wastes.

Today, the American West and Southwest are the fastest growing regions in the Country. Los Angeles—my home—is projected to become the largest metropolitan area in the country by the year 2000. San Diego, Phoenix, Las Vegas, Salt Lake City are all expected to grow dramatically over the next several years. And this growth occurs along with a growth in business, manufacturing and refining in the region. Hazardous and toxic wastes are the residue of a modern society, and we are only in the preliminary stages of addressing the proper disposal of these wastes.

Based on studies published in 1985 by the Southern California Hazardous Waste Management project, the southern California area produced an estimated 3.9 million tons of hazard wastes in 1983. Projected increases of 40 percent by 2000, combined with the cleanup of contaminated soils and treatment residuals remaining from the hazardous waste sites that were previously uncontrolled, leads us to the inescapable conclusion that additional treatment and disposal facilities are urgently needed in the area.

With the closing of the BKK landfill at West Covina in November 1984, there are currently only two class I landfills serving the southern California region: Casmalia, above Santa Barbara and Kettleman Hills, about 170 miles north of Los Angeles. Both of these landfills have been issued determinations of violations by the EPA related to their operations. Should these facilities be forced to close, the nearest class I landfills would then be in northern California and Nevada.

□ 2005

But, even if these facilities were in operation, there is a need for repositories and treatment facilities to accept waste that cannot be treated to the extent feasible to diminish hazardous and toxic properties, and residuals from treatment processes. Based on current amounts of hazardous waste being generated in southern California, if we fully treated all of those wastes, we have a shortfall of approxi-

mately 900,000 tons per year in treatment capacity; 900,000 tons which should be treated and we have approximately the same shortage—900,000 tons—in repository capacity.

The amendment that I have proposed would direct the EPA to allow the study of potential sites for storage and disposal of hazardous wastes on Federal lands. Exempt from the area of study would be areas which are environmentally sensitive, and lands necessary for the national defense. However, especially in the West, lands owned by the Federal Government encompass vast areas, areas which are not populated, areas which are not used for recreation, nor by endangered species, areas which could be ideal, or as close to the ideal as is possible, for the storage of hazardous wastes.

If, after the study, the EPA finds that these areas meet the criteria for siting hazardous waste facilities and exceed the best possible locations on privately held land, then, in my view, these lands should be made available for that purpose.

I yield to the chairman of the Water Resources Subcommittee, Mr. ROE.

Mr. ROE. Mr. Chairman, I appreciate my colleague from California for yielding and I know of his concern for the environment—especially for the proper treatment and disposal of hazardous wastes.

His amendment, calling for studies of possible sites on Federal lands, has merit and, I believe, deserves serious attention.

There is no question that the Federal Government has large holdings, especially in the West, and that we may discover that these lands may offer the best possible sites for disposal.

The gentleman's amendment assures the necessary protections so that Federal lands which are environmentally sensitive would not be considered. In addition, those lands necessary to the national defense would be exempt from consideration. But, even with these exclusions, vast areas of Federal lands remain to be examined.

Our No. 1 priority has to be to properly treat these deadly wastes and then, after treatment, to dispose of these wastes in areas that will not allow our populations to be exposed to the residue. It very well may be that these locations could best be sited on Federal lands, away from our communities, away from development.

I support the intent of the gentleman's amendment and pledge to work with him to assure that this is fully exploited.

Mr. ANDERSON. Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding. I must say to the gentleman that while I do understand and appreciate the purpose of his amendment, and fully had expected that this sort of consideration might develop on the floor at some time, I had not been anxious to see this issue raised on the floor of the House.

Nonetheless, in the real world that we are living in, in southern California, in the western region, it was bound to eventually.

It is very clear that we have a confluence of very difficult circumstances here.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ANDERSON was allowed to proceed for 3 additional minutes.)

Mr. LEWIS of California. Will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman.

Mr. LEWIS of California. It is very clear that the toxic waste problem in southern California is as critical as everywhere else in the country, but with the growing population, the huge territory that is involved, there are some very special circumstances.

Presently, the Department of the Interior is involved in long-range and comprehensive studies relative to the public lands and specifically those lands that involve my desert territory. The land that you are talking about must include that desert territory.

Frankly, I would like to wish the question away, but it will not go away. It seems to me that under the existing law, the appropriate agencies that are involved; Interior, Bureau of Land Management, et cetera, can come together working with the Congress and expedite this process.

They have under their consideration the long-term multiple use of various portions of this property where it is appropriate, and it does occur to me that this matter could be handled administratively under existing law without the need for additional legislation.

Presuming that that is correct, I would ask that the chairman of the Subcommittee on Public Lands request time and respond to this question.

Mr. SEIBERLING. Will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman has stated a very important objective with respect to the use of public lands for helping solve this very serious problem.

I would simply point out that there are already existing statutory patterns under the Federal Land Policy and Management Act, the National Forest Management Act and related acts, in which the public lands are operated under the principle of multiple use; and anyone who wants to make use of the public land for a specific purpose may go through the procedures set forth in those statutes and obtain the opportunity through the land-planning process that is set forth in those statutes to have certain areas set aside for this kind of purpose.

The purpose of the planning process as set forth in those statutes is to make sure that the multiple uses are harmonized to the maximum extent posssible, and that the most suitable areas for particular uses are chosen.

So I would suggest that rather than start with a new statutory authorization, as this amendment would do, we do not really need it; we already have the carefully worked out procedures to accomplish the gentleman's purpose, and therefore, I would strongly recommend that we explore exactly how his aim could be fitted into the existing framework; and if necessary changes must be made, they can be made, but I do not think they will be necessary.

Mr. ANDERSON. I thank the gentleman, and with those assurances, I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MRS. JOHNSON

Mrs. JOHNSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. JOHNSON: On page 151, line 15, after the period insert the following new sentence:

"The agreement may provide that a settling parties' future liability, if any, shall not exceed the percentage of liability agreed to by such party in the agreement."

Mrs. JOHNSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON. Mr. Chairman, this is a clarifying amendment that merely affirms that EPA has the authority to provide limited protection for settling parties in regard to their future liability. That protection is an opportunity for a settling party to have its future liability at a cleanup site capped at the percentage of cleanup costs for which it is responsible under the settlement agreement.

This is intended to be part of the package of incentives that EPA may negotiate to encourage potentially responsible parties to come forward and agree to use their own resources, rather than the limited resources of the Superfund, to achieve the act's cleanup objectives.

Mr. ROE. Will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentleman.

Mr. ROE. Mr. Chairman, we have reviewed this amendment. It is a splen-

did addition to the bill and there is no objection on this side.

Mr. LENT. Will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentleman.

Mr. LENT. Mr. Chairman, we similarly have looked the amendment over. It is a technical, clarifying amendment. I think it will go a long way toward encouraging private parties to come forward to clean up, and we heartily endorse the amendment of the gentlewoman.

Mr. DINGELL. Will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, we are very happy to accept the amendment.

Mr. SNYDER. Will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentleman.

Mr. SNYDER. Mr. Chairman, from the minority on the Committee on Public Works, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Connecticut [Mrs. JOHNSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 132, line 20, strike paragraph "E" and all that follows through line 6, page 133.

Mr. MARKEY. Mr. Chairman, I rise with an amendment to correct what I believe to be a very serious deficiency in this legislation, and that is that this bill arbitrarily decides that the EPA Administrator should apply the same standards to private parties that are responsible for cleaning up sites that they have been responsible for polluting in the first place with the same standards which would be used for the EPA Administrator in administering the $10 billion which we appropriate in order to clean up these sites with public moneys that have been in fact gathered for these purposes.

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And the reason that this distinction is, in fact, not appropriately applied in this particular piece of legislation is this: that the EPA Administrator, in applying the $10 billion, has to make some very, very tough decisions because there are so many sites across America, because in many cases there are emergency circumstances which surround the particular site it is not in fact always appropriate for the Administrator to apply a poor remedy but, rather, an emergency remedy which controls the particular site and in fact cuts it off from further endangerment of the public health in the surrounding area. But at the same time that has not, in fact, provided a permanent solution for the site. There legally the private parties are still responsible. What we have done in this legislation is take a concept called fund balancing, that is, a concept which allows the EPA Administrator $10 billion, to take that $10 billion and to fund balance, that is, to decide how to divvy up the $10 billion so as many as 2,000, 3,000, 4,000, 5,000, 10,000 sites can be treated. But what we do in this bill is, we allow that fund balancing concept to then apply to the liabilities, the responsibility of the private parties. That is the same standard applied to the private parties for their additional responsibility of taking the site from its emergency status to full, complete cleanup and limiting them to the same, in fact, amount that would be applied under the EPA Fund that has been created with public moneys.

The problem with that is that the $10 billion which we are appropriating in no way approximates the full cost which is going to have to ultimately be expended in order to clean up these sites. The EPA estimates that the total cost of cleaning up the worst sites could exceed $46 billion and more than half could be paid by private parties. GAO has found that the liability of private parties in a final cleanup could reach $39 billion. OTA estimates that the cost could be approximately $100 billion with equal costs from private industry and run the fund in the public sector.

So while we understand and appreciate the fact that under certain circumstances it would be within the discretion of the EPA Administrator to decide that some sites—let it be made perfectly clear that the legislation already provides in fact for provisions in which the EPA Administrator is able to take out these impossible-to-clean sites. It does require for the cleanup of the Augean Stables. It does not require for the imposition of a Herculean task upon a private sector company. It can use that discretion.

What we do here, however, is we allow, through this last provision, this final provision in the waiver process to be used by the EPA to allow a company to escape almost totally from any additional expenditures beyond that which the EPA Administrator would in fact be required to use himself with the $10 billion funding. That I do not believe is really the intention of this legislation. My belief is that the fund is obligated until the money runs out. But the private responsibility of all parties, all private sector parties, runs until the sites are cleaned, and that is really the intention of the legislation. And by having a provision like this, what we allow the EPA to do in its discretion is to limit that responsibility. I do not think that is the intention of this legislation, and I would hope that the Members here would strike this provision so that it would be possible for us to hold accountable the private sector companies to the same extent that we are the EPA in the cleanup of these sites.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this bill requires cleanups to meet any relevant and appropriate standard under the other Federal environmental laws such as the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act. While meeting the standards of other Federal environmental laws is a worthy goal, this bill also recognizes that other environmental laws were written for situations entirely different than Superfund site cleanups. Therefore, the bill provides limited waivers of certain standards.

The waiver in question here would allow noncompliance with certain standards if compliance which would consume a disproportionate share of Superfund resources. The waiver clarifies that the Administrator of the Environmental Protection Agency may extend the same fund-balancing waiver to privately financed cleanups as is currently available for fund-financed cleanups. If the Administrator determines that a privately financed cleanup will cost substantially more than a fund-financed cleanup of the same site, the Administrator may apply the fund-balancing waiver to the privately financed cleanup. Applying the fund-balancing waiver to both the Superfund financed and privately financed cleanups recognizes both Superfund and private resources are limited and must be expended wisely.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I will be glad to yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

If I understand what the gentleman is saying then, this decision to exercise the waiver of public health standards is at the sole discretion of the EPA Administrator, is that not so?

Mr. FIELDS. That is right.

Mr. MARKEY. It can never be used as a defense to liability by a private responsible party or as a basis to overturn a remedial action decision by the Administrator.

Mr. FIELDS. That is right.

Mr. MARKEY. The waiver is intended to apply to limited cases where the expenses of the remedial action significantly exceed the average costs of the vast majority of remedial actions and there is no doubt that the Administrator would never consider using fund resources to pay for such a remedial action.

Mr. FIELDS. That is exactly right.

Mr. MARKEY. The waiver is not intended to force the EPA Administrator to engage in any additional analysis of how he might spend fund money when he is asking a private party to pay for the cleanup, is that correct?

Mr. FIELDS. That is right.

Mr. MARKEY. Then under those circumstances, I, in fact, believe that this amendment is no longer needed, that we have sufficiently clarified the amendmet that allows for the protection of the vast majority of sites in this country from that type of arbitrary decisionmaking by the EPA Administrator.

I would like to clarify if that is the same understanding that the chairman of the subcommittee and the chairman of the full committee have of the colloquy and its effect upon this legislation.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman from Texas yield to me?

Mr. FIELDS. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I know this matter has been of particular interest to my colleague from Texas, who has invested a lot of time in subcommittee and in full committee.

It is my understanding in this colloquy here that what we are discussing is that there is no formal cost-benefit analysis taking place under this amendment.

Mr. FIELDS. That is correct.

Mr. ECKART of Ohio. I thank the gentleman. And I thank my friend from Massachusetts for his help in this matter.

Mr. FIELDS. Let me stress one other thing, and then I would be glad to yield further. In no case whatsoever can protection of human health and the environment be waived. I think that was of particular interest to the gentleman from Massachusetts.

Mr. MARKEY. If the gentleman will yield further, that is the primary concern of the amendment which I was making.

Mr. Chairman, if I may gain the attention of the subcommittee chairman and inquire if that is his understanding as well of the colloquy and the interpretation of the provision in the law.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Listening to the gentleman's interpretation, I would say yes, that is the interpretation.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from New Jersey.

Mr. ROE. I agree with the gentleman's interpretation.

Mr. MARKEY. Thank you very much.

The CHAIRMAN. The gentleman [Mr. MARKEY] does not have the time. The gentleman from Texas [Mr. FIELDS] has the time.

Mr. LENT. Mr. Chairman, will the gentleman yield to me?

Mr. FIELDS. I yield to the gentleman from New York.

Mr. LENT. For further clarification, as I understand it, in essence, what the gentleman has said is that the administrator has the discretion not to require private parties to pay substantially more for the cost of cleanup remedies in those cases where the costs are very high and where the fund would have selected a less costly remedy?

Mr. FIELDS. That is correct.

Mr. LENT. I thank the gentleman.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I would like to ask unanimous consent to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS: On page 103, after line 14, insert:

(4) Governmental employees

A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability (subject to the other provisions of this section) as is provided to the response action contractor under this section.

Mr. ANDREWS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ANDREWS. Mr. Chairman, what this amendment does is add a provision to that section that deals with the liability of response action contractors. Under existing law, employees of Government agencies, for instance, a State employee that might be assigned to work with a response action contractor does not have the same liability exposure as that response action contractor. He literally could have an employee of the State, a supervisor of a third party, and find himself liable under some standard that the response action contractor does not find himself liable for.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I would be happy to yield to the gentleman from New Jersey.

Mr. ROE. We have reviewed this amendment, and it is an important addition to the bill. We have no objection on our side.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I would be happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, we have no objection to the amendment offered by the gentleman from Texas [Mr. ANDREWS] on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. ANDREWS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROWLAND OF GEORGIA

Mr ROWLAND of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered By Mr. ROWLAND of Georgia: Page 89, line 14, strike out "provide" and insert in lieu thereof "arrange for."

Mr. ROWLAND of Georgia. Mr. Chairman, in our consideration of Superfund, I hope that the House will act to correct a provision that was enacted in the original law and one that is proposed for continuation in H.R. 2817. Specifically, section 116 establishing the Agency for Toxic Substances and Disease Registry in paragraph (r)(1) establishes that the Agency "shall provide medical testing and care" in case of public health emergencies for exposed individuals.

My concern relating to this provision is not to its intent so much as to the reality of the situation that might be faced in case of an emergency. First, the ATSDR's principal purpose relates to the provison of testing and studies of individuals who have been or may have been exposed to hazardous substances to determine what, if any, deleterious effects may have been suffered. In addition, the agency maintains listings of hazardous substances, toxicological profiles of these substances, and establishes disease registries and health surveillance programs, when appropriate. With such responsibilities, the ATSDR is staffed to support these activities with administrative staff and scientists—toxicologists, epidemiologists—and not health care givers.

Second, the Agency is not prepared to accept the responsibility for provision of medical care within the funding available to it. A GAO report September 28, 1984, commented on the lack of legislative guidance for this provison and the DHHS's reluctance to implement any direct medical care activity under this section. The GAO pointed out that one site could require as much as $5 millon for immediate

medical care and followup services. The Agency funding in this bill is not sufficient to fully cover the basic responsibilities of ATSDR. What level of funding might be required to cover emergencies, particularly if there should be more than multiple occurrence?

Third, the current language creates the impression that the public will be taken care of in the case of an emergency. In fact, the Agency cannot do so now and could not prepare itself for any such eventuality. The direct provision of care will be done by local hospitals, physicians and other health personnel called to the scene of any release of a hazardous substance. If we are truly concerned about provision of medical care, the House should consider an alternative mechanism and funding to adequately serve any population that may be exposed to hazardous substances.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. Mr. Chairman, I have reviewed this amendment, and it is clear to me that in fact what the gentleman intends is what we also intend. But I would just inquire: This in no way will vitiate the ability of ATSDR to do the appropriate medical testing and analysis that the rest of the section envisions.

Mr. ROWLAND of Georgia. That is correct. They will continue to do testing which they are qualified to do.

May I say further to the gentleman that only $30 million are available to ATSDR to carry out their functions, and they really do not have the money to provide medical care.

Mr. ECKART of Ohio. We may have to adjust somewhat, if the gentleman will continue to yield to me, but based on these representations we are prepared to accept this amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from New York.

Mr. LENT. We are also prepared to accept the gentleman's amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield to me?

Mr. ROWLAND of Georgia. I yield to the gentleman from Kentucky.

Mr. SNYDER. We are prepared to accept the amendment, Mr. Chairman.

Mr. ROE. Mr. Chairman, will the gentleman yield to me?

Mr. ROWLAND of Georgia. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. ROWLAND].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DAUB

Mr. DAUB. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAUB: Page 46, after line 19, insert the following new section:

(c) RESPONSE CLAIMS.—(1) Section 111(a)(2) of CERCLA is amended to read as follows:

"(2) payment of any claim for necessary response costs incurred by any other person as a result of carrying out the national contingency plan established under section 311(c) of the Clean Water Act and amended by section 105 of this title: *Provided, however,* That such costs must be approved under said plan and certified by the responsible Federal official prior to the taking of any action for which costs may be sought; and".

(2) Section 112 is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) No claims may be asserted against the Fund pursuant to section 111(a)(2) of this title unless such claim is presented in the first instance to the owner, operator, or guarantor of the vessel or facility from which a hazardous substance has been released, if known to the claimant, and to any other person known to the claimant who may be liable under section 107 of this title. In any case where the claim has not been satisfied within sixty days of presentation in accordance with this subsection, the claimant may present the claim to the Fund for payment: *Provided,* That no claim against the Fund may be considered during the pendency of an action in court to recover costs which are the subject of the claim.".

(3) Section 112(b) is amended by striking "$5,000" in paragraph (1) and inserting "25,000" in lieu thereof; and by striking all of paragraphs (2), and (3), and (4) and inserting in lieu thereof the following

"(2) The President may, if he is satisified that the information developed during the processing of the claim warrants it, make and pay an award of the claim: *Provided,* That no claim may be awarded to the extent that a judicial judgment has been made on the costs that are the subject of the claim. If the President declines to pay all or part of the claim, the claimant may, within thirty days after receiving notice of the President's decision, request an administrative hearing.

"(3) In any proceeding under this subsection, the claimant shall bear the burden of proving his claim.

"(4) All administrative decisions made hereunder shall be in writing, with notification to all appropriate parties, and shall be rendered within ninety days of submission of a claim to an administrative law judge, unless all the parties to the claim agree in writing to an extension or unless the President, in his discretion, extends the time limit for a period not to exceed sixty days.

"(5) All administrative decisions hereunder shall be final, and any party to the proceeding may appeal a decision within thirty days of notification of the award or decision. Any such appeal shall be made to the Federal district court for the district where the release or threat of release took place. In any such appeal, the decision shall be considered binding and conclusive, and shall not be overturned except for arbitrary or caprisious abuse of discretion.

(6) Within twenty days after the expiration of the appeal period for any administrative decision concerning an award, or within twenty days after the final judicial determination of any appeal taken pursuant to this subsection, the President shall pay any such award from the Fund. The President shall determine the method, terms, and time of payment.".

Mr. DAUB (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan reserves a point of order.

Mr. DINGELL. Mr. Chairman, may we have a copy of the amendment?

The CHAIRMAN. Does the gentleman from Michigan reserve his point of order?

Mr. DINGELL. That is correct, Mr. Chairman.

Mr. DAUB. Mr. Chairman, this is an amendment to clarify and streamline the process for response claims. Section 111 of CERCLA authorizes parties who conduct response actions to assert claims against the fund to recover these costs. The procedures to be followed in presenting and processing these claims against the fund are set forth in section 112.

Response claims can help to expedite private party cleanup. Private parties can promptly conduct cleanup action, and bring claims to the fund when the response action is completed. However, the process under the existing statute for addressing such claims is very complex. CERCLA currently prescribes five steps at a minimum in the process from initial presentation of the claim to the responsible party to final payment of an award. Where administrative review and judicial appeal are involved, the process may take as many as eight steps before the claimant receives final payment of an award.

The amendments to this section streamline the claims procedure. First, section 111 is amended to clarify the authority of the agency to preauthorize response claims. Preauthorization can be used to assure that response actions are conducted properly, and that they are limited to available funds.

Second, an administrative hearing process has been substituted for the claims adjustment and arbitration provisions currently included in the statute. This change preserves the rights of claimants for review of agency decisions, while allowing decisions concerning claims to be made more simply and quickly.

Response costs are not now typically handled by claims adjusting organizations, nor are these costs particularly appropriate for consideration by a panel of arbitrators.

This amendment simply improves existing procedures, and does not

create any additional burden on the fund. The Government can pursue responsible parties for costs of cleanup, while processing claims against the fund. Mr. Chairman, this amendment creates a flexible, simple process that will expedite private party response under CERCLA, and I urge passage of this amendment.

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Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I did not mean to interrupt the gentleman but we have had an opportunity over here to review the gentleman's amendment. It does improve the claims procedure, and we are prepared to accept the gentleman's amendment.

Mr. DAUB. I thank the gentleman for his contribution.

The CHAIRMAN. Does the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, withdraw his point of order?

Mr. DINGELL. Mr. Chairman, I do not.

Mr. Chairman, if the gentleman will yield, just briefly, as I understand, this does not affect in any way the joint and several liability.

Mr. DAUB. Of course not. The gentleman is correct.

Mr. DINGELL. As I understand the amendment, all it does is deal with procedural questions?

Mr. DAUB. Yes, and it establishes the usefulness of preauthorization, which is in the current law.

Mr. DINGELL. Mr. Chairman, I have consulted with my colleagues on the Committee on Public Works and Transportation, and on behalf of the Energy and Commerce Committee we will accept it.

Mr. DAUB. I thank the distinguished chairman of the Energy and Commerce Committee.

The CHAIRMAN. Does the gentleman from Michigan withdraw his point of order?

Mr. DINGELL. I withdraw the point of order, Mr. Chairman, and we find, on behalf of the Committee on Energy and Commerce and the Committee on Public Works and Transportation that the amendment is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. DAUB].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: Page 6, after line 20, insert the following new subsection.

(b) HAZARDOUS SUBSTANCE.—Section 101(a)(14)(C) of CERCLA is amended by inserting after "Congress" the following: "and not including used oil that is listed or identified as a hazardous waste under the Solid Waste Disposal Act if such used oil is treated, managed, or recycled in compliance with a final rule promulgated by the Administrator under such Act" or such used oil is treated, managed or recycled in such a way as to remove or render harmless the hazardous constituents contained in such used oil or such used oil does not contain hazardous constituents.

Redesignate the subsequent subsections of section 101 of the bill accordingly.

Mr. SKELTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, this amendment is offered on behalf of this gentleman from Missouri and also the gentleman from Texas [Mr. STENHOLM]. I offer this amendment as concerns the application of the Superfund law to use oil that is being recycled. As my colleagues are aware, the Environmental Protection Agency has recently proposed regulations which lists used oil as a hazardous waste under the RCRA Act, and to establish stringent regulations governing the recycling of used oil.

Now, since any hazardous wastes listed under the RCRA Act automatically become a hazardous substance for the purpose of the Superfund, it is important that Congress give serious consideration to the impact that Superfund will have on the existing oil recycling system.

The bottom line, Mr. Chairman, of this amendment is to continue to encourage garages and truck stops and service stations to recycle oil properly and to protect our environment. Waste oil, unlike many other hazardous wastes, is reusable and is valuable. It is in our best interests to encourage energy conservation where possible and, in addition, to have environmental protection. This amendment exempts used oil from the hazardous waste category in the soon-to-be-finalized regulations if you dispose of it in a manner which treats or recycles it, rendering it harmless.

This thereby sets a standard to protect human health and the environment while at the same time encouraging the recycling of a valuable resource. This exemption will take effect when the regulations which categorize the waste oil harmless are finalized. The vast majority of these businesses are small businesses, such as service stations, such as truck stops, many of which provide a very useful service as collection sites for waste oil that individuals might otherwise just dump. The recycling effort is an important one and deserves our support, Mr. Chairman.

Mr. ECKART of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to perhaps engage the gentleman from New Jersey [Mr. FLORIO] in a colloquy on this matter. We have had some substantial discussion among our colleagues on Public Works, the chairman of our subcommittee and the sponsors of H.R. 2817, and there appears to be, Mr. SKELTON and Mr. FLORIO, some concern as to, first of all, the fact that I understand the rule has only been promulgated about 6 days ago, about November 29. Then there is the applicability of a cleanup regimen as part of that final rule and what would be the application of the handwritten language that has been attached, which has been intended to be a backstop, catchall to protect the environment, as opposed to allowing a loophole.

I would ask for the observations of my colleague from New Jersey.

Mr. FLORIO. The gentleman is correct. Certainly the intent of the gentleman from Missouri is admirable. We want to bring about an encouragement of recycling of waste oil. That is highly desirable. The rule that we understand has just been published which, incidentally, we tried to get published for the last 2 years, does not deal with the problem of what happens if there is a spill of the waste oil.

My suggestion and the suggestion of the gentleman from Ohio is that perhaps this amendment be ended on line 7 with a period or a comma, and then have some language which is in the process of being submitted, to urge that the rule be modified before full publication, so as to allow for corrective action.

I yield back to the gentleman from Ohio to perhaps suggest some language.

Mr. ECKART of Ohio. I want to get the understanding of the gentleman from Missouri that it is his intention that this be the most environmentally restrictive application of this provision, as well.

Mr. SKELTON. That is correct.

Mr. ECKART of Ohio. Then I would suggest to the gentleman from New Jersey, whose staff has been helpful, that perhaps what we would look at is that line 6 would read "a final rule promulgated by the Administrator under such Act," and then add new language, strike what was written, "and such rule shall contain the authority for the Environmental Protection Agency to order corrective action for any release of used oil."

Does the gentleman have any problem with that?

Mr. SKELTON. I would have no problem with that, Mr. Chairman, and

I would ask unanimous consent that my amendment be corrected and amended per the suggestion of the gentleman from Ohio.

The CHAIRMAN. Will the gentleman from Ohio submit the modification to the desk, please?

Mr. ECKART of Ohio. Mr. Chairman, I ask unanimous consent that the amendment of the gentleman from Missouri [Mr. SKELTON] be modified so that in line 5 it reads as follows: "* * * in compliance with a final rule promulgated by the Administrator under such Act," and then add the new language, "and such rule shall contain the authority for the Environmental Protection Agency to order corrective action for any release of used oil." Strike the balance of the hand-written language.

AMENDMENT OFFERED BY MR. ECKART OF OHIO TO THE AMENDMENT OFFERED BY MR. SKELTON

The CHAIRMAN. The Chair is going to take the liberty of considering that an amendment to the Skelton amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART of Ohio to the amendment offered by Mr. SKELTON: Line 6 is amended to read as follows: "a final rule promulgated by the Administrator under such Act; and such rule shall contain the authority for the Environmental Protection Agency to order corrective action for any release of used oil."

Mr. ECKART of Ohio. Mr. Chairman, the language that we suggest is an attempt to ensure, as I believe the gentlemen from Missouri and New Jersey have made clear, that there will be an underlying environmental protection guarantee for the management, treatment, and recycling, as the amendment references, of used oil.

I believe the gentlemen concur that that is their intent.

We believe that option that was presented to us, that we now have in front of us, is perhaps a better guarantee, and I would urge the adoption of my amendment to the amendment of the gentleman from Missouri.

Mr. LENT. Mr. Chairman, will the gentleman yield for a question?

Mr. ECKART of Ohio. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I was prepared to accept the gentleman's amendment before the amendment of the gentleman from Ohio had been offered. I just want to clarify the effect of the gentleman's amendment to the amendment is to put the language back substantially in the same form it had been at the time it was first approved by the EPA Administrator?

Mr. ECKART of Ohio. It is our intention, yes, with the language that was originally handwritten, that we have a catchall to avoid liability, to avoid environmental problems with leaks.

Mr. LENT. And the amendment, as amended, has the support of the Environmental Protection Administrator, so far as the gentleman is aware?

Mr. ECKART of Ohio. I am just advised by my colleague from Texas that it is acceptable under those terms.

Mr. SNYDER. Mr. Chairman, will the gentleman yield? I would like to have a copy of the amendment, both the original and your addition. I have not seen either copy, and I have checked with the Public Works staff on the minority, and they have not.

Mr. ECKART of Ohio. I would ask the indulgence of the Clerk to perhaps borrow their Xerox machine behind the dais over there. I want to assure my friend from Kentucky that it was handwritten here at this moment, and there is no attempt in any way to engage in any subterfuge.

The CHAIRMAN. The Clerk is going to provide a copy for the gentleman from Kentucky.

Mr. ECKART of Ohio. Mr. Chairman, pending that, I yield to my colleague, the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

As I understand the amendment of the gentleman from Ohio to the amendment of the gentleman from Missouri, what he is concerned about is the case where large recyclers have a leak or discharge occur in the process of storage or in the process of recycling itself, and there ought to be a chance for EPA to take corrective action under those circumstances, and that is what his amendment does. It says, in effect, that while we encourage the recycling of used oil and want to encourage in fact its collection and recycling rather than its disposition and waste somewhere that, nevertheless, if there is a discharge in the process, in the storage or processing of that oil, that EPA still would maintain the ability to take corrective action in that case, which we want them to be able to do.

So I think the amendment is good.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. ECKART of Ohio. I yield to my colleague, the gentleman from New York.

Mr. GREEN. I am a little bit concerned about the amendment and the amendment to the amendment because in the last 2 years I have been pursuing the issue of recycled oil that is improperly recycled and not adequately recycled and thus puts toxic chemicals into the air, and I have also been concerned with the fact that oil, both heating oil and reused oil, has from time to time been adulterated with toxic chemicals as a cheap but obviously harmful means of disposing of those, and I would like the gentleman from Ohio and the gentleman from Missouri to explain whether they are making any change in the regulations that the EPA published this fall which deal with the whole question of the adulteration of heating oil and the quality of reused oil.

Mr. ECKART of Ohio. First of all, before I yield to my friend from New Jersey, let me say precisely that the rules as adopted on November 29, are designed to preclude the problem the gentleman has been pursuing so vigorously for the last 2 years. My amendment to the amendment makes sure that we contain any potential release.

I yield to my friend, the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I can identify with the problem of the gentleman from New York. I, too, have been trying to get EPA to publish the rule for the last 2 years they have been promising us. That is what caused some apprehension about the form of the initial amendment which said upon publication of a rule or—and then they had some generalized language that I would not be comfortable with. But the representation has been made that the rule is about to come out. So the amendment that the gentleman from Ohio has offered, put a comma at the end of the rule, and then put some clarifying language as to what the rule should have, so that I think this should achieve two purposes, provide us with some protection from inappropriate uses of waste oil, as the gentleman indicated, also spur EPA on to make sure that the rule is finalized in a form that is going to provide for the things that the gentleman wants and the additional concern about corrective action the gentleman's amendment included.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. ECKART] has expired.

(By unanimous consent, Mr. ECKART of Ohio was allowed to proceed for 2 additional minutes.)

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. ECKART of Ohio. Yes, I continue to yield to the gentleman from New York.

Mr. GREEN. First, of course, the EPA has only published part of what it has set out to do, and the material with respect to industrial use of these oils has not yet been dealt with.

Mr. ECKART of Ohio. That is why we used the term "final rule," which has to be all encompassing, including now the spill protection, as well.

Mr. GREEN. If the gentleman will yield further, what you are representing to me is that in fact you are not in any way weakening or adulterating the regulations that the EPA has proposed at this point.

Mr. ECKART of Ohio. The gentleman is perfectly correct.

Mr. GREEN. I thank the gentleman.

□ 2045

Mr. ECKART of Ohio. I yield to the gentleman from Texas [Mr. RALPH M. HALL].

Mr. RALPH M. HALL. As the gentleman knows, as one of the proponents of the change, and even with the input from the subcommittee chairman, Mr. FLORIO, I think that strengthens the rule and clarifies it and I certainly stand in support of it as it has been amended.

Mr. ECKART of Ohio. I thank the gentleman and I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

I have had an opportunity to go over the amendment to the amendment and I think it is in good order. With 1.2 billion gallons of used oil produced each year, it is essential that this compromise be enacted and I would urge my colleagues to support the gentleman's amendment.

Mr. ECKART of Ohio. We have, I would assure my friend from Long Island, endeavored to structure this so that we in no way vitiate the terms of what we have discussed earlier.

I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. With the corrected language, I would like to hear what the gentleman from Public Works has to say.

Mr. ECKART of Ohio. I yield to the gentleman from New York [Mr. MOLINARI].

The CHAIRMAN. The time of the gentleman from Ohio [Mr. ECKART] has expired.

(On request of Mr. MOLINARI and by unanimous consent, Mr. ECKART of Ohio was allowed to proceed for 5 additional minutes.)

Mr. ECKART of Ohio. I yield to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. The language that was in here that was handwritten, was that in the original amendment that was submitted?

I just got a copy of the amendment a few minutes ago, and the question I have is there was language added here that was handwritten. Treated, managed, recycled, and so forth. Was that in the original amendment that was offered by the gentleman from Missouri?

Mr. ECKART of Ohio. The handwritten language that you see originally prepared at the bottom of the paper would be stricken in my amendment to the amendment.

Mr. MOLINARI. I understand. The question I am posing is, When was that language, not the language talking about the ruling of the Environmental Protection Agency, but the handwritten language that was eliminated and substituted by the other, when was that put in?

Mr. ECKART of Ohio. That was added prior to the introduction of the amendment so that is how it would be as introduced. When we originally examined just the typed version of the amendment, I and others were not satisfied that it was environmentally acceptable. We attempted to find two ways to skin the cat, and this way was suggested to us as a more perfecting way to do it.

Mr. MOLINARI. If the gentleman would yield, I would just like to ask one more question.

Picking up where the gentleman from New York [Mr. GREEN] left off before, we have a very serious problem in the Northeast region and it may be in other sections of the country as well, that was the point alluded to before, and that is that there is a large-scale practice of spicing waste oil with toxic wastes and then using it and selling it as recycled oil. That concerns me deeply, and I am asking a question as to whether the chairman of the subcommittee perhaps can assure us that no way is this going to permit that practice to proliferate.

Mr. ECKART of Ohio. I yield to the gentleman from New Jersey [Mr. FLORIO] for his response.

Mr. FLORIO. That was the specific reason why that written language was regarded by some as offensive. The concept of recycling is open to interpretation. Times Beach, MO, is a problem that was caused by recycled oil put on roads. The problem that you and Mr. GREEN are very concerned about, appropriately in New York, about recycled home heating oil with toxic wastes in it being burned in home furnaces likewise is capable of being interpreted as recycled oil.

That is why the gentleman struck that language and included that the only way that one can come under the provisions of this amendment is through the publication of the regulation which is about to be published.

Mr. ECKART of Ohio. I yield to the gentleman from New York.

Mr. MOLINARI. I have serious questions, but I understand that the gentleman from New Jersey, the chairman of the subcommittee has a request? Am I correct?

I was going to ask that this be laid aside; I thought the gentleman from New Jersey was going to make a request along those lines.

Mr. ECKART of Ohio. I yield to the gentleman from New Jersey for his response [Mr. ROE].

Mr. ROE. I thank the gentleman.

We understand what issue is a people have been speaking eloquently about what the problems are, but nobody has anything in writing. It seems to me it might be profitable if the gentleman would defer this amendment until we can get it down on paper so the Members know what they are voting for.

So if it was withdrawn temporarily until the paperwork could be adjusted, I think it would speed up the action and people would understand what it is about. There is confusion about this.

Mr. ECKART of Ohio. Mr. Chairman, on my time, I would request unanimous consent that the amendment and my amendment to the amendment be withdrawn at this time, without prejudice, to be offered later in this title.

The CHAIRMAN. The Chair is not sure exactly what that language means and the ramifications of it.

Is there objection to the request of the gentleman from Ohio for withdrawal of the amendment?

There was no objection.

The CHAIRMAN. Are there further amendments to title 1?

The Chair will now respond to the gentleman's second request.

There would not be prejudice if there is no objection. The Chair would rule that the gentleman could reserve his right to offer that amendment when we go on to another title.

Mr. ECKART of Ohio. That was the intention of my request, Mr. Chairman.

The CHAIRMAN. Without objection, so ordered.

There was no objection.

The CHAIRMAN. Are there additional amendments to title 1?

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Page 129 line 6, after "standards" insert "and state siting standards or laws."

Page 129, line 21, after the period, insert: "In any case in which there is a promulgated State siting standard or law which is applicable to the remedial action, the provisions of subsection (j) shall govern the use of such State siting standard or law, except where such State standard law may effectively result in the prohibition of land disposal of a hazardous substance, pollutant or contaminent.

Page 135, lines 14. 15, delete all after "plan" through "costs" and insert in lieu thereof: "Permits may not significantly increase the estimated costs of the action."

Page 135, line 11, after the period insert: "The State may require the party responsible for obtaining any permit to file an application for such permit at any reasonable time after the selection of the remedial action."

Mr. WIRTH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Mr. Chairman, this amendment is offered to perfect the treatment of Federal and State permits and more stringent State stand-

ards in remedial actions involving onsite cleanups.

The committees should be commended for moving a very long way from the complete preemption of State permits and standards contained in earlier versions of H.R. 2817.

The perfecting amendment has been worked out with the concurrence of the majority and minority, the EPA, the Justice Department, and many of those States most concerned.

It basically accomplishes three things: First, ensures that State standards and laws related to the siting of hazardous waste facilities are specifically included in the development of a remedial action.

The application of such laws in the final plan will be subject to the same narrow conditions for rejection as those outlined in the compromise, and further protects against States passing a complete ban on the land disposal of hazardous wastes.

Second, the amendment ensures that a State's authority to review and issue a permit is protected by allowing for a State to require the filing of an application for a permit.

Third, clarifies the relationship of the remedial action plan with the terms of the permit by allowing for the possibility wherein an identified remedy may cost more than originally anticipated.

□ 2055

I believe that all parties have agreed to this amendment, Mr. Chairman. I would hope that my colleagues would also see fit to support and include this amendment in the very good compromise that has been worked out by the Commerce Committee and by the Public Works Committee.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I am happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I just want to pay tribute to the gentleman who spent much of his efforts dealing with this bill on this subject, the question of States' rights.

I am pleased that things have been able to be worked out sufficiently that he is satisfied.

I certainly endorse the gentleman's efforts in this direction.

Mr. WIRTH. Mr. Chairman, I thank the gentleman very much.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I am happy to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we want to compliment the gentleman for his splendid addition to the legislation. We have no objection to it.

Mr. WIRTH. Mr. Chairman, I thank the gentleman, and again commend the gentleman from New Jersey [Mr. FLORIO] and the others.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, we have had an opportunity to go over the amendment. It is a good amendment. We want to commend the gentleman from Colorado for his ingenuity. We accept the amendment.

Mr. WIRTH. Mr. Chairman, I thank the gentleman also for his perseverance and patience in this enormously complicated problem of accommodating the concerns of 50 States, as well as that of a good Federal standard.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I am happy to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, do I understand, is this for more stringent State requirements?

Mr. WIRTH. Yes, it is. That is the intent of the amendment.

Mr. SNYDER. That is my understanding, also. We are pleased to accept the amendment.

Mr. WIRTH. Mr. Chairman, I thank the gentleman.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. Mr. Chairman, the gentleman's efforts have been virtually herculean in this regard, the countless meetings, the number of States surveyed, the interests locally to be protected have indeed been overwhelming and I applaud the gentleman taking that last necessary step to help us make a better bill and we are delighted to accept it.

Mr. WIRTH. Mr. Chairman, I thank the gentleman. The Governors have endorsed this. This is, of course, very sensitive and delicate to that relationship between the Federal Government and the States, and I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. WIRTH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. ECKART OF OHIO

Mr. ECKART of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART of Ohio: At the end of section 119, add the following new paragraph:

"(q) Nothing in this Act shall limit the Administrator in taking such action as may be necessary to assure continuous remedial action or to institute interim remedial action when it becomes necessary to reopen bidding or otherwise recontract for the performance of remedial action."

Mr. ECKART of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ECKART of Ohio. Mr. Chairman, as many of our colleagues know, Superfund cleanups all across the United States have been forced to be delayed while the debate goes forward. This adds a new subparagraph (q) which states simply that nothing in this act shall limit the Administrator in taking such action as may be necessary to assure continuous remedial action or to institute interim remedial action when it becomes necessary to reopen bidding, which may be the process because of the fact that cleanups have had to be suspended.

Mr. Chairman, I view this as mostly technical in nature. It is an amendment that was considered in the other body and accepted.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. ECKART of Ohio. I yield to my friend, the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we have reviewed this amendment. It is an improvement to the legislative process. I compliment the gentleman. We have no objection to it.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. ECKART of Ohio. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, we are pleased to accept the amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ECKART of Ohio. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, we have had an opportunity to go over the gentleman's amendment and we find it in good order. We have no objection over here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. ECKART].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

There being none, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. POST CLOSURE.

(a) REPEAL OF POST-CLOSURE PROVISIONS.—Sections 107(k) and 111(j) of CERCLA are hereby repealed. Section 101(11) of CERCLA is amended by striking out "or, in the case of" and all that follows through the semicolon at the end thereof and inserting in lieu thereof a semicolon.

(b) POST-CLOSURE PROGRAM.—The Comptroller General shall conduct a study of options for a program for the management of the liabilities associated with hazardous waste disposal sites after their closure.

(c) PROGRAM ELEMENTS.—The program referred to in subsection (b) shall be designed to assure each of the following:

(1) Incentives are created and maintained for the safe management and disposal of hazardous wastes so as to assure protection of human health and the environment.

(2) Members of the public will have reasonable confidence that hazardous wastes will be managed and disposed of safely and that resources will be available to address any problems that may arise from the release or off-site migration of hazardous waste from disposal sites, and to cover costs of long-term monitoring, care, and maintenance of such sites.

(3) Persons who are or seek to become owners and operators of hazardous waste disposal facilities will be able to manage their potential future liabilities and to attract the investment capital necessary to build, operate, and close such facilities in a manner which assures protection of human health and the environment.

(d) PROCEDURES.—In carrying out the responsibilities of this section, the Comptroller General shall consult with the Administrator, the Secretary of Commerce, the Secretary of the Treasury, and the heads of other appropriate Federal agencies.

(e) CONSIDERATION OF OPTIONS.—In conduction the study under this section, the Comptroller General shall consider all options which may serve the purposes set forth in subsection (c) including each of the following:

(1) Closure requirements and financial responsibility requirements.

(2) Private insurance.

(3) Insurance provided by the Federal Government.

(4) Coinsurance, reinsurance, or pooled-risk insurance, whether provided by the private sector or provided or assisted by the Federal Government.

(5) Reinstitution of the modification to the Post-closure Liability Trust Fund.

(6) Creation of a new program to be administered by a new or existing Federal agency or by a federally chartered corporation.

(f) RECOMMENDATIONS.—The Comptroller General shall consider options for funding any program under this section and shall, to the extent necessary, make recommendations to the appropriate committees of Congress for additional authority to implement such program.

SEC. 202. TRANSPORTATION OF HAZARDOUS MATERIALS.

Section 306 of CERCLA is amended by inserting after "listed" each place it appears in subsections (a) and (b) "and regulated".

SEC. 203. STATE PROCEDURAL REFORM.

(a) IN GENERAL.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 309. ACTIONS UNDER STATE LAW FOR DAMAGES FROM EXPOSURE TO HAZARDOUS SUBSTANCES.

"(a) STATE STATUTES OF LIMITATIONS FOR HAZARDOUS SUBSTANCE CASES.—

"(1) EXCEPTION TO STATE STATUTES.—In the case of any action brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility, if the applicable limitations period for such action (as specified in the State statute of limitations or under common law) provides a commencement date which is earlier than the federally required commencement date, such period shall commence at the Federally required commencement date in lieu of the date specified in such State statute.

"(2) STATE LAW GENERALLY APPLICABLE.—Except as provided in paragraph (1), the statute of limitations established under State law shall apply in all actions brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility.

"(3) ACTIONS UNDER SECTION 107.—Nothing in this section shall apply with respect to any cause of action brought under section 107 of this Act.

"(b) DEFINITIONS.—As used in this section—

"(1) TITLE I TERMS.—The terms used in this section shall have the same meaning as when used in title I of this Act.

"(2) APPLICABLE LIMITATIONS PERIOD.—The term 'applicable limitations period' means the period specified in a statute of limitations during which a civil action referred to in subsection (a)(1) may be brought.

"(3) COMMENCEMENT DATE.—The term 'commencement date' means the date specified in a statute of limitations as the beginning of the applicable limitations period.

"(4) FEDERALLY REQUIRED COMMENCEMENT DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'federally required commencement date' means the date the plaintiff knew (or reasonably should have known) that the personal injury or property damages referred to in subsection (a)(1) were caused or contributed to by the hazardous substance or pollutant or contaminant concerned.

"(B) SPECIAL RULES.—In the case of a minor or incompetent plaintiff, the term 'federally required commencement date' means the later of the date referred to in subparagraph (A) or the following:

"(i) In the case of a minor, the date on which the minor reaches the age of majority, as determined by State law, or has a legal representative appointed.

"(ii) In the case of an incompetent individual, the date on which such individual becomes competent or has had a legal representative appointed.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect with respect to actions brought after December 11, 1980.

SEC. 204. CONFORMING AMENDMENT TO FUNDING PROVISIONS.

(a) HAZARDOUS SUBSTANCES SUPERFUND.—Section 221(a) of CERCLA is amended by striking out "Hazardous Substance Response Trust Fund" and inserting in lieu thereof "Hazardous Substances Superfund".

(b) CROSS REFERENCE TO FUNDING PROVISIONS.—Section 221(c) of CERCLA is amended to read as follows:

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Response Trust Fund shall be available for expenditure only as provided in section 111 of this Act."

SEC. 205. CLEANUP OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS.

(a) DEFINITION OF PETROLEUM.—Section 9001(2)(B) of the Solid Waste Disposal Act is amended by striking out all that follows "petroleum" and inserting in lieu thereof a period. Section 9001 of such Act is amended by adding at the end thereof the following:

"(8) The term 'petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).".

(b) STATE INVENTORIES.—Section 9002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) STATE INVENTORIES.—Each State shall make 2 separate inventories of all underground storage tanks in such State containing regulated substances, and those of such tanks from which there is a known release of regulated substances. One inventory shall be made with respect to petroleum and one with respect to other regulated substances. In making such inventories, the State shall utilize the notification procedures and forms developed pursuant to subsections (a) and (b) of this section. Each State shall submit its inventories to the Administrator not later than November 8, 1986.".

(c) EPA RESPONSE PROGRAM.—Section 9003 of the Solid Waste Disposal Act is amended by adding after subsection (g) the following new subsection:

"(h) EPA RESPONSE PROGRAM FOR PETROLEUM.—

"(1) BEFORE (c)(4) REGULATIONS.—Before the effective date of corrective action regulations under subsection (c)(4), the Administrator is authorized to—

"(A) undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the Administrator, to protect human health and the environment; or

"(B) require the owner or operator of the underground storage tank to undertake such corrective action with respect to any such release unless the Administrator determines that such action will not be carried out properly by such owner or operator.

The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment. In undertaking or requiring such corrective action, the Administrator shall take into account the distinctions referred to in subsection (b). The Administrator shall use funds in the Leaking Underground Storage Tank Trust Fund for payment of costs incurred for corrective action under subparagraph (A). Subject to the priority requirements of paragraph (3), the Administrator shall give priority in undertaking such actions under subparagraph (A) to cases where the Administrator cannot identify a solvent owner or operator of the tank who will undertake the action properly.

"(2) AFTER (c)(4) REGULATIONS.—Following the effective date of regulations under subsection (c)(4), all actions of the Administrator (or ordered by the Administrator) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Administrator may undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank only if such action is necessary, in the judgment of the Administrator, to protect human health and the environment and one or more to the following situations exists:

"(A) No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—

"(i) an owner or operator of the tank concerned,

"(ii) subject to such corrective action regulations, and

"(iii) capable of carrying out such corrective action properly.

"(B) A situation exists which requires prompt action by the Administrator under this paragraph to protect human health and the environment.

"(C) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under section 9006 to comply with the corrective action regulations.

"(3) PRIORITY OF CORRECTIVE ACTIONS.—The Administrator shall give priority in undertaking corrective actions under this subsection, and in issuing orders requiring owners or operators to undertake such actions to releases of petroleum from underground storage tanks which pose the greatest threat to human health and the environment.

"(4) CORRECTIVE ACTION ORDERS.—The Administrator is authorized to issue orders to the owner or operator of an underground storage tank to carry out subparagraph (B) of paragraph (1) or to carry out regulations issued under subsection (c)(4). Such orders shall be isssued and enforced in the same manner and subject to the same requirements as orders under section 9006.

"(5) ALLOWABLE CORRECTIVE ACTIONS.—The corrective actions undertaken by the Administrator under paragraph (1) or (2) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (2), the Administrator may also determine the health effects of the release concerned. The costs of any study to determine such effects shall not be treated as corrective action for purposes of paragraph (6), relating to cost recovery.

"(6) RECOVERY OF COSTS.—

"(A) IN GENERAL.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (7), for undertaking corrective action with respect to the release of petroleum from an underground storage tank, the owner and operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act.

"(B) INTERIM LIMIT ON LIABILITY.—

"(i) INITIAL CORRECTIVE ACTION.—Except as provided in clause (ii) of this paragraph and subparagraph (C) and until a determination is made under subparagraph (D), the maximum liability under the paragraph for each corrective action undertaken at a facility at which a release of petroleum from an underground storage tank occurs shall be—

"(I) $1,000,000 in the case of an operator who is not an owner and who operates seven or fewer tanks containing petroleum at such facility;

"(II) $3,000,000 in the case of an owner who owns seven or fewer tanks containing petroleum at such facility; and

"(III) $5,000,000 in the case of an owner or operator who owns or operates more than seven such tanks at such facility.

"(ii) INCREASED LIMITS.—Except as provided in subparagraph (C) and until a determination is made under subparagraph (D), the maximum liability under this paragraph for each corrective action undertaken at a facility at which a release of petroleum from an underground storage tank occurs shall be—

"(I) $10,000,000 in the case of an owner or operator whose gross assets are more than $1,000,000,000 but not more than $5,000,000,000;

"(II) $25,000,000 in the case of an owner or operator whose gross assets are more than $5,000,000,000 but not more than $10,000,000,000; and

"(III) $50,000,000 in the case of an owner of operator whose gross assets are more than $10,000,000,000.

"(iii) ADDITIONAL CORRECTIVE ACTION.—Additional corrective action which is required to respond to a release of petroleum from an underground storage tank which occurs after completion of corrective action in response to an earlier release from such tank shall be treated as a separate corrective action for purposes of clauses (i) and (ii) of this subparagraph.

"(iv) APPLICATION.—The limitation on liability under this subparagraph shall apply only with respect to liability under this paragraph for costs incurred by the Administrator or a State for undertaking corrective action with respect to the release of petroleum from an underground storage tank. Such limitation shall not affect the liability of any person under any other authority of law for any other costs or damages.

"(C) LIMITATIONS INAPPLICABLE.—The limitations under subparagraph (B) shall not apply if—

"(i) the release or threat of release was the result of willful misconduct or gross negligence within the privity or knowledge of such person; or

"(ii) the person fails or refuses to provide all reasonable cooperation and assistance requested by a responsible public official in connection with corrective action activities under this Act.

"(D) PERMANENT REGULATIONS.—At the time financial responsibility regulations are promulgated by the Administrator under this section, the Administrator shall determine whether limitations on the liability imposed under subparagraph (A) are appropriate. At such time, the Administrator may, by regulation, establish classes or categories of underground storage tanks and establish lower limits on liability than the limits prescribed by subparagraph (B) for such classes or categories, if the Administrator determines it appropriate on the basis of the following factors:

"(i) the size, type, location, storage, and handling capacity of underground storage tanks in the class or category and the volume of petroleum handled by such tanks;

"(ii) the likelihood of release and the potential extent of damage from any release from underground storage tanks in the class or category;

"(iii) the economic impact of the limits on owners and operators of each such class, particularly relating to the small business segment of the petroleum marketing industry;

"(iv) the results of studies and actions undertaken in accordance with subsection (g); and

"(v) such other factors as the Administrator deems pertinent.

"(E) EFFECT ON LIABILITY.—

"(i) NO TRANSFERS OF LIABILITY.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any underground storage tank or from any person who may be liable for a release or threat of release under this subsection, to any other person the liability imposed under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) NO BAR TO CAUSE OF ACTION.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(F) FACILITY.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all underground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(7) STATE AUTHORITIES.—Whenever a State has primary enforcement responsibility under section 9004, the State may submit to the Administrator a proposal to exercise the authorities of the Administrator under paragraphs (1), (2), (3), (4), (5), and (6) of this subsection. If the Administrator determines that such State has demonstrated the ability to exercise and enforce such authorities in a manner substantially equivalent to the Federal program under this subsection, the Administrator may delegate such authorities to the State. For purposes of funding corrective actions undertaken by a State pursuant to such delegated authorities, the Administrator may make such grants to the State from the Leaking Underground Storage Tank Trust Fund as the Administrator deems necessary to further the objectives of this subsection. Such grants shall be apportioned among the States applying for grants as follows:

"(A) 50 percent on the basis of the number of underground storage tanks containing petroleum which are located in each such State, and

"(B) 50 percent on the basis of the number of such tanks located in each such State from which there is a known release of petroleum.

Determinations under subparagraphs (A) and (B) shall be based on information provided by the States in the surveys required under subsection (h).

"(8) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary to effect the purpose of this subsection. The Administrator shall promulgate regulations prescribing the circumstances under which such authority shall be used and any procedures governing the use of such authority which the Administrator deems necessary.

"(9) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an underground storage tank, holds indicia of ownership primarily to protect his security interest in the tank.".

(d) METHODS OF FINANCIAL RESPONSIBILITY.—The first sentence of section 9003(d)(2) of the Solid Waste Disposal Act is amended by striking out "or" after "credit," and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.".

(e) POLLUTION LIABILITY INSURANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the availability of pollution liability insurance, leak insurance, and contamination insurance for owners and operators of petroleum storage and distribution facilities. The study shall assess

the current and projected extent to which private insurance can contribute to the financial responsibility of owners and operators of underground storage tanks and the ability of owners and operators of underground storage tanks to maintain financial responsibility through other methods. The study shall consider to what extent, if any, the placement of limitations on liability for corrective action costs by owners or operators of underground storage tanks will have on the availability of such insurance. The study shall consider the experience of owners or operators of marine vessels in getting insurance for their liabilities under the Federal Water Pollution Control Act and the operation of the Water Quality Insurance Syndicate.

(2) REPORT.—The Comptroller General shall report his findings under this subsection to the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate within nine months after the date of the enactment of this subsection. Such report shall include recommendations for legislative or administrative changes that will enable owners and operators of underground storage tanks to maintain financial responsibility sufficient to provide for all clean-up costs and damages that may result from reasonably foreseeable releases and events.

SEC. 206. CITIZENS SUITS.

Title III of CERCLA is amended by adding the following new section after section 309:

"SEC. 310. CITIZENS SUITS.

"(a) AUTHORITY TO BRING CIVIL ACTIONS.—Except as provided in subsections (d) and (e) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who—

"(A) is alleged to be in violation of any requirement which has become effective pursuant to this Act; or

"(B) has contributed or is contributing to the release or threatened release of any hazardous substance from a hazardous waste disposal site, if such release or threatened release may present an imminent and substantial endangerment to public health or the environment; or

"(2) against—

"(A) the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator; or

"(B) any other department, agency, or instrumentality of the United States where there is alleged a failure of such department, agency, or instrumentality to perform any act or duty under section 120 of this Act (relating to Federal facilities) which is not discretionary with such department, agency, or instrumentality.

For purposes of this subsection, the term 'hazardous waste disposal site' means a site at which disposal of hazardous waste has occurred or is occurring.

"(b) VENUE.—

"(1) ACTIONS UNDER SUBSECTION (a)(1).—Any action under subsection (a)(1)(A) shall be brought in the district court for the district in which the alleged violation occurred. Any action under subsection (a)(1)(B) shall be brought in the district court for the district in which the release or threatened released occurred.

"(2) ACTIONS UNDER SUBSECTION (a)(2).—Any action brought under paragraph (2) of subsection (a) may be brought in the United States District Court for the District of Columbia.

"(c) RELIEF.—The district court shall have jurisdiction in actions brought under subsection (a)(1)(A) to enforce the requirement concerned and to impose any civil penalty provided for violation of that requirement. The district court shall have jurisdiction in actions brought under subsection (a)(1)(B), to immediately restrain any person contributing to the endangerment referred to in subsection (a)(1)(B), to order such person to take response action as provided for under this Act, or both. The district court shall have jurisdiction in actions brought under subsection (a)(2) to order the Administrator or other department, agency, or instrumentality to perform the act or duty concerned.

"(d) SUBSECTION (a)(1) ACTIONS.—

"(1) NOTICE.—No action may be commenced under subsection (a)(1) of this section prior to 60 days after the plaintiff has given notice of the violation or release or threatened release—

"(A) to the Administrator;

"(B) to the State in which the alleged violation or release or threatened release occurs; and

"(C) to any alleged violator or person who contributed or is contributing to the release or threatened release.

Notice under this paragraph shall be given in such manner as the Administrator shall prescribe by regulation.

"(2) ACTIONS UNDER PARAGRAPH (1).—No action may be commenced under subsection (a)(1) if the Administrator—

"(A) has commenced and is diligently—

"(i) pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty under this Act with respect to the violation or such requirement,

"(ii) pursuing an administrative order or civil action to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment, or

"(iii) prosecuting an action in court under section 106 of this Act, or under section 7003 of the Solid Waste Disposal Act, with respect to such violation or endangerment;

"(B) is actually engaging in a removal action under section 104 with respect to such violation or endangerment;

"(C) is diligently proceeding with a remedial investigation and feasibility study under section 104(b) of this Act or has completed a remedial investigation and feasibility study and is diligently proceeding with a response action with respect to such violation or endangerment; or

"(D) has obtained a court order (including a consent decree) under section 106 of this Act or under section 7003 of the Solid Waste Disposal Act under which any responsible party—

"(i) is diligently conducting a removal action,

"(ii) is diligently proceeding with a remedial investigation and feasibility study, or

"(iii) has completed a remedial investigation and feasibility study and is diligently proceeding with a response action, with respect to such violation or endangerment.

In the case of an administrative order referred to in subparagraph (A), actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of such administrative order.

"(3) ACTIONS UNDER SUBSECTION (a)(1)(B); STATE ACTIVITY.—No action may be commenced by any person other than the State under subsection (a)(1)(B) if, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment, the State—

"(A) has commenced and is diligently prosecuting an action under subsection (a)(1)(B) with respect to such endangerment;

"(B) is actually engaging in a removal action under section 104 with respect to such endangerment; or

"(C) has incurred costs to initiate a remedial investigation and feasibility study under section 104(b) of this Act and is diligently proceeding with a remedial action under this Act.

"(4) STANDING.—For purposes of this section, only a person who has an interest which is or may be adversely affected may bring an action under subsection (a)(1)(B).

"(e) SUBSECTION (a)(2) ACTIONS.—No action may be commenced under paragraph (2) of subsection (a) prior to the 60th day following the date on which the plaintiff gives notice to the Administrator or other department, agency, or instrumentality that the plaintiff will commence such action. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(f) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(g) OTHER RIGHTS.—Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the Administrator or a State agency).

"(h) INTERVENTION.—

"(1) BY THE UNITED STATES.—In any action under this section the United States, if not a party, may intervene as a matter of right.

"(2) BY PERSONS.—In any action under this section, any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the Administrator or the State shows that the person's interest is adequately represented by existing parties in the action.

"(i) FEDERALLY PERMITTED RELEASE.—It shall be a defense in an action under subsection (a)(1)(B) if the defendant establishes that the release referred to in subsection (a)(1)(B) was a federally permitted release. For purposes of this subsection, the term 'federally permitted release' has the meaning given such term by section 101(10), except that such term shall not include discharges from a point source which are identified in a permit application (but not in a

permit) under section 402 of the Federal Water Pollution Control Act.

"(j) PESTICIDES.—No action may be brought under this section with respect to any release or threatened release resulting from the normal application of a pesticide product registered under, or whose application is otherwise authorized under, the Federal Insecticide, Fungicide, and Rodenticide Act. Nothing in this subsection shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law (including common law)—

"(1) for damages, injury, or loss resulting from a release of any hazardous substance.

"(2) for removal or remedial action, or

"(3) for the costs of removal or remedial action for such hazardous substance.

"(k) DEFINITIONS.—The terms used in this section shall have the same meanings as when used in title I.".

SEC. 207. INDIAN TRIBES.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 206:

SEC. 207. INDIAN TRIBES.

"(a) DEFINITION.—As used in this Act, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The term does not include any Alaska Native regional or village corporation.

"(b) FUTURE, MAINTENANCE AND COST-SHARING REQUIREMENTS.—The requirements of section 104(c)(3) of this Act for assurances regarding future maintenance and cost-sharing shall not apply to remedial action to be taken on any of the following:

"(1) Land or water held by an Indian tribe.

"(2) Land or water held by the United States in trust for Indians.

"(3) Land or water held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation).

"(4) Land or water within the borders of an Indian reservation.

In the case of remedial action to be taken on any such land or water, the Secretary of the Interior shall provide the assurance required by section 104(c)(3) regarding the availabilty of a hazardous waste disposal facility.

"(C) CONTRACTS OR COOPERATIVE AGREEMENTS.—

"(1) AUTHORITY.—If the Administrator determines that an Indian tribe has the capability to carry out any or all of the actions authorized in this section, the Administrator may, in his discretion, enter into a contract or cooperative agreement with such an Indian tribe to take such actions in accordance with criteria and priorities established pursuant to section 105(a)(8) and to be reimbursed for the reasonable response costs thereof from the Fund.

"(2) ENFORCEMENT.—If the Administrator enters into a contract or cooperative agreement pursuant to this subsection, and the Indian tribe thereof fails to comply with any requirements of the contract, the Administrator may, after providing 60 days notice, seek in the appropriate Federal district court to enforce the contract or to recover any funds advanced or any costs incurred because of the breach of the contract by the Indian tribe.

"(d) NATURAL RESOURCES LIABILITY.—

"(1) LIABILITY TO TRIBE.—Liability under section 107(a)(4)(C) shall be to the Indian tribe in the case of an injury to, destruction of, or loss of natural resources belonging to, managed by, controlled by, or appertaining to the tribe, or held in trust for the benefit of the tribe, or belonging to a member of the tribe if such resources are subject to a trust restriction on alienation.

"(2) EXEMPTIONS.—No liability to an Indian tribe shall be imposed under section 107(a)(4)(C), where the party sought to be charged has demonstrated each of the following:

"(A) The damages to natural resources complained of were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement or other comparable environmental analysis.

"(B) A decision to grant a permit or license authorizes such commitment of natural resources, and the facility or project was otherwise operating within the terms of its permit or license. In the case of damages occurring pursuant to a Federal permit or license, this subparagraph applies only so long as the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe.

"(3) RECOVERY.—The Secretary of the Interior, or the authorized representative of any Indian tribe, shall act on behalf of the public as trustee of natural resources described in paragraph (1) to recover for damages described in paragraph (2). Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Indian tribe, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources. There shall be no recovery under the authority of section 107(a)(4)(C) where the damages complained of and the release of a hazardous substance from which such damages resulted have occurred wholly before the date of the enactment of this Act.

"(e) DELEGATION.—The Administrator is authorized to delegate authority to obligate money in the Fund or to settle claims to officials of an Indian tribe operating under a contract or cooperative agreement with the Federal Government pursuant to section 104(d).

"(f) APPLICATION OF OTHER PROVISIONS.—The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 116 (regarding health assessments and protection), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the National Priorities List).".

(b) CONFORMING AMENDMENTS.—(1) Section 101(a)(16) of CERCLA is amended by striking out "or" the last place it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(2) Section 107 of CERCLA is amended—

(A) in subsection (a), by inserting "or an Indian tribe" after "State";

(B) in subsection (i), by inserting "or Indian tribe" after "State" the first place it appears; and

(C) in subsection (j), by inserting "or Indian tribe" after "State" the first place it appears.

SEC. 208. COMMENCEMENT OF DRILLING FLUIDS, ETC. STUDY.

The Administrator shall commence the study required under section 8002(m) of the Solid Waste Disposal Act not later than six months after the date of the enactment of this Act.

SEC. 209. INSURABILITY STUDY.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

"(g) INSURABILITY STUDY.—

"(1) STUDY GROUP.—The Comptroller General of the United States shall appoint a study group to carry out a study under this subsection. The study group shall be comprised of the following:

"(A) 1 representative of the Comptroller General and 2 representatives of the Administrator.

"(B) 4 representatives of persons described in paragraph (2).

"(C) 2 representatives of groups or organizations comprised generally of persons adversely affected by releases or threatened releases of hazardous substances.

"(D) 3 representatives of property and casualty insurers.

"(E) 1 representative of reinsurers.

The representative of the Comptroller General shall be the chairperson of the study group. One reporter shall be elected from among the members of the study group.

"(2) STUDY.—The study group shall undertake a study to determine the insurability of the liability of the following:

"(A) Persons who generate hazardous substances: liability for costs under this Act.

"(B) Persons who own or operate facilities: liability for costs under this Act.

"(C) Persons liable for harm to persons or property caused by the release of hazardous substances into the environment.

"(3) ITEM EVALUATED.—As part of their study in accordance with this section, the study group shall evaluate, among other matters, the following:

"(A) Current economic conditions in, and the future outlook for, the commercial market for insurance and reinsurance.

"(B) Current trends in statutory and common law remedies.

"(C) The impact of possible changes in traditional standards of liability, proof, evidence, and damages on existing statutory and common law remedies.

"(D) The effect of the standard of liability and extent of persons upon whom it is imposed under this Act on the underwriting and pricing of insurance coverage.

"(E) Current trends in judicial interpretation and construction of applicable insurance contracts.

"(F) The frequency and severity of a representative sample of claims closed during the calendar year preceding the date of the enactment of this subsection.

"(G) Other impediments to insurability.

"(4) SUBMISSION.—A report on the results of the study shall be submitted to Congress with appropriate recommendations within 18 months after the date of the enactment of this subsection.".

SEC. 210. POLLUTION LIABILITY INSURANCE.

CERCLA is amended by adding the following new title at the end thereof:

"TITLE IV—POLLUTION INSURANCE

"SEC. 401. DEFINITIONS.

"As used in this title—

"(1) INSURANCE.—The term 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law.

"(2) POLLUTION LIABILITY.—The term 'pollution liability' means liability for injuries arising from the release of hazardous substances or pollutants or contaminants.

"(3) RISK RETENTION GROUP.—The term 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) PURCHASING GROUP.—The term 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis.

"(5) STATE.—The term 'State' means any State of the United States and the District of Columbia.

"SEC. 402. STATE LAWS.

"Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State. The definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this title, including recognition or qualification of risk retention groups or purchasing groups.

"SEC. 403. RISK RETENTION GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a risk retention group shall be exempt from the following:

"(1) A State law, rule, or order which makes unlawful, or regulates, directly or indirectly, the operation of a risk retention group.

"(2) A State law, rule, or order which requires or permits a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong.

"(3) A State law, rule, or order which requires any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in the State.

"(4) A State law, rule, or order which otherwise discriminates against a risk retention group or any of its members.

"(b) EXCEPTIONS.—

"(1) STATE LAWS GENERALLY APPLICABLE.—Nothing in subsection (a) shall be construed to affect the applicability of State laws generally applicable to persons or corporations. The State in which a risk retention group is chartered may regulate the formation and operation of the group.

"(2) STATE REGULATIONS NOT SUBJECT TO EXEMPTION.—Subsection (a) shall not apply to any State law which requires a risk retention group to do any of the following:

"(A) Comply with the unfair claim settlement practices law of the State.

"(B) Pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State.

"(C) Participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism.

"(D) Submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses.

"(E) Register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process.

"(F) Furnish, upon request, such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction.

"(G) Submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group.

"(H) Comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (G).

"(c) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

"(d) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"SEC. 404. PURCHASING GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a purchasing group is exempt from the following:

"(1) A State law, rule, or order which prohibits the establishment of a purchasing group.

"(2) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.

"(3) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection.

"(4) A State law, rule, or order which prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.

"(5) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.

"(6) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.

"(7) A State law, rule, or order which requires that any insurance policy issued to a purchaisng group or any members of the group be countersigned by an insurance agent or broker residing in that State.

"(8) A State law, rule, or order which otherwise discriminate against a purchasing group or any of its members.

"(b) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to the following:

"(1) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group.

"(2) The sale of any one of the following to a purchasing group or a member of the group:

"(A) Pollution liability insurance and comprehensive general liability coverage.

"(B) Insurance related services.

"(C) Management services.

"(c) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"SEC. 405. APPLICABILITY OF SECURITIES LAWS.

"(a) OWNERSHIP INTERESTS.—The ownership interests of members of a risk retention group shall be considered to be—

"(1) exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

"(2) securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

"(b) INVESTMENT COMPANY ACT.—A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) BLUE SKY LAW.—The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

SEC 211. RELEASES ASSOCIATED WITH BRINE DISPOSAL.

Title I of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 130. RELEASES ASSOCIATED WITH BRINE DISPOSAL.

"(a) REVIEW.—The Administrator shall conduct a review of State programs to protect public health and the environment in States in which annular injection of brines associated with oil and gas production is permitted. The review shall only be conducted in the case of States in which there are more than 2500 active wells at which annular injection is used as of the date of enactment of this section.

"(b) ENFORCEMENT.—

"(1) DETERMINATION.—If the Administrator determines, on the basis of the review conducted under subsection (a), that any State subject to such review is not adequately enforcing a State program to assure that human health or the environment will not be endangered by releases into the environment associated with the annular injection or surface disposal of such brines, the Administrator shall after notice to the State take or order such enforcement or corrective action in such State as may be necessary to assure protection of human health or the environment from endangerment by releases into the environment associated with such injection or other disposal practices.

"(2) CIVIL ACTION.—The Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any enforcement or corrective action taken or ordered under paragraph (1) in any State referred to in subsection (a). The court may enter such judgment as protection of human health or the environment may require, including the imposition of a civil penalty not to exceed $5,000 for each day of violation of any enforcement or corrective action taken or ordered by the Administrator.

"(c) DEADLINES.—The review required under subsection (a) shall be completed, and any enforcement or corrective action taken or ordered under subsection (b) commenced, no later than 18 months after the date of the enactment of this section.

"(d) DEFINITION.—For purposes of this section, the term 'annular injection' means the reinjection of brines associated with the production of oil or gas between the production and surface casings of a conventional oil or gas producing well."

SEC. 212. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) PURPOSE.—The purposes of this section are as follows:

(1) To establish a comprehensive and coordinated Federal program of research, development, demonstration, and training for the purpose of promoting the development of alternative and innovative treatment technologies that can be used in response actions under the superfund program, to provide incentives for the development and use of such technologies, and to improve the scientific capability to assess, detect and evaluate the effects on and risks to human health from hazardous substances.

(2) To establish a basic university research and education program within the Department of Health and Human Services and a research, demonstration, and training program within the Environmental Protection Agency.

(3) To reserve certain funds from the Hazardous Substance Trust Fund to support a basic research program within the Department of Health and Human Services, and an applied and developmental research program within the Environmental Protection agency.

(4) To enhance the Environmental Protection Agency's internal research capabilities related to Superfund activities, including site assessment and technology evaluation.

(5) To provide incentives for the development of alternative and innovative treatment technologies in a manner that supplements, but does not compete with or duplicate, private sector development of such technologies.

(b) AMENDMENT OF CERCLA.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 311. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

"(a) HAZARDOUS SUBSTANCE RESEARCH AND TRAINING.—

"(1) AUTHORITIES OF SECRETARY.—The Secretary of Health and Human Services (hereinafter in this subsection referred to as the Secretary), in consultation with the Administrator, may conduct and support the following activities (through grants, cooperative agreements, and contracts):

"(A) basic research (including epidemiologic and ecologic studies) in the following:

"(i) Advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances.

"(ii) Methods to assess the risks to human health presented by hazardous substances.

"(iii) Methods and technologies to detect hazardous substances in the environment and basic biological, chemical, and physical methods to reduce the amount and toxicity of hazardous substances.

"(B) Training, including each of the following:

"(i) Short courses and continuing education for State and local health and environmental agency personnel and others involved in hazardous waste management and control or in the evaluation of the risks to human health presented by hazardous substances.

"(ii) Graduate or advanced training in environmental and occupational health and safety and in the public health and engineering aspects of hazardous waste control.

"(iii) Graduate training in the geosciences, including hydrogeology, geological engineering, geophysics, geochemistry, and related fields necessary to meet professional personnel needs in the public and private sectors and to effectuate the purposes of this Act.

"(2) DIRECTOR OF NIEHS.—The Director of the National Institute for Environmental Health Sciences shall cooperate fully with those agencies specified in subparagraphs (A) through (H) of paragraph (5) in carrying out the purposes of this section.

"(3) RECIPIENTS OF GRANTS, ETC.—A grant, cooperative agreement, or contract may be made or entered into under paragraph (1) with an accredited institution of higher education. The institution may carry out the research or training under the grant, cooperative agreement, or contract through contracts, including contracts with any of the following:

"(A) Generators of hazardous wastes.

"(B) Persons involved in the detection, assessment, evaluation, and treatment of hazardous substances.

"(C) Owners and operators of facilities at which hazardous substances are located.

"(D) State and local governments.

"(4) PROCEDURES.—In making grants and entering into cooperative agreements and contracts under this subsection, the Secretary shall act through the Director of the National Institute for Environmental Health Sciences. In considering the allocation of funds for training purposes, the Director shall ensure that at least one grant, cooperative agreement, or contract shall be awarded for training described in each of clauses (i), (ii), and (iii) of paragraph (1)(B). Where applicable, the Director may choose to operate training activities in cooperation with the Director of the National Institute for Occupational Safety and Health. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed under this subsection.

"(5) ADVISORY COUNCIL.—To assist in the implementation of this subsection and to aid in the coordination of research and demonstration and training activities funded from the Fund under this section, the Secretary shall appoint an advisory council (hereinafter in this subsection referred to as the 'Advisory Council') which shall consist of the following:

"(A) The Assistant Administrator of the Environmental Protection Agency for Research and Development who shall serve as chairman.

"(B) The Assistant Administrator of the Environmental Protection Agency for Solid Waste and Emergency Response.

"(C) The Director for the Center for Environmental Health in the Centers for Disease Control.

"(D) The Director of the National Institute for Occupational Safety and Health.

"(E) The Director of the National Cancer Institute.

"(F) The Administrator of ATSDR.

"(G) The Director of the National Center for Toxicologic Research of the Food and Drug Administration.

"(H) The Director of Environmental Policy within the Office of the Secretary of Defense.

"(I) A representative of the toxic chemical waste producing industry.

"(J) A representative of entities engaged in the management of toxic chemical wastes.

"(K) Three representatives of institutions of higher education (one from the field of medicine with expertise in occupational health and safety, one from the field of chemical engineering with expertise in hazardous waste engineering, and one from the field of biological sciences with expertise in environmental science).

"(L) Two representatives from State and local health or environmental agencies.

"(M) One representative from community-based organizations concerned with hazardous substances.

"(N) One representative with scientific expertise from a national environmental organization concerned with hazardous substances.

"(6) PLANNING.—Within six months after the date of the enactment of this subsection, the Secretary, acting through the Director of the National Institute for Environmental Health Sciences, shall issue a plan for the implementation of paragraph (1). The plan shall include priorities for actions under paragraph (1) and include research and training relevant to scientific and technological issues resulting from site specific hazardous substance response experience. The Secretary shall, to the maximum extent practicable, take appropriate steps to coordinate program activities under this plan with the activities of other Federal agencies in order to avoid duplication of effort. The plan shall be consistent with the need for the development of new technologies for meeting the goals of response ac-

tions in accordance with the provisions of this Act. The Advisory Council shall be provided an opportunity to review and comment on the plan and priorities and assist appropriate coordination among those agencies specified in subparagraphs (A) through (H) of paragraph (5).

"(b) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH AND DEMONSTRATION PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies (hereinafter in this subsection referred to as the 'program') which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment.

"(2) OFFICE OF TECHNOLOGY DEMONSTRATION.—The program shall be administered by the Administrator, acting through an office of technology demonstration established under this subsection and shall be coordinated with programs carried out by the Office of Solid Waste and Emergency Response and the Office of Research and Development. The Administrator shall establish such Office of Technology Demonstration within four months after the date of the enactment of this section. Such office shall be headed by a Director.

"(3) CONTRACTS AND GRANTS.—In carrying out the program, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, persons, public entities, and nonprofit private entities which are exempt from tax under section 501(c) (3) of the Internal Revenue Code of 1954. The Administrator shall, to the maximum extent possible, enter into appropriate cost sharing arrangements under this subsection.

"(4) USE OF SITES.—In carrying out the program, the Administrator may arrange for the use of sites at which a response may be undertaken under section 104 for the purposes of carrying out research, testing, evaluation, development, and demonstration projects. Each such project shall be carried out under such terms and conditions as the Administrator shall require to assure the protection of human health and the environment and to assure adequate control by the Administrator of the research, testing, evaluation, development, and demonstration activities at the site.

"(5) DEMONSTRATION ASSISTANCE.—

"(A) PROGRAM COMPONENTS.—The demonstration assistance program shall include the following:

"(i) The publication of a solicitation and the evaluation of applications for demonstration projects utilizing alternative or innovative technologies.

"(ii) the selection of sites which are suitable for the testing and evaluation of innovative technologies.

"(iii) The development of detailed plans for innovative technology demonstration projects.

"(iv) The supervision of such demonstration projects and the providing of quality assurance for data obtained.

"(v) The evaluation of the results of alternative innovative technology demonstration projects and the determination of whether or not the technologies used are effective and feasible.

"(B) SOLICITATION.—Within 90 days after the date of the enactment of this section, and no less often than once every 12 months thereafter, the Administrator shall publish a solicitation for innovative or alternative technologies at a stage of development suitable for full-scale demonstrations at sites at which a response action may be undertaken under section 104. The purpose of any such project shall be to demonstrate the use of an alternative or innovative treatment technology with respect to hazardous substances or pollutants or contaminants which are located at the site or which are to be removed from the site. The solicitations notice shall prescribe information to be included in the application, including technical and economic data derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the technology's potential and the types of remedial action to which it may be applicable.

"(C) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitation. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

"(D) PROJECT SELECTION.—In selecting technologies to be demonstrated, the Administrator shall fully review the applications submitted and shall consider at least the criteria specified in paragraph (7). The Administrator shall select or refuse to select a project for demonstration under this subsection within 90 days of receiving the completed application for such project. In the case of a refusal to select the project, the Administrator shall notify the applicant within such 90-day period of the reasons for his refusal.

"(E) SITE SELECTION.—The Administrator shall propose one or more sites at which a response may be undertaken under section 104 to be the location of any demonstration project under this subsection within 60 days after the close of the public comment period. After an opportunity for notice and public comment, the Administrator shall select such sites and projects. In selecting such site, the Administrator shall take into account the applicant's technical data and preferences either for onsite operation or for utilizing the site as a source of hazardous substances or pollutants or contaminants to be treated offsite.

"(F) DEMONSTRATION PLAN.—Within 60 days after the selection of the site under this paragraph to be the location of a demonstration project, the Administrator shall establish a final demonstration plan for the project, based upon the demonstration plan contained in the application for the project. Such plan shall clearly set forth how and when the demonstration project will be carried out.

"(G) SUPERVISION AND TESTING.—Each demonstration project under this subsection shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of the demonstration project, and the limitations established by subparagraph (J) shall not apply to such costs.

"(H) PROJECT COMPLETION.—Each demonstration project under this subsection shall be completed within such time as is established in the demonstration plan.

"(I) EXTENSIONS.—The Administrator may extend any deadline established under this paragraph by mutual agreement with the applicant concerned.

"(J) FUNDING RESTRICTIONS.— The Administrator shall not provide any Federal assistance for any part of a full-scale field demonstration project under this subsection to any applicant unless such applicant can demonstrate that it cannot obtain appropriate private financing on reasonable terms and conditions sufficient to carry out such demonstration project without such Federal assistance. The total Federal funds for any full-scale field demonstration project under this subsection shall not exceed 50 percent of the total cost of such project estimated at the time of the award of such assistance. The Administrator shall not expend more than $10,000,000 for assistance under the program in any fiscal year and shall not expend more than $3,000,000 for any single project.

"(6) FIELD DEMONSTRATIONS.—In carrying out the program, the Administrator shall initiate or cause to be initiated at least 10 field demonstration projects of alternative or innovative treatment technologies at sites at which a response may be undertaken under section 104, in fiscal year 1987 and each of the succeeding three fiscal years. If the Administrator determines that 10 field demonstration projects under this subsection cannot be initiated consistent with the criteria set forth in paragraph (7) in any of such fiscal years, the Administrator shall transmit to the appropriate committees of Congress a report explaining the reasons for his inability to conduct such demonstration projects.

"(7) CRITERIA.—In selecting technologies to be demonstrated under this subsection, the Administrator shall, consistent with the protection of human health and the environment, consider each of the following criteria:

"(A) The potential for contributing to solutions to those waste problems which pose the greatest threat to human health, which cannot be adequately controlled under present technologies, or which otherwise pose significant management difficulties.

"(B) The availability of technologies which have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(C) The availability and suitability of sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in such a manner as to assure the protection of human health and the environment.

"(D) The likelihood that the data to be generated from the demonstration project at the site will be applicable to other sites.

"(8) TECHNOLOGY TRANSFER.—In carrying out the program, the Administrator shall conduct a technology transfer program including the development, collection, evaluation, coordination and dissemination of information relating to the utilization of alternative or innovative treatment technologies for remedial actions. The Administrator shall establish and maintain a central reference library for such information. The information maintained by the Administrator shall be made available to the public,

subject to the provisions of section 552 of title 5 of the United States Code and section 1905 of title 18 of the United States Code, and to other Government agencies in a manner that will facilitate its dissemination; except, that upon a showing satisfactory to the Administrator by any person that any information, or portion of this subsection by the Administrator directly or indirectly from such person, would, if made public, divulge—

"(A) trade secrets; or

"(B) other proprietary information of such person,

the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18 of the United States Code. This subsection is not authority to withhold information from Congress or any committee of Congress upon the request of the chairman of such committee.

"(9) TRAINING.—The Administrator is authorized and directed to carry out, through the Office of Technology Demonstration, a program of training and an evaluation of training needs for each of the following:

"(A) Training in the procedures for the handling and removal of hazardous substances for employees who handle hazardous substances.

"(B) Training in the management of facilities at which hazardous substances are located and in the evaluation of the hazards to human health presented by such facilities for State and local health and environment agency personnel.

"(10) DEFINITION.—For purposes of this subsection, the term 'alternative or innovative treatment technologies' means those technologies which permanently alter the composition of hazardous waste through chemical, biological, or physical means so as to significantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. The term also includes technologies that characterize or assess the extent of contamination, the chemical and physical character of the contaminants, and the stresses imposed by the contaminants on complex ecosystems at sites. The term also includes proprietary or patented methods.

"(c) HAZARDOUS WASTE RESEARCH.—The Administrator may conduct and support, through grants, cooperative agreements, and contracts, research with respect to the detection, assessment, and evaluation of the effects on and risks to human health of hazardous substances and detection of hazardous substances in the environment. The Administrator shall coordinate such research with the Secretary of Health and Human Services, acting through the advisory council established under this section, in order to avoid duplication of effort.

"(d) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—

"(1) GRANT PROGRAM.—The Administrator shall make grants to institutions of higher learning to establish and operate not less than five hazardous substance research centers in the United States. In carrying out the program under this subsection, the Administrator should seek to have established and operated ten hazardous substance research centers in the United States.

"(2) RESPONSIBILITIES OF CENTERS.—The responsibililities of each hazardous substance research center established under this subsection shall include, but not be limited to, the conduct of research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances and publication and dissemination of the results of such research.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing auch information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The hazardous substance research center shall be located in a State which is representative of the needs of the region in which such State is located for improved hazardous waste management.

"(B) The grant recipient shall be located in an area which has experienced problems with hazardous substance management.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated research resources.

"(D) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate hazardous substance management problems.

"(E) The grant recipient shall make a commitment to support ongoing hazardous substance research programs with budgeted institutional funds of at least $100,000 per year.

"(F) The grant recipient shall have an interdisciplinary staff with demonstrated expertise in hazardous substance management and research.

"(G) The grant recipient shall have a demonstrated ability to disseminate results of hazardous substance research and educational programs through an interdisciplinary continuing education program.

"(H) The projects which the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional hazardous substance research center and related research activities at or above the average level of such expenditures in its two fiscal years preceding the date of the enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 80 percent of the costs of establishing and operating the regional hazardous substance research center and related research activities carried out by the grant recipient.

"(7) LIMITATIONS ON USE OF FUNDS.—No funds made available to carry out this subsection shall be used for acquisition of real property (including buildings) or construction of any building.

"(8) ADMINISTRATION THROUGH THE OFFICE OF THE ADMINISTRATOR.—Administrative responsibility for carrying out this subsection shall be in the Office of the Administrator.

"(9) EQUITABLE DISTRIBUTION OF FUNDS.—The Administrator shall allocate funds made available to carry out this subsection equitably among the regions of the United States.

"(10) TECHNOLOGY TRANSFER ACTIVITIES.—Not less than five percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.

"(e) REPORT TO CONGRESS.—At the time of the submission of the annual budget request to Congress, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate and to the advisory council established under subsection (a), a report on the progress of the research, development, and demonstration program authorized by subsection (b), including an evaluation of each demonstration project completed in the preceding fiscal year, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous wastes, the costs of such demonstration projects, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

"(f) SAVING PROVISION.—Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

"(g) SMALL BUSINESS PARTICIPATION.—The Administrator shall ensure, to the maximum extent practicable, an adequate opportunity for small business participation in the program established by subsection (b).

"(h) BUDGET AUTHORITY FOR CONTRACTS.—Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

"(c) TESTING PROCEDURES AND STANDARDS.—The Administrator shall revise and republish the National Contingency Plan required by section 105 of CERCLA. The revisions shall include standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for use in response actions under title I of CERCLA. The revision shall be made within one year after the date of enactment of this Act and after notice and opportunity for public comment.

SEC. 213. DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) IN GENERAL.—(1) Title 10, United States Code, is amended—

(A) by redesignating section 2701 as section 2721; and

(B) by inserting after chapter 159 the following new chapter:

"CHAPTER 160—ENVIRONMENTAL RESTORATION

"Sec.

"2701. Environmental restoration program.

"2702. Research, development, and demonstration program.

"2703. Environmental restoration transfer account.

"2704. Commonly found unregulated hazardous substances.

"2705. Notice of environmental restoration activities.

"2706. Annual report to Congress.

"2707. Definitions.

"§ 2701. Environmental restoration program

"(a) ENVIRONMENTAL RESTORATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the 'Defense Environmental Restoration Program'.

"(2) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the program described in subsection (b)(1) shall be carried out subject to section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA').

"(3) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

"(4) ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

"(b) PROGRAM PURPOSES.—The purposes of the program shall include the identification, investigation, and cleanup of hazardous substances, pollutants, and contaminants at sites under the jurisdiction of the Secretary through response and remedial actions covered by CERCLA.

"(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

"(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following:

"(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

"(B) Each facility or site which was under the administrative jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

"(C) Each vessel of the Department of Defense, including vessels owned or bareboat chartered and operated.

"(2) OTHER RESPONSIBLE PARTIES.—Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 of CERCLA.

"(3) STATE FEES AND CHARGES.—The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

"(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any offsite contamination possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

"(e) LIABILITY OF RESPONSE ACTION CONTRACTORS.—The provisions of section 119 of CERCLA apply to for response action contractors (as defined in that section) who carry out response actions under this section.

"§ 2702. Research, development, and demonstration program

"(a) PROGRAM.—As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator. The program shall include research, development, and demonstration with respect to each of the following:

"(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

"(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

"(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

"(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by the Department of Defense.

"(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treate hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the Office of Technology Demonstration of the Office of Emergency and Remedial Response of the Environmental Protection Agency.

"(b) SPECIAL PERMIT UNDER SECTION 3005(g) OF RCRA.—The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act to issue a permit for testing and evaluation which receives support under this section.

"(c) CONTRACTS AND GRANTS.—The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are available for that purpose.

"(d) INFORMATION COLLECTION AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

"(2) ROLE OF EPA.—The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information.

"§ 2703. Environmental restoration transfer account

"(a) ESTABLISHMENT OF TRANSFER ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Department of Defense an account to be known as the 'Defense Environmental Restoration Account' (hereinafter in this section referred to as the 'transfer account'). All sums appropriated to carry out the functions of the Secretary of Defense relating to environmental restoration under this chapter or any other Act shall be appropriated to the transfer account.

"(2) REQUIREMENT OF AUTHORIZATION OF APPROPRIATIONS.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

"(3) AVAILABILITY OF FUNDS IN TRANSFER ACCOUNT.—Amounts appropriated to the transfer account shall remain available until transferred under subsection (b).

"(b) AUTHORITY TO TRANSFER TO OTHER DOD ACCOUNTS.—Amounts in the transfer account shall be available to be transferred by the Secretary to any appropriation account or fund of the Department for obligation from that account or fund. Funds so transferred shall be merged with and available for the same purposes and for the same period as the account or fund to which transferred.

"(c) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) may only be obligated or expended from the account or fund to which transferred in order to carry out the functions of the Secretary under this Act or environmental restoration functions under any other Act.

"(d) BUDGET REPORTS.—In proposing the Budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amount requested for environmental restoration programs of the Department of Defense under this chapter or any other Act.

"(e) AMOUNTS RECOVERED UNDER CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.

"§ 2704. Commonly found unregulated hazardous substances

"(a) NOTICE TO HHS.—

"(1) IN GENERAL.—The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under his jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

"(2) DEFINITION.—In this subsection, 'unregulated hazardous substance' means a hazardous substance—

"(A) for which no standard is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

"(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

"(b) TOXICOLOGICAL PROFILES.—The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

"(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for

the substance and the associated acute, subacute, and chronic health effects.

"(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

"(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

"(c) DOD SUPPORT FOR TOXICOLOGICAL PROFILES.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such toxicological profiles under subsection (b). The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this section.

"(d) EPA HEALTH ADVISORIES.—

"(1) PREPARATION.—At the request of the Secretary of Defense, the Administrator shall in a timely manner prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance—

"(A) for which no advisory exists;

"(B) which is found to threaten drinking water; and

"(C) which is emanating from facilities under the administrative jurisdiction of Secretary.

"(2) CONTENT OF HEALTH ADVISORIES.—Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where avalable toxicological data exist.

"(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner of in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

"(e) CROSS REFERENCE.—Section 116 of CERCLA applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section for other Federal facilities.

"(f) FUNCTIONS OF HHS TO BE CARRIED OUT THROUGH ATSDR.—The functions of the Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency of Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 116 of CERCLA.

"§ 2705. Notice of environmental restoration activities

"(a) EXPEDITED NOTICE.—The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

"(1) The discovery of releases or threatened releases of hazardous substances at the facility.

"(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

"(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

"(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

"(b) COMMENT BY EPA AND STATE AND LOCAL AUTHORITIES.—

"(1) RELEASE NOTICES.—The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

"(2) PROPOSALS FOR RESPONSE ACTIONS.—The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

"(c) TECHNICAL REVIEW COMMITTEE.—Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

"§ 2706. Annual report to Congress

"(a) REPORT ON PROGRESS IN IMPLEMENTATION.—The Secretary of Defense shall submit to Congress a report each fiscal year describing the progress made by the Secretary during the preceding year in implementing the requirements of this chapter.

"(b) MATTERS TO BE INCLUDED.—Each such report shall include the following:

"(1) A statement for each facility under the jurisdiction of the Secretary of the number of individual facilities at such installation at which a hazardous substance has been identified.

"(2) The status of response actions contemplated or undertaken at each such facility.

"(3) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each such facility.

"(4) A report on progress on conducting response actions at sites other than sites on the National Priority List.

"§ 2707. Definitions

"In this chapter:

"(1) 'Environment', 'facility', 'hazardous substance', 'person', 'release', 'removal', 'response', 'disposal', and 'hazardous waste' have the meanings given those terms in section 101 of CERCLA.

"(2) 'Administrator' means the Administrator of the Environmental Protection Agency.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the items relating to chapter 159 the following new item:

"160. Environmental Restoration..... 2701".

(b) MILITARY CONSTRUCTION PROJECTS.—(1) Chapter 169 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§ 2810. Construction projects for environmental response actions

"(a) Subject to subsection (b), the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under chapter 160 of this title or the Comprehensive Environmental Response, Compensation, and Liability Act.

"(b)(1) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include—

"(A) the justification for the project and the current estimate of the cost of the project; and

"(B) the justification for carrying out the project under this section.

"(2) The project may then be carried out only—

"(A) after the end of the 21-day period beginning on the date the notification is received by such committees; or

"(B) after each such committee has approved the project, if the committees approve the project before the end of the period.

"(c) In this section, 'response action' has the meaning given that term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end thereof the following new item:

"2810. Construction projects for environmental response actions.".

(c) EFFECTIVE DATE.—Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986.

SEC. 214. OVERSIGHT AND REPORTING REQUIREMENTS.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

(h) OVERSIGHT AND REPORTING REQUIREMENTS.—

"(1) CONGRESSIONAL OVERSIGHT.—The appropriate authorizing committees of Congress shall conduct oversight hearings not less often than annually to ensure that this Act is being implemented according to the purposes of this Act and congressional intent in enacting this Act.

"(2) ANNUAL REPORT BY EPA.—The Administrator of the Environmental Protection Agency shall submit a report annually to the Congress on the progress achieved in implementing this Act. In addition such report shall specifically include each of the following—

"(A) A detailed description of each feasibility study carried out at a facility under title I of this Act.

"(B) The status and estimated date of completion of each such study.

"(C) Notice of each such study which will not meet a previously published schedule for completion and the new estimated date for completion.

"(D) An evaluation of newly developed feasible and achievable permanent treatment technologies.

"(E) Progress made in reducing the number of facilities in the Interim Category on the National Priorities List.".

SEC. 215. RADON GAS.

(a) NATIONAL ASSESSMENT.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall—

(1) identify the locations in populated areas in the United States where radon gas and radon daughters are forming from naturally occurring deposits of uranium and are collecting in residences and other structures;

(2) assess for each location identified under paragraph (1) the amounts of radon gas and radon daughters that are forming and the amounts that are present in residences and other structures; and

(3) determine the level of radon gas and radon daughters which poses a threat to human health and assess for each location identified under paragraph (1) the extent of the threat to human health.

The Administrator shall submit a report to Congress on the results of the assessment conducted under this subsection not later than one year after the date of the enactment of this Act.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator shall conduct a demonstration program to test methods of reducing or eliminating the threat to human health of radon gas and radon daughters. Such methods shall include venting of residences and other structures and any other methods the Administrator determines may be effective in reducing or eliminating such threat. The demonstration program under this section shall be conducted at the Reading Prong, Pennsylvania and New Jersey, and at such other sites as the Administrator considers appropriate.

(2) REPORTS.—The Administrator shall submit interim reports not later than September 30, 1986, and September 30, 1987, on the status of the demonstration program carried out under this subsection. The Administrator shall submit a final report on the results of such program not later than December 31, 1988.

(3) AUTHORIZATION.—There is authorized to be appropriated for the fiscal years 1986 through 1988 a total of $2,000,000 to carry out this subsection.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Page 246, after line 4, insert the following:

(d) RECOVERY PROCESS.—For purposes of this subsection, the Administrator may approve a process, the primary purpose of which is to recover vanadium, cobalt, nickel, molybdenum, and alumina from waste in any form for commercial sale. If the Administrator approved such a process, any person who provides such waste to another person to carry out such process shall not be liable under CERCLA for any act or omission of a person other than the person who so provides the waste, which act or omission occurs after the waste is so provided.

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, this amendment has been cleared with both the majority and the minority. It refers to another recycling situation.

The process involved here is a recycling of refinery catalyst substances that are used in the refining process.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, we have reviewed the amendment and we find it acceptable.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, we also find the gentleman's amendment acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: In the matter proposed to be added as section 310 to CERCLA, relating to citizens suits—

(1) Strike out subparagraph (B) of subsection (a)(1) of such section and insert in lieu thereof the following:

"(B) has contributed or is contributing to the actual or threatened release of any hazardous substance from a facility if such release may present an imminent and substantial endangerment to health or the environment; or";

(2) Strike out the second sentence of subsection (a) of such section; and

(3) Insert at the end of subsection (k) the following new sentence: "As used in this section the term 'release' means the discharge, deposit, injection, dumping, spilling, leaking, treating, storing, or placing of any hazardous substance into or on any land or water, except that such term shall not include any activity referred to in subparagraph (A), (B), (C), or (D) of section 101(22).".

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, I offer this amendment on behalf of the Judiciary Committee and also on behalf of the gentleman from New Mexico [Mr. RICHARDSON]. It relates to the citizens suit provision. This is an important provision of the bill.

I should mention that the compromise bill which has been worked out so diligently with the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. ROE], the gentleman from New Jersey [Mr. HOWARD], the gentleman from New York [Mr. LENT], and the gentleman from Kentucky [Mr. SNYDER], as well as the other committees, does do an excellent job in connection with the citizen suit provisions; but there is a slight change from what the Judiciary Committee originally proposed and I bring this change to the floor today for consideration by this body.

Section 207 of the compromise bill allows citizens to sue to prevent imminent and substantial endangerment to their health and environment. The compromise version allows these suits against only "hazardous waste sites," rather than against "any facility" from which hazardous substances are released, as had been recommended by the Judiciary Committee. The compromise also expands the provision by allowing suits to abate releases into the air.

The Judiciary Committee amendment would change this language by substituting the original Judiciary Committee language, thus allowing suits to abate releases of hazardous substances into the land or water—not the air—from any facility.

This is an important change, because hazardous waste disposal sites are not the only source of catastrophic releases. For example, under the compromise language, suits may not be available as to hazardous waste treatment sites. Also, releases from hazardous waste recycling operations would not be covered; nor would a train derailment which results in releases of hazardous substances.

It should not be forgotten that scores of sites are now on the National Priorities List [NPL] as a result of accidents or spills at facilities which are not in the business of disposing of hazardous substances. Many NPL sites were formerly treatment or storage facilities or manufacturing facilities.

For example, facilities have contaminated drinking water in Silicon Valley in California and in many other places in this country. The fact that these facilities were not "disposal sites" was no comfort to those who lived or worked near the facility.

For these reasons, the Judiciary Committee adopted a provision which encompasses releases from any facility. The committee believes that litigants should not be precluded from bringing suit if the source of the release is not a disposal site.

The focus of citizens suits should not be on the kind of facility that caused the release. The focus should be on the endangerment which results from the release.

Hazardous substance releases from any facility can result in catastrophes. Therefore, the Judiciary Committee's amendment is designed to allow persons to seek prevention or abatement of "imminent and substantial endangerments" from any facility.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague, the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I thank my colleague.

I rise in strong support of the amendment offered by the gentleman from Kansas on behalf of the Judiciary Committee and myself.

I offered a very similar amendment in the Energy and Commerce markup of the Superfund reauthorization legislation. While we were unsuccessful in passing this out of Energy and Commerce—the vote was 20 to 22—I am pleased that the compromise package we are considering today includes most of those provisions included in the amendment I offered earlier this year.

My only major concern with the existing language in the bill under consideration lies with the reference to the release from hazardous waste disposal sites. It is my understanding that this is not clearly defined in Superfund statutes and where it is mentioned—in RCRA—disposal site definitions exclude treatment and storage. The language in both my amendment and the Judiciary amendment would allow citizens to sue in the case of an actual or threatened release from any facility, including both treatment and storage facilities.

All actual or threatened releases of hazardous waste have the potential to present imminent and substantial danger to citizens and communities. I urge my colleagues to support the Judiciary Committee amendment to citizens' suits.

Mr. LENT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, first of all, I just want to try to correct what I think was an inadvertent mistake by the gentleman from New Mexico, that we had considered this amendment in the Energy and Commerce Committee. This particular amendment is not the amendment that we considered. We considered an amendment which was defeated in the Energy and Commerce Committee, but which is contained in the compromise language

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, what was defeated in the Energy and Commerce Committee was an amendment I offered, 22 to 20. I think what is contained in this bill is a substantial improvement from the old Energy and Commerce amendment.

Now, I do want to state that the amendment that the gentleman from Kansas [Mr. GLICKMAN] is offering is not the same one the gentleman is referring to.

Mr. LENT. Mr. Chairman, I do not believe we ever considered a piece of legislation or an amendment that talked in terms of a waste disposal facility, which is the term that is used in the gentleman's amendment that is before us today, as opposed to a waste disposal site.

The Superfund should focus on dump sites, which is a far more limited term than facility.

The Glickman amendment would allow a suit against any facility which is defined very, very broadly, under the terms of the act to include such things as buildings, installations, pipes, pipelines, ditches, motor vehicles, or aircraft. It is a very broad term.

We know that courts in ruling on section 106 of the act have found the meaning of imminent and substantial endangerment to be very broad and industries and others could find themselves being constantly dragged into court, even for threatened releases. Under the terms of this amendment, even threatened releases would be actionable.

Hundreds of thousands of industries have Federal environmental permits, mainly under the Clean Water and Clean Air Acts. All of these businesses are in violation of these permits from time to time and every time they are, they could be subject to a citizens' suit under the terms of this provision.

The backlog of Federal cases in the Federal district courts would be greatly increased by a likely inundation of suits if this amendment were to become law.

I am authorized to say by the gentleman from Ohio [Mr. KINDNESS], the ranking Republican on the applicable subcommittee of the Committee on the Judiciary that he shares my sentiments and also wanted me to express his opposition to this amendment.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

If adopted, the gentleman's amendment would significantly expand upon the citizen suit provision contained in the compromise bill by allowing suits alleging an imminent and substantial endangerment to public health and the environment.

The compromise bill allows citizen suits for imminent and substantial endangerment, but only where the release or threatened release is associated with a hazardous waste disposal site.

That is critical, because that is what this bill is to deal with. The Superfund is to deal with hazardous disposal waste sites.

Mr. Chairman, all three committees with jurisdiction over this issue recognized the need for citizens to have access to the courts in connection with Superfund activities. The Committees on Energy and Commerce, Public Works and Transportation, and the Judiciary all included provisions allowing citizens to bring an action in court against any person alleging that they have violated a requirement of the act or against EPA or another Federal agency to require performance of a nondiscretionary duty under the act. Where we differed was over the so-called third leg of the citizen suit provision—the imminent and substantial endangerment suits. Energy and Commerce declined to include any authorization for suits alleging imminent and substantial endangerment.

The Judiciary Committee, on the other hand, included an extremely broad provision allowing such suits whenever there was a release or threatened release of hazardous substance alleged. Many of us on the Committee on Public Works and Transportation were concerned about the breadth of the judiciary provision because the act defines "release" and "hazardous substance" in extremely broad terms. Accordingly, we developed a middle ground which would allow such suits but only in connection with a hazardous waste disposal site, which is what we are dealing with in this bill. The position adopted by the Public Works Committee was eventually incorporated into the compromise bill.

In order to understand, Mr. Chairman, the mischief that may be caused by the amendment by the gentleman from Kansas, one has to understand that Superfund incorporates within the definition of hazardous substance all substances listed as being hazardous by a host of other environmental laws. Furthermore, the concept of a release or threatened release incorporates not only a catastrophic spill, but also a regulated discharge which may exceed the limits specified in a permit issued under the Clean Water Act, or

other Federal environmental laws. As a consequence, adoption of the gentleman's amendment would, in effect, result in adding an imminent and substantial endangerment provision to all of the other environmental laws.

□ 2110

Let me just digress and suggest to my colleagues that if your sewage disposal plant which was legally permitted but exceeded the limits of the permit for any one time, they would come under the provision of that facility and all other types of legal facilities and concerns around the country.

We are dealing with cleaning up hazardous waste sites, and that is what we should limit this provision to, and not facility.

Furthermore, this would result in a program administered more by the courts than the EPA and, in the end, would divert Federal resources toward litigation. Frankly, I believe that the provisions in the compromise go further than we should have gone in providing access to the courts. I have agreed to that provision in our bill and, as a matter of fact, suggested it in our committee, because it was limited to hazardous waste sites.

I cannot support any further broadening of this provision which I believe will greatly weaken the cleanup program. Accordingly, Mr. Chairman, I urge my colleagues to oppose the amendment offered by the gentleman from Kansas.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

Mr. Chairman, there was much discussion on the issue of citizens suing for imminent and substantial endangerment in the Committee on Energy and Commerce, and that committee defeated this amendment. Because of my concerns and those of a number of my Energy and Commerce Committee colleagues, the gentleman from Ohio [Mr. OXLEY] and I were planning to offer an amendment to strike the existing language in H.R. 2817 on imminent and substantial endangerment as added by the Committee on Public Works and Transportation.

Perhaps our concerns can be somewhat addressed through a colloquy with the gentleman from Kentucky [Mr. SNYDER].

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I would be glad to yield to the gentleman from Ohio.

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Chairman, I concur with the statements made by the gentleman from Texas and join him in opposing the Glickman amendment.

The amendment would act to delay the very cleanups we are trying to expedite through other provisions of H.R. 2817.

Through the amendment, we will massively increase the potential for litigation for "imminent and substantial endangerment," and the courts will have to determine exactly what that means on a case-by-case basis.

EPA will be forced to intervene in these suits in order to protect the integrity of the Superfund Program. This would waste both personnel and financial resources of the Agency that otherwise could be dedicated to site cleanup, as indeed they should be.

For these reasons, Mr. Chairman, I oppose the Glickman amendment with my colleague from Texas.

Mr. FIELDS. Mr. Chairman, at this time I would like to engage the gentleman from Kentucky [Mr. SNYDER] in a short colloquy so we can get some clarification regarding the language on imminent and substantial endangerment in H.R. 2817 as added by the Public Works Committee.

It is my understanding that the current language in the bill permits citizens to sue parties for the release or threatened release of a hazardous substance which presents an imminent and substantial endangerment at a "hazardous waste disposal site," rather than a "facility" as defined under CERCLA. Can the gentleman explain to me the difference between these terms as they would apply to citizen suits?

Mr. SNYDER. Mr. Chairman, if the gentleman will yield, let me assure the gentleman from Texas there is a very significant difference between a facility, as defined under CERCLA, and a hazardous waste disposal site. A facility as defined under section 101(a)(9) to mean:

(A) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located: but does not include any consumer product in consumer use or any vessel.

This is quite different from a hazardous waste disposal site, which I understand to be a site primarily used for the disposal of hazardous waste.

Mr. OXLEY. Mr. Chairman, if the gentleman will yield, what does the gentleman from Kentucky see as the effect of the existing language, as opposed to the effect under the Glickman amendment?

Mr. SNYDER. If the gentleman would yield for a response, the effect is to limit citizen suits to the situations that Superfund was intended to deal with. The purpose of Superfund is to clean up hazardous waste disposal sites. Therefore, the purpose of the citizen suit provision should not be to reach those activities which may threaten public health or the environment as a result of the release of a hazardous waste from a disposal site such as a sewer plant which is out of compliance with its permit, or a motor vehicle, rolling stock, or aircraft.

Mr. OXLEY. Mr. Chairman, would the gentleman from Texas be willing to yield to the chairman of the Committee on Energy and Commerce for his opinion on this very important issue?

Mr. FIELDS. Yes, I would yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman has directed a colloquy toward me and I believe I should respond by concurring in the comments of my good friend, the gentleman from Kentucky.

The language of the Glickman amendment would, I believe, clearly open up the citizen suit provision in our bill to go far beyond what I believe is the intent of our two committees for the Superfund.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

(By unanimous consent, Mr. FIELDS was allowed to proceed for 4 additional minutes.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I would be glad to yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, I would just like to point out to my colleagues that the citizen suit provision, any citizen suit provision, including the citizen suit provision for a wastesite, was opposed in the Committee on Energy and Commerce and was defeated in the Committee on Energy and Commerce.

The reason for that was that citizen suits working parallel through the courts would sap into the resources of EPA and sap into the resources of cleanup programs, and we could end up with two parallel programs, one in the courts and one in the EPA.

What this amendment does is take an already significant compromise position and extend it far further.

I urge my colleagues to defeat this amendment.

Mr. FIELDS. Mr. Chairman, I would just like to thank the gentleman from Kentucky, the gentleman from Michigan, the gentleman from Pennsylvania, and also the gentleman from Ohio for participating in this colloquy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

The amendment was rejected.

□ 2120

The CHAIRMAN. For the information of the membership of the committee, we are now on title II. But there was an agreement to withdraw an

amendment that the gentleman from Missouri [Mr. SKELTON] offered to title I, and it was agreed by unanimous consent that he would have the right to offer that amendment as modified once the compromise was reached. So we are now reverting to title I for this amendment only.

The Chair recognizes the gentleman from Missouri [Mr. SKELTON].

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: Page 6, after line 20, insert the following new subsection:

(b) HAZARDOUS SUBSTANCE.—Section 101(a)(14)(C) of CERCLA is amended by inserting after "Congress" the following: "and not including used oil that is listed or identified as a hazardous waste under the Solid Waste Disposal Act if such used oil (i) is treated, managed, or recycled in such a way as to remove or render harmless the hazardous constituents contained in such used oil or such used oil does not contain hazardous constituents, and (ii) such used oil is in compliance with a final rule promulgated by the Administrator, which rule shall authorize the Administrator to order any corrective action necessary for any release of used oil.

Mr. SKELTON. Mr. Chairman, I move the adoption of this amendment which I might say is also cosponsored along with me by the gentleman from Texas [Mr. STENHOLM]. We have discussed this on both sides of the aisle.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I am pleased to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, just to make a clarification because there has been so much confusion, on this fifth line up from the bottom, the last word is "and," is that correct?

Mr. SKELTON. That is correct, and there is the number 2 after that.

Mr. FLORIO. I am happy to support the proposal in its present form.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I want to say I think the matter has been fully debated earlier this evening. This certainly clarifies the language of the amendment and we give it our full endorsement.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we, too, have reviewed the revised language and it does meet the needs that were discussed. We have no objection on our side.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I want to thank the gentleman for withdrawing this amendment earlier and agreeing to the withdrawal. I think it is in much better form and is acceptable here.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding, and I, too, would like to thank him for withdrawing the amendment earlier. It did give me the opportunity to consult with staff of the EPA who are outside the Chamber, and they assured me that the amendment as it has been amended will not affect adversely the regulations that they have recently published with respect to waste oil and home heating oil, and particularly will not affect their ability to follow the paper trail to enforce those regulations.

Therefore, I withdraw my objection to the amendment and I will be happy to join in the gentleman's amendment.

Mr. SKELTON. Mr. Chairman, I would like to point out before moving the adoption of the amendment that the reason the gentleman from Texas and I had proposed this was for the small businesses that are involved. It would be a great boon to them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. SKELTON].

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this to have a discussion with my colleagues.

First, I would like to express the thanks of our committees to all the Members of the House who have been very patient and cooperative as we have moved through this rather complex legislation. What we may have to offer by unanimous-consent request in a moment may be something that we could consider as all of us are attempting to have this session of this Congress end as quickly as possible.

We do know that we have a portion of title II, title III and title IV remaining on the Superfund legislation before we go to the Ways and Means provision and the taxing provision, which is title V, and which has three amendments, each of them being permitted 1 hour of debate.

Since we do not anticipate many further amendments this evening, what we are contemplating is a unanimous-consent request that we may be able to proceed with title II amendments for an additional 45 minutes, with title III amendments for 1½ hours, and title IV amendments for 30 minutes the remainder of this evening, at which time the Superfund portion of this other than the tax part would be completed. This would then permit the House tomorrow to be able to complete the remainder of the legislation so that it will be completely put to bed this weekend, and the important legislation we have for next week would not be put back.

Mr. SNYDER. Mr. Chairman. will the gentleman yield?

Mr. HOWARD. Mr. Chairman, I will be happy to yield to the gentleman from Kentucky [Mr. SNYDER] or anyone else who wishes to discuss this issue.

Mr. SNYDER. Mr. Chairman, I have no problem with the unanimous-consent request that the gentleman or someone over there is prepared to make.

I do have a little concern with the gentleman's representation that that is the end of the Superfund bill except for the tax title. I understood you to say that that would be the end of the Superfund provisions other than the tax title, and I do not want the Members to be perhaps confused, unless perhaps I am. I understand that there is a potential title VI coming after the tax title when the gentleman from Massachusetts [Mr. FRANK], intends to do great damage to our bill by offering a Federal cause of action.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I would like to endorse the first 80 percent of what the gentleman from Kentucky just said.

Mr. HOWARD. Mr. Chairman, what we are stating also rather than clock time is approximate minutes, feeling that there are some of these titles that may not take that many minutes and may actually cut the time down.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the majority leader, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. As I understand it, the gentleman wants to ask unanimous-consent that each of the remaining titles be limited to not more than a given number of minutes. I think that would be compatible with our agreements. We can make a judgment as we go along whether to complete it all tonight except for the tax title. We still could have the option of rising a little later if we chose to and carry it over until tomorrow. But at least we would have a limit on how many minutes would be consumed.

Is that the nature of the gentleman's request?

Mr. HOWARD. That is correct.

The CHAIRMAN. The Chair would ask the gentleman from New Jersey to restate the time he suggests for title II, III and IV.

Mr. HOWARD. Mr. Chairman, I would intend to ask unanimous-consent that the remainder of title II be confined to 45 minutes duration, title III to 90 minutes duration and title IV to 30 minutes duration.

The CHAIRMAN. That would apply to debate time and, of course, that could not cut off amendments being offered beyond that time if there were additional amendments to be offered. It would cut off debate time only.

Mr. HOWARD. That is true.

The CHAIRMAN. Does the gentleman make that unanimous-consent request?

Mr. HOWARD. I will do that pending a statement by the gentleman from Ohio [Mr. ECKART] who wished me to yield to him. I will make it in a moment.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. Mr. Chairman, I see the only Member that we did not speak to is the gentleman from Pennsylvania [Mr. EDGAR]. We have surveyed the gentleman from Minnesota [Mr. SIKORSKI], and the gentleman from New Mexico [Mr. RICHARDS], and others who have offered amendments. I believe this time is consistent with what they viewed to be their needs to present their cases adequately.

The CHAIRMAN. Does the gentleman from New Jersey [Mr. HOWARD] now wish to propound that as a unanimous-consent request?

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that the time for title II be limited to not more than 45 minutes, title III not more than 90 minutes, and title IV not more than 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. EDGAR. Mr. Chairman, reserving the right to object, I have an amendment to title II and I wondered how many amendments there were to this title before agreeing to this.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I wanted to ask the gentleman from New Jersey, does that mean that the Ways and Means Committee amendment would come up tomorrow?

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from New Jersey.

Mr. HOWARD. Should we be able to complete these, yes.

Mr. BROYHILL. Have the members of the Committee on Ways and Means been advised of this action, because there are a number of Members that thought that the amendment would not come up until next week.

Mr. HOWARD. Certainly there have been some members of the Ways and Means Committee who are apprised of this. Staff members speaking for members of the Ways and Means Committee have been apprised of this, and I believe that it is their desire, if the gentleman will yield, to be able to handle this tomorrow because they know that that committee has a great deal of work to do next week with the so-called tax reform legislation. So I believe that they are very anxious to be able to have completed this before next week.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. Mr. Chairman, I am glad to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, in view of the fact that we are working this time out here, and in view of the fact that after the Ways and Means, which is limited to 2 hours under the rule, and the gentleman from Massachusetts [Mr. FRANK] does intend apparently to offer a title VI Federal cause of action, if he is here, I wonder if he would agree to an hour on that also while we are doing this and Members could agree and we could get a pretty good idea when they will get out of here tomorrow.

Mr. EDGAR. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Under the unanimous consent request of the gentleman from New Jersey [Mr. HOWARD], the remaining time on title II will be for a point of time up to 45 minutes, title III up to 90 minutes, and title IV up to 30 minutes. Any time for rollcalls does not apply against those time constraints, it is for debate only.

The Chair is proceeding under the 5-minute rule and is going to be asking for amendments to title II at this time.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 264, after line 4, insert:

SEC. 216. CERTIFICATION OF COMPLIANCE WITH FINANCIAL RESPONSIBILITY.

(a) EXTENSION.—In the case of any facility used for the land disposal of hazardous waste, notwithstanding the termination of interim status of the facility by reason of the failure of the owner or operator of the facility to file a certification under section 3005(e)(2)(B) of the Solid Waste Disposal Act, such interim status shall be treated as continuing in effect if the owner or operator on or before November 8, 1985, filed with the Administrator:

An adequate certification under section 3005(e)(2)(B) of such Act of compliance with groundwater monitoring requirements as of November 8, 1985, and financial responsibility requirements (except for the liability requirements of 40 CFR § 265.147); and applied for final determination regarding the issuance of a permit.

(b) OTHER FACILITIES COVERED.—An extension of interim status shall also apply to any facility used for land disposal of hazardous waste which had been operating pursuant to interim status under section 3005(e) of the Solid Waste Disposal Act, if the facility satisfies the following requirements:

(1) The owner or operator of the facility applied for a final determination regarding the issuance of a permit on or before November 8, 1985; and

(2) The owner or operator was in compliance with the groundwater monitoring requirements and the financial responsibility requirements (except for the liability requirements of 40 CFR § 265.147) on November 8, 1985, but failed to certify as required under section 3005(e)(2)(B) of the Solid Waste Disposal Act.

(3) The owner or operator, after notice is given by the Administrator submits documentation in a form satisfactory to the Administrator, in his sole discretion, of compliance with the groundwater monitoring requirements and financial responsibility requirements (except the liability requirements of 40 CFR § 265.147) as of November 8, 1985. This documentation may include a notarized statement by a professional engineer not an employee of the owner or operator who corroborates such certification. The notice by the Administrator shall be given to all affected land disposal facilities within 45 days of enactment of this Act. Responses must be received no later than 45 days thereafter. The Administrator, in his sole discretion, may reject such documentation if it appears that there is no clear and convincing evidence that the facility was in compliance on November 8, 1985.

(c) ADDITIONAL CRITERIA.—Subsection (a) or (b) shall not apply to any facility used for land disposal of hazardous waste which has been operating pursuant to interim status under section 3005(e) of the Solid Waste Disposal Act unless the facility satisfies at least one of the following criteria as well:

(1) The owner or operator of the facility demonstrated that liability insurance policies on which such compliance would have been based were cancelled after November 8, 1984 (or the owner or operator received, after such date, a notice from the issuer of any such policy of the issuer's intent not to renew the policy);

(2) The owner or operator of the facility had sales or revenues of less than $5,000,000 for all lines of business in the firm's fiscal year preceding July 15, 1982;

(3) The facility is located in a State for which an authorized State program was in effect under section 3006 of the Solid Waste Disposal Act and, under such program, financial responsibility requirements pursuant to the Solid Waste Disposal Act did not become effective before November 8, 1984; or

(4) The owner or operator of the facility has demonstrated to the Administrator that he has made a good faith effort to obtain the insurance necessary to satisfy all applicable financial responsibility requirements pursuant to the Solid Waste Disposal Act and provides documentation of that effort which is satisfactory to the Administrator.

(d) The extension provided in subsection (a) or (b) shall not extend for more than 12 months after enactment of this act, unless the Administrator determines that because of a constrained insurance market, an additional 12 months extension is necessary.

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

□ 2135

Mr. BROYHILL. Mr. Chairman, the purpose of this amendment is to correct a problem that has resulted from amendments that were made to the RCRA bill last year. Now, these amendments that were made last year were in good faith; had the purpose of assuring that RCRA facilities had the necessary liability insurance.

This liability insurance requirement came into effect on November 8, 1985. Well, as Members generally know, liability insurance and the industry's problems are very much in flux; there is an inability on the part of many people to get liability insurance, not only waste-disposal sites, but also many other kinds of industries and other processors and so forth.

What has happened is that the November 8 date has come along, and that a number of these facilities have found that although they were operating under the law, they were operating with monitoring wells and were making all of the various requirements that exist, doing all of the various things they are required to do under the law, they nevertheless were going to have to go out of business because of the liability insurance requirement.

I am offering this amendment for that reason.

Mr. Chairman, at this point I ask unanimous consent to withdraw my amendment, and reserve the right to offer it tomorrow.

The CHAIRMAN. The Chair will state to the gentleman that the problem is we will be leaving title II, obviously, within a short period of time.

Is there objection to the gentleman's reserving his right to offer the amendment tomorrow?

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent to offer the amendment tomorrow.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. FLORIO. Mr. Chairman, reserving the right to object to the unanimous-consent request of the gentleman from North Carolina [Mr. BROYHILL] to offer his amendment tomorrow, can the gentleman clarify his request?

Mr. BROYHILL Mr. Chairman, if the gentleman will yield, I was withdrawing the amendment at this time at the request of Members who have not had a chance to look at the amendment; but I did want to reserve the right to offer the amendment again tomorrow, after Members have had a chance to review the amendment.

Mr. FLORIO. Mr. Chairman, my understanding of the unanimous consent request that had been previously agreed to was that we would be in title V and title VI tomorrow.

With that understanding, once I agreed to those limitations, that the time tomorrow would be exclusively used for title V and title VI, I would be forced to object.

The CHAIRMAN. Objection is heard.

Mr. BROYHILL. Mr. Chairman, I still would ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 197, after line 21, insert:

"(10) PUBLIC PARTICIPATION.—The Administrator shall promulgate regulations under this section regarding public participation whenever the Administrator undertakes or orders corrective action under this subsection. Such regulations shall provide for public participation equivalent to the public participation provided under section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Such regulations shall be issued within 180 days after the enactment of this paragraph.".

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I would like to note that this amendment is substantially modified. It contained two parts; one dealing with community right to know, the other with public participation to the provisions on underground storage tank provisions.

Now the amendment only contains a provision on public participation. I would like to commend my colleagues in both the Committee on Energy and Commerce and the Committee on Public Works for including provisions in this legislation to clean up leaking underground storage tanks.

The debate over this issue has been extensive, but the result has been worth it. The estimated 80,000 leaking tanks represent a serious and growing health problem which must be addressed without unfairly penalizing the small owners and operators of the corner gas station.

The bill before us accomplishes both of these worthy goals.

I further commend my colleagues for including language that I offered as an amendment to H.R. 2817, which will allow emergency and permanent relocation alternative water supplies and health assessments in the event of an underground tank leak.

Today I would like to add one more provision to the section of the bill. Under Superfund, there are provisions for public hearing and input into development of cleanup plans. This is not explicit in the RCRA language on tank leaks included in the bill we are now considering.

My amendment would instruct the Administrator to promulgate regulations to allow for public participation whenever he undertakes or orders corrective action for tank leaks.

It will in no way affect the private party which willingly undertakes cleanup, as it will only apply in situations where EPA has to order a responsible party to clean up a spill; or when EPA itself has to clean up a spill.

Mr. Chairman, I would like to share a few illustrations with my colleagues:

A 3,000-gallon tank leak in Provincetown, MA, polluted the city's ground water resulting in direct and indirect costs to the residents of over $25 million.

In 1978, a leak of more than 30,000 gallons in East Meadows, NY, resulted in the permanent relocation of 23 families.

A 10,000-gallon leak in Lee, ME, has rendered one-quarter of the town's water supply undrinkable.

In my home State of New Mexico, an estimated 162,000 liters of unleaded gasoline leaked from an abandoned tank. Ground water in the area contained benzene concentrations 1,000 times the State ground water standard.

Mr. Chairman, when entire neighborhoods have to move because they have hazardous benzene in their basements, when entire cities cannot drink their water, when taxpayers have to pay to put in a completely new water system for their towns, I would say there is a significant public interest in the outcome of the cleanup plan.

Once again, I would like to note that my amendment does not contain the initial provision that deals with community right to know. It simply keeps the provision of public participation, and I would hope the House supports my amendment.

Mr. LENT. Would the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman.

Mr. LENT. I have not had much of an opportunity to look at this amendment, but it indicates that there would be a public hearing before a leaking underground storage tank were to be cleaned up?

Mr. RICHARDSON. The gentleman is correct. What it basically does is increase the options for the public in that community to participate in any decision that is involved in an emergency situation.

Mr. FIELDS. Would the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman.

Mr. FIELDS. I appreciate that very much.

Mr. Chairman, I think public participation in and community notification of petroleum tank leak cleanups are worthwhile objectives, but it is my understanding that that is already provided for in RCRA.

So how does the gentleman's amendment differ from what is already in RCRA?

Mr. RICHARDSON. Well, in my judgment, the standard in RCRA is quite deficient; it is not clearly spelled out, and I think what this amendment does is it clarifies exactly what we mean.

Mr. FLORIO. Will the gentlman yield?

Mr. RICHARDSON. I yield to the gentleman.

Mr. FLORIO. Mr. Chairman, as I understand what the gentleman is advocating, is that when a cleanup plan is put together by the agency pursuant to this new authority that we are including in the bill, that EPA would be required under your provision to promulgate regulations to provide for a public comment period on the plan for cleaning up the waste site.

Mr. RICHARDSON. That is entirely correct.

Mr. FLORIO. I think that is an eminently reasonable amendment.

Mr. RICHARDSON. I do not see this being a dramatic departure from what we are trying to do. It does increase the public participation.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. FLORIO and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 2 additional minutes.)

□ 2145

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Kansas.

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman explain how this would practically affect a cleanup effort on an individual site, for example? Say, for example, a site has been identified, a leaking underground storage facility, it is leaking, there is a problem that needs to be cleaned up.

Now what would the gentleman's amendment do in that instance? As I read it, as I understand it in just the few minutes that we have had to review it, it appears the gentleman would require a public hearing of sorts to give the public an opportunity to express itself on the cleanup of an individual site. Is that the intention of the gentleman?

Mr. RICHARDSON. That is the gentleman's intention. What I would like to do is simply require the administrator to promulgate the existing regulations, but to advise the public what the situation is through a period of public comment. Now the provisions that I deleted related to the community right-to-know provision which is part of many other provisions in the bill.

Mr. SLATTERY. If the gentleman would yield further then, if the EPA identified a leaking storage tank in Holton, KS, and another one, maybe several others, in the same city or in Sebatha, KS, then you are suggesting the EPA should give notice in those communities for every individual cleanup effort and go through this process of public notice, is that what the gentleman is suggesting?

Mr. RICHARDSON. In essence, yes, but I do not think in any way this would increase the possibility of cleanups being delayed. I would rather err on the side of the public knowing as much as possible and having an opportunity to participate and comment as much as possible.

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(On request of Mr. SLATTERY and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 1 additional minute.)

Mr. SLATTERY. Mr. Chairman, will the gentleman continue to yield?

Mr. RICHARDSON. I yield to the gentleman.

Mr. SLATTERY. I know that the gentleman's intentions are certainly honorable and well intentioned, there is no question about that, but my concern is that if we require this kind of procedure, it is going to be unduly cumbersome for the EPA, and it seems to me that the bottom line is that we may in fact delay the cleanup of some dangerous sites. If you have to go through this cumbersome public notice, public notification process, that is my concern. I hope the gentleman understands. We share the same objective, which is to clean up these sites expeditiously. I would rather the EPA be spending its time out there cleaning up the site than going through a cumbersome notification procedure.

Mr. DINGELL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I would like the attention of my colleagues in the House and also the attention of the gentleman, because I want the House to understand this issue.

The amendment applies the requirement of public participation to the cleanup of leaking underground tanks. The committee has received estimates that there are something on the order of 3 million of these leaking underground tanks which need to be cleaned up.

The gentleman's amendment would apply the same regulations for public participation as provided in section 117 of CERCLA, which is the basic statute upon which we labor tonight. The gentleman will find that this would require the following acts, by the Administrator of EPA in the regulation which he would be required to promulgate under the language of the amendment.

First of all, there would have to be a plan promulgated in each instance. Second of all, on the basis of that plan, it would be required that there be the issuance of a public notice giving an appropriate period of time for public comment.

So we have now the plan and the public notice—remember this is in something on the order of 3 million or 4 million cases in the country.

Then a public hearing would be required in which there would have to be public participation, opportunity for presentation of oral statements, and for presentation of written statements. It is not inconceivable that there would have to be possibly two hearings, one in this area in Washington, and perhaps one in the place where the tank was.

There would then possibly be a requirement for cross examination. Last of all, when the final order was issued, there would have to be a formal record which would be kept which would then be subject to judicial review if a final order was issued at any point during this procedure. And it is not beyond the realm of possibility, given the way the courts, lawyers, and the administrative process work, that there could be more than one final order which could obtain judicial review. The consequences of this amendment, and I want to say to my good friend from new Mexico, I am sure he is doing this in good faith, and he is a very valuable member of our committee for whom I have great respect and affection, it is that in each of the 3 or 4 million cases of these leaking underground tanks a massive expenditure of time would occur, a massive expenditure of money would take place, a prodigious effort by lawyers who would be quite delighted by this event, and the Superfund funds which we are going to gather up at such an extortionate tax rate upon American business, would largely be diverted to the extremely unfortunate purpose of requiring, regrettably, to support again massive litigation and administrative proceedings in each of

the 3 or 4 million of these leaky underground tanks.

Now I know my good friend does not intend this, but the consequences, I think, both to the program, to the administrative process, and everybody else is, I believe, intolerable. The number of administrative law judges required to administer this would probably equal the number of personnel in at least one army division, and the time to be consumed in cleaning up the mess, which we all recognize is one jeopardizing the health and wellbeing of the American people, would be prolonged probably at least through the next millenium.

I would urge my colleagues to reject this amendment and to give the gentleman an opportunity perhaps to consult with the committee. We will try to assist him in coming forward with a proposal which will make better sense and which will help him in achieving his goal of public participation.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend from Kansas.

Mr. SLATTERY. I thank the chairman for yielding.

I would just like to associate myself with the chairman's remarks. I think he has hit the nail right on the head. It seems to me we should also go on to point out that in the next 14 months the Environmental Protection Agency will have to promulgate regulations in this area setting out how we are going to actually clean up underground storage tanks, and in that period of time the public will be given a great opportunity to be heard on this issue.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(On request of Mr. SLATTERY and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. SLATTERY. Will the gentleman continue to yield?

Mr. DINGELL. I continue to yield to the gentleman.

Mr. SLATTERY. I just want to add, Mr. Chairman, that I associate myself with the remarks of the chairman.

Mr. DINGELL. The gentleman is correct. Let us have public participation on the rules and regulations with regard to cleanup rather than on each instant case.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman hit the nail on the head. The fact remains that this program is brand new to begin with for the Superfund. The program in RCRA is brand new. If anyone has been over to EPA and seen how many staff they have working on developing, first, the ground rules for the program, and, second, given the possibility of 80,000 to 3 million leaking underground storage tanks, the task for EPA starting from scratch in this whole area is monumental. But it also may be unnecessary.

Gasoline in its various leaked locations around the country is remarkably similar and quite different from the soup that comes out of a Superfund site, and it may well be that the kind of public input that are going into the RCRA Program development are quite sufficient to take care of the idea of having public input to a leaking underground storage tank program, making this kind of amendment redundant in the extreme.

I know the gentleman has worked hard in the area of underground storage tanks and is very well intentioned here, but I am sure he is not of the intention to wrap up the entire EPA in this particular kind of amendment.

I yield back to the gentleman.

Mr. DINGELL. Mr. Chairman, I yield to my dear friend from New Mexico whose name I mentioned and for whom I have the most intense respect and affection, and then I will yield to the gentleman from Texas [Mr. STENHOLM] and then to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, would the gentleman yield so that I might be of assistance at this time?

Mr. DINGELL. I would be happy to yield to either gentleman.

The CHAIRMAN. The time that the gentleman was intending to yield has now expired.

(On request of Mr. FLORIO and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. FLORIO. Mr. Chairman, would the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. FLORIO. It may very well be, Mr. Chairman, that this discussion has been very illuminating and very helpful. I know what the gentleman's sincere motivation is. He wants to get public participation into the process of having some input from the community on these cleanup programs. The gentleman from Michigan's explanation has raised to my attention an interpretation of this that may very well suffice even without the benefit of the gentleman's amendment.

The gentleman makes reference to section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which is Superfund. We are now incorporating into Superfund the leaking underground storage tank provision which therefore becomes part of that act. Therefore, cleanups pursuant to this act, including the new section of the act, are then going to have to be conducted in accordance with section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act which provides for the protections of public input that the gentleman is interested in.

If my interpretation is correct, and I believe it is, the gentleman's amendment is not needed and his purpose is achieved.

And I thank the gentleman for yielding.

Mr. DINGELL. If the gentleman would permit, the underground tank section, the gentleman will recall, is an amendment to RCRA and not to CERCLA. But I will tell the gentleman from New Jersey, for whom I have great respect and affection, and also the gentleman from New Mexico, that before rules and regulations of this magnitude are issued, there has to be opportunity for public notice, testimony, that sort of thing. I do not believe that EPA would be frivolous in bringing forward rules and regulations to deal with a point as important as this without having notice, hearing, and opportunity for public participation on this generic question. And I would certainly be highly supportive of that. I think with that thought in mind the gentleman's amendment has served a most useful purpose, and I now yield to my dear friend from New Mexico.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. I thank the gentleman for yielding.

Mr. Chairman, I take it from his last comment that the chairman is still opposed to the amendment but is supportive of the spirit.

Mr. DINGELL. To indicate it is hardly mildly opposed, but I understand the purpose of the gentleman. It is a good one, and I believe we can have it carried out if the committee will reject the amendment.

Mr. RICHARDSON. I thank the chairman. I am simply trying to err on the side of allowing the public the opportunity to speak out. I do not believe that we are going to have a massive bureaucratic fiasco here. We are dealing with probably the most important environmental disaster in the next 20 years, and I think we should

err on the side of having the public's right to know. That is all I wish to do. But I respect the chairman's view that EPA may be too overbureaucratized. But I do not think that is the case. I do want to vote on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was rejected.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment Offered By Mr. SMITH of New Jersey:

At the end of Title II add the following new section:

SEC. 216. STUDY OF JOINT USE OF TRUCKS.

(a) STUDY.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study of problems associated with the use of any vehicle for purposes other than the transportation of hazardous substances when that vehicle is used at other times for the transportation of hazardous substances. At a minimum, the Administrator shall consider—

(1) whether such joint use of vehicles should be prohibited, and

(2) whether, if such joint use is permitted, special safeguards should be taken to minimize threats to public health and the environment.

(b) REPORT.—The Administrator shall submit a report, along with recommendations, to Congress on the results of the study conducted under subsection (a) not later than 180 days after the date of the enactment of this Act.

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 2200

Mr. SMITH of New Jersey. Mr. Chairman, this amendment requires the Administrator in consultation with the Secretary of Transportation to conduct a study of the problems inherent in the use of using the same trucks or other vehicle for the transportation of hazardous materials and other substances such as sludge.

The amendment requires the Administrator to consider whether joint use of the vehicles should be proscribed or, if it is to be permitted, what safeguards should be promulgated to minimize risks to health and the environment.

I became concerned about this problem when I learned that a sludge hauler in my district who is land applicating sludge at a sod farm in Monmouth County is using the same trucks to haul hazardous wastes.

I think the potential for harm is obvious. I'm sure that Members are aware that many States have few if any regulations relevant to sludge—which is increasingly being used by farmers for a variety of crops. The issue of dual use of trucks and other vehicles should be addressed and I believe this study will become a benchmark for subsequent action by law or regulation.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New Jersey.

Mr. ROE. We have reviewed the amendment. It is a splendid addition to the bill. We have no objection to it on this side.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New York.

Mr. LENT. We have had an opportunity to examine the gentleman's amendment. As I understand, it is a study of the joint use of trucks.

Mr. SMITH of New Jersey. The gentleman is correct.

Mr. LENT. We would have no objection to that.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. We have examined the amendment, we view it to be an important addition to the bill, and we accept it.

Mr. SMITH of New Jersey. I thank the gentleman.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Kentucky.

Mr. SNYDER. We are in agreement with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LA FALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAFALCE: Page 264, after line 4, insert:

SEC. 216. LOVE CANAL PROPERTY ACQUISITION.

(a) CONGRESSIONAL FINDINGS.—

(1) The area known as Love Canal located in the city of Niagara Falls and the town of Wheatfield, New York, was the first toxic waste site to receive national attention. As a result of that attention Congress investigated the problems associated with toxic waste sites and enacted Superfund legislation to deal with these problems.

(2) Because Love Canal came to the nation's attention prior to the passage of Superfund and because the Superfund was not available to compensate for all of the hardships endured by the citizens in the area, Congress has determined that special provisions are required. These provisions do not affect the lawfulness, implementation or selection of any other response actions at Love Canal or at any other facilities.

(b) AMENDMENT OF SUPERFUND.—Title III of the Comprehensive Environmental Response Compensation and Liability Act of 1980 is amended by adding the following new section at the end thereof:

"SEC. 310. LOVE CANAL PROPERTY ACQUISITION.

"(a) ACQUISITION OF PROPERTY IN EMERGENCY DECLARATION AREA.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') may make grants not to exceed $2.5 million to the State of New York (or to any duly constituted public agency or authority thereof) for purposes of acquisition of private property in the Love Canal Emergency Declaration Area. Such acquisition shall include (but shall not be limited to) all private property within the Emergency Declaration Area, including non-owner occupied residential properties, commercial, industrial, public, religious, non-profit, and vacant properties.

"(b) PROCEDURES FOR ACQUISITION.—No property shall be acquired pursuant to this section unless the property owner voluntarily agrees to such acquisition. Compensation for any property acquired pursuant to this section shall be based upon the fair market value of the property as it existed prior to the emergency declaration. Valuation procedures for property acquired with funds provided under this section shall be in accordance with those set forth in the agreement entered into between the New York State Disaster Preparedness Commission and the Love Canal Revitalization Agency on October 9, 1980.

"(c) STATE OWNERSHIP.—The Administrator shall not provide any funds under this section for the acquisition of any properties pursuant to this section unless a public agency or authority of the State of New York first enters into a cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State or an agency created under the laws of the State shall take title to the properties to be so acquired.

"(d) MAINTENANCE OF PROPERTY.—The Administrator shall enter into a cooperative agreement with an appropriate public agency or authority of the State of New York under which the Administrator shall maintain or arrange for the maintenance of all properties within the Emergency Declaration Area that have been acquired by any public agency or authority of the State. Ninety (90) percent of the costs of such maintenance shall be paid by the Administrator. The remaining portion of such costs shall be paid by the State (unless a credit is available under Section 104(c). The Administrator is authorized, in his discretion, to provide technical assistance to any public agency or authority of the State of New York in order to implement the recommendations of the habitability and land-use study in order to put the land within the emergency declaration area to its best use.

"(e) HABITABILITY AND LAND USE STUDY.—The Administrator shall conduct or cause to be conducted a habitability and land-use study. The study shall (1) assess the risks associated with inhabiting of the Love Canal Emergency Declaration Area; (2) compare the level of hazardous waste contamination in that Area to that present in other comparable communities; and (3) assess the potential uses of the land within the Emergency Declaration Area, including but not limited to residential, industrial, commercial and recreational, and the risks associated with such potential uses. The Administrator shall publish the findings of such study and shall work with the State of

New York to develop recommendations based upon the results of such study.

"(f) FUNDING.—For purposes of section 111 and 221(c) of this Act, the expenditures authorized by this section shall be treated as a cost specified in section 111(c).

"(g) RESPONSE.—The provisions of this section shall not affect the implementation of other response actions within the emergency declaration area that the Administrator has determined (before enactment of this section) to be necessary to protect the public health or welfare or the environment.

"(h) DEFINITIONS.—For purposes of this section:

"(1) EMERGENCY DECLARATION AREA.—The terms 'Emergency Declaration Area' and 'Love Canal Emergency Declaration Area' mean the Emergency Declaration Area as defined in section 950, paragraph (2) of the General Municipal law of the State of New York, Chapter 259, Laws of 1980, as in effect on the date of the enactment of this section.

"(2) PRIVATE PROPERTY.—As used in subsection (a), the term 'private property' means all property which is not owned by a department, agency, or instrumentality of (A) the United States or (B) the State of New York (or any public agency or authority thereof).

And make the necessary conforming changes in the table of contents.

Mr. LAFALCE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAFALCE. Mr. Chairman, were it not for the emergency nationally and internationally known as Love Canal, I doubt that a Superfund would be in existence. Any yet because the Love Canal had to be dealt with prior to the passage of Superfund, certain inequities came about.

It is my pleasure to be able to say that it is my understanding that because of the leadership of Chairman DINGELL, Mr. ECKART, Mr. FLORIO, Mr. ROE, Mr. HOWARD of Ohio, Mr. LENT, Mr SNYDER, et cetera, and especially the concurrence of Mr. Thomas, the Administrator of EPA, that consent might well be given to my amendment, which would give authorization to the EPA to make a grant for the acquisition of properties previously deemed ineligible not to exceed $2.5 million and also to provide for an arrangement with the State of New York for the maintenance of those properties and to give legislative mandate to the habitability and land use study that is taking place.

Mr. ECKART of Ohio. If the gentleman will yield to me, we have reviewed the gentleman's amendment, and I must compliment him for making a number of necessary adjustments.

I understand that this amendment has now been approved by Lee Thomas, of EPA, personally.

Mr. LAFALCE. At 7:53.

Mr. ECKART of Ohio. At 7:53. And I am pleased to say that I have reviewed it. With the cap and the necessary changes in it, we are pleased to accept the gentleman's amendment.

Mr. LAFALCE. I thank the gentleman for his assistance.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from New York.

Mr. LENT. We have also had an opportunity to review this amendment. As I said to the gentleman from Erie County, he is to be commended for his perseverance on behalf of his constituents and the people of the State of New York. We have no opposition to this amendment.

Mr. LAFALCE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the research, development, and demonstration provisions contained in the Superfund reauthorization bill. Specifically, I wish to speak on behalf of the demonstration-related aspects addressed in the substitute. In doing so, I want to extend my thanks to the members and staffs of the Committees on Energy and Commerce, Public Works, and Science and Technology—and particularly my colleagues Mr. DINGELL, Mr. WYDEN, Mr. ROE, and Mr. TORRICELLI—who have worked on the compromise provisions contained in this package. We have formed a reasonable compromise which I support, and which is a tremendous improvement over the existing Superfund Program.

In reauthorizing this crucial legislation, I know that all of us in Congress hope that an expanded Superfund Program will make the law more responsive and effective than it has been in the past. But, in expanding this program, we must do so in a way reflective of our acknowledgement that the problems associated with hazardous and toxic wastes will be with us for many decades to come. And that is why provisions to review, test, evaluate, and implement alternative and innovative cleanup technologies are so critical to the long-term effectiveness of the Superfund Program.

Proven releases of hazardous substances have occurred from uncontrolled sites throughout the Nation. People are increasingly worried about acute and chronic threats to their health and are beginning to demand permanently effective cleanups to minimize the likelihood of future hazards from existing sites.

To date, however, little progress has been made toward permanent cleanups. Moreover, detailed goals for permanent cleanups remain unclear, and without them it is difficult at best to evaluate or select cost-effective cleanup technologies.

EPA cleanup actions continue with an emphasis on the removal of wastes to land disposal facilities which themselves are becoming Superfund sites. The April "Groundwater Monitoring Survey" prepared by the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee cited, and I quote, that "of the 56 Federal facilities subject to RCRA groundwater monitoring requirements, only 34 percent—19 facilities—are described as having adequate well systems." Such impermanent solutions result in sites getting worse, and repeated cleanup costs are thus inevitable. It is the intent of the demonstration language to make it both economically and technically possible to permanently clean up these currently uncontrolled waste dumps.

A failure at this junction to redefine the direction of Superfund away from its emphasis on containment technology and toward treatment technologies could result in a mere transfer of today's environmental crisis to future generations.

As chairman of the Subcommittee on Energy, Environment, and Safety issues affecting small business, I conducted a hearing in September to learn about the prospective availability of innovative cleanup technologies. I understood that the potential of finding such technologies is very real, and exists to a significant extent among the entrepreneurial individuals and firms within the small business community. These people and companies have shown that they can produce the technologies and innovations necessary for securing the desperately needed permanent solutions for true cleanups of the Nation's uncontrolled toxic waste sites. Since we created the Superfund in 1980, we have all too often seen ineffectiveness in the administration of the program. Too many cleanups have consisted of removing and redistributing wastes, rather than treating them full scale. We must step up the availability and use of more sophisticated methods for treating hazardous wastes under Superfund; we need to move away from the practice of removing and redistributing wastes, and instead begin to speed up the practice of testing and implementing technologies that will detoxify, destroy, or recycle hazardous substances.

For this reason, I introduced legislation to encourage the research, demonstration, and implementation of innovative technologies for the cleanup of hazardous substances under Super-

fund. Provisions from that bill which establish institutional capabilities for a long-term program for permanent remedial cleanups have been incorporated into the substitute before us today. The technology-oriented provisions of this bill will expand the range of permanently effective cleanup technologies, and will thus create a better environment for all developers of such technologies. Let me briefly provide an overview of the ways in which the innovative technology demonstration language contained in this legislation will improve the overall picture for finding permanent cleanup remedies.

The legislation establishes an Office of Technology Demonstration in EPA, which would function in coordination with both the Office of Solid Waste and Emergency Response and the Office of Research and Development.

The Demonstration Assistance Program components contained in this section of the bill provide for five key provisions, including the requirements that: EPA publish, at least once a year, a solicitation and evaluation of applications for demonstrations of innovative technologies; EPA select sites suitable for the testing and evaluation of innovative technologies; EPA develop detailed plans for conducting demonstration projects involving innovative technologies; EPA supervise demonstration projects, in which the Agency is to provide quality assurance for all data obtained from the projects; and that EPA evaluate the results of all demonstration projects, including a determination of the technologies' effectiveness and feasibility.

Within this program, any developer of an innovative technology can apply to EPA to conduct a demonstration project.

The legislation lays out strict yet flexible timetables for EPA to follow in conducting this demonstration program from start to finish. Under this system of timetables, developers are assured that their technologies will be reviewed, tested, and perhaps implemented within a reasonable amount of time for them to be able to make investment and marketing decisions relevant to the technology.

The program spells out that EPA institute at least 40 demonstration projects during the 5-year reauthorization cycle, unless the Administrator determines that insufficient applications have been submitted. Beginning in fiscal year 1987, EPA will be required to initiate at least 10 projects, and will be required to do so for each of fiscal years 1988 to 1990 as well.

Also, the program makes provisions for funding assistance for developers of technologies who are unable to obtain appropriate private financing sufficient to carry out the projects without Federal assistance. The amount of money available under the program is large enough so that developers with meritorious demonstration projects approved by EPA will be able to supplement private capital and conduct needed demonstration projects. But the money available under this program is restrictive enough to ensure that we will not open up the public trough to anyone seeking a Federal handout. Funding caps for both total Federal assistance as well as individual projects are included in the language.

Finally, the language requires EPA to submit a report to Congress citing the progress of the Demonstration Program created under the act. This provision will not only provide Congress with a yearly update of the status of the program, but will assist this body in gauging the progress of the overall scenario for permanent cleanup technologies.

Again, I strongly support the compromise research, development, and demonstration package worked out by my colleagues and myself. To this end, I urge all of my colleagues to support this section of the bill. The innovative technology language contained within the substitute ensures that when we reauthorized this program again in 5 years, we can do so with the knowledge that we have taken appropriate steps to find the methods that will provide for long-term solutions to this terrible toxic waste problem facing us.

The CHAIRMAN. The Clerk will designate title III.

The text of title III is as follows:

TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW

Subtitle A—Emergency Planning

SEC. 301. ESTABLISHMENT OF STATE COMMISSIONS AND LOCAL COMMITTEES.

(a) ESTABLISHMENT OF STATE EMERGENCY RESPONSE COMMISSIONS.—Not later than six months after the date of the enactment of this title, the Governor of each State shall appoint an emergency response commission. The Governor may designate as the emergency response commission one or more existing emergency response organizations that are State-sponsored or appointed. The Governor shall, to the extent practicable, appoint persons to the Commission who have technical expertise in the emergency response field. The emergency response commission of a State shall appoint local emergency response committees under subsection (b) and shall supervise and coordinate the activities of such committees. If the Governor of any State does not designate a State commission within such period, the Administrator shall operate as the State commission until the Governor makes such designation and may make the initial designations and appointments, under subsection (b).

(b) ESTABLISHMENT OF LOCAL EMERGENCY RESPONSE COMMITTEES.—

(1) IN GENERAL.—Not later than six months after the date of the establishment of a State commissioner under subsection (a), the commission shall—

(A) designate political subdivisions or combinations of political subdivisions as emergency response districts for purposes of this title; and

(B) appoint a local emergency response committee for each emergency response district designated under subparagraph (A).

(2) INTERSTATE AGREEMENTS.—Pursuant to interstate agreements, political subdivisions in more than one State may be included in an emergency response district under paragraph (1)(A) and members of an emergency response committee may be designated under paragraph (1)(B) from each State.

(c) COMPOSITION OF LOCAL COMMITTEES.—A local emergency response committee shall include representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and covered operators.

(d) OFFICERS AD HOC COMMITTEES.—A local emergency response committee may elect such officers and spokesmen and appoint such ad hoc committees of interested citizens, and request such assistance of State and local officials, as it deems necessary to assist it in carrying out its duties.

(e) REVISIONS.—The emergency response commission of a State may revise its designations and appointments under subsection (b) with respect to any local emergency response committee as it deems appropriate.

SEC. 302. COMPREHENSIVE EMERGENCY RESPONSE PLANS.

(a) PLAN REQUIRED.—Not later than 24 months after the date of the enactment of this title, each local emergency response committee shall complete an emergency response plan designed to minimize the injury to human health and the environment which could result from any hazardous substance emergency arising out of activities carried out at any covered facility located in the emergency response district for which such committee is established. The plan shall be integrated with existing emergency response plans at the discretion of the committee. A covered operator shall submit to the local emergency response committee any information in addition to the information required under section 311 (other than information which may be withheld from disclosure under section 322), with respect to a covered facility that the committee may request for purposes of completing such plan. The committee may revise such plan as necessary to protect human health and the environment.

(b) PLAN PROVISIONS.—Each plan required under this section shall include each of the following at a minimum:

(1) Designation of one or more State or local officials whom the covered operator will notify in case of a hazardous substance emergency.

(2) Designation of the names and emergency telephone numbers of personnel employed by the covered operator who should be contacted in case of a hazardous substance emergency.

(3) A description of measures which should be taken to mitigate and minimize the risks to human health and the environment posed by a hazardous substance emergency.

(4) A description of a system or method and procedures and communications systems (including alarm and warning systems) to notify members of the affected public of a hazardous substance emergency.

(5) A description of emergency equipment and facilities in the community, and at each facility in the community at which a substantial inventory of a hazardous substance

is maintained, and an identification of the persons responsible for such equipment and facilities.

(6) Emergency evacuation plans, as well as an evaluation of the adequacy of existing transportation facilities to accomplish an evacuation.

(7) A description of training programs and drill schedules to be used for purposes of emergency response planning and preparedness.

(8) An evaluation of medical, police, health, and firefighting resources available in the event of a hazardous substance emergency and recommendations, if appropriate, concerning what additional resources should be developed by State or local governments.

(c) REVIEW BY THE GOVERNOR.—After completion of a plan under subsection (a) for an emergency response district, the local emergency response committee shall submit a copy of such plan to the Governor of each State in which such district is located. The Governor or Governors shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency response districts.

(d) ASSISTANCE.—Upon request of a local emergency response committee, the Administrator shall provide technical assistance in developing and implementing an emergency response plan.

Subtitle B—Notification Requirements

SEC. 311. BASIC NOTIFICATION REQUIREMENTS.

(a) SUBMISSION OF MATERIAL SAFETY DATA SHEETS.—

(1) BASIC REQUIREMENT.—The owner or operator of any facility at which any hazardous chemical is produced, used, or stored shall submit a material safety data sheet for each such chemical to the appropriate local emergency response committee and such local and State officials as may have been designated to receive such sheet by such committee.

(2) FURNISHING OF SHEETS TO OTHER OWNERS AND OPERATORS.—

(A) IN GENERAL.—Each owner or operator of a facility who is required to submit a material safety data sheet for a hazardous chemical under paragraph (1) and who supplies such a chemical to any other such owner or operator shall furnish such sheet, and any revised sheet under paragraph (3), to such other facility owner or operator. The initial sheet shall be furnished before, or at the time of, the first shipment of such chemical to such other owner or operator. Any revised sheet shall be furnished before, or at the time of, the first shipment of such chemical to such other owner or operator after such sheet is revised.

(b) UNAVAILABILITY FROM MANUFACTURER OR IMPORTER.—The requirements of this subsection shall not apply to a facility owner or operator (other than a manufacturer or importer of the hazardous chemical)—

(i) who has not received a material safety data sheet for such hazardous chemical from the person who supplied such hazardous chemical to such facility owner or operator; and

(ii) who has made and documented reasonable efforts to obtain such material safety data sheet by contacting such person and requesting such person to send the sheet.

(3) INITIAL SHEET AND UPDATING.—The initial material safety data sheet required under this subsection with respect to a hazardous chemical shall be provided before the later of—

(A) 12 months after the date of the enactment of this title; or

(B) 3 months after such chemical is first produced, used, or stored at a facility.

Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical which was originally required to be disclosed on such sheet under this subsection, the sheet shall be revised.

(b) HAZARDOUS SUBSTANCE REPORTS.—

(1) BASIC REQUIREMENT.—The covered operator with respect to each covered facility at which any covered hazardous substance is present in a significant amount shall prepare and submit to the appropriate local emergency response committee a hazardous substance report.

(2) CONTENTS OF REPORT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a hazardous substance report shall contain each of the following items of information with respect to each covered hazardous substance present at the covered facility in a significant amount:

(i) The type and approximate amounts of the covered hazardous substance to be found at the facility.

(ii) A map showing the location at the facility of each such substance stored at the facility.

(iii) Potential routes of human exposure to each such substance.

(iv) Symptoms of such exposure.

(v) Appropriate emergency and first aid procedures for spills, fires, explosions, and other releases involving such substance.

(vi) Emergency telephone numbers for appropriate personnel of the covered operator of the facility.

(B) EXCEPTION WHEN MSDS UNAVAILABLE.—With respect to any covered hazardous sustance for which a covered operator has not received a copy of the material safety data sheet required to be furnished under subsection (a)(2), such operator may satisfy the requirements of this subsection by including in a hazardous substance report the information required by clauses (i) and (ii) of subparagraph (A) and a statement that the covered operator has not received such sheet.

(3) INITIAL REPORT AND UPDATING.—The initial report required under this subsection with respect to a covered facility shall be provided before the later of either of the following:

(A) 18 months after the date of the enactment of this title.

(B) 6 months after a facility becomes a covered facility.

The hazardous substance report shall be revised and submitted to the appropriate local emergency response committee every six months. With respect to the requirements contained in paragraph (2)(A)(i), any revised report shall list the average amount of the substance present at the facility during the period since the last report was submitted and the maximum amount of the substance present at such facility at any time during such period.

(4) LIST OF COVERED HAZARDOUS SUBSTANCES AND THRESHOLD FOR REPORTING.—

(A) LIST OF SUBSTANCES.—Not later than 12 months after the date of the enactment of this title, the Administrator shall publish a list of those hazardous substances and hazardous chemicals which the Administrator determines have characteristics of volatility, combustibility, reactivity, dispersability, or toxicity such that the release of the substance or chemical is likely to cause an imminent and substantial endangerment to the public health or the environment. The Administrator may revise such list from time to time.

(B) THRESHOLD FOR REPORTING.—At the time a substance is listed under this paragraph, the Administrator shall determine what is a significant amount of such substance for purposes of the reporting requirements of this subsection.

(C) PETITION.—Any person and any local emergency response committee may petition the Administrator to designate a substance as a covered hazardous substance. Within six months after receipt of such a petition, the Administrator shall either designate such substance as a covered hazardous substance or publish a written explanation of the reasons for the determination that such substance is not a covered hazardous substance.

(5) FORMAT OF REPORTS.—

(A) IN GENERAL.—The Administrator shall publish a uniform format for hazardous substance reports within three months after the date of the enactment of this title.

(B) USE OF MSDS FOR CERTAIN ITEMS.—A covered operator may meet the requirements of clauses (iv), (v), and (vi) of subparagraph (A) of paragraph (2) with respect to a covered hazardous substance by submitting a copy of the most recent material safety data sheet for such substance.

(6) SUPERFUND SITES.—The report required under this subsection for any covered facility referred to in section 326(1)(B) shall not be required to contain any information which is not contained in the remedial investigation and feasibility study for that facility or which is not otherwise available to the covered operator. A report for such a facility shall not be required to be revised under paragraph (3).

(7) OTA REPORT.—Within four years after the date of the enactment of this Act, the Congressional Office of Technology Assessment shall report to Congress on the need for and feasibility of requiring hazardous substance reports from owners or operators of facilities which have been issued permits under section 3005 of the Solid Waste Disposal Act.

(c) EXTREMELY TOXIC SUBSTANCE STATUS SHEETS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The covered operator of each covered facility—

(i) at which an extremely toxic substance is present during any applicable 12-month period in excess of the 12-month cumulative threshold amount, and

(ii) from which such substance is released into the environment during such period,

shall prepare an extremely toxic substance status sheet for such substance for such facility.

(B) ANNUAL APPLICATION OF REQUIREMENT.—An extremely toxic substance status sheet shall be submitted to the appropriate local emergency response committee not later than 3 months after the date the initial hazardous substance report is submitted under subsection (b)(1) with respect to a facility for which such status sheet is required. For each 12-month period ending on the same date each year thereafter for which the requirements of subparagraph (A) apply, the covered operator shall submit such a status sheet within three months.

(2) CONTENTS OF STATUS SHEET.—An extremely toxic substance status sheet shall contain each of the following items of information with respect to the covered facility concerned:

(A) The total amount of each extremely toxic substance released into the environment during the preceding 12-calendar month period.

(B) A summary of each report submitted to the Administrator or a State during such 12-month period under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 regarding a release of a reportable quantity of an extremely toxic substance.

(C) A summary of each report submitted to the Administrator or a State during such 12-month period under the Federal Water Pollution Control Act, the Clean Air Act, or the Solid Waste Disposal Act of a discharge into the environment of any hazardous substance in excess of the amount permitted to be discharged under a permit under such Act.

(3) USE OF AVAILABLE DATA.—In order to provide the information required under this subsection, the covered operator may utilize readily available data (including monitoring data) collected pursuant to other provisions of law or, where such data is not readily available, reasonable estimates of the amounts involved. Nothing in this subsection requires the monitoring or measurement of the quantities, concentration, or frequency of any extremely toxic substance released into the environment beyond that monitoring and measurement required under other provisions of law or regulation.

(4) LIST OF EXTREMELY TOXIC SUBSTANCES AND THRESHOLD FOR REPORTING.—

(A) LIST OF SUBSTANCES.—Not later than 12 months after the date of the enactment of this title, the Administrator shall publish a list of substances which he deems, in his judgment and based on the best information available to him, to be extremely toxic substances. The list may be revised periodically. For purposes of this section, extremely toxic substances are those covered hazardous substances which are so acutely toxic that their release into the environment in any amount or form may present an imminent and substantial endangerment to human health.

(B) THRESHOLD FOR REPORTING.—At the time a substance is listed under this subsection, the Administrator shall also establish a 12-month cumulative threshold amount for such substance for purposes of the reporting requirements of this subsection.

(5) USE OF SHEET.—The sheet required under this subsection is intended to provide general information to the Federal, State, and local governments and the citizens of communities surrounding covered facilities. The sheet shall be available, consistent with section 312(a), to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering, to aid in the development of appropriate regulations, guidelines, and standards, and for other similar purposes.

(6) TELEPHONE INQUIRIES.—The Administrator shall establish a toll-free telephone number, operating 24 hours per day, that is computer accessible, to respond to inquiries concerning the information contained in extremely toxic substance status sheets.

(d) RECORDS.—Each owner or operator under subsection (a) and each covered operator under subsection (b) or (c) shall maintain records of the information filed in compliance with this section for a reasonable period to be determined by the Administrator. The Administrator shall take such steps as may be necessary to assist such covered operators and owners and operators in complying with this section and to reduce unnecessary or burdensome paperwork.

(e) EXEMPTIONS.—

(1) MATERIAL SAFETY DATA SHEETS.—The Administrator may exempt an owner or operator from the requirements of subsection (a) with respect to—

(A) any hazardous chemical or group of hazardous chemicals;

(B) any facility or group of facilities; and

(C) specific activities carried out by such owner or operator in a specific location.

(2) HAZARDOUS SUBSTANCE REPORTS.—The Administrator may exempt from the requirements of subsection (b) reporting with respect to—

(A) any covered hazardous substance or group of covered hazardous substances;

(B) any covered facility or group of covered facilities; and

(C) specific activities carried out by any covered operator in a specific location.

(3) PROCEDURES.—An exemption may be granted under this subsection by the Administrator on his own motion or upon petition of any person. An exemption may be granted only after notice and opportunity for public comment. No exemption may be granted under paragraph (1)(C) or (2)(C) for specific activities carried out by any covered operator or owner or operator until notice and an opportunity for a hearing have been provided in the locality in which such activities are carried out.

(4) STANDARD FOR EXEMPTION.—An exemption may be granted under this subsection only if the Administrator finds that the covered hazardous substance or hazardous chemical, facility, or activity concerned does not present a reasonable likelihood of injury to human health or the environment.

SEC. 312. PUBLIC AVAILABILITY OF PLANS, DATA SHEETS, REPORTS, STATUS SHEETS, AND EMERGENCY BULLETINS.

(a) AVAILABILITY TO PUBLIC.—Each emergency response plan, material safety data sheet, hazardous substance report, extremely toxic substance status sheet, and emergency bulletin shall be made available to the general public during normal working hours at the location or locations designated by the appropriate local emergency response committee. Upon request by a covered operator, the appropriate local emergency response committee shall withhold from disclosure under this section the information required by section 311(b)(2)(B) to be contained in a hazardous substance report.

(b) NOTICE OF PUBLIC AVAILABILITY.—Each local emergency response committee shall annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, hazardous substance reports, and extremely toxic substance status sheets have been submitted under this section. The notice shall state that hazardous substance emergency bulletins may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, report, sheet, or emergency bulletin may do so at the location designated by the local emergency response committee.

SEC. 313. PROVISION OF INFORMATION TO HEALTH PROFESSIONALS, DOCTORS, AND NURSES.

(a) DIAGNOSIS OR TREATMENT BY HEALTH PROFESSIONAL.—A covered operator shall provide the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical to any health professional who requests such information in writing if the health professional provides a written statement of need under this subsection and a written agreement of confidentiality under subsection (d). The written statement of need shall be a statement that the health professional has a reasonable basis to suspect that—

(1) the information is needed for purposes of diagnosis or treatment of an individual;

(2) the individual or individuals being diagnosed or treated have been exposed to the substance concerned; and

(3) knowledge of the specific chemical identity of such substance will assist in diagnosis or treatment.

Following such a written request, the covered operator to whom such request is made shall promptly provide the requested information to the health professional. The authority to withhold the specific chemical identity of a substance under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(b) MEDICAL EMERGENCY.—A covered operator shall provide a copy of a material safety data sheet, a hazardous substance report, or an extremely toxic substance status sheet, including the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical, to any treating physician or nurse who requests such information if such physician or nurse determines that—

(1) a medical emergency exists;

(2) the specific chemical identity of the covered hazardous substance or hazardous chemical is necessary for or will assist in emergency or first-aid diagnosis or treatment; and

(3) the individual or individuals being diagnosed or treated have been exposed to the substance or chemical concerned.

Immediately following such a request, the owner or operator to whom such request is made shall provide the requested information to the physician or nurse. The authority to withhold the specific chemical identity of a substance from a material safety data sheet, a hazardous substance report, or an extremely toxic substance status sheet under section 322 when such information is a trade secret shall not apply to information required to be provided to a treating physician or nurse under this subsection. No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the facility owner or operator disclosing such information may require a written confidentiality statement in accordance with subsection (d) and a statement setting forth the items listed in paragraphs (1) through (3) as soon as circumstances permit.

(c) PREVENTIVE MEASURES BY STATE AND LOCAL HEALTH PROFESSIONALS.—

(1) PROVISION OF INFORMATION.—A covered operator shall provide the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical to any health professional (such as a physician, toxicologist, or epidemiologist)—

(A) who is a State or local government employee or a person under contract with the State or local government, and

(B) who requests such information in writing and provides a written statement of need under this subsection and a written agreement of confidentiality under subsection (d).

(2) WRITTEN STATEMENT OF NEED.—The written statement of need shall be a statement that describes with reasonable detail one or more of the following health needs for the information:

(A) To assess the hazards of the substance or chemical to which persons living in a State or local community will be exposed.

(B) To conduct or assess sampling of the atmosphere to determine exposure levels of various population groups.

(C) To conduct periodic medical surveillance of exposed population groups.

(D) To provide medical treatment to exposed individuals or population groups.

(E) To conduct studies to determine the health effects of exposure.

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the State or local health professional. The authority to withhold the specific chemical identity of a substance under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(d) CONFIDENTIALITY AGREEMENT.—Any person obtaining information under subsection (a) or (c) shall, in accordance with such subsection (a) or (c), be required to agree in a written confidentiality agreement that he will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing such information. The confidentiality agreement under this subsection may provide for appropriate legal remedies in the event of a breach of the agreement, including stipulations of a reasonable pre-estimate of likely damages. Nothing in this subsection shall preclude the parties to a confidentiality agreement from pursuing non-contractual remedies to the extent permitted by law.

SEC. 314. HAZARDOUS SUBSTANCE EMERGENCY NOTICE AND BULLETIN.

(a) NOTIFICATION REQUIREMENT.—

(1) IMMEDIATE NOTICE.—In addition to any other notice required by this Act, in the case of any hazardous substance emergency at any covered facility, the covered operator shall immediately notify (by telephone, by radio, or in person) the appropriate local emergency response committee and any State and local officials designated by such committee to receive such notice of the existence of the hazardous substance emergency. Such notice shall include as much of the information referred to in subsection (b) as is known to the owner or operator at the time notice under this subsection is provided so long as no delay in responding to the emergency results.

(2) EMERGENCY BULLETIN.—In the case of a hazardous substance emergency at any facility, the facility owner or operator shall provide an emergency bulletin to such committee and officials as soon as practicable.

(b) CONTENTS OF EMERGENCY BULLETIN.—Each emergency bulletin under this section shall include a full description of the hazardous substance emergency so that appropriate health and safety measures can be taken. Such notification shall include, at a minimum each of the following:

(1) The chemical name of identity of the hazardous substance or substances involved in the emergency.

(2) The actions taken to response to the emergency.

(3) The covered operator's best estimate of the scope of the emergency, including the owner or operator's best estimate of the amount and duration of the release.

(4) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(5) Recommendations for additional actions, if any, that are necessary.

Subtitle C—General Provisions

SEC. 321. STATE AND LOCAL LAW.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this title shall be construed to limit the ability of any State or locality to require submission of information related to hazardous chemicals or to limit the authority of any State to preempt any local law relating to the submission of information related to hazardous chemicals.

(b) EFFECT ON MSDS REQUIREMENTS.—

(1) Any State or local law enacted after August 1, 1985, which requires the submission of a material safety data sheet from facility owners or operators shall require that the data sheet be identical in content and format to the data sheet required under subsection (a) of section 311. In addition, a State or locality may require the submission of information which is supplemental to the information required on the data sheet, through additional sheets attached to the data sheet or such other means as the State or locality considers appropriate.

(2) Any State or local law—

(A) enacted after August 1, 1985, and

(B) which requires a facility owner or operator who supplies a hazardous chemical to any other facility owner or operator to furnish a material safety data sheet to such other facility owner or operator,

shall be identical to the requirements under section 311(a)(3).

SEC. 322. TRADE SECRETS.

(a) AUTHORITY TO WITHHOLD INFORMATION.—With regard to a hazardous chemical or covered hazardous substance, any facility owner or operator required to submit or furnish any information to any other person or entity under this title may withhold from such submittal the specific chemical identity, including the chemical name and other specific identification, as defined in regulations prescribed by the Administrator of the Environmental Protection Agency under subsection (b), if the claim that the information withheld is a trade secret can be supported by showing that—

(1) the facility owner or operator has not disclosed the information to any other person, other than a member of a local emergency response committee, an officer or employee of the United States or a State or local government, an employee of such facility owner or operator, or a person who is bound by a confidentiality agreement,

(2) the information is not required to be disclosed to the public under any other Federal or State law, and

(3) knowledge of the withheld information may give the facility owner or operator an opportunity to obtain an advantage over competitors who do not know or use such information.

(b) TRADE SECRET REGULATIONS.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall prescribe trade secret regulations which are identical (except for provisions relating to the procedure for the review of petitions challenging trade secret claims, and any minor conforming changes the Administrator considers appropriate), consistent with subsection (a), to the provisions concerning trade secrets in the Occupational Safety and Health Administration Hazard Communication Standard and any revisions of such trade secret provisions prescribed by the Secretary of Labor in accordance with the final ruling of the courts of the United States in *United Steelworkers of America, AFL-CIO-CLC* v. *Thorne G. Auchter.*

(2) PETITION FOR REVIEW.—The Administrator of the Environmental Protection Agency shall establish a procedure for any affected citizen to petition the Administrator to review a trade secret claim made by a facility owner or operator under this section. Any appropriate United States district court shall have jurisdiction to review a determination by the Administrator under this section.

(3) TIMETABLE.—The Administrator shall prescribe the regulations under paragraph (1) as soon as practicable after the date of the enactment of this Act, and shall prescribe the regulations under paragraph (2) no later than 4 months after the date on which the regulations under paragraph (1) become final.

(c) EXCEPTION FOR INFORMATION PROVIDED TO HEALTH PROFESSIONALS.—Nothing in this section or regulations adopted pursuant to this section shall authorize any person to withhold information which is required to be provided to a health professional or a doctor or nurse in accordance with section 313.

SEC. 323. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any person (other than a governmental entity)—

(1) who violates any requirement of section 311(b), 311(c), or 314 shall be liable to the United States for a civil penalty in an amount not to exceed $20,000 for each such violation; and

(2) who violates any requirement of section 311(a) or 313(b), and any person who fails to furnish information withheld under section 322(a) from a material safety data sheet when requested by the Administrator for purposes of carrying out a review under section 322(b), shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

Each day such a violation continues shall, for purposes of this paragraph, constitute a separate violation.

(b) COLLECTION OF PENALTY.—Any civil penalty for which a person is liable under this title shall be collected in an action brought by the United States in the United States district court for the district in which the person from whom the penalty is sought resides or in which such person's principal place of business is located.

(c) SPECIAL ENFORCEMENT PROVISIONS FOR SECTION 313.—Whenever any facility owner or operator required to provide information under section 313(b) to a doctor or nurse who has requested such information fails or refuses to provide such information in accordance with section 313(b), such doctor or nurse may bring an action in the appropriate United States district court to require such facility owner or operator to provide the information. Such court shall have jurisdiction to issue such orders and take such other action as may be necessary to enforce the requirements of section 313(b).

(d) STUDY OF CRIMINAL PENALTIES.—The Attorney General shall study the need for, and appropriateness of, criminal penalties for violations of this title. The Attorney General shall submit to Congress a report on the results of such study, along with recommendations, not later than four years after the date of the enactment of this Act.

SEC. 324. EXEMPTION.

This title shall not apply to the transportation, including the storage incident to

such transportation, of any hazardous chemical or covered hazardous substance.

SEC. 325. EMERGENCY TRAINING AND PILOT PROGRAM.

(a) EMERGENCY TRAINING.—

(1) PROGRAMS.—Officials of the United States Government carrying out existing Federal programs for emergency training are authorized to specifically provide training and educating programs for Federal, State, and local personnel in hazard mitigation, emergency preparedness, fire prevention and control, disaster response, long-term disaster recovery, national security, technological and natural hazards, and emergency processes. Such programs shall provide special emphasis for such training and education with respect to hazardous chemicals.

(2) STATE AND LOCAL PROGRAM SUPPORT.—There is authorized to be appropriated to the Federal Emergency Management Agency for each of the fiscal years 1986, 1987, 1988, 1989, and 1990, $5,000,000 for making grants to support programs of State and local governments, and to support university-sponsored programs, which are designed to improve emergency planning, preparedness, mitigation, response, and recovery capabilities. Such programs shall provide special emphasis with respect to emergencies associated with hazardous chemicals. Such grants may not exceed 80 percent of the cost of any such program. The remaining 20 percent of such costs shall be funded from non-Federal sources.

(3) OTHER PROGRAMS.—Nothing in this section shall affect the availability of appropriations to the Federal Emergency Agency for any programs carried out by such agency other than the programs referred to in paragraph (2).

(b) PILOT PROGRAM.—

(1) AUTHORITY.—The Administrator shall carry out a pilot program for testing methods for determining total emissions from facilities of substances described in paragraph (3). In carrying out the program, the Administrator shall use quantitative measurements and analyses to the maximum extent practicable. The Administrator shall enter into a contract with the National Academy of Sciences to develop guidelines for the conduct of the program. The contract shall require the National Academy of Sciences to report such guidelines to the Administrator and Congress within one year after the date of the enactment of this Act. Within six months after receiving the guidelines, the Administrator shall initiate the program.

(2) SELECTION OF THE FACILITIES.—The Administrator shall carry out the pilot program at the ten facilities owned and operated by the United States Government which, in the Administrator's discretion, are best suited for carrying out the pilot program under this subsection. The facilities selected shall be similar to facilities in the private sector so that the Administrator can determine the applicability of such methods in the private sector.

(3) DESCRIPTION OF SUBSTANCES.—The substances described in this paragraph are each of the following:

(A) Any substance designated as toxic or hazardous by the Occupational Safety and Health Administration under the Occupational Safety and Health Act of 1970.

(B) Any substance listed in the most recent edition of the "Annual Report on Carcinogens" published by the National Toxicology Program of the United States Public Health Service.

(C) Any substance for which a Threshold Limit Value (TLV) has been established by the American Conference of Government Industrial Hygienists.

(D) Any substance listed by the National Fire Protection Association in "Hazardous Chemicals Data" (NFPA 49).

(E) Any substance identified in "Occupational Health Guidelines for Chemical Hazards" published by the National Institute for Occupational Safety and Health.

(F) Any substance listed by the National Fire Protection Association and rated II through IV as health hazards or rated III through VI as flammability or reactivity hazards in "Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids" (NFPA 325M).

(G) Any substance designated as a carcinogen by the International Agency for Research on Cancer.

(H) Any substance listed as a carcinogen by the Carcinogen Assessment Group of the United States Environmental Protection Agency.

(I) Any pesticide the use of which is controlled under section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(J) Any substance listed in a review by National Cancer Institute scientists published in the Journal of Toxicology and Environmental Health, 8:251-280, tables 3 through 6, and in subsequent published reviews by National Cancer Institute scientists of substances which meet the criteria of the National Toxicology Program for significant carcinogenic effect.

(K) Any substance defined as a "hazardous substance" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(4) REPORT.—The Administrator shall submit an interim report to Congress regarding the pilot program within one year after the program is initiated. Within two years after initiating the program, the Administrator shall complete the pilot program and shall submit a final report on the results thereof to Congress. The report shall discuss the technological and economic feasibility of emissions and discharge reporting, as well as the usefulness and value of the information collected. The Administrator shall make recommendations on whether a permanent emissions and discharge and inventory reporting program should be established on a continuing basis and, if so, how such a program should be structured.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to carry out this subsection.

(c) SAVINGS PROVISION.—Nothing in this title shall affect the requirements of the Occupational Safety and Health Act of 1970.

SEC. 326. DEFINITIONS.

For purposes of this title—

(1) COVERED FACILITY.—The term "covered facility" means—

(A) a facility at which any hazardous chemical is produced, used, or stored; and

(B) a facility listed on the National Priorities List under the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 for which a remedial investigation and feasibility study has been completed.

(2) COVERED HAZARDOUS SUBSTANCE.—The term "covered hazardous substance" means a substance listed under section 311(b)(4).

(3) COVERED OPERATOR.—The term "covered operator" means any person (including any department, agency, or instrumentality of the United States) who owns or operates a covered facility.

(4) EXTREMELY TOXIC SUBSTANCE.—The term "extremely toxic substance" means a covered hazardous substance listed by the Administrator under section 311(c)(4).

(5) HAZARDOUS CHEMICAL.—The term "hazardous chemical" means any chemical for which a material safety data sheet is required to be submitted under section 1910.1200(g) of title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

(A) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(B) Any manufactured item which contains a hazardous chemical present as a solid which does not result in exposure to the hazardous chemical under normal conditions of use.

(C) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(D) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(6) HAZARDOUS SUBSTANCE EMERGENCY.—The term "hazardous substance emergency" means an accidental or abnormal release of a covered hazardous substance from a covered facility which may present an imminent and substantial endangerment to the public health or the environment. For purposes of this paragraph—

(A) the term "abnormal release" means a release which is not a continuous release and which is in excess of the normal amounts associated with routine operations of the covered facility; and

(B) the term "accidental release" means a release which is not planned.

(7) MATERIAL SAFETY DATA SHEET.—The term "material safety data sheet" means the sheet required to be developed under section 1910.1200(g) of title 29 of the Code of Federal Regulations, as that section may be amended from time to time.

(8) CERCLA TERMS.—The terms used in this title which are defined for purposes of title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 shall have the meanings provided by section 101 of that Act.

The CHAIRMAN. Are there amendments to title III?

AMENDMENT OFFERED BY MR EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: Page 279, in line 19, insert the following before the period: "and chemicals (such as vinyl chloride, benzene, asbestos, and poly chlorinated biphenyls) which are known to cause or are suspected of causing cancer, birth defects, heritable genetic mutations, or other chronic health effects in humans".

Mr. Chairman, the hour is late, but I offer in title III of this bill an amendment which I believe is one of the more critical issues facing us over the course of the next 2 days in producing a strong Superfund bill.

I want to first commend my colleagues on both sides of the aisle and all of the committees of jurisdiction for coming forward in the House with a Superfund bill that I believe is effective and ought to be passed and ought to be sent to the Senate. We ought to find agreement between our body and the other body and move quickly to placing a strong effective Superfund bill on the President's desk.

Mr. Chairman, I am offering an amendment which would require firms handling hazardous substances to report routine releases of those substances which are not only acutely toxic, as provided for in the bill, but also those chemicals that pose serious chronic health risks.

The bill before us calls on firms handling hazardous substances to provide emissions data for a presumably short list of extremely toxic, acutely hazardous chemicals. But across the country, thousands, if not millions of tons of toxic chemicals are released into the air, water, and ground each year which have a tragic long-term effect on the people who live nearby. Year after year, day after day, hour after hour, toxic releases pour into the environment, contaminating the air we breathe, the water we drink, and the ground on which our children play.

As drafted, the compromise version of H.R. 2817 prohibits the EPA from including chronic chemicals on the list of hazardous substances covered by the emissions data requirement. The exempted substances include: Asbestos, PCB's, benzene, vinyl chloride, toluene, dioxin, and others.

No emissions reporting would be required for these highly toxic chemicals under the current version of the bill. The Edgar-Sikorski amendment would include chronic chemicals because there is no reason to draw an arbitrary distinction between chemicals that have immediate health effects and those which can cause cancer, birth defects and other long-term health problems.

The people we represent have a right to know if they are being exposed to chemicals that could potentially kill them, regardless of whether they die suddenly or over a decade. In my opinion, the result is just as tragic no matter when it happens.

Many have expressed concern that this proposal might not be workable or that it might place an undue burden on the business community. I believe that those concerns are unfounded. The States of New Jersey and Maryland have had emissions data requirements for some time and have experienced little or no difficulty obtaining a high level of industry compliance.

I should also note that an emissions tracking system can be implemented without imposing expensive monitoring equipment costs on industry and small businesses. In the Maryland and New Jersey programs, if emissions information cannot be ascertained from monitoring equipment, engineering estimates may be submitted. A workable Federal program need not require additional monitoring equipment. In fact, a New Jersey Department of Environmental Protection investigation found that estimates were generally accurate.

Furthermore, even the Superfund bill passed by the other body includes an emissions data requirement that includes chronic, as well as acute, toxics. We must do at least as much in the House.

Last year we passed a tough Superfund bill that allowed us to return to our constituents and tell them that we had approved legislation to reduce the danger they faced from toxic wastes. Now, in the aftermath of Bhopal and Institute, WV, we have become much more aware of the fact that many Americans are exposed on a daily basis to hazardous substances that can cause cancer and other long-term health problems.

We would be doing less than our duty if we were to pass a relatively strong new emissions program and not include asbestos and PCB's. We hear that the substances are dangerous every day from the TV and radio. We read about PCB and asbestos removal from our schools and public buildings.

If these chemicals are so dangerous, shouldn't we monitor people's exposure to them?

If dioxin is dangerous enough to evacuate the entire town of Times Beach, wouldn't it be wise to find out how much people are exposed to on a regular basis?

If we are monitoring emissions of chemicals that can cause death or sickness in hours, why not do the same for those which may lead to injury over longer exposure periods?

Information about these health dangers is the basis of the right-to-know concept. It makes sense to apply right-to-know fully by including carcinogens and other chronic chemicals on the emissions list; I urge my colleagues to support the Edgar-Sikorski amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from New Jersey.

Mr. FLORIO. To reinforce the point that you made with regard to no burden, Maryland has this, New Jersey, and maybe other States require this kind of information. The other body has included this language in their proposal, the Superfund proposal.

I do not know how anyone does not go along with the provision of providing for long-term tracking of exposure of things like PCB.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. EDGAR] has again expired.

(On request of Mr. FLORIO and by unanimous consent, Mr. EDGAR was allowed to proceed for 1 additional minute.)

Mr. FLORIO. If we are going to track long-term exposure, which is the purpose of this provision in the bill, why should we not be tracking long-term exposures for the chronic emissions that the gentleman is trying to track and target it on?

This is going to be perceived as a vote just to disregard the hazards associated with things like asbestos and toluene and benzene. This is a reasonable amendment, and I would support it.

Mr. EDGAR. I thank the gentleman for his comments.

I indicate to my colleagues we will ask for a recorded vote on this. We urge our colleagues to look carefully at the language of the amendment and support the amendment.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Indiana.

Mr. COATS. I thank the gentleman for yielding.

I would just like to ask the gentleman a couple of questions. Can the gentleman give us an estimate of how many chronic subtances we are talking about adding to the requirement that status sheets be issued?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. EDGAR] has again expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 1 additional minute.)

Mr. EDGAR. On the national toxicology program list there are only 117 demonstrated carcinogens. Only 22 are firmly known. Ninety-five are suspected carcinogens.

Mr. COATS. If the gentleman will yield further, is the gentleman only seeking to add carcinogens to the list? The gentleman used the description "those substances posing chronic health hazards." We have some estimates that that may include up to 2,500 different substances. If that is the case, then we are talking about a significant amount of paperwork, effort, money that could be used in instances where we are cleaning up more toxic substances and actually detract from the program.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. EDGAR] has again expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 1 additional minute.)

Mr. EDGAR. I would like to respond to the gentleman by saying that we in no way, under no circumstances, are we talking about 2,500 chemicals. We

are talking about the same level of experience that Maryland has and New Jersey has, which include the chronic chemicals in their list today. And I draw the gentleman's attention to a Congressional Research Service document which I have before me, which looks at the specific number of chemicals that are used and determined by the Maryland experience and the New Jersey experience. It is the intention and the language of this amendment not to include that number of chemicals that the gentleman suggests.

My colleague's point assumes that this is a terribly burdensome program. In the Maryland State emissions program, which includes chronic chemicals, only 545 of the 550 survey forms sent out were returned, and the number of chemicals in each of those States were in the neighborhood of 500. That included both the chronic and the acute.

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Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think we better take a look at what this amendment which sounds so good in fact does. First of all, it does not just cover a few substances as its author said. It covers all substances which cause cancer. All those which are suspected of causing cancer. All those which cause birth defects. All those which are suspected of causing birth defects. All those which cause heritable genetic mutations or are suspected of causing heritable genetic mutations. Or other health effects in humans. That is a vastly larger list than was listed by the gentleman from Pennsylvania. It covers many more. The number which has been estimated to cover something on the order of 2,500.

To whom would this amendment apply? It would apply to any business. It would apply to gas stations; dry cleaners; manufacturing facilities; chemical plants; printers; plastic processors; it would apply to paint manufactureres; and it would apply to silk screeners. It would apply to any business which has 11 employees. Indeed, after this amendment went in place, they would need an additional 3 or 4 employees in 11-employee establishments. They would need something like 15 or 16 employees.

Now, this would even cover hairdressers, and it would not inconceivably cover restaurants and not inconceivably cover all manner of small business, including people who had copying machines or similar equipment on the premises. Now, if you want to outrage your constituents by imposing massive servitudes on them, then I urge you, endorse this with enthusiasm.

The monitoring required to file these reports would cost thousands of dollars. Remember, it would require reporting on air, on water, on groundwater, on injections into sewers, and on any other release which got into the environment, including spilling on the soils.

The cost of this ground water analysis, I am told, would run something on the order of $1,700 a year. Now, the argument is made we need this amendment because these facilities are releasing these dangerous substances in the air. We have section 112 in the Clean Air Act. Section 112 deals with this problem, and affords authority to EPA to address the question of emissions into the air. Similar requirements are imposed in the Clean Water Act, and there are constraints on releases of substances of this kind under the Safe Drinking Water Act, under CERCLA, and RCRA.

Now, lest it be thought that the committees have not considered this matter in the writing of the basic legislation, my colleagues who in a surcease of enthusiasm would impose upon their constituents a massive servitude, should know that the proposal that is before you includes a requirement that disclosures of a character sufficient to inform people of any peril which stemmed from a hazardous release must be made available to the local authorities. And the communities are not barred under this legislation from imposing any additional amount of reporting and disclosure that they might feel met their local needs.

Now, in the enthusiasm of writing this, I would call to the attention of my colleagues that we are dealing here in large numbers of cases, not only with small businesses of limited capabilities to file the necessary reports, but you are dealing with good folk like volunteer fire departments and villages whose population and whose administrative services are extremely limited and greatly strained in providing the most ordinary and routine services, much less dealing with the masses of reports that would be generated as a result of this amendment.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. What you are going to do is to drown these unfortunate local communities in paperwork. The question which we must ask ourselves tonight as we consider this well-intentioned amendment is how much of a burden do we want to impose on the citizen, and how much clogging of the administrative mills do we want to occasion with information on a plethora of substances which cover everything that can cause any kind of health effect in human beings.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, I will make just four very quick points. The gentleman's information is wrong.

Mr. DINGELL. I have studied this matter in rather considerable detail and I will tell you I am right.

Mr. EDGAR. If the gentleman will yield, let me just point out four simple things: First, in the New Jersey experience, we are talking about 154 chemicals.

Mr. DINGELL. We are not talking about the New Jersey experience here.

Mr. EDGAR. If the gentleman would yield further, on the other three points I would like to make, I would just simply indicate that the same burdensome requirements that you are arguing are onerous on my amendment already exist in the bill that is before us because they include——

Mr. DINGELL. No; they do not.

Mr. EDGAR. They include in the legislation before us is an exemption for and a threshold for the small businesses and others that the gentleman is concerned about.

Mr. DINGELL. If the gentleman would permit, the list in the current legislation is very small. It relates only to substances which impose an immediate hazard on the population, as opposed to substances which present a suspected long-range danger. The gentleman is in error.

Mr. EDGAR. If the gentleman would yield further, the gentleman from Pennsylvania is not in error, that the same burdensome requirements that the industries have to respond to on acute substances are the very small requirements that we impose with EPA have a threshold requirement so that most small businesses would not be impacted as the gentleman has suggested.

Mr. DINGELL. I would observe to the gentleman that nowhere in his amendment is there a threshold requirement limiting——

Mr. EDGAR. It is already in the bill. If the gentleman would yield further, those threshold requirements are already in the legislation. It is not a matter of placing them in my amendment. The thresholds that already exist are now simply going to cover approximately 150 additional substances which may have chronic long-term impact in the same way.

Mr. DINGELL. The gentleman is totally in error. There is no way that the gentleman can tell us the precise number of substances that are involved, because I want to remind the gentleman the amendment includes all substances which are known to cause or are suspected of causing cancer, birth defects, heritable genetic muta-

tions, and other chronic health effects. That can be anything from flaking skin to asthma to God knows what. It is not just those things which are known to cause those effects, but it is substances which are suspected of it.

Mr. EDGAR. If the gentleman would yield at that point, I have three sources here that I think the gentleman would agree are good.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. I continue to yield to the gentleman.

Mr. EDGAR. I have three organizations, the National Toxicology Program list, the IRC list, and a list of additional chemical carcinogens that are provided.

Mr. DINGELL. I thank the gentleman and I am sure those lists are of immense help. But if the gentleman had cited those lists in his amendments, I would be very much impressed, and I would know what substances he was referring to. I must observe with vast distress that the list that the gentleman would impose upon the Nation is startlingly larger and covers anything which can cause anything from flat feet to falling hair and anything else.

Mr. EDGAR. If the gentleman would yield for one final point, if the gentleman in his language on the acutes does not include a specific number of chemicals because we have to leave that up to EPA. But it is the experience in Maryland and New Jersey that already has this provision as part of their law, that it is less than 150 and I thank the gentleman for yielding.

Mr. DINGELL. I am not aware of what Maryland or the other States have in their law. I am sure it is not the same, and I am equally sure that the list would be, if as set forth here, would be vastly larger.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. SNYDER. I want to thank the chairman for a very eloquent statement in regard to the broadness of this language. We all know that saccarin is accused or suspected of causing cancer. Why it has even been alleged that good bourbon whiskey causes a chronic health defect known as cirrosis of the liver or birth defects. Tobacco, which I happen to like, has been suspected of causing cancer.

There is no end to the broadness of this language as you have well explained.

Mr. DINGELL. As a matter of fact, absinth in a bar could be included.

Mr. SNYDER. Absolutely.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(On request of Mr. LENT and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I just wanted to reinforce the statement that the chairman of the Energy and Commerce Committee made earlier about overwhelming the emergency response authorities with a lot of useless data. I have here a letter from the International Association of Fire Chiefs which was sent to our committee at the time we were considering this legislation. They say they are concerned that certain legislative proposals may be counterproductive by going beyond what emergency response authorities need to address the dangers of hazardous substances in the community.

They go on to say "the legislation should cover which may present an imminent and substantial danger to public health. Inclusion of additional substances would exceed data that emergency authorities would need or could use to respond to a danger, and therefore, would be counterproductive."

So I think here we have from the organizations that we hope will respond in the case of an emergency, they do not want to be benefited by this plethora of useless information.

Mr. DINGELL. EPA has published a list of 403 toxic chemicals that pose risk in plant accidents. These are all items of known present and high danger. In the New York Times of November 18, 1985, a number of State officials including those from the State of Connecticut and a number of other States, said that they feel that this number is probably too high and probably will strain the ability of the administrative agencies of the several States to respond.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(On request of Mr. RITTER and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman.

I think the major thing wrong with this amendment is that it is a Clean Air Act amendment which should be under Clean Air Act jurisdiction. We are dealing with the Superfund bill whose, I hope, main responsibility is to clean up hazardous waste dumps. Here we are talking about a hotly debated issue of section 112 of the Clean Air Act. The universe of chemicals that would be covered by this language, is enormous. To show you how enormous it is, let us consider the chemicals contained in your Thanksgiving dinner menu. An analysis produced by the American Council of Science on Health gives us some specific chemical contents.

□ 2225

It shows things like hydrazine in your cream of mushroom soup, and benzoapyrene in your olives, and the list goes on and on. Roast turkey with gravy contains methyl glyoxal.

Because these chemicals are present, we don't call an inventory of them by the Federal Government. I think the point here is that "releases" themselves do not have meaning for protection of public health because exposure to these substances may well have negligible or no effect whatsoever on human health and the environment.

Some of these substances are already regulated by OSHA in an enclosed place, in the workplace.

Mr. DINGELL. Under OSHA?

Mr. RITTER. Under OSHA.

Mr. DINGELL. Let me just concur in the gentleman's comments. The purpose of the bill as drawn is to enable response to emergencies. What this amendment will do will be clog the mill with monstrous amounts of data, or perhaps even information, which will be of such enormous scope and sweep and amount that the local units of government will not be able to deal with it.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Chairman, reserving the right to object, may I inquire whether we have a time limit under which we are operating, because some of us would like to speak, and if we have continuous renewal of time for people who are speaking, we will run out of time. May I inquire of the chairman of the committee?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. This is the last time. I will observe I am trying to help the gentleman.

Mr. WAXMAN. Well, I do not believe we are on the same side of the issue, and I would like to express my point of view.

Mr. DINGELL. That is why I am trying so hard.

Mr. WAXMAN. As long as we will have an opportunity to present the other side, I have no objection.

The CHAIRMAN. In response to the gentleman's question, and for the information of the Committee, there is 1 hour and 5 minutes, or 65 minutes of debate remaining on the 90-minute time limit on title III.

Mr. WAXMAN. On the whole title?

The CHAIRMAN. On the whole title.

Mr. WAXMAN. Not just this amendment?

The CHAIRMAN. No, sir.

Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 2 additional minutes.

Mr. DINGELL. Mr. Chairman, the EPA published a list of 403 toxic chemicals. This is what Charles J. Zieminski, an official of the Connecticut State Department of Environmental Protection, says about having such a large number of items on the list. The November 18, 1985, New York Times article says this:

State officials say they are concerned that the high number of chemicals on the list will overwhelm local resources in seeking out the most important risk.

Then Mr. Zieminski is quoted: " 'We just don't think we can go to all 168 towns in Connecticut and provide help to each of them,' said Charles J. Zieminski, an official in the State's Department of Environmental Protection."

Now if you want to control these substances, let us not control them in a hastily drafted floor amendment. Let us deal with this issue as a part of a program which will control these substances in a thoughful, responsible way, because the consequences may be totally beyond what we know, both in terms of cost and irritation to public officials and to businessmen, and it may also so thoroughly clog the mills that when you get a real problem which requires an emergency response, the local response and emergency people will be so clogged with information and data that they will not be able to respond.

Mr. Chairman, I would for that reason urge that this matter be set aside to some later time when it can be dealt with more responsibly after we get better facts and better information so that we can have a better piece of legislation rather than an enthusiastic plethora of information that is simply going to drown the system.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The gentleman from New York [Mr. SCHEUER] is recognized for 5 minutes.

Mr. SCHEUER. Mr. Chairman, I will not use the 5 minutes. I know the hour is late, and we have heard a lot of argumentation on both sides of this issue.

Let me give the Members a real-world example of the kind of catastrophe this amendment could avoid if passed. Three years ago the Subcommittee on Natural Resources, Agricultural Research and Environment of the Science and Technology Committee, which I chair, held an investigation of the Dow Chemical Co. in Midland, MI, and the prospect that they were spewing inordinate amounts of dioxin on the land, in the air, and into the Tittabawassee River in Michigan on which they front.

The Dow Chemical Co. not only refused to give information on how much dioxin was continuously being released to the citizens of the town and the workers, but they refused to let the EPA come onto that land and measure the dioxin on the land and measure the dioxin which was being spewed into the Tittabawssee River on an hourly, daily, weekly, and monthly basis.

Now, the citizens of Midland, MI, had good reason to believe that dioxin was suspected of causing cancer, birth defects, and other serious health hazards. They knew from the nightly TV coverage that members of the Energy and Commerce Committee and other committees in Washington were providing, that dioxin was a serious health hazard. They were agonizing over their continuing exposure to dioxin.

□ 2235

Veterans around the country were agonizing over their exposure to dioxin that they were subject to in their service in Vietnam.

But the residents of Midland, MI had no way of finding out whether the Dow Chemical Co. was exposing them to either airborne or waterborne dioxin emissions.

In the end, of course, the information did surface, and the coverup did not succeed. But it did cost Midland, MI, the citizens of that town, a great deal of time, money, pain and suffering.

Now, I think that we would all believe that the residents of Midland, MI were ill-served by government at the Federal, State and local level, and they suffered unnecessary trauma, unnecessary anxiety.

If you would not like to see your constituents abused and if you would not like to see your constituents denied essential knowledge that had devastating implications to their health and the health of their kids, the health of their unborn children, I hope you will pass this amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. Of course, I am delighted to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think it is important to set in perspective what the right-to-know section of this bill is designed to do.

I heard reference made to section 112 of the Clean Air Act. That is not what we are talking about.

In part, the failure of the Clean Air Act is to deal with hazardous air pollutants, life-threatening contaminants, is what prompts this whole new initiative of the right to know.

Reference was also made to the emergency response capability function of this bill, a very important function of the bill. But it is not the exclusive function of the bill. One does not need an emergency response for a chronic contaminant; one needs it for an acute contaminant. But there is a very important function to be served by our long-term emission data records that we are going to keep to let the community know that we get information as to annual emissions of chronic as well as acute contaminants. And that is what the gentleman's amendment is going to do.

I would represent by virtue of coming from a State that has this system it has not resulted in great masses of paperwork, it has not resulted in oppression of small business people; it is something that is important and it is something that the other body has included in its version of this bill, and I would ask your support for it.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHEUER] has expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. SCHEUER was allowed to proceed for 2 additional minutes.)

Mr. SCHEUER. Mr. Chairman, you can refer to massive amounts of paperwork or you can refer to the distribution of essential information that citizens need to protect their health. I guess it is any man's calling.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

Let me see if I can put this whole issue in perspective.

We want to have a citizens' right to know what they are being exposed to that is harmful to them and the proposal that is before us says that we are going to have an inventory of harmful substances, but only those harmful substances that are considered extremely toxic, so that narrows the field very, very narrowly, so only certain toxics will be on an inventory and the public would then know they are being exposed to them.

Now, the gentleman from Delaware [Mr. CARPER] in a few minutes is going to try to expand that to include other acute substances. An acute substance is one that causes immediate danger to health.

Now, we have what are called chronic hazardous substances and those are substances that cause cancer, birth defects, leukemia, serious problems; but nevertheless, you do not see the impact of them immediately.

This amendment that is before us, the Edgar-Sikorski amendment, would say that if you are going to have an inventory and let the public know what they are being exposed to, they ought to know what chronic hazards they are being exposed to.

These are very dangerous chemicals, such as dioxin, PCB's, chloroform, formaldehyde, EDB. We would not even have information about those particular hazardous substances under this provision in the bill that is before us.

So this amendment is needed so that we really have a citizen's right to the information. Unless our citizens know they are being exposed to these dangers, they do not know they are likely to get cancer.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHEUER] has again expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. SCHEUER. Yes, I yield to the gentleman.

Mr. WAXMAN. The theory of all this, Mr. Chairman, and when they know the theory, they are going to say to the Government, "We now know we are being exposed to these hazards. We want you to regulate so that we are protected."

Now, really, let us understand what is going on. We are not even regulated. We are only going to get an inventory so that people will know what hazards they are being exposed to.

We hear reference to section 112 of the Clean Air Act. That is the section that protects the public from hazardous pollutants in the air. Out of the hundreds and maybe thousands of chemicals, do you know how many the EPA has regulated in 15 years? Six. Are we going to say that is protection for the public?

We are not even asking for regulation in this amendment, only that the inventory be complete to reflect these chronic hazards that cause cancer, birth defects, and leukemia. It is a responsible amendment and I would urge its adoption.

Mr. CHAIRMAN. The time of the gentleman from New York [Mr. SCHEUER] has again expired.

(At the request of Mr. RITTER, and by unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. RITTER. Mr. Chairman, will the gentleman yield for a question?

Mr. SCHEUER. Yes, I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, in the language on page 279, line 18 it says, "in any amount."

Before we inventory these substances, do we have any idea whether it is 1 part per trillion that is going to be inventoried that will be an emission, or 1 part per billion, or 1 part per million, or how would that be defined?

Mr. SCHEUER. Some of these toxic substances are incredibly lethal in infinitesimal amounts and our ability to measure now does go up into a small number of parts per trillion.

I can suggest to the gentleman that one drop of dioxin in an Olympic-sized swimming pool makes it lethal for living things.

Mr. SIKORSKI. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Chairman, I thank the gentleman for yielding.

In response to the question of the gentleman from Pennsylvania and the other talk that we have heard tonight, first of all the threshold discretion by the EPA Administrator clearly takes care of any kind of concern with regard to amount.

Second, the overall discretion that the bill has written on acute chemicals, and it would apply to chronic chemicals, more than takes care of any kind of burdensome numbers or amounts or particular individuals or companies that would be affected.

It clearly is within the discretion of the Administrator.

The parade of horribles that is being described to us with regard to chronic is already in the bill with regard to acute chemicals.

Mr. RITTER. Mr. Chairman, will the gentleman yield further on that point?

Mr. SCHEUER. Yes, I yield to the gentleman.

Mr. RITTER. Mr. Chairman, there really is a difference between acute and chronic.

Now, I know this is all a response to the Bhopal disaster and, yes, methyl isocyanate will be one of the acutes; the gentleman talked about a drop of dioxin in a pool. As far as I know, there has never been a drop of dioxin. It is a trace element occurring in parts per million or parts per billion.

As a matter of fact, while dioxin is very toxic to certain animals, the linkage between dioxin and human health is not nearly as solid as the linkage between dioxin and those laboratory animals, but if a substance is deemed acutely toxic and has the impact of causing immediate degradation of human health, it will be covered by the existing bill.

We are trying to respond to those substances which are acutely toxic, but the universe covered by those substances suspected of causing cancer or suspected of causing birth defects or chronic ailments, goes way beyond the acute.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHEUER] has again expired.

(At the request of Mr. FLORIO, and by unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Just to respond to the gentleman from Pennsylvania, the void that is not filled in this scenario is that unless we have this amendment, we can have annual emissions out of a smokestack, out of a facility involving vinyl chloride, PCB, dioxin, asbestos, and no one is required to report that that information is available to the people in the town that it is being injected into their air; so the gentleman's observations about acute reporting are correct.

The deficiency is that chronic contaminants that are equally as dangerous, only not as quickly perceptible as being dangerous, are not going to be reported under the bill as it is contained now.

Under the gentleman's amendment, it will make the change.

I thank the gentleman for yielding.

Mr. SIKORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the focus of some of the discussion has been on emergency planning. Let me call your attention to the fact that Title III which is being amended at this stage is called Emergency Planning and Community Right to Know. Community right to know means just that. It makes sense.

We are but one short year from Bhopal, India. A leaky storage tank, an early morning emergency, as one journalist put it, a pall of white smoke that spread with the wind, poisoning human beings as if they were insects. Over 2,000 people died, over 200,000 people were maimed or injured. Bhopal was in India, but it was an American company operating in a replica of an American plant.

In America today, 60,000 chemicals are produced in over 6,000 communities and last year alone we had 5,700 toxic chemical accidents.

We know that the vast majority of dangerous exposure to hazardous chemicals is through long-term, rou-

tine or regular releases, not the dramatic Bhopal kinds of incidents. The effect of exposure to these chemicals is not discernible overnight. The corpses are not in the streets. The corpses are waiting in American hospitals, not on Indian streets, American hospices. They come from American playgrounds. They come from American blue-collar factories. They come from American nursing homes.

We are talking about chemicals that are silent killers, slowly wielding their lethal axe over years and years of exposure.

The millions of Americans in thousands of neighborhoods, your neighborhoods, exposed to toxic chemicals, your constituents and your neighborhoods, have a fundamental right to know about the hazardous chemicals, acute and chronic, that are released into the environment hour after hour, day after day, year after year. They have a right to know where the strange odors are coming from. They have a right to know what toxic chemicals are mixed in the soil their kids play on and they have a right to know what poisonous chemicals are contaminating their drinking water.

Now, despite a section 112 in the Clean Air Act that the EPA says does not even apply to methyl isocyanate, the chemical in Bhopal, despite two decades of environmental regulation of toxic substances, despite thousands of files of accumulated data about them, despite thousands of cases of brain cancer, liver cancer, lung cancer, blood cancer, asbestos and birth defects, despite all this, we still cannot answer basic questions about even the most common and deadly toxic chemicals.

First, which chemicals are being produced and in what quantities? How much is being shipped off as commercial product and how much is being lost in the manufacturing or transportation process? How much is spilled or released into our waters, our air and our land?

Good questions. Your constituents probably have a personal initmate interest in the answer to those questions.

Yet this bill, H.R. 2817, as drafted, actually prohibits the Environmental Protection Agency from answering those questions for your constituents. As drafted, it prohibits inclusion of these chemicals which pose a chronic health hazard to human health on this list of substances covered by the emissions data requirements. While providing information on emission of a few acute chemical hazards, chronic chemicals would be exempted from coverage.

Would they be a few creams, a few solutions that are ridiculous? Of course not.

Asbestos, a suspected carcinogen, no, it has not been proven beyond a reasonable doubt that it is a carcinogen, but a suspected carcinogen for 25 years.

□ 2250

Toluene, another suspected carcinogen.

Dioxin. Tell the people in Times Beach that they do not have any problem with dioxin.

PCB's, a suspected carcinogen, not a proven carcinogen.

Benzene, linked to leukemia.

There is simply no reason to draw an arbitrary distinction between what some people call acute, other people call chronic chemicals, when these cause cancer, birth defects, and other long-term problems. It is like outlawing hand grenades because they are dangerous, but saying that activated time bombs are okay.

For this reason, the gentleman from Pennsylvania [Mr. EDGAR] and I are offering an amendment which will expand the list of covered chemicals to include chronic chemicals, the activated time bomb, as well as the grenades.

The question comes down to this: You do not need speculation and a bunch of parades of horribles. The question becomes, if you believe your constituents in the communities in your area have a right to know of cancer-causing chemical releases, vote "yes." If you do not think they have the right to know, go ahead and vote "no."

If you think they have the right to know about mutation and birth-defect causing chemicals, vote "yes." If you think they should not, vote "no."

If you think they have the right to know about kidneys, liver or respiratory disease chemicals and the release in their communities, vote "yes." If you think they should not have the right, vote "no."

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, according to the gentleman from Minnesota, we should require an inventory of chemicals in Thanksgiving dinner. The exposure—and that is really the bottom line—the exposure of people to hazardous substances and toxic chemicals depends upon how much they come into contact with them. The substances the gentleman is talking about, are already regulated in the workplace.

But the question then becomes: What are the amounts that are being emitted and what does the data mean? What is the gathering of all this data, whether it is a part per million, billion or a part per trillion? What does it all mean? What does it mean when the amounts of similar chemicals in our daily diet exceed by 4 or 5 orders of magnitude exposures resulting from air emissions.

Ladies and gentlemen, the gentleman from Minnesota has given you the bad news. The good news is, life expectancy has never been higher. Age-adjusted cancer rates are flat. The basic reason for this is that, what we don't know far exceeds what we do know about what causes cancer. Our society, according to the gentleman from Minnesota, is drowning in a sea of chemical carcinogens.

That is ridiculous and the statements from the gentleman from Minnesota, designed to scare the wits out of our constituents and out of some of the Members, are patently unscientific, antimedical, and defy the best studies that the cancer and health community and the scientific community have been coming up with.

The amendment adds a burden to a bill which is a workable, doable Superfund hazardous waste site cleanup bill that is not only enormous but frivolous and irrelevant.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. RITTER. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, EPA says there are some 2,000 people dying annually from chronic exposure to dangerous chemicals in the air.

As to this question of what limit, what minute amounts are going to have to be reported, I would refer the gentleman to the bill that is before us. It says:

> Threshold for Reporting:
> At the time a substance is listed under this subsection, the Adminstrator shall also establish a 12-month cumulative threshold amount for each substance for purposes of the reporting requirements of this subsection.

So, obviously, EPA is not going to have frivolous reporting to them.

Mr. RITTER. If I may reclaim my time just on the point the gentleman made, the 2,000 deaths that EPA is talking about from air pollution exposure is due more to combustion source emissions, due to the general automobile emissions, fireplace and boiler and gas station emissions. That is the main composition of air pollution which is far more serious than the kinds of emissions and exposures he's talking about. Again, the key is exposure. Not the emission itself. It is the amount people and the environment are exposed to.

Mr. WAXMAN. If the gentleman will yield further to me, the EPA has said it is both large and small sources of these pollutants that cause cancer. We do not know. That is why we ought to have an inventory of these chronic chemicals in the air, and other sources, so that we can know what we are being exposed to.

Mr. RITTER. Mr. Chairman, if I may reclaim my time just on that point, if the gentleman, as he says, does not know about the EPA number

and where it comes from, then the gentleman should not blame it on the air emissions that are currently under discussion on this amendment.

Mr. WAXMAN. If the gentleman will yield to me further, the EPA says in their 6-month study that some 2,000 people die annually from chronic exposure to dangerous chemicals in the air, and the gentleman is submitting that he thinks that is from automobiles.

I am telling the gentleman it is from all sources, including these chemical plants.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

Before the gentleman requests additional time, the Chair will advise the Committee that under title III there has been a unanimous consent agreement to limit debate on title III to 90 minutes. As of this time, there are 41 of those minutes remaining for all other amendments that will be offered to title III. So the Chair would advise the Members to keep that in mind as we continue to consider this amendment and future amendments.

Mr. RITTER. I thank the Chair for his words of advice and I will heed them.

(By unanimous consent, Mr. RITTER was allowed to proceed for 1 additional minute.)

Mr. RITTER. Mr. Chairman, I would like to point out that the air pollution figures that EPA is coming up with, first of all, pale in comparison with what we do to ourselves by polluting the air by smoking, or by exposure to indoor air, but we did hold hearings on this; the larger percentage of pollution comes from a wide variety of area pollution sources, and less from point sources which are being added in the amendment.

So the data is very, very thin to support the hysterical hypothesis of the gentleman from Minnesota.

Mr. CARPER. Mr. Chairman, I rise in support of the amendment.

I rise to commend Mr. EDGAR and Mr. SIKORSKI for rectifying an oversight in the bill's language on extremely toxic substances. I'm not sure we claim to address the very real right of our citizens to know what hazardous substances are being released into their enviromment and yet ignore those substances which are carcinogenic or pose other long-term health threats. This bill, as written, apparently does just that.

Though this amendment is simple, it is, nonetheless, vital to the protection of our citizens who live in the vicinity of chemical facilities. The most remarkable revelation I have had since I began to work on the community-right-to-know issue is that many citizens have no idea what chemical risks they face in their communities. Moreover, EPA, State and local authorities have no coordinated mechanism for identifying this risk. As a result, we cannot even say with certainty how much hazardous material is being discharged into our environment from a particular facility, much less nationwide.

This bill takes a significant step in recognizing that there is a need to get a handle on the emission of acutely hazardous materials. Unfortunately, those are not the only substances which require our attention. This point is hammered home every day in our communities.

For years, the citizens of Delaware City, DE, were unaware that a company on the outskirts of their town was discharging tons of the powerful carcinogen, vinyl chloride, into their atmosphere. Indeed, over 41 tons of this extremely hazardous material were discharged between 1981 and 1984. Unfortunately, we may not know the effect of this chronic discharge on the local citizens for years, or even decades. The EPA has determined that this substance is extremely hazardous to human health, and yet this substance would be exempted from coverage under this bill. Also exempted by the bill are benzene, asbestos and PCB's.

Though acutely toxic substances such as MIC, which wiped out over 2,000 people and injured more than 200,000 in Bhopal, India, have the ability to get considerable—and deserved—attention, the insidious and subtle nature of carcinogens in our environment calls out for equal, if not greater, attention from citizens and public health officials. For this reason, I strongly support this amendment, and urge my colleagues to do likewise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. EDGAR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDGAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 166, not voting 85, as follows:

[Roll No. 434]

AYES—183

Ackerman	Collins	Foley
Anderson	Conyers	Ford (TN)
Anthony	Coughlin	Fowler
Applegate	Coyne	Frank
Atkins	Darden	Gaydos
AuCoin	Daschle	Gejdenson
Barnard	Dellums	Gilman
Barnes	Derrick	Glickman
Bates	DioGuardi	Goodling
Bedell	Donnelly	Gordon
Bellenson	Dorgan (ND)	Gray (IL)
Bennett	Downey	Green
Berman	Durbin	Gregg
Boehlert	Dwyer	Guarini
Boland	Dyson	Hamilton
Bonior (MI)	Early	Hayes
Bonker	Eckart (OH)	Hertel
Borski	Edgar	Howard
Bosco	Edwards (CA)	Hoyer
Boucher	Erdreich	Huckaby
Boxer	Evans (IL)	Hughes
Bruce	Fascell	Jacobs
Bryant	Fawell	Jeffords
Burton (CA)	Fazio	Jenkins
Bustamante	Feighan	Jones (OK)
Carper	Fish	Kanjorski
Clay	Florio	Kaptur
Clinger	Foglietta	Kastenmeier
Kennelly	Panetta	Solarz
Kildee	Pease	Spence
Kleczka	Penny	Spratt
Kolter	Petri	Staggers
Kostmayer	Rangel	Stallings
Lantos	Reid	Stark
Leach (IA)	Richardson	Stokes
Lehman (FL)	Ridge	Studds
Leland	Rinaldo	Tallon
Levin (MI)	Rodino	Thomas (GA)
Lipinski	Roe	Torres
Lowry (WA)	Roemer	Torricelli
MacKay	Rose	Towns
Manton	Roukema	Traficant
Markey	Rowland (CT)	Traxler
Matsui	Rowland (GA)	Vento
Mavroules	Roybal	Visclosky
McCloskey	Russo	Volkmer
McCurdy	Sabo	Walgren
McGrath	Savage	Waxman
McHugh	Saxton	Weaver
Mikulski	Scheuer	Weber
Miller (CA)	Schroeder	Weiss
Miller (WA)	Schumer	Wheat
Mineta	Seiberling	Whitley
Moakley	Sensenbrenner	Wilson
Molinari	Sharp	Wirth
Moody	Sikorski	Wise
Mrazek	Smith (FL)	Wolf
Murphy	Smith (IA)	Wolpe
Nowak	Smith (NJ)	Wyden
Oakar	Smith, Robert (NH)	Yatron
Oberstar	Snowe	
Obey		

NOES—166

Akaka	Franklin	Myers
Andrews	Frenzel	Natcher
Armey	Fuqua	Nielson
Badham	Gallo	Oxley
Bartlett	Gekas	Packard
Barton	Gingrich	Parris
Bateman	Grotberg	Pashayan
Bentley	Hall, Ralph	Perkins
Bereuter	Hammerschmidt	Quillen
Bevill	Hansen	Rahall
Bilirakis	Hatcher	Ray
Billey	Hefner	Regula
Boulter	Hendon	Ritter
Breaux	Henry	Roberts
Brooks	Hiler	Robinson
Brown (CO)	Hubbard	Rogers
Broyhill	Hunter	Rostenkowski
Burton (IN)	Hutto	Rudd
Byron	Hyde	Schaefer
Callahan	Ireland	Schuette
Carney	Johnson	Shelby
Carr	Jones (NC)	Shumway
Chandler	Jones (TN)	Siljander
Chapman	Kasich	Skeen
Chappell	Kindness	Skelton
Chappie	Kolbe	Slattery
Coats	Kramer	Slaughter
Cobey	Lagomarsino	Smith (NE)
Coble	Latta	Snyder
Coelho	Leath (TX)	St Germain
Coleman (TX)	Lehman (CA)	Stangeland
Combest	Lent	Stenholm
Cooper	Lewis (FL)	Strang
Courter	Lightfoot	Stratton
Craig	Livingston	Stump
Crane	Lloyd	Sundquist
Daniel	Luken	Sweeney
Dannemeyer	Lundine	Swift
Daub	Lungren	Synar
Davis	Mack	Tauke
de la Garza	Madigan	Tauzin
DeLay	Marlenee	Taylor
DeWine	Martin (IL)	Thomas (CA)
Dingell	Martin (NY)	Valentine
Dornan (CA)	Mazzoli	Vucanovich
Dowdy	McCain	Walker
Dreier	McCandless	Watkins
Dymally	McCollum	Whittaker
Eckert (NY)	McEwen	Wortley
Edwards (OK)	McKernan	Wright
Emerson	McMillan	Young (AK)
English	Michel	Young (FL)
Evans (IA)	Mollohan	Young (MO)
Fiedler	Monson	Zschau
Fields	Moore	
Flippo	Morrison (WA)	

NOT VOTING—85

Addabbo	Alexander	Annunzio

Archer	Heftel	O'Brien
Aspin	Hillis	Olin
Biaggi	Holt	Ortiz
Boggs	Hopkins	Owens
Boner (TN)	Horton	Pepper
Broomfield	Kemp	Pickle
Brown (CA)	LaFalce	Porter
Campbell	Levine (CA)	Price
Cheney	Lewis (CA)	Pursell
Coleman (MO)	Loeffler	Roth
Conte	Long	Schneider
Crockett	Lott	Schulze
Dickinson	Lowery (CA)	Shaw
Dicks	Lujan	Shuster
Dixon	Martinez	Sisisky
Duncan	McDade	Smith, Denny (OR)
Ford (MI)	McKinney	Smith, Robert (OR)
Frost	Meyers	Solomon
Garcia	Mica	Swindall
Gephardt	Miller (OH)	Udall
Gibbons	Mitchell	Vander Jagt
Gonzalez	Montgomery	Whitehurst
Gradison	Moorhead	Whitten
Gray (PA)	Morrison (CT)	Williams
Gunderson	Murtha	Wylie
Hall (OH)	Neal	Yates
Hartnett	Nelson	
Hawkins	Nichols	

□ 2315

Mr. JONES of Tennessee and Mr. DYMALLY changed their votes from "aye" to "no."

Messrs. HERTEL of Michigan, LEHMAN of Florida, WILSON, GREEN, and SAXTON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that when the Committee resumes debate on the bill on tomorrow, all debate on any amendment offered by the gentleman from Massachusetts [Mr. FRANK], which establishes a new title VI to the bill, and all amendments thereto, be limited to 50 minutes divided equally between the gentleman from Massachusetts [Mr. FRANK] and an opponent to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. FLORIO. Reserving the right to object, Mr. Chairman, I did not see the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, if the gentleman will yield, that is perfectly acceptable to me.

Mr. FLORIO. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. HOYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Alabama [Mr. FLIPPO].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

RELIGIOUS PERSECUTION IN ROMANIA OBLIGATES THE UNITED STATES TO SUSPEND MOST-FAVORED-NATION STATUS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLF. Mr. Speaker, I want to bring to the attention of all my colleagues a bumper sticker which will be seen in the Washington, DC, area which says, "Rumania Cries."

There is tremendous religious persecution in Romania. Congressman SMITH of New Jersey and Congressman HALL of Ohio and myself have legislation in which would suspend for 6 months the most-favored-nation status that we now give to Romania. This is a very moderate approach. It would be one which would get the attention of the Romanian Government whereby they would stop the religious persecution.

The State Department said in a letter the other day that they now believe that the Romanian Government is in danger of losing the most-favored-nation status agreement. I would ask my colleagues here today, when given an opportunity, please cosponsor this legislation. It is a moderate approach, but it is one which would save a lot of lives and end the persecution in Romania.

A New York Times article on the situation follows:

[From the New York Times, Dec. 3, 1985]

UNITED STATES SAYS ROMANIANS MAY LOSE TRADE BENEFITS OVER RIGHTS ISSUE

(By Bernard Gwertzman)

WASHINGTON, December 3.—The Reagan Administration intends to warn Romania that it is in jeopardy of losing its benefits in trade with the United States if it does not improve its human rights record, State Department officials said today.

They said that Secretary of State George P. Shultz, on a visit to Bucharest on Dec. 15, would advise the Romanians that, unless they met American concerns, it would be difficult, if not impossible, to extend Romania's most-favored-nation tariff status.

A State Department official said of Mr. Shultz's trip, "Even though the visit is a short one, I think it is an important one, and perhaps a watershed visit."

HUNGARY ALSO ON ITINERARY

Mr. Shultz will also visit Hungary and Yugoslavia on the trip, which will follow a meeting of foreign ministers of the North Atlantic Treaty Organization next week.

Of the Soviet bloc countries, only Romania and Hungary receive most-favored-nation treatment, which allows goods to enter the United States at the lowest applicable tariffs.

Trade between the United States and Romania rose from $738.4 million in 1983 to $1.2 billion last year, a record high. There is a large surplus in Rumania's favor, with Rumanian exports last year amounting to $974 million. Most of this was in petroleum products.

Rumania also values having the beneficial tariff status for political reasons, since it underscores its relative independence in the Soviet bloc. State Department officials said Mr. Shultz would emphasize continued American appreciation for Rumania's foreign policy while underscoring concerns about human rights.

A State Department official said: "I think M.F.N. is in trouble for Rumania. It is very important that the Rumanians listen carefully and understand the situation they are in with regard to M.F.N. extension next year. There are very powerful efforts to have it repealed. In the absence of some evidence that the Rumanians are making progress in these concerns, it will be difficult."

The Rumanians were afforded the beneficial tariff treatment in 1975 because they were often at odds with the Soviet Union in foreign policy. Alone of the Warsaw Pact nations, Rumania did not severe diplomatic ties with Israel in 1967. Throughout the Soviet-Chinese dispute, Rumania maintained good relations with China. In addition, Rumania eased restrictions on emigration.

But, in recent years, there has been concern among Christian groups in the United States that the Rumanian Government harasses Christian faiths that are not officially sanctioned.

On Nov. 1 the Senate passed, without dissent, a sense-of-the-Senate resolution, sponsored by Senator Steven D. Symms, Republican of Idaho, that accused Rumania of "contempt of religious freedom and the repression of national minorities." Two bills are pending, one in the House, and one in the Senate, to suspend tariff benefits until Rumania improves its rights record.

ADS IN WASHINGTON BUSES

The Christian Response International, a group with headquarters in Zurich, has taken members of Congress to Rumania to acquaint them with cases of churches being bulldozed and of churchmen being imprisoned. Kay Drew, deputy director of the group, said it had placed advertisements on the backs of Washington buses saying: "Rumania cries for religious freedom. They need your help."

Today, the State Department made public its semi-annual report to Congress on compliance by Soviet-bloc countries with provisions of the 1975 Helsinki agreement. The report said Rumania's observance of human rights "continues to be poor".

The report said that religious activity was permitted only for the 14 faiths recognized by the Government. They include Rumani-

an Orthodox, Roman Catholics, Hungarian Reformed, Unitarians, Lutherans, Baptists, Pentecostals, Seventh-day Adventists and Jews.

"Attempts to gather for worship by members of other faiths are treated as illegal assemblies, with participants sometimes arrested and fined," the report said. The illegal faiths are the Church of Jesus Christ of Latter-day Saints, the Nazarenes and Jehovah's Witnesses as well as an unofficial Baptist group.

There have been several arrests, the report said, of Rumanians charged with importing Bibles. In the last six months, the report said, five persons were sentenced to terms ranging from ten months to seven years for offenses related to Bible smuggling.

There has been congressional testimony that thousands of Hungarian-language Bibles, intended for the Hungarian minority in Rumania, had been converted to toilet tissue.

The State Department report also accused Rumania of not providing ethnic minorities with opportunities for higher education in their own languages. Rumania has traditionally been among the most repressive countries in Eastern Europe.

So far, the United States has favored annual extension of the tariff benefits for Rumania on the ground that independence from the Soviet Union should be rewarded. Officials said that without the trade benefit, the United States would lack leverage on influencing developments in Rumania.

Officials said Rumania had been sensitive to American pressure. For instance, they noted that even though Rumania knew the visiting members of Congress were basically hostile, they were all * * * to visit.

NEW CANCER THERAPY

(Mr. ROWLAND of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROWLAND of Georgia. Mr. Speaker, as many members have probably heard or read, the National Cancer Institute has announced a new cancer treatment that has had dramatic results in some patients. While we should not jump to conclusions about its effectiveness, it is an exciting advancement in the treatment of this dread disease.

Not every form of cancer will succumb to this therapy and not every patient will benefit equally. Nevertheless, we should hail this achievement by our National Cancer Institute and Dr. Steven A. Rosenberg, the head of the research team. I should note that Dr. Rosenberg has been honored by the receipt of an award from Dr. Armand Hammer for the year's greatest contribution toward a cure for cancer.

In addition, we should not underestimate the role that the Congress has played in this effort to find a cure for cancer. The years of authorization of activities and appropriations for funding are a tribute to the commitment of this body and the Senate to save the lives of millions of Americans who have suffered, now suffer, and will suffer the ravages of cancer.

Mr. Speaker, for the information of the Members, I am submitting for the RECORD the article from this week's edition of the New England Journal of Medicine dealing with this promising cancer therapy.

[From the New England Journal of Medicine, Dec. 5, 1985]

(Special Report)

OBSERVATIONS ON THE SYSTEMIC ADMINISTRATION OF AUTOLOGOUS LYMPHOKINE-ACTIVATED KILLER CELLS AND RECOMBINANT INTERLEUKIN-2 TO PATIENTS WITH METASTATIC CANCER

ABSTRACT

We describe here the preliminary results of the systemic administration of autologous lymphokine-activated killer (LAK) cells and the recombinant-derived lymphokine interleukin-2 to patients with advanced cancer. This regimen was based on animal models in which the systemic administration of LAK cells plus interleukin-2 mediated the regression of established pulmonary and hepatic metastases from a variety of murine tumors in several strains of mice.

We treated 25 patients with metastatic cancer in whom standard therapy had failed. Patients received both 1.8 to 18.4×10^{10} autologous LAK cells, generated from lymphocytes obtained through multiple leukaphereses, and up to 90 doses of interleukin-2. Objective regression of cancer (more than 50 percent of volume) was observed in 11 of the 25 patients: complete tumor regression occurred in one patient with metastatic melanoma and has been sustained for up to 10 months after therapy, and partial responses occurred in nine patients with pulmonary or hepatic metastases from melanoma, colon cancer, or renal-cell cancer and in one patient with a primary unresectable lung adenocarcinoma. Severe fluid retention was the major side effect of therapy, although all side effects resolved after interleukin-2 administration was stopped.

Further development of this approach and additional patient follow-up are required before conclusions about its therapeutic value can be drawn.

Adoptive immunotherapy is a treatment approach in which cells with antitumor reactivity are administered to a tumor-bearing host and mediate either directly or indirectly the regression of established tumor. In selected animal-tumor models the adoptive transfer of cells with specific antitumor reactivity can mediate the regression of established primary tumor as well as metastatic deposits. The major difficulty in the application of this approach to the treatment of human cancer has been the inability to generate sufficient numbers of autologous human cells with antitumor reactivity that could be used for systemic therapy.

We have previously described a method for generating lymphocytes with antitumor reactivity. The incubation of human peripheral-blood lymphocytes with a lymphokine, interleukin-2, generates lymphoid cells that can lyse fresh, noncultured, natural-killer-cell-resistant tumor cells but not normal cells. We have termed these cells lymphokine-activated killer (LAK) cells. Extensive studies of the precursors of LAK cells have revealed that they represent a cytolytic system distinct from that of natural killer cells and conventional cytolytic T cells, and that they belong to the subpopulation of "null" lymphocytes that bear neither B-cell nor T-cell surface markers. In human beings, these precursor cells are widely distributed and can be found in peripheral blood, lymph nodes, bone marrow, and thoracic duct.

We have demonstrated that the adoptive transfer of LAK cells plus recombinant interleukin-2 can mediate the regression of pulmonary and hepatic metastases from a wide variety of established tumors, including the B16 and M3 melanomas, the MCA-101, 105, and 106 syngeneic sarcomas, the MC-38 murine colon adenocarcinoma, and the 1660 murine bladder carcinoma (and Papa MZ, Mulé JJ, Rosenberg SA: unpublished data). In most tumor model systems the systemic administration of both LAK cells and interleukin-2 was necessary to mediate tumor regression. Recent studies have indicated that LAK cells expand considerably in vivo under the influence of interleukin-2 administration and that these expanded LAK cells maintain their lytic activity against tumor cells.

We have now explored the use of this approach for the immunotherapy of human cancer. Clinical studies of the administration of LAK cells alone and of interleukin-2 alone preceded the current study. During the past four years, 26 patients with advanced cancer were treated by infusion of activated killer cells alone. These studies demonstrated that human beings can tolerate multiple cell infusions totaling up to 2×10^{11} activated killer cells, with minimal side effects. Concurrently with these studies, we performed Phase I studies of the administration of both natural and recombinant interleukin-2 in 39 patients with advanced cancer. The maximum tolerated doses as well as the toxicity of the infusion of recombinant interleukin-2 were elucidated by using a variety of routes and dosage schedules. No tumor regression was observed in any of these patients treated with either activated killer cells alone or interleukin-2 alone.

We recently combined therapy with LAK cells and recombinant interleukin-2 to treat 25 patients with advanced cancer in whom all standard therapy had failed. Eleven of 25 patients had marked tumor regression: 1 had complete remission of all metastatic melanoma, and 10 had partial regression of established measurable metastatic cancer. This report presents our studies in these 25 patients.

METHODS

Patient population

Twenty-five patients with metastatic cancer in whom standard therapy had failed were treated in this study. Seven patients had malignant melanoma, nine had colorectal cancer, four had sarcomas, three had renal-cell cancer, one had lung adenocarcinoma, and one had esophageal cancer. All patients had clinically evaluable disease demonstrated either by physical examination or on standard radiographic studies. Signed informed consent was obtained from all patients before entry into the trial.

Leukapheresis

To obtain large numbers of lymphocytes, repeated lymphocytaphereses were performed with a continuous-flow cell separator (IBM-2997 [Cobe Labs, Lakewood, Colo.]). We attempted to collect between 5×10^9 and 5×10^{10} mononuclear cells per procedure. At a flow rate of 60 to 70 ml per minute, 10 to 12 liters of whole blood could be processed in approximately four hours to

achieve this cell yield. Acid-citrate-dextrose (National Institutes of Health formula A) was used as the anticoagulant. Vascular access was accomplished by double anticubital venipuncture when possible, although either single-lumen or double-lumen central venous catheters were required in many patients. Fifteen milliliters of the anticoagulant and 3000 units of heparin (porcine, preservative-free [O'Neil, Jones and Feldman, St. Louis]) were added to the collection bags at the time of apheresis. The final volume of each leukapheresis pack was 300 to 400 ml, which was collected in a Fenwal transfer bag (Travenol, Deerfield, Ill.).

Lymphocyte harvest and culture

Mononuclear cells were separated with use of Ficoll-Hypaque density gradients. Two to three parts of Hanks' balanced salt solution without calcium and magnesium were mixed with one part of the leukapheresis cell suspension by means of a plasma transfer set (Fenwal, 4C2240). Forty milliliters of the diluted cell preparation was poured into 50-ml conical centrifuge tubes and underlayered with 10 ml of lymphocyte-separation medium (Litton Bionetics, Rockville, Md.). The gradients were centrifuged at $900\times g$ for 15 minutes; the separated lymphocytes were harvested, washed twice with Hanks' balanced salt solution, and resuspended in LAK-activation medium. This medium consisted of RPMI-1640 (low endotoxin [Microbiological Associates, Rockville, Md.]) containing 10 units of penicillin per milliliter, 10 μg of streptomycin sulfate per milliliter, 2 mmol of glutamine per liter, 5μg of gentamicin sulfate per milliliter, and 2 percent heat-inactivated human AB serum (KC biologicals. Lenexa, Kans.). One liter of the cell suspension, which contained 1 to 1.5×10^6 cells per milliliter, was added to 2.5-liter roller bottles (Corning 25140), and recombinant interleukin-2 was added at a final concentration of 1000 units per milliliter. The roller bottles were incubated at 37°C and continuously rotated at 0.5 to 1 revolution per minute for three to four days. The resulting LAK cells were centrifuged at $510> g$ for 15 minutes in 1-liter bottles, the pellets were pooled in 250-ml centrifuge tubes and washed twice more in Hanks' balanced salt solution without calcium, magnesium, or phenol red, and the cells were resuspended in infusion medium consisting of 200 ml of 0.9 percent sodium chloride containing 5 percent normal human serum albumin (American Red Cross Blood Services, Washington, D.C.) and 75,000 units of recombinant interleukin-2. The final cell suspension was filtered through sterile Nytex (110 mesh [Lawshe Instrument Co., Rockville, Md.]) and transferred to a Fenwal transfer pack (Fenwal, 4R2024).

When the harvest process was begun, a 2-ml aliquot from one of the roller bottles was subjected to Gram staining to check for the presence of microorganisms. In addition, an aliquot of the final LAK infusion suspension was cultured for fungi and for aerobic bacteria. An aliquot of the final, infused cell suspension was cryopreserved in liquid nitrogen for subsequent immunologic testing.

Interleukin-2

Interleukin-2 is a lymphokine produced by helper T cells. Recombinant interleukin-2 is produced in *Escherichia coli* transfected with the gene for interleukin-2 isolated from the Jurkat cell line. The recombinant interleukin-2 used in this trial was kindly supplied by the Cetus Corporation (Emeryville, Calif.). The interleukin-2 has been purified to homogeneity, and its biologic characteristics have been extensively studied. It was provided to us as a lyophilized powder, and we reconstituted it with 1.2 ml of sterile water per vial. Each vial contained approximately 0.3 mg of interleukin-2 (specific activity, 3 to $510>g$ units per milligram). Less than 0.04 ng of endotoxin was present per vial, as measured by the limulus amebocyte assay. Each vial also contained 5 per cent mannitol and approximately 130 μg of sodium dodecyl sulfate per milligram of interleukin-2.

Administration of LAK cells and recombinant interleukin-2

Patients underwent daily leukaphereses, usually for five successive weekdays, and the harvested cells were immediately cultured to generate LAK cells. Cells obtained on Monday and Tuesday were infused on Friday, cells obtained on Wednesday were infused on Saturday, and cells obtained on Thursday and Friday were infused on the following Monday. LAK cells were routinely tested for lysis of fresh natural-killer-resistant tumor target cells as well as the natural-killer-sensitive K562 cell line, as previously described, they effectively lysed the target cells. The LAK cells were administered intravenously through a central venous catheter or into a large peripheral vein in all patients except for one with liver metastases from a colon cancer, who received LAK cells by direct infusion into the hepatic artery via a percutaneous catheter (Patient 8). Approximately 10^8 cells were infused initially, and the remainder were infused 5 minutes later over approximately 20 minutes. No filters were used in the infusion line. The cells in the infusion bag were gently mixed every five minutes during the infusion.

Recombinant interleukin-2 was diluted in 50 ml of normal saline containing 5 per cent human serum albumin and was infused intravenously over a 15-minute period every eight hours, beginning at the time of the first cell infusion. Interleukin-2 administration continued throughout the days of cell infusion and for several days thereafter, although doses were occasionally omitted, depending on patient tolerance. Bolus injections of interleukin-2 were given every eight hours at a dose of 10,000, 30,000 or 100,000 units per kilogram of body weight. (The exact doses of LAK cells and interleukin-2 in each patient are shown in Table 1.) Serum interleukin-2 levels dropped precipitously after the completion of each bolus infusion of interleukin-2. Consistent with the initial half-life of six to seven minutes reported for recombinant interleukin-2. After the administration of 100,000 units per kilogram, serum levels generally fell to 1 to 5 units per milliliter by the time of the next injection eight hours later. Because our murine tumor models had suggested that sustained high serum levels of interleukin-2 were necessary to obtain optimal therapeutic effects, we increased the doses as the study proceeded and as we gained experience in administering the therapy. The two-week cycle of leukapheresis and reinfusion was repeated, beginning in the third week in most patients.

Immunologic studies

The titer of interleukin-2 was determined according to previously described techniques. In our regimen, 1 unit corresponded to approximately 0.4 IU. Serum, peripherial-blood white cells, and LAK cells were cryopreserved at regular intervals for immunologic testing.

RESULTS

Patient outcome

The exact treatment schedules used in the 25 patients varied in minor ways as the protocol evolved and patients' tolerance was assessed (Table 1). Eight patients underwent one cycle of leukapheresis and reinfusion, 14 underwent two cycles, and 3 underwent three cycles. In all cases interleukin-2 was infused at the time of LAK-cell administration and continued for at least several days after LAK-cell administration, if tolerated by the patient.

TABLE 1.—RESULTS OF TREATMENT WITH LYMPHOKINE-ACTIVATED KILLER (LAK) CELLS AND RECOMBINANT INTERLEUKIN-2 IN 25 PATIENTS WITH CANCER

Patient No.	Diagnosis	Age	Interleukin-2 infusion		LAK-cell infusion		Result
			No. of doses	Total units (10^3 kg)	No. of doses	Cells (10^{10})	
1	Melanoma	33	47	790	9	4.2	Complete regression of subcutaneous metastases.
2	Rectal cancer	41	35	510	9	4.3	Partial regression of pulmonary metastases.
3	Melanoma	33	40	800	13	12.6	No response.
4	Osteosarcoma	24	90	1,340	14	7.4	Do.
5	Melanoma	42	70	700	13	11.6	Do.
6	Synovial-cell sarcoma	36	76	760	9	6.6	Do.
7	Melanoma	23	68	680	10	5.9	Partial regression of pulmonary metastases.
8	Colon cancer	59	42	280	10	6.4	Partial regression of hepatic metastases.
9	Melanoma	35	65	1,490	10	7.9	No response.
10	Colon cancer	54	51	510	5	2.9	Do.
11	Colon cancer	59	76	760	10	18.4	Do.

TABLE 1.—RESULTS OF TREATMENT WITH LYMPHOKINE-ACTIVATED KILLER (LAK) CELLS AND RECOMBINANT INTERLEUKIN-2 IN 25 PATIENTS WITH CANCER—Continued

Patient No.	Diagnosis	Age	Interleukin-2 infusion		LAK-cell infusion		Result
			No. of doses	Total units (10^3 kg)	No. of doses	Cells (10^{10})	
12	Colon cancer	35	71	1,830	10	9.7	Do.
13	Colon cancer	47	48	1,180	10	7.9	Do.
14	Malignant fibrous histcytoma	35	66	940	10	12.6	Do.
15	Esophageal cancer	59	68	1,200	9	10.1	Do.
16	Renal-cell cancer	54	27	2,280	5	9.9	Partial regression of pulmonaary metastases.
17	Colon cancer	48	14	1,400	4	1.8	No response.
18	Colon cancer	57	36	2,200	5	5.0	Do.
19	Lung adenocarcinoma	40	12	1,200	5	5.1	Partial regression of primary pulmonary tumor.
20	Neurofibrosar-coma	28	37	2,670	9	11.7	No response.
21	Renal-cell cancer	45	35	2,500	9	8.4	Partial regression of pulmonary metastases.
22	Melanoma	43	22	1,840	5	4.4	Do.
23	Melanoma	49	44	3,320	10	9.8	Partial regression of pulmonary and mediastinal metastases.
24	Colon cancer	42	24	1,950	5	3.1	Partial regression of pulmonary metastases.
25	Renal-cell cancer	59	21	1,470	5	3.1	Do.

Eleven of the 25 patients had measurable tumor regression (at least 50 percent of tumor volume), including complete regression of multiple subcutaneous tumor nodules in 1 patient whith metastatic melanoma (Patient 1, Table 1). This patient has been free of disease during the 10 months after therapy (Fig. 1). Another patient had rectal cancer with five pulmonary metastases (Patient 2); after therapy with LAK cells and interleukin-2, three of the metastases disappeared completely, as documented by conventional chest x-ray films and by linear tomography, and the two remaining metastases, which were somewhat larger, diminished but did not disappear (Fig. 2 and 3). This patient underwent a second course of therapy, with a small diminution of the nodules, but did not respond to a third course of therapy. He then underwent thoracotomy for resection of two residual nodules, and is now clinically free of disease. The level of carcino-empbryonic antigen in this patient was 159 μg per liter at the initiation of therapy, 91 μg per liter after the first course of treatment, and 33 μg per liter after the second course of therapy. In another patient (No. 21), multiple pulmonary metastases from a renal-cell carcinoma regressed partially (Fig. 4), and these lesions are continuing to regress at 3½ months after therapy, with complete resolution of the majority of lung nodules. In still another patient (No. 23), multiple parenchymal and mediastinal masses from malignant melanoma regressed partially (Fig 5). (Because space constraints prevent the presentation of additional clinical data, this information, including full details of previous therapy, will be provided by the senior author on request.)

Therapy was modified by several factors as the study proceeded. LAK precursors disappeared rapidly from the peripheral blood during interleukin-2 administration, and thus leukaphereses did not result in acceptable cell yields while interleukin-2 was being given. Therefore, leukaphereses were performed after interleukin-2 administration was stopped. The number of lymphocytes as well as the number of LAK precursors in the circulation rebounded markedly after the discontinuation of interleukin-2. As the study proceeded, therefore, we tended to administer inerleukin-2 for several days and then discontinue it approximately 36 hours before beginning the first cycle of leukapheresis. Thus, by cycling the administration of interleukin-2 and leukaphereses, we were able to increase the number of LAK cells harvested. Drug toxicity limited the amount of interleukin-2 that could be given. Most patients treated in the early phase of the study received 10,000 units per kilogram every eight hours. Patients treated subsequently received 30,000 or 100,000 units per kilogram. In general, the larger doses of interleukin-2 were not tolerated for more than five days.

Toxicity of treatment

The toxic effects of therapy in our patients are summarized in Table 2. In previous studies we demonstrated that the infusion of activated killer cells alone had few side effects. Transient fever and chills occurring immediately after infusion were generally well controlled by intravenous meperidine (25 to 50 mg). Severe toxicity, however, can result from the administration of interleukin-2. With our protocol, the major side effect associated with interleukin-2 administration was weight gain due to fluid retention: 16 of the 25 patients gained more than 10 per cent of their base-line weight. Late in the course of interleukin-2 administration, fluid retention often resulted in pulmonary interstitial edema, which was associated with dyspnea in 20 patients. Severe respiratory distress developed in 2 of these 20 patients, requiring intubation for one day (Patient 1) and four days (Patient 19). Fever, chills, and malaise resolved with administration of acetaminophen (650 mg every six hours) and indomethacin (25 mg every six hours). Many patients also received hydroxyzine hydrochloride, an antihistaminic, for treatment of a generalized erythematous rash. The sleep medication taken by most patients was doxepin. Most patients were maintained on ranitidine (150 mg per day by mouth) for prophylaxis of gastrointestinal bleeding. Adverse effects in all patients disappeared promptly after interleukin-2 administration ended, and all 25 were eventually discharged home for follow-up. With the exception of one patient whose therapy was discontinued during the first cycle because of suspected (but not subsequently confirmed) myocardial ischemia, this report includes 25 consecutive patients for whom at least six weeks of follow-up data were available.

DISCUSSION

We have used lymphokine-activated killer (LAK) cells in conjunction with interleukin-2 in the therapy of patients with advanced cancer. We have previously demonstrated that the administration of both syngeneic LAK cells and recombinant interleukin-2 was capable of mediating the regression of established pulmonary and hepatic metastases from a variety of transplantable murine tumors, including immunogenic and nonimmunogenic sacrcomas, both a melanotic melanoma, and an amelanotic melanoma, a murine colonic adenocarcinoma, and a murine bladder cancer in two different strains of mice (and Papa MZ, Mulé JJ, Rosenberg SA: unpublished data). In addition, we had treated 26 cancer patients with activated killer cells alone and 39 cancer patients with interleukin-2 alone and observed no clinical responses in any of these patients. We have now treated 25 patients with the combination of LAK cells and interleukin-2, with objective remissions (at least a 50-percent reduction in tumor volume) in 11 patients. All patients had advanced metastatic or unresectable cancer and had previously not responded to standard therapy, including surgery, chemotherapy, and radiation therapy.

Many of our findings in animal studies, including the time of in vitro LAK-cell generation and the dosage schedules of LAK-cell and interleukin-2 administration, have influenced our approach to the treatment of human cancer. The probable mechanism of the in vivo antitumor effect of LAK cells and interleukin-2 as shown in our murine tumor models depends on interleukin-2 mediated proliferation of transferred LAK cells in vivo, with maintenance of their antitumor reactivity. LAK cells are sensitive to the presence of interleukin-2 and LAK-cell infiltrates resolve in mice completely, after interleukin-2 administration is stopped.

Experience with the murine models predicted that combining LAK cells with recombinant interleukin-2 would be necessary to mediate maximal antitumor effects, although we have also shown that extremely

high doses of interleukin-2 administered alone had antitumor activity in mice. Although it is difficult to give such high doses of interleukin-2 to patients because of the associated toxicity, high doses can mediate antitumor effects, probably by direct induction of LAK cells in vivo. In fact, we have recently seen two objective responses in patients with melanoma treated with 100,000 units of interleukin-2 per kilogram, given three times a day until the maximum tolerable dose was reached.

The 11 objective responses reported in this paper occurred in four different histologic types of tumors, including melanoma, colorectal cancer, renal-cell cancer, and lung adenocarcinoma, and involved tumor regression in the lung, liver, and subcutaneous tissues. Because of the lytic broad specificity of LAK cells in vitro, this treatment approach may be applicable to a large number of histologic subtypes of cancer. We have searched extensively in murine models for the presence of tumor cells that are resistant to LAK lysis and have been unable to demonstrate that such cells exist.

Various efforts are under way to improve the therapeutic efficacy of this treatment approach, by increasing the doses of cells and interleukin-2 administered and by taking advantage of the rebound of the number of LAK precursors in the circulation by giving interleukin-2 before initiating leukapheresis. In many patients the administration of therapy was limited by the toxicity of interleukin-2, and greater antitumor effects might occur if larger doses of interleukin-2 and cells could be administered. Although it is possible that interleukin-2 directly causes some of the side effects, it appears more likely that it stimulates helper T cells to secrete other lymphokines that may be toxic. Supporting this view is the appearance of gamma interferon in the circulation after therapy with interleukin-2.

TABLE 2.—*Toxicity of Therapy with LAK Cells and Interleukin-2*

Side effect	*No. of patients*
Malaise	25
Fever	22
Chills	19
Nausea or vomiting	21
Diarrhea	18
Confusion	8
Weight gain (>10%)	16
Dyspnea	20
Erythema or rash	17
Pruritus	16
Glossitis	14
Nasal congestion	13
Serum creatinine >2 mg/di	12
Serum bilirubin >2 mg/dl	16
Eosinophilia >5%	24
Anemia requiring transfusion	
	24
Thrombocytopenia (<50,000/mm³)	11

Other approaches to improving this therapy have been suggested by our murine models. Minimal tumor burdens are more susceptible to curative LAK-cell therapy than is bulk disease, and the use of this therapy as adjuvant treatment immediately after surgery is being explored. Because therapy with LAK cells and interleukin-2 is not dependent on host immunocompetence, this treatment may be suitable for combination with chemotherapy and radiation therapy. In addition, our experiments in mice indicate that allogeneic LAK cells are therapeutically effective and that direct infusion of LAK cells into the affected organ may be more effective than systemic administration (Lafreniere R, Rosenberg SA: unpublished data). These experimental findings suggest similar approaches in patients, and such protocol modifications in the treatment of human cancer are being vigorously explored.

The administration of LAK cells in conjunction with interleukin-2 as reported in this paper represents a possible new approach to the treatment of cancer, with potential applicability to a wide variety of tumors. A major advantage of this approach is its broad antitumor specificity. It should be emphasized, however, that this study involved a limited number of patients and that the frequency and duration of the clinical responses have yet to be determined. The practicality and safety of administering this therapy to large numbers of patients also remain to be fully defined. The similarity of our initial experience in patients to our prior experience in mice, however, offers hope that this therapy can be made effective against human cancer.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. PENNY). Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, due to the tragic death of a family member of my district staff, I missed several rollcall votes earlier today. Had I been present, I would have voted: "yes" on rollcall No. 430, on approving the journal; "yes" on rollcall No. 431, agreeing to the conference report on H.R. 3424, making appropriations for the Departments of Labor, Health and Human Services; and "yes" on rollcall No. 432, on House Resolution 331 providing for consideration of H.R. 2817, the Superfund amendments.

BANKS NEED BETTER MEMORY OF THE PERILS OF CREDIT CARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, nothing would serve the financial community better than a little institutional memory. It's an industry that seems destined to repeat its mistakes.

Back in the 1960's some of us on the Banking Committee became very concerned about the wild runaway issuance of unsolicited credit cards. Banks, oil companies and retailers were mailing the plastic cards to everyone—whether they wanted them or not regardless of credit histories, ability to repay and all the standards generally accepted as central to a prudent banking operation.

To end this blizzard of unwanted plastic, we amended the Truth in Lending Act in 1970 to prohibit the issuance of credit cards unless the customer has specifically requested the card.

Now some institutions apparently are slipping around the intent of the 1970 act by mailing, unsolicited, preapproved credit card applications that require little more than the customer's signature to gain access to the card. Apparently these unsolicited applications are going to the same type of unchecked lists that were utilized in the great plastic blizzard of the 1960's.

On Monday, December 2, the Wall Street Journal detailed the woes of many institutions who have become involved in what the newspaper described as a "loan morass" stemming from mass mailings of card applications.

The newspaper estimated that about $2 billion of debt run up on bank-issued credit cards is now delinquent nationwide. Once again, it's largely the case of an industry chasing high interest rates and high fees. It's a lucrative business and in too many cases institutions have thrown caution to the wind and issued credit cards in a wild uncontrolled fashion.

In its story, the Wall Street Journal described the greed of one institution, Home Federal Savings and Loan of San Diego, CA, in this manner:

About 18 months ago, Home Federal Savings & Loan Association of San Diego began an ambitious expansion of its credit-card operation to cash in on the fat fees and lucrative rates that that business can bring. "We wanted more of it," says William Mayer, Home Federal's senior vice president for accounting. "We thought it would be a stroll in the park."

The stroll in the park has ended with a mugging. Home Federal mailed offers of pre-approved charge cards with credit lines of as much as $5,000 to people who had no jobs, who were dead or who were just plain deadbeats. Last month, Home Federal decided to abandon the credit-card business by selling it; the S&L said it faces losses of $30 million or more. About half the losses were blamed on people who snapped up Home Federal's easy plastic, ran up huge bills and headed straight for bankruptcy court.

It is simply amazing, Mr. Speaker, that this kind of activity would still be prevalent after all the efforts that were made to warn the industry.

Back on November 9, 1967, I participated in a Banking Committee hearing in which we zeroed in on a warning issued by the then executive vice president of Chase Manhattan Bank in New York, Charles A. Agemian. This is what the banker said:

. . . this concept of mass sending of cards is wrong. It is wrong by every code of banking ethics, and it is wrong by every standard of good banking practice. In the credit-card craze, I'm sadly afraid that many of our colleagues have forgotten that they are bankers. What has happened to our responsibility to equate the extension of credit with the ability to repay?

What they are doing is very understandable. They are saying that "with no looking at all, only a small percentage will go bad, and we can absorb it." Are they in for a big surprise.

It looks like no one heeded Mr. Agemian's warnings or those that we tried so hard to impress on the industry in hearings before the Banking Committee and in the passage of the 1970 amendments.

Mr. Speaker there are two things that particularly concern me about the uncontrolled push of credit cards and the wild in-

crease in consumer lending resulting from these plastic instruments:

First, in the end, the solid hard working customers, who pay their bills and use credit cards properly, pay the price for the banks' sloppiness and lack of control. When profits dip, we can expect to see this serve as justification for higher fees, higher interest rates and curtailment of services for legitimate customers.

Second, the unsafe and unsound banking practices represented by the granting of credit to persons who have not been submitted to proper credit checks or established their ability to repay the enormous liabilities that can be run up on these cards.

As the Wall Street Journal's December 2 article stated:

. . . often credit has been given where credit isn't due. The newspaper cited situations where cards went to prisoners, unemployed teen-agers, even a few household pets . . .

Mr. Speaker, the financial institutions' ballyhooed concern about fraud, losses and diminished profits might ring with a little more sincerity if the institutions maintained even elemental controls when they chase fast bucks in such areas as credit cards.

Noting that some banks solicit credit card customers through mass mailings based on magazine subscription lists and limited credit checks, the Wall Street Journal described one ill-fated experience:

A former credit officer at Bank of New Orleans recalls sending credit cards to a batch of consumers who the bank's computers showed had steady jobs and noteworthy records. True enough: They were inmates at Angola State Prison, 125 miles northwest of New Orleans.

Such sloppiness, Mr. Speaker, should be paid for by the banks and their stockholders. It should not be borne by consumers and it should not serve as an excuse to withhold legitimate services for legitimate customers.

Mr. Speaker, the financial regulatory agencies—the Federal Reserve, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the National Credit Union Administration—should immediately take steps to determine the extent that the "unsolicited credit card" has crept back into the financial industry, directly or indirectly. These agencies should determine whether the prohibitions against the issuance of unsolicited cards is being violated or circumvented and take the steps necessary to assure compliance with the letter and spirit of the prohibition. Let me remind the supervisory agencies, one more time, that they have cease-and-desist powers to halt unsafe and unsound practices, and the revelations of the Wall Street Journal suggest that many of these practices are just that.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting on December 5, 1985 for rollcall votes 426, 428 and 429. Had I been present, I would have voted "nay" on roll No. 426, the Conte motion to recommit House Joint Resolution 465; "nay" on roll No. 428, the Bartlett amendment to H.R. 3700, higher education amendments; and, "aye" on roll No. 429, final passage on H.R. 3700, higher education amendments.

THE FARM CREDIT PARTNERSHIP ACT OF 1985

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, Today the difficulties of many farm borrowers are severe, and we in Congress are faced with an urgent need to deal with these problems. If we do not deal with the farm debt crisis soon, we may end up resolving it through foreclosures, bankruptcies, and bank failures. If the agriculture economy sees a cascading rate of failures due to overburdened credit, the taxpayer and the nation will be assessed in many ways—not the least of which will be through FDIC guarantees.

That is why the legislation adopted yesterday by the Committee on Agriculture on the Farm Credit System [FCS] is so important. But, we are concerned that the legislation may not be a complete solution to the farm credit problem. Today, along with Chairman DE LA GARZA of the Committee on Agriculture, Chairman ED JONES of the Subcommittee on Conservation, Credit, and Rural Development, Mr. STANGELAND, and other colleagues, I am introducing legislation that encompasses all agricultural debt rather than just that one-third that is held by the FCS.

A companion bill is also being introduced in the other body today by Senators BOSCHWITZ, GRASSLEY, and others. Between all of us, we will work to see that this legislation is moved swiftly through Congress. I would also note that I am pleased that the leadership of the House Agriculture Committee believes that consideration of this plan should quickly be moved forward.

Both borrowers and lenders must share the responsibility for fixing the present credit problems. Banks and other lenders can do much on their own to lighten the debt burden of their customers—and they are already doing it in many creative ways (particularly rescheduling or laying aside principal payments). But Federal assistance is needed to provide incentives to lenders to continue to work with borrowers to reschedule their debt and remain in business.

Our bill is designed to give farmers and their lenders an opportunity to restructure their debts and to stay in business. It would give farmers, commercial lenders, and the FCS an opportunity to participate in an interest buydown program of up to 5 percent. In addition, it would give commercial lenders an incentive to participate in a principal forgiveness plan of up to 30 percent by allowing the writedown to occur over a 10-year period. This debt restructuring is what is so needed to counter falling land values.

Our goals are simple. We would like to program that as a farmer solution—not simply a bailout of an institution or a bank, and we want to do this by providing a program that includes the following provisions:

First, eligibility—commercial lenders and the FCS would be eligible, farmers with gross annual sales of at least $30,000 and a debt to asset ratio exceeding 40 percent. The program is targeted to the family-sized commercial farmer, where one-third of the group (10 percent of all farmers) holds 45 percent of all outstanding ag debt.

Second, length of program—program would last 3 years and we could take a new reading at that time. To participate in the program, banks and the FCS must do so within 1 year of enactment of the program.

Third, interest rate buydown—a 5-percent interest rate buydown for a 3-year period which is paid by the Federal Government, the State government and the lender at a 2-2-21 ratio. The interest rate could be reduced up to 5 percent on the borrower's current loan. The Federal Government's 2 percent would cost up to $600 million per year.

State participation is optional, but to receive Federal assistance in its administrative costs, States must contribute at least 1 point of interest buydown.

Fourth, principal forgiveness—commercial lenders would be allowed to write off up to 30 percent of the principal over a 10-year period so that their capital structure would not be undermined. (This section would not pertain to FCS).

Fifth, inter-agency agricultural task force—to assist farmers and their lenders to work through the present economic problems. Semiannual reports to Congress would be required, detailing its findings and recommendations.

In conclusion, let me say that I believe that the plan we have introduced today is a reasonable, fair approach. It does not "bail out" anyone; instead it gives farmers and their lenders an opportunity to together walk out of the problem they walked into together. In addition, the most important extra benefit of improving the credit system is that overall interest rates to farmers could—and likely would—fall. That would break the economic stranglehold interest payments have put on many farmers. This would be a giant step in restoring confidence on the main streets and among farmers of rural America.

Mr. Speaker, I ask that a section-by-section analysis be included in the RECORD, along with the text of the bill.

SECTION-BY-SECTION ANALYSIS

TITLE I—FARM CREDIT PARTNERSHIP ACT

TITLE II—FEDERAL-STATE-LENDER PARTNERSHIP—INTEREST RATE BUYDOWN

Section 201. Definitions.—

"Borrower" is any individual, family corporation or family partnership that has made at least 50 percent of its gross income

from farming in four of the past 5 years, and holds agricultural loan or loans.

"Lender" is any commercial bank, savings and loan association, credit union, insurance company, or farm credit institution that has agreed to participate.

"Institution" is any bank or association of the Farm Credit System.

Section 202. Farmer eligibility.—

Borrowers are limited to a $400,000 aggregate loan participation in the case of an individual and $600,000 in the case of family corporation or partnership. To qualify the borrower must also meet the following:

(1) Average gross annual sales above $30,000 for at least 3 of the past 5 years;

(2) Debt to asset ratio above 40 percent;

(3) Debt to asset ratio that falls below 100 percent after principal is reduced (Farm Credit System loans do not qualify for the principal reduction provisions);

(4) Can show an ability to repay the restructured debt.

Section 203. Interest Rate Buydown.—

A 3-year program allowing eligible borrowers to apply to their lenders any time during the 1-year window from the date the program begins. The loan itself must have been in existence as of October 1, 1985. The individual States will administer this part of the program.

The loan will have up to 5 percent interest buydown, with the 5 percent taken off the rate charged on the borrowers loan as of December 1, 1985.

The 5 percent will be provided by the Federal Government at 2 points, State government up to 2 points, and the lender taking the remaining one point.

All lenders and farm credit institutions listed in definitions are eligible lenders.

State contribution is optional, but to receive Federal assistance in its administrative costs, the States must contribute at least one point of interest buydown.

States will submit a plan to the Secretary of Agriculture by March 1 of each year which:

(1) designates a single agency to be responsible for running the program;

(2) assesses the interest subsidy needs of borrowers in the State;

(3) describes the program for administering, and includes the lenders who will be participating;

(4) estimates the State's borrower participation level and the funds needed.

Secretary must review and rule on the plan before April 15.

State agency will then handle the transfer of funds from Government to lender.

Section 204. Farm Credit System Foreclosure rules.—

This section applies only to the Farm Credit System.

An institution cannot take action on a defaulted loan until they have run the borrower through the interest buydown provisions of this act.

Section 205. Effective date.—

This title becomes effective in any State when that State's State Plan has been accepted by the Secretary of Agriculture.

TITLE III—AGRICULTURAL LOAN PRINCIPAL REDUCTION

Section 301. General Rules.—

Qualified institutions for this title as those who either have their deposits insured by the FDIC or guaranteed under State law.

Borrower's with loans written down under this act will not be liable for any of the written-down loan, or the accrued interest attributable.

Any loan that is written down under this title is also eligible for the interest rate buydown in title II.

If the write-down of principal needed to qualify a borrower for assistance under this Act is equal to or greater than 15 percent and the lender is participating in the interest rate buydown set up in title II, then the lender is not liable for their one point of interest subsidy contribution.

Section 302. FmHA Guarantees for Qualified Institutions.—

This section sets up the procedure for the 30 percent write-down for the commercial banks. The Farm Credit System's institutions do not qualify for this assistance.

The FmHA guarantees will be provided by the FmHA to assist the qualified institutions with the losses associated with their participation in the principal write-down.

The guarantees will only be available for up to a 30 percent principal write-down—if a loan is written down more than 30 percent there is no penalty, but no assistance either beyond that point.

These guarantees will allow the bank to stretch out the loss over a 10-year period; however, if a bank should foreclose on a participating borrower, the bank would take all the remaining loss in that year.

To qualify, a bank must have a net worth of at least equal to or greater than 4 percent of its assets, and it cannot fall below this level after receiving the guarantees.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401.—

Requires that the FDIC, Comptroller and Federal Reserve set up an interagency task force to assist commercial agricultural banks and their borrowers, and to report to Congress on March 1, 1986 and semiannually thereafter, its findings and recommendations.

Section 402.—

This section clarifies that the requirement for fixed rate mortgages in any restructured loan supersedes any State law.

Section 403.—

Provides for up to $10,000 fine or up to 5 years in prison for those who steal, forge, misapply, et cetera, under this act.

Section 404.—

Authorizes regulations to be issued if necessary.

Section 405.—

Authorizes appropriations at such sums as necessary.

H.R. 3868

A bill to provide an opportunity for agricultural borrowers to restructure loans from commercial lenders and farm credit system institutions in order to maintain the viability of their farming operations and thus preserve the family farm system as the backbone of American agriculture

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE

SEC. 101. This Act may be cited as the "Farm Credit Partnership Act".

TITLE II. DEFINITIONS

SEC. 201. For the purposes of this Act, as used in the term:

(a) "Borrower" means any individual, family corporation, or family partnership who or which derives not less than fifty percent of gross annual income for not less than 4 out of the past 5 years from production of raw agricultural products, including livestock or poultry and the products of aquaculture, and who or which, on the date of enactment of this Act, holds from a lender a loan or loans for agricultural purposes which is sub-standard.

(b) "Lender" means any commercial bank, savings and loan association, credit union, insurance company, or institution (defined in Subsection (c)), which includes subsidiaries and affiliates of the above which has agreed to participate in the interest subsidy and loan reduction programs established pursuant to this Act and has been designated in a State plan approved by the Secretary under Title II of this Act.

(c) "Institution" means any bank or association of the Farm Credit System established under the Farm Credit Act of 1971, as amended, 12 U.S.C. 2001, et seq.

(d) "State" means each of the several States of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and, to the extent the Secretary of Agriculture determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(e) "State agency" means the official or agency designated by the State to administer the programs established by the Act in that State.

SEC. 202. Assistance to any borrower under this Act shall be limited to an aggregate outstanding amount, including principal and interest, which does not exceed $400,000 in the case of an individual, and $600,000 in the case of a family corporation or family partnership. In order to qualify for assistance a borrower must demonstrate to the satisfaction of the lender:

(a) average gross annual sales in excess of $30,000 for not less than three of the preceding five tax years;

(b) a debt to asset ratio in excess of forty percent;

(c) ability, based upon past performance as a capable producer, to repay the debt after restructuring pursuant to this Act where such restructuring is jointly agreed to by borrower and lender.

SEC. 203 (a) Subject to the availability of funds provided pursuant to subsection (e) of this section, the Secretary of Agriculture (hereinafter referred to as the Secretary) in consultation and cooperation with the Secretary of the Treasury, Controller of the Currency, Chairman of the Federal Reserve Board, Governor of the Farm Credit Administration, Federal Deposit Insurance Corporation, and each State agency, shall establish a cooperative Federal-State-Lender agricultural loan interest subsidy (AgLIS) program in which, at the request of a State, borrowers and lenders within the State shall be provided an opportunity to participate. During the year beginning on the date of USDA's approval of a State's plan, as defined in this Section and ending on a date one year later a borrower may apply to a lender for an interest rate subsidy with respect to any agricultural loan to that borrower from that lender outstanding on October 1, 1985. Upon such application by a borrower who or which qualifies for assistance under this Act and agreement by the lender, the loan shall be restructured within 90 days of date of such application in such a manner that the interest rate of the borrower shall be fixed for a period of three years or the remaining term of the loan, whichever is less, at a rate equal to the rate of the borrower's loan as of December 1, 1985, less up to five percentage points. Of the up to five percentage point reduction or subsidy, two percentage points shall be paid by the

Secretary through the State agency to the lender, not less than one percentage point nor more than two percentage points shall be paid to the lender by the State, and, subject to the provisions of Section 301(b) of this Act, one percentage point shall be borne by the lender. Any State which requests participation in the program but declines to bear that State's share of the interest subsidy shall nonetheless be required to file and implement a State plan as required by this section, but shall be ineligible for reimbursement of administrative expenses as provided by this section.

The term to maturity of any debt for which interest subsidy is provided under this section shall not be less than the term to maturity of the debt outstanding before such subsidy is provided. Payments on such debt shall be restructured in accordance with the borrower's ability to repay. Accrued interest on such outstanding debt prior to restructuring shall not be capitalized but shall be paid by the borrower to the lender prior to any retirement of principal under the loan agreement as restructured pursuant to this Act. Any balance of principal and interest outstanding at the end of three years on any loan restructured under this Act shall be repaid as agreed between borrower and lender at a rate of interest not to exceed the standard rate then charged by the lender on loans with comparable maturities for similar purposes.

(b)(1)(A) From the sums available pursuant to subsection (e) of this section the Secretary shall, subject to the provisions of this subsection and subsection (c), pay to State agencies an aggregate sum not to exceed $600 million for each of the fiscal years 1986, 1987, 1988 and 1989 to finance the Secretary's share of agricultural loan interest subsidies provided to lenders, and, in states contributing to the subsidy, 50 percentum of the approved State administrative expenses related to the provision of such assistance.

(B) The payment or payments to each State agency for any year shall be in such amount or amounts as the Secretary may determine and shall not exceed the expenditures by that State during that year for the provision of the Secretary's share of the interest subsidy to participating lenders according to the plan of the State approved under subsection (c) and, in States contributing to the subsidy, 50 percentum of the related approved State administrative expenses.

(2) The Secretary shall, subject to the provisions of subsection (c), pay to each State for the applicable year, at such times and in such manner as the Secretary may determine, the amount estimated by the State pursuant to the subsection (c)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

(c)(1)(A) In order for borrowers and their lenders to receive benefits under this Act for any year, each State shall have a plan for the year approved by the Secretary under this section. By June 1, 1986, and March 1 of each year hereafter, in which the interest subsidy is available, if the State wishes borrowers and their lenders to receive benefits, it shall submit a plan which—

(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such subsidy;

(ii) assesses the interest subsidy needs of borrowers residing in the State;

(iii) describes the program for the provision of such interest subsidy, including the lenders to whom such subsidy will be paid and any agencies designated to provide such payments, which program must meet such requirements as the Secretary may prescribe;

(iv) estimates the amount of expenditures necessary for the provision of the interest subsidy, and, in States contributing to the interest subsidy, related administrative expenses up to the amount allocated by the Secretary for payment in that State out of the total amount available for payment pursuant to subsection (b)(1)(A);

(v) requires any institution participating in the programs established by this Act to provide to any borrower whose loan is, or becomes, non-performing between the date of enactment of this Act and 30 days prior to the ending date defined in Sec. 203(a);

(vi) includes such other information as the Secretary may require.

(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than July 15, 1986, and April 15, in subsequent years, in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that subparagraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate State agency that payments will not be made to it under subsection (b) for the year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no payments.

(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments of approved State administrative expenses related to provision of assistance in States contributing to the interest subsidy, in whole or in part, for the year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

(2)(A) The State shall provide for an annual audit of expenditures under its program for the provision of the interest subsidy described in subsection (b)(1)(A), within 60 days of the end of each year in which the interest subsidy is provided and shall promptly report to the Secretary the findings of such audit.

(B) Within 60 days of the end of each year in which the interest subsidy is available the State shall provide the Secretary with a statement as to whether the payments received under subsection (b) for that year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(C)(i) If the Secretary finds that there is a substantial failure by the State to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (c)(1)(A) in the administration of a plan approved under subsection (c)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the State agency in the State that further payments will not be made to it under subsection (b) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments of approved State administrative expenses related to provision of assistance in States contributing to the interest subsidy, in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (c)(1)(A), at which time such payments shall be paid.

(iii) Upon finding under paragraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B), and subsection (c)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the State and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(d) The Secretary shall provide for review and, in the discretion of the Secretary, audit of the program for which payments are made under this section, and may, as the Secretary deems practicable, provide to the States technical assistance with respect to such a program.

(e) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. In order to make assistance available expeditiously and in a consistent and uninterrupted manner the Secretary is authorized and directed to utilize the funds, personnel and facilities of the United States Department of Agriculture, including those of the Commodity Credit Corporation (CCC), and of any other federal or state agency whose assistance is required to establish and carry out the AgLIS program. However, the Congress shall, not later than the next ensuing appropriation act provide full reimbursement of any sums advanced pursuant to this section and is authorized to appropriate such sums for the AgLIS program as may be necessary based on the Secretary's estimate of anticipated federal costs.

(f) The State agency shall have the authority to monitor lender's compliance with Sect. 203 (a). Any lender found in violation of that section shall not be eligible to receive further payments under this Act.

SEC. 204. (a) An institution may take action as the result of a borrower defaulting on an outstanding loan made by such institution to any borrower only if—

(1) A thirty day notice of availability of assistance under this Act has been provided as required by section 203 (c)(1)(A)(v) of this Act, and

(2) any such borrower who has applied for assistance has been determined not to qualify for assistance under this Section.

SEC. 205. (a) Provisions of this title shall become effective in a particular state upon adoption of that State's State Plan.

TITLE III. AGRICULTURAL LOAN PRINCIPAL REDUCTION

SEC. 301. General Rules.

(a) For the purposes of this Title, the term a "qualified institution" means an institution the deposits of which are insured under the Federal Deposit Insurance Act

(12 U.S.C. 1823) or insured or guaranteed under State law.

(b) Any lender participating in the programs provided under this Act may during the period beginning 30 days after the date of enactment write down the outstanding principal balance on the loan or loans of such borrower by such amount as will permit such borrower to qualify for assistance. The balance of the principal remaining after such write-down and the accrued interest attributable thereto shall be rescheduled for payment. The borrower shall not be liable for repayment of that portion of the outstanding principal balance written down pursuant to this section nor for the accrued interest attributable thereto.

(c) Any loan which has had the outstanding principal balance written down pursuant to this section, is also eligible for the interest subsidy once that program is in place.

(d) If the write-down of principal needed to enable the borrower to qualify for assistance under this Act equals or exceeds fifteen percent of the principal balance outstanding, the qualified institution shall not be liable for any portion of the cost of the interest subsidy provided under Title II of this Act. In such case the interest subsidy shall total only such amount as is paid by the Secretary and the State, if such State is contributing to the interest subsidy.

SEC. 302. FmHA Guarantees.

(a) Effective only for the period beginning on the date of enactment of this Act and ending September 30, 1988, the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is further amended by adding at the end thereof the following new section:

SEC. 351 (a) The Secretary shall establish and carry out in accordance with this section a guaranteed loan program pursuant to the agricultural loan cancellation program established by this title.

(b) For purposes of this section—

(1) An agricultural loan cancellation program shall not

(A) be limited to cancellation of not more than thirty per centum of the first $500,000 of agricultural loans made to an individual farmer ($750,000 in the case of a partnership of Corporation engaged in farming); and

(B) be limited to borrowers with gross sales in excess of $30,000 debt to asset ratios in excess of forty per centum prior to cancellation, and debt to asset ratios of less than one hundred per centum after cancellation;

(2) The term "qualified institution" means an institution the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1823) or insured or guaranteed under State law; and

(3) The term "restructured loan" means the agricultural loan that results after loan cancellations made under paragraph (1).

(c) Upon the request of a qualified institution, the Secretary shall issue a guarantee to such qualified institution in an amount equal to 90 per centum of the amount of principal forgiven pursuant to the agricultural loan cancellation program of this section provided that:

(1) the guarantee period is 10 years;

(2) the guarantee declines by 10 per annum;

(3) the restructured loan will not be eligible for other guarantees under this title;

(4) the guaranteed portion of the restructured loan can only be exercised if the qualified institution is totally liquidated by the lender's lead financial regulator;

(5) the restructured loans pursuant to this section shall not be transferable; and

(6) the the loss incurred by a qualified institution as a result of a loan cancellation under this section shall be recognized in equal annual installments over a period of not to exceed ten years, except that is such institution forecloses on any loan a portion of which was forgiven under this section, the entire remaining balance of the forgiven portion of that loan shall be charged off in the year of the foreclosure.

(d) Gurantees under subsection (c) shall be issued by the Secretary upon certification by the qualified institution that such institution

(1) has net worth equal to or greater than four per centum of its assets; and

(2) has implemented an agricultural loan cancellation program in accordance with subsection (b).

(e) The amendments made by this section shall apply with respect to loan principal cancellations which are put into effect during the period as defined in Section 301 (b).

TITLE IV. MISCELLANEOUS PROVISIONS

SEC. 401. Recognizing the severe economic problems confronted by many agricultural banks and the regulatory responsibilities of the Federal Deposit Insurance Corporation (FDIC), the Comptroller of the Currency (CCC), and the Federal Reserve System, these bank regulatory agencies shall develop within 30 days of enactment of this Act an Inter-Agency Agricultural Task Force to assist commercial agricultural banks and their borrowers to work through the present economic problems and to facilitate commercial bank lending to agriculture in the future. Specifically, the Inter-Agency Task Force should: (1) review existing regulations and policies to facilitate agricultural lending; (2) work with field office personnel to avoid conflicts and inconsistencies between the agencies; and (3) consider meaningful alternatives to assist commercial banks in providing agricultural financing by regulatory or statutory changes including accounting changes, interest rate buydowns, or other similar methods for assisting banks. Require that no later than March 1, 1986 and semi-annually thereafter, each Agency shall report of its findings and recommendations to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition and Forestry of the Senate, Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate.

SEC. 402. The provisions of the constitution or law of any State imposing any penalty, limitation, or moratorium relating to fixed rate mortgages shall not apply to any extension of credit in the form of a fixed rate mortgage made under this Act.

SEC. 403. Whoever embezzles, misapplies, steals, or obtains by fraud, false statements, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

SEC. 404. There are authorized to be issued such regulations as may be necessary to carry out the provisions of this Act.

SEC. 405. There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

PERSONAL EXPLANATION
ROLLCALL NO. 431

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, early today I was detained on my way to the floor to vote on the adoption of the conference report on the bill (H.R. 3424) Labor, Health and Human Services Appropriation, fiscal year 1986. The conference report was agreed to by a vote of 356 yea to 54 nay.

Mr. Speaker, had I been present and voting, I would have voted yea.

□ 2325

PASSBOOK SAVINGS ACT

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes.

Mr. TAUZIN. I thank the Speaker.

Mr. Speaker, in just a few short days this House will be considering the issue of tax reform. In that issue of tax reform we will have a chance to debate some very serious policy implications for this country including the question of whether we want to encourage or discourage the accumulation of capital in our society. Now it is very interesting when you look at what has happened in America in recent times in regard to capital formation. It is very interesting because we have seen a steadily declining ability on the part of Americans to save money. In fact, such a declining interest in saving money in America in savings accounts or other such instruments by which Americans normally save money that we now rank at a lower savings rate in 1985 than we recorded in 1929, not necessarily a good year for America.

The savings rate of disposable income for 1985 has been estimated to be about 4 percent of disposable income. Now you say what does that mean? That means that Americans are saving at a very small percentage rate of their money in bank accounts and savings accounts. It also means that we are forming up capital in our society at a very low rate. We should examine that in regard to how other nations form up capital. When we do that, we see most industrialized nations of the world where citizens are encouraged to save at much better rates than we save in America. In fact, when you look around you see that in Japan the savings rate is 17½ percent of disposable income, in Italy it is 23½ percent, in Germany 12, in France 14, in England 12 percent; in Taiwan, citizens of that country save as much as 35 percent of their disposable income in savings.

Now the issue of how much we save and how much capital we form up in this country is tied critically to interest rates in our society because when we save very little of our money in capital accounts, and there is very little money available for those of us

who need to borrow to build our homes, finance our farms or businesses, we find out interest rates are high. It is a matter of supply and demand. If there is very little capital available, and Americans want to borrow that capital in larger number, then the cost of that capital, interest rate, rises.

As a matter of fact, when you throw into that formula the fact that the American Government is now borrowing about 40 percent of the available capital that we accumulate in America such that only about 60 percent of that paltry amount we save of our disposal income is left to supply the needs of those who wish to borrow in our society, you can well understand why interest rates are still high. You can well understand why farmers are in such distress over the cost of financing their farms. You can well understand why businesses are so slow in many parts of the country to create new jobs. You can well understand why young citizens in America are having such a difficult time financing that first home, if you will, buying a piece of the American dream.

There is another problem with the manner in which we save money in America and I think is important and we ought to consider as we enter this period of debate on tax reform. That is the question of whether or not as a government we encourage people to save or whether as a government we discourage people from saving.

Well, you do not have to look far to realize that in America we discourage citizens from saving their money. We discourage them by penalizing them for saving, for earning interest on accounts. We do that by taxing whatever interest is earned on savings accounts. Now in most countries of the industrialized world which have savings rates of 12, 17, 23, 35 percent, we find a different story. There we see governments actively encouraging their citizens to save money, to form up capital in order to have a large supply, a pool of money from which others can borrow and which they can borrow at decent rates.

In America we take the opposite track, we penalize our citizens for saving money. We make it more difficult for them, in fact, to save that nest-egg and accumulate the capital that others might borrow from banks, S&L's, and credit unions in order to finance our activities.

As a result, because we penalize people from saving, people save less in America than anywhere else in the industrialized world. We also have the highest interest rates of any of the industrialized societies in the world. There is another reason why interest rates are higher in America. I would like to call your attention to the fact that just a few short years ago the banks and savings and loans in America were in great distress. Capital was leaving their vaults and going to great money houses that were offering new money market certificates at extraordinarily high interest yields.

I yield to the gentleman from Ohio.

Mr. ECKART of Ohio. I thank the gentleman for yielding, and I thank the gentleman for taking this time on this special order tonight.

As my friend knows, how many months ago did we start this? 16, 18 months ago?

Mr. TAUZIN. I guess it has been 12 to 16 months ago.

Mr. ECKART of Ohio. Well many moons ago when my colleague from Louisiana first raised this issue with me, coming from diverse geographical and philosophical backgrounds, even I was intrigued and pleased by the options that it presented. I think one of the things Government has to figure out how to do is how we encourage people to help themselves. Sustenance and support is necessary. But that is why I think Government often gets in trouble when we try to guarantee success as opposed to just guaranteeing an opportunity to succeed or fail. In terms of our philosophical approach to government, I think the passbook bill that the gentleman has pursued now for well over a year reflects on the ability of people to help themselves. It encourages savings as opposed to discouraging frivolous expenditures and deals in a way that can only be in terms of broadening the pool of capital available for a wide variety of reasons, enriches their personal wealth and opportunity in the future. since we are looking at a bill that will be coming to the floor in a few days that deals in a much larger way with taxes, I would hope that my friend and other cosponsors of the passbook legislation will look at a way where we perhaps can make it a part of that vehicle. It is every man's tax shelter, as my colleague once called it, and I believe it holds a unique opportunity for people of modest and little income to participate in the wealth of America.

I am delighted to again cosponsor the bill and to support the efforts of the gentleman next week in making this a part of a meaningful tax reform legislation. I thank the gentleman for yielding me this time.

Mr. TAUZIN. I thank the gentleman for his kind comments and for staying around tonight. I know he has spent a long day working on Superfund, and I know he is very tired.

I thank the gentleman not only for his support but for the fact that he has long stated that objective of indeed encouraging Americans to help themsleves. That is what we want to talk about tonight just a bit. If Americans were encouraged to save money and if Americans did in fact save more money in bank accounts and savings certificates in America, then indeed more capital would be available to fund the financing of homes, the financing of businesses and farms, and indeed we would be offering more opportunity to young Americans to have a piece of that great American pie. But there is another reason why interest rates in America are so high, in addition to the reason that we have discouraged people from saving money and why I am here on the floor tonight to discuss an effort to change that, to offer to Americans a chance indeed to save money and to encourage them to save more, particularly in passbooks.

You see, a few years ago when banks and S&L's ran into trouble, when they saw their assets moving to big money market houses where they were offering money market certificates and money market fund accounts to savers at great interest rates, banks and S&L's come to Congress and said: "Please help us, please help us retain our savings." We said: "Well, what is the problem?" They said: "Well, you restrict our ability to offer high interest yields to our savers. Under Regulation Q you allow banks to offer only 5¼ percent and S&L's to offer 5½ percent, and these money market houses are offering more than that, and we are losing our assets to those money market houses, and we cannot have enought to loan out to the citizens of our little towns in America." So we replaced regulation Q, and with it came the birth of the certificate of deposit, that instrument by which Americans now save at much higher rates of earnings at banks and S&L's.

Well, while that has been good for some savers in America, the problem is that when savers were given that opportunity to earn high interest yields on certificates of deposit, American savers abandoned the traditional passbook account in record numbers. When they abandoned the passbook account in record numbers and went to the high yield accounts, that raised the cost of money in America by a significant proportion.

Banks and S&L's tell us that prior to the repeal of regulation Q their cost of money was about 6 percent. Today their cost of money is about 9 and 10 percent. Because their cost of money is higher, the mortgage rate, the rate they charge borrowers, must necessarily be higher.

In fact we have almost established a floor from which mortgage rates cannot fall, a floor below which mortgage rates cannot tumble no matter what the Fed does in regard to its Fed lending policy to banks because a great bulk of the bank's money of the savings and loan and credit union money is now invested in certificates of deposit long-term and at high interest yield.

Well, as we thought about these two problems, America's decision and policy to discourage savers and the problem with the cost of money being so high in America, we began to realize that not only did that drive up interest rates for American borrowers but it also affected the U.S. dollar. It made the dollar a good thing to invest in from the standpoint of foreign investors. As a matter of fact, today foreign investors supply 25 percent of all the capital we use in America. And if they stop supplying it tomorrow you would see a dramatic increase in interest rates because we simply would not have enough capital to go around. So what happened is the dollar has increased in value as a result, interest rates have remained inordinately high in comparison to every other industrialized nation of the world, and Americans continue to labor and suffer under a high-interest-rate society, and a high dollar that encourages imports and discourages exports.

It costs us jobs in the economy, and in severe family pain and suffering.

What might we do to begin to change all that? We suggested last year, as my friend from Ohio said, a solution, a solution endorsed by the majority leader, JIM WRIGHT, a solution endorsed by the minority whip, Mr. TRENT LOTT, and by people of liberal and conservative and Democratic persuasion, at all ends of the spectrum in this House, 120 Members joined as cosponsors of that effort. It was just an effort to test the waters last year. This year it is an effort to bring some serious attention to this issue.

What is that effort? It is an effort to begin in America an incentive program to encourage people to save again. Why not in America? Say to American savers: If you want to save again we will encourage you, just like every other industrialized nation in the world; we will reward you for saving money instead of penalizing you for doing so. We will give you some tax-free interest capabilities. And why not say to Americans: If you choose to invest in the passbook account again, that traditional vehicle of savings in America, the passbook account which provides low-cost money to the banks, low-cost money to the S&L's and the credit unions and can supply a base of low-cost money that can translate into low mortgage rates again, if we simply said that to Americans, if we said to the worker on the assembly line, it will pay you again to belong to a payroll savings plan, because if you save money, Uncle Sam will reward you for earning some tax-free interest.

If we adopted that concession, if we said to Americans in a passbook savings plan like this, save again, save again in low-cost interest-earning passbook accounts, bring down mortgage interest rates, expand the pool of capital that Americans need to finance their homes, businesses, and farms again, what dramatic changes might be possible.

□ 2140

Oh, but I know the first objection you raise: Isn't this going to cost the Treasury money? Isn't this going to cost us something, at a time when we are already in deficit?

Well, we had CBO look at it. CBO estimated that the first-year cost of such a program would be about $2.5 billion. That is a lot of money, $2.5 billion. It is only 1 percent of the deficit, but it is still a lot of money.

But then we look at who might save money if this plan were put into effect. Well, the first person who would save money, if we accomplished a lowering of interest rates, would be those who borrow heavily. And guess who borrows the heaviest in our society? Guess who is the No. 1 borrower in America? Uncle Sam.

If we lowered Uncle Sam's interest rate by 1 percentage point, 1 percentage point, my friend from Washington, do you know what we would accomplish in savings? About $9 billion to $10 billion in interest savings, 1 percentage point alone. And if we lowered interest rates by 1 percentage point, those grand economists who live in those great academic halls of our universities tell us that we would probably save the U.S. Treasury between $13 and $23 billion, because we would encourage people to go back to work building homes and creating jobs with lower interest rates and therefore would be paying taxes instead of drawing benefits.

The economic effect of a 1-percent interest drop in real mortgage rates in America could save the U.S. Treasury as much as $30 billion.

Now, that is a pretty good investment; $2.5 billion cost, according to CBO, for a saving of $30 billion on the deficit.

Now, we are looking for ways to turn that deficit around. We are looking for ways, without having to cut vital programs that are important to the sick and the elderly and the suffering of America, without having to cut vital defense needs. We are looking for ways to turn that deficit around. Here is a way. Here is a way to turn the deficit around and to do Americans an awful lot of good in the process, an awful lot of good, a way to say to Americans, "If you save again, Uncle Sam will let you earn some tax-free interest." And if you do that, if you accumulate capital, bring down the cost of money in American society and lower some interest rates, Uncle Sam can save as much as $30 billion, a 10-to-1 return on investment for every percentage point we drop real mortgage interest rates.

Isn't it time for a new idea like this in America instead of the old ideas of fighting who and what we cut or who and what we tax again? Isn't it time, as my friend from Ohio said, to create opportunities for growth in America again? I suggest here is where we start, encouraging Americans to form up capital, encouraging lower interest rates in our society, and in the process, bringing the dollar down in terms of its international competitiveness and restoring the capability of Americans to produce and to sell their products abroad, all of that in one fell swope if we would have the good common sense that others around the industrialized world have already exhibited in programs to encourage their citizens to save money.

The passbook savings plan has been offered again this session. It is there for you to see. It is there for you to comment on. It is a plan to give, as my friend from Ohio said, every man a tax shelter, not just the rich, not just those who can afford the best accountants who can know where to place their savings or their investments in order to realize tax savings. It is a chance to say to every American, "You can shelter some income too, you can earn some income in a savings account that Uncle Sam won't touch. You can have a second tax-free income, if you will, that can supply some extra income for your family to buy those extra things that you might want and need, a chance for you indeed to build that nestegg without Uncle Sam robbing you of pieces of that important plan for your future by taxing your interest earnings."

It is a simple idea. It is a very simple one. But it is a common sense and practical approach to what I think Government ought to be doing in our society.

As my friend from Ohio said, is it not time that we create opportunity again? Is it not time we tell Americans, all of us, whether you own your own business or whether you are self employed or whether you work for someone else, all of us, we have an equal chance, an equal chance to save some money, to shelter a little income and to build up America's capital accounts. And if we can help turn around the Federal deficit in the process, why not give this idea a chance.

We will be debating tax reform again in the next couple of weeks. Unfortunately, as I read the tax reform bill, I see an effort to tax capital, to tax Americans' chance to form capital up rather than a real effort to encourage Americans to form up capital again. I will be speaking on this issue from time to time, and I will be asking others to join with me as days go by and as we enter the next session, following these Christmas holidays, to raise this issue even more strongly in the days to come, because I think it is

time that Americans focus on this basic question of economic fairness.

Is it fair for the U.S. Government to penalize Americans for saving money? And does it make real sense for us to do so, when we could be lowering interest rates instead and creating opportunity and giving people on the farms of America a chance to really finance their farms again and to give people who want to form up businesses, particularly the small businesses that create most of our jobs in America a chance to go to the bank and get a decent mortgage rate again and for giving those in America who want to have a home, who want to have a family and a place to rear that family, a chance for a decent mortgage rate again in America.

What projects, I always ask people when I speak to them, what projects do you know about, whether it is the building of a home or the creation of a new job or the building and expansion of a business, what projects would you accomplish if you had a 7- or 8-percent interest rate that you cannot accomplish today with the current high rates that we have in America. And the answer is always the same. If we had a 7- or 8-percent interest rate available to us, there would be no stopping us in America. We need that low-interest rate again, we neeed to encourage that kind of opportunity again in America.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Washington.

Mr. SWIFT. The gentleman has been saying a great variety of things and he is obviously and clearly knowledgeable on this issue. The point that he made that I would like to stress is that there are a number of aspects of the budget we have some control over. One of them over which we have no control whatsoever is interest. And it is about 13 percent of the budget. Now, you take defense, which is terribly important, you can argue whether it needs to be as big as it is or not, but we cannot balance the budget on defense; we can talk about Social Security, we are not going to go back and renege on promises that have been made on a program on which people have paid in; we may be able to argue whether we should freeze COLA's, but the basic program is there. In Medicare we have made cuts. And by the time you add all of those things and add interest on the debt, you have got enough budget that you cannot balance the Federal budget on what is left. We could make an enormous contribution to balancing the budget simply by getting the interest rates down for the Government, and when we did that, we would be getting them down for Americans all across the line, the small businessman, the farmer, the young couple that wants to be able to own their own home.

One of the things I found—I just turned 50—my wife and I, when we got married, knew we could always buy a home any time we wanted to. It was just a matter of saving up a little money for the downpayment, and when we wanted to, we could own a home. I recognize we do not find those young married folks today as much in the Kiwanis Club and the Lions Club, and what have you, that you are used to. They are a little hard for us politicians to get to. They do not organize the way we used to organize.

So I asked my staff to pull together some of those young people. And one of the things I found—and I was looking for things I did not think that I would find—is that they do not think they can own a home.

Now, stop and think about that. America grew up believing that owning your own home was fundamental, and we believed it was automatic. You work hard, save a little money, do the right thing, keep your job, and you are going to be able to own your own home. Young people do not believe that anymore. Why? Because of the interest rates in this country.

Those who had bought their homes just before interest rates shot up do not believe they can trade up. They think that is the home they are going to be in for the rest of their lives. And those who did not buy their home, did not get married at the time, or what have you, they did not make the decision to buy their homes right at that time, figure they will never own a home.

Now, stop and think what that tells you about what your future in this country is, how it changes your perception of what your ultimate goals can be in this nation over what you and I and most adult Americans today who grew up over the last 40 or 50 years could believe.

It is a radically different change of what you think this country can deliver for you, and it deals with interest rates.

The gentleman from Louisiana is raising one of the most profoundly important issues in terms of how Americans will perceive themselves, in terms of whether they will be willing to be an entrepreneur in small business, whether they think they can own a home, whether they think this country can continue to offer them an opportunity or whether they are going to become little drudges who, if they are lucky, will get locked into some position and be able to trudge out through their lives that way.

This Nation is built on hope, and hope is built upon being able to borrow money at a reasonable rate to take the risk or buy the home or make the investment you want to make.

I compliment the gentleman at this late hour, after an enormously long period on an extremely difficult bill in which the gentleman participated. I do not know where he finds the energy to be here, because I have been sitting in the back kind of relaxing. I compliment the gentleman for this because he is raising an issue that is of fundamental importance to the entire future of the United States of America.

Mr. TAUZIN. I thank the gentleman for his comments. I would only add that we have become a credit conscious society. Indeed our hopes lie in our ability to have credit and to use it properly in our society.

I do not know of too many people today whose pockets are not filled with some sort of ability to try to purchase something with a credit card. That is the way we make our purchases today when we can. I think my father is the last American who never borrowed any money. He made all of his purchases in cash. We are credit conscious now. That is where our hopes indeed are pinned in America. It is the evolution of our society. But indeed the gentleman is correct. If we do not create in our society a chance for young Americans to tap into that credit system in order to fulfill their hopes and dreams, then we create in America a vastly changed landscape, a landscape that indeed is devoid of hope for many, a landscape where the mobility into the middle class becomes very restricted, a landscape of the rich and the poor instead of a landscape of great mobility and great interchange in social and economic levels.

That is frightening, to me, and it should be frightening to Americans. But that is where we are heading.

You ask young Americans today about why they do not think they can afford a home, and they will tell you, "We are scared of things like the variable rate mortgages," they do not understand them, they are afraid of them. They say, "I am going to get into a mortgage today at a low rate but it can go up on me, it can go up in some cases as much as 4 percentage points in a short period of time, and I cannot afford that, my job does not give me that opportunity."

I say to my friend from Washington that we have not discussed the lost opportunities of all the men and women who would be building those homes, cutting that timber, marketing those products that go into the home, the metal, the plastic, the refrigerators, the TV's and all those nice things that young couples would like to have in their homes, all of those lost opportunities because Americans do not feel any more that they can afford those things, have created indeed unemployment in those sectors of our economy and an inability of many sectors of the

economy to really recover, while others are doing much better. It is in that homebuilding sector that we see the greatest economic suffering right now. Two million demand for homes each year going unsatisfied. Two million.

Mr. SWIFT. If the gentleman will yield, I happen to come from a timber-growing area in the Pacific Northwest. There are others in this country, the Southeast and the Northeast, many parts of this country have enjoyed the benefits of a recovery of the economy. There is unemployment in my district which is filled with small mill towns and small logging towns. The recovery has been slow, grudging, and has not brought those unemployment rates back to anything even remotely close to the national average which is still below what it should be, and it is directly attributable to interest rates that destroyed the homebuilding industry initially. They have not recovered.

Mr. TAUZIN. That is the case in point. I would call the gentleman's attention to the fact that around this country young people not answering that demand they have for homes, not being able to finance that home, have left people unemployed in their wake all over America and, as a result, America is not recovering at the rate we could be recovering. We see people unemployed today who could be working, who could be paying taxes and helping to cure that deficit that we face.

The gentleman started out by talking about that key element of the deficit, $150 billion plus of interest rate charges that go into the $200 billion or so deficit we face this year.

□ 2355

That is scheduled to grow; it is scheduled to keep growing as our total debt grows. What are we, $2 trillion now? As that grows and has to be financed and refinanced each year at those high interest rates, it becomes a larger and larger portion of our Federal spending, leaving less room for defense and less room for all the social programs that are important in America. It makes it much more difficult for us to get a handle on all those things.

If we could lower interest rates and save in that sector of the Federal deficit, the $10, the $20, the $30 billion with each percentage point reduction, we would begin turning that around; we could begin lowering that total debt figure that Americans are going to have to shoulder one day we could begin focusing indeed upon how we could grow in America instead of constantly talking about where do we cut and where to we trim back.

You know, I am tired of that, my friend from Washington. I came to Washington, DC, 5 years ago from the State legislature. In the State legislature I served 8 years, great years of expansion and growth and we were building things for our people in our State. I came to Washington, DC, and we have done nothing but talk about where to cut back and where to restrain ourselves. Where indeed to set limits on our hopes and aspirations. I am frankly tired of that. I think it is time we start talking about creating hope, creating opportunity, as the gentleman from Ohio said, and building within our own people a sense that they can help themselves. They can indeed begin building savings accounts, establishing enough credit in this country that mortgage rates can come down. Creating new jobs and incentives; building that hope. The young of America, that they can have a chance to have a part of that American dream of home ownership, and a sense that their job is secure in a society that is growing not cutting back.

Mr. SWIFT. If the gentleman will yield, what it amounts to is truly conservative policy, truly conservative policy, in which you conserve the very best of this country. In which you permit the individual and the individual family the opportunity to do for themselves. If you deny them the right because of credit or other factors, but we are talking credit here, the cost of credit, if you deny them the ability to get credit at a reasonable cost, you deny them the opportunity to reasonably take risks in business; you deny them the opportunity to invest in homes for themselves; you deny them the opportunity to begin to do exactly what a truly conservative view is. Take care of yourself in a society and prosper for yourself and your family in the society.

I find it strange, as one who calls himself a liberal, and I know the gentleman in the well is a conservative, but I find it very strange that there are those who call themselves conservatives who seem to insist upon a policy in which those who have it can maintain it, but those who do not, really do not have an opportunity to begin to work their way up the ladder to success. I do not think the gentleman in the well and I have any argument on a liberal-conservative continuum about that. It has got to be the basic quality that America has offered people. If it is conservative to want to retain the best of a society, and of maintaining the ability for people to be able to build themselves up in the society, then I will join with the gentleman in the well as a paramount conservative.

Mr. TAUZIN. I have started out by saying that the Passbook Savings Plan was endorsed by our majority leader, JIM WRIGHT, who is considered somewhat of a liberal, and by the minority whip, Mr. TRENT LOTT, who is considered somewhat of a conservative, and by everyone in between. And that is true. Why? Because it is a common-sense concept. It is something that crosses all those philosophical lines. It addresses something basic in America. Does it makes sense for us to penalize people for saving money? Does it makes sense for us to follow a policy that drives interest rates up instead of bringing them back down, to where we can afford to do things in America again. The answer is no. It makes much better sense in America for us to create in Americans a sense that you will be rewarded for saving money; for building for your future. That you will be rewarded not only because you will earn some tax-free interest, but because in the long run, when you go to the bank to borrow again to fulfill that dream, you will have a decent mortgage rate looking you in the eye and a stable one.

Would it not be great for young Americans to be able to go to the bank and say, "I want to be able to buy a home, and I would like to get a 25-year, standard, stable mortgage. Give me the number and I will live with it. Just give me a decent, low number and I will live with it." A rate like the 7 and 8 percent figure that I grew up with when I came out of college and my wife and I decided to buy a home.

If young Americans had that chance again, so many other Americans would be at work today building that home for them, cutting that timber in the State of Washington, milling it, building those refrigerators, putting all that lumber together into that dream home that the young couple would own, and all those Americans from Washington State down to Louisiana, where we would be supplying energy for that home, would be employed again, instead of waiting around for recovery that never seems to come.

It seems to me the common sense of that kind of idea ought to catch on sometimes regardless of whether you are liberal or conservative. The common sense of that idea ought to some day reach the city that someone described as the only city in America surrounded by reality. It is time reality comes home to Washington, DC. It is time we started answering the hopes and aspirations of young Americans and Americans all who want to live again in a society of growth where aspirations can be fulfilled.

The key is a decent credit rate. The key is a chance to be able to finance that dream, because if you cannot finance it, it is unavailable to you; you are never going to see.

I thank the gentleman for joining me tonight, and let me conclude by saying that the passbook savings plan is filed as a part of this Congress, and we will be discussing it in the future. Unfortunately, it is not a part of the tax reform bill we will be debating next week, and I do not think the rule

is going to permit us a chance to offer it as an amendment. I wish it did, because I would love to be on the floor offering that choice to this body. I will not have that chance. I am going to have to keep arguing and debating it as a separate issue over the next year, but I am going to keep doing that. Because I think it is time America focus on this critical issue of how we fund and finance our hopes and aspirations in America. It is time to tell all Americans we are going to encourage you to save, to build for a future. It is time to tell all Americans you can have a low interest rate again.

Mr. WRIGHT. Mr. Speaker, as the Congress grapples with ways to cut back on Federal spending and bring this staggering deficit under control, it is appropriate that we consider—and support—ways to help Americans save.

The mushrooming Federal debt over the past few years is mirrored by the alarming growth of consumer debt.

Estimates of the 1985 personal saving rate in the United States should sound an alarm. As recently as 1975, the percent of disposable income saved by Americans stood at 8.6 percent. That rate has dropped steadily, reaching 4.7 percent in 1983 and an estimated 2.8 percent in 1985.

Such a low personal saving rate, coupled with unprecedented Federal deficits, a skyrocketing national debt, and rapidly expanding indebtedness on the part of consumers—these taken together have put enormous strain upon the country's banking system.

One inevitable result of this frenzy of borrowing in both the public and private sectors is the artifical hoisting up of interest rates. Despite the lowering of inflation in recent years, we continue to see historically high real interest rates—the difference between the prime rate and the inflation rate.

Interest rates are too high. We all know that. Americans are paying, on average, 18 percent for the privilege of using credit cards. With inflation still hovering around 3 or 4 percent, the real interest rate paid by consumers for credit cards is somewhere around 14 or 15 percent. That's outrageous!

Moreover, the Federal Government next year will likely pay $150 billion in interest—just to service our existing debt. Interest payments on the national debt is the fastest growing segment of the Federal budget. Paying interest is as necessary as it is wasteful. It is the sheerest waste of all.

We need to find a way out of this quagmire of debt if we are to lay a solid foundation for our economic future.

One promising approach is the bill introduced by the gentleman from Louisiana, Mr. TAUZIN, who asked for today's special order to discuss his proposal. I am pleased to be associated with his legislation as an original cosponsor. The American Passbook Savings Act has much to recommend it, and I urge my colleagues to lend the bill their heartfelt support.

Consider these facts. In 1929, the year the stock market crashed and ushered in the Great Depression, the saving rate in this country was a lowly 4 percent. The 2.8 percent rate expected for 1985 cannot, therefore, spell anything but trouble for the economy.

Consider, too, that the personal saving rate of other industrialized countries soars above our own intolerably low rate. The Japanese save about 19 percent of their disposable income. Western European countries historically have enjoyed a savings rate of 11 to 15 percent.

The American Passbook Savings Act offers a real chance to bring down interest rates through tax incentives targeted to those who save in lower-interest passbook accounts.

The plan is designed to attract family savings back into traditional savings and loan accounts and individual bank accounts. Americans need to be given a positive incentive to save, and the tax code is the best tool we have to provide such an incentive.

The Federal Government has to kick the addictive habit of deficit-spending. Likewise, American consumers must be encouraged to break out of the stranglehold of debt.

A revival of low-interest saving would do wonders in bringing down interest rates by reducing the tremendous upward pressure on those rates that now results from too much borrowing. We need to stem the tide of bankruptcies and small business failures. Loan delinquencies and home mortgage foreclosures—now at record rates—must be brought down for our economy to regain its robust health.

Higher savings rates, leading to lower interest rates, would spur the Nation's economy. That's why I support the American Passbook Savings Act. And that's why I strongly encourage my colleagues to support it, as well.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

TRIBUTE TO SENATOR JOHN SPARKMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. FLIPPO] is recognized for 30 minutes.

Mr. FLIPPO. Mr. Speaker, I join with my colleagues from Alabama in paying tribute to the late Senator John Sparkman, whose distinguished service to Alabama in this Chamber and in the Senate spanned 42 years, from 1936 to 1978.

By any measure, John Sparkman was a national leader in the truest sense of the term, for he left to our Nation a lasting reminder of his work.

Elected in 1936, he saw in the New Deal a means to bring his native South closer to sharing in the mainstream of American life. He was an early and forceful proponent of the Tennessee Valley Authority and the Rural Electrification Administration.

His commitment to affordable housing resulted in far reaching legislation enabling thousands of Americans to own their own homes. He was the architect for every major housing bill following World War II including legislation creating the Federal Housing Administration.

He saw a positive role that Government could play in encouraging small business entrepreneurship. Legislation creating the Small Business Administration bore the signature of Sparkman's craftmanship.

His tenure as chairman of the Senate Foreign Relations Committee carried us through one of our most difficult periods as a nation.

His contributions to this body went beyond his considerable legislative skills. He brought with him an invariable wit, Southern charm, and a compassionate sense of what was right and wrong.

For anyone who endeavors to serve, who makes a commitment to serve as John Sparkman did, perhaps the best epithet of all is the simplest: He knew his people . . . and served them well.

[From the Huntsville Times, Nov. 17, 1985]

JOHN JACKSON SPARKMAN

The soft, cherubic face that lit into an endearing smile was not the mask but the real essence of John Jackson Sparkman. Hartselle native and Huntsville resident, whose bold hand helped shape mid-century America and the modern world of hopes and fears. Sen. Sparkman died yesterday at 85.

He was a sensitive and gracious man, a son of a previous, more placid era. But he brought to the arenas of national government and international diplomacy a tough persistence that laid the foundations for the prosperity and security now taken so much for granted in our time.

From humble origins, John Sparkman rose by innate determination to the stature of statesman in domestic and world affairs. He was elected to the U.S. House of Representatives in 1936 and aligned himself with President Franklin D. Roosevelt to meet the challenges of the Great Depression—then smothering the nation—and the death struggle of World War II. He was elected to the Senate in 1948 and promptly became influential in shaping the political design for the economic and social advances we enjoy today.

If it is currently fashionable to bemoan the intrusiveness of government in personal and public affairs, it is useful to recall that homeownership and adequate housing have not always been a benefit most Americans enjoy, nor security in old age, nor modern health care, nor small business opportunity, nor farm-price stability, nor secure savings and sound credit. John Sparkman, in House and Senate, was an innovator or supporter of programs in all these fields.

If it is arch to ask where was he in the civil rights struggles of the 1960s, it is proper to say he was an advocate of social justice in a time and place that were out of joint.

His impact was of national, even worldwide scope. But his importance to the well-

being of this city, this region, this state cannot be understated. His role is legend in fostering the space adventure, the technological revolution, the waterways development so vital to this area and the strong defense so vital to the nation.

His congressional leadership earned him the nomination for the vice presidency on the Democratic ticket in 1952, a time when not even the exceptional talents of a Sparkman and an Adlai Stevenson could withstand the tide of political change. In subsequent years, however, his renown and acumen earned him a place in the counsels of the United Nations and in international affairs as chairman of the Senate Foreign Relations Committee.

Through all the years, through all the trials of depression, war, recovery, social turmoil, trembling peace and cold war Senator Sparkman worked to make better a harsh world.

The loss to his family and intimate friends is sad, and the condolences of the community and the nation pour out to them. But a sense of gratitude and satisfaction will be the more enduring sentiment for the benefit he brought.

[From the Decatur Daily, Nov. 17, 1985]

SPARKMAN DIDN'T FORGET

John Sparkman helped guide this nation through some of its most difficult times during his almost 42 years in the U.S. Senate and House of Representatives. He counseled presidents, he helped shape world events, he ran for vice president. Powerful and complex though he was, Sparkman was from simple beginnings, and never forgot that.

Looking back on his years of public service in 1979 when he retired, Sparkman said that the accomplishments he was most proud of were in housing. He took immense satisfaction in driving through rural areas and seeing nice brick homes that were built as a result of housing legislation he sponsored. He believed that every American family that wanted a home should be able to afford it.

Sparkman died Saturday morning in Huntsville. He had been in failing health in recent years and did not get to keep in contact with many of his decades-long friends he made through his public service. Those who did see him said he relished talking about the good old days, the days when he rubbed elbows with world political figures and when he was at the hub of power. Yet he talked about it without bragging, with a sense of wonderment that a Morgan County lad, born and reared in rural Mount Tabor, near Hartselle, could have seen what he saw, done what he did, or be asked to run for the office that is but a heartbeat away from the presidency.

He graduated from Morgan County High School at Hartselle and from The University of Alabama. Sparkman was elected to the House of Representatives in 1936 and served there for a decade before being elected to the Senate where he served until he retired in 1979.

He was the Democratic nominee for vice president of the United States in 1952 as Adlai Stevenson's running mate when they lost to war hero Dwight Eisenhower and a young California senator, Richard Nixon. It was the only race he ever lost except when he ran the first time for president of the student body during college days at The University of Alabama.

Sparkman was known as Mr. Housing during his 12 years as chairman of the Banking, Housing and Urban Affairs Committee which he gave up in 1975 to become head of the Foreign Relations Committee.

While he ran as a moderate Southerner on the ticket with a liberal former Illinois governor, Sparkman was noted for getting along with people. He fought racial integration but maintained warm relationships with presidents and senators because they respected him. He was honorable and he was a gentleman.

When Sen. Edward Kennedy, D-Mass., came to Hartselle in 1979 for the dedication of the John Sparkman Civic Center he said "History will honor him for his wisdom as one of the principal architects of American foreign policy in the post-war world."

Sparkman's philosophy was to think of Alabama first and the nation second and then try to reconcile the two. "If I can reconcile them both, I have my answer," he once said.

North Alabama would not be what it is today if Sparkman had not held firmly to that philosophy. Huntsville would have remained a sleepy small town on the Tennessee River and the nation's rockets would have been developed elsewhere.

Perhaps it is trite to say that John Sparkman was from the old school of politics. Perhaps it is unfair to say that today's younger officeholders lack the charm, the rapport, the ability to deliver, the respect of their peers that John Sparkman possessed.

He was truly a remarkable man who would work just as hard for a struggling young businessman through the Small Business Administration as he would for one of his banker friends.

The Senator had no regrets about his career in Washington. He said there was "no place I'd follow a different course."

Not many of us can say that, even those of us who have had far fewer opportunities to travel a different course.

We are our own harshest critic. His was an immensely self-satisfying career, one in which he brought good to others. He had a good life and he knew it.

Mr. DICKINSON. Mr. Speaker, when Senator John Sparkman's funeral services were conducted 2 weeks ago, at Huntsville's First United Methodist Church, Alabama was bidding adieu to one of her most outstanding native sons.

Born on a farm near Hartselle, in Morgan County, John Sparkman lived a life that was distinguished with public honors.

He spent over 40 years serving Alabama, first as Congressman and then as a Senator.

As Congressman, John Sparkman served five terms from 1937 to 1947, and rose to become majority whip.

He was elected to the Senate in 1946 and served until the late 1970's when he had risen to become chairman of the Senate Foreign Relations Committee.

Many things can be said about John Sparkman, but most important to the people of Alabama were his efforts to improve rural housing, and attract industry.

Sparkman, for instance, almost singlehandedly brought Redstone Arsenal to Huntsville, and established Alabama as a center for advanced research.

Because of his efforts Marshall Space Flight Center also came to Alabama.

Sparkman's greatest contribution, however, occurred halfway through his congressional career in 1952.

It was then that Sparkman became the first Southerner since the War of Northern Aggression to become a viable candidate on a national major party ticket.

By running for national office, Sparkman helped to reestablish in the national mind, the integral part the South plays in our Nation, and the future Southern politicians could again have in American life.

In short, John Sparkman played a part on the national scene that all Alabama can be proud of.

Mr. ERDREICH. Mr. Speaker, Alabama and the entire Nation recently lost a good friend, an outstanding statesman, and a great American.

During his 42 years of service as Alabama representative in the House and Senate, John J. Sparkman proved to be a leader who served with wisdom and compassion. He was elected to the House in 1936, and served in the Senate from 1946 until 1979, representing the State of Alabama longer than anyone in the State before or since.

He was an influential force in fields of the banking and housing industries, leaving his indelible mark on legislation affecting both areas that is still apparent today. His many years of service earned him a position of seniority that enabled him to command the powerful post of chairman of the Senate Committee on Banking, Housing, and Urban Affairs from 1967 through 1974. He was known as an expert in the field of housing, and as a champion of housing development. Countless people throughout Alabama and the Nation have been able to purchase homes because of Senator Sparkman's tireless work to make decent, affordable housing available to all citizens.

Senator Sparkman served as chairman of the Senate Committee on Small Business, and was credited with doing more for developing tax and credit assistance for small businesses than any other Member of the U.S. Senate. In his last 5 years in the Senate he assumed the chairmanship of the prestigious Senate Foreign Relations Committee.

Born in 1899 to a family of 11 children on a tenant farm in Morgan County, AL, John Sparkman never forgot the common man, tirelessly working thoughout his 42 years in Washington to help bring a better standard of living for all Americans.

John J. Sparkman will always be remembered as one of Alabama's most distinguished and accomplished representatives. He felt strongly that government was created to fairly serve the interests of all, not just a few. His death is a loss to all Alabamians and the Nation.

Following are editorials that appeared in the Birmingham Post-Herald and the Birmingham News on John J. Sparkman's remarkable life and accomplishments:

[From the Birmingham Post-Herald, Nov. 19, 1985]

JOHN J. SPARKMAN

When he was at the height of his political power, Sen. John J. Sparkman, who died over the weekend at age 85, helped give Alabama one of the strongest one-two congressional punches ever seen in Washington.

Together with Sen. Lister Hill, Sparkman helped reshape this state through his ability to bring federal projects to Alabama. Huntsville's space industry is a direct result of his work. And although he wasn't one of the creators, the Tennessee Valley Authority prospered and grew because of his efforts. Birmingham's public housing program is still another result of his efforts.

But this son of a Morgan County tenant farmer did not limit himself to looking after the interests of his home state. He became a leading national figure in the areas of housing, banking and small business. Indeed, this country's policies in all three areas were primarily his creation for nearly three decades.

We have Sparkman to thank for the boom in home ownership that began following World War II, for rural electrification and many other programs that have improved our well being.

Sparkman was also active in foreign policy, serving on the Senate Committee on Foreign Relations from 1951 until his retirement in 1979 and as a delegate to the United Nations in 1950 and 1951. Although he did not become chairman of the foreign relations committee until 1975, when he was far past his political prime, his earlier contributions helped this country adjust to a role of global leadership.

Sparkman came out of a political tradition that was overshadowed—even rejected—during the Civil Rights era. He was a progressive, even a liberal, one of many that Alabama sent to Congress before the question of race came to dominate all political issues and southern politicians began calling themselves "conservative." He believed that government should help people do what they were not able to do for themselves.

Although he joined other southern politicians in opposing civil rights legislation—to do otherwise would have ended his public service—Sparkman was not a demagogue on the issue. This combined with his views on nonracial issues made him a logical nominee for vice president in 1952, during an era when Democrats tried for geographic balance.

It can be argued that the senator stayed in office longer than he should have. His effectiveness declined during the last several of his 42 years in Congress as age caught up with him.

But there should be no argument that in his prime Sparkman was one of the Senate's leading members. And that was in an era when Congress exercised much greater leadership in shaping government than it does at present.

John Sparkman served this state and nation well. He worked to make government serve the people. His legacy can be seen throughout our society.

[From the Birmingham News, Nov. 18, 1985]

SPARKMAN'S SERVICE

Former U.S. Sen. John Jackson Sparkman, one of the most influential politicians ever to come out of Alabama and a major architect of the nation's post-war housing program, has died. He was 86.

He served his state and nation well from the depths of the Great Depression through the upheaval of the Vietnam War. He was among the last survivors of a great generation of Alabama representatives in Washington that had included his longtime Senate colleague Lister Hill, Hill's successor Jim Allen, and several strong leaders in the House of Representatives.

Sparkman retired in 1978 after serving in Congress for 42 years. He had spent 32 of those years in the Senate, longer than any other Alabamian. The only political defeat of his illustrious career came in 1952, when he was the vice presidential nominee on the Democratic ticket headed by Adlai Stevenson.

While that nomination put Sparkman in the national limelight, his real influence came in the halls of Congress, where he was recognized as a champion of the small businessman, the Tennessee Valley Authority, Marshall Space Flight Center and, especially, as "Mr. Housing."

He served for many years as chairman of the Senate Banking, Housing and Urban Development Committee, a post he used to develop and promote legislation to encourage home building and home ownership.

He gave up that assignment in 1975 to become chairman of the more prestigious Senate Foreign Relations Committee, a fitting position for a senior statesman who, in addition to his 24 years on the committee, had served as a U.S. delegate to the United Nations and as one of the negotiators of the peace treaty with Japan.

Sparkman, born in a Morgan County log cabin, studied law at the University of Alabama, where he was elected president of the Student Government Association and edited the student newspaper. After practicing law in Huntsville, he was elected to the House in 1936.

Ten years later, he had been nominated for another House term when Sen. John Bankhead died. To keep the House seat from falling into Republican hands while he sought a place in the Senate, Sparkman ran for and was elected to both houses of Congress at the same time—a unique achievement in the annals of Alabama history.

As he approached retirement, Sparkman said he took satisfaction "in knowing that I have always done all that I could for Alabama and my country." He did a tremendous amount of good, and set a lofty standard for all who follow in his path of service.

Mr. BEVILL. Mr. Speaker, I rise today in tribute to a very outstanding statesman and a great American. Former U.S. Senator John Sparkman, who died in November, was one of the most powerful and influential Alabamians to ever serve our State. During his 42 years in Congress, John Sparkman used his political know-how to help develop Alabama. He was responsible for bringing Federal projects to the State such as the space industry in Huntsville. He looked after Alabama, but he served the Nation as well.

He was known in the Senate as Mr. Housing. I heard him say many times that everywhere he went in the United States, you could see public housing projects that he had a role in providing. He crafted the Nation's public housing legislation and had a hand in writing almost all of the modern banking regulatory laws. He helped develop tax and credit assistance for small businesses and pushed bills through Congress that provided funds for rural electrification projects. He was an early supporter of the Tennessee Valley Authority. John Sparkman left a legacy of fine service to Alabama and to our Nation. His accomplishments will remain with us always.

Personally, I will remember Senator Sparkman for his kindness to newcomers. When I first came to Congress, Senator Sparkman said. "Tom, if there is anything I can do to assist you, let me know." That meant a lot to me. A new Member needs help, and he helped me a lot.

Mr. CALLAHAN. Mr. Speaker, in the past 12 months, our State has mourned the loss of three dedicated, decent men who were favorite sons of Alabama. I am referring to the late Senator Lister Hill, of Montgomery, who passed away in mid-December 1984, the late Representative Armistead Selden, of Greensboro, who passed away in mid-November of this year, and most recently, the late Senator John Sparkman, of Hartselle, who passed away on Saturday, November 16, 1985.

All three of these men served their State and country well.

All three fought in the legislative trenches here in the Congress. Like the two of us, Mr. Speaker, all three of them experienced victory as well as defeat.

And all three of these patriots etched their names permanently into our history books for three very simple reasons. In their own unique and individual ways, all three men grew in stature with their constituents. This is because with each passing year, and certainly after every legislative accomplishment, these men became a bit wiser with experience, their determination to do what was right became stronger after witnessing what was wrong, and their courage to defend the basic American values and principles was strengthened because each fought for a cause that was greater than himself. Their lives were spent for the betterment of all mankind.

Today, I would like to pay a special tribute to Senator John Sparkman.

Upon his retirement in 1979, Senator Sparkman had devoted 42 years of his life to service here in the Congress. He was first elected to the House in 1936. Ten years later, in 1946, he became the only person ever to be elected to both Chambers simultaneously. Given the choice, he decided to serve his State in the U.S. Senate, where he was reelected to four more consecutive, 6-year terms.

John Sparkman left a distinguished mark on our State and on all of our people.

Of the nine Members of the Alabama congressional delegation, only three, Congressmen BEVILLE, DICKINSON, and FLIPPO served during Senator Sparkman's tenure in office. I note this for I believe it is sad that his service ended so recently, and yet so many of Alabama's present and future leaders will never have an opportunity to work directly with him.

Yet, Senator Sparkman's legacy will live on forever.

In his early years here in Washington, John Sparkman became known as an expert on housing. Having grown up on a tenant farm himself, he once said his pri-

mary goal in life was to help less fortunate people have greater opportunities so that they, too, could achieve in society.

Let it be said once again. Senator John Sparkman was both a noble and a decent man.

In 1952, he offered himself to a task loftier than many of us ever dream. That year, he was the nominee of his party for Vice President of the United States. Losing was not a familiar word in his vocabulary, and that election was his only defeat.

As is true of most great leaders, Senator Sparkman provided a link to our past yet led with a vision for our future. He came to the Senate filling the seat of the late Senator John H. Bankhead. We all know the many contributions the Bankhead family has made to this body and this country.

But as was so often the case, Senator Sparkman took advantage of the opportunities given him and with persistence and hard work, he began developing an agenda that proved to be ahead of his time. Mr. Speaker, much of the credit for the initial work for NASA research goes to Senator John Sparkman.

His accomplishments numbered many. My purpose today is not to try to list them all.

Let me close by simply saying that today, so many of us are busy looking for new heroes to replace those men and women who have been taken from our presence. As in the case of Alabama's Senator John Sparkman, let us not try to compare one record with another or one accomplishment to many. We have lost a man who indeed gave so much for his fellow man. His loss of life is our loss of a friend and leader.

On behalf of the people of south Alabama, let me add my sincerest sympathy to his widow, Ivo Hall Sparkman, his daughter, Julia Ann Shepard, and his grandson Tazewell T. Shepard III.

God bless each of you during this time of loss.

Mr. SHELBY. Mr. Speaker, it is with both great sadness and a deep sense of honor that I rise to pay tribute to former U.S. Senator John Jackson Sparkman, a dominant figure on the national political landscape; a leading statesman of my home State of Alabama who served its people as an elected officer for 42 years; and a man who was esteemed, admired, and respected by all who knew him.

Today, we celebrate his life and his service. It is important to remind ourselves of the nature of this man and of the magnitude of his accomplishments, and to record them for those who did not know Senator Sparkman, that they might understand how he came to a place of such high standing in his colleagues' and his countrymen's eyes.

Born in 1899 near Hartselle, AL, as one of 11 children, Senator Sparkman's life personified the glory and unlimited opportunity of the American experience. A man who worked to put himself through school, he rose purely on the merits of his own intelligence, diligence, and caring. In 1917, using the proceeds from the sale of a cotton crop he had grown, he enrolled in the University of Alabama. He thrived on challenges and learning, evident by his bachelors, masters and law degrees at the university.

After practicing law and teaching college for several years, he was elected to the U.S. House of Representatives in 1936. During his five terms in the House, he served on the Military Affairs Committee. In his last term as a Member of this body, he served in the leadership position of majority whip.

In 1946 he was elected to fill the unexpired term of Senator John Bankhead and was returned to the House in the same vote. He resigned his House seat becoming the only man in history to be elected to the House and Senate concurrently.

The only political defeat of his illustrious career came in 1952 when he was the Vice Presidential nominee on the Democratic ticket headed by Adlai Stevenson.

While that nomination put Sparkman in the national limelight, his real influence came in the Halls of Congress where he was recognized as a champion of the small businessman, the Tennessee Valley Authority, Marshall Space Flight Center and especially as "Mr. Housing."

Senator Sparkman served for many years as chairman of the Senate Banking, Housing, and Urban Development Committee, a post he used to develop and promote legislation to encourage home building and homeownership. He gave up that assignment in 1975 to become chairman of the prestigious Senate Foreign Relations Committee, a fitting position for a senior statesman who in addition to his 24 years on the committee, had served as a U.S. delegate to the United Nations and as one of the negotiators of the peace treaty with Japan.

Senator Sparkman's public record is well documented. He has permanent living memorials across the Nation and throughout Alabama. Senator Sparkman was in all things a man of the people. Although he spent a lifetime in our Nation's Capital, he did so without ever leaving the countryside of Alabama. He knew, and was known, in every town and county.

As he approached retirement, which occurred in 1978, Senator Sparkman said he took satisfaction "in knowing that I have always done all that I could for Alabama any my country." When a Member of Congress leaves this body, he leaves behind a legacy of his contributions to his country, to his fellow Americans, to his State, and in many cases, to mankind throughout the world.

Alabamians lost a true patriot with the death of former Senator John Sparkman. We will always remember him with great fondness and gratitude for his service to the people of Alabama. I know his memory and the fruits of his work will continue to live on.

Senator Sparkman is survived by his wife, the former Ivo Hall; a daughter, Mrs. Tazewell T. Shepard II, of Washington, DC; and a grandson, Tazewell T. Shepard III of Huntsville. My warmest and deepest sympathy is certainly extended to these family members.

Senator John Sparkman's life should serve as a memorial to him for all time in the State of Alabama, for he truly devoted it to serving the people and profession that he loved.

Mr. NICHOLS. Mr. Speaker, I appreciate our colleague Mr. FLIPPO arranging for this special order, so that Members might have an opportunity to respond to the passing of a great American—my friend, and longtime Senator from the State of Alabama, Hon. John J. Sparkman.

John Sparkman was indeed a giant in so many fields of endeavor. In the years that he served in the House of Representatives, and later in the U.S. Senate, he was a champion that all the Democratic Party stands for, and was named as our Vice Presidential candidate in the convention of 1954. He stood for everything good in behalf of the people of this country—in the fields of public housing, education, and agriculture, as well as, foreign affairs.

It was my pleasure to serve with him as a member of the Alabama delegation for many years, and he was especially attentive for programs serving the great Tennessee Valley area embracing his home in Huntsville. AL.

On a more personal aspect, Mr. Speaker, in all probability, I stand in the well of this House truly because of the support the then Alabama Congressman provided during some difficult days in World War II. Following combat injuries suffered in Germany, my parents in Alabama had been advised by mutual friends that knew of my condition that I needed to be evacuated back to the States, and a few years ago in going through my mother's old papers I ran across the following telegram, "I am pleased to advise that your son, 1st Lt. William F. Nichols, has today been air evacuated from 45th Station Hospital England to Mitchell Air Force Base Hospital in New York. Our office was pleased to have contacted the surgeon general U.S. Army on his behalf. Congressman John Sparkman." So I know you can understand the devotion and appreciation which I hold for our late friend John Sparkman.

As I attended the services in Huntsville, my thoughts went back to the many contributions that John Sparkman made to the economic well-being of Alabama and the Nation. I thought of all the many phone calls and letters he made during his service in more than 42 years of public life. I would like to extend my deepest sympathy to his devoted wife, Ivo, to his daughter, Julia Ann Shepard, and to other immediate members of the family.

TARIFF ON HOT PEPPER MASH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS], is recognized for 10 minutes.

Mrs. BOGGS. Mr. Speaker, I am introducing legislation to provide for permanent duty-free entry of certain mixtures of hot red peppers and salt. This special pepper mash is used in the manufacture of one of

Louisiana's most famous pepper sauces, Tabasco.

Tabasco is a sauce made from the juices of ripe red peppers that is then processed, blended and aged for 3 years. This process has been the secret of the McIlhenny family of Avery Island, LA, for over 100 years. Their product is known worldwide and is used to enhance the flavor of a wide variety of food and even beverages. I am told that the one American condiment you will find in the kitchens of the great chefs of Europe is our own Tabasco.

The McIlhenny Co. imports the pepper mash used in this process from Central and South America. Generally, this mash is duty free under the terms of the Generalized System of Preferences. The McIlhennys do have a pepper growing operation in Mexico, but pepper raised there is subject to duty.

Narrow, temporary suspensions of the duty on pepper mash from Mexico were approved by Congress in 1978 and 1982. The most recent suspension expired on June 30, 1985. The temporary suspension of duty has been in effect for over 7 years and, to my knowledge, there has been no adverse effect on any domestic production.

Because of this situation I see no reason why the temporary suspension of duty should not be made permanent. That is what this bill does. Similar legislation, S. 1883, has been introduced in the Senate by my colleague form Louisiana, RUSSELL LONG.

I included the text of H.R. 3867 to be printed in the RECORD.

H.R. 3867

A bill to provide permanent duty-free entry for certain mixtures of hot red peppers and salt

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MIXTURES OF HOT RED PEPPERS AND SALT.

(a) IN GENERAL.—Subpart C of part 8 of schedule 1 of the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item with the article description having the same indentation as "Water chestnuts" in item 141.70:

"141.72	Mixtures of mashed or macerated hot red peppers and salt	Free	35% ad val.".

(b) TEMPORARY SUSPENSION REPEALED.—Item 903.60 of the Appendix to the Tariff Schedules of the United States is repealed.

SEC. 2. EFFECTIVE DATE; REFUNDS.

(a) EFFECTIVE DATE.—The amendment and repeal made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(b) ENTRIES MADE BEFORE EFFECTIVE DATE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the date that is 90 days after the date of enactment of this Act, the entry, or withdrawal from warehouse, for consumption of any article described in item 141.72 of the Tariff Schedules of the United States, as amended by this Act—

(1) which was made on or after July 1, 1985, and before the date that is 15 days after the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendments made by this Act applied to such entry,

shall be liquidated or reliquidated as though such entry or withdrawal had been made on the date that is 15 days after the date of enactment of this Act.

HOLDING THE HOUSE POSITION ON ASAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, a number of Members of the House are deeply concerned about the arms control process the possibility of obtaining a drastic cut in nuclear weapons on both sides that would maintain some degree of equivalent security, which the President has said he is committed to, and the need to stop the arms race from expanding into space, with the tremendous prospective costs such as expansion would represent.

While the space defense initiative has sometimes been the focus of debate between the supporters of arms control and those opposed to it, I believe this focus to be inappropriate. There is nothing in the SDI Program per se which reasonable Members should find fault with, other than normal questions of research priorities and level of funding. A vigorous R&D program in ballistic missile defense is necessary and desirable for many reasons, not the least of which is that the Soviets have such a program themselves.

The problems with SDI have come about largely from the overly exuberant claims of some of its supporters, including the President, about what it might achieve in terms of protection of the American people from the Soviet nuclear threat. In addition, some of these same supporters, acting as if all of their fondest dreams would be substantiated by the research when it is completed, have already postulated the deployment of some yet-undesigned system. The fact is that those responsible for the program cannot promise, nor do they try to, that a system can be designed that will increase the Nation's security. They do feel that we have an obligation to find out if such a system is possible, a position with which I agree.

Those of us who support arms control as a legitimate avenue to achieve national and global security, should not be hesitant to support R&D on new defense systems, but we should scrutinize far more carefully the decisions to deploy new defense systems, particularly when those systems are of dubious military value and have enormous destabilizing consequences on the security relations of the superpowers.

The proposed miniature homing vehicle antisatellite weapon is just such a case.

It has absolutely no deterrent value, as its supporters sometimes claim, because of the far greater reliance which the United States places on its space assets. If the Soviets had a workable system, which they don't, and decided to attack our space assets, they would know that a response on our part to attack their space satellites would leave them relatively better off than the United States, and they would not be deterred.

It is not clear to me, or anyone else to my knowledge, as to what the U.S. doctrine with regard to use of an Asat would be. The Joint Chiefs, in establishing requirements for the weapon nearly a decade ago, listed all Soviet satellites as potential targets, a mission the MHV cannot accomplish. In the event that it could, the larger question is whether it should. It is extremely questionable to me as to whether we would gain a security benefit from disabling Soviet satellite systems used for C^3I when we may want to use that system to communicate and negotiate with the Soviets in a post-nuclear exchange environment. And as to the use of our Asat to interdict Soviet ocean observing radar satellites [EORSAT's], there are effective countermeasures which can be used to protect our fleet assets at far less expense.

In the light of these facts, I have sought for other reasons which might, in the minds of its supporters, justify the overwhelming efforts being made to move the MHV Asat through the testing process to deployment. I have come to the conclusion that these reasons are fundamentally to accomplish an end run around the ABM Treaty with the Soviets. ABM systems are barred, whether Earth- or space-based, including the development and testing of such systems. All Earth- and space-based ABM technologies, such as those currently under research in the SDI Program, will be extremely effective as Asat technologies, even if they are not fully adequate to the ABM mission. As Asat technologies, they can be legally developed and tested. If we have a first-generation system deployed—actually the MHV is at least a third-generation system—we are then justified, as with any other military weapon system, in seeking to expand and perfect it with the fruits of new research, in this case the new SDI lethal technologies of x-ray laser, other lasers, kinetic energy weapons systems, particle beam systems, et cetera.

At the present time we are at a crossroads in our military relationships with the Soviets. We have spent 5 years in an intensive military buildup aimed at rectifying what some perceived as an imbalance with the Soviets. On both sides, there are major benefits perceived from ending this military competition on terms which preserve equivalent security. It appears to most observers that an agreement might be reached for a major reduction in nuclear weapons—50 percent or more—if it is coupled with an updated ABM treaty which would forestall a weapons race in space, and a recognition of the legitimacy of the SDI as a research program.

Supporters of arms control would view such a development with great enthusiasm.

The President has laid the groundwork at the November summit. The negotiators in Geneva continue to explore the realities of such an agreement. The President is committed to two additional summits which could provide the setting for further agreement. The world would welcome his success, and his place in history would be assured.

On the other hand, the evil empire true believers, who perceive all arms-control efforts as the work of the devil, are eager to exorcise any possibility of such an outcome. Prompt deployment of the Asat would provide them with a well-crafted tool to sabotage any possibility of agreement on arms control in space, a made-to-order vehicle to achieve the development and testing of otherwise prohibited embryonic ABM systems, and the sabotage of any possible agreement on reduction of nuclear missiles on Earth.

Perhaps I have presented the politics of the Asat in too apocalyptic terms. I do not believe this is the case. But I have made this effort to encourage much more analysis by my colleagues on the issues before us. The question of continuing with our own Asat testing and deployment is at issue in conference with the Senate on the continuing resolution. We can continue to test or we can, as the House has voted on three occasions, have a moratorium on testing as long as the Soviets observe such a moratorium. A large majority of the House obviously favors this latter course. I urge my colleagues who will represent the House position in conference to hold firm. History will look favorably upon them.

CONFERENCE REPORT ON H.R. 3067

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 3067) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1986, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-419)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3067) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1986, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 12, 16, and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 7, 8, 13, 18, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *"$548,866,000"*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

"Delete the matter stricken by said amendment and delete the matter inserted by said amendment".

And the Senate agree to the same.

The Committee of Conference report in disagreement amendments numbered 2, 3, 4, 9, 10, 11, 14, 15, 19, 21, and 22.

JULIAN C. DIXON,
WILLIAM H. NATCHER
(except amendment No. 14),
LOUIS STOKES,
CHARLES WILSON,
MARTIN OLAV SABO,
STENY HOYER,
JAMIE L. WHITTEN
(except amendment No. 14),
LAWRENCE COUGHLIN,
BILL GREEN,
FRANK R. WOLF,
(except amendments No. 14 and 15),
SILVIO O. CONTE,
Managers on the Part of the House.

ARLEN SPECTER,
MACK MATTINGLY,
PETE V. DOMENICI,
MARK O. HATFIELD,
FRANK R. LAUTENBERG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3067) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1986, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Amendment No. 1: Deletes "Title I" and "Fiscal Year 1986" headings proposed by the Senate. These headings are no longer required. The bill as passed the Senate included appropriations for fiscal year 1986 under Title I and supplemental appropriations for fiscal year 1985 under Title II. The "Title II" heading (Amendment No. 22) has been deleted since the supplemental items in that title were included in the Supplemental Appropriations Act for 1985 (H.R. 2577) which was approved August 15, 1985 as Public Law 99-88.

CRIMINAL JUSTICE INITIATIVE

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

CRIMINAL JUSTICE INITIATIVE

For a Federal contribution to the District of Columbia, $14,010,000, of which $10,000,000 shall be for the design and construction of a prison facility within the District of Columbia and shall remain available until expended, together with $20,000,000 which shall become available on October 1, 1986, and shall remain available until expended: Provided, That the $30,000,000 for the prison project shall not be available and shall not be obligated until the Subcomittees on District of Columbia Appropriations of the House and Senate have approved a plan submitted by the Mayor and City Council which includes the design, size, security level, cost and location of the proposed prison: Provided further, That funds for fiscal year 1986 shall be available for planning and designing the prison project: Provided further, That funds for fiscal year 1986 shall be available to meet emergency needs related to the Department of Corrections as certified by the Mayor to the House and Senate Subcommittees on Distrtict of Columbia Appropriations: Provided further, That the $30,000,000 for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations become due and payable.

STUDENT DROPOUT PREVENTION INITIATIVE

For a Federal contribution to the District of Columbia, $150,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CRIMINAL JUSTICE INITIATIVE

The conference action appropriates Federal funds of $14,010,000 instead of $17,200,000 as proposed by the Senate. The conference action also appropriates $20,000,000 for fiscal year 1987 as proposed by the Senate and inserts language requiring that none of the $30,000,000 for construction of a prison facility within the District of Columbia shall be obligated until the House and Senate Subcommittees on District of Columbia Appropriations have approved a plan submitted by the Mayor and city council setting forth the size, security level, location, design, and total construction costs of the prison facility along with adequate justifications. The language agreed to by the conferees also provides that the $30,000,000 for prison construction is to remain in the United States Treasury and be transferred to the District government only to the extent that outstanding obligations become due and payable.

The conferees agree that the $10,000,000 for fiscal year 1986 is available for planning and design work for the prison project and for emergency needs related to the Department of Corrections as certified by the Mayor to the House and Senate Subcommittees on Appropriations. The conferees further agree that all emergency drawdowns by the District government be reimbursed to the prison project so that $30,000,000 will be available for the design and construction of a prison facility within the District of Columbia.

The conferees are agreed that the need for prison capacity in the District is acute and that it is critically important to public safety for this prison project to move ahead without delay.

The conference action provides $3,350,000 in Federal funds to the vocation and education programs of the Department of Corrections instead of $6,700,000 proposed by the Senate. The conference action also provides $10,000 for the National Guard for partial scholarship assistance for officers to meet minimum educational requirements of an undergraduate degree.

The reduction of $3,350,000 below the Senate allowance for the vocation and education programs of the Department of Corrections is being made because the conferees have learned that programs at Youth Center I and Occoquan III have been delayed waiting for renovation work which will expand the electrical capacity of these facilities to accommodate necessary equipment. The conferees direct that this work be undertaken and completed without further delay.

In addition the conferees are concerned about the delay in the planned transfer back to the various facility administrators of the day-to-day administrative control of the programs in their institutions. The conferees believe that this can be accomplished well before the planned September 30, 1986 implementation date and expect to receive a memorandum by December 30, 1985 on the status of this plan and other matters related to the programs.

The decrease in funds should have no effect on planned program operations as the budget estimate was based on having all programs and staff in place during the full year and this reduction accounts for delays in that implementation. If it can be shown that additional funds are required to operate these programs during the year the Committees could consider a supplemental request.

STUDENT DROPOUT PREVENTION INITIATIVE

The conference action appropriates Federal funds of $150,000 for a student dropout prevention initiative targeted at junior high school students. These funds will allow the Board of Education and the Superintendent of Public Schools to develop an early intervention program to reudce the 16.9 percent student dropout rate. This pilot program will identify junior high school students to participate in highly motivational programs and will carefully monitor their progress through graduation.

JOB TRAINING INITIATIVE

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $500,000 as a Federal contribution to the District of Columbia to design and implement and innovative job training program aimed primarily at teenage dropouts and long-term welfare recipients.

COURT STUDY

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $100,000 as a Federal contribution to the District of Columbia for a study of ways to expedite court dispositions. A discussion of the need for this study is included under Amendment No. 6, "D.C. Court System".

ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 5: Appropriates $100,035,000 as proposed by the Senate, instead of $99,525,000 as proposed by the House. The conference action provides a total of $9,313,000 for the Office of Business and Economic Development as proposed by the Senate instead of $9,303,000 as proposed by the House. The conference action also provides $500,000 as proposed by the Senate for a "job training initiative" to design and implement an innovative job training program funded with Federal funds under Amendment No. 3. The conferees are agreed that this program, which is aimed at the hard-core unemployable, particularly teenage dropouts and long-term welfare recipients, will be administered by a group such as the District of Columbia Private Industry Council in order to maximize private involvement. It is anticipated that 150 to 200 clients will be served in the first year.

PUBLIC SAFETY AND JUSTICE

Amendment No. 6: Appropriates $548,866,000 instead of $535,416,000 as proposed by the House and $552,106,000 as proposed by the Senate.

DC COURT SYSTEM

The conference action provides $15,537,000 instead of $15,437,000 as proposed by the House. The increase of $100,000 above the House allowance is from Federal funds in Amendment No. 4 and will be used for a study of ways to reduce delays in the city's Superior Court and Court of Appeals. Felonies in the Superior Court are taking 294 days from arrest to sentencing as compared to the Court's standard of 80 days. The average time for disposition of cases in the Court of Appeals has risen to 544 days as compared with the American Bar Association's standards of 130 to 190 days for criminal cases and 150 to 210 days for civil cases.

The conferees expect the study to look at judicial and staff resources as well as salary structure in both courts. An integrated criminal justice information system, individual judge calendars and expanded court hours and probation services will be among other areas studied in the Superior Court. In the Court of Appeals, various approaches to handling current and future workload will be explored. The conferees also expect recommendations in court-related areas such as the U.S. Attorney's Office and the Public Defender Service.

The conferees believe it is imperative that the future of both the trial and appellate courts be addressed simultaneously. The conferees expect a report on the study, its recommendations and progress toward implementing these recommendations by June 30, 1986.

DEPARTMENT OF CORRECTIONS

The conference action provides $137,952,000 instead of $124,602,000 as proposed by the House and $141,302,000 as proposed by the Senate. The increase of $13,350,000 above the House allowance is provided from Federal funds in Amendment No. 2 and includes (1) $3,350,000 to continue the vocational and basic education programs for inmates which were started in fiscal year 1984, and (2) $10,000,000 for the design and construction of a new prison facility on Federal property within the District of Columbia. An additional $20,000,000 in Federal funds under Amendment No. 2 to complete construction of the prison will be requested as part of the District's fiscal year 1987 budget. The conferees are agreed that the need for prison capacity in the District is acute and that it is critically important to public safety for this project to move ahead without delay. However, given that Federal funds and Federal land will be used for this facility, a responsible plan should be developed. Accordingly, no funds may be obligated by the District government until the House and Senate Subcommittees on District of Columbia Appropriations have reviewed and approved a report from the District of Columbia government setting forth the size, security level, location, design and total construction costs of the prison facility along with adequate justifications. As noted under Amendment No. 2 of this joint explanatory statement none of the $30,000,000 in Federal funds for the new prison are to be transferred from the United States Treasury to the District government until the Subcommittees on District of Columbia Appropriations of the House and Senate have approved the report.

The conferees agree that the $10,000,000 for fiscal year 1986 is available for planning and design work for the prison project and for emergency needs related to the Department of Corrections as certified by the Mayor to the House and Senate Subcommittees on District of Columbia Appropriations. The conferees further agree that all emergency drawdowns by the District government be reimbursed to the prison project so that $30,000,000 will be available for the design and construction of a prison facility within the District of Columbia.

NATIONAL GUARD

The conference action provides $710,000 as proposed by the House instead of $700,000 as proposed by the Senate. The increase of $10,000 above the Senate allowance will provide partial scholarship assistance for officers to meet minimum educational requirements of an undergraduate degree.

FIRE ENGINE COMPANY NO. 3

The conferees are concerned about fire protection in Ward 2 of the city and plans by District officials to close Engine Company No. 3 at 439 New jersey Avenue, N. W. and move the fire fighters and equipment to a new station house on Atlantic Avenue, S.E. The conferees direct that Engine Company No. 3 remain open at its present location. Should District officials continue to feel there is a need to close the station, evidence supporting that action is to be submitted to the House and Senate Subcommittees on District of Columbia Appropriations for further consideration at least 90 days prior to the District taking any action to close the facility. The conferees agree that Engine Company No. 3 is to remain open at its present location unless the District's proposal is approved by the Subcommittees.

Amendment No. 7: Provides that not to exceed $500,000 shall be available for use by the Chief of Police for the prevention and detection of crime as proposed by the Senate instead of $320,000 as proposed by the House.

Amendment No. 8: Extends the authorization for hearing commissioners in the Superior Court of the District of Columbia for two years (until September 30, 1987) as proposed by the Senate instead of one year as proposed by the House.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That not to exceed $50,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, for expenses incurred by the County during fiscal year 1986 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the County provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose*

of reimbursements made to the County, and the amount of the authorization remaining for such reimbursements.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment agreed to by the conferees earmarks not to exceed $50,000 to reimburse Fairfax County, Virginia for the costs of police, fire, and other emergency services at the District's Lorton prison complex. The conference action also requires that quarterly reports be made to both the House and Senate Subcommittees on District of Columbia Appropriations instead of only to the Senate Subcommittee on District of Columbia Appropriations as proposed by the Senate.

PUBLIC EDUCATION SYSTEM

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$515,655,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase of $150,000 above the Senate allowance will allow the Board of Education and Superintendent of Public Schools to develop an early intervention program to reduce the 16.9 percent student dropout rate in the public school system. This pilot program will identify junior high school students to participate in highly motivational programs and will carefully monitor their progress through graduation.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$360,150,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allocates $360,150,000 for the public schools of the District of Columbia instead of $359,500,000 as proposed by the House and $360,000,000 as proposed by the Senate. The increase of $150,000 above the Senate allowance will provide the school system with funds necessary to develop a pilot program discussed under Amendment No. 10 to reduce the 16.9 percent student dropout rate.

REPAYMENT OF GENERAL FUND DEFICIT

Amendment No. 12: Appropriates $20,000,000 as proposed by the House instead of $5,000,000 as proposed by the Senate and restores language proposed by the House and stricken by the Senate requiring that not less than $15,000,000 of the $20,000,000 appropriation is to be funded and apportioned by the Major from appropriations or revenues otherwise available to the District government.

GENERAL PROVISIONS

Amendment No. 13: Provides an employment ceiling of 32,511 as proposed by the Senate instead of 32,082 as proposed by the House. The increase of 429 positions above the House allowance relates solely to the vocation and basic education programs for prison inmates and consists of 396 positions for the Department of Corrections and 33 positions for the public school system.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the use of Federal funds for abortions except to save the life of the mother of such medical procedures necessary for the victims of rape or incest which has been reported promptly to a law enforcement agency or public health service. The Senate amendment agreed to by the conferees also allows use of Federal funds for drugs and devices necessary to prevent implantation of the fertilized ovum and medical procedures necessary for the termination of an ectopic pregnancy. The House language prohibited the use of both local and Federal funds for abortions. The Senate amendment is identical to language that has been carried in District of Columbia Appropriations Acts annually since fiscal year 1980.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Sec. 131. (a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may impose a personal property tax with respect to any motor vehicle owned by such Member (or by the spouse of such Member) unless such Member represents such State or a district in such State.

(b) For purposes of this section—

(1) the term "Member of Congress" includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico;

(2) the term "State" includes the District of Columbia; and

(3) the term "personal property tax" means any tax imposed on an annual basis and levied on, with respect to, or measured by, the market value or assessed value of an item of personal property.

(c) This section shall apply to all taxable periods beginning on or after January 1, 1985.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action exempts Members of Congress from personal property taxes on motor vehicles. This exemption applies only to Members who live in a State solely for the purpose of attending sessions of Congress; it does not apply to Members who represent that State or district. Language in the House bill exempted one vehicle used for purposes of attending sessions of Congress. The conferees are agreed that Members of Congress pay some form of tax when they register their motor vehicles in their home States, and to be subject to a tax by a jurisdiction where they are residing solely for the purpose of attending sessions of Congress results in double taxation of the Members. For example, in some States, the annual fee to register a motor vehicle is based on the value of the vehicle. Therefore, a personal property tax imposed by another State or jurisdiction requires the Member to pay an ad valorem tax on the same vehicle twice.

This exemption is similar to the income tax exemption for Members which was provided under Public Law 95-67, approved July 19, 1977, which was held constitutional in *United States* v. *State of Maryland*, 488 F. Supp. 347 (D.Md.1980). That decision relied in substantial measure on the Supreme Court's decision in *Dameron* v. *Brodhead*, 345 U.S. 322 (1953), where the Court upheld the power of Congress to prohibit application of a Colorado personal property tax to a member of the United States Air Force and Louisiana domiciliary who was stationed at Lowry Air Force Base in Colorado.

Amendment No. 16: Restores section number proposed by the House and changed by the Senate.

Amendment No. 17: Deletes language proposed by the House and stricken by the Senate and deletes language proposed by the Senate. The language in both instances concerns contracting practices of the District government.

It is the hope and intention of the conferees that contracting by the District government can be fairly and honestly operated under District of Columbia law, consistent with the philosophy embodied in Home Rule.

On November 25, 1985, the Council of the District of Columbia passed a bill (Bill 6-191) which is intended to address concerns which have been raised about the city's contracting practices. The conferees believe that the Council's bill is not sufficiently specific on the following two points: (1) maintenance of a public record of bids which are not awarded competitively; and (2) inclusion of contract extension and renewals in the definition of contracts.

It is the conferees' goal, and we believe the goal of the Mayor and the Council, to increase competition in contracting by the District of Columbia government. Therefore, it is the conferees' intent that (1) the District of Columbia government retain records in each and every instance were contracts are bid non-competitively; and (2) the definition of "contracts" for purposes of determining and requiring competition, include extensions and renewals.

The conferees direct the District of Columbia government to comply with these requirements. The conferees intend to monitor the city's compliance with these two directives.

Amendment No. 18: Requires the Mayor to submit to the Council within 60 days after the beginning of fiscal year 1986 an official revised revenue estimate for use in the fiscal year 1987 budget request.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 134. None of the funds appropriated under this Act may be used to advertise for or award, retain or otherwise obligate payment for contracted professional services as contained in object class 408 of the fiscal year 1986 operating budget for District of Columbia agencies at any level which would directly or indirectly exceed the level of expenditure or obligation for such services for fiscal year 1985, or the sum of twenty-one-million, seven hundred-eighty thousand dollars ($21,780,000), whichever is lesser.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are concerned with what seems to be very loose controls over consultant services and urge the Mayor to review the District's procedures so that city officials will have better information as to how the District is using consultants and what their costs are.

The conferees expect District officials to provide a complete report during consideration of the fiscal year 1987 budget on the full extent of contracting by the District government. The report is to include information on the level and purpose of contracts for personal services and professional services.

Amendment No. 20: Deletes language proposed by the Senate. The conferees agree that the position of the House on this issue is reflected in House Report No. 99-223 and the Senate position is reflected in the bill as passed by the Senate on November 7, 1985.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 135. (a) There are authorized to be expended from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both) such sums as may be necessary to finance the District's participation in a student loan revenue bond program. Sums authorized to be expended by this section shall remain available without limitation as to fiscal year until such student loan revenue bonds have been paid or payments have been provided for.

(b) Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-246) is amended by striking out "sold before October 1, 1985" and inserting in lieu thereof "sold before October 1, 1986".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action authorizes the expenditure of District funds to guarantee the District government's participation in a student loan revenue bond program as proposed by the Senate, and extends for one year the District's authority to sell its general obligation bonds through negotiated sales.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 136. (a) WAIVER.—Section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to certain acts of the District of Columbia described in subsection (c) authorizing the issuance, sale, and delivery of revenue bonds.

(b) EFFECTIVE DATE OF ACTS.—Notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision in any District of Columbia act described in subsection (c), the District of Columbia acts described in subsection (c) shall take effect on the date of enactment of this Act.

(c) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING THE ISSUANCE OF REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to in subsections (a) and (b) are as follows:

(1) The Georgetown University Higher Education Facilities Revenue Bond Act of 1985, District of Columbia act 6-101, transmitted to the Speaker of the House and the President of the Senate November 7, 1985.

(2) The Sibley Memorial Hospital Revenue Bond Act of 1985, District of Columbia act 6-94, transmitted to the Speaker of the House and the President of the Senate October 23, 1985.

(3) The Forrest Marbury House Project Revenue Bond Act of 1985, District of Columbia bill 6-316, referred to the Committee on Finance and Revenue of the District of Columbia Council on November 15, 1985.

(4) The American University Revenue Bond Act of 1985 (Series A), District of Columbia bill 6-324, referred to the Committee on Finance and Revenue of the District of Columbia Council on November 15, 1985.

(5) The George Washington University Revenue Bond Act of 1985 (Series A), District of Columbia bill 6-344, referred to the Committee on Finance and Revenue of the District of Columbia Council on November 27, 1985.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes supplemental appropriations for fiscal year 1985 proposed by the Senate and inserts language waiving the 30-day congressional review period required by section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, approved December 24, 1973, as amended) for five acts approved through December 31, 1985, by the District government authorizing the issuance of revenue bonds. This waiver is necessary because major changes are anticipated in the United States Internal Revenue Code requiring different tax treatment of municipal bond issues beginning January 1, 1986. On October 25, 1985, the House Ways and Means Committee marked up a bill with such a feature. Legislation approved by the District government must be transmitted to Congress for a review period of 30 legislative days before the legislation can go into effect. Several District government bond acts now pending will not clear the 30-day review period prior to the December 31, 1985 date fixed by the House Ways and Means Committee for implementation of the Internal Revenue Code changes.

The conferees expect the District government to assist the institutions involved in the issuance of these bonds consistent with the provisions governing the issuance of non-profit tax exempt bonds as embodied in Public Law 93-198 so that the bonds may be issued at the earliest possible date.

The conferees wish to emphasize that this waiver is for a limited purpose and is aimed solely at insuring that the December 31, 1985 trigger date for tax reform purposes currently before the Congress does not place undue burdens and impediments on the District and the institutions involved due to the 30-day legislative review period which typically converts to approximately 90 calendar days.

The language agreed to by the conferees is similar to that in H.R. 3718 which passed the House on November 19, 1985.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1986 recommended by the Committee of Conference, with comparisons to the fiscal year 1985 amount, the 1986 budget estimates, and the House and Senate bills for 1986 follow:

Federal Funds

New budget (obligational) authority, fiscal year 1985	$547,523,000
Budget estimates of new (obligational) authority, fiscal year 1986	532,170,000
House bill, fiscal year 1986	532,170,000
Senate bill, fiscal year 1986	549,970,000
Conference agreement, fiscal year 1986	546,780,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1985	−743,000
Budget estimate of new (obligational) authority, fiscal year 1986	+14,610,000
House bill, fiscal year 1986	+14,610,000
Senate bill, fiscal year 1986	−3,190,000

District of Columbia Funds

New budget (obligational) authority, fiscal year 1985	*$2,443,000,000*
Budget estimate of new (obligational) authority, fiscal year 1986	*2,689,077,000*
House bill, fiscal year 1986	*2,689,077,000*
Senate bill, fiscal year 1986	*2,706,777,000*
Conference agreement, fiscal year 1986	*2,703,687,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1985	*+260,687,000*
Budget estimates of new (obligational) authority, fiscal year 1986	*+14,610,000*
House bill, fiscal year 1986	*+14,610,000*
Senate bill, fiscal year 1986	*−3,090,000*

JULIAN C. DIXON,
WILLIAM H. NATCHER
(except amendment No. 14),
LOUIS STOKES,
CHARLES WILSON,
MARTIN OLAV SABO,
STENY HOYER,
JAMIE L. WHITTEN
(except amendment No. 14),
LAWRENCE COUGHLIN,
BILL GREEN,
FRANK R. WOLF
(except amendments No. 14 and 15),
SILVIO O. CONTE,
Managers on the Part of the House.

ARLEN SPECTER,
MACK MATTINGLY,
PETE V. DOMENICI,
MARK O. HATFIELD,
FRANK R. LAUTENBERG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ORTIZ (at the request of Mr. WRIGHT), for December 5 and 6, on account of radiation therapy for skin cancer on his nose.

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BOEHLERT) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN, for 5 minutes, on December 5.

(The following Members (at the request of Mr. TAUZIN) to revise and extend their remarks and include extraneous material:)

Mr. ST GERMAIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mrs. BOGGS, for 10 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. PEASE, for 60 minutes, on December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. ROUKEMA, in that portion of debate from Energy and Commerce Committee, to the Superfund bill, in the Committee of the Whole, today.

Mr. HILER, prior to the vote on the Howard amendments considered en bloc at the beginning of the debate on H.R. 2817, in the Committee of the Whole, today.

Mr. SMITH of New Hampshire, regarding the Howard amendments considered en bloc, immediately preceding the vote on the Howard amendment to H.R. 2817, in the Committee of the Whole today.

(The following Members (at the request of Mr. BOEHLERT) and to include extraneous matter:)

Mr. BADHAM in two instances.
Mr. RINALDO.
Mr. DICKINSON.
Mr. BROOMFIELD.
Mr. JEFFORDS.
Mr. COURTER in two instances.
Mr. KEMP in three instances.
Mr. DANNEMEYER.
Mr. O'BRIEN.
Mr. GINGRICH.
Mr. MCMILLAN.
Mr. CHANDLER.
Mr. GEKAS.
Mr. GILMAN in two instances.
Mr. LIGHTFOOT.
Mr. LENT.
Mrs. ROUKEMA.
Mr. DORNAN of California.
Mr. TAUKE.
Mr. LAGOMARSINO.
Mr. LATTA.

(The following Members (at the request of Mr. TAUZIN) and to include extraneous matter:)

Mr. MCHUGH in two instances.
Mr. MARKEY.
Mr. LANTOS in two instances.
Ms. KAPTUR.
Mr. OWENS.
Mr. KANJORSKI.
Mr. BONER of Tennessee.
Mr. OBEY.
Mr. SOLARZ.
Mr. FASCELL in three instances.
Mr. TORRICELLI.
Mr. MAVROULES.
Mrs. COLLINS.
Mr. KASTENMEIER.
Mr. TRAFICANT.
Mr. MARTINEZ.
Mr. MICA.
Mr. MINETA.
Mr. HAMILTON.
Mr. LEVINE of California.
Mr. RODINO.
Mr. FRANK in two instances.
Mr. GORDON.
Mr. FLORIO.
Mr. FORD of Tennessee.
Mr. HAWKINS.
Mr. ROWLAND of Georgia in two instances.
Mr. RAHALL in two instances.
Mr. BENNETT.
Mr. MANTON.
Mr. SCHEUER.
Mr. WEISS.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 720. An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes; to the Committee on Interior and Insular Affairs.

S.J. Res. 187. A joint resolution designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1639. An act to authorize the minting of gold bullion coins.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 1562. An act to achieve the objectives of the Multi-Fiber Arrangement and to promote the economic recovery of the U.S. textile and apparel industry and its workers.

ADJOURNMENT

Mr. TAUZIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 3 minutes a.m.), the House adjourned until today, Friday, December 6, 1985, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2345. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting the listing of contract award dates for the period January 1, 1986 to February 28, 1986, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

2346. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-109, "Litter and Solid Waste Management Act of 1985", and report pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2347. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-107, "Closing of Portions of 8th Street, N.W., and Space, N.W., S.O. 83-239, Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2348. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-106, "Closing of a Public Alley in Square 289, S.O. 83-189, Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2349. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-108, "Preventive Health Services Amendments Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2350. A letter from the Chairman, Council of the District of Columbia, transmitting A6-111, "The American University Revenue Bond Act of 1985 (Series A)", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2351. A letter from the Chairman, Council of the District of Columbia; transmitting Act 6-110, Procurement Practices Act of 1985, and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2352. A letter from the Chairman, Council of the District of Columbia, transmitting A6-112, "The Forrest Marbury House Project Revenue Bond Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2353. A letter from the Secretary of Transportation, transmitting the semiannual report of the Inspector General of the Department of Transportation in accordance with the Inspector General Act of 1978, pursuant to Public Law 95-452, section 5(b); to the Committee on Government Operations.

2354. A letter from the Assistant Administrator for Administration and Resources

Management, Environmental Protection Agency, transmitting a proposal for a new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2355. A letter from the Deputy Administrator, Veterans Administration, transmitting a report on an amendment to Veterans' Administration records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2356. A letter from the Attorney General of the United States, transmitting notice that the Solicitor General will not appeal to the Supreme Court Spencer versus U.S. Postal Service, pursuant to November 30, 1979, Public Law 96-132, section 21 (93 Stat. 1049); August 30, 1984, Public Law 98-411, section 203(a) (98 Stat. 1558); jointly, to the Committees on the Judiciary and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 862. A bill to grant the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; with amendments (Rept. 99-315, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1046. A bill to grant the consent of the Congress to the Central Interstate Low-Level Radioactive Waste compact; with amendments (Rept. 99-316, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1267. A bill to grant the consent of the Congress to the Southeast Interstate on Low-Level Radioactive Waste Management compact; with amendments (Rept. 99-317, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2062. A bill to grant the consent of the Congress to the Central Midwest Interstate Low-Level Radioactive Waste compact; with amendments (Rept. 99-318, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2635. A bill to grant the consent of the Congress to the Midwest Interstate Low-Level Radioactive Waste compact; with amendments (Rept. 99-319, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2702. A bill to grant the consent of the Congress to the Rocky Mountain Low-Level Radioactive Waste Compact; with amendments (Rept. 99-320, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy of Commerce. H.R. 3372. A bill to grant the consent of the Congress to the Northeast Interstate Low-Level Radioactive Waste Management Compact; with amendments (Rept. 99-371, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 3773. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, and for other purposes; with amendments (Rept. 99-415). Referred to the Committee on the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 1524. A bill to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involving in or affecting interstate commerce; with an amendment (Rept. 99-416). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER. Committee on the Judiciary. H.R. 3004. A bill to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes; with an amendment (Rept. 99-417). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 2483. A bill authorizing the Secretary of the Interior to preserve the ecology of the Nassau River Valley marshlands in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, Saint Marys and Saint Johns River Valleys, Florida, and for other purposes; with amendments (Report No. 99-418). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee of conference. Conference report on H.R. 3067 (Rept. 99-419. Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2935. A bill to promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes; with an amendment (Rept. 99-120). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONTE (for himself, Mr. RAHALL, and Ms. OAKAR):

H.R. 3862. A bill to provide for the temporary stay of detention and deportation of certain Lebanese and for their adjustment to permanent residence status; to the Committee on the Judiciary.

By Mr. FRENZEL (for himself, Mr. MICHEL, Mr. LOTT, Mr. CHENEY, Mr. VANDER JAGT, Mr. THOMAS of California, Mr. DICKINSON, Mr. BADHAM, Mr. GINGRICH, Mr. ROBERTS, Mrs. VUCANOVICH, Mr. WHITEHURST, Mr. WEBER, Mr. DAUB, Mr. CHANDLER, Mr. SKEEN, and Mr. LAGOMARSINO):

H.R. 3863. A bill to amend the Federal Election Campaign Act of 1971 to increase the role of political parties in financing campaigns under such act, and for other purposes; to the Committee on House Administration.

By Mr. GUARINI:

H.R. 3864. A bill to suspend until January 1, 1991, the duty on key rings and key chains; to the Committee on Ways and Means.

By Mr. LENT (for himself, Mr. ROWLAND of Georgia, Mr. BURTON of Indiana, Mr. DIOGUARDI, and Mr. SWINDALL):

H.R. 3865. A bill to provide for Federal incentive grants to encourage State health care professional liability reform; to the Committee on Energy and Commerce.

By Mr. MRAZEK:

H.R. 3866. A bill providing permanent authority to allow not-for-profit organizations operated in the interest of handicapped individuals to receive procurement grants and contracts under the Small Business Act; to the Committee on Small Business.

By Mrs. BOGGS.

H.R. 3867. A bill to provide permanent duty-free entry for certain mixtures of hot red peppers and salt; to the Committee on Ways and Means.

By Mr. PANETTA (for himself, Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. STANGELAND, Mr. ENGLISH, Mr. PENNY, Mr. EVANS of Iowa, Mr. THOMAS of Georgia, Mr. MORRISON of Washington, Mr. SYNAR, and Mr. STALLINGS):

H.R. 3868. A bill to provide an opportunity for agricultural borrowers to restructure loans from commercial lenders and farm credit system institutions in order to maintain the viability of their farming operations and thus preserve the family farm system as the backbone of American agriculture; to the Committee on Agriculture.

By Mr. DORNAN of California:

H.R. 3869. A bill entitled the "National Space Policy Act of 1986"; to the Committee on Science and Technology.

By Mr. KASTENMEIR:

H.R. 3870. A bill to amend titles 18 and 28 of the United States Code to establish a U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mr. WEISS:

H.J. Res. 470. Joint resolution to designate the week of April 27, 1986, through May 3, 1986 as "National Arts in the Schools Week"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. WRIGHT, Mr. FOLEY, Mr. BOLAND, Mr. MICHEL, Mr. MCDADE, Mr. HAMILTON, and Mr. BROOMFIELD):

H. Con. Res. 239. Concurrent resolution commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland; to the Committee on Foreign Affairs.

By Mr. MARKEY:

H. Con. Res. 240. Concurrent resolution to commend the Bulletin of the Atomic Scientists on the 40th anniversary of publication; to the Committee on Post Office and Civil Service.

By Mr. DASCHLE (for himself, Mr. BONER of Tennessee, Mr. BADHAM, Mr. NELSON of Florida, Mr. AKAKA, Mr. ALEXANDER, Mr. DORGAN of North Dakota, Mr. FLORIO, Mr. GREGG, Mr. HUGHES, Mr. LELAND, Mr. LENT, Mr. REID, Mr. RITTER, Mr. ROTH, Mr. RUSSO, Mr. STANGELAND,

Mr. TALLON, Mrs. VUCANOVICH, and Mr. YOUNG of Missouri:

H. Con. Res. 241. Concurrent resolution expressing the sense of the Congress that the Government of Canada should fully and promptly carry out the pledge it made at the Quebec Summit to discontinue the imposition of Federal excise tax on tourism literature imported from the United States and issued by certain nongovernmental organizations; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LANTOS introduced a bill (H.R. 3871) for the relief of Peter Wai Kuen Pong; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H. Res. 332. Resolution expressing the sense of the House of Representatives that former National Security Adviser, Robert C. McFarlane, be commended for his outstanding service to the American people, to the President, and to his country; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. PURSELL.

H.R. 203: Mr. TAUKE.

H.R. 230: Mr. CLAY.

H.R. 479: Mr. FRANKLIN and Mr. PURSELL.

H.R. 522: Mr. JEFFORDS and Ms. FIEDLER.

H.R. 523: Mr. EDGAR.

H.R. 524: Mr. NEAL, Mr. DERRICK, Mrs. BOXER, Mr. EVANS of Illinois, Mr. WEISS, Mr. HOYER, Mr. WYDEN, Mr. GORDON, Mr. KILDEE, Mr. STUDDS, Mr. FORD of Tennessee, Mr. GIBBONS, Mr. BOEHLERT, Mr. KASTENMEIER, Mr. MANTON, Mr. SAVAGE, Mr. FUSTER, Mr. WOLF, Mr. HOWARD, Mr. UDALL, Mr. MURTHA, Mr. MARTINEZ,, Mr. SHAW, and Mr. LENT.

H.R. 525: Mr. LUKEN, Mr. VANDER JAGT, Mr. KILDEE, and Mr. CONYERS.

H.R. 691: Mr. YATES, Mr. TRAFICANT, Mrs. SMITH of Nebraska, Mr. FISH, Mr. PENNY, Mr. BRYANT, and Mr. PURSELL.

H.R. 864: Mr. CHAPPIE.

H.R. 1223: Mr. FRENZEL, Ms. SNOWE, Mr. TORRICELLI, and Mr. HAMILTON.

H.R. 1442: Mr. GRAY of Pennsylvania, Mr. MCKINNEY, and Mr. LEVIN of Michigan.

H.R. 1458: Mr. FLORIO.

H.R. 1581: Mr. NEAL, Mr. WRIGHT, Mr. SEIBERLING, Mr. BIAGGI, Mr. DIXON, Mr. LEHMAN of Florida, Mr. HAWKINS, Mr. MURPHY, Mr. FEIGHAN, and Mr. STRATTON.

H.R. 1582: Mr. NEAL, Mr. WRIGHT, Mr. SEIBERLING, Mr. BIAGGI, Mr. DIXON, Mr. LEHMAN of Florida, Mr. HAWKINS, Mr. MURPHY, Mr. FEIGHAN, and Mr. STRATTON.

H.R. 1877: Mr. BURTON of Indiana, Mr. BARNES, Mr. ST GERMAIN, and Mr. PICKLE.

H.R. 1917: Mr. LEACH of Iowa, Mr. BROOMFIELD, Mr. REID, Mr. HEFNER, Ms. KAPTUR, Mr. TRAFICANT, Mr. STAGGERS, and Mr. HAYES.

H.R. 1950: Mr. YOUNG of Missouri, Mrs. LLOYD, Mr. GRAY of Illinois, Mr. TRAFICANT, Mr. DOWDY of Mississippi, and Mr. APPLEGATE.

H.R. 1977: Mr. WISE.

H.R. 2262: Mr. PURSELL.

H.R. 2431: Mr. CRANE, Mr. HYDE, Mr. PETRI, and Mr. COBLE.

H.R. 2489: Ms. OAKAR.

H.R. 2578: Mr. BROOKS, Mr. MINETA, Mr. O'BRIEN, Mr. OWENS, Mr. PEPPER, Mr. PERKINS, Mr. RAHALL, Mr. RAY, Mr. SMITH of New Hampshire, Mr. STENHOLM, Mr. VALENTINE, and Mr. PORTER.

H.R. 2596: Mr. PURSELL.

H.R. 2620: Mr. DONNELLY, Mr. HYDE, and Mr. OBERSTAR.

H.R. 2626: Mr. CRANE, Mr. WHITTAKER, Mr. FAWELL, and Mr. PURSELL.

H.R. 2676: Mr. STRANG, Mr. DARDEN, Mr. MORRISON of Connecticut, and Mr. ROTH.

H.R. 2684: Mr. TALLON, Mr. PORTER, Mr. MURTHA, Mr. SLAUGHTER, Mr. PETRI, Mr. THOMAS of Georgia, and Mr. ANTHONY.

H.R. 2814: Mr. MCCOLLUM, Mr. SUNIA, and Mr. COATS.

H.R. 2829: Mr. ACKERMAN, Mr. ADDABBO, Mr. BARNES, Mr. BERMAN, Mr. BEVILL, Mr. BONIOR of Michigan, Mr. BOUCHER, Mr. CONYERS, Mr. CROCKETT, Mr. DASCHLE, Mr. DIXON, Mr. DYMALLY, Mr. DYSON, Mr. EDWARDS of California, Mr. FRANK, Mr. FROST, Mr. HALL of Ohio, Ms. KAPTUR, Mr. KOLTER, Mr. LAGOMARSINO, Mr. MANTON, Mr. MARTINEZ, Mr. MATSUI, Ms. MIKULSKI, Mr. MITCHELL, Mr. MRAZEK, Ms. OAKAR, Mr. OWENS, Mr. PRICE, Mr. RAHALL, Mr. RICHARDSON, Mr. SAVAGE, Mr. SMITH of Florida, Mr. STOKES, Mr. STUDDS, Mr. SEIBERLING, Mr. STAGGERS, Mr. TALLON, and Mr. WILLIAMS.

H.R. 2831: Mr. ROYBAL.

H.R. 2832: Mr. ACKERMAN, Mr. ADDABBO, Mr. BARNES, Mr. BERMAN, Mr. BEVILL, Mr. BONIOR of Michigan, Mr. BOUCHER, Mr. BIAGGI, Mr. CONYERS, Mr. CROCKETT, Mr. DIXON, Mr. DYMALLY, Mr. DYSON, Mr. DE LA GARZA, Mr. EDWARDS of California, Mr. FRANK, Mr. FROST, Mr. HALL of Ohio, Ms. KAPTUR, Mr. KOLTER, Mr. LAGOMARSINO, Mr. MARTINEZ, Mr. MATSUI, Ms. MIKULSKI, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. MRAZEK, Ms. OAKAR, Mr. OWENS, Mr. PRICE, Mr. RAHALL, Mr. RICHARDSON, Mr. SAVAGE, Mr. SCHEUER, Mr. SMITH of Florida, Mr. STOKES, Mr. STUDDS, Mr. SEIBERLING, Mr. STAGGERS, Mr. TALLON, and Mr. WILLIAMS.

H.R. 2867: Mr. BIAGGI, Mr. DELLUMS, Mr. EDWARDS of California, Mr. FUSTER, Mr. GONZALEZ, Mr. HOYER, Mr. MORRISON of Washington, Mr. ST GERMAIN, Mr. SCHEUER, Mr. SOLARZ, Mr. TOWNS, Mr. VENTO, and Mr. WEAVER.

H.R. 2957: Mr. BARNES, Mr. THOMAS of Georgia, Mr. MRAZEK, and Mr. FOWLER.

H.R. 2958: Mr. BARNES, Mr. THOMAS of Georgia, and Mr. FOWLER.

H.R. 3024: Mr. BROOKS and Mr. GORDON.

H.R. 3041: Mr. DORNAN of California and Mr. BURTON OF INDIANA.

H.R. 3155: Mr. TRAFICANT.

H.R. 3400: Mr. PURSELL.

H.R. 3594: Mr. WHEAT.

H.R. 3602: Mr. STOKES.

H.R. 3609: Mr. BADHAM.

H.R. 3626: Mrs. ROUKEMA, Mr. MILLER of Ohio, Mr. BRYANT, Mr. BURTON of Indiana, Mr. PACKARD, Mr. HUTTO, Mr. HUNTER, Mr. YOUNG of Florida, Mr. BIAGGI, Mr. FRANKLIN, Mr. BLILEY, Mr. HORTON, Mr. DONNELLY, Mr. LENT, Mr. GREGG, Mr. REID, Mr. GRAY of Illinois, Mr. KLECZKA, and Mr. DANIEL.

H.R. 3635: Mr. MORRISON of Connecticut, Mr. ROE, Mr. HOWARD, Mr. FROST, Ms. KAPTUR, Mr. EVANS of Illinois, Mr. ROSE, Mr. SKELTON, Mr. DIXON, Mr. MANTON, Mr. MITCHELL, Mr. VENTO, Mr. TOWNS, Mr. CROCKETT, and Mr. BEVILL.

H.R. 3766: Mr. MARLENEE, Mr. GOODLING, Mr. WORTLEY, Mr. BURTON of Indiana, Mr. SMITH of New Hampshire, Mr. KINDNESS, Mr. HILER, and Mr. BARNARD.

H.J. Res. 7: Mr. BIAGGI, Mr. CREGG, Mr. O'BRIEN, Mr. FASCELL, Mr. COATS, Mr. PURSELL, Mr. STANGELAND, Mr. VANDER JAGT, Mr. PARRIS, Mr. PASHAYAN, Mr. ARMEY, and Mrs. SMITH of Nebraska.

H.J. Res. 27: Mr. DE LA GARZA, Mr. BUSTAMANTE, Mr. RALPH M. HALL, Mr. STRANG, Mrs. JOHNSON, Mr. PICKLE, Mr. SAXTON, Mr. CALLAHAN, Mr. SHELBY, Mr. ANTHONY, Mr. FLIPPO, Mr. BLAZ, Mr. VOLKMER, Mr. LUKEN, Mr. MOLINARI, Mr. MCDADE, Mr. SHUSTER, Mr. SCHULZE Mr. MCGRATH, Mr. CHAPMAN, Mr. ROSE, Mr. FRANKLIN, Mr. RIDGE, Mr. HATCHER, Mr. ERDREICH, Mr. HUBBARD, and Mr. FUQUA.

H.J. Res. 87: Mr. PENNY.

H.J. Res. 185: Mr. BLAZ.

H.J. Res. 332: Mr. BONIOR of Michigan, Mr. DYSON, Mr. FRANK, Mr. FROST, Mr. ROBERTS, Mr. BARNES, Mr. DYMALLY, Mr. WAXMAN, and Mr. ANNUNZIO.

H.J. Res. 400: Mr. MONSON.

H.J. Res. 439: Mr. WOLPE and Mr. MONSON.

H.J. Res. 462: Mr. SABO, Mr. KOSTMAYER, Mr. BIAGGI, Mr. WILSON, Mr. SMITH of Florida, Mr. TOWNS, Mr. DIXON, Mr. WHITTEN, Mr. KASTENMEIER, Mr. TRAFICANT, Mr. HALL of Ohio, Mrs. BOGGS, Mr. WOLPE, Mr. MCCLOSKEY, Mr. WYDEN, Mr. ROWLAND of Georgia, Mr. GRAY of Illinois, Mr. ANDREWS, Mr. SIKORSKI, Mr. DOWNEY of New York, Mr. TALLON, Mr. DARDEN, Mr. FAZIO, Mr. DURBIN, Mr. WATKINS, Mr. GLICKMAN, Mr. HOYER, Mr. ECKART of Ohio, Mr. HEFNER, Mr. FORD of Tennessee, Mr. GUARINI, Mr. STOKES, Mr. BENNETT, Mrs. LONG, Mr. CHAPMAN, Mr. BRUCE, Mr. COELHO, Mr. GEPHARDT, Mr. ACKERMAN, Mr. GARCIA, Mr. PERKINS, Mr. DANNEMEYER, Mr. DWYER of New Jersey, Mr. RODINO, Mr. AUCOIN, Mr. EDWARDS of California, Ms. MIKULSKI, Mr. LEVINE of California, Mr. LOWRY of Washington, Mr. PEPPER, Mr. FLIPPO, Mr. DE LA GARZA, Mr. NIELSON of Utah, Mr. FRANK, Mrs. MARTIN of Ilinois, Mr. MARKEY, Mr. WAXMAN, Mr. WIRTH, Mr. PANETTA, Mr. FORD of Michigan, Mr. DIOGUARDI, Mr. JENKINS, Mr. MILLER of Washington, Mr. SOLOMON, Mr. DAVIS, Mr. CHANDLER, Mr. SKEEN, Mr. STRANG, Mr. APPLEGATE, Mr. BARTON of Texas, Mr. COATS, Mr. LEHMAN of Florida, Mr. LAFALCE, Mr. WORTLEY, Mr. MAZZOLI, Mr. LUNGREN, Mr. HUBBARD, Mr. CONTE, Mr. YOUNG, of Alaska, Mr. EVANS of Iowa, Mr. Coleman of Texas, Mr. HUTTO, Mr. STENHOLM, Mr. ROEMER, Mr. HOPKINS, Mr. HENDON, Mr. SMITH of Iowa, Mr. JEFFORDS, Mr. TRAXLER, Mr. EARLY, Mr. FOLEY, Mr. GAYDOS, Mr. WHITLEY, Mrs. BOXER, Mr. SHELBY, Mr. RALPH M. HALL, Mr. EMERSON, Mr. VALENTINE, Mr. FASCELL, Mr. DE LUGO, Mr. LUKEN, Mr. GINGRICH, Mr. TAUKE, Mr. WEBER, Mr. LOEFFLER, Mr. SNYDER, Mr. ERDREICH, Mr. LEATH of Texas, Mr. HAWKINS, Mr. BATES, Mr. BARTLETT, Mr. GUNDERSON, Mr. BOLAND, Mr. GEJDENSON, Mr. UDALL, Mr. SWIFT, Mr. FOGLIETTA, Mr. FISH, Mrs. SCHROEDER, Mr. CRANE, Mr. HUNTER, Ms. KAPTUR, Mr. BOULTER, Mr. BURTON of Indiana, Mr. SUNDQUIST, Mr. SHAW, Mr. DELAY, Ms. SNOWE, Mr. BRYANT, Mr. RANGEL, Mr. MILLER, of California, and Mr. MCHUGH.

H. Con. Res. 129: Mr. BLAZ and Mr. LELAND.

H. Con. Res. 175: Mr. STOKES.

H. Con. Res. 216: Mr. SMITH of Florida, Mr. LIPINSKI, Mr. DIOGUARDI, Mr. BOUCHER, Mr. KILDEE, Mr. GINGRICH, Mr. WEISS, Mr. SAXTON, and Mrs. BENTLEY.

H. Res. 74: Mr. MILLER of Washington, Mrs. BENTLEY, Mr. BOULTER, and Mr. BIAGGI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3630: Mr. ROSE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2817

By Mr. McKERNAN:

(Amendment to the amendment in the nature of a substitute.)

—Page 336, beginning on line 20, strike out "for a period of three years beginning on the effective date of this section, any State which on such date" and insert in lieu thereof the following: "any State which on the date of enactment of this section".

EXTENSIONS OF REMARKS

TRIBUTE TO CONGRESSMAN GEORGE H. MAHON

HON. JIM WRIGHT
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 3, 1985

Mr. WRIGHT. Mr. Speaker, 7 years ago, some of us gave a party in Fort Worth for George and Helen Mahon in honor of his retirement from Congress after 44 years of such distinguished public service.

As often he would, George recited a poem in expression of his feeling for the events of that evening. These are the lines he quoted:

Long, long may our hearts with memories be filled
Like the vase in which roses once were distilled
You may break, you may shatter, the vase if you will
But the scent of the roses will hang 'round it still.

The fragrance of George Mahon's life lingers all about us today.

George Mahon was a gentle man. For him the word "Honorable" was not just a vacuous title but a descriptive adjective. The term "gentleman," so loosely bandied and sometimes so meaningless, fit him like a tailored shirt.

George represented the best that was in us. Our colleague JAKE PICKLE has referred to him as the "Lord Chesterfield" of the Congress. His lanky frame, quiet wisdom, gentle humor of inherent kindness, never harsh or cruel, his lilting spirit and never failing good manners became hallmarks of the U.S. House of Representatives.

For half a century George served the people of west Texas. Just as there was something of west Texas forever a part of him, he unconsciously implanted many of the simple virtues and homespun homilies of our American Southwest indelibly in our Nation's institutions.

During his early years in Congress, when he would return in the fall to the plains, George Mahon regularly each year would take time out personally to pick by hand 100 pounds of cotton as a sort of conscious exercise in humility and as a recurring reminder of his origins.

George Mahon remembered the Depression, the dust bowl, what it is to face hardship. Never in the towering success of his career did he tolerate ostentation or pretense nor forget one's duty to those less fortunate.

As chairman of the Appropriations Committee, he presided over budgets of $350. billion yet never forgot the value of a single dollar or knowingly tolerated its waste. Someone commented that George knew where every nickel went in the Federal Government, and squeezed until there were tears in the bison's eyes.

At the golf course, George would pick up busted tees when they sold for 25¢ a dozen, and sharpen them with his pocket knife so they could be used again.

But he also knew the value of a good public investment. For Texas his career has influenced so many towering remembrances that it would stagger our minds to try to enumerate them—from the rural electric lines and miles of paved roads that crisscross our State, to the Space Center in Houston—from farms and small businesses that can be passed on to one's children without confiscatory taxes, to the most modern aircraft in our Nation's arsenal, Texas-built—from the free world's largest military installation at Fort Hood to reclamation projects that have made desolate west Texas sand dunes bloom like gardens, and glistening lakes that provide water for the life of our cities.

He served with Franklin D. Roosevelt, and was one of a small handful of men to know originally of the Manhattan project. He was with John F. Kennedy on that tragic day just 22 years ago, and he stood beside Lyndon B. Johnson aboard Air Force One when President Johnson first took the oath of office.

All this is part of George Mahon's legacy. And for his family and his younger colleagues he left a legacy of loving example—an example of decency, of unquestioned honesty, of unexcelled integrity—of absolute fidelity to those who trusted him.

In 1923, he and Helen were married—and this began one of the great love stories of our time.

Fifty years later, they entertained friends at their Golden Wedding celebration by singing "Ma, He's Making Eyes at Me" as a duet.

George loved to sing. In his seventies, he would drive in over the 14th Street bridge toward the Capitol joyfully singing hymns as he drove. And wherever Texans gathered in our Nation's Capitol, George Mahon was our song leader.

George Mahon was not ashamed to be a politician. He embraced the description given 200 years ago by Andrew Oliver who said "politics in the noblest profession any man can choose." It is perhaps blissful that George chose to terminate his public career before politics grew so bitter with scalding accusations and negative campaigns intended to tarnish the character and destroy the reputation of one's opponent. George would never have been a party to that. In all of his years of successful political campaigns, George Mahon always behaved with civility and courtesy. Never did he stoop to utter personal deprecations about an opponent, however bitterly or unfairly the opposition may have sought to characterize his own motives.

Kipling must have had someone like George Mahon in mind when he wrote:

"If you can bear to hear the truth you've spoken
Twisted by Knaves to make a trap for fools . . .
Or being hated, don't give way to hating,
And yet don't look too good
Or talk too wise."

And somehow I think the message of George Mahon's life to us, in both deed and word, is that of St. Francis:

Lord, make me an instrument of thy peace,
Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.
O, Divine Master, grant that I may not so much seek to be consoled as to console;
To be understood as to understand;
To be loved as to love,
For it is in giving that we receive;
It is in pardoning that we are pardoned.
And it is in dying that we are born to eternal life.

GRAMM-RUDMAN: FISCAL CRISIS?

HON. DAVID R. OBEY
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. OBEY. Mr. Speaker, the House version of the Gramm-Rudman proposal is clearly superior to the Senate version because the deficit targets would be realistically keyed to what is happening in the real world, depending on the economy. The Senate version would put the economy in a fiscal straitjacket—it would make little or no cuts in the underlying structural deficit when we can best afford them, in periods of strong growth, while forcing draconian cuts when we can least afford them, in periods of weak growth. The House version does just the opposite—the largest cuts in the deficit would be in the periods of strongest growth. As the distinguished economist Walter Heller has put it, this reversal of the lessons of the past 50 years would represent a return to the "dark ages of budget thinking and practice."

Dr. Alan Blinder, professor of economics at Princeton University and visiting fellow of the Brookings Institution, testified before the Joint Economic Committee on October 11 about the adverse effects of the Senate version of Gramm-Rudman. In an article in the December 4 Washington Post, Dr. Blinder has outlined a scenario of the

fiscal and political crisis which could result from the Senate version of Gramm-Rudman. I submit his article into the RECORD:

LIFE AFTER GRAMM-RUDMAN—THE IMPEACHMENT

WASHINGTON, Sept. 1, 1986.—The Congressional Budget Office and Office of Management and Budget today issued a joint forecast that makes the recently passed budget for fiscal year 1987 illegal. The forecast estimates a $201 billion deficit for FY87. Since balanced-budget legislation passed last year allows only $144 billion, sharp reductions in government spending are required.

Automatic spending cuts of $57 billion will be triggered in mid October unless Congress and the president act before then. The cuts will consist mainly of equal percentage reductions in the parts of the budget classified as "relatively controllable." Since these items make up only 40 percent of the FY87 budget, spending in this part of the budget must decline by 13.2 percent. Senior OMB officials expressed doubts that such severe cuts could be implemented by Oct. 15.

WASHINGTON, Oct. 15, 1986.—Owing to the budget impasse between the president and Congress, automatic spending cuts under the Gramm-Rudman Act of 1985 will take effect immediately, the White House announced today.

"The president regrets that this drastic action could not be avoided," said spokesman Larry Speakes. "He is particularly worried that sharp cuts in the defense budget will impair military readiness." Aides said Defense Secretary Caspar Weinberger was fuming over the required cutbacks.

FORT BRAGG, NC, Oct. 17, 1986.—Paymaster Sgt. Bill Coe had never seen anything like it. Today, 13 percent of the pay envelopes he distributed to Fort Bragg's personnel included something unheard of in the military: pink slips.

Fort Bragg and other military installations have orders from the Pentagon to reduce payrolls by 13 percent without cutting wages. "This is the damnedest thing the Army has ever asked me to do," exclaimed Coe, who has seen combat but has never been in a budget war before. "The guys think it's a joke."

LOS ANGELES, Oct. 17, 1986.—The check she picked up at the welfare office this morning was 13.2 percent smaller than the one she received last Friday, and Mary Howell wanted to know why. "Orders from Washington," answered clerk Scott Williams. "Some kind of crazy new law, I don't really understand it."

WASHINGTON, Jan. 28, 1987.—The Reagan administration has revised its economic forecast downward, and now expects a weak economy in 1987. Economists say the main reason for greater pessimism is last fall's drastic round of cuts in government spending.

WASHINGTON, Feb. 4, 1987.—President Reagan stunned Congress today by submitting a budget that would cripple most civilian programs while leaving the military untouched. "The president regrets the deep cuts, but he felt he had no choice," explained spokesman Larry Speakes.

The Gramm-Rudman Act requires a deficit of $108 billion for fiscal 1988—$80 billion lower than the current projection. Only $3 billion of this can come from cost-of-living adjustments. "Given the cuts the Defense Department absorbed last October, the president felt that further cuts in defense would jeopardize our national security," said Speakes. "So the whole $77 billion must come from the civilian side of the budget."

Since discretionary nondefense spending for FY 88 is budgeted at $240 billion, a reduction of $77 billion requires a 32 percent cut. Congressional reaction to such large civilian cuts was vitriolic.

NEW YORK, Feb. 5, 1987.—The stock market plunged today on fears that the huge spending cuts proposed yesterday by the president might precipitate a deep recession. The dollar also tumbled on world markets. Senior officials at the Federal Reserve hinted that monetary policy may have to be tightened to defend the dollar, despite the weakening economy.

WASHINGTON, Aug. 15, 1987.—After months of bitter partisan wrangling, Congress adjourned today, unable to agree on a budget for fiscal year that begins Oct. 1. Republican leaders were incensed. "The Democrats blocked action on the budget knowing that Gramm-Rudman would force large cuts in defense," fumed Sen. Robert Dole. "The president won't accept that. I don't know what happens now."

WASHINGTON, Sept. 1, 1987.—As required by law, CBO and OMB today issued their joint forecast for the coming fiscal year. It projects a $195 billion budget deficit under current programs, $87 billion above legal limits. If Congress and the president fail to reduce the deficit to $108 billion by Oct 15, automatic spending cuts of $87 billion will be triggered. The CBO estimates that $47 billion will come from defense.

SANTA BARBARA, Calif., Oct. 1, 1987.—President Reagan announced today that he would not abide by the provisions of the Gramm-Rudman Balanced-Budget Act of 1985 because "I cannot in good conscience weaken our defense any further." The president's refusal to enforce the law precipitates the gravest constitutional crisis since Watergate.

"It is with a heavy heart that I do this," a grim-faced president told reporters as a hush fell over the packed briefing room.

"Though I have sworn to uphold the law, my first responsibility is to the security of this great nation. I cannot allow our defenses to be gutted by a mechanical formula."

Members of Congress who did not wish to be identified speculated that impeachment proceedings now have started. "Why didn't someone in December 1985 tell us this might happen?" moaned one Republican senator.

NATIONAL HOME HEALTH CARE WEEK

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. KANJORSKI. Mr. Speaker, I am pleased to bring to your attention the fact that today is part of National Home Health Care Week, which extends from December 1 to 7, 1985. On behalf of the home health care providers in Pennsylvania's 11th District which provide this vital health service, I would like to discuss briefly the importance of home health care.

Home health care is a medical and personal service available to individuals in the comfortable and familiar surroundings of their homes. This care includes the diverse talents of numerous health professionals, such as physical therapists, speech therapists, professional nurses, medical social workers, home health aids, and occupational therapists.

For some, home health care is an irreplaceable part of their medical program. House bound or elderly individuals especially benefit from the conveniences and comfort of such care. Some home health care agencies also coordinate hospice care, clergy, and trained volunteers who can address not only the physical needs, but the spiritual and emotional needs of their patients.

Mr. Speaker, I am proud of the special contributions of the home health care industry. In my district, the distinguished Gnaden Huetten Memorial Hospital offers an exceptional home care service. I am sure that each Member of Congress has a source of this valuable service in their own district as well. I call on my colleagues to enthusiastically join me in recognizing the important contributions embodied in the National Home Health Care Week resolution.

THE CASE OF MIROSLAV MEDVID IS NOT CLOSED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. LANTOS. Mr. Speaker, recently I chaired hearings of the Europe and the Middle East Subcommittee of the House Foreign Affairs Committee concerning the U.S. Government's handling of the case of Soviet sailor Miroslav Medvid in New Orleans. As that sad story unfolded during the hearings and in the newspapers, I was outraged at the sickening spectacle of this young Ukrainian sailor grasping for freedom by twice jumping into the waters of the Mississippi River, and twice being returned to his Soviet ship through the incompetence of Government officials.

The hearings revealed serious violations of Government procedures and incompetence in the handling of this case. During his interrogation, the Soviet sailor repeatedly expressed his desire to remain in the United States. Yet, he was dragged kicking and screaming back to the Soviet ship.

During that hearing, the Congress was told repeatedly by administration officials that the case was closed. Mr. Speaker, I most emphatically stated during our hearing that this case is not closed. I want to reaffirm that today.

The San Francisco Examiner recently published an outstanding editorial by Jim

Heavey on the Medvid case. I share its conclusion:

Our obligation to Medvid now is not to forget him—to keep track of his fate under Soviet jurisdiction, and try to save him if our worst fears start to be realized.

Mr. Speaker, I would like to place this excellent editorial in the RECORD. It deserves the attention of my colleagues in the House.

[From the San Francisco Examiner, Nov. 29, 1985]

SHAME IN THE MEDVID CASE

Now that the distraction of the U.S.-Soviet summit meeting is past, it is time to pay some parting attention to what most people consider a smaller issue. But the defense of individual freedom is a large issue, posed sharply in the case of Ukrainian seaman Miroslav Medvid.

His return to the Soviet Union, aboard the freighter from which he twice jumped into the Mississippi River, leaves us with a dreadful aftertaste. No rationalization by the State Department can erase the knowledge that a young man asking for political asylum was forcibly put back in Soviet hands—even after swimming to shore a second time. His future could be dismal.

The Reagan administration was embrassed by the incident shortly before the Geneva summit. U.S. officials say that when Medvid finally was interviewed formally about his intentions, in the presence of his skipper and Soviet diplomats, he denied wanting to defect and chose to return home. By then, he surely had been warned his desertion would have serious consequences for his family. The State Department said he had to be allowed to stay with his ship. Congressional efforts to question him were thwarted.

Blame has been focused on two border agents of the Immigration and Naturalization Service. They are recommended for punishment with demotion and suspension without pay for not following rules and notifying superiors about Medvid's bid for asylum.

The agents' failing was worse than a rule violation, and punishment short of firing may be too slight, but we are not sure the callousness displayed in the handling of Medvid was theirs alone. The incident is too reminiscent of the Coast Guard's earlier betrayal of Lithuanian defector Simas Kudirka. Is U.S. officialdom still unprepared, and public employees insufficiently trained, to give political refugees the consideration they deserve?

Our obligation to Medvid now is not to forget him—to keep track of his fate under Soviet jurisdiction, and try to save him if our worst fears start to be realized.

QUOTATIONS FROM CHAIRMAN JONAS SAVIMBI—III

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. McHUGH. Mr. Speaker, on November 13 and 19, our colleagues, Representatives HOWARD WOLPE and STEPHEN SOLARZ, provided us with some quotations from Dr. Jonas Savimbi, the leader of UNITA, that contradicted the emerging portrait of Savimbi as a "pro-Western" figure who shares "our goals."

From these citations, it was clear that Savimbi and his movement have previously expressed sympathy for socialism, particularly Chinese-style socialism, as well as for the Governments of Cuba, China, South Africa, and various Arab countries.

Today, I would like to share with our colleagues some quotations from or about Dr. Savimbi and UNITA on the subject of democracy and human rights. I would hope that these quotations will be read and pondered by those who assert that UNITA is a movement of "democratic resistance."

SAVIMBI AND UNITA ON DEMOCRACY AND HUMAN RIGHTS

"The Angola which we would like to see would be an Angola in which UNITA would control power alone, making the party's program the nation's program."—Jonas Savimbi, interviewed by Joaquin Vieira, in Expresso (Lisbon, Portugal), September 8, 1984.

"To call him [Savimbi] a democrat—and mind you, I have a great deal of admiration for Mr. Savimbi, but it makes no sense to call him or anybody else in the Angolan conflict democrats. I mean there's nothing democratic about his organization, and I don't mean that as a put-down. That is a fact. The organization is run probably more by a single person in his case than is true of the Luanda Government.

"It's often asserted . . . that Jonas Savimbi has the support of the Angolan people . . . There have not been elections in Angola. There have not been opinion polls in Angola. There is no way to know whom the Angolan people support. It's quite possible, in fact, probable, that the Angolan people do not support either the MPLA or UNITA and that they wish that there would be a plague on both of their houses and they'd blow away in the next wind because the two parties have brought great misery to the Angolan people from their wars.

". . . It's often stated that he [Savimbi] has the support of the Ovimbundu and that's true. They are a minority. They represent roughly 30 to 33 percent of the Angolan population according to Portugese statistics. He certainly does not have the support of all of the Ovimbundu people because most of the MPLA army fighting against UNITA in the central highlands in the south—or a large part of that army are Ovimbundu. It's Ovimbundu versus Ovimbundu." Prof. Gerald Bender, President of the African Studies Association and one of the foremost U.S. scholars on Angola, testifying before the House Subcommittee on Africa, October 31, 1985.

"I watched a strange, rather touching meeting of local chiefs with Savimbi. While he sat on a grass throne, his fingers adorned with huge gold rings, toying with his ivory-handled cane, a pistol on his hip, and a Soviet AK-47 assault rifle leaning against his chair, a succession of chiefs in a peculiar wardrobe of mismatched socks, ankle-length skirts, shirts and ties, pith helmets, cowboy hats, and even a U.S. Confederate Civil War hat, pledged undying support to Savimbi, which may last unless UNITA loses."—Peter Worthington, "Angola's Unknown War," National Review, November 1, 1985.

"UNITA has recently adopted a strategy of dramatic, sometimes brutal psychological warfare. It captures foreign advisers and technicians (Soviets, Czechoslovak, Portuguese, British, even U.S.), marches them hundreds of miles through desolate terrain to its 'provisional capital' of Jamba . . . and there releases them at theatrical ceremonies . . . Although the Western media has not labeled this hostage-gathering as 'terrorism', the term seems unavoidable when reporting UNITA ferocity in urban centers. How does one differentiate between the truck-bombing of the U.S. Embassy in Beirut and the April 1984 UNITA operation in which a jeep loaded with explosives was driven to a seven-story building in Huambo, killing some 100-200 persons?"—Prof. John Marcum, University of California, Santa Cruz, and author of "The Angolan Revolution" (MIT Press) in "CSIS Africa Notes," December 21, 1984.

REAL SANCTIONS NEEDED TO OPPOSE APARTHEID

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. OWENS. Mr. Speaker, the situation in South Africa continues to grow worse. The daily death toll no longer makes headlines as people grow used to the deaths there. However, we cannot allow ourselves to lose interest as more and more people are sacrificed to the evil that is apartheid.

On September 9, 1985, Executive Order 12532 was issued by President Reagan. This action came after a great deal of pressure and the threat that strong sanctions would be passed by Congress. The order called for the issuing of regulations by October 11, 1985, by the Department of Commerce. On November 18, 1985, the regulations were finally published in the Federal Register. There was no opportunity for comment, and a review of the regulations makes it clear just why there was no solicitation of comments.

Although the Executive order was supposed to contain sanctions which would prevent the South African Government from acquiring American computers and equipment to enforce apartheid, computers may still be sent to South Africa. How is this possible? The regulations merely prohibit sales to "apartheid enforcing agencies." Most South African Government agencies are exempt from the sanctions. Among the exempt agencies are the National Department of the Prime Minister, the Department of Statistics, the Ministry of Communication and Public Works which is responsible for building prisons and overseeing telecommunications, the Department of Coloured Education, the Department of State Purchases and the transport authorities. In addition to the National Government agencies exempted, all locally controlled government bodies are exempt. The apartheid system is based on both local and national control systems.

The regulations will also permit the sale of computers to the apartheid enforcing agencies if the contract for the computer or computer equipment was made before the Executive order. It is clear that the sanctity of contracts is important to the administra-

tion. One might venture to say that it takes precedence over the lives of the South Africans who will be harassed, pursued and persecuted under apartheid.

The regulations also allow the sale of computer components to any South African agency as long as the component is less than 20 percent of the larger system. Given the size of the apartheid tracking and enforcement systems, this loophole will cover virtually all software and hardware components.

The Executive order also prohibits the sale of arms to South Africa. This is an interesting aspect of the order given the 1977 U.N. South African arms embargo. However, the regulations indicate just what the administration has in mind in terms of complying with the U.N. embargo and with the terms of its own Executive order. The new regulations include a narrow definition of "arms" instead of using the more comprehensive State Department "munitions list." Since 1982, the administration has licensed $28 million worth of materials which are included on the "munitions list" to South Africa.

South Africa will continue to have access to materials and technology with which to build their own weapons. Direct sales to Armscor, the South African Government arms company, are prohibited under the Executive order, but sales to the thousand or more suppliers of Armscor are permitted to continue. Likewise, direct sales to the state police would probably not be permitted under the case-by-case exception loophole, but sales to the numerous private police forces are not restricted in any way.

The most appalling aspect of the Executive order and regulations is the absolute reliance on agreements by South African customers to not make certain prohibited products available to the South African apartheid enforcing agencies. South Africans who are in positions to purchase the types of military and high technology products covered by the Executive order are not likely to be foes of apartheid. When caught between a promise to an American seller and the demands of their own Government, it is more likely than not that they will lean toward their Government.

The struggle for human rights, human dignity and equality under the law in South Africa will continue. At some point, the struggle will be resolved. The point of sanctions against South Africa is to prevent our country from supplying the weapons of destruction and the instruments of oppression which will only serve to protract the struggle and guarantee that there will be more victims. The ever-rising toll in South Africa will only make it more difficult for the nation and its people to heal and come to live together in a way which respects the basic human rights of all of the people. We may not be in a position to help South Africa in its own healing process, but we must not continue in a position where we simply add to the harm done.

COMMENDING THE BULLETIN OF THE ATOMIC SCIENTISTS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MARKEY. Mr. Speaker, I am introducing a resolution today to commend the Bulletin of the Atomic Scientists on the occasion of its 40th anniversary.

The Bulletin was founded in 1945 by scientists who had worked on the Manhattan project and were concerned about the implications of their success for the future of humanity. The Bulletin's list of original sponsors reads like an honor roll of the great scientists of the 20th century: Hans Bethe, Albert Einstein, J. Robert Oppenheimer, I.I. Rabi, and many others. These people recognized the need for a forum which would bridge the gap between experts and laymen on an issue of such transcendent importance as the control of nuclear arms.

For 40 years the Bulletin has provided a forum for intelligent discussion of defense and arms control issues. In its pages scientists, Government officials, historians, political figures and activists have debated and analyzed the pressing national security issues of our times, from the decision to drop the A-bomb, to development of the H-bomb, to MX and star wars.

In addition, the Bulletin's "Doomsday Clock" has provided an enduring symbol of the ever present threat of nuclear war—a threat well worth remembering when we debate nuclear arms issues.

Mr. Speaker, I am including with this statement a copy of the resolution for my colleagues' review. I urge my colleagues to join with me in commending the Bulletin for its vital contributions.

H. CON. RES. 240

Concurrent resolution to commend the Bulletin of the Atomic Scientists on the 40th anniversary of publication

Whereas the Bulletin of the Atomic Scientists is a nonprofit monthly magazine founded by concerned scientists in the aftermath of the detonation of atomic bombs over the cities of Hiroshima and Nagasaki;

Whereas the Bulletin is published by the Educational Foundation for Nuclear Science;

Whereas the Bulletin performs a vital service by educating the public through the publication of timely, readable, and substantive articles about the impact of science and technology on society;

Whereas the Bulletin is a nonpartisan forum and information resource dedicated to preventing nuclear war and establishing a lasting peace in the nuclear age;

Whereas the editorial scope of the Bulletin reflects the conviction that the nuclear predicament of the world is related to issues such as the need for development of economically underdeveloped countries, the need to end the regional conflicts in various areas of the world, and the need to improve the relationship between the United States and the Soviet Union; and

Whereas December 1985 is the 40th anniversary of publication of the Bulletin: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby commends the Bulletin of the Atomic Scientists on the 40th anniversary of publication.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the Bulletin of the Atomic Scientists.

NATIONAL HOME HEALTH CARE WEEK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Ms. KAPTUR. Mr. Speaker, this is National Home Health Care Week. Most people think of home health care as a service for the homebound elderly. And, in fact, the most intensive users of home health services are older Americans, who average 22.3 home health visits a year. This field of health care will certainly grow in importance as our population ages. By the year 2000, the numbers of people over age 65 are expected to increase 35 to 40 percent. Home health care, then, is a vital component of our efforts to care for the elderly in an efficient, cost-effective and compassionate manner.

But, home health care is useful for more than just the care of the aged. A recent study by the National Center for Health Services Research indicated that nearly 60 percent of the 2 million users of home health care are under age 65. These services are just as appropriate for persons released from the hospital who have not yet fully recovered; for children born with conditions needing regular monitoring; for disabled individuals needing assistance with daily tasks; for our older or disabled veterans; or for those with terminal illnesses who need emotional support and a program of pain management.

Home health care is important not only because it provides complete social and health care services in the familiar and comforting home environment. It is extremely cost-effective as well. In 1984, the New England Journal of Medicine reported that the costs of inpatient treatment for six children suffering from respiratory failure and requiring mechanical breathing assistance would be $1.2 million a year. Provision of skilled home care for those same six would be $171,000 a year. The Veterans' Administration has released figures comparing the costs of home care for its patients, at $14.98 per day, to the costs of treatment for similar patients in a VA nursing home, at $94.97 a day.

At a time when everyone is concerned about the high cost of health care and when people are being discharged from hospitals earlier as those facilities deal with payment restraints placed on them by Medicare, we should be encouraging greater use of home health care. Insurance companies are beginning to recognize the value of home health care. A recent survey of health insurers showed that 53 percent of-

fered some form of home health care benefits. Aetna Life and Casualty Co., the insurer for Owens Corning Fiberglas Corp. in my district, is one of those companies. In a May, 1984 BusinessWeek article on home health care, the company cited the example of an employee's daughter, suffering from a cerebral aneurism, whose home health care costs were $20,000 a month less than they would have been for the same inpatient hospital care.

Many of my colleagues and I were very dismayed when the Department of Health and Human Services issued regulations this summer which placed serious limitations on Medicare payment for home health care services. Fortunately, Members in both Houses of Congress recognized the error in this action. A House measure, H.R. 3202, and its Senate companion, S. 1450, would overturn these regulations. As a cosponsor of the House legislation, I would encourage my colleagues to support this bill. In addition, provisions in the Senate's version of the budget reconciliation bill would place a 1 year moratorium on implementation of the regulations. Let us hope that the budget reconciliation conferees will adopt this Senate language.

Someone once said, "Be it ever so humble, there's no place like home." The over 5,000 home health care agencies in the United States and their staffs are making it possible for millions of disabled, sick and terminally ill persons to find some security and comfort in their adversity. They are to be commended for the extremely valuable work they do.

GENEVA SUMMIT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FASCELL. Mr. Speaker, on November 23, our colleague from Indiana, LEE HAMILTON, delivered the Democratic response to the President's weekly radio address. The subject was the summit meeting in Geneva and Mr. HAMILTON's remarks reflect the strong bipartisan support which has been given to the President on this very important mission and which I heartily endorse. I commend Mr. HAMILTON's remarks to our colleagues in the House.

DEMOCRATIC RESPONSE TO REAGAN'S RADIO ADDRESS ON THE SUMMIT

I'm Congressman LEE HAMILTON. I represent the Ninth District of Indiana.

This past week, the eyes of America and the world have been riveted on Geneva and the three-day Summit meetings between President Reagan and General Secretary Gorbachev of the Soviet Union.

The summit will determine the style and much of the substance of U.S.-Soviet relations for some time to come.

President Reagan deserves our support for his role in helping shape this achievement. He has set a new tone for U.S.-Soviet relations. Out of the hostility and despair, there is now a fresh start and hope. We do not expect to become partners with the Soviet Union, but we hope to avoid becoming enemies. the President, once a vigorous critic of detente, now speaks in the language of detente. For the first time in six years, the leader of the world's two most powerful nations have sat down to discuss their hopes, fears, problems and suspicions. The Summit will have succeeded if it can bring order to our relations and open a reliable channel of dialogue at the highest levels of government. Through this channel, the superpowers can reduce the chances of miscalculation, improve the opportunities for reducing tensions and conflict, and enhance understanding and peace. After Geneva, our interests will still conflict, but we will have a better chance to manage peacefully the competition and differences between us.

Several positive developments came from Geneva. All of us welcome the agreement to exchange visits, here in 1986 and in the Soviet Union in 1987. We and the Soviets renewed academic and cultural exchanges, and have agreed on air safety in the North Pacific, civil aviation, and opening consulates in New York and Kiev. We also agreed to work towards large scale people-to-people exchanges. We reaffirmed the principles of reducing nuclear arms, stopping the spread of nuclear weapons, and working toward a ban on chemical weapons. We agreed with the Soviets not to seek military superiority, and that a nuclear war cannot be won and must never be fought. Understanding of our differences on regional issues, including the Middle East, Afghanistan, Nicaragua, Angola, Ethiopia and Cambodia, has improved although we are still deeply divided on these issues. There were also frank discussions of our differences on human rights.

As in any enterprise, there were disappointments. The Summit achieved no substantive agreement in arms control. The leaders gave their negotiators no new guidelines to help them advance arms control talks. There was no reaffirmation of the SALT II agreement or the Anti-Ballistic Missile Treaty, no agreement defining acceptable Star Wars research, and no answer to treaty compliance questions. All of us are painfully aware that even after Geneva, the arms race may intensify. Both sides will soon deploy new and deadlier weapons which are tougher to verify. There was no new ground broken, no closing of the wide gaps between U.S. and Soviet positions on either the arms talks or regional issues.

On the biggest arms issue, neither side budged at all. President Reagan did not convince the Soviets of the defensive, peaceful intent of Star Wars. Mr. Gorbachev did not convince the President to abandon this program. The tangible results of the Summit, then, were thin.

But the Summit created fresh momentum in U.S.-Soviet relations which we should not allow to be reversed. The key to the success of the Summit is how we use this opportunity. The real report card for Geneva lies not in the snap judgments of today's media experts, but in answers to questions like these:

Over the next few years will we reach arms control agreements that for the first time really cut arsenals, or will we begin a new and accelerated arms race?

Are we ready to make the tough decisions needed to control arms?

Can we keep both nations on the track started at Geneva or will the next international incident derail us?

Can we translate the momentum of Geneva and what the President calls America's new strength into specific agreements which will guide and manage the competition and lead to a more peaceful world?

Can those voices in the U.S. and the Soviet Union who seek better relations build on the constructive start achieved at Geneva?

We can be encouraged by the spirit of Geneva, if not by its specific agreements. Geneva did not give us a breakthrough in the difficult ralationship between the United States and the Soviet Union. But it does give us a chance to keep trying in an improved climate. In this dangerous and untidy world, maybe that is all we can expect, but surely we can hope and work for more.

I'm Congressman LEE HAMILTON.

HYDRO-ELECTRIC RELICENSING

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MAVROULES. Mr. Speaker, very shortly legislation will be passed out of the Energy and Commerce Committee's Subcommittee on Energy Conservation and Power, redefining a 1920's law. The legislation deals with the issue of hydroelectric projects, and who, if anyone, should have preference in the relicensing process.

There have been several bills introduced in this Congress which address this controversial matter. The subcommittee has been attempting to report a bill which will be the most equitable for a majority of the American people. It now appears that such a bill is very close to completion. As one who is quite concerned with the impact of this legislation, I would like to call the attention of my colleagues to the following editorial from the November 26, 1985, Boston Globe.

AN ELECTRIC MIX

A promising compromise is emerging from Congress that should reduce the economic impact of a poorly thought-out policy enacted half a century ago for awarding federal licenses for hydroelectric dam sites. The effort should proceed with all reasonable dispatch to avoid license shifts that threaten to drive up power costs for the entire country.

Most hydroelectric dams are at sites owned by the federal government, as holder of the nation's waterways. When the dams were built, a provision in the underlying federal statute limited the license period to no more than 50 years and stipulated that during any relicensing procedure, municipal power companies were to be given preference over privately owned companies.

Furthermore, if the license did shift to a municipal, the company would have to pay only the depreciated cost of the dam and power facilities—a figure far below the current value of such facilities.

Legislation being written in the House Commerce Committee's Subcommittee on Energy Conservation and Power, headed by Rep. Edward Markey (D-Mass.), would eliminate the automatic preference for municipal electric systems, sparing the customers of present license-holders from the expense of having to pay for higher-cost replacement electricity.

Markey has wisely seized the opportunity to include expanded protection of wildlife and other environmental concerns in the governing legislation, issues that had not

crept into congressional thinking when the original law was passed. In its present form, however, the application is too broad, encompassing all operations rather than just the sites involved.

The bill will probably also include a provision for realistic compensation for the nine municipal utilities that have filed the first attempts to win damsites under the old rule, surely equitable for all the players.

The country has strongly benefited from a mixture of public and private electric-power utilities. The relicensing controversy can be turned to good account if it strengthens that mix.

AMERICANS HELD HOSTAGE IN LEBANON 639 DAYS

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. O'BRIEN. Mr. Speaker, today marks the 639th day Americans have been held hostage in Lebanon.

William Buckley, a U.S. Foreign Service officer was kidnaped in Beirut on March 16, 1984, 639 days ago.

Father Lawrence Jenco of Joliet, IL, has been held hostage in Lebanon for 332 days today.

The Associated Press bureau chief in Beirut, Terry Anderson, was kidnaped 263 days ago.

The director of the American University Hospital, David Jacobsen, was kidnaped 191 days ago.

Thomas Sutherland, dean of the American University Agricultural School, has been held hostage 178 days.

Today also marks the 366th day since the disappearance of Peter Kilburn, the American University librarian.

Mr. Speaker, the hostage crisis in Lebanon continues. And it won't be over until all the Americans held in Lebanon are back in the United States safe and sound.

OPPOSE TERRORIST ATTACKS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday December 5, 1985

Mrs. COLLINS. Mr. Speaker, I rise to express my outrage at a recent act of terrorism committed this week against Operation PUSH headquarters in Chicago.

Late Monday night, someone firebombed the organization founded by the Reverend Jesse Jackson in a despicable attempt to stifle a voice—a courageous voice; a critically important voice for freedom and justice.

Not surprisingly, this senseless act was a miserable failure in meeting that objective. After all, we have a proud heritage in this country of standing tall in the face of great peril, of prejudice, or persecution, in order to exercise our fundamental rights as American citizens.

Chief among these rights is the right of free speech, of discourse, or debate on issues of great national importance. We cannot allow ourselves to be intimidated in the exercise of this right. Indeed, we shall not be.

Not only do we have our resolve against such senseless acts of terrorism as the one committed this week against nonviolent efforts of Operation PUSH; today we have laws against this kind of contemptible act. It is the duty of those of us in the Federal Government to make sure that Federal laws are vigorously, effectively, decisively enforced against conspiracies to violate basic rights.

I ask my colleagues to join me in not only condemning this disgraceful act of violence, but also to pledge our commitment to investigate this and every act of terrorism against our citizens.

We must make it absolutely clear that we are firmly committed to higher principles than those of terrorism. With our conviction and our relentless enforcement of the laws of the land these fires will burn out—as they always do.

A TRIBUTE TO ZELL DRAZ

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. TRAFICANT. Mr. Speaker, Ms. Zell Draz of Vienna, OH in my home district, was in excellent company when she was singled out along with 12 other women for her achievements resulting in her being inducted into the Ohio Women's Hall of Fame last month. The hall of fame recognizes those women who have earned distinction in their fields and contributed to improving the perceived status of women. Ms. Draz was listed under the human services, arts, and letters classification. Other classifications were for contributions made to science and technology, religion, and education. Zell Draz was one of the women selected from northeastern Ohio representing women in the Youngstown-Warren metropolitan area. At this time, Mr. Speaker, I would like to touch on Zell Draz's many accomplishments throughout her challenging career as businesswoman, wife, and mother.

After raising three children, Zell Draz earned a master's degree in speech therapy at Syracuse University in New York. Following her years spent earning her graduate degree she went on to utilize her education by teaching the speech and hearing impaired in the Princeton, NJ, school system for nearly 12 years.

In October 1976, Ms. Draz joined the Tribune Chronicle in Warren, OH, as a key staff member involving her at a capacity where she had direct input into the newspaper's modernization effort. In addition to this large undertaking, she found time to become an active participant with the children's rehabilitation center in Warren starting in 1979. In 1983 and 1984 she served as the center's board of trustees president.

The spectrum of her concerns has spanned from involvement with the local urban league to active participation in the Trumbull County Arts Guild. In addition to this she also was responsible for initiating the recent fund to raise money for educational programs on acquired immune deficiency syndrome [AIDS] in the Trumbull County area. Her involvement with such a contemporary issue clearly reflects her ability to maintain an active hand on the pulse of concerns facing the public today. The first step to helping people is to keep aware of problems as they evolve. The official name of the fund is the Heart Light Fund for Educating the Public on AIDS.

Zell Draz and her years of community involvement have earned her great respect among both her peers as well as the general public. This is reflected in her recent invitation to serve as a premier member of the Warren Chamber of Commerce.

There is not space enough to list all of Zell Draz's accomplishments. Hopefully by mentioning some of her many accomplishments and achievements, I can convey what an exceptional individual Ms. Draz really is. In recognition of Ms. Zell Draz and her compassionate concerns for those less fortunate than most, I would like to take this opportunity to commend her, for her desire and ability to persist with her beliefs where most others would choose an easier, more apathetic approach. Unfortunately, all too often we find bright people with great potential making the choice not to get involved simply because it is not convenient. It is clear that Zell Draz does not fall into this category. I am honored, Mr. Speaker, to have had this opportunity to pay tribute to such an outstanding citizen.

CANADIAN TAX ON TOURIST LITERATURE NOT COMPLETELY LIFTED

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BONER of Tennessee. Mr. Speaker, the Congressional Travel and Tourism Caucus, of which I serve as chairman, has followed a situation that has plagued the U.S. tourism industry for the past 3 years. The Canadian Government, as a result of an agreement reached last March between President Reagan and Canadian Prime Minister Brian Mulroney, agreed to drop a 10-percent Federal excise tax they have imposed on tourist literature imported from the United States. The Canadian Government, however, has only followed through on half of this agreement. They have committed themselves through pending parliamentary action to drop the tax on Government-sponsored tourist literature. They still have not, however, taken steps to discontinue taxing the literature issued by boards of trade, chambers of commerce, automobile associations, and other similar organizations. What's more, the Canadian Government has yet to indicate if and when these

organizations will be exempt from the tax even though they were included in the agreement.

Tourist literature imported into the United States by the Canadian Government and Canadian nongovernmental organizations is not subject to a Federal tax. The tax that Canada continues to collect is unfair and a financial burden to the United States tourism industry. In addition, it impedes tourism and better understanding between our two neighbor countries.

Mr. Speaker, today I have added my name as an original cosponsor of a resolution being introduced by Representative TOM DASCHLE, a member of our caucus, that calls on the Canadian Government to live up to its agreement to drop this nuisance tax on United States tourist literature issued by nongovernmental organizations. We should put this issue behind us. I commend the gentleman from South Dakota for helping us send a message to Ottawa to expeditiously resolve this matter of great concern to us.

COMPLIANCE: THE "X" FACTOR IN THE ARMS CONTROL EQUATION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BROOMFIELD. Mr. Speaker, the recent flap on Capitol Hill over the Reagan administration's new interpretation of the 1972 Anti-Ballistic Missile [ABM] Treaty once again highlights Congress' preoccupation with arms control compliance, as long as it is self-critical and unilateral. I was vividly reminded of this fact recently when the arms control subcommittee of the House Foreign Affairs Committee held a hearing on the administration's reinterpretation of the ABM treaty as it affects strategic defense initiative [SDI] testing and development.

My colleagues and I spent an entire afternoon listening to the testimony of four key members of the American negotiating team for the 1972 ABM agreement, including Paul Nitze and Gerard Smith. But while everyone was focusing on the U.S. interpretation of the ABM Treaty, they completely overlooked, or ignored, what to me was the most important information provided at the hearing. During the course of testimony, my colleague from Illinois, Congressman HENRY HYDE, asked each of the negotiators if they felt that the Soviet phased array radar in Siberia was a clear violation of the ABM Treaty by the Soviet Union. Without hesitation they each answered unequivocally and emphatically that it was.

Yet this rather matter of fact consensus was ignored by most of my colleagues and the subcommittee hearing continued on, with a number of my colleagues sparing no energy in decrying the administration's efforts to simply see if the ABM Treaty was being correctly interpreted.

Obviously there is a subtle and dangerous double standard operating on the issue of arms control compliance. If arms control really is as important to the world as most of us believe it is, then it is high time that we take the arms control process, in its entirety, seriously. If we do, then compliance is every bit as important as reaching an agreement and ensuring that it can be adequately verified. Perhaps it is even more important. No matter how well negotiated or drafted an arms control agreement may be, it isn't worth the paper it is written on if it is not complied with.

Part of the compliance problem may be found in the fact that many people feel that once an arms control agreement is signed, that's all there is to it; there's nothing more to worry about. But of course it's not that simple. The arms control process is made up of three equally important components: the treaty itself; the verification procedures necessary to monitor its implementation; and compliance by all the parties with its terms. It's not enough to have two out of three, for if either verification or compliance is in question, then any arms control agreement is worthless. Unfortunately, compliance is presently the neglected stepchild in this fundamental arms control equation, and if we don't do something about this soon, the whole arms control process may collapse because of mistrust and political polarization. Congress must take the lead in preventing this from happening. As an editorial which appeared on these same pages a year ago stated:

But if we want to codify arms reduction by treaty, as in the long run all Americans do, the first problem is to make such treaties mean something. This means getting clear in our own minds what to do when the Soviets violate them.

Cognizant of this, I have requested that our committee hold hearings on arms control compliance. In doing so, I have stressed two goals. First, that we take a good, hard look at the factual record to see if the Soviets are indeed violating certain arms control agreements. Second, that we consider establishing mechanisms and, if need be, concrete responses, to Soviet violations, if and when they occur.

I have emphasized that it is extremely important that this second question be given as careful and thorough consideration as the first. It is not enough to identify a compliance problem, if we are unwilling, or unable, to do something about it. In the interest of genuine and meaningful arms control and on behalf of the American people, it is imperative that Congress address the complex question of appropriate and specific responses to arms control violations. This is, admittedly, no easy endeavor. Indeed, it represents a two part question for Congress. How does a government and a democracy respond to arms control violations?

Only the first part of the question is relevant in the Soviet Union. But in the United States, the second part of the question is most important because in the final analysis it is the people in a democracy who are the true arbiters of compliance. It is they who must provide the moral and public outcry which gives our nation and its leaders the ability and political courage to credibly challenge the Soviet Union on compliance issues. Without such support, government charges and allegations ring hollow, frequently perceived or mislabeled as ultraconservative or anti-Soviet rhetoric.

It may well be that the real heart of the compliance problem lies in this political asymetry between Soviet totalitarianism and American democracy. For in a democracy, what is adequately verifiable in technical terms may not be adequately verifiable in human terms.

Is a satellite photo of a phased array radar in Siberia really enough to convince the average American of a Soviet violation? More importantly, is it enough to create the public mandate necessary to get the American Government to do something about it? Under these circumstances, it's not unreasonable to ask, "are national technical means really adequate to verify, in human terms, an arms control agreement?"

It is precisely at this critical point that the science of arms control collides head-on with the humanness of democracy.

To most Americans, verification of arms control agreements is at best an arcane science, seen more as a morass of meaningless and esoteric acronyms, than a source of reassurance and security. Often the result is anxiety and a level of mistrust born from a basic and innocent ignorance of the arms control process. Therefore, I believe it is Congress' duty to answer these questions as best we can, and to seriously explore methods or mechanisms which will help eliminate this fundamental problem. Perhaps a compliance commission should be studied. Or perhaps we should consider pressing for on-site inspections, not because they are always technically necessary, but because in a democracy people need to feel that they "can put their finger in the wound?"

I am aware that some people will say that such an intense review of the compliance issue will somehow be the undoing of the arms control process since it would place undue emphasis on compliance to the detriment of current negotiations.

This is just not the case. If the arms control process is to have any credibility, persistent reports of Soviet violations must be dealt with directly, immediately, and publicly. We are at a pivotal juncture in the history of arms control. President Reagan, despite what some say, is committed to arms reductions and, as far as I am concerned, he is the one person today truly in a position to reach a meaningful agreement which the American people will trust.

Furthermore, compliance is not an ancillary or subsidiary component of arms control; it is an absolutely essential and equally important part of the overall arms control process and it's high time we give it the attention it deserves.

Finally, and I believe this deeply, there is never a bad time to talk about arms control compliance.

BINARY PRODUCTION CONTRADICTS SUMMIT AGREEMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FASCELL. Mr. Speaker, President Reagan and Soviet leader Gorbachev pledged at the Geneva summit to seek agreements which would eliminate chemical weapons. President Reagan's exact words to Congress upon his return were:

We are also opening a dialog on combating the spread and use of chemical weapons, while moving to ban them altogether.

If we are moving to ban chemical weapons altogether we should not be moving, at the same time, to produce new chemical weapons for the first time since 1969. That does not make sense. The positive new footing on arms control set in Geneva would be undermined by unprecedented congressional approval of new binary chemical weapons only a short time after the summit. Such an approval would be interpreted not only by the Soviet Union, but by the world, as a glaring lack of sincerity and commitment to the progress achieved in Geneva.

It must be assumed that the summit commitment to movement on arms control and annual summits does not imply the accumulation of new weapons, of new bargaining chips, in between summits, but rather, new initiatives at the nuclear arms talks in Geneva, new bilateral negotiations on chemical weapons, and hard work toward agreements, limitations, and reductions. If we are in favor of a general and complete prohibition of chemical weapons as explicitly written in the joint Geneva statement then that pledge can be given concrete expression by denying the pending DOD request for $163 million worth of new chemical weapons. And, if Congress takes this action to hold off the funding of new chemical weapons we will certainly be looking to the Soviet Union for some immediate signs of reciprocal action and sincere commitment to the pledges made in Geneva. Our intelligence and defense communities agree that the Soviet Union does not have binary chemical weapons but the Soviet Union could pledge not to produce them and it could halt its production of chemicals in bulk for unitary chemical weapons.

Certainly the most important first step in stopping the prolifteration of chemical weapons would be an agreement between the United States and Soviet Union to ban all future production of new chemical weapons. One of the main reasons why I have opposed and continue to oppose the Defense Department's request for new binary nerve gas weapons is my concern that proliferation is one of the most significant downfalls of the binary chemical weapons program.

Binary nerve gas weapons increase the risk of chemical weapons proliferation and the risk of their use by terrorists. This has been one of the main reasons why Congress has turned down this new generation of lethal chemical weapons in each of the past 3 years. A decision now to modernize our chemical arsenal with this new generation of binary nerve gas weapons would undermine many of the military, technical, political, psychological, and moral constraints which have inhibited proliferation.

In 1984, I requested a Congressional Research Service [CRS] study which exposed the adverse proliferation implications of producing binary chemical weapons. The study led me to conclude that the United States should be working hard to secure a comprehensive and verifiable world ban rather than breaking our own moratorium on production and launching a new generation of chemical weapons.

The CRS study identifies a number of technical features about binary weapons that would increase the likelihood of chemical weapons proliferation. Binary chemical weapons are technically easier to produce than current unitary chemical weapons, they require lower investments of capital, skilled labor, and expertise and the raw materials needed to produce them are commercially available throughout the world.

Finally, as to the potential use of chemical weapons by terrorists, the CRS study observes that this frightening possibility would be encouraged by a U.S. decision to produce binary weapons. The report stated that such a move by the United States to produce these weapons would probably reduce the political and motivational factors inhibiting a terrorist decision to seek such weapons. The report concluded that once binary and unitary chemical weapons become commonplace in the military arsenals of states then the risks of chemical terrorism could be expected to increase.

The risks of chemical weapons proliferation are too great and the national security, political, military, and technical reasons are too compelling to proceed with the funding of the proposed binary nerve gas weapons program. If Congress appropriates money for the binary program at this time, it would certainly send the wrong signal at the wrong time. President Reagan went to Geneva with the clear and overwhelming support of Congress and the American people. There is popular sentiment for improved United States-Soviet relations and for progress in arms control. Now, after the summit, there is an opportunity to agree to a ban on new chemical weapons and to set in motion a nonproliferation agreement. This opportunity should be seized.

TRIBUTE TO MRS. MARION GRANT

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MARTINEZ. Mr. Speaker, I rise today to salute one of the most dedicated and effective volunteers in California's San Gabriel Valley, Marion Grant. Mrs. Grant has held responsible staff positions at the Garfield Medical Center, where she currently serves as assistant to the executive director. At the same time, she has made major contributions to a variety of voluntary organizations in the 30th Congressional District.

Marion Grant is past president of the Monterey Park Chamber of Commerce and the San Gabriel Valley Medical Association, District 12, Auxiliary. She has been a member of the Board of Directors of the American Heart Association, San Gabriel Valley Division; West San Gabriel Valley YMCA; Monterey Park Girls' and Boys' Club; and MERCI.

This latter organization serves the developmentally handicapped in Monterey Park and surrounding communities. Marion Grant was invited to join its board in 1976 and later became board president and director-at-large. Under her leadership, MERCI began an important expansion. It was invited to take over the Fremont Youth Center in Alhambra and now operates a satellite facility there.

Throughout America, thousands of dedicated volunteers give their time, energies, and skills to a variety of organizations. Marion Grant is one of the best, and she deserves our special recognition and appreciation.

CANADIAN GOVERNMENT MUST ELIMINATE TOURIST LITERATURE TAX AS AGREED TO AT THE QUEBEC SUMMIT

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BADHAM. Mr. Speaker, I am adding my name today as an original cosponsor of a bipartisan resolution calling on the Canadian Government to carry out its pledge to discontinue taxing tourist literature imported from the United States by certain nongovernmental organizations. As vice chairman of the Congressional Travel and Tourism Caucus, this is an issue I am very familiar with and had hoped was successfully resolved during a summit conference last March between President Reagan and Canadian Prime Minister Brian Mulroney.

The two leaders agreed the Government-sponsored tourist literature from the United States, as well as that of boards of trade, chambers of commerce, and other "similar organizations," would no longer be taxed by Canada. We understand that through parliamentary action the Canadian Government is taking steps to drop the tax on Government-sponsored tourist literature. They appear to be reluctant, however, to take any action to discontinue taxing nongovernmental organizations included in the Reagan-Mulroney agreement. They have not given us any indication if and when they will act on this part of the agreement.

Mr. Speaker, I am pleased to note that the entire bipartisan Tourism Caucus Steering Committee has joined together in cosponsoring this resolution to bring this matter to the attention of the Canadian

Government. We urge them to lift this tax on tourism literature completely and promptly as a big step toward improving tourism and trade between our two nations.

A TRIBUTE TO EARL DOVE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. DICKINSON. Mr. Speaker, Earl Dove, a fellow Alabamian, was recently named the new chairman of the American Trucking Association at their annual convention in Honolulu, HI.

As a friend of Earl Dove for many years, I congratulate him and wish Earl the best of luck throughout his 1-year term as he will be traveling across the United States expressing the concerns of the trucking industry. Chairman Dove began his position with a trip to Japan where he and Department of Transportation officials met with motor carrier executives and Government representatives to discuss the deregulation issue.

Earl's background in the trucking industry is lifelong. He is chairman and secretary of AAA Cooper Transportation, a Dothan-based trucking firm which has 41 terminals in 12 States. Both Earl and his brother Mack, president and treasurer of the company, grew up in their father's trucking business which John Hal (Red) Dove started in 1932. The two brothers took over the company, then known as AAA Motor Lines, in 1962. The Doves changed the name of the company in 1972 after acquiring Cooper Transportation Co., a regional carrier. Under the skill of the Dove brothers, AAA Cooper Transportation progressed from a short haul carrier with revenues of $700,000 per year into a regional less-than-truckload carrier with gross revenues of $66.4 million last year.

Earl is married to Margaret (Bobbie) Weathers. They have four children, John, Jane, and the twins, Mike and Amy. John and Mike Dove work with their father at AAA Cooper Transportation.

Again, I wish Earl the best of luck throughout the coming year in his position as chairman of American Trucking Association.

THE WALL STREET JOURNAL ON "THE PROBLEM OF MONETARISM"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. KEMP. Mr. Speaker, everyone agrees on the importance of stable prices and stable exchange rates. There is disagreement on how to achieve this.

Yesterday's Wall Street Journal editorializes that progress in meeting these goals is obstructed by monetarist theories which favor floating exchange rates and targeting the domestic money supply. In practice, this introduces new instability into our economy. If we want stable prices or exchange rates, the editorial argues, Federal Reserve monetary policy ought to target stable prices or exchange rates.

I commend this perceptive editorial to my colleagues.

The article follows:

THE PROBLEM OF MONETARISM

The world, the economics profession and the philosophy of this newspaper all owe enormous debts to the monetarist school of economics. It's sad to say, but instructive to relate, that at the moment the monetarists are the principal intellectual opposition to what we would consider progress in economic policy.

In our view it is a good thing that the world is moving toward international monetary reform, abandoning the experiment with floating exchange rates. The most important finance ministries and central banks took a huge step in this direction with the G-5 meeting Sept. 22. The recent Kemp-Bradley monetary conference produced a remarkable degree of consensus. Yes, there were differences over an exact prescription. Yes, both the supply-siders' gold-based system or the Keynesians' target zones for exchange rates would present political problems, perhaps enough to defeat any budding system. But in theoretical terms, there is wide agreement that the experiment with floating rates has not worked.

Monetarist Nobel laureate Milton Friedman, though, continues to offer a theoretical defense of the float, notably in a TV debate with Rep. Jack Kemp. In himself Mr. Friedman is a formidable force, and he has other intellectual allies such as Karl Brunner and Alan Meltzer. And monetarism remains a potent force in the Reagan administration. Beryl Sprinkel, the chairman of the Council of Economic Advisers, is as dyed-in-wool a version as you can find. George Shultz, the secretary of state, is another University of Chicago man and one of the Nixon administration floaters. Allen Wallis, his undersecretary for economic affairs, did much to establish the monetarist outpost at the University of Rochester.

Now these people are longtime friends, and we agree with them on practically everything under the sun except floating rates and monetary aggregates. In keeping the spark of classical economics burning during the long Keynesian detour, the monetarists made an enormous contribution. Beyond that, we owe to them much of our understanding of the point at issue, exchange rates and international economics. For the floating-rate monetarists and the price-rule supply-siders are two branches of the same intellectual heritage.

Indeed, the present split reflects divisions on the campus of the University of Chicago 20 years ago. Mr. Friedman and Mr. Shultz were in attendance, but the leading spokesman for floating exchange rates was the late Harry Johnson. Then at Chicago and now at Columbia, the principal spokesman for fixed rates was Robert Mundell. Another young professor on campus was named Arthur Laffer.

Despite their disagreement, Messrs. Mundell and Johnson are known as the fathers of what the economics profession calls the monetary approach to the balance of payments. The Keynesians traditionally think of international accounts in terms of trade flows, a bias etched into the very definition of the international accounts. The Monetary approach thinks in terms of money supplies: Under fixed rates, excess money creation causes balance-of-payments debts; under floating rates, it causes depreciation of the exchange rate.

Within this view, Mr. Johnson and the traditional monetarists favored floating rates, to give each nation independence in monetary policy. With the exchange rate as a buffer, each individual nation could control its M1 without interference from the rest of the world. Mr. Mundell, in his work on "optimum currency areas," stressed that a common currency improves the efficiency of market pricing, and that a common currency is approximated by a system of fixed exchange rates. The outcome of our recent experiment, it seems to us, is that floating rates do not produce independence of monetary policy but do interfere with price signals. The Mundell view has won the test of time.

In an interdependent international economy, indeed, the monetary aggregates have become increasingly dubious as domestic-policy instruments. Recently we published Mr. Friedman's defense, saying that M1 still predicts nominal GNP. But it's not especially helpful to control nominal GNP, the sum of the good and the bad. The point isn't whether nominal growth is 10%, but whether that's 2% inflation and 8% real growth, or 12% inflation and a 2% decline.

To put it in technical terms, the great monetarist equation is MV=PT. Money times velocity equals price times transaction. M controls, so long as V is stable or at least easily predictable. We have learned that it is not, at least if you have to rely on a floating exchange rate to isolate one domestic economy in an interdependent world. As the nearby chart shows, recently the dynamic variable has not been money but velocity. The equation now reads VM=PT, or more radically, perhaps PT=VM, with the money supply passively determined by economic activity at home and abroad.

For all of these reasons the intellectual influence of monetarism has been waning. The real significance of the appointment of Manuel H. Johnson and Wayne Angell to the Federal Reserve Board was that neither is a monetarist. Mr. Johnson, indeed, is the first governor with not only some supply-side instincts but the complete model in his head. Meanwhile, of course, the Fed has already been moving away from monetarism, recently changing its targets rather than its policy. By now it seems curious that the Humphrey-Hawkins Act requires the Fed to set targets for aggregates, while nothing in the law requires it to make price stability the central object of monetary policy. What is going on at the Fed is not a coup but an evolution.

The same is true in economic thought more generally. If in our view it is an evolution beyond the monetarism of recent years, it is an evolution in which the monetarists played an absolutely crucial role for which they will long be honored.

VOTE ON AMENDMENT TO H.R. 3700

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mrs. ROUKEMA. Mr. Speaker, due to illness, I was absent on December 3, 1985, and was therefore unable to vote on the rollcall vote No. 425, the Bartlett amendment to H.R. 3700, the Higher Education Amendments of 1985.

Had I been present, I would have voted "aye" on the amendment, which would have reduced the costs of the bill by $95 million by restoring to 6 months the grace period on repayment of student loans. The bill extended this to 9 months.

UNITED STATES MARSHALS SERVICE ACT OF 1985

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. KASTENMEIER. Mr. Speaker, today, I am introducing, the United States Marshals Service Act of 1985. This bill is an important symbol of the law enforcement work being done by the Marshals Service.

The U.S. Marshals Service is the oldest Federal law enforcement agency. Despite its age, however, the Marshals Service has been very active in recent years, changing its functions. Currently, the Marshals Service provides important law enforcement services in the area of apprehending fugitives from justice, in responding to threats against certain Federal personnel, protecting Federal witnesses and in seizing forfeitable assets. Only a few short years ago, much of the work of the Marshals Service budget was devoted to the service of civil process and courtroom security. That picture has changed dramatically. Since 1970, the Marshals Service has operated the Witness Security Program, an important tool in the prosecution of large scale criminal cases. Since 1982, the Marshals Service has done substantially less work serving civil process and more time has been spent on apprehending fugitives. Finally, only last year the Marshals Service was assigned overall responsibility for the implementation of the new expanded forfeiture laws. As my colleagues can see, the Marshals Service has undergone a radical transformation.

Last Congress the House of Representatives passed H.R. 4249, House Report 98-767, part I, the United States Marshals Service and Witness Security Reform Act of 1984 which required the Attorney General to appoint the various U.S. marshals. The elimination of Presidential appointment authority for the 94 districts of U.S. marshals would have gone a long way toward professionalizing the Marshals Service. Unfortunately this provision was deleted by the Senate in conference. It is my expectation that when this bill reaches conference, that this issue will come up again. It would seem that such a provision would immeasurably improve the bill from a law enforcement perspective.

I have enclosed at the end of this statement a section-by-section analysis. Parties interested in this legislation should contact the Subcommittee on Courts, Civil Liberties and the Administration of Justice, 2137B Rayburn House Office Building, Washington, DC 20515, (202) 225-3926.

SECTION-BY-SECTION ANALYSIS UNITED STATES MARSHALS SERVICE ACT OF 1985

Section 1: This section contains the short title of the bill.

Section 2: This section amends existing provisions of Chapter 37 of Title 28, United States Code.

Amended section 561 establishes the United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. It provides for a Director appointed by the President, by and with advice and consent of the Senate, and establishes the administrative and management authority necessary for the efficient and effective operation of the service.

This section also provides for the appointment by the Attorney General of United States Marshals for each judicial district of the United States, except for the Northern Mariana Islands wherein the Marshal may at the same time serve as Marshal in another district. Administrative authority contained in the amended section 561 relates to the selection and appointment of law enforcement and staff support personnel, the supervisory authority of the Director, the accounting for funds collected by the Marshals, and the appropriation of such sums as are necessary to exercise the powers and duties of the U.S. Marshals Service.

Section 3: amends section 562 and 563 of title 28.

Amended section 563 restates the historic authority of United States Marshals, in executing the laws of the United States, to exercise the same powers as a sheriff of a State and modifies the language to provide that such authority is also shared by other law enforcement officials of the United States Marshals Service (such as Deputy U.S. Marshals). The expansion is logical because at the time the original law was enacted the Marshals Service did not exist.

Section 4: inserts a new section 564 to title 28.

Amended section 564 consolidates into one section an enumeration of the various activities for which the Service is authorized to expend funds and authorizes the Service to enter into contracts and cooperative agreements for the provision of security guards and other personal services.

Section 5: amends 565 of title 28.

Amended section 565 specifies the duties of the Service with respect to the protection of the Federal courts and the execution of writs and process in accordance with policies established by the Attorney General. It also authorizes officials of the Service to carry firearms, conduct investigations relating to the apprehension of fugitives, and to make arrests.

Section 6: makes necessary renumbering changes in title 28 and adds new sections 573 and 574. Proposed Section 573 authorizes the expenditure of funds from the appropriation for Fees and Expenses of Witnesses for facilities required in the protection of witnesses. Proposed Section 574 authorizes the payment of travel and transportation expenses of newly appointed law enforcement officers of the Service on the same basis that such expenses are currently authorized for other Federal law enforcement agencies.

Section 7: makes technical and conforming amendments.

Section 8: amends section 1921 of Title 28, United States Code, to allow the Attorney General to set fees collected from non-Federal entities by United States Marshals in civil and criminal matters at levels reflecting the actual cost of the service provided. It also permits the Service to retain the fees collected and use such funds to defray operating expenses for these activities.

Section 9: amends Chapter 301 of Title 18, United States Code, to authorize payment from the Support of United States Prisoners in non-Federal institutions appropriation of the necessary clothing and medical care for prisoners and for the payment of rewards in connection with the capture of federal fugitives. It also provides and codifies the authority for the Cooperative Agreement Program under which the Service provides funds for state and local jail construction or modernization in exchange for the housing of federal prisoners.

Section 10: amends section 5315 of title 5, United States Code, to place the Director, U.S. Marshals Service, at Executive Level IV, a position equivalent to Assistant Attorneys General and other executives responsible for major departmental activities.

TRIBUTE TO DON EDWARDS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MARTINEZ. Mr. Speaker, few Members of Congress are as highly esteemed by myself or by my colleagues as the Honorable DON EDWARDS. In his 22 years in Congress, DON's unswerving commitment to civil liberties, his unquestioned authority in the fields of crime and justice, and his quiet perseverence in the finest liberal tradition have earned him the chair of the California State delegation—the largest in Congress, the chair of the Subcommittee on Civil and Constitutional Rights, senior rank in the Judiciary and Veterans' Affairs Committees, and the deep respect of Democrats and Republicans alike.

DON's legislative history has meant a great deal to me as chairman of the congressional Hispanic caucus and of the Subcommittee on Employment Opportunities. More than a quarter of DON's constituency is Hispanic, and his district—known as the "Detroit of the west coast"—is one of the most solidly blue collar in the State. In 1982, he showed his solid commitment to the rights of all Hispanic workers by taking a lead role in opposing an immigration bill that would have stripped aliens of the few precious civil rights they enjoyed. Together, he and Congressman ROYBAL, a member of the Hispanic caucus, fought and won a long, hard battle that killed the bill.

Today, DON continues to fight steadfastly for civil rights, equal opportunity, and the

welfare and dignity of the Hispanic community. This Congress he introduced the Fair Employment in Congress Act, designed to bring the legislative branch under the scope of the pivotal civil rights and antidiscrimination legislation of the 1960's and 1970's, all of which was passed during his tenure. He has cosponsored and come out strongly in support of such bills as the Hate Crimes Statistics Act, requiring the Justice Department to keep statistics on crimes motivated by racial, ethnic, and religious hatred; and H.R. 3008, aimed at eliminating sex-based and minority-based wage discrimination. He has also kept true to his convictions in supporting the rights of farm workers, refugees, senior citizens, and underprivileged youth, and has shown his solidarity with the Hispanic population by adamantly opposing the administration's policies in Central America.

DON's rock-solid beliefs, untarnished and undaunted after 20 turbulent years, can be summed up in a question he posed to his colleagues on the House floor 3 months ago: "Should we fear finding out the truth—nothing more, nothing less?" His vision and fortitude have been an inspiration to us all, and will contune to win the admiration of all who know and work with him for many, many years to come.

THE 55TH WEDDING ANNIVERSARY OF MR. AND MRS. D. ATTARDO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. TORRICELLI. Mr. Speaker, in our fast paced world, we rarely take time to appreciate those things that are most valuable in our lives. Few would argue with the fact that the American family is a central institution in our society. Today I rise to pay tribute to one family in particular, Dominick Joseph and Mary Cecila Attardo, of New Milford, NJ, who will be celebrating their 55th wedding anniversary on December 21, 1985.

As parents, the Attardos were blessed with seven kind and caring children who now have families of their own. In addition, the Attardos are the proud grandparents of 10 children and great-grandparents of 4 children.

Their family has always been a priority and their love and devotion a source of inspiration for those around them. The Attardos have provided strength for each other and have acted as important role models for their children, grandchildren, and great-grandchildren.

I am proud to join the Attardo offspring in wishing their parents a very happy 55th wedding anniversary. May their future years together be filled with good health, prosperity, and happiness.

PRESERVING OUR EDUCATIONAL HERITAGE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. VALENTINE. Mr. Speaker, I rise to commend my colleagues for including $550,000 for the renovation of Estey Hall in the Higher Educational Amendments of 1985.

Estey Hall, situated on the campus of Shaw University in Raleigh, NC, is a national historic landmark. Built by students and volunteers in April 1874, Estey Hall was the first building erected on an American college campus for the higher education of black women. It is also the oldest surviving structure built on any campus in North Carolina for the higher education of black people—women or men. Thus, Estey Hall is an important part of our Nation's heritage which should be preserved. It symbolizes our commitment to making higher education available to every American.

The General Assembly of the State of North Carolina and the city of Raleigh have already appropriated funds for this project. But this money, even when combined with the many private donations from Shaw University alumni and other individuals, is not sufficient to complete the work. Without the relatively modest sum authorized in this bill for the renovation of Estey Hall, the potential of this landmark as a human resources center and a performing arts center would be impossible to realize.

The renovation of Estey Hall is a striking example of what can be accomplished through cooperation of the private sector, State and local government, and the Federal Government. Hundreds of North Carolinians have given their time and money to complete this renovation. This strong support at the local level clearly demonstrates the positive impact of this project on the Raleigh community.

Mr. Speaker, I am sensitive to the need to reduce the Federal deficit and to ensure that the American taxpayer receives full value for every tax dollar expended. Indeed, I believe that my record in scrutinizing each and every spending proposal considered by the House is the equal of any.

But we should not try to balance the budget at the expense of preserving our educational heritage and highlighting major milestones in our history. Landmarks such as Estey Hall remind us of the obstacles we have overcome and help us chart a course toward continued progress. We must build on our achievements, and Estey Hall—as a symbol of both black culture and educational achievement and as a vital, functioning community center—represents an historical achievement on which we can build.

Congressman MERVYN DYMALLY, a trustee of Shaw University, deserves special recognition for his outstanding leadership on this issue. With his leadership, as well as that of Subcommittee Chairman BILL FORD, the House has taken a large step toward an important goal.

UNCLE SAM OWED $20 BILLION

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. RINALDO. Mr. Speaker, while Members of the House and Senate conscientiously seek ways of reducing the Nation's budget deficit and avoiding drastic cuts in vital programs that benefit our Nation, I find it astonishing that aside from debts owed to the Internal Revenue Service, our Government is unable to make an appreciable dent in delinquent accounts. According to the Office of Management and Budget, our Government and the American people are owed almost $20 billion in domestic, nontax debt. It is a staggering amount and it is increasing daily at a considerable expense to the Nation's taxpayers.

Frankly, Mr. Speaker, the attorneys in the Department of Justice are overburdened and understaffed in going after some of these deadbeats who are ignoring their legal and financial obligations year after year. There are currently 120,000 debt collection cases backloged at the Department of Justice, and another 600,000 are nearly ready for litigation. It is an incredible number, and it would occupy the legal department for many years to come unless something is done to relieve this burden. Attorneys in the Justice Department are better employed fighting serious Federal crimes, such as antitrust violations, fraud, tax evasion, and narcotics offenses.

The Debt Collection Act of 1982 allows the Federal Government to charge interest and penalties on delinquent accounts, to report delinquent debtors to credit bureaus, and to contract with private debt collection agencies to handle some of its cases. This law, however, does not allow private law firms to assist in debt collection, and unfortunately, in many of these cases, we need a strong legal hand to persuade debtors to pay their bills.

We can remedy this situation by approving the Debt Recovery Act of 1985. This bill would allow the Attorney General to contract with private law firms to collect outstanding debts owed to the Federal Government. They would be paid a fee for their services, but that fee would be far less expensive than hiring hundreds of additional lawyers.

Another way of reducing delinquent accounts would be to strengthen the National Direct Student Loan Program against defaults that could wreck public confidence and support for Federal student aid. While the current level of funding for student loans has been maintained in the 1986 fiscal budget, student defaults continue to threaten the financial integrity of this program.

I am delighted to join my colleague from New Jersey, Mr. Gallo, in sponsoring H.R.

3371 to reduce student loan defaults by placing more responsibility for monitoring and collecting these loans in the hands of the lenders, both schools and banks. The bill is aimed at those schools whose default rates on loans is in excess of 25 percent; and it reduces loan contributions to schools who have default rates between 10 and 25 percent. I urge my colleagues to support this important legislation to save the Student Loan Program by protecting it from those who are systematically abusing it and ignoring their responsibilities to repay the loans.

FEDERAL INCENTIVES FOR STATE HEALTH CARE PROFESSIONAL LIABILITY REFORM ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. LENT. Mr. Speaker, I am introducing a bill today which addresses the grave national problem of soaring medical malpractice costs. Skyrocketing malpractice premiums are posing a real threat to our health care system and the affordability of quality health care.

The statistics are alarming. In the last 2 years alone professional liability premiums have risen by as much as 50 percent. In my State of New York some insurance carriers have increased premiums by 248 percent over the last 5 years. The growing number of suits and the increasing size of awards are the major factors causing these increases. Six years ago the average settlement was just under $5,000; today, it is $300,000. One in five physicians can expect to be sued. These statistics translate into higher costs for the health care consumer and force many doctors to reject high-risk patients and to practice defensive medicine. While it is true that defensive medicine is difficult to measure in precise terms, health experts agree that it does indeed exist and significantly adds to the costs of health care.

I am strongly supportive of efforts to weed out incompetent health practitioners, but I am deeply concerned over the zeal with which many suits are filed and the current explosion of liability costs. I believe many highly competent, skillful physicians fall prey to failings in the current tort system, such as the ability of a skillful attorney to obtain exaggerated judgements for pain and suffering. In addition, in those cases where compensation is warranted the slowness of the legal system in providing that compensation is grievous.

The legislation which I am introducing will reduce the costs attributable to the liability crisis and improve access to care. This bill provides incentive grants to States that adopt the following administrative tort reforms: Elimination of double payments (collateral source rule); periodic payments of future damages exceeding $100,000; a limit of $250,000 for noneconomic damages; and a limit on attorney contingency fees. This bill would also require as a condition to receive a grant that the State strengthen the health care provider disciplinary process. These provisions, along with the other reforms contained in the bill, would significantly alleviate the malpractice liability problem and would ensure lower costs for quality health care.

It is important to note, that through medical Medicaid and other Federal health programs, the Federal Government spends over a $100 billion on health care services. At a time when Federal programs are being drastically cut back to reduce the deficit we cannot afford the exorbitant increases resulting from the current liability system. The provisions included in this legislation would save the Federal Government over $500 million by decreasing the costs of the health care it purchases.

I urge my colleagues to join me in supporting this much needed legislation. We can no longer afford to sit idly by and watch as the medical liability problem grows larger and more uncontrollable. The time to act is now. We must reform the liability system and ensure the vitality of health care across the Nation.

THE NEED FOR PASSING H.R. 44

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. CHANDLER. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent editorial from the Seattle Times which points out the need for passage of H.R. 44, the Electric Consumers Protection Act.

As one of the early cosponsors of this important legislation, I am pleased that the House Energy Conservation and Power Subcommittee is nearing completion of markup on H.R. 44, and that the bill may be ready soon for House floor consideration. It is important to the Nation's private power consumers that legislation is enacted which would assure that any utility which has properly built and operated a hydroelectric project in the public interest, and demonstrates that it will continue to do so, will be able to keep running it in the future.

At this point, I wish to insert in the RECORD the Seattle Times' insightful editorial on hydroelectric power relicensing preference.

[From the Seattle Times, Nov. 21, 1985]

INVESTOR-OWNED UTILITY CUSTOMERS NEED NEW LAW

For nearly all of the 20th Century, battles between publicly owned and investor-owned electric utilities have dominated much of the story of American resource development. The newest such battle, now being fought in Congress, has important application in Washington State and the Puget Sound region.

The concept of a "preference" for public power, as applied to new hydroelectric projects, is deeply imbedded in U.S. water law and policy. But law and policy are far less explicit on the question of relicensing existing hydro projects.

The question has become acute because licenses issued during the surge of dam-building during the 1930s and 1940s, in some cases for as long as 50 years, are coming up for renewal.

The conflict was brought to a head last month when a three-judge panel of the U.S. Circuit Court of Appeals in Washington, D.C., ruled that municipal preference does apply to relicensing, and ordered that Pacific Power & Light Co.'s license to operate Merwin Dam, on the Lewis River in Southwest Washington be transferred to the joint operating agency established by the Clark and Cowlitz County Public Utility Districts.

If that decision stands, Puget Sound & Light Co., for example, could lose its Snoqualmie Falls project, which is up for relicensing in 1993, and both Upper and Lower Baker Dams, which face relicensing in 2006. Puget officials estimate the cost of replacing Snoqualmie Falls alone could increase the average customer's monthly bill by $5. 3TC

According to private power's Edison Electric Institute, the 11 private utility projects presently under challenge, serve a total of 8.65 million customers, while the municipal utilities challenging them serve only 936,000 customers.

Alex Radin, executive director of the American Public Power Association, asserts that the investor-owned utilities have "grossly exaggerated" the urgency of the need to change existing law.

The view here is that Radin's defense of existing law is as vague as the law itself. The law, as it applies to relicensing, urgently does need clarification. Any that is the intent of the Electric Consumers Protection Act, which recently passed the Senate Energy Committee by a 16-1 vote, and has garnered support from 97 Republicans and 82 Democrats in the House.

The Electric Consumers Protection Act would amend the Federal Power Act so that municipal preference will not apply in relicensing cases, but will continue to apply in original licensing cases.

Where would this leave customers of local publicly owned utilities such as Seattle City Light and the Snohomish County Public Utility District? Just where they are. Their preference claims on the federal power marketed by the Bonneville Power Administration would be unaffected.

THE STATE OF AGRICULTURE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. HAMILTON. Mr. Speaker, I had the pleasure of addressing the members of the Indiana Farm Bureau at their annual convention in Indianapolis, IN, on December 2. The remarks follow:

REMARKS BEFORE INDIANA FARM BUREAU, INDIANAPOLIS, IN, DECEMBER 2, 1985

I. INTRODUCTION

This is a difficult time for a politician—or anyone else for that matter—to speak to farmers about farming. In thinking about what I should say this morning, I seriously considered talking to you about the econo-

my, foreign affairs, or politics—anything but agriculture. Finally I decided to tackle the subject that interests you and that brings us together.

The past few years have been hard ones for farmers. That needs little repeating. Farmers have had to cope with low earnings, sagging exports, and the threat of bankruptcy. Yet when they turn to federal farm programs for help, little is forthcoming. Farm programs cost the taxpayer some $18 billion last year, 6 times the average annual cost in the 1970s, but they did not improve the basic situation of farmers all that much.

Farm programs are clearly not dealing very effectively with farm problems. These programs:

Distort production incentives;

Price us out of the world market;

Do not provide a stable income and a fair return to farmers;

Channel a large percentage of program benefits to large farms, and often provide the smallest share to the farmers who are the worst off;

Leave the farmer with a staggering burden of debt;

And cost plenty: Over the past 5 years we spent $65 billion on farm stabilization programs, more than during the previous 50 years combined. During that period, government programs provided more than ⅔ of all net farm income, while problems worsened.

Let me share a few thoughts with you about the trends in. agriculture, what Congress is doing about agriculture, and where I think we should be heading.

II. TRENDS IN AGRICULTURE

A. Internationalization

U.S. agriculture has become heavily "internationalized". Today one out of every three acres is producing just for export. As a result, farm prices and incomes have become highly sensitive to events abroad—from changes in weather, to shifts in the agricultural and economic policies of foreign governments, to swings in the exchange rates. Since Indiana ranks eighth in our nation's total agricultural exports (fourth in soybeans and feed grains), Hoosiers have a big stake in the world market.

Increased exports will, to a large extent, depend on the economic conditions in the developing world, which is the largest potential growth area for exports. World food markets will likely be highly competitive and erratic. The U.S. farmer will compete, not only with the traditional grain producers such as Canada, but other countries too, such as Argentina and China. Fluctuations in the world markets will lead to a fluctuation in land use in the U.S. Trade disputes in agriculture will intensify, especially when favorable weather results in large surpluses. Agricultural policies of major producer countries will need to be more flexible, in order to enable necessary year-to-year production adjustments.

B. Integration into general economy

As agriculture became more specialized and concentrated, and became more dependent upon other sectors for many of its inputs, farming became much more integrated into the general economy. Decisions on matters traditionally thought to have nothing to do with agriculture can directly affect the health of the farm sector. High interest rates, the strong dollar, distortions caused by the tax code, and unfair trade competition are all matters which profoundly affect the farmer. Agricultural policies can no longer be considered in isolation from the nation's economic policies. Farm legislation, no matter how skillfully crafted, will not solve many farm problems.

Because so many of our economic problems today are rooted in the budget deficits, the most important job for us in Washington this year and next is to cut the federal deficit. The general fiscal and monetary policies of recent years have produced the greatest deficits in our nation's history. The deficits have kept interest rates high and pushed up the dollar's value, adding up to 40% to the cost of our exports. The effect on agriculture is devastating. Controlling the budget deficits may be the best thing the federal government can do for farmers.

Agriculture's woes also cannot be dealt with until we deal with the tax code. In many ways, agriculture has become an attractive tax haven. The current tax code encourages excessive land and equipment investment, overstimulates production, and lowers farm prices. Tax policy brings in investors who care less about farming than they do about sheltering outside income from taxes. I generally find insufficient interest among farmers in the problems arising from the tax code. I have come to the conclusion that tax policies have at least as great an effect on agriculture as have the farm programs.

General trade policy is another economic issue which profoundly affects the farmer. With a slowdown in world trade, voluntary restraints, quotas, and other non-tariff trade barriers have mushroomed worldwide. The U.S. is no exception. We all know that increased barriers invite retaliation, and generic products like agricultural commodities are likely candidates for such retaliation. In my view, a new round of trade negotiations will be necessary to deal with problems of agricultural trade. In particular, subsidy and complaint procedures need to be clarified and simplified.

C. Technology

Technology will revolutionize agriculture in the years ahead. Technology has been the cornerstone of the success of American agriculture. It has provided a competitive edge to American farmers in the world market, and has helped to offset economic disadvantages such as the high value of the dollar and low wages in other countries.

Emerging new technologies, particularly potential breakthroughs in biotechnology and information, will revolutionize agricultural production in the not-too-distant future. Before the turn of the century, ranchers may be able to raise cattle which are twice their present size, and dairy productivity might shoot up with almost no increase in feed intake. By 1990, the prodigious output of America's dairy herd will increase by at least 20%, and possibly much more. Plant growth regulators will help plants to mature more quickly. Crops may be altered genetically to become more resistant to pests, salinity, and harsh climate; some may eventually provide their own fertilizer. New computers and electronic devices will increase farm management efficiency.

These are not idle dreams. The adoption of some of these technologies is imminent—in the next 2-3 years. Eventually, advances in plant biotechnology will probably have the greatest impact on production, though the animal biotechnology advances will be coming on line sooner.

All of this will be a mixed blessing. It will present new challenges for us. While technology changes will help us to maintain international competitiveness, they will also expand agricultural production and will accelerate the trend toward large, industrial farms, which will dominate agriculture. We may not be able to reverse many of the basic trends that could harm the moderate-size farmers, but we can take steps to make the new technology work for them.

D. Structural changes

In the face of adverse economic conditions and anticipated technological changes, the decline in the number of farm operations will likely continue. In the mid-1930s there were almost 7 million farms in the U.S. In the 1950s, that number was reduced to 5.6 million. Today, the nation has 2.2 million farms. While in the 1930s there was not much difference between the smallest and largest farms, today they are vastly different in size and income. On one end of the scale are the agribusiness operations comprising 5% of all farms but accounting for 95% of all income; on the other end are part-time operations and "'hobby" farms, comprising 60% of all farms, yet having much higher production costs and, on the average, negative net farm income. We can expect a further 10% decline in overall farm numbers in the coming year, although an equilibrium will be reached soon. It is likely that the large and small part-time farm categories will squeeze out the intermediate-sized, "family-farm" group.

In my view, there are good reasons to save the medium-size farms. Large industrial farms raise concerns about water quality and quantity, and the rate of soil erosion. Moreover, ensuring the existence of a large number of moderate-size farms helps protect our food supply from severe weather conditions or diseases in one area of the country, and from price manipulation by a few major producers.

Moderate-size farms are also important to the economic survival of many rural communities. The face of rural America is changing dramatically. The trend is toward depopulation and abandonment. With agricultural recession and the trend toward bigness, many farmers are being pushed out. I worry about what is happening to the small towns, family land-holding patterns, and the support systems that have made the family farm and rural towns the bulwark of the American way of life. As farm operations increase in size, local services and small businesses are often bypassed. Farm input suppliers are forced to reevaluate their marketing and distribution patterns, and even their products, in order to remain competitive. Food processing, shipping, and marketing industries such as packers, mills, elevators, and machinery manufacturers will have to go through major adjustments which may lead to further job losses in rural America. Health and educational services for rural communities might also dwindle with the declining population. The abandonment of rural America is a major concern.

III. AGRICULTURE—IN CONGRESS

Given these trends in agriculture, what is happening in Washington today to deal with them? I often hear that Washington in general, and Congress in particular, does not care about agriculture or farmers. My view is that Congress is very sensitive to farmers; Members have spent long hours on farm issues this year. The problem is that we either do not know what should be done, or disagree on what should be done. There is a basic split among Members: some advocate strict mandatory controls and increased government involvement to solve the farm

problems; others favor a more market/oriented approach, with less dependence on the taxpayers. In spite of these differences, they all—even Members with no farm constituents—know the critical importance of agriculture, and want to help farmers.

There is no consensus in Congress on the fundamental problems and direction of agriculture. Lacking a long-term perspective, Congress deals with the short-term outlook. The result is that we have farm programs, but do not have farm policies. Piecemeal policies and quick-fix programs give a certain amount of stability, but they do not provide a mechanism to resolve farm problems. A major realignment of current policies will be necessary sooner or later. We need a longer-term perspective of where we should be going.

Each time Congress writes a new farm bill, we are told that American agriculture is at a crossroads. This year is no different. Congress is wrestling with the farm bill at a time when government's role in agriculture is in question and when agriculture is reacting to changed international conditions. Under such circumstances, Congress must make every effort to help, but expectations of what it can accomplish should not be exaggerated.

Although the House and Senate have not completed final action on the farm bill, some judgements can be made of what to expect:

A move toward market orientation in farm commodity programs, in the form of loan rates based on a moving average of market prices in recent years, is likely.

Deficiency payments and a temporary freeze on target prices will be approved.

Payment limits to producers are not likely to change much from the current level of $50,000.

Production controls, in the form of acreage set-asides and payments to farmers for land diversion, will be approved.

There will be stronger conservation measures, including a long-term conservation reserve and penalties on "sodbuster" farmers who cultivate highly erodible land.

Research programs will be approved, and export credits and promotion programs will be bolstered.

Neither the House version nor the Senate version of the bill is a major departure from the policies of the last 50 years, and neither bill addresses in a comprehensive way the developments I described earlier. The 1985 Farm Bill, whatever its final terms, will not solve the farm problem. That depends on things like weather, world food demand, exchange rates, and budget deficits. Congress has to be very modest in any claim to solutions in agriculture.

Yet there have been some positive developments so far this year. Our results this session of Congress have been mixed, but there have been significant signs of progress:

The tax reform package, which includes some changes curbing the attractiveness of farming as a tax shelter, has been moving in Congress much better than most observers expected. It could be passed by the full House and sent to the Senate before the end of the year.

The 5-year Farm Bill would make many of our farm programs more market-oriented. A conference committee will be meeting to work out the differences between the House and Senate versions.

The approach of forcing major, automatic spending reductions to bring about a balanced budget within the next few years, has passed the House and Senate in different forms, and the differences are close to being worked out in conference.

These are all significant steps. The legislation moving through Congress this year could have greater impact on farmers than legislation in any other recent year. The challenges facing U.S. agriculture are significant ones that will not be solved overnight, but Congress does clearly seem to be moving, however slowly, in the right direction in the policy changes it is considering.

IV. PRESCRIPTIONS

Let me conclude with a few quick observations about the direction I think agriculture policy should be going in future years. Increasingly tight budget restraints could lead Congress to cap or reduce government expenditures on agriculture, and that could affect all agricultural programs, including conservation, research, trade promotion, and others. But as far as possible, our goals should include the following:

Agriculture must be weaned from its crippling dependence on Washington, and be allowed to respond rapidly to the market forces of supply and demand. That means that price support programs should be more market-oriented and more flexible. This move toward the market, of course, cannot be done overnight, but rather must be made through a gradual transition in order to ease the human pain.

Some level of income protection should be maintained, with the least possible interference in the market. Congress will face the hard decision: what to do with the troubled medium-sized operators? Targeting certain program benefits may be the response.

We must improve our farm export efforts. This means resisting political pressures to embargo grain sales, expanding trade by barter, fighting unfair trade practices by foreign nations, providing better credit to foreign buyers of our food, as well as resisting protectionist pressures from other sectors to avoid retaliation against our farm exports. Farm policy must focus on expanded demand through exports, because domestic consumption will be sluggish.

We must maintain our agricultural research efforts. More work is needed on crops that need fewer expensive pesticides and fertilizers, and on new crops with high convertibility to fuel, which could open major new markets for farmers. Government research must be carefully balanced between lowering production costs and maintaining productivity, so that we can retain our international competitiveness.

Tough conservation measures will be necessary to preserve our valuable non-renewable natural resources.

We must improve our domestic farm credit policies to make sure that the good, efficient farmer is not driven off the land during difficult times, and we must help shore up the ailing Farm Credit System. A comprehensive, long-term solution will not be easy. A solution might include more regulation and structural changes in the System, federal insurance, a federal line of credit, and a reserve build-up to avoid a recurrence of the problem. Congress must ensure that both the assistance and the burdens are distributed equitably. I do not think the passage of time alone will restore stability to the system. No matter what we do, the risks and costs to the public will likely increase. While Congress will not allow the largest network of agricultural lenders to fail, the solution will not meet everyone's expectations.

Finally, we must alter provisions in the tax code that are being exploited by nonfarmers to the detriment of farmers; and, perhaps most importantly, we must reduce our staggering budget deficits.

What strikes me most of all in reviewing our efforts this year in trying to deal with farm policy is that consensus is in short supply on what to do about agriculture. The lack of consensus in Congress reflects, I believe, a lack of consensus in the country and also in the rather diverse farm community. Several non-farmer interest groups, such as environmentalists, consumers, and hunger advocates, have become major players in the debate and have broadened the agenda of farm legislation. Furthermore, the alliance among general farm organizations and specific commodity groups was often weak on key issues. The sharply opposing views of general farm organizations often left the debate to greater influence by the commodity interests.

Consensus-building is probably the toughest problem in crafting legislative solutions, as we all know. I commend you in the Farm Bureau for your efforts to build bridges among the variety of farm interests and to work with Congress so diligently. I appreciate your courage and persistence, and your constructive contributions. Each of you can take a measure of satisfaction in the role the Farm Bureau has played in strengthening agriculture in America. As you work to resolve internal differences, to reconcile different views, and to build consensus, you make the work of the Congress more manageable and you enhance the prospects for the American farmer. Your input into the legislative process has been valuable. I know that you will continue your commendable efforts, and I look forward to working with you.

AMERICAN AUTO INDUSTRY FACES BRIGHT FUTURE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. KEMP. Mr. Speaker, the conventional wisdom has long been that the American automobile industry can't compete against foreign imports—a victim of high labor costs, low productivity, and inferior quality.

So much for the conventional wisdom. Using U.S. car magazines that are not usually accused of pro-American bias, Alan Reynolds has written an excellent article surveying new American automobiles and the European and Japanese competition. His conclusion that U.S. models are not competitive, but superior to foreign cars is certainly good news to American workers and car buyers.

CAR WARS: CAN EUROPE AND JAPAN COMPETE?

(by Alan Reynolds)

A simple extension of recent trends leads people to believe that Japan will be an increasingly formidable competitor in all types of motor vehicles, with Germany and Sweden dominating the "yuppie" market for high performance sedans. Yet only two decades ago, the Volkswagen beetle seemed to have an equally invincible hold on the small car market in the United States, Eng-

land and Italy had the U.S. sports car market sewed-up, SAAB was making tiny 3-cylinder cars, and BMW was in such distress that American Motors considered buying the company.

Data Resources currently predicts that imports will rise to 35.3% of U.S. auto sales in 1988, up from 23.5% in the first three quarters of 1985. Similar projections were common in 1981 (when the import share was 27.3%) but were disputed in my essay, "The American Auto: New Opportunities" (Polyconomics, June 22, 1981). At that time, I wrote that "gasoline will absorb a gradually declining share of people's budgets over the next few years. Whenever that has happened in the past, car buyers have switched toward larger cars, and also demanded more powerful engines in smaller cars. . . . With the economy reinvigorated with tax relief people will again reach for a little luxury. . . . The U.S. is on a leading edge of optimal performance per dollar . . . displacing the Europeans as the leaders in the luxury end of the global market. . . . When the old family car is replaced, a Toyota Starlet or Honda Civic won't do the job. The larger six-cylinder Japanese models are technologically obsolescent and not even particularly inexpensive." In the following three years, the real price of gasoline fell 31%, with gas and oil dropping from 5.1% to 4.1% of consumer spending; larger cars and high-powered engines staged a dramatic comeback, in both domestic and imported models.

What turned out to be true in the early 1980s will continue for at least the next few years. The U.S. is even more obviously "on the leading edge of optimal performance per dollar," with Japan slipping behind on performance, and Europe on value.

The U.S. car magazines can scarcely be accused of pro-American bias. For years, they described the U.S. cars as sluggish, wallowing barges that almost rolled over on the curves, with steering that seemed disconnected with the wheels. Something very different is going on, and it is worth quoting, because buyers look to these journals for guidance:

Car & Driver (October) on the handling of Ford's new Taurus: "The Taurus is as goods as it gets . . . . Even the best German sedans are not better than this."

Motor Trend (October) on the Dodge Lancer and Chrysler LeBaron GTS: "Listen folks, these are *good* cars and great sport sedan values . . . they're fast, agile 4-door sports cars doubling as roomy, practical hatchback sedans . . . they'll corner 'til your ears bleed."

Road & Track (June) on the Continental Mark VII LSC: "The performance and ride are a match for the fabled Germans while the price is roughly half that of the imported equivalents."

Road & Track (November) on the Buick Electra T-type: " . . . at least the equal to the Jaguar XJ6 . . . which for years has been the standard of how nicely a luxury car can ride and handle."

It is not simply a matter of the U.S. auto makers catching-up to the best that Europe has to offer, but they are doing it at half the price. The Taurus (Sable) and Lancer (LeBaron GTS) are $7,000-$10,000 cheaper than equivalent offerings from Audi, SAAB and Volvo. The Pontiac 6000STE is another relatively inexpensive top performer, with lavish standard equipment. The Continental and Buick are not cheap, but in the quotes above they are being favorably compared with cars selling for $35-60,000.

By contrast, the small Mercedes 190 is an overpriced clone of the Honda Accord, while the only affordable BMW (the little 318/325) is not even safe. *Consumers Reports* (June) notes that "on snow or ice, traction is so bad that the BMW is best left safely garaged." Of all the Europeans sport sedans, only the VW Jetta (a Golf with a trunk) offers Taurus-Lancer performance at a competitive price, but it is 8-17" shorter than the U.S. competition and suffers from a low-budget look.

Japan narrowly matches the U.S. on price, but their offerings in the important all-purpose sport sedan market are scarcely exciting. The rather plain Mitsubishi Galant rides and handles well, with a $630 optional electronic suspension, but it looks even smaller than it is and is severely underpowered. The boxy Nissan Maxima has ample power, but it is short on head and leg room and lacks the handling and steering of a true sport sedan. Toyota's Camry is competent but dull, while the Cressida is too expensive for what it offers. The Mazda 626 is attractive, with boosted power for 1986, but *Consumer Guide* (December) writes that Mazda's "ride was harsh and jiggly in Sport, and floppy in Normal. . . . Besides the coarse engine noise in acceleration, road and wind noise are apparent."

That leaves the only new model from Japan in this critical category—the Honda Accord. The Accord is handsome, larger and more powerful for 1986, yet only about the size of the smallest GM models. The new Accord's weakness is handling. *Car & Driver* (November) refers to the Accord's "Squishiness" and "mom-and-pop cornering capability." Mom and pop aren't going to buy a car this small, and a reputation for bad cornering is going to disenchant some yuppies. Meanwhile, Honda will be promoting even more costly versions of the Accord under the Acura label, and as a Rover Legend from Britain. It used to be said of the Cadillac Cimarron that it was equivalent to the Accord at a higher price, but now the accord price is up there too, and reaching higher, while the mini-Cadillac has at least added two cylinders.

Car & Driver wondered about "the sticky isue of value, one of the old Accord's strongest suits. . . . Can the new Accord regain its once unassailable spot as the hands-down small-car champ?" Not when the U.S. is building better handling, roomy cars at a lower price. The popular Pontiac Grand Am (and its Buick/Olds twins) is now available with four doors, for those who prefer a smaller Honda-sized sport sedan. *Consumer Reports* (February) says this GM model "ran perfectly, accelerated smartly with the standard (and very fuel efficient) four cylinder engine, and handled nearly as well as a good sports sedan." The Ford Tempo is also being given a more sporting image. In 1987, Chrysler will offer the Sundance and Shadow, an upscale line of compacts aimed at this market, but priced much lower than Honda. Chevrolet, in 1987, will also have a new compact, the Corsica sedan and Baretta coupe. If these cars perform as well as they look, this may be a clue to what GM's Saturn project can turn out in 1989.

Japan remains strong in performance cars, like the new Mazda RX-7, as well as semi-sports coupes like the attractive new Toyota Celica. But this is only 15% of the U.S. auto market (not counting trucks), and the Corvette, Camaro, Fiero, Daytona and Mustang continue to hold their own in this market.

The two best selling vehicles in the U.S. in 1985 were not imported, and were not even cars—they were the full-sized pickup trucks from Ford and Chevy. The only import competition is miniscule pickups from Japan. Consumer Reports (October) writes that "The Nissan pickup is a crude and tinny vehicle . . . a vehicle whose purchase is hard to justify. . . . [The Toyota truck's ride and handling were abominable, even by small-truck standards." Mazda got somewhat better reviews, but even compact U.S. trucks were "roomier, more useful, and more comfortable." The brand new mid-sized Jeep Comanche and Dodge Dakota pickups will make additional inroads into the "crude and tinny" Japanese competition with "abominable" handling.

A fifth of the 4.5 million trucks sold in the U.S. are likely to be the mini-vans, first introduced by Chrysler. Many vans replace the large station wagon, though Taurus is about to show that market has not disappeared. Consumer Reports (August 1984) found "The Toyota Van was disappointing in almost every respect. Handling was unpleasant, and stability and traction were well below par. The ride was harsh and bouncy, and the van was noisy inside. . . . The Volkswagen Vanagon . . . is now no alternative at all . . . [its] acceleration so weak and emergency handling so poor . . . " On the other hand, "the Plymouth Voyager/Dodge Caravan . . . rode as well as many sedans and station wagons. It accelerated well. It was comfortable and quiet." The Chevy Astro and Ford Aerostar vans also clearly outclass the imports, though Consumer Guide (December) still ranks the Chrysler version as "the best of the new wave of small vans for passenger use."

In short, Japan's automakers are increasingly uncompetitive in trucks and vans for the U.S. market—their products are enormously inferior. Japan is also becoming markedly less competitive in the potentially huge market for yuppie-style sport sedans in the $12,000-$16,000 range. Japan's smallest models will face tough price pressure against new imports from Yugoslavia, South Korea and Volkswagen-Brazil, and attempts to sell even smaller 1-litre Japanese cars will be about as successful as the Crosley and Willys Aero were in 1952. That leaves Japan strong only in sports cars and compact cars, like the Toyota Corolla (Chevrolet Nova). But Japan is moving a big chunk of its production of compact cars into the United States.

An Associated Press story of October 9 observes that "By 1990, no fewer than 1.2 million Japanese cars—and as many as 1.5 million—will be built each year in U.S. plants. Assuming that direct imports of finished cars from Japan stay around 2.3 million per year, Japanese automakers will have the capacity for at least 4 millions sales a year in the United States." The fallacy in that scenario is to assume that Toyotas that are labeled "Chevy Nova" will not displace imports of essentially the same model, but will instead be a net addition. Yet the U.S. appetite for such cars, good as they are, is not going to surge in the absence of an unlikely sharp increase in oil prices. And the Ford Escort is already the world's best-selling car in this league, improving each year. The U.S.-made VW Golf is another very serious rival for Japan's largest market segment, with AMC Renault also adding promising new models in 1987. A more realistic assessment is that Japan can continue to sell 2-2.5 million cars in the U.S., and that half of those sales (particularly Hondas) will be from U.S. plants. Eventually, some output of Japanese plants in the U.S. may have to

be exported to Latin America, where small cars are better suited to higher fuel prices and lower wealth.

European imports have probably peaked in the U.S. auto market. Prices are too high, yet few of the European car makers are earning profits at those prices. The Economist (August 24) reports that "in addition to VW, only two others are profitable in Europe—Ford and Fiat." The absence of profits makes it difficult for European carmakers to bring prices down to match the new U.S. competition in the mass market. This is less of a problem in the small market for ostentatious cars, like Jaguar or Maserati, but it will pinch the relatively lower-priced models from Mercedes, Audi and BMW. Sweden has a winner in the new SAAB 9000, but with a base price of $22,000, it is more likely to steal sales from the Audi 5000 and Volvo 760 than from comparable U.S. sedans, which are far less expensive. Meanwhile, the U.S. is not sitting on its hands in the super-luxury line, with a $25,000 Chrysler-Maserati and $50,000 Cadillac Allante due in the coming year.

The U.S. achievements in building high-performance cars is particularly impressive, since the industry faced two unique handicaps—obsolescent "CAFE" fuel-economy regulations and the 55 mph speed limit (a discriminatory tax on people without radar detectors). As Science Digest (November) observed, the German cars "evolved features that allow them to survive in one of the world's most demanding automotive environments . . . the autobahn, where cars routinely cruise at better than 100 mph." The U.S. government could force its own automakers to produce only low-powered cars, but it could not keep U.S. consumers from buying German V-8s, British V-12s and turbocharged V-6s from Japan or Sweden. Ironically, a U.S.-built car with over 30% foreign components is exempt from the fuel economy standards, so one way to meet the consumer demand for horsepower could be to import foreign engines as well as high-powered foreign cars (Ford of Germany is likely to bring a four door V-6 version of the Merkur to the U.S.). A policy designed to reduce oil imports could thus end up merely raising auto imports instead.

The U.S. market for limousine-sized cars has made the Lincoln Town Car and Chyrsler Fifth Avenue surprising successes, so Cadillac will keep the big Fleetwood for a while longer. Only the biggest Mercedes really competes in this market, but at a huge price disadvantage ($57,000). Cadillac's elegant new Seville-El Dorado is not yet quite competitive in performance with European luxury sedans, or with the Continental Mark VII LSC (which has the disadvantage of only two doors), but it will nonetheless find a niche on looks alone.

In 1982, the U.S. Commerce Department's *Industrial Outlook* wrote that "Domestic-make cars have not been competitive in the visual area of quality, such as paint and surface finishes, mating of sheet metal, and moulding fits." But is this still true? *Consumer Guide* ranks workmanship on a 1-5 scale in categories of body, paint-exterior and interior. The Continental's "fit and finish" thus ranks ahead of Mercedes Benz, Buick as equal to Audi or BMW, Chrysler on a par with Volvo, and Ford's Taurus a match with Nissan and Honda.

Consumer Reports surveys readers on overall repair records, and "body integrity" (leaks and rattles) has indeed been a weak spot for some older U.S. models. Yet Japan has its own weak spot in these surveys, one more costly to fix than rattles, namely *rust*. Since Japan introduces new models in the home market before exporting, that avoids the problem of early-model "bugs" that has particularly plagued GM small cars (Corvair, Vega, and Citation never overcame the lemon scent). Even with that inherent disadvantage for domestic models, however, recent *Consumer Reports* surveys indicate that overall repair records for U.S. cars are quite comparable to more expensive imports. Recent Audi, SAAB and Volvo models earn only an "average" ranking on reliability (with far above-average repair bills), while BMW earned a "worse than average" repair record in 1984.

In June 1981, our optimistic reading of the opportunities for U.S. autos was a bit premature, given blissful ignorance that tax cuts would be postponed until 1983, or that the Fed would keep the fed funds rate at 14-19% for another year. Similarly, the current "microeconomic" view of the world auto and truck industries has to be conditional on the overall world economy avoiding such iceberges as trade war, competitive appreciation of currencies (deflation of commodity prices), and tax surcharges. At this point, the odds against such policy blunders look quite good, with the tone shifting toward the global supply-side agenda—international monetary stabilization, and exporting supply-side tax policies to Europe, Japan and the Third World. Among other problems with the Ways and Means tax bill, autos would be written-off over 5 years, rather than 3, but that would be only modestly negative for business purchases of autos, and that bill is far from final.

Recent U.S. economic statistics have been strangely distorted by the low-interest auto loans in August-September. That was treated as a price cut in the price indexes, so the GNP deflator was reduced and that raised real GNP in the third quarter. Ending the 7.7% financing in October appeared to push the CPI and PPI back up, though removal of subsidized auto loans is not really "inflation." Producer prices of nonfood consumer goods fell at a 3.6% annual rate from May through September, which puts the October auto bulge in better perspective. The other side of that illusory September-October price swing was the September bulge in consumer spending figures, which the press seized on as proof of inadequate saving; that was followed by an almost equally sharp drop in October's sales, which the press described as proof that consumers were overextended. In reality, none of this is particularly significant, except in distorting popular statistics. If the weak auto sales of October-November are averaged with the record sales of August-September, the annual rate is still very high.

The rising value of stocks and bonds should have a favorable wealth effect on durable goods investments, including autos. Interest rates are overdue for a couple of discount rate cuts by early Spring, partly to allow Japan's weakening economy to lower theirs, and September showed how interest-sensitive the U.S. auto market is. Auto finance companies can again undercut the banks to boost sales, and probably will do so whenever needed. Blue Chip forecasters expect 7.7 million domestic auto sales for 1986, which would be another near-record (despite the exclusion of trucks and minivans, where the U.S. industry is particularly strong). I expect even better domestic sales, and weaker imports, than the consensus forecast.

The recent tentative firming of commodity futures prices bodes will for the overall world economic climate, and for the combined political strains of world debt and trade. This important because a significant portion of the U.S. trade deficit in autos has been from weaker exports, not merely larger imports. As the latest Boston Fed review points out, the biggest increase in the auto-related trade deficit from 1980 to 1984 was with Canada, not Japan. This is not only because Canada makes all the largest Chevrolets and Pontiacs, but also because unemployment remains above 10% north of the border. The auto-related trade balance also worsened with Mexico, Saudi Arabia and others, not because Americans are driving Mexican or Saudi cars, but because some of Detroit's foreign customers are in financial distress. Automotive exports from the U.S. (including parts) were nonetheless running at a $25 billion annual rate by mid-1985, a 32% increase in real terms from 1983. U.S. exports of new cars and trucks in the first half of 1985 were up 38.5% from 1983.

The economic significance of making Japanese cars in the U.S. (as well as supporting materials, such as steel) is that this politically sensitive portion of the trade deficit, and the related capital inflow from direct investment in the U.S., are definitely self-correcting. The construction of Japanese plants in the U.S. (the capital inflow) is intended to replace Japanese imports into the U.S., and it will have that effect.

Just as Japan's cars are being squeezed by LDC competition at the bottom of their price range, and by U.S. competition at the top, Europe's mystique is being effectively challenged by U.S. models that suddenly look and perform about as well for much less money. The fashionable perception that the U.S. automakers are not competitive is not only wrong, it's backward. It may be time to follow BMW's lead, and start aggressively exporting U.S. cars, vans and trucks to Japan.

THOSE OSM BUREAUCRATS: WHAT WILL THEY THINK OF NEXT?

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. RAHALL. Mr. Speaker, the Office of Surface Mining has and continues to be criticized for its failure to resolve several longstanding problems which plague the agency and its ability to implement the Surface Mining Control and Reclamation Act of 1977. These problems primarily deal with inadequate agency management and extend into data processing and fee collections.

Several initiatives have been proposed by OSM recently to deal with its problems. Some are commendable, and some are not. Once of these initiatives of questionable value is called by OSM "voluntary buyer blocking" and is the subject of a recent editorial in The Herald-Dispatch of Huntington, WV, dated December 1, 1985.

This editorial adequately explains the OSM proposal, which seeks to impose upon

major coal buyers the responsibility of the agency to enforce the 1977 surface mining law.

I ask that the editorial be printed following my remarks.

STRIP MINE ABUSERS

The Federal Office of Surface Mining has prepared a plan to ask major coal buyers to boycott "gross abusers" of the federal strip mine law.

We have a better idea: Simply enforce the law.

The OSM proposed last week that—after a 30-day warning—chronic violators of the law be put on a "buyer blocking list" that would be made available to coal buyers through a toll-free hotline. The surface mine industry, quickly objecting, has labeled such an effort a "blacklist."

But whether you call it a "boycott" or a "blacklist," this kind of gimmick wouldn't be necessary if the OSM would simply enforce the 1977 law the way Congress intended.

The law was originally enacted with high hopes. The logic behind it was—and is—overwhelming. Many strip mine operators had over the years done a commendable job of restoring the land after taking coal from it. Many others, however, made no pretense of doing so.

Similarly, many states—West Virginia being one—had relatively tough strip mine regulations on the books. Many others—Kentucky, for example—didn't. And, since complying with the tough regulations was expensive, this put operators in these states at a competitive disadvantage compared with those in states with lax standards.

The idea behind the federal law was that it would force any and all to adhere to the same standards.

Unscrupulous operators would, like it or not, be forced to restore the landscape after mining it. Those states that wished to do so could continue to administer their own strip mine regulations—but only if they were able to demonstrate that those regulations were equal to, or tougher than, those spelled out in the federal law.

But that isn't the way things have turned out.

In its eight-year history, the OSM has undergone four shifts in top management and has been beset by chronic mismanagement, inefficiency and waste.

It has, for example, failed to collect some $200 million in fines assessed against those mining operators found in violation of the law. Indeed, the agency's collection rate is said to be only $1 for every $10 assessed.

Now the OSM bureaucrats have come up with a new idea: a boycott.

Such an extraordinary measure, however, isn't needed. All that's needed is a willingness to enforce the law.

BOSTON ELDER EXERCISE PROGRAM

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FRANK. Mr. Speaker, in recent years there has been a considerable amount of publicity regarding the long-term health benefits of following a regular routine of physical exercise. However, the focus has more often been on young and middle-aged people, and I would like to bring to the attention of my colleagues an innovative exercise program in Boston which is targeted to senior citizens. This program, known as the Boston Elder Exercise Program [BEEP], is open to seniors 51 years of age and older. It is cosponsored by the Metropolitan Health Club and New England Baptist Hospital, and has been publicly endorsed by Catherine Flynn, wife of Boston Mayor Raymond Flynn; Michael Taylor, Boston Commissioner on the Affairs of the Elderly, and Dr. Tenley Albright, the former Olympic athlete and now surgeon at New England Baptist.

Participants in BEEP meet several days a week and perform a series of exercises designed to increase flexibility and endurance, with a special focus on cardiovascular health. In addition, the participants have found that the program fosters social interaction and a general improved sense of morale. Thus, BEEP promotes improved physical and emotional health at the same time, a combination that is particularly attractive to seniors who are living alone.

The program was developed by Cathy Stone, a registered nurse who specializes in gerontology. The classes are instructed by Fred Hoffman, a licensed respiratory therapist, who is assisted by Esther Lee, program director for the elderly at the South Cove Community Center in Boston. In addition, a special note of commendation is owed to Franco Campanello—the owner of the Metropolitan Health Club—who donated the space for the classes and has been an enthusiastic supporter of the program.

The pilot program of BEEP attracted 17 participants, but it was so successful that more than 70 Boston seniors have signed up for the second series of classes. Clearly, BEEP is an excellent model which could be successfully emulated throughout the country, and I direct by colleagues' attention to the attached article which provides further details about this important program.

[From the Boston Herald, Nov. 18, 1985]

EXERCISE SHOULD HELP, NOT HURT

(By Susan Brink)

A fitness program for people of any age should increase health, not threaten it, soothe impairments, not irritate them.

For people over 50, choosing a fitness program should be a highly individual thing.

The basic advice, according to most experts, is to consult one's physician before beginning any new program of exercise.

"If you don't have a physician, get involved with a program that has a medical perspective," said Cathy Stone, registered nurse and volunteer director of BEEP, or Boston Elderly Exercise Program.

BEEP, sponsored by the New England Baptist Hospital and the Metropolitan Health Club and supported by the city's Department of Elderly Affairs, is for people 51 and older. There is a pre-program evaluation by a physical therapist as well as a general health assessment, Stone said. Its advisory board includes a cardiologist.

Two to three days a week, the participants exercise to increase flexibility, range of motion and endurance. Stone said. There blood pressure is taken both before and after exercising, and they take their own pulse about every 10 minutes.

The average age of those in the BEEP program is 74.

Beginning in January, the program will expand to five facilities throughout the city. Stone can be reached at 266-1381 for further information.

An exercise program for the elderly should meet three minimum guidelines, according to the Committee on Aging of the American Alliance for Health, Physical Education, Recreation and Dance.

It should teach participants to monitory their own heart rate. It should have leaders who are aware of warning signs to ill health and have an emergency plan. And it should be adequately supervised.

The state "Keep Moving" program is a walking club that also has a medical advisory board. The program trains leaders throughout the state who then organize local walking programs. More information can be obtained by calling 1-800-882-2003 or locally at 727-4092.

The USDA Human Nutrition Research Center on Aging at Tufts University sponsors walking and strength training programs for older people. For more information, call Dr. William Evans at 956-0333.

[From the Jamaica Plain Citizen, June 20, 1985]

LOCAL SENIORS LIMBER UP AT NEW FITNESS PROGRAM

Seventeen area seniors are learning the benefits of guided exercise by participating in the Boston Elder Exercise Program (BEEP). BEEP is a six-week pilot program developed by Cathy Stone, R.N., to assist well elders (51 and over) in maximizing their independence and improving the quality of their lives.

"Older adults are capable of learning about and promoting their own health, given access to the skills and information needed," Ms. Stone said. "The fact that 17 participants are involved in the pilot program, which was designed for no more than fifteen, attests to the interest of many elders in such a program."

BEEP is co-sponsored by the metropolitan Health Club in Boston's South End, and New England Baptist Hospital. Specific objectives include improving flexibility of major joints, increasing endurance, and improving morale. In addition, the program fosters social interaction.

Michael Taylor, Commissioner on the Affairs of the Elderly, and Catherine Flynn, wife of Mayor Raymond Flynn, are two supporters of the program.

Participants in the pilot program hail largely from the South End and Mission Hill. Esther Lee, program director for the elderly at South Cove Community Center, has actively supported the pilot program by recruiting seniors from the Center. All participants were screened by the physical therapist, and the program's medical advisor.

Fitness instructor Fred Hoffmann leads hour-long exercise sessions with the group. Hoffmann, who has a master's degree in health education and is a licensed respiratory therapist, conducts exercise classes at a variety of Boston area fitness centers.

The Metropolitan Health Club, under the direction of co-owner Franco Campanello, has donated the space for the exercise classes. New England Baptist Hospital has provided the services of a physical therapist, who assisted in initial screening of applicants. The hospital also provided some financial assistance. Both the club and the hospital have expressed a feeling of respon-

sibility as well as an eagerness to work with the elderly in the community.

Based on the early success of the program, the sponsors will seek funds to establish the Boston Elder Exercise Program as a permanent service available to Boston's elderly.

[From the Boston Seniority, June, 1985]

SOUTH END HEALTH CLUB OPENS ELDER FITNESS PROGRAM

(By Bob Joyce)

Springing into shape is not limited to any age group. In fact, looking to shed a few pounds along with a few layers of clothing has become a Rite of Spring for many people. And well it should! But keeping fit is more than just creating an aesthetically pleasing physique. Regular exercise can reduce the risk of cardiovascular disease. Improve posture, help one cope better with stress, reduce mental fatigue and tension, and give a person a generally more positive outlook.

How we choose to slim down and shape up is critically important. For those just embarking on a physical fitness program, a current assessment of one's physical condition is a must; and an organized, professionally-instructed program is best. Enter BEEP.

"We want to work with well elders and help them well," says Connie Apple. Community Liaison for the New England Baptist Hospital, when asked about her hospital's involvement with BEEP.

BEEP is the acronym for Boston Elder Exercise Program, a six week pilot program of planned and supervised exercise for older Bostonians. Co-sponsored by the hospital and the Metropolitan Health Club on Columbus Avenue and Berkeley Street in Boston's South End, the program will bring to the club participants from Mission Hill and South Cove Centers, on Tuesdays and Thursdays, beginning this month.

The Metropolitan Health Club is a spacious, modern, 1½ year old establishment located directly underneath the Toney Club Cafe, both of which are owned by four partners. One of whom, Franco Camponello envisions the pilot program as, ". . . simply a beginning in which we here at the Club, both employees and patrons, are afforded the opportunity to interact with older residents from the South End. Chinatown, and Mission Hill. Beyond the health benefits, the intergenerational aspect of this program is especially attractive."

Camponello has brought in Fred Hoffman, a licensed Respiratory Therapist, as the physical fitness instructor. Hoffman will be working in a 500 foot squared wall-mirrored, carpeted room, replete with music.

Assisting Hoffman as an interpreter will be Esther Lee, Program Director for the Elderly at South Cove. She sees an additional benefit of the program to be." . . . the opportunity for the men and women here at South Cove to get out and meet other men and women of different ages and from the different communities."

According to Cathy Stone, a registered nurse working with BEEP. "The objectives of the program are to help older Bostonians understand and appreciate the benefits of a regular exercise program; and how such a program affects activity, flexibility, and mood." Stone who is in the Gerontology Program at Simmons College sees the need for BEEP, ". . . for the older folks today, and the rest of us tomorrow."

Physical Therapist Sheila McAlister of New England Baptist Hospital echoes the need for physical exercise for older Bostonians as, "Critically important for both circulation and muscle, tone. It is simply unhealthy for both body and mind to sit about all day without exercising. Inactivity may lead to muscle tone deterioration, compounded by mental depression."

Early registrants for the program included: Helen Sherry and Louise Perlmuter of Mason Place, and Harriett Cohee, Roy Knox, and Harry Chin of South Cove, all of whom agreed with Chin's reasoning. "We all need exercise; and it's better than sitting around in your room all day long doing nothing."

From excellent facilities and a professional staff, to careful screening and continual observation of each participant's progress the prognosis for the Boston Elder Exercise Program is one of health and growth.

CANADIAN TAX ON U.S. TOURISM LITERATURE MUST BE ELIMINATED COMPLETELY

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. DASCHLE. Mr. Speaker, the issue of trade and the less-than-fair practices of many of our trading partners has received considerable and much needed attention recently. As the facts have repeatedly shown, while many of our trading partners profess strong support for fair trade in principle, the practices in which they engage make a mockery of trade fairness. One such particularly objectionable practice has been the imposition by the Government of Canada of a 10-percent Federal excise tax on tourism literature imported from the United States.

In March, President Reagan and Canadian Prime Minister Mulroney held discussions in Quebec to discuss trade policy disagreements between the United States and Canada. Among the issues discussed by the President and the Prime Minister was the tax imposed by Canada on tourism literature imported from the United States. On March 18, as a result of the discussions in Quebec, Prime Minister Mulroney pledged to exempt government-sponsored tourism literature and tourism literature issued by boards of trade, chambers of commerce, automobile associations, and other similiar organizations from this tax.

Following the Quebec summit, some initial progress on this issue occurred. In May, Canada initiated action intended to provide the promised tax exemption for tourism literature issued by governmental agencies. Unfortunately, this partial exemption does not honor the commitment made by the Government of Canada to provide an exemption for tourism literature issued by boards of trade, chambers of commerce, municipal and automobile associations, and other similar organizations. Tourism literature issued by these organizations continues to be subjected to a tax by the Canadian Government and there appears to be increasing reluctance in Canada to fulfill its obligation to eliminate this tax on tourism literature from the United States.

Mr. Speaker, the continued taxation by the Canadian Government of tourism literature issued by chambers of commerce, boards of trade, automobile associations, and other similar organizations is totally unacceptable. The Government of Canada should completely eliminate the tax on tourism literature from the United States and fully honor the commitment made last March by Prime Minister Mulroney.

For myself and several of my colleagues, I am today introducing a resolution expressing the sense of the Congress that the Government of Canada should fully and promptly carry out the pledge made by Prime Minister Mulroney to discontinue the imposition of a Federal excise tax on tourism literature from the United States issued by nongovernmental organizations. Joining with me in the introduction of this measure as original cosponsors are Congressman BILL BONER, chairman of the Congressional Travel and Tourism Caucus, Congressman BOB BADHAM, caucus vice chairman, Congressman BILL NELSON, caucus secretary-treasurer, and all other members of the bipartisan caucus steering committee.

Mr. Speaker, Prime Minister Mulroney has pledged to eliminate the excise tax imposed by Canada on tourism literature issued by governmental and nongovernmental agencies. This commitment must be honored fully and promptly.

The text of the resolution which I am introducing today as well as a copy of the letter which I received last March from former U.S. Trade Representative Bill Brock concerning the pledge made by Prime Minister Mulroney follow:

H. CON. RES. —

Concurrent resolution Expressing the sense of the Congress that the Government of Canada should fully and promptly carry out the pledge it made at the Quebec Summit to discontinue the imposition of federal excise tax on tourism literature imported from the United States and issued by certain nongovernmental organizations

Whereas the President of the United States and the Prime Minister of Canada held discussions in Quebec on March 17, 1985, and March 18, 1985, to resolve disagreements on trade policy which had arisen between the United States Government and the Government of Canada;

Whereas 1 of the trade policy disagreements discussed in Quebec was the imposition of federal excise tax by the Government of Canada on tourism literature imported from the United States in the face of the absence of such taxation on such literature imported from Canada;

Whereas, on March 18, 1985, such disagreement was resolved when the Prime Minister of Canada pledged to exempt such government-sponsored tourism literature and such tourism literature issued by boards of trade, chambers, of commerce, automobile associations, or other "similar organizations" from such tax;

Whereas the Government of Canada has not abided by its pledge to exempt imported tourism literature issued by boards of trade, chambers of commerce, automobile associations, or other "similar organizations" from such tax;

Whereas the imposition of such tax on imported tourism literature injures the tourism and travel industries of the United States; and

Whereas the continued imposition of such tax on imported tourism literature violates a pledge made by the Prime Minister of Canada at the Quebec Summit and injures the relationship between the United States Government and the Government of Canada: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Government of Canada should fully and promptly carry out the pledge it made at the Quebec Summit to discontinue the imposition of federal excise tax on tourism literature imported from the United States and issued by certain nongovernmental organizations.

U.S. TRADE REPRESENTATIVE,
Washington, March 18, 1985.

Hon. THOMAS A. DASCHLE,
U.S. House of Representatives
Washington, DC.

DEAR CONGRESSMAN DASCHLE: Knowing of your concern over the imposition by Canada of its federal sales tax on the commercial value of tourist literature, I am pleased to report that President Reagan and Canadian Prime Minister Brian Mulroney during their March 17-18 meeting in Quebec City agreed to a resolution of this dispute.

Specifically, the Prime Minister pledged that action will be taken to exempt from the Canadian federal sales tax tourist literature issued by national or state governments or departments thereof, boards of trade, chambers of commerce, municipal and automobile associations, and similar organizations. The exemption will apply to tourist literature produced in Canada or imported.

The resolution of this dispute, which has marred our bilateral relationship, should stimulate tourism in both Canada and the United States.

Very truly yours,

WILLIAM E. BROCK.

INTERNATIONAL CONSTRUCTION LAW CONFERENCE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MICA. Mr. Speaker, I rise today to bring to the attention of my colleagues remarks delivered by Mr. David B. Perini to the November 7 Conference on International Construction Law. Mr. Perini served as chairman of the International Engineering and Construction Industries Council from 1983-85. That, combined with his leadership of Perini Corp., makes him uniquely qualified to address the role played by the U.S. engineering-construction industry in the international marketplace.

At a time when we in the Congress are deeply concerned with the competitive equation, and the ramifications of a staggering trade deficit, Mr. Perini's remarks are especially timely. I commend them to my colleagues.

ADDRESS BY DAVID B. PERINI TO THE CONFERENCE ON INTERNATIONAL CONSTRUCTION LAW, NOVEMBER 7, 1985

Let me say at the outset that I am extremely impressed by the program which the Forum Committee has put together. The construction industry faces a formidable series of challenges as it tries to hold on to a piece of the international construction market, and this conference hits just about all of them in some form or other. I'm pleased to be an observer here today and am sure that I stand to learn as much about the problems facing international contractors as you do.

I am particularly pleased that IECIC—the International Engineering and Construction Industries Council—was asked to present your luncheon address today, because in recognizing IECIC's accomplishments over the past several years, you are really recognizing that we are finally getting our act together as an industry. After all, these are our problems, and ultimately we are the only ones who can really do anything to solve them.

IECIC was formed almost twenty years ago when the engineering-construction industry first recognized that its competitive position overseas was starting to slip. Three major associations—The National Constructors Association, the Association General Contractors of America, and the American Consulting Engineers Council—decided to band together under the umbrella of IECIC in order to pool their resources in addressing the problems we were facing together as exporters. IECIC was joined in 1980 by the American Institute of Architects, which means that today we represent directly some four million architectural, engineering, and construction employees in the United States.

Let me give you an idea of just how large an industry we are. In 1982, the estimated total contribution of our industry to the U.S. gross national product was $230 billion, or just over 7.5 percent of the total. This figure is higher than the contribution of many other industries which we may often think of as larger; for example, the petrochemical industry makes up approximately 6 percent of the GNP, banking 5 percent, and transportation and communications 6.5 percent. As impressive as this sounds, our share is still less than it was over the past 20 years, when by some accounts it averaged as high as 10 percent. In any event, we are clearly an export industry to be reckoned with.

Or so one would think. The truth is, however, that since the post-war era the U.S. engineering-construction industry has actually switched places overseas with many of the countries we helped rebuild after World War II. In parts of the world where we were once virtually the only construction industry—the Middle East for example—by the early 1980's we were losing contracts to countries which had no design or construction capacity whatsoever 20 years earlier. Things had clearly changed.

What was happening to the construction industry was also happening to many other U.S. Industries, and the results can be seen in our nation's trade statistics today. The U.S. current account trade balance now stands at almost minus $131 billion. In contrast Japan's is approximately a positive $50 billion, and West Germany's a positive $23 billion. Let me present it in another way: A generation ago the United States accounted for about 25 percent of all exports among the world's industrialized nations. By last year our percentage had dropped to 17 percent. West Germany and Japan together have close to 40 percent and even a small country like Italy has 8 percent, almost half that of the United States.

This shocking change in export statistics didn't just happen—to a great extent we planned it and actually made it happen. and we I am certainly including the engineering-construction industry. We are responsible for rebuilding the industrial strength of Europe and Japan, and were so successful that they have become our strongest competitors in third country markets. Increasingly, they are becoming our competitors here at home as well.

Our industry helped make the Marshall Plan work in Europe and had a central role in increasing the productivity of nations in the Pacific Basin. We were responsible for the export of construction equipment, technology, and know-how to countries recovering from war and emerging from poverty, and found that we were excellent teachers.

As I mentioned earlier, IECIC came along at about the time that the tables were starting to turn in our markets around the world. The associations making up IECIC recognized that at the very same time we were facing new and aggressive competition overseas, our own government was beginning to set up roadblocks which would make it even tougher for our industry to compete abroad. You are all familiar with these export disincentives, many of which are being discussed here today and tomorrow—they include tax laws which discourage rather than encourage foreign operations, lack of competitive export financing, a cumbersome, ever-changing export licensing process, a vague and ominous Foreign Corrupt Practices Act, and on and on and on.

IECIC's charter, in short, is to do whatever it takes to convince Washington that we can't hold on to market shares overseas if we are being handicapped by our own government at the same time. One gets tired of hearing the phrase "level playing field" over and over, but that's actually what it comes down to. You may remember the cover on Engineering News-Record magazine back in 1979 that showed Uncle Sam in a construction hardhat trying to jump hurdles labeled "export financing," "tax laws," "FCPA," "Anti-Boycott," and the like. Well, despite some progress, those hurdles are still there, and our team is falling farther and farther behind.

One of IECIC's strongest arguments in fighting these self-imposed national trade barriers has been the fact that we carry along many other U.S. goods and services with us on overseas projects. My predecessor as IECIC chairman, Ray Hodge of TAMS, expressed it perhaps best when he opened our sixth biennial trade conference back in 1981 by saying:

"The engineering-construction industries have the potential to be the catalyst for increased export trade. As the designers, planners and constructors for multi-billion dollar projects, we can provide foreign markets for U.S. manufactured materials, installed machinery and construction and a continuing market for spare parts. Our contribution, therefore, can go beyond the primary impact of initial contracts for professional services."

We found out quickly, however, that what was intuitively obvious to us wasn't necessarily obvious to anyone else in the Admistration or on Capitol Hill. We needed data to back up our arguments, and prove that the export of engineering-construction serv-

ices was in everyone's interest, not just our own.

After determining that existing information simply didn't do the trick, IECIC commissioned Price Waterhouse to conduct a comprehensive analysis of the economic impact of engineering-construction exports on the U.S. economy. Under our direction, Price Waterhouse surveyed the members of IECIC's four associations, which include just about everyone in the industry doing work overseas, and came up with some pretty interesting results. The information compiled by Price Waterhouse is all the more significant because it constitutes the first, and to date the only, comprehensive analysis of our industry's exports and their impact on the U.S. economy.

As announced earlier this year, Price Waterhouse found that this industry had export revenues in 1983 of approximately $19.6 billion, of which $4.8 billion represented direct U.S. revenues. This activity resulted in an additional $6.1 billion of domestic revenue from associated sales of goods, services, and the like. Thus, from the standpoint of the U.S. economy the AEC export industry is an $11 billion business. The multiplier effect is substantial: for every $1 billion of direct revenue produced by AEC exports, there is an additional $1.27 billion of indirect revenues from associated sale of goods, services, and employment. Price Waterhouse determined that 261,000 Americans here at home owed their job that year directly to our overseas work, which in turn generated approximately $6.3 billion in U.S. wages and $1.13 billion in federal income taxes. The employment consequences of a healthy AEC export industry are evidenced by the finding that every $1 billion in total U.S. revenues generated by AEC exports results in 24,000 jobs.

These findings have been enormously useful to us as we try to convince Washington that our export difficulties need to be taken seriously. In a very real sense, these problems are everyone's problems, and must be dealt with head-on even by Members of Congress who have not thought of themselves before as representing exporting constituencies. We would of course be pleased to make copies of the study available to anyone here today who would find it useful.

Having made what we feel is the case for engineering-construction exports, IECIC is having no trouble whatsoever finding ways to use it. The good news, as they say, is that nearly everyone in Washington has finally recognized that our growing trade imbalance is a serious problem, and must be dealt with immediately; the bad news is that many of the solutions under discussion would do far more harm than good.

IECIC's strategy today is much the same as it's always been: to reduce export barriers imposed by our own government and to seek its help in areas where our competitors are being supported artificially by their governments. We hope the Price Waterhouse study demonstrates that these are not selfish goals, but rather should be part of a comprehensive trade strategy which is clearly in our interest as an exporting nation.

IECIC is currently working on two issues which we hope will be resolved shortly. As was discussed this morning, the ability of a contractor to offer competitive export financing as part of a bid proposal more often than not determines who will get the job. In no other single area have foreign governments been more clever, innovative, or generous in helping their national firms win contracts in third country markets. You all know very well how the sourcing of project finance will often determine where contractors are required to purchase construction supplies, equipment, and affiliated services. As U.S. firms are forced to seek help abroad because of the lack of competitive financing at home, this nation inevitably loses many of the economic benefits from exports which were demonstrated by Price Waterhouse. As a result, we are now frequently building plants overseas without any American equipment whatsoever. One large U.S. contractor reported that it was not unusual for it to build plants completely supplied by the Japanese because of their favorable financing. And that company complained further that although it had gotten one contract because of its management capabilities and technology, the Japanese had reaped most of the profits because the markup on equipment is considerably higher than on the engineering and technology component. I might point out to the Congress that very little came back to the U.S. in terms of domestic revenues from that project either. Recently a subsidiary of ours submitted a proposal on a very large project in the Third World with financing solely from non-U.S. sources. If we get that project none of the equipment and materials will come from the U.S.

Of course, other companies might say that despite everything, a company is lucky at least in being able to locate and secure competitive financing overseas. Many small and medium-sized contractors simply don't have the resources to do so, and forego overseas opportunities altogether. We all know what that means for U.S. suppliers.

IECIC has fought long and hard for a competitive U.S. Export-Import Bank, and expects to be in the middle of the Exim charter renewal battle in 1986. We are currently working closely with the Congress on a more immediate problem which has been giving us fits for years—the practice by foreign governments of offering mixed credits to their companies on international projects. President Reagan has proposed a new $300 million war chest to help combat this practice, and IECIC has testified before both the House and Senate in recent weeks on ways that it can be implemented most effectively. We still have a long way to go on this particular financing issue, but it's awfully nice to know that folks here in Washington are at least starting to listen to us.

IECIC's other major concern right now is in the tax field. You may be getting into these issues later this afternoon, so I'll simply say that there are two current tax provisions which we just can't do without if this industry is to hang on overseas: the present system of foreign tax credits and the Section 911 exclusion on overseas earned income. Earlier Administration tax reform proposals which sharply limited our use of FTC's gave us quite a scare, but once again it seems someone was listening for a change and current law appears to be safe for the time being. Section 911 is another matter, however. Mr. Rostenkowski surprised us all several weeks ago when his markup vehicle in Ways and Means included a substantial reduction in the tax exclusion on overseas earned income. It's safe to say that 911 is our industry's sacred cow, and IECIC is working hard to keep this anti-trade provision out of any tax bill that might eventually reach the President's desk. It's apparently an unfortunate fact of life that the defense of section 911 will be a regular agenda item for IECIC for many years to come. 911 is critical. We routinely compete against non-U.S. contractors whose employees pay no tax overseas. In fact, virtually none of our trading partners tax the income of their expatriate citizens.

Once again, I'm very happy to be both an observer and participant here today, and hope that our work through IECIC can be useful and informative to all of you associated with the construction industry. I would be pleased to respond to any questions or comments you may have.

Thank you very much.

INSTITUTIONAL AID

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. HAWKINS. Mr. Speaker, yesterday the House completed consideration of the Higher Education Act Amendments of 1985, giving its overwhelming approval to this historic piece of legislation and sending it to the Senate. As a final note to the extensive debate on the many issues involved in this comprehensive reauthorization bill, I would like to share with my collegues an enlightening guest editorial from the Washington Post regarding some of the many benefits of title III of this act. Title III, Institutional Aid, provides grants of assistance to developing colleges and universities that serve large numbers of low-income and minority students, giving these students an opportunity they might not otherwise have to pursue a higher education and helping to further our national goal of equalizing educational opportunity for all Americans. Among the postsecondary institutions eligible to receive title III assistance are historically black colleges and universities, which have consistently provided access to a higher education for black low-income, and other educationally disadvantaged students. These schools have opened their doors to students who may never have been given a chance at more traditional colleges and universities, and thus, have made an invaluable contribution toward increased access for all students desiring a higher education.

The author of the editorial is Christopher F. Edley, Sr., the president and chief executive officer of the United Negro College Fund. Mr. Edley gives a clear and factual account of the unique role played by historically black colleges in the area of higher education and establishes the importance of continued title III funding to assist these institutions. I respectfully request that the text of Mr. Edley's statement be reprinted in the RECORD.

The article follows:

[From the Washington Post, Dec. 2, 1985]

FOR BLACK COLLEGES

(By Christopher F. Edley, Sr.)

Title III of the Higher Education Act was enacted in 1965 as a special program of financial assistance for "developing" institutions of higher education. The program was created primarily to aid historically black colleges and universities, which for decades were either excluded from federal and state

aid programs or received substantially less public support than their white institutional peers. "We conceived it primarily to strengthen the Negro colleges in the South," wrote Rep. Edith Green in testimony presented in 1966.

The authorized program has never been fully funded, and the majority of the dollars in the limited appropriations were siphoned off to white colleges. During the first 10 years of Title III, historically black colleges received between 50 to 60 percent of the total appropriation. But pressure mounted to expand eligibility, and in 1984 only 34 percent of Title III support went to historically black colleges.

Private black colleges, which have survived on sacrifice and leftovers, can least afford reductions in financial support. These institutions are already asked to do more with substantially fewer resources than their counterparts nationally. Endowments per student at private black colleges are less than half the average for private colleges nationally. Over 90 percent of private black college students receive financial aid. Tuition costs at black colleges are two-thirds and faculty salaries are three-fourths of the national average for private colleges. Nevertheless, public and private black colleges award 40 percent of the undergraduate degrees earned by blacks nationally.

Title III funds are crucial to the survival and strengthening of the historically black colleges. Accounting for 5 to 10 percent of the operating budgets of these institutions, Title III makes possible on black college campuses the growth and development experienced by majority white campuses.

Rep. Augustus Hawkins (D-Calif.), chairman of the House Education Labor Committee, and Sen. Paul Simon (D-Ill.) are sponsoring a bill—The Post faulted it in its editorial "Drawing Lines" of Oct. 17—that would fund specific programs over a 10-year period to help black colleges improve their facilities, strengthen their management systems and develop new curricula. This proposal establishes subdivisions that reserve certain sums for minority colleges and universities. Therein lies the critical issue—is it wrong to use race-specific language to redress racial imbalances?

If we were living in a racially neutral society, we would have no use for racial classifications. The fact is that for more than 100 years historically black colleges were isolated from mainstream public support. There is no racially neutral process to redress that fact. The burden of more than a century has not been lifted in just the past two decades since the Developing Institutions Program began.

Is the predominant race of an institution permissibly a factor to look at in terms of targeting scarce public dollars? Consider a few questions that raise this issue. Have not black institutions gone through something extra to get where they are today? Do the black colleges not bring to learning a different and needed perspective?

Is there not a special need for more black doctors, lawyers, engineers and teachers? Does the whole society somehow benefit because these colleges elevate poor black youth to productive and creative citizenship?

There are no easy answers to these questions. If the answer to all or any is yes, then a classification based on race should be reasonable, purposeful and permissible. To answer all in negative would be difficult, given our present state of education and experience. Yet that is precisely what opponents of race-specific language would require.

If nonracial euphemisms, such as "developing" or "struggling colleges," are used to avoid race-specific language, other nonblack institutions will gobble up the resources as in the past, leaving the black colleges to limp along. This is inefficient and requires the government to expend $3 to deliver $1 to the black colleges. Moreover, these needy institutions can ill-afford to have their unique historical missions and hard-earned achievements lumped with other colleges with strong but substantially different claims for support.

The whole history of the Developing Institutions Program indicates that without a racial classification, black colleges, the very institutions Title III was primarily created to strengthen, receive substantially fewer funds. Why must we do indirectly and ineffectively through euphemisms what we can do directly by providing direct assistance to our nation's historically black colleges and universities? Both noble and racist arguments to avoid racial classifications threaten to homogenize us to death.

THE FATE OF DEMOCRACY IN CENTRAL AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. DORNAN of California. Mr. Speaker, Nicaragua today stands in stark contrast to democratic trends in Central America. The Sandinista directorate has been able to consolidate political power and steer Nicaragua in the direction of a Marxist-Leninist dictatorship. The unprecedented buildup of the Nicaraguan military complex threatens democratic advances throughout the region through subversion and training of insurgency or terrorists groups. Less well recognized though is the threat Nicaragua creates by encouraging military intervention in civilian political processes in neighboring countries. This instability cannot be allowed to continue unchecked.

Mr. Speaker, I remain deeply concerned about the threat Nicaragua poses to the United States and our Latin American neighbors. I know that my concern is shared by millions throughout the country as evidenced by the constant flow of mail and phone calls received by my office.

Recently, Mr. Kenneth E. Mick of the Kiwanis Club of Westminster enclosed a disturbing letter written by their Panamanian Chapter Club Kiwanis de Panama. The letter notes that the Nicaraguan people have been robbed of the democracy promised to them by the Sandinista leadership and also notes that this Communist conspiracy is threatening the sovereignity of all neighboring nations. As you know the Kiwanis Club is a nonpolitical organization. For this reason their unprecedented expression of concern merits particular attention. I submit for the RECORD that letter.

CLUB KIWANIS DE PANAMÁ,
Panama, July 20, 1985.

DEAR BROTHER KIWANIS: As you very well know, the sandinista revolution was able to overthrow Somoza's Dictatorship because of the support received by the Nicaraguan people.

The Nicaraguan people acted that way because they were promised that, if the revolution was successful a Democratic Government would be established in the country.

The revolution was successful, but the promise to the people was not kept, because a group of communists, with the multimillionaire help of Cuba and Russia, seized practically the government and established a Marxist-Leninist repressive state with all its disastrous consequences.

We do understand that Kiwanis Club are not supposed to be involved in politics, but this time the importance and urgency of the matter obligates us to ask you as brother Kiwanis, to send to your Congressman the enclosed signed by you.

Democracy and religion are at stake.

If Nicaragua falls completely in the hands of communists, then all Central America and Mexico will follow and consequently the United States will be in danger.

Russia is giving 500,000,000.00.—U.S. Dollars in aid and much more in armament to marxist Nicaragua for obvious reasons.

There was a Kiwanis Club in Nicaragua before the sandinistas took over, today there is none. By the way, have you noticed that there are no Kiwanis in countries behind the iron curtain?

Lets build democracies and faith the America way.

We thank you in advance for your brotherly help.

Your brothers Kiwanis of the Andean and Central America district.

MIQUEL CLARE,
The Governor.
JOSE ANTONIO MONZO,
The President.
ROBERTO AROSEMENA,
The Secretary.

FIFTIETH BIRTHDAY OF THE NATIONAL COUNCIL OF NEGRO WOMEN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. RODINO. Mr. Speaker, today marks the 50th birthday of the National Council of Negro Women, and on this historic day I would like to include in the RECORD a proclamation commemorating the anniversary issued by National President Dorothy Height which was adopted at the council's 50th Anniversary convention held in Washington on November 16, 1985. The text of the proclamation follows:

PROCLAMATION—A CALL FOR REMEMBRANCE CELEBRATION AND ACTION, DECEMBER 5, 1985

December 5, 1985 is the Fiftieth Birthday of the National Council of Negro women, founded by Mary McLord Bethune with 29 women leaders in the Harlem Branch of the Y.W.C.A. in 1935. On that day I will host a gathering to commemorate our founding and to launch the Fiftieth Anniversary Year. At that time the National Council of Negro Women will release a report cataloging certain trends affecting the status of Black women over the last fifty years.

Delegates to the Fiftieth Anniversary National Convention Meeting at the Hyatt Re-

gency, in the nation's capital, reaffirmed major program thrusts related to hunger, malnutrition, inadequate education, adolescent parenting and pregnancy prevention, juvenile justice, education and career advancement in the United States and African countries. Rallying around the theme "Black Women United—A Powerful Force", delegates reaffirmed their commitment to the struggle for justice and equality.

Your involvement in launching the National Council of Negro Women's second half century of progress is strategic and essential. I call upon National Council of Negro Women affiliates, sections, members and life members to gather on December 5th as a day of remembrance and celebration to set forth your commitment to the program priorities emanating from the fiftieth Anniversary Convention.

MIDDLE TENNESSEE STATE UNIVERSITY FOOTBALL TEAM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. GORDON. Mr. Speaker, it is with pride today that I rise to pay tribute to the Blue Raiders football team of Middle Tennessee State University, my alma mater, which this week enters the quarter finals of the NCAA Division 1-AA playoffs as the Ohio Valley Conference champions and the Nation's No. 1 ranked team. The Blue Raiders, under the skillful coaching of Head Coach James "Boots" Donnelly, finish this championship season with a perfect record of 11 wins and no losses. This is the second straight year that the Blue Raiders will be entering the playoffs.

The Blue Raiders is a dedicated team of talented athletes whom, with the guidance of an excellent coaching staff, have become the pride of Middle Tennessee State and have renewed the university's great winning football tradition. These young men have given 110 percent throughout the season and it is for this reason that they are now ranked No. 1.

The Blue Raiders have also made a clean sweep of awards in the Ohio Valley Conference. Safetyman Don Griffin was named defensive player of the year, Marvin Collier, the offensive player and Head Coach "Boots" Donnelly, coach of the year. This is the first time in conference history that these three prestigious awards have been given to one team.

This season also marked a school record-breaking season for the Blue Raiders for the most yards total offense, 4,013; most points scored, 367; most passes intercepted, 26; most touchdowns scored, 51; and highest scoring average of 33.4 points per game.

Mr. Speaker, this winning season can be attributed largely to the strong leadership of Head Coach "Boots" Donnelly and his coaching staff. All of us in Tennessee are aware of his talents and know of the positive impact he has had on the athletic and career pursuits of his players.

The late great Coach Vince Lombardi once said, "Winning isn't everything—but wanting to win is." The MTSU Blue Raiders epitomize this approach to the sport of football. They want to win, and they do.

100TH ANNIVERSARY CELEBRATED

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. GEKAS. Mr. Speaker, it gives me great pleasure to bring to the attention of all Members of Congress the 100th anniversary of the Williamsport-Lycoming Chamber of Commerce located in Lycoming County, PA.

In December 1885, a group of community leaders banded together to form the Williamsport Board of Trade and worked on a voluntary basis to try to attract business and industry to the north central portion of Pennsylvania. As the group expanded they were renamed the Williamsport-Lycoming Chamber of Commerce and expanded their work to encompass every area of interest to the community. Since 1885 the members of the chamber of commerce have helped not merely the businesses, but the entire Williamsport and Lycoming County community in countless ways because of their dedication to the citizens of the area.

I would also like to take this time to congratulate the members of the 100th anniversary committee, led by E. Van Anderson, on the work they have done to commemorate this event.

To all the past and present members of the chamber of commerce a heartfelt thank you for taking a special interest in our community and for helping keep our county a true community. I hope the next 100 years bring the same concern and dedication to our area as you have so generously shown in the past.

CANADIAN GOVERNMENT MUST ELIMINATE TOURIST LITERATURE TAX AS AGREED TO AT THE QUEBEC SUMMIT

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BADHAM. Mr. Speaker, I am adding my name today as an original cosponsor of a bipartisan resolution calling on the Canadian Government to carry out its pledge to discontinue taxing tourist literature imported from the United States by certain nongovernmental organizations. As vice chairman of the Congressional Travel and Tourism caucus, this is an issue I am very familiar with and had hoped was successfully resolved during a summit conference last March between President Reagan and Canadian Prime Minister Brian Mulroney.

The two leaders agreed that government-sponsored tourist literature from the United States, as well as that of boards of trade, chambers of commerce, and other "similar organizations," would no longer be taxed by Canada. We understand that through parliamentary action the Canadian Government is taking steps to drop the tax on government-sponsored tourist literature. They appear to be reluctant, however, to take any action to discontinue taxing nongovernmental organizations included in the Reagan-Mulroney agreement. They have not given us any indication if and when they will act on this part of the agreement.

Mr. Speaker, I am pleased to note that the entire bipartisan Tourism Caucus Steering Committee has joined together in cosponsoring this resolution to bring this matter to the attention of the Canadian Government. We urge them to lift this tax on tourism literature completely and promptly as a big step toward improving tourism and trade between our two nations.

MURDER OF A POLISH PRIEST CHRONICLED BY READER'S DIGEST

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. COURTER. Mr. Speaker, what General Jaruzelski calls the "normalization" of Poland proceeds apace. The political power of the free labor union movement has been severely checked. A much publicized amnesty of July 1984 has been all but forgotten, and the Polish prisons are refilling with political prisoners—at least 300 thus far. Political kidnapings have become almost commonplace; Solidarity sources say that there were at least seven in the Torun region during the first half of 1984 alone.

One of these was Rev. Jerzy Popieluszko. It ended in his murder by the Polish secret police. The case riveted and terrified the people of Poland. News about it, and the trial which followed, dominated the world's newspapers for several weeks. Perhaps Americans were surprised by the publicity—inside and outside of Poland—which the regime permitted during the trial by allowing journalists to be present in normally closed courtrooms. Perhaps Americans were even more surprised by the convictions of several policemen for Popieluszko's murder. But the proceedings were no mistake. The world was invited to see in them a government warning to Polish secret policemen, but the Poles were forced to watch the exoneration of the higher authorities who directed the murder and who continue to direct the suppression of all unofficial political activity.

John Fox has just written an important chronicle of the life and death of Father Popieluszko. Entitled "The Murder of a Polish Priest," it may be the Reader's Digest's most extensive research effort on matters of human rights and their violations since Claire Sterling's groundbreaking work for that journal on the plot to kill Pope John Paul II.

The essay makes for disturbing reading. But it is necessary reading. Its import goes

beyond the case of the Reverend Jerzy and beyond the affairs of Poland to other countries captive to Soviet military and policy powers. As Mr. Fox observes in a footnote, human rights groups have reported the "suspicious" deaths of at least 15 other Catholic priests and a nun, as well as deaths of active laymen, in the Soviet bloc countries during the present papacy. An even greater number of Protestant ministers and lay religious leaders have died under similarly suspicious circumstances during that period, according to Mr. Fox's sources. Of course, the persecution of the Jews goes on at its usual and appalling rate. Murder of the Solidarity religious adviser thus appears to be no accident; it was instead an example of rather conventional methods of political control behind the Iron Curtain.

I commend to the attention of my colleagues "The Murder of a Polish Priest" from the December 1985 issue of Reader's Digest. Several short excerpts from that article follow.

[From Reader's Digest, December 1985]

"THE MURDER OF A POLISH PRIEST"

On September 12, Soviet *Izvestia* launched an extraordinary attack on Father Popieluszko. Moscow accused him of close collaboration with "counter-revolutionaries who haven't learned their lesson." Singling out the August 26 Mass at which he told Poles not to be afraid, *Izvestia* demanded that Father Jerzy be silenced: "The priest himself, by all accounts, is not afraid."

On September 17, Poland's Minister of Religious Affairs wrote to church officials in similar language. He called on the church to "liquidate" an alleged nationwide "illegal counter-revolutionary organization" led by Father Jerzy. The official warned that failure to quell the priest immediately would "cast a deep shadow on church-state relations."

Regime spokesman Jerzy Urban followed two days later with a furious attack in the official press. He called Father Jerzy a "political magician" who held "séances of hate," and "sessions of political rabies" in church. He added, "Even though there is no such thing as a human soul, the struggle for power over it is real."

At secret-police headquarters next day (later testimony revealed), the officers on Father Jerzy's case excitedly discussed their new orders: to go beyond the intimidation that had failed so far. The priest could be pushed off a moving train or have a "beautiful traffic accident" on the road. They could kidnap and torture him until he revealed his Solidarity contacts, or his weak heart gave out. As in the cases of several score other Solidarity supporters, officials planned to blame the death on "unknown perpetrators." A specially picked team would have unlimited resources and nationwide clearance for the job. Whatever the means, the orders were clear and "from the very top": silence Popieluszko once and for all.

By early October, church officials assured the regime that the "Popieluszko problem" would soon be resolved to their liking. Cardinal Glemp was handling the case personally. Churchmen said that the Primate's increasingly harsh rebukes—for endangering the interests of the church and worse—left Father Jerzy shattered. Friends remember seeing him sobbing uncontrollably just after he'd come from a meeting with the Primate.

Pope John Paul II watched events in Warsaw with mounting distress. He was afraid for Father Jerzy's life. "One must suffer for the truth," the young priest had written to him. "That is why I am ready for anything." In response to Cardinal Glemp's fresh accommodation with the regime, the Pope sent a special blessing and crucifix for Father Jerzy. In Rome, John Paul demanded, "Why don't they defend him!"

The priest would have to be kidnapped outside Warsaw, because of his strong worker guard. Police even hoped to force Father Jerzy to travel alone. Waldemar Chrostowski, the volunteer driver who doubled as his traveling bodyguard, was interrogated many times and pressured to "cease the friendship." When he ignored the warnings, his apartment was gutted by a powerful firebomb. Though Chrostowski was a Warsaw firefighter, authorities halted the investigation of the explosion.

At a flurry of high-level meetings, senior officials in the Ministry of Internal Affairs—some of them the same ones Cardinal Glemp and his aides were negotiating with over Father Jerzy's fate—pressed for speedy action. On October 9, according to later testimony, the orders took their final form: Father Jerzy was to be killed without fail, but security agents should first try to "extract" information from him in a wartime Nazi bunker in the forest. If others were traveling with him, they would be murdered too.

Just before midnight on October 13, 1984, a special squad waited on the Gdansk-Warsaw road to arrange Father Jerzy's "beautiful accident." He was returning from a Mass for the Homeland, together with Chrostowski and a prominent Solidarity leader from the Warsaw steelworks. But thanks to Chrostowski's quick reflexes, they eluded the secret-police ambush. When the death squad returned to headquarters, a superior remarked, "What a pity—it could have been a bigger accident with so many involved."

Yet for Father Jerzy, an unbearable tension had lifted. The day of the attempted ambush he told a friend, "I don't know why, but I'm not afraid anymore." A colleague who was with Father Jerzy that week said, "He went straight for what was coming to meet him."

A few nights later, Father Jerzy noticed that a secret-police car had been stationed outside his window for several hours in the icy cold. "They must be freezing," he told Chrostowski, and sent him down with a message: "You've been on duty for so long—Father Jerzy wants you to have a cup of coffee." The officers looked annoyed and turned away.

KIDNAPED

When he traveled, Father Jerzy liked to dress casually. But on Friday, October 19, he put on his priest's robes. As always, he took along the papal rosary that was his greatest treasure.

The priest who had invited him to the provincial town of Bydgoszcz that day was threatened by police with "serious consequences" if Father Jerzy spoke.

Father Jerzy's friends had spotted a strange Fiat waiting outside the church in Bydgosazcz. In it was the officer in charge of the long-running Popieluszko investigation, Capt. Grzegorz Piotrowski. One of the most brilliant and trusted officers in the Polish secret police, he had been chief of the Pope's personal security on his 1983 visit to Poland. With Piotrowski were two other highly decorated officers from the security service's Fourth Department, responsible for religious affairs. The same team had tried to ambush the priest six days before. On the road to Bydgoszcz this time, the officers argued about selling the priest's car afterward for spare parts.

Parishioners offered to escort Father Jerzy by car back to Warsaw. But the priest was used to being followed. And it was late. He and Chrostowski would go alone.

The secret police overtook them on a deserted road about a half hour from Bydgoszcz. They held Chrostowski at gunpoint. Captain Piotrowski dragged Father Jerzy by the cossock to the Fiat.

"Gentlemen, what are you doing!" the priest protested. "How can you treat someone like this?"

In a cold fury, the kidnappers beat him with fists and clubs, smashing his skull and face. Unconscious, he was bound, gagged and thrown into the trunk.

As they headed for a lonely stretch of woods, Chrostowski, an ex-commando hurled himself from the Fiat in a desperate escape. He made it to a nearby workers' hostel and quickly raised the alarm. When he reached the Torun hospital emergency ward, another squad of secret-police officers (and a state prosecutor who was later assigned to "investigate" the case) were waiting to take him away. But for the authorities, it was too late. Chrostowski had already alerted the church.

The secret-police Fiat sped on with Father Jerzy in the trunk. Captain Piotrowski's men were arguing now, and downing quick shots of vodka. One young officer voiced the fear that if Chrostowski had recognized him from a previous encounter, the kidnappers would be exposed and "thrown to the lions." Shouldn't they leave the priest in the woods, terrorized but alive? Captian Piotrowski was unmoved. He had strict orders: "Popieluszko must die."

SAVAGE VIOLENCE

With Chrostowski's escape, news of the abduction has swept across Poland. Shock and outrage were nationwide. St. Stanislaw's overflowed with thousands of people. Every night, larger crowds turned out at Masses, praying for Father Jerzy's deliverance. Massive security forces surrounded the Warsaw steelworks, where the men were praying at work. Thousands marched for Father Popieluszko's release and filled the nation's churches in 24-hour vigils. Throughout Poland, there were mass meetings in factories and spontaneous prayers in schools.

As other priests and their worker guards received new death threats, the national crisis mounted. Groups of workers patrolled the St. Stanislaw compound after threats and attacks. Secret police turned their "investigation" of the crime into an assult on Father Jerzy's friends. Days after the abduction, secret police twice interrogated Father Jerzy's doctor about the priest's illnesses and a kind of medicines he took.

Other churchmen denounced the abduction, but Cardinal Glemp refused to comment. Instead he went ahead with a three-day visit to East Berlin, where he was received by the Polish ambassador. The same day in Rome, Pope John Paul II declared himself "deeply shaken," condemning the "shameful act" and appealing for Father Jerzy's immediate release. "He really lived through it every day," said a papal confi-

dant. "When you hit Popieluszko, you're hitting at the Pope."[1]

Facing the greatest public passion in Poland since the birth of Solidarity, officials rationed details about Father Jerzy's fate. But Chrostowski and others had already told too much to permit a simple cover-up. Working round-the-clock from Father Jerzy's room at St. Stanislaw's, a group of the priest's supporters launched an appeal for information on the kidnapping. But Crdinal Glemp soon kicked them out after the regime officially denounced the group.

The nation's patience ran raw after ten days of waiting. The regime feared a popular explosion.

When smiling security officers pulled the battered corpse of Father Jerzy from a reservoir on the river Vistula, about 80 miles northwest of Warsaw, it was tortured beyond recognition. A sack of rocks hung from his legs. His body had been trussed from neck to feet with a nylon rope so that if he resisted he would strangle himself. Several gags had worked free and lay across his clerical collar and cassock, soaked with the priest's vomit and blood.

Officially, the priest spent less than two hours in the company of his assassins—most of it in the trunk of the speeding Fiat. But his torture was much too extenisve and systematic to have been inflicted in that brief time.

Family members and sources present at the autopsy described a body covered head to foot with deep, bloody wounds and marks of torture. His face was deformed, and both hands were broken and cut, as if the priest had been shielding his face from the blows. His eyes and forehead had been beaten till black. His jaw, nose, mouth and skull were smashed, his fingers and toes dark red and brown from the repeated clubbing. Part of his scalp and large strips of skin on his legs had been torn off.

The autopsy showed a brain concussion and damaged spinal cord. His muscles had been pounded again and again until limp. Internal injuries from his beatings had left blood in his lungs. One of the doctors who performed the post-mortem reported that in all his medical practice, he had never seen anyone so mutilated internally. The kidneys and intestines were reduced to pulp, as in others cases of prolonged police torture in Poland. When Father Jerzy's mouth was opened, the teeth were found completely smashed. In place of his eloquent tongue, there was only mush.

A group of priests tried to identify the body, but could not recognize their friend. Identification finally had to be made by Father Jerzy's brother from a birthmark on the side of his chest. Even making the full autopsy report public was deemed too explosive by regime and church officials, who continue to suppress it. Church and independent sources familiar with the report have said it details an even more "horrifying" picture of the final torture suffered by the defenseless priest.

UNDYING SPIRIT

Since the night Father Jerzy disappeared, new converts have poured into Poland's churches. Many lapsed believers have come back too, saying that his death shook them to a new faith. Larger crowds than ever come for the Mass for the Homeland, held close to Father Jerzy's grave.

Far from quelling the clergy, the murder has emboldened hundreds of priests across Poland. Churchmen report that his example is inspiring a new generation of vocations to the priesthood. The same state officials who attacked Father Popieluszko now blame his killing for the sharp rise in the number of anit-regime clerics.

The priest's sacrifice has also sparked an upsurge in underground Solidarity activity, and new courage among human-rights activities.

The regime defames Father Jerzy's memory and persecutes his followers, but the people of Poland have beatified him.

[1] The Pope's last blessing and crucifix for Father Jerzy reached Warsaw a day after the abduction.

ARMENIANS INTRODUCE COMPOSER TO AMERICAN PUBLIC

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. PASHAYAN. Mr. Speaker, an estimated 800,000 Americans of Armenian descent will pause on Sunday, December 22 to pay their respects to the memory of an Armenian musician of great accomplishment, Gomidas Vartabed, who remains little known to the outside world.

Born Soghomon Soghomonian in a small village in the western reaches of Anatolia in 1869, and orphaned at the age of 11, the young Armenian was sent to study music in Etchmiadzin, the Mother See of the Armenian church, when it was discovered that he had a good voice. Ordained a priest at the age of 24, Gomidas traveled throughout the eastern provinces of Armenia, meticulously gathering the folk songs of her villages, and purifying that music from an accumulation of foreign influences.

Archbishop Torkom Manoogian, the Primate of the Armenian Diocese of America, says, "In Gomidas Vartabed, we have a clergyman and musicologist who singlehandedly assembled and refined Armenian music, captivating the hearts of his audiences. He harmonized the music of divine liturgy, the musical foundation of our Armenian Apostolic church service. It is said that the composer Debussy, Gomidas's contemporary, after listening to the clergyman's composition "Andoni", said that even if Gomidas never wrote another composition, that one haunting melody would ensure his posterity. Fifty years after his death, we hope to re-present this composer to the world.

"In a very real sense, Gomidas's lack of recognition to date is an aftermath of the genocide, as Armenians put all energies into rebuilding their lives, and little effort into honoring their artists. Gomidas, too, was an indirect victim of the genocide, as he lived a life of creative darkness after witnessing its atrocities, and finally died in an asylum in Paris, leaving us to imagine what further masterpieces he might have left us. As it is, he preserved the music which is the soul of the Armenian people."

In order to invoke his life and accomplishments, and to introduce his music to the Armenian public, the diocese has declared December 22 as Gomidas Vartabed Day, and in cooperation with other leading Armenian organizations, is presenting a concert of Gomidas's music in St. Vartan Cathedral on Second Avenue and 35th Street in Manhattan. Seven Armenian artists will perform the works—both religious and secular—of Gomidas, including bass Ara Berberian and contralto Lili Chookasian, both of the Metroplitan Opera.

MEMPHIS, A CITY THAT CARES—A TRIBUTE TO THE UNITED WAY OF GREATER MEMPHIS AND THE PEOPLE OF MEMPHIS

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FORD of Tennessee. Mr. Speaker, I would like to commend the United Way of Greater Memphis for achieving, in 1985, an 18.01 percent increase in dollars raised over 1984's total. The United Way of Greater Memphis' percentage increase in 1985 over 1984 sums exceeds the average percentage increase of 3 to 12 percent attained by the 50 largest cities in the country.

The United Way of Greater Memphis' accomplishment in 1985 is significant for what it exemplifies about the Greater Memphis metropolitan area as a community that rallies around its poor, its elderly, its disabled, and its undereducated, and its unemployed and all those persons in need during these hard economic times. Over 100,000 contributors, of whom 50 percent were private individuals, gave more than $13 million. These dollars will be distributed by the United Way of Greater Memphis in 1986 to 53 agencies and affiliations that provide health and human services for over 300,000 beneficiaries in the Memphis area.

When United Way of Greater Memphis members like Dick Aft, executive director; Ira Lipman, general campaign chairman; Jim Crews, president; and Bryce Haugsdahl, campaign director reach out not only with feeling, but with time, energy, and money to meet the needs of their community, their community and their country must turn to them and say thanks for a job well done. The efforts of dedicated people like these and the thousands of individuals and organizations that gave in 1985 make Memphis a city of which America should be proud.

200TH ANNIVERSARY OF THE CITY OF LINCOLNTON

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. McMILLAN. Mr. Speaker, it is a great privilege for me to recognize to the Congress the 200th anniversary of the city of Lincolnton, NC.

Lincolnton is the seat of Lincoln County, which comprises the western section of my

Congressional District. The city and county were named for General Benjamin Lincoln of the Revolutionary Army. Rich in heritage and tradition, Lincolnton represents the spirit of North Carolina and, indeed, America.

One of the most distinctive features of Lincolnton is the county courthouse, which sits in the middle of town. Lincoln County's first courthouse was built with logs and replaced 3 years later by one of planks, painted a bright red. Two other courthouses preceded the present structure. In fact, Ezekiel Polk, grandfather of President James K. Polk was Lincoln's first clerk of court and operated from this site.

During my visits to Lincolnton, I always feel at home, Mr. Speaker. As I walk up the sidewalks I am always encouraged by a friendly smile, a wave or nod. The residents of Lincolnton are truly representative of the southern hospitality we North Carolina Congressmen so often talk about.

Charles A. Jonas and his son Charles Raper Jonas are distinguished as two of the most famous Lincoln residents, and both were my predecessors in the Congress. Charles Raper still lives in the city. I am honored to follow in their footsteps by representing this district, which includes their hometown.

Mr. Speaker, it gives me great pleasure to commend Lincolnton and her citizens on their 200th anniversary.

U.S. NARCOTICS CONTROL ASSISTANCE TO PERU

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BARNES. Mr. Speaker, I was alarmed by an article in the October 31 Washington Post, which alleged that U.S. narcotics control assistance was being withheld from Peru as a sign of U.S. displeasure over Peru's policies in other areas, such as the debt problem. Clearly, since narcotics control is in our interest, such a policy would not make sense. I raised this matter with the Department of State, which has responded with a denial of the allegation in the Post article. So that the record will be clear, I include my correspondence with the Department of State, and the article referred to, at this point.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 31, 1985.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I noted with alarm the story in today's Washington Post alleging that U.S. narcotics control assistance for Peru is being withheld, or the processing of Peru's request for such assistance slowed down, as a sign of U.S. displeasure over Peru's stand on the debt and other issues.

Today is Halloween, and I am hoping the story is a trick. For this is a classic example of cutting off our nose to spite our face. The current government of Peru is the first to heed our own urgings to get serious about attacking its narcotics problem—and ours. The Alan Garcia government has unequivocally demonstrated its commitment in this area, and now, according to the press, is seeking additional assistance for its police forces to permit more aggressive moves against the narcotics traffickers.

As you know, Peru is a major producer of coca, most of which ends up on streets of the cities and towns of the United States contributing to our drug problem. It simply surpasses understanding how the United States could be anything less than totally cooperative with Peru's efforts to control this traffic.

I urgently request a clarification of U.S. policy on this matter—and, if that policy is as stated in the Post, its immediate reversal.

Sincerely,

MICHAEL D. BARNES,
Chairman, Subcommittee on Western Hemisphere Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 25, 1985.

Hon. MICHAEL D. BARNES,
Chairman, Subcommittee on Western Hemisphere Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Your letter to Secretary Shultz of October 31 expressed alarm over a Washington Post article alleging U.S. narcotics assistance is being withheld from Peru as a sign of displeasure over Peru's stand on debt and other issues. Let me assure you that allegation is clearly false.

Stopping the flow of narcotics is of vital interest to the United States. Narcotics control assistance to Peru is not linked to other foreign policy issues, nor is it linked to the way we administer our other programs. Instead, the level of our funding for narcotics programs in Peru and other countries is related to how well those funds can and will be used to stop the flow of drugs to this country, and other funds can be withheld for non-performance in the narcotics area.

Indeed, given President Garcia's strong statements advocating narcotics control and his government's important support for new interdiction programs in Peru's northern jungle areas, we have reason to believe that, after further dicussion with the Peruvian government, we will be in a position to increase our programs.

Comprehensive discussions with the Peruvian government on narcotics assistance increases will be helped by the comprehensive narcotics plan the government is currently drafting. The key to our ability to respond to needs in Peru and elsewhere will, of course, be the availability of adequate funding.

I hope we will be able to count on your support if we must request additional appropriations.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary, Legislative and Intergovernmental Affairs

[From the Washington Post, Oct. 31, 1985]

PERU COMPLAINS OF STRINGS ON U.S. AID

(By Bradley Graham)

LIMA, PERU.—After cracking down on cocaine trafficking, Peru's new government has been told that increased U.S. antidrug assistance may be slow in coming due to displeasure in Washington with other Peruvian actions that are at odds with U.S. interests in Latin America.

Peru has asked the United States for six aircraft, plus radios and small arms, to help its under-equipped police battle rich narcotics traffickers. Nearly half the world's coca crop grown in this country.

President Reagan's special adviser on narcotics, Carlton Turner, visited Peru earlier this month and, according to Peruvian officials, informed them that bureaucratic processing delays in Washington would likely mean that Lima's urgent request for additional assistance cannot be met until a year from now.

Turner and U.S. Ambassador David Jordan also reportedly indicated to at least one senior Peruvian offical that extra aid might be forthcoming sooner if the new president, Alan Garcia, would moderate his unilateral decision to limit foreign debt service payments and would show greater consideration of other U.S. political and economic interests in the region.

This apparent attempt to link added U.S. antidrug support with Peruvian concessions in other areas has upset officials here.

"They're waiting to see what we do on the debt, that's why they say the Washington bureaucracy is moving slowly on this allocation," said Agustin Mantilla, the deputy interior minister heading Peru's anticocaine drive, in an interview.

"I think the United States should separate its international affairs and the debt issue from what should be a concern for the debt issue from what should be a concern for the mental and physical health of its own people. These should be two different matters."

U.S. Embassy officials, who have praised Peru's turnaround in the drug war, declined to discuss the assistance problem on the record. But informed foreign observers supported the view that, in addition to normal bueaucratic delays in Washington, fast action on Peru's aid request seems to have been impeded by U.S. irritation with some of Garcia's other moves.

[At the White House, an aide to Turner said he has been hospitalized and hence was not able to comment on the Peruvians' account.]

Garcia caused international waves by announcing at his inauguration in July that for one year, Peru would limit payments on its foreign debt to 10 percent of its export earnings. Since then, Garcia has stirred further U.S. annoyance by rescinding state contracts with American oil companies, accusing them of not having done enough exploration, and by expressing sympathy for the Sandinistas in Nicaragua and warmly welcoming Nicaraguan Vice President Sergio Ramirez to Lima earlier this month.

Drugs had been a point of contention in U.S.-Peruvian relations under Garcia's predecessor, Fernando Belaunde Terry, whose embattled government had made only weak efforts at curbing the fast-growing cocaine business.

Then, in a surprise wave of commando-style raids soon after Garcia's inauguration, the new government demonstrated its political will to attack the problem. Peruvian officals say those initial raids exposed 22 clandestine airstrips, captured five light aircraft, demolished eight cocaine-processing labs and hauled in 3.5 tons of coca paste.

They say the police operations will continue, but will be hampered by Washington's slow response to Peruvian calls for boosted assistance on correcting serious shortages of firearms, communication equipment and aircraft to ferry police teams into mountain and jungle regions where traffickers operate.

"I'm disillusioned," said Mantilla, who met with Turner and Jordan. "They've told me I'll have to continue working against the drug trade, and they'll keep watching me, and maybe by the start of fiscal 1987 . . . there will be a larger U.S. allocation for us. Well, I will continue working with what I have, but we won't be able to do as much as we'd like."

Garcia has said the decision to move against the narcotics trade was taken not to get more U.S. aid but out of a moral wish to purge Peruvian society of the drug menace. Also part of this morality campaign is a government effort to clean up drug-related corruption in the police, armed forces, judiciary and government bureaucracy. Garcia's aides have fired more than 200 senior police officers—nearly a third of the force's leadership.

But Peruvian officials acknowledge that the anticocaine campaign also included the hope that Washington would quickly respond with special gestures of assistance.

"It's a case of mutual responsibility," said Mantilla, who was Garcia's chief of staff during the election campaign. "My president has said it is our moral duty to do what we're doing. But a great part of this drug evil is done to the United States. Eighty percent of what is produced here is exported. If the North Americans don't want to fight alongside us, it's their problem."

Using a long pointer and a large colored wall map of Peru, Mantilla outlined the river valleys that stretch along the eastern slopes of the Andes mountains down the length of Peru, providing fertile ground for cultivation of the coca plant, Peru's number one export crop.

In the northeast, where Peru touches Colombia and Brazil in vast lowland jungles, Mantilla indicated a wide area in which, he said, drug traffickers, chased from Colombia, have set up clandestine landing strips and cocaine processing labs.

Given the broad territory and difficult terrain in which traffickers can be found, and the well-armed, well-financed forces they can muster, Mantilla said Peru is badly outmatched for a fight. He said a 400-man antidrug force headquartered in Tingo Maria, in a region where half of the Peruvian coca crop is grown, has only eight automatic and four M1 rifles, 20 shotguns, 170 automatic pistols and 57 revolvers.

Mantilla said that he has asked U.S. help in obtaining two helicopters, two amphibian planes and two transport planes, plus radios, trucks and weapons.

Referring to the murder by drug traffickers in April 1984 of Colombian Justice Minister Rodrigo Lara Bonila, Mantilla he said: "Maybe we'll have to wait for them to kill one of our ministers so that the U.S. bureaucracy becomes convinced."

Peru is already scheduled to receive $4.4 million in U.S. antidrug aid in the coming year under programs aimed at training Peru's antinarcotics police force and substituting coca plants with other crops.

In making his pitch for more aid, Mantilla is understood to have had some "undiplomatic" exchanges with Turner of the White House.

According to a Peruvian source knowledgeable about the talks, Turner told Mantilla that before receiving more U.S. assistance, Peru should undertake several large police operations in the upper Huallaga River valley, a hilly semitropical zone about 250 miles northeast of Lima that accounts for at least half the coca leaves grown in Peru.

Mantilla is said to have rejected the requests as unnecessary and impractical. Until other crops can be developed to compensate Peruvian peasants sufficiently for the elimination of lucrative coca harvests, Lima officials say eradication efforts must proceed gradually.

TRIBUTE TO REPRESENTATIVE DON EDWARDS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. LEVINE of California. Mr. Speaker, I rise to pay tribute today to Representative DON EDWARDS, the Dean of the Califorina Democratic Delegation. DON is one of those rare Members who combines effective leadership without compromising his strong sense of moral purpose. His patience and enlightened good counsel have encouraged our delegation to speak with greater resolve and unity.

As DON has devoted his career to fighting for justice in America, we should all be thankful that he chairs the Judiciary Subcommittee on Civil and Constitutional Rights. He has led congressional efforts to protect equal rights for women, workers rights for minorities, legal rights for children, and voting rights for all Americans.

During my freshman year I learned about a little known administration directive to censor the writings of Government employees and arbitrarily subject many of them to poligraph tests. Initially, there had not been much publicity surrounding this directive, but DON had held hearings on the matter precisely because it had not received adequate attention. DON has that special understanding that any attack on the constitutional rights of a few, is an attack on the Constitution itself.

It is no surprise that DON is being honored at an ADA dinner this week for tireless devotion to securing equal rights and equal treatment under the law for all Americans. It is a pleasure to join with my colleagues in also honoring him here today.

INTRODUCTION OF LEGISLATION REPEALING MEDICARE PENALTY FEE FOR LATE ENROLLEES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FRANK. Mr. Speaker, I recently introduced H.R. 3844, legislation which would repeal the penalty fee which is imposed on Medicare enrollees who apply for coverage more than 3 months after they are initially eligible. Given the dramatic increases in the cost of health care which have occurred in recent years, I don't believe we ought to, in effect, penalize older Americans who are healthy enough to delay enrollment, by requiring them to pay higher monthly premiums when they do elect Medicare coverage.

Under current law, if a person becomes eligible for enrollment in Medicare at age 65, there is no penalty fee as long as he or she applies for coverage within 3 months. However, applicants who apply after this initial grace period must pay a penalty along with their regular monthly premium—those who continue working can wait until age 70 before facing the penalty. This penalty is equal to 10 percent of the premium for every year enrollment is delayed. Thus, the standard monthly premium for a person who waits 14 months before applying would be 10 percent higher than it would have been if the application had been filed within 3 months. However, someone who waited 7 years before applying would now be paying a 70-percent higher premium. In fact, there are some Medicare enrollees now paying penalties of more than 100 percent.

Imposing this type of penalty on older Americans who are basically healthy, who are trying to cope with the rising costs of health care in this country, and who have already undergone some increases in their Medicare premiums, is unfair and is not good health policy. My legislation would repeal this penalty for all current and future Medicare enrollees, though it would not refund any penalty money which has already been paid. This change would apply to approximately 3 percent of part B enrollees, more than half of whom pay 10 or 20 percent penalties, and a miniscule number of part A enrollees, less than one-hundredth of 1 percent.

TERRORISM IN AMERICA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. RAHALL. Mr. Speaker, the scourge of terrorism has recently found its way into the United States and is being directed at Arab-Americans. It is past time to wipe the stain of terrorism from the face of the Earth. However, in the absence of common sense on the part of terrorists, it is necessary to take precaution against terrorist attacks.

I am urging all of my colleagues to speak out against terrorism right here at home, directed against American citizens of Arab descent. I am an America citizen of Lebanese extraction and I feel that Arab-Americans deserve the same right of protection under the law as any other citizen of this country.

We have recently witnessed several acts of terrorism against Arab-Americans, culminating in the murder of Alex Odeh in the Santa Ana, CA, office of the American-Arab Anti-Discrimination Committee, and the most recent fire at ADC's national headquarters here in Washington. The FBI does not feel that such a terrorist act as the apparent ransacking and fire at the ADC headquarters merits an investigation. I have joined with my colleague, MARY ROSE OAKAR, in writing to the FBI Director, Wil-

liam Webster, and urging a full-scale investigation and prosecution of the guilty parties. There is no place for terrorism here in America.

I would like to bring to the attention of my colleagues an editorial which appeared in the December 5, 1985 edition of the Washington Times. I feel that it deserves the scrutiny of every Member of this body.

TORCHING ARABS

The Arabs have a point: when it comes time to speak up on behalf of the safety of Arab-Americans, politicians seem to have other things to do—washing their dogs, practicing their winks and handshakes and otherwise acting as if all were well.

All is not well. The truth is that the Arab-American Anti-Discrimination Committee is being systematically attacked around the country. Last Friday night its Washington headquarters burned in what was probably a set fire. About six weeks ago one person was killed and eight were injured in the bombing of the ADC office in Santa Ana, Calif. In August the ADC office in Boston was blasted, and a policeman was injured. If Arab-Americans are starting to get a little paranoid, they've got cause.

Many Americans would not agree with the positions some Arab-Americans support, especially when it comes to the terrorist Palestine Liberation Organization. Nonetheless, most people in this country won't tolerate such violence. Dynamite might be acceptable in the Middle East, but Americans expect everyone to check his blasting caps at the door when he comes to this country. Over here, it's war by other means, persuasion being the weapon of choice.

Our elected representatives don't serve us well by ignoring these outrages. America is home to many diverse groups, many of whom are unpopular, many for good reason. To keep a lid on things, it's important to affirm the peaceful nature of our politics by condemning every act of violence (the bombers have done much more actual damage than the oft repudiated Louis Farrakhan), no matter the target, no matter the source. Arab-Americans have a right to feel left out when all the ritual deploring of violence is done. Now is the time to correct this deficiency.

SPRINGSTEEN ON LOCAL JOBS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. FLORIO. Mr. Speaker, last month this House considered legislation which would have offered workers a period of effective and humane notice before a company closed down a plant which cost their jobs. That bill failed to pass this Chamber.

The 3M Corp. has decided to shut down a plant in Freehold, NJ. The plant manufactures audio and videotape and employs more than 350 people. They are scheduled to be unemployed on March 1, 1986. 3M claims that "intense and growing competition nationwide" has forced the closing of the plant. Audio and videotapes are used extensively in the entertainment industry.

Mr. Speaker, Freehold is a small town of slightly more than 10,000 people. It is the county seat of Monmouth County. It is a town of gracefully aging Victorian type homes and several good sized manufacturing plants. It has a nationally known raceway which has recently risen from a disasterous fire to regain its share of equestrian glory. Mr. Speaker, Freehold also has something else which sets it apart. It is the birthplace of Bruce Springsteen. He was raised in Freehold and learned his music in Asbury Park only 15 miles away on the Atlantic Ocean.

Mr. Speaker, years ago, one of Bruce Springsteen's first bands was named "Steel Mill." The name was not chosen carelessly. From his earliest days Bruce Springsteen derived a creativity from his connection with employed workers. It is bond which perseveres until this day.

I call the attention of my colleagues to an article in today's Washington Post describing Springsteen's efforts to save the factory in his old hometown. He has joined forces with Willie Nelson to publicize their cause in newspaper advertisements. One ad, which appeared in the New York Times, is included for your consideration.

These workers have found two new and very powerful allies in their fight to preserve their jobs.

Mr. Speaker, I commend both Bruce Springsteen and Willie Nelson for their actions. They have taken a firm stand by this public position. It is an admirable effort on their part—one which this Chamber missed initiating by its failure to approve humane measures for soon to be laid-off employees last month. The union members of the Oil, Chemical and Atomic Workers know that they have Bruce Springsteen, at least, in their corner.

The material follows:

[From the Washington Post, Dec. 5, 1985]

SPRINGSTEEN PROTESTS HOME-TOWN LAYOFFS

FREEHOLD, NJ, Dec. 4.—Rock superstar Bruce Sprinsteen and country singer Willie Nelson asked 3M executives today to reconsider a decision to shut down a plant in Springsteen's home town that employs more than 350 people.

"We know these decisions are always difficult to make," the singers said in ads placed in four newspapers, "but we believe that people of good will should be able to sit down and come up with a humane program that will keep those jobs and those workers in Freehold."

Officials at 3M, the Minnesota Mining & Manufacturing Co., said they plan to start layoffs at the plant, which manufactures audio and videotape, on March 1 because of "intense and growing competition nationwide."

The plant is too small to modernize, so its operations will be moved to factories in Minnesota and North Dakota, 3M spokeman John Lively said. He said 330 people will be laid off and about 30 employes will be relocated.

Several of the employes threatened by the layoff were thrown out of work in 1964 when a Freehold textile mill closed, an event mentioned in Springsteen's newly released single, "My Hometown."

In the song, Springsteen sings, "They're closing down the textile mill across the railroad tracks. The foreman says these jobs are going, boys, and they ain't coming back to your hometown."

Cyndy Pullman, a spokeswoman for Oil, Chemical and Atomic Workers, said 20 percent of the workers at the 3M plant came there after having been laid off elsewhere.

At a news conference outside the plant gates, Local 8-760 President Stanley Fischer said Springsteen and Nelson's involvement marks "the first time that a union has joined in a coalition with their customers to influence a company."

Fischer said other entertainers will join in the call to keep the plant open, but declined to name them.

Pullman said Springsteen, who was born in Freehold but forged his musical career in nearby Asbury Park, "is very interested and committed about helping the local people."

Nelson, who organized the Farm Aid benefit concert, give his name to the cause "because of his belief that the plight of U.S. working people deserves the support of entertainers," a union statement said.

Nelson and Springsteen's ad, which appeared in The New York Times, Variety, the St. Paul Dispatch and the Asbury Park Press, was headlined "3M: Don't Abandon Our Hometown!"

[From the New York Times, Dec. 2, 1985]

3M: DON'T ABANDON OUR HOMETOWN!

A MESSAGE FROM THE 3m workers in freehold, new jersey

Now Main Street' whitewashed windows and vacant stores seems like there ain't nobody wants to come down here no more.

They're closing down the textile mill across the railroad tracks.

Foreman says these jobs are going boys and they ain't coming back . . . to your hometown.

(From Bruce Springsteen's My Hometown.)

We are writing to you and the public on behalf of the 450 working people who are losing their 3M jobs in Freehold, New Jersey . . . Bruce Springsteen's hometown.

We serve the entertainment industry.

For 25 years we have produced professional quality video and audio tapes for the broadcast and entertainment industries. Our work allows performers to share their images, words and sounds with the world.

But now you are shutting us down.

For many of us, this is not our first plant shutdown.

Some of us actually came to 3M from the textile plant shutdown that Bruce Springsteen refers to in his song "My Hometown."

We can't just let this happen again and again.

We know our facility can continue to be profitable.

We have volunteered to meet with management to find a way to keep the plant open. But you told us it wasn't a labor issue. You told us we were too small to modernize . . . that it would be more cost efficient for 3M to move the work elsewhere.

But what about the costs to human dignity?

What about those of us who are single parents and desperately need this job?

What about the hardships that we, our families and community will suffer?

These jobs are our lives.

To your credit, you've shown commitment to helping the world's hungry through your involvement with "We Are the World". But we deeply believe that it's just as important to shoulder that responsibility at home . . . with working people, their families and their communities.

Here is suffering that you and only you can alleviate.

We realize that we are very small, and that you are a multi-billion dollar global corporation.

That is why we are asking members of the entertainment industry to help us encourage you to save our jobs.

We are not asking for charity. All we want is the chance to work.

DEAR 3M: On behalf of the working people, their families and the community of Freehold, New Jersey, we urge you to reconsider your decision to shut down the 3M video and audio tape facility.

We know that these decisions are always difficult to make, but we believe that people of goodwill should be able to sit down and come up with a humane program that will keep those jobs and those workers in Freehold.

Signed,

BRUCE SPRINGSTEEN.
WILLIE NELSON.

We ask that other entertainers voice their support and concern by writing to OCAW Local 8-760, PO Box 4608, Freehold, NJ, 07728 or call 201-840-1723 or 213-674-3322.

THE MEMBERS OF THE OIL, CHEMICAL AND ATOMIC WORKERS [OCAW] LOCAL 8-760, FREEHOLD, NEW JERSEY.

STANLEY KAPLAN: REVIEW KING FOR TEST TAKERS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. SOLARZ. Mr. Speaker, it has always been my firm belief that education is the cornerstone of our Nation's prosperity. The struggle for academic excellence, a true desire to learn, and a commitment to self-betterment are the qualities which help produce true worth. Stanley Kaplan is a man who throughout his life has worked relentlessly to help others achieve these qualities. His schools have guided hundreds of thousands of students to improve their grades on higher education entry tests of all kinds. Stanley Kaplan's work has not merely helped these students as individuals; by raising their standards he has helped raise the educational standards of our Nation.

Recently, the Washington Jewish Week published a profile of this innovative educator. I would like to share this article with my colleagues in recognition of the contribution made by Stanley Kaplan to our educational standards.

STANLEY KAPLAN: REVIEW KING FOR TEST TAKERS

(By Judith Sloan Deutsch)

For 66-year-old Stanley Kaplan, playing school as a child was portentious. Like the silver Roadrunner pin on his tie, Kaplan is a lean, New York-intense, peripatetic force, who has been speeding around the country for the past four decades offering help to legions of anxious test-takers.

"I was a top teacher at 14," says Kaplan, peering through his glasses with the quick-witted smile of the perennial A student, who graduated Phi Beta Kappa at 18 from City College in New York during the fabled 30's when City was the Harvard of the poor. "By the time I was out of college, I had 200 students."

Everything about him is quick—including the way his test-preparation techniques have grown into the nation's largest test-preparation school with more than 2,000 employees.

Each year 80,000 students nationwide pay $25 million to enter the 121 branches of the Stanley H. Kaplan Educational Center in order to improve their chances on the treacherous academic proving ground—which are know by names shortened into letter-ese—such as SAT (Scholastic Aptitude Test) for high-schoolers hoping to go to college, the GMAT for people interested in business school, and the LSAT (Law School Admissions Test) for those wanting to get into law school, as well as 27 other tests for those interested in dental, medical, nursing, accounting and others.

Kaplan has just sold his Educational Centers to the Washington Post Company for a hefty sum, but he is not ready for retirement.

Fresh from a session with Maury Povich of "Panorama" on Channel 5, Kaplan switches gears effortlessly for his next interviewer. For the next hour he talks SATs, grade inflation, and teachers.

BUYER'S MARKET

"Many students who take our SAT courses have already received good scores," he says. "But they want to get into even better schools or more important—they want scholarships.

"For 70 percent of the colleges, an SAT score doesn't make much difference because they are looking for students. Most require only a combined score of 900 for the math and verbal parts. Ohio State University requires only 800."

Things sure have changed within the last 10 years or so, according to Kaplan. Until the 60s, and 70s, there were no spaces in colleges. Now there is a much smaller student enrollment.

It's a buyer's market.

Colleges sell their schools to guidance counsellors. "But not Harvard," he says. "They are always looking for the top-notch student who is a bit different and interesting—a member of a minority, or budding archaeologist."

The SAT exam began in 1926, but was used only by prestigious private schools. After World War II ended, the use of the SAT became more wide-spread because of the G.I. Bill. Colleges needed other criteria with which to evaluate all the new students applying. Since then, the yearly ranks of SAT-takers have grown from 25,000 to 1,250,000 students. This number has held steady for the last ten years. But those who are taking graduate admissions tests—such as the LSAT and the GMAT—have doubled. And enrollment in the Kaplan Centers have tripled.

"Iowa has the highest SAT scores," says Kaplan, "because only the brightest take it. But Georgia ranks 49th in the nation because in that state everyone is encouraged to take it."

NOT CRAMMING

Kaplan makes it clear that preparation is not cramming, a word he abhors. "Only an improved student can achieve improved test scores," his philosophy states. The school emphasizes development of reasoning skills and the ability to conceptualize, rather than memorize. The courses are designed to accommodate the degree of assistance each student requires, from 40 to 240 hours, if necessary. Through classes, homework, and Test-n-Tape labs, students learn study skills, how to analyze and organize materials, how to review subject content with greater understanding, and learn to cope with testing experience.

"Some students say that they learned more from me then from school, but that isn't so," says Kaplan, the review-king, who states that his students' scores improve on the average by 150 points. "It's just that you remember it better the second time around. When you review, its sticks better."

Students who are not anxious but motivated, students who get joy out of learning, and students who have specific goals, fit Kaplan's profile of someone who most benefits from his program.

It's no surpise that Jewish students meet his criteria with ease. "Those who go to day schools are extremely motivated," he says. "They are eating lunch during the tapes, so they won't waste time. Other Jewish students are spoiled by success and come only because their parents forced them. Even in Omaha, Nebraska which has a small Jewish population, there is a high percentage of Jews in the Kaplan program."

He notes the "beautiful cultural kind of tradition" which fosters learning among Jewish students which he compares to only the Asian community. "When I was interviewed by a Japanese TV reporter, he told me that the reason there was only a two percent illiteracy rate in Japan was because there are 20 million Japanese mothers in Japan. They have discovered how much they have in common with Jewish mothers."

Kaplan gets serious about grade inflation, poor teacher training and a curriculum that fall short in many areas. "We have grade inflation not because teachers give out too many A's but because their tests are so easy, the teacher wants to look good.

Falling short on curriculum, our nation's schools are letting down American students with course offerings that are light on the classics, math and pure science. "The U.S. is 13th in math and science among 30 educated countries," Kaplan warns during the elevator ride down to the lobby.

His passion is relentless despite his tight travel schedule. "If that shows where we're going, we're in a lot of trouble."

LET EVERYONE WATCH THE NEWS

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. TAUKE. Mr. Speaker, it is my understanding that some of the major television networks are planning to scramble—or encrypt—the signals which they transmit via satellite to their affiliates. Recently, my good friend and colleague, Congressman RON WYDEN of Oregon, wrote to the networks regarding their plans and requested that they refrain from scrambling their news and public affairs programming. I believe that this suggestion has merit, and I commend my colleague for his leadership on this issue.

Many of my constituents own satellite dishes and receive their news and informational programming—as well as entertain-

ment programming—via satellite from the networks. These people will be cut off from an important source of information when the networks begin to scramble their signals.

On November 21, the Register-Guard of Eugene, OR, wrote the following editorial on Congressman WYDEN's suggestion, and I commend this essay to my colleagues' attention.

LET EVERYONE WATCH THE NEWS

All three major commercial television networks are planning to encode the signals they beam by satellite to their affiliates around the nation. Once they proceed with their plan, people who receive television broadcasts by means of satellite dishes will no longer be able to watch network television. Oregon Congressman Ron Wyden spoke for them and for the public at large when he asked the networks to refrain from scrambling their news and public affairs broadcasts.

The networks' interest in using coded signals is easy to understand. The networks are only as strong as their system of local affiliates. An estimated 10,000 people a month are buying satellite dishes, and every one of them becomes able to watch network programming without tuning in to an affiliate station. The affiliates are thereby deprived of a potential audience, which can mean a loss of local advertising revenue, which in turn threatens to weaken the system of affiliates upon which the networks depend.

In addition, the signals networks send—the signals captured by people with satellite dishes—are not always the signals intended for public broadcast. They include memoranda to affiliates, transmission tests and programs that are meant to be taped for future rebroadcast. The networks don't want thousands of dish owners looking in on what they regard as private communications.

Many people, of course, have purchased satellite dishes because they live beyond the reach of affiliates' signals and outside cable companies' service areas. For them, satellite reception is not a toy—it's the only way they can gain access to the nation's dominant entertainment and information medium. These people, most of whom live in rural areas, will be cut off from an important part of the world when the networks begin encoding their signals.

Wyden wrote a letter to the three networks asking that they leave their news and public affairs programs unscrambled. The networks should agree without hesitation. News and public affairs programs are presumably intended to serve a public purpose as well as to make a profit. That public purpose is served best when access is unrestricted.

Indeed, the networks should take a generally restrained approach toward signal-scrambling. The nation has an interest in local programming that can only be provided by strong local stations. But the nation also has an interest in seeing that citizens are informed and that everyone is able to enjoy the benefits of the public airways. Keeping news broadcasts unscrambled would be a step toward balancing those interests. If the networks refuse to take that step, they may soon find congressmen ready to introduce bills rather than mail letters.

BONNIE BLANTON—VETERANS' ANGEL

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. BENNETT. Mr. Speaker, a recent publication of Adventure published in Jacksonville, FL, had an interesting article entitled "Bonnie Blanton—Veterans' Angel." The article contains the following quotations and details about the wonderful service Mrs. Blanton has rendered veterans in Jacksonville, FL through many years. It is an honor to place this material in the RECORD as a tribute to her outstanding dedication and service for our country, and in helping veterans in the tremendous way in which she does this.

BONNIE BLANTON—VETERANS' ANGEL

We the civilian residents of the Duval-Clay county area salute our Navy families living in the area and commend them for the dedicated contributions they have made. Congress established the U.S. Navy in October on October 13, 1775 and 110 years later it has and still serves our country in the finest of traditions.

When a shipmate, an army buddy or a marine serviceman fulfills their obligation and is discharged or retired, the VA then becomes his link between his service years and civilian life; and it is here that Bonnie Blanton is their advocate. She backs the veteran with support in gaining for them the services available to them by the Federal Government. She is the transition bridge as they re-enter civilian life.

Medical and dental help, educational benefits, and a host of other benefits that are due the veterans and who may not be aware that "yes" Bonnie will help, to present their problems before the State VA board. She is a VA service officer in this district.

She has been a service officer for the past 36 years, and thousands of veterans in the area can testify to the role she plays and the untold volunteer work she does on their behalf over and above her duties as veteran officer. Her caring for the rights of veterans goes beyond the standard rules in the book, she takes an active personal interest in each veterans claim and is gung ho in her backing of the exserviceman.

At the State Departmental convention in Tampa she was the first to be awarded a plaque which reads:

"The American Legion Department of Florida Unsung Hero Award Bonnie Blanton Outstanding Post Service Officer."

LET'S GIVE AMERICAN TEXTILE WORKERS A FIGHTING CHANCE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. MANTON. Mr. Speaker, on December 3, 1985, the House of Representatives gave final approval to legislation that would help place the American textile industry on a level playing field with textiles being produced in other nations. By a strong bipartisian vote of 225 to 161, the House sent the Textile and Apparel Trade Enforcement Act of 1985 to President Reagan for his signature. This much needed legislation enjoys strong bipartisian support in both the House and Senate. Regrettably, President Reagan has threatened to veto this measure.

Mr. Speaker, over the past several years, the domestic textile industry has been severely hurt by a massive influx of subsidized foreign imports. Since 1980, textile imports into the United States have doubled. During this same period, approximately 300,000 American textile jobs have been lost and thousands of textile plants across the country have been forced to close their doors. We simply cannot allow this flood of foreign imports to continue to put Americans out of work. If we fail to take action, textile imports could capture the entire U.S. market by 1990.

The Textile and Apparel Trade Enforcement Act would curtail this alarming growth of foreign textile imports into the United States. This vital legislation will give the domestic industry an opportunity to compete with foreign textile manufacturers in a fair and equitable manner.

I commend to my colleagues the following article which recently appeared in the New York Times. This outstanding piece describes the problems facing a textile mill in the Ninth Congressional District of New York, which I represent. This article makes a strong case for why President Reagan should sign the Textile and Apparel Trade Enforcement Act at the earliest possible date.

[From the New York Times, Dec. 3, 1985]

TRADE ISSUE HITS HOME IN A QUEENS COMMUNITY

(By Joseph P. Fried)

On weekday mornings, Eddie Barbour leaves his home on 60th Place in Ridgewood, Queens, and heads for work in the ACD Knitting Mill eight blocks away.

About the same time, Vittoria Torrillo shuts the door of her house on Ridgewood's 69th Avenue and walks to her job at the Fritz Knitting Mill, four blocks from her house.

The 32-year-old Mr. Barbour, who was born and raised in Ridgewood, and the 47-year-old Mrs. Torrillo, a 20-year resident of the neighborhood, are not unusual in their short commutes to work in the knitting mills of Ridgewood.

Residents of the community—between Maspeth and Glendale on the Queens-Brooklyn border—make up the great majority of the 5,000 to 6,000 employees of these mills. It is one of the largest concentrations of knitting factories in the United States, industry officials say.

Nor are Mr. Barbour and Mrs. Torrillo unusual among Ridgewood people in their conviction that the mills, long a key part of their blue-collar neighborhood, are being eroded by foreign forces—the wave of apparel and textile imports from low-wage countries, most of them in Asia.

IMPORTS NOT HELPING ANYBODY

As Government officials and economic specialists debate the issues surrounding such imports, the merits of protecting domestic industries versus the virtues of spurring international trade, Mr. Barbour leaves

no doubt where he stands, at least in regard to foreign-made clothing.

"It's not helping me any, and it's not helping anybody in Ridgewood," he said recently, pausing from his duties attending a cluster of clacking, humming, whirring machines that were transforming thick spools of brightly colored yarn into fabric for sweaters. Sweaters are the dominant product of Ridgewood's knitting industry, which also produces skirts and other outerwear.

"I have three kids," Mr. Barbour said, making clear that he hoped never to be laid off again, as he was in the past when operations slowed at Ridgewood's mills.

"We don't like the imports at all—that's the reason we're losing jobs," said Mrs. Torrillo as she worked a sewing machine in putting the finishing touches on a skirt at the company that employs her. "It's very hard when you have two children in college," she added, pointing out that her earnings were needed to supplement those of her husband, a maintenance man in Manhattan.

Ridgewood, where local leaders say more than 150 knitting mills are tucked amid the area's small apartment buildings and row houses, is not the city's only apparel-industry district hurt by imports.

The garment center in Manhattan's West 30's is similarly beset, as are the handbag- and fur-manufacturing districts near it, said Si Lippa, director of the apparel and accessories division of the city's Office of Business Development. He also cited the clusters of clothing producers in the South Bronx, in Williamsburg and other parts of Brooklyn and in such Queens areas aside from Ridgewood as Long Island City.

But because of the large concentration of knitting mills in Ridgewood and the sizable role they play in that area's economy, Ridgewood is among the neighborhoods that would be most hurt by continued reverses in the apparel industry, Mr. Lippa said. Neighborhood leaders estimate that about 15 percent of Ridgewood's employed residents work in the local mills.

Others agree on the problem.

"The Ridgewood area is one knitting mill on top of another, and when there's a slump, they hurt," said Seth M. Bodner, executive director of the National Knitwear and Sportswear Association.

Adam Doeringer, president of the Knitting Mill Owners Association of Brooklyn, Queens and Long Island and said foreign imports had already taken a toll in the queens community.

"I would estimate you had 1,000 more people 10 to 15 years ago," he said of the number of workers in Ridgewood's knitting factories, which range in size from those with fewer than 5 workers to those with more than 200.

Mr. Doeringer, who put the number of mills in Ridgewood at between 180 and 200, said it was not so much a matter of mills shutting down as it was of their having to cut operations because more and more production contracts were going to companies in places like Hong Kong and South Korea.

Joannene Coppinger, district manager of Community Board 5 in Queens, whose jurisdiction includes Ridgewood, said that if the area's knitting industry significantly declined Ridgewood would be set back in its efforts, so far successful, to avoid the decay that has scarred the adjoining Bushwick section of Brooklyn.

Estimating that 80 percent of the 5,000 to 6,000 workers in the local mills live in Ridgewood, she termed this a significant segment of the district's 30,000 employed residents.

Altogether, more than 50,000 people live in Ridgewood, an irregularly shaped area that extends a mile and a half between its farthest points. The population is a mixture of people of German, Italian, Rumanian, Yugoslavian, Hispanic and Asian extraction, including many recent immigrants working in the mills. These newcomers are another reason the mills are vital, Miss Coppinger said.

"You have a group of people in the community whose English is weak, whose training for other jobs is almost nonexistent," she said.

The area's real estate patterns also make the health of the mills important, she added. "A lot of the mill owners own their buildings," she said, "so if the mills fail, you will have a crisis in the buildings, which may also have two, four or six rental units."

Ridgewood's knitting industry, which dates from the early years of the century, is pervasive in the area.

Not surprisingly, many in Ridgewood favor such steps as legislation nearing completion in Congress that would sharply slash textile-product imports from South Korea, Taiwan and Hong Kong and freeze such imports from nine other countries at 1984 levels, It is unfair, they say, to expect American companies to compete with those abroad that can pay much lower wages.

Final Congressional approval of such a bill is expected shortly but Reagan Administration officials say they will urge the President to veto it as unhealthy "protectionism."

Opponents of the measure say it would raise consumer prices and cause job losses in sectors of the economy that rely on exports, which would decrease if the foreign countries affected by the bill retaliated. Opponents also hold that job losses in the apparel industry reflect automation and productivity gains as much as foreign competition.

"I don't have electronic machines—the problem is that the orders have gone down," Louise Fritz, owner of the Fritz Knitting Mill, said in her establishment on Cataipa Avenue in Ridgewood. "When we opened here 30 years ago, we had 26 employees. Now, I'm down to 12."

Miss Fritz described her mill and its workers as typical in Ridgewood.

"She comes from Yugoslavia," she said, pointing to a group of employees "She comes from Rumania. She comes from Italy. One girl comes from Germany. They all live in this neighborhood. This you will find in every mill."

SUPERFUND AMENDMENTS OF 1985

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. WYDEN. Mr. Speaker, I rise in support of the rule.

Superfund has been a superbust. It has failed to meet the expectations of the Congress and it has failed to provide the protection to human health and the environment that the American public wants and deserves. Five years ago, this Congress passed a $1.6 billion program designed to clean up abandoned toxic waste sites throughout the country. Today, we look back on a program that has cleaned up only five sites—a piddling amount since thousands of sites lie festering throughout the country.

Now we face an immediate crisis because the Superfund—the most important environmental program to come before the Congress this year—has expired. Cleanups have been put on hold and the ability to raise money to fund the progam has been eliminated. This immediate crisis demands immediate action. It demands that we pass this rule and it demands that we pass the Superfund Amendments of 1985 so that we can get a stronger and better funded program up and running.

Since I came to the Congress in 1981, I have worked long and hard to see that we have strong and workable environmental laws on the books. It is clear; that is what the American public wants. At the outset, let me say that the compromise worked out among all the interested parties is a strong and workable piece of legislation that greatly improves a Superfund program that has failed far and beyond almost everyone's expectations.

There are several basic principles on with a sound Superfund should be based. The first is that the polluter should pay. Second, every effort should be made to permanently clean up these sites rather than just move the waste from one site to another. Third, to keep the toxic waste problem from growing, we need to encourage industry to recycle hazardous wastes and to produce less hazardous waste in the first place. I have sponsored several provisions in this package based upon these basic principles.

First, the only way we're going to keep the toxic waste problem from growing, is to produce less toxic waste and to stop dumping onto and into the land the toxic waste that is produced. Earlier this year, along with my colleague, Representative CLAUDINE SCHNEIDER, I introduced a bill that taxes the disposal of hazardous wastes. The goal of this "waste-end tax" is to make sure the polluter pays. In addition, this tax, for the first time, puts in place an economic incentive to achieve a positive environmental result: encouraging recycling of hazardous wastes and encouraging industry to produce less of it in the first place. When the Superfund was considered by the House last year, I proposed that a waste-end tax be used to help fund the program. At that time, I was told that not enough was known about a waste-end tax and that is was an unusual source of revenue. While we have three different Superfund tax packages before the House today, each package contains a waste-end tax similar to the one I introduced in April of this year. Mr. Speaker, we've come a long way in a year.

In addition to providing a financial incentive for industry to recycle the hazardous waste it produces, we must make sure that the facilities that do the actual recycling are able to continue to operate. One crisis that threatens the operation of recycling facilities is the lack of pollution liability insurance.

The Resource Conservation and Recovery Act—as well as sound business management—requires companies handling hazardous waste to obtain pollution liability insurance. Yet, in the last year, the pollution liability insurance market has virtually collapsed, leaving many companies that recycle hazardous waste—including hundreds of small businesses—unable to continue operating.

To address this problem, in the Energy and Commerce Committee, I introduced an amendment that allows companies to form "risk retention groups," which allow these companies to purchase pollution liability insurance on a group basis. This provision is not a panacea, but an opportunity. It does not force anybody to do anything. What it does is provide an opportunity for companies that handle hazardous waste to get insurance in a way not now available.

In addition to encouraging recycling of hazardous waste and reducing the amount of hazardous wastes produced, the best way to help solve the toxic waste problem in this country is to develop new technologies that allow us to permanently cleanup toxic wastes. Right now, we find ourselves on a toxic waste merry-go-round where, instead of permanently cleaning up sites, we just take the contaminated mess and move it somewhere else. The problem hasn't gone away, it is just out of site and out of mind. Yet we are finding that these out-of-site and out-of-mind toxic wastes are turning into new Superfund sites.

The obvious solution is to find an alternative to playing this toxic waste shell game. That alternative is to find ways to permanently get rid of toxic wastes. The compromise that is now before the House contains a provision based upon an idea I introduced during Energy and Commerce Committee consideration of the Superfund that is designed to help us achieve that goal.

This provision provides money from the Superfund that will go to basic research to develop technologies that will permanently clean up toxic wastes. The provision also authorizes additional EPA research in this area and establishes an Office of Demonstration within EPA to test cleanup technologies that are already on the shelf. We have heard from many entrepreneurs who have developed unique cleanup technologies. This program will make sure these entrepreneurs are provided the opportunity to show their technology can work.

While this provision has not had the high profile other provisions in the bill have, this research, development and demonstration program for new cleanup technologies could quite possibly do more than any other provision in the bill to reduce the threat to human health and the environment posed by toxic wastes sites throughout the Nation.

This provision is the product of input from a wide spectrum of individual members and committees. Specifically, I would like to acknowledge the input of Chairman DINGELL, Congressman STENHOLM, Congressman TORRICELLI, Congressman COELHO, Congressman MIKE ANDREWS, Congressman SUNDQUIST, and the majority and minority staffs of the Energy and Commerce Committee, Public Works Committee and Science and Technology Committee.

Finally, I have been very concerned that we develop a workable schedule for EPA to begin cleaning up toxic waste sites on the National Priorities List. During Energy and Commerce Committee markup of the Superfund, I offered an amendment that, without tying EPA to locked-in-concrete yearly clean-up schedules, ensured that at least 540 sites would be cleaned up during the next 6 years. The two committees have reached a compromise based upon my amendment that will keep EPA's feet to the fire but still allow it the flexibility to address the complicated task of studying and cleaning up toxic waste sites.

Again, I would urge my colleagues to support the rule. We cannot afford to put off this responsibility any longer, and we should not allow it to be put off any longer.

NATIONAL ARTS IN THE SCHOOLS WEEK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. WEISS. Mr. Speaker, as an executive board member of the Congressional Arts Caucus and as representative of a district in which perhaps the greatest concentration of artists work and reside, I am strongly committed to supporting and promoting the arts nationwide.

The annual high school art competition, sponsored by the Arts Caucus, has proven to be an important and successful tool for encouraging students to participate in the arts. I believe that children of all ages should be included in this annual celebration.

In this spirit, I am introducing a resolution declaring the week of April 27, 1986 through May 3, 1986 as "National Arts in the Schools Week." This will be an ideal time to state our commitment to quality school arts programs for children of all ages.

I ask my colleagues to join in this endeavor.

H.J. RES. 470

Whereas, even before formal education begins, children communicate their own experiences in a number of artistic ways, including singing, dancing, drawing, painting, sculpting, role playing, and story telling; and

Whereas, these basic forms of expression must be encouraged through formal arts education; and

Whereas, schools are perhaps the ideal forum for introducing formal arts programs to children; and

Whereas, incorporating the arts into the teaching of other subjects has been very successful in enhancing achievement levels, and increasing motivation and attitude of both students and teachers; and

Whereas, school arts programs open the minds of children to creativity which can be applied to problem solving in other educational activities; and

Whereas, many of the same practices used in the study of the arts are used in the study of math and the sciences, including observing, describing, comparing, classifying, measuring, inferring, and drawing conclusions; and

Whereas, school arts programs promote a unique understanding and appreciation of history and culture; and

Whereas, the arts enable disabled children to demonstrate abilities and skills that may not be uncovered in the study of academic subjects; and

Whereas, school arts programs provide economically disadvantaged children with an important creative outlet; and

Whereas, practice and mastery of an artistic form builds self-confidence and pride; and

Whereas, the confidence gained through the arts by disabled and disadvantaged students can help them achieve in academic areas as well; and

Whereas, the 98th Congress formally recognized the importance of the arts to a complete education; and

Whereas, the national arts competition, sponsored by the Congressional Arts Caucus, has recognized and promoted the outstanding artistic creativity of our Nation's youth and provides an example of the Federal government's commitment to arts education; and

Whereas, the strong commitment of Federal, State, and local governments to strengthen and promote arts education must continue: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 27, 1986, through May 3, 1986, is designated as "National Arts in the Schools Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

OBANDO CONFIRMS CRACKDOWN ON CHURCH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. LAGOMARSINO. Mr. Speaker, the Catholic Church in Nicaragua has become a leading force in the opposition to the Sandinista regime in that country. That opposition is lead by Cardinal Obando y Bravo whose elevation to cardinal by Pope John Paul II followed Obando y Bravo's call for internal dialog and national reconciliation in Nicaragua.

The Catholic Church's opposition to the Sandinistas is seen as one of the major reasons for the increased repression by the Nicaraguan Government and for the expansion of the state of emergency announced last October 15.

The crackdown on the church in Nicaragua is the subject of a recent article in the Catholic Register of November 10, 1985. I urge my colleagues to read this article and the report of the comments of Cardinal Obando y Bravo.

[From the National Catholic Register, Nov. 10, 1985]

OBANDO CONFIRMS CRACKDOWN ON CHURCH

(By Joan Frawley)

NEW YORK.—In mid-October both the official leader and the "unofficial" leader of Nicaragua visited this media capital.

At the United Nations, President Daniel Ortega sought to defend his government's crackdown on civil liberties.

Meanwhile, a few blocks away at New York's archdiocesan Catholic Center, Cardinal Miguel Obando y Bravo of Managua described his own role as a "voice of the voiceless."

Despite heavy schedules, the two men managed to continue their ongoing contest of wills. When told of the cardinal's unscheduled visit to New York, Ortega said he hoped it was not prompted by an invitation from President Reagan.

Later, Obando calmly responded to the barb: "I have heard that I came at the invitation of President Reagan, the CIA, the Department of State or some other unnamed institution. I am here at the invitation of Cardinal [Agostino] Casaroli, the Vatican secretary of state." Casaroli was in New York for the United Nations' 40th anniversary celebrations.

Ortega's veiled suggestion of a secret alliance between Obando and Reagan, and the cardinal's ironic reply are only the tip of an iceberg. Church-state tensions in Nicaragua have sharply increased. Securing the upper hand in its war with anti-Sandinista rebels, the regime has clamped down on domestic opposition, including Obando, who many regard as its spiritual leader.

On Oct. 12, the government confiscated 10,000 copies of Iglesia, a new archdiocesan paper. Authorities later seized the Church printing press and occupied the press office, as well as the office of COPROSA, which directs archdiocesan social programs.

According to Obando, when Church officials arrived at the offices, Father Bismarck Carballo, director of communications, was threatened and "mishandled." Roberto Rivas, director of COPROSA, was taken to state security and interrogated. Rivas, the cardinal's closest aide, was unable to obtain a visa to accompanying the prelate to the United States. At press time, Church offices were still occupied by the military.

While the occupation of COPROSA went unreported, the regime did try to justify the seizure of Iglesia, charging that the publication contained political material. Sandinista censors must approve all printed materials for publication. In this case, the government apparently feared that Iglesia would address Church-state conflicts.

The most sensitive articles in the first and only issue of Iglesia included letters from the bishops' conference and from Carballo that criticized several recent Sandinista actions against the Church, including the forced military recruitment of 11 seminarians, new threats of expulsion of foreign priests and the censorship of the cardinal's Sunday homily.

The harassment of foreign priests who do not support the regime has been a key topic in Church-state negotiations during the past year. When a delegation of U.S. bishops visited Nicaragua this past February, they lobbied for the return of 10 priests expelled in 1984 and for the easing of restrictions on residence visas for foreign clerics. The government promised then to reconsider the issues, but has not rescinded its policies.

Though a cautious and reserved man, Obando has emerged as an influential critic of the government. "The people see us as servants and as the voice of the voiceless", he said. "We have no other purpose then to serve. But circumstances have conspired for us to become known within the country and abroad."

Obando insists he does not seek a political role. But his appointment last May as cardinal has obviously increased his statute within a country which still lacks a coherent political alternative to the Sandinistas.

Since his return from Rome, the prelate has celebrated Masses throughout Nicaragua, attracting thousands and prompting spontaneous protest against official policies. On Oct. 20, one such appearance in Estel drew several thousand and led authorities to block the highway leading to the northern town.

In the past, the government has waged a campaign to discredit Obando and other Church leaders. The bishops were regularly satirized in the official press as puppets of U.S. policy and representatives of a Church of the rich. The Sandinista dailies published a photograph of Anastasio Somoza Debayle, the former Nicaraguan dictator, embracing Obando. The photograph implied mutual support—even though Obando became a credible national leader largely by resisting Somoza's efforts to coopt him.

More recently, the hierarchy has been accused of collaborating with the political opposition and with the contras. Last year, the bishops angered the regime when they issued a pastoral letter asking for a dialogue between the Sandinistas and the rebels.

The occupation of Church offices is a dramatic turn toward direct confrontation. And while Obando bears the brunt of this new tactic, other priests and lay-people active in Church affairs have also been targeted.

"Tomas Borge, the minister of the interior, told me that foreign priests involved in politics would be expelled and native priests addressing political issues would be imprisoned," Obando told the Register on Oct. 23, adding, "the government interprets 'politics' any way it wants."

The cardinal viewed these latest actions against the Church as part of a larger official effort to suppress political opposition and to stifle spreading popular dissent over food shortages and the draft. "We now have decrees against free speech, the freedom to strike, habeas corpus and the right of appeals, and the right of assembly," Obando noted referring to the regime's recent suspension of civil liberties.

He said the purpose of the crackdown was to "better control" the outbreak of demonstrations in the country.

While Obando travelled to New York at Casaroli's request, he used the opportunity to confer with various American bishops, including New York's Cardinal John O'Conner, chairman of the U.S. bishops' Committee on Social Development and World Peace, who headed the delegation to Central America in February.

On Oct. 17, Msrg. Daniel Hoye, general secretary of the U.S. Catholic Conference, protested the worsening situation in Nicaragua and the seizure of Iglesia.

At press time, no subsequent statement had been issued, though it is expected that the November U.S. bishops' meeting may address the problems of the Nicaraguan Church, possibly resulting in a further statement.

SUPPORTING VAT COULD BE DANGEROUS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1985

Mr. LATTA. Mr. Speaker, as Congress approaches a vote on what could be the Nation's first value-added tax [VAT] this week, perhaps a warning label should be affixed to the legislation: "Supporting The VAT Could Be Hazardous To Your Political Health."

Since France pioneered the value-added tax in 1954, interest in a possible U.S. VAT has rippled occasionally through Congress. However, only once previously has the VAT been seriously considered before its current use as a proposed partial funding mechanism for Superfund and that was in 1979 and early 1980 when the powerful chairmen of the top tax-writing committees in the House and Senate came out strongly for the VAT.

Representative Al Ullman—one of the Nation's most powerful men and chairman of the influential House Ways and Means Committee and veteran of 24 years in Congress—introduced a 10-percent VAT in his committee in late 1979, went back to face the body politic for what was considered another sure-thing reelection, and was defeated by a political newcomer.

As we face a vote this week on the value-added tax which is being rushed in to partially finance the toxic waste cleanup program's 5-year extension, let us take moment to reflect. The pending value-added tax was reported out of the House Ways and Means Committee, October 17, by a 1-vote margin as a means of extracting revenue painlessly and invisibly from the American public as for purchase items in the marketplace. Since no hearings have been held in either House on the VAT/Superfund and the press coverage has been meager at best, many of my colleagues might assume that a vote for a totally new and precedent-setting type of tax will escape the public's notice. Thus, a vote this week for the VAT would be politically safe.

But will it?

Let's examine the only political precedent we have to guide us.

Al Ullman was elected from Oregon's Second District in 1956 and had served 12 terms. He was well liked and respected, in demand as a speaker, widely quoted in the national media.When he took over the chairmanship of Ways and Means from Wilbur Mills some 5 years previously, his power and influence increased.

As he prepared for his campaign in 1979–80, his contributors read like a list in "Who's Who" in America. A poll taken by a national firm based in New York found that in September 1979, Ullman led his GOP opponent by 59.4 percent to 11.8 percent; with 28.8 percent undecided in the Second District.

To quote one of his State's newspapers:

Ullman is one of this Nation's most powerful men. As chairman of the House Ways and Means Committee, and a Member of Congress for 30 years, Ullman is considered to be one of the top five most influential figures. (Argus-Observer, October 8, 1979)

VAT EDUCATIONAL CAMPAIGN

Then, in late fall of 1979 Representative Ullman sponsored H.R. 5665 imposing a value-added tax with a basic rate of 10 percent and went back to Oregon voters to explain his tax plan at forums throughout the district. According to the same newspaper:

If there was any support for Ullman's plan, it was not expressed.

Mr. Ullman came back to Washington and held hearings on his VAT in November and got the cold shoulder from his Ways and Means Committee as well, when not one of the 36-member body except Ullman had a good word to say for the VAT. He persisted, however, in continuing what he called an educational process in both the Congress and his district. The Statesman-Journal, May 4, 1980, said that the legislation introduced by Ullman the previous October created much criticism from the press and public and that "storm clouds were clearly visible."

The Hillsboro Argus in an editorial September 18, 1979, stated with an ominous ring of prophecy:

Assuming voters are sincere in demanding cuts both in federal spending and taxation, proposing any sweeping new tax at this time is politically dangerous for congressmen. Could be the voters will remember the VAT proposal at the polls in 1980 and mark their ballots accordingly.

Mr. Ullman's position created a flurry of anti-VAT letters and editorials across the State. The headlines for the entire campaign would give a barometer of how deeply the chairman's political support was slipping:

"Ullman's Hogwash," "They Won't Buy It, Al," "Ullman's Bad Joke," "Forget Ullman's Tax," "Ullman, Don't Try To Force Value Added Tax on Us."

In the face of mounting opposition to the VAT on April 2, 1980, Chairman Ullman unveiled a rewritten modified VAT—H.R. 7015—only to have the liberal Democrats who dominated the Oregon State Convention overwhelmingly vote against the measure. With little support in Congress or in his home State, Ullman held no hearings on this new VAT proposal. The Burns Times Herald of the time said in an editorial that Ullman—

can be charged with having lost his touch, especially when you consider his value added tax ideas. . . . He's still plugging away at the VAT, even though the plan has been snubbed in Washington, and in the process provided Smith, Ullman's GOP opponent, with a first class campaign issue.

DENNY SMITH, 41, a Republican businessman from Salem was a former pilot and had never run for any political office. He announced that his first political attempt would be to unseat an established and seemingly unbeatable incumbent who's been in office since the 1950's and who was the powerful chairman of Congress' leading committee.

A political unknown, Smith had trouble getting press in Oregon, according to the Hood River News of February 14, 1980.

VAT: OPPONENT'S CAMPAIGN CORNERSTONE

Soon this changed as the political novice developed and honed the cornerstone of his campaign: Ullman's controversial pro-VAT stance. SMITH hammered away with his "VAT is a national sales tax" message at every stop in the 21-county district and back again.

Now the press was covering him. And favorably. His message prompted an influx of donations and volunteers to his headquarters.

A real race was on.

Early in the 1980 campaign, observers cited the VAT as the main campaign issue. Letters to the editors and editorials against Ullman's proposed VAT spread beyond the district to the State.

The political writing was on the wall. Ullman announced in a rare press conference in early May that he had temporarily shelved his proposed VAT.

However, the damage had been done. In the May Democratic primary, Representative ULLMAN barely squeaked by the perennially unsuccessful candidate with 54 percent of total primary votes.

An editorial on the Stateman Journal, July 2 attributed Representative ULLMAN'S near primary defeat to his "politically dangerous" stand for the VAT, noting that he had tried to repair the political damage by putting "the VAT on the shelf. Later he gave it a formal burial."

He (Ullman) took a politically unpopular stand in supporting the value added tax. . . . But his near defeat in the May Primary showed how politically dangerous such a stand can be,

said the Salem-Statesman-Journal July 2d.

Examining the primary election, the Daily Astorian in a June 10 editorial said:

Most analysts came down on 2 points. The first Ullman's sponsorship of the value added tax, which opponents have described as a sale tax. . . . Al Ullman got into trouble with the value added tax."

ULLMAN'S EARS BOXED

William Bebout, columnist for the Capitol Journal said June 8:

Ullman, supremely confident of victory, proposed something called a value added tax (VAT) . . . Smith and others promptly labled VAT a national sales tax . . . Oregonians who detest the mere thought of a sales tax boxed the long-time congressman's ears sharply and almost denied him the democratic nomination.

C.R. Hillyer, writing in the Oregon Voter Digest in June after the primary said:

Al had better look to his laurels, for the damage he's done extolling the virtues of the value added tax is hard to measure. He just might go down to defeat in November if he . . . thinks his record, his importance as Chairman of the powerful Ways and Means Committee, and his long service will ensure victory.

Citing Smith's continued trumpeting of Ullman's VAT, the Bend Bulletin said June 13:

Smith won the advantage. Ullman dropped his idea. Even though it was dropped it was the principle cause of the large anti-Ullman vote in the primary election last month.

The Oregon body politic did not believe that Ullman's VAT proposal would stay permanently buried, and as the campaign ran toward the general election, the VAT was still a key issue, especially in a State which loathes sales taxes. Plugging away at the VAT as always, candidate SMITH said in the July statement that—

the people of this district don't want, don't need and cannot afford a hidden national sales tax like this (Ullman's VAT) would impose.

By August 1980, Ullman had slipped in the polls—again taken by a professional New York firm—from his almost 60-percent favorable rating a year earlier to 44.1 percent with SMITH closing in with 32.8 percent. Undecided: 18.1 percent and the independent candidate, 5.1 percent.

The GOP candidate in late summer launched an anti-VAT petition drive in each of the district's 21 counties with volunteers crossing party lines with petitions and campaign literature against the VAT and its proponent, Al Ullman.

As the campaign concluded, the final results were not decided until the day after the general election. It was a close race with an independent candidate also running. But the results showed that one of the most powerful men in the House of Representatives had pulled only 47.5 percent of the votes. Chairman Ullman had lost to a young political unknown.

Veteran political observers in Oregon will tell any of my colleagues that if it was not the VAT alone that brought the powerful Al Ullman down, it certainly was a key factor in his political demise.

District voters were querried by the same firm previously mentioned in September 1979 on their opinion of a value added tax. The result: approve, 10.1 percent; disapprove, 43.7 percent; don't know, 46.2 percent. After the long months of campaigning with the VAT a key issue, however, the people of the Second District had made a huge move against the VAT. In August 1980, those who disapprove of the VAT were 80.8 percent, 12.4 percent approved, and 6.8 percent were undecided.

Mr. Speaker, as we approach the vote on the VAT attached to the Superfund legislation, let me caution my colleagues to remember the people back home. They do not want a national sales tax.

And, to those of my colleagues who are planning to vote for this tax, I urge that they consider carefully the political ramifications of such a vote, as exemplified by the defeat of one of our most powerful Members, before casting a "yea" on the VAT.

HOUSE OF REPRESENTATIVES—*Friday, December 6, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We express our thanks and praise, O God, for the rich heritage of freedom and liberty which has blessed us and sustains us. Even as we celebrate the joys of family and friends we remember those who do not know which is our blessing. We recall in prayer those who are hostages, whose names we remember in our hearts before You. Keep them and their families always in Your grace, may Your spirit strengthen their hearts, and may Your love surround them now and evermore. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FIELDS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FIELDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 118, not voting 65, as follows:

[Roll No. 435]

YEAS—251

Ackerman	Bonker	Collins
Anderson	Borski	Combest
Andrews	Bosco	Conyers
Annunzio	Boucher	Cooper
Applegate	Boxer	Coyne
Archer	Breaux	Crockett
Atkins	Brooks	Daniel
AuCoin	Broomfield	Darden
Barnard	Brown (CA)	Daschle
Barnes	Broyhill	Davis
Bateman	Bruce	de la Garza
Bates	Bryant	Dellums
Bedell	Burton (CA)	Derrick
Beilenson	Bustamante	Dicks
Bennett	Callahan	Dingell
Bevill	Carper	DioGuardi
Biaggi	Carr	Donnelly
Boggs	Chapman	Dorgan (ND)
Boland	Clinger	Dowdy
Bonior (MI)	Coelho	Downey
Duncan	Kolter	Richardson
Dwyer	Kostmayer	Rinaldo
Early	LaFalce	Robinson
Eckart (OH)	Lantos	Roe
Eckert (NY)	Leath (TX)	Rostenkowski
Edgar	Lehman (CA)	Rowland (CT)
Edwards (CA)	Lehman (FL)	Rowland (GA)
English	Leland	Roybal
Erdreich	Levin (MI)	Rudd
Evans (IL)	Levine (CA)	Russo
Fascell	Lipinski	Sabo
Fazio	Livingston	Savage
Feighan	Long	Schaefer
Fish	Lowry (WA)	Scheuer
Flippo	Luken	Schneider
Florio	Lundine	Schumer
Foglietta	MacKay	Seiberling
Foley	Madigan	Sharp
Ford (MI)	Markey	Shelby
Fowler	Martinez	Shumway
Frank	Matsui	Sisisky
Franklin	Mavroules	Skelton
Frost	Mazzoli	Slattery
Fuqua	McCloskey	Smith (NE)
Gaydos	McCurdy	Smith (NJ)
Gejdenson	McDade	Snyder
Gephardt	McEwen	Solarz
Gilman	McMillan	Spratt
Glickman	Mica	St Germain
Gonzalez	Mikulski	Staggers
Gordon	Miller (CA)	Stallings
Gradison	Miller (WA)	Stenholm
Gray (PA)	Mineta	Stokes
Green	Moakley	Studds
Guarini	Mollohan	Sweeney
Hall (OH)	Montgomery	Swift
Hall, Ralph	Moody	Synar
Hamilton	Moore	Tallon
Hammerschmidt	Morrison (CT)	Tauzin
Hatcher	Mrazek	Thomas (GA)
Hawkins	Murphy	Traficant
Hayes	Murtha	Udall
Hefner	Myers	Valentine
Heftel	Natcher	Vento
Hertel	Nichols	Visclosky
Horton	Nielson	Volkmer
Howard	Nowak	Walgren
Hoyer	Oakar	Watkins
Hubbard	Oberstar	Waxman
Huckaby	Obey	Weaver
Hughes	Olin	Weiss
Hutto	Packard	Wheat
Hyde	Panetta	Whitley
Johnson	Pease	Whitten
Jones (NC)	Pepper	Wirth
Jones (OK)	Perkins	Wise
Jones (TN)	Petri	Wolpe
Kanjorski	Pickle	Wortley
Kaptur	Porter	Wright
Kastenmeier	Pursell	Wyden
Kennelly	Quillen	Yates
Kildee	Rahall	Yatron
Kindness	Ray	Young (MO)
Kleczka	Reid	

NAYS—118

Armey	Conte	Gallo
Badham	Coughlin	Gekas
Bartlett	Courter	Goodling
Barton	Craig	Gregg
Bentley	Crane	Grotberg
Bereuter	Dannemeyer	Gunderson
Bilirakis	Daub	Hansen
Bliley	DeWine	Hendon
Boehlert	Dickinson	Henry
Boulter	Dornan (CA)	Hiler
Brown (CO)	Dreier	Hopkins
Burton (IN)	Durbin	Ireland
Chandler	Edwards (OK)	Jacobs
Chappie	Emerson	Kasich
Clay	Evans (IA)	Kolbe
Coats	Fawell	Kramer
Cobey	Fiedler	Lagomarsino
Coble	Fields	Latta
Coleman (MO)	Frenzel	Lent
Lewis (CA)	Pashayan	Smith, Robert (OR)
Lewis (FL)	Penny	Snowe
Lightfoot	Regula	Spence
Loeffler	Ridge	Stangeland
Lungren	Roberts	Strang
Mack	Roemer	Stratton
Marlenee	Rogers	Stump
Martin (IL)	Roukema	Sundquist
Martin (NY)	Saxton	Tauke
McCain	Schroeder	Taylor
McCandless	Schuette	Thomas (CA)
McCollum	Sensenbrenner	Vander Jagt
McGrath	Shaw	Vucanovich
McKernan	Shuster	Walker
Meyers	Sikorski	Weber
Michel	Siljander	Wolf
Mitchell	Skeen	Young (AK)
Molinari	Slaughter	Young (FL)
Monson	Smith, Denny (OR)	Zschau
Morrison (WA)	Smith, Robert (NH)	
Oxley		
Parris		

NOT VOTING—65

Addabbo	Hartnett	Price
Akaka	Hillis	Rangel
Alexander	Holt	Ritter
Anthony	Hunter	Rodino
Aspin	Jeffords	Rose
Berman	Jenkins	Roth
Boner (TN)	Kemp	Schulze
Byron	Leach (IA)	Smith (FL)
Campbell	Lloyd	Smith (IA)
Carney	Lott	Solomon
Chappell	Lowery (CA)	Stark
Cheney	Lujan	Swindall
Coleman (TX)	Manton	Torres
DeLay	McHugh	Torricelli
Dixon	McKinney	Towns
Dymally	Miller (OH)	Traxler
Dyson	Moorhead	Whitehurst
Ford (TN)	Neal	Whittaker
Garcia	Nelson	Williams
Gibbons	O'Brien	Wilson
Gingrich	Ortiz	Wylie
Gray (IL)	Owens	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 947) "An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. MATHIAS, Mr. EVANS, Mr. PELL, and

Mr. SARBANES to be conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1082. An act granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact;

S. 1503. An act to clear title to certain lands along the California-Nevada boundary;

S. 1684. An act to declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma; and

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be no 1-minute speeches today until after the legislative business.

We trust and hope and expect that the Committee will rise at 2:30.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE JOINT RESOLUTION 238, AGREEMENT FOR NUCLEAR COOPERATION BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. 99-421) on the resolution (H. Res. 333), providing for the consideration of the Senate joint resolution (S.J. Res. 238) relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 3792, THE FARM CREDIT ACT AMENDMENTS OF 1985

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight Friday, December 6, 1985, to file its report on the bill H.R. 3792, as amended, the Farm Credit Act Amendments of 1985.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GOODLOE E. BYRON MEMORIAL PEDESTRIAN WALKWAY

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3735) to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historic Park as the "Goodloe E. Byron Memorial Pedestrian Walkway," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, I yield to the chairman of the Subcommittee on National Parks and Recreation, the gentleman from Minnesota [Mr. VENTO] to explain the measure.

Mr. VENTO. Mr. Speaker, I am pleased to bring to the House H.R. 3735. This measure would authorize that the newly constructed pedestrian walkway crossing the Potomac River at Harper's Ferry National Historical Park be designated as the "Goodloe E. Byron Memorial Pedestrian Walkway."

Before his death in October 1978, Goodloe E. Byron was the congressional representative of Maryland's Sixth District. During his four terms in Congress, Representative Byron served as a member of the Committee on Interior and Insular Affairs, where his dedication and interest in national parks, especially those in the Maryland region, was important in furthering the preservation and enhancement of the National Park System. The designation of the pedestrian walkway to Goodloe E. Byron would serve as a small token of respect to the contributions he made to the National Park System.

I had the pleasure of serving with Goodloe in the 95th Congress. I know many Members join with me in recalling with respect and admiration the friendship we shared with Goodloe.

Mr. Speaker, I would hope the House could move quickly to approve this legislation prior to the dedication of the walkway this Sunday. I am pleased to lend my support to this measure in honor of our former colleague and I urge adoption of the bill.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, on behalf of the Maryland delegation and of all of us who had the opportunity to know Goodloe Byron, I rise to express our thanks to the committee for this appropriate action.

Goodloe loved the Potomac River, he loved western Maryland, and this is an appropriate tribute to a gentleman who gave unstintingly of himself to the citizens of Maryland.

We thank the committee for its early consideration of this legislation.

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I rise in support of H.R. 3735, to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Park as the "Goodloe E. Byron Memorial Pedestrian Walkway."

During Mr. Byron's service in Congress until his death in 1978, he was an active member of the House Interior Committee. He was instrumental in the passage of legislation to complete protection of the Appalachian Trail. He was also active in the protection and development of several National park units in Maryland. He was also a good friend.

The newly completed pedestrian walkway crosses the Potomac River connecting Harpers Ferry to Maryland Heights and the C&O Canal Park. Since it links many projects on which Mr. Byron worked, it is a fitting tribute to designate this walkway in his honor.

The dedication of the new walkway is planned for December 8. Therefore, the Subcommittee on National Parks and Recreation discharged the bill with the Interior Committee taking expeditious action yesterday.

Mr. Speaker, H.R. 3735 will not result in any cost to the Federal Government. It is strongly supported by the administration and many of our colleagues. Therefore, I urge that we take immediate action and pass this worthy measure.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I have the privilege of cosponsoring H.R. 3735, legislation that proposes that the newly completed pedestrian walkway crossing the Potomac River at Harper's Ferry National Historical Park be designated as the "Goodloe E. Byron Memorial Pedestrian Walkway." The walkway provides the only pedestrian crossing from Maryland Heights to Harpers Ferry.

That this walkway should be named after Goodloe Byron seems altogether fitting as it was his inspiring efforts that helped to move this project forward. I only regret that he did not live to see the walkway completed. Until his tragic death in 1978, Goodloe served as an able and dedicated Representative of the people of western Maryland for 7 years. He was a native of the area, born in Williamsport, MD, in 1929 in a house within sight of the Potomac. He died along its shores, a life ended too soon, yet not before he had begun the work that sought to preserve for future generations of Marylanders and Americans the splendor and beauty of this country's environment.

Like his mother and father before him, Goodloe served as an able and dedicated Member of Congress, representing the people of Maryland's Sixth District—many of whom grew up within earshot and walking distance of the Potomac and came to know the special pleasures of a life by

the river. His capable and respected wife, Beverly, succeeded Goodloe in Congress and it is our privilege to serve with her here in the House.

In Congress, Goodloe served as a Member of the House Interior Committee where he dedicated many of his efforts to the protection and enhancement of western Maryland's six national parks which include: Monocacy National Battlefield, Antietam National Battlefield, Mount Catoctin Park, the Appalachian Trail, Maryland Heights, and the C&O Canal National Park. Of particular note is Goodloe's successful sponsorship of a bill intended to complete protection of the Appalachian Trail. This legislation authorized $90 million for land acquisition and instructed the Secretary of the Interior to develop a comprehensive management plan for the trail. The measure was signed into law by President Carter in March 1978, just 6 short months before Goodloe's death.

Mr. Speaker, this pedestrian walkway both symbolically and literally brings together many of the projects on which Goodloe worked. Not only does the bridge connect Harpers Ferry to Maryland Heights and the C&O Canal Park, but I understand the Appalachian Trail will soon be rerouted across the walkway. I cannot think of anything more fitting than to dedicate this walkway to Goodloe's memory and let it exist as a symbol of his life—a life full of endless dedication to the land he loved.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the pedestrian walkway located in Washington County in the State of Maryland, and Jefferson County in the State of West Virginia, which crosses the Potomac River at Harpers Ferry National Historic Park, and which is situated in part on the structure which is cantilevered onto the bridge owned by the Baltimore and Ohio Railroad Company (identified as the Bridge Numbered Zero of the Shenandoah Subdivision) and in part on the trestle of such bridge, shall hereafter be known and designated as the "Goodloe E. Byron Memorial Pedestrian Walkway".

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to the pedestrian walkway referred to in the first section of this Act shall be deemed to be a reference to the "Goodloe E. Byron Memorial Pedestrian Walkway".

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 4, strike "Historic" and insert "Historical".

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The title of the bill was amended so as to read: "A bill to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the 'Goodloe E. Byron Memorial Pedestrian Walkway'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3735, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MARYLAND LAND CONVEYANCE

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3003) to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a)(1) notwithstanding any other provision of law, the Secretary of the Interior is authorized to convey, without monetary consideration, to the Maryland-National Capital Park and Planning Commission all right, title, and interest of the United States to a parcel of land comprising approximately fifty-five acres located in Prince Georges County, Maryland.

(2) Except as provided in subsection (b), the land conveyed pursuant to paragraph (1) shall be used solely for park and outdoor recreation purposes in accordance with a land use plan for the property prepared by the Maryland-National Capital Park and Planning Commission and submitted to the National Capital Planning Commission for review and comment. The instrument for conveyance for the real property conveyed pursuant to subsection (a) shall set forth all terms and conditions of the conveyance. Such instrument shall further provide that all right, title, and interest conveyed to the Maryland-National Capital Park and Planning Commission pursuant to such instrument, except such access as is authorized by subsection (b)(1), shall revert to the United States if such land is used for any purpose other than as stated in this paragraph.

(3) As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the area designated under paragraph (1) with the Committee on Interior and Insular Affairs, United States House of Representatives, and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file in the office of the regional director, National Park Service and the National Capital Park Region.

(4) The Maryland-National Capital Park and Planning Commission shall reimburse the Secretary of the Interior for the costs of the land conveyance described in paragraph (1).

(b)(1) Subject to the provisions of this subsection, the Maryland-National Capital Park and Planning Commission may grant access across the real property conveyed pursuant to subsection (a) to the owner of any proposed property contingent upon each of the following:

(A) Submission by the owner of the adjacent real property of a land use and development plan, incorporating the provisions of the memorandum of May 7, 1985, to the National Capital Planning Commission for review and comment;

(B) Approval of the terms and conditions of the memorandum of May 7, 1985, by the Prince Georges County Council;

(C) Compliance by the owner of the adjacent real property seeking such access with the terms and conditions of the memorandum of May 7, 1985, as determined by the National Capital Planning Commission;

(D) Conveyance by the owner of the adjacent real property to the National Capital Planning Commission of an easement in perpetuity which shall run with the land, incorporate the restrictions on development contained in the memorandum of May 7, 1985, and incorporate any other land restrictions imposed by Prince Georges County; and

(E) The availability for such access for public use.

(2) The owner of the adjacent real property shall obtain appropriate road construction bonds as required by State and local government regulation prior to the construction of such access road, and shall establish an interest bearing escrow account in an amount necessary to insure protection of the surrounding parkland and compliance with the conditions of paragraph (b)(1). Such amount shall be determined by the owner of the adjacent real property and the Maryland National Capital Park and Planning Commission. Following completion of the construction of such public use access road, and review by the Maryland-National Capital Park and Planning Commission, said escrow account shall be returned to the owner of the adjacent real property.

(3)(A) The National Capital Planning Commission and the Maryland-National Capital Park and Planning Commission shall make a copy of the memorandum of May 7, 1985, available for public inspection in the offices of each commission during business hours.

(B) Upon approval of a proposed amendment by both of the parties to the memorandum of May 7, 1985, the proposed amendment shall be published in the Federal Register and concurrently submitted to the congressional committees referred to in subsection (a)(3). The amendment shall not

be effective until 60 calendar days after it has been transmitted to the committees.

(c) For purposes of this Act—

(1) the term "memorandum of May 7, 1985" means the memorandum of understanding entered into on May 7, 1985, between the National Capital Planning Commission and the owner of the real property adjacent to the land to be conveyed pursuant to subsection (a)(1); and

(2) the term "owner of the adjacent real property" means the owner of the adjacent real property, its successors or assigns, as described in the memorandum of understanding entered into on May 7, 1985.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, I take this time so the gentleman may explain the measure.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the House passed H.R. 3003 on October 23, 1985, and I am very pleased that the other body has taken expeditious action so that we can forward this bill to the President for signature.

I have no objection to the minor amendments made and recommend passage of the bill.

Mr. LAGOMARSINO. Mr. Speaker, I appreciate the opportunity to present my views on H.R. 3003.

As the gentleman from Minnesota has explained, this bill would transfer approximately 55 acres of National Park Service property to the Maryland-National Capital Park and Planning Commission. The land will be used to provide access to a private development on the Potomac River waterfront in Prince Georges County, MD.

The bill includes appropriate restrictions to ensure that the development is constructed in an environmentally sound manner. To guard against noncompliance with these restrictions, the bill contains a reversionary clause.

H.R. 3003 is sponsored by our distinguished colleagues, the gentleman and gentlewoman from Maryland [Mr. HOYER and Mrs. HOLT], who I commend for their outstanding work on this legislation. The bill was recently passed by both the House and Senate with amendments to meet the administration's concerns with the original bill. In addition, I believe it is important to note that the bill will not result in any cost to the Federal Government.

For these reasons, I strongly urge passage of this bill in order to allow the proposed development to proceed in a timely fashion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

ENCOURAGING COGENERATION ACTIVITIES BY GAS UTILITY HOLDING COMPANY SYSTEMS

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 727) to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

□ 1035

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BROYHILL. Reserving the right to object, Mr. Speaker, I rise in support of S. 727, which will enable the Nation's three registered gas utility holding companies to participate in cogeneration. Earlier this year, I joined the gentleman from Pennsylvania [Mr. WALGREN] and several of our colleagues, in introducing very similar legislation. This bill is noncontroversial and is intended solely to remedy the inadvertent exclusion of these three gas utilities from the opportunities associated with cogeneration.

Congress recognized the benefits of cogeneration when it enacted the Public Utilities Regulatory Policies in 1978 [PURPA]. Among other things, that act was intended to foster cogeneration—an energy technology which makes efficient use of thermal energy and can yield important energy savings.

However, when we enacted PURPA, three gas companies were unintentionally excluded from participation in cogeneration because they were registered under the Public Utility Holding Company Act. That law forbids registered companies from engaging in activities which are not functionally related to their primary business—which, in the case of these three companies, is the production, transportation, and sale of natural gas.

This exclusion was never intended, and is not sound policy. Cogeneration is a natural outgrowth of the gas industry's expertise. And, while many cogeneration facilities use natural gas-fired turbines, the gas industry's expertise is equally applicable to other fuel sources.

Mr. Speaker, S. 727 is a narrowly crafted bill to enable these three gas companies to join with other gas companies in the ability to own and operate qualified cogeneration facilities. S. 727 does not amend either PURPA or the Public Utility Holding Company Act. S. 727 will not alter the Securities and Exchange Commission's authority over these companies or affect the SEC's financial reporting and accounting requirements. These three companies will still be required to obtain SEC approval for the financing of cogeneration projects, and the SEC will retain the authority to limit cogeneration to the extent necessary to ensure such activities will not threaten these companies' public utility responsibilities.

I urge my colleagues to support this simple, noncontroversial and worthwhile legislation.

Mr. WALGREN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Pennsylvania, the chief sponsor of this legislation, and I thank him for his leadership in bringing this bill to the House and getting it this far in the legislative process.

Mr. WALGREN. I thank the gentleman for yielding.

I want to express my real appreciation for his work on the bill and that of the chairman of the Committee on Energy and Commerce, Mr. DINGELL, and the chairman of the subcommittee, Mr. MARKEY.

I would like to underscore how important I feel this bill is, particularly for the Ohio Valley. It is critical for the basic manufacturing industries of this section of our country to be able to use energy as cost effectively as possible—and that means cogeneration.

Cogeneration has developed only in the last several years long after the original Public Utility Holding Company Act of 1935 which, as a technical matter, now inadvertently prohibits registered gas utility holding companies from engaging in cogeneration.

S. 727 provides simply that, notwithstanding any limitation in the Public Utility Holding Company Act of 1935 [PUHCA] section 11(b)(1) relating to "functional relationship," registered gas holding companies and their subsidiaries will be permitted to participate in cogeneration activities like all other gas companies. Registered gas companies will be permitted to invest in, acquire or retain any "qualifying cogeneration facilities" as defined in the Public Utility Regulatory Policies Act of 1978 [PURPA]. Finally, in a necessary clarification of technical importance, the proposed bill affirms

that registered gas companies are entitled to the benefits of any exemption relating to the Public Utility Holding Company Act granted by the Federal Energy Regulatory Commission pursuant to its authority under PURPA. This is necessary to ensure that the purpose of this bill, in allowing the three registered gas holding companies to participate fully in cogeneration, is not inadvertently frustrated.

This proposed bill does not affect the applicability of any section of PUHCA other than section 11(b)(1) and then only to the extent of permitting cogeneration ownership. Thus, the three registered gas companies, once participating in cogeneration, will still be required under PUHCA to obtain the SEC's permission for financing each project and will still remain subject to all of the other PUHCA restrictions.

So I want to express my appreciation to the gentleman in the well as this measure now becomes law.

Mr. BROYHILL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, I compliment the gentleman in the well and the gentleman from Pennsylvania for bringing this issue to my subcommittee's attention.

Mr. Speaker, S. 727 is a simple, noncontroversial piece of legislation which clarifies the Public Utility Holding Company Act of 1935, or PUHCA, so as to allow gas utility holding company systems to participate in cogneneration activities. S. 727 recently passed the Senate on a voice vote, and substantially identical legislation was introduced earlier this year in the House by my colleague, the gentleman from Pennsylvania [Mr. WALGREN], cosponsored by the gentleman from North Carolina [Mr. BROYHILL] and many others.

Cogeneration is the process of capturing and using the electrical or thermal energy which is produced as a byproduct of industrial processes. The 1978 Public Utility Regulatory Policies Act, or PURPA, created economic incentives to encourage cogeneration, which has since become a thriving source of alternative energy, most notably in the Western and Sourthern regions of the country. Indeed, a 1984 study by the Department of Energy concluded that cogeneration could conserve from 15 to 18 percent of the energy consumed by the five major energy-consuming industries.

S. 727 does nothing more than to clarify a clause of PUHCA which has, to date, prevented registered gas utility holding companies, which are ready, willing and able to embark on cogeneration ventures, from doing so. Section 11(b)(1) of PUHCA permits registered gas utility holding companies—and there are only three of them—to engage only in activities which are "functionally related" to their primary business, which is the production, transportation and sale of natural gas. The Securities and Exchange Commission, which regulates registered utility holding companies, is of the opinion that cogeneration is not "functionally related" to the holding companies' primary business, and has accordingly barred those holding companies from embarking on cogeneration ventures.

The practical result of this interpretation has been that the three registered gas utility holding companies are precluded from doing what every other gas utility company is allowed to do in the cogeneration industry, thereby depriving ratepayers of the benefits of cogeneration, and in addition impeding the development of the Nation's alternative energy infrastructure. The practical solution to this problem is S. 727, which states that section 11(b)(1) of PUHCA does not preclude these three registered gas utility holding companies from engaging in cogeneration activities.

This simple clarification of existing law will allow these three companies, which service the Ohio valley region and New York State, to realize the vast and to date largely untapped cogeneration potential of that heavily industrialized part of the United States. Despite the possibilities, the Ohio valley region has reached only 3.5 percent of its cogeneration potential, as compared to an average of 20 percent nationwide and up to 40 percent in the Southern oil and gas producing States. Freeing these three companies from the unintended effect of a 1935 holding company law on a 1978 energy law will be the spark to ignite that vast potential, at no cost to Federal or State Governments, and with tremendous benefit to industrial and other ratepayers.

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The clerk read the Senate bill, as follows:

S. 727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary company of such registered company, may acquire or retain, in any geographic area, any interest in any qualifying cogeneration facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210(e) of the Public Utility Regulatory Policies Act. Nothing herein shall be construed to affect the applicability of provisions of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. PICKLE. Mr. Speaker, yesterday evening, I was unavoidably detained and, consequently, missed two recorded votes.

Had I been present, I would have voted against the Daub amendment, roll No. 433, and for the Edgar amendment, roll No. 434.

SUPERFUND AMENDMENTS OF 1985

The SPEAKER. Pursuant to House Resolution 331 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2817.

□ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, with Mr. HOYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, December 5, 1985, title III of the text of H.R. 3852, which is considered as an original bill for the purpose of amendment, was open for amendment at any point. Debate on title III had been limited to 90 minutes. There are 40 minutes of debate remaining on title III. Debate on title IV had been limited to 30 minutes. Debate on an amendment by the gentleman from Massachusetts [Mr. FRANK] to add a new title VI and all amendments thereto, had been limited to 50 minutes to be equally divided and controlled by the gentleman from Massachusetts [Mr. FRANK] and a Member opposed thereto.

Are there any further amendments to title III?

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 301, after line 2, insert:

(C) The term "hazardous substance emergency" also includes any release of a hazardous substance in amounts which require no-

tification of the Environmental Protection Agency under CERCLA and which constitute a substantial threat to the public health and environment. The Administrator of the Environmental Protection Agency shall promulgate regulations to carry out this subparagraph.

Mr. RICHARDSON. Mr. Chairman, my amendment, I believe, has been worked out with both the majority and the minority. I am offering this amendment today to ensure that local officials receive at least the same information about the release of hazardous substances into the environment as does the Federal Government.

Under current law, Superfund requires firms that release certain threshold quantities of hazardous substances to immediately notify the National Response Center in Washington. The point at which they must notify the response center is when a "reportable quantity" has been released. By definition, a reportable quantity is a release which constitutes a substantial danger to the public health or welfare or the environment.

While the plant manager must notify Washington in the event of a reportable quantities release, they may or may not notify local officials—emergency response committees, emergency personnel—depending on whether they decide the release was abnormal or accidental.

My amendment would simply add the requirement that the releases which require reporting to Washington—reportable quantities which EPA has determined constitute a danger to the community—also be reported to local officials. The amendment would simply add to the list of situations in which a plant manager must notify the public—it in no way diminishes the other standards for notification.

EPA is currently in the process of determining reportable quantity thresholds for the 689 chemicals on the hazardous substances list. EPA is required to have all of these reportable quantity levels established before the emergency response provisions of the bill go into effect.

Mr. Chairman, I can think of no more appropriate situation to notify local officials and emergency response personnel than in the event of a release of a hazardous substance which presents a substantial danger to the public health—this is what community right to know is all about. I think this is an important amendment and urge my colleagues to support it.

Mr. ROE. Mr. Chairman, would the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the amendment has been reviewed. It is an improvement of the bill. We have no objection on this side.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

I just want to confirm that this is the amendment that provides for regulations for emergencies.

Mr. RICHARDSON. The gentleman is correct. Notification of local officials at the same time that the Washington Response Center is notified.

Mr. LENT. Mr. Chairman, we have gone over the amendment. It is a good amendment. We have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 281, strike out lines 3 and 4 and lines 11 and 12 and redesignate the following subparagraphs as (A) and (B).

Page 281, in line 5, strike out "group of facilities" and in lines 13 and 14, strike out "group of covered facilities".

Mr. CARPER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CARPER. Mr. Chairman, I do not intend to ask for a vote on this particular amendment. What I would like to do is to enter into a colloquy with the gentleman from New Jersey, [Mr. ROE].

As I understand, under section 311(e), the Administrator is given discretion to provide exemptions for the filing of material safety data sheets and hazardous substance reports. The standard for providing such exemptions is that there is not "a reasonable likelihood of injury to human health or the environment."

This is a high standard to meet and would, I believe, have to be granted based on the particular conditions present at a particular facility. Is it your understanding that for both the MSDS and hazardous substance inventory reports, EPA would be able to judge whether the standard for exemption is met only as regards a particular facility?

Mr. ROE. Yes. It is my understanding that under this section, EPA would have to look at the conditions found at a specific facility in order to determine whether a waiver would be appropriate. Procedurally, however, EPA might consolidate petitions by a single owner or operator for several facilities. Nevertheless, EPA must still determine whether exemptions are appropriate for each facility as part of that proceeding.

Additionally, since EPA determines the list of hazardous substances which would be required to be reported on, it is our intention that EPA could not then provide a blanket exemption limiting the need to file such reports for specific substances across the board. Nor do we intend that entire classes of industries be provided with across-the-board waivers but rather that EPA would judge the appropriateness of waivers on an individual facility basis.

The MSDS's and hazardous substance reports provide valuable information to State and local health officials, firefighting and emergency response officials, and communities. Therefore, it is our intention that EPA use the waiver authority carefully and provide exemptions for such reports only when warranted by specific conditions.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I would be happy to yield to the gentleman from Kentucky.

Mr. SNYDER. I would like to add that I generally concur with respect to the exemption for reporting requirements applicable to hazardous chemicals under section 311(e)(1). The provisions of subparagraph 2 thereof which deal with a more limited class of substances allow EPA authority to provide an exemption for a covered hazardous substance in a somewhat broader fashion. However, the provision would allow an exemption to be granted for reporting on the basis of classes or categories of covered hazardous substances or limit reporting on the same basis. We expect that EPA will carefully consider requests for exemptions recognizing the important use of these reports. I would like to ask if the two gentlemen agree.

Mr. CARPER. I yield to the gentleman from New Jersey.

Mr. ROE. The intent, that is my understanding of what we are trying to do, is clarify in this colloquy exactly what we mean, and we are coming back and saying to EPA, "You have to look at this more on a facility basis and not just blanket waivers." So I think what the gentleman is suggesting is in the spirit.

Mr. CARPER. That is my understanding.

Mr. Chairman, I concur with the comments of the gentleman from New Jersey.

With that, Mr. Chairman, I would ask unanimous consent that I be permitted to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 279, after line 19, insert: "If the Administrator fails to publish such list within such 18 month period, the list shall consist of the Acute Hazards List developed by the Admin-

istrator as part of its Federal Initiative for Responding to Accidental Releases of Air Toxics (described in the July 26, 1985, notice from the Office of Solid Waste and Emergency Response of the Environmental Protection Agency) until such list is published.".

Page 279, line 9, delete "12" and insert "18".

Mr. CARPER. Mr. Chairman, I would like to take the next couple of minutes to explain to my colleagues my concerns in this regard. The amendment I propose is simple, straightforward, and strengthens the bill's provisions on the listing of extremely toxic substances.

The bill before us requires the EPA Administrator to publish a list of extremely toxic substances which are so acutely toxic that their release into the environment may present an imminent and substantial endangerment to human health. Only facilities which handle a significant amount of these substances would be required to report annually the amount of those substances released to the environment.

My amendment would require that the Administrator publish the list of extremely toxic substances within 12 months of enactment of this legislation. If the Administrator should fail to develop a list during that period of time, an acute hazardous list which the EPA has already developed as part of its reaction to the Bhopal incident would apply. This list contains 403 chemicals which pose potentially serious health dangers to the public. Although I think this list reflects the same goals and criteria set forth in this bill, and would serve as an excellent basis for developing the list required by this section, there is a widely held belief that the EPA should be given an opportunity to develop another list in response to this bill's mandate. For that reason, this amendment does not require the Administrator to use this list, but it does say that the existing list will govern if the Administrator is unable to publish a new list within 1 year of enactment.

There is nothing in my amendment which would compromise the Administrator's authority to revise the list periodically—he could add or delete substances as he sees fit.

This amendment would not require that facilities automatically report on these 403 substances—if indeed the list ever comes into play. The EPA will establish an annual threshold amount for substances on the list. Only those facilities which handle more than these threshold amounts will need to report.

The reporting itself is anything but burdensome—requiring only reasonable estimates of the total amount of each extremely toxic substance released into the environment during the preceding 12-month period.

It is a reasonable amendment which acknowledges the considerable effort the EPA has already expended to address the very issue before us today. I urge adoption of the amendment.

□ 1050

I might also add that initially my thought was to simply say rather than giving EPA 18 months of time to develop this list of extremely toxic materials, since they have already spent the last 12 months developing a list of acutely toxic materials, let us designate that as a body, let us designate that list of 403 toxic materials as the list of extremely toxic materials.

I have been trying to work out a compromise with our friends on both sides of the aisle, to give EPA some latitude, and that latitude goes something like this: Let us give them 18 months to develop their own list. EPA's track record does not inspire confidence in their ability to meet deadlines. If after 18 months they have not met the deadline and generated the list of extremely toxic materials, after 18 months then this list that they have already generated of 400 acutely toxic materials becomes the list.

However, if somewhere down the line the EPA finally develops their list of extremely toxic materials, that would prevail. It is the "king of the mountain" scenario, almost, revisited. As a result, I think I have made every effort to address some of the concerns raised by my friends on both sides of the aisle to meet some concerns raised by EPA, and I would ask for consideration and, hopefully, the adoption of this amendment.

Mr. COATS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the intent of the gentleman is admirable and quite clear, although I do have a problem with the acute hazards list, because my understanding is that EPA developed this on kind of a broad-brush stroke, and it includes some items which may or may not fall under the requirements of being extremely toxic. In fact, we have some information that vitamin D and vitamin K is on the list, and I am not so sure that that is the ultimate list that we want to get down to. Nevertheless, I think that the intent of the gentleman's amendment is probably a good one.

My concern is that with the adoption last evening of the Edgar amendment, we are now throwing this whole thing into a great deal of confusion, because if we are going to add to the extremely toxic substance list all those items that we discussed last night or that might be brought in with the adoption of the Edgar amendment, I am concerned that the EPA is not going to be able to publish this new list within 18 months and, therefore, under the gentleman's amendment would be required to publish the acute hazards list or release the acute hazards list, so communities will be operating under one list for a certain period of time and then EPA will contact them at some point later and say, "scratch that list, there is going to be a new list, we have to implement a whole new series of hazardous chemicals that you need to be concerned with," and it is going to add a lot of confusion.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Delaware.

Mr. CARPER. I appreciate the comments of the gentleman.

Originally when I had drawn my amendment, I had given EPA a period of 12 months. They had indicated that that was not sufficient time. We have redrawn the amendment, following a conversation last evening, to provide for a year and a half.

Mr. COATS. If I could reclaim my time, I appreciate the gentleman doing that, but that additional 6 months was given on the basis of the current list. That was before the adoption of the Edgar amendment.

Now, last evening, when the gentleman from Pennsylvania initially stated that he wanted to add PCB's and dioxins and other cancer-inducing substances, I think we all supported that. But the amendment did not stop there. The amendment went on to add any other substance that might have the effect of causing a chronic, long-term disease, and we then saw that number escalate from 4 or 5 to perhaps, as one gentleman said, 125 or 154, which the State of New Jersey listed on their list. Someone else said EPA came forward with an estimate of 2,500 potential substances. The gentleman from Minnesota, in his spirited remarks last night, said there were 60,000 chemicals floating around that we need to be concerned about.

Well, what is it? Is it 4? Is it 154? Is it 2,500? Is it 60,000? I am not sure we exactly know.

Given the fact that we are looking at potentially, as the gentleman from Minnesota said, 60,000 chemicals that need to be put on this list as a result of the Edgar amendment—and that is why so many of us reacted to this amendment; we thought if it had been more carefully drafted and more narrowly drawn, we would have been happy to support it. But if we are looking at 60,000, or even 2,500, there is no way the EPA in the additional 6 months of time is going to be able to come out with this list and, therefore, it is going to have to revert to the acute hazards list. We are going to have two lists; we are going to have one for a certain period of time and another for another period of time; communities are going to be confused, and what we are doing is burdening the EPA with regulatory work, with

administrative work; we are draining Superfund from the specific purpose for which we are enacting it, and that is to clean up the worst sites first, to get at those on the priority list, to apply the money that is being taxed of American businesses into this fund and from the General Treasury and to go after it, clean up those sites. It is going to be an administrative nightmare, and that is why I am concerned, not with the gentleman's amendment, so to speak but with the addition of the Edgar amendment last night, which I think confuses this particular amendment.

Mr. SIKORSKI. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. Just so the gentleman does not further misunderstand the statement I made last night——

The CHAIRMAN. The time of the gentleman from Indiana [Mr. COATS] has expired.

(By unanimous consent, Mr. COATS was allowed to proceed for 4 additional minutes.)

Mr. SIKORSKI. I did not say that there were 60,000 toxic chemicals produced, nor did I say there are 60,000 chemicals that should even be reviewed or looked at. I clearly said in introductory comments that the context is this: There are 60,000 chemicals produced in this country in 6,000 communities. Then I went on to say that there were 5,700 accidents involving the release of toxic chemicals last year in America. Those are the facts.

Mr. COATS. If I could reclaim my time, I am not questioning whether it is 60,000—I do not know whether it is 60,000, 2,500, 5,700, 154, and I think that is what our concern was last evening. But if there are 60,000 chemicals being released, we do not know how many of those 60,000 are causes of chronic illness.

If the long-term effects of the gentleman's amendment, in terms of the establishment of chronic illness—and I will be happy to yield to the gentleman if he asks me to yield—if the long-term effects are unknown, and it is so uncertain as to the effect of the gentleman's amendment, then I think it legitimately requires us to raise a question as to the effects of the amendment last night and particularly the effect as it relates to the amendment offered by the gentleman from Delaware [Mr. CARPER].

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I think this is being made much more complicated than it really is. What we are talking about is the gentleman's amendment to the list that is required. There are two lists that are required under this provision; that is, the basic law that we are attempting to deal with here.

This is an amendment to the list of acutely toxic chemicals.

The gentleman's amendment last night dealt with chronic chemicals.

In that sense, what the amendment of the gentleman from Delaware is doing is saying the law requires that this list be published. We hope that it will be, but if after 18 months no such list of acute toxic chemicals is, in fact, published, then the list that EPA has just published unofficially, after a 9-month study, with no legislative authority, as they have announced, is going to be the list. That is going to be the provision that they are going to live with.

I do not think that is particularly offensive. And the way that EPA gets out of this is by doing what the law says between now and the next 18 months.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from New York.

Mr. LENT. I think that had this amendment been offered last evening, before the vote on the Edgar amendment, it might have been far less objectionable, or at least less confusing, than the impact of the amendment appears to be today. But with the passage of the Edgar amendment, it is unclear, at least to me what significance the list of 403 would have.

EPA estimates that the Edgar amendment will require the listing of several thousand new substances, most of them having no relationship to the criteria used to establish the draft list of 403.

The impact of the Edgar amendment last night was to extend the list of substances which the Administrator in his judgment deems to be extremely toxic to the same list, to add chemicals such as vinyl chloride, benzene, asbestos, polychlorinated biphenyls, which are known to cause or are suspected of causing cancer, birth defects, genetic mutations, or other chronic health defects in humans.

Mr. CHAIRMAN. The time of the gentleman from Indiana [Mr. COATS] has again expired.

Mr. LENT. Mr. Chairman, I ask unanimous consent that the gentleman from Indiana [Mr. COATS] be allowed to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. EDGAR. Mr. Chairman, reserving the right to object—and I will not object—I remind all of us that we are under very strict time considerations here, and I think that it is important that full debate on this issue be given within the limitations of the time restraints.

Mr. Chairman, I withdraw my reservation of objection.

Mr. COATS. We are cognizant of that time restriction, and we will do the best we can to get to a resolution.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair will advise the Members of the Committee that there are remaining 17 minutes after this 4 minutes, 21 minutes remaining for debate on this title at this time.

Mr. COATS. Mr. Chairman, I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. Is it my understanding that the sponsor of the amendment has agreed or is willing to extend the period of time that the EPA has to promulgate this list beyond the 12 months provided in the underlying legislation?

Mr. CARPER. If the gentleman will yield, with the adoption of the Edgar amendment last evening, I realize that that makes somewhat more difficult the task of the EPA in compiling this list.

In the spirit of compromise, I have already agreed to extend from 12 to 18 months. A suggestion has been made here today that we, given the adoption of the Edgar amendment last night, further extend that to 24 months. I am willing to accept that, if that is an agreement we can all live with.

Mr. LENT. Well, not that I am in any way trying to bargain with the gentleman, but if the gentleman would ask unanimous consent to make the amendment to 24 months, I think the minority would be prepared to agree to the amendment.

Mr. CARPER. If the gentleman will yield, having heard that, I will make a unanimous consent request that in my amendment the number "18" be replaced by the number "24."

Mr. LENT. If the gentleman will yield further, I believe there are two places in the statute where the time has to be changed, in order for it to be coherent, from 12 to 24 months.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

On line 2 of the Carper amendment, strike "18 month" and insert "24 month."

Mr. COATS. I yield to the gentleman from Delaware [Mr. CARPER] for an additional unanimous consent request.

Mr. CARPER. Mr. Chairman, there are two places in my amendment where the figure "18" occurs, and my intent is for the change of "18" to "24" occur in both places in my amendment.

Mr. COATS. I think the gentleman will have to make another unanimous consent request to do that.

Mr. CARPER. Mr. Chairman, I ask unanimous consent that in both places in my amendment where the number "18" was read that we insert "24" in lieu of "18" in both places.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The amendment, as modified, is as follows:

Amendment offered by Mr. CARPER; as modified: Page 279, after line 19, insert: "If the Administrator fails to publish such list within such 24 month period, the list shall consist of the Acute Hazards List developed by the Administrator as part of its Federal Initiative for Responding to Accidental Releases of Air Toxics (described in the July 26, 1985, notice from the Office of Solid Waste and Emergency Response of the Environmental Protection Agency) until such list is published.".

Page 279 line 9, delete "12" and insert "24".

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I want my colleagues to be clear. I realize the gentleman in his debate was arguing about an amendment that was already successful last evening. The amendment that the gentleman from Delaware is offering is a very good amendment; it is now listed at 24 months, and it has nothing to do with the amendment of last evening. This is simply the development of a list of acute chemicals by EPA, and it is a hammer; it is a way of specifically giving EPA the pressure to come up with that important list.

I thank the gentleman for his amendment. But, to be clear, it does not have anything to do with what we did last night. I really appreciate his leadership.

Mr. COATS. I beg to differ with the gentleman, and I yield to the gentleman from New York.

Mr. LENT. I would just like to state that the gentleman from Pennsylvania amended—and I have a copy of his amendment before me—at page 279 of the bill, line 18, and the gentleman added certain language to that list of substances which was the so-called acute list.

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The CHAIRMAN. The time of the gentleman from Indiana [Mr. COATS] has expired.

(On request of Mr. LENT and by unanimous consent, Mr. COATS was allowed to proceed for 2 additional minutes.)

Mr. COATS. I continue to yield to the gentleman from New York [Mr. LENT].

Mr. LENT. So we are talking about, my point is we are talking about one list which, up until the time your amendment was offered, was a list entirely involving extremely toxic substances, or acute substances, and you then added to that a further list of unknown quantities somewhere between 2,000 and 10,000 of chemicals that might cause chronic health effects.

The amendment of the gentleman from Delaware impacts on that list. It is one list.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman.

If you look at the Carper amendment, it develops a concern for a specific list of chemicals. The gentlemen on the other side have been particularly concerned about this list being so large. The gentleman from Pennsylvania intends his amendment, which is already successful and passed, to include a very narrow list of chemicals as determined by EPA's toxicology list, and we believe it would be in the neighborhood of 150 chemicals.

I see no problem with the Carper amendment trying to get a specific list out of EPA of those hazardous substances which are toxic. I thank the gentleman for his amendment, and I just simply want to say we won the battle last evening on one amendment; I do not think we ought to confuse the gentleman from Delaware's amendment with the debate that we had last evening.

Mr. COATS. Mr. Chairman, just to wrap up here, I think we have cleared up the problem with the time delay thanks to the gentleman's unanimous-consent request. In response to the gentleman from Pennsylvania, that is what the argument was about last night; whether it was 154 or 2,500 as the EPA stated, or 60,000 as one gentleman stated, and because of that confusion, and because of the relationship to this list, that is why we raised the question. But I think we have covered it with the extension of time.

The CHAIRMAN. The question is on the amendment, as modified offered by the gentleman from Delaware [Mr. CARPER].

The amendment as modified was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 400. SHORT TITLE.

This title may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

SUBTITLE A—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 401. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "claim" means a demand in writing for a sum certain;

(2) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(3) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying or dumping;

(4) "facility" means a structure, or group of structures, which is either—

(A) located, in whole or in part, on the outer Continental Shelf and used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the outer Continental Shelf, or

(B) licensed under the Deepwater Port Act of 1974;

(5) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(6) "Fund" means the Marine Oil Pollution Compensation fund established by subtitle B of this title.

(7) "guarantor" means the person, other than the responsible party, who provides evidence of financial responsibility for a responsible party;

(8) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, which causes, or poses a substantial threat, of oil pollution;

(9) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo or in residue from cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(10) "internal waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside that baseline which are a part of the Gulf Intracostal Waterway;

(11) "lessee" means a person holding a leasehold interest in an oil and gas lease on submerged lands of the outer Continental Shelf granted or maintained under the Outer Continental Shelf Lands Act;

(12) "licensee" means a person holding a license issued under the Deepwater Port Act of 1974;

(13) "mobile offshore drilling unit" means every watercraft or other contrivance (other than a public vessel of the United States) capable of use as a means of transportation on water and as a means of drilling for oil on the outer Continental Shelf;

(14) "natural resources" means living and nonliving resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(15) "navigable waters" means the waters of the United States, including the territorial sea;

(16) "oil" means petroleum, including crude oil or any fraction or residue therefrom

(17) "oil pollution" means—

(A) the presence of oil in or on the navigable waters or on land within the United States immediately adjacent thereto, or in or on the waters of the contiguous zone—

(i) which has been discharged from a vessel or facility; and

(ii) which has been discharged in quantities which the President has determined may be harmful pursuant to paragraph (4) of subsection (b) of section 311 of the Federal Water Pollution Control Act;

(B) the presence of oil (other than natural seepage) in or on waters outside the territorial limits of the United States and of any foreign country—

(i) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(ii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or from a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port licensed under such Act;

(iii) causing injury to or loss of natural resources; or

(iv) which has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) for transportation to a port in the United States; and

(C) the presence of oil (other than natural seepage) in or on the waters, including the territorial sea, or adjacent shoreline, of a foreign country—

(i) which has been discharged from a vessel located within the navigable waters;

(ii) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(iii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port under such Act; or

(iv) which, in the case of the waters or adjacent shoreline of Canada, has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) for transportation to a port in the United States;

(18) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of a pipeline, any person, except the owner, who is responsible for the operation of such pipeline by agreement with the owner;

(19) "outer Continental Shelf" has the meaning set forth in subsection (a) of section 2 of the Outer Continental Shelf Lands Act;

(20) "owner" means, in the case of a vessel or a pipeline, any person holding title to, or in the absence of title, any other indicia of ownership of, the vessel or pipeline, whether by lease, permit, contract, license, or other form of agreement, except that such term does not include a person who, without participating in the management or operation of a vessel or a pipeline, holds indicia of ownership primarily to protect his security interest in the vessel or pipeline;

(21) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act;

(22) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or any other commercial, legal, or governmental entity;

(23) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State or political subdivision thereof, or (iii) a foreign government, and

(B) is not engaged in commercial service;

(24) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974, and

(B) cleanup costs, other than the costs described in subparagraph (A);

(25) "responsible party" means—

(A) with respect to a vessel or a pipeline, the owner or operator of such vessel or pipeline;

(B) with respect to a facility (other than a deepwater port or pipeline), the lessee or permittee of the area in which such facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which such facility is located where such holder is a different person than the lessee or permittee; and

(C) with respect to a deepwater port, the licensee;

(26) "Secretary" means the Secretary of Transportation;

(27) "ship" means a vessel (other than an inland oil barge) carrying oil in bulk as cargo or in residue from cargo;

(28) "United States" and "State" mean the several States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(29) "United States claimant" means any person residing in the United States, the Government of the United States or any agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim; and

(30) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 402. COORDINATION WITH INTERNATIONAL CONVENTIONS.

During any period in which both the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984, are in force with respect to the United States, this subtitle shall not apply with respect to damage arising out of or directly resulting from oil pollution or a substantial threat of oil pollution to the extent that compensation is available under such conventions and subtitle D.

SEC. 403. DAMAGES AND CLAIMANTS.

(a) DAMAGES FOR WHICH CLAIMS MAY BE ASSERTED.—Claims may be asserted, to the extent provided in this section, for damages for economic loss incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution or the substantial threat of oil pollution for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) reasonable costs incurred in (A) assessing both short-term and long-term injury to, or destruction of, natural resources, (B) preparing a restoration and acquisition plan with respect to the damaged resources, and (C) restoring or acquiring the equivalent of the damaged resources;

(4) loss of subsistence use of natural resources;

(5) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages are sustained during the two-year period beginning on the date the claimant first suffers such loss; and

(6) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) REMOVAL COSTS RECOVERABLE BY ALL CLAIMANTS.—

"(1) GENERAL RULE.—A claim may be asserted under paragraph (1) of subsection (a) by any person.

"(2) LIMITATION ON RECOVERY BY RESPONSIBLE PARTY.—(A) The responsible party with respect to a vessel or facility involved in an incident may assert a claim under paragraph (1) of subsection (a) only if he can show that—

(i) he is entitled to a defense to liability under section 404(c), or

(ii) he is entitled to a limitation of liability under section 404(b).

(B) A claimant who is not entitled to a defense to liability, but who is entitled to a limitation of liability, may assert a claim under paragraph (1) of subsection (a) only to the extent that the sum of the removal costs incurred by the responsible party plus the amounts paid by the responsible party or by the guarantor on behalf of the responsible party for claims asserted under subsection (a) exceeds the amount to which the total of the liability under section 404(a) and removal costs incurred by, or on behalf of, the responsible party is limited under section 404(b).

(c) OTHER DAMAGES RECOVERABLE BY UNITED STATES CLAIMANTS.—

(1) INJURY TO PROPERTY; SUBSISTENCE USE OF NATURAL RESOURCES.—A claim may be asserted under paragraphs (2) and (4) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(17) by any United States claimant, but only if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant.

(2) INJURY TO NATURAL RESOURCES.—A claim may be asserted under paragraph (3) of subsection (a) by the President as trustee for natural resources controlled by the United States or by the Governor of any State for natural resources within the boundary of the State and controlled by the State or a local government within the State.

(3) LOSS OF PROFITS.—A claim may be asserted under paragraph (5) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(17) by any United States claimant, but only if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource or, if such activities are seasonal in nature, 25 percent of the claimant's earnings during the season in which such activities took place.

(4) LOSS OF TAX REVENUE.—A claim may be asserted under paragraph (6) of subsection (a) only by a State or political subdivision thereof.

(d) OTHER DAMAGES RECOVERABLE BY FOREIGN CLAIMANTS.—

(1) GENERAL RULE.—A claim may be asserted under paragraph (2), (3), (4), or (5) of subsection (a) with respect to oil pollution

described in subparagraph (C) of section 401(17) by a foreign claimant who is a resident of the country in which the oil pollution occurs, to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraph (A) of section 401(17), if—

(A) the foreign claimant is not otherwise compensated for his loss; and

(B) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country of which the claimant is a resident, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

(2) SPECIAL RULE FOR CANADIAN CLAIMANTS RESPECTING TRANS-ALASKA PIPELINE OIL.—In the case of any oil pollution described in section 401(17)(B)(iv) or 401(17)(C)(iv), a claim may be asserted under paragraph (2), (3), (4), or (5) of subsection (a) by a resident of Canada without regard to subparagraph (B) of paragraph (1), to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraphs (A) and (B) of section 401(17).

(e) ATTORNEY GENERAL.—A claim may be asserted under subsection (a) by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this section.

(f) GROUP OF CLAIMANTS.—If the Attorney General fails to act under subsection (e) within sixty days after the date on which the Secretary designates a source under section 406, any member of a group may assert a claim for damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any claim for damages asserted under this section.

SEC. 404. LIABILITY.

(a) JOINT, SEVERAL, AND STRICT LIABILITY.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection and subsections (b) and (c), the responsible party with respect to a facility or a vessel (other than a public vessel) that is the source of oil pollution, or poses a substantial threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 401(24)(A), shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 403.

(2) SPECIAL RULE FOR MODU'S.—(A) Except as provided in subparagraph (B), in any case in which a mobile offshore drilling unit is being used as a facility and is the source of oil pollution originating on or above the surface of the water or poses a substantial threat of such oil pollution, such unit shall be deemed to be a vessel which is a ship for purposes of this subtitle.

(B) To the extent that damages for which claims may be asserted under section 403 from any incident described in subparagraph (A) exceed the amount for which the responsible party is liable under subparagraph (A) (as such amount may be limited under subsection (b)(1)(B)), the mobile offshore drilling unit shall be deemed to be a facility covered by subsection (b)(1)(D), except that for purposes of applying subsection (b)(1)(D) the amount specified in such subsection shall be reduced by the amount for which the responsible party with respect to a ship is liable under subparagraph (A).

(C) In the case of any incident described in subparagraph (A)—

(i) which is caused primarily by willful misconduct or gross negligence within the privity or knowledge of both the owner or operator of the mobile offshore drilling unit and the lessee or permittee of the area, or holder of a right of use or easement for the area, in which such unit is located; or

(ii) with respect to which both such owner or operator and such lessee or permittee or holder fail or refuse to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activities;

such owner or operator and such lessee or permittee or holder shall be jointly, severally, and strictly liable (without limitation under subsection (b)) for all loss for which a claim may be asserted under section 403.

(b) LIMITS ON LIABILITY.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the responsible party with respect to an incident shall be limited to—

(A) in the case of a vessel other than a ship or an inland oil barge, $500,000 or $300 per gross ton whichever is greater;

(B) in the case of a ship, $3,000,000 or $420 per gross ton, whichever is greater (but not to exceed $60,000,000);

(C) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater; or

(D) in the case of a facility, $50,000,000.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) when the incident is caused primarily by willful misconduct or gross negligence within the privity or knowledge of a responsible party; or

(B) when a responsible party fails or refuses to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activities.

(3) REPORT.—The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations on liability specified in this subsection.

(c) DEFENSES TO LIABILITY.—

(1) COMPLETE DEFENSES.—Except when the responsible party has failed or refused to report an incident where required by law, there shall be no liability under subsection (a) if the responsible party proves that the incident—

(A) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character, or

(B) was wholly caused by an act or omission of a person other than—

(i) a responsible party;

(ii) an employee or agent of a responsible party; or

(iii) one whose act or omission occurs in connection with a contractual relationship with a responsible party.

(2) PARTIAL DEFENSES.—There shall be no liability under subsection (a)—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) LIABILITY OF FUND.—

(1) GENERAL RULE.—Except as provided in subtitle B, the Fund shall be liable for damages for which claims may be asserted under section 403 and for which claims are presented under this subtitle, to the extent that the damages are not otherwise compensated.

(2) DEFENSES TO LIABILITY.—Except for the removal costs specified in section 401(24)(A), there shall be no liability under paragraph (1)—

(A) where the incident is caused wholly by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or the economic loss is caused by the negligence of that claimant.

(e) LIABILITY FOR INTEREST.—

(1) GENERAL RULE.—The responsible party or his guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of a claim under section 403 for the period described in paragraph (2).

(2) PERIOD FOR WHICH INTEREST IS OWED.—(A) Except as provided in subparagraph (B), the period for which interest shall be paid under paragraph (1) is the period beginning on the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claimant is paid, inclusive.

(B) If the responsible party or guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in subparagraph (A) shall not include the period beginning on the date such offer is made and ending on the date such offer is accepted. If such offer is made within sixty days after the date upon which the claim is presented, or of the date upon which advertising is begun pursuant to section 406, whichever is later, the period described in subparagraph (A) shall not include any period before such offer is accepted.

(3) RATE OF INTEREST.—The interest paid under this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve bulletin.

(4) RELATIONSHIP TO LIABILITY LIMITS.—Interest under this subsection shall be in addition to damages for which claims may be asserted under section 403 and shall be paid without regard to any limitation of liability under subsection (b). The payment of interest under this subsection by a guarantor shall be subject to section 405(e).

(f) AGREEMENTS.—

(1) LIABILITY NOT TRANSFERABLE.—A responsible party may not transfer the liability imposed under this section to any other person.

(2) INDEMNIFICATION AGREEMENTS.—Nothing in this title shall preclude an agreement whereby a person who, by an agreement with a responsible party, agrees to indemnify the responsible party for the liability imposed under subsection (a).

(g) RELATIONSHIP TO OTHER CAUSES OF ACTION.—Nothing in this subtitle shall bar a cause of action that a responsible party subject to liability under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(h) RELATIONSHIP TO OTHER LAW.—To the extent that it is in conflict with, or otherwise inconsistent with, any other law relat-

ing to liability or the limitation thereof, this section supersedes such other law.

SEC. 405. FINANCIAL RESPONSIBILITY.

(a) VESSELS.—

(1) REQUIREMENT.—The responsible party with respect to each vessel (except a public vessel or a non-self-propelled vessel that does not carry oil as cargo or fuel) over 300 gross tons that uses a facility or the navigable waters shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum liability under section 404 of this subtitle to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where a responsible party owns or operates more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have the certification required under this subsection or the regulations issued hereunder.

(3) DENYING ENTRY TO OR DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (B) detain at the facility or at the port of place in the United States, any vessel subject to this subsection that, upon request, does not produce the certification required under this subsection or regulations issued hereunder.

(b) FACILITIES.—The responsible party with respect to each facility shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where the responsible party is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to one such facility.

(c) METHODS.—Financial responsibility under this section may be established by any one, or by any combination, of the following methods acceptable to the Secretary: evidence of insurance, surety bond, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(d) CLAIMS AGAINST GUARANTOR.—Any claim authorized by section 403(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section for any responsible party with respect to a facility or vessel. In defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under this subtitle. He may also invoke the defense that the incident was caused by the willful misconduct of the responsible party, but he may not invoke any other defense that he might be entitled to invoke in proceedings brought by the responsible party against him.

(e) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this subtitle shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceeds, in the aggregate, the amount of financial responsibility which that guarantor has provided for the responsible party for any vessel or facility that was a source of oil pollution in that incident. Nothing in this subsection shall be construed to limit any other statutory, contractual, or common law liability of a guarantor to any responsible party for whom such guarantor provides evidence of financial responsibility including, but not limited to, the liability of such guarantor for negotiating in bad faith a settlement of any claim.

SEC. 406. DESIGNATION AND ADVERTISEMENT.

(a) DESIGNATION OF SOURCE AND NOTIFICATION.—When the Secretary receives information of an incident that involves oil pollution, he shall, where possible and appropriate, designate the source or sources of the oil pollution. If a designated source is a vessel or a facility, the Secretary shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) ADVERTISEMENT BY THE RESPONSIBLE PARTY OR GUARANTOR.—If a responsible party or guarantor fails to inform the Secretary, within five days after receiving notification of a designation under subsection (a), of his denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented to such party or guarantor, in accordance with regulations promulgated by the Secretary. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the Secretary shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.

(c) ADVERTISEMENT BY THE SECRETARY.—If—

(1) the responsible party and the guarantor both deny a designation within five days after receiving notification of a designation under subsection (a),

(2) the source of the oil pollution was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the oil pollution under subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

SEC. 407. CLAIMS SETTLEMENT.

(a) PRESENTATION TO RESPONSIBLE PARTY OR GUARANTOR.—Except as provided in subsection (b), all claims shall be presented to the responsible party or guarantor of the source designated under section 406(a).

(b) PRESENTATION TO FUND.—Claims may be presented to the Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 406(c);

(2) by a responsible party who may assert a claim under section 403(a); or

(3) by the Governor of a State for cleanup costs incurred by that State.

(c) ELECTION.—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 180 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 406(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund. Such an election shall be irrevocable and exclusive.

(d) UNCOMPENSATED DAMAGES.—If a claim is presented in accordance with subsection (a) and full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 404 or because the responsible party and his guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Fund.

(e) TRANSMITTAL OF CLAIM AND DOCUMENTS.—In the case of a claim which has been presented to any person under subsection (a) and which is being presented to the Fund under subsection (c) or (d), that person, at the request of the claimant, shall transmit the claim and supporting documents to the Fund. The Secretary may, by regulation, prescribe the documents to be so transmitted and the terms under which they are to be transformed.

(f) PROCEDURES.—The Secretary shall establish procedures and standards for the prompt appraisal and settlement of claims against the Fund, including procedures for ensuring the rapid and equitable settlement of claims submitted by the Governor of any State for cleanup costs incurred by that State.

(g) USE OF PRIVATE ORGANIZATIONS AND FEDERAL PERSONNEL.—The Secretary may use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Fund and may contract for those facilities and services. To the extent necessitated by extraordinary circumstances, where the services of private organizations or State agencies are inadequate, the Secretary may use Federal personnel, on a reimbursable basis, to process claims against the Fund.

(h) JUDICIAL REVIEW.—Any claimant, or any other person suffering legal wrong because of, or adversely affected or aggrieved by, a final determination of the Secretary with respect to a claim, may bring an action for judicial review of the determination in accordance with chapter 7 of title 5, United States Code. Such action shall be brought under section 409 and shall be the exclusive judicial remedy with respect to such final determination of the Secretary. Such an action shall be filed not later than thirty days after the Secretary issues notification of the final determination. Venue for any action shall lie in any district wherein the claimant resides, in addition to any district described in section 409(b).

(i) ACTIONS AGAINST RESPONSIBLE PARTY OR GUARANTOR.—

(1) SERVICE OF PLEADINGS ON FUND.—In any action brought under this subtitle against a responsible party or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Fund at the same time those pleadings are served upon the opposing parties.

(2) INTERVENTION OF FUND.—The Fund may intervene as a party as a matter of right in

any action in which a complaint has been served upon the Fund under paragraph (1).

(3) ADMISSION OF LIABILITY.—In any action to which the Fund is a party, if the responsible party or his guarantor admits liability under this subtitle, the Fund shall be dismissed therefrom to the extent of the admitted liability.

(4) EFFECT OF JUDGMENT.—If the Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in paragraph (1), the Fund shall be bound by any judgment interred therein, whether or not the Fund was a party to the action.

(5) FAILURE TO SERVE PLEADINGS.—(A) If the plaintiff fails to serve a copy of the complaint upon the Fund as required by paragraph (1), the plaintiff shall not recover from the Fund any sums not paid by the defendant.

(B) If the defendant fails to serve a copy of the initial answer to a complaint upon the Fund as required by paragraph (1), the limitation of liability otherwise permitted by subsection (b) of section 404 shall not be available to the defendant.

(C) If neither the plaintiff nor the defendant serves a copy of the complaint and all subsequent pleadings upon the Fund as required in paragraph (1), the Fund may serve a motion for a new trial for the purposes specified in this subparagraph. The motion must be served not later than ten days after the Fund has received notice of the entry of the judgment in the action, but in no case later than 90 days after the entry of that judgment. The Fund must establish in its motion that, due to the failure of the plaintiff or defendant to comply with paragraph (1), the Fund failed to receive timely notice of one or more issues raised in the action, which might affect the liability of the Fund in any case brought under this subtitle. When the Fund does so, the court shall open the judgment, if one has been entered, and shall take additional pleadings and testimony on the identified issue or issues. The court may amend findings of fact and conclusions of law or make new findings and conclusions and direct the entry of a new judgment in the action.

(j) JOINDER OF PARTIES.—In any action brought against the Fund the plaintiff may join any responsible party or his guarantor, and the Fund may implead any person, who is or may be liable to the Fund.

(k) PERIOD OF LIMITATIONS.—No claim may be presented, nor may any action be commenced for damages recoverable under this subtitle, unless that claim is presented to, or that action is commenced against, a responsible party or his guarantor or against the Fund as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (a) of section 403, or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SEC. 408. SUBROGATION.

(a) RIGHT OF SUBROGATION.—Any person, including the Fund, who compensates any claimant for an economic loss compensable under section 403 shall be subrogated to all rights, claims, and causes of action which that claimant has under this subtitle.

(b) RECOVERY BY FUND.—

(1) DENIAL OF SOURCE DESIGNATION OR LIABILITY.—In a case in which the Fund has compensated a claimant for a claim presented to the Fund under section 407(b)(1) or 407(c)(1), the Fund shall recover under subsection (a)—

(A) the amount the Fund has paid to the claimant;

(B) interest on that amount for the period beginning on the date on which the claim was first presented by the claimant to the Fund or to the responsible party or guarantor and ending on the date on which the Fund is paid by the responsible party or guarantor, except that if the Fund offered to the claimant the amount finally paid by the Fund to the claimant in satisfaction of the claim against the Fund the responsible party or guarantor shall not be liable for interest for the period beginning on the date the Fund made such offer and ending on the date on which the claimant accepted such offer; and

(C) all costs incurred by the Fund by reason of the claim of the claimant against the Fund and by reason of the claim of the Fund against the responsible party or guarantor.

(2) FAILURE TO SETTLE WHERE PAYMENT BY FUND EXCEEDS OFFER BY RESPONSIBLE PARTY.—In a case in which the Fund has compensated a claimant for a claim presented to the Fund under section 407(c)(2) where the amount the Fund has paid to the claimant exceeds the largest amount, if any, the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Fund shall recover under subsection (a)—

(A) the amount the Fund has paid the claimant, except that the portion of such amount in excess of the amount offered to the claimant by the responsible party or guarantor shall be subject to dispute by the responsible party or guarantor;

(B) interest on the portion of such excess, if any, which is recovered by the Fund, for a period determined in the same manner as in paragraph (1)(B); and

(C) all costs incurred by the Fund by reason of the claim of the Fund against the responsible party or guarantor.

(3) FAILURE TO SETTLE WHERE PAYMENT BY FUND DOES NOT EXCEED OFFER BY RESPONSIBLE PARTY.—In a case in which the Fund has compensated a claimant for a claim presented to the Fund under section 407(c)(2) where the amount the Fund has paid to the claimant is less than or equal to the largest amount the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Fund shall recover under subsection (a)—

(A) the amount the Fund has paid to the claimant; and

(B) interest—

(i) for the period beginning on the date on which the claim was presented by the claimant to the responsible party or guarantor and ending on the date on which the responsible party or guarantor offered to the claimant the largest amount referred to in this paragraph, except that if the responsible party or guarantor offered such amount within sixty days after the date upon which the claim of the claimant was presented to the responsible party or guarantor or advertising was commenced under section 406, whichever is later, the responsible party or guarantor shall not be liable for interest for such period; and

(ii) for the period beginning on the date on which the claim of the Fund against the responsible party or guarantor was presented the responsible party or guarantor to the date on which the Fund is paid, inclusive, except that if the responsible party or guarantor offers to the Fund the amount finally paid to the Fund in satisfaction of the claim of the Fund, interest shall not be paid for the period beginning on the date on which such offer is made and ending on the date on which the Fund accepts that offer, inclusive.

(4) SPECIAL RULES.—For purposes of this subsection—

(A) interest shall be calculated in accordance with section 404(e); and

(B) costs recoverable under paragraphs (1)(C) and (2)(C) include, but are not limited to, processing costs, investigating costs, court costs, and attorney's fees.

(c) PAYMENT OF CERTAIN INTEREST TO CLAIMANT.—The Fund shall pay over to the claimant that portion of any interest the Fund recovers under subsections (b)(1)(B) and (b)(2)(B) for the period beginning on the date on which the claim of the claimant was first presented to the Fund or the responsible party or guarantor to the date upon which the claimant was paid by the Fund, inclusive.

(d) APPLICATION OF LIABILITY LIMITS.—The Fund is entitled to recover for all interest and costs specified in subsection (b) without regard to any limitation of liability to which the responsible party or guarantor may otherwise be entitled. The payment of such interest and costs by a guarantor shall be subject to section 405(e).

SEC. 409. JURISDICTION AND VENUE.

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction over all controversies arising under this subtitle and subtitles B and C, without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Unless otherwise provided in this title, venue shall lie in any district wherein the injury complained of occurred, or wherein the responsible party or guarantor resides, may be found, or has his principal office. For purposes of this section, the Fund resides in the District of Columbia.

SEC. 410. RELATIONSHIP TO OTHER LAW.

(a) PREEMPTION.—Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for an economic loss compensable under this subtitle,

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for damages for an economic loss described in section 403(a), except that, for a period of three years beginning on the effective date of this section, any State which on such date has in effect a statute that requires such contributions may continue to require such contributions within the limits established by such statute as those limits exist on such date, and

(3) no person may be required to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim compensable under this subtitle.

(b) STATE FINANCING OF PREPARATION FOR OIL POLLUTION CLEANUP.—Nothing in this title shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment or to finance other preparations for responding to a discharge of oil which affects such State.

(c) ACTIONS BY FUND.—Nothing in subsection (a) shall prohibit an action by the Fund under any other provision of law to recover compensation paid under this subtitle.

SEC. 411. PENALTIES.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 405 or the regulations issued thereunder or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years beginning on or after October 1, 1985, such sums as may be necessary to carry out this title.

Subtitle B—Marine Oil Pollution Compensation Fund

SEC. 421. MARINE OIL POLLUTION COMPENSATION FUND.

(a) ESTABLISHMENT.—The Marine Oil Pollution Compensation Fund is established in the Treasury and shall be administered by the Secretary. The fund may sue and be sued in its own name.

(b) COMPOSITION OF THE FUND.—There shall be deposited in the Fund—

(1) premiums paid to the Fund under section 422;

(2) amounts recovered, collected, or received on behalf of the Fund under subtitle A;

(3) amounts transferred to the Fund under sections 442(d) and 422(e);

(4) income earned on investments under subsection (d); and

(5) amounts borrowed under section 423(d).

(c) PURPOSES FOR WHICH FUND IS AVAILABLE.—The fund shall be available for purposes of—

(1) the immediate payment of removal costs described in section 401(24)(A) and of reasonable costs incurred by the President or the Governor of a State as trustee under section 403(a)(3) in assessing damaged natural resources and preparing a restoration and acquisition plan with respect to the damaged natural resources;

(2) the payment of claims under subtitle A for damage which is not otherwise compensated;

(3) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in that section);

(4) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution;

(5) the payment of costs of administration of this title; and

(6) the payment of contributions to the International Fund in accordance with section 464.

(d) INVESTMENT.—The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments shall be in obligations of the United States and obligations guaranteed as to principal and interest by the United States, with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. Except as provided in subsection (e), the income on such investments shall be credited to and form a part of the Fund. The Secretary shall not sell investments in excess of $100,000,000 at one time without the approval of the Secretary of the Treasury. The Secretary of the Treasury may waive the requirement for approval under this subsection for any period of time or under any conditions as the Secretary of the Treasury may decide.

(e) REBATE.—Whenever the amount in the Fund (including the value of obligations held under subsection (d)) exceeds $300,000,000, the amount of any income from such obligations shall be rebated to the owners of oil with respect to which premiums were first paid under section 422 and with respect to which a rebate has not previously been made under this subsection. Payment of rebates required by the preceding sentence shall be made not less often than annually. If for any reason such income cannot be rebated under this subsection after due diligence to do so, the amount of such income shall be retained by the Fund.

SEC. 422. PREMIUMS.

(a) AMOUNT.—A premium not to exceed 1.3 cents per barrel shall be paid to the Secretary for deposit into the Fund on—

(1) crude oil or other petroleum products entered into the United States for consumption, use, or warehousing, by the person so entering the crude oil or other petroleum product;

(2) crude oil received at a United States refinery, by the operator of that refinery; and

(3) crude oil exported from the United States, by the person exporting the crude oil.

(b) CREDITS FOR CONTRIBUTIONS TO DEEPWATER PORT AND OFFSHORE OIL FUNDS.—There shall be credited against the amount of premiums imposed on any person under subsection (a) of this section the amount paid by such person into the Deepwater Port Liability Fund and the Offshore Oil Pollution Compensation Fund. A person entitled to a credit under this subsection may transfer that entitlement to another person.

(c) PROHIBITION ON DOUBLE COLLECTION.—No premium shall be collected under this section with respect to any oil if the person who would be liable for the premium establishes that a premium has been previously imposed under this section with respect to that oil.

(d) EFFECTIVE PERIOD.—The premium imposed by subsection (a) shall only be in effect during any period when the amount in the Fund (including the value of any securities held by the Fund pursuant to section 421(d) is less than $200,000,000.

(e) PROCEDURES.—The Secretary shall by regulation establish procedures for the establishment and collection of the premium imposed by subsection (a).

(f) COLLECTION.—The Fund may bring an action in the district court of the United States for the collection of any premium required to be paid under this section.

SEC. 423. LIMITATION ON FUND'S LIABILITY.

(a) CLAIMS PAYABLE ONLY FROM FUND.—Any claim filed against the Fund may be paid only out of the Fund. Nothing in this title (or in any amendment made by this title) shall authorize the payment by the United States of any additional amount with respect to any such claim out of any source other than the Fund.

(b) PROHIBITION ON REDUCING FUND BELOW $30,000,000.—No amount in the Fund may be used to pay any claim, except for removal costs, to the extent that the payment of that claim would result in the Fund having an amount less than $30,000,000.

(c) PRIORITY OF CLAIMS.—If at any time the fund is unable by reason of subsection (b) to pay all of the claims, except for removal costs, payable at that time, those claims shall, to the extent permitted under subsection (b), be paid in full in the order in which they were finally determined. The Secretary may borrow under subsection (d) for purposes of paying such claims in such order.

(d) BORROWING AUTHORITY.—The Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the Secretary under this subsection, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The outstanding indebtedness under this subsection shall not exceed $300,000,000 at any time.

(e) LIABILITY LIMIT PER INCIDENT.—The liability of the Fund under this title with respect to one incident shall not exceed $200,000,000. If the Fund is unable by reason of the preceding sentence to pay all claims with respect to the incident, the claims shall be reduced proportionately.

SEC. 424. SERVICES AND FACILITIES OF OTHER AGENCIES.

The Fund may, with the consent of the agency concerned, accept and use, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government.

SEC. 425. PENALTY FOR FAILURE TO PAY PREMIUM.

Any person who fails to pay any premium as required by this title shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary. Such penalty shall be in addition to the premium required to be paid and interest on the premium in an amount equal to the amount the premium would have earned if paid when due and in-

vested in accordance with section 421(d). Upon the failure of any person so liable to pay any penalty, premium, or interest upon demand, the Attorney General may, at the request of the Secretary, bring an action in the name of the Fund against that person for the amount. If the Attorney General does not bring an action within 30 days, the Secretary may do so in the name of the Fund.

SEC. 426. COORDINATION WITH OTHER PROVISIONS OF THIS TITLE.

(a) PREVIOUS CLAIMS TO BE PAID FROM FUND.—If any provision of this title provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to the Marine Oil Pollution Compensation Fund, any claim which arises before the effective date of such transfer (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the Marine Oil Pollution Compensation Fund notwithstanding any of the limitations imposed by this subtitle.

(b) TRANS-ALASKA PIPELINE LIABILITY FUND.—(1) If the Secretary or the Secretary's delegate determines that there is a Trans-Alaska Pipeline Liability Fund deficit, the premium imposed by section 422 on oil first transported through the Trans-Alaska Pipeline after the date of that determination shall be increased by 2 cents per barrel until the total amount of the increased premiums equals the deficit.

(2) For purposes of paragraph (1) of this subsection, the term "Trans-Alaska Pipeline Liability Fund deficit" means the excess (if any) of—

(A) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund under section 442(a)(3) of this title, over

(B) the total amount of the assets of the Trans-Alaska Pipeline Liability Fund as of the effective date of this section.

SEC. 427. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subtitle—

(1) terms defined in subtitle A have the same meanings when used in this subtitle;

(2) the term "barrel" means forty-two United States gallons at sixty degrees Fahrenheit; and

(3) the term "United States", in addition to the meaning given in section 401, includes the outer Continental Shelf and any foreign trade zone of the United States.

(b) SPECIAL RULE.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at the refinery at the time so produced.

Subtitle C—Regulations, Effective Dates, and Savings Provisions

SEC. 441. EFFECTIVE DATES.

(a) PROVISIONS TAKING EFFECT ON DATE OF ENACTMENT.—This section, section 401, section 402, section 412, subtitle B (other than sections 421(c), 422(a), (b), (c), and (e), 423(b), (c), (d), and (e), and 425), section 442(a)(1) and (3), section 443, section 444, and each provision of subtitle A that authorizes the promulgation of regulations shall be effective on the date of the enactment of this title.

(b) SUBTITLE D.—Subtitle D shall take effect on the first date on which both the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage are in force with respect to the United States.

(c) PROVISIONS TAKING EFFECT IN 180 DAYS.—All other provisions of this title, and the regulations issued under this title, shall take effect 180 days after the date of enactment of this title, except that the penalty prescribed by section 411 for failure to comply with the requirements of section 405 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this title, whichever is earlier.

(d) REGULATIONS RESPECTING FINANCIAL RESPONSIBILITY.—Any regulation respecting financial responsibility issued pursuant to any provision of law repealed by section 442, and in effect on the day immediately preceding the effective date of section 442, shall remain in force until superseded by regulations issued under subtitle A.

SEC. 442. CONFORMING AMENDMENTS.

(a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) The first sentence of subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(b); 87 Stat. 586) is amended by inserting "in the State of Alaska" after "any area" and by inserting "related to the trans-Alaska oil pipeline" after "any activities". Such subsection is further amended by inserting at the end thereof the following new sentence: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 401 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(2) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed. Such repeal shall not affect the applicability of such subsection to claims arising before the effective date of this paragraph. Notwithstanding section 441, the repeal of—

(A) paragraph (4) of such subsection (establishing the Trans-Alaska Pipeline Liability Fund),

(B) paragraph (6) of such subsection (to the extent it permits costs of administration to be paid from the Fund and permits amounts in the Fund to be invested), and

(C) paragraph (8) of such subsection (permitting recovery by subrogation),

shall only become effective upon the payment by the Board of Trustees of the Trans-Alaska Pipeline Liability Fund of all claims certified under paragraph (3) of this subsection, the rebate of all remaining amounts under paragraph (3) of this subsection, and the completion of all actions required to carry out paragraph (3) of this subsection.

(3) (A) Not later than 210 days after the date of enactment of this paragraph, the Secretary of the Interior shall certify to the Secretary of Transportation the total amount of claims outstanding against such Fund, as of the effective date of paragraph (2) of this subsection. The amount in the Trans-Alaska Pipeline Liability Fund exceeding the total amount certified under the preceding sentence shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(B) After the settlement of all claims described in subparagraph (A) and the completion of all actions, if any, by the Trans-Alaska Pipeline Liability Fund for recovery of amounts paid on such claims, the remaining amounts in such Fund shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(C) Whenever a rebate is made on a pro rata basis to the owners of oil under subparagraph (A) or (B), each such owner's share of the rebate shall be an amount determined by dividing the amount contributed by such owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners to such Fund.

(D) Trustees and former trustees of the Trans-Alaska Pipeline Liability Fund who were designated by the Secretary of the Interior shall not be subject to any liability incurred by the Fund or by the present and past officers and trustees of the Fund, other than liability for gross negligence or willful misconduct.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (33 U.S.C. 1486; 88 Stat. 10) is amended to read as follows:

"SEC. 17. The Marine Oil Pollution Compensation Fund established under subtitle B of the Comprehensive Oil Pollution Liability and Compensation Act shall be available to the Secretary for actions and activities relating to oil pollution (as defined in section 401 of that Act), or the substantial threat of oil pollution, taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Subsection (a) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof a semicolon and by adding at the end the following new paragraph:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence by inserting after "person" the following: "or his employer".

(3) Subparagraph (A) of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge"; and

(B) in the third sentence, by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Subparagraph (B) of paragraph (6) of subsection (b) is amended in the first and second sentences by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge".

(5) Subsection (c)(2)(H) is amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: ", in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Marine Oil Pollution Compensation Fund".

(6) Subsection (d) is amended by striking out the last sentence.

(7) Subsections (f), (g), and (i) of section 311 of the Federal Water Pollution Control Act shall not apply with respect to any discharge of oil resulting in damages for which a claim may be asserted under subtitle A of this title.

(8) Subsection (i) is amended by striking out "(1)" after "(i)" and by striking out paragraphs (2) and (3).

(9)(A) Subsection (k) is repealed, effective upon the payment from the fund estab-

lished by such subsection of all claims certified under subparagraph (B) and all remaining amounts to the general fund of the Treasury under subparagraph (B).

(B) Not later than 180 days after the effective date of this paragraph, the Secretary of Transportation shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the fund established by subsection (k) as of the effective date of this paragraph. The amount in such fund exceeding the total amount certified shall be transferred to the general fund of the Treasury. If the amount paid in settlement of such claims is less than the amount so certified, the remainder shall be transferred to the general fund of the Treasury. Any amounts received by the United States under section 311 with respect to such claims after the effective date of the repeal of subsection (k) shall be deposited in the general fund of the Treasury.

(10) Subsection (1) is amended by striking out the second sentence.

(11) Subsection (p) is repealed.

(12) Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Marine Oil Pollution Compensation Fund shall be available to carry out subsections (c), (d), (i), and (l) as those subsections relate to discharges of oil. Any amounts received by the United States under this section with respect to claims arising on or after the effective date of this subsection shall be deposited in the Marine Oil Pollution Compensation Fund.".

(d) DEEPWATER PORT ACT OF 1974.—The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.; 88 Stat. 2126) is amended as follows:

(1) Section 4(c)(1) is amended by striking out "section 18(l) of this Act" and inserting in lieu thereof "section 405 of the Comprehensive Oil Pollution Liability and Compensation Act".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed and subsections (c), (k), and (m) of section 18 are redesignated as subsections (b), (c), and (d), respectively.

(3) Paragraph (3) of subsection (b) of section 18 (as redesignated by paragraph (2)) is amended by striking out "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "Marine Oil Pollution Compensation Fund.".

(4) Subsection (c) of section 18 (as redesignated by paragraph (2)) is amended to read as follows:

"(c) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act; for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Any amounts remaining in the Deepwater Port Liability Fund established by section 18(f) of the Deepwater Port Act of 1974 shall be deposited in the Marine Oil Pollution Compensation Fund. The Marine Oil Pollution Compensation Fund shall assume all liability incurred by the Deepwater Port Liability Fund under the Deepwater Port Act of 1974.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Marine Oil Pollution Compensation Fund established by subtitle B of this title. The Marine Oil Pollution Compensation Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 443. REGULATIONS.

The Secretary of Transportation may prescribe regulations to carry out the functions of the Secretary of Transportation under this title.

SEC. 444. SEPARABILITY.

If any provision of this title or the applicability thereof is held invalid, the remainder of this title shall not be affected thereby.

Subtitle D—Implementation of Conventions

SEC. 461. RECOGNITION OF THE INTERNATIONAL FUND.

The International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention is recognized under the laws of the United States as a legal person and shall have the capacity under the laws of the United States to contract, to acquire and dispose of real and personal property, and to institute and be a party to legal proceedings. The Director of the International Fund is recognized as the legal representative of the International Fund. The Director shall be deemed to have appointed irrevocably the Secretary of State his agent for service of process in any action against the International Fund in any court in the United States.

SEC. 462. SERVICE OF PROCESS AND INTERVENTION.

(a) SERVICE OF PROCESS ON FUNDS.—In any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention, the plaintiff or defendant, as the case may be, shall serve a copy of the complaint and any subsequent pleading therein upon the International Fund and the Marine Oil Pollution Compensation Fund at the same time the complaint or other pleading is served upon the opposing parties.

(b) INTERVENTION.—The International Fund may intervene as a party as a matter of right in any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention.

(c) EFFECT OF JUDGMENT.—If the International Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in subsection (a), the International Fund shall be bound by any judgment entered therein, whether or not the International Fund was a party to the action.

SEC. 463. EXEMPTION FROM TAXATION.

The International Fund and its assets shall be exempt from all direct taxation in the United States.

SEC. 464. PAYMENT OF CONTRIBUTIONS.

(a) PAYMENTS TO BE MADE FROM MARINE OIL POLLUTION COMPENSATION FUND.—The amount of any contribution to the International Fund which is required to be made under article 10 of the International Fund Convention by any person with respect to oil received in any port, terminal installation, or other installation located in the United States shall be paid to the International Fund by the Secretary from the Marine Oil Pollution Compensation Fund. Before the International Fund Convention enters into force with respect to the United States, the President shall make, and deposit with the Secretary-General of the International Maritime Organization, a declaration under article 14 of the International Fund Convention that the United States assumes the obligation to pay contributions under article 10 of such Convention in respect of oil received within the territory of the United States and that such amount will be paid from the Marine Oil Pollution Compensation Fund.

(b) INFORMATION.—The Secretary shall, by regulation, require persons who are required to make contributions with respect to oil received in any port, terminal installation, or other installation in the United States under article 10 of the International Fund Convention to transmit to the Secretary such information relating to that oil as may be necessary to carry out subsection (a).

SEC. 465. JURISDICTION OF DISTRICT COURTS.

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction of all controversies arising under the Civil Liability Convention or the International Fund Convention in—

(1) the territory, including the territorial sea, of the United States, or

(2) the exclusive economic zone of the United States established by Proclamation Numbered 5030, dated March 10, 1983,

without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For purposes of this subsection, the International Fund shall reside in the District of Columbia.

SEC. 466. RECOGNITION OF JUDGMENTS.

Any final judgment of a court of any nation which is a party to the Civil Liability Convention or the International Fund Convention in an action for compensation under either such convention shall be recognized by any court of the United States or of a State when that judgment has become enforceable in such nation and is no longer subject to ordinary forms of review, except where—

(1) the judgment was obtained by fraud; or

(2) the defendant was not given reasonable notice and a fair opportunity to present his case.

SEC. 467. FINANCIAL RESPONSIBILITY.

(a) U.S. DOCUMENTED SHIPS.—The owner of each ship which is documented under the laws of the United States and is carrying more than two thousand tons of oil in bulk as cargo shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The Secretary shall issue a certificate to each such owner who complies with this paragraph, in the form and manner required by the Civil Liability Convention.

(b) U.S. OWNED SHIPS.—With respect to any ship owned by the United States, the Secretary shall issue a certificate stating that the ship is owned by the United States and that the ship's liability is covered within the limits of liability prescribed by the Civil Liability Convention.

(c) OTHER SHIPS.—The owner of each ship (other than a ship to which subsection (a) or (b) applies), wherever registered, which is carrying more than two thousand tons of oil in bulk as cargo and which enters or leaves port or offshore terminal in the United

States (including the territorial seas) shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The owner of a ship which is registered in, or flying the flag of, a nation which is a party to the Civil Liability Convention shall be considered to have met the requirements of this paragraph if the ship is carrying a certificate issued by such nation attesting that insurance or other financial security is in force which meets the requirements of such Convention.

(d) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any ship which does not have a certificate showing compliance with the requirements of financial responsibility under subsection (a) or (c).

(e) DENYING ENTRY AND DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (1) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (2) detain at the facility or at the port or place in the United States, any vessel subject to this section that, upon request, does not produce the certificate required under this section or regulations issued hereunder.

SEC. 468. CIVIL PENALTY.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 464(b) or 467, the regulations issued under either such section, or any denial or detention order under section 467(e) shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions any civil penalty which is subject to imposition or which has been imposed under this subsection. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 469. WAIVER OF SOVEREIGN IMMUNITY.

The United States waives all defenses based on its status as a soveriegn State with respect to any controversy arising under the Civil Liability Convention or the International Fund Convention relating to any ship owned by the United States and used for commercial purposes.

SEC. 470. RULES AND REGULATIONS.

The Secretary may issue such rules and regulations as are necessary to implement the Civil Liability Convention and the International Fund Convention.

SEC. 471. DEFINITIONS.

For purposes of this subtitle—

(1) terms defined in subtitle A have the same meanings when used in this subtitle;

(2) the term "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1984;

(3) the term "International Fund" means the International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention; and

(4) the term "International Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984.

The CHAIRMAN. The Chair will advise the Members that under the unanimous-consent request agreed to there are 30 minutes allotted for consideration of amendments to title IV.

AMENDMENT OFFERED BY MR. MC KERNAN

Mr. McKERNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCKERNAN: Page 336, beginning on line 20, strike out "for a period of three years beginning on the effective date of this section, any State which on such date" and insert in lieu thereof the following: "any State which on the date of enactment of this section".

Mr. McKERNAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. McKERNAN. Mr. Chairman, this is a simple amendment; it has to do with States rights. Under title IV we create a Federal oilspill liability fund. Part of that provision is to preempt existing State funds which are funded in the same manner. What my amendment would do would be to simply grandfather from that preemption the eight States which have the same type of funds funded by fees on the conveyance of oil.

It seems to me to be rather simple. The history on this legislation predates my services in Congress. It is my understanding that some accommodations have been made over the years in an attempt to have a Federal oilspill liability law actually passed. Obviously, those accommodations have not worked because it has never become law.

Whatever the reason for making those accommodations to preempt State funds, I think those reasons do not exist today in the context under which we take up the oilspill liability provisions. In fact, in my view this preemption is ludicrous when we take it up as part of the Superfund bill.

Let us just think about what we are doing in the context of our debate here today. What we are saying, if we allow the preemption in title IV is that we are not going to allow States which have already taken the initiative to protect their coastlines, to maintain their funds after a 3-year grace period because we do not want to put the extra burden on those people who transport oil to pay into a Federal fund which is going to amount to $375 million, and also have to pay into eight State funds.

What really bothers me about that is that much of this oil is being transported on foreign vessels and I think that States ought to have that right. What really bothers me is that we are talking about this preemption in light of other provisions in this legislation which is in fact a $10 billion tax on industry for the Superfund, and we are saying, "But, fine, States, you have a right to protect your ground water; you have a right to protect yourselves from hazardous wastes and you can put additional burdens onto business if you feel it is important to protect your environment. I support that approach and I think it ought to be also extended to the oilspill liability to say that States ought to have the right to continue to protect their coastlines as well where much of our industry, at least in the State of Maine, exists.

To summarize on this legislation, there are eight States whose funds would be preempted. They are Florida, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, and Washington. I just ask that this House accept my amendment to give us, the coastal States who have shown the initiative in the past, the opportunity to maintain our funds and to protect our coastlines as we see fit.

Mr. LENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the amendment. This so-called State preemption issue has been a troublesome point for this oilspill legislation over the years. I have great admiration for the gentleman and his perseverance on this question, and I can understand why the State of Maine and a number of other States have concerns about the provisions in our oilspill bill which would limit the authority of a State to require contributions to a State-level fund which addresses precisely the same actions and damages as does the proposed Federal oilspill fund.

On the other hand, the oil industry has raised what seems to me a very legitimate concern about, in effect, double taxation.

I believe that the proposed oilspill provisions in the substitute will more than adequately address the legitimate concerns of the States in obtaining rapid access to substantial sums of money to finance prompt, comprehensive initial response and cleanup actions. The oilspill legislation will also assure rapid and fair compensation for innocent injured parties whose property or livelihood has been damaged or destroyed by an oilspill.

I urge my colleagues to understand that the oilspill provisions in the substitute do not, repeat not, preempt existing State funds, even when those funds do perform the same functions

as the Federal legislation. States will be free to maintain their funds indefinitely; however, a few States will have to find a different financing source, rather than financing their funds through an earmarked tax.

Moreover, to be absolutely sure that we are not adversely affecting the States' legitimate intersts, the oilspill provisions are designed so that the limitation on financing of State funds will not go into force until 3½ years after enactment. This will give time to assure that the Federal oilspill fund is operating well, before the State funds are affected in any way.

Mr. Chairman, the gentleman from Maine's amendment was overwhelmingly defeated in the Merchant Marine and Fisheries Committee.

For these reasons, I urge my colleagues to oppose the gentleman's amendment.

□ 1115

Mr. SNYDER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Maine.

The issue of preemption has been one of those which, in the long history of the development of this legislation, has been compromised—painfully so to some, I might add. What remains in the bill in the way of preemptive language is, in my opinion, woefully deficient, but the language has been agreed upon for some time. Now the gentleman would have us once more tinker with the preemption provision by grandfathering the oil pollution cleanup funds in eight States. This is unacceptable, for reasons which I shall explain.

If we continue to doctor this provision in the name of States rights, or for whatever reason, we need not have any Federal legislation, for the States will remain free to have in perpetuity their own oilspill liability and cleanup programs that largely duplicate the one we are trying to enact. Without preemption, even in the limited form contained in the bill, I, for one, would have great difficulty in supporting title IV of this bill, a piece of legislation for which we have all labored long and hard.

Mr. Chairman, to put the preemption issue in its coldest, harshest light, I see no reason why the Congress should respond to the wishes of State bureaucracies who wish to perpetuate themselves. And, in truth, that's what we're really faced with in the States' positions on preemption. Enactment of this legislation without the gentleman's amendment will in no way compromise what we're all concerned with: Protection and restoration of resources and persons damaged by oilspills.

I might remind the Members of one additional matter: In putting together the compromise bill, we provided an additional benefit to the States by granting them a priority, over private citizens or any other claimant, in processing their claims for reimbursement from the oilspill trust fund. I initially opposed that move, but in the spirit of compromise I was willing to bend. The time for bending on the State preemption issued is now, however, past.

I must at least my admiration for the preseverance of the gentleman from Maine. This is not the first time he has proposed to eliminate or water down the preemption language. Earlier this year, a similar amendment offered in the Merchant Marine Committee lost by a 30-to-9 vote. A second effort during markup of the Superfund bill likewise went down to a resounding defeat. I submit that the gentleman's efforts might appropriately be memorialized it the next John Cameron Swayze Timex commercial, "He took a licking but kept on ticking."

Let's give him that chance. In the strongest possible terms, I urge a "no" vote on the gentleman's amendment.

Mr. Chairman, there is just no reason why a barge going down the river ought to pay the 50 States and the Federal state also. It is a Federal fund, and the purpose of the whole program and the whole bill is to have one overall fund so they do not have to mess with 50 different State bureaucracies.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, I know that this is a matter that we fought in committee over and over a number of times, but I want to commend the gentleman for introducing this amendment, because in the State of Florida we have had an oil-spill law that has worked real well since, I believe, the year 1970. We have $30 million in it. We have a coastline of well over a thousand miles.

It is my understanding that the Superfund originally prohibited the States from cleanups, and we realize that that was a mistake. The reauthorization is correcting that problem. So why are we going forward and doing the same thing with oilspills?

It seems to me that the States that have prepared for this should not be preempted from protecting their coastlines from oilspills. Can the gentleman give the rationale for treating them differently?

Mr. SNYDER. Mr. Chairman, the rationale is, if you want each State to continue to do that, then we ought not to have Federal oilspill legislation.

Mr. HUTTO. What about the Superfund?

Mr. SNYDER. Well, this is a standing-free-alone title IV, which is oilspill. A deep-draft barge going down the coast will be hit paying into each of the State funds as he goes down the coastline, and that is entirely different from a hazardous waste site, I might say.

The truth of the matter is we are suggesting a Federal fund to do away with that bureaucracy.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. SNYDER] has expired.

(By unanimous consent, Mr. SNYDER was allowed to proceed for 1 additional minute.)

Mr. SNYDER. Mr. Chairman, the people going up and down the coastline will pay into one fund, and that is where it will be, instead of paying into, if they are going down the coast, 8 or 10 State funds and then the Federal fund, too. You do not need the Federal fund if you are going to have all those State funds.

Mr. McKERNAN. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Maine.

Mr. McKERNAN. Mr. Chairman, the problem with the gentleman's argument is that there has not been a new fund established since 1979. This amendment only grandfathers those which are already in existence, and therefore none of those States which the gentleman is worried about on the river are in fact going to be able to establish new funds, so you are not going to have that problem.

If in fact States were in a position where they wanted to have their own funds, they would have already done it, and what we are doing is saying that we are going to have a Federal fund to make up for what we feel is a lack of vision on the part of a lot of the States that have not done it.

Mr. SNYDER. Mr. Chairman, industry's position has been that they support the Federal fund so they do not have to deal with 7 or 8 or 10 bureaucracies.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, just in response to the point that the gentleman made, as well as the gentleman from New York, I say that this preemption provision incorporated in the bill will not preempt the ability of States to maintain these funds for other purposes other than the direct purpose.

We went through that argument 5 years ago on Superfund.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(On request of Mr. FLORIO, and by unanimous consent, Mr. SNYDER was allowed to proceed for 1 additional minute.)

The CHAIRMAN. The Chair wishes to state that we now have 15 minutes remaining for this title.

Mr. FLORIO. Mr. Chairman, if the gentleman will continue to yield on this point, we went through that argument 5 years ago on Superfund, and in fact there was just no clarity and it ended up effectively resulting in lawsuits to preempt the ability of the States to do anything remotely related to this area. If the gentleman from New York says that is not the intention, the suggestion is that is exactly what happened before and it is going to happen again, and in this bill on Superfund, if we are making it clear and unequivocal that there is no preemption, I suggest we are probably going to be back here 5 years from now doing the same thing with regard to this provision. So these things cannot be that clearly defined.

Mr. SNYDER. I suspect we will, too. That is what concerns me. We ought not to open the door to a little bit of a crack today.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a question with respect to this amendment. I would state to the gentleman from Maine and also the gentleman from Massachusetts that it is my understanding that the fund as maintained in the State of North Carolina derives its fees from fines and not from taxes.

I am concerned about this amendment. I can understand the concerns of the gentleman from Kentucky and others who have argued on this floor that you are imposing in effect double taxation, and so they are arguing for the exemption.

I would like to ask the gentleman from Maine as to whether or not he interprets the language that is in the bill to say that that language would in effect preempt the North Carolina oilspill cleanup fund.

Mr. McKERNAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Maine.

Mr. McKERNAN. Obviously, Mr. Chairman, I am not familiar with North Carolina law. Our office has talked with people in the North Carolina office who say that the fund is a combination of fees and fines and appropriations, and for that reason, if that is the case, it would be preempted. That, I assume, is why the State of North Carolina office has been supporting this amendment. But the gentleman would have to find out the facts for himself.

Mr. BROYHILL. Mr. Chairman, we have had no communication from the State of North Carolina office here in Washington on this, and in the inquiry I made they indicated that their interpretation of the language was that the language did not affect their fund because it is not derived from taxes.

Mr. McKERNAN. If it is not derived from taxes or fees, it would not be included, and, as I say, the gentleman would have to determine whether that fund would be affected. But even if it is not, I would hope the gentleman would see the wisdom of this amendment and would be supporting it.

Mr. LENT. Mr. Chairman, will the gentleman yield on that point for a clarification?

Mr. BROYHILL. I am delighted to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I can assure the gentleman that we have a list of those States that might be affected and those States that might not, and in the case of North Carolina, the gentleman's State would not be affected. But a more important point that I wanted to make to everyone here is that this oilspill liability section is something that has been worked on for years and years in the Committee on Merchant Marine and Fisheries. We have never been able to get it through. We have attached it to this CERCLA legislation, and for the first time we have hope that we may get the bill through the Senate and actually see it enacted into law so that our coastlines will be protected against oilspills.

The legislation we are tampering with through the device of this amendment is legislation which is very fragile. It is the result of a coalition resulting in hearings and work that was done in the Committee on Merchant Marine and Fisheries. The States are involved, the oil industry is involved, the transporters of oil are involved, and the barges are involved.

□ 1125

The system of raising the funds as is contained in this bill, containing the Federal preemption, is a keystone to the entire package holding together. If we allow the gentleman's amendment, and I am sympathetic, I come from New York. We have an oilspill liability fund and this amendment is going to somewhat discombobulate the way we collect and operate our oilspill liability fund in the State of New York, but unless this preemption goes through the way it is in the underlying legislation, we are going to unravel the whole oilspill plan.

Mr. BROYHILL. Mr. Chairman, if I could reclaim my time, as I understand it, if the State of New York wanted to have a separate fund, they could appropriate money for that purpose.

Mr. LENT. That is correct. We could do it the way North Carolina does. There is a 3½-year period in here that is given to States like New York to work out some of their system for maintaining their oilspill State fund.

Mr. BROYHILL. As long as their tax was broad based and went into the treasury and then appropriated, it would not be preempted.

Mr. LENT. The gentleman is precisely correct. The only thing we are trying to avoid here is twice taxing the same boatload of oil, once by the State and then again by the Federal Government.

Mr. SAXTON. Mr. Chairman, will the gentleman yield on that point?

Mr. BROYHILL. Yes, I am delighted to yield.

Mr. SAXTON. Mr. Chairman, the gentleman from North Carolina is correct. Those funds could be derived from other sources; however, the fact is that each State had the foresight to go forward and establish their own funds. Those funds, as in my home State, are presently set up to work with and within the Superfund process and to work outside of it as well to provide answers to questions that are not necessarily answered in a timely basis by the Superfund.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. BROYHILL] has expired.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Mr. McKERNAN.

Congress has been discussing the issue of a Federal oil pollution liability and compensation fund for years. Several States implemented their own funds in this period of Federal indecision and six States developed funds with the legal authority to levy taxes and fees to support the fund.

My State of Florida is one of the States that has a fund with a taxing mechanism. It has been successfully operated since 1970. The fund is statutorily capped at $30 million. This cap was reached in 1978 and taxes have not been collected since.

Florida has more miles of coastline than any other State in the country except one. We couldn't wait around for the Federal Government to design, implement, and pass into law a Federal fund. So Florida and five other States went ahead and took the necessary steps to protect their shoreline.

Now, the Merchant Marine and Fisheries provision included in H.R. 2817 would preempt Florida's ability to levy taxes 3 years after the date of enactment. I strongly believe that Florida should be commended, and not penalized, for having the foresight to step in before the Federal Government was able to, to protect our precious environmental resources.

To allow six States to continue their funds, with their taxing mechanisms, is not going to be an overly burdensome requirement on the oil companies. Please support the amendment offered by the gentleman from Maine.

I urge you to allow the quality protection of the shorelines of these States to continue uninterrupted.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to my colleague, the gentleman from Florida.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding.

I certainly associate myself with the gentleman's remarks and strongly support the amendment.

This amendment is, in my opinion, extremely important to my home State of Florida and to the general principle of preserving State and local authority in environmental matters.

Simply stated, the amendment would allow Florida and five other States to continue to operate separate oil pollution liability and compensation funds. If the amendment is not adopted, the taxing authority for Florida's oil pollution fund will effectively be preempted by the Federal Government in 3 years.

I think that such a preemption would be tragic and contrary to the interests Florida and the Nation and I might add, contrary to the philosophy of the Republican Party regarding States' rights. Florida has successfully operated its coastal protection fund since 1970 and it has proved to be an effective mechanism for responding to coastal pollution spills. The fund has allowed a quick response to oilspills and the funds to ensure that any cleanup efforts are successfully completed.

If we allow the current bill to be approved without the present amendment we will be destroying an effective and needed program. We will not be serving the interest of protecting Florida's coastal areas. Instead, we will be destroying a good, localized program which has operated for nearly 15 years and replacing it with a centralized Federal program which could be deficient.

I urge my colleagues to support this important amendment for the interests of my home State and for the Nation as a whole. We need to always ensure that our environmental efforts suit the particular needs of local areas. If not, we risk ignoring legitimate State and local needs, and losing the benefit of the expertise and experience in environmental matters.

Mr. SHAW. Mr. Chairman, I thank the gentleman.

I think it is important to note here that Florida's fund was capped off by law in 1978 at $30 million and since 1978 no taxes have been collected, but the fund has remained.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to my friend, the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment to protect States such as Florida which already have in place effective oilspill liability trust funds. I want to compliment my colleague from Maine [Mr. MCKERNAN], for leading this initiative with his amendment because this has been an important area of concern to me for more than 15 years.

I remember as a Florida State senator in 1970, writing Florida's Oil Spill Prevention and Containment Act, and it's a good law. There weren't any good oilspill laws in the Nation at that time and ours became a model for other States to follow in establishing their own oilspill laws.

The strong support for my legislation by the Florida State Legislature was the result of our experience in February 1970 when *Delian Apollon* ran aground in Tampa Bay, spilling 10,000 gallons of crude oil that formed a 20-square-mile oil slick. I remember my helpless feeling as I stood on the shoreline watching the oil spread. There was no containment gear anywhere, there was no cleanup equipment or strategy, and as a result we saw wildlife die when covered by oil, we saw beautiful boats worth hundreds of thousands of dollars damaged, and we saw our white sand beaches covered with tar balls.

We did something to protect our State from future oilspills by enacting strong legislation that went all the way to the U.S. Supreme Court where it was upheld. The legislation established an oilspill trust fund to pay for cleanup costs, requires oilspill cleanup and containment equipment to be ready in case of a spill, and provides for strong penalties for those responsible for oilspills.

The amendment we are considering today would help us protect the Florida State law. Our State law would not require the imposition of additional taxes because the Florida trust fund has reached its $30 million cap level. When the fund has reached its cap, the State, by law, must cease the collection of taxes on oil until the trust fund is drawn on, as the result of an oilspill, and falls below $25 million. The Florida law requires the State to first seek reimbursement for oilspill cleanup and containment costs from the individuals or companies responsible for the spill. The State is then directed to seek compensation from available Federal funds and programs.

The State can only draw from its trust fund when private and Federal resources prove to be insufficient to meet the cleanup needs. H.R. 2817, as written, would essentially eliminate Florida's ability to finance and maintain an oilspill trust fund. This leaves the State and its more than 8,000 miles of coastline vulnerable to unreimbursed cleanup costs.

Federal Superfund legislation enacted into law in 1980 included a similar provision that preempted the States from imposing taxes to finance the cleanup of hazardous waste sites. Experience has taught us that this preemption of the States' rights to fund and maintain these trust funds has had serious adverse effects. As a result, the Superfund reauthorization we consider today eliminates the preemption of this State authority.

It, therefore, appears inconsistent that Congress would in turn impose another restriction on the States and limit their ability to adequately provide for their environmental needs in the case of oilspills.

Florida has been a leader in the passage of strict and effective legislation to prevent oilspills and to fund the expedient cleanup of accidents when they occur. We have always believed that there should be a strong Federal effort in this regard. However, until such a Federal initiative is in place and proven successful, we should not impose restrictions on States such as Florida that have taken precautions and enacted their own oilspill legislation.

Mr. Chairman, I urge my colleagues to support this amendment to afford States such as Florida protection against potential environmental damage and severe economic losses from oilspills.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman from Florida for yielding.

I would just like to say that we ask for support on this measure, not because our States had the foresight to put these laws into place, but because they work, because they perform a needed function, a much needed function in our State.

In New Jersey, we raise every year $12 million. That $12 million goes totally toward the cleanup of oilspills and chemical spills. It is so important to our State, as it is in Florida and to the State of the gentleman from Maine and other States.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SHAW] has expired.

The Chair would observe that there are but 5 minutes remaining for debate on title IV and any amendments thereto.

Does the gentleman from Massachusetts [Mr. STUDDS] desire to speak on this amendment?

Mr. STUDDS. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts has been on his feet for some time. Debate has been essentially on this side of the aisle and

it is appropriate to allow someone from the other side to speak at this time.

(At the request of Mr. SAXTON, and by unanimous consent, Mr. SHAW was allowed to proceed for 1 additional minute.)

Mr. SAXTON. Mr. Chairman, will the gentleman yield further?

Mr. SHAW. I yield to the gentleman from New Jersey.

Mr. SAXTON. The States that have spill compensation funds did so not because they wanted to spend money, not because there was some great political need to establish cash funds, but because there was a need and today there is still a need. In New Jersey there is a need. In Maine there is a need. In Florida there is a need, which has been very dramatically illustrated here this morning; so we ask those of you who are opposed to reconsider, to consider our needs as well.

We do not want double bureaucracy, but we do want the right to be able to keep our environment clean and keep these oil compensation spill funds.

I can speak from personal experience about the one in New Jersey. It is so important to our environmental cleanup and our future.

So I ask those of you who have expressed reservations about this to rethink your position and vote with us to remove this preemptive language.

Mr. SHAW. Mr. Chairman, if I might reclaim my time, I compliment the gentleman from New Jersey for his remarks and I would say to my colleagues that many of us have systems that are working. Just allow us to keep what we have.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. STUDDS] is recognized for the 4 minutes of time remaining.

Mr. STUDDS. Mr. Chairman, in the event that Members of the House who are not members of the Merchant Marine Committee or the Public Works Committee or from Maine or Florida or New Jersey have not followed every minute of this debate for the past 10 years, let me just again, as did the gentleman from Kentucky and the gentleman from New York [Mr. LENT], congratulate the gentleman from Maine. I do not know how many times he has charged up this hill and down again, but his predecessors did the same, just as nobly and with similar accents in the earlier part of the preceding decade.

This battle has been fought and refought and fought again many, many times. We have come out, as the gentleman from New York [Mr. LENT] and the gentleman from Kentucky [Mr. SNYDER] have pointed out quite correctly with a compromise.

There are States, and we have heard from the predominant ones just now, who have, to their credit, gone ahead in earlier years and established State funds. We need to rationalize the system nationally. It would make no sense at all from the point of view of an oil company or a tanker carrying oil who has got to pay a Federal fee and then one for every single State to whose ports it went. It is easy to understand the concern of the industry.

It is also easy, it seems to me, to understand the concern of the coastal States. We tried to take both into account in crafting this compromise.

This is a hoary, dignified compromise. It goes back almost 10 years. It says to those States who have already crafted funds of their own, you have 3½ years after the enactment of this Federal fund in which you are not preempted, that you can continue your own funds and which, incidentally, if the Federal fund is not working, the Congress can take a fresh look, if necessary, and see whether or not we should continue to preempt.

It also says that you can go ahead even after 3½ years, the individual coastal States if they so choose, and impose a tax on oil in their States, as long as it is not for the same purposes as those covered by the Federal bill.

You can pre-position cleanup equipment, if you want to. You can train personnel in oilspill response procedures, if you want to. You simply could not—and I think Members will understand the rationale in this—you could not in each coastal State create a fund and sustain a fund that duplicated in every respect the Federal fund, the national fund, which is set up under this bill.

Mr. Chairman, this bill is supported by the administration, by the oil industry, by environmental groups, and by virtually everybody in the Nation, except those Members who have spoken.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

I think we have been all through this. It has been 10 long years. Preemption is critical. It works and it provides greater relief than the individual States can possibly provide.

The gentleman from New Jersey said they have a $12 million fund for chemicals and oilspills. My God, that is a drop in the bucket when you sometimes require $50 million or $100 million to respond to it for all the liability and cleanup costs.

It is suggested that because they were first—we congratulate them. We know about the beaches. We know about all the damage that has been done.

We are providing a Federal uniform response.

Let me give you what will happen if this preemption is tampered with. You cannot have various State laws that affect vessels engaged in interstate commerce to meet various fees, various standards, various administrative procedures, various court procedures, various degrees of proof.

Clearly, in the end what you are talking about is forum shopping.

We fought this fight for 10 years. Preemption has been critical. It has been rejected by every committee every time it has been offered.

Now we are coming to the moment of truth where we can do something. Eliminate preemption and you have destroyed the bill.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman mentioned some 20 coastal States which have no form of oilspill protection now that this bill would cover. It is great. We have Florida taken care of, but we do not have Georgia. We do not have Louisiana and some of the neighboring States.

This bill, the way it is drawn now with the preemption in it, would cover those neighboring States.

In addition to that, there are some 30 to 32 inland States; so if your State borders on the Mississippi River or the Missouri River or one of the hundreds of navigable inland waterways, you do not want to vote for this measure, because there is no question when this thing gets over to the Senate this title will be stripped right out of the bill.

Ms. SNOWE. Mr. Chairman, I rise in support of the amendment offered by my colleague from Maine, which would allow States to maintain funds to support their own oil pollution liability program. Representing a coastal State, I am very much aware of the effectiveness that the oil pollution liability and compensation program has provided to protect our coastlines and waterways. These coastal protection funds have given States the resources to respond to smaller oilspills in an efficient manner.

I realize that the comprehensive oil pollution liability and compensation title of this bill is designed to lift the burden for coastal protection from States such as Maine, Florida, and New Hampshire, which have their own compensation programs. However, eliminating the financing mechanism which these funds rely upon penalizes these few States which have already acted to protect their coastlines against the dangers of oil pollution.

The importance of a State fund lies in the ability to respond quickly, in order to contain oilspills and clean up the surrounding environment. This expedient response is also vital to resolve claims of damaged parties whose livelihoods are se-

verely disrupted by oil pollution. The best example of this in my own State of Maine is the lobsterman whose gear cannot be used because it has been ruined by oil pollution.

Mr. Chairman, I strongly believe that any Federal oil pollution liability and compensation program should complement State programs, not preempt them. Precluding a State's legal authority to support its own fund for financing these compensation programs would only be counterproductive and would not solve the real problem—dealing swiftly with the imminent dangers of oil pollution. For this reason, I urge Members to support Representative MCKERNAN's amendment, which will continue to allow a State to support its own oil pollution liability and compensation program.

The CHAIRMAN. All time on this title has expired.

The question is on the amendment offered by the gentleman from Maine [Mr. MCKERNAN].

The question was taken; and on a division (demanded by Mr. MCKERNAN) there were—ayes 10, noes 10.

RECORDED VOTE

Mr. MCKERNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 256, answered "present" 1, not voting 35, as follows:

[Roll No. 436]

AYES—142

Andrews	Gingrich	Obey
Badham	Gradison	Penny
Barnard	Green	Pepper
Barnes	Gregg	Pickle
Bartlett	Guarini	Porter
Bennett	Hall, Ralph	Rinaldo
Bilirakis	Hawkins	Rodino
Boehlert	Heftel	Roe
Boucher	Henry	Rose
Brown (CO)	Hiler	Roukema
Burton (CA)	Holt	Roybal
Burton (IN)	Horton	Rudd
Byron	Howard	Sabo
Chandler	Hughes	Saxton
Chappell	Hunter	Schneider
Chappie	Hutto	Schroeder
Coleman (MO)	Ireland	Schulze
Conte	Jacobs	Shaw
Conyers	Johnson	Siljander
Coughlin	Kasich	Skelton
Courter	Kemp	Slaughter
Craig	Kennelly	Smith (FL)
Crane	Kostmayer	Smith (NE)
Daniel	Latta	Smith (NJ)
Daub	Lehman (FL)	Smith, Robert (NH)
de la Garza	Levine (CA)	
DeLay	Lewis (CA)	Smith, Robert (OR)
DeWine	Lewis (FL)	
Dickinson	Lightfoot	Snowe
Dicks	Lowery (CA)	Spence
DioGuardi	Lowry (WA)	Spratt
Dornan (CA)	Mack	St Germain
Dwyer	MacKay	Stenholm
Dyson	Marlenee	Swindall
Edgar	Martin (NY)	Thomas (CA)
Edwards (CA)	McCollum	Torricelli
Edwards (OK)	McEwen	Vander Jagt
Emerson	McGrath	Volkmer
Evans (IA)	McKernan	Vucanovich
Fascell	Meyers	Walgren
Fawell	Mica	Walker
Fish	Michel	Waxman
Florio	Mikulski	Whitley
Foglietta	Molinari	Wise
Foley	Morrison (WA)	Wolf
Fuqua	Mrazek	Wortley
Gallo	Murphy	Young (FL)
Gephardt	Nelson	Young (MO)

NOES—256

Ackerman	Gejdenson	Oxley
Anderson	Gekas	Packard
Annunzio	Glickman	Panetta
Anthony	Gordon	Parris
Applegate	Gray (IL)	Pashayan
Archer	Grotberg	Pease
Armey	Gunderson	Perkins
Aspin	Hall (OH)	Petri
Atkins	Hamilton	Pursell
AuCoin	Hammerschmidt	Quillen
Barton	Hansen	Rahall
Bateman	Hatcher	Ray
Bates	Hayes	Regula
Beilenson	Hefner	Reid
Bentley	Hendon	Richardson
Bereuter	Hertel	Ridge
Berman	Hopkins	Ritter
Bevill	Hoyer	Roberts
Biaggi	Hubbard	Robinson
Bliley	Huckaby	Roemer
Boggs	Hyde	Rogers
Boland	Jeffords	Rostenkowski
Bonior (MI)	Jenkins	Rowland (CT)
Bonker	Jones (NC)	Rowland (GA)
Borski	Jones (OK)	Russo
Bosco	Jones (TN)	Savage
Boulter	Kanjorski	Schaefer
Boxer	Kaptur	Scheuer
Breaux	Kastenmeier	Schuette
Brooks	Kildee	Schumer
Brown (CA)	Kindness	Seiberling
Broyhill	Kleczka	Sensenbrenner
Bruce	Kolbe	Sharp
Bryant	Kolter	Shelby
Bustamante	Kramer	Shumway
Callahan	LaFalce	Shuster
Campbell	Lagomarsino	Sikorski
Carney	Lantos	Skeen
Carper	Leach (IA)	Slattery
Carr	Lehman (CA)	Smith, Denny (OR)
Chapman	Leland	
Clay	Lent	Snyder
Clinger	Levin (MI)	Solarz
Coats	Lipinski	Staggers
Cobey	Livingston	Stallings
Coble	Lloyd	Stangeland
Coelho	Loeffler	Stark
Coleman (TX)	Long	Stokes
Collins	Luken	Strang
Combest	Lundine	Stratton
Cooper	Lungren	Studds
Coyne	Madigan	Stump
Crockett	Manton	Sundquist
Dannemeyer	Markey	Sweeney
Darden	Martin (IL)	Swift
Daschle	Martinez	Synar
Davis	Matsui	Tallon
Dellums	Mavroules	Tauke
Derrick	Mazzoli	Tauzin
Dingell	McCain	Taylor
Dixon	McCandless	Thomas (GA)
Donnelly	McCloskey	Torres
Dorgan (ND)	McCurdy	Traficant
Dowdy	McDade	Traxler
Downey	McHugh	Udall
Dreier	McMillan	Valentine
Duncan	Miller (CA)	Vento
Durbin	Miller (WA)	Visclosky
Dymally	Mineta	Watkins
Early	Mitchell	Weaver
Eckart (OH)	Moakley	Weber
Eckert (NY)	Mollohan	Weiss
English	Monson	Wheat
Erdreich	Montgomery	Whitehurst
Evans (IL)	Moody	Whitten
Fazio	Moore	Williams
Fiedler	Morrison (CT)	Wilson
Fields	Murtha	Wirth
Flippo	Natcher	Wolpe
Ford (MI)	Nichols	Wright
Fowler	Nielson	Wyden
Frank	Nowak	Yates
Franklin	Oakar	Yatron
Frenzel	Oberstar	Young (AK)
Frost	Olin	Zschau
Gaydos	Owens	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—35

Addabbo	Bedell	Cheney
Akaka	Boner (TN)	Feighan
Alexander	Broomfield	Ford (TN)
Garcia	Lujan	Rangel
Gibbons	McKinney	Roth
Gilman	Miller (OH)	Sisisky
Goodling	Moorhead	Smith (IA)
Gray (PA)	Myers	Solomon
Hartnett	Neal	Towns
Hillis	O'Brien	Whittaker
Leath (TX)	Ortiz	Wylie
Lott	Price	

□ 1150

The Clerk announced the following pair:

On this vote:

Mr. GIBBONS for, with Mr. ALEXANDER against.

Messrs. EMERSON, SENSENBRENNER, COBLE, BARTLETT, MINETA, ZSCHAU, ROBERTS, SKEEN, and COYNE and Mrs. BOXER changed their votes from "aye" to "no."

Mrs. HOLT and Messrs. HUNTER, MARLENEE, CRANE, DELAY, FOGLIETTA, MRAZEK, ANDREWS, OBEY, SKELTON, LATTA, BARTLETT, KOSTMAYER and EMERSON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HEFTEL of Hawaii. Mr. Chairman, I ask unanimous consent to enter into a colloquy with the gentleman from New Jersey [Mr. FLORIO].

The CHAIRMAN. Without objection, the gentleman from Hawaii is recognized for 1 minute.

There was no objection.

□ 1205

Mr. HEFTEL of Hawaii. Mr. FLORIO, last November 29, 1984, you received a letter from EPA Administrator Lee Thomas that responded to an inquiry you made in regard to EPA's decision to propose six pesticide-contaminated well sites in Hawaii for listing on the national priorities list. Mr. Thomas stated that there was no legal impediment to either listing the sites or taking response actions under CERCLA even though cost recovery is limited.

In spite of this statement, there appears to be some hesitancy on the part of EPA to list pesticide contaminated ground water sites. In its original reauthorization proposal, EPA, in fact, requested that such sites be excluded from eligibility but this proposal was not adopted in the bill before us today. Mr. FLORIO, would you please clarify whether ground water or well sites are eligible for cleanup under Superfund regardless of the nature of the contamination, that is, regardless of whether the contamination resulted from a legal application of pesticides or from a spill?

Mr. FLORIO. If the gentleman will yield, pesticide contaminated ground water cleanup is included under both the current Superfund law and the proposed reauthorization legislation that we are debating today. Your ob-

servation that cost recovery is limited is also correct insofar as the law exempts cost recovery in the case of legally applied pesticides. While this exemption exists it certainly should not hinder cleanup at existing sites.

Mr. HEFTEL of Hawaii. I thank the gentleman for the clarification.

The CHAIRMAN. Are there additional amendments to title IV?

Hearing none, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1985".

PART I—SUPERFUND AND ITS REVENUE SOURCES

SEC. 511. EXTENSION OF ENVIRONMENTAL TAXES.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1954 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 512. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "3.85 cents".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 513. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX: LEAD ADDED AS TAXABLE CHEMICAL.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:
Organic substances:	
Acetylene	$4.74
Benzene	4.74
Butadiene	4.74
Butane	4.74
Butylene	4.74
Ethylene	4.47
Methane	3.35
Naphthalene	4.74
Propylene	4.74
Toluene	4.74
Xylene	9.68
Inorganic substances:	
Ammonia	3.52
Antimony	4.33
Antimony trioxide	4.13
Arsenic	4.33
Arsenic trioxide	3.92
Barium sulfide	3.49
Bromine	4.33
Cadmium	4.33
Chlorine	3.40
Chromite	1.48
Chromium	4.33
Cobalt	4.33
Cupric oxide	4.00
Cupric sulfate	3.32
Cuprous oxide	4.15
Hydrochloric acid	0.83
Hydrogen fluoride	4.25
Lead	2.47
Lead Oxide	4.21
Mercury	4.33
Nickel	4.33
Nitric acid	2.36
Phosphoros	4.33
Potassium dichromate	3.25
Potassium hydroxide	2.67
Sodium dichromate	3.32
Sodium hydroxide	2.27
Stannic chloride	3.42
Stannous chloride	3.70
Sulfuric acid	0.70
Zinc chloride	3.46
Zinc sulfate	3.33."

(b) INFLATION ADJUSTMENTS IN AMOUNTS OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENT IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) of such Code (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) of such Code is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) EXEMPTION FOR LEAD HAVING TRANSITORY PRESENCE DURING EXTRACTION PROCESS.—Clauses (i) of section 4662(b)(5)(B) of such Code (relating to substance having transitory presence during extracting process), as redesignated by paragraph (1), is amended by inserting "lead," before "lead oxide".

(3) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(4) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the

production of nitrocellulose shall not exceed $0.24 per ton."

(e) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(f) EXEMPTION FOR ANIMAL FEED SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for sale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(g) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on November 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before Jnauary 1, 1986, the amendment made by subsection (g) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1985.

SEC. 514. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this seciton shall take effect on October 1, 1983.

SEC. 515. WASTE MANAGEMENT TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 (as amended by section 514 of this Act) is amended by adding after subchapter B the following new subchapter:

"Subchapter C—Hazardous Waste Management Tax

"Sec. 4671. Waste management tax.

"Sec. 4672. Exemptions; reduction of tax where prior taxable event.

"Sec. 4673. Special rules for waste water treatment , incineration, etc.

"Sec. 4674. Backup tax on generator.

"Sec. 4675. Definitions and Special rules.

"SEC. 4671. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall determined in accordance with the following table:

	If the taxable event is:	
	Land disposal	Any other taxable event
"For calendar year:	The tax per ton is:	
1986	$27.00	$2.70
1987	30.00	3.00
1988	31.00	3.00
1989	36.00	3.00
1990	43.00	3.00.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

"(A) hazardous waste, see section 4675(a)(1), and

"(B) land disposal and any other taxable event, see section 4675(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the persons holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit,

issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such a State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

"(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

"(A) the weight of hazardous waste involved in the later taxable event, multiplied by

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

"SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were in overpayment of tax imposed by section 4671.

"(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit of refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTION ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 to 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect to hazardous waste received at any waste treatment unit shall be 15 cents per ton.

SEC. 4674. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not gener-

ate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"(f) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

"SEC. 4675. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disposal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT TO TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms 'landfill', 'surface impoundment', 'waste pile' and 'land treatment unit' have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'any other taxable event' means—

"(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter."

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter."

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by redesignating section 6708 (relating to mortgage credit certificates) as section 6709 and by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by redesignating the item relating to mortgage credit certificates as section 6709 and by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste."

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes)."

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Hazardous waste management tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) BACKUP TAX ON GENERATOR.—Section 4674 of the Internal Revenue Code of 1954 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1986.

SEC. 516. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 is amended by

adding after subchapter C the following new subchapter:

"Subchapter D—Tax on Certain Imported Substances

"Sec. 4677. Imposition of tax.
"Sec. 4678. Definitions and special rules.

"SEC. 4677. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4678. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677."

"(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new:

"Subchapter D. Tax on certain imported substances."

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 517. IMPOSITION OF SUPERFUND EXCISE TAX.

"(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter D the following new subchapter:

"Subchapter E—Superfund Excise Tax

"Part I. Imposition of tax.
"Part II. Taxable transaction.
"Part III. Taxable amount; exempt transactions; credit against tax.
"Part IV. Administration.
"Part V. Definitions; special rules.

"PART I—IMPOSITION OF TAX

"Sec. 4681. Imposition of tax.
"Sec. 4682. Termination.

"SEC. 4681. IMPOSITION OF TAX

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Execpt as otherwise provided in this subchapter, the amount of the tax shall be .08 percent of the taxable amount.

"SEC. 4682. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under section 4681 after December 31, 1990.

"(b) TERMINATION IF $10,000,000,000 OF SUPERFUND TAXES COLLECTED.—

"(1) ESTIMATES BY THE SECRETARY.—The Secretary as of the close of each calendar quarter shall make an estimate of the aggregate amount appropriated or credited to the Hazardous Substance Superfund (other than by reason of paragraphs (3), (4), and (5) of section 9505(b)) during the period beginning on November 1, 1985, and ending on September 30, 1990.

"(2) TERMINATION IF $10,000,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under paragraph (1) that more than $10,000,000,000 of the amount referred to in paragraph (1) will be credited to the Fund as of the close of any calendar quarter before September 30, 1990, no tax shall be imposed under section 4681 after such quarter.

"(c)" PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins before and ends after the termination date determined under subsection (a) or (b), the tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) (and the credit allowable under section 4687) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

"(A) the number of days in such taxable period up to an including the date of termiantion, bears to

'(B) the number of days in such taxable period.

"(2) "TAX ON IMPORTS.—The tax imposed by section 4681 on taxable transactions described in paragraph (2) of section 4683(a) shall not apply to property imported after the termination date determined under subsection (a) or (b).

"(3) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"PART II—TAXABLE TRANSACTION

"Sec. 4683. Taxable transaction.
"Sec. 4684. Taxable person.

SEC. 4683. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this subchapter except as othewise provided in this subchapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal propety by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the Untied States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—

"For exempt transactions, see section 4686.

"SEC. 4684. TAXABLE PERSON.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4683(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4683(a), the importer of the tangible personal property.

"(b) GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS NOT TAXABLE PERSONS.—For purposes of this subchapter, the term 'taxable person' shall not include—

"(1) the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing, and

"(2) any organization which is exempt from taxation under chapter 1 by reason of section 501(a); except that this paragraph shall not apply with respect to any transaction which is part of an unrelated trade or business (within the meaning of section 513) of such organization.

"PART II—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4685. Taxable amount.
"Sec. 4686. Exempt transactions.
"Sec. 4687. Credit against tax on sales and leases.

"SEC. 4685. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this subchapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4681 or chapter 32 with respect to such transaction.

"(b) IMPORTS.—For purposes of this subchapter, the taxable amount in the case of any import shall be the sum of—

"(1) the customs value, plus

"(2) customs duties and any other duties which may be imposed.

If there is no such customs value, fair market value (determined in a manner similar to the determination of customs value) shall be substituted for customs value in paragraph (1).

"(c) LEASES.—For purposes of this subchapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING, AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing, and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

"(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

"(1) SALES.—In the case of a sale of any tangible personal property where the consideration is received by the seller in more than 1 taxable period—

"(A) in the case of the seller, the taxable amount for each such taxable period shall be the portion of the taxable amount received during such period, and

"(B) in the case of the buyer, the cost of such property shall be taken into account for purposes of determining qualified inventory costs only when paid.

"(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4686. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4681 on any tangible personal property imported into the United States as part of a shipment (within the meaning of section 498(a)(1) of the Tariff Act of 1930; 19 U.S.C. 1498(a)(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4631 on the sale of any property which is to be exported from the United States.

"(c) CERTAIN EXEMPT PRODUCTS.—

"(1) IN GENERAL.—In the case of any exempt product—

"(A) no tax shall be imposed by section 4681 with respect to such product, and

"(B) any qualified inventory costs allocable to such product shall not be taken into account under section 4687.

"(2) EXEMPT PRODUCT.—For purposes of this section—

"(A) IN GENERAL.—The term 'exempt product' means—

"(i) any food product,

"(ii) any unprocessed agricultural or fishery product,

"(iii) any unprocessed timber, and

"(iv) any fertilizer product.

"(B) FOOD PRODUCT.—The term 'food product' means—

"(i) any food or nonalcoholic drink for humans or animals, and

"(ii) any material, component, or packaging of such a food or drink.

"(C) FERTILIZER PRODUCT.—The term 'fertilizer product' means—

"(i) any product to be used as a fertilizer, and

"(ii) any material, component, or packaging of such a product.

"SEC. 4687. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as credit against the tax imposed by section 4681 for any taxable period on taxable transactions described in paragraph (1) of section 4683(a) an amount equal to the greater of—

"(1) .08 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) $8,000.

"(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a)(1) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a)(1) for such succeeding taxable period.

"(c) QUALIFIED INVENTORY COSTS.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—If any portion of an allowance for depreciation or amortization with respect to any property would be allocable to the inventory of a manufacturer under the full absorption method of accounting, a like portion of the cost of such property shall be included in the qualified inventory costs of the taxpayer for the taxable period in which such property is placed in service. Treatment under the preceding sentence shall be in lieu of any allowance for depreciation or amortization.

"(B) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) CARRYFORWARD NOT ALLOWED FOR COSTS DURING PERIODS FOR WHICH RETURN NOT FILED. —

"(1) IN GENERAL.—In determining the amount allowable as a carryforward under subsection (b)(2), the qualified inventory costs of the taxable person during any taxable period shall be taken into account only if such person files a timely return (determined with regard to extensions) of the tax imposed by section 4681 for such period.

"(2) BASIS ADJUSTMENT FOR INCOME TAX PURPOSES.—For purposes of subtitle A, if the cost of any property is taken into account in determining the amount of the qualified inventory costs of the taxable person for any taxable period, the adjusted basis of such property shall be reduced by an amount equal to .08 percent of the qualified inventory costs of the taxpayer attributable to such property.

"PART IV—ADMINISTRATION

"Sec. 4688. Liability for tax.

"Sec. 4689. Return requirement; taxable period; depositary requirements.

"Sec. 4690. Regulations.

"SEC. 4688. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4681.

"SEC. 4689. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

"(a) RETURN REQUIREMENT. —

"(1) IN GENERAL. —Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4681 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if no return of tax is required under chapter 1—

"(i) April 15 in the case of a taxpayer other than a corporation, and

"(ii) March 15 in the case of a corporation,

including extensions granted for purposes of this subchapter.

"(2) EXCEPTION FOR TAXABLE TRANSACTIONS OF $10,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4683(a) if the aggregate taxable amount for such transactions is $10,000,000 or less. For purposes of the preceding sentence, there shall not be taken into account any transaction exempt from the tax imposed by section 4681 by reason of section 4686(c).

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this subchapter, the term 'taxable period' means—

"(1) the taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4681 for any taxable period on any taxable transaction described in paragraph (1) of section 4683(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the 1st taxable period of any taxable person to which this subchapter applies if the gross receipts of such person during the 1st taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4690. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

"PART V—DEFINITIONS; SPECIAL RULES

"Sec. 4691. Definitions; special rules.

"SEC. 4691. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURER.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'manufacturer' includes any producer of tangible personal property (including raw materials).

"(2) CERTAIN ACTIVITIES NOT TAKEN INTO ACCOUNT.—A person shall not be treated as a manufacturer with respect to any property merely by reason of—

"(A) furnishing services incidental to the storage or transportation of such property, or

"(B) incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of the $8,000 amount specified in section 4687(a)(2), the $10,000,000 amount specified in section 4689(a)(2), the $10,000,000 amount specified in section 4689(a)(2), and the $50,000,000 amount specified in section 4689(c)(2).

"(2) ALLOCATION OF AMOUNTS.—The amounts specified in paragraph (1) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"(c) PERSON.—For purposes of this subchapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this subchapter, the term 'United States' has the meaning given such term by section 4612(a)(4).

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this subchapter, the term 'tangible personal property' includes gases.

"(f) IMPORT.—Except as otherwise provided in regulations, for purposes of this subchapter, the term 'import' means the entering, or withdrawal from warehouse, for consumption.

"(g) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4681 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

"(h) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4681.

"(i) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 12 months, there shall be substituted for the dollar amounts otherwise applicable under sections 4687(a)(2) and 4689(a)(2) (determined after the application of subsection (b)) an amount which bears the same ration to such amounts as the number of days in the taxable period bears to 365.

"(j) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this subchapter, except as provided in regulations, the term 'sale' includes any exchange or other transfer, other than a gift (within the meaning of section 102 or section 170)."

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) of such Code (relating to addition to tax) is amended by inserting "section 4689 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) FAILURE TO MAKE DEPOSITS.—Section 6656 of such Code (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4681, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4681 during the taxable period on taxable transactions described in paragraph (1) of section 4683(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—Paragraph (2) of section 7871(a) of such Code (relating to Indian tribal governments treated as States for certain purposes) is amended by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) subchapter E of chapter 38 (relating to Superfund excise tax),".

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by inserting after the item relating to subchapter D the following new item:

"Subchapter E. Superfund excise tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods ending after December 31, 1985.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles imported after December 31, 1985.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING JANUARY 1, 1986.—In the case of any taxable period which begins before January 1, 1986, and ends on or after January 1, 1986, the tax imposed by section 4681 of the Internal Revenue Code of 1954 on taxable transactions described in paragraph (1) of section 4683(a) of such Code (and the credit allowable under section 4687 of such code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after December 31, 1985, bears to

(B) the number of days in such taxable period.

SEC. 518. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 518(b) of the Superfund Revenue Act of 1985, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, 4677, or 4681 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC. OF HAZARDOUS SUBSTANCES.—Amounts in the Superfund shall not be available for any transfer or disposal which could not be made but for section 118(d) of the Superfund Amendments of 1985, as in effect on the date of the enactment thereof.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(1) 1986, $36,000,000,

(2) 1987, $36,000,000,

(3) 1988, $36,000,000,

(4) 1989, $36,000,000, and
(5) 1990, $36,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(c) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on November 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 521. ADDITIONAL TAX ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 of the Internal Revenue Code of 1954 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

"(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

"(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

"(2) TERMINATION.—

"(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

"(i) September 30, 1990, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAX ON DIESEL FUEL AND SPECIAL MOTOR FUELS TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) DIESEL FUEL.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on any liquid (other than a product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND OR AIRPORT AND AIRWAY TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—Subsection (h) of section 6421 of such Code (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(A)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of paragraph (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 522. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is

amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline), and

"(2) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(a) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 531. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by section 511 of this Act, are each amended by striking out "of 3.85 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 3.85 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes, as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985 and before October 1, 1990.

"(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990."

(2) Subsection (d) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(3) Subsection (b) of section 9505 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 532. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974, and

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(A) the payment of removal costs described in section 401(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act, as in effect on the date of the enactment of this section,

"(B) the payment of contributions to the International Fund under section 404 of such Act,

"(C) the payment of removal costs for which the Deep Water Port Liability Fund is liable under the Deep Water Port Act of 1974,

"(D) the payment of removal costs for which the Offshore Oil Pollution Compensation Fund is liable under title III of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(E) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act.

Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (B) with respect to any contribution to the International Fund only in proportion to the portion of the International Fund used for the payment of response costs.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART IV—STUDIES

SEC. 541. STUDY OF IMPACT OF WASTE MANAGEMENT TAX ON DOMESTIC MANUFACTURERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study on the effects of the tax imposed by section 4671 of the Internal Revenue Code of 1954 on the ability of domestic manufacturers to compete in international trade.

(b) REPORT.—Not later than July 1, 1986, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include recommendations to minimize the trade impact of such tax and there shall be considered, in making such recommendations, a waste management tax export credit, an import equalization fee, and a maximum amount of tax with respect to hazardous waste generated by economically distressed industries.

SEC. 542. STUDY OF LEAD POISONING.

(a) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works, and the Committee on Finance, of the Senate and the Committee on Energy and Commerce, and the Committee on Ways and Means, of the House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information.

(1) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(2) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(3) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead, including (but not limited to) diminution in intelligence and increases in morbidity and mortality; and

(4) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(b) EVALUATION OF SPECIFIC SITES.—Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(c) AUTHORIZATION FROM SUPERFUND.—There are authorized to be appropriated from the Hazardous Substance Superfund such sums as may be necessary to prepare and submit the report required by this secton.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

SEC. 551. COORDINATION.

Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund which are not also authorized by this title,

shall have no force or effect.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN: Strike out title V of the bill and insert in lieu thereof the following:

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1985".

PART I—SUPERFUND AND ITS REVENUE SOU..CES

SEC. 511. EXTENSION OF ENVIRONMENTAL TAXES.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1954 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 512. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "4 cents (4.6 cents for 1989 and 1990)".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 513. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; LEAD ADDED AS TAXABLE CHEMICAL.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:	
	For calendar year 1985, 1986, 1987, or 1988:	For calendar year 1989 or 1990:
Organic substances:		
Acetylene	$4.31	$4.56
Benzene	4.31	4.56
Butadiene	4.31	4.56
Butane	4.31	4.56
Butylene	4.31	4.56
Ethylene	4.31	4.56
Methane	3.04	3.22
Napthalene	4.31	4.56
Propylene	4.31	4.56
Toluene	4.31	4.56
Xylene	9.25	9.50
Inorganic substances:		
Ammonia	3.72	3.94
Antimony	3.94	4.17
Antimony trioxide	3.94	4.17
Arsenic	3.94	4.17
Arsenic trioxide	3.94	4.17
Barium sulfide	3.94	4.17
Bromine	3.94	4.17
Cadmium	3.94	4.17
Chlorine	3.57	3.78
Chromite	1.35	1.42
Chromium	3.94	4.17
Cobalt	3.94	4.17
Cupric oxide	3.94	4.17
Cupric sulfate	3.94	4.17
Cuprous oxide	3.94	4.17
Hydrochloric acid	1.10	1.16
Hydrogen fluoride	3.94	4.17
Lead	3.94	4.17
Lead Oxide	3.94	4.17
Mercury	3.94	4.17
Nickel	3.94	4.17
Nitric acid	3.45	3.65
Phosphorous	3.94	4.17
Potassium dichromate	3.94	4.17
Potassium hydroxide	3.94	4.17
Sodium dichromate	3.94	4.17
Sodium hydroxide	3.29	3.49
Stannic chloride	3.94	4.17
Stannous chloride	3.94	4.17
Sulfuric acid	0.91	0.97
Zinc chloride	3.94	4.17
Zinc sulfate	3.94	4.17."

(b) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for the applicable base year.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(C) APPLICABLE BASE YEAR.—For purposes of subparagraph (A), the applicable base year is—

"(i) 1985 in the case of the adjustments for 1987 and 1988, and

"(ii) 1988 in the case of the adjustment for 1990.

"(3) NO ADJUSTMENT FOR 1989.—No adjustment shall be made under paragraph (1) for taxable chemicals sold in calendar year 1989.

"(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of 1/2 of 1 cent, such increase shall be increased to the next higher multiple of 1 cent).".

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) of such Code (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) of such Code is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) EXEMPTION FOR LEAD HAVING TRANSITORY PRESENCE DURING EXTRACTING PROCESS.—Clause (i) of section 4662(b)(5)(B) of such Code (relating to substance having transitory presence during extracting process), as redesignated by paragraph (1), is amended by inserting "lead," before "lead oxide".

(3) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene.".

(4) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton.".

(e) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.".

(f) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(g) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1).".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on November 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1985.

SEC. 514. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 515. WASTE MANAGEMENT TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 (as amended by section 514 of this Act) is amended by adding after subchapter B the following new subchapter:

"Subchapter C—Hazardous Waste Management Tax

"Sec. 4671. Waste management tax.
"Sec. 4672. Exemptions; reduction of tax where prior taxable event.
"Sec. 4673. Special rules for waste water treatment, incineration, etc.
"Sec. 4674. Backup tax on generator.
"Sec. 4675. Definitions and special rules.

"SEC. 4671. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

If the taxable event is:	Land Disposal	Any Other Taxable Event
"For calendar year:	The tax per ton is:	
1986	$36.00	$3.60
1987	40.00	4.00
1988	42.00	4.00
1989	20.00	2.00
1990	24.00	2.00.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

"(A) hazardous waste, see section 4675(a)(1), and

"(B) land disposal and any other taxable event, see section 4675(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit,

issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such a State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

"(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

"(A) the weight of hazardous waste involved in the later taxable event, multiplied by

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

"SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be the amount determined in accordance with the following table:

For calendar years:	The tax per ton is:
1986, 1987, or 1988	19 cents
1989 or 1990	13 cents.

"SEC. 4674. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"(f) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

"SEC. 4675. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disposal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms 'landfill', 'surface impoundment', 'waste pile' and 'land treatment unit' have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'any other taxable event' means—

"(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.".

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter.".

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by redesignating section 6708 (relating to mortgage credit certificates) as section 6709 and by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by redesignating the item relating to mortgage credit certificates as section 6709 and by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste."

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes).".

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"SUBCHAPTER C. HAZARDOUS WASTE MANAGEMENT TAX."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) BACKUP TAX ON GENERATOR.—Section 4674 of the Internal Revenue Code of 1954 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1986.

SEC. 516. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter C the following new subchapter:

"SUBCHAPTER D—TAX ON CERTAIN IMPORTED SUBSTANCES

"Sec. 4677. Imposition of tax.

"Sec. 4678. Definitions and special rules.

"SEC. 4677. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4678. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new item:

"SUBCHAPTER D. TAX ON CERTAIN IMPORTED SUBSTANCES."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 517. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER E—SUPERFUND SURCHARGE TAX

"Sec. 4685. Imposition of tax.

"Sec. 4686. Definitions and special rules.

"Sec. 4687. Return requirement; taxable period; payment of tax.

"Sec. 4688. Exemptions.

"Sec. 4689. Import-Export neutrality.

"Sec. 4690. Tax to apply only if shortfall in Superfund.

"SEC. 4685. IMPOSITION OF TAX.

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on each taxable person (as defined in section 4686(a)) carrying on one or more trades or businesses (as defined in section 4686(b)) in the United States a tax in respect of such trade or business activities in an amount determined in accordance with the following tables:

"(1) With respect to those trade or business activities conducted by or on behalf of the taxable person that constitute category A activities:

"If the number of employees properly allocable to such trade or business in accordance with subsection (c) is:	The tax is:
Not more than 5	$0
At least 6 but less than 10.	$16.
At least 10 but less than 25.	$35.
At least 25 but less than 250.	$50 plus $50 for each additional increment of 25 employees in excess of 25.
250 or more	$200 plus $200 for each additional increment of 100 employees in excess of 250.

"(2) With respect to those trade or business activities conducted by or on behalf of the taxable person that constitute category B activities:

"If the number of employees properly allocable to such trade or business in accordance with subsection (c) is:	The tax is:
Not more than 5	$0
At least 6 but less than 10.	$3.75
At least 10 but less than 25.	$8.50
At least 25 but less than 250.	$12.50 plus $12.50 for each additional increment of 25 employees in excess of 100.
250 or more	$50 plus $50 for each additional increment of 100 employees in excess of 250.

"(3) With respect to those trade or business activities conducted by or on behalf of the taxable person that constitute category C activities:

"If the number of employees properly allocable to such trade or business in accordance with subsection (c) is:	The tax is:
Not more than 5	$0.
At least 51 but less than 100.	$9.
At least 100 but less than 250.	$13 plus $6.50 for each additional increment of 50 employees in excess of 100.
250 or more	$32.50 plus $13 for each additional increment of 100 employees in excess of 250.

"(4) With respect to those trade or business activities conducted by the taxable person that constitute category D activities:

"If the number of employees properly allocable to such trade or business in accordance with subsection (c) is:	The tax is:
Not more than 50	$0.
At least 51 but less than 100.	$2.50.
At least 100 but less than 250.	$3.50 plus $1.75 for each additional increment of 50 employees in excess of 100.
250 or more	$8.75 plus $3.50 for each additional increment of 100 employees in excess of 250.

Provided, however, That in the case of trade or business activities of a taxable person that otherwise would be exempt from tax under this subsection during the taxable period by reason of the number of employees properly attributable to such trade or business activities under subsection (c), such trade or business activities nevertheless shall be subject to tax under the next succeeding bracket under which tax is imposed under paragraph (1), (2), (3), or (4) (whichever is applicable), if such trade or business activities result in the generation of more than 1000 kilograms per month of hazardous waste (as defined in section 1004 of the Resource Conservation and Recovery Act and tne regulations thereunder).

"(b) CATEGORIES OF TAXABLE ACTIVITIES.—For purposes of this chapter—

"(1) CATEGORY A ACTIVITIES.—The term 'category A activities' means those trade or business activities that are subject to classification within Standard Industrial Classification Codes 28 (relating to chemicals and allied products) or 29 (relating to petroleum refining and related industries).

"(2) CATEGORY B ACTIVITIES.—The term 'category B activities' means those trade or business activities that are subject to classification within Standard Industrial Classification Codes 30 (relating to rubber and miscellaneous plastics products), 33 (relating to primary metals industries), or 34 (relating to fabricated metal products, except machinery and transportation equipment).

"(3) CATEGORY C ACTIVITIES.—The term 'category C activities' means those trade or business activities that consist of manufacturing (as defined in section 4001(c)) activities other than those activities described in paragraphs (1) and (2).

"(4) CATEGORY D ACTIVITIES.—The term 'category D activities' means those trade or business activities that consist of the provision of services (as defined in section 4001(d)) to customers, except that services for this purpose shall not include services provided by the taxable person in respect of the sale, repair, or maintenance of products manufactured by the taxpayer in carrying on category A, B, or C activities. Such sales, repair, or maintenance services shall be treated as category A, B, or C activities on the basis of the products to which such services relate.

"(c) DETERMINATION OF NUMBER OF EMPLOYEES AND ALLOCATION AMONG TAXABLE CATEGORIES OF ACTIVITIES.—For purposes of this chapter—

"(1) DETERMINATION OF TAXABLE PERSON'S TOTAL WORK FORCE.—The total number of employees (as defined in section 3306(i)) of the taxable person in respect of all of its trade or business activities shall be determined by dividing the total amounts of wages paid or incurred by the taxable person (as determined under section 3306(b)) by $7,000 (or by such other ceiling on taxable wages for Federal Unemployment Tax purposes as thereafter may be adopted in section 3306(b) or its successor).

"(2) ALLOCATION OF TOTAL WORK FORCE AMONG TAXABLE PERSON'S BUSINESS ACTIVITIES.—

"(A) DIRECT LABOR.—All direct labor (as defined in section 4686(e)) in respect of trade or business activities of the taxable person is to be allocated among the four categories of taxable activities described in subsection (b) on the basis of the products or services to which such labor is properly attributable under principles similar to those applicable under section 471 (relating to inventoriable costs);

"(B) INDIRECT LABOR.—Indirect labor (as defined in section 4686(f)) in respect of trade or business activities of the taxable person is to be allocated among the four categories of taxable activities described in subsection (b) as follows:

"(i) indirect labor substantially all of which is directly related to, necessary for, and dedicated to particular manufacturing activities, or the provision of particular services, shall be allocated to such manufacturing activities or services,

"(ii) indirect labor other than that described in (i) shall be allocated among the categories of activities described in subsection (b) on the same proportionate basis at the labor described in subparagraph (A) is allocated among such categories.

"(C) GENERAL AND ADMINISTRATIVE LABOR.—All general and administrative labor (as defined in section 4686(f)) in respect of trade or business activities of the taxable person is to be allocated among the four categories of taxable activities described in subsection (b) on the same proportionate basis as the labor described in subparagraph (A) is allocated among such categories.

"SEC. 4686. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(a) TAXABLE PERSON.—The term 'taxable person' means any corporation (as defined in section 7701(a)(3)) or partnership (as defined in section 7701(a)(2)). For this purpose, all corporations that are members of the same group of controlled corporations (within the meaning of section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1)) shall be treated as a single taxable person.

"(b) TRADE OR BUSINESS.—The term 'trade or business' has the same meaning as under section 162 (relating to the deduction of trade or business expenses). In the case of a taxpayer that is a partnership, the determination of the trade or business activities of the partnership shall be made at the partnership level.

"(c) MANUFACTURING.—The term 'manufacturing' means trade or business activities that are subject to classification within Standard Industrial Classification Codes 1, 2, 7 through 14, 20 through 27, 31, 32, or 35 through 39, and such other activities as the Secretary may designate by regulation.

"(d) SERVICES.—The term 'services' means trade or business activities that are subject to classification within Standard Industrial Classification Codes 15 through 17, 40 through 67, 70, 72, 73, 75, 76, 78, 79, 80, 81, 82, 83, 84, 86, 88, or 89, and such other activities as the Secretary may designate by regulation.

"(e) DIRECT LABOR.—The term 'direct labor' means labor that is incident to and necessary for manufacturing activities, or the provision of services, and the amount of which can be identified or associated with specific products or services.

"(f) INDIRECT LABOR.—The term 'indirect labor' means labor that is associated with and necessary for manufacturng activities, or the provision of services, but which is not directly identifiable in amount with respect to specific products or services.

"(g) GENERAL AND ADMINISTRATIVE LABOR.—The term 'general and administrative labor' means labor that is undertaken in respect of administrative and other similar functions that are incident to and necessary for the taxable person's trade or business activities as a whole, rather than to particular manufacturing or service provision activities.

"(h) UNITED STATES.—The term 'United States', when used in a geographical sense, refers to the fifty States, the District of Columbia, a Commonwealth, and any possessions of the United States.

"(i) SPECIAL RULE.—The classification of particular trade or business activities within

the Standard Industrial Classification Codes for purposes of this chapter shall be the classification of such activities that exists as of January 1, 1986. Any subsequent changes in such classification of trade or business activities shall be effective for purposes of this chapter only upon the approval of the Secretary. The determination of the proper classification of particular trade or business activities within the Standard Industrial Classification Codes for purposes of this chapter shall be made by the Secretary.

"SEC. 4687. RETURN REQUIREMENT; TAXABLE PERIOD; PAYMENT OF TAX.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4685 for any taxable period not later than the due date (including extensions) under chapter 1 for a taxable year that is the calendar year.

"(2) EXCEPTIONS.—The Secretary may exempt by regulation any taxable person from the requirement in paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this chapter, the term 'taxable period' means the calendar year.

"(c) PAYMENT OF TAX.—In the case of any taxable person with respect to whom a tax imposed under section 4685 for any taxable period, such person shall make quarterly deposits of the estimated amount of such tax for the next succeeding taxable period.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.

"SEC. 4688. EXEMPTIONS.

"(a) GOVERNMENT ENTITIES.—No tax shall be imposed under section 4685 on the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing: *Provided, however,* That if any such government entity shall engage in one or more activities during the taxable period that generate more than 1000 kilograms per month of hazardous waste (as defined in section 1004 of the Resource Conservation and Recovery Act and the regulations thereunder), such government entity shall be subject to a fee in an amount equal to the tax that would be imposed under section 4685 if such entity were a taxable person engaging in taxable activities described in section 4001(a)(4).

"(b) CHARITABLE ORGANIZATION.—No tax shall be imposed under section 4685 on any organization that is exempt from tax under chapter 1: *Provided, however,* That if any such organization carries on an unrelated trade or business (within the meaning of section 513) during the taxable period, such organization shall be treated as if it were a taxable person and shall be subject to the tax imposed under section 4685 to the extent of such unrelated trade or business activities.

"SEC. 4689. IMPORT-EXPORT NEUTRALITY.

"(a) EXEMPTION FOR EXPORTS.—

"(1) IN GENERAL.—No tax shall be imposed under section 4685 in respect of trade or business activities of the taxable person that are directly related to the manufacturing of products, or the provision of services, which are to be exported from the United States to locations outside of the United States.

"(2) DETERMINATION OF EXEMPT AMOUNT.—In determining the amount of tax due under section 4001 for the taxable period in respect of category A, B, C, or D activities, the taxable person shall reduce the amount of tax otherwise due in respect of each such category of taxable activities by the amount that is determined as the product of:

"(A) the total amount of tax otherwise due under section 4685 in respect of such category of taxable activities from the taxable person for the taxable period (without regard to this paragraph), multiplied by

("B) a fraction, the numerator of which is the amount of gross receipts derived by the taxable person during the taxable period from the exportation from the United States of products or services attributable to such category of taxable activities, and the denominator of which is the total amount of gross receipts derived by the taxable person during the taxable period from such category of taxable activities.

"(b) IMPORT EQUALIZATION FEE.—

"(1) IN GENERAL.—There is hereby imposed on the importer with respect to the importation into the United States of products and services an import equalization fee in an amount determined under paragraph (2), which shall be imposed in addition to any duty or tariff otherwise imposed on such importation.

"(2) DETERMINATION OF AMOUNT.—In the case of imports of products or services attributable to category A, B, C, or D activities (within the meaning of section 4685 (b)) conducted outside of the United States, the amount of the fee described in paragraph (1) shall be equal to the product of—

"(A) the customs value (or if there is no such customs value, the fair market value of the imported product or service (determined as of the time of importation)), multiplied by

"(B) a fraction (as determined by the Secretary), the numerator of which is the total amount of tax imposed under section 4685 in respect of category A, B, C, or D activities (whichever is applicable) during the preceding calendar year (or such earlier year as the Secretary may designate) and the denominator of which is the total gross value of the products manufactured or the services provided in the United States during such year attributable to category A, B, C, or D activities (whichever is applicable).

"(c) REGULATIONS, ETC.—The Secretary shall publish not less than annually in an appropriate form the information described in subsection (b)(2)(B). The Secretary may promulgate such regulations as he deems necessary to carry out the provisions of this section.

"SEC. 4690. TAX TO APPLY ONLY IF SHORTFALL IN SUPERFUND.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—The tax imposed by this subchapter shall apply only if the Secretary determines under subsection (b) that there will be shortfall in the Superfund.

"(2) PERIOD DURING WHICH TAX APPLIES; TERMINATION OF WASTE-END TAX.—If the Secretary determines under subsection (b) that there will be a shortfall in the Superfund—

"(A) the tax imposed by this subchapter shall apply to taxable periods beginning on or after the applicable commencement date and ending before January 1, 1991, and

"(B) the taxes imposed by subchapter C (relating to hazardous waste management tax) shall not apply during any period during which the tax imposed by this subchapter applies.

"(b) DETERMINATION OF SHORTFALL.—

"(1) IN GENERAL.—Not later than July 1 of 1988 and 1989, the Secretary (in consultation with the Administrator of the Environmental Protection Agency) shall determine whether there will be a shortfall in the Superfund as of the applicable commencement date.

"(2) APPLICABLE COMMENCEMENT DATE.—For purposes of this section, the term 'applicable commencement date' means—

"(A) January 1, 1989, in the case of the determination made not later than July 1, 1988, and

"(B) January 1, 1990, in the case of the determination made not later than July 1, 1989.

"(3) SHORT FALL.—For purposes of paragraph (1), a shortfall in the Superfund is the excess (if any) of—

"(A) the amount the Secretary estimates will be expended from the Hazardous Substance Superfund during the period beginning on November 1, 1985, and ending on September 30, 1990, over

"(B) the sum of—

"(i) the aggregate amount the Secretary estimates will be credited to such Fund during such period (determined without regard to the tax imposed by this subchapter and without regard to any repayable advances), and

"(ii) $100,000,000.

"(c) DETERMINATION OF RATE.—

"(1) IN GENERAL.—Each rate of tax set forth in section 4685 shall be adjusted by a uniform percentage established by the Secretary under paragraph (2).

"(2) DETERMINATION OF PERCENTAGE.—The percentage determined under this paragraph is a percentage which the Secretary estimates will eliminate the shortfall in the Superfund determined under subsection (b). The percentage determined under the preceding paragraph shall not exceed the percentage which the Secretary estimates will result in $10,000,000 being credited to the Hazardous Substance Superfund."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding at the end thereof the following new item:

"Subchapter E. Superfund surcharge tax."

SEC. 518. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 518(b) of the Superfund Revenue Act of 1985, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, 4677, 4685, or 4689 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC. OF HAZARDOUS SUBSTANCES.—Amounts in the Superfund shall not be available for any transfer or disposal which could not be made but for section 118(d) of the Superfund Amendments of 1985, as in effect on the date of the enactment thereof.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(1) 1986, $460,000,000,
(2) 1987, $460,000,000,
(3) 1988, $460,000,000,
(4) 1989, $460,000,000, and
(5) 1990, $460,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(c) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on November 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 521. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 of the Internal Revenue Code of 1954 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

"(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

"(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

"(2) TERMINATION.—

"(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

"(i) September 30, 1990, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS; FUELS USED IN AVIATION.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) LIQUIDS OTHER THAN GASOLINE USED IN MOTOR VEHICLES, MOTORBOATS, OR TRAINS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.2 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(3) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Subsection (b) of section 4042 of such Code (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.2 cents a gallon.

"(3) EXCEPTION FOR FUEL TAXED UNDER SECTION 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use.

"(4) TERMINATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, AND INLAND WATERWAYS TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(3) INLAND WATERWAYS TRUST FUND.—Paragraph (1) of section 203(b) of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—

(A) TERMINATION NOT TO APPLY TO ADDITIONAL 0.2 CENT TAX.—Subsection (h) of section 6421 of such Code (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(B) REPAYMENT OF ADDITIONAL TAX FOR OFF-HIGHWAY BUSINESS USE TO APPLY ONLY TO CERTAIN VESSELS.—Subsection (e) of section 6421 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) SECTION NOT TO APPLY TO CERTAIN OFF-HIGHWAY BUSINESS USES WITH RESPECT TO THE TAX IMPOSED BY SECTION 4081(b).—This section shall not apply with respect to the tax imposed by section 4081(b) on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES, ETC.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) LIMITATION ON EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—For purposes of subparagraph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business.

"(C) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(5) Paragraph (2) of section 6416(b) of such Code is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 522. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline),

"(2) taxes received in the Treasury under section 4042 to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b), and

"(3) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34,

with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims

shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 531. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by section 511 of this Act, are each amended by striking out "of 3.85 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 4 cents (4.6 cents for 1989 and 1990) a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the oil spill rate for any period the excess of the aggregate amount paid by the taxpayer into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund over the amount of such payments taken into account under this subsection for all prior periods."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985, and before October 1, 1990.

"(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990."

(2) Subsection (d) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(3) Subsection (b) of section 9505 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 532. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974, and

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in section 401(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under section 464 of such Act.

"(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS.—Amounts shall be available under subparagraph (A) for payments to any government only for removal costs and administrative expenses related to removal costs.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(iii) REFERENCES TO OTHER ACTS.—Any reference in any clause of subparagraph (A) to any Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART IV—STUDIES

SEC. 541. STUDY OF IMPACT OF WASTE MANAGEMENT TAX ON DOMESTIC MANUFACTURERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a

study on the effects of the tax imposed by section 4671 of the Internal Revenue Code of 1954 on the ability of domestic manufacturers to compete in international trade.

(b) REPORT.—Not later than July 1, 1986, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include recommendations to minimize the trade impact of such tax and there shall be considered, in making such recommendations, a waste management tax export credit, an import equalization fee, and a maximum amount of tax with respect to hazardous waste generated by economically distressed industries.

SEC. 542. STUDY OF LEAD POISONING.

(a) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works, and the Committee on Finance, of the Senate and the Committee on Energy and Commerce, and the Committee on Ways and Means, of the House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information:

(1) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(2) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(3) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead, including (but not limited to) diminution in intelligence and increases in morbidity and mortality; and

(4) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(b) EVALUATION OF SPECIFIC SITES.—Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(c) AUTHORIZATION FROM SUPERFUND.—There are authorized to be appropriated from the Hazardous Substance Superfund such sums as may be necessary to prepare and submit the report required by this section.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

SEC. 551. COORDINATION.

(a) IN GENERAL.—Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund which are not also authorized by this title,

shall have no force or effect.

(b) EXCEPTION FOR PAYMENTS FROM TRANS-ALASKA PIPELINE LIABILITY FUND.—Subsection (a) shall not apply to amounts rebated to owners of oil in accordance with section 442(a) of the Comprehensive Oil Pollution Liability and Compensation Act.

In the table of contents of the bill, strike out the items relating to title V and insert in lieu thereof the following:

Title V—Amendments of the Internal Revenue Code of 1954

Sec. 501. Short title.

PART I—SUPERFUND AND ITS REVENUE SOURCES

Sec. 511. Extension of environmental taxes.
Sec. 512. Increase in tax on petroleum.
Sec. 513. Increase in tax on certain chemicals.
Sec. 514. Repeal of post-closure tax and trust fund.
Sec. 515. Waste management tax.
Sec. 516. Tax on certain imported substances derived from taxable chemicals.
Sec. 517. Imposition of superfund excise tax.
Sec. 518. Hazardous Substance Superfund.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

Sec. 521. Additional taxes on gasoline, diesel fuel, special motor fuels, fuels used in aviation, and fuels used in commercial transportation on inland waterways.
Sec. 522. Leaking Underground Storage Tank Trust Fund.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

Sec. 531. Increase in environmental tax on petroleum.
Sec. 532. Oil Spill Liability Trust Fund.

PART IV—STUDIES

Sec. 541. Study of impact of waste management tax on domestic manufacturers.
Sec. 542. Study of lead poisoning.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

Sec. 551. Coordination.

□ 1215

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Chair wants to inquire of the gentleman from Tennessee [Mr. DUNCAN] if the amendment that was just read is in fact the amendment that was printed in the RECORD pursuant to the rule.

Mr. DUNCAN. It is, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois who, the Chair understands, has another unanimous-consent request.

Mr. ROSTENKOWSKI. Mr. Chairman, as I understand it, and as agreed to with the minority, we will proceed into 45 minutes of debate on the amendment offered by Mr. DUNCAN and then 45 minutes of debate offered by the gentleman from New York [Mr. DOWNEY], that no votes be taken on either amendment, and that we reserve 15 minutes on the Duncan amendment and 15 minutes on the Downey amendment to be concluded in consideration on Tuesday next.

Mr. DUNCAN. The gentleman has a correct understanding.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. SNYDER. Reserving the right to object, Mr. Chairman, does that mean then that future proceedings on other sections of the Superfund bill will go over to Tuesday? In other words, the proposed title VI and so forth.

The CHAIRMAN. That is not mentioned in the unanimous-consent request.

Mr. ROSTENKOWSKI. If I am permitted to make that unanimous-consent request, I make that unanimous-consent request.

The CHAIRMAN. We could not complete title V. We cannot conclude title V until these amendments are considered.

Mr. SNYDER. And would not proceed at all.

The CHAIRMAN. That is the Chair's interpretation of the unanimous-consent request.

Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Reserving the right to object, Mr. Chairman, does that mean there will be no additional votes today, that we will have no more votes today, and that Members can feel free to leave?

Mr. ROSTENKOWSKI. Yes; the gentleman is correct, as I interpret it.

Mr. WALKER. I thank the chairman.

Mr. Chairman, I withdraw my reservation of objection.

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

The CHAIRMAN. The gentleman from Tennessee is recognized for 22½ minutes, and a Member opposed thereto—the Chair would inquire of the gentleman from Illinois [Mr. ROSTENKOWSKI] if he desires to have the time in opposition to the amendment of the gentleman from Tennessee.

Mr. ROSTENKOWSKI. This gentleman from Illinois expects to be recognized for half an hour in opposition to the Duncan amendment.

The CHAIRMAN. The gentleman from Illinois, consistent with his unanimous-consent request, will be recognized for 22½ minutes.

The Chair at this time recognizes the gentleman from Tennessee [Mr. DUNCAN] who has 22½ minutes, in behalf of his amendment.

Mr. DUNCAN. Mr. Chairman, I yield myself whatever time I may consume.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I rise in strong support of Superfund. I was a sponsor of the original Superfund Program in 1980, and I voted in favor of last year's $10.2 billion Superfund bill. So as we debate Superfund in the 99th Congress, I want to once again offer my enthusiastic support.

Superfund is the preeminent environmental bill for Congress. It represents the only hope we have of removing hazardous, carcinogenic wastes from our lands and water supplies. It represents our only promise for cleaning up the poisons now in the ground.

Back in 1980, Youngsville, PA, discovered PCB's in its water supply. At that time there was no Superfund. Do you realize that the only meaningful Federal assistance—beyond technical expertise—was available through the U.S. Coast Guard? With the knowledge we have today about the hundreds of toxic sites across the country, we must not allow such a situation to happen again.

This year's Superfund bill proposes spending $10 billion over the next 5 years. It mandates cleanup schedules, it mandates cleanup standards, it holds responsible parties liable for paying the cleanup, it requires manufacturers and users of hazardous wastes to inform local communities about the substances they use and store on the premises; in short, this year's bill puts real teeth into the program.

We must pass the strongest Superfund possible. To do otherwise would abrogate our responsibility to America's citizens.

Mr. DUNCAN. Mr. Chairman, the House has before it three very different alternatives; the Ways and Means Committee financing amendment, the Downey amendment, and the Duncan amendment.

As the 16 to 20 rollcall vote against the committee bill indicates, the presence of a VAT-like tax in the committee bill by no means indicates a consensus developed within the committee in support of it. The VAT operates like a sales tax, but is hidden from the ultimate consumer. It represents the most regressive form of taxation, falling hardest on low- and middle-income taxpayers, and will be vetoed by the President. It is likely to cost more to administer than it will raise. Coupling this broad-based tax with a popular program removes considerations of fiscal constraint from our future deliberations and guarantees that this tax will expand by leaps and bounds.

The Downey amendment unfortunately replaces the VAT with large tax increases of the type which could fatally damage certain U.S. industries—particularly chemical industries—already handicapped in world competition. Downey includes a 1,500-percent tax increase on petroleum feedstocks, a 66-percent increase on chemical feedstocks, and a $2 billion waste-end tax, a level that seriously jeopardizes the desirable environmental qualities of a waste-end tax. Many of the feedstocks taxed are already declining in world competitiveness as foreign feedstocks are subsidized by foreign governments. Prior to the adoption of the current feedstock tax system in 1980, the chemical industry maintained a positive trade balance of $12.2 billion. Since then, that industry's contribution to the national trade balance has declined about 30 percent. Increasing the tax burden of such an industry by the levels in the Downey amendment is irresponsible, even if there were some tax policy justification, which there is not.

The Downey amendment's undue reliance on feedstock taxes is fatally flawed in a number of respects. First, many of the companies taxed were not and are not polluters. Even collectively, those taxes are responsible for only a small percentage of the waste in Superfund sites. Second, even those found responsible for toxic dumps already must pay to clean them up, and thus pay twice—once for the cleanup of those for which they were responsible and again under the feedstock tax system for the rest of the Nation where responsible parties cannot be found.

The Duncan amendment provides the fairest method of providing sufficient resources for the Superfund program at a guaranteed level of $10.3 billion if this amount is necessary to implement the program passed by the Congress. It includes a triggered environmental surcharge to assure the needed resources. The triggering is not at the discretion of the administration. Rather, if it is necessary to provide resources to fund the Superfund program, it automatically goes into effect at the level necessary to provide sufficient resources.

There is no question that we will increase the economic resources committed to the cleanup of hazardous waste. For us to fail to assure that the next generation is protected from the dangers posed by hazardous waste sites would be unthinkable. We should, and I believe the Duncan bill would, fund cleanup of past problems on a fair and efficient basis and encourage the prevention of future waste problems.

There is one principle above all others that Congress must respect in the reauthorization process. Business and economic expansion and protection of our environment are not mutually exclusive goals. The Duncan bill respects both.

I urge Members to support the Duncan amendment. First and foremost, I urge Members to vote against Downey. My proposal costs less.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] has consumed 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, the Duncan approach is a profoundly new approach to the financing of Superfund. My guess is there should be two ways that we should evaluate any form of tax, especially one that is as important as this: Is the tax effective? Will it do the job? Is it fair? Is it reasonable? Does it tax the right parties?

I think by both those measurements the Duncan proposal fails the test. First of all, I do not think there is a person in this Chamber who believes for a moment that the Superfund bill should be less than $10 billion. The number of national priority sites that dot this land are probably anywhere between 2,000 or 4,000. It depends on whose view you want to trust. An $8 billion bill, which is indeed what the Duncan bill is, it is only a 4-year bill, is simply inadequate to do the job. That would be, I think, its most telling fault.

Second, the mechanism of the tax is also somewhat unusual, and I use the term "unusual" advisedly, not because I want to deprecate its authors by any means, but one thing I have come to learn on the tax committee is that unless you are familiar with the tax, unless you understand its administrative history, you really cannot make predictions as to how much money it will raise.

□ 1230

Now, the Duncan tax attempts to try and figure out the industries that pollute and then assess a surcharge based on the number of employees, and it uses a fairly complicated code to do that. We have absolutely no experience whatsover with this mechansim as a tax, No. 1.

Let me read for my colleagues what the Department of the Treasury says about the Duncan tax and some of its shortcomings—in particular who would be liable under this tax. And, remember, the principle that we are trying to preserve in Superfund is the principle that the polluter should pay the tax or the persons responsible for the chemical agents should pay the tax. This is the Department of the Treasury giving an example:

> A firm and a taxed industry that employs a large number of people would have a high tax liability, even if the firm did not generate hazardous waste. Another firm in the same industry that generates large quantities of hazardous waste but has a smaller number of employees would have a lower Superfund surcharge liability. Further, two firms in the same industry that generate the same amount of hazardous waste would pay different Superfund surcharges if one firm is more labor intensive than the other.

So here we have this perfectly absurd idea of taxing people by the number of employees that they have,

not by the number or the amount of waste that they generate.

Now, what about the connection, the nexus, if you will, between the people who do the polluting and the people who pay the tax? The Treasury states further:

> Although the surcharge purports to impose tax based upon waste generated by broad industry segments, industries that generate 93 percent of the hazardous waste would account for 45 percent of the Superfund surcharge revenues, while industries that generate 7 percent of the hazardous waste would account for over 55 percent of the Superfund surcharges.

Now, here you see the connection, the umbilical cord between the people who pollute and the people who create the pollution severed by the Duncan amendment. It does not make any sense.

Now, some of the other provisions of the Duncan amendment that also need to be closely examined are the provisions for general revenue. One of the things that we have attempted to accomplish with respect to general revenue is to keep it as small as possible, and the reason for that should be painfully obvious. The idea that we are going to take money from the total governmental pie and apply it to a specific problem makes very, very little sense. It makes even less sense in light of the fact that we have a $200 billion deficit.

What does the Duncan proposal do? The Duncan proposal decides that more general revenue, not less, is necessary; $2.3 billion of general revenue or 23 percent of the total financing for Superfund will come out of the pockets of taxpayers who have nothing to do with the problem that Superfund sites pose.

So we have these three problems, and let me reiterate them for the multitude here on the floor listening in rapt attention to what I am saying.

The Duncan proposal is a 4-year, not a 5-year, proposal. It raises $8 billion, not $10 billion, for the Superfund. Everyone agrees that more is necessary, not less. The only time more is better or more is less is with light beer, not with Superfund. It decides that it is going to have a wholly new tax apply to the financing of Superfund. And I have already highlighted the pitfalls of that.

When you take the fact that you have this new exotic method of taxation, you have the enormous amount of general revenue, you are struck with two inescapable facts: that the Duncan proposal does not raise as much money as is needed and comports much more closely in the amount to what the Senate has proposed, a $7 billion or a $5 billion program.

So for these reasons, my colleagues, I would urge you to reject the Duncan initiative, and when the opportunity to debate the Frenzel-Downey proposal is upon you, that you listen carefully to our proposal.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield 7 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Chairman, we need to think through where we are in this bill, as we will be voting next Tuesday on these amendments so we need to understand what we are voting on. There are three ways being offered to the Members of the House on how to finance Superfund in this tremendous increase from $1.6 billion up to a $10 billion fund. The first way is the committee bill that has an excise tax in it. That is new, along with a waste end tax, and that excise tax is not a value added tax, it is an excise tax, just like any Federal excise tax, of which there are many.

Second, we have the Downey amendment and, third, there is the Duncan amendment.

The Duncan amendment is being offered, and if it passes, is to be in place of the Downey amendment. Then if the Downey amendment is defeated by the passage of Duncan, we will be in a position of then comparing Duncan with the bill's provisions on revenues.

I strongly support the bill. It is a broad-based fair tax that will finally reach all polluters, not just a few, as current law does under the feedstock proposal and as Mr. Downey would continue to do by significantly increasing that burden in his amendment.

Having said that, I am going to strongly support the Duncan amendment, as it is far superior and far more fair than is the Downey amendment. And so the first vote you will have, Duncan, vote for Duncan. It is a much better way of financing and raising this money.

Downey simply says, "We want a superfund, all right, but we don't want to pay for it, we want somebody else to pay for it. Those people who are paying for it now, that is simple, that is easy, just increase their tax burden manyfold, whether it is fair or not, whether they are the ones who are causing all of waste or not, don't worry about it, just increase their tax."

The Duncan amendment does not do that. The Duncan amendment tries to get at this universal problem of who is responsible and who is getting the benefits.

The Duncan amendment increases the use of general revenue funds, and that is a recognition that all of us are responsible for waste in this country and all of us ought to share the burden. If you are a consumer and you are buying goods and those goods cause a generation of toxic waste in their production, then we as consumers ought to pay part of it. And, second, if you are a manufacturer manufacturing something causing these wastes and you do not pay a feedstock tax now, you should pay a tax. So the use of general revenue funds by the Duncan amendment is a recognition that if we cannot have a general environmental surtax across the country, which is what we should have, this is the next best thing. We will take it out of general revenues, recognizing that general tax revenues will.

The second thing that Duncan does in his amendment is to create a new environmental surcharge on manufacturers only if that money is needed. Therein is a point of wisdom, if you do not need the money, do not raise it. He simply says that if the spending gets to a certain point and you need more, this tax triggers in and you raise it. That is certainly a wise point of view. But, second and more importantly, it is a broad-based tax. It is a tax that tries to get to all of those people who are manufacturing and causing the toxic waste, to start with.

The gentleman from Tennessee recognizes, as he said in his eloquent statement of a few minutes ago, that the way the tax works now, you are putting all the tax burden on a very few manufacturers in this country who are not causing anywhere near all of the toxic waste. In the case of the chemical industry, they cause only 13 percent, but you want them to pay all the taxes. That is not because you are being fair or it is not because there is not a better vehicle, it is because, let's face it, you just do not want anybody in your district to pay any taxes. That is not fair.

The Duncan amendment recognizes that. It goes to the general fund, and then it goes to a general environmental surtax which is far superior to the Downey amendment, and I would urge my colleagues to vote for it.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Pennsylvania.

Mr. RITTER. The gentleman makes an interesting point about the distribution of this tax, and I would just like to comment about the difference between generating hazardous substances and disposing of them. Those who favor the Downey-Frenzel amendment have been talking about generation of hazardous substances by the oil industry and by the chemical industry as if these were the same substances that appeared in the waste dumps which have to be cleaned up. This is an extremely important point, because what we are dealing with is not what is generated but we are dealing with what has been disposed of and that is sitting out there in the waste dumps that need to be cleaned up and that between 15 and 20 percent of these wastes at the disposal sites are coming from chemical and oil companies, and

the rest is coming from a cross-section of American industry as generally represented in some kind of broad-based tax.

Now, that is where the responsibility should lie for cleaning up, not to sock it to one narrow segment, to lose jobs in that important crucial segment of the American economy, and actually to increase the prices of a whole host of products that the manufacturing community has to buy from those particular industries.

So, in fairness, for good economics and for a distribution of the cost as reflected by the responsibility, it makes some sense to have a broad-based tax in this bill.

Mr. MOORE. The gentleman is absolutely right. The feedstock tax is from the beginning of the process. It is in place now. We will have a waste end tax for those at the end who dispose of the waste, as the gentleman has described. That is in this bill, and I strongly support it. What we are talking about now is a broad-based tax in the middle, or on generation of the toxic waste and that is what Downey does not do and Duncan does.

Mr. DOWNEY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it might be fun if not instructive to talk a little bit about what my amendment does.

When the fathers of the Superfund bill, Mr. FLORIO in the House, Mr. GORE, then a Member of the House, now an esteemed Member of the other body, started working on this legislation, along with others, they found a number of interesting things. They found orphan waste sites. At the orphan sites they could not always determine liability. Indeed, at most of the sites around this country it was impossible to pin down who was in fact responsible for putting the pollutants in the ground or at the site.

So in terms of I guess what could be best called rough equity or rough justice, they determined the chemicals that were in the site. That is done scientifically, in such a way can be analyzed. And they worked backward; they said since in some instances we can determine liability, in those instances where we can, we will make the polluters pay. In the instances where we cannot determine liability, we will take the chemicals, the feedstocks—and understand that over the last 100 years or so, certainly in the last 30 or 40 where this problem has really been created—we will go back to the people who generated the feedstocks, the chemical feedstocks, and tax them.

Now, why did they do that? Well, they did that because there is obviously some correlation between the people who made the chemicals that were found in the ground and the people who put it there. And they also recognized that by taxing the chemical companies, the oil companies, they would be requiring that those costs be in turn passed on to their customers.

□ 1245

So there were a number of economic principles that were made at the time that made sense in 1980, that make sense in 1984, that make sense today.

In 1984 we had a Superfund bill. It was prior to the election of 1984, and lo and behold, 323 of you, including the gentleman from Tennessee, including the gentleman from Louisiana, voted for a Superfund. Now what did they vote for in 1984? Interestingly enough, 1984 they voted for a $5 billion feedstock tax. They voted for a $2.7 billion crude oil tax. The reason they voted for those things was that they recognized in 1984, a connection between the people who were providing the polluting chemicals and the polluters, and they decided that they should be taxed.

What have we done since 1984? What we did in my amendment is we recognized this intrinsic link between the people who are shooting the toxic bullets into the ground—which, by the way, a quarter of them come from chemical and oil companies, but the other time that they are not shooting, they are providing the bullets—and we decided to tax them. We taxed them not at the $5 billion level that we did last year that you all voted for, but we reduced that to $2 billion. In part we reduced it because we recognized that the chemical industry had some difficulty and we wanted to be cognizant of that fact and deal with it.

We also decided that we would tax the oil industry because we felt as well, that keeping this connection between the people who produce the waste and the people who create some of the waste was important, and we taxed that at a $3 billion level. A little more than last year, but still and all a tax that does not unduly burden that industry.

The difference in the amount of money that was lost in 1984 and how we have made up for it in 1985 is a waste-end tax. Going after the people who actually generate the waste and taxing them for the production of these hazardous substances that they have created.

So we have preserved the connection, and to suggest otherwise I think is to fly in the face of reality.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman.

Mr. MOORE. I thank the gentleman for yielding. He and I worked together last year in the Ways and Means Committee in the closing hours on the tax section of that bill.

I think that the gentleman used my name or made reference to me a moment ago, and I want to explain why I voted for that bill last year. I did not vote for, except in the technical sense because that was in the bill, I did not vote for increasing that feedstock tax. That is the best we could get, and I was voting for the Superfund bill because we had to renew it and it is important to my State and the country to have it.

I did not like that tax one bit; it was an 11th-hour proposition right before the election. That is the best we could do. This is 1985. We are doing much better. We are coming back with a better bill. A more wisely thought out bill. We are coming out with a better way to tax.

Second, I would say in answer to the gentleman, that we have learned something since 1980 about who is responsible for waste. A lot of information came out of 301 studies by EPA since then. It is that information we are using today to say the responsibility for those taxes has to be broader than those who were taxed originally in 1980. We know now, as I said in debate yesterday, at the site in Indiana, some 200 companies were involved in that site and few of them were oil and gas companies or chemical companies. That is why we are looking at a tax like Duncan or a broad-based tax like the committee bill that gets at the generators of pollution in this country who aren't being touched by a waste-end tax or a feedstock tax.

Mr. DOWNEY of New York. Let me yield first to the gentleman from Oklahoma and then I want to engage the gentleman from Louisiana in a colloquy about the generators of waste versus the people who provided the bullets that were shot into the toxic waste sites.

I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, when we took this bill up last year, we were operating very much by the seat of our pants as far as information was concerned. We did have information as to who was generating waste, and it did appear on the surface that it was mostly the oil and the chemical companies. The fact is, the decision should be made not on who is generating waste, but who is disposing of untreated waste. If you look at it from that standpoint, we do have new information, and in that connection, the oil and the chemical companies are only responsible for about 22.5 percent. I think that is where the nexus should be drawn.

Mr. DOWNEY of New York. On that point, let me not disagree with the gentleman but to suggest that there are so many sites in this country where we cannot determine who in fact put the chemicals in the ground

that we now have to have some other formula to determine how we are going to pay to clean that up. The way that that has been decided to be done or was in 1980, would be to go back and find the people who were producing the bullets and tax them.

Now, it is imprecise, because we cannot tell who in fact put the chemicals in the ground, but we know that these 17 or 18 companies produce the chemicals that ultimately wound up in the ground; there is no argument about that. So I do not disagree with the gentleman that 25 percent of the people who are actually responsible for not only making the bullets but for firing them into the ground are now going to pay the tax. I am worried about all the sites where we cannot determine who has done the polluting. Who is going to pay for that?

I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Again, looking at the new information from the EPA studies. As I recall, they studied about half of the 549 sites, and they found that there were 6,200 polluters or potential polluters. Now, only about 15 of those are from the oil and the chemical companies so there are a lot more who are potentially responsible parties than just the oil and gas companies.

Mr. DOWNEY of New York. Before I yield to the gentleman from Louisiana and the gentlewoman from Rhode Island, let me just quote from the same report that we are talking about. This is the "Feasibility and Desirability of Alternative Tax Systems for Superfund" done by the EPA, and I am quoting:

> Because [the chemical, petroleum and metal processing] industries both produce and use the feedstocks taxed by the current CERCLA Superfund tax, it appears that the tax burden is primarily borne by these industries and their customers. This is consistent with the view that equity requires a rough correlation between the industries paying the Superfund tax and the industries responsible for the fund spending.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman.

Mr. TAUZIN. I think it is important in a discussion of this tax section to distinguish between the parties who are responsible for a given site and those that are not necessarily responsible for a given site. Where you can find a responsible party, the person has actually contributed to a site, there are provisions in the bill to attach liability to that responsible party. But it is also important that when you look at the spectrum of responsible parties, you examine whether or not they are also being taxed for those sites for which you cannot find responsible parties.

Now, when we looked at New York sites, to be specific since the gentleman respresents New York State, we found from EPA's list that there were 135 potentially responsible parties involved in the Superfund sites in the State of New York that had been listed. Of that list, only 16 percent were chemical companies. Eighty-four percent of the responsible parties who contributed to those sites lie outside the chemical industry and would be untaxed under your proposal. Now my concern is and the reason I asked to be yielded to, was that if we know as much as 80 percent of the responsible parties at given sites are currently going untaxed for the orphan sites, should we not develop a plan that attaches some liability on that group of individuals in light of the equity arguments that you make. They are probably also responsible for the other sites; we simply cannot locate them all.

Mr. DOWNEY of New York. Let me just say this to the gentleman; I think he makes a reasonable point. The vast majority of these sites, we cannot determine who is responsible, but we can determine and do in fact know what chemicals are in the ground there. That we have done by scientific analysis. What we do is we step backward from that point and we say, "Well, we know the chemicals, we know pretty much who is responsible for the production of the chemicals, we are now going to make those people who had a connection, maybe not as precise as the gentleman would like, to the production of these hazardous wastes, pay for that cleanup. That is the first point.

As for the second gentleman's point that in the future we should make the people who are generating the waste pay the tax, that is what the waste-end tax does. And therein lies its beauty and effectiveness.

□ 1255

Mr. TAUZIN. Mr. Chairman, will the gentleman yield further?

Mr. DOWNEY of New York. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman's argument that the person who benefited financially from the sale of products that ended up in the waste stream ought to bear the responsibility of paying for those cleanups where we cannot find responsible parties is a good one.

Mr. DOWNEY of New York. Yes.

Mr. TAUZIN. However, let me point out to the gentleman that the parties who benefited from the products that contributed to the waste stream were not simply the original generators of chemical products; they were the downstream generators of manufactured goods who also benefited. To say now that we are going to take only one group of those beneficiaries, the chemical group, and tax them exclusively and exclude all those other manufacturers who benefited from making profits off those products that ended up in the waste stream is a bit unfair, in my view, particularly when, under the current tax scheme which the gentleman's tax proposal would enlarge upon, only 12 companies are now paying 70 percent of the Superfund tax.

That seems to me to be almost a confiscatory demand upon 12 companies in the United States when many other beneficiaries are out there who ought to be paying something.

Mr. DOWNEY of New York. Mr. Chairman, let me address some of the gentleman's points, because they are good ones.

First of all, when we take a look at the chemical feedstock component of either the Duncan proposal or mine, there is very little difference, and I think that that difference has been reflected in the points the gentleman from Louisiana and the gentleman from Oklahoma have made over the years, that we should try to develop a closer nexus between the problem and who pays.

As a result of that, from the 1984 bill we have gone down from $5 billion to $2 billion on feedstocks, and the Duncan proposal is $1.5 billion on feedstocks, and my proposal is $2 billion on feedstocks. So the difference between the two of us is $500 million, or $100 million a year, and I think in all fairness to this important and large industry, that that is not a whole lot of difference.

The CHAIRMAN. The Chair would simply like to interrupt at this time to advise the gentleman that he has approximately 2 minutes remaining of his time.

Mr. DOWNEY of New York. Mr. Chairman, it is hard to believe, when you are having fun, that time goes so quickly.

Mr. Chairman, I yield 1 minute of my time to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Chairman, I just want to reiterate what my colleague was saying, and to make it very clear that we have gotten off the point of this discussion, that it is really an issue of another half a billion dollars, and that in fact both the Frenzel-Downey proposal and the Duncan proposal are calling for a feedstock, but what we have to keep in mind is that the Treasury report indicated that 75 percent of the various pollutants can be traced back to the feedstock. We have a feedstock in Superfund now. It is not a new idea, it is not a concept; all we are talking about is the variation of the amount of dollars, and I think that what we need to do is to shift this discussion or debate onto the value-added tax and to recognize that what we would be doing in supporting the Duncan proposal or the commit-

tee's proposal would be an unprecedented step toward movement of a national value-added tax.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise in support of the amendment, although I do that with some very serious reservations.

The serious reservation I have is attempting to spread the burden of the toxic cleanup to anyone but individuals, and for that reason, the general revenue feature of the amendment of the gentleman from Tennessee [Mr. DUNCAN], is to me its most redeeming quality.

The fact of the matter is we have laws on the books right now to deal with those people who are so-called midnight dumpers. The midnight dumpers get penalized very severely if they are found to be distributing toxic wastes unlawfully. In addition to that, we have also determined by law that those people who produce toxic waste as a byproduct have to absorb the responsibility of disposing of that toxic waste and assume the costs involved therein. Dow Chemical, for example, is a company that has made very remarkable strides in recycling its own toxic-waste byproducts. About 97 to 98 percent of Dow's toxic wastes are recycled, reused, otherwise treated, or incinerated. But Dow has to absorb the burden of disposing of those that they cannot recycle, and we should be commending those companies that do that.

I think the important thing for everyone to keep in mind is that the revolution in chemical products, especially the petrochemical revolution, is a phenomenon of our lifetimes. It is essentially a World War II post-World War II phenomenon. It has improved the quality of our lives in ways undreamed of by most of us. I remember during the 1973 oil embargo we had a debate on the determination of what portion of a barrel of oil would be allocated for the petrochemical industry. We had a fellow from my district who was in the petrochemical industry, and he came down to explain to Members the importance of petrochemicals. To illustrate the importance, he had depicted a woman working in her kitchen. Then he started to take the petrochemical derivatives out of the picture. Her dress went; she finally was unclad totally because all of the clothes on that woman were derivatives of petrochemicals. Her shoes were gone, her cosmetics were gone, the countertop was gone, the tiling on the floor was gone, and certain utensils in the picture disappeared as well.

The point I am trying to emphasize is that everything from the clothes on our backs to the carpeting on the floor to the membership voting cards we use in this Chamber are petrochemical derivatives.

We all enormously benefit from this use of petrochemicals, and when the gentleman from New York suggests that individuals did not cause the problem he is wrong; it is precisely individuals who cause the problem by demanding such products. These companies did not create products that were unwanted, they created products that Americans and the world wanted and have greatly contributed to man's material welfare.

That being the case, the only responsible parties who should be picking up the tab on any Superfund financing are individual taxpayers. The individual citizen in this country is in fact the culpable party. We are talking about orphan sites where we cannot identify the person who contributed directly to it.

Now, when you want to put an additional tax on business, that is a cost of production to business. Those businesses have to figure out how to absorb that cost of production and pass it back onto you and me as consumers in the form of higher prices. Some can absorb that cost and still show a fair return on investment. U.S. businesses are already at a competitive disadvantage due largely to the high domestic cost of capital and of environmental regulation. I think it is important for us not to add anything more to the burdens of already overburdened businesses. If American citizens have made the determination, and properly so, that they want to clean up waste, let them pay for that decision. The best way to do that is by funding it entirely through general revenues, and for that reason I support the amendment offered by the gentleman from Tennessee.

The CHAIRMAN. The Chair wishes to state that the gentleman from Tennessee [Mr. DUNCAN] has 7½ minutes remaining and the gentleman from New York [Mr. DOWNEY] has 1½ minutes remaining.

Mr. DOWNEY of New York. Mr. Chairman, I yield 15 seconds to the gentleman from Georgia [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I rise in opposition to the Downey amendment and the Duncan amendment and in support of the Ways and Means Committee bill.

Mr. Chairman, this Nation currently faces a plethora of problems. Yet few are more important than the need to clean up the abandoned hazardous waste sites that deface our country. That is why the Superfund law, passed 5 years ago to attack this problem but whose funding authority expired last September 30, must be renewed and expanded.

The question is: At a time of continuing budget deficits, how should an expanded cleanup be paid for? Here we are dealing with a difficult national problem—but not an impossible one.

The best solution is the Superfund excise tax. Adopted overwhelmingly in the other body in September and approved by the House Ways and Means Committee in October, the Superfund excise tax best meets the important criteria for a broad-base tax which ensures that "the polluter pays."

Three major points should be emphasized about the SET:

It is fair. It reflects the principle that "the polluter should pay." We all believe in fairness. However, under the original Superfund, two industries—petroleum and chemicals—have paid more than 95 percent of the feedstock taxes that have financed the bulk of the program. One does not have to be a partisan of either of those industries to recognize that this is patently unfair.

When all is said and done, the abandoned or orphaned hazardous waste sites that plague our countryside, and which Superfund was designed to clean up, are a national problem. Some of the wastes have been traced back as far as the 19th century, deposited by firms that have long since disappeared. Products and services produced with those waste as byproducts have been used by every American. In short, what we are facing is the belated recognition of the price of our industrial society. We and are forebears have all been polluters in the sense that we have accepted the benefits of the processes that produced these wastes while—until recently—ignoring their adequate disposal.

More specifically, the Environmental Protection Agency has identified more than 4,000 businesses, Government, and other entities as potential polluters at Superfund sites. Having been identified, the nongovernmental entitles—governments are exempt—are expected to clean up their wastes, as Superfund money is used primarily for abandoned hazardous waste. The point is, the companies identified represent the broadest cross section of business and industry. There is no reason to believe that polluters of the past, who have since vanished, were any less representative of American industrial society.

Were it not for the deficit, the most equitable way to finance cleanup would be general revenues. But, given our current budget realities, the next-fairest way is a broad-base tax such as the SET. Moreover, it should be pointed out that under the SET, the chemical and petroleum industries would continue paying feedstock taxes. Under the Ways and Means plan these taxes would be increased by $1 billion over current law, and the chemical and petroleum industries would also be paying their share of the SET.

The SET would not raise the cost of U.S. exports and would not worsen our trade deficit. This is a critical distinction between the SET and alternative funding proposals. The SET tax would be rebated on U.S. exports and imposed on imports. Thus, whereas the SET is trade neutral by its very nature, the other proposals all require

that some mechanism for achieving trade neutrality be grafted onto them. Thus, none of the alternative proposals identified to date would achieve import/export neutrality as efficiently as SET.

Furthermore, any attempt to fashion such provisions in relation to alternative proposals would create two serious problems: First, it would raise issues over the legality of such taxes under the General Agreement of Tariffs and Trade; and second, it would significantly increase the complexity of any such tax.

The SET is not a value-added tax. The SET would be imposed only on manufacturers and importers in contrast to a VAT which is usually—as in some European countries—imposed throughout the production and distribution chain. The SET would apply only to sales of tangible personal property in contrast to a VAT, which generally applies to all sales and services. Unlike a VAT, the SET would be applied to a specific area of the economy—manufacturing sales—for a specific and limited purpose. It is an excise tax similar to the literally dozens of excise taxes in the United States Code.

As for the contention by some that the SET could be used as a precedent for similar taxes to fund other programs in the future, this same conclusion could be drawn about alternative proposals. Waste end taxes, corporate surcharges based on business activities—all are new taxes. And Congress, after all, has the responsibility for determining the purposes for which tax revenues of any kind are dedicated.

What would the Superfund excise tax do? Although set at a rate of less than a tenth of a penny per dollar of manufacturers sales, it would raise nearly $5 billion—in the Ways and Means Committee bill—over 5 years to help finance an expanded cleanup. It would provide an equitable funding base for Superfund without creating new problems for American business. And it would do so without creating new economic burdens for consumers. Calculations show that the SET would add about one-tenth of a cent to the price of a box of soap or $6 to the price of a midsize American sedan.

None of us—Members of Congress, businessmen or any other American—can duck responsibility for reaching a meeting of minds so that we can clean up our country. For our children and their children, we can make progress toward a healthy America. That job must be done effectively, responsibly, and fairly. As Edmund Burke said: "What morality requires, true statesmanship should accept."

Mr. DUNCAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I am, of course, a supporter of the Downey-Frenzel amendment and hope that it is the final prevailing financing scheme. I do want to say, however, that the Duncan amendment is a good one in that the author has tried to give this body a choice between the two schemes that otherwise would have been available to it. The Duncan amendment has the advantage of not including the sales tax, which is the feature that I find most odious in the committee bill.

When we vote on Tuesday, the first vote will be on the Duncan amendment. In my judgment, that is a vote between Duncan and the committee. Duncan being clearly superior, it deserves our vote at that time. I hope, of course, that the Downey-Frenzel amendment will ultimately prevail, but I urge a vote for the Duncan amendment.

□ 1305

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I support the Duncan amendment for two basic reasons.

First of all the Duncan amendment provides a tax mechanism to collect the full $10 billion authorized under this legislation, yet it would allow that $10 billion to be collected if we discover that the full amount is not needed or cannot be expended effectively in the next 5 years.

The Environmental Protection Agency has stated before my committee in testimony that it can only effectively use $5.3 billion over the next 5 years. While I believe that more than $5 billion can be well spent, I am certain that $10 billion can be well spent.

The Duncan amendment recognizes that we in Congress do not know exactly how much money the Superfund will require over the next 5 years and provides what I think is much needed flexibility.

The Duncan amendment also spreads the tax burden among industry responsible for the historic generation of hazardous wastes. Currently 12 companies pay approximately 70 percent of the Superfund taxes to clean up abandoned hazardous waste sites in this country, while there have been 4,000 companies who have been recognized who actually add to the waste problem of this country.

The Wall Street firm of Kidder, Peabody & Co. concluded in a study done of 500 potentially responsible parties at hazardous waste sites that no company or group of companies appears to dominate the list of potentially responsible parties, and as we expected, a broad spectrum of U.S. industry is involved; but if you look at the status of the petrochemical industry now, there is cause for alarm if a heavy tax is placed on that one industry. The industry's positive trade balance declined from $14 billion in 1981 to $10.3 billion in 1984.

Under the Downey proposal, there is a 1,500-percent increase in the crude oil tax under that particular proposal.

Now, 119 of the 315 domestic refineries that were in operation at the beginning of 1981 have been shut down.

Employment in the U.S. petroleum refining industry has fallen by more than 30,000 workers between 1981 and 1984.

For those reasons, Mr. Chairman, I support the Duncan proposal.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding.

We have a misunderstanding here. I think we should clear it up as soon as possible, and that is the difference between generation of hazardous substances and the disposal of hazardous substances.

Now, it may be that certain industries generate a large amount with respect to certain other industries, but it may be that those industries that generate take good care in disposal, such that these wastes do not end up in Superfund sites, or more importantly, have not ended up in Superfund sites.

Now, if we look at it that way, if we look at disposal as the key item, we will find that the universe of responsible parties or potentially responsible parties is so much larger than the few companies that will be focused on for either the feedstock increase or the vast multibillion-dollar tax on gasoline or the waste-end tax.

The EPA had a booklet where 4,000 potentially responsible parties were identified in a new booklet, Superfund Update, some 9,000 potentially responsible parties are identified. These potentially responsible parties have disposed of the wastes in the Superfund sites.

You can go through lists of virtually every manufacturing area, like aerospace and aircraft, automobiles, electronics, electrical, furniture companies and funeral organizations and retail chains and real estate and utilities and foods, beverages and groceries, airlines and Government agencies and universities and computer companies, and find potentially responsible parties.

Now, in the name of fairness, but also in the name of apportioning this tax in an economically viable fashion that does not put out of business U.S. manufacturers, that does not export those jobs, that does not discriminate against our basic industries, which are having great trouble in surviving, I urge my colleagues to consider some form, whether it be in the Duncan amendment or in the committee bill, of a broad-based tax.

Mr. DOWNEY of New York. Mr. Chairman, if the gentlewoman from Rhode Island would like to address the committee, I will yield the gentlewoman the last 1½ minutes that I have remaining.

Mrs. SCHNEIDER. That is a very short period of time.

Mr. DOWNEY of New York. I know. I yield the gentlewoman the balance of my time and I will be happy to yield more extensively to the gentlewoman when my time is up.

Mr. DUNCAN. Mr. Chairman, the gentlewoman can have the remaining 1½ minutes on my side.

Mrs. SCHNEIDER. Mr. Chairman, the gentleman is most generous.

The CHAIRMAN. The gentlewoman apparently is going to close debate for both sides. The gentlewoman is recognized for purposes of doing just that.

Mrs. SCHNEIDER. Mr. Chairman, if I am going to close out the debate for both sides, it is quite obvious that I must be fair and equitable in my comments for both sides. So I would like to address my colleagues and share with them my wholehearted enthusiasm and support of the Frenzel-Downey amendment.

I am quite concerned that if we are to do anything but support——

Mr. JONES of Oklahoma. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHNEIDER. Yes, I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I hope the gentlewoman from Oklahoma will try to remain fair and equitable now.

Mrs. SCHNEIDER. Most certainly. My specific details will make it quite clear that this is a most fair and equitable approach to the Superfund financing mechanism.

Let me share with you that if we are to support either one of the other options, we will be turning the corner on our first national value-added tax. It concerns me, because my colleagues earlier in the debate were indicating that they were not having the benefit of last year's decision in 1984 and saying that, well, we were operating by the seat of our pants. I think to support either one of the other options, most certainly not having had hearings on the value-added tax or consulting with our constituents, we would be making a sure mistake.

This is one of the rare occasions that we have today in support, by gaining the support of the majority of not only the business community, but also labor and public interest groups who are absolutely united on this one issue. I think that has something to tell us about the Ways and Means Committee proposal. It is a very small but powerful sector of the economy that is trying to get out of I believe the responsibility for their fair share.

I am quite aware that the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from New York [Mr. DOWNEY] have put unmeasured hours into carefully crafting an amendment that would be the most fair to the various courses of action that we are discussing. I think it is important to know that insofar as jobs are concerned, which has been a comment earlier mentioned here, that the Frenzel-Downey amendment will not destroy jobs, as some have been claiming. Certainly the AFL-CIO would not be supporting it if it did; but the chemical industry is healthier now than it ever has been. A 1985 Commerce Department prediction is that growth of the chemical industry will be higher than the rest of the economy. Industry earnings for the first half of 1984 were up 59 percent from the first half of 1983.

My colleague, the gentleman from Illinois [Mr. CRANE], who had mentioned his concern about the balance of trade, petrochemical exports reached an all-time high of $13.8 billion in 1984; however, the level of taxation of the Frenzel-Downey amendment proposal can be handled very easily, especially since the chemical industry's average tax rate over the last 3 years has been a mere 3.6 percent.

Finally, let me conclude by saying that as we look further at the trade situation, a petroleum-based tax would apply both to domestic and imported oil products. It would not affect our balance of trade problems. As a matter of fact, if you look at the chart at the end here, it shows very clearly that State oil severance taxes are many times higher than the proposed tax in different States. For example, in Alaska it is $4.05 as compared to the Frenzel-Downey amendment, which calls for 11.9 cents.

So in conclusion, let me say that we have the opportunity to support a very fair and responsible funding mechanism to address the toxic waste problem. What we need to maintain is the ideology and the philosophy indicating that the polluters must pay, not society as a whole.

The CHAIRMAN. Pursuant to the unanimous consent request that we had earlier in the day, we will now proceed to 45 minutes of debate on the Downey-Frenzel amendment, this having concluded the debate on the Duncan amendment.

The Downey-Frenzel amendment will not be offered at this time and the balance of 15 minutes will be reserved for debate on Tuesday.

The gentleman from New York [Mr. DOWNEY] will be recognized for 22½ minutes as a proponent of his amendment and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 22½ minutes as an opponent to the Downey-Frenzel amendment.

The Chair recognizes the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, there are rare opportunities in this Chamber where I could be on the side of the Heritage Foundation and find that Human Events has an editorial in substantial agreement with the position I have taken. But this unlikely combination of people is the result of the ardent, unyielding, and in my opinion visionary opposition to the value-added tax, national sales tax, excise tax, depending on what you would like to call it, that is contained in the committee amendment.

We offer a responsible alternative. I have already laid out the fact that we have a combination of taxes on chemical feedstocks and crude oil, 9 waste-end tax, a trust fund for leaky underground storage tanks, a component for general revenue, all totaling some $10 billion, a 5-year program to try to deal with the toxic waste sites that dot this country's landscape, that threaten our people and that need to be cleaned up.

I do not want to dwell on that because others will talk about that. What I would like to talk about for a moment is the idea of a national sales tax as a mechanism for financing the Superfund.

The gentleman from Oregon [Mr. SMITH] will talk probably on Tuesday about his election to the House of Representatives. It was in part possible because the then chairman of the Ways and Means Committee, Mr. Ullman, had talked about a value-added tax as a way of solving some of this country's deficit problems. People in Oregon, who have always been opposed to value-added taxes, most recently voted 4 to 1 against them, sent Mr. SMITH to Congress because they were concerned about Mr. Ullman's position on the value-added tax. So for those of you who want to be in the vanguard of the national sales tax, there is bad and dangerous history to be watched very carefully by you.

Second, when I laid out somewhat earlier this afternoon, I know once again to the attentive ears of my colleagues, the lessons that the gentlewoman from Rhode Island gave us about how to assess the tax, is it effective, is it fair, we find that the Ways and Means proposal is neither of those things. It is not an effective tax, because as the Treasury Department has pointed out, a vertically integrated company under the Ways and Means proposal will find ample ways to try to avoid the sales tax.

There is no limit to the creativity of a tax lawyer or financial officer of a company to avoid a tax and this value-added tax, national sales tax, will not pose very much of a problem to the people who want to avoid it, so it is not particularly effective.

It once again severs the connection between the people who are responsible for the problem and the people who will pay. That has been amply demonstrated by the Department of the Treasury and by the EPA.

I think the last point I want to make is that this entire tax process, the Internal Revenue Code of our country started out as a 15- or 16-page docu-

ment. It has grown substantially in the 70-odd years that it has existed, with exceptions and deletions, itemizations and exceptions.

The value-added tax that is in the Ways and Means bill will start off as a narrowly focused attempt to deal with the specific problem and it will grow inexorably.

Now is the time to kill it. The Frenzel-Downey amendment does that and it does it fairly.

So, my colleagues, be aware of this evil that is lurking in the Ways and Means bill and let us finish it off while the time is right.

Mr. DUNCAN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

□ 1320

Mr. FRENZEL. I thank the gentleman for yielding this time to me.

Mr. Chairman, first I would like to thank the sponsor of this amendment, the gentleman from New York [Mr. DOWNEY], for his good work in assembling this amendment, and to observe that when you have two points as far removed from one another on the political spectrum as the gentleman from New York and myself, it presents an interesting range of sponsorship.

I notice that there are also at the table lists of other people who are supporting our amendment, which seem to run the alphabet from alpha to zizzard and present astounding diversity.

Everybody in this Congress likes the Superfund. It gives us the chance to be forthrightly against toxic waste, and that is a pretty safe position. It gives us the chance to stand foursquare for cleanliness, and that is a heroic position. All of us like to be both heroic and safe whenever it is possible.

The trouble is that we are to that section of the bill where it is a little hard to be both heroic and safe. That is the financing section. We have to find $10 billion, or maybe $7.5 billion if we eventually go to the program of the other body. We have been given three options.

The first is the Duncan amendment, which we have just debated. The second is the Downey-Frenzel amendment, which we are talking about now. The third is the committee bill, also known as the value-added tax or the national sales tax. Each of them has some disadvantages.

The committee bill, in my judgment, is probably the least popular. Most Members are going to find it hard to snuggle up to a sales tax. Most Members are going to be nervous about hitching a vital program like the Superfund to an uncertain and probably unreliable funding source. And most Members are not going to like the ease with which a VAT or sales tax can be escalated before the people know it, that is, the consumers, actually know what has been done to them.

The Duncan amendment has some problems, too. It avoids the unknown horror of the sales tax, but it comes up a bit short on the revenue side and it has an uncertain tax of its own which comes in a little late in the scheme of things.

The Downey-Frenzel amendment, based on the linking of the financing to the industries which use the materials in question, is pretty hard on those industries. Members with petrochemical plants, oil and gas industries, are going to find our amendment pretty harsh.

In short, none of those financing plans is perfect. Maybe they are not even very good. But we have to fund the Superfund. For me, the choice is easy. The sales tax is simply, patently, obviously and everlastingly unacceptable. The Duncan alternative is better, but uncertain. The Downey-Frenzel amendment, for all of its imperfections, is clearly preferable.

Committee members who adopted that sales tax financing by the overwhelming vote of 18 to 17 are going to argue that it is neither a value-added tax nor a sales tax. They will find subtle distinctions. But our constituents, the consumers of America, are not going to be able to find those distinctions. They are going to say it is a distinction without a difference. They are going to call it a sales tax because that is what it seems to them and that is what it is.

If the House accepts this sales tax on Tuesday, the country is certainly going to get that sales tax because the other body has already approved one. I think the other body would like to get its vote back, but if this body takes the Ways and Means recommendation, there will be no way to avoid that sales tax within the perimeters of the conference.

So if Members of this House oppose a national sales tax or a value-added tax, either on the basis of its merits or demerits, or because there have been no hearings in this House, because there has been insufficient national debate and discussion on it, then this is the last chance they have.

If you believe, as I do, that the country does not need a sales tax at this time or is not ready because of the insufficient discussion, I urge Members of this body to join me in voting for the Downey-Frenzel amendment and in voting down the committee system of financing.

Mr. DOWNEY of New York. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. DONNELLY], a member of the committee.

Mr. DONNELLY. I thank the gentleman for yielding this time to me.

Mr. Chairman, 5 years ago, our best estimates of the scope of the toxic waste crisis confronting America's communities were entirely too optimistic. If anything has been accomplished in the last 5 years of Superfund, we have been educated to the reality that we have far to go before the people we represent are freed from the ominous threat of abandoned toxic waste dumps. Those dumps threaten vital drinking water supplies. They present a very real danger to the health and property of the families that live near them. Only 6 of the 812 sites on the EPA's national priority list have been taken off the list. One of those six has been placed back on the list because it has reactivated. EPA expects to double the number of sites on the national priority list in the next 2 years. GAO tells us that estimate is overoptimistic. GAO projects that there are at least 4,000 sites that merit Superfund cleanup.

This critical program has far to go before its goal is realized. The longer it takes to permanently and safely clean up a toxic waste site, the more likelihood that the contaminants will imbed themselves deeper and deeper into the ground, and spread into ground water supplies. The longer the delay, the greater the eventual cleanup costs. We owe it to the American people to speed up the Superfund Program, and to insure that the program has adequate resources. The Downey-Frenzel amendment is the best way to insure a $10 billion Superfund Program for the next 5 years. It is the most appropriate and rational financing amendment before us today. Downey-Frenzel merits your support. It deserves your vote.

Five years ago, Congress decided on a philosophy to govern the financing of the newly created Superfund Program. The taxpayers were not asked to pay a significant share of the costs of the program. General revenues were authorized to pay approximately 12½ percent of the program costs. Families in my district, and families in your districts are not the parties who dumped toxic wastes in the middle of their communities.

Our constituents are the victims of decades of ignorant, and unfortunately negligent, handling and disposal of hazardous wastes by industry. The individuals and companies responsible for creating the need for Superfund have, to the major extent, failed to identify themselves, or cooperate in good faith with Government agencies working to remedy the threats posed by abandoned toxic waste dumps.

Five years ago, Congress imposed Superfund taxes on 42 basic chemical substances and on petroleum. Those targeted taxes have paid for about three-quarters of the costs of the Federal Superfund Program. The chemicals taxed are the basic "building blocks" from which many of the

63,000 commercially available industrial chemicals are derived. The feedstocks are hazardous or their derivatives are hazardous. Tax was imposed on domestic crude and imported crude and product because petroleum is the ultimate "building block" for all 11 organic chemical feedstocks.

EPA still concludes that the existing method of assessing Superfund taxes on the major, hazardous waste-generating industries—chemical, oil, and metal-related industries—is justifiable. A recent report by EPA stated that, "This is consistent with the view that equity requires a rough correlation between the industries paying the tax and the industries responsible for Superfund spending."

The Downey-Frenzel amendment remains consistent with the philosophy that has governed the financing of the Superfund Program. Industries which produce most hazardous substances should still pay most of the costs of the program. This system is not perfect. We do not claim that it is. After close scrutiny, however, the Downey-Frenzel amendment cleary offers the most rational and consistent approach to financing Superfund's next critical 5 years.

Downey-Frenzel responds to the legitimate criticism that industries other than the oil, chemical, and metal-related industry groups have dumped toxic wastes, and they too should be taxed under Superfund. Downey-Frenzel would implement a significant new tax on the disposal and land management of hazardous waste. The new waste-end tax will collect taxes from all parties which dispose of hazardous waste, regardless of their industry group affiliation. In doing so, the new waste-end tax broadens the pool of Superfund taxpayers, and it also serves a valid environmental purpose.

It will provide a potent incentive for waste volume reduction, and for more environmentally sound waste management techniques. Unlike the Superfund value-added tax on all manufacturers, the new waste-end tax broadens the taxpayers base and accomplishes a desirable policy goal. The Superfund VAT is a smokescreen which hits all manufacturing industries regardless of whether or not an industry has contributed to the toxic waste crisis. The VAT accomplishes no environmental purpose. Instead, it divorces the Superfund tax system from the industry products and practices which created the need for the Superfund Program.

Downey-Frenzel will provide $10 billion in real money for Superfund's critical next 5 years. Its taxes are upfront. Its taxes will be imposed, as they are now, on the industrial products and practices that precipitated the public health and environmental crisis America's communities face today.

Downey-Frenzel tells us who and what is going to be taxed for the dedicated purpose of financing Superfund cleanups. It was claimed during yesterday's debate that Downey-Frenzel is a tax that will impact consumers unfairly because oil and chemical companies will pass along the costs of the Superfund taxes. Having reviewed the record of these industries, we see that they have almost always been able to distribute taxes and costs imposed on them among their customers. Certainly, this pass-along will occur to the maximum extent possible. I argue, however, that the American consumer would much prefer the extremely minimal product cost increase that might result from Downey-Frenzel on a narrow range of items than a hidden tax on almost every nonfood product they buy.

Dedicated Superfund taxes on substances that are the basic building blocks for toxic wastes. They will not appreciate or understand the wisdom behind a hidden tax on all manufactured goods, from new cars to swingsets for their children.

Your vote on the Downey-Frenzel amendment is as important to the strength of the Superfund Program as were yesterday's and today's earlier votes on key program management issues. Downey-Frenzel is upfront, it remains true to the "polluter pays" philosophy that has guided our Nation's environmental statutes. It deserves your vote today.

Let me just say in conclusion, Mr. Chairman, when we return next Tuesday to debate the tax policy decision, I would hope that the Members of this institution would take a close look at the three options that they face, an option either of continuing present good tax policy, or an option of taking the broad leap either into a VAT tax or a national excise tax.

I would think that the options are very clear. We have to continue present policy.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would just like to add a few footnotes, anticipating that I may not have the opportunity to speak on Tuesday. I would like to put forward a few arguments I have already heard in the halls among the lobbyists and others, and that is that part of the proposal of the Downey-Frenzel amendment might raise the fuel bills and make us more heavily dependent on foreign oil.

I would like to make it very clear that as a Representative from one of the States that has the highest oil bills in the country, and representing and knowing the energy situation in the Northeast-Midwest, I would highly encourage all of my Frost Belt colleagues to look very, very closely at the Downey-Frenzel proposal; that this particular petroleum-based portion of the Downey-Frenzel proposal will be spread so widely that its total effect will be negligible.

The other point that I would like to emphasize is that the petroleum-based tax would apply to both domestic and imported oil products, and I think that is important to keep in mind.

But as we are discussing the whole proposal, the most controversial element of the entire bill, I believe, is the value-added tax. Just to pick up on some of the points my colleague from New York was making, if we are to establish the value-added tax as the precedent for future taxes, we ought to be looking at the history of Europe.

In Europe, where they have already had an ongoing value-added tax, we can see that in Sweden the increase over the past few years has been 90 percent. In Denmark, the value-added tax has increased 120 percent, and England's increase has been 50 percent.

So I maintain that once we begin this snowball rolling of a value-added tax, we can only be assured that eventually it will lead to an avalanche. So with these remarks, Mr. Chairman, I conclude and urge my colleagues to wholeheartedly support the Downey-Frenzel amendment.

□ 1330

Mr. DOWNEY of New York. Mr. Chairman, I am happy to yield a little of my time to the gentleman from Austin, TX [Mr. PICKLE], who will speak on the wrong side, but I yield 3 minutes to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, will the gentleman from Tennessee [Mr. DUNCAN] also give me 2 minutes?

Mr. DUNCAN. Mr. Chairman, I am glad to yield 2 minutes to the gentleman from Texas.

The CHAIRMAN. The gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Chairman, the real question here is who is going to pay for the cost involved. I think we are all agreed that we should renew the fund, but we ought to be fair about how we fund it.

The bill advanced by the Committee on Ways and Means, in my judgment, is the fair and the equitable way. It is not something that we just dreamed up all at once and pushed out here to get a quick vote. The Ways and Means Committee approved it, the Energy and Commerce Committee approved it, and the Public Works and Transportation Committee approved it. It is a broad-based tax because it is not any little, one-section-of-the-country kind of slip-by form of financing for Superfund. It is a broad-based excise tax supported by the three major commit-

tees concerned with this matter, and we ought to keep that in mind.

I hear the gentleman from New York tell me that he is not unfair to the oil industry or the chemical industry, and I would like to believe that he wants to be a friend of the industry, but when I hear him say that, the figures that we must produce belie that position.

I want to try to lay out some facts and figures here. I think the gentleman from Oklahoma [Mr. JONES] is going to lay this out in more detail, but let me take just one little example here. Let us take the oil companies. I am from Texas and I am interested in that, and I happen to pick on that one industry for an example.

According to EPA data, we show that the responsibility for 4.5 percent of waste found at all NPL sites can be attributed to the oil companies, and yet the tax burden under the current law is that the oil companies must pay for 16 percent of all taxes funding the Superfund.

Now, as you go to the Ways and Means Committee, we increase that burden to 23 percent. The gentleman from New York [Mr. DOWNEY] and the gentleman from Minnesota [Mr. FRENZEL] would increase that tax burden to some 42.89 percent. That unfair burden is from a 15-fold increase in the crude oil tax over current law. That is no small increase.

In all of these efforts to say you are going to spread out the burden, I say the spread looks like a sledgehammer against the oil companies in that one field, from 16 percent up to 42.89 percent.

Now how do you do that? Let us go back and check some different figures. Let us take crude oil.

Under the current law, the tax now is 0.79 cent per barrel. That is it, 0.79 cent per barrel, a little less than a penny.

Under the Ways and Means Committee, we increase that to 3.8 cents per barrel, so the allegation that we are trying to prevent the oil companies from paying their just portion of these clean-up sites is simply not factual. It is an increase of over four times current law. Oil companies are not only meeting their obligations, they are adding to them, and they have been much more responsible than all other industries.

What does the Downey-Frenzel amendment do? It increases it 12 cents per barrel, 12 cents. That means there is a 15-fold increase on the tax per barrel. Do you hear me?

When you talk about cost of fuel in New England, and you go down to heat the homes in New England or buy gasoline in Delaware, we are going to say that you are going to pay 12 cents per gallon more at the pump for gasoline or for heating fuel.

Now you might say that might be a little bit technically incorrect because your 12 cents is at the refining point, but I am no more incorrect on that, my good friend, than is the gentleman from New York [Mr. DOWNEY], or the gentlewoman from Rhode Island [Mrs. SCHNEIDER] in saying that this is an evil, lurking danger, a so-called value-added tax. I'll clarify my statement when they correct their statements.

Now the tax in this bill is not a value-added tax. It is an excise tax. It is an excise tax, just as we see with many other Government taxes. Those of us in this House must accept that because it is an increase, but it is a broad-based tax. But you can say by the same token if you want to take that approach, as you have done all through this debate because it sounds good, it sounds like you are a Populist and you are going to protect the consumer, and say you are against any form of a broad-based tax, and you call it a VAT. It is an excise tax, and we will admit that.

But I can also say to you that actually under this proposed amendment, you are going to take 12 cents per barrel on oil, and this is unacceptable if we accept the "polluters pay" principle.

May I say, Mr. Chairman, I hope the gentleman from Oklahoma will expand on this and put this in the RECORD because these figures are facts, they are not allegations, they are not just an aversion. They are cold facts, and the Members ought to listen to them.

Mr. Chairman, no one seems to question the need for Superfund reauthorization. We all know we need to provide more funding to clean up the Nation's worst, neglected toxic waste sites. But we should not go about this in a punitive and unfair manner. We should not put an unfair financial burden on States with important chemical and oil production and refining sectors. The bill reported by the Committee on Ways and Means strikes the appropriate balance among many competing goals without placing a harsh, unfair burden on the Southwest.

The question of who should pay for the cleanup is troublesome. Currently the burden falls on two industries. Yet over the past few months a number of lists have been published showing responsible parties associated with known waste sites. These have been most enlightening—reading like a "who's who" of the Fortune 500 and 1,000. Now there are many oil and chemical companies identified on the lists, but there also are an astonishing number of companies that have never been identified in the media with hazardous waste problems. Today, there is virtually no correlation between those who pay the current feedstock and petroleum taxes and those who contributed to the waste problems. Not only is the theory behind current Superfund taxes flawed, but its application is even worse. According to EPA, of the 30 most frequently found substances at 881 hazardous waste sites, only 11 are subject to tax. Moreover, petroleum refiners generate less than 5 percent of the Nation's wastes, yet they currently provide about 16 percent of the Superfund revenues.

As a result, many of those responsible for mismanagement of hazardous waste sites are escaping responsibility altogether. Yet hazardous waste management is a benefit to all of our society.

That is why three legislative committees, Ways and Means, Energy and Commerce, and Public Works and Transportation, have recommended the adoption of a board-based corporate tax to fund the Superfund. The Superfund Excise Tax recommended by the Ways and Means Committee is an equitable and rational approach to our concern for adequate funding. I want to take a few moments to highlight why this is a preferable approach:

The Committee provisions represent a true-polluter-pays approach to funding the Superfund. Despite misrepresentations by opponents of the bill, I want to again emphasize that many different industries have contributed to the many Superfund sites.

For example: The EPA has identified some 290 potentially responsible parties that may have contributed to the Stringfellow Superfund site in California, yet the majority of the companies have not contributed one cent to the Superfund.

The Superfund excise tax [SET] rate is extremely low—amounting to only a few cents on a $100 purchase. The SET can be expected to cost an average family with an income of $20,000 about $8 to $10 per year.

Sharp increases in oil taxes, as proposed in the Downey-Frenzel amendment, would severely impact the poor. The cost of home heating, a primary expense for poor families, will be increased, making higher oil taxes far more regressive than the SET.

The SET is not a value-added tax. A VAT is a tax on the value added to the product or service at each stage of production and development, and covers every facet of the economy. The SET is imposed on only 30,000 large manufacturers. Whereas the VAT is applied at all stages of the economy, the SET is applied only to tangible property at the manufacturing stage.

The SET revenues will be dedicated only to the cleanup of hazardous wastes, VAT's are usually general purpose revenue raisers.

The committee-passed SET would not have the unfair impact on trade that the Downey-Frenzel tax would. The SET would be imposed on imports and rebates would be made for companies that manufacture products for export—thereby making the SET trade neutral. The Downey proposal would give foreign companies an unfair advantage and the proponents of that plan never address the trade issue as part of the Superfund debate.

The creation of an unfair trade balance between U.S. and foreign oil companies would hurt national security, and drive U.S. jobs abroad. Because of the competition from foreign oil companies, the U.S.-

based companies would probably not be able to fully pass on the costs of the Downey tax, and would, therefore, find it easier to move more operations abroad to save on the cost of labor.

Mr. Chairman, I could go on, but the point that has to be made is that we ought not to put a heavy, unfair burden on only two industries when many more share the responsibility for abandoned hazardous waste sites. The petroleum and chemical industries would continue to pay heavily under the committee bill. They will not get off scot-free. But other industries must share some of the burden as well. The committee bill is fair and sound and I urge my colleagues to support it and reject the Downey amendment.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, many Members of this Congress are responsible for getting the Superfund reauthorization bill to the House floor for consideration and vote. I have participated in two of the five committees responsible for sending to the House floor the Superfund reauthorization.

I commend the work of the leadership and all members of the committees involved in preparation of the Superfund legislation. The compromise reached between the House Committee on Energy and Commerce and the Committee on Public Works and Transportation is to be commended.

I am concerned because I have at least 68 potential hazardous waste sites in my two counties and there are similar sites in most congressional districts.

Therefore, it is imperative that the 99th Congress pass legislation to address the crisis now facing our Nation in response to release and cleanup of toxic wastes. As equally important to providing Superfund reauthorization is ensuring that the funding of the necessary Superfund funds not adversely affect our domestic industrial base.

Without a strong domestic industrial base, how much longer can we pass legislation to provide programs on the scale of Superfund? With a continuing trend of heavy taxation on our domestic industry, funds to finance the much-needed Superfund Program will eventually not be available. We must reverse the dangerous trend of passing legislation that places a heavy tax burden on our domestic industry. It is for this reason that I urge my colleagues to join me in supporting the version of the Superfund bill passed by the House Committee on Ways and Means.

In financing Superfund, and I want to emphasize this point, a heavy tax burden must not be placed on our eroding industrial base. The Superfund excise tax is designed to keep the feedstock tax down and provide for a broad-based manufacturers' excise tax.

The broad-based tax would apply to imports flooding our shores and causing an imbalance in our trade. A broad-based tax would not adversely affect our domestic industry. We must continue to ensure that our Federal tax codes are written to protect the American industry and promote our trade policies.

The Superfund excise tax is trade neutral. Foreign products are affected to the same degree that our domestic products are affected. Therefore, supporting the House Ways and Means passed Superfund bill will promote and protect American trade and industry. A sound trade and strong domestic industry results in funding needed to protect our environment from hazardous wastes.

Again I urge all my colleagues to join me in supporting the reauthorization of Superfund with a broad-based taxing scheme and oppose any attempt to pass an increase in the feedstock tax. Support the passage of the broad-based tax and retain the feedstock tax at present level so that our domestic industry may compete abroad.

Cleanup of hazardous wastes is the responsibility of all of us. A broad-base tax will help finance Superfund by all who will benefit from a sound national economy and healthy environment.

I urge you to vote against the Downey-Frenzel amendment.

Mr. DOWNEY of New York. Mr. Chairman, I yield myself 2 minutes.

I just want to clarify some of the confusion about the cost per barrel and per gallon since the esteemed gentleman from Texas [Mr. PICKLE] seems to have confused those two quantities of measurement.

The 11.9 cents per barrel translates in terms of gasoline to 9.3 cents in the price of a gallon of gasoline or home heating oil. Since 0.3 cent is not a usual commodity of exchange, we can translate that to about a $1.50 increase in gasoline price for every 10,000 miles driven, not a very great increase. For those people who are heating their home with oil, and the gentlewoman from Rhode Island pointed out that that is true in her area, and it is certainly true in mine, the person who uses about 950 gallons per heating season, which is about average, will wind up paying $3 more as a result of this change.

So this is modest, it is small, and it is something, frankly, that I believe consumers, while they do not like to see increases in prices, when they understand that it goes in large measure to clean up the toxic waste sites that may or may not be in their community, can understand and can also live with.

Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I was not privileged to hear all of the figures of the gentleman, but I will read them and study them and try to evaluate them in the spirit in which they were given.

Assuming that the figures are correct in the sense the gentleman used them, I would also want to point out that the cost under the broad-based tax is extremely low to the individual. It is approximately $8 per year for a family making $20,000. The tax is so small that a family will not notice it, so we must compare one with the other.

I used figures down there when I said that may be a little bold as an assertion, but it is no more bold than when you would say that, because oil companies and oil refineries produce the products, or feedstocks produce them, they are, therefore, responsible for all the waste. throughout the United States: and that is simply not a fact. So I am just trying to say that there is a reason to have a balance when you make these arguments

Mr. DOWNEY of New York. Mr. Chairman, let me consume 1 additional minute of my time.

Mr. Chairman, the gentleman has piqued my curiosity and also since we are now throwing numbers around, there is no reason why we cannot throw some of the Environmental Protection Agency numbers or the chemical manufacturers associations' numbers.

In 1981, the quantities of waste generated by industrial type, and this is a 1981 figure, said that the chemical and petroleum industries were responsible for 71 percent of the quantities of waste generated, the chemical and petroleum industries, to repeat. All other industries were responsible for 29 percent of the wastes.

Under the national sales tax, value-added tax, the industrial share of who will pay, the petroleum industry will pay 18 percent of this problem, and all other industries 82 percent.

So on the one hand, they are generating the waste, and on the other hand, everybody else is paying the bill, clearly something that is unfair and a gross distortion.

□ 1345

Let us talk about the State of Texas. It is a wonderful State, and one that levies on the price of a barrel of oil a 4.6-percent tax on oil generated in the State of Texas. As opposed to the Frenzel-Downey amendment, which would tax a barrel of oil at 0.44 cents.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOWNEY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding, and I rise in strong support of the Downey-Frenzel amendment. I firmly believe that those who create the toxic wastes should pay for cleanup of the toxic wastes.

The Downey-Frenzel measure would retain our current "polluter pays" policy in Superfund financing.

Without this amendment, toxic waste clean-up will be financed by a so-called Superfund excise tax which is, in essence, a value-added tax.

An excise tax on manufacturer products may be called a SET or a VAT, but in reality it is a national sales tax.

What this means is that the consumers will pay the cost of toxic waste cleanup, rather than the industries that created the problem.

The Downey-Frenzel amendment will discourage industry from indiscriminantly creating hazardous wastes because it contains a provision for a "waste-end" tax.

Downey-Frenzel calls for a revenue raising mix that includes taxes on chemical feedstocks, waste disposal, and petroleum.

Some general revenue is included in the package, but the cleanup costs would be funded primarily by polluters rather than already overburdened American taxpayers.

I join Ways and Means Committee Chairman ROSTENKOWSKI in supporting this amendment.

I congratulate the authors of ths amendment on both sides of the aisle, and urge my colleagues to support it.

Mr. DUNCAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, let me say that we have gotten to the crux of the argument; that is, should the real polluters be required to pay?

Let me tell you, we have got some EPA studies that have identified the real polluters. In the Stringfellow site in California, for example, the 25 largest contributors, the 25 largest industries who contribute to that site are presently untaxed, and would go untaxed under the Downey amendment. Untaxed.

Let me give some examples: Avon, Beatrice Foods, Borden, Coca-Cola, Hewlitt-Packard, Holiday Inns, CBS, Sears, Pan Am, Revlon, Hormel, Knight-Ridder newspapers, have all contributed to those sites and yet they go untaxed under the Downey proposal.

Now, if you really want the polluters, those who are contributing the waste, to those streams that are causing Americans such problems today, you really need a broader-based tax. Now, either the Duncan proposal or the Ways and Means proposal aims at accomplishing that.

The Downey proposal says that you are going to tax again the originators of the products that were used by these polluters to make products we have all enjoyed.

I suppose we could go one step further and tax the dinosaurs if they were still around, or the fellow that made the dinosaurs, but the truth is, we ought to catch the end polluters; the guy that made a product, received a profit, and then polluted our environment as a result of it. Those are the folks that ought to be taxed. Under the Downey proposal, they go untaxed. Under the committee proposal or the Duncan proposal, they are taxed.

So I am suggesting to the Committee that if we really want to be equitable, aim it at the real polluters; they are all of us, all of the manufacturers, all of us in this society.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOWNEY of New York. Mr. Chairman, I yield myself such time as necessary to engage the gentleman from Louisiana in a colloquy.

The gentleman mentioned the Stringfellow site, and listed a number of the companies; Revlon, Avon, and others that have been identified at them.

Is my understanding correct that to the extent that liability for what they put into that site is determined that they will in fact be required to pay for cleanup?

Mr. TAUZIN. If the gentleman will yield, yes, and so will the chemical companies and the oil companies who contributed to those sites.

Under the gentleman's proposal, those people are taxed twice and the others are left out. The proposal says: "If we find you guilty, you pay. All of you." However, if we find a chemical company guilty, we make them pay at the site plus the tax.

Mr. DOWNEY of New York. I think that the point that those listening to the debate need to understand is that this law continues to go after all of the companies, whether they are chemical, oil, metal processing, or not that pollute, to the extent that they can be determined to be polluters and in the instances that they have been found, they will pay and pay heavily.

Mr. TAUZIN. Would the gentleman yield?

Mr. DOWNEY of New York. Yes, I yield.

Mr. TAUZIN. I cannot deny that. That is true, and I am glad the bill does that; but we are talking about the tax provisions. Who will pay into the orphan fund to take care of the sites where you find no identified polluter?

So who do we look for? We look for those who produce products that go into those sites. Who are they? They are the Avons, the Coca-Colas and all the others, and the chemical companies and oil companies.

We ought to tax them all, not just some.

Mr. DOWNEY of New York. If I can point out, the connection between the Avons and the Coca-Colas is infinitely more tenuous than it is among the Arcos, the du Ponts and the Dows, where the connection is much tighter much cleaner. They are the ones providing these toxic bullets that have been fired into the ground; they are the ones who need to be taxed.

Mr. TAUZIN. Would the gentleman further yield?

Mr. DOWNEY of New York. Yes.

Mr. TAUZIN. I submit to the gentleman, the connection is much cleaner when we find the manufacturer who is actually dumping his wastes in a site.

When those manufacturers are the ones that are dumping it, 87 percent of the time, and the chemical and oil companies are only contributing 13 to 14 percent of the total, then the tax that levies all of the burden on a 13-percent responsible part seems to be a bit confiscatory.

Mr. DOWNEY of New York. Well, I would just say further to the gentleman, to the extent, as I said before and as he readily admits; to the extent that the responsible parties have been found, they will be paying.

The CHAIRMAN. The gentleman from New York [Mr. DOWNEY] has consumed 2½ minutes. The gentleman from Tennessee [Mr. DUNCAN] has 7½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, it is enlightening to me; I did not know that Mr. DOWNEY's amendment did show some favoritism or delete special interests.

I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I am compelled to rise today in opposition to the amendment offered by the gentleman from New York [Mr. DOWNEY].

I realize that this is one of those issues about which reasonable men and women will disagree. I would hope that the alternatives to the Ways and Means Committee proposal are both defeated, so that we will ultimately have an up-or-down vote next week on the committee's proposal.

Just as beauty is deemed to be in the eye of the beholder, I suppose fairness is as well. There has been a lot of discussion today on what is fair and is not. It just does not seem fair to me that the feedstock tax on oil and chemical industries should rise dramatically while almost 10,000 companies in 33 major industries responsible for Superfund sites go untaxed. That does not seem fair.

Nor does it seem fair that 80 percent of the cleanup burden fall on the shoulders of the oil and chemical industries, as they would under the Downey amendment.

On the other hand, it does seem fair for a significant feedstock tax to be imposed on the petrochemical industry; and it does under the committee version of the bill.

It does seem fair to me that a waste end tax should fall on those who are creating the waste, and under the committee's version of the bill, that that occurs as well.

The Committee on Ways and Means' proposed also seems fair because there is a tax on gasoline. Damage caused by leaking underground storage tanks will be paid for by that small tax.

□ 1555

Finally, it seems fair to me that the broad cross section of industries, other than the oil and chemical industry, many of which are indeed responsible for causing existing dump sites, should help pay for their cleanup. For these reasons, I am compelled to again oppose both alternatives to the committee's package and would hope on Tuesday next that we would have an opportunity to defeat them and vote for the committee's proposal.

I thank the gentleman for yielding.

Mr. DOWNEY of New York. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from New York has 4 minutes remaining.

Mr. DOWNEY of New York. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Chairman, I would like to ask the gentleman from Texas, the distinguished member of the Ways and Means Committee, to clarify the purpose of a provision in the committee's bill on the Superfund revenue package. Specifically, I would like to ask whether the version of the so-called rainwater amendment accurately reflects the intent and purpose of the gentleman's original proposal?

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. BRUCE. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for his timely inquiry. As the gentleman is aware, the purpose of my original amendment was to assure that rainwater or other water that is not a listed or identified hazardous waste and which is injected into a UIC well—with a Safe Drinking Water Act permit—would not be taxed under Superfund. Unfortunately, under the wording of the final version of this provision, nonhazardous water would be taxed if it became mixed with a hazardous waste even if the mixing occurred immediately prior to injection. As the author of this amemdment, I can assure the House that that was not my original intent. I must say that my position did not prevail in its entirety. In most cases, mixing the hazardous waste immediately prior to disposal can be avoided only by spending a considerable amount of money on additional equipment, including pumps, to keep the two liquid streams separate. There seems little environmental benefit to such separation; it would simply be an additional expense for unnecessary equipment.

Mr. BRUCE. Under the gentleman's proposal would mixing of nonhazardous waste and hazardous waste as part of the actual production process be taxed?

Mr. PICKLE. Yes, clearly that type of mixing results in a waste stream that would be taxed because it is an actual hazardous waste and is part of the manufacturing process. However, it is not appropriate to tax a separate category of liquids, which would include rainwater, that are mixed with waste immediately prior to disposal.

I think that makes common sense. While I cannot offer an amendment at this time, I would hope that we might take another look at this bill as it moves forward and help clarify this point.

Mr. BRUCE. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] has 5½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, there are three reasons why this proposal must be defeated. First, it is unfair; second, it would cost jobs; and third, it would drive the oil and chemical industries offshore. On the unfairness issue, the EPA has identified over 100 companies that contribute to the pollution at these sites. Why should just two be cited? In addition to that, we have got cases where a national fund has been established, and in the past what did we do about those companies that have polluted in the past that have simply disappeared? By increasing the feedstock tax we further damaged the trade imbalances between domestically produced feedstocks and imported goods made from those feedstock building blocks.

The 71 statistic is therefore a bit unfair.

These are the reasons why this must be rejected but I do think that the gentleman from New York and the gentleman from Minnesota have studied this issue carefully, they have contributed tremendously to ensure that Superfund is done adequately, but regrettably this is not the way to do it.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Chairman, both the Public Works Committee and the Commerce Committee recommended to Ways and Means that Superfund be paid for with a broad-based tax. When the opponents of this broad-based tax were unable to defeat it, then many of them referred to red herring about what it was or what it was not. Let me take these things head on.

First of all, is the committee tax a VAT, a value-added tax? Absolutely not. If you look at the Treasury definition of the value-added tax or the European definition of a value-added tax, it does not meet the test. It is not a tax imposed to every step of the manufacturing process until it reaches the consumer.

In fact, the chairman of the Senate Finance Committee, the gentleman from Oregon, I can assure you, would not be supporting this broad-based tax if it had any resemblance to a value-added tax, particularly in light of the fact that Mr. Ullman of Oregon was defeated on that issue. It is not a value-added tax.

Is it a national sales tax? Again resorting to the U.S. Tax Code definition, it is not a sales tax. It is not imposed upon the retailer or the seller. As a matter of fact, exempt entirely are retailers, wholesalers, distributors; exempt entirely are small businesses; exempt entirely is food and processing of food. So it is not a national sales tax.

What is it? What it is, is a manufacturers excise tax.

The definition was lifted directly from that section of the U.S. Tax Code that provides for manufacturers excise tax. We already have it in the Tax Code. Virtually everybody in this House last year voted for one identical to this on sports fishing equipment and that money was used to finance the conservation fund. This is identical to the manufacturers excise tax on sports fishing equipment or the excise tax on firearms.

Now is a manufacturers excise tax regressive? Again the answer is "No." I would cite to you the study by William Nordhaus, former Chairman of the Council of Economic Advisers to the President, presently professor at Yale. His study shows that the Superfund excise tax will not even be a blip on the Consumer Price Index, no effect. In fact, his study further shows that the Downey substitute would be far more regressive because it is built into essential products; namely, energy, food, processed food, products essential to middle- and low-income families. It would be far more regressive.

So those of you who are thinking about voting for the Downey substitute, and particularly those of you who come from Northeastern States, think twice before you do it because when those home heating bills go up or the cost of gasoline goes up, you may well be held responsible. Or when

the domestic refiners go bust and become more dependent on foreigners, you may be held responsible.

Now let us use Mr. DOWNEY's test of fairness. Is the Downey substitute fair? Again I would say absolutely not because it violates the basic principle of "the polluter pays." Now we have heard statistics that were used last year also that oil and chemical companies generate the majority of the waste, and that is true. But that is not the important point. They clean up on site most of the waste that they produce. What is important, what we are trying to clean up in this bill, are the wastes that were dumped, disposed of, and when you look at that, the new EPA studies show that oil and chemcials only dispose of, are responsible for disposing of, 22½ percent of all those often waste toxic sites. Yet under the Downey substitute those two industries, responsible for 22½ percent of the problem we are trying to clean up, are going to be assessed 81 percent of the taxes to clean them up. Now that is not fair. So I think on the test of fairness the Downey substitute clearly fails.

The EPA study shows that of the NPL sites that they studied that there are 6,200 different parties responsible for the mess we are trying to clean up. Yet the Downey substitute would tell 15 of those parties that, "You are going to have to pay two-thirds of all the costs of cleaning up," and the 6,185 other responsible parties get off scot-free. That is not fair.

SUPERFUND TAX DISTRIBUTION ANALYSIS

Industry	Waste dispensers at NPL sites (Percent)	Percent of tax burden—			
		Current law	Ways and Means	Downey	Duncan
Chemical and allied producers	18	84	28.2	37.75	44.13
Oil companies	4.5	16	23.64	42.89	28.57
Total oil and chemical	22.5	100	51.84	80.64	72.7
Other parties	77.5		48.16	19.36	27.3

Mr. DOWNEY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in support of the Downey amendment. I would like to make a couple of points. First, this is indeed the first step toward a VAT. This country is not ready for a VAT. It has not been discussed in the Congress. It ought not to be approved as part of this Committee. Second, I can well understand why Congressmen representing oil States or States with large chemical companies would want to support this bill. I cannot understand why Congressmen from other States would want to do so, why they would want to ask all of the large corporations in their districts, whether or not they produce toxic wastes, to pay the freight for those companies that do. I cannot understand that. Third, I would ask Members to keep in mind that the bill that we voted on last year overwhelmingly in this House dealt a higher level of taxation on chemical companies and petroleum companies than does the Downey-Frenzel substitute. Last year in the bill that we passed, we assessed $6.7 billion of the cost of Superfund cleanup against chemical feedstocks and petroleum. The Downey-Frenzel substitute assesses only $1.5 billion. This is not a new and onerous burden which we are putting on companies in the chemical and petroleum areas.

Finally, just in relation to chemical companies, let me point out that in 1983, according to a study that I commissioned, the effective income tax rate of chemical companies as a group was −1 percent. They should hardly be complaining about a small increase in the Superfund tax when they can wind up with a negative effective income tax rate which they had in 1983. I urge support for the Downey amendment.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman from Ohio yield for one point?

Mr. PEASE. If I have the time, I will.

Mr. JONES of Oklahoma. Using the study on what the effective tax rate of chemical companies is, I would just like to say that petroleum companies from that same study have an effective tax rate of, I believe it was 41 percent, one of the highest in the country.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN] who has one-half minute remaining.

Mr. DUNCAN. Mr. Chairman, I yield one-half minute to the gentleman from Minnesota [Mr. VENTO].

Mr. DOWNEY of New York. Mr. Chairman, I also yield my one-half minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I ask unanimous consent that after I enter into a colloquy, I may have it placed after title II of the legislation.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, I would like to enter into a colloquy with the gentleman from California [Mr. FAZIO] and the gentleman from Oklahoma [Mr. MCCURDY] concerning section 213 of the bill.

As the principal architects of this section, I want to commend you for your work and environmental concern. Many of our colleagues and I have DOD-contaminated sites in our district and have been frustrated in our attempts to secure prompt action. Your proposal is a commendable effort to meet the needs of our constituents.

The gentlemen are aware of a situation in my district where a facility under the jurisdiction of the Secretary of Defense is responsible to some degree for the contamination of a municipal ground water supply. I am, of course, referring to the situation in New Brighton, MN, which was discussed in the House yesterday.

As a result of this ground water contamination, this community has had to spend nearly $4 million to acquire a new water supply by drilling new wells. Although this contamination was discovered 5 years ago, the Department of Defense has not provided any reimbursement or assistance to the city of New Brighton for the costs which it has incurred to acquire a new water supply.

As section 213 is presently written, it is not clear that New Brighton is eligible to receive reimbursement for these expenses.

First, while the preponderance of evidence of liability points to the Army, there has not been a final determination that the Army is solely responsible for New Brighton's ground water contamination. It is abundantly clear, however, that the Army will ultimately bear considerable responsibility for this contamination. Second, the language in the Defense Environmental Restoration Program [DERP], does not clearly establish that funds can be used to reimburse a local government for costs incurred in connection with the acquisition of a permanent alternative water supply obtained by the drilling of new wells. Finally, it is unclear as to whether DERP may reimburse a local government for costs which have already been incurred or whether the program is prospective and will only reimburse for costs incurred after the date of enactment of this legislation.

As the gentlemen know, these are critical questions which will impact upon the ability of the city of New

Brighton to provide safe, clean drinking water to its residents.

It is my understanding that the legislation passed in the other body has similar provisions for addressing the responsibilities of the Department of Defense and that specific differences in language will be resolved in conference. I am wondering if the gentlemen would be willing to consider certain modifications to this subsection of section 213 to clarify that New Brighton and other similarly situated local governments would be eligible for this program?

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. FAZIO. My colleague from Oklahoma, Mr. McCURDY, and I have had an opportunity to discuss this issue with the gentleman from Minnesota. We are well aware of the New Brighton situation. I wish to commend the gentleman for his persistent efforts on behalf of this community which he represents. I would like to assure the gentleman that I am not opposed to clarifications to remedy the concerns of New Brighton in our conference with the other body.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am pleased to yield to the gentleman from Oklahoma.

Mr. McCURDY. As the gentleman from California has stated, I understand the problem he faces concerning this legislation and believe that we can accommodate his concerns during the conference but I would ask that the gentleman assist us in obtaining more definitive information on the potential costs associated with this effort.

We cannot make a determination of liability but believe the Federal Government should be as responsible as any other private citizen for its actions, and I look forward to working with the gentleman from Minnesota to correct these concerns.

Mr. VENTO. I appreciate the cooperation of both gentleman. I will certainly provide any information and assistance that I can to the gentleman concerning the potential cost to the DOD's Defense Environmental Restoration Program.

Mr. Chairman, I appreciate the gentleman's cooperation.

Mr. LELAND. Mr. Chairman, today I rise in strong support of the financing formula for the Superfund Program as passed by the Committee on Ways and Means, which includes increased feedstock and petroleum taxes, the so-called Superfund excise tax or SET. I favor this approach for a number or reasons.

First of all, I see the Ways and Means package as the best method of implementing the principle of making the polluter pay. Recently, a list of responsible parties was published. The list identified many manufacturing companies as contributers to the proliferation or toxic wastes. It would be a crime to let companies who share responsibility for dumping to go free from paying for their part of the cleanup.

Under the present financing system, there is virtually no correlation between those who shoulder the majority of the cost of the Superfund Program and those who contributed to the problem. For example, two States have paid over 50 percent of the total funding for toxic waste cleanup since 1981, while they have generated only 18 percent of the hazardous substances. I would like to point out that these figures were compiled by the Congressional Budget Office.

We all know that many of the worst toxic waste sites have been abandoned, where no party can be held responsible. The intent of the Superfund Program is to pay for the cleanup sites where no single specific firm can be held responsible. Therefore, all industries that have been identified as contributers to the general hazardous waste problem should bear part of the cleanup cost. I see the SET financing formula as a step toward correcting this problem I have just described.

A broad-based tax on manufacturers to finance the fund is what both the House Energy and Commerce and Public Works Committees recommended the Ways and Means Committee adopt. We should follow the advice of the committees who have spent many long months debating the cleanup issue.

Furthermore, the SET formula is the only proposal that is trade neutral. This approach would help keep U.S. industries competitive in the international marketplace since it exempts exports from the tax, and applies the tax to all imports. Thus, the SET would ensure that imports do not have an unfair advantage in our domestic markets. The proposal offered by my colleagues from New York and Minnesota would seriously aggravate the already catastrophic trade deficit crisis, since the tax burden would fall primarily on domestic producers. Just the other day we passed a bill limiting textile imports because we correctly realized that foreign competitors have a disproportionate advantage over American companies in the U.S. market. Passage of the Downey-Frenzel amendment would mark a reversal of the clear policy statement we made with the textile vote.

It has been said that the SET is a regressive tax, that it will raise prices to the average consumer. This is simply not true. The tax itself is small—only eight ten-thousandths of the total price would be subject to tax. It is estimated that the SET will increase the price of a box of detergent by fifteen one-hundredths of a cent, and the price of midsize car by a little more than $6.

However, in contrast, sharp increases in the tax on the petroleum industry, as my colleagues have proposed, would hurt the poor in our country to a far greater degree than the SET tax. The costs of home heating oil, for example, would surely rise as a result of increases in the feedstock tax. Necessary—vital, if you will—costs such as this are ones which cannot be avoided by people at all income levels. Middle and lower income people spend a larger share of their income on items such as electricity, gasoline and food, all of which require petroleum in the production chain. I believe the Downey-Frenzel amendment is more regressive than the SET.

We cannot and should not delay enacting a new Superfund law. But we must finance it with a reliable source of revenue. The Superfund excise tax, supported by the Energy and Commerce and Public Works Committees and reported by the Ways and Means Committee, provides such a source. At the same time, it does not inflict greater damage on our trade imbalance and does not impact disproportionately on the poor. I urge my colleagues to support the Ways and Means Superfund financing mechanism.

□ 1410

The CHAIRMAN. All time has expired. Under the unanimous-consent agreement, debate for today has concluded.

Mr. DOWNEY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hoyer, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute.)

Mrs. BENTLEY. Mr. Speaker, I have requested this time for the purpose of inquiring of the majority leader what the program is for next week.

Mr. WRIGHT. Mr. Speaker, if the acting minority leader, the gentlewoman from Maryland, will yield, I will be glad to respond.

Mrs. BENTLEY. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, this concludes the business for today. When the House adjourns today, it will adjourn until noon Monday.

On Monday there will be recorded votes. Members are apprised that we expect recorded votes on Monday.

There are at least 18 bills listed under suspension of the rules.

The bills are as follows:

H. Con. Res. 239, commending Governments of Ireland and United Kingdom for agreeing on peaceful solution for Northern Ireland;

H.R. 2854, Postal Service employees' appeal rights with respect to adverse personnel actions;

H.R. 2976, to release public reverter on 5 acres in New York;

H.R. 3792, emergency farm credit bill;

H.R. 2935, Seafood Marketing Act;

H.R. 1957, ocean dumping amendments;

H.R. 2183, International Trade Court amendments;

H. Res. 303, vertical restraints guidelines resolution;

H.R. 3004, Criminal Justice Act revisions;

H.R. 3570, Judicial Improvements Act;

H.R. 3550, Rules Enabling Act;

H.R. 3773, Stevenson-Wydler Act amendments;

H.R. 1627, Kentucky Wilderness bill;

S. 1116, designate Mary McLeod Bethune House as a historic site;

H.R. 2483, Nassau Valley Marshlands Protection Area, Florida;

H.R. 1083, low-level radioactive waste amendments;

H. ——, interstate compacts to implement H.R. 1083; and

H.R. 1538, amendments to veterans health care.

One of those bills is the emergency farm credit bill, and there are others of some importance, as the gentlewoman can see.

On Tuesday the House will meet at noon and continue consideration of the Superfund amendments that have been debated today. There are 15 minutes remaining on the Duncan amendment and 15 minutes remaining on the Downey amendment. I think the gentleman from Massachusetts [Mr. FRANK] has an amendment. Then we would proceed to final passage.

Following that, the House will consider Senate Joint Resolution 238, approval of Nuclear Cooperation Agreement between the United States and the People's Republic of China, under 3 hours of debate in the Whole House, followed by H.R. 3525, the uniform regional poll closing, an open rule with 1 hour of debate, followed by House Joint Resolution 192, National Day of Remembrance of Man's Inhumanity to Man, an open rule with 1 hour of debate.

We would expect to rise in time on Tuesday for Members who desire to do so to attend the Christmas party at the White House.

Wednesday and the balance of the week the House will meet at 10 o'clock. The House will consider the conference report on House Joint Resolution 372, the debt limit increase, the so-called Gramm-Rudman proposals; H.R. 3838, the Tax Reform Act of 1985, subject to the granting of a rule; the conference report on House Joint Resolution 465, continuing appropriations, fiscal year 1986; the conference report on H.R. 3128, the Deficit Reduction Amendments of 1985; and the conference report on H.R. 2100, the Food Security Act of 1985, the so-called farm bill.

If we can complete those things by the close of business Friday, the 13th of December, we hope to adjourn sine die. If we are not able to complete action on at least the legislation that must be concluded, the debt limit increase, the continuing appropriations and the Superfund amendment, then we would have to continue until we did complete it.

Mrs. BENTLEY. Would we continue through the weekend, does the gentleman think, or would we go into the following week?

Mr. WRIGHT. Well, it would depend upon the situation. I do not like to anticipate a Presidential veto. I hope there is none. In the event there were a Presidential veto of any of those bills, the kind that would have to be enacted in order to continue the operation of our Government, then we would have to deal with it in one way or another. If it meant Saturday, we would be in on Saturday. If we were unable to complete it on Saturday, I suppose we would be in session on the following Monday.

Mrs. BENTLEY. Several Members have expressed the opinion that they would prefer working through the weekend and concluding it, rather than going into the following week, if they could avoid it.

Mr. WRIGHT. I think we will have to deal with that if and when the necessity arises. We still fully expect to conclude our business and be ready to adjourn by the close of business on Friday.

Mrs. BENTLEY. I thank the gentleman from Texas.

ADJOURNMENT TO MONDAY, DECEMBER 9, 1985

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER THE CALL OF THE CONSENT CALENDAR ON MONDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order to call the Consent Calendar on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TITLE X AND THE KEMP AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, I rise to correct any misunderstanding that may have arisen because of remarks made by my colleague, Mr. DURBIN, during debate on the continuing resolution last Wednesday.

I appeared before the Rules Committee on Tuedsay, December 3 to seek the opportunity to strike the Durbin amendment from the continuing resolution, which had been adopted in the Appropriations Committee and which amended an earlier Kemp amendment concerning family planning and abortion policy. As I stated there, my sole and exclusive purpose was to delete the Durbin amendment which I felt was a serious weakening of existing congressional policy against taxpayer funding of abortions.

Mr. DURBIN explained at that hearing that he had serious objections to the Kemp amendment as it related to family planning and had offered his amendment to ameliorate his problems. Mr. KEMP was not present at that time—although he did testify later I understand—and of course I did not, nor could I, speak for him, and certainly could not negotiate away his right to seek to offer his amendment on the floor. In fact, I expressly stated that I supported Mr. KEMP's amendment and, if given the opportunity would vote for it. However, I reiterated the fact that I was there solely to seek to delete the Durbin amendment. I agreed, when asked by the committee, to vote for the rule regardless of the disposition of the Kemp amendment because it was the only way open to eliminate the Durbin amendment from the committee bill and prevent its consideration on the House floor. I made no agreement with respect to the Kemp amendment, because I had no authority to do so and, in any event, supported it.

I hope this clears up any confusion or misunderstanding that might have arisen over this somewhat complicated matter.

THE CONSUMER BANK ACT OF 1985

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. LUNDINE] is recognized for 5 minutes.

Mr. LUNDINE. Mr. Speaker, today I have introduced legislation that will go a long way toward modernizing the delivery of financial services for individual consumers and other small borrowers. This bill, the Consumer Bank Act of 1985, will provide for the establishment and regulation of financial institutions, commonly known as consumer banks, which concentrate on providing noncommercial loans. This bill addresses one important aspect of the much larger problem that is facing our Nation's financial services system; an outmoded regulatory and legal structure that is inadequate to meet the needs of today's changing marketplace.

The concept of consumer banks is not a new one; it is however a controversial one. While no one would argue that consumers will be better served by increased access to financial services, there is considerable and continuing argument on how this can best be accomplished. Ever since the enactment of the Glass-Steagall Act in 1933, commerce and banking activities have been separated.

During the late 1920's and early 1930's, there was a growing perception that the large number of bank failures which occurred during that time had been caused by the involvement of banks in speculative activities. As the economic depression deepened, an increasing number of bank failures threatened to undermine public confidence in the entire banking system. It was essential that lawmakers restore confidence in the Nation's banks by protecting depositors' funds and by ensuring the safety and soundness of depository institutions. Out of this crisis, the Glass-Steagall Act was forged. Among other things, Glass-Steagall established the Federal depository institution insurance system and provided for the separation of commerce and banking, thereby limiting the types of investment activities in which banks could become involved.

The Glass-Steagall Act was a landmark piece of legislation. It accomplished the objectives of restoring confidence in the Nation's financial institutions, protecting depositors' funds, and providing a framework for the conduct of financial activities. This act has served as basic financial legislation for over 50 years. However, since the enactment of Glass-Steagall, there have been changes in our economy and advances in technology that would have been inconceivable to the lawmakers who drafted that legislation during the dark days of the depression. In the last few years automated teller machines, split second transfer of funds, new money market instruments, and the participation of financial conglomerates have resolutionized the banking world.

Because of these innovations, it is essential that that we modernize the fundamental regulatory structure governing our financial system. Unfortunately, these changes have been slow in coming. Lawmakers and regulators have not kept pace with the marketplace. Today, innovative companies that have not traditionally been involved in banking are developing new methods and options for the delivery of financial services. In many instances, however, these corporations are prohibited from providing such services to consumers. Conversely, many traditional depository institutions are finding it increasingly difficult to compete with the alternatives in financial services that are currently available.

The legislation I am introducing today would allow banks and other institutions to establish separate subsidiaries to provide consumer-oriented financial services to individuals and families. These institutions, which could be owned by companies not traditionally involved in banking, would be fully regulated and insured, and would be restricted in the types of loans and financial services they could provide. Under my legislation, consumer banks that are owned by larger financial institutions would be isolated from those institutions and subject to strict antitying provisions. In addition, these banks would be subject to the Community Reinvestment Act.

The concept of consumer banks is one that is supported not only by financial conglomerates such as Sears and other members of the financial community, but by a large number of consumer-oriented interest groups, including the National Urban Coalition, the Consumers' Union, the National Home Economics Association, and the National Caucus and Center on Black Aged. I believe that consumer banks would allow consumers more flexibility in choosing a financial institution.

While the establishment of consumer banks represents a significant step toward modernization of our financial services delivery system, the bill I am introducing today only addresses part of the problem. Earlier this year, I introduced a more comprehensive bill, H.R. 1923, which would provide broader powers for banks and other financial institutions. I believe that it is imperative that we in Congress begin to examine the issues surrounding financial services regulation. The Glass-Steagall Act, which has provided a sound foundation for our financial system for so many years, is no longer adequate.

Consumer banks will increase consumer access to financial services and improve efficiency in the marketplace by generating more competition. The time has come to modernize and improve our financial services industry. I hope that after reviewing this important legislation my colleagues will cosponsor the Consumer Bank Act.

AMENDMENT TO MERCHANT MARINE ACT OF 1936 WOULD SOLVE LOGISTICAL PROBLEM OF ARMED FORCES, PROVIDE EMPLOYMENT AND INCREASE NUMBER OF VESSELS UNDER AMERICAN FLAG

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 10 minutes.

Mrs. BENTLEY. Mr. Speaker, today I offered an amendment to the Merchant Marine Act, 1936, which will solve a serious logistical problem of our Armed Forces, provide needed employment to American shipyards and increase the number of vessels and seamen under the American flag.

At present, both by law and international convention, the carriage of military ammunition on commercial vessels is restricted. International treaties make it difficult for U.S. liner vessels to carry class A ammunition. When one of our ships does load this cargo, it entails major voyage changes. For example, it must be loaded at the last U.S. port of call and discharged at the first foreign port of call. The dangers involved in handling these cargoes also dictate strict insurance requirements. The result is that commercial American carriers often will not, but more frequently cannot, carry these cargoes. Public records demonstrate this since this cargo must be carried by American carriers or else be waived to foreign vessels by the U.S. Government.

Thus, while current routing, loading, and insurance requirements make these shipments burdensome commercial cargoes, this in turn leads to serious effects on our Armed Forces. Severe logistical restrictions have been experienced with ammunitions shipments. It is difficult to schedule these shipments, and the number of available ports necessarily becomes limited. This results in increased land transportation of explosives through populated areas which should be avoided. In addition,current practice has the effect of limiting this carriage to larger vessels. What is needed is greater strategic flexibility afforded by smaller vessels which can enter shallow draught ports. The only alternative to ships, transportation by air, is both too expensive and is subject to separate routing problems.

For these reasons, I am proposing an amendment to the law which would authorize domestic reconstruction of a class of small vessels which would specialize in military material movements. Current law set out at section 901(b) of the Merchant Marine Act, 1936, provides such vessels cannot transport more than 50 percent of all military cargoes until 3 years after reconstruction. As a consequence, these cargoes are being carried on foreign-flag vessels. Specialized smaller vessels are

available on the world market which could be rebuilt in American shipyards resulting in a lower cost vessel which ultimately will result in lower cost to the military than if otherwise available U.S.-flag tonnage were to be employed. Let me emphasize it is not available now. Moreover, the work of manning and rebuilding these vessels will provide jobs for Americans in an industry threatened both on land and at sea. Most importantly, as U.S.-flag vessesl, these ships would be available by law to our Armed Forces in the event of military need.

I emphasize again that his cargo is not being carried by U.S.-flag operators at present. This is not an attempt to divert cargo, but rather ensure that this specialized class of military cargo is returned to U.S.-flag carriage and U.S.-flag ships where it rightly belongs.

This legislation would permit the conversion and rebuilding in U.S. shipyards of small, specialized foreign vessels of 1,800 deadweight tons or less, which are not more than 10 years old at the beginning of reconstruction. It mandates a cost of rebuilding each vessel at least equal to the cost of purchase. Thus, while providing the benefits of increased income and employment at our beleaguered U.S. shipyards, it would also result in the addition of newer, faster, more specialized and strategically useful vessels not currenty available in the U.S.-flag fleet. Unfortunately, at present costs, such vessels cannot be constructed economically in U.S. yards. The alternative, therefore, is fewer jobs and higher military transport rates. We cannot and should not continue to rely on foreign flagships for such sensitive, strategic material movements.

The time to act is now, while there is a need for such vessels by the military, a need for work in our shipyards, and the availability of such modern designed speciality vessels for conversion to U.S. flag. For the immediate future, there exist sufficient fixed-cost government procurement contracts to accommodate these new vessels entering our fleet without increased costs to the military and thus ultimately to the taxpayer. This amendment will thus benefit our Armed Forces, our maritime community and ultimately the taxpayers.

For the foregoing reasons, I believe this amendment should be adopted.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. HYDE, for 5 minutes, today.

Mrs. BENTLEY, for 10 minutes, today.

(The following Members (at the request of Mr. LUNDINE) to revise and extend their remarks and include extraneous material:)

Mr. LUNDINE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SOLARZ, for 60 minutes, on December 9.

Mr. WHEAT, for 5 minutes, on December 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JONES of Oklahoma, and to include extraneous material, in connection with his remarks in the Committee of the Whole today.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. DORNAN of California.

Mr. LIVINGSTON.

Mr. THOMAS of California.

Mr. SCHUETTE.

Mr. BROOMFIELD.

Mr. SWINDALL.

(The following Members (at the request of Mr. LUNDINE) and to include extraneous matter:)

Mr. MANTON.

Mr. MICA.

Mr. WISE.

Mr. LAFALCE.

Mr. ACKERMAN.

Mr. LUNDINE.

Mr. OBERSTAR.

Mr. MARKEY.

Mr. LEVINE of California.

Mr. LEHMAN of California.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1082. An act granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact; to the Committee on the Judicary.

S. 1684. An act to declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1264. An act to amend the National Foundation of the Arts and the Humanities Act of 1965, and for other purposes.

ADJOURNMENT

Mr. COELHO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 27 minutes p.m.) under its previous order, the House adjourned until Monday, December 9, 1985, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2357. A communication from the President of the United States, transmitting the report on the Federal agencies' implementation of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(p); to the Committee on Government Operations.

2358. A letter from the Administrator, Environmental Protective Agency, transmitting the semiannual report on the activities of the inspector general covering the period from April 1, 1985 to September 30, 1985, pursuant to Public Law 95-452, section 5(b); to the Committee on Governmental Operations.

2359. A letter from the Adjutant General, United States Spanish War Veterans, transmitting proceedings of the 85th Stated National Encampment of the United States Spanish War Veterans, Jacksonville, FL, pursuant to 44 U.S.C. 1332 (H. Doc. No. 99-134); to the Committee on Veterans' Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. Supplemental report on H.R. 3492 (Rept. 99-401, Pt. 2). Ordered to be printed.

Mrs. BURTON of California: Committee on Rules. House Resolution 333. Resolution providing for the consideration of Senate Joint Resolution 238, joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Rept. 99-421). Referred to the House Calendar.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 3550. A bill to amend the provisions of titles 18 and 28 of the United States Code commonly called the enabling acts to make modifications in the system for the promulgation of certain rules for certain Federal judicial proceedings, and for other purposes; with an amendment (Rept. 99-422). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 3570. A bill to amend title 28, United States Code, to reform and improve the Federal Justices and Judges survivors' annuities program, and for other purposes, with an amendment (Rept. 99-423, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2976. A bill to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State, with an amendment (Rept. 99-424). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3792. A bill to amend the Farm Credit Act of 1971, and for other purposes; with an amendment (Rept. 99-425). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 3570. Referred to the Committee on Appropriations for a period ending not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARMEY (for himself, Mr. FRENZEL, Mr. YOUNG of Alaska, Mr. WHITEHURST, Mr. DORNAN of California, Mr. CRANE, and Mr. DELAY):

H.R. 3872. A bill to strengthen the international competitiveness of the United States and maintain domestic economic strength; jointly to the Committees on Foreign Affairs, Energy and Commerce, Government Operations, and the Judiciary.

By Mrs. BENTLEY:

H.R. 3873. A bill to clear impediments to the documentation of foreign-built coaster vessels for specialized foreign trade carriage purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LAFALCE:

H.R. 3874. A bill entitled: the "Competitive Exchange Rate Act of 1985"; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVINE of California:

H.R. 3875. A bill to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law; to the Committee on Foreign Affairs.

By Mr. LUNDINE:

H.R. 3876. A bill to establish a system for regulating depository institutions to be known as consumer banks, and for other purposes: to the Committee on Banking, Finance and Urban Affairs.

By Mr. MONTGOMERY (by request):

H.R. 3877. A bill to amend title 38, United States Code, to provide for the exclusion of residents and interns from coverage under the Federal Labor-Management Relations Statute; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

By Mr. LANTOS:

H. Con. Res. 242. Concurrent resolution expressing the sense of the Congress that the President should exert every effort to schedule annual summit meetings between the President of the United States and the leader of the Soviet Union: to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that the Government of the Republic of South Africa should release Nelson Mandela from prison and lift the restrictions imposed on Winnie Mandela; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. PARRIS.

H.R. 723: Mr. TALLON.

H.R. 776: Mr. NIELSON of Utah.

H.R. 864: Mr. COURTER.

H.R. 903: Mr. MORRISON of Connecticut, Mr. STUDDS, Mr. RANGEL, Mr. HOWARD, Mr. MATSUI, Mr. WHEAT, Ms. MIKULSKI, Mr. VENTO, Mr. GRAY of Pennsylvania, and Mr. HAYES.

H.R. 945: Mr. BOEHLERT.

H.R. 1294: Mr. PURSELL and Mr. STOKES.

H.R. 1946: Mr. GINGRICH and Mr. HYDE.

H.R. 2582: Mr. KOSTMAYER, Mr. BEDELL, Mr. REID, and Mrs. BOXER.

H.R. 2951: Mr. BOEHLERT.

H.R. 3018: Mr. MITCHELL, Mr. MORRISON of Connecticut, Ms. KAPTUR, Mr. WEISS, and Mr. MRAZEK.

H.R. 3120: Mrs. BENTLEY, Mrs. COLLINS, Mr. EVANS of Illinois, Mr. FUSTER, Mr. FIELDS, Mr. RALPH M. HALL, Mr. HERTEL of Michigan, Mr. HORTON, Mr. JEFFORDS, Mr. LELAND, Mr. LENT, Mr. MACKAY, Mr. MARTINEZ, Mr. MCEWEN, Mr. MOODY, Mr. RAHALL, Mr. ROBINSON, Mr. ROE, Mr. TALLON, and Mr. WORTLEY.

H.R. 3121: Mr. WISE, Mr. HERTEL of Michigan, Mr. CROCKETT, and Mrs. SCHROEDER.

H.R. 3281: Mr. FRANK, Mr. MURPHY, Mr. DYMALLY, Mr. MOLLOHAN, Mr. LAGOMARSINO, Mr. DORGAN of North Dakota, Mr. EVANS of Illinois, and Mr. TOWNS.

H.R. 3438: Mr. DOWDY of Mississippi.

H.R. 3510: Mr. LOWRY of Washington, Mr. MRAZEK, Mr. GEJDENSON, Mr. HANSEN, Mr. FISH, Mrs. SCHROEDER, Mr. BROWN of California, Ms. MIKULSKI, and Mr. TORRES.

H.R. 3531: Mr. SAVAGE, and Mrs. BOXER.

H.R. 3549: Mr. SABO, Mr. CONYERS, Mr. MORRISON of Connecticut, Mr. RANGEL, Mr. MONTGOMERY, Mrs. SCHNEIDER, and Mr. BEDELL.

H.R. 3555: Mr. DE LUGO, Mr. KILDEE, Mr. BLAZ, Mr. MONTGOMERY, Mr. CLINGER, Mr. AKAKA, Mr. COATS, Mr. TAUZIN, Mr. LANTOS, and Mr. HORTON.

H.R. 3567: Mr. TRAFICANT and Mr. EDWARDS of Oklahoma.

H.R. 3615: Mr. LEACH of Iowa and Mrs. SMITH of Nebraska.

H.R. 3631: Mr. JEFFORDS.

H.R. 3733: Mr. MATSUI, Mr. MARTINEZ, Mr. PORTER, and Mr. CROCKETT.

H.R. 3742: Mr. BURTON of Indiana, Mr. BLILEY, Mr. NICHOLS, Mr. HYDE, Mr. LAGOMARSINO, Mr. SMITH of Florida, Mr. OXLEY, Mr. DIOGUARDI, Mrs. BENTLEY, Mr. MONSON, Mr. PORTER, Ms. MIKULSKI, Mr. MARTINEZ, Mr. ECKART of Ohio, Mr. MCKINNEY, Mr. DE LA GARZA, Mr. DANIEL, Mr. BATEMAN, Mrs. JOHNSON, Mr. BIAGGI, Mr. SHAW, Mr. CHAPMAN, and Mr. DARDEN.

H.J. Res. 167: Mr. BATEMAN, Mr. HARTNETT, Mr. MCEWEN, Mr. MCKERNAN, Mr. HUGHES, Mr. BARTON of Texas, Mr. MURTHA, Mr. ROSE, Mr. DWYER of New Jersey, Mr. MCCLOSKEY, Mr. KANJORSKI, Mr. VANDER JAGT, Mr. MACKAY, Mr. MCHUGH, Mr. MOODY, Mr. IRELAND, Mr. MCCOLLUM, and Mr. DERRICK.

H.J. Res. 375: Mr. ACKERMAN, Mr. ADDABBO, Mr. AKAKA, Mr. ANDREWS, Mr. BATES, Mr. BENNETT, Mr. BIAGGI, Mr. BUSTAMANTE, Mr. CARPER, Mr. CHAPPIE, Mr. COELHO, Mr. DICKINSON, Mr. DOWDY of Mississippi, Mr. FAZIO, Mr. FEIGHAN, Mr. FOLEY, Mr. GUARINI, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GREEN, Mr. HARTNETT, Mr. HYDE, Mr. IRELAND, Ms. KAPTUR, Mr. KEMP, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mrs. LLOYD, Mr. LOEFFLER, Mr. MCDADE, Mr. MATSUI, Mrs. MEYERS of Kansas, Mr. MRAZEK, Mr. NIELSON of Utah, Mr. ORTIZ, Mr. OWENS, Mr. PANETTA, Mr. PURSELL, Mr. ROBERTS, Mr. ROSE, Mr. RUDD, Mr. SCHEUER, Mr. STOKES, Mr. STRATTON, Mr. TRAFICANT, Mr. TRAXLER, Mr. VENTO, Mr. WHEAT, and Mr. WILSON.

H. Con. Res. 200: Mr. CLINGER, Mr. BURTON of Indiana, Mr. KINDNESS, Mr. LAGOMARSINO, and Mr. WILSON.

H. Con. Res. 212: Mr. FISH and Mr. BATEMAN.

H. Res. 60: Mr. JEFFORDS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions, and papers were laid on the Clerk's desk and referred as follows:

256. By the SPEAKER: Petition of the Embassy of the United States of America, Madrid, relative to the 1992 Olympic Games; to the Committee on Foreign Affairs.

257. Also, petition of Peter J. Cojanis, Washington, DC, relative to Talmudic law; to the Committee on the Judiciary.

258. Also, petition of the National Association of State Departments of Agriculture, Washington, DC, relative to farmers and the financial crisis; to the Committee on Ways and Means.

259. Also, petition of the American Bar Association, Chicago, IL, relative to black revolutionary war patriots; jointly, to the Committees on House Administration and Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3838

By Mr. APPLEGATE:

—On page 1045, after section 1407, within title XIV, insert the following new Section:

SECTION 1408. EXCLUSION FROM GROSS INCOME FOR CERTAIN SETTLEMENTS OF CLAIMS FOR POST-RETIREMENT MEDICAL INSURANCE COVERAGE

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, the gross income of an individual shall not include any amount received (whether in a lump sum or in periodic payments) in settlement of claims for post-retirement medical insurance coverage under the terms of a collective bargaining agreement if such coverage is the subject of a suit filed on January 5, 1984, in the United States District Court in the Western District of Pennsylvania.

(b) EFFECTIVE DATE.—This section shall apply to amounts received in taxable years beginning after December 31, 1983.

By Mr. BENNETT:

Amendment in the nature of a substitute.

—Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. (ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS.)

Part I of subchapter A of chapter 1 of the Internal Revenue code of 1954 (relating to tax on individuals) is amended by inserting after section 3 the following new section:

SEC. 4. MINIMUM TAX ON ECONOMIC INCOME.

"(a) TAX IMPOSED.—In the case of an individual, there is hereby imposed for each taxable year a tax of 10 percent of the amount (if any) by which the taxpayer's economic income for the taxable year exceeds the exemption amount.

"(b) ECONOMIC INCOME.—For purposes of this section, the term 'economic income' means—

"(1) the total amount of the income received or accrued during the taxable year (including tax-exempt interest), reduced by

"(2) the sum of—

"(A) the ordinary and necessary expenses paid or incurred during the taxable year in connection with the production of such income, plus

"(B) a reasonable allowance for the diminution in the value of property used in connection with the production of such income.

"(c) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means—

"(1) $40,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(2) $30,000 in the case of an individual who is not married (as defined in section 143) and is not a surviving spouse, and

"(3) $20,000 in the case of a married individual who files a separate return.

"(d) REDUCTION IN MINIMUM TAX FOR OTHER INCOME TAX LIABILITY.—The amount of tax imposed by subsection (a) shall be reduced (but not below 0) by the taxpayer's liability for tax under other sections of this chapter."

SEC. 2. (ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.)

Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by redesignating sections 57 and 58 as sections 58 and 59, respectively, and by inserting after section 56 the following new section:

"SEC. 57.

"(a) TAX IMPOSED.—In the case of a corporation, there is hereby imposed for each taxable year a tax (to be calculated separately from all other taxes imposed by this chapter) equal to 10 percent of so much of the net income of such corporation for the taxable year as exceeds $10,000.

"(b) Net Income.—For purposes of this section, the term 'net income' means that taxpayer's net income before tax expense as defined by generally accepted accounting principles.

"(c) SPECIAL RULES.—

"(1) REDUCTION FOR OTHER INCOME TAX LIABILITY.—The amount of the tax imposed by this section shall be reduced (but not below zero) by an amount equal to the taxes imposed by other sections of this chapter for the taxable year reduced by any credits allowable against such tax.

"(2) NO CREDITS ALLOWED.—No credit shall be allowable against the tax imposed by this section."

SEC. 3. (a)(1) The table of sections for part 1 of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 3 the following new item:

"Sec. 4. Minimum tax on economic income."

(2) Subsection (b) of section 26 of such Code is amended by redesignating subparagraphs (A) thrugh (H) as subparagraphs (B) thrugh (I), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

(A) section 4 (relating to minimum tax on net income),".

(b) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by striking out the item relating to sections 57 and 58 and inserting in lieu thereof the following:

"Sec. 57. Alternative minimum tax for corporations.

"Sec. 58. Items of tax preference.

"Sec. 59. Rules for application of this part."

SEC. 4. The amendments made by this Act shall apply to taxable years ending after the date of the enactment of this Act.

(Amendment in the nature of a substitute to H.R. 3838.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. (ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS.)

Part 1 of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to tax on individuals) is amended by inserting after section 3 the following new section:

"SEC. 4. MINIMUM TAX ON ECONOMIC INCOME.

"(a) TAX IMPOSED.—In the case of an individual, there is hereby imposed for each taxable year a tax of 10 percent of the amount (if any) by which the taxpayer's economic income for the taxable year exceeds the exemption amount.

"(b) ECONOMIC INCOME.—For purposes of this section, the term 'economic income' means—

"(1) the total amount of the income received or accrued during the taxable year (including tax-exempt interest), reduced by

"(2) the sum of—

"(A) the ordinary and necessary expenses paid or incurred during the taxable year in connection with the production of such income, plus

"(B) a reasonable allowance for the diminution in the value of property used in connection with the production of such income.

"(c) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means—

"(1) $40,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(2) $30,000 in the case of an individual who is not married (as defined in section 143) and is not a surviving spouse, and

"(3) $20,000 in the case of a married individual who files a separate return.

"(d) REDUCTION IN MINIMUM TAX FOR OTHER INCOME TAX LIABILITY.—The amount of tax imposed by subsection (a) shall be reduced (but not below 0) by the taxpayer's liability for tax under other sections of this chapter."

SEC. 2. (ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.)

Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by redesignating sections 57 and 58 as sections 58 and 59, respectively, and by inserting after section 56 the following new section:

SEC. 57.

"(a) TAX IMPOSED.—In the case of a corporation, there is hereby imposed for each taxable year a tax (to be calculated separately from all other taxes imposed by this chapter) equal to 10 percent of so much of the net income of such corporation for the taxable year as exceeds $10,000.

"(b) NET INCOME.—For purposes of this section, the term 'net income' means the taxpayer's net income before tax expense as defined by generally accepted accounting principles.

"(c) SPECIAL RULES.—

"(1) REDUCTION THE OTHER INCOME TAX LIABILITY.—The amount of the tax imposed by this section shall be reduced (but not below zero) by an amount equal to the taxes imposed by other sections of this chapter for the taxable year reduced by any credits allowable against such tax.

"(2) NO CREDITS ALLOWED.—No credit shall be allowable against the tax imposed by this section."

SEC. 3. (a)(1) The table of sections for part I of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 3 the following new item:

"Sec. 4. Minimum tax on economic income."

(2) Subsection (b) of section 26 of such Code is amended by redesignating subparagraphs (A) through (H) as subparagraphs (B) through (I), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 4 (relating to minimum tax on net income),".

(b) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 57 and 58 and inserting in lieu thereof of the following:

"Sec. 57. Alternative minimum tax for corporations.

"Sec. 58. Items of tax preference.

"Sec. 59. Rules for application of this part.

SEC. 4. The amendments made by this Act shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. BIAGGI:

—Title XIII (relating to compliance and tax administration) is amended by adding at the end thereof the following new part:

PART X—TAX AMNESTY PROVISIONS

SEC. 1361. WAIVER OF CRIMINAL AND CIVIL PENALTIES AND 50 PERCENT OF INTEREST PENALTY.

(a) GENERAL RULE.—In the case of any underpayment of Federal tax for any taxable period, the taxpayer shall not be liable for any criminal or civil penalty (or addition to tax) or 50 percent of any interest penalty with respect to such underpayment if—

(1) during the amnesty period—

(A) the taxpayer files a written statement with the Secretary which sets forth—

(i) the name, address, and taxpayer identification number of the taxpayer,

(ii) the amount of the underpayment for the taxable period, and

(iii) such information as the Secretary may require for purposes of determining the correct amount of the underpayment for the taxable period, and

(B) the taxpayer agrees to a waiver of any restriction on the assessment or collection of such underpayment,

(2) when filing the statement described in paragraph (1), the taxpayer pays the amount of the underpayment shown on such statement, and

(3) not later than 30 days after the date on which the taxpayer is notified by the Secretary of the amount which equals 50 percent of the interest payable with respect to the underpayment (and the amount of any tax delinquent amount with respect to the taxpayer), the taxpayer pays the full amount of such interest (and such tax delinquent amount).

(b) INSTALLMENT PAYMENT OF TAX PERMITTED IN CERTAIN CASES.—The requirements of paragraphs (2) and (3) of subsection (a) shall be treated as met if—

(1) the taxpayer in the statement filed under subsection (a)(1) requests the privilege of making installment payments under this subsection, and

(2) the taxpayer enters into an agreement with the Secretary for the payment (in installments) of the amounts required to be paid under paragraphs (2) and (3) of subsection (a) within 30 days after contacted by the Secretary for purposes of entering into such an agreement (or in any case where the Secretary determines that permitting the payment in installments of such amounts is not appropriate, the taxpayer pays the entire amount of such amounts within 30 days after notified by the Secretary of such determination).

(c) AMOUNT OF UNDERPAYMENT DISPUTED.—If the amount under paragraph (3) of subsection (a) is disputed by the taxpayer, such amount must be paid within the period described in subsection (a). If the taxpayer is entitled to a refund as a result of the resolution of the dispute through normal administrative and judicial procedures, the Secretary shall refund the amount plus interest at the 6-month Treasury bill rate in effect as of the date the dispute is resolved.

(d) AMNESTY NOT TO APPLY IN CERTAIN CASES.—

(1) WHERE TAXPAYER CONTACTED BEFORE STATEMENT FILED.—Subsection (a) shall not apply to any underpayment of Federal tax for any taxable period to the extent that before the statement is filed under subsection (a)(1)—

(A) such underpayment was assessed,

(B) a notice of deficiency with respect to such underpayment was mailed under section 6212, or

(C) the taxpayer was informed by the Secretary that the Secretary has questions about the taxpayer's tax liability for the taxable period.

(2) WHERE FRAUD IN SEEKING AMNESTY OR WHERE CRIMINAL INVESTIGATION PENDING.—Subsection (a) shall not apply to any taxpayer if—

(A) any representation made by such taxpayer under this section is false or fraudulent in any material respect, or

(B) a Justice Department referral (within the meaning of section 7602(c)(2)) is in effect with respect to such taxpayer as of the time the statement is filed under subsection (a)(1).

(3) ILLEGAL SOURCE INCOME.—Subsection (a) shall not apply to any underpayment of Federal tax with respect to income resulting from a criminal offense under Federal, State, or local law.

(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AMNESTY PERIOD.—The term "amnesty period" means the 6-month period which begins on July 1, 1985, or on the first July 1 after the date of the enactment of this Act.

(2) FEDERAL TAX.—The term "Federal tax" means any tax imposed by the Internal Revenue Code of 1985.

(3) TAXABLE PERIOD.—

(A) IN GENERAL.—The term "taxable period" means—

(i) in the case of a tax imposed by subtitle A, the taxable year, or

(ii) in the case of any other tax, the period in respect of which such tax is imposed.

(B) SPECIAL RULE FOR TAXES WITH NO TAXABLE PERIOD.—In the case of any tax in respect of which there is no taxable period, any reference in this section to a taxable period shall be treated as a reference to the taxable event.

(4) ADDITION TO TAX INCLUDES ADDITIONAL AMOUNT.—The term "addition to tax" includes any additional amount.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) FORM OF STATEMENT.—Any statement under subsection(a)(1) shall be filed in such manner and form as the Secretary shall prescribe.

(7) NOTICE TO RELATED PERSONS TREATED AS NOTICE TO THE TAXPAYER.—

(A) IN GENERAL.—For purposes of subsection (d)(1)(C), any notice to a related person with respect to a matter which may materially affect the tax liability of the taxpayer for any taxable period shall be treated as notice to the taxpayer with respect to such taxable period.

(B) RELATED PERSON.—For purposes of subparagraph (A), the term "related person" means—

(i) any person who during the taxable period bore a relationship to the taxpayer described in section 267(b) of the Internal Revenue Code of 1985,

(ii) any partnership in which the taxpayer was a partner during the taxable period, or

(iii) any S corporation (as defined in section 1361) in which the taxpayer was a shareholder during the taxable period.

(f) PERIODS FOR WHICH AMNESTY AVAILABLE.—The provisions of this section shall apply only to underpayments of Federal tax for taxable periods ending before January 1, 1984 (or, in the case of a tax for which there is no taxable period, taxable events before January 1, 1984).

(g) ADDITIONAL AUTHORIZATIONS.—

(1) AMNESTY PROGRAM.—There are authorized to be appropriated such sums as are necessary to administer the amnesty program, using special efforts to publicize such program including direct-mail contacts and radio, television, and print-media advertising.

(2) ADDITIONAL IRS AGENTS.—There are authorized to be appropriated such sums as are necessary to employ 3,000 additional Internal Revenue Service agents.

SEC. 1362. CRIMINAL AND CIVIL TAX PENALTIES INCREASED BY 50 PERCENT.

(a) CIVIL PENALTIES.—

(1) Paragraphs (2) and (3) of section 6651(a) (relating to failure to file tax return or to pay tax) are each amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof "0.75 percent".

(2) The following provisions are each amended by striking out "1 percent" each place it appears and inserting in lieu thereof "1.5 percent".

(A) Section 6657 (relating to back checks).

(B) Subsection (b) of section 6706 (relating to original issue discount information requirements).

(C) Paragraph (2)(B)(i) of section 6707(a) (relating to failure to register tax shelter).

(3) The following provisions are each amended by striking out "5 percent" each place it appears and inserting in lieu thereof "7.5 percent".

(A) The heading and paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts).

(B) Paragraph (5)(A)(i) of section 6013(b) (relating to joint return after filing separate return).

(C) Paragraph (1) of section 6038(c) (relating to penalty of reducing foreign tax credit).

(D) Subsection (a)(1) of section 6651 (relating to file tax return or to pay tax).

(E) Subsection (a)(3)(A)(ii) and (G)(3)(B) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(F) Subsection (1) of section 6653(a) (relating to failure to pay tax).

(G) Subsection (a) of section 6656 (relating to failure to make deposit of taxes or overstatement of deposits).

(H) Subsection (a) of section 6677 (relating to failure to file information returns with respect to certain foreign trusts).

(I) Subsection (a) of section 6689 (relating to failure to file notice of redetermination of foreign tax).

(4) The following provisions are each amended by striking out "10 percent" each place it appears and inserting in lieu thereof "15 percent".

(A) Subsection (m)(5)(B) and (o)(2) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts).

(B) Paragraph (1) of section 408(f) (relating to additional tax on certain amounts included in gross income before age 59½).

(C) Paragraph (1) of section 6038(c) (relating to penalty of reducing foreign tax credit).

(D) Subsection (3)(A)(i) of section 6652(a) (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock).

(E) Subsection (a) of section 6661 (relating to substantial understatement of liability).

(F) Subsection 6683 (relating to failure of foreign corporation to file return of personal holding company tax).

(5) The following provisions are each amended by striking out "10 percent" each place it appears and inserting in lieu thereof "15 percent".

(A) Subsection (b) of section 6659 (relating to addition to tax in the case of valuation overstatements for purposes of the income tax).

(B) Subsection (b) of section 6660 (relating to addition to tax in the case of valuation understatement for purposes of the estate or gift taxes).

(6) Subsection (a) of section 6700 (relating to promoting abusive tax shelters, etc.) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent".

(7) The following provisions are each amended by striking out "20 percent" each place it appears and inserting in lieu thereof "30 percent".

(A) Subsection (b) of section 6659 (relating to addition to tax in the case of valuation overstatements for purposes of the income tax).

(B) Subsection (b) of section 6660 (relating to addition to tax in the case of valuation understatement for purposes of the estate or gift taxes).

(8) The following provisions are each amended by striking out "25 percent" each place it appears and inserting in lieu thereof "37.5 percent".

(A) Subsection (b) of section 6038B (relating to notice of certain transfers to foreign persons).

(B) Paragraphs (1), (2), and (3) of section 6651(a) (relating to failure to file tax return or to pay tax).

(C) Paragraph (1) of section 6656(b) (relating to overstated deposit claims).

(9) Subsection (f) of section 6659 (relating to addition to tax in the case of valuation overstatements for purposes of the income tax) is amended by striking out "30 percent" and inserting in lieu thereof "45 percent".

(10) The following provisions are each amended by striking out "30 percent" each place it appears and inserting in lieu thereof "45 percent".

(A) Subsection (b) of section 6659 (relating to addition to tax in the case of valuation overstatements for purpose of the income tax).

(B) Subsection (b) of section 6660 (relating to addition to tax in the case of valuation understatement for purposes of the estate or gift taxes).

(11) The following provisions are each amended by striking out "50 percent" each place it appears and inserting in lieu thereof "75 percent".

(A) Paragraph (5)(A)(ii) of section 6013(b) (relating to joint return after filing separate return).

(B) Paragraph (2) of section 6332(c) (relating to enforcement of levy).

(C) Subsection (c) of section 6652 (relating to failure to report tips).

(D) Subsection (a)(2), (b)(1), (b)(2), and (e) of section 6653 (relating to failure to pay tax).

(12) Subsection (b) of section 6697 (relating to assessable penalties with respect to liability for tax of qualified investment entities) is amended to read as follows:

"(b) 75-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed 75 percent of the amount of the deduction allowed by section 860(a) for such taxable year."

(13) Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out "100 percent" and inserting in lieu thereof "150 percent".

(14) The following provisions are each amended by inserting "150 percent of" after "equal to" each place it appears.

(A) Subsection (a) of section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax).

(B) Section 6684 (relating to assessable penalties with respect to liability for tax under chapter 42).

(C) Subsection (a) of section 6697 (relating to assessable penalties with respect to liability for tax of qualified investment entities).

(D) Subsection (a) of 6699 (relating to assessable penalties relating to tax credit employee stock ownership plans).

(15) Paragraph (1) of section 6621(d) (relating to interest on substantial underpayments attributable to tax motivated transactions) is amended by striking out "120 percent" and inserting in lieu thereof "180 percent".

(16) Subsection (a) of section 6675 (relating to excessive claims with respect to the use of certain fuels) is amended by striking out "Two times" and inserting in lieu thereof "Three times".

(17) Subsection (b) and (e) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "$1" and inserting in lieu thereof "$1.50".

(18) The following provisions are each amended by striking out "$5" each place it appears and inserting in lieu thereof "$7.50".

(A) Section 6657 (relating to bad checks).

(B) Subsection (a) of section 6687 (relating to failure to supply identifying numbers).

(C) Subsection (a) of section 6687 (relating to failure to supply information with respect to place of residence).

(D) Paragraph (2) of section 6695(e) (relating to failure to file correct information return).

(19) The following provisions are each amended by striking out "$10" each place it appears and inserting in lieu thereof "$15".

(A) Subsections (d), (i), and (j) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(B) Subsection (a) of section 6675 (relating to excessive claims with respect to the use of certain fuels).

(20) The following provisions are each amended by striking out "$25" each place it appears and inserting in lieu thereof "$37.50".

(A) Subsections (f), (g)(2), and (h) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(B) Subsection (a), (b), and (c) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons).

(21) The following provisions are each amended by striking out "$50" each place it appears and inserting in lieu thereof "$75".

(A) Paragraphs (1) and (2) of section 6652(a) (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock).

(B) Section (relating to fraudulent statement or failure to furnish statement to employee).

(C) Subsection (a), (b), and (c) of section 6676 (relating to failure to supply identifying numbers).

(D) Subsection (a), (b), and (c) of section 6678 (relating to failure to furnish certain statements).

(E) Section 6690 (relating to fraudulent statement or failure to furnish statement to plan participant).

(F) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities).

(G) Subsection (d) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons).

(H) Subsection (b)(1) of section 6698 (relating to failure to file partnershp return).

(I) Subsection (b)(1) of section 6704 (relating to failure to keep records necessary to meet reporting requirements under section 6047(e)).

(J) Subsection (a) of section 6706 (relating to original issue discount information requirements).

(K) Paragraph (2) of section 6707(b) (relating to failure to furnish tax shelter identification number).

(L) Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters).

(22) The following provisions are each amended by striking out "$100" each place it appears and inserting in lieu thereof "$150".

(A) Subsection (as) of section 6651 (relating to failure to file tax return or to pay tax.

(B) Paragraph (3)(A)(iii) of section 6652(a) (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock).

(C) Section 6686 (relating to failure to file returns or supply information by DISC or FSC).

(D) Section 6688 (relating to assessable penalties with respect to information required to be furnished under section 7654).

(E) Subsection (a) of section 6694 (relating to understatement of taxpayer's liability by income tax return preparer).

(F) Paragraph (1) of section 6695(e) (relating to failure to file correct information return).

(G) Paragraph (1) of section 6707(b) (relating to failure to furnish tax shelter identification number).

(23) Subsection (c) of section 6708, as added by section 612(d)(1) of Deficit Reduction Act of 1984 (relating to penalties with respect to mortgage credit certificates) is amended by striking out "$200" and inserting in lieu thereof "$300".

(24) The following provisions are each amended by striking out "$500" each place it appears and inserting in lieu thereof "$750".

(A) Subsection (a) of section 6602 (relating to false information with respect to withholding).

(B) Subsection (b) of section 6694 (relating to understatement of taxpayer's liability by income tax return preparer).

(C) Subsection (f) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons).

(D) Subsection (a) of section 6702 (relating to frivolous income tax return).

(E) Subsection (a) of section 6705 (relating to failure by broker to provide notice to payors).

(F) Paragraph (2)(A) of section 6707(a) (relating to failure to register tax shelter).

(25) The following provisions are each amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,500".

(A) Paragraphs (1) and (2) of section 6038(b) (relating to dollar penalty for failure to furnish information).

(B) Paragraphs (1) and (2) of section 6038A(d) (relating to penalty for failure to furnish information).

(C) Subsection (b) and (e)(2) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(D) Subsection (a) of section 6679 (relating to failure to file information returns with respect to certain foreign trusts).

(E) Subsection (a) of section 6679 (relating to failure to file returns, etc. with respect to certain foreign partnerships).

(F) Section 6685 (relating to assessable penalties with respect to private foundation annual returns).

(G) Section 6686 (relating to failure to file returns or supply information by DISC or FSC).

(H) Section 6692 (relating to failure to file actuarial report).

(I) Subsection (a) of section 6700 (relating to promoting abusive tax shelters, etc.).

(J) Subsection (b)(1) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability).

(K) Subsection (a) of section 6708, as added by section 612(d)(1) of Deficit Reduction Act of 1984, (relating to penalties with respect to mortgage credit certificates).

(26) Subsection (c) of section 6708, as added by section 612(d)(1) of Deficit Reduction Act of 1984, (relating to penalties with respect to mortgage credit certificates) is amended by striking out "$2,000" and inserting in lieu thereof "$3,000".

(27) The following provisions are each amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$7,500".

(A) Subsections (d), (e)(1), and (i) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(B) Section 6673 (relating to damages assessable for instituting proceedings before the tax court primarily for delay, etc.).

(28) The following provisions are each amended by striking out "$10,000" each place it appears and inserting in lieu thereof "$15,000".

(A) Paragraph (2)(A) of section 6038(c) (relating to penalty of reducing foreign tax credit).

(B) Subsection (h) of section 6652 (relating to failure to file certain information returns, registration statements, etc.).

(C) Subsection (b)(2) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability).

(D) Paragraph (2) of section 6707 (relating to failure to register tax shelter).

(E) Subsection (b) of section 6708, as added by section 612(d)(1) of Deficit Reduction Act of 1984, (relating to penalties with respect to mortgage credit certificates).

(29) Subsection (f) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "$15,000" and inserting in lieu thereof "$22,500".

(30) Subsection (e) of sections 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by striking out "$20,000" and inserting in lieu thereof "$30,000".

(31) Paragraph (2) of section 6038A(d) (relating to penalty for failure to furnish information) is amended by striking out "$24,000" and inserting in lieu thereof "$36,000".

(32) The following provisions are each amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$37,500".

(A) Paragraph (3) of section 6652(g) (relating to returns, etc., required under section 6039C).

(B) Section 6686 (relating to failure to file returns or supply information by DISC or FSC).

(C) Subsection (d) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons).

(33) The following provisions are each amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$75,000".

(A) Paragraphs (1) and (3)(B) of section 6652(a) (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock).

(B) Subsection (a) of section 6676 (relating to failure to supply identifying numbers).

(C) Subsection (a) of section 6678 (relating to failure to furnish certain statements).

(D) Subsection (b)(2) of section 6704 (relating to failure to keep records necessary to meet reporting requirements under section 6047(e)).

(E) Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters).

(b) CRIMINAL PENALTIES.—

(1) Paragraph (3) of section 9012(e) (relating to kickbacks and illegal payments) is amended by striking out "125 percent" and inserting in lieu thereof "187.5 percent".

(2) Subsection (b) of section 7212 (relating to attempts to interfere with administration of internal revenue laws) is amended by striking out "$500" and inserting in lieu thereof "$750", and by striking out "double" and inserting in lieu thereof "triple".

(3) The following provisions are each amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,500".

(A) Section 7204 (relating to fraudulent statement or failure to make statement to employees).

(B) Subsections (a) and (b) of section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information).

(C) Section 7209 (relating to unauthorized use or sale of stamps).

(D) Section 7210 (relating to failure to obey summons).

(E) Section 7211 (relating to false statements to purchasers or lessees relating to tax).

(F) Subsection (b) of section 7213 (relating to unauthorized disclosure of information).

(G) Subsection (a) of section 7216 (relating to disclosure or use of information by preparers of returns).

(4) Subsection (a) of section 7212 (relating to attempts to interfere with administration of internal revenue laws) is amended by striking out "$3,000" and inserting in lieu thereof "$4,500".

(5) The following provisions are each amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$7,500".

(A) Subsection (a) of section 7212 (relating to attempts to interfere with administration of internal revenue laws).

(B) Subsection (a) of section 7213 (relating to unauthorized disclosure of information).

(C) Subsection (b) of section 7214 (relating to offenses by officers and employees of the United States).

(D) Subsection (a) of section 7215 (relating to offenses with respect to collected taxes).

(E) Section 7231 (relating to failure to obtain license for collection of foreign items).

(F) Section 7232 (relating to failure to register or false statement by manufacturer or producer of gasoline or lubricating oil).

(G) Subsections (a)(2), (b)(3), (f)(3), and (g)(2) of section 9012 (relating to criminal penalties).

(6) The following provisions are each amended by striking out "$10,000" each place it appears and inserting in lieu thereof "$15,000".

(A) Section 7202 (relating to willful failure to collect or pay over tax).

(B) Section 7207 (relating to fraudulent returns, statements, or other documents).

(C) Section 7208 (relating to offenses relating to stamps).

(D) Subsection (a) of section 7214 (relating to offenses by officers and employees of the United States).

(E) Section 7240 (relating to officials investing or speculating in sugar).

(F) Section 7241 (relating to willful failure to furnish certain information regarding windfall profit tax on domestic crude oil).

(G) Subsections (c)(3), (d)(2), and (e)(2) of section 9012 (relating to criminal penalties).

(H) Subsections (b)(2), (c)(2), and (d)(2) of section 9042 (relating to criminal penalties).

(7) The following provisions are each amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$37,500".

(A) Section 7203 (relating to willful failure to file return, supply information, or pay tax).

(B) Subsection (a) of section 9042 (relating to criminal penalties).

(8) Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "$50,000" and inserting in lieu thereof "$75,000".

(9) The following provisions are each amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$150,000".

(A) Section 7201 (relating to attempt to evade or defeat tax).

(B) Section 7203 (relating to willful failure to file return, supply information, or pay tax).

(C) Section 7206 (relating to fraud and false statements).

(10) The following provisions are each amended by striking out "$500,000" each place it appears and inserting in lieu thereof "$750,000".

(A) Section 7201 (relating to attempt to evade or defeat tax).

(B) Section 7206 (relating to fraud and false statements).

(11) Section 7209 (relating to unauthorized use or sale of stamps) is amended by striking out "6 months" and inserting in lieu thereof "9 months".

(12) The following provisions are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "1.5 years".

(A) Section 7203 (relating to willful failure to file return, supply information, or pay tax.

(B) Section 7204 (relating to fraudulent statement or failure to make statement to employees).

(C) Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information).

(D) Section 7207 (relating to fraudulent returns, statements, or other documents).

(E) Section 7210 (relating to failure to obey summons).

(F) Section 7211 (relating to false statements to purchasers or lessees relating to tax).

(G) Subsection (a) of section 7212 (relating to attempts to interfere with administration of internal revenue laws).

(H) Subsection (b) of section 7213 (relating to unauthorized disclosure of information).

(I) Subsection (a) of section 7215 (relating to offenses with respect to collected taxes).

(J) Subsection (a) of section 7216 (relating to disclosure or use of information by preparers of returns).

(K) Section 7231 (relating to failure to obtain license for collection of foreign items).

(L) Section 7241 (relating to willful failure to furnish certain information regarding windfall profit tax on domestic crude oil).

(M) Subsections (a)(2), (b)(3), (f)(3), and (g)(2) of section 9012 (relating to criminal penalties).

(13) The following provisions are each amended by striking out "2 years" each place it appears and inserting in lieu thereof "3 years".

(A) Subsection (b) of section 7212 (relating to attempts to interfere with administration of internal revenue laws).

(B) Section 7240 (relating to officials investing or speculating in sugar).

(14) The following provisions are each amended by striking out "3 years" each place it appears and inserting in lieu thereof "4.5 years".

(A) Section 7206 (relating to fraud and false statements).

(B) Subsection (a) of section 7212 (relating to attempts to interfere with administration of internal revenue laws).

(15) The following provisions are each amended by striking out "5 years" each place it appears and inserting in lieu thereof "7.5 years".

(A) Section 7201 (relating to attempt to evade or defeat tax).

(B) Section 7202 (relating to willful failure to collect or pay over tax).

(C) Section 7208 (relating to offenses relating to stamps).

(D) Section 7213 (relating to unauthorized disclosure of information).

(E) Subsection (a) of section 7214 (relating to offenses by officers and employees of the United States).

(F) Section 7232 (relating to failure to register, or false statement by manufacturer or producer of gasoline or lubricating oil).

(G) Subsections (c)(3), (d)(2), and (e)(2) of section 9012 (relating to criminal penalties).

(H) Section 9042 (relating to criminal penalties).

(c) OTHER PENALTIES.—

(1) Section 7273 (relating to penalties for offenses relating to special taxes) is amended by inserting "double the amount of" after "equal to".

(2) The following provisions are each amended by striking out "double" each place it appears and inserting in lieu thereof "triple".

(A) Section 7268 (relating to possession with intent to sell in fraud of law or to evade tax).

(B) Section 7270 (relating to insurance policies).

(C) Section 7273 (relating to penalties for offenses relating to special taxes).

(3) Section 7273 (relating to penalties for offenses relating to special taxes) is amended by striking out "$10" and inserting in lieu thereof "$15".

(4) The following provisions are each amended by striking out "$50" each place it appears and inserting in lieu thereof "$75".

(A) Section 7271 (relating to penalties for offenses relating to stamps).

(B) Section 7272 (relating to penalty for failure to register).

(5) Subsection (c) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended by striking out "$100" and inserting in lieu thereof "$150".

(6) The following provisions are each amended by striking out "$500" each place it appears and inserting in lieu thereof "$750".

(A) Section 7268 (relating to possession with intent to sell in fraud of law or to evade tax).

(B) Section 7269 (relating to failure to produce records).

(7) The following provisions are each amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$1,500".

(A) Section 7261 (relating to representation that retailers' excise tax is excluded from price of article).

(B) Section 7262 (relating to violation of occupational tax laws relating to wagering—failure to pay special tax).

(8) Section 7262 (relating to violation of occupational tax laws relating to wagering—failure to pay special tax) is amended by striking out "$15,000" and inserting in lieu thereof "$7,500".

(d) EXCISE TAX PENALTIES.—

(1) Subsection (a)(1) of section 4701 (relating to tax on issuer of registration—required obligation not in registered form) is amended by striking out "1 percent" and inserting in lieu thereof "1.5 percent".

(2) The following provisions are each amended by striking out "2½ percent" each place it appears and inserting in lieu thereof "3.75 percent".

(A) Subsection (a)(2) of section 4941 (relating to taxes on self-dealing).

(B) Subsection (a)(2) of section 4945 (relating to taxes on taxable expenditures).

(C) Subsection (a)(2) of section 4951 (relating to taxes on self-dealing).

(D) Subsection (a)(2) of section 4952 (relating to taxes on taxable expenditures).

(3) Section 4981 (relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year) is amended by striking out "3 percent" and inserting in lieu thereof "4.5 percent".

(4) The following provisions are each amended by striking out "5 percent" each place it appears and inserting in lieu thereof "7.5 percent".

(A) Subsection (a)(1) of section 4941 (relating to taxes on self-dealing).

(B) Subsection (a)(1) of section 4943 (relating to taxes on excess business holdings).

(C) Subsections (a) and (b)(2) of section 4944 (relating to taxes on investments which jeopardize charitable purpose).

(D) Subsection (a) of section 4953 (relating to tax on excess contributions to black lung benefit trusts).

(E) Subsection (a) of section 4971 (relating to tax on prohibited transactions).

(F) Subsection (a) of section 4975 (relating to tax on prohibited transactions).

(5) Subsection (a) of section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by striking out "6 percent" each place it appears and inserting in lieu thereof "9 percent".

(6) The following provisions are each amended by striking out "10 percent" each place it appears and inserting in lieu thereof "15 percent".

(A) Subsection (a)(1) of section 4945 (relating to taxes on taxable expenditures).

(B) Subsection (a)(1) of section 4951 (relating to taxes on self-dealing).

(C) Subsection (a)(1) of section 4952 (relating to taxes on taxable expenditures).

(D) Subsection (b)(1) of section 4978 (relating to tax on certain dispositions by employee stock ownership plans and certain cooperatives).

(7) Subsection (a) of section 4942 (relating to taxes on failure to distribute income) is amended by striking out "15 percent" and inserting in lieu thereof "22.5 percent".

(8) The following provisions are each amended by striking out "25 percent" each place it appears and inserting in lieu thereof "37.5 percent".

(A) Subsection (a)(1) of section 4911 (relating to tax on excess expenditures to influence legislation).

(B) Subsection (b)(1) of section 4944 (relating to taxes on investments which jeopardize charitable purpose).

(9) Subsection (a) of section 4977 (relating to tax on certain fringe benefits provided by an employer) is amended by striking out "30 percent" and inserting in lieu thereof "45 percent".

(10) The following provisions are each amended by striking out "50 percent" each place it appears and inserting in lieu thereof "75 percent".

(A) Subsection (b)(2) of section 4941 (relating to taxes on self-dealing).

(B) Subsection (b)(2) of section 4945 (relating to taxes on taxes on taxable expenditures).

(C) Subsection (b)(2) of section 4951 (relating to taxes on self-dealing).

(D) Subsection (b)(2) of section 4952 (relating to taxes on taxable expenditures).

(E) Subsection (a) of section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities).

(11) The following provisions are each amended by striking out "100 percent" each place it appears and inserting in lieu thereof "200 percent".

(A) Paragraph (6)(A) of section 857(b) (relating to method of taxation of real estate investment trusts and holders of shares of certificates of beneficial interest).

(B) Subsection (b) of section 4942 (relating to taxes on failure to distribute income).

(C) Subsection (b)(1) of section 4945 (relating to taxes on taxable expenditures).

(D) Subsection (b)(1) of section 4951 (relating to taxes on self-dealing).

(E) Subsection (b)(1) of section 4952 (relating to taxes on taxable expenditures).

(F) Subsection (b) of section 4971 (relating to taxes on failure to meet minimum funding standards).

(G) Subsection (b) of section 4975 (relating to tax on prohibited transactions).

(H) Subsection (a) of section 4976 (relating to taxes with respect to funded welfare benefit plans).

(12) The following provisions are each amended by striking out "200 percent" each place it appears and inserting in lieu thereof "300 percent".

(A) Subsection (b)(1) of section 4941 (relating to taxes on self-dealing).

(B) Subsection (b) of section 4943 (relating to taxes on excess business holdings).

(13) Paragraph (5) of section 857(b) (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by inserting "2 times" after "equal to".

(14) The following provisions are each amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$7,500".

(A) Subsection (d)(2) of section 4944 (relating to taxes on investments which jeopardize charitable purpose).

(B) Subsection (c)(2) of section 4945 (relating to taxes on taxable expenditures).

(15) The following provisions are each amended by striking out "$10,000" each place it appears and inserting in lieu thereof "$15,000".

(A) Subsection (c)(2) of section 4941 (relating to taxes on self-dealing).

(B) Subsection (d)(2) of section 4944 (relating to taxes on investments which jeopardize charitable purpose).

(C) Subsection (c)(2) of section 4945 (relating to taxes on taxable expenditures).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983 (or, in the case of a tax for which there is no taxable

period, taxable events occurring after such date).

(2) AMNESTY PERIOD.—At the expiration of the amnesty period described in section 1361 of this Act, in the case of any taxpayer remaining liable for any underpayment of Federal tax, the amendments made by this section shall apply to any taxable year (or any taxable event occurrring during such taxable year) for which any period of limitation has not expired.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any judicial or administrative proceeding with respect to any underpayment of Federal tax pending on the date of enactment of this Act in which a judgment was entered before such date.

By Mr. DOWNEY of New York:

—Page 19, strike out line 17 and all that follows through line 8 on page 20 and insert in lieu thereof the following:

(c) RATE SCHEDULES FOR 1986, 1987, AND 1988.—

(1) IN GENERAL.—The tax imposed by section 1 of the Internal Revenue Code of 1985 for taxable years beginning in calendar year 1986, 1987, or 1988 shall be determined under tables prescribed by the Secretary of the Treasury or his delegate under this subsection.

(2) RATE SCHEDULES FOR 1986.—The tables prescribed for purposes of paragraph (1) for taxable years beginning in calendar year 1986 shall be constructed so that the tax imposed by section 1 of such Code for each taxable income level is substantially equivalent to the tax which would have been imposed for a calendar year 1986 taxpayer if—

(A) the change in rates provided by subsection (a) took effect on November 1, 1985, and

(B) section 15 of such Code applied to such change of rates on the basis of monthly proration in lieu of daily proration.

(3) RATE SCHEDULES FOR 1987.—In the case of taxable years beginnig in 1987, subsection (e) of section 1 of such Code shall be applied as if the tables contained in subsections (a), (b), (c), and (d) of such section were the tables which would be presecribed for 1986 under paragraph (2) if "September 1, 1985" were substituted for "November 1, 1985" in paragraph (2).

(4) RATE SCHEDULES FOR 1988.—In the case of taxable years beginnig in 1988, subsection (e) of section 1 of such Code shall be applied as if the tables contained in subsections (a), (b), (c), and (d) of such section were the tables which would be presecribed for 1986 under paragraph (2) if "July 1, 1985" were substituted for "November 1, 1985" in paragraph (2).

Page 212, strike out line 16 and all that follows through line 7 on page 213 and insert in lieu thereof the following:

SEC. 241. REDUCTION IN DEDUCTION FOR CAPITAL GAINS.

(a) IN GENERAL.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "the applicable percentage" and by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, the term 'applicable percentage' means—

"(1) 52 percent in the case of taxable years beginning in 1986,

"(2) 48 percent in the case of taxable years beginning in 1987, and

"(3) 42 percent in the case of taxable years beginning after 1987."

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "the percentage equal to the excess of 100 percent over the applicable percentage for the taxable year under section 1202(a)".

Page 256, strike out lines 13 through 25 and insert in lieu thereof the following:

"(b) AMOUNT OF TAX.—

"(1) 1986.—In the case of taxable years beginning after July 1, 1986, and before July 2, 1987, the amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $25,000,

"(B) 17 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000,

"(C) 28⅓ percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000,

"(D) 38⅔ percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000, and

"(E) 42⅔ percent of so much of the taxable income as exceeds $100,000.

In the case of a corporation which has taxable income in excess $700,000 for the taxable year, the amount of the tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $17,946.67.

"(2) 1987.—In the case of taxable years beginning after July 1, 1987, and before July 2, 1988, the amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $25,000,

"(B) 16 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000,

"(C) 26⅔ percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000,

"(D) 37⅓ percent of so much of the taxable income as exceeds $79,000 but does not exceed $100,000, and

"(E) 39⅓ percent of so much of the taxable income as exceeds $100,000.

In the case of a corporation which has taxable income in excess $400,000 for the taxable year, the amount of the tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $15,583.33.

"(3) 1988 AND THEREAFTER.—In the case of taxable years beginning after July 1, 1988, the amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 36 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess $100,000 for the taxable year, the amount of the tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $13,250."

By Mr. EVANS of Iowa:

—Section 123(a)(1) of H.R. 3838, which amends section 117 of the Internal Revenue Code of 1954 (relating to scholarship and fellowship grants), is amended by inserting the following new language at the end of subsection (c) of section 117 as amended (beginning on page , line):

"If certain teaching, research, or other services are required of all candidates for a particular degree (whether or not recipients of qualified scholarship grants or qualified tuition reductions) as a condition to receiving such degree, amounts received shall not be treated as payment for such services. For purposes of determining whether teaching, research, or other services are required as a condition to receiving a degree, the extent of faculty supervision or participation with respect to the performance of such teaching, research, or other services shall not be relevant, nor shall it be required that all degree candidates perform substantially identical activities with respect to such teaching, research, or other services."

—On page 70, after line 4 (Subtitle F—Effective Dates) add the following new subsection and redesignate the remaining subsections as needed:

"(e) INCOME AVERAGING.—The amendment made by section 141 shall apply to taxable years beginning after December 31, 1985, except that such amendment shall not apply to a taxpayer if 50 percent or more of the annual gross income of the taxpayer is attributable to the trade or business of farming until taxable years beginning after December 31, 1988."

—Section 141 is amended to read as follows:

SEC. 141. 3-YEAR EXTENSION OF INCOME AVERAGING FOR FARMERS.

(a) LIMITATION OF INCOME AVERAGING TO FARMERS.—

(1) IN GENERAL.—Subsection (a) of section 1303 (relating to eligible individuals) is amended by inserting "farmer and a" after "a".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1985.

(b) REPEAL OF INCOME AVERAGING AFTER 3 YEARS.—

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 3 (relating to section inapplicable to certain individuals) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3), as paragraphs (3) and (4), respectively.

(B) Subsection (b) of section 5 (relating to cross references relating to tax on individuals) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(C) Subparagraph (B) of section 6511(d)(2) (relating to special rules applicable to income taxes) is amended to read as follows:

"(B) APPLICABLE RULES.—

"(i) IN GENERAL.—If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

"(ii) TENTATIVE CARRYBACK ADJUSTMENTS.—If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

"(iii) DETERMINATIONS BY COURTS TO BE CONCLUSIVE.—In the case of any such claim

for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding."

(3) CLERICAL AMENDMENT.—The table of parts for subchapter Q of chapter I is amended by striking out the item relating to part I.

(4) EFFECTIVE DATE.—The repeal made by paragraph (1) shall take effect on January 1, 1989.

By Mr. GEKAS:

—Page 1019, after line 25, add the following:

PART X—REPORT ON STAGGERED FILING OF INDIVIDUAL TAX RETURNS

SEC. 1355. REPORT.

(a) REPORT.—The Secretary of the Treasury or his delegate shall prepare a report on a staggered due date system for filing tax returns of individuals. Such report shall include—

(1) identification and analysis of different methods of choosing due dates in such a system, including the use of the month in which an individual's birthday falls, and the use of the last digit of an individual's social security number,

(2) the effect on revenues of such a system,

(3) how such a system would be phased in,

(4) what additional resources the Internal Revenue Service would need to carry out such a system, and

(5) the types of changes to the Internal Revenue Code of 1954 which would be necessary to carry out such a system.

(b) DUE DATE.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

The table of contents is amended on page 5 after the item relating to section 1351 by adding the following new item:

PART X—REPORT ON STAGGERED FILING OF INDIVIDUAL TAX RETURNS

SEC. 1355. REPORT.

By Mr. GINGRICH:

—Page 29, line 12, after the word "follows:", strike out all that follows through line 21 on page 30 and insert in lieu thereof the following:

(1) strike out "$1,000" each place such term appears in such subsection and insert in lieu thereof "$2,000", and

(2) strike out "section 1 (f) (3)" and insert in lieu thereof "section 63(d)(2)(C)."

—Page 144, line 5, after the word "or", strike out all that follows through line 13.

—Page 159, after line 10, strike out all that follows through line 9 on page 160.

—Page 385, after line 18, strike out all that follows through line 14 on page 386.

—Page 729, strike out all that follows line 2 through line 18 on page 732, and on

—Page 732, line 19, redesignate SEC. 912 as SEC. 911.

—Page 771, line 9, strike out all that appears on line 9 through line 16 on page 778, and redesignate section numbers thereafter accordingly.

—Page 802, line 12, after the word "requirements" insert the following:

SEC. 1150. SPOUSAL IRA'S.

(1) Spousal IRA computed on basis of compensation of both spouses.

Subsection (c) of section 219 of the Internal Revenue Code of 1954 is amended to read as follows:

"(c) SPECIAL RULES FOR MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of any individual with respect to whom a deduction is otherwise allowable under subsection (a) for any taxable year, and—

"(a) such individual files a joint return for the taxable year, and

"(b) the amount includible in such individuals gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year,

the limitation of paragraph (1) of subsection (B) shall be equal to the lesser of—

"(c) $2,000, or

"(d) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus,

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowable as a deduction under subsection (A) to such spouse for such taxable year."

(B) TECHNICAL AMENDMENT.—Paragraph (2) of section 219(F) of such code (relating to other definitions and special rules) is amended by striking out "subsections (B) and (C)" and inserting in lieu thereof "subsection (B)".

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

—Page 941, after line 13, strike out all that follows through line 7 on page 942.

—Page 1045, after line 2, insert the following:

SEC. 1408. EFFECTIVE DATES.

Notwithstanding any other provisions of H.R. 3838, "The Tax Reform Act of 1985," no effective date for any provision of Title IV, Title V, Title VI, Title VII, Title VIII, Title IX, Title X, Title XI, Title XII, and Title XIII will be any earlier in time than January 1, 1987.

By Mr. HOYER:

—Strike out all of the matter beginning on line 14 of page 836 of the bill through line 12 of page 841.

By Mr. KEMP:

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Fair and Simple Tax Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Secretary of the Treasury or his delegate, not later than 90 days after the date of the enactment of this Act, shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a draft of any technical and conforming amendments to the Internal Revenue Code of 1954 which are necessary to reflect the substantive amendments made by this Act.

TITLE I—REDUCTION OF INDIVIDUAL AND CORPORATE TAX RATES

Subtitle A—Reduction of Rates

SEC. 101. INCOME TAX RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.

(a) IN GENERAL.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"There is hereby imposed on the taxable income of every individual for each taxable year a tax equal to 24 percent of the taxable income for the taxable year."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 641 (relating to tax applied to estates and trusts) is amended by striking out "section 1(e)" and inserting in lieu thereof "section 1".

SEC. 102. CORPORATE TAX RATES.

Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $50,000,

"(2) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $100,000, and

"(3) 35 percent of so much of the taxable income as exceeds $100,000."

Subtitle B—Increase in Amount of Personal Exemption and Zero Bracket Amount

SEC 111. INCREASE IN AMOUNT OF PERSONAL EXEMPTION.

Subsection (f) of section 151 (relating to allowance of deductions for personal exemptions) is amended—

(1) by striking out "$1,000" each place such term appears in such subsection and inserting in lieu thereof "$2,000", and

(2) by striking out "section 1(f)(3)" and inserting in lieu thereof "section 63(d)(2)(C)".

SEC. 112. INCREASE IN ZERO BRACKET AMOUNT.

Subsection (d) of section 63 (defining zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT DEFINED.—For purposes of this subtitle—

"(1) IN GENERAL.—The term 'zero bracket amount' means—

"(A) $2,700 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $2,600 in the case of an individual who is the head of a household (as defined in section 2(b)),

"(C) $2,300 in the case of an individual who is not married and is not a surviving spouse (as defined in section 2(a)) or the head of a household (as defined is section 2(b)),

"(D) $1,350 in the case of a married individual filing a separate return, and

"(E) zero in every other case,

adjusted in the manner provided in paragraph (2).

"(2) ADJUSTMENTS SO THAT INFLATION WILL NOT REDUCE THE VALUE OF ZERO BRACKET AMOUNT.—

"(A) IN GENERAL.—No later than December 15 of 1985 and each subsequent calendar year, the Secretary shall prescribe the zero bracket amounts which shall apply in lieu of the amounts defined in paragraph (1) with respect to taxable years beginning in the succeeding calendar year.

"(B) METHOD OF ADJUSTING ZERO BRACKET AMOUNT.—The amounts which shall apply in lieu of the amounts described in paragraph (1) with respect to taxable years beginning

in any calendar year shall be prescribed by increasing each amount contained in paragraph (1) by the cost-of-living adjustment for such calendar year. If such increase is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5 but not a multiple of $10, such increase shall be increased to the next multiple of $10).

"(C) COST-OF-LIVING ADJUSTMENT DEFINED.—For purposes of subparagraph (B), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for the preceding calendar year, exceeds

"(ii) the CPI for the calendar year 1983.

"(D) CPI FOR ANY CALENDAR YEAR.—For purposes of subparagraph (C), the CPI for any preceding calendar year (or for 1983) is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such preceding calendar year (or 1983, as the case may be).

"(E) CONSUMER PRICE INDEX.—For purposes of subparagraph (D), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the department of Labor."

SEC. 113. EXEMPTION FOR DEPENDENTS WHO ARE STUDENTS OVER THE AGE OF 18 REPEALED.

Subparagraph (B) of section 151(e)(1) (relating to additional exemption for dependents) is amended by striking out ", or (ii) is a student".

Subtitle C—Employment Income Exclusion Established

SEC. 121. EMPLOYMENT INCOME EXCLUSION.

(a) IN GENERAL.—Part III of subchapter B of chapter (relating to items specifically excluded from income) is amended by redesignating section 134 as section 135 and by inserting after section 133 the following new section:

"SEC. 134. PROGRESSIVE EXCLUSION OF EMPLOYMENT INCOME

"(a) IN GENERAL.—Gross income of an individual does not include an amount equal to 25 percent of the amount recevied during the taxable year by such individual as employment income.

"(b) MAXIMUM AMOUNT OF EXCLUSION.—The amount of the employment income excluded from gross income under subsection (a) shall not exceed an amount equal to 20 percent of the FICA maximum wage base for the calendar year in which the taxable year of the taxpayer begins.

"(c) LIMITATION IN CASE OF GROSS INCOME IN EXCESS OF FICA MAXIMUM WAGE BASE.—

"(1) IN GENERAL.—If a taxpayer has gross income for the taxpayer year in excess of the FICA maximum wage base for the calendar year in which the taxable year began, the amount which, but for this paragraph, would be excluded from gross income under subsection (a) shall be reduced (but not below zero) by an amount equal to 25 percent of such gross income in excess of the FICA maximum wage base.

"(2) TECHNICAL RATE ADJUSTMENT.—If, in the case of a taxpayer to whom paragraph (1) applies—

"(A) 25 percent of the gross income of such taxpayer in excess of the FICA maximum wage base, exceeds

"(B) the amount which, but for paragraph (1), would be excluded from gross income under subsection (a),

the excess of the amount described in subparagraph (A) over the amount described in subparagraph (B) shall be treated as income of the taxpayer for purposes of this title and included in gross income.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) INDIVIDUAL WITH EMPLOYMENT INCOME OF $10,000 OR LESS ($15,000 OR LESS IN THE CASE OF JOINT RETURN).—In the case of a taxpayer whose employment income for the taxable year is $10,000 or less ($15,000 or less in the case of a joint return), so much of the investment income (if any) of the taxpayer for the taxable year as does not exceed the difference between—

"(A) $10,000 ($15,000 in the case of a joint return), and

"(B) the aggregate amount of employment income of such taxpayer for such taxable year,

shall be treated as employment income for purposes of this section.

"(2) TWO-EARNER MARRIED COUPLE FILING JOINT RETURN.—In the case of a married couple filing a joint return for a taxable year in which each spouse has employment income, subsection (b) shall be applied separately with respect to each such spouse.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYMENT INCOME DEFINED.—The term 'employment income' has the meaning given to the term 'earned income' in section 32(c)(2) and includes any amount included in gross income of the taxpayer under section 71.

"(2) INVESTMENT INCOME DEFINED.—The term 'investment income' means any income of the taxpayer which is not employment income.

"(3) FICA MAXIMUM WAGE BASE DEFINED.—The term 'FICA maximum wage base' means the contribution and benefit base as determined under section 230 of the Social Security Act.

"(f) ADJUSTMENTS SO THAT INFLATION WILL NOT REDUCE THE VALUE OF CREDIT.—

"(1) IN GENERAL.—Not later than December 15 of 1985 and each subsequent calendar year thereafter, the Secretary shall prescribe the amounts which shall apply in lieu of the $10,000 amount and the $15,000 amount described in subsection (c) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF ADJUSTING AMOUNTS.—The amounts which shall apply in lieu of the amounts referred to in paragraph (1) with respect to taxable years beginning in any calendar year shall be prescribed by increasing each such amount by the cost-of-living adjustment (as defined in section 63(d)(2)(C)) for such calendar year. If such increase is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5 but not a multiple of $10, such increase shall be increased to the next multiple of $10)."

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by redesignating the item relating to section 134 as section 135 and by inserting after the item relating to section 133 the following new item:

"Sec. 134. Progressive exclusion of employment income."

Subtitle D—Repeals Related to Reduction in Rates

SEC. 131. REPEALS.

"(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Section 3 (relating to tax tables for individuals).

(2) Paragraphs (1), (2), and (3) of section 402(e) (relating to special averaging rules for lump-sum distributions).

(3) Part I of subchapter G of chapter 1 (section 531 and following, relating to corporations improperly accumulating surplus).

(4) Part II of subchapter G of chapter 1 (section 541 and following, relating to personal holding companies).

(5) Part I of subchapter Q of chapter 1 (section 1301 and following, relating to income averaging).

(6) Section 1551 (relating to graduated corporate tax rates).

(b) TRUST THROWBACK RULES APPLY ONLY TO FOREIGN TRUST.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trust) is amended by adding at the end there of the following new section:

"SEC. 669. SUBPART TO APPLY ONLY TO FOREIGN TRUSTS.

"This subpart shall apply only with respect to amounts distributed from a foreign trust."

TITLE II—BASE BROADENING

Subtitle A—Credits

SEC. 201. REPEALS.

The following provisions are hereby repealed:

(1) Section 21 (relating to credit for expenses for household and dependent care services necessary for gainful employment).

(2) Section 22 (relating to credit for the elderly and the permanently and totally disabled).

(3) Section 23 (relating to residential energy credit).

(4) Section 24 (relating to contributions to candidates for public office).

(5) Section 25 (relating to interest paid or incurred in connection with a qualified mortgage credit certificate program).

(6) Section 28 (relating to clinical testing expenses for certain drugs for rare diseases and conditions).

(7) Section 29 (relating to credit for producing fuel from a nonconventional source).

(8) Section 30 (relating to credit for increasing research activities).

(9) Paragraphs (1), (2), (3), and (4) of section 38(b) (allowing credits determined under sections 40 and 41 and subparts E and F).

(10) Sections 40 and 87 (relating to alcohol used as fuel).

(11) Section 41 (relating to rules for determining amount of employee stock ownership credit).

(12) Section 42 (relating to general tax credit).

(13) Subpart E of part IV of subchapter A of chapter 1 (relating to rules for determining credit for investment in certain depreciable property).

(14) Subpart F of such part IV (relating to rules for determining credit for employment of certain new employees).

Subtitle B—Exclusions

PART I—REPEALS

SEC. 211. REPEALS.

The following sections are hereby repealed:

(1) Section 104 (relating to compensation for injuries or sickness).

(2) Section 116 (relating to partial exclusion of dividends received by individuals).

(3) Section 120 (relating to amounts received under qualified group legal service plans).

(4) Section 124 (relating to qualified transportation furnished by employer).

(5) Section 305(e) (relating to dividend reinvestment in public utilities).

PART II—OTHER CHANGES

SEC. 212. CHANGE OF EARNED INCOME CREDIT MAXIMUM AMOUNT.

(a) IN GENERAL.—Subsection (a) of section 32 (relating to earned income credit) is amended—

(1) by striking out "11 percent" and inserting in lieu thereof "the applicable percentage", and

(2) by striking out "$5,000" and inserting in lieu thereof "the applicable amount".

(b) PHASEOUT OF CREDIT.—Subsection (b) of such section 32 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the product of the applicable amount and the applicable percentage, over

"(2) 15 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the applicable amount."

(c) APPLICABLE PERCENTAGE AND APPLICABLE AMOUNT DEFINED.—Subsection (c) of such section 32 is amended by adding at the end thereof the following new paragraphs:

"(3) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means with respect to taxable years beginning in any calendar year the percentage which is equal to the product of—

"(A) the sum of the rates of tax imposed under section 310(a) and (b) on wages received during such calendar year, and

"(B) 2.

"(4) APPLICABLE AMOUNT.—The term 'applicable amount' means—)

"(A) in the case of an eligible individual with 1 (and only 1) qualified dependent, $4,500;

"(B) in the case of an eligible individual with 2 (and only 2) qualified dependents, $5,000; and

"(C) in the case of an eligible individual with 3 or more qualified dependents, $5,500.

"(5) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) for whom the taxpayer is entitled to a deduction for the taxable year under section 151(e) (or would be so entitled but for paragraph (2) or (4) of such section), and

"(B) whose principal place of abode for the taxable year of the taxpayer is the home of the taxpayer and who is a member of the household maintained by the taxpayer."

"(d) ADJUSTMENTS SO THAT INFLATION WILL NOT REDUCE THE VALUE OF CREDIT.—Such section 32 is amended by adding at the end thereof the following new subsection:

"(i) ADJUSTMENTS SO THAT INFLATION WILL NOT REDUCE THE VALUE OF CREDIT.—

"(1) IN GENERAL.—Not later than December 15 of 1985 and each subsequent calendar year thereafter, the Secretary shall prescribe the amounts which shall apply in lieu of the applicable amount with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF ADJUSTING AMOUNTS.—The amounts which shall apply in lieu of the applicable amount with respect to taxable years beginning in any calendar year shall be prescribed by increasing each such amount by the cost-of-living adjustment (as defined in section 63(d)(2)(C)) for such calendar year. If such increase is not a mulitple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5 but not a multiple of $10, such increase shall be increased to the next multiple of $10)."

SEC. 213. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 85 (relating to unemployment compensation) is amended to read as follows:

"(a) IN GENERAL.—Gross income includes any unemployment compensation received by the taxpayer during the taxable year."

(b) CONFORMING AMENDMENT.—Section 85 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 214. LIMITATION ON PRIVATE-PURPOSE TAX-EXEMPT BONDS.

(a) REPEAL OF TAX EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS.—Each paragraph of section 103(b) (relating to industrial development bonds) other than paragraphs (1), (2), and (3) is hereby repealed.

(b) REPEAL OF TAX EXEMPTION FOR MORTGAGE SUBSIDY BONDS.—Section 103A is amended to read as follows:

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which issued as part of an issue a significant part of the proceeds of which is to be used directly or indirectly for mortgages (or other owner financing) on owner-occupied residences."

(c) REPEAL OF TAX EXEMPTION FOR CERTAIN PRIVATE PURPOSE BONDS.—

(1) IN GENERAL.—

(A) Subsection (a) of section 103 is amended to read as follows:

"(a) GENERAL RULE.—Gross income does not include interest on the obligations of a State, a territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia."

(B) Subsection (e) of section 103 is amended to read as follows:

"(e) CERTAIN PRIVATE PURPOSE BONDS.—Any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used (directly or indirectly)—

"(1) to finance loans to individuals for educational expenses, or

"(2) by an organization described in section 501(c)(3) which is exempt from taxation under section 501(a),

shall be treated as an obligation not described in subsection (a)."

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b)(1) and (c)(1) of section 103 are each amended by striking out "subsection (a) (1) or (2)" each place it appears and inserting in lieu thereof "subsection (a)".

(B) Paragraph (3) of section 103(b) (defining exempt person) is amended to read as follows:

"(3) EXEMPT PERSON.—For purposes of paragraph (2)(A), the term 'exempt person' means a governmental unit."

(C) Subsections (d), (e), (g), (h), (k), (l), (n), and (o) of section 103 are hereby repealed.

SEC. 215. SCHOLARSHIP AND FELLOWSHIP EXCLUSION LIMITED TO TUITION AND RELATED EXPENSES.

(a) GENERAL RULE.— Subsections (a) and (b) of section 117 (relating to scholarships and fellowships) are amended to read as follows:

"(a) IN GENERAL.—In the case of an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), gross income does not include any amount received as—

"(1) a scholarship, or

"(2) a fellowship grant,

to the extent such amount is used for qualified tuition and related expenses (within the meaning of subsection (c)(2)).

"(b) PAYMENT FOR TEACHING, RESEARCH, ETC.—Subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients or scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this subsection."

(b) CLARIFICATION OF DEFINITION OF QUALIFIED TUITION AND RELATED EXPENSES.—

(1) Clause (i) of section 117(c)(2)(A) is amended by striking out "at an institution of higher education" and inserting in lieu thereof "at an educational organization described in section 170(b)(1)(A)(ii)".

(2) Subparagraph (B) of section 117(c)(1) is amended by inserting "at an institution of higher education" after "qualified tuition and related expenses".

SEC. 216. TERMINATION OF TAX EXEMPTION FOR DEPOSITS INTO, AND WITHDRAWALS FROM, THE CAPITAL CONSTRUCTION FUND UNDER SECTION 607 OF THE MERCHANT MARINE ACT, 1936.

(a) TAXATION OF DEPOSITS.—Subsection (d) of section 607 of the Merchant Marine Act, 1936 (relating to nontaxability for deposits) is hereby repealed.

(b) ALL WITHDRAWALS TREATED AS NONQUALIFIED.—Subsection (f) of such section 607 is amended by adding at the end thereof the following new paragraph:

"(3) No withdrawal after December 31, 1985, shall be treated as a qualified withdrawal."

SEC. 218. REDUCTION IN AMOUNT OF SOCIAL SECURITY BENEFITS INCLUDED IN GROSS INCOME.

Paragraphs (1) and (2) of subsection (a) and clause (ii) of subsection (b)(1)(A) of section 86 (relating to social security and tier 1 railroad retirement benefits) are each amended by striking out "one-half" and inserting in lieu thereof "one-quarter".

Subtitle C—Deductions

PART I—REPEALS

SEC. 221. REPEALS.

The following provisions are hereby repealed:

(1) Subsections (c)(3), (e), and (h) of section 165 (relating to deduction for casualty and theft losses).

(2) Section 196 (relating to deduction for unused business credits).

(3) Section 221 (relating to deduction for two-earner married couples).

PART II—OTHER CHANGES

SEC. 226. REPEAL OF DEDUCTION FOR STATE AND LOCAL INCOME, SALES, AND PERSONAL PROPERTY TAXES.

Subsection (a) of section 164 (relating to deduction for taxes) is amended—

(1) by striking out paragraphs (2) and (4),

(2) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3) respectively,

(3) in paragraph (2) (as redesignated by paragraph (2)), by striking out "income, war profits," and inserting in lieu thereof "war profits and", and

(2) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following new paragraph:

"(4) Foreign income taxes."

SEC. 227. INCREASE IN FLOOR ON MEDICAL DEDUCTION.

Subsection (a) of section 213 (relating to medical, dental, etc., expenses) is amended by striking out "5 percent" and inserting in lieu thereof "10 perent".

SEC. 228. REPEAL OF DEDUCTION FOR CONSUMER INTEREST.

(a) IN GENERAL.—Section 163 (relating to interest expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DENIAL OF DEDUCTION FOR CERTAIN CONSUMER INTEREST.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any consumer interest.

"(2) CONSUMER INTEREST DEFINED.—For purposes of this subsection, the term 'consumer interest' means any interest which is allowable as a deduction under this chapter solely by reason of this section, except that such term does not include any interest on any indebtedness the proceeds of which were used exclusively—

"(A) to acquire, construct, or rehabilitate any residential property, or

"(B) to pay educational expenses of the taxpayer, the taxpayer's spouse, or any dependent (as such term is defined in section 152) of the taxpayer."

Subtitle D—Adjustment to Basis; Changes in Certain Special Capital Gains Treatment Provisions

SEC. 231. ADJUSTMENTS TO BASIS TO ALLOW FOR INFLATION.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means any capital asset (within the meaning given to such term by section 1221) and property used in the trade or business (within the meaning given to such term by section 1231 applied without regard to any minimum holding period).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)), and

"(ii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (ii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(a) IN GENERAL.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1985).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which the second sentence of section 1231(a) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property

in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) DISPOSITIONS OF RECOVERY PROPERTY.—In the case of an asset which is recovery property (within the meaning of section 168), the amount determined by applying to the unadjusted basis of such recovery property (as determined under section 168(d)) immediately before the disposition the applicable percentage determined in accordance with the following table shall be treated as the adjusted basis of such property for purposes of subsection (a):

"If the recovery year in which the disposition takes place is:	The applicable percentage for the class of property is:				
	4-year	6-year	15-year	20-year public utility	25-year real property
1	87	93	98	99	99
2	59	76	92	96	97
3	30	58	86	92	94
4	0	39	80	88	91
5		20	74	83	88
6		0	67	79	85
7			60	75	82
8			53	70	79
9			45	65	75
10			37	60	72
11			30	55	68
12			23	50	64
13			16	44	60
14			8	39	56
15			0	33	52
16				27	47
17				20	43
18				14	38
19				7	33
20				0	28
21					23
22					17
23					12
24					6
25					0.

"(h) ELECTION TO DISREGARD INDEXED BASIS.—

"(1) IN GENERAL.—At the election of the taxpayer, the indexed basis shall not be substituted for the adjusted basis in determining gain or loss from the sale or exchange of indexed assets for the taxable year.

"(2) TIME, MANNER, AND SCOPE OF ELECTION.—An election under paragraph (1) with respect to any taxable year shall—

"(A) be made at such time and in such manner as the Secretary shall prescribe by regulations, and

"(B) apply to the sale or disposition of all indexed assets by the taxpayer during the taxable year.

Such an election, once made, shall be irrevocable with respect to such taxable year.

"(i) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under sbusection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(j) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

SEC. 232. CHANGES IN SPECIAL TREATMENT OF CAPITAL GAINS AND LOSSES.

(a) ALTERNATIVE TAX FOR CORPORATIONS.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain from the sale or exchange of any capital asset which is not an indexed asset (as defined in section 1022) or which is an indexed asset with respect to which an election under section 1022(h) has been made by the taxpayer, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of such net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 20 percent of such net capital gain."

(b) SPECIAL TREATMENT FOR CAPITAL GAINS OF INDIVIDUALS.—

(1) IN GENERAL.—Section 1202 (relating to deductions for capital gains is amended to read as follows:

"SEC. 1202. DEDUCTIONS FOR CAPITAL GAINS.

"(a) IN GENERAL.—If, in the case of an individual, the taxpayer has a net capital gain for the taxable year, and if—

"(1) such gain is derived from the sale or exchange of assets which are not indexed (as defined in section 1022) or

"(2) the taxpayer has made an election under section 1022(h) to disregard the indexed basis of indexed assets in determining capital gains or losses for the taxable year,

40 percent of the amount of such gain shall be excluded from gross income of such individual for such taxable year.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the computation of any exclusion under subsection (a) for the taxable year shall not take into account the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includable by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(c) CAPITAL LOSSES OF INDIVIDUALS; CARRYOVER OF THE EXCESS OF SUCH LOSSES OVER GROSS INCOME ALLOWED.—

(1) REPEAL OF LIMITATION ALLOWING DEDUCTION ONLY TO EXTENT OF CERTAIN NET LOSSES OVER NET GAINS.—Subparagraph (C) of section 1211(b)(1) (relating to limitation on deduction of capital losses) is hereby repealed.

(2) CARRYFORWARD ALLOWED.—Subsection (b) of section 1212 (relating to carryovers for taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—

"(1) GENERAL RULE.—If an individual taxpayer has capital losses for any taxable year which exceed an amount equal to—

"(A) the gross income of the taxpayer for the taxable year, reduced by

"(B) the sum of the deductions allowed by this chapter for the taxable year (determined in accordance with paragraph (2)),

such excess amount shall be treated as a capital loss in the succeeding taxable year.

"(2) DETERMINATION OF SUM OF DEDUCTIONS.—In determining the sum of the deductions allowable under this chapter for the taxable year for purposes of paragraph (1)(B)—

"(A) the amount of any capital loss incurred in the taxable year shall not be taken into account, and

"(B) the amount of any capital losses incurred in the preceding taxable year which may be treated, under this subsection, as capital losses incurred in the taxable year shall be taken into account."

TITLE III—CAPITAL COST RECOVERY

Subtitle A—Neutral Cost Recovery System for Depreciable Property

SEC. 301. MODIFICATION AND REDESIGNATION OF ACCELERATED COST RECOVERY SYSTEM

(a) RECOVERY PERIODS FOR ALL RECOVERY PROPERTY EXTENDED.—Paragraph (2) of section 168(c) (defining classes of property) is amended to read as follows:

"(2) CLASSES OF RECOVERY PROPERTY.—Each item of recovery property shall be assigned to one of the following classes of property:

"(A) 4-YEAR PROPERTY.—The term '4-year property' means section 1245 class property—

"(i) with a present class life of 4 years or less; or

"(ii) used in connection with research and experimentation.

"(B) 6-YEAR PROPERTY.—The term '6-year property' means recovery property which is section 1245 class property and is not 4-year property, 15-year property, or 20-year public utility property.

"(C) 15-YEAR PROPERTY.—The term '15-year property' means—

"(i) public utility property (other than section 1250 class property or 4-year property) with a present class life of more than 18 years but not more than 25 years; and

"(ii) section 1250 class property with a class life of 12.5 years or less.

"(D) 20-YEAR PUBLIC UTILITY PROPERTY.—The term '20-year public utility property' means public utility property (other than section 1250 class property or 4-year property) with a present class life of more than 25 years.

"(E) 25-YEAR REAL PROPERTY.—The term '25-year real property' means section 1250 class property which—

"(i) does not have a class life of 12.5 years or less, and

"(ii) is not low income housing.

"(F) LOW INCOME HOUSING.—The term 'low income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

"(G) SPECIAL RULE FOR THEME PARKS, ETC.—For purposes of subparagraphs (C) and (D), a building (and its structural components)

shall not be treated as having a present class life of 12.5 years or less by reason of any other use than the use for which such building was first placed in service."

(b) AMOUNT OF DEDUCTION.—Paragraph (1) of section 168(b) (relating to amount of deduction) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, the amount of the deduction allowable by subsection (a) for any taxable year shall be the product of—

"(A) the applicable inflation ratio, and

"(B) the aggregate amount determined by applying to the unadjusted basis of recovery property the applicable percentage determined in accordance with the following table:

"If the recovery year is:	The applicable percentage for the class of property is:				
	4-year	6-year	15-year	20-year public utility	25-year real property
1	16	10	5	4	4
2	30	20	9	7	6
3	30	20	9	7	6
4	30	20	9	7	6
5		20	9	7	6
6		20	9	7	6
7			9	7	6
8			9	7	6
9			9	7	6
10			9	7	6
11			8	7	6
12			8	7	6
13			8	7	6
14			8	7	6
15			8	7	6
16				7	6
17				7	6
18				7	6
19				7	6
20				7	6
21					6
22					6
23					6
24					6
25					6."

(c) APPLICABLE INFLATION RATIO.—Subsection (d) of section 168 (relating to unadjusted basis and adjustments) is amended by adding at the end thereof the following new paragraph:

"(3) APPLICABLE INFLATION RATIO DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable inflation ratio' has the meaning given to such term by section 1022(c)(2).

"(B) APPLICATION OF DEFINITION TO RECOVERY PROPERTY.—Subparagraph (A) of section 1022(c)(2) shall be applied by substituting 'in which the taxable year ends' for 'in which the disposition takes place'. Subparagraph (B) of such section shall be applied by substituting 'recovery property' for 'asset'."

(d) CERTAIN EXPENDITURES TREATED AS RECOVERY PROPERTY.—Section 168 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(j) RESEARCH AND EXPERIMENTAL EXPENDITURES TREATED IN THE SAME MANNER AS RECOVERY PROPERTY.—For purposes of this section, research and experimental expenditures which are paid or incurred by the taxpayer during the taxable year may be treated in the same manner as recovery property. The amount of any such expenditure shall be treated as the unadjusted basis in applying this section to such expenditure.

"(2) CLASS OF PROPERTY.—The Secretary shall prescribe by regulations the class (or classes) of property to which the expenditures described in paragraph shall be assigned.

"(3) LAND.—This subsection shall not apply to any expenditure for the acquisition of land."

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is hereby repealed.

(2) Section 168 is amended—

(A) by striking out "3-year property" each place such term appears and inserting in lieu thereof "4-year property",

(B) by striking out "5-year property" each place such term appears and inserting in lieu thereof "6-year property",

(C) by striking out "10-year property" each place such term appears and inserting in lieu thereof "15-year property",

(D) by striking out "15-year public utility property" each place such term appears and inserting in lieu thereof "20-year public utility property", and

(E) by striking out "18-year real property" each place such term appears and inserting in lieu thereof "25-year real property",

(f) CLERICAL AMENDMENT.—The heading for section 168 is amended to read as follows:

"SEC. 168. NEUTRAL COST RECOVERY SYSTEM."

Subtitle B—Other Changes

PART I—REPEALS

SEC. 311. REPEALS.

The following provisions are hereby repealed:

(1) Section 174 (relating to research and experimental expenditures).

(2) Section 175 (relating to soil and water conservation expenditures).

(3) Section 178 (relating to depreciation or amortization of improvements made by lessee on lessor's property).

(4) Section 182 (relating to expenditures by farmers for clearing land).

(5) Section 194 (relating to amortization of reforestation expenditures).

PART II—OTHER CHANGES

SEC. 316. 10-YEAR AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) GENERAL RULE.—Subsection (b) of section 189 (relating to amortization of amounts charged to capital account) is amended to read as follows:

"(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year in which paid or accrued shall be allowed as a deduction ratably over the 10-year period beginning with such taxable year."

(b) ELIMINATION OF CERTAIN EXCEPTIONS.—Subsection (d) of section 189 (relating to certain property excluded) is amended to read as follows:

"(d) CERTAIN PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit."

SEC. 317. CIRCULATION EXPENDITURES.

Section 173 (relating to circulation expenditures) is amended to read as follows:

"SEC. 173. CIRCULATION EXPENDITURES.

"(a) GENERAL RULE.—Expenditures (other than expenditures for the purchase of land or depreciable property or for the acquisition of circulation through the purchase of any part of the business of another publisher of a newspaper, magazine, or other periodical) to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical shall be allowed as a deduction ratably over the 5-year period beginning with the taxable year in which such expenditures was made.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any portion of the expenditure as (under regulations prescribed by the Secretary) is chargeable to capital account if the taxpayer elects, in accordance with such regulations, to treat such portion as so chargeable. Such election, if made, must be for the total amount of such portion of the expenditure which is so chargeable to capital account, and shall be binding for all subsequent taxtable years unless, upon application by the taxpayer, the Secretary permits a revocation of such election subject to such conditions as he deems necessary."

SEC. 318. DEPLETION ALLOWANCE DEDUCTION FOR TIMBER REPEALED.

Subsection (a) of section 611 (allowing deduction for depletion) is amended by striking out "and timber,".

SEC. 319. MINIMUM TAX; LIMITATION ON INTEREST DEDUCTION FOR FINANCING RECOVERY PROPERTY.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A is amended by inserting after section 280G the following new section:

"SEC. 280H. MINIMUM TAX; LIMITATION ON INTEREST DEDUCTION FOR FINANCING RECOVERY PROPERTY.

"(a) IN GENERAL.—The amount of any deduction otherwise allowable under this title for interest paid or incurred during any taxable year shall be reduced by the product of—

"(1) such amount, and

"(2) the disqualification ratio.

"(b) DISQUALIFICATION RATIO DEFINED.—For purposes of subsection (a), the term 'disqualification ratio' means the amount determined by dividing—

"(1) the product of—

"(A) an amount equal to—

"(i) the unadjusted basis (as such term is defined in section 168(d)(1)) of property for which a deduction is allowable under section 168 for such taxable year, minus

"(ii) the amount which would be allowable as a deduction for depreciation with respect to such property for such taxable year under section 167 determined in the manner provided in section 167(m) (or straight line amortization over useful life); and

"(B) the average of the annual rates of interest determined under section 6621 with respect to such taxable year; by

"(2) an amount equal to—

"(A) in the case of a corporation, the section 312 earnings and profits of the corporation for such taxable year, and

"(B) in the case of an individual, the adjusted gross income of such individual for such taxable year."

(b) DISQUALIFIED INTEREST NOT TAKEN INTO ACCOUNT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS.—Paragraph (3) of section 55(d) is amended by—

(1) striking out "and" at the end of subparagraph (A),

(2) striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) adding after subparagraph (B) the following new subparagraph:

"(C) any amount for which a deduction is disallowed under section 280H."

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Foreign Income

SEC. 401. REPEAL OF FSC AND INTEREST CHARGE DISC. (a) FSC.—

(1) IN GENERAL.—Section 921 (relating to exempt foreign trade income excluded from gross income) is amended by adding at the end thereof the following new subsection:

"(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1985."

(2) CONFORMING AMENDMENT.—Section 922 (defining FSC) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION.—No corporation shall be treated as a FSC for any taxable year beginning after December 31, 1985."

(b) INTEREST CHARGE DISC.—

(1) IN GENERAL.—Section 991 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following new sentence: "This section shall not apply to any taxable year beginning after December 31, 1985."

(2) CONFORMING AMENDMENTS.—

(A) Section 992(a) (defining DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—No corporation shall be treated as a DISC for any taxable year beginning after December 31, 1985."

(B) Section 995(b)(2) (relating to deemed distributions upon DISC disqualification) is amended by adding at the end thereof the following new subparagraph:

"(C) A corporation which, by reason of the provisions of section 992(a)(4), is a former DISC, for its first taxable year beginning after December 31, 1985, shall be treated, for purposes of this paragraph, as having failed to satisfy the conditions of section 992(a)(1) for such taxable year."

Subtitle B—Other Miscellaneous Provisions

SEC. 411. METHOD OF ACCOUNTING FOR TAXPAYERS ENGAGED IN FARMING.

(a) GENERAL RULE.—The section heading and subsection (a) of section 447 (relating to method of accounting for corporations engaged in farming) are amended to read as follows:

"SEC. 447. METHOD OF ACCOUNTING FOR TAXPAYERS ENGAGED IN FARMING.

"(a) GENERAL RULE.—The taxable income from farming (including timber) shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b)."

(b) ACCRUAL METHOD NOT REQUIRED FOR TAXPAYERS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS; REPEAL OF OTHER EXCEPTIONS.—Section 447 is amended by striking out subsections (c), (d), (e), (g), and (h) and by inserting after subsection (b) the following new subsection:

"(c) TAXPAYERS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS.—

"(1) IN GENERAL.—This section shall not apply with respect to any taxpayer if for each prior taxable year of such taxpayer beginning after December 31, 1985 (December 31, 1975, in the case of a corporation), such taxpayer (and, in the case of a corporation, any predecessor) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all taxpayers which are treated as a single employer under subsection (a) or (b) of section 52 (as in effect before its repeal) shall be treated as 1 taxpayer.

"(2) FARMING SYNDICATES SUBJECT TO ACCRUAL METHOD WITHOUT REGARD TO AMOUNT OF GROSS RECEIPTS.—Paragraph (1) shall not apply to any farming syndicate (as defined in section 464(c))."

SEC. 412. RECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS OF PROPERTY BY CORPORATIONS.

(a) DISTRIBUTION.—Section 311 (relating to taxability of corporation on distribution) is amended to read as follows:

"SEC. 311. TAXABILITY OF CORPORATION ON DISTRIBUTION.

"(a) GENERAL RULE.—Except as provided in subsection (b), gain or loss shall be recognized to a corporation on the distribution of property with respect to its stock in the same manner as if the property distributed had been sold to the distributee at its fair market value.

"(b) EXCEPTION FOR DEBT OF CORPORATION.—Subsection (a) shall not apply with respect to any distribution of an obligation of the corporation."

(b) DISTRIBUTIONS IN LIQUIDATION.—Section 336 (relating to distribution of property in liquidation) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) GENERAL RULE.—Except as provided in subsection (b), gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation in the same manner as if the property distributed had been sold to the distributee at its fair market value.

"(b) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b).—Subsection (a) shall not apply to any liquidation under section 332 for which the basis of property received is determined under section 334(b)."

(c) REPEAL OF SECTION 337.—

(1) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidation) is hereby repealed.

(2) ADJUSTMENTS TO SECTION 338.—

(A) Paragraph (1) of section 338(a) (relating to certain stock purchases treated as asset acquisitions) is amended by striking out "to which section 337 applies".

(B) Subsection (c) of section 338 is hereby repealed.

SEC. 413. ELIMINATION OF SPECIAL BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS.

(a) BANKS.—

(1) Paragraph (1) of section 585(b) (relating to addition to reserves for bad debts of banks) is amended to read as follows:

"(1) GENERAL RULE.—For purposes of section 166(c), the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (2)."

(2) Subsection (b) of section 585 is amended by striking out paragraphs (2) and (4) and by redesignating paragraph (3) as paragraph (2).

(b) OTHER FINANCIAL INSTITUTIONS.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended to read as follows:

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—For purposes of section 166(c), the resonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be the amount determined to be a reasonable addition to the reserve to the extent such amount does not exceed an amount determined in the same manner as provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2)."

SEC 414. LIBERALIZATION FOLLOWED BY REPEAL OF SOCIAL SECURITY EARNINGS TEST.

(a) LIBERALIZATION OF EARNINGS TEST.—Paragraph (3) of section 203(f) of the Social Security Act is amended—

(1) by striking out "33⅓ percent" and inserting in lieu therof "25 percent", and

(2) by striking our "in the case of an individual who has attained retirement age (as defined in section 216(l)) before the close of such taxable year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual,".

(b) LIBERALIZATION EFFECTIVE IN 1986.—Subsection (b) of section 347 of the Social Security Amendments of 1983 is amended by striking out "1989" and everything that follows thereafter through the period at the end and inserting in lieu there of "1985".

(c) REPEAL OF EARNINGS TEST AFTER 1990.—Subsections (b) and (f) of section 203 of the Social Security Act are hereby repealed.

SEC. 415. WITHHOLDING TABLES TO REFLECT BROADENING OF TAX BASE AS OF EFFECTIVE DATE OF ACT.

Subsection (a) of section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES MADE BY THE FAIR AND SIMPLE TAX ACT OF 1985.—The Secretary shall modify the tables and procedures under paragraph (1) to reflect any repeals or amendments made by the Fair and Simple Tax Act of 1985, including repeals of or amendments to—

"(A) exclusions from gross income under this title, and

"(B) deductions from gross income and credits of tax allowed under this title,

which have the effect of broadening the tax base as well as the changes in tax rates under sections 101 and 102 of such Act.

SEC. 416. SPOUSAL IRA'S: EQUITY FOR HOMEMAKERS.

(A) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 of the Internal Revenue Code of 1954 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of any individual with respect to whom a deduction is otherwise allowable under subsection (a) for any taxable year, and—

"(a) such individual files a joint return for the taxable year, and

"(b) the amount includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year,

the limitation of paragraph (1) of subsection (B) shall be equal to the lesser of—

"(c) $2,000, or

"(d) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus,

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowable as a deduction under subsection (A) to such spouse for such taxable year."

(B) TECHNICAL AMENDMENT.—Paragraph (2) of section 219(F) of such code (relating to other definitions and special rules) is amended by striking out "subsections (B) and (C)" and inserting in lieu thereof "subsection (B)".

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this Act, the amendments made

by this Act shall apply to taxable years beginning after December 31, 1985.

(b) TRUST THROWBACK RULES.—The amendment made by section 131(b) shall apply with respect to income accumulated during taxable years of trusts beginning after December 31, 1985.

(c) CREDITS.—

(1) INVESTMENT TAX CREDIT.—The repeals made by section 202(2) shall apply to—

(A) property (to which section 46(d) of the Internal Revenue Code of 1954 does not apply) placed in service after December 31, 1985, and

(B) property to which such section 46(d) applies to the extent of qualified progress expenditures made after December 31, 1985.

(2) PRESERVATION OF EXISTING CARRYOVERS.—The repeals made by section 201 shall not apply to any carryover of an excess credit from a taxable year beginning before January 1, 1986, to a taxable year beginning after December 31, 1985; except that any carryover to a taxable year beginning after December 31, 1985, shall be reduced to an amount equal to 35/46 of the amount which would have been such carryover but for this paragraph.

(d) INCREASE IN CASH SURRENDER VALUE OF LIFE INSURANCE CONTRACTS.—The amendment made by section 214 shall apply with respect to policy years beginning after December 31, 1985.

(e) TAX-EXEMPT BONDS.—The amendments made by section 215 shall apply to obligations issued after December 31, 1985.

(f) INDEXED BASIS.—The amendments made by section 231 shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

(g) CAPITAL GAINS AND LOSSES TREATMENT.—The amendments made by section 231 shall apply to gains and losses from sales or exchanges of capital assets after December 31, 1985, in taxable years beginning after such date.

(h) NEUTRAL COST RECOVERY SYSTEM.—The amendments made by section 301 shall apply with respect to property placed in service by the taxpayer after December 31, 1985.

(i) RECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS OF PROPERTIES BY CORPORATIONS.—

(1) The amendments made by subsections (a) and (b) of section 412 shall apply to distributions after December 31, 1985, in taxable years ending after such date.

(2) The amendments made by subsection (c) of section 412 shall apply to sales or exchanges after December 31, 1985, in taxable years ending after such date.

(j) REPEAL OF SOCIAL SECURITY EARNINGS TEST.—The amendments made by section 414(c) shall apply to taxable years beginning after December 31, 1989.

(k) DISQUALIFIED RECOVERY PROPERTY INTEREST.—The amendments made by section 319 shall apply to interest paid or incurred on obligations incurred in taxable years beginning after December 31, 1985.

By Mrs. LLOYD:

Section 302(a) (relating to proposed Section 1201(b)(2) ("pre-1986 net capital gain") of the Code)

—On page 258, line 13, strike out "or".

On page 258, line 16, strike out "1986." and insert in lieu thereof "1986, or ",

On page 258, after line 16, insert

"(C) is attributable to any bond issued on or before July 18, 1984 and which was acquired by the taxpayer on or before September 25, 1985, but only to the extent of the difference between the fair market value of such bond on December 31, 1985 and the adjusted basis for determining gain or loss as of such date.".

By Mr. MORRISON of Connecticut:

—Page 17, line 4, strike "1986" and insert "the calendar year in which the rate reductions made by this section take effect".

Page 19, strike lines 17 through 25, and page 20, strike lines 1 through 8, and insert the following:

(c) RATE SCHEDULES FOR TAXABLE YEARS BEGINNING IN THE CALENDAR YEAR IN WHICH THE RATE REDUCTIONS IMPOSED BY THIS SECTION TAKE EFFECT.—

(1) IN GENERAL.—The tax imposed by section 1 of the Internal Revenue Code of 1985 for taxable years beginning in the calendar year in which the rate reductions imposed by this section take effect shall be determined under tables prescribed by the Secretary of the Treasury or his delegate under paragraph (2).

(2) METHOD OF PRESCRIBING TABLES.—The tables prescribed for purposes of paragraph (1) shall be constructed so that the tax imposed by section 1 in the calendar year in which the rate reductions imposed by this section take effect is substantially equivalent to the tax which would have been imposed for a calendar year taxpayer in the calendar year in which the reductions imposed by this section take effect if—

(A) the change of rates provided by subsection (a) took effect on July 1 of the first calendar year beginning after December 31, 1985, in which no order of sequestration has been issued under The Balanced Budget and Emergency Deficit Control Act of 1985.

(B) section 15 of such Code applied to such change of rates of the basis of monthly proration in lieu of daily proration.

(d) the amendments made by this section shall take effect on July 1 of the first calendar year beginning after December 31, 1985, in which no order of sequestration has been issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

—Page 17, line 4, strike out "1986" and insert in lieu thereof "the calendar year in which the rate reductions made by this section take effect".

Page 19, strike out lines 17 through 25, and page 20, strike out lines 1 through 8, and insert in lieu thereof the following:

(c) RATE SCHEDULES FOR TAXABLE YEARS BEGINNING IN THE CALENDAR YEAR IN WHICH THE RATE REDUCTIONS MADE BY THIS SECTION TAKE EFFECT.—

(1) IN GENERAL.—The tax imposed by section 1 for taxable years beginning in the calendar year in which the rate reductions made by this section take effect shall be determined under tables prescribed by the Secretary of the Treasury of his delegate under paragraph (2).

(2) METHOD OF PRESCRIBING TABLES.—The tables prescribed for purposes of paragraph (1) shall be constructed so that the tax imposed by section 1 in the calendar year in which the rate reductions made by this section take effect is substantially equivalent to the tax which would have been imposed for a calendar year taxpayer in the calendar year in which the rductions made by this section take effect had—

(A) the change of rates provided by subsection (a) taken effect on July 1 of the first calendar year beginning after December 31, 1985, in which no order of sequestration has been issued under The Balanced Budget and Emergency Deficit Control Act of 1985, and

(B) section 15 (relating to effect of changes) applied to such change of rates on the basis of a monthly proration in lieu of daily proration.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1 of the first calendar year beginning after December 31, 1985, in which no order of sequestration has been issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

By Mr. SILJANDER:

(Amendment in the nature of a substitute.)

—After page 1, line 2 and insert in lieu thereof:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Fair and Simple Modified Flat Tax Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Secretary of the Treasury or his delegate, not later than 90 days after the date of the enactment of this Act, shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a draft of any technical and conforming amendments to the Internal Revenue Code of 1954 which are necessary to reflect the substantive amendments made by this Act.

TITLE I—REDUCTION OF INDIVIDUAL AND CORPORATE TAX RATES

SUBTITLE A—REDUCTION OF RATES

SEC. 101. INCOME TAX RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.

(a) IN GENERAL.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

There is hereby imposed on taxable income of every individual a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over the FICA maximum wage base.	10% of taxable income.
Over the FICA maximum wage base.	10% of the taxable income below the FICA maximum wage base plus 17% of taxable income in excess of the FICA maximum wage base.

(2) FICA MAXIMUM WAGE BASE DEFINED.—The term "FICA maximum wage base" means the contribution and benefit base as determined under section 230 of the Social Security Act.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 641 (relating to tax applied to estates and trusts) is amended by striking out "section 1(e)" and inserting in lieu thereof "section 1".

SEC. 102. CORPORATE TAX RATES.

Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $50,000,

"(2) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $100,000, and

"(3) 35 percent of so much of the taxable income as exceeds $100,000,"

Subtitle B—Increase in Amount of Personal Exemption

SEC. 111. INCREASE IN AMOUNT OF PERSONAL EXEMPTION

Subsection (f) of section 151 (relating to allowance of deductions for personal exemptions) is amended—

(1) by striking out "$1,000" each place such term appears in such subsection and inserting in lieu thereof "$2,000", and

(2) by striking out "section 1(f)(3)" and inserting in lieu thereof "section 63(d)(2)(C)".

(2) COST-OF-LIVING ADJUSTMENT.—Section 151 is amended by adding at the end thereof the following new subsection.

"(g) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—For purposes of subsection (f), the cost-of-living adjustment for any calender year is the percentage (if any) by which—

"(A) the CPI for the preceding year, exceeds

"(B) the CPI for the calendar year 1984.

"(2) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (1), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

"(3) CONSUMER PRICE INDEX.—For purposes of paragraph (2), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor."

(2) CONFORMING AMENDMENT.—Subsection (f) of section 151 is amended by striking out "section 1(f)(3)" and inserting in lieu thereof "subsection (g)".

Subtitle—Repeals Related to Reduction in Rates

SEC. 131. REPEALS.

(9) Subsections (b) through (i) of section 63 are hereby repealed.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Section 3 (relating to tax tables for individuals).

(2) Paragraphs (1), (2), and (3) of section 402(e) (relating to special averaging rules for lump-sum distributions).

(3) Part I of subchapter G of chapter 1 (section 531 and following, relating to corporations improperly accumulating surplus).

(4) Part II of subchapter G of chapter 1 (section 541 and following, relating to personal holding companies).

(5) Part I of subchapter Q of chapter 1 (section 1301 and following, relating to income averaging).

(6) Section 1551 (relating to graduated corporate tax rates).

(b) TRUST THROWBACK RULES APPLY ONLY TO FOREIGN TRUST.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trust) is amended by adding at the end thereof the following new section:

"SEC. 669. SUBPART TO APPLY ONLY TO FOREIGN TRUSTS.

"This subpart shall apply only with respect to amounts distributed from a foreign trust."

TITLE II—BASE BROADENING

Subtitle A—Credits

SEC. 201. REPEALS.

The following provisions are hereby repealed:

(1) Section 21 (relating to credit for expenses for household and dependent care services necessary for gainful employment).

(2) Section 22 (relating to credit for the elderly and the permanently and totally disabled).

(3) Section 23 (relating to residential energy credit).

(4) Section 24 (relating to contributions to candidates for public office).

(5) Section 25 (relating to interest paid or incurred in connection with a qualified mortgage credit certificate program).

(6) Section 28 (relating to clinical testing expenses for certain drugs for rare diseases and conditions).

(7) Section 29 (relating to credit for producing fuel from a nonconventional source).

(8) Section 30 (relating to credit for increasing research activities).

(9) Paragraphs (1), (2), (3), and (4) of section 38(b) (allowing credits determined under sections 40 and 41 and subparts E and F).

(10) Section 40 and 87 (relating to alcohol used as fuel).

(11) Section 41 (relating to rules for determining amount of employee stock ownership credit).

(12) Section 42 (relating to general tax credit).

(13) Subpart E of part IV of subchapter A of chapter 1 (relating to rules for determining credit for investment in certain depreciable property).

(14) Subpart F of such part IV (relating to rules for determining credit for employment of certain new employees).

Subtitle B—Exclusions

PART I—REPEALS

SEC. 211. REPEALS.

The following sections are hereby repealed:

(1) Section 104 (relating to compensation for injuries or sickness).

(2) Section 116 (relating to partial exclusion of dividends received by individuals).

(3) Section 120 (relating to amounts received under qualified group legal service plans).

(4) Section 124 (relating to qualified transportation furnished by employer).

(5) Section 305(e) (relating to dividend reinvestment in public utilities).

SEC. 213. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 85 (relating to unemployment compensation) is amended to read as follows:

"(a) IN GENERAL.—Gross income includes any unemployment compensation received by the taxpayer during the taxable year."

(b) CONFORMING AMENDMENT.—Section 85 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 215. LIMITATION ON PRIVATE-PURPOSE TAX-EXEMPT BONDS.

(a) REPEAL OF TAX EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS.—Each paragraph of section 103(b) (relating to industrial development bonds) other than paragraphs (1), (2), and (3) is hereby repealed.

(b) REPEAL OF TAX EXEMPTION FOR MORTGAGE SUBSIDY BONDS.—Section 103A is amended to read as follows:

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant part of the proceeds of which is to be used directly or indirectly for mortgages (or other owner financing) on owner-occupied residences."

(c) REPEAL OF TAX EXEMPTION FOR CERTAIN PRIVATE PURPOSE BONDS.—

(1) IN GENERAL.—

(A) Subsection (a) of section 103 is amended to read as follows:

"(a) GENERAL RULE.—Gross income does not include interest on the obligations of a State, a territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia."

(B) Subsection (e) of section 103 is amended to read as follows:

"(e) CERTAIN PRIVATE PURPOSE BONDS.—Any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used (directly or indirectly)—

"(1) to finance loans to individuals for educational expenses, or

"(2) by an organization described in section 501(c)(3) which is exempt from taxation under section 501(a),

shall be treated as an obligation not described in subsection (a)."

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b)(1) and (c)(1) of section 103 are each amended by striking out "subsection (a) (1) or (2)" each place it appears and inserting in lieu thereof "subsection (a)".

(B) Paragraph (3) of section 103(b) (defining exempt person) is amended to read as follows:

"(3) EXEMPT PERSON.—For purposes of paragraph (2)(A), the term 'exempt person' means a governmental unit."

(C) Subsections (d), (e), (g), (h), (k), (l), (n), and (o) of section 103 are hereby repealed.

SEC. 216. SCHOLARSHIP AND FELLOWSHIP EXCLUSION LIMITED TO TUITION AND RELATED EXPENSES.

(a) GENERAL RULE.—Subsections (a) and (b) of section 117 (relating to scholarships and fellowships) are amended to read as follows:

"(a) IN GENERAL.—In the case of an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), gross income does not include any amount received as—

"(1) a scholarship, or

"(2) a fellowship grant,

to the extent such amount is used for qualified tuition and related expenses (within the meaning of subsection (c)(2)).

"(b) PAYMENT FOR TEACHING, RESEARCH, ETC.—Subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this subsection."

(b) CLARIFICATION OF DEFINITION OF QUALIFIED TUITION AND RELATED EXPENSES.—

(1) Clause (i) of section 117(c)(2)(A) is amended by striking out "at an institution of higher education" and inserting in lieu thereof "at an educational organization described in section 170(b)(1)(A)(ii)".

(2) Subparagraph (B) of section 117(c)(1) is amended by inserting "at an institution of higher education" after "qualified tuition and related expenses".

SEC. 217. TERMINATION OF TAX EXEMPTION FOR DEPOSITS INTO, AND WITHDRAWALS FROM, THE CAPITAL CONSTRUCTION FUND UNDER SECTION 607 OF THE MERCHANT MARINE ACT, 1936.

(a) TAXATION OF DEPOSITS.—Subsection (d) of section 607 of the Merchant Marine Act, 1936 (relating to nontaxability for deposits) is hereby repealed.

(b) ALL WITHDRAWALS TREATED AS NONQUALIFIED.—Subsection (f) of such section 607 is amended by adding at the end thereof the following new paragraph:

"(3) No withdrawal after December 31, 1985, shall be treated as a qualified withdrawal."

SEC. 218. REDUCTION IN AMOUNT OF SOCIAL SECURITY BENEFITS INCLUDED IN GROSS INCOME.

Paragraphs (1) and (2) of subsection (a) and clause (ii) of subsection (b)(1)(A) of section 86 (relating to social security and tier 1 railroad retirement benefits) are each amended by striking out "one-half" and inserting in lieu thereof "one-quarter".

SUBTITLE C—DEDUCTIONS

PART I—REPEALS

SEC. 221. REPEALS.

The following provisions are hereby repealed:

(1) Subsections (c)(3), (e), and (h) of section 165 (relating to deduction for casualty and theft losses).

(2) Section 196 (relating to deduction for unused business credits).

(3) Section 221 (relating to deduction for two-earner married couples).

PART II—OTHER CHANGES

SEC. 226. REPEAL OF DEDUCTION FOR STATE AND LOCAL INCOME, SALES, AND PERSONAL PROPERTY TAXES.

Subsection (a) of section 164 (relating to deduction for taxes) is amended—

(1) by striking out paragraphs (2) and (4),

(2) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3) respectively,

(3) in paragraph (2) (as redesignated by paragraph (2)), by striking out "income, war profits," and inserting in lieu thereof "war profits and", and

(2) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following new paragraph:

"(4) Foreign income taxes."

SEC. 227. INCREASE IN FLOOR ON MEDICAL DEDUCITON.

Subsection (a) of section 213 (relating to medical, dental, etc., expenses) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

SEC. 228. REPEAL OF DEDUCTION FOR CONSUMER INTEREST.

(a) IN GENERAL.—Section 163 (relating to interest expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DENIAL OF DEDUCTION FOR CERTAIN CONSUMER INTEREST.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any consumer interest.

"(2) CONSUMER INTEREST DEFINED.—For purposes of this subsection, the term 'consumer interest' means any interest which is allowable as a deduction under this chapter solely by reason of this section, except that such term does not include any interest on any indebtedness the proceeds of which were used exclusively—

"(A) to acquire, construct, or rehabilitate any residential property, or

"(B) to pay educational expenses of the taxpayer, the taxpayer's spouse, or any dependent (as such term in defined in section 152) of the taxpayer."

Subtitle D—Adjustment to Basis; Changes in Certain Special Capital Gains Treatment Provisions

SEC. 231. ADJUSTMENTS TO BASIS TO ALLOW FOR INFLATION.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAINS OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means any capital asset (within the meaning given to such term by section 1221) and property used in the trade or business (within the meaning given to such term by section 1231 applied without regard to any minimum holding period.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)), and

"(ii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (ii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) IN GENERAL.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1985).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayers's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which the second sentence of section 1231(a) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair

market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under section (b) or (c) of section 414.

"(g) DISPOSITIONS OF RECOVERY PROPERTY.—In the case of an asset which is recovery property (within the meaning of section 168), the amount determined by applying to the unadjusted basis of such recovery property (as determined under section 168(d)) immediately before the disposition the applicable percentage determined in accordance with the following table shall be treated as the adjusted basis of such property for purposes of subsection (a):

"If the recovery year in which the disposition takes place is:	The applicable percentage for the class of property is:				
	4-year	6-year	15-year	20-year public utility	25-year real property
1	87	93	98	99	99
2	59	76	92	96	97
3	30	58	86	92	94
4	0	39	80	88	91
5		20	74	83	88
6		0	67	79	85
7			60	75	82
8			53	70	79
9			45	65	75
10			37	60	72
11			30	55	68
12			23	50	64
13			16	44	60
14			8	39	56
15			0	33	52
16				27	47
17				20	43
18				14	38
19				7	33
20				0	28
21					23
22					17
23					12
24					6
25					0.

"(h) ELECTION TO DISREGARD INDEXED BASIS.—

"(1) IN GENERAL.—At the election of the taxpayer, the indexed basis shall not be substituted for the adjusted basis in determining gain or loss from the sale or exchange of indexed assets for the taxable year.

"(2) TIME, MANNER, AND SCOPE OF ELECTION.—An election under paragraph (1) with respect to any taxable year shall—

"(A) be made at such time and in such manner as the Secretary shall prescribe by regulations, and

"(B) apply to the sale or disposition of all indexed assets by the taxpayer during the taxable year.

Such an election, once made, shall be irrevocable with respect to such taxable year.

"(i) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization, the Secretary may disallow part or all of such adjustment or increase.

"(j) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

SEC. 232. CHANGES IN SPECIAL TREATMENT OF CAPITAL GAINS AND LOSSES.

(a) ALTERNATIVE TAX FOR CORPORATIONS.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain from the sale or exchange of any capital asset which is not an indexed asset (as defined in section 1022) or which is an indexed asset with respect to which an election under section 1022(h) has been made by the taxpayer, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of such net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 20 percent of such net capital gain."

(b) SPECIAL TREATMENT FOR CAPITAL GAINS OF INDIVIDUALS.—

(1) IN GENERAL.—Section 1202 (relating to deductions for capital gains is amended to read as follows:

"SEC. 1202. DEDUCTIONS FOR CAPITAL GAINS.

"(a) IN GENERAL.—If, in the case of an individual, the taxpayer has a net capital gain for the taxable year, and if—

"(1) such gain is derived from the sale or exchange of assets which are not indexed assets (as defined in section 1022) or

"(2) the taxpayer has made an election under section 1022(h) to disregard the indexed basis of indexed assets in determining capital gains or losses for the taxable year,

40 percent of the amount of such gain shall be excluded from gross income of such individual for such taxable year.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the computation of any exclusion under subsection (a) for the taxable year shall not take into account the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includable by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(c) CAPITAL LOSSES OF INDIVIDUALS; CARRYOVER OF THE EXCESS OF SUCH LOSSES OVER GROSS INCOME ALLOWED.—

(1) REPEAL OF LIMITATION ALLOWING DEDUCTION ONLY TO EXTENT OF CERTAIN NET LOSSES OVER NET GAINS.—Subparagraph (C) of section 1211(b)(1) (relating to limitation on deduction of capital losses) is hereby repealed.

(2) CARRYFORWARD ALLOWED.—Subsection (b) of section 1212 (relating to carryovers for taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—

"(1) GENERAL RULE.—If an individual taxpayer has capital losses for any taxable year which exceed an amount equal to—

"(A) the gross income of the taxpayer for the taxable year, reduced by

"(B) the sum of the deductions allowed by this chapter for the taxable year (determined in accordance with paragraph (2)),

such excess amount shall be treated as a capital loss in the succeeding taxable year.

"(2) DETERMINATION OF SUM OF DEDUCTIONS.—In determining the sum of the deductions allowable under this chapter for the taxable year for purposes of paragraph (1)(B)—

"(A) the amount of any capital loss incurred in the taxable year shall not be taken into account, and

"(B) the amount of any capital losses incurred in the preceding taxable year which may be treated, under this subsection, as

capital losses incurred in the taxable year shall be taken into account."

TITLE III—CAPITAL COST RECOVERY

Subtitle A—Neutral Cost Recovery System for Depreciable Property

SEC. 301. MODIFICATION AND REDESIGNATION OF ACCELERATED COST RECOVERY SYSTEM.

(a) RECOVERY PERIODS FOR ALL RECOVERY PROPERTY EXTENDED.—Paragraph (2) of section 168(c) (defining classes of property) is amended to read as follows:

"(2) CLASSES OF RECOVERY PROPERTY.—Each item of recovery property shall be assigned to one of the following classes or property:

"(A) 4-YEAR PROPERTY.—The term '4-year property' means section 1245 class property—

"(i) with a present class life of 4 years or less; or

"(ii) used in connection with research and experimentation.

"(B) 6-YEAR PROPERTY.—The term '6-year property' means recovery property which is section 1245 class property and is not 4-year property, 15-year property, or 20-year public utility property.

"(C) 15-YEAR PROPERTY.—The term '15 year property' means—

"(i) public utility property (other than section 1250 class property or 4-year property) with a present class life of more than 18 years but not more than 25 years; and

"(ii) section 1250 class property with a class life of 12.5 years or less.

"(D) 20-YEAR PUBLIC UTILITY PROPERTY.—The term '20-year public utility property' means public utility property (other than section 1250 class property or 4-year property) with a present class life of more than 25 years.

"(E) 25-YEAR REAL PROPERTY.—The term '25 year real property' means section 1250 class property which—

"(i) does not have a class life of 12.5 years or less, and

"(ii) is not low income housing.

"(F) LOW INCOME HOUSING.—The term 'low income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

"(G) SPECIAL RULE FOR THEME PARKS, ETC.—For purposes of subparagraphs (C) and (D), a building (and its structural components) shall not be treated as having a present class life of 12.5 years or less by reason of any other use than the use for which such building was first placed in service."

(b) AMOUNT OF DEDUCTION.—Paragraph (1) of section 168(b) (relating to amount of deduction) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, the amount of the deduction allowable by subsection (a) for any taxable year shall be the product of—

"(A) the applicable inflation ratio, and

"(B) the aggregate amount determined by applying to the unadjusted basis of recovery property the applicable percentage determined in accordance with the following table:

"If the recovery year is:	The applicable percentage for the class of property is:				
	4-year	6-year	15-year	20-year public utility	25 year real property
1	16	10	5	4	4
2	30	20	9	7	6
3	30	20	9	7	6
4	30	20	9	7	6
5		20	9	7	6
6		20	9	7	6
7			9	7	6
8			9	7	6
9			9	7	6
10			9	7	6
11			8	7	6
12			8	7	6
13			8	7	6
14			8	7	6
15			8	7	6
16				7	6
17				7	6
18				7	6
19				7	6
20				7	6
21					6
22					6
23					6
24					6
25					6."

(c) APPLICABLE INFLATION RATIO.—Subsection (d) of section 168 (relating to unadjusted basis and adjustments) is amended by adding at the end thereof the following new paragraph:

"(3) APPLICABLE INFLATION RATIO DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable inflation ratio' has the meaning given to such term by section 1022(c)(2).

"(B) APPLICATION OF DEFINITION TO RECOVERY PROPERTY.—Subparagraph (A) of section 1022(c)(2) shall be applied by substituting 'in which the taxable year ends' for 'in which the disposition takes place'. Subparagraph (B) of such section shall be applied by substituting 'recovery property' for 'asset'."

(d) CERTAIN EXPENDITURES TREATED AS RECOVERY PROPERTY.—Section 168 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(j) RESEARCH AND EXPERIMENTAL EXPENDITURES TREATED IN THE SAME MANNER AS RECOVERY PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, research and experimental expenditures which are paid or incurred by the taxpayer during the taxable year may be treated in the same manner as recovery property. The amount of any such expenditure shall be treated as the unadjusted basis in applying this section to such expenditure.

"(2) CLASS OF PROPERTY.—The Secretary shall prescribe by regulations the class (or classes) of property to which the expenditures described in paragraph shall be assigned.

"(3) LAND.—This subsection shall not apply to any expenditure for the acquisition of land."

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is hereby repealed.

(2) Section 168 is amended—

(A) by striking out "3-year property" each place such term appears and inserting in lieu thereof "4-year property",

(B) by striking out "5-year property" each place such term appears and inserting in lieu thereof "6-year property",

(C) by striking out "10-year property" each place such term appears and inserting in lieu thereof "15-year property",

(D) by striking out "15-year public utility property" each place such term appears and inserting in lieu thereof "20-year public utility property", and

(E) by striking out "18-year real property" each place such term appears and inserting in lieu thereof "25-year real property".

(f) CLERICAL AMENDMENT.—The heading for section 168 is amended to read as follows:

"SEC. 168. NEUTRAL COST RECOVERY SYSTEM."

Subtitle B—Other Changes

PART I—REPEALS

SEC. 311. REPEALS.

The following provisions are hereby repealed:

(1) Section 174 (relating to research and experimental expenditures).

(2) Section 175 (relating to soil and water conservation expenditures).

(3) Section 178 (relating to depreciation or amortization of improvements made by lessee on lessor's property).

(4) Section 182 (relating to expenditures by farmers for clearing land).

(5) Section 194 (relating to amortization of reforestation expenditures).

PART II—OTHER CHANGES

SEC. 316. 10-YEAR AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) GENERAL RULE.—Subsection (b) of section 189 (relating to amortization of amounts charged to capital account) is amended to read as follows:

"(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year in which paid or accrued shall be allowed as a deduction ratably over the 10-year period beginning with such taxable year."

(b) ELIMINATION OF CERTAIN EXCEPTIONS.—Subsection (d) of section 189 (relating to certain property excluded) is amended to read as follows:

"(d) CERTAIN PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit."

SEC. 317. CIRCULATION EXPENDITURES.

Section 173 (relating to circulation expenditures) is amended to read as follows:

"SEC. 173. CIRCULATION EXPENDITURES.

"(a) GENERAL RULE.—Expenditures (other than expenditures for the purchase of land or depreciable property or for the acquisition of circulation through the purchase of any part of the business of another publisher of a newspaper, magazine, or other periodical) to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical shall be allowed as a deduction ratably over the 5-year period beginning with the taxable year in which such expenditure was made.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any portion of the expenditure as (under regulations prescribed by the Secretary) is chargeable to capital account if the taxpayer elects, in accordance with such regulations, to treat such portion as so chargeable. Such election, if made, must be for the total amount of such portion of the expenditure which is so chargeable to capital account, and shall be binding for all subsequent taxable years unless, upon application by the taxpayer, the Secretary permits a revocation of such election subject to such conditions as he deems necessary."

SEC. 318. DEPLETION ALLOWANCE DEDUCTION FOR TIMBER REPEALED.

Subsection (a) of section 611 (allowing deduction for depletion) is amended by striking out "and timber,".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Foreign Income

SEC. 401. REPEAL OF FSC AND INTEREST CHARGE DISC.

(a) FSC.—

(1) IN GENERAL.—Section 921 (relating to exempt foreign trade income excluded from gross income) is amended by adding at the end thereof the following new subsection:

"(e) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1985."

(2) CONFORMING AMENDMENT.—Section 922 (defining FSC) is amended by adding at the end thereof the following new subsection:

(c) TERMINATION.—No corporation shall be treated as a FSC for any taxable year beginning after December 31, 1985."

(b) INTEREST CHARGE DISC.—

(1) IN GENERAL.—Section 991 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following new sentence: "This section shall not apply to any taxable year beginning after December 31, 1985."

(2) CONFORMING AMENDMENTS.—

(A) Section 992(a) (defining DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—No corporation shall be treated as a DISC for any taxable year beginning after December 31, 1985."

(B) Section 995(b)(2) (relating to deemed distributions upon DISC disqualification) is amended by adding at the end thereof the following new subparagraph:

"(C) A corporation which, by reason of the provisions of section 992(a)(4), is a former DISC, for its first taxable year beginning after December 31, 1985, shall be treated, for purposes of this paragraph, as having failed to satisfy the conditions of section 992(a)(1) for such taxable year."

Subtitle B—Other Miscellaneous Provisions

SEC. 411. METHOD OF ACCOUNTING FOR TAXPAYERS ENGAGED IN FARMING.

(a) GENERAL RULE.—The section heading and subsection (a) of section 447 (relating to method of accounting for corporations engaged in farming) are amended to read as follows:

"SEC. 447. METHOD OF ACCOUNTING FOR TAXPAYERS ENGAGED IN FARMING.

"(a) GENERAL RULE.—The taxable income from farming (including timber) shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b)."

(b) ACCRUAL METHOD NOT REQUIRED FOR TAXPAYERS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS; REPEAL OF OTHER EXCEPTIONS.—Section 447 is amended by striking out subsections (c), (d), (e), (g), and (h) and by inserting after subsection (b) the following new subsection:

"(c) TAXPAYERS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS.—

"(1) IN GENERAL.—This section shall not apply with respect to any taxpayer if for each prior taxable year of such taxpayer beginning after December 31, 1985 (December 31, 1975, in the case of a corporation), such taxpayer (and, in the case of a corporation, any predecessor) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all taxpayers which are treated as a single employer under subsection (a) or (b) of section 52 (as in effect before its repeal) shall be treated as 1 taxpayer.

"(2) FARMING SYNDICATES SUBJECT TO ACCRUAL METHOD WITHOUT REGARD TO AMOUNT OF GROSS RECEIPTS.—Paragraph (1) shall not apply to any farming syndicate (as defined in section 464(c))."

SEC. 412. RECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS OF PROPERTY BY CORPORATIONS.

(A) DISTRIBUTION.—Section 311 (relating to taxability of corporation on distribution) is amended to read as follows:

"SEC. 311. TAXABILITY OF CORPORATION ON DISTRIBUTION.

"(a) GENERAL RULE.—Except as provided in subsection (b), gain or loss shall be recognized to a corporation on the distribution of property with respect to its stock in the same manner as if the property distributed had been sold to the distributee at its fair market value. 1

"(b) EXCEPTION FOR DEBT OF CORPORATION.—Subsection (a) shall not apply with respect to any distribution of an obligation of the corporation."

(b) DISTRIBUTIONS IN LIQUIDATION.—Section 336 (relating to distributions of property in liquidation) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) GENERAL RULE.—Except as provided in subsection (b), gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation in the same manner as if the property distributed had been sold to the distributee at its fair market value.

"(b) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b).—Subsection (a) shall not apply to any liquidation under section 332 for which the basis of property received is determined under section 334(b)."

(c) REPEAL OF SECTION 337.—

(1) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is hereby repealed.

(2) ADJUSTMENTS TO SECTION 338.—

(A) Paragraph (1) of section 338(a) relating to certain stock purchases treated as asset acquisitions) is amended by striking out "to which section 337 applies".

(B) Subsection (c) of section 338 is hereby repealed.

SEC. 413. ELIMINATION OF SPECIAL BAD DEBT RESERVES OF FINANCIAL INSTITUTIONS.

(a) BANKS.—

(1) Paragraph (1) of section 585(b) (relating to addition to reserves for bad debts of banks) is amended to read as follows:

"(1) GENERAL RULE.—For purposes of section 166(c), the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (2)."

(2) Subsection (b) of section 585 is amended by striking out paragraphs (2) and (4) and by redesignating paragraph (3) as paragraph (2).

(b) OTHER FINANCIAL INSTITUTIONS.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended to read as follows:

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—For purposes of section 166(c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be the amount determined to be a reasonable addition to the reserve to the extent such amount does not exceed an amount determined in the same manner as provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2)."

SEC. 414. LIBERALIZATION FOLLOWED BY REPEAL OF SOCIAL SECURITY EARNINGS TEST.

(a) LIBERALIZATION OF EARNINGS TEST.—Paragraph (3) of section 203(f) of the Social Security Act is amended—

(1) by striking out "33⅓ percent" and inserting in lieu thereof "25 percent", and

(2) by striking out "in the case of an individual who has attained retirement age (as defined in section 216(l)) before the close of such taxable year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual,".

(b) LIBERALIZATION EFFECTIVE IN 1986.—Subsection (b) of section 347 of the Social Security Amendments of 1983 is amended by striking out "1989" and everything that follows thereafter through the period at the end and inserting in lieu thereof "1985".

(c) REPEAL OF EARNINGS TEST AFTER 1989.—Subsections (b) and (f) of section 203 of the Social Security Act are hereby repealed.

SEC. 415. WITHHOLDING TABLES TO REFLECT BROADENING OF TAX BASE AS OF EFFECTIVE DATE OF ACT.

Subsection (a) of section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES MADE BY THE FAIR AND SIMPLE TAX ACT OF 1985.—The Secretary shall modify the tables and procedures under paragraph (1) to reflect any repeals or amendments made by the Fair and Simple Tax Act of 1985, including repeals of or amendments to—

"(A) exclusions from gross income under this title, and

"(B) deductions from gross income and credits of tax allowed under this title,

which have the effect of broadening the tax base as well as the changes in tax rates under sections 101 and 102 of such Act.

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1985.

(b) TRUST THROWBACK RULES.—The amendment made by section 131(b) shall apply with respect to income accumulated during taxable years of trusts beginning after December 31, 1985.

(c) CREDITS.—

(1) INVESTMENT TAX CREDIT.—The repeals made by section 201(2) shall apply to—

(A) property (to which section 46(d) of the Internal Revenue Code of 1954 does not apply) placed in service after December 31, 1985, and

(B) property to which such section 46(d) applies to the extent of qualified progress expenditures made after December 31, 1985.

(2) PRESERVATION OF EXISTING CARRYOVERS.—The repeals made by section 201 shall not apply to any carryover of an excess credit from a taxable year beginning before January 1, 1986, to a taxable year beginning after December 31, 1985; except that any carryover to a taxable year beginning after December 31, 1985, shall be reduced to an amount equal to 3⅝₆ of the amount which would have been such carryover but for this paragraph.

(d) INCREASE IN CASH SURRENDER VALUE OF LIFE INSURANCE CONTRACTS.—The amendment made by section 214 shall apply with respect to policy years beginning after December 31, 1985.

(e) TAX-EXEMPT BONDS.—The amendments made by section 215 shall apply to obligations issued after December 31, 1985.

(f) INDEXED BASIS.—The amendments made by section 231 shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

(g) CAPITAL GAINS AND LOSSES TREATMENT.—The amendments made by section 231 shall apply to gains and losses from sales or exchanges of capital assets after December 31, 1985, in taxable years beginning after such date.

(h) NEUTRAL COST RECOVERY SYSTEM.—The amendments made by section 301 shall apply with respect to property placed in service by the taxpayer after December 31, 1985.

(i) RECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS OF PROPERTIES BY CORPORATIONS.—

(1) The amendments made by subsections (a) and (b) of section 412 shall apply to distributions after December 31, 1985, in taxable years ending after such date.

(2) The amendments made by subsection (c) of section 412 shall apply to sales or exchanges after December 31, 1985, in taxable years ending after such date.

(j) REPEAL OF SOCIAL SECURITY EARNINGS TEST.—The amendments made by section 414(c) shall apply to taxable years beginning after December 31, 1989.

TITLE VI—TAX AMNESTY

SEC. 601. WAIVER OF CRIMINAL AND CIVIL PENALTIES.

(a) WAIVER OF PENALTIES.—In the case of any underpayment of Federal tax for any taxable period, the taxpayer shall not be liable for any criminal or civil penalty (or addition to tax) provided by the Internal Revenue Code of 1954 with respect to such underpayment if—

(1) during the amnesty period—

(A) the taxpayer files a written statement with the Secretary which sets forth—

(i) the name, address, and taxpayer identification number of the taxpayer,

(ii) the amount of the underpayment for the taxable period, and

(iii) such information as the Secretary may require for purposes of determining the correct amount of the underpayment for the taxable period, and

(B) the taxpayer agrees to a waiver of any restriction on the assessment or collection of such underpayment,

(2) when filing the statement described in paragraph (1), the taxpayer pays the amount of the underpayment shown on statement, and

(3) not later than 30 days after the date on which the taxpayer is notified by the Secretary of the amount of interest payable with respect to the underpayment (and the amount of any delinquent amount with respect to the taxpayer), the taxpayer pays the full amount of such interest (and such tax delinquent amount).

The preceding sentence shall apply only to the extent the underpayment for the taxable period does not exceed the amount set forth on the written statement filed under paragraph (1).

(b) INSTALLMENT PAYMENT OF TAX PERMITTED IN CERTAIN CASES.—The requirements of paragraphs (2) and (3) of subsection (2) shall be treated as met if—

(1) the taxpayer in the statement filed under subsection (a)(1) requests the privilege of making installment payments under this subsection, and

(2) the taxpayer enters into an agreement with the Secretary for the payment (in installments) of the amounts required to be paid under paragraphs (2) and (3) of subsection (a) within 30 days after being contacted by the Secretary for purposes of entering into such an agreement (or in any case where the Secretary determines that permitting the payment in installments of such amounts is not appropriate, the taxpayer pays the entire amount of such amounts within 30 days after being notified by the Secretary of such determination).

(c) AMNESTY NOT TO APPLY IN CERTAIN CASES.—

(1) WHERE TAXPAYER CONTACTED BEFORE STATEMENT FILED.—Subsection (a) shall not apply to any underpayment of Federal tax for any taxable period to the extent that before the statement is filed under subsection (a)(1)—

(A) such underpayment was assessed,

(B) a notice of deficiency with respect to such underpayment was mailed under section 6212 of the Internal Revenue Code of 1954, or

(C) the taxpayer was informed by the Secretary that the Secretary has questions about the taxpayer's liability for the taxable period.

(2) WHERE FRAUD IN SEEKING AMNESTY OR WHERE CRIMINAL INVESTIGATION PENDING.—Subsection (a) shall not apply to any taxpayer if—

(A) any representation made by such taxpayer under this section is false or fraudulent in any material respect, or

(B) a Justice Department referral (within the meaning section 7602(c)(2) of such Code) is in effect with respect to such taxpayer as of the time the statement is filed under subsection (a)(1).

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AMNESTY PERIOD.—The term "amnesty period" means the period which begins on first day of the calendar year following enactment of this Act and ends on the last day to the third calendar year following the date of enactment.

(2) FEDERAL TAX.—The term "Federal tax" means any tax imposed by the Internal Revenue Code of 1954.

(3) TAXABLE PERIOD.—

(A) IN GENERAL.—The term "taxable period" means—

(i) in the case of a tax imposed by subtitle A of such Code, the taxable year, or

(ii) in the case of any other tax, the period in respect of which such tax is imposed.

(B) SPECIAL RULE FOR TAXES WITH NO TAXABLE PERIOD.—In the case of any tax in respect of which there is not taxable period, any reference in this section to a taxable period shall be treated as a reference to the taxable event.

(4) ADDITION TO TAX INCLUDES ADDITIONAL AMOUNT.—The term "addition to tax" includes any additional amount.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) FORM OF STATEMENT.—Any statement under subsection (a)(1) shall be filed in such a manner and form as the Secretary shall prescribe.

(7) NOTICE TO RELATED PERSONS TREATED AS NOTICE TO THE TAXPAYER.—

(A) IN GENERAL.—For purposes of subsection (c)(1)(C), any notice to a related person with respect to a matter which may materially affect the tax liability of the taxpayer for any taxable period shall be treated as notice to the taxpayer with respect to such taxable period.

(B) RELATED PERSON.—For purposes of subparagraph (A), the term "related person" means—

(i) any person who during the taxable period bore a relationship to the taxpayer described in section 267(b) of such Code,

(ii) any partnership in which the taxpayer was a partner during the taxable period, or

(iii) any subchapter S corporation (as defined in section 1361 of such Code) in which the taxpayer was a shareholder during the taxable period.

(e) SPECIAL FUND ESTABLISHED FOR TAXES RECOVERED UNDER AMNESTY TO OFFSET POSSIBLE REVENUE LOSSES UNDER TITLE I.—

(1) TAXES RECOVERED BY TAX AMNESTY TO BE DEPOSITED IN SPECIAL ACCOUNT.—The Secretary shall establish a special account into which the taxes recovered under this section shall be deposited.

(2) DEPOSITS TO OFFSET REVENUE SHORTFALLS, IF ANY, FROM TITLE I.—

(A) IN GENERAL.—Amounts in such special account shall be available, as provided in appropriation Acts, for deposit into the general fund of the treasury beginning on the first day that the amendments made by title I of this Act apply. Such amounts shall be available only to compensate for any revenue shortfall (if any) below the revenue targets established by the previous fiscal year's budget resolution.

(B) FUNDS USED TO REDUCE PUBLIC DEBT AFTER 3 YEARS.—Amounts in such special account which are not deposited into the general fund of the treasury during the 3-year period beginning on the first day described in subparagraph (A) shall be used at the close of such period to retire outstanding obligations of the United States which are part of the public debt.

(f) PERIODS FOR WHICH AMNESTY AVAILABLE.—The provisions of this section shall apply only to underpayments of Federal tax for taxable periods ending before the first day of the first calendar year ending after the date of the enactment of this Act.

By Mr. TRAFICANT;

—Subtitle C of title VI is amended by adding at the end thereof the following new sections:

"SEC. 627. INCOME FROM RUNAWAY PLANTS OR FROM MANUFACTURING OPERATIONS LOCATED IN A COUNTRY WHICH PROVIDES A TAX HOLIDAY INCLUDED IN SUBPART F INCOME.

"(a) FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME ADDED TO CURRENTLY TAXED AMOUNTS.—Subsection (a) of section 954 (defining foreign base company income) is amended by adding at the end thereof the following new paragraph:

'(6) the foreign base company manufacturing related income for the taxable year (determined under subsection (i) and reduced as provided in subsection (b)(5)).

"(b) DEFINITION OF FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

'(i) FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME.—

'(1) IN GENERAL.—For purposes of this section, the term 'foreign base company manufacturing related income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the manufacture for or sale to any person of personal property by the controlled foreign corporation where the property sold was manufactured by the controlled foreign corporation in any country other than the United States if such proper-

ty or any component of such property was manufactured—

'(A) in a tax holiday plant, or

'(B) in a runaway plant.

'(2) OTHER DEFINITIONS; SPECIAL RULES.—For purposes of this subsection—

'(A) TAX HOLIDAY PLANT DEFINED.—The term 'tax holiday plant' means any facility—

'(i) operated by the controlled foreign corporation in connection with the manufacture of personal property, and

'(ii) with respect to which any economic benefit under any tax law of the country in which such facility is located accrued—

'(I) to such corporation,

'(II) for the purpose of providing an incentive to such corporation to establish, maintian, or expand such facility, and

'(III) for the taxable year of such corporation during which the personal property referred to in paragraph (1) was manufactured.

'(B) RUNAWAY PLANT DEFINED.—The term 'runaway plant' means any facility—

'(i) for the manufacture of personal property of which not less than 25 percent is used, consumed, or otherwise disposed of in the United States, and

'(ii) which is established or maintained by the controlled foreign corporation in a country in which the effective tax rate imposed by such country on the corporation is less than 80 percent of the effective tax rate which would be imposed on such corporation under this title.

'(C) ECONOMIC BENEFIT UNDER ANY TAX LAW DEFINED.—The term 'economic benefit under any tax law' includes—

'(i) any exclusion or deduction of any amount from gross income drived in connection with—

'(I) the operation of any manufacturing facility, or

'(II) the manufacture or sale of any personal property,

which would otherwise be subject to tax under the law of such country;

'(ii) any reduction in the rate of any tax which would otherwise be imposed under the laws of such country with respect to any facility or property referred to in clause (i) (including any ad valorem tax or excise tax with respect to such property);

'(iii) any credit against any tax which would otherwise be assessed against any such facility or property or any income derived in connection with the operation of any such facility or the manufacture or sale of any such property; and

'(iv) any abatement of any amount of tax otherwise due and any other reduction in the actual amount of tax paid to such country.

'(D) MANUFACTURE DEFINED.—The term 'manufacture' or 'manufacturing' includes any production, processing, assembling, or finishing of any personal property or any component of property not yet assembled and any packaging, handling, or other activity incidental to the shipment or delivery of such property to any buyer.

'(E) CORPORATION INCLUDES ANY RELATED PERSON.—The term 'controlled foreign corporation' includes any related person with respect to such corporation.

'(F) SPECIAL RULE FOR DETERMINING WHICH TAXABLE YEAR AN ECONOMIC BENEFIT WAS OBTAINED.—An economic benefit under tax law shall be treated as having accrued in the taxable year of the controlled foreign corporation in which such corporation actually obtained the benefit, notwithstanding the fact that such benefit may have been allowable for any preceding or succeeding taxable year and was carried forward or back, for any reason, to the taxable year.

'(3) LIMITATION ON APPLICATION OF PARAGRAPH (1) IN CERTAIN CASES.—For purposes of this section—

'(A) IN GENREAL.—The term 'foreign base company manufacturing related income' shall not include any income of a controlled foreign corporation from the manufacture or sale of personal property if—

'(i) such corporation is not a corporation significantly engaged in manufacturing,

'(ii) the investment in the expansion of an existing facility which gave rise to a tax holiday for such facility was not a substantial investment, or

'(iii) the personal property was used, consumed, or otherwise disposed of in the country in which some property was manufactured.

'(B) CORPORATION SIGNIFICANTLY ENGAGED IN MANUFACTURED DEFINED.—

'(i) GENERAL RULE.—A corporation shall be deemed to be significantly engaged in manufactured if the value of real property and other capital assets owned or controlled by the corporation and dedicated to manufacturing operations is more than 10 percent of the total value of all property and other capital assets owned or controlled by such corporation.

'(ii) SPECIAL RULE FOR ASSESSING PROPERTY VALUE.—The value of any property owned by the corporation is the basis of such corporation in such property. The basis of the corporation in any property which was acquired other than by purchase shall be the fair market value of such property at the time of such acquisition. Any property controlled but not owned by such corporation under any lease (or any other instrument which gives such corporation any right of use or occupancy with respect to such property) shall be treated as property acquired other than by purchase in the manner provided in the preceding sentence.

'(C) SUBSTANTIAL INVESTMENT DEFINED.—The term 'substantial investment' means any amount which—

'(i) was added to the capital account for an existing facility during the 3-year period ending on the last day of any taxable year with respect to which such facility is a tax holiday plant, and

'(ii) caused the sum of all amounts added to such account during such period to exceed 20 percent of the total value of such facility (determined in the manner provided in subparagraph (B)(ii)) on the first day of such period.'

"(c) TECHNICAL AND CONFORMING AMENDMENTS.—

"(1) The last sentence of subsection (b)(4) of section 954 (relating to exception for foreign corporations not availed of to reduce taxes) is amended by striking out 'subsection (a)(5).' and by inserting in lieu thereof 'subsection (a)(5) or foreign base company manufacturing related income described in subsection (a)(6).'.

"(2) Subsection (b)(5) of section 954 (relating to deductions to be taken into account) is amended by striking out 'and the foreign base company oil related income' and by inserting in lieu thereof 'the foreign base company oil related income, and the foreign base company manufacturing related income'.

"(3) Subsection (b) of section 954 (relating to exclusion and special rules) is amended by inserting at the end thereof the following new paragraph:

'(9) FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company manufacturing related income shall not be treated as foreign base company income of such corporation under any paragraph of subsection (a) other than paragraph (6).'

"(d) CLERICAL AMENDMENTS.—

"(1) Paragraph (4) of section 954(a) (relating to foreign base company income) is amended by striking out 'and' at the end thereof.

"(2) Paragraph (5) of section 954(a) (relating to foreign base company income) is amended by inserting 'and' after the comma at the end thereof.

"(e) EFFECTIVE DATES.—

"(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporation beginning after December 31, 1984, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end.

"(2) INVESTMENTS BEFORE THE DATE OF ENACTMENT NOT TAKEN INTO ACCOUNT.—No facility of a foreign controlled corporation shall be treated as a tax holiday plant (within the meaning of section 954(i)(2)(A), as amended by this section) or as a runaway plant (within the meaning of section 954(i)(2)(B), as amended by this section) on the basis of any amount paid or incurred with respect to such facility and added to the capital account for such facility before the date of the enactment of this Act.

—Subtitle A of title II is amended to read as follows:

Subtitle A—Depreciation Provisions

SEC. 201. DENIAL OF ACCELERATED COST RECOVERY FOR PROPERTY NOT MADE IN THE UNITED STATES WITH INSUFFICIENT DOMESTIC CONTENT.

(a) IN GENERAL.—Section 168(e) (relating to recovery property excluded from the accelerated cost recovery system) is amended by inserting at the end thereof the following new paragraph:

"(6) PROPERTY WITH INSUFFICIENT DOMESTIC CONTENT.—

"(A) GENERAL RULE.—The term 'recovery property' does not include any property which is not manufactured or assembled in the United States and less than 85 percent of which is attributable to domestic content.

"(B) EXCEPTION.—Subparagraph (A) does not apply to any property for which there is no substitute manufactured or assembled in the United States, at least 85 percent of which substitute is attributable to domestic content.

"(C) DEFINITION OF DOMESTIC CONTENT.—For purposes of this paragraph, the term 'domestic content' means labor performed, and materials manufactured, within the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property placed in service after December 31, 1985, in taxable years ending after such date.

Subtitle B of title II is amended to read as follows:

Subtitle B—Investment Tax Credit Provisions

SEC. 211. DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY NOT MADE IN THE UNITED STATES WITH INSUFFICIENT DOMESTIC CONTENT

(a) IN GENERAL.—Section 48(a) (relating to the definition of section 38 property) is amended by inserting at the end thereof the following new paragraph:

(11) EXCLUSION OF PROPERTY NOT MADE IN THE UNITED STATES WITH INSUFFICIENT DOMESTIC CONTENT.—

"(A) GENERAL RULE.—The term 'section 38 property' does not include any property which is not manufactured or assembled in the United States and less than 85 percent of which is attributable to domestic content.

"(B) EXCEPTION.—Subparagraph (A) does not apply to any property for which there is no substitute manufactured or assembled in the United States, at least 85 percent of which substitute is attributable to domestic content.

"(C) DEFINITION OF DOMESTIC CONTENT.—For purposes of this paragraph, the term 'domestic content' means labor performed, and materials manufactured, within the United States.'

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property placed in service after December 31, 1985, in taxable years ending after such date.

Subtitle D of title II is amended by striking out section 232.

By Mr. WOLFE:

—Page 836, strike out line 14 and all that follows down through line 11 on page 839.

Note: This amendment would eliminate from the bill the repeal of section 72(d), and would therefore continue existing law permitting employees to recover their contributions tax free where such contributions are recoverable in 3 years.

(Amendment to the Republican substitute.)

—At the proper place in the bill, strike out the provision repealing section 72(d) of the Internal Revenue Code.

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

By Mr. DUNCAN:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1985".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Internal Revenue Code of 1985 enacted.
Sec. 3. Amendment of 1985 Code; coordination with section 15.

TITLE—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

Sec. 101. Rate reductions.
Sec. 102. Increase in standard deduction.
Sec. 103. Increase in personal exemptions.
Sec. 104. Technical amendments.

Subtitle B—Provisions Related to Tax Credits

Sec. 111. Increase in earned income credit.
Sec. 112. Repeal of credit for contributions to candidates for public office.

Subtitle C—Provisions Related to Exclusions

Sec. 121. $5,000 limit on dependent care assistance exclusion.
Sec. 122. Taxation of unemployment compensation.
Sec. 123. Scholarships, etc.

Subtitle D—Provisions Related to Deductions

Sec. 131. Repeal of deduction for 2-earner married couples.
Sec. 132. 1-percent floor on miscellaneous itemized deductions.
Sec. 133. Charitable deduction for individuals who do not itemize made permanent.
Sec. 134. Repeal of deduction for adoption expenses.
Sec. 135. Limitation on deduction for consumer interest.
Sec. 136. Repeal of deduction for State and local sales taxes and personal property taxes.
Sec. 137. Overall limitation on amount of itemized deductions other then deductions for charitable contributions and qualified residence interest.

Subtitle E—Miscellaneous Provisions

Sec. 141. Repeal of income averaging.
Sec. 142. Limitations on deductions for meals, travel, and entertainment.
Sec. 143. Changes in treatment of hobby loss, etc.
Sec. 144. Deduction for mortgage interest and real property taxes allowable where parsonage allowance or military housing allowance received.
Sec. 145. Information reporting of income taxes and real and personal property taxes.
Sec. 146. Repeal of checkoff for presidential election campaign.

Subtitle F—Effective Dates

Sec. 151. Effective dates.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

Sec. 201. Repeal of accelerated cost recovery system.
Sec. 202. Recapture provisions for section 1250 property.
Sec. 203. Effective dates.

Subtitle B—Regular Investment Tax Credit

Sec. 211. Regular investment tax credit.

Subtitle C—Changes in Certain Rapid Amortization Provisions

Sec. 221. Repeal of 5-year amortization of trademark and trade name expenditures.
Sec. 222. Changes relating to depreciation of expenditures to rehabilitate low-income rental housing.

Subtitle D—Other Capital Related Costs

Sec. 231. Amendments relating to credit for increasing research activities.
Sec. 232. Modification of investment tax credit for rehabilitation expenditures.

Subtitle E—Capital Gains and Losses

Sec. 241. Retention of 20 percent maximum capital gain tax.
Sec. 242. Indexing of certain assets for purposes of determining gain or loss.
Sec. 243. Repeal of section 631(c).

Subtitle F—Provisions Relating to Oil and Gas

Sec. 251. Percentage depletion for oil and gas wells.
Sec. 252. Percentage depletion not allowed for lease bonuses, etc.
Sec. 253. Percentage depletion for geothermal deposits.
Sec. 254. Exemption from windfall profit tax for certain crude oil exchanged for residual fuel oil.
Sec. 255. Reduction in tax for fuel used by taxicabs made permanent.

Subtitle G—Treatment of Hard Minerals

Sec. 261. Reduction of Percentage depletion for certain hard minerals.
Sec. 262. Treatment of development and mining exploration expenditures.

TITLE III—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

Sec. 301. Corporate rate reductions.
Sec. 302. Repeal of corporate capital gains treatment.
Sec. 303. Reduction in dividends received deduction.
Sec. 304. Repeal of partial exclusion of dividends received by individuals.
Sec. 305. Clarification of nondeductibility of stock redemption expenses.

Subtitle B—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

Sec. 311. Limitation on net operating loss carryforwards.

Subtitle C—Recognition of Gain and Loss and Distributions of Property in Liquidation

Sec. 321. Amendment to section 336.
Sec. 322. Amendment to section 337.
Sec. 323. Amendment to section 338.
Sec. 324. Technical amendment.
Sec. 325. Effective date.

Subtitle D—Real Estate Investment Trusts

Sec. 331. Amendment of the rules affecting REIT earnings and profits under the depreciation system.
Sec. 332. Full exemption for REIT's from the section 291 special rules for corporate tax preference items.
Sec. 333. Expansion of opportunities for sale without imposition of the 100 percent prohibited transactions tax.
Sec. 334. Elimination of the independent contractor requirement.
Sec. 335. Modification of the standards for disqualification of a REIT as a personal holding company.
Sec. 336. Authorization for REIT's to have wholly owned subsidiaries.
Sec. 337. Amendment of the present rules disqualifying income in the form of rents or interest based on the net income of profits of the tenant or borrower.
Sec. 338. Amendment of section 857(b)(3)(C) regarding payment of capital gain dividends by real estate investment trusts that have net operating loss carryovers from prior years.
Sec. 339. Amendment of section 857(b)(2)(F) so that net losses from prohibited transactions are taken into account in computing REIT taxable income.
Sec. 340. Amendment to section 857(B)(3)(C) requirement for capital gain dividends special notice within 30 days after the close of the REIT taxable year.
Sec. 341. Mitigation of the section 6697 penalty imposed on a REIT making a deficiency dividened distribution due to adjustment of REIT taxable income.
Sec. 342. Exclusion from REIT distribution requirement for noncash income recognized by a REIT under certain deferred payment and installment sales rules added by the Deficit Reduction Act of 1984.
Sec. 343. Exclusion from REIT distribution requirement for income recognized by a REIT upon a determination that an exchange of certain real property failed to

meet the requirements of section 1031.

TITLE IV—TAX SHELTERS

Sec. 401. Extension of at risk limitations to real property.
Sec. 402. Limitation on deduction for investment interest.

TITLE V—ALTERNATIVE MINIMUM TAX

Subtitle A—General Provisions

Sec. 501. Alternative minimum tax for individuals and corporations.

Subtitle B—Treatment of Existing Carryforwards of Steel Companies.

Sec. 511. Elective 15-year carryback of existing carryforwards of steel companies.
Sec. 512. Existing carryforwards of qualified corporations may offset 75 percent of minimum tax.
Sec. 513. $300,000,000 limitation.
Sec. 514. Definitions.

TITLE VI—FOREIGN PROVISIONS

Subtitle A—Modification in Regulations Allocating Research and Experimental Expenditures

Sec. 601. 1-year modification in regulations providing for allocation of research and experimental expenditures.

Subtitle B—Possessions Tax Credit Changes

Sec. 611. Modifications to section 936.

Subtitle C—Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

Sec. 621. Authority of Guam, American Samoa, and the Northern Mariana Islands to enact revenue laws.
Sec. 622. Exclusion of possession source income from the gross income of certain individuals.
Sec. 623. Treatment of corporations organized in Guam, American Samoa, or the Northern Mariana Islands.

PART II—TREATMENT OF THE VIRGIN ISLANDS

Sec. 624. Coordination of United States and Virgin Islands individual income taxes.
Sec. 625. Virgin Islands corporations allowed possession tax credit.

PART III—COVER OVER OF INCOME TAXES

Sec. 626. Cover over of income taxes.

PART IV—EFFECTIVE DATE

Sec. 627. Effective date.

Subtitle D—Excise Tax on Certain Broadcasts for Olympic Events

Sec. 631. Imposition of excise tax on amounts paid for United States television and radio broadcast rights for olympic events; transfer of funds to trust fund.

Subtitle E—Excise Tax on Insurance

Premiums Paid to Foreign Insurers.

Sec. 641. Provisions relating to amount and withholding of excise taxes on policies issued by foreign insurers.

Subtitle F—Treatment of Certain Employees of Panama Canal Commission

Sec. 651. Treatment of certain employees of the Panama Canal Commission.

TITLE VII—TAX-EXEMPT BONDS

Sec. 701. Application of arbitrage rules where annuity contracts acquired.
Sec. 702. Treatment of tax increment bonds issued before January 1, 1986.

TITLE VIII—FINANCIAL INSTITUTIONS

Sec. 801. Limitations on bad debt reserves.
Sec. 802. Interest incurred to carry tax-exempt bonds.
Sec. 803. Termination of special 10-year carryback rules for certain financial institutions.
Sec. 804. Repeal of special reorganziation rules for financial institutions.
Sec. 805. Treatment of losses on deposits or accounts in insolvent financial institutions.

TITLE IX—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

Sec. 901. Simplified dollar-value LIFO method for certain small businesses.
Sec. 902. Limitation on use of cash method of accounting.
Sec. 903. Recognition of gain on pledges of installment obligations.
Sec. 904. Repeal of completed contract method of accounting.
Sec. 905. Capitalization of certain e:.penses where taxpayer produces property.
Sec. 906. Repeal of reserve for bad debts of taxpayers other than financial institutions.
Sec. 907. Limitation on accrual of vacation pay.
Sec. 908. Inclusion in gross income of contributions in aid of construction.

Subtitle B—Provisions Relating to Timber

Sec. 911. Expensing of 50 percent of certain timber preproductive expenditures.
Sec. 912. Capital gains treatment for timber not available to corporations.

Subtitle C—Special Provisions Relating to Agriculture

Sec. 921. Repeal of special treatment of expenditures for fertilizer and clearing land.
Sec. 922. Limitation on expensing of soil and water conservation expenditures.
Sec. 923. Treatment of dispositions of converted wetlands or highly erodible croplands.
Sec. 924. Treatment of the netting of gains and losses by cooperatives.
Sec 925. Treatment of certain plant variety protection certificates as patents.

TITLE X—INSURANCE PRODUCTS AND COMPANIES

PART I—POLICYHOLDER ISSUES

Sec. 1001. Repeal of exclusion for interest on installment payments of life insurance proceeds.
Sec. 1002. Deduction for nonbusiness casualty losses covered by insurance allowable only if claim filed.
Sec. 1003. Exclusion from income with respect to structured settlements limited to cases involving physical injury.

PART II—LIFE INSURANCE COMPANIES

Sec. 1011. Repeal of special life insurance company deduction.
Sec. 1012. Repeal of tax-exempt status for certain organizations providing commercial-type insurance.
Sec. 1013. Operations loss deduction of insolvent companies may offset distributions from policyholders surplus account.

PART III—PROPERTY AND CASUALTY INSURANCE COMPANIES

Sec. 1021. Inclusion in income of 25 percent of unearned premium reserve.
Sec. 1022. Repeal of protection against loss account.
Sec. 1023. Revision of special treatment for small companies.
Sec. 1004. Additional rule relating to application of Tax Reform Act of 1984.

TITLE XI—PENSIONS AND DEFERRED COMPENSATION; FRINGE BENEFITS

Subtitle A—Individual Retirement Accounts

Sec. 1101. $2,000 spousal IRA.
Sec. 1102. Nondeductible contributions permitted to individual retirement plans.

Subtitle B—Cash or Deferred Arrangements

Sec. 1111. Coordination of IRA deduction with other elective deferrals.
Sec. 1112. $12,000 limitation on elective 401(k) deferrals.
Sec. 1113. Eligibility requirements for employers to have section 401(k) plans.
Sec. 1114. Plan amendments not required until January 1, 1988.

Subtitle C—Basis Recovery Rules for Qualified Pension Plans

Sec. 1121. Basis recovery rules for qualified pension plans.

Subtitle D—Repeal of Exclusion for Cost of Group-Life Insurance

Sec. 1131. Repeal of exclusion for cost of group-life insurance.

Subtitle E—Tax Treatment of Parsonage Allowances and Military Housing Allowances

Sec. 1141. Deduction for mortgage interest and real property taxes allowable where parsonage allowance or military housing allowance received.

Subtitle F—Additional Tax on Early Withdrawal From Pension Plans

Sec. 1151. Uniform additional tax on early distributions from qualified retirement plans.

Subtitle G—Treatment of Certain Full-Time Insurance Salesmen

Sec. 1161. Treatment of certain full-time life insurance salesman.

Subtitle H—Changes Relating to Employee Stock Ownership Plans

Sec. 1171. Repeal of employee stock ownership credit.
Sec. 1172. Termination of certain additional tax benefits relating to employee stock ownership plans.
Sec. 1173. Changes in requirements relating to employee stock ownership plans.
Sec. 1174. Distributions on termination permitted.
Sec. 1175. Special rule for eligible worker-owned cooperatives.

Subtitle I—2-Year Extension of Exclusion for Educational Assistance.

Sec. 1181. 2-year extension of exclusion for educational assistance.

TITLE XII—REPEAL OF GENERATION-SKIPPING TAX

Sec. 1201. Repeal of generation-skipping tax.

TITLE XIII—COMPLIANCE AND TAX ADMINISTRATION

PART I—REVISION OF CERTAIN PENALTIES, ETC.

Sec. 1301. Penalty for failure to file information returns or statements.
Sec. 1302. Increase in penalty for failure to pay tax.
Sec. 1303. Amendments to penalty for negligence and fraud.

PART II—ESTIMATED TAX PAYMENTS BY INDIVIDUALS

Sec. 1311. Current year liability test increased from 80 to 90 percent.

PART III—PROVISIONS RELATING TO ATTORNEYS' FEES AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

Sec. 1315. Extension of provision permitting payment of attorneys' fees, etc.

PART IV—TAX ADMINISTRATION PROVISIONS

Sec. 1321. Authority to rescind notice of deficiency with taxpayer's consent.
Sec. 1322. Authority to abate interest due to errors or delays by the Internal Revenue Service.
Sec. 1323. Suspension of compounding where interest on deficiency suspended.
Sec. 1324. Certain service-connected disability payments exempt from levy.
Sec. 1325. Increase in value of personal property subject to certain listing and notice procedures.
Sec. 1326. Certain recordkeeping requirements.

PART V—INTEREST PROVISIONS

Sec. 1331. Differential interest rate.
Sec. 1332. Interest on accumulated earnings tax to accrue beginning on date return is due.

PART VI—MODIFICATION OF WITHHOLDING ALLOWANCES

Sec. 1335. Withholding allowances to reflect new rate schedules.

PART VII—INFORMATION REPORTING PROVISIONS

Sec. 1341. Requirement of reporting for real estate transactions.
Sec. 1342. Tax-exempt interest required to be shown on return.

PART VIII—REPORT ON RETURN-FREE SYSTEM

Sec. 1345. Report.

PART IX—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

Sec. 1351. Tax on sales to retailer.

TITLE XIV— MISCELLANEOUS PROVISIONS

Sec. 1401. Exclusion for certain foster care payments.
Sec. 1402. Extension of rules for spouses of individuals missing in action.
Sec. 1404. Certain distributions of low cost articles and exchanges and rentals of member lists by certain organizations not to be treated as unrelated trade or business.
Sec. 1405. Changes in deduction of taxes and interest by tenant-stockholders of cooperative housing corporations.
Sec. 1406. Treatment of computer software royalties and interest of securities dealers for purposes of personal holding company tax.
Sec. 1407. Adoption assistance agreements under adoption assistance program; payment of nonrecurring expenses related to adoptions of children with special needs.

SEC. 2. INTERNAL REVENUE CODE OF 1985 ENACTED.

(a) ENACTMENT.—The provisions designated in subsection (b) are hereby enacted into law and may be cited as the "Internal Revenue Code of 1985".

(b) PROVISIONS ENACTED.—The provisions designated in this subsection are as follows:

(1) the Internal Revenue Code of 1954 as in effect immediately before the enactment of this Act,

(2) the amendments to such Code made by title XV of this Act (relating to technical corrections), and

(3) the amendments made by the other titles of this Act.

(c) REFERENCES IN OTHER LAWS TO THE INTERNAL REVENUE CODE.—Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1954 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1985.

(d) SAVINGS PROVISIONS.—

(1) IN GENERAL.—Subchapter B of chapter 80 (relating to effective date and related provisions) is amended by adding at the end thereof the following new section:

"SEC. 7853. TRANSITION TO THE INTERNAL REVENUE CODE OF 1985.

"Any provision of section 7851 or 7852 relating to the transition from the Internal Revenue Code of 1939 to the Internal Revenue Code of 1954 is hereby extended to and made applicable to the transition from the Internal Revenue Code of 1954 to the Internal Revenue Code of 1985, whenever such extension and application is necessary or appropriate."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 80 is amended by adding at the end thereof the following new item:

"7853. Transition to the Internal Revenue Code of 1985."

(B) Subsection (d) of section 7852 is amended—

(i) by striking out "this title shall" and inserting in lieu thereof "this title in effect on August 16, 1954, shall", and

(ii) by striking out "on the date of enactment of this title" and inserting in lieu thereof "such date".

SEC. 3. AMENDMENT OF 1985 CODE; COORDINATION WITH SECTION 15.

(a) AMENDMENT OF 1985 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of those provisions embodied in paragraphs (1) and (2) of section 2(b), as amended by amendments and repeals made by this Act and appearing in this Act before the amendment or repeal concerned.

(b) COORDINATION WITH SECTION 15.—For purposes of section 15 of the Internal Revenue Code of 1985, no amendment or repeal made by this Act shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,500	15% of the taxable income.
Over $22,500 but not over $65,000.	$3,375, plus 25% of the excess over $22,500.
Over $65,000 but not over $100,000.	$14,000, plus 35% of the excess over $65,000.
Over $100,000	$26,250, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $100,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,000	15% of taxable income.
Over $16,000 but not over $51,500.	$2,400, plus 25% of the excess over $16,000.
Over $51,500 but not over $75,000.	$11,275, plus 35% of the excess over $51,500.
Over $75,000	$19,500, plus 37% (35% * * * case of taxable years beginning after December 31, 1990) of the excess over $75,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $12,500	15% of the taxable income.
Over $12,500 but not over $44,000.	$1,875, plus 25% of the excess over $12,500.
Over $44,000 but not over $60,000.	$9,750, plus 35% of the excess over $44,000.
Over $60,000	$15,350, plus 37% (35% * * * case of taxable years beginning after December 31, 1990) of the excess over $60,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

"(2) every estate and trust,

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $11,250	15% of taxable income.
Over $11,250 but not over $32,500.	$1,687.50, plus 25% of the excess over $11,250.
Over $32,500 but not over $50,000.	$7,000, plus 35% of the excess over $32,500.
Over $50,000	$13,125, plus 37% (35% * * * case of taxable years beginning after December 31, 1990) of the excess over $50,000.

"(e) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL.—Not later than December 15 of 1986, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), and (d) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), or (d), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1985.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(6) ROUNDING.—

"(A) IN GENERAL.—If any increase determined under paragraph (2)(A) or under section 63(c)(4) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10).

"(B) TABLE FOR MARRIED INDIVIDUALS FILING SEPARATELY, ETC.—In the case of the table contained in subsection (d) and the standard deduction applicable to a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$5' for '$10' each place it appears and by substituting '$2.50' for '$5'."

(b) AMENDMENT OF SECTION 15.—Subsection (d) of section 15 (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(d) SECTION NOT TO APPLY TO INFLATION ADJUSTMENTS.—This section shall not apply to any change in rates under subsection (e) of section 1 (relating to adjustments in tax tables so that inflation will not result in tax increases)."

SEC. 102. INCREASE IN STANDARD DEDUCTION.

(a) GENERAL RULE.—Section 63 (defining taxable income) is amended to read as follows:

"SEC. 63. TAXABLE INCOME DEFINED.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the term 'taxable income' means gross income minus the deductions allowed by this chapter (other than the standard deduction).

"(b) INDIVIDUALS WHO DO NOT ITEMIZE THEIR DEDUCTIONS.—In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term 'taxable income' means adjusted gross income, minus—

"(1) the standard deduction,

"(2) the deduction for personal exemptions provided in section 151, and

"(3) the direct charitable deduction.

"(c) STANDARD DEDUCTION.—For purposes of this subtitle—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'standard deduction' means the sum of—

"(A) the basic standard deduction, and

"(B) the additional standard deduction.

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $4,600 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,026 in the case of a head of household (as defined in section 2(b)),

"(C) $2,828 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $2,300 in the case of a married individual filing a separate return.

"(3) ADDITIONAL STANDARD DEDUCTION FOR AGED AND BLIND.—For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

"(4) ADJUSTMENTS FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1986, each dollar amount contained in paragraph (2) or subsection (f) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(e)(3) for the calendar year in which the taxable year begins.

"(5) LIMITATION ON STANDARD DEDUCTION IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the standard deduction applicable to such individual for such individual's taxable year shall not exceed such individual's earned income.

"(6) CERTAIN INDIVIDUALS, ETC., NOT ELIGIBLE FOR STANDARD DEDUCTION.—In the case of—

"(A) a married individual filing a separate return where either spouse itemizes deductions,

"(B) a nonresident alien individual,

"(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States),

"(D) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

"(E) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

"(d) ITEMIZED DEDUCTIONS.—For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable by this chapter other than—

"(1) the deductions allowable in arriving at adjusted gross income,

"(2) the deductions for personal exemptions provided by section 151, and

"(3) the direct charitable deduction.

"(e) ELECTION TO ITEMIZE.—

"(1) IN GENERAL.—Unless an individual makes an election under this subsection for the taxable year,

"(1) IN GENERAL.—Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

"(2) TIME AND MANNER OF ELECTION.—Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

"(3) CHANGE OF ELECTION.—Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

"(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

"(B) the taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed on with the Secretary, of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse, for the taxable year corresponding to the taxable year of the taxpayer, has been compromised under section 7122.

"(1) ADDITIONAL AMOUNTS FOR THE AGED.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he has attained age 65 before the close of his taxable year, and

"(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

"(2) ADDITIONAL AMOUNT FOR BLIND.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he is blind at the close of the taxable year, and

"(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

"(3) BLINDNESS DEFINED.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses,

or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(g) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 143.

"(h) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

(b) OPTIONAL TAX TABLES.—Section 3 (relating to tax tables for individuals) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IMPOSITION OF TAX TABLE TAX.—

"(1) IN GENERAL.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual—

"(A) who does not itemize his deductions for the taxable year, and

"(B) whose taxable income for such taxable year does not exceed the ceiling amount,

a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary and which shall be in such form as he determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by section 1.

"(2) CEILING AMOUNT DEFINED.—For purposes of paragraph (1), the term 'ceiling amount' means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

"(3) CERTAIN TAXPAYERS WITH LARGE NUMBER OF EXEMPTIONS.—The Secretary may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the Secretary.

"(4) AUTHORITY TO PRESCRIBE TABLES FOR TAXPAYERS WHO ITEMIZE DEDUCTIONS.—The Secretary may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

SEC. 103. INCREASE IN PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subsection (f) of section 151 (defining exemption amount) is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means $2,000.

"(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1986.—In the case of any taxable year beginning in a calendar year after 1986, each dollar amount contained in paragraph (1) or (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment (as defined in section 1(e)(3)) for the calendar year in which the taxable year begins.

If the increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10).

"(4) EXEMPTIONS OFFSET INCOME ONLY TO EXTENT IT IS NOT SUBJECT TO RATE IN EXCESS OF 25 PERCENT; PHASEOUT ABOVE $100,000.—

"(A) IN GENERAL—Notwithstanding any other provision of this subtitle, any deduction for an exemption provided by this section shall not reduce the tax imposed by this chapter for the taxable year by an amount exceeding the limitation determined under subparagraph (B).

"(B) LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the limitation determined under this subparagraph is 25 percent of the exemption amount (determined after any adjustment under paragraph (2)).

"(ii) PHASEOUT BETWEEN $100,000 AND $150,000.—In the case of a taxpayer whose taxable income exceeds $100,000, the limitation determined under clause (i) shall be reduced by an amount which bears the same ratio to such limitation as—

"(I) the taxable income of the taxpayer for the taxable year (determined without regard to the exemptions provided by this section) in excess of $100,000, bears to

"(II) $50,000."

(b) REPEAL OF ADDITIONAL EXEMPTIONS FOR TAXPAYERS OVER AGE 65 OR BLIND.—Section 151 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 104. TECHNICAL AMENDMENTS.

(a) FILING REQUIREMENTS.—

(1) SECTION 6012.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended to read as follows:

"(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

"(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

"(B) The amount specified in clause (i), (ii) or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

"(C) The exception under subparagraph (A) shall not apply to any individual—

"(i) described in section 63(c)(5) whose income (other than earned income) is at least equal to the exemption amount applicable under section 151(d)(2), or

"(ii) for whom the standard deduction is zero under section 63(c)(6).

"(D) For purposes of this subsection—

"(i) The terms 'standard deduction', 'basic standard deduction' and 'additional standard deduction' have the meanings given such terms by section 63(c).

"(ii) The term 'exemption amount' has the meaning given such term by section 151(d)."

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700 or more" and inserting in lieu thereof "not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)".

(2) SECTION 6013.—Subparagraph (A) of section 6013(b)(3) (relating to when return deemed filed) is amended—

(A) by striking out "(twice the exemption amount in case such spouse was 65 or over)" each place it appears,

(B) by striking out "section 151(f)" and inserting in lieu thereof "section 151(d)", and

(C) by adding at the end thereof the following new sentence: "For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting 'the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)' for 'the exemption amount'."

(b) OTHER AMENDMENTS.—

(1) SECTION 21, ETC.—

(A) Sections 21(b)(1)(A), 21(e)(6)(A), and 129(c)(1) are each amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(B) Sections 21(e)(6)(B), 32(c)(1)(A)(i), 129(c)(2), 152(e)(1)(A), and 7703(b)(1) are each amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(2) SECTION 152, ETC.—Sections 152(d)(2) and 2032A(c)(7)(D) are each amended by striking out "section 151(e)(4)" and inserting in lieu thereof "section 151(c)(4)".

(3) SECTION 172.—Subsection (d) of section 172 (relating to modifications) is amended by striking out paragraph (7).

(4) SECTION 402.—Subparagraph (B) of section 402(e)(1), as amended by section 1122(b) of this Act, is amended by striking out "the zero bracket amount applicable to such individual for the taxable year plus".

(5) SECTION 441.—Clause (iii) of section 441(f)(2)(B) (relating to change in accounting period) is amended by striking out "and by adding the zero bracket amount,".

(6) SECTION 443.—

(A) Paragraph (1) of section 443(b) (relating to computation of tax on change of annual accounting period) is amended by striking out ", and adding the zero bracket amount".

(B) Clause (ii) of section 443(b)(2)(A) (relating to computation based on 12-month period) is amended to read as follows:

"(ii) the tax computed on the modified taxable income for the short period."

(7) SECTION 511.—Sections 511(b)(1) and 10641(a) (relating to tax on charitable, etc., trusts) are each amended by striking out

"section 1(e)" and inserting in lieu thereof "section 1(d)".

(8) SECTION 613A.—Paragraph (1) of section 613A(d) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(9) SECTION 667.—Paragraph (2) of section 10667(b) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) TREATMENT OF LOSS YEARS.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero."

(10) SECTION 861.—Subsection (b) of section 861 (relating to taxable income from sources within the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(11) SECTION 862.—Subsection (b) of section 862 (relating to taxable income from sources without the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(12) SECTION 904.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended by striking out the last sentence.

(13) SECTION 1211.—Subparagraph (A) of section 1211(b)(1) (relating to limitation on capital losses) is amended by striking out "reduced (but not below zero) by the zero bracket amount".

(14) SECTION 1398.—Subsection (c) of section 1398 (relating to computation and payment of tax; zero bracket amount) is amended—

(A) by striking out "ZERO BRACKET AMOUNT" in the subsection heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION", and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) BASIC STANDARD DEDUCTION.—In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year."

(15) SECTION 3402.—

(A) Paragraph (1) of section 3402(f) (relating to withholding exemptions) is amended by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (B), (C), (D), and (E), respectively.

(B) Subparagraph (B) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "subparagraph (A), (B), (C), or (F)" and inserting in lieu thereof "subparagraph (A) or (D)".

(C) Subparagraph (C) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(D) Subparagraph (E) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(E) The last sentence of paragraph (1) of section 3402(f) is amended—

(i) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(F) Paragraph (3) of section 3402(m) is amended by inserting "(including the additional standard deduction under section 63(c)(3) for the aged and blind)" after "deductions".

(16) SECTION 6014.—

(A) Subsection (a) of section 6014 (relating to income tax return—tax not computed by taxpayer) is amended by striking out "who does not have an unused zero bracket amount (determined under section 63(e))" and inserting in lieu thereof "who is not described in section 6012(a)(1)(C)(i)".

(B) Paragraph (4) of section 6014(b) is amended to read as follows:

"(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)."

(17) SECTION 6212.—Subparagraph (A) of section 6212(c)(2) (relating to cross references) is amended to read as follows:

"(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3)."

(18) SECTION 6504.—Paragraph (2) of section 6504 (relating to cross references) is amended to read as follows:

"(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3)."

Subtitle B—Provisions Related to Tax Credits

SEC. 111. INCREASE IN EARNED INCOME CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out "11 percent" and inserting in lieu thereof "14 percent".

(b) INCREASE IN INCOME LEVEL AT WHICH PHASEOUT BEGINS.—Subsection (b) of section 32 is amended to read as follows:

"(b) LIMITATION.—

"(1) IN GENERAL.—The credit allowable to any taxpayer under subsection (a) for any taxable year shall not exceed $1,000 and shall be reduced by 10 percent of so much of the adjusted gross income (or, if greater, the earned income of the taxpayer for the taxable year) as exceeds $8,000.

"(2) TRANSITIONAL RULE FOR 1986.—In the case of any taxable year beginning in 1986, paragraph (1) shall be applied by substituting '$6,500' for '$9,000'."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) (relating to amount of credit to be determined under tables) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

"(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b)."

(2) Subparagraph (B) of section 3507(c)(2) (relating to earned income advance amount) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or".

(3) Subparagraph (C) of section 3507(c)(2) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of ½ of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii)."

SEC. 112. REPEAL OF CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) GENERAL RULE.—Section 24 (relating to contributions to candidates for public office) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 527 (relating to treatment of newsletter funds) is amended—

(A) by striking out "section 24(c)(2)" in paragraph (1) and inserting in lieu thereof "paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) CANDIDATE.—For purposes of paragraph (1), the term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) publicly announces that he is a candidate for nomination or election to such office, and

"(B) meets the qualifications prescribed by law to hold such office."

(2) Subsection (a) of section 10642 (relating to credits against tax for estates and trusts) is amended to read as follows:

"(a) FOREIGN TAX CREDIT ALLOWED.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries."

(3) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 24.

Subtitle C—Provisions Related to Exclusions

SEC. 121. $5,000 LIMIT ON DEPENDENT CARE ASSISTANCE EXCLUSION.

(a) GENERAL RULE.—Subsection (a) of section 129 (relating to dependent care assistance programs) is amended to read as follows:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to such employee if the assistance is furnished pursuant to a program which is described in subsection (d).

"(2) LIMITATION OF EXCLUSION.—The aggregate amount excluded from the gross income of the taxpayer under this section for any taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

For purposes of the preceding sentence, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(b) TREATMENT OF ONSITE FACILITIES.—Subsection (e) of section 129 is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF ONSITE FACILITIES.—In the case of an onsite facility, except to the extent provided in regulations, the amount excluded with respect to any dependent shall be based on—

"(A) utilization, and

"(B) the value of the services provided."

(c) REPORTING REQUIREMENT.—

(1) Paragraph (1) of section 6039D(d) (defining specified fringe benefit plan) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "and", and by adding at the end thereof the following new subparagraph:

"(D) any dependent care assistance program (within the meaning of section 129)."

(2) Paragraph (2) of section 6039D(d) (as so amended) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) section 129, in the case of a dependent care assistance program."

SEC. 122. TAXATION OF UNEMPLOYMENT COMPENSATION.

Section 85 (relating to unemployment compensation) is amended to read as follows:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) GENERAL RULE.—In the case of an individual, gross income includes unemployment compensation.

"(b) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

SEC. 123. SCHOLARSHIPS, ETC.

(a) SCHOLARSHIPS.—

(1) IN GENERAL.—Section 117 (relating to scholarship and fellowship grants) is amended to read as follows:

"SEC. 117. QUALIFIED SCHOLARSHIPS.

"(a) GENERAL RULE.—Gross income does not include any amount received as a qualified scholarship grant by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

"(b) QUALIFIED SCHOLARSHIP GRANT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified scholarship' means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was required to be used (and was used) for qualified tuition and related expenses.

"(2) QUALIFIED TUITION AND RELATED EXPENSES.—For purposes of paragraph (1), the term 'qualified tuition and related expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

"(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

"(c) LIMITATION.—Subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of secton 74 is amended by striking out "(relating to scholarship and fellowship grants)" and inserting in lieu thereof "(relating to qualified scholarships)".

(B) The second sentence of section 1441(b) (relating to income items) is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act and which are incident to a qualified scholarship to which section 117(a) applies, but only to the extent such amounts are includible in gross income."

(C) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) (as amended by section 112) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 117 and inserting in lieu thereof the following new item:

"Sec. 117. Qualified scholarships."

(b) PRIZES AND AWARDS.—Subsection (b) of section 74 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding after paragraph (2) the following new paragraph:

"(3) the prize or award is transferred by the payor to a governmental unit or organization described in paragraph (1) or (2) of section 170(c) pursuant to a designation made by the recipient."

(c) TREATMENT OF EMPLOYEE GIFTS.—

(1) AMOUNTS TRANSFERRED BY EMPLOYER NOT EXCLUDABLE AS GIFTS.—Section 102 (relating to gifts and inheritances) is amended by adding at the end thereof the following new subsection:

"(c) EMPLOYEE GIFTS.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

"(2) CROSS REFERENCE.—

"For provisions excluding de minimis gifts from gross income, see section 132."

(2) SECTION 274(b) LIMITATION NOT TO APPLY TO EMPLOYEE GIFTS.—

(A) Paragraph (1) of section 274(b) (relating to gifts) is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(B) Subsection (b) of section 274 is amended by striking out paragraph (3).

Subtitle D—Provisions Related to Deductions

SEC. 131. REPEAL OF DEDUCTION FOR 2-EARNER MARRIED COUPLES.

(a) GENERAL RULE.—Section 221 (relating to deduction for 2-earner married couples) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 62 is amended by striking out paragraph (16).

(2) Subparagraph (A) of section 86(b)(2) is amended by striking out "sections 221," and inserting in lieu thereof "sections".

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221.

SEC. 132. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

(a) GENERAL RULE.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 67. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) MISCELLANEOUS ITEMIZED DEDUCTIONS.—For purpose of this section, the term 'miscellaneous itemized deductions' means the itemized deductions other than—

"(1) the deduction under section 163 (relating to interest),

"(2) the deduction under section 164 (relating to taxes),

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(4) the deduction under section 170 (relating to charitable deductions),

"(5) the deduction under section 213 (relating to medical deduction), and

"(6) the deduction under section 691(c) (relating to deduction for estate tax in the case of income in respect of a decedent).

"(c) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income."

(b) NONREIMBURSED BUSINESS EXPENSES OF EMPLOYEES MADE SUBJECT TO 1 PERCENT FLOOR.—Paragraph (2) of section 62 (defining adjusted gross income) is amended to read as follows:

"(2) REIMBURSED EXPENSES OF EMPLOYEES.—The deductions allowed by part VI (section

161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 67. 1-percent floor on miscellaneous itemized deductions."

SEC. 133. CHARITABLE DEDUCTION FOR INDIVIDUALS WHO DO NOT ITEMIZE MADE PERMANENT.

Subsection (i) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) RULE FOR NONITEMIZATION OF DEDUCTIONS.—In the case of an individual who does not itemize his deductions for the taxable year, the excess of—

"(1) the amount allowable under subsection (a) for the taxable year, over

"(2) $100,

shall be taken into account as a direct charitable deduction under section 63."

SEC. 134. REPEAL OF DEDUCTION FOR ADOPTION EXPENSES.

(a) GENERAL RULE.—Section 222 (relating to deduction for adoption, etc.) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 223 is redesignated as section 220.

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the items relating to sections 222 and 223 and inserting in lieu thereof the following:

"Sec. 220. Cross references."

SEC. 135. LIMITATION ON DEDUCTION FOR CONSUMER INTEREST.

Section 163 (relating to deduction for interest) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) LIMITATION ON DEDUCTION OF CONSUMER INTEREST.—

"(1) IN GENERAL.—In the case of an individual, the amount allowed as a deduction under this chapter for consumer interest (to the extent not disallowed under paragraph (2)) paid or accrued during any taxable year shall not exceed—

"(A) $1,000 in the case of a joint return,

"(B) $750 in the case of a head of household (as defined in section (2)(b)), or

"(C) $500 in the case of any other taxpayer.

"(2) DISALLOWANCE OF DEDUCTION FOR PURCHASE OF FOREIGN CAR.—No deduction shall be allowed under this chapter for any consumer interest on a loan incurred or continued to acquire a highway motor vehicle which is not domestically manufactured (within the meaning of section 503(b)(2) of the Motor Vehicle Information and Cost Savings Act.

"(3) CONSUMER INTEREST.—For purposes of this Subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'consumer interest' means any interest other than interest paid or accrued on indebtedness incurred or continued in connection with the conduct of a trade or business or in connection with an activity described in section 212.

"(B) EXCEPTION FOR CERTAIN INTEREST.—The term 'consumer interest' shall not include—

"(i) any qualified residence interest, or

"(ii) any interest on indebtedness incurred to pay educational expenses.

"(4) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer.

"(B) EXCEPTION FOR INTEREST ON INDEBTEDNESS IN EXCESS OF THE FAIR MARKET VALUE OF THE QUALIFIED RESIDENCE.—

"(i) IN GENERAL.—The term 'qualified residence interest' shall not include any interest paid or accrued on indebtedness secured by any qualified residence which is allocable to that portion of the principal amount of such indebtedness which, when added to the outstanding aggregate principal amount of all other idebtedness previously incurred and secured by such qualified residence, exceeds the fair market value of such qualified residence.

"(ii) TIME FOR DETERMINATION.—The determination under clause (i) shall be made as of the time the indebtedness is secured.

"(C) QUALIFIED RESIDENCE.—For purposes of this paragraph—

"(i) IN GENERAL.—THE TERM 'QUALIFIED RESIDENCE' MEANS—

"(I) a principle residence (within the meaning of section 1034) of the taxpayer, and

"(II) 1 other residence (whether or not a principal residence) of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year.

"(ii) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for any taxable year—

"(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

"(II) each individual shall be entitled to take into account a residence unless both individuals consent in writing to 1 individual taking into account a principal residence and 1 other residence.

"(D) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of this paragraph, any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder.

"(E) SPECIAL RULE FOR RESIDENTIAL LOTS.—For purposes of this paragraph—

"(i) IN GENERAL.—A residential lot shall be treated as a residence.

"(ii) EXCEPTION FOR DIVIDED LOTS.—Clause (i) shall not apply to any lot which is divided by the taxpayer and sold.

"(F) SPECIAL RULE FOR TIME-SHARING.—For purposes of this paragraph, up to 6 weeks of time-sharing of a residential property may be treated as 1 residence.

SEC. 136. REPEAL OF DEDUCTION FOR STATE AND LOCAL SALES TAXES AND PERSONAL PROPERTY TAXES.

(a) GENERAL RULE.—Subsection (a) of section 164 (relating to taxes) is amended—

(1) by striking out paragraphs (2) and (4) and by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(2) by striking out the last sentence.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 164 is amended by striking out paragraphs (2) and (5) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 137. OVERALL LIMITATION ON AMOUNT OF ITEMIZED DEDUCTIONS OTHER THAN DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS AND QUALIFIED RESIDENCE INTERESTS.

(a) GENERAL RULE.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 68. LIMITATION ON AGGREGATE AMOUNT OF ITEMIZED DEDUCTIONS OTHER THAN DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS AND QUALIFIED RESIDENCE INTEREST.

"(a) GENERAL RULE.—In the case of any return of an individual, the amount of the itemized deductions to which this section applies allowed for any taxable year shall not exceed the sum of—

"(1) $1,000, and

"(2) 70 percent of the excess of such deductions for the taxable year over $1,000.

"(b) ITEMIZED DEDUCTIONS TO WHICH SECTION APPLIES.—This section shall apply to any itemized deduction (as defined in section 63(d) other than—

"(1) the deduction allowable under section 170, or

"(2) any deduction allowable for qualified residence interest (as defined in section 163(d)(4)).

"(c) ORDER OF APPLICATION.—This section shall be applied after the application of all other provisions limiting deductions allowable under this chapter."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 68. Limitation on aggregate amount of itemized deductions other than deductions for charitable contributions and qualified residence interest."

Subtitle E—Miscellaneous Provisions

SEC. 141. REPEAL OF INCOME AVERAGING.

(a) GENERAL RULE.—Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 3 (relating to section inapplicable to certain individuals) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Subsection (b) of section 5 (relating to cross references relating to tax on individuals) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Subparagraph (B) of section 6511(d)(2) (relating to special rules applicable to income taxes) is amended to read as follows:

"(B) APPLICABLE RULES.—

"(i) IN GENERAL.—If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

"(ii) TENTATIVE CARRYBACK ADJUSTMENTS.—If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjust-

ment is made within the period provided in section 6411(a).

"(iii) DETERMINATIONS BY COURTS TO BE CONCLUSIVE.—In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part I.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR MEALS, TRAVEL, AND ENTERTAINMENT.

(a) ALL BUSINESS MEALS MUST HAVE CLEAR BUSINESS PURPOSE.—

(1) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) ALL BUSINESS MEALS MUST HAVE CLEAR BUSINESS PURPOSE.—No deduction shall be allowed under this chapter for the expense of any food or beverages unless—

"(1) the furnishing of such food or beverages has a clear business purpose presently related to the active conduct of a trade or business,

"(2) such expense is not lavish or extravagant under the circumstances, and

"(3) the taxpayer (or an employee of the taxpayer) is present at the furnishing of such food or beverages."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 274 (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(B) Paragraph (3) of section 274(e), as redesignated by subparagraph (A), is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(b) ADDITIONAL RESTRICTIONS ON EXPENSES FOR MEALS, TRAVEL, AND ENTERTAINMENT.—Section 274 (relating to disallowance of certain entertainment, etc. expenses) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsections:

"(j) ADDITIONAL LIMITATIONS ON ENTERTAINMENT EXPENSES.—

"(1) ENTERTAINMENT TICKETS.—

"(A) IN GENERAL.—In determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in subsection (d)(2), the amount taken into account shall not exceed the face value of such ticket.

"(B) EXCEPTION FOR CERTAIN CHARITABLE SPORTS EVENTS.—Subparagraph (A) shall not apply to any ticket for any sports event—

"(i) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) all of the net proceeds of which are contributed to such organization, and

"(iii) which utilizes volunteers for substantially all of the work performed in carrying out such event.

"(2) SKYBOXES, ETC.—In the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face values of non-luxury box seat tickets for the seats in such box covered by the lease. For purposes of the preceding sentence, 2 or more related leases shall be treated as 1 lease."

"(k) ADDITIONAL LIMITATIONS ON TRAVEL EXPENSES.—

"(1) LUXURY WATER TRANSPORTATION.—

"(A) IN GENERAL.—No deduction shall be allowed under this chapter for expenses incurred for transportation by water to the extent such expenses exceed twice the aggregate per diem amounts for days of such transportation. For purposes of the preceding sentence, the term 'per diem amounts' means the highest amount generally allowable with respect to a day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(B) EXCEPTION FOR EXPENSES ALLOWED UNDER SUBSECTION (h)(2).—Subparagraph (A) shall not apply to any expense allocable to a convention, seminar, or other meeting which is held on any cruise ship.

"(2) TRAVEL AS FORM OF EDUCATION.—No deduction shall be allowed under this chapter for expenses for travel as a form of education.

"(l) ONLY 80 PERCENT OF MEAL AND ENTERTAINMENT EXPENSES ALLOWED AS DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under this chapter for—

"(A) any expense for food or beverages, and

"(B) any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity,

shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense if—

"(A) subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),

"(B) in the case of an expense for food or beverages, such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes), or

"(C) such expense is covered by a ticket described in subsection (j)(1)(B)."

(c) NO DEDUCTION ALLOWED FOR SEMINARS, ETC., FOR SECTION 212 PURPOSES.—

(1) IN GENERAL.—Subsection (h) of section 274 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(3) SEMINARS, ETC. FOR SECTION 212 PURPOSES.—No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting."

(2) TECHNICAL AMENDMENTS.—Paragraphs (1) and (2) of section 274(h) are each amended—

(A) by striking out "or 212" each place it appears, and

(B) by striking out "or to an activity described in section 212 and" each place it appears.

(d) ADDITIONAL PENALTY FOR OVERSTATED MEAL DEDUCTIONS.—Section 6653 (relating to additions to tax for failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OVERSTATED MEAL DEDUCTIONS.—In any case in which any part of an underpayment is due to an erroneous deduction for any expense for food or beverages—

"(1) if such error is due to negligence or disregard of rules and regulations, the addition to tax under subsection (a) shall not be less than 50 percent of the portion of such underpayment attributable to such error, or

"(2) if such error is due to fraud, with respect to the portion of the underpayment which is attributable to such error, subsection (b) shall be applied by substituting '100 percent' for '75 percent'.

(e) DENIAL OF CHARITABLE CONTRIBUTION FOR CERTAIN TRAVEL EXPENSES.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel."

SEC. 143. CHANGES IN TREATMENT OF HOBBY LOSS, ETC.

(a) HOBBY LOSS.—Subsection (d) of section 183 (relating to presumption) is amended—

(1) by striking out "2 or more of the taxable years in the period of 5 consecutive taxable years" and inserting in lieu thereof "3 or more of the taxable years in the period of 5 consecutive taxable years", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting "2 or more of the taxable years in the period of 7 consecutive taxable years" for "3 or more of the taxable years in the period of 5 consecutive taxable years."

(b) TREATMENT OF RENTAL TO EMPLOYER UNDER SECTION 280A.—Subparagraph (C) of section 280A (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF RENTAL TO EMPLOYER.—Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer."

(c) REVISION OF LIMITATION ON DEDUCTION FOR BUSINESS USE OF HOME.—Paragraph (5) of section 280A(c) (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the sum of—

"(i) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used, and

"(ii) the deductions allocable to the trade or business in which such use occurs (but which are not allocable to such use) for such taxable year.

Any amount not allowable as a deduction under this chapter by reason of the preceding sentence shall be taken into account as a

deduction (allocable to such use) under this chapter for the succeeding taxable year."

SEC. 144. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) SECTION NOT TO APPLY WITH RESPECT TO PARSONAGE AND MILITARY HOUSING ALLOWANCES.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

SEC. 145. INFORMATION REPORTING OF INCOME TAXES AND REAL AND PERSONAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local income taxes or real or personal property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E (as amended by title XIII of this Act) is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050E and inserting in lieu thereof the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

SEC. 146. REPEAL OF CHECKOFF FOR PRESIDENTIAL ELECTION CAMPAIGN FUND.

(a) GENERAL RULE.—Part VIII of subchapter A of chapter 61 (relating to designation of income tax payments to Presidential Election Campaign Fund) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by striking out the item relating to part VIII.

Subtitle F—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1985.

(b) UNEMPLOYMENT COMPENSATION.—The amendment made by section 122 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(c) SCHOLARSHIP PROVISIONS.—The amendment made by section 123(a) shall apply to scholarships and fellowships granted after September 25, 1985, in taxable years ending after such date.

(d) REPEAL OF DEDUCTION FOR ADOPTION EXPENSES.—The amendments made by section 134 shall apply to expenses paid or incurred after December 31, 1986, in taxable years ending after such date; except that such amendments shall not apply to expenses paid or incurred during calendar year 1987 in connection with an adoption with respect to which the taxpayer paid or incurred expenses during calendar year 1986 which were allowable as a deduction under section 222 of the Internal Revenue Code of 1954.

(e) PARSONAGE AND MILITARY HOUSING ALLOWANCES.—The amendment made by subsection 144 shall apply to taxable years beginning before, on, or after, December 31, 1985.

(f) PAYMENTS OF INCOME, REAL, AND PERSONAL PROPERTY TAXES.—The amendments made by section 145 shall apply to payments received after December 31, 1986.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

SEC. 201. REPEAL OF ACCELERATED COST RECOVERY SYSTEM.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended to read as follows:

"SEC. 168. INCENTIVE DEPRECIATION SYSTEM FOR TANGIBLE PROPERTY.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

"(1) the applicable depreciation method,

"(2) the applicable recovery period, and

"(3) the applicable convention.

"(b) APPLICABLE DEPRECIATION METHOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable depreciation method is—

"(A) the 200 percent declining balance method,

"(B) switching to the straight line method for the first taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

"(2) CLASS 10 PROPERTY.—In the case of class 10 property, the applicable depreciation method is the straight line method.

"(3) SALVAGE VALUE TREATED AS ZERO.—Salvage value shall be treated as zero.

"(c) APPLICABLE RECOVERY PERIOD UNDER THE INCENTIVE SYSTEM.—For purposes of this section, the applicable recovery period under the incentive system shall be determined in accordance with the following table:

"In the case of property in:	The applicable recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	28 years
Class 10	28 years.

"(d) APPLICABLE CONVENTION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

"(2) CLASS 10 PROPERTY AND LOW-INCOME HOUSING.—In the case of—

"(A) any class 10 property, and

"(B) any low-income housing,

the applicable convention is the mid-month convention.

"(3) SPECIAL RULE WHERE SUBSTANTIAL PROPERTY PLACED IN SERVICE DURING LAST QUARTER OF TAXABLE YEAR.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if during any taxable year—

"(i) the aggregate bases of property to which this section applies and which are placed in service during the last quarter of the taxable year, exceeds

"(ii) 40 percent of the aggregate bases of all such property placed in service during such taxable year,

the applicable convention for all such property placed in service during such taxable year shall be the mid-month convention.

"(B) CLASS 10 PROPERTY AND LOW-INCOME HOUSING NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), class 10 property and low-income housing shall not be taken into account.

"(4) DEFINITIONS.—

"(A) HALF-YEAR CONVENTION.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

"(B) MID-MONTH CONVENTION.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

"(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, property shall be classified under the following table:

"Property shall be placed in:	If such property has a class life of:	
	At least:	But less than:
Class 1		5 years
Class 2	5 years	7 years
Class 3	7 years	10 years
Class 4	10 years	13 years
Class 5	13 years	16 years
Class 6	16 years	20 years
Class 7	20 years	25 years
Class 8	25 years	30 years
Class 9	30 years	36 years

"Property shall be placed in:	If such property has a class life of:	
	At least:	But less than:
Class 10	36 years	

"(2) CLASSIFICATION OF CERTAIN PROPERTY.—

"(A) LOW-INCOME HOUSING.—Any low-income housing—

"(i) if it is very low-income housing meeting the requirements of subsection (j)(3)(B), shall be in class 7, or

"(ii) if it does not meet such requirements, shall be in class 9.

"(B) 28-YEAR REAL PROPERTY.—Any 28-year real property shall be in class 10.

"(C) CERTAIN VEHICLES.—Any car or any light general purpose truck shall be in class 2.

"(D) QUALIFIED TECHNOLOGICAL EQUIPMENT.—Any qualified technological equipment shall be in class 2.

"(E) COMPUTER BASED TELEPHONE SWITCHING EQUIPMENT.—Any computer based telephone switching equipment shall be in class 2.

"(F) CLOTHING HELD FOR RENTAL.—Any clothing held for rental shall be in class 1.

"(G) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE.—Any single purpose agricultural or horticultural structure (as defined in section 48(p)) shall be in class 5.

"(H) HORSES.—

"(i) RACE HORSES.—Any race horse shall be in class 2.

"(ii) OTHER HORSES.—Any horse other than a race horse shall be in class 4.

"(I) TELEPHONE DISTRIBUTION PLANT, ETC.—Any telephone distribution plant and comparable equipment used by other transmitters of information shall be in class 8.

"(3) PROPERTY WITH NO CLASS LIFE.—Any property—

"(A) which does not have a class life, and

"(B) which is not classified under paragraph (2),

shall be in class 4.

"(f) PROPERTY TO WHICH SECTION DOES NOT APPLY.—This section shall not apply to—

"(1) REHABILITATION EXPENSES FOR LOW-INCOME RENTAL HOUSING.—The portion of the basis of any property to which section 167(k) applies.

"(2) CERTAIN METHODS OF DEPRECIATION.—Any property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method or similar method).

"(3) CERTAIN PUBLIC UTILITY PROPERTY.—Any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(4) FILMS AND VIDEO TAPE.—Any motion picture film or video tape.

"(5) SOUND RECORDINGS.—Any sound recording described in section 280(c)(2).

"(g) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—The depreciation deduction determined under this section for any taxable year with respect to any property to which this subsection applies shall be the product of—

"(A) the amount of such deduction (determined without regard to this subsection), multiplied by

"(B) the product of the inflation adjustments for the taxable year and each prior taxable year for which a depreciation deduction was allowable during the holding period of the taxpayer with respect to such property and for which an inflation adjustment was allowed under this subsection.

"(2) PROPERTY TO WHICH INFLATION ADJUSTMENT APPLIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection applies to any tangible property to which this section applies

"(B) EXCEPTION FOR PROPERTY DEPRECIATED UNDER NONINCENTIVE DEPRECIATION SYSTEM.—This subsection shall not apply to any property to which subsection (h) applies (other than by reason of an election under paragraph (7) thereof).

"(3) INFLATION ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an inflation adjustment shall be allowed under this subsection for any taxable year if—

"(i) the inflation for the calendar year in which such taxable year begins, exceeds

"(ii) 5 percent.

The preceding sentence shall not apply to taxable years beginning after December 31, 1990.

"(B) AMOUNT OF ADJUSTMENT.—

(i) Years before 1991.—

The inflation adjustment for any taxable year beginning before January 1, 1991 shall be 1.0 plus the excess described in subparagraph (A) (when expressed in decimal terms).

(ii) Inflation adjustments for years after 1991.—The inflation adjustment for any taxable year beginning after December 31, 1990 plus the inflation (when expressed in decimal terms) for the calendar year in which the taxable year begins.

"(C) INFLATION FOR ANY CALENDAR YEAR.—For purposes of subparagraph (A), the inflation for any calendar year shall be the percentage (if any) by which—

"(i) the CPI for such calendar year (as defined in section 1(e)(4)), exceeds

"(ii) the CPI for the preceding calendar year.

"(4) INFLATION ADJUSTMENT NOT ALLOWED FOR CERTAIN TAXABLE YEARS.—

"(A) TAXABLE YEARS BEGINNING BEFORE 1986.—No inflation adjustment shall be allowed under this subsection for any taxable year beginning in a calendar year before 1986.

"(B) YEAR IN WHICH PLACED IN SERVICE OR DISPOSED OF.—An inflation adjustment shall not be allowed under this subsection with respect to any property for the taxable year in which such property is placed in service or disposed of.

"(5) NOT TREATED AS DEPRECIATION DEDUCTION FOR CERTAIN PURPOSES.—Any increase in the deduction determined under this section with respect to any property by reason of this subsection shall not be treated as a depreciation deduction for purposes of—

"(A) determining the adjusted basis of such property,

"(B) determining the amount (or character) of gain or loss on any disposition of such property, and

"(C) determining the earnings and profits.

In the case of any property used in an activity to which section 465 applies, no adjustment shall be allowed under this subsection with respect to any depreciation deduction not allowed by reason of the limitation of such section until such depreciation deduction is allowed under such limitation, and any such adjustment when allowed shall not reduce the at risk amount under section 465(b).

"(h) NONINCENTIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

"(1) IN GENERAL.—In the case of—

"(A) any tangible property which during the taxable year is used predominantly outside the United States,

"(B) any tax-exempt use property,

"(C) any tax-exempt bond financed property,

"(D) any imported property covered by an Executive order under paragraph (6), and

"(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the nonincentive depreciation system.

"(2) NONINCENTIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the nonincentive depreciation system is depreciation determined by using—

"(A) the straight-line method (without regard to salvage value),

"(B) the applicable convention determined under subsection (d), and

"(C) a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) 28-year real property	40 years.

"(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

"(A) CLASSIFIED PROPERTY.—If any property (other than 28-year real property) is classified under paragraph (2) of subsection (e) in any class, the recovery period applicable to such property under the incentive system shall be treated as such property's class life for purposes of paragraph (2).

"(B) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall in no event be less than 125 percent of the lease term. The preceding sentence shall not apply to any qualified technological equipment not described in subsection (i)(3)(B).

"(C) TAX-EXEMPT BOND FINANCED PROPERTY.—In the case of any tax-exempt bond financed property, the recovery period used for purposes of paragraph (2) shall be equal to the recovery period determined under subsection (c) for the next higher numbered class to the class of such property (or in the case of property in class 9 or 10 shall not be less than 40 years).

"(4) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—For purposes of this subsection, under regulations prescribed by the Secretary, rules similar to the rules under section 48(a)(2) (including the exceptions contained in subparagraph (B) thereof) shall apply in determining whether property is used predominantly outside the United States. In addition to the exceptions contained in such subparagraph (B), there shall be excepted any satellite or other spacecraft (or any interest therein) held by a United States person if such satellite or spacecraft was launched from within the United States.

"(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'tax-exempt bond financed property' means any property if part or all of such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

"(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property was acquired.

"(C) EXEMPTION FOR LOW-INCOME HOUSING.—The term 'tax-exempt bond finance property' shall not include any low-income housing.

"(6) IMPORTED PROPERTY.—

"(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

"(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

"(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

he may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order.

"(B) IMPORTED PROPERTY.—For purposes of this subsection, the term 'imported property' means any property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(7) ELECTION TO USE NONINCENTIVE DEPRECIATION SYSTEM.—

"(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the nonincentive depreciation system shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of a certified historic structure (as defined in section 48(g)(3)), such election may be made separately with respect to such structure.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any class of property for any taxable year, shall be irrevocable.

"(i) TAX-EXEMPT USE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section—

"(A) PROPERTY OTHER THAN 30-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than 28-year real property) leased to a tax-exempt entity.

"(B) 28-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 30-year real property, the term 'tax-exempt use property' means that portion of the property leased to a tax-exempt entity in a disqualified lease.

"(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life. If the case of 28-year real property and property with no present class life, subclause (II) shall not apply.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

"(E) 28-YEAR REAL PROPERTY TO INCLUDE LOW-INCOME HOUSING.—For purposes of this paragraph, the term '28-year real property' includes low-income housing.

"(2) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

"(i) IN GENERAL.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) ELECTION NOT TO HAVE CLAUSE (I) APPLY.—

"(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

"(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization

shall succeed to the treatment under this subparagraph of such predecessor organization.

"(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

"(3) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

"(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this section, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) EXCEPTION FOR CERTAIN PROPERTY.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(ii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(4) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

"(5) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

"(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(6) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—For purposes of this subsection, if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(F) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity.

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held (directly or through the application of section 318) by 1 or more tax-exempt entities.

"(G) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(7) LEASE.—For purposes of this subsection, the term 'lease' includes any grant of a right to use property.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLASS LIFE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1985, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(B) SECRETARIAL AUTHORITY.—The Secretary, through an office established in the Treasury—

"(i) shall monitor and analyze actual experience with respect to all depreciable assets,

"(ii) may prescribe a new class life for any property or class of property, and

"(iii) may prescribe a class life for any property which does not have a class life within the meaning of subparagraph (A).

Any class life prescribed under the preceding sentence shall reasonably reflect the anticipated useful life, and the anticipated decline in value over time, of the property to the industry or other group.

"(C) NEW CLASS LIFE TO OVERRIDE CLASSIFICATION UNDER SUBSECTION (e)(2).—If the Secretary prescribes a class life under subparagraph (B) with respect to any property (other than 30-year real property or low-income housing), such class life shall be

used in determining the class of such property without regard to any classification under subsection (e)(2).

"(2) 28-YEAR REAL PROPERTY.—The term '28-year real property' means any real property which—

"(A) does not have a class life, and

"(B) is not low-income housing.

"(3) LOW-INCOME HOUSING.—

"(A) IN GENERAL.—The term 'low-income housing' means any real property which is part of a residential rental project if such project meets the requirements of clause (i) or (ii), whichever is elected by the taxpayer at the time the property is placed in service:

"(i) The project meets the requirements of this clause if 20 percent or more of the units in such project are occupied by individuals whose income is 70 percent or less of median gross income.

"(ii) The project meets the requirements of this clause if 25 percent or more of the units in such project are occupied by individuals whose income is 80 percent or less of median gross income.

For purposes of the preceding sentence, property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(B) VERY LOW-INCOME HOUSING.—Real property which is part of a project shall be treated as very low-income housing meeting the requirements of this subparagraph if such project meets the requirements of subparagraph (A)(i) determined by substituting '40 percent' for '20 percent' and '60 percent' for '70 percent'.

"(C) INCOME OF INDIVIDUALS; MEDIAN GROSS INCOME.—The income of individuals and median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(D) CURRENT INCOME DETERMINATIONS.—

"(i) IN GENERAL.—The determination of whether a resident meets the income requirements of subparagraph (A) or (B) (whichever applies to the project) shall be made at least annually on the basis of the current income of the resident.

"(ii) CONTINUING RESIDENT'S INCOME MAY INCREASE TO 120 PERCENT OF APPLICABLE CEILING.—A resident of a project whose income met the requirement of subparagraph (A) or (B) (whichever applies to such project) as of the beginning of such resident's occupancy of a unit in such project shall cease to be treated as meeting such requirement if such resident's income exceeds 120 percent of such requirement, and after such event any vacant unit in the project is rented to a new occupant whose income does not meet the applicable requirement of subparagraph (A) or (B).

"(E) CERTIFICATION TO SECRETARY.—The operator of any low-income housing shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification that such project continues to meet the requirements of this paragraph.

"(4) QUALIFIED TECHNOLOGICAL EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified technological equipment' means—

"(i) any computer or peripheral equipment,

"(ii) any high technology telephone station equipment installed on the customer's premises, and

"(iii) any high technology medical equipment.

"(B) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) COMPUTER.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) RELATED PERIPHERAL EQUIPMENT.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) EXCEPTIONS.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(C) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(5) LEASE TERM.—

"(A) IN GENERAL.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON 28-YEAR REAL PROPERTY OR LOW-INCOME HOUSING.—For purposes of clause (i) of subparagraph (A), in the case of 28-year real property or low-income housing, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(6) MASS ASSET ACCOUNTS.—Under regulations prescribed by the Secretary, a taxpayer may maintain one or more mass asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a mass asset account shall be included in income as ordinary income.

"(7) CHANGES IN USE.—

"(A) IN GENERAL.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

"(B) SPECIAL RULE FOR LOW-INCOME HOUSING.—In the case of any property which was low-income housing before the change in status referred to in subparagraph (A)—

"(i) the gross income of the holder of such property shall be increased by the prior excess depreciation deductions,

"(ii) the adjusted basis of such property shall be increased by the amount included in gross income under clause (i), and

"(iii) such adjusted basis shall be depreciated over the remaining recovery period which would have applied to such property had it not been low-income housing when placed in service.

For purposes of the preceding sentence, the term 'excess depreciation deductions' means the excess of the depreciation deductions previously allowable with respect to any property which was low-income housing over the depreciation deductions which would have been allowable if such property had been treated as 28-year real property when placed in service.

"(8) TREATMENTS OF ADDITIONS OR IMPROVEMENTS TO PROPERTY.—The applicable recovery period for any addition to (or improvement of) property shall begin on the later of—

"(A) the date on which such addition (or improvement) is placed in service, or

"(B) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

"(9) TREATMENT OF CERTAIN TRANSFEREES.—

"(A) IN GENERAL.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731. Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(A).

"(10) TREATMENT OF LEASEHOLD IMPROVEMENTS.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, section 178 shall not apply (and the depreciation deduction shall be determined under the provisions of this section).

"(11) NORMALIZATION RULES.—

"(A) IN GENERAL.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(3)—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(l)) using the method (including the

period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Adjustments similar to the adjustment provided in clauses (i) and (ii) shall be made in the case of any increase in the depreciation deduction determined under this section with respect to any property by reason of subsection (g).

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

"(C) PUBLIC UTILITY PROPERTY WHICH DOES NOT MEET NORMALIZATION RULES.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(3), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i)."

(b) LIMITATION ON ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS.—Subsection (b) of section 179 (relating to election to expense certain depreciable assets) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(2) CERTAIN TAXPAYERS NOT ELIGIBLE FOR ELECTION.—Subsection (a) shall not apply to any taxpayer for any taxable year if the cost of section 179 property placed in service during such taxable year exceeds $200,000.

"(3) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a husband and wife filing separate returns for the taxable year—

"(A) paragraph (1) shall be applied by substituting "$5,000" for "$10,000", and

"(B) such individuals shall be treated as one taxpayer for purposes of determining whether the requirements of paragraph (2) are met."

(c) SYSTEM USED FOR PURPOSES OF EARNINGS AND PROFITS.—Paragraph (3) of section 312(k) is amended to read as follows:

"(3) EXCEPTION FOR TANGIBLE PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of tangible property to which section 168 applies, the adjustment to earnings and profits for depreciation for any taxable year shall be determined under the nonincentive depreciation system within the meaning of section 168(h)(2).

"(B) TREATMENT OF AMOUNTS DEDUCTIBLE UNDER SECTION 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 taxable years (beginning with the taxable year for which such amount is deductible under section 179)."

(d) CONTINUATION OF RULES RELATING TO MOTOR VEHICLE OPERATING LEASES.—Section 7701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) MOTOR VEHICLE OPERATING LEASES.—

"(1) IN GENERAL.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(2) QUALIFIED MOTOR VEHICLE OPERATING AGREEMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

"(B) MINIMUM LIABILITY OF LESSOR.—An agreement meets the requirements of this subparagraph if under such agreement the sum of—

"(i) the amount the lessor is personally liable to repay, and

"(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(C) CERTIFICATION BY LESSEE; NOTICE OF TAX OWNERSHIP.—An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

"(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(D) LESSOR MUST HAVE NO KNOWLEDGE THAT CERTIFICATION IS FALSE.—An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

"(3) TERMINAL RENTAL ADJUSTMENT CLAUSE DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(B) SPECIAL RULE FOR LESSEE DEALERS.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A)."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 167.—Paragraph (4) of section 167(m) (relating to termination of class lives) is amended to read as follows:

"(4) TERMINATION.—This subsection shall not apply with respect to any property to which section 168 applies."

(2) SECTION 178.—Section 178 is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For provision providing that this section does not apply to certain property, see section 168(j)(10)."

(3) SECTION 179.—Paragraph (8) of section 179(d) is amended to read as follows:

"(8) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitations of subsection (b) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders."

(4) SECTION 280F.—

(A) Paragraph (2) of section 280F(b) (relating to depreciation) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(B) Subparagraph (A) of section 280F(b)(3) (relating to recapture) is amended by striking out "the straight line method over the earnings and profits life" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(C) Paragraph (4) of section 280F(b) (relating to definitions) is amended to read as follows:

"(4) PROPERTY PREDOMINANTLY USED IN QUALIFIED BUSINESS USE.—For purposes of this subsection, property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent."

(D) Paragraph (4) of section 280F(c) is amended by striking out "section 168(j)(6)(B)" and inserting in lieu thereof "section 168(j)(5)(A)".

(E) Paragraph (1) of section 280F(d) is amended by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction".

(F) Paragraph (2) of section 280F(d) is amended—

(i) by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction", and

(ii) by striking out "use described in section 168(c)(1) (defining recovery property)" and inserting in lieu thereof "use in a trade or business (including the holding for the production of income)".

(G) Clause (iv) of section 280F(d)(4)(A) is amended by striking out "section 168(j)(5)(D)" and inserting in lieu thereof "section 168(j)(4)(B)".

(H) Paragraph (8) of section 280F(d) (defining unrecovered basis) is amended to read as follows:

"(8) UNRECOVERED BASIS.—For purposes of subsection (a)(1), the term 'unrecovered basis' means the adjusted basis of the passenger automobile determined after the application of subsection (a) and as if all use during the recovery period were use in a trade or business."

(I) Paragraph (10) of section 280F(d) is amended by striking out ", notwithstanding any regulations prescribed under section 168(f)(7),".

(5) SECTION 312.—Paragraph (4) of section 312(k) is amended by striking out the last sentence.

(6) SECTION 461.—

(A) Subclause (I) of section 461(i)(2)(C)(ii) (defining cash basis) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "paragraph (6)".

(B) Subsection (i) of section 461 is amended by adding at the end thereof the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection, a person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(B) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or (f) or 707(b)(1), '10 percent' shall be substituted for '50 percent'."

(7) SECTION 465.—Subparagraph (C) of section 465(b)(3) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(8) SECTION 467.—

(A) Paragraph (3) of section 467(e) is amended to read as follows:

"(3) STATUTORY RECOVERY PERIOD.—

"(A) IN GENERAL.—

"In the case of property in:	The statutory recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	28 years
Class 10	28 years.

"(B) SPECIAL RULE FOR PROPERTY NOT DEPRECIABLE UNDER SECTION 168.—In the case of property to which section 168 does not apply, subparagraph (A) shall be applied as if section 168 applies to such property."

(B) Paragraph (5) of section 467(e) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)".

(9) SECTION 514.—Subclause (II) of section 514(c)(9)(B)(vi) (relating to real property acquired by a qualified organization) is amended by striking out "section 168(j)(9)" and inserting in lieu thereof "section 168(i)(6)".

(10) SECTION 751.—Subsection (c) of section 751 (defining unrealized receivables) is amended by striking out "section 1245 recovery property (as defined in section 1245(a)(5)),".

(11) SECTION 1245.—

(A) Paragraph (1) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "beginning after December 31, 1962, or section 1245 recovery property is disposed of after December 31, 1980,".

(B) Paragraph (2) of section 1245(a) (defining recomputed basis) is amended to read as follows:

"(2) RECOMPUTED BASIS.—For purposes of this section—

"(A) IN GENERAL.—The term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization.

"(B) TAXPAYER MAY ESTABLISH AMOUNT ALLOWED.—For purposes of subparagraph (A), if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(C) CERTAIN DEDUCTIONS TREATED AS AMORTIZATION.—Any deduction allowable under section 179, 190, or 193 shall be treated as if it were a deduction allowable for depreciation."

(C) Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by adding at the end thereof the following new sentence:

"Such term includes any tangible property to which section 168 applied and which is not 28-year real property (as defined in section 168) or low-income housing (as defined in section 168)."

(D) Subsection (a) of section 1245 is amended by striking out paragraphs (5) and (6).

(12) SECTION 4162.—Paragraph (3) of section 4162(c) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)(6)".

(13) SECTION 6111.—Clause (ii) of section 6111(c)(3)(B) (relating to certain borrowed amounts excluded) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(14) SECTION 7701.—

(A) Subparagraph (A) of section 7701(e)(4) is amended by striking out "section 168(j)" and inserting in lieu thereof "section 168(h)".

(B) Paragraph (5) of section 7701(e) (relating to exception for certain low-income housing) is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "section 168(j)(3)".

(15) CLERICAL AMENDMENT.—The item relating to section 168 in the table of sections for part VI of subchapter B of chapter 1 is amended to read as follows:

"Sec. 168. Incentive depreciation system for tangible property."

SEC. 202. RECAPTURE PROVISIONS FOR SECTION 1250 PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) the following new paragraph:

"(1) ADDITIONAL DEPRECIATION FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1985.—

"(A) IN GENERAL.—If any section 1250 property placed in service after December 31, 1985, is disposed of, then the lower of—

"(i) the additional depreciation (as defined in subsection (b)(1) or (4)) in respect of such property, or

"(ii) the excess of the amount realized (in the case of a sale, exchange, or inventory conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICATION OF THIS PARAGRAPH.—This paragraph shall not apply to any property described in section 203(b) of the Tax Reform Act of 1985 (relating to transitional rules).

"(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply to any property to which this paragraph applies."

(b) DETERMINATION OF ADDITIONAL DEPRECIATION.—Paragraph (5) of section 1250(b) (relating to method of computing straight line adjustments) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of—

"(i) property to which section 168 (as amended by the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if such adjustments had been made under the straight-line method for such year using the recovery period applicable to such property, or

"(ii) recovery property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight-line method for such year using the recovery period applicable to such property, and

"(B) in the case of property not described in subparagraph (A), if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value).

In the case of any property described in subparagraph (A)(i) which is low-income housing (as defined in section 168(i)(3)) which is sold by the taxpayer and leased back by the taxpayer, the Secretary may by regulations prescribe that the recovery period applicable to 28-year real property shall be used for purposes of this paragraph if such property is not to be used as low-income housing after such leaseback."

SEC. 203. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by section 201 shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(b) GENERAL TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by section 201 shall not apply to—

(A) any property which is constructed, reconstructed, or acquired pursuant to a written contract which was binding on September 25, 1985,

(B) property which is constructed or reconstructed by the taxpayer if—

(i) the lesser of (I) $1,000,000, or (II) 5 percent of the cost of such property has been incurred or committed by September 25, 1985, and

(ii) the construction or reconstruction of such property began by such date, or

(C) an equipped building or plant facility if construction has commenced as of September 25, 1985, pursuant to a written specific plan and more than one-half of the cost of such equipped building or facility has been incurred or committed by such date.

(2) REQUIREMENT THAT PROPERTY BE PLACED IN SERVICE BEFORE CERTAIN DATE.—Paragraph (1) and subsection (d) (other than paragraph (9) thereof) shall not apply to any property unless such property is placed in service before the applicable date determined under the following table:

In the case of property in class:	The applicable date is:
1	July 1, 1986
2	January 1, 1987
3	January 1, 1989
4	January 1, 1989
5	January 1, 1989
6	January 1, 1989
7	January 1, 1991
8	January 1, 1991
9	January 1, 1991
10	January 1, 1991.

For purposes of the preceding sentence, property referred to in section 168(e)(2)(C) (relating to cars and light general purpose trucks) shall be treated as being property in class 1, and all property described in subsection (d)(5)(A) shall be treated as being property in class 7.

(3) PROPERTY QUALIFIES IF SOLD IN LEASEBACK IN 90 DAYS.—Property shall be treated as meeting the requirements of paragraphs (1) and (2) with respect to any taxpayer if such property is acquired by the taxpayer from a person in whose hands such property met the requirements of paragraphs (1) and (2) and such property is leased back by the taxpayer to such person not later than the earlier of the applicable date under paragraph (2) or the day 90 days after such property was originally placed in service.

(c) PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(h)(3) of the Internal Revenue Code of 1954 (as added by this section) shall apply to property placed in service after December 31, 1985, in taxable years ending after such date, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after September 25, 1985.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENTS.—Subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply to obligations with respect to a facility—

(i)(I) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

(II) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

(III) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before September 26, 1985.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1985, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before September 26, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before September 26, 1985.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before September 26, 1985, for purposes of subparagraphs (A) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(D) SIGNIFICANT EXPENDITURES.—For purposes of this paragraph, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(d) OTHER TRANSITIONAL RULES.—

(1) SUPPLIER SERVICE CONTRACTS.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on September 25, 1985.

(2) SPECIAL RULES FOR PROPERTY INCLUDED IN MASTER PLANS OF INTEGRATED PROJECTS.—The amendments made by section 201 shall not apply to any property placed in service pursuant to a master plan which is clearly identifiable as of September 25, 1985, for any project if—

(A) the project is a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and

(B) the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

(3) SOLID WASTE DISPOSAL FACILITIES.—The amendments made by section 201, and subsection (c) of this section, shall not apply to any qualified solid waste disposal facility (as defined in section 7701(e)(3)(B) of the Internal Revenue Code of 1954) if before January 1, 1986—

(A) there is a binding written contract between the service recipient and the service provider with respect to the operation of such facility to pay for the services to be provided by such facility, or

(B) a service recipient or governmental unit (or any entity related to such recipient or unit) made a financial commitment of at least $200,000 for the financing or construction of such facility.

(4) CERTAIN SUBMERSIBLE DRILLING UNITS.—In the case of a binding contract entered into on October 20, 1984, for the purchase of 6 semi-submersible drilling units at a cost of $425,000,000, such units shall be treated as having an applicable date under subsection (b)(2) of January 1, 1991.

(5) SEWAGE TREATMENT FACILITY.—The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if—

(A) a city-parish advertised in September 1985, for bids for construction of secondary treatment improvements for such facility,

(B) in May 1985, the city-parish received statements from 16 firms interested in privatizing the waste water treatment facilities, and

(C) the metropolitan council selected a privatizer at its meeting on November 20, 1985, and adopted a resolution authorizing the Mayor to enter into contractual negotiation with the selected privatizer.

(6) CERTAIN HYDROELECTRIC PROJECT.—The amendments made by section 201 shall not apply to any property which is part of a hydroelectric project on the Mississippi River which received approval from the Federal Energy Regulatory Commission on January 27, 1982.

(e) NORMALIZATION REQUIREMENTS.—

(1) IN GENERAL.—A normalization method of accounting shall not be treated as being used with respect to any public utility property for purposes of section 167 or 168 of the Internal Revenue Code of 1954 if the taxpayer, in computing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, reduces the excess tax reserve more rapidly or to a greater extent than such reserve would be reduced under the average rate assumption method.

(2) DEFINITIONS.—For purposes of this subsection—

(A) EXCESS TAX RESERVE.—The term "excess tax reserve" means the excess of—

(i) the reserve for deferred taxes (as described in section 167(l)(3)(G)(ii) or 168(e)(3)(B)(ii) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act), over

(ii) the amount which would be the balance in such reserve if the amount of such reserve were determined by assuming that the corporate rate reductions provided in this Act were in effect for all prior periods.

(B) AVERAGE RATE ASSUMPTION METHOD.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by

(ii) the amount of the timing differences which reverse during such period.

(f) SPECIAL RULE FOR FINANCE LEASE PROVISIONS.—The provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) shall continue to apply to any transaction permitted by reason of section 12(c)(2) of the Tax Reform Act of 1984 or section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

Subtitle B—Regular Investment Tax Credit

SEC. 211. REGULAR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subpart E of part IV of subchapter A of chapter 1 (relating to investment tax credit) is amended by adding

at the end thereof the following new section:

"SEC. 49. REGULAR PERCENTAGE TO APPLY ONLY TO DOMESTICALLY PRODUCED MANUFACTURING ECT., EQUIPMENT

"(a) LIMITATION TO DOMESTICALLY PRODUCED MANUFACTURING, ETC., EQUIPMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, for purposes of applying the regular percentage—

"(A) the term 'section 38 property' shall only include qualified domestically produced property, and

"(B) the regular percentage shall be 5 percent.

"(2) QUALIFIED DOMESTICALLY PRODUCED PROPERTY.—For purposes of paragraph (1), the term 'qualified domestically produced property' means any tangible property which—

"(A) is manufacturing, production, or extraction machinery or equipment,

"(B) is not imported property, and

"(C) which is used predominantly within the United States (as determined under section 48(a)(2) without regard to subparagraph (B) thereof).

"(3) IMPORTED PROPERTY.—For purposes of this subsection, the term 'imported property' means any property if—

"(A) such property was completed outside the United States, or

"(B) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(b) EXCEPTION FOR QUALIFIED PROGRESS EXPENDITURES FOR PERIODS BEFORE JANUARY 1, 1986.—In the case of any taxpayer who has made an election under section 46(d)(6), subsection (a) shall not apply to the portion of the adjusted basis of any progress expenditure property attributable to qualified progress expenditures for periods before January 1, 1986.

"(c) EXCEPTION FOR TRANSITION PROPERTY.—

"(1) IN GENERAL.—Subsection (a) shall not apply to transition property.

"(2) CREDIT FOR TRANSITION PROPERTY EARNED RATABLY OVER 5 YEARS.—The amount of the qualified investment for any taxable year with respect to transition property (determined without regard to this paragraph) shall be taken into account ratably over the 5-taxable-year period beginning with the taxable year for which such qualified investment would have been taken into account but for this paragraph.

"(3) FULL BASIS ADJUSTMENT.—In the case of transition property, section 48(q) (relating to basis adjustment to section 38 property) shall be applied—

"(A) by substituting '100 percent' for '50 percent' in paragraph (1), and

"(B) by applying section 48(q) as if it did not contain paragraph (4) thereof (relating to election of reduced credit in lieu of basis adjustment).

"(4) TRANSITION PROPERTY.—The term 'transition property' means any property placed in service after December 31, 1985, and to which the amendments made by section 201 of the Tax Reform Act of 1985 do not apply. For purposes of paragraphs (2) and (3), such term shall not include any property described in section 203(d)(4) and 211(c)(3) of the Tax Reform Act of 1985.

(4) TREATMENT OF PROGRESS EXPENDITURES.—No progress expenditures for periods after December 31, 1985, with respect to any property shall be taken into account for purposes of applying the regular percentage unless it is reasonable to expect that such property will be transition property when placed in service. If any progress expenditures are taken into account by reason of the preceding sentence and subsequently there is not a reasonable expectation that such property would be transition property when placed in service, the credits attributable to progress expenditures with respect to such property shall be recaptured under section 47."

(b) CONFORMING AMENDMENTMENTS.—

(1) Paragraph 7 of section 46(c) is amended to read as follows:

"(7) APPLICABLE PERCENTAGE FOR PROPERTY TO WHICH SECTION 168 APPLIES.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of any property to which section 168 applies other than class 1 property, 100 percent, and

"(B) in the case of class 1 property, 60 percent."

(A) by striking out "any recovery property" in the material preceding clause (i) and inserting in lieu thereof "any property to which section 168 applies and", and

(B) by striking out all that follows clause (i) and inserting in lieu thereof the following:

"(ii) notwithstanding section 46(b)(1), the regular percentage shall be—

"(I) 4 percent in the case of property other than class 1 property, and

"(II) 2 percent in the case of class 1 property."

(b) NORMALIZATION RULES.—If the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 is not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit—

(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be disallowed, and

(2) if the amount in the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

Subtitle C—Changes in Certain Rapid Amortization Provisions

SEC. 221. REPEAL OF 5-YEAR AMORTIZATION OF TRADEMARK AND TRADE NAME EXPENDITURES.

(a) IN GENERAL.—Section 177 (relating to trademark and trade name expenditures) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 312(n) is amended by striking out ", 177,".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (16) and by redesignating paragraphs (17) through (27) as paragraphs (16) through (26), respectively.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 177.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to the development, protection, expansion, registration, or defense of a trademark or trade name commenced before September 26, 1985, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.

SEC. 222. CHANGES RELATING TO DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

(a) AMORTIZATION MADE PERMANENT.—Paragraph (1) of section 167(k) is amended by striking out "and before January 1, 1987,".

(b) INCREASE IN EXPENDITURES PERMITTED TO BE TAKEN INTO ACCOUNT.—Paragraph (2) of section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out "$20,000" in subparagraph (A) and inserting in lieu thereof "$30,000",

(2) by striking out subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) TECHNICAL AMENDMENT.—Paragraph (3) of section 167(k) is amended by striking out subparagraph (D) thereof.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) TRANSITIONAL RULE.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to a rehabilitation which commenced before September 26, 1985, but only if not less than 5 percent of the aggregate cost of such rehabilitation has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to property (or additions or improvements thereto) placed in service after December 31, 1987.

(3) ADDITIONAL TRANSITIONAL RULE.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred with respect to units located in neighborhood strategy areas within the community development block grant program of the city of Fort Wayne, Indiana.

The number of units to which the preceding sentence applies shall not exceed 150.

Subtitle D—Other Capital Related Costs

SEC. 231. AMENDMENTS RELATING TO CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) 3-YEAR EXTENSION OF THE RESEARCH CREDIT.—

(1) IN GENERAL.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after December 31, 1988.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before January 1, 1989, and ends after December 31, 1988, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before January 1, 1989, bears to the total number of days in such taxable year."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) REDUCTION IN RATE FROM 25 PERCENT TO 20 PERCENT; CREDIT FOR BASIC RESEARCH PAYMENTS TO QUALIFIED ORGANIZATIONS.—Subsection (a) of section 30 is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 20 percent of the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) 20 percent of the basic research payments determined under subsection (e)(1)(A)."

(c) DEFINITIONS AND SPECIAL RULES RELATING TO PAYMENTS FOR BASIC RESEARCH.—Subsection (e) of section 30 (relating to credit available with respect to certain basic research by colleges, universities, and certain research organizations) is amended to read as follows:

"(e) CREDIT ALLOWABLE WITH RESPECT TO CERTAIN PAYMENTS TO QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—In the case of any taxpayer who makes basic research payments for any taxable year—

"(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

"(i) such basic research payments, over

"(ii) the qualified organization base period amount, and

"(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

"(2) BASIC RESEARCH PAYMENTS DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'basic research payment' means, with respect to any taxable year, any amount paid during such taxable year by a corporation to any qualified organization for basic research but only if—

"(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(ii) such basic research is to be performed by such qualified organization.

"(B) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

"(3) QUALIFIED ORGANIZATION BASE PERIOD AMOUNT.—For purposes of this subsection, the term 'qualified organization base period amount' means an amount equal to the sum of—

"(A) the minimum basic research amount, plus

"(B) the maintenance-of-effort amount.

"(4) MINIMUM BASIC RESEARCH AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'minimum basic research amount' means an amount equal to the greater of—

"(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

"(I) any in-house research expenses, and

"(II) any contract research expenses, or

"(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

"(B) FLOOR AMOUNT.—The minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

"(5) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'maintenance-of-effort amount' means, with respect to any taxable year, an amount equal to the excess (if any) of—

"(i) an amount equal to—

"(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

"(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

"(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

"(B) NONDESIGNATED UNIVERSITY CONTRIBUTIONS.—For purposes of this paragraph, the term 'nondesignated university contribution' means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which was not taken into account—

"(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

"(II) as a basic research payment for purposes of this section.

"(C) COST-OF-LIVING ADJUSTMENT DEFINED.—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(e)(3).

"(ii) SPECIAL RULE WHERE BASE PERIOD ENDS IN A CALENDAR YEAR OTHER THAN 1983 OR 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(e)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1983.

"(6) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means any of the following organizations:

"(A) EDUCATIONAL INSTITUTIONS.—Any educational organization which—

"(i) is an institution of higher education (within the meaning of section 3304(f)), and

"(ii) is described in section 170(b)(1)(A)(ii).

"(B) CERTAIN SCIENTIFIC RESEARCH ORGANIZATIONS.—Any organization not described in subparagraph (A) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(C) SCIENTIFIC TAX-EXEMPT ORGANIZATIONS.—Any organization which—

"(i) is described in—

"(I) section 501(c)(3) (other than a private foundation), or

"(II) section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

"(iv) currently expends—

"(I) substantially all of its funds, or

"(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

"(D) CERTAIN GRANT ORGANIZATIONS.—Any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(i) basic research conducted outside of the United States, and

"(ii) basic research in the social sciences or humanities.

"(B) BASE PERIOD.—The term 'base period' means the 3-taxable year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

"(C) EXCLUSION FROM INCREMENTAL CREDIT CALCULATION.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2) shall not—

"(i) be treated as qualified research expenses under subsection (a)(1)(A), and

"(ii) be included in the computation of base period research expenses under subsection (a)(1)(B).

"(D) TRADE OR BUSINESS QUALIFICATION.—Any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

"(E) CERTAIN CORPORATIONS NOT ELIGIBLE.—The term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3))."

(d) DENIAL OF CREDIT WITH RESPECT TO AMOUNTS FOR CERTAIN LEASED PERSONAL PROPERTY.—Clause (iii) of section 30(b)(2)(A) (defining in-house research expenses) is amended to read as follows:

"(iii) under regulations prescribed by the Secretary, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research."

(e) RESEARCH CREDIT TREATED AS OTHER BUSINESS CREDITS.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking out "plus" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by adding after paragraph (2) the following new paragraph:

"(3) the research credit determined under section 40(a)."

(2) TRANSFER OF RESEARCH CREDIT TO SUBPART RELATING TO BUSINESS CREDITS.—Section 30 (relating to credit for increasing research activities) is hereby transferred to subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (as amended by this Act), inserted before section 41 of such Code, and redesignated as section 40 of such Code.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A)(i) Subsections (b) and (c) of section 28 are each amended by striking out "section 30" each place it appears and inserting in lieu thereof "section 40".

(ii) Paragraph (2) of section 28(c) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(iii) Paragraph (4) of section 28(d) is amended by striking out "section 30(f)" and inserting in lieu thereof "section 40(f)".

(B) Subsection (d) of section 38, as amended by this Act, is amended by inserting "40(a)," before "41(a),".

(C)(i) Subsection (d) of section 39 (relating to carryback and carry forward of unused credits) is amended by adding at the end thereof the following new paragraph:

"(3) SIMILAR RULES FOR RESEARCH CREDIT.—Rules similar to the rules of paragraphs (1) and (2) shall apply to the credit allowable under section 30 (as in effect before the date of the enactment of the Tax Reform Act of 1985) except that—

"(A) 'December 31, 1985' shall be substituted for 'December 31, 1983' each place it appears, and

"(B) 'January 1, 1986' shall be substituted for 'January 1, 1984'."

(ii) Subsection (g) of section 40 (relating to limitation based on amount of tax), as redesignated by this section, is amended to read as follows:

"(g) SPECIAL RULE FOR PASS-THRU OF CREDIT.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity."

(D) Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended by striking out all that precedes the second sentence and inserting in lieu thereof the following:

"(B) GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit)."

(E)(i) Paragraph (3) of section 280C(b) is amended—

(I) by striking out "section 30(f)(5)" and inserting in lieu thereof "section 40(f)(5)",

(II) by striking out "section 30(f)(1)(B)" and inserting in lieu thereof "section 40(f)(1)(B)", and

(III) by striking out "section 30(f)(1)" and inserting in lieu thereof "section 40(f)(1)".

(ii) Subsection (c) of section 280C, as amended by this section, is amended—

(I) by striking out "section 30(b)" in paragraph (1) and inserting in lieu thereof "section 40(b)",

(II) by striking out "section 30(a)" in paragraph (1) and inserting in lieu thereof "section 40(a)", and

(III) by striking out "section 30" in paragraph (2) and inserting in lieu thereof "section 40".

(F) Subsection (c) of section 381 is amended by striking out paragraph (25) and by redesignating paragraph (26) as paragraph (25).

(G) Section 936(h)(5)(C)(i)(I)(a) (defining product area research) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(H) Section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by striking out "by a research credit carryback provided in section 30(g)(2)" in subsection (a),

(ii) by striking out "a research credit carryback or" in subsection (a),

(iii) by striking out "(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)" in subsection (a), and

(iv) by striking out "unused research credit," each place it appears in subsections (a) and (b).

(I) Subparagraph (C) of section 6511(d)(6) (defining credit carryback) is amended by striking out "and any research credit carryback under section 30(g)(2)".

(J) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 30.

(K) The table of sections for subpart D of such part is amended by inserting before the item relating to section 41 the following new item:

"Sec. 40. Credit for increasing research activities."

(f) DEDUCTION FOR CERTAIN CONTRIBUTIONS OF SCIENTIFIC RESEARCH PROPERTY.—Clause (i) of section 170(e)(4)(B) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

"(i) the contribution is to an organization described in subparagraph (A) or subparagraph (B) of section 40(e)(6),".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 232. MODIFICATION OF INVESTMENT TAX CREDIT FOR REHABILITATION EXPENDITURES.

(a) REDUCTION IN PERCENTAGE.—Paragraph (4) of section 46(b) (relating to rehabilitation percentage) is amended to read as follows:

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—The term 'rehabilitation percentage' means—

"(i) 10 percent in the case of qualified rehabilitation expenditures with respect to a qualified rehabilitated building other than a certified historic structure, and

"(ii) 20 percent in the case of such expenditure with respect to a certified historic structure.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures."

(b) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation, and

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

"(B) BUILDING MUST BE FIRST PLACED IN SERVICE BEFORE 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) SUBSTANTIALLY REHABILITATED DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) 30-year real property,

"(II) low-income housing,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) INCENTIVE METHOD OF DEPRECIATION MAY NOT BE USED.—Any expenditure with respect to which an election has not been made under section 168(h)(7) (relating to election to use nonincentive depreciation system). The preceding sentence shall not apply to any expenditure to the extent the nonincentive depreciation system of section 168(h) applies to such expenditure by reason of subparagraph (B) and (C) of section 168(h)(1).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.

"(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) 30-YEAR REAL PROPERTY; LOW-INCOME HOUSING; CLASS LIFE.—For purposes of subparagraph (A), the terms '30-year real property', 'low-income housing', and 'class life' have the respective meanings given such terms by section 168(i).

"(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) BASIS ADJUSTMENT FOR CERTIFIED HISTORIC STRUCTURES.—Paragraph (3) of section 48(q) (relating to special rule for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) GENERAL TRANSITIONAL RULE.—The amendments made by this section shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of—

(A) a rehabilitation which was completed pursuant to a written contract which was binding on September 25, 1985, or

(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before September 26, 1985, or acquired on or after such date pursuant to a written contract that was binding on September 25, 1985, if—

(i) the rehabilitation was completed pursuant to a written contract that was binding on November 22, 1985,

(ii) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before November 23, 1985, or

(iii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before November 23, 1985, or is required to be incurred pursuant to a written contract which was binding on November 22, 1985.

(3) UPPER PONTALBA BUILDING.—The amendments made by this section shall not apply to the rehabilitation of the Upper Pontalba Building in New Orleans, Louisiana.

(4) REDUCTION IN CREDIT FOR PROPERTY UNDER TRANSITIONAL RULES.—In the case of property placed in service after December 31, 1985, and to which the amendments made by this section do not apply—

(A) subparagraph (A) of section 46(b)(4) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall be applied—

(i) by substituting "10 percent" for "15 percent",

(ii) by substituting "13 percent" for "20 percent", and

(iii) by substituting "20 percent" for "25 percent", and

(B) paragraph (3) of section 48(q) of such Code (as so in effect) shall be applied without regard to the phrase "other than a certified historic structure".

(5) TREATMENT OF CERTAIN TEXTILE MILL.—The amendments made by this section (and the provisions of paragraph (4)) shall not apply to a textile mill listed on the National Register and containing approximately 365,000 square feet if the site on which such mill is located was donated to a State on November 6, 1981.

Subtitle E—Capital Gains and Losses

SEC. 241. RETENTION OF 20 PERCENT MAXIMUM CAPTIAL GAIN TAX.

(a) RETENTION OF 20 PERCENT MAXIMUM CAPITAL GAIN TAX.—

(1) IN GENERAL.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "17/37 (15/35 in the case of taxable years beginning after December 31, 1990)".

(2) RETENTION OF MAXIMUM 32 PERCENT TAX ON COMMODITY FUTURE CONTRACT GAINS.—Subsection (a) of section 1256 (relating to section 1256 contracts marked to market) is amended—

(A) by striking out "40 percent" and inserting in lieu thereof "70 percent (80 percent in the case of taxable years beginning after December 31, 1990)", and

(B) by striking out "60 percent" and inserting in lieu thereof "30 percent (20 percent in the case of taxable years beginning after December 31, 1990".

(b) CONFORMING AMENDMENTS.—(1) Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "20/37 (20/35 in the case of taxable years beginning after December 31, 1990)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 242. INDEXING OF CERTAIN ASSETS FOR PURPOSE OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amendment by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—for purposes of this section, the term indexed asset' means—

"(A) stock in a corporation, and

"(B) real property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term "indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1990).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which the second sentence of section 1231(a) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(b) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corpora-

tion' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990) see section 1022(a)(1)."

(d) EFFECTIVE DATE.—This amendment made by this section shall apply to dispositions ending after such date (December 31, 1990.

SEC. 243. REPEAL OF SECTION 631(c).

(a) IN GENERAL.—Section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 272 (relating to disposal of coal or domestic iron ore) is hereby repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 272.

(2) Each of the following sections is amended by striking out "631(b) or (c)" and inserting in lieu thereof "631(b)":

(A) Subparagraph (A) of section 871(d)(1).

(B) Paragraph (2) of section 881(a).

(C) Subparagraph (A) of section 882(d)(1).

(D) Section 1441(b).

(E) Paragraph (5) of section 1441(c).

(3) Paragraph (2) of section 1231(b) is amended—

(A) by striking out ", coal, and iron ore", and

(B) by striking out ", COAL OR DOMESTIC IRON ORE" in the heading thereof.

(4)(A) The heading for section 631 is amended by striking out ", COAL, OR DOMESTIC IRON ORE".

(B) The table of sections for part III of subchapter I of chapter 1 is amended by striking out ", coal, or domestic iron ore" in the item relating to section 631.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales after December 31, 1985, in taxable years ending after such date.

(2) TRANSITIONAL RULES.—

(A) CORPORATIONS.—In the case of any corporation, the amendments made by this section shall not apply to amounts properly taken into account before January 1, 1989.

(B) TAXPAYERS OTHER THAN CORPORATIONS.—In the case of any taxpayer other than a corporation, the amendments made by this section shall not apply to—

(i) 60 percent of the amounts properly taken into account during 1986,

(ii) 2%2 of the amounts properly taken into account during 1987, and

(iii) 1%2 of the amounts properly taken into account during 1988.

Subtitle F—Provisions Relating to Oil and Gas

SEC. 251. PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Paragraph (5) of section 613A(c) (defining applicable percentage) is amended to read as follows:

"(5) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the applicable percentage shall be zero.

"(B) SPECIAL RULE FOR STRIPPER WELLS.—In the case of any stripper well oil or gas produced during any calendar year after 1985, the applicable percentage shall be 15 percent.

"(C) RATE FOR ROYALTY HOLDERS.—

"(i) IN GENERAL.—In the case of any nonstripper qualified royalty oil or gas produced after 1986, the applicable percentage shall be—

"(I) 7.5 percent for production during calendar year 1986, and

"(II) 5 percent for production after calendar year 1986.

"(ii) NONSTRIPPER QUALIFIED ROYALTY OIL OR GAS.—The term 'nonstripper qualified royalty oil or gas' means any oil or gas which is attributable to an economic interest other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include any oil or gas attributable to an overriding royalty interest, production payment, net profits interest, or similar interest which—

"(I) is created after December 2, 1985, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of subsection (c)(9)(A)) on the date such interest was created, and

"(II) is not created pursuant to a binding contract entered into before December 3, 1985.

"(D) ORDERING RULE FOR DEPLETABLE OIL OR GAS QUANTITY.—A taxpayer's depletable oil quantity under paragraph (3) or depletable natural gas quantity under paragraph (4) for production during calendar years 1986 and 1987 shall be allocated first to stripper well oil or gas.

"(E) STRIPPER WELL OIL OR GAS.—For purposes of this paragraph, the term 'stripper well oil or gas' means—

"(i) domestic crude oil from a stripper well property within the meaning of the June 1979 energy regulations (as defined in section 4996(b)(8)(C)), or

"(ii) domestic natural gas which is stripper well gas within the meaning of section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 1985, in taxable years ending after such date.

SEC. 252. PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.

(a) IN GENERAL.—Subsection (d) of section 613A (relating to limitations on application of subsection (c)) is amended by adding at the end thereof the following new paragraph:

"(5) PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.—In the case of any oil or gas property to which subsection (c) applies, for purposes of section 613, the term 'gross income from the property' shall not include any lease bonus, advance royalty, or other amount payable without regard to production from the property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 253. PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.

(a) PHASE-OUT OF PERCENTAGE DEPLETION.—Paragraph (2) of section 613(e) (relating to percentage depletion for geothermal deposits) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is—

"(i) 7.5 percent for production during calendar year 1986, and

"(ii) zero for production after calendar year 1986.

"(B) EXCEPTION FOR ROYALTY HOLDERS.—In the case of any production after 1986 attributable to a royalty interest, the applicable percentage shall be 5 percent."

(b) PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.—Section 613(e) is amended by adding at the end thereof the following new paragraph:

"(4) PERCENTAGE DEPLETION NOT TO INCLUDE LEASE BONUSES, ETC.—In the case of any geothermal deposit, the term 'gross income from the property' shall, for purposes of this section, not include any amount described in section 613A(d)(5)."

(c) EFFECTIVE DATES.—

(1) REDUCTION IN PERCENTAGE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) LEASE BONUSES, ETC.—The amendment made by subsection (b) shall take effect on January 1, 1986.

SEC. 254. EXEMPTION FROM WINDFALL PROFIT TAX FOR CERTAIN CRUDE OIL EXCHANGED FOR RESIDUAL FUEL OIL.

(a) IN GENERAL.—Subsection (b) of section 4991 (defining exempt oil) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(7) any exempt production oil."

(b) EXEMPT PRODUCTION OIL DEFINED.—Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(h) EXEMPT PRODUCTION OIL.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'exempt production oil' means, with respect to any person, the number of barrels of domestic crude oil—

"(A) of which such person is the producer,

"(B) which is removed from a property during the calendar quarter,

"(C) which would (but for section 4991(b)(7)) be taxable crude oil,

"(D) which is attributable to such person's operating mineral interest (as defined in section 614(d)) in the property, and

"(E) which is exchanged solely for an equal number of barrels of residual fuel oil used by such person with respect to such property during such quarter or the next succeeding quarter in enhanced recovery processes.

"(2) DETERMINATION OF FUEL OIL USED.—

"(A) IN GENERAL.—For purposes of paragraph (1), a person shall be treated as using residual fuel oil with respect to any property during a calendar quarter in an amount which bears the same ratio to—

"(i) the aggregate residual fuel oil used during such quarter in enhanced recovery processes with respect to crude oil from such property, as

"(ii)(I) the amount of such person's share for such quarter of the production of crude oil from such property, bears to

"(II) the amount of such production.

"(B) APPLICATION TO NONOPERATING INTERESTS.—

"(i) RESIDUAL FUEL OIL NOT TREATED AS USED BY NONOPERATING INTERESTS.—Subparagraph (A) shall apply only to shares of production which are attributable to operating mineral interests (as defined in section 614(d)).

"(ii) UNALLOCATED RESIDUAL FUEL OIL TREATED AS USED BY OPERATING INTERESTS.—For purposes of subparagraph (A)(ii)(II), the amount of production of crude oil from a property for a quarter shall be reduced by the amount of such production which is not attributable to operating mineral interests (as so defined).

"(3) ALLOCATION OF EXEMPT PRODUCTION OIL AMONG TIERS.—Under regulations prescribed by the Secretary, exempt production oil shall be allocated—

"(A)(i) in any case where the crude oil produced from a property falls within 1 tier, to such tier of oil, or

"(ii) in any case where the crude oil produced from a property falls within more than 1 tier, among the tiers in proportion to the production from such property for such quarter of domestic crude oil in each such tier, and

"(B) within any tier of taxable crude oil, on the basis of the removal prices for such person's domestic crude oil (produced from such property) in such tier removed during such quarter, beginning with the highest of such prices.

For purposes of this paragraph, crude oil which is not taxable crude oil (without regard to this section) shall be treated as a tier of oil and newly discovered oil shall be treated as a separate tier of oil and not included in tier 3 oil.

"(4) RESIDUAL FUEL OIL DEFINED.—For purposes of this subsection, the term 'residual fuel oil' means—

"(A) any fuel oil commonly known as—

"(i) No. 4, No. 5, or No. 6 fuel oil,

"(ii) Bunker C, or

"(iii) Navy Special Fuel Oil, and

"(B) any fuel oil not described in subparagraph (A) which has a 50 percent boiling point over 700 degrees Fahrenheit in the ASTM D-86 standard distillation test.

"(5) ENHANCED RECOVERY PROCESS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'enhanced recovery process' means any process—

"(i) for increasing the ultimate total recovery of oil from a reservoir which is designed to modify any property of any fluid in the reservoir or the reservoir rock, or

"(ii) for displacing or controlling the flow rate or flow pattern in the reservoir.

"(B) EXCLUSION OF PROCESSES APPLIED SOLELY TO AID LIFTING.—Such term does not include any process the sole purpose of which is to aid in the lifting of fluids in the well bore."

(c) DEPLETION DEDUCTION DISALLOWED.—Section 611 of such Code (relating to the allowance of a deduction for depletion) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXEMPT PRODUCTION OIL.—No deduction for depletion shall be allowed under this subchapter with respect to crude oil which is exempt from the tax imposed by section 4896 solely by reason of section 4991(b)(7)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to residual fuel oil used, and crude oil removed, after the date of the enactment of this Act.

SEC. 255. REDUCTION IN TAX FOR FUEL USED BY TAXICABS MADE PERMANENT.

Paragraph (3) of section 6427(e) (relating to termination of credit for certain taxicabs) is amended by striking out "September 30, 1985".

Subtitle G—Treatment of Hard Minerals

SEC. 261. REDUCTION OF PERCENTAGE DEPLETION FOR CERTAIN HARD MINERALS.

(a) IN GENERAL.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(f) APPLICABLE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage shall be 5 percent.

"(2) NO DEPLETION IN CERTAIN CASES.—In the case of any mine, well, or natural deposit—

"(A) described in paragraph (6) of subsection (b), or

"(B) any noncompetitive bid mineral,

the applicable percentage shall be zero.

"(3) SPECIAL RULES FOR CERTAIN STONE AND MINERALS USED IN PRODUCTION OF ANIMAL FEED OR FERTILIZER.—

"(A) DIMENSION OR ORNAMENTAL STONE.—In the case of any stone described in subsection (b)(7) used or sold for use by the mine owner or operator as dimension stone or ornamental stone, the applicable percentage shall, with respect to the gross income from the property properly allocable to such stone, be 14 percent.

"(B) FERTILIZER AND ANIMAL FEED.—In the case of any qualified fertilizer or animal feed substance, the applicable percentage shall, with respect to the gross income from the property properly allocable to such substance, be the percentage in effect under subsection (b) on the day before the date of the enactment of this subsection.

"(C) QUALIFIED FERTILIZER OR ANIMAL FEED SUBSTANCE.—For purposes of subparagraph (B), the term 'qualified fertilizer or animal feed substance' means any substance—

"(i) used by taxpayer in the manufacture or production of fertilizer or animal feed, or

"(ii) sold by the taxpayer for—

"(I) use by the purchaser, or

"(II) resale by the purchaser for use, or resale for ultimate use,

in the manufacture or production of fertilizer or animal feed.

"(4) TRANSITIONAL RULES FOR 1986 AND 1987.—In the case of any mine, well, or natural deposit to which paragraph (1) or (2) applies, the applicable percentage shall, for production during calendar years 1986 and 1987, be determined in accordance with the following table:

"If the item is described in the following paragraph of subsection (b):	The applicable percentage is: 1986	1987
(1)	16⅔	10⅔
(2)	11⅔	8⅓
(3) or (7)	11	8
(4)	8⅓	6⅔
(5)	6⅔	5⅓
(6)	3⅓	1⅔

For purposes of this paragraph, any item described in paragraph (2)(B), shall be treated as described in subsection (b)(6).

"(5) NONCOMPETITIVE BID MINERAL.—For purposes of paragraph (2)(B), the term 'noncompetitive bid mineral' means any mineral described in subsection (b)(7) which—

"(A) is used, or sold for use, by the taxpayer as rip rap, ballast, road material, rubble, concrete aggregates, or similar purposes,

"(B) is not sold by the taxpayer on bid in direct competition with a bona fide bid to sell a mineral described in subsection (b)(3), and

"(C) is not slate to which subsection (b)(5) applies."

(b) REDUCTION OF TAXABLE INCOME WHICH MAY BE OFFSET FROM 50 PERCENT TO 25 PERCENT.—Section 613(a) (relating to percentage depletion) is amended—

(1) by striking out "50 percent" and inserting in lieu thereof "25 percent", and

(2) by adding at the end thereof the following new sentence: "This paragraph shall be applied—

"(1) except as provided in paragraph (2), in the case of taxable years beginning during 1986 and 1987, by substituting '41⅔ percent' and '33⅓ percent', respectively, for '25 percent', and

"(2) in the case of any oil or gas well or geothermal deposit for any taxable year beginning after December 31, 1985, by substituting '50 percent' for '25 percent'."

(c) CONFORMING AMENDMENTS.—

(1) Section 613(a) is amended by striking out "percentage, specified in subsection (b)," and inserting in lieu thereof "applicable percentage determined under subsection (f)".

(2) Subsection (b) of section 613 is amended—

(A) by striking out ", and the percentages," in the matter preceding paragraph (1),

(B) by striking out "22 percent—" in paragraph (1) and inserting in lieu thereof "Any—"

(C) by striking out "15 percent—" in paragraph (2),

(D) by striking out "14 percent—" in paragraph (3) and inserting in lieu thereof "Any—",

(E) by striking out "10 percent—" in paragraph (4) and inserting in lieu thereof "Any—",

(F) by striking out "7½ percent—" in paragraph (5) and inserting in lieu thereof "Any—",

(G) by striking out "5 percent—" in paragraph (6) and inserting in lieu thereof "Any—", and

(H) by striking out "14 percent—all" in paragraph (7) and inserting in lieu thereof "All".

(3) The first sentence of section 613(b)(7) is amended by striking out ", except" and all that follows and inserting in lieu thereof a period.

(4) The heading for section 613(b) is amended to read as follows:

"(b) PROPERTY TO WHICH SECTION APPLIES.—"

(5) Each of the following provisions of section 613A are amended by striking out "deemed to be specified in subsection (b) of section 613" and inserting in lieu thereof "the applicable percentage under section 613(f)":

(A) Subsection (b)(2).

(B) Subsection (c)(1).

(C) Subsection (c)(6)(A).

(6) Section 614(d) is amended by striking out "the 50 percent limitation" and insert-

ing in lieu thereof "the taxable income limitation".

(d) EFFECTIVE DATES.—

(1) REDUCTION IN RATES.—The amendments made by subsection (a) and (c) shall apply to production in calendar years beginning after December 31, 1985.

(2) REDUCTION IN TAXABLE INCOME.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 262. TREATMENT OF DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

(a) IN GENERAL.—Section 616 (relating to development expenditures) is amended to read as follows:

"SEC. 616. DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

"(a) ALLOWANCE OF DEDUCTION.—A taxpayer may elect to treat any qualified development or mining exploration expenditures which are paid or incurred during the preproductive period with respect to any mine as expenses which are not chargeable to capital account. Any expenditures so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

"(b) RECAPTURE UPON COMMENCEMENT OF THE PRODUCTION STAGE.—

"(1) INCLUSION IN INCOME.—In the case of any taxable year in which the taxpayer reaches the production stage with respect to any mine, the taxpayer shall include in gross income the amount of the adjusted development or mining exploration expenditures with respect to such mine.

"(2) AMOUNT RECAPTURED TREATED AS INVESTMENT IN CLASS 1 PROPERTY.—In any case to which paragraph (1) applies, the taxpayer shall, for purposes of this subtitle, be treated as having placed in service class 1 property (within the meaning of section 168(e)) with an adjusted basis equal to the amount included in gross income under paragraph (1).

"(3) TIME WHEN PLACED IN SERVICE.—For purposes of paragraph (2), the class 1 property shall be treated as having been placed in service in the month in which the production stage was reached.

"(4) ELECTION NOT TO HAVE SUBSECTION APPLY.—

"(A) IN GENERAL.—A taxpayer may elect not to have this subsection apply to all mines reaching the production stage during a taxable year.

"(B) EFFECT OF ELECTION.—If an election under subparagraph (A) applies to any mine, no deduction for depletion shall be allowed under section 611 with respect to such mine until the amount of such deduction equals the adjusted development or mining exploration expenditures with respect to such mine.

"(C) TIME OF ELECTION.—Any election under subparagraph (A) for any taxable year may be made or revoked on or before the due date for filing the return (including extensions) for such taxable year.

"(c) GAIN FROM DISPOSITIONS OF CERTAIN MINING PROPERTY.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection, if mining property is disposed of, the lesser of—

"(A) the sum of—

"(i) the adjusted development or mining exploration expenditures with respect to such property, and

"(ii) the aggregate amount of deductions under section 611 which reduced the basis of such property, or

"(B) the excess of—

"(i) in the case of—

"(I) any sale, exchange, or involuntary conversion, the amount realized, or

"(II) in the case of any other disposition, the fair market value over

"(ii) the adjusted basis of such property,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITION OF PORTION OF PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—In the case of the disposition of a portion of a mining property (other than an undivided interest), the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) UNDIVIDED INTERESTS.—In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

"(C) EXCEPTION.—This paragraph shall not apply to any amount described in paragraph (1)(A) to the extent that the taxpayer establishes to the satisfaction of the Secretary that such expenditure does not relate to—

"(i) the portion (or interest therein) disposed of, or

"(ii) any mine which is part of the mining property held by the taxpayer before the disposition and which has reached the producing stage.

"(3) EXCEPTIONS AND LIMITATIONS.—Paragraphs (1), (2), and (3) of section 1245(b) (relating to exceptions and limitations with respect to gain from disposition of certain depreciable property) shall apply in respect of this subsection in the same manner and with the same effect as if references in section 1245(b) to section 1245 or any provision thereof were references to this subsection or the corresponding provisions of this subsection and as if references to section 1245 property were references to mining property.

"(4) APPLICATION OF SUBSECTION.—This subsection shall apply notwithstanding any other provision of this subtitle.

"(d) ADJUSTED DEVELOPMENT OR MINING EXPLORATION EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'adjusted development or mining exploration expenditures' means, with respect to any mine, the amount of the deduction allowable to any person under subsection (a) for the taxable year in which the production stage is reached and any preceding taxable year which—

"(A) are properly chargeable to such mine, and

"(B) which, but for subsection (a), would be reflected in the adjusted basis of such mine.

"(2) ADJUSTMENTS FOR GAIN RECOGNIZED.—The adjusted development or mining exploration expenditures determined under paragraph (1) shall be properly adjusted to reflect any amount included in gross income under subsection (b)(1), (c), or (g)(4) with respect to any mine.

"(3) SPECIAL RULES RELATING TO PARTNERSHIP PROPERTY.—

"(A) PROPERTY DISTRIBUTED TO PARTNER.—In the case of any property received by a taxpayer in a distribution with respect to part or all of the taxpayer's interest in a partnership, the adjusted development or mining exploration expenditures with respect to such property shall include the excess of—

"(i) the adjusted development or mining exploration expenditures immediately before such distribution which have not otherwise been included in gross income under subsection (b)(1), over

"(ii) the amount of gain to which section 751(b) applied and which was realized by the partnership (as constituted after the distribution) on the distribution of such property.

"(B) PROPERTY RETAINED BY PARTNERSHIP.—In the case of any property held by a partnership after a distribution to a partner to which section 751(b) applied, the adjusted development or mining exploration expenditures with respect to such property shall, under regulations, be reduced by the amount of gain to which section 751(b) applied and which was realized by such partner with respect to such distribution on account of such property.

"(e) SPECIAL RULES FOR FOREIGN DEVELOPMENT AND MINING EXPLORATION COSTS.—In the case of any qualified development or mining exploration expenditures paid or incurred during the preproductive period with respect to any mine located outside of the United States—

"(1) subsections (a) and (b) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred.

"(f) QUALIFIED DEVELOPMENT OR MINING EXPLORATION EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified development or mining exploration expenditures' means any expenditures which, but for this section, would not be allowable as a deduction for the taxable year and which are paid or incurred—

"(A) for the development of a mine or other natural deposit (other than an oil or gas well), or

"(B) for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral.

"(2) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified development or mining exploration expenditures' shall not include any expenditures—

"(A) with respect to any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under section 613 (as in effect before the Tax Reform Act of 1985), or

"(B) for the acquisition or improvement of property of a character which is subject to the allowance for depreciation under section 167.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PREPRODUCTIVE PERIOD.—The term 'preproductive period' means—

"(A) in the case of qualified mining exploration expenditures, any expenditures paid or incurred before the beginning of the development stage of any property, and

"(B) in the case of any qualified development expenditures, any expenditures paid or incurred after the existence of ores or

minerals in commercially marketable quantities has been disclosed.

"(2) MINING PROPERTY.—The term 'mining property' means any property (within the meaning of section 614 after the application of subsections (c) and (e) thereof) with respect to which any qualified development or mining exploration expenditures are properly chargeable.

"(3) MINE.—The term 'mine' includes any natural deposit.

"(4) ADJUSTMENTS TO BASIS.—The basis of any property shall not be reduced by the amount of any deduction for depletion which, but for the application of this section, would be allowable.

"(5) RECAPTURE IN CASE OF BONUS OR ROYALTY.—If—

"(A) an election under subsection (a) has been made with respect to any mining property, and

"(B) the taxpayer receives or accrues a bonus or royalty with respect to such property,

then the deduction under section 611 with respect to the bonus or royalty shall be disallowed until the amount of such deduction which, but for this paragraph, would be allowable equals the amount of the adjusted development or exploration expenditures with respect to such property.

"(6) TIME FOR MAKING ELECTION.—

"(A) IN GENERAL.—Any election under subsection (a) for any taxable year may be made at any time before the expiration of the time for filing a claim for credit or refund of the tax imposed by this chapter for such taxable year.

"(B) REVOCATION OF ELECTION.—An election under subsection (a), once made, may be revoked only with the consent of the Secretary.

"(C) PERIOD FOR ASSESSING DEFICIENCIES.—Notwithstanding any provision of law or rule of law, the statutory period for the assessment of any deficiency for any taxable year which is attributable to an election or revocation of election under subsection (a) shall not expire before the last day of the 2-year period beginning on the day after the date on which such election or revocation is made."

(b) CORPORATE PREFERENCE ITEMS.—Subparagraph (B) of section 291(b)(2) (relating to mineral exploration and development costs) is amended to read as follows:

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) for any taxable year by reason of paragraph (1), the taxpayer shall be treated as having placed in service on the first day of such taxable year class 2 property (within the meaning of section 168(e)) with an adjusted basis equal to such amount."

(c) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(2) Section 243(b)(2)(C) is amended by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(3) Subparagraph (A) of section 263(a)(1) is amended to read as follows:

"(A) qualified development or mining exploration expenditures deductible under section 616(a)".

(4)(A) Subparagraph (B) of section 291(b)(1) is amended by striking out "or 617".

(B) Section 291(b) is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(5) Subparagraph (B) of section 312(n)(2) is amended by striking out "or 617".

(6) Paragraph (12) of section 341(e) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(7) Section 381(c) is amended by striking out paragraph (10).

(8) Paragraph (2) of section 453B(d) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(9)(A) Section 617 is hereby repealed.

(B) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 617.

(10) Paragraph (4) of section 703(b) is amended to read as follows:

"(4) section 616(a) (relating to deduction of certain development and mining exploration expenditures), or".

(11) Section 751(c) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(12) Section 1016(a) is amended by striking out paragraph (9).

(13) Subparagraph (B) of section 1362(c)(2) is amended to read as follows:

"(B) section 616(a) (relating to deduction and recapture of certain development and mining exploration expenditures), and".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1985, in taxable years ending after such date.

(2) SPECIAL RULES FOR RECAPTURE PROVISIONS.—

(A) IN GENERAL.—Section 616(c) of the Internal Revenue Code of 1985, as added by this section, shall apply to any disposition of property placed in service by the taxpayer after December 31, 1985.

(B) EXCEPTION FOR BINDING CONTRACTS.—Section 616(c) of such Code, as so added, shall not apply to property placed in service after December 31, 1985, if such property was acquired pursuant to a written contract which was entered into before September 26, 1985, and which was binding at all times thereafter.

(C) SECTION 617(d).—Section 617(d) of such Code, as in effect before the amendments made by this Act, shall apply to property to which it applied before such amendments and to which section 616(c) of such Code, as so added, does not apply.

TITLE III—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 33 percent of so much of the taxable income as exceeds $75,000.

"(2) PHASEOUT OF BENEFIT OF LOWER RATES.—In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under paragraph (1) for such taxable year shall be increased by the lesser of—

"(A) 5 percent of such excess, or

"(B) the amount by which the tax determined under paragraph (1) for such taxable year is less than the amount which would have been determined if the tax on taxable income not in excess of $75,000 were determined at a 33 percent rate.

"(3) PHASEIN OF REDUCTION IN MAXIMUM RATE.—In the case of taxable years beginning in calendar years before 1991, the applicable percentage determined under the following table shall be substituted for '33 percent' in paragraphs (1) and (2):

"In the case of taxable years beginning in calendar year:	The applicable percentage is:
1986	42
1987	38
1988	36
1989	36
1990	35

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 302. REPEAL OF CORPORATE CAPITAL GAINS TREATMENT.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) the sum of—

"(A) 28 percent of the pre-1986 net capital gain,

"(B) the applicable percentage of timber, iron, or coal capital gain, plus

"(C) 33 percent (34 percent in the case of the taxable years beginning before January 1, 1991) of the net capital gain to the extent not taken into account under subparagraph (A) or (B).

"(b) PRE-1986 NET CAPITAL GAIN.—For purposes of this section, the term 'pre-1986 net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain determined by taking into account only gain or loss which—

"(A) is attributable to any sale or exchange made on or before December 2, 1985 (or pursuant to a written binding contract in effect on such date), or

"(B) which is properly taken into account for the portion of the taxable year before January 1, 1986.

"(c) TIMBER, IRON, OR COAL CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'timber, iron, or coal capital gain' means the lessser of—

"(A) the net capital gain for the taxable year reduced by the amount (if any) of the pre-1986 net capital gain, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss attributable to timber, coal, or iron ore with respect to which section 631 applies.

In applying subparagraph (B), gains and losses described in subsection (b)(2), and gains and losses for periods after December 31, 1988, shall not be taken into account.

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"In the case of taxable years:	The applicable percentage is:
Beginning or ending in 1986	30
Beginning in 1987	31
Beginning in 1988	32

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) (relating to certain contributions of ordinary income in capital gain property) is amended by striking out "28/46 in the case of a corporation)" and inserting in lieu thereof "(100 percent in the case of a corporation)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking out "72 percent" and inserting in lieu thereof "67 percent (66 percent in the case of taxable years beginning after December 31, 1990.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 303. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION.

(a) GENERAL RULES.—

(1) The following provisions are each amended by striking out "85 percent" and inserting in lieu thereof "the applicable percentage determined under section 246(f)":

(A) Section 243(a)(1) (relating to dividends received by corporations).

(B) Sections 244(a)(3) and (b)(2) (relating to dividends received on certain preferred stock).

(C) Section 246(b) (relating to limitation on aggregate amount of deductions).

(D) Section 246A(a)(1) (relating to dividends received deduction reduced where portfolio stock is debt financed).

(2) Section 246 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) APPLICABLE PERCENTAGE FOR DETERMINING AMOUNT OF DIVIDENDS RECEIVED DEDUCTION.—The applicable percentage determined under this subsection shall be determined under the following table:

"In the case of taxable years beginning in calendar year:	The applicable percentage is:
1986	80
1987	79
1988	78
1989	77
1990	76
1991 and thereafter	75.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 304. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) GENERAL RULE.—Section 116 (relating to partial exclusion of dividends received by individuals) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 301 is amended by striking out paragraph (4).

(2)(A) Subsection (c) of section 584 is amended to read as follows:

"(c) INCOME OF PARTICIPANTS IN FUND.—Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

"(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months,

"(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months,

"(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d)."

"(B) If the amendments made by section 1001 of the Tax Reform Act of 1984 cease to apply, effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out "6 months" each place it appears and inserting in lieu thereof "1 year".

"(3) Section 642 is amended by striking out subsection (j).

(4) Paragraph (7) of section 643(a) is hereby repealed.

(5) Paragraph (5) of section 702(a) is amended by striking out "or interest with respect to which there is an exclusion under section 116 or 128".

(6) Section 854 is amended—

(A) by striking out "section 116 (relating to an exclusion for dividends received by individuals), and" in subsection (a),

(B) in subsection (b)—

(i) by striking out subparagraph (B) of paragraph (1) and redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out "or (B)" in subparagraph (B) (as so redesignated),

(iii) by striking out "the exclusion under section 116 and" in paragraph (2), and

(iv) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B)(i) The term 'aggregate dividends received' includes only dividends received from domestic corporations.

"(ii) For purposes of clause (i), the term 'dividend' shall not include any distribution from—

"(I) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(II) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(iii) In determining the amount of any dividend for purposes of this subparagraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(7) Subsection (c) of section 857 is amended by striking out "section 116 (relating to an exclusion for dividends received by individuals), and".

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 116.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 305. CLARIFICATION OF NONDEDUCTIBILITY OF STOCK REDEMPTION EXPENSES.

Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) STOCK REDEMPTION EXPENSES.—No deduction shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock."

Subtitle B—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

SEC. 311. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

(a) GENERAL RULE.—Section 382 (relating to special limitation on net operating loss carryovers) is amended to read as follows:

"SEC. 382. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

"(a) GENERAL RULE.—The amount of the taxable income of any corporation for any post-trigger year which may be offset by pre-trigger losses shall not exceed the trigger amount for such year.

"(b) TRIGGER AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the trigger amount for any taxable year is an amount equal to—

"(A) the trigger value of the old loss corporation, multiplied by

"(B) the long-term tax-exempt rate.

"(2) CARRYOVER OF UNUSED LIMITATION.—

"(A) IN GENERAL.—If the trigger amount for any post-trigger year exceeds the taxable income of the corporation for such year, the trigger amount for the next taxable year shall be increased by the amount of such excess.

"(B) CROSS REFERENCE.—

"For ordering rule for purposes of subparagraph (A), see subsection (n)(9).

"(3) SPECIAL RULE FOR POST-TRIGGER YEAR WHICH INCLUDES THE TRIGGER DAY.—In the case of the post-trigger year which includes the trigger day—

"(A) LIMITATION DOES NOT APPLY TO TAXABLE INCOME BEFORE TRIGGER.—Subsection (a) shall not apply to the portion of the taxable income for such year which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(B) LIMITATION FOR PERIOD ON OR AFTER TRIGGER DAY.—For purposes of applying the limitation of subsection (a) to the remainder of the taxable income for such year, the trigger amount shall be an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the number of days in such year on or after the trigger day, bears to

"(ii) the total number of days in such year.

"(c) CARRYFORWARDS DISALLOWED IF CONTINUITY OF BUSINESS REQUIREMENTS NOT MET.—In the case of any trigger, the trigger amount for any post-trigger year shall be zero if the continuity of business enterprise requirements applicable under section 368 are not met with respect to the new loss corporation during the 2-year period beginning on the date of the trigger.

"(d) DEFINITION OF PRE-TRIGGER LOSS AND POST-TRIGGER YEAR.—For purposes of this section—

"(1) PRE-TRIGGER LOSS.—The term 'pre-trigger loss' means—

"(A) any such net operating loss of the old loss corporation for any taxable year preceding the taxable year in which the trigger occurs, and

"(B) the net operating loss of the old loss corporation for the taxable year in which the trigger occurs which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(2) POST-TRIGGER YEAR.—The term 'post-trigger year' means any taxable year ending after the trigger day.

"(e) TRIGGER VALUE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the trigger value of the old loss corporation is the value of the equity of such corporation immediately before the trigger.

"(2) EQUITY DEFINED.—The term 'equity' means—

"(A) stock,

"(B) warrants or other options (issued by the corporation) to acquire an interest in the equity of the corporation,

"(C) the conversion feature of convertible debt interests, and

"(D) any other interest in the equity of the corporation.

"(3) SPECIAL RULE IN THE CASE OF REDEMPTION.—If the last component event of the trigger is a redemption, the trigger value under paragraph (1) shall be determined immediately after the trigger.

"(4) SPECIAL RULE FOR INSOLVENCY TRANSACTIONS.—In the case of a reorganization described in subparagraph (G) of section 368(a)(1) or any exchange of debt for stock in a title 11 or similar proceeding, the trigger value shall be the value of the equity of the new loss corporation immediately after the trigger.

"(f) LONG-TERM TAX-EXEMPT RATE.—For purposes of this section, the long-term tax-exempt rate shall be the Federal long-term rate (determined under section 1274 as of the trigger) properly adjusted, under regulations prescribed by the Secretary, for differences between rates on taxable and tax-exempt obligations.

"(g) TRIGGER.—For purposes of this section—

"(1) IN GENERAL.—There is a trigger if—

"(A) OWNER SHIFT.—There is a more than 50-percent owner shift, or

"(B) EQUITY STRUCTURE CHANGE.—There is a more than 50-percent equity structure change.

"(2) 50-PERCENT OWNER SHIFT.—There is a more than 50-percent owner shift if the total value of the stock of the corporation held at the close of the testing period by 5-percent shareholders has increased by more than 50 percentage points over such holdings by such shareholders at the beginning of the testing period.

"(3) 50-PERCENT EQUITY STRUCTURE CHANGE.—There is a more than 50-percent equity structure change if, as the result of an equity structure change, the continuing interest of the shareholders of the old loss corporation in the new loss corporation is less than 50 percent.

"(4) OWNER SHIFT DEFINED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'owner shift' means any change in the respective holdings in the stock of a corporation.

"(B) EXCLUSION OF EQUITY STRUCTURE CHANGE.—An equity structure change shall not be treated as an owner shift.

"(5) EQUITY STRUCTURE CHANGE DEFINED.—The term 'equity structure change' means any reorganization (within the meaning of section 368). Such term shall not include any reorganization described in subparagraph (D) or (G) of section 368(a)(1) unless the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met.

"(h) SPECIAL RULES FOR BUILT-IN GAINS AND LOSSES.—

"(A) NET UNREALIZED BUILT-IN GAIN.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in gain, the trigger amount for any taxable year ending in the recognition period shall be increased by the recognized built-in gains for such year.

"(ii) LIMITATION.—The increase under clause (i) for any taxable year ending in the recognition period shall not exceed—

"(I) the net unrealized built-in gain, reduced by.

"(II) the recognized built-in gains for prior years ending in the recognition period.

"(B) NET UNREALIZED BUILT-IN LOSS.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in loss, the recognized built-in loss for any taxable year ending in the recognition period shall be subject to limitation under this section in the same manner as if such loss were a pre-trigger loss..

"(ii) LIMITATION.—Clause (i) shall apply to recognized built-in losses for any taxable year in the recognition period only to the extent such losses do not exceed—

"(I) the net unrealized built-in loss, reduced by

"(II) recognized built-in losses for prior taxable years ending in the recogniton period.

"(2) RECOGNIZED BUILT-IN GAINS AND LOSSES.—For purposes of this subsection—

"(A) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset to the extent such gain does not exceed the excess of—

"(i) the fair market value of such asset as of the trigger day, over

"(ii) its adjusted basis as of such day.

"(B) RECOGNIZED BUILT-IN LOSS.—The term 'recognized built-in loss' means—

"(i) any loss recognized in the recognition period on the disposition of any asset to the extent such loss does not exceed the excess of—

"(I) the adjusted basis of such asset as of the trigger day, over

"(II) its fair market value as of such day, and

"(ii) any amount allowable for depreciation, amortization, or depletion for the taxable year attributable to the excess described in clause (i).

"(3) NET UNREALIZED BUILT-IN GAIN AND LOSS DEFINED.—For purposes of this subsection—

"(A) NET UNREALIZED BUILT-IN GAIN AND LOSS.—The terms 'net unrealized built-in gain' and 'net unrealized built-in loss' mean with respect to any old loss corporation, the amount by which—

"(i) the fair market value of the assets of such corporation as of the trigger day, is more or less, respectively, than

"(ii) the aggregate adjusted bases of such assets as of such day.

If the last component of the trigger is a redemption, determinations under the preceding sentence shall be made as of the time immediately after the trigger.

"(B) THRESHOLD REQUIREMENT.—

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or loss (as the case may be) of any old loss corporation is not greater than 15 percent of the amount determined under clause (i) of subparagrah (A) (as modified by clause (ii) of this subparagraph), the net unrealized built-in gain or loss shall be treated as zero.

"(ii) CASH AND CASH ITEMS NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

"(I) any cash or cash item, or

"(II) any marketable security which has not declined or appreciated substantially in value (as determined under regulations).

"(C) SECRETARY MAY TREAT CERTAIN DEDUCTIONS AS BUILT-IN LOSSES.—The Secretary may by regulation treat amounts which accrued before the trigger day but which are allowable as a deduction on or after such day as unrealized built-in losses.

"(4) RECOGNITION PERIOD.—For purposes of this subsection, the term 'recognition period' means the period beginning on the trigger day and ending at the close of the 10th post-trigger year.

"(5) DETERMINATION OF FAIR MARKET VALUE IN CERTAIN CASES.—If 80 percent or more in value of the stock of a corporation is acquired in 1 transaction (or in a series of related transactions) during any 12-month period, for purposes of determining the net unrealized loss, the fair market value of the assets of such corporation shall not exceed the grossed up amount paid for such stock properly adjusted for indebtedness of the corporation and other relevant items.

"(6) TAX-FREE EXCHANGES OR TRANSFERS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection where property held on the trigger is transferred in a transaction where gain or loss is not recognized (in whole or in part).

"(i) 5-PERCENT SHAREHOLDERS.—For purposes of this section—

"(1) 5-PERCENT SHAREHOLDER DEFINED.—The term '5-percent shareholder' means any person holding 5 percent or more in value of the stock of the corporation at any time during the testing period.

"(2) TREATMENT OF INCREASES IN HOLDINGS OF NON-5-PERCENT SHAREHOLDERS.—If—

"(A) the percentage of the total value of the stock of the corporation held by persons who are not 5-percent shareholders, exceeds

"(B) the percentage of the total value of the stock of the corporation held at the beginning of the testing period by persons who would not have been 5-percent shareholders if the determination had been made at such time,

the percentage points representing such increase shall be taken into account as if it were an increase in the percentage holdings of a 5-percent shareholder.

"(j) CONTINUING INTEREST WHERE THERE IS EQUITY STRUCTURE CHANGE.—For purposes of this section—

"(1) IN GENERAL.—The continuing interest of the shareholders of the old loss corporation as the result of an equity structure change is the percentage of the value of the stock of the new loss corporation owned (immediately after the change) by the shareholders (immediately before the change) of the loss corporation, as the result of owning stock of the loss corporation.

"(2) 5-PERCENT SHAREHOLDER RULES TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—If there has been an increase in the holdings of the 5-percent shareholders of the loss corporation during the testing period, the continuing interest percentage determined under paragraph (1) shall be adjusted by multiplying it by the percentage equal to 100 percent minus the percentage point increases in such holdings.

"(B) RULE FOR APPLYING SUBPARAGRAPH (A).—In applying subparagraph (A) the test-

ing period shall close immediately before the equity structure change.

"(3) ADJUSTMENTS WHERE STOCK OF CORPORATION OTHER THAN ACQUIRING CORPORATION IS USED.—Appropriate adjustments shall be made in the application of this section in case of a reorganization where the stock exchanged for the stock or securities of the controlled corporation is stock of a corporation other than the acquiring corporation.

"(k) TESTING PERIOD.—For purposes of this section—

"(1) 3-YEAR PERIOD.—Except as otherwise provided in this section, the testing period is the 3-year period ending on the day of any owner shift or equity structure change.

"(2) SHORTER PERIOD WHERE THERE HAS BEEN RECENT TRIGGER.—If there has been a trigger under this section affecting any carryforward of a loss or of an excess credit, the testing period for determining whether a 2d trigger has occurred with respect to such carryforward shall not begin before the trigger day of such earlier trigger.

"(l) TRIGGER DAY.—For purposes of this section, the trigger day is—

"(1) in the case of a more than 50-percent owner shift, the 1st day as of which there is such a shift, or

"(2) in the case of a more than 50-percent equity structure change, the date of the transfer of the stock or property.

"(m) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) LOSS CORPORATION.—The term 'loss corporation' means a corporation entitled to use a net operating loss carryforward. Except to the extent provided in regulations, such term includes any corporation with a net unrealized built-in loss.

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means the corporation which (before the trigger) was a loss corporation.

"(3) NEW LOSS CORPORATION.—The term 'new loss corporation' means a corporation which (after the trigger) is a loss corporation. Nothing in this section shall be treated as implying that the same corporation may not be both the old loss corporation and the new loss corporation.

"(4) TAXABLE INCOME.—Taxable income shall be computed with the modifications set forth in section 172(d).

"(5) VALUE.—The term 'value' means fair market value.

"(6) RULES RELATING TO STOCK.—

"(A) STOCK NOT TO INCLUDE CERTAIN PREFERRED STOCK.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(B) DETERMINATIONS ON BASIS OF VALUE.—Determinations of the percentage of stock of any corporation held by any person (or group of persons) shall be made on the basis of value.

"(n) CERTAIN ADDITIONAL OPERATING RULES.—For purposes of this section—

"(1) TREATMENT OF CAPITAL CONTRIBUTIONS DURING TESTING PERIOD.—

"(A) IN GENERAL.—For purposes of this section—

"(i) the trigger value of any old loss corporation shall be reduced by an amount equal to the aggregate capital contributions received by such corporation during the testing period, and

"(ii) such contributions shall not be taken into account for purposes of applying subsection (h)(3)(B), and, if identifiable as of the trigger, shall not be taken into account for purposes of applying the remainder of subsection (h).

"(B) CAPITAL CONTRIBUTION DEFINED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'capital contribution' means any amount received by the corporation—

"(I) for stock in the corporation, or

"(II) as a contribution to capital.

"(ii) EMPLOYEE STOCK OPTIONS AND STOCK REINVESTMENT PLANS EXCLUDED.—The term 'capital contribution' does not include any amount received by the corporation pursuant to an employee stock option plan or a dividend reinvestment plan which meets the standards prescribed by the Secretary for purposes of this subparagraph.

"(C) DE MINIMIS EXCEPTION.—The Secretary may by regulations provide a de minimis exception to the provisions of subparagraph (A).

"(2) COORDINATION WITH SECTION 172(b) CARRYOVER RULES.—In the case of any pre-trigger loss for any taxable year (hereinafter in this paragraph referred to as the 'loss year') subject to limitation under this section, for purposes of determining under the second sentence of section 172(b)(2) the amount of such loss which may be carried to any taxable year, taxable income for any taxable year shall be treated as not greater than—

"(A) the trigger amount for such taxable year, reduced by

"(B) the pre-trigger losses for taxable years preceding the loss year.

Similar rules shall apply in the case of any credit or loss subject to limitation under section 383.

"(3) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply in determining ownership of stock, except that—

"(A) paragraph (1) of section 318(a) shall be applied by assuming that the family status as of the close of the testing period was the same as the family status as of the beginning of the testing period,

"(B) paragraph (2)(C) of section 318(a) shall be applied without the 50-percent limitation contained therein,

"(C) paragraph (3)(C) of section 318(a) shall be applied—

"(i) without the 50-percent limitation contained therein, and

"(ii) by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

"(D) to the extent provided in regulations, paragraph (4) of section 318(a) shall not apply.

Stock in any corporation which is treated as owned by such corporation by reason of paragraph (2) of section 318(a) shall be treated as stock which is not outstanding.

"(4) WAIVER OF BACK ATTRIBUTION IN CERTAIN CASES.—Under regulations prescribed by the Secretary, paragraph (3) of section 381(a) shall not apply to the extent that the application of such paragraph is not necessary to carry out the purposes of this section.

"(5) PREVENTION OF DOUBLE COUNTING.—The regulations prescribed under this section shall include regulations under which—

"(A) section 318 shall be applied so that only 1 person will be treated as owning any share of stock, and

"(B) such person shall be the person which results in the largest percentage increase or the smallest continuing interest, whichever is applicable.

"(6) STOCK ACQUIRED BY REASON OF DEATH.—If—

"(A) the basis of any stock in the hands of any person is determined under section 1014 (relating to property acquired from a decedent), or

"(B) stock is received by any person in satisfaction of a right to receive a pecuniary bequest,

such person shall be treated as owning such stock during the period such stock was owned by the decedent. The preceding sentence shall apply only in the case of the estate of the decedent or a person who is a member of the decedent's family (within the meaning of section 318(a)(1)(A)).

"(7) CERTAIN CHANGES IN PERCENTAGE OWNERSHIP WHICH ARE ATTRIBUTABLE TO FLUCTUATIONS IN VALUE NOT TAKEN INTO ACCOUNT.—Under regulations prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes or amounts of stock shall not be taken into account.

"(8) REDUCTION IN TRIGGER VALUE WHERE SUBSTANTIAL NONBUSINESS ASSETS.—

"(A) IN GENERAL.—If, immediately after the trigger, the old loss corporation has substantial nonbusiness assets, the trigger value of such corporation shall be reduced by the excess (if any) of—

"(i) the fair market value of the nonbusiness assets of such corporation, over

"(ii) the nonbusiness asset share of indebtedness for which such corporation is liable.

"(B) CORPORATION HAVING SUBSTANTIAL NONBUSINESS ASSETS.—For purposes of subparagraph (A), the old loss corporation shall be treated as having substantial nonbusiness assets if at least ⅓ of the value of the total assets of such corporation consists of nonbusiness assets.

"(C) NONBUSINESS ASSETS.—For purposes of this paragraph, the term 'nonbusiness assets' means—

"(i) cash,

"(ii) marketable stocks or securities, and

"(iii) any other asset which is—

"(I) not held for active use in a trade or business, or

"(II) disposed of (other than in the ordinary course of the old loss corporation's trade or business) pursuant to a plan or arrangement in existence before the trigger day.

"(D) NONBUSINESS ASSET SHARE.—For purposes of this paragraph, the nonbusiness asset share of the indebtedness of the corporation is an amount which bears the same ratio to such indebtedness as—

"(i) the fair market value of the nonbusiness assets of the corporation, bears to

"(ii) the fair market value of all assets of such corporation.

"(E) TREATMENT OF SUBSIDIARIES.—For purposes of this paragraph, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets. For purposes of the preceding sentence, a corporation shall be treated as a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock.

"(9) ORDERING RULE.—In any case in which—

"(A) a pre-trigger loss of a loss corporation for any taxable year is subject to the limitation of this section, and

"(B) a net operating loss of such corporation from such taxable year is not subject to such limitation,

taxable income shall, for purposes of this chapter, be treated as having been offset first by the loss subject to such limitation.

"(o) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and section 383, including (but not limited to) regulations—

"(1) providing for the application of this section and section 383 where a trigger with respect to the old loss corporation is followed by a trigger with respect to the new loss corporation,

"(2) which treat warrants, obligations convertible into stock, and other similar interests as stock,

"(3) which treat options to acquire or sell stock as having been exercised, and

"(4) which provides such adjustments to the application of this section and section 383—

"(A) where 1 corporation owns stock in a 2nd corporation which owns stock in the 1st corporation,

"(B) where 1 corporation owns stock in a 2nd corporation which is extinguished by the merger of the 2nd corporation into the 1st corporation,

"(C) where the same persons own stock in 2 corporations,

"(D) where it is necessary to follow the ownership of old loss shareholders in the new loss corporation, or

"(E) in any other case where the foregoing rules of this section do not carry out the purpose of this section and section 383."

(b) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on unused investment credits, etc.) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON CERTAIN EXCESS CREDITS, ETC.

"(a) EXCESS CREDITS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a trigger occurs with respect to a corporation, the amount of any excess credit for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited to an amount determined on the basis of the tax liability which is attributable to so much of the taxable income as does not exceed the trigger amount for such post-trigger year to the extent available after the application of section 382 and subsections (b) and (c) of this section.

"(2) EXCESS CREDIT.—For purposes of paragraph (1), the term 'excess credit' means—

"(A) any unused general business credit of the corporation under section 39, and

"(B) any unused minimum tax credit of the corporation under section 53.

"(b) LIMITATION ON NET CAPITAL LOSS.—If a trigger occurs with respect to a corporation, the amount of any net capital loss under section 1212 for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited under regulations prescribed by the Secretary which shall be based on the principles applicable under section 382. Such regulations shall provide that any such net capital loss used in a post-trigger year shall reduce the amount of any pre-trigger net operating loss which may be used under section 382 in a subsequent post-trigger year.

"(c) FOREIGN TAX CREDITS.—If a trigger occurs with respect to a corporation, the amount of any excess foreign taxes under section 904(c) for any taxable year before the 1st post-trigger taxable year shall be limited under regulations prescribed by the Secretary which shall be consistent with purposes of this section and section 382.

"(d) PRO RATION RULES FOR YEAR WHICH INCLUDES TRIGGER.—For purposes of this section, rules similar to the rules of subsections (b)(3) and (d)(1)(B) of section 382 shall apply.

"(e) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in section 382, except that appropriate adjustments shall be made to take into account that the limitations of this section apply to credits and net capital losses."

(c) CONFORMING AMENDMENT TO SECTION 318(b).—Paragraph (5) of section 318(b) is amended by striking out "section 382(a)(3)" and inserting in lieu thereof "section 382".

(d) REPEAL OF CHANGES MADE BY TAX REFORM ACT OF 1976.—

(1) Subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 are hereby repealed.

(2) Subsection (g) of such section 806 is amended by striking out paragraphs (2) and (3).

(3) The repeals made by paragraph (1) and the amendment made by paragraph (2) shall not affect the amendment to section 383 of the Internal Revenue Code of 1954 made by subsection (f) of such section 806.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) The amendments made by subsections (a), (b), and (c) shall apply to—

(i) equity structure changes (as defined in section 382(g)(5) of the Internal Revenue Code of 1985 as amended by this section) pursuant to plans of reorganization adopted after December 31, 1985, and

(ii) 50-percent owner shifts (as defined in section 382(g)(2) of such Code as so amended) where the trigger day (as defined in section 382 of such Code as so amended) occurs after December 31, 1985.

(B) For purposes of determining whether there is a more than 50-percent owner shift after December 31, 1985, the testing period shall not begin before October 28, 1985.

(2) FOR AMENDMENTS TO TAX REFORM ACT OF 1976.—The repeals made by subsection (d)(1) and the amendment made by subsection (d)(2) shall take effect on the date of the enactment of the Tax Reform Act of 1976 except that such amendment shall not apply in any case to which the amendments repealed by subsection (d)(1) apply by reason of an election under section 368(b) of the Revenue Act of 1978.

(3) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in subparagrah (G) of section 368(a)(1) of such Code or an exchange of debt for stock in a title 11 or similar case, as defined in section 368(a)(3) of such Code, the amendments made by subsections (a), (b), and (c) shall not apply to any 50-percent equity structure change or 50-percent owner shift resulting from such a reorganization or proceeding if—

(A) a plan of reorganization was filed with the court before September 26, 1985, or

(B) the reorganization occurs before January 1, 1989.

In any case to which subparagraph (B) applies, only the amount of claims held by persons which were creditors as of September 25, 1985, or which become creditors under written contracts which are binding on September 25, 1985, and who receive stock in the reorganization shall be taken into account.

Subtitle C—Recognition of Gain and Loss on Distributions of Property in Liquidation

SEC. 321. AMENDMENT TO SECTION 336.

(a) GENERAL RULE.—Section 336 (relating to distributions of property in liquidation) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation as if such property were sold to the distributee at its fair market value.

"(b) NONRECOGNITION IN CERTAIN CORPORATE LIQUIDATIONS.—

"(1) IN GENERAL.—In the case of any liquidation to which section 332 applies where there is not a minority shareholder, no gain or loss shall be recognized to the liquidating corporation on the distribution of property in complete liquidation.

"(2) PARTIAL RECOGNITION WHERE MINORITY SHAREHOLDER.—In the case of any liquidation to which section 332 applies where there is a minority shareholder, the 80-percent distributee's share of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(3) DETERMINATION OF 80-PERCENT DISTRIBUTEE'S SHARE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the 80-percent distributee's share of any gain or loss is the percentage (in value) of the stock of the liquidating corporation which is held by the 80-percent distributee on the date of the adoption of the plan of complete liquidation.

"(B) INCREASE FOR CERTAIN SHARES ACQUIRED FROM MINORITY SHAREHOLDERS.—The percentage determined under subparagraph (A) shall be increased by an amount determined by treating—

"(i) any stock acquired (after the adoption of the plan) by the 80-percent distributee from a minority shareholder for cash, and

"(ii) any stock of a minority shareholder with respect to which the liquidating distribution consists of cash,

as held by the 80-percent distributee on the day on which the plan of liquidation was adopted. This subparagraph shall not apply in the case of any liquidation which is a qualified section 332 liquidation (as defined in section 337(b)(2)).

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) 80-PERCENT DISTRIBUTEE.—The term '80-percent distributee' means any shareholder that meets the 80-percent stock ownership requirement specified in section 332(b).

"(B) MINORITY SHAREHOLDER.—The term 'minority shareholder' means any shareholder in the liquidating corporation other than the 80-percent distributee.

"(c) EXCEPTION FOR QUALIFIED STOCK HELD IN CERTAIN ACTIVE BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—In the case of any liquidation of an active business corporation where 1 or more shareholders hold qualified stock, the applicable percentage of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(2) PARAGRAPH (1) NOT TO APPLY TO CERTAIN ITEMS.—Paragraph (1) shall not apply to—

"(A) any gain or loss which is an ordinary gain or loss,

"(B) any gain or loss on a capital asset held for not more than 6 months, and

"(C) any gain to the extent section 453B applies.

"(3) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage (by value) of the stock of the corporation which is qualified stock (determined as of the date of the adoption of the plan of complete liquidation).

"(4) QUALIFIED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified stock' has the meaning given to such term by section 311(e)(1).

"(B) RULES FOR PASS-THRU ENTITIES.—Rules similar to the rules of section 311(e)(1)(C) shall apply.

"(5) QUALIFIED ACTIVE BUSINESS CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'active business corporation' means any corporation if—

"(i) substantially all of the assets of such corporation consists of the assets of 1 or more qualified businesses, and

"(ii) no substantial part of such corporation's nonbusiness assets were acquired in a transaction to which section 351 applied, or as a contribution to capital, within the 5-year period ending on the date of the completion of the liquidation.

"(B) QUALIFIED BUSINESS, ETC.—The terms 'qualified business' and 'nonbusiness asset' have the respective meanings given to such terms by section 311(e)(2)(B).

"(C) TREATMENT OF SUBSIDIARIES.—In determining whether any liquidating corporation is a qualified active business corporation, such corporation shall be treated as owning its proportionate share of the assets of all other corporations in which it owns 50 percent or more in value of the outstanding stock.

"(6) COORDINATION WITH SUBSECTION (b).—In the case of any liquidation described in subsection (b) where 1 or more shareholders own qualified stock, the nonrecognition under this subsection shall be in addition to the nonrecognition under subsection (b).

"(d) EXCEPTION FOR CERTAIN LIQUIDATIONS TO WHICH PART III APPLIES.—This section (and section 337) shall not apply with respect to any exchange or distribution of property to the extent there is nonrecognition of gain or loss with respect to such property to the receipient under part III.

"(e) SPECIAL RULE WHERE LIABILITIES EXCEED BASIS.—

"(1) IN GENERAL.—For purposes of this section, if any property distributed in the liquidation is subject to a liability, or the shareholder assumes a liability of the liquidating corporation in connection with the distribution, the fair market value of such property shall be treated as not less than the amount of such liability.

"(2) SPECIAL RULE WHERE PROPERTY DISTRIBUTED WITH RESPECT TO QUALIFIED STOCK.—If—

"(A) the liability referred to in paragraph (1) exceeds the adjusted basis of the property in the hands of the liquidating corporation, and

"(B) such property is distributed with respect to qualified stock,

subsection (b) shall not apply to any gain on such property."

(b) DEFINITION OF QUALIFIED STOCK.—Paragraph (1) of section 311(e) (defining qualified stock) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) IN GENERAL.—The term 'qualified stock' means stock held by any person (other than a corporation) if—

"(i) such person held such stock for at least 5 years (or, if lesser, the period during which the liquidating corporation (or predecessor corporation) was in existence), and

"(ii) at all times during such period, such person held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) DETERMINATION OF PERIOD FOR WHICH STOCK HELD.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual. Any person who acquires any stock by reason of the death of an individual shall be treated as owning such stock for all periods during which such stock was held by the decedent."

SEC. 322. AMENDMENT TO SECTION 337.

Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended to read as follows:

"SEC. 337. GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH CERTAIN LIQUIDATIONS.

"(a) GENERAL RULE.—In the case of any liquidation to which this section applies, gain or loss shall not be recognized to the liquidating corporation from the sale or exchange by it of property within the 12-month period referred to in subsection (b)(1) to the extent gain or loss would not be recognized under section 336 if such property were distributed to the shareholders of the liquidating corporation.

"(b) LIQUIDATIONS TO WHICH THIS SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any liquidation of a corporation—

"(A) if within the 12-month period beginning on the date on which the corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation (less assets retained to meet claims), and

"(B) if—

"(i) such liquidation is a qualified section 332 liquidation, or

"(ii) the liquidating corporation is an active business corporation and 1 or more shareholders in the liquidating corporation hold qualified stock.

For purposes of this subsection, the terms 'qualified stock' and 'active business corporation' have the respective meanings given to such terms by section 336.

"(2) QUALIFIED SECTION 332 LIQUIDATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified section 332 liquidation' means any liquidation to which section 332 applies if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of liquidation by the liquidating corporation, such corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation to which section 333 applies.

"(B) DISTRIBUTEE CORPORATION.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the liquidating corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence.

"(C) TREATMENT OF CERTAIN SECTION 332 LIQUIDATIONS OF ACTIVE BUSINESS CORPORATIONS.—In the case of a liquidation to which section 332 applies of an active business corporation with 1 or more shareholders who hold qualified stock, unless such liquidation is a qualified section 332 liquidation, the exceptions contained in section 336(b) shall not apply for purposes of determining the amount of gain or loss recognized under subsection (a).

"(3) COLLAPSIBLE CORPORATIONS AND LIQUIDATIONS TO WHICH SECTION 333 APPLIES.—This section shall not apply to any sale or exchange—

"(A) made by a collapsible corporation (as defined in section 341(b)), or

"(B) following the adoption of a plan of complete liquidation, if section 333 applies with respect to such liquidation.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) PROPERTY DEFINED.—For purposes of subsection (a), the term 'property' does not include—

"(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

"(B) installment obligations acquired in respect of the sale or exchange (without regard to whether such sale or exchange occurred before, on, or after the date of the adoption of the plan referred to in subsection (a)) of stock in trade or other property described in subparagraph (A) of this paragraph, and

"(C) installment obligations acquired in respect of property (other than property described in subparagraph (A)) sold or exchanged before the date of the adoption of such plan of liquidation.

"(2) SECTION TO APPLY TO CERTAIN TRANSACTION BEFORE ADOPTION OF PLAN OF LIQUIDATION.—Subsection (a) shall also apply to any loss on the sale or exchange (other than in the ordinary course of the liquidating corporation's trade or business) of property during the 1-year period ending on the adoption of the plan of complete liquidation or at any time after the adoption of the plan of liquidation.

"(3) SPECIAL RULE FOR INVOLUNTARY CONVERSIONS.—If—

"(A) there is an involuntary conversion (within the meaning of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (b),

"(B) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the 1st day of the 12-month period, and

"(C) such corporation elects the application of this paragraph at such time and in such manner as the Secretary may by regulations prescribe,

then for the purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

SEC. 323. AMENDMENT TO SECTION 338.

(a) RECOGNITION OF GAIN IN CASE OF ELECTIONS UNDER SECTION 338.—Paragraph (1) of section 338(a) (relating to certain stock purchases treated as asset acquisitions) is

amended by striking out "to which section 337 applies".

(b) EXCEPTION FOR QUALIFIED STOCK.—Subsection (c) of section 338 is amended to read as follows:

"(c) EXCEPTION FOR QUALIFIED STOCK IN ACTIVE BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) the target corporation is an active business corporation, and

"(B) as of the day on which the 1st stock purchase included in the qualified stock purchase was made, 1 or more shareholders held qualified stock in such corporation,

the amount of gain or loss recognized under subsection (a) shall be determined under section 336 (without regard to subsection (b) thereof) as if the target corporation distributed all of its assets in liquidation on the acquisition date.

"(2) DETERMINATION OF APPLICABLE PERCENTAGE.—For purposes of determining the amount of gain or loss recognized under subsection (a) of this section, the applicable percentage used for purposes of section 336(c) shall be determined as of the 1st day on which there was a purchase of stock included in the qualified stock purchase.

"(3) ACTIVE BUSINESS CORPORATION, ETC.—For purposes of this subsection, the terms 'active business corporation' and 'qualified stock' have the respective meanings given to such terms by section 336."

SEC. 324. TECHNICAL AMENDMENT.

Subsection (d) of section 1362 (relating to termination) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION IN THE CASE OF CERTAIN LIQUIDATIONS.—

"(A) IN GENERAL.—If

"(i) a corporation elects on or after November 20, 1985, to be an S corporation for any taxable year,

"(ii) such corporation (or predecessor) was a C corporation for any prior taxable year, and

"(iii) such corporation liquidates before the close of the 3-year period beginning on the 1st day of the 1st taxable year for which such election was effective,

such election shall be terminated as of such 1st day.

"(B) STATUTE OF LIMITATIONS.—If any election is terminated under subparagraph (A)—

"(i) the period for the assessment of any deficiency of the liquidating corporation (or any shareholder thereof) attributable to such termination shall not expire before the expiration of the date 1 year after the date of the liquidation, and

"(ii) the period for filing a claim for credit or refund of any overpayment attributable to such termination shall not expire before the expiration of the date 1 year from the date of the liquidation.

Such deficiency may be assessed before the expiration of such 1-year period, and any credit or refund of such overpayment may be allowed or made if claim therefor is filed during such 1-year period, notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment (or the allowance or making of such refund)."

SEC. 325. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to distributions or sales and exchanges on or after November 20, 1985 and to any transaction described in section 338 of the Internal Revenue Code of 1954 for which the acquisition date occurs on or after November 20, 1985.

(b) EXCEPTION FOR PLANS OF LIQUIDATION ADOPTED BEFORE NOVEMBER 20, 1985.—

(1) IN GENERAL.—The amendments made by this subtitle shall not apply to distributions or sales and exchanges made pursuant to a plan of liquidation adopted before November 20, 1985.

(2) SPECIAL RULES FOR DETERMINING WHEN PLAN ADOPTED.—For purposes of paragraph (1), transactions shall be treated as made pursuant to a plan of liquidation adopted before November 20, 1985—

(A) if before November 20, 1985—

(i) the board of directors of the liquidating corporation adopted a resolution to solicit shareholder approval for a transaction of a kind described in section 336 or 337, or

(ii) the shareholders or board of directors have approved such a transaction,

but only if a plan of complete liquidation is adopted before January 1, 1988, and at least 1 sale or distribution pursuant to such plan is made before such date,

(B) if before November 20, 1985—

(i) there has been an offer to purchase a majority of the voting stock of the liquidating corporation, or

(ii) the board of directors of the liquidating corporation has adopted a resolution approving an acquisition or recommending the approval of an acquisition to the shareholders,

but only if the sale or distribution is pursuant to or was contemplated by the terms of the offer or resolution, a plan of complete liquidation is adopted before January 1, 1988, and there is at least 1 sale or distribution pursuant to such plan of liquidation before January 1, 1988, or

(C) a ruling request was submitted to the Secretary of the Treasury or his delegate with respect to a transaction of a kind described in section 336 or 337 and (pursuant to the transaction described in the ruling request) a plan of complete liquidation is adopted, and at least 1 sale or distribution pursuant to such plan occurs, before the later of January 1, 1988, or 90 days after the date on which the Secretary of the Treasury or his delegate issues a ruling with respect to such transaction.

For purposes of the preceding sentence, any election under section 338 shall be treated as an adoption of a plan of complete liquidation, and such liquidation shall be treated as occurring on the acquisition date.

(3) SPECIAL RULE FOR ACTION BY PARENT.—For purposes of paragraph (2), any action taken by the board of directors or shareholders of a corporation with respect to any subsidiary of such corporation shall be treated as taken by the board of directors or shareholders of such subsidiary.

(c) SPECIAL RULE.—In the case of the U.S. Shelter Corporation, subsection (b)(1) shall be applied by substituting "January 1, 1986" for "November 20, 1985".

Subtitle D—Real Estate Investment Trusts

SEC. 331. AMENDMENT OF THE RULES AFFECTING REIT EARNINGS AND PROFITS UNDER THE DEPRECIATION SYSTEM.

(a) IN GENERAL.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TAXATION OF INCOME OF SHAREHOLDERS OF CERTAIN REAL ESTATE INVESTMENT TRUSTS.—

"(1) IN GENERAL.—If a person sells or exchanges stock in a real estate investment trust, the gain recognized on such sale or exchange shall be treated as ordinary income to the extent of the amount of any recapture distribution previously received with respect to such stock.

"(2) RECAPTURE DISTRIBUTION.—For purposes of this subsection, a recapture distribution is a distribution by a real estate investment trust for which there is in effect, a valid election under subsection (d)(2) of this section and such distribution—

"(A) is designated in accordance with subparagraph (C) as an amount attributable to recovery property (other than property described in section 168(b)(3)), which is section 1245 recovery property (as defined in section 1245(a)(5)) or section 1250 property (as defined in section 1250(c)),

"(B) would have qualified as a dividend under section 316 but for the election provided by subsection (d)(2), and

"(C) is designated as a recapture distribution by the real estate investment trust in a written notice to its shareholders in accordance with regulations prescribed by the Secretary.

"(3) TERMINATION OF REAL ESTATE INVESTMENT TRUST STATUS.—If the election of a real estate investment trust under section 856(c)(1) terminates as provided under section 856(g), then at the time of such termination, a shareholder shall include in gross income for the taxable year of such termination any recapture distribution previously received."

(b) ELECTION.—Subsection (d) of section 857 is amended to read as follows:

"(d) EARNINGS AND PROFITS.—

"(1) IN GENERAL.—The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year. For purposes of this subsection, the term 'real estate investment trust' includes a domestic corporation, trust, or association which is a real estate investment trust determined without regard to the requirements of subsection (a).

"(2) ELECTION WITH RESPECT TO CERTAIN RECOVERY PROPERTY.—A real estate investment trust may elect to compute its earnings and profits without regard to the exception in section 312(k)(3), relating to adjustments to earnings and profits for depreciation with respect to recovery property (within the meaning of section 168). The election shall be made (in the manner provided in regulations prescribed by the Secretary) on or before the due date (including any extensions of time) for filing such trust's return of tax under this chapter for the first taxable year in which such election is to apply. The election made under this paragraph (s) shall be irrevocable."

SEC. 332. FULL EXEMPTION FOR REIT'S FROM THE SECTION 291 SPECIAL RULES FOR CORPORATE TAX PREFERENCE ITEMS.

(a) IN GENERAL.—The matter preceding paragraph (1) of the first sentence of section 291(a)(relating to special rules relating to corporate preference items) is amended by striking out "a corporation" and inserting in lieu thereof "a corporation other than a real estate investment trust (as defined in section 856(a))".

(b) CONFORMING AMENDMENT.—Section 291 is amended by striking out subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 333. EXPANSION OF OPPORTUNITIES FOR SALE WITHOUT IMPOSITION OF THE 100 PERCENT PROHIBITED TRANSACTIONS TAX.

(a) IN GENERAL.—

(1) OTHER DISPOSITIONS INCLUDED.— Subparagraph (C) of section 857(b)(6) (relating to prohibited transaction safe havens) is amended—

(A) by inserting "or other dispositions" after "does not include a sale", and

(B) by inserting "OR EXCHANGES" after "sales" in the heading thereof.

(2) SELLING PRICE.—Clause (iii) of section 857(b)(6)(C) is amended by striking out "20" and inserting in lieu thereof "30".

(3) NUMBER OF SALES.— Clause (iii) of section 857(b)(6)(C) is amended by striking out "5" and inserting in lieu thereof "10".

(b) AGGREGATION OF UNITS IN CERTAIN CASES.—Subparagraph (D) of section 857(b)(6) (setting forth special rules for application of safe haven provisions) is amended by adding at the end thereof the following new clause:

"(viii) If a property held for production of rental income for not less than four years is converted to condominiums or cooperative units, sales of qualified units within the property during a taxable year shall constitute one sale. A unit shall be qualified if aggregate expenditures made by the trust during the applicable conversion period and includible in the basis of the unit are within the amount allowable under clause (ii) of subparagraph (C). The applicable conversion period for a unit shall be the period ending on the date of sale of such unit and beginning on the earlier of the date four years prior to such sale or the date of termination of rental use of at least one unit within the property of conversion."

SEC. 334. ELIMINATION OF THE INDEPENDENT CONTRACTOR REQUIREMENT.

(a) Subparagraph (C) of section 856(d)(2) (relating to exclusions of amounts received with respect to rental property that the REIT operates other than through an independent contractor) is amended by inserting "in which a real estate investment trust directly or indirectly holds a capital and income interest of less than 20 percent" after "real or personal property".

(b) Paragraph (4) of section 856(e) (relating to foreclosure property) is amended by striking out subparagraph (C), by adding "or" at the end of subparagraph (A), and by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period.

SEC. 335. MODIFICATION OF THE STANDARDS FOR DISQUALIFICATION OF A REIT AS A PERSONAL HOLDING COMPANY.

Paragraph (6) of section 856(a) (imposing the personal holding company limitation) is amended to read as follows:

(6) which, if all of its adjusted ordinary gross income (as defined in section 543(b)(2)) constituted personal holding company income (as defined in section 543), would not be a personal holding company as defined in section 542 modified as follows—

'(A) the stock ownership requirement of section 542(a)(2) shall be applicable only with respect to the first full taxable year following the effective registration of the shares of the corporation, trust or association under the Securities Act of 1933, as amended (15 U.S.C. 77a-77aa), and

"(B) the attribution of ownership of stock to an individual under section 544(a)(2) by virtue of direct or indirectly ownership of such stock by or for his partners shall not be applicable in the case of a corporation, trust or association otherwise meeting the requirements of this part; and".

SEC. 336. AUTHORIZATION FOR REIT'S TO HAVE WHOLLY OWNED SUBSIDIARIES.

(a)(1) Subparagraph (C) of section 856(c)(4) is amended by inserting "or shares of a REIT subsidiary" after the parenthetical.

(2) Subparagraph (B) of section 856(c)(6) is amended by inserting "in a REIT subsidiary or" after the second parenthetical.

(3) Paragraph (6) of section 856(c) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) The term 'REIT subsidiary' means a corporation all of the shares of which are owned by a real estate investment trust which meets the requirements of this part."

(b) Section 857, as amended by section 33 of this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT AS 1 ENTITY.—For purposes of this subtitle, a real estate investment trust and its REIT subsidiaries (if any) shall be treated as 1 entity."

SEC. 337. AMENDMENT OF THE PRESENT RULES DISQUALIFYING INCOME IN THE FORM OF RENTS OR INTERESTS BASED ON NET INCOME OR PROFITS OF THE TENANT OR BORROWER.

(a)(1) Subparagraph (A) of section 856(d)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (6)".

(2) Subsection (d) of section 856 is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN PROPERTY SUBLEASED BY TENANT OF REAL ESTATE INVESTMENT TRUSTS.—If—

"(A) a real estate investment trust receives or accrues, with respect to real or pesonal property, amounts from a tenant who derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(B) such tenant receives or accrues, directly or indirectly from subtenants only amounts which are not described in suppparagraph (A) of paragraph (2),

then the amounts that the trust receives or accures from the tenant shall not be excluded from the term 'rents from real property' solely by reason of being based on the net income, net profits or profits of such tenant."

(b)(1) Subsection (f) of section 856 (relating to qualifying interest income) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) any amounts so received or accrued with respect to an obligation secured by a mortgage on real property or an interest in real property shall not be excluded from the term 'interest' solely by reason of being based on the net income, net profits or net cash flow of the debtor from such property, if—

"(A) the debtor derives all or substantially all of its gross income with respect to such property by the leasing of all or substantially all of its interests in such property to tenants, and

"(B) the amounts received or accrued directly or indirectly by the debtor from such tenants are not described in subparagraph (A) of paragraph (2) of subsection (d)."

(2) The next to the last sentence of section 856(f) is amended by striking out "provisions of this subsection" and inserting in lieu thereof "provisions of paragraphs (1) and (2) of this subsection".

SEC. 338. AMENDMENT OF SECTION 857(b)(3)(C) REGARDING PAYMENT OF CAPITAL GAIN DIVIDENDS BY REAL ESTATE INVESTMENT TRUST THAT HAVE NET OPERATING LOSS CARRYOVERS FROM PRIOR YEARS.

The last sentence of section 857(b)(3)(C) (relating to the definition of "capital gain dividend" for purposes of subchapter M, part II) is amended to read as follows: "For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) and the net operating loss deduction (as defined in section 172) for the taxable year)."

SEC. 339. AMENDMENT OF SECTION 857(b)(2)(F) SO THAT NET LOSSES FROM PROHIBITED TRANSACTIONS ARE TAKEN INTO ACCOUNT IN COMPUTING REIT TAXABLE INCOME.

Subparagraph (F) of section 857(b)(2) (defining REIT taxable income) is amended to read as follows:

"(F) There shall be excluded an amount equal to any net income derived from prohibited transactions."

SEC. 340. AMENDMENT OF SECTION 857(b)(3)(C) REQUIREMENT FOR CAPITAL GAIN DIVIDENDS SPECIAL NOTICE WITHIN 30 DAYS AFTER THE CLOSE OF THE REIT TAXABLE YEAR.

Subparagraph (C) of section 857(b)(3) (relating to capital gains) is amended—

(1) by striking out "mailed to its shareholders or holders of beneficial interests" and inserting in lieu thereof "mailed to the Secretary", and

(2) by striking out "30 days" and inserting in lieu thereof "45 days".

SEC. 341. MITIGATION OF THE SECTION 6697 PENALTY IMPOSED ON A REIT MAKING A DEFICIENCY DIVIDEND DISTRIBUTION DUE TO ADJUSTMENT OF REIT TAXABLE INCOME.

(a) REVISION OF LIMITATION.—Subsection (b) of section 6697 (relating to assessable penalties with respect to liability of tax of qualified investment entities) is amended to read as follows:

"(b) LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed the lesser of—

"(1) one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(2) 5 percent of real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B) and by excluding any net capital gain) for the 3 taxable years immediately preceding the taxable year in which the claim for the deduction allowed by section 860(a) is filed, or

"(3) one-half of 1 percent of the value of the total assets of the qualified investment entity."

(b) REASONABLE CAUSE EXCEPTION.—Section 6697 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR TAX TREATMENT BASED UPON REASONABLE CAUSE.—The penalty payable under this section shall not be imposed to the extent that the tax treatment of any item giving rise to the adjustment described in section 860(d) is due to reasonable cause and not to willful neglect."

SEC. 342. EXCLUSION FROM REIT DISTRIBUTION REQUIREMENT FOR NON-CASH INCOME RECOGNIZED BY A REIT UNDER CERTAIN DEFERRED PAYMENT AND INSTALLMENT SALES RULES ADDED BY THE DEFICIT REDUCTION ACT OF 1984.

Subparagraph (B) of section 857(a)(1) (relating to reduction of REIT taxable income for purposes of determining whether a deduction for dividends paid satisfies the distribution requirement of section 857(a)(1)) is amended by striking out "and" at the end of clause (i), by striking out ", and" at the end of clause (ii) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(iii) amounts included in income—

"(I) as recapture income pursuant to section 453(i),

"(II) as rent and interest pursuant to section 467, or

"(III) as original issue discount on instruments described in section 1274(c),

to the extent such amounts exceed the amount of money and the fair market value of other property received during the taxable year by the trust with respect to those transactions from which such income was derived, and".

SEC. 343. EXCLUSION FROM REIT DISTRIBUTION REQUIREMENT FOR INCOME RECOGNIZED BY A REIT UPON A DETERMINATION THAT AN EXCHANGE OF CERTAIN REAL PROPERTY FAILED TO MEET THE REQUIREMENTS OF SECTION 1031.

Subparagraph (B) of section 857(a)(1) (relating to reduction of REIT taxable income for purposes of determining whether a deduction for dividends paid satisfies the distribution requirement of section 857(a)(1)), as amended by section 342 of this Act, is amended by striking out "and" at the end of clause (ii), by striking out ", and" at the end of clause (iii) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(iv) income recognized on the disposition of a real estate asset if such income is recognized pursuant to a determination (as described in section 860(e)) that such disposition was not part of an exchange within the meaning of section 1031, and if failure to meet the requirements of section 1031 is due to reasonable cause and not due to willful neglect, and".

TITLE IV—TAX SHELTERS

SEC. 401. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 465(c) (relating to activities to which section applies) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) QUALIFIED NONRECOURSE FINANCING TREATED AS AN AMOUNT AT RISK.—Section 465(b) (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED NONRECOURSE FINANCING TREATED AS AMOUNT AT RISK.—For purposes of this section—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of an activity of holding real property, a taxpayer shall be considered at risk with respect to any qualified nonrecourse financing which is secured by real property used in such activity.

"(B) QUALIFIED NONRECOURSE FINANCING.—For purposes of this paragraph, the term 'qualified nonrecourse financing' means any financing—

"(i) which is borrowed by the taxpayer with respect to the activity of holding real property,

"(ii) which is borrowed by the taxpayer from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government or instrumentality thereof,

"(iii) which is not used by the taxpayer to acquire an interest in property from a person who is a related person (within the meaning of paragraph (3)(C)),

"(iv) except to the extent provided in regulations, with respect to which no person is personally liable for repayment, and

"(v) which is not convertible debt.

"(C) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, a partner's share of any qualified nonrecourse financing of such partnership shall be determined on the basis of the partner's share of liabilities of such partnership (within the meaning of section 752).

"(D) QUALIFIED PERSON DEFINED.—For purposes of this paragraph, the term 'qualified person' has the same meaning given such term by section 46(c)(8)(D)(iv).

"(E) ACTIVITY OF HOLDING REAL PROPERTY.—For purposes of this paragraph, the activity of holding real property shall—

"(i) include personal property and services which are incidental to making real property available as living accommodations, and

"(ii) not include the holding of mineral property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred after December 31, 1985, with respect to property acquired by the taxpayer after December 31, 1985.

SEC. 402. LIMITATION ON DEDUCTION FOR INVESTMENT INTEREST.

(a) GENERAL RULE.—Subsection (e) of section 163 (relating to limitation on interest on investment indebtedness) as redesignated by section 135 is amended to read as follows:

"(e) LIMITATION ON INVESTMENT INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for investment interest for any taxable year shall not exceed the sum of—

"(A) $10,000 ($20,000, in the case of a joint return), plus

"(B) the net investment income for the taxable year.

In the case of a trust, the amount specified in subparagraph (A) shall be zero. The * * * amount applicable under subparagraph (A) shall be reduced by the amount of consumer interest (not including qualified residence interest but including interest described in subsection (d)(3)(B)(i)) allowable as a deduction for the taxable year after the application of subsection (d).

"(2) CARRYOVER OF DISALLOWED INTEREST.—The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as investment interest paid or accrued by the taxpayer in the succeeding taxable year.

"(3) INVESTMENT INTEREST.—For purposes of this subsection, the term 'investment interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)); except that such term shall not include—

"(A) any consumer interest (as defined in subsection (d)(2) without regard to the exceptions contained in subparagraph (B) thereof), and

"(B) any interest which is allowable as a deduction in computing adjusted gross income and is not attributable to a limited business interest.

For purposes of the preceding sentence, the term 'interest' includes any amount allowable as a deduction in connection with personal property used in a short sale.

"(4) NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net investment income' means the excess of—

"(i) investment income, over

"(ii) investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) any amount treated under section 1245, 1250, or 1254 as ordinary income, and

"(iii) any capital gain net income (reduced by the amount of any deduction under section 1202(a) allocable to such gain) attributable to the disposition of property held for investment,

but only to the extent such amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowable under this chapter (other than for interest) which are directly connected with the production of investment income.

"(D) SPECIAL RULE FOR CERTAIN AMOUNTS ATTRIBUTABLE TO NET LEASES.—The net investment income of a taxpayer for any taxable year shall be increased by an amount equal to the excess (if any) of—

"(i) the deductions allowable for such taxable year under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to a net lease, over

"(ii) the income for such taxable year attributable to such property.

"(E) INCOME AND LOSSES FROM LIMITED BUSINESS INTERESTS TAKEN INTO ACCOUNT.—Any income or loss derived from a limited business interest shall be taken into account in computing net investment income.

"(5) LIMITED BUSINESS INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'limited business interest' means—

"(i)(I) any interest as a limited partner in a partnership, and

"(II) any other interest as a partner in a partnership if the taxpayer does not actively participate in the management of such partnership,

"(ii) any interest as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation,

"(iii) any interest of a lessor in property subject to a lease if—

"(I) for the taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of section 162 (other than rentals and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(II) the lessor is either guaranteed a specific rental or is guaranteed in whole or in part against loss of income, and

"(iv) any interest as a limited entrepreneur (within the meaning of section 464(e)(2)).

"(B) EXCEPTION FOR CERTAIN LOW-INCOME HOUSING.—A limited business interest shall not include an interest in—

"(i) any project described in section 168(j)(3)(B),

"(ii) a qualified residential rental project described in section 142(c)—

"(I) section 142(c)(1)(A), or

"(II) section 142(c)(1)(B),

but only if such project is financed from the proceeds of tax-exempt obligations, or

"(iii) any low-income rental housing described in section 167(k).

Net investment income shall be computed without regard to any such interest.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (A)(iii).—For purposes of determining whether an interest is a net lease under subparagraph (A)(iii)—

"(i) CERTAIN PERSONAL SERVICES TAKEN INTO ACCOUNT.—In the case of—

"(I) an individual, or

"(II) a partnership (other than a partnership in which an interest is held by a limited partner),

which manages property held by such individual or partnership, deductions under section 162 with respect to such property shall be treated as including the fair market value of management or repair services performed by such individual or a partner in such partnership with respect to such property.

"(ii) REAL PROPERTY LEASES.—

"(I) 2 OR MORE LEASES.—If a parcel of real property of the taxpayer is leased under 2 or more leases, subparagraph (A)(iii) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease.

"(II) PROPERTY HELD FOR MORE THAN 5 YEARS.—At the election of the taxpayer, subparagraph (A)(iii) shall not apply with respect to real property of the taxpayer which has been in use by the taxpayer for more than 5 years.

"(6) COORDINATION WITH SECTION 280A.—

"(A) APPLICATION OF SECTION 280A.—Section 280A shall be applied without regard to the limitations of this subsection.

"(B) APPLICATION OF INTEREST LIMITATION.—For purposes of this subsection—

"(i) the determination of whether any interest is allocable to a section 280A use shall be made in the same manner as for purposes of section 280A, and

"(ii) any interest allocable to a section 280A use shall be treated as nonbusiness interest to the extent such interest is greater than the excess (if any) of—

"(I) the gross income derived from such use for the taxable year, over

"(II) the deductions referred to in section 280A(c)(5)(B) (other than for interest).

For purposes of the preceding sentence, the term 'section 280A use' means any use referred to in section 280A(c)(5).

"(7) NET LEASE.—For purposes of this subsection, the term 'net lease' means a limited business interest described in clause (iii) of paragraph (6)(A).

"(8) PHASE-IN OF LIMITATION.—In the case of any taxable year beginning in calendar years 1986 through 1994—

"(A) IN GENERAL.—The amount of interest disallowed under this subsection for any such taxable year shall not exceed the sum of—

"(i) the amount of interest which would have been disallowed under this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) for the taxable year, plus

"(ii) the applicable percentage of the excess of the amount which (but for this paragraph) would have been disallowed under this subsection for the taxable year over the amount described in clause (i).

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means, with respect to any calendar year, 10 percent, multiplied by 1 plus the number of years between such calendar year and 1985."

(b) SHORT TAXABLE YEAR.—Paragraph (3) of section 443(b) (defining modified taxable income) is amended by adding at the end thereof the following new sentence: "In the case of a short period, for purposes of this subsection, the applicable dollar amount specified in section 163(d)(1)(A) shall be reduced to the amount which bears the same ratio to such applicable amount as the number of days in the short period bears to 365."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

TITLE V—ALTERNATIVE MINIMUM TAX

Subtitle A—General Provisions

SEC. 501. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) GENERAL RULE.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended to read as follows:

"Part VI—Alternative Minimum Tax

"Sec. 55. Alternative minimum tax imposed.

"Sec. 56. Treatment of certain tax preferences.

"Sec. 57. Other items of tax preference.

"Sec. 58. Denial of certain losses.

"Sec. 59. Other definitions and special rules.

"Sec. 60. Superminimum tax.

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) GENERAL RULE.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) TENTATIVE MINIMUM TAX.—For purposes of this part—

"(1) IN GENERAL.—The tentative minimum tax for the taxable year is—

"(A) 22.5 percent (20 percent in the case of a corporation) of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preferences described in section 57.

"(c) REGULAR TAX.—

"(1) IN GENERAL.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any increase in tax under section 47.

"(2) CROSS REFERENCES.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) EXEMPTION AMOUNT.—For purposes of this section—

"(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(i) $30,000 in the case of a joint return or a surviving spouse,

"(ii) $25,000 in the case of an individual who is not married and is not a surviving spouse, and

"(iii) $15,000 in the case of a married individual who files a separate return or an estate or trust.

For purposes of this subparagraph, the term 'surviving spouse' (as so defined) has the meaning given such term by section 2(a) and marital status shall be determined under section 143.

"(B) PHASEDOWN.—If the taxable income of the taxpayer exceeds $175,000, the exemption amount determined under clause (i) or (ii) of subparagraph (A) (whichever applies) shall be reduced by an amount which bears the same ratio to—

"(i) the excess of such exemption amount over $15,000 as

"(ii) the amount of the taxpayer's taxable income in excess of $175,000 bears to $50,000.

"(2) CORPORATIONS.—In the case of a corporation, the term 'exemption amount' means $40,000.

"SEC. 56. TREATMENT OF CERTAIN TAX PREFERENCES.

"(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) DEPRECIATION.—

"(A) IN GENERAL.—The depreciation deduction allowable under section 167 (or any amortization deduction in lieu of depreciation) with respect to any tangible property placed in service after December 31, 1985, shall be determined under the nonincentive system of section 168(h) (without any inflation adjustments under section 168(g)).

"(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (2), (3), (4), or (5) of section 168(f).

"(C) SPECIAL RULE FOR REHABILITATION EXPENDITURES OF LOW-INCOME HOUSING.—In the case of rehabilitation expenditures to which section 167(k) applies, the recovery period used for purposes of subparagraph (A) shall be 15 years.

"(2) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—

"(A) IN GENERAL.—The taxable income from any long-term contract to which this paragraph applies shall be determined under the percentage of completion method of accounting.

"(B) LONG-TERM CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any long-term contract entered into by the taxpayer after September 25, 1985, if the taxpayer is not required to use the percentage of completion method with respect to such contract by reason of section 904(d) of the Tax Reform Act of 1985.

"(3) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(4) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) applies (or with to which there are any ex-

penditures to which paragraph (2) or subsection (b)(3) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) or (2) or subsection (b)(2), whichever is applicable.

"(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative taxable income of any taxpayer (other than a corporation) the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) LIMITATION ON ITEMIZED DEDUCTION.—Any deduction not allowable in computing adjusted gross income shall not be allowed unless such deduction is an alternative tax itemized deduction.

"(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1985, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply to a personal holding company (as defined in section 542).

"(3) MINING EXPLORATION AND DEVELOPMENTS COSTS.—

"(A) IN GENERAL.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) in computing the regular tax for costs paid or incurred after December 31, 1985, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—The adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

"(c) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(B) in the case of taxable years beginning after December 31, 1985, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears.

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1985 LOSS YEARS.—In the case of a loss year beginning after December 31, 1985, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58,

"(ii) be reduced by the items of tax preference determined under section 57 for such year which are taken into account in computing the net operating loss, and

"(iii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions and which are otherwise described in section 172(c).

"(B) PRE-1986 YEARS.—In the case of loss years beginning before January 1, 1986, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1985, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1985.

"(d) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this part—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

The amount determined under the preceding sentence shall be reduced by the amount of the reduction determined under section 63(e)(4) (relating to reduction in itemized deductions for portion of personal exemption).

"(2) AMOUNTS WHICH MAY BE CARRIED OVER.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) QUALIFIED INTEREST.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) QUALIFIED HOUSING INTEREST.—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof), and

"(ii) any capital gain net income attributable to the disposition of property held for investment.

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions (determined with the adjustments provided in section 56) directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under section 643(b) or sections 10642(c), 10651(a), and 10661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduc-

tion for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any income or loss derived from a limited business interest shall be taken into account in computing qualified net investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation.

"SEC. 57. OTHER ITEMS OF TAX PREFERENCE.

"(a) GENERAL RULE.—For purposes of this part, the items of tax preference determined under this section are—

"(1) CAPITAL GAINS OF TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SALES OF FARM LAND BY INSOLVENT FARMERS.—For purposes of this paragraph, gain from a qualified farm sale (as defined in section 59(c)) shall not be taken into account.

"(2) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(3) INTANGIBLE DRILLING COSTS.—

"(A) IN GENERAL.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) EXCESS INTANGIBLE DRILLING COSTS.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c), 263(i), or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (c)) had been used with respect to such costs.

"(C) NET INCOME FROM OIL, GAS, AND GEOTHERMAL PROPERTIES.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(E) PARAGRAPH NOT TO APPLY TO CORPORATIONS.—This paragraph shall not apply to a corporation other than a personal holding company.

"(4) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(5) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(6) ACCELERATED DEPRECIATION OR AMORTIZATION ON CERTAIN PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1986.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the date before the date of the enactment of the Tax Reform Act of 1985). The preceding sentence shall not apply to any property to which section 56(a)(1) applies.

"(b) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (3) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles' when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(4).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) DENIAL OF EXCESS FARM LOSS.—

"(1) IN GENERAL.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year—

"(A) DISALLOWANCE OF EXCESS FARM LOSS.—The excess farm loss of the taxpayer for such taxable year shall not be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) EXCESS FARM LOSS.—For purposes of this section, the term 'excess farm loss' means the amount by which the loss for the taxable year from any tax shelter farm activity exceeds twice the taxpayer's cash basis in such activity as of the close of the taxable year.

"(3) TAX SHELTER FARM ACTIVITY.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming unless the taxpayer materially participates in the operation of such activity or is a member of the family (within the meaning of section 2032A(e)(2)) of an individual who so participates.

The determination of whether any individual materially participates in the operation of any activity shall be made in the manner similar to the manner in which such determination is made under section 2032A (including modifications under paragraphs (4) and (5) of section 2032A(b)); except that an individual shall not be treated materially participating in the operation of any activity if such individual is a limited partner with respect to such activity.

"(4) TREATMENT OF SEPARATE ACTIVITIES.—A taxpayer's activity with respect to each farm of which the taxpayer is the proprietor shall be treated as a separate activity.

"(b) DISALLOWANCE OF EXCESS PASSIVE ACTIVITY LOSS.—

"(1) IN GENERAL.—For purposes of determining the amount of the alternative minimum taxable income for any taxable year—

"(A) DISALLOWANCE ON LOSS.—The excess passive activity loss of the taxpayer for the taxable year shall not be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from an activity disallowed under subparagraph (A) shall be treated as a deduction allowable to such activity in the 1st succeeding taxable year.

"(2) EXCESS PASSIVE ACTIVITY LOSS.—For purposes of this subsection, the term 'excess passive activity loss' means the amount by which—

"(A) the aggregate losses from all passive activities reduced by the aggregate income from such activities exceed

"(B) the sum of—

"(i) the taxpayer's cash basis in passive activities which are not tax shelters, and

"(ii) the lesser of—

"(I) the taxpayer's cash basis in passive activities which are tax shelters, or

"(II) $50,000.

For purposes of the preceding sentence, the term 'tax shelter' has the meaning given to such term by section 461(i)(3).

"(3) PASSIVE ACTIVITY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'passive activity' means any activity if a substantial portion of the income from such activity is from a trade or business. For purposes of the preceding sentence, all rents and royalties shall be treated as income from a trade or business.

"(B) ACTIVITIES IN WHICH TAXPAYER MATERIALLY PARTICIPATES, ETC., EXCLUDED.—An activity shall not be treated as a passive activity under subparagraph (A) if the taxpayer (or the spouse of the taxpayer)—

"(i) materially participates in the activity, or

"(ii) provides substantial personal services for the activity.

"(C) TREATMENT OF LIMITED PARTNERS.—A limited partner shall not be treated as meeting the requirements of clause (i) or (ii) of subparagraph (B) with respect to an activity.

"(D) TREATMENT OF CERTAIN RETIRED INDIVIDUALS.—A taxpayer shall be treated as materially participating in the operation of any farm activity if such individual meets the requirements of paragraph (4) or (5) of section 2032A(b) with respect to such activity.

"(4) COORDINATION WITH SUBSECTION (a).—Loss from a farm activity to the extent it is disallowed under subsection (a) shall not be taken into account under this subsection.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASH BASIS.—The term 'cash basis' means—

"(A) in the case of an interest in a partnership, the adjusted basis of the taxpayer's interest in such partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 461(i)), or

"(II) was secured by any assets of the partnership, and

"(B) in the case of any other interest in an activity, the adjusted basis of such interest determined under the principles of subparagraph (A).

"(2) DEFINITION OF LOSS.—The loss from any activity shall be determined under the principles of section 465(d); except that—

"(A) the adjustments of section 56 shall apply, and

"(B) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(C) any loss resulting from the disposition of part or all of any interest in such activity shall not be taken into account.

"(3) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of subsections (b)(5) and (e) of section 465 shall apply.

"(4) LOSS ALLOWED FOR YEAR OF DISPOSITION.—If the taxpayer disposes of his entire interest in any farm shelter activity or passive activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsections (a)(1)(B) and (b)(1)(B)) shall be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity or passive activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT.—For purposes of this part, the alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(1) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1985,

"(2) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(3) section 911(d)(6) did not apply for taxable years beginning after December 31, 1985.

"(b) MINIMUM TAX NOT TO APPLY TO 936 CORPORATIONS.—The tax imposed by this part shall not apply to any corporation for which a credit is allowable for the taxable year under section 936.

"(c) QUALIFIED FARM SALE.—

"(1) IN GENERAL.—For purposes of subsection (a)(9)(E), the term 'qualified farm sale' means any sale or exchange before January 1, 1989, to an unrelated person of farmland during any taxable year if—

"(A) 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming,

"(B) such taxpayer is insolvent (within the meaning of section 108(d)(3)) as of the time of the sale or exchange,

"(C) substantially all of the proceeds from the sale or exchange are applied in satisfaction of indebtedness of the taxpayer, and

"(D) 90 percent or more of the fair market value of the farmland held by the taxpayer as of the beginning of such taxable year is sold or exchanged during such taxable year in qualified farm sales (determined without regard to this subparagraph).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) FARMLAND.—The term 'farmland' means any land used or held for use in the trade or business of farming.

"(B) UNRELATED PERSON.—The term 'unrelated person' means any person other than a related person (as defined in section 453(f)(1)).

"(d) SPECIAL RULES FOR TREATMENT OF CERTAIN ENTITIES.—

"(1) ESTATES AND TRUSTS.—In the case of an estate or trust, the differently treated items for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.

"(2) PARTICIPANTS IN A COMMON TRUST FUND.—The differently treated items of a common trust fund (as defined in section 584(a)) for each taxable year of the fund shall be treated as items of the participants of such fund and shall be apportioned pro rata among such participants. For purposes of this subsection, this part shall be treated as applying to such fund.

"(3) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, the differently treated items of such company or trust for the taxable year shall be apportioned between the company or trust and shareholders and holders of beneficial interests in such company or trust in accordance with regulations prescribed by the Secretary.

"(4) DIFFERENTLY TREATED ITEMS.—For purposes of this subsection, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(e) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures), or

"(D) section 616(a) (relating to mining exploration and development expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) ELECTION.—

"(A) IN GENERAL.—An election may be made under this subsection with respect to any portion of any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) TIME AND MANNER.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) PARTNERS AND SHAREHOLDERS OF S CORPORATIONS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (1) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) APPLICATION OF SECTION 616(C).—In the case of any disposition of mining property to which section 616(c) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 616(c), be treated as a deduction allowable under section 616(a).

"(6) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(f) COORDINATION WITH SECTION 291.—Section 291 shall apply before the application of this part.

"(g) TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year.

"SEC. 60. SUPERMINIMUM TAX.

"(a) GENERAL RULE.—If 2 percent of the expanded alternative minimum taxable income exceeds the tentative minimum tax determined under section 55, such tentative minimum tax shall be treated as being equal to 2 percent of the expanded alternative minimum taxable income.

"(b) EXPANDED ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of subsection (a), the term 'expanded alternative minimum taxable income' means alternative minimum taxable income computed with the following adjustments:

"(1) Alternative minimum taxable income shall be increased by any amount excluded from gross income under section 911(a)(1).

"(2) Alternative minimum taxable income shall be increased by the amount of any tax-exempt interest.

"(3) In the case of a shareholder of a FSC, alternative minimum taxable income shall be increased by such shareholder's pro rata share of the taxable income of the FSC (determined as if the FSC were a domestic corporation).

"(4) In the case of a shareholder of a DISC, alternative minimum taxable income shall be increased by such shareholder's pro rata share of the taxable income of the DISC (before reduction for distributions) over the amounts deemed distributed under subparagraphs (A), (B), (C), (D), and (E) of section 995(b)(1).

"(5) Any net operating loss deduction for the taxable year shall not be allowed to the extent it would reduce the amount of the alternative minimum taxable income (determined with the adjustments provided in paragraphs (1), (2), (3), and (4) and without regard to the net operating loss deduction) to an amount less than 10 percent of the alternative minimum taxable income (as so determined).

"(c) LIMITATION ON FOREIGN TAX CREDIT.—The foreign tax credit allowable against the tax imposed by section 55 shall not reduce the amount of such tax to an amount less than 50 percent of the amount determined under subsection (a)."

(b) CREDIT AGAINST REGULAR TAX FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax For Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) MINIMUM TAX CREDIT.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the net minimum tax imposed for all prior taxable years beginning after 1985, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, or

"(2) the excess (if any) of the amount determined under paragraph (1) over the tentative minimum tax for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) NET MINIMUM TAX.—

"(A) IN GENERAL.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) EXCLUSION PREFERENCES OF INDIVIDUALS NOT TAKEN INTO ACCOUNT.—In the case of a taxpayer other than a corporation, the amount of the net minimum tax for any taxable year shall be reduced by the amount which would have been the net minimum tax for such year if sections 56 (other than subsection (b)(1) thereof) and 58 did not apply and the only items of tax preference taken into account were the items described in paragraphs (1), (2), (3), (6), and (7) of section 57(a).

"(2) TENTATIVE MINIMUM TAX.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) CREDITS NOT ALLOWABLE AGAINST MINIMUM TAX.—

(1) PERSONAL CREDITS.—

(A) Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended to read as follows:

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) REGULAR TAX LIABILITY.—Subsection (b) of section 26 is amended—

(i) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(ii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),", and

(iii) by striking out "TAX LIABILITY" in the subsection heading and inserting in lieu thereof "REGULAR TAX LIABILITY".

(c) GROSS MINIMUM TAX.—Subsection (c) of section 26 is amended to read as follows:

"(c) TENTATIVE MINIMUM TAX.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) CREDIT FOR CLINICAL TESTING EXPENSES.—Paragraph (2) of section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) CREDIT FOR PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES.—Paragraph (5) of section 29(b) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A of sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) ALLOWABLE PORTION OF REGULAR TAX LIABILITY.—For purposes of paragraph (1), the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part."

(c) ESTIMATED TAX PROVISIONS TO APPLY TO CORPORATE MINIMUM TAX.—

(1) Paragraph (1) of section 6154(c) is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, and

"(B) the minimum tax imposed by section 55, over".

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(d) TECHNICAL AMENDMENTS.—

(1) COORDINATION OF SECTION 265 WITH MINIMUM TAX.—Section 265 (relating to expenses and interest relating to tax-exempt interest) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR INTEREST TREATED AS TAX PREFERENCE.—Interest shall not fail to be treated as wholly exempt from taxes imposed by this subtitle solely by reason of being taken into account under section 60."

(2) APPLICATION OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(3) LIMITATION IN CASE OF CONTROLLED CORPORATIONS.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.", and

(B) by striking out "amounts specified in paragraph (1)" and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))".

(4) TREATMENT OF SHORT TAXABLE YEARS.—Subsection (d) of section 443 (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX AND TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55 shall bear the same relation of the tax computed on the annual basis as the number of months in the short period bears to 12."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) ADJUSTMENT OF NET OPERATING LOSS.—

(A) INDIVIDUALS.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1986, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1985, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) CORPORATIONS.—If the minimum tax of the corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1986, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1986, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1985, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) TRANSITIONAL RULE FOR LOSS DISALLOWANCE RULES.—For purposes of section 58 of the Internal Revenue Code of 1954—

(A) the cash invested in any activity as of the beginning of any taxable year beginning in 1986 shall be treated as not less than zero, and

(B) in applying the principles of section 465 of such Code for purposes of such section 58, there shall be no recapture of any loss from a taxable year beginning before January 1, 1986.

(4) FARM SALE.—For purposes of applying section 57(a)(9) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for taxable years beginning after December 31, 1984, the amount of the net capital gain of any individual shall be determined without taking into account any gain from a qualified farm sale (as defined in section 59(c) of such Code) is amended by this Act.

Subtitle B.—Treatment of Existing Carryforwards of Steel Companies

SEC. 511. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF STEEL COMPANIES.

(a) GENERAL RULE.—If a qualified corporation makes an election under this section for its 1st taxable year beginning after December 31, 1985, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1985 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

(1) 75 percent of the portion of the corporation's existing carryforwards to which the election under subsection (a) applies, or

(2) the corporation's net tax liability for the carryback period.

(c) CORPORATION MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified corporation which makes an election under subsection (a), the portion of such corporation's existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1985 for any taxable year beginning after December 31, 1985.

(d) NET TAX LIABILITY FOR CARRYBACK PERIOD.—For purposes of this section—

(1) IN GENERAL.—A corporation's net tax liability for the carryback period is the aggregate of such corporation's net tax liability for taxable years in the carryback period.

(2) NET TAX LIABILITY.—The term "net tax liability means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for such taxable year, reduced by the sum of the credits allowable under part IV of subchapter A of such chapter 1 (other than section 34 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under section 26(b) of such Code shall not be treated as tax imposed by such chapter 1.

(3) CARRYBACK PERIOD.—The term "carryback period" means the period—

(A) which begins with the corporation's 15th taxable year preceding the 1st taxable year from which there is an unused credit included in such corporation's existing carryforwards (but in no event shall such period begin before the corporation's 1st taxable year ending after December 31, 1961), and

(B) which ends with the corporation's last taxable year beginning before January 1, 1985.

(e) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of such Code, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

SEC. 512. EXISTING CARRYFORWARDS OF QUALIFIED CORPORATIONS MAY OFFSET 75 PERCENT OF MINIMUM TAX.

For purposes of determining the amount of the qualified corporation's existing carryforwards which may be allowed as a credit under section 38 of the Internal Revenue Code of 1985 for any taxable year beginning after December 31, 1985, the limitation of section 38(c) of such Code shall not be less than 75 percent of such corporation's tentative minimum tax for the taxable year (as defined in section 55 of such Code).

SEC. 513. $300,000,000 LIMITATION.

(a) GENERAL RULE.—The sum of—

(1) the amount treated as a payment made by a qualified corporation under section 511, and

(2) the aggregate increase in such qualified corporation's credit allowable under section 38 of such Code by reason of section 512 for taxable years beginning before 1991,

shall not exceed $300,000,000.

(b) AFFILIATED GROUP TREATED AS 1 TAXPAYER.—For purposes of this section, all members of the same affiliated group (as defined in section 1504 of such Code) shall be teated as 1 corporation.

SEC. 514. DEFINITIONS.

(a) QUALIFIED CORPORATION.—

(1) IN GENERAL.— For purposes of this subtitle, the term "qualified corporation" means any corporation which—

(A) had net operating loss in at least 2 of its last 3 taxable years ending before January 1, 1986, and

(B) is described in section 804 of the Steel Import Stabilization Act.

(2) CERTAIN PREDECESSORS INCLUDED.—In the case of any qualified corporation which has carryforward attributable to a predecessor corporation described in such section 804, the qualified corporation and the predecessor corporation shall be treated as 1 corporation for purposes of paragraph (1)(A) and subsections (d) and (e) of section 511.

(b) EXISTING CARRYFORWARDS.—The term "existing carryforward" means the aggregate of the amounts which are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1985 (determined without regard to the limitations of section 38(c) of such Code).

TITLE VI—FOREIGN PROVISIONS

Subtitle A—Modification in Regulations Allocating Research and Experimental Expenditures

SEC. 601. 1-YEAR MODIFICATION IN REGULATIONS PROVIDING FOR ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1985, notwithstanding section 864(e) of such Code—

(1) 50 percent of all amounts allowable as a deduction for qualified research and experimental expenditures shall be apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(2) the remaining portion of such amounts shall be apportioned on the basis of gross sales or gross income.

The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of section 174(c) of such Code shall apply.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to taxable years beginning after August 1, 1985, and on or before August 1, 1977.

(2) SPECIAL RULE.—If section 126 of the Tax Reform Act of 1984 applied to the taxpayer's 3rd taxable year beginning after August 13, 1981, by reason of subsection (c)(2) of such section, this section shall apply to the first taxable year of the taxpayer following such 3rd taxable year.

Subtitle B—Possessions Tax Credit Changes

SEC. 611. MODIFICATIONS TO SECTION 936.

(a) TREATMENT OF INTANGIBLES.—

(1) COST SHARING METHOD.—Section 936(h)(5)(C)(i)(I) is amended—

(A) by striking out "the same proportion of the cost" and inserting in lieu thereof "the same proportion of 110 percent of the cost", and

(B) by adding at the end thereof the following new sentence: "In the case of intangible property described in subsection (h)(3)(B)(i) which the electing corporation is treated as owning under subclause (II), in no event shall the payment required under this subclause be less than the royalty payment which would be required under section 367(d)(2)(A)(ii) and section 482 if the electing corporation were a foreign corporation."

(2) PROFIT SPLIT METHOD.—Section 936(h)(5)(C)(ii)(II) is amended by striking out "the third sentence thereof)" and inserting in lieu thereof "the third and fourth sentences thereof, but substituting '120 percent' for '110 percent' in the second sentence thereof)".

(b) REPEAL OF REQUIREMENTS THAT AMOUNTS BE RECEIVED IN THE UNITED STATES.—Subsection (b) of section 936 is hereby repealed.

(c) TREATMENT OF CERTAIN INVESTMENT INCOME AS QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—Subsection (d) of section 936 is amended by adding at the end thereof the following new paragraph:

"(4) INVESTMENT IN QUALIFIED CARIBBEAN BASIN COUNTRIES.—

"(A) IN GENERAL.—For purposes of paragraph (2)(B), an investment in a financial institution shall be treated as for use in Puerto Rico to the extent used by the Government Development Bank of Puerto Rico for investment in active business assets in a qualified Caribbean Basin country. A similar rule shall apply in the case of a direct investment in the Government Development Bank of Puerto Rico.

"(B) QUALIFIED CARIBBEAN BASIN COUNTRY.—For purposes of this subsection, the term 'qualified Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A).

"(C) ADDITIONAL REQUIREMENTS.— Subparagraph (A) shall not apply to any investment made by the Government Development Bank of Puerto Rico unless—

"(i) the person in whose trade or business such investment is made and such Bank certify to the Secretary that the proceeds of the loan will be promptly used to acquire active business assets, and

"(ii) the Government Development Bank of Puerto Rico agrees to permit the Secretary to examine such of its books and records as may be necessary to ensure that the requirements of this paragraph are met.".

(d) INCREASE IN AMOUNT OF GROSS INCOME WHICH MUST BE FROM TRADE OR BUSINESS.—

(1) IN GENERAL.—Subparagraph (B) of section 936(a)(2) is amended by striking out "65 percent" and inserting in lieu thereof "75 percent".

(2) TRANSITIONS.—Subparagraph (C) of Section 936(a)(2) is amended to read as follows:

"(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning during calendar year 1986, '70 percent' shall be substituted for '75 percent'."

(e) TREATMENT OF CERTAIN ROYALTY PAYMENTS.—Subparagraph (A) of section 367(d)(2) (relating to transfers of intangibles treated as transfer pursuant to sale for contingent payments) is amended by adding at the end thereof the following new sentences:

"The amounts taken into account under clause (ii) shall be commensurate with the income attributable to the intangible. In the case of any transfer not described in paragraph (1) to a foreign corporation or other foreign entity, rules similar to rules of this subparagraph shall apply for purposes of section 482."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) SPECIAL RULE FOR TRANSFER OF INTANGIBLES.—The amendments made by subsection (e) shall apply to transfers after November 16, 1985, in taxable years ending after such date; except that, for purposes of section 936(h)(5)(C) of the Internal Revenue Code of 1985, such amendments shall apply to taxable years beginning after December 31, 1985, without regard to when the transfer (if any) was made.

Subtitle—C Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

SEC. 621. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) AGREEMENTS TO ALLEVIATE CERTAIN PROBLEMS RELATING TO TAX ADMINISTRATION.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(2) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(3) the nondiscriminatory treatment of citizens and residents of the United States and any possession,

(4) the exchange of information between such possession and the United States for purposes of tax administration, and

(5) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

SEC. 622. EXCLUSION OR POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) DEDUCTIONS, ETC. ALLOCABLE TO EXCLUDED AMOUNTS NOT ALLOWABLE.—An individual shall not be allowed—

"(1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) SPECIFIED POSSESSION.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYEES OF THE UNITED STATES.—Amounts paid for services performed as an employee of treated as not described in paragraph (1) or (2) of subsection (a).

"(2) DETERMINATION OF SOURCE, ETC.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary.

"(3) DETERMINATION OF RESIDENCY.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary."

"(b) EXEMPTION FROM WITHHOLDING TAX; TAX IMPOSED BY SECTION 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC. 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) CROSS REFERENCES.—

"For exclusion from gross income of income derived from sources within—

"(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraphs (1) and (2) of section 933 are each amended by inserting ", or any credit," before "property".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living abroad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932,".

(6) Paragraph (4) of section 63(c) (relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income for sources within possessions of the United States)" and by inserting "and" after "of the employer),"

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;"

(12) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 623. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) TREATMENT UNDER SUBPART F.—Subsection (d) of section 957 (relating to controlled foreign corporations; United States persons) is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the laws of Guam, American Samoa, or the Northern Mariana Islands—

"(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession.

such term does not include an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands.

For purposes of subparagraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary."

(b) EXEMPTION FROM WITHHOLDING.—

(1) IN GENERAL.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—For the purposes of this section, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession of the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) EXCEPTION FOR CERTAIN POSSESSIONS CORPORATIONS.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

PART II—TREATMENT OF THE VIRGIN ISLANDS

SEC. 624. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

"(a) TREATMENT OF UNITED STATES RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both United States and the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) PORTION OF UNITED STATES TAX LIABILITY PAYABLE TO THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—Each individual to whom this subsection applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) VIRGIN ISLANDS ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) AMOUNTS PAID ALLOWED AS CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, identifies the source of each item shown on such return, gross income shall not include any amount included in gross income on such return.

"(d) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) SECTION NOT TO APPLY TO TAX IMPOSED IN VIRGIN ISLANDS.—This section shall not apply for purposes of determining

income tax liability incurred to the Virgin Islands."

(b) AUTHORITY TO IMPOSE NONDISCRIMINATORY LOCAL INCOME TAXES.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1985 and shall not be treated as taxes to which section 901 of such Code applies.

(c) REGULATIONS ON APPLICATION OF MIRROR SYSTEM.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying the Internal Revenue Code of 1985 for purposes of determining tax liability incurred to the Virgin Islands.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands individual income taxes."

SEC. 625. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS CORPORATIONS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection 934 is amended by striking out subsections (b), (c), (d), (e), and (f), and by redesignating subsection (g) as subsection (c).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO VIRGIN ISLANDS SOURCE INCOME, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) ,hall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or is effectively connected with the conduct of a trade or business within the Virgin Islands shall be made under regulations prescribed by the Secretary."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed.

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(7) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b),".

(8) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(9) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 626. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) MILITARY PERSONNEL AND CERTAIN EMPLOYEES OF THE UNITED STATES.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes paid under chapter I which are attributable to amounts paid for services performed as an employee of the United States (or any agency thereof) with respect to an individual to which section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

PART IV—EFFECTIVE DATE

SEC. 627. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1985.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 621 is in effect between the United States and such possession.

(c) SPECIAL RULE FOR THE VIRGIN ISLANDS.—The amendments made by section 625(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

Subtitle D—Excise Tax on Certain Broadcasts for Olympic Events

SEC. 631. IMPOSITION OF EXCISE TAX ON AMOUNTS PAID FOR UNITED STATES TELEVISION AND RADIO BROADCAST RIGHTS FOR OLYMPIC EVENTS; TRANSFER OF FUNDS TO TRUST FUND.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting before subchapter D the following new subchapter:

"Subchapter C—Tax on Amounts Paid for United States Television and Radio Broadcast Rights for Olympic Events

"Sec. 4471. Imposition of tax.

"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the amount paid to any person or government for the United States broadcast rights for Olympic events.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be 10 percent of the amount so paid.

"(c) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The person or government receiving the payment to which the

tax under this subchapter applies shall be liable for such tax.

"(2) WITHHOLDING.—The payor of any amount which is subject to tax under subsection (a) shall withhold such tax from such amount. Such payor shall be liable for the payment of the tax required to be withheld under the preceding sentence and shall not be liable to any person for the amount of any such payment.

"(3) RECIPIENT TREATED AS HAVING PAID WITHHELD AMOUNT.—The person or government receiving any payment to which the tax under this subchapter applies shall be treated as having paid any amount withheld under this subsection with respect to such payment.

"SEC. 4472. DEFINITIONS AND SPECIAL RULES.

"(a) UNITED STATES BROADCAST RIGHTS.—For purposes of this subchapter, the term 'United States broadcast rights' means any right (whether or not exclusive) to the original broadcast on television or radio in the United States of any Olympic event.

"(b) OLYMPIC EVENT.—For purposes of this subchapter, the term 'Olympic event' means any event of the summer or winter Olympic games.

"(c) EXCISE TAX TO APPLY NOTWITHSTANDING TREATIES.—The tax imposed by this subchapter shall apply notwithstanding any treaty obligation of the United States, whether entered into before, on, or after the date of the enactment of this section."

(2) EXCISE TAX TO BE DEDUCTIBLE AGAINST INCOME TAX.—Subsection (a) of section 164 (relating to deduction for taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The tax imposed by section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events)."

(3) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 is amended by inserting before the item relating to subchapter D the following new item:

"Subchapter C. Tax on amounts paid for United States television and radio broadcast rights for Olympic events."

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid after November 22, 1985.

(B) SPECIAL RULE FOR BINDING CONTRACTS.—The amendments made by this subsection shall not apply to amounts paid after November 22, 1985, pursuant to a binding contract in effect on November 22, 1985 (whether or not in writing), and at all times thereafter.

(b) ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9505. UNITED STATES OLYMPIC TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts received in the Treasury under section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events).

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses incurred by the Department of the Treasury in administering subchapter C of chapter 36 and in carrying out its responsibilities with respect to the United States Olympic Trust Fund."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9505. United States Olympic Trust Fund."

Subtitle E—Excise Tax on Insurance Premiums Paid to Foreign Insurers

SEC. 641. PROVISIONS RELATING TO AMOUNT AND WITHHOLDING OF EXCISE TAXES ON POLICIES ISSUED BY FOREIGN INSURERS.

(a) UNIFORM RATE OF TAX ON INSURANCE AND REINSURANCE POLICIES.—Section 4371 (relating to excise tax on policies issued by foreign insurers) is amended to read as follows:

"SEC. 4371. IMPOSITION OF TAX.

"(a) IN GENERAL.—If any foreign insurer or reinsurer issues a policy of insurance, indemnity bond, annuity contract, or policy of reinsurance, there is hereby imposed on such policy, bond, contract, or policy of reinsurance a tax equal to—

"(1) in the case of—

"(A) a policy of casualty insurance or an indemnity bond which is issued to or for, or in the name of, an insured (within the meaning of section 4372(d)), or

"(B) a policy of reinsurance covering any such contract or bond,

4 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy, or bond, or on such policy of reinsurance; and

"(2) in the case of—

"(A) a policy of life, sickness, or accident insurance or an annuity contract, or

"(B) a policy of reinsurance covering any such policy or contract,

1 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy or contract, or on such policy of reinsurance.

No tax shall be imposed under paragraph (2) on any policy or contract with respect to which the insurer is subject to tax under section 819.

"(b) AMOUNT OF PREMIUM RETAINED.—For purposes of subsection (a), the term 'amount of the premium retained' means, with respect to any policy, bond, or contract described in subsection (a), the excess of—

"(1) the gross premium (and other consideration) received by a foreign insurer, over

"(2) the premium (and other consideration) paid by such insurer with respect to reinsurance ceded with respect to such policy, bond, or contract."

(b) LIABILITY FOR TAX.—Section 4374 (relating to liability for tax) is amended—

(1) by striking out "or for whose use or benefit the same are made, signed, issued, or sold", and

(2) by striking out the last sentence.

(c) WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.—

(1) IN GENERAL.—Chapter 34 (relating to policies issued by foreign insurers) is amended by adding at the end thereof the following new section:

"SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.

"(a) IN GENERAL.—In any case in which—

"(1) a foreign insurer issues a contract to which this section applies, or

"(2) a foreign reinsurer issues a policy of reinsurance covering any contract to which this section applies,

the insured or any withholding agent shall deduct and withhold from the gross premium (and other consideration) paid an amount equal to the amount determined under subsection (b).

"(b) AMOUNT TO BE WITHHELD.—The amount to be deducted and withheld under subsection (a) shall be equal to—

"(1) in the case of any contract described in subsection (d)(1)(A) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 4 percent of the gross premium (and other consideration) paid,

"(2) in the case of any contract described in subsection (d)(1)(B) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 1 percent of the gross premium (and other consideration) paid.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to any contract or policy of reinsurance—

"(1) the premium on which is exempt from tax under section 4373, or

"(2) with respect to which the Secretary by regulations provides for an exemption from the requirement to deduct and withhold under subsection (a).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRACT TO WHICH THIS SECTION APPLIES.—This section shall apply to any contract which—

"(A) is a policy of casualty insurance or an indemnity bond with respect to an insured, or

"(B) any policy of life, sickness, or accident insurance or an annuity contract (within the meaning of section 4372(e)) with respect to which the issuer is not subject to tax under section 819.

"(2) INSURED.—The term 'insured' has the meaning given such term by section 4372(d).

"(3) WITHHOLDING AGENT.—Except as provided in regulations prescribed by the Secretary, the term 'withholding agent' means, with respect to any premium paid to a foreign insurer or reinsurer (or to any nonresident agent, solicitor, or broker), the person who controls, receives, has custody of, disposes of, or pays such premium.

"(4) PROCEDURAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of subchapter C of chapter 3 shall apply to any amount required to be deducted and withheld under this subsection."

(2) CONTROLLING AMENDMENT.—The table of sections for chapter 34 is amended by adding at the end thereof the following new item:

"Sec. 4375. Withholding on excise tax on foreign insurers."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after December 31, 1985.

Subtitle F—Treatment of Certain Employees of Panama Canal Commission

SEC. 651. TREATMENT OF CERTAIN EMPLOYEES OF THE PANAMA CANAL COMMISSION.

(a) GENERAL RULE.—Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting any citizen or resident of the United States from tax under chapter 1 of the Internal Revenue Codes of 1954 and 1985 on amounts received from the Panama Canal Commission. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

(b) TREATMENT OF EMPLOYEES OF PANAMA CANAL COMMISSION FOR PURPOSES OF SECTION 912.—Employees of the Panama Canal Commission stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1985 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1985.

TITLE VII—TAX-EXEMPT BONDS

SEC. 701. APPLICATION OF ARBITRAGE RULES WHERE ANNUITY CONTRACTS ACQUIRED.

(a) IN GENERAL.—Paragraph (2) of section 103(c) (defining arbitrage bonds) is amended to read as follows:

"(2) ARBITRAGE BOND.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'arbitrage bond' means any obligation which is used as part of an issue any portion of the proceeds of which are reasonably expected to be used directly or indirectly—

"(i) to acquire higher yielding investments, or

"(ii) to replace funds which were used directly or indirectly to acquire higher yielding investments.

"(B) HIGHER YIELDING INVESTMENTS.—

"(i) IN GENERAL.—For purposes of this section, the term 'higher yielding investments' means any investment property which can reasonably be expected, at the time of issuance of the bond, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on the bond of such issue.

"(ii) INVESTMENT PROPERTY.—For purposes of this section, the term 'investment property' means—

"(I) any security (within the meaning of section 165(g)(2) (A) or (B)),

"(II) any obligation,

"(III) any annuity contract, or

"(IV) any investment-type property.

Such term shall not include any tax-exempt bond."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued after September 25, 1985.

SEC. 702. TREATMENT OF TAX INCREMENT BONDS ISSUED BEFORE JANUARY 1, 1986.

The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any tax increment financing obligation issued before January 1, 1986, if—

(1) substantially all of the proceeds of the issue are to be used to finance—

(A) sewer, street, lighting, or other governmental improvements to real property,

(B) the acquisition of any interest in real property pursuant to the exercise of eminent domain, the preparation of such property for new use, or the transfer of such interest to a private developer, or

(C) payments of reasonable relocation costs of prior users of such real property,

(2) all of the activities described in subparagraph (A) are pursuant to a redevelopment plan adopted by the issuing authority before the issuance of such issue,

(3) repayment of such issue is secured exclusively by pledges of that portion of any increase in real property tax revenues (or their equivalent) attributable to the redevelopment resulting from the issue, and

(4) none of the property described in subparagraph (A) is subject to a real property or other tax based on a rate or valuation method which differs from the rate and valuation method applicable to any other similar property located within the jurisdiction of the issuing authority.

TITLE VIII—FINANCIAL INSTITUTIONS

SEC. 801. LIMITATIONS ON BAD DEBT RESERVES.

(a) LARGE BANKS NOT ELIGIBLE FOR BAD DEBT RESERVES.—

(1) IN GENERAL.—Subsection (a) of section 585 (relating to reserves for losses on loans of banks) is amended to read as follows:

"(a) RESERVE FOR BAD DEBTS.—

"(1) IN GENERAL.—Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) BANK.—For purposes of this section—

"(A) IN GENERAL.—The term 'bank' means any bank (as defined in section 581) other than an organization to which section 593 applies.

"(B) BANKING BUSINESS OF UNITED STATES BRANCH OF FOREIGN CORPORATION.—The term 'bank' also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States."

(2) RESERVE DEDUCTION NOT AVAILABLE FOR LARGE BANKS.—Section 585 is amended by adding at the end thereof the following new subsection:

"(c) SECTION NOT TO APPLY TO LARGE BANKS.—

"(1) IN GENERAL.—In the case of a large bank, this section shall not apply (and no deduction shall be allowed under any other provision of this subtitle for any addition to a reserve for bad debts).

"(2) LARGE BANKS.—For purposes of this subsection, a bank is a large bank if, for the taxable year (or for any preceding taxable year beginning after December 31, 1985)—

"(A) the average adjusted bases of all assets of such bank exceeded $500,000,000, or

"(B) such bank was a member of a parent-subsidiary controlled group and the average adjusted bases of all assets of such group exceeded $500,000,000.

"(3) 5-YEAR SPREAD OF ADJUSTMENTS.—Except as provided in paragraph (4), in the case of any bank which for its last taxable year before the disqualification year maintained a reserve for bad debts—

"(A) the provisions of this subsection shall be treated as a change in the method of accounting of such bank for the disqualification year,

"(B) such change shall be treated as having been made with the consent of the Secretary, and

"(C) the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer shall be taken into account in each of the 5 taxable years beginning with the disqualification year with—

"(i) the amount taken into account for the 1st of such taxable years being the greater of ⅕ of such net amount or such greater amount as the taxpayer may designate, and

"(ii) the amount taken into account in each of the 4 succeeding taxable years being equal to ¼ of the portion of such net amount not taken into account under clause (i).

"(4) ELECTIVE CUT-OFF METHOD.—If a bank makes an election under this paragraph for the disqualification year—

"(A) the provisions of this subsection shall not be treated as a change in the method of accounting of the taxpayer for purposes of section 481,

"(B) the taxpayer shall continue to maintain its reserve for loans held by the bank as of the 1st day of the disqualification year, and

"(C) no deduction shall be allowed under this section (or any other provision of this subtitle) for any addition to such reserve for the disqualification year or any subsequent taxable year.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) PARENT-SUBSIDIARY CONTROLLED GROUP.—The term 'parent-subsidiary controlled group' means any controlled group of corporations described in section 1563(a)(1). In determining the average adjusted bases of assets held by such a group, interests held by one member of such group in another member of such group shall be disregarded.

"(B) DISQUALIFICATION YEAR.—The term 'disqualification year' means, with respect to any bank, the 1st taxable year beginning after December 31, 1985, for which such bank was a large bank if such bank maintained a reserve for bad debts for the preceding taxable year."

(b) RESERVES OF DOMESTIC BUILDING AND LOAN ASSOCIATIONS, MUTUAL SAVINGS BANKS, AND COOPERATIVE BANKS.—

(1) IN GENERAL.—Subsection (a) of section 593 (relating to reserves for losses on loans) is amended to read as follows:

"(a) RESERVE FOR BAD DEBTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of—

"(A) any domestic building and loan association,

"(B) any mutual savings bank, or

"(C) any cooperative bank without capital stock organized and operated for mutual purposes and without profit,

there shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) ORGANIZATION MUST MEET 60-PERCENT ASSET TEST OF SECTION 7701(a)(19).—This section shall apply to an association or bank referred to in paragraph (1) only if it meets the requirements of section 7701(a)(19)(C)."

(2) LIMITATION ON PERCENTAGE OF TAXABLE INCOME METHOD.—Paragraph (2) of section 593(b) (relating to percentage of taxable income method) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the amount determined under this paragraph for the taxable year shall be an amount equal to 5 percent of the taxable income for such year.

"(B) REDUCTION FOR AMOUNTS REFERRED TO IN PARAGRAPH (1)(A).—The amount determined under subparagraph (A) shall be reduced (but not below 0) by the amount determined under paragraph (1)(A).", and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(3) REPEAL OF PERCENTAGE METHOD OF COMPUTING RESERVES FOR BAD DEBTS.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended by striking out paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(4) SECTION 593 RESERVES NOT TREATED AS PREFERENCE FOR PURPOSES OF SECTION 291.—Subparagraph (A) of section 291(e)(1) (defining financial institution preference item) is amended by striking out "or 593".

(c) REPEAL OF SECTION 586.—Section 586 (relating to reserves for losses on loans of small business investment companies, etc.) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) AMENDMENT TO SECTION 585.—Paragraph (1) of section 585(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(2) AMENDMENTS TO SECTION 593.—

(A) Paragraph (1) of section 593(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(B) Subparagraph (B) of section 593(b)(1) is amended—

(i) by striking out "paragraph (2), (3), or (4)" and inserting in lieu thereof "paragraph (2) or (3)", and

(ii) by striking out "paragraph (4)" in clause (i) and inserting in lieu thereof "paragraph (3)".

(C) Subparagraph (B) of section 593(e)(1) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)".

(3) BONDS, ETC., LOSSES AND GAINS OF FINANCIAL INSTITUTIONS.—

(A) Paragraph (1) of section 582(c) (relating to bonds, etc., losses and gains of financial institutions) is amended by striking out "a financial institution to which section 585, 586, or 593 applies" and inserting in lieu thereof "a financial institution referred to in paragraph (5)".

(B) Subsection (c) of section 582 is amended by adding at the end thereof the following new paragraph:

"(5) FINANCIAL INSTITUTIONS TO WHICH PARAGRAPH (1) APPLIES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

"(i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),

"(ii) any financial institution referred to in section 591,

"(iii) any small business investment company operating under the Small Business Investment Act of 1958, and

"(iv) any business development corporation.

"(B) BUSINESS DEVELOPMENT CORPORATION.—For purposes of subparagraph (A), the term 'business development corporation' means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

"(C) LIMITATIONS ON FOREIGN BANKS.—In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 802. INTEREST INCURRED TO CARRY TAX-EXEMPT BONDS.

(a) GENERAL RULE.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new subsection:

"(b) PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.—

"(1) IN GENERAL.—In the case of a financial institution, no deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to tax-exempt interest.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to tax-exempt interest is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average adjusted bases (within the meaning of section 1016) of tax-exempt obligations acquired after December 31, 1985, bears to

"(B) such average adjusted bases for all assets of the taxpayer.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) INTEREST EXPENSE.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year (determined without regard to this subsection and section 291). For purposes of the preceding sentence, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.

"(B) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation the interest on which is wholly exempt from taxes imposed by this subtitle. Such term includes shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.

"(4) FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'financial institution' means any person who—

"(A) accepts deposits from the public in the ordinary course of such person's trade or business, and is subject to Federal or State supervision as a financial institution, or

"(B) is a corporation described in section 585(a)(2).

"(5) SPECIAL RULES.—

"(A) COORDINATION WITH SUBSECTION (a).—If interest on any indebtedness is disallowed under subsection (a) with respect to any tax-exempt obligation—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2), the adjusted basis of such tax-exempt obligation shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) COORDINATION WITH SECTION 263A.—This section shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property)."

(b) REPEAL OF SPECIAL TREATMENT FOR CERTAIN FINANCIAL INSTITUTIONS.—Paragraph (2) of section 265 (as in effect on the day before the date of the enactment of this Act) is amended by striking out the second sentence.

(c) TERMINATION OF REDUCTION IN DEDUCTION FOR INTEREST ALLOCABLE TO TAX-EXEMPT OBLIGATIONS UNDER SECTION 291.—

(1) IN GENERAL.—Clause (i) of section 291(e)(1)(B) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by striking out "after December 31, 1982" and inserting in lieu thereof "after December 31, 1982, and before January 1, 1986".

(2) TECHNICAL AMENDMENTS.—Subparagraph (B) of section 291(e)(1) is amended—

(A) by striking out "(but for this paragraph)" in clause (i) and inserting in lieu thereof "(but for this paragraph or section 265(b))",

(B) by striking out "without regard to this section" in clause (ii) and inserting in lieu thereof "without regard to this section and section 265(b)", and

(C) by striking out "AFTER DECEMBER 31, 1982" in the subparagraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1982, AND BEFORE JANUARY 1, 1986".

(d) CLERICAL AMENDMENT.—Section 265 is amended by striking out "No deduction shall be allowed for—" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—No deduction shall be allowed for—".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to obligations acquired after December 31, 1985, in taxable years ending after such date.

(2) OBLIGATIONS ACQUIRED PURSUANT TO CERTAIN COMMITMENTS.—For purposes of paragraph (1), any tax-exempt obligation which is acquired after December 31, 1985, pursuant to a direct or indirect written commitment—

(A) to purchase or repurchase such obligation, and

(B) entered into before September 25, 1985,

shall be treated as an obligation acquired before January 1, 1986.

SEC. 803. TERMINATION OF SPECIAL 10-YEAR CARRYBACK RULES FOR CERTAIN FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—

(1) Subparagraph (F) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "after December 31, 1975," and inserting in lieu thereof "after December 31, 1975, and before January 1, 1986,".

(2) Subparagraph (G) of section 172(b)(1) is amended by striking out "after December 31, 1969," and inserting in lieu thereof "after December 31, 1969, and before January 1, 1986,".

(3) Subparagraph (H) of section 172(b)(1) is amended—

(A) by striking out "after December 31, 1981," and inserting in lieu thereof "after December 31, 1981, and before January 1, 1986,", and

(B) by striking out "after December 31, 1984," and inserting in lieu thereof "after December 31, 1984, and before January 1, 1986,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1985.

SEC. 804. REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Subparagraph (D) of section 368(a)(3) (relating to agency receivership proceedings which involve financial institutions) is amended to read as follows:

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(b) REPEAL OF SPECIAL TREATMENT FOR FSLIC FINANCIAL ASSISTANCE.—

(1) Section 597 (relating to FSLIC financial assistance) is hereby repealed.

(2) The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 597.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to acquisitions after December 31, 1985, in taxable years ending after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to transfers after December 31, 1985, in taxable years ending after such date; except that such amendments shall not apply to transfers after such date pursuant to a written binding contract entered into on or before September 26, 1985.

(B) CLARIFICATION OF TREATMENT OF AMOUNTS EXCLUDED UNDER SECTION 597.—Section 265(a)(1) of the Internal Revenue Code of 1985 (as amended by this title) shall not deny any deduction by reason of such deduction being allocable to amounts excluded from gross income under section 597 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

SEC. 805. TREATMENT OF LOSSES ON DEPOSITS OR ACCOUNTS IN INSOLVENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 165 (relating to losses) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TREATMENT OF CERTAIN LOSSES IN INSOLVENT FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—If

"(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

"(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'qualified individual' means any individual, except an individual—

"(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

"(B) who is an officer of the qualified financial institution,

"(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

"(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B).

"(3) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'qualified financial institution' means—

"(A) any bank (as defined in section 581),

"(B) any institution described in section 591,

"(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

"(D) any similar institution chartered and supervised under Federal or State law.

"(4) DEPOSIT.—For purposes of this subsection, the term 'deposit' means any deposit, withdrawable account, or withdrawable or repurchasable share.

"(5) ELECTION.—Any election by the taxpayer under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.

"(6) COORDINATION WITH SECTION 166.—Section 166 shall not apply to any loss to which an election under this subsection applies.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

TITLE IX—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

SEC. 901. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

(a) GENERAL RULE.—Section 474 (relating to election by certain small businesses to use one inventory pool) is amended to read as follows:

"SEC. 474. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

"(a) GENERAL RULE.—An eligible small business may elect to use the simplified dollar-value method of pricing inventories for purposes of the LIFO method.

"(b) SIMPLIFIED DOLLAR-VALUE METHOD OF PRICING INVENTORIES.—For purposes of this section—

"(1) IN GENERAL.—The simplified dollar-value method of pricing inventories is a dollar-value method of pricing inventories under which—

"(A) the taxpayer maintains a separate inventory pool for items in each major category in the applicable Government price index, and

"(B) the adjustment for each such separate pool is based on the change from the preceding taxable year in the component of such index for the major category.

"(2) APPLICABLE GOVERNMENT PRICE INDEX.—The term 'applicable Government price index' means—

"(A) except as provided in subparagraph (B), the Producer Price Index published by the Bureau of Labor Statistics, or

"(B) in the case of a retailer using the retail method, the Consumer Price Index published by the Bureau of Labor Statistics.

"(3) MAJOR CATEGORY.—The term 'major category' means—

"(A) in the case of the Producer Price Index, any of the 2-digit standard industrial classifications in the Producer Prices Data Report, or

"(B) in the case of the Consumer Price Index, any of the general expenditure categories in the Consumer Price Index Detailed Report.

"(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer for the 3 preceding taxable years do not exceed $5,000,000. For purposes of the preceding sentence, rules similar to the rules of section 448(c)(3) shall apply.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a member of a controlled group, all persons which are component members of such group shall be treated as 1 taxpayer for purposes of determining the gross receipts of the taxpayer.

"(B) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (A), persons shall be treated as being component members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(2) ELECTION.—

"(A) IN GENERAL.—The election under this section may be made without the consent of the Secretary.

"(B) PERIOD TO WHICH ELECTION APPLIES.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business,

unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(3) LIFO METHOD.—The term 'LIFO method' means the method provided by section 472(b).

"(4) TRANSITIONAL RULES.—

"(A) IN GENERAL.—In the case of a year of change under this section—

"(i) the inventory pools shall—

"(I) in the case of the 1st taxable year to which such an election applies, be established in accordance with the major categories in the applicable Government price index, or

"(II) in the case of the 1st taxable year after such election ceases to apply, be established in the manner provided by regulations under section 472;

"(ii) the aggregate dollar amount of the taxpayer's inventory as of the beginning of the year of change shall be the same as the aggregate dollar value as of the close of the taxable year preceding the year of change, and

"(iii) the year of change shall be treated as a new base year in accordance with procedures provided by regulations under section 472.

"(B) YEAR OF CHANGE.—For purposes of this paragraph, the year of change under this section is—

"(i) the 1st taxable year to which an election under this section applies, or

"(ii) in the case of a cessation of such an election, the 1st taxable year after such election ceases to apply."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 474 and inserting in lieu thereof the following:

"Sec. 474. Simplified dollar-value LIFO

method for certain small businesses."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) TREATMENT OF TAXPAYERS WHO MADE ELECTIONS UNDER EXISTING SECTION 474.—The amendments made by this section shall not apply to any taxpayer who made an election under section 474 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any period during which such election is in effect. Notwithstanding any provision of such section 474 (as so in effect), an election under such section may be revoked without the consent of the Secretary.

SEC. 902. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 448. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of a—

"(1) C corporation, or

"(2) partnership which has a C corporation as a partner,

taxable income shall not be computed under the cash receipts and disbursements method of accounting.

"(b) EXCEPTIONS.—

"(1) FARMING BUSINESS.—Subsection (a) shall not apply to any farming business.

"(2) QUALIFIED PERSONAL SERVICE CORPORATIONS.—Subsection (a) shall not apply to a qualified personal service corporation, and such a corporation shall be treated as an individual for purposes of determining whether subsection (a) applies to any partnership.

"(3) ENTITIES WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Subsection (a) shall not apply to any corporation or partnership for any taxable year if, for all prior taxable years, such entity (or any predecessor) did not meet the $5,000,000 gross receipts test of subsection (c).

"(c) $5,000,000 GROSS RECEIPTS TEST.—For purposes of this section—

"(1) IN GENERAL.—A corporation or partnership meets the $5,000,000 gross receipts test of this subsection for any prior taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with such taxable year exceeds $5,000,000.

"(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of paragraph (1).

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) NOT IN EXISTENCE FOR ENTIRE 3-YEAR PERIOD.—If the entity was not in existence for the entire 3-year period referred to in paragraph (1), such paragraph shall be applied on the basis of the period during which such entity (or trade or business) was in existence.

"(B) SHORT TAXABLE YEARS.—Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period.

"(C) GROSS RECEIPTS.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) FARMING BUSINESS.—For purposes of this section, the term 'farming business' has the meaning given to such term by section 263A(d)(4).

"(2) QUALIFIED PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'qualified personal service corporation' means any corporation—

"(A) if substantially all of the activities of the corporation involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and

"(B) substantially all of the stock of such corporation is held by—

"(i) employees performing services for such corporation in a field referred to in subparagraph (A),

"(ii) retired employees who had performed such services for such corporation,

"(iii) the estate of any individual described in clause (i) or (ii), or

"(iv) any other person who acquired such stock by reason of the death of an individual described in clause (i) or (ii) (but only for the 2-year period beginning on the date of the death of such individual).

The preceding sentence shall be applied without regard to community property laws.

"(3) SPECIAL RULES FOR SERVICES.—

"(A) IN GENERAL.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person—

"(i) such person shall not be required to accrue such amounts earlier than when billed, and

"(ii) such person shall not be required to accrue any portion of such amounts which (on the basis of experience) will not be collected.

Clause (ii) shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

"(B) EXCEPTIONS FOR FINANCIAL INSTITUTIONS AND UTILITIES.—In the case of—

"(i) a financial institution described in section 581 or 593(a), clauses (i) and (ii) of subparagraph (A) shall not apply, and

"(ii) a utility, clause (i) of subparagraph (A) shall not apply.

"(4) TREATMENT OF CERTAIN TRUSTS SUBJECT TO TAX ON UNRELATED BUSINESS INCOME.—For purposes of this section, a trust subject to tax under section 511(b) shall be treated as a C corporation with respect to its activities constituting an unrelated trade or business.

"(5) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(A) such change shall be treated as initiated by the taxpayer,

"(B) such change shall be treated as made with the consent of the Secretary, and

"(C) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 5 years (10 years in the case of a hospital described in section 144(b)(3))."

(b) AMENDMENT TO ECONOMIC PERFORMANCE RULES.—Clause (i) of section 461(h)(2)(A) (relating to services provided to the taxpayer) is amended to read as follows:

"(i) the providing of services to the taxpayer by another person—

"(I) economic performance occurs as such person performs such services if such person is an employee of the taxpayer, and

"(II) in any other case, economic performance occurs as of the later of when such services are performed or the taxpayer is billed for such services,".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 448. Limitation on use of cash method of accounting."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) ELECTION TO RETAIN CASH METHOD FOR CERTAIN TRANSACTIONS.—A taxpayer may elect not to have the amendments made by this section apply to any loan or lease, or any transaction with a related party, entered into before September 25, 1985. Any election under the preceding sentence may be made separately with respect to each transaction.

SEC. 903. RECOGNITION OF GAIN ON PLEDGES OF INSTALLMENT OBLIGATIONS.

(a) GENERAL RULE.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which item of gross income included) is amended by inserting after section 453B the following new section:

"SEC. 453C. PLEDGES, ETC., OF INSTALLMENT OBLIGATIONS.

"(a) GENERAL RULE.—For purposes of sections 453 and 453A, if any indebtedness (hereinafter in this section referred to as 'secured indebtedness') is secured by an installment obligation, the ratable portion of the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation at the time the indebtedness becomes secured indebtedness.

"(b) EXCEPTION FOR CERTAIN SALES OF CAPITAL ASSETS.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to an installment obligation received for the sale or exchange of tangible property if such property was a capital asset at all times during the taxpayer's holding period for such property.

"(2) EXCEPTION FOR TAX SHELTERS.—Paragraph (1) shall not apply to any sale or exchange by a tax shelter (as defined in section 461(i)(3)).

"(c) LIMITATION BASED ON TOTAL CONTRACT PRICE.—The amount treated as received under subsection (a) by reason of any secured indebtedness shall not exceed the excess (if any) of—

"(1) the total contract price, over

"(2) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts so treated under subsection (a) but not including amounts not taken into account by reason of subsection (d)).

"(d) LATER PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If any amount is treated as received under subsection (a) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of sections 453 and 453A to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under subsection (a).

"(e) RATABLE PORTION OF NET PROCEEDS; EXCEPTION FOR SHORT-TERM INDEBTEDNESS.—For purposes of this section—

"(1) RATABLE PORTION OF NET PROCEEDS.—

"(A) IN GENERAL.—The term 'ratable portion of net proceeds' means the net proceeds

of any secured indebtedness multiplied by a fraction—

"(i) the numerator of which is the portion of the total contract price which is required to be paid under the installment obligation after the 9-month period beginning on the date the obligation arose, and

"(ii) the denominator of which is the total contract price.

"(B) TREATMENT OF REVOLVING CREDIT PLANS.—In the case of an installment obligation arising under a revolving credit plan, the amount reasonably expected to be paid on such obligation after the 9-month period beginning on the date it arose (determined under regulations on a statistical basis by treating payments as being made on obligations in the order in which incurred) shall be treated as if it were a required payment for purposes of subparagraph (A).

"(2) SHORT-TERM INDEBTEDNESS.—Subsection (a) shall not apply to any secured indebtedness if such indebtedness is for a term of 90 days or less and such indebtedness is not extended or refinanced (or otherwise replaced) during the 45-day period beginning on the day such indebtedness is repaid.

"(f) SECURED INDEBTEDNESS.—For purposes of this section—

"(1) IN GENERAL.—Indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is secured (under the terms of the indebtedness or any underlying arrangement) by any interest (other than a qualified general security interest) in such installment obligation.

"(2) INDIRECTLY SECURED INDEBTEDNESS.—For purposes of paragraph (1), indebtedness shall be treated as secured by an installment obligation if it is reasonable to expect that the lender took into account payments on the installment obligation as a source for any portion of the payments required on the indebtedness.

"(3) QUALIFIED GENERAL SECURITY INTEREST.—

"(A) IN GENERAL.—The term 'qualified general security interest' means a security interest held by an unrelated financial institution in all of the assets of the taxpayer but only if more than 50 percent (in value) of the taxpayer's assets are assets used in the active conduct of a trade or business. For purposes of the preceding sentence, the value of any asset shall be reduced by the amount of any indebtedness to which the property is subject or which is secured by an interest in such property.

"(B) LIMITATION ON AMOUNT.—The amount of any qualified general security interest shall not exceed the fair market value of the assets in which the security interest is held and which are used in the active conduct of a trade or business of the taxpayer."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter I is amended by inserting after the item relating to section 453B the following new item:

"453C. Pledges, etc., of installment obligations."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any indebtedness—

(A) becoming secured indebtedness after December 31, 1985, or

(B) with respect to which security is renewed after such date,

without regard to when the installment obligation arose.

(2) CERTAIN INDEBTEDNESS SECURED BEFORE JANUARY 1, 1986.—The amendments made by this section shall apply also to any indebtedness which on January 1, 1986, is secured indebtedness by reason of an installment obligation arising after September 25, 1985. Any such indebtedness shall be treated as becoming secured indebtedness on January 1, 1986.

(3) SPECIAL RULE FOR CERTAIN SECURED INDEBTEDNESS

(A) IN GENERAL.—In the case of any qualified indebtedness which—

(i) becomes secured indebtedness in 1986, such indebtedness shall, for purposes of applying the amendments made by this section, be taken into account ratably over the 3 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness, and

(ii) becomes secured indebtedness in 1987, such indebtedness shall, for purposes of applying such amendments, be taken into account ratably over the 2 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness.

(B) QUALIFIED INDEBTEDNESS.—For purposes of this paragraph, the term "qualified indebtedness" means indebtedness arising out of the sale of property by the taxpayer which is inventory or primarily held for sale to customers in the ordinary course of the trade or business of the taxpayer.

(4) SPECIAL RULE FOR CERTAIN APARTMENT COMPLEX.—The amendments made by this section shall not apply to secured indebtedness arising in connection with the selling of a 369-unit apartment complex if—

(I) such secured indebtedness relates to a binding contract entered into on June 8, 1985, for the selling of such complex, and

(II) such secured indebtedness was entered into before January 1, 1985, and

(III) the amount of such secured indebtedness is approximately ⅓ of $9,000,000 of installment notes with respect to such complex.

(5) SECURED INDEBTEDNESS.—For purposes of this subsection, the term "secured indebtedness" means any indebtedness which is secured by an installment obligation (within the meaning of section 453C(f) of the Internal Revenue Code of 1954 as added by subsection (a)).

SEC. 904. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 459. SPECIAL RULES FOR LONG-TERM CONTRACTS.

"(a) GENERAL RULE.—In the case of a long-term contract—

"(1) the amount includible in gross income for any taxable year with respect to the contract shall be determined under the percentage of completion method, with the percentage of completion being determined by comparing costs incurred during the taxable year with respect to the contract with the estimated total contract costs, and

"(2) on completion of the contract, the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of subsection (b).

"(b) LOOK-BACK METHOD.—The interest computed under the look-back method of this subsection shall be determined by—

"(1) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

"(2) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in paragraph (1) which would result solely from the application of paragraph (1), and

"(3) then using the overpayment rate established by section 6621, compounded daily, on the overpayment or underpayment determined under paragraph (1).

"(c) LONG-TERM CONTRACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'long-term contract' means any contract for the production, manufacture, building, installation, or construction of tangible property if such contract is not completed before the date 1 year after the contract commencement date.

"(2) AGGREGATION, ETC.—For purposes of paragraph (1)—

"(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) shall be treated as 1 contract, and

"(B) a contract which is properly treated as an aggregation of separate contracts shall be so treated.

"(d) EXCEPTION FOR CERTAIN CONSTRUCTION CONTRACTS.—

"(1) IN GENERAL.—This section shall not apply to any construction contract entered into by a taxpayer—

"(A) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(B) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

"(2) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of paragraph (1), the gross receipts of—

"(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

"(B) all members of any controlled group of corporations of which the taxpayer is a member, for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

"(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) CONSTRUCTION CONTRACT.—For purposes of this subsection, the term 'construction contract' means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

"(e) CONTRACT COMMENCEMENT DATE.—For purposes of this section, the term 'contract

commencement date' means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred."

(b) CHANGE IN REGULATIONS.—The Secretary of the Treasury or his delegate shall modify the income tax regulations relating to accounting for long-term contracts to carry out the provisions of this section.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 459. Special rules for long-term contracts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any contract entered into after September 24, 1985.

SEC. 905. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

"(a) GENERAL RULE.—In the case of any taxpayer who produces real or tangible personal property, the following costs shall be capitalized:

"(1) the direct costs of such production, and

"(2) such production's proper share of those indirect costs (including taxes) part or all of which are assignable to such production.

"(b) GENERAL EXCEPTIONS.—

"(1) PERSONAL USE PROPERTY.—Subsection (a) shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

"(2) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subsection (a) shall not apply to any amount allowable as a deduction under section 174.

"(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—Subsection (a) shall not apply to any cost allowable as a deduction under section 263(c) or 616(a).

"(4) COORDINATION WITH LONG-TERM CONTRACT RULES.—Subsection (a) shall not apply to any property produced by the taxpayer pursuant to a contract if a long-term contract method of accounting is required to be used with respect to such contract.

"(c) EXCEPTION FOR FARMING BUSINESSES.—

"(1) SUBSECTION (a) TO APPLY ONLY IF PREPRODUCTIVE PERIOD IS MORE THAN 2 YEARS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any plant or animal which is produced by the taxpayer in a farming business and which has a preproductive period of 2 years or less.

"(B) EXCEPTION FOR TAXPAYERS REQUIRED TO USE ACCRUAL METHOD.—Subparagraph (A) shall not apply to any corporation or partnership required to use an accrual method of accounting under section 447.

"(2) TREATMENT OF CERTAIN PLANTS LOST BY REASON OF CASUALTY.—If plants bearing a crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, subsection (a) shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

"(3) ELECTION TO HAVE SUBSECTION (a) NOT APPLY.—

"(A) IN GENERAL.—If a taxpayer makes an election under this paragraph, subsection (a) shall not apply to any tangible personal property produced in any farming business carried on by such taxpayer.

"(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph—

"(i) by a corporation or partnership, if such corporation or partnership is required to use an accrual method of accounting under section 447,

"(ii) by any farming syndicate (as defined in section 464(c)) or tax shelter within the meaning of section 6161(b)(2)(C)(ii), or

"(iii) with respect to the planting, cultivation, maintenance, or development of pistachio trees.

"(C) SPECIAL RULE FOR CITRUS AND ALMOND GROWERS.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

"(D) ELECTION.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1985, and during which the taxpayer engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF SUBSECTION (c).—

"(1) RECAPTURE OF EXPENSED AMOUNTS ON DISPOSITION.—

"(A) IN GENERAL.—In the case of any plant or animal with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (c)(3)—

"(i) such plant or animal (if not otherwise section 1245 property) shall be treated as section 1245 property, and

"(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

"(B) RECAPTURE AMOUNT.—For purposes of subparagraph (A), the term 'recapture amount' means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (c)(3), would have been capitalized with respect to the plant or animal.

"(2) EFFECTS OF ELECTION ON DEPRECIATION.—

"(A) IN GENERAL.—If the taxpayer (or any related person) makes an election under this paragraph, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

"(B) RELATED PERSON.—For purposes of subparagraph (A), the term 'related person' means—

"(i) the taxpayer and members of the taxpayer's family,

"(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

"(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

"(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

"(C) MEMBERS OF FAMILY.—For purposes of this paragraph, the term 'family' means the parents and any of their children who have not attained age 18 before the close of the taxable year.

"(3) PREPRODUCTIVE PERIOD.—

"(A) IN GENERAL.—For purposes of this section, the term 'preproductive period' means—

"(i) in the case of a plant or animal which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant or animal, or

"(ii) in the case of any other plant or animal, the period before such plant or animal is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

"(B) RULE FOR DETERMINING PERIOD.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

"(4) FARMING BUSINESS.—For purposes of this section, the term 'farming business' means the trade or business of farming. Such term shall include the trade or business of operating a nursery or sod farm or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

"(5) CERTAIN INVENTORY VALUATION METHODS PERMITTED.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant or animal.

"(e) SPECIAL RULES FOR INTEREST.—

"(1) INTEREST CAPITALIZED ONLY IN CERTAIN CASES.—Subsection (a) shall apply to interest costs only in the case of property which has—

"(A) a long useful life,

"(B) a production period exceeding 2 years, or

"(C) a production period exceeding 1 year and a cost exceeding $1,000,000.

"(2) ALLOCATION RULES.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property, under regulations prescribed by the Secretary—

"(A) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

"(B) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in subparagraph (A)) had not been incurred.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) LONG USEFUL LIFE.—Property has a long useful life if such property is real property or classified in class 7, 8, 9, or 10 under section 168.

"(B) PRODUCTION PERIOD.—The term 'production period' means, when used with respect to any property, the period—

"(i) beginning on the date on which production of the property begins, and

"(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

In the case of a plant or animal, such term means the preproductive period as defined in subsection (c)(3).

"(C) PRODUCTION EXPENDITURES.—The term 'production expenditures' means the costs required to be capitalized under subsection (a) with respect to the property.

"(f) PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'produce' includes construct, manufacture, develop, improve, raise, or grow.

"(2) TREATMENT OF PROPERTY PRODUCED UNDER CONTRACT FOR THE TAXPAYER.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

"(g) CROSS REFERENCE.—

"For provision permitting amortization of amounts required to be capitalized under this section in the case of small timber producers, see section 194."

(b) TECHNICAL AMENDMENTS.—

(1) Section 278 is hereby repealed.

(2) Section 189 is hereby repealed.

(3) Subsection (b) of section 447 is amended to read as follows:

"(b) PREPRODUCTIVE PERIOD EXPENSES.—

"For rules requiring capitalization of certain preproductive period expenses, see section 263A."

(4) Subsection (a) of section 447 is amended by striking out "and with the capitalization of preproductive period expenses described in subsection (b)".

(5) Section 471 (relating to general rule for inventories) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) GENERAL RULE.—Whenever", and

(B) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For rules relating to capitalization of direct and indirect costs where taxpayer produces property, see section 263A."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 278 and by inserting after the item relating to section 263 the following:

"Sec. 263A. Capitalization of certain expenses where taxpayer produces property."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

(2) SPECIAL RULE FOR TIMBER.—

(A) IN GENERAL.—In the case of any costs in connection with trees planted before January 1, 1986, which, but for the amendments made by this section would not have to be charged to capital account, only the applicable percentage of such costs incurred after December 31, 1985, and before January 1, 1991, shall be taken into account for purposes of applying such amendments.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term "applicable percentage" means the percentage determined in accordance with the following table:

For costs incurred in calendar year:	The percentage is:
1986	20
1987	40
1988	60
1989	80
1990 and thereafter	100.

(3) SPECIAL RULE FOR URBAN RENOVATION PROJECT.—The amendments made by this section shall not apply to an urban renovation project described in section 203(d)(1)(D)(vi) of this Act.

(4) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any inventory property (other than farm or timber inventory property), the amendments made by this section shall apply to taxable years beginning after December 31, 1985, and—

(A) the amendments made by this section shall be treated as a change initiated by the taxpayer in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account in not more than the 1st 5 taxable years beginning after December 31, 1985.

SEC. 906. REPEAL OF RESERVE FOR BAD DEBTS OF TAXPAYERS OTHER THAN FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Subsection (c) of section 166 (relating to reserve for bad debts) is hereby repealed.

(b) COMPUTATION OF WHOLLY WORTHLESS DEBTS.—Paragraph (1) of section 166(a) (relating to wholly worthless debts) is amended by inserting "in an amount not in excess of the part charged off within such taxable year" after "taxable year".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) 5-YEAR SPREAD OF ADJUSTMENTS.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer's last taxable year beginning before January 1, 1986—

(A) the amendment made by subsection (a) shall be treated as a change in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary,

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account ratably in each of the first 5 taxable years beginning after December 31, 1985.

SEC. 907. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and expected to be paid during the taxable year or within 12 months following the close of the taxable year" and inserting in lieu thereof "and paid during the taxable year or within 8½ months following the close of the taxable year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 908. INCLUSION IN GROSS INCOME OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) GENERAL RULE.—Section 118 (relating to contributions to the capital of a corporation) is amended by striking out subsections (b) and (c), by redesignating subsection (d) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION, ETC.—For purposes of subsection (a), the term 'contribution to the capital of the taxpayer' does not include any contribution in aid of construction or any other contribution as a customer or potential customer."

(b) TECHNICAL AMENDMENT.—Subsection (c) of section 362 (relating to special rules for certain contributions to capital) is amended by striking out paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1985, in taxable years ending after such date.

Subtitle B—Provisions Relating to Timber

SEC. 911. EXPENSING OF 50 PERCENT OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

(a) GENERAL RULE.—Section 194 (relating to amortization of reforestation expenditures) is amended to read as follows:

"SEC. 194. EXPENSING OF 50 PERCENT OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of any qualified timber producer to whom an election under this section applies, 50 percent of the qualified timber preproductive period expense paid or incurred during any taxable year shall be allowed as a deduction for such taxable year.

"(b) QUALIFIED TIMBER PREPRODUCTIVE EXPENSE.—The term 'qualified timber preproductive period expense' means any amount paid or incurred—

"(1) which is attributable to the planting, cultivating, and caring for trees for sale or use in the commercial production of timber products,

"(2) which is attributable to the period before the timber is cut or disposed of, and

"(3) which would have been allowable as a deduction for the taxable year in which so paid or incurred if section 263A had not been enacted.

Such term does not include any expenses with respect to any trees bearing fruit, nuts, or other crops or ornamental trees.

"(c) QUALIFIED TIMBER PRODUCER.—For purposes of this section, the term 'qualified small timber producer' means any taxpayer engaged in the trade or business of planting, cultivating, caring for, or cutting of trees for sale or use in the commercial production of timber products (hereinafter in this section referred to as the 'timber business').

"(d) EFFECTS OF ELECTION ON DEPRECIATION.—

"(1) IN GENERAL.—If the taxpayer (or any related person) makes an election under this section, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property used predominantly in the timber business and placed in service during any taxable year during which any such election is in effect.

"(2) RELATED PERSON.—The term 'related person' has the meaning given to such term by section 263A(d)(2).

"(e) ELECTION.—Any election under this section shall apply to amounts paid or incurred in—

"(1) the taxable year for which made, and

"(2) all subsequent taxable years during which a taxpayer is a qualified timber producer, unless revoked with the consent of the Secretary."

(b) SECTION 1245 RECAPTURE NOT TO APPLY.—Paragraph (2) and (3) of section 1245(a) are each amended by striking out "194" each place it appears and inserting in lieu thereof "194 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(c) TECHNICAL AMENDMENT.—Section 62 is amended by striking out paragraph (14).

(d) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter V of chapter 1 is amended by striking out the item relating to section 194 and inserting in lieu thereof the following:

"Sec. 194. Expensing of 50 percent of certain timber preproductive expenditures."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

SEC. 912. CAPITAL GAINS TREATMENT FOR TIMBER NOT AVAILABLE TO CORPORATIONS.

(a) GENERAL RULE.—Section 631 (relating to gain or loss in the case of timber, oil, or domestic iron ore) is amended by adding at the end thereof the following new subsection:

"(d) LIMITATION ON SUBSECTION (a) AND (b).—

"(1) PERSONS ELIGIBLE.—Subsections (a) and (b) shall apply only in the case of—

"(A) a natural person,

"(B) an estate, or

"(C) a trust all the beneficiaries of which are natural persons or estates.

"(2) TIMBER ON FEDERAL LANDS.—Subsections (a) and (b) shall not apply in the case of timber on any land owned by the United States or any agency or instrumentality thereof.

"(3) FRUIT, NUT, AND ORNAMENTAL TREES.—Subsections (a) and (b) shall not apply to any tree bearing fruit, nuts, or other crops or any ornamental tree."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 631 is amended by striking out the last sentence.

(c) EFFECTIVE DATES.—

(1) TIMBER ON FEDERAL LANDS.—Paragraphs (2) and (3) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall take effect on January 1, 1986.

(2) CORPORATIONS.—

(A) Paragraph (1) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall apply to amounts properly taken into account for periods after December 31, 1988.

(B) For rate of tax for gains of corporations for periods during 1986, 1987, and 1988, see the amendments made by section 301 of this Act.

Subtitle C—Special Provisions Relating to Agriculture

SEC. 921. REPEAL OF SPECIAL TREATMENT OF EXPENDITURES FOR FERTILIZER AND CLEARING LAND.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Section 180 (relating to expenditures by farmers for fertilizers, etc.).

(2) Section 182 (relating to expenditures by farmers for clearing land).

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended by striking out subparagraphs (D) and (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (D), (E), and (F), respectively.

(2) Subparagraph (A) of section 1252(a)(1) (relating to gain from disposition of farm land) is amended by striking out "(relating to expenditures by farmers for clearing land)" and inserting in lieu thereof "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the items relating to sections 180 and 182.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 922. LIMITATION ON EXPENSING OF SOIL AND WATER CONSERVATION EXPENDITURES.

(a) GENERAL RULE.—Subsection (c) of section 175 (relating to soil and water conservation expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL LIMITATIONS.—

"(A) EXPENDITURES MUST BE CONSISTENT WITH SOIL CONSERVATION PLAN.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

"(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture for the area in which the land is located, and

"(ii) any soil conservation plan of a comparable State agency.

"(B) CERTAIN ACTIVITIES NOT QUALIFIED.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 923. TREATMENT OF DISPOSITIONS OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

"(a) GAIN TREATED AS ORDINARY INCOME.—Any gain on the disposition of converted wetland or highly erodible cropland shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part.

"(b) LOSS TREATED AS LONG-TERM CAPITAL LOSS.—Any loss recognized on the disposition of converted wetland or highly erodible cropland shall be treated as a long-term capital loss.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONVERTED WETLAND.—The term 'converted wetland' means any converted wetland (as defined in section 1201(2) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) held—

"(A) by the person whose activities resulted in such land being converted wetland, or

"(B) by any other person who at any time used such land for farming purposes.

"(2) HIGHLY ERODIBLE CROPLAND.—The term 'highly erodible cropland' means any highly erodible cropland (as defined in section 1201(6) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) if at any time the taxpayer used such land for farming purposes (other than the grazing of animals).

"(3) TREATMENT OF SUCCESSORS.—If any land is converted wetland or highly erodible cropland in the hands of any person, such land shall be treated as converted wetland or highly erodible cropland in the hands of any other person whose adjusted basis in such land is determined (in whole or in part) by reference to the adjusted basis of such land in the hands of such person.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules applicable under section 1245 shall apply for purposes of subsection (a). For purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under subsection (a) shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Disposition of converted wetlands or highly erodible croplands."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

SEC. 924. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) CERTAIN INFORMATION NEED NOT BE PROVIDED.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) FAILURE TO PROVIDE SUFFICIENT NOTICE.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

"(4) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) TAX-EXEMPT STATUS NOT AFFECTED BY NETTING.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) NETTING OF LOSSES.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 925. TREATMENT OF CERTAIN PLANT VARIETY PROTECTION CERTIFICATES AS PATENTS.

(a) IN GENERAL.—Section 1235 (relating to sale or exchange of patents) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN PLANT CERTIFICATES TREATED AS PATENTS.—For purposes of this section, the term 'patent' includes a certificate of plant variety protection issued under section 81 of the Plant Variety Protection Act (7 U.S.C. 2481)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to transfers after December 31, 1985, in taxable years ending after such date.

TITLE X—INSURANCE PRODUCTS AND COMPANIES

PART I—POLICYHOLDER ISSUES

SEC. 1001. REPEAL OF EXCLUSION FOR INTEREST ON INSTALLMENT PAYMENTS OF LIFE INSURANCE PROCEEDS.

(a) IN GENERAL.—The second sentence of paragraph (1) of section 101(d) (relating to payment of life insurance proceeds at a date later than death) is amended to read as follows: "There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration."

(b) TECHNICAL AMENDMENT.—Subsection (d) of section 101 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received with respect to deaths occurring after December 31, 1985, in taxable years ending after such date.

SEC. 1002. DEDUCTION FOR NONBUSINESS CASUALTY LOSSES COVERED BY INSURANCE ALLOWABLE ONLY IF CLAIM FILED.

(a) IN GENERAL.—Paragraph (4) of section 165(h) (relating to treatment of casualty gains and losses) is amended by adding at the end thereof the following new subparagraph:

"(E) CLAIM REQUIRED TO BE FILED IN CERTAIN CASES.—Any loss of an individual described in subsection (c)(3) which is covered in whole or in part by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses sustained in taxable years beginning after December 31, 1985.

SEC. 1003. EXCLUSION FROM INCOME WITH RESPECT TO STRUCTURED SETTLEMENTS LIMITED TO CASES INVOLVING PHYSICAL INJURY.

(a) IN GENERAL.—Subsection (c) of section 130 (relating to certain personal insurance liability assignments) is amended by inserting "(in a case involving physical injury or physical sickness)" after "personal injury or sickness".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to assignments entered into after December 31, 1985, in taxable years ending after such date.

PART II—LIFE INSURANCE COMPANIES

SEC. 1011. REPEAL OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION.

(a) IN GENERAL.—Section 806 is amended by striking out subsection (a) and by redesignating subsections (b), (c), and (d), as subsections (a), (b), and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 453B(e)(2)(B) and 465(c)(7)(D)(v) are each amended by striking out "section 806(c)(3)" and inserting in lieu thereof "section 806(b)(3)".

(2) Section 804 is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) the small life insurance company deduction (if any) determined under section 806(a)."

(3) Paragraph (1) of section 806(b), as redesignated by subsection (a), is amended by striking out "without regard to—" and all that follows and inserting in lieu thereof "without regard to the small life insurance company deduction."

(4) Paragraph (1) of section 806(c), as redesignated by subsection (a), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)" and by striking out "any special life insurance company deduction and".

(5) Paragraph (4) of section 813(b) is amended by striking out "section 806(b)(3)(C)" and inserting in lieu thereof "section 806(a)(3)(C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1012. REPEAL OF TAX-EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE NOT EXEMPT FROM TAX.—

"(1) DENIAL OF TAX EXEMPTION WHERE PROVIDING COMMERCIAL-TYPE INSURANCE IS SUBSTANTIAL PART OF ACTIVITIES.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

"(2) OTHER ORGANIZATIONS TAXED AS INSURANCE COMPANIES ON INSURANCE BUSINESS.—In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

"(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

"(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L with respect to such activity.

"(3) COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the term 'commercial-type insurance' shall not include—

"(A) insurance provided at substantially below cost to a class of charitable recipients,

"(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations, and

"(C) property or casualty insurance provided (directly or through a wholly owned corporation) by a church or convention or association of churches for such church or convention or association of churches.

"(4) INSURANCE INCLUDES ANNUITIES.—For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

"(5) EXCEPTION FOR ACTIVITIES ATTRIBUTABLE TO HIGH-RISK INDIVIDUALS AND SMALL GROUPS.—

"(A) IN GENERAL.—The Secretary may prescribe regulations which provide, for Blue Cross and Blue Shield and their affiliates, special treatment for activities with respect to high-risk individuals and small groups.

"(B) EXCEPTION.—The regulations prescribed under subparagraph (A) shall not provide special treatment for any activity to the extent the activity is required by applicable law."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) STUDY OF FRATERNAL BENEFICIARY ASSOCIATIONS.—The Secretary of the Treasury or his delegate shall conduct a study of organizations described in section 501(c)(8) of the Internal Revenue Code of 1954 and which received gross annual insurance premiums in excess of $25,000,000 for the taxable years of such organizations which ended during 1984. Not later than January 1, 1988, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this paragraph.

(3) SPECIAL RULES.—

(A) The amendments made by this section shall not apply with respect to that portion of the business of Mutual of America which is attributable to pension business.

(B) In the case of the Teachers Insurance Annuity Association-College Retirement Equities Fund, the amendments made by this section shall not apply to taxable years beginning before January 1, 1988, with respect to that portion of its business which is attributable to pension business.

(C) For purposes of this paragraph, the term "pension business" means the administration of any plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a), any plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) of such Code, any individual retirement plan described in section 408 of such Code, and any eligible deferred compensation plan to which section 457(a) of such Code applies.

SEC. 1013. OPERATIONS LOSS DEDUCTION OF INSOLVENT COMPANIES MAY OFFSET DISTRIBUTIONS FROM POLICYHOLDERS SURPLUS ACCOUNT.

(a) IN GENERAL.—If—

(1) on November 15, 1985, a life insurance company was insolvent,

(2) pursuant to the order of any court of competent jurisdiction in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1954), such company is liquidated, and

(3) as a result of such liquidation, the tax imposed by section 801 of such Code for any taxable year (hereinafter in this subsection referred to as the 'liquidation year') would (but for this subsection) be increased under section 815(a) of such Code, then the amount described in section 815(a)(2) of such Code shall be reduced by the loss from operations (if any) for the liquidation year, and the unused operations loss carryovers (if any) to the liquidation year (determined after the application of section 810 of such Code for such year). No carryover of any loss from operations of such company arising during the liquidation year (or any prior taxable year) shall be allowable for any taxable year succeeding the liquidation year.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) INSOLVENT.—The term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) LOSS FROM OPERATIONS.—The term "loss from operations" has the meaning given such term by section 810(c) of such Code.

(c) EFFECTIVE DATE.—This section shall apply to liquidations on or after November 15, 1985, in taxable years ending after such date.

PART III—PROPERTY AND CASUALTY INSURANCE COMPANIES

SEC. 1021. INCLUSION IN INCOME OF 25 PERCENT OF UNEARNED PREMIUM RESERVE.

(a) IN GENERAL.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) To the result so obtained, add 75 percent of the unearned premiums on outstanding business at the end of the preceding taxable year and deduct 75 percent of the unearned premiums on outstanding business at the end of the taxable year.

"(C) To the result so obtained, in the case of a taxable year beginning after December 31, 1985, and before January 1, 1991, add an amount equal to 4 percent of unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1986."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1022. REPEAL OF PROTECTION AGAINST LOSS ACCOUNT.

(a) IN GENERAL.—Part II of subchapter L of chapter 1 (relating to mutual insurance companies, etc.) is amended by striking out section 824 and by redesignating sections 825 and 826 as sections 824 and 825, respectively.

(b) AMOUNTS IN ACCOUNT INCLUDIBLE NOT LESS RAPIDLY THAN RATABLY OVER 5-YEAR PERIOD.—

(1) IN GENERAL.—There shall be included in gross income for each of the first 5 taxable years beginning after December 31, 1985 (and subtracted from the protection against loss account) an amount equal to the greater of—

(A) the amount which would be required to be subtracted from such account if subsection (a) had never been enacted and there were no additions to the account after the close of the last taxable year of the taxpayer beginning before January 1, 1986, or

(B) an amount equal to the required percentage of the amount in such account as of the close of the preceding taxable year determined in accordance with the following table:

If the taxable year begins during:	The required percentage is
1986	20
1987	40
1988	60
1989	80
1990	100.

(2) TREATMENT OF AMOUNTS INCLUDED IN INCOME.—Any amount included in income under paragraph (1) shall be treated under part II of subchapter L of chapter 1 of the Internal Revenue Code of 1954 in the same manner as such amount would have been treated under such part if this section had never been enacted.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Paragraph (1) of section 821(b) (defining mutual insurance company taxable income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "exceeds".

(B) Subparagraph (C) of section 821(b)(2) is amended by striking out "section 825(a)" and inserting in lieu thereof "section 824(a)".

(2) Subparagraph (B) of section 823(a)(1) (defining statutory underwriting income) is amended by striking out "the deductions provided in subsection (c) and section 824(a)" and inserting in lieu thereof "the deduction provided in subsection (c)".

(3) Paragraph (2) of section 824(b) (defining unused loss), as redesignated by subsection (a), is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(4) Subsection (f) of section 824 (defining offset), as redesignated by subsection (a), is amended to read as follows:

"(f) OFFSET DEFINED.—For purposes of subsection (e), the term 'offset' means, with respect to any taxable year (hereinafter referred to as the 'offset year'), the mutual insurance company taxable income for the offset year. For purposes of the preceding sentence, the mutual insurance company taxable income for the offset year shall be determined without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter."

(5)(A) Section 825, as redesignated by subsection (a), is amended by striking out subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Subsection (f) of section 825 (as redesignated by this section) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(6) Section 844 (relating to special loss carryover rules) is amended—

(A) by striking out "section 825" in subsection (a) and inserting in lieu thereof "section 824", and

(B) by striking out "section 825(a)" in subsections (a) and (b) and inserting in lieu thereof "section 824(a)".

(7) The table of sections for part II of subchapter L of chapter 1 is amended by striking out the item relating to section 824 and by redesignating the items relating to sections 825 and 826 as items relating to sections 824 and 825, respectively.

(d) EFFECTIVE DATE.—The amendments made by this section and subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 1023. REVISION OF SPECIAL TREATMENT FOR SMALL COMPANIES.

(a) REVISION OF EXEMPTION FROM TAX.—

* * * * *

(b) REPEAL OF CAP ON TAX IN CERTAIN CASES.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b)."

(c) REVISION OF ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES.—

(1) IN GENERAL.—Part IV of subchapter L of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 847. ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES SUBJECT TO TAX UNDER PART II OR III.

"(a) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every insurance company to which this section applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

"(b) COMPANIES TO WHICH THIS SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to every insurance company or association other than life or marine (including interinsurers and reciprocal underwriters) if—

"(A) the net written premiums (or, if greater, direct written premiums) for the taxable year exceed $500,000 but do not exceed $2,000,000, and

"(B) such company or association elects the application of this section for such taxable year.

"(2) CONTROLLED GROUP RULES.—

"(A) IN GENERAL.—For purposes of paragraph (1), in determining whether any company or association is described in paragraph (1)(A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) of paragraph (1) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

"(c) TAX IN LIEU OF OTHERWISE APPLICABLE TAX.—The tax imposed by this section shall be in lieu of any tax otherwise applicable under section 821(a) or 831(a)."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 821 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(3) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 847. Alternative tax for certain small companies subject to tax under part II or III."

(d) REPEAL OF SPECIAL SMALL COMPANY DEDUCTION.—Subsection (c) of section 823 (relating to special deduction for small companies having gross amount of less than $1,100,000) is hereby repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1024. ADDITIONAL RULE RELATING TO APPLICATION OF TAX REFORM ACT OF 1984.

(a) APPLICATION OF SPECIAL DETERMINATION OF TENTATIVE LICTI TO APPLY TO CORPORATIONS IN VIRGINIA AND LOUISIANA.—Paragraph (1) of section 217(c) of the Tax Reform Act of 1984 (relating to determination of tentative LICTI where corporation made certain acquisitions in 1980, 1981, 1982, and 1983) is amended by striking out "or Texas" and inserting in lieu thereof "Texas, Virginia, or Louisiana".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in section 217 of the Tax Reform Act of 1984 on the date of the enactment thereof.

SEC. 1025. STUDY OF PROPERTY AND CASUALTY INSURANCE INDUSTRY.

(a) IN GENERAL.—The advisory commission established under subsection (b) shall conduct a study which comprehensively analyses all aspects of the taxation of property and casualty insurance companies.

(b) COMMISSION.—The President, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall appoint an advisory commission to conduct the study described in subsection (a).

(c) CONTENTS OF STUDY, ETC.—

(1) DESIGN.—The study under subsection (a) shall be designed in such a way that policymakers in the Federal Government have a thorough understanding of the nature of the property and casualty insurance business, including, with respect to such business, risks underwritten, statistical profiles, financial and operational patterns, cyclicality, and trends in claims and losses.

(2) STUDY TO BE CONDUCTED IN CONSULTATION WITH KNOWLEDGEABLE PERSONS.—In conducting the study, the commission shall consult with individuals knowledgeable of the property and casualty insurance business, including the National Association of Insurance Commissioners, the Academy of Actuaries, the AICPA, the Internal Revenue Service, the securities industry, State and local governments, the Insurance Services Office, insurance specialists from the tax bar, and tax economists.

(3) ADVANTAGES AND DISADVANTAGES OF INCOME TAX ALTERNATIVES.—The report of the study shall discuss the relative advantages and disadvantages, from both tax and business perspectives, of the current Federal income taxation of the property and casualty insurance industry and various Federal income tax alternatives thereto.

(d) DUE DATE.—The report of the study shall be submitted not later than March 31, 1988, to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Secretary of the Treasury.

(e) STAFF.—The staff for the commission established under subsection (b) shall be provided by the General Accounting Office.

(f) COMMISSION TO MEET AT LEAST 4 TIMES PER YEAR.—The commission shall meet at least 4 times during each year in which the study under this section is being conducted, and shall conduct hearings for developing a record of its findings.

TITLE XI—PENSIONS AND DEFERRED COMPENSATION

Subtitle A—Individual Retirement Accounts

SEC. 1101. $2,000 SPOUSAL IRA.

(a) IN GENERAL.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual with respect to whom a deduction is otherwise allowable under subsection (a)—

"(A) who files a joint return for the taxable year, and

"(B) whose spouse elects to have this subsection apply for such taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount allowable as a deduction under paragraph (1) shall not exceed the excess of—

"(i) the lesser of—

"(I) the amount determined in accordance with the table contained in subparagraph (B), or

"(II) an amount equal to the aggregate compensation includible in the gross income of such individual and his spouse for the taxable year, over

"(ii) the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b)).

"(3) PHASE-IN OF $2,000 DEDUCTION.—The amount determined under this paragraph shall be—

For taxable years beginning in:	The amount determined is:
1986	$2,600
1987	$2,950
1988	$3,300
1989	$3,650
1990 or thereafter	$4,000

"(4) MAXIMUM $2,000 SPOUSAL IRA.—In no event shall the amount allowable as a deduction under paragraph (1) exceed $2,000.

"(5) EFFECT OF PARAGRAPH (1) ELECTION.—

"(A) IN GENERAL.—The spouse who makes the election under paragraph (1)(B) for a taxable year shall be treated as having no compensation includible in gross income for such taxable year for purposes of subparagraph (B)(1).

"(B) NO ELECTION REQUIRED WHERE SPOUSE HAS NO COMPENSATION.—Paragraph (1)(B) shall not apply to any spouse who has no compensation (determined without regard to section 911) for the taxable year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1102. NONDEDUCTIBLE CONTRIBUTIONS PERMITTED TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—

(1) NONDEDUCTIBLE LIMIT TAKEN INTO ACCOUNT IN DETERMINING EXCESS CONTRIBUTIONS.—Subparagraph (B) of section 4973(b)(1) (defining excess contributions) is amended to read as follows:

"(B) the sum of the amount allowable as a deduction under section 219 for such contributions plus the nondeductible limit for the taxable year, and".

(2) DEFINITION OF NONDEDUCTIBLE LIMIT.—Section 4973 is amended by adding at the end thereof the following new subsection:

"(d) NONDEDUCTIBLE LIMIT.

"(1) IN GENERAL.—

"(A) PHASE-IN OF $2,000 LIMIT.—For purposes of subsection (b), the term 'nondeductible limit' means whichever of the following is the least:

"(i) the amount determined under subparagraph (B),

"(ii) the excess of—

"(I) the compensation (as defined in section 219(e)(1)) includible in the individual's gross income for the taxable year, over

"(II) the maximum amount allowable as a deduction under section 219 for such taxable year to the individual, or

"(iii) the amount of the designated nondeductible contributions for the taxable year.

"(B) DETERMINATION OF AMOUNT.—The amount determined under this subparagraph is the amount determined in accordance with the following table:

For taxable years beginning: after January 1	The amount is:
1990	$400
1991	$800
1992	$1,200
1993	$1,600
1994 or thereafter	$2,000.

"(2) DESIGNATED NONDEDUCTIBLE CONTRIBUTION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'designated nondeductible contribution' means any contribution to an individual retirement plan for the taxable year which is designated as a nondeductible contribution.

"(B) DESIGNATION.—Any designation under subparagraph (A) may be made (or revoked) at any time before the last day prescribed by law for filing the return of tax imposed by subtitle A for the taxable year (including extensions thereof).

"(3) SPECIAL RULES FOR SPOUSAL IRA.—In the case of an individual to whom a deduction is allowable under section 219(a) for any taxable year—

"(A) the nondeductible limit for such year shall be determined by reference to the compensation of such individual and his spouse,

"(B) the amount taken into account under paragraph (1)(B) shall be twice the amount determined under the table contained in paragraph (1)(B), and

"(C) the nondeductible limit shall be allocated between the spouses in such manner as they may designate.

In no event may the amount allocated to a spouse under subparagraph (C) exceed the amount determined under the table contained in paragraph (1)(B) without regard to subparagraph (B) of this paragraph."

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 4983(b)(2) is amended to read as follows:

"(C) the excess (if any) of—

"(i) the sum of the maximum amount allowable as a deduction under section 219 for the taxable year plus the nondeductible limit for the taxable year, over

"(ii) the amount contributed (determined without regard to section 219(f)(6)) to the accounts or for the annuities for the taxable year."

"(b) TREATMENT OF DISTRIBUTIONS.—Paragraphs (1) and (2) of section 408(d) (relating to tax treatment of distributions) are amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall—

"(A) first be treated as paid or distributed out of income and gains attributable to designated nondeductible contributions (to the extent thereof),

"(B) second be treated as paid or distributed out of designated nondeductible contribution (to the extent thereof), and

"(C) then be treated as paid or distributed out of other amounts.

"(2) TREATMENT OF DISTRIBUTIONS.—

"(A) ORDINARY INCOME AMOUNTS.—Any amount to which subparagrah (A) or (C) of paragraph (1) applies shall be included in gross income by the payee or distributee (as the case may be) for the taxable year in which the payment or distribution is received.

"(B) BASIC RECOVERY—Any amount to which subparagraph (B) of paragraph (1) applies shall be excluded from gross income.

"(C) DISTRIBUTIONS OF ANNUTIY CONTRACTS.—Paragraph (1) shall not apply to the distribution from an individual retirement account or an annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subsection (b); except that paragraph (1) shall apply to any distributions under such contract.

"(D) Loss.—If—

"(i) the aggregate amount of designated nondeductible contributions to any individual retirement account or annuity, exceeds

"(ii) the aggregate amount paid or distributed out of such account or under such annuity,

an amount equal to such excess shall be allowed as a deduction to the individual for the last taxable year in which such account or annuity is in existence."

(c) INFORMATION REQUIREMENTS.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Subsection (a) of section 408 (defining individual retirement accounts) is amended by adding at the end thereof the following new paragraph:

"(7) The trustee maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions."

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Subsection (b) of section 408 is amended by inserting after paragraph (4) the following new paragraph:

"(5) The issuer of such contract maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions."

(d) Technical Amendments.—

(1) DISALLOWANCE OF DEDUCTION FOR DESIGNATED NONDEDUCTIBLE CONTRIBUTION.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) DENIAL OF DEDUCTION FOR DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—No deduction shall be allowed under this section with respect to any designated nondeductible contribution (as defined in section 4973(d)(2))."

(2) INCREASE IN LIMITATIONS ON AMOUNT INDIVIDUAL RETIREMENT PLAN CAN ACCEPT.—

(A) The following provisions are each amended by striking out "$2,000" each place it appears and inserting in lieu thereof "the sum of $2,000 and the nondeductible limit under section 4973(d)":

(i) Section 408(a)(1).

(ii) Section 408(b).

(iii) Section 408(j).

(B) Subparagraph (A) of section 408(d)(5) is amended by striking out "$2,250" and inserting in lieu thereof "the sum of $2,250 plus the nondeductible limit under section 4973(d)".

(3) SEPARATE RECORDS REQUIRED IN CASE OF ROLLOVER CONTRIBUTIONS.—Paragraph (3) of section 408(d) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(E) SEPARATE REPORTING FOR AMOUNTS ATTRIBUTABLE TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this paragraph, the Secretary shall prescribe regulations providing for such allocations of amounts attributable to designated nondeductible contributions (as defined in section 4973(d)(2)) as may be necessary to ensure that the separate treatment of such contributions and the income and gain attributable to such contributions is maintained."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made during taxable years beginning after January 1, 1990.

Subtitle B—Cash or Deferred Arrangements

SEC. 1111. COORDINATION OF IRA DEDUCTION WITH OTHER ELECTIVE DEFERRALS.

(a) GENERAL RULE.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH CERTAIN OTHER ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—The $2,000 amount set forth in subsection (b)(1) shall be reduced (but not below zero) by the amount by which the individual's elective 401(k) deferrals (if any) for the taxable year exceed $10,000.

"(B) SPOUSAL DEDUCTION.—The amount determined under subsection (c)(3) shall be reduced (but not below zero) by the sum of—

"(i) the amount (if any) of the individual's elective 401(k) deferrals for the taxable year to the extent such deferrals do not exceed $2,000, and

"(ii) the amount (if any) of the spouse's elective 401(k) deferrals for the taxable year.

"(C) ELECTIVE 401(k) DEFERRALS.—For purposes of this paragraph, the term 'elective 401(k) deferrals' has the meaning given to such term by section 402(g)(3)."

(b) EFFECTIVE Date.—

(1) IN GENERAL.—the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) DEFERRALS UNDER COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which are ratified before November 22, 1985, the amendment made by subsection (a) shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminats (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

SEC. 1112. $12,000 LIMITATION ON ELECTIVE 401(k) DEFERRALS.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

'(g) LIMITATION ON EXCLUSION FOR ELECTIVE 401(k) DEFERRALS.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(8) of this section, the elective 401(k)

deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds $12,000.

"(2) REQUIRED DISTRIBUTION OF EXCESS DEFERRALS.—

"(A) IN GENERAL.—If any amount (hereinafter in this paragraph referred to as 'excess deferrals') is included in the gross income of an individual under paragraph (1) for any taxable year—

"(i) not later than the 1st March 1 following the close of the taxable year, the individual shall allocate the amount of such excess deferrals among the plans under which the deferrals were made and shall notify each such plan of the portion allocated to it, and

"(ii) not later than the 1st April 15 following the close of the taxable year, each such plan shall distribute to the individual the amount allocated to it under clause (i) (and any income attributable to such amount).

The distribution required under clause (ii) may be made notwithstanding any other provision of law.

"(B) TREATMENT OF DISTRIBUTION UNDER SECTION 401(k).—Any portion of an excess deferral distributed from a plan under subparagraph (A)(ii) shall be treated as if it had not been contributed under the plan for purposes of applying section 401(k)(3)(A)(ii).

"(C) TAXATION OF DISTRIBUTION.—In the case of a distribution under subparagraph (A)—

"(i) such distribution shall not be included in gross income except to the extent attributable to the income on the excess deferral, and

"(ii) no tax shall be imposed under section 72(t).

In the case of such a distribution, for purposes of section 61, any income described in clause (i) shall be deemed to have been earned and received in the taxable year in which such excess deferral is made.

"(3) ELECTIVE 401(k) DEFERRALS.—For purposes of this paragraph, the term 'elective 401(k) deferrals' means, with respect to any taxable year, any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (a)(8) (determined without regard to this subsection).

"(4) DISREGARD OF COMMUNITY PROPERTY LAWS.—This subsection shall be applied without regard to community property laws.

"(5) COORDINATION WITH SECTION 72.—This subsection shall not affect the employee's investment in the contract for purposes of applying section 72."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) DEFERRALS UNDER COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 21, 1985, the amendments made by this section-shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

Such contributions shall be taken into account for purposes of applying the amendments made by this section to other plans.

SEC. 1113. ELIGIBILITY REQUIREMENTS FOR EMPLOYERS TO HAVE SECTION 401(k) PLANS.

(a) CLARIFICATION THAT TAX-EXEMPT ENTITIES ELIGIBLE FOR SECTION 401(k) PLANS; NO PROFITS REQUIRED.—Subsection (a) of section 401 is amended by inserting after paragraph (25) the following new paragraph:

"(26) In the case of employer contributions meeting the requirements of subparagraphs (B) and (C) of subsection (k)(2), the determination of whether the plan under which such contributions are made is a profit sharing plan shall be made without regard to current or accumulated profits of the employer."

(b) GOVERNMENTAL PLANS.—Subsection (k) of section 401 (relating to cash or deferred arrangements) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) GOVERNMENTAL PLANS.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is a part of a plan maintained by a Federal, State, or local government. The preceding sentence shall not apply to any plan maintained by the Tennessee Valley Authority."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this * * * apply to years beginning after December 31, 1985.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 22, 1985, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

(3) TRANSITIONAL RULE FOR CERTAIN GOVERNMENTAL, ETC. PLANS.—Section 401(k)(4) of the Internal Revenue Code of 1954 (relating to governments not eligible for cash or referred arrangements), as added by this section, shall not apply to any cash or deferred arrangement adopted before November 6, 1985, by the employer if before such date a determination letter request was submitted by the employer to the Secretary of the Treasury or his delegate for a determination that such arrangement is a qualified cash or deferred payment. In the case of such an arrangement, the amendments made by this section shall apply to years beginning after November 21, 1987.

SEC. 1114. PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1988.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1988, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

SUBTITLE C—BASIS RECOVERY RULES FOR QUALIFIED PENSION PLANS

SEC. 1121. BASIS RECOVERY RULES FOR QUALIFIED PENSION PLANS.

(a) REPEAL OF SPECIAL RULES FOR EMPLOYEES' ANNUITIES.—Subsection (d) of section 72 (relating to employee's annuities where employee's contributions recoverable in 3 years) is hereby repealed.

(b) AMOUNTS NOT RECEIVED AS ANNUITIES ALLOCATED FIRST TO INCOME.—

(1) IN GENERAL.—Subsection (e) of section 72 is amended by adding at the end thereof the following new paragraph:

"(8) EXTENSION OF PARAGRAPH (2)(b) TO QUALIFIED PLANS.—Notwithstanding paragraph (5)(D), paragraph (2)(B) shall apply to any amount received from a trust or contract described in clause (i) or (ii) of paragraph (5)(D) to the extent that the amount of such payment (when increased by the amount previously received under the contract after December 31, 1986) exceeds the investment in the contract as of December 31, 1986. In the case of any trust or contract referred to in the preceding sentence, amounts to which the employee does not have a nonforfietable right shall not be treated as income on the trust or contract."

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 72(e)(5) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (7) and (8)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.

(2) REPEAL OF SPECIAL RULES FOR EMPLOYEES ANNUITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply where the annuity starting date is after December 31, 1986.

(B) EXCEPTION FOR CERTAIN PENSION PLANS.—The amendment made by subsection (a) shall not apply to distributions under a qualified pension plan to an employee who before November 22, 1985, made a 1-time election to participate in such plan and whose contributions are fixed after an election to participate.

Subtitle D—Repeal of Exclusion for Cost of Group-Life Insurance

SEC. 1131. REPEAL OF EXCLUSION FOR COST OF GROUP-LIFE INSURANCE.

(a) IN GENERAL.—Subsection (a) of section 79 (relating to group-term life insurance purchased for employees) is amended by striking out "the sum of—" and all that follows and inserting in lieu thereof "the amount (if any) paid by the employee toward the purchase of such instance."

(b) TECHNICAL AMENDMENT.—Section 79 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle E—Tax Treatment of Parsonage Allowances and Military Housing Allowances

SEC. 1141. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) SECTION NOT TO APPLY WITH RESPECT TO PARSONAGE AND MILITARY HOUSING ALLOWANCES.—No deduction shall be denied under

this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

Subtitle F—Additional Tax on Early Withdrawal From Pension Plans

SEC. 1151. UNIFORM ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by adding by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) 10-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount under a qualified retirement plan, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the employee attains age 59½,

"(B) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

"(C) attributable to the employee's being disabled within the meaning of subsection (m)(7), or

"(D) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary).

"(3) QUALIFIED RETIREMENT PLAN.—For purposes of this subsection, the term "qualified retirement plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(b),

"(C) an individual retirement account described in section 408(a), or

"(D) an individual retirement annuity described in section 408(b).

"(4) EMPLOYEE.—For purposes of this subsection, the term 'employee' means, in the case of an individual retirement account or annuity, the individual for whose benefit such account or annuity was established."

(b) CONFORMING CHANGES TO TAX ON PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

(1) Paragraph (1) of section 72(q) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) Subparagraph (D) of section 72(q)(2) is amended to read as follows:

"(D) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 72(m)(5) is amended to read as follows:

"(A) This paragraph applies to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, a 5-percent owner, or by a successor of such an individual, but only to the extent such amounts are determined, under regulations prescribed by the Secretary, to exceed the benefits provided for such individual under the plan formula."

(2) Subsection (f) of section 408 is hereby repealed.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) EXCEPTION WHERE DISTRIBUTION COMMENCES.—The amendments made by this section shall not apply to distributions to any employee from a plan maintained by any employer if—

(A) before November 6, 1985, the employee separated from service with the employer,

(B) as of November 6, 1985, the accrued benefit of the employee was in pay status pursuant to a written election providing for the distribution of the entire accrued benefit of the employee, and

(C) such distribution is made pursuant to such written election.

Subtitle G—Treatment of Certain Full-Time Life Insurance Salesmen

SEC. 1161. TREATMENT OF CERTAIN FULL-TIME LIFE INSURANCE SALESMEN.

(a) GENERAL RULE.—Paragraph (20) of section 7701(a) (defining employee) is amended by striking out "and 106" and inserting in lieu thereof "106, and 125".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1985.

SUBTITLE C—CHANGES RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 1171. REPEAL OF EMPLOYEE STOCK OWNERSHIP CREDIT.

(a) IN GENERAL.—Section 41 (relating to employee stock ownership credit) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking out paragraph (4), by striking out ", plus" at the end of paragraph (3) and inserting in lieu thereof a period, and by inserting "plus" at the end of paragraph (2).

(2) Subsection (d) of section 38 is amended—

(A) by striking out "196(a), and 404(i)" and inserting in lieu thereof "and 196(a)", and

(B) by striking out "41(a),".

(3) Subsection (c) of section 56 is amended by striking out the last sentence.

(4) Subparagraph (B) of section 108(b)(2) is amended by striking out the last sentence.

(5) Paragraph (21) of section 401(a) is hereby repealed.

(6) Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is hereby repealed.

(7)(A) Section 6699 (relating to assessable penalties relating to tax credit employee stock ownership plan) is hereby repealed.

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6699.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation paid or accrued after December 31, 1985, in taxable years ending after such date.

(2) SECTION 404(i) TO CONTINUE TO APPLY TO PRE-1986 CREDITS.—The provisions of section 404(i) of the Internal Revenue Code of 1985 shall continue to apply with respect to credits under section 41 of such Code attributable to compensation paid or accrued before January 1, 1986.

SEC. 1172. TERMINATION OF CERTAIN ADDITIONAL TAX BENEFITS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) TERMINATION OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.—Section 133 (relating to interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) TERMINATION.—This section shall not apply to securities acquisition loans made after December 31, 1985."

(b) TERMINATION OF DIVIDENDS PAID DEDUCTION.—Subsection (k) of section 404 (relating to dividends paid deductions) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any dividend paid after December 31, 1985, in taxable years ending after such date."

(c) TERMINATION OF NONRECOGNITION OF GAIN ON SALES OF STOCK TO ESOP's, ETC.—Section 1042 (relating to sales of stock to stock ownership plans or certain cooperatives) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—This section shall not apply to any sale after December 31, 1985, in taxable years ending after such date."

(d) TERMINATION OF TRANSFER OF CERTAIN ESTATE TAX LIABILITY TO ESOP's, ETC.—Section 2210 (relating to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—This section shall not apply to estates of decedents dying after December 31, 1985."

SEC. 1173. CHANGES IN REQUIREMENTS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) ADDITIONAL QUALIFICATION REQUIREMENTS FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (25) the following new paragraph:

"(27) ADDITIONAL REQUIREMENTS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.—

"(A) IN GENERAL.—In the case of a trust which is part of an employee stock ownership plan, such trust shall not constitute a qualified trust under this section unless such plan meets the requirements of subparagraphs (B), (C), (D), (E), and (F).

"(B) ADDITIONAL NONDISCRIMINATION TEST.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph if not more than ⅓ of the employer contributions for a year are allocated to the group of employees consisting of—

"(I) officers,

"(II) shareholders owning more than 10 percent of the employer's stock, or

"(III) employees whose compensation for such year exceeds an amount equal to twice the amount in effect under section 415(c)(1)(A) for such year (determined without regard to section 415(c)(6)(A)).

"(ii) ATTRIBUTION OF OWNERSHIP.—For purposes of clause (i)(II), an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of sec-

tion 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

"(C) VESTING.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
6	20
7	40
8	60
9	80
10 or more	100.

"(ii) CERTAIN RULES MADE APPLICABLE.—Except to the extent inconsistent with the provisions of this subparagraph, the rules of section 411 shall apply for purposes of this subparagraph.

"(D) DIVERSIFICATION OF INVESTMENTS.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph if each qualified participant in the plan may elect within 90 days after the close of each plan year in the qualified election period to direct the plan as to the investment of at least 25 percent of the participant's account in the plan (to the extent such portion exceeds the amount to which a prior election under this subparagraph applies). In the case of the election year in which the employee can make his last election, the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.

"(ii) METHOD OF MEETING REQUIREMENTS.—A plan shall be treated as meeting the requirements of clause (i) if—

"(I) the portion of the employee's account covered by the election under clause (i) is distributed within 90 days after the period during which the election may be made, or

"(II) the plan offers at least 3 investment options (not inconsistent with regulations prescribed by the Secretary) to each participant making an election under clause (i).

"(iii) QUALIFIED EMPLOYEE.—For purposes of this subparagraph, the term 'qualified employee' means any employee who has completed at least 10 years of service with the employer and has attained age 55.

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the period consisting of the plan year in which the qualified employee attains age 55 and ending with the 5th succeeding plan year. If a qualified employee does not have a qualified election period under the preceding sentence, the plan year in which the individual first becomes a qualified employee shall be treated as such individual's election.

"(E) USE OF INDEPENDENT APPRAISER.—A plan meets the requirements of the subparagraph if all valuations of employer securities with respect to activities carried on by the plan are by an independent appraiser. For purposes of the preceding sentence, the term 'independent appraiser' means any appraiser meeting requirements similar to the requirements of the regulations prescribed under section 170(a)(1).

"(F) DISTRIBUTION REQUIREMENT.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph if it provides that, unless the participant otherwise elects, the distribution of the participant's entire account in the plan will be made not later than 60 days after the close of the plan year following the plan year in which the participant separates from service.

"(ii) EXCEPTION FOR CERTAIN FINANCED SECURITIES.—To the extent that the account of any employee in the plan is attributable to securities with respect to which there is acquisition indebtedness, the requirements of clause (i) shall be treated as met if the distribution of such portion is made before 60 days after the close of the plan year in which such loan is repaid.

"(G) EMPLOYEE STOCK OWNERSHIP PLAN.—For purposes of this paragraph, the term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7)."

(b) PASS-THRU OF VOTING RIGHTS.—Paragraph (3) of section 409(e) (relating to voting rights) is amended to read as follows:

"(3) REQUIREMENT FOR OTHER EMPLOYERS.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if—

"(A) each participant having at least 10 years of participation in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted, and

"(B) each participant in the plan having less than 10 years of service (as so defined) is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted."

(c) PUT OPTION REQUIREMENTS.—Subsection (h) of section 409 (relating to right to demand employers securities; put option) is amended by adding at the end thereof the following new paragraph:

"(5) PAYMENT REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the employee requires the employer to repurchase employer securities, the requirements of paragraph (1)(B) shall not be treated as met unless the employer pays the employee for such securities within 90 days after the election.

"(B) EXCEPTION FOR CERTAIN INSTALLMENT PAYMENTS.—Subparagraph (A) shall not apply if—

"(i) the securities to be purchased are part of a lump sum distribution,

"(ii) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period not exceeding 5 years, and

"(iii) there is adequate security and adequate interest rate on the amounts referred to in clause (i)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the portion of any participant's account balance which is attributable to amounts allocated in plan years beginning after December 31, 1985.

SEC. 1174. DISTRIBUTIONS ON TERMINATION PERMITTED.

(a) GENERAL RULE.—Paragraph (1) of section 409(d) (relating to employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan without the establishment of a successor plan".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan terminations after December 31, 1984.

SEC. 1175. SPECIAL RULE FOR ELIGIBLE WORKER-OWNED COOPERATIVES.

(a) GENERAL RULE.—Subsection (c) of section 1042 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR ELIGIBLE WORKER-OWNED COOPERATIVES.—In the case of any cooperative organization where each patron has only 1 voting share, for purposes of this section and section 2210, any security shall not fail to be treated as employer securities merely because such securities are nonvoting so long as each participant in the plan has at least 1 voting share."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1986.

Subtitle I—2-Year Extension of Exclusion for Educational Assistance

SEC. 1181. 2-YEAR EXTENSION OF EXCLUSION FOR EDUCATIONAL ASSISTANCE.

Subsection (d) of section 127 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1988".

TITLE XII—REPEAL OF GENERATION-SKIPPING TAX

SEC. 1201. REPEAL OF GENERATION-SKIPPING TAX.

(a) IN GENERAL.—Chapter 13 (relating to tax on certain generation-skipping transfers) is hereby repealed and the Internal Revenue Code of 1954 shall be applied as if such chapter had never been enacted.

(b) CREDIT OR REFUND, ETC.—

(1) IN GENERAL.—In the case of any tax imposed by chapter 13 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), such tax (including interest, additions to tax, and additional amounts) shall not be assessed and if assessed, the assessment shall be abated, and if collected, shall be credited or refunded (with interest) as an overpayment.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of paragraph (1) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

TITLE XIII—COMPLIANCE AND TAX ADMINISTRATION

PART I—REVISION OF CERTAIN PENALTIES, ETC.

SEC. 1301. PENALTY FOR FAILURE TO FILE INFORMATION RETURNS OR STATEMENTS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new part:

"PART II—FAILURE TO FILE CERTAIN INFORMATION RETURNS OR STATEMENTS

"Sec. 6721. Failure to file certain information returns.
"Sec. 6722. Failure to furnish certain payee etc., statements.
"Sec. 6723. Failure to include correct information.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) GENERAL RULE.—In the case of each failure to file an information return with the Secretary on the date prescribed therefor (determined with regard to any exten-

sion of time for filing), the person failing to so file such return shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the filing requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported, and

"(2) the $100,000 limitation under subsection (a) shall be increased by the amount of the penalties determined under paragraph (1).

"SEC. 6722. FAILURE TO FURNISH CERTAIN PAYEE ETC., STATEMENTS.

"(a) GENERAL RULE.—In the case of each failure to furnish a payee etc. statement on the date prescribed therefor to the person to whom such statement is required to be furnished, the person failing to so furnish such statement shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, such person shall pay a penalty of $50 for each such failure.

"SEC. 6723. FAILURE TO INCLUDE CORRECT INFORMATION.

"(a) GENERAL RULE.—If—

"(1) any person files an information return or furnishes a payee etc. statement, and

"(2) such person does not include all of the information required to be shown on such return or statement or includes incorrect information,

such person shall pay $5 for each return or statement with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $20,000.

"(b) COORDINATION WITH SECTION 6676.—No penalty shall be imposed under subsection (a) with respect to any return or statement if a penalty is imposed under section 6676 (relating to failure to supply identifying number) with respect to such return or statement.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULES FOR FAILURE TO FILE INTEREST AND DIVIDEND RETURNS OR STATEMENTS.—

"(1) HIGHER STANDARDS FOR WAIVER.—In the case of any interest or dividend return or statement—

"(A) subsection (a) shall not apply, but

"(B) no penalty shall be imposed under this part if it is shown that the person otherwise liable for such penalty exercised due diligence in attempting to satisfy the requirement with respect to such return or statement.

"(2) LIMITATIONS NOT TO APPLY.—In the case of any interest or dividend returns or statements—

"(A) the $100,000 limitations of section 6721(a) and 6722(a) and the $20,000 limitation of section 6723(a) shall not apply, and

"(B) penalties imposed with respect to such returns or statements shall not be taken into account for purposes of applying such limitations with respect to other returns or statements.

"(3) SELF ASSESSMENT.—Any penalty imposed under this part on any person with respect to an interest or dividend return or statement—

"(A) shall be assessed and collected in the same manner as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such return or statement is required.

"(4) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this part with respect to an interest or dividend return or statement.

"(5) INTEREST OR DIVIDEND RETURN OR STATEMENT.—For purposes of this subsection, the term 'interest or dividend return or statement' means—

"(A) any return required by section 6042(a)(1), 6044(a)(1), or 6049(a), and

"(B) any statement required under section 6042(c), 6044(e), or 6049(c).

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil),

"(ii) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

"(iii) section 6045 (a) or (d) (relating to returns of brokers),

"(iv) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(v) section 6050I(a) (relating to cash received in trade or business),

"(vi) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vii) section 6050K(a) (relating to exchanges of certain partnership interests),

"(viii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(ix) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(x) section 6053(c)(1) (relating to reporting with respect to certain tips).

"(2) PAYEE ETC. STATEMENT.—The term 'payee etc. statement' means any statement required to be furnished under—

"(A) section 4997(a) (relating to records and information; regulations),

"(B) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain passthru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045(b) or (d) (relating to returns of brokers),

"(I) section 6049(c) (relating to returns regarding payments of interest),

"(J) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil),

"(L) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6051 (relating to receipts for employees),

"(R) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), or

"(S) subsection (b) or (c) of section 6053 (relating to reports of tips)."

(b) INCREASE IN MAXIMUM PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBERS.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(c) CLARIFICATION OF PENALTY FOR FAILURE TO FURNISH PAYEE STATEMENTS.—

(1) Subsection (d) of section 6041 is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the

person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b)."

(2) Subsection (c) of section 6042 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulations."

(3) Subsection (e) of section 6044 is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the cooperative required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulation."

(4) Subsection (b) of section 6045 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(5) Subsection (c) of section 6049 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

"(1) IN GENERAL.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name and address of the person required to make such return, and

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(6) Subsection (b) of section 6050A is amended to read as follows:

"(b) WRITTEN STATEMENT.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(7) Subsection (b) of section 6050B is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the individual required to be shown on such return and of payments received from the individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual."

(8) Subsection (b) of section 6050E is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

(9) Subsection (b) of section 6050F is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(10) Subsection (b) of section 6050G is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(11) Subsection (d) of section 6050H is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(12) Subsection (e) of section 6050I is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the

return under subsection (a) was required to be made."

(13) Subsection (b) of section 6050K is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO TRANSFEROR AND TRANSFEREE.—Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the partnership required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(14) Subsection (b) of section 6052 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO EMPLOYEES WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 6652 is amended—

(i) by striking out subsection (a) and by redesignating subsections (b) through (k) as subsections (a) through (j), respectively, and

(ii) by striking out "OTHER RETURNS" in the heading of subsection (a) (as so redesignated) and inserting in lieu thereof "RETURNS WITH RESPECT TO CERTAIN PAYMENTS AGGREGATING LESS THAN $10".

(B) Subsection (g) of section 219 is amended by striking out "section 6652(h)" and inserting in lieu thereof "section 6652(g)".

(C) Sections 6033(e), 6034(c), and 6043(c) are each amended by striking out "section 6652(d)" and inserting in lieu thereof "section 6652(c)".

(D) Section 6047(e)(1) and 6058(f) are each amended by striking out "section 6652(f)" and inserting in lieu thereof "section 6652(e)".

(E) Paragraph (1) of section 6050C(d) is amended by striking out "section 6652(b)" and inserting in lieu thereof "section 6722".

(F) Subsection (g) of section 6057 is amended by striking out "section 6652(e)" and inserting in lieu thereof "section 6652(d)".

(2) Section 6678 is hereby repealed.

(3) Subchapter B of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.

"Part II. Failure to file certain information returns or statements.

"PART I—GENERAL PROVISIONS".

(4) The table of sections for subchapter B of chapter 68 (as in effect before the amendment made by paragraph (3)) is amended by striking out the item relating to section 6678.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

SEC. 1302. INCREASE IN PENALTY FOR FAILURE TO PAY TAX.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) INCREASE IN PENALTY FOR FAILURE TO PAY TAX IN CERTAIN CASES.—

"(1) IN GENERAL.—In determining the amount of addition to tax under paragraph (2) or (3) of subsection (a) with respect to each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraph (2) or (3) (as the case may be) of subsection (a) shall be applied by substituting '1 percent' for '0.5 percent' each place it appears.

"(2) DESCRIPTION.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

"(A) the day 10 days after the date on which notice is given under section 6331(d), or

"(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a)."

(b) REPEAL OF CERTAIN REDUCTION IN FAILURE TO PAY PENALTY.—Paragraph (1) of section 6651(c) is amended to read as follows:

"(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts assessed after December 31, 1985, with respect to failures to pay which begin before, on, or after such date.

SEC. 1303. AMENDMENTS TO PENALTY FOR NEGLIGENCE AND FRAUD.

(a) GENERAL RULE.—Section 6653 (relating to failure to pay tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) NEGLIGENCE.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

"(A) 5 percent of the underpayment, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of the underpayment which is attributable to such negligence or disregard for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(2) UNDERPAYMENT TAKEN INTO ACCOUNT REDUCED BY PORTION ATTRIBUTABLE TO FRAUD.—There shall not be taken into account under this subsection any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subsection (b).

"(3) NEGLIGENCE.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

"(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

"(2) DETERMINATION OF PORTION ATTRIBUTABLE TO FRAUD.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except to the extent the taxpayer establishes that a portion of such underpayment is not attributable to fraud.

"(3) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this subsection shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) SPECIAL RULE FOR INTEREST OR DIVIDEND PAYMENTS EXTENDED TO OTHER AMOUNTS SHOWN ON INFORMATION RETURNS.—Subsection (g) of section 6653 (relating to special rule in the case of interest or dividend payments) is amended to read as follows:

"(g) SPECIAL RULE FOR AMOUNTS SHOWN ON INFORMATION RETURNS.—

"(1) IN GENERAL.—If—

"(A) any amount is shown on an information return (as defined in section 6724(d)(1)), and

"(B) the payee (or other person with respect to whom such return is made) fails to properly show such amount on his return,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

"(2) PENALTY TO APPLY ONLY TO PORTION OF UNDERPAYMENT DUE TO FAILURE TO INCLUDE AMOUNT.—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by subparagraph (A) of subsection (a)(1) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1)."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6222 is amended by striking out "intentional or negligent".

(2) Subsection (f) of section 6653 is amended by striking out "or intentional disregard of rules and regulations (but without intent to defraud)".

(d) CHANGE IN SECTION HEADING.—

(1) The heading for section 6653 (relating to failure to pay tax) is amended to read as follows:

"SEC. 6653. ADDITIONS TO TAX FOR NEGLIGENCE AND FRAUD."

(2) The item relating to section 6653 in the table of sections for subpart A of chapter 68 is amended to read as follows:

Sec. 6653. Additions to tax for negligence and fraud."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without

regard to extensions) is after December 31, 1985.

PART II—ESTIMATED TAX PAYMENTS BY INDIVIDUALS

SEC. 1311. CURRENT YEAR LIABILITY TEST INCREASED FROM 80 TO 90 PERCENT.

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(B) (defining required annual payment) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "90 percent".

(b) TECHNICAL AMENDMENTS.—

(1) The table contained in clause (ii) of section 6654(d)(2)(C) (defining applicable percentage) is amended—

(A) by striking out "20" and inserting in lieu thereof "22.5",

(B) by striking out "40" and inserting in lieu thereof "45",

(C) by striking out "60" and inserting in lieu thereof "67.5", and

(D) by striking out "80" and inserting in lieu thereof "90".

(2) Subparagraph (C) of section 6654(i)(1) (relating to special rules for farmers and fishermen) is amended by striking out "80 percent" and inserting in lieu thereof "90 percent".

(3) The table contained in subparagraph (B) of section 6654(j)(3) (relating to special rules for nonresident aliens) is amended—

(A) by striking out "40" and inserting in lieu thereof "45",

(B) by striking out "60" and inserting in lieu thereof "67.5", and

(C) by striking out "80" and inserting in lieu thereof "90".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

PART III—PROVISIONS RELATING TO ATTORNEYS' FEES AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

SEC. 1315. EXTENSION OF PROVISION PERMITTING PAYMENT OF ATTORNEYS' FEES, ETC.

(a) GENERAL RULE.—Subsection (f) of section 7430 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1989".

(b) INTERNAL REVENUE SERVICE EMPLOYEES PERSONALLY LIABLE FOR COURT COSTS, ETC. IN CERTAIN CASES.—Section 7430 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

"(f) PERSONAL LIABILITY OF INTERNAL REVENUE SERVICE EMPLOYEES IN CERTAIN CASES.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary or capricious act of such employee."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(d) REPORT.—Within 90 days after the close of each calendar year beginning after 1985 and before 1990, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth—

(1) the number of awards made under section 7430 of the Internal Revenue Code of 1954 during such calendar year,

(2) the number of proceedings in which claims for such awards were made by substantially prevailing parties during such calendar year, and

(3) the aggregate amount payable by the United States pursuant to the awards so made during such calendar year.

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendment made by subsections (a) and (b) shall apply to proceedings commenced after December 31, 1985.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

PART IV—TAX ADMINISTRATION PROVISIONS

SEC. 1321. AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.

(a) IN GENERAL.—Section 6212 (relating to notice of deficiency) is amended by adding at the end thereof the following new subsection:

"(d) AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.—The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 1322. AUTHORITY TO ABATE INTEREST DUE TO ERRORS OR DELAYS BY THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(e) ASSESSMENTS OF INTEREST ATTRIBUTABLE TO ERRORS AND DELAYS BY INTERNAL REVENUE SERVICE.—In the case of any assessment of interest on—

"(1) any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial act, or

"(2) any payment of tax described in section 6212(a) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, a delay shall be taken into account only after the Internal Revenue Service and the taxpayer involved have been in contact with respect to such deficiency or payment."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1981.

SEC. 1323. SUSPENSION OF COMPOUNDING WHERE INTEREST ON DEFICIENCY SUSPENDED.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to suspension of interest in certain income, estate, gift, and certain excise taxes cases) is amended by inserting before the period at the end thereof "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after December 31, 1985.

SEC. 1324. CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS EXEMPT FROM LEVY.

(a) EXEMPTION FROM LEVY.—Subsection (a) of section 6334 (relating to the enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS.—Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

"(A) subchapter II, IV, or VI of chapter 11 of such title 38,

"(B) subchapter I, II, or III of chapter 19 of such title 38, or

"(C) chapter 21, 31, 32, 34, 35, 37, or 39 of such title 38."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts payable after December 31, 1985.

SEC. 1325. INCREASE IN VALUE OF PERSONAL PROPERTY SUBJECT TO CERTAIN LISTING AND NOTICE PROCEDURES.

(a) IN GENERAL.—Section 7325 (relating to personal property valued at $2,500 or less) is amended by striking out "$2,500" each place it appears (including the section heading) and inserting in lieu thereof "$100,000".

(b) INCREASE IN AMOUNT OF BOND BY CLAIMANT.—Paragraph (3) of section 7325 is amended by striking out "$250" and inserting in lieu thereof "$2,500".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 7103(b) is amended by striking out "$1,000" and inserting in lieu thereof "$100,000".

(d) CLERICAL AMENDMENT.—The item relating to section 7325 in the table of sections for part II of subchapter C of chapter 75 is amended by striking out "$2,500" and inserting in lieu thereof "$100,000".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1326. CERTAIN RECORDKEEPING REQUIREMENTS.

For purposes of sections 132 and 274 of the Internal Revenue Code of 1954, use of a automobile by a special agent of the Internal Revenue Service shall be treated in the same manner as use of an automobile by an officer of any other law enforcement agency.

PART V—INTEREST PROVISIONS

SEC. 1331. DIFFERENTIAL INTEREST RATE.

(a) GENERAL RULE.—Section 6621 (relating to determination of rate of interest) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) OVERPAYMENT RATE.—The overpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 2 percentage points.

"(2) UNDERPAYMENT RATE.—The underpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 3 percentage points.

"(b) SHORT-TERM FEDERAL RATE.—For purposes of this section—

"(1) GENERAL RULE.—The Secretary shall determine the short-term Federal rate for the first month in each calendar quarter.

"(2) PERIOD DURING WHICH RATE APPLIES.—The Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

"(3) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any month shall be the rate determined by the Secretary based on the average market yield (during such month) on outstanding 91-day Treasury bills. Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent)."

(b) TECHNICAL AMENDMENTS.—

(1) Section 6621 is amended—

(A) by redesignating subsection (d) as subsection (c), and

(B) by striking out "the adjusted rate established under subsection (b)" in subsection (c)(1) (as so redesignated) and inserting in lieu thereof "the underpayment rate established under this section".

(2) Subparagraph (G) of section 47(d)(3) is amended by striking out "determined under section 6621" and inserting in lieu thereof "determined at the underpayment rate established under section 6621".

(3) The last sentence of section 48(d)(6)(C)(ii) (defining at risk percentage) is amended by striking out "the rate" and inserting in lieu thereof "the underpayment rate".

(4) Subparagraph (B) of section 167(q)(2) is amended by striking out "at the rate determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(5) Subparagraph (B) of section 644(a)(2) (as in effect before the amendments made by title VII of this Act) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(6) Subparagraph (A) of section 852(e)(3) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(7) Paragraph (2) of section 4497(c) is amended by striking out "at rates determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(8) Subsection (e) of section 6214 is amended by striking out "section 6621(d)(4)" and inserting in lieu thereof "section 6621(c)(4)".

(9) Paragraph (1) of section 6332(c) is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(10) Subsection (c) of section 6343 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(11) Subsection (a) of section 6601 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof 'the underpayment rate established under section 6621".

(12) Section 6602 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(13) Subsection (a) of section 6611 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(14) Paragraph (1) of section 6654(a) is amended by striking out "the applicable annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(15) Paragraph (1) of section 6655(a) is amended by striking out "the rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(16) Subsection (g) of section 7426 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(17) Section 1961(c)(1) of title 28, United States Code, is amended by striking out "a rate established under section 6621" and inserting in lieu thereof "the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621".

(18) Section 2411 of title 28, United States Code, is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interest for periods after December 31, 1985.

SEC. 1332. INTEREST ON ACCUMULATED EARNINGS TAX TO ACCRUE BEGINNING ON DATE RETURN IS DUE.

(a) IN GENERAL.—Subsection (b) of section 6601 (relating to last date prescribed for payment) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ACCUMULATED EARNINGS TAX.—In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

PART VI—MODIFICATION OF WITHHOLDING ALLOWANCES

SEC. 1335. WITHHOLDING ALLOWANCES TO REFLECT NEW RATE SCHEDULES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall modify the withholding schedules under section 3402 of the Internal Revenue Code of 1954 to better approximate actual tax liability under the amendments made by this Act.

(b) CERTAIN DECREASES IN WITHHOLDING NOT PERMITTED.—Subsection (i) of section 3402 is amended by striking out "or decreases".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VII—INFORMATION REPORTING PROVISIONS

SEC. 1341. REQUIREMENT OF REPORTING FOR REAL ESTATE TRANSACTIONS.

(a) GENERAL RULE.—Subsection (c) of section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new paragraph:

"(5) REAL ESTATE TRANSACTIONS.—In the case of any real estate transaction, the term 'broker' means the settlement attorney or other stakeholder (or if there is no such stakeholder, the person designated in regulations prescribed by the Secretary). Any person treated as a broker under the preceding sentence shall be treated as doing business as a broker for purposes of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1986, and shall apply without regard to whether the Secretary of the Treasury requires a return under section 6045(a) of the Internal Revenue Code of 1954.

SEC. 1342. TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.

(a) IN GENERAL.—Section 6012 (relating to persons required to make returns of income) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the new subsection:

"(d) TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.—Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VIII—REPORT ON RETURN-FREE SYSTEM

SEC. 1345. REPORT.

(a) REPORT.—The Secretary of the Treasury or his delegate shall prepare a report on a return-free system for the Federal income tax of individuals. Such report shall include—

(1) the identification of classes of individuals who would be permitted to use a return-free system,

(2) how such a system would be phased in,

(3) what additional resources the Internal Revenue Service would need to carry out such a system, and

(4) the types of changes to the Internal Revenue Code of 1954 which would inhibit or enhance the use of such a system.

(b) DUE DATE.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IX—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

SEC. 1351. TAX ON SALES TO RETAILER.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) TAX ON DIESEL FUEL FOR HIGHWAY VEHICLE USE MAY BE IMPOSED ON SALE TO RETAILER.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED RETAILER.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(ii) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) RETAILER.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) DIESEL FUEL.—

"(i) IN GENERAL.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) EXCEPTION.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a diesel-powered highway vehicle.

"(3) FAILURE TO NOTIFY SELLER.—

"(A) IN GENERAL.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by such retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) PENALTY.—For penalty for failing to notify seller, see section 6652(j).

"(4) EXEMPTIONS NOT TO APPLY.—

"(A) IN GENERAL.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) CROSS REFERENCE.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) PENALTY.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 1301, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN NOTICE TO CERTAIN SELLERS OF DIESEL FUEL.—

"(1) IN GENERAL.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(3) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(a)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

TITLE XIV—MISCELLANEOUS PROVISIONS

SEC. 1401. EXCLUSION FOR CERTAIN FOSTER CARE PAYMENTS.

(a) IN GENERAL.—Clause (i) of section 131(b)(1)(B) (defining qualified foster care payment) is amended to read as follows:

"(i) paid to the foster parent for caring for a qualified foster child in the foster parent's home, or".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1402. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) EXTENSION OF PROVISIONS.—

(1) DEFINITION OF SURVIVING SPOUSE.—Subparagraph (B) of section 2(a)(3) (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 is the date of termination of combatant activities in that zone."

(2) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—The last sentence of section 692(b) (relating to individuals in missing status) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(3) JOINT RETURNS.—The last sentence of section 6013(f)(1) (relating to joint returns where an individual is in missing status) is amended by striking out "no such election may be made for any taxable year beginning after December 31, 1982" and inserting in lieu thereof "such election may be made for any taxable year while an individual is in missing status".

(4) POSTPONEMENT OF TIME FOR PERFORMING CERTAIN ACTS.—The last sentence of section 7508(b) (relating to application to spouse) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 1403. CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES AND EXCHANGES AND RENTALS OF MEMBER LISTS BY CERTAIN ORGANIZATIONS NOT TO BE TREATED AS UNRELATED TRADE OR BUSINESS.

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES WITHOUT OBLIGATION TO PURCHASE.—

"(1) IN GENERAL.—In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term 'unrelated trade or business' does not include—

"(A) activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions, or

"(B) any trade or business which consists of—

"(i) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

"(ii) renting such names and addresses to another such organization.

"(2) LOW COST ARTICLE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'low cost article' means any article which has a cost not in excess of $5 to the organization which distributes such item (or on whose behalf such item is distributed).

"(B) ARTICLE MAY INCLUDE MORE THAN 1 ITEM.—If more than 1 item is distributed by or on behalf of an organization to a single distributee in any calendar year, the aggregate of the items so distributed in such calendar year to such distributee shall be treated as 1 article for purposes of subparagraph (A).

"(C) INDEXATION OF $5 AMOUNT.—In the case of any calendar year beginning after December 31, 1986, there shall be substituted for the $5 amount in paragraph (1) an amount equal to $5 multiplied by the cost-of-living adjustment (as defined in section 1(e)(3)) for taxable years beginning in such calendar year.

"(3) DISTRIBUTION WHICH IS INCIDENTAL TO THE SOLICITATION OF CHARITABLE CONTRIBUTIONS DESCRIBED.—For purposes of this subsection, any distribution of low cost articles by an organization shall be treated as a distribution incidental to the solicitation of charitable contributions only if—

"(A) such distribution is not made at the request of the distributee,

"(B) such distribution is made without the express consent of the distributee, and

"(C) the articles so distributed are accompanied by—

"(i) a request for a charitable contribution (as defined in section 170(c)) by the distributee to such organization, and

"(ii) a statement that the distributee may retain the low cost article regardless of whether such distributee makes a charitable contribution to such organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions of low cost articles and exchanges and rentals of membership lists after the date of the enactment of this Act.

SEC. 1404. CHANGES IN DEDUCTION OF TAXES AND INTEREST BY TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Paragraph (3) of section 216(b) (defining tenant-stockholder's proportionate share) is amended to read as follows:

"(3) TENANT-STOCKHOLDER'S PROPORTIONATE SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'tenant-stockholder's proportionate share' means that proportion which the stock of the coopera-

tive housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

"(B) SPECIAL RULE WHERE ALLOCATION OF TAXES AND INTEREST REFLECT COST TO CORPORATION OF STOCKHOLDER'S UNIT.—

"(i) IN GENERAL.—If, for any taxable year—

"(I) each dwelling unit owned or leased by a cooperative housing corporation is separately allocated a share of such corporation's real estate taxes described in subsection (a)(1) and a share of such corporation's interest described in subsection (a)(2), and

"(II) such allocations reasonably reflect the cost to such corporation of such taxes, and of such interest, attributable to the tenant-stockholder's dwelling unit (and such unit's share of the common areas),

then the term 'tenant-stockholder's proportionate share' means the shares determined in accordance with the allocations described in subclause (II).

"(ii) ELECTION BY CORPORATION REQUIRED.—Clause (i) shall apply with respect to any cooperative housing corporation only if such corporation elects its application. Such an election, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 1405. TREATMENT OF COMPUTER SOFTWARE ROYALTIES AND INTEREST OF SECURITIES DEALERS FOR PURPOSES OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Paragraph (1) of section 543(a) (defining personal holding company income) is amended—

(1) by striking out "and" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraphs:

"(C) active business computer software royalties (within the meaning of subsection (d)).

"(D) any qualified securities dealer interest (within the meaning of subsection (e)(1))."

(b) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES AND QUALIFIED SECURITIES DEALERS INTEREST DEFINED.—Section 543 is amended by adding at the end thereof the following new subsections:

"(d) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

"(1) IN GENERAL.—For purposes of this section, the term 'active business computer software royalties' means any royalties—

"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

"(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

"(B) are attributable to computer software which—

"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

"(ii) is directly related to such trade or business.

"(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

"(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the five individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence—

"(i) individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account, and

"(ii) stock deemed to be owned by a shareholder solely by attribution from a partner under section 544(a)(2) shall be disregarded.

"(5) DIVIDENDS MUST EQUAL OR EXCEED EXCESS OF PERSONAL HOLDING COMPANY INCOME OVER 10 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(B) COMPUTATION OF PERSONAL HOLDING COMPANY INCOME.—For purposes of this paragraph, personal holding company income shall be computed—

"(i) without regard to amounts described in subsection (a)(1)(C),

"(ii) without regard to interest income during any taxable year—

"(I) which is in the 5-taxable year period beginning with the later of the 1st taxable year of the such corporation or the 1st taxable year in which such corporation conducted the trade or business described in paragraph (2)(A), and

"(II) during which the corporation meets the requirements of paragraphs (2), (3), and (4), and

"(iii) by including adjusted income from rents and adjusted income from mineral, oil, and gas royalties (within the meaning of paragraphs (2) and (3) of subsection (a)).

"(6) SPECIAL RULES FOR AFFILIATED GROUP MEMBERS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer receives royalties in connection with the licensing of computer software, and

"(ii) another corporation which is a member of the same affiliated group as the taxpayer meets the requirements of paragraphs (2), (3), and (4) with respect to such computer software,

the taxpayer shall be treated as having met such requirements.

"(B) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).

"(e) SPECIAL RULES FOR INTEREST OF DEALERS IN SECURITIES.—

"(1) QUALIFIED SECURITIES DEALER INTEREST.—For purposes of subparagraph (D) of subsection (a)(1)—

"(A) IN GENERAL.—The term 'qualified securities dealer interest' means any interest of a dealer in securities from securities or money market instruments held as inventory, but only if the requirements of subparagraphs (B), (C), and (D) are met.

"(B) ADJUSTED ORDINARY GROSS INCOME REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the income of the dealer in securities from the trade or business of dealing in securities (other than personal holding company income determined without regard to subsection (a)(1)(D)), plus

"(ii) the interest of such dealer from securities or money market instruments held as inventory,

equals or exceeds 50 percent of the ordinary gross income of such dealer.

"(C) DIVIDEND REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (determined without regard to income described in subsection (a)(1)(D)) exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(D) DEDUCTION REQUIREMENT.—The requirements of this subparagraph are met if the sum of the deductions which are allowable under section 162 other than—

"(i) deductions for compensation for personal services rendered by the shareholders, and

"(ii) deductions which are specifically allowable under sections other than section 162,

equals or exceeds 15 percent of the adjusted ordinary gross income.

"(2) CERTAIN INTEREST INCOME OFFSET WHERE OFFSETTING LOAN.—For purposes of this part—

"(A) IN GENERAL.—In the case of a dealer in securities who regularly derives income

from loans which are offset by other loans, the interest income from any such loan shall be reduced by any interest paid or accrued by such dealer on the offsetting loan.

"(B) OFFSETTING LOANS.—For purposes of this paragraph, any loan made by a dealer in securities shall be treated as offset by another loan if such other loan—

"(i) is made at the same time as such loan and has the same maturity as such loan, is in substantially the same amount as such loan, and is secured by the same property as such loan, and

"(ii) is designated, in such manner as the Secretary may prescribe, by such dealer as an offsetting loan.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) DEALER IN SECURITIES.—The term 'dealer in securities' has the meaning given such term by section 1236.

"(B) INVENTORY.—The term 'inventory' means property described in section 1221(1)."

(c) CONFORMING AMENDMENTS.—

(1) Section 543(a)(4) (relating to copyright royalties) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties.".

(2) Section 543(b)(3) (relating to adjusted income from rents) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) active business computer software royalties (as defined in subsection (d))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to royalties and interest received after December 31, 1985, in taxable years ending after such date.

SEC. 1406. ADOPTION ASSISTANCE AGREEMENTS UNDER ADOPTION ASSISTANCE PROGRAM; PAYMENT OF NONRECURRING EXPENSES RELATED TO ADOPTIONS OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by striking out all of paragraph (1) down through "adopt a child who—" and inserting in lieu thereof the following:

"(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

"(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

"(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or private nonprofit private agency, in amounts determined under paragraph (3), and

"(ii) in any case where the child meets the requirements of paragraph (2), shall make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

"(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—".

(b) DEFINITION AND PAYMENT OF NONRECURRING ADOPTION EXPENSES.—Section 473(a) of such Act (as amended by subsection (a) of this section) is further amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of paragraph (1)(B)(i), the term 'nonrecurring adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

"(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(B).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The first sentence of section 470 of such Act is amended by striking out "foster care" and all that follows down through "title XVI)" and inserting in lieu thereof the following: "foster care for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs".

(2) Paragraphs (1) and (11) of section 471(a) of such Act are each amended by striking out "adoption assistance payments" and inserting in lieu thereof "adoption assistance".

(3) Section 473(a)(3) of such Act (as redesignated by subsection (a)(1) of this section) is amended—

(A) by striking out "the adoption assistance payments" in the first sentence and inserting in lieu thereof "the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)"; and

(B) by inserting after "the adoption assistance payment" where it first appears in the second sentence the following: "made under clause (ii) of paragraph (1)(B)".

(4) Section 473(a)(5) of such Act (as so redesignated) is amended by striking out ", pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection," and inserting in lieu thereof "in accordance with applicable State and local law shall be eligible for such payments,".

(5) Section 475(3) of such Act is amended by striking out clause (A) and inserting in lieu thereof the following: "(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply only with respect to expenditures made after December 31, 1985.

(2) TAX TREATMENT OF CERTAIN NONRECURRING ADOPTION EXPENSE PAYMENTS.—In any case where an individual receives after December 31, 1985, a payment of nonrecurring adoption expenses (as defined in section 473(a)(6)(A) of the Social Security Act), no deduction shall be allowable for such expenses under section 222 of the Internal Revenue Code of 1954.

By Mr. SCHULZE:

—SECTION 1. SHORT TITLE: AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Business Alternative Minimum Tax Act of 1985."

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. IMPOSITION OF BUSINESS ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subtitle A (relating to income taxes) is amended by inserting after chapter 6 the following new chapter:

"CHAPTER 7—BUSINESS ALTERNATIVE MINIMUM TAX

"Subchapter A. Imposition of tax.
"Subchapter B. Net business receipts.
"Subchapter C. Exempt taxpayers.
"Subchapter D. Administration.
"Subchapter E. Definitions and special rules.

"Subchapter A—Imposition of Tax

"Sec. 1601. Impositon of tax.
"Sec. 1602. Credit against taxes imposed by this chapter.

"SEC. 1601. IMPOSITION OF TAX.

"There is hereby imposed a tax equal to seven percent of the sum of—

"(a) the net business receipts of the taxpayer for the taxable year, plus.

"(b) in the case of any property imported into the United States by the taxpayer during the taxable year—

"(1) the customs value plus customs duties and any other duties which may be imposed, or

"(2) if there is no such customs value, the fair market value (determined as if the importer had sold the property).

"SEC. 1602. CREDIT AGAINST TAXES IMPOSED BY THIS CHAPTER.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the tax benefit credit carryforwards carried to such taxable year, plus

"(2) the amount of the current year tax benefit credit.

"(b) Current Year Tax Benefit Credit.—For purposes of this chapter, the amount of the current year tax benefit credit is the sum of—

"(1) the amount of any tax imposed on the taxpayer for the taxable year under chapter 1 of subtitle A.

"(2) the amount of any tax imposed on the taxpayer for the taxable year under chapter 2 of subtitle A.

"(3) the amount of any tax imposed on the taxpayer for the taxable year under subchapter B of chapter 21 of subtitle C,

"(4) the amount of any tax imposed on the taxpayer for the taxable year under subchapters B and C of chapter 22 of subtitle C,

"(5) the amount of the operating loss credit for the taxable year, plus

"(6) the sum of—

"(A) the credit for the taxable year determined under section 28,

"(B) the credit for the taxable year determined under section 29,

"(C) the credit for the taxable year determined under section 30, plus

"(D) thc credit for the taxable year determined under section 38, to the extent that such amounts are not allowed in such taxable year as credits against the taxes imposed on the taxpayer for such taxable year under chapter 1 of subtitle A.

"(c) OPERATING LOSS CREDIT.—

"(1) AMOUNT OF CREDIT.—For purposes of this section, the amount of the operation

loss credit with respect to any taxable year shall be equal to—

"(A) the net operating loss of the taxpayer for the taxable year, as defined in section 172(c) and computed with the modifications specified in section 172(d),

"(B) multiplied by—

"(i) in the case of a taxpayer that is a corporation (other than an S corporation as defined in section 1361), the maximum rate imposed by section 11(b) for the taxable year, or

"(ii) in the case of any other taxpayer, the maximum rate imposed for the taxable year by the subsection of section 1 that is applicable to the taxpayer.

"(d) CARRYFORWARD OF UNUSED CREDITS.—

"(1) 15—YEAR CARRYFORWARD.—If the sum of the tax benefit credit carryforwards to the taxable year plus the amount of the current year tax benefit credit for the taxable year exceeds the amount of tax imposed by this chapter for the taxable year (hereinafter in this section referred to as the "unused credit year"), such excess (to the extent attributable to the amount of the current year tax benefit credit) shall be a tax benefit credit carryforward to each of the 15 taxable years following the unused credit year, and shall be taken into account under the provisions of section 1602 (a) in the manner provided in section 1602(a).

"(2) AMOUNT CARRIED TO NEXT YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 15 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 14 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 14 taxable years to the extent that such unused credit may not be taken into account under section 1602(a) for a prior taxable year.

"(3) LIMITATION.—The amount of unused credit carryforward that may be carried to a taxable year shall be reduced to the extent that any portion thereof, or any item included in the computation thereof, is allowed as a credit or deduction under section 38(a) or 172(a) and reduces the tax liability of the taxpayer under chapter 1 of subtitle A for such taxable year or any prior taxable year.

"(e) TRANSITIONAL RULES.—

"(1) BUSINESS CREDIT CARRYFORWARDS.—For purposes of this chapter, the amount of the section 38 business credit taken into account under subsection (b)(6)(D) for the first taxable year of the taxpayer beginning after December 31, 1985, shall include the business credit carryforward to such taxable year (as determined under section 39) from unused credit years beginning before January 1, 1986.

"(2) NET OPERATING LOSS CARRYOVERS.—For purposes of this chapter, the amount of the operating loss credit taken into account under subsection (b)(5) for the first taxable year of the taxpayer beginning after December 31, 1985 (hereinafter referred to in this section as the "transition year"), shall include an amount equal to the net operating loss carryover to such taxable year from taxable years beginning before January 1, 1986, multiplied by—

"(A) in the case of a taxpayer that is a corporation (other than an S corporation as defined in section 1361), the maximum rate imposed by section 11(b) for the year immediately preceding the transition year.

"(B) in the case of any other taxpayer, the maximum rate imposed for the year immediately preceding the transition year by the subsection of section 1 that is applicable to the taxpayer.

"(3) TAX BENEFIT CREDIT CARRYFORWARD.—The amount of the current year tax benefit credit for the first taxable year of the taxpayer beginning after December 31, 1985, computed in accordance with paragraphs (1) and (2), shall, to the extent not allowed as a credit in such taxable year under subsection (a), be eligible to be carried forward in accordance with subsection (d).

"Subchapter B—Net Business Receipts

"Sec. 1603. Net business receipts.
"Sec. 1604. Business receipts.
"Sec. 1605. Business expenses.
"Sec. 1606. Special rules.

"SEC. 1603. NET BUSINESS RECEIPTS.

"For purposes of this chapter, the term 'net business receipts' means the excess, if any, of—

"(1) the business receipts of the taxpayer for the taxable year, over

"(2) the business expenses of the taxpayer for the taxable year.

"SEC. 1604. BUSINESS RECEIPTS.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'business receipts' means the aggregate of amounts received by a corporation, or any person (other than a corporation) in connection with a business, during the taxable year from—

"(1) the sale of property in the United States, or

"(2) the performance of services in the United States.

"(b) CERTAIN RECEIPTS EXEMPTED.—For purposes of this section, the term 'business receipts' shall not include any amount received with respect to the following:

"(1) FOOD.—The retail sale of food and nonalcoholic beverages for human consumption other than on the premises where such food is sold:

"(2) HOUSING.—The sale or renting of—

"(A) residential real property, and

"(B) a mobile or floating home.

"(3) MEDICAL CARE.—The performance of any service, or the retail sale or renting of any property, payment for which by the purchaser or renter would constitute medical care within the meaning of section 213 (relating to an itemized deduction for medical and dental expenses).

"(4) LAND.—The sale of renting of land.

"(c) RECEIPTS FROM EXPORTS EXEMPTED.—For purposes of this chapter, the term 'business receipts' shall not exclude any amount received from the sale of property which is for use, consumption or disposition outside the United States.

"(d) CERTAIN RECEIPTS NOT TREATED AS RECEIVED IN CONNECTION WITH TRADE OR BUSINESS.—For purposes of this chapter, the term 'business receipts' shall not include any amount received by the taxpayer—

"(1) as dividends,

"(2) as interest, or

"(3) from the sale of any capital asset (as defined in section 1211) not used in the active conduct of a business by the taxpayer.

"SEC. 1605. BUSINESS EXPENSES.

"(a) IN GENERAL.—For purposes of this chapter, the term 'business expenses' shall include any amount paid or incurred by the taxpayer during the taxable year with respect to a business of the taxpayer for—

"(1) the purchase or use of tangible property including (but not limited to)—

"(A) materials and components,

"(B) inventory, and

"(C) property subject to a deduction for depreciation, amortization or depletion under chapter 1 of subtitle A,

"(2) the purchase or use of other property including (but not limited to)—

"(A) trademarks and trade names,

"(B) copyrights,

"(C) patents, and

"(D) mineral, oil and gas properties, royalty

"(3) the purchase of services including (but not limited to)—

"(A) communications, transportation and utilities,

"(B) security, insurance, maintenance and repairs,

"(C) research and experimentation,

"(D) product development, packaging, advertising and marketing, and

"(E) accounting, financial planning and legal representation,

"(4) all other ordinary and necessary expenses (as determined under section 162, relating to trade or business expenses) except as provided under subsection (c).

"(b) TAX ATTRIBUTABLE TO CUSTOMS VALUE OF IMPORTED PROPERTY.—For purposes of paragraph (1) of subsection (a), the tax imposed on the amount determined under subsection (b) of section 1601 shall be treated as an amount paid or incurred for the purchase of tangible property during the taxable year.

"(c) CERTAIN EXPENSES NOT TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) SPECIFIC EXPENSES.—The term 'business expenses' shall not include any amount paid or incurred by the taxpayer for—

"(A) compensation of an employee to the extent includible in an employee's gross income under subtitle A,

"(B) interest and dividends,

"(C) taxes,

"(D) charitable contributions, and

"(E) items described in subsection (b) of section 1604 (relating to certain receipts which are exempt from the business alternative minimum tax).

"(2) CERTAIN EXPENSES ALLOCABLE TO EXEMPT RECEIPTS.—The term 'business expenses' shall not include any amount which is—

"(A) directly allocable to any receipts which are exempt under subsections (b) or (d) of section 1604, or

"(B) that portion of any business expenses not directly allocable to any receipts in an amount which bears the same ratio to the total amount of such expenses as—

"(i) the aggregate amount of receipts exempt under subsections (b) and (d) of section 1604, bears to

"(ii) all receipts of the taxpayer.

"(3) AMOUNTS PAID TO EXEMPT ENTITIES.—The term 'business expenses' shall not include any amount which is paid to an exempt taxpayer described in section 1611 (relating to exempt taxpayers), except to the extent that such amount is included in the net business receipts of the exempt taxpayer under subsection (b) thereof (relating to exempt organizations).

"SEC. 1606. SPECIAL RULES FOR DETERMINING BUSINESS RECEIPTS.

"For purposes of section 1604(a)—

"(a) SALES OF PROPERTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the sale of property shall be treated as occurring where delivery takes place.

"(2) REAL PROPERTY.—The sale of real property shall be treated as occurring where the real property is located.

"(b) PERFORMANCE OF SERVICE.—

"(1) SERVICES PERFORMED INSIDE AND OUTSIDE UNITED STATES.—If a service is performed both inside and outside the United States, such service shall be treated as performed—

"(A) inside the United States, if 50 percent or more of such service is performed inside the United States, and

"(B) outside the United States, if less than 50 percent of such service is performed inside the united states.

"(c) EXCHANGES TREATED AS SALES.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) an exchange of property for property or for services shall be treated as a sale of property, and

"(B) an exchange of services for property or for services shall be treated as the performance of services.

"(2) EXCEPTION FOR REORGANIZATIONS.—An exchange of property which is described in section 368 (relating to definitions of corporate reorganizations) shall not be treated as a sale of property.

"(3) AMOUNT TREATED AS RECEIVED.—The amount included in business receipts with respect to exchanges described in paragraph (1) shall be the fair market value of the property or services treated as being sold.

"(d) PERFORMANCE OF SERVICES.—

"(1) CERTAIN ACTIVITIES TREATED AS PERFORMANCE OF SERVICES.—Activities treated as performance of services shall include (but shall not be limited to)—

"(A) permitting the use of property,

"(B) the granting of a right to the performance of services or to reimbursement (including the granting of warranties, insurance, and similar items), and

"(C) the making of a covenant not to compete (or similar agreement to refrain from doing something).

"(2) EMPLOYERS AND EMPLOYEES.—

"(A) SERVICES FOR EMPLOYER.—An employee's services for his employer shall not be treated as the performance of services.

"(B) SERVICES FOR EMPLOYEE.—An employer's services for his employee shall not be treated as the performance of services.

"Subchapter C—Exempt Taxpayers

"Sec. 1611. Exempt taxpayers.

"SEC. 1611. EXEMPT TAXPAYERS.

"(a) GOVERNMENTAL ENTITY.—No tax shall be imposed under section 1601 on the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

"(b) EXEMPT ORGANIZATIONS.—No tax shall be imposed under section 501(a) on any organization which is exempt from tax under chapter 1 (relating to income taxes) except that such tax shall be imposed on any net business receipts of such organization which are allocable to an unrelated business of such organization (determined under the rules of section 513).

"Subchapter D—Administration

"Sec. 1621. Time for filing return; estimated tax payments; overpayments.

"Sec. 1622. Partnerships.

"Sec. 1623. S Corporations.

"SEC. 1621. TIME FOR FILING RETURN; ESTIMATED TAX PAYMENTS; OVERPAYMENTS.

"(a) TIME FOR FILING RETURN.—

"(1) IN GENERAL.—Each person on whom a tax is imposed by section 1601 for any taxable year shall file a return of such tax no later than the time for filing the return of tax imposed by chapter 1 for such taxable year.

"(2) TAXABLE YEAR.—For purposes of this chapter, the taxable year of any person shall be—

"(A) such person's taxable year for purposes of chapter 1, or

"(B) if there is no taxable year for purposes of chapter 1, the calendar year.

"(b) ESTIMATED TAX PAYMENTS.—

"(1) GENERAL RULE.—For purposes of sections 6154, 6654, and 6655, any tax imposed by section 1601 shall be treated as a tax imposed by section 1 or 11, whichever is appropriate.

"(2) MORE FREQUENT PAYMENTS.—At the election of the taxpayer, the payments of any tax imposed by section 1601 shall be made on such dates as are required for the deposits by the taxpayer of any tax imposed by section 3111 (relating to Federal Insurance Contribution Act taxes).

"SEC. 1622. PARTNERSHIPS.

"(a) IN GENERAL.—A partnership as such shall not be subject to the tax imposed by this chapter. Persons carrying on business as partners shall be liable for the tax imposed by this chapter only in their separate or individual capacities.

"(b) NET BUSINESS RECEIPTS.—In determining his tax under this chapter, each partner shall take into account his distributive share of the net business receipts of the partnership, which share shall be determined in accordance with the principles of section 704.

"SEC. 1623. S CORPORATIONS.

"(a) IN GENERAL.—An S corporation as such shall not be subject to the tax imposed by this chapter. The shareholders of an S corporation shall be liable for the tax imposed by this chapter only in their separate or individual capacities.

"(b) NET BUSINESS RECEIPTS.—In determining his tax under this chapter, each S corporation shareholder shall take into account his pro rata share of net business receipts of the S corporation, which share shall be determined in accordance with the principles of section 1377.

"Subchapter E—Definitions and Special Rules

"Sec. 1631. Definitions and special rules.

"SEC. 1631. DEFINITIONS AND SPECIAL RULES.

"For purposes of this chapter—

"(a) BUSINESS.—The term 'business' includes—

"(1) a trade, and

"(2) an activity regularly carried on for profit.

"(b) EMPLOYEE.—The term 'employee' has the meaning such term has for purposes of chapter 24 (relating to withholding).

"(c) UNITED STATES.—The term 'United States', when used in a geographical sense, includes a Commonwealth and any possession of the United States.

"(d) SPECIAL RULE WHERE SALE OF PROPERTY INCLUDES INCIDENTAL PERFORMANCE OF SERVICE.—If in connection with the sale of any property there is an incidental performance of services, such performance of services shall be treated as part of the sale of such property.

"(e) SPECIAL RULE WHERE PERFORMANCE OF SERVICES INCLUDES INCIDENTAL TRANSFER OF PROPERTY.—If in connection with the performance of any services there is an incidental transfer of property, such transfer shall be treated as part of the performance of such services."

(b) TAX TO BE NONDEDUCTIBLE.—Section 275(a) (relating to denial of deduction for taxes) is amended by inserting as paragraph (1)(D) the following new paragraph:

"(D) the tax imposed by section 1601.

(c) COORDINATION OF CREDITS.—

(1) Section 39 (relating to carryback and carryforward of unused business credits) is amended by inserting as subsection (e) the following new section:

"(e) ADDITIONAL LIMITATION.—The amount of the unused credit which may be taken into account under section 38(a) shall not include any amount allowed for the current taxable year or any prior taxable year as a credit under section 1602."

(2) Section 172 (relating to the net operating loss deduction) is amended by inserting as paragraph (b)(4) the following new paragraph:

"(4) ADDITIONAL LIMITATION.—The amount of the carrybacks and carryovers determined under paragraph (2) shall be reduced to the extent of any portion of such amount utilized under section 1602(c)(1) in the computation of the credit allowed for the current taxable year or any prior to taxable year under section 1602."

(d) CLERICAL AMENDMENT.—The table of contents for subtitle A is amended by inserting before the item relating to chapter 7 the following:

"CHAPTER 7.—BUSINESS ALTERNATIVE MINIMUM TAX."

SEC. 3. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1985.

By Mr. TAUKE:

(Amendment in the nature of a substitute. —Strike all after the enacting clause and insert in lieu thereof the following:

SEC. 1. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) GENERAL RULE.—Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to minimum tax for tax preferences) is amended to read as follows:

"PART VI—ALTERNATIVE MINIMUM TAX

"Sec. 55. Alternative minimum tax imposed.

"Sec. 56. Treatment of certain tax preferences.

"Sec. 57. Other items of tax preference.

"Sec. 58. Denial of certain losses.

"Sec. 59. Other definitions and special rules.

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) GENERAL RULE.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) TENTATIVE MINIMUM TAX.—For purposes of this part—

"(1) IN GENERAL.—The tentative minimum tax for the taxable year is—

"(A) 25 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preferences described in section 57.

"(c) REGULAR TAX.—

"(1) IN GENERAL.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any increase in tax under section 47.

"(2) CROSS REFERENCES.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) EXEMPTION AMOUNT.—For purposes of this section—

"(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse,

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual, and

"(ii) is not a surviving spouse, and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate or trust.

For purposes of this paragraph, the term 'surviving spouse' has the meaning given to such term by section 2(a), and marital status shall be determined under section 143.

"(2) CORPORATIONS.—In the case of a corporation, the term 'exemption amount' means $40,000.

"SEC. 56. TREATMENT OF CERTAIN TAX PREFERENCES.

"(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) ACCELERATED DEPRECIATION OR AMORTIZATION ON CERTAIN PROPERTY.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the date before the date of the enactment of this paragraph).

"(2) MINING EXPLORATION AND DEVELOPMENTS COSTS.—

"(A) IN GENERAL.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) in computing the regular tax for costs paid or incurred after December 31, 1985, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(3) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—

"(A) IN GENERAL.—The taxable income from any long-term contract to which this paragraph applies shall be determined under the percentage of completion method of accounting.

"(B) LONG-TERM CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any long-term contract entered into by the taxpayer after September 25, 1985, if the taxpayer is not required to use the percentage of completion method with respect to such contract by reason of section 904(d) of the Tax Reform Act of 1985.

"(4) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(5) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) applies (or with to which there are any expenditures to which paragraph (2) or subsection (b)(3) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) or (2) or subsection (b)(2), whichever is applicable.

"(6) SHAREHOLDERS OF FOREIGN SALES CORPORATIONS AND DOMESTIC INTERNATIONAL SALES CORPORATIONS.—

"(A) FOREIGN SALES CORPORATIONS.—

"(i) IN GENERAL.—Each shareholder of a FSC shall take into account such shareholder's pro rata share of—

"(I) the gross income of such FSC,

"(II) any deductions of such FSC, and

"(III) any tax paid by such FSC under this chapter.

Such amounts shall be taken into account for the taxable year of the shareholder in which the taxable year of the FSC ends.

"(ii) TREATMENT OF AMOUNTS.—Amounts taken into account under clause (i) shall be treated as effectively connected with the conduct of a trade or business in the United States and from sources within the United States.

"(iii) TREATMENT OF FSC.—Except as provided in clause (i), this part shall not apply to a FSC.

"(B) DOMESTIC INTERNATIONAL SALES CORPORATIONS.—The amount treated as distributed to a shareholder of a DISC under section 995(b)(1)(F) shall be the excess of the taxable income of the DISC for the taxable year (before reduction for distributions during such year) over the amounts deemed distributed for such taxable year under subparagraphs (A), (B), (C), (D), and (E) of section 995(b)(1).

"(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative taxable income of any taxpayer (other than a corporation) the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) LIMITATION ON ITEMIZED DEDUCTION.—Any deduction not allowable in computing adjusted gross income shall not be allowed unless such deduction is an alternative tax itemized deduction.

"(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1985, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply to a personal holding company (as defined in section 542).

"(c) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(B) in the case of taxable years beginning after December 31, 1985, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears.

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1985 LOSS YEARS.—In the case of a loss year beginning after December 31, 1985, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58,

"(ii) be reduced by the items of tax preference determined under section 57 for such year which are taken into account in computing the net operating loss, and

"(iii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions and which are otherwise described in section 172(c).

"(B) PRE-1986 YEARS.—In the case of loss years beginning before January 1, 1986, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1985, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1985.

"(d) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this part—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) AMOUNTS WHICH MAY BE CARRIED OVER.—No amount shall be taken into account under paragraph (1) to the extent

such amount may be carried to another taxable year for purposes of the regular tax.

"(3) QUALIFIED INTEREST.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) QUALIFIED HOUSING INTEREST.—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof), and

"(ii) any capital gain net income attributable to the disposition of property held for investment.

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions (determined with the adjustments provided in section 56) directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under section 643(b).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any income or loss derived from a limited business interest shall be taken into account in computing qualified net investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation.

"SEC. 57. OTHER ITEMS OF TAX PREFERENCE.

"(a) GENERAL RULE.—For purposes of this part, the items of tax preference determined under this section are—

"(1) CAPITAL GAINS OF TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, an amount equal to—the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SALES OF FARM LAND BY INSOLVENT FARMERS.—For purposes of this paragraph, gain from a qualified farm sale (as defined in section 59(c)) shall not be taken into account.

"(2) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—The amount of the appreciated property charitable deduction determined under subsection (b).

"(3) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(4) INTANGIBLE DRILLING COSTS.—

"(A) IN GENERAL.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) EXCESS INTANGIBLE DRILLING COSTS.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c), 263(i), or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (c)) had been used with respect to such costs.

"(C) NET INCOME FROM OIL, GAS, AND GEOTHERMAL PROPERTIES.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(5) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(6) TAX-EXEMPT INTEREST.—

"(A) IN GENERAL.—Interest on industrial development bonds on consumer loan bonds which are issued after December 31, 1985, and the interest on which is exempt from tax under section 103 reduced by the amount of any deduction disallowed under section 265 by reason of the receipt of such interest.

"(B) EXCEPTION FOR REFUNDINGS OF PRE-1986 BONDS.—Subparagraph (A) shall not apply to interest on any obligation issued after December 31, 1985, to refund an obligation issued before January 1, 1986.

"(7) SECTION 911 EXCLUSION FOR FOREIGN-EARNED INCOME.—The amount excluded from gross income of the taxpayer for the taxable year under section 911(a)(1) reduced by the amount of any deduction disallowed under section 911(d)(6).

"(8) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(b) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the term 'appreciated property charitable deduction' means the lesser of—

"(A) the amount by which the deduction allowable under section 170 would be reduced if all capital gain property were taken into account at its adjusted basis, or

"(B) the excess (if any) of—

"(i) the alternative minimum taxable income for the taxable year (determined without regard to this paragraph), over

"(ii) the taxable income for the taxable year (determined without regard to the deduction for personal exemptions provided by section 151 or the standard deduction).

"(2) CAPITAL GAIN PROPERTY.—For purposes of this subsection, the term 'capital gain property' has the meaning given to such term by section 170(b)(1)(C)(iv). Such term shall not include any property to which an election under section 170(b)(1)(C)(iii) applies.

"(c) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (4) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles' when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(4).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) DENIAL OF EXCESS FARM LOSS.—

"(1) IN GENERAL.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year—

"(A) DISALLOWANCE OF EXCESS FARM LOSS.—The excess farm loss of the taxpayer for such taxable year shall not be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) EXCESS FARM LOSS.—For purposes of this section, the term 'excess farm loss' means the amount by which the loss for the taxable year from any tax shelter farm activity exceeds twice the taxpayer's cash basis in such activity as of the close of the taxable year.

"(3) TAX SHELTER FARM ACTIVITY.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming unless the taxpayer materially participates in the operation of such activity or is a member of the family (within the meaning of section 2032A(e)(2)) of an individual who so participates.

The determination of whether any individual materially participates in the operation of any activity shall be made in the manner similar to the manner in which such determination is made under section 2032A (including modifications under paragraphs (4) and (5) of section 2032A(b)); except that an individual shall not be treated materially participating in the operation of any activity if such individual is a limited partner with respect to such activity.

"(4) TREATMENT OF SEPARATE ACTIVITIES.—A taxpayer's activity with respect to each farm of which the taxpayer is the proprietor shall be treated as a separate activity.

"(b) DISALLOWANCE OF EXCESS PASSIVE ACTIVITY LOSS.—

"(1) IN GENERAL.—For purposes of determining the amount of the alternative minimum taxable income for any taxable year—

"(A) DISALLOWANCE ON LOSS.—The excess passive activity loss of the taxpayer for the taxable year shall not be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from an activity disallowed under subparagraph (A) shall be treated as a deduction allowable to such activity in the 1st succeeding taxable year.

"(2) EXCESS PASSIVE ACTIVITY LOSS.—For purposes of this subsection, the term 'excess passive activity loss' means the amount by which—

"(A) the aggregate losses from all passive activities reduced by the aggregate income from such activities exceed

"(B) the sum of—

"(i) the taxpayer's cash basis in passive activities which are not tax shelters, and

"(ii) the lesser of—

"(I) the taxpayer's cash basis in passive activities which are tax shelters, or

"(II) $50,000.

For purposes of the preceding sentence, the term 'tax shelter' has the meaning given to such term by section 461(i)(3).

"(3) PASSIVE ACTIVITY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'passive activity' means any activity if a substantial portion of the income from such activity is from a trade or business. For purposes of the preceding sentence, all rents and royalties shall be treated as income from a trade or business.

"(B) ACTIVITIES IN WHICH TAXPAYER MATERIALLY PARTICIPATES, ETC., EXCLUDED.—An activity shall not be treated as a passive activity under subparagraph (A) if the taxpayer (or the spouse of the taxpayer)—

"(i) materially participates in the activity, or

"(ii) provides substantial personal services for the activity.

"(C) TREATMENT OF LIMITED PARTNERS.—A limited partner shall not be treated as meeting the requirements of clause (i) or (ii) of subparagraph (B) with respect to an activity.

"(D) TREATMENT OF CERTAIN RETIRED INDIVIDUALS.—A taxpayer shall be treated as materially participating in the operation of any farm activity if such individual meets the requirements of paragraph (4) or (5) of section 2032A(b) with respect to such activity.

"(4) COORDINATION WITH SUBSECTION (a).—Loss from a farm activity to the extent it is disallowed under subsection (a) shall not be taken into account under this subsection.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASH BASIS.—The term 'cash basis' means—

"(A) in the case of an interest in a partnership, the adjusted basis of the taxpayer's interest in such partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 461(i)), or

"(II) was secured by any assets of the partnership, and

"(B) in the case of any other interest in an activity, the adjusted basis of such interest determined under the principles of subparagraph (A).

"(2) DEFINITION OF LOSS.—The loss from any activity shall be determined under the principles of section 465(d); except that—

"(A) the adjustments of section 56 shall apply, and

"(B) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(C) any loss resulting from the disposition of part or all of any interest in such activity shall not be taken into account.

"(3) CERTAIN RULES MADE APPLICABLE.—For purposes of this subsection, rules similar to the rules of subsections (b)(5) and (e) of section 465 shall apply.

"(4) LOSS ALLOWED FOR YEAR OF DISPOSITION.—If the taxpayer disposes of his entire interest in any farm shelter activity or passive activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsections (a)(1)(B) and (b)(1)(B)) shall be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity or passive activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT.—For purposes of this part, the alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(1) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1985,

"(2) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(3) section 911(d)(6) did not apply for taxable years beginning after December 31, 1985.

"(b) MINIMUM TAX NOT TO APPLY TO 936 CORPORATIONS.—The tax imposed by this part shall not apply to any corporation for which a credit is allowable for the taxable year under section 936.

"(c) QUALIFIED FARM SALE.—

"(1) IN GENERAL.—For purposes of subsection (a)(9)(E), the term 'qualified farm sale' means any sale or exchange before January 1, 1989, to an unrelated person of farmland during any taxable year if—

"(A) 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming,

"(B) such taxpayer is insolvent (within the meaning of section 108(d)(3)) as of the time of the sale or exchange,

"(C) substantially all of the proceeds from the sale or exchange are applied in satisfaction of indebtedness of the taxpayer, and

"(D) 90 percent or more of the fair market value of the farmland held by the taxpayer as of the beginning of such taxable year is sold or exchanged during such taxable year in qualified farm sales (determined without regard to this subparagraph).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) FARMLAND.—The term 'farmland' means any land used or held for use in the trade or business of farming.

"(B) UNRELATED PERSON.—The term 'unrelated person' means any person other than

a related person (as defined in section 453(f)(1)).

"(d) SPECIAL RULES FOR TREATMENT OF CERTAIN ENTITIES.—

"(1) ESTATES AND TRUSTS.—In the case of an estate or trust, the differently treated items for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.

"(2) PARTICIPANTS IN A COMMON TRUST FUND.—The differently treated items of a common trust fund (as defined in section 584(a)) for each taxable year of the fund shall be treated as items of the participants of such fund and shall be apportioned pro rata among such participants. For purposes of this subsection, this part shall be treated as applying to such fund.

"(3) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, the differently treated items of such company or trust for the taxable year shall be apportioned between the company or trust and shareholders and holders of beneficial interests in such company or trust in accordance with regulations prescribed by the Secretary.

"(4) DIFFERENTLY TREATED ITEMS.—For purposes of this subsection, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(e) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures), or

"(D) section 616(a) (relating to mining exploration and development expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) ELECTION.—

"(A) IN GENERAL.—An election may be made under this subsection with respect to any portion of any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) TIME AND MANNER.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) PARTNERS AND SHAREHOLDERS OF S CORPORATIONS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (1) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) APPLICATION OF SECTION 616(C).—In the case of any disposition of mining property to which section 616(c) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 616(c), be treated as a deduction allowable under section 616(a).

"(6) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(f) COORDINATION WITH SECTION 291.—Section 291 shall apply before the application of this part."

"(g) TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year."

(b) CREDIT AGAINST REGULAR TAX FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Part IV of subchapter A of chapter 1 of such Code (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax For Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) MINIMUM TAX CREDIT.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the net minimum tax imposed for all prior taxable years beginning after 1985, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, or

"(2) the excess (if any) of the amount determined under paragraph (1) over the tentative minimum tax for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) NET MINIMUM TAX.—

"(A) IN GENERAL.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) EXCLUSION PREFERENCES OF INDIVIDUALS NOT TAKEN INTO ACCOUNT.—In the case of a taxpayer other than a corporation, the amount of the net minimum tax for any taxable year shall be reduced by the amount which would have been the net minimum tax for such year if sections 56 (other than subsection (b)(1) thereof) and 58 did not apply and the only items of tax preference taken into account were the items described in paragraphs (1), (2), (3), (6), and (7) of section 57(a).

"(2) TENTATIVE MINIMUM TAX.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) CREDITS NOT ALLOWABLE AGAINST MINIMUM TAX.—

(1) PERSONAL CREDITS.—

(A) Subsection (a) of section 26 of such Code (relating to limitation based on amount of tax) is amended to read as follows:

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) REGULAR TAX LIABILITY.—Subsection (b) of section 26 of such Code is amended—

(i) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(ii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),", and

(iii) by striking out "TAX LIABILITY" in the subsection heading and inserting in lieu thereof "REGULAR TAX LIABILITY".

(c) GROSS MINIMUM TAX.—Subsection (c) of section 26 of such Code is amended to read as follows:

"(c) TENTATIVE MINIMUM TAX.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) CREDIT FOR CLINICAL TESTING EXPENSES.—Paragraph (2) of section 28(d) of such Code is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) CREDIT FOR PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES.—Paragraph (5) of section 29(b) of such Code is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A of sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) ALLOWABLE PORTION OF REGULAR TAX LIABILITY.—For purposes of paragraph (1), the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) UNUSED CREDITS FROM YEARS BEFORE 1986 MAY OFFSET 75 PERCENT OF MINIMUM TAX WHERE CORPORATION HAS NET OPERATING LOSSES BEFORE 1986.—In the case of any taxpayer—

"(A) which is a C corporation, and

"(B) which has net operating losses in at least 2 of its last 3 taxable years ending before January 1, 1986,

in the case of unused business credits from taxable years beginning before January 1, 1986, the limitation of paragraph (1) shall not be less than 75 percent of the tentative minimum tax for the taxable year."

(c) ESTIMATED TAX PROVISIONS TO APPLY TO CORPORATE MINIMUM TAX.—

(1) Paragraph (1) of section 6154(c) of such Code is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, and

"(B) the minimum tax imposed by section 55, over".

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(d) TECHNICAL AMENDMENTS.—

(1) COORDINATION OF SECTION 265 OF SUCH CODE WITH MINIMUM TAX.—Section 265 of such Code (relating to expenses and interest relating to tax-exempt interest) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR INTEREST TREATED AS TAX PREFERENCE.—Interest shall not fail to be treated as wholly exempt from taxes imposed by this subtitle solely by reason of being an item of tax preference under section 57."

(2) APPLICATION OF SECTION 381.—Subsection (c) of section 381 of such Code is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(3) LIMITATION IN CASE OF CONTROLLED CORPORATIONS.—Subsection (a) of section 1561 of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.", and

(B) by striking out "amounts specified in paragraph (1)" and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))".

(4) TREATMENT OF SHORT TAXABLE YEARS.—Subsection (d) of section 443 of such Code (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX AND TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55 shall bear the same relation of the tax computed on the annual basis as the number of months in the short period bears to 12."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) ADJUSTMENT OF NET OPERATING LOSS.—

(A) INDIVIDUALS.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1986, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1985, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) CORPORATIONS.—If the minimum tax of the corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1986, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1986, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1985, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) TRANSITIONAL RULE FOR LOSS DISALLOWANCE RULES.—For purposes of section 58 of the Internal Revenue Code of 1954—

(A) the cash invested in any activity as of the beginning of any taxable year beginning in 1986 shall be treated as not less than zero, and

(B) in applying the principles of section 465 of such Code for purposes of such section 58, there shall be no recapture of any loss from a taxable year beginning before January 1, 1986.

(4) FARM SALE.—For purposes of applying section 57(a)(9) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for taxable years beginning after December 31, 1984, the amount of the net capital gain of any individual shall be determined without taking into account any gain from a qualified farm sale (as defined in section 59(c) of such Code) is amended by this Act.

(5) CERTAIN PUBLIC UTILITY PROPERTY.—If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,111 and 1,149, in the "maximum dependable capacity, net, megawatts electric" of an electric generating unit for which a binding written contract was in effect on December 31, 1980—

(A) the amendments made by this section shall not apply with respect to depreciation deductions allowable with respect to such unit, and

(B) any investment tax credit with respect to such unit shall be treated in the manner provided in section 38(c)(3) (without regard to the requirements that the credits be from years before January 1, 1986, and without regard to the net operating loss requirement).

A disposition after December 31, 1985, of a portion of the electric utility's undivided interest in the generating unit will not affect such utility's treatment of depreciation deductions and investment tax credits with respect to any interest retained in the generating unit.

SEC. 2. INCREASE IN PERSONAL EXEMPTIONS.

Subsection (f) of section 151 of the Internal Revenue Code of 1954 (defining exemption amount) is amended to read as follows:

"(f) EXEMPTION AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'exemption amount' means an amount determined by the Secretary under paragraph (2).

"(2) DETERMINATION.—

"(A) OFFSET REVENUE INCREASE DUE TO ALTERNATIVE MINIMUM TAX.—The Secretary shall determine the exemption amount to be an amount necessary to decrease tax revenues for the calendar year by the amount by which such revenues would be increased (but for this paragraph) by the operation of part VI of subchapter A of chapter 1 over the amount of tax revenues received in 1985 by the operation of such part.

"(B) ANNUAL REVISION.—The Secretary shall annually revise the determination made under subparagraph (A) to take account of changes in the amount of tax revenues generated by the operation of part VI of subchapter A of chapter 1."

By Mr. UDALL:

—age 490, line 7, through page 509, line 8, strike out all of sbtitle G and insert the following in lieu thereof:

Subtitle G—Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

SEC. 671. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) AGREEMENTS TO ALLEVIATE CERTAIN PROBLEMS RELATING TO TAX ADMINISTRATION.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the total amount of revenue collected by each respective possession shall be not less than the total amount of revenue, adjusted by inflation, which was received by such possession pursuant to laws in effect in the year immediately prior to the date of enactment of this Act.

(2) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(3) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(4) the nondiscriminatory treatment of citizens and residents of the United States and any possession,

(5) the exchange of information between such possession and the United States for purposes of tax administration, and

(6) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury in consultation with the Secretary of the Interior. If the Secretary of the Treasury determines that any possession has failed to comply with all of the terms of said implementing agreement, he shall so notify the governor of such possession, in writing. If said possession does not comply with the terms of the implementing agreement within ninety days, the Secretary shall notify the Congress of such non-compliance for its review. Unless the Congress provides otherwise, within ninety days, the income tax laws applicable immediately prior to the date of enactment of this Act shall be reinstated and shall be in full force and effect in such possession. The provisions of paragraph (1) of this subsection shall be effective for five years after an implementing agreement has been executed pursuant to the subsection.

(c) NON-APPLICABILITY TO THE NORTHERN MARIANA ISLANDS.—Notwithstanding the provisions of the last clause of Section 601(a) of Public Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to maintain the tax system otherwise required by Public Law 94-241 to be in force immediately preceding the date of enactment of this Act.

SEC. 672. EXCLUSION OF POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) DEDUCTIONS, ETC. ALLOCABLE TO EXCLUDED AMOUNTS NOT ALLOWABLE.—An individual shall not be allowed—

"(1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) SPECIFIED POSSESSION.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYEES OF THE UNITED STATES.—Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

"(2) DETERMINATION OF SOURCE, ETC.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply.

"(3) DETERMINATION OF RESIDENCY.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply."

(b) EXEMPTION FROM WITHHOLDING TAX; TAX IMPOSED BY SECTION 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC. 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) CROSS REFERENCES.—

"For exclusion from gross income of income derived from sources within—

"(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraph (1) and (2) of section 933 are each amended by inserting ", or any credit," before "properly".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living abroad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932,".

(6) Paragraph (6) of section 63(c) (relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income from sources within possessions of the United States)" and by inserting "and" after "of the employer),".

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;".

(12) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 673. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) TREATMENT UNDER SUBPART F.—Subsection (d) of section 957 (relating to controlled foreign corporations; United States persons) is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the laws of Guam, American Samoa, or the Northern Mariana Islands—

"(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession,

such term does not include an individual who is a bona fide resident of Guam, Ameri-

can Samoa, or the Northern Mariana Islands.

For purposes of subparagraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply."

(b) EXEMPTION FROM WITHHOLDING.—

(1) IN GENERAL.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—For purposes of this section, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) EXCEPTION FOR CERTAIN POSSESSIONS CORPORATIONS.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

PART II—TREATMENT OF THE VIRGIN ISLANDS

SEC. 674. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

"(a) TREATMENT OF UNITED STATES RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both United States and the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) PORTION OF UNITED STATES TAX LIABILITY PAYABLE TO THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—Each individual to whom this subsection applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) VIRGIN ISLANDS ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) AMOUNTS PAID ALLOWED AS CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, identifies the source of each item shown on such return, gross income shall not include any amount included in gross income on such return.

"(d) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) SECTION NOT TO APPLY TO TAX IMPOSED IN VIRGIN ISLANDS.—This section shall not apply for purposes of determining income tax liability incurred to the Virgin Islands."

(b) AUTHORITY TO IMPOSE NONDISCRIMINATORY LOCAL INCOME TAXES.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1985 and shall not be treated as taxes to which section 901 of such Code applies.

(c) REGULATIONS ON APPLICATION OF MIRROR SYSTEM.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying this title for purposes of determining tax liability incurred to the Virgin Islands.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands individual income taxes."

SEC. 675. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS CORPORATIONS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection 934 is amended by striking out subsections (b), (c), (d), (e), and (f), and by redesignating subsection (g) as subsection (c).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO VIRGIN ISLANDS SOURCE INCOME, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or is effectively connected with the conduct of a trade or business within the Virgin Islands shall be made under regulations prescribed by the Secretary, in consultation with the governor of the Virgin Islands."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed.

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(7) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b),".

(8) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(9) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 676. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) FEDERAL PERSONNEL.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes paid under chapter I which are attributable to amounts paid for services performed as an employee of the United States (or any agency thereof) with respect to an individual to which section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

SEC. 677. COLLECTIONS REMITTED.

(a) Notwithstanding any other provision of law, all customs, duties, excise taxes imposed by and collected under the Internal Revenue Laws on the United States on articles produced in American Samoa, federal income taxes derived from American Samoa, and the proceeds of any other taxes which may be levied on the inhabitants of American Samoa by the United States, and all quarantine, passport, immigration and naturalization fees collected in American Samoa shall be covered into the Treasury of American Samoa and held in an account to be expended for the benefit and Government of American Samoa as provided by the laws thereof.

(b) Section 28(b) of the Revised Organic Act of the Virgin Islands, 68 Stat. 508, is amended by adding the following: "Notwithstanding any other provision in law, all excise taxes imposed by, and collected during the fiscal year under, the Internal Revenue laws of the United States on rum produced in the Virgin Islands shall be paid over in full to the Government of the Virgin Islands".

PART IV—EFFECTIVE DATE

SEC. 678. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1985.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 671 is in effect between the United States and such possession.

(c) SPECIAL RULE FOR THE VIRGIN ISLANDS.—The amendments made by section 675(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

[Pursuant to the order of the House on December 4, 1985, the following report was filed on December 7, 1985]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3838. A bill to reform the internal revenue laws of the United States (Rep. No. 99-426). Referred to the Committee of the Whole House on the State of the Union.

SENATE—*Friday, December 6, 1985*

(Legislative day of Monday, December 2, 1985)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Almighty God, Lord of the macrocosm and the microcosm, the infinite and the infinitesimal, the mighty and weak, we praise Thee for this remarkable body, the U.S. Senate. There is a sense, Father, in which the whole world fills this Chamber—invisible, but present in issues and agendas. Every citizen is here—every city—every State—every region—every nation—every corporation or business or organization represented by lobbyists are here. The problems of the world crowd this Chamber. And 100 Senators are expected to respond, to struggle with them, to filter fact from fiction, truth from error, and make decisions that are just. Viewed in this way, Lord, the responsibility of the Senate is simply beyond human capacity to comprehend, let alone fulfill. Gracious God, this challenges human extremity. In this season of Thanksgiving, Hanukkah, and Christmas may all that they represent in divine direction, deliverance, and eternal destiny, be operative in the lives of each Senator for whom the burden of leadership is inescapable. In the name of Him whose love is constant and certain and whose wisdom and strength are available. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I will yield the time I might not use to my colleague, Senator KASSEBAUM.

Following the recognition of the two leaders, there will be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not more than 5 minutes each.

Following morning business, at about 10 o'clock, we will take up the HHS conference report to accompany H.R. 3424, the Labor-HHS appropriations bill. That will be disposed of, I understand, very quickly.

That will be followed by the conference report to accompany H.R. 2965, the State-Justice-Commerce appropriations bill. That will take an hour or so. There will probably be three rollcall votes, I am advised by the chairman of that subcommittee, Senator RUDMAN.

If the continuing resolution, House Joint Resolution 465, is ready for consideration following that conference report, we will begin deliberations. If not, perhaps we can use some of the time in the 4-hour time agreement on the White Earth Indian bill. Hopefully, throughout the day we may be able to clear some of the nominations on the Executive Calendar.

I will say we can expect rollcall votes throughout the day and rollcall votes prior to noon today. I would assume the first vote could be somewhere around 10:45 or 11 o'clock.

CELEBRATING HANUKKAH

Mr. DOLE. Mr. President, at sundown Sunday Jews all over the world will light the first candle, beginning the 8-day celebration of Hanukkah.

This festival of lights is one of the most joyous of Jewish holidays. Games are played, gifts exchanged and a candle lit every night for eight nights to commemorate the victory of Judah Maccabee and a small band of Jewish warriors over the mighty Syrian Army in 165 B.C.

King Antiochus, who ruled Syria then, had decided to make all Jews give up their religion. The Temple in Jerusalem, the holiest of all Jewish synagogues, was in the hands of the enemies. The Syrian soldiers set up idols, and sacrificed animals in the temple.

The Jews rebelled. And led by Judah Maccabee defeated the powerful Syrian Army. After the decisive battle, Maccabee led his troops back to Jerusalem. The first thing he and his men did was clean and purify the temple. The Menorah, or eternal light, that had been put out by the enemy was lighted once again. Then the temple was rededicated. A great celebration took place and lasted for 8 days. It was called Hanukkah, festival of dedication.

There is a legend that when Judah and his men were cleaning out the temple, they could not find any pure oil with which to light the holy menorah, the seven-branched candlestick that always burned in the temple. At last a small jug of pure oil was found. But it contained enough for only 1 day. Eight days would be needed to get more oil. But the oil lasted for 8 days, until more could be obtained. And that is why, the Jewish people celebrate Hanukkah for 8 days.

Mr. President, Hanukkah reminds us, all of us, how the Jews have fought time and again against seemingly insurmountable odds to preserve and perpetuate their religion. The powerful force of the belief in one god has sustained Jews through the centuries. And the celebrations associated with Hanukkah reflect the joy and sense of well-being that belief can bring.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. ANDREWS). Under the standing order, the acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I will only take a small part of the Democratic leader's time.

THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, yesterday the distinguished majority leader presented a unanimous-consent request on the Genocide Treaty. It was an extraordinary action by the majority leader. I congratulate him on it. He has kept his word. He said he would do his best to call up the treaty. This was one of the most unusual unanimous-consent requests this Senator has ever seen, and I have seen a lot over the years.

Here was a unanimous-consent request where there were 41 amendments which would have been in order, and only 41 amendments. Every one of the amendments was offered by a critic of the Genocide Treaty. There were 10 or 11 Senators who offered those amendments.

There were no amendments that would have been in order by those of us who favor the treaty, although many of us disagree with part of the recommendations on the floor of the Senate on the Genocide Treaty.

I do want to commend the majority leader because the majority leader has done something that I think badly needs doing and I earnestly hope that he will persist in pressing the Genocide Treaty.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. President, here is a treaty that is supported by the administration, by President Reagan. It is a treaty that has been supported by every single President of the United States since Harry S Truman, every one, Republican and Democrat.

Here is a treaty which is supported by the American Bar Association, although for the first 20 years that the treaty was before the Senate the Bar Association opposed it. But they meticulously, carefully, scrupulously, analyzed every part of that treaty, found it was in the national interest, and now they are the most enthusiastic supporters of the treaty.

Here is a treaty which is supported by every religious group in this country—Catholic, Protestant, Jewish.

It is a treaty which has been ratified by every major country in the world except the United States.

It is a treaty that was offered in the United Nations by the United States and lobbied through the United Nations unanimously by the United States.

Who opposes the treaty? It is a treaty that is opposed by the John Birch Society, the Eagle Forum, the so-called Liberty Lobby; the right-wing groups in this country.

I think all of us know, going back to our States—I run into it in my State—when you go around and meet many people in the State you will find people who are opposed to the Genocide Treaty.

In every single case they are not aware of what the treaty does. They are not aware that this treaty is accompanied by understandings which would protect American citizens completely; that it is fully in accordance with the Constitution of the United States.

I think there is no question that those who have sat down and thought about this treaty carefully recognize that it is something that the U.S. Senate should act on.

The House of Representatives does not have to take any action on this treaty. Only the Senate has to act.

Mr. President, in spite of the fact that the unanimous-consent request only permitted amendments by those who opposed the treaty, it was significant that the objection to the unanimous-consent request was made by the distinguished and able Senator from North Carolina, Senator HELMS, who has been a critic of the treaty, and who had three of the amendments that would have been offered in the unanimous-consent request. He objected to taking up the treaty even under those circumstances.

Mr. President, it should be clear to everybody in the Senate that if we are going to deal with the Genocide Treaty, it has to be moved up by the majority leader. I earnestly hope he will.

As I say, it is a treaty which is supported by the majority leader; by the assistance majority leader, Senator SIMPSON; by, I am sure, an overwhelming majority of Republicans; and by an overwhelming majority of Democratic Senators. Only the Senate has to act.

The administration has called for action on it and I do hope that we have a chance, after 35 years—35 years waiting for action on this treaty—that now at long last we have a chance, to take the action that we have been called upon to take by religious groups all over this country, by the American Bar Association and so many other people who have studied the treaty very carefully and recognize it is in the national interest and in the interest of humanity.

AMERICA'S BEST TIME FOR PEACE

Mr. PROXMIRE. Mr. President, this may be the best time in American history for our country to build for a long era of peace. I say that although this Senator believes that we must have a large and strong military establishment. Why? For one primary reason. That reason is the Soviet Union. Yes. the Soviet Union is a threat. It is a formidable adversary. But it could be worse, much worse. The Soviet Union must not be confused with Nazi Germany and the Third Reich. Mikhail Gorbachev is not Adolph Hitler; 1985 Russia is not 1939 Germany. And, finally nuclear weapons have transformed the relations between the major powers of the world beyond recognition. Old habits die hard. From the time mankind swung out of the trees and started walking upright the ultimate resolution of disputes has been the supreme violence of war. Except for the nuclear powers and especially the nuclear superpowers that is still true. But for the United States and the Soviet Union, the dominant nuclear powers, it is not true and it can never be true again. President Ronald Reagan, the most hawkish, military minded President who has served this country in this century if not in history, flatly acknowledges that fact. So does Secretary Gorbachev. Their statements are not propaganda. They are not window dressing. They state a fact that every informed person on Earth understands. A nuclear war can never be won. It must never be fought. We know it. The Russians know it.

And yet arms control has made no progress for the past 6 long years. Our two most significant arms control agreements, the Anti-Ballistic Missile Treaty [ABM] and the second Strategic Arms Control Treaty [SALT II], are in serious danger of sudden death. The ABM treaty will be gone forever if this country proceeds with the SDI or star wars. Star wars will create precisely the kind of antimissile defense which the Anti-Ballistic Missile Treaty was drafted to prevent. SALT II expires at the end of this month. Even if it is renewed, the announced "proportionate response" policy of the administration will surely kill it in short order. This follows because the "proportionate response" policy means the United States will respond to its perceived violation of arms control treaties by violations the United States believes serve our interest. Obviously, this is a formula for promptly gutting the treaty. Arms control is in dangerous jeopardy.

So what do we do? We proceed all out, sled length with arms control. We have never in our long history had a better time and a more favorable world situation for doing this. Today, right now, we bargain from superior strength. Our top military officials have repeatedly assured the Congress in testimony throughout the years, right up to date, that they would not trade the military position of the United States for the military position of the Soviet Union. How about the military strength of the two superpowers in the future? The U.S. advantage will continue. Why? What determines future military power? No. 1, in this fast moving scientific age of modern nuclear weapons, strength is determined by the degree of technological military progress of each adversary. Earlier this very year the Undersecretary of Defense for Research told the Congress that in the 20 most important areas of military technology the United States and the Soviet Union are tied in 5. The United States leads in 15. The Soviets lead in precisely none. Any comparison of the military strength of the NATO alliance with the Warsaw pact alliance and its grudging, resentful Eastern European members again shows our alliance far stronger. When we compare the economies of the two superpowers and the two superpower alliances, there is no comparison. NATO and the United States enjoy an overwhelming advantage.

Mr. President, it would be hard to conceive of a more provident time or circumstance for this country to stop the arms race. Yes, indeed, it is true that the Soviet Union embraces a Marxist dogma that preaches world revolution by force and violence, if necessary. It is also true that the Soviet Union has far and away the most formidable military power in the world except for the United States. So finally it is true that the Soviet Union constitutes the only conceivable military adversary that confronts this country. And that can be a fortunate, not an unfortunate, fact. Russia has a centuries long tradition of concentrating its military efforts on defense. It occupies far and away the largest ter-

ritory of any nation in the world. Heavens knows it has plenty of living room. No country is richer in natural resources. Sure, it has engaged in military aggressions. But the aggressions have been, with few exceptions, against weak, small neighbors. It has never throughout the centuries instigated an attack against a nation or a combination of nations that had anything like its military or economic or technological power.

Above all, right now with a new leader, in Secretary Gorbachev, the Soviet Union, obviously, wants to shift its resources into economic growth. So the Russians have a conspicuous motive for advancing arms control. Mr. President, it would be hard to find a time in history when the United States enjoyed a better opportunity to build a peaceful world. How perverse it is for these two dominant world powers to be engaged in the most costly and dangerous arms race in history. We can stop it. We must stop it.

HOLOCAUST MUSEUM CEREMONY

Mr. PROXMIRE. Mr. President, on October 16, 500 people gathered at the ground breaking ceremony for the Holocaust Museum.

As the ceremony began, Holocaust survivors opened six small containers and poured ashes and Earth from Nazi death camps and their victims over the American soil that will hold the U.S. Holocaust Memorial.

As the charred dust fell, Holocaust survivor, Elie Wiesel, spoke:

> Come and see. Come and learn what human beings can do to other human beings. Learn the limits of humanity. . . . Learn, and hope is possible. Forget, and despair is inevitable.

A message was then read from President Reagan:

> The lessons of the Holocaust belong here. Today, much of the world still struggles to rid itself of the rule of godless tyrants, and murders. This memorial will stand always to remind us of the nobility of that struggle and the perils if we remain indifferent.

Mr. President, the United Nations adopted the Genocide Convention, which makes mass killing a violation of international law, shortly after the end of World War II in reaction to the Holocaust. Yet, some 40 years later the United States still has not signed it. How can we build a memorial commemorating the Holocaust, yet fail to sign a treaty that would surely prevent future Holocausts?

The U.S. Senate must ratify the Genocide Convention making clear to the world that we oppose the Holocaust and will do everything in our power to prevent another.

Mr. President, the impassioned words of Mr. Elie Wiesel, so eloquently delivered at the Holocaust Memorial Ceremony, impressed and inspired me. They more than any words this Senator could ever offer, describe the tragedy and trauma of the Holocaust, and most importantly, the need to be ever vigilant against another.

I ask unanimous consent to have printed in the RECORD the speech Mr. Wiesel delivered at the memorial ceremony.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF ELIE WIESEL

Your Excellencies, Secretary Hodel, Distinguished Members of Congress, Honored Guests, Ladies and Gentlemen.

Today, as we begin to lend a physical dimension to our relentless quest for remembrance, it is fitting to express our profound gratitude to Congress and to the people of the United States for the help and encouragement they have offered us in carrying out our historical mandate.

Outside of Israel, ours is the only nation in the world that has made a commitment to establish a national museum dedicated to the memory of six million Jews, all victims of the Holocaust and millions of other victims of Nazism.

The help we have received has always been bipartisan in both houses of Congress. The administration—irrespective of its political party—has never refused to assist us in our various efforts. The Secretary of the Interior, the Secretary of the Army, the Secretary of State and their respective staffs have given us their indispensable support. The general public has responsed to our appeals with the characteristic generosity of the American people. As for the President of the United States, not only has he often participated in our Remembrance Ceremonies, but he has also graciously accepted to serve as Honorary Chairman of our Campaign to Remember. On behalf of the United States Holocaust Memorial Council, its advisers and staff, I thank them, and I thank you—from the depths of my heart.

Now it is up to us to continue. If we fulfill our mission, future generations will benefit from it. But the task is neither simple nor easy. The story we must tell cannot be told—not in its entirety. In our case, the sum of the fragments does not convey the full message. Words, images, memories, prayers, fears, agonies: How does one communicate the burning of a ghetto? Or the arrival of a convoy at Birkenau at midnight? Or the daily massacre of ten thousand men, women, and children, some buried alive, at Babi Yar? Woe unto us, for the killer's imagination surpassed that of his victims. Furthermore, by pushing the crime to its ultimate limits he deprived us of the language to speak of his crime.

What, then, do we wish the future visitor to remember, to learn? The fragility of the human condition? The vulnerability of culture and education? The monstrous powers of political fanaticism? The dangers inherent in indifference? The fact that it was possible for an evil regime to consider cynically, calmly, scientifically, the annihilation of an entire people and be persuaded of its right and obligation to do so? All this is part of the tale—and more, much more.

Some lessons may have an immediate and urgent effect. Terror must be fought wherever it is aimed against innocent civilians. Individual terror that cost the life of an old Jewish invalid is today as abhorrent as state terror was when, from Hitler's Berlin, it dominated part of Europe from 1933 to 1945.

Terror must be outlawed as must genocide. We cannot leave this place today without appealing once more to the United States Senate to ratify the Genocide Treaty. I am not sure whether such treaties will prevent mass murder, but the absence of such treaties may give the enemy of humankind the wrong signal. Would a Genocide Treaty have prevented the murder of the Jews by the Nazis? I doubt it. But its absence gave the enemy of humankind the wrong signal.

In killing Jews the killer has killed more than Jews. This tragedy has affected more than its Jewish victims. Whoever kills Jews ends up killing other minorities, other adversaries, other religious groups, other nationalities.

In occupied Europe, the Nazis and their local accomplices, oppressed, tormented, persecuted, imprisoned and executed French heros of the resistance, Yugoslav and Greek and Russian partisans, Ukrainian peasants, Bulgarian and Polish patriots, Dutch workers, Belgian students, Norwegian intellectuals, Danish policemen, German and Austrian anti-Nazi militants, Italian anti-Fascists, Czechoslovakian freedom fighters. Lidice and Oradour are but extreme examples of what SS rulers intended to do—and often did—throughout their universe in order to crush those who refused to submit to their terror. And they eliminated Gypsies, homosexuals, the mentally retarded, the mentally sick.

Using death as an instrument, they sought to rearrange the universe so as to give violence and injustice the attributes of divinity.

But their main effort was directed against the Jewish people. "Who remembers the Armenians?" Hitler asked with disdain. Who will remember the Jews?

In a perverse way, he was right. No one cared about the Jews. They were abandoned. The world knew and kept silent. Hitler knew that the world knew—and thus felt reassured in his belief that he was doing humankind a favor by cleansing it of its Jewish elements. And so more ghettos were erected and emptied, more communities uprooted and massacred. How are we to remember them? If we could inscribe their names on stone, the monument would be larger than this entire city. What other way is there for us to turn past experiences into acts of remembrance? What should we emphasize first? The helplessness of the victim? The inexorable urge of the killer to destroy? The children, frightened children, marching quietly in procession toward the flames? The old men and women chased toward mass graves? In those times we were a people without children, and children without grandparents. We have seen them vanish into darkness and ascend an invisible ladder of fire reaching the sky.

One enters those memories with fear and trembling; for one's sanity is endangered. But we must enter them. We open them as

One opens gates to secret kingdoms. Come and see. Come and learn. Learn what human beings can do to other human beings. Learn the limits of humanity. Learn, and hope is possible—forget, and despair is inevitable.

This Museum is not intended to awaken hatred nor to separate people—quite the opposite: it is meant to bring people closer together. Faced with our memories, the visitor will have no choice but to become more sensitive to his or her fellow being's anguish.

The Jewish people has a history of persecution and suffering. But never before have

its victims endured such torment; never before has the enemy deprived them of their resting place. For the first time in our history, multitudes of Jews died and were not buried.

Our heart is their cemetery; our memory, their resting place.

The killer killed them once—and there is nothing on earth that we can do about it. But, if they are forgotten, they will be killed a second time—and this we can—and must—prevent.

A great Hasidic Master once said, "If you wish to find the spark, look for it in the ashes."

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, my myth of the day is that our economy is going through a rapid deindustrialization. The idea that the goods producing sector of the U.S. economy is producing a smaller and smaller portion of our national output over the past several decades is simply wrong.

In 1947, just over one-half of all the real GNP in the United States was produced by the goods producing sector: Manufacturing, construction, mining, and agriculture industries. Over the next decade, that figure fell to 47 percent. However, from 1957 to 1984, this percentage remained unchanged. In other words, we are not deindustrializing. We are not substituting service sector output for output from the goods producing sector.

In fact, if you just look at the manufacturing sector of the economy, the situation even more strikingly contradicts the myth of deindustrialization. The share of manufacturing in real GNP was 24 percent in 1947. And what was it in 1984? Precisely the same 24 percent! Clearly, there has not been any long-term trend away from manufacturing production in the United States.

But wait a minute. Why is there so much concern about the trade deficit and the associated loss of manufacturing jobs? It is true that manufacturing accounted for a little over one out of every four jobs in 1968 and now provides less than one out of every five jobs. One of the major reasons for this relative decline is that productivity historically grows much more rapidly in the manufacturing sector.

For example, the recently published Bureau of Labor Statistics data on productivity in the third quarter showed that while nonfarm business sector productivity increased at an annual rate of 2.1 percent in the third quarter of 1985, the productivity increase in the manufacturing sector in that same period was at an annual rate of 3.7 percent.

Manufacturing employment was 19.3 million in 1967 and reached its peak of 20.6 million in 1980. Today, it is about 1 million jobs below that level.

It is true that unfair foreign competition has robbed Americans of many, many jobs in some manufacturing industries especially those hard-pressed companies in the Midwest. However, other parts of the manufacturing sector, including computer, telecommunications, medical instrument, and drug firms have all seen a substantial growth in employment.

We must not minimize the misery caused by the serious decline in output and jobs in certain goods producing areas. However, when we look at the overall picture, the goods producing component of our national economy continues to maintain its relative share of our national output.

WISCONSIN HIGH SCHOOL BAND CHOSEN TO ATTEND INTERNATIONAL MUSIC FESTIVAL

Mr. PROXMIRE. Mr. President, it is my pleasure to announce that the Ashland High School Orchestra, of Ashland, WI, has been selected to attend the International Youth and Music Festival in Vienna, Austria. The festival, scheduled to take place July 8–20, 1986, will feature bands, choral groups, and orchestras from all over the world.

It is truly an honor to have been chosen to travel around the globe to take part in this once in a lifetime experience. Right now, the talented musicians and their friends from Ashland, WI, are raising funds to pay for their trip to Vienna. The members of the Ashland High School Orchestra are a source of great pride to their community and to the State of Wisconsin.

Mr. President, I yield the remainder of the leader's time to the distinguished Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

INSIDER TRADING

Mr. LAUTENBERG. Mr. President, the practice of trading securities on inside information is a crime. It is a fraud against innocent, uninformed investors. It destroys the integrity of the stock markets. And it impairs capital formation that our economy depends on.

For all these reasons, Mr. President, Congress is on record that insider trading is wrong; it must be stopped, and violators must be punished. Last year, Congress passed the Insider Trading Sanctions Act. It raised the civil and criminal penalties for insider trading. So, a person may be criminally fined $100,000 and sentenced to 5 years in prison.

While Congress has acted, so has the SEC, stepping up enforcement, and bringing more cases.

But while Congress gets tough on insider trading, the U.S. Parole Commission is getting soft. While Congress has called loud and clear for stiff penalties, the Parole Commission has moved quietly to undermine those penalties.

The Parole Commission sets guidelines for parole. It sets a time range in which parole is generally granted. The time range varies with the kind of crime, and the kind of criminal. Not all crimes are listed, and when they are not, the Commission applies its best judgment. That was the case with insider trading. There was no guideline.

Then, on October 3, without any prior public notice of its intention to do so, the Parole Commission issued an interim guideline on insider trading. Without any public comment—in fact, I am told, without consulting the SEC—the rule became effective November 4.

The guideline took the case of a typical, first-time, white collar offender, a good parole risk, but someone who traded on inside information to the tune of $1 million and the Parole Commission said, that person could be paroled almost the day he stepped into prison. The guideline says parole is available in zero to 10 months.

By contrast, what do the guidelines say about plain old fraud or forgery or embezzlement? If the same white collar criminal committed fraud involving $1 million, that person has to serve 40 to 52 months before parole.

More than 3 to 4 years in jail for fraud, zero to 10 months for insider trading.

The guideline is inexcusable. It is unfair, unjust, and violates the intent of Congress to get tough on insider trading.

For that reason, Mr. President, I intend to offer an amendment to the continuing resolution to bar the Parole Commission from enforcing this guideline. And I hope my colleagues will join me in sending a signal to the Parole Commission that fraud is fraud—and that insider traders should not get off the hook so easily.

Mr. President, while I have looked into these guidelines for a couple of weeks now, one fact came to light just yesterday, one fact that may or may not be connected. The fact is that, yesterday, the Parole Commission reached a decision on the parole of Paul Thayer, former Deputy Secretary of Defense.

He was told to serve 19 months of his 4-year sentence. The Parole Commission found he engaged in securities violations involving inside information. It found that well over $1 million was involved. Nineteen months is not an insignificant penalty. But 40 to 52 months is even more significant. Had the Parole Commission likened insider trading to fraud, parole could not be granted for 40 to 52 months—more than twice the period Mr. Thayer is

asked to serve. Mr. President, we should not minimize the seriousness of insider trading violations. And, more importantly, we should not undermine respect for the law.

To promote the public's respect for the law, we must guarantee equal treatment under law. The guidelines on insider trading do not.

Mr. PROXMIRE. Mr. President will the Senator from New Jersey yield very briefly?

Mr. LAUTENBERG. Yes, Mr. President.

Mr. PROXMIRE. I wholeheartedly support him. I ask unanimous consent that I be listed as a cosponsor of the amendment. I think he is dead right, that that offender should be punished and I think the Senator's amendment is exactly on target.

Mr. LAUTENBERG. Mr. President I would be happy to have the Senator as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with statements therein limited to 5 minutes each.

COMMEMORATING THE 41ST ANNIVERSARY OF ALBANIA'S LIBERATION FROM NAZI GERMANY

Mr. DIXON. Mr. President, for Americans of Albanian heritage the Thanksgiving holiday marked a significant anniversary. Forty-one years ago Albania was able to drive occupying Nazi forces out of their land and secure territorial integrity. For many U.S. citizens, this occasion has deep personal importance. They remember a liberated Albania free from Nazi brutality.

Today's Albania, I am sorry to say, faces political and religious repression at the hands of its own totalitarian government. The Nazi armies have been replaced by Albanian dictators. Personal freedoms are continuously denied to Albanian friends and relatives of Americans.

Therefore, Mr. President, it seems appropriate that we should remember and commend those individuals who fought for the very freedoms we enjoy every day. Unfortunately, their victory over the Nazis was short lived. Today this nation faces institutionalized repression, and is virtually shut out from the rest of the world. The tragedy facing Albania must not be forgotten. It must remain fresh in the mind of every American, and our Government must do everything it can to make clear that our Nation abhors totalitarianism and remains committed to an independent Albania.

WALTER E. DOUGLAS LEAVING NEW DETROIT POST

Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to an outstanding citizen who has done so much for my hometown, its people and its betterment.

For someone who has brought so much to Detroit, it is ironic that Walter E. Douglas didn't start out as a Detroiter. He was born in Hamlet, NC, in 1933. He attended that State's public schools prior to earning an undergraduate degree in accounting and a graduate degree in business administration from North Carolina Central University.

Walt's first job was that of an instructor and public relations professional for Edward Walters College in Jacksonville, FL. He briefly taught at Tuskegee Institute in Alabama before putting away his grade books for a stint in the U.S. Army.

Walt took a position at the Internal Revenue Service in Washington, DC, in 1959 where he rose from cash clerk/typist to initiator of new computer methods for efficient processing of income tax tabulations.

It was in 1965 that Walt moved from the IRS office in Washington to the IRS Data Center in Detroit to assume expansive new responsibilities. He was promoted from assistant chief of the systems division to chief of the management staff and ultimately to assistant director of the Data Center.

In 1972 Walter E. Douglas came to New Detroit—an organization seeking necessary social change by supporting and encouraging initiatives among individuals and organizations to eliminate social injustice and resolve basic problems—as vice president with responsibility for the program areas of employment, community self-determination, minority economic development, youth, Hispanic affairs, and urban resources monitoring. It was Walt who initiated the Action Program Against Unemployment [APAU], a coalition of government and private agencies which analyzed the local economic climate to promote job expansion in the Detroit area. During this time I was a Detroit city councilman and became acquainted with Walt and the outstanding job he was doing.

In 1974 Walt was appointed on a shared-time, loaned basis as executive assistant to the chief of the Detroit Police Department. He was responsible for directing the development of the computerized system for dispatching police units in response to emergency calls. He also supervised the formation and operation of the police school busing task force during the implementation of school desegregation in the Detroit public schools. In 1976 he was appointed by the Detroit Mayor Coleman Young to the civilian board of police commissioners for a 5-year term.

In 1975, Walt received the Liberty Bell Award from the Detroit Bar Association for his contributions to the promotion of justice in the community.

In 1978, Walt became president of New Detroit and he has carried on the work of the organization and expanded its scope as he increased its accomplishments.

Currently Walt Douglas serves as a director of the YWCA, the Detroit Symphony Orchestra, the Institute of Technical Writing, Detroit's public television station, channel 56, and the police athletic league.

Walt Douglas also finds time to serve on the Overall Economic Development Planning Committee of Wayne County, the Detroit City Council Task Force on Crime, the Finance and Operations Committee of the Michigan Thanksgiving Day Parade Board, and the United Foundation Priorities Committee.

Recently Walt has been appointed to the board of trustees of Detroit's Marygrove College and to the Board of Visitors of his alma mater, North Carolina Central University.

New Detroit will miss his leadership, his compassion, and his insight. Walter E. Douglas has always been full of creative ideas and we wish him well in his new career in the Ford Motor Co. dealership program.

CLEARINGHOUSES TO LOCATE MISSING CHILDREN

Mr. DENTON Mr. President, I commend my distinguished colleague, Senator MCCONNELL, for introducing S. 1174, a bill which will amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide matching grants totaling $2 million in fiscal year 1986 and 1987, to establish State clearinghouses for information on exploited and missing children. The legislation stands as an indication of his continued leadership in the field of missing children. I was pleased to join his effort as a cosponsor of S. 1174. I am further pleased that S. 1174 was approved by the full Senate yesterday.

Mr. President, as you are fully aware missing children are a growing national tragedy. The Department of Health and Human Services has estimated that each year approximately 1.8 million children are missing from their homes for varying periods of time. Approximately 90 percent run away for a few days and return home, but at least 150,000 children become victims of custody battles and are abducted by

the noncustodial parent and as many as 50,000 young Americans are reported as having been abducted by strangers. Other children who fall in the category of missing children have been thrown away by their parents, are lost, or have become unidentified victims of accidents or crimes. In my home State of Alabama, the Missing Children's Bureau has current active files on 279 young Alabamians.

Thousands of children and their parents are victimized every year. The children disappear into the unknown. The parents live in an agony of searching for their children with little hope of success. When the parents do meet with success, they find their children suffering lasting physical, emotional, and mental problems.

There is no possible way that we, as outsiders, can even begin to understand the devastating grief of families who must deal with the trauma of a missing child. We may not be able to understand the grief, but we can certainly act to help deal with it. I firmly believe that the Federal Government and the private sector must play a more active role in the process of finding missing children and returning them to their homes.

Under the able leadership of Senators SPECTER, HAWKINS and then Congressman SIMON, the Congress in 1982 passed the Missing Children Act. The act extended the FBI's authority to collect and record data about missing children. It required the FBI to list missing children in a national computer accessible to most police departments across the country. I note that, at an April 1985 FBI oversight hearing before the Subcommittee on Security and Terrorism, which I chair, Director William Webster reemphasized the commitment of the FBI to assist in the fight against the tragedy of missing children.

The Missing Children Act of 1982 was only the first step to improve the protection of our children. The next phase, complementing the first, was the missing children component of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, which was signed by President Reagan on October 12, 1984. The purpose of the law is to obtain a greater national commitment and effort to solve the disappearance of so many of our children every year.

The law guarantees coordinated and comprehensive programs at the Federal level to assist local and State authorities in the search for missing children. It provides for the establishment and maintenance of a toll-free telephone line for the reporting of information about the location of missing children. The law also created the National Center for Missing and Exploited Children, a national resource center and clearinghouse providing technical assistance to law enforcement officials. The National Center has already established itself as an effective weapon in the fight against the tragedy of missing children.

Yet the National Center could be even more successful if a link could be made between all levels of law enforcement, from the national to the local level. To establish the link, we must encourage all of the States to set up central repositories of, the clearinghouses for, information about missing children. The State information centers would then work in conjunction with the National Center in an attempt to battle the national tragedy of missing children.

S. 1174 establishes the necessary link by providing modest monetary incentives to States for establishing information centers or clearinghouses. I believe that the bill will go a long way toward resolving the tragedy of missing children.

STRONG CREDIT SYSTEM CRUCIAL TO AGRICULTURAL RECOVERY

Mr. ZORINSKY. Mr. President, last Tuesday night the Senate gave its approval to S. 1884—an important effort to keep viable our Nation's most important provider of agricultural credit—the Farm Credit System.

The Farm Credit System should be saved—not because it is another large financial institution facing the prospect of failure but because it has been a success at providing an essential service to farmers, a service that benefits the millions of people who depend on our Nation's agricultural production.

In the 1930's, this farmer-owned and farmer-controlled system enabled hundreds of thousands of farm operators to avoid foreclosure and stay off relief. It helped agriculture to feed our allies in World War II and to embark on postwar growth that has contributed immeasurably to the American economy.

In the 40 years since World War II, American farmers have increased output to meet the demands of an additional 100 million Americans—plus growing needs in other countries. U.S. abundance saved millions of lives in Asia in the 1960's, and in Asia and Africa in the 1970's. Meanwhile, exports to commercial customers rose to 160 million tons a year, valued at more than $40 billion.

During those years, the banks and associations of the Farm Credit System became the source of one-third of the credit used by agriculture. And the System paid off, with dividends, the $200 million that Congress had provided in the early 1930's to keep it—and agriculture—going during that Great Depression.

In many ways, the history of the 1930's is being repeated. The farm economy is in a deep depression, the result primarily of economic forces and policies farmers cannot control. Since 1980, overseas sales of American farm products have declined by a fourth, largerly because of the overvalued dollar. Farmers' equities have declined and their debts have become overwhelming, largely because of high interest rates.

To put it simply, agriculture is not at present a profitable enterprise. And since farming is highly capital intensive—much more so than in the 1930's—many thousands of farmers are in danger of going out of business and dragging down with them those local businesses and banks that along with agriculture make up the economic substance of rural America.

According to the Department of Agriculture, half of all farmers have had negative cash-flows in 1985—they could not meet their expenses from combined farm and off-farm earnings. Average real estate values have fallen by about 40 percent since 1980 in Midwestern States. Some 215,000 farmers are in serious danger of bankruptcy during the next 12 to 18 months.

As the holder of one-third of all short-term farm debt and 43 percent of the farm real estate debt, the Farm Credit System has paid a dreadful toll, as have its nearly 1 million farmer-borrower-stockholders. The system has $8.6 billion in loans to farmers with negative cash flows and with debt-asset ratios of 70 percent or greater. Federal land banks have $6 billion in under-collateralized loans. Operating losses of the 37 farm credit banks were $522 million in the third quarter of 1985.

The Farm Credit System is not broke. But it needs Government help if its survival is to be assured—and if it is to take a leadership role in the economic recovery of agriculture. It performed that role in the 1930's, and it is essential that it be able to perform that role in the 1980's.

Congress is presently considering two bills—H.R. 3792 and S. 1884—that would provide the system with a backup line of credit from the Treasury. Both bills would require the system to repay any credit that is provided. Under those bills, the system would also be given additional authority to move capital internally, to administer financial assistance to different parts of the system, and to establish a financial warehouse for troubled loans.

To protect the public, the use of Federal funds would be controlled by the Secretary of the Treasury and the Farm Credit Administration, a Federal agency, which would become a much stronger regulator of the system than it has been in the past.

It is crucial that the Farm Credit System be a constructive and moderating force in the agricultural economy

during the coming months and years—not a part of the problem. But it cannot do this if Federal assistance is too little and too late. For that reason, action is needed during this session of Congress.

If Congress does not act now, we will be facing the same problem next year. Then, it will have become much more difficult to solve, more damaging to farmers, and more costly to the American public and the economy.

S. 873 AND THE NEED TO UNDERSTAND THE MEANING OF MENTAL RETARDATION

Mr. CHAFEE. Mr. President, as has become my custom once a week, I am here today to speak about my bill, S. 873—the community and family living amendments of 1985.

This bill would divert 85 percent of Federal Medicaid dollars used for long-term care for individuals with mental retardation away from larger institutional settings and instead make it available for small home-like settings in the community. My plan is strictly a reallocation of these funds, it is not an attempt to cut back on the services available to this group of citizens.

I introduced the first version of my legislation in 1983. It proved to be very controversial. During the 98th Congress, I received over 10,000 letters about this bill.

In April of this year, I introduced S. 873—a revised version of that first bill to address concerns that had been raised.

I have continued to receive, however, a great deal of mail about this bill. I get dozens of letters a week. While support for community and family living in some States is quite strong and uniform, citizens from other States are divided. There are recurring themes in the opposition.

I have made a weekly practice of placing a special order to speak to these recurring themes. The purpose of this is to bring better and wider understanding to a disturbing and critical problem—to explore the variety of myths surrounding the community and family living amendments. Today I would like to address the issue of mental retardation.

It is clear from the letters I have received, that the public and probably many of my colleagues in Congress misunderstand what is meant by mental retardation.

Years ago I was taught that one should not define a word by stating what it does not mean, but in this case, I think the door to understanding mental retardation may lie in understanding what it is not.

Mental retardation is not a type of mental illness. It is not related to schizophrenia, split personality, or insanity.

Mental retardation is the most common of a group of disabilities that professionals refer to as "developmental disabilities." This term means simply a disability that occurs during a child's developmental period—the years up to age 21.

Children who are born or develop disabilities such as cerebral palsy or epilepsy are said to have a developmental disability. A child whose intellectual development is significantly delayed or one who matures at a slower than average rate is said to have mental retardation—another type of developmental disability. People who are mentally retarded do not have mental arrest—that is, they do not cease to develop. Rather, their development is slowed, hence the word retardation.

Today in the United States of America, there are some 6 million citizens with mental retardation. There are an additional 100,000 children born each year who have, or will develop, mental retardation. We are talking about a sizable group of people—one whose needs we cannot continue to ignore.

I do not want to down-play the needs of other groups, but mental retardation affects 15 times as many people as does total blindness, and 10 times as many people who had polio prior to the Salk vaccine.

Mental retardation does not discriminate. It affects members of every race, nationality, social group, and economic strata. Children with mental retardation are born to the rich and poor alike, to the well educated as well as the uneducated, to presidents of hugh corporations as well as to the unemployed.

As with other disability groups, people with mental retardation have a wide variety of needs and abilities. Most people with mental retardation are considered to be mildly retarded—89 percent of the 6 million. An additional 6 percent are considered to be moderately retarded, and only 5 percent of all people identified as mentally retarded are said to be severely or profoundly retarded.

Mental retardation is not a curse or a punishment or a disease. People with mental retardation are much more like you and I than they are different. People with mental retardation can live, go to school, work, and play in the community with people who are nonhandicapped. However, people with mental retardation need support.

Sometimes that support comes from a loving family, and friendly neighbors. Sometimes that support must come from the staff of a school, or a residential program. But, I believe, that the support that people need, regardless of their level of mental retardation, does not necessarily include the need for institutionalization.

My bill will not eliminate all institutionalization. However, it does shift the majority of our Medicaid resources to other services. Services to keep people with their families, if they so desire. Services to help them live in apartments, group homes, or special care facilities as needed.

My bill will neither prevent nor cure mental retardation. Rather, my bill will reduce one of the most disabling aspects of mental retardation—the lack of supports to keep people in the community and whenever possible, with their families.

THE SITUATION AT ELECTRIC BOAT

Mr. CHAFEE. Mr. President, we've all read the accounts in the press of the suspension this week of the General Dynamics Corp. This suspension stems from charges against four executives several years ago at the company's missile division in California.

I do not condone wrong doing on the part of any company or individual dealing with the Federal Government. If these charges are proven correct in a court of law, appropriate punishment should be dealt.

These charges have caused the Pentagon to suspend the award of new contracts to the entire corporation, not just to the division involved. This means that the General Dynamics divisions responsible for submarine productions, F-16 fighter planes, and M-1 tanks, are caught up in the suspension order.

Speaking as a Senator who represents workers who are employed in the construction of *Los Angeles* class attack submarines and Trident submarines, I do not think it is fair that thousands of innocent workers in Rhode Island should suffer for the alleged sins 7 or 8 years ago of corporate executives 3,000 miles away in California in a totally unrelated division.

I therefore strongly commend Secretary of the Navy John Lehman, for taking a first step to rectify this injustice. The day after the suspension order was announced, Secretary Lehman postponed indefinitely today's original deadline for the submission of final bids on construction of the next four *Los Angeles* class attack submarines. This was an excellent move by Secretary Lehman.

There have been some suggestions that the Navy should not have postponed today's deadline for submission of these bids. Some say that even though the Electric Boat division is not involved in the current proceedings against General Dynamics, the company must be punished, even if this involves refusing contracts to a division which has no part in the current legal proceedings.

I find this attitude irresponsible. If Electric Boat were not allowed to bid on the next four attack submarines,

those boats would go by default to the Newport News shipyard in Virginia. In essence, Newport News would become the sole source supplier for *Los Angeles* class attack submarines, and the taxpayers would be denied the benefits of competitive bidding. *Los Angeles* class attack submarines have always been built by two yards; failure to postpone the bidding deadline in this case would preclude Electric Boat from the opportunity to submit potentially lower bids.

Thousands of workers in Rhode Island and other parts of the country should not be forced to suffer as a result. Nor should the taxpayers be punished.

Secretary Lehman has acted in fine fashion. It is my hope that he will be able to restore Electric Boat to full bidding status soon.

BUU DICH OF ROSWELL, NM

Mr. BINGAMAN. Mr. President, every once in a while it is important to step back and freshly appreciate the freedoms that we have in this country. This was brought home to me the other day when a Vietnamese refugee, Buu Dich of Roswell, NM, was reunited with his wife and eight children whom he had not seen in 12 years.

Buu Dich worked for the American Government in Vietnam and accepted a scholarship to study in the United States. He was here when his country fell to the Communists and was not permitted to return by the new Vietnamese Government. He settled in Roswell and began the lengthy struggle to bring his family to this country. And he became a U.S. citizen.

In Vietnam, his family began the complicated process—including appearing before a committee every day for 3 years—of obtaining exit permits.

Finally the family of Buu Dich is together again, and as stated in the accompanying newspaper editorial which I ask unanimous consent be made a part of the RECORD, the community of Roswell is helping make them welcome.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TALE OF TWO FAMILIES

It was the week of the family.

First, there were the Gallaghers. Residents of Roswell for just 14 months, John Gallagher, his wife Rachel and seven of their 12 children arrived home last Saturday night from a Thanksgiving visit out of town to find many of their possessions missing.

It was a shock, because, as Gallagher—who moved to Roswell from New Jersey—said, "Up there, I never had a key to my front door."

And it changed the way the Gallaghers felt about their new city. It made them a little leery, perhaps a little homesick.

Nevertheless, they remained hopeful, and immediately began rebuilding their lives.

They didn't do it alone. After the story of the Gallaghers' misfortune appeared in Monday's Daily Record, neighbors began stopping by with food. And clothing. And everything a family needs to make a house a home.

One couple from down the street even brought a television set, so the Gallagher children wouldn't miss their favorite shows.

Local churches joined in the effort, and a member of the sheriff's posse contributed a turkey—and $100.

People they didn't even know expressed their sympathy.

Before long, the Gallaghers had changed their minds about Roswell.

For the first time since they arrived in town, both Gallagher and his wife said they "felt like we belonged here."

And then there was Buu Dich.

When he left Vietnam in 1973, the youngest of his eight children was just seven months old.

The next time he saw her, on Tuesday, she was 13 years old—practically grown-up.

Who can describe the joy of a man seeing his wife and children for the first time in 12 years?

And who can imagine the pain and despair of those 12 years, alone in a new country, with Buu wondering when—or if—he would ever see them again.

Fortunately for Buu, as with the Gallaghers, he was not alone.

Thanks to the efforts of people such as the late U.S. Rep. Harold Runnels and former U.S. Sen. Harrison "Jack" Schmitt, and later U.S. Sen. Jeff Bingaman and his office, Buu's dream finally came true.

He was reunited with his family.

They're now here in Roswell, together for the first time in what must seem like a lifetime; for the youngest child, it is.

It won't be easy for one man to support nine others, and it surely won't be easy for his wife and the children to start a new life in a strange country, with unfamiliar customs, foods and languages.

But, as the Gallaghers would tell them, they won't be alone. New York may have a reputation as being the kind of city where people look the other way, but that's not so here.

Roswell residents have shown that they care about their neighbors, and are ready and willing to help them in a time of need.

Two families. Two very different stories. But with one thing in common: Both needed help, and both are getting it.

FARM CREDIT

Mr. GRASSLEY. Mr. President, yesterday my colleague from Minnesota, Senator BOSCHWITZ, and I introduced S. 1906, a revised version of legislation which we offered as an amendment to the Farm Credit System bill.

The Farm Credit Partnership Act of 1985 is a comprehensive approach to the problems of the farm economy. Unlike the legislation that the Senate approved on Tuesday, this legislation will help farmers restructure their debts and stay in business.

The Senate has passed legislation which preserves the Farm Credit System but does nothing to ensure that Farm Credit System borrowers will be helped. We have done absolutely nothing to assist troubled commercial banks and their borrowers.

Yesterday's Wall Street Journal reported that the largest bank holding company in Iowa is unable to pay its short-term debt and is currently negotiating with its creditors. For months and months I have been arguing that the crisis in the farm economy will spread and have a devastating effect on the whole Nation unless the Congress acts to stabilize the situation.

The Boschwitz-Grassley bill gives farmers and bankers a chance to work out of their debt problems. The bill is two-pronged attack on the crisis. The first part of the bill is an interest rate buydown program administered by the States. Qualified borrowers can receive interest rate reductions of up to 5 percentage points. The program is funded by the Federal Government, the States, and the lender in a ratio of 2 to 2 to 1.

The second section of the bill gives bankers incentives to write off up to 30 percent of loan principal by allowing banks to amortize the loss over 10 years. The FmHA would give the banker a guarantee on the portion of the loan that had been written down and this guarantee would slowly be lifted over 10 years. As the guarantee disappeared, the bank would write off the loss. If the banker foreclosed on the borrower during the 10 year period, he would have to take the loss immediately. The only time that FmHA would pay on the guarantee would be if the bank failed and then FmHA would pay the FDIC. This ensures that deposits will be protected, yet the potential losses to the FmHA are very small.

The Farm Credit Partnership Act is an important first stepn in dealing with the problems facing family farmers. These problems have nothing to do with the ability to compete in a truly free market. The problems that could destroy family farming were made in Washington, in Brussels, in Tokyo. High real interest rates and overwhelming debt loads threaten family farmers more than hail or drought ever have.

The dimensions of the problems in American agriculture are staggering. Of the $215 billion in outstanding farm debt, over one-third of this is owed by farmers whose debt to asset rations exceed 70 percent. Land values in Iowa have fallen over 50 percent since 1980. Bank failures are at a post-Depression high and a disproportionate number of these failures are ag banks. We still don't know how large the losses in the farm credit system will be.

The farm debt crunch is obviously very important for a State like Iowa where 7 jobs in 10 are dependent on agriculture, it has national implications as well. A July 1985 study by Wharton Econometrics and the Food and Agriculture Policy Research Insti-

tute estimates that the loan writeoffs resulting from the farm crisis may reach $20 to $25 billion. They calculate the eventual job loss to be in the range of 175,000 to 275,000 and the cumulative decrease in GNP to be $30 to $49 billion. I could go on and on citing gloomy statistics, but my point is that we face the choice of shoring up the farm economy now or paying the price of economic devastation later.

Most of the difficulties that farmers face—falling land values, high real interest rates, low commodity prices, the loss of export markets, increased competition from imports—can be attributed to ill-considered Federal policies. Congress, the Federal Reserve Board, and the administration have all made disastrous decisions which now endanger the livelihood of a significant percentage of America's farmers.

More than any other sector of our economy, farmers ahve paid the price for Paul Volcker's decision to wring inflation out of the economy at any cost. We can't throw up our hands now and walk away from this mess. The Federal Government bears a large share of the blame for the crisis in agriculture and we have no choice but to be part of the solution.

Saying that the family farmer is an inefficient relic and letting him go out of business is taking the easy way out. Instead we must pass legislation which addresses the immediate credit crisis, and over the long term we must correct the failed macroeconomic policies which have caused the problems in the farm economy. I urge my colleagues to cosponsor this legislation and work with me to find a solution to the farm crisis.

SUPPORT SOLAR ENERGY

Mrs. HAWKINS. Mr. President, I urge my colleagues to support the extension of solar residential and business tax credits. Solar energy is the cleanest, wisest, and most efficient source of energy today. Our support for solar energy is a way of stating that we care about the future we leave to our children and grandchildren.

That is why the continuation of solar tax credits are so crucial. Tax credits have enabled the solar industry to grow considerably over the last 5 years. But those credits are due to expire at the end of this year. Without credits it will be next to impossible for the industry to compete with foreign competitors.

The solar industry creates jobs. Today it employs about 30,000 people and has sold more than 1 billion dollar's worth of solar equipment worldwide.

Solar energy can also help to reduce our trade deficit. In 1984, our national trade deficit was well over $100 billion with over half of this deficit directly attributable to our oil imports. Developing our solar technology will force down domestic oil prices and in turn, reduce oil imports.

Solar energy can bring us a cleaner and energy-efficient future.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET AMENDMENT

Mr. SIMON. Mr. President and my colleagues in the Senate, James Kilpatrick had a column in the Washington Post, just the other day grappling with the problem of whether or not we should have a balanced budget amendment. He commented that Senate Joint Resolution 225, one of two constitutional amendments before this body, is the one that should be passed. He says, "It is short and simple. It has a constitutional feel that earlier abominable drafts did not have."

I do not always agree with James Kilpatrick, but he is a thoughtful observer of the national scene and has a sense of the Constitution that I think this body would do well to follow.

We will, according to the majority leader, vote shortly after we come back in January on a constitutional amendment on a balanced budget. The Nation has three choices. One choice is to let the States call for a constitutional convention, and that would be the first constitutional convention since the original Constitutional Convention. That has all kinds of problems. I hope we do not move in that direction. It is questioned whether any State-called constitutional convention could be limited to the question of a balanced budget. So I do not think that is the course which should be followed.

The second is a somewhat complex proposal that was adopted by the Senate and was defeated in the House 2 or 3 years ago which ties Government spending into a percentage of the GNP. That would be fine for this year or next year, but no one knows what is going to happen 10 years from now or 20 years from now or 50 years from now. That is what we ought to be thinking about when we adopt a constitutional amendment. The difficulty is that, let us say, for example, 10 years from now we decide, because of the deteriorating roads and bridges in this country, we are going to have a 10-cent increase in the gasoline tax. That would require then a cut in Social Security or some other program. Well, we should not have a constitutional mandate on something like that. Congress ought to have flexibility.

The amendment that I favor and that I am cosponsoring, together with Senators THURMOND, HATCH, and DECONCINI—and I would note the broad political and geographical spectrum in that cosponsorship—is the one that very simply says we have to balance the budget unless there is a three-fifths vote of Congress to the contrary. Let me just read it to you:

> Outlays of the United States for any fiscal year shall not exceed receipts to the United States for that year unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

It is the kind of amendment that the Senator from New Hampshire could support with enthusiasm. It is the kind of amendment that I hope all of our colleagues could support.

Incidentally, with this issue we face an unusual situation in that the Senate Judiciary Committee has reported out two amendments. The one that I am cosponsoring and have talked about came out by a 14-to-4 vote. The other, the one that is tied into the percentage of GNP, came out by an 11-to-7 vote. I hope that when it comes to voting on this in January we will favor the simple, sensible constitutional amendment.

The other question that could be raised is, "Why have one at all? Wouldn't Gramm-Rudman solve our problems?" Well, I think that we are within the next 48 hours likely to see Gramm-Rudman emerge from that conference and next week we will pass Gramm-Rudman, but with the same simple vote that adopted Gramm-Rudman we can decide to waive Gramm-Rudman. The Senator from North Dakota could introduce a bill saying notwithstanding any other provision of this measure, we are going to spend $10 million on North Dakota's problems, or the Senator from Kansas could introduce a bill which said, notwithstanding any other provision of law, we are going to spend $10 billion on the State of Kansas.

It is too easy to get around. As it becomes tougher to move toward a balanced budget—and it is going to get tough—it becomes very, very simple to get around. The constitutional amendment that says we ought to balance the budget unless there is a three-fifths vote of the Congress to the contrary I think is the direction we ought to go.

Let me add two other observations, Mr. President. One is the reason for getting ahold of this thing. I asked my staff 2 weeks ago to determine what we were spending in four basic divisions, and I think it may be of interest to this body to know what we have done in the way of outlays between

fiscal years 1980 and 1986. In this period, defense has gone up 88 percent. Entitlements have gone up 56 percent. Discretionary nondefense items have gone up 20 percent. But, interest has gone up 240 percent. We are at the point where interest expenditures are going to double every 4 or 5 years. We just cannot continue that. And so we have to have a constitutional amendment.

I see my good friend from Utah on the floor, Senator HATCH, who is one of the cosponsors of this particular constitutional amendment.

It is clear we have to do something. We have to get ahold of this thing.

I remember back when I was first elected to the Illinois General Assembly. I received a letter from a man in South Roxana, IL, and he had 13 points to his letter. The first 12 points were the increased services he wanted from Government and the 13th point was to cut taxes. Believe it or not, Mr. President, we have adopted his program.

We have to use commonsense. A family cannot live on a credit card without having the end of the month and the bill come. We are a nation living on a huge credit card and we are saying send the bill to our children and our grandchildren, but now the end of the month is appearing. We now are for the first time since 1914 a debtor nation, and while right now we seem to be able to get along on that, if there is a serious blip in our economy—let us just say it is another Ohio savings and loan problem—inevitably our friends in Venezuela, Saudi Arabia, and other countries are going to stand up and say, "I wonder if my money is safe in the United States." And they are going to start pulling it out and then we face real, real problems.

Mr. HATCH. Will the Senator yield?

Mr. SIMON. I would be pleased to yield to my colleague.

Mr. HATCH. Mr. President, I express my appreciation to my colleague from Illinois for his work in the Judiciary Committee, among other things, and certainly on the Labor Committee. We serve on two very important committees. He understands the Congress of the United States, having been here a long time; but for a new Member of this body, he has been one of the most diligent Senators, especially in his service on the Judiciary Committee and the Labor Committee.

As chairman of the Labor Committee, I express my gratitude for the efforts he has put forth.

As chairman of the Subcommittee on the Constitution of the Judiciary Committee, I again express my respect for his willingness to have an open mind and to look at these issues, especially economic issues, in a careful, scholarly, and considered way, and in particular for his work in helping us bring out one of two constitutional amendments to balance the budget.

I look forward to working with him in the future in these areas. I hope we can bring both sides together in a more bipartisan way to solve some of these economic problems in our country and to get rid of some of the politics involved in the debate, which sometimes make us an ineffective institution, at least toward solving deficits.

We can blame any President, and I suppose every President could have asserted stronger leadership on these issues, but the blame comes to Congress. I think the Senator from Illinois understands that better than most, if not better than any, of us. Frankly, although we approach things from a different philosophical perspective, I appreciate his willingness to work in these areas as much as he has.

I want to express my gratitude to my dear colleague and dear friend from Illinois.

Mr. SIMON. I thank my distinguished colleague from Utah.

Mr. President, I want to add that we would not have this constitutional amendment about which I have been speaking except for the exceptional leadership of the Senator from Utah.

Frankly, the only constitutional amendment on a balanced budget that may be passed in the House is the simplified version that James Kilpatrick has talked about.

So I urge my colleagues to consider these two options carefully. I urge them to reject the one that James Kilpatrick calls abominable. I urge them to pass a simplified type of constitutional amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATCH). Without objection, it is so ordered.

THE GRAMM-RUDMAN-HOLLINGS AMENDMENT

Mrs. KASSEBAUM. Mr. President, for almost 2 months now, we have been tied up in conference over the debt ceiling bill.

I should like to compliment those who have worked diligently through that conference, particularly the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Finance Committee, Senator PACKWOOD, as well as many others, including Senator RUDMAN and Senator GRAMM, who have given a great deal of time to this effort.

A debt limit increase is never pleasant. This one has proven particularly problematic because it raises the debt ceiling above the $2 trillion mark. Our attempt to finesse that public relations problem may become a public relations disaster. It is known as the Gramm-Rudman-Hollings amendment.

I requested this time, Mr. President, because I feel compelled to say a few words about the nature of our Gramm-Rudman dilemma. Perhaps my colleagues recall a saying most of us first encountered during childhood, "Oh, what a web we weave, when first we practice to deceive." That saying may well become the epitaph for Gramm-Rudman. Not that any effort was made to deceive. In fact, I think it was done with the very best of intentions, to show us what a difficult task we had before us.

We cannot enact Gramm-Rudman into law, and we know it. We know it—but we cannot admit it publicly. It is absolutely irresponsible as public policy—but as a result of our public pronouncements about our new-found courage, we cannot back down. We are in legislative limbo. After 2 tortuous months of a regimented forced-march, we have reached the outskirts of a budgetary Moscow—and it has started to snow.

Mr. President, I am not a conferee on Gramm-Rudman, and I salute those who are. But I have spoken with a number of conferees on our side, and I know the impossible problems they face. I read the newspapers, and I know the evolving White House position on Gramm-Rudman. I have seen the sampler sequester calculations, and I understand the implications of the numbers involved.

I am no hawk on defense. I have long advocated reductions in Pentagon spending. With that history in mind, I would like to offer an unequivocal observation about the effect of Gramm-Rudman on defense spending

It would be absolutely irresponsible for this body to allow a sequestering of defense funds of the magnitude being considered for 1986. Taking one-half of a $10 billion sequester from defense would require a budget authority reduction of $25 to $30 billion. The impact of such a cut on troop strength and combat readiness would border on insanity. We are not going to make that cut, and we know it.

My friend and colleague the junior Senator from Colorado, Senator ARMSTRONG has a saying for situations such as our Gramm-Rudman dilemma. I would like to borrow it. Mr. President, "The emperor has no clothes." We are not going to enact Gramm-Rudman. We are not going to unilaterally disarm America. We are not going to arbitrarily emasculate domestic spending. We just have not figured out how to break the news.

I do not know how long we can keep up this legislative charade. What I do know is that the longer we continue to deny the obvious, the harder it is going to be to take the action we eventually must take. Mr. President, I suggest that the time has come for us to admit the impossibility of solving real budget problems with procedureal budget resolutions or constitutional amendments. It is an effort in which we all have to engage, in a realistic fashion, and I believe it can be accomplished.

Mr. President, I yield back any time that may remain, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 1986—CONFERENCE REPORT

Mr. WEICKER. Mr. President, I submit a report of the committee of conference on H.R. 3424 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3424) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 21, 1985.)

Mr. WEICKER. Mr. President, today we are presenting the conference report concerning appropriations for fiscal 1986 for the Departments of Labor, Health and Human Services, Education and related agencies.

This legislation represents progress in many areas of the Nation's domestic agenda. It represents a very delicate balance between these great human needs and the fiscal responsibility required of Congress.

It maintains our Nation's commitment to vital health, education, and job training programs and it makes clear to the Nation that Congress sees the development of human resources as an investment in the future; as important as any government can make.

An important feature of the agreement concluded with the House provides the National Institutes of Health with 6,100 new and competing grants and also provides NIH with $140 million for research into the treatment and prevention of acquired immune deficiency syndrome, an increase of $77 million over fiscal year 1985. This brings the total Federal intervention on this vital subject in fiscal 1986 to $234 million, an increase of $139 million over the fiscal 1985 bill.

Included is an amount of $16 million for the Secretary of Health and Human Services to provide grants to develop new and better methods of treating patients with AIDS. Also included is $65 million for the Centers for Disease Control to be used in the areas of public education, purchase and distribution of new drugs, an AIDS hotline and continued support for alternate blood test sites.

This bill also provides full support for the National Cancer Institute to continue development of new methods of cancer treatment such as that reported this morning on the front page of the New York Times. This promising new direction in cancer treatment developed by an NCI research team is one of many dividends the Nation has reaped from its investment in this and the other National Institutes of Health.

We are pleased that the Senate level for childhood immunization prevailed. This allows for an increase of $5.1 million over last year in order to keep pace with inflation and other programmatic cost increases. The committee will not shortchange the most essential disease prevention efforts, regardless of the state of the economy..

The bill includes $969 million for the activities of the Alcohol, Drug Abuse and Mental Health Administration. While modest increases are provided for research supported by ADAMHA, most other activities are maintained at their fiscal 1985 levels. In addition, $10 million is included for a new program of protection and advocacy for the mentally ill.

For the Health Resources and Services Administration, every program, with the exception of two, is maintained at last year's level, and several have received increases. For maternal and child health, we have provided $478 million, the same amount as last year, and the full amount authorized.

For community and migrant health centers, $400 million is included, $17 million more than last year.

In view of the ever-increasing elderly population, we have included $5 million for the 2 years of funding for 24 geriatric training units at medical schools. Last year's level has been maintained for the other health professions training programs, each of which is funded at its fully authorized level. An increase of $1.5 million is included for disadvantaged assistance, the primary Federal program to aid disadvantaged and minority students in pursuing a health professions career.

Nurse training programs are maintained at last year's level, with an increase provided for the Nursing Research Grant Program. In addition, two new nursing programs will be initiated at the level of $1.9 million.

The conference agreement further provides $1,087,059,000 for Head Start and $53,400,000 for developmental disabilities activities, which represent increases over fiscal 1985. Initial funding of $5 million is included for dependent care planning and development activities, as well as an additional $2.5 million for family violence prevention; the administration should move as expeditiously as possible to implement these initiatives. The Older Americans Act, Runaway and Homeless Youth Act, Child Abuse Prevention and Treatment Act, and Native Americans programs are at fiscal 1985 levels.

The bill provides $549,589,000 for foster care and adoption assistance entitlement activities, the full amount currently estimated for State reimbursements. If, at a later date, additional amounts are required, the administration is expected to promptly notify the Appropriations Committee.

The final amount agreed to for child welfare assistance is $207 million, an increase of $7 million over fiscal 1985. This is one of the areas where a last-minute reduction from the $220 million original conference agreement was necessary in order to bring the bill into compliance with the budget resolution ceiling. I would like to have seen higher appropriations and will continue to do all that I can to see that funding in this area is enhanced.

I am pleased, however, that the full Senate recommendation of $5 million for adoption opportunities was retained, an increase of $3 million over fiscal 1985. Grants to States under the Community Services Block Grant Act are maintained at last year's level of $335 million; however, discretionary activities are reduced to the House recommended level of $31 million, while the Senate-recommended level of $4.3 million is retained for Federal administrative costs.

The conference agreement provides a trust-fund limitation of $3.9 billion for administrative expenses of the Social Security Administration, with the understanding that the funds provided shall be used to support an employment level of 77,349 full-time equivalent positions, an increase of 1,000 over the budget request. Bill language to prevent a net reduction of Social Security offices was deleted, based on administration assurances

that office closings in fiscal 1986 will not exceed historical averages. If the administration does not follow the intent of the conferees on these matters, Congress will certainly reconsider the need for statutory language in this area.

For the Department of Education, many of the larger programs would remain frozen at last year's level. This is less than we would like but the highest we could hope for, given the current political climate. However, notable increases, reflective of our successful budget resolution negotiations, will occur in programs serving the disabled. Our bill includes an increase of $90 million for education of the handicapped and $145 million more for rehabilitation services.

For the Labor Department, the conference agreement provides $6,516,744,000 in new budget authority. The net increase of $204,269,000 over the fiscal 1985 enacted level is due primarily to entitlement funding requirements such as black lung benefits.

For Job Training Partnership Act programs, enrollments are expected to be maintained at approximately current levels, including the summer youth and dislocated worker assistance programs, with a combination of carryover balances and new appropriations. Although the work incentive program is reduced from $266,760,000 to $220 million, there is no intent to phase out this program; in fact, funds proposed in the budget phaseout were specifically deleted. Every effort should be made to maintain a strong and effective WIN Program, despite the necessary fiscal constraints.

The bill provides an increase of $14.8 million over fiscal 1985 for employment service allotments to States, a total of $792,200,000. For State unemployment insurance operations, increases over the budget of $14.8 million are included, of which $10 million is for nonpersonal services costs and $4.8 million is for amortization payments of certain State retirement plans.

The bill contains an increase of $4.4 million to substantially reduce the delay in processing black lung claims at the administrative law judge level. It also includes increased funding for 90 additional inspectors in the Mine Safety and Health Administration.

For the Bureau of Labor Statistics, the conferees maintained publication of the Monthly Labor Review and provided $2.3 million for enforcing service sector activities.

Mr. President, in closing, I want to note the efforts of a man who has contributed so much to this legislation. John Doyle, the staff director of my subcommittee will shortly leave the staff to pursue other opportunities. I will miss his counsel and patience and the Senate will miss his expertise and dedication.

The passage by Congress and approval by the President of this conference agreement will mark the third year in a row that we have been able to work through to a successful conclusion. I urge my colleagues to support this agreement.

All the good will in the world, all the good wishes in the world, all the publicity in the world does not substitute for money.

This Nation has committed its resources in an unprecedented amount to the business of death. The business of life should be the business of the Government of the United States.

I know there is much celebrating as to what is going on over at the National Institutes, but believe me, day in and day out, just think of all the futile efforts, the number of researchers who came up against the wall, the disappointments. We never hear about that. And I think every Member of this body can read in the newspapers what is happening today and say we had a part in that because we did, and I hope that it is a lesson which will encourage us to do even more in the future budgets.

So my congratulations go to those at the Institutes of Health, but also my urgings to my colleagues that insofar as priorities are concerned nothing can be more important than the fight against cancer, against diabetes, against heart disease, against Alzheimer's, and when a success story comes along, remember the thousands of disappointments and failures that made it possible for the success that we read about today.

Mr. President, I wish to pay special tribute to two people.

No. 1, to my colleague, Senator PROXMIRE, who will be in the Chamber shortly, for all the work that he and his staff have done and most particularly to our good friend, Tom van der Voort, who is unable to be here with us because of his accident, but who so well represents the Senator's interests on the subcommittee.

The combination of Senator PROXMIRE and all the members of his staff is a combination that is hard to beat, and I am certainly proud to work with them.

Also, I wish to pay special tribute to John Doyle who is retiring as staff director on the majority side, and he does so having done an outstanding job with the committee and more particularly on this piece of legislation. He is a great credit to the Senate and his handiwork and his efforts will clearly be felt by many Americans in the years to come.

Mr. President, in addition to the prepared remarks that I have made, I wish to draw attention to an event of the moment which has captured the imagination, I might add the hope, of this Nation in terms of the news from NIH vis-a-vis the promising inroads in the war against cancer.

The reason I point this up is not because of the hope it holds for medicine, and I wish Dr. Rosenberg and Dr. Nevel of the Cancer Institute and all associated with them the best of luck, but the fact is they would not be where they are were if not for a strong financial commitment by this Government, and I think the Senate can take great pride as to how we have stuck with the National Institutes of Health over these past several years when many would have liked to have seen their budgets cut.

I now notice my good colleague, Senator PROXMIRE, has come to the Chamber. Again, I said it behind his back, so I wish to say it to his face, that none of this would have been possible without the fine disciplined mind that he has and without the total commitment to the work of this committee, and if indeed he is the restraining influence, I think that is a good thing because it is always done in a very positive way.

I suppose what I like about BILL PROXMIRE is what most of the voters in Wisconsin must like. It is that the man not only has a great heart but, thank you very much, he understands the responsibilities that go with the job and sometimes that also means saying no. He does that and he does it in a reasoned way.

So I think the committee is deeply indebted to him and to all those who work with him.

Mr. PROXMIRE. Mr. President, I thank my good friend, the distinguished chairman of the subcommittee.

Mr. President, this is the third year in a row we have completed action on a Labor-HHS-Education Appropriation Act under the leadership of my distinguished colleague from Connecticut, the chairman of the subcommittee, Senator LOWELL WEICKER. Achieving final passage of this complex and controversial bill for 3 years running in the current fiscal climate is like hitting three consecutive grand slam home runs, and Senator WEICKER has earned our thanks and admiration.

Babe Ruth could not do it. Roger Maris could not do it. And none of the home run hitters today can do it. But LOWELL WEICKER did it. It was an astonishing performance, and he did it and he did it in real style because, as he said, I have been a kind of a negative influence in many ways on the committee. But he has succeeded under the most extraordinary difficult circumstances in providing an appropriation bill which I think goes a long way toward serving the health needs of our people, the education needs of our people, the welfare needs of our people, helping those people who cannot help themselves. They have

had no better friend in the 28 years I have been here in the Senate than LOWELL WEICKER.

As the Senator has already stated, the conference report provides a total of $105.8 billion in new budget authority which is $426.2 million below the Senate-passed bill. Although we should be thankful for every dollar savings we can achieve no matter how small, the fact remains that the conference report exceeds the President's budget request for discretionary spending by $4.6 billion. Moreover, at a time when deficit reduction to justify the inclusion of $54.6 million for several new initiatives. No matter how meritorious they may be, Mr. President, this simply is not the Federal burden. In my judgment, we should be eliminating nonessential existing programs—not starting new ones.

I do wish to commend my good friend, and I wish to also say that one of the most gracious gestures I have seen is when he paid tribute to Tom van der Voort who has been on the Appropriations Committee as a top staff member for a number of years and served both of us very well.

I might say that Tom van der Voort was hit by an automobile and fairly nearly killed. He broke both legs, the vertebra in his neck, dislocated shoulder, and he is going to be in bed for 6 months. He is recovering. He was deeply moved. I think he will always remember the fine tribute paid to him by LOWELL WEICKER.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on H.R. 3424, the fiscal year 1986 Labor, Health and Human Services, education and related agencies appropriation bill.

Mr. President, the conference report on H.R. 3424 provides $94.9 billion in budget authority and $81.4 billion in outlays for programs in the Departments of Labor, Health and Human Services, Education and related agencies. The bill, together with outlays from prior-year budget authority and other adjustments, is consistent with the subcommittee's 302(b) allocation.

Mr. President, the conference report as filed, when adjusted, puts the subcommittee within $50 million in both budget authority and outlays of its 302(b) allocation. With the adoption of the conference report as amended by the House, the subcommittee will be even closer to its 302(B) allocation under the fiscal year 1986 budget resolution.

I congratulate Chairman WEICKER for his tireless efforts to have a signed Labor-HHS bill for the third year in a row.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the congressional budget, the House- and Senate-passed bills, and the President's request and a summary of total appropriations action to date, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES SUBCOMMITTEE

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
SPENDING TOTALS—CONFERENCE AGREEMENT		
Outlays from prior-year budget authority and other actions completed	11.0	32.4

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES SUBCOMMITTEE—Continued

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
H.R. 3424, as passed by the Senate	94.9	81.4
Possible later requirements: [1]		
Discretionary possible later requirements	.6	.4
Mandatory possible later requirements	1.7	1.7
Total, possible later requirements	2.3	2.1
Adjustment to conform mandatory programs to budget resolution assumptions	−.2	−.6
Subcommittee total	108.0	115.3
Subcommittee 302(b) allocation	108.0	115.3
House-passed level	108.0	115.3
Senate-passed level	108.0	115.3
President's request	100.9	112.1
Subcommittee total compared to:		
Subcommittee 302(b) allocation	+([2])	+([2])
House-passed level	+.1	+([2])
Senate-passed level	+([2])	+([2])
President's request	+7.1	+3.2

[1] Possible later requirements:

	Fiscal year 1986	
	Budget authority	Outlays
Discretionary:		
Adolescent family life	(*)	(*)
Family planning	.1	.1
Refugee assistance	.5	.4
Higher education	(*)	(*)
Trade adjustment assistance	(*)	(*)
Total, discretionary possible later requirements	.6	.4
Mandatory:		
Federal Unemployment Benefits Act	.1	.1
Advances to unemployment trust funds	(*)	(*)
Black lung	(*)	(*)
Payments to health care trust fund	.9	.9
Special benefits for disabled coal miners	(*)	(*)
Supplemental security income	(*)	(*)
Aid to families with dependent children	.5	.5
Total, mandatory possible later requirements	1.7	1.7
Total, possible later requirements	2.3	2.1

*Less than $50,000,000.
[2] Less than $50,000,000.
Note.—Details may not add to totals due to rounding.

STATUS OF APPROPRIATION BILLS IN THE SENATE

[In billions of dollars]

Subcommittee	Appropriations Committee's 302(b) allocation Budget authority		Adjusted bill totals [1]		Bill compared to allocation		Bill status
	Ba	Outlays	Ba	O	Ba	O	
Agriculture	28.2	25.2	28.2	25.2	−([2])	−([2])	Senate, passed.
Commerce-Justice	12.0	11.0	11.9	12.0	−.1	+.1	Conference.
Defense	285.5	252.2	286.9	254.9	+1.4	2.7	Senate, reported.
District of Columbia	.5	.5	.5	.5	+([2])	+([2])	Senate, passed.
Energy-Water	15.3	15.6	15.3	15.6	−([2])	−([2])	Public Law 99–141.
Foreign Operations	15.2	14.7	16.1	15.2	+.9	+.5	Senate, reported.
HUD-Independent	58.7	61.2	59.9	61.2	+1.2	+([2])	Public Law 99–160.
Interior	8.2	8.9	8.2	9.3	+([2])	+.4	Senate, reported.
Labor-HHS	108.0	115.3	108.0	115.3	+([2])	+([2])	Conference.
Legislative Branch	1.7	1.7	1.7	1.7	−([2])	+([2])	Public Law 99–151.
Military Construction	9.0	7.6	8.5	7.5	−.5	−.1	Conference.[3]
Transportation	10.5	26.6	9.9	26.6	−.6		Senate, passed.
Treasury-Postal	13.1	13.1	13.4	13.3	+.3	+.2	Conference.
Unassigned	1.2	−.4			−1.2	+.4	
Total, Appropriations Committee	567.1	554.1	568.6	558.5	+1.4	+4.3	

[1] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to the budget resolution level, and other adjustments.
[2] Less than $50,000,000.
[3] As amended on the Senate floor.
Source: Senate Budget Committee staff.

Mr. HEINZ. Mr. President, I support the goals of the appropriation before us but a cautionary note must be heard. The conferees deserve recognition for their hard work in attempting to fashion a fair appropriation under tremendous constraints. They have done well in keeping spending down while funding many vital services. I

am, however, alarmed by the reductions in our commitment to training dislocated workers, and our obligation to assist elementary and secondary education.

Title III of the Jobs Training Partnership Act targets assistance to the Nation's long-term unemployed—the dislocated worker—and strives to return them to productive employment. Although we have seen a remarkable recovery in many parts of the Nation, thousands of communities are still plagued by unemployment and slow economic growth. The reduction or elimination of programs which rehabilitate depressed regions of the country is extremely shortsighted, Mr. President, and ignores the needs of disadvantaged citizens. Continued reductions in funding for title III will harm the most vulnerable members of our society and further dim the future of many communities in the Northeast and in the Midwest.

Second, we must continue to address what the report, "A Nation at Risk," termed "a rising tide of mediocrity" in our elementary and secondary schools. The Department of Education administers several competitive grant programs which foster math and science education, the development of magnet schools, and efforts to promote educational excellence. There are those in the administration who have stated a desire to eliminate each and every one of the grant programs. This must not happen. The need to improve basic education in America has not changed. Our schools have a long road ahead of them if we are to provide young Americans with the tools necessary to excel in this society. Federal assistance to elementary and secondary education needs to be reliable and constant. Instead it has been marked by uncertainty and sharp reductions in spending.

I am, therefore, concerned over the fate of the Excellence in Education Grant Program. This small and cost-effective program allows grants to be made to schools which demonstrate the willingness and the capability to upgrade basic education. It has been underfunded since its inception, and the current level of funding is at best minimal. It is my hope that we will see this program receive proper recognition and support in the coming years.

Similarly, magnet schools promote the dual goals of educational excellence, and desegregation. We have defeated attempts to rescind the Magnet School Assistance Program's funding, but we need to continue stable funding, and approve a reauthorization for the Education for Economic Security Act's programs which are not already included in the NSF authorization.

Mr. President, I will not go on at length, but I simply wish to remind my colleagues that we have made commitments to the long-term unemployed, and the disadvantaged students, which should be honored. While I will vote to approve the conference report on H.R. 3424, it is my firm belief that we must act in the future to protect these programs.

FISCAL 1986 PROGRAM COSTS INCURRED UNDER PELL GRANT PROGRAM

Mr. WEICKER. Mr. President, my colleague, Senator PROXMIRE and I wish to clarify the intent of the conference with regard to the 1986 Pell Grant Program. The language of the bill calls for a program with an award cap of the lesser of $2,100, minus an expected family contribution, and 60 percent of education costs. These are the same maximums as in the 1985 program. It is the belief of the conferees that they have provided sufficient budget authority, $3.588 billion, to finance the costs that these maximums, in combination with other award and eligibility rules in current law, will produce. Representatives of both appropriation committees believe as a general matter that the amount appropriated in the regular annual appropriations bill should be set at the level necessary to fund fully the costs produced by Pell Program parameters, also set each year in the appropriations bill.

Should the Pell appropriation be insufficient to meet 1986 costs, it is not the intent of the conferees to seek supplemental appropriations or to expect the Secretary to draw funds from next year's appropriation to eliminate any shortfall. Rather, the conferees direct that the Secretary take whatever steps are available to him under current statutory authority to ensure that 1986 program costs are reduced to a level consistent with the appropriation.

Mr. PROXMIRE. Yes, that is right. If there is any unanticipated shortfall in 1986 program costs, in spite of the $3.5 billion included in the conference report, then the Secretary of Education can make the necessary reductions consistent with existing law. The conferees have no plan to correct any shortfall via supplemental appropriations nor do we expect the Secretary to use other funds for this purpose. This program already has an outstanding deficit of $468 million in prior year costs, Mr. President. We urge the Secretary and the Director of the Office of Management and Budget to develop a better strategy for covering these unfunded Pell obligations from prior years. The continuing drawdown of funds from future year appropriations is not good policy.

APPROPRIATIONS FOR "LATCHKEY" CHILDREN

Mr. RIEGLE. Mr. President, I am pleased to note that the Labor, HHS conference report we are approving today appropriates $5 million for dependent care block grants to the States. While this small amount is far from adequate to meet the growing need for before and after school child care facilities and other forms of dependent care, it represents an important starting point. Over the past several years we have become increasingly aware of the serious problems of unattended latchkey children, as well as the growing number of seniors and other adults who are dependent upon family members for constant supervision and care.

The dramatic increase in two working parent families and working single heads of households has left many children without adult supervision for significant periods of time each day, and has created a national need for school-age child care. Estimates show that more than 7 million children—often referred to as latchkey children—may return after school to an empty house alone or in the company of a slightly older brother or sister. In factories and offices throughout the country, parents wait anxiously for their children to call and confirm their safe arrival at home. They hope that their children can take care of themselves for the 2 or 3 hours between the end of the school day and the time when they return home from work.

The legislation which we finally appropriate funds for today, will begin to put a stop to this unfortunate situaton. It has been almost a 3-year battle and I am so pleased for our Nation's children that we have finally succeeded. I am proud to have been associated with the attempt to authorize programs and obtain funding for dependent care grants. I would like to thank my colleague Senator WEICKER for his assistance in this effort, and express my appreciation for the help of Congressman NATCHER in ensuring the House committee's concurrence with the Senate's appropriation for these grants. In addition, I would like to mention the extraordinary effort by Congresswoman BURTON, who has worked with me over the past several years on this vital service for our Nation's children.

FUNDING FOR 2-YEAR MEDICAL SCHOOLS

Mr. LAUTENBERG. Mr. President, I am pleased that the conference report on the fiscal year 1986 appropriation for the Departments of Labor, Health and Human Services, and Education includes an amendment that I offered during the Senate debate. This amendment adds $500,000 to the funds for the Health Resources and Services Administration for assistance to 2-year schools of medicine and osteopathy.

The purpose of this amendment is to assure that funds will be available for section 788(a)(1) of the Health Professions Training Assistance Act. This subsection authorizes grants for the improvement of medical schools providing either the first or last 2 years of medical education. Grants under this

subsection may be used for construction and the purchase of equipment, such as libraries for schools without libraries, and other projects.

Mr. President, the funds in this amendment will be used to implement this provision of the Health Professions Training Assistance Act in order to provide badly needed assistance to existing 2-year medical and osteopathy schools. New Jersey has the largest freestanding statewide public health sciences educational system in the Nation. However, there is no medical library in the southern part of the State to serve the Rutgers Medical School and the School of Osteopathic Medicine in Camden. These schools would be eligible for funds for a library under this provision.

I urge the adoption of this conference report, and thank the managers for their good work and in particular, for their assistance on this amendment.

Mr. BYRD. Mr. President, I commend the chairman and the ranking member of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies for their work in committee and on the floor.

I offered several amendments to the fiscal year 1986 Labor, Health and Human Services, Education, and related agencies appropriation bill. There are two of those amendments included in this bill that are of particular importance to West Virginia.

One of those amendments provides for additional staffing at the Office of Administrative Law Judges to speed up the processing of black lung claims.

I have become increasingly concerned over the growing delays in the processing of black lung claims. There are currently over 21,000 claims pending at the hearing level. What this means is that if an individual filed for a hearing today, he could wait up to 3 years before his case was heard by an administrative law judge. Such delays in processing are intolerable.

This bill provides an additional $4.4 million in funding for black lung claims processing which will allow for the hiring of 15 additional administrative law judges and support staffing to reduce the backlog of claims at the hearing level.

This action is only right. Without taking some action to reduce those backlogs, the delays in processing would only continue to grow at the expense of those least able to wait—the sick and the poor.

The other amendment provides $4.5 million in first-year funding for construction of the Mary Babb Randolph Cancer Center at West Virginia University. The university has already begun fundraising activities to match the Federal dollars with contributions from the private sector.

Cancer is the second leading cause of death in West Virginia and the incidence of cancer continues to rise. The National Cancer Institute, in a recent study of the area, found that there was a definite need for a state-of-the-art cancer care research, education, and treatment center to serve the Appalachian region.

The funding provided to begin construction on the Mary Babb Randolph Cancer Center will prove invaluable in giving access to cancer care to the people of West Virginia and other States in the region.

I thank the Chairman and the ranking member for their under standing and cooperation.

Mr. WEICKER. Mr. President, I move adoption of the conference report on H.R. 3424.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc with the exception of the amendments of the House to Senate amendment No. 188.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3424) entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1986, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 7, 11, 32, 39, 80, 100, 101, 134, 142, 145, 146, 147, 158, 159, and 166 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$99,303,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *XV, XVI, XIX*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *$1,360,434,000, of which $500,000 shall be available for assistance to two-year schools of medicine or osteopathy under section 788(a) of the Public Health Service Act; of which $2,600,000 shall be available for grants under section 371 of the Public Health Service Act; of which $5,000,000 shall be for construction of and equipment for outpatient medical facilities under section 1610(b)*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That no funds appropriated to carry out the Public Health Service Act may be used to award grants to, enter into new contracts or cooperative agreements with, or otherwise assist, a State, or any agency thereof, to administer, or monitor the operation of, or operate (except as provided in section 329(h)(2) and 330(g)(3)) any program supported under section 329 or 330, or title XIX-C, of the Public Health Service Act*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *, and of which $6,900,000 shall remain available until September 30, 1987 for the purchase and distribution of drugs, and of which $2,000,000 shall be used to establish, maintain, and operate a twenty-four-hour telephone hotline which permits calls to be made without charge to the caller, which provides general information concerning acquired immune deficiency syndrome and information concerning medical services and housing facilities for individuals with such syndrome, and which refers such individuals to counseling services*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$569,597,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$433,595,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$514,814,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$195,168,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *:Provided, That in addition to amounts provided herein,*

$10,000,000 shall be available for carrying out activities for protection and advocacy for mentally ill persons, to become available upon enactment of authorizing legislation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$91,541,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *$2,015,922,000: Provided, That $76,349,000 shall be the maximum amount available for Indian and migrant Head Start programs for fiscal year 1986.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$220,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 202. Funds appropriated in this Act for the National Institutes of Health shall be used to support no fewer than 6, 100 new and competing research projects.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I move that the Senate agree to the amendment of the House to Senate amendment numbered 188.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut.

The motion was agreed to.

The amendment of the House to Senate amendment numbered 188 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 188 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CORPORATION FOR PUBLIC BROADCASTING
PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1988, $214,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH RESOURCES AND SERVICES

"National Health Service Corps", $5,000,000;

NATIONAL INSTITUTES OF HEALTH

"Research management and support", $3,000,000;

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

"Health statistics", $2,000,000;

FAMILY SOCIAL SERVICES

"Child welfare services authorized by title IV, part B of the Social Security Act", $13,000,000;

OFFICE OF COMMUNITY SERVICES

"Community services block grant, discretionary funds", $2,135,000, of which $1,570,000 applies to section 681(a)(2)(A), $330,000 applies to section 681(a)(2)(D), and $235,000 applies to section 681(a)(2)(E);

DEPARTMENT OF EDUCATION IMPACT AID

"School construction authorized by the Act of September 23, 1950", $2,500,000, of which $1,000,000 applies to section 10, $1,000,000 applies to section 14(a) and 14(b), and $500,000 applies to section 5 and 14(c) of said Act;

SPECIAL PROGRAMS

"National impact demonstration or research projects (except educational television programming) authorized under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981", $3,000,000;

"Activities authorized by title II of the Education for Economic Security Act", $5,000,000;

LIBRARIES

"Library construction authorized by title II of the Library Services and Construction Act", $2,500,000.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1986—CONFERENCE REPORT

Mr. RUDMAN. Mr. President, I submit a report of the committee of conference on H.R. 2965 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 5, 1985.)

Mr. RUDMAN. Mr. President, today, I am pleased to bring up the conference report on H.R. 2965, the Departments of Commerce, Justice, and State, the judiciary and related agencies appropriations bill for fiscal year 1986.

The conference report totals $11,919,618,000 in new budget authority. This is $80 million below our 302(b) allocation as scored by the Budget Committee and $382,000 below the subcommittee's budget allocations. The report is less than either the Senate-passed or the House-passed version of the bill. Finally, the bill is $345.6 million below the amounts appropriated for the same agencies in fiscal year 1985. This is a 3-percent reduction in spending in 1 year.

With these numbers, we can pass this conference report today with pride. Of course, it is not perfect. We had a very difficult conference with the House and everyone was forced to make sacrifices to reach the required level of savings. I saw some programs cut below what I consider to be the optimum level. But, in this time of fiscal chaos, the bottom line is crucial and the bottom line of this report is a good one. I was personally told by Joe Wright at OMB that if we achieved this level of savings, the administration would have no objection to this bill.

There is one problem with the conference agreement that I will address later. This has to do with the National Endowment for Democracy where the House sent us language that substantially differs with the Senate version. However, I am confident that if the Senate insists on its position we will ultimately prevail. I understand there may also be an amendment to the conference agreement on the funding level for NED.

It would have been impossible to achieve this without the help and participation of all the members of the subcommittee. I owe them all a debt of gratitude. I am particularly indebted to my good friend from South Carolina, the ranking Democratic member, Senator HOLLINGS. FRITZ HOLLINGS has a remarkable knowledge of the agencies under the jurisdiction of the subcommittee. More importantly, he is a pleasure to work with.

Mr. President, I yield to my friend, the ranking minority member of the committee, the Senator from South Carolina.

The PRESIDING OFFICER. The Senator form South Carolina is recognized.

Mr. HOLLINGS. Mr. President, as the ranking minority member of the Commerce, Justice, State, the Judiciary Subcommittee, I commend our acting chairman for his good work in obtaining this conference report. I also want to commend his staff—and, of course our staff—who worked long and hard to iron out the differences between the House and the Senate so that when we met on Wednesday morning we could concentrate on the major items of dispute.

This is a good conference report as it is within the overall budget allocations assigned to the subcommittee. The total new budget authority recommended is $11,919,618,000 which is less than both the amount approved by the Senate and the House and reflects our determination to come back with an approvable bill. We are also $345,635,200 under the amounts for fiscal year 1985, so you can see that two of the authors of Gramm-Rudman-Hollings are backing up what they are asking others to do by way of eliminating the deficit.

I do not know how many other of the 13 different appropriations bills that will be presented this year will save money for 1986 and that are under the 1985 budget. But this is one of them.

This is one, of course, that is below the amount allocated to us of $12 billion. We are under the new budget authority that was approved by the Senate and the House Budget Committees.

So Gramm and Hollings—as you were, Rudman and Hollings, Gramm was running it last night [laughter] are trying to practice what they preach.

We are not Simon-pure on this by any manner or means but we have worked hard because we knew it would be subject to criticism if we did not try to practice what we preached. So we have tried to maintain valid programs such as the Economic Development Administration, coastal zone management and Sea Grant in NOAA; the travel service and public television facilities grants that have been opposed by the administration. We also provided for the continuation of the juvenile justice and delinquency prevention program, and the regional information sharing systems that are so vital to our State and local police forces fighting drug traffickers and other crime.

All in all, it is an outstanding report. I have seen many a negotiator, and the distinguished Senator from New Hampshire is the best in this Congress. He knows how to negotiate and how to give and take. He knows how to bring opposing minds together. I commend him for his hard work.

We do have a difference. It will come out in the amendment with respect to the National Endowment for Democracy. I think Senator RUDMAN's amendment, which came first, will relate to the political parties. I think the entire National Endowment ought to be eliminated, and we will have an amendment on that.

OAKDALE, LA, INS PROCESSING CENTER

Mr. JOHNSTON. Mr. President, I note that the conference agreement only provides $615,000 for the eight new immigration judges and associated staff for the new Oakdale Alien Processing Center. Certainly that is not a sufficient amount to have all the judges and the necessary staff in place when the facility opens early next year.

Mr. HOLLINGS. The distinguished Senator from Louisiana is absolutely correct. The other body forced us to forego a large amount of the $1,710,000 we added to have the judges and their staff in place on opening day at Oakdale.

As the Senator will recall, the administration made no provision for the judges on the immigration staff at Oakdale. The subcommittee made necessary provision for these positions, but the House managers would only give us $615,000 of the $1,710,000 required to get them onboard in a timely way. However, we would certainly expect the Department of Justice to see to it that Oakdale is adequately staffed by temporary assignments from other areas or other means, to adequately process the aliens assigned there.

We did get all the 32 additional positions and expect the Department to have them fully covered in the fiscal 1987 budget.

Mr. JOHNSTON. I thank the distinguished ranking minority member for his help as well as his explanation.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I heard the distinguished Senator from South Carolina mention EDA. I wonder what was done with that program that has not been authorized since 1980 by the Environment and Public Works Committee, and like Lazarus has returned from the dead numerous times.

Mr. HOLLINGS. It is a $25 million decrease from $200 million down to $175 million, and all of the special grant money was eliminated. We are going in the Senator's direction. He is winning. I am losing.

Mr. CHAFEE. The Senator is going in what I would say in lavish terms was a snail's pace in my direction—crawling, not running. I suppose we should say with faint praise this is a half step forward.

Mr. HOLLINGS. From $651 million in 1981 down to $175 million is a very rapid pace. But the Senator has made a point. We understand it.

Mr. CHAFEE. Let me ask this, if I might. What was the Senate figure which the Sentor went in with? Could he give me the two figures that both sides went in with?

Mr. HOLLINGS. $160 million for the Senate and $180 million for the House. We compromised at $175 million plus eliminated all the special projects. We had additional money to allow $32 million for special projects in there that was entirely eliminated in conference.

Mr. CHAFEE. We went with $160 million and they went with $180 million. They compromised at $175 million. I am not sure I want the Senator handling my used car sale at that deal. [Laughter.]

I would say splitting the difference, which gets one at $170 million.

Mr. HOLLINGS. We would like to increase it. I would like to have gone beyond the limits of the conference. But the Senator beat me.

Mr. CHAFEE. I suppose under those conditions we came out extremely well.

Mr. HOLLINGS. Yes, sir. [Laughter.]

Mr. CHAFEE. Well, is there much other damage done in this program? I have not followed it. Did we give away much more?

Mr. HOLLINGS. No other giveaways or anything of that kind. We maintained the integrity of EDA and that has been a fundamental difference that the Senator from Rhode Island and I have had. But I see nothing within the conference report which speaks that somehow or another he has lost anything. Maybe snail's pacewise, but he has gained.

Mr. CHAFEE. Is there a provision for building pyramids in Indiana?

Mr. HOLLINGS. There is no mention of any particular projects to be built.

Mr. CHAFEE. And a Chinese wall? Any construction projects like that?

Mr. HOLLINGS. I do not think the Senator is suggesting that there will be pyramids or Chinese walls built during this administration.

Mr. CHAFEE. The pyramids have been started, though not under this administration. I thought of the old theory that once something had been started, we ought to keep going and finish it, that that might have taken hold here.

We will be back again, I suppose, and creep forward with another $5 or $10 million reduction next year in this program, which is a disaster, in my judgment.

Mr. HELMS. Mr. President, the joint explanatory statement of the committee of conference, accompanying the conference report on H.R. 2965, seeks to accomplish several things in regard to the Legal Services Corporation

which the conference report itself does not do. In other words, there is an attempt being made to legislate by legislative history rather than through legislation itself. In this case, the legislative history is the joint explanatory statement which is not pending before the Senate, and the legislation is the conference report which is pending before the Senate.

Mr. President, this Senator states for the RECORD that the joint explanatory statement on legal services, namely the explanation of the disposition of Senate amendments 112 and 113, does not represent his views, nor can it credibly be claimed to represent the views of the Members of the House and Senate who were not on the conference committee. The Board of Directors of the Legal Services Corporation is not bound by this joint explanatory statement, and it should proceed in accordance with its best judgment as to how to carry out both the law as in fact passed by Congress and its own fiduciary duties.

Mr. President, if this joint explanatory statement were in fact binding on the Legal Services Board of Directors, there would be some in the Senate, certainly including myself, who would want to engage in extended debate on the conference report. Under such circumstances, it would be highly questionable as to whether the conference report would ever clear the Senate.

But this is not the case. The joint explanatory statement cannot substitute for law and is not binding on the Board. Furthermore, it is not actually pending before the Senate; only the conference report itself is. Thus, there is no point in Senators who disagree with the joint explanatory statement impeding passage of the conference report.

The legal issues involved here have been explored at length over the years by the General Accounting Office and its General Counsel. In fact, GAO has published a legal treatise entitled, "Principles of Federal Appropriations Law" (June 1982). Part of this treatise covers the concerns I have expressed about the joint explanatory statement and its efforts to legislate in detail and fine-tune lump-sum appropriations with respect to the Legal Services Corporation.

I ask unanimous consent that an exerpt from the treatise be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PRINCIPLES OF FEDERAL APPROPRIATIONS LAW

D. LUMP-SUM APPROPRIATIONS

A lump-sum appropriation is one that is made to cover a number of specific projects or items. The term is used to contrast a line-item appropriation, which is available only for the specific object described.

Lump-sum appropriations come in many forms. Many smaller agencies receive only a single appropriation, usually termed "Salaries and Expenses" or "Operating Expenses." All of the agency's operations must be funded from this single appropriation. Cabinet-level departments and larger agencies receive several appropriations, often based on broad object categories such as "operations and maintenance" or "research and development." For purposes of this discussion, a lump-sum appropriation is simply one that is available for more than one specific object.

In earlier times when the Federal Government was much smaller and Federal programs were (or at least seemed) much simpler, very specific line-item appropriations were more common. In recent decades, however, as the Federal budget has grown in both size and complexity, a lump-sum approach has become a virtual necessity. For example, an appropriation act for an establishment the size of the Defense Department structured solely on a line-item basis would rival the telephone directory in bulk.

As discussed in Chapter 2 of this Manual, the amount of a lump-sum appropriation is not derived through guesswork. It is the result of a lengthy budget and appropriation process. The agency first submits its appropriation request to Congress through the Office of Management and Budget, supported by detailed budget justifications. Congress then reviews the request and enacts an appropriation which may be more, less, or the same as the amount requested. Variations from the amount requested are usually explained in the appropriation act's legislative history, most often in committee reports. (The process is explained in more detail in Chapter 2, Section E, this Manual.)

All of this leads logically to a question which can be phrased in various ways: How much flexibility does an agency have in spending a lump-sum appropriation? Is it legally bound by its original budget estimate or by expressions of intent in legislative history? How is the agency's legitimate need for administrative flexibility balanced against the Constitutional role of the Congress as controller of the public purse?

The answer to these questions is one of the most important principles of appropriations law. The rule, simply stated, is this: Restrictions on a lump-sum appropriation contained in the agency's budget request or in legislative history are not legally binding on the department or agency unless they are carried into (specified in) the appropriation act itself. The rule carries with it two unstated premises: The agency cannot exceed the total amount of the lump-sum appropriation and its spending must not violate other applicable statutory restrictions. The rule applies equally whether the legislative history is mere acquiescence in the agency's budget request or an affirmative expression of intent.

The rule recognizes the agency's need for flexibility to meet changing or unforeseen circumstances yet preserves congressional control in several ways. First, the rule merely says that the restrictions are not legally binding. The practical wisdom of making the expenditure is an entirely separate question. An agency that disregards the wishes of its oversight or appropriations committees will most likely be called upon to answer for its digressions before those committees next year. An agency that fails to "keep faith" with the Congress may find its next appropriation reduced or limited by line-item restrictions. (That Congress is fully aware of this relationship is evidenced by a 1973 House Appropriations Committee report, quoted in Chapter 2, Section F(2) of this Manual, "Effect of Budget Estimates.") Second, reprogramming arrangements with the various committees (see Chapter 2, Section F(3), this Manual) provide another safeguard against abuse. Finally, Congress always holds the ultimate trump card. It has the power to make any restriction legally binding simply by including it in the appropriation act.

Perhaps the easiest case is the effect of the agency's own budget estimate. The rule here was stated in 17 Comp. Gen. 147 (1937) as follows:

"The amounts of individual items in the estimates presented to the Congress on the basis of which a lump sum appropriation is enacted are not binding on administrative officers unless carried into the appropriation act itself." *Id.*, at 150.

See also B-55277, January 23, 1946; B-35335, July, 17, 1943.

It follows that the lack of a specific budget request will not preclude an expenditure from a lump-sum appropriation which is otherwise legally available for the item in question. To illustrate, the Administrative Office of the U.S. Courts asked for a supplemental appropriation of $11,000 in 1962 for necessary salaries and expenses of the Judicial Conference in revising and improving the Federal rules of practice and procedure. The House of Representatives did not allow the increase but the Senate included the full amount. The bill went to conference but the conference was delayed and the agency needed the money. The Administrative Office then asked whether it could take the $11,000 out of its regular 1962 appropriation even though it had not specifically included this item in its 1962 budget request. Citing 17 Comp. Gen. 147, *supra*, and noting that the study of the Federal Rules was a continuing statutory function of the Judicial Conference, the Comptroller General concluded as follows:

"Thus, in the absence of a specific limitation or prohibition in the appropriation under consideration as to the amount which may be expended for revising and improving the Federal Rules of practice and procedure, you would not be legally bound by your budget estimates or absence thereof.

"If the Congress desires to restrict the availability of a particular appropriation to the several items and amounts thereof submitted in the budget estimates, such control may be effected by limiting such items in the appropriation act itself. Or, by a general provision of law, the availability of appropriations could be limited to the items and the amounts contained in the budget estimates. In the absence of such limitations an agency's lump-sum appropriation is legally available to carry out the functions of the agency."

This decision is B-149163, June 27, 1962. See also 20 Comp. Gen. 631 (1941); B-198234, March 25, 1981.

The issue raised in most of the decisions results from changes to or restrictions on a lump-sum appropriation imposed during the legislative process. The "leading case" in this area is 55 Comp. Gen. 307 (1975), the so-called "LTV case." The Department of the Navy had selected the McDonnell Douglas Corporation to develop a new fighter aircraft. LTV Aerospace Corporation protested the selection, arguing that the aircraft McDonnell Douglas proposed violated the 1975 Defense Department Appropriation Act. The appropriation in question was a lump-sum appropriation of slightly over $3 billion under the heading "Research, Devel-

opment, Test, and Evaluation, Navy." This appropriation covered a large number of projects, including the fighter aircraft in question. The conference report on the appropriation act had stated that $20 million was being provided for a Navy combat fighter, but that "Adaption of the selected Air Force Air Combat Fighter to be capable of carrier operations is the prerequisite for use of the funds provided." It was conceded that the McDonnell Douglas aircraft was not a derivative of the Air Force fighter and that the Navy's selection was not in accord with the instructions in the conference report. The issue, therefore, was whether the conference report was legally binding on the Navy. In other words, did Navy act illegally in choosing not to follow the conference report?

The ensuring decision is GAO's most comprehensive statement on the legal availability of lump-sum appropriations. Pertinent excerpts are set forth below:

"[C]ongress has recognized that in most instances it is desirable to maintain executive flexibility to shift around funds within a particular lump-sum appropriation account so that agencies can make necessary adjustments for 'unforseen developments, changing requirements, * * * and legislation enacted subsequent to appropriations.' [Citation omitted.] This is not to say that Congress does not expect that funds will be spent in accordance with budget estimates or in accordance with restrictions detailed in Committee reports. However, in order to preserve spending flexibility, it may choose not to impose these particular restrictions as a matter of law, but rather to leave it to the agencies to 'keep faith' with the Congress. * * *

"On the other hand, when Congress does not intend to permit agency flexibility, but intends to impose a legally binding restriction on an agency's use of funds, it does so by means of explicit statutory language. * * *

"Accordingly, it is our view that when Congress merely appropriates lump-sum amounts without statutorily restricting what can be done with those funds, a clear inference arises that it does not intend to impose legally binding restrictions, and indicia in committee reports and other legislative history as to how the funds should or are expected to be spent do not establish any legal requirements on Federal agencies. * * *

"We further point out that Congress itself has often recognized the reprogramming flexibility of executive agencies, and we think it is at least implicit in such [recognition] that Congress is well aware that agencies are not legally bound to follow what is expressed in Committee reports when those expressions are not explicitly carried over into the statutory language. * * *

"We think it follows from the above discussion that, as a general proposition, there is a distinction to be made between utilizing legislative history for the purpose of illuminating the intent underlying language used in a statute and resorting to that history for the purpose of writing into the law that which is not here." 55 Comp. Gen. at 318, 319, 321, 325.

Accordingly, GAO concluded that Navy's award did not violate the appropriation act and the contract therefore was not illegal.

The same volume of the Comptroller General's decisions contains another often-cited case, 55 Comp. Gen. 812 (1976), the "Newport News" case (sometimes called "son of LTV," especially by the authors of the LTV decision). This case also involved the Navy. This time, Navy wanted to exercise a contract option for construction of a nuclear powered guided missile frigate, designated DLGN 41. The contractor, Newport News Shipbuilding and Dry Dock Company, argued that exercising the contract option would violate the Antideficiency Act by obligating more money than Navy had in its appropiration.

The appropriation in question, Navy's "Shipbuilding and Conversion" appropriation, provided "for the DLGN nuclear powered guided missile frigate program, $244,300,000, which shall be available only for construction of DLGN 41 and for advance procurement funding for DLGN 42 * * *." The committee reports on the appropriation act and the related authorization act indicated that, out of the $244 million appropriated, $152 million was for construction of the DLGN 41 and the remaining $92 million was for long lead time activity on the DLGN 42. It was clear that, if the $152 million specified in the committee reports for the DLGN 41 was legally binding, obligations resulting from exercise of the contract option would exceed the available appropriation.

The Comptroller General applied the "*LTV* principle" and held that the $152 million was not a legally binding limit on obligations for the DLGN 41. As a matter of law, the entire $244 million was legally available for the DLGN 41 because the appropriation act did not include any restriction. Therefore, in evaluating potential violations of the Antideficiency Act, the relevant appropriation amount is the total amount of the lump-sum appropriation minus sums already obligated, not the lower figure derived from the legislative history. As the decision recognized, Congress could have imposed a legally binding limit by the very simple device of appropriating a specific amount only for the DLGN 41, or by incorporating the committee reports in the appropriation language.

This decision illustrates another important point: the terms "lump-sum" and 'line-item' are relative concepts. The $244 million appropriated in the *Newport News* case could be viewed as a line-item appropriation in relation to the broader "Shipbuilding and Conversion" category, but it was also a lump-sum appropriation in relation to the two specific vessels included. This factual distinction does not affect the applicable legal principle. As the decision explained:

"Contractor urges that *LTV* is inapplicable here since *LTV* involved a lump-sum appropriation whereas the DLGN appropriation is a more specific "line item" appropriation. While we recognize the factual distinction drawn by the Contractor, we nevertheless believe that the principles set forth in *LTV* are equally applicable and controlling here. * * * [I]mplicit in our holding in *LTV* and in other authorities cited is the view that dollar amounts in appropriation acts are to be interpreted differently from statutory words in general. This view, in our opinion, pertains whether the dollar amount is a lump-sum appropriation available for a large number of items, as in *LTV*, or, as here, a more specific appropriation available for only two items." 55 Comp. Gen. at 821-22.

A precursor of *LTV* and *Newport News* provides another interesting illustration. In 1974, controversy and funding uncertainties surrounded the Navy's "Project Sanguine," a communications system for sending command and control messages to submerged submarines from a single transmitting location in the United States. The Navy had requested $16.6 million for Project Sanguine for FY 1974. The House deleted the request, the Senate restored it, the conference committee compromised and approved $8.3 million. The Sanguine funds were included in a $2.6 billion lump-sum Research and Development appropriation. Navy spent more than $11 million for Project Sanguine in FY 1974. The question was whether Navy violated the Antideficiency Act by spending more than the $8.3 million provided in the conference report. GAO found that it did not, because the conference committee's action was not specified in the appropriation act and was therefore not legally binding. Significantly, the appropriation act did include a proviso prohibiting use of the funds for "full scale development" of Project Sanguine (not involved in the $11 million expenditure), illustrating that Congress knows perfectly well how to impose a legally binding restriction when it desires to do so. "Legality of the Navy's Expenditures for Project Sanguine During Fiscal Year 1974," LCD-75-315, January 20, 1975; B-168482-O.M., August 15, 1974.

Similarly, the Department of Health, Education, and Welfare received a $12 billion lump-sum appropriation for public assistance in 1975. Committee reports indicated that $9.2 million of this amount was being provided for research and development activities of the Social and Rehabilitation Service. Since this "earmarking" of the $9.2 million was not carried into the appropriation act itself, it did not constitute a statutory limit on the amount available for the program. B-164031(3), April 16, 1975. The decision stated the principle this way:

"[I]n a strict legal sense, the total amount of a line item appropriation may be applied to any of the programs or activities for which it is available in any amount absent further restrictions provided by the appropriation act or another statute."

GAO has applied the rule of the *LTV* and *Newport News* decisions in a number of additional cases. Several of these applications, many of which involve variations on the basic theme, are summarized below:

The 1975 Labor Department appropriation included $2.4 billion for "Comprehensive Manpower Assistance." A committee report "directing" a specific minimum funding level out of this appropriation for the Opportunities Industrialization Centers—but not carried into the appropriation act itself—was not legally binding on the Labor Department. B-163922, October 3, 1975.

Agencies are required to pay "rent"—called Standard Level User Charges (SLUC)—to the General Services Administration for the public buildings they occupy. Agencies budget and receive appropriations for SLUC payments just as any other expenditures. Several appropriation acts for 1976 included provisions limiting SLUC payments to 90 percent of the amount charged by GSA. In addition, committee reports on the appropriations for the Department of Agriculture and the Food and Drug Administration specified further reductions in SLUC payments. Since the reductions in the committee reports were not carried into the appropriation acts themselves, the agencies were required to pay the full SLUC assessments, subject only to the 90 percent statutory limitation. B-177610, September 3, 1976; B-186818, September 22, 1976. Applying the rationale of these cases, GAO held in B-204270, October 13, 1981, that an agency was bound to observe a specific

dollar limitation on its SLUC payments included in its appropriation act.

A FY 1978 appropriation act appropriated $748 million for "Operating Expenses, Fossil Fuels" with no further statutory breakdowns. One of the programs funded from this appropriation was research and development under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. The Appropriations Committees had reduced the electric vehicle budget request from $47 million to $30 million. However, $30 million would not have been enough to carry out the statutorily mandated functions under the electric vehicle statute. Applying the general rule, GAO concluded that the lump-sum appropriation was available for obligation in excess of the $30 million specified in the committee reports for the required functions. B-159993, September 1, 1977. Of course, an agency cannot be expected to do the impossible. If appropriations are insufficient to carry out all programs, the agency must allocate its funds in some reasonable pattern of priorities. Mandatory programs take precedence over discretionary ones. Within the group of mandatory programs, more specific requirements should be funded first, such as those with specific time schedules, with remaining funds then applied to the more general requirements. *Id.;* see also B-177806, February 24, 1978 (non-decision letter).

The Department of Agriculture wanted to use its 1978 lump-sum Resource Conservation and Development appropriation to fund existing projects rather than starting any new ones. Instructions from the Appropriations Committees restoring funds for new projects were contained in committee reports but not in the appropriation act itself. The Department's action therefore was legally permissible. B-114833, July 21, 1978.

The Department of Health, Education, and Welfare wanted to make what it termed "cross-cutting" grants from its 1978 lump-sum Human Development appropriation. The various offices within HEW funded by the Human Development appropriation would contribute a portion of their allocated funds to form a pool to be used to fund projects benefiting more than one target population. Since there were no statutory restrictions on how the lump-sum appropriation could be allocated, the proposal was legally unobjectionable. B-157356, August 17, 1978.

The Nuclear Regulatory Commission could use its 1980 lump-sum appropriation to provide assistance to intervenors in certain NRC proceedings. (See Chapter 3, this Manual, section on Attorney's Fees.) Although committee reports on NRC's appropriation act expressed a desire that funds not be used for this purpose, the restriction was not written into the statute and the appropriation was otherwise available for the desired expenditure. 59 Comp. Gen. 228 (1980). The decision stressed an important point made earlier in this Section: The "legal availability" of funds for a given expenditure and the practical wisdom of making that expenditure in the face of contrary expressions from congressional committees are two very different questions.

The Department of Energy had used no-year appropriations to initiate the construction of an authorized facility but subsequently terminated the projects for the convenience of the Government. The Department then wanted to use remaining unobligated funds from the no-year appropriation to establish a different facility, also, within the scope of its organic authority. GAO found the expenditure legally permissible. Unobligated funds from a lump-sum appropriation may be used if otherwise proper—within the period of obligational availability or, if no-year funds are involved, without regard to fiscal year—for one project even though the funds were originally earmarked in the budget request or the legislative history for another project. B-202992, May 15, 1981.

Other cases in this "family" are B-44205, September 8, 1944, and B-204449, November 18, 1981.

Finally, the availability of a lump-sum appropriation may be restricted by provisions appearing in statutes other than appropriations acts, such as appropriations authorization acts. For example, if an agency receives a line-item authorization and a lump-sum appropriation to be spent "as authorized by law," the line-item restrictions in the authorization act will apply just as if they appeared in the appropriation act itself. The relationship between appropriation acts and authorization acts is covered in Chapter 2, this Manual.

Mr. SPECTER. Mr. President, I am pleased that the conference committee adopted a position not to reduce funding for the Juvenile Justice Program. By providing level funding this year in addition to significant amounts from previously appropriated but unobligated balances, this bill provides this important effort with the means to continue effectively. As part of that effort, law-related education has proven a successful delinquency prevention program. There is being provided this year, sufficient funding to ensure that the House and Senate committee report language urging that this program be extended to 25 States to receive the 2.2 million in Federal funding.

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mr. EAST. Mr. President, on Wednesday, December 4, 1985, the Senate and House held a conference on H.R. 2965, the fiscal year 1986 State, Justice, and Commerce Departments appropriations bill. While I am most thankful for the hard work of my colleagues who served as conferees on this bill, I am quite disturbed by the results of this conference as they pertain to the Legal Services Corporation [LSC].

The conferees chose to use the joint explanatory statement of the conference committee as a vehicle for the micromanagement of the Corporation. The statement sets specific levels for funding for virtually every recipient of LSC funds. The conferees have determined what LSC should do with its funds and how much it should spend. The statement thereby eliminates the primary function of the Corporation, which is to make grants to legal services providers. Having its authority and discretion removed by such language, the LSC hardly can be considered a private independent corporation.

Furthermore, the explanatory statement orders the Corporation not to implement its new audit and accounting procedures until it first has consulted the Appropriations Committees of both Houses of Congress. LSC also is instructed to promulgate a new lobbying regulation because some Members of this body and the House believe that the current regulation is too restrictive to legal services attorneys who wish to spend tax dollars on political advocacy.

What is the effect of the managers' statement on the work of the Corporation? Well, Mr. President, consider this example. the managers' statement orders the LSC to spend a minimum of $530,000 on computerized legal research. It just so happens that this program has been the subject of much recent debate over its cost effectiveness. The Corporation currently is studying its usefulness and necessity. Now, suppose that the LSC were to determine at the conclusion of its study that the $530,000 could be spent better on other programs directly serving poor persons. It ought to be entirely appropriate for the Board of Directors, having been confirmed by this body last summer, to authorize such a change. Unfortunately, however, this fundamental authority is removed by the conferees in their joint statement.

Mr. President, the Senate and the House have not been permitted to consider in debate, or to vote on, the language in the conferees' statement. If we were permitted to do so, I would imagine that such language would receive considerable attention, given its fundamental impact on the function and purpose of the LSC.

I hope that my colleagues will join me in objecting to setting policy by means of the legislative history, rather than in the language of the legislation itself. This is a violation of the legislative process.●

SANDY HOOK LABORATORY

Mr. LAUTENBERG Mr. President, the Commerce, State, Justice appropriations conference bill contains my amendment concerning the Sandy Hook Laboratory. On September 22, 1985, a fire destroyed one of the buildings which housed the National Marine Fisheries Service's Sandy Hook Laboratory. The Laboratory, which was established by Congress in 1960, is devoted to the study of marine life. Its work had led to significant advances in our understanding of the marine ecosystem and to addressing marine pollution problems off the New Jersey coast. Over the last 4 years, the Congress, recognizing the importance of this Laboratory, has consistently rejected the administration's attempts to discontinue funding for some of the Laboratory's research efforts.

The Senate Appropriations Committee was concerned about the loss of

this facility and the impact this loss will have on ongoing efforts to increase our understanding of the marine environment. To begin to address this loss, the committee's report on the Commerce, State, Justice appropriations bill requests that the Administrator of the National Oceanic and Atmospheric Administration submit to the committee by February 1, 1986 a report outlining options and associated cost estimates for permanently replacing the facility in New Jersey, and the Agency's preferred option.

Unfortunately, there were efforts to use the fire at the Laboratory as an excuse to disperse or eliminate its functions. These efforts are inconsistent with the language in the Senate Appropriations Committee report which assumes NOAA will replace the destroyed facility in New Jersey.

I offered an amendment to the Commerce appropriations bill to prohibit NOAA from spending any funds to plan to move or to move the Laboratory or any of its programs or activities out of New Jersey. My amendment was adopted by the Senate.

This amendment was agreed to by the conferees with a minor modification. The conference agreement provides that the Department of Commerce may not use any funds to move the National Marine Fisheries Service's Sandy Hook Laboratory or any of its programs or activities out of New Jersey. At the same time the Department is directed to prepare a report to the Appropriations Committees by February 1, 1986, which would address options for restoring or replacing that portion of the Sandy Hook Laboratory which was destroyed by fire. The agreement also includes a proviso making any proposals pursuant to this report subject to the reprogramming procedures of section 606.

My amendment will give NOAA an opportunity to prepare the report requested by the Senate Appropriations Committee and will provide the committee with a chance to review the various options for rebuilding the destroyed building in New Jersey. The statement of the conference managers makes clear the conference committee's intention that the integrity of this Laboratory be maintained so that it can continue to perform its important functions. The statement also urges the Department to move as quickly as possible to develop a plan to restore or replace the facility with a minimum of disruption to the Laboratory's vital functions.

Mr. President, New Jersey has a long coastline of some 370 miles. Along this coastline are some of the most beautiful beaches on the east coast, a fragile ecology, and extensive fisheries resources. New Jersey's economy is heavily dependent on keeping our coastal waters healthy. Our tourist industry, along with a more than $1 billion per year commercial and recreational marine fishing industry, depend on the health of our coastal waters. The Sandy Hook Laboratory's research and monitoring efforts have played a critical role in identifying the sources of degradation of these waters and addressing marine pollution problems off our coast. It is essential that the Sandy Hook Laboratory continue to perform these functions.

Mr. DOMENICI. Mr. President, the Senate now has before it the conference report on the Commerce, Justice, State, and the Judiciary appropriation bill.

I would like to commend the members of the conference for bringing a bill to the floor that is very close to the Senate-passed levels for both budget authority and outlays.

The conference agreement on H.R. 2965 provides $11.9 billion in budget authority and $9.7 billion in outlays for the Departments of Commerce, Justice, and State, as well as the Judiciary. The bill also funds related agencies such as the Small Business Administration, the U.S. Information Agency, and the Legal Services Corporation.

Taking into account outlays from prior-year budget authority and other adjustments, the Commerce, Justice, State Subcommittee is below its section 302(b) allocation by $0.1 billion in budget authority and over by $0.1 billion in outlays.

Mr. President, I will support the conference agreement despite this overage in outlays because it is nearly identical in total outlays to the bill as it passed the Senate on November 1.

Mr. President, I ask unanimous consent that two tables showing the relationship of the reported bill to the Congressional budget, the House- and Senate-passed bills, the President's budget request, and a summary of total appropriations action to date, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMMERCE, JUSTICE, STATE SUBCOMMITTEE SPENDING TOTALS—CONFERENCE AGREEMENT

[In billions of dollars]

	Fiscal year 1986—	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed	(1)	2.6
H.R. 2965, as reported in the Senate	11.9	9.7
Adjustment for pending action on reconciliation: SBA disaster loans		−.2
Adjustment to conform mandatory programs to budget resolution assumptions	−(1)	−.2
Subcommittee total	11.9	12.0
Subcommittee 302(b) allocation	12.0	11.9
House-passed level	12.1	12.1
Senate-passed level	11.9	12.0
President's request[2]	11.4	11.6
Subcommittee total compared to:		
Subcommittee 302(b) allocation	−.1	+.1
House-passed level	−.1	−.1
Senate-passed level	−(1)	+(1)
President's request	+.5	+.4

[1] Less than $50 million.

[2] Adjusted to reflect President's actual request for Legal Servcies Corporation.

Note.—Details may not add to totals due to rounding.

STATUS OF APPROPRIATION BILLS IN THE SENATE

[In billions of dollars]

Subcommittee	Appropriations Committee's 302(b) allocation		Adjusted bill totals [1]		Bill compared to allocation		Bill status
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	
Agriculture	28.2	25.2	28.2	25.2	−(2)	−(2)	Senate passed.
Commerce-Justice	12.0	11.9	11.9	12.0	−.1	+.1	Conference.
Defense	285.5	252.2	286.9	254.9	+1.4	+2.7	Senate reported.
District of Columbia	.5	.5	.5	.5	(2)	(2)	Senate passed.
Energy-Water	15.3	15.6	15.3	15.6	(2)	(2)	Public Law 99–141.
Foreign Operations	15.2	14.7	16.1	15.2	+.9	+.5	Senate reported.
HUD-Independent	58.7	61.2	59.9	61.2	+1.2	(2)	Public Law 99–160.
Interior	8.2	8.9	8.2	9.3	(2)	+.04	Senate reported.
Labor-HHS	108.0	115.3	108.0	115.3	(2)	(2)	Conference.
Legislative Branch	1.7	1.7	1.7	1.7	(2)	(2)	Public Law 99–151.
Military Construction	9.0	7.6	8.5	7.5	−.5	−.1	Conference.[3]
Transportation	10.5	26.6	9.9	26.6	−.6		Senate passed.
Treasury-Postal	13.1	13.1	13.4	13.3	+.3	+.2	Conference.
Unassigned	1.2	−.4			−1.2	+.4	
Total, Appropriations Committee	567.1	554.1	568.6	558.5	+1.4	+4.3	

[1] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to the budget resolution level, and other adjustments.

[2] Less than $50 million.

[3] As amended on the Senate floor.

Note.—Details may not add to totals due to rounding.

Source: Senate Budget Committee staff.

Mr. RUDMAN. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on adoption of the conference report.

The conference report was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc with the exception of amendments 134 and 138.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments in disagreement considered and agreed to en block are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic development Administration*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$192,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: *During fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $8,100,000. During fiscal year 1986, commitments to guarantee loans shall not exceed $6,000,000 of contingent liability for loan principal.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *In addition, $3,000,000 shall be for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$3,000,000, of which $1,200,000 is to be derived from the general fund of the Treasury and of which $1,800,000 is*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$84,700,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 104. None of the funds made available in this or any prior Act shall be obligated or expended to relocate the National Marine Fisheries Service's Sandy Hook Laboratory, or any of its activities or programs, out of New Jersey. Notwithstanding the previous sentence, the Secretary of Commerce shall submit a report to the Appropriations Committees of both Houses of Congress by February 1, 1986, evaluating options for restoring or replacing that portion of the Sandy Hook Laboratory destroyed by fire: Provided, That any proposed relocation or replacement of the Laboratory pursuant to said report shall be subject to the reprogramming procedures in Section 606 of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$70,800,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND TRUSTEES

For necessary expenses of the Offices of the United States attorneys and bankruptcy trustees, $332,000.000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$150,000,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$150,000.000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That restitution of not to exceed $25,000 shall be paid to the estate,* of victims killed *before October 12, 1984,* as a result of crimes committed by persons who have been enrolled in the Federal witness protection program, if such crimes were committed *within two years after protection was terminated, notwithstanding any limitations contained in part (a) of section 3525 of title 18 of the United States Code.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided, further, That by June 1, 1986, the Director of the FBI shall submit to the appropriate committees of the Congress a report on the FBI's capabilities and efforts to counter the electronic interception of American telecommunications by foreign agents.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$556,900,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$11,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *and from this amount and any unobligated balances of previous appropriations for "Buildings and Facilities", not to exceed a total of $7,100,000 shall be available to renovate or construct a facility for the incarceration of illegal alien felons, in accordance with the standards and procedures of the Federal Bureau of Prisons*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert, *$128,700,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of Section 222(b), 223(d), and 228(e) of Title II of such Act, $9,300,000 shall be made available for programs authorized under Parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment insert: *$6,000,000*

Resolved, That the House recede from its disagreement to the amendment of the

Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert *$11,300,000*

Resolved, that the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert *$61,800,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$25,850,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Commission on the Ukraine Famine

For necessary expenses of the Commission on the Ukraine Famine to carry out the provisions of S. 2456 (98th Congress) as passed the Senate on September 21, 1984, $400,000, to remain available until expended, and the Commission on the Ukraine Famine as contained in S. 2456, is hereby established, with modifications as follows:

ESTABLISHMENT

SEC. 1. There is established a commission to be known as the "Commission on the Ukraine Famine" (in this Act referred to as the "Commission").

PURPOSE OF THE COMMISSION

SEC. 2. The purpose of the Commission is to conduct a study of the 1932–33 Ukraine famine in order to—

(1) expand the world's knowledge of the famine; and

(2) provide the American public with a better understanding of the Soviet system by revealing the Soviet role in the Ukraine famine.

DUTIES OF THE COMMISSION

SEC. 3. The duties of the Commission are to—

(1) conduct a study of the 1932–33 Ukraine famine (in this Act referred to as the "famine study"), in accordance with section 6 of this Act, in which the Commission shall—

(A) gather all available information about the 1932–33 famine in Ukraine;

(B) analyze the causes of such famine and the effects it has had on the Ukrainian nation and other countries; and

(C) study and analyze the reaction by the free countries of the world to such famine; and

(2) submit to Congress for publication a final report on the results of the famine study no later than two years after the organizational meeting of the Commission held under section 6(a) of this Act.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of fifteen members, who shall be appointed within thirty days after the date of enactment of this Act, as follows:

(1) Four members shall be Members of the House of Representatives and shall be appointed by the Speaker of the House of Representatives. Two such members shall be selected from the majority party of the House of Representatives and two such members shall be selected, after consultation with the minority leader of the House, from the minority party of the House of Representatives. The Speaker also shall designate one of the House Members as Chairman of the Commission.

(2) Two members shall be Members of the Senate and shall be appointed by the President pro tempore of the Senate. One such member shall be selected from the majority party of the Senate and one such member shall be selected, after consultation with the minority leader of the Senate, from the minority party of the Senate.

(3) One member shall be from among officers and employees of each of the Department of State, Education, and Health and Human Services and shall be appointed by the President, after consultation with the Secretaries of the respective departments.

(4) Six members shall be from the Ukrainian-American community at large and Ukrainian-American chartered human rights groups and shall be appointed by the Chairman of the Commission in consulation with congressional members of Commission, the Ukrainian-American community at large, and executive boards of Ukrainian-American chartered human rights groups.

(b) The term of office of each member shall be for the life of the Commission.

(c) Each member of the Commission who is not otherwise employed by the United States Government shall be paid from the sum appropriated to carry out this Act, the daily equivalent of the rate of basic pay payable for GS–18 of the General Schedule for each day, including travel time, during which he or she is attending meetings or hearings of the Commission or otherwise performing Commission related duties as requested by the Chairman of the Commission. A member of the Commission who is an officer or employee of the United States Government or a Member of Congress shall serve without additional compensation. Each member of the Commission shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Not later than thirty days after all members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures under which it will carry out its responsibilities.

(b) The Commission shall hire experts and consultants in accordance with section 3109 of title 5, United States Code, from the academic community to assist in carrying out the famine study. Such experts and consultants shall be chosen by a majority of the Commission members on the basis of their academic background and their experience relevant to research on the Ukraine famine. No person shall be otherwise employed by the Federal Government while serving as an expert or consultant to the Commission.

(c) The Commission shall have a staff director, who shall be appointed by the Chairman.

POWERS OF THE COMMISSION

SEC. 6. (a) The Commission or any member it authorizes may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission or any such member may administer oaths or affirmations to witnesses appearing before it.

(b)(1) The Commission may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) The subpenas of the Commission may be issued by the Chairman of the Commission or any member designated by him and may be served by any person designated by the Chairman or such member. The subpenas of the Commission shall be served in the same manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(3) If a person issued a subpena under paragraph (1) refuses to obey such subpena, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished as a contempt of the court.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(c) The Commission may obtain from any department or agency of the United States information that it considers useful in the discharge of its duties. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission to the extent permitted by law.

(d) The Commission may appoint and fix the pay of such personnel as it considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter 53 of such title, relating to classification and General Schedule pay rates. No individual so appointed may receive pay in excess of the maximum annual rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(e) The Commission may solicit, accept, use, and dispose of donations of money, property, or services.

(f) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) The Commission may procure by contract any supplies, services, and property, including the conduct of research and the preparation of reports by Government agencies and private firms, necessary to discharge the duties of the Commission, in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate sixty days after the report of the Commis-

sion is submitted to Congress under section 4(4) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated the sum of $400,000, to remain available until expended, to carry out this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $775,000 to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: Provided, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$111,100,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 118 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$66,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 121 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$715,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$571,000,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *none of which shall be restricted from use for the purposes appropriated herein*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *, $9,894,000, of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$114,000,000*

Mr. RUDMAN. Mr. President, we have essentially two amendments. One amendment I will offer, and I believe the Senator from Missouri [Mr. EAGLETON] is going to want to come down here and oppose that amendment, amongst others. That amendment will insist on the Senate position that no money contained in the appropriation for the National Endowment for Democracy be used for the political parties, the National Republican Party and the National Democratic Party. Specifically, the amendment prohibits funding for the independent institutes that those parties have established.

The Senator from South Carolina, I believe, also has an amendment that he will offer. I will let him speak to that himself.

I believe there will be two rollcall votes. There are no time agreements, but it is my belief that we can deal with these amendments in a fairly compressed period of time.

I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Presiding Officer wanted to be present in opposing my amendment. My amendment is bipartisan and will deal with the elimination of any funds to be used by the National Endowment for Democracy. We will bring that up in proper order after action on the amendment of the Senator from New Hampshire has been completed.

AMENDMENT IN DISAGREEMENT NUMBERED 134

Mr. RUDMAN. Mr. President, I want to speak for a moment to amendment numbered 134.

That amendment was reported in true disagreement in the conference report. The issue is whether the National Endowment for Democracy can give money to the international institutes affiliated with the National Democratic and Republican Parties. It was the Senate position that the political party institutes should not receive taxpayer funds. The House position is that those institutes should be eligible for NED moneys with a series of restrictions which the House placed on those moneys. Nevertheless, the House provides for the awarding of funds to the institutes.

We were unable to resolve our differences in conference. Yesterday the House altered its position slightly when it considered the conference agreement. The amendment before us today, as passed by the House, would still allow the institutes to receive NED funds providing that the institutes are not engaged in partisan political activity and that no officer or employee of the political parties serve on the institute's board.

I appreciate the efforts of the House to address our concerns. Unfortunately, they did not go far enough. My core contention is that the National Democratic Institute for International Affairs and the National Republican Institute for International Affairs should not be eligible for Federal taxpayer moneys under any conditions whatsoever.

What I intend to do, Mr. President, is to table the amendment before us. I have been advised by the Parliamentarian's office that if I prevail this would bring back the original Senate provision which we would then send back to the House.

I am confident that a strong show of support for the Senate position will cause the House to rethink its position. Hopefully, upon further review, the House will recede to the Senate's position.

I will add parenthetically that I was somewhat disappointed with the action of the other body yesterday. The House adopted its provision by voice vote when I had been given, I thought, assurances that the issue would go back to both bodies for a true expression of how each body felt on the issue.

It is my understanding that many of the opponents to the House position were caught by surprise, although it certainly was done within the rules of parliamentary propriety. Nevertheless, the vote did take place on rather short notice by voice vote and, thus, I am not sure that what we have here truly represents the House position. I would like to give the House an opportunity to express themselves in a recorded vote.

I would like to wait until certain people who wish to be heard arrive in the Chamber. But, due to the schedule suggested by the majority leader, and knowing the plans of many if Senators, it seems to me that Senators wish to speak in opposition to this they ought to get here fairly promptly.

I believe the ranking Member will agree with me that we cannot wait indefinitely for people to arrive in the Chamber to oppose our position. I yield the floor.

Mr. HOLLINGS. Mr. President, pending the attendance of those Senators who wish to oppose this amendment, and rather than waste the time in a quorum call, perhaps we can refer generally to the National Endowment for Democracy and save time later on.

Historically, Mr. President, the National Endowment for Democracy was started as a new governmental program in an environment of budget cuts and fiscal restraint.

This particular Senator, along with the Senator from New Mexico, in 1981, introduced the so-called Reagan budget cuts of $35.4 billion and thereafter worked with Senator DOLE, Senator DOMENICI, and Senator BAKER, in the fall of 1981, after we had gotten the $35.4 billion cut for an additional $4 billion cut.

We were all agreed. There was not a difference here. A majority of the Congress on both side of the aisle said we are just going to have to hold the line now. We were running deficits that could get up as high as $100 billion, which was a shock. So what we were trying to do was to take the established functions and purposes of Government and hold the line and certainly not start any new programs.

Thereupon, we did hold that line but the President gave a very enthusiastic presentation to the Houses of Parliament in London in 1982 recommending that we spread democracy. However the speech writers were not in charge of the budgets. In order to follow through with that particular proposal, they said, "Well, we have Charlie Wick at USIA so what we will have is a Project Democracy under the USIA."

There were some misgivings about the administrator of USIA at that particular time. He was answering all kinds of calls for testimony before the Congress. They fumbled the ball.

Our colleagues on the House side, and some on the Senate side, picked up that ball, seeing a wonderful opportunity for expanded government, and said, "All we need to do is institute a little institute and get our moneys and deal up the moneys or cards around to the different interests and we have a sweetheart deal that will take care of all of us."

The budget is in the neighborhood of $30-some million and it was drawn up as an institute for the National Endowment for Democracy and you only have to look at the listing of the officers to be reminded of Plato's little rhyme saying that the politician makes his own little laws and sits attentive to his own applause.

What they did was go ahead and get—this is no disparagement, just a fact. They have Lane Kirkland of South Carolina, head of the AFL-CIO, and Chuck Manatt—he wanted money, too—and some from the Republican Party and they got all the parties together and the Chamber of Commerce and everbody else like that.

You can see how dedicated they are to fiscal responsibility by the very leadership itself, embarrassing to me and many, many other Senators. They came pell-mell down the road for a new Government endeavor, a new Government entity, and more millions to be spent right in the light and time of our trying to cut expenditures.

Here we are, then and now, we are saying, because President Reagan has gone further—not just saying let us eliminate the Department of Energy and eliminate the Department of Education and eliminate the different programs they had red-lined—Women's, Infants' and Children's feeding, Head Start, Material and Child Health Care, and everything else. While the President has not totally eliminated them, he has had general success in at least holding the line and imposing some cuts.

So here we are, holding the line on health care—and more specifically, the vaccination stockpile. Yet, those who are giving the inoculations say that there is, instead of a 6-month supply, only a 1-month supply for DPT. But, health care has been frozen. And many who were getting the particular treatments are not receiving health care due to a so-called policy of fiscal restraint.

We have all had to suffer, both politically and physically, you might say, from this kind of fiscal restraint. But it was a sacrifice in that, in leading the way for the budget cuts in 1981, the previous year, we said, heavens above, let us not start in the right direction like Bossy the cow and after giving a full pail, kick it over with some kind of political slush fund here of $30-some million and give it a highflown title like National Endowment for Democracy. And of course, when fiscal restraint Reagan comes forward and says, "What are you doing?" we say, "Oh, Mr. President, this is what you said, pass around the seeds of democracy and the idea of democracy and this gets us confirmed."

So, here, when we deny that, we start not only freezing health care but cut back under title I for the disadvantaged in education, and under title III, for the minority colleges. We have historically black colleges in our section of the country and these are one of the most deserving groups I could possibly pick out. We all talk about Pell grants and recognize their worth, but I want to also mention the trio program—kids who come to college with bright faces, enthusiastic, getting up at 5 in the morning and working a job, working in the lunchroom and working later in the afternoon and working in the night. They hold down jobs along with loans and grants. We tell thousands of those particular students, all full of ambition and the hope of America, "Do not stay the course," which was the chat at that particular time, "but drop the course; you are out. There is nothing for you; there are no opportunities, no hope—you go ahead and join the welfare rolls." We had high unemployment there in 1982 and 1983 and we were putting them off right and left but still they kept coming down the road for this National Endowment for Democracy, a political slush fund.

WIC, they say, we have not cut, we have held the line yet we only serve one-third of those women and children who are eligible for the program.

There is no need of me expounding on the merits of the WIC Program, we know them intimately. The fact is that serving the remaining two-thirds of the women and the children eligible for WIC would save the Government money. We should extend this program, but under fiscal restraint, we have not.

We take the matter of housing. There are no housing programs now. And, we have cut back on low-income energy assistance. We see them lying around on sidewalks and they are huddled around in cardboard boxes. There is no warmth because we have no money; we have fiscal restraint.

I could go right down the list. I just wonder, sometimes, where the conscience is to carry through with the commitment of fiscal restraint when they come with a new program. I opposed it from the very beginning and I have been around long enough to know that there is a majority view otherwise. In any event, they kept talking and talking with respect to what a wonderful thing it would be and how disciplined and what have you.

I remember the arguments made that I had not seen in my travels, the chambers of commerce overseas in any extensive manner—I have talked to the chambers of commerce in Europe, I have talked to the chambers of commerce in Latin America. Without questioning their record or anything else, I could not find any real contact to spread any kind of seeds of democracy.

I did mention that perhaps labor unions had a better experience. I was shocked this past week to see an article to the effect that here my opposition, plus now the administration's lack of enthusiasm, was going to do away with solidarity. In all the 3 years that we have had this, I never heard about solidarity depending upon a National Endowment for Democracy. Solidarity and the Nobel Prize and everything else were won long ago by Lech Walesa and his leadership and the wonderful solidarity that we have. That has been ongoing.

But they know how to politically zap you in these little columns in the Washington Post, and we have gotten accustomed to that particular nonsense. We are not folding up any solidarity. They do not have to depend on a few things here.

We have regularly instituted governmental programs galore with respect to getting assistance through AID, the Agency for International Development, giving moneys to the Free Trade Union Institute that can give money to solidarity. We have had those going on long before the distinguished Senator from Utah and the distinguished Senator from South Carolina ever came to Congress. These have been going on for years and years. We are not just starting Government because President Reagan made a talk to the Parliament in 1982. The Government has been going on.

We started back 25 years ago, now, with the Peace Corps. We all know

about exchange students, Fulbrights. We welcome those things. My amendment last year was to try to transfer the money, if we really wanted to spread it, to the youngsters, the young college students.

I have traveled in Latin America. In Panama, where we are having difficulties now, thousands of students were going to Patrice Lumumba University in Moscow and to the Isle of Pines in Cuba, where they will be indoctrinated as Marxists.

I say if we really want to do something meaningful, do not cut back on Humphrey, do not cut back on Fulbright, do not cut back on Eisenhower, do not cut back on the scholarship programs that we have been doing in this fiscal restraint. If we are really trying to spread the idea of democracy as the President talked about it before Parliament, let us do it with some responsible groups that could bring about future leaders in these lands.

But, no they said just the day before yesterday at our conference that this would afford us an opportunity. An opportunity for what? Oh, they said they have just come from a meeting down in Barbados. It is cold now. They do not have rain in Seattle, it is freezing up in Seattle, WA, and all through the midcountry and now we have cold weather in the East, so it is time to have a conference in the Barbados. Down in Barbados they can get all the labor leaders and the business leaders and the political leaders, and we can stretch our arms around and relax and enjoy democracy like that is some new idea.

Well let me tell you, we have a half-a-billion dollars' worth of that kind of activity. We have it on page 54 of our report. The Food and Agriculture Organization, the International Energy Agency, International Civil Aviation, labor, telecommunications, United Nations, World Health, meteorological, Inter-American Indian Institute, Cooperation on Agriculture, PanAmerica this, PanAmerica that, International Coffee Organization, Cotton Advisory Commission, Hydrographic Organization, Institute for Unification of Private Law, Lead and Zinc Study, Natural Rubber Organization, Rubber Study Group, Seed Testing Association—ye gods, International Office for Epizootics. I have had to try to fight that.

I had George Meany help us fight it for the International Labor Organization back in the early seventies. He came before our committee and said, "For Heaven's sakes, this is not helping the labor movement. This is helping communism and embarrassing America." So we did not even pay our fees there.

We are paying a half a billion for the Interparliamentary Union that we are all members of, the Law of the Sea Conference, and all these other international organizations. There are many opportunities, such as NATO, SEATO, the arms control negotiations in Geneva. Just let BOB DOLE pronounce sine die and the plane is out there waiting to go. It won't take long before they will be gone around here. They do not need another public entity for a chance to meet and eat and spread democracy. We already have AID, the USIA, the State Department programs, and others like the World Bank to help these nations. So that is totally out of the whole cloth. The amount of money, of course, unquestionably could be used in a much more meaningful way.

I cannot in conscience cut these different substantive programs of Government and start a new one with the political parties and the organizations they have. Now we have the track record. They said back in 1982, "Give us a chance and let us try." The House prevailed. So what we have is the trial run. And what you do when you get loose money around is you get into mischief. The first thing they did, of course, that we could find out—we had not had any real indepth study of it. I have not tried to nag my point and become a national hero or point man until Evans and Novak made me one.

They should have left the sleeping dog lie. I told my labor friends I am not the mother superior around this town, and I have got more things that I am interested in. This is just $18 million. It is just the principle involved that is absolutely unforgivable and cannot be explained in my backyard. I wanted to speak out loudly, and I have done it on several occasions. So I would go along with any amendments to eliminate it. But I had other things I was working on, the textile bill, but you give up a lot of things. You indenture yourself when you are interested in one particular measure. I was interested in that and I was not interested in making any enemies for textiles. I was interested in making friends for textiles.

Now we have that bill where they said you could not get it. We have it on the President's desk, and so now I can move on. Since they continued to write editorials and everything else of that kind, we can move back into this particular vanguard and bring out the truth of exactly what is occurring.

What is occurring is that, as I have indicated, they have gone into Panama. Last year we saw that the moneys flowed through this particular entity into the election down in Panama. Incidentally, we have gotten millions of that through the Central Intelligence Agency. There is no shortage of funds in endeavors of this kind—the House voted no, zero dollars, and then temporarily came out with language indoctrination. They seem to get all kinds of genes moving and physical and mental thrills from language, and so they got language going and, by cracky, they go in some money.

I see the distinguished Senator from Missouri is here and I will cut it short.

So the first thing they did was get into Panama. The next thing I heard of, of course, is the Free Trade Union Institute being mixed up with the overthrow of the Government of Thailand. I could not trace it back. The Free Trade Institute is on the National Endowment for Democracy. We could not say that NED funds went into that particular endeavor, but one of the labor leaders was funded by the Free Trade Institute out there in Thailand, and was involved in the overthrow of that Government.

And then, of course, the day before yesterday—because I have been reading the editorials of my distinguished colleague from Utah in the Washington Times, and they are very deliberate about what a wonderful opportunity this is—they brought us the big happy news that they are now trying to overthrow France.

Isn't that wonderful, overthrow France. We are rebuilding the Statue of Liberty on one end of the ocean and we are trying to overthrow the French Government that gave it to us on the other side of the ocean. Perhaps that is good around this town, but isn't that a wonderful endeavor. So we ought to be sure to get this NED crowd going so we can get rid of France. I do not know of any other friends we might have that we can throw some NED money at, but we will find them.

I see my friend from Missouri, and the others are ready to talk to see if they cannot get some money for political parties.

In our Democratic Party, I say to the Senator from Missouri, there is a substantial group in this body of Senators—I am not a member of the self-appointed caucus, but they call it the leadership council. That was a wonderful title to give themselves. Very humble folks they were. And they had found that we had too many caucuses, so they organized themselves a caucus because of what? Because the Democratic Party was not spreading enough democracy. They do not think they are doing a good enough job at home much less around the world.

I supported my friend Terry Sanford as chairman of the Democratic Party. Paul Kirk beat us, and I am now supporting Paul. I am not supporting the leadership council because we are not spreading enough democracy. I think Mr. Kirk is doing an outstanding job as chairman of our party. I am not against parties.

But the Senator and I have to maintain the integrity of these parties. We cannot go out on all the political speeches and get out the computeriza-

tion letters about how we are for a strong fiscal economy. Nor can we give talks about how we cannot indenture and bankrupt the next generation and all other things we say on the budget and the deficit. Then we cannot say "Provided, however, we get out money for our parties to go to the Barbados and to Geneva and sit around and confer in Paris and all these lovely places where we like to meet and eat, because we don't have that opportunity unless we have NED."

I wish they would look at half-a-billion worth of opportunities that we list in this particular report; that we are financing every kind of endeavor all the way down to the—since the Senator has just come on the floor—International Office for Epizootics. We even have that one. We have them all listed on page 54 of our report.

But let me yield the floor now because the distinguished Senator from Missouri and the distinguished Senator from Utah are ready to talk.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have enjoyed, as usual, my colleague's very clever and interesting and sometimes funny remarks. At the same time, I also have a mandate to be serious about this issue as a person who has long been involved in it and who believes in it.

We can talk humorously, and we can find lots of fault. I suspect any organization that is going to be out there at the forefront of the lines advocating democratic principles is going to be criticized one way or the other and by one side or the other from time to time. Those at the National Endowment for Democracy understand that. I think all of us should understand it. I think the distinguished Senator from South Carolina and the distinguished Senator from New Hampshire, both of whom are very important to me, very close friends, should understand it as well. This is not an easy battle that we are into. We are competing in the worldwide battle for ideas.

I am a strong supporter of our national security interests. I think we have to compete there. We have to maintain our strength. I know both distinguished managers of the bill are also strong supporters of our defense program, and I commend them for it. I do not think anybody would go further to strengthen America than Senators HOLLINGS and RUDMAN, unless it would be myself, perhaps; and I do not think I would go any further in that regard.

Mr. President, we are talking here about $18 million being used to spread democratic principles around the world to offset the $3 to $4 billion expenditure being used by the Soviets to work against democracy all over the world. Even with a mere $18 million, we are winning the battle for ideas. The National Endowment for Democracy is making a tremendous impact for the forces of freedom worldwide.

The amendment under discussion involves whether or not we should have party institutes. Before that, however, let me just read a letter to my colleagues from Vladimir Bukovsky, for whom I think everybody on the floor of the U.S. Senate can have some appreciation. He is somebody who has been there. He knows what it is like to live under totalitarian leadership. He knows what it is like to be persecuted for his ideas. He knows what it is like not to have an opportunity to express himself. He also knows what it is like to have an opportunity to express himself now. We should keep that in mind.

This is a letter that was sent to Senator RUDMAN and, with his permission, has been sent to a number of people.

Mr. RUDMAN. Mr. President, will the Senator yield for a question?

Mr. HATCH. I yield.

Mr. RUDMAN. The letter is an eloquent letter, but I think the Senator will agree that the letter addresses a larger question. It really does not bear on this amendment.

Mr. HATCH. I agree with that. I want to put it in the RECORD at this point, before I specificaly address the amendment of the Senator from New Hampshire. I put it in at this early stage in this debate because we are going to have two basic debates today. One will be whether the party institutes should be funded at all, and the other debate concerns whether or not the National Endowment for Democracy should be funded at all.

I think it sets the tone, to a large degree, as to the important work the National Endowment for Democracy can do. It is a bipartisan institution; the board is bipartisan. I have seen the board demonstrate a tremendous ability to work together in the best interests of democratic principles.

As I have traveled around the world, discussing many aspects of international labor problems, everywhere I go, the one thing people everywhere seem to be interested in—those who are for freedom and democratic principles—is this little National Endowment for Democracy, which has been carrying a lot of weight for this country and other countries in terms of promoting democratic principles and the dissemination thereof.

For the benefit of my colleagues, I would like to read this letter from Vladimir Bukovsky to Senator RUDMAN. I am pleased that Senator RUDMAN is a supporter of the Endowment. I agree that it is a general letter about saving the National Endowment for Democracy, but I also am going to explain why I think it is important that we have party institutes. I have to admit that I come to this issue having at first wondered whether party institutes were proper.

DEAR SENATOR RUDMAN: On behalf of a group of former Soviet and Cuban political prisoners I am writing to plea for your support of the National Endowment for Democracy. We are aware of the current difficulties and controversy the N.E.D. is experiencing and was alarmed by the attempts to put an end to the N.E.D. existence.

Whatever objections might be raised on both sides of the Congress, I assure you that at least those projects sponsored by the N.E.D. which are aimed at promotion of democracy in the Soviet bloc countries are of vital importance for all of us. It is the only hope for our friends behind the Iron Curtain in their everyday struggle for freedom.

For the question of N.E.D.'s existence is not only a question of resources, (which are, unfortunately, indispensible in our activity), but also a question of open commitment of the American people to the cause of freedom and democracy in our countries. This pledge was made publicly by President Reagan in his speech to the British Parliament in 1982, and any changes in this position will be viewed as a victory of the Soviet regime in the context of recent East-West interactions.

With great hope for your understanding and support.

Sincerely

YLADIMIR BUKOVSKY.

Then he writes:

The text is agreed by phone with: Eduard Kusnetsov (Munchen); Alexander Ginsburg (Washington, D.C.); Armando Yallaiares (Madrid); Huber Matos (Miami).

I read this letter in the RECORD for one reason: Because people all over the world are watching what we are going to do concerning the National Endowment for Democracy—pro and con, for an against; those who want to destroy it, those who dearly want to save it.

I have no doubt that we will save the National Endowment for Democracy, and I believe that Vladimir Bukovsky will have played a role in that.

Mr. President, the pertinent issue is, what are we going to do with respect to the party institutes?

I wish to clarify several points concerning the party institutes. The party institutes are absolutely essential to the Endowment's program to promote democracy abroad. Political parties are pivotal institutions in any democracy. Any assistance program to promote democracy abroad must strengthen democratic political parties, and the most effective way to accomplish this is through parallel U.S. institutions.

Mr. President, the United States has suffered by not having appropriate political instruments to carry out party-related work. The two party institutes—the National Republican Institute for International Affairs and the National Democratic Institute for International Affairs—constitute an attempt to fill this vacuum.

Although international activity by political parties is a new idea in the United States, it is an established fact

in many democracies, such as West Germany. In fact, European Party Institutes, with funds provided by their governments, are currently active within our own hemisphere.

Because the party institutes are a new concept in America, this has lead to skepticism and misunderstandings by both conservatives and liberals. As a member of the board of the NED, I would like to set the record straight.

First. The party institutes under the National Endowment for Democracy are not part of the political or campaign operations of either party. They are new—and entirely separate—institutions within the broad range of structures that comprise the Democratic and Republican Parties.

Second. Ironclad safeguards exist in U.S. law and in the endowment's grant agreements to ensure that NED funds provided to the institutes are not used for domestic partisan political activity. Both institutes have voluntarily agreed to offer public audits to the Congress to show their compliance with the provisions of law regarding the separateness of NED funds and domestic partisan political activity.

There is, therefore, no budget impact for this item.

Mr. President, adequate safeguards exist against any abuse by the party institute.

The following actions have been taken:

The two institutes have been set up as nonprofit educational organizations under section 501c(3) of the IRS Code. Partisan activity is prohibited under this section of the law.

The authorization for this appropriation contains the following highly restrictive language:

NED is prohibited from making grants to "any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States."

GAO has been auditing the two institutes and the new authorization statute gives USIA auditing rights as well.

Mr. President, I believe the activities of the political institutes are important, necessary, and long overdue if we are to mount an effective challenge on behalf of democracy.

Some of my colleagues seem unable to accept that international activity by political parties is now an unalterable feature of the international arena. Many of these assistance programs run by other parties are conducted with funds provided by foreign governments for the international activities of these parties. Discussion with political leaders from Latin America and elsewhere begin, not with the question, "What are you going to do to help me?" but rather with the question, "Where have your parties been?"

The programs which the institutes have initiated in their first year of operation demonstrate that they approach their task in a highly professional and responsible manner. Among those programs have been:

Republican institute support for a nonpartisan get-out-the-vote campaign in the Grenadian elections.

Democratic institute sponsorship of an unprecedented worldwide gathering of party leaders and a legislative fellowship program for Third World party officials.

Republican institute sponsorship of the recent conference on "The Totalitarian Threat to Democracy."

A joint effort in cooperation with the political foundations of the two major Venezeulan parties to explore ways of collaborating in institution building efforts around the world.

Mr. President, we should not deny ourselves the opportunity to affect the course of democratic political change merely because we are new to it. Our Government—in any of its iterations—cannot effectively involve itself in strengthening democratic political parties. To do so invites—and has already invited—charges of governmental interference in the internal affairs of another soverign nation. Political parties, on the other hand, can involve themselves with democratic political parties abroad.

We have asked dozens of foreign leaders about the interference issue, and the same reply always comes back—the U.S. parties are the only ones not involved in these types of programs. Why is alleged interference not a problem for the Germans, the Venezuelans, the Soviets and the Cubans?

Admittedly, our parties have much to learn in the process. International sophistication does not come overnight. But we also have much to offer, and these skills are available now. We are experts in political communication, infrastructure, the conduct of free elections, and this help is needed.

I was in Nicaragua, in Managua, and I met with every dissident group down there as well as the leadership of the country of Nicaragua. The one thing that they were asking us to help them with was democratic procedures even though they were only preparing for a party primary.

In El Salvador they wanted to know how you conduct a primary, what are political parties, what do they do, what are polls, how do you conduct polls—things that we could answer for them and help them with, without embarrassment to our country or to our own Government.

It is appropriate and necessary that we provide public funds for these activities. In several nations around the world public funds are provided to support international programs by political parties. There is no implied consent of our Government over the use of these funds as has been suggested: Just as there is no implied consent over the activities of the ASIA Foundation, or the Inter-American Foundation.

Finally, ample provisions exist in both oversight and accountability to ensure that Congress has complete access to the programs and operations of the NED and the party institutes. This is first and foremost an open, overt enterprise. It has been tried covertly in the past, and there is no doubt that political assistance is offered most effectively in the open by the party institutes.

Mr. President, the two-party institutes are still relatively new. Like any new organization it will take a while for the Republican and Democratic Party Institutes to reach their full potential.

I believe we have a moral obligation to the millions of people in the world who are not enjoying the benefits of freedom to help establish the framework for peaceful, democratic change. We cannot effectively accomplish this goal without the party institutes.

I urge my colleagues to vote against any measure that would strip the NED of the party institutes. Instead, the Republican and Democratic Party Institutes should be given a chance to do the job they were created to do. That job is to encourage the growth of democratic political processes throughout the world.

Mr. President, with regard to the comments of the distinguished Senator from South Carolina about AID funds being used to fund Solidarity, let us just understand something. AID grants to labor cannot go to Solidarity. They have not gone to Solidarity; and, if they did, they would undermine Solidarity.

That is why we created the National Endownment for Democracy.

What is will hasten to point out to my colleague from South Carolina, is how Solidarity works. I do know a little bit about this, but I am not going to go into all the details because they are difficult to explain in public without embarrassment and hurt to those who have fought the battle in Poland, and I might say elsewhere in the world, who paid this price before the NED came into existence.

How does the distinguished Senator from South Carolina think Solidarity works? Does he think that the pittances those people earn in that totalitarian government have enabled them to put the millions of dollars together to do the printing, the dissemination, the communications, and all of the other work that has helped to bind Solidarity together? I will tell the Senator how it works; and I will tell him

generally, because I will not get into the specifics since there are lives involved. I have followed Solidarity for years before any NED came into existence. It was primarily because of the voluntary efforts of organizations such as the AFL-CIO's Free Trade Union Institute that poured their private moneys into backing free labor unions and individuals that people like Lech Walesa are alive today. Solidarity lives because of people all around the world who we willing to donate funds on their own, who have been drained dry, until the National Endowment for Democracy came in and provided some impetus and some funds.

I do not know whether the distinguished Senator from South Carolina has met with representatives of Solidarity here in this country, but I have. I have met with them here. I have met with them in Belgium. I have met with them elsewhere. And they beg us, as Vladimir Bukovsky has begged us, to keep this institution alive and to keep it vibrant and functioning.

Not too long ago I met two of the top leaders of Solidarity who were from Poland. They were expatriots, now living in Europe, who are responsible in part for keeping Solidarity alive on the outside. They spend a lot of their time trying to raise the pittances that they need to keep Solidarity alive. They acknowledge that the AFL-CIO has been their mainstay and their bulwark until the National Endowment for Democracy came along.

They begged me to find some way to get them $1 million for printing purposes to help Solidarity.

I have to admit I think we should be doing a lot more. Solidarity is just one illustration. When we get into the other debate, I will give you a number of other illustrations of effective efforts by this organization.

I do not think people in this Chamber give enough credit to those who have valiantly fought this fight all over the world without government funds and were bled dry in the process, up until the formation of the NED, the United States has not really been a contributor. Because of Solidarity, and the whole variety of other programs like it, we are winning the battle for ideas with $18 million measly bucks. The amount should be five to ten times that much, in all honesty, but I know that cannot be. I do not think there is anyone who is more fiscally conservative than I am. But we are talking about a battle between good and evil, a battle between totalitarian aggression and democracy, a battle between dictatorships on both the left and the right and democracy.

And we are talking about some of our friends, who have been carrying these battles for the United States of America and for free peoples everywhere and for democratic principles, who are being bled dry because they are not a government and they have limited funds.

We are talking about giving them some extra help to be able to win these battles for ideas.

We cannot do it as a government. But through the National Endowment for Democracy we can help fund people who can do it, like Vladimir Bukovsky, Armando Vallacares, and others, we who are the people who are keeping freedom and democracy alive.

I suspect the distinguished Senator from South Carolina may be right in one respect. If we knocked out the National Endowment for Democracy, there will be people who will sacrifice everything they have to try to keep these free democratic principles alive with or without American help. But wouldn't it be pathetic for us to refuse to help them?

Again, I emphasize that as I have traveled, especially in Central America, virtually every country's leadership begs me to get the party institutes down there and to help them with basic mundane issues that you and I take for granted in this great body, the Senate.

Mr. President, I hate to see the party institutes hurt because I think they have a role to play. I would rather see us circumscribe the role if we feel they are not going to operate properly. I would rather mandate what they can or cannot do, which has already been done by the board of directors and the statute itself.

But I would surely not tie the hands of this country or of these parties from being able to help people to understand the most basic principles of democratic belief. I believe the party institutes have a very important role to play doing that.

I do not want to take anymore time. I know the distinguished Senator from Missouri wishes to speak, as does the distinguished Senator from Connecticut, and others.

So, Mr. President, I will ask unanimous consent to have printed in the RECORD a brief outline of some of the programs of the two-party institutes. These are programs that I support, programs that have been successful, programs that can be more successful in the future with a greater degree of sophistication. These programs can help anyone to understand that there are countries all over the world that are begging for help. They are not sophisticated; they are Third World countries who do not have the knowledge we do and they need help from our party institutes.

I am grateful for this opportunity to defend the party institutes. I believe they deserve defending. I believe those who have sacrificed year after year before NED came into existence deserve the Endowment's help. They are heroes to me. They are those who have sacrificed their lives, their fortunes, and their honor—just like the heroes that started this country—only they are doing it under circumstances that are just as dramatic and just as important as when this country was started. And this country became the greatest bastion of democratic principles in the world.

We have an obligation to disseminate information which promotes the cause of freedom. This is the way to do it. This is one way to do it, and it is a way to do it openly, for the most part, and straight up.

There are some criticisms of the AFL-CIO and its Free Trade Institute because it does not always delineate every jot and tittle about what it is doing. But there is good reason for that: They are dealing with people's lives. They are dealing with whether a person lives or dies or whether a movement lives or dies. And we understand that. We find that year after year. I do not know why it is so difficult to understand.

I will tell you something. I do not necessarily agree with every single thing that the AFL-CIO, through its Trade Union Institute, has done through the years; but I can sure name a lot of wonderful things they have done around this world. And they have done it at their expense for the most part, not at the expense of the Government of the United States. And, to be perfectly frank, it is time to give them some help.

I believe the Chamber is doing some interesting things, as well, and they are becoming more sophisticated. I believe they will do a lot of good for democratic principles around the world.

With that, I ask unanimous consent that a brief list of the party institute's programs be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NRI played a key role in strengthening the electoral process in Guatemala, working with a non-partisan group to encourage political participation through polling and other techniques. The initial election was widely praised as "free and fair" and a runoff is now scheduled for December 8. A pullout now would send the wrong signal to anti-democratic forces in the military and would undercut fledgling party institutions as they try to make the new democracy work.

NDI has become a key element in attempting to strengthen the democratic process in Northern Ireland as envisioned by the new agreement reached between Britain and Ireland. The Institute has supported the Social Democratic and Labour Party (SDLP), the party which, by initiating the New Ireland Forum, instigated the historic agreement giving the Republic of Ireland a role in the north. Our Consulate in Belfast said NDI "gave the (SLDP) a shot in the arm and a new, more dynamic spirit . . ." To back away from the SDLP at a time when it is the only major party in Northern Ireland

to support the agreement would be encouraging to extremists on both sides.

NRI has worked with democratic forces in Grenada since the U.S. military mission to rebuild a democracy which had first been undermined by far-right, then far-left, antidemocratic forces.

NDI, working with both major parties in Argentina, has encouraged much needed legislative reform at a time when that nation's democratic institutions have been severely challenged and a state of seige imposed to protect the system. Argentina is in dire need of help; to turn our backs on their request now would be to contradict the many efforts our country had made to bring about the return of democracy in that country.

The two major parties of Venezuela have agreed to conduct joint training of Latin American political leaders with NRI and NDI. These two parties for years have been active in democratic development activities in the Hemisphere and they have expressed great appreciation that the U.S. parties are finally joining the effort.

The full spectrum of political parties in Chile has signed a "national accord" on the transition to democracy. These parties have worked with both institutes and have asked NDI and NRI to structure a follow-up meeting in Washington of "accord" signatories to continue their push for a peaceful transition to democracy.

The two Institutes are also active in dozens of other countries, working with democratic forces to strengthen democracy or to encourage it where it does not exist. This activity has been welcomed all over the world where political party networks long ago became an integral part of non-governmental international relations. As indicated above, stopping this activity now would have serious consequences for U.S. interests; in some countries more than in others.

Mr. DODD. Mr. President, I presume it may come as some surprise to some that the Senator immediately following the Senator from Utah in support of the position he has taken would be the Senator from Connecticut. Senator HATCH and I do not always agree on matters and have had some significant disagreements in my 4 or 5 years in the U.S. Senate. But on this issue this morning, we are united together in our efforts to see that this National Endowment not only survives, but also to see to it that the two institutes which are central, it seems to me, to the success of the endowment survive, as well.

Let me, if I may, Mr. President, address the specific issue, the first amendment that will be offered by the distinguished Senator from New Hampshire, Senator RUDMAN. His proposal will be to table an amendment in true disagreement between the House and the Senate.

A year or so ago, an effort was made to eliminate the role of the two parties, the Republican and Democratic Parties, from participation in this program. As a result of that particular expression here, and concerns expressed in the House of Representatives, a compromise proposition was offered which would substantially modify this proposal and address, I believe, some of the concerns raised in this body and the other body about the role of the political parties.

As a result of those concerns, the draft language which was offered in conference, and which the distinguished Senator from New Hampshire would table with his amendment, is not, in any way, shape, or form, the proposition that was before this body before. It is a different proposal. It is a different concept.

Basically, what the amendment does is guarantee that one, the two institutes would be prohibited from receiving any funds whatsoever if they would be used to finance or support candidates for public office in any country around the globe; two, they would be disallowed from receiving any funds whatsoever if they are involved in the financing of activities of the Republican or Democratic National Committees; third, they would be prohibited from receiving any funds at all if they ended up being used to support any political party or candidate; and, lastly, it prohibits any officer or member of the Democratic National Committee or the Republican National Committee from serving as an officer or member of the institutes boards of directors.

That would mean that Mr. Fahrenkopf, Mr. Kirk, and others would have to resign from the institutes' boards as a result of this amendment. Now that is a substantial change. Those were the issues that were being raised by those who made this proposal to eliminate the funding—we should not be financing political parties in this country and assisting them in this regard. Those were primarily the concerns expressed by members of the RNC, DNC, and others on these boards, as well, the concern about financing political parties or candidates along the way.

This amendment that was drafted in the House says that these institutes cannot receive those funds if they are engaged in any of these practices. I think that satisfies the majority of people here.

Now, if the desire is to eliminate altogether the National Endowment for Democracy, that is a different matter. I understand that thrust. But let us not preserve the National Endowment for Democracy and then rob it of its soul, the reason for its existence. Do not strip it of its essence, which is to assist political parties around the globe.

Now we have seen a lot of debate and discussion over the last few years with regard to Central America, Afghanistan, Africa, and various other places. I recall only a few short months ago debating in this very Chamber whether or not we ought to spend $30-odd million to fund the Contras in Nicaragua. I would suggest to you that the $18 million for the National Endowment for Democracy, those funds will go a lot farther and do a lot more in terms of minimizing the threat of revolution and unrest, not only in this hemisphere, but elsewhere. For those people who are truly interested in seeing the ideals of democracy forwarded, these two institutes and the National Endowment for Democracy do a lot more, it seems to me, in the long run in advancing those goals than the ad hoc, services-oriented foreign policy we seem to engage in to meet the various demands as they are described around the globe.

It is not a perfect program. It is in its infancy. But already those of us in this Chamber and elsewhere who have participated and worked with these institutes have seen first hand what a tremendous benefit it can be.

I remember just a few short weeks ago sitting in a room in this very building with a group of some 20 or 30 representatives of various political parties in Chile and from other countries around Latin America. Eleven different parties in that country of Chile, running from the extreme left to the extreme right, were trying to restore democratic ideals and principles in that country that has been gripped in the hands of an authoritarian government. They were looking for help and assistance and how to go about it, what could be done, how could we assist them, not embracing any one of those particular parties but the principle of democracy.

That is what these institutions have been doing. That is what the Endowment does. What is such a terrible idea about that? In fact, I think most of us appreciate that the political parties in this country have the adhesive quality which has kept this system of Government working. It is not just enough to have an election in this country. What is important is to build institutions, to let them grow roots, to work out their problems in the long run. We have learned in our experience that strong political parties can assist tremendously in that particular effort.

I happen to believe we can, for the small amount, $18 million for the National Endowment—there are no funds whatsoever mentioned in here, by the way, for political parties at all; not a single penny. But with the small amount of $18 million, we can do a lot more for advancing the cause of democracy than we will through a variety of other proposals that I have seen mentioned and offered and supported on the floor of this Chamber with all of the wonderful speeches about how we are going to beat Castro and meet the Marxists and going to beat the Soviet Union.

Well, speeches do not get you very far. They do not really do much for people around the globe who are engaged in the fights to restore democracy in their country, whether a totali-

tarian government or authoritarian government.

What can help them, and what really can be meaningful is the kind of assistance and support they have been getting in the early days of the two institutes and through the National Endowment.

So, Mr. President, I hope that despite the good intentions, I am sure of my colleague from New Hampshire, we do not rob this Endowment of its central ingredient or one of its central ingredients. Let us take this compromise language which I think again addresses the major questions that have been raised by him before, and if an amendment is offered, as I suspect it may be, to wipe out the Endowment entirely, I hope as well that my colleagues will reject that effort.

This is a worthwhile program. It deserves our broad bipartisan support.

Mr. President, I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, like many Members of this body, I recognize the criticisms made about the National Endowment for Democracy. I am particularly disturbed by reports that one of NED's grantees has been using U.S. tax dollars to undermine the Goverment of French President Francois Mitterand.

However, no more than 10 percent of NED funds are being spent in Western Europe. Western Europe does not need lessons in democracy. It's my view, therefore, that aside from Northern Ireland where there are special problems, no NED money should be spent in Western Europe. Instead, I believe NED's limited financial resources should be devoted to Latin America, Asia, and Africa—places where democracy is only recently emerging or where it does not exist at all.

I am particularly supportive of the work the political party institutes—the National Democratic Institute and the National Republican Institute of International Affairs. They have not been involved in any of these controversies. Indeed, both are doing some very useful work.

As you might expect from someone on this side of the aisle, I am more familiar with the work of the National Democratic Institute. Under the leadership of Executive Director Brian Atwood, NDI has undertaken a number of innovative and challenging projects.

I myself have participated in the program to provide organizational training for the Social Democratic and Labor Party in Northern Ireland—the only Catholic party committed to nonviolent resolution of the conflict through the democratic process. Providing a democratic alternative for Northern Ireland's Catholic population is a key element in finding a peaceful solution to the problems of that intensely divided province.

NDI, working with both major parties in Argentina, has encouraged much needed legislative reform at a time when the Nation's democratic institutions have been severely challenged and a state of siege imposed to protect the system.

Brian Atwood has brought new life to the National Democratic Institute. Among all the programs funded by NED, this has been the least controversial and the most promising.

It would be counterproductive and unfair to prevent the National Democratic Institute and the National Republican Institute of International Affairs from even applying for NED funds.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I rise to say a few words of support for the political development institutes of the National Endowment for Democracy.

Initially, no one was more opposed than I to funding for the two-party institutes, the National Democratic and the National Republican Institutes for International Affairs. However, after viewing the work of these groups in the past 12 months, I am convinced that their work has made a real difference in the lives of ordinary people around the world.

Mr. President, I emphasize to my colleagues that by law, the parties are prohibited from participating in foreign and domestic elections; by law the parties must have separate financial records and program operations separate and discreet from the Republican and Democratic National Committees; by law the political development institutes are forbidden from supporting any political party in the United States.

I have viewed firsthand the importance of the work of the political development institutes and the enthusiastic responses of political leaders and party activists around the world. Our colleagues overseas have welcomed the initiatives of NDI and NRIIA and praised the outcomes of their efforts.

From Northern Ireland to Southern Africa the National Democratic Institute has worked with political party leaders, extending offers of technical assistance to help the institutions which support democracy to function better. By working in a nonpartisan mode, NDI has made new friends for the United States around the world. For instance, the two major parties in Senegal have applauded the NDI initiated conference on democracy and pluralism in Africa of last July, and expressed their eagerness to work with NDI on a series of projects. The Senegalese and other Africans from 18 countries appreciated the conference because the meeting had focused on practical questions that leaders of parties in new nations need answers for. How do you mobilize citizens? What is the appropriate role of the military in new democracy? Does the Soviet Union have anything to offer developing nations?

Through that conference, NDI made new friends for the United States and the democratic process. The major newspaper in Dakar declared that the conference and its findings would "put its stamp on the history of post-colonial Africa."

NDI has been very active in South America. In May 1985, NDI's historic conference on the renaissance of democracy in South America brought together leaders from the newly democratic nations of the continent, plus democratic forces in Chile and Paraguay. The conference offered a unique opportunity for leaders to meet and form a network/support group with lasting impact.

The conference also served as a catalyst, a facilitator that encouraged the formation of the National Accord, a group of Chilean patriots from across the political spectrum dedicated to a return to civilian democratic government. Mr. President, when I see the impact that a small group—the NDI staff is less than a dozen people—the NRI employs a similarly small group—and very limited resources can have on the fate of a nation and the willingness of its leaders to risk their lives for democratic principles, I know that we as a legislative body will be commiting a grave injustice if we do not support the party institutes. I want to see a democratic Chile and I believe that NDI can help that dream become a reality.

These institutes have introduced the United States and its commitment to party democracy to party leaders in new and innovative ways. Having succeeded, we must not now eliminate the opportunity to strengthen relationships with political parties in other democracies. What kind of message do we as Americans send when we remove a source of assistance and strength for parties, particularly in the developing world?

Mr. President, I urge all my colleagues to support our commitments to democratic development in Chile and Guatemala, in Senagal, Peru and Northern Ireland. Democracy is a very fragile institution and with the safeguards now in place, the political development institutes have a definite role to play in strengthening it.

Mr. President, I urge my colleagues to support the House language and to vote against Senator RUDMAN's motion to table same.

Mr. President, have the yeas and nays been ordered?

Mr. HOLLINGS. I ask for the yeas and nays.

Mr. EAGELTON. Has Senator RUDMAN's motion been made?

The PRESIDING OFFICER. The Chair must advise the Senator there is no question pending before the Senate on which to order the yeas and nays.

Mr. HOLLINGS. I am waiting on the distinguished Senator from New Hampshire to move to table. Then we will ask for the yeas and nays.

Mr. RUDMAN. Mr. President, I want to make sure that any Senators who wished to either discuss the issue or have statements in the RECORD have had an opportunity to do so. Has that been accommodated?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. RUDMAN. Mr. President, before moving to table, I would like to move to reconsider the vote by which the conference report was accepted.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I move to table the amendment of the House to the amendment of the Senate No. 134, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the House of Representatives to the amendment of the Senate, No. 134. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAXALT (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Maryland [Mr. MATHIAS] are necessarily absent.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Mr. SARBANES] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. HEINZ). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 44, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—43

Abdnor	Grassley	Pressler
Andrews	Hecht	Proxmire
Baucus	Heflin	Rockefeller
Boren	Helms	Roth
Boschwitz	Hollings	Rudman
Bumpers	Humphrey	Simpson
Burdick	Johnston	Stafford
Byrd	Kassebaum	Stennis
Chafee	Kasten	Stevens
D'Amato	Long	Trible
Dixon	Mattingly	Warner
Dole	McClure	Weicker
Domenici	Murkowski	Zorinsky
Exon	Nickles	
Gramm	Nunn	

NAYS—44

Bentsen	Harkin	Mitchell
Biden	Hatch	Moynihan
Bingaman	Hatfield	Packwood
Bradley	Hawkins	Pell
Danforth	Heinz	Pryor
DeConcini	Kennedy	Quayle
Dodd	Kerry	Riegle
Durenberger	Lautenberg	Sasser
Eagleton	Leahy	Simon
Evans	Levin	Specter
Ford	Lugar	Symms
Garn	Matsunaga	Thurmond
Glenn	McConnell	Wallop
Gore	Melcher	Wilson
Gorton	Metzenbaum	

ANSWERED "PRESENT"—1

Laxalt

NOT VOTING—12

Armstrong	Cranston	Hart
Chiles	Denton	Inouye
Cochran	East	Mathias
Cohen	Goldwater	Sarbanes

So the motion to lay on the table was rejected.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. RUDMAN. It is the understanding of the Senator from New Hampshire that, at this time, with no further action, the Senate will not yet have concurred with the House amendment. Is that correct?

The PRESIDING OFFICER. The Senator from New Hampshire is correct.

Mr. RUDMAN. Mr. President, I have another parliamentary inquiry:

Would it be in order for the Senator from New Hampshire to ask for an up or down vote, a vote on the merits of the pending amendment?

The PRESIDING OFFICER. Some motion with regard to the amendment must be made for a vote to take place.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum. It will not be very long.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUDMAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS addressed the Chair.

Mr. RUDMAN. Mr. President, before my friend from South Carolina moves forward, I want to say briefly that it is my understanding that the amendment the Senator from South Carolina will soon send to the desk will be an amendment to the pending amendment. Is the Senator from New Hampshire correct or incorrect?

The PRESIDING OFFICER. There is no amendment at the desk.

Mr. RUDMAN. Mr. President, I yield to my friend from South Carolina. I think that our intentions will become clear.

AMENDMENT NO. 1323

Mr. HOLLINGS. Mr. President, it is quite obvious that we did not table the idea of the political parties participating. My amendment goes to the entire amount, and it is worded as follows: On behalf of myself, the distinguished Senator from Nebraska [Mr. ZORINSKY], Mr. WEICKER, Mr. RUDMAN, Mr. MATTINGLY, Mr. BUMPERS, and Mr. HEFLIN, I move to concur in the amendment of the House to amendment No. 134 with an amendment as follows: At the end of the amendment insert this language: Notwithstanding any other provision of this act, none of the funds appropriated in the act may be available to the National Endowment for Democracy.

This is the parliamentary way to knock all of the funds out, and I so move.

I yield just for a question.

Mr. EAGLETON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Missouri.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1323.

Mr. EAGLETON. And that amendment is debatable, is it not, Mr. President?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk continued reading as follows:

I move to concur in the amendment of the House to amendment numbered 134 with an amendment as follows:

At the end of the Amendment insert:

Notwithstanding any other provision of this Act, none of the funds appropriated in this Act may be made available to the National Endowment for Democracy.

Mr. EAGLETON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. If the Hollings amendment passes and the nature of the Hollings amendment is to knock out all of the funds in NED——

Mr. HOLLINGS. Exactly.

Mr. EAGLETON. From A to Z, everything—what, $18 million?

Mr. HOLLINGS. NED is dead.

Mr. EAGLETON. Is dead—it will have lost its soul; is that right?

Mr. HOLLINGS. That is right.

Mr. EAGLETON. If the Hollings amendment prevails, then, does that terminate this issue?

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina is a motion to concur with an amendment. If it is agreed to, that will conclude action on amendment 134.

Mr. EAGLETON. Excellent. Let me ask the other side of the coin. If the Hollings amendment fails, then what is before the body?

The PRESIDING OFFICER. If the amendment of the Senator from South Carolina should fail, there will be no amendment before the body.

Mr. EAGLETON. And then would a motion to concur in the House language be in order?

The PRESIDING OFFICER. Such a motion would be in order.

Mr. EAGLETON. Now may I ask the two sponsors—first, the Senator from New Hampshire [Mr. RUDMAN]—if the Hollings amendment fails—and we know not how it is going to go—as far as he is concerned, does that end the procedure on this matter and would we take a voice vote on a motion to concur?

Mr. RUDMAN. I reply to my friend from Missouri that would be so, unless in the next 30 minutes, after looking at this rollcall, I believe there is a chance to switch one or two votes, in which case that would not be my intention.

Mr. EAGLETON. So the Senator has given me an honest but ambiguous answer?

Mr. RUDMAN. It is ambiguous because it is honest, which may be a rarity.

Mr. EAGLETON. Then is there any time limit on the Hollings amendment?

The PRESIDING OFFICER. The Chair will state there is no time limit on the Hollings amendment.

Mr. EAGLETON. Then those of us who do not like the Hollings amendment and believe also that we should concur in the House language, the language which was not tabled, should likewise, since the vote reflected how many Members were present?

Mr. HOLLINGS. Eighty-seven.

Mr. EAGLETON. Eighty-seven—we should inventory our numbers as well?

The PRESIDING OFFICER. The Chair will simply state——

Mr. EAGLETON. Do we want the talkathon to begin now——

The PRESIDING OFFICER. The Chair will simply state that 88 Members were present. One was voting "present."

Mr. HOLLINGS. One voted "present."

Mr. HATCH. Will the distinguished Senator yield?

Mr. EAGLETON. One minute. Do I have the floor?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. HOLLINGS. I yielded for the parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Missouri was recognized.

Mr. EAGLETON. I am recognized?

The PRESIDING OFFICER. Yes.

Mr. BYRD. Mr. President, who now has the floor?

The PRESIDING OFFICER. The Senator from Missouri was recognized.

Mr. BYRD. The Senator from Missouri?

The PRESIDING OFFICER. He was recognized.

Mr. BYRD. I just want to be sure that we do not get into the situation which occurred the other day.

The PRESIDING OFFICER. The Senator from Missouri was recognized and has the floor.

Mr. BYRD. I thank the Chair.

Mr. EAGLETON. I thank the minority leader.

Shall we have a little quorum call just to sort of see where we are, or do we want to start talking? What is the Senator's preference?

Mr. HOLLINGS. Mr. President, I do not know what—will the Senator yield for a parliamentary inquiry?

Mr. EAGLETON. I will not yield the floor.

Mr. HOLLINGS. Parliamentary inquiry. That is what I yielded to the Senator for.

Mr. EAGLETON. Without losing my right to the floor.

Mr. HOLLINGS. No one is playing that game. The Senator can argue as long as he wants to. I think he is going to get the vote.

Mr. EAGLETON. I yield for a question. I yield for a parliamentary inquiry. I will yield for most anything without losing my right to the floor.

Mr. HOLLINGS. Keep the floor. No one is trying to delay.

Mr. EAGLETON. I am not trying to delay the body, but I am willing to go to a final vote at this time on the Hollings amendment and have it determined yea or nay.

But I would want a commitment from the Senator from New Hampshire that the ball game is over. He wants to reserve the option to reconnoiter troops and redeploy, et cetera. I might want to do that, too. But I am willing to take the final shot now. We go on the Hollings amendment, up or down. If Hollings wins, it is over.

Mr. BYRD. Mr. President, may we have order in the Senate?

Mr. EAGLETON. I am going to make my proposal and others can object.

The PRESIDING OFFICER. The Senator from Missouri will suspend until order is restored in the Senate Chamber. Senators will take their seats or retire to the cloakrooms to carry on their conversations.

The Senator from Missouri is recognized.

Mr. EAGLETON. Speaking for myself—and that is all I can do—if we can vote on the Hollings amendment up or down, if Hollings wins, we know the ball game is over; the President has so ruled. If Hollings loses, the ball game ought to also be over and we ought to voice vote a motion to concur.

Mr. RUDMAN. Will the Senator yield?

Mr. EAGLETON. Yes.

Mr. RUDMAN. Not the floor but for a comment.

Mr. EAGLETON. Not the floor.

Mr. RUDMAN. Let me say to my friend from Missouri I believe that may well be the way we will work this out. At least we are doing this at 20 minutes after 12 p.m. and the Sun is still shining. Nobody ought to feel to much pressure. It is not like what we saw here 2 weeks ago at 3 o'clock in the morning. So I believe that this is the time for the Senate to work its will, and for people to use the rules as they believe fair. I do not wish to delay. I am anxious to get this bill done, obviously. We have worked on it for 7 months. But I am not so sure that the significance of the vote we have just taken has been fully comprehended. I would like a moment to look at the rollcall. If this is not inappropriate, because I can understand what my friend from Missouri is saying, I would like to put in a quorum call with the understanding—for which I would ask unanimous consent—that the Senator from Missouri be recognized first at the conclusion of the quorum call. If that would not be objected to, I would put that request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire? Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. EAGLETON. Then, Mr. President, under the unanimous-consent procedure, I suggest the absence of a quorum, with the understanding that I will be recognized when the quorum call is rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Missouri is recognized.

Mr. EAGLETON. I yield the floor to the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, it is my intention—I believe the Senator from Missouri might like to offer this or I will offer it—to ask unanimous consent that at the conclusion of action on the Hollings amendment now pending the Senate will move to concur, preferably by voice vote, with the previous amendment assuming, of course, that the Hollings amendment is defeated. I further ask that Senator HOLLINGS receive an up-or-down vote on his amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire?

Mr. EAGLETON. Mr. President, reserving the right to object, and I believe I will not object, just to clarify it, we will have some debate on the Hollings amendment. Senator HOLLINGS wishes to debate. Senator RUDMAN has things to say, and perhaps other Members of the Senate. We will then go to a rollcall vote on the Hollings amendment up-or-down. If the Hollings amendment wins the door is shut. If the Hollings amendment loses we will then go to a voice vote on a motion to concur in the House language on the amendment and that item will be disposed of. Is that the understanding of the Chair?

The PRESIDING OFFICER. The Chair will state that a voice vote cannot be part of the agreement. Senators have a constitutional right to seek a recorded vote.

Mr. RUDMAN. Mr. President, if the Senator will yield, I address the Chair: Mr. President, I did not intend that to be part of the unanimous-consent agreement. I simply state it is my preference that the managers will not ask for a rollcall.

Mr. EAGLETON. It will be generally and gentlemanly understood in all likelihood it will be a voice vote on the motion to concur. That is fine with me. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, before my friend from South Carolina proceeds with an amendment, I will be very brief.

I am really troubled by the position that some of us find ourselves in now. The amendment which we failed to table will allow approximately $4.5 million to go to institutes of both parties. I want to note for the record that when we went in good faith to the conference with the House of Representatives, the Senate number for the National Endowment for Democracy was approximately $10 million. I was convinced by many people that we should recede to the House figure of $18 million.

I would say for anyone who is listening, particularly those in the galleries who are interested in NED, I would not have done that had I realized what was going to happen this morning. I also compliment the extraordinary lobbying effort by the political parties on this body. This is a body made of politicians very susceptible to lobbying by other politicians. That is precisely what we have seen this morning.

In the long run I am not sure that this victory might be anything other than a pyrrhic one for NED.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I would like to speak on behalf of the National Endowment for Democracy, for the institutions that it supports, and the idea that it represents.

I think it is known in this body that for many years, almost as soon as they had revived their own economies, the democratic political parties of Europe began to organize themselves in ways that they could provide support for democratic parties in other parts of the world, many of them in undemocratic, nondemocratic, or antidemocratic nations, States, settings somewhat as in the Federal Republic of Germany having gone through the horror of the totalitarian experience of Nazi rule. The Government itself provided some support to the principal democratic parties, the Christian Democratic Party, and the Socialist Democratic Party, and the time came in Europe when large consequences flowed from this commitment.

I think no one who watched the transformation of Portugal from the longest enduring Fascist regime in the 20th century, into a democratic pluralist state, would doubt one bit it was the open and avowed involvement of these democratic political parties from other parts of Europe that significantly affected that probably improbable outcome—I mean, certainly an outcome that was a very reassuring event to Europeans and to the world generally.

That idea began to take hold here in the United States as persons asked why is it that a nation of our size and our experience nonetheless found no open way to do these things?

It was asked in this country beginning about the time of the experience with Portugal in the early 1970's, was it not odd that we had no comparable activities in our country, to which, on reflection, it quickly emerged, well, of course, we did, that the American labor movement had for the whole of the 20th century involved itself in the efforts to develop and to sustain under circumstances of difficult free labor movements in other parts of the world. It is an activity going back to the earliest days of the AFO and Samuel Gompers.

It was an activity that was sustained right through the 20th century. It is no small accident that of the three organizations of the League of Nations which the United States might have joined the one we did join was the International Labor Organization, the ILO to which we are still a member, owing to the fact that the American labor movement had been active in the events that led up in the early part of this century to its inclusion in the Paris Peace Conference and as one of the three basic organizations of the League of Nations of the League itself, the Court, and the ILO.

Indeed, under George Meany, as head of the AFL-CIO, the activities of the American labor movement became one of the basically determining events in the experience of the continent.

In the 1940's, late forties, when the issue of democracy in Europe was one that was going to be settled on the streets and in a series of absolutely critical elections, where was the United States? Who represented the United States? I will tell you where. It was the American labor movement. They went on their own. They raised the moneys on their own. They did not have to introduce themselves to that part of the world. They were part of that part of the world, had been for three generations, and the outcomes seriously were affected: The elections in Italy, the elections in France, the general position of the trade unions of Norway, of the Danish trade unions, the Dutch trade unions, the Belgium trade unions. They had friends from this part of the world and it mattered to them and it offset an equally massive effort by the Communist nations which was a governmental effort as against this one provided by the AFL-CIO at the time.

Under President Kennedy and the Alliance for Progress, the U.S. Government began openly providing some assistance to the American Institute for Free Labor Development.

And when we find a successful democratic election in a country like El Salvador, which has been absolutely indispensable to our policies in Central America, who had been down there getting killed? Who were the first Americans killed in El Salvador in these particular insurgencies of the last 10 years? Representatives of the AFL-CIO. And they have been there, they have been around the whole Central America and Latin America, talking as the oldest organized trade union movement in the world, just possibly with the exception of the Trade Union Congress of the United Kingdom. And

this began in the 1960's and carried on in the 1970's.

The establishment of the National Endowment for Democracy was not in that regard any break in activity, but simply recognized that what had been important and successful and had been sustained and supported could be modestly enlarged and allowed to embrace other activities by other organizations, equally concerned, in the efforts to establish the international labor organization.

Mr. President, the U.S. Chamber of Commerce was for a generation a partner with the AFL and had every reason for which to be active in this kind of affair abroad and we have every reason to wish it to do. And as for our political parties, why not?

On this side of the aisle, Mr. President, we represent the oldest existing political party in the world. We go back to the 1790's. My colleagues across the aisle can claim some genealogy, but, alas, only as it commences with the 1850's and the meeting in Jackson, MI, I believe.

In any event, here we are, as we approach the second century of a constitutional government that has been sustained by political parties with a capacity for institutional maintenance over generations that no other people in history have ever demonstrated. We have something to show the world and, in modest portions and quantities, something to teach those who would learn.

It was not 4 weeks ago that I had dinner, just off the Senate floor, with a group of persons from Northern Ireland, representatives, party workers in the Social Democratic Labor Party, invited here by the Democratic side of the Republican and Democratic organization. And you would have found yourself genuinely impressed to see how important it was to these persons with respect to the minority in Northern Ireland, who represent the insistence that whatever change be democratic change, whatever decisions be majority decisions, that political democracy was possible, and it was not only possible but it was indispensable if there was ever to be peace in that bleeding region of the world; men and women who have put their lives at issue in that belief and how important it was to them to know that there were people here who understood what they were about and wanted to help—help not with the outcome of a particular election, but help with the establishment of a viable instrument of political democracy, which is what a democratic political party ought to be.

And there are such people the world over. They have come to this country, or we have gone there. It is not hard to believe in democracy, in political parties in this country. You do not get shot for it. You do not disappear in consequence of it. You do not spend your life in prison and under torture because of it. It takes a lot more in many parts of the world. And if anything those men and women deserve, it is some statement from this body and this country that we know what they experience, and if we cannot fully comprehend it at least we can state our support for it. And it is a measure of a modest enterprise, learning its way with the great experience of the trade union movement behind it, the not lesser experience of the Chamber of Commerce, which has been involved with the National Chamber for three generations, and our beginning learning efforts.

Mr. President, it was surprising and disappointing that we escaped the abolition of the party institutes by only one vote this morning. But now we have an opportunity to reconsider that and realize how close we came to something that, if we would not regret, in the world around there would be people who would and wonder what really were our intentions about democratic institutions in the world when we made such a decision, reversing ourselves after such a short period of time. If 20 years had gone by and we could say this had not worked, it would be a different matter. We had not given it 4 years of a real trial.

I hope, as we considered the vote, in a sense, which we are going to do shortly, that we will say to ourselves that this is a vote on our commitment to democracy, not just in this country, but in a world which looks to us for standards in these matters and in small ways, but important ways, for help.

Mr. President, I yield the floor.

Mr. ZORINSKY. Mr. President, I rise in support of Senator HOLLINGS' amendment to prohibit the use of funds in the bill for the National Endowment for Democracy.

According to an article in Wednesday's New York Times, the National Endowment for Democracy has been funneling hundreds of thousands of taxpayers' dollars into secret programs to undermine the government of French President Francois Mitterrand. At least one of the recipients of such funds, the Inter-University Union has been linked to an outlawed paramilitary group.

France is, and has been for a very long time, a functioning democracy. Francois Mitterrand is the duly-elected president, having been chosen by an absolute majority of the French voters in the 1981 elections. It is incomprehensible to me why U.S. taxpayers should be trying to finance democracy in that country, much less trying to oppose the elected government.

I would also note that Mitterrand's government has been more supportive of American foreign policy and more critical of the Soviet Union than its conservative predecessors. Although ostensibly intended to combat communist influence in France, the secret program of support for Mitterrand's foes is almost certain to hand the Communists a significant propaganda victory.

The French grants are not the only example antidemocratic or questionable behavior by the National Endowment for Democracy. Earlier this year the American Association of Publishers returned a NED grant after NED President Carl Gershman sought to revise, on ideological grounds, the books the publishers were sending to Moscow as part of the American exhibit in the Moscow book fair. Rather than accept NED interference in the selection of books, the publishers financed their participation in the book fair without Government money.

Last year the National Endowment for Democracy provided $20,000 to support the presidential candidate in Panama backed by the Panamanian Government. The U.S. embassy in Panama sharply criticized the NED involvement, deeming it embarrassing.

U.S. intervention in other people's elections is not, in my view, a convincing way to promote democracy. At a time of record budget deficits I believe it would be much wiser to save the taxpayers $18 million rather than continue to fund an institution with as dubious a track record as the National Endowment for Democracy.

We cannot afford the public financing of election campaigns in this country. I cannot imagine why we are attempting it abroad.

When the United States has $1½ million to spend on promoting democracy in France, it should be no wonder to anyone in this body why we have burgeoning budget deficits.

Trying to promote democracy in France is worse than preaching to the choir—it is more like encouraging choir members to join. They already belong. Why do we not give some money for reinventing the wheel while we are going.

The National Endowment for Democracy is just one more manifestation of the Orwellian logic abounding around here these days. In the name of democracy, we are secretly trying to undermine a democratic government. That is nothing but double-talk and gobbledygook, the likes of which a fifth-grader would laugh at.

I would not blame the French if they asked us to give the Statue of Liberty back.

What I would like to know is, when NED is finished restoring democracy to the democratic countries and overthrowing our allies, can we move on to other places like Poland and Central America? I guess they want to get a few so-called successes under their belt

before moving on to the real challenges.

Mr. WEICKER. Mr. President, I rise today as a cosponsor of the amendment offered by the Senator from South Carolina. For nearly 2 years I have stood shoulder to shoulder with Senator HOLLINGS and advocated zero funding for the National Endowment for Democracy [NED].

NED has been billed as prolabor and probusiness. It has been advertised as a boost to the work of our two political parties. And finally, NED has been described as the advancement of American ideals abroad through the international efforts of this Nation's most powerful institutions.

To all these patriotic claims, I say hogwash. NED has repeatedly been a hotbed of controversy, embroiled in foreign policy fiascos that boggle the mind. My colleagues may recall that last year the AFL-CIO's Free Trade Union Institute, which received about $11 million in NED funds during fiscal year 1985, attempted to influence the election of Nicholas Ardito Barletta in Panama. This action prompted the U.S. Ambassador to that nation to cable Washington and ask that this hare-brained project be discontinued before it hit the fan. Only after the fact did the NED board adopt a resolution prohibiting expenditure of NED funds to finance candidates for political office.

This week I picked up the New York Times to learn that the AFL-CIO Institute has secretly channeled NED moneys overseas to two center-right groups in France that have opposed the policies of President Francois Mitterrand's Socialist Party: $575,000 was committed to an anti-Communist student federation and $830,000 was granted to a French labor union.

Mr. President, let me make two points about the latest NED brouhaha. First, the secrecy of the AFL-CIO grant is particularly bothersome. On April 15, 1985, Euginia Kemble, who heads the AFL-CIO Institute, wrote a memo to Carl Gershman, NED's president, stating:

> As we have discussed, there are a number of projects we are funding where recipients would either be endangered or embarrassed if specific budgets were published or announced. This information is not secret when it comes to accountability, but we would like to avoid advertising it * * *. In these cases either repressive governments or Communist front groups could use the information to hurt individuals or unions we are seeking to help.

Mr. President, the CIA already runs covert foreign policy initiatives, most of which I also find objectionable. But I find it totally incomprehensible that NED, a quasiprivate, federally funded entity, would allow its grantees, which until this year were not even subject to the Freedom of Information Act, to engage in what amounts to covert foreign aid.

Second, the last time I checked, France was our ally. Therefore, I share the concern of a French newspaper that asked recently "why a country where democracy does not seem fragile should have received American taxpayer funds intended to foster democracy in places where it does not exist?"

Now, again after the fact, Mr. Gershman has promised that the AFL-CIO will be subject to full disclosure in the future and that the money channeled to France were not intended to be construed as criticism of the Mitterand government. Well Mr. President, I am tired of apologies after a crisis and promises to do better in the future. I shudder in horror at the thought of other episodes of NED intrigue and international adventure just waiting to hit the fan.

Therefore, I urge my colleagues to support this amendment which eliminates all funding for NED in fiscal years 1986.

Mr. MATTINGLY. Mr. President, I am pleased to join the distinguished ranking member of the Appropriations' Subcommittee on State, Justice, and Commerce, Senator HOLLINGS, in offering an amendment to delete funding for the national endowment for democracy [NED].

Senator HOLLINGS has outlined the origin of the endowment and he has mentioned the speech that President Reagan delivered before the British Parliament in 1982. In that speech the President delivered an eloquent appeal for a "* * * crusade for freedom * * *" that would attempt to, in the President's words, "* * * foster the infrastructure of democracy * * *" in nation's around the world. Unfortunately, the eloquence of the President's appeal has not been matched, in my view, by the effectiveness of the activities that have been undertaken by the endowment. It has become apparent to me that the endowment, despite the best efforts of those who have supported it and who have tried to make it successful, has not been effective in its mission and should be denied further funding.

The spread of democracy and its institutions remains a laudable goal and one that I know is shared by every Member of this body. But there are other, better, and less costly ways to advance toward that objective.

Mr. KASTEN. Mr. President, democracy, as we know it, must be supported if it is to survive. That is why I support the National Endowment for democracy. A strong military alone will not defend our security and protect our interests. The National Endowment for Democracy is essential in helping our democratic friends who often find themselves beleaguered and at a disadvantage in competing with well financed, organized, and trained forces that are opposed to democracy. If we neglect these people, if we do nothing to aid and strengthen democratic forces, then the opponents of democracy will triumph by default.

Democracies do not come about quickly or by decree. Democratic development requires time, preparation, patience, resources, and work. It is precisely for that reason that we need a National Endowment for Democracy. It offers no easy answers, but if the job is done correctly, with sensitivity, prudence, and genuine commitment, we could find the results to be great. This is something we should all be able to agree on, conservatives and liberals, Republicans and Democrats alike.

There are those who agree with the endowment's objective's but feel the work ought to be financed by private contributions. Adequate private funding is not available to do this work. We must provide nonpartisan public funding as a base for private contributions to help obtain a democratic advantage in more disadvantaged countries.

There is also conjecture that this work would be better done by Government agencies. The United States confronts exceedingly sensitive situations in the Third World where democratic leaders find themselves battling groups on the left and right. They cannot be effective if they are perceived, or can be portrayed, as agents of the U.S. Government. This is why they need private partners; counterparts such as unions, business associations, civic organizations and political parties. We must support our democratic friends. We can help strengthen the democratic center and build the infrastructure of democracy abroad. We can help make democracy a reality for the many brave people who share our values and aspirations.

Although the endowment has been in operation for only a short time, it has made a significant beginning in the development of a broad and varied program which pursues these goals. Through the Free Trade Union Institute, it has provided support for strengthening free and independent unions in all regions of the world.

Through the Center for International Private Enterprise, the endowment provided support for a broad program in Peru, Zimbabwe, Mexico, the Dominican Republic, and elsewhere. The center strengthens the role of business associations abroad as advocates of democracy based upon a free political system and an open market economy.

The endowment also supports many other activities:

There is support for schools and literacy programs inside Afghanistan, and for training Afghans in the use of mini-cameras so that they can better tell the world the story of the brutal Soviet occupation of their country.

The endowment assists in an effort to keep La Prensa alive, the Nicaraguan newspaper that has braved harassment and censorship and continues to be a voice for freedom.

It supports efforts to strengthen the network of democratic intellectuals in Europe and the Third World. They also help provide a journal promoting the values of intellectual pluralism among the thousands of Chinese students and scholars studying in the West.

Working with the renowned Cuban poet, Armando Valladares, the endowment is assisting in the establishment of a European coalition for human rights in Cuba.

There are programs to strengthen civic education and participation of women in Argentina and seven African countries, and democratic training of youth in Panama.

And, there is encouragement for democratic Russian language journals that are circulated in the U.S.S.R. and Eastern Europe.

These activities are discussed in an article by Joshua Muravchik called "Exporting Democracy: A Progress Report." I ask that this article be placed in the CONGRESSIONAL RECORD.

These are just a few of the programs the endowment is supporting. They are off to a good start. But the problem is vast. If we are to compete with communism, and we must, then we have to strengthen the democratic alternatives. Democracies are the best guarantors of human rights and also, the surest friends of the United States.

We must help individuals around the world to secure and strengthen the political institutions in their homelands. We can help them before the situation becomes desperate, or we can ignore this urgent need. The choice is ours. I ask your support for the National Endowment for Democracy.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPORTING DEMOCRACY: A PROGRESS REPORT

(From the pampas to Peking, a new kind of quiet diplomacy is at work.)

A year ago the United States began trying to export democracy. For this purpose, the Congress created the National Endowment for Democracy. The NED was an initiative of the Reagan Administration's, but it is a kind of hybrid, with roots both in Ronald Reagan's quest for ideological rearmament and in Jimmy Carter's human rights policy. Its creation was emblematic of the American people's renewed confidence that their country can and should be a force for good in the world. But in this case, as often, wanting to do good is much easier than knowing how to do it. In less than a year of operation, the NED has begun to support some eminently worthy causes, and has made a start at wrestling with the daunting and neglected question of just how the United States can effectively aid others in securing the blessings of liberty. It has also aroused a curious collection of critics on both the left and right.

There is no doubt that the United States has the capability to spread democracy, at least by some methods. Japan and Germany never succeeded in establishing democracies until occupied by U.S. forces; both have enjoyed ensuring democracy ever since. Even so questionable an exercise of American power as the 1965 invasion of the Dominican Republic resulted in lasting democratic rule (preserved in 1978 by stern diplomatic warnings from the Carter Administration to Dominican officers on the verge of aborting an election which transferred power to the democratic left). More recently in Grenada, the U.S. military showed its continuing efficacy as an instrument of democracy. But in each of these cases, the democratic result was not in itself the principal motive for military action, and a dedicated U.S. policy of spreading freedom by the sword is neither possible nor desirable.

Another method of spreading democracy that has had some success in the past is covert action. In the early postwar years U.S. intelligence agencies had a constructive hand in rebuilding the democratic institutions that stymied Stalin's efforts to add Mediterranean Europe to his empire. But even if covert action has sometimes served democratic ends well, the deception inherent in it is corrosive of the goal. And the CIA revelations of the 1960s and 1970s have robbed this kind of activity of much of its effectiveness.

The Endowment's goal is to discover or develop peaceful, overt ways to spur the growth of democrary everywhere it can. Some of the complexities of this task are illustrated by the very way in which the Endowment was set up. Although funded by the U.S. government, it is a privately incorporated organization responsible to its own board of directors, a carefully balanced mixture of Democrats, Republicans, labor leaders, businessmen, academics, and foreign affairs specialists. Some congressmen object to the creation of a private organization to spend public funds, but this arrangement enables the NED to assist deserving foreign democrats who could not accept direct support from the U.S. government. It was precisely this problem that led the U.S. government, in an earlier time, to give aid covertly.

A further step separating NED's beneficiaries from the U.S. government results from NED's conviction that the best way to encourage pluralism is to enable private American groups to assist similar groups abroad. The Endowment, therefore, does not ordinarily give grants directly to foreign groups, but to American ones for support of particular overseas programs or for transfer to their foreign counterparts. The model for much of this activity is the assistance which for years has been given by institutes affiliated with the AFL-CIO to fledgling labor unions in the Third World, and the biggest share of NED's budget has been earmarked by Congress for an expansion of labor's programs. A smaller, but growing, imitative program sponsored by the U.S. Chamber of Commerce and aiming to encourage civic action by Third World businessmen's groups is NED's second largest program.

Institutes affiliated with each of the two major political parties have been created, inspired by the four *Stiftungen*, or foundations, associated with West Germany's political parties. But Congress last year barred any NED funds from going to these institutes during fiscal year 1985. Apparently, the congressmen were more familiar with the junketeering proclivities of American political professionals than with the highly regarded work done by the *Stiftungen* in the Third World and Iberia, and feared that the Republican and Democratic International Institutes would be used as little more than slush funds by the Democratic and Republican National Committees. The two party institutes have survived, however, albeit with programs scaled back considerably from original plans.

Congress is also concerned about allowing NED to become too "political." Aiding the development of democracy is of course profoundly "political," and NED's President, Carl Gershman, agrues cogently that strengthening political parties is critical to strengthening democracy, but anything that smacks of direct intervention in a foreign election raises hackles in Congress. Last year, when NED funds given to the American Institute for Free Labor Development were passed on to Panamanian labor groups which used them for partisan activity in Panama's presidential election, the House was so distressed that it voted to kill NED entirely. The endowment was saved by the Senate, and it subsequently adopted guidelines designed to sharpen the fine line separating partisan electoral activity—which is forbidden—from other political institution-building.

A good example of how such lines are drawn in practice was seen during last year's elections in Grenada. Some observers feared that cynicism among Grenadan voters, born of experiencing the consecutive betrayals of democratic promises by former strongman Eric promises by former strongman Eric Gairy and then by the New Jewel Movement, would discourage voter participation, and that this might have the ironic result of strengthening Gairy and NJM, both of whom were running with the support of small but dedicated coteries. The NED Affiliates, the Republican Institute for International Affairs and the Free Trade Union Institute, organized programs in Grenada aimed at getting out the vote. They distributed T-shirts, bumper stickers, and ballpoint pens and provided free transportation to the polls. All of the activity was strictly nonpartisan but the large turnout by Grenada's "silent majority" probably contributed to the sweeping victory of the democratic center, an outcome not at all unpleasing to the NED affiliates.

Although NED's ultimate goal—democracy—is the same for all countries, the wide variations in the status of democratic forces in different countries leads it to support widely diverse programs.

The most hopeful situations are those, like many in Latin America, where democratic institutions are now in place but not well established. NED's goal there is to help nourish and deepen democratic roots. In Argentina, for example, Conciencia, a women's civil group founded during the Falklands war, is working to draw traditionally politically passive Argentine women into the political process and to cultivate their attachment to democracy. Conciencia sponsors public service ads about democracy on Argentine television, conducts forums for citizen debate over public issues, and runs a pyramiding scheme of coffee klatches in which Argentine women talk to each other about the virtues and methods of democracy. These tupperware-type parties may seem a rather hokey means of spreading the democratic creed, but they are not much more so than the activities which have long been used by Communists in many countries

to develop cadres dedicated to the destruction of democracy.

Through the Overseas Education Fund (OEF), an internationally oriented spin-off of the League of Women Voters, NED is underwriting Conciencia's drive to expand from nine to thirty chapters. The Endowment is also supporting an attempt by the OEF, with Conciencia's assistance, to set up a similar organization in neighboring Uruguay which has also returned only recently to elected rule.

In Colombia, NED funds are sponsoring a research program by two national labor federations into the voting records of elected officials, a kind of local version of AFL-CIO COPE's legislative scorecard. In Guatemala, which is in transition to elected government, NED affiliates have sponsored the country's first national, issue-related public opinion polls. With any luck, these polls may enable Guatemalan office-seekers to pander to the twisting trends of public opinion as shamelessly as American polls do.

In Nicaragua, NED funds are helping the civic opposition to survive despite the Sandinistas' claim that it is historically doomed, a prophecy that they have been trying in myriad ways to make come true. When the government used its control of foreign currency to prevent the independent newspaper, *La Prensa*, from importing critical printing supplies (the Sandinista newspaper received its supplies as "donations" from East Germany), a NED grant helped *La Prensa* to keep publishing. Other grants are going to support the work of the Permanent Commission on Human Rights and the newly formed Nicaraguan Center for Democratic Studies which will sponsor research, publication, and training for the groups that make up the democratic *Coordinadora* (the alliance of democratic political parties, business and professional associations, and unions that sought in vain to run Arturo Cruz for the presidency last year).

The tragedy of Nicaragua, where a leftist dictatorship verges on consolidating its rule after decades of rightist dictatorship, is an all too familar story. Rightist dictators repress the opposition that they naturally provoke from both democrats and Communists. But the Communists, with their conspiratorial, top-down methods, are far better equipped to survive calandestinely than are the democrats. When popular discontent sooner or later undermines the regime, the democratic center is too weak to offer an effective alternative. In two countries likely to serve as the next scenes for the reenactment of this sad drama—Chile and the Philippines—NED is working to strengthen democratic labor federations. In Chile, NED is also underwriting an International Symposium on Problems of Contemporary Democracy which will bring together Chilean intellectuals with experts from Venezuela, Spain, Argentina, and other countries that have undergone the transition from rightist authoritarian rule to democracy.

Ironically, although Ronald Reagan's people often criticized President Carter's human rights program for focusing so strongly on right-wing regimes, NED too is finding that it is much easier to work in rightist than leftist countries. NED President Carl Gershman notes that even in Chile under General Pinochet, probably South America's harshest right-wing dictatorship, NED is able to find democratic-minded political, labor, business, church, and intellectual leaders with whom to work. These opposition leaders are harassed by the regime, but they still exist, and NED hopes that by strengthening them it can help to hasten the conclusion of Chile's painful authoritarian interlude and to ensure that the Communists will not be its heirs.

In Communist Cuba, by contrast, there is no one with whom NED can work. Opposition exists only clandestinely. Known oppositionists are either in jail or exile. In a closed society such as this, NED can do little more than, as it says, to help "keep alive the flame of freedom." Thus NED is supporting the efforts of Armando Valladares, the poet now living in Europe after surviving two decades in Castro's prisons, to establish a string of committees in European countries that will disseminate information about Cuban human rights abuses and pressure the Cuban government to attenuate the more egregious ones.

But not all Communist countries are as "closed" as Cuba, and sometimes it is possible to find mechanisms to advance the cause of democratization. In Poland, the outlawed Solidarity union survives, and NED is helping to keep it alive. NED funds have purchased food, clothing, and medicine for the families of Solidarity activists who have lost their jobs or are in jail, and have boosted the work of the Polish Legal Defense Fund, a coalition inside Poland that works to defend and succor political prisoners. And, with NED's support, the New York-based Committee in Support of Solidarity is preparing translations of a volume of Solidarity documents into Czech, Hungarian, Russian, and Ukrainian, for circulation in those countries.

The Endowment is also underwriting a new magazine, the Chinese Intellectual, edited by Liang Heng, author of the widely acclaimed book, Son of the Revolution. The magazine's target audience is the 10,000 scholars and students from the People's Republic of China who are studying in the West, most of whom will return home to influential positions.

To Liang's own surprise he has secured permission from the Chinese government to send copies into China. It seems that the reform group among China's rulers may welcome circulation of the magazine as a measure of liberalization, even though it contains material that still could not conceivably be published within the PRC. The magazine began by sending 500 copies and has increased the number, now aiming to send a total of 10,000.

By treading delicately, Liang Heng hopes his magazine can remain on the near side of official tolerance while offering criticism of Marxism-Leninism and Maoism and promoting discussion "of the importance of democracy and the rule of law." One issue did not reach its PRC addressees, apparently for having overstepped some undefined border, but the others have gotten through despite containing material unfamiliar to PRC audiences: articles by such anti-Communist American intellectuals as Sidney Hook, Seymour Martin Lipset, and Irving Louis Horowitz; columns about the rule of law or the role of the media in the U.S.; modernistic Chinese poems; and wide-ranging discussions of philosophy and literature.

Earlier this year, Liang was allowed a two-month visit to China where he was able to secure lists of intellectuals to be added as subscribers, to lay the groundwork for having some of his articles reprinted in officially accepted Chinese magazines, and even to hire the editor of one of these as the official Peking representative of the *Chinese Intellectual.*

Although most of NED's activities are less than a year old, a small-scale campaign has begun against NED in the Soviet media. The fortnightly journal, *Soviet Trade Unions*, recently ran a lengthy satire about the activities of the AFL-CIO and NED, needless to say with the CIA mixed in. A similar polemic ran in a journal of the Ukrainian writers' union. These satires have all the humorous sparkle of a Chernenko report to the Supreme Soviet, but, notably, they also contain accurate figures for recent funding requests and authorizations for NED, suggesting that the Endowment is being watched with some care. When a House appropriations subcommittee met for the routine task of marking up the bill providing funds for NED for fiscal year 1986, no American news reporters were present, but the session was covered by a correspondent from TASS.

The Soviet canard about the CIA was soon echoed by the Washington-based Council on Hemispheric Affairs (COHA), a lobbying group supportive of Nicaragua's Sandinista rulers. COHA lashed out in particular against aid given by the Free Trade Union Institute to one of the two independent trade union federations in Nicaragua still competing with the officially sponsored, Soviet-style Sandinista labor federation. The Sandinista federation's officers are openly appointed by the government and they proclaim that their federation "makes its central concern such questions as labor discipline [and] fulfillment of production goals." In its broadside, COHA condemned Nicaragua's struggling independent unions for standing "outside the mainstream coalition of unions," COHA's phrase for the Sandinista federation.

The attack was then picked up in a "dear colleague" letter circulated by Representative John Conyers, a congressional stalwart of causes of the anti-democratic left, and by columnist Jack Anderson, who condemned NED for supporting "right-wing political parties" in Nicaragua and elsewhere.

Opposition to NED has not come exclusively from the left. Representative Hank Brown, a conservative Republican from Colorado, and columnist James J. Kilpatrick have also gone after it. Brown objects to the fact that as an independent organization, NED is not subject to all of the controls that apply to government agencies. He argues that NED is doing nothing useful that is beyond the powers of existing arms of the U.S. government. To Kilpatrick, any financing of international travel and meetings in a time of budget deficits smacks of "boondoggle" (although only a small fraction of NED's budget is spent on such things).

The Soviets apparently see something in NED that Brown and Kilpatrick don't see. For decades the Soviets have worked to promote Communism around the world unchallenged by any countervailing systemic efforts on our part to promote democracy (except at times through covert action). They obviously do not welcome the competition.

NED will need time, and it will have to learn through trial-and-error which democracy-building programs are most effective. It will have to tread carefully to avoid intruding in a partisan way into foreign elections. But the effort is a necessary one. Most of the programs supported by NED could not be underwritten directly by the U.S. government without compromising them.

America embodies not just territory and population but also an idea, and defense of America requires not just guns, but also political work in defense of that idea. The creation of NED is one more step in America's recovery of national will. To the extent that the Endowment succeeds in its mission, it will bring benefits to others and strengthen our own security as well.

Mr. DIXON. Mr. President, I rise in strong opposition to the amendment offered by my friend, the Senator from South Carolina.

The bottom line, as far as the Senator from Illinois is concerned, is that the National Endowment for Democracy deserves the support of the United States in order to promote democratic values and institutions worldwide. Perhaps the best example of the Endowment's good works concerns Poland.

In that oppressed nation, the brave Polish people continue their struggle against the harsh regime imposed by the Soviet Union. All of us in this Chamber, I am sure, admire their courageous efforts to preserve Polish national culture and regain some degree of freedom from repressive rule.

Freedom does not come easily. There is a price to be paid. How many Senators know that the National Endowment for Democracy gives a high priority to funding a broad range of activities affecting Poland? The Endowment funds cultural, educational, publishing and trade union-related activities which are independent of the Polish Government and Communist Party control, and which reflect the true aspirations of the Polish people.

For instance, the Solidarity office in Brussels receives endowment funds through the Free Trade Union Institute of the AFL-CIO. These funds are used to support Solidarity activities within Poland as well as those in the West which call world attention to the dire situation in that nation. Assistance to political prisoners in Poland is another high priority item for the National Endowment. In fiscal year 1984, one of the first grants provided funds to purchase basic necessities for Polish citizens imprisoned for their political beliefs. Basic necessities, Mr. President, such as food, clothing and medicine.

This is what the National Endowment for Democracy can do if given half a chance, and it is something that must be done, both for moral and strategic reasons. The amendment being offered by the Senator from South Carolina would make this work impossible. Impossible, Mr. President! I don't think that is the direction Congress intends to go, or at the very least, I hope that is not the case. The American people can be proud that our National Endowment for Democracy assists the Polish people in their struggle for democracy and freedom, and I am proud to speak today for continued funding for the Endowment for fiscal year 1986.

In closing, Mr. President, I would like to ask unanimous consent that a letter I received from the president of the Polish-American Congress be inserted at the end of my remarks. My dear friend, Aloysius Mazewski, wrote to me in October concerning the Endowment, and his letter sums up my feelings very well. I urge the Senate to reject the current attempt to shut down the National Endowment for Democracy.

There was no objection, the letter was ordered to be printed in the RECORD, as follows:

POLISH AMERICAN CONGRESS, INC.,
Washington, DC, October 15, 1985.

Hon. ALAN J. DIXON,
U.S. Senator,
Washington, DC.

DEAR SENATOR: The Polish American Congress, an umbrella organization of ten million Americans of Polish descent, is deeply concerned by the decision of the Appropriations Committee of the Senate to cut, almost in half, a small allocation for the National Endowment for Democracy.

You may not be aware that the NED has become almost the only source of very modest help to the Solidarity movement in Poland. The assistance has been channeled either through the AFL/CIO or through other organizations in the West supporting Polish non-violent resistance. For obvious reasons such assistance should not come from the United States government either overtly or covertly. NED has provided the best vehicle for this purpose. Since, however, NED has a commitment to support Democratic forces all over the world reducing its budget from $18 to $10 million would mean either drastic curtailment of aid to Solidarity which is already pitifully small or its total elimination.

The very fact that Polish resistance survived four years since it's legal structure was destroyed, represent an unprecedented challenge to the omnipotence of the Soviet controlled political police. Survival of the skeleton clandestine Solidarity structure in major industrial plants, factories and offices as well as such activities as a large network of underground press and publising houses, extensive cultural and educational activities, flying Universities and legal defense of political prisoners would not have been possible without the constant flow of funds and possible without the constant flow of funds and equipment to maintain communications and dissemination of information and ideas. Discontinuation, or even a considerable reduction, of this aid would deal a mortal blow to the most important civil disobedience movement since Mahatma Gandhi. It would be an irony if Solidarity which has been successfully resisting all onslaught of the totalitarian system should die as a result of action taken by the United States Congress. It would be also entirely inconsistent with the Congressional decision which we strongly support to grant $300 million dollars to Afgan freedom fighters. The non-violent character of the struggle conducted by the Polish people does not make it less important.

We sincerely hope, Mr. Senator, that you will take our appeal under consideration and that you will vote on the floor of the Senate for full restoration of funds originally requested for the National Endowment for Democracy.

Sincerely,

ALOYSIUS A. MAZEWSKI,
President.

Mr. KENNEDY. Mr. President, I support the House amendment now before us. I am aware of the concerns many of my colleagues have raised regarding the possible misuse of NED grants for partisan purposes, but I believe that the amendment accepted yesterday by the House fully addresses those concerns.

The National Democratic Institute has an impressive record of fostering the development of democracy and citizen participation in many countries around the world. It has played a key role in aiding parties in Chile, Venezuela, Korea and Argentina; and it has sponsored conferences of South American and African party leaders that provided valuable forums in which those democratic leaders could exchange and discuss their views.

More important, I know the good work of NDI first hand. One of the institute's most successful programs was conducted this year with the Social Democratic and Labor Party of Northern Ireland. Earlier this year, the leader of the SDLP, John Hume, and 12 members of his party visited the United States to work with the institute over a 2-week period. I met with the staff of NDI involved in the program as well as with the SDLP delegation, and I was extremely impressed by the professionalism of all those involved with the program and their commitment to democratic values. I know that the SDLP delegation gained invaluable knowledge and techniques of ways in which to develop and strengthen their 15-year-old party, at this crucial time for the future of Northern Ireland. In addition, through the work of NDI, many Members of Congress were able to learn about the complex issues facing the SDLP as it attempts to end the violence and terrorism and bring peace and justice to that troubled part of Ireland.

It is entirely appropriate—and I might add, necessary—that the United States develop and strengthen its ties with those in foreign nations who are committed to promoting and improving democracy in their countries. The National Democratic Institute has already proven itself to be extremely capable in this role of enhancing the work of political parties throughout the world as they pursue that process. The Senate has a responsibility to ensure that NDI continue its valuable work, and I urge my colleagues to vote in favor of the House amendment.

Mr. SPECTER. Mr. President, I believe that the 1986 appropriation for the NED should be funded at the full 1986 authorization level of $18.4 million.

This nonpartisan private nonprofit organization was established in 1983 and funded by Congress as a concrete conduit of our commitment to the development of democratic values and institutions around the world and to serve as a counter to Communist efforts to mold political processes to fit their goals.

It has been extremely productive already. In its first year, the Endowment awarded grants to more than 20 private sector organizations to aid projects to reopen schools in central Afghanistan; provide financial and technical assistance to the democratic opposition in Poland; establish European citizen committees to gather and disseminate information about the human rights situation in Cuba to encourage pluralism and respect for human rights in that country; established a network of democratic opinion leaders; and a number of projects to train local citizenry in developing nations to initiate and implement the effective political processes of a democracy. These are but a few of the worthwhile projects aided by these funds.

A key focus of the NED, of course, is the vital role of free trade unions in a democracy. The Free Trade Union Institute, with the help of a NED grant, has conducted a broad range of programs aimed at promoting the development of free and independent democratic trade unions. These efforts must be supported as the only truly effective counter to the Communist trade movement gaining a foothold in so many developing nations.

A second key focus is the U.S. Chamber of Commerce's efforts through CIPE—The Center for International Private Enterprise—in developing free business associations in developing countries. These associations are providing education in free market economics and institutions, and in advocacy of free market enterprise. The development of independent businesses institutions is important as a means of fostering the development of democratic pluralism abroad.

The funding recommended by the Appropriations Committee is minimal and must not be further reduced or eliminated. I, and I am sure many of my colleagues, do not want to risk a program with so many important benefits. When one compares this funding request for the advocacy of democracy to the necessary defense and intelligence appropritions to protect democracy, the $18 million seems like a very fiscally responsible investment indeed.

PARTY INSTITUTES

Mr. President, I can see no valid reason to restrict the National Endowment for Democracy's ability to provide grants to the two political development institutes.

Senators MOYNIHAN and HAWKINS serve, respectively, on the Boards of Directors of the National Republican Institute for International Affairs and the National Democratic Institute for International Affairs. After 2 years of oversight of the programs they feel strongly that removing the Institutes from the Endowment would substantially weaken the NED's effectiveness. In a letter to me dated September 17, 1985, they point out that the institutes provided no travel support to either party's national committee, nor could they under existing authority, and that the RNC and DNC "reap no conceivable partisan benefits from the programs of the two institutes."

There is no self-serving partisan payoff for the party institute; yet, they are being singled out to be ineligible for receipt of NED grants. This is despite the fact that their contribution to the development of democratic institutions is just as important and notable as other NED participants. There is no question, in my mind, of the generally high value of NED programs.

One of the major contribution of the political institutes is the development of political systems and political parties to ensure a vigorous democratic process.

Examples of this include the National Democratic Institute's efforts to build a democratic, nonviolent alternative in the troubled province of Ulster. This effort involved training sessions on party organization, planning, message development and fundraising.

The National Republican Institute spent months prior to the recent election in Grenada teaching officials how to communicate views, increase voter involvement, develop and manage political parties and hold the first free election in years.

Another valuable effort is civic education to teach citizens democratic principles, their rights, and how to exercise those rights. Human resource and leadership development is also practices through Republican and Democratic institutes.

Mr. President, I ask how bipartisan efforts such as I have mentioned could be considered partisan or unworthy of NED funding? These democratic development efforts and successes are so important, just as are economic and social development. I will vote against the amendment to limit the political institutes involvement in development of democracies in other countries. No addition funding is involved, so the fund should be in a position to establish priorities including the political institutes.

Mr. HOLLINGS. Mr. President, at this particular point, I would like to have included in the RECORD a letter from our distinguished colleague on the other side of the Capitol, the Congressman from Florida, Mr. DANTE FASCELL, the chairman of the House Foreign Affairs Committee. He has been a leader in this. He and Brian Atwood, whom I know personally and have a high regard and high respect for, have been working hard on this project. I still have my original misgivings.

I ask unanimous consent that Representative FASCELL's position—so it would be known—that his letter of September 5 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, September 5, 1985.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC.

DEAR FRITZ: I know that you feel strongly about the wisdom of the National Endowment for Democracy project, which I have worked so hard to get off the ground in the past three years, and that you have publicly and forcefully expressed your misgivings about the value and the feasibility of the Democracy endeavor. I would hope however, as you consider the proposed FY 1986 funding for the project, that you would consider some of the actions that we have taken in the authorization bill, several of which are in response to the well-founded criticism that you and some other colleagues have expressed.

First of all, we adopted strong language prohibiting the Endowment or any of its grantees from spending any appropriated funds for political campaigns, for partisan activities, or for the promotion of candidates for public office. We specifically prohibit the financing of any activities of the Republican National Committee or the Democratic National Committee.

Second, we required the Endowment to consult the State Department prior to the commencement of any overseas program to ensure that U.S. national interests are not compromised and that program activities contemplated are conducted in a manner which will promote stable democratic institutions.

Third, and very importantly, we required the Endowment to fully comply with all of the provisions of the Freedom of Information Act.

Fourth, we provided that the financial transactions of the Endowment for each fiscal year may be audited by the United States Information Agency.

Fifth, we authorized less money than the FY 1985 continuing resolution, cutting my own Committee's recommendation by $13 million dollars.

Sixth, we authorized additional funding for Endowment programs U.S.I.A. that would promote democracy and seek to end the apartheid policies in South Africa. We have already received a commitment from U.S.I.A. to fund this program to the maximum extent possible. This particular provision had broad bipartisan support and the solid backing of the Black Caucus, even though it was a Republican proposal.

All of these things were passed without opposition in the House and unanimously approved by the Conference Committee on both sides. I think they are sound improvements to the Democracy project and strengthen the credibility and integrity of the program. That is not to say that the whole thing is now perfect. Experience has taught us that we need to continue to seek

improvements as with any new program. I certainly welcome any further suggestions you might have as to how we might make additional changes which would further strengthen this endeavor.

As you know, Fritz, I have been a member of the Foreign Affairs Committee for nearly thirty years and have been particularly interested in the activities of the U.S.I.A., in the field of international communication, and in the effort to promote freedom, human rights, and democracy around the world. I have always believed that we could do more—and do it better—to tell America's story around the world and to help others move towards forms of self-governance that would improve their way of life. I have strongly supported the expansion of cultural and educational exchange programs, particularly the Fulbright and Humphrey programs. And—as a result of years of experience and lots of hard work—I came to the conclusion that something like the Endowment was badly needed to supplement all of the other ongoing programs conducted directly by the U.S. Government. Several years ago, even before the Democracy project came along, I introduced legislation to create an institute to promote international human rights and democracy. It could have—had we been able to get the funding—done many of the same things the Endowment seeks to do.

I've worked hard on this project for the past three years precisely because I believe so deeply in it and I am convinced that it can do a lot of good for a lot of people who feel the impulse to move toward democracy and freedom in their own countries. The legislative process—both the authorization and the appropriations aspects—has been like the Perils of Pauline during the last three years. It seemed like every time I turned around a freight train was coming down the tracks to run over us. And—on some parts of the project—I have lost a limb here or there, and I've got the scars to show for it.

I guess what I'm trying to say, Fritz, is that I think we have worked hard to meet the criticisms that have been directed toward the Endowment and that we have made needed changes in its procedures. We have cleared the authorization process with broad bipartisan support and we have cleared the appropriation process on the House side. Yet there is still one more freight train coming down the tracks and you seem to be behind the wheel. I would hope that you would consider the changes and improvements that we have made and try to see if there is some way that you can see your way clear to give this Democracy endeavor a chance to prove its merit.

One final comment about the authorization bill and what is does not contain. We eliminated all earmarkings for grantees of the Endowment. There are no guaranteed funds for any special group—not business, not labor, not either of the institutes identified with Democrats or Republicans. All grant applications will be considered on their merits and will be subject to all of the proper restrictions and oversight provisions now enacted into the law relating to the Endowment. I think this is particularly important with regard to these so-called major institutes since, as many people have pointed out, this should not be an entitlement program for anyone. And, as one who has responsibility for the authorization side, I am aware of the distaste those on the appropriations side have for too many earmarks.

Finally, with regard to the Democratic Institute for International Affairs and the Republican Institute for International Affairs, I think there has been some misunderstanding about who they are and what they do. Both institutes are independent self-governing corporations without direct or formal affiliation with the Democratic or Republican National Committees. Each identifies itself—from a political philosophy and preference point of view—with the respective political parties, but neither is controlled or governed by the official party organizations.

And, from my perspective, these institutes are absolutely essential to the success of the Democracy endeavor. No society can build and maintain democratic institutions or political systems without the development of stable, effective political parties. No one—not government bureaucrats or diplomats, nor businessmen or trade union organizers—can contribute so much to the construction of a democratic society as can those who have experience in political party activities. That is why, for the purpose of technical political and political management training and party building these two Institutes are so important. I have been particularly impressed—and pleased—by the work that the Democratic Institute is doing under the leadership of it's new President, Brian Atwood. The projects that they are undertaking in Africa, the Caribbean, South Korea, Northern Ireland, and Israel are superb—and badly needed. I hope you will take the time to talk to Brian about what they are doing. I think you will be impressed.

I need your help on this project, Fritz, and I'm asking you to consider all these things that I have said in this letter before you make a final decision on this matter. And, of course, I would welcome the opportunity to talk with you about it at your convenience.

Best personal regards,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

Mr. HOLLINGS. Mr. President, let me include at this point in the RECORD, since we are making sure the RECORD is firm, the New York Times article from November 28, on Thanksgiving Day, and a second New York Times article of 2 days ago entitled "Democracy Project Facing New Criticisms" relative to the involvement of the National Endowment for Democracy in France.

I ask unanimous consent they be included in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times Dec. 4, 1985]

DEMOCRACY PROJECT FACING NEW CRITICISMS

(By Ben A. Franklin)

WASHINGTON, December 3.—The National Endowment for Democracy is a quasi-governmental foundation created by the Reagan Administration in 1983 to channel millions of Federal dollars into anti-Communist "private diplomacy."

Its bylaws require "openness" and "public accountability" in its stewardship of millions of dollars a year in taxpayer funds, which are distributed to labor, business, education and other groups and organizations overseas to promote democratic ideas.

Today, however, for the second time in its brief existence, the endowment finds itself in trouble with Congress. Some of its "private diplomacy," it turns out, has been more than private; it has been secret.

According to endowment officials and Congressional aides, $1.4 million in endowment money has been secretly channeled through an overseas branch of the American Federation of Labor and Congress of Industrial Organizations to two center-right groups in France that have opposed the policies of President François Mitterrand's Socialist Party.

What is more, the secrecy was maintained for months under an agreement among officials of the A.F.L.-C.I.O., endowment administrators and the Subcommittee on International Operations of the House Foreign Affairs Committee, which oversees the endowment.

The existence of the agreement was confirmed by Carl Gershman, president of the endowment, and by Richard W. McBride, the subcommittee staff director, after it was uncovered by Mark Shipiro, a reporter at the Center for Investigative Reporting here, who was on assignment for the Paris newspaper Libération.

A PIVOTAL TIME

The Shipiro scoop, published last week, came at a pivotal time for the endowment. On Wednesday a Senate-House conference committee is scheduled to make a final judgment on the endowment's appropriation for the 1986 fiscal year, compromising between $18 million voted by the House and $10 million by the Senate.

Last year, on the eve of a crucial vote in the House on the endowment's first full-year appropriation, critics of the program produced a cable to the State Department from the United States Embassy in Panama complaining of an "embarrassing" and "compromising" discovery: $20,000, given by the endowment through another A.F.L.F-C.I.O. overseas branch, had been spent in a Presidential election campaign to support the candidate backed by the Panamanian Army. After that disclosure, the House cut the endowment appropriation to zero, but conferees relented and gave $18 million.

Now, according to Representative Hank Brown, the Colorado Republican who is one of the endowment's most persistent critics, the disclosure of the endowment's "French connection," as he put it, "requires Americans to ask how they would feel if they learned that the French Government was giving millions of dollars to the A.F.L.-C.I.O. to oppose the policies of Ronald Reagan."

Another endowment critic, Representative John Conyers Jr., Democrat of Michigan, said he would demand a Congressional investigation of the endowment's French grants.

Earlier this year, Congressional uncertainty about endowment operations brought an end to an appropriations system that required the endowment to give labor groups up to two thirds of its annual funding. Most of the balance was to be distributed by the Chamber of Commerce of the United States and the foreign institutes of the two major American political parties.

One of the French groups that received endowment funds was the National Inter-University Union, an anti-Communist student federation with reputed ties to the Service d'Action Civique, an outlawed, extreme-right paramilitary group. The other recipient was Force Ouvrière, an anti-Communist trade union.

A week ago, when the story broke that the A.F.L.-C.I.O.'s Free Trade Union Institute

had committed $575,000 in endowment funds to the National Inter-University Union and $830,000 to Force Ouvrière, Mr. Gershman, the endowment president, canceled payment of any undistributed money to the U.N.I., as it is known in France, "until we clear up questions about its anti-democratic character."

Mr. Gershman said all but $73,000 of the money budgeted for U.N.I. publications had already been disbursed, but he said none of it was "intended for activities that in any way could be construed as criticism of the Mitterrand government."

In an interview Mr. Gershman emphasized that the Free Trade Union Institute would be allowed to make no more secret grants. "In the future there will be a full level of detailed disclosure," he said.

Mr. Gershman said details of the grants in France had been "less than fully disclosed" after A.F.L.-C.I.O. officials asserted in a memorandum last April that prior promises of secrecy had been made to its sub-grantees and that publicity would pose "danger or embarrassment" to them or to the United States.

Details on the two programs in France were omitted from the endowment's 1984 annual report, a document whose introduction declares that "we must operate openly." Details were also omitted from reports of the House subcommittee, Mr. McBride said.

OF THE DEMAND FOR SECRECY

Eugenia Kemble, executive director of the Free Trade Union Institute in Washington, who wrote the secrecy memorandum, did not return repeated telephone calls.

But according to other labor union and Congressional aides, the demand for secrecy for the labor institute grants in France reflected the tough anti-Communist style of Irving J. Brown, the 74-year-old official who has been the American labor federation's chief overseas representative since the end of World War II.

In the postwar years, Mr. Brown's leadership of American labor union intervention in Europe was credited with helping defeat Communist attempts to sabotage the Marshall Plan and other economic recovery programs of the United States.

But, Mr. McBride said in an interview, "Today, I think one has to ask the question whether the limited funds available to the N.E.D. should be going to Europe at all, rather than to Central America and the third world countries."

[From the New York Times, Nov. 28, 1985]

UNION IN FRANCE CONFIRMS IT GETS U.S. FUNDS

(By Richard Bernstein)

PARIS, November 27.—A French labor union said today that it had received American Government funds to support foreign trade union activists who had come to France to escape persecution in such countries as Poland and Afghanistan. The union said there was "nothing scandalous" in its activities.

The labor union, the Force Ouvrière, was responding to a report published today in the newspaper Libération. The paper said that a public American foundation had used "secret funds" provided by Congress to support several politically conservative French organizations. The Force Ouvrière is widely regarded as center-right in its political orientation.

The newspaper, under a front-page headline reading "Reagan's Secret Funds in France," reported that over the last year the National Endowment for Democracy, a nongovernmental foundation created by Congress two years ago to foster democracy around the world, had provided $830,000 to the union and $575,000 to an anti-Communist student federation.

The newspaper printed what it said was a photocopy of a confidential internal memorandum addressed to the foundation's president in which France was included among a group of countries where disclosure of the endowment's activities might pose "danger or embarrassment." Among the other countries listed were the Philippines, Paraguay, Chile and Poland.

The report reflected puzzlement here as to why France, which the newspaper called "a country where democracy does not seem fragile," should have received public American funds intended to foster democracy in places where it is weak or does not exist.

The money provided was said to have been channeled though the Free Trade Union Institute, which is affiliate with the A.F.L.-C.I.O., the largest American labor confederation.

Asked why a democratic country like France should be a recipient of funds, Carl Gershman, the president of the Endowment for Democracy, said the group's policy was to give a small part of its funds to organizations in countries that "face stiff competition from antidemocratic rivals.

Mr. Gersham, speaking in a telephone interview from Washington, said that funds were given to the Force Ouvrière because of its long association with the A.F.L.-C.I.O., and because its chief rival was seen to be the Communist-controlled Confédération Générale du Travail.

André Bergeron, the president of the Force Ouvrière, said in a written statement to journalists today that the funds received by the union were used to help "the thousands of trade union activists who are forced to leave their countries and have no accommodation, no money." Among those helped, according to Mr. Bergeron, were trade unionists from Poland and Afghanistan.

"We could not do this without the help of our friends from the American trade unions," he said. "There is nothing scandalous in this."

The Free Trade Union Institute also channeled funds to a little known student confederation known as U.N.I., the French initials for National Inter-University Union. The group was founded in 1969 in reaction to the leftist student demonstrations that swept France the year before but according to Liberation it was linked to an extreme right-wing student group known as the Service for Civic Action.

The memorandum saying that disclosure of the exact nature of some of the grants might pose a "danger or embarrassment" came from the director of the Free Trade Union Institute, Eugenia Kemble, and was addressed to Mr. Gershman.

In a telephone interview, Mrs. Kemble said today that France was clearly not among the countries where anybody would be endangered from an association with the Endowment. "Some of the grantees wanted privacy," she said, "and people here and at the Endowment went along with that."

In a statement today, the Endowment said it was suspending its financing of U.N.I. until it had satisfied itself that the charges about the group's affiliation with the French extreme right were not true.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, very briefly, with respect to the money to the political parties, therein is the real dilemma, particularly looking at that last vote. We have had a difficult time establishing the credibility of the political party in America. Certainly it is that this Senator has worked no less than 35 years within the party even attempting a national candidacy, and thereafter unsuccessfully of course I stuck with the party, and not with those who are going out to organize other movements.

I am a professional politician. I have the greatest respect for politics and politicians, and the national political parties. But I am a realist, and understand that the reason we do not have campaign financing in this country is simply and solely the distrust the American people have inherently in our political party.

You do not build that credibility by giving moneys to the parties. You cannot pass a bill for campaign financing by the Government, taxpayers' money, to politicians and political parties.

And the best way to really destroy the credibility is by spending the money around in so-called institutional ways like they have right here to sneak the money to the parties. The Institutes can take care of those who have not got jobs, hirings and everything else, in spite of some of the good work that they do. We can see exactly what has occurred.

The National Endowment for Democracy has not taken on a soul. When the distinguished Senator from Utah comes along with his solidarity talk, and the Senator from Connecticut says we are going to rob the National Endowment for Democracy of its soul, I have to recall—and this is not to call our colleagues scoundrels. They are clever Senators. There is a difference. But it was Samuel Johnson who said the "Patriotism is the last refuge of a scoundrel."

And here we have a simple little political conspiracy going on, with the chamber of commerce getting together with the AFL-CIO, organized labor. That ought to raise some eyebrows. The Republicans are getting together with the Democrats. That ought to raise further eyebrows—all in the spirit of we can get up this pool, with all on the endowment to deal our money around for all our conferences. Then they come and talk about the soul of the party, and how if you even belong to a party in another country you are thrown in jail. That is not the

issue here. The issue here is that we have literally gone beyond our means in the last several years. We have been giving a dollar's worth of government for 75 cents. We are wrecking the economy, and the future of this country.

To come now and talk as if you were the one responsible for such solidarity rather stretches the truth. Let me make the record absolutely clear.

The solidarity was organized around 1980. By October 5, 1983, Lech Walesa had already gotten the Nobel Peace Prize for his leadership and for solidarity.

The authorization for the National Endowment for Democracy was in November 1983. The first funds were appropriated for the fiscal year 1984. So after Lech Walesa had already led his successful move that won the Nobel Peace Prize for it, but here this crowd comes, trying to embrace the success of solidarity, and spewing out these editorials that somehow if you do not vote for it you have taken away the labor movement or the solidarity movement in Poland.

I made the comment about AID assistance to solidarity. I had been told that it was AID. It was Public Law 480 where we do have Government entities to give moneys to Poland. We have not turned them off. We give that money for feeding. It goes through the Catholic Church if they want it. They say that is the whole point. I happen to trust our Government. I never have really appreciated too much this so-called nongovernmental thing that we have got to play the Communist or Marxist game—that somehow the Government does not represent the people, and, therefore, to really get people to people going for heaven's sake, do not put its government in. That is the real anachronism in my mind. I have never been able to go along with it.

But if that is their case in point, let them go down and organize, National Institute for Solidarity, and we will get some public funds or private funds, whatever kind of funds because we all admire the work of the solidarity move in Poland. We have supported it on the floor of the U.S. Senate ever since it started. That is not the issue.

The issue here is when they get a nice, neat conspiracy together, go get money, and it causes mischief. What is the track record? The track record is of course they first got involved with the elections down in Panama. The Ambassador had to write: "For Heaven's sake, get the moneys out of here before we get into real trouble, and it becomes public." Thereafter the House voted absolutely no funds.

This thing has been the 3-year contest now to try to even build some integrity and they all talk in the context of soul, but there is no such thing as soul for the National Endowment for Democracy, and turn around now and say, give it a try. We gave it a try, and tried to clean it up from time to time every time we hear it. We have to wash it up, clean behind its ears, brush its teeth, and every other thing. We still cannot get it to understand common sense.

Therein through the labor movement they say you ought to trust them through the so-called Free Trade Union Institute which was involved in trying to overthrow Thailand. So after trying Panama, then Thailand, come Thanksgiving, we read they were trying to overthrow France. I guess the thing is, let them overthrow another friend like Margaret Thatcher in England. I would have to oppose that.

My constituency down in South Carolina has the St. Andrews Society of 1801 which was before the one of Philadelphia. And they have a big toast around the end of November, on the 30th. Last week, they all got up and said, "To His Excellency, the President of the United States." They shuffled out of their chairs, mumble around—whether it is Democrat or Republican they mumble all around.

Then they toast the Queen of England, Queen of Scots, Ireland, all down through the United Kingdom. That is the crowd. They all stand up, tears flow down their cheeks, and they get right reverent and are all at attention. They do not regret the outcome of the Civil War. They regret the outcome of the Revolution.

We could not overthrow England. I am not going to go along with that. I would have to oppose it.

This thing is just not the National Endowment for Democracy, but the National Endowment for Embarrassment. We have never had it come up that it did not embarrass us. They all run around the table, and they say, "Well, our friends in labor, our friends at the chamber asked for the money." Can you imagine this Government giving money to the chamber of comerce, the richest crowd in the United States?

Here we are going to give Government taxpayer money to the chamber, to the political parties, and tell the recipients of student loans like Pell grants, named after the distinguished Senator from Rhode Island who comes talking for this, freeze the Pell Grant Program, freeze women, infants, children's feeding, public housing, and low-income energy assistance, and so forth.

I think we ought to understand that this has got to be once and for all put to bed, and let us cleanup our own houses, gain some credibility for these national parties. These other movements have gotten this Government—namely, the United States of America, not just France, not just Panama, not Thailand and the others—indirectly overthrowing ourselves right here in Washington.

They balance budgets, they pay bills, and they do the job in Burlington, VT, and up in Manchester, NH, in the city halls and the State capitols in this particular land of ours. But here in Washington we run amuk. They come here with Gramm-Rudman-Hollings, and we have to hold defense and national security; and then to come along with a political slush fund for retired politicians and others who want to make visits to the warm islands during the wintertime is an absolute outrage.

I oppose it. I cannot tell the people of South Carolina, "Look at me, I am working hard trying to do a good job for you," and vote for this nonsense.

Well, I do not want to talk further. Let us do our job and go home.

Mr. HATCH. Mr. President, on December 16, 1983, President Reagan, speaking at the ceremony announcing the birth of the National Endowment for Democracy, proclaimed:

> The establishment of the National Endowment goes right to the heart of America's faith in democratic ideals and institutions. It offers hope to people everywhere.

In the less than 2 short years since that day, the Endowment has made an impressive start toward meeting the high expectations that attended its creation. Although the fruits of many of the Endowment's efforts will only be realized over the long term, it already has a number of notable and visible successes to its credit. Yet the Endowment's work and the nature of the role it can play in the larger context of U.S. foreign policy remain largely misunderstood.

The Endowment owes its birth to the general resurgence of faith in and commitment to democracy that has marked the first half of the present decade. It is not surprising that this spirit of democratic renewal has also influenced the practice of the governmental agencies responsible for carrying out U.S. foreign policy. The Agency for International Development [AID] is devoting somewhat greater emphasis to projects that assist the development of democratic political institutions. The Department of State and the U.S. Information Agency are increasingly attentive to those aspects of public diplomacy that involve the worldwide competition of ideas between democracy and its totalitarian adversaries. Obviously, these are welcome developments. At the same time, however, they have led some critics to question the need for Congress to fund a separate nongovernmental institution like the National Endowment for Democracy.

There are many answers to this question. As an organization solely devoted to the promotion of democracy, the Endowment serves as a focal point

for prodemocratic efforts and as a magnet for both Americans and foreign visitors devoted to the democratic cause. As a private, nongovernmental, bipartisan organization, the Endowment's programs enjoy a credibility abroad that U.S. Government programs may sometimes lack. But the most important answer is that the Endowment can do things that Government agencies are unable to do.

The Endowment has identified as its highest priority those programs that directly assist indigenous groups working to advance democratic ideas and institutions within their own countries. U.S. Government agencies are not in a position to provide assistance to programs of a political nature run by foreign nationals. But even if they were, many private groups abroad would be unwilling to accept aid from a Government agency charged with carrying out U.S. foreign policy. In the past, this problem was often dealt with by providing funds covertly to private organizations. But this covert method has been discredited for good reasons—it damaged the democratic credentials both of the United States and of the recipient organizations. In most cases, there is no reason why support for democrats abroad should not be provided openly.

An excellent example of the Endowment's unique ability to supply this vital type of support is the grant it made to Nicaragua's only independent newspaper, La Prensa. In the fall of 1984, the Endowment received an urgent request for help from the general manager of La Prensa, stating that the Nicaraguan Government's refusal to sell it dollars was making it impossible for La Prensa to obtain from abroad the essential supplies it needed to continue its operations. At its December 1984 meeting, the Endowment Board of Directors approved a $100,000 grant that has supplied La Prensa with the ink and other printing material that has enabled it to continue publishing during 1985.

It didn't take long before La Prensa was attacked for accepting this assistance by the Government-controlled Barricada, which accused La Prensa of being financed by an institute linked with the CIA and the Reagan administration. La Prensa forthrigthly responded to the charge in an editorial on March 21, 1985. It noted that Barricada had itself received donations from the U.S.S.R., Bulgaria, and East Germany, and thus was acting hypocritically in declaiming against foreign support. And it asserted:

> The statement that the CIA and the national Endowment for Democracy are one and the same is slanderous and represents an act of ill will, because the organization is under the Congress, not the executive branch.

In a more recent editorial on August 31—which was censored, by the way—La Prensa emphasized that it had received support "not from the U.S. Government but from the National Endowment for Democracy. . . ."

Clearly, the Endowment's nongovernmental character was of the utmost importance to its ability to assist La Prensa. Without the presence of the Endowment, La Prensa very well might not be alive today. What greater loss could there be to the democractic cause than the silencing of this voice, which formerly spearheaded the opposition to the Somoza dictatorship and today, in the face of Sandinista censorship and harassment, continues to speak out on behalf of freedom in Nicaragua? No U.S. Government efforts at public diplomacy could ever hope to make up for the demise of La Prensa.

The role of indigenous democratic groups in the struggle for democracy is simply indispensable. Genuine and devoted proponents of freedom and democracy are to be found in almost every country in the world. Often they are working under difficult conditions, competing against well-funded totalitarian rivals, and they need our financial and moral support. The National Endowment for Democracy gives us an instrument to provide such support—publicly and proudly—on behalf of Congress and the people of the United States. Today such support is being provided by the Endowment to those who cherish freedom not only in Nicaragua, but in Chile, Poland, South Africa, Afghanistan, Guatemala and a host of other countries around the world.

In his remarks on December 16, 1983, President Reagan stated that the creation of the Endowment represented the realization of his hope that "America could make clear to those who cherish democracy throughout the world that we mean what we say." Apart from the concrete financial support it provides to democrats abroad, the Endowment serves a vital symbolic function. It sends a message to friend and foe alike that the United States not only cares deeply about the success of democracy in the world, but is prepared to assist those who are struggling on its behalf. That message is being received, with dismay by our foes, and with delight by our friends. The former watch the Endowment closely and attack it bitterly. The latter eagerly seek out the Endowment. In increasing numbers, individuals and private groups from all over the world are submitting proposals for Endowment support for excellent programs to promote democracy in their own countries.

What message will the U.S. Senate be sending out if it votes to cripple or even to obliterate the National Endowment for Democracy? The Endowment is an initiative that, in President Reagan's words, is "more than bipartisan; it is a genuine partnership of Republicans and Democrats, of labor and business, conservatives and liberals, and of the executive and legislative branches of Government." Announced with great fanfare by the President less than 2 years ago, the Endowment has gotten off to a most promising start.

If, through inadvertence or misunderstanding, we fail to sustain the Endowment today, will not our adversaries conclude that the United States is not serious about contesting the ideological and political field on behalf of democracy? And will not our friends who cherish democracy, if we now dash the expectations that we ourselves have raised, conclude precisely that we Americans do not "mean what we say" about our support for their efforts? Let us not send this shameful and dispiriting message.

Let us be clear on one point. Democracy cannot come about quickly or by decree. We cannot lecture people or insist that they become democratic overnight. Democratic development requires time, patience, resources, and work. We have to be prepared to help and work over years and decades. It is precisely for that reason that we need a National Endowment for Democracy. It offers no easy answers, but if the job is done right—with sensitivity, prudence, political sophistication, and genuine democratic commitment—we could find ourselves facing options more palatable than using force to prop up an unpopular and undemocratic government of the right or succumbing to another advance by the forces of the totalitarian left backed by Moscow.

This is something we should all be able to agree on—conservatives and liberals, Republicans and Democrats.

All of us can agree that we should compete more effectively with the Soviet Union on the political level. But how can we do so if they invest billions in political support to totalitarian unions, parties, journalist organizations, youth organizations, student groups, lawyer's groups, women's organizations and so forth, while we debate the merits of spending a few million to support their beleaguered, underfinanced, overlooked, and neglected democratic rivals?

There are those among us who agree with the objective but feel the work ought to be financed out of private contributions. I do not question their sincerity. But have they seriously considered whether adequate private funds are available for overseas political development work? Quite simply, such funds are not available. Either we put a floor of public funding under such work—as the West Germans have done to their enormous political advantage over the last quarter of a century—or the work will not get done at all.

We cannot compete with a multibillion dollar Soviet operation with the relatively insignificant funds that might be available from private sources. And make no mistake—private dollars do not come without strings. These will be partisan dollars, largely given to promote a particular ideological point of view or movement rather than to strengthen democracy. The only nonpartisan dollars are those that are appropriated by the Congress representing all the people.

There are also those who say that the work is better done by agencies of the U.S. Government, as opposed to a privately incorporated organization like the Endowment which supports the efforts of private-sector groups. Here, again, I do not challenge the sincerity of my colleagues. But I wonder if they have adequately considered the nature of the situations the Endowment must confront—exceedingly sensitive situations in the Third World where democratic centrists find themselves battling groups on the left and right. Such democrats simply cannot function under subvention by the U.S. Government. They would be vulnerable to all sorts of attacks upon their independence and political credibility. They cannot be effective if they are perceived—or can be portrayed—as agents of the U.S. Government.

The National Endowment for Democracy represents a profoundly important and long overdue expression by our country of its enlightened self-interest. Over the long run, democratic systems are the most reliable friend of the United States and the most trustworthy defenders of the values we hold dear.

The fact that we have launched the Endowment is a signal to our democratic friends that we have a stake in their struggles and in their well-being, and that we share with them a profound common interest in the success of democracy in the world. We must not let them down.

This work has only begun. May we have the patience, the fortitude, and the wisdom to see it through.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1323) of the Senator from South Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from North Carolina [Mr. EAST], and the Senator from Arizona [Mr. GOLDWATER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Mr. SARBANES], are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. (Mr. KASTEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 57, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—32

Armstrong	Gramm	Nunn
Baucus	Harkin	Proxmire
Biden	Hecht	Rockefeller
Boren	Heflin	Roth
Bradley	Helms	Rudman
Bumpers	Hollings	Stennis
Burdick	Kassebaum	Symms
Byrd	Long	Warner
Chafee	Mattingly	Weicker
Domenici	McClure	Zorinsky
Exon	Nickles	

NAYS—57

Abdnor	Hatch	Mitchell
Andrews	Hatfield	Moynihan
Bingaman	Hawkins	Murkowski
Boschwitz	Heinz	Packwood
D'Amato	Humphrey	Pell
Danforth	Johnston	Pressler
DeConcini	Kasten	Pryor
Dixon	Kennedy	Quayle
Dodd	Kerry	Riegle
Dole	Lautenberg	Sasser
Durenberger	Laxalt	Simon
Eagleton	Leahy	Simpson
Evans	Levin	Specter
Ford	Lugar	Stafford
Garn	Mathias	Stevens
Glenn	Matsunaga	Thurmond
Gore	McConnell	Trible
Gorton	Melcher	Wallop
Grassley	Metzenbaum	Wilson

NOT VOTING—11

Bentsen	Cranston	Hart
Chiles	Denton	Inouye
Cochran	East	Sarbanes
Cohen	Goldwater	

So the amendment (No. 1323) was rejected.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question occurs on the motion to concur in the House amendment to Senate amendment No. 134.

The text of the amendment of the House to Senate amendment No. 134 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 501. None of the funds provided in this Act for the United States Information Agency shall be awarded to the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, or any other organization connected in any manner with any political party operating in the United States, unless said Institutes agree that such funds received from the National Endowment for Democracy shall not be expended to finance the campaigns of candidates for public office in any country; shall not be used to finance activities of the Republican National Committee or the Democratic National Committee; shall not be used for partisan activities on behalf of either the Republican National Committee or the Democratic National Committee or on behalf of any candidate for public office; and agree that no officer or employee of the Republican or Democratic National Committees may serve as an officer or member of the Board of Directors of either Institute.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, there is only one remaining item and we will be done with this bill.

Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 138.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HOLLINGS. No objection.

The motion was agreed to

The text of the amendment of the House to Senate amendment No. 138 is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided further,* That whereas on January 23, 1985, the Department of Justice published a document entitled "Vertical Restraints Guidelines", for the stated purpose of explaining Federal policy for enforcing the Sherman Act and the Clayton Act with respect to nonprice vertical restraints of trade;

Whereas such policy guidelines extend beyond the matter of nonprice vertical restraints of trade and propose the avoidance of the per se rule of illegality applied by the Supreme Court in 1911 in Dr. Miles Medical Company against John D. Park and Sons Company (220 U.S. 373) to price-related restraints of trade and subsequently applied by the Supreme Court and endorsed by the Congress on many occasions;

Whereas such policy guidelines are inconsistent with established antitrust law, as reflected in Supreme Court decisions and statements of congressional intent, in maintaining that such policy guidelines do not treat vertical price fixing when, in fact, some provisions of such policy guidelines suggest that certain price fixing conspiracies are legal if such conspiracies are "limited" to restricting intrabrand competition; by blurring the distinction between price and nonprice restraints in analyzing a distribution program containing both types of restraints, thereby qualifying the accepted rule that vertical price fixing in any context is illegal per se; in stating that vertical restraints that have an impact upon prices are subject to the per se rule of illegality only if there is an "explicit agreement as to the

specific prices"; in stating that restraints imposed by a manufacturer at the request of dealers are vertical in nature and therefore not subject to the per se rule of illegality; in aggregating the factors of collusion and foreclosure, thereby failing to distinguish adequately between the separate antitrust concerns associated with vertical territorial restraints and with exclusive dealing practices; in stating that less than absolute territorial restraints are "always legal"; and in arbitrarily specifying a 30 per centum minimum market share in the tying product for assessing the legality of tying arrangements;

Whereas such policy guidelines state that the Department of Justice may refuse to attribute to corporations the illegal conduct of their low-level employees acting within the scope of the authority conferred upon such employees by such corporations, contrary to the common law of corporate responsibility and agency in the antitrust context;

Whereas the general business community would be at risk if it accepted and relied upon such policy guidelines as an accurate statement of existing Federal antitrust laws in the area of vertical restraints of trade;

Whereas such policy guidelines relate to an area in which the Department of Justice has brought no enforcement actions in more than four years and may have been published, in part, as an attempt to influence the courts of the United States to pursue a very narrow and limited vertical restraint analysis in deciding private enforcement antitrust cases;

Whereas previous antitrust enforcement policy guidelines issued by the Department of Justice have been substantially based on existing jurisprudence and congressional intent, and therefore have been given considerable weight by the courts of the United States in evaluating the facts in antitrust litigation; and

Whereas the "Vertical Restraints Guidelines" may affect the development of antitrust law to the detriment of competitive pricing of branded goods and services by direct or mail order retailers: Now, therefore be it

Resolved, That it is the sense of the Congress that the antitrust enforcement policy guidelines stated in "Vertical Restraints Guidelines", published by the Department of Justice on January 23, 1985—

(1) are not an accurate expression of the Federal antitrust laws or of congressional intent with regard to the application of such laws to resale price maintenance and other vertical restraints of trade;

(2) shall not be accorded any force of law or be treated by the courts of the United States as binding or persuasive; and

(3) should be recalled by the Attorney General

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I will take 15 seconds to thank my friend from South Carolina and his staff, and to thank our staff on this side for getting this bill through the Senate. It will now go to the President. It is $80 million below our 302(B) allocation as scored by the Budget Committee. I thank everyone who helped us to achieve this goal.

Mr. HOLLINGS. Mr. President, I join in the chairman's remarks. I thank the Chair.

SENATE AGENDA

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I would like to ask the distinguished majority leader if he will state, while a good number of Senators are still on the floor, what the program will be for the rest of the day, whether there will be additional rollcall votes, and what he can tell us about Monday and Tuesday of next week, if possible.

Mr. DOLE. Mr. President, If we could have order in the Senate, I will respond; otherwise it would not do much good.

We have had a number of our colleagues wonder what would be happening the rest of the day and into next week. That pretty much is in the hands of the Appropriations Committee. I have asked the chairman of the committee to respond, if that is satisfactory to the minority leader.

Mr. BYRD. Yes, indeed.

Mr. DOLE. Can we have some general idea from the chairman of the Appropriations Committee?

Mr. HATFIELD. I thank the leadership. I am very happy to respond, but in order to respond accurately and to give some kind of assessment of the situation, I have to take maybe more than a minute.

I should like to say to the body, I hope that those Senators who have approached me at least as manager of the bill and Senator STENNIS as the comanager of the bill, understand that there is a certain background here which controls much of the action that will take place henceforth on the continuing resolution. The President of the United States through the OMB, Office of Management and Budget, had indicated that the continuing resolution as passed by the House of Representatives would be vetoed, or at least the President's senior advisers would not recommend that he sign it, and that is a euphemism for veto.

The President's Office of Management and Budget has issued today a statement to the same effect relating to the Senate committee-reported bill on the continuing resolution. The continuing resolution that we have reported is $20.9 billion under what the President requested. The thing is that the President and the administration do not like the fact that we have allocated it with a different system of priorities within the appropriation process. We are $1.8 billion, according to the OMB scoring system—and I might say that is challengeable from the standpoint of how we would score this—the statement of the OMB is that we are $1.8 billion over the budget resolution for discretionary budget authority in the seven domestic bills that are wrapped into the continuing resolution, but that we are $2.1 billion under the resolution for what was requested in the three bills relating to national security: DOD, military construction, foreign assistance, and related agencies. Consequently, that is where we are.

Now, in the statement of the OMB they further list the fact that we are $35 million over in the D.C. bill. We argued for about a week about $38 million over in budget authority out of $33 billion in discretionary funds in the Labor-HHS bill—$38 million over as they numbered us.

I see the Senator from Idaho sitting here. His Interior bill is subject again to a question of scoring.

Now, all of this comes to this particular situation. I am convinced that the current situation between the OMB and the Congress is that the OMB is determined somehow to find an excuse to veto any continuing resolution that we send down there, any continuing resolution, because there is another interesting reason that they list why they would not sign it. Let me read it:

(That) it does not include extraneous language provisions in either the individual appropriations bills or directly in the continuing resolution.

"Extraneous language"? Well, my colleagues, I can say to you that this could be anything. They do not specify what that is. In my current working relationships—and I can only give you my best assessment—they are anxious to find an excuse to veto the continuing resolution.

Now, that puts us in this kind of a circumstance. There are only two possible alternatives we have to get this particular continuing resolution to conference as quickly as possible and have the conference work out a conference report that will be committed to signing by the White House.

I am convinced from what I understand from my colleagues of the House side that they will not send down any conference report taken by the Senate Appropriations Committee and the House Appropriations Committee that is not precommitted to signing by the White House. They do not want the White House to be put in a position of vetoing any conference report.

Now, if we cannot work it out with the White House representatives who work with us day by day in getting a conference report that could be signed, then the other alternative is to have a fourth continuing resolution. The fourth continuing resolution would probably be a short-termer,

bridging us over into January or whatever.

Now, that is our circumstance. But let me say where we are. This is December 6. We have figured that if we go through the normal process of a continuing resolution, it will take us 3 to 4 days. We can lay it down today and we can sit over here, as we have in the past as managers, and have nobody show up to offer an amendment or very few that will offer any controversial amendments. We can handle the cats and dogs, come back on Monday morning and go through that same thing on Monday, and then by the time we get to Thursday or Friday we might finish the continuing resolution, putting us over into the next week to get a conference report. The President's best friend in the Senate has just been immersed in baptism.

Mr. LAXALT. I think I will move. [Laughter.]

Mr. HATFIELD. Mr. President, we would then be put over into the next week for the conference, putting us at square one. I should like to suggest the possibility of getting to that square early next week. We should understand that no one has lost any rights, but everyone, under the circumstances, should realize that we could spend hours and days on controversial amendments on this floor, and it is going to be an action in futility, because we are not really building on a signable resolution.

If we could then get to the conference with the House by moving this quickly through the Senate and then see what we could work out in conference—and frankly, at this point I would give that situation odds of about 70-to-30 against.

If I were to make any predictions—and I preface that with this statement: I predicted Thomas Dewey's election in 1948. Consequently, my political predictions have not been very good.

If I were to predict today, I would say that we are going to face ultimately a fourth continuing resolution of a short duration.

So the delay is not this weekend. The delay is not a question of Friday and Monday of next week. The question is Christmas.

I urge the Members to consider very carefully the circumstance that if we could lay this matter down today, and if there is a commitment, if any individual Member needs to move it, I am going to be here to manage it, and we will consider it. But I would like to do this: Exercise some restraint, get this measure to conference as quickly as possible, to see if we can work it out with the White House, and if we cannot, to get the fourth CR on the road, where we will have to take action ultimately, anyway, and do that next week, rather than the following week, pushing us up against the deadline of adjournment, expiration, and all the other "must" items we face from time to time.

Mr. DOMENICI. Mr. President, will the distinguished chairman of the Appropriations Committee yield for a question?

Mr. DOLE. The minority leader has the floor.

Mr. DOMENICI. Will the distinguished minority leader permit the Senator from New Mexico to ask a question?

Mr. BYRD. I did not really intend to hold the floor any longer. I hope that when the distinguished chairman and Mr. DOMENICI have finished, the distinguished majority leader will tell us, based on what we have heard, what we can expect for the remainder of the day and Monday and Tuesday.

While I have the floor, I congratulate the chairman of the Appropriations Committee on the outline he has presented. I think it makes a lot of sense. As he said, if this measure passes in the Senate next Wednesday or Thursday, those who want to be around another week will be very pleased. I hope that we will listen and restrain ourselves as much as possible and, on both sides, have as few minutes as possible.

Mr. HATFIELD. Mr. President, will the Senator yield for a followup to that?

Mr. BYRD. I yield.

Mr. HATFIELD. I should like to say that we are not in a situation of confrontation. I do not want to leave that impression.

We have had three appropriations bills signed into law. We have sent another—Military construction—have two more cleared, with the conference reports having been acted upon today—State-Justice-Commerce and Labor-HHS; and by our current signals, they will be signed by the President.

My view has been to try to get each bill signed into law, even though I have reacted against scorekeepers changing the goalposts from budget authority to budget outlays. We have worked diligently with OMB and others to try to get bills at acceptable levels. We will continue to do that, and bills will continue to drop out of the CR as they are signed into law. All I am saying is that at this time we have in Transportation and the Interior bill along with the other remaining bills, and we have reached a point where I am not sure that we have much more maneuvering room.

Mr. BYRD. I thank the distinguished Senator from Oregon.

Mr. DOLE. Milcon, too, will drop out. Is that correct?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if I may ask the distinguished chairman of the Appropriations Committee a couple of questions.

Before I do that, let me say as one who might not agree with the CR in terms of whether it is or is not within budget—it seems to be that it is not and I do not necessarily agree that we should pass it, it does seem to me that what the distinguished chairman of the Appropriations Committee says makes sense.

I should like to be in the position where I do not have to stay on the floor and offer amendments to reduce the bill. I would like to encourage the Senate, as the chairman has said, to get the continuing resolution passed and get to conference.

For me to be in the position of saying I would like to do that, since I think our bill is over and the House bill is over in terms of budget outlays, I wonder if the distinguished chairman would share with us the specific objections of the administration—not necessarily here on the floor, but eventually—with respect to programs of a major size that the administration claims violate some policy on its part. As long as the White House is resisting them and you have to go to conference, it is not apparent to me that I need to duplicate that effort here on the floor. As a member of the Appropriations Committee I would hope to be involved with the executive branch and the appropriations conference on such issues.

So, can the chairman share those with us later?

Mr. HATFIELD. I respond by saying that I would be happy to share them. I do not think it is quite that simple.

As an example, in this little epistle that they released from the Office of Management and Budget, they list one of the specific objections.

If the Senator will recall, the Treasury-Postal Service bill was vetoed by the President. We took that bill and we wrapped it into the continuing resolution yesterday, in the committee action, bringing those excess outlays down by reducing postal subsidies, and so forth. They list that measure today in their little statement as being $108 million over the budget resolution.

I said, "What in the world is the basis for that?"

The response was, "Well, you will have to add that amount in a supplemental later on in the year."

Therefore, they are scoring that bill for what they anticipate might be in a supplemental they have not yet requested, on a bill that is near zero in excess outlays.

If I ever saw a changing goalpost or a shifting sand situation, it is this. I do not know how I can come to any other conclusion than that there is some desire to have some kind of confronta-

tion on this point, if they are not going to score the bill as it is appropriated but under an anticipation of a future administration supplemental request. That is an example.

In talking to Mr. WRIGHT this morning and expressing some concern over some of these things, I found him most cooperative. I hope we can work this out. I say to the chairman of the Budget Committee that this is one of them.

We have a $750 million clean coal item offered by the Senate Democratic leader in the Interior bill. The entire $750 million is not appropriated in fiscal year 1986, but because it is identified in this bill as being made available for obligation over a period of time in the outyears, they are scoring it all as fiscal year 1986 authority. If I am wrong, I ask the chairman of the subcommittee to correct me.

There is another example of how we are really arguing, in a sense, on a system of scoring more than we are on the amount we are over the budget resolution.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. McCLURE. Mr. President, the Senator has stated it correctly. The Congressional Budget Office scores it as we think appropriate and does not score the entire $750 million against us this year, but OMB does. That is a dilemma we have.

I think that under the guidelines we have been following, we follow the CBO scoring in our actions here. But that does not necessarily mean that OMB is going to follow it and would not recommend a veto on the basis of the difference in the way they score.

A second example: We adopted—it may have been in the committee—the Mattingly amendment with respect to oil purchases for the strategic petroleum reserve. We adopted in our actions something that has been floating around here for a long time. Why not use some of our commodities in barter?

Let us take some of those commodities that we hold in surplus and barter it for oil, and the Senate said that makes good sense; let us try that $160 million worth.

They have come back now and, as I understand their argument, saying but that is not $160 million savings, even though you own that corn, because if you use the corn to barter for oil that means that other corn would not be sold and that will either cause the price to be depressed and increase the support deficiency payments or the Government ends up buying more for CCC sometime in the future and, therefore, it is not a saving.

If we start in that business of trying to calculate the offsetting effects of every one of our expenditures and the impact it might have on something else, we have an endless problem.

How in the world could we look at the purchases for the strategic petroleum reserve as an example and say, all right, this is going to cost us more than just the outlays, because it is going to raise the price of oil and cause some other kinds of problems, or maybe we will go over and look at the windfall profit tax and try to calculate the enhanced revenues because the price went up and therefore reduce the impact. That is an endless process.

While those are important considerations and subject to debate, I do not think they are the kind of scorekeeping that gets us anywhere with respect to whether or not we are meeting budgetary goals.

I share with the Senator from Oregon, the distinguished chairman of the Appropriations Committee, the frustration of trying to deal with this and would add only one further thing with respect to the Interior and related agencies appropriations bill that is in this continuing resolution, and that is that there are such wide differences between the House-passed bill and the Senate position that there is only one way to resolve them and that is to get into the conference.

Mr. HATFIELD. That is right.

Mr. McCLURE. Until we get to the conference, we will not know whether we are over or under until we have taken composite actions.

We simply have to at some point pass a bill and get to the conference and try to work it out and then we can start coming to grips with the question of whether we are over or under.

Mr. DOMENICI addressed the Chair.

Mr. DOLE. Could I interrupt because a number of colleagues who would rather not debate it now want to know whether we are going to take it up? The answer is yes. Is that correct? And we will.

Mr. HATFIELD. My attempt would be, if the leadership approves, to take up the continuing resolution and move it quickly as possible, taking any amendments and listening to any arguments on amendments, disposing of those amendments and going to third reading.

Mr. DOLE. Is it that rollcall votes could occur this afternoon?

Mr. HATFIELD. I cannot predict that. But if that is the only way that such amendments that would be offered can be settled then that is up to the author of the amendment.

I would hope that possibly we could move this without any rollcall votes and get this continuing resolution into conference.

I remind the Senate we handled the second continuing resolution in about 3 minutes. No one's rights were impaired or impinged upon.

I think in this case there will have to be some major part of the discussion with the chairman of the Budget Committee on some of these specific concerns and what we are hopeful we can work out in conference. Out of that discussion and dialog, we can dispose of scorekeeping obstacles and then, if individual Members would withhold or restrain themselves from offering amendments we might move this continuing resolution, bearing in mind that in all probability we will have another vehicle coming down the track. As a consequence, no one is going to be forestalled from having some matter taken care of on an appropriations measure.

Mr. DOLE. Mr. President, the distinguished minority leader had to leave the floor temporarily but he wanted me to try to make the record.

So, as I understand it, and I certainly share the view expressed by the chairman, I would hope that we could dispose of this this afternoon without any rollcall votes. There are a number of Members concerned about rollcall votes later today and rollcall votes on Monday. That is going to depend on who offers which amendments and whether or not they are going to be disputed. If we want to leave here next Friday, and I understand that is the desire of most Members, we cannot waste this afternoon and all day Monday and then start on this on Tuesday, or Wednesday, or Thursday. It is all over.

Mr. McCLURE. Will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. McCLURE. I thank the Senator for his statement.

I want in candor to indicate that yesterday when we tabled the interior and related agencies appropriations bill, there was some discussion by the distinguished Senator from Ohio, who is not now on the floor, with respect to what that did to his right to pursue the Synthetic Fuels Corporation amendment. The continuing resolution has within it today a compromise which was worked out in the subcommittee which we are offering to the Senate between the all-or-nothing approach of defeating the Metzenbaum amendment or passing it, or agreeing with the House bill or denying it.

I am not certain that the people who are involved in that discussion such as the Senator from Oklahoma [Mr. NICKLES] who I see on the floor, and Senator MATTINGLY and others who may want to have a vote on that issue before we pass this continuing resolution—will agree unless indeed they can be satisfied that this action is temporary and that they have a shot at that kind of a decision on some other vehicle in the very near future.

Mr. DOLE. Let me indicate there are 89 Members here. There are six absent

on our side and five on the other side. So it is a balanced absentee list. It would not preclude a vote on that this afternoon.

Mr. DOMENICI. Mr. President, I have to leave the floor to go to another conference, but I want to complete my thought.

I want to tell the Senate that as chairman of the Budget Committee I would like to cooperate. It may not be necessary for me to raise the budgetary issues on this bill if I think the budgetary issues can be raised and satisfactorily dealt with in the conference, and that is what I understand the chairman to be saying.

I would just like to be assured that the issues that we perceive to be budgetary have been raised by the White House. If I am satisfied that they are going to be addressed in conference, I may not have to raise them on the floor.

Senators are expecting me to raise issues on the floor because some of the individual bills are over the budget. Indeed, the continuing resolution is over the Appropriations Committee's overall 302(a) outlay allocation in my view.

I am saying I may not raise these issues, not because I agree that the White House has no valid point. They have many valid points. Many of the OMB director's objections are valid in my opinion. In that respect I disagree to some extent with other Senators and with the chairman of the Appropriations Committee. But I do not believe we necessarily have to waste time on them if they can be handled in a conference where both bills differ and the White House is involved.

So I will let the chairman know very soon. I believe I will be able to tell him in 10 or 15 minutes whether I have any objections at all to the bill.

Mr. HATFIELD. If the Senator will yield, let me respond to his statement. Let me assure the Senator, who is not only a member of the Appropriations Committee but is chairman of the Budget Committee, that we could not escape these issues even if we wanted to and we do not want to for two reasons

One, we are determined to get every one of these bills signed in one form or another and that is our commitment; and two, we are in daily communication with the OMB on the administration views, computations, and analysis of our bills. We have in the same kind of relationship with the administration that the Budget Committee does during the budget resolution process. We are working from two positions here but with one perspective, getting a bill signed by having the input of the Office of Management and Budget which counsels the President on whether to sign or veto. That is the way those issues are going to be resolved in conference or in the process that follows that conference.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. DOLE. Mr. President, I do not want to cut anyone off but I understand the minority leader has no objection to taking up the continuing resolution. Maybe we should do that and then have the debate on the continuing resolution rather than prior to taking it up.

I ask unanimous consent that the Senate now turn to the consideration of calendar No. 451, (H.J. Res. 465), the continuing resolution.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. PRYOR. Mr. President, reserving the right to object, and I shall not object, if I might, the Senator from Arkansas is confused about one aspect of the continuing resolution. If the distinguished chairman of the Appropriations Committee would attempt to answer one question on page 3 of the continuing resolution relative to the Department of Defense appropriations, my question to the distinguished chairman is this: If we would, for example, pass the continuing resolution this afternoon or Monday, would we be actually making the 1986 appropriations for the Department of Defense under this continuing resolution?

Mr. HATFIELD. To answer the question, the answer is basically yes. The Senate, in effect, would be passing the defense appropriation bill as reported by the Committee on Appropriations to go to conference and then resolve our differences with the House-passed defense bill in conference.

Now, the two Defense Committees have not met in conference. Therefore, those differences that have not been resolved and the resolution of those differences will be made then by the full committees at the continuing resolution conference, which would then be presided over at that time by Chairman WHITTEN or myself, because we alternate, and the entire conference would then by resolving the differences under the subcommittee chairman, Senator STEVENS, and Chairman CHAPPELL, who is acting for Chairman ADDABBO in the House committee.

Mr. PRYOR. If the chairman will yield further for a question, would this not preclude Members of the Senate, such as myself, who might have an amendment to offer specifically to certain sections of the DOD Appropriations Act of 1986, would not this preclude this Senator's opportunity to offer those amendments?

Mr. HATFIELD. Well, no, the Senator would have an opportunity to do that on the conference report that would come back from the conference after the compromises have been worked out within the defense area. The Senator from Arkansas then would have the conference report before the body.

Mr. PRYOR. Which would be amendable.

Mr. HATFIELD. With the amendment rights to that conference report that incorporates the defense appropriation compromise.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. FORD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. The Democratic leader was very anxious to get some sort of an answer or scenario for this afternoon and Monday. What I am hearing now, since he had to leave the floor for a few moments, is that we do not know. The chairman of the Budget Committee says he probably will know, he will know in the next 15 or 20 minutes, about votes or objections. The Senator is saying that he hopes that we can just vote on this and send it to conference and work it out there. Others want their amendments to be considered now.

It probably would be easier to amend our continuing resolution than it would be to amend the conference continuing resolution. So I am not sure that any of us are very comfortable with what is going to happen this afternoon and what is going to happen Monday.

I see the majority leader has left the floor. I was asked to try, as best could, to see what would happen the rest of the day and on Monday. Since the majority leader basically has turned control of this over to the distinguished chairman of the Appropriations Committee, could he give us some sort of hope or false hope?

Mr. HATFIELD. Mr. President, I say to the Senator I would like to be able to give him a very explicit answer, but I am not in a position to do so. I have no knowledge of what will be offered as amendments. We are going to be here to handle the bill and to consider the amendments any Members may have. We are going to be very open-minded in trying to accommodate and help Members on such amendments, if they have them.

By the same token, we are going to move this bill as rapidly as possible. We are not going to hold it up because somebody is not here. This is a legislative day and are here to conduct business.

Mr. FORD. I have no problem with that. I say to the chairman that I am here, too.

Mr. HATFIELD. I am very hopeful that I could make clear again that, as in the case of the Senator from Arkansas, we are going to have amendments out of that conference that are in disagreement. They are going to have to come back and, of course will be vehicles to consider any further amendments. The Senator from Arkansas, or any other Senator, would be protected by that obvious fact of life that will occur out of that conference.

Now, let me add one further complication. I am not sure that we are going to be able to work out a conference report that would be acceptable to the White House. If we are not able to get a commitment from the White House, as I indicated earlier, I am persuaded, from what I understand now, that the House will not act upon a conference report, even if we agreed to one as between just the House and the Senate, but rather put up a fourth continuing resolution. And, of course, if that happens, the Senator from Arkansas and any other Senator would still have a vehicle to act upon in any single amendment, whether it is on this conference report within those matters in disagreement or in a fourth continuing resolution, or in a supplemental. But, one thing for sure is we have a deadline on the current continuing resolution of Thursday, the 12th of December. That is next week. We are going to have to act upon something.

Mr. METZENBAUM. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. METZENBAUM. I believe my name was somehow mentioned during the discussion. I did not hear it, but somebody told me that it was.

I would like to advise the Senator that I do have a concern about getting a vote on the Synthetic Fuels Corporation funding of about $7.8 billion. It has been changed to a lower figure in the committee. I do not think anybody is going to be convinced, one way or the other, by any lengthy debate. The Senator from Ohio—and I cannot speak for my colleague from Washington—but I believe we would be willing to agree to a 10-minute time limit on each side in order to place this issue squarely before the body: Do they want to provide some funding, no funding, or full funding?

I say to the Senator that there need not be any lengthy debate, because I have some great speeches but I am self-contained enough that I need not deliver them in connection with the subject. I will find something else.

Mr. HATFIELD. I believe most of us have heard them.

Mr. METZENBAUM. Yes; I thought the Senator would be pleased to hear that.

Mr. HATFIELD. Mr. President, to the Senator from Ohio, I wish to say in response that I understand the Senator's concern on this, and there may be others. Why do we not get onto the bill? Why do we not get an agreement such as this, get this matter up quickly, get a time agreement of 10 minutes on each side, have a vote, and get moving on any other such matters that may have to be brought up?

When I urged the Senate to restrain themselves, I did not expect it to be like the second continuing resolution. All I am saying is that no matter what we decide at this time on this bill, the next decision is not going to be made here. The next decision is going to be made in conference.

But I would be very happy to get on the bill under the unanimous-consent request made by the majority leader and to engage in a time agreement with the Senator from Ohio, to get that issue up, have it disposed of, and those who want to get out of here by 3 or 4 may do so.

Mr. METZENBAUM. Is it my understanding that the unanimous-consent request was merely to get on the bill?

Mr. HATFIELD. It was.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. EVANS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, this will take only a minute, and I do not want to delay things. I believe the Senator from Oregon, the chairman, has the appropriate direction and we ought to take that.

I join with my colleague from Ohio in agreeing that an amendment on the synfuels industry would be short. But I must say that it is important, in my view, for this and perhaps a few other amendments in areas where we have not had a chance yet on the floor of the Senate, to really get into amendments on either the Defense or the Interior bill.

In this case, it does make a difference, it seems to me, as to what positions the two Houses bring to the conference. The House has already eliminated the synfuels industry. If we are going in with this so-called compromise, which I do not really think is a compromise, then we have a quite different position than if we were to go in having done essentially the same thing the House has done.

I believe it is terribly important to move to have a vote. I agree it is not going to take very long. I believe we ought to proceed on this basis.

The PRESIDING OFFICER. The question is on the unanimous consent request. Is there objection?

Without objection, the Senate will proceed to consider the continuing resolution. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with an amendment to strike out all after the enacting clause, and insert the following:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.J. RES. 465

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1986, and for other purposes, namely:

SEC. 101. **[**(a) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3037, the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986, as passed by the House of Representatives on July 24, 1985**]** *(a) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3037, the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986, as passed by the Senate on October 16, 1985.*

[(b) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2965, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986, as passed by the House of Representatives on July 17, 1985.**]**

(b) Such amounts as may be necessary for programs, projects, or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 (H.R. 2965), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-414), as filed in the House of Representatives on December 4, 1985, as if enacted into law: Provided, That such conference report shall be considered as including Senate Amendment Numbered 134.

[(c) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3629, the Department of Defense Appropriations Act, 1986, as passed by the House of Representatives on October 30, 1985.**]**

(c) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3629, the Department of Defense Appropriations Act, 1986, as reported to the Senate on November 6, 1985 (Senate Report 99-176): Provided, That sections 8097, 8098, 8099, and 8100 as passed by the House on October 30, 1985, are hereby deleted.

[(d) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3067, the District of Columbia Appropriations Act,

1986, as passed by the House of Representatives on July 30, 1985.]

(d) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3067, the District of Columbia Appropriations Act, 1986, as passed by the Senate on November 7, 1985.

[(e) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3011, the Department of the Interior and Related Agencies Appropriations Act, 1986, as passed by the House of Representatives on July 31, 1985.]

(e) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3011, the Department of the Interior and Related Agencies Appropriations Act 1986, as reported to the Senate on September 24, 1985.

[(f) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3244, the Department of Transportation and Related Agencies Appropriations Act, 1986, as passed by the House of Representatives on September 12, 1985.]

(f) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3244, the Department of Transportation and Related Agencies Appropriations Act, 1986, as passed by the Senate on October 23, 1985: Provided, That, notwithstanding any other provision of this subsection, the rate for Coast Guard "Operating Expenses" shall be $1,752,000,000, of which $10,000,000 shall be derived from unobligated balances of "Pollution fund" and of which $15,000,000 shall be expended from the Boat Safety Account: Provided further, That, notwithstanding any other provision of the subsection, the rate for Federal Aviation Administration "Operations" shall be $2,714,400,000, of which not to exceed $446,000,000 shall be derived from the Airport and Airway Trust Fund.

(g) Such amounts as may be necessary for programs, projects, or activities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (H.R. 3424), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference [(House Report 99-402) as filed in the House of Representatives on November 21, 1985, as if enacted into law] *in the form in which that conference report was adopted by the House of Representatives on December 5, 1985, as if enacted into law, and that report shall be considered to include Senate Amendment Numbered 188 as amended by the House of Representatives.*

(h) Such amounts as may be necessary for programs, projects, or activities provided for in the Military Construction Appropriations Act, 1986 (H.R. 3327), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-380) as passed by the House of Representatives on November 20, 1985, *and as passed by the Senate on November 22, 1985,* as if enacted into law.

(i) Such amounts as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service, and General Government Appropriations Act, 1986 (H.R. 3036), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-349) as passed by the House of Representatives *and the Senate* on November 7, 1985, as if enacted into law except that such conference report shall be considered as not including Senate Amendment Numbered 83 as amended by the Conferees: *Provided, That appropriations made by this joint resolution for the following accounts shall not exceed: $1,019,391,000 for "Internal Revenue Service, processing tax returns"; $1,419,451,000 for "Internal Revenue Service, examinations and appeals"; and $748,000,000 for "Payment to the Postal Service Funds".*

[(j) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3228, the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the House of Representatives on August 1, 1985: *Provided,* That not withstanding any other provision of this subsection the following shall apply: no funds in this subsection are earmarked for scholarships for South African students; funding in the amount of $3,689,286,666 shall be available for the "Economic Support Fund"; the amount and requirements associated with a cash transfer to Egypt shall be in accord with the provisions included in section 202(b) of Public Law 99-83; no funds shall be required to be transferred from sections 103 through 106 of the Foreign Assistance Act of 1961 to the "Economic Support Fund" for Zimbabwe; the requirement contained in H.R. 3228, the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the House of Representatives on August 1, 1985, that "Economic Support Fund" assistance for Guatemala may be used only for development activities aimed directly at improving the lives of the poor, especially the indigenous population in the highlands, does not apply; funding in the amount of $764,648,000 shall be available for "Military Assistance"; funds in the amount of $5,058,983,333 shall be available for "Foreign Military Credit Sales"; funds in this subsection for the Lavi Program shall be made available in accord with the provisions included in section 101(c)(3) of Public Law 99-83; no foreign military credit sales funds in this subsection shall be transferred to "Military Assistance" or the "Economic Support Fund"; no funds in this subsection are appropriated under the heading "Guarantee Reserve Fund"; section 620(A)(a) of the Foreign Assistance Act of 1961 is amended by inserting "the Export-Import Bank Act of 1945," after "the Peace Corps Act,"; sections 521, 527, 543 and 549 in H.R. 3228, the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the House of Representatives on August 1, 1985 do not apply; section 539 of H.R. 3228, the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the House of Representatives on August 1, 1985, shall not apply to Bolivia, except for the final provisions; titles I, II, and III of H.R. 2253 as reported on May 15, 1985 and section 3 of H.R. 1948 as introduced April 3, 1985, are hereby enacted; funding in the amount of $337,930,000 shall be available for Migration and Refugee Assistance.]

(j) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in S. 1816 (except for the provision contained on page 24, line 22 through page 25, line 10 and the proviso contained on page 26, lines 14 through 18), the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the Senate on October 31, 1985: Provided, That notwithstanding any other provision of this subsection, not more than $375,000,000, to remain available until expended, shall be available for the second installment of the United States contribution to the seventh replenishment of the International Development Association: Provided further, That notwithstanding any other provision of this subsection, gross obligations for the principal amount of direct loans for the Export-Import Bank of the United States shall not exceed an aggregate of $1,800,000,000: Provided further, That notwithstanding any other provision of this subsection, of the funds provided under the "Economic Support Fund", not less than $15,000,000 shall be made available only for Ecuador, which sum shall be disbursed within thirty days after enactment of this Act; $80,000,000 shall be made available for Portugal; $1,000,000 shall be made available for a program to strengthen the judicial system in Peru; up to $20,000,000 may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961; not less than 35 percent of the funds allocated for the Human Rights Fund for South Africa shall be made available in accordance with section 802(d) of Public Law 99-83; $22,500,000 shall be made available for Tunisia; and $15,000,000 shall be made available for Uruguay: Provided further, That notwithstanding any other provision of this subsection, of the funds provided under the heading "Foreign Military Credit Sales", up to $10,000,000 may be made available for Guatemala: Provided further, That notwithstanding any other provision of this subsection, of the funds provided under the heading "Military Assistance", up to $10,400,000 may be made available for Zaire: Provided further, That notwithstanding any other provision of this subsection, of the funds made available under the heading "International Narcotics Control", $1,000,000 shall be made available to carry out the provisions of section 607 of Public Law 99-83: Provided further, That notwithstanding any other provision of this subsection, of the funds made available under the paragraph "Energy and selected development activities, Development Assistance", up to $100,000 may be made available in accordance with the provisions of section 714(d) of Public Law 99-83: Provided further, That notwithstanding any other provision of this subsection, of the funds made available to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $1,000,000 shall be made available for literacy and other education programs in Haiti.

(k) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1985, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1985, at the current rate: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1985:

Activities under sections 236, 237, and 238 of the Trade Act of 1974: *Provided, That, in*

addition to any sums otherwise provided herein there is appropriated $4,588,000 to the Department of Labor, "Training and Employment Services", for necessary administrative expenses related to those sections of that Act;

Activities under the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act including $50,000,000 for targeted assistance grants and $4,000,000 for voluntary agency matching grants; title IV and part B of title III of the Refugee Act of 1980; and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980;

Foster care and adoption assistance activities under title IV-E of the Social Security Act under the terms and conditions established by sections 474(b) and 474(c) of that Act, and sections 102(a)(1) and 102(c) of Public Law 96-272: Provided, That, for the purpose of giving effect to this paragraph, references in such sections to fiscal year 1985 are deemed to be references to fiscal year 1986; and

Minority science improvement activities under section 528(3) of the Omnibus Budget Reconciliation Act of [1981; and

[Payment to the Corporation for Public Broadcasting under the Communications Act of 1934, as amended, for the fiscal year 1988: *Provided*, That for purposes of this payment, the current rate shall be the amount of the payment provided for fiscal year 1987.] *1981.*

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 13, 1985, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1986, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

[SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

[SEC. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy or foreclosure, all as authorized by existing law.

[Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.]

SEC. 105. Title I, Chapter I of the Act of August 15, 1985 (Public Law 99-88), is amended by deleting, under the heading "Cooperative State Research Service," that portion of the land description dealing with lands to be conveyed to the Sierra Blanca Airport Commission that reads "R10E" and substituting in lieu thereof "R15E".

SEC. 106. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $40,000,000, to remain available until expended, for 'Watershed and Flood Prevention Operations' for emergency measures as provided in sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205).

SEC. 107. Notwithstanding any other provision of this joint resolution, not to exceed an additional $9,549,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses, as authorized under 12 U.S.C. 2249.

SEC. 108. Notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369) or any other provision of law, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in New York, New York but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for any authorized project in New York, New York under title I of such Act, as amended or for any authorized project in New York, New York under title I of the Public Works and Economic Development Act of 1965 as amended.

SEC. 109. (a) Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.".

(b) Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended by—

(1) inserting "(a)" before "Any officer or employee";

(2) inserting after "Drug Enforcement Administration" the following: "or any State or local law enforcement officer"; and

(3) adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 110. Subsection (c) of section 924 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to any" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or any";

(2) adding after the words "in addition to the punishment provided for such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the" the words "felony or".

SEC. 111. (a) For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $20,000,000, to remain available until expended.

(b) Section 5 of Public Law 98-101 (97 Stat. 719) is amended—

(1) in subsection (b), by striking out "up to five persons,"; and

(2) in paragraph (2) of subsection (e), by striking out "the services" through the end of such paragraph and inserting in lieu thereof "services".

SEC. 112. Notwithstanding any other provision of this joint resolution, $10,000,000 shall be transferred from the "Small Business Administration, Disaster Loan Fund" to "Small Business Administration, Salaries and expenses" for disaster loan making activities, including loan servicing.

SEC. 113. Notwithstanding any other provision of this Joint Resolution, on or after May 1, 1986, the Secretary of Defense is directed to make such reductions as are necessary to insure that payments from the Military Personnel accounts shall not exceed a rate in excess of the rate required to limit the total of such payments to the total amount appropriated to these accounts in fiscal year 1986.

SEC. 114. Notwithstanding any other provision of this or any other Act, of the funds appropriated or otherwise made available to or for the use of the Department of Defense in fiscal year 1986, not more than a total of $1,277,793,000 may be obligated or expended for consultants, studies and analysis, and management support contracts; and contract systems engineering and contract engineering technical services (as such activities are identified in the Department of Defense fiscal year 1986 President's Budget documents identified as "PB-21" and "PB-25"): Provided, That such total may be exceeded upon notification to the Congress by the Secretary of Defense that additional funds are necessary to meet critical unforeseen military requirements.

SEC. 115. Notwithstanding any other provision of this joint resolution, the limitation on emergencies and extraordinary expenses in "Operation and Maintenance, Navy", is $3,787,000.

SEC. 116. Notwithstanding any other provision of this joint resolution, the amount appropriated for "Operation and Maintenance, Army National Guard", is $1,656,500,000.

SEC. 117. Notwithstanding section 101 of this joint resolution, the amount provided under this joint resolution for "Missile Procurement, Air Force" is $8,770,831,000 without regard to the prohibition on further development or procurement of the Titan 34D7 program.

SEC. 118. Section 1302 of Public Law 98-181 is amended to substitute in the first sentence "period of two years" with "period ending January 1, 1989".

SEC. 119. The Secretary of the Army is directed to accomplish emergency bank stabilization work at Bethel, Dillingham, and Galena, Alaska, at full Federal cost, within available funds, at an estimated cost of $1,500,000. Such funds were previously appropriated in Public Law 99-141 (99 Stat. 564).

SEC. 120. It is the sense of the Congress that all countries receiving United States foreign assistance under the Economic Support Fund, Foreign Military Credit Sales, the Military Assistance Program, International Military Education and Training, the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating durable solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited and conducted by the country of asylum without respect to race, sex, religion, or national origin.

SEC. 121. Notwithstanding section 102 of this joint resolution, for necessary expenses to carry out title II of the Federal Water Pollution Control Act, other than sections 201 (m)(1-3), 201(n)(2), 206, 208, and 209, $2,400,000,000, to remain available until expended: Provided, That, of the amounts appropriated under this section, only $600,000,000 shall be immediately available, with remaining amounts to become available only upon enactment of a subsequent appropriation act authorizing obligation of such funds: Provided further, That availability of funds appropriated by this section shall not be limited to phases or segments of previously funded projects: Provided further, That allocation of the $600,000,000 initially made available by this section shall be in accordance with the formula in effect on October 1, 1984.

SEC. 122. Notwithstanding section 102 of this joint resolution, up to $8,000,000 of the funds appropriated for the Veterans' Administration under the heading "Medical care" in Public Law 99-160 may be transferred to and merged with the funds provided under the heading "General operating expenses".

SEC. 123. In addition to any other amounts appropriated for the Veterans' Administration for fiscal year 1986 for the purpose of making payments to employers under the Emergency Veterans' Job Training Act of 1983, $55,000,000 for the Veterans' Administration for such purposes. Such amount shall be available only upon the enactment of legislation authorizing the appropriation of the sum contained in the preceding sentence and shall remain available until September 30, 1988.

[SEC. 107. None of the funds made available by this or any other Act for fiscal year 1986 to the Office of the Secretary, Department of the Interior, shall be expended to enter into any agreement with respect to Westlands Water District v. United States, et al. (CV-F-81-245-EDP) unless Congress enacts legislation authorizing the Secretary of the Interior to enter into such an agreement.]

SEC. 124. None of the funds made available by this or any other appropriations Act, which make appropriations for the Office of the Secretary, Department of the Interior, for fiscal year 1986, shall be expended to implement any settlement which may be approved or ordered by the United States District Court for Eastern California with respect to Westlands Water District v. the United States, et al. (CV-F-81-245-EDP) until 120 calendar days have elapsed from the date on which the Congress has received from the Secretary a copy of such court approved or ordered settlement.

[SEC. 108. Notwithstanding any other provision of this joint resolution, $2,500,000 shall be available for the Smithsonian Institution, restoration and renovation of buildings, for the Freer Gallery of Art.

[SEC. 109. Notwithstanding any other provision of this joint resolution, persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council.]

SEC. 125. Notwithstanding any other provision of this joint resolution, persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: Provided, That any persons so designated shall serve without cost to the Federal Government.

SEC. 126. For purposes of this joint resolution the proviso beginning on line 7, including the colon, and continuing through the word "received" on line 13, on page 11 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall not be effective.

SEC. 127. For purposes of this joint resolution, the matter on p. 13, line 15, beginning with "and of which" through "Burr Trail Road" on line 3 of p. 14 of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be deemed to read as follows:

"and of which not to exceed $8,700,000 shall be expended for engineering and construction of the Burr Trail National Rural Scenic Road in and adjacent to the Capitol Reef National Park and the Glen Canyon National Recreation Area and an interpretive center near the town of Boulder, Utah, such funds to be transferred to the State of Utah for accomplishment of these activities in accordance with the provisions of a cooperative agreement to be developed among the National Park Service, the Bureau of Land Management, Garfield County, and the State of Utah: Provided, That appropriations for maintenance and improvement of roads within Capitol Reef National Park and Glen Canyon National Recreation Area and construction and maintenance of an interpretive center shall hereafter be available for such purposes without regard to whether title to such road rights of way or lands for the interpretive center is in the United States: Provided further, That in the event the National Park Service fails to maintain the road as provided under the terms of said cooperative agreement, any rights of way which may be transferred to the National Park Service will revert to Garfield County: Provided further, That in the event of reversion of the road to Garfield County, the County shall provide payment to the United States an amount based upon the depreciated value of the capital investment resulting from Federal funds expended on the road for construction purposes".

SEC. 128. For purposes of this joint resolution, the matter on page 17, line 6, before the period of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: ": Provided further, That the loan ceiling established under section 4(b) of Public Law 97-310, the Wolf Trap Farm Park Act, as amended, is increased to $9,500,000. Notwithstanding the loan repayment provisions of Public Law 97-310, the dollar amount of items paid for by the Wolf Trap Foundation from funds provided by the additional loan authority in this section that is subsequently reimbursed to the Foundation by a court award or insurance settlement shall be repaid to the Secretary of the Interior by the Wolf Trap Foundation within 90 days of the date of the court award or insurance settlement".

SEC. 129. For purposes of this joint resolution, the matter on line 3 on page 18 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: "shall be deposited in a special fund to be established on the books of the Treasury and be immediately available for payment of".

SEC. 130. For purposes of this joint resolution, the provisos beginning on page 23, line 9, through line 1, on page 24 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall not be effective.

SEC. 131. For purposes of this joint resolution, the matter on page 26, line 11, starting with the word "shall" through "September 30, 1985" on line 17 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: "shall enter into contracts only for the provision of supplementary educational services for Indian children".

SEC. 132. For purposes of this joint resolution, the matter on page 26, line 25, before the period of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: ": Provided further, That the Secretary of the Interior shall transfer without cost to the Saint Labre Indian School of Ashlcnd, Montana, the interests of the United States in the supplies and equipment acquired by or for the school during the period when it was financially aided by the Bureau of Indian Affairs".

SEC. 133. For purposes of this joint resolution, the following matter is deemed to be inserted after line 13 on page 35 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985: "Notwithstanding any other provision of law, of the funds provided under this heading, not to exceed $300,000 shall be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho, below Ririe Dam and

Reservoir because of the operation of the dam and reservoir (hereinafter referred to as claimants).

Any payment to a claimant made under this section shall constitute full settlement and satisfaction of all claims such claimant may have against the United States relating to the loss of winter stock water from Willow Creek, Idaho. The provisions of this section shall not apply to any claim settled prior to the date of enactment of this Act.

The Secretary shall make a payment to a claimant only if—

(1) the claimant notifies the Secretary of his claim within six months after the date of enactment of this Act;

(2) the claimant provides an affidavit proving, to the satisfaction of the Secretary, his use of winter stock water from Willow Creek prior to December 31, 1979; and

(3) the claimant executes a waiver and release, in a manner satisfactory to the Secretary, of any and all claims against the United States relating to the loss of winter stock water from Willow Creek, Idaho. Such waiver and release shall be recorded in the county where the claimant's land is located.

Any claimant who has developed an alternate winter stock water supply since December 31, 1979, shall be eligible for a payment of an amount equal to the actual construction costs incurred by such claimant in the development of such supply, as determined by the Secretary.

Any claimant who has not developed an alternate winter stock water supply as of the date of enactment of this Act, shall be eligible for a payment of an amount equal to the funds necessary for the development of such supply, as determined by the Secretary. The Secretary's determination shall be based on the size and configuration of the claimant's land and on the size and type of the claimant's livestock operation.

Costs and expenses incurred by a claimant in the operation and maintenance of his alternate winter stock water supply shall not be reimbursable.".

SEC. 134. For purposes of this joint resolution, the matter on page 39, line 9, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be deemed to read as follows: "actual earthquakes, floods, or volcanoes; for emergency reclamation".

SEC. 135. For the purposes of this joint resolution, the matter reading "the General Fund of the Treasury of the United States" on page 47, beginning on line 9 and continuing through line 11, of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: "and merged with the National Forest System appropriation account".

SEC. 136. For the purposes of this joint resolution, the proviso beginning on page 47, lines 4 through 6, beginning with the colon of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall not be effective; and the matter on line 24, on page 52, before the period of H.R. 3011 as reported shall be deemed to read as follows: ": Provided, That not less than $24,000,000 shall be made available to the Forest Service for obligation in fiscal year 1986 from the 'Timber Salvage Sale Fund' appropriation".

SEC. 137. For purposes of this joint resolution, the following matter is deemed to be inserted on page 48, line 8, before the semicolon of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985: "; and of which $1,500,000 shall be available for emergency flood repairs in the Monongahela National Forest and at the Parsons, West Virginia Forest Research Laboratory".

SEC. 138. For purposes of this joint resolution, the following matter is deemed to be inserted between lines 17 and 18 on page 55 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985:

"DEPARTMENT OF THE TREASURY

"ENERGY SECURITY ACT

"(RESCISSION)

"Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out part B of title I of the Energy Security Act (Public Law 96-294) by Public Laws 96-304, 96-514, and 98-473, $3,000,000,000 of the amounts initially available only for obligation to synthetic fuels project proposals with letters of intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984, and not obligated are rescinded: Provided, That the Board of Directors shall proceed to complete action on those project proposals under consideration or negotiation by such Corporation as of October 1, 1985: Provided further, That such actions shall include either the award by the Board of financial assistance to such a project or a determination by the Board that the Corporation will not enter into financial assistance contracts for such project proposals: Provided further, That notwithstanding section 191 of the Energy Security Act (Public Law 96-294), (a) the Board may not make any new awards or commitments for financial assistance pursuant to section 131 of the Energy Security Act for synthetic fuel project proposals after September 30, 1986; and (b) the Corporation, in accordance with subtitle J of said Act, shall terminate on September 30, 1992, except that the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1989: Provided further, That the Corporation shall, by September 30, 1986, transmit to the Committee on Energy and Natural Resources of the Senate and appropriate committees of the House of Representatives a report containing a review of implementation of its phase I business plan dated February 19, 1985: Provided further, That the Corporation shall, by July 1, 1989, transmit to the Committee on Energy and Natural Resources of the Senate and appropriate committees of the House of Representatives a report fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(c)(3)).".

SEC. 139. For purposes of this joint resolution, the following matter is deemed to be inserted after line 23 on page 61 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985:

"SPR PETROLEUM ACCOUNT

"(INCLUDING RESCISSION OF FUNDS)

"Of the aggregate amount of funds appropriated under this heading in Public Law 98-473, that are currently available to the Secretary of Energy for obligation and that may be obligated under section 167 of the Energy Policy and Conservation Act (Public Law 94-163), as amended, $160,000,000 is rescinded: Provided, That the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for petroleum products (including crude oil) to be delivered to the strategic petroleum reserve: Provided further, That the Secretary of Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: Provided further, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the petroleum products (including crude oil) acquired by such exchange, then the Secretary of Agriculture shall require as a part of the terms and conditions of the exchange that the party or entity providing such petroleum products shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from the U.S. producers or processors in an amount equal to at least one-half of the difference between the value of the commodities received in the exchange and the market value of the petroleum products acquired for the strategic petroleum reserve in such transactions: Provided further, That petroleum acquired pursuant to this section shall count on a barrel-per-barrel basis toward the requirements of subsection 160(d)(1) of the Energy Policy and Conservation Act (Public Law 94-163), as amended.".

SEC. 140. For purposes of this joint resolution, the following matter is deemed to be inserted after "Act" on page 69, line 17, of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985: "and such funds as may be necessary to support American overseas research centers".

SEC. 141. The provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act of 1920 (41 Stat. 437), as amended by section 3 of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083) shall not take effect until December 31, 1986.

SEC. 142. Notwithstanding any other provision of this joint resolution, there is appropriated, in addition to such amounts otherwise appropriated therefor, $500,000 to carry out section 787 (Educational Assistance to Individuals from Disadvantaged Backgrounds) of the Public Health Service Act.

SEC. 143. No penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515, or 1521 of the Public Health Service Act during fiscal year 1986, nor if appropriations under title XV of that Act are reauthorized by July 1, 1986, shall any agency be required to take action to anticipate termination of financial assistance under that title.

SEC. 144. The total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1986 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation, unless such apportionment or limitation is explicitly established, after the enactment of this joint resolution, as an amendment to subpart I of title VII-C of that Act.

SEC. 145. Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall extend, for three additional years, approval of the municipal health services demonstration projects located in Baltimore, Cincinnati, Milwaukee, and San Jose authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 146. (a)(1) Notwithstanding any provision of title XX of the Social Security Act,

the amount applicable under section 2003(c)(3) of such Act shall be $2,725,000,000 for fiscal year 1986. In addition to any amounts appropriated in this resolution or any other Act, there are hereby appropriated an additional $25,000,000 for carrying out title XX of the Social Security Act, to be used in accordance with the provisions of this section.

(b) Except as otherwise provided in this section, each State's allotment of the additional amount appropriated under this section shall be the same proportion of $25,000,000 as such State's proportional allotment of other title XX funds for fiscal year 1986, as determined under section 2003 of the Social Security Act.

(c) The additional amount appropriated under this section shall be used in the same manner as the funds appropriated under section 401 of Public Law 98-473 were required to be used as specified in subsection (b) of such section 401.

(d) None of the funds appropriated under this section shall be used to make an allotment to any State which has not submitted to the Secretary of Health and Human Services a certification by the State that such State has completed or instituted a process, or plans to institute and complete within 6 months a process, to review its child care licensing or registration standards and monitoring standards, taking into consideration the information and material contained in the Department of Health and Human Services' Model Child Care Standards Act (drafted and distributed to the States by the Department of Health and Human Services pursuant to Public Law 98-473); in order to identify and correct deficiencies in such standards with respect to protecting the welfare of children in child care settings.

SEC. 147. Upon the enactment of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, the amount provided therein for the Secretary of Education's discretionary fund for programs of national significance (from sums appropriated for carrying out title II of the Education for Economic Security Act) shall immediately become available for obligation.

SEC. [110] *148.* (a) In the administration of subchapter III of chapter 83 of title 5, United States Code, title II of the Social Security Act, chapter 21 of the Internal Revenue Code of 1954, and title II of Public Law 98-168, the individual holding the position of Chief of the United States Capitol Police on January 1, 1985—

(1) shall be held and considered to have been appointed to that position before January 1, 1984,

(2) during the 60-day period following the date of the enactment into law of this section, shall be eligible to elect coverage under the provisions of such subchapter III, and

(3) upon such election, shall not be covered by section 210(a)(5)(G) of the Social Security Act, and section 3121(b)(5)(G) of the Internal Revenue Code of 1954, with respect to periods of service performed by such individual in such position after the election.

(b) Any period of service performed by such individual as Chief of the United States Capitol Police prior to making any such election shall, after such election and payment by or on behalf of such individual of appropriate contributions and interest covering such period of service, be considered as creditable service for purposes of such subchapter III and shall not be considered as covered service for purposes of title II of Public Law 98-168.

(c) Service performed by such individual as Chief of the United States Capitol Police after December 31, 1983, and prior to the election referred to in subsection (a), shall also be considered "employment" for purposes of the provisions of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, if such service would have been "employment" under such provisions but for this section.

SEC. 149. Notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1986 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

SEC. 150. Notwithstanding any other provision of this joint resolution, there is appropriated $1,000,000 for fiscal year 1986 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee pursuant to section 381 of the Public Health Service Act.

SEC. 151. The Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 9. For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.".

SEC. 152. (a) The first sentence of section 225(b)(3) of the Federal Salary Act of 1967 (2 U.S.C. 352(3)) is amended by inserting "and with respect to fiscal year 1987" before the period at the end thereof.

(b) Section 225(f) of such Act (2 U.S.C. 356) is amended by adding at the end thereof the following flush sentence: "In reviewing the rates of pay of the offices or positions referred to in subparagraph (D) of this subsection, the Commission shall determine and consider the appropriateness of the executive levels of such offices and positions.".

(c) The second sentence of section 225(g) of such Act (2 U.S.C. 357) is amended by striking out "January 1 next following the close" and inserting in lieu thereof "December 15".

(d) Section 225(h) of such Act (2 U.S.C. 358) is amended—

(1) by inserting "under section 1105(a) of title 31, United States Code," in the first sentence after "transmitted"; and

(2) by striking out the second sentence.

(e) Section 225(i) of such Act (2 U.S.C. 359) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

"(1) The recommendations of the President which are transmitted to the Congress pursuant to subsection (h) of this section shall be effective as provided in paragraph (2) of this subsection unless any such recommendation is disapproved by a joint resolution agreed to by the Congress not later than the last day of the 30-day period which begins on the date of which such recommendations are transmitted to the Congress.

"(2) The effective date of the rate or rates of pay which take effect for an office or position under paragraph (1) of this subsection shall be the first day of the first pay period which begins for such office or position after the end of the 30-day period described in such paragraph.".

(f) Section 225(j) of such Act (2 U.S.C. 360) is amended—

(1) by striking out "transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years referred to in subsection (b)(2) or (3) of this section shall, if approved by the Congress as provided in subparagraph (i)," and inserting in lieu thereof "taking effect as provided in subsection (i) of this section shall"; and

(2) in clause (A), by striking out "in paragraph (1) of".

(g) Notwithstanding section 225(g) of such Act (2 U.S.C. 357), the Commission on Executive, Legislative, and Judicial Salaries shall not make recommendations on the rates of pay of offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of section 225(f) of such Act (2 U.S.C. 356) in connection with the review of rates of pay of such offices and positions conducted by the Commission in fiscal year 1985.

[SEC. 111. Notwithstanding any other provision of law or regulation, the Secretary of Transportation shall, within 30 days after enactment of this section, issue in the Federal Register a Notice of Intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida.

[SEC. 112. For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, $23,500,000, to remain available until expended: *Provided,* That such funds shall be exempt from any limitation on obligations for federal-aid highways and highway safety construction programs.

[SEC. 113. Notwithstanding any other provision of law, none of the funds in this act shall be available for the construction of the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan: *Provided,* That the immediately preceding provision shall not apply to $10,000,000 apportioned to the Detroit Department of Transportation.]

SEC. 153. Notwithstanding any other provision of law, the first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 154. (a) EXTENSION OF PENALTY FOR NON-COMPLIANCE.—Section 158(a)(2) of title 23, United States Code, is amended by striking out "the fiscal year succeeding" and inserting in lieu thereof "each fiscal year after".

(b) COMPLYING STATE LAWS.—Subsection (a) of section 158 of such title is amended by adding at the end thereof the following new paragraph:

"(3) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.".

(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—Subsection (b) of section 158 of such title is amended to read as follows:

"(b) Period of Availability; Effect of Compliance and Noncompliance.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

(d) CONFORMING AMENDMENTS.—Such section 158 is further amended—

(1) in subsection (a) by inserting "WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—" before "(1) The";

(2) in subsection (a)(1) by inserting "FIRST YEAR.—" before "The Secretary";

(3) by indenting paragraphs (1) and (2) of subsection (a) and aligning them with paragraph (3) of such subsection as inserted by subsection (b) of this section;

(4) in subsection (a)(1) by inserting "first" before "fiscal year" the second place it appears;

(5) in subsection (a)(2) by inserting "AFTER THE FIRST YEAR.—" before "The Secretary"; and

(6) in subsection (c) by inserting "ALCOHOLIC BEVERAGE DEFINED.—" before "As".

SEC. [114] 155. The Secretary of the Army, at his discretion, may utilize Reserve Forces to carry out emergency flood recovery and clean up measures in the 29-county area of West Virginia, the 6-county area of Pennsylvania, the 18-county area of Virginia, and Gulf Coast areas, declared entitled to relief under the Disaster Relief Act of 1974 with respect to the flooding occurring on and after August 30, 1985, without reimbursement for such limited assistance.

SEC. [115] 156. (a) Notwithstanding section 101(i) and section 102(c) of this joint resolution, and notwithstanding any provision of H.R. 3036, if any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such services, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. [116] 157. Section 5 of the Federal Employees Flexible and Compressed Work Schedules Act of 1982 (96 Stat. 234; 5 U.S.C. 6101 note) is repealed.

SEC. 158. Section 301(d) of title 31, United States Code, is amended in the first sentence by striking out the phrase "an Under Secretary, an Under Secretary for Monetary Affairs" and inserting in lieu thereof the phrase "2 Under Secretaries"; and by striking out the fourth sentence and inserting in lieu thereof the following new sentence: "The President may designate one Under Secretary as Counselor.".

SEC. 159. Subsection (c) of section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b(c)) is amended by striking out "4" and inserting in lieu thereof "20".

SEC. 160. (a) Except to the extent hereafter expressly authorized by the Congress by a law enacted by it after the date this resolution becomes law, no building or other structure shall be erected, altered, or raised in any manner, within any area of Federal interest, so as to exceed the height of 95 feet.

(b) For purposes of this section, the term "area of Federal interest" means any area within the District of Columbia which is (1) located within the exterior boundaries of the area comprising the National Capital Service Area as set forth under section 739 of the Act of December 24, 1973 (87 Stat. 774, 825); (2) located within a block in which a public building is located; (3) located within a block which is adjacent to, or contiguous with, a block within which a public building is located; or (4) designated by the Secretary of the Interior, from time to time, as an area within which the height of buildings should be limited to not to exceed 95 feet in accordance with this section because of security, aesthetic, or other reasons, such designation to become effective upon its publication by the Secretary in the Federal Register.

(c) The provisions of subsection (a) of this section shall not be applicable to the project under construction on December 2, 1985, commonly referred to as the Metropolitan Square.

SEC. 161. Section 4 of the Presidential Protection Assistance Act of 1976, Public Law 94-524, is amended by striking out "$10,000" and inserting in lieu thereof "$75,000".

SEC. 162. Section 202(a) of title 39, United States Code, is amended by striking out "30 days" each time it appears and by inserting in lieu thereof "42 days".

SEC. 163. Notwithstanding any other provision of law, the Administrator of the General Services Administration and the Secretary of Commerce are hereby authorized, for the purposes of supporting the United States' international trade position, to locate the International Trade Administration Boston District Office in the new World Trade Center, Boston, Massachusetts. A report shall be made to the Committees on Appropriations no later than February 1, 1986 detailing the steps taken and agreements reached to achieve this move.

SEC. 164. (a) Sections 201(1), 202(6), 203(a)(4)(A), 203(a)(4)(B), 204(a), and 206(b)(2)(A)(i) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note) are amended by striking out "January 1, 1986" each place it appears and inserting in lieu thereof "May 1, 1986".

(b) Section 206(c)(3) of such Act is amended by striking out "January 1, 1986" and inserting in lieu thereof "April 30, 1986".

(c) Section 205 of such Act is amended by striking out "and 1986" in subsections (b) and (c) and inserting in lieu thereof "1986, and 1987".

SEC. [117] 165. The Secretary of the Interior is hereby directed to make every effort during the balance of fiscal year 1986 to resolve the outstanding conflicts with respect to the future leasing and protection of lands

on the California outer continental shelf for oil and gas exploration and development. To this end, the Secretary shall submit to the Congress once every 60 days following the date of enactment of this resolution until the end of fiscal year 1986 a report summarizing the progress of negotiations carried out to resolve these outstanding conflicts. Such negotiations shall be conducted by the Secretary and the following members of Congress to be designated by the Speaker of the House of Representatives and the Majority Leader of the Senate:

(1) The Chairmen and ranking minority members of the following committees and subcommittees of the Congress having jurisdiction over these issues:

(A) The Subcommittee on the Interior of the Committee on Appropriations of the House of Representatives.

(B) The Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs of the House of Representatives.

(C) The Subcommittee on the Panama Canal and Outer Continental Shelf of the Committee on Merchant Marine and Fisheries of the House of Representatives.

(D) The Subcommittee on the Interior of the Committee on Appropriations of the Senate.

(E) The Committee on Energy and Natural Resources of the Senate.

(2) Two United States Senators from California.

(3) Seven members of the California delegation to the House of Representatives.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I only wish that we could consider this continuing resolution chapter by chapter, and get those chapters closed as we do in the committee. But that is not possible under unanimous consent that might be made. Therefore, I would like to at this time suggest the absence of a quorum for just a few moments.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the first committee amendment to House Joint Resolution 465.

Mr. HATFIELD. Mr. President, we have begun consideration of House Joint Resolution 465, the third and I hope, the last, although I am not very optimistic, continuing appropriations measure for fiscal year 1986.

The resolution covers the 10 regular appropriations bills not yet enacted into law, at various spending rates, namely:

Agriculture provides spending at the rate of the Senate-passed bill; Commerce provides spending at the level of the conference agreement; Defense provides spending at the level of the Senate-reported bill; District of Columbia provides spending at the level of the Senate-passed bill; Foreign Operations provides spending at the level of the Senate-reported bill with adjustments to the provisions relative to the Israeli debt buy-down, the Ex-Im Bank, and the "soft loan" window of the World Bank.

Interior provides spending at the level of Senate-reported bill, with certain additional adjustments, namely a $3,000,000 rescission from funds previously appropriated for synfuels; Labor-HHS provides spending at the level of the conference agreement, adopted earlier today; military construction provides spending at the level of the conference agreement passed by the Senate on November 22; Transportation provides spending at the level of the Senate-passed bill, with an additional $167,000,000 for Coast Guard operating expenses and $300,000,000 for the Federal Aviation Administration; and Treasury provides spending at the level of the conference agreement vetoed by the President, with reductions in postal subsidies and salaries and expenses for the Internal Revenue Service to meet the President's objections.

The total level of spending provided by this continuing resolution, including provisions adopted separately from the general spending rates for the 10 bills covered, is $488,555,097,174. The total provided is $12,625,311,682 below the amounts provided for fiscal year 1985 to date—let me underline, underscore, emphasize, below amounts provided for fiscal year 1985 to date—and $20,936,007,329 below—double underscore—the President's request for these bills for fiscal year 1986. Let me emphasize that. The continuing resolution reported from the Appropriations Committee yesterday is $20,936,007,329 below the President's request. Even the President's own bean counters admit that this resolution is below what the President wants. They admit it in their "statement of administration policy."

Nevertheless, those with veto fever down at the other end of the avenue want to continue to mislead the public and the members of this body with distorted, statements about the budget-busting Congress, and threaten to veto this and other bills on the basis of spending levels for non-Defense programs, so they can continue to pour more money down the rathole of the Pentagon. That money, Mr. President, the hundreds of billions lavished on the Defense Department, does not count as far as the President's counselors are concerned.

So no matter how much money we spend on weapons, it will never increase the deficit. Nor will the billions we spend on foreign aid and mililtary assistance. The administration doesn't count that, either. That money doesn't increase the deficit. According to the people downtown, Mr. President, who profess to be so concerned about deficits, who lambast the Congress as irresponsible budget-busters, the only Federal spending that increases the deficit is the money we appropriate for nondefense programs for our people here at home. Money for weapons doesn't count, but money for Women, Infants, and Children does. Money for foreign assistance doesn't count, but money for farm assistance does. Money for the strategic defense initiative doesn't count, money for the strategic petroleum reserve does.

Well, Mr. President, I don't count money that way, the American public doesn't count money that way, and I think it is time that the administration owned up to its duplicity.

But let us not belabor the point. Let us take this matter up, pass it without delay, get it to conference, and whittle it down some more. Let's not waste time with dozens of extraneous amendments that will only be jettisoned later to meet the objections of wrong-headed policymakers downtown. If we don't do that, we will be here at Christmas and beyond.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, with the exception of the committee amendment appearing on page 47, line 18, through page 50, line 6; and the synfuels recission section appearing on line 12, on page 29, through and including line 2 on page 31 of the committee amendment beginning with line 8 on page 22 through line 17 on page 35; provided that no points of order be waived thereon and the resolution as amended be treated as original text for the purpose of further amendment.

Mr. METZENBAUM. Reserving the right to object, I do not intend to object; is my understanding correct that the proposal is that all amendments be agreed to with the exception of the ones that were spelled out and the one described as the synfuels amendment?●

Will the chairman of the Appropriations Committee respond to that?

Mr. HATFIELD. I am happy to respond.

If the Senator will turn to the bill, it is the synfuels amendment which begins on page 29, and continues through page 31, line 2.

Mr. McCLURE. Mr. President, if I may further respond, that is the amendment offered by the subcommittee that deals with the amount of money to be rescinded from the Synfuels Corporation.

Mr. METZENBAUM. Is it the further intent of the managers that that amendment would then be offered im-

mediately after at the conclusion of this unanimous-consent agreement and that that amendment then be open to amendment by the Senator from Ohio as well as the Senator from Washington?

Mr. HATFIELD. The Senator is in major part correct. What I would like to do in sequence would be to handle the first committee amendment which I identified, which includes the building height language. That amendment was offered on behalf of Senator CHILES by Senator DECONCINI, with the proviso that if it were not objected to by the authorizing committee subsequent to the committee action. It has been objected to by the authorizing committee so we would like to delete that lauguage from the committee amendment. That would mean we would be at the point for the synfuels section to be subject to the amendment offered by the Senator from Ohio.

Mr. EXON. Mr. President, there were only about 10 or 12 Senators on the floor of the Senate, maybe four or five people in the press gallery, to hear what this Senator just heard, the most excellent explanation by the chairman of the Appropriations Committee with regard to one of the most serious problems that face this body: When we try to act in a responsible fashion, there are others who say we are not acting responsibly. Obviously, since it came from the chairman of the committee, it could not immediately be labeled as partisan political rhetoric. It was not rhetoric, it was a factual statement from my very distinguished friend, the chairman of the Appropriations Committee.

I thought it was an excellent statement. I hope maybe somewhere there will be a few lines printed about it in the newspaper, because if there is one thing we need in this country as we face this monumental task of the deficit, it is some understanding that we all have to share proportionately in solving the problem because we all did share to one extent or another in creating it in the first instance. I compliment my friend and colleague, the chairman of the Appropriations Committee, for an excellent statement right on point.

Mr. HATFIELD. I thank the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the excepted committee amendment, appearing on page 47, line 18, through line 6 on page 50, be modified to strike from line 4 on page 48 through line 2 on page 49. That is the language dealing with the height of the buildings in the District of Columbia that I referred to before agreed to by the committee and proposed to be withdrawn at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATFIELD. I move the adoption of the committee amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as modified.

The committee amendment as modified was agreed to.

Mr. ABDNOR. I support the action of Chairman HATFIELD in striking the designated committee amendment. We added the amendment yesterday because of a concern I have had and the concern raised with me by other Members regarding the security problems for the President and the White House grounds caused by the construction of the Metropolitan Square project on Pennsylvania Avenue. This project being constructed to a height of 157 feet has a direct line of vision into the White House complex. In fact, when the first tower of this two-tower complex was completed, the Secret Service immediately took action to bar the President from greeting dignitaries at the north portico of the White House. Frankly, I am concerned that this action was approved in the first place, on a square that has had a 95 foot limit since 1910 and has intended to stay at that height by the Home Rule Act, in any case, I would want to be assured that such a situation not occur again, not only for White House security, but for the security of other Federal buildings, including the Capitol Building and our office buildings here on the Hill.

Mr. DECONCINI. I would like to echo the comments just made by Senator ABDNOR and echo his concern that this kind of situation should not be permitted to occur again. In fact, I am a little surprised that it occurred in the first place. Before the Mayor and the City Council approved the special act that permitted this building to be constructed to a height of 157 feet, the city received advice from the Secret Service that construction of this building would cause security problems. I would like to quote from the Secret Service letter. It said:

> Any proposal which raises the current height limits on buildings near the White House would adversely affect the overall security of the White House complex, and seriously interfere with our ability to provide protection for the President and his family as mandated by the U.S. Congress and the American people * * *. In the event that favorable consideration is given to any of the Carr Co. proposals, a situation would be created where a privately owned and operated office complex would have an unobstructed view onto the White House grounds, and this would present an uncontrollable situation from a security standpoint.

Is it correct that the committee has received assurances from the authorizing committee, the Pennsylvania Avenue Development Commission and key development interests in the city that the Secret Service is now being consulted fully and completely on all development projects in the city so that they can review the proposal from a security perspective?

Mr. ABDNOR. Yes; the Senator is correct and, on that basis, I agree with the chairman's motion to strike section 160.

Mr. MOYNIHAN. It is my view that gentleman from South Dakota and the gentleman from Arizona—and I understand that Senator CHILES played a role in initiating this amendment—have all provided a genuine service to the Nation's Capital. Not only is there a security issue, there is also a need to preserve the character and ambience of our Nation's Capital. If we abandon the building height schedule adopted first in 1919, and subsequently amended but frozen by section 602 of the Home Rule Act, we will do so at great peril. This whole matter raises in my mind the need, a pressing one, for a thorough legislative review in the next session of Congress, to see if additional legislation would be appropriate and to assure safeguards to maintain the architectural character of our Nation's Capital.

TREASURY APPROPRIATION HEIGHT OF BUILDINGS IN THE DISTRICT OF COLUMBIA

Mr. MATHIAS. Mr. President, a provision was added to the Treasury appropriation during markup on Thursday which, had it been permitted to remain in this continuing resolution, would have had profound effects on the physical development of the District of Columbia.

The provision would have limited the height of buildings to 95 feet in most of downtown Washington and many outlying areas. While I rejoice in Washington's harmonious skyline and support the concept of some height limitation I am dubious about this proposal.

Not knowing the genesis of this amendment and not having been informed that such a proposal would be offered in—of all places—the Treasury appropriation, I am at a loss to understand why such a provision, which is clearly legislation on an appropriations bill, was accepted by the Appropriations Committee. I can only conclude that my colleagues on the committee were unaware of the nature and ramifications of such an amendment. I am pleased to see my colleagues on the Appropriations Committee withdraw this provision.

As chairman of the Subcommittee on Governmental Efficiency and the District of Columbia, I would like to explain to my colleagues the severe consequences of such an ill-conceived proposal.

The Congress, in 1910, enacted the Height of Buildings Act which applied

only in the Nation's Capital and was intended, among other things, to protect the skyline of the Federal city and provide a setting for the many public monuments and memorials which grace this city. In the intervening 75 years, the act of 1910 has served this city well. It has contained development, maintained a relatively low skyline, and, in so doing, made the Nation's Capital unique among American cities.

The Height of Buildings Act of 1910 was carefully conceived to relate the height of buildings to the width of streets on which they fronted. The wider the avenue, the taller the building permitted up to a maximum height of 130 feet. The only place where that maximum height may go even further—to 160 feet—is on Pennsylvania Avenue, the Nation's main street and ceremonial parade route between the Capitol and White House. The other broad avenues support buildings of 13 stories or 130 feet. The more typical streets support buildings of 90 to 110 feet.

The provision attached to the Treasury appropriation would have abrogated the 1910 act, which has stood our Nation's Capital in good design stead for 75 years. Anyone who has lived in Washington for any length of time knows that this city's citizens regard buildings heights—and the 1910 act specifically—very seriously.

Proposing to rewrite that act and make judgments about appropriate building heights in the Nation's Capital without a clear showing of need and without public discussion, let alone a hearing by the appropriate authorizing committee, is ill-considered and a blatant injustice to those who reside, work, and visit here.

Summarily restricting development rights to 95 feet when, under current law and zoning, building heights could, in certain locations, go to 110 and 130 feet, is an uncompensated taking of private property. Such a move is clearly subject to constitutional questions and certain to be challenged in court.

Development interests in any city rely on public policymakers to provide set rules by which they are willing to abide. The act of 1910 and the D.C. zoning code which implements that act are just such rules.

The confusion and litigation over the "taking" issue arising from passage of this provision is sure to last well into the next century.

Mr. President, I ask unanimous consent that four letters to me concerning this sleeper provision be included at this point in the RECORD. The letters are from the Pennsylvania Avenue Development Corp., the Washington Board of Trade, the Federal City Council, and, the Mayor of the District of Columbia.

I am pleased to see this provision withdrawn.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL CITY COUNCIL,
December 6, 1985.

Hon. CHARLES MCC. MATHIAS,
Chairman, Subcommittee on Governmental Efficiency and the District of Columbia, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: It came to my attention last evening that an amendment has been added to the Senate's Continuing Resolution, the effect of which would be to limit buildings in the District of Columbia to a height of 95 feet. Frankly, I am dismayed both by the substance of this amendment and the manner in which this issue has been raised.

As you are well aware, the issue of height limitations in the District has a long history, dating back to the restrictions that were imposed following construction of the Cairo Hotel in the 1870's. The City has had height restrictions for many, many years, restrictions that have maintained the City's horizontal, open quality and that have preserved the Washington Monument and the Capitol as the dominant buildings that define the Nation's Capital. I believe that most thoughtful observers would agree that the City's long-term interests have been well served by the existing height restrictions.

For the Senate of the United States to unilaterally alter the height limitations without any public discussions or debate would be, in my judgment, a profound mistake. Furthermore, the language in the proposed amendment is imprecise, overly broad, and fundamentally incompatible with the City's zoning and land use regulations.

It is also my view, and I know a view that is shared by both City officials and the Pennsylvania Avenue Development Corporation, that this amendment would have a devastating effect on the current efforts to revitalize Washington's old downtown core.

For all of these reasons, I strongly urge you to oppose this ill-advised amendment and to work for its deletion when the Continuing Resolution comes before the full Senate.

If I or other members of the Federal City Council can provide you with any additional information, please do not hesitate to call.

Sincerely,

HARRY MCPHERSON,
President.

PENNSYLVANIA AVENUE
DEVELOPMENT CORP.,
Washington, DC, December 5, 1985.

Hon. CHARLES MCC. MATHIAS,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR MATHIAS: This afternoon, I was made aware of an amendment, added to the Continuing Resolution, that would limit the height of buildings in the downtown area of the District of Columbia to 95 feet. This amendment, if approved, would have a devastating effect on the ability of the Pennsylvania Avenue Development Corporation (PADC) to carry out its Congressionally-approved plan.

There has been a long history of comprehensive studies that established the current height restrictions throughout downtown and, specifically, in PADC's area, along Pennsylvania Avenue between 3rd and 15th Streets. These restrictions are well conceived to preserve the special spacious ambiance of this unique area while allowing the kind of private development that fullfills the PADC plan's goals of creating high-quality office, hotel, retail and residential uses. Two examples of such major developments are shown on pages 10 and 21 of the attached PADC Annual Report; these developments, in conformance with current height restrictions, are 160 feet (Cadillac-Fairview, page 10) and 130 feet (Market Square—Western Development Corporation, page 21), respectively.

In addition to the affect of this proposed amendment on PADC's activities, I am dismayed that such a far-reaching proposal, so inconsistent with existing zoning and planning standards, could be placed in legislation without full public discussion.

I request that you strongly oppose this amendment and work for its deletion.

Please call me, at 724-9073, if I can provide any further information on this vital matter.

Sincerely yours,

M.J. BRODIE,
Executive Director.

THE GREATER WASHINGTON
BOARD OF TRADE,
Washington, DC, December 6, 1985.

Hon. CHARLES MCC. MATHIAS,
Member, U.S. Senate, Chairman, Subcommittee on Governmental Efficiency and the District of Columbia, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: It is the Board of Trade's understanding that a provision has been added to the Senate Treasury Appropriations title of the Continuing Resolution that will restrict the height of building in the Federal Service District to 95 feet. The Board of Trade is very concerned both by the substance of this amendment and the manner in which this issue has been raised. We are writing on behalf of the Board of Trade and others who share our views. We urge that you and your colleagues oppose this amendment.

During the past 75 years, current height limits have served the District well, creating a city of majestic views and a positive climate for business and development. It is a mistake to change these regulations now. The language inserted into the Senate Treasury Appropriations title is antithetical to previous intentions of Congress when it passed Public Law 92-578 establishing the Pennsylvania Avenue Development Corporation and height limits corresponding to street widths and the District's monumental character. Congress clearly intended to permit appropriate development in the Federal Service District when it passed this law. The current proposed amendment would jeoparidize the continued work and success of PADC and other downtown revitalization efforts.

If this amendment is enacted it will impact at least 75 city squares which are privately owned and projects abutting on the Federal District Service area. As many as 35 development projects could be stopped. This would have a devastating effect on current efforts to revitalize Washington's old downtown core. Further, this amendment potentially represents an uncompensated taking of private property rights and is certain to be challenged in the courts. It is not only private property owners who are affected, however; the amendment also represents a significant potential loss to the District's tax base and a threat to its economy and employment.

The manner in which this amendment has been raised is also of great concern to the Board of Trade, District officials, and the Pennsylvania Avenue Development Corporation. An amendment with such potentially grave impact should be discussed in a public forum. Particular weight must be given to the recommendations of elected officials of the District of Columbia.

Further, for the Senate of the United States to unilaterally alter the height limitations of the Federal Service District without any public discussion is troubling. The action would be fundamentally incompatible with the City's zoning and land use regulations. As recently as March 16, 1985, the Congress sanctioned the Comprehensive Plan for the National Capital. The plan provides a guiding framework for public and private land use decisions. If the proposed amendment to the Senate Treasury Appropriations title is passed, it will greatly diminish the integrity of the Comprehensive Plan.

We urge that you and your colleagues oppose the height provision added to the Senate Treasury Appropriations title of the Continuing Resolution. Should you require further information or assistance from the Board of Trade in this matter, we stand ready to help.

Cordially,

JULIA M. WALSH.

THE DISTRICT OF COLUMBIA
Washington, DC, December 6, 1985.

Hon. CHARLES McC. MATHIAS,

Chairman, Subcommittee on Governmental Efficiency and the District of Columbia, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MATHIAS: This letter concerns [illegible]enate amendment to H.J. Res. 465, Furthe[illegible]Continuing Appropriations for FY 1986. I have been made aware that the Senate Committee on Appropriations has adopted an amendment to H.J. Res 465, which would limit the height of buildings in the District of Columbia to 95 feet.

On behalf of the City, I am deeply concerned over the implications of this action with regard to Home Rule, as well as the potential negative effect on orderly economic development.

As you know, the District of Columbia has been favorably served by the most rigorous height limitation statute of any major city in the Nation. The restriction has rightfully ensured that the U.S. Capitol and the Washington Monument remain the dominant landmarks in the Nation's Capital.

However, the amendment in H.J. Res. 465 imposes an arbitrary height limitation that would severely cripple redevelopment of the downtown core and completion of the Pennsylvania Development Plan. This further reduction in height would negatively affect our ability to negotiate preservation of historic structures in the Federal Service District. Moreover, the amendment language is vague and is at variance in both substance and technical form with existing land-use statutes and the District's Zoning Code.

These deficiencies would make interpretation very difficult; and thus, would cloud the development prospects for untold numbers of District properties. The resulting confusion would prove the wisdom of Home Rule and the need for full public discussion.

I realize that there are many pressing demands on your time in the remaining days of the First Session of the 99th Congress. I hope, however, that because of the seriousness of the amendment to H.J. Res. 465, you will actively oppose the measure on the floor of the Senate. The amendment not only infringes on Home Rule, but would appear to conflict with the oversight responsibility of your Subcommittee.

If you need additional information on the matter please contact me. As always, I deeply appreciate your strong support of the District of Columbia.

Sincerely,

MARION BARRY, Jr., *Mayor.*

Mr. HATFIELD. Mr. President, the pending matter before the Senate is the excepted synfuels language, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I wonder if there is a possibility of securing a unanimous-consent agreement on time to be utilized by both sides of the debate. I believe the parties to this amendment have informally agreed, or at least come to some conclusion. Could I inquire of the proponents of the amendment if that is possible?

Mr. METZENBAUM. Mr. President, if I may respond, I would like to suggest, if there are no objections, 10 minutes on a side with respect to the McClure-Johnston amendment, and 10 minutes on a side with respect to the Evans-Metzenbaum amendment to the amendment.

(Mrs. HAWKINS assumed the Chair.)

Mr. HATFIELD. Mr. President, I would propound that as a unanimous-consent agreement at this time. If I understand, the Senator from Idaho agrees to this.

Mr. McCLURE. The Senator is correct.

Mr. METZENBAUM. Is the Senator from Washington comfortable with that?

Mr. EVANS. May I inquire, is it necessary to have a vote on the first-degree amendment? Are we going to have two votes or what would be necessary?

Mr. METZENBAUM. I would respond to my colleague that the first vote would be on the Evans-Metzenbaum amendment, which would be the second-degree amendment. And then if that were defeated, the pending matter would be the first degree amendment of Senator McCLURE and Senator JOHNSTON. If our amendment is adopted, then theirs will no longer be extant and there will be no need for a second vote. My guess is there will be no need for a second vote either way.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Reserving the right to object, will the Senator restate the request?

Mr. HATFIELD. The request, Madam President, is that there be on the synfuels committee amendment an amendment to be offered by the Senator from Ohio; that there be a 10-minute per side or total of 20-minute time agreement to debate that. On any secondary amendments, there would be 10 minutes on a side to such subsequent amendment that may follow.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BYRD. Madam President, my problem with that is that the Senate will be entering into a time agreement on amendments that are unknown at this point. We are talking about amendments to the amendment. There is no requirement, I do not believe, that those amendments be germane or relevant. Unless Senators protect themselves against some nongermane amendment or unknown amendment, a very controversial amendment can come in with only a time limit of 10 minutes.

Mr. METZENBAUM. As is so often the case, the minority leader is right on target. I think we are thinking only about our amendments but have not foreclosed the possibility of a host of other amendments coming in. Therefore, I ask the manager of the bill if he would not agree that the first amendment would be the committee amendment as offered; that the second-degree amendment would be the amendment which would be to strike the language with respect to that subject as offered by Senators EVANS and METZENBAUM, and that no other amendments be in order except those two amendments?

Mr. McCLURE. Mr. President, reserving the right to object—and I thank both the Senator from West Virginia and the Senator from Ohio for raising that subject—I have no objection. I think we ought to add that no motions to recommit or otherwise would be in order. But I would want to reserve the right to offer a motion to table.

Mr. METZENBAUM. I ask my colleague from Idaho if he would not think it in order to avoid confusion, because he has an amendment that provides some money. We have an amendment to take away the money. Then he offers an amendment to table that. All we do is wind up confusing the Senate. If the Senator has the votes, he has them. If he does not have the votes and we have them, so be it. I urge the Senator to agree that there would be no tabling motion.

Mr. McCLURE. Reserving the right to object, I certainly will counsel, if the Senator from Ohio would like to do that. I do not want to confuse the subject at all. But what we have to try to argue in the Senate is one amendment rescinds some amount of money, the other rescinds a larger amount of money, and the Senators have a choice between the two positions or strike the provision completely.

Now, I am not certain which is more confusing in that circumstance, to

offer a motion to table, which would leave us then with it, or simply urge them to defeat the amendment to be offered by the Senator from Ohio.

Mr. METZENBAUM. A motion to table then only requires us to have still an additional rollcall vote. We had a motion to table on this subject before. The motion to table did not prevail. I do not think it will prevail this time. I would say let us go ahead and get this ball game on the road.

Mr. McCLURE. Mr. President, in order to try to expedite the business of the Senate, I will not insist upon reserving the right to table the amendment to be offered. I can speak only for myself, but I will not raise that objection.

Mr. METZENBAUM. I gather the manager on this side will not?

Mr. HATFIELD. Mr. President, may I modify my unanimous consent request——

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Then to have a 10-minute limitation per side, 20 minutes total, on the committee amendment, a 10-minute limitation per side, 20 minutes total, on a subsequent amendment to be offered by the Senators from Ohio and Washington, without any other amendments being in order or any tabling motion.

Mr. METZENBAUM. And no motion to recommit.

Mr. HATFIELD. Or motion to recommit or motion to recommit with instructions.

The PRESIDING OFFICER. Is there objection? without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair. I thank the Senators for expediting the CR.

I yield the floor at this point.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I suggest the absence of a quorum.

Mr. METZENBAUM. Will the Senator withhold for a moment?

Mr. HATFIELD. I withdraw that.

Mr. METZENBAUM. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Is the McClure amendment pending? Is that the pending business?

The PRESIDING OFFICER (Mr. GARN). That is correct.

AMENDMENT NO. 1325

Mr. METZENBAUM. Mr. President, on behalf of Senator EVANS and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. METZENBAUM. The amendment is the Evans-Metzenbaum amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Ohio that the amendment is not in order until 20 minutes have expired on the committee amendment.

Mr. McCLURE. Mr. President, I ask amendments consent that it be in order for the Senator from Ohio and the Senator from Washington to offer their amendment at this time, reserving the time on the committee amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. EVANS, proposes an amendment numbered 1325.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 15, strike all through page 31, line 2 and insert: Except as otherwise provided in this item, all funds appropriated to the Energy Security Reserve are hereby rescinded. Funds so rescinded shall include all funds appropriated to the Energy Security Reserve by the Department of Interior and Related Agencies Appropriations Act, 1980 (P.L. 96-126), and subsequently made available to carry out Title I, part B, of the Energy Security Act by Public Laws 96-304 and 96-514, and shall be deposited in the general fund of the Treasury. This recission shall not apply to:

(1) Funds transferred from the Energy Security Reserve by this act;

(2) 500,000,000, which may not be used for payments with respect to projects or modules under the Energy Security Act; and

(3) Such amounts as may be necessary to make payments for projects on modules for which obligations were entered into under Title I of the Energy Security Act before the date of enactment of this act.

Mr. EVANS. I yield myself 5 minutes.

Mr. President, this proposal, which is now in the continuing resolution which came from the committee, is essentially termed by its sponsors a compromise. The amendment offered by Senator McCLURE and Senator JOHNSTON is not a compromise. It is a feeble, half-hearted attempt to keep the Synfuels Corporation alive for another 7 years.

The $3-billion rescission still leaves $4 billion plus in the energy securities reserve unobligated funds. The $3-billion rescission comes from the pot of money that is initially available for projects with letters of intent. The purpose of the amendment clearly is to provide the opportunity to fund projects with letters of intent and then allow a substantial amount for further funding.

Mr. President, by a very substantial margin, this body a few weeks ago decided to end the Synfuels Corporation as an independent entity, to return $500 million to the Department of Energy, to once again coalesce the concept of energy research in the agency in which it belongs, to give us a better sense of balance in terms of fundamental research on energy. This compromise simply leaves us a long way from that goal. It is time to act clearly, decisively, and finally on this issue, as the House of Representatives has done.

The purpose of this Synfuels Corporation has not changed with this amendment. It is still misguided and wrong and does not fit with today's energy needs and prospects, even though it might, when the Synfuels Corporation was initiated 6 years ago.

The Synfuels Corporation is still rushing to award financial assistance to projects on letters of intent and perhaps others. There is no prospect, according to EIA estimates, in the short term or immediate term, of oil and gas prices rising substantially.

I believe we will be better able to handle problems of future long-term energy needs by a comprehensive redirected program under the Department of Energy, rather than keeping this one, separate, untouchable agency outside the purview, the oversight, and the recognition of either Congress or a Cabinet agency.

It is interesting to note that even on the ending of this corporation, under the proposed amendment by Senators McCLURE, JOHNSTON, the unobligated funds, if any, remaining are not even returned to the miscellaneous receipts of the Treasury. Our amendment does specifically require that the rescinded funds be returned to the Treasury general account.

Mr. President, although the amount is a little smaller than it was before, there is still no question that in fiscal year 1986 there is an additional saving to be generated by the amendment of the Senator from Ohio and myself. There is even more money to be saved over the intermediate term and the longer term. In my view, we will be better able, not less able, to handle the problems of energy research and development and energy security in the long run by once again coalescing those efforts and direction in the Department of Energy.

Mr. President, I yield the Senator from Ohio such time as he may require.

The PRESIDING OFFICER (Mr. HATFIELD). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Six minutes.

Mr. METZENBAUM. I will allow myself 4 minutes and reserve 2 minutes.

Mr. President, we are talking about compromise in an area where there

should be no compromise. We are talking about providing billions of dollars for the Synthetic Fuels Corporation, an amount of $7.3 billion to $7.8 billion.

The Senate indicated that it was not willing to lay on the table the motion offered by Senator EVANS and me to eliminate those funds and instead to put $500 million into the Department of Energy for synthetic fuel projects. After that, this so-called compromise was brought forward. But the compromise would keep extant and would keep operable an agency that has abused the public trust.

This agency has paid the top 50 of its officials an average of $56,000 in salary. It pays its president $135,000, and it has had two separate presidents. Both were forced to resign as a result of mismanagement and conflict of interest.

Mr. President, $135,000 is almost twice the amount a U.S. Senator receives; and, to the best of my knowledge, it is the top salary paid in the U.S. Government, with the possible exception of the President of the United States and the Vice President.

It further provides that employees' pensions will vest after 6 months on a 50-percent basis and totally after 1 year. Think of that. We do not get any vesting pensions around here until 5 years. But those at the Synthetic Fuels Corporation provide for vesting of pensions at the end of 1 year, a 50-percent vesting at the end of 6 months. They have not cared about the public trust. They have not been concerned about how they have used the public's money. They have abused the privilege.

There is not a Member of the U.S. Senate who fought harder for synthetic fuels than I did in the past years. I thought it was the right answer. Geothermal, solar, gasification, shale oil—many other programs could and should have been provided for. But have they done that? No. Instead, they have just abused the public trust and spent money willy-nilly without regard for what it was purchasing.

Then, when they found that the U.S. Senate was thinking of terminating their operation, they devised a plan, a whole lobbying plan. They named the names of U.S. Senators; and they said: "We'll see this Senator and talk to him about this project, and this Senator." The one they said was lost was the majority leader of the Senate.

Is that what their funds are for, to figure out a way to keep themselves going?

Several weeks ago, the same organization gave $500 million to the Union Oil Co. so that it can receive $67 a barrel for its oil, if and when it is produced.

Sixty-seven dollars a barrel while Mr. Yamani and the Saudis are talking about reducing the price of oil to something like $20 a barrel. That project has not worked in over 2 years.

Earlier this same Synthetic Fuels Corporation awarded $40 per barrel in price guarantees for heavy oil process that was not new, it was not innovative, it was already in use in the private sector.

I believe that the Synthetic Fuels Corporation should be abolished, terminated, brought to an end.

The PRESIDING OFFICER. The Senator has used 4 minutes. He has 2 minutes remaining.

Mr. METZENBAUM. I yield the floor.

Mr. McCLURE. Mr. President, I yield such time as he may consume to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, we have just heard a long list of the sins of the Synthetic Fuels Corporation which I am sick of hearing, as I know all my colleagues are. They did wrong. That is not our fault. It is not the fault of the sponsors of the Synthetic Fuels Corporation and guess what, Mr. President? It is not the fault of those now running the Synthetic Fuels Corporation. The faces have changed at the Synthetic Fuels Corporation and the policies have changed.

It is time we get that clear to our colleagues. It is a new policy, a new group, and they are not responsible for the past sins of the corporation.

The fact that the Reagan administration initially appointed some people who were not qualified who did wrong is beside the point.

Mr. President, the distinguished Senator from Ohio told us that he was for all of these technologies, was a strong proponent of that, but that something has changed.

Nothing has changed, Mr. President, except the dependence upon this country on foreign oil. It continues to go up about 40 percent now. We are dependent on foreign oil while domestic resources go down. The need for synthetic fuels is higher than it ever was and it is going to get higher.

Mr. President, we are also told that this is no compromise. We started off with $20 billion and then we came down to $14,906 million and then last year we rescinded another $7.373 billion, which put us down to $8.6 billion and now we are rescinding another $3 billion which puts us down to $5.9 billion which is about 25 percent of where we started. If that is not a compromise I do not know what is a compromise.

It leaves the essential part of the Synthetic Fuels Corporation, those essential technologies which we should develop, like shale oil—Occidental Petroleum Co., Dr. Armand Hammer just visited with some of us recently and talked about the exciting new breakthroughs of commercialization that he is making to his in situ and also his retarding of shale oil. He thinks it will work. He invested his own money.

We have over $1.4 billion of private funds that have already been invested, Mr. President, in the synthetic fuels technologies.

It is time this country decided to do something and carried it through and does not start and back up and change its mind and change policies and leave the private sector out there hanging with $1.4 billion invested.

Mr. President, this is a compromise. It is about 25 percent of where we started. It keeps those essential technologies like coal gasification and shale oil that we are going to need. The question is not do we need it today. We can get by without it today. We can buy oil all over the world at reasonable prices.

The synthetic fuels movement is not for 1985. It is for the 1990's. But if you are going to have it in the 1990's you have to invest money in it and learn about commercialization and do these things that the Synthetic Fuels Corporation proposes to do today. We need to do it today, Mr. President, so that by the 1990's it will be there when we need it.

Mr. HEINZ. Mr. President, last time the Senate considered funding for the Synthetic Fuels Corporation, it made a serious mistake—today, we have a chance to correct that mistake.

I do not intend to take much time Mr. President, but I urge my colleagues to remember the 1970's when energy was the preeminent issue. Remember those days? Do you remember when all the news commentators and editorialists were asking why this country had no energy policy when we all knew that we were vulnerable to a cutoff of foreign oil? Do you remember how we vowed to never let that happen again? I urge my colleagues to think about those days and to think long and hard before dismantling one of the best hopes we have of achieving energy independence. I do not usually say, "I told you so," but if the Senate does not adopt the McClure amendment, I can guarantee you that the day will come when I will be down here to say, "I told you so." That will be the day when once again our constituents are lining up to buy gasoline—only the energy crisis of the 1990's will be worse, far worse than the energy crisis of the 1970's.

Mr. President, I do not take the floor to defend the management of the Synthetic Fuels Corporation. The Corporation has in the past suffered from very poor management. However, those problems seem to be behind us. Why is it that once the problem appears to have been solved we seek to abolish synfuels? Why is it that just

when the Corporation is on the verge of funding projects which could make greater use of America's most abundant energy resource—coal—we pull the rug out from under it?

Killing the Synthetic Fuels Corporation would be shortsighted in the extreme. If we do not continue funding for the SFC I predict with confidence that we will live to regret it.

Mr. BRADLEY. Mr. President, I wish to speak in favor of the amendment proposed by Senators METZENBAUM and EVANS to cut further funds from the energy security reserves, the account which funds the Synthetic Fuels Corporation.

Mr. President, my colleagues are aware that the energy security of this Nation has long been a major concern of mine. Sound energy policy must include research and development targeted at producing synthetic fuels. There is no question, that while the pressing energy concerns of the early 1970's have subsided, the problems inherent in the consumption of finite resources will return. However, the Synthetic Fuels Corporation has done little to enhance the energy security of our Nation.

Instead the history of the SFC is one of fiscal irresponsibility, poorly designed projects and general mismanagment. With respect to fiscal irresponsibility, we need only to look at the Great Plains coal gasification project. This project is sponsored by a consortium of large, extremely profitable, energy companies. Having failed to obtain private financing, the consortium succeeded in securing Federal support. Today the facility is generating natural gas at a cost of approximately $10 per 1,000 cubic feet. This is over three times greater than the market value of natural gas—which is in plentiful supply in the United States, Mexico and Canada. Yet we have loaned these profitable corporations well over $1.3 billion in taxpayer money to build this facility; and the sponsors have abandoned it to the Department of Energy.

With respect to poorly designed projects, I cite two projects that will use technologies that are already being pursued by other companies in the private sector at their own expense. These are the Forest Hill project which is intended to extract heavy oil in Texas and a Utah methanol project, which will gasify coal and convert the gas to methanol.

With respect to general mismanagement, a GAO report issued earlier this year criticized the SFC for failing to solicit competitive bids for consulting services. This resulted in contractors being reimbursed at up to $1,000 per day. The GAO concluded that "The corporation's contracting practices continue to reflect a complete disregard for Federal procurement regulations."

Mr. President, I support the action taken by the House of Representatives; and it was an action taken with overwhelming agreement. It allowed for the continued support of research and development in synthetic fuels technologies by transferring $500 million to the DOE thereby maintaining our commitment to a secure energy furture. CBO estimates that will result in a savings of $468 million over 3 years—fiscal year 1986-88.

The so-called compromise that now appears in the bill is no compromise. It rescinds funds that the Corporation could not expend, even if it desired to. The compromise does not result in any discernable savings in the near term. Instead, it is a license to continue operations on a business-as-usual basis. In light of past and continuing actions, such a decision on the part of the Senate is clearly unconscionable.

Mr. President, it is absurd that in recognition of our serious deficits we have made substantial cuts in important programs while making no real savings in a misguided, mismanaged, and completely unnecessary Federal entity such as the SFC.

Mr. President, what we have here is a clear indication of the foolishness of establishing a corporation and not requiring that it be held accountable to its stockholders—who, in this case, are the American taxpayers.

Mr. President, a vote to dismantle the SFC and transfer $500 million to the Department of Energy is a vote for the future energy security of our Nation. A vote to dismantle the SFC is budgetary prudence. In fact, Mr. President, there is no justification to continue the existence of the SFC, the House of Representatives has recognized this; the American taxpayer recognizes this; and I hope that the U.S. Senate will recognize this.

Mr. McCLURE. Mr. President, I yield 1 minute to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

WHY WE NEED THE SYNTHETIC FUELS CORPORATION

Mr. DIXON. Mr. President, in 1980 when I ran for the Senate the biggest issue in my State was the question of synthetic fuels. Since that time the price of oil and gas has dropped, and because that a great many people in the Senate and in Congress are being shortsighted.

Mr. President, regretably too often Congress simply reacts. It does not plan ahead.

I think it would be a tragic error for us to abandon this important project. We should plan ahead, Mr. President, because there will be a shortage again, and our investment in synthetic fuels will be a very wise investment. This country needs a strong and viable Synthetic Fuels Corporation. Killing it would be penny wise and pound foolish.

The SFC that is before us today is not the same SFC that Congress created in 1980. The original law gave SFC $88 billion in obligational authority. Last year Congress had a choice of cutting the program to either $13 billion or $6.9 billion. Congress chose the $6.9 billion. Today we are faced with keeping nothing for the SFC or keeping $3.9 billion. We should keep $3.9 billion.

We have heard of how wasteful SFC has been with the taxpayers money. It has. What we should be doing is make appropriate cuts in the SFC so that we have a more cost-effective program.

The new SFC Board has made a firm commitment to a Synfuels Program which provides commercial operating experience with the major synfuels technologies and resources at the lowest possible cost. The days of multibillion dollar contracts for technological turkeys is over. The business plan created by the SFC last year emphasizes smaller, less costly projects.

If we kill the program as some would advocate for budgetary reasons we fail to acknowledge cost estimates prepared by the Congressional Budget Office [CBO]. According to CBO, only $332 million will be saved through 1990 if we take the remaining $6.9 billion from the SFC. Congress should be looking to cut wherever we can—but this type of misguided budget cutting will only leave America vulnerable to another Middle East energy crisis.

The proponents of this final cut in the SFC budget are unknowingly attempting to steer us on a course that could leave the United States helpless in case of another national energy emergency. The fact remains that we must develop synthetic fuels technology now, so that we know that it will be available when the next crisis occurs.

I once again urge my Senate colleagues to reject this amendment, which would strike all the remaining funds from the SFC, and support, instead, the committee amendment which would seek a cut in the program of $3 billion.

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senater has 5 minutes remaining.

Mr. McCLURE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, this matter has been before us a number of times and I am not going to belabor the subject except to say that just a year ago we entered into an agreement, a compromise between the House and the Senate and the administration on a reduced and curtailed program. I recently discussed that agreement at length during Senate

debate on the Interior and Related Agencies Appropriations Act.

Just about 8 months ago they finally got enough board members confirmed through the Senate so that they could go forward with the revised business plan.

Now, they are being continually hit over the head after Congress has hamstrung them, continually hit over the head by the fact that they have not produced more. For Heaven's sake, we have not let them produce more. We are as guilty of interference in their affairs as anyone may be. Regardless of what their problems may have been in the past, Congress should not again interfere in that process.

They are going forward now with a business plan that was revised precisely according to the agreement entered into just less than a year ago now. I think they are entitled to move forward.

Second, as the distinguished Senator from Louisiana indicated, our dependence upon imported oil is increasing. I would ask only if you do not look at anything else, look at the new Department of Energy oil import forecast. If you can be complacent in the face of that, I defy your logic or your judgment. You simply cannot be complacent.

My friend from Washington says you can do better in R&D somewhere else. This is an essential distinction. The Senator was not here when this started. But we debated that at length. We are not trying to do R&D. We are trying to demonstrate commercial technology. I read Secretary Harrington's comments about the Union Shale Oil Program. He said we should not put any money into this; it has not been demonstrated that it works.

What is a demonstration program? It is to take the R&D and put it into a commercialization operation to see whether it works.

He said they started it up and ran into trouble.

That is why we go into a demonstration program, to find out if the theory developed in the research laboratory is going to work in the field, and it did not work. They had to revise it.

That is why you have a demonstration program. That is why we spend money on that. When we need to be able to produce oil from shale we will know we can do it, what its technology is, what its costs are, what its opportunities and promise may be—not theoretically but in practice.

I think it is time for us to get out of the way and allow them to complete this phase of the program.

The Senator from Louisiana correctly identified the fact that we have reduced this program several times. I would just observe that this started out to be an $88 billion program when Congress authorized it. The first $20 billion was appropriated and what we have been doing is rescinding that appropriation piece by piece.

In 1980, the Congress responded to the energy crisis of the 1970's by enacting the Energy Security Act. Among its various legislative initiatives, the act created the U.S. Synthetic Fuels Corporation, and mandated as a national goal establishment of the capability for commercial production of synethetic fuels, and also a broader purpose—enhancement of the long-term energy and hence economic security of the United States.

Consistent with this objective, the Energy Security Act also established two alcohol fuel programs: one in the Department of Energy to provide financial assistance to very large scale commercial projects and one in the Department of Agriculture to support smaller scale projects, but still of a commercial scale.

As I reviewed earlier during debate on the Interior Appropriations Act, the justification for the SFC's Program remains valid.

CURRENT SFC FUNDING

When President Reagan declared the SFC operational in 1981 it had $14.9 billion in obligational authority available for conditional financial assistance, not the $88 billion originally proposed and often cited by SFC critics, or the $20 billion authorized in 1980 by the Energy Security Act.

Nevertheless, in recognition of the need in 1981 to reexamine the budgetary effects of Federal programs, such as synthetic fuels, the Deficit Reduction Act for fiscal year 1984 reduced the SFC's obligational authority to $14.1 billion. Subsequently, also in 1984, the continuing resolution for fiscal year 1985 further rescinded $5.375 billion.

CURRENT SFC OBLIGATIONAL AUTHORITY

The current SFC Board was thus left in fiscal year 1985 with only $8.686 billion in obligational authority out of which $5.7 billion was earmarked for eight projects with letters-of-intent authorized on or before June 1, 1984. In the aggregate these letters-of-intent, which were approved by the previous Board on the basis of an in-depth review of each project's strength and maturity, totaled $6.795 billion.

An added feature of this agreement with the administration was provision for recapture of 50 percent of any unobligated balances from this set aside for letter-of-intent projects, and its return to the Treasury.

SFC'S IMPLEMENATION OF 1984 AGREEMENT

In response to this agreement and the appointment of three new Directors, the SFC Board of Directors moved expeditiously to reformulate and scale back its business plan. Within 3 months of reestablishment of a quorum of the Board in December 1984, it had approved its statement of objectives and principles and its phase I business plan. Subsequently, by the end of June 1985, it had submitted to the Congress its comprehensive strategy report.

Mr. President, this restructuring of the SFC's Program will further reduce its potential budgetary impact. Such reduced award targets are reflected in the SFC's recent negotiations and awards to those projects with "letters-of-intent."

The current SFC's business plan, with its reformulated program, when completed, thus will achieve that critical initial commercialization of synthetic fuels, but at less than 10 percent of the cost contemplated by the Congress in the Energy Security Act.

Nevertheless, critics of the SFC remain unsatisfied. Their criticisms, however, fail to take into consideration the high degree of professionalism that has been achieved at the SFC following a continuous upgrading of its management and administrative practices.

CURRENT MANAGEMENT PRACTICES

Because of the SFC's concern that its awards of financial assistance meet the highest standards of excellence it has instituted a number of management reforms. For example, the SFC's statement of principles and objectives, among other matters, provides that any project assistance must represent a sound industrial undertaking; hence any project must satisfy stringent evaluation criteria regarding standards of technical and financial strength. These selection criteria are embodied in the Board's selection criteria as well as SFC staff evaluation procedures.

Comparable requirements also were imposed to ensure managerial capability and the financial resources of sponsors. Although some of the letter-of-intent projects had been under evaluation for 2 years when the reconstituted Board was convened, it ordered a review of the adequacy of the original evaluations and an assessment of the projects against its new statement of objectives and principles and its new business plan.

Following improved management procedures, the scope of the SFC's economic analyses was expanded to include the overall social costs and benefits of individual project proposals and the aggregate SFC Program. In addition, increased emphasis was placed on more stringent, financially quantified termination provisions to better assure continued operation of projects after the period of SFC assistance.

CURRENT ADMINISTRATIVE POLICIES AND PRACTICES

In recent years the SFC has undertaken a number of actions to ensure more efficient and cost-effect administrative practices. The regular full-time staff has been reduced in numbers from a peak of 209 to approximately

130, a decrease of over 34 percent. This was accomplished by the elimination of positions no longer required for the SFC to complete its statutory mission; by consolidation of duties; and by attrition.

Nevertheless, as the Congress recognized in the Energy Security Act, the SFC has a continuing need to attract and maintain a cadre of professional economists and engineers suitable to its mission. This has been accomplished by the SFC, consistent with the practices of Federal agencies with comparable economic and technical missions. For example, the average GS equivalent pay grade for SFC personnel is grade 10, step 9. This compares favorably the National Aeronautics and Space Administration, grade 11, step 1; the Department of Transportation, grade 10, step 9; the Environmental Protection Agency, grade 10, step 8; and the Federal Trade Commission and the Federal Deposit Insurance Corporation, grade 10, step 7. Notably, the SFC's average equivalent GS grade level is exceeded by the Office of Management and Budget, grade 11, step 4; the General Accounting Office, grade 11, step 5; and the Federal Mediation and Conciliation Service, grade 12, step 6.

The SFC's salary schedules thus are comparable to Federal agencies with comparable missions.

BENEFIT PACKAGE

As originally established by the Congress the SFC was designed to have a limited life. Nevertheless there was a need to attract into Government service for a limited time individuals with the necessary financial and engineering expertise for the SFC to satisfy its charter. The SFC thus undertook to design a pension plan which recognized this need. Benefits under the current plan are consistent with general Federal Government policies as well as private industry practices. For example, the benefit costs incurred by the Federal Government are at least 30 percent of payroll; by comparison the SFC's costs have never exceeded 25 percent of payroll. The principal difference is that the SFC's retirement benefits are paid out of current appropriations, while Federal Government retirements benefits are an unfunded liability. But nevertheless a liability.

However, mindful of criticism that have often been directed against its personnel practices, the SFC has undertook to redesign and modify its pay, benefit and personnel policies, so as to achieve savings of over $1,525,000 as of the end of fiscal year 1985. The new Board reduced by two the number of officers. The salaries of most of the officers were frozen at the rates set in September 1983 or earlier. And the senior staff either had their salaries frozen or raises significantly curtailed.

But equally important, if the SFC had adopted a benefit package similar to that provided Federal civil service employees between 1980 and 1985 the SFC would have incurred an additional expenditure of $5,000,000 for employee benefits. For example, a Federal employee's benefit expenses are greater than 30 percent of their salary, compared to under 25 percent of salary while at the SFC.

CASH MANAGEMENT PRACTICES

In response to an internal audit of the SFC's cash management practices for 1983, during 1984 the SFC upgraded its cash accounting practices and procedures regarding travel authorization. In addition, the SFC modified its relocation reimbursement policy so that it is now consistent with other Federal Government policies.

NEGOTIATION STRATEGIES

Early on the SFC developed negotiations procedures that are always explained to project sponsors in an initial negotiations orientation session prior to the start of factfinding discussions.

During 1984 and 1985 the SFC upgraded these procedures to prepare strategic planning documents, to strengthen work plans, to set milestone dates for project development as it proceeds, and to provide a system for prompt documentation of Board decisions.

FINANCIAL DISCLOSURE

The Energy Security Act, as originally enacted, provided that the financial disclosure provisions of the Ethics in Government Act of 1978 would apply to SFC Directors, officers, and higher-salaried employees. In addition, that original act provided that certain provisions of 18 U.S.C. 207 regarding post-employment activities of former officers and employees of the executive branch were made applicable to former SFC employees. Nevertheless, concern was expressed by some that the provisions of Executive Order No. 11222, prescribing standards of ethical conduct for Government officers and employees, did not apply to SFC employees.

In an effort to be responsive to this concern, the continuing resolution for fiscal year 1985 subjected SFC Directors, officers and employees to the same standards of ethical conduct and financial reporting as set forth in Executive Order No. 11222. Subsequently the SFC on June 18 revised its policy on standards of conduct to reflect this change in law.

COMMERCIALIZATION VERSUS R&D

Now let us look at the incorrect suggestion that a DOE Research Program could leap frog over existing synthetic fuels technologies which are ready for commercialization. Such a possibility reflects a basic misunderstanding of what is entailed in the commercialization of a new energy technology such as synthetic fuels. Further research will not provide knowledge on the scaleup of existing systems; it will not provide knowledge on system intergration or component related information on corrosion, erosion, or hydrodynamic behavior of multiple systems processing large volumes of solids. Such knowledge can only be obtained with very large facilities utilizing full-scale commercial equipment.

By comparison, the present DOE's Research Program, if successful, will provide a greater understanding of fundamentals that could eventually lead to evolutionary improvements to existing synthetic technologies. Furthermore, the ideas currently being pursued by DOE's Synthetic Fuels Program, if successful, will be easily incorporated into any plants built using already ready commercial technologies. Such a step also is a necessary condition for reduction into commercial practice of new synthetic fuel developments such as those being pursued by DOE.

REQUIRED ENVIRONMENTAL COMPLIANCE

Critics of the SFC incorrectly alleged that it has broad powers to exempt synthetic fuel projects from the environmental, health, and safety requirements imposed on all other projects of comparable size and potential environmental impact. However, this is totally wrong. Any project receiving SFC assistance is subject to the same environmental laws and regulations as any other commercial industrial project. For example, such projects must obtain all the necessary permits under the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and other applicable Federal, State or local environmental and health statutes. Further, all SFC contracts require as a condition of any assistance that projects comply with any requirements under such permits.

In addition, section 131(u) of the Energy Security Act and the SFC's environmental monitoring plan guidelines require the collection of more extensive environmental and health data from SFC assisted projects than otherwise would be required by such statutes. These SFC requirements extend to the monitoring and reporting of substances not currently regulated under existing law. The collection of such environmental and health information will assist in the development of a domestic synthetic fuels industry along environmentally sound lines.

SFC/SPRO COMPARISON

Mr. President, a couple of weeks ago during the debate on the Synthetic Fuels Corporation, one of my colleagues argued that taxpayer money is much better spent on putting oil into the strategic petroleum reserve than it is to put money in Synthetic Fuels Corporation projects.

The Synthetic Fuels Corporation, and the strategic petroleum reserve

are similar in the sense that both will provide a future capacity to produce oil. However, there is considerable difference in the length of time that each is available to meet our country's oil demands.

I am a strong supporter of the strategic petroleum reserve but it is extremely short sighted to think that the reserve will solve our energy problems. It will not. It does, however, give us a temporary supply of oil that can be used in case of an emergency. According to DOE, the current supply of oil in the strategic petroleum reserve will last only 100 days.

The strategic petroleum reserve is only one part of several pieces of the program necessary to foster energy independence. The Synthetic Fuels Corporation is another piece of that program designed to provide more than a temporary fix to potential energy shortages.

While the strategic petroleum reserve and the Synthetic Fuels Corporation, are tied together it is interesting to compare the costs associated with each.

The costs associated with a barrel of oil for the strategic petroleum reserve are made up of the costs of storage, construction, maintenance, and the actual cost of oil. The average cost of SPR oil from 1977 through 1984 was slightly over $29 a barrel. The total invested capital—including storage, construction, maintenance costs, and increase in interest costs to the national debt—is nearly $50 a barrel.

Of course, these additional storage maintenance, and costs associated with the interest costs are incurred annually and would increase annually. These costs would increase by 1995 at an approximate to $5 per year, thus bringing the total actual cost to $100 per barrel.

By comparison, the Synthetic Fuels Corporation is proposing to guarantee the price of syncrude from the Parachute Creek oil shale plant at approximately $72 a barrel.

CONCLUSION

As I discussed earlier, only last year the Congress addressed the matter of SFC funding. One year has passed since SFC compromise legislation was enacted in the fiscal year 1985 continuing resolution. That agreement called for a scaled-down Synthetic Fuels Program.

Since that agreement, the new Board has responded to Congress and has moved deliberately to produce a statement of objectives and principles, a new business plan, and the comprehensive strategy report to the Congress. The Corporation has restructured its program, as mandated by Congress, to reflect the new business plan. The new program concentrates on obtaining experience in construction and operation of [illegible] projects using commercial scale equipment.

Abolishing the SFC at this time will result in loss of the potential benefits for which we have been pursuing for more than 4½ years. It is budgetarily irresponsible to abandon achievement of these benefits at this critical time, when the SFC's Program is about to reap the rewards which we have sought for so long.

There currently are four successful, commercial synthetic fuels plants which have been assisted by the new SFC Board. Given time, the new Board will approve more well-designed and well managed projects based upon their technical, managerial and economic strengths. We are finally seeing tangible results of a 4 year effort by the Congress and the Reagan administration.

What has always been needed is an entity such as the SFC which can utilize experienced management teams with the expertise to operate commercial facilities. The SFC was created for that purpose, and the SFC has been taking a cautious approach in selecting qualified sponsors and projects which meet its criteria of strength and maturity.

The current SFC Program, now in place, costing a fraction of the original congressional authorization, constitutes an appropriate initial program to foster the development of our synthetic fuels option—which is an insurance policy for the United States.

Mr. President, I ask unanimous consent that a dear colleague letter describing the committee amendment and the fund that would be available do the SFC be reprinted at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, December 6, 1985.

DEAR COLLEAGUE: The Senate is commencing debate on H.J. Res. 465, the Continuing Resolution for fiscal year 1986, and once again debate will occur concerning the future of this nation's synthetic fuels development program.

Just last fall the Congress and the Administration agreed to a reduced and restructured program for the U.S. Synthetic Fuels Corporation. Eight months ago, the Senate confirmed three new Board Members which allowed the Corporation to proceed with its smaller, restructured Business Plan. It is now obvious that the Congress wants to further restrict and reduce that program.

In an effort to meet this concern, included in the Continuing Resolution is a Committee amendment which we believe is responsive to current realities, while at the same time [illegible] the long-term [illegible] this vital [illegible]

[illegible] effectively do away with this vital energy program altogether. Specifically, the amendment—

Further rescinds $3 billion of the SFC's obligational authority, leaving the SFC with sufficient budgetary authority to complete implementation of its restructured Business Plan;

Directs the SFC to complete implementation of its Business Plan by a date certain (September 30, 1986), after which the SFC will enter its contract monitoring phase, with a significant reduction in staff;

Restricts the SFC's negotiations to the present list of pending proposals, which, in response to SFC solicitations, were submitted prior to October 1, 1985;

Accelerates the SFC's termination date to as early as 1989, but in no event later than 1992, or 5 years earlier than current law; and

Requires the SFC to submit to the Congress by September 30, 1986, a report reviewing actions taken to implement its Business Plan and by July 1, 1989, a report fulfilling the same statutory requirements placed on the comprehensive strategy submitted to the Congress this year.

In our judgement, this amendment is responsive to concerns of the Congress and to current budgetary realities, while avoiding the potential sacrifice of over $1.4 billion in private sector investments that have been made to date and avoiding the charge that once again the Federal Government will not fulfill commitments that people and companies have relied upon.

We urge your support for this compromise amendment already included in the Continuing Resolution.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority Member.
JAMES A. MCCLURE,
Chairman.

[From Energy Daily, Dec. 3, 1985]

HUGE INCREASE IN OIL IMPORTS FORECAST IN NEW DOE STUDY

(The United States faces a continuing longterm decline in domestic oil reserves and production, coupled with increased oil imports. This translates into spiralling costs for imported oil, from roughly $60 mill[illegible] this year to more than $100 billion a ye[illegible] 2000. In total, the U.S. will spend mo[illegible] $2.4 trillion for oil imports from [illegible] according to a draft of the Pres[illegible] National Energy Policy Plan [illegible]

(By Bill Ran[illegible]

The soon-to-be-relea[illegible] completed by the [illegible] Energy staff and i[illegible] federal agencies [illegible]

Although m[illegible] energy obs[illegible] accuracy [illegible] plan [illegible] crea[illegible] i[illegible]

trol, with resulting price increases, according to the preliminary plan.

Using these assumptions as a reference, NEPP predicts:

U.S. domestic oil production (10.2 million barrels a day in 1984) will decline to 9 million b/d in 2000 and 7.6 million b/d by 2010, or 25 percent less than in 1984;

Annual oil import costs (constant 1984 dollars) will grow from $54 billion in 1990 to $106 billion in 2000 and $182 billion in 2010;

Total U.S. oil import costs will be roughly $350 billion for 1984-1990, $800 billion for 1991-2000 and $1.4 trillion for 2001-2010;

By 1990, the U.S. will be more heavily dependent upon oil imports than it was before the 1973 oil embargo; by 2000, oil imports could provide 47 percent of total U.S. oil consumption (versus 1984's 35 percent), an all-time U.S. record; and

From 1990 to 2010, U.S. domestic oil production will drop by 1.6 percent a year (from 10.5 million b/d to 7.6 million b/d), although real oil prices will increase at a substantial 4.6 percent annual rate (from $23 to $57 per barrel).

The preliminary plan predicts oil prices will increase gradually over the next 25 years: by 1990, $23 per barrel; 1995, $30; 2000, $37; 2005, $47; and 2010, $57. This constitutes a significant change of heart by the Administration, which in its 1984 forecast predicted oil prices to rise to $61 a barrel in 2000 and $90 a barrel by 2010. (The Gas Research Institute's projections, however closely track the 1985 NEPP projections. GRI predicts oil prices to cost $26 per barrel in 1990, $38.50 in 2000 and $57 in 2010.)

The preliminary NEPP plan also contains another drastic change from last year's plan. The 1985 draft says that by 2000, net energy imports will supply 17.2 percent of U.S. demand by 2000 and 15.3 percent by 2010. Last year's projection, however, predicted that net energy imports would account for just 8 percent of demand by 2000 and only 2.5 percent by 2010.

But sharing DOE's view of increased imports and decreased domestic production is GRI. Petroleum consumption will increase to 16.9 million b/d by 2010, says the institute. (NEPP says 16.4 million b/d.) "As a result, primary petroleum consumption grows at only 45 percent of the rate of growth in total energy demand," says the GRI forecast.

...pite the relatively slow growth in pe... consumption, "declining petroleum ... results in a significant increase ... imports," says GRI. The insti... at domestic production will ...on barrels per day in 1984 ... per day in 2010. GRI ...ween 1984 and 2010, ... imports needed to ...rom 4.8 million ... barrels per ...

...primary ... 77.8 ...ate ...

U.S. SYNTHETIC FUELS CORPORATION FUND AVAILABILITY, FISCAL YEAR 1985

[In millions of dollars]

	Obligational authority	Commitments		Project commitments
		Letters of intent	Other	
Continuing resolution, fiscal year 1984 (energy security reserve)	8,685.72			
SFC commitments:				
Cool Water		(120.00)		
Dow Syngas		(620.00)		
PMA 131 (u)		(0.47)		
Subtotal		(740.47)		740.47
Administrative expenses			(51.92)	
Fees and receipts (to date)			2.61	
Fiscal year 1984 subtotal		(740.47)	(49.31)	
Balance available, fiscal year 1985	7,895.94			
Subtotals		5,700.00	2,195.95	
SFC Commitments: Forest Hills (LOI)		(60.00)		60.00
Administrative expenses			(13.97)	
Fees			0.07	
Fiscal year 1985 subtotal	(73.90)	(60.00)	(13.90)	
Balance available, fiscal year 1096	7,822.04			
Subtotals		5,640.00	2,182.04	
Committee amendment (November 7)	(3,000.00)	(3,000.00)		
Balance	4,822.04	2,640.00	2,182.04	
SFC commitments: Union I		(500.00)		500.00
Pending projects (LOI's):				
Cathedral Bluffs (reserved)		(2,190.00)		
Great Plans (reserved)		(720.00)		
Hop Kern (withdrawn)		0.00		
Northern Peat (reserved)		(365.00)		
Seep Ridge		(184.34)		
Subtotal		(3,459.34)		2,140.00
Pending proposals			2,045.89	2,045.89
Keystone (coal)				
COGA-1 (coal)				
Utah methanol (coal)				
Virginia Power (coal)				
PR Springs (tar sands)				
Sunnyside (tar sands)				
American Syn-crude (oil shale)				
Paraho-Ute (oil shale)				
Administrative expenses (through fiscal year 1990)			(142.00)	
Fees			5.85	
Balance available	0.00	0.00	0.00	5,426.36

Mr. McCLURE. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. Mr. President, let me just briefly reiterate that the fact there are good people, and I would agree they are good people, now in charge of a corporation does not mean that good people should run a bad operation.

Synfuels Corporation as a separate corporation is unnecessary. We can continue research on oil shale. We can continue research in any direction we think is appropriate.

I say to my colleague from Idaho I know very well as ... engineer some... ime in the distan... the difference ...ween basic ... ...pplied re... demon... and all ...

search. Nothing prevents us from doing basic research.

But I reiterate we should do it through the appropriations process, through continuing decisions, through priorities which we in Congress set and they do not remain immutable.

The fact that the corporation has come down from $14 billion is merely an indication that we are on the right path. It is time to take it the remainder of the way and put ourselves in position where we are in Congress and the scientists of the Nation, where the Energy Department, energy research and development, and the demonstrated technologies should be concentrated, can do it in a comprehensive fashion.

Mr. President, the administration has consistently, over time, supported the amendment the Senator from Ohio and I have introduced. They continue to support it. I suggest my colleagues do likewise.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr President, I yield 1 minute to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. JOHNSTON. Mr. President, I simply want to say that when it comes to oil shale, when it comes to coal gasification, it is not research we need. We know coal gasification will work. The Germans did it in World War II. We know coal liquefaction will work. The Germans ran their air force on it in World War II. We know you can get oil from shale. They have been doing it in Colorado since the first decade of this century.

What we do not know and what this program is designed to do is to find out whether we can commercialize oil shale, whether you can do it in situ or whether you can do it by retorts, whether the best way to go with coal, liquids from coal, is from the methanol process or go directly from gas to liquids, or a whole host of other things that are designed to be found out in this program, ongoing, and in which $1.4 billion has been put up from the private sector. Let us not stop it now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, I have 1 minute remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, I urge my colleagues to reject the amendment offered by the Senators from Ohio and Washington, which would completely destroy and eliminate the Synthetic Fuels Corporation and its program. We have constrained it under the compromise which we have offered. It must make its initial ...cisions by September 30, 1986. Then

they would scale back only to monitoring the contracts and completing the contracts then in effect.

I hope that the Senate will allow us to proceed with the compromise which has been offered by the committee and reject the amendment which is pending.

The PRESIDING OFFICER. All time has expired.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. METZENBAUM] and the Senator from Washington [Mr. EVANS]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Mr. SARBANES], and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 43, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—40

Baucus	Glenn	Metzenbaum
Biden	Gorton	Moynihan
Bingaman	Gramm	Nickles
Boschwitz	Grassley	Packwood
Bradley	Harkin	Proxmire
Bumpers	Hecht	Quayle
Chafee	Helms	Riegle
D'Amato	Hollings	Roth
Danforth	Humphrey	Rudman
Dodd	Kassebaum	Stafford
Dole	Kasten	Thurmond
Durenberger	Lautenberg	Wilson
Eagleton	Levin	
Evans	Mattingly	

NAYS—43

Abdnor	Boren	DeConcini
Andrews	Burdick	Dixon
Armstrong	Byrd	Domenici
Exon	Lugar	Sasser
Ford	Mathias	Simon
Garn	Matsunaga	Simpson
Gore	McClure	Specter
Hatch	McConnell	Stennis
Hatfield	Melcher	Stevens
Hawkins	Mitchell	Symms
Heflin	Nunn	Trible
Heinz	Pell	Wallop
Johnston	Pressler	Warner
Laxalt	Pryor	
Long	Rockefeller	

NOT VOTING—17

Bentsen	East	Leahy
Chiles	Goldwater	Murkowski
Cochran	Hart	Sarbanes
Cohen	Inouye	Weicker
Cranston	Kennedy	Zorinsky
Denton	Kerry	

So the amendment (No. 1325) was rejected.

Mr. McCLURE. I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, under the unanimous-consent agreement, there are 20 minutes reserved on the committee amendment. In my conversation with Senator METZENBAUM and Senator EVANS, we agreed that we would be bound by the outcome of this vote. It would be my hope that we could rescind the time and accept the committee amendment by voice vote.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 2 minutes to myself.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I think that final vote was 40-43. It is a fact that there were 17 absentees and if you count the absentees, there is some reason to believe that we would have prevailed had they all been here. But it is a further fact that Senator EVANS and I had indicated to Senator McCLURE and Senator JOHNSTON that we would take our chances with that vote. We lost; therefore, we have no objection to vitiating any further action in the matter.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLURE. Mr. President, before yielding back my time, I wish to thank both Senator METZENBAUM and Senator EVANS. Senator METZENBAUM does outline it correctly. We had before the vote said we would accept the outcome of the rollcall, regardless of what it was. We also said it was our intention to make the appropriate change in the reconciliation measure to reflect that action. So this will be the final vote for this year on this issue.

I yield back the remainder of my time.

Mr. METZENBAUM. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. McCLURE. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I have been asked many times about the possibility of more votes this afternoon. I also am aware that there have been certain Members who were not on the floor at the time that I outlined the procedure to be followed on this matter around 1 o'clock or 1:30. Let me reiterate briefly.

The current continuing resolution that we are living under—not the one that we have before us today, but the CR currently in effect, in place, expires next Thursday night. That means that we have to take some action between now and Thursday, one of two kinds of action. We either have to get this bill into conference and get a conference report out of conference that the President will sign and back here acted on by Thursday night

Second, if it appears, as it does to me at this moment, that the President is not going to sign any conference report we get out of conference committee and that the House of Representatives will not permit a vote on a conference report until the White House assures Congress that they will sign the conference report, we are headed for a forth continuing resolution, this pending one being the third one.

In that case, that fourth continuing resolution, if I were to make a prediction, would probably be a short termer, bridging us over Christmas into the next session of Congress. Whereupon, Congress at that time would have to take the action again for either a fifth continuing resolution or, in the meantime, hopefully, two more appropriations bills that are wrapped into this continuing resolution will be signed into law; namely, Labor-HHS and State-Justice-Commerce. So we would be dealing with

another continuing resolution in a different configuration.

There are some issues in this bill that the Senate has not had a chance to debate; namely, Defense Department appropriations and foreign relations. Now, everyone has certain concerns and ideas about that, but let me go through procedurally where no one's rights are going to be foreclosed to alter the ultimate product of this continuing resolution if this is one that can ultimately be signed.

First of all, we will have a conference report if we can get the commitments out of the White House and we will have points in disagreement in that conference report. That will come back to the floor of the Senate and that becomes amendable. So on those burning issues, those deep concerns that I know my colleagues have on some of these matters, their right could then be exercised at that point on the conference report. If we do not have a conference report, we will have a fourth continuing resolution. We shall have to have one. That will probably be a stripped-down version of whatever else the House may decide to do with that. That becomes a vehicle upon which a Senator's issue might be considered by this body through the amending process.

There is also the supplemental vehicle that we know is being formulated now in the OMB. That will be coming down the track at a later date.

What I am trying to emphasize at this time, Mr. President, is that really, in effect, this whole vehicle that we are working with and what we are doing now to modify and change it is a sort of exercise in futility, because the simple fact that remains is that this may never even get out of conference, but rather, a whole new vehicle may be sent over to us by the House Appropriations Committee.

The sooner we can get to conference, the sooner, of course, we can get some kind of vehicle back here, either to modify or change or whatever we want to do, and do before Thursday night. That is the situation we are in.

I want to say that in my view, unless we can get this thing, as I had hoped and announced early on at 1:30 today—we were here to do business, we wanted to complete this bill today if possible. That is still our objective. But no Senator's rights are being foreclosed. Those Senators who are trying to find a time of no votes or rollcall votes, I have no other way to express it except to say I am hopeful that we do not have any more rollcall votes, that we can move this to a final voice and get into conference by, hopefully, Monday or Tuesday.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. BUMPERS. When the Senator refers to this bill coming back in an amendable form, is he referring to amendments or points of true disagreement that come out of conference? Because this vehicle, once it passed here today or Monday or whatever, will not be amendable again, will it, except for a vote on those things which are in true disagreement between the House and the Senate?

Mr. HATFIELD. Or with technical disagreements on technical issues that can be amended. The one I am suggesting here at this time, we will devise some mechanical system in order to make it amendable so that Senators who are not able to be here at this particular moment to offer an amendment may have an opportunity on that vehicle to offer that amendment.

Mr. BUMPERS. If the Senator could give us some assurance—I have an amendment which I feel certain would require a rollcall vote. If I could have some assurance I could have a rollcall vote next week on that amendment, I would be happy to forgo offering it at the moment.

Mr. HATFIELD. The Senator would have two opportunities. No. 1 would be on a conference report that we would make amendable. Or, No. 2, if we are not able to reach an agreement in conference that would be agreed to by the conference, then we will have a fourth, a short-term kind of CR vehicle that will pick up the void that would be created by Thursday midnight.

Mr. BUMPERS. I thank the Senator.

Mr. McCLURE. Would the Senator yield?

Mr. HATFIELD. Yes, Mr. President, I yield.

Mr. McCLURE. There are several Senators who have proposals with respect to the Interior appropriations bill contained in this CR. There are a number of those proposals which are agreeable to the manager of that bill and I think to the minority manager as well. It would be my hope that those which are not controversial and agreed upon between the parties, we would have an opportunity to place in this vehicle before it leaves. It is my understanding we can do that and if anybody raises any controversy about those matters and demands a rollcall vote, then we would have to try to pull the amendment down.

I do not know of any such controversy, but I did want those who have had discussions with me or my staff to know that we are prepared to accept a number of those amendments.

Mr. DECONCINI. Will the Senator yield?

Mr. JOHNSTON. Will the Senator yield?

Mr. HATFIELD. I would be happy to yield.

Mr. DECONCINI. Will the chairman yield?

Mr. HATFIELD. I yield to the Senator from Louisiana and then the Senator from Arizona.

Mr. JOHNSTON. I thank the Senator. Mr. President, I have an amendment—in fact, I have two amendments with respect to the strategic defense initiative, and the distinguished Senator from Arkansas has a second-degree amendment to mine. Now, in the interest of speeding this matter up, I think we may be able to negotiate an agreement—I would hope we can—with Senator STEVENS, if he is somewhere available. I state that in the interest of getting this thing speeded up.

Mr. HATFIELD. I thank the Senator from Louisiana, because I want to accommodate Senators in their rights, not foreclose them, and we will do that in whatever time it may take. I am really trying to get down to I guess a bottom line, for many questions have been asked, will it require a rollcall, will Senators be offering something that will require a rollcall. I am not aware at this point, with the possible exception of Senator GLENN and Senator JOHNSTON—and if that agreement can be worked out, that would vitiate the necessity of a rollcall—I am not aware——

Mr. HOLLINGS. Will the Senator yield? Is Senator JOHNSTON's amendment on the SDI; is that what we are talking about?

Mr. JOHNSTON. That is correct.

Mr. HOLLINGS. But you say it is worked out?

Mr. JOHNSTON. I say it may be possible to work it out.

Mr. HOLLINGS. Because I had gotten two reports from Senator STEVENS, Mr. Chairman, to the effect that there was not going to be one, but if there was one there would be a rollcall. I just talked to him.

Mr. JOHNSTON. What my amendment would do would be to reduce the funding to $2.75 billion, which is the authorized level.

Mr. HOLLINGS. Right.

Mr. JOHNSTON. Senator BUMPERS had a second-degree amendment to reduce that to $2.1 billion, and it may be possible to come together on that.

Mr. HOLLINGS. I would be interested in it. At the present time there could be a rollcall. I would have to inform my colleagues that I might ask for a rollcall.

Mr. JOHNSTON. There would have to be two or three probably unless we could work it out.

Mr. MATTINGLY. It seems to me, after the vote on the synfuels matter, we are sort of assured that the continuing resolution is not going to go anywhere. Now, if the Senator is going to begin offering other amendments, like the Senator from South Carolina, I get concerned when the Senator

starts talking about SDI and everything else. We can start canceling flights right now to make rollcall votes. I think the Senator from Oregon was trying to get through this bill right away by voice vote.

Mr. JOHNSTON. The Senator probably was not listening. I said we would work it out, if there is somebody to work it out with. Now, where is somebody to work it out? If the Senator wants to speak on SDI, well, let us talk about it. If he wants to vote, I am ready to put in an amendment at this point.

Mr. MATTINGLY. I am not. If the Senator is not going to put in an amendment, that is fine. If he is going to have an amendment, I guess there is going to be a lot of us ready for a rollcall vote because I do not think that is an amendment like language we add to a Senate appropriation bill.

Mr. JOHNSTON. Let me say to my disginguished friend, this is not something we have thought up this afternoon. This issue has been around a long time. Lest the Senator be suggesting that somehow I am surprising my colleagues——

Mr. MATTINGLY. Oh, no.

Mr. JOHNSTON [continuing]. Please understand this is an issue in which I have a deep and abiding interest and am ready to bring up that amendment and thought we were today. So please do not make the suggestion that it is I who somehow is holding up this Senate by some new idea that has just sprung full blown on the floor of the Senate. To the contrary, I would like to avoid that vote if we can.

Mr. MATTINGLY. I say to my friend from Louisiana, I would not be surprised.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I appreciate the concerns expressed. Let me suggest that we move ahead with some of the amendments that we know are acceptable and urge the Senator from Louisiana and the Senator from Arkansas, the Senator from South Carolina and others who may be interested, to find Senator STEVENS and see if that matter can be worked out to avoid a rollcall. In the meantime, we will just handle other amendments as they may be offered, recognizing that we will press on to try to bring third reading at some point, hopefully this afternoon. If not, then tonight.

Mr. HELMS. Mr. President, will the Senator yield? I am so reluctant to inhibit him at all but I do not feel that I fully understand the situation. May I ask him to look at page 11, line 11?

Mr. HATFIELD. Yes, I have page 11.

Mr. HELMS. As the Senator knows, I have an interest in the title X question. Will the Senator say for the record what my protections are in terms of getting the amendment up? Obviously, there will be a rollcall vote and I do not want to inhibit what he is trying to do this afternoon.

Now, did I understand the Senator to say that in his judgment the House is not going to accept an amended version of this and in any case the President is going to veto it? Is that what the Senator said?

Mr. HATFIELD. What I said was that we have notification from the White House that the President's advisers—well, there is an interesting euphemism they use. The senior advisers to the President would——

Mr. HELMS. I understand; I have heard it.

Mr. HATFIELD [continuing]. Counsel him not to sign it. In other words, we have been assured that the House version would be vetoed and the Senate version which we now have under consideration would be vetoed. They list a number of reasons why. We will have to go to conference ultimately with the House. But what I was saying in effect is, according to my information, the House leadership has indicated their grave question whether they would permit a conference report emanating from the conference on these two bills to be voted on on the House floor, which would have to precede our vote on a conference report, unless they had assurances from the White House that the White House would sign that particular conference report and without that assurance that they would then fall back to a fourth continuing resolution which would be of a short-term bridging from Thursday night next, when the one we are living under expires, into sometime early next year, leaving everything in suspension. But still that continuing resolution would be amendable. So that a Senator's rights to change anything in this particular bill would be protected. You would have one of two possibilities to further act upon this conference report if we in the next 5 minutes voice voted it. You would have a conference report coming back out of conference amendable—well, the disagreements. In other words, we would set up the mechanics of having points of true disagreements or technical disagreements in order to make that report amendable. Or, second, we would have the fourth continuing resolution that would have to pick up the slack on a short-term basis from Thursday night onward to be amendable. So that the ultimate policy——

Mr. HELMS. That would not be any protection for me, though, with reference to line 11, page 11.

Mr. HATFIELD. Is this the same language as the House, is the Senator saying, and therefore nonconferenceable?

Mr. HELMS. There is no language. That is the point, I say to the Senator. Under the rule in the House, Congressman KEMP was prevented from getting a vote on this amendment.

The Senator has been around the track here many times. He has perhaps one of the most difficult jobs in the Senate and I certainly do not want to inhibit it, but the Senator has no doubt that as the process unrolls, I will be protected in terms of the matter that I have mentioned?

Mr. HATFIELD. I understand. And I would say to the Senator, if I could see the wording of what his proposed amendment might be, there may be some possibility of working out that amendment.

Mr. HELMS. That is an excellent idea. I will get the text and then proceed.

Mr. HATFIELD. If the Senator would give me the text, I would be very happy to try to help work that out where it might be accepted by a voice vote.

Mr. HELMS. The Senator is most gracious.

Mr. WALLOP. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. WALLOP. One of the things that concerns me about what the Senator from Louisiana said was the opportunity that they might have to work out something on SDI. I have one which I wish to offer at some moment in this process which would bring us to full funding of SDI.

Mr. HATFIELD. Just the opposite.

Mr. WALLOP. Just the opposite. I would not want to be foreclosed from the opportunity to let Senators express themselves on that. And I have another one dealing with funding of the United Nations, which I do not anticipate long debate, at least on this Senator's part, only to try to make the case and move.

Mr. HATFIELD. I would hope that maybe on those that do require some kind of a vote we might work out, as we did with the synfuels issue, a time agreement.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. DECONCINI. I advise the chairman that the distinguished Senator from Idaho and I have worked out an amendment that can be accepted, and I am prepared to do it. I know that the Senator from Connecticut has one, too. Maybe we could at least do a few of them and get them behind us.

Mr. HATFIELD. Mr. President, I would like to move ahead with the suggestion to take care of these amendments. The Senator from Connecticut has an amendment which we will accept.

I urge Senators who do have amendments that if there are possibilities to work them out with some kind of arrangement, that is fine. Otherwise,

there may be rollcall votes required later during the consideration, until we reach final passage.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I should like to ask a further question of the chairman, just for clarification of this procedure. Let me pose a scenario, and the Senator can then respond.

What if we very quickly pass this continuing resolution and it goes to conference with the House, and there, by some chance, agreement is reached that is suitable to both the White House and the conferees? Then have we not foreclosed any amendment on those items which are in agreement in the conference?

Mr. HATFIELD. If there are amendments in disagreement in that conference—and I have every reason to believe that there will be, even with the White House approving as to a dollar figure—there are going to be policy issues and technical questions, and we are still going to have the conference report come back here with those amendments in true disagreement or in technical disagreement.

Mr. EVANS. I understand that they are in true disagreement or technical agreement; but if they do not come back with disagreement between the two Houses, there is no further opportunity to enter amendments.

I am thinking now especially of the two major appropriation bills which have not received any opportunity for amendment or debate on the floor of the House—Defense and Interior.

Mr. HATFIELD. As long as there are amendments in true disagreement or in technical disagreement, the conference report is amendable. If the conference report comes back without amendments in disagreement, then it is not.

Mr. EVANS. But if it comes back in disagreement, technical or true disagreement, it is only those disagreements which can be voted upon. Is that correct?

Mr. HATFIELD. Yes and no. You can hang other amendments on those amendments.

Mr. EVANS. So long as they are germane?

Mr. HATFIELD. That is a question for the Chair. It is a question of appeal. There are many things in this bill right now that are subject to a point of order on the question of legislation on an appropriation. Under the Rules of the Senate, we operate with a fairly liberal and loose arrangement.

All I am saying is that it is possible in the Senate to amend a conference report on a true disagreement or a technical disagreement amendment in that report, on any subject in that conference, whether it is in the body of those technical or true disagreement amendments or not. It is a possibility of hanging a hook there of another amendment.

Mr. EVANS. Let me pose another question. I do not want to take much time, but this is very important.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. EVANS. If a Senator has had an amendment, say, put on what was once the Interior appropriation bill, which we do not have a chance to debate or to amend, and a conference is held and the particular subject of that amendment does not appear in disagreement at all, or maybe it is not even mentioned in the conference report, what then would be the position of a Senator who wished to make such an amendment if a conference report came back?

Mr. HATFIELD. I repeat that, in the Senate, such a Senator would have the right to rise and offer an amendment and hang it on one of those technical or true disagreement amendments within the body of the conference report.

To say that that would be unchallengeable by some other Member of the body, I am not suggesting that at all. I am merely saying that under the rules of the Senate, it is possible for any Senator to offer such an amendment to any technical or true disagreement amendment in the body of the conference report.

Mr. EVANS. I thank the Senator.

AMENDMENT NO. 1326

Purpose: To provide for expedited consideration of any joint resolution raising objection to the proposed arms sale to Jordan

Mr. DODD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1326.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sale to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, (submitted to the Congress on October 21, 1985), shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself and 51 other cosponsors, including the chairman of the Foreign Operations Subcommittee of the Appropriations Committee and the ranking minority member of that committee, the Senator from Hawaii. The amendment is cosponsored by the following Senators:

Senators CRANSTON, PROXMIRE, KERRY, FORD, SASSER, LEVIN, LAUTENBERG, EXON, KENNEDY, RIEGLE, HEINZ, HAWKINS, HART, GLENN, SARBANES, HARKIN, INOUYE, SIMON, MATSUNAGA, ANDREWS, DECONCINI, and GRASSLEY.

Senators LEAHY, DIXON, D'AMATO, BUMPERS, MELCHER, BIDEN, QUAYLE, BRADLEY, BAUCUS, BINGAMAN, BURDICK, EAGLETON, GORE, JOHNSTON, METZENBAUM, PELL, PRYOR, ROCKEFELLER, KASTEN, MATTINGLY, SPECTER, WEICKER, SYMMS, MITCHELL, BOREN, DURENBERGER, PRESSLER, MOYNIHAN, and RUDMAN.

Mr. President, during consideration of the resolution relating to arms sales to Jordan, I endeavored to offer a substitute measure designed to ensure that a vote would occur on any resolution of disapproval offered on or after February 1, 1986.

I offered this substitute not because of any objection to the substance of the leadership's Jordanian Arms sales resolution. For weeks I had urged the administration to delay any arms sales to Jordan until after the first of the year. The leadership resolution moved in that directon by delaying the sale until March 1, unless direct and meaningful negotiations between Israel and Jordan occurred prior to that. I supported that proposition, providing it was governed by the appropriate safeguards.

My concern went to the procedural question: How to ensure a vote in the Senate on any resolution disapproving this sale prior to March 1, in the event that as we approach that date it becomes obvious that the sale would not advance the peace process and would not be in the best interests of the United States.

Members should be assured of that opportunity. But the resolution as presented and as ordered in under the unanimous consent arrangement did not provide such an assurance. My substitute did and it did so by requiring that any resolution of disapproval relating to the Jordanian arms proposal, introduced on or after February 1, 1986, be considered in accordance with the expedited procedures contained in section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

I was not able to get a vote on my proposal. But in view of the importance which I attach to this procedural aspect of the arms sales question, I have sent an amendment to the desk on this matter.

This amendment—with a total of 51 cosponsors—is virtually identical to the proposal I attempted to have considered October 24. This amendment

simply guarantees that on or after February 1, 1986, any resolution of disapproval relating to the proposed arms sales to Jordan shall be given expedited consideraton and shall be brought to a vote prior to March 1.

This issue is simply too important to allow it it go forward without appropriate procedural safeguards. We all recognize the volatility of the political environment in the Middle East and because of that volatility, we must approach arms sales to the region with great care and caution.

I hope such care and caution are unnecessary in this case; I hope the peace process proceeds apace; and I hope that direct negotiations between Israel and Jordan begin tomorrow.

But I am also a realist, and I realize that when it comes to the Middle East, there is an awful lot of history to suggest that our hopes will not be fulfilled, or at least not fulfilled in the timeframe expected.

The amendment which I am offering simply recognizes the potential dangers that come with any major arms sales to the Middle East. The Jordanian arms sales totals $1.9 billion and it includes some of the most sophisticated weapons systems we have available in our arsenal.

I hope the Senate will adopt my amendment and will approve the kind of procedural safeguards that will guarantee the Congress a meaningful role in making the final decision with respect to going forward with this arms sales proposal.

Mr. President, this amendment covers a situation which could occur in the month of February. Several weeks ago, we passed almost unanimously—with the exception of one vote—a resolution on the Jordanian arms sale. However, one thing we did not provide for during the consideration of that resolution was a protection that would guarantee an expedited procedure should a resolution of disapproval on the arms sale occur during the month of February.

This amendment will provide for a joint resolution to be considered, should such a resolution of disapproval be offered.

I appreciate the cosponsorship of this amendment by so many of my colleagues on both sides of the aisle, to cover that possible situation. I point out that this has been cleared and approved by the chairman of the Foreign Relations Committee as well.

The majority leader and the chairman of the Foreign Relations Committee have given assurance that there would be a vote, should a vote be needed. However, I think we all understand that any Senator, despite those assurances, can cause a delay in consideration of such a matter without an expedited procedure.

Mr. President, I appreciate the support for the amendment, and I ask for its approval.

Mr. KASTEN. Mr. President, I am pleased to be a cosponsor of the amendment offered by the Senator from Connecticut.

As the Senator has stated, the amendment is also cosponsored by the ranking minority member of the Foreign Operations Subcommittee, the Senator from Hawaii, and it is my understanding that the amendment has been cleared by the authorizing committee as well as Senator LUGAR and Senator PELL.

Mr. President, we have no further debate, and I recommend adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1326) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1327

(Purpose: In require plans for expenditure of funds relating to the Navajo and Hopi Indian relocation program)

Mr. DECONCINI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1327.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds available to the Bureau of Indian Affairs for the construction of housing on lands acquired pursuant to section 11(d) of Public Law 93-531, as amended, shall be expended until a report is submitted to the House and Senate Committees on Appropriations detailing the proposed uses of such funds on the lands acquired pursuant to section 11(d) of Public Law 93-531.

In addition to plans for housing, the report shall include a description of other services intended to be provided including, but not limited to, water, sewers, roads, schools, and health facilities. If such services are not to be provided the report shall describe alternative services available. The report shall further identify the proposed sites to which households will be relocated, including the distance from the Joint Use Area to such sites.

The report shall be submitted no later than January 15, 1986, by the Navajo and Hopi Indian Relocation Commission with the concurrence of the Secretary of the Interior.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The minority leader is correct. The Senate will be in order, so that the proponent of the amendment can be heard.

Mr. DECONCINI. I thank the Chair and the distinguished minority leader.

Mr. President, this amendment is in the Interior section of the continuing resolution. I am not going to go into the details of my feelings about this particular section of the Interior bill.

I do want to thank the chairman of the subcommittee and his staff and my staff for working out an arrangement that will require the Navajo-Hopi Indian Relocation Commission to submit a report on January 15 as to where they would spend certain moneys that are specifically set aside for relocating certain Navajo families on new lands acquired under previous legislation.

I ask for the adoption of the amendment.

Mr. McCLURE. Mr. President, I command the distinguished Senator from Arizona for bringing this matter to us in the form that he did and for being so willing to work out the language. The language has been worked out and is acceptable to us.

Mr. JOHNSTON. Mr. President, the amendment is accepted with congratulations.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 1327) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1328

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] (for Mr. RUDMAN and Mr. HATCH) proposes an amendment numbered 1328.

At the appropriate place in the resolution insert the following:

SEC. . None of the funds appropriated in this Act or any other Act to the Legal Services Corporation and made available to grantees may be expended by any recipient of such funds until such recipient has expended all funds carried over from previous fiscal years, unless the failure to expend the funds carried over from previous fiscal years has been approved by the Legal Services Corporation.

Mr. McCLURE. Mr. President, this amendment is offered on behalf of Senators RUDMAN and HATCH.

I think it has been cleared on both sides, and I urge its adoption.

The PRESIDING OFFICER (Mr. HECHT). The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, this amendment has been cleared on this side specifically by Senator HOLLINGS.

Mr. McCLURE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1328) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLEAN COAL TECHNOLOGY

Mr. BOSCHWITZ. Mr. President, the fiscal year 1986 Interior Appropriations bill contains $750 million for the Department of Energy's Clean Coal Technology Program. As the committee report indicates, this program was established by Public Law 98-473 "for the purpose of conducting cost-shared clean coal technology projects for the construction and operation of facilities to demonstrate the feasibility for future commercial operation." The Department has solicited statements of interest in projects and received 175 responses.

Two of these responses involve a very promising process that would make iron by a new method that does not require coke. United States Corp. and Weirton Steel Corp. have submitted separate proposals for facilities in Minnesota and West Virginia, respectively. The proposals would utilize the Kohle-Reduktion [KR] process which was developed in West Germany by Korf Engineering.

The House committee report included language to clarify that the Clean Coal Technology Program would include industrial applications such as steel and iron ore processing. Neither the Senate bill nor report contain such language. So, I want to ask the subcommittee chairman if he agrees that such proposals are within the scope of this important program.

Mr. McCLURE. Mr. President, I do not want to imply an endorsement for any particular application or process, but I do want to assure my friend from Minnesota that I agree with the language on page 75 of the House report stating that industrial applications, including steel and iron ore processing should be considered for funding under this program.

COOPERATIVE FISH AND WILDLIFE RESEARCH UNIT

Mr. BOSCHWITZ. Mr. President, recently I was contacted by the head of the department of fisheries and wildlife in the College of Forestry at the University of Minnesota. He requested my help in acquiring a U.S. Fish and Wildlife Service Cooperative Fish and Wildlife Research Unit.

I understand that 29 States currently have fish, wildlife, or combined units. Unfortunately, Minnesota is not one of them. This is despite the fact that in 1980 Minnesota ranked fourth among States in fishing license sales and eighth in hunting license sales.

The University of Minnesota, in conjunction with the Minnesota Department of Natural Resources, has developed a program direction statement for a cooperative unit in Minnesota. I want to ask the distinguished chairman of the subcommittee if, upon investigation and study by the Fish and Wildlife Service, this proposal was judged as having merit, would he object to funding this unit from existing funds?

Mr. McCLURE. Mr. President, we have not had an opportunity to study this proposal. However, if after the Service investigates it, they find it feasible to fund this unit in Minnesota, I would have no objection. In addition, I assure my friend that in the event this unit is not funded, we will closely review the proposal during consideration of next year's bill.

KETTLE FALLS HOTEL

Mr. BOSCHWITZ. Mr. President, the National Park Service construction fund in the Senate bill includes $1.1 million to rehabilitate the Kettle Falls Hotel in Voyageurs National Park in Minnesota. The House bill includes $2.13 million. The Park Service itself has identified the need for $4 million to complete the rehabilitation.

I have discussed the state of this project on many occasions with my friend, the chairman of the subcommittee. I appreciate his continued help and support. It is my hope that the Senate conferees will recede to the House on this matter.

Mr. McCLURE. Mr. President, Senator BOSCHWITZ has indeed raised this issue with me many times. I am sympathetic to the need to rehabilitate that facility. I cannot make any firm commitments in what will happen in conference, but I assure my friend from Minnesota that we will give it every consideration when we meet with the House conferees.

Mr. BOSCHWITZ. I thank the Chair.

Mr. President, the National Park Service construction fund in the Senate bill includes $1.1 million to rehabilitate the Kettle Falls Hotel in Voyageurs National Park in Minnesota. The House bill includes $2.13 million. The Park Service itself has identified the need for $4 million to complete the rehabilitation.

I have discussed the state of this project on many occasions with my friend, the chairman of the subcommittee. I appreciate his continued help and support. It is my hope that the Senate conferees will recede to the House on this matter.

Mr. DURENBERGER. Voyageurs National Park is Minnesota's only national park. It is the only water-based park in the United States, with 80,000 acres of its 200,000 acres being water. Lying on the Minnesota-Ontario border, it is an area of spectacular beauty with unique historical significance.

The committee has been very helpful over the years in obtaining funds for land acquisition and other development projects. In late August with a great sense of achievement we held the ground breaking ceremony for the visitor's center.

The Kettle Falls Hotel is an important historical and cultural resources to the park. It is listed on the National Register of Historic Places. For many years it was a gathering place for loggers, and more recently for anglers and tourists.

This hotel has been in a dangerous state of disrepair for several years. During consideration of the fiscal year 1984 Interior appropriation's bill, Senator BOSCHWITZ and I participated in a similar colloquy with you regarding funds for restoration of this valuable historic hotel. You have provided $1.1 million toward that goal and the House has provided $2.1 million. Now that we have a start, it is my hope we can move forward with this project.

Mr. McCLURE. Mr. President, my friends from Minnesota have indeed raised this issue with me many times. I am sympathetic to the need to rehabilitate that facility. I cannot make any firm commitments on what will happen in conference, but I assure my colleagues from Minnesota that we will give it every consideration when we meet with the House conferees.

GRAND PORTAGE NATIONAL MONUMENT

Mr. BOSCHWITZ. Mr. President, the report accompanying the House Interior appropriation bill designated $275,000 from the National Park Service construction account for the administration/interpretive, maintenance complex at the Grand Portage National Monument in Minnesota. The Senate committee reported bill contains no such designation.

I have supported this project for a number of years now. Having funds included in one of the versions of this bill is as far as we have ever progressed. It is my hope the Senate conferees will recede to the House on this project.

Mr. McCLURE. I am very aware of the support of Senator BOSCHWITZ for this project. I cannot give him any firm commitments on what will happen in the conference with the House, However, I assure him we will closely review this project in relation to other spending needs and give it every consideration.

Mr. BOSCHWITZ. Mr. President, the report accompanying the House Interior appropriation bill designated $275,000 from the National Park Service construction account for the administrative/interpretive/maintenance complex at the Grand Portage National Monument in Minnesota. The Senate committee reported bill contains no such designation.

I have supported this project for a number of years now. Having funds included in one of the versions of this bill is as far as we have ever progressed. It is my hope the Senate conferees will recede to the House on this project.

Mr. DURENBERGER. Grand Portage, MN is a place of very great historical significance. It is one of the premier historical sites in North America for the interpretation of fur trade history.

There is a great need for a new interpretive / administrative / maintenance complex for the monument. The interpretive facilities are woefully inadequate. The present administrative headquarters for the monument are located in Grand Marais, some 37 miles to the west. This makes the administration and supervision of the monument very difficult.

The House has made $275,000 in planning funds available for this facility. This represents a giant step forward for the project. It is my hope, and those in Minnesota, that the Senate will consider accepting this project in conference.

Mr. McCLURE. I am very aware of the support of the Minnesota Senators for this project. I cannot give them any firm commitments on what will happen in the conference with the House, however, I assure them we will closely review this project in relation to other spending needs and give it every consideration.

Mr. DURENBERGER. Mr. President, I congratulate my distinguished colleague from Idaho, Senator McCLURE, for his leadership in putting this bill together and bringing it to the floor.

Minnesota is often associated with eastern States. While it is closer to the Atlantic than Pacific, we are really a western State. We are west of the Mississippi. Originally part of the Louisiana Purchase we were known as the Northwest Territory and eventually became the 32nd State to join the Union in 1858.

Historically and culturally we are tied with the West. We had our share of Indian wars. The coming of the railroad did as much for Minnesota as it did for other frontier States in terms of expanding markets and spurring economic development.

The things which brought pioneers west brought them to Minnesota. Fur traders, trappers, timber men, and prairie farmers, those men and women who made America great, found a place in Minnesota.

Mr. President, we really aren't all that different from Idaho. We don't have spectacular mountain ranges or deep, coursing rivers, but we do have many outstanding natural resources of comparable beauty and grace; sparkling glacial lakes, quiet flowing rivers surrounded by fertile farm land and superb waterfowl and wildlife habitat, still forests and wide open plains. One can sing "Home on the Range" in Minnesota and not be out of place.

Finally, we do have strong Federal presence in Minnesota in terms of natural resource management, particularly in northern Minnesota. The Chippewa and Superior National Forests are the largest in the Forest Service's eastern region. The Boundary Water Canoe Area Wilderness is one of the most popular yet complex wilderness areas in the country. Voyageurs National Park is a young park whose potential is yet to be realized.

The Federal Government is also involved in the management and protection of our three major water ways; the Mississippi River, the St. Croix River and the Minnesota River. In addition, the Fish and Wildlife Service manages over 440,000 acres of wildlife refuges around the State and an especially important one in the metropolitan area; the Minnesota Valley National Wildlife Refuge.

To a large extent the funding for this Federal presence is contained in this legislation. Several of these projects are of particular importance to the people of Minnesota.

MINNESOTA VALLEY NATIONAL WILDLIFE REFUGE

First authorized in 1976, Congress last year passed amendments which included a permanent authorization fof $24.9 million for land acquisition and $9.8 million for the visitor's center, increased the size of the refuge from 9,500 acres to 12,400 acres, and included a provision which will allow local governments to donate lands which are inside the boundaries of the refuge.

Minnesota Valley is a unique and valuable component of the National Wildlife Refuge System. Situated in the Minneapolis-St. Paul metropolitan area, the Minnesota Valley National Wildlife Refuge offers extraordinary educational and recreational opportunities not usually available to city dwellers while providing a sanctuary for a large number of migratory waterfowl, fish and other wildlife.

Forming a wildlife buffer between four metropolitan counties and eight suburban communities, the Minnesota Valley National Wildlife Refuge embodies a new and important concept in Federal, State, and local government relations, cooperative management of our natural resource. In addition to the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources, there are over 17 different units of Government involved in the project.

Following the original authorization of 1976, $6.5 million was appropriate for land acquisition. Since that time, however, funding has been scarce and sporadic. The $1.6 million which had been appropriated for land acquisition in fiscal year 1981 was rescinded. Further, no funds were appropriated in fiscal years 1982, 1983, or 1985. The $1 million which was appropriated for fiscal year 1984 was held pending congressional passage of H.R. 1723 which reauthorized the refuge. That money is currently being expended.

With the authorization behind us, we are very eager to move forward with and complete the Comprehensive Refuge and Recreation and Management Plan which was approved in 1984. The committee has graciously included $2 million to continue land acquisition.

$600,000 is included in the House bill for final planning and site preparation for the visitor's center. The site of the proposed visitor's center has been the scene of considerable highway improvement work. That work is near completion and the site will have all of the utilities, access road, major landscaping and interstate highway directional signing ready for the visitor center construction. Senator McCLURE, I am hopeful that the Senate will receed to the House language on this project.

Mr McCLURE. I am aware of the Senator's support and enthusiasm for this project. Although I cannot make a definte commitment, I will give your request every consideration.

Mr. BAUCUS. Mr. President, I wish to discuss with Senators CHAFEE and McCLURE a problem that the State of Montana has with funding under section 6 of the Endangered Species Act. Montana has the largest grizzly bear population in the continental United States. It must manage grizzly bears in three different ecosystem areas: The Yellowstone, Cabinet-Yaak, and Northern Continental ecosystem, yet it does not qualify for matching grants under section 6 of the Endangered Species Act to assist in grizzly bear management.

Everyone agrees that Montana has an aggressive grizzly bear management program. The Fish and Wildlife Service, public interest groups, and stockmen's associations each give high marks to Montana's efforts.

It is not easy living with grizzly bears. They are large predators that need vast areas in which to live. Unlike most species protected by the Endangered Species Act, grizzly bears threaten property and people. If we are ever going to successfully recover the grizzly bear, it takes a commit-

ment from all levels of government to aggressively manage the species. The Department's postition on section 6 is hampering the recovery of the grizzly bear.

Mr. CHAFEE. I am aware of the problems inherent in the management of grizzly bears. I was inpressed at the hearing this summer by the efforts Montana is making to recover the grizzly bear.

Mr. BAUCUS. The reason Montana does not qualify for section 6 moneys is because they do not have a full authorities agreement for grizzly bears. In February, 1984, the Department of the Interior Solicitor concluded that since Montana law covering the grizzly bear conflicts with the Service's grizzly bear regulations, the State does not qualify for a full authorities agreement.

The opinion then states that under the Endangered Species Act, there is nothing that automatically precludes section 6(d) funding as a matter of law.

When I raised my concern about section 5(d) funding, the Department stated in a budget capability statement, ". . . However, if the State of Montana (the legislature or attorney general) affirms that Federal law supersedes State law, then Montana will qualify for a full authorities agreement for section 6 funding of grizzly bear projects."

The State vigorously enforces the Federal Endangered Species Act. Everyone agrees. To require a letter, when the Department agrees that for all intents and purposes Montana complies with the intent of the law is ridiculous.

Mr. CHAFEE. The Senator from Montana makes a cogent argument. Montana is indeed meeting the spirit of section 6 and should be entitled to a full authorities agreement. The State recognizes that the Endangered Species Act preempts less stringent State law. There seems to be little that would be gained by requiring a letter confirming what is already in agreement. The Department needs to re-examine the opinion of the solicitor's office.

Mr. McCLURE. I am very sympathetic to the concerns of the Senator from Montana. The intent of the Endangered Species Act is to recover species through a cooperative effort with the States. I have no objection to directing the Department to review its solicitor's opinon in order to extend to Montana a full authorities agreement for grizzly bears for the purpose of section 6(d).

Mr. BAUCUS. I want to thank my colleagues, the Senator from Rhode Island and the Senator from Idaho for their assistance in addressing this problem.

ILLINOIS AND MICHIGAN CANAL FUNDS

Mr. DIXON. Mr. President, as my colleagues may recall, last year, the President signed into law a bill which was sponsored by the entire Illinois delegation, creating the Illinois and Michigan Canal National Heritage Corridor and authorizing funds in the amount of $250,000 for the Illinois and Michigan Canal National Heritage Corridor Commission and such sums as may be necessary to the Secretary of the Interior to carry out the Secretary's duties under the Act.

The distinguished chairman of the Subcommittee on Interior Appropriations, Senator McCLURE, at the request of my colleague from Illinois, Senator SIMON and myself, included the Commission funds in the bill. For that, we are very grateful.

However, the House has included an additional $320,000 for the National Park Service, in order for it to meet its responsibilities to the Heritage Corridor. The Act requires the Secretary of the Interior to carry out specific duties which are not currently possible under the Park Service budget. These include providing trail guide brochures for exploring towns along the canal; visitor orientation displays such as video presentations of the historic and recreational facets of the corridor at eight locations along the corridor; a curriculum for local schools and mobile displays depicting the heritage story. Technical assistance in addition to these specific duties is also to be made available upon request by the Commission.

I certainly understand the limitations under which we are operating, however, in order for this project, which has a great deal of national significance, to move forward, this additional funding is critical. This is the first full year of operation of the Commission, having been appointed in May of this year, 9 months after the Illinois and Michigan National Heritage Corridor was established.

It is my hope that in conference with the House, the distinguished members of the subcommittee will give this additional funding every consideration. It is a minimal amount of money, but can mean the difference between success and failure of a fledgeling program which has honored its commitments by raising private, State and local funds. The Federal commitment should be honored as well.

Mr. McCLURE. As my colleagues from Illinois have pointed out, the funds they are requesting for the National Park Service to meet its responsibilities to the Illinois and Michigan Canal National Heritage Corridor are included in the House version of the bill. The distinguished chairman of the subcommittee in the other body will, I am certain, give this matter very careful attention in conference, and I will keep an open mind about these funds within the confines of our budgetary limitations. I recognize that $320,000 is a modest request for the Park Service to meet its obligations to this project, and will give it every possible consideration.

Mr. SIMON. I join my colleague from Illinois in urging consideration of the House appropriation of $320,000 for the National Park Service's responsibilities to the Illinois and Michigan Canal National Heritage Corridor.

I would also like to reiterate our appreciation for the chairman's inclusion of the $250,000 appropriation in the Senate bill. Those funds can go a long way to get this program off to a good start.

But we also need the National Park Service funds. For the 43 Illinois communities and the 18 Chicago neighborhoods along this corridor, the services authorized for the National Park Service are critical supports for their private and public efforts. These communities and neighborhoods have responded to last year's legislation by remodeling storefronts, restoring historic districts, and developing cultural and recreational aspects along the corridor. The potential of the canal has encouraged efforts toward an economic revival in areas that have languished over the decades.

This $320,000 National Park Service appropriation will assist in coordinating and marketing those efforts. The technical assistance, trail guides, and visitor orientation presentations will honor a Federal pledge and contribute to the overall success of the Illinois and Michigan Canal National Heritage Corridor. We believe the return on this appropriation will be a good one and we respectfully urge the chairman and Senate conferees to accept the additional House appropriation of $320,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL

Mr. DANFORTH. Mr. President, last year Congress approved legislation authorizing the expansion of the Jefferson National Expansion Memorial in St. Louis, MO, to include land across the Mississippi River in East St. Louis, IL.

Development of the plans for such an expansion was left in the hands of a newly created Jefferson National Expansion Memorial Commission. Despite the fact that the authorizing legislation was enacted in August 1984, however, the Commission was appointed only just last month.

When the Interior appropriations bill was approved by the House, it included $75,000 for the Commission's work. The Senate Appropriations Committee Park Service budget indicates funding for the Commission would be more appropriately provided by private organizations.

Mr. President, I have no quarrel with that view generally, but it does

seem that some startup funds should be provided for this project. Last year we appropriated $73,000, which the Park Service used to prepare some preliminary survey work. It the Commission had been appointed in a timely way, we might have reasonably concluded that no more public funds should be provided. However, we can hardly blame the Commission for not raising private funds when the Commission did not even exist 2 months ago. In view of these delays and in view of the small amount of money involved, I ask the distinguished chairman (Mr. McCLURE) to look favorably on this request in conference.

Mr. DIXON. The Jefferson National Expansion Memorial addition in East St. Louis, IL, was authorized under title II of Public Law 98-398. This extension was the intention of the designer, Eero Saarinen, as an Illinois linkage to the magnificent Gateway Arch in Missouri. It was his vision that a park on the Illinois side of the river would complete the concept.

The legislation authorizes a commission, which was appointed in October of this year—14 months after the authorization. It consists of 20 members from Illinois and Missouri, as well as representatives from the Departments of Interior, Commerce, Housing and Urban Development, Transportation, Treasury and the Smithsonian Institution. The Commission is charged with the responsibility of developing a plan which it must submit to the Secretary of the Interior within 2 years of enactment—August 24, 1986. Although some preliminary survey work was completed with last year's appropriation of $73,000, contracted by the National Park Service, there are currently no funds available to carry out the responsibilities of the Commission.

Senator PAUL SIMON and I requested that the committee include $75,000 in this year's bill. However, the committee did not include these funds. I can only assume that the rationale for this commission is that at the time the committee marked up its bill, the Commission had not yet been appointed.

October 8, 1985, Secretary of the Interior Hodel did make the appointments. The Commission now stands ready to assume the task before it. However, there are no funds available to them.

I urge the committee to give this funding favorable consideration in conference. It is an important step in finally realizing the completion of the Jefferson National Expansion Memorial, a true national treasure.

Mr. SIMON. I want to associate myself with the remarks of my good friend and colleague, the senior Senator from Illinois.

On November 25 the blue-ribbon Commission chartered by Congress to develop the master plan for this addition to the Jefferson National Expansion Memorial convened for its first meetings in St. Louis, MO, and East St. Louis, IL. I had the privilege of visiting with the Commission and conveying to them some of the history of this concept, and the great opportunity that it offers to carry out the original design of the magnificent Gateway Arch.

The citizens of the States of Illinois and Missouri are anxious to see this project realized. The site is centrally located and across the Mississippi River from the arch—one of the Nation's most notable landmarks and a familiar vista to hundreds of thousands of travelers each year.

I have called upon the Commission to dream big dreams for this site. I have urged them to do something people all over the world will be proud to see and to visit. I am pleased to report that the Commission fully intends to honor its mandate to deliver a first-class blueprint for use of this land. Most of the land involved, incidentally, will be donated to the National Park Service for this purpose.

I also want to commend Charles Odegaard, Midwest regional director of the National Park Service; Ira Whitlock, of the Washington office, and others in the Park Service who are working so capably to carry out the povisions of the charter.

But the Park Service, the Commission, the States of Illinois and Missouri and the two cities can move ahead no faster on this important work than the Congress permits through its appropriations to carry out the work of the Commission and the other provisions of the charter.

I strongly urge the committee and its conferees on the Interior appropriations bill to act favorably to appropriate the funding that has been requested to carry this work forward.

Mr. McCLURE. Mr. President, I share the interest of my colleagues in the Jefferson National Expansion Memorial. I recognize that circumstances have delayed the startup of the work on this project and that the funds from last year were expended by the Park Service. The $75,000 are included in the House version of the bill and I will certainly give these funds every consideration when we go to conference. If it is possible to accommodate my friends from Illinois and Missouri, I will.

Mr. EAGLETON. Mr. President, I would like to join with my colleagues from Illinois in supporting funds for the Jefferson National Expansion Memorial Commission. The Commission has been charged with a very important task, and through no fault of its own, has a very short time to do its job. It must develop a plan to make the Illinois side of the Mississippi River a visual compliment to Missouri's Gateway Arch. It was the dream of designer Eero Saarinen that the other side of the river be an integral part of the memorial to westward expansion.

Last year, the Congress appropriated $73,000 for the National Park Service to do some preliminary survey work on the Illinois park. But this year's appropriation of $75,000 was deleted from the House-passed Interior appropriations bill when it came up in September. The committee's action is understandable in view of the fact that the members had not been appointed to the Commission at that time. However, they were selected in October, and now have only until August 24, 1985, to accomplish their mission.

I hope that the Senate conferees will agree to keep $75,000 for the Jefferson National Expansion Memorial Commission when this item comes up for discussion.

CARBONDALE COAL TECHNOLOGY CENTER

Mr. SIMON. During committee consideration of the Interior appropriations bill, the chairman was unable to grant my request to direct funds to continue ongoing coal technology and coal preparation research at the Coal Technology Center in Carbondale.

This program has a strong record of significant work in this field, and Federal support is vital to its continued contributions in coal research.

The House has agreed to direct $1.5 million over a 12-month period for continued work at the Coal Center. This is not an addition to appropriations, but an ear-marking of funds within the bill. While I appreciate and understand the chairman's concerns in being unable to include this matter in the committee's bill, I wonder if the chairman might be able to give some indication of his willingness to address this matter in conference?

Mr. McCLURE. I would be happy to answer the Senator's question. I am very aware of the quality and capability of the Coal Technology Center in Carbondale, and of the Senator's strong support for this program.

I am also aware of the strong support for this program in the House, and I assure the Senator from Illinois that I will give full consideration to this matter in conference.

Mr. BUMPERS. Mr. President, I have a few questions for the distinguished chairman of the Interior Subcommittee. On page 16 of the Interior Appropriations Subcommittee report, a $20 million appropration was recommended for the Migratory Bird Conservation Account. The committeee report indicates that it understands that $2.5 million of that total would be allocated by the Migratory Bird Conservation Commission for the acquisition of bottomland hardwood wintering areas in four States, including Arkansas, and that the increase of $10 million provided above the House allowance would be allocated by the

Commission. Would the Chairman consider acquisition of bottomland hardwoods in the Cache River Basin a worthwhile use of these funds?

Mr. McCLURE. Yes; these funds could certainly be used to purchase lands in the Cache River Basin.

Mr. BUMPERS. Mr. Chairman, report language directs the Commission to give every consideration to continuing acquisition of lands in the Anderson-Tully Bottoms area in Tennessee and Arkansas. Would this language prohibit the Migratory Bird Commission from using a portion of this $10 million for other land acquisitions outside the Anderson-Tully area, for example for Cache River?

Mr. McCLURE. No; it would not. The committee certainly did not intend by such language to tie the Commission's hands. The Migratory Bird Commission can certainly choose to acquire lands in the Cache River Basin along with the Anderson-Tully area.

Mr. BUMPERS. Does the report language require the Commission to give higher priority to acquisition in the Anderson-Tully area than to acquisition in the Cache River Basin area?

Mr. McCLURE. Not necessarily. Report language is always important, but the Commission sets its own priorities in regard to the use of the unallocated portion of the Migratory Bird Conservation account. We have had a letter from the Governor of Tennessee urging further acquisition in the Anderson-Tully area and are aware that there are a number of landowners who are willing sellers in the area. To the degree that similar conditions exist in the Cache River Basin, and to the degree that similar support exists in the area, we have no objection to the acquisition of lands in the Cache River Basin. Should the Commission decide that the protection of bottomland hardwoods in the Cache River Basin is also a high priority, it may certainly move to purchase those lands.

Mr. BUMPERS. Mr. President, I thank the chairman.

EXTRA FUNDS FOR WYOMING FORESTS

Mr. SIMPSON. This past summer, in hiking through the Shoshone National Forest, it came to my attention that the trails in the area just adjacent to Yellowstone Park are in need of extensive repair, maintenance, and construction work. I also believe that the trails in the Bridger-Teton Forest need additional inclusions of funding to bring them up to par with trails inside Yellowstone Park. We have a situation in Wyoming where trails within Yellowstone Park are funded through the Park Service and trails outside the park are funded by the Forest Service. In many cases these trails are in essence the same trail—one trail may go up into the mountains through the forest and across the park boundary into Yellowstone Park. Yet there are two trail maintenance budgets. The trails inside Yellowstone Park are very well maintained: they have wooden bridges for boggy areas and they have log abutments and other reinforcing characteristics. On the other hand, trails in the two forests adjacent to Yellowstone Park in Wyoming have trails that are barely adequate in some cases. When one rides a horse or backpacks from the forest into the park, the stark contrast between the two trail systems is readily apparent. I am certain that you are aware of similar situations, since I note that you have recommended an increase of $1 million in the "Forest Service trails" committee budget item for fiscal year 1986, an increase of $890,000 over the House allowance. For this reason I would request that the Forest Service be directed to provide $75,000 in additional trail maintenance moneys above the current trail budget for the Bridger-Teton Forest, and an additional $75,000 for the Shoshone Forest in Wyoming. It is my sincere belief that the forest could well use this relatively small infusion of money in order to upgrade the trails to a level that would be at par with the trails in the National Park System. Does the floor manager have any objection to indicating that the Forest Service increase its spending levels for trail maintenance in these two forests at the levels I mentioned—with the funding to come from the overall increase recommended by the committee?

Mr. McCLURE. I agree that funding for trails within the Park System and trails in the forest has been extremely tight in the past few years and that perhaps the National Park Service has suffered less. I do believe that all of the trails you refer to should have similar maintenance and construction schedules in order that users of the public lands in this area are afforded adequate and safe trail systems. I do not have any problem with the earmarking of trail maintenance increases by $75,000 for each of these two magnificent forests.

Mr. SIMPSON. I thank the good Senator from Idaho—I am certain that my colleagues and the Forest Service are conscious that no official in the Forest Service System in Wyoming has requested this use of the money—indeed the forest supervisors are precluded from any such action. This is an initiative and request that was developed by me without any specific request from Forest Service personnel.

WESTERN RESEARCH INSTITUTE AND UNIVERSITY OF NORTH DAKOTA ENERGY RESEARCH CENTER

Mr. SIMPSON. Mr. President, I would take this opportunity to thank the bill managers for the language that was included in the appropriations regarding the Western Research Institute. The Wyoming delegation has always attempted to be cooperative with the Department of Energy and the Appropriations Committee in the eventual defederalization of the former Laramie Energy Technology Center which was a part of the Department of Energy.

I would ask the floor manager of the bill to clarify some report language in this regard. It is my understanting that funds have now been provided for WRI in a phasedown approach. It is also my understanding that WRI may compete for other Federal contract money above and beyond the figures listed in the Interior appropriations bill. It is also my understanding that the funds provided in the bill are baseline sums which are meant to be phased out over time with emphasis on a thorough search by WRI for alternate sources of funding.

Mr. McCLURE. The Senator is correct—we have provided funding for WRI and UNDERC to continue operation though fiscal year 1992. The amounts listed in the report are to be provided to WRI and UNDERC as base funding for fiscal years 1986 through 1992. Any DOE grants won through a competitive process will be in addition to the base amounts listed in the report. WRI and UNDERC shall indeed be able to compete for DOE funding and, based on their excellent track record, will certainly win a significant number of grants. Therefore, they will possibly end up with more DOE funding than we have provided for. But in the out years they will have to win a greater volume of grants each year to stay at the same overall funding level. The guaranteed base funding level does decrease over time, but WRI and UNDERC will be able to fully compete for other Federal Contracts which are not part of cooperative agreements with DOE.

Mr. SIMPSON. I thank the good Senator from Idaho and I think that clarifies my concerns quite nicely.

Mr. ANDREWS. Mr. President, I wish to thank the distinguished chairman of the Interior Appropriations Subcommittee for his cooperation in putting together report language for the University of North Dakota Energy Research Center's [UNDERC] cooperative agreement and its funding. I also wish to thank the Senator from Wyoming for his input and efforts on behalf of Western Research Institute [WRI] in Laramie, which is also going through the defederalization process.

My understanding of the report language coincides with that of the Senator from Wyoming and the chairman of the Interior Appropriations Subcommittee. The funds for UNDERC and WRI are provided through 1992 in a declining-funding mode and the funds provided in the bill are baseline sums which are meant to be phased out over time as an incentive for

UNDERC and WRI to thoroughly search for alternate sources of funding. These two centers will also be able to compete for other Federal contract money over and above the figures listed in the Interior appropriations bill. Because the funding decreases each year, UNDERC and WRI will have to win a greater volume of grants each succeeding year to stay at the same overall level.

NEED FOR A NEW TRUCK AT NATIONAL ELK REFUGE IN JACKSON, WY

Mr. SIMPSON. I wish to take this opportunity to discuss the need for new feeding practices at the National Elk Refuge in Jackson Hole, WY. In the recent past, the U.S. Fish and Wildlife Service has changed the feeding practices for the elk herd that winters in the Jackson area. In the "old days" the elk were fed hay from the surrounding hay fields, but this practice has been discontinued. Currently, the Service feeds the elk alfalfa pellets which are quite adequate nutritionally, but which present problems with regard to the manner in which elk acquire their nutrition and the amount of food that is required. In short, we have had some elk starving during a winter even when feeding has been a continuing process. Part of the problem is that we are unable to get the feed out into the field during severe winter storms at a rate swift enough to prevent starvation in young elk.

It is my understanding that the Interior Department is willing to consider remedies to this problem. I would ask the floor managers of the bill if it is not possible to encourage the Interior Department to purchase a new truck for the elk refuge without actually earmarking moneys in statutory language for this project.

Mr. McCLURE. The Senator is correct—the Interior Department may provide for a new truck at the elk refuge with funds that have been appropriated in this bill. The Department does not need statutory language to address this issue. I concur that the feeding practices at the refuge may need modification and I would encourage the Interior Department to do everything possible to address the concerns of the Senator from Wyoming.

Mr. SIMPSON. I thank the distinguished Senator from Idaho. He has always been willing to work with the Wyoming delegation on these important wildlife issues. It is my understanding that the Interior Department has no objections to the purchase of a new truck and that they agree that this will allow for more rapid feeding and a more efficient method of preserving the magnificent and valuable elk herd that then migrates into Yellowstone Park for the summer.

Further, I have visited with veterinarians who believe that the death of some young animals at the elk refuge could be prevented if the diet of the elk, consisting of alfalfa pellets, were supplemented with straw. Elk are ungulates and they have a stomach that is very similar to a cow's. If cattle are fed alfalfa pellets only, it has been found that they often may die because of a lack of cellulose and fibrous foods that the bacteria feed on in an ungulate's stomach. Ungulates may need a large amount of fibrous materials in their digestive tract to provide internal heat through the bacterial digestive process. It is known that calf elk have died on the elk refuge during winter feeding and part of this problem may be due to a lack of sufficient bulk material in the stomach which then provides heat during severe winter storms. I believe it would be appropriate for the Fish and Wildlife Service to acquire straw—which I understand is very inexpensive in the marketplace—and feed this straw along with the alfalfa pellets in order that the elk do have an adequate amount of fiber in their diet along with the nutritional alfalfa pellets. I believe this practice of increasing fiber along with a more rapid feeding method will reduce the winter mortality significantly.

TRAIL MAINTENANCE

Mr. SIMPSON. Senator McCLURE, in reviewing the House appropriations report, I see that they have added $5 million above the administration's request, exclusively for construction and maintenance of foot trails. Does the Senate version contain similar language?

Mr. McCLURE. Senator, the Senate bill contains no additional funding for trails construction. The committee has not agreed to additional trail construction, either for foot trails or for other trails. Rather, the Senate has added $1 million above the budget for trail maintenace, which should have a higher priority than new trail construction.

Mr. SIMPSON. I notice that the language in the House report not only limits expenditures to foot trails, but also identifies reports that many miles of foot trails have been lost to motorized trail uses. Specifically, the language states:

An increase of $5,000,000 is recommended for trail construction. The Committee intends for this increase to be used for construction of foot rails only. The Committee is concerned over reports of an increasing number of trails being constructed or converted to off-road vehicle use, and believes that the Forest Service should concentrate these limited funds on the construction of foot trails.

Has the chairman of the Appropriations Committee received any such similar reports.

Mr. McCLURE. While I am personally very supportive of providing quality foot-trail experiences in our national forests, I must express my concern over the management constraints imposed by the House language. The House language changes the current management concept employed by the Forest Service that all trails are open to multiple use unless designated for a particular usage. We should not limit the management alternatives available to Forest Service personnel in carrying out their multiple-use directives. Further, I would question the assertion that foot trails are being converted to motorized use in large numbers. It is more likely that, as our National Wilderness Preservation System continues to grow, quite the opposite is true.

While foot trails are certainly an important aspect of the forest recreation experience, so are other types of trails. In this respect I believe the House language is inappropriate and I would encourage the chairman to restore a proper balance to the language in the conference.

Senator Simpson, I appreciate your views. I agree with your concern that the language contained in the House report would limit management alternatives available to management personnel and further agree that the action of the House is not in the long-term interest of the Forest Service trails program. Their language would not only limit the use of trails to exclude ORV's but would also exclude horse use and cross country ski usage. I am also concerned that their language is based on faulty perceptions as to the problem. I'm not persuaded that significant trail mileage is being converted to ORV use nor am I persuaded that the Forest Service has accelerated ORV trails to the exclusion of foot trails, Further, I understand that sales of motorized trail vehicles are no longer increasing rapidly, reducing the possibility that motorized trails are being added at the expense of foot trails. I appreciate the Senator's urging that I make these points in conference and would intend to do so in a most positive way.

SALMON TREATY FUNDING

Mr. EVANS. Mr. President, earlier this year the Senate ratified the United States-Canada Pacific Salmon Treaty and both Houses of Congress passed enabling legislation. The treaty requires support from the Department of State, the Department of Commerce and the Department of the Interior. Within the Department of the Interior, the Fish and Wildlife Service and the Bureau of Indian Affairs have responsibilities in this area.

For the Fish and Wildlife Service, the House has provided $265,000 within existing funds for Salmon Treaty work while the Senate version recommends $400,000 of new money. May I inquire of the distinguished chairman of the Interior Appropriations Subcommittee as to the reasons for this difference?

Mr. McCLURE. Mr. President, in response to the question of the Senator from Washington, I would note that funds identified in the House bill for the Fish and Wildlife Service would cover research activities only for the southern panel. Additional funds are required for research for the northern panels and the Yukon River. Our bill provides that support. We have also recommended an increase in the budget for the Fish and Wildlife Service to carry out these additional responsibilities as funds would otherwise be diverted from hatchery operations and maintenance which is already approximately 20 percent below the fiscal year 1984 funding level.

Mr. EVANS. Mr. President, I thank the Senator from Idaho for that explanation. With respect to funding for the Bureau of Indian Affairs, the committee has reduced substantially the amount contained in the House bill for the Northwest and Columbia River Fisheries Commission. The House provided $2,100,000 while the committee reported bill contains only $1,010,000. The Indian tribes in Washington, Oregon, and Idaho have substantial responsibilities under the treaty and it is essential that they be provided the financial resources to meet their obligations and be full treaty participants. Can they be expected to carry out their portion of the treaty activities at a budget of half the original request?

Mr. McCLURE. I appreciate the concern of the Senator from Washington. The reduction in the amount contained in the House-passed bill is based on several factors: First, the House level contains $366,574 for indirect costs. The Bureau of Indian Affairs informs us that these costs will be covered within the allowance for contract support funds which is part of the Indian services line rather than the natural resources account. These funds are not earmarked for specific contracts, but rather are based on negotiations between the contractor, the Bureau of Indian Affairs and the inspector general's office. The House allowance also assumes full-year funding of the Commissions. It seems more reasonable to assume three-quarters of a fiscal year's funding for the first year which will allow savings in personnel costs, fringe benefits, and travel. The Commissions had contemplated spending almost $1 million for staff costs and travel alone. The Commissions had also requested funds to purchase a number of small computers. It may not be unreasonable to expect that these purchases be spread over 2 years. We believe that these reductions can be made during the initial year of funding without harming the program.

Mr. EVANS. According to the committee report, an increase of $500,000 is provided for contract support funds, so it would appear that sufficient funds will be available in this area even though no earmarking is provided. Would the Commissions be bound by the assumptions made by the committee as to where savings could be achieved?

Mr. McCLURE. They would not. Within the total amount available, and in conjunction with the Bureau of Indian Affairs as part of the contracting process, they would be able to establish priorities.

Mr. EVANS. With respect to the fiscal year 1987 budget, what would be the base for the Commissions under the Senate committee proposal?

Mr. McCLURE. I cannot give the Senator a definitive answer on that point. For instance, one major cost in the first year is the purchase of a trailer for coded wire tagging. That is a one-time expenditure which can be deducted from future budgets. If personnel costs are funded for only a part of the fiscal year, then adjustments would have to be made for full-year funding and after the panels begin to function we assume there will be additional requests for enhancement activities.

Mr. EVANS. Mr. President, in consideration of the fiscal constraints facing the Interior Subcommittee, I will not offer an amendment to increase the amounts recommended for the Northwest Indian Fisheries Commission and the Columbia River Inter Tribal Fish Commission. I recognize that the appropriations committee has been faced with a difficult situation in making determinations for funding to carry out the Salmon Treaty since formal budget estimates were available only for the Department of State. As a consequence, not only are the Senate numbers different than the House for Interior-funded activities, but the House has included no funds for the Department of Commerce, while the Senate has provided over $6 million.

I urge the chairman of the Interior Appropriations Subcommittee to give consideration to increasing the amounts available to the two Indian Fisheries Commissions as part of conference action on the Interior bill while recognizing the validity of the committee's position with respect to indirect costs and funding for less than a full fiscal year.

Mr. McCLURE. Mr. President, I assure the Senator from Washington that there is no intention on the part of the committee to shortchange the Tribal Fisheries Commissions and that this matter will be carefully reviewed during conference with the House.

Mr. GORTON. Mr. President, I compliment the chairman of the Interior Appropriations Subcommittee for his thoughtful and thorough review of the fiscal year 1986 budget proposal submitted by the U.S. section of the Pacific Salmon Commission. As the chairman knows, the responsibility for completion of specific research programs required by the Salmon Treaty is divided among the tribal, State, and Federal fishery managers. As I understand it, the programs are integrated and interdependent, and implementation of our international obligation under the treaty requires fulfillment of tribal, State, and Federal efforts.

Mr. President, I associate myself with the previous remarks made by my colleague from Oregon, Mr. HATFIELD. It is important that the Senate recommendation of $1.01 million be increased in conference to ensure that the two tribal commissions will receive adequate funding to carry out their Salmon Treaty obligations. Also, I understand that a part of the additional $500,000 included in the bill for contract services within BIA will be made available for contract support funds to support Salmon Treaty contracts, provided that the Indian fishery commissions satisfy departmental regulations in this area.

Mr. President, I thank my colleagues from the Pacific Northwest for their work in implementing the Pacific Salmon Treaty. This treaty provides the necessary cornerstone for protecting and enhancing our valuable salmon and steelhead stocks.

Mr. HATFIELD. Mr. President, I would like to join my colleagues in support of funding for implementation of the United States-Canada Salmon Treaty. Not only is implementation of the Salmon Monitoring Program important for our international relations with Canada, but it is important also to preserve our domestic salmon stocks which represent both a natural resource and a financial asset to this country. Last year, for example, the U.S. salmon industry was an industry employing literally thousands of individuals in the Pacific Northwest alone.

Be that as it may, Mr. President, there are three matters which have been clarified by my distinguished colleagues that are important to the United States-Canada Salmon Treaty.

First is that the Senate recommendation of $1.01 million will be adjusted upward in conference to accommodate a complete program for the 9 months which will remain in fiscal year 1986.

Second is that because the program is being funded on a partial year basis, appropriate adjustments will have to be made to next year's program base to accommodate for a full year program next year.

Finally, it has been clarified that of the additional $500,000 included in the bill for contract services within the BIA, the participating tribes will have ample opportunity, within existing reimbursement procedures, to collect from the BIA all or a portion of their indirect costs which will be incurred as part of the Salmon Treaty Monitoring Program. Some estimates are that

these indirect costs will be about $366,574, based on a full year program.

Again, Mr. President, I thank my colleagues Senator McCLURE, Senator EVANS, and Senator GORTON for their leadership and cooperation with this important national and regional Salmon Monitoring Program.

VIRGIN ISLAND RUNWAY CONSTRUCTION LOAN

Mr. WEICKER. I would like to direct an inquiry to the distinguished chairman regarding a provision for a loan to the Virgin Islands to initiate construction for the extension of the Alexander Hamilton Airport runway. More specifically, I am concerned that the report language regarding this loan states that issuance of the loan will be contingent on the Virgin Islands receiving a multiyear grant from the Federal Aviation Administration and approval by FAA of the use of Airport Improvement Program [AIP] funds for the repayment of the loan. Am I correct on this?

Mr. McCLURE. Yes, the Senator is correct.

Mr. WEICKER. I agree that this loan should be contingent on the receipt of a multiyear grant from the FAA. However, I understand that although it is permissible to use AIP funds to repay loans, they may not be directly tied to loan repayment. Accordingly, I ask the distinguished chairman if it is the intention here to directly link the AIP funds to repayment of the loan?

Mr. McCLURE. I understand the Senator's point that direct linkage is, in fact, not permissible. The answer to his question then is: No, it is not the intention to directly link the AIP funds with the loan repayment, although it is understood that the loan is contingent on the approval of an AIP grant prior to receiving the loan.

Mr. WEICKER. I thank the chairman for his consideration and for his explanation in clarifying this issue.

U.S. GEOLOGICAL SURVEY GROUND WATER RESEARCH

Mr. HATFIELD. Mr. President, the committee has included an increase of $750,000 for hydrologic research in the budget of the U.S. Geological Survey. Additional work in this area will allow investigation of promising new areas of inquiry and the development of new techniques with which to address water resources problems plaguing numerous regions in the country. According to the Geological Survey, such work will have a high transfer value to all operational aspects of water oriented investigations and will also support activities of other Federal, State, and local agencies.

The Oregon Graduate Center has developed an extensive program plan and is well qualified to undertake this expanded effort. A contract between the Survey and the Oregon Graduate Center will enable the expertise available from the center's personnel to be used by the Survey in the development and testing of innovative techniques for analyzing potentially contaminated ground waters as well as studying the process by which these contaminants are transported in the subsurface. Both the assessment and transportation of contaminates greatly assist in eventually controlling such toxic agents.

Mr. President, I would ask the chairman of the Interior Appropriations Subcommittee if it was the intention of the committee that this additional work be carried out by the Oregon Graduate Center?

Mr. McCLURE. Mr. President, the Senator from Oregon is correct. We had initially been advised that no earmarking of the funds was necessary to ensure that the Oregon Graduate Center be the contractor for this expanded program. We have since learned that it would be preferable to specifically state that the funds are intended to contract to the Oregon Graduate Center in order to preclude any procurement problems. Given the outstanding reputation of the Oregon Graduate Center and their unique qualification to provide this service to the survey, we will pursue not only the increase but the earmarking in our conference with the House.

Mr. HATFIELD. I thank the floor manager of the bill.

Mr. KASTEN. Mr. President, I rise to offer an amendment that will transfer $2.143 million from the National Endowment for the Humanities treasury funds to the NEH Challenge Grants Program. This amendment would bring the Senate's recommendation in line with the House level.

The NEH challenge grants have had a profound impact on the development of humanities and on the preservation of our national heritage. Likewise, the Treasury funds have been a significant source of humanities enrichment. In fact, the Treasury funds and the challenge grants are often used for the same purposes.

The difference is, Mr. President, that the Treasury funds give the Endowment more flexibility in disbursing program money, but they only require a dollar-for-dollar match. The challenge grants, on the other hand, require a three-to-one dollar match. There is no other Humanities program which leverages more private sector support.

I do not want to belabor the increasing budget difficulties we are facing. But I would emphasize that given these restraints, we should do all we can to encourage more private sector replacement of public sector funding. At a time when we are trying to foster private sector contribution, we need to maximize incentives for giving. I believe my amendment would accomplish that goal, and it would do so without any additional budget expenditures. I urge the Senate to adopt this amendment.

Mr. McCLURE. I thank the Senator from Wisconsin for his comments and for bringing attention to the value of the Challenge Grants Program. With all due respect to the points he has raised, I would urge the Senator to withhold his amendment at this time. We are facing a deadline funding situtation once again, and I think it is in the best interest of this body to refrain from extraneous amendments which could further jeopardize the bill. I would not argue with the Senator from Wisconsin on the merits of his proposal. But I would note that the committee recommendations are in line with the Endowment's request. Again, I would request that the Senator from Wisconsin withdraw his amendment to give us some wiggle room in conference.

In exchange, I will give favorable consideration to the request of the Senator from Wisconsin during that conference. If we have room to maneuver some of our figures, I will convey the Senator's request to the conferees.

Mr. KASTEN. I thank the Senator for his consideration and I praise him for his outstanding leadership on this section of the bill. He has done an outstanding job of balancing the needs of many worthy interests. I share his desire to expedite passenge of this bill, so I respectfully withdraw my amendment and ask for the Senator's continued consideration of my request during the conference.

THE NATIONAL ACADEMY OF SCIENCE MONO BASIN ECOSYSTEM STUDY

Mr. WILSON. Mr. President, I thank Senator McCLURE, our distinguished chairman of the Appropriations Subcommittee on Interior and Related Agencies, for targeting $240,000 of the Department of Interior and Related Agencies appropriations for completion of the National Academy of Sciences [NAS] study of the Mono Basin located in California.

The National Academy of Sciences, through its National Research Council, has begun a study in cooperation with the USDA Forest Service, of the ecology of the Mono Basin National Forest Scenic Area in accordance with provisions of the California Wilderness Act of 1984. Both Senator CRANSTON and I worked closely last year to include this study in the act so that all interested parties can gain a better understanding of the ecology of the Mono Basin. The NAS study will assess available scientific and technical information about the ecosystem of the Mono Basin and the effects of water levels in Mono Lake on wildlife populations. The study will be conducted by an ad hoc committee—now referred to as the NAS Mono Basin Ecosystem Study Committee—organized for this purpose under the aus-

pices of the Council's Environmental Studies Board. It is anticipated that the study, which began in April 1985 will take about 21 months to complete at a cost of about $360,000. A final report will be issued by December 31, 1986.

Mr. President, included in the Appropriations Committee report on the continuing resolution before us today are statements related to this NAS study. These statements suggest that the recommended $240,000 in funding is intended for a narrowly focused study of the lake's ecosystem, concentrating on water quality values.

With all due respect to the Appropriations Committee, I would submit that the California Wilderness Act of 1984 contemplated a much broader study. In fact, the NAS Mono Basin Ecosystem Study Committee and the USDA Forest Service have identified the following six subject areas of study: First, terrestrial system; second, climatology; third, hydrology; fourth, water chemistry; fifth, food chain; and sixth, population flux. The Forest Service has requested the committee to also incorporate human use impacts into this report.

Clearly, this proposed study goes much further than the focus on water quality issues of Mono Lake that was suggested by the committee report language.

Will my good friend from Idaho, the distinguished chairman of the Appropriations Subcommittee on Interior and Related Agencies, agree with me that it is the intent of the committee that the $240,000 targeted for these studies is for a broad-scope study of the Mono Basin as I have described?

Mr. McCLURE. Mr. President, I agree with Senator WILSON's explanation of this NAS study. It is the committee's intent that the $240,000 is to be used for a broad-scope NAS study of the Mono Basin as he had explained. Our discussion here will serve to amend the committee report language in this regard.

DISPUTE BETWEEN NAVAJO NATION AND HOPI TRIBE

Mr. BINGAMAN. Mr. President, today as we discuss the Continuing Resolution for fiscal year 1986, we do so in the expectation of allocating scarce Federal dollars to much needed programs. However, one problem before us cannot be solved by more money. Yet we seek to solve it by this approach. I refer to the longstanding land dispute between the Navajo Nation and the Hopi Tribe.

The Senate is again confronted with this complex legal and emotional issue. Included within the Interior part of this bill is language that would, as I understand it, make changes that could seriously jeopardize a comprehensive solution to this problem.

A comprehensive solution was recommended in a recent report by former Interior Secretary Clark and his assistant, Robert Morris. This year Judge Clark as a special emissary to President Reagan, began work on seeking an end to the century-long dispute. In the face of current litigation and despite previous congressional legislation, Judge Clark brought the two tribes together hopefully to seek a common ground. Much to the dismay of interested observers, including myself, no negotiated agreement was reached. However, the report serves as an essential and useful guide for us in Congress, since it details the history of the dispute and suggests how we can help rather than hinder the process of reconciliation.

Mr. President, I commend the distinguished chairman of the Interior Appropriations Subcommittee in wishing to assist both tribes. But I do have serious reservations about the approach taken in this bill. Foremost among my concerns is the allocation of $85 million for relocation of Navajo families without any accounting or reporting to the Congress on how that money will be spent. It appears we are distributing the funds without an overall plan other than to expedite relocation and reach the July 1986 deadline. Given that relocation as Congress originally intended in 1974 has not solved the matter, we should make necessary adjustments rather than force a square peg into a round hole.

I am equally perplexed by the waiver of several Federal statutes, such as the Indian Self-Determination Act, Indian preference in contracting, all Federal administrative and procurement laws, and all Environmental Protection Agency requirements. In the place of these laws it appears the Secretary of Interior is given broad discretion and authority to execute the particulars of relocation, such as construction of homes and assignment of home site leases. What especially troubles me is the lack of protection for those Navajo relocatees. That, it appears to me, is the bottom line in this countroversy: the forcible upheaval of 1,700 traditional Navajo families.

The Clark report did confirm the problem with relocation: "Many Navajo families have been relocated from HPL [Hopi Partitioned Lands], although not all relocations have been successful. A significant number of Navajo who voluntarily accepted relocation to off-reservation, urban areas have suffered severely. Particularly the older or traditional families have been unable to cope in an urban or even suburban environment." The report further noted: "A forced relocation, of course, is the very thing we hoped could be avoided."

Mr. President, I caution the Senate from taking a piecemeal approach to this issue. It is analogous to our growing deficit, that is, unless we confront the present and future implications of our acts today we stand to pay even more in the future. $85 million is the amount the committee added, but this only deals with relocation and does not even begin to address Federal costs for litigation authorized by the 1974 Act.

I quote from the Clark report in the hope it might prove a useful reminder of our role in this dispute:

> In our view negotiated resolutions on the broad range of differences confronting the tribes would lead to far better results than would resolutions imposed by the courts or by the Congress. . . . If action is to be taken, it is hoped that the whole range of issues—not just today's relocation problem—be addressed. Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputes may persist for still another century.

We in the Congress should heed such a warning.

Mr. President, I would ask that the report be submitted for the record after the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT PREPARED BY RICHARD C. MORRIS FOR WILLIAM P. CLARK RELATIVE TO THEIR INVESTIGATION OF DIFFERENCES CONFRONTING THE HOPI AND NAVAJO INDIAN NATIONS

SEPTEMBER 20, 1985.

Memorandum to: William P. Clark.
From: Richard C. Morris.
Subject: Navajo and Hopi Land Settlement Act.

This is written confirmation of matters upon which we had conferred and reached conclusions and understandings relative to differences confronting the Navajo and Hopi Indian Tribes. It is further understood that the matters herein reported shall form the basis for your verbal presentation to President Reagan. Additionally, this material will be provided to those persons and agencies of government having a particular interest in resolution of intertribal differences.

On February 8, 1985, President Reagan commissioned you to determine if agreement could be effected between the Tribes over differences in implementation of the 1974 Hopi and Navajo Land Settlement Act and the 1980 amendment hereto (hereinafter, the Settlement Act). The Act requires, among other things, the relocation of Navajo tribal members from lands partitioned to the Hopi Tribe pursuant to the Settlement Act. You associated me, your former Counselor while at the Department of the Interior, to assist in this effort.

During the past seven months we have conferred with Chairman Peterson Zah of the Navajo Nation, with Chairman Ivan Sidney of the Hopi Nation, with other leaders in each nation, with tribal members affected by relocation as mandated in the Settlement Act, with concerned agencies of government and other institutions and persons having special knowledge of intertribal differences. We visited the disputed areas and those persons subject to relocation. We have made a serious attempt to understand particular associations and situations which threaten full implementation of the growing statutes. Those understandings probably

cannot be fully achieved except by one who has experienced in depth the culture and traditions of both the Hopi and the Navajo Tribes. Our exposure to those cultures and traditions, while falling short of that necessary for a complete understanding, has nevertheless been sufficient for our purposes.

We approached this assignment with recognition that the issues to be addressed are governed by laws, and we have consistently urged compliance with relocation processes as mandated by governing statutes. However, our particular effort, as directed in the President's letters of February 8 to the Chairmen, is not to bring about compliance with the law. Other agencies of government have that responsibility. Rather, we sought to determine whether there were resolutions in which the Tribes could voluntarily join. Such resolutions could be effected either under existing law or changes in the law designed to accommodate tribal agreements.

It follows, of course, that should either Tribe irrevocably conclude that it is not in its individual best interest to negotiate with the other for an agreement, an agreement would not be possible. This does not mean that problems which confront the Tribes under existing law cannot be resolved, but only that they cannot be resolved by voluntary agreement between Hopi and Navajo. Agencies of government apart from our efforts have responsibility and authority for initiating processes to correct what they may deem to be improper or unjust. Some persons have, in error, assumed that the President's appointment vested in you an authority to make depositive decisions and to take unilateral actions. We have consistently advised, on each occasion when the question arose, that you lack such authorities. Those authorities and responsibilities to initiate actions remain with the vested agencies of government. Lacking agreement between the Tribes or change in existing law, it is clear that the relocation of Navajo from Hopi lands must go forward.

HISTORICAL BACKGROUND

Limitations do not permit a full development of the centuries-old differences between Hopi and Navajo. Literally thousands of papers have been researched and written on those differences, generally posing contrasting solutions, many of which differ from solutions provided by existing law.

Few dispute that the Hopi have a longer authenticated history in North America than any other ethnic group. Today they occupy the same villages on high mesas in northeastern Arizona occupied by their ancestors centuries ago. They have been generally a peaceful people and, admirably, their Tribe is one of a very few which had no occasion to enter a treaty with the United States—perhaps to the Hopis' disadvantage. In 1882, President Arthur, by Executive Order, granted the Hopi a reservation in what is now northeast Arizona consisting of a rectangular area of approximately 70 miles in its north-south dimension and 55 miles in its east-west dimension (2,500,000 acres). At that time there were approximately 1,800 Hopi living on the reservation, and today that number has grown to approximately 11,000.

Although there is disagreement on when the Navajo first entered the area they now occupy in Arizona, New Mexico and Utah, their presence occurred much later than the Hopi presence but earlier than the arrival of the white man in the sixteenth century. The Navajo moved about in the area, becoming involved in confrontations with neighbors. In 1863, Colonel Kit Carson led a military force which impounded the main body of Navajo near Fort Sumner in New Mexico. In 1868 the United States entered into a treaty with the Navajo pursuant to which they were granted a reservation overlapping the northern Arizona-New Mexico border. That reservation has been successively expanded, mainly in a westwardly direction, and today is as large as the State of West Virginia (approximately 16,000,000 acres) and completely surrounds the Hopi reservation. Since 1868 the approximately 8,000 Navajo on the reservation has increased to approximately 165,000.

Intertribal problems might well be expected when a smaller, probably less aggressive Indian nation occupies an island reservation within the reservation of a much larger, expanding Indian nation. However, the problems and their solutions are far more complex than those arising merely from the physical juxtaposition of the two reservations. In major part, the complexity arises from historical, cultural and traditional considerations.

Life styles of the two Tribes following establishment of the reservations led to immediate problems. Hopis generally limited their living areas to their mesa villages concentrated near the center of the reservation (hereinafter referred to as District 6), using the outlands for grazing, growing, gathering and religious and cultural purposes. The more nomadic Navajo wandered onto and lived within the 1882 Executive Order reservation. While that Executive Order provides a reservation "for the use and occupancy of the Moqui (Hopi)," it further ambiguously provides for use and occupancy of "such other Indians as the Secretary of the Interior may see fit to settle thereon." There were at least 300 Navajo residing on the reservation in 1882, and in following years their population increased significantly. The ambiguity of the Executive Order led to conflicting claims of entitlement to the 1882 reservation area. Efforts to resolve the controversy were unsuccessful, and in 1958 the Congress authorized commencement of court proceedings to determine rights and interests of the Tribes "as may be just and fair in law and equity." At that time there were almost 9,000 Navajo on the 1882 reservation, a population significantly larger than the entire Hopi population. In the same year the Hopi commenced an action which became known as *Healing* v. *Jones* in the United States District Court of Arizona.

The District Court rendered its decision in the *Healing* case in 1962. In support of its judgment the court made extensive findings of fact. Many of these findings continue to be challenged, as they were during trial. We neither challenge nor confirm findings relative to historical and religious matters and we must accept as final those determinations made by an institution of our government which has addressed them in due process proceedings. Perhaps most significantly, the court found that while the Secretary of the Department of the Interior never expressly "settled" Navajo on the 1882 reservation as authorized by the Executive Order, it was deemed that the Navajo had been impliedly settled by virture of Secretarial inaction to Hopi complaints, thus condoning Navajo presence. The court appeared to find that the Hopi had been disadvantaged by such inaction and the ever expanding needs of the enterprising Navajo populaton, neither of which the Hopi could control. It describes the Navajo as having a "proclivity to commit depredations against the Hopi," and the government as reticent to antagonize the Navajo. It states that the failure of the Hopi to make fuller use of the 1882 reservation outside of District 6 "was not the result of a free choice on their part. It was due to fear of the encircling Navajos and inability to cope with Navajo pressure." The court nevertheless concluded that both the Navajo and Hopi Tribes had been settled on the 1882 reservation. It declared that, subject to the trust title in the United States, the Hopi Tribe has an exclusive interest in District 6 and that the Hopi and Navajo Tribes "have joint, undivided and equal interest in and to all the 1882 reservation" other than the area of District 6. The "Joint Use Area," as it became known, occupies approximately 1,900,000 acres of the 2,500,000 acre 1882 reservation.

The District Court concluded that the 1958 enactment authorizing the *Healing* litigation did not confer jurisdiction upon it to divide the Joint Use Area (JUA) into equal exclusive enclaves for each the Hopi and the Navajo Tribes. That division was left to the Settlement Act in 1974. In principle part, the act provides for mediation by the Tribes for partition of the JUA, for recommendations to the court in supplemental *Healing* proceedings to be made by a mediator should the Tribes fail to agree on partition, and for court partition of the JUA. Only the surface rights of the JUA were subjected to partition, with the Tribes retaining their joint and undivided interests in subsurface mineral resources. The act also establishes the Navajo and Hopi Indian Relocation Commission, and charges the Commission with reporting on, accomplishing and paying for the relocation of Hopi and Navajo families away from lands partitioned to the other Tribe. Relocation is scheduled for completion on July 6, 1986. After that date, those Indians remaining on lands not apportioned to their Tribe will technically be trespassers subject to eviction and other judicial processes.

The Tribes were unable to agree on partition and a partition line equally dividing the land area of the JUA between the Hopi and Navajo Tribes was eventually fixed by a mediator and approved by the court. Fixing the line was extremely difficult because of the very large population of Navajo throughout the JUA. While centers of Navajo population were sought to be included on the Navajo side, the line could not be drawn except with large Navajo populations on the Hopi side. There were approximately 12,000 Navajo and only 100 Hopi subject to relocation by placement of the line. In some instances Navajo families had resided on what became Hopi Partition Land (HPL) for generations dating back before the 1882 Executive Order. Other relocate families were those of veteran World War II Navajo Code Talkers who contended they had fought to protect their right to these lands. Others were families who once before had been subjected to relocation when they were first required to abandon their Navajo homes within District 6.

Anticipating the need for additional lands to accommodate the large numbers of Navajo to be relocated, the Congress provided for the acquisition of 400,000 acres of new lands by the Navajo for annexation to their reservation. This acquisition would approximate 42% of the area of the HPL from which Navajo were to be moved. The 400,000 acres consists of 150,000 acres to be acquired in fee by the Navajo, and 250,000 acres to be acquired by the Bureau of Land Management (BLM) for transfer to the

Navajo. The Navajo have acquired their fee lands (The Bar N Ranch) and the BLM, through extraordinary effort, is in the final process of completing acquisition of the adjoining ranches which make up the new lands. All the new lands will be adjacent to the present reservation in Arizona except for 35,000 acres in New Mexico, on which valuable coal deposits are located (the Paragon Ranch). BLM acquisitions in Arizona are of surface rights only and the acquisition process is being challenged by the Santa Fe Pacific Railroad Company, which owns underlying mineral interests. Santa Fe claims the BLM is required to acquire and transfer to the Navajo Tribe Santa Fe's mineral interests as well as the surface interests of the new lands.

At the present time the new lands are undeveloped, without adequate roads, water, fencing, food sources and infrastructures necessary to support relocatees. No provision has yet been made by the Congress or the Navajo Tribe to provide these resources.

INTERTRIBAL DIFFERENCES OTHER THAN RELOCATION

The 1982 reservation relocation problem is not the only major dispute confronting the Navajo and Hopi Tribes. By Act of Congress in 1934 ("The 1934 Act"), the boundaries of the Navajo reservation in Arizona were defined and certain lands designated "for the benefit of the Navajo and such other Indians as may already be located thereon." The Hopi have long claimed rights arising out of The 1934 Act. A well-established Hopi village, Moencopi, exists within the Navajo reservation in Arizona. Pursuant to long ignored Hopi claims, in 1966 Indian Commissioner Robert Bennett imposed a "freeze" (to become known as the "Bennett Freeze") on a large area within the Navajo reservation lying westerly of the 1882 reservation. The freeze precludes improvement within the area—as, for instance, improvements to a residence—without the concurrence of both Tribes. The freeze was intended to be short lived, the Commissioner hoping it would influence the Tribes to soon settle their differences. However, the freeze has continued for a score of years, working mainly to the disadvantage of Navajo who seek to improve their living conditions within the area.

The Settlement Act of 1974 expressly authorized the commencement of litigation to resolve claims of interest within areas described by the Act of 1934. The Hopi Tribe immediately commenced a suit, claiming an undivided one-half interest in a large portion of the Navajo reservation in Arizona. The Navajo answer to the complaint concedes only the Moencopi area to the Hopi. A partial judgment has been entered, denying the Hopi claim of a one-half interest in all the disputed lands, but holding that Hopi has an exclusive interest to all lands that were exclusively "occupied, possessed or used" by Hopis in 1934, and a one-half interest in lands jointly "occupied, possessed or used" in 1934 by Hopi and Navajo. The 1934 litigation is at a standstill, pretrial discovery not yet having been completed and a petition for intervention by the San Juan Southern Paiutes, who also claim tribal rights to a portion of the 1934 area, not yet having been resolved.

Other significant litigation is also at issue. In the main, these suits arise out of the Settlement Act, Navajo continued occupation of the HPL, and alleged failures of United States officials. In all these suits it is Hopi who are the complainants. The following actions are pending in the United States District Court for the District of Arizona, unless otherwise indicated.

Sidney v. *Zah* is a supplemental proceeding to the *Healing* case. As authorized by the Settlement Act, Hopi seeks a payment from Navajo to balance the lesser resource value Hopi claim to have received under partition of the JUA. Navajo claims U.S. responsibility for this payment. Hopi also seek to hold the Secretary of the Department of the Interior in contempt for failure to complete stock reduction of Navajo flocks on the HPL, and failure to complete a five-mile portion of a fence required to be constructed along the JUA partition line. The gap in the fence has been kept open in part through efforts of persons sympathetic to Navajo in an area known as Big Mountain in the HPL. The Hopi claim may approach $100,000,000.

Hopi Tribe v. *Hodel*, Hopi seek rental payments for Navajo use of the HPL pending relocation of Navajo. The Secretary has recently placed a grazing fee value of $1,300,000 for use of these lands during the period 1978 to 1982.

In *Hopi Tribe* v. *United States* (U.S. Court of Claims), Hopi seeks money damages against the United States for the alleged failure of the Secretary to collect trespass penalties, damages to land caused by failure of Navajo shepherds to keep animals off HPL, and the value of forage consumed by trespassing animals. In two other suits the Hopis seek similar damages against the Navajo Tribe.

STATUS OF RELOCATION

All Hopi originally on Navajo Partition Land (NPL) have been relocated, and pose no problem. Many Navajo families have been relocated from HPL, although not all relocations have been successful. A significant number of Navajo who voluntarily accepted relocation to off-reservation urban areas have suffered severely. Particularly the older—or traditional—families have been unable to cope in an urban or even suburban environment. Some could speak only in their native tongue and had no marketable skills. They had no understanding of municipal taxes, utility services or maintenance of the simplest mechanical devices in their modern homes. They soon were in debt and became victims of unscrupulous lenders. Many lost or sold the homes provided by the Relocation Commission, probably the central reason they had agreed to move in the first instance. Many suffered severe emotional traumas when placed in an environment in which they could not cope, and now regret their decision to move. The Relocation Commission, whose task under the Navajo and Hopi Land Settlement Act is a most difficult one, has instituted procedures designed to better assure the success of relocations, both on and off the reservation.

There remain on the HPL today a disputed number of Navajo families subject to relocation. According to the Relocation Commission, there are approximately 350 families (often an "expanded" family, but generally four to six members) who continue to reside on HPL. Of these, approximately 300 families have voluntarily agreed to be relocated, leaving 50 families who refuse relocation. The Navajo claim this number is much larger and, while visiting throughout the HPL, it appeared to us that there are indeed many more than 50 families who adamantly reject relocation. It may be that our chapter meetings with Navajo on HPL were attended by other Navajo who added their voices to those of the chapter members, and that our perception that there are more than 50 dissident families is in error. Or it may be that some who earlier indicated a willingness to relocate have reconsidered in view of the experiences of those who have undergone relocation. In any event it appears clear that a substantial number of Navajo now on HPL will reject voluntary relocation and stand firm against forcible eviction after July 6, 1986. There is also sound reason to believe that those Navajo who choose to physically resist relocation will be encouraged and assisted in that effort by others, both Indian and non-Indian activist. We have received communications from numerous persons who overwhelmingly support the right of the Navajo traditionalists to remain on the lands of their ancestors. A forced relocation, of course, is the very thing we hoped could be avoided.

THE CASE FOR THE HOPI

Following is a statement of the case for the Hopi as if stated by an advocate for that Tribe. Following that statement, we next make the case for the Navajo, again as if stated by an advocate for that Tribe.

History is on the side of the Hopi. Lawyers will conclude that they are entitled to what the law now provides. They have consistently abided by the law, as that law has been thrust upon them by the United States Government. In 1882 they were vested with land which—they still argue—was their exclusive reservation because the Secretary of the Department of the Interior never "settled" other Indians on those lands although he was expressly authorized to do. They lost that argument in the *Healing* case because Navajo encroachments onto the reservation were condoned by the Secretary through inaction, sometimes deliberate, in response to numerous Hopi protests. While the Hopi believe the Navajo thus profited by their aggressions, the Hopi have nevertheless accepted the court's decision in *Healing* and the subsequent congressionally imposed partition of the JUA. That partition resulted in the transfer of 950,000 acres of Hopi lands to the Navajo, who already have a reservation are ten fold that of the Hopi. The Hopi, in accepting what they deem to be injustices, argue that the former land dispute has thus been finally settled and there is no longer a need for negotiations.

To even propose to the Hopi that they should surrender some of the HPL in favor of the Navajo is taken by the Hopi as in bad faith. Their religion and culture do not permit them to sell their land, whatever the exchange, as only land has a real and lasting value. Land is the only commodity which protects future generations, and to surrender it would be a breach of Hopi religious and cultural responsibilities.

More practically, the Hopi point out that their reservation, being an island within the Navajo Reservation, cannot be expanded in any direction. However, the Navajo can continue to expand the unrestricted borders of their reservation to accommodate future needs, and they have constantly sought such increases over the last century. They will shortly acquire another 400,000 acres of new lands. How, the Hopi ask, can you propose the further surrender of some of our limited lands to the insatiable demands of the Navajo Tribe? If it is because Navajo on Hopi lands may be distressed because they must relocate, a line must be drawn at some point else Hopi will eventually be consumed by the Navajo. The Hopi conclude that the Congress and the courts have drawn the line and the United States Government must abide by the law which it has fash-

ioned. The Navajo Tribe must also abide by that law because, according to Hopi, the Navajo has not offered to surrender enormous benefits which the law has accorded to them in anticipation of Navajo compliance with the relocation process.

THE CASE FOR THE NAVAJO

Navajo leaders have long advocated repeal of the Settlement Act, but now appear to recognize that, because of substantial performances under the act, injustice and confusion would be created by repeal. They nevertheless seek amendments which would ease the burden of relocation.

Unlike the case for the Hopi, the Navajo case does not depend on overall tribal concerns as much as it depends on personal concern for those Navajo subject to relocation. It is difficult to appreciate these concerns without an understanding of the traditional Navajo perception of family lands. While many Navajo appear to have easily adapted to the customs and ways of the white man, the true traditionalists—those who speak only Navajo, who have not had the opportunity to attend reservation schools and depend for their livelihood on skills acquired in tending the fields—have a special feeling for the land, particularly for that immediate land on which the traditional residence, or "hogan," is located. This feeling is founded in part on ceremony and theology, including the positioning of the hogan to face the rising sun and the burying of the umbilical cords of the newly born. Thus, removal from family lands to strange lands, even though to other Navajo reservation lands, creates a sense of failure accompanied by severe emotional trauma and withdrawal. Some who are threatened by relocation conclude that because their lives would serve no further purpose in a strange environment, they would prefer to sacrifice their wasted lives by resisting relocation. To such Navajo, any inducement for relocation is insufficient.

While it is true that the Hopi legally own—subject to the federal trust—the land on which traditional Navajo now reside, such Navajo totally reject the concept of ownership of reservation lands. Land is the "mothergod," not owned by any temporary possessor. They argue that it is they who are closest to the particular lands, they and their ancestors have occupied for as long a time as memory serves regardless to whom our government has conferred a title. They, their children and their ancestors were born and buried on these lands. They have collected herbs, tended flocks and protected the land against the elements and trespassers. They are the ones who have been charged by culture and tradition with maintaining and protecting the land for future generations. To these Navajo, those Indians who live elsewhere claiming title to lands they only occasionally walk over are the true intruders. If Navajo are forcibly removed, their hogans will be destroyed and they will be replaced on the land by sheep or cattle, if replaced at all.

The case for the Navajo is not one for the Navajo as a nation, but rather for those individual Navajos subject to a relocation which may be life threatening, emotionally and physically. Whatever the conduct of Navajo a century ago, the Navajo now subject to relocation are not yet guilty of wrongdoing. If the Hopi were victims of federal inaction during the last century, surely today's traditionalists Navajo are victims of the relocation process as fashioned by the Congress.

PROPOSALS FOR RESOLUTION

Early in February 1985 we met with the Chairmen of the Hopi and Navajo Tribes on the 1882 reservation. We obtained from each a commitment for a good faith effort to reconcile their differences.

It was our initial perception that the key to resolution of the whole multitude of issues confronting the Tribes was some agreement on relocation of Navajo from HPL. Should such an agreement be reached, it seemed likely that the Tribes could resolve their many other problems. At the same time, if agreement on relocation could not be reached, it seemed unlikely the Tribes could ever reach other issues. That perception still prevails.

One solution of the relocation issue is, of course, full performance under existing law resulting in removal of Navajo from HPL, voluntarily or involuntarily. Our mission has been to determine whether there is an alternate solution. We could see only two possible alternate solutions. One was to redraw the JUA partition line to include on the Navajo side those or many of those Navajo now residing on the Hopi side. It was clear that the line could not be redrawn simply by including on the Hopi side former Navajo lands equal in size to former Hopi lands to be included on the Navajo side. Because of the heavy population of Navajo along the line, such an exercise would merely subject different but approximately equal numbers of Navajo to relocation, thus solving no problem. Obviously, the Hopi would have to be compensated in some manner for lands given up. Much of our effort on the reservations was expended exploring with the Hopi leadership, their response to any proposal which would have required some exchange of HPL. Although we persisted in our effort to discuss land exchanges, the Hopi never indicated a willingness to discuss exchanges and never submitted an exchange proposal. Eventually, we were advised that whatever the resource value of assets to be exchanged, the Hopi could not willingly surrender even an acre of HPL.

We have reluctantly accepted the fact that, at this time, the Hopi cannot or will not negotiate for an exchange of HPL. In a sense, this was unfortunate for the Hopi, as we were ready to propose that in return for some Hopi lands along the partition line—lands that are central to the dispute—the Hopi would receive assets of much greater resource value encompassing the full range of the multitude of differences besetting the Tribes. Such a proposal could have tendered to the Hopi lands included in the 1984 Act, some portion or all of the BLM new lands, a greater interest in jointly held coal royalties and jurisdiction of mineral leases, favorable resolution of some or all of the pending lawsuits including the suit based on the 1934 Act, some interest in a public-private joint venture for development of the mineral resources of the Paragon Ranch, or increased interest in other valuable resources.

The Navajo were, and remain, ready to negotiate for land exchanges. Proposals were submitted to us by the tribal leadership as well as by individual Navajo chapters on the HPL. The chapter proposals seek individual resolutions within the immediate areas of chapter locations. Generally, the initial Navajo tribal proposals were deemed by us to offer insufficient resources to warrant surrender of the disputed lands by the Hopi. Nevertheless, those proposals were within range of what we would have deemed to be adequate and, given the flexibility which the Navajo demonstrated throughout our discussion, we saw their proposal to at least state a negotiable position. Chairman Peterson Zah, throughout our discussions, exhibited courage and a motivation to ease the burden of those subject to relocation. He demonstrated his willingness to commit tribal resources to preserve traditional homesites, fully aware that there was considerable intratribal political risk to himself. However, the Navajo proposals were never communicated to the Hopi as all such proposals would have required surrender of HPL and, we were advised, to submit such a proposal would constitute an insult to the Hopi.

The remaining possible basis for an agreed resolution not involving a land exchange, is an arrangement for permitting entrenched Navajo to continue to remain on lands they occupy while recognizing Hopi jurisdiction. The Settlement Act provides for life estates for qualifying Navajo but, because Navajo saw these as too restrictive and, in effect, constituting "death estates," the statutory provisions have been rejected by Navajo.

We met with the Chairmen of the two Tribes in Washington on August 6 and 7, for the express purpose of determining whether the Chairmen could reach an understanding for negotiating an arrangement for Navajo to continue to reside on HPL. It was recognized by the Navajo at this meeting that the HPL was, in effect, Hopi land and that Navajo who might remain on the land would necessarily be there only as "tenants." At issue were matters such as who could qualify as tenants, the total number who might so qualify, whether new families could take up residence, whether new homes might be constructed, who would have jurisdiction to police and manage the occupied lands, what rental to pay for occupancy, what time limitations might be placed on the occupancy, and others. A memorandum of understanding was discussed and prepared but not signed, principally because Chairman Sidney stated that he could not do so without first obtaining approval from the Hopi Tribal Council, the executive body of the Hopi. Chairman Peterson Zah presented a modified version of the memorandum which, he said, he had been authorized to sign. The Chairmen and their advisors left Washington, and Mr. Sidney sought the advice of his constituency. On August 21 we were informed by Mr. Sidney that the Hopi were unable to execute a memorandum of understanding in part because, on earlier occasions, both the government and the Navajo had defaulted on other "agreements." Mr. Sidney further explained that the Hopi leadership were of the view that they, being the landlord of lands sought to be occupied by Navajo, would unilaterally fix the terms and conditions of occupancy; that those terms and conditions were not negotiable with the Navajo. He stated, and exhibited documents which supported his statement, that the Hopi were then in the process of developing a plan for occupancy of their lands; that the plan required the confirmation of each village within the Hopi Nation; and that he would present and explain the plan to us when fully developed and confirmed. The confirmation process is still ongoing and we cannot speculate on its content as being sufficient to satisfy either those Navajo subject to relocation or the Navajo Nation.

We stated earlier that our mission was to determine whether agreement could be effected between the Tribes, and we noted that an agreement would not be possible

should either Tribe deem it not to be in its best interest to negotiate with the other. We also noted that there were but two bases for negotiations designed to relieve the burden of relocation—land exchanges and permissible living arrangements for Navajo on Hopi lands. The Hopi have made it abundantly clear that at this time neither concept is negotiable.

We think it must be understood that we believe the Hopi have concluded in good faith that it is not in their best interest to negotiate; that implementation of the current law better serves their interests and accomplishes what they deem to be substantial justice. While we may disagree with that conclusion, it is an internal decision which the Hopi must make and, we believe, has honestly been made by a consensus. As stated, the executive function in the Hopi Tribe is exercised by the Tribal Council and that council has lacked a quorum during all or a major protion of the time we have communicated with the Hopi. However, the decision not to negotiate has been conveyed to us by not only the Chairman but by other tribal leaders, including individual council members, by a negotiating committee and by the politically powerful leaders of the villages. There remain some traditional leaders, supported by Hopi who have intermarried with Navajo, who are opposed to relocation of their Navajo brother. They appear to represent a minority of those who speak to the issue, and their voices have not been effective. Nevertheless the consensus view remains in some little doubt as, traditionally, the Hopi indicates dissent by nonparticipation rather than by expressed opinion. While the difficulty of decision making within the Hopi Tribe has posed some problems for us, those problems have also been experienced by Chairman Ivan Sidney, who has cooperated with us to the full extent that he is able. His first allegiance in these matters, of course, must be to the Hopi Tribe. He has well served that allegiance and, at the same time, accommodated our mission.

CONCLUSION

It is regretted that both Tribes do not embrace negotiation as a means of solving their complex differences. After a century of standing their ground on fundamental issues, they continue to look for others to provide solutions. In our view, negotiated resolutions on the broad range of differences confronting the Tribes would lead to far better results than would resolutions imposed by the courts or by the Congress. More importantly, good faith negotiations would create an improved relationship for badly needed cooperation between the Tribes. In July we were invited with the Chairmen and their representatives to attend and take part in an informal discussion of legal issues confronting the Tribes in the Chambers of Judge Earl Carroll of the Federal District Court for the District of Arizona. Judge Carroll urged the Tribes to embrace the President's initiative. He stated that legal proceedings then before his court would take years to resolve at costs of millions of dollars with likely unhappy results for each Tribe. He also said that the Tribes should not look to the Congress to solve their differences, as Congress and the Bureau of Indian Affairs had been, in part at least, the source of the problems; that the President's initiative, even if it resulted in only an agreement for binding arbitration, was an opportunity the Tribes should seize. We, but not both Tribes, were persuaded by Judge Carroll's recommendations.

In performance of our mission to determine whether the Tribes can reach agreement for accommodating the concerns of each other, we have been urged to fix responsibility for the situation in which the Tribes find themselves. We do not think it would be productive to do so. We can, at least to some extent, understand and appreciate the basis for the contentions of each Tribe and have great sympathy for the positions urged by them.

There are presently no remaining issues before us in our effort to determine the likelihood of resolution through negotiation. While the Hopi have made it clear that they cannot now negotiate for a resolution of the relocation problem—a "problem" the Hopi do not recognize—we cannot foreclose some further opportunity for negotiations should events, including tribal perceptions of forthcoming Congressional action, motivate the Tribes to negotiate. However, it seems unlikely that there will be tribal agreement between now and July 6, 1986. Time constraints demand that the responsible agencies of government now undertake whatever action they deem appropriate to solve intertribal issues. If action is to be taken, it is hoped that the whole range of issues—not just today's relocation problem—be addressed. Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputes may persist for still another century.

THE WALLOP-BREAUX FUND

Mr. LAUTENBERG. Mr. President, I am pleased that the Interior appropriations bill provides for the continuation of the Wallop-Breaux fund as intended by Congress. This fund consists of receipts from taxes on certain fishing and boating equipment. Revenues collected from these sources are distributed to the States to enhance recreational opportunties.

Mr. President, the administration had recommended a major revision to this program which would have diverted funds collected from sportsmen to other purposes. Because I believe that taxes collected for specific purposes should be used for these purposes, I cosponsored Senate Resolution 130 which expresses the sense of the Senate that the Wallop-Breaux tax receipts be used for recreational benefits. The committee's action in rejecting the administration's proposal is consistent with the legislation implementing the Wallop-Breaux fund and Senate Resolution 130 and I support it.

IN SUPPORT OF THE CLEAN COAL PROGRAM

Mr. President, last year the Congress acted to create a $750 million clean coal technology reserve. Through a multiyear, fully funded Clean Coal Program, we can move toward energy independence and a cleaner environment.

The Interior appropriations bill, H.R. 3011, includes funding for the Clean Coal Program. In the bill, budget authority is distributed over the next 4 fiscal years. In fiscal year 1986, $100 million in budget authority is provided. The Department of Energy has stated that outlays are likely to be made over a 5- to 7-year period, and that actual outlays for fiscal year 1986 would total approximately $5 million.

Mr. President, it is estimated that 100,000 to 200,000 megawatts of new electric generating capacity will be needed in the 1990's. Implementation of the Clean Coal Program will ensure that, when coal is used as a resource, it will be a cleaner, safer energy source. The Department of Energy has received over 175 submissions for projects under the Clean Coal Program from sponsors in 29 States.

All of these projects includes private sector funding of at least 50 percent. This program would promote private sector investment in economically depressed areas and help to revitalize the coal industry in our Nation. The Federal investment in this program is one which would have significant long-term benefits for our country.

In addition to the long-term economic benefits, the Clean Coal Technology Program would bring significant environmental benefits. New coal plants utilizing the technologies developed and demonstrated under this program would allow utilities to meet or exceed air quality standards, reducing emissions and the adverse impacts of acid rain. In addition, many of these new technologies can be used at existing plants, resulting in reduced emissions, and effective control of sulfur and other harmful pollutants.

The need to greatly reduce emissions of sulfur dioxide and nitrogen oxides is clear. The Clean Coal Program provided for in H.R. 3011 is an important step forward in this regard. It is my hope that the Clean Coal Program will be accompanied by a national program to control these emissions, which will not only greatly benefit the environment, but provide a market for these technologies.

Mr. President, I support a Clean Coal Program that will aid efforts to develop new and innovative technologies for burning coal and reducing pollution. The progam is supported by coal industry, industrial users of coal, the utility industry, the environmental community, and the Department of Energy's Energy Research Advisory Board. I urge my colleagues to support the Appropriations Committee's recommendations on the Clean Coal Technology Program.

PRESERVATION OF THE GREAT SWAMP NATIONAL REFUGE

Mr. President, at my request, the Interior appropriations bill for fiscal year 1986 includes $1 million in earmarked funding from the Land and Water Conservation Fund for the Great Swamp National Refuge. I very much appreciate the committee including this funding in the bill.

The Great Swamp is a tremendously important wildlife refuge and wetlands

area that serves not only as a natural resource for wildlife but as a retainer for water and flood control in the northern part of New Jersey. It serves as a vitally important natural recreation area for residents living in the densely populated part of the State.

The $1 million appropriated by the committee will make acquisition of approximately 175 acres of land around the borders of the great Swamp possible. While the vast majority of the Great Swamp acreage has been purchased through the fund, there are still approximately 470 acres of privately held land in the 7,000 acre refuge. One national environmental group has called the Great Swamp 1 of the 10 wildlife refuges in the Nation most threatened by development. In order to protect the Great Swamp from continued development and soil erosion, it is important that funds be available to purchase acreage from remaining landowners who are willing to sell their land.

Mr. President, I ask a recent article from the Morristown Daily Record addressing the importance of protecting the Great Swamp be included at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

N.J. SEEKS TO PROTECT GREAT SWAMP

(By Timothy Mullaney)

Eighty-six percent of the land in the 11-town watershed surrounding the Great Swamp National Wildlife Refuge was in its natural state in 1963. By 2000, that number is expected to fall to 33 percent.

So the U.S. Fish and Wildlife Service has proposed an ambitious land buying program that could expand the size of the refuge by almost a third and new measures to create wetlands needed to sustain some forms of plant and wildlife.

The draft environmental impact statement for the swamp's forthcoming master plan proposes measures designed to protect the refuge's ability to offer habitat to wildlife and to prevent flooding.

"There's been so much development in the area that there's just more runoff than the refuge can handle," said Curtis Laffin, regional head of refuge planning for the fish and wildlife service. The statement calls for the creation of a regional watershed planning commission to oversee land use that threatens surface water quality and flow patterns.

Laffin said the runoff problem exacerbates flooding problems downstream within the Passic River Basin which environmentalists have contended is one of the country's 10 most vulnerable areas to flooding.

The Wilderness Society, an environmentalist group in Washington, D.C., calls the Great Swamp one of the 10 wildlife refuges in the nation most threatened by development. No new land has been added to the refuge since 1982, while woodcock and wood-duck births have fallen significantly since the 1970s.

The statement also calls for programs to encourage species such as American woodcock while introducing trapping programs to deal with a near-doubling of the raccoon population since the 1970s.

The statement contains several alternate plans for managing the refuge. They include a "no action alternative" of continuing current programs, a plan to promote recreational use of the 6,793-acre refuge, and a plan emphasizing wildlife management. The last includes a proposal to end the refuge's deer hunt, which animal-rights activists annually picket.

"It's certainly worth a try," said Nina Austenberg of the Humane Society of the United States. "The people didn't fight to make it a hunting preserve." The refuge area was created after residents fought off a plan to build a jetport more than 25 years ago.

The plan called for sequestering female deer in order to limit births to avert the threat of overpopulation that officials had said necessitated the hunt. The first hunt was in 1974.

Federal fish and wildlife service officials contend the hunt has improved the health of the surviving deer and the quality of its habitat. The service's "Proposed Action Alternative" calls for no change in deer management.

What it does call for that most pleases the swamp's neighbors is expanding by 1,900 acres the amount of land the service is authorized to buy as Congress makes money available. The refuge already has permission but no cash to buy 470 acres. Appropriations bills pending in Congress will allocate $1 million for land acquisition next year if passed, which officials have said they hope will buy up to 175 acres.

"It's the only way they're going to be able to establish protection for those stream corridors" that run downstream into the swamp, said Madeline Pitney, vice chairman of the Great Swamp Watershed Association, a New Vernon-based environmental group. The streams are threatened by sediment as well as runoff of motor oil and road salt, she said.

"We're satisfied with it because of the threat, with all the vacant land down here, of development that wouldn't go with the neighborhood," said Litty Hado of the Great Swamp Residents Advisory Committee, also an environmental group. The committee had asked the federal government to buy 2,400 acres providing willing sellers could be found.

Officials will try to increase populations of woodcock and duck in the refuge in part by installing nesting boxes to stimulate the hollowed out trees in which some species naturally nest, refuge manager Bill Koch said. Plans call for reducing the numbers of predators, such as raccoons and foxes, by trapping and removal, with the possibility of "animal control by refuge personnel . . . if necessary."

Officials hope the number of young woodcocks and ducks born at the swamp will double. "They're declining in the big picture," refuge manager Koch said. Officials are also looking to continue programs to promote bluebirds and blue herons.

Austenberg said there would be civil disobedience if refuge officials allow raccoon hunting.

Pitney said the alternative proposed by the fish and wildlife service was the best of the four options offered for the swamp's master plan. She said the other plans would have either failed to address some animals' habitat needs or would have encouraged use of the refuge for boating and other recreation that would best be directed to less sensitive areas.

The service plans to expand facilities for the 304,000 annual visitors by adding a self-guided interpretive trail and small displays along the existing auto tour road and boardwalk trails. The service also wants to add visitor information booths and a wildlife interpretive center to offer exhibits and displays.

THE DEFENSE TITLE OF THE CONTINUING RESOLUTION

Mr. DODD. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy regarding the Trident program.

There are persistent indications that the Navy is attempting to establish a second production source for the Trident ballistic missile submarine which, at present is produced solely at the Electric Boat Shipyard in Groton, CT. I have serious doubts about this proposal, because at this late in the program, when 12 out of the planned 20 Tridents have already been awarded it is highly questionable that any economies could be realized by setting up a second producer for the remaining 8 ships. I do not want to decide this question right now, however, much less to convince anyone one way or the other. Whether it makes any sense to compete this program can be decided only after the most careful study. Which is precisely my point. I seek assurances that before public funds are committed and expended on assisting, setting up or equipping a second production source for the Trident, Congress will have a chance to pass judgment on the advisability of such an undertaking, preferably with the benefit of independent expert studies.

At this point I seek only the assurance of the distinguished chairman of the Defense Appropriation Subcommittee that this bill does not appropriate any funds that could properly be expended to establish a second production source for the Trident submarine.

Mr. STEVENS. I assure the Senator that that is indeed so.

Mr. DODD. If the Senator would indulge me further for a question, is it the intention of the Senator and the subcommittee he heads to insist that Congress have a chance to review this matter before public funds could be used to establish a second production source for the Trident?

Mr. STEVENS. I will certainly insist on that and I trust that so will my colleagues.

Mr. DODD. I thank the Senator.

WILLAPA NATIONAL WILDLIFE REFUGE, WASHINGTON

Mr. GORTON. Mr. President, my proposed amendment would add $3.4 million to the land acquisition account for the Department of Interior's Fish and Wildlife Service, for the Willapa National Wildlife Refuge in Washington State. These funds would be used to acquire the cutting rights to part of a unique grove of old-growth western red cedar—the last of its kind along the Pacific Northwest coast—that is

located within the boundaries of the Willapa National Wildlife Refuge on Long Island in my State. These funds are included in the House appropriations for the Department of the Interior.

This timber was authorized for acquisition as part of an agreement in 1983 between the U.S. Fish and Wildlife Service and the Weyerhaeuser Co., the original owners of the land. Under this agreement, Weyerhaeuser conveyed all of its land, 1,621 acres, on the island to the U.S. Fish and Wildlife Service for the creation of the Willapa National Wildlife Refuge. In exchange, Weyerhaeuser received the timber cutting rights on other Federal land. As there was not sufficient timber on Federal land to equitably compensate Weyerhaeuser, the Fish and Wildlife Service agreed to acquire the remaining timber that was out of balance under a 7-year option. My amendment would provide the funds to allow the Fish and Wildlife Service to proceed with exercising this option to acquire the harvest rights to half of these remaining lands.

The Weyerhaeuser Co., the U.S. Fish and Wildlife Service, and the citizens of Washington State have long recognized the importance of this unique stand of old growth cedar to the refuge. According to U.S. Forest Service officials, the trees range in age from 950 to 4000 years old. The grove is the only remnant of an old-growth red cedar climax forest in the Pacific Northwest. Remarkably, this stand has remained free of catastrophic disturbances, such as fire or windstorms, for centuries. The U.S. Fish and Wildlife Service has wanted to acquire this land and timber to achieve its long term management objectives for the Willapa National Wildlife Refuge since 1937. This agreement represents 10 years of negotiations to assure a fair and equitable transfer of ownership.

Mr. President, there is strong support from the U.S. Fish and Wildlife Service, the local community, and the Weyerhaeuser Co. to proceed with the contractual agreement and turn the timber over to the Fish and Wildlife Service. Without timely acquisition of this stand of timber, the option reverts to Weyerhaeuser. I urge my colleagues to support this amendment to ensure that this unique, old growth cedar grove will not be logged and that it will remain a part of the Willapa National Wildlife Refuge forever.

Mr. McCLURE. Mr. President, the Senator from Washington has ably stated the background of this contractual agreement between the U.S. Fish and Wildlife Service and the Weyerhaeuser Co. I know that he has been a strong supporter of this project and I want to assure him that I understand the importance of this land acquisition and the value of retaining this unique timber as part of the Willapa National Wildlife Refuge. I would like to take this opportunity to ask my colleague to clarify a few matters for me.

Do I correctly understand that this acquisition acquires the timber harvesting rights to one-half of the old growth cedar stand, and that there will be one more appropriation request in the future to complete the contractual agreement?

Mr. GORTON. Yes, this is correct. There are 155 total acres to be acquired. This acquisition will purchase two of the three units, scheduled for timber harvesting if the option expires, amounting to half of the total acreage.

Mr. McCLURE. Will the Senator from Washington explain why the acquisition will purchase the timber harvesting rights to the old growth cedar rather to than purchase the land in fee simple?

Mr. GORTON. I would be glad to do so. The 1983 agreement between Weyerhaeuser Co. and the United States Fish and Wildlife Service did transfer the ownership of the land to the Fish and Wildlife Service. An independent appraisal of the value of this exchange revealed a substantial imbalance in values in favor of Weyerhaeuser. As the Fish and Wildlife Service did not have enough timber value to exchange for the value of Weyerhaeuser's timber, an agreement was reached to allow the Fish and Wildlife Service to buy the options to the timber as compensation.

Mr. McCLURE. I know that the Senator from Washington will understand the motivation behind my next question and not misinterpret it. Isn't there some way that the Fish and Wildlife Service, the Weyerhaeuser Co., and a third party such as the Forest Service or the Bureau of Land Management could enter into an agreement to trade timber for timber? That is, in effect, what we wanted to do initially but, for some reason, the effort failed. Now, we are being asked to purchase timber with a cash payment. Is there something we could do to further the exchange concept?

Mr. GORTON. I do understand the reason for the question the Senator from Idaho is asking and I would like to clarify at this point that all of the parties involved were in agreement with the Senator that the exchange of values of land and timber would be the optimal solution. As I noted earlier, the Fish and Wildlife Service and Weyerhaeuser Co. did negotiate for over a decade to try to find land and timber of equivalent value and they were successful in doing this to a large extent.

There was an effort to pursue an exchange through a third party Government agency. The same problem arises in this circumstance however. The Fish and Wildlife Service does not have sufficient assets to offer another Government agency to be able to negotiate an agreement. Additionally, the assets it does have are located in areas that make exchange infeasible for both Weyerhaeuser and other Government agencies. After many long hours of negotiations, all parties involved concluded that a cash payment for the remaining timber harvesting rights is the best solution for everyone.

Mr. McCLURE. Will the acquisition of the harvesting rights to this old growth cedar protect important wildlife and other nontimber values on Long Island.

Mr. GORTON. Yes, this is also correct. Researchers believe that this unique ecosystem represents a true climax cedar forest. This ecosystem is home to a variety of wildlife species including: Bald eagles, herons, loons, grebes, cormorants, geese, grouse, elk, deer, black bear, and spotted owls. This ecosystem is believed to be over 4,000 years old. Loss of the stand to timber harvesting will destroy the unique relationships and the plant and animal species dependent upon those relationships in this ecosystem.

Mr. McCLURE. I appreciate that my colleague from Washington so strongly supports this acquisition. Due to budgetary constraints, we were unable to include these funds in the Senate bill. Because the funds are included in the House bill, it will be discussed in conference. I would anticipate that when we go to conference with the other body, we will be presented with strong arguments to accommodate the full amount of money needed with respect to this appropriations item. I cannot promise that we will concur with the House action, but I will give it every consideration when we get to conference. I hope that action will be satisfactory to my colleague from Washington and that he will withdraw his amendment.

Mr. GORTON. As has been the case during my tenure in this body, the Senator from Idaho is both understanding and generous with my specific requests. On that gracious undertaking on this part, I withdraw the amendment.

The text of the proposed amendment follows:

On page 10, line 2, change "$32,570,000" to "$35,970,000", and on page 10, line 3, insert a comma after "expended" and the following: : provided that $3,400,000 be made available for acquisitions in Willapa National Wildlife Refuge, Washington".

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1329

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. FORD and Mr. MCCONNELL, proposes an amendment numbered 1329.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

For purposes of this joint resolution, the following matter shall be deemed to be inserted before the period on line 23 of page 14 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows:

: *Provided further,* that $2,000,000 shall be available to assist local communities to protect Mammoth Cave National Park from groundwater pollution: *Provided further,* That the National Park Service share of the Mammoth Cave protection project shall not exceed 25 per centum

Mr. FORD. Mr. President, I am pleased to offer this amendment with my colleague from the Commonwealth, Senator McConnell. Our amendment would restore the House language inserted in that Chamber by Hon. WILLIAM NATCHER, Congressman from the Second Kentucky District. This amendment provides the $2 million to complete funding, not in excess of 25 percent from the Federal Government, to protect Mammoth Cave National Park against groundwater pollution. The amendment ensures completion of our efforts to protect one of our unique national heritages.

Mr. President, I ask unanimous consent that short, factual documents in support of our position be inserted in the RECORD at this point. These insertions include the executive summary of the EIS for Mammoth Cave area wastewater facilities and Park Service report on hydrologic relations between Park City, KY and Mammoth Cave National Park.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAMMOTH CAVE NATIONAL PARK
GROUNDWATER POLLUTION

ISSUE

Mammoth Cave resources are threatened by groundwater pollution originating from outside the park, and the usual funding sources for solving the problem are not meeting the need.

BACKGROUND

There is a threat of irreparable damage to the resources of Mammoth Cave by groundwater pollution originating from outside the park. This is due to sewage and other waste discharged directly into the ground by Park City and vicinity which flows into the park. At certain levels of groundwater flow, the polluted waters flow into Echo River within the portion of Mammoth Cave open to the public.

There is no regulatory means to address this issue. Since Park City does not now have a sewage collection system and treatment facility, it is not included in the National Pollutant Discharge Elimination System. Therefore, it is not in violation of that system.

Other nearby towns, Horse Cave and Cave City, have treatment plants and discharge treated effluent directly into underlying cave systems. These plants are in violation of specified treatment levels and are contributing to groundwater pollution in the general area.

The US Environmental Protection Agency (EPA) has prepared a wastewater management plan for the area. With full public participation, EPA concluded that a regional system including the communities of Horse Cave, Cave City, and Park City was preferred as it was the most environmentally protective. The total cost is currently estimated at slightly over $9 million and will assure adequate protection for the cave systems both within and outside Mammoth Cave National Park.

Under the EPA plan, the following facilities would be required:

Collector sewers for Park City.

Interceptor sewer from Park City to Cave City.

Upgrading of Cave City treatment plant.

Forcemain from Cave City to Horse Cave.

Upgrading of Horse Cave treatment plant.

Forcemain from Horse Cave to Green River.

The cost of the treatment plants and forcemains ($4.9 million) has been fully covered by EPA, local and State funds. The cost of the Park City collector sewers ($1.5 million) and the interceptor to Cave City ($2.6 million) is not fully covered.

STATUS

The State of Kentucky has committed 65 percent EPA funds toward the interceptor from Park City to Cave City. The Park City collection system is not eligible for EPA funding.

A local contribution to the Park City elements of the regional system is well beyond the reach of the 600 Park City residents who are mostly retired.

The State has granted $750,000 of Community Development Block Grant (CDBG) funds and committed $150,000 of State Economic Development Bond funds to the Park City portion of the regional system.

The amount still needed to fund the Park City portion and complete the regional system is at least $1.5 million. Allowing for minor cost escalation and contingencies, authorization should provide for an amount not to exceed $2 million.

Design for the forcemains and treatment plants is near completion. Construction will begin this fall. Design for the Park City interceptor and collection system is ready to begin.

EXECUTIVE SUMMARY FOR ENVIRONMENTAL IMPACT STATEMENT—MAMMOTH CAVE AREA WASTEWATER FACILITIES, MAMMOTH CAVE AREA, KY

A. EXISTING PROBLEM

The Mammoth Cave Area in Central Kentucky contains one of the nation's leading natural resources, the Flint-Mammoth Cave System. This is the largest cave system in the world and serves as both a major tourist attraction and a living laboratory of cave flora and fauna. In addition to the Flint-Mammoth Cave System there are many other caves in the area which also serve as part of this natural resource and bear the same attention.

The cave biological systems are extremely sensitive to outside influences. Unlike surface systems, cave systems renew themselves very slowly or not at all if they are degraded by outside sources.

Much of the Central Kentucky Karst lacks surface streams. Therefore, the subsurface streams of the area have been used for wastewater disposal. Before there were any central wastewater collection and treatment systems in the area, the popular means of wastewater disposal was directly into the ground. This was achieved by discharging untreated wastewater directly to openings in the rock. Generally, this practice has been replaced by the use of septic tanks. However, because of soils, geologic formations and improper septic tank installation, much of the septic tank effluent drains directly into the subsurface streams without proper treatment.

There are five major population centers in the study area. These include the municipalities of Munfordville (1980 population of 1,788), Horse Cave (1980 population of 2,019), Cave City (1980 population of 1,997), and Park City (1980 population of 603), and the proposed Staging Area at Mammoth Cave Park.[1] With the exception of Park City, these population centers maintain and operate wastewater treatment facilities. The disposal technique practiced by Munfordville and Mammoth Cave National Park is surface water discharge to the Green River. Treated effluent is disposed of in Horse Cave and Cave City, however, by direct discharge to adjacent sinkholes. The centralized collection and treatment systems of Cave City and Horse Cave in many ways compounded the problem by discharging large quantities of wastewater directly into the subsurface streams without any awareness of the eventual impacts. Once again it was an expedient solution to a difficult problem, which resulted in more far ranging problems. To compound this problem, plant performance at both Cave City and Horse Cave has been unsatisfactory. This has resulted in discharges of wastewater with poor treatment and is the reason for many of the problems which presently occur in the subsurface receiving stream, Hidden River.

Much of the problem at the Horse Cave treatment plant has been caused by industrial flows, which have seriously inhibited treatment capability at that facility. The treatment plant was designed as a biological treatment plant to provide secondary levels of treatment. However, heavy inflows of industrial wates have hindered the biological treatment processes of the plant and has affected the quality of wastewater being discharged into the subsurface streams. These

[1] These are 1980 Preliminary Census population figures.

events have had significant impacts upon Hidden River.

Hidden River, which flows through Horse Cave has for many years caused significant odor problems in downtown Horse Cave. This is in contrast to the period from 1916-1944 when Hidden River Cave was a source of both recreation and water supply. Now, Hidden River is severely degraded, and the source of serious odor problems.

Problems in the area are further compounded by the proliferation of tourist related facilities, especially those along Kentucky Route 70, which is a major entrance to Mammoth Cave National Park. Many of these facilities rely upon on-lot disposal systems. Additionally, Park City is served primarily by on-lot systems with approximately 80% of the residences and businesses discharging untreated wastewater directly to the subsurface. The remaining 20% have septic tanks which result in a direct discharge to the subsurface streams.

The major concern with the tourist facilities along Kentucky Route 70 and Park City is that they are in subsurface drainage basins which flow into Mammoth Cave National Park and wastewater from improperly installed, operated, and maintained on-lot systems may affect subsurface water quality in and around the Park. Furthermore, the boundaries of the sub-basins are not fixed. They move in unknown ways depending on groundwater levels in the aquifer and on the flood stage of the surface rivers. This is caused by the filling of normally dry cave passages which may spill over into adjacent basins. This effect is particularly important with respect to Echo River Springs which is located in Mammoth Cave National Park. Under low flow conditions Echo River spring derives its water almost entirely from the region of Mammoth Cave Ridge and much of its catchment is within the National Park. Under high flow conditions, a spillover occurs at an unknown point and water from the Park City-Cave City area of the Sinkhole Plain flows under the ridges to greatly augment the flow of Echo River spring. This implies that pollutants introduced in the more highly populated part of the Central Kentucky Karst could be carried into the National Park, affecting aquatic life in the low level passages and even reaching portions of the cave close to those used by visitors.

Efforts to develop wastewater management systems that are compatible with the area's sensitive natural resources must also consider the local economic climate and the ability of the community to successfully support a wastewater management system. In this regard the financial impact of the wastewater management alternative on the communities in the study area is an additional concern that is critical to this EIS.

B. DESCRIPTION OF ALTERNATIVES

This EIS was initiated in October, 1977. The focus of the EIS was to develop and evaluate wastewater management systems in the study area which would ensure the integration of environmental and economic considerations. During the development of the EIS certain issues were identified as more significant in developing and selecting a wastewater management alternative. These included:

1. The sensitivity of the cave environment to wastewater discharges.

2. Resource value/importance of the caves.

3. Complexity of the area's subsurface hydrology.

4. Financial impacts of wastewater management systems and funding options.

To address these issues eight wastewater management alternatives were generated in the EIS. These eight alternatives range from a regional management concept involving local treatment and joint disposal by all population centers (except for Munfordville) to local treatment and local disposal of wastewater of each population center.

Each alternative was evaluated with respect to cost, impacts on the natural environment and man-made environment and operability.

From this evaluation three alternatives exhibited the greatest promise. A cost comparison of these three alternatives is presented below:

Alternative No.	Project cost	Annual	Net present worth
2	$10,574,000	$261,000	$11,620,000
5	6,546,000	230,000	7,975,000
8	5,876,000	249,000	7,630,000

Of additional concern in the evaluation of alternatives is the estimated user costs of the alternatives, and the local implications of these costs. These costs for alternatives 2, 5, and 8 for three of the communities are presented below:

Alternative No.	Horse Cave	Cave City	Park City
2	$39/yr/EDU [1]	$68	$425-495
5	40	79	145-165
8	44	71	145-157

[1] Equivalent dwelling unit.

Note.—Horse Cave and Cave City existing user costs are not included.

ALTERNATIVE 2

1. Description of Alternative 2:

This alternative involves the following components of a regional system:

Local treatment facilities at each population center.

Joint disposal of all effluent (except Munfordville) via surface water discharge (secondary treatment) to the Green River.

Existing facilities at Cave City and Horse Cave would require upgrading.

New facilities would be required at Park City and the Staging Area.

Additional on-low systems would be required at Munfordville.

An inter-city conveyance and disposal line would be required.

2. Pros of Alternative 2:

a. Provides greatest amount of protection for free flowing groundwater, groundwater supplies, sensitive cave systems and rare and endangered species by removing all wastewater discharges from the subsurface water network.

b. Corrects existing water quality problems in the Hidden River groundwater subbasin.

c. Correction existing odor problems in Horse Cave

d. Exhibits greatest overall system operability (reliability, flexibility and maintainability).

e. Has received the support of the communities, environmental/conservation groups and the National Park Service.

f. Provides service to existing development along Route 70 (between Cave City and the National Park) and affords protection of sensitive areas from wastewater discharges.

g. Received a high rating with regard to natural and man-made environmental impact.

3. Cons of Alternative 2:

a. Has the highest net present worth cost.

b. The cost to Park City would be prohibitive unless other funding sources could be tapped.

c. The potential exists for development to be encouraged along Route 70. In this instance, non-point source problems could adversely impact area cave systems.

d. There is currently no multi-city or county sewer authority to implement this option. Local communities are, however, in the process of developing one.

e. Considerable construction activity is associated with the inter-city conveyance and disposal line (114,000 feet of gravity lines and force mains).

ALTERNATIVE 5

1. Description of Alternative 5:

This alternative involves the following components:

Local treatment facilities at each population center.

Joint disposal of Horse Cave's and Cave City's effluent via surface water discharge (secondary treatment) to the Green River.

Existing facilities at Horse Cave and Cave City would require upgrading.

Additional conventional and alternative on-lot systems would be required at Park City.

Additional on-lot systems would be required at Munfordville.

The Park's proposed Staging Area would employ on-lot systems.

2. Pros of Alternative 5:

a. Has the next to lowest net present worth cost.

b. Corrects the obvious water quality and odor problems in the Hidden River groundwater sub-basin by removing Horse Cave's and Cave City's subsurface discharges.

c. As with #2 provides the greatest degree of protection of the groundwater system and cave environment for the Hidden River sub-basin.

d. Involves less than half of Alternative 2's construction activity for the inter-city conveyance system (approximately 51,000 feet of gravity lines and force mains).

e. When compared to #2, the local cost is significantly less for Park City, slightly more for Cave City and the same for Horse Cave.

f. If the force mains from Cave City to Horse Cave to the Green River were designed to include flows from the Staging Area and Park City, this alternative could be the initial phase of what could eventually be a regional system to include Park City and the Park Service.

3. Cons of Alternative 5:

a. Existing residential and commercial developments now using on-lot systems in Park City and along Kentucky Route 70 would not be served. According to the Park Service's dye tracing studies these areas are drained by groundwater basins that flow through the Park. Although no problems have yet been detected, the potential does exist for the continued use of these on-lot systems to adversely impact these sensitive areas and the proposed critical habitat of the Kentucky Cave Shrimp within the boundaries of the Park.

b. The local cost to Cave City is slightly higher than #2.

c. System operability (reliability, flexibility and maintainability) is less than #2.

d. Although this alternative does address the water quality problems in Horse Cave and Cave City, it does not receive the support of the Park Service and other interests

as does #2 because all sub-surface wastewater discharges are not removed.

ALTERNATIVE 8

1. Description of Alternative 8:

This alternative involves the following components:

Local treatment facilities at each population center.

Additional conventional and alternative on-lot systems at Park City.

On-lot systems at the Park's proposed Staging Area.

Cave City's existing facility would require upgrading for subsurface discharge (advanced secondary treatment).

Horse Cave's existing facility would require upgrading for surface water discharge (secondary treatment) to the Green River.

Additional on-lot systems would be required at Munfordville.

2. Pros of Alternative 8:

a. Has the lowest net present worth cost.

b. Lowest local costs for Cave City and same local cost for Park City as in Alternative 5.

c. Removes Horse Cave's discharge from the Hidden River sub-basin.

d. Least amount of construciton activity for inter-city conveyance and disposal system (approximately 36,000 feet of gravity lines and force mains).

3. Cons of Alternative 8:

a. Existing residential and commercial developments now using on-lot systems in Park City and along Route 70 would not be served. According to the Park Service's dye tracing studies, these areas are drained by groundwater basins that flow through the Park. Although no problems have yet been detected, the potential does exist for the continued use of these on-lot systems to advesely impact these sensitive areas and the proposed critical habitat of the Kentucky Cave Shrimp within the boundaries of the Park.

b. Cave City's subsurface discharge would not be removed. The potential for the Hidden River sub-basin to be adversely impacted by wastewater discharges does exist.

c. This option is rated lowest concerning impacts to the natural and man-made environment.

d. This option is rated lowest concerning systems operability (flexibility, reliability, and maintainability).

e. This option has received the least amount of support from the Park Service, study area communities and interested groups and individuals.

f. Although wasteload allocations for subsurface discharges have been developed, a lesser degree of confidence is attached to these allocations than to surface water discharges.

g. This option would preclude the possibility of Park City or the Park Service being served by a regional system.

C. PREFERRED ALTERNATIVE

The underlying theme of the EIS is that the provision of wastewater services should be compatible with efforts to preserve and protect the Mammoth Cave Area's nationally significant cave systems and their unique physical, biological and historical resources. It is therefore incumbent upon EPA to explore all available mechanisms to achieve an environmentally sound alternative that is sensitive to economic realities. The selection of the least costly alternative is not EPA's only aim, but rather the selection of an environmentally protective alternative that is locally affordable. In this regard, a regional system is viewed as the environmentally preferred option. However, local economic constraints dictate that other environmentnally acceptable options be pursued.

In light of the concerns regarding cost and the protection of the cave resources, the approach selected by EPA is a phased approach which, depending on local decisions, will ultimately result in a regional (Alternative 2) or semi-regional (Alternative 5) wastewater management system.

1. The initiation of Phase I of the project which would provide for design for upgrading the treatment facilities at Cave City (0.37 mgd) and Horse Cave (0.53 mgd) and for conveyance facilities to the Green River. The conveyance facilities would be evaluated with and without future flows from Park City, (0.08 mgd) the proposed Mammoth Cave National Park Staging Area (0.105 mgd), and the Route 70 area.

2. The establishment of a critical decision date to coincide with completion of the preliminary design for Horse Cave and Cave City for the NPS's decision regarding the development of the proposed Staging Area or the local communities' commitment to obtain additional non-EPA funding sources.

3. The initiation of Phase II of the project which would provide for final design for facilities based on the above decisions. At that point, EPA and the Commonwealth of Kentucky will also have to define the extent of EPA eligibility for remaining design and construction.

If the NPS does develop the Staging Area and is able to provide significant funding assistance for Park City or additional non-FPA funds are available, the remaining components of the regional alternative could be constructed. These construction elements would involve treatment facilities at Park City and the Mammoth Cave National Park Staging Area, conveyance facilities from Park City to the Staging Area along Route 70 to Cave City and expand Cave City's facility to 0.58 mgd. This would, in essence, be Alternative 2.

If the NPS does not develop the proposed Staging Area or additional non-EPA funds are not available, the remaining components of a semi-regional alternative would be constructed. This construction element would involve on-lot systems for Park City's residential areas and a community sub-surface absorption field for the Park City business district. Presently available funding mechanisms would allow for EPA participation in the cost of these activities but would be contingent on congressional continuation of these mechanisms. Also, funding would have to be in accordance with the State priority list. This would, in essence, be Alternative 5.

The regional alternative is most responsive to local and the NPS desires regarding protection of the groundwater and the cave systems. However, because of high cost and the resultant financial burden to be seen locally, the regional alternative may not be viable at this time. Local funding decisions to be made in the near future are critical to the ultimate wastewater management system for this area. Additional non-EPA funds must be available for a regional system to be affordable to Park City. Until the appropriate decisions related to NPS funding or other non-EPA financial assistance are made, EPA is moving to resolve existing wastewater management and water quality problems. In essence, the proposed phase approach allows for resolving the current more serious problems while remaining flexible to future local funding decisions. Figure S-1 presents the preferred approach to wastewater management in the Mammoth Cave study area, as recommended in this EIS.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Mammoth Cave, KY, November 13, 1983.

Memorandum to: Superintendent.
From: Research Geologist.
Subject: Hydrologic relations between Park City and Mammoth Cave National Park.

This memorandum is written as a plain-English partial summary of my research showing the hydrologic relationships between the park and the surrounding area—more specifically, to the Park City-Cave City area. My research has shown that, since Park City lacks a sewage treatment plant, all its waste goes directly into the ground and thence to the park. Sewage waste from this area poses a definite threat to the resources of Mammoth Cave National Park. The costs of alleviation of this threat by construction of a sewage collection system are far beyond the financial ability of the town residents and, if the Park Service or some other Federal agency doesn't underwrite a substantial portion of these costs of implementation of the 201 Plan, its fair share, Mammoth Cave could suffer irreparable damage to its fauna. Also, the tourist industry in this area of high unemployment could be severely affected.

An understanding of much of the rationale for these conclusions is based on an understanding of the three figures that comprise the last 3 pages of this memorandum.

BACKGROUND

Since 1974 I have directed an intensive study of the hydrology of the park area. Before then almost nothing was known about groundwater movement in the park area. There were numerous speculations and two sinking streams had been traced to Turnhole Spring (via Mill Hole and Cedar Sink) but nothing was known about the source of water in Mammoth Cave or about the relations of Park City or Cave City to the park. This research, still in progress, has included: dye-tracing (using fluorescein, optical brightener, Direct Yellow No. 96, and Rohdamine WT), mapping of the water table, and mapping of cave streams that convey water from where it sinks into the ground to where it resurges at springs. The results have been published and made available to park management and to others concerned with engineering and environmental decisions that affect both the park and the surrounding area. Some of these results are summarized in Figures 1, 2, and 3.

Figure 1 shows not only the location of various towns and cities near the park (outlined in green) but also the distribution of surface streams, the landforms, and the major physiographic divisions. The southeast portion of this map shows a series of streams that flow generally to the north, northwest, and west. The black dots at the downstream end of these streams show their ponor (swallet)—the point at which the water sinks into the ground. These ponors are along the south and east boundary of the Sinkhole Plain, a broad streamless area. Streams sink near this boundary and flow north, northwest and west to springs (shown as open circles) along Green River and Barren River. Part of my research has been directed at answering the question, "Where does this water go?" And, relative to springs, "Where does the water come from?" A major goal has been to determine to what extent water and pollutants from

outside the park affect the park or may affect the park.

The major landforms shown in Figure 1 are the cuesta and hills capped by sandstone, shown by the grey tone. (A cuesta is a slightly inclined mesalike upland that has a steep south- or west-facing slope beneath a broad upland plain and faces the Sinkhole Plain.)

Figure 2 shows not only the rock types that underlie the area and their thickness and northwestward inclination (dip), but also the relief of the area, its groundwater movement (summarized below), the names of places relevant to the hydrology, and the physiography. The potentiometric surface, shown by a dashed line and identified with an arrow, can be considered as a water table. As shown here and in Figure 3, water from sinking streams in the area south of Park City sinks into the subsurface, flows to Parker Cave, and thence to Mill Hole and Cedar Sink (both of which are large sinkholes with streams that cross their bottom), and Turnhole Spring, along Green River.

Figure 3 shows flow routes, major caves, springs, and the water table in the Mammoth Cave area. Study this figure and mentally trace the different routes of water into Mammoth Cave National Park from the area south of Park City, from Park City itself, and from the I-65 interchange west of Cave City. Note that each of these three areas drains to Turnhole Spring but that Park City and the interchange area sometimes also drain to Mammoth Cave itself—via the high level overflow routes shown by dashed lines. Groundwater flow is down the slope of the water table and perpendicular to the contours on it.

Seven miles east of Mammoth Cave, beneath the town of Horse Cave, lies Hidden River Cave. This cave, once the water supply for the town, was shown commercially to the public until 1942 when contamination by sewage and whey from a cheese processing plant forced its closure. A visit to this cave today is an unforgettable, pungent experience. It stinks! Its once abundant fauna of blindfish, blind crayfish, and other creatures has been totally wiped out by the effects of sewage, whey and industrial waste. Also, a once-substantial tourist industry has been destroyed.

As mentioned previously, Park City lacks a sewage treatment plant. All domestic waste is discharged directly into the ground or into septic tanks. (Septic tanks do not function properly in limestone terrains.) All of Park City's waste flows into the park. As shown in Figure 3, some of it sometimes goes to Mammoth Cave itself.

In Mammoth Cave, blind fish and other cave fauna, once common in Echo River, are now relatively rare. Biologists attribute this decrease in the population to be probably due to the effects of sewage from Park City. It is not likely that the environment of Mammoth Cave would deteriorate to the appalling extent that it has in Hidden River Cave but further deterioration is possible.

The towns of Cave City, Horse Cave, and Park City and the Park Service are members of the Caveland Sanitation Authority, an organization formed to operate and manage the regional disposal of sewage. The park and each city except Park City already have sewage collection systems and treatment plants. All of these are to be upgraded, with financing to be local and by the Environmental Protection Agency (EPA). The 201 Plan for the Mammoth Cave area, prepared under contract for the EPA, includes a proposal that a wastewater collection system be built in Park City and that the effluent be piped to Cave City and to Horse Cave for treatment. The cost of such a collection system is far beyond the financial resources of Park City. I have been informed by you that several Federal agencies have been asked to assist with the funding of this wastewater collection system but all have declined to do so. Therefore, justifiably or by default—it is incumbent upon the Park Service to do all that it can to assist Park City in obtaining the sewage collection system that is so urgently needed in order to protect park resources. It can be argued that since the park is a national resource—indeed, an international resource—some of the costs of protection are rightly a Federal responsibility.

Research on the relations between the park and the Park City area continues. Much is still unknown. Observation wells for monitoring the quality and quantity of water draining to the park from the Park City area and nearby areas have been and are being drilled. A water-quality monitoring program will be initiated during 1984. More dye-tracing will be done. The conditions under which flow occurs between Park City and Echo River will be studied with the aid of these observation wells.

There is no question of whether sewage from Park City flows into the park and into Mammoth Cave itself. The only questions are about how often the flow is into Mammoth Cave, under what conditions it takes place, the quality of this water, and what the specific effects are on the cave fauna. We will have more and better answers to these questions within a few years. But, by the time we know all the answers unequivocally, it might be too late to save the cave fauna. Also, by then, much of the tourist industry would be adversely affected if Mammoth Cave were to become malodorous like Hidden River Cave and less attractive to the visiting public.

RECOMMENDATION

I would not have the effrontery to recite a litany of the Park Service's obligations to protect part resources for the nation. But I believe that since Mammoth Cave has been designated as a World Heritage Site the Park Service's responsibilities for its protection are greater than they would otherwise be.

In my professional opinion, the available data indicate that Park City and the surrounding area contribute pollutants to Mammoth Cave and the rest of the park—pollutants that may be destroying some of its unique cave fauna. The Park Service should do all it can to help Park City construct the sewage collection system it needs in order to protect the park—even if doing so includes payment of several million dollars in construction costs for it.

JAMES F. QUINLAND, Ph.D.

Mr. McCONNELL. Mr. President, I am pleased to join with my colleague, Senator FORD, in introducing this amendment to provide vital funding to protect one of the Nation's leading natural resources, the Mammoth Cave National Park.

The resources of Mammoth Cave threatened by groundwater pollution originating from outside the park, and the usual funding sources for solving the problems by implementing EPA's wastewater management plan are not meeting the need. Specifically, one of the surrounding communities, Park City, lacks a sewage plant. A large portion of its waste is discharged directly into the ground and then flows into the park. To assure adequate protection for the cave systems both within and outside Mammoth Cave National Park, EPA has developed a regional sewer system plan which is the most environmentally protective option.

Except for the Park City portion and an interceptor, all costs of the regional system have been covered by EPA, local, and State funds. Unfortunately, Park City is not eligible for EPA funding and the local contribution is well beyond the reach for the 600 Park City residents who are mostly retired. In fact, this portion is equal to a contribution of $2,500 per resident. It's illogical to suggest that the people of Park City could afford this share. Furthermore, it is appropriate that the Federal Government share in the costs to protect this National Park which is enjoyed by the Nation and international visitors.

As the National Park Service indicated:

If the Park Service or some other Federal agency doesn't underwrite a substantial portion of these costs, Mammoth Cave could suffer irreparable damage to its fauna. Also, the tourist industry in this area of high unemployment could be severely affected.

Mr. President, this funding is appropriate, necessary and crucial to preserve this national resource and prevent further deterioration. I urge my colleagues to support the amendment.

Mr. HATFIELD. Mr. President, this amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1329) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I will announce that I have been authorized by the majority leader to indicate to the membership that following the handling of four or five noncontroversial amendments there will be no further rollcall votes today, and that we anticipate coming in on Monday at 10 a.m. and will be on an amendment offered by the Senator from Ohio [Mr. GLENN] at 11 o'clock, with amendments to follow thereafter throughout the day, and there will be votes all day long and well into the evening. I emphasize votes as being rollcall votes.

AMENDMENT NO. 1330

(Purpose: To support universal access to immunization by 1990 and accelerated efforts to eradicate childhood diseases)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 1330.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases; polio, measles, whooping cough, diptheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support for this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

Mr. BRADLEY. Mr. President, the amendment I have sent to the desk is on behalf of Senators KASTEN, INOUYE, HATFIELD, SIMON, GORTON, RIEGLE, MOYNIHAN, STAFFORD, LAUTENBERG, and myself.

Mr. President, this amendment deals with the pursuit of a most noble goal; a goal that has been set by the international health community—that of universal access to childhood immunization by 1990. On October 10 of this year, Senators KASTEN, SIMON, and I introduced Senate Concurrent Resolution 78 that calls upon the President to direct the appropriate Federal agencies to assist the World Health Organization and UNICEF in meeting this goal. This resolution now has 30 cosponsors, and is truly a bipartisan effort. I offer it today as an amendment to the continuing resolution in view of its overwhelming importance and widespread support.

Mr. President, let us spend a few minutes to try and understand the magnitude of the problems associated with infectious diseases. And "try" is all we can do because the numbers are staggering. Every year 4 million children die from vaccine-preventable diseases—polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis. These diseases are virtually unknown in the developed world due to the great success of immunization programs. But, the developing world does not have the same technical capabilities. The result is 4 million easily preventable deaths each and every year. As shocking as this tragedy is, it is only a portion of the problem.

An additional 10 million children die each year from potentially immunizable diseases. At least another 5 million children suffer permanent physical and mental disabilities, or are so severely weakened that they more readily succumb to the all too common ravages of malnutrition and diarrhea.

What do these numbers mean—4 million, 10 million, 14 million—4 million annual deaths mean that today 10,000 children will die. The additional 10 million annual deaths mean that today an additional 25,000 children will die. Mr. President, 35,000 children will die today, and tomorrow, and every day after that; 35,000 daily deaths! That is twice the fatalities from the Bhopal tragedy, twice the deaths from the Colombian volcanic eruption, and 1,000 times greater than most major air disasters! And this happens every day!

Mr. President, I need not try to convince my colleagues of the severity and urgency of this matter. Congress has recognized this need and acted to increase access to childhood immunization. First, we established the Child Survival Fund and have continued its support. Second, we have charged the Agency for International Development to provide immunization for 80 percent of the children in those countries in which they have a program. And now the Foreign Operations Subcommittee has acted to further increase funds for child survival activities from $25 million to $50 million. The committee has also included some stern report language making clear to AID the importance we associate with international health activities and the need for increased numbers of health professionals.

Who else supports the goal of universal access to childhood immunization by 1990? On October 24 of this year, heads of state gathered at the United Nations to support this most worthy cause on the 40th anniversary of the United Nations. I am also pleased to say that the President of the United States reaffirmed his support and commitment to the goal of achieving universal immunization of children. Mr. President, I ask unanimous consent that a letter from the President to the U.N. Secretary General be included in the RECORD.

Mr. President, there is international agreement on the need for universal access to immunization. And we have made clear national commitment to this end. Global immunization is not a goal to be achieved by 1990 and then abandoned.

On November 12 of this year, the House Select Committee on Hunger held a hearing on an identical House

resolution. At that hearing, Mr. John Erikson, Deputy Assistant Administrator for the Research, Science, and Technology Bureau of AID testified:

The goal of AID's Child Survival Action Program—and, indeed, of the entire international effort to expand access to immunization worldwide—is to set in motion a strategy that will assure the development of indigenous, self-sustaining programs to eliminate these diseases wherever possible . . . Our goal is to help institutionalize these programs, so that they will continue to be available to children of future generations.

Also, at that time, Dr. William Foege, the executive director, of the Task Force for Child Survival stated that:

The major barriers to immunization now are the development of country programs to take advantage of the available resources and the mobilization of managerial skills to effectively deliver immunization.

Mr. President, by contacting other experts in the field of childhood immunization we arrived at identical conclusions. We must establish today that it is the sense of the Congress that the most important contribution our Nation can make is to assist in the delivery, distribution, and use of vaccines by building locally sustainable systems with the technical capacity to provide the required immunization. This includes training and developing sufficient health professionals indigenous to each developing country, to monitor and assess immunization programs. Local personnel could adapt strategies to reach the goal of preventing immunizeable diseases.

In addition, America is experiencing a revolution in the field of biotechnology. We are developing new vaccines and making significant improvements in existing vaccines. Therefore, we must continue to support research and development, both in the public and private sectors.

In the next hour, approximately 1,500 children will die. Let us take yet another step, today, to end this tragedy.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from President Reagan dated October 21, 1985.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 21, 1985.

His Excellency, JAVIER PEREZ DE CUELLAR,
Secretary General of the United Nations, United Nations, NY.

DEAR MR. SECRETARY GENERAL: Thank you for your letter of June 10 regarding the resolution, to be considered on the occasion of the 40th Anniversary of the founding of the United Nations, concerning the well-being and interests of the world's children. I am pleased to reaffirm the United States' support and shared commitment to the world community's goal of achieving the universal immunization of children.

Ensuring that children are protected from the scourge of disease is an important part of our commitment to the future, and I am certain that our efforts will contribute to that goal. We have substantially achieved universal immunization of our children in the United States: in this past year, 97 percent of children entering school for the first time were fully immunized. In addition, the United States is assisting countries in the developing world to expand their immunization capability and coverage. Through the Agency for International Development and our support for UNICEF, the World Health Organization and other UN agencies, we are currently involved in a variety of international immunization initiatives. In addition to assisting in the delivery of immunizations, we are also supporting biomedical research to develop new vaccines and technologies which will be easier to deliver and offer better protection for the world's children.

The children who are now being born will inherit the world that we have created.

This century has seen the development of the technologies which can offer protection from the diseases of childhood. The United States is pledged to do our part in this joint effort so that the promise of protection offered by these technologies is partly of our legacy for the future. Working together with the United Nations and with the countries of the developing world, I believe that we can make a difference in the future of the world's children and the future of the world.

The United States will continue to affirm our commitment to these objectives in our statements during the 40th Anniversary of the General Assembly.

Sincerely,

RONALD REAGAN.

Mr. HATFIELD. Mr. President, the amendment offered by the Senator from New Jersey has been accepted on both sides of the aisle, and I am proud to be a cosponsor of it.

Mr. STENNIS. There is no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1330) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, there are a few amendments that the Senator from Idaho will handle, and that will conclude the business of the day.

AMENDMENT NO. 1331

(Purpose: To require the Secretary of the Interior to implement a program for health promotion and disease prevention among Indian juveniles)

Mr. McCLURE. Mr. President, on behalf of the Senator from New Mexico [Mr. BINGAMAN] I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. BINGAMAN, proposes an amendment numbered 1331.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert the following.

SEC. . The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation and cooperation with the Secretary of Health and Human Services and the Secretary of Education, shall develop and begin implementation of a program which provides instruction in health promotion and disease prevention to juvenile Indians enrolled in schools operated by, or on behalf of, the Bureau of Indian Affairs.

Mr. BINGAMAN. Mr. President, this amendment directs the Bureau of Indian Affairs, in coordination with the Secretary of Health and Human Services and the Secretary of Education, to develop and implement a health education program for Indian students enrolled in Bureau of Indian Affairs schools and contract schools.

This past June, the Senate Select Committee on Indian Affairs held a field hearing in New Mexico on S. 400, the Indian Health Promotion and Disease Prevention Act of 1985, a bill I sponsored. At the hearing one of the major issues raised by Indian leaders and parents, health professionals, and educators was the lack of health education instruction in the public and Bureau of Indian Affairs schools. Witnesses concurred that the schools must be a partner in the overall goal of improving the health of American Indians. However, very little is being done.

The need is especially acute in the Indian community because of the generally acknowledged poorer health of Indians. In my State, the leading cause of death among Indian people is accidents, followed by cancer, then heart disease. It is now well accepted that prevention must begin at the earliest ages possible. New Mexico has an especially young Indian population, with a median age of 20 years. Currently, 9,703 Indian students attend Bureau schools in New Mexico. An additional 498 students are housed in BIA dormitories while attending New Mexico public schools. This amendment targets those students and others similarly situated nationwide.

The schools are an optimum environment to teach young people, beginning in the elementary through secondary levels, on how to take better care of themselves. In the semiannual publication, Healthy People, the Surgeon General viewed schools as an "opportunity for action" where a comprehensive school health education program could "enhance a child's skills and personal decisionmaking; promote understanding of the concepts of health and the causes of dis-

ease; and foster knowledge about the ways in which one's health is affected by personal decisions related to smoking, alcohol and drug use, diet, exercise and sexual activity."

A more recent publication, Prospects for a Healthier America, stated that a comprehensive school health education program should include an appropriate school health service, a healthy school environment, and a physical education program. More importantly, it should also include an education program centering on personal, mental, and emotional health; prevention and control of disease; nutrition; substance use and abuse; accident prevention and safety; community health; consumer health; environmental health; and family life education. These are important considerations. I hope the Bureau will take them into account.

My amendment requires the Bureau of Indian Affairs to work in coordination with the Secretary of Health and Human Services and the Secretary of Education to develop a curriculum that incorporates the national guidelines in Healthy People and the 1990 Objectives for the Nation. The amendment also requires a followup report within 1 year after the date of enactment of the Interior appropriations bill to check the progress of the agencies.

I understand that the Bureau of Indian Affairs has begun some work with other agencies and recently entered into a cooperative agreement with the Justice Department to work on alcohol abuse among Indian juveniles.

Certainly these are the types of initiatives that should be pursued, particularly in cooperation with the Indian Health Service, the Centers for Disease Control's Health Promotion and Health Education Office, and the Office of Disease Prevention and Health Promotion. Also, tribal and parental involvement should not be overlooked. I am well aware of the intervention programs now in progress in New Mexico involving Indian students, tribes, and the schools. These types of endeavors should be expanded. They can lay the groundwork for substantial improvement.

Mr. President, I thank the distinguished chairman from Idaho and the ranking minority member from West Virginia for their consideration of this amendment.

Mr. McCLURE. Mr. President, the purpose of the amendment is to improve health promotion in schools operated by the Bureau of Indian Affairs. This amendment has been cleared on both sides, and I urge its adoption.

Mr. STENNIS. Mr. President, there is no objection on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1331) was agreed to.

AMENDMENT NO. 1332

(Purpose: To transfer $600,000 within the bill from the U.S. Forest Service acquisition account to the U.S. Fish and Wildlife Service land acquisition)

Mr. McCLURE. Mr. President, on behalf of the distinguished Senator from Oregon [Mr. HATFIELD], I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. HATFIELD, proposes an amendment numbered 1332.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

"Notwithstanding any other provision in this joint resolution, there shall be appropriated $33,170,000 for land acquisition of the United States Fish and Wildlife Service, Land and Water Conservative Fund, within the Department of the Interior and $17,425,000 for land acquisition of the United States Forest Service, Land and Water Conservation Fund, within the Department of Agriculture."

Mr. HATFIELD. Mr. President, this amendment proposes to reduce the amount included in the U.S. Forest Service land acquisition account by $600,000 and increase the U.S. Fish and Wildlife Service land acquisition account by an identical amount.

While the amendment has no budget impact, it does allow the Fish and Wildlife Service to secure a parcel of land on the Washington State side of the Columbia River Gorge which is a particularly critical piece of land.

The Kerr Estate, as it is called, is a 27-acre site of perennial pasture land lying within the Steigerwald Lake Wetlands Area which is currently being acquired by the Army Corps of Engineers. Of particular importance is that Gibbons Creek, which will be used to flood the Steigerwald Wetlands Area, passes directly through the Kerr Estate inholding. In its essence, Mr. President, our moving forward with this Kerr Estate acquisition will allow the Steigerwald Lake Wetlands Area to be treated as one ecological unit.

I might clarify for my colleagues that in reducing the Forest Service land acquisition account, I propose that the reduction come from the $1.8 million currently allocated for other Columbia Gorge acquisitions in order that the total amount in the bill for acquisitions within the Columbia River Gorge will be the same.

I understand that my colleagues from Washington State have no objection to the amendment and that it has been cleared with the managers of the bill on both sides of the aisle.

Mr. McCLURE. Mr. President, this amendment shifts land acquisition moneys from one agency to another with respect to Columbia Gorge acquisitions. I know of no objection to this amendment on either side.

Mr. STENNIS. Mr. President, there is no objection on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1332) was agreed to.

AMENDMENT NO. 1333

Mr. McCLURE. Mr. President, on behalf of Senator BAUCUS and Senator CHAFEE, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Senator BAUCUS and Senator CHAFEE, proposes an amendment numbered 1333.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution insert the following:

SEC. . None of the funds provided in this Act may be used to establish new grizzly bear populations in any unit of the National Park System or the National Forest System where no verified grizzly bear population currently exists. None of the funds provided in this Act may be used for augmentation in occupied areas of grizzly bear habitat unless an augmentation plan has been developed and made available for public review and comment in full compliance with the National Environmental Policy Act by all participating federal agencies: *Provided,* That it is not intended to prohibit the preparation of proposals to augment existing grizzly bear populations in occupied grizzly bear habitat: *Provided further:* That such augmentation may be conducted only with funds specifically identified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: *Provided further,* That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

Mr. BAUCUS. Mr. President, this amendment would delete pages 89 and 90, all of section 316, and insert the following substitute.

I should like to raise a question to clarify the intent of this appropriation

bill as it affects grizzly bear recovery efforts and, in particular, to clarify why the current bill needs to be modified. Grizzly bear management affects both our States directly. I believe I am safe in stating that the Senator from Idaho and I share a common interest in the ultimate recovery of the grizzly bear. Recovery of the grizzly bear will allow it to be delisted as a threatened species and will return management of the species to the States, a goal we both share.

The current bill, a carryover from the fiscal year 1985 legislation concerning grizzly bear management, has been interpreted as restricting all research and studies of the bear that may be related to augmentation of bear populations. This interpretation, whether erroneous or not, has resulted in a total halt to any work related to augmentation. This interpretation concerns me since a number of bear experts feel that certain areas of the Cabinet-Yaak ecosystem area in Montana and Idaho may require grizzly bear augmentation in order to recover bear populations. If this is the case, places such as the Cabinet Wilderness Area could be used to relocate bears from areas such as the Rocky Mountain Front before these become problem bears.

Mr. McCLURE. Let me first say, that the Senator is absolutely right concerning our mutual objective of speeding recovery of the grizzly bear. Recovery of the grizzly bear is not only in the best interest of the bear, but it is also in the best interest of all the users of our national parks and forests.

In regard to the augmentation language in last year's appropriations bill, I appreciate the Senator from Montana raising his concern about the affect of this language on augmentation planning.

The original intent of the language was to prevent augmentation activities from taking place without notifying the public in impacted communities about agency plans, and to insure that the general public had the opportunity to be heard. It was not my intent to stop planning for possible augmentation.

Mr. BAUCUS. The object of the amendment is to build on the public involvement process in the current language while allowing augmentation related studies and research to move forward.

Actual augmentation could not take place until a proposed plan which is in full compliance with the National Environmental Policy Act has been prepared, and it has been made available for public review and comment. Once the final plan has been agreed to by all the agencies involved, a request for required funding will be presented through an appropriate agency budget justification.

Mr. McCLURE. As the Senator knows, my concern is that all the agencies involved in the management of the grizzly must agree to any augmentation proposal, and that the individual regulations of all the agencies must be met before any actual augmentation takes place. Am I correct in assuming that the Senator from Montana shares those concerns?

Mr. BAUCUS. Yes.

Mr. McCLURE. And is it the intent of my colleague to insure that local communities and the general public be given full opportunity for review and comment on any proposal before final plans are agreed to?

Mr. BAUCUS. Yes, it is. Both the Senator from Idaho and I realize the potential impacts on other forest user groups inherent in any augmentation. We must make certain that all interested parties be provided the opportunity to state their agreement or opposition to such a proposal and that the agencies listen closely to their concerns.

Mr. McCLURE. My only other concern is that augmentation be limited to existing populations and that so-called nuisance bears not be utilized. Does the Senator's language cover that concern?

Mr. BAUCUS. It does. It is my expectation that the development of an augmentation plan will include guidelines for what type of bear qualifies for relocation. It is clearly my intent that nuisance or problem bears not be used for augmentation purposes. Bears used for augmentation should be bears who have had little or no contact with humans and do not have a history of conflicts with either humans or livestock.

The current language also requires the Forest Services to conduct public hearings on the so-called Yellowstone management guidelines prior to making any final decision as to whether or not they should be applied to areas outside the Yellowstone ecosystem, the area for which they were designed. I commend my colleague for his insistence on this language in last year's appropriation bill. These public meetings served a useful purpose. I believe that these public meetings have been held and, therefore, this direction is no longer germane to the situation addressed by this language.

Mr. McCLURE. As the Senator stated, it is also my understanding that the Forest Service has completed its public meetings on the Yellowstone guidelines. As long as it is understood that the Forest Service is to complete the current process through documentation of their findings and decisions, I have no objection to deletion of the language.

Mr. BAUCUS. The public hearings on the Yellowstone ecosystem guidelines were extremely productive. It is my intent that this process be completed.

Mr. McCLURE. I thank my colleague from Montana for his explanation of the substitute language he proposes and I have no objection to the substitution.

Mr. BAUCUS. Grizzly bear management is in many ways people management. It takes knowledge of the bears, a desire of people living in the area to coexist with the bear, and a willingness to respond quickly to confrontational situations involving grizzly bears.

The Northern Continental Divide ecosystem area is moving toward a recovered grizzly bear population. To speed recovery of the grizzly bears, there is a need for greater emphasis on education through the establishment of a back-country public education program in Montana; a continuation of ongoing research efforts; a need to expand these investigations to the Blackfoot Indian Reservation through the establishment of a position to conduct grizzly bear research; and to complete ongoing investigations on the Flathead Indian Reservation through continuation of component habitat inventory and analysis currently underway.

At the same time, I recognize the need to control Federal expenditures. I do not plan to offer an amendment to fund these programs.

I ask the chairman if he will work with me and the Department of the Interior to determine what is needed to speed the recovery of the grizzly bear in the Northern Continental Divide ecosystem.

Mr. McCLURE. I assure the Senator from Montana that I will continue to work with him to insure the continued recovery of the grizzly bear.

Mr. BAUCUS. I thank the Senator from Idaho for his cooperation on this important matter.

Mr. McCLURE. Mr. President, this amendment has been agreed upon. I know of no objection to the amendment on either side.

Mr. STENNIS. There is no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1333) was agreed to.

AMENDMENT NO. 1334

(Purpose: to correct a technical error. Three amendments to be considered "en bloc".)

Mr. McCLURE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1334.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following:

SEC. — Notwithstanding any other provisions of this joint resolution $186,433,000 if appropriated to the Forest Service for reforestation, timber stand improvement, cooperation, law enforcement and maintenance of forest development roads and trails, to remain available until September 30, 1987.

Mr. McCLURE. Mr. President, this amendment corects an error in the bill as reported by the committee.

We have always directed that certain funds provided to the Forest Service shall remain available for obligation for a period of 2 years. The amendment provides the proper dollar number and bill language for the committee to continue this practice.

The amendment does not increase the amount appropriated but merely provides that the funds shall be available for 2 years.

I know of no objection to the amendment. It has been cleared on both sides of the aisle.

Mr. STENNIS. There is no objection to the amendment on this side of the aisle, Mr. President.

The PRESIDING OFFICER (Mr. MCCONNELL). The question is on agreeing to the amendment.

The amendment (No. 1334) was agreed to.

AMENDMENT NO. 1335

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. PRESSLER.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. MCCLURE], for Mr. PRESSLER, proposes an amendment numbered 1335.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

Nonwithstanding any other provision in this joint resolution, none of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on federal lands until the Secretary has received the National Academy of Science's report concerning the permitting and post/permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences report with the proposed regulations of the Department of the Interior.

Mr. PRESSLER. Mr. President, this amendment would prohibit the Department of the Interior from expending any funds appropriated by this act for the implementation of regulations concerning paleontological research until the National Academy of Sciences has completed its current study and made recommendations. The amendment would also require the Secretary of the Interior to report to the appropriate committees of Congress on proposed regulation of paleontological research and the National Academy of Sciences' recommendations. This report would be due within 30 days of the release of the National Academy of Sciences' recommendations.

The amendment is in response to a regulation which is being formulated under Secretarial Order No. 3104. The issuance of Secretary Order No. 3104 is not the first time the Bureau of Land Management and the Department of the Interior have proposed unrealistic programs for the management of paleontological resources on Federal lands. For several years I have been working with the scientific community and the Department of the Interior to resolve a number of issues concerning the collection of fossils on Federal land by paleontologists. In 1982 a regulation was published in the Federal Register limiting access to Federal lands by paleontologists. The outcry by the hobbyists, scientists, and commercial collectors was so great that the proposed regulations were dropped. In response to these proposed regulations, I introduced legislation developed by the scientific community to manage paleontological resources. Since that time, the National Academy of Science and other groups have tried to work with the Department of the Interior to develop an effective paleontological resource managment program. Earlier this year, without consulting with the scientific community, the Secretary of the Interior issued a Secretarial order describing procedures for fossil collection on Federal lands. The Secretarial order called for the establishment of an office in each bureau administering Federal lands. This order would lead to a large increase in paperwork and bureaucracy.

In an effort to resolve this issue, the National Academy of Sciences established a committee to set guidelines for paleontological collecting. The committee is currently compiling the recommendations of the scientific community on the management of paleontological resources on Federal lands. This report is scheduled to be completed within 6 months. To date, the Department of the Interior, and primarily the Bureau of Land Management, has taken very little interest in the views and recommendations of the scientific community on this issue. The Department of the Interior should not take any further action on regulation of paleontological research until the National Academy of Sciences completes its study and the recommendations in that study can be fully reviewed. I would also recommend that the U.S. Geological Service play a key role in reviewing and drafting any new paleontological regulations. The U.S. Geological Service has approximately 50 paleontologists while the Bureau of Land Management has none. The Department of the Interior should utilize this expertise.

Mr. President, I urge adoption of this amendment.

Mr. McCLURE. Mr. President, I know of no objection to the amendment. I think it has been cleared on both sides.

Mr. STENNIS. There is no objection to the amendment on this side of the aisle, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1335) was agreed to.

AMENDMENT NO. 1336

(Purpose: To prohibit setasides of funds appropriated for the Strategic Defense Initiative Program for non-U.S. contractors by law)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1336.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert:

"No funds appropriated under this act for the Strategic Defense Initiative Program shall be earmarked by any agency of the U.S. Government or any contractor exclusively for contracts with non-U.S. contractors, subcontractors, or vendors, or exclusively for consortia containing non-U.S. contractors, subcontractors, or vendors prior to source selection in order to meet a specific quota or allocation of funds to any Allied nation. *Furthermore,* it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award SDI contracts to U.S. contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts:

Provided further, that allied nations should be encouraged to participate in the SDI research effort on a competitive basis and be awarded contracts on the basis of technical merit."

Mr. BUMPERS. Mr. President, this is an amendment that the chairman of the Defense Subcommittee of the Appropriations Committee and I have worked on for some time, and we finally got the language down so that we think it is a clear amendment.

The amendment encourages our NATO allies to participate in the bidding process on SDI research, but it

does prohibit the Defense Department from earmarking specific sums for a particular nation prior to source selection.

Mr. WILSON. Mr. President, I do not wish to interrupt the Senator from Arkansas.

Mr. BUMPERS. I have finished.

Mr. WILSON. Is the purpose of this amendment simply to require a competition, as opposed to an earmarking?

Mr. BUMPERS. No; this is an amendment that is designed to say that our allies are encouraged to participate in competing for SDI contracts, but it says that the Defense Department will not set aside, say, $1.5 billion for a particular country before any competition is even considered.

Mr. WILSON. I thank the Senator.

Mr. STEVENS. Mr. President, the distinguished Senator from Arkansas raised this subject in the Appropriations Committee and agreed to present the matter to the floor now. I have discussed it with the Senator from Mississippi and our staffs, and we find no difficulty with the language suggested by the Senator from Arkansas. But I want the record to be clear that it should not send the wrong message abroad.

As I understand the Senator from Arkansas, what he is saying is what we should not do for our Strategic Defense Initiative organization is earmark any portion of the funds that are made available to that organization, the Department of Defense, for any particular country in order to say to that country, "You get so much share of this, and we will not allocate those funds to any other nation or to any contractors in our own country. We are guaranteeing you, in effect, a participation at a set amount in terms of the funds that are available to date."

On the basis that that is my understanding of his intent, and I think my good friend from Mississippi will comment on it also, I do not have any problem with it.

I would not want to send the message to our allies that their participation is not welcome, that we do not earnestly seek their participation, and there are many of us who believe that the alliance will be able to pursue SDI research with less total dollars if we have more cooperation, if we do our competition within the alliance in terms of specific portions of this research, if we cooperate, if we work our SDI with the Germans, the French, the British, the Italians, and try to find ways to save and conserve these dollars that are available that we will all be better off.

So I understand my friend to say do not earmark these funds in advance, do not set quotas by countries, encourage participation as much as you want, encourage competition as much as you want, award the contracts on the basis of the best sources available, enter into joint ventures, if you wish, but just do not tell them in advance, "This money is reserved for you and no one else."

Mr. BUMPERS. The Senator is dead right.

Mr. STEVENS. I thank the Senator.

Mr. President, I yield to my good friend from Mississippi.

Mr. STENNIS. Mr. President, there is no objection to this amendment.

Mr. BUMPERS. Mr. President, I do not want to be in the posture of not taking yes for an answer. I thank the floor managers for accepting this.

I wish to make four points just to point out why this occurred to me.

No. 1, I did not want the United States to appear to be buying support for this system for other countries by giving them assurances in advance that they can get a piece of the action whether they earned it or not.

No. 2, we have a great high tech industry in this country. The Senator from California certainly has an interest in this because Silicon Valley in California, along with route 128 around Boston, are the two big high tech areas in the United States. We are proud of our high tech industry, and I hope frankly that in a competitive shootoff they get all the research money for SDI, and the reason I believe that is my third point, and that is we have a staggering trade deficit, especially against the Japanese and the Germans, and so I am hoping we get all of the SDI research money to keep our trade deficit from getting even worse, and we need the jobs at home.

Finally, I have some trepidation in light of all the revelations recently about espionage in this country. When you start spreading SDI research among four or five countries, as we are almost certain to do, the opportunities for espionage are enhanced greatly with the addition of every country.

While I cannot address all of those issues in this legislation, I have been trying to work something out that the Senator from Alaska and I can agree on as a matter of intent, and he has stated my intention well.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 1336) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1337

Mr. McCLURE. Mr. President, on behalf of Senator GORTON I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for Mr. Gorton, proposes an amendment numbered 1337.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert the following:

SEC. —. Notwithstanding any other provision of law, to satisfy an outstanding judgment against the Seattle Indian Health Board resulting from termination of its occupancy of the Kobe Park building in Seattle, Washington, $180,000 shall be provided from the unobligated balance available to the Indian Health Service from prior years' appropriation. Such payment shall be made only if the owners of the Kobe Park Building Company accept the sum named as full satisfaction for current or future claims against the Seattle Indian Health Board and the individual members of the Board.

Mr. GORTON. Mr. President, I rise to offer an amendment to House Joint Resolution 465. The amendment directs the Indian Health Service [IHS] to use prior years unobligated funds to pay $180,000 in full settlement of a $270,000 judgment against the Seattle Indian Health Board [SIHB]. This represents an amicable compromise between me and the distinguished senior Senator from Idaho on this question.

This amendment would resolve a longstanding problem of great interest to the State of Washington. The problem involves a complicated contract dispute that developed when the Seattle Indian Health Board, which has provided excellent medical services to thousands of Indians in the Seattle area, was faced with severe funding reductions during fiscal 1982.

I find it somewhat ironic that we are today dealing with the aftermath of the panic caused by the Senate Interior and related agencies fiscal year 1982 appropriation bill language regarding the health care needs of urban Indians and Alaskan Natives. I am pleased to note that we currently provide full funding for the Urban Indian Health Program, so that the Seattle Indian Health Board, and the other 35 clinics which badly need the full $9.8 million appropriation next year, will not have to spend the next several months under the threat of elimination.

Having personal familiarity with the Seattle Indian Health Board, I can assure my colleagues that it is a vital component of our region's health care delivery system. It is one of the oldest and most comprehensive urban Indian health programs in the United States, and serves as the primary source of

health care for 85 percent of Seattle's Indian population. Forcing the Seattle Indian Health Board to absorb a $270,000 judgment would have a significant negative impact on the Seattle Indian Health Board's current program. It would be unfair to the Health Board's patients to force a cut in their services, particularly in light of Indian Health Service involvement in the termination of the lease.

I have reviewed correspondence between the Portland area office of the Indian Health Service and SIHB that clearly establishes that: One, the Indian Health Service notice to the Seattle Indian Health Board to cease spending Indian Health Service funds after September 30, 1981, was the sole reason Seattle Indian Health Board terminated its lease; two, the Indian Health Service approved and ratified the lease; three, the Indian Health Service stated that its funds could be used to pay the judgment of the resulting lawsuit; and four, the loss of Bureau of Community Health Services funding did not occur until 1 year after the lease termination.

Mr. President, the Seattle Indian Health Board is a private nonprofit corporation with no real assets except those public funds it administers in providing health services to its patient population. To force the clinic to cut another $180,000 in services would place the blame for this mess directly on the SIHB and its patients. The Indian Health Service has an obligation to help settle the litigation it caused by its actions.

I would strongly urge my colleagues to support this amendment.

Mr. McCLURE. Mr. President, this amendment would authorize the settlement of an outstanding claim of the Indian Health Services in Seattle, WA.

I urge adoption of the amendment.

Mr. STENNIS. Mr. President, there is no objection to agreeing to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1337) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ABANDONED MINE RECLAMATION FUND

Mr. SPECTER. The abandoned Mine Reclamation Fund is vital to the environmental well-being of Pennsylvania, as well as the rest of the country where abandoned mines exist. Pennsylvania has many scars from abandoned mines that produced coal to feed the industrial growth of this country.

Committee action set the fiscal year 1986 appropriation for the State Reclamation Program grants within this fund at $150 million versus a $211.2 million budget request, a difference of $61.2 million. The administration apparently saw the need for these funds. The House set the 1986 figure at $186 million. Would the Senator from Idaho, chairman of the Interior and Related Agencies Appropriations Subcommittee, indicate why he has recommended $150 million rather than the House figure of $186 million or the President's request of $211 million?

Mr. McCLURE. The committee recommended the $150 million figure because of the large unobligated balance in the Abandoned Mine Reclamation Fund. As the accompanying report to the Interior and Related Agencies Appropriations bill states, if the States can demonstrate a capability to use additional funds, the committee will consider providing these funds in the next relevant appropriations bill.

Mr. SPECTER. I can understand the distinguished chairman's concern about reportedly low obligation rates; but, I do not think the reported obligation rates represent the true need for funds. States often do not receive funds for 9 months to a year after the appropriation. What appears to be a lack of ability to obligate, is partially just late receipt of funds by the States.

My home State of Pennsylvania provides an example. Pennsylvania did not receive some fiscal year 1984 funds until July 1984 and the balance in fiscal year 1985. Pennsylvania received its fiscal year 1985 funds on September 26, 1985, only 4 days before the end of the fiscal year. It is no wonder that the Office of Surface Mining figures show low obligation rates for combined fiscal year 1981–85 appropriations, especially with fiscal year 1985 funds being a major portion of those combined funds.

Pennsylvania officials have reported a need for the funding which they would receive under the administration's budget recommendation. This need is demonstrated by the following facts.

Pennsylvania has authorized and is filling 120 positions to bring the program to the level urged by Federal Cabinet officials.

The State is expending funds at a rate that, in conjunction with time phasing of grant awards, will create a gap in funding needs sometime in fiscal year 1987.

Mr. McCLURE. I understand what the Senator from Pennsylvania is saying; but, he should realize that current law requires the Office of Surface Mining to grant any and all funds available for each grant within 60 days of receipt of a completed abandoned mine reclamation fund grant applications. Since this provision became law in fiscal year 1983, OSM reports it has released funds for all States at an average of 54 days after completed applications have been received. Specifically, in Pennsylvania OSM reported it has released funds at an average rate of under 19 days after they receive the completed application.

I do not want to hold the States back from doing necessary reclamation work. Rather, I am trying to encourage all States to speed up the rate of obligation and utilize the available funds. If States do this and show a need for additional funds, I will be more than happy to explore that in the next relevant appropriations bill.

Mr. SPECTER. I appreciate the chairman's remarks, but while that may be the law, it is not a practice being followed with respect to the State of Pennsylvania. It was reported to me by the State government of Pennsylvania that in 1985, Pennsylvania had a completed construction grant application in place in January 1985; yet, the grant was not approved until September 1985. There are discrepancies between the figures reported by the State and those by the Federal Government. I agree with the distinguished floor manager that States should be encouraged to obligate and utilize funds as rapidly as prudent.

I am concerned with the implications of waiting for the next appropriations bill to determine if States will receive additional funds. If some States are not obligating and Pennsylvania is, it is then possible that my State would receive no additional funds because it is lumped in with other States. I would like assurance that if a States obligates at an acceptable rate by the time of the supplemental, then that State will gain necessary additional funds through a share of an overall program increase if such an increase takes place. Prior to the supplemental, and whether or not an increase is foreseen, I would like report language be included in the conference report of this bill that directs the Secretary of the Interior to develop a formula, in cooperation with the States, which gives priority in award of discretionary funds to States that are obligating at a higher rate, to provide those States with their necessary additional funds. This would also accomplish the Senator from Idaho's objective of encouraging the States to obligate and utilize funds at an acceptable rate and would reward States that do so.

Given the questions raised about the speed with which funds are awarded, I request that report language be included which directs the Secretary of the Interior to investigate and report the reasons for delay in the awarding of appropriated money and to provide accurate data to the subcommittee on the date of award versus the States' application dates. I have prepared language that I propose be inserted into

the conference report on these issues and ask unanimous consent that this proposed language be allowed to be entered into the RECORD.

I would urge the Senator to recede to the House figure of $186 million in conference. A drop to $150 million would result in reduced funding to individual States which would interfere with those States abilities to carry out their abandoned mine programs. This $186 million figure would represent a significant reduction from 1985 levels, but is a compromise figure that the States require as a minimum.

Mr. McCLURE. These requests for report language are reasonable requests. While I cannot guarantee what the conferees will do, I will make every effort to have this proposed report language inserted at the conference on this bill. I will consider the Senator's request to recede to the House funded level of $186 million.

Mr. SPECTER. I thank the distinguished chairman.

Mr. President, I ask unanimous consent to have printed in the RECORD the report language.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED REPORT LANGUAGE ON THE ABANDONED MINE RECLAMATION FUND

The Secretary of the Interior is directed to develop a formulation for distribution of funds, in cooperation with the states', which would give priority in award of discretionary funds to states that are obligating at a higher rate relative to other states. This formula should be in effect by the normal time of the supplemental appropriation.

The Secretary is also directed to investigate and report on the OSM grant award procedures including data on the amount of time it takes to award grants to the states after they have applied for grants. OSM should also provide data on obligation rates broken out by state and by date of award.

AMENDMENT NO. 1338

(Purpose: To earmark funds for carrying out a research program to develop new verification techniques to monitor compliance with any antisatellite weapons agreement that may be entered into by the United States and the Soviet Union)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. MATHIAS, Mr. KERRY, and Mr. BINGAMAN, proposes an amendment numbered 1338.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, of the funds made available to the Department of Defense for fiscal year 1986 for research, development, test, and evaluation, Air Force $5,000,000 shall be available only for the purpose of carrying out a research program to develop new and improved verification techniques to monitor compliance with any antisatellite weapon agreement that may be entered into by the United States and the Soviet Union.

Mr. SIMON. Mr. President, I understand this amendment will be agreed to by both sides.

It simply sets aside $5 million for research on antisatellite weapons verification.

It is extremely important that we do this, that the whole question of verification is absolutely fundamental if we are going to go anywhere in this area of arms control.

Mr. President, I believe it is cleared on both sides. I know of no objection to it.

Mr. STENNIS. Mr. President, there is no objection to agreeing to this amendment on this side of the aisle.

Mr. STEVENS. Mr. President, I just want to make certain. I beg the Senator's pardon. I did have a conference going on about another amendment. I wish to make sure which amendment he is offering.

Mr. SIMON. This is the amendment we checked with the gentlemen from the staff on.

Mr. STEVENS. This is earmarking $5 million for research on the antisatellite weapons verification. It is money for the Air Force, $5 million?

Mr. SIMON. That is correct, for verification of antisatellite weapons.

Mr. STEVENS. That does not increase funds and it does not authorize. It is acceptable to us.

Mr. SIMON. I thank the Senator.

I think it is an important amendment and I appreciate cooperation of both sides on it.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 1338) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1339

(Purpose: To increase by $1,587,000 funds for the joint Department of Defense-Department of Energy conventional munitions technology development program)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself, Mr. WILSON, Mr. DOMENICI, and Mr. CRANSTON, proposes an amendment numbered 1339.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the total amount appropriated for the Defense Agencies of the Department of Defense for research, development, test, and evaluation to carry out the joint Department of Defense-Department of Energy conventional munitions technology development program is $10,000,000.

Mr. BINGAMAN. Mr. President, the amendment I am offering would increase funds for the joint DOD/DOE Conventional Munitions Technology Development Program by $1,587,000, with a corresponding undistributed reduction in other Defense Agency R&D. This program is designed to bring about major improvements in conventional munitions technology across all the services' mission areas. The key objectives of this program are to fully exploit and effectively couple the DOE conventional munitions technology base to the DOD laboratories and industrial research efforts. Livermore, Los Alamos, and Sandia National Laboratories have significant capabilities, facilities, and experience related to conventional military problems which are a natural outgrowth of their nuclear research responsibilities. This joint program is aimed at both accelerating the development of next generation advanced conventional munitions and improving current generation munitions. Essentially, my amendment would raise the funding for this program to the authorized level of $10 million. The House chose to cut this program to only $5 million and the effect of my amendment will be to maximize the Senate's leverage in the conference.

Mr. President this is a relatively young program, only a year old, and yet it already has many accomplishments. Together with Senator GLENN, I visited Los Alamos and Sandia this summer and was briefed on some of the work ongoing in this area. I have been briefed about Lawrence Livermore's activities here in Washington. The accomplishments for such a young program are already significant. Los Alamos has developed and successfully tested major advance in predictive fusing which greatly increases the probability of kill against airborne targets by providing increased target acquisition data. Sandia has designed and prototype-tested a system which records dynamic loading on a penetrator as it passes through an intermediate material on its way to an intended

target. The new technology will greatly expand our capability to design penetrators and fuses based on target/penetrator interaction. Livermore has developed an advanced explosive which increases the depth of penetration for precision shaped charges by 20 percent.

And the future promises new achievements. Sandia is working on advanced solid state guidance and control technology which if successful would revolutionize the cost of gyroscopes and accelerometers. Los Alamos is working to significantly increase the range of conventional artillery shells. And Livermore is investigating fuel water explosives for heavy torpedo applications. When I was at the laboratories this summer, I sensed a real commitment to apply their expertise to this area and a great deal of excitement about the possibilities.

Let me also note that the President's Blue Ribbon Task Group on nuclear weapons program management which submitted its report to the Congress in July of this year strongly endorsed the involvement of the three nuclear weapons laboratories in advanced conventional munitions research. This high level group which Judge Clark chaired and which included former Defense Secretary Schlesinger, former Under Secretary Bill Perry, former U.N. Ambassador Jeane Kirkpatrick, General Kroesen, former Commander-in-Chief of the U.S. Army in Europe, and Harold Agnew, former Director of Los Alamos National Laboratory, specifically endorsed the use of block funding for advanced conventional munitions research in the laboratories in order to make best use of their talents.

Mr. President to conclude, let me say that I hope that this amendment is acceptable to the managers of the bill and if so, that they will strongly defend the Senate's position in conference. This is a well thought out, well-managed program which I see as having potentially a tremendous effect on reducing the cost and increasing the effectiveness of our conventional munitions. This is an effort which has been endorsed broadly within the administration, by the Clark Blue Ribbon Task Force, and by the Armed Services Committees of the House and Senate. I hope that it will also be supported by the Appropriations Committees in their conference.

Mr. President, I believe the amendment has been cleared on both sides and I ask for passage of the amendment.

Mr. STEVENS. Mr. President, we have no objection.

This amounts to an increase of slightly more than $1.5 million to the authorized level. We have not fully funded it because of the testimony we had before the committee.

But we do not have any problem with the Senator's suggestion that more could be done in this area. If it can be used, we certainly will try our best to hold the level in conference.

Mr. STENNIS. Mr. President, there is no objection to agreeing to this amendment on this side of the aisle.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 1339) was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON. Mr. President, I wonder if I might have the opportunity to engage the distinguished manager in a brief colloquy. It is my understanding that the committee has adopted the House language in the actual bill itself with respect to the necessity for ongoing negotiations between the Secretary and interested Members of Congress on the development of oil and gas in the Outer Continental Shelf off the State of California.

My concern is with the language in the report that was adopted by the committee, and specifically the second of the two sentences that address the bill language. The second sentence says that:

> While the committee does not expect that the negotiating process will attempt to impose binding conditions on either the Secretary or the Congress, the ongoing negotiating process must continue so that this long-standing dispute can be resolved in a positive manner.

So I understand correctly that the purpose of that second sentence is simply to state what is, in fact, a requirement of the law, which is that the committee does not imply by this action any delegation of congressional or executive authority or responsibility to the negotiation process?

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WILSON. Yes.

Mr. McCLURE. Mr. President, I am pleased to have the Senator ask that question. This is a delicate negotiation process. The House of Representatives, on Tuesday of this week, passed an amendment that contains a provision structuring negotiations between the Secretary of the Interior and certain designated Members of the House and of the Senate. I think there are 18 such individuals by office or by selection that would be, by this amendment, named as that negotiating group on behalf of the Congress.

As the Senator has indicated, it is obviously impossible, and I think would be equally unwise, to attempt to delegate to such a group of people who are Members of the House and of the Senate all of the authority which the Congress has with respect to such negotiations. The report language, to which the Senator has referred, is simply a statement attempting to make clear to everyone that this group can indeed negotiate and should do so, that they may come to conclusions or fail to, but that they can make recommendation to the Congress which then is within the right, prerogative, and duty of Congress to approve or disapprove.

Mr. WILSON. I thank the Senator for his statement.

Obviously, there cannot be any argument that neither this body nor the other one can delegate, in this instance or in a like instance, either the authority of Congress or the authority of the executive to, in effect, a subcommittee with respect to the final determinations that can be achieved only by enactment of law.

But what I was objecting to, and the reason I sought clarification, is that I think that perhaps, without intending to, the committee language in the report in the first phrase of that second sentence seems almost to contradict the clear statement in the phrase that concludes the sentence, and that, I think, is the one that should get the proper emphasis, the acknowledgment by the committee that "the ongoing negotiating process must continue so that this long-standing dispute can be resolved in a positive manner."

I say that, Mr. President, because the history of this whole difficult question of balancing the need for resource development with adequate protection of the on-shore economic, as well as the environmental, climate of the coastal States is one that has been with this Congress for very, very many years. And what we have learned the hard way is that it is very difficult to generalize here in Washington because of the difference in circumstances attendant to each of the questions arising.

And, as it relates to the State of California, the particular difficulty arises from the fact that the Outer Continental Shelf falls away very sharply, in contrast to the situation in a number of other coastal States where, in fact, shallow water exists miles out to sea, permitting the kind of exploration and development that poses much less risk than when that development occurs smack up against State waters.

So, I welcome the willingness of Senate colleagues, as well as those in the House, to frame a negotiating process that offers some promise to resolve these very difficult, very challenging questions, particularly challenging as they relate to the Califor-

nia situation. I simply wanted to make clear that we feel that it is imperative that negotiations achieve what we thought they had achieved in the past but did not when a preliminary agreement with the Secretary was not honored by him.

We think that it is essential that this process proceed to a resolution because the alternative very clearly is the kind of continued irresolution marked by lawsuits and delay that can only impede, really, the goals of both sides in this very difficult balancing act. And that will serve neither the energy interests of the United States as a whole, nor, perhaps, the apparently parochial desires on the part of the representatives of the State of California to secure the kind of protection that we feel we are entitled to assert.

So I thank the Senator and will look forward to a fulfilling negotiation process, one that will lead to the kind of conclusion that, perhaps, can put an end to the questions that have plagued this House and the other one for many, many years. I can assure you it plagues not only the Members of this body but, in a far more intense and personal way, 25 million Californians.

Mr. McCLURE. Will the Senator yield?

Mr. WILSON. Yes.

Mr. McCLURE. Mr. President, I appreciate the statement the Senator from California has made. I think all Members of this body understand how contentious and difficult and durable the issue of Outer Continental Shelf oil operations has proven to be in a number of areas, and certainly the Senators from California have expressed that interest for a long period of time. I am very much aware of the difficulties that are attendant to those issues, as the Senator describes the difficult balancing that has to be attained between the legitimate interests of the people of California, and the several different interests that they express, and the national interest in the shoreline and the offshore values, including the energy values to be found there. That is not an unfamiliar problem.

I share the hope, as expressed by the distinguished Senator from California, that the negotiations, which have been underway for sometime and which will be continued pursuant to the language as adopted by the House first and as now expressed in the language adopted here in the Senate, will lead to that kind of a conclusion so that we indeed do have an agreed program, not one that is subject to all the kinds of strife that has characterized that program for so very long. I appreciate the Senator's statement.

I might go one step further with some risk, perhaps, at saying so, because I am making an attribution to someone else, which is sometimes dangerous, but I talked to the Secretary of the Interior yesterday morning about this language and went through it and the negotiating process. He is enthusiastically in favor of the continuation of the negotiations and has expressed not just no opposition to this language but his approval and endorsement of this language. I take the time just to make certain that the record is complete that indeed the Secretary is serious about the negotiations and has no objection to the reports required as minimal reports to the Congress of the United States on the progress of those negotiations.

Mr. WILSON. I thank the Senator. I thank the Chair, and I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 1340

(Purpose: To extend the termination date for loan guarantees under the Biomass Energy and Alcohol Fuels Act of 1980 and affirm the authority of the Secretary of Energy to modify conditional loan guarantees)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] for himself, and Mr. DOLE, Mr. ZORINSKY, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. COHEN, and Mr. MITCHELL, proposes an amendment numbered 1340.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) striking out "September 30, 1984" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "The Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Enactment of this Section shall not be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act."

Mr. EXON. Mr. President, today I join the majority leader and five more of my colleagues in introducing an amendment to extend for 9 months the authority of the Department of Energy to negotiate three remaining Federal loan guarantees to construct ethanol plants in the United States.

In 1980, Congress passed the Biomass Energy and Alcohol Fuels Act which set this loan guarantee program in place: When this program initially expired on September 30, 1984, four proposed projects were still being considered by the Energy Department. Rather than having those four projects die while there was still a chance for them to be approved, I introduced legislation earlier this year to extend the approval deadline to September 30, 1985. The Senate passed this legislation on March 28 and the President signed it into law on April 16.

Since then, unfortunately, only one of the four remaining projects has been approved. Three others, in Nebraska, Minnesota, and Maine, are still the subject of negotiation. What today's amendment will accomplish is to further extend the deadline and clarify the Secretary of Energy's authority to give him sufficient flexibility so these three projects can continue to be considered. This measure involves no new program and it does not approve these projects. It simply provides more time for the Energy Department to complete its evaluation of these proposals which have been pending for so long.

Time is of the essence. The latest deadline expired over 2 months ago.

The majority leader, Senator BOB DOLE of Kansas, has been enormously helpful through these last several months and has joined me in monitoring this program and the negotiations involved. The Chairman and ranking minority member of the Energy and Natural Resources Committee, Senators McCLURE and JOHNSTON, have also been very helpful as has my Nebraska colleague Senator ZORINSKY. Additionally, I want to thank Senator METZENBAUM for his cooperation.

If eventually approved, these facilities will help expand the domestic fuel ethanol industry's ability to provide critically needed domestic outlets for U.S. farm commodities. In addition, fuel ethanol is a proven octane enhancer and a leading replacement for lead additives which the Environmental Protection Agency is rapidly phasing out of gasoline.

Time is of the essence. The latest deadline expired over 2 months ago. These projects have spent a great deal of money each in a good faith response to the Energy Department solicitation and deserve the opportunity to finalize those efforts. The Congress did not intend to bring these projects to the brink of completion only to abandon them in the midst of ongoing negotiations.

Again, Mr. President, this measure does not provide approval of the loan

guarantees for these projects. It merely gives each project the opportunity to meet the Energy Department's financial scrutiny and hopefully close on the loan guarantee. These projects offer a valuable contribution to our Nation's energy supply and new markets for our hard-pressed farmers.

Mr. President, I appreciate the consideration of the Senate and everyone concerned with this matter and hope we can act expeditiously and provide this clarification so the evaluation and approval process can go ahead.

Mr. President, it is my understanding that this is an amendment that has been cleared on both sides. It has been before the Senate before, and has been attached without objection to other measures. This is a fallback position that we are offering at this time in case something should happen in conference on the other amendments. I believe it has been cleared by both sides.

Mr. STENNIS. Mr. President, the amendment is not objected to on this side of the aisle.

Mr. McCLURE. Mr. President, we have reviewed the amendment. We not only have no objection, but we enthusiastically support the amendment, and urge its adoption.

Mr. DOLE. Mr. President, I join Senator EXON and others in offering this amendment to the continuing resolution for fiscal year 1986. It has been noted that this amount was previously adopted on two other major pieces of legislation this year.

For a variety of reasons, we need to attach it to every bill we can until it becomes law. This amendment primarily extends the time for the Department of Energy to close loan guarantee agreements on certain alcohol fuels projects for which conditional commitments were made prior to October 1, 1984. In addition, this amendment would settle a question relative to the flexibility of the Secretary's authority in closing these deals by making clear that he has all the authority he had on September 20, 1984, the day the program originally expired.

A brief history is in order so that this reference to 1984 makes sense. In 1980, Congress passed the Biomass Energy and Alcohol Fuels Act which originally established this loan guarantee program. When this program initially expired on September 30, 1984, four proposed projects were still being considered by the Energy Department and in fact conditional commitments by the Department had been made. In order to allow for these four projects to close, and only these four, Congress extended the law last spring to allow for up until September 30, 1985, for the projects to close.

For a variety of reasons, these projects couldn't all close by the end of fiscal year 1985—and, in fact, the only one which did close was a controversial agrifuels plant in Louisiana. In part because all of the resources of the Department of Energy and of the Bank of New England, which is the lead bank in financing these projects, were focused on closing the agrifuels plant, it was impossible to close the other projects: The Circle Energies project, the Minnesota Alcohol Producers [MAP] project, and the New England Energy Producers project [NEEP] by the end of fiscal year 1985.

It is anticipated that the Department of Energy will need most, if not all, of this 9-month period to review the complicated documents involved in the closing of the remaining loan guarantee agreements. But it is the view of this Senator that the Department should swiftly move to close those projects they find economically viable.

Mr. President, let me briefly amplify section 2 of the amendment. On September 30, 1984, the parties to whom conditional commitments were made were asked by the Department how large of a loan gurantee would be needed. In the Circle Energies project, the principals responded that $35 million was the appropriate amount. Subsequent to that time, conditions changed somewhat and the owners of the Circle plant found that insurance requirements and construction costs had increased slightly. When they asked the Department of Energy to increase the amount of the loan guarantee, the Department concluded that it did not have sufficient authority to do so. This despite the fact that had Circle asked for $45 or $50 million on September 30, 1984, the Department would have set aside that amount. This amendment thus reaffirms that the Secretary has all the authority he had prior to October 1, 1984, including the authority to increase the amount of the loan guarantee.

Mr. President, this program does not reopen the Alcohol Fuels Program. It only gives the Department of Energy the authority and the flexibility to close the remaining projects for which conditional commitments have been made. Mr. President, I urge the adoption of this amendment.

Mr. EXON. Mr. President, I appreciate the cooperation of the two distinguished leaders, and I thank them.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 1340) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1341

(Purpose: To appropriate funds for the procurement of M-9 Armored Combat Earthmovers)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, and Mr. SASSER, Mr. QUAYLE, and Mr. EVANS, proposes an amendment numbered 1341.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in this joint resolution, insert the following: Notwithstanding Sec. 101 of this resolution, the amount appropriated for "Other Procurement, Army" is $5,214,730,000.

Mr. GORTON. Mr. President, this amendment would appropriate $42.4 million—$30 million in fiscal year 1986 and $12.4 million transferred from fiscal year 1985—to begin procurement of the M-9 armored combat earthmover. This program has the strong support of the Army and was authorized by the Congress this year. In addition, this funding is included in the House appropriations bill.

The functional capabilities of the ACE, as it is known, have attracted the strong suport of forces in the field as well as in the Pentagon. A case in point is the Army's Commander in Europe, Gen. Glenn K. Otis, who has stated that he needs the ACE "at full authorization to fill existing gaps in engineering capability." Under Secretary James Ambrose stated recently that the ACE has demonstrated "operational mission requirements" and in tests has "significantly improved the combat force's fighting capability."

The ACE is a highly mobile earthmover that can perform vital engineering tasks in forward combat areas. It can also move at 30 miles per hour—an essential new capability for our modern forces—wade through streams and swim across larger bodies of water, and fit efficiently into a C-130 for rapid deployment.

The funds for the ACE were deleted during the markup of the Defense appropriations bill due to some technical questions that were raised during the initial production test. There were failures in the drive shaft because test operators, going against operating instructions, shifted from forward to reverse at high speeds. It is testimony to the durability of this vehicle that only the drive shaft suffered under such abuse.

Two simple modifications were made subsequently and have been proven in the Army's follow-on evaluation to fix the problem. The shift gate was adjusted to preclude this mode of operation and, as an extra measure, the drive shaft was strengthened. After extensive tests, the Army is confident that the problem has been solved and has given the ACE the go-ahead for full production. This was officially reported to the Congress a couple of weeks ago.

Mr. President, it is time that the Senate gives its approval to this important new addition to our mobile land forces, and therefore I urge my colleagues to support this amendment.

Mr. President, I believe this amendment has been approved on both sides.

Mr. STEVENS. Mr. President, we accept this amendment. Primarily, as the Senate will recall, this has been a matter that has been before us in the authorization bill.

There were some test results that had to be evaluated. We now understand that the evaluation has been completed, and that this amount should be restored.

So we are happy to accede to the Senator's request in this amendment.

Mr. STENNIS. Mr. President, there is no objection on this side of the aisle to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 1341) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1342

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself and Mr. CRANSTON, proposes an amendment numbered 1342.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert where appropriate:

The Secretary shall include as part of the non-Federal contribution of the project for flood control, Fairfield Vicinity Streams, California, authorized in accordance with section 201 of the Flood Control Act of 1965, the cost of any work carried out by non-Federal interests on the project after December 31, 1973, and before the date of the enactment of this Act, if the Secretary determines such work is reasonably compatible with the project. Costs and benefits resulting from such work shall continue to be included for purposes of determining the economic feasibility of the project.

Mr. WILSON. Mr. President, this is a very simple and equitable amendment. It simply allows the prior expenditures by a water district in California—the Fairfield Vicinity Streams, California district—to be counted for purposes of cost sharing.

This has been cleared on both sides. I am unaware of any objections.

I ask for the confirming judgment of this body, and will take no further time.

Mr. McCLURE. Mr. President, my understanding is that this amendment has been cleared on this side of the aisle, by the distinguished Senator of jurisdiction, and we have no objection to its adoption.

Mr. STENNIS. Mr. President, we have no objection on this side of the aisle to the passage of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 1342) was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFORESTATION TRUST FUND

Mr. PACKWOOD. Will my friend from Idaho yield for several questions I have about the future of the Reforestation Trust Fund?

Mr. McCLURE. I would be glad to yield to the Senator from Oregon.

Mr. PACKWOOD. I thank the Senator. In 1980, the Reforestation Trust Fund was established in the Department of Treasury to supplement funding for reforestation and timber stand improvement projects and to eliminate the backlog of reforestation needs of national forests.

An amendment to the Surface Transportation Act of 1982 repealed the prior requirement of rolling any remaining funds into the general fund on October 1, 1985, or at any other time. Funds in the Reforestation Trust Fund that were not expended by the end of fiscal year 1985 were to be distributed to the States for use in State forestry programs. More importantly, Mr. President, an amendment struck out the October 1, 1985, date that had previously terminated the obligation to place amounts equal to tariff collection into the trust fund. The statutory provisions governing the fund directed the Secretary of Treasury to transfer into the trust fund amounts equal to tariffs collected beginning September 30, 1979, and to continue to make such transfers indefinitely.

Is my understanding correct that moneys will continue to be transferred into the Reforestation Trust Fund?

Mr. McCLURE. Yes, my friend from Oregon is correct. It is my understanding that the tariffs collected beginning September 30, 1979, will continue to be transferred into the Reforestation Trust Fund indefinitely.

Mr. PACKWOOD. I thank the distinguished chairman of the Interior Appropriations Subcommittee for his clarification. As a member of both the Authorizing and Appropriations Committees he is uniquely qualified to clarify this matter.

The second issue of concern to me is the authority of the Secretary of Agriculture to expend the moneys in the reforestation trust fund for reforestation and timber stand improvement projects after September 30, 1985. I understand that the Interior Appropriations Subcommittee has recommended bill and report language which will extend indefinitely beyond the current September 30, 1985, termination date the authority of the Secretary of Agriculture to spend money from the trust fund. In addition, the subcommittee intends that expenditures from the reforestation trust fund are to be supplemental to other appropriated funds and not to be substituted for appropriated funds. Finally, the chairman of the Interior Appropriations Subcommittee has an amendment that will clarify the subcommittee's intent that the fund balances and newly deposited funds are to be transferred to the Secretary and be available for obligation in fiscal year 1986. Is my understanding of the subcommittee's intent correct?

Mr. McCLURE. My colleague from Oregon is correct in his understanding of the subcommittee's intention. Our bill language will extend indefinitely the authority of the Secretary to use the funds covered into the reforestation trust fund to supplement appropriated funds, rather than using it as a substitute for appropriated funds. I would like to make further clarification that the subcommittee intends the Forest Service to use the trust fund to address the backlog acreage

identified by the Forest Service that may not yet be fully restocked.

It would be my intention to transfer additional reforestation trust fund balances to the National Forest System account in future appropriation bills in a fashion similar to the manner in which these funds have been transferred.

Mr. PACKWOOD. I thank the Senator from Idaho for this additional clarification. We both know how important reforestation and timber stand improvement are to our Nation's forests. There is an ongoing need for a stable source of funding to ensure viable and productive forests for future generations.

Mr. STEVENS. Mr. President, it is my understanding there will be no further amendments to the continuing resolution. The Senator from New Hampshire desires to proceed on another matter.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, at the request of the majority leader, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHING A SPECIAL PANEL ON ASYLUM

Mr. HUMPHREY. Mr. President, on behalf of Mr. DIXON, 52 of my colleagues, and my own behalf, I send a resolution (S. Res. 267) to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object, and I do so on behalf of the leadership. I have no objection, personally.

The PRESIDING OFFICER. Objection is heard. The resolution will go over under the rules.

Mr. HUMPHREY. Mr. President, a number of Senators wish to offer remarks at this time. My remarks will probably be the longest so I will gladly yield to the distinguished Senator from Mississippi and then to the distinguished Senator from Illinois, if no one objects.

Mr. STENNIS. Mr. President, I do have a brief statement concerning the subject matter.

Mr. President, I commend Senator HUMPHREY for his interest and diligence in the entire matter that his resolution covers, and which I understand he has now submitted.

He recognized, as I understand some others did, from the newspaper accounts of the incident involving the Soviet seaman, that the events in this case were highly irregular.

Senator HUMPHREY's personal interest in the matter while the case was in progress highlighted the need to look into the way our Government responds to requests for asylum.

This special panel on asylum proposed by Senator HUMPHREY could answer many of the questions raised by the Seaman Medvid case and improve the way in which we handle these requests for asylum that often are made under extremely difficult and desperate conditions.

I will repeat with emphasis that I commend the Senator for his interest and for his proceeding in this manner.

This is a matter that happened in an area close to the State of Mississippi, but it can happen anywhere, of course. I commend the Senator for submitting the resolution.

Mr. HUMPHREY. Mr. President, I thank the Senator from Mississippi for his kind remarks.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I am delighted to join my colleagues in urging the creation of a special panel on political asylum. The Ukrainian sailor's case was handled disastrously by our Government. When a fellow jumps ship twice in a row, he is trying to tell us something. Mr. President, how in the world we could have given him back to the Soviets is beyond my understanding.

I believe we need some answers. The creation of this Senate panel will, I hope, offer us a look at what went wrong when that sailor ended up on his way back to the Soviet Union. The Panel will also give us an opportunity to take a long, hard look at the overall procedures for dealing with political asylum requests. Perhaps existing regulations are being misinterpreted. Perhaps we need to look at some legislative remedies.

The Medvid affair is a symptom, Mr. President, of a much larger problem in the way our Government considers requests for political asylum. These requests are continuing. Future applicants deserve the reassurance that their requests are handled fairly, properly, and according to regulations. I, therefore, urge my colleagues to support this resolution.

Mr. President, I congratulate my colleague from New Hampshire [Mr. HUMPHREY] on the submission of this resolution.

Mr. BOSCHWITZ. Mr. President, I rise today in support of Senate Resolution 267, which would establish a Special Panel on Asylum, consisting of seven Senators, to investigate the Medvid affair specifically and the whole issue of political asylum in general.

Mr. President, I was frankly appalled by the manner in which U.S. officials repeatedly mishandled the case of the Ukrainian sailor, Miroslav Medvid. I find it incomprehensible and inexcusable that U.S. Immigration Service officials would twice return Medvid to his ship against his will—indeed, kicking and screaming. I find it equally incredible that the State Department would, 4 days later, accept at face value Medvid's declaration that he now wished to return to the Soviet Union.

Medvid's change of heart was made known, of course, only in the presence of Soviet officials. The Department knew, moreover, that he had been drugged and must have presumed that he had been threatened. Yet it was satisfied that it had done all it could.

Imagine the treatment Mr. Medvid must have received from his Soviet superiors upon return to his ship. Imagine what future U.S. officials have consigned Mr. Medvid to back in the U.S.S.R.

Mr. President, I do not know why the State Department acquiesced so quickly in this matter. Perhaps it was to remove a possible irritant on the eve of the summit. If so, the Soviets felt under no similar constraints. The week before, they saw no difficulty in having Afghan troops surround our Embassy in Kabul and in cutting its electricity when a Soviet soldier sought to defect.

In any event, Mr. President, I understand that the Medvid case is not the only incident recently involving those seeking asylum from Communist countries in which inconsistencies in asylum procedures have been noted. I am not one of those who believe that the Congress can or ought to micromanage U.S. foreign policy. But here is a clear instance that demands our investigation and, if necessary, specific recommendation for changes in procedure or law.

I want, therefore, to commend my colleague, Senator HUMPHREY, for developing this project, and I am happy to join with him and others as a cosponsor of this resolution. I urge its speedy consideration and adoption.

Mr. HUMPHREY. Mr. President, I appreciate the support of the distinguished Senator from Mississippi and the distinguished Senator from Illinois and, as well, I am delighted to have the support of 52 of our colleagues in this body for this proposal that would establish a special Senate panel on asylum.

The need for this panel stems from a loss of faith that the American people once had in the asylum policies of this Nation, and in the commitment of our leaders to assure that these policies are strictly followed. The recent bungling of the case of Miroslav Medvid, and the subsequent unwillingness of the U.S. Government to acknowledge the concerns of 70 Members of the Senate and reopen this case, has cast a dark shadow on the public's view of U.S. asylum procedures, and the mes-

sage that this is sending to would-be defectors around the world. This fact was dramatically demonstrated 2 days ago when a Polish defector asked for the intervention of a U.S. Senator, before allowing himself to be turned over to border patrol officials.

It is a sorry state of affairs when a defector first asks to see a priest and then a U.S. Senator prior to being interviewed by an official of the executive department, the border patrol, or the INS. It is sad testimony to the miserable state of affairs which exist.

With regard to the Medvid case, Mr. President, on the evening of Thursday, October 24, a Ukrainian sailor named Miroslav Medvid placed his personal possessions into a glass jar and jumped 40 feet off the Soviet grain freighter *Marshall Koniev,* into the turbulent waters of the Mississippi River.

On that date, there was a hurricane situated over New Orleans. It might have been only a tropical storm at that point. But at the very least, this seaman Medvid jumped into the darkness 40 feet off his ship into the waters during a tropical storm and swam to shore.

Later that evening Mr. Medvid was interviewed by U.S. Border Patrol agents in New Orleans who communicated to him through Dr. Irene Padoch, an interpreter for the Immigration and Naturalization Service.

That communication involving Mrs. Padoch, of course, was by telephone since she was somewhere in New York State at that time.

Mr. Medvid repeatedly told Dr. Padoch in Ukranian that he wished to seek political asylum and to live in an honest country. In fact, Dr. Padoch was asked by a border patrol officer to assure the frightened sailor that no harm would come to him. Yet for some inexplicable reason, harm did come to Mr. Medvid. In the early hours of Friday, October 25, he was transferred by U.S. Border Patrol officers to representatives of a shipping company that forcibly returned him to the Soviet freighter. Upon realizing that he was being returned to the Soviet ship, Mr. Medvid jumped into the Mississippi River once again, the time being well after midnight, once again into the storm-embroiled waters of the Mississippi River, and once again he swam to shore.

He was pursued by representatives of the shipping company, apprehended on the shore of the Mississippi River, and forcibly returned to the Soviet feighter, handcuffed, kicking and screaming. I might ask, Mr. President, if the border patrol supplied the handcuffs.

Mr. President, on October 29, the U.S. Department of State issued a statement concerning their involvement with this matter. This document emphasizes that the State Department did not learn of this case until 3:40 p.m. on Friday, October 25. The statement explains that by 10:30 p.m. on the night of Friday, October 25, the United States had a team of at least six officials on the *Marshal Koniev.* This statement further reports that when these officials first observed Mr. Medvid, he appeared to be sedated. On the following day, October 26, a U.S. Navy physician administered a preliminary physical exam and concluded that Mr. Medvid "appeared to be in generally good condition." After being removed from the *Marshal Koniev,* Mr. Medvid was administered what the U.S. Government considers to be a thorough physical examination. By 3:45 on the afternoon of Tuesday, October 29, the U.S. Government was convinced that Mr. Medvid sincerely wished to return to the Soviet Union, and by 5 he was back on the Soviet freighter. That evening the State Department reported that "the U.S. Government considers this matter closed."

I suggest to the State Department that the case is not closed, that it is far from closed as far as the people of the United States are concerned, and as far as the 52 cosponsors of this resolution are concerned, and the perhaps 10 or 12 others who did not wish to cosponsor but who indicated an intent to vote for the resolution. It is far from closed. To suggest that it is closed is a profound insult to all Americans. It is a profound insult for the State Department to believe that they could brush this case aside with the issuance of a deceptive two-page statement regarding this matter.

The document issued by the State Department concerning this case is both inaccurate and misleading. At a hearing before the Immigration and Refugee Policy Subcommittee of the U.S. Senate on Tuesday, November 5, it was learned that no blood or urine examination were administered to Mr. Medvid at any time by U.S. physicians. So much for the "thorough physical examination!" Any high school student in America who participates in athletic activities could have told the officials from the State Department that a routine physical examination requires a blood and urine test particularly when our officials were told, perhaps by a slip of the tongue by a Soviet physician aboard, that they had drugged Mr. Medvid.

Three days later, on Friday, November 8, after Mr. Medvid had been back on the freighter for 11 days, the State Department finally decided to release the medical and psychiatric reports on Medvid. These reports truly made a mockery of everything that the people of the United States had been told surrounding this case. We learned in this report that Mr. Medvid's left arm was bandaged from the base of the fingers to the armpit, and that there were several superficial lacerations on his exposed fingers. We also learned that Mr. Medvid had a "self-inflicted wound" on his left wrist that required three sutures.

Some have speculated that perhaps Mr. Medvid, in view of the fact that he resisted so violently being taken back aboard the vessel, slashed his own wrists. We cannot tell because we do not have enough facts yet in this case.

The right arm had several severe bruises. So much for the statement that Mr. Medvid was in "generally good physical condition!"

Mr. President, we also learned later that when Mr. Medvid was interviewed by United States authorities, he was under the influence of tranquilizers, the names of which were volunteered, surprisingly, by Soviet officials to United States doctors. Perhaps it is not so surprising since Soviets routinely administer drugs to anyone who speaks out against the Soviet Union.

In any event, the doctor aboard the ship, the *Marshall Koniev,* admitted to our physician that they had administered powerful drugs to Mr. Medvid. These drugs administered are known to produce a mental state of serenity and indifference in human beings.

Yet, the American psychiatrist present concluded that Medvid was "clearly competent" to make his decision to return to the Soviet Union. Let me reemphasize that the psychiatrist made this observation with full knowledge that drugs had been administered to Medvid and without the results of blood or urine examinations. And so Mr. President, with all this evidence regarding Mr. Medvid's physical and mental condition, it is almost criminal—at least from this Senator's point of view—that the State Department could issue a statement on October 29 indicating that Medvid was in "generally good condition" and that the case was closed. As we all know, Mr. Medvid's fate was sealed when the *Marshal Koniev,* with the assistance of U.S. Coast Guard cutters, was permitted to leave the United States for international waters on Saturday, November 9.

Mr. President, the resolution that I am introducing today with Senator DIXON and 52 others, would establish a special Senate panel on asylum, to thoroughly investigate the handling of the Medvid case at all levels— not just at the level of those junior border patrol agents who admittedly made mistakes—not at just that level. We want to know if any other mistakes were made, if there were any other improprieties in this case at all levels and to explore the overall issue of U.S. policy with respect to political asylum for persons fleeing Communist nations. This panel would consist of seven of our colleagues, four of whom shall be appointed from the majority Members of the Senate and three of

whom shall be appointed from the minority Members. This panel would have a life span of 1 year from the date of creation and would study the desirability of the enactment of new congressional legislation to safeguard the rights of any person from a Communist country seeking political asylum in the United States.

I am encouraged by the announcement in the last day or two that the Immigration and Refugee Policy Subcommittee is considering an additional hearing or two regarding this matter. However I share the view of my 53 colleagues who are original cosponsors of this resolution, that this matter is one that requires more than an additional hearing or two in a Senate subcommittee.

We all know how the hearing process works. It is far, far from perfect in extracting information, especially when witnesses are unwilling and skilled in avoiding answers. We do not wish just for another hearing or two. We have already had one such hearing, which was largely inconclusive. What we ask for in this resolution, what we propose, is to conduct a yearlong investigation involving professional investigators, involving the power of subpoena and oath, involving the taking of depositions, involving the comparison of one statement with another, constituting a truly thorough investigation of this matter to find out and to determine once and for all on behalf of the American people just what the facts were in this case.

There are many questions unanswered, a great deal of doubt about the true nature of this case and how it was handled. It simply will not do for us to be bought off by the offer of another hearing or two which will go into the matter superficially and then let it drop.

We want a full investigation, a special investigation, a thorough investigation, one which will not only establish the facts of the case, but which will determine, if possible, if there was any impropriety on the part of any U.S. official, either at the lower echelons or the higher echelons or anywhere in between.

We propose that the panel operate for 1 year on a budget of $300,000, paid from the contingent fund of the U.S. Senate. These are moneys that have already been appropriated and would otherwise be used for such items as landscaping around the Capitol or other expenses. Certainly, in my judgment, the life of a Ukrainian sailor or any other potential defector is more important than a few extra geraniums on the lawn of the U.S. Capitol.

The Senate as a whole has already gone on record expressing concern for the manner in which the entire Medvid case was handled. My distinguished colleague from New York [Mr. D'AMATO] introduced a resolution calling for a review of INS and border patrol handling of political asylum cases. The distinguished Senator from Georgia [Mr. MATTINGLY] also introduced a resolution expressing concern with the handling of the Medvid case and calling for a "just resolution of the incident." Both resolutions passed the Senate unanimously. Seventy Senators, during the time when Mr. Medvid was still aboard the ship in U.S. waters, contacted the President by letter calling upon him to reopen the Medvid case and allow Mr. Medvid one last opportunity to freely express his wishes before returning to the Soviet Union. The response to that letter was the same response we got from the State Department—case closed.

Despite the outpouring of additional evidence and the outcry from Americans across the country, the Reagan administration has refused to review U.S. assylum procedures, or the particulars of this case.

That is perhaps not quite an accurate statement. The Justice Department, it is said, has an investigation underway, but I would suggest to my colleagues and to the American people that in a particularly outrageous case such as this it is simply not good enough to let an agency investigate itself. In this case, the executive investigates the executive. And that is why we are calling for a legislative investigation.

Mr. President, the American people deserve to know the facts surrounding this case. They need to know if policies exist in this country that would explain why a Ukranian sailor, who has tried so desperately to reach freedom, was forcibly returned to his ship after twice jumping into the Mississippi River at night in the midst of a hurricane. They need to know and deserve to know why the United States issued a statement declaring that Mr. Medvid was in "generally good" physical condition and "clearly competent" to make judgments concerning his entire future when U.S. officials knew, had been told by the Soviet physician that Mr. Medvid had been drugged with powerful drugs, injured, and at least, according to the opinion of the American psychiatrist, threatened with violence to his family and quite possibly who had attempted to commit suicide, according to the report of the slash on his left wrist.

They need to know and deserve to know why the American Government would tell them that Mr. Medvid received a "thorough physical examination" when, in fact, no blood or urine exams were ever administered. They need to know whether the U.S. Government can even prove positively that the Medvid who jumped off the *Marshall Koniev* is the same Medvid who was interviewed by U.S. officials. They need to know what assurances we have that such a deplorable, such a terrible, tragic incident will never occur again. Most importantly, they need to know whether this country continues to honor its commitment to welcome those fleeing oppression abroad.

Mr. President, before I close, I want to make two further announcements. The Helsinki Commission, of which the Senator from New Hampshire is a member, has opened a case file, and we intend to pursue the resolution of his case as far as we can in the same manner that we have pursued cases pending against other oppressed Soviet citizens, in the hopes that by keeping a public spotlight focused on his case some tiny measure of justice can be obtained, some tiny measure of justice from the standpoint of those who are convinced he sought freedom in our country and was returned brutally to a regime which may well take his life but which at the very least will imprison him for a great many years.

The second announcement I want to make is that the Senator from New Hampshire will hold a press conference on Monday in the Capitol at 1 p.m. in a room to be designated in order to answer questions which the press may have about this resolution.

Mr. President, that is all I have to say on the matter at this moment. I will yield the floor.

Mr. STENNIS. Mr. President, I commend the Senator for his remarks and what he has done on this case, and for the continuous work that I believe he will do. I have heard the speech. It had certain interruptions. I am going to read it later, as I am sure many other Members will.

Mr. President, as far as I know, there is no other business scheduled to come before the Senate. If that is correct, I move that we either recess or adjourn now in accordance with the order that was made with reference thereto.

The PRESIDING OFFICER. If the Senator will withhold.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I know how deeply the Senator from New Hampshire feels with regard to the Medvid incident. He and I have discussed that. I have tried to be as accommodating as I could, and maybe I have failed—perhaps I must have for I think that otherwise this effort would not be presented. So I want to say that

obviously we will have some additional hearings, either through the Subcommittee on Immigration and Refugee Policy or, as Senator GRASSLEY and I are discussing, the possibility of a joint hearing on the issue. His subcommittee is Administrative Practice and Procedure. Senator METZENBAUM, I believe, is the ranking member of that subcommittee. He has a great and renewed interest in this issue because of an incident in Cleveland just recently. The ranking member of the subcommittee I chair is Senator TED KENNEDY. TED and I have always been very attentive to these matters.

I think that there is no need for any type of special panel or special commission, unless this Senate wishes to vote on the issue of abrogating its oversight responsibility totally. If we are to apply a special panel or a special commission to every single thing that just does not seem to die away in the minds of 1 or 2 or 5 or 10 of our Members, then I think that this indeed is part of the problem we have in moving our business.

That is not directed at Senator GORDON HUMPHREY. He and I came to this place together in the class of 1978 when there were 20 new Members. It was a very close group because we all grappled and learned and stumbled along together for the first year with our own support system of 11 Republicans and 9 Democrats, and it was great. The occupant of the Chair did not have that fine support group system, that group where you could walk up and say, "What are you doing with your mail? What do you do with your constituents?" We shared those things, Democrat and Republican alike.

Perhaps, as I say, I failed to meet the intense desire of my friend from New Hampshire, and that will be resolved. We can handle that. We will handle that. We will deal with it. We will have a hearing in the subcommittee and deal with internal asylum. I think that we probably will make an error if we begin to deal with asylum in the countries where we have embassies if suddenly it becomes known that all you have to do to have freedom is somehow get inside of an embassy in Moscow or in any other Eastern bloc country. I hope that everyone can realize where that will lead, with the turmoil and problems of those people who may not be persecuted. But you can phrase it as hating the life. So we can limit this to the domestic area of asylum, and I leave it at that.

We did hold a hearing on November 5, 1985, in order to investigate this and our procedures toward alien crewmen from the Eastern bloc. That hearing included testimony from Senator HUMPHREY, the State Department, the Immigration and Naturalization Service, the Customs Service, the Coast Guard, and the INS interpreter who interpreted originally for Mr. Medvid.

The information gathered revealed what we all know—at least there are several things we all know—and that is that INS agents failed clearly to follow their directions. They did not do what they should have done. They should have detained him overnight for further questioning. They did not, and they turned him over to a shipping agent.

It was an egregious mistake, and those two agents have paid rather dearly for it. They have lost part of their service in grade under the Civil Service System and forfeited one-fourth of their year's salary for their particular effort. I would think that would make them attentive in the future.

Current INS procedures and regulations state that there shall be immediate notification. That was not done. If those procedures had been followed properly, nothing would have occurred. But once they found out and once they sent this information up the line to the U.S. Government, to INS district officers and the State Department, they moved with extraordinary dispatch.

In fact, I think you will find as we get into the investigation that the INS was extraordinarily forceful in dealing with the shipmaster as to the fact that. "We want this man and we will have him. You are in the United States waters and we will have him." It could indeed have created a much more significant international incident, or national incident, if that had been refused.

He was examined. He was examined after a period of time. There is no question that he was very likely coerced, threatened, and all the rest.

We had 5 shots at him, and he said he rejected asylum in the United States—5 times with an interpreter present. Those are the things we do know.

Then we had a confidential hearing and distributed material, and I presented the confidential material to Senator HUMPHREY. That confidential material has appeared verbatim in every newspaper, and we knew it would. It was not because of Senator HUMPHREY.

Mr. HUMPHREY. Mr. President, if the Senator will yield, I remind the Senator that I told him on my honor that it was not I who leaked that information, or my staff.

Mr. SIMPSON. There is no need for the Senator from New Hampshire to even respond, because I know that did not happen. In fact, I know exactly the source of how it happened. It was not the Senator from New Hampshire nor anyone on his staff.

I am saying it lightly. I am not saying it with anybody hoping to read it that, "Oh, boy, they took a secret of the United States."

Everything, public or private, is on the record, and it will almost always be thus. If we do not think that, we should get out of here.

No, indeed, it did not come from the Senator from New Hampshire in any way, nor his staff. We have identified where it came from, but it is not worth a whit of discussion, because we knew it would get into the public domain, without any question.

I just want to add this: Under our present laws, we treat alien crewmen differently from any other alien attempting to enter the United States, including those who are illegally crossing our borders. I think that puzzles people, but it is true. For 30 years, our laws have allowed the INS officers to summarily exclude any alien crewman who does not have authorization to enter and who is not claiming political asylum. Summary exclusion: There is no hearing under it, there is no appeal process, and that is the way it has been for 30 years. We will find that as we go into further discussion.

While the INS officers here failed to fully and adequately explore his desire for asylum, I assure you that they had the legal authority in every sense to immediately return him, if they believed he was not requesting asylum, which they personally believed after he said five times he did not.

I will share with my few remaining colleagues in the city tonight that the New Orleans border patrol alone, in that one community, has handled 96 ship jumping cases without apparent incident in the last 2 years. I think the record speaks for itself. They blew this one; they admitted it. They punished the people involved. I believe we will discuss all those things when we get to another hearing.

I join Senator HUMPHREY in feeling that the incident was handled improperly at the initial INS level, and we share the deep concern of our colleagues about this man's most uncertain personal future.

If you take this case and flip it like a pancake, look at the other side, and see where this will lead if you go to where some wish to go. I do not believe Senator HUMPHREY wants to go there.

Imagine an American citizen on an American ship in Soviet waters who says he wants to go back to the United States of America. They say, "We don't know if you want to do that or not, so we are going to restrain you in an area where you are going to be speaking with people in the Soviet Union only, because we don't want anyone from your country to taint the discussion."

Try that one on American citizens and see how they will swallow that one. That is where you are going to

end up. It is not a case of grain or Medvid or even the subpoena powers. The issue is that if anybody believes in this situation, with this adversary, that what is sauce for the goose is sauce for the gander, you are missing the whole point.

I do not think we need to run that risk, and that has nothing to do with being afraid or thinking they are going to bluff us. We have thousands of American citizens, thousands of merchant mariners who are in Soviet waters, and if we get to this type of situation, which I guess would be best described as a subpoena from the Politburo—which would be an interesting document in itself, I am sure—and then a sequestering of the person so that no one could taint what was going on, and then saying, "We thought we did the right thing there; we did it for the cause of his personal freedom," I think that is a puzzler deluxe.

I guess the tough one is this: Is this not a decision that we Americans should allow Medvid to make? Sure, if he decided that he wanted to spare his entire family—that is what he decided. It was Sophie's Choice. That is what he got out of it. If he decided to spare his entire family and return to the very possibility of death in the U.S.S.R., is it our national prerogative to tell him he cannot make that decision? He certainly faced the great quandary of tragic choices.

Still, I think we must feel that many would believe that the choice should be his, and he had every opportunity to state that decision for political asylum and that desire and that mere declaration in any language or as a grunt. I mean we really handle asylum cases, when they are asked in any language, "Do you want asylum," and you say "Uh huh" that is enough.

And that is the Haitians, that is the El Salvadorans, that is the Nicaraguans, whoever is fleeing persecution in the world. That is enough. You do not have to be literate. You do not have to be bright. You do not have to be anything except persecuted or with a well-founded fear of persecution based on race, religion, national origin, or relationship to a political or social association. That is asylum. There is nothing more to it.

Maybe we will go back. We left it in 1980. Maybe we will go back to saying that anyone from the Soviet Union or an Eastern bloc country is automatically entitled to asylum.

That is not the way it is now.

I think people should remember that that is the fine distinction we deal with here, and I just want to say that my friend, as we finish our investigation, I doubt very seriously that we are going to find anything here that would have said that the mere issue of the summit and the coming summit, that summit pressures were those that led our Government to dump him back into this fate that awaits him.

So I am ready to assist, and I wish to leave that impression not only in words but in action, and we will continue to pursue that, and I just wanted to share those thoughts with my colleagues on a very serious, tough issue, which again often generates a lot more heat than light and again one of those areas that I have been privileged to be able to chair in this place where I dabble with these types of things.

So thank you very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. SIMPSON]. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the provisions of Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) and Subtitle H of the Energy Security Act (42 U.S.C. 8286), I herewith transmit the eighth annual report on Federal Energy Conservation Programs undertaken during Fiscal Year 1984.

RONALD REAGAN.

THE WHITE HOUSE, *December 6, 1985.*

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 10, 16, 18, 19, 27, 47, 49, 55, 66, 73, 85, 109, 133, 137, 140, and 141 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 6, 9, 11, 20, 21, 23, 29, 30, 38, 39, 44, 50, 56, 57, 58, 61, 78, 79, 92, 100, 103, 111, 114, 118, 121, 122, 123, 127, 128, 134, and 138 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers of an abundance of food and fiber at reasonable prices, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Agriculture: Messrs. de la Garza; Foley; Jones of Tennessee; Rose; Bedell (on all matters except title VIII of the House bill and modifications thereof committed to conference); Panetta; Huckaby; Whitley (on all matters except subtitle A of title X, section 1022, section 1314, and subtitle C of tile XVIII, of the House bill and modifications thereof committed to conference, and section 1947 and title XX of the Senate amendment); Coelho; Madgan; Jeffords; Coleman of Missouri (on all matters except titles II, IV, V, IX, XVI, and XVII, and section 1862, of the House bill and modifications thereof committed to conference); Marlenee; Hopkins; and Stangeland.

In Lieu of Mr. Bedell solely for consideration of title VIII of the House bill and modifications thereof committed to conference: Mr. Hatcher.

In lieu of Mr. Whitley solely for consideration of subtitle A of title X of the House bill, and section 1314, and modifications thereof committed to conference: Mr. Stenholm.

In lieu of Mr. Whitley solely for consideration of section 1022 of the House bill and modifications thereof committed to conference: Mr. Bruce.

In lieu of Mr. Whitley solely for consideration of subtitle C of title XVIII of the

House bill and modifications thereof committed to conference: Mr. Volkmer.

In lieu of Mr. WHITLEY, solely for consideration of section 1947 of the Senate amendment: Mr. STALLINGS.

In lieu of Mr. WHITLEY, solely for consideration of title XX of the Senate amendment: Mr. BROWN of California.

In lieu of Mr. COLEMAN of Missouri solely for consideration of titles IX, XV, XVI, and XVII of the House bill and modifications thereof committed to conference: Mr. EMERSON.

In lieu of Mr. COLEMAN of Missouri solely for consideration of title II of the House bill and modifications thereof committed to conference: Mr. GUNDERSON.

In lieu of Mr. COLEMAN of Missouri solely for consideration of section 1862 of the House bill and modifications thereof committed to conference: Mr. MORRISON of Washington.

In lieu of Mr. COLEMAN of Missouri solely for consideration of titles IV and V of the House bill and modifications thereof committed to conference: Mr. ROBERT F. SMITH.

As additional conferees, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference: Mr. ENGLISH, Mr. STENHOLM, and Mr. ROBERTS.

As additional conferees from the Committee on Merchant Marine and Fisheries, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference: Messrs. Jones of North Carolina; Biaggi; Anderson; Oberstar; Hughes; Lowry of Washington; Lent; Snyder; Young of Alaska; and Davis.

As additional conferees from the Committee on Merchant Marine and Fisheries, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference: Messrs. Jones of North Carolina; Anderson; Breaux; Studds; Lent; Young of Alaska; and Fields.

As additional conferees from the Committee on Foreign Affairs, solely for consideration of title XI, sections 1025, 1421, 1423, 1431 of the House bill, title I, sections 903, 1932, 1943, 1949, and 1952 of the Senate amendment, and modifications committed to conference: Messrs. Fascell; Hamilton; Bonker; Gejdenson; and Kostmeyer (except subtitle D of title XI of the House bill and modifications committed to conference); MacKay (except subtitle D of title XI of the House bill and modifications committed to conference); Broomfield; Gilman (except subtitle D of title XI of the House bill and modifications committed to conference); Roth; and Bereuter.

As additional conferees from the Committee on Ways and Means, solely for consideration of sections 107(d), 108(b), 113, 1002, 1929, 1952, 1953 and 1955 of the Senate amendment and modifications committed to conference: Messrs. GIBBONS; JENKINS; DOWNEY of New York; CRANE; and FRENZEL.

ENROLLED BILL SIGNED

At 2:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1264. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2089. A communication from the Clerk of the U.S. Claims Court, transmitting, pursuant to law, a certified copy of the court's judgment in the case of *The Navajo Tribe of Indians* v. *The United States*, Docket Nos. 69 and 299; to the Committee on Appropriations.

EC-2090. A communication from the general counsel of the Department of the Treasury transmitting a draft of proposed legislation to amend the Tariff Act of 1930, and for other purposes; to the Committee on Finance.

EC-2091. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the inspector general of the Department of Transportation for the period ended September 30, 1985; to the Committee on Governmental Affairs.

EC-2092. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, actuarial reports on the judicial survivors annuities system and the judicial retirement system for the year ended December 31, 1984; to the Committee on Governmental Affairs.

EC-2093. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-106 adopted by the Council on November 19, 1985; to the Committee on Governmental Affairs.

EC-2094. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-107 adopted by the Council on November 19, 1985; to the Committee on Governmental Affairs.

EC-2095. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-108 adopted by the Council on November 19, 1985; to the Committee on Governmental Affairs.

EC-2096. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-109 adopted by the Council on November 19, 1985; to the Committee on Governmental Affairs.

EC-2097. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-110 adopted by the Council on November 19, 1985; to the Committee on Governmental Affairs.

EC-2098. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-111 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2099. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of DC Act 6-112 adopted by the Council on December 3, 1985; to the Committee on Governmental Affairs.

EC-2100. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period April 1, 1985, through September 30, 1985, from all the moneys appropriated to the Architect of the Capitol; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Report to accompany the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986 (Rept. No. 99-210).

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 3384. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. Res. 266. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1574; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims.

Mr. THURMOND. Mr. President, I am reporting H.R. 1890, a bill to provide for the equitable waiver in the compromise and collection of Federal claims. The bill was ordered to be reported favorably with minor amendments by the Committee on the Judiciary on November 21, 1985. Due to the fact that the first session of this Congress is imminent and we are most eager to pass this bill prior to adjournment, we have decided not to file a report. The committee does, however, agree with the recommendation and report submitted by the Committee on the Judiciary of the House of Representatives. The amendments added by our committee were recommended by the General Accounting Office and the Office of Management and Budget and are perfecting or stylistic in nature. I ask unanimous consent that letters from both agencies be printed in the RECORD following my statement.

Mr. President, in the last Congress I sponsored a private relief bill for 16 of my constitutents who worked at the Charleston Naval Shipyard. These individuals were requried to repay to the Government a portion of the per diem allowance they had received while on a long-term training program for the Navy. The Navy, through administrative error, had failed to reduce the allowance as required by a new regula-

tion. The Navy acknowledged its error, but because the law prohibits the waiving of travel and relocation claims, my constituents were forced to repay money the Navy had originally said they were authorized to spend. These 16 Charlestonians had to wait for 5 years before Congress could enact a private bill that granted them relief from their debts.

H.R. 1890, as amended, would alleviate this type of unnecessary hardship in the future by allowing for an equitable waiver for debts resulting from these unintended overpayments. Senator GRASSLEY, chairman of the Subcommittee on Administrative Practice and Procedure, should be commended for his assistance in preparing this needed legislation.

The legislation is supported by the General Accounting Office, the General Services Administration, and the Office of Management and Budget. H.R. 1890 has passed the House of Representatives by voice vote and has been reported by the Committee on the Judiciary without objection. I urge my colleagues to act swiftly on passing this noncontroversial legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington DC, November 20, 1985.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: The purpose of this letter is to express our suppport for H.R. 1890 which we understand is currently on the agenda of the Committee. The bill was introduced in the House at our request and was passed by the House on July 16, 1985. It was transmitted to the Senate and reported favorably by the Subcommittee on Administrative Practice and Procedures on November 7, 1985.

The bill is noncontroversial. Its purpose is to extend the existing waiver authority of the Comptroller General to allow waiver of collection of erroneous payments of travel, transportation, or relocation expenses to Federal employees. The existing law provides authority to waive collection of debts owed the United States arising out of erroneous payments of pay or allowances, when collection would be against equity and good conscience and not in the best interests of the United States. However, waiver may not be granted for erroneous payments of travel, transportation, and relocation expenses. The pending bill, H.R. 1890, would remedy this defect in the current statutes.

We believe that equitable claims arising from increasingly complex travel and relocation laws and regulations can best be resolved through the existing administrative procedures for waiving claims for overpayment of pay and allowances. The General Services Administration, which issues the Federal Travel Regulations, and the Office of Management and Budget have expressed their support for this legislation.

We strongly support H.R. 1890, and we urge the Committee on the Judiciary to report it favorably to the Senate.

Sincerely yours,

MILTON J. SOCOLAR
(For Comptroller General
of the United States).

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC., November 20, 1985.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to Mr. Wooten's informal request for the views of this office on H.R. 1890, "To provide for an equitable waiver in the compromise and collection of Federal claims."

The purpose of this bill is to extend administrative waiver authority to agency heads and the Comptroller General on collection of overpayments for Government employee travel, transportation and relocation expenses. The bill is retroactive to January 1, 1985, nearly a year ago. Although any effective date is necessarily arbitrary, we believe the bill should be prospective, so that it does not retroactively reach back to cover some past cases and not others.

Accordingly, we support enactment of H.R. 1890, provided it is amended as suggested above.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

● Mr. GRASSLEY. Mr. President, I would like to thank the chairman of the Judiciary Committee, STROM THURMOND, for his swift action on this bill, H.R. 1890. This is a measure which passed the House of Representatives on July 16, 1985 and was referred to the Subcommittee on Administrative Practice and Procedure, which I chair.

H.R. 1890 provides a more equitable and efficient procedure to remedy situations where the Government has erroneously made a payment to a Federal employee for travel, transportation, or relocation costs. Under current law, when a Federal employee is granted an overpayment for such expenses and relies on that payment in good faith, the responsible agency is barred from reviewing the circumstances to consider granting a waiver for the employee's liability. Waiver authority is, however, statutorily provided to the agencies for any other type of erroneous pay.

On November 7, the Subcommittee on Administrative Practice and Procedure voted 4 to 0 to favorably report H.R. 1890 to the Senate Judiciary Committee without amendment. The full Judiciary Committee, by voice vote on November 21, approved two amendments to H.R. 1890 and agreed to favorably report H.R. 1890, as amended, to the full Senate.

The approved amendments were offered in order to change the January 1, 1985 effective date to date of enactment so that H.R. 1890 would not be retroactive to an arbitrary date. The second amendment imposed merely grammatical changes recommended by the Comptroller General who oversees the agency waiver process.

I again thank the able chairman of the Judiciary Committee for his assistance and ask that the bill be approved.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself and Mr. CRANSTON):

S. 1907. A bill to amend the Securities Exchange Act of 1934 to impose additional restraints on corporate tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GORTON (for himself and Mrs. HAWKINS):

S. 1908. A bill entitled the "Consumer Lease and Lease-Purchase Agreement Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL:

S. 1909. A bill to require the Secretary of the Treasury to notify Congress with respect to actions taken relating to investment of the assets of the Social Security trust funds; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1910. A bill concerning inheritance claims by United States Nationals against Romania; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH, from the Committee on Labor and Human Resources:

S. Res. 266. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1574; to the Committee on the Budget.

By Mr. HUMPHREY (for himself, Mr. DIXON, Mr. GRASSLEY, Mr. KERRY, Mr. DENTON, Mr. RIEGLE, Mr. D'AMATO, Mr. LAUTENBERG, Mr. SYMMS, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. DECONCINI, Mr. ANDREWS, Mr. BAUCUS, Mr. HELMS, Mr. FORD, Mr. WALLOP, Mr. EAST, Mr. MCCLURE, Mr. HECHT, Mr. PROXMIRE, Mr. ARMSTRONG, Mr. HARKIN, Mr. HEFLIN, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. MOYNIHAN, Mr. GARN, Mr. HATCH, Mr. LONG, Mr. NICKLES, Mr. PRESSLER, Mr. STEVENS, Mr. BOREN, Mr. HEINZ, Mr. MITCHELL, Mr. MATTINGLY, Mr. SPECTER, Mr. ABDNOR, Mr. EXON, Mr. ZORINSKY, Mr. SARBANES, Mr. SIMON, Mr. EAGLETON, Mr. PRYOR, Mr. GLENN, Mr. BURDICK, Mrs. KASSEBAUM, Mr. ROCKEFELLER, Mr. MELCHER, Mr. BUMPERS, Mr. GORE, and Mr. WARNER):

S. Res. 267. A Resolution establishing a special panel on asylum; submitted and ordered to lie over under the rule.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. CRANSTON):

S. 1907. A bill to amend the Securities Exchange Act of 1934 to impose additional restraints on corporate tender offers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TENDER OFFER REFORM ACT

● Mr. D'AMATO. Mr. President, the Tender Offer Reform Act of 1985 is introduced in response to the public debate on corporate takeover activity which has been waged in earnest in Congress, the courts, corporate boardrooms and the SEC in recent years. This legislation addresses the many issues that have arisen from the increase in corporate takeover activity in the last 3 years. I would like to express my gratitude to my colleagues, especially Senators CRANSTON and METZENBAUM, for their participation in the hearings held on this subject and their counsel which provided great assistance in the drafting of this legislation. Further, I would appreciate their continued participation during the hearings that the Securities Subcommittee will conduct to examine this bill and other legislation proposals.

Within the last few years, contests for corporate control have become a more frequent phenomena on the American business scene. Once the private domain of a handful of investment bankers, lawyers, and corporate executives, control contests have become an increasingly popular spectator sport. The publicity surrounding several recent multibillion dollar acquisitions has familiarized the public with a glossary of new terms including, among others, golden parachutes, greenmail, bear hugs, shark repellants, poison pills, pac man defense, scorched earth defense, lock ups, leg ups, silver wheel chairs, crown jewels, and white knights. These terms have been used to described the various offensive and defensive tactics which may be employed to effectuate or prevent a change in corporate control.

Contests for corporate controls have been conducted with the intensity of military campaigns, with the futures of large and small companies and the economies of affected communities hanging in the balance. Elaborate strategies and ingenious tactics have been developed to facilitate takeover attempts and to defend against them. Skirmishes are fought in company boardrooms, in shareholders' meetings and, with increasing regularity, in the courts.

The "problems" attendant to takeovers are in the forefront of corporate law and have spawned much congressional inquiry. In hearings before the Securities Subcommittee of the Senate Banking Committee, the long-term effects of takeover activity on the credit and capital markets were examined. We also examined whether existing Federal regulation of the takeover process, the Williams Act, has maintained a balance between acquiring and target companies. Although the hearings were held several months ago, members of the committee have continued to expend considerable effort to develop an appropriate legislative response to the issues raised during those hearings and to the issues presented by recent court decisions affecting the application of the Williams Act.

During the committee's hearings and throughout our subsequent inquiry, the complexities attendant to the regulation of battles for corporate control have become apparent. For example, a tremendous divergence of opinion exists with regard to the threshold question: Is the Williams Act working? Some contend that Congress is compelled to act because the abusive tactics employed by raiders and defenders demonstrate a breakdown in the rules that govern corporate takeover activity. Others contend that the Williams Act is functioning properly and that few, if any changes are needed.

In devising an appropriate legislative response, several issues must be addressed. Foremost among them is determining the causes of the current increase in takeover activity and whether the causes are amenable to legislative solutions. In testimony received by the subcommittee, the increase in takeover activity was attributed to the depressed value of a target's stock price caused by international competition, a strong dollar, fluctuating interest rates, and declining rates of inflation; economic forces that have driven the restructuring of many U.S. industries rendering them susceptible to takeovers; the availability of credit to finance these transactions; the prevailing legal and business climate that permits combinations to take place with little risk of Government interference; and the advantages in the Tax Code that subsidizes debt over equity, thus encouraging the use of debt financing for acquisitions. If these are the causes of the recent increase in takeover activity, then amending the securities laws will not necessarily provide an appropriate legislative response.

Another possible solution would be to regulate the various offensive and defensive tactics employed in struggles for corporate control. There are numerous reasons why Congress should not attempt to ban specific tactics. Congressional prohibitions which preclude management from engaging in certain activities interject the Federal Government into the corporate decisionmaking process. Congress should be wary of needless intrusions into corporate boardrooms where it neither should feel comfortable, nor welcome. This is an area of regulation that traditionally has been left to State legislatures and to the application of the business judgment rule by State and Federal courts. Further, legislation which discourages takeover attempts necessarily interjects Congress into decisionmaking regarding the proper allocation of credit and capital. These decisions are best left to the efficiencies of the financial markets.

By addressing individual tactics, Congress also risks unbalancing the present legislative framwork to favor either bidders or targets. Any action which favors one group over another is at the very least an implicit judgment that tender offers are either good or bad—a judgment which we, like the authors of the Williams Act, should refrain from making. Moreover, congressional activity in such a rapidly evolving area of the law may be either premature, tardy, or totally unnecessary. Court decisions, shareholder actions, amendments to corporate charters and by-laws subject to shareholder approval, and stock exchange rules may provide adequate solutions to many of the concerns raised by those urging Congress to ban certain offensive and defensive tactics.

The testimony of the numerous witnesses was distinguished by the considerable expertise they provided to the committee and by their failure to agree on an appropriate regulatory response to the various offensive and defensive tactics employed in takeover battles. Despite this general disagreement, a consensus did emerge that the imperative objective of any amendments to the Wiliams Act must be to increase shareholder protections. The protections to shareholders intended by the act have been eroded by recent developments and legal interpretations of the rules governing the takeover process. Shareholder protection can be enhanced by making what may be considered procedural, rather than substantive changes to the Federal securities laws governing takeovers. Procedural changes to the regulation of takeover activity is entirely consistent with the legal framework of the Federal securities laws.

The determination of an appropriate legislative response to the issues addressed at the hearings of the Securities Subcommittee has been greatly influenced by the legislative history of the Williams Act. In 1968, Congress enacted the Williams Act to provide a framework for the regulation of corporate takeovers in the national marketplace. The Williams Act was designed to fill a gap in the securities statutes to ensure that investors and target companies had adequate information and opportunity to make investment decisions in transactions designed to

cause, or resist, a substantial shift of ownership away from existing securities holders. The Williams Act was not intended to discourage or encourage takeover activity or to provide management or any other group with special privileges or advantages over any other. The act was not designed to regulate the conduct of management or bidders or the tactics they employed to thwart or effectuate a takeover. The Williams Act sought to avoid tipping the scales either in favor of management or in favor of the bidder; to require full and fair disclosure to shareholders; to provide the bidder and management equal opportunity to present their case; and to ensure that shareholders had a fair opportunity to participate in a tender offer. We should not stray too far from these principles unless Congress is willing to make normative judgments concerning the appropriateness of corporate decisions.

The proposed amendments to the Williams Act contained in this legislation are consistent with the original intent of that act's authors. The proposed legislation modifies the act to ensure that it continues to protect investors and the public interest without placing undue impediments that thwart honest and lawfully conducted takeover transactions. Legitimate corporate takeover activity will not suffer by the enactment of this legislation. The modification of the disclosure requirements of sections 13 and 14 of the Exchange Act combined with the procedural modifications contained in the legislation will benefit investors and discourage pure financial plays.

Prudence dictated that we move cautiously in the development of a legislative response unless we are determined to impede the tender offer process. Legitimate tender offers, as distinguished from greenmail or financial plays, have a disciplining effect on incumbent management. Tender offers also provide economic benefits to the shareholders of a target who wish to participate in the offer. However, we found it a difficult task to impose restrictions on offers that may be considered pure financial plays without simultaneously impeding legitimate takeover activity. Moreover, restrictions on legitimate takeovers imposed by the Congress designed to reduce or eliminate takeover activity could deprive shareholders of potential opportunities to participate in an offer. The imposition of across-the-board restrictions on specific offensive and defensive tactics which would inhibit or promote such transactions involves Government interference in the free market's determination of credit and capital allocation.

Finally, it is not clear that substantive changes in the Federal securities laws governing tender offers would have any clear benefits for stockholders or for the economy at large. Contrary to claims that takeovers force corporate managers to sacrifice long-term investment planning for short-term profits, there has been no conclusive demonstration that tender offers are detrimental to the economy. Further, little conclusive evidence exists that demonstrates that tender offers have a disruptive effect on domestic credit and capital markets. There is evidence, however, which suggests that economic factors such as interest rates, inflation, the present structure of Federal corporate taxation, and consumer demands influence corporate planning to a far greater extent than the fear of corporate raiders. Therefore, it is preferable to allow individual companies to decide whether and how they want to acquire other companies or to protect themselves than to have the Federal Government impose rigid restrictions which govern corporate conduct during takeover battles.

Ideally, the legislation described below satisfies the objectives that the subcommittee intended to accomplish when it began its inquiry. Some critics will attack it as unresponsive to the needs of the beleaguered incumbent managements threatened by the specter of a hostile raider looming just beyond the horizon. Others will contend that the legislation represents an unwarranted Federal intrusion into the marketplace. They will contend that any regulation diminishes a shareholder's ability to reap the rewards to be gained from corporate raiders who claim that they are compelled to act out of concern for the shareholders' best interests and to promote economic efficiencies, rather than a desire for personal profit.

To these critics I would respond that neither this legislation, nor the Williams Act is designed to protect the jobs of incumbent managements or to ensure the success of a hostile offer by removing every impediment management may place in a raider's path. This legislation is not intended to benefit either target managements or bidders. The intended beneficiaries of this act are the shareholders affected by contests for corporate control. Shareholder protections will be enhanced by this legislation because it creates a more orderly process through which substantial portions of or entire corporations are bought and sold in the trading market.

The failure to accord this legislation expeditious consideration is needed to close a few loopholes in the William Act that its authors could not have envisioned at the time of enactment. This legislation is needed to ensure that shareholders will be able to make well informed investment decisions on the disposition of their holdings in a corporation subject to a takeover. Thus I strongly urge prompt and favorable consideration of this legislation by my colleagues. I ask unanimous consent that the explanation and analysis of the bill and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. This Act my be cited as the "Tender Offer Reform Act of 1985".

SEC. 2. (a) Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended—

(1) by striking out "shall, within ten days after such acquisition, send" and inserting in lieu thereof "shall cease to acquire additional shares of such class until the expiration of two business days after such acquisition (or such shorter period as the Commission may prescribe pursuant to paragraph (7)), and shall, within twenty-four hours after such acquisition, make a public announcement of such acqusition and send"; and

(2) by adding at the end thereof the following: "The public announcement required to be made within twenty-four hours of an acquisition described in this paragraph shall include disclosure of the purchaser's identity, the amount of securities of the class beneficially owned by the purchaser, the identity of the issuer of that class, a brief description of the purpose of such acquisition, and other information that the Commission may prescribe by rule, regulation, or order.".

(b) Section 13(d) of the Securities Exchange Act of 1934 is further amended by adding at the end thereof the following new paragraph:

"(7) The Commission, by rule, regulation, or order, in the public interest or for the protection of investors and taking into account the time required for the information filed to be properly disseminated, may reduce the time period during which any person subject to the requirements of paragraph (1) of this subsection is prohibited from acquiring ownership of any additional shares of the equity security that is the subject of the statement required by paragraph (1) and may, subject to such terms and conditions as may be prescribed therein, provide exemptions from that prohibition.".

SEC. 3. (a) Section 13(d)(3) of the Securities Exchange Act of 1934 is amended by inserting "voting," after "acquiring,".

(b) Section 13(g)(3) of the Securities Exchange Act of 1934 is amended by inserting "voting," after "acquiring,".

SEC. 4. (a) Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended—

(1) by striking out the heading of such section and inserting in lieu thereof the following:

"PROXIES AND TENDER OFFERS";

(2) by inserting "(A)" after "(1)" in subsection (d);

(3) by adding at the end of paragraph (1) of subsection (d) the following:

"(B) The person making an offer, request, or invitation subject to this paragraph shall prepare and furnish to security holders at the time the offer, request, or invitation is published, sent, or given to security holders a summary disclosure of—

"(i) the identity and background of such person and any affiliates or associates of that person participating in the offer, request, or invitation;

"(ii) the value of the offer, request, or invitation;

"(iii) the amount of such securities beneficially owned by the persons identified under clause (i);

"(iv) the source and amount of funds or other consideration used for the proposed acquisition of securities;

"(v) the purpose of the acquisition;

"(vi) any plans or proposals the person has regarding the future operations or structure of the issuer; and

"(vii) such additional information as the Commission may, by rule or regulation, prescribe as necessary in the public interest or for the protection of investors.

Such person shall make a public announcement if the person varies any of the terms required to be disclosed under this subparagraph before the expiration of the offer, request, or invitation.

"(C) The Commission may adopt such rules, regulations, and orders as may be necessary or appropriate in the public interest or for the protection of investors to—

"(i) implement the provisions or carry out the purposes of this paragraph;

"(ii) to define any term used in this paragraph;

"(iii) to exempt any person or transaction or class of persons or transactions, as not comprehended within the purposes of this paragraph, in whole or in part, either unconditionally or upon specific terms and conditions; or

"(iv) to prevent any person from evading or circumventing the provisions of this paragraph.";

(4) by striking out paragraphs (2) and (3) of subsection (d), by redesignating paragraph (4) of such subsection as paragraph (2), and by inserting after such redesignated paragraph (2) the following new paragraph:

"(3)(A) Any person making a tender offer for or a request or invitation for tenders of any and all of the outstanding shares of a class of voting securities shall hold such offer, request, or invitation open for a period of at least 30 calendar days from the date on which such offer, request, or invitation is first published, sent, or given to security holders. Any person making a subsequent tender offer, request, or invitation for tenders for any and all or less than all of the outstanding shares during the pendency of another tender offer, request, or invitation for tenders under this paragraph with respect to any of such shares shall hold such offer, request, or invitation open for a period of at least 20 calendar days except that the subsequent offer, request, or invitation shall not terminate before the 30th calendar day following the initial offer.

"(B) Any person making a tender offer or request or invitation for tenders for less than all the outstanding shares of a class of voting securities shall hold such offer, request, or invitation open for a period of at least 40 calendar days from the date on which such offer, request, or invitation is first published or sent or given to security holders. Any person making a subsequent tender offer, request, or invitation for tenders for any and all or less than all of the outstanding shares during the pendency of another tender offer, request, or invitation for tenders under this paragraph with respect to any of such shares shall hold such offer, request, or invitation open for a period of at least 30 calendar days, except that the subsequent offer, request, or invitation shall not terminate before the 40th calendar day following the initial offer, request, or invitation.";

(5) by redesignating paragraphs (5) through (8) of such subsection as paragraphs (4) through (7), respectively;

(6) by redesignating subsections (f) and (g) as subsections (l) and (m), respectively; and

(7) by inserting after subsection (e) the following new subsections:

"(f) During a tender offer for, or request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, other than an offer, request, or invitation by the issuer, it shall be unlawful for the issuer of such securities to enter into or amend, directly or indirectly, agreements containing provisions, whether or not dependent on the occurrence of any event or contingency, that increase, directly or indirectly, the current or future compensation of any officer or director, except that this provision shall not prohibit routine increases in compensation, or other routine compensation agreements, undertaken in the ordinary course of the issuer's business.

"(g) It shall be unlawful for an issuer to purchase, directly or indirectly, any of its securities at a price above the average market price of such securities during the 30 preceding trading days from any person who holds more than 5 percent of the class of the securities to be purchased and has held such securities for less than 6 months, unless such purchase has been approved by the affirmative vote of a majority of the aggregate voting securities of the issuer, or the issuer makes an offer to acquire, of at least equal value, to all holders of securities of such class and to all holders of any class into which such securities may be converted.

"(h) The Commission may, by rule, regulation, or order, in the public interest or for the protection of investors, provide exemptions, subject to such terms and conditions as may be prescribed therein, from any or all of the provisions of subsection (f) or (g).

"(i)(1) It shall be unlawful for any person, whether a third party or the issuer of a class of securities being sought, to make a tender offer for, or request or invitation for tenders of, any equity security of a corporation which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940. Unless—

"(A) the offer, request, or invitation is open to all security holders of the class of securities subject to the offer, request, or invitation, except that this subsection shall not apply to an offer, request, or invitation in which the offeror is not a United States resident or citizen and the tender offer does not employ any jurisdictional means enumerated in section 14(d)(1) of this title; and

"(B) in addition to the provisions of section 14(d)(7) of this title, the consideration paid to any security holder pursuant to the offer, request, or invitation is the highest consideration offered by such person to any other security holder at any time during such offer, request, or invitation, determined from the earlier of the date of public announcement or the date of commencement of the offer, request, or invitation, except that, in an offer, request, or invitation in which more than one type of consideration is offered—

"(i) the types of consideration must be substantially equivalent in value on the earlier of the date of public announcement or the date of commencement;

"(ii) in the event of an increase by the offeror in the consideration offered during the offer, request, or invitation, the types of consideration must be substantially equivalent in value on the date such increase is first offered to security holders; and

"(iii) the highest consideration of each type offered to any security holder must be paid to any other security holder accepting that type of consideration.

"(2) Paragraph (1) shall not apply to any offer for or request or invitation for tenders of any security which the Commission, by rule, regulation, or order exempts from the provisions of this subsection as not entered into for the purpose of changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

"(j)(1) During any 12-month period beginning on the date on which a person first acquires beneficial ownership of 20 percent of a class of (A) equity securities of a corporation which is registered pursuant to section 12 of this title, (B) equities security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or (C) equities security issued by a closed-end investment company registered under the Investment Company Act of 1940, or during any succeeding 12-month period, it shall be unlawful for any person to acquire, directly or indirectly, beneficial ownership of more than 2 percent of the outstanding shares of such a class of securities except by tender offer or request or invitation for tenders or by purchasers from the issuer.

"(2) Paragraph (1) does not apply in any case where—

"(A) the acquisition is involuntary, including any acquisition by gift, inheritance, or bequest, or by such similar transaction as the Commission may, by rule, regulation, or order, prescribe;

"(B) the acquisition is pursuant to a statutory merger or consolidation consummated under the laws of the issuer's state of incorporation; or

"(C) the Commission, by rule or regulation, or by order upon application, conditionally or unconditionally exempts any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of this subsection and any regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and consistent with protection of investors and purposes fairly intended by the policy and provisions of this subsection.

"(3) In determining, for purposes of this subsection, any percentage of a class of any security, section 13(d)(3) shall apply and any person, in determining the amount of outstanding securities of a class of equity securities, may rely upon information set forth in the issuer's most recent report filed with the Commission pursuant to this Act which contains information concerning the

amount of outstanding securities of such class of securities.

"(4) For purposes of paragraph (1), a person will not be deemed to beneficially own securities by virtue of participating in a syndicate or group formed for the purpose of the solicitation of any proxy, consent, or authorization pursuant to section 14(a).".

(b) Such section is further amended by adding at the end thereof the following:

"(k)(1) when two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, voting, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a 'person' for purposes of subsections (d), (e), (f), (g), (i), and (j) of this section.

"(2) For purposes of subsections (d), (g), and (j) of this section, in determining any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or any subsidiary of the issuer.".

SEC. 5. None of the amendments made by this Act shall be construed to limit or condition the authority of the Securities and Exchange Commission, in the public interest or for the protection of investors, to supplement the proration, withdrawal, and minimum offering periods applicable to a tender offer or request or invitation for tenders.

SEC. 6. (a) The Comptroller General, in coordination and consultation with the Securities and Exchange Commission, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the Secretary of the Treasury, and the Secretary of Labor shall study the issuance of and investment in high yield, noninvestment grade bonds during the 5 years prior to the date of enactment of this Act, including—

(1) the identity and rating (as determined by Moody's, Standard and Poor's, or other nationally recognized bond rating house) of the issuers of these bonds;

(2) the identity of the major purchasers of these bonds, including but not limited to federally insured depository institutions;

(3) the percentage of the total amount of high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(4) the identity of the purchasers including, but not limited to, federally insured depository institutions that invest in high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(5) the purposes for which high yield, noninvestment grade bonds are issued other than for financing corporate takeovers;

(6) a summary and analysis of the adequacy of current State and Federal laws that regulate investment in high yield, noninvestment grade bonds, by investors including, but not limited to, federally insured depository institutions and pension funds; and

(7) a review of the impact of the issuance of and investment in high yield, noninvestment grade bonds upon corporate debt as it relates to Federal monetary policy.

(b) In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) The Comptroller General shall transmit a report containing the results of the study under this section to the Congress not later than 120 days after the date of enactment of this Act.

EXPLANATION AND ANALYSIS

Section 1 of the bill states that the bill may be cited as the "Tender Offer Reform Act of 1985."

Section 2(a) amends the reporting requirements of section 13(d) of the Securities Exchange Act of 1934 (Exchange Act). Currently, under Section 13(d) of the Exchange Act, any person who acquires more than 5 percent of a class of equity securities of an issuer must, within 10 days after acquiring more than 5 percent, notify the issuer and file with the Securities and Exchange Commission (SEC) a statement containing certain information about the acquiror's background, the source and amount of funds used to make the acquisition, any intentions to acquire control of the issuer, and other information prescribed by statute or Commission rules.

Section 13(d) in its present form permits the notification and filing to occur as many as 10 days after the 5 percent threshold is exceeded. The 10 day threshold has frequently failed to supply stockholders, the trading markets, and the public with timely information about the identity and intentions of the purchaser. The 10 day interim filing period between the purchase of more than 5 percent and the reporting of the acquisition has been used to the unfair advantage by acquirors who continue to buy large amounts of securities before notifying the issuer, the SEC and the trading markets. Recent acquisitions demonstrate that the 10 day filing period allows an acquiror to gain controlling interest in a company before the company and the trading markets were notified of the acquisitions.

Section 2(a) eliminates the 10 day interim filing period by requiring that a person, who acquires more than 5 percent of a class of equity securities, publicly announce that acquisition and file the materials presently required by the Exchange Act with the SEC, the issuer and to each exchange upon which the security is traded within 24 hours of the acquisition. The acquiror is then precluded from acquiring additional securities of the same class for two business days after the acquisition that caused the acquiror's obligation to file the report, or such shorter period as the SEC may prescribe.

Section 2(a)(2) specifies the information that must be contained in the public announcement required by Section 2(a)(1).

Section 2(b) permits the SEC to exempt by rule, regulation or order certain acquirors from the terms and conditions of Section 2(a) if the SEC determines that such an exemption is in the public interest.

Section 3(a) and 3(b) are technical and amend sections 13(d)(3) and 13(g)(3) of the Exchange Act. Sections 3(a) and 3(b) apply the provisions of sections 13(d)(3) and 13(g)(3) of the Exchange Act to groups acting in concert for the purpose of voting securities. Although the statute currently applies to groups acting in concert for certain purposes, this section clarifies the application of the statute to groups acting in concert for the purpose of voting securities.

Section 4 amends Section 14 of the Exchange Act (Section 14 of the Exchange Act is commonly referred to as the Williams Act). Sections 4(a)(1) and 4(a)(2) are technical in nature.

Section 4(a)(3) adds a new provision to the Williams Act. This section is designed to effectuate the original purpose of the Williams Act by requiring that the shareholders of a company subject to a takeover receive adequate information of the offer in a comprehensible form. Under Section 14(d) of the Exchange Act, a person making a tender offer for, or a request or invitation for tenders of any class of any equity security registered pursuant to Section 12 of the Exchange Act must file certain information with the Commission and publish information for shareholders of the securities sought by the acquiror.

An examination of the materials that shareholders received pursuant to a tender offer demonstrated that, while these tender offer materials provided adequate disclosure in accordance with the technical requirements of the Williams Act and SEC regulations, the materials were often of little use to shareholders. The information contained in the tender offer materials received by shareholders is not easily comprehended by the average investor or in some cases by sophisticated investors and market professionals. In the absence of any clear explanation of the offer, investors must rely on information about the offer as provided by the media.

Although such a reliance may not be misplaced, the intent of the Williams Act was to ensure that shareholders received an explanation of the terms and conditions of an offer from the offeror. Although shareholders are literally bombarded with information about the offer, well linformed investment decisions are difficult where these tender offer materials prove incomprehensible.

Section 4(a)(3) resolves the shareholders' dilemma by requiring that an "executive summary" of the material terms and conditions of a tender offer be provided in addition to or included in the other tender offer materials received by shareholders. The information to be provided in this summary is described in the subsections (i)—(vii) of Section 4(a)(3). The acquiror must publicly announce any change of the information contained in subsections (i)—(vii). These provisions require that shareholders receive a brief explanation of the information similar to the information presently provided to the Commission pursuant to the requirement of Schedule 14D.

Subsection 4(a)(3)(ii) is specifically designed to address the issue of valuing the price of two-tier tender offers. The Committee has received testimony citing the potential confusion and the pressures experienced by shareholders confronted by a two-tier offer. This subsection is intended to require the bidder to provide information concerning its valuation of the "second step" of a two-tier offer and an explanation or accounting of the determination of the value ascribed to the "second step" payment where that payment is not an all cash offer.

Subsection 4(a)(3)(vi) is designed to address issues related to an acquiror's intentions to liquidate or merge the issuer or make any other change in its business or corporate structure. The acquiror would also be required to disclose its intentions to relocate material portions of the issuer's business activities, including its principal executive office and other major restructurings that would affect the issuer's management or employees. This provision does not require a statement of the effects of a change in corporate control upon the relevant community or communities. Therefore,

it should be viewed as a corporate impact statement rather than as a community statement.

Subsection 4(a)(3) is not designed to create a new legal cause of action in addition to those that presently exist under the disclosure provisions of the Exchange Act. It is designed to ensure that shareholders receive more adequate and useful disclosure of the terms and conditions of a tender offer and its effects on the target corporation.

Section 4(a)(4) amends section 14(d) by adding a new paragraph that extends the minimum offering period for tender offers. The minimum offering periods required by Section 4(a)(4) distinguish between tender offers for any and all outstanding shares of a company's stock and two-tier tender offers and an offer for less than all of the outstanding shares of a company's stock (partial offers). The minimum offering period for tender offers for any and all of a company's outstanding shares will be 30 calendar days. The minimum offering period for two-tier tender offers and partial offers will be 40 calender days. Under current SEC regulations, the minimum offering period for all tender offers is 20 business days. Section 4(a)(4) shall not apply to an issuer tender offer, if is not made in anticipation of or in response to another person's offer.

The extension of the minimum offering period is designed to benefit shareholders by providing them more time to consider and to assimilate information regarding a takeover attempt. The extension of the minimum offering period will also provide the SEC a greater opportunity to examine a tender offer prior to the termination of an offer and to determine whether the offer was made in compliance with the Williams Act. Hopefully, the extension of the minimum offering period will discourage the use of abusive defensive tactics by a target's management who often feel compelled to employ these tactics in an effort to buy time. The extension of the minimum offering period provides a target's management with a greater opportunity to solicit higher alternative bids. These higher bids and the higher premiums provide another benefit to shareholders.

The distinction between the 30 day minimum offering period provided for any and all offers and the 40 day minimum offering provided for two-tier and partial offers is justified due to the more complex nature of latter two types of bids. Given the terms and conditions of an any all offer, 30 calendar days should provide shareholders sufficient time to receive and consider tender offer materials and to make an informed investment decision. Given the notice to the market and target shareholders by the initial any and all bid, shareholders should have sufficient time to receive and consider these materials and to make an informed investment decision if the minimum offering period for a subsequent competing bid is 20 calendar days. The minimum offering period in Section 4(a)(4). Section 4(a)(4) also contains a provision that prevents the termination of a subsequent competing bid prior to the expiration of the initial offer.

By comparison, the terms and conditions of two-tier and partial offers present shareholders with more complex investment decisions. Current regulations under the Williams Act make little regulatory distinction between full, partial and two-tier offers. Witnesses appearing before the Committee argued that the use of two-tier and partial offers should be restricted or banned.

Opponents of two-tier and partial offers argued that these offers coerced shareholders into making investment decisions against their will. Others argued that partial offers provided positive economic effects and that two-tier offers provided shareholders of a target company higher premiums than offers with no second step. Moreover, empirical evidence provided to the Subcommittee demonstrated that the blended value of the premiums received in a two-tier offer were higher than premiums paid for cash offers. However, the reasons advanced by those advocating the equal treatment of any and all, partial and two-tier offers did not outweigh concerns with respect to the potentially coercive elements of partial and two-tier bids. Rather than prohibit the use of partial and two-tier offers, prohibitions inconsistent with the underlying legal philosophy of the Williams Act, the minimum offering period is extended to 40 calendar days. This extension should eliminate the more coercive elements of these offers by providing shareholders more time to evaluate the value of partial and two-tier offers and the consequences that participation in or a failure to participate in such offers would have on the value of their holdings. The distinction in the minimum offering periods between any, all and partial and two-tier offers operates as a regulatory disincentive against the use of partial and two-tier offers in contests for corporate control.

When a subsequent bid is made pursuant to an initial partial or two-tier offer, Section 4(a)(4) requires that the subsequent offer remain open for a minimum of 30 calendar days. Given the notice to the market and target shareholders by the initial bid, shareholders should have sufficient time to make an informed investment decision if the minimum offering period for a subsequent competing bid is 30 calendar days. The subsequent bid will not be allowed to terminate prior to the expiration date of the initial bid.

Section 4(a)(7) adds a new subsection (f) to Section 14(d) of the Exchange Act to prohibit the award of golden parachute agreements. (Present subsections (f) and (g) have been redesignated as subsections (l) and (m) respectively.) This provision prohibits an issuer, during a tender offer, from entering or amending agreements that increase directly or indirectly, the current or future compensation of any officer or director. The practice of awarding golden parachutes during the pendency of a tender offer presents the appearance of self-dealing by the management of a target company at the expense of its shareholders. The prohibition extends to provisions "whether or not dependent on any event or contingency." Thus, the prohibition affects termination agreements, large salary increases or stock options if they are precipitated by a tender offer.

This section neither prevents the hiring of new officers or directors, nor increases in compensation, if such actions resulted from an agreement pre-dating a tender offer. The prohibition does not apply to routine compensation agreements undertaken in the normal course of business. Golden parachute agreements adopted in the normal course of business that are disclosed to shareholders are not prohibited. Such agreements do not exemplify the type of abusive self-dealing the legislation would curb. Although recent amendments to the tax code discourage golden parachute payments by increasing the tax imposed upon them, additional legislation is required to prohibit golden parachute agreements adopted during a contest for corporate control.

Section 4(a)(7)(g) adds a new section (g) to section 14 of the Exchange Act. This section limits a corporation's ability to make greenmail payments. Greenmail constitutes a repurchase, at a significant premium, of a block of an issuer's stock held by a person threatening a takeover. The payment of greenmail is unfair to a company's shareholders because it unjustly rewards the recipient of the greenmail payment at the expense of the remaining shareholders. Such payments are in effect discriminatory offers that exclude a substantial majority of a company's shareholders. This section prohibits a company from purchasing its securities at a price above the average market price of the securities during the 30 preceding trading days from any person who has held more than 5 percent of its outstanding shares for less than 6 months. The payment of greenmail to a person covered by this section would be permitted upon the approval of a majority of the shareholders or the company's making an equal offer to its other shareholders.

Section 4(a)(7)(h) provides a new subsection (h) to Section 14 of the Exchange Act. This subsection authorizes the Commission to grant exemptions from new sections 14(f) and 14(g) of the Exchange Act. This section enables the SEC to use its exemptive authority to: (1) prevent unintended or inequitable results; (2) avoid the application of these sections to transactions which do not present the abuses or consequences that this legislation is designed to address; and (3) provide for flexible administration in a rapidly evolving area of the law, consistent with the SEC's investor protection mandate.

Section 4(a)(7)(i) provides a new subsection (i) to Section 14 of the Exchange Act. This section prevents the use of discriminatory tender offers by any person, including bidders and targets. This provision is a response to the recent decisions by the Delaware Court of Appeals in *Unocal Corp.* v. *Mesa Petroleum Company* and the Federal District Court for the Central District of California in *Unocal Corp.* v. *T. Boone Pickens.* At issue in both the Federal and Delaware litigation was the legality of Unocal's exclusionary tender offer. In the federal litigation, the issue was whether Williams Act prohibits exclusionary tender offers. In the Delaware litigation, Mesa Petroleum contended that the discriminatory exchange offer violated the fiduciary duties Unocal owed Mesa as a Unocal shareholder. The federal district court held that the Act does not impose an all holders requirement on bidders, stating that an all holders rule was substantive regulation of tender offers not intended by Congress. In rejecting the application of an all holders requirement, the federal district court cited the Commission's failure to adopt an all holders requirement that it had previously proposed. The court assumed that the Commission failed to act because the Commission either believed it lacked the authority to adopt such a rule or because it chose as a matter of policy not to do so. The Delaware court found that Unocal did not violate the fiduciary duties owed to Mesa since the execution of an exclusionary offer could be attributable to a rational business purpose. The court refused to substitute its views for those of the board.

These decisions address the scope of the Williams Act's coverage regarding the regu-

lation of contests for corporate control by questioning the SEC's authority to impose an all holders requirement on issuers. Section 4(a)(7)(i) eliminates any doubt with regard to the SEC's authority to promulgate rules in this area by imposing an all holders requirement and a best price provision upon bidders and issuers. The enactment of this section is not intended to suggest that the SEC lacks the authority to promulgate rules governing the conduct of tender offers. The SEC possesses the authority under sections 13(e), 14(d), 14(e) 23(a), 9(a)(6), 10(6) and 13(b) of the Exchange Act to promulgate rules in this area. However, the questions raised by the federal court's decision with regard to the applicability of an all holders requirement compel a statutory clarification of the scope of the Williams Act.

This provision facilitates the Williams Act's statutory purpose of investor protection because it precludes the making of tender offers to some shareholders while excluding others. It also precludes the making of an offer to all shareholders but at different terms. This provision is not a departure from the original intent of the Williams Act which was designed to favor neither the bidder nor the target. This provision increases investor protection by requiring that a tender offer must be extended to all holders of the class of securities subject to the offer and all such holders must be paid the highest consideration under the tender offer.

This provision is not intended to deprive management of an effective weapon which can be used to repel a takeover attempt. The legislation is intended to ensure that all shareholders have an opportunity to participate equally in a tender offer. This section prohibits both bidders and targets from conducting takeovers that exclude certain shareholders. This section is therefore not directed at certain offensive or defensive tactics. Rather, it is intended to ensure that all shareholders are accorded equal treatment under the Williams Act regardless of their identity, reputation or relationship with a bidder or a target.

Section 4(a)(7)(j) adds a new section 14(j) to the Williams Act that addresses the issues raised by large open market purchases that affect corporate control. The takeover contests between the Limited and Carter Hawley Hale Stores and Hanson Trust PLC and SCM Corporation are examples of large purchases that were determined not to constitute conventional or unconventional takeovers. In both cases, large percentages of a target's shares and the corresponding ownership interests were transferred in transactions that were not considered as conventional or unconventional tender offers and were therefore considered to be outside of the coverage of the Williams Act.

The SEC challenged the legality of the purchase program of Carter Hawley Hale and argued that the company's purchases constituted an unconventional tender offer. In *SEC* v. *Carter Hawley Hale Stores Inc.*, the court allowed the purchase of a large percentage of a target company's shares in a short time without requiring compliance with the Williams Act even where the purchase program was undertaken to defeat an offer conducted in accordance with that statute. The decision in *Hanson Trust PLC* v. *SCM Corp.* suggests that a bidder can begin a tender offer, thereby calling into play market forces that facilitate large accumulations of a target's stock, and then terminate the offer to take advantage of the market forces to purchase quickly an amount of stock in the open market that affects corporate control. This decision also suggests that an equal opportunity for shareholders to participate in tender offer transactions is not a goal of the Williams Act and that sophisticated investors do not need the protections of the Act. The decision demonstrates a fundamental failure of the court to comprehend the purpose of the investor protections provided by the Williams Act. This section and section 4(a)(7)(i) are designed to clarify any judicial misconstructions of the Williams Act. The Act is designed to treat all shareholders equally regardless of their level of sophistication and to ensure that all shareholders accorded the opportunity to participate in an offer at the same terms and for the same price.

Open market purchases that constitute unconventional tender offers merit regulation because a "purchaser" can effectively acquire contol of a corporation without paying the premium that usually accompanies such acquisitions. The shareholders are thereby denied the opportunity to realize a control premium. Further, some shareholders are either entirely excluded from participating in the purchase or prevented from having their shares taken up on a prorata basis as would be the case in a tender offer conducted in compliance with the Williams Act.

Section 4(a)(7)(j) limits the inequities suffered by shareholders in open market purchase programs that result in changes in corporate control by placing limitations on an acquiror's ability to acquire control by huge open market purchases that are not subject to the Williams Act. This section prohibits the acquisition of more than 2 percent in open market purchases of a company's outstanding securities in the calendar year after a person acquires beneficial ownership of 20 percent of a company's outstanding shares. The acquiror can continue to acquire 2 percent through open market purchases in each subsequent calendar year. Any acquisition above the 2 percent level in a calendar year once the 20 percent threshold has been reached can only be accomplished through a tender offer.

The 2 percent acquisition level is designed to permit acquisitions that are not substantial. Therefore, the requirements of this subsection do not apply to any acquisition or proposed acquisition when combined with all other acquisitions effected during the preceding 12 calendar months does not exceed 2 percent of the outstanding shares.

This section also contains exemptions that apply to: (i) acquisitions by gift, inheritance, bequest or other involuntary (ii) acquisitions by a statutory merger or combinaion consummated under the laws of the isser's state of incorporation; or (iii) any acquisition that the SEC by rule or regulation exempts in the public interest and consistent with the protection of investors. The exemptive language in this section and the other sections of the legislation grant the SEC the authority to exempt any transaction if the particular transaction will not change or influence control of the issuer or otherwise is not comprehended with the purposes of the Williams Act or the amendments to that Act contained in this legislation.

Section (4)(b)(k)(1) amends section 14 of the Exchange Act by defining persons for purposes of subsections (d), (e), (f), (g), (i) and (j) of Section 4(a) to include a group of persons, utilizing language similar to current section 14(d)(2). The statute thus makes explicit that the definition, which the Commission has interpreted as applying to current section 14(e), governs all tender offer provisions.

Section 4(b)(k)(2) provides that in determining for purposes of subsections (d), (g) and (j) of section 4(a), what constitutes a specified percentage of a class of any security, of the class shall be deemed to consist of the outstanding securities of the class, exclusive of securities held for the issuer or any subsidiary of the issuer.

Section 5 states that none of the provisions of the legislation limit the SEC's authority to supplement proration, withdrawal or minimum offering periods. The SEC has, and has exercised this authority under existing law.

The effective date of the legislation will be the date of enactment. The legislation does not apply to any tender offer that commences prior to the date of enactment.

Section 6 is intended to address the issues generated by the increased usage of high yield, non-investment grade bonds as a corporate finance technique. A great deal of publicity about the use of high yield, non-investment grade bonds has been generated by the use of these bonds to finance hostile corporate takeovers. Critics of the issuance of these bonds contend that they may not be suitable investments for the depository institutions, pension funds and other financial institutions that invest their assets through the purchase of these bonds. Supporters of high yield, non-investment grade bonds counter such criticisms by contending that: (1) the overwhelming majority of these bonds are used to finance corporate activity other than hostile takeovers; (2) these bonds have a significantly lower default rate than commercial bonds and other direct investments of the affected depository institutions; and (3) relatively few depository institutions are permitted to purchase these bonds and that these bonds have not eroded the safety and soundness of these institutions.

At present, several legislative proposals have been introduced that would curb investment in high yield, non-investment grade securities. Legislation that requires the imposition of these restrictions may ultimately prove necessary. However, attempts to develop an adequate legislative solution to curb investment in these bonds proved difficult due to a lack of information regarding the issuance of and investments in these bonds. Before restrictions are imposed that affect the issuance of and the investment in these bonds, further information is required.

The suitability of investments in high yield, investment grade securities by federally insured depository institutions will be specifically addressed in the Banking Committee's continued deliberations on federal deposit insurance reform. The regulation of investments in these bonds is more properly considered in the broader context of federal depository insurance reform rather than legislation that amends the Williams Act. At present, federal regulatory agencies possess the authority to supervise investment by federally insured depository institutions in such bonds. These federal agencies are empowered to restrict or prohibit any unsafe or unsound practices that would contribute to a weakness in an insured institution's financial condition. Prudence dictates that, before such investments are limited or prohibited and issuers suffer the unintended consequences of such restrictions, the breadth and depth of the market in high

yield, non-investment grade bonds be determined. Further, before legislation is enacted, Congress should consider expanding the scope of the supervision and enforcement powers of the regulatory agencies. Such an expansion of powers provides a more flexible approach to the regulation of investments in these securities. The information required in the Study mandated by Section 6 should provide Congress with timely and adequate data upon which to base its legislative deliberations.

Section 6 requires the Comptroller General, in coordination and consultation with the Securities and Exchange Commission, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the Secretary of the Treasury and the Secretary of Labor to study the issuance and investment in high yield, non-investment grade bonds for the 5 years prior to the enactment of this Act, including:

(1) the identity and rating (as determined by Moody's, Standard and Poor's or other nationally recognized bond rating house) of the issuers of these bonds;

(2) the identity of the major purchasers of these bonds including, but not limited, to federally insured depository institutions;

(3) the percentage of the total amount of high yield, non-investment grade bonds that are issued as a method of financing corporate takeovers;

(4) the identity of the purchasers including, but not limited to, federally insured depository institutions, that invest in high yield, non-investment grade bonds that are issued as a method of financing corporate takeovers;

(5) the purposes of which high yield, non-investment grade bonds are issued other than for financing corporate takeovers;

(6) a summary and analysis of the adequacy of current state and federal laws that regulate investment in high yield, non-investment grade bonds, by investors including, but not limited to, federally insured depository institutions and pension funds; and

(7) a review of the impact of the issuance of and investment in high yield, non-investment grade bonds upon corporate debt as it relates to federal monetary policy.

The Study will be submitted to Congress within 120 days after the date of enactment of this legislation.●

By Mr. GORTON (for himself and Mrs. HAWKINS):

S. 1908. A bill entitled the "Consumer Lease and Lease-Purchase Agreement Act"; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER LEASE AND LEASE-PURCHASE AGREEMENT

Mr. GORTON. Mr. President, today I am introducing, for myself and Senator HAWKINS, the Consumer Lease and Lease-Purchase Agreement Act. The purpose of this measure is to enhance the consumer protection provided to people who lease products for longer term leases, or for short term leases with options to buy.

That such additional protections are required has been amply demonstrated. During the last Congress, Senator HAWKINS, my predecessor as chairman of the Subcommittee on Consumer Affairs of the Banking Committee, held hearings which documented the abuses which have been present in this field. Although the majority of businessmen and women engaged in the consumer products renting and leasing field are honest and straightforward in their business dealings, an unscrupulous minority has taken unfair advantage of unaware consumers with lease and lease purchase contracts that can only be described as exploitative.

The corrective measures proposed in this bill revolve around disclosure. This measure is intended to compliment, not replace, Federal and State measures covering deceptive trade practices. This measure would:

Provide for a list of items which must be disclosed to the consumer, which has been modeled on the Truth in Lending Act disclosures;

Limit balloon payments which exceed the value remaining in the product at the end of the lease term; and

Impose certain standards on consumer lease and lease purchase advertising.

In addition, the statute is written so as not to preempt any State laws in this area, except in the narrow case of outright inconsistency between the State and Federal law. All protections afforded by the consumer under State laws remain in effect, even if—indeed, especially if—such protections are stronger than under Federal law.

Mr. President, I commend the distinguished Senator from Florida for the work she did on the Banking Committee in the last Congress on this proposal. These provisions were included in the omnibus banking bill passed by the Senate last year, although the House of Representatives did not take them up. I intend to work to see that the Senate passes the measure again this Congress, and within a timeframe sufficient to ensure that the House also will pass a bill.

Mrs. HAWKINS. Mr. President, I am pleased to introduce with my good friend, Senator GORTON, the Consumer Lease and Lease Purchase Act. The provisions of this legislation are substantially similar to those submitted by the Federal Reserve Board in 1983 which I introduced last Congress while chairing the Banking Subcommittee on Consumer Affairs.

Consumers, particularly lower income working people feel they can't obtain credit. They are renting household items such as furniture and television sets without being informed of the total costs they may incur. It has been estimated that the number of such agreements is growing by up to 15 percent per year. Hearings held before the Banking Subcommittee on Consumer Affairs in 1983, while I was chairman, revealed that consumers are afforded no protection from sharp lease purchase practices on the Federal level, and only spotty protection from the States. A consumer from Miami, FL told us that she had been enticed into entering into a "buy by renting" arrangement under which she would become the owner of a TV, retailing for $637.95 after making a total of $2,109.12 in weekly payments. But it was only after the consumer had made $1,000 in payments that she found out from Legal Services that she would be required to make the total of $2,109.12 in payments.

The bill we are introducing today simplifies leasing rules by applying principles used in the 1980 simplification of the credit provisions of the Truth in Lending Act. It will also provide safeguards to limit balloon payments which exceed the value of that remaining in the product at the end of the lease term—which was the problem my constitutent fell victim to in Florida. The bill also emphasizes disclosure to consumers of essential cost information in a straightforward manner. Thus, it substantially reduces both the number and the complexity of the data disclosed, concentrating instead on the information most likely to be used in shopping and decisionmaking. The bill will also impose certain standards on the advertising of consumer lease and lease purchasing agreements.

Mr. President, let me say that I am grateful to my colleague, Mr. GORTON, for his efforts and concern of this very important issue and I look foward to working with him on this legislation.

By Mr. MITCHELL:

S. 1909. A bill to require the Secretary of the Treasury to notify Congress with respect to actions taken relating to investment of the assets of the Social Security Trust Funds; to the Committee on Finance.

NOTIFICATION TO CONGRESS RELATING TO INVESTMENT OF ASSETS OF THE SOCIAL SECURITY TRUST FUNDS.

Mr. MITCHELL. Mr. President, I rise today to introduce legislation which will assure that Congress and the members of the Social Security Board of Trustees are notified whenever the Secretary of the Treasury is unable to fully invest the assets of the Social Security trust funds in the event of a future debt limit problem.

My bill will further require that the report include an estimate of any interest loss or gain which may result from such action under current economic assumptions in the President's budget, the CBO baseline, and the trustee reports. When the uninvested funds have subsequently been reinvested in long-term securities, the Secretary shall file a revised report on the interest loss or gain.

We are all aware of recent events involving the investment and redemption policies used by the Secretary of

the Treasury with regard to Social Security trust funds. Earlier this fall, the Subcommittee on Social Security held a hearing on the issue of the recent divestment of Social Security short-term and long-term bonds. At that hearing, members of the committee not only learned that Treasury had been cashing in substantial amounts of long-term bonds from the Social Security trust funds over the past 3 months, but learned that there was no requirement that Treasury notify Congress of its intention to disinvest these bonds.

Mr. President, I find it unacceptable that there is no requirement that Congress be notified by the Treasury when it intends to take action affecting the Social Security trust funds.

To what extent the Social Security trust funds will be affected by recent events will not be known until next June 30, when all of Social Security's short-term assets are rolled over into long-term bonds. Harry Ballantyne, Chief Actuary of the Social Security Administration, has analyzed the possible ramifications of the Treasury's actions, and has stated that the losses could among to as much as $800 million over the next 15 years.

During the Senate debate on the budget reconciliation bill in November, Senator MOYNIHAN offered an amendment which addressed the current crisis facing the Social Security trust funds due to the recent debt limit situation. Senator MOYNIHAN's amendment, which was unanimously accepted by the Senate, would restore the losses, including interest lost, from funds which were disinvested or not invested from the Social Security trust funds since September.

Senator MOYNIHAN's amendment also requires a 15-day prior notification to Congress and the Social Security trustees of any intention by the Secretary of the Treasury to disinvest or not invest Social Security trust fund assets due to the debt limit.

The bill I am offering today will expand upon the precedent established in Senator MOYNIHAN's earlier amendment, and assure that any future losses to the Social Security trust funds due to a debt-limit crisis will be reported in full to the Congress. I believe it is important to require that the Treasury keep the Congress and the Social Security trustees fully apprised of any future disinvestment of funds, including an accurate account of the amount of interest lost to the trust funds.

Mr. President, we have an obligation to protect the Social Security trust funds from being used for any other purpose except to finance Social Security benefits. We must be watchful of the actions of the Treasury with regard to Social Security funds in the future, and make sure that any unusual action taken by the Secretary is done so with the full knowledge of the Congress and the trustees.

I believe that the bill I am introducing today will significantly improve vital communications between the Congress and the Secretary of the Treasury. We in the Congress must be fully cognizant of the actions of the Treasury with regard to the proper use of Social Security funds. I urge my colleagues to support this legislation.

ADDITIONAL COSPONSORS

S. 827

At the request of Mrs. HAWKINS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 827, a bill to amend the Public Health Service Act to provide for the compensation of children and others who have sustained vaccine-related injuries, and for other purposes.

S. 1446

At the request of Mr. ANDREWS, the names of the Senator from California [Mr. WILSON], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1446, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war?

S. 1773

At the request of Mr. LEAHY, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Iowa [Mr. GRASSLEY], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 1773, a bill to express the policy of the Congress on the number of members of the Soviet mission at the U.N. headquarters.

S. 1818

At the request of Mr. DENTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1818, a bill to prevent sexual molestation of children in Indian country.

S. 1874

At the request of Mr. WEICKER, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1874, a bill to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Washington [Mr. GORTON], were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

SENATE JOINT RESOLUTION 196

At the request of Mrs. HAWKINS, the names of the Senator from California [Mr. CRANSTON], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 196, a joint resolution designating September 22, 1986, as "American Business Women's Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. MATHIAS, the name of the Senator from Ohio [Mr. METZENBAUM], was added as a cosponsor of Senate Joint Resolution 198, a joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine."

SENATE JOINT RESOLUTION 220

At the request of Mr. MATTINGLY, the names of the Senator from California [Mr. CRANSTON], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 220, a joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 235

At the request of Mr. DANFORTH, the name of the Senator from West Virginia [Mr. BYRD], was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week."

SENATE JOINT RESOLUTION 236

At the request of Mr. GORTON, the name of the Senator from Mississippi [Mr. STENNIS], was added as a cosponsor of Senate Joint Resolution 236, a joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. TRIBLE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the year of 1986 as the "Year of the Flag."

SENATE CONCURRENT RESOLUTION 78

At the request of Mr. BRADLEY, the name of the Senator from Pennsylvania [Mr. SPECTER], was added as a cosponsor of Senate Concurrent Resolution 78, a concurrent resolution in support of universal access to immunization by 1990 and accelerated efforts to eradicate childhood diseases.

AMENDMENT NO. 1183

At the request of Mr. BAUCUS, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 1183 proposed to S. 1884, a bill to amend the Farm Credit Act of 1971.

SENATE RESOLUTION 266—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HATCH, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 266

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1574, a bill to provide for public education concerning the health consequences of using smokeless tobacco products. Such waiver is necessary to permit the authorization of funds for fiscal year 1986 to carry out the responsibilities of the Secretary of Health and Human Services and the Federal Trade Commission under the bill and to enforce the provisions of the bill relating to the packaging and advertising of smokeless tobacco products.

SENATE RESOLUTION 267—ESTABLISHING A SPECIAL PANEL ON ASYLUM

Mr. HUMPHREY (for himself, Mr. DIXON, Mr. GRASSLEY, Mr. KERRY, Mr. DENTON, Mr. RIEGLE, Mr. D'AMATO, Mr. LAUTENBERG, Mr. SYMMS, Mr. BRADLEY, Mr. BOSCHWITZ, Mr. DECONCINI, Mr. ANDREWS, Mr. BAUCUS, Mr. HELMS, Mr. FORD, Mr. WALLOP, Mr. EAST, Mr. MCCLURE, Mr. HECHT, Mr. PROXMIRE, Mr. ARMSTRONG, Mr. HARKIN, Mr. HEFLIN, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. MOYNIHAN, Mr. GARN, Mr. HATCH, Mr. LONG, Mr. NICKLES, Mr. PRESSLER, Mr. STEVENS, Mr. BOREN, Mr. HEINZ, Mr. MITCHELL, Mr. MATTINGLY, Mr. SPECTER, Mr. ABDNOR, Mr. EXON, Mr. ZORINSKY, Mr. SARBANES, Mr. SIMON, Mr. EAGLETON, Mr. PRYOR, Mr. GLENN, Mr. BURDICK, Mrs. KASSEBAUM, Mr. ROCKEFELLER, Mr. MELCHER, Mr. BUMPERS, Mr. GORE, and Mr. WARNER) submitted the following resolution; which was ordered to lie over under the rule:

S. RES. 267

Resolved,

SEC. 1. (a) that there is hereby established a special panel of the Senate, which may be called, for convenience of expression, the Special Panel on Asylum, to conduct an investigation and study of the general problems of persons from Communist countries asking the United States for asylum, including recent instances involving such persons, and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in connection with such instances, and to determine whether in its judgment any occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new congressional legislation to safeguard the rights of any person asking the United States for asylum in the future.

(b) The special panel created by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the special panel shall not be taken into account.

(c) The special panel shall select a chairman and vice chairman from among its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the special panel during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the special panel or the chairman. Vacancies in the membership of the special panel shall not affect the authority of the remaining members to execute the functions of the special panel and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the special panel shall constitute a quorum for the transaction of business, but the special panel may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

SEC. 2. That the special panel is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in section 1(a). Without abridging or limiting in any way the authority conferred upon the special panel by the preceding sentence, the Senate further expressly authorizes and directs the special panel to make a complete investigation and study of the activities of any and all persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matters or questions:

(1) Whether current procedures for handling persons asking the United States for asylum adequately protect the rights of such persons.

(2) Whether any officer or employee of the United States violated any law of the United States or of any state or municipality in connection with the defection attempt of Miroslav Medvid, including, but not limited to 18 U.S.C. 241, 18 U.S.C. 242, 18 U.S.C. 1201, 18 U.S.C. 1505, 18 U.S.C. 2, 18 U.S.C. 3, 18 U.S.C. 371, or any other statute, regulation, or procedure promulgated pursuant to the laws of the United States, or any state law or local ordinance.

(3) Whether there have been any additional instances in which persons asking the United States for asylum have been returned to the Soviet Union or other Communist nations in violation of the laws of the United States or any state or municipality thereof, or any regulation or procedure promulgated thereunder.

(4) What changes in the laws of the United States should be adopted to more adequately protect the constitutional, statutory, and moral rights of persons asking the United States for asylum.

SEC. 3. (a) To enable the special panel to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the special panel as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses of any persons who the special panel believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm or corporation to produce for its consideration or for any use as evidence in its investigation and study any books, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpoena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm or corporation to produce before the panel any books, correspondence, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the special panel or its chairman deems that such action is necessary or appropriate to enable the special panel to make the investigation and study authorized and directed by this

resolution; (11) to have access through the agency of any members of the special panel, chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the special panel to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the special panel acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the special panel, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the special panel shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The special panel shall have authority to recommend the enactment of any new congressional legislation which its investigation considers is necessary or desirable to safeguard the rights of persons asking the United States for asylum.

SEC. 5. The special panel shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than one year after the effective date of this resolution. The special panel may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the special panel shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the special panel under this resolution shall not exceed $300,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special panel. The minority members of the special panel shall have one-third of the professional staff of the special panel (including minority counsel) and such part of the clerical staff as may be adequate.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATION, 1986

HOLLINGS (AND OTHERS) AMENDMENT NO. 1323

Mr. HOLLINGS (for himself, Mr. ZORINSKY, Mr. WEICKER, Mr. MATTINGLY, Mr. BUMPERS, Mr. HEFLIN, and Mr. RUDMAN) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 134 to the bill (H.R. 3424) making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for the fiscal year ending September 30, 1986, and for other purposes; as follows:

At the end of the amendment insert:

Notwithstanding any other provision of this Act, none of the funds appropriated in this Act may be made available to the National Endowment for Democracy.

APPLICATION OF ANTITRUST LEGISLATION TO INTERNATIONAL COMMERCE

DeCONCINI AMENDMENT NO. 1324

(Ordered referred to the Committee on the Judiciary.)

Mr. DeCONCINI submitted an amendment intended to be proposed by him to the bill (S. 397) to amend the Sherman Act and the Clayton Act to modify the application of such Acts to international commerce; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Foreign Trade Antitrust Improvements Act of 1985".

SEC. 2. Section 7 of the Sherman Act (15 U.S.C. 6a) is amended by—

(1) inserting "(a)" before "This Act"; and

(2) adding at the end thereof the following new subsection:

"(b) Whenever a motion to dismiss for lack of subject matter jurisdiction under this section shall be made in any action under the antitrust laws, the judge designated to hear and determine the case shall, except for good cause shown, hear and determine such motion, after such discovery or other proceedings directly related to the motion as the court deems appropriate, before conducting or permitting the parties to conduct any further proceedings in the action.".

SEC. 3. The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding after section 20 the following new section:

"SEC. 21. (a) Notwithstanding any other provision of the antitrust laws or any provision of any State laws similar to the antitrust laws, in any action brought by any person or State under the antitrust laws or similar State laws which involves trade or commerce with a foreign nation, the court shall enter a judgment dismissing the action as to all parties whenever it determines that the jurisdictional rule of reason requires such dismissal. In determining whether to dismiss the action, the court shall consider, as appropriate and without limitation except as provided in this Act, such factors as—

"(1) the relative significance, to the violation alleged, of conduct within the United States as compared to conduct abroad,

"(2) the nationality of the persons involved in or affected by the conduct,

"(3) the presence or absence of a purpose to affect United States consumers or competitors,

"(4) the relative significance and foreseeability of the effects of the conduct on the United States as compared with the effects abroad,

"(5) the existence of reasonable expectations that would be furthered or defeated by the action,

"(6) the degree of conflict with foreign law or foreign economic policies, and

"(7) the effect of the exercise of jurisdiction on international commerce.

"(b) Whenever a motion to dismiss pursuant to the jurisdictional rule of reason is made under this section, the court shall, after such discovery or other proceedings directly related to the motion as the court deems appropriate, and except for good cause shown, hear and determine such motion before conducting or permitting the parties to conduct any further proceedings in the action. The court shall notify the Attorney General upon the filing of any such motion and invite the views of the United States as to proper disposition of the motion.

"(c) If, in any action brought subsequent to the date of enactment of this section by any person or State under the antitrust laws or similar State laws and involving trade or commerce with a foreign nation, the Attorney General certifies to the court that the action will interfere with the conduct of the foreign relations of the United States, then the court shall enter a judgment dismissing the action as to all parties.".

SEC. 4. Section 12 of the Clayton Act is amended by—

(1) inserting "(a)" before "That suit"; and

(2) adding at the end thereof the following:

"(b) The doctrine of forum non conveniens shall be applicable in any suit, action, or proceeding under the antitrust laws that involves trade or commerce with a foreign nation, and nothing contained in this section or any other venue provision applicable to such suits, action, or proceedings shall be construed to prevent dismissal of such suits, actions, or proceedings on the ground of forum non conveniens.".

SEC. 5. The Clayton Act is amended by adding after section 4H the following:

"SEC. 4I. (a) Notwithstanding sections 4 and 4C, and in lieu of the relief provided for in such sections, and notwithstanding any provision of any State law providing damages for conduct similar to that forbidden by the antitrust laws, any person or State entitled to recovery on a claim under such section or provision shall recover (1) the actual damages sustained by such person or, in the case of a claim under section 4C, the total damage as described in subsection (a)(1) of such section, (2) interest calculated at the rate specified in section 1961 of title 28, United States Code, on such actual damages or the total damage as specified in subsection (d) of section 4 of the National Cooperative Research Act of 1984 (15 U.S.C.

4303(d)), and (3) the cost of suit attributable to such claim, including a reasonable attorney's fee, if such claim results from conduct occurring in the course of trade or commerce with a foreign nation and the court determines that—

"(A) the exercise of jurisdiction over the claim would be more consistent with the jurisdictional rule of reason if the claim were limited to actual damages or total damage as provided herein, and

"(B) the antitrust enforcement interest of the United States would not be substantially impaired if the claim were limited to actual damages or total damage as provided herein. In determining whether limiting the claim to actual damages or total damage renders the exercise of jurisdiction more consistent with the jurisdictional rule of reason, the court shall consider, as appropriate and without limitation except as provided in this Act, the factors specified in section 21(a) of this Act. In determining the effect of the limitation to actual damages or total damage on the antitrust enforcement interest of the United States, the court shall consider, as appropriate and without limitation except as provided herein, such factors as the nature of the violation claimed, the availability of governmental criminal or civil proceedings, the likely effect on the plaintiff's prosecution of the action if the claim is limited to single damages or total damage, and the existence of other private plaintiffs.

"(b) Whenever a motion to limit damages is made under this section, the court shall, except for good cause shown, hear and determine such motion, after such discovery or other proceedings directly related to the motion as the court deems appropriate, before conducting or permitting the parties to conduct any further proceedings in the action. The court shall notify the Attorney General upon the filing of any such motion and invite the views of the United States as to the proper disposition of the motion.".

● Mr. DeCONCINI. Mr. President, I am introducing today an amendment in the nature of a substitute to the Foreign Trade Antitrust Improvements Act of 1985, a bill designed to ameliorate the serious economic and political problems that can and do arise when the United States applies its antitrust laws to international trade and commerce. The amendment incorporates several clarifications and modifications to reflect the very useful testimony of the witnesses at the hearing on June 21, 1985, before the Senate Judiciary Committee and the consultations among interested parties that have taken place since the hearing. The modified bill that I introduce today was the subject of further hearings before the Senate Judiciary Committee on October 15, 1985, at which time it received the strong endorsement of leading U.S. business groups including the U.S. Chamber of Commerce and the Business Roundtable.

At the June 21 hearing, my proposed legislation was subject to thoughtful, extensive scrutiny by the representatives of the Departments of State and Justice, the international and antitrust sections of the American Bar Association, and the private international antitrust bar. In addition, written submissions were received from the Federal Trade Commission and the Bar Association of the City of New York. Finally, Mr. President, I have continued to receive formal and informal communications of support and constructive criticism from individuals in the business, governmental, academic, and private legal sectors, both in the United States and abroad. From all these sources, I drew many useful insights that were incorporated into the modified bill that was the subject of the October 15 hearing.

From everything I have heard, I think it is clear that there is strong and widespread agreement with my judgment that the Congress should act to reduce the conflicts between the United States and its trading partners over private antitrust enforcement. Reducing such conflicts is in the interests of the United States and of U.S. corporations doing business internationally, for reasons that I have set forth in my statements before this body on February 6, 1985, when I first introduced this legislation, and on February 27, 1985, when I shared with you the initial favorable reactions to the bill. Everything that I have been told strengthens my conviction that we are on the right track with this bill, that it is in fact long overdue, and that we should press forward to complete the legislative process and secure its enactment.

In my judgment, Mr. President, the bill that I reintroduce today solves the problems identified in the original bill and accommodates the legitimate concerns of the administration witnesses at the June 21 hearing—without in any way lessening the effectiveness of the bill. Indeed, as the strongly supportive testimony at the October 15 hearing confirms, the revised bill I introduce today is a better bill, not just a compromise. It is my hope and expectation that this new draft, as revised and clarified, will gain the active support of the administration. In this connection, it is my particular hope that the current review of antitrust legislation by the Cabinet councils on domestic and economic policy will cause the administration to focus on the problems addressed by my bill and the desirability of a solution along the lines that I have proposed.

The major modifications and clarifications in the Foreign Trade Antitrust Improvements Act of 1985 that I reintroduce today may be summarized as follows:

First, in sections 2(b), 3(b), and 5(b), providing for early judicial determination of motions based on the substantive provisions of these sections, I have adopted the suggestion of the Bar Association of the City of New York that while there should be a presumption favoring a stay of proceedings on the merits until these motions are decided, for good cause shown the court should be permitted to allow discovery on the merits to proceed during the pendency of the motion or motions. This change will reduce the temptation of defendants to file unmeritorious motions to dismiss or limit damages simply as a tactic to prevent the plaintiff from obtaining discovery on the merits that will be less effective if delayed—as where plaintiff faces the imminent loss of needed testimony or documents.

Second, several important changes have been made in the substantive provisions of section 3, providing courts with the authority to dismiss private antitrust damage actions that unnecessarily create international conflicts. To begin with, I have rephrased the operative jurisdictional test to rest explicity on the "jurisdictional rule of reason" that is well recognized even if not always applied, in American antitrust jurisprudence. This change has the advantage of making it clear that the bill's "balancing test" requires consideration not only of the foreign interests that may be affected by the private antitrust action but also the U.S. interest in promoting an efficient international trading system in which U.S. nationals engage in mutually beneficial commerce with foreign firms. This interest will be served by promoting the international system values inherent in the traditional concept of "comity," such as fairness to parties engaged in international trade, protection of justified expectations, efficiency in business decisionmaking and dispute resolution, and the like.

Next, I have purged the balancing test of any suggestion that the court, in applying the jurisdictional rule of reason should consider any foreign policy issues that are the exclusive province of the executive branch. This result has been accomplished by giving examples of the factors to be considered by the court in deciding whether to exercise jurisdiction over a private antitrust case involving international commerce. The factors specified are drawn principally from the Timberlane decision and Kingman Brewster's seminal discussion in 1958; excluded are the more "political" considerations added in Mannington Mills, as well as the too narrow formulations of the relevant foreign interests in the 1965 Restatement of U.S. Foreign Relations Law. I trust that this will satisfy the concerns of State and Justice over the judicial branch intruding into questions of foreign relations for which the executive branch is responsible.

Consistent with the foregoing clarifications, the role of the Attorney General in private antitrust cases affecting foreign national interests should be somewhat different from what was provided in the original draft of the bill. With the balancing test depoliticized and focused on the traditional

legal concept of comity, the court will not require the assistance of the Attorney General in applying the test. Such assistance should, however, be offered by the Justice Department as a matter of discretion more frequently than is now its practice, and the bill thus provides in section 3 for the court to invite the United States to express its views on motions to dismiss on comity grounds. On the other hand, where political foreign policy considerations dictate that jurisdiction should not be exercised, the executive branch should play the decisive role. In such a case what is required from the Attorney General is a certification that the executive branch has determined that the action will interfere with the conduct of U.S. foreign relations and ought therefore to be dismissed. A new subsection provides for such certification and dismissal.

Third, section 5, the detrebling provision, continues in the revised bill to perform the vital function of mitigating the impact on the international trading system of antitrust damage actions that raise substantial comity issues but do not quite meet the requirements for outright dismissal under section 3. Section 5 remains, therefore, a carefully limited step toward harmonizing the U.S. antitrust enforcement scheme with the competition laws of our trading partners and allies, who strongly object to our treble damage remedy. As redrafted, however, section 5 attacks the problem in a somewhat different way.

Revised section 5 contains, in addition to clarifying and conforming changes, two principal changes consistent with its basic purpose. One is that as redrafted, section 5 now provides that in considering detrebling the court should address the basic question of whether, even when it is reasonable for the court to permit the action to go forward, it is more reasonable that the action go forward only for compensatory, not punitive, damages. The factors that are relevant to determining whether the action would better satisfy comity requirements if it were detrebled are essentially the same factors that are relevant in applying the jurisdictional rule of reason, and the redrafted bill makes a cross-reference to section 3 at the appropriate point in section 5.

The other major change in section 5 is the addition of a new provision authorizing the court to refuse to detreble if to do so would substantially impair U.S. antitrust enforcement interests. Some of the factors bearing on this determination are specified in the text of the bill. I believe that limiting private antitrust actions to actual damages in cases raising substantial comity issues will, in the great majority of such cases, not significantly impair any U.S. enforcement interest, and I believe that in applying the specified factors and other appropriate considerations the courts will come to the same conclusion.

Fourth, the language of both sections 3 and 5 has been clarified to remove any possible doubt about the equal applicability of these sections to United States as well as foreign defendants. If an action is to be dismissed under the jurisdictional rule of reason, it is to be dismissed as to all defendants, United States as well as foreign. If the action is to be limited to single damages, it is to be so limited as to all defendants, United States as well as foreign. That was, I submit, the clear purport of the original text of the bill, but I am happy to put the question entirely to rest in this revision.

Let me mention one further technical point on this same subject, because the modification that I am about to note represents the one change in the bill that I introduce today as compared with the version that was the subject of the October 15 hearing. At the hearing the U.S. Chamber of Commerce drew attention to the fact that including the nationality of the parties as a factor to be considered in operating the jurisdictional rule of reason might in some cases enable a plaintiff to avoid a dismissal by omitting as defendants foreign corporations that were in fact involved in the conduct being challenged. I have dealt with this point by eliminating any reference to the nationality of "parties" and providing instead that the court should consider, among other things, the nationality of the "persons involved in or affected by the conduct" constituting the alleged violation—thus making it clear that it is the national connections of the persons or companies who engaged in the conduct about which the plaintiff complains, not the plaintiff's choice of defendants in the action, that is relevant to the court's determination as to whether to accept jurisdiction.

Mr. President, this last point about avoiding any possible discrimination against U.S. corporate defendants leads me to conclude by emphasizing the important benefits that will accrue to U.S. companies doing business internationally and thus to U.S. economic interests if the Foreign Trade Antitrust Improvements Act is enacted into law. At the present time, the overbroad exercise of U.S. jurisdiction in private antitrust cases subjects U.S. firms and their foreign subsidiaries and affiliates to added risks and unnecessary uncertainty about the legal consequences of their business conduct abroad. Moreover, United States "extraterritoriality" angers our trading partners and contributes to a climate of international opinion in which U.S. business interests are too often considered fair game for retaliatory or discriminatory legal action by foreign governments. And because the U.S. antitrust enforcement interest is so attenuated in so many of these cases, we get virtually nothing in return for all the trouble we cause ourselves. It is time for our courts to exercise a little judicial restraint in applying U.S. antitrust to international commerce, so that we do not unnecessarily burden U.S. companies' efforts to compete, for the good of the United States, in foreign and international markets.●

FURTHER CONTINUING APPROPRIATIONS, 1986

METZENBAUM (AND EVANS) AMENDMENT NO. 1325

Mr. METZENBAUM (for himself and Mr. EVANS) proposed an amendment to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986; as follows:

On page 29, line 15, strike all through page 31, line 2 and insert:

Except as otherwise provided in this item, all funds appropriated to the Energy Security Reserve are hereby rescinded. Funds so rescinded shall include all funds appropriated to the Energy Security Reserve by the Department of Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), and subsequently made available to carry out title I, part B, of the Energy Security Act by Public Laws 96-304 and 96-514, and shall be deposited in the general fund of the Treasury. This recission shall not apply to:

(1) funds transferred from the Energy Security Reserve by this Act;

(2) 500,000,000, which may not be used for payments with respect to projects or modules under the Energy Security Act; and

(3) such amounts as may be necessary to make payments for projects or modules for which obligations were entered into under title I of the Energy Security Act before the date of enactment of this Act.

DODD (AND OTHERS) AMENDMENT NO. 1326

Mr. DODD (for himself, Mr. CRANSTON, Mr. PROXMIRE, Mr. KERRY, Mr. FORD, Mr. SASSER, Mr. LEVIN, Mr. LAUTENBERG, Mr. EXON, Mr. KENNEDY, Mr. RIEGLE, Mr. HEINZ, Mrs. HAWKINS, Mr. HART, Mr. GLENN, Mr. SARBANES, Mr. HARKIN, Mr. INOUYE, Mr. SIMON, Mr. MATSUNAGA, Mr. ANDREWS, Mr. DECONCINI, Mr. GRASSLEY, Mr. LEAHY, Mr. DIXON, Mr. D'AMATO, Mr. BUMPERS, Mr. MELCHER, Mr. BIDEN, Mr. QUAYLE, Mr. BRADLEY, Mr. BAUCUS, Mr. BINGAMAN, Mr. BURDICK, Mr. EAGLETON, Mr. GORE, Mr. JOHNSTON, Mr. METZENBAUM, Mr. PELL, Mr. PRYOR, Mr. ROCKEFELLER, Mr. KASTEN, Mr. MATTINGLY, Mr. SPECTER, Mr. WEICKER, Mr. SYMMS, Mr. MITCHELL, Mr. BOREN, Mr. DURENBERGER, Mr. PRESSLER, Mr. MOYNIHAN, Mr. RUDMAN, and Mr. MURKOWSKI) proposed an amendment to the

joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sale to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, (submitted to the Congress on October 21, 1985), shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

DECONCINI AMENDMENT NO. 1327

Mr. DECONCINI proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds available to the Bureau of Indian Affairs for the construction of housing on lands acquired pursuant to section 11(d) of Public Law 93-531, as amended, shall be expanded until a report is submitted to the House and Senate Committees on Appropriations detailing the proposed uses of such funds on the lands acquired pursuant to section 11(d) of Public Law 93-531.

In addition to plans for housing, the report shall include a description of other services intended to be provided including, but not limited, to water, sewers, roads, schools, and health facilities. If such services are not to be provided the report shall describe alternative services available. The report shall further identify the proposed sites to which households will be relocated, including the distance from the Joint Use Area to such sites.

The report shall be submitted no later than January 15, 1986, by the Navajo and Hopi Indian Relocation Commission with the concurrence of the Secretary of Interior.

RUDMAN (AND HATCH) AMENDMENT NO. 1328

Mr. MCCLURE (for Mr. RUDMAN, for himself and Mr. HATCH) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution insert the following:

SEC. . None of the funds appropriated in this Act or any other Act to the Legal Services Corporation and made available to grantees may be expended by any recipient of such funds until such recipient has expended all funds carried over from previous fiscal years, unless the failure to expend the funds carried over from previous fiscal years has been approved by the Legal Services Corporation.

FORD (AND MCCONNELL) AMENDMENT NO. 1329

Mr. HATFIELD (for Mr. FORD, for himself and Mr. MCCONNELL) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill, insert the following:

For purposes of this joint resolution, the following matter shall be deemed to be inserted before the period on line 23 of page 14 of H.R. 3011, as reported by the Senate Committee on Appropriations on September 24, 1985, shall be deemed to read as follows: ": *Provided further*, That $2,000,000 shall be available to assist local communities to protect Mammoth Cave National Park from groundwater pollution: *Provided further*, That the National Park Service share of the Mammoth Cave protection project shall not exceed 25 per centum".

BRADLEY (AND OTHERS) AMENDMENT NO. 1330

Mr. BRADLEY (for himself, Mr. KASTEN, Mr. INOUYE, Mr. HATFIELD, Mr. SIMON, Mr. GORTON, Mr. RIEGLE, Mr. MOYNIHAN, Mr. STAFFORD, and Mr. LAUTENBERG) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diptheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal by universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

BINGAMAN AMENDMENT NO. 1331

Mr. MCCLURE (for Mr. BINGAMAN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following:

SEC. . The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation and cooperation with the Secretary of Health and Human Services and the Secretary of Education, shall develop and begin implementation of a program which provides instruction in health promotion and disease prevention to juvenile Indians enrolled in schools operated by, or on behalf of, the Bureau of Indian Affairs.

HATFIELD AMENDMENT NO. 1332

Mr. MCCLURE (for Mr. HATFIELD) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

KERR LAND ACQUISITION

At the end of the bill insert the following new section:

"Notwithstanding any other provision in this joint resolution, there shall be appropriated $33,170,000 for land acquisition of the United States Fish and Wildlife Service, Land and Water Conservative Fund, within the Department of the Interior and $17,425,000 for land acquisition of the United States Forest Service, Land and

Water Conservation Fund, within the Department of Agriculture."

BAUCUS (AND CHAFEE) AMENDMENT NO. 1333

Mr. McCLURE (for Mr. BAUCUS, for himself and Mr. CHAFEE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution insert the following:

SEC. . None of the funds provided in this Act may be used to establish new grizzly bear populations in any unit of the National Park System or the National Forest System where no verified grizzly bear population currently exists. None of the funds provided in this Act may be used for augmentation in occupied areas of grizzly bear habitat unless an augmentation plan has been developed and made available for public review and comment in full compliance with the National Environmental Policy Act by all participating federal agencies: *Provided*, That it is not intended to prohibit the preparation of proposals to augment existing grizzly bear populations in occupied grizzly bear habitat: *Provided further*, That such augmentation may be conducted only with funds specifically identified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: *Provided further*, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

McCLURE AMENDMENT NO. 1334

Mr. McCLURE proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution add the following:

SEC. . Notwithstanding any other provision of this joint resolution $186,433,000 is appropriated to the Forest Service for reforestation, timber stand improvement, cooperative law enforcement and maintenance of forest development, roads and trails, to remain available until September 30, 1987.

PRESSLER AMENDMENT NO. 1335

Mr. McCLURE (for Mr. PRESSLER) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill, insert the following new section:

Notwithstanding any other provision in this joint resolution, none of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on federal lands until the Secretary has received the National Academy of Science's report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences report with the proposed regulations of the Department of the Interior.

BUMPERS AMENDMENT NO. 1336

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the joint resolution insert:

"No funds appropriated under this act for the Strategic Defense Initiatives Program shall be earmarked by any agency of the U.S. Government or any contractor exclusively for contracts with non-U.S. contractors, subcontractors, or vendors, or exclusively for consortia containing non-U.S. contractors, subcontractors, or vendors prior to source selection in order to meet a specific quota or allocation of funds to any Allied nation. *Furthermore*, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award SDI contracts to U.S. contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: *Provided further*, that allied nations should be encourage to participate in the SDI research effort on a competitive basis and be awarded contracts on the basis of technical merit."

GORTON AMENDMENT NO. 1337

Mr. McCLURE (for Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following:

SEC. . Notwithstanding any other provision of law, to satisfy an outstanding judgment against the Seattle Indian Health Board resulting from termination of its occupancy of the Kobe Park building in Seattle, Washington, $180,000 shall be provided from the unobligated balance available to the Indian Health Service from prior years' appropriation. Such payment shall be made only if the owners of the Kobe Park Building Company accept the sum named as full satisfaction for current or future claims against the Seattle Indian Health Board and the individual members of the Board.

SIMON (AND OTHERS) AMENDMENT NO. 1338

Mr. SIMON (for Mr. MATHIAS, Mr. KERRY, and Mr. BINGAMAN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, of the funds made available to the Department of Defense for fiscal year 1986 for research, development, test, and evaluation, Air Force, $5,000,000 shall be available only for the purpose of carrying out a research program to develop new and improved verification techniques to monitor compliance with any anti-satellite weapon agreement that may be entered into by the United States and the Soviet Union.

BINGAMAN (AND WILSON) AMENDMENT NO. 1339

Mr. BINGAMAN (for himself, Mr. WILSON, Mr. DOMENICI, and Mr. CRANSTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the total amount appropriated for the Defense Agencies of the Department of Defense for research, development, test, and evaluation to carry out the joint Department of Defense-Department of Energy conventional munitions technology development program is $10,000,000.

EXON (AND OTHERS) AMENDMENT NO. 1340

Mr. EXON (for himself, Mr. DOLE, Mr. ZORINSKY, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. COHEN, and Mr. MITCHELL) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) Striking out "September 30, 1984" and inserting in lieu thereof "June 30, 1986"; and

(2) Adding at the end thereof the following: "The Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Enactment of this Section shall not be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act."

WILSON (AND CRANSTON) AMENDMENT NO. 1342

Mr. WILSON (for himself and Mr. CRANSTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Insert where appropriate:

The Secretary shall include as part of the non-Federal contribution of the project for flood control, Fairfield Vicinity Streams, California, authorized in accordance with section 201 of the Flood Control Act of 1965, the cost of any work carried out by non-Federal interests on the project after December 31, 1973, and before the date of the enactment of this Act, if the Secretary determines such work is reasonably compatible with the project. Costs and benefits resulting from such work shall continue to be included for purposes of determining the economic feasibility of the project.

GORTON (AND OTHERS) AMENDMENT NO. 1341

Mr. GORTON (for himself, Mr. SASSER, Mr. QUAYLE, and Mr. EVANS) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in this joint resolution, insert the following: Notwithstanding section 101 of this resolution, the amount appropriated for "Other procurement, Army" is $5,214,730,000.

PELL AMENDMENT NO. 1343

(Ordered to lie on the table.)

Mr. PELL submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill add "for FY 1986 there are appropriated $9,476,875 for United Nations Environmental Program.

● Mr. PELL. Mr. President, I offer an amendment to increase the appropriations for the United Nations Environment Program to the level contained in the Foreign Assistance Authorization Act for this year.

Since 1979, Congress has funded UNEP at approximately the $10 million level. This has enabled UNEP to carry out key programs in the area of decertification, biological diversity, monitoring of chemical hazards, and international environmental law.

The cut contained in this continuing resolution would do serious damage to UNEP's ability to carry out these programs and to U.S. standing within UNEP.

Americans have been moved this year by the terrible toll that famine has taken on the people of Africa. Contributions from private American citizens have exceeded $100 million while U.S. Government has contributed more than one-quarter of a billion dollars. The African famine is fundamentally an environmental problem. It is pennywise and pound foolish for us to cut the one effective international environmental organization while expending hundreds of millions on emergency humanitarian assistance.●

WALT DISNEY RECOGNITION DAY

DOLE AMENDMENT NOS. 1344 AND 1345

Mr. DOLE proposed two amendments to the joint resolution (H.J. Res. 377) to designate December 5, 1985, as "Walt Disney Recognition Day"; as follows:

AMENDMENT No. 1344

On page 2, line 3, strike out "1985" and insert in lieu thereof "1986".

AMENDMENT No. 1345

The preamble is amended by amending the first 2 clauses to read as follows:

Whereas in 1986 there occurs the 31st anniversary of the founding of Disneyland; and the 15th anniversary of the founding of Disney World;

Whereas December 5, 1986, is the 85th anniversary of the birth of the founder of Disneyland and Disney World, Walter Elias Disney.

RELIEF OF MERCHANTS NATIONAL BANK OF MOBILE, AL

DENTON (AND HEFLIN) AMENDMENT NO. 1346

Mr. DOLE (for Mr. DENTON, for himself and Mr. HEFLIN) proposed an amendment to the bill (S. 593) for the relief of the Merchants National Bank of Mobile, AL; as follows:

On page 2 line 7 delete "(a)".

On page 2 delete lines 11 through 17.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that there will be a meeting of the Committee on Rules and Administration at 3:30 p.m., on Tuesday, December 10, 1985, in room EF-100, the Capitol, to consider executive and administrative business items currently pending on the committee's agenda.

The committee will be meeting to consider the nomination of Ralph E. Kennickell, Jr., of Virginia, to be Public Printer of the United States, to which position he was appointed during the last recess of the 98th Congress (December 11, 1984). Also scheduled is the selection of a vendor to provide a new telephone system for the Senate, and the consideration of a proposed amendment to the mass-mail regulations which would provide for reporting the cost on a quarterly basis of mass-mailings by each committee, leadership office, party conference, officer of the Senate, and other senatorial offices.

For further information regarding this business meeting, please contact Carole Blessington of the Rules Committee staff at 224-0278.

ADDITIONAL STATEMENTS

TRIBUTE TO SENATOR GOLDWATER

● Mr. HATCH. Mr. President, I would like to bring to the attention of the Senate a speech which was given by DeRoy Murdock in honor of our distinguished colleague Senator BARRY GOLDWATER. His remarks are certainly an extension of our admiration for the outstanding service that Senator GOLDWATER has given to the Senate and our Nation as a whole.

Mr. Murdock is a senior at Georgetown University and is the chairman of Free Students of America. For several years he has worked as an intern on my staff. I know of his abilities and his desire to help this country achieve its highest goals. Even as a college student, he is emerging as leader in our Nation. I hope that my fellow Senators will take the opportunity to read this speech.

The speech follows:

STATEMENT OF DEROY MURDOCK AT THE HERITAGE FOUNDATION'S TRIBUTE TO SENATOR GOLDWATER

Thank you Ladies and Gentlemen.

As I was thinking about this evening, I happened to remember the first time I saw Senator Barry Goldwater. I was just a 17 year old kid visiting Washington for the first time to witness a very special occasion: the Inauguration of Ronald Reagan as President. A couple of days after the Inaugural, I went to Capitol Hill to see the Senate in action. You can imagine my naivete. I anticipated seeing perhaps not 100 but at least 95 U.S. Senators very cordially sitting at their desks pondering and debating America's affairs of state.

So, I was quite disappointed to see there were only three Senators on the floor. Senator Stennis was arguing for increased military spending. Strom Thurmond was there, and so was Senator Goldwater who sat at his desk, with his hands folded as he listened to Senator Stennis' every word.

It then occurred to me that as busy as Senator Goldwater was, he still took time out of his schedule to show his support for a colleague across the aisle who was as concerned as he was about America's defense. Barry Goldwater made sure that John Stennis did not stand alone on the Senate floor that afternoon. As I pondered my first visit to Washington nearly five years ago to share in Ronald Reagan's inaugural, I was struck by the fact that I might likely not have made that trip had it not been for Senator Goldwater's crusade for principle as he sought the Presidency just one year after I was born. Barry Goldwater was guided by Richard Weaver's famous words, "Ideas have consequences." But he understood that the consequences are greatest when those ideas are put into action. Barry Goldwater challenged America's thinking by showing that growing government at home and shrinking freedom abroad were not the only answers. There was an alternative to the status quo based on philosophical principles and sound judgement stemming from reflection and, of course, common sense.

Though Senator Goldwater's initiative did not lead to victory in the narrowest sense of the word in 1964, we conservatives did not lose. As I was learning to walk and talk in Los Angeles, conservative activists, thinkers, and financiers were busy organizing to hold high the mantle of conservatism and prepare it for battle once again. When the battlefield shifted to California in 1966, conservatives were there, and they succeeded in their quest for virtue. They were successful there four years later. Through the 70's we built our strength in Congress and in the statehouses. 1976 did not go as we wished, but it brought about the dark ages of Jimmy Carter which did more to discredit the liberal mindset than a power failure at an Americans for Democratic Act convention. Finally, in 1980, in the first campaign in which I fought, we conservatives were able to get one of our own into the White House. The point is, Senator Goldwater, that in their hearts Americans knew you were right, but it just took them a while to do something about it!

As a member of the Third Generation of American conservatives, I must express my gratitude to Senator Goldwater for setting us on the path which has gotten us this far. Here we gather this evening, nearly 1000 conservatives (and a few members of the media, whatever they think. If they do). We

have not had to be scraped together from right-wing cells in the hinterland. We are the men and women who are opinion leaders and decision makers guiding the destiny of this nation. That is truly quite an achievement and for this we must all say, "Thank you, Barry Goldwater."

But where do we go from here? If I could resort to Greek mythology for a moment, our situation today reminds me of that poor old Greek, Sysiphus. Punished by the gods, he had to push a huge rock to the top of a hill only to see it roll back to the bottom. Sysiphus shoved the rock back up the hill, only to see the boulder tumble back down. This was to continue for eternity.

And for what must have seemed an eternity, we conservatives continuously fought liberalism, defeatism, isolationism and pessimism with the same frustrating lack of results which plagued Sysiphus. But Senator Goldwater and the First Generation of American conservatives were able to take the tumbling rock of the welfare state and international surrender and actually suggest that that rock need not always roll back down upon us. These men and women showed us that in fact we could defy gravity. By running against the odds, Barry Goldwater proved to be the quintessential optimist against defeatism of liberalism. He taught us that conservatives have faith in tomorrow while liberals are busy defending yesterday.

The Second Generation of American conservatives, with the help of Ronald Reagan, has been able to push the rock back up the hill, thus stymying the disaster we have known as liberalism.

The rock now lies on the top of that hill in a very unstable state of inertia. It is the task of the Third Generation, my generation of American conservatives, to take that liberal, statist, big taxing, big spending, pessimistic, gloomy and dusty rock and push it down the other side of the hill and back into the abyss where it belongs.

We must push hard to make Washington, D.C. a source of delight for tourists and depair for taxpayers. Just for laughs, we would love to put a couple of Federal Departments out of business.

And now that the forward march of Communism across the globe has been halted and indeed reversed, as Barry Goldwater a generation ago told us that it must be, it is the goal of the Third Generation to push the rock of Communist and Leninist tyranny down the hill and into the muck from which it erupted in 1917. We must push hard until eventually the Heritage Foundation and other conservative groups can open offices to advise the free governments in democratic Havana, democratic Budapest, democratic Prague, democratic Hanoi, democratic Phnom Penh, democratic Luanda, democratic Kabul, and democratic Managua! And I don't think it is too bold, ladies and gentlemen, to predict that someday we may even see tax cuts in liberated Moscow!

It must also be the task of the Third Generation to challenge the basic assumptions of the American people on issues of public policy. I believe sincerely that for us to affect everlasting change in America we need to do much more than just tinker with the budget a bit, or pass random pieces of legislation, important as these activities are. If we are truly going to fulfill our legacy from Barry Goldwater and leave our stamp on this nation as he has, we will have to engineer paradigm shifts in America's thinking.

For instance, the posturing and competition between the U.S. and the U.S.S.R. must seem entirely puzzling if an American does not see any significant differences between our two nations. Indeed things like America's defense buildup and our need ultimately to free the Soviet Empire will only make sense once the American public realizes that the Soviet Union is not morally equivalent to the United States but indeed is the moral equal of the Third Reich.

This combined effort of steamrolling in the opposite direction now that liberalism has been torpedoed and shifting the paradigms which guide America's thinking is quite a task, but it seems to be the next logical step in the development of the American conservative movement.

Were it not for the courageous, selfless, and uncompromising work which Senator Goldwater has performed for years in advancing the beliefs which we all share, this world might likely be an entirely different place. At home, some stifling form of socialism might exist. America's strength abroad might be much weaker, and the forces of Communism might have captured even more victims.

As we young conservatives of the Third Generation prepare to guide the movement in which we are all involved, we find ourselves in relatively sublime conditions. We have inherited a far better nation than we had just a few years ago and live in a world which, though often perilous, is filled with hope for the prospects of peace with freedom. Perhaps most importantly, our conservative philosophy is no longer seen as a gauche superstition, but now constitutes the articles of faith of our government. We have a long way to go, but we have already come a long way. And to a far greater extent than we can imagine, we have Senator Barry Goldwater to thank for that. Senator Goldwater, from the Third Generation, thank you very much.●

TOM CAWLEY, A DISTINGUISHED NEWSMAN

● Mr. MOYNIHAN. Mr. President, this past month, Thomas R. Cawley, the "Bard of Binghamton," died at 72. Tom Cawley was a Binghamton newspaperman for more than half a century. But his longevity as a reporter was far overshadowed by his poetry—his gracefully penetrating story, his telling phrase, the warmth and color that infused his writing, the overarching humor and humanity, and the transparent ease with which Tom Cawley put it down. Most of this focused on Binghamton and Broome County and its people. Tom told the essential story of that area for so many years. The Binghamton story was his story and his is the only book that contained it.

After years of reporting, Tom Cawley also started writing a column for the Evening Press in 1947, and wrote it almost until he died. For 31 years, he wrote five columns a week. And in that time, Tom became the best and best known newspaperman in Broome and its surrounding counties—informing, delighting and giving voice to the people who live there. He could have gone anywhere, but he chose to stay in what he would sometimes call, in mock deprecation, his "Bingington."

Mr. President, the Binghamton Evening Press has been one of the finest medium-size daily newspapers in the country—the deserved recipient of many awards. It has been blessed with the talents of many great editors, such as Erwin Cronk and Dick Venizelos. It has been blessed with the talents of many great reporters and columnists, such as Woody Fitchette, Gerald Handte, and Robert Manning, later editor of the Atlantic, and a current, longstanding reporter and columnist, Dave Rossie.

Mr. Rossie wrote of Mr. Cawley and Binghamton:

He saw it through a lover's eyes. He would look out over the Chenango & Susquehanna and see the Seine or something even better. He would watch the winter sun chinning itself on South Mountain and describe it as if he were seeing it for the first time.

Dave Mack, the current managing editor of the newly combined Press and Sun-Bulletin said at Tom's funeral:

The secret of this remarkable life, that made him the reporter, was that as much as we loved the man and his work, Cawley loved his work and us, as friends, as colleagues, as his beloved Binghamton, just a little bit more.

Tom Cawley took great pride in a simple declaration: "Look," he would say, "I'm a reporter."

He was the consummate reporter—about Binghamton, about people, He reported in his columns, in television and radio shows, and in occasional pieces for the New York Times.

Mr. President, nothing can encapsule over 5 million words that he wrote, but I would offer a column he wrote in 1970 for the New York Times, on politicians campaigning upstate, and one he did this past year, upon the death of his wife, which hint at his humor, grace, and affection.

The material follows:

A Good Friend to the Young Reporters is Gone

(By Tom Cawley)

I took a walk around this old neighborhood where I live two days before Christmas. It was its usual placid self, quietly busy with people impatient because the buses didn't seem to be running, and women picking up groceries in the markets.

The neighborhood was wearing its usual air with men and women going to mass at the Catholic church and wandering into the Episcopal, Lutheran and Methodist churches, and there was a bustle around the two neighborhood synagogues. In short, everything was normal.

The only desolate quality was that a friend of mine had died. She always had hooted at me because I was not a walker or a jogger or a runner.

When she walked, which was daily, she would come home and tell me the stories she had heard and seen. She never realized, I think, what a help she was. She would say, "Do you know what I saw today?" and she would tell me.

More frequently than not, it would be a good story for the paper. The girl was a natural reporter, with a reporter's instincts, and was reproachful when I would say thoughtlessly, "It doesn't sound like a good story to me."

She was a friend of reporters and a lot of their talent rubbed off on her. Especially the good ones. She doted on Woody Fitchette, Erwin Cronk, Dave Rossie, Dave Mack, Steve Lohr, Steve Morello, Bob Manning and Jerry Sullivan. She would say, "They're all smarter than you are."

The one thing I never got used to was that she was right. A good friend is the one who tells you the truth.

Then there was Peter Johnson, a good reporter in Washington. This house always has been full of children, and one of them was a noisy 5-year-old kid, named Pete Johnson. He would demand food and she would provide him with it, as she did for all the neighborhood kids.

One morning when I came home, she was on the telephone gabbing away with someone. She said to me after she had hung up the telephone, "That was Pete, Maybe you'd better call him back."

It turned out Pete was in Los Angeles. He didn't want to talk to me. He wanted to talk to her.

She was my best source, as the saying is. My good source, after she fell ill, disappeared.

She always looked for the good in people, even the worst, and she would find the good in them. Then she would tell me.

She always liked the late John O'Hara's short stories, the O'Hara who wrote when his wife died, "She never did an unkind thing to anyone." That about sums up June.

The young reporters she took in and sort of mothered are scattered all over the world these days. The letters that came were all addressed to her. When they came back to town for a minute, they came to see her.

Peter Johnson called the other midnight. He didn't want to talk to me. He wanted to talk about her. "I don't believe it," he said. He hadn't lost a surrogate mother. He had lost a good and firm friend.

[From the New York Times, June 6, 1970]

TOPICS: THE ART OF RED BARN CAMPAIGNING

(By Tom Cawley)

BINGHAMTON, N.Y.—In the 1966 campaign for Governor, Frank O'Connor of New York City stepped out of an airplane at Binghamton, ready to read a statement carefully prepared for the occasion. It was a lyrical tribute to Broome County, queen of dairyland.

A local political reporter glanced through the text swiftly and muttered to a city boy from The New York Times who had accompanied O'Connor on his upstate grope, "There haven't been any cows around here since Mrs. O'Leary ruined their image." The word got back to the Democratic nominee. His advisers suppressed the statement immediately and Mr. O'Connor ad libbed something or other.

His confusion was no less than that of Averell Harriman, who is at home in New Delhi, Paris and Sun Valley, but, like most politicians from the big city, awash in disorientation upstate. During a campaign, on the eve of Election Day, Mr. Harriman made a brief appearance at the door of his airplane at Binghamton and murmured how delighted he was to find himself once again in Elmira.

It is a political axiom to all residents of the vast upstate spaces that all candidates for public office live in Manhattan, the Bronx, Brooklyn or Long Island. Every four years, with their regalia clanking, their press aides whispering hoarsely, "No, not Binningtin, it's Bing-ham-ton!," their outriders alert for Indian raiding parties, the candidates venture north of Riverdale to distribute trinkets to the natives.

HORSES AND HIGHWAYS

They strive wistfully to identify with the picture their speech writers paint. They are briefed on new-mown hay. The children in the big centralized school districts of the sprawling suburbs around the industrial centers occasionally do get to see new-mown hay in a TV educational film given over to the quaint old practice of farming, featuring posed hayseeds.

They are filled in on red-painted barns. There are so few operable barns that a horse's neigh scares the drag racers off the four-lane highways that crisscross upstate. They are given the picture of bewhiskered old Yorkers whose conversation consist of "Yup." The only beards to be found upstate are on the 45-odd huge State University campuses that gradually are pushing the Adirondack Mountains back into Canada, and where conversation has graduated beyond one clear syllable.

The Red Barn Syndrome is the fault of the New York City political reporters. At least once during every statewide campaign, every New York writer is required to write one misty, Iroquois-smoke-tinted mood piece about the new red paint on the barns along Broome County roads, or lose his franchise.

The fact is that public safety experts have tabooed red as a color for roadside objects because at night the human eye has great difficulty detecting anything painted red. This is known as Perkinje's Shift, the discovery of Dr. J. E. Perkinje (1787-1869). It is because of Perkinje's Shift that upstate fire trucks are being painted yellow, but that's another story.

IN THE STICKS

The New York politicians try so strenuously to relate to the sticks that they overdo it. The late Senator Robert F. Kennedy (who delighted in saying, "I'm off to Johnson City" to the confusion of his advisers, who thought the only Johnson City was along the Pedernales River) took upstate to his bosom.

In a rush of affection, he got thirteen of its counties, gleaming with industrial plants and bursting with affluence, declared as part of Appalachia. This still has the boards of directors in the country clubs of Broome County fidgeting as they hoist their bonded whisky and toast the ways of downstate campaigners.●

PROBLEMS OF INDIAN TRIBES

● Mr. HATCH. Mr. President, as I have worked on the problems faced by Indians in my home State of Utah, I have become familiar with similar problems in other States. For example, the erosion of the economic base of the Blackfoot Tribe in Montana, because of drought and similar weather extremes, has been exacerbated by the unusually severe early season snow and cold. Cattle herds are at great risk, and other agricultural pursuits are endangered, all of which point to the necessity of expanding both employment and that economic base. All of the natural resources of the tribe should be carefully evaluated and developed, where feasible, to alleviate an unemployment rate approaching 60 percent.

We see here in microcosm the problems faced by many tribes, but we can also see possible solutions to some of these generic problems in steps being taken by the tribe in concert with one of my constituent firms from Utah to stem the tide. This past year INTEX Fuels and Chemical Co. has been working with the tribe on a proposal to construct a cogeneration project on the reservation at a cost of $13 million. The project is designed to produce electrical power, ethanol, and high protein feed.

Such projects have the potential of providing hope to the various tribes. Unfortnately, this particularly project has been delayed. Because of the time required for review by the Bureau of Indian Affairs, the BIA was unable to act by September 1985 on providing a 90-percent loan guarantee for the $13 million that was needed for the project. As we all know, it is very difficult to attract outside money for investments such as this. It is therefore critical that the 90-percent loan guarantee, where feasible, be provided for such projects if they are to be successful.

For such worthy purposes, I encourage the BIA, in appropriate circumstances, to approve such—90 percent—guarantees in this fiscal year so that real, unquestioned human needs can be met.●

HUGE INCREASE IN OIL IMPORTS PREDICTED BY ENERGY DEPARTMENT

● Mr. JOHNSTON. Mr. President, the United States faces a continuing long-term decline in domestic oil reserves and production, coupled with greatly increased oil imports. This projection is contained in the Department of Energy's soon-to-be-released national energy policy plan, according to an article in the December 3 issue of the Energy Daily.

This translates into very expensive reliance on oil imports with costs increasing from $60 billion this year to more than $100 billion per year by 2000, or $2.4 trillion from 1984 to 2010.

The preliminary DOE projections closely track a separate study done by the independent and highly respected Gas Research Institute.

Mr. President, these studies clearly demonstrate why it is very much in our national interest to continue our strategic petroleum reserve and synthetic fuels programs, as well as taking care that we do not discourage domestic oil production by changes in our tax laws. I ask that the Energy Daily article be printed in the RECORD.

The article follows:

HUGE INCREASE IN OIL IMPORTS FORECAST IN NEW DOE STUDY

(By Bill Rankin)

The United States faces a continuing long-term decline in domestic oil reserves and production, coupled with increased oil imports. This translates into spiralling costs for imported oil, from roughly $60 million this year to more than $100 billion a year by 2000. In total, the U.S. will spend more than $2.4 trillion for oil imports from 1984-2010, according to a draft of the President's 1985 National Energy Policy Plan (NEPP).

The soon-to-be released plan has been completed by the U.S. Department of Energy staff and is now circulating through federal agencies for comment.

Although many government and industry energy observers question the reliability and accuracy of such projections, this year's plan presents a staggering picture of increased and very expensive reliance upon oil imports into the next century. Concurring with the preliminary NEPP projections to a large extent is the Gas Research Institute, which released its 1985 baseline projections of U.S. energy supply and demand yesterday.

The draft NEPP assumes that Saudi Arablia will increase its production by next spring and maintain it at roughly 4.5 million barrels a day for the rest of the decade. This means relatively low oil prices for the period. In the 1990s, however, the Organization of Petroleum Exporting Countries (OPEC) is presumed to regain market control, with resulting price increases, according to the preliminary plan.

Using these assumptions as a reference, NEPP predicts:

U.S. domestic oil production (10.2 million barrels a day in 1984) will decline to 9 million b/d in 2000 and 7.6 million b/d by 2010, or 25 percent less than in 1984;

Annual oil import costs (constant 1984 dollars) will grow from $54 billion in 1990 to $106 billion in 2000 and $182 billion in 2010;

Total U.S. oil import costs will be roughly $350 billion for 1984-1990, $800 billion for 1991-2000 and $1.4 trillion for 2001-2010;

By 1990, the U.S. will be more heavily dependent upon oil imports than it was before the 1973 oil embargo; by 2000, oil imports could provide 47 percent of total U.S. oil consumption (versus 1984's 35 percent), an all-time U.S. record; and

From 1990 to 2010, U.S. domestic oil production will drop by 1.6 percent a year (from 10.5 million b/d to 7.6 million b/d), although real oil prices will increase at a substantial 4.6 percent annual rate (from $23 to $57 per barrel).

The preliminary plan predicts oil prices will increase gradually over the next 25 years: by 1990, $23 per barrel; 1995, $30; 2000, $37; 2005, $47; and 2010, $57. This constitutes a significant change of heart by the Administration, which in its 1984 forecast predicted oil prices to rise to $61 a barrel in 2000 and $90 a barrel by 2010. (The Gas Research Institute's projections, however closely track the 1985 NEPP projections. GRI predicts oil prices to cost $26 per barrel in 1990, $38.50 in 2000 and $57 in 2010.)

The preliminary NEPP plan also contains another drastic change from last year's plan. The 1985 draft says that by 2000, net energy imports will supply 17.2 percent of U.S. demand by 2000 and 15.3 percent by 2010. Last year's projection, however, predicted that net energy imports would account for just 8 percent of demand by 2000 and only 2.5 percent by 2010.

But sharing DOE's view of increased imports and decreased domestic production is GRI. Petroleum consumption will increase to 16.9 million b/d by 2010, says the institute. (NEPP says 16.4 million b/d.) "As a result, primary petroleum consumption grows at only 45 percent of the rate of growth in total energy demand," says the GRI forecast.

Despite the relatively slow growth in petroleum consumption, "declining petroleum production results in a significant increase in petroleum imports," says GRI. The institute projects that domestic production will fall from 10.3 million barrels per day in 1984 to 7.8 million barrels per day in 2010. GRI also predicts that between 1984 and 2010, the amount of petroleum imports needed to meet demand will increase from 4.8 million barrels per day to 9.3 million barrels per day.

Overall, GRI projects that total primary energy consumption will increase from 77.8 quads in 1984 to 102.2 quads in 2010 (a rate of 1.1 percent per year). Over the same period, the gross national product will grow at a 2.5-percent rate, says the forecast.●

IRA GERSHWIN'S BIRTHDAY

● Mr. D'AMATO. Mr. President, I rise today to salute the 89th birthday of Ira Gershwin and to pay tribute to both Ira and George Gershwin for their contributions to American music.

Ira Gershwin, one of the most talented American librettists and lyricists, has made an indelible mark in the annals of American music. His verses are as easily recalled today as they were when they were first written for the music of his brother, George Gershwin. Hum a Gershwin tune anywhere from New York to New Zealand and someone can finish the chorus.

George Gershwin began his musical career in 1914 at the age of 15, plugging his music as a pianist at Remicks, which was a music-publishing company in Tin Pan Alley—the center for popular music in New York and the Nation. George Gershwin's music soon reached the ears and hearts of every American. In 1924, George was joined by his brother, Ira, whose lyrics added a special dimension to George's music. Together, their creations blossomed, placing America on opera stages and in concert halls around the world.

The Gershwin's rise to fame came at a time when the United States was beginning to emerge as a world leader. During the Roaring 1920's, when the Gershwins first captured the hearts of divas and laymen the world over, the United States was beginning to distribute to the world the fruits of the labors of its people. Thomas Edison eliminated the darkness and recorded the human voice on a phonograph, and other Americans were perfecting the steamboat, the automobile, and the airplane. It was a time when Americans were in the forefront of every endeavor, but music. That void was filled by the Gershwins.

Let us spend a moment to reflect upon few of George and Ira's compositions. George Gershwin's first major hit came in 1919 with "Swanee," a song which Al Jolson sang with great vigor. George's love for music lead him to the concert hall with "Rhapsody in Blue," "Concerto in F," "An American in Paris," "Three Preludes," and many more. George's remarkable creations bring him and his works to mind when we least expect it.

Ira's presence in American music is felt with equal intensity. He composed some of the greatest lyrics known to all ages. He began writing lyrics for shows in 1918, and his first full fledged show as a lyricist was the musical comedy "Be Yourself." In 1924, Ira joined with George when he wrote the lyrics for his brother's musical comedy, "Lady, Be Good." Together, they later wrote "Summertime," "Strike Up the Band," and "Of Thee I Sing." With other composers, Ira wrote the lyrics for "The Man That Got Away" and "Long Ago and Far Away."

But there was never such harmony and feeling as when the two brothers worked together. Their culminating production, achieved in 1935, struck deep into the hearts of people everywhere. I speak, of course, of "Porgy and Bess." This masterpiece is celebrating its 15th anniversary this year.

Ira remained his brother's collaborator until George Gershwin's death in 1937, and his lyrics became an inalienable part of the whole, so that the brothers Ira and George Gershwin became artistic twins like Gilbert and Sullivan, indissolubly united in some of the greatest productions of theater music in America.

Earlier this year, I introduced legislation, Senate Joint Resolution 176, to award a special gold medal honoring George Gershwin to be presented to his sister, Frances Gershwin Godowski, and a gold medal honoring Ira Gershwin to be presented to his widow, Leonore Gershwin. I am pleased that Congress and the President saw fit to join me and make this measure law.

Let us remember these two great Americans and their emense contributions to American music as we commemorate the 89th birthday of Ira Gershwin. Indeed, what the Gershwins have achieved was not only to the benefit of American music, but also a contribution to the music of the whole world. Their music, in a remarkable way, has broadened communication between all peoples everywhere.●

SDI AND COMPUTER SOFTWARE

● Mr. BUMPERS. Mr. President, if there is one thing that both supporters and critics of the strategic defense initiative, or star wars, agree upon, it

is that the technical challenges it faces are very great indeed. As the Senate debate earlier this year illustrated, the technologies involved are beyond the present understanding of just about all the Members of this body. One of the biggest yet most subtle technical challenges in star wars is in the area of computer software, a technology where, I might add, the United States has a major lead over the Soviets.

For this reason I want to bring to the attention of my colleagues a useful article by David Parnas, a highly respected computer scientist, who has vast experience in defense computer software and who until his recent resignation was a member of the Strategic Defense Initiative Office's Panel on Computing in Support of Battle Management. Parnas' article which appears in the September-October 1985 issue of American Scientist, is actually a set of eight short essays which Parnas completed while he was still on the panel. They pinpoint the extreme difficulties facing our defense scientists in just this one technical area.

Although written for a scientific audience, so that some of the essays are on the technical side, they build a strong case that the United States could never have high confidence in the software that would support a deployed star wars defense system, much less in the system as a whole. As Parnas states:

> The inability to test a strategic defense system under field conditions before we actually need it will mean that no knowledgeable person would have much faith in the system . . . nuclear weapons will [thus] remain a potent threat.

I commend Parnas' essays on "Why the DSI Software System Will Be Untrustworthy" and "Is SDIO an Efficient Way to Fund Worthwhile Research?" to my colleagues' attention, and I ask that his article from American Scientist be printed in the RECORD at the conclusion of my remarks. While we certainly should continue research on ballistic missile defense technology at a prudent level, Parnas' article underscores the mistake we are making by rushing headlong into a star wars program before the major technical uncertainties are reduced to a manageable level.

The article follows:

SOFTWARE ASPECTS OF STRATEGIC DEFENSE SYSTEMS

(David Lorge Parnas)

This report comprises eight short papers that were completed while I was a member of the Panel on Computing in Support of Battle Management, convened by the Strategic Defense Initiative Organization (SDIO). SDIO is part of the Office of the US Secretary of Defense. The panel was asked to identify the computer science problems that would have to be solved before an effective antiballistic missile (ABM) system could be deployed. It is clear to everyone that computers must play a critical role in the systems that SDIO is considering. The essays that constitute this report were written to organize my thoughts on these topics and were submitted to SDIO with my resignation from the panel.

My conclusions are not based on political or policy judgments. Unlike many other academic critics of the SDI effort, I have not, in the past, objected to defense efforts or defense-sponsored research. I have been deeply involved in such research and have consulted extensively on defense projects. My conclusions are based on more than 20 years of research on software engineering, including more than 8 years of work on real-time software used in military aircraft. They are based on familiarity with both operational military software and computer science research. My conclusions are based on characteristics peculiar to this particular effort, not objections to weapons development in general.

I am publishing the papers that accompanied my letter of resignation so that interested people can understand why many computer scientists believe that systems of the sort being considered by the SDIO cannot be built. These essays address the software engineering aspects of SDIO and the organization of engineering research. They avoid political issues; those have been widely discussed elsewhere, and I have nothing to add.

In these essays I have attempted to avoid technical jargon, and readers need not be computer programmers to understand them. They may be read in any order.

The individual essays explain:

1. The fundamental technological differences between software engineering and other areas of engineering and why software is unreliable;
2. The properties of the proposed SDI software that make it unattainable;
3. Why the techniques commonly used to build military software are inadequate for this job;
4. The nature of research in software engineering, and why the improvements that it can effect will not be sufficient to allow construction of a truly reliable strategic defense system;
5. Why I do not expect research in artificial intelligence to help in building reliable military software;
6. Why I do not expect research in automatic programming to bring about the substantial improvements that are needed;
7. Why program verification (mathematical proofs of correctness) cannot give us a reliable strategic defense battle-management system;
8. Why military funding of research in software and other aspects of computing science is inefficient and ineffective. This essay responds to the proposal that SDIO should be funded even if the ABM system cannot be produced, because the program will produce good research.

WHY SOFTWARE IS UNRELIABLE

I. Introduction

People familiar with both software engineering and older engineering disciplines observe that the state of the art in software is significantly behind that in other areas of engineering. When most engineering products have been completed, tested, and sold, it is reasonable to expect that the product design is correct and that it will work reliably. With software products, it is usual to find that the software has major "bugs" and does not work reliably for some users. These problems may persist for several versions and sometimes worsen as the software is "improved." While most products come with an express or implied warranty, software products often carry a specific disclaimer of warranty. The lay public, familiar with only a few incidents of software failure, may regard them as exceptions caused by inept programmers. Those of us who are software professionals know better; the most competent programmers in the world cannot avoid such problems. This section discusses one reason for this situation.

II. System types

Engineering products can be classified as discrete state systems, analog systems, or hybrid systems.

Discrete state or digital systems are made from components with a finite number of stable states. They are designed in such a way that the behavior of the system when not in a stable state is not significant.

Continuous or analog systems are made from components that, within a broad operating range, have an infinite numbers of stable states and whose behavior can be adequately described by continuous functions.

Hybrid systems are mixtures of the two types of components. For example, we may have an electrical circuit containing, in addition to analog components, a few components whose descriptive equations have discontinuities (e.g., diodes). Each of these components has a small number of discrete operating states. Within these states its behavior can be described by continuous functions.

III. Mathematical tools

Analog systems form the core of the traditional areas of engineering. The mathematics of continuous functions is well understood. When we say that a system is described by continuous functions we are saying that it can contain no hidden surprises. Small changes in inputs will always cause correspondingly small changes in outputs. An engineer who ensures, through careful design, that the system components are always operating within their normal operating range can use a mathematical analysis to ensure that there are no surprises. When combined with testing to ensure that the components are within their operating range, this leads to reliable systems.

Before the advent of digital computers, when discrete state systems were built, the number of states in such systems was relatively small. With a small number of states, exhaustive testing was possible. Such testing compensated for the lack of mathematical tools corresponding to those used in analog systems design. The engineers of such systems still had systematic methods that allowed them to obtain a complete understanding of their system's behavior.

The design of many hybrid systems can be verified by a combination of the two methods. We can then identify a finite number of operating states for the components with discrete behavior. Within those states, the system's behavior can be described by continuous functions. Usually the number of states that must be distinguished is small. For each of those states, the tools of continuous mathematics can be applied to analyze the behavior of the system.

With the advent of digital computers, we found the first discrete state systems with very large numbers of states. However, to manufacture such systems it was necessary to construct them using many copies of very small digital subsystems. Each of those small subsystems could be analyzed and tested exhaustively. Because of the repetitive structure, exhaustive testing was not

necessary to obtain correct and reliable hardware. Although design errors are found in computer hardware, they are considered exceptional. They usually occur in those parts of the computer that are not repetitive structures.

Software systems are discrete state systems that do not have the repetitive structure found in computer circuitry. There is seldom a good reason to construct software as highly repetitive structures. The number of states in software systems is orders of magnitude larger than the number of states in the nonrepetitive parts of computers. The mathematical functions that describe the behavior of these systems are not continuous functions, and traditional engineering mathematics does not help in their verification. This difference clearly contributes to the relative unreliability of software systems and the apparent lack of competence of software engineers. It is a fundamental difference that will not disappear with improved technology.

IV. How can we understand software?

To ameliorate the problems caused by this fundamental difference in technology two techniques are available: (1) the building of software as highly organized collections of small programs and (2) the use of mathematical logic to replace continuous mathematics.

Dividing software into modules and building each module of so-called "structured" programs clearly helps. When properly done, each component deals with a small number of cases and can be completely analyzed. However, real software systems have many such components, and there is no repetitive structure to simplify the analysis. Even in highly structured systems, surprises and unreliability occur because the human mind is not able to fully comprehend the many conditions that can arise because of the interaction of these components. Moreover, finding the right structure has proved to be very difficult. Well-structured real software systems are still rare.

Logic is a branch of mathematics that can deal with functions that are not continuous. Many researchers believe that it can play the role in software engineering that continuous mathematics plays in mechanical and electrical engineering. Unfortunately, this has not yet been verified in practice. The large number of states and lack of regularity in the software result in extremely complex mathematical expressions. Disciplined use of these expressions is beyond the computational capacity of both the human programmer and current computer systems. There is progress in this area, but it is very slow, and we are far from being able to handle even small software systems. With current techniques the mathematical expressions describing a program are often notably harder to understand than the program itself.

V. The education of programmers

Worsening the differences between software and other areas of technology is a personnel problem. Most designers in traditional engineering disciplines have been educated to understand the mathematical tools that are available to them. Most programmers cannot even begin to use the meager tools that are available to software engineers.

WHY THE SDI SOFTWARE SYSTEM WILL BE UNTRUSTWORTHY

I. Introduction

In March 1983, the President called for an intensive and comprehensive effort to define a long-term research program with the ultimate goal of eliminating the threat posed by nuclear ballistic missiles. He asked us, as members of the scientific community, to provide the means of rendering these nuclear weapons impotent and obsolete. To accomplish this goal we would need a software system so well-developed that we could have extremely high confidence that the system would work correctly when called upon. In this section I will present some of the characteristics of the required battle-management software and then discuss their implications on the feasibility of achieving that confidence.

II. Characteristics of the proposed battle-management software system

1. The system will be required to identify, track, and direct weapons toward targets whose ballistic characteristics cannot be known with certainty before the moment of battle. It must distinguish these targets from decoys whose characteristics are also unknown.

2. The computing will be done by a network of computers connected to sensors, weapons, and each other, by channels whose behavior, at the time the system is invoked, cannot be predicted because of possible countermeasures by an attacker. The actual subset of system components that will be available at the time that the system is put into service, and throughout the period of service, cannot be predicted for the same reason.

3. It will be impossible to test the system under realistic conditions prior to its actual use.

4. The service period of the system will be so short that there will be little possibility of human intervention and no possibility of debugging and modification of the program during that period of service.

5. Like many other military programs, there are absolute real-time deadlines for the computation. The computation will consist primarily of periodic processes, but the number of those processes that will be required, and the computational requirements of each process, cannot be predicted in advance because they depend on target characteristics. The resources available for computation cannot be predicted in advance. We cannot even predict the "worst case" with any confidence.

6. The weapon system will include a large variety of sensors and weapons, most of which will themselves require a large and complex software system. The suite of weapons and sensors is likely to grow during development and after deployment. The characteristics of weapons and sensors are not yet known and are likely to remain fluid for many years after deployment. The result is that the overall battle-management software system will have to integrate a software system significantly larger than has ever been attempted before. The components of that system will be subject to independent modification.

III. Implications of these problem characteristics

Each of these characteristics has clear implications on the feasibility of building battle-management software that will meet the President's requirements.

1. Fire-control software cannot be written without making assumptions about the characteristics of enemy weapons and targets. This information is used in determining the recognition algorithms, the sampling periods, and the noise-filtering techniques. If the system is developed without the knowledge of these characteristics, or with the knowledge that the enemy can change some of them on the day of battle, there are likely to be subtle but fatal errors in the software.

2. Although there has been some real progress in the area of "fail-soft" computer software, I have seen no success except in situations where (a) the likely failures can be predicted on the basis of past history, (b) the component failures are unlikely and are statistically independent, (c) the system has excess capacity, (d) the real-time deadlines, if any, are soft, i.e., they can be missed without long-term effects. None of these is true for the required battle-management software.

3. No large-scale software system has ever been installed without extensive testing under realistic conditions. For example, in operational software for military aircraft, even minor modifications require extensive ground testing followed by flight testing in which battle conditions can be closely approximated. Even with these tests, bugs can and do show up in battle conditions. The inability to test a strategic defense system under field conditions before we actually need it will mean that no knowledgeable person would have much faith in the system.

4. It is not unusual for software modifications to be made in the field. Programmers are transported by helicopter to Navy ships; debugging notes can be found on the walls of trucks carrying computers that were used in Vietnam. It is only through such modifications that software becomes reliable. Such opportunities will not be available in the 30-90 minute war to be fought by a stategic defense battle-management system.

5. Programs of this type must meet hard real-time deadlines reliably. In theory, this can be done either by scheduling at runtime or by pre-runtime scheduling. In practice, efficiency and predictability require some pre-runtime scheduling. Schedules for the worst-case load are often built into the program. Unless one can work out worst-case real-time schedules in advance, one can have no confidence that the system will meet its deadlines when its service is required.

6. All of our experience indicates that the difficulties in building software increase with the size of the system, with the number of independently modifiable subsystems, and with the number of interfaces that must be defined. Problems worsen when interfaces may change. The consequent modifications increase the complexity of the software and the difficulty of making a change correctly.

IV. Conclusion

All of the cost estimates indicate that this will be the most massive software project ever attempted. The system has numerous technical characteristics that will make it more difficult than previous systems, independent of size. Because of the extreme demands on the system and our inability to test it, we will never be able to believe, with any confidence, that we have succeeded. Nuclear weapons will remain a potent threat.

WHY CONVENTIONAL SOFTWARE DEVELOPMENT DOES NOT PRODUCE RELIABLE PROGRAMS.

1. What is the conventional method?

The easiest way to describe the programming method used in most projects today was given to me by a teacher who was explaining how he teaches programming. "Think like a computer," he said. He in-

structed his students to begin by thinking about what the computer had to do first and to write that down. They would then think about what the computer had to do next and continue in that way until they had described the last thing the computer would do. This, in fact, is the way I was taught to program. Most of today's texbooks demonstrate the same method, although it has been improved by allowing us to describe the computer's "thoughts" in larger steps and later to refine those large steps to a sequence of smaller steps.

II. Why this method leads to confusion

This intuitively appealing method works well—on problems too small to matter. We think that it works because it worked for the first program that we wrote. One can follow the method with programs that have neither branches nor loops. As soon as our thinking reaches a point where the action of the computer must depend on conditions that are not known until the program is running, we must deviate from the method by labeling one or more of the actions and remembering how we would get there. As soon as we introduce loops into the program, there are many ways of getting to some of the points and we must remember all of those ways. As we progress through the algorithm, we recognize the need for information about earlier events and add variables to our data structure. We now have to start remembering what data mean and under what circumstances data are meaningful.

As we continue in our attempt to "think like a computer," the amount we have to remember grows and grows. The simple rules defining how we got to certain points in a program become more complex as we branch there from other points. The simple rules defining what the data mean become more complex as we find other uses for existing variables and add new variables. Eventually, we make an error. Sometimes we note that error; sometimes it is not found until we test. Sometimes the error is not very important; it happens only on rare or unforeseen occasions. In that case, we find it when the program is in use. Often, because one needs to remember so much about the meaning of each label and each variable, new problems are created when old problems are corrected.

III. What is the effect of concurrency on this method?

In many of our computer systems there are several sources of information and several outputs that must be controlled. This leads to a computer that might be thought of as doing many things at once. If the sequence of external events cannot be predicted in advance, the sequence of actions taken by the computer is also not predictable. The computer may be doing only one thing at a time, but as one attempts to "think like a computer," one finds many more points where the action must be conditional on what happened in the past. Any attempt to design these programs by thinking things through in the order that the computer will execute them leads to confusion and results in systems that nobody can understand completely.

IV. What is the effect of multiprocessing?

When there is more than one computer in a system, the software not only appears to be doing more than one thing at a time, it really is doing many things at once. There is no sequential program that one can study. Any attempt to "think like the computing system" is obviously hopeless. There are so many possibilities to consider that only extensive testing can begin to sort things out. Even after such testing, we have incidents such as one that happened on a space shuttle flight several years ago. The wrong combination of sequences occurred and prevented the flight from starting.

V. Do professional programmers really use this approach?

Yes. I have had occasion to study lots of practical software and to discuss programs with lots of professional programmers. In recent years many programmers have tried to improve their working methods using a variety of software design approaches. However, when they get down to writing executable programs, they revert to the conventional way of thinking. I have yet to find a substantial program in practical use whose structure was not based on the expected execution sequence. I would be happy to be shown some.

Other methods are discussed in advanced courses, a few good textbooks, and scientific meetings, but most programmers continue to use the basic approach of thinking things out that the computer will execute them. This is most noticeable in the maintenance (deficiency correction) phase of programming.

VI. How do we get away with this inadequate approach?

It should be clear that writing and understanding very large real-time programs by "thinking like a computer" will be beyond our intellectual capabilities. How can it be that we have so much software that is reliable enough for us to use it? The answer is simple; programming is a trial and error craft. People write programs without any expectation that they will be right the first time. They spend at least as much time testing and correcting errors as they spent writing the initial program. Large concerns have separate groups of testers to do quality assurance. Programmers cannot be trusted to test their own programs adequately. Software is released for use, not when it is known to be correct, but when the rate of discovering new errors slows down to one that management considers acceptable. Users learn to expect errors and are often told how to avoid bugs until the program is improved.

VII. Conclusion

The military software that we depend on every day is not likely to be correct. The methods that are in use in the industry today are not adequate for building large real-time software systems that must be reliable when first used. A drastic change in methods is needed.

THE LIMITS OF SOFTWARE ENGINEERING METHODS

I. What is software engineering research?

We have known for 25 years that our programming methods are inadequate for large projects. Research in software engineering, programming methodology, software design, etc., looks for better tools and methods. The common thrust of results in these fields is to reduce the amount that a programmer must remember when checking and changing a program.

Two main lines of research are (1) structured programming and the use of formal program semantics and (2) the use of formally specified abstract interfaces to hide information about one module (work assignment) from the programmers who are working on other parts. A third idea, less well understood but no less important is the use of cooperating sequential processes to help deal with the complexities arising from concurrency and multiprogramming. By the late 1970s the basic ideas in software engineering were considered "motherhood" in the academic community. Nonetheless, examinations of real programs revealed that actual programming practice, especially for military systems, had not been changed much by the publication of the academic proposals.

The gap between theory and practice was large and growing. Those espousing structured approaches to software were certain that it would be easy to apply their ideas to the problems that they faced in their daily work. They doubted that programs organized according to the principles espoused by academics could ever meet the performance constraints on "real" systems. Even those who claimed to believe in these principles were not able to apply them consistently.

In 1977 the management of the Naval Research Laboratory in Washington, DC, and the Naval Weapons Center in China Lake, California, decided that something should be done to close the gap. They asked one of the academics who had faith in the new approach (myself) to demonstrate the applicability of those methods by building, for the sake of comparison, a second version of a Navy real-time program. The project, now known as the Software Cost Reduction project (SCR) was expected to take two to four years. It is still going on.

The project has made two things clear: (1) much of what the academics proposed can be done; (2) good software engineering is far from easy. The methods reduce, but do not eliminate, errors. They reduce, but do not eliminate, the need for testing.

II. What should we do and what can we do?

The SCR work has been based on the following precepts:

1. The software requirements should be nailed down with a complete, black-box requirements document before software design is begun.
2. The system should be divided into modules using information-hiding (abstraction) before writing the program begins.
3. Each module should have a precise, black-box formal specification before writing the program begins.
4. Formal methods should be used to give precise documentation.
5. Real-time systems should be built as a set of cooperating sequential processes, each with a specified period and deadline.
6. Programs should be written using the ideas of structured programming as taught by Harlan Mills.

We have demonstrated that the first four of these precepts can be applied to military software by doing it. The documents that we have written have served as models for others. We have evidence that the models provide a most effective means of technology transfer.

We have not yet proved that these methods lead to reliable code that meets the space and time constraints. We have found that everyone of these precepts is easier to pronounce than to carry out. Those who think that software designs will become easy, and that errors will disappear, have not attacked substantial problems.

III. What makes software engineering hard?

We can write software requirements documents that are complete and precise. We understand the mathematical model behind such documents and can follow a systematic

procedure to document all necessary requirements decisions. Unfortunately, it is hard to make the decisions that must be made to write such a document. We often do not know how to make those decisions until we can play with the system. Only when we have built a similar system before is it easy to determine the requirements in advance. It is worth doing, but it is not easy.

We know how to decompose complex systems into modules when we know the set of design decisions that must be made in the implementation. Each of these must be assigned to a single module. We can do that when we are building a system that resembles a system we built before. When we are solving a totally new problem, we will overlook difficult design decisions. The result will be a structure that does not fully separate concerns and minimize complexity.

We know how to specify abstract interfaces for modules. We have a set of standard notations for use in that task. Unfortunately, it is very hard to find the right interface. The interface should be an abstraction of the set of all alternative designs. We can find that abstraction only when we understand the alternative designs. For example, it has proved unexpectedly hard to design an abstract interface that hides the mathematical model of the earth's shape. We have no previous experience with such models and no one has designed such an abstraction before.

The common thread in all these observations is that, even with sound software design principles, we need broad experience with similar systems to design good, reliable software.

IV. Will new programming languages make much difference?

Because of the very large improvements in productivity that were noted when compiler languages were introduced, may continue to look for another improvement by introducing better languages. Better notation always helps, but we cannot expect new languages to provide the same magnitude of improvement that we got from the first introduction of such languages. Our experience in SCR has not shown the lack of a language to be a major problem.

Programming languages are now sufficiently flexible that we can use almost any of them for almost any task. We should seek simplifications in programming languages, but we cannot expect that this will make a big difference.

V. What about programming environments?

The success of UNIX™ as a programming development tool has made it clear that the environment in which we work does make a difference. The flexibility of UNIX™ has allowed us to eliminate many of the time-consuming housekeeping tasks involved in producing large programs. Consequently, there is extensive research in programming environments. Here, too, I expect small improvements can be made by basing tools on improved notations but no big breakthroughs. Problems with our programming environment have not been a major impediment in our SCR work.

VI. Why software engineering research will not make the SDI goals attainable

Although I believe that further research on software engineering methods can lead to substantial improvements in our ability to build large real-time software systems, this work will not overcome the difficulties inherent in the plans for battle-management computing for SDI. Software engineering methods do not eliminate errors. They do not eliminate the basic differences between software technology and other areas of engineering. They do not eliminate the need for extensive testing under field conditions or the need for opportunities to revise the system while it is in use. Most important, we have learned that the successful application of these methods depends on experience accumulated while building and maintaining similar systems. There is no body of experience for SDI battle management.

VII. Conclusion

I am not a modest man. I believe that I have as sound and broad an understanding of the problems of software engineering as anyone that I know. If you gave me the job of building the system, and all the resources that I wanted, I could not do it. I don't expect the next 20 years of research to change that fact.

ARTIFICIAL INTELLIGENCE AND THE STRATEGIC DEFENSE INITIATIVE

I. Introduction

One of the technologies being considered for use in the SDI battle-management software is artificial intelligence (AI). Researchers in AI have often made big claims, and it is natural to believe that one should use this technology for a problem as difficult as SDI battle management. In this section, I argue that one cannot expect much help from AI in building reliable battle-management software.

II. What is artificial intelligence?

Two quite different definitions of AI are in common use today.

AI-1: The use of computers to solve problems that previously could be solved only by applying human intelligence.

AI-2: The use of a specific set of programming techniques known as heuristic or rule-based programming. In this approach human experts are studied to determine what heuristics or rules of thumb they use in solving problems. Usually they are asked for their rules. These rules are then encoded as input to a program that attempts to behave in accordance with them. In other words, the program is designed to solve a problem the way that humans seem to solve it.

It should be noted that the first definition defines AI as a set of problems, the second defines AI as a set of techniques. The first definition has a sliding meaning. In the Middle Ages, it was thought that arithmetic required intelligence. Now we recognize it as mechanical act. Something can fit the definition of AI-1 today, but, once we see how the program works and understand the problem, we will not think of it as AI anymore.

It is quite possible for a program to meet one definition and not the other. If we build a speech-recognition program that uses Bayesian mathematics rather than heuristics, it is AI-1 but not AI-2. If we write a rule-based progam to generate parsers for precedence grammars using heuristics, it will be AI-2 but and AI-1 because the problem has a known algorithmic solution.

Although it is possible for work to satisfy both definitions, the best AI-1 work that I have seen does not use heuristic or rule-based methods. Workers in AI-1 often use traditional engineering and scientific approaches. They study the problem, its physical and logical constraints, and write a progam that makes no attempt to mimic the way that people say they solve the problem.

III. What can we learn from AI that will help us build the battle-management computer software?

I have seen some outstanding AI-1 work. Unfortunately, I cannot identify a body of techniques or technology that is unique to this field. When one studies these AI-1 programs one finds that they use sound scientific approaches, approaches that are also used in work that is not called AI. Most of the work is problem specific, and some abstraction and creativity are required to see how to transfer it. People speak of AI as if it were some magic body of new idea. There is good work in AI-1 but nothing so magic it will allow the solution of the SDI battle-management problem.

I find the approaches taken in AI-2 to be dangerous and much of the work misleading. The rules that one obtains by studying people turn out to be inconsistent, incomplete, and inaccurate. Heuristic programs are developed by a trial and error process in which a new rule is added whenever one finds a case that is not handled by the old rules. This approach usually yields a program whose behavior is poorly understood and hard to predict. AI-2 researchers accept this evolutionary approach to programming as normal and proper. I trust such programs even less than I trust unstructured conventional programs. One never knows when the program will fail.

On occasion I have had to examine closely the claims of a worker in AI-2. I have always been disappointed. On close examination the heuristics turned out to handle a small number of obvious cases but failed to work in general. The author was able to demonstrate spectacular behavior on the cases that the program handled correctly. He marked the other cases as extensions for future researchers. In fact, the techniques being used often do not generalize and the improved program never appears.

IV. What about expert systems?

Lately we have heard a great deal about the success of a particular class of rule-based systems known as expert systems. Every discussion cites one example of such a system that is being used to solve real problems by people other than its developer. That example is always the same—a program designed to find configurations for VAX computers. To many of us, that does not sound like a difficult problem; it sounds like the kind of problem that is amenable to algorithmic solution because VAX systems are constructed from well-understood, well-designed components. Recently I read a paper that reported that this program had become a maintenance nightmare. It was poorly understood, badly structured, and hence hard to change. I have good reason to believe that it could be replaced by a better program written using good software engineering techniques instead of heuristic techniques.

SDI presents a problem that may be more difficult than those being tackled in AI-1 and expert systems. Workers in those areas attack problems that now require human expertise. Some of the problems in SDI are in areas where we now have no human experts. Do we now have humans who can, with high reliability and confidence, look at missiles in ballistic flight and distinguish warheads from decoys?

V. Conclusion

Artificial intelligence has the same relation to intelligence as artificial flowers have to flowers. From a distance they may

appear much alike, but when closely examined they are quite different. I don't think we can learn much about one by studying the other. AI offers no magic technology to solve our problem. Heuristic techniques do not yield systems that one can trust.

CAN AUTOMATIC PROGRAMMING SOLVE THE SDI SOFTWARE PROBLEM?

I. Introduction

Throughout my career in computing I have heard people claim that the solution to the software problem is automatic programming. All that one has to do is write the specifications for the software, and the computer will find a program. Can we expect such technology to produce reliable programs for SDI?

II. Some perspective on automatic programming

The oldest paper known to me that discusses automatic programming was written in the 1940s by Saul Gorn when he was working at the Aberdeen Proving Ground. This paper, entitled "Is Automatic Programming Feasible?" was classified for a while. It answered the question positively.

At that time, programs were fed into computers on paper tapes. The programmer worked the punch directly and actually looked at the holes in the tape. I have seen programmers "patch" programs by literally patching the paper tape.

The automatic programming system considered by Gorn in that paper was an assembler in today's terminology. All that one would have to do with his automatic programming system would be to write a code such as CLA, and the computer would automatically punch the proper holes in the tape. In this way, the programmer's task would be performed automatically by the computer.

In later years the phrase was used to refer to program generation from languages such as IT, FORTRAN, and ALGOL. In each case, the programmer entered a specification of what he wanted, and the computer produced the program in the language of the machine.

In short, automatic programming always has been a euphemism for programming with a higher-level language than was then available to the programmer. Research in automatic programming is simply research in the implementation of higher-level programming languages.

III. Is automatic programming feasible? What does that mean?

Of course automatic programming is feasible. We have known for years that we can implement higher-level programming languages. The only real question was the efficiency of the resulting programs. Usually, if the input "specification" is not a description of an algorithm, the resulting program is woefully inefficient. I do not believe that the use of nonalgorithmic specifications as a programming language will prove practical for systems with limited computer capacity and hard realtime deadlines. When the input specification is a description of an algorithm, writing the specification is really writing a program. There will be no substantial change from our present capability.

IV. Will automatic programming lead to more reliable programs?

The use of improved languages has led to a reduction in the amount of detail that a programmer must handle and hence to an improvement in reliability. However, extant programming languages, while far from perfect, are not that bad. Unless we move to nonalgorithmic specifications as an input to these systems, I do not expect a drastic improvement to result from this research.

On the other hand, our experience in writing nonalgorithmic specifications has shown that people make mistakes in writing them just as they do in writing algorithms. The effect of such work on reliability is not yet clear.

V. Will automatic programming lead to a reliable SDI battle-management system?

I believe that the claims that have been made for automatic programming systems are greatly exaggerated. Automatic progamming in a way that is substantially different from what we do today is not likely to become a practical tool for real-time systems like the SDI battle-management system. Moereover, one of the basic problems with SDI is that we do not have the information to write specifications that we can trust. In such a situation, automatic programming is no help at all.

CAN PROGRAM VERIFICATION MAKE THE SDI SOFTWARE RELIABLE?

I. Introducation

Programs are mathematical objects. they have meanings that are mathematical objects. Program specifications are mathematical objects. Should it not be possible to prove that a program will meet its specification? This has been a topic of research now for at least 25 years. If we can prove programs correct, could we not prove the SDI software correct? If it was proved correct, could we not rely on it to defend us in time of need?

II. What can we prove?

We can prove that certain small programs in special programming languages meet a specification. The word *small* is a relative one. Those working in verification would consider a 500-line program to be large. In discussing SDI software, we would consider a 500-line program to be small. The programs whose proofs I have seen have been well under 500 lines. They have performed easily defined mathematical tasks. They have been written without use of side effects, an important tool in practical programs.

Proofs for programs such as a model of the earth's gravity field do not have these properties. Such programs are larger; their specifications are not as neat or mathematically formalizable. They are often written in programming languages whose semantics are difficult to formalize. I have seen no proof of such a program.

Not only are manual proofs limited to programs of small size with mathematical specifications; machine theorem provers and verifiers are also strictly limited in the size of the program that they can handle. The size of the programs that they can handle is several orders of magnitude different from the size of the programs that would constitute the SDI battle-management system.

III. Do we have the specifications?

In the case of SDI we do not have the specifications against which a proof could be applied. Even if size were not a problem, the lack of specifications would make the notion of a formal proof meaningless. If we wrote a formal specification for the software, we would have no way of proving that a program that satisfied the specification would actually do what we expected it to do. The specification itself might be wrong or incomplete.

IV. Can we have faith in proofs?

Proofs increase our confidence in a program, but we have no basis for complete confidence. Even in pure mathematics there are many cases of proofs that were published with errors. Proofs tend to be reliable when they are small, well polished, and carefully read. They are not reliable when they are large, complex, and not read by anyone but their author. That is what would happen with any attempt to prove even a portion of the SDI software correct.

V. What about concurrency?

The proof techniques that are most practical are restricted to sequential programs. Recent work on proofs of systems of concurrent processes has focused on message-passing protocols rather than processes that cooperate using shared memory. There are some techniques that can be applied with shared memory, but they are more difficult than proofs for sequential programs or proofs for programs that are restricted to communication over message channels.

VI. What about programs that are supposed to be robust?

One of the major problems with the SDI software is that it should function with part of its equipment destroyed or disabled by enemy action. In 20 years of watching attempts to prove programs correct, I have seen only one attempt at proving that a program would get the correct answer in the event of a hardware failure. That proof made extremely unrealistic assumptions. We have no techniques for proving the correctness of programs in the presence of unknown hardware failures and errors in input data.

VII. Conclusion

It is inconceivable to me that one could provide a convincing proof of correctness of even a small portion of the SDI software. Given our inability to specify the requirements of the software, I do not know what such a proof would mean if I had it.

IS SDIO AN EFFICIENT WAY TO FUND WORTHWHILE RESEARCH?

The subject of this section is not computer science. Instead, it discusses an issue of concern to all modern scientists: the mechanism that determines what research will be done. These remarks are based on nearly 20 years of experience with DoD funding as well as experience with other funding mechanisms in several countries.

I. The proposal

In several discussions of this problem, I have found people telling me they knew the SDIO software could not be built but felt the project should continue because it might fund some good research. in this section I want to discuss that point of view.

II. The moral issue

There is an obvious moral issue raised by this position. The American people and their representatives have been willing to spend huge amounts of money on this project because of the hope that has been offered. Is it honest to take the attitude expressed above? Is it wise to have our policymakers make decisions on the assumption that such a system might be possible? I am not an expert on moral or polical issues and offer no answers to these questions.

III. Is DoD sponsoring of software research effective?

I can raise another problem with this position. Is the SDIO an effective way to get good research done? Throughout many

years of association with DoD I have been astounded at the amount of money that has been wasted on ineffective research projects. In my first contact with the US Navy, I watched million of dollars spent on a wild computer design that had absolutely no technical merit. It was abandoned many years after its lack of merit became clear. As a consultant for both the Navy and a number of contractors, I have seen expensive software research that produces very large reports with very little content. I have seen those large, expensive reports put on shelves and never used. I have seen many almost identical efforts carried out independently and redundantly. I have seen talented professionals take approaches that they considered unwise because their "customers" asked for it. I have seen their customers take positions they do not understand because they thought that the contractors believed in them.

In computer software, the DoD contracting and funding scheme is remarkably ineffective because the bureaucrats who run it do not understand what they are buying.

IV. Who can judge research?

The most difficult and crucial step in research is identifying and defining the problem. Successful researchers are usually those who have the insight to find a problem that is both solvable and important.

For applied research, additional judgment is needed. A problem may be an important one in theory, but there may be restrictions that prevent the use of its solution in practice. Only people closely familiar with the practical aspects of the problem can judge whether or not they could use the results of a research project.

Applied research must be judged by teams that include both successful researchers and experienced system engineers, They must have ample opportunity to meet, be fully informed, and have clearly defined responsibilities.

V. Who judges research in DoD?

Although there are a few notable exceptions within DoD, the majority of those who manage its applied research program are neither successful researchers nor people with extensive system-building experience. There are outstanding researchers who work for DoD, but most of them work in the laboratories, not in the funding agencies. There are many accomplished system builders who work for DoD, but their managers often consider them too valuable to allow them to spend their time reviewing research proposals. The people who end up making funding decisions in DoD are very often unsuccessful researchers, unsuccessful system builders, and people who enter bureaucracy immediately after their education. We call them technocrats.

Technocrats are bombarded with weighty volumes of highly detailed proposals that they are ill prepared to judge. They do not have the time to study and think; they are forced to rely on the advice of others. When they look for advice, they look for people that they know well, whether or not they are people whose areas of expertise are appropriate, and whether or not they have unbiased positions on the subject.

Most technocrats are honest and hard-working, but they are not capable of doing what is needed. The result is a very inefficient research program. I am convinced that there is now much more money being spent on software research than can be usefully spent. Very little of the work that is sponsored leads to results that are useful. Many useful results go unnoticed because the good work is buried in the rest.

VI. The SDIO

The SDIO is a typical organization of technocrats. It is so involved in the advocacy of the program that it cannot judge the quality of the research involved.

The SDIO panel on battle-management computing contains not one person who has built actual battle-management software. It contains no experts on trajectory computations, pattern recognition, or other areas critical to this problem. All of its members stand to profit from continuation of the program.

VII. Alternatives

If there is good research being funded by SDIO, that research has an applicability that is far broader than the SDI itself. It should be managed by teams of scientists and engineers as part of a well-organized research program. There is no need to create a special organization to judge this research. To do so is counterproductive. It can only make the program less efficient.

VIII. Conclusion

There is no justification for continuing with the pretense that the SDI battle-management software can be built just to obtain funding for otherwise worthwhile programs. DoD's overall approach to research management requires a thorough evaluation and review by people outside the DoD.●

AIDS IN NEW YORK CITY

● Mr. D'AMATO. Mr. President, I rise today to address one of the most serious and least understood diseases of our time—acquired immune deficiency syndrome.

New York City has the largest concentration of individuals with AIDS in the United States. Approximately 34 percent of all AIDS patients live in the New York metropolitan area.

The strain of the AIDS virus in New York City, pneumocystis carinii pneumonia, is distinctly different from that which exists in other parts of the country. Furthermore, an increasing proportion of the individuals with AIDS in New York City are IV-drug users. In 1981, only 18 percent of the total number of AIDS patients in New York City were IV-drug users. Today, that figures has risen to 33 percent.

The statistics are staggering; 60 percent of all IV-drug users in New York City have a positive test for the AIDS virus. It is estimated that 10 percent of these individuals eventually will contract the disease.

I commend my colleague in the House, Representative RANGEL, for taking the initiative to address the problem of AIDS in New York City by recently holding a hearing on the connection between IV-drugs and AIDS. This hearing featured as witnesses a number of public officials involved with law enforcement, health, and education. Their testimony was frightening.

One witness noted that New York City now has approximately 198,000 heroin addicts. In addition, the New York State Division of Substance Abuse Services indicates that 30,796 individuals in New York City were in State-funded treatment programs at the end of May 1985. At that time, methadone programs were operating at over 100 percent capacity with 24,130 clients.

The witnesses agreed that preventive education relating to drugs and AIDS is vital to the well-being of the youth of our country. I endorsed the need for significant drug-related educational efforts in the schools.

Preventive education in the schools is an effective way of targeting the individuals most at risk in the city. Younger and younger individuals are getting involved with drugs. It is high time we started to catch and warn these children before they take the step to get on the needle. Once they are on the needle, it is very difficult to get them off. This has significant implications for how we should go about combatting drugs and AIDS: The key is to catch people now, before they become addicts.

Recent research implies that non-IV-drugs also may be significant cofactors in the transmission and spread of AIDS. A very high percentage of AIDS patients have used marijuana, butyl nitrate, alcohol, PCP, or cocaine on a continual basis over a long period of time. These drugs weaken the body's immune system, making the body vulnerable to virus and infection. If these cofactors do play a significant role in the transmission of AIDS, drug prevention—both for IV-drugs and non-IV-drugs—is vital.

The hearing revealed New York City's specific areas of need if we are to make an all-out campaign against drug use and AIDS. The educational system, health care facilities, and law enforcement agencies all must be involved. A combined, collaborative effort is the only way New York City will be able to tackle this problem.

I bring this hearing to the attention of my colleagues because I believe the rest of the country can learn from the experience of New York City. All States eventually will have to come to terms with the difficult problem of AIDS and drug use. The fact that the two are so closely connected is a tragedy in and of itself. However, it is my hope that we can look beyond the tragedy and seriously address our efforts to arrest this problem. This year's appropriation of $234 million for AIDS research, education, and treatment is a promising step in the right direction.

This Nation requires a well thought-out and all-encompassing approach to deal with drug use and the spread of AIDS. The answer to this dilemma results in educational and research efforts that we, as public officials, can influence.●

ADVANCE NOTIFICATION OF PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the Chairman of the Committee on Foreign Relations.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC.

In reply refer to: I-17112/85ct.

Dr. M. GRAEME BANNERMAN,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost $50 million or more.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF, Director.●

TIME INC. CHAIRMAN RALPH P. DAVIDSON'S EFFORTS TO KEEP AFFIRMATIVE ACTION STRONG

● Mr. MOYNIHAN. Mr. President, I rise today to call my colleagues' attention to an article by a distinguished American and fellow New Yorker, Ralph P. Davidson, chairman of Time Inc.

In an essay in the November 25 edition of the New York Times Ralph Davidson eloquently affirms the importance and effectiveness of Federal affirmative action, noting that the executive order mandating this program enjoys not only the support of Republicans and Democrats but that of the business community as well.

Mr. President, as Assistant Secretary of Labor under President Johnson, I participated in the drafting of Executive Order 11246, the most recent in a series of Executive orders which, since 1941, have imposed nondiscrimination requirements and, since 1961, have required affirmative action in the employment practices of contractors and subcontractors of the Federal Government.

Ralph Davidson writes—quite correctly, I believe—that had this order mandated quotas of any kind, the American people, particularly the business community, would have abandoned it years ago. But that has not happened: the numerical goals have provided and expanded opportunity for tens of thousands of job-seeking Americans, who might otherwise have been left out of the American dream.

Mr. President, Ralph Davidson is respected and admired across America and I ask that his essay in the New York Times be printed in the RECORD.

The essay follows:

KEEP FEDERAL AFFIRMATIVE ACTION STRONG

(By Ralph P. Davidson)

Imagine a Government program that's been supported by five Presidents, Republicans and Democrats in both houses of Congress, the A.F.L.-C.I.O. and the National Association of Manufacturers. Imagine, too, a program credited with increasing the participation of women and minorities in our economy at small cost to taxpayers. Such a program, combining the goals of social justice with economic common sense, might seem an abstract ideal. It already exists. It's called affirmative action.

Affirmative action was set in place almost a quarter century ago by President John F. Kennedy and strengthened by the executive order signed into law by President Lyndon B. Johnson in 1965. Since then, affirmative action has proven its worth, using the leverage of Federal contracts and public investment to create equal job opportunities and thus translate the dreams of the civil rights struggle into reality.

Now there's pressure in the Administration to change the executive order by removing the statistical measurements—the "goals and timetables"—that give affirmative action its teeth. Proponents of this change base their case on three major points.

First, they argue that the order creates racial "quotas"—fixed and unalterable percentages to be met at any cost. "Quota" is a word that rankles and outrages many people, and if the order had in fact established quotas, pressure to rewrite it would have arisen long ago.

But this hasn't been the case. Most companies supported—and continue to support—the executive order. Why? For the simple reason that affirmative action isn't a bureaucratic inquisition aimed at enforcing a quota system. It hasn't meant the imposition of inflexible numbers. What it has meant is that those doing buisness with the Government must demonstrate a "good faith" effort to give women and minorities a fair share of the opportunities generated by Federal contracts. Instead of coercing businesses to follow a course they would otherwise resist, this requirement has, in many cases, reinforced already existing private sector affirmative action programs.

Second, opponents of the executive order complain that it constitutes a hidden tax, adding needlessly to the expenses of companies forced to keep records of their attempts to comply. But this ignores the fact that most companies routinely establish explicit goals to be met within prescribed periods of time. "Management-by-objective" isn't a creature of affirmative action. It's a tested business technique; and, as applied to hiring, it's an effective way of tapping new talent and opening avenues for those who, no matter how talented or ambitious, were denied advancement because of race or sex.

The third objection is that affirmative action is unnecessary. Now that de jure discrimination has been dismantled, the argument goes, the way is clear for women and minorities. The free market will do the rest.

In a time of economic growth and relative prosperity, its tempting to believe this. Unfortunately, the statistics tell another story. While the poverty rate recently showed an overall decline, it's still significantly higher than a decade ago. The rate for Hispanics actually rose. Unemployment is more than twice as high for blacks as for whites. Female-headed households still make up the bulk of the disadvantaged.

The bottom line is that the same people who suffered the most from the deep cuts in social spending of the past few years—in housing, education, job training, nutrition, child care—also profited the least from economic growth. For most of them, there is no fabled ladder of economic opportunity but rather a treadmill of underemployment and joblessness, of opportunities forever beyond their reach.

Any change in the executive order would only deprive us of one of the few proved and practical means we have of helping people stand on their own feet. It would open the way for the slow unraveling of all the hard-won gains of the past two decades.

Two centuries ago, Edmund Burke pointed out that "a state without the means of some change is without the means of its own conservation." Affirmative action is the means of constructive change. With it, we can continue to open doors to those long denied the opportunity to compete. The executive order should be affirmed. The door should not be closed.●

NATIONAL AUTISM WEEK

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to Calendar No. 450 (S.J. Res. 230).

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 230) to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week."

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ABDNOR. Mr. President, as a cosponsor of Senate Joint Resolution 230, Senator KERRY's resolution to designate this week as "National Autism Week," I am especially pleased to report that concerned parents in my State have formed the South

Dakota Society for Autistic Children [SDSAC].

I commend my colleague from Massachusetts for his efforts to call attention to autism, and I encourage our colleagues to read a speech given earlier this year by Mrs. Cathy Maynard, president of SDSAC, in which she gives a very personal and moving account of how she and her husband, David, discovered their son, Jon, is autistic. As Mrs. Maynard points out, autistic children are capable of leading meaningful, productive lives, if only their disorder is identified and addressed appropriately.

Mr. President, I ask that the entire text of Mrs. Maynard's statement be included in the RECORD.

The statement follows:

I'm here today to talk to you about autism. Some of you undoubtedly know as much, or more, about the clinical symptoms of autism as I do. The behavioral, language, and social problems of autistic children are pretty well known, so some of what I'll be talking about may already be quite familiar to you.

Part of what I want to give you today, though is something that you may not find in some of the text-books, or in the medical definitions on autism. Because, you see, only a few of the professionals who wrote the textbooks on autistic children actually live with autism "25" hours a day. The ones who do, are, like myself, the parents of an autistic child.

Most parents of autistic children are not nationally known experts in the field of autism. They're ordinary people, people from all walks of life.[1] People of all nationalities, people who may live next door, your neighbors. People who have, or at least started out with, the same hopes and dreams, for their child as you have for yours. The parents of autistic children are no different than you or I. Autism can occur in any family. No groups of people are safe from the possibility that some of their children will be autistic. Without warning, autism occurred in my own family. It could also occur in yours.

Autism turned our sedate, normal, ordinary lives into a circus of the inane. I marvel at the long-past, distant time in our lives. Before autism, when we actually worried about such trivia as our bank loan, or what I might wear to my sister's wedding.

Before Autism, our lives were probably much like yours. We quickly learned, though, that we simply did not have time to be concerned about things like what we wore to a wedding. Even bank loans took a back seat in the worry department. Our lives were consumed by trying to deal with a million child-rearing difficulties that weren't even mentioned in the books we'd read by Dr. Spock or Patterson. None of the books on parenting discussed how to deal with a child who screamed in terror when he saw peas as circles. None of the parenting books mentioned things like head banging or wrist biting.

As another parent once wrote: "Autism is a very traumatic, but effective cure for caring too much about what other people think of you. It is perhaps, the ultimate liberator."[2]

[1] Warren
[2] Akerley

As I mentioned earlier, the parents of autistic children are basically, no different than any other parent. The only possible difference is that they are trying to deal, often unsuccessfully, with behaviors that the parents of normal children never come in contact with. Thus, they live with the chronic unending stress of Autism.

Our son, Jon, is 9½ years old. Last September he was diagnosed as mildly autistic by Dr. Lee Marcus at division T.E.A.C.C.H. (Treatment and Education of Autistic and related Communication handicapped Children). University of North Carolina at Chapel Hill. Jon was autistic from the moment of his birth. Probably even before his birth. However, autistic children do not come with a label on their backs declaring their handicap, or with a tag on their forehead giving instructions on how to deal with the devasating challenges of raising an autistic child.

When Jon was born we never dreamed that someday, after all the years and years of unanswered questions, we'd end up going all the way across the country to have our son evaluated by some of the world's foremost experts in the field of autism. We know, though, that we'd find answers in North Carolina. After 9 years, we'd know, one way or the other exactly what was wrong with Jon.

When Jon was born we rejoiced! A perfect child! Our son. We, like other parents, assumed that our child was perfectly normal. He was the frosting on our cake, the joy of our lives. We already had a beautiful little daughter and the birth of a son was more than we had dared to hope for. Not only was Jon an only son, but also an only grandson, an only nephew. This was Jon Maynard, the last of a long family line, fifth generation Maynard to live on a farm homesteaded nearly 100 years ago by his great-great-grandfather.

Jon was the only male child to carry on the family name. Hopes and dreams had no limitations! We said, just like a million other parents before us, and like a lot of you may someday say to yourself as you gaze at your newborn child, "This little boy can do anything! He might even grow up to be President someday!" He was special, unique. At that time, we were unaware of just how special and unique Jon actually was. How "different."

This little boy was not going to grow up to be President, or an astronaut, or a doctor, or a teacher, or even a supermarket clerk, or a ditchdigger. Our hopes and dreams gradually changed. They're now more tuned-in to Jon. We now hope and dream that Jon will have some kind of place in society. That he can live a life of dignity. That people will be compassionate, and try to understand that being "different" is not a crime. We hope and dream that, perhaps in the kind of sheltered environment that Jon will need as an adult, he'll be able to live a meaningful and productive life.

Autistic children do grow up, and the parents of autistic children do not live forever. Thus, we're faced with a great worry that the parents of normal children never consider. What will become of our children when we're no longer there to care and provide for them? No longer there to protect them?

The future is grim. According to NSAC statistics, between 95 and 98 percent of all autistic adults are institutionalized.

It does not have to be this way. Appropriate educational services for autistic children can make the difference. For some, the difference will be enough to enable them to lead productive lives as adults; live in community settings instead of meaningless existences in institutions. However, unless parents know exactly what their child's handicap is, and what kind of educational services he needs, they will be unable to advocate for these services. Unable to advocate for their child's very future.

Each of you in this room can help. It should not, of course, fall solely upon the shoulders of educators to diagnose an autistic child. Such an evaluation should also include input from a psychologist, or child psychiatrist, who has specific training in the field of autism. Information and observations from teachers and speech clinicians often proves invaluable in the diagnostic evaluation of autistic children. They're the professionals who are in daily, close contact with the child, and in some occasions, are the first professional to actually start piecing together the child's various symptoms.

Some of you in your future professions as teachers or speech clinicians, will undoubtedly come into contact with autistic children. Do not be surprised if these children are not diagnosed or labeled. Afterall, South Dakota is a noncategorical State.

Some of the children, even though they are not adequately diagnosed, may have strings of adjectives in their records that seem to avoid the real issue. Some of these vague or incorrect labels may be "developmental delay with autistic-like features," or "behavioral abnormalities with retardation," "emotional disturbance with expressive language delay."

At one point, many years ago, we believed that the noncategorical system was "humane," less stigmatizing. Professional after professional told us that it didn't matter what was wrong with a child, as long as the treatment was the same. This is a myth. Treatment is not the same. Different handicaps require different treatments. I cannot stress that point strongly enough. Unless a child receives an accurate diagnosis for whatever his handicap may be, treatment will be, at best, guesswork, haphazard, a hit and miss affair.

In trying to decide what to talk to you about today, I contacted a few of the parents I know who also have autistic children. I asked them, in their opinion, what they felt I should tell you. What was most important to them? What would have helped them the most when they were searching for answers? They, like my husband and I, feel that it's crucial to the progress of the child to have an accurate diagnosis.

Tell the parents what you see, and what those symptoms may mean. Assist the parents in finding someone with expertise in autism to evaluate their child. If a child is indeed autistic, early diagnosis means early treatment. Years and years are often wasted simply because no one actually has the courage to go out on a limb and say, "I think your child may have a lifelong handicap called autism."

I know that's a tragic thing to have to tell any parent. And its easy to understand why some doctors and educators pass the buck, or say nothing, just in case they could be wrong. However, parents are usually the first to notice that something is amiss with their child. The sooner they know what is wrong, the sooner they'll be able to pick up the pieces of their lives, and plan accordingly.

Are you still wondering if you could ever have the courage to be the bearer of such bad news? If so, for a moment, try to imagine that you have a child. A perfectly

normal, beautiful child, who laughs and plays, and talks, and hugs you. A child that you love more than life itself. A child that you, would do anything for, because, after all, you're a typical parent, just like a million other parents. Just like me. Try to imagine that your child seems very ill, vomits day and night, and is running a high fever. Your beautiful child no longer laughs, or smiles, or hugs you. Your once healthy child is obviously ill, and needs help.

Your worry is continual. Could it be the flu? Something worse? What? Oh, my God. Reye's syndrome?

Try to imagine taking your sick child from doctor to doctor, seeking help, seeking answers to the always present question of, "What is wrong with my child?" Try to imagine being told, "We don't know. We'll look at the child again in a year," or being told "Nothing is wrong with your child . . . he'll outgrow that fever." Try to imagine being asked, "What did you do to make your child sick?" or, being told to go down the hall to Dr. X, who is an "authority" Dr. X sends you to Dr. Y. Dr. Y tells you to quit wasting your time in search of answers. It doesn't matter what the problem is as long as treatment is the same. Dr. Y sends your sick child to Dr. Z, and Dr. Z sends your child all the way back to Dr. A. Full circle.

Try to imagine the constant fear, constant worry, always there. "What is wrong with my child? Surely we must know what is wrong before we can know what to do about it!" Try to imagine that this intense worry is with you for a week, and then two weeks. And then a month.

The continual, unending stress would be more than many parents could endure. After all, you are like a million other parents. Nothing is more important than your child.

Now, pretend that your child is not the normal, smiling, beautiful child who was sick for a month. Pretend that your child is a different one. Again, a beautiful child, but one who doesn't like hugs, or being snuggled. A child with perfect features and an angelic smile. A child who runs in circles for hours, following the endless road of a braided rug. A child who says words and phrases over and over, but who cannot communicate. Your child is a question without an answer, a puzzle with only half the pieces, a child half-way here, half-way there. A child who seems, in some ways, to be a budding genius. In other ways, to be severely retarded. A child who sometimes seems deaf, unhearing. And yet, at other times, he hears the slightest sound. A child who becomes intensely absorbed in watching his fingers make lines on smooth surfaces. A child who screams for hours, and can tolerate not the slightest change. A child who can spin coins and jacks with the greatest ease. A child who does not know how to wave goodbye, or cry when he's hurt. Imagine that this child is your child.

The worry doesn't stop in a week, or in a month, or in a year, or in two years, or three. Can you imagine living for years, asking the endless question, "Help me, please. What is wrong with my child?" The answer is autism.

Knowing the answer is difficult to deal with, and hard to bear. Not knowing the answer is impossible to deal with, unbearable.

Perhaps you're wondering how misdiagnosis, or no diagnosis can be harmful to an autistic child. There are countless examples, but let me give you only a few. These examples are some that occurred with our own son over the years.

When Jon was just barely 2, we put our fears into words, and asked our family doctor why Jon screamed constantly, and had made no real effort to talk. Jon had said a few single words, but the words were not used to tell us anything. . . . They did not seem to be the building blocks of developing language. Our doctor glanced at the wild child on my lap, and said, "You've got to have control. Children must know their limits." He obviously thought this must be an extreme case of poor discipline. I felt as though I had been reprimanded by God! If only our doctor had taken just one moment, to think of our perfectly behaved daughter, he might have realized that Jon's problems needed further investigation. As for Jon's lack of speech, he said, "Some perfectly normal children don't say much until they're 5 years old."

Our doctor did not refer Jon to other professionals who may have been able to diagnose his autism at an early age. Thus, Jon missed out on the early help that he desperately needed. And, we were not spared the needless trek that so many other parents of autistic children have also endured. Dragging their children from one ill-informed "Pseudo-expert" to another. Searching for answers. Getting none that fit, for years.

When Jon was 3 years and 9 months old. He had his first seizure, and was hospitalized for a medical work up. Old records of Jons hospitalization refer to a child who used only echolalia, mimicked noises that he heard, and parroted questions that were asked him. The records describe a child who had reduced facial expression, and a reserved manner around people. A child who insisted that certain routines and rituals be followed. A child who tantrumed and screamed. A child who would eat little other than mandarin oranges and malts. A child who liked to manipulate objects that could spin. A child who was not potty-trained. A child who was developmentally delayed. A child who, when asked a verbal question such as "What letter is that?" would respond by repeating, "What latter is that?" A child who, when given the instructions, "Touch the W," would not echo, but would immediately touch the correct letter. A child who, amazingly, could correctly identify by pointing to every single letter of the alphabet. A child who was fascinated by printed letters and symbols.

The possibility of autism was mentioned in Jon's old hospital records, but it was not mentioned to us, his parents. Jon was not referred to a diagnostic center specializing in autism. We remained in the dark, our lives upside down, unable to understand the different little boy whose rituals and routines literally determined our every move. And, I do mean our every move. Jon could accept no changes.

If one of us mistakenly sat in the "wrong" chair during a meal. Jon would explode like a volcano. He could drink from only one kind of glass, the glass had to be placed in a certain spot on the table, and certain words had to be said before he could take a drink. Our wee little son was the unknowing dictator. In a sense, we were made to dance to the tune of a song that we'd never heard before. Our lives were totally engulfed by something we didn't understand, couldn't comprehend.

We had never even heard of the word "autism."

Jon attended pre-school programs for 3 years, at ages 4, 5, and 6. Also at 6, he was mainstreamed into a regular kindergarten class. Jon had terrific teachers, and we all hoped, prayed, that kindergarten would work.

Jon had made a tremendous amount of progress in the area of language. He very seldom echoed anymore. His expressive one-word vocabulary score was 2 months above his actual age, and his receptive vocabulary score was 1 year and 5 months above his chronological age.

Jon, though, was not like the other children in kindergarten. Even though he was now quite verbal, he did not use most of the words that he understood. He still could not answer most simple questions. He did not seem to understand words when they were put together into sentences. He did not seem to understand words as language. Questions had to be re-phrased several times, often to no avail. Jon would often answer, "No" when he meant, "Yes." The yes concept seemed impossible for him to learn. Jon's classmates could talk circles around him, none of them needed questions carefully re-phrased.

Jon was the only child in kindergarten who did not know how to play, or interact. Even two Down's syndrome children seemed eager to interact. But, not Jon.

Jon was the only child in kindergarten who screamed when a routine was changed, or who seemed frightened of the small American flag. Jon was the only child in kindergarten who had not nodded his head to signal yes, or shaken it to signal no. Jon was the only child in kindergarten who had to "body language," Jon had never even pointed his index finger at something, or waved good-bye. Jon was the only child in kindergarten who could not accept "different" things, like mittens, or new coats, or new shoes. Jon was the only child in kindergarten who could not button his shirt, or dress himself.

Jon, my son, my different little boy, was the only child in kindergarten who could read. What was wrong with Jon??? Autism.

Kindergarten for Jon lasted for only one month. His teachers said it was such a shame that he couldn't adapt, after all, he was such a bright little boy. Any child who had learned to read without being taught as early as 4½ or 5 years old had to be very intelligent, indeed! Right? Wrong. Autism.

The DSM-111 diagnostic criteria for infantile Autism are:

A. Onset before 30 months.

B. Pervasive lack of responsiveness to other poeple.

C. Gross deficits in language development.

D. If speech is present, peculiar speech patterns such as immediate and delayed echolalia, metaphorical language, pronoun reversal.

E. Bizarre Responses to various aspects of the environment. E.G., Resistance to change, peculiar interest in, or attachment to animate or inanimate objects.

F. Absence of delusions, hallucinations, loosening of associations, and incoherence as in schizophrenia.

Diagnosis—299.00 infantile Autism. Full syndrome present.

In I.Q. testing, approximately 60% of Autistic patients have scores below 50. 20% between 50 and 70, and only 20% greater than 70. A few of the children, like Jon have, an area of excellency. A particular, isolated skill, that is in the normal, or above normal range. These skill are deceptive. The children are ofter placed in educational programs that are too difficult, simply because the children may seem so intelligent, in actuality, the children may function in the retarded range in most other areas, Jon's skill

was in his precocious ability to decode written words. . . . Reading. This is actually called hyperlexia, and is often found in some Autistic children.

Even though a few Autistic children do function in the normal range of intelligence, hyperlexia is not necessarly indicative of high I.Q. functioning, and the majority of Autistic children do not have islets of intelligence.

Autism is a variable condition, and no two childen are exactly the same. Autism, like retardation, occurs along a continum, with the most mildly afflicted children resembling children who have receptive dysphasia. Autistic children, though, have less use of gesture, and are more limited in imaginative play than children with other language disorders.

There are many misconceptions about Autism.

Misconception 1:[3] Autistic children don't talk.

Fact 1: The language handicap ranges from mutism to peculiar modulation difficulties and odd inflection and intonation patterns. Some of the children do become quite verbal.

Misconception 2: Autism is an emotional disorder.

Fact 2: Autism is not an emotional disorder, and is not a mental illness. Autism is not related to schizophrenia, which occurs at a much later age of onset, usually in adolesence or young adulthood.

Current research on autism points to a physical cause, probably affecting parts of the brain which deal with the higher organization of sensory information, and language. Untreated PKU, rubella, celiac disease, and chemical exposure in pregnancy can cause autism.

Autism frequently occurs in association with other syndromes, specific diseases, and developmental disabilities, the brain pathology which produces the symptoms of autism also produce the syndrome of retardation in approximately 80% of all patients.

Epilepsy, fragile X, and severe allergies are other frequent, concurrent syndromes.

In 1981, autism was removed from the category of "emotionally disturbed" in P.L. 94-142. Since it's now known that autism has physical causes, it is now in the category of "other health impaired" in P.L. 94-142. Some states, in their own State law have put autism into separate category of it's own, to ensure that autistic children receive an appropriate education.

Misconception 3: Autistic children are locked in a shell, and can be coaxed out if given enough love.

Fact 3: The disorder is characterised by impaired relatedness, lack of desire for affection, and aloneness, this is part of their developmental disorder. They need structured teaching to learn how to relate to others.

Misconception 4: Autistic children are willful in their failure to talk, and relate to others.

Fact 4: The social and communication handicaps are part of their developmental disorder, which is organic in nature.

Misconception 5: Autistic children are potentially bright, if only you can unlock the shell.

Fact 5: 70 to 80% of all autistic children are mentally retarded. Retardation in certain areas is sometimes accompanied by normal, or superior abilities, in one or more area.

[3] T.E.A.C.C.H. handout.

Misconception 6: Autistic children are trying to communicate when they flap their hands, or move their bodies in repetitive motions.

Fact 6: The repetitive and peculiar use of toys and objects and peculiar body motions are ritualisitic and self-stimulatory.

Misconception 7: Autistic children are stubborn.

Fact 7: The children have unusual reactions to perceptual stimuli, such as not seeming to hear certain sounds, and over-reacting to others. (e.g. Holding hands over ears, "Looking through" objects and people).

Misconception 8: Autistic children "withdraw" in reaction to parents who are cold and rejecting.

Fact 8: The onset of autism is at birth or in some cases there is an apparent normal early development. Followed by deterioration in functioning or decreased developmental rate, occurring within the first 3 years of life. Putting "blame" on the parent of an autistic child is as ludicrous and tragic as it would be to "blame" another parent for letting their child contract cerebral palsy, or Polio.

Misconception 9: All autistic children are withdrawn.

Fact 9: They may be hyperactive or passive.

Misconception 10: Most autistic children are self-injurious.

Fact 10: Only a minority of autistic children injure themselves.

Misconception 11: The problems of autism disappear in adolescence or adulthood.

Fact 11: Although the nature of the difficulties may change, or lessen as the children get older, autism is almost always a lifelong, severe disability.

Misconception 12: Autistic children do not have eye contact.

Fact 12: Only some autistic children have poor or fleeting eye-contact.

Additional Misconceptions about autism include the myth that all autistic children are alike. They're not, even though they have in common the same basic, core handicap, they're each different from one another. Just as you and I have some individual differences. For example: I have blonde hair. . . Do you? My eyes are blue. . . Are yours? I love spinach. . . Do you? I detest football. . . Do you?

Some autistic children may be severely autistic, others only very mildly autistic. Some autistic children spin objects, or go in circles. Others don't. Some of the children dislike touch, others are clingy. Most of the autistic children who are verbal echo, but some children don't. Some flap their hands, or make odd finger motions. Others may snap their fingers, or twirl string. The variations of behaviors among autistic children seem endless, and any combination of behaviors can be possible.

Some autistic children improve in their ability to relate to people more normally as they grow older. Even though they may not react exactly like a normal child, they do make gains. Our son, Jon, fills our hearts with joy, and makes us laugh aloud, when he tries to give his version of a compliment, by saying things such as, "I love you Mom, and you certainly have a big nose!"

It's true, our son will never grow up to be President. But in his own way, he is special and unique, even though he is "different."

Because of Jon, we've learned lessons in compassion and empathy that would not have been possible if he had been a "normal" child. . . The kind who can grow up to be President.

We've also learned to laugh at ourselves, and not take the unimportant too seriously. However, at times, we do get some rather strange looks from our neighbors.

When Jon was 6, he was still unable to play normally outdoors. Instead, he would dig countless little holes, over and over, for hours. In an effort to develop more normal play habits, my husband built a huge sandbox, and filled it with toy soldiers, cowboys, trucks and cars. Dave would then get in the sandbox with Jon, and would spend hours teaching Jon to play more normally. Even so, Jon had a tendency to leave. To just get up, and wander off. Once when this happened, Dave stayed in the sandbox, hoping to entice Jon back into the "playing." Jon was out of eyesight, but could hear as Dave made inviting cowboy and truck sounds. Soon, he was sure, Jon would be lured back into the game.

Dave glanced up from his solitary "play" in the sandbox, and saw our next-door neighbors driving by very slowly. They seemed quite astonished. it's not everyday that they get to see a full grown man, playing all alone in a sandbox! I'm sure they're now convinced that autism is genetic!

Autism is not a common disorder. However, it's not as uncommon as is thought. It's just that a great portion of South Dakota's autistic population are not identified as autistic.

Autism occurs in 15 of every 10,000 births. South Dakota's total population of 690,768, based on the 1980 census, means that, statistically, we have 185 school-aged autistic children in this State. And, statistically, there would be a total of 1,036 autistic children and adults in South Dakota.

Where are the autistic people of South Dakota? How are they being helped? It's impossible to help them until we find them. Identify them. Diagnose them.

Who are these autistic people? My child is only one. Where are the others?

Just because they aren't labeled, diagnosed, doesn't mean they aren't there, and it doesn't mean they don't need help.

Be an advocate for these people, for their rights, and for their education. Their education is their only chance for any kind of future. They cannot advocate for what they need themselves. They need us.

You can help. You might be the one to make "the difference" in the life of an autistic child. The difference between a meaningful, productive life, or life in an institution, in the shadows. Alone. Hidden. Unidentified, undiagnosed. Forgotten.

You may ask, "is it worth all the effort, time, and money that it takes to help even one child?"

Before you decide, try to imagine . . . that child is yours.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 440, the House companion bill.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 440) to designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week".

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 440) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar Order No. 450, Senate Joint Resolution 230 by indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

WALT DISNEY RECOGNITION DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 377, to designate December 5, 1985, as "Walt Disney Recognition Day."

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A House joint resolution (H.J. Res. 377) to designate December 5, 1985, as "Walt Disney Recognition Day."

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1344

Mr. DOLE. Mr. President, I send an amendment to the desk to the joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1344.

On page 2, line 3, strike out "1985" and insert in lieu thereof "1986".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to further amendment. If there be no further amendment to be offered the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 377) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1345

Mr. DOLE. Mr. President, I send an amendment to the preamble to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment No. 1345.

The preamble is amended by amending the first 2 clauses to read as follows:

Whereas in 1986 there occurs the 31st anniversary of the founding of Disneyland; and the 15th anniversary of the founding of Disney World;

Whereas December 5, 1986, is the 85th anniversary of the birth of the founder of Disneyland and Disney World, Walter Elias Disney;

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1345) was agreed to.

The preamble, as amended, was agreed to.

The title was amended so as to read:

"Joint resolution to designate December 5, 1986, as "Walt Disney Recognition Day".

NATIONAL POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 449, Senate Joint Resolution 220, POW/MIA Recognition Day.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 220) to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MATTINGLY. Mr. President, I urge the support of all Senators for Senate Joint Resolution 220, the legislation designating September 19, 1986 as "National POW/MIA Recognition Day."

The resolution, which I introduced on October 21, has 54 cosponsors and has gathered broad, bipartisan support. The designation of a special day of remembrance for those who have served our Nation so bravely will once again provide a particularly appropriate time to pause and pay tribute to them. The resolution honors all veterans in all wars who have served our Nation under such terribly difficult circumstances but it obviously has a special meaning as our Government continues the efforts to obtain a full accounting of the more than 2,400 servicemen and civilians who remain missing and unaccounted for in Indochina.

Passage of the resolution provides an opportunity for the Senate to salute those Americans who have endured such hardship in service to our country. In addition, it is clear, further evidence that our Government has not and will not forget those who remain missing and that our collective resolve, Mr. President, to obtain the accounting we seek has not lessened and will not diminish.

I appreciate the support lent to this effort by the distinguished chairman of the Judiciary Committee, Senator THURMOND who is also an original cosponsor and by Senators MURKOWSKI and CRANSTON, the very able chairman and ranking member of the Committee on Veterans' Affairs.

I urge the adoption of the resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 220), with its preamble, is as follows:

S.J. RES. 220

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas many Americans are still listed as missing and unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 19, 1986, shall be designated as "National POW/MIA. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to

commemorate such day with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF MERCHANTS NATIONAL BANK OF MOBILE, AL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to Calendar Order No. 429, S. 593.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 593) for the relief of the Merchants National Bank of Mobile, Alabama.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill.

Mr. DENTON. Mr. President, on March 6, 1985, Senator HEFLIN and I introduced S. 593, a bill for the relief of the Merchants National Bank of Mobile. Passage of the bill would conclude a congressional reference proceeding that began in the U.S. Senate more than 5 years ago. On October 31, 1985, the bill was considered by the Judiciary Committee and was unanimously reported to the full Senate for consideration.

The bill complements the legislation that was introduced by Senator HEFLIN in the 96th Congress (S. 2052), and referred in November 1979 by Senate Resolution 291 to the Chief Commissioner of the U.S. Claims Court.

The reference sought the court's consideration of whether the bank was legally or equitably entitled to compensation for losses sustained in connection with a defective Federal loan guarantee issued by the Department of Defense. After a lengthy trial before a hearing officer, and argument before a review panel, the U.S. Claims Court, through its chief judge, has advised the Senate that the bank has an equitable claim for $809,609, and that payment of the amount would not constitute a gratuity.

The losses sustained by the bank relate to loans made to a Government contractor in Mobile, AL, which was attempting to perform two contracts, awarded by the Defense Logistics Agency in 1976, to assemble combat rations for the military. In the early stages of the contracts, lengthy delays and mishandling of materiel by the Government, generated substantial unforeseen costs to the contractor. To assist the contractor in securing financing for the costs, the Agency approved a loan guarantee to the bank pursuant to the Defense Production Act "V-Loan Guarantee" Program.

When the bank had advanced virtually the entire guaranteed sum—almost $2 million—the Agency abruptly canceled the guarantee because it discovered that no funds had been appropriated to support the guarantee agreement. Nevertheless, stressing the importance of the combat rations contracts to the defense effort, the Agency pledged its full assistance to Merchants Bank and the contractor to encourage them to proceed with the contracts. The Agency pledged its full assistance to Merchants Bank and the contractor to encourage them to proceed with the contracts. The Agency even drafted legislation to allow the issuance of a suitable replacement guarantee. Based upon these assurances, the bank agreed to continue supporting the Government's contractor.

Soon thereafter, appropriate language was included in the 1978 DOD Appropriations Act to make available $5 million for the express purpose of authorizing new loan guarantee agreements. At this point, the bank applied for a new V-loan guarantee consistent with the assurances it had received from the Defense Logistics Agency. Notwithstanding the availability of suitable loan guarantee authority and the assurances that the Agency would do everything possible to restore the guarantees upon which the bank had relied, the Agency refused the application. Instead, it offered a guarantee substantially less favorable than the first, and only after requiring the bank to extend an additional half-million dollars in unguaranteed credit to the Government's contractor.

Meanwhile, the Agency acknowledged that its handling of the contracts had substantially increased the cost of performance. Consequently, it enlarged the credit requirements of the contractor. Because the second loan guarantee was wholly insufficient to support these credit requirements, and since the bank could not prudently extend further credit in light of its already substantial unguaranteed exposure, the contractor was forced to close its doors and file for bankruptcy in 1978. Both before and after the bankruptcy petition was filed, the bank expressed its willingness several times to join with the Agency in cooperative financing arrangements that would save the company. The Agency refused to entertain these suggestions, and in April 1978 the contractor was adjudged bankrupt.

In extending credit for the performance of the Government contracts, the bank understandably relied upon representations and assurances of the Defense Logistics Agency. When the first guarantee was suddenly canceled, the bank again relied upon the assurances of senior Agency officials that, pending enactment of new guarantee authority, a replacement loan guarantee would be established in an amount sufficient to protect the bank. When the Agency ultimately refused to stand by those assurances, the resultant credit limitations left the contractor facing bankruptcy and caused the bank to suffer losses of nearly $1.7 million.

Because the bank's losses were primarily the result of its reliance upon a guarantee that exceeded the authority of the responsible Government officers, it was apparent that a successful legal cause of action for the recovery of these losses was extremely unlikely. Where Government officials act beyond the scope of their authority, the obstacles to maintaining a legal cause of action to recover from the United States are virtually insurmountable. For that reason, S. 2052 was introduced in the 96th Congress and was referred by Senate resolution to the Court of Claims for consideration.

After a lengthy trial, which filled 2,000 transcript pages, Judge Spector, a senior judge of the claims court, on April 30, 1984, issued an exhaustive 65-page report in which he recommended that Congress authorize payment to Merchants Bank of $809,609 in full settlement of all its legal or equitable claims against the United States. The report concluded that the Government was responsible for a series of wrongful acts, including several unfulfilled assurances upon which the bank had relied in extending credit to the contractor. Judge Spector also found that the bank's cooperation with the Government and its contractor was in part motivated by the Agency's insistence that continued production under the contract was urgently required to support national defense needs.

Government counsel took exception to many of the findings, and a three-judge review panel of the claims court considered yet another round of briefs and oral argument from the parties. The resulting 22-page report of December 6, 1984, confirmed Judge Spector's conclusions and recommended that the chief judge transmit to the Senate its conclusion that Merchants Bank has an equitable claim against the Government for $809,609. Copies of the decisions of both Judge Spector and the review panel were referred to the Secretary of the Senate by the chief judge of the claims court on December 19, 1984.

The bill would give effect to the conclusions rendered after careful adjudication by the claims court. It does not compensate the bank for all of the losses it has suffered in supporting this Government contractor. Indeed, the bank has never sought total compensation from the United States for its losses, nor does it seek to recover the painful costs generated by some 5

years of watching this congressional reference proceeding take its long and careful course.

The bill would confirm the efficacy of some of the longstanding traditions of a congressional reference, traditions founded in part upon a simple recognition that there should be an avenue by which the Government can be held accountable for its mistakes and excesses. Accountability is particularly important when, as in this case, losses are suffered expressly because of the trust and reliance that was placed quite naturally in a Government agency responsible for the national defense.

The bill involves a unique, unprecedented set of facts, and will provide compensation only to the Merchants National Bank of Mobile for its own proven losses.

Mr. President, I urge my colleagues to support equitable compensation for the Merchants National Bank of Mobile by implementing the findings of the U.S. Claims Court and passing S. 593.

Mr. HEFLIN. Mr. President, S. 593 is the result of a congressional reference voted by the Committee on the Judiciary to have the Merchants National Bank's claim considered by the U.S. Claims Court. A trial was conducted at the Claims Court before a hearing officer, the case was argued in full before a review panel, and the chief judge of the Claims Court advised the Senate that the bank has a legitimate, equitable claim.

The bank's losses resulted from U.S. Government Department of Defense loan guarantees made to a Government contractor to assemble combat rations for the military. When the bank had advanced virtually the entire guaranteed sum—almost $2 million—the agency abruptly canceled the guarantee. The agency continued, however, to pledge its full assistance to the bank to encourage it to proceed with the contracts. In short, the contractor declared bankruptcy and the bank suffered losses of $1.7 million.

In a 65-page report and after a trial filling 2,000 transcript pages, Judge Spector, a senior judge of the Claims Court, concluded that the U.S. Government was responsible for a series of wrongful acts. The bank's cooperation with the Government was in part motivated by the agency's insistence that continued production under the contract was urgently required to support national defense needs.

Because the bank's losses were primarily a result of its reliance on a guarantee that exceeded the authority of the responsible Government officers, sustaining a legal cause of action would have been impossible.

Mr. President, this is a fair judgment based on losses sustained through no fault of the bank. I urge favorably consideration of this legislation.

AMENDMENT NO. 1346

Mr. DOLE. Mr. President, on behalf of Senator DENTON and Senator HEFLIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] on behalf of Mr. DENTON and Mr. HEFLIN proposes an amendment numbered 1346.

On page 2 line 7 delete "(a)".

On page 2 delete lines 11 through 17.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1346) was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609 to the Merchants National Bank of Mobile, Alabama for compensation for losses sustained during the period January 1, 1976 through December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

SEC. 2. The payment made pursuant to the first section of this Act shall constitute full settlement of all legal and equitable claims by the Merchants National Bank of Mobile, Alabama against the United States, covered by this Act.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the nomination of Gregory J. Newell, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Gregory J. Newell, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

Mr. KENNEDY. Mr. President, the selection of Gregory Newell to be Ambassador to Sweden is a troublesome one for me. My concern is based on Mr. Newell's record at the Department of State, where he currently serves as Assistant Secretary for International Organizations. During his tenure, Mr. Newell presided over the United States withdrawal from UNESCO as a result of the serious problems that plague that agency administratively and politically.

However, at the time of our withdrawal, the United States made a firm commitment to continue international cooperation in the areas of science, education and culture, through initiatives separate from UNESCO. Mr. Newell and other State Department officials assured Congress and the country that our national commitment to international cooperation in UNESCO fields had not lessened and that U.S. resources would be available to other agencies and programs.

Yet, this year the budget request for international programs in these fields was not $47 million, the amount spent in our last year of participation in UNESCO, but $2.75 million. Of that amount, only $250,000 has been earmarked for cultural programming.

Although I fully understand the critical budget restraints facing us, I am concerned by the administration's drastic departure from its clear commitment to international cultural cooperation—a departure which slashes our previous financial commitment by 94 percent.

The Foreign Relations Committee held 2 days of hearings on Mr. Newell's nomination. I am grateful to Chairman LUGAR for his courtesy in including my questions in these deliberations. At the first hearing, I submitted several questions to Mr. Newell regarding the administration's commitment to continue supporting worthy UNESCO-type programs. I am disappointed by the response I received and the obvious lack of support for those programs, particularly with regards to cultural initiatives.

I intend to monitor the State Department recommendations and requests in this area, and I hope that Mr. Newell's successor will be willing to work with Congress to find suitable ways to honor the administration's commitment to international cultural exchange.

I ask unanimous consent that my correspondence with Mr. Newell be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSES TO KENNEDY-LUGAR CORRESPONDENCE OF NOVEMBER 6, 1985

REPORT ON US/UNESCO POLICY REVIEW—STATE DEPARTMENT—FEBRUARY 1984

"UNESCO cultural programs have been relatively free of political problems . . . Withdrawal from UNESCO would mean that UNESCO's central coordinating functions would no longer be available to the U.S. . . . But withdrawal would also free resources that we might use to fund activities we wished to promote . . . We could also increase our support to various international cultural organizations, both domestic and foreign."

In assessing the comparative worth of our involvement and planned withdrawal from UNESCO, the State Department made these evaluations and observations about the U.S. role in UNESCO.

This report further states that withdrawal would free up approximately $6 million for alternative cultural programs and pinpoint activities we should support.

1. Q. Is the $6 million dollar sum referenced here, the amount of the total UNESCO allocation for culture?

A. No. The proposed budget for UNESCO's cultural activities for the period 1986-87 is approximately $28 million. The U.S. share based on a 25 percent contribution would be about $7 million per biennium.

2. Q. How much of that $6 million was diverted to other cultural programs? To what agencies?

A. The $2.75 million fiscal year 1986 request contains $250,000 in funding for libraries, archives and other cultural activities. It would be directed for the most part to the National Commission on Library and Information Science.

3. Q. The Administration did not seek an increase in funding for the National Endowment for the Arts, one of the agencies listed as an appropriate alternative conduit for cultural programming. Which programs did assume the responsibility for these programs to insure a world-wide collaboration with respect to the arts?

A. It has been our view that the excellent programs of our prestigious universities, museums, orchestras and cultural societies were, are, and will be the vehicles that insure a world-wide collaboration with respect to the arts. In New York, Chicago, Boston, and Cambridge, very distinguished private institutions are the bearers of culture. They have always assumed a responsibility to insure a world-wide collaboration with respect to the arts.

4. Q. One of the objectives of UNESCO listed in the same report is the "stimulation of artistic and intellectual activity through the promulgation of UNESCO's Recommendation on the Status of the Artist." The United States was closely involved in the preparation of this document and, to my best understanding, still supports the Recommendations. What steps have we taken, or are appropriate to take in the future, with respect to this document?

A. Since 1980, when the UNESCO Recommendation of the Status of the Artist was adopted, the Endowment's International Office has widely circulated the text of this Recommendation throughout the United States. It has been discussed with (a) members of the National Council on the Arts; (b) National Endowment panel members and program directors; (c) 150 dance managers, professional dancers, and union representatives in a series of U.S. conferences; and (d) 500 arts managers trained at the National Endowment who are now working throughout the country. In 1984 the Endowment cooperated with the U.S. Actor's Equity and the Actor's Fund to establish a retraining program for dancers in the United States.

5. Q. Does the lack of financial commitment to the programs of UNESCO signal a lack of national commitment to this document?

A. No. As indicated above, numerous artist organizations in the United States, with the encouragement of the National Endowment for the Arts, are involved in discussing and implementing some of the recommendations contained in the UNESCO document.

6. Q. In this hearing, Mr. Newell, you indicate that "the Administration is committed to continuing international cooperation in UNESCO's fields with or without UNESCO . . . We have developed criteria for the selection of alternatives (which we will be able to fund.)" What are these criteria?

A. In developing these criteria for the selection of UNESCO alternatives, the Department of State gave special emphasis to those program activities which (a) replace or continue activities proper to UNESCO; (b) address world-wide problems; (c) promote Third World development; (d) accord with the priorities of U.S. domestic constituencies; and (e) promote self-reliance and private initiatives.

7. Q. How did you weigh a balance between education, science and culture?

A. Responsible career experts serving in U.S. government agencies directly involved in programs falling within the areas of UNESCO's charter responsibilities weighed the balance. In essence, they preserved current proportions.

8. Q. Who served on the "experts" group, particularly, who from the cultural community?

A. Given its primary charge to assess the "replacement" role of U.S. Government agencies with cultural matters (and the need to prioritize government agency budget items), this "experts" group was composed of U.S. Government officials from the National Endowment for the Arts, Department of the Interior, Smithsonian Institution, and the United States Information Agency.

9. Q. Further in this hearing, you indicate that the expert groups compiled a "wish list" of programs totaling $160 million, compared to $47 million which we are committed to seek from the Congress." How did you arrive at a budget request of $2.75 million in evaluating your commitment to a budget level of $47 million and an expert group's recommendation of need totaling $160 million?

A. I presented a $47 million package of alternative culture, science, communications and education projects to the Office of Management and Budget which, for reasons of budgetary stringency, decided not to make an FY 1986 request for UNESCO alternatives. The $47 million represented one year's contribution to UNESCSO on the part of the U.S. The $160 million was, as the question indicates, an uncritical "wish list". The $2.75 million request in the International Organizations and Programs (IO and P) Account will continue U.S. participation in UNESCO affiliated international conventions and organizations essential to the United States and not duplicated elsewhere, i.e., the Intergovernmental Oceanographic Commission and the Intergovernmental Committee on the Universal Copyright Convention.

Other activities, while desirable, were in themselves not judged to be essential, or were thought to be subtantially duplicated elsewhere. Given the stringent prioritization required by the budgetary situation, these could not be funded at this time.

10. Q. The programs earmarked in that request seem to ignore education and cluture. Why?

A. The bulk of the $2.75 million request is for science activities because they most readily fit the funding criteria, i.e., they are considered most essential to U.S. interests and are not duplicated elsewhere; we do, however, continue to support a wide range of international educational and cultural programs through existing multilateral and bilateral aid channels.

11. Q. Later in the hearing, in response to questioning, you indicate that "Contingent upon the approval of funding, a carefully planned and executed alternatives program will be put into effect during the first nine months of 1985, with funding of activities to begin in October 1985. The cost of the program is anticipated to be $47 million, which approximately equals the size of the U.S. contribution to UNESCO. These funds will be requested in the President's 1986 budget." Explain in detail the status of the alternatives program.

A. As stated in my answer to Question 9 above, the Office of Management and Budget did not approve a $47 million alternatives package which I proposed for Fiscal Year 1986. The scaled down $2.75 million request is pending before Congress.

12. Q. How do you explain the apparent change in Administration policy which does not substantiate this statement which you made to that Congressional committee?

A. As I stated at the hearing, the alternatives program was planned "contingent upon the approval of funding. " Due to the stringent budgetary situation, this approval was not granted by OMB.

13. Q. In this same hearing, you stated that "it is anticipated that USIA, AID, the Department of Education, the National Science Foundation, and the National Endowment for the Arts will be among the government agencies involved in implementing UNESCO alternatives." What steps have you taken to coordinate activities with these agencies' implementation of UNESCO alternatives?

A. The Department of State has established an ad hoc working group consisting of representatives from those government agencies to continue support for U.S. participation in those activities considered essential and important to the United States. This group has held several meetings to date.

HOUSE REPORT: TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1986, AND 1987 FOR DEPARTMENT OF STATE, USIA, BOARD OF INTERNATIONAL BROADCASTING, ETC., APRIL 1985

14. Q. Please respond to the following excerpt from this report. "Although the committee anticipated a Department submission of approximately $50 million in alternative programming, only $2.75 million in scientific programming was submitted in the fiscal year 1986 foreign assistance authorization request. It is clear from the discrepancy between the Department's commitment and its actual submission that the executive branch reneged on its commitment. The committee feels that it has not been dealt with in good faith on that issue. This situation undermines the committee's confidence in the Department's representatives who testify before the committee. The committee hopes that the Department will live up

to its commitment with respect to funding these programs."

A. I expressed in my testimony before Mr. Mica's Subcommittee on International Operations on March 12 of this year my disappointment, shared by Secretary Shultz, that the funds requested for alternatives funding had been reduced to $2.75 million. I respectfully disagree with the report's statement that the Department "reneged on its commitment" or that it did not deal with the Committee in good faith. Because of overriding budgetary restraints and competing priorities, it was determined that a zeroing out of UNESCO alternatives would be required. In the Department of State we confronted a $730 to $750 million shortfall. Subsequently, we were successful in garnering support for a request for $2.75 million.

EXCERPT FROM ASSISTANT SECRETARY NEWELL'S DECEMBER 1984 STATEMENT THE UNITED STATES CONFIRMS WITHDRAWAL FROM UNESCO

15. Q. "The United States remains committed to genuine and effective international cooperation that serves the legitimate needs of developing nations. We intend to continue support for international activities in the fields of education, science, culture and communication through other existing channels: multilateral, regional, bilateral, and private sector institutions." Can you explain how the United States has lived up to its commitment as expressed in the above statements?

A. The "We" of this statement is not just the agencies, bureaus and offices of the United States Government. When one speaks of international activities in the fields of education, science, culture and communication, I should hope that "We" still comprehends the conscientious work of scholars, artists, educators, musicians, and museum curators. "We" comprehends, also the work of those who have helped to preserve and rebuild cultural monuments—whether under the auspices of the UN, or (as it equally well might be) the National Geographic Society. As to the specific commitment of the United States Government: the effort and funds it gives to support international activities in the fields of education, science, culture and communication do not disappear from view (or cease to have good effect) when such aid is given through unilateral, bilateral, or regional means. The U.S. Government contributes significant sums and effort through its continued assessed and voluntary contributions to international organizations other than UNESCO (including other specialized agencies of the UN). It contributes also through the work done by USIA and AID. These agencies do a great deal to promote educational, scientific, and communications development. If the requested $2.75 million dollars is appropriated, we will be able to make a contribution to a number of UNESCO-related international bodies that are of particular interest to the United States, including the International Oceanographic Committee, the Intergovernmental Committee on the Universal Copyright Convention, the International Geological Correlation Program, the Man and the Biosphere Program, and the International Libraries, Archives, and Science Documentation Program.

16. Q. How, specifically, do you respond to the allegation that the U.S. has reneged on a promise?

A. I say that the U.S. did not "renege on a promise." As noted in the responses to the two preceding questions, I respond, speaking for myself, that I made a good faith effort to obtain $47 million dollars for UNESCO alternatives funding but, for the compelling reasons cited above, did not achieve that result. In that effort, I contacted the White House, the Office of Management and Budget, the Secretary of State and a number of departments and agencies. I may regret that the necessary final conclusion was that the UNESCO alternatives program, as first conceived, did not, in the end, in comparison with other national priorities—health, social security, the dramatic improvement of secondary education—appear to be of premier importance. In the office I have held, I have been a sincere advocate and supporter of useful and effective international cooperation. I mean to keep—I believe I have kept—the promise that the United States will support such international cooperation. My recommendation that the United States withdraw from UNESCO was consistent with that advocacy and that support. It is not, however, my prerogative to attempt to usurp the authority of OMB to formulate a budget, or of Congress to make appropriations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. DOLE. Mr. President, let me indicate that I know Gregory Newell personally and I expect him to do an outstanding job as our Ambassador to Sweden.

Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WEEK AHEAD

Mr. DOLE. Mr. President, while we are awaiting the distinguished minority leader, I just indicate to my colleagues that next week could be the last week of the first session of the 99th Congress—it may not be either, but it could be the last week. So it is going to be very difficult to predict for any of our colleagues what may happen on Monday, but there have been a number of inquiries from both sides, and I know there will be one vote probably around noon. I have been advised by the distinguished chairman of the Appropriations Committee and I think the distinguished ranking minority member feels the same way, they would like to move on with that bill on Monday and hopefully finish it Monday, if not Monday, certainly on Tuesday.

But there is no way we can possibly adjourn next Friday or Saturday unless we quickly get into conference on the continuing resolution.

I am heartened that there has been some major breakthrough on the Gramm-Rudman-Hollings provision this afternoon in conference. They have agreed on all the major issues. There are three other issues still outstanding.

I certainly want to commend all the conferees. That has been a long tortuous process.

So the logjam is starting to break.

If we can get the continuing resolution to conference, if Gramm-Rudman is in a position now of coming to use sometime next week for action, I have a good feeling about the farm bill. My view is we will get a pretty good farm bill, one that will protect farm income for the next couple of years and give us an opportunity to see if we can get the American farmer through this present crisis.

As to the farm credit legislation, the House and Senate bills are pretty much alike. That is another item on the must list, and that would leave only reconciliation. "Only" may be an understatement. That is a very complicated piece of legislation.

I think there are somewhere in the neighborhood of 50 Senate conferees and who knows how many House conferees. At the time they have a meeting, it will take a day or two.

So there is some hope of adjournment next week. But if not, I hope it would come on the Monday or Tuesday of the following week.

So I thank all my colleagues for their cooperation.

ORDERS FOR MONDAY, DECEMBER 9, 1985

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, December 9, 1985, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each; provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. Mr. President, reserving the right to object, and I shall not object, what is the convening hour on Monday, may I ask the distinguished majority leader?

Mr. DOLE. 10:30 a.m.

Mr. BYRD. I thank the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, to recap what may occur on Monday, December 9, the Senate will convene at 10:30 a.m. Then the two leaders, under the standing order, will have 10 minutes each, and routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted therein to speak for not more than 5 minutes each.

Following routine morning business, the Senate will resume consideration of House Joint Resolution 495, the continuing resolution. The Senator from Ohio [Mr. GLENN], will be recognized to offer an amendment dealing with the implementation of the United States-China nuclear agreements. I understand there will be a vote on that amendment, I would guess, perhaps around noon. Votes are expected throughout the day, as I have indicated earlier.

It is the hope of the majority leader and the manager of the bill that we can complete action on the continuing resolution on Monday. If that were to happen, then I believe our hope of adjourning next weekend would be strengthened.

ADJOURNMENT UNTIL 10:30 A.M. MONDAY, DECEMBER 9, 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now stand in adjournment until 10:30 a.m., on Monday, December 9, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 6:34 p.m., the Senate adjourned until Monday, December 9, 1985, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 6, 1985:

DEPARTMENT OF STATE

Margaret M. O'Shaughnessy Heckler, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

IN THE COAST GUARD

Pursuant to the provisions of 14 U.S.C. 729, the following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

John J. Clare
Louis A. Unger III
Albert L. Epstein
David L. Boothe
Adolf E. Fullgrabe
Dennis W. Kurtz
Yuille M. Young, Jr.
John T. Schulenberg
Robert G. Christian
Richard F. Healing
Douglas W. Brown
Steven B. Satterthwaite
Bruce M. Patterson
Thomas E. Simms III
Robert B. Rabon
Jackson D. Ingram
Russell T. Hebert
Darvy M. Cohan
Robert W. Staton III
Samuel R. Volpentest
Ernest L. Seeman
Warren G. Appell
William B. Powell
Richard R. Shaw
Charles M. Schubert
Richard H. Plager
Paul F. Keane
Dennis A. Lupher
Richard F. Sanders
Gary L. Cousins
Robert P. Sniffen

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard A. Burpee, [redacted]FR, U.S. Air Force.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Huntington Hardisty, [redacted]/1310, U.S. Navy.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James H. Webber, [redacted]/1440, U.S. Navy.

IN THE AIR FORCE

The following persons for Reserve of the Air Force appointment, in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Donald R. Klein, [redacted]
Wesley G. Petty, [redacted]

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

MEDICAL CORPS

To be colonels

Bala, Mani, [redacted]
Basewell, David L., [redacted]
Bautista, Etty V., [redacted]
Burnett, Robert, [redacted]
Compton, Alan B., [redacted]
Dabe, Irwin B., [redacted]
DeJong, Rudolph H., [redacted]
Lee, Bernard J., [redacted]
Levine, Matthew E., [redacted]
Nardi, James A., [redacted]
Philbin, George, [redacted]
Prager, Robert E., [redacted]
Prats, Arturo R., [redacted]
Randall, Virginia F., [redacted]
Salvado, August, [redacted]
Snyder, Robert C., [redacted]
Turella, Giorgio S., [redacted]
Wheat, Thomas A., [redacted]
York, Lester A., [redacted]

To be lieutenant colonels

Anderson, Donald, [redacted]
Anderson, Thomas, [redacted]
Atkinson, Alva W., [redacted]
Bala, Padma, [redacted]
Bowen, James N., [redacted]
Brunsvold, Robert, [redacted]
Gardner, Richard, [redacted]
George, David, [redacted]
Hope, John M., [redacted]
Gray, Ronald K., [redacted]
Griffin, Gerald, [redacted]
Hodge, Gerald M., [redacted]
Hoffer, Thomas C., [redacted]
Jaccard, John T., [redacted]
Jamison, Rodney, [redacted]
Marino, Paul F., [redacted]
McIlwain, Thomas, [redacted]
Nguyen, Tu H., [redacted]
Nidhiry, Grace E., [redacted]
Petzold, Robert, [redacted]
Picou, Keith A., [redacted]
Porr, Darrel R., [redacted]
Shaukat, Mauhamma, [redacted]
Sjogren, Maria H., [redacted]
Stith, Rosa B., [redacted]
Stone, Irvin K., [redacted]
Vadewalle, Michael, [redacted]
Wikert, Gary A., [redacted]
Wilson, Linda D., [redacted]

To be major

Krashin, Maurice, [redacted]

To be captains

Alvero, Ruben J., [redacted]
Bell, Brenda K.T., [redacted]
Bernier, Renee M., [redacted]
Bettencourt, Joseph A., [redacted]
Bower, David J., [redacted]
Brito, Albert V., [redacted]
Cheney, Christopher P., [redacted]
Cornum, Rhonda L.S., [redacted]
Cuda, Darryl D., [redacted]
Duncan, Albert B., [redacted]
Eastman, Dennis P., [redacted]
Endy, Timothy P., [redacted]
Eng, Tony Y.L., [redacted]
Erne, Jerel J., [redacted]
Fraser, Susan L., [redacted]
George, Roger K., [redacted]
Giacoppe, George N., Jr., [redacted]
Gibson, Susan E., [redacted]
Gillespie, David L., [redacted]
Grimes, Steven R., [redacted]
Hughes, Brian J., [redacted]
Hughes, Gregory B., [redacted]
Iwanyk, Eugene J., [redacted]
Janusziewicz, Alan A., [redacted]
Koski, Karen A., [redacted]
Krauss, Margot R.H., [redacted]
Labeau, Deborah A., [redacted]
Lane, Henderson M., [redacted]
Lee, Mark W., [redacted]
Lee, Terry, [redacted]
Liss, Ronald A., [redacted]
Longacre, Jeffrey L., [redacted]
Marino, Chris J., [redacted]
Martins, Albert J., [redacted]
McLaughlin, Victor G., Jr., [redacted]
McKnight, Richard M., [redacted]
McLean, Scott D., [redacted]
Mooney, Michael J., [redacted]
Moscovic, Anita M., [redacted]
Ober, Elizabeth R., [redacted]
Polo, James A., [redacted]
Polo, Kathleen B.L., [redacted]
Porter, Clifford A., [redacted]
Pulcini, Joseph P., [redacted]
Reynolds, Paul C., [redacted]
Runkle, Guy P., [redacted]
Secord, Ann R. M., [redacted]
Seiken, Gail L., [redacted]
Speers, Don P., Jr., [redacted]
Stack, Richard S., [redacted]
Stone, Gregory I., [redacted]
Sutherland, Ronald S., [redacted]
Swann, Steven W., [redacted]
Turco, Suzanne E., [redacted]

Vogel, Paula S., xxx-xx-xxxx
Walker, John C., xxx-xx-xxxx
Wasserman, Rochelle T., xxx-xx-xxxx
Wiley, Thomas M., xxx-xx-xxxx
Wilson, Dennis N.F., xxx-xx-xxxx
Wood, Dwight W., xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be majors

Applewhite, Margare., xxx-xx-xxxx
Berg, Valerie J., xxx-xx-xxxx
Conrad, Shirley N., xxx-xx-xxxx
Gallo, Jeanne M., xxx-xx-xxxx
King, Kristin D., xxx-xx-xxxx
Henley, Hannah C., xxx-xx-xxxx
Level, Maria B., xxx-xx-xxxx
May, Howard C., xxx-xx-xxxx
Murphy, Thomas C., xxx-xx-xxxx
Rasorgreenhalgh, Susan., xxx-xx-xxxx
Romack, Roxanne E., xxx-xx-xxxx
Stratton, Steven A., xxx-xx-xxxx
Zitzka, Claudia A., xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

Digirol, Martlyn T., xxx-xx-xxxx

To be majors

Ahern, Judith., xxx-xx-xxxx
Allanach, Elaine J., xxx-xx-xxxx
Allen, Linda C., xxx-xx-xxxx
Anderson, Frances D., xxx-xx-xxxx
Baldvins, Lynn A., xxx-xx-xxxx
Baxter, Mary A., xxx-xx-xxxx
Blankemeier, Cheryl., xxx-xx-xxxx
Bond, John, H., Jr., xxx-xx-xxxx
Boyle, Karen E., xxx-xx-xxxx
Brown, Martha E., xxx-xx-xxxx
Campbell, Tonia D., xxx-xx-xxxx
Carson, John F., xxx-xx-xxxx
Carvill, Kathleen M., xxx-xx-xxxx
Cefaly, Patricia., xxx-xx-xxxx
Chadek, Paul E., xxx-xx-xxxx
Chancey, Linda S., xxx-xx-xxxx
Choy, Sergio J., xxx-xx-xxxx
Clark, Mark E., xxx-xx-xxxx
Cofer, Gloria D., xxx-xx-xxxx
Conneen, Robert L., xxx-xx-xxxx
Craigmorich, Caroly., xxx-xx-xxxx
Decesare, Elaine M., xxx-xx-xxxx
Dickrell, Gretchen M., xxx-xx-xxxx
Dodd, Cynthia A., xxx-xx-xxxx
Dolenar, Elizabeth E., xxx-xx-xxxx
Downs, Martha C., xxx-xx-xxxx
Dufresne, Leon A., xxx-xx-xxxx
Duncan, Deborah J., xxx-xx-xxxx
Dunsmore, JoAnne M., xxx-xx-xxxx
Eberhardt, Janet M., xxx-xx-xxxx
Erlitz, Gail D., xxx-xx-xxxx
Ewald, Charles T., xxx-xx-xxxx
Ferguson, Joellen, xxx-xx-xxxx
Finney, William E., xxx-xx-xxxx
Flash, Thomas E., xxx-xx-xxxx
Fontana, LeAnn D., xxx-xx-xxxx
Ford, Lark A., xxx-xx-xxxx
Fuschino, Wanda A., xxx-xx-xxxx
Galeas, Dewey G., xxx-xx-xxxx
Gerson, Carol A., xxx-xx-xxxx
Girlando, Regina M., xxx-xx-xxxx
Goodrich, William C., xxx-xx-xxxx
Haferman, Charles T., xxx-xx-xxxx
Hagan, John R., xxx-xx-xxxx
Hagley, Michael W., xxx-xx-xxxx
Halliday, Ann E., xxx-xx-xxxx
Harris, Janet R., xxx-xx-xxxx
Harris, Selma V., xxx-xx-xxxx
Hayslett, Karen T., xxx-xx-xxxx
Helfers, Mary J., xxx-xx-xxxx
Herod, Arlita M., xxx-xx-xxxx
Higgins, Suzanne J., xxx-xx-xxxx
Hildreth, Pamela J., xxx-xx-xxxx
Hooper, Teresa A., xxx-xx-xxxx
Jantzen Ragni M., xxx-xx-xxxx
Kallish, Monika F., xxx-xx-xxxx
Kephart, Tami L., xxx-xx-xxxx
Kessler, Diane L., xxx-xx-xxxx
Killian, Deanne M., xxx-xx-xxxx
Kilpatrick, Darla M., xxx-xx-xxxx
King, Christine A., xxx-xx-xxxx
Kinneberg, Roger W., xxx-xx-xxxx
Kokoszka, Edward A., xxx-xx-xxxx
Langlie, Kaureen L., xxx-xx-xxxx
LeBlanc, Rene J., xxx-xx-xxxx
Kockhart, Mary J., xxx-xx-xxxx
Long, David R., xxx-xx-xxxx
Loomis, Rebecca, xxx-xx-xxxx
Lopez, Yvonne F., xxx-xx-xxxx
Lupine, Alfred E., xxx-xx-xxxx
McDonough, Terry E., xxx-xx-xxxx
McMillan, Deborah L., xxx-xx-xxxx
McNeill, Nina B., xxx-xx-xxxx
Means, Thomas E., xxx-xx-xxxx
Michael, Mary K., xxx-xx-xxxx
Mitcham, Denise R., xxx-xx-xxxx
Monteith, Maryann, xxx-xx-xxxx
Moore, Kathleen L., xxx-xx-xxxx
Muzyka, Sharon S., xxx-xx-xxxx
Nunnery, Mary B., xxx-xx-xxxx
Ogg, Donna L., xxx-xx-xx...
Pieratti, Jacqueline M., xxx-xx-xxxx
Pinneke, Roger F., xxx-xx-xxxx
Pixley, Beryl K., xxx-xx-xxxx
Plumley, Susan D., xxx-xx-xxxx
Pollock, Gale S., xxx-xx-xxxx
Potter, Maureen C., xxx-xx-xxxx
Pray, Kathleen F., xxx-xx-xxxx
Rabon, Patricia A., xxx-xx-xxxx
Raines, Esther L., xxx-xx-xxxx
Reyna, Helen N., xxx-xx-xxxx
Ritchie, Rosemarie, xxx-xx-xxxx
Robbins, Dennis L., xxx-xx-xxxx
Rowlett, Barbara L., xxx-xx-xxxx
Santiagorivera, Miguel, xxx-xx-xxxx
Saulsberry, Patricia, xxx-xx-xxxx
Schempp, Catherine, xxx-xx-xxxx
Schlesser, David A., xxx-xx-xxxx
Schmidtke, Lynne E., xxx-xx-xxxx
Sheaffer, Steven M., xxx-xx-xxxx
Shriver, Natalie M., xxx-xx-xxxx
Simmonds, Gwenneth, xxx-xx-xxxx
Smith, Mary R., xxx-xx-xxxx
Smith, Mildred M., xxx-xx-xxxx
Sorbello, Samuel C., xxx-xx-xxxx
Sprague, Thomas E., xxx-xx-xxxx
Staehel, Joseph, xxx-xx-xxxx
Stetz, Charles K., xxx-xx-xxxx
Sutter, Michael J., xxx-xx-xxxx
Swartz, Ann L., xxx-xx-xxxx
Tate, Saundra D., xxx-xx-xxxx
Tefft, Steven L., xxx-xx-xxxx
Tikkanen, Patricia, xxx-xx-xxxx
Trafford, Antoinett, xxx-xx-xxxx
Treleven, Ann M., xxx-xx-xxxx
Trivette, Paula K., xxx-xx-xxxx
Varner, Anne E., xxx-xx-xxxx
Wade, Annie L., xxx-xx-xxxx
Walsh, Gregory C., xxx-xx-xxxx
Wedge, Brenda J., xxx-xx-xxxx
Wesso, Cindy Lou R., xxx-xx-xxxx
Wickwire, Frederick, xxx-xx-xxxx
Wilhelm, Katherine, xxx-xx-xxxx
Williams, Rita L., xxx-xx-xxxx
Wise, Wayne C., xxx-xx-xxxx
Wright, Yvonne B., xxx-xx-xxxx
Yungbluth, Joseph A., xxx-xx-xxxx
Zamora, Donald B., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Gillogly, Alan R., xxx-xx-xxxx

To be majors

Adams, Roderick M., xxx-xx-xxxx
Agosta, Richard H., xxx-xx-xxxx
Aiken, David A., xxx-xx-xxxx
Allen, William P., xxx-xx-xxxx
Armitage, Edwin K., xxx-xx-xxxx
Ayers, Gregory D., xxx-xx-xxxx
Baker Glenn D., xxx-xx-xxxx
Becker, John A., xxx-xx-xxxx
Bliss, John L., xxx-xx-xxxx
Bongiovanni, Rodolf., xxx-xx-xxxx
Bottaro, Samuel D., xxx-xx-xxxx
Bratcher, Linda L., xxx-xx-xxxx
Bridenstin, Thomas., xxx-xx-xxxx
Briggs, Lee W., xxx-xx-xxxx
Brinkley, Larry D., xxx-xx-xxxx
Brown, John H., xxx-xx-xxxx
Bruggeman, Gary E., xxx-xx-xxxx
Burney, Bruce W., xxx-xx-xxxx
Butler, Joseph W., xxx-xx-xxxx
Byrod, Fred J., xxx-xx-xxxx
Carlson, Lyle W., xxx-xx-xxxx
Castle, Ralph, Jr., xxx-xx-xxxx
Caudill, Vaughn E., xxx-xx-xxxx
Chang, John, xxx-xx-xxxx
Chula, Robert, Jr., xxx-xx-xxxx
Ciba, Edward J., xxx-xx-xxxx
Clark, Larry J., xxx-xx-xxxx
Comte, Ronald N., xxx-xx-xxxx
Connor, Sheryl A., xxx-xx-xxxx
Conrad, James D., xxx-xx-xxxx
Cook, Harold R., xxx-xx-xxxx
Cusack, John P., xxx-xx-xxxx
Davis, Jon D., xxx-xx-xxxx
Dean, Gary W., xxx-xx-xxxx
Dehnert, Loren M., xxx-xx-xxxx
Demarais, Richard A., xxx-xx-xxxx
Diamond, John J., xxx-xx-xxxx
Driggers, Lee I., xxx-xx-xxxx
Ebeling, Stanley J., xxx-xx-xxxx
Edwards, Michael S., xxx-xx-xxxx
Eng, Robert R., xxx-xx-xxxx
Ewing, Karen M., xxx-xx-xxxx
Fairchild, Leigh S., xxx-xx-xxxx
Farris, Jack C., xxx-xx-xxxx
Feeley, Michael J., xxx-xx-xxxx
Fitzpatrick, Glen M., xxx-xx-xxxx
Fosler, Steven R., xxx-xx-xxxx
Francois, James J., xxx-xx-xxxx
Garot, Kenneth, xxx-xx-xxxx
Gelston, Hugh M., xxx-xx-xxxx
Gentile, Robert D., xxx-xx-xxxx
Gonzalez, Roberto A., xxx-xx-xxxx
Goodes, Dennis P., xxx-xx-xxxx
Grubbs, Frank K., xxx-xx-xxxx
Hagey, David K., xxx-xx-xxxx
Harbell, John W., xxx-xx-xxxx
Harrison, Ronald C., xxx-xx-xxxx
Hart, Loren S., xxx-xx-xxxx
Hawkins, James B., xxx-xx-xxxx
Herbert, David K., xxx-xx-xxxx
Heidenheim, Rene A., xxx-xx-xxxx
Hicks, Michael C., xxx-xx-xxxx
Hohl, Wesley S., xxx-xx-xxxx
Hsieh, David A., xxx-xx-xxxx
Jackson, James N., xxx-xx-xxxx
Jellen, Linda K., xxx-xx-xxxx
Jerome, James J., xxx-xx-xxxx
Johnson, Howard E., xxx-xx-xxxx
Johnson, Montie S., xxx-xx-xxxx
Josie, Larry L., xxx-xx-xxxx
Kelley, Michael B., xxx-xx-xxxx
Klein, Terry A., xxx-xx-xxxx
Knudson, Kathryn H., xxx-xx-xxxx
Kulbiski, Joseph V., xxx-xx-xxxx
Kuoni, Philip J., xxx-xx-xxxx
Latch, John R., xxx-xx-xxxx
Latona, Dean P., xxx-xx-xxxx
Levesque, John C., xxx-xx-xxxx
Lewis, Bobby D., xxx-xx-xxxx
Lynch, Robert A., xxx-xx-xxxx
MacDonald, Bruce W., xxx-xx-xxxx
Madsen, Ellis M., xxx-xx-xxxx
Magnusson, David C., xxx-xx-xxxx
Maschek, Randall P., xxx-xx-xx...
Mays, Mary Z., xxx-xx-xxxx
McAdam, Richard G., xxx-xx-xxxx
Meadows, Claude V., xxx-xx-xxxx
Mennito, Vincent J., xxx-xx-xxxx
Mestas, Robert L., xxx-xx-xxxx
Miles, Henry L., xxx-xx-xxxx
Minton, Terry R., xxx-xx-xxxx
Mowry, Richard B., xxx-xx-xxxx

Nacev, Vladimir xxx-xx-xxxx
Navo, Thomas J., xxx-xx-xxxx
Ohare, Donald A., xxx-xx-xxxx
Parkison, Steven C., xxx-xx-xxxx
Parsons, James C., xxx-xx-xxxx
Patterson, Thomas E., xxx-xx-xxxx
Payne, Cary J., xxx-xx-xxxx
Phoenix, Randy E., xxx-xx-xxxx
Read, Robert C., xxx-xx-xxxx
Roberts, Welford C., xxx-xx-xxxx
Robichaux, Rene J., xxx-xx-xxxx
Rogers, Patricia L., xxx-xx-xxxx
Rollins, Kenneth D., xxx-xx-xxxx
Rizer, Albert G., xxx-xx-xxxx
Rowden, Scott E., xxx-xx-xxxx
Sajac, Richard A., xxx-xx-xxxx
Sanders, Richard D., xxx-xx-xxxx
Sanftleben, Kurt A., xxx-xx-xxxx
Saxen, Thomas P., xxx-xx-xxxx
Scmitt, Thomas J., xxx-xx-xxxx
Schultz, George E., xxx-xx-xxxx
Scott, Leon C., xxx-xx-xxxx
Sellers, William S., xxx-xx-xxxx
Serenbetz, Raymond, xxx-xx-xxxx
Sharp, Harold E., xxx-xx-xxxx
Sheliga, Vivian I., xxx-xx-xxxx
Shipley, Patrick L., xxx-xx-xxxx
Silence, Roy J., xxx-xx-xxxx
Silkwood, Cheryl L., xxx-xx-xxxx
Simmons, James C., xxx-xx-xxxx
Skelly, Eileen M., xxx-xx-xxxx
Smith, David W., xxx-xx-xxxx
Smith, James E., xxx-xx-xxxx
Smith, William B., xxx-xx-xxxx
Solimando, Dominic xxx-xx-xxxx
Solverson, Luther D., xxx-xx-xxxx
Simpson, Glenn C., xxx-xx-xxxx
Spade, Elton L., xxx-xx-xxxx
Spadlin, Michael C., xxx-xx-xxxx
Spinks, Martha K., xxx-xx-xxxx
Steele, Carol A., xxx-xx-xxxx
Stieneker, Robert E., xxx-xx-xxxx
Sutton, David T., xxx-xx-xxxx
Thomas, John D., xxx-xx-xxxx
Thomas, Robert W., xxx-xx-xxxx
Thresher, William H., xxx-xx-xxxx
Tierney, John W., xxx-xx-xxxx
Tomlinson, Jeffrey, xxx-xx-xxxx
Torstick, Michael, xxx-xx-xxxx
Vaiani, Albert III., xxx-xx-xxxx
Valadez, Alex W., xxx-xx-xxxx
Vannoy, Allen E., xxx-xx-xxxx
Vernon, Darleen M., xxx-xx-xxxx
Waldrop, Lucius S., xxx-xx-xxxx
Wanersdorfer, Joseph, xxx-xx-xxxx
Ward, Dann C., xxx-xx-xxxx
Weiser, John C., xxx-xx-xxxx
Wheeler, Michael D., xxx-xx-xxxx
White, Joseph C., xxx-xx-xxxx
White, Sandra L., xxx-xx-xxxx
Whiteaker, Roger S., xxx-xx-xxxx
Wild, Larry W., xxx-xx-xxxx
Willard, Lloyd F., xxx-xx-xxxx
Williams, David W., xxx-xx-xxxx
Williams, Michael R., xxx-xx-xxxx
Wilson, John E., xxx-xx-xxxx
Yanklowitz, Barry, xxx-xx-xxxx
Yoshihashi, Eric J., xxx-xx-xxxx
Young, John Y., xxx-xx-xxxx

To be second lieutenant

Weir, Alan F., xxx-xx-xxxx

IN THE NAVY

The following-named lieutenant commanders of the line of the Navy for promotion to the permanent grade of commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER (11XX/13XX)

Ackley, Victor H.
Acuff, Lucian Mark
Adams, James Joseph
Agnor, Robert Joseph
Ahart, John Louis
Albright, Jeffrey Horace
Alleman, David Peterson
Allen, David Michael
Allison, Jacqueline Omeara
Almendinger, Sylvia Sue
Almy, Gideon Wilcox, III
Andersen, James Benjamin
Annis, Robert Earl
Appleby, Robert Thomas
Arndt, Stephen Alan
Arnote, Stanley Dean
Atkinson, John Scott, Jr.
Ayres, Kermit Arnold
Babin, Ordale Paul, Jr.
Bahnmiller, Michael Patrick
Barnett, Stewart Roland, III
Barrett, Gary Allen
Barry, John Michael
Bashore, Harry William, III
Beasley, Drew Wentz
Benjes, Christopher
Beresky, Michael Thomas
Berger, Robert Denton
Bernard, Eugene Philip
Bersticker, Keith Paul
Bickford, John Charles
Bigos, Randall Edward
Birkholz, Howard Daniel
Black, Richard Allen
Blair, Thomas Benton, II
Blum, George Edward
Bogdewic, Daniel David
Bogle, Ronald Coombs
Boland, Lawrence Joseph, Jr.
Bolcar, James Andrew
Bolkcom, Daniel Lee
Bolton, Patrick Joseph
Boniface, John Morrill
Booher, Stephen Reed
Boucher, David Lee
Bouck, William Gordon
Bouton, Edwin Harry, Jr.
Bradford, Gregory Copeland
Brake, Terry Allen
Brandes, John Charles
Breitinger, Thomas Leinbach
Bridge, Frederick Lawrence
Brooke, James Robert
Brooks, Wayne Guy
Brown, Daniel Earl
Brown, Harry Parker, Jr.
Brown, Henry Pell, Jr.
Brown, John Richard
Brown, Randall Ray
Brown, Steven Allen
Brunelli, Duane Lee
Bryan, Timothy Robert
Bryant, James Brantley
Burns, Allen Dale
Butkus, Stephen Benedict
Butt, Cyrus Hugh, IV
Byrd, Robert Earl
Cadden, Charles John
Caffrey, Edward Francis, Jr.
Camp, Phillip Steven
Cann, John D.
Carnahan, Thomas Michael
Carr, Russell Morgan
Carson, Thomas Hill, III
Cashman, Edward J.W.
Champagne, Lee Wesley
Chapple, Leroy Windsor
Charbonnet, Pierre Numa, III
Chattin, James William
Childers, Robert Blair
Chin, Sheck Gen
Christman, John Howard
Clark, Augustus Walter, III
Clark, James
Cocowitch, John Herbert
Coffey, Rickee Eddleman
Cole, Christopher Warren
Cole, Fred Gordon
Comer, Stephen Andrew
Connelly, Joseph Bernard
Cook, Norman Ervin
Cooper, Arthur Thomas
Cooper, Ward Joseph
Coppotelli, Lawrence
Cosgriff, Kevin Joseph
Covington, George Barkley
Coward, Thomas Wayne
Crowe, Robert Kenneth
Culbertson, Frank Lee, Jr.
Dahlquist, Paul William
Dale, Charles Joseph
Daniels, Thomas Lee
Darcy, Dorothy Messier
Dargo, Ronald Steven
Davis, John Ray
Davis, Michael Eugene
Deal, Carolyn Faye
Deering, Ronald Dean
Deloof, Ronald Milton
Denny, Donald Jefferson
Deputy, Robert Allen, Jr.
Dewey, Roger Scott
Disney, Donald Bruce, Jr.
Dobrovolny, Timothy
Dobson, Joseph O., III
Dodd, Carl Thomas
Dolle, James Edward
Doorly, Dale Martin
Dougherty, Terryll, Jr.
Doyle, John Joseph
Dresel, Jon William
Dryden, Richard Arthur
Duclos, Edward Decell
Dumas, Edward Lewis
Duncan, Michael Gordon
Dwornik, Richard Thomas
Edholm, Steven William
Edington, Ronald James
Edmondson, Joel Martin
Egan, John Robert
Eichelberger, Kenneth Lee
Eldridge, John Karson
Elkins, Marlene Marlitt
Ellerman, Dean William, Jr.
Elsen, Morris Eugene
Enderly, Richard Harold
Engel, Douglas Todd
Engel Gregory Allen
Enright, Joseph Earl
Erndle, Daniel Edward
Ersek, David Alan
Etnyre, Terrance Thomas
Etter, Stephen Shawn
Everett, Jon Berry
Falkner, James Raymond
Farrington, Robert Paul
Feallock, William John, III
Feeley, Michael Edward
Fellin, Tom Steven
Finley, Richard Gale
Finn, Michael Patrick
Finney, Charles Parker
Fjelde, John Arthur
Flannery, Peter Andrew
Fletcher, Patrick James
Flood, Jeffrey Lee
Fodor, Louis Charles
Foley, Kathleen Janet
Fontana, Stephen James
Foraker, Allen Shane
Forness, William Lawrence
Foulk, Donald Lamar, Jr.
Frankenfield, Howard Oakley
Feeland, Thomas Lee
French, Michael Jon
Frimenko, Michael, Jr.
Fritchman, Wilson John
Frohlich, Thomas William
Froman, Veronica Zasadni
Funk, William Ted
Futral, Donald Gordon
Gabe, Daniel Evans

Gabriel, Daniel Webster, Jr.
Gaffney, Michael Gattrell
Gamber, Charles Thomas
Gardner, James Adams
Gass, Michael Richard
Gauthier, Normand Claude
Gearhart, Michael Warren
Geddes, Stephen Schcolcraft
Giger, Charles Eugene
Girvin, Charles Rodney, III
Goodwin, Robert Archer, III
Gorman, John Joseph, Jr.
Gorski, Thomas Henry
Graeber, Grant L.
Gray, James M.
Graybill, Jon Gilbert
Green, Kevin Patrick
Green, Michael Jeffrey
Green, Richard Howard
Greene, Brenton Clair
Griffiths, Charles Henry, Jr.
Gunter, Clarence Earl, Jr.
Hagee, Carl Lynn
Hagstrom, David William
Hall, Garry Richard
Hallihan, Timothy James
Hamilton, William Lawrence
Hammer, Susan Colbeth
Hanel, Lynne Ellen
Hardee, James Bryan
Harper, Gregory Paul
Haskins, Michael Leslie
Hayes, Bradd Crouch
Hayes, James Alfred
Hayes, Thomas Mather
Heath, Gregory Garver
Hebert, Edward Richard
Heil, Frances Taney
Heineman, Ellen Elizabeth
Held, John Michael
Helgeson, Marc Arnold
Henson, John William
Herger, Joseph Ferdinand
Hermanson, Bruce
Hess, Mark William
Hewett, Ronald Edward
Higgins, Robert Arthur
Hilton, William Ray
Himmelwright, Heber Hodges
Hingle, Leander Leon, Jr.
Hodermarsky, George Thomas
Hoert, Michael John
Hoewing, Gerald Lee
Holland, William Wayne
Hollenbach, James Warren
Holmstrom, Garry
Hope, Roger Keith
Hornung, Scott Allen
Houck, Tomothy Lee
Howard, David George
Hubbard, John Hampton
Hull, David Clay
Hunter, Bruce Reed
Huston, Norman Earl, Jr.
Jackson, Tomothy Howard
Jacobs, Robert William
Janssens, Carol Jean
Jarabak, John Paul, Jr.
Jarvis, David Earl
Jenkins, Craig William
Jensen, Jens Alford
Johanek, James Francis
Johnson, Dennis Jack
Johnson, Larry Charles
Jones, Darrell Wayne
Jones, John Herbert, II
Jordan, Kenneth Sterling
Josefson, Carl Elof, Jr.
Kaczmarek, Michael Herbert
Kapinos, James Michael
Kauffman, Jack Emerson
Keane, Joseph Patrick, Jr.
Keating, Timothy John
Keehn, Thomas Joseph
Kennan, Philip Vincent
Kehoe, Micheal John
Kellner, Harry Herman, Jr.
Kelly, Edward William
Kelly, Taylor Daniel
Kemp, Curtis Allen
Kendall, Gene Roger
Keuhlen, Phillip Joseph
Kimmel, Robert Lee
Kissmann, Ronald Martin
Kocmich, Eugene Joseph
Koger, Gary Lang
Kok, Timothy Alan
Kraemer, Francis Xavier, Jr.
Krattli, Robert Walter
Krayer, William Edward
Krug, William George
Kutcher, Robert James
Lake, Robert George
Lang, Thomas Conley
Large, William Robert, III
Larkin, Robert Joseph
Larson, Gregg David
Larue, Larry Dean
Lassman, Abraham Joel
Lee, Robert Edward
Leuschner, James William
Lichwala, Stanley John
Linder, Bruce Richard
Lindroos, John Fredrick, II
Long, John Harvey
Long, Paul Bucher
Longworth, Michael William
Love, Robert Creekmore, Jr
Luengen, David William
Luhan, John Bernard
Lunning, Robert Marshall
Lynch, Michael James
Lynch, William Daniel
Mackin, Thomas Gabriel
Mader, James Fredrick
Madurski, Paul Edward
Magnino, John David
Mahaffey, Vaughn Eugene
Mahoney, Stanton Van, Jr
Mallgrave, Fred Joseph, III
Maris, James Raymond
Marks, Michael D
Marschalk, Pete Vanburen
Martin, John Thomas Oliver
Martin, Robert Roy
Martini, Perry James, Jr
Marvin, Richard Bruce
Mason, Lewis Gerhard
Massenburg, Walter Black
Mathews, Monty Guwain
Mathis, Michael George
Mattix, Thomas Mayer
Mattos, John Christopher
Maxey, John Donald
Mayberry, Jack Brian
McArthur, James Drake, Jr
McBride, Michael Patrick
McCabe, Michael J
McCabe, Robert J
McCarley, Theodore Kershaw
McCarty, Franklin Boyd
McClendon, Erwin Lowe
McClure, Bruce Patrick
McCuddin, Michael Ennis
McFee, Michael George
McGill, John Burke
McGillvray, John William, Jr
McGrath, Thomas Ross
McHale, Robert Vincent
McMacken, John Christian
McNamara, Robert James
McQuaig, Michael Gray
Meister, John Thomas
Meldrum, Mary Stift
Meurer, Robert Howe, Jr
Miller, David Benjamin
Miller, Donald Peter
Miller, Steven Michael
Milsted, Charles Eugene, Jr.
Miskill, Donald Keepers, Jr.
Montemarano, Anthony S.
Montesano, Frank William
Montgomery, Glenn Harold
Mori, Donald Paul
Morris, Ernest Lewis, Jr.
Morris, John Therrell
Motolenich, Stephen E., Jr.
Mowrey, Gary Steve
Muetzel, Michael Paul
Mullins, Patrick Charles
Mulvany, Gregg Patrick
Murchison, Grover Richardson
Murray, Craig Harland
Nacht, John Joseph
Neel, Frederick Heard
Nelms, Larry Wayne
Nelson, James Monroe
Nevins, Linda Gail
Newman, Don Russell
Newman, Micajah Wilson
Nichols, Raymond John, Jr.
Nicolin, Kevin Cashel
Nielsen, Eugene Keith
Niemczyk, Robert Richard
Noonan, Thomas Francis
Olde, Frederick George, III
Oliver, Diane Estelle
Organek, William Edward
Ormsbee, Richard Berryman
Oslund, Dwayne Arthur
Osullivan, George Daniel
Padgett, Gerald Allen
Palsgrove, Russell Tillman
Parish, Richard Joseph
Parks, Edward James
Parks, Philip Douglas
Patton, John Anthony
Paulson, John James
Payne, Robert Lee, Jr.
Peairs, Gregory Ross
Pelstring, Stephen
Persson, Michael Edward
Peterman, Ronald Ray
Peters, Wayne Albert
Petrie, John Noel
Pilnick, Steven Earle
Plutt, Richard Stephen
Polatty, David Pierce, III
Porritt, Richard Harley, Jr.
Powell, John Ramon
Prather, David Wayne
Price, Michael Leon
Radack, James Paul
Radich, Thomas Francis
Ragnetti, Michael John, Jr.
Rannells, David Alan
Rauch, Dale Arthur
Reasoner, James Douglas, Jr.
Reece, Stephen Michael
Reed, William Clark
Reese, Gary Arthur
Reese, Michael James
Richards, Philip Earl
Richardson, Isaac Eugene, III
Richardson, Kenneth Alan
Ringer, Charles Edward, Jr.
Riordan, Michael Eguene
Rivenes, Iver John, III
Robbins, Brain Arthur
Roberts, Dana Alan
Roberts, Ralph Dale Jr.
Robertson, Ronald Leigh
Roble, Woodrow John
Rocklein, Timothy Arthur
Rockwell, Donald Edward, III
Rodgers, Richard Lee
Rohlfs, H. Warren, Jr.
Romann, John E.
Roper, John Nathaniel, III
Ross, Stephen Carl
Route, Ronald Arthur
Rowe, Daniel John

Rubel, Robert Charles
Ryan, Paul John
Sakre, Larry Louis
Samar, Jack Joseph, Jr.
Sampson, John Alan
Sandknop, John Benjamin
Santangelo, James Angelo
Schall, George Edwin, Jr.
Scherr, Michael Robert
Schoonover, Robert Arthur
Schopp, Dean Wesley
Schuknecht, Richard Edward
Schuler, John Joseph
Scott, John Everett
Sebastian, Stacy E.
Seffers, William John
Selde, Peter Jay
Serhan, Marvin Thomas
Sharpe, Bruce Edward
Shatzer, Lewis Allen, Jr.
Shaughnessy, Ruth Catherine
Shaw, Daniel Nelson
Sheffield, Harold Leo
Shepherd, William McMichael
Shipman, Mary Catherine
Silvers, Richard Allan
Simpkins, Earl Lewis, Jr.
Siple, Roy Crane
Sitler, Stephen Douglas
Skirm, George Louis, III
Slater, Arthur Francis
Slaton, Steven Gregory
Smartt, Douglas Arthur
Smith, Audrey Lorraine
Smith, Charles Hughes
Smith, Gary James Ernest
Smith, Harris Latimer
Smith, Jeffrey Townsend
Smith, Leslie Eugene
Smith, Richard Markley
Smoogen, James Leon
Snigg, Steven William
Sowa, Phillip Lee
Sowers, Gary Gilbert
Sowers, James Richard
Speer, John Paul
Speer, Robert George
Stark, Richard Robert
Stark, Thomas Alon
Steelman, William Jeffrey
Steussy, William Howard
Stevens, Paul Harold
Stevenson, Charles Albert
Stewart, Frank Wood
Stewart, Richard Maxwell
Stewart, William David
Stone, James Benjamin, Jr.
Stone, Timothy Gene
Strohofer, Clifford John, Jr.
Struble, James Franklin
Stuermann, Walter Peter
Stuhlman, Robert Harold
Tackett, Kevin James
Talipsky, Richard William
Talton, George Marshal, III
Taplett, Kenneth John
Taylor, Samuel Walter
Tennant, John William
Thalman, David Marvin
Thomas, Harry Fannin
Thomas, Jerome W.
Thompson, Charles Edward
Timmester, Terry Wayne
Tobia, John A.
Tody, Stephen Lee
Toennies, Peter Ewald
Towcimak, William Robert, Jr.
Townes, John Willie, III
Treeman, Michael Wade
Trudell, Michael Albert
Turnbull, Steven Scott
Ulrich, Henry George, III
Uplinger, Joseph Charles
Vandeman, Frank Leslie, IV
Viglienzone, Dennis Edward
Villarosa, John Poteat
Wagemaker, Wallace James
Wagner, Cort Davis
Wagner, Randall Douglas
Walker, David Lee
Walker, Donald Beach
Walker, Frank Thomas, Jr.
Walker, John Bruce
Wall, Allan David
Wallace, David Kitts
Wargo, Joseph William
Weaver, Charles Shepard
Weaver, Christopher Edward
Weiss, Christopher Lee
Welling, David Craig
Wellman, William Earl
Welsh, Edward Joseph, III
Welsh, Harold Kenneth, Jr.
Wengierski, Irwin T.
Wessman, Mark Donald
West, Michael Christopher
Westmoreland, William Donald
White, Joseph Michael
Whittle, Alfred James, III
Wiechert, Annette Marie
Wiggins, Bryan Douglas, Jr.
Wiggins, Ronald Luther, Jr.
Wile, Ted Shannon
Wilkins, Bruce Alan
Williams, Arrena Sue
Williams, Gary Eugene
Williams, Marcus Samuel
Williams, William Robert
Winsted, Bradley Yancy
Winter, John Herman
Wise, John Roy
Wnek, Francis Mitchell
Woodford, Joseph Philip
Woolard, Reginald Wallace, II
Wooldridge, Gregory Carroll
Wunsch, Charles Steven
Wylie, James Meredith, Jr.
Youngblood, David Ray, Jr.
Zell, William Beigler, Jr.
Zitzelman, Philip Wayne

ENGINEERING DUTY OFFICER (14XX)

Barron, James Devens, Jr.
Beelby, Michael Howard
Benson, Eric James
Bowen, John Dennis, III
Brown, Alan Jeffrey
Carmody, Michael James
Carnevale, Joseph Anthony, Jr.
Combs, Osie V., Jr.
Davidson, William Eben
Eden, Michael Spencer
Gallemore, James Bruce
Gehl, Michael Thomas
Groenig, Stanley Ray
Hickey, Daniel George
Hoffman, James Harvey
Ibert, Peter John
Junge, Dennis Michael
Kavanagh, Gary Lee
Lengerich, Anthony William
Louden, Peter Eric
Montgomery, Henry Edward, Jr.
Mulkern, Trent Coleman
Musso, Thomas Francis
Nold, William Frederick
Ortmann, Robert Allen
Paige, Kathleen Koehler
Panzigrau, Jerome Eugene
Patch, Gregory Richard
Perin, Jeffery Mark
Reilly, David James
Reitz, Stephen Leslie
Rutherford, Allan
Schneider, Leo J., Jr.
Schnellenberger, James Edward
Sigmon, Kennis Lee
Staples, Ralph Eugene, Jr.
Therrien, Alfred E.
Ulaszewski, Terence Jerome
Welch, Daniel Roy
Williams, Bruce Arnold
Wilson, Bryan Paul

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING) (151X)

Ball, John Charles
Bateman, Clifford Banks
Bauman, James Lawrence
Carlson, James Allen
Carro, Stephen Joseph
Chandler, Michael Edward
Daniel, James Mikell
Dubois, William Louis
Eargle, Terry Paul
Feierabend, Richard Carl
Gates, Ronald Austin
Gavito, Valentin Francisco J.
Hutchins, Alfred Gordon, Jr.
Levinge, Charles Alford
Loiselle, James William
MacDonald, Thomas Leo
McDermott, James Kevin
O'Connell, Patrick Michael
Offerdahl, David Carlyle
Redshaw, Michael Dennis
Walters, John Justin

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL MAINTENANCE) (152X)

Anderson, Wayne H.
Bellflower, James Alvin
Braman, Frederick Allen
Coffman, Bert Uwe
Conroy, Thomas, Jr.
Cutter, David Michael
Englehart, William Patrick
Farley, David Lee
Fischer, Joseph Christoph, Jr.
Fritsch, David G.
Hawk, Bruce Leon
Jacobs, Thomas Edward
Jauernig, Robert Russell
Lantta, Kenneth David
Lindquist, Robert George
Lovett, Joel Dyane
Macon, Richard Thomas
McDowell, Joel Gordon
Mills, Jack B.
Rhodes, Thomas Walker, Jr.
Tipps, Richard Douglas
Wilson, Eric Thomson
Yee, Thomas Hop

SPECIAL DUTY OFFICER (CRYPTOLOGY) (161X)

Allsopp, Ralph Stanley, Jr.
Bauer, Michael Joseph
Bialobrzewski, Peter Paul
Bishop, David Allan
Booth, Bryant Fred, III
Brinkmann, William Russell
Henry, William David
Houle, Normand Arthur
Hughes, Joseph Alexander
Leo, Barry Lawrence
Miller, Alexander Ayward
Oneill, John Patrick, Jr.
Pollack, Michael Anthony
Popikas, Charles Frederick
Ross, Jessie Clarence, Jr.
Schu, George Marks
Stansfield, James Daniel, III
Verbrugge, Kenneth Ervin
Walton, Jerry Eugene
Williams, Robert Jay

SPECIAL DUTY OFFICER (INTELLIGENCE) (163X)

Betzler, David Paul
Eakin, Philip Joseph
Gawlik, Joseph Anthony
Glanzmann, Christopher F.
Gray, Gary Keith
Holland, Frank Leonard, Jr.
Kelly, Frank Boulware

Kraus, George Frank, Jr.
Legrow, Allan Wesley
Lewis, Jeffrey Evans
Marlow, Francis Joseph
Martiny, Leon Eugene
Mauro, Charles Thomas
Midland, Phil Lawrence
Perras, Wayne Irvin
Pierce, Steven Doane
Porterfield, Richard Bruce
Prevar, John Edward
Ratliff, Perry Michael
Schneberger, Scott Laurin
Sisa, Steven Andrew
Utterback, Robert Alan
Williams, Donald Grant, Jr.
Wilson, Walter Edward
Winter, Dennis Allan

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS) (165X)

Alexander, John Whitlock
Britt, James Frederick
Jerkowsky, Thomas Joseph
Zakem, Jeffrey Steven

SPECIAL DUTY OFFICER (OCEANOGRAPHY) (180X)

Jensen, John Alexander
Klein, Fred Corwin
Leath, Dudley Wade
Leroy, Richard Duane
Little, William Henry
Wakeman, Mark

LIMITED DUTY OFFICER (61XX/64XX)

Allen, Charles Edward
Baker, Raleigh D., Jr.
Beck, Wayne Arthur
Bellflower, Robert J.
Brown, John W.
Brown, Leroy Allen
Calhoun, Jimmy Royce
Cameron, Robert Ellis
Chambers, Harold Dean
Clark, William Phil, Jr.
Cranmer, John Michael
Curry, Ronald Kenneth
Dahlman, Carl Eskil
Dougherty, Patrick Joseph
Driscoll, Michael Brian
Elben, Norman George
Ferrara, Bernard Joseph
Field, Philip Howard
Flores, Pablo Jimenez
Gann, Virgil E.
Garnett, Claude, Jr.
Genin, Louis Paul
Goden, Larry Frederick
Hale, John Frederick
Hale, Nathaniel
Hall, Allen Eugene
Harvey, Fred Seldon, Jr.
Haynes, Arthur Dean
Hennessy, Raymond Michael
Kirkland, Ronald Eugene
Leach, John Walter
Locke, Edward Stephen
McCoy, Ernest V.
McKinney, George Richard
Nance, Roger Allan
Neil, Robert Howard
Oakes, Delbert, Jr.
Parsons, Robert Eugene
Pfuhl, John F.
Pichardo, Fortunato
Pittman, Norward Thomas
Potter, David Lawrence
Prior, Melville E., Jr.
Remer, James Wesley
Rhodes, John Albert
Rodeffer, Ronnie Lee
Sides, John Elvin
Stomboli, James Ralph
Timms, Terry Wayne
Turner, James Sunday, Jr.
Webber, Thomas Charles
Weller, Wayne Leroy
Wilson, John E.

CONFIRMATION

Executive nomination confirmed by the Senate December 6, 1985:

DEPARTMENT OF STATE

Gregory J. Newell, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

DELAYED FUNDS AVAILABILITY

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. LUNDINE. Mr. Speaker, on November 20, the House Banking Committee, on which I serve, reported out H.R. 2443, legislation to expedite the availability of funds deposited by consumers at banks and other financial institutions. I support this legislation and commend Chairman ST GERMAIN for his leadership on this important consumer issue. I am hopeful that his bill will be considered by the full House in the near future.

Although the intent of the legislation is straightforward, the bill as reported out of committee is very complex and may have consequences for banks and other depository institutions beyond those which are implied by the bill's title. It is not often that I will take the time to recommend that my colleagues read a specific article or analysis, but I feel that the following analysis is an excellent explanation of a rather complex bill. This summary of H.R. 2443 was prepared by the Institute for Strategy Development, a consulting firm specializing in analysis of legislation and regulatory developments affecting financial institutions. This firm does not lobby for any interest group. I feel that this analysis is both objective and concise, and recommend that every Member read it before voting on H.R. 2443.

DELAYED FUNDS AVAILABILITY

SUMMARY

On November 20, the House Banking Committee amended and sent to the full House H.R. 2443, Chairman St Germain's delayed funds availability bill. The bill would limit the number of days a depository institution may restrict the availability of funds deposited in any transaction account by check and require institutions to fully disclose their funds availability policy to depositors.

As reported, the bill establishes phased-in, temporary availability limits. At the end of three years, those temporary availability limits would be replaced by mandated limits set forth in the bill. Several of the exceptions contained in the original bill have been removed. The authority of the Federal Reserve Board to prescribe regulations has been severely curtailed from earlier drafts of this bill.

IMPACT

The bill would require significant changes in the methods banks use in clearing deposited checks. Banks would be required to provide access to such funds within specified periods. Banks would also be required to disclose affirmatively their funds availability policies to all depositors in several different forms. In addition to costs incurred in meeting these requirements, banks may also experience increased losses due to check-related fraud. As a consequence, some banks may choose to accept a substantially larger number of checks for collection, rather than for deposit. H.R. 2443 would also preempt state funds availability statutes unless those laws are even more stringent than this legislation.

In sum, this legislation could add substantially to the costs banks and other depository institutions bear in processing paper transactions. Its ultimate impact, therefore, could prove to be a strong impetus to the creation of a national electronic payments system for consumers, with virtually mandatory use of debit cards and other non-check instruments.

STATUS

The bill was sent by the House Banking Committee to the full House of Representatives on November 20, 1985. Chairman St Germain has stated his intention to move the bill rapidly, and has ordered the report on the bill by November 25. Barring any delay in Rules Committee, the bill may pass the House before the end of year.

In the Senate, Senator Dodd (D-CT) has introduced S. 1841, a bill identical to the delayed funds provisions contained in last year's Senate omnibus banking bill. No hearings have been scheduled in the Senate Banking Committee to date.

ANALYSIS

(*Note*): The bill would apply to all depository institutions. Therefore, the word "banks" in the following analysis includes all depository institutions. Part I of the analysis contains a discussion of important definitions applicable throughout the bill and used in Part II.)

Part I—Definitions

A number of the definitions contained in Section 14 of the bill are of critical importance in evaluating the impact of H.R. 2443. These definitions include the following:

A. Account

The definition of *account* conforms to the FRB's definition of a transaction account.

B. Classification of Checks

a *cashiers' check* is any check which is drawn on a depository institution, is signed by an officer or employee of that institution and is a direct obligation of that institution;

a *certified check* is any check for which a depository institution certifies that the signature is genuine and the institution has set aside funds for payment;

a *"tellers' check"* is any check issued by a depository institution and drawn on another depository institution;

a *depository check* is any of the above and any other "functionally-equivalent instrument" as determined by the FRB.

(*Note:*) The reasons for including in the bill a new class of checks called *tellers' checks* is unclear. From the perspective of a bank receiving the item for deposit, a tellers' check is legally indistinguishable from any other check drawn on an account at the originating depository institution, whether by an individual or an insured financial institution. The originating depository institution, for example, is under no legal obligation to honor such a check if the drawer institution becomes insolvent. Nevertheless, the definition does provide an opportunity for depository institutions (principally large institutions) to develop a new pseudo-cashiers' check for marketing to smaller institutions for various special-purpose payment situations. However, because of the shortened availability schedule for tellers' checks and the potentially increased risk of nonpayment, tellers' checks may end up as accepted primarily for collection rather than deposit.)

C. Local and Non-local Originating Depository Institutions

A *local originating depository institution* is any originating depositor institution which is located in the same FRS check-processing region or in the same state as the receiving depository institution. A *non-local originating depository institution* is any other originating depository institution.

(*Note:* Because FRS check-processing regions often cover parts of several states, a bank will have to be aware of the routing symbols, both within its own processing region and throughout its own state.)

Part II—Specific Provisions

A. Development of Permanent Expedited Funds Availability System—Section 3

Section 3 requires the Federal Reserve System (FRS) to develop an expedited funds availability system within three years of enactment of the legislation. By the end of this three-year period, the system must provide for availability for checks drawn on local institutions by the start of the next business day after deposit and availability for checks drawn on non-local institutions by the fourth business day after deposit.

For non-local checks, however, the bill does not specify that availability must be provided by the start of the fourth business day. Therefore, availability any time during that business day presumably would be acceptable. (*Note:* A "local originating depository institution" is defined as any institution which is located in the same check-processing region or in the same state as the receiving depository institution. "Non-local" institutions would be all others. For a discussion of the ramification of these definitions, see the discussion in Part I above.)

Although the bill does not require the FRS to adopt a specific mechanism for implementing such a system, it does require the Fed at least to consider a number of specific options. These include:

requiring the Federal Reserve Banks and depository institutions to take whatever actions are necessary to automate the process of returning unpaid checks;

establishing mandatory endorsement standards on checks for all banks, including FRBanks;

requiring "direct notification" to a bank of first deposit of a decision to dishonor any check above a threshold amount (to be determined by the FRS). The decision to dishonor must be made within one business day after presentment;

permitting all returned checks to be returned through the FRS; permitting payor banks to return unpaid checks directly to banks of first deposit and requiring the banks of first deposit to reimburse the payor banks for those returns.

As noted above, the Board need not adopt any of these options, but it must consider them and it must have a "system" in place to meet the one-business-day and four-business-day availability limits within three years.

During Committee mark-up, an amendment was adopted clarifying that the FRS does not actually have to make sure that all checks are returned within the availability schedule. That amendment is at least an implicit acknowledgement that the bill is not intended to address the causes of delayed availability, but only the symptoms.

B. Temporary Availability Schedules and Additional Requirements—Section 4

Prior to the establishment of the permanent availability schedules described above, Section 4 provides for a phased-in schedule for various classifications of deposits. The phased-in schedules are as follows:

1. *First Year Schedule.* During the first year after enactment, next-business-day availability must be provided for the following:

a. any check drawn for not more than $100

b. any check drawn on another branch of the same bank in which it is deposited, if both branches are located either in the same Federal Reserve check-processing region or in the same state

c. any check drawn on the U.S. Treasury, if endorsed only by the payee

d. any check drawn on the Treasury of a state, or a unit of local government, but only if it is endorsed by the payee; the bank is in the same state as the payor; the deposit is made at a manned branch of the bank; and the deposit is made with a special deposit slip for such checks.

e. any cashiers' check, certified check tellers' check or depository check, but only if it is endorsed by the payee, the deposit is made at a manned branch, and made using a special deposit slip. (*Note:* For a discussion of the definitions of these types of checks, see Part I, above.)

During the first year following enactment, all other checks drawn on a local originating bank must be made available by the third business day following deposit. During the first year, all other checks drawn on non-local originating banks must be made available by the seventh business day following deposit.

2. *Second and Third Year Schedule.* During this period, the next-day availability schedule as described above remains unchanged. Likewise, the schedule for checks drawn on non-local originating banks remains unchanged. However, checks drawn on local, originating banks must be made available by the second business day following deposit.

3. *Additional Requirements and Conditions.* In addition to establishing temporary availability schedules for the first three years following enactment, Section 4 contains the following requirements, which are not limited to the first three years after enactment:

each bank must take whatever actions are necessary to inform fully each of its employees of the requirements of the act. (*Note:* This provision is not limited to tellers and others directly involved in taking deposits. Regardless of position or responsibility, each bank employee must be fully informed. Presumably, special training programs may be limited to those directly involved in taking deposits, as long as all of the employees receive full information on the act in another form.)

each bank must establish a compliance and monitoring system to ensure compliance;

when a bank places a hold on a check, that hold may only be placed on the funds represented by the deposited check;

deposits made on a Saturday, Sunday, legal holiday, or after the close of business will be deemed to have been made on the next business day;

deposits made by cash, wire transfer, and cash deposits made at an ATM must be made available on the next business day.

Section 4 provides the FRS authority to shorten any of the phased-in schedules or to extend by one business day any of the phased-in periods with respect to deposits made at a shared or non-proprietary ATM: and

the Fed may provide a one-business-day extension for deposits made at a thrift institution.

C. Exceptions—Section 5

Section 5 provides a number of narrowly-drawn exceptions from the availability schedues described above. These are as follows:

1. *New Accounts.* During the first thirty days after an account has been opened for a new depositor, deposits made by cash, cashiers' check, certified check, tellers' check, depository check, or travelers' check must be made available on the next business day. Deposits made by wire transfer must be made available when those funds are received. All other items would be exempt from the availability schedule. (*Note:* This exception applies to "new depositors" not "new accounts". Presumably, it would not be applicable to a new account opened by an existing depositor. Its applicability to existing accounts on which new depositors are added is unclear.)

2. *Checks aggregating above $5,000.* In the case of deposits by check aggregating above $5,000 in any one day, the availability schedules will not apply to the amount in excess of $5,000. For checks deposited by a new account-holder as described in item 1, above, the amount above $5,000 on which a hold is placed must be made available within 8 business days after deposit.

3. *Re-Deposited Checks.* Checks re-deposited in an account after once being returned unpaid would be exempt from the availability schedules.

4. *Repeated Over-Drafts.* The availability schedules would not apply to any account on which, during any six-month period, the depositor has written insufficient funds checks on three separate and distinct occasions. This exception, however, would be applicable only for the six-month period following the third such incident.

5. *Foreign Checks.* The limits do not apply to any check drawn on a depository institution or one of its offices located outside the U.S. (*Note:* "United States" is defined as the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Other territories are excluded.)

6. *Emergency Conditions.* The limits do not apply if the failure to comply is caused by emergencies beyond the control of the bank. The FRB is given authority to define an emergency.

7. *Fraud.* The FRB may suspend the availability schedules for any class of checks if the Board has evidence that banks are experiencing an unacceptable level of losses due to check-related fraud. This suspension, however, would only be effective for 45 legislative days, unless both the House and Senate Banking Committees agreed that it is necessary. Additionally, the losses would have to arise solely from fraud caused by the availability schedules and the Board would have to provide specific examples and necessary documentation to the Committees to justify the suspension.

(*Note:* If a bank has information leading it to doubt the collectibility of a check, its only recourse to protect itself is to reject the check or to accept the check for collection, not for deposit. If the bank receives information leading it to believe that a check is uncollectible after it has accepted a check for deposit, the bank must still provide availability within the set limits. Its only recourse is to charge back the depositor's account or seek reimbursement from the depositor after the check has been dishonored by the paying bank. Funds availability laws in New York, California and other states provide a "good faith" exemption for banks in such cases, but this bill would preempt such state statutes.)

D. Effect on State Laws—Section 6

Section 6 specifically permits states to enact legislation requiring shorter and more stringent funds availability schedules. It also permits individual banks to adopt stringent guidelines for themselves. Furthermore, nothing in the bill affects a bank's right to reject a check for deposit or to charge back a depositor's account or claim a refund for any provisional credit granted on a deposited check. (*Note:* As drafted, this section permits more stringent state laws and regulations to supersede the act and the FRB's regulations "to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal." By implication, a strong argument can be made that all other provisions of H.R. 2443 not relating to availability schedules will preempt state law and regulation. In conjunction with the regulatory authority provided the FRB in Section 10 of the bill, this is clearly the intent of the bill.)

E. Payment of Interest—Section 7

Section 7 requires banks to begin crediting interest on funds deposited by check into interest-bearing accounts no later than the day on which the bank receives provisional credit

F. Disclosure of Funds Availability Policies—Section 8

The following disclosure requirements would be imposed by the bill:

1. *New Accounts.* Before an account is opened, a bank would have to provide written notice to the customer of the specific policy of the bank with respect to funds availability.

2. *Pre-printed Deposit Slips.* The bill would require each bank to provide preprinted deposit slips stating the funds deposited by check may be subject to a hold. The FRB may regulate the form of this statement.

3. *Mailings.* In the first regularly-scheduled mailing to customers occurring more than 120 days after enactment of the bill, the bank must send a written notice containing its specific holds policy. This one-time notice to existing customers would be required even for banks which have been in voluntary compliance with such a standard. Additionally, a bank must send such a

notice to all customers each time it makes a significant change in its holds policies. (*Note:* As drafted, these notices must be sent to all customers of the bank, even if they have no deposit relationship.)

4. *Postings.* At each manned teller station, banks must post a specific notice describing the time period applicable to funds availability. However, in the case of ATMs, the FRB is required to prescribe that the owner or operator of the ATM will post a general notice that funds deposited in the ATM may not be immediately available for withdrawal.

5. *Notice of Early Availability.* Each of the written notices described above must also contain a statement that informs the depositor that funds may be made available more quickly than is prescribed in the act. (*Note:* This provision is an anomaly. It would require such a statement even if a bank's policies do not provide for earlier availability. The bill's language does not provide the FRB with much room to circumvent this requirement. Therefore, it may require banks to establish a class of checks for which earlier availability is permitted.)

G. Regulations—Section 10

Section 10 provides the FRB with general regulatory authority to carry out the provisions of the act, to prevent circumvention or evasion of its provisions, and to facilitate compliance. Importantly, the bill specifically provides that its provisions and subsequent regulations will supersede any state law, including the Uniform Commercial Code, which is inconsistent with the act. As noted above, this preemption does not extend to availability schedules established under state law if such schedules are more stringent than the federal standards.

H. Enforcement Provisions—Sections 12 and 13

Although the Fed is granted authority to prescribe regulations pursuant to the act, the administrative enforcement authority remains with each bank's primary regulator.

Additionally, the bill provides for both individual and class action liability for any failure to comply with any requirement of the act or regulations. For individual actions, civil liability would amount to the actual damages sustained by an individual plus up to $1,000 in additional penalty. For class actions, the award cannot be more than the lesser of $500,000 or 1% of the net worth of the bank involved. (Note:!)

Civil liability cannot be imposed for violations which are not intentional and which result from a bona fide error. Specific examples of bana fide errors contained in the bill are clerical, calculation, computer malfunction and programming, and printing. The bank, however, has the burden of proof that any violation was both unintentional and resulted from such a bona fide error.

The civil provisions would go into effect 120 days after enactment. the administrative enforcement provisions become effective 90 days after enactment.

TRIBUTE TO THE LATE TISH SOMMERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. BIAGGI. Mr. Speaker, I rise today to pay tribute to the late Tish Sommers, a woman I believe to have been one of the finest spokespersons for aging issues. President and founder of the Older Women's League, a lifelong feminist and full-time advocate of women's causes, here many accomplishments lay as a living tribute to a woman who will long be remembered for her courage, strength, and genuine concern for others.

As an original member of the Select Committee on Aging, I had the personal experience of working with—and learning from Tish Sommers. She played an active role in the early days of the committee, which was organized to augment the work of aging advocates. She was clearly in the forefront of efforts to bring the plight of the elderly to our attention, and she has been singularly responsible for helping us to focus upon the concerns of older women. Our committee now has a task force solely devoted to the problems of women and Social Security, of which I am a member. It is an ongoing tribute not only to the importance of this issue, but a living memory of Tish's impact upon our joint efforts to promote policies that will better the lives of all elderly citizens.

Tish Sommers was always a woman in touch with what was going on around her. A career housewife for most of her years, her life was drastically changed when, in her late fifties, she found herself, divorced, without training for a business career and without much money or means of earning a living. Such personal tragedy would break an ordinary person; Tish used it to draw upon an extraordinary wealth of inner strength. Realizing the commoness of her situation—for which she creatively termed "displaced homemaker"—decided to, in her own words, "organize, not agonize."

Tish founded OWL, the Older Women's League, wrote numerous articles and authorized the powerful yet elegantly articulated book, "The Not So Helpless Female."

Tish Sommers' work continued on for years when she learned she had an incurable form of cancer. Once again, personal tragedy only strengthened her commitment to activism and she worked on, dealing with her illness candidly and with beautiful grace. She used her experience with dying to help others to take an active role in the decisions concerning the end of their lives.

Mr. Speaker, any epitaph to the life of Tish Sommers pales in the brilliance of the legacy she leaves behind. Therefore, as a final tribute, I would like to submit the text of one of Tish Sommers' final public addresses which she presented at a July 1984 OWL forum entitled "Taking Charge of the Rest of Your Life" where Tish was the keynote speaker. It is a moving and perhaps appropriate tribute to a woman whose life we are celebrating and whose work will continue

The address follows:

SOME MATTERS OF LIFE AND DEATH

(Address by Tish Sommers)

We're going to be speaking today about what is considered an unspeakable subject—death. On this day it might seem more appropriate to celebrate life and go have a picnic or whatever we most like to do. But life and death are intertwined, for we are all terminal cases. And we're all going to die sooner or later. For many reasons the time has come to bring this topic out into the open for full discussion. Today's forum is designed to get that discussion going.

I have a personal interest in the topic. I'm a stage four cancer patient. That means widespread. Fortunately, my cancer is slow growing, so I've had lots of time to think about death and to plan for it. My living will is in my doctor's chart. Since California recognizes the durable power of attorney for health care, I have one of those too. So if I become incompetent to make life and death decisions for myself there will be someone who can do it for me—Laurie Shields sitting over there—who knows my wishes and is legally empowered to decide for me.

I belong to a cancer support group where we discuss how to deal with medical professionals and how to die at home if that is what we want. But I've learned from the experience of others in the group that staying in control of your own death takes planning and strong conviction. It's easier said than done. For one thing it's not easy to let go. Life is sweet, and I've been amazed to learn how much you can put up with and still savor life.

Coming from the women's movement I've also learned that the personal is the political. It's not enough just to make plans for yourself because we're all in this together. Ever since the 1976 Karen Ann Quinlan case, a movement has been growing to recognize the right of the terminally ill to decline or discontinue efforts to prolong their lives. Right to die laws permitting competent adults to execute "living wills" have passed in many states with others pending, and there is more and more discussion in the media.

A few weeks ago I wrote a letter to all our members in OWL telling about my own advance planning and offering some information on living wills and funeral services and wills. We've received already over 2,000 requests for such material. The time has come to discuss this topic as openly and fully as we can even though it is fraught with contradictions as will see.

All the premises that we used to take for granted now rest on shifting sand. Technological advances in medicine have dramatically changed the time, the place and the conditions of dying. A recent President's Commission for the Study of Ethical Problems in Medicine points out that these new developments have made death more a matter of deliberate decision. For almost any life-threatening condition some intervention can now delay the moment of death. "Matters once the province of fate have now become matters of human choice."

In the past most people died at home surrounded by family members. Now, it is more likely to be in the intensive care unit of the hospital. The human choice is usually in the hands of a physician or hospital personnel. Doctors and nurses have always dealt with dying. But not until the present technical advances have they had so much power to control how long life lasts. As a result there is growing recognition that there needs to be a new set of ethics and practices to match the new medical capabilities. Decisions can be excruciating for doctors, family members and certainly for the patients.

When do you stop prolonging life when the alternative is so final? How much suffer-

ing is "worth it" to stay alive? Medical professionals are taught that death is the enemy and life should be prolonged at all costs. But now the situation has changed. With the capability to do so should death be prolonged indefinitely when there is no possibility of recovery?

Negative sentiments toward maintaining life at all costs is forcefully expressed in the following adapation of the 23rd Psalm by Rev. Robert Fraser of the Unitarian Church of Rockville, Maryland.

Medical science is my shepherd: I shall not want.
It leadeth me beside the marvels of technology.
It restoreth my brainwaves;
It maintaineth me in a persistent vegetative state for its name sake.
Yea, though I walk through the valley of the shadow of death,
I shall find no end to life;
For thou art with me;
Thy respirator and heart machine, they sustain me.
Thou preparest intravenous feeding for me
In the presence of irreversible disability;
Thou anointest my head with oil;
My cup runneth on and on and on and on and on.
Surely coma and unconsciousness shall follow me all the days of my continued breathing;
And I will dwell in the intensive-care unit forever.

Public opinion on the right of terminally ill patients to call it quits is shifting. Eight out of ten persons now believe that a terminally ill patient should be able to ask doctors to stop life support medical treatments, according to recent Gallup and Harris polls.

Public opinion toward the medical profession has also shifted in the past decade or so. The advances in medicine and public health in the first half of the century raised doctors to the position of demigods. That high esteem has eroded greatly in the past period resulting in a tremendous increase in malpractice suits. Ironically this has tightened the group of medical facilities and practitioners on the process of dying. Fear of suits from unhappy relatives pushes physicians and hospitals to "heroic measures" even when death is inevitable.

Although rarely discussed, there are economic consequences underlying the shifting ethical considerations—doctors, hospitals, patients, families and most of all the public (called the taxpayer). As economic advantage or disadvantage shifts, moral rationales are likely to accommodate that change. With pressure mounting to reduce medical costs paid for by public funds, life support for patients with terminal illnesses is being questioned as never before. How much money is too much to try to save the life of someone who may not survive anyway? In intensive care units where every conceivable form of technology is brought in to fight against death, dying can be delayed, but at tremendous cost. Even the change in payment mechanisms of Medicare to hospitals by Diagnosis Related Groups, DRGs, shifts the economic incentive in many cases from keeping a person alive to allowing a patient to die.

Legal views have also undergone change in the past decade, and we will hear much more about that today. Is it murder or mercy to remove a nasogastric feeding tube from a dying person? Most persons do not have living wills, and when a patient is incompetent to make his or her wishes known, hospitals and doctors may be reluctant to risk murder charges. For the medical profession there are few liabilities for continuing to treat a patient. But there are grave dangers in stopping treatment. Even though the court has acquitted attending physicians, the danger of such suits has a chilling effect on hospitals and doctors. There are still many gray areas in the law, and lawyers, especially those retained by hospitals, tend to urge caution when it comes to withdrawing life support systems. Institutions of all kinds tend to be self-protective.

Although there's a narrowing body of case law, including the significant recent ruling of the New Jersey Supreme Court in the Conroy case (which you'll undoubtedly hear more about in this forum), the U.S. Supreme Court has not yet ruled on this question. It is this legal uncertainty that has fueled the legislative efforts headed by Concern for Dying to pass legislation providing legal backing for advance directives such as the living will and durable power of attorney for health care.

It is the purpose of this forum to get a clearer fix on the nature of this evolving scene, and in the process to determine how we can move forward in this minefield without stepping on something.

Basically there are two sides to the question. On the one hand, we don't want to prolong dying when a person is ready to go. On the other we don't want it speeded up for economic considerations without thinking of the desires of the dying person. Can we look at these two problems together and discover the way to work on both of these goals at the same time? For actually they're both headed in the same direction—the right of each person to determine what is most appropriate for himself or herself.

There is a valid fear in the minds of many that a government that sanctions an easier death today may require it tomorrow. Here is a scene that is not impossible if the fiscal squeeze gets much tighter. At her bedside, a hospital representative is saying, "Mrs. Jones your medical benefits have expired and I understand you are without personal resources; we are required by law to offer you a speedy release from your suffering." Mrs. Jones has been sick, poor and alone for 13 years. Her sense of self worth is minimal. She might well accept that "speedy release", but since she has no viable options that is certainly not self-determination. That is why many organizations, noting the increased pressures for cost cutting and heel dragging in regard to funding long-term care programs, are understandably cautious in discussions on this subject. As long as public policy tends toward the cheapest way to keep an old person alive, there will be pressures to shorten that life.

So we have a seeming contradiction: persons in hospitals who try to pull their tubes out only to have their arms restrained, and policymakers and hospital administrators who ask, "When is it time to say enough is enough?" Today we'll be focusing on advance directives because these at least are quite clearcut. They reinforce the right of each person to say in advance what should be done or not done if one is unable to speak for oneself. And with good legislative backup, they should help the medical community carry out the wishes of the patient without fear of murder charges. That may be just the tip of the iceberg on the subject of death and dying, but it's a good place to start.

Since the public and the courts seem to be moving toward the position that it is everyone's right to refuse treatment of any kind, and since it is in the interests of the medical profession to have these questions clarified, the problem becomes, how a person's wishes can be expressed in advance in such a manner that they will be legally binding to all concerned. The public is saying, at least in the polls, that prolonging the dying process is not preserving life at all, but is forceably putting people in limbo between life and death, and most would like to protect themselves from that fate.

So what can be done? First we can start with ourselves. When individuals plan ahead for contingencies in their own lives, they not only lessen the dangers for themselves, but they often have positive impact on public policy as well. I'm sure that A.J. Levinson of Concern for Dying will point out how the growing demand for living wills leads to efforts for state legislation to back them up. A large number of persons takes seriously the importance of preparing advance directives in case they can no longer make medical decisions for themselves, they want to make sure that these are going to be of use when the time comes. So they will push for legislation to support those documents. At the present time the living will is the most widely used advance statement of what a person would want in case he or she no longer can make a decision on medical treatment.

But what if it's not honored by medical personnel? On the one hand there is danger that persons fill out these forms and think they're protected only to find that when the chips are down their living wills are ignored. Medical care is complex and subject to varied interpretations. California has passed legislation which permits a person to designate a surrogate who is empowered to make health care decisions for the signer. The right of a person to designate someone else to make decisions on his or her behalf is well established in law. The term "durable" means that it remains in force even if the signer becomes incompetent, as when in a coma. If there is state legislation that clearly provides protection for medical practitioners, there is the advantage of having someone in your corner to interpret exactly what you want done, especially in those gray areas.

Since this is a rapidly changing scene and states which support advance directives vary in their requirements, this is not something one does casually and then forgets about it. Like a will, this is one additional form of life planning that should be made by every person in accord with state law, and reviewed periodically in light of changes in that law and in one's personal circumstances.

But how many people will do this? It is one thing to provide legislative support for living wills and/or durable powers of attorney, and quite another to assure that people use them. The majority of us don't even have wills which are not only familiar but are generally regarded as essential for responsible families. How much more diffcult will it be to convince people that they might someday end up in a hospital in a comatose condition?

Nevertheless, there are those who can encourage all of us to prepare these documents. One target population is lawyers who make up wills. Presuming that lawyers are themselves educated on this matter and recognize its importance, they could be encouraged to suggest to their clients that at the same time a person prepares a will they prepare an advance directive on health care.

A second target population is medical personnel. Once educated themselves, they could develop unobtrusive and respectful methods for educating new patients and their families on the matter. Doctors and hospitals could have the documents best suited for their own state available for their patients. Hospitals could develop mechanisms to ensure that all personnel know that a patient has such a document and who the surrogate is, if appropriate. Charts could be marked. Persons who have an advance directive should discuss it with their physician, in part to raise the doctor's consciousness on the subject.

Of course the more organizations that bring the topic up for general discussions the better—aging organizations in particular. We are pleased that the media have taken an interest in this event and that in turn should encorage public debate. Once the subject is out of the closet we are in a much better position to move forward dispite the contradictions and dangers inherent in the subject.

While it's beyond the scope of this forum, we need to propose new alternatives for terminal care. When the end comes, the likelihood is that a person will be taken to a hospital emergency room or intensive care unit, the very worst places to die in peace. A serious effort to provide an alternative is the hospice movement. Unfortunately its primary function was seen by many in Congress as a less expensive alternative, so rules and regulations permitting Medicare reimbursement for care through these institutions, which usually provide services in the home, are carefully prescribed. Nevertheless, anything that can be done to further the development of compassionate alternatives willl provide more choices for dying persons and their families, particularly if they receive public funding and are therefore available to a wide constituency. This includes all aspects of long-term care as well as new ways to provide palliative care in hospitals, nursing homes and other institutions.

In closing, let me say again that death and dying is another one of those hidden issues that needs to be brought out into the open so that we can preserve the values that should be preserved and prevent the dangers from engulfing us. Of course there are no easy solutions. This is just an opening wedge. But we have a great deal to lose if ways are not found to let us die in peace in a place of our choice surrounded by as much comfort as possible. We want these things for ourselves and for those we love. Let us move forward in that direction.

LECTURE BY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. FUQUA. Mr. Speaker, last month Mr. Erich Bloch, Director of the National Science Foundation, presented the 53d Steinmetz Memorial lecture to a regional section of the Institute of Electrical and Electronics Engineers [IEEE] in Schenectady, NY. In his address entitled, "Basic Research and Economic Health: The Coming Challenge," Mr. Bloch deals with current trends in the U.S. science and engineering base and their importance to the economy and the overall national interest. In order to enhance economic competitiveness, Mr. Bloch advocates a major shift of Federal R&D resources toward the Nation's universities, including the establishment of "basic science and technology centers." Recognizing current fiscal constraints on the Federal budget, he suggests that funding should come from reallocation from applied research and development accounts.

I believe that Mr. Bloch's lecture is an important contribution to the growing debate over the future of U.S. science and technology policy. Our Science Policy Task Force in the Committee of Science and Technology is now half-way through its study of such issues, and we welcome such a forthright statement at this time from the head of one of the major science agencies. I am pleased to bring the text of Mr. Bloch's lecture to the attention of my colleagues.

The text of the lecture somewhat edited, follows:

LECTURE BY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

We depend on what we call the science and engineering base—the collection of people, institutions, equipment and facilities that enable us to do fundamental research in the sciences and in engineering—for economic progress.

This dependence is real. And it is recognized all around the world. So it is surprising that the United States is still not doing a very good job of taking care of the science and engineering base.

We aren't training enough young scientists and engineers.

We aren't investing sufficiently in research equipment and facilities.

We aren't supporting adequately the activities of our basic researchers.

Inadequate support for the science and engineering base is related to our economic problems. The connection between the two is the subject of my talk tonight.

THE IMPORTANCE OF SCIENCE AND TECHNOLOGY TO THE ECONOMY

Since World War II, new technology has been responsible for nearly half of all productivity gains: far more than those due to more capital, better education, better resource allocation, or economies of scale. This is now a well established finding.

We can't be economically competitive without high productivity. It should worry us that our productivity record over the ten years up to 1983 was substantially worse than that of our major competitors. They did five to nine times as well as we did during this period.

Markets for nearly all manufactures are now global in scope. In high-technology products the markets are driven by product innovation. The company with the best product is the one that will succeed. Computers and all sorts of electronics are the best examples.

Global markets for low-technology products are driven by price. That's a function of capital costs, labor costs, and exchange rates—all areas in which the United States is at a disadvantage. But price is also, importantly, a function of process innovation. High technology concepts can be applied to the manufacturing process to drive down costs.

Too often we have shifted production overseas in order to take advantage of low labor costs. But this often means slowing the application of new process technology, with very bad effects in the long run.

We saw this with semiconductor packaging. We moved production offshore, which reduced the rate of adoption of new process tools, reduced the reliability of parts, and led to complaceny on the part of our managers. It also gave less developed countries a chance to build an indigenous semiconductor industry that is now able to compete with us in many areas besides packaging.

In both high and low-technology products, success in the global market means creating and applying new knowledge—which is to say new technology—faster than one's competitors. This is the fundamental law in this competitive world.

For whatever reason, our record in competing has not been very good recently. Our trade balance has deteriorated badly in the past few years. The record is worst in the older industrial areas, but even in the high-technology areas we are slipping into deficit.

We are vulnerable in these industries partly because we have been slow to automate production. We have only to compare the rate of adoption of robots in Japan and the United States to get an idea of the dimension of the problem.

THE HEALTH OF THE SCIENCE AND ENGINEERING BASE: EDUCATION

We won't do well in science and engineering in the future if we don't continually train the people that we need. But recent data suggest that we are not doing this well enough:

We are attracting a smaller fraction of our best students to the sciences, and the size of the relevant age groups is declining. Even in engineering, where enrollments have been rising in recent years, only about seven out of every thousand American students receives a degree in engineering. In Japan, the figure is forty.

There has been a decline in engineering PhD's since the early 1970's, although the figures have improved somewhat in the last few years. Since 1981, more than half of all PhD degrees in engineering in the United States have been awarded to foreign students. This proportion has risen in recent years.

The figures for math and physics—the core disciplines of a technological society—are not much different.

Between 1980 and 1983, full-time graduate enrollment in science and engineering rose six percent overall. But enrollments of U.S. citizens rose only one percent, while foreign student enrollment rose 23 percent. Thus foreign students accounted for 85 percent of the total growth in this period.

There is no way to establish conclusively the numbers of technically trained people that a modern society needs. It won't do to try to look at the numbers required for specific jobs, because we are always finding new ways to use people with technical skills. But the society is getting more—not less—dependent on technology. It stands to reason that we should be training more—not fewer—technical people. As the world becomes more and more technologically oriented, there is no way that we will be able to keep up unless the number of technically trained people rises also.

The actual situation has been one of decline in the proportion of each age cohort achieving the higher educational levels. The peaks were reached in the early to mid-sev-

enties, and the trends have been down since then.

I am talking mainly about quantity in the making of these points, because that is a lot easier to measure than quality. But we can—and I think we do, to some extent—make up for a lack of quantity by stressing excellence in everything we do. In a time of tight resources that is a saving grace, but it may not be enough by itself.

THE HEALTH OF THE SCIENCE AND ENGINEERING BASE: RESEARCH INPUTS

As with educational levels, there is no way to establish objectively the "right" level of spending on R&D. The economists can give us a theoretical answer, but it doesn't help in practice.

But just as we did with educational data, we can look at trends. We can look at ourselves over time, and compare ourselves with other industrial nations:

Over the last twenty years, the curve describing the proportion of the U.S. population engaged in science and engineering is strikingly different from that for the other industrialized countries. In 1965 we were well ahead of all the others on this measure. But we didn't continue to make the necessary effort to improve. So while the others all advanced, we have stayed at about the same level as we were then.

The picture is about the same if we look at the proportion of our gross national product that we spend on R&D. Again what is interesting is that the shape of our curve is so different from that of our competitors. We can't argue that our current level is not "right", but the comparison indicates the relative emphasis that our trading partners are putting on R&D.

The United States carries a defense burden that other countries do not. If we remove the defense-oriented work from the R&D figures, then our civilian R&D level is below that of both West Germany and Japan.

The division of the Federal R&D effort between the civilian and defense sectors is changing in an important way. In the sixties the civilian effort rose rapidly, and then for about fifteen years there was a rough parity between civilian and military efforts. In the last five years the balance has shifted strongly toward the defense side again. At present only a little more than a quarter of the Federal R&D effort goes into civilian research.

There are arguments that can put an optimistic light on these trends. It may be that the balance between military and civilian research is not that important. The strategic defense initiative, for instance, is clearly focussed on the most advanced technologies, and that should result in a significant payoff for the economy.

But it is also true that outside of SDI and DARPA, most of the military effort is focussed on fairly short range development efforts. For a decade or two after World War II military research sought technologies that were important to the civilian world also: especially computers, semiconductors, and nuclear power. But as a rule, that is no longer the case. In computers and semiconductors today, for instance, it is the civilian side that is leading.

This conclusion is consistent with the fact that the proportion of military R&D funding that is devoted to basic research has been declining ever since the enactment of the Mansfield amendment in 1971.

THE HEALTH OF THE SCIENCE AND ENGINEERING BASE: RESEARCH OUTPUTS

The National Science Board has been concerned for some time with developing indicators of the output of the R&D enterprise. This is not an easy task, because the real output of science and engineering is important new insights—and we have no direct way to measure or count these.

Let me review a few items that can serve as barometers. Again, it is the trends that are interesting:

The U.S. share of world scientific and technical literature declined in most fields between 1971 and 1982. The most striking declines were in mathematics (−23 percent); physics (−18 percent); and biology (−17 percent).

One may ask, So what? It is natural that the U.S. share should decline when the research efforts of the rest of the world are increasing. But it turns out that the citation ratios—the extent that U.S. literature is cited in proportion to its volume—are also declining. The most striking declines are in engineering, mathematics, and biology. That speaks to quality: the quality of research in competing nations is improving relative to ours.

And we find that the rate at which U.S. residents apply for patents in foreign countries—a measure of how aggressive we are at commercializing our ideas abroad—has also been declining. On this measure only the Japanese have been advancing steadily, and they have closed the gap with us in the last fifteen years.

SCIENCE POLICY AND SCIENCE ORGANIZATION SINCE WORLD WAR II

There are three basic reasons for the Federal government to support research and development, and the education that goes with it:

First, we support a certain amount of basic science for it's intrinsic value. Research on the origins of the universe or of humankind fall into this category. No direct economic payoff is expected.

Secondly, the government itself needs new knowledge and new technology in order to carry out specific missions such as defense. This is the largest part of the government's effort.

Thirdly, the nation's economic well-being requires research investment in basic science and engineering which only the government has the incentive and sometimes the ability to make.

Any piece of research may serve more than one of these goals, but the three are conceptually quite distinct. They need to be kept in mind when thinking about the way the Federal government goes about supporting R&D.

Federal science and technology policy has gone through four distinct phases since the World War II. The first lasted until 1957, and was characterized by reliance on the mission agencies for most R&D support. In the physical sciences the key agencies were the Defense Department and the Atomic Energy Commission. They supported research because it served their missions, but the system worked fairly well for the country as a whole as long as the technologies they sought were important to the industrial sector as well.

In this first period a small National Science Foundation was responsible for meeting the first goal—intrinsic value. No one was responsible for the third goal.

The second period followed the launching of Sputnik in 1957. This was a major shock, and it revealed weaknesses in the science and engineering base that needed attention. The result was a major increase in support for the Nation's universities and colleges. For a time, the Federal government in this period accepted responsibility for the base, and the goal of economic competitiveness was reasonably well served.

But after 1968 the momentum of Sputnik was spent. The focus of government in this third period was on social problems: housing, energy, crime. Research was directed toward these efforts, with little concern for the science and engineering base that is required for economic competitiveness. This was the heyday of "relevance," which was institutionalized in the Mansfield amendment and the Department of Energy.

Funding increased rapidly between 1957 and 1968, and level off thereafter.

Investment in the equipment and facilities necessary for research declined markedly after 1968. To a large extent, increases in support for research in this period were made possible by reductions in such investment. We are now seeing the effect of this long period of lessened support for facilities in a huge demand for replacement of obsolete buildings and equipment.

The fourth period of post-war science policy began about 1980, with an increased recognition of the need to support the science and engineering base.

In the past few years a better definition of the appropriate roles of government and industry has been achieved, with the result that Federal support of development in the non-defense area has been cut substantially, and basic research support has been increased.

Non-defense support has been shifted toward basic research. Yet the dominance of defense R&D in the Federal effort is such that overall, the proportion of basic research has declined slightly in the last two years.

WHAT IS TO BE DONE?

The essential problem is that, except for the brief period following Sputnik, there has not been until recently a recognition of Federal responsibility for the science and engineering base. During most of the post-war period primary reliance has been placed on the mission agencies to support research, with the result that there has been an inherent bias toward research that is relevant to these missions, and away from basic work.

We now have a clear recognition of what the Federal government should do. We understand the three goals of Federal R&D support. The system serves the goals of intrinsic value, and of support of government missions, quite well. But we don't yet have the mechanisms in place to serve the goal of economic competitiveness well.

To serve that third goal, we need a shift of resources toward the nation's universities. The universities have always attracted the best minds. They combine research and education in a way that is impossible in other settings. That is important because we must have education to provide researchers, and we cannot have effective advanced education in science and engineering without having students directly involved in research.

The funding should come from a reallocation from applied research and development accounts, without any overall increase in the Federal budget. Something like a 2 percent reduction in those accounts would make $1 billion available for the purpose, and the result would be an overwhelming

improvement in our overall rate of technological progress.

What is not acceptable is that we should fail to move ahead, even in a time of fiscal constraint. Whatever reallocations are necessary should be accomplished. We cannot continue everything that we have done in the past, and we should not try. Rather, we must set priorities and move ahead, and thereby maintain control of our own fates.

The way we apply new resources in the universities is also important. Last year the National Science Foundation made six awards in a new kind of effort: the Engineering Research Centers. Each center focuses on an important area of engineering, and each brings together researchers from different disciplines and from both academia and industry. The problems they have chosen—in such fields as telecommunications, biotechnology, robotic systems, advanced materials, and manufacturing systems research—are both intellectually exciting and of potentially great economic importance.

These centers will be successful because they meet a real need with a genuinely innovative approach. They bring together various disciplines to address important problems in the real world. In so doing they also institute change in the universities, reducing their organizational dependence on a disciplinary structure that is, for some purpose, no longer ideal.

The centers also bring together industry and academic researchers, with beneficial effects for both. The academic people gain the perspective that comes from working on problems of genuine economic consequence. And, with industry support, they gain access to research equipment that few universities can provide. The industry people also gain, with access to the most creative minds among the faculty and graduate students, and through contact with disciplines that can provide fresh perspectives.

The Foundation began with six centers, but we had 140 proposals. We have another 100 proposals in this year's competition, although we will be able to support only a handful. And the idea need not be limited to engineering: many areas of science could benefit from the same approach.

We ought to move ahead with a major effort to fund an effort of this sort. Call them Basic Science and Technology Centers, because what they would do is basic research, but with the eventual aim of creating the technology that the nation needs.

Like the Engineering Research Centers, Basic Science and Technology Centers should be multidisciplinary. It is at the intersection between the disciplines that one finds the most exciting work. For example:

Biotechnology: Is it an extension of biology, or chemical engineering, or chemistry? Obviously it is all of these in varying degrees.

Computational Science and Engineering: This includes mathematics, operations research, computer science, information science, and no doubt some elements that I haven't thought of.

Any other new or emerging field will have this same character of bridging the established disciplines.

While we must not minimize the importance of the established disciplines in maintaining quality in research and especially education programs, we must also recognize that new demands often require a new approach to social organization. That is as true in the universities as it is anywhere else.

At least as important is that we recognize the need to improve cooperation between industry and academia. We have made a good start on this in the last few years, but we are a long way from the point at which this will be taken for granted—as it should. The last thing we need is a Federally coordinated program in which the government chooses the lines of inquiry to pursue. But genuine cooperation, in which all participants can gain, is a major strength that we should exploit. This could be our answer to the nationally coordinated programs of Japan and the European Economic Community.

The cooperation should also extend across the major R&D agencies. All of the major agencies supporting research in the natural sciences should participate.

Cooperation along these lines will also achieve another important goal: that of leveraging Federal funds so that we get the most out of the taxpayer's dollars. The Federal government should not do everything in these areas. In our Engineering Research Centers and our Presidential Young Investigators programs we have insisted on substantial funding from industry, and this should also be a requirement in Basic Science and Technology Centers.

TRIBUTE TO THE LATE GEORGE H. MAHON

SPEECH OF

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 3, 1985

Mr. McDADE. Mr. Speaker, I appreciate this opportunity to pay tribute to George H. Mahon. I was deeply saddened by the passing of our dear friend and colleague. George Mahon's contributions to the legislative process and the development of our country were unequalled. George Mahon was truly a legislator's legislator.

I had the great privilege of serving with George during his 14 years as the chairman of the Committee on Appropriations. He became chairman at the same time that I joined the committee in 1964.

There are many things that I remember about George today, his skills and abilities. George was one of the toughest chairmen I ever met, but he was decidedly fair. He ran each of those sessions of the Appropriations Committee with great decorum and civility. In short, he was a perfect gentleman.

George was a great friend and a kind person. he always took time to offer counsel and assistance to those who sought it. What I will probably remember most about George was his love of poetry and the rhymes that he would create. He would use that love of verse to push legislation or break tension on a divisive issue. He kept our sense of humor and our sense of purpose.

My thoughts today go to his wife, Helen, his daughter, Daphne Mahon Holt, and their three grandchildren. They do not suffer their loss alone. For those of us that knew George, and this Nation that he served so admirably, we are all richer for his presence.

Thank you, Mr. Speaker.

JENNIFER DENISE WATERS RECIPIENT OF CONGRESSIONAL AWARD GOLD MEDAL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share with you the outstanding community achievements of 1985 Congressional Award Gold Medal recipient, Jennifer Denise Waters.

As coleader of 1st District of St. Louis Girl Scout Troop No. 3246, Ms. Waters is recognized and commended for her 988 hours of voluntary public service and personal development.

I am pleased to share with you the following article from the October 3rd St. Louis Post-Dispatch, titled "North Side Woman Receives Congressional Medal for Community Service."

NORTH SIDE WOMAN RECEIVES CONGRESSIONAL MEDAL FOR COMMUNITY SERVICE

(By Gloria Ross)

"Individual Americans are responsible for the future of America." These are the words and philosophy of Congressional Award gold medal recipient Jennifer Denise Waters.

The 21-year-old Waters was among eight Missourians—including six St. Louis area residents—to receive the Congressional Award during a ceremony in Washington, D.C. on September 26.

The award has been given annually since 1979 to young people between the ages of 20 and 23 in recognition of more than 800 hours of voluntary community service and personal achievement. This was Missouri's first year of participation in the six-year-old Congressional Awards program.

Waters lives in the 1st Congressional District, represented in the Congress by William L. Clay. She was honored for her 988 hours of voluntary public service and personal development during the past three years.

Speaking with a quiet confidence and maturity that belies her 21 years, Waters said of her activities, "I think you gain a lot from volunteer work. You gain experience as well as skills; you gain knowledge about other people's personalities."

"Doing volunteer work gave me an opportunity to work with young people and to give to others, especially teens and children," Waters said. "The help, love and concern that people gave me throughout my life led me to want to give of my time to others."

Waters began as a Girl Scout volunteer because she saw something she didn't like. "When I see something I don't like, I want to change it," Waters said.

Waters was a Girl Scout until about age 11. She left Scouting after teaching the Cadette level because she felt her Scouting experience lacked substance.

She has picked up where she left off. Waters is now trying to provide Cadette Senior Girl Scout Troop No. 3246 in north St. Louis with some of the substance she

felt was lacking in her own Scouting experience.

As co-leader of Troop #3246, along with her sister Maureen Young, 33, she is sharing her love of the performing arts. Waters and Young both enjoy dancing and their troop specializes in dance.

"Maureen's style is more modern dance, while mine is jazz/ballet," Waters notes. The Troop will benefit from both styles.

"This year they're going to not only go to cultural events, but will perform," she said. The Troop is planning a Christmas production.

But Waters says she's teaching more than an appreciation of the performing arts, she's also trying to teach practical skills and responsibility.

Toward that end, Troop members are active in their own administration. "They need to learn how to keep accounts," Waters said.

Jennifer Waters lives with her mother, Romelda Waters, a registered nurse, at 3947 Palm. Romelda Waters says she's "very pround" of her daughter's award. She expressed some surprise, but wholeheartedly agreed that her daughter deserved the award, noting, "Jennifer has always been the kind of child who's willing to do something for others."

Romelda Waters' influence on her daughter is quickly evident—Waters quotes her mother frequently. She says her mother advised her to, "Go to sleep on it," or "learn something from each experience," when Waters became discouraged by a project which later became instrumental in her receipt of the Congressional Award.

The award-winning project was the Summer High School Hall of Fame Awards. Waters established the Awards while serving as president of the Summer Honor Society.

The Awards pay tribute to famous Summer graduates as a means of presenting positive role models to current students.

Waters says her mother's encouragement helped her maintain the drive needed to complete the Awards project. Romelda Waters admits telling her daughter, "If you start it, you have to finish it."

The Hall of Fame was established and, thus far, honorees have included such notables as tennis star Arthur Ashe, comedian-activist Dick Gregory and KMOX-TV anchor Julius Hunter.

Waters counts among her personal achievements a degree in civil engineering, which she received from the University of Kansas at Lawrence last May.

Waters says she chose civil engineering because, "I wanted to use the skills I already had: my knowledge of math and science." She is now employed as a traffic engineer with the St. Louis Street Department, where her long-range plans include work in traffic analysis.

Waters says she plans to continue her civic activities. When she is congratulated on her Congressional Award, she offers a modest, "Thank You," and quickly steers the conversation to work to be done, to her plans for her Troop.

Waters and other area Congressional Award recipients will be honored again in a local ceremony at the Marriott Pavilion Hotel on October 7.

SUPPORT FOR A NATIONAL LOTTERY TO REDUCE FEDERAL DEFICIT GROWING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. BIAGGI. Mr. Speaker, as the author of H.R. 2071, the National Lottery-Deficit Reduction Act of 1985, I wish to share with my colleagues the results of a national annual survey sponsored by Money magazine entitled "Americans and Their Money."

I wish to address myself to the portion of that survey that asks people about their concerns about the Federal deficit and what steps we might want to take to reduce it. A dramatic 87 percent of the more than 2,400 American households surveyed claimed they were concerned about the Federal deficit and felt that steps must be taken to reduce it.

To the specific suggestion of a national lottery as a means of reducing the deficit a strong 42 percent of those surveyed favored a Federal lottery. This represented a significant 10 percent increase since an earlier survey taken in June.

I have been advocating for a national lottery to reduce the deficit for most of this year. Under my legislation, all persons 18 and over would be able to purchase lottery tickets at $1 each. A total of five prizes would be awarded each month. Three out of every four dollars raised by the lottery would be earmarked for reducing the Federal deficit. I contend when compared to proposals such as the infamous Gramm-Rudman balanced budget hoax, a national lottery seems a far less painful method of reducing the deficit. Estimates range between $12 and $18 billion as to the amount which national lottery could raise of which, under my bill, 75 percent would go to reduce the deficit.

I hope the sentiments expressed in the Money magazine poll are indicative of feelings across our Nation and, if so, I trust that close and serious consideration can be given to a national lottery to reduce the Federal deficit which troubles the American public so much.

THE 100TH ANNIVERSARY OF THE ORCHARD LAKE SCHOOLS

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. HERTEL of Michigan. Mr. Speaker, today I would like to honor the Orchard Lake Schools. This past year has marked the 100th anniversary of this wonderful institution.

In 1885 Father Stanley Dabrowski, who was entrusted with a papal charter, oversaw the laying of the cornerstone for the Polish Seminary in Detroit's East Side. It was founded to serve the spirtual needs of the rapidly increasing number of Polish immigrants. After 24 years of growth, a larger location was required. The seminary was transferred to the beautiful grounds of the Michigan Military Academy in Orchard Lake.

Today the school owns 120 acres. It consists of three distinct but related schools: SS. Cyril and Methodius Seminary—the only Polish American seminary in North America—St. Mary's College, and Saint Mary's Preparatory. It also administers four special supplemental centers; the Center for Pastoral Studies, the Center for Polish Studies and Culture, the Polish American Liturgical Center, and the Pope John Paul II Center.

The Primary purpose of the schools is to train young men and women for Christian leadership through a unique threefold cultural formation—Catholic, American, and Polish. The schools are maintained on the principle of "the selection of the best from the heritage of all groups that make up the American mosaic and the preservation of these elements for the future."

The festivities of the past year have elicited a tremendous response from people everywhere. Many special events have highlighted this year of celebration. In November of 1984, there was an inaugural ball to start off the fun. An outdoor Mass was celebrated on July 25. It was attended by over 200 bishops and priests and was followed by a banquet which served well over 1,000 people. Both the Detroit Riverfront Polish Festival and the Hamtramck Polish Parade were dedicated to the Orchard Lake Schools' anniversary.

Special anniversary gifts, including an electric carillon bell system and a beautiful Polish historical panorama, were donated for the event. One of the most special visitors of all on this auspicious occasion was Cardinal Glemp of Poland, who came primarily for the occasion of the centennial. The Orchard Lake Schools plans to conclude its year of celebration with a special Christmas dinner, or Wagilia, to share the joys of the season and the centennial with its great body of friends.

Please join me in honoring and commending this great institution. In the words of Cardinal Glemp, "May God bless this institution, and all who endeavor to continue to make Orchard Lake a fruitful meeting place of two cultures: American and Polish in the one Church of Christ."

SECRETARY WEINBERGER SHIFTS HIS POSITION ON HOUSE JCS REFORM LEGISLATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. SKELTON. Mr. Speaker, it gives me a great deal of pleasure to report that Secretary of Defense Caspar Weinberger has changed his mind about JCS reform. In a letter to Senator BARRY GOLDWATER on December 2, 1985, Secretary Weinberger re-

versed his position on a number of the major issues concerning JCS reform. In effect, he now supports although with some modifications, the principal provisions of the JCS Reorganization Act of 1985, H.R. 3622, that was passed by this body on November 20, 1985 by a vote of 383–27.

In a letter to Senator GOLDWATER Secretary Weinberger explicitly supports the following provisions contained in the House-passed legislation:

Making the chairman the "head" of the JCS and the principal military advisor to the President, the National Security Council, and the Secretary of Defense.

Requiring that the chairman attend National Security Council meetings subject to the direction of the President.

Authorizing the Secretary of Defense to place the chairman in the chain of command.

Giving the JCS chairman authority to supervise the commanders of the combatant commands as the agent of the Secretary of Defense.

Providing that the Joint Staff shall perform such duties as the chairman prescribes.

Creating a deputy chairman.

Mr. Speaker, I ask unanimous consent that Secretary Weinberger's letter be included in the RECORD at this point together with my recent letter to him.

THE SECRETARY OF DEFENSE,
Washington, DC, December 2, 1985.

Hon. BARRY GOLDWATER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: During my testimony before the Committee on November 14 regarding organization of the Department of Defense, I indicated that we were in the process of evaluating the staff report on this subject and would respond in more detail to the substance of the report as our evaluation progressed. As you may recall, I told the Committee we could support many of the recommendations of your staff.

During the three weeks since my testimony, we have reached conclusions on some of the issues raised by the report and believe it is appropriate, in view of the pending hearings, to report these conclusions to you on a timely basis. As we reach additional conclusions on other issues in the future, we intend to report them to you—likewise in a timely fashion.

Our conclusions reported below relate to three major areas of concern: provision of military advice to the President, command and control of the combatant commanders (CINCs), and management of the Organization of the Joint Chiefs of Staff (OJCS).

MILITARY ADVICE

The military advice received by the President must be based upon the best available knowledge, experience and expertise in military matters and must present all feasible options from every viable military perspective. It should contain objective and thorough evaluation of the pros and cons of all options. The mechanism for developing and providing the advice should be structured in a manner which guarantees that decision making and policy formulation are actually (not just nominally) reserved to, and exercised by, the President.

We believe the Joint Chiefs of Staff (JCS) is the best entity for providing such military advice to the President. As heads of their respective services, the JCS are most knowledgeable of the special and particular capabilities and capacities, as well as the state of training and readiness, of the forces under their responsibility. Furthermore, the JCS system ensures the continuity between policy making and subsequent implementation that is essential to success, and it provides a sound balance between responsibility and accountability that would be absent in a group of advisors who possess merely advisory duties and function entirely outside the operational or resource structure.

Therefore, we believe that the basic concept of the JCS system should be maintained. Replacing the JCS with a Joint Military Advisory Council as proposed in the staff report would dramatically compromise the quality of military advice and would have a net harmful impact on our national security. As I testified, the President and I have found the advice provided by the JCS to be consistently timely, accurate, competent and innovative.

This is not to say that the advice-giving mechanism of the JCS cannot be improved. For example, we would support certain proposals to strengthen the role of the Chairman of the JCS in this process, such as codifying the following functions now being performed by the Chairman: heading the JCS; attending NSC meetings subject to the direction of the President; and providing alternative views of the JCS. We could also support designation of the Chairman as the principal military advisory provided that his duty to present the alternative views of the JCS is clearly established in law.

COMMAND AND CONTROL

The President is the Commander-in-Chief of the Armed Forces. His command and control of the combatant commanders (CINCs) should be as direct as practical. The chain of command should not be encumbered with intermediate links between the President and the CINCs. The President issues orders to the CINCs and supervises the CINCs' performance through me, as his deputy. The JCS assist me in formulating and communicating the orders and in supervising their execution.

We also believe that the role of the Chairman of the JCS in this regard should be strengthened, provided it is clear that he acts on behalf of the JCS. For example, under this condition, we would support proposals such as authorizing the Secretary to place the Chairman in the chain of command and to use the Chairman as the Secretary's agent in supervising the CINCs.

We have not yet completed our consideration of the recommendations directed at improving the manner in which the CINCs prepare for performing their warfighting missions. Although the concerns raised in this area by the staff report deserve genuine, aggressive consideration, the issues are complex and changes must be carefully fashioned to avoid reducing the current effectiveness of our warfighting capabilities. The JCS have initiated a review of JCS Pub 2, "Unified Action Armed Forces," which I have directed to be completed by June 30, 1986. I will be pleased to report to you on the nature of improvements in the CINC command relationships which we intend to make after the study is completed.

MANAGEMENT OF OJCS

The OJCS supports the JCS in providing military advice to the President, developing contingency plans, formulating and communicating orders from the President to the CINCs, and supervising the CINCs' performance.

The OJCS should be truly joint in composition and motivation. It should avoid parochialism but should fully consider competing service perspectives. It should consist of highly competent officers and should have strong, effective leadership. Although the JCS need access to the OJCS for support, the effectiveness of the OJCS would be improved by focusing its direction in the Chairman of the JCS. Accordingly, we favor changing the law to provide that the OJCS shall perform such duties as the Chairman prescribes, provided that it remains clear that the Chairman manages the OJCS on behalf of the JCS.

As a part of strengthening the management authority of the Chairman of the JCS over the joint staffs, we agree that a four star Vice Chairman should be established. However, the Vice Chairman should not out-rank the JCS and he should not act as Chairman in the absence of the Chairman. The current system of rotating the acting Chairmanship on a quarterly basis among the JCS broadens their joint perspectives and enhances their effectiveness in both their joint and service roles. It gives each Chief the opportunity and experience of serving as Chairman, and it settles, a year in advance, who is to be the acting Chairman. Both the Vice Chairman position and the acting Chairmanship system should be established in statute.

The foregoing conclusions represent the Department's position. The witnesses who are scheduled to appear before you, of course, are aware of this letter, but I have told them, as I always have told other witnesses, to feel free to provide you with their personal views on these matters.

We look forward to working with you to determine the most suitable methods for effecting the changes contemplated by the foregoing comments. In the meantime, we will continue our evaluation of other issues raised by the staff report.

Sincerely,

CASPAR WEINBERGER.

cc: Honorable Sam Nunn

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 6, 1985.

The Hon. CASPAR WEINBERGER
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY:

I was gratified to read your December 2, 1985 letter to Senator Goldwater concerning issues raised by the Senate Armed Services Committee on Defense Department organization. It is commendable that you have seen fit to modify the opposition to JCS reform you expressed to Chairman Nichols, myself and Members of the Subcommittee on Investigations when you met with us earlier this year. I believe that good will and cooperation on the part of the Congress and the Pentagon will allow us to develop changes to the national defense establishment that will be in the national interest.

After reviewing your letter it appears to me that you now agree with the following provisions that are containead in H.R. 3622, the JCS Reorganization bill that was passed by the House on November 20, 1985 by a vote of 383–27:

Making the chairman the "head" of the JCS.

Making the chairman the principal military advisor to the President, the National Security Council, and the Secretary of De-

fense. Your letter adds the proviso that the chairman would have the duty of presenting alternative views of the JCS. H.R. 3622 clearly articulates this responsibility of the chairman.

Requiring that the chairman attend National Security Council meetings subject to the direction of the President.

Authorizing the Secretary of Defense to place the chairman in the chain of command. It should be noted that H.R. 3622 specifies that the chain would extend through the chairman, not to the chairman. The intent of this wording is to ensure that the President or Secretary of Defense is the authority issuing orders and that directives issued by the chairman are issued only "by authority and direction of the Secretary of Defense".

Giving the JCS chairman authority to supervise the commanders of the combatant commands as the agent of the Secretary of Defense.

Providing that the Joint Staff shall perform such duties as the chairman prescribes.

Creating a deputy chairman.

Although the above list of provisions does not encompass everything in H.R. 3622, it does include the major provisions of the bill. However, particularly with regard to the last two items, the wording of your letter makes it clear that you differ with the way the provisions are drafted in the House-passed JCS bill. Your formulation would tend to weaken the chairman. As you know, my position would be to strengthen him even more than H.R. 3622 contemplates.

Nevertheless, on balance, I must applaud you for changing your position and thereby signifying that you support substantial progress in improving the structure, functioning and performance of the Joint Chiefs of Staff. I look forward to working with you and other members of the Department of Defense as the Congress continues to review the structure of the national defense establishment.

Sincerely,

IKE SKELTON.

CONGRESSMAN WILLIAM THOMAS SALUTES CALIFORNIA CITY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. THOMAS of California. Mr. Speaker, and my fellow Representatives, I would like you to join me today in paying tribute to the city of California City on the occasion of the 20th anniversary celebration commemorating its incorporation on December 10, 1965.

Located in the Mojave Desert, California City experienced a twofold increase in its population during the 1970's and is still one of the fastest growing communities of the area. As neighboring Edwards Air Force Base has emerged as an important center for aerospace research and technology, California City has grown as well.

Although a product of fast-paced technological modern society, California City remains an example of the slower, simpler life of yesteryear. California City has been called a bedroom community, serving as home for employees of neighboring Edwards Air Force Base and Borax Corp. in Boron. It serves as a retreat for commuters trying to leave the hustle of their work world behind them at the end of each day.

Small towns dot the fabric of the American landscape and represent an indispensible element in this Nation's cultural heritage. Nothing is quite so uniquely American as the small rural town and in an increasingly complex and changing world its encouraging to see them flourishing, for while not as numerous today, the small city is still a cornerstone of American lifestyle.

I ask you to join me in saluting the residents of California City, California, on the 20th anniversary of their community.

TRIBUTE TO THE AMERICAN IRISH POLITICAL EDUCATION COMMITTEE: 10 YEARS OF COMMITMENT AND SERVICE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. BIAGGI. Mr. Speaker, as Chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I am proud today to pay tribute to an outstanding organization which has achieved an important milestone. In this year, the American Irish Political Education Committee observes its 10th anniversary.

Central to the work of the Ad Hoc Committee is our close working relationship with various Irish American organizations concerned with the issue of peace and justice in Northern Ireland. The American Irish PEC has been one of these organizations. They were founded in 1975 and their stated objectives were to support the reunification of Ireland and to "counter British propaganda concerning Northern Ireland."

I would say without any hesitation that the American Irish PEC has made an important contribution to the progress we have seen over the past 10 years with respect to Northern Ireland. Clearly the emergence of a strong American interest in the problems of Northern Ireland has played a key role in giving this issue new visibility. In the more than 8 years since the Ad Hoc Committee was established, we have succeeded in raising the Irish issue from a point of obscurity to one which now enjoys national and international visibility. The work of the American Irish PEC has aided us in reaching this plateau.

The unique role which the American Irish PEC continues to play is related to media coverage of the Irish issue. They have been in the forefront of the effort to try and get all sides of the Northern Ireland issue addressed by the American media. That has been and continues to be no easy task. Yet the perserverance of the American Irish PEC has resulted in progress being made.

Most recently, I have been working closely with the American Irish PEC in the ongoing effort to defeat the Supplementary Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland. This treaty which was initially signed by our two governments in late June has been pending before the Senate Foreign Relations Committee since late July. A total of three hearings have been held on the treaty and the combination of these hearings and a large amount of publicity in the national media have led to a close review of the treaty by the committee and its future for this year is uncertain.

I salute the American Irish PEC and especially their President John J. Finucane. John is a hard worker, a persistent advocate and an effective spokesman for the PEC. We are in regular communication, and I both enjoy and like to make regular contributions to their newsletter. I wish John and the American Irish PEC continued success in the future and commend them for an outstanding record of service which they have built during these past 10 years.

At this point in the RECORD, I would like to insert a history of the American Irish PEC as written in the Irish Echo of August 1985. Please note for the sake of accuracy that the name of the organization was changed from the American Irish National Political Education Committee to the American Irish Political Education Committee since the time the article was written.

AMERICAN IRISH NATIONAL POLITICAL EDUCATION COMMITTEE

PEC (1975-1985) TEN YEARS OF SERVICE TO THE AMERICAN IRISH COMMUNITY

(by Linda Woods)

The American Irish National Political Education Committee (PEC) was founded in 1975 to promote the reunification of Ireland and to counter British propaganda concerning Northern Ireland. It is a non-sectarian organization in which men and women play an equal role.

The PEC recognizes the fact that many Americans, especially those of Irish descent, are concerned about the conditions in Northern Ireland, but are opposed to the use of violence as a means of ending British rule.The PEC seeks to provide these people with a mechanism by which they can participate in the American democratic process to achieve this goal.

Therefore, the PEC seeks to effect a change in the foreign policy of the United States by keeping the issue of human rights in Northern Ireland before the American people. The members of the PEC are proud to be Americans and they believe that as citizens of a free society they have the right to expect the government of the United States to oppose injustice throughout the world, and particularly in Northern Ireland.

Based on this belief, the PEC has grown into a substantial grass roots organization, with thousands of members across the United States, many of whom take part in letter-writing campaigns, lobbying and a political education.

The PEC regularly publishes a newsletter, which has grown from a simple information bulletin into an educational aid for many American Irish. The newsletter now contains articles on the history of Ireland as well as the history of the Irish in America.

Members of the PEC believe that once people begin to acknowledge the contributions made by the Irish to our American way of life, they will feel the pride and develop the courage needed to bring an end to British colonialism in Ireland.

The PEC has accomplished much during the last ten years. It has demonstrated the political and economic power of a people united. Many of these accomplishments are reflected in the political and economic tactics presently employed by the American Irish community to protest Britain's oppressive policies in Northern Ireland.

To review a few of these accomplishments, in 1976, the PEC began an active campaign against greeting cards depicting the Irish as drunkards and social misfits. In 1977, the PEC supplied information on human rights violations in Northern Ireland for a congressional report.

In that same year the PEC began working together with the Emerald Society of the N.Y.C. Fire Department. This unity continues today.

The following year, the PEC successfully influenced the New York State Legislature to declare St. Patrick's Day "Northern Ireland Human Rights Day," and launched a successful letter-writing campaign to the top 5,000 companies in the United States, urging them not to invest in Northern Ireland because of the human rights situation there.

In 1979, the PEC campaigned against those Congressmen who supported the British occupation of Northern Ireland, and even more significantly, in 1981, during the hunger strikes in Northern Ireland, the PEC became an important nationwide source of information.

In 1982, the PEC saw the successful outcome of the greeting card campaign when several major corporations removed offensive cards from the market.

Also, 1982 saw the PEC prompt a very reluctant apology from the Boston Globe concerning an editorial cartoon that depicted the Irish race as sewer rats.

In 1983, the PEC was able to convince the Massachusetts Legislature to divest pension funds from companies whose business activities supported the British occupation of Northern Ireland.

During that same year, the PEC brought together concerned organizations to successfully campaign for the removal of Rockland County funds from the British-owned Barclay Bank in protest of British atrocities in Ireland. The PEC continued to be successful in 1984 when it blocked the showing of a British comedy, "Robin's Nest," which was offensive to the dignity of the Irish people.

This year, the PEC celebrates its tenth anniversary with increased membership and growth in political strength. Perhaps its greatest accomplishment is that it brought together thousands of American Irish from across the Nation and provides them with a vehicle by which they can work together.

We are also reaching more people today than ever before. Much of our work is carried out from the PEC's small national headquarters in Stony Point, N.Y., which is still being run by volunteers. We realize that our efforts could be much more effective if we could afford the services of a paid professional staff.

The PEC's growth was also reflected during this year's PEC's Irish Heritage Festival. This annual festival, which was first held in 1981, not only features Irish music and dance, but also provides a forum for Irish culture. There are speakers on Irish history, American Irish history and the Irish language, as well as an Irish play.

While each year attendance has grown, this year's event saw a great increase in the number of young people participating in all activities.

So many of our young people feel proud to be Irish, but often they express that pride only on St. Patrick's Day. This is because they are unaware of the contributions of the Irish people. Yet once they learn their history as Americans and understand how much the Irish have given to America, then they will keep feeling proud all year long. Their pride, their ability to identify with the sufferings for the Irish people, will give them courage to demand justice through our Government for our brothers and sisters in Ireland.

This pride and this courage in being an American of Irish heritage will rise like a wave and sweep across the country until it reaches the very shores of Ireland. This is the goal of the PEC.

ROGER WILKINS RESPONSE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. CLAY. Mr. Speaker, I wish to enter into the CONGRESSIONAL RECORD the remarks of Roger Wilkins, nephew of the late Roy Wilkins, long-time executive director of the NAACP, in response to the November 5 Washington Post interview with Assistant Attorney General for Civil Rights, William Bradford Reynolds.

As Mr. Roger Wilkins points out, the Department of Justice remarks were not consistent with our memory of the life and works of Roy Wilkins.

The letter follows:

INSTITUTE OF POLICY STUDIES,
Washington, DC, November 8, 1985.

Hon. WILLIAM BRADFORD REYNOLDS,
Assistant Attorney General for Civil Rights, Department of Justice, Washington, DC.

DEAR MR. REYNOLDS, The report in the Washington Post on Tuesday, November 5, of your interview with Howard Kurtz was astonishing. Subtracting the years of my early childhood, I knew my uncle, Roy Wilkins, very well for forty-five years before his death four years ago.

For you to raise the implication that your conduct of your office over the last four and a half years conforms in any way with his work and thought is indecent. My uncle was a fair, honorable and idealistic man who fought for a large and decent vision of America. Your attempt to link your tawdry, mean-spirited and fundamentally racist policies to his memory is dishonest in general and obscene and insulting to those of us who loved him.

Yours truly,

ROGER WILKINS.

A TRIBUTE TO JIM COUGHLIN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. HERTEL of Michigan. Mr. Speaker, today I would like to honor Jim Coughlin on the occasion of his retirement, in thanks for his dedicated service to the Detroit Catholic Youth Organization [CYO].

Thirty-one years ago, after serving on the executive staff of the New York CYO, Mr. Coughlin came to Detroit and carried on a family tradition of CYO service. Mr. Coughlin's inherent dedication and caring for the youth of Detroit can be seen in his own view of his service, "I'd rather see it as a vocation * * * than just a job."

Always ready to explore new ideas, Mr. Coughlin has guided the CYO in many directions. These include mental health, disease control, draft information, assistance to migrant workers, peer ministry training, the Rainbow series, and scouting. He encourages everyone to explore new ideas and provide input on any number of issues. A very positive point of his administration is his ability to enable the staff to be creative and to use their imagination. He encourages them to follow up on new ideas and make them a reality.

Mr. Coughlin is devoted to the youth. He will put himself on the line to see that the needs of the young people are met. He encourages leadership and has been a longtime supporter of the Catholic Committee on Scouting. He and his wife, Ginny, are a dynamic couple, seen often at the CYO gatherings and other community events. As one friend phrased it, "he is willing to cry for youth as much as he is willing to fight for what is rightfully their role in today's church."

I wish Jim Coughlin the best in his retirement. Although I am sorry to see his official retirement, I am sure he will continue to be a leader to look up to for the youth of our community for many years to come. I ask that my colleagues join me in commending this fine man for his great dedication and caring concern for our young people. Thank you.

TAX CODE SHOULD BE FAIR

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues an excellent letter I received from my friend and constituent, Louis A. Haas, president of L.S. DuBois Son & Co. Inc., of Paducah, KY.

Louis has written to me about his interest in seeing that the income Tax Code be made fair and equitable for all corporations.

It is anticipated that the full House of Representatives will soon consider and debate tax reform legislation that has been approved by the Ways and Means Committee.

I urge my colleagues to read Louis Haas' timely comments. His letter to me follows:

L.S. DUBOIS SON & CO., INC.,
Paducah, KY, September 16, 1985.

Representative CARROLL HUBBARD,
House of Representatives,
Washington, DC.

DEAR CARROLL: I would like to take just a few minutes of your time to get your attention with respect to the Tax Reform Act.

I recognize that all the provisions of the Tax Act perhaps cannot be accepted. However, relative to the corporate tax, I do have a particular interest in seeing that some of the exotic tax avoidance schemes which is available to many large corporations is remedied. We here at L.S. DuBois year after year continue to pay about 48% of our profit to taxes. While I do not necessarily mind this, I think if we are going to pay that amount, that every other corporate entity should also.

I do think that the overall tax structure should be reviewed and made more equitable. Thank you for your time and service.

Sincerely,

LOUIS A. HAAS,
President.

INTRODUCTION OF AN AMENDMENT TO THE ARMS EXPORT CONTROL ACT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. LEVINE of California. Mr. Speaker, today I am introducing a bill to amend the Arms Export Control Act [AECA] to provide for expedited procedure for joint resolutions of disapproval introduced pursuant to section 36(b) of that law.

The AECA provides for expedited procedures for concurrent resolutions. However, since the 1981 Supreme Court Chadha decision, which declared the legislative veto unconstitutional, Congress has employed joint resolutions of disapproval to oppose particular arms sales. While concurrent resolutions are subject to expedited procedure, joint resolutions are not. This is not a special problem in the House because the Rules Committee can bring to the floor legislation in an expedited manner. However, there is a problem in the Senate because there is no Rules Committee and consideration of important joint resolutions related to arms sales can be subject to delay through filibuster.

This bill would clarify and tighten procedural safeguards to ensure that the Senate can act in a timely manner. It is identical to a bill introduced by Senator CRANSTON and a number of his Senate colleagues, and is drafted to include expedited procedures for resolutions introduced pursuant to sections of the AECA which affect leasing and private arms transfers as well.

This is a reasonable bill which will enable both bodies to act in a responsible, timely fashion on a very important matter. I urge that my House colleagues support it.

The full text of the bill follows.

Thank you.

A bill to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES OF UNITED STATES ORIGIN

Section 3(d)(2) of the Arms Export Control Act (22 U.S.C. 2753(d)(2)) is amended—

(1) in subparagraph (A), by striking out "adopt, within such 30-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such 30-day period, a law prohibiting"; and

(2) in subparagraph (B), by striking out "adopt, within such fifteen-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such fifteen-day period, a law prohibiting".

SEC. 2. FOREIGN MILITARY SALES OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) is amended—

(1) in the fifth sentence of paragraph (1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (2), by inserting "joint" before "resolution" each of the four places it appears; and

(3) in paragraph (3)—

(A) by striking out "adoption of concurrent resolution" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

SEC. 3. LICENSED COMMERCIAL ARMS SALES.

Section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)) is amended—

(1) in paragraph (2)(B), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (3)(A), by inserting "joint" before "resolution"; and

(3) in paragraph (3)(B)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

SEC. 4. LEASES AND LOANS OF DEFENSE ARTICLES.

Section 63 of the Arms Export Control Act (22 U.S.C. 2796b) is amended—

(1) in subsection (a)(1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in subsection (b), by inserting "joint" before "resolution"; and

(3) in subsection (c)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

ROOSEVELT'S COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE USES SCARE TACTICS TO RAISE MONEY

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. WISE. Mr. Speaker, yesterday on the floor of the House, I raised objections to a recent fundraising appeal from James Roosevelt and his National Committee to Preserve Social Security and Medicare. I urge my colleagues to review the following letter so they can alert their constituents that this "Urgent Action Gram" is unduly alarming. It unnecessarily frightened senior citizens into believing that their December Social Security checks were in jeopardy. It is time that these scare tactics to raise money are stopped. I recommend to Mr. Roosevelt that he reform his fundraising methods immediately.

To: Mr. William S. Tamplin, Charleston, WV.

Your immediate action needed to stop "Midnight Raid" on Social Security trust fund.

Treasury Secretary, James A. Baker III, took 27 billion dollars out of Social Security trust fund in September, October, and November.

Mr. Tamplin, as I write you this urgent message, only 8 billion is left, enough to pay only half the Social Security benefits for December.

And that 8 billion may have already been spent by time you receive this letter.

Social Security trust fund money was spent by Baker to pay for foreign aid, welfare payments, lavish defense contracts, and other programs which have nothing to do with Social Security.

Baker's action is an unprecedented violation of a national trust. Threat to Social Security never so great. Immediate action required.

Congressional Budget Office estimates Baker's "Midnight Raid" will result in permanent loss to trust fund of up to 2 billion dollars in lost interest on invested funds.

And unless these raids are stopped in time Social Security System could collapse.

Your continued support vital. The National Committee to Preserve Social Security and Medicare must raise $250,000 immediately to:

1. Support legislative and legal action to restore all money taken from Social Security trust fund monies.

2. Force Government to repay all lost interest to trust fund.

3. Outlaw any future raids on Social Security trust fund.

I need your emergency contribution of $10 or $15 right now.

Lawyers must be hired and lawsuits prepared. Our Capitol Hill lobbying effort must be put in high gear.

All of this will cost money. But must be done to protect the benefits we've all earned and deserve.

Unless we stop this attack now, the Government will continue to do whatever it wants with our money.

Please rush your emergency contribution of $15 or at least $10 as of today.

Use enclosed postage free envelope to return your urgent Action-Gram reply and your emergency check immediately.

JAMES ROOSEVELT,
Chairman, National Committee to Preserve Social Security and Medicare.

P.S. Mr. Tamplin, Treasury Secretary James A. Baker III, has raided Social Security trust fund and spent 77 percent of all Social Security assets. Return urgent action form below in enclosed envelope with emergency contribution of $10, $15 or more today to help restore the trust fund and protect the benefits we've earned.

APPRECIATING RESNICKS' GENEROSITY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. McHUGH. Mr. Speaker, this is the season of the year when we are very much aware of funds drives and other efforts by people to help others.

It is therefore an appropriate time to take note of a recent event in New York's Hudson Valley region that exemplifies in a very special way the spirit of sharing with others.

Lou Resnick, of Ellenville, NY, with his wife Mildred, dedicate much of their lives and resources to helping other people, both directly and through various community projects such as libraries, hospitals and emergency units, schools and colleges, and other public buildings. On a number of occasions, they have contributed to worthy causes in honoring the memory of Lou's brother, the late Congressman Joseph Y. Resnick. Joe was a predecessor of mine in serving the people of the Hudson Valley region that includes Ulster County, where the Resnick family continues to live.

In recent weeks, Lou and Mildred have made a uniquely generous contribution to the future of Ulster County, by establishing scholarship funds that will be a blessing to generations of students in the area. Their donations of $500,000 to the State University College at New Paltz, and $250,000 to Ulster County Community College, will enable dozens of students each year to develop their potential as fully as possible. These gifts are the largest individual scholarship donations ever received by either institution.

Mr. Speaker, I am sure that Joe Resnick would be proud of his brother's generosity, as I know he would be proud of the many students who will honor the Resnick name in future years as they learn and grow. At this season of sharing and good will, I am pleased to include in the RECORD the story of this generous gift as reported in the Daily Freeman of Kingston, New York on October 29. I know my colleagues join me in honoring the memory of our late colleague, Joe Resnick, and in expressing our appreciation and gratitude to Lou and Mildred Resnick.

RESNICK FUNDS SCHOLARSHIPS

(By George Berkin)

ELLENVILLE—Retired Ellenville businessman Louis Resnick and his wife, Mildred, have donated $500,000 to SUNY New Paltz and $250,000 to Ulster County Community College.

The gifts are the largest individual scholarship donations every received by either college, officials said Monday.

The donations will be used to establish the Joseph Y. Resnick Assistance Fund, a scholarship program named for Resnick's late brother, a former U.S. congressman.

Participation in the financial aid programs will be limited to graduates of Ulster County high schools, or in the case of the SUNY New Paltz scholarship alumni of UCCC.

Resnick chose to provide the scholarship money to local colleges because of his and his brother's interest in Ulster County affairs, according to UCCC president Robert Brown.

"We typify the kind of academic participation that encourages people to be invoved in the community," said Brown. "It's the kind of scholarship that Joseph Resnick would have liked."

In a prepared statement, SUNY New Paltz president Alice Chandler said the gift is "a prodigious investment in the future scholarship of residents of Ulster county."

Barbara Widner, SUNY New Paltz director of development, said the gift was an example of Resnick's help throughout the area.

"We're not unique," said Widner. "He's been pretty generous to a lot of people in the community. We're pleased that we're one of them."

The scholarships will be distributed according to both financial need and academic merit, according to college officials.

At SUNY New Paltz, between 30 and 35 students will receive from $500 to $1,000 a year. UCCC officials expect to invest the donation and award $25,000 in dividends among five or more students each year.

This week's gift brings the dollar amount of donations to SUNY New Paltz from the Resnick family to $620,000. Previous financial support has gone to the Louis Resnick Scholarship Fund, the John Vatt Memorial Scholarship, and the Peg Leg Bates Fund.

At UCCC, the Resnicks have funded the Salvatore Castiglione, Whellette Collins, Ben Picoult, Peg Leg Bates, and Richard Snyder memorial scholarships.

They have also contributed to the Benjamin Stormer and Charles Haas scholarships.

Resnick and his brothers, Joseph and Harry, founded Channel Master in 1947. The TV antenna manufacturer, now under different ownership, recently left the area.

Louis Resnick, a former Ulster County legislator and the current, county Democratic chairman, graduated from the SUNY Agricultural and Technical College at Delphi.

The late Joseph Resnick was elected U.S. representative of the 28th Congressional District in 1964 and 1966.

CONGRATULATIONS TO MR. AND MRS. JULIAN STERN

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. MICA. Mr. Speaker, today I would like to bring to the Congress' attention a situation of which we are all aware but have not yet resolved. In 1977 legislation was approved which deprives many Social Security beneficiaries born after 1917 of benefits which those born before 1917 receive. The Congress acted in an effort to correct a flaw in previous legislation which would have resulted in increasing benefits over the 1970's far more than was intended or expected at the time the legislation was passed.

I recognize that there are no easy solutions to this problem, yet, I welcome the efforts of Mr. and Mrs. Julian Stern, both residents in my district, to focus attention on this disparity and to create a more equitable approach to deal with this "notch." I congratulate the Sterns for their leadership in this endeavor, and would like to enter into the record this memorial which was adopted by the Legislature of the State of Florida on their behalf and on the behalf of others in similar circumstances.

Whereas, at the present time under the Social Security Act, individuals who became eligible for benefits in or after 1979 receive reduced benefit levels compared to individuals who became eligible prior to 1979, due to changes made in 1977 in the benefit computation formula, and

Whereas, this disparity in benefit levels has been referred to as the "notch" and has resulted in the award of reduced benefits to approximately 5 million persons, and

Whereas, any remedy for narrowing the gap in benefits is complicated because the notch has been in use since 1979, and

Whereas, legislation has been introduced in the 99th session of the U.S. Congress in an effort to eliminate the notch,

Therefore, it is appropriate for the U.S. Congress to take action in remedying this situation.

ELECTIONS IN GUATEMALA

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. LIVINGSTON. Mr. Speaker, I would like to direct the attention of my colleagues to an excellent article on the recent elections in Guatemala which appeared in the November 26, 1985, edition of the Washington Times. This article is by Daniel Fisk, foreign policy analyst for the House Republican Study Committee, who was an observer at Guatemala's preliminary elections held on November 3, 1985.

As many of you know, Guatemala is facing a difficult transition period as it

holds its first civilian elections after 31 years of direct or indirect civilian rule. Although the democratic electoral process is proceeding smoothly, Guatemala is facing a severe economic crisis brought on by high inflation, unemployment and a declining exchange rate. Mr. Fisk makes a persuasive argument in favor of a more active U.S. aid policy in order to support Guatemala's new civilian government, and I urge my colleagues to read his remarks.

[From the Washington Times, November 26, 1985]

GUATEMALA AFTER THE VOTE

(By Daniel Fisk [1])

On Dec. 8, Guatemala will take another step away from 31 years of direct or indirect military rule.

But the issue facing Guatemala's democratic transition is not who wins the runoff between Christian Democrat Vinicio Cerezo and Jorge Carpio of the Union of the National Center, the top finishers in the Nov. 3 election.

Instead, the larger question is whether the military will allow either candidate to make the reforms needed to restore the country's economic, political, and social health.

There are those who argue that Guatemala's elections are only a facade; that the military purposely stayed out of the limelight to placate the U.S. Congress; and that the generals will continue to run the show. Conspiracy-theory enthusiasts argue that the military is allowing real elections now because the worsening economy will make it impossible for any civilian government to cope with the situation effectively—thus paving the way for a military government to return to power as savior of the republic.

The question of the military's intentions cannot be answered by this election. The new government's viability will only really be tested as it begins dealing with the substantial problems of Guatemala.

The foremost problem facing the new president is the country's economic situation: Guatemala's annual growth rate is a *negative* 2 percent; inflation is running at 35 percent; four out of every 10 workers are either unemployed or underemployed; the foreign debt stood at $2.25 billion as of December 1984, and the exchange rate continues to decline relative to the dollar. The quetzel has fallen from a conversion rate of Q1 = $1 in February 1984 to a rate of Q3.80 = $1 in November 1985.

For the next two years, 60 percent of all foreign earnings will be needed to pay Guatemala's foreign debt.

Guatemala's human rights record over the past 30 years poses another problem for a civilian government. According to estimates, some 100,000 people were killed and another 38,000 disappeared. Roughly 150,000 Guatemalans are refugees in Mexico.

Human rights is a concern to Guatemalans of all political persuasions, and many of those accused of being a part of the Guatemalan "military-industrial complex" have not themselves been immune from the violence from both political extremes. It is not—and never was—solely a case of a government at war with its people.

The human rights situation was highlighted three days before the Nov. 3 elections when the *Grupo de Apoyo Mutuo,* (or Mutual Support Group for the relatives of those who have disappeared), peacefully took over Guatemala City's Metropolitan Cathedral. They left just as peacefully three days after the election. While a large number of Guatemalans ignore the activities of the GAM, a significant minority awaits answers on the killings, abductions, and disappearances.

Congressionally mandated restrictions on U.S. assistance to Guatemala have been based on that country's human rights record. While they make us feel better about not consorting with a military government, these restrictions have limited any positive influence we've tried to exert.

Further, our policy, largely shaped by the "professional" human rights crowd, has done nothing to end those abuses that most raise their ire.

U.S. policy toward Guatemala can be characterized as benign neglect at best and willful blindness at worst. Our assistance in promoting Guatemala's democratic process was largely indirect. By helping El Salvador and Honduras, we provided a more stable regional environment for democratic reforms within Guatemala.

The process has proven itself, and all indications are that the new president will be granted the authority to rule effectively. Given this, the United States should be willing to support Guatemala's civilian government actively.

We should be prepared to support standby credits in international lending institutions while the new government grapples with Guatemala's foreign debt, offer development assistance for economic infrastructure projects that help move goods from the interior of the country to overseas markets, and provide military training to improve the conduct and capabilities of the armed forces.

Despite their worse predictions, citics of U.S. policy in Central America have seen democracy emerge in El Salvador and Honduras. Though questions and uncertainties remain, they should be willing to help Guatemala's new civilan government to survive. If they block our assistance, Guatemala could be driven back into the tragic past from which it now is emerging.

[1] Daniel Fisk, foreign policy analyst for the House Republican Study Committee, was an observer at Guatemala's Nov. 3 elections.

HONORING RABBI SOLOMON L. SILVERMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. ACKERMAN. Mr. Speaker, I rise today to call to the attention of my colleagues in the House of Representatives the accomplishments of Rabbi Solomon L. Silverman on the occasion of his designation as "Man of the Year" by Congregation of Yitzchok of Hillcrest, Queens County.

Since 1930, Rabbi Silverman has played an integral role in the education of American Jewish youth. He has served as principal of the Plainfield Hebrew Institute and the Hebrew Schools of the Young Israel of Newark, the Fresh Meadows Jewish Center, and the Malverne and West Hempstead Jewish Centers. His dedication, concern, and genuine love for his students have inspired three generations to appreciate both the beauty of their Torah heritage and the unique contribution American Jews can make to our Nation.

Rabbi Silverman has also been a leader in community affairs and his profession for more than half a century. A graduate of New York University and the Herzliah Hebrew Teachers Seminary, Rabbi Silverman has been designated as a fellow in Jewish culture and education by the Hebrew University in Jerusalem. Among the many commendations he has received from the community and his peers are the Federation Jewish Philanthropies' Leo G. Goldberger Award and the "Principal of the Year" designation by the Hebrew Principals' Association of Greater New York. Today, he serves as principal emeritus of the Malverne and West Hempstead Hebrew School—the first in his profession to receive such an honor.

Throughout these many years of service and accomplishment Rabbi Silverman has been encouraged by his wife, Sadie, a veritable "woman of valor." A master teacher in her own right, Sadie's efforts have complemented her husband's endeavors. Their marriage, truly a partnership, sets a standard to be emulated.

Mr. Speaker, the enthusiasm and dedication that Rabbi Silverman has given to our youth makes us in Queens very proud. We recognize that his efforts exemplify many of the characteristics which have built America into the greatest Nation in the world. I now call on all my colleagues in the U.S. House of Representatives to join me in congratulating Rabbi Silverman and his family on this joyous occasion. May he enjoy many years of health and renewed vigor to continue his important work for our community, State, and Nation.

EBONY MAGAZINE'S 40TH ANNIVERSARY

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mrs. COLLINS. Mr. Speaker, I rise to honor a fellow Chicagoan on a very special anniversary. Forty years ago, this month, John H. Johnson published the first issue of Ebony magazine. And today there is great cause for celebration.

Of the hundreds of magazines published each year, few have experienced the tremendous success Ebony has enjoyed over these 40 years.

And this achievement is all the more impressive in light of the tremendous obstacles which had to be overcome—resistance to change; resistance to new ideas; resistance to the very thought of dealing with a smart black businessman on equal terms.

John H. Johnson truly has been a trailblazer. And—against all odds—he has made his way using the very best tools of the free enterprise system: competitive drive, productivity, creativity, and innovation. He has pointed the way for others to follow.

And we all have benefited.

And we have benefited because the Ebony story is more than a story of commerial success. It also is the story of one man's vision of a new, vibrant black image. It is the story of his determination to share that image with the rest of the world. It is the story of his triumph in reaching the goal—a celebration of the best of black America.

For these achievements I stand not only to congratulate John H. Johnson, but also to thank him. To thank him for daring to reach for the American dream. To thank him for making the dream come true.

A SALUTE TO THE HELLENIC CHRONICLE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. FEIGHAN. Mr. Speaker, since I came to Congress, it has been my pleasure to work with many members of the Greek and Cypriot communities in the pursuit of an end to the divisive conflict on the island of Cyprus. One of the clearest voices of reason and responsible reporting on this issue has been that of the Hellenic Chronicle, which this year is celebrating its 35th anniversary.

Under the capable guidance of Publisher Peter Agris, the Chronicle has lived up to its promise of fair-minded news coverage and analysis, and the high ideal of representing the voice of the Greek American community with sense and humor, and without prejudice.

The lead editorial from the first edition of the Hellenic Chronicle in September 1950, made these promises to its readers. I ask that the editorial be included in the RECORD:

A STATEMENT OF POLICY

In order that a newspaper may justify its existence it must follow the traditions that have guided newspapers in the past. It has a moral responsibility to be accurate, unbiased, and completely objective.

The right of a newspaper to attract and hold readers is restricted by nothing but the consideration of the public welfare.

By every consideration of good faith a newspaper is constrained to be truthful. It is not to be excused for lack of thoroughness. It cannot escape its social responsibility that weighs not only upon its reporters but even more heavily upon those charged with determining the manner in which the work of the reporter is presented to the public.

This is a responsibility which is highly charged with social import.

In joining the free press of the nation, the *Hellenic Chronicle* has fully recognized the sacred trust that it has assumed and is bound to these principles. As the "American voice of Hellenic expression" it will not be devoted to the cause of any special group, but it will be devoted to the cause of Greek-Americans as a whole.

It will reflect the determination of the Greek people to become a part of the American family, fully devoted to the ideals that made this country great.

The *Hellenic Chronicle* will reflect their desire to preserve the culture and heritage of Greece, the Mother of Democracy.

As the connecting link between the many widely scattered Greek communities, the *Hellenic Chronicle* will increase the flow of news and ideas among their people.

The *Hellenic Chronicle* will be a forum through which the Greek people can express their views concerning their common problems.

The *Hellenic Chronicle* will, in effect, be what you the Greek people of America want it to be. It is your newspaper. Its purpose is to serve you.

NORTHLAND TO HOST SECOND REAGAN-GORBACHEV SUMMIT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. OBERSTAR. Mr. Speaker, while the world's attention was focused on the meetings between Ronald Reagan and Mikhail Gorbachev in Geneva, November 19–21, preparations were underway for yet another Reagan-Gorbachev encounter. On December 13, Reagan and Gorbachev will meet again, this time at a world cup cross-country ski race.

Giants Ridge Ski Area in Biwabik, MN, has been selected by the International Ski Federation, the Olympic governing body, to host the 1985 World Cup Cross Country Ski Races. Among the participants representing the Soviet Union will be Vassily Gorbachev. Dennis Reagan, of Anoka, MN, will be in attendance throughout the weekend.

In keeping with the time-honored and truly American tradition of settling our differences by tests of skill and games of chance, our cheers will be with Mr. Reagan and the American skiers as they speed by the Soviet team.

Joining the American and Soviet skiers, will be teams from Norway, Sweden, Finland, Austria, Canada, Czechoslovakia, Denmark, France, Italy, Switzerland, and West Germany.

Regardless of who crosses the finishline first, every participant will come out a winner because the weekend spent in northeastern Minnesota will be a treat not soon matched.

Biwabik is nestled deep in the heart of the Mesabi Iron Range, approximately 75 miles northwest of Duluth. To natives such as myself, this region is commonly referred to as God's country. Right now, approximately 40 inches of snow cover the ground. Several lakes surrounding Biwabik offer wonderful opportunities for icefishing, skating, snowmobiling, and snowshoeing.

Perhaps the most memorable experience for our visitors next week will be the Giants Ridge Ski Area itself. What a success story that project has been! Giants Ridge first opened in 1964 by area individuals who recognized the potential the area had for a major ski center. In 1982 Iron Range officials assumed management of the resort.

Today, Giant's Ridge enjoys continued growth and recognition as a world class ski center. Skiers can make their way through 40 kilometers of trails which wind through the Superior National Forest.

The excitement of my district about the upcoming event is remarkable. Visitors will feel instantly at home when met by the charm and friendliness of the area's inhabitants.

I am proud of the dozens of individuals who worked unceasingly to make this dream a reality. I invite all of my colleagues to attend what will be a truly historic and enjoyable event in the heartland of Minnesota.

A TRIBUTE TO HARRY KUHLMEYER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Harry Kuhlmeyer, a very special man, who has retired as chief of police for the city of Manhattan Beach after 32 years of dedicated service.

A native of southern California, Harry was educated in the city of Santa Monica where he graduated from Santa Monica High School and Santa Monica City College. He continued his education at Southwestern University School of Law where he received his juris doctorate.

Before launching his law enforcement career, Harry served in the U.S. Army and practiced law. Harry joined the Santa Monica Police Department where he served as a police officer for 6 years. He then joined the Manhattan Beach Police Department in 1953, where he steadily rose through the ranks of command until he became chief of police in 1980.

In addition to carrying out his enormous responsibilities as chief of police, Harry made time to serve in numerous law enforcement organizations including: LA County Peace Officers' Association, LA Police Chiefs' Association, State Police Chiefs' Association, International Association of Chiefs of Police. He is also a member of the State and Federal Bars, the Elks Club, the American Legion, and the Veterans of Foreign Wars. I understand he is also a superb second baseman.

Mr. Speaker, I ask that you and my distinguished colleagues join in expressing praise and gratitude to Harry Kuhlmeyer on the occasion of his retirement. I further ask that the leadership and Members of the House of Representatives join in wishing this extraordinary American good health and many years of continued contributions to our community and our Nation.

PERSONAL EXPLANATION

HON. PAT SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. SWINDALL. Mr. Speaker, last night I was unavoidably detained and was unable to record my vote on rollcall vote No. 434. Were I able to make this vote, I would have voted "nay".

H.R. 1616

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. SCHUETTE. Mr. Speaker, I am proud to say that I voted against final passage of H.R. 1616, the Labor-Management Notification and consultation Act on November 21, 1985. I certainly had no objection to the intent of the bill, only the crippling effect it would have had on businesses and employes alike. My vote was cast on behalf of all Americans' Job security and the economic prosperity of our Nation.

I wish it were possible to give advanced notice of plant closings for the sake of all workers. I have seen plants close in my district and have witnessed the devastating impact on employees and their families, area residents and the local economy. I do not wish to see any more closings in mid-Michigan or anywhere else in the Nation. But H.R. 1616 was not the proper solution, in my opinion.

The defeat of this legislation has saved millions of jobs for Americans. The burdensome requirements would have forced American and foreign businesses to move offshore—the opposite of what the bill was supposed to do. Thus, instead of helping workers, consultation and notification requirements would create sufficient incentives for companies to locate outside the United States. Rather than comply with the inflexible requirements required by this bill, companies would move operations outside the United States, thus permanently eliminating millions of job opportunities for Americans. Also, H.R. 1616 would discourage new businesses from opening within our borders, shutting off those jobs to Americans as well.

There are other deficiencies with the notification and consultation requirements. There are innumerable economic reasons why a business that is on the verge of bankruptcy would not wish to give notification of a plant closing. That notice could effectively cut off credit, loans, services and, most certainly, drive away current or future customers. How could a business remain solvent in the face of this situation?

Maintaining the operations of antiquated, Noncompetitive businesses hurts our economic growth and prosperity. We all want American businesses to be competitive so that job growth may be assured. The key to America's economic vitality rests on productivity and competitiveness with our trade partners. The defeat of this legislation assures American productivity and jobs.

THE INMAN PANEL SECURITY RECOMMENDATIONS AND THE PROTECTION OF OUR DIPLOMATS AGAINST TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. BROOMFIELD. Mr. Speaker, a recently released study reveals that terrorist incidents are on the increase. Now is the time to do all that we can to protect our fellow citizens who serve overseas. The Inman Panel recommendations should be quickly implemented to ensure that our diplomats in the field are better protected.

A recent Rand Corp., study by Brian M. Jenkins entitled "The Future Course of International Terrorism" reveals that international terrorism is growing at a rate of 12 to 15 percent a year. Incidents have involved terrorists and victims from 60 countries. According to the study, State sponsorship of terrorism will continue and could lead to a new kind of global guerrilla warfare.

Recent State Department statistics confirm the Rand study findings. According to these figures, in the last decade there have been more than 5,000 terrorist incidents worldwide with 4,000 dead and 8,000 wounded. Terrorism is not a passing phenomenon. It is a threat which the free world must be prepared to face for many years.

What can our Government do to better protect our personnel overseas and more effectively counter terrorism? The administration should move forward the long-delayed legislative and budget proposals which are now pending in the Office of Management and Budget [OMB]. This package represents the recommendations of the Secretary of States advisory panel on overseas security, the Inman Panel. The panel made over 90 recommendations addressing the question of how to face the growing terrorist threat overseas. The recommendations concern questions of organization within the Department of State, professionalism of those executing security responsibilities, international diplomacy to thwart terrorism, the protection of foreign dignitaries and missions, intelligence matters, physical security standards for U.S. diplomatic facilities overseas and a massive Embassy building program that is badly needed.

To properly and rapidly implement all of the recommendations, about $4 billion in additional funding will be required by the Department of State. Approximately $3 billion of that amount will be dedicated to the proposed Embassy building program overseas. Many of our Embassies around the world are former banks, apartment buildings and hotels. It is extremely difficult to adequately secure these facilities. Many of our Embassies around the world cannot really be modified to meet the new security standards. Constructing new embassies is an expensive but necessary commitment. For too many years, the Department has tried to discharge its security functions on a shoestring allowance. Now is the time to upgrade the Department's ability to cope with security problems.

While I appreciate the current deficit problems which our country faces, I also want to move ahead as quickly as possible to implement the vital Inma Panel recommendations. We cannot let our fellow citizens serving in the distant corners of the world go unprotected and neglected, from a security point of view, in this age of terrorism.

I urge the administration to quickly approve the Inman Panel legislative and budget packages. On this important issue, we cannot afford to delay.

With these concerns in mind, I commend the following Washington Post article about terrorism to my colleagues in the Congress.

TERRORISM FOUND RISING, NOW ALMOST ACCEPTED

NUCLEAR INCIDENT UNLIKELY, RAND CONCLUDES

(By Joanne Omang)

International terrorism, growing 12 percent to 15 percent a year, has almost become an accepted institution, according to a Rand Corp. analysis. It also finds a nuclear terrorist incident unlikely.

Brian M. Jenkins, the California think tank's chief analyst for terrorism studies, said the trend toward state sponsorship of terrorism will continue and could lead to "a new kind of global guerrilla warfare" in which terrorists launch operations from "badlands" nations and retreat there afterward.

The study, "The Future Course of International Terrorism," is excerpted in the December issue of Jenkins' Terrorism Violence Insurgency Report and says that terrorist tactics "have become a routine way of focusing attention on a dispute." As in all disputes, it says, "a semipermanent infrastructure of support has emerged," providing connections, alliances, safe houses, arms, counterfeit documents and other services around the globe.

"To a certain extent, international terrorism has become institutionalized," Jenkins wrote. Since the 1972 attack on Olympic athletes in Munich, he said, terrorist incidents have risen at an annual rate of 12 percent to 15 percent, last year involving terrorists and victims from 60 countries. The study indicates that the incidents increasingly involve large-scale, indiscriminate violence, such as bombs detonated in public places.

In an interview, Jenkins said "the most insidious trend" is toward public indifference. "Terrorism is becoming commonplace—ordinary, banal and therefore somehow tolerable . . . . Extraordinary security measures no longer attract any comment. We expect diplomats to be assassinated and states to be involved."

He added that measures to combat terrorism could cause "a lot of bumping and shoving around the Fourth Amendment" to the U.S. Constitution, which prohibits unreasonable search and seizure.

A State Department official expressed general agreement with Jenkins' report and called him "highly respected" in terrorism studies.

The report said terrorists' tactics and targets will probably not change much. "Terrorists blow up things, kill people or seize hostages. Every incident is merely a variation," Jenkins wrote. Although attacks on data-processing systems, electrical energy networks and nuclear reactors have occurred and will recur, they require sophistication and persistent follow-up to be effective and lack the public drama of a hostage-taking.

"Terrorists want a lot of people watching, not a lot of people dead, Jenkins said.

Nuclear terrorism "is neither imminent nor inevitable" because of technical reasons and because it involves mass murder, an idea that would split a terrorist group and expose it to betrayal, he said. Some terrorists would oppose it on moral grounds or because nuclear events would provoke public revulsion and government crackdowns.

"Certainly, in the face of a nuclear threat, the rules that now limit police authorities in most democracies would change," Jenkins said.

Similarly, chemical and biological weapons involve uncontrollable mass killings that are less useful to terrorists than to governments at war. "If chemical warfare becomes more commonplace," Jenkins wrote, "we cannot dismiss its potential use by terrorists. The same is true of nuclear weapons, but probably over a longer time period."

The Middle East will remain a focus of terrorists, in part because of religion. "As we have seen throughout history, the presumed approval of God for the killing of pagans, heathens or infidels can permit acts of great destruction and self-destruction," Jenkins wrote.

If the Iranian revolution and its spread to Lebanon become a model for other Third World nations, he said, "We are in for a lot of trouble."

EULOGY FOR WILLIAM GEISENHEIMER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. FISH. Mr. Speaker, the mid-Hudson valley of New York lost an outstanding citizen this week.

William Geisenheimer of Middletown, NY, was known for this dedication to Veterans organizations, and for his compassionate heart. His sudden and untimely passing this week left a void in our region that will not soon be filled.

Bill was the husband of Rosalind Geisenheimer, the district office manager and for the past 28 years private secretary to our colleague, Mr. GILMAN.

Congressman GILMAN, delivered an eloquent eulogy at Bill's funeral. I would like to share Ben's tribute to an outstanding American with all of our colleagues:

EULOGY FOR WILLIAM GEISENHEIMER

(By Representative BENJAMIN A. GILMAN)

Many years ago, the colonial writer, Tom Paine, spoke of the "Sunshine Patriots"—those whose patriotism is displayed prominently only in non-controversial times, and whose patriotism was notable only when others were watching.

Bill Geisenheimer was decidedly not a "Sunshine Patriot".

His patriotism and his service and devotion to his country and to his fellow veterans was constant, and sincere.

During World War II, Bill served honorably with the Army Signal Corps and, since his discharge, he devoted his life to making the world a better place for his fellow veterans and for his community.

As past commander of Post No. 758, Jewish War Veterans, as a member of the New York State executive committee of the Jewish War Veterans, as past national executive committee member of the Jewish War Veterans, as past commander of American Legion Post No. 151, as the Lt. Commander of the Masonic War Veterans, as chairman of the Middletown Veterans Council, and as a member of the Orange County Veterans Adivsory Committee, and in the numerous other veterans' organizations in which he participated, Bill was not the "sunshine" patriot described by Tom Paine but should more accurately, be described as a "Rain or Shine" patriot.

How many of us knew, for example, of the many trips Bill made to the Castle Point V.A. Hospital, unheralded and unaccompanied, to make certain that our veterans were well fed and properly cared for?

And, how many of us are aware of the countless hours the at Bill Geisenheimer spent at West Point, making certain that our Jewish cadets had access to family sabbath observances which are so vital to a young person far from home?

And how hard Bill worked to make the West Point Jewish chapel a dream come true?

Not too many are aware of Bill's dedicated service as a member or our Congressional District Service Academy Review Board, helping to make certain that the best and brightest of our young people were selected to become our military leaders of the future.

And, not too many of us are aware of Bill's religious pursuits. He may not have been the most devout Jew, but his devotion to his religion brought him daily to the synagogue for early morning services—and he was always available to help make up a minyan—a quorum for prayers—day or night.

Yes, he was truly a good man—an outstanding citizen—proud of his Nation—compassionate of his fellow veterans and devoted to his wife and family.

Bill Geisenheimer has left a mark on all of our lives.

Together with his friends and neighbors, with the Temple Sinai Congregation, his brother masons, and his fellow veterans, we offer our deepest condolences to Bill's children, Andrea and Howard, to his beloved widow, Roz, and to his brothers, Herb and Gordon.

We want you to know that all of us deeply share your loss. But most of all we want you to know that his concern for his fellow man, his kindness and decency—his good works—touched so many of us that Bill Geisenheimer will live on in many, many hearts.

The poet Henry Wadsworth Longfellow once wrote:

"There is not death!
What seems so is transition:
This life of mortal breath
Is but a suburb of the life elysian,
Whose portal we call death."

THE REPUBLICAN ALTERNATIVE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 6, 1985

Mr. DUNCAN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

THE REPUBLICAN ALTERNATIVE—TAX REFORM, DECEMBER 1985

INTRODUCTION

The Republican Members of the Committee on Ways and Means have labored long and hard on the issue of Tax Reform: from well before the time President Reagan sent his tax reform package to Congress in the spring of this year, through the extensive hearing process of the Committee during the summer, and finally through the extensive mark-up period during the fall. The Seasons of Tax Reform have been strenuous while at the same time educational and illuminating.

At the conclusion of the hearing process in early August, all 13 Republican Members of the Committee issued a statement of principles articulating the guidelines they believed should be heeded in developing a tax reform package. That statement emphasized the principles of revenue neutrality; significant marginal rate reduction; maintaining foreign competitiveness of U.S.-companies; maintaining adequate capital formation incentives; enhancing national security; accommodating the legitimate interests of state and local governments; avoiding anti-family, anti-marriage penalties; encouraging savings, particularly for retirement; and providing economically sound transition rules.

While the Republican members of the Committee on Ways and Means applaud the political achievement of Chairman Rostenkowski in guiding the tax reform proposal to fruition, they believe the final product fails to adhere to the principles they articulated in August. As a result, the Republican Members of the Committee feel obligated to offer the Republican Alternative set forth herein. The Republican Alternative represents a comprehensive tax reform package, which, while achieving significant marginal rate reductions, takes fully into account the essential nature of the guiding principles enunciated last August. In addition, it is fully consistent with the President's Proposal and should be viewed by those committed to pursuing tax reform as a vehicle clearly preferable to the Committee Bill for the reasons discussed herein.

There will be those who criticize the Republican Alternative because over the 5-year period it provides a 7.2% rate cut to individuals while the Committee Bill provides a 9.0% cut. The difference is obviously mathematical—the Committee Bill shifts $140 billion of liability from the individual to the corporate side while the Republican Alternative shifts about $110 billion. Three points about that. First, the Republican Alternative reduction of 7.2% exceeds the 7.0% reduction the President believed he was achieving when he sent his package to the Congress in the spring. Second, the Republican Alternative provides greater tax reductions for all incomes classes in 1986 because it does not resort to the gimmick of delaying individual rate cuts to July 1, while asking taxpayers to experience all the nega-

tive aspects of tax reform on January 1, 1986. Finally, and most importantly, the Republican Alternative recognizes that the Seasons of Tax Reform are following by a new year in which the Congress will be required to defend the impact of tax reform on the economy and American jobs. The Republican Alternative provides a modicum of restraint in the Season of Tax Reform as a much needed buffer against the inherent uncertainty which accompanies dramatic modifications of Federal tax policy.

THE REPUBLICAN ALTERNATIVE DRAMATICALLY IMPROVES THE COMMITTEE BILL

The Republican alternative reverses the anti-family, anti-savings, anti-foreign competitiveness, anti-capital formation, anti-private retirement system direction of the Committee Bill through a numer of essential improvements while maintaining the four most critical elements of the President's Proposal:

Revenue Neutrality

Significant Overall Rate Reduction

Protection of Home Mortgage Interest Deduction

Dramatic Tax relief for Lower Income Taxpayers

The critical improvements made by the Republican Alternative are detailed below.

Pro family: The Committee Bill has an anti-family bias because it reduces a taxpayer's itemized deductions in relation to the number of a taxpayer's children. For example, if a taxpayer has 3 dependents, his or her itemized deductions are reduced by $1,500; 5 dependents—reduced by $2,500; 7 dependents (i.e., a family of 5 children)—reduced by $3,500. The Republican Alternative reverses this anti-family bias by providing a $2,000 personal exemption per dependent while imposing no reduction in itemized deduction which is related to the number of children of a taxpayer. The Republican Alternative provides a full $2,000 personal exemption for *all taxpayers* in the first two rate brackets—approximately 90 percent of all taxpayers—with a diminished personal exemption for higher income, high marginal rate taxpayers.

Pro marginal rate reduction—immediately—for individuals: The Committee Bill provides marginal rate reductions for individuals which phase-in over two years to reduce the top individual marginal rate to 38%. Given the propensity of certain elements of the Congress for trying to raise revenue by preventing tax changes from fully phasing into effect, individual taxpayers and the President should be extremely wary of phased-in individual rate reductions. Only a short time ago there were attempts to prevent the third year of President Reagan's 1981 three-year rate reduction and the indexing of tax rates from going into effect. The Republican Alternative, recognizing this "freeze" factor, provides reduction of the top marginal rate to *37 percent effective immediately,* on January 1, 1986.

Pro savings: The Committee Bill has an anti-savings, pro-consumption bias which is incomprehensible from a national economic policy perspective considering the fact that Americans are currently saving at the slowest rate in 35 years. The Republican Alternative reverses this bias by providing a full $2,000 spousal IRA, as in the President's Proposal; allowing an annual $12,000, section 401(k) contribution to for-profit employers and private non-profit employers; and discouraging consumer debt through limits on deductibility.

Pro private retirement savings: The Committee Bill provides extensive, and in some cases incongruous, modifications to the existing maze of statutory tax restrictions governing our private retirement system. No matter how well intentioned these proposed changes may be, they are poorly timed in view of (1) the extensive revisions which this area of law has experienced, in three separate pieces of legislation, since 1982, and (2) the comprehensive review of retirement income policies now being considered by the Subcommittees on Social Security and Oversight of the Committee on Ways and Means and other committees of the Congress. Recognizing the integral role which the private retirement system plays, with social security and personal savings, in providing retirement income security, review and revision of these provisions should be delayed. The Republican Alternative follows this more prudent course by including *only* minimal changes in this area, thus leaving for another day a comprehensive review of this important area of tax and income retirement policy.

Pro capital formation: The Committee Bill reverses by 100 percent (and sometimes by an even greater margin) the capital formation incentives enacted by President Reagan's Economic Recovery Tax Act of 1981. The Republican Alternative moderates this disturbing shift by retaining a 5% investment tax credit on domestically produced manufacturing equipment, setting the corporate alternative minimum tax rate at 20% (rather than 25% as in the Committee Bill) so as to avoid penalizing marginally profitable capital intensive businesses, providing full indexing of depreciation as in the President's Proposal, and providing for a 28-year recovery period on structures as in the President's Proposal. In addition, the Republican Alternative retains the current law individual capital gains tax rate of 20% rather than increasing the rate to 22% as under the Committee bill.

Pro international competitiveness: At a time of staggering trade deficits and a sagging ability of U.S. companies to compete in the world market, the Committee Bill inexplicably decimates U.S. capital formation incentives and imposes extensive new complexities concerning the taxation of U.S. companies doing business abroad. As indicated above, the Republican Alternative reverses the trend concerning capital formation incentives. In addition, the Republican Alternative recognizes that the proposed changes with respect to the taxation of U.S. companies doing business abroad, no matter how well intentioned, are clearly ill timed. As a result, it includes only modest, generally non-controversial changes.

Pro corporate rate reduction: The Committee Bill provides a top corporate marginal rate of 36 percent phased-in over two years. The Republican Alternative, recognizing the importance of achieving long-term corporate rate reduction for economic growth and efficiency, provides a phased-in corporate rate reduction to 33 percent, the rate provided in the President's Proposal, by 1991.

Pro State and local government tax-exempt financing: The Committee Bill would impose additional complex, and in some cases confusing, new restrictions on both public purpose and private purpose tax-exempt bond financing. The Republican Alternative, recognizing that the Congress imposed substantial new restrictions on the use of tax exempt bonds in 1984, generally retains current law in this area.

Super Minimum Tax: The Committee Bill modifies the existing minimum tax for corporations and individuals, but still allows certain taxpayers to have net income for a current year, yet pay no tax. Permitting such a situation to continue both undermines the public's confidence in the fairness of our tax system and is inconsistent with the notion that each individual and business earning income in a given year should help participate in the cost of government. The Republican Alternative contains a Super Minimum Tax designed to avoid this result by requiring all taxpayers to pay some minimum amount of tax in any year in which they earn income.

DISTRIBUTION COMPARISONS

TABLE 1.—DISTRIBUTIONAL DATA ON THE REPUBLICAN ALTERNATIVE AND WAYS AND MEANS COMMITTEE BILL, FOR INDIVIDUALS BY INCOME CLASS, 1986

[Preliminary]

Income class (thousands of 1986 dollars)	Percentage change in income tax liability	
	Republican alternative	Ways and Means
Less than $10		−64.2
$10 to $20		−15.1
$20 to $30		−7.7
$30 to $40		−6.0
$40 to $50		−4.6
$50 to $75		−2.9
$75 to $100		−1.1
$100 to $200		−.7
$200 and above		+2.0
Total		−3.8

Note.—These figures do not take account of certain proposals affecting individuals. Thus, the total tax reductions under both the Republican alternative and the Ways and Means bill are somewhat different from what is indicated in this table.

Source: Joint Committee on Taxation, Dec. 2, 1985.

TABLE 2.—DISTRIBUTIONAL DATA ON REPUBLICAN ALTERNATIVE AND WAYS AND MEANS COMMITTEE BILL, FOR INDIVIDUALS BY INCOME CLASS, 1987

[Preliminary]

Income class (thousands of 1986 dollars)	Percentage change in income tax liability	
	Republican Alternative	Ways and Means
Less than $10	−85.1	−76.1
$10 to 20	−21.7	−23.4
$20 to 30	−8.8	−9.9
$30 to 40	−7.5	−9.0
$40 to 50	−7.3	−8.7
$50 to 75	−5.7	−7.4
$75 to 100	−4.3	−5.7
$100 to 200	−2.6	−7.2
$200 and above	−4.1	−5.9
Total	−7.2	−9.0

Note—These figures do not take account of certain proposals affecting individuals. Thus, the total tax reductions under both the Republican Alternative and the Ways and Means bill are somewhat different from what is indicated in this table.

Source: Joint Committee on Taxation, Dec. 2, 1985.

TABLE 3.—REDUCTION IN AVERAGE TAX RATES UNDER PRESIDENT'S PROPOSAL EXPECTED AT THE TIME OF ITS RELEASE ON MAY 28, 1985[1]

[Average tax rate and change in taxes paid by income class; in percent]

Income class	Current law	President's Proposal	Change in taxes
Less than $10,000	1.4	0.9	−35.5
$10,000 to $15,000	3.2	2.5	−22.8
$15,000 to $20,000	4.6	4.0	−13.5
$20,000 to $30,000	6.3	5.7	−8.7
$30,000 to $50,000	7.8	7.3	−6.6
$50,000 to $100,000	9.4	9.0	−4.2
$100,000 to $200,000	13.2	12.7	−4.1

TABLE 3.—REDUCTION IN AVERAGE TAX RATES UNDER PRESIDENT'S PROPOSAL EXPECTED AT THE TIME OF ITS RELEASE ON MAY 28, 1985[1]—Continued

[Average tax rate and change in taxes paid by income class; in percent]

Income class	Current law	President's Proposal	Change in taxes
$200,000 and over	21.0	18.7	−10.7
Total	8.7	8.1	−7.0

[1] The President's Tax Proposals to the Congress for Fairness, Growth, and Simplicity at p. 16.

Source: Office of the Secretary of the Treasury.

MINORITY OFFICE,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

Congressman John Duncan (R.-Tenn.) announced today that he and his 12 Republican colleagues on the Ways and Means Committee have agreed on 10 principles which should be used for development of major tax reform legislation.

Mr. Duncan said that the principles "are what we Republican Members believe should serve as guidelines at such time as the Committee starts marking up a tax reform bill within the framework proposed by President Reagan."

He emphasized that "there is no magic to the number. These principles, or guidelines, are not intended to be exclusive, and we believe they are, as we say in our collective statement, entirely consistent with the stated aims of both the President and the Chairman of our Committee (Rep. Dan Rostenkowski-D., Ill.)."

The first two principles, Mr. Duncan said, relate to macroeconomic impact and national security. "Our economy is doing well," he said, "and our tax reform decisions certainly should be tailored to maintain economic progress. Those decisions also must be reached with our national security foremost in mind."

Other principles, he said, have to do with foreign competitiveness, capital formation, marginal rate reduction, revenue neutrality, state and local tax deduction, two-earner families, retirement savings, and transition rules.

A copy of the statement, signed by all 13 of the Republicans on the Committee of Ways and Means, is attached.

AUGUST 1985.

STATEMENT BY REPUBLICAN MEMBERS OF THE COMMITTEE ON WAYS AND MEANS

Since the President announced his tax reform plan, our Committee has held more than 150 hours of public hearings on it. These sessions have enabled spokemen for most sectors of the national economy to tell us what they think of the plan and how they believe it would affect them, their families and associates.

We have listened attentively to this testimony and have learned a great deal. We also have listened to our own constituents and other individuals and groups from all over the country. We have discussed the plan, generally and specifically, with our personal and committee staffs and the staffs of the Joint Committee on Taxation and the Treasury. And we have done some constructive economic analyses on our own.

Out of these data-collecting experiences has emerged a set of principles which we believe should serve as guidelines if we continue moving toward massive reform of the Internal Revenue Code. These principles clearly are not all-inclusive and are entirely consistent with the President's stated objectives and our Chairman's announcements relative to mark-up this fall.

Of overriding concern is the macroeconomic impact of tax reform. We believe that utmost care should be taken to keep our economy healthy and strong. Despite problems with an overvalued dollar, the nations' industrial and commercial engines are in gear and moving ahead. Our decisions on tax reform should be made with the primary aim of keeping this good thing going—and getting even better.

More specifically, we should be guided by an adherence to the principles of:

Revenue Neutrality. We strongly support this concept. We do not believe that a bill which loses "only" several billion dollars per year should be considered revenue neutral. Our constituents certainly do not consider such sums to be nominal, and neither do we. We should keep the bill revenue neutral in fact, particularly because we recognize that the estimating process involves a great deal of inherent uncertainty.

Significant Marginal Rate Reduction. We support the President's goal on this point. It would represent a benefit to all individual taxpayers. Marginal rate reduction, excluding the impact on lower income taxpayers, should be distributionally neutral so that all income groups receive approximately the same average tax reduction. In general, we do not believe that one income group should benefit over another, but with respect to those taxpayers living at or below the poverty line, we believe that a larger percentage reduction is appropriate. We do not believe that an arbitrary target for rate reduction should be established, but the amount of rate reduction achievable should be identified in conjunction with the revenue neutrality principle and the recognition that certain tax incentives are socially necessary, even in the context of broad-based tax reform.

Foreign Competitiveness. We believe that tax reform should have a positive effect on our ability to compete in international marketplaces. We also recognize that our ability to compete is controlled by many factors unrelated to income taxation. These other concerns should be taken into account and balanced against provisions modifying the taxation of foreign income as well as certain other proposals in the foreign area; in particular, the per-country limitation on the foreign tax credit.

Capital Formation. We share some concerns that have been raised concerning the effect of the Administration's plan on capital formation. We recognize that certain provisions could severely damage capital formation. At the same time, we believe it is important to examine the impact of the Administration's plan in the aggregate, in particular by reference to the impact of marginal rate reductions.

National Security. Any tax reform effort should be undertaken with a clear understanding that our national security should be enhanced, not diminished by the final product.

State and Local Tax Accommodation. We recognize that the state and local tax deduction is one of the most critical components of the Administration's plan. We believe, however, it is a negotiable item. Either transition relief or some modification of outright repeal—or both—should at least be examined in the context of assembling a tax reform package. We believe that this parallels our Chairman's consistent position that all items are "on the table" in pursuit of true reform.

No Marriage Penalty. We are particularly concerned with suggestions which have been made that the Administration's plan hurts two-earner couples. We do not advocate any specific, corrective approach, but we tend to favor a return to the dependent care credit as a starting point, and we do believe our Committee should examine the issue carefully to ensure that two-earner couples are not unfairly treated in any tax reform package that we produce.

Encouraging Retirement Savings. We believe that tax reform should have the effect of continuing to encourage individuals to save for their retirement. (We also recognize the benefit to capital formation which retirement savings achieves.) Increasing the IRA limitations is certainly a step in the right direction. We are concerned with the various technical modifications in the retirement area which may pose unnecessary burdens on private retirement plans, particularly in light of extensive revisions which have occurred over the past three years. We believe the Committee should look carefully at any changes which do not have significant revenue impact and which might be considered later, not in the reform context.

Economically Sound Transition Rules. Finally, but perhaps most importantly, we strongly believe that generous transition rules should accompany any major tax reform effort. It is most unfortunate that economic progress has, to any degree, been halted or slowed by pending reform proposals and we strongly believe that all efforts should be made to avoid a retroactive or negative impact on business decisions that are made in reliance on current law. In particular, the depreciation recapture provision should be examined carefully to ensure that it does not have such effects. To the extent that there are revenue shortfalls as a result of reform, all alternatives for making up these shortfalls should be considered, including the possibility of phasing-in certain provisions. However, we do not believe it would be desirable if the result would actually increase taxes for a significant number of taxpayers in the first year of reform.

John J. Duncan, Bill Archer, Guy Vander Jagt, Philip M. Crane, Bill Frenzel, Richard T. Schulze, Bill Gradison, W. Henson Moore, Carroll A. Campbell, Jr., William M. Thomas, Raymond J. McGrath, Hal Daub, Judd Gregg.

DETAILED DESCRIPTION OF THE REPUBLICAN ALTERNATIVE, DECEMBER 1985

SECTION I. INDIVIDUAL INCOME TAX PROVISIONS

I. Rate Schedules

a. Current Law

Under current law there are four filing status classifications, each with a different 1986 schedule of tax rates and taxable income brackets. Indexing of bracket amounts began in 1985. The following figures are expected to be in effect on January 1, 1986, and reflect an assumed 3.7% inflation rate in 1985.

Married individuals filing jointly and surviving spouse

14 taxable income brackets above the zero bracket amount of $3,670; 11-percent tax rate starts above $3,670; rates rise to the maximum 50-percent rate above $175,230.

Head of household

14 taxable income brackets above the $2,480 zero bracket amount; 11-percent tax

rate starts above $2,480; rates rise to the 50-percent rate above $116,850.

Unmarried individuals

15 taxable income brackets above the $2,480 zero bracket amount; 11-percent tax rate starts above $2,480; rates rise to the 50-percent rate above $88,260.

b. Republican Alternative

Under the Republican Alternative the tax rate schedules by filing status will be as follows:

Married individuals filing jointly and surviving spouse

Brackets:	Tax rate (percent)
Replaced by standard deduction	ZBA
0 to $22,500	15
$22,500 to $57,000	25
$57,000 to $100,000	35
Over $100,000	[1] 37

[1] Reduced to 35 percent in 1991.

Head of household

Brackets:	Tax rate (percent)
Replaced by standard deduction	ZBA
0 to $16,000	15
$16,000 to $46,000	25
$46,000 to $75,000	35
Over $75,000	[1] 37

[1] Reduced to 35 percent in 1991.

Unmarried individuals

Brackets:	Tax rate (percent)
Replaced by standard deduction	ZBA
0 to $12,500	15
$12,500 to $40,000	25
$40,000 to $60,000	35
Over $60,000	[1] 37

[1] Reduced to 35 percent in 1991.

Effective date.—The new tax rates and tax brackets will become fully effective on January 1, 1986, and will be indexed beginning in 1987. Effective for taxable years beginning on or after January 1, 1991, the fourth bracket will be eliminated and, as a result, the top marginal rate will be 35 percent.

II. Personal Exemption and Standard Deduction (formerly the ZBA)

a. Standard Deduction

1. Current law

Under current law the zero bracket amount (ZBA) differs by taxpayer filing status and has been indexed annually for changes in the inflation rate since January 1, 1985. Estimated ZBAs set forth below effective January 1, 1986, reflect an assumed 3.7 percent inflation and adjustment.

Filing status:	ZBA
Joint returns and surviving spouse	$3,670
Heads of household	2,480
Unmarried individuals	2,480

2. Republican Alternative

Under the Republican Alternative, instead of the ZBA, each taxpayer will be allowed a standard deduction as follows:

Filing status:	Standard deduction
Joint returns and surviving spouse	$4,600
Heads of households	4,026
Unmarried individuals	2,828

Under the Republican Alternative, the standard deduction will be increased by $600 for the elderly and the blind.

Indexing will continue and will increase all scheduled amounts beginning in 1987.

b. Personal Exemption

Under current law, the personal exemption for an individual, the individual's spouse, and each dependent is $1,040 for 1985. One additional personal exemption is provided for an individual who is age 65 or older, and for an individual who is blind. Indexing is expected to increase the personal exemption for 1986 to $1,080.

Under the Republican Alternative, the personal exemption would be increased to $2,000 for all taxpayers, both itemizers and non-itemizers, in the first two marginal tax brackets, 15% and 25%. As a result, approximately 90% of all taxpayers would enjoy a full $2,000 personal exemption for each dependent. For taxpayers above the 25% marginal rate bracket, the benefit of the $2,000 personal exemption will be limited to the benefit which taxpayers at the 25% marginal rate enjoy. In addition, for taxpayers with $100,000 or greater of taxable income, the personal exemption would be phased-out between $100,000 and $150,000 of taxable income.

c. Effective Date

The new standard deduction and personal exemptions become effective on January 1, 1986.

III. Capital Gains Rate, Retain 32% Rate on Straddle Income

a. Generally

Under current law, the maximum capital gains rate for individuals is 20 percent. The Republican Alternative retains current law and provides that the basis of capital assets will be indexed beginning in 1991. In addition, under current law, taxpayers engaging in straddle transactions and other similar transactions (e.g., regulated futures contract, foreign currency contract, nonequity options, and dealer equity options) are entitled to treat 60% of their income as long-term capital gain and 40% as ordinary income, for an effective tax rate of 32%. Section 1256. The Republican Alternative modifies the 60-40 split so that the effective rate under the new lower marginal rates remains at approximately 32%.

b. Timber

Under present law, timber royalty income qualifies for capital gain treatment, where the timber is held for 6 months before being cut. The Republican Alternative will phase out the special capital gain treatment over a 3-year period beginning January 1, 1986. Individuals, however, will retain present law treatment, other than for timber on Federal lands.

Effective date—To the extent affected by the change, the provision will apply to royalties received on or after January 1, 1986. For individuals, the exclusion rate on capital gains from timber royalties would be reduced to 30% in 1986, 20% in 1987, 10% in 1988, and 0 percent thereafter. For corporations, the tax rate on such capital gains would increase to 30% in 1986, 31% in 1987, 32% in 1988, and would be taxed at ordinary corporate rates thereafter.

Under current law, owners of timber (or a contract right to cut timber) may elect to treat the cutting of timber as a sale or exchange qualifying for capital gain treatment, even though the timber is sold or used in the taxpayer's trade or business. To qualify, the timber (or contract cutting right) must be held for 6 months prior to cutting.

The Republican Alternative will phase out the special capital gain treatment described over a 3-year period beginning January 1, 1986. Individuals, however, will retain present law treatment, other than for timber on Federal lands.

Effective date—To the extent affected by the change, the provision will apply to timber cut on or after January 1, 1986. For individuals, the exclusion rate on capital gains from the cutting of timber would be reduced to 30% in 1986, 20% in 1987, 10% in 1988, and 0 percent thereafter. For corporations, the tax rate on such capital gains would increase to 30% in 1986, 31% in 1987, 32% in 1988, and would be taxed at ordinary corporate rates thereafter.

IV. Income Averaging

Under present law, an eligible individual can elect income averaging to reduce his or her tax liability for the current year where the individual's income for the current year exceeds the average of the individual's income during the prior three years by a specified percentage. The Republican Alternative repeals income averaging, in accordance with the President's tax reform proposal, effective for taxable years beginning after 1985.

V. Modification of Deductibility of Personal Itemized Deductions

Under current law, taxpayers are entitled to various personal itemized deductions including casualty losses, charitable contributions, state and local tax deductions, and interest deductions. Under the Republican Alternative, only 70% of personal itemized deductions would be allowed to the extent that the taxpayers itemized deductions exceed a floor of $1,000. This restriction would not apply to a taxpayers mortgage interest deduction for a principal residence or for a second home. Up to six weeks of a time share would constitute a second home for purposes of this rule. It also does not apply to charitable contributions. In addition, state and local sales tax, personal property tax, and miscellaneous intangible tax will not be permitted as itemized deductions.

VI. Limitation on Deductibility of Consumer Interest

Under current law, taxpayers are allowed an unlimited itemized deduction for consumer interests payments. Under the Republican Alternative, taxpayers will be allowed to deduct as an itemized deduction non-mortgage, non-investment, non-business, non-educational (e.g., student loans), interest only to the extent of $500 in the case of a single return, $750 in the case of heads of households, and $1,000 in the case of a joint return. In addition, no interest deduction will be allowed with respect to debt which is directly allocable to the purchase of a foreign made automobile or light truck.

VII. Credit for the Elderly

Present law provides a nonrefundable income tax credit for individuals who are age 65 or over, or who have retired on permanent and total disability. The credit equals 15 percent of a specified dollar amount as reduced by the amount of certain tax-free income received by the taxpayer, and by one-half of the taxpayer's Adjusted Gross Income (AGI) in excess of a specified threshold. The Republican Alternative retains present law with respect to the credit.

VIII. Exclusion From Income of Certain Disability Benefits

A. *Workers' Compensation and Black Lung Disability Benefits.* Present law provides that gross income does not include amounts received under workers' compensation laws as compensation for personal injuries or sickness. Also, under present law, black lung disability benefits paid for claims by coal miners are excludable from gross income as workers' compensation. The Republican Alternative retains present law

with respect to workers compensation and black lung disability benefits.

B. *Other Employer-Provided Disability Benefits.* Under present law, gross income does not include amounts received under an employer-provided accident and health plan to the extent the amounts (1) constitute payment for the permanent loss of, or loss of use of, a member or function of the body, or the permanent disfigurement of the employee, and (2) are computed with reference to the nature of the injury without regard to the period the employee is absent from work. The Republican Alternative retains present law with regard to employer-provided disability benefits.

IX. Scholarships and Fellowships

A. *Degree Candidates.* Under present law, degree candidates at an educational institution may exclude amounts received as a scholarship or fellowship grant, and also incidental amounts for travel expenses, research, clerical help, and equipment. However, amounts received by degree candidates are not eligible for the exclusion if they represent payment for teaching or other services required as a condition of receiving the grant; an exception to this general rule applies if all candidates for a particular degree must perform such services, in which case scholarship amounts are excludable from income.

In accordance with the President's tax reform proposal, the Republican Alternative provides that amounts received as scholarships and fellowship grants by degree candidates would be excludable only to the extent that they were required to be, and were spent on tuition and equipment required for courses of instruction. The Republican Alternative also repeals the special exception described above, applicable where all degree candidates must perform teaching or other services. These provisions would be effective for scholarships and fellowships granted after September 25, 1985.

B. *Non-degree Candidates.* Present law provides that non-degree candidates may exclude from income scholarship or fellowship grants from tax-exempt organizations or international or government agencies, limited to a lifetime maximum exclusion of $10,800. The Republican Alternative repeals the exclusion for non-degree candidates, effective for scholarships and fellowships granted after September 25, 1985. As under present law, non-degree candidates could deduct amounts expended for travel, research, clerical help, or similar expenses to the extent such amounts constitute deductible business expenses.

C. *Grants Received Under a Federal Program.* Under present law, generally grants received in the form of payment, for teaching or other services must be included in the recipient's income. However, there is an exception to this rule in the case of grants received under a Federal program in return for future services as a Federal employee, to the extent grants are used for tuition and required fees, book supplies, and equipment. The Republican Alternative repeals this exception, effective for scholarships and fellowships granted after September 25, 1985.

X. Prizes and Awards

A. *Prizes.* Under present law prizes and awards received by an individual, other than certain scholarships and fellowship grants, generally are taxable. However, there is an exception for awards received for achievements in fields such as charity, the arts, and the sciences, provided that the recipient has not applied for the prize (for example, by entering a contest) and the recipient is not required to perform substantial services as a condition of receiving the award. The Republican Alternative provides that all prizes and awards (other than excludable scholarships and fellowship grants, as described above) would be includable in the recipient's gross income except that the present exclusion for awards for charitable, scientific, or artistic achievement would continue to apply if the recipient designates that the prize or award is to be paid to a tax-exempt charitable organization. The provision would become effective for taxable years beginning after 1985.

B. *Employee Awards.* In accordance with the President's tax reform proposal, the Republican Alternative provides that employee awards given by reason of a work-related achievement are includable in the employee's gross income. The Republican Alternative also provides a clarification that employee awards of low value (i.e., less than $100) may qualify as both deductible and excludable under present-law rules for de minimis fringe benefits. Since no employee awards would otherwise be excludable, the special deduction limitations on Code section 274(b) relating to certain awards of tangible personal property would no longer be applicable. The provision would become effective in taxable years beginning after 1985.

XI. Child and Dependent Care Expenses

A. *Dependent Care Credit.* Under present law, a nonrefundable income tax credit is allowed for up to 30 percent of a limited dollar amount of employment-related dependent care expenses incurred for a dependent child under the age of 15, or for a physically or mentally incapacitated spouse or dependent. The Republican Alternative retains present law with respect to the dependent care credit.

B. *Dependent Care Assistance Exclusion.* Present law excludes from an employee's gross income amounts paid or incurred by an employer for dependent care assistance provided under a qualified dependent care assistance program. There is no dollar limit on the exclusion. The Republican Alternative retains present law but limits the exclusion for each taxpayer to $5,000 per year. This limitation is effective for taxable years beginning after 1985.

XII. Certain Adoption Expenses

A. *Adoption Expenses and Foster Care Payments.* Under present law, an itemized deduction is allowed for up to $1,500 of adoption fees and expenses (such as court costs and attorneys' fees) incurred for the adoption of a child with special needs; that is, handicapped or other children eligible for adoption assistance payments under the Social Security Act. In accordance with the President's proposals for tax reform, the Republican Alternative would (1) repeal the adoption expense deduction and (2) amend the Adoption Assistance program in Title IV-E of the Social Security Act to provide matching funds for adoption expenses for any child with special needs who has been placed for adoption in accordance with applicable State and local law. Such expenses would include all qualified adoption expenses eligible for the present-law itemized deduction.

The repeal of the adoption expense deduction would generally be effective January 1, 1987. The effective date of amendments to Title IV-E of the Social Security Act would be coordinated with repeal of the current tax deduction.

B. *Foster Care Payments.* Current law (as a result of Sec. 102(a) of P.L. 97-473) excludes two kinds of foster care payments from gross income: (1) regular payments to reimburse foster parents for the expenses of caring for a qualified foster child and (2) "difficulty of care" payments for handicapped children.

To implement the exclusion of regular foster care payments, IRS is requiring foster parents to make an accounting of expenses incurred for each foster child in their care. This is so that if foster care payments exceed actual expenses, the excess would be included in gross income.

Because foster care payments are so low, most foster parents lose money or barely break even. However, the hassle of having to maintain detailed records of literally every expenditure in connection with each foster child—down to prorating housing and utility bills, apportioning food budgets based on children's eating habits and keeping track of other expenditures for clothes, toys, school supplies, transportation and so forth—is deterring families from accepting foster children.

The Republican Alternative would eliminate the record-keeping aspect of foster care by simply exempting regular foster care payments made by State or nonprofit child welfare agencies. This change is effective for payments after December 31, 1985.

XIII. Unemployment Compensation

Present law provides for partial taxation of unemployment compensation benefits received under a Federal or State program. If the sum of the individual's unemployment compensation and Adjusted Gross Income (AGI) does not exceed $18,000 in the case of a married couple filing jointly ($12,000 for an unmarried individual) then the entire benefit is excluded from income. If the sum of AGI and unemployment compensation exceeds this base amount, then unemployment compensation is includable in income to the extent it equals the lesser of (a) one half of the individual's combined income (modified AGI plus unemployment compensation) over the base amount, or (b) the amount of unemployment compensation.

In accordance with the President's tax reform proposal, the Republican Alternative repeals the present-law partial exclusion of unemployment compensation from gross income. The repeal would be effective for taxable years beginning after December 31, 1986.

XIV. Two Earner Deduction

Under present law, two single individuals may experience an increase in combined tax liability if they marry and file a joint return. This "marriage penalty" is attributable to the fact that under present law the combined zero bracket amounts (ZBAs) of two unmarried individuals (in 1986, $2,480 plus $2,480 or $4,960) is more than the ZBA of a married couple (in 1986, $3,670). The "marriage penalty" is also attributable to the fact that the combined earnings of two married persons may be taxed at a higher marginal rate than the earnings of two individuals had they remained unmarried. Present law provides that couples filing a joint return may take a deduction from taxable income equal to 10% of the income of the lesser earner, up to a maximum of $3,000.

The Republican Alternative repeals the two earner deduction, effective for taxable years beginning after 1985. The "marriage penalty" problem, however, is addressed through the standard deduction (the desig-

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nation the Republican Alternative gives the zero bracket amount) and the rate schedule.

XV. Earned Income Tax Credit

Under present law, taxpayers with one or more children are allowed a credit of 11 percent of their first $5,000 of earned income, providing a maximum credit of $550. The credit is reduced as the household's income rises over $5,400, and is phased-out completely at an Adjusted Gross Income (AGI) of $11,000. The Republican Alternative increases the credit to 14% of the first $5,000 of earned income, providing a maximum credit of $1,000. The income level at which the credit would begin to phase-out would be raised to $8,000 and would be phased-out entirely at an adjusted gross income of $16,000. The increase would become fully effective in 1986.

XVI. Travel, Entertainment, and Meals

A. Business Meals

Under current law, meal expenses that constitute ordinary and necessary business expenses are deductible if the meal takes place in an atmosphere conducive to business discussion. The Republican Alternative limits deductible meal expenses to 80% of the cost incurred. This rule also would apply to meals furnished on the employer's premises to its emloyees, unless (i) taxed as compensation, (ii) excludable under the subsidized eating facility exclusion or as a de minimis fringe benefit.

The Republican Alternative includes the followng revisions to the rules governing deductibility:

1. The ordinary and necessary test of present law will be replaced by a standard law that will require "a clear business purpose presently related to the active conduct of a trade or business." The law will be clarified to state that no distinction exists between the standards applied to business meals away from home and those incurred while not away from home.

2. Under current law, a business meal is deductible if it takes place in an atmosphere conducive to business discussion regardless of whether or not any business discussion does in fact take place. This rule will be repealed and replaced by a requirement that a substantial and bona fide business discussion must occur immediately before, during or immediately following the meal. In addition, no deduction will be allowed for a meal at which the taxpayer or an employee of the taxpayer is not present (except an individual eating alone while away from home on business).

3. Treasury will be instructed to revise its regulations under 274(d) to require documentary evidence for all deductible meal expenses.

4. The Republican Alternative includes additional penalties for improperly claimed meal deductions. A penalty equal to 50% of the additional amount of tax due will be assessed where the inflated deduction is due to negligence. This will increase to 100% if the excess amount claimed is the result of fraud.

B. Business Entertainment

The Republican Alternative limits all business entertainment deductions to 80% of the cost incurred. In addition, for an entertainment expenses to be deductible it must either be directly related to the act or conduct of the taxpayer's business or directly precede or follow a substantial and bona fide business discussion. In addition, the Republican Alternative makes the following revisions:

1. A taxpayer may not deduct an amount in excess of the face value of any ticket.

2. The 80% deductibility limitation will not apply to sporting events where the net proceeds are donated to charity and the sporting events utilize volunteers for substantially all of the work performed in carrying out the event.

3. No deduction will be allowed for cost incurred in connection with the ownership or leasing of skyboxes.

C. Business travel

1. Under current law, attendance at a convention or seminar for investment purposes may be deductible. The Republican Alternative provides that no deduction will be allowed for attending a convention or seminar which is not directly related to the taxpayer's principal trade or business. Therefore, conventions or seminars for investment purposes will not be deductible.

2. Under current law, business travel expenses may be deducted to the extent that they are not lavish or extravagant. The Republican Alternative provides that the cost of business travel, by means of luxury-water transportation, will be limited to twice the highest Federal per diem times the number of days in transit. The Republican Alternative, however, retains the current law provisions of deducting the cost of attending a convention on a cruise ship and therefore the luxury-water limitation will not affect conventions.

3. Under current law, travel may under some circumstances qualify as a form of education when it maintains or improves existing employment skills. The Republican Alternative provides that no deduction will be allowed for travel that constitutes a form of education.

4. Under current law, travel away from home may give rise to a charitable deduction, when the taxpayer incurs out-of-pocket expenses or the charity provides travel in exchange for a charitable contribution. The Republican Alternative extends to their provision the current law rules applicable to medical deduction for lodgings while away from home. Thus, no deduction will be allowed where there is a significant element of personal pleasure, recreation or vacation.

All travel and entertainment expense provisions are effective for years beginning after December 31, 1985.

XVII. Home Office Expenses

Present law permits taxpayers to deduct home office expenses if use of the home office is for the convenience of the employer and the office is used regularly and exclusively either as the taxpayer's principal place of business or to meet patients, clients or customers. The amount of the deduction cannot exceed the taxpayer's gross income from the business. The Republican Alternative applies these present-law limitations when the taxpayer leases a portion of his home to his employer. The Republican Alternative also limits the amount of the home office deduction for a year to the taxpayer's net income from that business for the year. Unused deductions under this net income limitation may be carried over and deducted in future years against net income from that business. These provisions will be effective for taxable years beginning after 1985.

XVIII. Hobby Losses

Hobby losses are deductible up to the amount of hobby income. Under present law, there is a presumption that an activity is not a hobby if it is profitable in 2 out of 5 consecutive years, or 2 out of 7 consecutive years for horse breeding or racing. The Republican Alternative changes the hobby rule so that an activity is presumed not to be a hobby if it is profitable in 3 out 5 years. The 2-out-of-7 year rule will be retained for horse breeding and racing. This provision will be effective for taxable years beginning after 1985.

XIX. Presidential Campaign Checkoff

The Republican Alternative, as would the President's proposal, repeals the present-law rule permitting individuals to allocate $1 ($2 on a joint return) of their income tax liability to the Presidential Election Campaign Fund.

XX. Political Contributions Tax Credit

Under present law, individual taxpayers may claim a nonrefundable income tax credit equal to one-half the amount of their contributions to political candidates and certain political campaign organizations during the taxable year. The maximum allowable credit is $50 for an individual and $100 for a married couple filing a joint return. Under the Republican Alternative, as provided in the President's tax reform proposal, the political contributions tax credit is repealed effective for taxable years beginning on or after January 1, 1986.

XXI. Charitable Contribution Deduction for Nonitemizers

Under present law, for calendar year 1985, individuals who do not itemize their deductions are permitted to deduct 50 percent of the total amount of their charitable contributions. Prior to 1981, individuals who did not itemize their deductions could not deduct their charitable contributions. The Economic Recovery Tax Act of 1981 extended the charitable contribution deduction to nonitemizing taxpayers. For contributions made in 1982 and 1983, individuals could deduct 25 percent of the first $100 of their charitable contributions, while in 1984, individuals could deduct 25 percent of the first $300 of their charitable contributions. While individuals are limited to 50 percent of their 1985 contributions, no limit applies in 1986 so that 100 percent of all charitable contributions by nonitemizers would be deductible. The charitable deduction for nonitemizers expires at the end of 1986. The Republican Alternative makes the charitable contribution deduction for nonitemizers permanent but modifies the present law fully phased-in deduction by adding a $100 floor for nonitemizers. Therefore, for years beginning after December 31, 1985, 100 percent of charitable contributions made by nonitemizers in excess of $100 will be deductible.

XXII. Extension of Rules for Spouses of Individuals Missing in Action

Prior to 1983 spouses of Vietnam veterans missing in action continued to qualify for tax rates as a married person and could file joint returns until the date a determination of death was made, the income of members of the armed forces who died while missing in action was exempted from tax during the period of service in the combat zone through the year of death, and the individual missing in action was exempt from certain acts such as filing returns and paying taxes. The Republican Alternative makes this treatment permanent retroactively to 1983.

SECTION II. CAPITAL INCOME

I. Capital Cost Recovery

A. Overview

Under present law, owners of depreciable property placed in service since 1980 generally have recovered their costs using the Accelerated Cost Recovery System (ACRS) and, with respect to tangible personal property, have claimed the investment tax credit. The Republican Alternative establishes a new Incentive Depreciation System. In addition, it retains the investment tax credit at a 5% level for domestically produced machinery and equipment used for manufacturing, extraction, and production (including farming). The new rules would generally apply to property placed in service after 1985. Transition rules are provided to reasonably accommodate transactions planned in reliance on current law.

B. Depreciation

1. *Present law*: Under ACRS, asssets are generally classified on the basis of their present class life defined by reference to the midpoint of the Asset Depreciation Range (ADR) which was in use prior to 1981. Under the ADR system, assets commonly used by taxpayers in a wide variety of business, such as cars, trucks, computers and airplanes, were classified separately and assets used in a particular industry, such as the manufacturing of autos or rubber products, were grouped together. In general, ADR midpoints were set at the 30th percentile of holding periods reported in taxpayer surveys. Some assets had no ADR midpoint and taxpayers could use a depreciation period based on facts and circumstances.

ACRS classes are defined as follows:

3-year class: Property with an ADR midpoint of 4 years or less plus tangible personal property used in connection with research and experimentation and certain horses.

5-year class: All tangible personal property not included in any other class, including property without an ADR class, and single purpose agricultural structures.

10-year class: Public utility property with an ADR midpoint of 18.5 to 25 years, certain burners and boilers with an ADR midpoint of 25 years, and certain other property, including mobile homes and theme park property.

15-year public utility property: Public utility property with an ADR midpoint of more than 25 years.

15-year low-income housing: Generally rental housing defined in relation to government housing programs.

One rule defines low-income housing as a project where 85 percent of tenants are eligible for, but do not necessarily receive, Section 8 subsidies. Presently Section 8 eligibility is defined as families whose income is 50 percent or less of area median income, adjusted for family size.

19-year real property: Most buildings and structures.

Depreciation methods are generally 150-percent declining balance switching to straight-line for tangible personal property, 175-percent declining balance switching to straight-line for 19-year real property, and 200-percent declining balance method low-income housing. A half-year convention is used for tangible personal property and a mid-month convention for real property.

A number of special rules are a part of present law. Property leased to tax-exempt entities is depreciated on a straight-line basis over the longer of ADR midpoints (40 years for structures) or 125 percent of the lease term. No more than $4,800 per year may be claimed as depreciation for automobiles. Property used abroad is generally depreciated over ADR midpoints using a 200-percent declining basis. Special rules also apply for the calculation of earnings and profits, property financed with tax-exempt bonds, and in applying minimum tax rules.

2. *The Republican Alternative* System: The following incentive depreciation system is contained in the Republican Alternative:

(a) *Classification and recovery periods.*

Class	ADR midpoints	Recovery period
1	4.5 years and under, plus rental clothing	3
2	5 to 6.5 years, plus all cars and light general purpose trucks, computer-based central station telephone switching, and racehorses.	5
3	7 to 9.5 years	7
4	10 to 12.5 years, plus equipment with no ADR midpoint not elsewhere classified and showhorses.	10
5	13 to 15.5 years, plus single-purpose agricultural structures.	13
6	16 to 19.5 years	16
7	20 to 24.5 years, plus very low-income housing	20
8	25 to 29.5 years, plus telephone distribution plant and similar equipment used by other transmitters of information.	25
9	30 to 35.5 years, plus lower-income housing	28
10	36 years and over, plus structures not elsewhere classified.	28

(b) *Method:* Property in classes 1–9 would use the 200-percent declining balance method switching to straight-line method. Property in class 10 would use the straight-line method. Taxpayers could elect straight-line depreciation for property in classes 1–9 on a class-by-class, year-by-year basis.

(c) *Conventions:* For personal property, both the first and last year depreciation allowances would reflect the half-year convention. For real property, the present law mid-month convention would apply. The mid-month convention would also apply to taxpayers who place more than 40 percent of property acquired during a year in service during the last quarter of the taxable year.

(d) *Indexing:* A taxpayer's depreciation deductions will be increased by the annual inflation rate. This provision will be effective in full for taxable years beginning on or after January 1, 1991, for property depreciated under the incentive depreciation system described in I.B. 2(a) above. Full indexing in excess of 5 percent inflation will be provided effective for taxable years beginning on or after January 1, 1987, and will be replaced by complete indexing beginning in 1991.

(e) *Low-income housing:* Housing described in class 7 will be very low-income housing only if (a) 25 percent or more of the units are rented to families whose income is 80 percent or less of area median income, or (b) 20 percent or more of the units are rented to families whose income is 70 percent or less of area median income. Housing described in class 9 will be lower-income housing only if 40 percent or more of the units are rented to families whose income is 60 percent or less of area median income.

(f) *Property leased to tax-exempt entities.* The present law rules with respect to property leased to tax-exempt entities will be retained. Such property is depreciated over its ADR midpoint on a straight-line basis (40 years for structures).

(g) *Earnings and Profits:* Corporations will determine their earnings and profits using the same rules as for tax-exempt entity leased property. This measure of depreciation would also be used for minimum tas purposes.

(h) *Property used abroad:* Property used abroad, following present law definitions, would be depreciated using the same rules as for earnings and profits and property leased to tax-exempt entitites.

(i) *Lessee leasehold improvements:* A lessee would recover capital costs under the general rules.

(j) *Space property:* Property launched by a U.S. person from the U.S. and used in outer space by a U.S. person would not be treated as foreign-use property. The present law rules for communications satellites would be retained.

(k) *Presidential authority:* A rule similar to the present law rule with respect to the investment tax credit, would be provided enabling the President to deny accelerated depreciation to property produced abroad,

(l) *Property financed with tax-exempt bonds:* Property other than low-income housing, that is financed with tax-exempt bonds, would be depreciated on a straight-line basis over the recovery period for the next higher numbered class. For property ordinarily recovered over 30 years, the recovery period would be 40 years if financed with tax-exempt bonds.

(m) *Expensing:* The present law election to expense rather than depreciate up to $5,000 of personal property would be expanded to $10,000 but eligibility for expensing would be limited to taxpayers whose total investment in tangible personal property is less than $200,000 for the taxable year.

(o) *Mass asset accounts:* The present law election to establish mass asset vintage accounts for certain assets in the same recovery class and placed in service in the same year would be expanded to include all property.

(p) *Normalization for public utility:* The present law normalization rules for public utility property would be maintained. In addition, normalizaion rules would be provided for unamortized investment tax credits and reductions in deferred tax accounts attributable to the reduction in the corporate tax rate.

(q) *Treasury authority to amend ADR midpoints:* The Treasury Department would monitor and analyze actual experience with all tangible depreciable assets so that, on a prospective basis, ADR midpoints could be revised and established in the case of existing assets which have no ADR classifications and new assets that emerge from the process of technological change. The Republican Alternative directs the Treasury to study and revise as appropriate, on a prospective basis within one year of date of enactment, the classification of:

(i) machine tools
(ii) scientific instruments
(iii) mobile houses and offices
(iv) telephone distribution plant
(v) electric transmission property
(vi) gas distribution facilities
(vii) special purpose agricultural structures

(r) *Luxury cars:* The present law limitations would be retained.

(s) *Nondepreciation methods of cost recovery:* The present law rules with respect to the recovery of costs by the units of production method and income forecast method would be retained.

C. *Investment Tax Credit:* Under present law, a credit against income tax liability is allowed for up to 10 percent of a taxpayer's investment in tangible personal property (6 percent for property in the 3-year ACRS class). The Republican Alternative retains

the investment tax credit at a 5% level only for domestically produced (i.e, more than 50% domestic content) machinery and equipment used in manufacturing, extraction and production (including farming). As under current law rules, it generally will apply only to property used in the U.S. It will not apply to the portion of mineral exploration and development expenses treated as class 2 property.

D. *Finance Leases:* The Republican Alternative repeals the finance lease rules of present law, which generally are scheduled to go into effect after 1987. This would be effective for agreements entered into after 1985.

E. *Gain on Disposition:* Under present law, gain on personal property is generally recaptured as ordinary income to the extent of previously allowed depreciation deductions. Any additional gain is treated as capital gain. For residential real property held for more than one year, gain is recaptured only to the extent that accelerated depreciation deductions exceed straight-line deductions. Recapture for low-income housing is phased out after property has been held for a prescribed period. There is no recapture if the taxpayer elected to recover the property's cost using the straight-line method. Otherwise, the full amount of depreciation—to extent of gain—is recaptured.

The Republican Alternative provides that all gain on disposition of depreciable personal property to the extent of previously allowed depreciation will be taxed as ordinary income. In the case of real estate, only the excess of accelerated depreciation over straight-line will be recaptured.

F. *Expensing of the costs of removing architectural barriers:* The present law provision, which will not apply for taxable years beginning after December 31, 1985, permitting expensing for up to $35,000 of expenditures to remove architectural and transportation barriers to the handicapped and elderly will be extended until December 31, 1987.

G. *Effective Date.* The changes in the capital cost recovery rules generally will be effective for property placed in service after December 31, 1985. Existing law ACRS will apply to:

(i) property that is constructed, reconstructed, or acquired pursuant to a written contract that was binding as of September 25, 1985, or

(ii) property constructed or reconstructed by the taxpayer, if the lesser of $1 million or 5 percent of cost has been incurred or committed by September 25, 1985, if construction commenced by that date, or

(iii) an equipped building or a plant facility, if construction has commenced as of September 25, 1985, pursuant to a written specific plan, and more than half of the cost has been incurred or committed by that date, and

(iv) property or project is placed in service by July 1, 1986, in the case of Class 1 and Class 2 property; by January 1, 1989 in the case of Class 3-6 property; and January 1, 1991, in the case of Class 7-10 property.

(v) ACRS would apply to property that qualifies under (i), (ii) or (iii) and (iv), but is sold and leased back by the person initially committed to acquire the property within a 3-month window.

In addition, the investment tax credit will be available under the same circumstances in which present-law depreciation rules will continue to apply.

A taxpayer will be required to spread the credit earned on transition property ratably over 5 years. A basis adjustment will be required for the full investment credit in the first taxable year.

Finally, additional transition rules are provided in X.

II. Oil, Gas, and Geothermal Taxation

A. Intangible drilling costs

Under present law, intangible drilling and development costs (IDCs) generally may be expensed or capitalized at the election of the operator of an oil or geothermal property. IDCs qualify for expensing whether incurred in the United States or in a foreign country. In the case of integrated producers, 80 percent of IDCs may be deducted currently and the remaining 20 percent must be amortized over a 36-month period beginning with the month the costs are paid or incurred. Costs with respect to a nonproductive well ("dry hole") may be deducted currently by any taxpayer in the year the dry hole is completed. The Republican Alternative retains current law treatment of IDCs.

B. Depletion for Oil and Gas

Under present law, depletable costs with respect to oil and gas properties must be recovered using whichever of two methods provides the higher deduction: cost depletion or percentage depletion. Under cost depletion, the fraction of depletable costs recovered is equal to the ratio of hydrocarbons produced during the taxable year to all remaining reserves. Under percentage depletion, 15 percent of the taxpayer's gross income is allowed as a deduction in any taxable year, not to exceed (1) 50 percent of net income from the property, or (2) 65 percent of overall taxable income. Percentage depletion for oil and gas properties is limited to independent producers and royalty owners for up to 1,000 barrels of daily production.

The Republican Alternative retains present percentage depletion for stripper oil and gas wells owned by independent producers and royalty owners. In addition, it phases down percentage depletion on nonstripper oil and gas wells for royalty owners to 5% over two years. As a result, percentage depletion for non-stripper wells of royalty owners will be 7.5% in 1986 and 5% in 1987 and thereafter. Percentage depletion for other wells will be eliminated. Percentage depletion will not be allowable for leases, bonuses, advance royalties, or similar payments with respect to oil and gas properties. Similar rules would be provided for geothermal properties.

The provision generally will be effective for production on or after January 1, 1986.

C. Tertiary Injectants

The Republican Alternative retains the present law provision under which expenditures for tertiary injectants used to enhance oil and gas production may be deducted in the year of injection.

D. Alternative Minimum Tax

The Republican Alternative retains present law treatment of IDCs for both the individual and corporate alternative minimum tax except as provided in the Super Minimum Tax.

III. Rehabilitation Expenses for Low-Income Housing (Section 167(k))

Under present law, taxpayers may elect to amortize over a 5-year period certain qualifying expenditures for additions or improvments to low-income rental housing with a useful life of at least 5 years (other than hotels or other similar facilities primarily serving transients). Expenditures in any year for any dwelling unit are eligible only if the aggregate amount of expenditures for such unit exceeds $3,000 over two consecutive taxable years. Expenditures for any dwelling unit are generally not eligible to the extent that they aggregate more than $20,000 (in certain cases, $40,000). Low income is defined as 50 percent or less of area median income following rules for section 8 eligibility. The election is scheduled to expire for expenditures incurred after December 31, 1986.

Under the Republican Alternative, present law will be retained, made permanent, and modified to establish a single $30,000-per-unit expenditure limit.

With respect to 5-year amortization for rehabilitation expenses for low-income housing, the modification to the aggregate limit would apply to permit additional expenditures, over the present $20,000 limit in the case of expenditures paid or incurred on or after January 1, 1986. Under a transitional rule, the $40,000 limit would continue for expenses incurred:

1. pursuant to a written contract that was binding as of September 25, 1985; or

2. with respect to rehabilitation commenced as of September 25, 1985, if 5 percent of the cost has been incurred or committed by that date,

provided in each case the additions or improvements are placed in service before Janaury 1, 1988.

IV. Research and Experimental Expenditures

A. *Incremental research tax credit:* Under present law, an incremental tax credit applies to certain research and experimental expenditures paid or incurred before January 1, 1986. The taxpayer may claim a 25-percent tax credit for the excess of (1) qualified research expenditures for the taxable year incurred in carrying on a business over (2) the average amount of the taxpayer's yearly qualified research expenditures in the preceding three taxable years.

The Republican Alternative extends the research credit for an additional three years, through December 31, 1988, at a 20-percent rate. The definition of research or experimental expenditures will be clarified to distinguish those activities from non-research activities for purposes of the credit. Under the Republican Alternative, leased research equipment will be treated the same as purchased equipment so that rental and similar payments for personal property (other than payments to others for use of computer time) will be ineligible for the credit.

The Republican Alternative also provides a new university basic research credit at a 20% rate. The new credit will apply to the excess of (1) cash expenditures by corporations for basic research to be performed by universities or tax-exempt scientific research organizations over (2) a fixed research expenditure floor plus a "maintenance-of-effort" floor reflecting charitable contributions to universities, etc., for purposes other than research. In addition, the Republican Alternative expands eligible donees for the present law augmented charitable deduction for certain research equipment donations to include tax-exempt scientific research organizations.

The Republican Alternative applies the general limitation on business credits to the research credits. Consequently, these and other business credits earned by a taxpayer can be used to reduce up to 75 percent of tax liability in excess of $25,000.

The provisions generally will apply to taxable years beginning after December 31, 1985. The credit may not apply to expenditures paid or incurred after December 31, 1988.

B. *Minimum tax—Research expensing:* Under present law, to the extent expensing (under section 174 of the Code) exceeds the deduction which could be claimed under 10-year amortization, the difference is a preference for purposes of the individual minimum tax and solely for personal holding companies for purposes of the corporate add-on minimum tax. The Republican Alternative continues to treat the excess over 10-year amortization as a preference item for individuals. The excess will no longer be treated as a preference for any corporation.

This provision will apply for taxable years beginning after December 31, 1985.

C. *Depreciation of research equipment:* The Republican Alternative depreciates equipment used in research under the rules applicable to other equipment as described in I. above.

V. Tax Credit for Rehabilitation Expenditures

Under present law, a three-tier investment tax credit is provided for qualified rehabilitation expenditures. The credit is 15 percent for nonresidential buildings at least 30 years old, 20 percent for nonresidential buildings at least 40 years old, and 25 percent for certified historic structures (including residential buildings). A certified historic structure is defined as a building (and its structural components) that is listed in the National Register of Historic Places, or is located in a registered historic district and certified by the Secretary of the Interior.

The rehabilitation tax credit is available only if the taxpayer elects to use the straight-line method of cost recovery with respect to rehabilitation expenditures. If the 15- or 20-percent investment credit is allowed for qualified rehabilitation expenditures, the basis of the property is reduced by the amount of credit earned (which reduced basis is used to compute cost recovery deductions). The basis is reduced by 50 percent of the 25-percent credit allowed for the rehabilitation of a certified historic structure. Expenditures qualify for the credit only if incurred in connection with a substantial rehabilitation. The test of substantial rehabilitation generally is met if the qualified expenditures during the 24-month period ending on the last day of the taxable year exceed the greater of the adjusted basis of the building as of the first day of the 24-month period or $5,000.

The Republican Alternative modifies the rehabilitation credit by creating a two-tier tax credit for rehabilitation expenditures applicable to property placed in service on or after January 1, 1986.

The credit will be 20 percent for certified historic structures (as defined under present law) and a 10-percent credit for nonresidential buildings constructed before 1935. The basis of the property will be reduced by the full amount of the credits earned. Under the Republican Alternative proposed modification of marginal tax rates, the reduction in the current law 25-percent credit for historic structures and the 15-percent investment credit for non-historic structures to 20 percent and 10 percent provides an equivalent offset to income as allowed under present law.

These changes are generally effective for property placed in service after December 31, 1985, except as provided in the special transition rules provided in IX.

VI. Limitations on Business Tax Credits

Under present law, business tax credits earned by a taxpayer can be used to reduce up to 85 percent of tax liability in excess of $25,000. The Republican Alternative reduces the 85-percent limitation to 75 percent for taxable years beginning after 1985.

VII. Five-year Amortization of Trademark and Trade Name Expenditures

Under present law, taxpayers may elect to amortize over a period of at least 60 months expenditures for the acquisition, protection, expansion, registration, or defense of a trademark or trade name, other than an expenditure which is part of the consideration for an existing trademark or trade name.

The Republican Alternative repeals the election. Trademark and trade name expenditures would, therefore, be capitalized and generally recovered on a disposition of the asset.

The repeal of this provision will be effective for expenditures paid or incurred after December 31, 1985. Under a transition rule, present law would continue to apply to expenditures incurred:

1. pursuant to a written contract that was binding as of September 25, 1985; or

2. with respect to construction, reconstruction, alteration, improvement, replacement or restoration commenced as of September 25, 1985, if the lesser of $1 million or 5 percent of cost has been incurred or committed by that date, provided in each case the improvements are placed in service before January 1, 1985.

VIII. Fuel Excise Tax Exemption for Taxicabs

Under prior law, taxicabs were eligible for a 4-cents-per-gallon exemption from motor vehicle fuels taxes. That provision expired on September 30, 1985. The Republican Alternative reinstates the exemption on a permanent basis.

IX. Hard Minerals

A. *Exploration and development costs:* Under present law, exploration and development costs associated with mines and other hard mineral deposits may be deducted currently at the election of the taxpayer. Exploration (but not development) costs which have been deducted currently either (1) are applied to reduce depletion deductions, or (2) at the taxpayer's election, are recaptured in income once the mine begins production, and then recovered as a depletable expense.

In the case of corporations, only 80 percent of hard mineral exploration and development costs may be expensed. The remaining 20 percent must be recovered over the 5-year ACRS depreciation schedule (beginning in the year that exploration and development costs are paid or incurred), with an investment tax credit for domestic costs. Foreign exploration costs must be capitalized to the extent taxpayer's foreign and domestic exploration costs exceed $400,000.

The Republican Alternative generally retains present law, but requires recapture of both expensed development and exploration costs at the time the mine begins production. Recaptured amounts, and development costs incurred after the mine begins production, will be recovered in the same manner as depreciable property in class 1 under the Republican Alternative depreciation proposal (3-year recovery period). The 20 percent of corporate exploration and development costs that are not expensed will be recovered in the same manner as depreciable property in class 2 (5-year recovery period), beginning in the year that costs are paid or incurred.

Foreign exploration and development costs will be recovered, at the taxpayer's election (1) over a 10-year, straight-line amortization schedule, or (2) as part of the basis for cost depletion.

The provisions would be effective for costs paid or incurred after 1985.

B. *Depletion of hard mineral deposits:* Under present law, depletable costs with respect to hard mineral deposits must be recovered using the greater of (1) cost depletion, or (2) percentage depletion at the applicable statutory rate for the mineral. Percentage depletion may not exceed 50 percent of net income from the property in any taxable year. For corporations only, percentage depletion of coal or iron ore, in excess of adjusted basis (determined without regard to the depletion deduction for that year), is reduced by 15%.

The Republican Alternative continues existing law percentage depletion rates for (1) stone used or sold for use by the mine owner or operator as dimension stone or ornamental stone and (2) minerals used or sold for use in agricultural products (e.g., fertilizer). The Republican Alternative phases down ratably to 5 percent. For these minerals, the 50 percent of net income limitation also will be phased down ratably to 25 percent in 1988. Minerals that presently have a 5 percent depletion rate will be phased out over 3 years. For corporations, percentage depletion of coal or iron ore, in excess of adjusted basis would continue to be reduced by 15 percent.

The provisions will be effective for production on or after January 1, 1986.

X. Additional Transition Rules

In addition to the transition rules set forth elsewhere in this document, the transition rules set forth below will apply.

A. Depreciation and Investment Tax Credit

1. *General Binding-Contract Rule.*—Except for qualified Solid Waste Disposal Facilities, the binding contract rule would be expanded to cover a binding contract to provide or construct property under a lease, license, supply, "permanent financing," or service contract. The placed-in-service window would be extended for Classes 3-6 property for two years (to January 1, 1989) and for Classes 7-10 property for three years (to January 1, 1991). The September 25th transition rule date would be determined by reference the Eastern daylight time zone of the United States. Current law ITC would continue to apply to all qualified progress expenditures claimed on returns for 1985 and earlier years under current section 46(d) regardless as to when the property is ultimately placed in service. In addition, current law ITC would continue to apply, until the close of the applicable placed-in-service window period, for property for which the taxpayer has made a QPE election for pre-1986 years and which the taxpayer anticipates will be placed-in-service prior to the close of the applicable window period. If the taxpayer subsequently determines that the property will not be placed-in-service by the end of the applicable window period, OEP's taken during the window period will be recaptured in full, with the recapture occurring in taxable years ending on or before September 30, 1990.

2. *Federal Energy Regulatory Commission approval.*

Property which is part of a project which received FERC approval before September

26, 1985, will receive transition relief from changes in the capital cost recovery rules and ITC.

3. *Special Rule for Solid Waste Disposal Facilities.*

A solid waste disposal facility would receive transition relief from changes in the capital cost recovery rules and ITC if (1) on or before December 31, 1985, a service recipient of the services of the facility entered into a binding contract to pay for the services to be provided by the operator of such facility, or (2) a service recipient or a governmental unit, or an entity related to either, made a substantial financial commitment of at least $200,000 to the financing or construction of such facility.

4. *Project-specific transition exceptions.*

Certain projects currently in progress would be entitled to ACRS/ITC transition relief subject to the five year spread and basis adjustment rules.

a. Provide relief in the case of improvements made to property purchased under a binding contract entered into pursuant to resolution adopted by a City-Parish Government on October 23, 1985, regarding improvements and upgrading of a parish-wide waste water system and facilities related thereto.

b. Provide relief of a hydroelectric project on the Mississippi River which received FERC approval on January 27, 1982. This relief rule would allow the developer, at its election, to (1) enter into a sale leaseback with a third-party purchaser/lessor, under which the developer's subsidiary would be the lessee, or (2) enter into a partnership with outside investors.

c. Provide relief for a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

B. Tax Credit for Rehabilitation Expenditures

1. Transition relief would be provided for rehabilitation expenditures incurred in connection with property (including leasehold interests) that were acquired or under a binding contract to be acquired as of September 25, 1985, if (a) the rehabilitation expenditures were incurred pursuant to a written contract that was binding on the date of Committee action, or (b) applications for certification of both historic significance ("Part 1") and of the rehabilitation ("Part 2") are filed with the Interior Department or its designate on or before such a date, or the lesser of $1 million or 5 percent of the cost of the rehabilitation is incurred or required to be incurred pursuant to a binding contract on or before such date, and (c) if the property is placed before January 1, 1991.

2. *Project-Specific Transition Exceptions.*

Certain projects currently would be entitled to transition relief.

a. Provide historic tax credit transition relief for the rehabilitation of a grouping of creole townhouses built in 1849-50 and situated on Jackson Square.

b. Provide relief in the case of a textile mill building listed on the National Register and containing approximately 365,000 square feet, the site of which was donated to a State on November 6, 1981. Relief would be provided at the current level of 25 percent for the historic tax credit.

C. Accounting

Provide relief from the pledge of an installment obligation rule for the pledge of approximately one-third of the face amount of $9 million in installment notes on or before December 31, 1985, where such pledge relates to a binding contract dated June 8, 1985, for the sale of a 369-unit apartment complex.

SECTION III. CORPORATE TAXATION: ESOPS

I. Corporate Rate

A. *Reduced Rates*: The Republican Alternative provides the following schedule of corporate tax rates:

Taxable income:	Corporate tax rate (percent)
0 to $50,000	15
$50,000 to $75,000	25
Over $75,000	23

B. *Surtax Exclusion Phase-Out*: The graduated corporate rates will be phased out for corporations with taxable income in excess of $100,000 by imposing an additional 5-percent tax on income between $100,000 and $350,000.

C. *Phase-In of Rate Reduction.*

The reduction of the corporate rate to 33% is phased-in over 5 years according to the following schedule for taxable years of taxpayers beginning in:

	Percent
1986	42
1987	38
1988	36
1989	36
1990	35
1991 and thereafter	33

In addition, the current law special rate of 28% on capital gains for corporations will be modified as follows:

	Percent
1986	34
1987	34
1988	34
1989	34
1990	34
1991 and thereafter	33

The basis of capital assets will be indexed beginning in 1991.

A binding contract exception from changes in the corporate capital gain rate will be provided for sales or other dispositions pursuant to binding contracts entered into on or before December 2, 1985.

II. Dividends Exclusion for Individuals

Under present law, the first $100 of qualifying dividends received by an individual ($200 received by a married couple filing a joint return) is excluded from income. In general, dividends from domestic corporations qualify for this exclusion. The Republican Alternative repeals this exclusion for dividends received in taxable years beginning after December 31, 1985, regardless of when paid by the corporation.

III. Special Limitations on Net-Operating Loss ("NOL") Carryovers

Under present law, if one or more of the 10 largest shareholders increases stock ownership in a loss corporation by 50 percent or more, NOL carryovers are eliminated if the loss corporation fails to continue the conduct of a trade or business that was conducted before the change in ownership. A 2-year period for testing ownership changes applies. The constructive ownership rules of section 318 also apply, so that a purchase from one whose stock would be attributed to the purchaser would be disregarded, with certain modifications. Creditors are not treated as shareholders for this purpose.

In the case of a tax-free reorganization, limitations apply if the loss-corporation shareholders' continuing interest is less than 20 percent. The limitation requires reduction of NOL carryovers by 5 percent for each 1 percent by which the continuing interest is below 20 percent. Creditors who receive stock in Title II or certain other insolvency reorganizations are treated as continuing shareholders.

Under present law, NOL carryovers are subject to disallowance under section 269 following acquisition of 50 percent of the stock in a corporation or a tax-free acquisition of assets if the principal purpose of the acquisition was tax avoidance. In addition, if an acquired corporation joins the acquiring corporation in the filing of a consolidated tax return by an affiliated group, the use of the acquired corporation's pre-acquisition NOLs would be limited to the acquired corporation's income. A similar rule would apply if control is acquired of the common parent of an affiliated group. Furthermore, under present law ownership changes are measured by reference to all shares, except nonvoting stock that is limited and preferred as to dividends. Rules similar to the present law rules described above governing NOL carryovers would apply to the carryover of credits and capital losses.

The Republican Alternative provides that limitations for both taxable purchases and tax-free reorganizations will apply after a change in ownership of more than 50 percent of the value of a loss corporation's equity. Furthermore, NOL carryovers will be eliminated unless the loss corporation satisfies the requirements of a continuity-of-business-enterprise concept during the 2-year period following the acquisition year will be limited to a prescribed rate of return on the value of the loss corporation equal to the tax-exempt bond rate for long-term bonds. A 3-year period will be used to test ownership changes. For taxable purchases, only 5 percent (or greater) shareholders will be taken into account, with all less-than-5-percent shareholders treated as one 5-percent shareholder. Furthermore, the constructive ownership rules of present law will continue to apply, except a corporation will be treated as owning stock owned by a shareholder in the proportion that the value of the shareholder's stock in the corporation bears to the value of all outstanding stock, and stock underlying an option will be attributed to the person whose ownership would cause the limitations to apply. The Republican Alternative also retains the present law rules regarding tax-motivated transactions under section 269 and the present law rules governing the filing of a consolidated tax return.

In addition, the Republican Alternative applies the limitations to built-in gains and losses (including built-in deductions), subject to a 15-percent *de minimis* rule. A presumption will be provided that there is a built-in loss where a controlling stock interest is acquired for a price that is substantially less than the asset basis. The Republican Alternative also provides that ownership changes will be measured by reference to "participating stock" (i.e., stock that represents an interest in a corporation's growth potential). Furthermore, stock received in exchange for a creditor's claim will not be treated as a continuing stock interest. Consistent with these provisions appropriate rules will govern in cases of insolvent corporations. The Republican Alternative also provides that if at least one-third of a loss corporation's assets consist of passive assets,

the income against which NOL carryovers could be used will be subject to reduction. In addition, the value of the loss corporation's equity will be reduced by the value of capital contributions made within three years of the acquisition date.

Rules similar to these NOL carryover rules will apply to credits and capital losses, except that foreign tax credit carryovers will be limited pursuant to regulations. Generally, these rules will be effective for acquisitions on or after January 1, 1986, and reorganizations pursuant to a plan adopted on or after January 1, 1986. Special transition rules will be provided, however, as set forth below.

1. *Bankruptcy proceedings.*—Apply present law rules to ownership changes resulting from bankruptcy proceedings if (a) plan of reorganization was filed with the Bankruptcy Court before September 25, 1985, or (b) the bankruptcy reorganization occurs before January 1, 1989, but only with respect to the amount of claims held by persons who were creditors as of September 25, 1985, and who receive stock in the reorganization.

2. *Certain plans.*—Apply present law rules if (a) the stock of a corporation is acquired pursuant to a plan of divestiture, which identifies the corporation and its assets, agreed to by the Board of Directors of the corporation's parent corporation on or before September 25, 1985, (b) if a merger occurs pursuant to a merger agreement, approved by both corporations' Board of Directors, entered into on or before September 23, 1985, and further approved by the Federal Home Loan Bank Board on October 4, 1985, or (c) if stock (valued at $28 million as of October 8, 1985) of a publicly traded company is acquired pursuant to an agreement approved by the Boards of Directors of both the acquired company and the acquiring company before January 1, 1986, which agreement provides for the exchange of common stock of one corporation for the other, such that the shareholders of the acquired company receive no more than 15 percent of the common stock in the surviving corporation.

3. *Certain transactions involving savings and loan institutions.*—Apply present law rules to an ownership change resulting from the conversion of a mutual savings and loan association, holding a federal character dated March 22, 1985, to a stock savings and loan association pursuant to the rules and regulations of the Federal Home Loan Bank Board.

IV. Corporate Liquidations

As a general rule, under present law corporate earnings from sales of appreciated property are taxed to the corporation when the sale occurs, and again to the shareholders when the net proceeds are distributed as dividends. An exception to this rule permits nonrecognition of gain by corporations on certain distributions of appreciated property to their shareholders and on certain liquidating sales of property. (This exception is named for a U.S. Supreme Court case, *General Utilities and Operating Co.* v. *Helvering.*) The exception's effect is to allow appreciation in property accruing during the period it was held by a corporation to escape tax at the corporate level. At the same time, the shareholders or third-party purchaser obtains a stepped-up, fair market value basis under other provisions of the Code.

The Republican Alternative requires recognition of gain at the corporate level on liquidating sales and distributions of appreciated property, thus repealing the *General Utilities* doctrine. An exception would be provided for gains or distributions and sales of certain types of property to the extent allocable to shares held by 10-percent or more individual shareholders, under rules similar to those provided in present law Code section 311(d), relating to nonliquidating distributions.

The new rules would be effective for distributions or sales on or after November 20, 1985. A plan would be adopted when the board of directors has, before November 20, 1985, adopted a resolution to solicit shareholders authority for the transactions, or the shareholders, or the board have approved the transaction, whichever is earlier, provided the transaction is commenced before January 1, 1988. Transactions pursuant to acquisitions would be deemed pursuant to a plan adopted before November 20, 1985, if (1) the offeror has agreed to purchase, by a tender offer open before November 20, 1985, a majority of the voting stock of the company, or (2) the board of directors has adopted a resolution approving the acquisition or recommending approval to the shareholders. In either instance, the transaction must be commenced before January 1, 1988. In addition, a plan is deemed adopted if a ruling request was submitted to the Internal Revenue Service before November 20, 1985, and the transaction occurs before January 1, 1988, or within 90 days of the ruling.

V. Employee Stock Ownership Plans (ESOPS)

Under current law, an Employee Stock Ownership Plan (ESOP) is a kind of qualified pension plan. Unlike qualified plans generally, the assets of the ESOP are invested primarily in the securities of the employer.

Also, current law provides certain tax incentives for employers to maintain ESOPs in addition to those generally provided to qualified pension plans. In the case of payroll-based tax credit ESOPs, the employer is entitled to a tax credit for contributions to the ESOP, up to 0.5 percent of the compensation of the participating employees accrued in 1985, 1986, or 1987. The credit is scheduled to expire after 1987.

In addition, four provisions were added by the Deficit Reduction Act of 1984:

(1) banks, insurance companies, and other commercial lenders may exclude half the interest paid or accrued on a loan used by an ESOP to purchase certain securities;

(2) corporations may deduct the dividends actually paid to participating employees with respect to employer stock and allocated to their ESOP accounts;

(3) taxpayers who sell employer stock to an ESOP may defer capital gains tax on the gain, if immediately after the sale the ESOP owns more than 30 percent of the employer stock, and the proceeds are invested in the securities of a private sector employer; and

(4) an ESOP may assume the estate tax liability of a decedent if the decedent's securities are transferred to an ESOP.

Under current law, an ESOP must pass through voting rights to employees on their allocated shares of employer securities if these securities are shares of a publicly traded corporation. However, in the case of employer securities which are shares of privately-held corporations, voting rights are passed through to employees only with respect to "major" corporate issues—generally, acquisitions, consolidations, and sales of employer shock in both publicly traded and privately-held corporation, voting rights are passed through only on allocated stock. Generally, stock is not allocated to employees all at once, but according to a specified schedule.

Under current law, employees may not sell or otherwise transfer their allocated ESOP shares until these shares are distributed to them. Distributions from an ESOP to employees must begin no later than the later of the date on which (a) the employee reaches the age of 65 or the normal retirement age specified in the ESOP agreement (b) the 10th anniversary of the year the employee began plan participation; or (c) the date the employee leaves the service of the employer. If the employee stock is not publicly traded, the employee may "put" the shares to the employer folllowing distribution.

The Republican Alternative terminates for years after 1985 the tax benefits for ESOPs added by the Deficit Reduction Act of 1984. In addition, the Republican Alernative repeals the payroll-based ESOP tax credit effective for compensation paid or accrued after December 31, 1985, rather than let the credit expire after 1987, as scheduled under present law.

In addition, the Republican Alternative modifies somewhat employees' rights to vote their ESOP shares, and to diversify their holdings in their allocated ESOP accounts. The Republican Alternative requires full pass-through of voting rights with respect to all issues on allocated shares of closely-held companies, to employees with at least 10 years of participation in the plan. The Republican Alternative ensures that the one-man-one-vote concept can be accommodated in cooperative companies utilizing the ESOP incentives. The Republican Alternative requires that an ESOP allow each participant to diversify 25 percent of his or her account balance upon attaining age 55 and 10 years of participation; and one-third of the remaining balance after attaining age 60, and 10 years of participation.

The Republican Alternative also requires that vesting in an ESOP be no slower than 20 percent per year after the fifth year of participation.

The Republican Alternative imposes a nondiscrimination rule that no more than one-third of employer contributions for a year are allocated to officers, 10-percent shareholders, or the employer's highly compensated employees.

The Republican alternative also requires and ESOP to use an independent appraiser and requires that the appraiser's name be included in plan documents filed with the Internal Revenue Service.

VII. Dividends-Received Deduction

Under present law, corporations generally are entitled to an 85-percent dividends received deduction, and a 100-percent dividends received deduction for dividends received from certain affiliates. The dividends received deduction is limited for dividends from a foreign corporation, based upon the extent of a foreign corporation's earnings subject to U.S. tax. The deduction is also limited for dividends on certain "debt financed portfolio stock."

Under the Republican alternative, the dividend received deduction will be reduced to 80% in 1986 and will phase-down at 1% per year to 75% in 1991 and years thereafter. The 100-percent dividends received deduction is not affected.

SECTION IV. TAX SHELTERS

A. At-Risk Rules

Under present law, the at-risk rules limit the losses, in excess of income with respect to an activity, which individuals and closely-held corporations may deduct, to the amount the taxpayer has actually invested in the activity, including borrowed amounts to the extent the taxpayer is personally liable to repay or has pledged other non-financed property (except property used in the activity) as security, and has not borrowed the funds from a person with an interest in the activity other than as a creditor. Closely-held corporations engaged in certain equipment leasing activities and in certain business activities are excepted from the rules. The at-risk rules apply to all activities except the holding of real estate.

The Republican Alternative applies the at-risk rules to the holding of real-estate, with an exception for unrelated third-party financing similar to an analogous provision in the present law investment tax credit rules. This rule will be effective for losses attributable to property acquired after December 31, 1985.

B. Interest Limitations

Under present law, the deduction for investment interest of non-corporate taxpayers is limited to the sum of $10,000, plus net investment income, plus certain deductible expenditures in excess of rental income from net lease property. Investment interest subject to the present-law limitation is interest on debt to purchase or carry investment property. Interest deductions not allowed due to this limitation carry over to future years.

For purposes of determining the present law limitation, net investment income means investment income net of investment expense. Investment income means interest, dividends, rents, royalties, short-term capital gain from disposition of investment property and depreciation recapture not from the conduct of a trade or business. Investment expense means deductible investment expenses (other than interest), except that straight-line (not accelerated) depreciation over useful life, and cost (not percentage) depletion are used in calculating investment expenses. Property subject to a net lease is treated as an investment, unless the trade or business deductions exceed 15 percent of the rental income.

In addition, interest on rental property used for both business and personal purposes (for example, certain vacation homes) is not subject to the interest limitation. Expenses of such rental property are generally allocated to business use in the ratio of the number of days the property is rented at a fair rental to the number of days the property is used in the taxable year.

The Republican Alternative provides that the deduction for all nonbusiness interest of noncorporate taxpayers will be limited to the sum of (i) interest on debt secured by the taxpayer's principal residence plus an additional residence owned by the taxpayer plus (ii) net investment income (plus certain deductible expenditures in excess of rental income from net lease property) plus (iii) $10,000 ($20,000 in the case of a joint return). Up to six weeks of time-sharing arrangements for residential property can count as one residence, as can a residential lot. Housing cooperative may qualify under (i) subject to appropriate limitations.

The Republican Alternative further provides that nonbusiness interest subject to the limitation will include all interest not incurred in a trade or business, inluding the taxpayer's share of interest of S corporations in whose management he does not actively participate, the taxpayer's share of interest expense of limited partnerships in which he is a certain trusts and other entities in which he is a limited entrepreneur. In addition, investment expense would include the depreciation and depletion the taxpayer actually utilized rather than non-incentive depreciation or cost depletion, so that the net investment income portion of the limitation reflects the taxpayer's actual net investment income subject to tax.

With respect to the present law rules regarding net leases, the Republican Alternative will include the value of certain personal services peformed by individual direct owners and general partners of general partnerships. In addition, certain circumstances will be taken into account in determining whether trade or business deductions exceed 15 percent of the rental income. Interest on rental property used for both business and personal purposes would be generally allocated between business and nonbusiness use in the ratio of the number of days the property is rented at a fair market rental to the number of days the property is used in the taxable year.

Subject to a phase-in rule, this provision would be effective for interest paid or incurred in taxable years beginning on or after January 1, 1986, regardless of when the obligation was incurred. The phase-in rule provides that interest not subject to the limitation under present law, but which would be subject to the expanded limitation, would become subject to the limitation ratably (10 percent per year) over 10 years commencing with taxable years beginning in 1986. Thus, 100 percent of interest subject to the expanded limitation would have become subject to it in taxable years commencing in 1995.

In addition, the Republican Alternative includes a change relating to the allocation of interest and taxes for housing cooperatives. Under preset law, expenses of housing cooperatives for interest and taxes generally are required to be allocated among the tenant-stockholders in accordance with their stock holdings. The Republican Alternative provides that where a housing cooperative charges each tenant-stockholder with a portion of the cooperative's interest and taxes in a manner that reasonably reflects the cost to the cooperative of the interest and taxes attributable to such tenant-stockholder's unit, the housing cooperative may elect to have such separately allocated charges utilized for income tax purposes.

C. Reporting on Real Estate Sales

Under the Republican Alternative information reporting of the proceeds of real estate sales will be required for sales on or after December 31, 1985. The report will be filed by the person responsible for closing the transaction. No such reporting is required under current law.

D. Reform and Modernization of Real Estate Investment Trust (REIT) Provisions

Under current law real estate investment trusts are governed by a variety of out-dated and arcane restrictions. REITS operate frequently to provide an opportunity for small investors to invest in diversified real estate investments. While REITS do not involve the magnitude of risks associated with limited partnership real estate investments, they also do not offer the same magnitude of tax benefits because, unlike limited partnerships, they cannot pass through losses to their investors.

The Republican Alternative provides a number of technical amendments to the existing law REIT provisions which are generally intended to modernize and make more efficient their operation. A summary of the change is set forth below.

1. *Revision of the way the REITs compute "earning and profits."* When Congress created the Accelerated Cost Recovery System ("ACRS") in 1981, it provided that the earnings and profits—E&P—of a corporation—including a REIT—must be computed as though real estate assets were depreciable over 35 years rather than over the 15 year cost recovery period applicable in determining taxable income. With enactment of the Deficit Reduction Act of 1984, the new 18-year cost recovery period for most real property is accompanied by a 40-year earnings and profits rule. The same rules will apply under the 28 year recovery period for real estate provided by the Republican Alternative. These special E&P rules prevent corporations from making distributions of cash flow attributable to accelerated cost recovery that would constitute tax-deferred return of capital rather than ordinary income dividends in the hands of shareholders.

Although prevention of the sharing of tax benefits with shareholders may be valid in the typical corporate context, the earnings and profits rule is inconsistent with REIT conduit tax treatment and discriminates against the small investor for whom the REIT vehicle was created to provide the advantages of direct investment in real estate. Under the Republican Alternative the REIT tax provisions would be amended so that a REIT may compute depreciation for earnings and profits purposes using essentially the same useful life prescribed in computing taxable income. Thus, REIT investors would enjoy the benefits of tax deferral inherent in ACRS that are otherwise available to individuals who invest in real estate directly or in partnerships.

2. *Repeal of the section 291 20 percent cutback of corporate tax preferences as it applies to REITs.* The Tax Equity and Fiscal Responsibility Act of 1982, as recently amended, cuts back on corporate tax preferences including capital pursuant to real property. Codified in section 291 of the Code, the provision partially accounts for the REIT conduit concept by causing a REIT to recharacterize capital gains as ordinary income only to the extent the REIT fails to distribute the gains to shareholders. The result remains that REITs have reduced capacity to raise capital from the sale of appreciated assets and any cutback actually results in an increased tax burden directly on the shareholders because of the requirement that virtually all ordinary income be distributed to shareholders. To remedy this situation, the bill would exclude REITs altogether from the coverage of section 291.

3. *Revisions of the safe haven exeptions to the 100 percent prohibited transactions tax of section 857 and related provisions.* The present 100 percent tax on income realized through transactions that are otherwise prohibited greatly inhibits REIT trustees in the prudent management of REIT portfolios of real estate investments. Most importantly, REITs must have enhanced ability to realize the value of appreciated assets and to raise capital to meet obligations to pay off maturing debt obligations. Experience has shown that the partial relief represented by the safe haven rules of section 851(B)(6)(C) still leave REIT trustees con-

fronting serious dilemmas in certain cases. The rules should be amended to provide increased allowances for the number of annual sales of, and permissible improvements to, qualifying properties, and to allow REIT shareholders to realize a greater portion of the value inherent in long-held rental property suitable for conversion to condominiums or cooperative units. The Republican Alternative makes these changes.

4. *The present artificial independent contractor requirements imposed upon REITs, which substantially affect the way in which, and the cost at which, REITs may conduct their businesses, is repealed.* Under the Republican Alternative, section 856(d) is amended to remove the provisons that permits REITS to derive qualifying rental income only if all services customarily provided to tenants are made available through an independent management company. Similarly, the foreclosure property rules are amended to eliminate the section 856(e)(4)(C) independent contractor requirement as a condition to eligibility of REIT property for foreclosure property status. It is axiomatic in the real estate industry at large that hands-on, effective management is fundamental to the successful performance of a real estate investment, and management by a contractor often results in costly and unsatifsfactory performance that is not in the best interests of the REIT or its shareholders. Put simply, a REIT like any real estate investor, must have the opportunity to manage directly its investments.

5. *As commerical leasing and lending practices now dictate that rents or interest often be computed on the basis of the net income of the tenant or borrower, REITs are under increasing pressure to conform or cease to compete for rewarding transactions.* At least to the extent such transactions involve a principal or a mortgagor that performs a role essentially equivalent to that which a REIT would perform if operating the property directly, relief should be granted from the net income limitations of section 856(d)(2)(A) and 856(f).

Under the Republican Alternative, section 856(d)(2) of the Code is amended to treat as qualifying REIT income those rents received by a REIT that are based on the net income of the lessee when that lessee is an intermediary tenant that in turn leases all or substantially all of its tenancy to sublessees who pay rents not based on their net income. Similarly section 856(f) is amended to permit a REIT to receive as qualifying interest those payments computed with respect to the net income of the borrower when that borrower leases all or substantially all of its interest in the property and the borrower's rents are not based on the net income of space tenants. The existing prohibitions against such rents and interest based on net income are unduly broad and place REITs at a severe competitve disadvantage in the real estate market place.

6. *Limitations on payment of capital gain dividends by REITs which have net operating loss carryovers from earlier years.* Section 857(b)(3)(C) of the Code is amended to make clear that, for purposes of computing the net capital gain of a REIT for a given taxable year, real estate investment trust taxable income will not include net operating losses (NOLs) from prior taxable years.

As presently interpreted by the IRS, the law may cause a REIT shareholder to be taxed at ordinary rates on dividends paid out of REIT capital gains notwithstanding the fact that the pass-through of capital gains is a fundamental ingredient of the REIT concept. In effect, a REIT that has suffered large losses and later realizes capital gains will be unable to share these gains with its investors, so that both the REIT and its shareholders find their economic misfortunes in earlier years, exacerbated by unfavorable treatment of dividends in later years.

7. *Special notice requirements in order for REIT dividends to be treated as capital gains dividends.* Section 857(b)(3)(c) of the code is amended to eliminate the present requirement that a capital gain dividend be designated as such in a written notice from the REIT to its shareholders within 30 days after the close of the REIT taxable year. A notice to the IRS should be substituted.

8. *Exclusion of net losses from prohibited transactions in the computation of REIT taxable income.* At the present time real estate investment trust taxable income computed under section 857(d)(2) is not reduced by the amount of any net loss as incurred in any prohibited transaction in which a REIT is found to have engaged during the taxable year. This result flows from the present language of subparagraph (F) of section 857(b)(2), which causes an amount equal to any such net loss to be added under section 857(b) in computing the distribution requirement for a trust in a given year. The net effect of the existing formula is to cause a REIT to pay dividends or income taxes out of accumulated capital. Under the Republican Alternative the REIT provisions are amended to prevent such a result.

9. *Imposition of a three percent excise tax on certain income not distributed during the taxable year.* Section 4961, imposing a three percent tax on certain undistributed REIT taxable income, is amended because the provision severely disrupts the flow of REIT dividends. Section 4961 causes many REITs to make cumbersome, expensive supplemental dividend distributions during the fourth quarters of their fiscal years, while other REITs, particularly those experiencing substantial growth, may find themselves unable to avoid the excise tax notwithstanding reasonable efforts to comply. To the extent dividends are paid in the first quarter of the year following the year in which they should have been paid, they will be includable in income of the taxpayer for the prior taxable year.

10. *Imposition of the severe section 6697 penalty when the tax liability of a REIT for a prior taxable year is redetermined and adjusted under the section 860 deficiency dividend procedures, if a REIT elects under section 860 to distribute a deficiency dividend to its shareholders pursuant to an IRS or judicial determination of the necessity for adjustment of REIT taxable income for a prior taxable year.* Section 6697 imposes a substantial penalty on the REIT. This nondeductible penalty is assessed without regard to fault, is computed with respect to the interest payable on the amount of the deficiency, and may be up to a maximum of 50 percent of the amount of the deficiency dividend. Given the recent high interest rates and provisions for daily compounding, the penalty and interest charges payable to the Treasury may nearly equal the deficiency dividend payable to the shareholders. If the underlying deficiency is large, the REIT may be financially devastated. This effect may render virtually meaningless the relief intended by the deficiency dividend procedures as a mechanism to prevent inadvertent disqualification from REIT tax status. To mitigate the potentially harsh result, the Republican Alternative amends the section 6697 penalty so it is subject to a cap that takes into account not only the amount of the deficiency, but also the net worth of the REIT and its income stream in years prior to the year in which the deficiency dividend is paid. Furthermore, section 6697 is amended to provide that the penalty shall be assessed only with respect to the portion of the deficiency attributable to a position taken by the REIT for which there is or was no reasonable cause.

11. *Modification of the personal holding company rules applicable to REITs to account for the unreasonable threat of disqualification of REITs whose investors may also engage in other real estate ventures organized as partnerships.* Under present law, a business trust or corporation may not qualify as a REIT if it is a personal holding company—PHC—that is, if five or fewer individuals actually or constructively own more than 50 percent of the value of the stock of the entity at any time during the last half of the entity's taxable year. Although this rule helps ensure that REIT shares are widely held and freely transferable, it creates undue risk of disqualification in two sets of circumstances. To remove the unnecessary risk, the Republican Alternative makes the five or fewer test inapplicable during the organization phase of a new REIT. Second, the Republican Alternative modifies the constructive ownership standards of the PHC rules, as applied to REITS so that a REIT shareholder is not treated as indirect or constructive owner of REIT shares held by partners in a partnership in which the first shareholder also owns an interest.

12. *Authorizations for a REIT to place assets in subsidiaries provided those subsidiaries and the parent REIT are treated as one entity for REIT tax qualification purposes.* A REIT is effectively prohibited from owning and conducting operations through a subsidiary. Thus, all investments must be held in the REIT itself, perhaps to the disadvantage of the REIT and its investors, for reasons that are unrelated to federal tax laws. The Republican Alternative amends the REIT tax provisions to allow a REIT to own subsidiaries, provided that the qualified status of the parent REIT is determined by taking into account the assets, all items of income, gain, loss and expense, and all other tax attributes of those subsidiaries. Thus, REITs and their shareholders might obtain the benefits of corporate subsidiaries while remaining fully subject to the organizational and operational constraints of the REIT regime.

13. *Technical amendments to certain provisions of the Deficit Reduction Act of 1984 to remove unusual burdens borne by REITs because of their unique tax regime.* The Deficit Reduction Act of 1984 ("1984 Act") amended the Internal Revenue Code to alter the tax consequences of installment sales of property subject to depreciation recapture and transactions involving loans or leases that allow deferred payment of interest or rents. In each case, the new rules may cause a taxpayer to recognize and pay tax on income when no corresponding amount of cash has been received. Because a REIT must distribute at least 95 percent of its taxable income as dividends to shareholders, these provisions impose extraordinary burdens on REITs. To ensure that the tax consequences for REITs are made more comparable to those of other real estate owners or lenders, the Republican Alternative provides that noncash amounts included in

REIT taxable income by operation of the 1984 provisions are disregarded for purposes of the 95-percent distribution requirement.

14. *Amendment of the REIT Distribution Requirement to Exclude Income Recognized by a REIT upon a Determination that an Exchange of Certain Real Property Failed to Meet the Requirements of Section 1031.* The elective deficiency dividend procedures of section 860 were adopted to provide much needed relief from the threat of inadvertent disqualification of a REIT. As discussed elsewhere, the REIT industry believes that the interest and penalties imposed by section 860 and related provisions may virtually neutralize the benefits of a deficiency dividend. Furthermore, the deficiency dividend provisions fail to provide meaningful relief if audit or other proceedings culminate in a determination that the like-kind exchange of REIT property should be denied tax-deferred treatment under section 1031. While further study may reveal other contexts in which inadvertent tax deficiencies may be so great as to render the section 860 election meaningless, the Republican Alternative contains an amendment to remove the threat of disqualification from REIT status if a REIT must recognize income because of an adverse determination on the status of a purported section 1031 exchange.

SECTION V. MINIMUM TAX

I. Individual Minimum Tax

A. Structure

Under present law, individuals are subject to an alternative minimum tax, which is payable only to the extent it exceeds the individual's regular tax. Generally, the individual minimum tax applies a lower rate than the regular tax, to a broader base. Minimum taxable income equals the individual's adjusted gross income, plus certain "preference" items that are excluded from the regular tax base, and less certain allowable itemized deductions. In addition, individuals are allowed to carry forward against alternative minimum taxable income net operating losses (NOLs) less loses due to certain preference items.

The Republican Alternative retains the basic structure of the alternative minimum tax, and makes certain changes in the rate, the tax preferences included in the base, and allowable itemized deductions. In addition, the Republican Alternative allows certain adjustments in the timing and calculation of deferral preferences.

B. Rate

Under present law, the individual alternative minimum tax rate equals 20 percent. The Republican Alternative raises the rate to 22.5 percent.

C. Exemption Amount

Present law provides that preferences are included in minimum taxable income to the extent they exceed a specified exemption amount. Under current law amount is $40,000 for a joint return, $30,000 for singles, and $20,000 for marrieds filing separately. Under the Republican Alternative, the amount is $30,000 for a joint return, $25,000 for a single return, and $15,000 for married filing separately. The $30,000 exemption phases down from $30,000 to $15,000 between $175,000 and $225,000 of taxable income.

D. Tax Preferences

1. Dividends excluded from gross income

Because the Republican Alternative repeals the exclusion of dividends from gross income which present law provides (up to $100 per person, and $200 for a joint return), the exclusion would no longer be included as a preference.

2. Accelerated depreciation on real property

Present law provides that the excess of accelerated depreciation over straight-line depreciation is a preference included in the minimum tax. The Republican Alternative provides that the excess of any depreciation deduction over the straight line deductions that would be allowable if calculated under the Asset Depreciation Range (ADR) midpoint system would be treated as a preference. The rule is effective for real property placed in service after 1985; present law rules would apply to real property placed in service before 1986.

3. Accelerated depreciation on personal property

Present law provides that, for leased personal property only, the excess of accelerated over straight-line depreciation is a preference. The rule also applies to personal holding companies. Under the Republican Alternative, for all property placed in service after 1985, the excess of any depreciation deduction over straight-line deductions that would be allowable if calculated under their ADR midpoint lives would be treated as a preference. The agreement would be effective for property placed in service after 1985. Current law rules would continue to apply to property placed in service before 1986.

4. Expensing of intangible drilling costs

Under current law, the excess of intangible drilling costs over 10-year amortization (or cost depletion) is a preference, to the extent the excess exceeds net oil and gas income. The Republican Alternative retains current law with respect to this preference item.

5. 60-month amortization on certified pollution control facilities

Current law provides that the excess of 60-month amortization on certified pollution control facilities over depreciation otherwise allowable is a preference. The Republican Alternative retains current law.

6. Expensing of mining exploration and development costs

Present law provides that the excess of the expensing of mining exploration and development costs over 10-year amortization is a preference. The Republican Alternative retains current law treatment of these costs.

7. Expensing of circulation expenses

Current law provides that the excess of expensing of circulation expenses for newspaper, magazines, and other periodicals over 3-year amortization is a preference. The Republican Alternative retains current law with respect to this provision.

8. Expensing of research and experimentation.

Under current law, the excess of expensing of research and experimentation costs over 10-year amortization is treated as a preference for individuals and personal holding companies. The Republican Alternative repeals the status of this item as a tax preference for personal holding companies only, and retains current law for individuals.

9. Percentage depletion

Present law provides that the excess of percentage depletion over the adjusted basis of the depletable property is a preference. The Republican Alternative retains current law with respect to this provision to the extent percentage depletion is retained.

10. Net capital gain deduction

Under current law, 60 percent of net long-term capital gain is excludable from gross income, resulting in a top rate of 20 percent. The excluded portion is treated as a preference. The Republican Alternative generally retains 20 percent as the top capital gains rate and retains the excludable portion of capital gains as a preference item.

11. Incentive stock option

Current law treats the excess of the fair market value of an incentive stock option over its exercise price as a preference. The Republican Alternative retains current law with respect to this provision.

12. Tax-exempt interest

Present law does not treat tax-exempt interest income as preference. The Republican Alternative retains current law with respect to this item except as provided in the Super Minimum Tax.

13. Excludable income earned abroad by U.S. citizens

Under present law, excludable income earned abroad by U.S. citizens is not treated as a preference. The Republican Alternative retains current law, thus not treating this as preference item except as provided in the Super Minimum Tax.

14. Completed-contract method of accounting

Current law does not treat the benefit from using the completed contract method of accounting as a preference. The Republican Alternative treats the benefit of using the completed-contract method, compared to use of the percentage-of-completion accounting method, as a preference. The Republican Alternative also limits the availability of the completed-contract method of accounting to contracts with a duration of two years or less, and contracts issued to firms with annual gross receipts of $10 million or less.

15. Net loss from passive investment activities

Present law does not treat net losses from passive investment activities as a preference.

Under the Republican Alternative, net losses from passive investment activities would be treated as a preference to the extent they exceed the amount of the taxpayer's net cash contributions to such activities. Net losses with respect to passive tax shelter investments would be treated as a preference to the extent they exceed the lesser of $50,000 or net cash contributions. Net losses would be defined as any income, including rents and royalties, but not including dividends or interest, with respect to trade or business activities in which the taxpayer did not materially participate in management or provide substantial personal service, less losses from such activities. For the purpose of this rule, losses would not include any preference items already included in alternative minimum taxable income. Also, losses would not include realized losses from the disposition of the taxpayer's interest in any activity.

The taxpayer's cash contribution will include the basis of any property contributed to an activity, and any income accruing to the activity, but must be reduced by withdrawals or distributions from the activity. Also, entity financing, financing secured by the taxpayer's interest in the entity or any assets of the entity, and entity or promoter arranged financing, would be disregarded in calculating net cash contributions.

16. Farm syndication losses

Under the Republican Alternative, a special rule applies to certain losses with respect to farm syndicates, in addition to the rule described above. To the extent they exceed twice the cash invested in the activity, deductions with respect to certain passive investors in farm activities would be treated as a preference. For this purpose, deductions would not include preference items already included in alternative minimum taxable income. A passive investor would be any investor in a farm syndicate, as defined in Internal Revenue Code section 464, or an investor who does not materially participate in the operation of the farming activity. However, the term would not include members of a family actively engaged in the trade or business of farming.

Cash invested would be defined as the taxpayer's adjusted basis in the activity, determined without regard to:

a. any liability of a partnership; and

b. any amount borrowed by a partner with respect to such partnership which:

i. was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 168(e)(7), or

ii. was secured by any assets of the partnership.

17. Charitable contributions of appreciated property

Current law allows a charitable deduction (up to 30 percent of Adjusted Gross Income) for the full appreciated value or property donated to a qualifying charitable organization. In effect, this results in the appreciation on the property being non-taxable to the donor. The excess of the property's appreciated value over the donor's basis in the property is not treated as a preference.

The Republican Alternative retains current law.

E. Itemized deductions

Present law allows the taxpayer certain itemized deductions to the extent allowable as deductions for the taxable year against minimum taxable income. Deductions are allowed for casualty and theft losses to the extent they exceed 10 percent of Adjusted Gross Income (AGI); gambling losses to the extent of gambling gains; charitable contributions; medical expenses in excess of 10-percent of AGI; interest expenses, limited to interest on a residence lived in by the taxpayer or family member, plus interest to the extent of net investment income; and certain estate taxes.

The Republican Alternative retains the itemized deductions of current law.

F. Regular tax election

Present law provides that taxpayers may elect to have minimum tax rules for measuring a particular item apply for regular tax purposes. Any unused preference as a result of this election can be carried over into subsequent taxable years. The Republican Alternative retains present law with respect to this provision.

G. Adjustments in other years when taxpayer pays minimum tax

Under present law, no adjustment is made to reflect the fact that, if timing preferences are disallowed on account of the minimum tax in the early years of the life of depreciable or depletable property, then overtaxation of income from the property in later years may result. For example, minimum taxable income includes the preference resulting from the excess of accelerated depreciation over straight line depreciation in the early years of the life of a property, but does not include, as a negative preference, the excess of straight line over accelerated depreciation in the later years of the property's life. The Republican Alternative allows two adjustments to reflect changes in the timing of tax preferences between years.

1. Calculation of net preferences

Taxpayers will be permitted to calculate net preferences due to timing differences by netting together accelerated deductions taken on all items of property with the deductions that would be taken under a normative depreciation, amortization or depletion schedule. Net preferences for the purpose of minimum tax income will include all positive preferences, measured as the excess of deductions taken over deductions allowable under a normative depreciation schedule, less any negative preferences resulting from the excess of normative deductions over the deduction taken.

2. Credit carryover

Under the agreement, individuals will be allowed as a credit against the regular income tax any alternative minimum tax owing to deferral preferences in preceding years. Any minimum tax owing to the capital gains deduction, or any other exclusion preference, will not be allowed as a credit in subsequent years. The credit cannot be used to bring regular income tax liability below the alternative minimum tax liability that will otherwise be owable.

H. Incentive Credits

Under present law, incentive credits are not allowed against the minimum tax. Credits that are not used because of the minimum tax can be carried over into succeeding years against the regular tax. The Republican Alternative allows credit carryovers against the alternative minimum tax for taxpayers who had NOLs for any of the last 3 taxable years ending on or before December 31, 1986.

I. Foreign tax credit

Under present law, foreign tax credits are allowable against the minimum tax. The taxpayer's income tax liability equals the greater of regular income tax, less the foreign tax credit, or his alternative minimum tax less the applicable foreign tax credit. The Republican Alternative retains current law with respect to the provision.

J. Net operating losses (NOLs)

Present law provides that minimum tax income may be reduced by NOLs. For years after 1982, minimum tax NOLs are reduced by the items of tax preference attributable to the year in which the NOL arose. The Republican Alternative retains present law with respect to NOL carryovers except as provided with the Super Minimum Tax. Under the Republican Alternative, NOLs attributable to years after 1982 and before 1985 would be reduced by present law tax preference items. Minimum tax attributable to years after 1985 would be reduced by the preferences under this agreement.

II. Corporate Minimum Tax

A. *Present law:* Under present law there is an add-on corporate minimum tax equal to 15 percent of certain preference items reduced by the greater of $10,000 or the taxpayer's regular liability. The tax preference items are:

1. The excess of accelerated depreciation over straight-line for real estate;

2. Excess of 60-month amortization of certified pollution control facilities over otherwise applicable depreciation;

3. Excess of special bad debt deductions over amounts allowable under the experience method for financial institutions;

4. Excess of percentage depletion over basis;

5. Excess of accelerated depreciation over stright-line on leased personal property for personal holding companies (PHCs);

6. Excess of expensed mining exploration and development costs over 10-year amortization for PHCs;

7. Excess of expensing of intangible drilling costs over 10-year amortization, to the extent in excess of net oil and gas income, for PHCs;

8. Excess of expensing of circulation expenditures over 3-year amortization for PHCs;

9. Excess of expensing of research and experimentation expenditures over 10-year amortization for PHCs.

B. Republican Alternative: The Republican Alternative restructures the corporate minimum tax as an alternative minimum tax. The rate would be 20 percent. The tax base would equal regular taxable income plus preferences less an exemption amount of $40,000. The tax would be payable to the extent in excess of regular tax liability. The provisions would be effective for taxable years beginning after December 31, 1985. The preferences included in the base of the corporate alternative minimum tax are as follows:

1. Accelerated depreciation

For property placed in service after 1985, the excess of incentive depreciation over depreciation allowable for the calculation of earnings and profits; for personal property generally the excess over straight-line depreciation over ADR midpoint; for real estate generally the excess over 40-year straight-line depreciation. For pre-1986 property, the present law rule for real property would be retained.

2. Amortization of pollution control facilities

The present law preference would be retained.

3. Bad debt deductions for financial institutions

The present law definition of the preference would be retained for those institutions still eligible for special bad debt deductions.

4. Percentage depletion

To the extent percentage depletion is retained, the present law definition of the preference would be retained.

5. Expensing of mining exploration and development costs

The present law preference is retained.

6. Expensing of intangible drilling costs

The present law preference is retained.

7. Expensing of circulation expenditures

The present law preference is retained.

8. Foreign Sales Corporation income

Present law does not treat this as a preference item. The Republican Alternative would retain current law except as provided in the Super Minimum Tax.

9. Completed contract method

To the extent the completed contract method is retained for regular tax purposes, the difference between income under the percentage-of-completion method and the

completed contract method would be a preference item.

10. Interest on nongovernmental bonds

The preference would be the same as for the individual minimum tax; i.e., it would not be treated as a preference item except as provided in the Super Minimum Tax.

11. Special rules

Under the Republican Alternative, a number of special rules would be part of the corporate minimum tax.

a. General business credits (including the investment tax credit) carried over from pre-1986 years would be allowed as a credit against the corporate alternative minimum tax to the extent such credits could be claimed against regular tax liability. These credits could offset up to 75 percent of minimum tax liability. The offset provision will be allowed only if the taxpayer had a net operating loss for any 2 of the last 3 years prior to the last taxable year ending on or before December 31, 1986. This provision will apply only to companies described in section 804 of the Steel Import Stabilization Act of 1984. In addition, such companies may elect to carry unused investment tax credits back fifteen years from the year in which the credit originated, but not prior to the date of initial enactment of the investment tax credit. In the case of such an election, the value of the carried back credits would be only 75 cents for each dollar of credit. Investment tax credit carryovers would be foregone in lieu of the carryback.

The credits may be carried back to any taxable year of such taxpayer or any taxable year of a corporation whose unused credits succeeded to such taxpayer by operation of Section 381. The credit allowed above for any carryback year under this provision shall not exceed the amount calculated in accordance with section 38(c) as in effect on December 31, 1985.

Notwithstanding any other part of this provision, the following rules will apply:

(i) Taxpayers will be required to make an election on or before September 30, 1986, as to whether they elect to use the provision allowing ITC against the alternative minimum tax or in the carryforward;

(ii) The maximum benefit that a taxpayer may receive through the use of credit carrybacks is $300 million; and

(iii) The maximum benefit that a taxpayer may receive through the use of credit carryforward for taxable years ending on or before September 30, 1990, is $300 million. Unused carryforward credits may be carryforward and used in taxable years beginning after September 30, 1990.

b. The preferences for deferral items would be calculated by comparing deductions using the accelerated method with a nonaccelerated method. In later years when deductions under the accelerated method are less than the nonaccelerated method, the negative amount could be used to offset positive preference amounts on other assets.

c. Taxpayers could elect to apply minimum tax rules (e.g., nonaccelerated depreciation) to any item in order to reduce their minimum tax base.

d. The present law rule permitting the taxpayer to carry over as credits against the regular tax credits that do not benefit the taxpayers due to the minimum tax would be retained.

e. The foreign tax credit would be allowed under rules similar to those allowing a foreign tax credit against the individual alternative minimum tax.

f. The taxpayer's minimum tax liability would be allowed as a carryforward credit against regular tax liability in future years.

g. NOLs would be allowed against minimum taxable income. For years after 1982, minimum tax NOLs would be reduced by the items of tax preference under present law. For years after 1985, NOLs would also be reduced by all newly enacted items of tax preference.

h. Section 936 corporations would not be subject to the minimum tax.

i. Corporate alternative minimum tax liabilities would be subject to the present-law requirements that corporations make estimated tax payments.

III. Super Minimum Tax

Under current law, and under the revised corporate and individual alternative minimum tax described in the Republican Alternative above, it is possible that both corporate and individual taxpayers who have earned income in a given year will pay no tax. The Republican Alternative Super Minimum Tax is intended to avoid this result. For individuals the Super Minimum Tax base includes the entire individual alternative minimum tax base plus income excluded under section 911 and all tax-exempt bond interest. Net operating losses are permitted to reduce this base to only 10% of the existing base. A 2% Super Minimum Tax is imposed upon this remaining base.

For corporations, the Super Minimum Tax base consists of the corporate alternative minimum tax base prior to net operating losses plus all tax-exempt bond interest and foreign sales corporation income. Net operating loss deductions are permitted to reduce this base by only 90%. The Super Minimum Tax rate of 2% is then applied to the remaining base.

To the extent that the Super Minimum Tax exceeds either the alternative minimum tax or the regular tax, it represents the applicable tax for the taxpayer. In no case, will foreign tax credits be allowed to reduce the Super Minimum Tax by greater than 50%

SECTION VI. FOREIGN

I. Allocation of Research and Experimental Expenses

A moratorium on the application of the research and experimental allocation rules of Treasury regulation section 1.861-8 expired under present law for taxable years beginning after July 31, 1985. During the moratorium, all of a taxpayer's research and experimental expenditures (within the meaning of Code section 174) attributable to research activities conducted in the United States were required to be allocated to sources within the United States for purposes of computing taxable income from U.S. and foreign sources. Under the Treasury regulations, research expenses identified with a Standard Industrial Classification (SIC) product group generally are apportioned to foreign-source income, also based on the ratio of total foreign-source sales receipts to worldwide sales receipts total within the SIC product group (or in certain circumstances, the ratio of foreign source gross income to worldwide gross income).

The Republican Alternative modifies the application of Treasury regulation section 1.861-8 for the first two taxable years beginning after July 31, 1985. The Republican Alternative will allow a taxpayer automatically to apportion 50 percent of U.S.-incurred research expense to domestic income, whether the taxpayer chooses the sales or gross income method of allocation. In addition, the present rule requiring that the expense allocated to foreign income under the optional gross income method must equal at least 50 percent of the expense allocated under the sales method would be eliminated.

II. Special Tax Provisions for U.S. Persons

A. Possession Tax Credit and Intangible Income

Under present law, U.S. corporations meeting certain requirements are allowed to claim an income tax credit for U.S. tax on U.S. possession source income. Similar rules apply to the U.S. Virgin Islands. Under present law, the possession tax credit is not allowed with respect to income generated from intangibles transferred to the possessions unless the taxpayer elects one of two optional methods of allocating intangible income: (1) the cost sharing method or (2) the 50/50 profit split method. The Republican Alternative retains both the 50/50 profit split method and the cost-sharing method for allocating intangible income, but requires that cost-sharing payments be equal to the greater of: (1) the present law cost-sharing payment increased by 10 percent or (2) the royalty payment that would be required (under Code sections 367(d) or 482) if the possession corporation were a foreign subsidiary of the United States parent corporation. As under present law, the cost-sharing payment will continue to be U.S. source income. In addition, the Republican Alternative amends Code sections 367(d) and 482 in connection with the transfer of intangibles from a U.S. corporation to a related foreign corporation, so that royalty payments with respect to intangibles sold, contributed to capital, or licensed after 1985 will be required to be commensurate with the actual annual income stream attributable to the intangible.

The Republican Alternative increases from 65 percent to 75 percent the portion of possession corporation income required to be derived from the conduct of an active trade or business. Under a transition rule, the 70 percent requirement will be effective for tax years beginning in 1986 and the 75 percent requirement will be effective for tax years beginning in 1987.

The Republican Alternative also allows qualified possession source investment income to be invested in active business assets located in qualified Caribbean Basin Initiative countries. It is the Republican Alternative's intention that this action will assist the Government initiative, whereby possessions corporations will be encouraged to establish labor intensive manufacturing operations in the Carribean outside of Puerto Rico, with the more capital intensive finishing operations to be located in a twin-plant in Puerto Rico. To qualify, a CBI country will have to enter into an exchange of information agreement with the U.S. Treasury. In addition, certification will be required that investments in such countries are for active business assets. The Puerto Rican Government's implementation of its twin-plant initiative will be subject to supervision and review by the Congress.

The Republican Alternative repeals section 936(b), which denies the credit with respect to otherwise eligible income if receipt of the income occurs outside the possessions.

Under the Republican Alternative, the Commissioner will be authorized to require the submission, with the tax return, of in-

formation relevant to the possession tax credit computations.

B. Other Rules with Respect to U.S. Possessions

1. U.S. Virgin Islands

The Republican Alternative generally retains the present "mirror system" of taxation, whereby the possession uses the Code as its local tax code, but clarifies the system in order to prevent unintended tax results. the Republican Alternative treats any bona fide Virgin Island resident on the last day of the taxable year as taxable only in the Virgin Islands, and not in the United States. A U.S. individual (other than a Virgin Island resident) who derives income from the Virgin Islands will file two identical returns, one with the United States and one with the Virgin Islands, and will pay a pro rata amount of tax to each. The Republican Alternative intends that there be cooperation between the IRS and the Virgin Islands Bureau of Internal Revenue.

Under the Republican Alternative, the Virgin Islands would be permitted to impose any nondiscriminatory local income taxes in addition to those it now imposes under the mirror system. The Virgin Islands will also be permitted to rebate tax on U.S. corporations to the extent of their activities in the Virgin Islands.

The Republican Alternative repeals the Virgin Islands inhabitant rule, whereby an inhabitant pays tax to the Virgin Islands on its worldwide income, but pays no U.S. tax. The Republican Alternative also retains the existing system for attracting U.S. investment with the possession tax credit.

For purposes of the U.S. 30-percent withholding tax for taxable years beginning after 1985, the Republican Alternative modifies the anti-conduit rule for the Virgin Islands that 65 percent of a corporation's income be effectively connected with a trade or business in a possession or in the United States, instead of the 20 percent source of income requirement in present law.

2. Guam, the Northern Mariana Islands, and American Samoa

The Republican Alternative provides Guam and the Northern Mariana Islands (CNMI) with full authority to determine their own income tax laws, as does American Samoa, but requires that the new tax systems raise as much revenue as their current mirror system. Under the Republican Alternative, residents of Guam and the CNMI who receive income from outside those possessions will have to file U.S. tax returns, but the U.S. will transfer any tax collected on that non-possession income and transfer it to the possession where the taxpayer resides.

For purposes of the U.S. 30-percent withholding tax for taxable years beginning after 1985, the Republican Alternative modifies the anti-conduit rule for the Guam and the CNMI requiring that 65 percent of a corporation's income be effectively connected with a trade or business in a possession or in the United States, instead of the 20 percent source of income requirement in present law.

The Republican Alternative, also effective for taxable years beginning after November 16, 1985, provides that U.S. government obligations held by the Bank of Guam will not automatically be treated as effectively connected with the conduct of a U.S. trade or business.

The Republican Alternative also clarifies that U.S. possessions (including the Virgin Islands, as well as Guam, the CNMI, and American Samoa) may not reduce tax on passive income which is not now eligible for relief under Code section 931-936.

3. Taxation of U.S. Employees of Panama Canal Commission

The Republican Alternative clarifies that the Agreement in Implementation of Article III of the Panama Canal Treaty does not exempt U.S. taxpayers from U.S. tax.

The Republican Alternative also provides that U.S. government employees of the Panama Canal Commission will be able to exclude from income certain allowances similar to excludable allowances of other U.S. government employees abroad.

4. Foreign Sales Corporations

Under present law, the United States limits its tax on qualified income from exports when the exporter uses a Foreign Sales Corporation (FSC). The FSC rules reduce taxable income by 16 percent of export income (15 percent for corporate shareholders). The Domestic International Sales Corporation (DISC) rules provide a similar benefit, but only on the income from $10 million in export sales. The Republican Alternative retains current law.

5. Private Sector Earnings of Americans abroad

Under present law, U.S. citizens (other than U.S. government employees) who live and work abroad and who satisfy certain physical presence or bona fide foreign residence tests may exclude from gross income their foreign earned income, up to $80,000 per year, and also may exclude their foreign housing costs that exceed a base amount. The $80,000 ceiling on excludable foreign earned income is scheduled to increase by $5,000 per year beginning in 1988, up to $95,000 after 1989. The Republican Alternative retains current law and, thus will permit the excludable amount to rise to $95,000 after 1989.

III. Olympic Trust Fund and Excise Tax on U.S. Broadcast Rights Payments

Under current law, there is currently no excise tax on U.S. television or radio broadcast rights, nor is there any direct Federal funding of the U.S. Olympic Committee or team, which are private activities. There are certain Federal excise taxes earmarked for various user or benefit-related trust funds.

The Republican Alternative recognizes that Olympic teams from many other countries receive direct funding support from their governments, while the U.S. Olympic team does not. This requires the U.S. Olympic team to spend considerable time and money in raising additional funds from various private sector sources. This time and money could be used more productively to recruit and train U.S. Olympic-quality athletes on a continuing basis.

The Republican Alternative also recognizes the fact that, in most, if not all foreign countries, the radio and television broadcast systems are owned by the Government. The United States is unique in that it has a number of networks which compete for programming. As a result, unlike other foreign countries, the price bid for the right to broadcast Olympic events is a function of the competition which occurs between the networks. This competition, in effect, produces a windfall to the sponsors of Olympic events, whether they be in the United States or some other foreign country. The effect of a modest Olympic excise tax on these payments would be to recoup a small portion of that windfall element. The Republican Alternative concludes that this seems only fair in view of the fact that the most significant component of the competitive bidding accrues to the sponsors of the Olympic games. The Republican Alternative concludes that revenues attributable to such an excise tax should be dedicated to a trust fund for use by the U.S. Olympic Committee for development of training facilities and training expenses related to United States participation in Olympic events.

The Republican Alternative imposes a new 10-percent Federal excise tax on the amount paid for U.S. television and radio Olympic broadcast rights. The tax is imposed on the business or other entity receiving the payment, while the payor of such amount is to withhold the tax from the amount of the payment for the broadcast rights and to pay over the withheld tax to the U.S. Government. "Broadcast rights" means any right (whether or not exclusive) to the original broadcast on television or radio in the United States of any Olympic (winter or summer) event.

The excise tax is to apply notwithstanding any U.S. treaty obligation, whether entered into before, on, or after the date of enactment of this provision. The excise tax is deductible against Federal income tax.

The Republican Alternative also establishes a new trust fund in the Internal Revenue Code, the "United States Olympic Trust Fund," to receive amounts equivalent to the revenues from the new 10-percent excise tax discussed above. The Trust Fund also is to receive any interest earned on trust fund investment.

The Trust Fund is to be managed by the Secretary of the Treasury, and the Secretary is to make annual reports to the Congress on the financial status of the Trust Fund.

Available trust fund monies are to be paid by the Secretary, not less than quarterly, to the U.S. Olympic Committee less any Treasury expenses in administering the tax and the Trust Fund. Trust Fund monies can be used by the U.S. Olympic Committee for training facilities, coaches and other specific Olympic-development expenditure purposes.

1. Effective date

The new excise tax is effective for amounts paid after November 22, 1985, for U.S. Olympic broadcast rights with respect to binding contracts entered into after November 23, 1985. As a result, it will not apply to the agreement of NBC to purchase the broadcast rights of the 1988 summer Olympic games in Korea nor will it apply to the agreement of ABC to purchase the television broadcast rights of the 1988 winter Olympic games in Canada.

IV. Excise Tax on Insurance Premiums Paid to Foreign Insurers

Under present law, the United States imposes excise taxes on premiums paid for the direct insurance or reinsurance of U.S. risks to foreign entities not doing business in the United States. The rates are (per dollar of premium): four cents for casualty contracts, one cent for life contracts, and one cent for all reinsurance. The taxes are collected by return and liability falls jointly on all parties to the insurance transaction. Payments to some insurers are exempt by treaty, but reinsurance premiums paid by treaty-protected insurers are subject to the tax (unless the recipient is exempt by treaty).

The present "two-tax system"—one tax on the direct insurance of a U.S. risk with a foreign insurer, and another, which generally is in addition to the first, on the reinsurance of a U.S. risk—is sometimes difficult to

administer. Also, taxpayers may be able to structure insurance coverage for U.S. casualty risks so that only the lower tax on reinsurance premiums applies.

The Republican Alternative will make the excise tax on casualty reinsurance premiums paid to foreign insurers for U.S. risk coverage equal to that on similar casualty insurance premiums (four percent), and will impose an excise tax only once—on retained premiums received by foreign insurers or reinsurers. It will also make the foreign insurer (or his agent) liable for the tax and require the U.S. insured or broker obligated to transmit the premiums to withhold the tax. The Tax will apply to premiums paid after December 31, 1985.

SECTION VII. TAX-EXEMPT BONDS

A. Arbitrage Restrictions on the Purchase of Pension Bonds

Under the Republican Alternative, the present-law arbitrage rules applicable to tax-exempt bonds will be modified. The restriction on investment in higher yielding obligations will be expanded to include investment in annuity contracts and other property held for investment. This rule will ensure that the purchase of third party contracts to fund pension plans or other deferred payment arrangements will be subject to yeld restrictions in the same manner as direct funding.

B. Clarification of Treatment of Tax Increment Bonds

Under the Republican Alternative, tax increment financing bonds will be "grandfathered" from the private loan bond provisions of the 1984 Tax Reform Act in the case of tax increment bonds issued before January 1, 1986.

SECTION VIII. FINANCIAL INSTITUTIONS

A. Reserve Deductions for Commercial Banks

Under present law, commercial banks are allowed to deduct additions to reserves for partially or wholly worthless loans under either of the following reserve methods: (1) the experience method, and (2) the percentage-of-eligible-loans method. If the bad debt reserve deduction determined under the percentage-of-eligible-loans method exceeds that allowable under the experience method, the deduction is reduced by 20 percent of the excess, and 59-⅔ percent of the allowable deduction in excess of the amount allowed under the experience method is included as a preference in the corporate minimum tax base. The percentage-of-eligible-loans reserve method is scheduled to expire for taxable years after 1987.

The Republican Alternative continues current law treatment for the reserve deductions of commercial banks, the assets of which do not exceed $500 million. For banks with assets in excess of $500 million, the Republican Alternative repeals the deduction for loan loss reserves and allows deductions for bad debts only when the loans become wholly or partially worthless, for taxable years beginning after 1985.

The Republican Alternative also applies to the tax treatment of reserves attributable to loans originated or acquired before the effective date. Banks will include the existing reserve balance in income ratably over a six-year period starting with the first taxable year beginning after 1985. Banks which include reserves in income will be able to deduct losses on any loans as soon as such loans become wholly or partially worthless.

In addition, the Republican Alternative provides that banks can elect to retain the reserve method for loans originated or acquired before the effective date. Losses on these existing loans will be deducted—or "charged off"—from the existing bad debt reserve, to the extent of the reserve, but will not be deductible from gross income. To the extent that losses on existing loans exceed the amount of the reserve, such excess losses will be deductible from gross income. However, sale or disposition of existing loans will trigger inclusion in income of a pro rata share of the reserves attributable to these loans.

B. Thrift Institution Reserves for Bad Debts

Under present law, thrift institutions may deduct loan losses using the reserve methods available to banks or the percentage-of-taxable-income method available only to thrift institutions. Under the percentage-of-taxable-income method, an annual deduction is allowed for 40 percent of taxable income if generally 82 percent of the thrift's assets are qualified (such assets include home mortgage loans and certain other assets). The deduction is generally phased down to zero if less than 60 percent of the thrift's assets are qualified assets.

The Republican Alternative reduces the percentage-of-taxable-income to 5 percent of taxable income. In addition, the experience method under existing law would be retained. At least 60 percent of thrift assets must be qualifying assets in order to utilize the percentage-of-taxable-income method. In addition, the treatment of such a loan loss reserve deduction as a preference item would be suspended. These provisions would be effective for taxable years beginning after 1985. Further, under present law certain distributions in excess of earnings and profits are treated as made out of bad debt reserves, to the extent such reserves exceed the amount allowable under the experience method. Such distributions are included in the gross income of the payor and are taxed as dividends to the recipient. The Republican Alternative retains this provision for reserves accumulated as of December 31, 1985.

C. Reorganizations of Financially Troubled Thrift Institutions

Under present law, special rules exist for reorganizations of troubled thrift organizations. Specifically, a merger of a financially troubled thrift institution into another corporation may qualify as a reorganization even though the general rules regarding continuity of proprietary interest are not met. Further, the rules limiting use of an acquired corporation's net operating loss carryovers by the acquiring corporation are relaxed in certain situations. Moreover, payments received by certain financially troubled thrifts from the Federal Savings and Loan Insurance Corporation ("FSLIC") are not income to the recipient and are exempt from certain basis reduction requirements. The Republican Alternative repeals these provisions effective January 1, 1986. Further the Republican Alternative clarifies present law by providing that FSLIC payments to financially troubled thrift institutions exempt under the present law exclusion are not subject to the provision disallowing expenses attributable to such payments. In addition, the Republican Alternative clarifies that the repeal of FSLIC payments to financially troubled thrifts would not apply to payments made on or after January 1, 1986, if they relate to agreements entered into with the FSLIC before September 26, 1985.

D. Special Rules for Net-Operating-Loss Carryovers of Depository Institutions

Commercial banks and thrift institutions may carry net operating losses back to the preceding ten taxable years and forward to the succeeding five taxable years. The Republican Alternative, as provided in the President's tax reform proposal, requires commercial banks and thrift institutions to follow the general rule for other taxpayers, namely net operating losses will be carried back to the preceding three taxable years and forward to the succeeding 15 taxable years. This provision applies to net operating losses incurred in taxable years beginning on or after January 1, 1986. Net operating losses incurred in earlier years will continue to be subject to the rules of present law.

E. Denial of Deduction for Interest on Debt Used to Hold Tax-Exempt Obligations

Under present law, individuals and businesses may not deduct interest payments on debt incurred or continued to purchase or carry tax-exempt obligations. However, financial institutions are generally permitted to invest deposited funds in tax-exempt obligations, while continuing to deduct interest paid to depositors. Financial institutions may deduct only 80 percent of the interest allocable to tax-exempt obligations acquired after 1982.

The Republican Alternative, as does the President's proposal, disallows 100 percent of the interest deductions that are allocable to tax-exempt obligations acquired on or after January 1, 1986. Financial institutions will continue to deduct 80 percent of the interest deductions of debt used to carry tax-exempt obligations acquired in 1983 through 1985.

The Republican Alternative provides that the 100-percent disallowance shall not apply to debt attributable to purchase or carry bonds issued by a political subdivision (including, but not limited to, school districts) if these bonds meet certain conditions: (1) they are general government bonds; and (2) for project financing (i.e., jails, municipal building improvements, school improvements, etc.), the bond issue does not exceed $3 million per project, with a $10 million total limit per year per political subdivision. However, for tax anticipation notes (not to exceed a twelve-month term), the total $10 million annual limit could be utilized. In determining the value of the issue for purposes of the $3 million limit, all levels with a common purchase shall be aggregated. The Republican Alternative also provides that the purchaser bank must be licensed to do business in the state containing the political subdivision issuing the bonds. This provision will be effective for three years beginning January 1, 1986.

F. Credit Unions

Under present law, credit unions are exempt from federal income taxation. The Republican Alternative retains present law treatment of credit unions.

In order to compensate for the loss of revenue associated with keeping the present law exemption of credit unions, the Republican Alternative also includes certain changes in the calculation of the interest rate applicable to adjustments in tax payments owed. The Republican Alternative requires that the interest applicable to amounts owed by the Treasury Department to taxpayers equal the rate on 90-day Treasury bills, plus two percentage points; the interest on amounts owed by taxpayers to the

Treasury Department would equal the interest on 90-day Treasury bills, plus three percentage points. As under present law, the rate will be adjusted every six months; however, the Republican Alternative provides that, for amounts in excess of one million dollars, the rate will be adjusted monthly. The Republican Alternative also provides that the period between the last date used to determine the rate, and the first date the rate becomes effective, be reduced to one month, rather than three months as under current law.

G. Losses by Depositors on Failed Institutions

Under present law, losses suffered by depositors due to the bankruptcy or insolvency of a financial institution are generally treated as capital losses. That is, they may be deducted against capital gains in full, but are deductible from ordinary income only to the extent of $3,000 per year. The Republican Alternative provides that such losses will be treated as deductions against gross income in the year in which the loss occurs.

SECTION IX. ACCOUNTING ISSUES

I. Limitations on the Use of the Cash Method of Accounting

Under present law, taxpayers may elect to use any method of accounting that clearly reflects income and is regularly used in keeping its books. The Republican Alternative generally will make accrual accounting mandatory for the computation of taxable income where the taxpayer has average annual gross receipts of more than $5 million. The Republican Alternative exempts the following from the mandatory accrual accounting under the new rule: individuals, professional service corporations, partnerships of individuals or professional service corporations, Subchapter S Corporations and farmers (including producers of nursery stock and Christmas trees but not timber). Under the Republican Alternative, businesses with average annual gross receipts of under $5 million will not be required to use the accrual method of accounting for tax purposes merely because such businesses use the accrual method for other purposes. This mandatory accrual method rule would be effective for taxable years beginning on or after January 1, 1986.

II. Pledges of Installment Obligations

Under the present law, a taxpayer who receives an installment obligation in exchange for property may report gain as payments are received on the obligation. If the installment obligation is disposed of, the deferred gain generally is recognized. Gain is deferred until payment or disposition even if the obligation is pledged as collateral for a loan.

Under the Republican Alternative, the proceeds of a loan for which an installment obligation is pledged generally will be treated as payment on the pledged obligation, and a proportionate amount of deferred gain will be recognized. The Republican Alternative also provides an exception from this new rule for any installment payments that are due within nine months. In the case of a taxpayer who sells property on a revolving credit plan, the amount eligible for the exception will be that portion of the sales that is determined, pursuant to a statistical sampling technique, to be paid within nine months. The Republican Alternative also allows an exception for pledges pursuant to loans that do not exceed 90 days, but only if the taxpayer does not repledge those obligations within 45 days of repayment of such loans. Further, the Republican Alternative provides anti-avoidance rules that will include certain "indirect pledges" in the rule, including situations where receivables constitute a significant basis for the borrowing. In the case of installment obligations of retailers, the Republican Alternative provides, however, that a company's receivables shall not be considered as constituting a significant basis for the borrowing if more than 50% of its total assets consist of active trade or business assets. This provision will be applicable to (1) obligations pledged after December 31, 1985, and (2) obligations issued after September 25, 1985, if pledged for a debt outstanding after December 31, 1985.

III. Accounting for Production Costs

A. General rule

Under present law, producers of tangible property generally may not deduct costs incurred in producing the property, but must capitalize these costs and recover them through an offset to the sales price or through depreciation or amortization. While substantially all direct production costs must be capitalized, the treatment of indirect costs may vary.

The Republican Alternative provides that the comprehensive capitalization requirements presently applicable to extended-period long-term contracts will apply to all activities involving the production or manufacture of real or tangible personal property where costs are required to be capitalized (e.g., inventories or self-constructed assets). This provision will apply to costs, other than interest, incurred after December 31, 1985. For inventories, the rules will apply to taxable years beginning on or after January 1, 1986, with an adjustment resulting from the change in accounting method not to exceed six years.

B. Long-term contracts

Under present law, certain contracts not completed within a taxable year may be accounted for on the completed-contract method of accounting. For extended-period long-term manufacturing or construction contracts generally reported under the completed-contract method, direct costs and certain indirect costs must be capitalized and allocated to the contract rather than deducted currently. Somewhat less comprehensive capitalization requirements apply to real property construction contracts entered into by a contractor with average annual gross receipts not exceeding $25 million or contracts expected to be completed within three years.

The Republican Alternative requires the use of a modified percentage-of-completion method for long-term contracts entered into on or after September 25, 1985. Under this modified percentage-of-completion method, income will be reported during the life of the contract under the normal percentage-of-completion method, but will be determined on the basis of estimated cost. At the end of the contract, the actual income earned on the contract will be allocated to each year of the contract based upon actual costs. The allocated income will be compared with the income reported under the percentage-of-completion method, and interest will be payable by, or to, the taxpayer on the yearly tax differences between the reported income and the allocated income.

The Republican Alternative provides that contractors with average annual gross receipts for the three preceding taxable years, not exceeding $10 million, will be allowed to continue to use the completed-contract method of accounting for long-term construction contracts lasting less than two years.

C. Interest

Present law generally requires that interest and real property taxes incurred by a taxpayer during the construction or improvement of real property used in a business or held for profit must be amortized over 10 years. The Republican Alternative requires capitalization of interest on debt incurred to finance the construction or production of (1) long-lived tangible personal and real property, other than personal use property; (2) other tangible property requiring two or more years to produce or construct; or (3) each item of tangible property that has a value in excess of $1 million which requires more than one year to produce or construct. Where a customer makes a payment under a contract, interest will be capitalized with respect to each payment.

Under the Republican Alternative, real property taxes will be capitalized under the general rule for production costs, as stated above.

IV. Special Treatment of Certain Items or Taxpayers

A. Reserves for bad debts

Under present law, a taxpayer generally may take a deduction for losses on business debts under the "reserve method," for that portion of business debts currently owed the taxpayer that are expected to become uncollectible. A similar rule applies to debt guaranteed by a dealer in property where the debt arises from the sale of tangible property and related services in the ordinary course of business.

Under the Republican Alternative, the use of the reserve method in computing the deduction for bad debts will be disallowed, and deduction will be allowed when specific loans become partially or wholly worthless (i.e., taxpayers will be required to use the "specific charge-off" method). This provision will be effective for the taxable years beginning on or after January 1, 1986. The balance in any reserve for bad debts at the beginning of such taxable year will be included in income ratably over a six-year period beginning with the first taxable year beginning on or after January 1, 1986.

B. *Mining and solid waste reclamation costs*

The Republican Alternative retains the present law deduction permitted to accrual-basis taxpayers for the estimated future reclamation or closing costs attributable to production or mining activities in the current year.

C. *Accrued vacation pay*

Under present law, an employer may elect to deduct an amount representing a reasonable addition to a reserve account for vacation pay (contigent or vested) earned by employees in the current year and expected to be paid by the close of that year or within 12 months thereafter.

The Republican Alternative provides that, for taxable years beginning on or after January 1, 1986, consistent with the general rules for economic performance, an employer's deduction for vacation pay will be limited to those benefits earned in the current taxable year and paid within 8½ months of the end of the taxable year.

D. *Returns of magazines, paperbacks and records*

The Republican Alternative retains the present law election under which an accrual-basis taxpayer may exclude from gross

income amounts attributable to qualified sales of magazines, paperbacks, or records with respect to which amounts are repaid or credited to the purchaser before the close of the merchandise return period.

E. *Qualified discount coupons*

The Republican Alternative retains the present election under which an accrual-basis taxpayer may deduct the cost of redeeming "qualified discount coupons" outstanding.

F. *Contributions in aid of construction*

The Republican Alternative repeals a special rule of present law under which a regulated public utility that provides electric energy, gas (through a local distribution system or transportation by pipeline), water, or sewage disposal services may treat certain contributions in aid of construction as excludible contributions to capital. The repeal will be effective for contributions made on or after January 1, 1986, at which time contributions in aid of construction will be treated as taxable income to the recipient utility.

G. *Agriculture*

1. *Soil, Water and Wetlands Conservation:*

a. *Expenditures by Farmers for Clearing Land:* Under present law, farmers may elect to deduct expenditures incurred for the purpose of clearing land to make such land suitable for farming. The Republican Alternative repeals this provision, but retains a business deduction for land clearing expenditures for ordinary maintenance related to land already used in farming. This provision will be effective for expenditures made on or after January 1, 1986.

b. *Soil and Water Conservation Expenditures:* Under present law, farmers may deduct certain qualified expenditures incurred for the purpose of soil or water conservation. The Republican Alternative limits the deduction to amounts incurred for conservation activities in connection with a plan approved by the Soil Conservation Service on the U.S. Department of Agriculture or a comparable State authority. Expenditures for general earth moving, filling of wetlands, and land preparation for center pivot irrigation will not be deductible. The provision will be effective for expenditures made on or after January 1, 1986.

c. *Sale or Disposition of Certain Agricultural Land:* Under present law, taxpayers are permitted capital gains treatment on the sale or disposition of certain highly erodible rangelands and wetlands used in farming. Under the Republican Alternative any gain which is currently treated as capital gains under IRC section 1231, realized from the disposition of highly erodible land or wetlands converted to farming use (other than the sustenance of livestock) after December 31, 1985, will be taxed as ordinary income. Highly erodible land will be defined in a manner similar to the "sodbuster" and "swampbuster" provisions of H.R. 2100, the pending farm legislation. The provision will be effective for agricultural lands converted from use as rangeland wetlands on or after January 1, 1986.

2. *Preproduction Period Expenditures:* Under the President's proposal, farmers would be required to capitalize production costs for plants and animals having a preproduction period of 2 years or more. These costs may be expensed under present law. The Republican Alternative will continue to permit farmers, including producers of nursery stock and Christmas trees but not timber, to elect to treat these costs as a deduction, subject to the current rules for farming corporations. Certain nonfamily-owned farming corporations and farm syndicates will not make the election. If the election is made, a recapture rule will tax gain from the sale or disposition of the product as ordinary income to the extent of prior deductions. In addition, straight line depreciation will be required for all farm assets used by the taxpayer. In addition, the preproduction expenses attributable to replanting or restocking of edible or food producing plants destroyed by freezing, disease, drought, pests, or other casualty will be deductible without regard to whether an expensing election is in effect. The effective date for this provision will be January 1, 1986.

3. *Cash Method of Accounting:* The present-law rules on cash accounting for farmers, including producers of nursery stock and Christmas trees, but not timber, will be retained under the Republican Alternative.

4. *Alternative Minimum Tax for Insolvent Farmers:* Under the Republican Alternative, the gain on disposition of farmland by a taxpayer who is insolvent under IRC section 108 will not be treated as a preference item under the alternative minimum if—

(a) fifty percent or more of the average annual gross income of the taxpayer during the preceding three years was derived from farming;

(b) all of the proceeds from the disposition were applied in satisfaction of indebtedness of the taxpayer; and

(c) the taxpayer disposed of 90 percent or more of the farmland held by him as of the beginning of the taxable year in which the disposition occurred.

This provision will be effective from January 1, 1985, through December 31, 1989.

5. *Netting for Cooperatives:* The provisions of the Senate budget reconciliation bill (S. 1730) relating to netting by cooperatives is included in the Republican Alternative. Cooperatives will be permitted to net patronage earnings and losses (including losses carried over from previous years) on a discretionary basis for purposes of determining the amount of "net earnings" out of which patronage dividends are paid. Notification of patrons affected by the practice of netting will be required.

6. *Capital Gains Treatment for Plant Variety Protection Certificates:* Under the Republican Alternative current law is clarified that a certificate issued pursuant to the Plant Variety Protection Act for a sexually propagated plant variety will be treated in the same manner as a patent. Thus, gain on the sale of such a certificate will generally be treated as capital gain.

H. *Revised simplified LIFO*

A method of inventory accounting for small businesses is included in the Republican Alternative, which provides an election to determine ending LIFO inventories using either the 15 general categories of the Producers Price Indices, or the 11 general categories of the Consumer Price Index for businesses with $5 million annual gross receipts or less. The method assigns inventory to separate pools for each of the categories. The LIFO computation will apply the change in the published index for the category to the pool and determine LIFO layers using the link-chain technique.

I. Timber

A. Preproduction expenses

The Republican Alternative permits small producers an election to amortize over 5 years those pre-productive expenses that are eligible for expensing under present law, other than expenses related to timber on Federal lands. Small producers making the election would be required to use straight-line depreciation on all assets related to their timber activities. A small producer is one who owns and/or leases up to 50,000 acres. The 5-year amortization would be phased-out between 50,000 and 75,000 acres at a rate of 4 percent per additional 1,000 acres owned and/or leased. Otherwise, the comprehensive capitalization requirements, including capitalization of interest, will apply to timber.

B. Reforestation expenditures

Under present law, taxpayers may amortize over a 7-year period up to $10,000 of reforestation expenditures incurred in each taxable year. In addition, a 10-percent tax credit is permitted for these expenditures. The Republican Alternative repeals these provisions with respect to expenditures after December 31, 1985.

V. Effective Dates

Except as otherwise provided, the effective date of the changes in accounting for production costs and the rules governing special treatment of certain items and taxpayers will be determined under the following rules:

In general, the new rules will apply to costs and interest incurred after December 31, 1985. Production costs (including interest) attributable to timber planted before 1986 would be subject to capitalization under a 10-year phase-in rule (10 percent of such costs incurred in 1986 would have to be capitalized, 20 percent in 1987, etc.). For inventories, the rules would apply to taxable years beginning on or after January 1, 1986, with a 6-year spread of the adjustment resulting from the change in accounting method. The new rules would not apply to long-term contracts entered into before 1986.

SECTION X. INSURANCE PRODUCTS AND COMPANIES

I. Insurance Products

A. Inside buildup

Under current law, the cash value of a life insurance policy earns interest (inside buildup) that is credited to the account of the policyholder and is not taxed as current income to policyholders. The Republican Alternative retains current law treatment of inside buildup.

B. Life insurance products and partial withdrawals

The Republican Alternative clarifies that the current law rule, under which a deduction is disallowed for interest paid on indebtedness incurred to purchase or carry life insurance, applies in the case of a loan from a single premium life insurance contract. However, it also clarifies that it is permissible to borrow the inside build from such a policy without violating the 4 out of 7 rule of section 264.

C. Exclusion for interest on installment payments of life insurance proceeds

Under current law, proceeds of a life insurance policy may be paid in installments, and amounts in the nature of interest (up to $1,000 annually) on the unpaid proceeds of the policy paid to the surviving spouse of the insured are excludable from the spouse's income. The Republican Alternative repeals this $1,000 annual exclusion, effective for amounts received on or after January 1, 1986.

D. Structured settlements

Under current law, income on amounts used to fund periodic payments of damages in a structured settlement may not be taxable to the recipient, to the person who assigns the liability to pay damages, or to the structured settlement company. The Republican Alternative retains current law treatment for structured settlements, but limits the availability of the exclusion for structured settlement agreements to damages in personal injury or sickness cases involving physical injury or sickness. The provision will be effective for all assignments entered into after December 31, 1985.

E. Deduction for policyholder losses

A taxpayer generally may deduct a loss sustained during the taxable year and not compensated for by insurance or otherwise. If a casualty or other event occurs which results in a loss, and the taxpayer has a claim for reimbursement with respect to which there is a reasonable prospect of recovery (such as an insurance claim), then the loss may not be deducted until it can be ascertained with reasonable certainty that the reimbursement will not be received. The Republican Alternative retains present law but denies the casualty loss deduction to the extent that an individual has insurance coverage on nonbusiness property and elects not to file a claim. The proposal will be effective for taxable years beginning after December 31, 1985.

II. Life Insurance Companies

A. Reserves

The Republican Alternative retains current law treatment of life insurance company reserves.

B. Special deductions

1. The Republican Alternative retains current law small life insurance company deduction.

2. The Republican Alternative repeals the special life insurance company deduction (generally 20 percent of tentative life insurance company taxable income) to the effective tax rate of the 1984 Life Insurance Company Tax Act. The repeal generally is effective for taxable years beginning after December 31, 1985, but as phased out so as to prevent the top marginal rate of life insurance companies from exceeding 36.8 percent as the general corporate rate is phased down.

C. Tax-exempt organizational engaged in insurance activities

1. Under current law, certain fraternal beneficiary societies which provide insurance to members are exempt from tax on the income derived from their insurance activities. The Republican Alternative restates the present-law requirement that the association maintain an active lodge system and requires the Treasury Department to audit and study existing fraternal beneficiary societies with gross annual premiums exceeding $25 million.

2. Under past administrative practice, organizations directly engaged in providing insurance, including organizations engaged in providing health insurance through indemnification of policyholders, have been permitted to retain tax-exempt status as charitable or social welfare organizations under current statutory provisions. The Republican Alternative provides that an organization directly engaged in providing insurance will not be entitled to tax exemption as a charitable or social welfare organization unless the organization provides insurance at less than cost to a class of charitable recipients. The Republican Alternative authorizes the Treasury Department to issue regulations that will, with respect to Blue Cross and Blue Shield organizations, provide special treatment of activities attributable to high-risk individuals and small groups if state law does not require insurers to cover such groups.

The provisions affecting tax-exempt organizations will be effective for years beginning after December 31, 1985.

III. Property and Casualty Insurance Companies

A. Loss Reserve Deductions of Property and Casualty Insurance Companies: The Republican Alternative makes the following changes in the tax treatment of property and casualty insurance companies:

1. Treatment of acquistion expenses.—Phase in over five years a provision to include in income of a property and casualty company 25 percent of the unearned premium reserve.

2. Protection against loss account.—Under current law, mutual property and casualty insurance companies are permitted deductions for contributions to a protection-against-loss account. The Republican Alternative repeals the deduction for contributions to a protection-against-loss account, effective for taxable years beginning after December 31, 1985.

3. Special exemptions and deductions for small mutual companies.—Under current law, mutual property and casualty insurance companies are provided with numberous special small company provisions. The Republican Alternative adopts a single small company provision (also available to stock property and casualty companies) which will exempt from tax those property and casualty insurance companies with net written or direct written premium income (whichever is greater) up to $500,000. Companies with net written or direct written premuim income over $500,000, but less than $2,000,000, may elect to be taxed solley on investment income. The present-law special small mutual company provisions will be repealed. The changes are effective for taxable years beginning after December 31, 1985.

4. Study of Property and Casualty Insurance Industry:

a. *Scope of the Study:* The study should include a comprehensive analysis of all aspects of taxation of the property & casualty ("P & C") industry. The study should be designed in such a way that tax policymakers in government have a thorough understanding of the nature of the P & C business, differing characteristics of industry segments, risks underwritten, statistical profiles; financial and operational patterns, cyclicality, trends in claims and losses, etc.

b. *Study Panel:* The study should be undertaken by a blue ribbon advisory commission appointed by the President, in consultation with the Chairman of the Committee on Ways and Means and the Chairman of the Senate Finance Committee. It would be the express intention of the Congress that the advisory commission consult with those knowledgeable of the P & C business, including the following institutions or organizations: National Association of Insurance Commissioners, Academy of Actuaries, the AICPA, the Internal Revenue Service, the securities industry, state of local government (e.g., NACo, Conference of Mayors), the Insurance Services Office, insurance specialists from the tax bar, and tax economists.

c. *Report:* The advisory commission would not be directed to recommend any specific revisions in federal taxation of the P & C industry, but would be expected to discuss the relative advantages and disadvatages, from both the tax and business perspectives, of the current law and various income tax alternatives.

d. *Due Date of Study:* The study would be conducted over a 2 year period (1986–1987) and its findings would be transmitted to the Chairmen of the Committee on Ways and Means in the House of Representatives and the Committee on Finance of the Senate, and the Secretary of the Treasury. The findings of the advisory commission would be due no later than March 31, 1988.

e. *Expenses/Staff:* Staffing would be provided by the General Accounting Office. The full commission would be expected to meet at least 4 times per year, and would be directed to conduct hearings for developing a record of its findings. The Advisory Commission would be reimbursed for expenses, etc. in a manner similar to other Federal advisory commissions.

IV. Other Insurance Items

The Republican Alternative amends section 217(e) of the Tax Reform Act of 1984 to extend comparable treatment to companies located in Virginia and Louisiana. The Republican Alternative adopts a provision related to the tax treatment of distributions from Phase III accounts in the case of certain insolvent life insurance company liquidations. The Republican Alternative strikes section 217(i)(2)(A) of the Tax Reform Act of 1984. This will eliminate the current law provision under which a stock life subsidiary of certain mutual life insurance companies is treated as though it is a mutual life company, a result which presently exists for no other mutual stock life subsidiaries.

SECTION XI. PENSIONS AND DEFERRED COMPENSATION; FRINGE BENEFITS

I. Individual Retirement Accounts

a. *Spousal Iras*

Present law provides that an individual may exclude from taxable income amounts contributed to an Individual Retirement Account (IRA) up to the lesser of earned income or $2,000 each year. A married couple who files a joint return for the year is entitled to a deduction of $2,250 if one spoused has earned income of at least $2,250 and the other spouse has no compensation for the year. If both spouses have earned income for the year, then the IRA deduction for each spouse is limited to earned income. For example, a spouse, whose only earned income for a year is $50 from jury duty, is entitled to an IRA deduction of only $50, rather than a $250 spousal IRA contribution.

The Republican Alternative increases the spousal IRA contribution of $250 by $350 per year until it equals $2,000. As a result, the spousal IRA will be $600 in 1986; $950 in 1987; $1,300 in 1988; $1,650 in 1989; and $2,000 in 1990 and thereafter. In addition, the Republican Alternative provides that the total IRA deduction of a married couple will not be less than the amount of the spousal IRA plus the regular IRA, as long as the total earned income of the couple is at least the amount the spousal IRA plus the regular IRA. Thus, the fact that one spouse had earnings of less than the amount of the spousal IRA will not limit the availability of the full spousal IRA deduction.

b. *Nondeductible IRAs*

Present law does not permit an individual to make nondeductible contributions to an IRA account although individuals are permitted to make unlimited contributions to tax deferred annuities which are the economic equivalent of a nondeductible IRA. Under the Republican Alternative, beginning for taxable years beginning after January 1, 1989, taxpayers will be allowed to make nondeductible contributions to an IRA account. The annual maximums will be $2,000, phased-in at the rate of $400 per year.

II. Qualified Cash or Deferred Arrangements (Section 401(k) Plans)

Present law provides that employees of an employer who has established a qualified cash or deferred arrangement (a section 401(k) plan) may elect to defer taxation on compensation contributed to a qualified profit-sharing or stock-bonus plan. The employer may make contributions to the 401(k) plan, including "matching" contributions conditioned on the elective deferrals of the employees.

A. Limit on elective deferrals

Current law limits the sum of employer contributions plus elective deferrals on behalf of any employee under a 401(k) plan to the lesser of $30,000 or 25 percent of compensation. The Republican Alternative provides a separate dollar limit of $12,000 on elective deferrals. The Republican Alternative also provides that, as under present law, an employer may make qualified nonelective and matching contributions for any employee; and the limit on the total amount allocated to any employee each year continues to be $30,000.

B. Coordination with IRA contributions

The Republican Alternative reduces an individual's IRA deduction limit by one dollar for each dollar the individual elects to contribute to a 401(k) plan in excess $10,000. For example, an individual who contributed $11,000 to a 401(k) plan will be permitted an IRA deduction of $1,000. The additional spousal IRA deduction will not be reduced by elective 401(k) plan contributions.

C. Employees of tax-exempt and public employers

The Republican Alternative clarifies current law that public employers may not establish 401(k) plans but clarifies current law that tax-exempt employers may establish 401 plans. The Republican Alternative also agrees to grandfather 401(k) plans maintained by State and local governments for employers who have adopted a plan and received a favorable determination letter by December 31, 1985. Elective deferrals under grandfathered plans will be coordinated with elective deferrals under 403(b) tax-sheltered annuities and section 457 plans.

D. Effective date

401(k) plans will have to comply in operation with the Republican Alternative in plan years beginning after December 31, 1985. Collectively bargained plans will have to comply in operation with the agreement in plan years beginning after the termination of the collective bargaining agreement. Amendments to the plan document will not be required until plan years beginning on or after January 1, 1988.

III. Basis Recovery Rules for Qualified Pension Plans

The Republican Alternative modifies the treatment of distributions from plans in which there are after-tax employee contributions. Under present law, distributions prior to the annuity starting date are treated as being made first out of nontaxable employee contributions, and then out of taxable amounts (employer contributions and income). Distributions after the annuity starting date are generally treated as part a payment of income, and part a recovery of employee contributions. Under a special rule, if an individual will receive all employee contributions within the first three years after the annuity starting date, then all distributions are considered a return of employee contributions until the individual's basis has been recovered.

The Republican Alternative reverses the ordering with respect to distributions before the annuity starting date; that is, distributions will be treated as being made first out of taxable amounts (employer contributions plus income) and then out of nontaxable employee contributions. This proposal would be generally effective for distributions made after December 31, 1986, but would not apply to benefits accrued prior to January 1, 1986.

The Republican Alternative also repeals the special 3-year basis recovery rule, so that each distribution will be treated as part a payment of income, and part a recovery of basis. The proposal will not apply to any amount received as an annuity, if the annuity starting date (i.e., the first day of the period for which an amount is received as an annuity) is on or before, December 31, 1986, nor will it apply to any plan if participation in the plan is voluntary by the employees.

IV. Group Term Life Insurance

Under current law, employer provided group term life insurance is not taxable to an employee to the extent the coverage does not exceed $50,000. To the extent coverage exceeds $50,000, its value is included in taxable income. Self-employed individuals, however, are not entitled to deduct the cost of purchasing life insurance of any amount. Under the Republican Alternative, the value of all employer provided life insurance will be taxable to employees. As under current law, self-employed individuals will not be entitled to deduct the cost of life insurance.

V. Tax Treatment of Parsonage Allowances and Military Housing Allowances

The Republican Alternative would clarify that the status of military housing allowances and parsonage allowances utilized to pay home mortgages expenses do not result in a reduction of the mortgage interest or real property tax deductions on such a home. The effect of this amendment is to overrule Rev. Rul. 83-3 which would have provided that home mortgage interest and real property tax expenses would be reduced by such allowances. The effective date of Rev. Rul. 83-3 has been delayed on several occasions.

VI. Additional Tax on Early Withdrawals from Pension Plans

Under current law, a ten-percent additional income tax is imposed on certain early withdrawals from qualified plans with respect to five-percent owners who have not attained age 59½, unless the early withdrawal is made on account of the employee's disability or death. A similar tax also applies to early withdrawals made from an IRA.

The Republican Alternative will conform the early withdrawal rules for qualified plans to the rules for IRAs. Thus, an additional income tax will apply to any participant in a qualified plan or tax-sheltered annuity who receives a distribution before age 59½, death or disability unless the distribution is made in the form of a qualifying annuity.

A qualifying annuity which is not subject to the additional income tax will be an annuity commencing at any age and payable in substantially level payments for the life of the participant (or the joint lives of the participant and the participant's beneficiary).

Rate of tax—The rate of tax would be 10 percent of the amount includable in income.

VII. Clarification of Current Law Concerning Benefits Provided Under a Cafeteria Plan

Under a Cafeteria Plan, an employee is offered a choice between cash and one or more fringe benefits. Under current law, certain requirements are met, then the mere availability of cash or certain permitted taxable benefits under a cafeteria plan does not cause an employee to be treated as having received the available cash or taxable benefits for income tax purposes.

The Republican Alternative retains present law, but clarifies that full-time life insurance salesmen may elect benefits under a cafeteria plan that they are otherwise permitted to exclude from income.

VIII. Extension of Employee Educational

Present law provides a specific income tax and employment tax exclusion for employee educational assistance benefits provided by an employer. This exclusion expires at the end of 1985. Under the Republican Alternative, this provision will be extended for three years, i.e., through the end of 1988.

SECTION XII. TRUSTS AND ESTATES

A. Generation-Skipping Transfer Tax

Under present law, a generation-skipping transfer tax (GST tax) is imposed on transfers under a trust or similar arrangement having beneficiaries in more than one generation below that of the grantor of the trust. The Republican Alternative repeals the present GST tax, retroactive to June 11, 1976.

SECTION XIII. COMPLIANCE AND ADMINISTRATION

I. Penalties Relating to Information Returns

Present law provides a $50 penalty for each failure to file an information return with the IRS or to send a copy to the taxpayer. The maximum penalty is $50,000 for each type of failure. Present law also provides a $5 penalty ($50 under certain circumstances) for failure to furnish a correct taxpayer identification number. The Republican Alternative, as provided in the President's tax reform proposal, imposes a new $5 penalty for supplying incorrect information and consolidates the penalty for the failure to file information returns with the penalty for failure to supply a copy to the taxpayer. The Republican Alternative sets a $10,000 maximum penalty for each type of failure. This will be effective for returns due after December 31, 1985.

II. Penalty for Failure to Pay Taxes

Under present law, a taxpayer who fails to pay taxes when due must pay a penalty of one-half of one percent of the tax for the first month not paid. The penalty increases by one-half of one percent for each month the failure to pay continues, up to a maximum of 25 percent. The Republican Alternative clarifies the collection charge stated in the President's proposal by increasing the

penalty for failure to pay from one-half of one percent to one percent per month (up to the 25 percent limit) after the taxpayer has been notified that the IRS will levy upon the taxpayer's assets (or take other related actions) to collect the past due taxes. This will be effective for failures to pay after December 31, 1985.

III. Negligence and Fraud Penalties

Present law provides negligence and fraud penalties based on two components, a time sensitive component and a specified percentage (5 percent for negligence, 50 percent for fraud) of the entire underpayment of tax if any portion of the underpayment is due to negligence or fraud. Present law also provides that a special negligence penalty applies to failures to include on an information report. The Republican Alternative increases the fraud penalty to 75 percent, but applies the penalty only to the portion of the underpayment attributable to fraud. The Republican Alternative also retains the 5 percent negligence penalty of present law. The negligence penalty will be extended to failures to include on a tax return amounts shown on any information report. This change will apply to all returns required to be filed after December 31, 1985.

IV. Penalty for Overstatement of Pension Liabilities

The Republican Alternative provides a new penalty on actuaries for underpayments of tax due to overstatements of liabilities under a pension plan. The new penalty will be similar to the current underpayment penalty, and will apply to overstatements with respect to 1986 and later returns.

V. Return-Free System

The President's tax reform proposal would provide the IRS with authority to implement a return-free system for individuals. Taxpayers who meet certain criteria (relating to the complexity of their returns) would be offered the option of not filing an income tax return. Instead, the IRS would prepare the return and compute the tax liability of the taxpayer. The IRS would do this using wage reports currently filed with the Social Security Administration and information returns currently filed with the IRS. The Republican Alternative, on the belief the proposal is not yet sufficiently developed, requires a report from the IRS to Congress due in six months specifying who can participate, how it will be implemented and how the various provisions of the tax code will facilitate or hinder the implementation of the return-free system. The Republican Alternative requests that IRS consider an in-house test, not involving taxpayers.

VI. Estimated Tax Payments by individuals

Under present law, individuals owing tax who do not have sufficient taxes withheld from their wages must make estimated tax payments at least equal to the lesser of 100 percent of last year's tax liability or 80 percent of the current year's tax liability. The Republican Alternative raises the current year requirement from 80% to 90% and retains the 100% requirement for last year's liability. This change will apply to estimated tax payments for taxable years beginning after December 31, 1985.

VII. Modification of Employee Withholding Allowances Forms

Present law permits employees to claim withholding allowances for personal exemptions, tax credits, and estimated deductions on Form W-4. This determines the amount of taxes withheld from wages. Because that form remains in effect until a taxpayer changes or revokes it, the Republican Alternative modifies withholding schedules to better approximate any new effective rate schedules which may be provided in this bill in order to prevent underwithholding. The Republican Alternative encourages the IRS to make taxpayers aware of these changes in the withholding form.

VIII. Awards of Attorneys' Fees in Tax Cases

Under present law, attorneys' fees may be awarded in tax cases to private parties who prevail on the issues litigated if the taxpayer proves the government's position was unreasonable. Awards are limited to $25,000. This provision expires with respect to court proceedings commenced after December 31, 1985. The Republican Alternative extends the expiration date until December 31, 1989, and clarifies the manner in which the payment of awards should be funded.

IX. Collection of Diesel Fuel Excise Taxes

Under present law, diesel fuel excise taxes must be collected from the retail dealer. The Republican Alternative agrees to permit diesel fuel wholesalers to collect, at the option of the retail dealer, Federal diesel fuel excise taxes on behalf of their retail dealers.

X. Interest on Underpayments of Accumulated Earnings Tax

The Republican Alternative provides that interest should be charged on underpayments of the accumulated earnings tax from the date the return was originally due to be filed, rather than the date the IRS demands payment of the tax, as present law provides, effective for returns due in 1986.

XI. Tax Administrative Provisions

The Republican Alternative includes a series of taxpayer safeguards and compliance measures as follows:

1. Provides authority to IRS to rescind (with a taxpayer's consent) an erroneously issued 90-day statutory notice of deficiency.
2. Provides authority to IRS to abate interest charges generated from IRS errors or delays.
3. Provides that interest temporarily stops running on a tax deficiency, which includes amounts reflecting interest, if the IRS "final notice and demand" notice is not sent by the 30th day after examination.
4. Provides authority to IRS to reimburse taxpayers for reasonable bank charges generated from erroneous IRS levy actions.
5. Raises the level of the existing penalty for intentional disregard of the present law requirement that an information return be filed for cash received over $10,000 in the course of a trade or business. The current penalty is $100 for each such failure. The new penalty would be 10% of the amount not reported, or $100, whichever is larger.
6. Provide an exemption from levy for amounts received for military "service-connected" disability payments.
7. Modify the administrative rules applicable to forfeiture proceedings involving property used in violation of the internal revenue laws or to defraud the United States of taxes due.
8. Provide guidance to the IRS concerning the need for clearer notices and other problems facing taxpayers.

HOUSE OF REPRESENTATIVES—*Monday, December 9, 1985*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Pride goes before destruction, and a haughty spirit before a fall.—Proverbs 16:18.

We celebrate, O God, all the good gifts we have received as a nation and as a people. We have been blessed with opportunities known to few and the wealth and power is on every side. Yet, gracious God, we recognize that the greatest sin is a pride that makes us and our accomplishments the center of creation or encourages us to see other people as inferior. Allow us, O God, to know the gift of humility that we may be able to see that all good gifts come from the abundance of Your spirit and are to be used by us in gratitude and in service to others. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 440. To designate the week of December 1, 1985, through December 7, 1985, as "National Autism Week."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2965) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 6, 9, 11, 20, 21, 23, 29, 30, 38, 39, 44, 50, 56, 57, 58, 61, 78, 79, 92, 100, 103, 111, 114, 118, 121, 122, 123, 127, 128, 134, and 138, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3424) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 18, 25, 26, 31, 37, 47, 49, 53, 57, 69, 70, 92, 94, 106, and 188 to the above-entitled bill.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 377. Joint resolution to designate December 5, 1985, as "Walt Disney Recognition Day."

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 593. An act for the relief of the Merchants National Bank of Mobile, AL;

S. 1174. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children,

S. 1818. An act to prevent the sexual molestation of children in Indian country; and

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day."

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

MODIFYING THE BOUNDARY OF THE HUMBOLDT NATIONAL FOREST IN THE STATE OF NEVADA

The Clerk called the bill (H.R. 850) to modify the boundary of the Humboldt National Forest in the State of Nevada, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The purpose of this Act is to provide for the efficient administration of Federal lands located in Elko and White Pine Counties, Nevada (comprising approximately 14,743 acres and administered by the Bureau of Land Management).

SEC. 2. (a) The exterior boundary of the Humboldt National Forest is hereby modified as generally depicted on a map entitled "Boundary Modification, Humboldt National Forest", dated March 1984. Such map, and a legal description of the boundary modification, shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and the Director of the Bureau of Land Management, Department of the Interior, and appropriate field offices of these agencies.

(b) Subject to valid existing rights, all Federal lands brought within the boundary of the Humboldt National Forest under subsection (a) are hereby added to the Humboldt National Forest and shall be administered as part of such National Forest.

SEC. 3. Nothing in this Act shall affect the validity of or the terms and conditions of any existing right-of-way, easement, lease, license, or permit on lands transferred by this Act except that they shall be administered by the Forest Service. Reissuance of any authorization shall be in accordance with the regulations of the Forest Service, and the change of jurisdiction over such lands resulting from the enactment of this Act shall not constitute a ground for the denial of renewal or reissuance of any such authorization.

SEC. 4. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Humboldt National Forest, as modified by section 2, shall be treated as if it were the boundary of such National Forest as of January 1, 1965.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLEARING TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY

The Clerk called the bill (H.R. 3085) to clear title to certain lands along the California-Nevada boundary.

There being no objection, the Clerk read the bill, as follows:

H.R. 3085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) thousands of acres of public lands transferred by the United States to the State of California or to the State of Nevada on or before June 1, 1982, are now located within the otner State according to the boundary between them establish by the United States Supreme Court in the case of California against Nevada (447 U.S. 125 (1980));

(2) each State accepted such transfers as valid, and commencing over 125 years ago, conveyed substantially all of the land into private ownership;

(3) the original title of each State and political subdivisions thereof and subsequent

private parties has been treated as good and valid for all governmental and private purposes;

(4) it is imperative that certainty of title to, and ownership of, these lands be established as soon as practicable in order to avoid any undue hardship on the States of California and Nevada and affected private parties; and

(5) litigation is not an appropriate means of resolving the questions of title and ownership of the affected lands in that it would result in unprecedented and unnecessary burdens and expenses on the courts of the United States and the States of California and Nevada, as well as on private property owners.

SEC. 2. TRANSFERS TO CALIFORNIA.

Grants and all other transfers of public land to the State of California by the United States by a statute, clear list, selection, patent, or any other means on or before June 1, 1982—

(1) which are located in the State of Nevada according to the boundary between the States of California and Nevada, as defined in the case of California against Nevada (447 U.S. 125 (1980)); and

(2) which have been patented or otherwise conveyed to a third party by the State of California,

are not invalid because such land or portions of such land are located in the State of Nevada.

SEC. 3. TRANSFERS TO NEVADA.

Grants and all other transfers of public land to the State of Nevada by the United States by a statute, clear list, selection, patent, or any other means on or before June 1, 1982—

(1) which are located in the State of California according to the boundary between the States of California and Nevada, as defined in the case of California against Nevada (447 U.S. 125 (1980)); and

(2) which have been patented or otherwise conveyed to a third party by the State of Nevada,

are not invalid because such land or portions of such land are located in the State of California.

SEC. 4. CERTAIN LANDS NOT AFFECTED.

This Act shall not apply to any public land referred to in section 2 or 3 which has not been patented or otherwise conveyed to a third party by the State of California or the State of Nevada, as the case may be.

SEC. 5. LANDS AFFECTED.

Not later than six months after the date of the enactment of this Act, the Secretary of the Interior shall, in coordination with the States of California and Nevada, develop a list of the property affected by sections 2 and 3. Such list may be amended from time to time so long as each portion of the land to be added to such list is described in section 2 or 3. Such list, and any amendment thereto, shall be published in the Federal Register.

With the following committee amendment:

Page 4, strike out all of lines 11 through 18 and insert the following:

As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall request the States of California and Nevada to submit to the Secretary maps and a list of patents or other conveyances for tracts of land the two States agree are affected by sections 2 and 3 of this Act. Upon concurring that the patents or other conveyances so listed are those intended to be covered by this Act, the Secretary of the Interior shall publish the list of patents or other conveyances in the Federal Register. The Secretary is authorized to make clerical and typographical corrections of errors in the list of patents or other conveyances and maps. Such maps, using the Department of the Interior Bureau of Land Management Master Title Plats showing the affected lands, shall be on file for illustrative purposes and along with the list of patents or other conveyances shall be available for public inspection with the State Directors of the Bureau of Land Management, Department of the Interior, in California and Nevada, and with the State Lands Administrator of Nevada and States Lands Commissioner of California.

SEC. 6. STATE RIGHTS.

Nothing in this Act shall be construed as conferring on either the State of California or the State of Nevada any rights with regard to entitlements to Federal lands, or as enlarging, diminishing, or otherwise affecting any such rights which may exist under other provisions of law.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING CERTAIN LANDS IN THE CITY OF COALINGA, CA, ABANDONED BY THE SOUTHERN PACIFIC TRANSPORTATION CO.

The Clerk called the bill (H.R. 3266) to declare certain lands in the city of Coalinga, CA, abandoned by the Southern Pacific Transportation Co.

There being no objection, the Clerk read the bill, as follows:

H.R. 3266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Southern Pacific Transportation Company is the successor grantee of the real property described in section 3;

(2) pursuant to a petition of the Southern Pacific Transportation Company, the Interstate Commerce Commission has exempted the abandonment of the real property described in section 3 from the provisions of 49 U.S.C. 10903 (relating to abandonment and discontinuance of railroad lines and rail transportation);

(3) the Southern Pacific Transportation Company has abandoned all right, title, and interest in and to the real property described in section 3.

SEC. 2. DECLARATION OF ABANDONMENT.

Pursuant to the Act entitled "An Act to provide for the disposition of abandoned portions of rights of way granted to railroad companies", approved March 8, 1922 (43 U.S.C. 912), the Congress hereby declares that the Southern Pacific Transportation Company has abandoned the real property described in section 3.

SEC. 3. LAND DESCRIPTION.

The real property referred to in sections 1 and 2 is certain real property situated in the City of Coalinga, California, which forms part of the right-of-way granted by the United States to the Atlantic and Pacific Railroad Company by the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (16 Stat. 292), and more particularly described as that portion of the right-of-way extending from the section line of Sections 33 and 34 of Township 20 South, Range 15 East, Mount Diablo Base & Meridian to the south city limits of the City of Coalinga.

With the following committee amendment:

Page 2, line 14, strike "Pursuant to" and insert "For the purposes of".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPROVING PUBLIC LAND ORDER NUMBERED 6607 OF JULY 8, 1985

The Clerk called the joint resolution (H.J. Res. 419) to approve Public Land Order Numbered 6607 of July 8, 1985.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 419

Whereas the Department of the Interior states that the State of Alaska has concurred in the addition of such lands to the Arctic National Wildlife Refuge; and

Whereas the Assistant Secretary of the Interior on June 28, 1985, submitted to the chairman of the Committee on Interior and Insular Affairs of the House of Representatives and the chairman of the Committee on Energy and Natural Resources of the Senate a notice of the withdrawal effected by such Public Land Order Numbered 6607; and

Whereas as provided by section 1326(a) of the Alaska National Interest Lands Conservation Act, the withdrawal effected by such Public Land Order Numbered 6607 will terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal was submitted to Congress: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Public Land Order Numbered 6607 of July 8, 1985, as published in volume 50, numbered 130 of the Federal Register, pages 27827 and 27828, is hereby approved.

SEC. 2. The lands described in paragraph 1 of Public Land Order Numbered 6607 of July 8, 1985, are hereby added to the Arctic National Wildlife Refuge for management in accordance with the Alaska National Interest Lands Conservation Act and other applicable laws.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WORTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the bills and the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

APPOINTMENT OF CONFEREES ON H.R. 3037, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes, with Senate amendments, thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, TRAXLER, MCHUGH, NATCHER, AKAKA, WATKINS, DURBIN and SMITH of Iowa, Mrs. SMITH of Nebraska, and Messrs. MYERS of Indiana, ROGERS, SKEEN, and CONTE.

APPOINTMENT AS MEMBER OF THE COMMISSION ON THE U.S. HOUSE OF REPRESENTATIVES BICENTENARY

The SPEAKER. Pursuant to the provisions of section 3 of House Resolution 249, 99th Congress, the Chair appoints as an additional member of the Commission on the U.S. House of Representatives Bicentenary the following former Member of the House:

Mr. Bolling of Missouri.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
December 6, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:10 p.m. on Friday, December 6, 1985 and said to contain a message from the President wherein he transmits the eighth annual report on Federal Energy Conservation Programs.

What kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

EIGHTH ANNUAL REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce.

To the Congress of the United States:

In accordance with the provisions of Section 318(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) and Subtitle H of the Energy Security Act (42 U.S.C. 8286), I herewith transmit the eighth annual report on Federal Energy Conservation Programs undertaken during Fiscal Year 1984.

RONALD REAGAN.

THE WHITE HOUSE, *December 6, 1985.*

THE GRAMM-RUDMAN PROPOSAL AND THE TAX REFORM ACT OF 1985 ARE INCOMPATIBLE

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL. Mr. Speaker, before this week is out, this body is expected to take action on two proposals which will, if adopted, change the face of America for many years to come. I have not decided how I will vote on either.

The two proposals are, of course, the Gramm-Rudman-Hollings amendment to the debt limit increase, and the Tax Reform Act of 1985. Passage of the latter virtually guarantees that the former will self-destruct. Under the provisions of the Gramm-Rudman-Hollings amendment, sequestering of funds will be suspended if the economy experiences recession for two consecutive quarters. The tax bill, according to every economic analysis I have seen, reinforced by common sense, will beyond question cause a decline in GNP, and an increase in unemployment, and suspension of Gramm-Rudman-Hollings will be inevitable.

MAYBE THE SOLUTION IS TO DO NOTHING

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, it appears that tax reform has come down to "R&R"—Republican and Rostenkowski. The President wants me to vote for the Republican plan because he says the Republican plan is better than Rostenkowski; but if the Republican plan fails, he wants me to vote for Rostenkowski, which he says is better than nothing. If it is better than nothing and it passes, it will be fixed up in the Senate; but if it fails to be fixed in the Senate and goes to the President's desk as originally passed in the House, then the President will veto it.

I am not sure where I am on this issue, Mr. President, so I have to come down on a firm "maybe." I believe that perhaps we ought to be doing this. We will vote for the Republican plan, but if it fails I am not sure I can vote for Rostenkowski because it is just "better than nothing."

It may be the solution to do nothing, to do nothing is better.

THE HOUSE MUST PASS FARM CREDIT LEGISLATION

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, last July, many farmers in our part of the country who do business with the Federal Land Bank System faced an increase in their interest rates which was one more devastating blow in a very difficult circumstance that they had been facing for several years now.

Once again, they are facing the prospect of further increases in the interest rate because the Farm Credit System is known to be in very serious difficulty. It is imperative, Mr. Speaker, that we in the House pass the farm credit legislation. This is an emergency bill, it must be passed before the Christmas break so that we can shore up the Federal credit system and make sure that our farmers are able to proceed as best they can in what are the most difficult circumstances that they have faced in this century.

□ 1210

STAR WARS R&D MONEY SHOULD NOT BE USED AS BARGAINING CHIPS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I want to call the attention of the House to the fact that the Secretary, Secretary Caspar Weinberger of the Department of Defense, on Friday last, signed an agreement with his British counterpart with regard to the star wars, Strategic Defense Initiative Program. This agreement is unique in the sense that it will provide an unprecedented award of some research dollars to the British to be utilized in investigation and inquiry into the star wars program.

The fact is that this program has been sold on many bases. One is that it will lead us into the 21st century with regard to research and development. The fact is, if we are going to

give away the R&D dollars to the French, to the British, to the Italians, and perhaps the other 18 allies who have been invited to participate, we are not going to stand to develop the human resources benefits that this program has promised.

We all know that we debate about SDI on other bases. We have had a standing invitation in the Subcommittee on Economic Stabilization for General Abrahamson, the key negotiator with regard to awarding SDI R&D to our allies to appear before that committee and explain what is going on with regard to these important negotiations. Yet, this memorandum of understanding which has been agreed to just last week is a fact that is known to no one in Congress, certainly not reported in the media with any detail, we do not know what is in it. But the 5-year $26 billion research and development money ought to at least benefit the United States and not be used as a bargaining chip to obtain European and other support for star wars. Surely adequate research and development resources and contractors exist within the United States. The point is that we are committing our limited resources, U.S. taxpayer dollars, for this SDI Program and in awarding these contracts abroad and out of public and congressional view, this administration is undercutting our research, technological, and industrial base at home and in fact building up that for other nations who incidentally are not being asked to contribute anything except maybe their political support down the road for star wars.

Mr. Speaker, these actions are a clever way to gain political support, but in the long run has the ironic consequence of cutting the heart out of U.S. R&D and development of our human resources.

HAPPY BIRTHDAY, MR. SPEAKER—AN "AYE" VOTE TODAY WILL PRESERVE THE STABILITY OF THE FARM CREDIT SYSTEM

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I understand today is your birthday. I want to wish you a happy birthday, as I am sure the rest of the country does.

Mr. Speaker, you and I share the same astrological sign, that means good things for me in the future.

The SPEAKER. I was trying to hide it, but thank you.

Mr. GLICKMAN. Mr. Speaker, I wanted to echo the comments of my colleague from Indiana, Mr. SHARP, who urged our colleagues to vote for a bill that is on suspension today to provide some regulatory changes in the operation of the farm credit system. This bill provides the necessary regulatory authority to ensure that the farm credit system can operate in a way to prevent catastrophic numbers of foreclosures in the future and to prevent a dramatic reduction in farmland values over the next year or two which will work to a very, very serious detriment to the American farmers. I do not like every provision of this bill. I am not comfortable with the historical operation of the system, but right now I do not think we have any choice, and the alternative, in my judgment, is a system of increased foreclosures for farmers in America. Obviously, the real answer is higher farm prices, which will not happen out of the farm bill that the House and Senate are currently dealing with.

Right now the bill before us today is a bill to preserve the stability of the farm credit system so that we can see some stability in land prices in America.

I urge my colleagues to vote for that bill.

H.R. 5162 SHOULD ALSO APPLY TO RESTRICTIONS ON CANADIAN LUMBER IMPORTS

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, I also would like to wish, too, to my mind, the grandest person who has ever served in this great body and the most distinguished, a happy birthday.

Mr. Speaker, last Tuesday the House took up the textile protection bill, H.R. 1562.

I was snowed in in Oregon and unable to be here. I would like to say that it seldom snows in western Oregon, but we had deep snows and ice, and the planes just did not take off. I was unable to be here.

Had I been here, Mr. Speaker, on that bill, H.R. 1562, which set quotas on textiles as well as shoes and copper, I would have voted an enthusiastic "yes." I believe that the provisions of that bill should also apply to desperately needed restrictions on Canadian lumber imports which are crippling my timber industry in my Fourth Congressional District of southwest Oregon.

A CAMPAIGN OF FEAR

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. A happy birthday, Mr. Speaker, from another Member of Congress who admires and likes you a lot.

Mr. Speaker, during this first session of the 99th Congress we have been witnessing the growth of a campaign of fear designed to obtain money from senior citizens least able to pay.

During my recent series of townhall meetings in the western section of Kentucky, 12 elderly citizens, individually, approached me questioning what James Roosevelt and the National Committee to Preserve Social Security and Medicare had written them concerning Social Security. While they knew their questions could be answered by contacting me, a few still gave money to the national committee and James Roosevelt. One elderly lady in Marion, KY, who could ill afford a contribution, told me last Saturday she knew better, but after months of receiving craftily drafted letters and "action grams" she was so worried that if she didn't do something to save herself from losing her Social Security payment it would be her own fault. So she mailed in $100 to the National Committee to Preserve Social Security and Medicare.

It has been Congress and the administration which have handed James Roosevelt the ammunition for his fundraising campaigns. We, as Members of Congress, did not foresee what might happen by not meeting deadlines on the budget and the debt ceiling. Nor did the administration fully think through their actions on the "midnight raid" on disinvesting Social Security earmarked securities.

Mr. James Roosevelt has sent a November 8 "Urgent Action Gram" telling senior citizens that much of the Social Security trust fund has been taken and implying there won't be enough money to pay December's benefits. He has a solution, however—send him an "emergency contribution" of $15 to raise money for lobbyists and lawyers.

Senior citizens should know their December checks were never in doubt and recent legislation restored the drawn down reserves.

What does the Roosevelt Committee do besides seek money? I've never been approached by one of their lobbyists on this issue; the lawsuits they talk about were filed by others.

Mr. Speaker, the administration's disinvestment was wrong; Mr. Roosevelt's scaring the elderly into contributing part of their Social Security checks is even worse.

IMPORTS CONTINUE TO TAKE JOBS FROM AMERICANS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, two more manufacturing plants in Maryland have announced layoffs due to the competition of imports coming in from abroad. One is Black & Decker, headquartered in my district, which

makes small power tools and projects jobs losses of 1,300 by 1987. The other is Koppers, which makes piston rings, and has already laid off 700 workers since the beginning of the year in my district.

These are good jobs being lost—well-paid, highly skilled—not easily replaced by our economy for a worker out on the street. But, the loss to our defense industrial base is much greater. In a wartime situation, a highly skilled machinist is every bit as important to a war effort as a platoon of soldiers on the front line.

The one cannot exist without the other and it takes longer to train and replace machinists than it does to train and replace the soldiers. In the Second World War, the date of D-day was put off for 1 year because of the shortage of machine tools in 1941. And each one of those machine tools needed a machinist.

If Southeast Asia were to be attacked—now the major source of our strategic manufactured parts—we will have to use first strike nuclear weapons. We will have no manufacturing capability to produce alternative weapons.

HOUSE WILL ADD TO MAJOR DEBT EXPENDITURES TODAY

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, happy birthday.

The SPEAKER. Thank you.

Mr. WALKER. Mr. Speaker, sometimes the American people wonder where the spending that ends up being major debt comes from. I would suggest to them they have to look no further than today's Suspension Calendar in this House. If you total up the amount of spending that we authorized on the "spending" calendar today, or on the Suspension Calendar today, it comes to $1.6 billion, including the outyears. If you look at just what we are going to authorize for the first year with the spending that is in the bills before us today, it is over $271 million, $271 million not including the farm credit bill because we have no idea how much that may cost. That may be billions more.

Every dollar of every debt that we pile up today results in $71 of additional debt being passed on to future generations. If you take those totals, we are passing along $19.2 billion worth of debt to future generations with what we will do on this floor today. I think we ought to be very, very careful about some of those bills.

VOTE "NO" ON UNIFORM POLL CLOSING BILL

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, tomorrow the House is expected to take up a bill called the uniform poll closing bill.

This is a bill that establishes national standards for poll closing on a uniform basis among all the States, except a few, for the reason that there has been some anecdotal evidence presented that people on the west coast have been discouraged from voting by knowing what has already happened in other parts of the country.

In my judgment, forcing 39 States to change their opening and closing hours is an unwise way to handle the problem and an unreasonable incursion into State prerogatives.

I hope Members will take a look at this bill, will consult with their secretaries of state or with other local election officials, and join with me in rejecting that bill.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, TUESDAY, DECEMBER 10, 1985, TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 372, PUBLIC DEBT LIMIT INCREASE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, tomorrow, Tuesday, December 10, 1985, to file a conference report on the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

COMMENDING GOVERNMENTS OF IRELAND AND UNITED KINGDOM FOR AGREEING ON PEACEFUL SOLUTION FOR NORTHERN IRELAND

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 239), commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

The Clerk read as follows:

H. CON. RES. 239

Whereas all peace-loving people desire a just and lasting solution to the problems of Northern Ireland;

Whereas violence and terrorism in Northern Ireland and all those who support it should be strongly condemned, and the effort to achieve peace and reconciliation through political means should be supported;

Whereas the report of the New Ireland Forum of May 2, 1984, which condemned violence and those who support it, made an important contribution to the Anglo-Irish negotiations over the past year;

Whereas the Prime Ministers of Ireland and the United Kingdom signed an agreement in Hillsborough, Northern Ireland, on November 15, 1985, which provides a basis for progress towards peace, stability, and an end to violence in Northern Ireland;

Whereas this agreement provides for an unprecedented role for the Government of Ireland in relation to Northern Ireland;

Whereas this agreement affirms that any change in the status of Northern Ireland would only come about with the consent of the majority of the people of Northern Ireland;

Whereas this agreement declares that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a United Ireland, the Governments of Ireland and the United Kingdom will introduce and support in the respective Parliaments legislation to give effect to that wish;

Whereas the agreement envisages the possibility of securing international support to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of violence of recent years;

Whereas the Parliaments of Ireland and the United Kingdom have given their solemn and respectful approval to this historic agreement;

Whereas on August 30, 1977, President Carter stated that in the event of a peaceful settlement in Northern Ireland, "the U.S. Government would be prepared to join with others to see how additional job-creating investment could be encouraged to the benefit of all the people in Northern Ireland";

Whereas on November 15, 1985, President Reagan stated that "I will be working closely with the Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement"; and

Whereas this agreement should be supported by all those who seek peace, stability, and an end to violence in Northern Ireland and the reconciliation of the two major traditions in Ireland: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress commends the Government of Ireland and the Government of the United Kingdom for their achievement in reaching an agreement which charts a way towards peace, stability, and an end to violence in Northern Ireland.

(b) The Congress declares its willingness to work with the President in supporting the Anglo-Irish agreement through appropriate United States assistance, including economic and financial support, to promote the economic and social development of those areas of both parts of Ireland which

have suffered most severely from the consequences of the violence of recent years.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President.

□ 1225

The SPEAKER. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Pennsylvania because I want to join him in what he is about to say, Mr. Speaker. He will be talking about why it is such a wonderful coincidence that this resolution comes before the Congress on this day.

Mr. MURTHA. Mr. Speaker, I want to commend the gentleman from Florida [Mr. FASCELL] for having such perfect timing. Nobody has done more for the good relations between the United States and Ireland than the Speaker, and it is certainly appropriate that this should come on this day, and I want to commend the chairman and the ranking minority Member for bringing up this resolution on such as auspicious occasion.

Mr. FASCELL. I think it ought to be noted in the RECORD, I will say to the gentleman from Pennsylvania, that the gentleman from Michigan and I are happy to join him, and we ought to let our colleagues know that this is the Speaker's birthday. That is what we are talking about, the happy coincidence it is because the Speaker has taken such a strong lead in this entire matter that this resolution comes to the floor today. This is an historic occasion, for that reason as well as the fact that we have an agreement here between Ireland and the United Kingdom that will, hopefully, lay the groundwork for a peaceful solution in Northern Ireland. And, goodness knows, that is in everybody's heart and in everybody's prayers. This resolution signifies that spirit, Mr. Speaker, and it also says that we look forward with great anticipation and willingness to working with the administration in supporting this agreement in every appropriate way.

I would like to assure all Members of this body that the committee will work very closely with everyone who has an interest in Northern Ireland as we consider economic assistance sometime this spring. I will be glad to yield the gentleman some time on his own in just a moment.

Mr. Speaker, I rise in support of House Concurrent Resolution 239, a resolution which commends the Governments of Ireland and the United Kingdom for reaching an agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

The resolution enjoys widespread support and was cosponsored by many of my distinguished colleagues, including the majority leader, Mr. WRIGHT; the minority leader, Mr. MICHEL; the majority whip, Mr. FOLEY; Mr. HAMILTON; our distinguished ranking minority member, Mr. BROOMFIELD; Mr. MCDADE and Mr. BOLAND.

The resolution commends the Governments of Ireland and the United Kingdom for their historic joint effort to end the violence in Northern Ireland and to lay the foundation for a peaceful settlement of the conflict in Northern Ireland. It also expresses the willingness of the Congress to work with the President in supporting this Anglo-Irish agreement through appropriate measures.

The Anglo-Irish agreement is by no means a final answer. However, it is an important step toward reconciliation between the two major traditions in Ireland. It should be noted that the Anglo-Irish agreement which was signed on November 15 at Hillsborough, Northern Ireland, reflects the spirit of the far-reaching principles which were set forth in the report of the New Ireland Forum in 1984.

The Anglo-Irish agreement provides for an unprecedented role for the Government of Ireland in the day-to-day affairs in Northern Ireland through the establishment of an Anglo-Irish Intergovernmental Conference. The Conference is intended to meet on a regular basis to discuss such matters as political, security, and legal matters including the administration of justice and the promotion of cross-border cooperation.

It is my hope that the Anglo-Irish agreement will meet with success and will provide an environment for stability and peace and an end to violence in Northern Ireland.

Mr. Speaker, I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

I want to join with the gentleman from Pennsylvania [Mr. MURTHA] and the gentleman from Florida [Mr. FASCELL] in extending the Speaker best wishes on this special day.

Mr. Speaker, this is an historic day, as the chairman of our Committee on Foreign Affairs has mentioned. Mr. Speaker, a fragile first step was recently taken which may bring peace to Northern Ireland. This resolution commends the Government of Ireland and the Government of the United Kingdom for having reached an agreement. The accord lays the foundation for a peaceful solution to the problems of Northern Ireland.

We are all concerned about the cycle of violence, the terrorism, and the economic problems of that country. I am encouraged that steps along the road to peace are being taken.

The Anglo-Irish agreement provides a basis for progress toward peace, and an end to the instability in Northern Ireland. That historic agreement calls for a role for the Government of Ireland in relation to Northern Ireland.

The resolution before us supports the Anglo-Irish accord. It also expresses the desire of Congress to work with the President in supporting the agreement through economic and financial means. Anything we can do in this Congress to remove the economic ills in Northern Ireland will be welcomed in that long-suffering land. I also want to praise the hard work of British Prime Minister Margaret Thatcher and Irish Prime Minister Garret Fitzgerald for making this vital accord possible.

I ask my colleagues to join me in supporting this important resolution.

Mr. FASCELL. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding this time.

Mr. Speaker, as chairman of the bipartisan 112-member Ad Hoc Congressional Committee for Irish Affairs, I rise in support of House Concurrent Resolution 239. It is a resolution and I quote:

> Commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable and peaceful solution to the problems of Northern Ireland.

I also wish to commend Chairman DANTE FASCELL for his leadership on this resolution which is another manifestation of his concern about the problems in Northern Ireland and the need for a lasting solution.

I wish to separate this resolution into its two component parts. The first is the resolution's commendation of the two governments for their work which led to the Anglo-Irish agreement. Without question, the agreement's greatest asset is that it exists. It is the culmination of many years of effort on the part of both governments to try and find a solution to the vexing Irish question. It is also a recognition on the part of Mrs. Thatcher that the way forward in Northern Ireland is the political solution route. The Anglo-Irish agreement at least conceptually could establish the basis for a political solution. The fact that a British Prime Minister is championing such an agreement is a radical departure from British policies over the past 15 years.

The second component of this resolution which I do not stand in full agreement with—is its overly optimis-

tic assessment of the Anglo-Irish agreement. I consider it to be an agreement which should neither be condemned nor embraced. It should be viewed as a fragile first step. It should be seen as being at best a precarious foundation which will not support an enduring political solution without some major additions and changes. As signed, the agreement is far more symbolic than it is substantive. In my judgment, its single greatest flaw is that it does not change the political status quo in Northern Ireland in any way. It does offer the Government of Ireland a consultative role in the affairs of Northern Ireland. However, this is merely an empty gesture unless that role can be a catalyst for genuine change in the existing political structure.

If we want a lasting political solution in Northern Ireland, it cannot be achieved while the British maintain their direct rule over the six counties. There can never be a united Ireland while British troops patrol the streets of Northern Ireland.

The House's approval of this resolution, no matter how each of us may feel about the entire proposal, will be an important recognition that the Anglo-Irish agreement is a first step forward. Yet the real issue is—what will follow? Perhaps the most crucial aspect of this entire process will be what happens during the next 6 to 12 months. We have seen one meeting between law enforcement officials from the two governments. We know that the first formal meeting of the new Anglo-Irish Intergovernmental Conference is supposed to take place later this month. It is vital that it take place and concentrate on the issues identified as priorities in the joint communique issued after the agreement was signed.

These are:

First, relating between the security forces and minority community in Northern Ireland;

Second, ways of enhancing security cooperation between the two governments; and

Third, seeking measures to give substantial expression to the aim of underlining the importance of public confidence in the administration of justice.

I also strongly believe that responsible officials from both governments must operate in a progressive and positive spirit. Such has not been the case with the Secretary of State for Northern Ireland, Tom King. Last week he was quoted as saying that the Irish Government in signing the Anglo-Irish agreement "has in fact accepted that for all practical purposes and into perpetuity there will never be a United Ireland." Such a comment was ill-advised and inappropriate. It is not constructive and last week I called on Prime Minister Thatcher to relieve Mr. King of his duties.

There has been much in the way of positive reaction to the Anglo-Irish agreement by the President and others. One aspect I am most interested in is a pledge such as President Reagan's to provide some type of future United States help in restoring the Northern Ireland economy. I am the author of two bills each of which would provide $500 million over the 5 years in first time United States economic assistance to Northern Ireland. Each to varying degrees would tie the aid to continued progress toward a political solution.

To me, the idea of future U.S. economic aid should not be an issue. Northern Ireland needs it, and we should help. However, as I stated in a letter to President Reagan, cosigned by 35 of my colleagues, it is essential that the aid be provided to accomplish several specific goals. These include full guarantees of human rights in Northern Ireland; nondiscrimination in the way the aid is provided and distributed, and that it help to reduce the cycle of violence in the north. Without these assurances all we would be doing is underwriting continued discrimination in Northern Ireland.

This resolution is an important statement which Congress should make. The goal of peace, justice, human rights and freedom for the people of Northern Ireland is a laudable and achievable one.

The Anglo-Irish agreement provides a framework of hope. Yet the progress cannot stop here. We must involve a wider segment of political thought in future discussions and we must seek commitments from the British Government that they are prepared to change the political status quo in Ulster. The United States has a role to play now and in the future. Let us better identify and develop this role.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I rise in enthusiastic support of the resolution reported by the distinguished Committee on Foreign Affairs. The historic agreement between Great Britain and the Republic of Ireland in setting forth the terms for a new dimension of participation for representatives of the Republic of Ireland and of Great Britain in dealing with the problems of Northern Ireland should arouse the support of all Members of this House. This is a truly historic undertaking. It has been approved by the Dail Eireann and the Ireland Senate and overwhelmingly by the House of Commons and the House of Lords. The concurrence of both Parliaments having been given, the document will now be deposited as an official agreement between the two countries with the United Nations.

This undertaking, while involving some difficulty on both sides, provides a new hope that the long struggle and pattern of injustice, discrimination, and violence will be brought to an end in Northern Ireland. Not only for those of Irish descent but for all Americans, this is a hope we have shared in and a hope that we must assist in bringing into reality. For this reason, I would urge all Members of this House to give their unanimous concurrence to this resolution.

I congratulate the distinguished chairman, the gentleman from Florida [Mr. FASCELL] and the distinguished ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], for making it possible for the House to act on this important matter prior to the conclusion of this session.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume so that I may thank the majority whip for not only his statement but for the leadership that he has provided on this issue as long as we have been here in the Congress considering the matter. I look forward to his continued leadership and the close cooperation of the Friends of Ireland on a matter that is of such importance. I am delighted, as he is, that here we are, commending the governments for taking a very fragile but a very important step. We all hope and pray that it will lead to the kinds of results we want.

Mr. BOLAND. Mr. Speaker, on November 15, the Prime Ministers of the Republic of Ireland and of Great Britain signed an historic agreement with regard to Northern Ireland. That agreement offers a measure of hope that a political solution can be found to the troubles which have plagued the people of Northern Ireland for generations. The measure now before us, House Concurrent Resolution 239, commends the process which produced this accord, and the parties who moved that process forward. In addition, it signifies the intention of Congress to join with the President in fashioning a package of economic aid sufficient to demonstrate the willingness of the United States to assist in the furtherance of agreement. Those are important and useful purposes, and for that reason, I strongly support the passage of this resolution.

I do not need to detail for the Members of this House the economic, social, and political misery which besets Northern Ireland. We are all familiar with the violence which has touched far too many families and claimed far too many lives. It is essential that that cycle of violence be broken, for it is not the answer to the problems of Northern Ireland. A little over a year ago, the New Ireland Forum, an entity composed of leaders of the north and south of Ireland, issued a report which indicated some substantial agreement on the elements of a political solution for the trou-

bles in Northern Ireland. The recently signed Anglo-Irish accord builds on that report. It recognizes, as did the forum, that a solution to the divisions in Northern Ireland must flow from, rather than be imposed over, the consent of the people. In rejecting violence, both the forum and the accord point the way toward the only kind of resolution of the Northern Ireland situation that has a chance of achieving lasting success.

The Anglo-Irish agreement is not the end of the road to peace and justice in Northern Ireland. It is a step, one of many that will have to be taken, along that road. It is a positive event, however, and I believe it deserves to be supported and encouraged. That the future as embodied in the agreement is uncertain and filled with risks for both the Irish and the British is no reason not to commend them for the progress the accord represents.

Our country, which has such close ties with the people of Ireland, has an undeniable stake in the operation of the Anglo-Irish agreement. We can, and we must offer our moral support to the peace process, but we must be prepared to offer material support as well. The economy of Northern Ireland has been devastated by the violence, and the societal conditions which feed it. A response to that situation which is as delicately fashioned as is the new agreement, cannot succeed without addressing the economic problems in the north. President Reagan has pledged his willingness to work with the Congress to provide practical support for the agreement. Through the passage of House Concurrent Resolution 239, we have an opportunity to sign on as partners with the President in this effort. Together, I am confident that we can develop an appropriate response to the economic needs of the people of Northern Ireland so that those needs do not become an insurmountable barrier to the success of the agreement, and the future agreements which I hope will flow from it.

Mr. Speaker, I urge the adoption of House Congress Resolution 239.

Mr. MICHEL. Mr. Speaker, I want to join with our colleagues in praising the work of the Government of Great Britain and the Government of Ireland in achieving a historic breakthrough in the tragic situation in Northern Ireland.

As has been said, the new agreement between the two countries is not the entire answer to the complex problems of Northern Ireland. But it is a beginning. It is a sign of hope toward peace and reconciliation.

The Nationalist and Union traditions in Northern Ireland are recognized by the Anglo-Irish agreement. And the principles set forth in the report of the New Ireland Forum serve as a basis for the agreement, thereby giving this agreement a sense of continuity with the long, difficult work that has come before.

I leave it to the experts to discuss the details of this agreement. But I simply want to add my congratulations to the two governments, to all the people of Ireland and to friends of Ireland here and around the world. If, through work and prayer and cooperation, this agreement can have a chance to succeed, I believe we will witness a new era of good feeling in Ireland. We cannot ask for utopia and don't expect it. But what we can expect is an end to violence and the beginning of mutual trust and cooperation throughout all of Ireland, helped by its friends around the world.

This is why I am glad to be among the sponsors of the resolution commending the Government of Ireland and the Government of Great Britain for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

Mr. LAFALCE. I rise today in support of House Concurrent Resolution 239 to commend the Government of Ireland and the United Kingdom for their historic agreement on the status of Northern Ireland.

The agreement of November 15 is a fair, moderate, and vital step toward a permanent resolution of the troubles in Northern Ireland. An Irish voice in the affairs of the north will help ensure respect for the rights of Northern Ireland's minority, while the current desire of its majority to remain under British sovereignty will also be honored.

This agreement is the most hopeful sign of progress that we have seen in many years of Irish strife. The American people feel a special warmth for the Irish people, and have been deeply concerned over the violence and hatred that have divided Ireland. The Anglo-Irish agreement offers new hope that the violence, hatred, and division may ultimately end, and that a spirit of reconciliation may begin to guide the course of Irish affairs.

The American people are heartened by the agreement, and we want to do all we can to promote it, strengthen it, and advance its goals. The resolution before us, therefore, offers not only our moral support, but also appropriate economic and financial assistance to help heal the economic and social wounds that have been inflicted on both parts of Ireland.

Such assistance cannot be the end of American concern, but it is an important affirmation of our support for the Anglo-Irish agreement and for further progress toward full and lasting Irish reconciliation.

Mr. FASCELL. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 239, the concurrent resolution under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 239.

The question was taken.

Mr. FOLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

APPEAL RIGHTS FOR CERTAIN POSTAL EMPLOYEES

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2854) to amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded to Federal employees under title 5, United States Code, as amended.

The Clerk read as follows:

H.R. 2854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1005(a) of title 39, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) Subchapter II of chapter 75 of title 5 shall apply—

"(A) to a preference eligible in the Postal Service in accordance with the provisions of such subchapter; and

"(B) to any other individual if such individual—

"(i) is a supervisor or managerial employee of the Postal Service, or an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and

"(ii) has completed 1 year of current continuous service in the same or similar positions.".

(b)(1) The amendments made by subsection (a) shall be effective after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(2) An action which is commenced under section 1005(a)(1)(b) of title 39, United States Code, before the effective date of the amendments made by subsection (a) shall not abate by reason of the enactment of this Act. Determinations with respect to any such action shall be made as if this Act had not been enacted.

□ 1240

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am most pleased to rise in support of H.R. 2854, legislation which will bring more fairness to the adverse action process for certain employees of the U.S. Postal Service. I also must express my gratitude to my colleagues who cosponsored this bill. In particular, I was pleasantly surprised and, of course, pleased when every member of the Committee on Post Office and Civil Service cosponsored the bill. I do not believe this has happened for quite some time. I would like to thank the chairman of the Postal Personnel Subcommittee, Mr. MCCLOSKEY, and our full committee chairman, Mr. FORD, for acting on this measure in a timely fashion.

H.R. 2854 grew out of a concern about the rights of postal and Federal employees when adverse personnel actions are taken against them. While I do not question the authority of a Government agency to take disciplinary actions against its employees, I strongly believe employees are entitled to receive a fair and objective review of the agency's action and should be given the opportunity to present their version of the matter before an independent panel or review board.

In the U.S. Postal Service, supervisers and managerial personnel, such as postmasters, who are not veterans preference eligibles may not appeal an adverse action outside of the agency hierarchy. While the Postal Service has established an internal appeal procedure for these employees, I fear this structure cannot be completely objective or impartial. When one body acts as accuser, judge, and jury, our sense of due process is somehow offended.

H.R. 2854 will remedy this inequity by extending to nonveteran supervisory and managerial postal employees the same appeal rights in conduct-related adverse actions as are enjoyed by their veteran counterparts by statute. These procedural and appeal rights are found in title 5, United States Code, and include the right to appeal to the independent Merit Systems Protection Board. Let me reiterate that these rights already apply to competitive employees in the civil service and to veterans in the Postal Service.

H.R. 2854 is a bill which simply extends to managerial and supervisory employees of the U.S. Postal Service the right to appeal adverse personnel actions to the Merit Systems Protection Board.

Under current law, only postal employees who are veterans or who are covered by collective bargaining agreements may appeal adverse personnel actions to an outside entity—the Merit Systems Protection Board. This is the same right as afforded to nonpostal Federal employees in the competitive civil service.

H.R. 2854 basically corrects this apparent inequity by ensuring all employees the right of access to an impartial review of the circumstances surrounding an adverse personnel action.

The Congressional Budget Office estimates that implementation of this legislation would not result in a net cost to the Federal Government. H.R. 2854 does not create a new appeal rights procedure; it simply extends the existing procedure to employees who are not veterans or who do not have access to arbitration—many of whom are women.

I would also like to commend Mr. TAYLOR, Mr. YOUNG, and all of the members of the Committee on Post Office and Civil Service, for their cosponsorship and support of this important piece of legislation.

Mr. Speaker, the committee unanimously supported this legislation and I urge my colleagues in the House to vote for passage of H.R. 2854.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2854 and join the chairman of the subcommittee in asking that the House suspend the rules and pass this legislation.

The Post Office and Civil Service Committee has held extensive hearings on this bill. These hearings have built a record that demonstrates that H.R. 2854 is clearly in the interest of the Postal Service and its employees.

H.R. 2854 enjoys broad support, and has been cosponsored by every member of the Post Office and Civil Service Committee.

Adverse action rights are a cornerstone of good employee relations practices. This bill would extend these rights to postmasters and postal supervisers, bringing complaints before the impartial Merit Systems Protection Board. H.R. 2854 does not break new ground in employee relations practices, it merely extends to an important group of postal employees an objective and impartial appeals process.

I am pleased to be a cosponsor of this legislation, and look to its quick passage today.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 2854, legislation to give postal supervisers and postmasters access to an impartial review of adverse personnel actions.

Under current law, postal employees who are not covered under collective bargaining agreements may appeal removals, suspensions, or demotions to higher officials within the agency only, unless they are veterans preference eligibles. Veterans, like their counterparts in the competitive civil service, may appeal an adverse action to the Merit Systems Protection Board [MSPB], an independent Government agency established by Congress in the Civil Service Reform Act of 1978. H.R. 2854 would not establish an untried appeal procedure for non-veteran postal employees. H.R. 2854 simply extends the same statutory procedural and appeal rights to all supervisers and managerial employees.

For these reasons I urge my colleagues to support H.R. 2854. Postmasters and postal supervisers play a most vital role in our Nation's communications network. We in the Congress must protect them from adverse personnel actions.

Mr. MCCLOSKEY. H.R. 2854 is a bill which simply extends to managerial and supervisory employees of the U.S. Postal Service the right to appeal adverse personnel actions to the Merit Systems Protection Board.

Under current law, only postal employees who are veterans or who are covered by collective bargaining agreements may appeal adverse personnel actions to an outside entity—the Merit Systems Protection Board. This is the same right as afforded to nonpostal Federal employees in the competitive civil service.

H.R. 2854 basically corrects this apparent inequity by ensuring all employees the right of access to an impartial review of the circumstances surrounding an adverse personnel action.

The Congressional Budget Office estimates that implementation of this legislation would not result in a net cost to the Federal Government. H.R. 2854 does not create a new appeal rights procedure; it simply extends the existing procedure to employees who are not veterans or who do not have access to arbitration.

I would like to commend my distinguished colleague from California, Mr. DYMALLY, for bringing this apparent inequity to light and for introducing H.R. 2854. His efforts and work on behalf of this legislation and other issues before the Subcommittee on Postal Personnel and Modernization are invaluable.

I would also like to commend Mr. FORD, Mr. TAYLOR, Mr. YOUNG and all of the members of the Committee on Post Office and Civil Service, for their cosponsorship and support of this important piece of legislation.

Mr. Speaker, the committee unanimously supported this legislation and I urge my colleagues in the House to vote for passage of H.R. 2854.

Mr. DYMALLY. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and pass the bill, H.R. 2854, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 2854, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO RELEASE PUBLIC REVERTER ON CERTAIN LAND IN NEW YORK

Mr. WHITLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2976) to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State, as amended.

The Clerk read as follows:

H.R. 2976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Upon compliance by the State of New York with the requirements contained in section 3 of this Act, the Secretary of Agriculture shall release on behalf of the United States the condition described in subsection (b) of this section with respect to the parcel of land described in section 4 of this Act.

(b) The condition to be released pursuant to subsection (a) of this section is the condition (contained in a quitclaim deed dated July 28, 1961, which conveys from the United States to the State of New York certain land in Allegany County and which was recorded on May 23, 1962, in the office of the Allegany County Clerk in the Book of Deeds 546 at page 632) providing that the land conveyed be used for public purposes and that the land revert to the United States if it is not used for public purposes.

(c) Section 33(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) is inapplicable to the release provided for by subsection (a) of this section.

SEC. 2. Upon application by the State of New York and compliance by the State with the requirements contained in section 3, the Secretary of the Interior shall convey to the State of New York—

(1) without compensation, all the undivided mineral interests of the United States in the parcel of land described in section 4 for which the Secretary of the Interior determines that there is no active mineral development or leasing and that there is no fair market value; and

(2) upon payment to the United States of an amount equal to the fair market value (as determined by the Secretary of the Interior) of such mineral interests, all the undivided mineral interests of the United States in the parcel of land described in section 4 which are not subject to paragraph (1) of this section.

SEC. 3. Before the condition described in subsection (b) of section 1 may be released pursuant to subsection (a) of that section or any mineral interest may be conveyed pursuant to seciton 2, the State of New York must—

(1) sign an agreement with the Secretary of Agriculture stating that the State of New York will convey the parcel of land described in section 4 to the Bellville Wesleyan Church of rural Caneadea, New York, for a fair and equitable consideration, and deposit the proceeds from such conveyance in an account open to inspection by the Secretary of Agriculture, and used, if withdrawn from such account, exclusively for public purposes; and

(2) pay into the Treasury of the United States as miscellaneous receipts a sum of money which the Secretary of Agriculture and the Secretary of the Interior jointly deem is sufficient to provide for the administrative costs—

(A) of determining the existence of mineral interests in the parcel of land described in section 4;

(B) of establishing the fair market value of the mineral interests located in the parcel of land;

(C) Of releasing the condition pursuant to section 1; and

(D) of conveying that parcel of land pursuant to section 2.

SEC. 4. The parcel of land with respect to which the condition is to be released pursuant to section 1 and which contains the undivided mineral interests to be conveyed pursuant to section 2 is a tract of land of approximately 5.8 acres located in great lot 55 as depicted by tax map 102 of the town of New Hudson, New York, and is part of the land conveyed by the deed referred to in subsection (b) of section 1. The boundary of the parcel begins at a point 883.08 feet south of the northeast corner of great lot 55 at the center line of Bogan Road; thence south a distance of 288.42 feet to a point; thence west along the boundary of a parcel of land owned by the Bellville Wesleyan Chuch a distance of 165 feet to point; thence south along the boundary of such parcel a distance of 99 feet to a point; thence west a distance of 495 feet to a point; thence north a distance of 387.42 feet to a point; thence east a distance of 660 feet to the place of beginning.

The SPEAKER pro tempore. Is a second demanded?

Mr. WALKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WHITLEY] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2976 provides for the removal of a reversionary interest held by the United States in 5.8 acres of land to be transferred by the State of New York to a church in rural Caneadea, NY, for a fair and equitable consideration. Mineral interests, if any, would be conveyed for a fair market value. The State of New York would be required to pay the administrative costs of the transfer.

Mr. Speaker, the State of New York has agreed to transfer this land to allow the church to improve its facilities.

Mr. Speaker, this is a noncontroversial bill and I urge my colleagues to support its passage.

The 5.8 acre parcel lies in southwestern New York State, about 80 miles northeast of Jamestown. It was acquired by the Federal Government in the late 1930's under authority of title III of the Bankhead-Jones Farm Tenant Act of 1937 as a rural resettlement area and became a part of a Land Utilization Project, LU-NY-5, with an original area of 3,647 acres. The land was conveyed by quitclaim deed to New York State in 1961 for $1 on the condition that it be used for public purposes, and if it ceased to be so used it would revert back to the United States. The mineral interests were reserved to the United States. The entire tract is now administered by the State Department of Environmental Conservation as part of the Hanging Bog Wildlife Management Area.

The 5.8-acre parcel has been managed by the State as part of the larger Hanging Bog Game Management Area. The tract is adjacent to the existing Bellville Wesleyan Church property, but it is not physically connected to the rest of the game management area. A public highway separates the parcel from the rest of the game management area. This small tract is not used in any significant way by the game management area because of its location and size.

In 1976, the State of New York authorized the conveyance of the 5.8-acre parcel to the Bellville Wesleyan Church. Chapter 769 of the laws of New York, 1976, authorizes the commissioner of general services, on consent of the commissioner of environmental conservation and on release from the Federal Government, to transfer and convey the land to the Bellville Wesleyan Church for the purpose of constructing, operating, or providing a septic system, water system, or parking facilities. This law further provides that the conveyance is to be made at such time and and on such terms and conditions as the Commissioner of General Services might fix and determine, including payment of such consideration as the Commissioner of General Services determines to be fair and equitable and with the approval of the director of the budget.

The bill, by eliminating the reversionary interest and in providing for the transfer of the mineral rights held by the United States, will enable the stautorily-authorized conveyance to take place.

The bill also will ensure that the proceeds of the land sale to the church are used exclusively for public

purposes. The State will have to pay the United States for any valuable mineral rights in the land, at fair market value.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my understanding that there are no objections to this bill, that the administration has no objections, and that CBO has indicated there are no significant costs associated with the bill. I know of no opposition on this side of the aisle to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LUNDINE], the principal author of H.R. 2976.

Mr. LUNDINE. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to express my deep appreciation to the gentleman from North Carolina, as well as the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], and both the ranking members of the subcommittee and full committee, for their cooperation in this matter.

Mr. Speaker, I rise in support of H.R. 2976, a bill to release the condition that certain lands conveyed to New York be used only for public purposes. I am very pleased that the House is acting on this bill today and I thank the subcommittee chairman, Mr. WHITLEY, and Chairman DE LA GARZA for moving it swiftly through his committee.

The land I am asking to be transferred is adjacent to the Bellville Wesleyan Church in Caneadea, NY, which is located in rural Allegany County. The congregation, which was formed in 1886, serves as an important religious center in this sparsely populated area of New York State.

Earlier this year, I introduced H.R. 2976 to authorize and direct the Secretary of Agriculture to release, on behalf of the United States, a condition contained in a 1961 quitclaim deed which conveyed certain U.S. land to the State of New York. The condition requires that the lands conveyed to the State be used for public purposes. My bill instructs the Secretary to release this condition only with respect to a tract of land consisting of 5.8 acres. The State of New York could then convey the land to the Bellville Wesleyan Church, providing the church could afford to pay the fair market value, which I would like to assure my colleagues that the church is willing and able to do.

This bill also authorizes the Secretary of Interior to convey to the State of New York all the undivided mineral interests, which were previously reserved to the United States, in the parcel of land released pursuant to this legislation for a fair market value. The church is willing and able to reimburse the State for the cost of these mineral rights. The Interior Department has determined that there may be oil and gas on this land. There is active production of oil and gas within 10 miles of the property. The acres being transferred are included in oil and gas lease application No. ES-9777.

The nearly 3,600 acres of land described in the 1961 deed to the State were originally acquired by the United States and administered under the provisions of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525). Title III also authorizes the Secretary to dispose of lands to public authorities, but only on the condition that the property conveyed is used for public purposes.

The 5.8 acre land parcel in question has been managed by the State as part of the larger Hanging Bog Game Management Area. The parcel is adjacent to the existing Bellville Wesleyan Church property and is not physically connected to the rest of the game management area. A public highway separates the parcel from the rest of the game management area. It is not used in any significant way by the game management area because of its location and small size.

If the Bellville Wesleyan Church obtains title to the property, it would use the portion near the existing church building as the site for a septic system for the existing building. The septic system is needed to comply with the requirements of the health laws of the State and the regulations of the Allegany County Department of Health. Another small portion of the land would be used for a parking lot area for the church building. Most of the parcel, which is currently overgrown with small brush, would remain unchanged.

It is important to note that the State of New York has no objection to the church purchasing this land. In fact, in the 1976 laws of New York, chapter 769, the State authorized the transfer of this parcel of land to the Bellville Wesleyan Church upon release from the Federal Government.

Finally, I would like to reassure my colleagues that the church is willing and able to pay a fair market value for the land and mineral rights. The land has been assessed by a local real estate firm at $300 per acre, totaling $1,740 for the 5.8 acres in question.

As there appears to be no visible opposition to the transfer of this land from the State of New York to the Bellville Wesleyan Church, I urge my colleagues to approve H.R. 2976 to allow this sale to take place.

□ 1250

Mr. WHITLEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. WHITLEY] that the House suspend the rules and pass the bill, H.R. 2976, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2976, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COURT OF INTERNATIONAL TRADE AMENDMENTS OF 1985

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2183) to amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes, as amended.

The Clerk read as follows:

H.R. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL CONFERENCE OF THE UNITED STATES.

(a) REPRESENTATION OF COURT OF INTERNATIONAL TRADE.—The first paragraph of section 331 of title 28, United States Code, is amended—

(1) in the first sentence by inserting ", the chief judge of the Court of International Trade," after "chief judge of each judicial circuit", and

(2) in the last sentence by striking out "conference" and inserting in lieu therof "Conference".

(b) SELECTION OF ALTERNATE JUDGE TO ATTEND CONFERENCE.—The third paragraph of section 331 of title 28, United States Code, is amended in the first sentence—

(1) by inserting ", the chief judge of the Court of International Trade," after "chief judge of any circuit", and

(2) by inserting "or any other judge of the Court of International Trade, as the case may be" before the period at the end thereof.

(c) TECHNICAL AMENDMENT.—The sixth paragraph of section 331 of title 28, United States Code, is amended by striking out "conference" and inserting in lieu thereof "Conference".

SEC. 2. JUDICIAL CONFERENCE OF THE COURT OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT OF JUDICIAL CONFERENCE OF THE COURT OF INTERNATIONAL TRADE.—Chapter 15 of title 28, the United States Code, is amended by adding at the end thereof the following new section:

"§335. Judicial Conference of the Court of International Trade

"(a) The chief judge of the Court of International Trade is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

"(b) The Court of International Trade shall provide by its rules for representation and active participation at such conference by members of the bar.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 15 of title 28, the United States Code, is amended by adding at the end thereof the following new item:

"335. Judicial Conference of the Court of International Trade

SEC. 3. DUTIES OF UNITED STATES MARSHALS.

(a) UNITED STATES MARSHALS.—Section 569(a) of title 28, United States Code, is amended by striking out "elsewhere than in the Southern and Eastern Districts of New York".

(b) CONFORMING AMENDMENTS.—Chapter 55 of title 28, United States Code, is amended—

(1) by striking out section 872,

(2) by redesignating section 873 as section 872, and

(3) in the table of sections—

(A) by striking out the item relating to section 872, and

(B) in the item relating to section 873, by striking out "873" and inserting in lieu thereof "872".

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. RODINO] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I might require.

Mr. Speaker, Congress created the Court of International Trade in the Customs Courts Act of 1980 as a nationwide forum to review and resolve disputes involving the importation of goods and the payment of customs duties. The court was established under article III of the Constitution. This means that the nine judges of the court have life tenure, and that the court has the same powers of law and equity possessed by the article III Federal district and circuit courts. Congress meant to make the Court of International Trade similar in status to the other existing article III courts.

Several unintended oversights were made by Congress in creating the Court of International Trade, however. For one, the Court of International Trade was not made a member of the Judicial Conference of the United States, the administrative body of the Federal judiciary, even though every other article III court is a member of the Judicial Conference. Additionally, the Court of International Trade is the only article III court that does not have statutory authorization to hold its own judicial conference where the court and bar can meet to discuss current issues of relevance to the court.

H.R. 2183 merely corrects these oversights. It makes the Court of International Trade a member of the Judicial Conference of the United States, and provides statutory authorization for the court to hold an annual judicial conference.

H.R. 2183 corrects another unintended oversight by Congress in connection with the Customs Courts Act of 1980. H.R. 2183 authorizes the Courts of International Trade to use the U.S. marshals for the southern and eastern judicial districts of New York as marshals of the court when it is sitting in these districts. The Customs Courts Act gave the court authority to use the U.S. marshals in whatever Federal judicial districts it sits in across the country, but unintentionally did not give the court this authority for its home districts of the southern and eastern districts of New York.

No additional costs would be incurred if H.R. 2183 is enacted.

Comments on H.R. 2183 were solicited from the Judicial Conference of the United States, the Customs and International Trade Bar Association, the American Bar Association Standing Committee on Customs Law, and the Department of Justice. These groups have all indicated their support for the bill.

The Committee on the Judiciary, which reported the original Customs Courts Act of 1980, favorably reported H.R. 2183 by voice vote. I ask your support for this measure.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2183.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I support the passage of H.R. 2183, which makes three amendments in the law relating to the Court of International Trade.

Section 1 authorizes the court to have a representative on the judicial conference of the United States, which now has 26 members. The Court of International Trade is currently the only article III court not eligible for membership on the Conference. A motion to agree with this section of the bill was unanimously approved at the September 1985 session of the Judicial Conference.

Section 2 provides the court with authority to hold an annual Judicial Conference, as is customary with other courts. Presently these meetings to discuss matters of concern within the jurisdiction of the court are sponsored by the Court of International Trade bar.

Section 3 authorizes the provision of U.S. Marshal Service to the Trade Court in the southern and eastern districts of New York, where the court customarily sits. Although U.S. Marshal Service is provided under 28 U.S.C. 569 when the court sits elsewhere, the assumption apparently made at the time of the enactment of the Customs Court Act of 1980 was that the marshal and deputy marshals specially authorized to serve the court in the southern and eastern districts of New York under 28 U.S.C. 872, who are not U.S. marshals, would be sufficient. These functionaries, however, are not law enforcement officials with authority to protect the security of the court and its judges, but rather serve as building managers, disbursing officers, process servers and custodians, with but limited protective authority. These individuals will henceforeward be appointed under 28 U.S.C. 871, which authorizes the court to appoint such persons as may be necessary for the effective dispatch of its business. And pursuant to this section of the bill, U.S. marshals will be available in the future for protective functions in the Court of International Trade just as they are in other Federal courts.

Mr. Speaker, I urge the enactment of this necessary legislation.

Mr. RODINO. Mr. Speaker, I have no further requests for time.

Mr. MOORHEAD, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO] that the House suspend the rules and pass the bill, H.R. 2183, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

VERTICAL RESTRAINTS GUIDELINES

Mr. RODINO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 303) expressing the sense of the House of Representatives that the antitrust enforcement guidelines entitled "Vertical Restraints Guidelines," published by the Department of Justice on January 23, 1985, do not have the force of law, do not accurately state current antitrust law, and shall not be considered by the courts of the United States as binding or persuasive.

The Clerk read as follows:

H. RES. 303

Whereas on January 23, 1985, the Department of Justice published a document entitled "Vertical Restraints Guidelines", for the stated purpose of explaining Federal policy for enforcing the Sherman Act and the Clayton Act with respect to nonprice vertical restraints of trade;

Whereas such policy guidelines extend beyond the matter of nonprice vertical restraints of trade and propose the avoidance of the per se rule of illegality applied by the Supreme Court in 1911 in Dr. Miles Medical Company against John D. Park and Sons Company (220 U.S. 373) to price-related restraints of trade and subsequently applied by the Supreme Court and endorsed by the Congress on many occasions;

Whereas such policy guidelines are inconsistent with established antitrust law, as reflected in Supreme Court decisions and statements of congressional intent, in maintaining that such policy guidelines do not treat vertical price fixing when, in fact, some provisions of such policy guidelines suggest that certain price fixing conspiracies are legal if such conspiracies are "limited" to restricting intrabrand competition; by blurring the distinction between price and nonprice restraints in analyzing a distribution program containing both types of restraints, thereby qualifying the accepted rule that vertical price fixing in any context is illegal per se; in stating that vertical restraints that have an impact upon prices are subject to the per se rule of illegality only if there is an "explicit agreement as to the specific prices"; in stating that restraints imposed by a manufactuter at the request of dealers are vertical in nature and therefore not subject to the per se rule of illegality; in aggregating the factors of collusion and foreclosure, thereby failing to distinguish adequately between the separate antitrust concerns associated with vertical territorial restraints and with exclusive dealing practices; in stating that less than absolute territorial restraints are "always legal"; and in arbitrarily specifying a 30 per centum minimum market share in the tying product for assessing the legality of tying arrangements;

Whereas such policy guidelines state that the Department of Justice may refuse to attribute to corporations the illegal conduct of their low-level employees acting within the scope of the authority conferred upon such employees by such corporations, contrary to the common law of corporate responsibility and agency in the antitrust context;

Whereas the general business community would be at risk if it accepted and relied upon such policy guidelines as an accurate statement of existing Federal antitrust laws in the area of vertical restraints of trade;

Whereas such policy guidelines relate to an area in which the Department of Justice has brought no enforcement actions in more than four years and may have been published, in part, as an attempt to influence the courts of the United States to pursue a very narrow and limited vertical restraint analysis in deciding private enforcement antitrust cases;

Whereas previous antitrust enforcement policy guidelines issued by the Department of Justice have been substantially based on existing jurisprudence and congressional intent, and therefore have been given considerable weight by the courts of the United States in evaluating the facts in antitrust litigation; and

Whereas the "Vertical Restraints Guidelines" may affect the development of antitrust law to the detriment of competitive pricing of branded goods and services by direct or mail order retailers: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the antitrust enforcement policy guidelines stated in "Vertical Restraints Guidelines", published by the Department of Justice on January 23, 1985—

(1) are not an accurate expression of the Federal antitrust laws or of congressional intent with regard to the application of such laws to resale price maintenance and other vertical restraints of trade;

(2) shall not be accorded any force of law or be treated by the courts of the United States as binding or persuasive; and

(3) should be recalled by the Attorney General.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. RODINO] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I am gratified that this body now has the opportunity to express its resolve on an area of antitrust enforcement policy that has deeply concerned the Judiciary Committee and many in the Congress during the past 4 years.

There is no more important economic freedom than the freedom of a businessman—at any point in the marketing chain—to make his own decisions. House Resolution 303 reaffirms this freedom by expressing its disapproval of a set of guidelines adopted by the Department of Justice in January of this year that would repose in suppliers almost exclusive authority to control the actions of independent distributions and retailers.

This attempt is contrary to existing law, contrary to congressional intent, and contrary to the most fundamental notions of free enterprise, which the antitrust laws serve to protect. It also threatens to affect adversely the range, quality and cost of goods and services to the consumer.

For these reasons, House Resolution 303 expresses the sense of the House that the vertical restraints guidelines are not an accurate expression of Federal antitrust law or congressional intent, shall not be considered by the courts as binding or persuasive and should be recalled by the Attorney General.

I might add that the preamble of the resolution is highly specific in setting the record straight on how particular guidelines propositions vary from existing law. This was done for good reason.

As many here are aware, for the past 3 years, Democratic and Republican members of the Judiciary Committee have acted with a single voice in voting to withhold funding from the Department for any activity whose purpose is to alter or reverse the per se prohibition against resale price maintenance. This was necessary to halt the practice of the Department going into court to file amicus briefs on behalf of defendants charged with vertical price fixing. In making their arguments, the Department chose to ignore a precedent that has stood for 75 years as well as the clear message that Congress gave in 1976 in passing the Consumers Goods Pricing Act.

However, with its amicus intervention program frustrated in the courts, the Department turned this year to the use of guidelines as a means of spreading its unorthodox views on vertical price fixing. In this sense, the guidelines are a different type of amicus brief, but one that could damage the fabric of the antitrust laws if left unchallenged by Congress.

The preamble to House Resolution 303 thus responds to the vertical guidelines with a refutation of serious misstatements or misleading inferences contained therein. This enumeration should establish a set of reference points by which we, subsequent Congresses, private litigants, and the courts can respond to future departmental actions in the important area of vertical restraints.

I was quite pleased that last Friday, the National Association of attorneys general—with the consensus of all 50 State attorneys general—adopted a resolution that praised House Resolution 303, and that reiterated their same disagreement with the Department. These actions at both the Federal and State levels make very explicit that the guidelines are not to be regarded as authoritative in the area of vertical practices.

Before closing, I want to especially compliment the gentleman from New York [Mr. FISH], for his continuing and able leadership in this area during the past few years. He and all the other cosponsoring members on the committee have made House Resolution 303 a timely response to the un-

dermining of the antitrust laws by the very officials who are supposed to enforce them. Our bipartisan work in this area should make a real difference in preserving competition in the retail and discount industries, which have benefitted consumers so much in recent years.

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Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank my colleague, the chairman of the full committee, the gentleman from New Jersey [Mr. RODINO], for his kind words.

Mr. Speaker, House Resolution 303, which I introduced on October 29, 1985, expresses the sense of the House that the Vertical Restraints Quidelines published by the Department of Justice on January 23, 1985, do not have the force of law, do not accurately state current antitrust law, shall not be considered by the courts of the United States as binding or persuasive, and should be recalled by the Attorney General. It has attracted cosponsorship by 20 other members of the Judiciary Committee and was reported from that committee on November 19, by a unanimous voice vote.

A parallel resolution has also been unanimously adopted by the National Association of Attorneys General and is now the official policy position of that organization, which is composed of the attorneys general of each of the 50 States.

The Supreme Court and Congress on the one hand, and the Department of Justice on the other, have been sharply divided in their respective interpretations of the law applicable to vertical restraints of trade, such as resale price maintenance. In 1911, the Supreme Court held in *Dr. Miles Medical Co.* v. *John D. Park & Sons, Co.*, 220 U.S. 373, that vertical price restraints are per se illegal. Writing for the Court, Justice Charles Evans Hughes concluded:

> The complainant having sold its product at prices satisfactory to itself, the public is entitled to whatever advantage is derived from competition in the subsequent traffic.

Subsequently, in case after case, the Supreme Court has consistently maintained this position. Only last year, in *Monsanto Co.* v. *Spray-Rite Corp.*, 465 U.S. 752 (1984), the Court refused to consider the Justice Department's argument that vertical price restraints should be examined under the rule of reason standard.

Congress has also made its position very clear. By passing the Consumer Goods Pricing Act in 1975, it repealed the antitrust exemption for State fair trade laws. The practical effect of this was to establish a uniform national policy of per se illegality for resale price maintenance. The House Judiciary Committee report on this legislation noted that:

> An agreement between the manufacturer and a retailer that the retailer will not resell the manufacturer's product below a specified price is an obvious form of price fixing. As such it is per se illegal under section 1 of the Sherman Act.

Congress was well aware at that time that the fair trade laws were being applied to hike consumer prices to suppress competition between retailers, to facilitate price fixing by manufacturers, and to discourage new market entry and more efficient retail operations by discount merchandisers.

Beginning with fiscal year 1984, the Department of Justice authorization bills passed out of the Judiciary Committee have prohibited the use of funds to overturn or alter the per se rule against resale price maintenance. This prohibition was also placed in the fiscal year 1984 and fiscal year 1986 State-Justice-Commerce appropriations bills. In addition, the other body placed language in the fiscal year 1986 State-Justice-Commerce appropriations bill expressing congressional disapproval of the Department of Justice guidelines in language identical to that employed in two resolutions which I introduced earlier in this session on this subject, House Concurrent Resolution 128 and House Resolution 278. The appropriations conference report, which passed the House on December 5, and the other body the next day, substituted language identical to the resolution now before us.

Despite the position taken by the Supreme Court and the Congress, the Department of Justice has persistently sought to apply rule of reason analysis to vertical restraints. It has intervened in private cases, and it sought in *Monsanto* to argue the matter before the Supreme Court. The Department's efforts culminated in the issuance of the vertical guidelines last January for the stated purpose of explaining Government enforcement policy, which was never in much doubt. Mr. Speaker, House Resolution 303 is not only an appropriate response to those guidelines, but also under the circumstances a response we are clearly compelled to make.

The preamble of House Resolution 303 makes a number of particular points about the guidelines, including the following:

First, the guidelines invite suppliers to avoid the per se rule by suggesting that the rule of reason will be applied by the Department of Justice if enough plausible efficiency enhancing nonprice restraints are added by a supplier to a vertical price-fixing scheme so the latter can be considered "merely ancillary." This blurring of the distinction between price and nonprice restraints qualifies and defeats the accepted rule originally set forth three-quarters of a century ago in *Dr. Miles* that vertical price fixing in any context is illegal per se.

Second, the guidelines misstate the law by asserting that ancillary vertical price fixing is not per se illegal unless there is "a specific agreement as to these specific prices at which goods and services would be sold." But the Supreme Court held in *United States* v. *United States Gypsum Co.*, 438 U.S. 422 (1978) that if parties enter into an agreement with the knowledge that prices will be fixed as a result it may be equivalent to the adoption of a price-fixing scheme, even though, in a given instance, specific prices may not have been agreed upon.

Third, the guidelines err in suggesting that horizontal conspiracies between distributors, which may be designed to induce the manufacture to terminate a discount merchandiser, are not per se unlawful if only a single brand is involved, and, in fact, represent little anticompetitive threat. This position ignores the Supreme Court decisions in *United States* v. *General Motors*, 384 U.S. 127 (1966) and *United States* v. *Topco Associates, Inc.*, 414 U.S. 801 (1973).

Fourth, the guidelines mistakenly state that less than absolute territorial restraints, such as location clauses or profit pass-over provisions, are "always legal." This ignores *Continental T.V. Inc.* v. *GTE Sylvania, Inc.*, 433 U.S. 36 (1977) in which the Supreme Court declared that in such circumstances the rule of reason requires a careful balancing of pro- and anticompetitive effects.

Fifth, the guidelines also state, contrary to the common law of corporate responsibility and agency within the antitrust context, that the Justice Department may not hold corporations responsible for the conduct of low-level employees acting within their authority because this may be merely the expression of "excessive zeal."

The guidelines pose a substantial risk to the business community, which may rely on them if the opposing position of the Congress is not clearly set forth. They are certainly intended to influence the Federal courts in deciding private actions—indeed, critics have described them as the practical equivalent of the Department's filing an amicus brief in every Federal court in the land. To the extent that they facilitate the return of fair trade merchandising, they will force discount merchandisers out of business and would significantly increase retail prices for the consumer.

House Resolution 303 omits references made in my original proposals, House Concurrent Resolution 128 and House Resolution 278, to the need for procedural fairness through public participation in the antitrust guidelines adoption process. I still strongly believe in the need for an opportunity

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for public notice and comment, and I have a bill, H.R. 1467, which addresses this concern. I understand that the Justice Department is currently giving careful consideration to establishing a mechanism for public review of antitrust guidelines before they are issued, and I certainly welcome this development.

Mr. Speaker, I strongly recommend to the House the prompt enactment of House Resolution 303 to set the record straight with regard to the vertical restraints guidelines of January 1985.

Mr. EDWARDS of California. Mr. Speaker, House Resolution 303 deals with an important consumer issue—whether our antitrust laws will continue to protect the competitive freedom of distributors and retailers. That freedom has a direct bearing on the selection, quality, and cost of goods and services available to a consumer. I rise in strong support of this resolution.

The resolution states that the Justice Department's Vertical Restraints Guidelines are an inaccurate statement of the antitrust law governing vertical restraints, should not be regarded as binding or persuasive, and should be recalled by the Attorney General. Over the past 5 years, the Justice Department's Antitrust Division has followed a policy of favoring the interests of a manufacturer over those of independent distributors and retailers. If a manufacturer has sought in some manner to restrain the resale of its product, the Department has allowed it to do so, even if the restraint lessens competition and is harmful to independent businesses and consumers. The Department's vertical guidelines reflect this general approach.

There are a number of problems with the Department's policy. It conflicts directly with 75 years of judicial precedent and with congressional intent expressed in the Consumer Goods Pricing Act of 1975 and in riders attached to Justice Department appropriations and authorization legislation over the past few years. Despite this conflict, the Department continues to seek to bypass the Congress—this time through issuance of vertical guidelines apparently designed to influence court-made law.

More important, the Department's policy hurts the consumer. Without the innovative and competitive distributor and retailer, all of us lose out. The department store, the supermarket, the discount store, the drive-in or mail-order store—each of these innovations in marketing has increased the range of choices for the consumer. If a manufacturer had been allowed to dictate the terms and conditions of resale, these innovations may never have occurred. Perhaps even more disturbing, prices could be adversely affected. Competition—the lifeblood of our economic system—must be protected at all levels of our economy, not simply at the manufacturer's level.

I am pleased to be a cosponsor of this resolution. I am also pleased that the Judiciary Committee has taken prompt action on it. I urge my colleagues to join me in supporting it.

Mr. HUGHES. Mr. Speaker, House Resolution 303 is the latest in a series of legislative responses by the Congress to efforts by the Department of Justice to alter antitrust law in the area of vertical restraints—limitations that a manufacturer may impose on distributors and retailers to control certain conditions in the resale of its products. No single area of the Department's antitrust policies has generated more controversy and dissatisfaction in the Congress than those surrounding vertical practices.

By refusing to enforce established antitrust law, or even attempting to undercut that law, the Department has effectively encouraged vertical restraints that will undermine competition to the detriment of the consumer. Despite 75 years of unbroken precedent from the Supreme Court and a clear message from the Congress in 1976—in passing the Consumer Goods Pricing Act—the Department in the past 5 years has proceeded to ignore the law and push for its own policy view in this area.

Throughout this period, the Judiciary Committee has exercised its oversight responsibilities and powers to the fullest, and today we can see the difference. For the past 3 fiscal years, we voted with bipartisan support to withhold authorized funding from the Department for any activity that would seek to overturn or alter the per se rule against resale price maintenance. Our efforts have now ended the practice of the Department's filing amicus briefs on behalf of defendant—manufacturers charged with vertical price fixing. When the Justice Department turned to the use of guidelines as a method of prompting its novel views on vertical price fixing, we responded with immediate hearings, and now with House Resolution 303.

I believe our continuing bipartisan work in this area has made a real difference in ensuring that consumers have the widest possible choice in goods and services at the lowest possible prices. As a cosponsor of House Resolution 303, I am pleased that the House is acting to promote, not weaken, competition at every level of the marketing chain. We will be sending a clear message to the Department of Justice, to the courts, and to businesses throughout this Nation that competition is now—and will remain—the essential lubricant for our free enterprise system.

Mr. FISH. Mr. Speaker, I yield back the balance of my time.

Mr. RODINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO] that the House suspend the rules and agree to the resolution, H. Res. 303.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material, on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO HAVE UNTIL MIDNIGHT WEDNESDAY, DECEMBER 11, 1985, TO FILE A CERTAIN REPORT RELATIVE TO THE DEPARTMENT OF JUSTICE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 12 midnight, Wednesday, December 11, 1985, to file a report on the role of the Department of Justice in the withholding of documents from the Congress in 1982-83.

I would like to advise that the minority has been consulted on this.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CRIMINAL JUSTICE ACT REVISION OF 1985

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3004) to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Justice Act Revision of 1985".

SEC. 2. AMENDMENTS TO CRIMINAL JUSTICE ACT.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out "(1) who is" and all that follows through "subsection (h)," and inserting in lieu thereof the following: "in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

"(1) Representation shall be provided for any financially eligible person who—

"(A) is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title);

"(B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;

"(C) is charged with a violation of probation;

"(D) is under arrest, when such representation is required by law;

"(E) is entitled to appointment of counsel in parole proceedings under chapter 311 of this title;

"(F) is subject to a mental condition hearing under chapter 313 of this title;

"(G) is in custody as a material witness;

"(H) is entitled to appointment of counsel under the sixth amendment to the Constitution; or

"(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel.

"(2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

"(A) is charged with a petty offense for which a sentence to confinement is authorized; or

(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

"(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

"(A) Attorneys furnished by a bar association or a legal aid agency.

"(B) Attorneys finished by a defender organization established in accordance with the provisions of subsection (g).".

(2) Subsection (b) is amended—

(A) in the second sentence—

(i) by striking out "In every criminal case" and all that follows through "violation of probation and" and inserting in lieu thereof "In every case in which a person entitled to representation under a plan approved under subsection (a)"; and

(ii) by striking out "defendant" and inserting in lieu thereof "person";

(B) in the third sentence by striking out "defendant" each place it appears and inserting in lieu thereof "person"; and

(C) in the fifth sentence by striking out "defendants" and inserting in lieu thereof "persons".

(3)(A) Subsection (d)(1) is amended by striking out "not exceeding $60" and all that follows through "Such attorney" and inserting in lieu thereof the following: "not in excess of $50 per hour, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court before a United States magistrate and for time expended out of court. The Judicial Conference may develop guidelines for determining the maximum hourly rates for each circuit in accordance with the preceding sentence, with variations by district, where appropriate, taking into account such factors as the minimum range of the prevailing hourly rates for qualified attorneys in the district in which the representation is provided and the recommendations of the judicial councils of the circuits. Not less than 3 years after the effective date of the Criminal Justice Act Revision of 1985, the Judicial Conference is authorized to raise the maximum hourly rates specified in this paragraph up to the aggregate of the overall average percentage of the adjustments in the rates of pay under the General Schedule made pursuant to section 5305 of title 5 on or after such effective date. After the rates are raised under the preceding sentence, such maximum hourly rates may be raised at intervals of not less than 1 year each, up to the aggregate of the overal average percentages of such adjustments made since the last raise was made under this paragraph. Attorneys".

(B) Subsection (d)(2) is amended—

(i) in the first sentence—

(I) by striking out "$2,000" and inserting in lieu thereof "$5,000"; and

(II) by striking out "$800" and inserting in lieu thereof "$1,500";

(ii) in the second sentence by striking out "$2,000" and inserting in lieu thereof "$3,000"; and

(iii) by striking out the third sentence and inserting in lieu thereof the following: "For any other representation required or authorized by this section, the compensation shall not exceed $1,000 for each attorney in each proceeding.".

(C) Subsection (d)(3) is amended by striking out "for extended or complex representation".

(D) Subsection (d)(4) is amended in the first sentence by striking out "represented the defendant" and inserting in lieu thereof "provided representation to the person involved".

(4)(A) Subsection (e)(1) is amended in the first sentence by striking out "an adequate defense" and inserting in lieu thereof "adequate representation".

(B) Subsection (e)(2) is amended to read as follows:

"(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later revise, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed $300 and expenses reasonably incurred.

"(B) The court, or the United States magistrate, if the services were rendered in a case disposed of entirely before the United States magistrate, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds $300.".

(C) Subsection (e)(3) is amended by striking out "$300" and inserting in lieu thereof "$1,000".

(5)(A) Subsection (h)(2)(A) is amended by striking out ", similarly as under title 28, United States Code, section 605, and subject to the conditions of that section" and inserting in lieu thereof "in accordance with section 605 of title 28".

(B) Subsection (h)(2)(B) is amended in the third sentence by striking out "coming" and inserting in lieu thereof "next fiscal".

(C) Subsection (h) is amended by adding at the end the following:

"(3) MALPRACTICE AND NEGLIGENCE SUITS.—The Director of the Administrative Office of the United States Courts shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an officer or employee of either a Federal Public Defender Organization, or a Community Defender Organization receiving periodic sustaining grants, which is established under this subsection, for money damages for injury, loss of liberty, loss of property, or personal injury or death arising from malpractice or negligence of any such officer or employee in furnishing representational services under this section while acting within the score of that person's office or employment.".

(6) Subsection (j) is amended by inserting immediately before the period at the end of the first sentence the following: ", including funds for the continuing education and training of persons providing representational services under this section".

(7) Subsection (l) is amended—

(A) by striking out ", other than subsection (h) of section 1,"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "section".

(b) TECHNICAL AMENDMENTS.—

(1) Section 3006A of title 18, United States Code, is amended by striking out subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively.

(2) Subsection (j) of section 3006A of such title, as redesignated by paragraph (1), is amended to read as follows:

"(j) DISTRICTS INCLUDED.—As used in this section, the term 'district court' means each district court of the United States created by chapter 5 of title 28, the District Court of the Virign Islands, the District Court of the Northern Mariana Islands, and the District Court of Guam.".

SEC. 3. AMENDMENTS TO COMPREHENSIVE CRIME CONTROL ACT OF 1984.

Section 223(e) of the Comprehensive Crime Control Act of 1984 (Public Law 98-473; 98 Stat. 2028) is amended to read as follows:

"(e) Section 3006A(a) is amended—

"(1) in paragraph (1)(A) by striking out 'misdemeanor (other than a petty offense as defined in section 1 of this title)' and inserting in lieu thereof 'Class A misdemeanor';

"(2) in paragraph (1) by striking out subparagraph (E) and redesignating subparagraphs (F) through (I) as subparagraphs (E) through (H), respectively; and

"(3) in paragraph (2)(A) by striking out 'petty offense' and inserting in lieu thereof 'Class B or C misdemeanor, or an infraction,'.".

SEC. 4. WITNESS FEES.

Section 1825 of title 28, United States Code, is amended to read as follows:

"§ 1825. Payment of fees

"(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate, on the certificate of such magistrate, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

"(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the dis-

trict judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

"(1) on the certificate of a Federal public defender or assistant Federal public defender, in any such proceedings in which a party is represented by such Federal public defender or assistant Federal public defender, and

"(2) on the certificate of the clerk of the court upon the affidavit of such witnesses' attendance given by other counsel appointed pursuant to section 3006A of title 18, in any such proceedings in which a party is represented by such other counsel.

"(c) Fees and mileage need not be tendered to a witness upon service of a subpoena issued on behalf of the United States or an officer or agency of the United States, upon service of a subpoena issued on behalf of a defendant represented by a Federal public defender, assistant Federal public defender, or other attorney appointed pursuant to section 3006A of title 18, or upon service of a subpoena issued on behalf of a party authorized to proceed to forma pauperis, if the payment of such fees and mileage is to be made by the United States marshal under this section."

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 1986, or 120 days after the date of the enactment of this Act, whichever is later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. RODINO] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3004, the Criminal Justice Act Revision of 1985. The Criminal Justice Act (18 U.S.C. 3006A) provides for representation of criminal defendants, material witnesses, and others—including probationers and parolees—in Federal court proceedings, when the defendants and others cannot afford to pay for representation. I am pleased that the gentleman from California and ranking minority member of the Subcommittee of Courts, Civil Liberties, and the Administration of Justice [Mr. MOORHEAD], has joined the gentleman from Wisconsin [Mr. KASTENMEIER] who is chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice in cosponsoring the legislation, which was introduced at the request of the Judicial Conference of the United States.

The legislation is primarily an updated version of H.R. 4307, the Criminal Justice Act Revision of 1984, which was reported favorably by the Committee on the Judiciary (H. Rept. 98-764) and passed the House without objection on May 21, 1984. Although H.R. 4307 was not acted on by the other body, some revision of the Criminal Justice Act as contained in the Comprehensive Crime Control Act of 1984 (chapter XIX, Comprehensive Crime Control Act, Public Law 98-473), which doubled the hourly rates—to $40 for out-of-court representation and $60 for in-court representation—and increased the case maximum rates. Although the 1984 amendment was a step in the right direction, more comprehensive revision of the Criminal Justice Act is necessary.

The gentleman from Wisconsin [Mr. KASTENMEIER], and the gentleman from California [Mr. MOORHEAD] introduced H.R. 3004 in response to a request from Federal judges through the Judicial Conference. On November 19, H.R. 3004 was approved with two minor changes by the Committee on the Judiciary by voice vote—no objections. Since H.R. 3004 primarily updates the legislation (H.R. 4307) which passed the House without objection last Congress, and also adds a new noncontroversial section—authorizing Federal public defenders and clerks of the court to certify payment of defense fact witnesses—I am hopeful that H.R. 3004 can be enacted during this Congress. A similar bill, S. 1581, was introduced by the chairman of the Committee on the Judiciary in the other body. In addition to the Judicial Conference, the legislation has wide support this Congress as it did last Congress from such groups as the National Association of Former U.S. Attorneys, the American Bar Association, the National Legal Aid and Defender Association, and the Federal Public and Community Defenders. I know of no opposition to H.R. 3004.

H.R. 3004 will help insure that constitutional mandates for effective assistance of counsel are being met and will improve the administration of justice.

Mr. Speaker, I would like to note that a printing error was made, and the additional cosponsors on H.R. 3004—Mr. BROOKS, Mr. MAZZOLI, Mr. SYNAR, Mrs. SCHROEDER, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. BERMAN, and Mr. BOUCHER—were omitted from the reported bill, and the additional cosponsors listed on the reported bill were from a different bill, H.R. 1524, which was reported at the same time. A star print will be printed to reflect the correct cosponsors.

□ 1315

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3004, and I want to join with our committee chairman in the comments he has already made. I wish to compliment our subcommittee chairman, the gentleman from Wisconsin [Mr. KASTENMEIER], for his leadership in drafting this legislation.

It has a wide range of support, including the U.S. Judicial Conference, bar associations from around the country, including California Attorneys for Criminal Justice, the State Bar of California, the Los Angeles County Bar Association, the Bar Association of San Francisco, the ninth circuit, the American Bar Association, and the National Association of Former U.S. Attorneys. The original bill, last Congress, was criticized by the Department of Justice primarily because it had no hourly maximums and to that bill's somewhat expanded coverage. However, both of these criticisms were met by the legislation before us today. The Department of Justice has not taken a position on the legislation before us this afternoon, but the administration has now said they have no objection whatsoever to the bill.

H.R. 3004 precisely defines circumstances under which a poor person who cannot afford an attorney, and is charged with a Federal crime, is entitled to an attorney appointed by the Federal court. This legislation has nothing to do with the Legal Services Corporation, which handles civil cases involving the poor.

Last year, the Congress enacted and the President signed the Comprehensive Crime Control Act of 1984 (Public Law 98-473) which contained a provision added by the other body which actually increased the hourly rates from $30 and $20 an hour to $60 and $40, respectively. This was the first increase in these rates in 15 years and was done as an emergency measure until more time could be directed at an entire revision of the Criminal Justice Act, and that is what H.R. 3004, which is before you today, is all about.

Present law provides for $60 an hour for in-court time and $40 an hour for out-of-court time. H.R. 3004 sets a general maximum rate of $50 per hour, with an absolute maximum of $75 per hour. No distinction is made between in-court and out-of-court time. A cost-of-living increase may occur after 3 years, but that is left to the discretion of the U.S. Judicial Conference. Overall, the Criminal Justice Act expenditures in 1985 were approximately $60 million. Under the new fee structure contained in H.R. 3004 the projected dollar increase above and beyond the $60 million figure is between $6 and $10 million, depending on how many

districts select and receive the higher fees under the bill.

Mr. Speaker, this is important legislation and I hope we can move it through the process quickly. I don't believe that anyone expects taxpayers to pay criminal defense lawyers at the same rates that our big corporations pay for their own attorneys, and what this legislation provides is subtantially less than that. But it does not make sense to fight crime by providing money for our police, and for our jails, if the court processes are bogged down or if convictions of criminals are ultimately reversed for lack of effective assistance of an attorney.

Mr. Speaker, the administration has no objection to the bill. I am not aware of any opposition to H.R. 3004. It has the unanimous support of the Judiciary Committee. In 1984 this bill was considered on the House floor under suspension of the rules and passed by voice vote with no objection heard.

I urge my colleagues to vote in favor of H.R. 3004.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

Mr. KASTENMEIER. I thank the gentleman for yielding time to me and for handling this bill for me.

Mr. Speaker, I think this is an important bill. It does, as both the chairman and ranking minority member, the gentleman from California [Mr. MOORHEAD], have suggested, and it involved a great deal of time on the part of the committee.

I rise in support of H.R. 3004, the Criminal Justice Act Revision of 1985. The Criminal Justice Act (18 U.S.C. 3006A) provides for representation of criminal defendants, material witnesses, and others—including probationers and parolees—in Federal court proceedings, when the defendants and others cannot afford to pay for representation. I am pleased that the gentleman from California and ranking minority member of the subcommittee, Mr. MOORHEAD, has joined me in cosponsoring the legislation, which was introduced at the request of the Judicial Conference of the United States.

The legislation is primarily an updated version of H.R. 4307, the Criminal Justice Act Revision of 1984, which passed the House without objection on May 21, 1984. Although H.R. 4307 was not acted on by the other body, some revision of the Criminal Justice Act was contained in the Comprehensive Crime Control Act of 1984. Although the 1984 amendment was a step in the right direction, more comprehensive revision of the Criminal Justice Act is necessary, and has been requested by the Judicial Conference.

Since H.R. 3004 primarily updates the legislation—H.R. 4307—which passed the House without objection last Congress, I am hopeful that H.R. 3004 can be enacted during this Congress. In addition, to the Judicial Conference, the legislation has wide support in this Congress as it did last Congress from such groups as the National Association of Former U.S. Attorneys, the American Bar Association, the National Legal Aid and Defender Association, and the Federal Public and Community Defenders. I know of no opposition to H.R. 3004.

H.R. 3004 will help ensure that constitutional mandates for effective assistance of counsel are being met and will improve the administration of justice.

H.R. 3004 provides:

First, variation of the hourly rates among districts and circuits to account for differences in economic conditions. Most districts would allow $50 per hour, but in a few districts—if the need is shown—the rate could be $75 per hour.

Second, elimination of the compensation rate differential for in-court and out-of-court hours—to generally allow $50 per hour instead of the $60/$40 differential rates.

Third, future increase in the hourly rates based on cost-of-living salary adjustments given to Federal employees.

Fourth, further increases in the case compensation maximums and modification of the standard for waiving the maximums. For example, case maximums would rise from $2,000 to $5,000 for a felony, and from $800 to $1,500 for a misdemeanor.

Fifth, increases in compensation limits pertaining to investigative, expert, and other services, with and without prior authorization, and provision for nunc pro tunc authorization in appropriate circumstances. H.R. 3004 would raise the current limit of $150 to $300 for services without advance permission, and from $300 to $1,000 for services with permission or in appropriate circumstances nunc pro tunc.

Sixth, authority to appoint counsel for financially eligible persons charged with a petty offense, where confinement is authorized and representation is determined to be in the interest of justice; that is, where there is a likelihood or possibility of confinement.

Seventh, mandatory appointment of counsel for financially eligible material witnesses in custody.

Eighth, professional liability protection for Federal defenders, or, in the alternative, providing representation and holding them harmless.

Ninth, funding for the continuing education and training of persons providing representational services under the act.

Tenth, authorization for the option of the establishment of a Federal defender organization for the U.S. District Court of the District of Columbia, as is available in every other district.

Eleventh, an amendment to section 1825 of title 28, United States Code, to authorize Federal public defenders and district court clerks on behalf of other CJA counsel to certify the payment of defense fact witness fees in Federal criminal cases. Currently this certification is performed by U.S. attorneys and assistant U.S. attorneys, which may create a conflict of interest and has been administratively burdensome to them.

The amendment approved in the committee and supported by the administrative office of the U.S. courts will ensure that hearings on mental conditions, not merely on mental competency, are covered. This is the current law, and the language change reflects the original intent of the administrative office to conform to current law, as amended in the Comprehensive Crime Control Act of 1984. The committee amendment also delays the effective date until October 1, 1986, or later, so as to remove any Budget Act objections. The projected cost of H.R. 3004, as reported by the Congressional Budget Office, will be approximately $9.5 million for each fiscal year—fiscal year 1987–89—and $11.3 million in fiscal year 1990. These costs are moderate and necessary to ensure that adequate representation is provided to persons in the Federal criminal justice system.

This legislation is a high priority of Federal judges, and I hope you will support it.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the chairman of the full committee, the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and the ranking minority member, for bringing these Criminal Justice Act amendments before us.

I would like to commend the subcommittee for its work product contained in H.R. 3004, Criminal Justice Act amendments. Lawyers who represent indigent criminal defendants perform a difficult but socially important task.

Ninety percent of all criminal defendants are indigent. Lawyers who are court appointed to represent them do not, for the most part, have fancy offices. And the rates they are paid for this work make it difficult to hire investigators and even clerical help. Except for some emergency relief last year, these lawyers have not had a salary increase in the last 15 years.

In testimony before our committee we have been advised that, with increasing frequency, experienced lawyers are, in fact resigning from the Criminal Justice Act panels. Many of those lawyers who do accept Criminal Justice Act appointments do so reluctantly. Those who do accept cases are oftentimes sole practitioners or members of small firms. The economic burden on them is even greater than it is on attorneys from larger firms. Judges have indicated that they are now expending more time and effort than is reasonable—in view of their other responsibilities—in attempting to locate qualified attorneys who are willing to accept appointments. Delay

in the appointment of an attorney is, in my opinion, a severe limit to timely access to counsel, thus in effect depriving the poor of rights guaranteed by our Constitution. I believe, everybody in this Chamber would agree, that economic factors must not be permitted to regulate the application of constitutional rights.

The sixth amendment guarantees every person charged with a crime, rich or poor, the right to the effective assistance of an attorney. Society must pay for that service when the accused cannot. It's also equally as important, that attorneys, who are charged with the responsibility of making our system of justice work, be adequately compensated to maintain a high quality of representation for indigent defendants. This legislation is long overdue and I urge my colleagues to vote in favor of H.R. 3004.

Mr. RODINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO] that the House suspend the rules and pass the bill, H.R. 3004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3004, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RULES ENABLING ACT OF 1985

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3550) to amend the provisions of titles 18 and 28 of the United States Code commonly called the enabling acts to make modifications in the system for the promulgation of certain rules for certain Federal judicial proceedings, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rules Enabling Act of 1985".

SEC. 2. RULES ENABLING ACT AMENDMENTS.

(a) IN GENERAL.—Title 28 of the United States Code is amended by striking out section 2072 and all that follows through section 2076 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases (including all bankruptcy matters) in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

"(b) Such rules shall not abridge, enlarge, or modify any substantive right or supersede any provision of a law of the United States except any rule of practice or procedure or evidence in effect on the day before the date of the enactment of the Rules Enabling Act of 1985 or prescribed under this chapter.

"§ 2073. Rules of procedure and evidence; method of prescribing

"(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

"(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of a balanced cross section of bench and bar, and trial and appellate judges.

"(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

"(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

"(2) Any meeting for the transaction of business under this chapter by a committee appointed under this section shall be preceded by sufficient notice to enable all interested persons to attend.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings, then pending, except that the Supreme Court shall not require the application of such rule to further proceedings than pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.".

(b) ADVISORY COMMITTEES FOR COURTS.—Section 2077(b) of title 28, United States Code, is amended—

(1) by striking out "of appeals" the first place it appears and inserting ", except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title" in lieu thereof; and

(2) by striking out "the court of appeals" the second place it appears and inserting "such court" in lieu thereof.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of title 28 of the United States Code is amended by striking our the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.
"2073. Rules of procedure and evidence; method of prescribing.
"2074. Rules of procedure and evidence; submission to Congress; effective date.".

SEC. 3. COMPILATION AND REVIEW OF LOCAL RULES.

(a) COMPILATION.—Section 604(a) of title 28 of the United States Code is amended by adding at the end the following:

"(18) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders.".

(b) REVIEW.—Section 331 of title 28 of the United States Code is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts of appeals for consistency with rules prescribed under section 2072 of this title. The Judicial Conference may modify or abrogate any such rule prescribed by a court of appeals found inconsistent in the course of such a review.".

SEC. 4. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) RULES BY CERTAIN COURTS.—(1) Section 2071 of title 28 of the United States Code is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting "under section 2072 of this title" in lieu thereof; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section.".

(2) Section 332(d) of title 28 of the United States Code is amended by adding at the end the following new paragraph:

"(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.".

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) of title 28 of the United States Code is amended by inserting after the first sentence the following new sentence: "Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.".

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372 (c)(11) of title 28 of the United States Code is amended by inserting before "Any rule promulgated" the following new sentence: "Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.".

SEC. 5. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Title 18 of the United States Code is amended by striking out chapter 237.

(2) The table of chapters for part II of title 18 of the United States Code is amended by striking out the item relating to chapter 237.

(b) CONFORMING REPEALS RELATING TO MAGISTRATES.—(1) Section 3402 of title 18 of the United States Code is amended by striking out the second paragraph.

(2) Section 636(d) of title 28 of the United States Code is amended by striking out "section 3402 of title 18, United States Code" and inserting "section 2072 of this title" in lieu thereof.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled "An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes" approved October 8, 1964 (Public Law 88-639) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

SEC. 6. SAVINGS PROVISION.

The rules prescribed in accordance with law before the taking effect of this Act and in effect on the date of such taking effect shall remain in force until changed pursuant to the law as modified by this Act.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect December 1, 1986.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3550, the Rules Enabling Act is a product of more than 2½ years work by the Subcommittee on Courts, Civil Liberties and the Administration of Justice. We held a number of hearings on the topic of the rulemaking process, and during these hearings, we have heard from the Judicial Conference, the ABA, leading public interest lawyers, and a number of others.

We have received comments on the bill from the Department of Justice, various public interest groups, judges, commentators, and the like.

The bill before the House today is very similar to a bill approved by the subcommittee during the last Congress.

The bill's major features reform the method by which Federal rules of practice and procedure are promulgated.

The legislation before us recognizes that the rulemaking authority for the Federal courts comes from a delegation from the Congress, and that is very important.

For the most part, this system has worked quite well over the last 50 years. Some 30 State courts have ended up adopting much of the Federal rules because of the thoughtfulness of this work.

There have, however, been occasions when the rulemaking process has not run so smoothly. The most notable example of where the proposed rules went too far, and Congress actually intervened, was with the rules of evidence.

While these problems have been infrequent, it is clear that some modifications are necessary to improve the work ability of the rulemaking process.

The bill sets forth procedural steps for the promulgation of Federal court rules. The Judicial Conference is directed to establish a standing committee on practice and procedure and has discretion to appoint various advisory committees.

The bill provides that the rules are to be promulgated, in the final sense, by the Supreme Court after consideration by an advisory committee, a standing committee of the Judicial Conference, and by the Judicial Conference itself.

This part of the bill does not really change existing practice.

We provide that the bench and bar must be fully represented on these committees, and that interested parties shall have notice and opportunity to comment on proposed rules. The bill also requires that meetings of the advisory committees and standing committees are to be open, unless closed by a majority vote of all of the committee members.

The bill also provides that the time that rules lay over in the Congress is made uniform for all rules. The one-House veto provisions of the Federal Rules of Evidence are repealed as unconstitutional in light of the Chadha case. Rulemaking procedures are also set up for all lower Federal Courts.[1]

With the exception of the open meeting provision, this bill has the support of the Judicial Conference.

Mr. Speaker, I think that this represents on balance a series of changes that are necessary and desirable. We did not go as far as some witnesses preferred, and make good cases for. For example, we preferred not to go so far as to remove, for example, the Supreme Court from a role in the procedure, although that had been advocat-

[1] One provision of the bill requires the appointment of advisory committees for federal courts other then the courts of appeal. The Congressional Budget Office asserts that this may result in expenditures of up to $100,000. I view this estimate as speculative and firmly believe that the costs can, and will, be lower. Most of the affected courts can implement this reform without resort to such extensive travel expenses. Hopefully, the Administrative Office of the United States Courts will promulgate regulations which encourage that advisory committee members contribute their travel expenses as part of their pro bono publico obligation. Alternatively the meetings of the advisory committee can occur via teleconference at a far lower cost.

ed by some. The committee choose to retain, for the time being, the Supreme Court's role in the promulgation of rules for two reasons. First, the Court itself expressed a preference for a continuing role. Second, the Court's involvement assist in the process of achieving national uniformity because the courts imprimatur on the rules encourages States to also adopt them.

The committee will, however, continue to evaluate this decision in light of subsequent experience. I think the bill in its present form is supportable, Mr. Speaker, and I hope the House will adopt it.

I wish to take this opportunity to thank individuals who have assisted the committee in its work on the bill. We owe a debt of gratitude to Thomas Hutchison, chief counsel of the Subcommittee on Criminal Justice,[2] Suzan Sanford, summer intern on the Subcommittee on Courts, Civil Liberties and the Administration of Justice,[3] Laurie Robinson and Tom Smith of the American Bar Association,[4] Prof. Stephen Burbank of the University of Pennsylvania School of Law,[5] Allan Morrison, director of the Public Citizen Litigation Group,[6] Laura Macklin of the Alliance for Justice,[7] Judge Jack Weinstein, U.S. District Court Eastern District of New York,[8] and last but not least Judge Edward T. Gignoux, chairman of the Standing Committee on Practice and Procedure of the Judicial Conference of the United States.[9]

□ 1325

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 3550, the Rules Enabling Act of 1985 and commend my colleague, the gentleman from Wisconsin, BOB KASTENMEIER, for his leadership on this issue. H.R. 3550 would revise the procedures for promulgation by the Supreme Court of practice and procedure in the Federal courts.

The Rules Enabling Act, which was enacted in 1934, worked well for many years, with proposed rules taking effect without incident. However, in recent years Congress has actively intervened to delay and in some cases reject proposed rules. At the same time, several commentators have begun urging reform of the rulemaking process.

In response to the calls for reform and congressional intervention, the Judicial Conference, under the strong leadership of Edward T. Gignoux, adopted procedures that greatly improved the rulemaking process. By the same token, Judge Gignoux has worked closely with the subcommittee on H.R. 3550 which would codify many of the changes implemented by the Judicial Conference, as well as requiring other changes designed to improve the rulemaking process.

Specifically, the major provisions of H.R. 3550 are:

First, membership of the Judicial Conference committees that handle rules of practice must be fully representative of the bench and bar;

Second, reasonable notice must be given so that members of the bench and bar will have adequate opportunity to comment under proposed rules and amendments under consideration by the Judicial Conference committees; and

Third, meetings of the Judicial Conference committees must be open unless a majority votes to close a meeting—or a portion of a meeting;

H.R. 3550 also—

Fourth, sets forth procedures for adopting local rules and for ensuring their consistency with each other and with the national rules;

Fifth, repeals as unconstitutional the one-House veto provision in the Rules Enabling Act for the Federal Rules of Evidence; and

Sixth, ensures that Congress has an adequate length of time in which to review promulgated rules by establishing a longer—and uniform—period of 7 months between promulgation of a rule and its effective date.

I believe that this legislation, which is the result of efforts begun by the Courts Subcommittee last Congress, will achieve its intended purpose of "ensuring uniformity in the rulemaking process and providing for timely responses and maximum participation by all interested persons." Accordingly, I urge the passage of H.R. 3550.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3550, the Rules Enabling Act of 1985, which would revise the procedures for promulgation by the Supreme Court of the rules of practice and procedure in the Federal courts.

Over the last 2½ years plus, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has conducted a careful review of the process by which rules of practice used in the Federal courts are promulgated. I think it is important to note that this review conducted by the Courts Subcommittee is the first comprehensive congressional review of the Rules Enabling Act since they were enacted in 1934. In this regard, my colleagues, the gentleman from Wisconsin [Mr. KASTENMEIER], and the gentleman from California [Mr. MOORHEAD] are to be commended for taking the initiative on this issue.

In summary, H.R. 3550 will make permanent many of the improvements already instituted by the Judicial Conference, as well as making other positive changes that will help ensure that the Federal rulemaking process is fair, accessible, and efficient. I urge the passage of H.R. 3550.

Mr. KASTENMEIER. Mr. Speaker, I yield to myself briefly, 1 minute, to express my appreciation to the gentleman from California [Mr. MOORHEAD] and the gentleman from New York [Mr. FISH] and the other Members of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice who, over the last 2½ years, have contributed very constructively to the bill we are now considering. I think we have had excellent cooperation from the judiciary as well as in producing what will be a step forward in the rulemaking process.

Mr. MOOREHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3550, as amended.

The question was taken; and—two thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Member may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

KENTUCKY WILDERNESS ACT OF 1985

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1627) to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands

[2] For more than a decade of work on the rulemaking process.

[3] For assistance to the committee on the committee report.

[4] For their work on behalf of the ABA in advocating reform of the rulemaking process.

[5] For his scholarship and insight into the history and purpose of judicial rulemaking.

[6] For his commitment to opening up the rulemaking process.

[7] For her scholarship and thoughtful writing on the supersession issue.

[8] For providing the intellectual foundation for the legislaltion.

[9] For his work within the Judicial Conference of the United States on improving the rulemaking process.

for multiple use management, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Kentucky Wilderness Act of 1985".

SEC. 2. In furtherance of the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) certain National Forest System lands located within the Daniel Boone National Forest, Kentucky, which comprise approximately thirteen thousand three hundred acres as generally depicted on a map entitled "Clifty Wilderness—Proposed", dated January 1985, are hereby designated as wilderness, and shall be known as the City Wilderness.

SEC. 3. Subject to valid existing rights, the Clifty Wilderness shall be administered by the Secretary of Agriculture as a component of the National Wilderness Preservation System in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the Sound Roadless Area Review and Evaluation Program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Kentucky and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Kentucky, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Kentucky;

(2) with respect to the National Forest System lands in the State of Kentucky which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in further planning upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Kentucky reviewed in such final environmental statement or referenced in subsection (d) and not recommended for further planning as a result of the second roadless area review and evaluation program or designated as wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest Rangeland Renewable Resources Act of 1974, as amended by the National Forest Planning Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Kentucky are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review an evaluation of National Forest System lands in the State of Kentucky for the purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) the provisions of this section shall also apply to National Forest System roadless lands in the State of Kentucky which are less than five thousand acres in size.

SEC. 5. As soon as practicable after enactment of this Act, the map and a legal description of the Clifty Wilderness shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Foresty of the Senate, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal description and map may be made.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman California [Mr. LAGOMARSINO] wil be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1627, the Kentucky Wilderness Act of 1985. As reported by our committee, the bill would designate 13,000 acres of national forest land in Kentucky as wilderness. All of the 13,000 acres is in a single area, Kentucky's Appalachian Mountains, and it would be known as the Clifty Wilderness.

The Clifty area would be, in my opinion, a fine addition to the National Wilderness Preservation System. It adds a distinctive example of Cumberland Plateau ecosystem to the system, it is highly scenic, and it is home to rare plant species. It would provide an enduring wilderness resource in a geographic area where there is relatively little public land, and where still wild places are rare indeed.

This wilderness would be only 50 miles from Lexington, KY, and only 100 miles from Cincinnati, OH.

There are virtually no resource conflicts with the designation of this area as wilderness, and this is reflected in the broad support this bill has received. The gentleman from Kentucky, CHRIS PERKINS, whose district includes the proposed wilderness, is the bill's author, and I would like to at this time extend to him my personal congratulations for the leadership that he has shown in getting this legislation put together with such a broad base of support. That support includes the bipartisan coalition of the Kentucky delegation including both Senators as well as the Governor of Kentucky, and by conservation groups and by the administration.

The committee approved a technical amendment to the "release" language in the Perkins bill without objection. The purpose of that amendment was to make the bill conform with the standard release language that we have worked out with our colleagues in the other body and which the Congress has incorporated in all wilderness bills since then.

Both the gentleman from Kentucky [Mr. PERKINS] and the Forest Service approved of the change at the subcommittee hearings and the markup on November 12.

In summary, Mr. Speaker, I believe that H.R. 1627 is highly meritorious legislation with a rate uniformity of support, and I urge my colleagues to join me in supporting this bill.

I believe that the Committee on Agriculture, which also has jurisdiction over eastern wilderness, has already released this bill. I do not see the gentleman from North Carolina [Mr. WHITLEY] who is the subcomittee chairman, but I do believe that is the case, and I thought I ought to mention it at this time.

I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my understanding that the administration supports this bill and there is no opposition to it.

I urge my colleagues to vote for the bill.

Having no requests for time, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I appreciate having this opportunity to discuss my legislation, H.R. 1627, today. This legislation is designed to set aside roughly 13,000 acres in the Clifty area of the Seventh District of Kentucky and to designate it as a wilderness area that will be preserved for many generations to come. The Clifty area in question is within my district so I am obviously very interested and concerned with whatever legislation might affect it. This area is presently encompassed by the 673,000 acre Daniel Boone National Forest in southeastern Kentucky.

The reason for my action on this matter is a result of the extensive RARE II study that was recently completed by the U.S. Department of Agriculture. The findings and conclusions that came out of that study recommended that the Clifty area be assigned a wilderness designation so that the area would be permanently preserved.

This wilderness designation does seem applicable to the Clifty area since it has remained relatively free of man's intrusions. I feel that it would be a real service to the people of Kentucky and to the Nation as a whole if this designation was allowed to be passed. Too many times we have allowed the treasures of this country to be wasted, this is an opportunity for us to capture an unaltered, Appalachian area and to hold it free of any future intrusion. The world is moving very fast and available wilderness areas such as this are few and far between. I hope that you can agree with me and support this designation.

Within this legislation I feel that we have also provided proper avenues for the public to raise their questions and any possible objections that they might have with the actual preservation of the land. The legislation will provide for a series of local hearings to be held that will provide a forum for the area's residents.

I feel that this wilderness designation is critical to the future of the Daniel Boone National Forest. The question of land use should be decided and the preservation parameters should be properly set out. The people that own land within and around this area deserve to have this question settled. The recommendation of the second extensive roadless area review and evaluation (RARE II) should be looked to as a solid base for this decision to be made upon. I do not feel that we can afford to lose this opportunity by ordering yet another study of the designated Clifty area. I am satisfied that we are doing the proper thing as we protect this area.

Many different organizations are supporting H.R. 1627. With my testimony I am submitting a letter of support I have received from Kentucky's Secretary for Natural Resources and Environmental Protection Cabinet, Charlotte Baldwin. Also this legislation is strongly supported by the Cumberland Chapter of the Sierra Club who represents the Sierra Club members of Kentucky, along with the Kentucky Wilderness Coalition's support. Many other organizations have also endorsed this wilderness designation legislation. Included among these is the following: the Governor of Kentucky, Governor Collins; Kentucky Department of Fish and Wildlife Resources; Kentucky Forest Industries Association; the Kentucky Audubon Council and others. These organizations have made the wilderness designation of the Clifty area a top priority in their efforts concerning the State of Kentucky. Also the cosponsorship of the legislation in the Senate and the House show that the Kentucky congressional delegation is supporting this with a bipartisan effort.

In conclusion let me just say that I introduced this legislation so that we would be able to save at least one corner of a very distinctive and beautiful area of this country for those who will follow after us. My hope is that they will not have to wonder what the area really looked and felt like without the intrusions of man and his ways. They will be able to go to this designated area and will be able to see and experience the true wilderness of the hills. Our area of the country, in eastern Kentucky, is beautiful to behold and I think that this Clifty area is a wonderful area to select to help represent it to present and future generations.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 1627, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DESIGNATING MARY McLEOD BETHUNE COUNCIL HOUSE AS HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1116) to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes".

The Clerk read as follows:

S. 1116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BETHUNE MUSEUM AND ARCHIVES.

(a) COOPERATIVE AGREEMENT.—Section 3 of the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (96 Stat. 1615; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the Bethune Museum and Archives. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site. Such agreement may also contain provisions that—

"(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

"(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

No limitation or control of any kind over the use of such properties customarily used for the purposes of the Bethune Museum and Archives shall be imposed by any such agreement.".

(b) ANNUAL REPORT.—Section 4 of such Act is amended by striking out "National Council of Negro Council of Negro Women" and inserting in lieu thereof "Bethune Museum and Archives".

SEC. 2. AUTHORIZATION.

Section 5 of the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (96 Stat. 1615; 16 U.S.C. 461 note) is amended to read as follows:

"ASSISTANCE

"SEC. 5. (a) OPERATION AND MAINTENANCE.—For purposes of carrying out the cooperative agreement under section 3, there is authorized to be appropriated for operation and maintenance of the historic site, not more than $100,000 for the fiscal year 1987, $110,000 for the fiscal year 1988, and $120,000 for the fiscal year 1989.

"(b) MATCHING GRANTS.—In addition to sums authorized to be appropriated under subsection (a), there is authorized to be appropriated for purposes of making grants to the Bethune Museum and Archives for purposes of building repair and improvement and for protection of the archives not more than $300,000. Grants to the Bethune Museum and Archives under this subsection shall cover not more than 50 per centum of the costs of such building repair and improvement and archive protection. The remaining share shall be borne by the Bethune Museum and Archives with such non-Federal funds and documented services as are satisfactory to the Secretary. Sums authorized to be appropriated under this sub-

section shall remain available until expended.".

SEC. 3. DEFINITION.

Such Act is further amended by adding the following new section at the end thereof:

"REFERENCE TO BETHUNE MUSEUM AND ARCHIVES

"SEC. 6. Any reference in this Act to the 'Bethune Museum and Archives' shall be treated as a reference to the Mary McLeod Bethune Museum of the National Council of Negro Women, Incorporated.".

SEC. 4. COMPLIANCE WITH BUDGET ACT.

Any provision of this Act (or any amendment made by this Act) which directly or indirectly authorized the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only after September 30, 1986.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1116 contains language that is the same, except for some technical and conforming changes, as the language of H.R. 1391 reported by the Interior and Insular Affairs Committee on October 9, 1985 (Rept. 99-312). This bill amends the act establishing the Bethune Museum and Archives as a national historic site.

S. 1116 would be amended by striking out "National Council of Negro Women" each place it appears and inserting in lieu thereof "Bethune Museum and Archives" and would authorize an appropriation for fiscal year 1987 equal to that proposed for fiscal year 1986 or $100,000 so that there would be no reduction in service now offered by the Bethune Museum and Archives. An allowance is made for about 10 percent growth per year for fiscal year 1988 and fiscal year 1989 or $110,000 and $120,000 respectively.

The authorization would expire after fiscal year 1989 which will require us to reassess our obligation to provide funding of the Bethune House in light of the fiscal situation in 1989.

The amendment would also provide an authorization level for a one-time 50-50 matching grant of $300,000 for the purposes of building repairs and improvement and protection of the archives.

The Mary McLeod Bethune Historic Site was established by Public Law 97-329 on October 15, 1982.

The historic site located at 1318 Vermont Avenue NW., was the last official Washington, DC, residence of Mary McLeod Bethune, the renowned educator and national political leader. Bethune was the founder and president of Bethune-Cookman College, Daytona Beach, FL, the National Council of Negro Women, and was appointed by President Franklin Delano Roosevelt as Director of the Division of Negro Affairs of the National Youth Administration in Washington, DC.

Mrs. Bethune lived at Council House from 1943 to 1949. It was here that she directed activities that brought her national and international recognition. The house served as the first national headquarters of the National Council of Negro Women. At "Council House" Mrs. Bethune received and entertained some of the most prominent national and international figures of the 1940's and 1950's, including Eleanor Roosevelt, Ralph Bunche, Charles Drew, Madame Pandit of India, and President Tubman of Liberia. National conferences, planning sessions, receptions and meetings of local and national organizations were held at this site.

Today, Council House remains in the ownership of the National Council of Negro Women. The property houses the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History. The archives contains the largest extant manuscript collection of materials pertaining to black women and their organizations, and contains extensive correspondence, photographs and memorabilia relating to Mrs. Bethune. The museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

Mr. Speaker, I am pleased that we find ourselves in accord with the other body on this bill and I urge its passage by the House.

Mr. Speaker, I want to pay special commendation to the prime sponsor of this measure, the gentleman from the District of Columbia [Mr. FAUNTROY]. He has done a masterful job of dealing with this issue, as well as many other Members, the gentlewoman from Ohio, MARY ROSE OAKAR, the gentleman from New York, CHARLES RANGEL, who offered testimony before the subcommittee concerning this very important bill on the Mary McLeod Bethune Council House.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Pennsylvania.

□ 1340

Mr. WALKER. Just a couple of questions. On the notice that I have, it refers to some outlays that are going to take place. Is this a new program of spending?

Mr. VENTO. No, it is not new; this was passed in the 97th Congress. It is an affiliated part of the National Park System. There has been an authorization. There is a new expenditure; the initial bill has been substantially modified. I might say, over what we had heard testimony on initially, Mr. WALKER.

Mr. WALKER. If the gentleman will yield further.

Mr. VENTO. I yield to the gentleman.

Mr. WALKER. In other words, we have an ongoing authorization at the present time, and the thing I am looking at here is, are we now replacing what has been previously private money for funding this project with public money?

Mr. VENTO. No, we are not.

Mr. WALKER. And do we know what the administration view ended up being on this? The sheet that I have indicates that they had not made their view available.

Mr. VENTO. They have not made their views available on the most recent version of the bill, although they initially opposed it; but the bill has been substantially modified since then.

The authorization this past year has been about $100,000. This year's authorization is frozen at that level with modest increases anticipated or provided, or at least authorized in 1987 and 1988, and there is a one-time grant that I want to call to the gentleman's attention to which initially had been submitted for some half million dollars which we cut down to 300,000 and provided 50-50 matching with this to save these archives.

I think it is fair to point out to the gentleman that they have attracted a great amount of resource and the physical facility there is very much in need of the air conditioning and other types of repair that will preserve these historic archives, that this has become the locus of. I do not think anyone recognized that when this passed; that there would be this type of growth.

So I would just suggest to the gentleman, the bill has been significantly modified from when it was first introduced.

Mr. WALKER. If the gentleman would yield again.

Mr. VENTO. I would be happy to.

Mr. WALKER. There was a question that arose with regard to a museum of some sort that we had adopted in New York some years ago on the House floor recently, and found ourselves with a continuing problem. We adopted the building, found that the building needed major repairs, and it became an ongoing expense to us.

All I am trying to find our here is whether or not we are getting ourselves into something which is going to be significantly more expensive for us in the future than what the monies would seem to indicate here in this bill.

Mr. VENTO. Reclaiming my time, it is certainly our intent not to have that particular phenomenon occur in this instance. I might say, the minority members on the committee were most assiduous with regard to pointing out the shortfall and problems with this bill, and I think that we came to a satisfactory conclusion.

There had been a problem with regard to the questions of authorization that indeed this activity and appropriation seemed to be something that was not authorized and that we had ongoing annual appropriations, so I think if anything, the authorization part with the clear annual authorization, casts a limitation on this measure and will bring it back to us for review. So we are not committed beyond those 3 years.

For that reason alone, I think in terms of addressing the type of problem the gentleman has pointed out, that this deserves support on that basis.

Mr. WALKER. I thank the gentleman.

Mr. VENTO. I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the opportunity to comment briefly on S. 1116.

As you know, Mr. Speaker, S. 1116 would provide additional Federal financial assistance to the Mary McLeod Bethune Historic Site, located in Washington, DC. Congress designated the Mary McLeod Bethune Council House as a national historic site in 1982. Since its designation, Congress has provided annual appropriations for the restoration and interpretation of the council house, as well Federal grants on a 50-50 matching basis to preserve the site and collections.

The historic house was the residence of Mary McLeod Bethune, a well-known educator, national political leader and the founder of the National Council of Negro Women. Mrs. Bethune is remembered for her achievements in the areas of housing, employment, civil rights and women's rights.

Mr. Speaker, at this time I would like to commend the chairman for his efforts in working out what is a very difficult problem with this legislation. While I understand the need for additional funding for the Council House, I also strongly feel we must consider the financial condition of our Nation whenever we act on measures affecting the Federal appropriations process. Therefore, I concurred with the chairman and strongly supported the substitute language in the House bill, H.R. 1391, during committee action. It reduces the bill's funding authorizations for the fiscal years 1987-89. In addition, the authorization expires in fiscal year 1989 allowing Congress to reassess the program and fiscal situation at that time.

In view of the Federal deficits our Nation is experiencing, which may continue into the future, I believe this proposal is the fiscally responsible course to take on this issue. I am pleased that the Senate has acted and also agreed on this measure. The Senate version, which is before us today, is nearly identical to the legislation (H.R. 1391) approved by the National Parks and Recreation Subcommittee and the House Interior Committee earlier this year. Therefore, I urge all of my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the Delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I want first to thank the distinguished chairman of the subcommittee, Mr. VENTO, for his outstanding work on this legislation. I want also to thank the ranking minority member of the subcommittee, Mr. LAGOMARSINO, for his cooperation throughout this process. S. 1116 is nearly identical to H.R. 1391, a bill introduced by me and our colleague, JOHN SEIBERLING.

Public Law 97-329 established the Mary McLeod Bethune historic site in October 1982. This bill would amend that public law in two fundamental ways:

First, it would redesignate this site from Mary McLeod Bethune of the National Council of Negro Women, Inc. to the "Bethune Museum and Archives."

Second, it authorizes an annual appropriation to the museum of $100,000 in fiscal year 1987, $110,000 in fiscal year 1988, and $120,000 in fiscal year 1989, and a one-time authorization of $300,000 for repair of the Bethune residence and improvement and protection of the Bethune Archives.

During the 97th Congress, we made a commitment to this historic site, and we have backed our commitment up with appropriations totaling nearly $300,000. S. 1116 seeks to maintain that commitment so that the important work conducted at the Bethune House can continue.

Mr. Speaker, when the pages of history are turned, among black women in America, one woman emerges as having made a significant impact not only in behalf of black Americans, but in behalf of people of all colors.

Educator, scholar, social activist and advisor to four Presidents, Mary McLeod Bethune stood and still stands as a pillar in our society, one who paved the way for many who, without her, may not have had a chance. As a fitting tribute to her life's work, she recently became only the eighth black and the second black woman to have her portrait placed on a commemorative U.S. postage stamp.

Among her numerous achievements during her lifetime, Mrs. Bethune is most noted as the founder and first president of Bethune-Cookman College in Daytona Beach, FL; and the founder of the National Council of Negro Women; and as the director of the Division of Negro Affairs of the National Youth Administration during the tenure of President Franklin D. Roosevelt.

The Bethune House is located at 1318 Vermont Avenue, in Northwest Washington, DC. It served as the residence of Mrs. Bethune from 1943 to 1949. The house also served as the first headquarters of the National Council of Negro Women. Persons of national and international prominence graced the halls of this house where important planning, discussions, and diplomacy took place.

Today the House provides a home for the Bethune Museum as well as the National Archives for Black Women's History. The museum and archives serves as a repository for a range of materials which document black history with special emphasis on black women. It is the only major place of its kind in the United States which focuses in this unique way on the vital role black women have played throughout the history of this Nation.

I should point out, Mr. Speaker, that of the nearly 200 national historic sites, fewer than 5 percent are dedicated to memorializing the black experience in America. Moreover, of the $618.6 million provided in this year for general operating funds to all national historic sites, less than $2 million was spent on the eight black historic sites.

But continued support for the Bethune House is really justified as a result of the high quality of the interpretation work of the museum and archives and its constantly expanding collections. Support is justified due to the exceptional programs conducted at the house and by the staff that administers it—art shows, concerts, lectures, seminars, and important research work. The museum has become a must stop for a growing number of visitors from around the country and abroad.

Mr. Speaker, this bill passed the Senate by voice vote last week. I urge the House to join the Senate. The spirit of Mary McLeod Bethune and other black, American women must be captured and preserved.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I am happy to yeild to the gentlewoman from Ohio.

Ms. OAKAR. I want to thank the gentleman for yielding and just say, Mr. Speaker, I am very pleased to see

this bill reported out and congratulate the distinguished chairman.

I say to the gentleman I think it is a really lovely museum devoted to all the various contributions of black women, and I am glad to support it.

Mr. RODINO. Mr. Speaker, I rise in strong support of S. 1116, to authorize continuing appropriations to operate and maintain the Mary McLeod Bethune historic site in Washington, DC.

Born the daughter of former slaves, Mary McLeod Bethune became not merely a great black educator, and not merely a great woman educator, but a great American educator. Almost singlehandedly she founded and built Bethune Cookman College in Florida and she served as an advisor to several Presidents. It is most remarkable since she achieved these accomplishments during a period of our country's history when, unfortunately, it was next to impossible for anyone of her race and gender to do so. She truly overcame incredible odds. Through her pioneering work to increase educational opportunities for blacks she gave inspiration to the succeeding generation of educated black Americans who went on to further the civil rights movement and brought about a more equitable society in our country.

In 1982 Congress enacted the law which established the historic site at Mary McLeod Bethune's Council House. This was her last official residence and it was there that she lived when she founded, with 29 women leaders in the Harlem Branch of the YWCA, the National Council of Negro Women.

It is particularly appropriate to pass this legislation now, for on December 5, 1985, the National Council of Negro Women celebrated its 50th anniversary. The organization founded at the Council House has flourished, and for the last 28 years has benefited from the outstanding leadership of Dorothy Height. In my home city of Newark, the council has been fortunate to have as its president Mrs. Mary A. Hill, the wife of another black leader in our community, Elton Hill, the business administrator of the city of Newark.

Mr. Speaker, It is appropriate and fitting to pass this bill to continue support for this significant historic site and museum. It is also most important that we will provide for matching funds to improve and protect the Bethune archives, for the rich heritage that Mary McLeod Bethune bequeathed to our Nation can serve as inspiration and motivation for all Americans.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1116.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1116, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Low-Level Radioactive Waste Policy Amendments Act of 1985".

SEC. 2. AMENDMENT TO LOW-LEVEL RADIOACTIVE WASTE POLICY ACT.

The Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Low-Level Radioactive Waste Policy Act'.

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

"(1) AGREEMENT STATE.—The term 'agreement State' means a State that—

"(A) has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

"(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

"(2) COMMERCIAL NUCLEAR POWER REACTOR.—The term 'commercial nuclear power reactor' means any unit of a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)) that is a boiling-water reactor or a pressurized-water reactor.

"(3) COMPACT.—The term 'compact' means a compact entered into by 2 or more States pursuant to this Act.

"(4) COMPACT COMMISSION.—The term 'compact commission' means the regional commission, committee, or board established in a compact to administer such compact.

"(5) COMPACT REGION.—The term 'compact region' means the area consisting of all States that are members of the same compact.

"(6) DISPOSAL.—The term 'disposal' means the isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

"(7) GENERATE.—The term 'generate', when used in relation to low-level radioactive waste, means to produce new low-level radioactive waste.

"(8) GOVERNOR.—The term 'Governor' means, in the case of any State without a Governor, the chief executive officer of such State.

"(9) HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL.—The terms 'high-level radioactive waste' and 'spent nuclear fuel' have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), as such section is in effect on January 1, 1985.

"(10) LOW-LEVEL RADIOACTIVE WASTE.—Except as provided in section 13(h), the term 'low-level radioactive waste' means radioactive material that—

"(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste (as defined by the Nuclear Regulatory Commission on January 1, 1985), or byproduct material (as defined in section 11 e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)) as in effect on January 1, 1985); and

"(B) consists of or contains class A, B, or C, radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on December 27, 1982.

"(11) LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY.—The term 'low-level radioactive waste disposal facility' means a disposal facility for low-level radioactive waste that is subject to regulation by the Nuclear Regulatory Commission.

"(12) NONMEMBER STATE.—The term "nonmember State" means a State that is not a member of a compact.

"(13) NONSITED COMPACT REGION.—The term 'nonsited compact region' means any compact region that is not a sited compact region.

"(14) REGIONAL DISPOSAL FACILITY.—The term 'regional disposal facility' means a low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(16) SITED COMPACT REGION.—The term 'sited compact region' means a compact region that includes Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

"(17) STATE.—The term 'State' means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96-205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 3. RESPONSIBILITIES FOR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

"(a) STATE RESPONSIBILITIES.—Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

"(1) low-level radioactive waste generated within the State other than by the Federal Government;

"(2) low-level radioactive waste generated within the State by the Federal Government, except that any State shall not be required to, but may, provide for disposal of any such waste—

"(A) owned or generated by the Department of Energy;

"(B) generated by the decommissioning of vessels of the United States Navy; or

"(C) generated by the research, development, testing, or production of any atomic weapon; and

"(3) low-level radioactive waste required to be accepted for disposal under section 5.

"(b) FEDERAL RESPONSIBILITIES.—

"(1) LOW-LEVEL RADIOACTIVE WASTE DISPOSAL.—The Federal Government shall be responsible for ensuring the safe disposal of low-level radioactive waste—

"(A) owned or generated by the Department of Energy;

"(B) generated by the decommissioning of vessels of the United States Navy; or

"(C) generated by the research, development, testing, or production of any atomic weapon.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 12-months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Secretary shall submit to the Congress a comprehensive report setting forth recommendations of the Secretary to ensure the safe disposal of any radioactive waste for which disposal is not provided under Federal law.

"(B) CONTENTS.—Such report shall include—

"(i) an identification of the radioactive waste for which neither the Federal Government nor the States have responsibility under existing Federal law;

"(ii) an identification of Federal and non-Federal options for disposal of such radioactive waste;

"(iii) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

"(iv) a description of the projected costs of taking such actions; and

"(v) recommendations of the Secretary for resolving the issues related to disposal of radioactive waste described in subparagraph (A).

"SEC. 4. REGIONAL AND STATE DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

"(a) IN GENERAL.—

"(1) FEDERAL POLICY.—It is the policy of the Federal Government that the responsibilities of the States under section 3 for the disposal of low-level radioactive waste can be most safely and efficiently managed on a regional basis.

"(2) INTERSTATE COMPACTS.—To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

"(b) APPLICABILITY TO FEDERAL ACTIVITIES.—

"(1) IN GENERAL.—

"(A) DEPARTMENT OF ENERGY AND UNITED STATES NAVY WASTE.—Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of low-level radioactive waste owned or generated by the Department of Energy or generated by the decommissioning of vessels of the United States Navy.

"(B) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSED OF AT NON-FEDERAL FACILITIES.—Low-level radioactive waste owned or generated by the Federal Government that is disposed of at a low-level radioactive waste disposal facility shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

"(2) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES.—Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by the Federal Government shall not be subject to any compact or any action taken under a compact.

"(3) EFFECT ON AUTHORITY OF COMPACT COMMISSIONS AND STATES.—Nothing contained in this Act or any compact may be construed to confer any new authority on any compact commission or State—

"(A) to regulate the packaging or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or the Department of Transportation;

"(B) to regulate health, safety, or environmental hazards from source material, by-product material, or special nuclear material (as such terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) as in effect on January 1, 1985);

"(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

"(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

"(E) to require indemnification beyond the provisions of chapter 171 of title 28, United States Code (commonly referred to as the Federal Tort Claims Act), or section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly referred to as the Price-Anderson Act), whichever is applicable.

"(4) EFFECT ON FEDERAL AUTHORITY.—Nothing contained in this Act or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency.

"(c) EFFECTIVENESS OF AUTHORITIES UNDER COMPACT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each compact shall take effect in accordance with the provisions of the compact.

"(2) RESTRICTED USE OF REGIONAL DISPOSAL FACILITIES.—Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

"(A) January 1, 1986; and

"(B) the Congress by law consents to the compact.

"(d) CONGRESSIONAL REVIEW.—Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

"SEC. 5. LIMITED AVAILABILITY OF CERTAIN REGIONAL DISPOSAL FACILITIES DURING TRANSITION AND LICENSING PERIODS.

"(a) AVAILABILITY OF DISPOSAL CAPACITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), during the 7-year period beginning January 1, 1986, and ending December 31, 1992, each State or compact region in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b)—

"(A) shall make disposal capacity available for low-level radioactive waste generated by commercial nuclear power reactors in accordance with the provisions of this section; and

"(B) shall not restrict the availability of disposal capacity for low-level radioactive waste generated by any source not referred to in subparagraph (A).

"(2) LIMITATIONS.—No State or compact region described in paragraph (1) shall be required under such paragraph—

"(A) to accept volumes of low-level radioactive waste from any source in excess of the amounts described in subsection (b);

"(B) to accept low-level radioactive waste from any source that is denied access to any such disposal facility in accordance with subsection (e)(2);

"(C) to accept any low-level radioactive waste in violation of the terms of the license of the low-level radioactive waste disposal facility in such State or compact region.

"(3) CESSATION OF OPERATION OF REGIONAL DISPOSAL FACILITY.—No provision of this section shall be construed to obligate any State or compact region in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) to accept low-level radioactive waste from any source in the event that any such facility ceases operation.

"(b) AGGREGATE DISPOSAL CAPACITY.—

"(1) BARNWELL, SOUTH CAROLINA.—The regional disposal facility located at Barnwell, in the State of South Carolina, shall not be required to accept more than 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

"(2) RICHLAND, WASHINGTON.—The regional disposal facility located at Richland, in the State of Washington, shall not be required to accept more than 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

"(3) BEATTY, NEVADA.—The regional disposal facility located at Beatty, in the State of Nevada, shall not be required to accept more than 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

"(4) ALLOCATION OF DISPOSAL CAPACITY.—

"(A) AVERAGE ANNUAL VOLUME LIMIT.—

"(i) IN GENERAL.—Except as provided in clause (ii), any State in which a regional disposal facility referred to in paragraphs (1) through (3) is located may deny access to such facility for low-level radioactive waste generated outside of the compact region if the disposal of such waste in any calendar year, together with all other low-level radioactive waste disposed of at such facility within such calendar year, will result in such facility disposing of a total annual volume of low-level radioactive waste in excess of 100 percent of the average annual volume established in subsection (b) for such facility.

"(ii) REGIONAL DISPOSAL FACILITY UNIQUELY QUALIFIED TO TAKE WASTE.—No such State may under clause (i) deny access to such facility for low-level radioactive waste which such facility is uniquely qualified to accept.

"(B) DISPOSAL IN EXCESS OF ANNUAL VOLUME LIMIT.—If each of the 3 States in which a regional disposal facility referred to in paragraphs (1) through (3) is located denies access to low-level radioactive waste

under subparagraph (A) in any calendar year, each such State shall permit the disposal of additional quantities of such waste in increments of 10 percent of the average annual volume established in subsection (b) for the regional disposal facility located in such State.

"(C) PRIORITY FOR WASTE GENERATED IN SITED COMPACT REGION.—Low-level radioactive waste generated within a sited compact region shall be accorded priority in the allocation of available annual disposal capacity under subparagraph (A) at a regional disposal facility referred to in paragraphs (1) through (3) and located in the sited compact region in which such waste is generated.

"(D) CONTRACTS TO RECEIVE LOW-LEVEL RADIOACTIVE WASTE.—A generator of low-level radioactive waste and a disposal facility referred to in paragraphs (1) through (3) may not enter into any contract for the acceptance of such waste for a period that exceeds 1 year.

"(E) AGGREGATE DISPOSAL CAPACITY.—No provision of this paragraph may be construed to require any State or regional disposal facility referred to in paragraphs (1) through (3) to accept for disposal any low-level radioactive waste in excess of the aggregate disposal capacity established in this subsection for the regional disposal facility located in such State.

"(5) UTILITY AND NON-UTILITY ALLOCATIONS.—During the 7-year period referred to in paragraph (1) the low-level radioactive waste disposal facilities referred to in paragraphs (1) through (3) shall not be required to accept more than—

"(A) 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors; and

"(B) 7,700,000 cubic feet of low-level radioactive waste generated by any other source.

"(c) UTILITY ALLOCATIONS DURING 4-YEAR TRANSITION PERIOD.—

"(1) AMOUNT.—Each commercial nuclear power reactor licensed to operate at full power shall be allocated the following amount of disposal capacity available under subsection (a) for each month during the 48-month period beginning January 1, 1986, and ending December 31, 1989:

"(A) PRESSURIZED-WATER REACTORS IN SITED COMPACT REGION.—Each pressurized-water reactor within a sited compact region shall be allocated 1,027 cubic feet of low-level radioactive waste disposal capacity.

"(B) OTHER PRESSURIZED-WATER REACTORS.—Each pressurized-water reactor, other than those referred to in subparagraph (A), shall be allocated 871 cubic feet of low-level radioactive waste disposal capacity.

"(C) BOILING-WATER REACTORS IN SITED COMPACT REGION.—Each boiling-water reactor within a sited compact region shall be allocated 2,300 cubic feet of low-level radioactive waste disposal capacity.

"(D) OTHER BOILING-WATER REACTORS.—Each boiling-water reactor, other than those referred to in subparagraph (C), shall be allocated 1,951 cubic feet of low-level radioactive waste disposal capacity.

"(2) METHOD OF CALCULATION.—The aggregate amount to be allocated to any commercial nuclear power reactor under paragraph (1) shall be calculated beginning with the 16th month following the date such reactor receives its full power license or on January 1, 1986, whichever occurs later.

"(3) AVAILABILITY OF ALLOCATIONS.—The aggregate allocation for any commercial nuclear power reactor under paragraph (1) for the 48-month period involved shall be available for use by the owner or operator of such reactor at any time during the period beginning on the date such reactor receives its full power license or January 1, 1986, whichever occurs later, and ending on December 31, 1992.

"(4) AGGREGATION OF DISPOSAL CAPACITY ALLOCATIONS.—The owner or operator of more than 1 commercial nuclear power reactor may apportion the aggregate of its allocations under this subsection among such reactors as it determines to be appropriate.

"(d) ALLOCATIONS DURING 3-YEAR LICENSING AND CONSTRUCTION PERIOD.—

"(1) COMMERCIAL NUCLEAR POWER REACTOR ALLOCATIONS.—Each commercial nuclear power reactor licensed to operate at full power shall be allocated the following amount of low-level radioactive waste disposal capacity available under subsection (a) for each month during the 3-year period beginning January 1, 1990, and ending December 31, 1992:

"(A) PRESSURIZED-WATER REACTORS IN SITED COMPACT REGIONS.—Each pressurized-water reactor within a sited compact region shall be allocated 934 cubic feet of low-level radioactive waste disposal capacity.

"(B) OTHER PRESSURIZED-WATER REACTORS.—Each pressurized-water reactor, other than those referred to in subparagraph (A), shall be allocated 685 cubic feet of low-level radioactive waste disposal capacity.

"(C) BOILING-WATER REACTORS IN SITED COMPACT REGIONS.—Each boiling-water reactor within a sited compact region shall be allocated 2,091 cubic feet of low-level radioactive waste disposal capacity.

"(D) OTHER BOILING-WATER REACTORS.—Each boiling-water reactor, other than those referred to in subparagraph (C), shall be allocated 1,533 cubic feet of low-level radioactive waste disposal capacity.

"(2) METHOD OF CALCULATION.—The aggregate amount to be allocated to any commercial nuclear power reactor under paragraph (1) shall be calculated beginning with the 16th month following the date such reactor receives its full power license or on January 1, 1990, whichever occurs later.

"(3) AVAILABILITY OF ALLOCATIONS.—The aggregate allocation for any commercial nuclear power reactor under paragraph (1) for the 3-year period involved shall be available for use by the owner or operator of such reactor at any time during the period beginning on the date such reactor receives its full power license or January 1, 1990, whichever occurs later, and ending on December 31, 1992.

"(4) AGGREGATION OF DISPOSAL CAPACITY ALLOCATIONS.—The owner or operator of more than 1 commercial nuclear power reactor may apportion the aggregate of its allocations under this subsection among such reactors as it determines to be appropriate.

"(5) UNUSED ALLOCATIONS.—In addition to the allocations described in paragraph (1), any commercial nuclear power reactor described in such paragraph may use any capacity allocated to it under subsection (c) that was not used as of December 31, 1989.

"(e) REQUIREMENTS FOR ACCESS TO REGIONAL DISPOSAL FACILITIES.—

"(1) MILESTONES FOR NONSITED COMPACT REGIONS AND NONMEMBER STATES.—Each nonsited compact region, or nonmember State that does not have an operating disposal facility, shall comply with the following requirements:

"(A) JULY 1, 1986.—By July 1, 1986, each such nonmember State shall—

"(i) ratify a compact; or

"(ii) indicate, by the enactment of legislation, or the certification of its Governor, the intent to develop a site by December 31, 1992, for the location of a low-level radioactive waste disposal facility within such State.

"(B) JANUARY 1, 1988.—By January 1, 1988—

"(i) each nonsited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located and each nonsited compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility and delegate authority to implement such plan; and

"(ii) each nonmember State shall develop a siting plan for a low-level radioactive waste disposal facility and delegate authority to implement such plan.

"(C) JANUARY 1, 1990.—By January 1, 1990—

"(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to dispose of low-level radioactive waste within each nonsited compact region or within each nonmember State; or

"(ii) the Governor of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will provide for the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that the capability to provide such storage, disposal, or management exists.

"(D) TRANSMISSION OF CERTIFICATION.—The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (A) or (C) to the Congress and publish any such certification in the Federal Register.

"(2) PENALTIES FOR FAILURE TO COMPLY.—

"(A) BY JULY 1, 1986.—If any nonsited compact region or nonmember State fails to comply with paragraph (1)(A)—

"(i) generators of low-level radioactive waste in such region or nonmember State may be charged, in accordance with the provisions of subsection (i), 2 times the surcharge otherwise applicable under such subsection for the period beginning July 1, 1986, and ending December 31, 1986, and

"(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or nonmember State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(B) BY JANUARY 1, 1988.—If any nonsited compact region or nonmember State fails to comply with paragraph (1)(B)—

"(i) generators of low-level radioactive waste in such region or nonmember State may, in accordance with the provisions of subsection (i)—

"(I) be charged 2 times the surcharge otherwise applicable under such subsection for the period beginning January 1, 1988, and ending June 30, 1988; and

"(II) be charged 4 times the surcharge otherwise applicable under such subsection for the period beginning July 1, 1988, and ending December 31, 1988; and

"(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or nonmember State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(C) BY JANUARY 1, 1990.—If any nonsited compact region or nonmember State fails to comply with paragraph (1)(C), any low-level radioactive wasted generated within such region or nonmember State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(3) DENIAL OF ACCESS.—No denial of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

"(4) CANCELLATION OF PENALTIES.—Any penalty imposed under paragraph (2) shall be canceled after the nonsited compact region or nonmember State involved complies with the applicable requirement under paragraph (1).

"(f) ASSIGNMENT OF DISPOSAL CAPACITY ALLOCATIONS.—

"(1) Any commercial nuclear power reactor in a State or compact region whose access to a regional disposal facility is not under suspension for noncompliance with the requirements of subsection (e), may assign any disposal capacity allocated to it under subsection (c) or (d) to any generator of low-level radioactive waste in any such State or compact region.

"(2) Any assignment under paragraph (1) shall—

"(A) be in writing (a copy of which shall be delivered to any affected compact commission or State);

"(B) include an unconditional written waiver of any right of the assignor to the allocation being assigned; and

"(C) be nullified by any event rendering the assignor-reactor or assignee-generator subject to the denial of access to a regional disposal facility under subsection (e)(2).

"(g) ADDITIONAL ALLOCATION FOR UNUSUAL VOLUMES OF LOW-LEVEL RADIOACTIVE WASTE.—

"(1) IN GENERAL.—During the period beginning January 1, 1987, and ending December 31, 1992, a total of not more than 794,792 cubic feet of disposal capacity (in addition to the allocations under subsections (c) and (d)) shall be made available by the States in which there are located the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) for cases in which the Secretary determines there are commercial nuclear power reactors whose allocations under subsections (c) and (d) have been inadequate during the preceding 12 months due to—

"(A) increased low-level radioactive waste volume resulting from operation of a reactor without discharge of radioactively contaminated water;

"(B) necessary, but irregular, maintenance or safety procedures; or

"(C) other factors determined by the Secretary to be appropriate.

Any determination under subparagraph (C) shall be consistent with the purposes of this Act.

"(2) VOLUME REDUCTION REQUIREMENT.—In making the determination under paragraph (1), the Secretary shall consider the practicability of reducing the volume of such low-level radioactive waste, including such factors as technical, economic, and regulatory considerations.

"(h) EMERGENCY ACCESS.—

"(1) IN GENERAL.—The Nuclear Regulatory Commission may grant emergency access to any operating low-level radioactive waste disposal facility for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety.

"(2) REQUEST FOR EMERGENCY ACCESS.—Any owner or generator of low-level radioactive waste, or any Governor on behalf of any generator or generators located in the State, may request that the Nuclear Regulatory Commission grant emergency access to an operating low-level radioactive waste disposal facility for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

"(3) EMERGENCY DUE TO LOSS OF ACCESS.—In the case of an emergency caused by loss of access to a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) due to failure to meet a requirement under subsection (e), a request for emergency access under paragraph (2) or an extension of such access under paragraph (7)(B) shall be accompanied by documentation from the Governor of the State in which such waste is generated, which shall—

"(A) support the need for such access;

"(B) state the reasons for the failure of such State to meet the requirements of subsection (e); and

"(C) describe a plan for complying with the requirements of such subsection.

"(4) DETERMINATION OF NUCLEAR REGULATORY COMMISSION.—

"(A) FINDINGS.—Not later than 60 days after the receipt of a request for emergency access under paragraph (2), the Nuclear Regulatory Commission shall determine whether to grant such access. The Nuclear Regulatory Commission may grant such access only if it finds that—

"(i) there exists an immediate and serious threat to the public health and safety due to the inability of the applicant for such access to properly dispose of or otherwise manage low-level radioactive waste;

"(ii) such threat to the public health and safety will be mitigated by granting such access; and

"(iii) such threat cannot be mitigated by any reasonable alternatives for the management of such low-level radioactive waste.

"(B) ACTIONS TO MITIGATE HEALTH AND SAFETY THREAT.—The Nuclear Regulatory Commission shall, for each grant of emergency access under subparagraph (A), establish a list of reasonable actions to be taken by the grantee during the 180-day period following such grant to reduce or eliminate the need for continued emergency access after such 180-day period.

"(5) INTERIM ACCESS.—Pending its determination under paragraph (4) of whether to grant emergency access, the Nuclear Regulatory Commission may grant interim access. The Nuclear Regulatory Commission may grant such interim access only if it makes the findings described in clauses (i) and (ii) of paragraph (4)(A).

"(6) EXTENT OF ACCESS.—

"(A) SPECIFICATIONS.—Any emergency access or interim access granted under this subsection shall specify—

"(i) the volume of low-level radioactive waste to which such access applies;

"(ii) the duration of such access; and

"(iii) the low-level radioactive waste disposal facility to receive and dispose of such low-level radioactive waste, which shall be determined following the consideration of—

"(I) the suitability of the low-level radioactive waste disposal facility for the disposal of the category, form, and volume of such low-level radioactive waste;

"(II) the low-level radioactive waste disposal facilities at which the low-level radioactive waste of the applicant for such access has been disposed previously; and

"(III) the need to minimize the costs of transporting such low-level radioactive waste.

"(B) MINIMUM VOLUME AND DURATION.—The volume and duration specified under clauses (i) and (ii) of subparagraph (A) shall not exceed the minimum volume or minimum duration necessary, as determined by the Nuclear Regulatory Commission, to alleviate the health and safety threat.

"(7) MAXIMUM DURATION OF EMERGENCY ACCESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), emergency access granted under paragraph (4) shall not exceed a 180-day period.

"(B) EXTENSION OF EMERGENCY ACCESS.—

"(i) IN GENERAL.—A recipient of emergency access under paragraph (4) may, upon the expiration of the 180-day period specified under subparagraph (A), apply to the Nuclear Regulatory Commission to extend such access beyond such 180-day period.

"(ii) CRITERIA.—The Nuclear Regulatory Commission shall grant an extension under this subparagraph only if it finds that—

"(I) the criteria for access under clauses (i) through (iii) of paragraph (4)(A) are met with regard to such extension; and

"(II) the applicant for such an extension has made diligent efforts to comply with the actions prescribed under paragraph (4)(B).

"(iii) DURATION OF EXTENSION.—No extension of access granted under this subparagraph shall exceed 180 days.

"(iv) SUBSEQUENT EXTENSIONS.—

"(I) BEFORE JANUARY 1, 1993.—Before January 1, 1993, a recipient of an extension of emergency access under clause (i) may apply for subsequent extensions which shall not exceed 180 days per extension.

"(II) ON OR AFTER JANUARY 1, 1993.—On or after January 1, 1993, a recipient of, emergency access under paragraph (4), or an extension of such access under clause (i), may not receive more than 180 days additional emergency access.

"(8) NOTIFICATION.—The Nuclear Regulatory Commission shall notify any affected compact region or State of the grant or extension of any emergency access under this subsection.

"(9) AGREEMENT STATES.—Any agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) shall not be applicable to the determinations of the Nuclear Regulatory Commission under this subsection.

"(10) LIMITATIONS.—No State shall be required to provide emergency access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

"(11) DEDUCTION FROM ALLOCATION.—Any volume of low-level radioactive waste granted emergency access under this subsection, if generated by any commercial nuclear

power reactor, shall be deducted from the low-level radioactive waste volume allocable under subsection (g).

"(12) REGULATIONS.—Not later than 180 days after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include criteria and procedures to be applicable to any request for, or determination with respect to, emergency access under this subsection.

"(i) SURCHARGES.—

"(1) AMOUNT.—A generator of low-level radioactive waste may be charged a surcharge for the disposal of any such waste under this section (other than low-level radioactive waste generated in a sited compact region) by the State in which the applicable regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located. Such surcharge shall be in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2), such surcharge shall not exceed—

"(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

"(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

"(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

"(2) MILESTONE INCENTIVES.—

"(A) ESCROW ACCOUNT.—Any amount collected by a State under paragraph (1) that is subject to payment under subparagraph (B) shall be placed in an escrow account by such State where such amount shall be held until—

"(i) paid in accordance with subparagraph (B); or

"(ii) paid to such State in accordance with subparagraph (E).

"(B) PAYMENTS.—

"(i) MILESTONE OF JULY 1, 1986.—25 percent of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and ending July 1, 1986, shall be paid in accordance with subparagraph (C) if the milestone described in subsection (e)(1)(A) is met by the State in which such waste originated. Any such payment shall be paid from the escrow account established under subparagraph (A) not later than 30 days after July 1, 1986.

"(ii) MILESTONE OF JANUARY 1, 1988.—25 percent of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 2, 1986, and ending January 1, 1988, shall be paid in accordance with subparagraph (C) if the milestone described in subsection (e)(1)(B) is met by the State in which such waste originated (or its compact region). Any such payment shall be paid from the escrow account established under subparagraph (A) not later than 30 days after January 1, 1988.

"(iii) MILESTONE OF JANUARY 1, 1990.—25 percent of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 2, 1988, and ending January 1, 1990, shall be paid in accordance with subparagraph (C) if the milestone described in subsection (e)(1)(C) is met by the State in which such waste originated (or its compact region). Any such payment shall be paid from the escrow account established under subparagraph (A) not later than 30 days after January 1, 1990.

"(iv) SURCHARGES PAID AFTER JANUARY 1, 1990, MILESTONE.—40 percent of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 2, 1990 and ending December 31, 1992, shall be paid in accordance with subparagraph (C), if the State in which such waste originated (or its compact region) is able to provide for the storage, disposal, or management of any low-level radioactive waste generated within such State or compact region by January 1, 1993. Any such payment shall be paid from the escrow account established under subparagraph (A) not later than 30 days after such State or compact region demonstrates such capability.

"(C) RECIPIENTS OF PAYMENTS.—The payments described in clauses (i) through (iv) of subparagraph (B) shall be paid—

"(i) if the State in which such waste originated is not a member of a compact, to such State; or

"(ii) if the State in which such waste originated is a member of a compact, to the compact commission serving such State.

"(D) USES OF PAYMENTS.—

"(i) LIMITATIONS.—Any amount paid under subparagraph (B) may only be used to—

"(I) establish and regulate low-level radioactive waste disposal facilities;

"(II) mitigate the impact of such facilities on the host state; or

"(III) ensure the decommissioning, closure, and care during the period of institutional control, of such facilities.

"(ii) REPORTS.—

"(I) RECIPIENT.—Any State or compact commission receiving a payment under subparagraph (B) shall, on December 31 of each year in which any such funds are expended, submit a report to the Secretary itemizing any such expenditures.

"(II) DEPARTMENT OF ENERGY.—Not later than 6 months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

"(E) PAYMENT TO STATES.—Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid under clause (i), (ii), (iii), or (iv) of subparagraph (B) shall be paid from such escrow account to such State. A payment under this subparagraph shall be made not later than 30 days after a determination of ineligibility for a payment under any such clause is made by such State.

"(F) PENALTY SURCHARGES.—No payment shall be made under subparagraph (B) of any amount paid as a penalty surcharge under subsection (e)(2).

"(j) ADMINISTRATION.—Each State in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located shall have authority—

"(1) to obtain the information necessary to monitor compliance with the limitations, allocations, and requirements established in this section; and

"(2) to deny access to any low-level radioactive waste disposal facilities within its borders for any low-level radioactive waste that—

"(A) is in excess of the amounts provided for under this section; or

"(B) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1).

"(k) ACCEPTANCE OF EXCESS LOW-LEVEL RADIOACTIVE WASTE.—Any State may, in accordance with its compact, accept low-level radioactive waste for disposal in excess of the aggregate disposal capacity and allocation amounts established in this section, except that the acceptance of any such excess amount may not adversely affect the availability of disposal capacity under this section to any generator of low-level radioactive waste.

"(l) NONDISCRIMINATION.—Except as provided in this section, low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

"SEC. 6. ASSURANCE OF FINANCIAL RESPONSIBILITY.

"The Nuclear Regulatory Commission and each agreement State shall ensure that each low-level radioactive waste disposal facility licensed by the Nuclear Regulatory Commission or by such agreement State is covered by bonding or other financial assurance (from the commencement of operations through decommissioning and long-term care) that provides that each such facility shall comply with all financial requirements for operating a safe and environmentally sound facility, including any requirement for site closure and decommissioning or corrective action prior to the expected time of license termination due to economic or health and safety reasons.

"SEC. 7. FINANCIAL AND TECHNICAL ASSISTANCE.

"The Secretary shall, to the extent provided in appropriation Acts, provide to compact regions, States that are members of compacts, and States that are not members of compacts that are determined by the Secretary to require assistance for purposes of carrying out this Act—

"(1) continuing technical assistance to assist them in fulfilling their responsibilities under this Act; and

"(2) at least through the end of fiscal year 1992, financial assistance to assist them in fulfilling their responsibilities under this Act.

"SEC. 8. CONSULTATION AND COOPERATION OF FEDERAL AGENCIES.

"The Nuclear Regulatory Commission, the Secretary of Energy, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency shall consult and cooperate with compact commissions and States in carrying out the provisions of this Act.

"SEC. 9. PERIODIC REPORT OF SECRETARY.

"(a) IN GENERAL.—The Secretary shall, not later than the expiration of each 5-year period following the date of the enactment of the Low-Level Radioactive Policy Amendments Act of 1985, prepare and submit to the Congress a comprehensive report regarding the operation of the national system for the management and disposal of low-level radioactive waste. Such report shall include an evaluation of the use by Federal agencies of each low-level radioactive waste disposal facility established under a compact or by a State, an estimate of the anticipated use of each such facility as a result of the decommissioning of commercial nuclear power reactors (including reac-

tors other than boiling water and pressurized water reactors), and an estimate of the anticipated use of each facility by all generators of low-level radioactive waste.

"(b) CONSULTATION REQUIREMENTS.—Before preparing the report required in subsection (a), the Secretary shall consult with each compact commission, the Governor and other elected State and local officials of each State, the operators of low-level radioactive waste disposal facilities licensed by the Nuclear Regulatory Commission or an agreement State, the principal generators of low-level radioactive waste, and the transporters of low-level radioactive waste.

"SEC. 10. ALTERNATIVE DISPOSAL METHODS.

"The Nuclear Regulatory Commission shall, not later than 12 months after the date of the enactment of this Act, by rule, promulgate criteria for the licensing of low-level radioactive waste disposal facilities that use disposal methods other than shallow land burial.

"SEC. 11. RESPONSIBILITIES OF NUCLEAR REGULATORY COMMISSION AND AGREEMENT STATES.

"In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, the agreement State, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission or the agreement State shall—

"(1) not later than 12 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, establish procedures and develop the technical capability for processing applications for such licenses;

"(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) not later than 15 months after the date of receipt of such application; and

"(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

"SEC. 12. RECLASSIFICATION OF CERTAIN LOW-LEVEL RADIOACTIVE WASTE.

"(a) WASTE WITH MINIMAL RADIOACTIVITY.—Not later than December 31, 1986, the Nuclear Regulatory Commission, pursuant to authority under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), shall by rule identify the low-level radioactive waste that—

"(1) is not required to be disposed of in a licensed low-level radioactive waste disposal facility in order to protect the public health and safety; and

"(2) is not otherwise required to be regulated by the Nuclear Regulatory Commission in order to protect the public health and safety.

"(b) CLASS C WASTE.—

"(1) IDENTIFICATION.—Not later than 6 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission shall, by order, identify any material classified as low-level radioactive waste under section 61.55 of title 10, Code of Federal Regulations (as in effect on December 27, 1982), for which the hazardous life exceeds the period of institutional control (under section 61.59 of title 10, Code of Federal Regulations as in effect on December 27, 1982), established by the Nuclear Regulatory Commission for disposal of such materials.

"(2) ISSUANCE OF RULE.—Not later than 12 months after the identification under paragraph (1), the Nuclear Regulatory Commission shall, by rule, promulgate or revise standards, and specify methods, for the disposal of any material identified under paragraph (1) if it determines such standards and methods to be necessary to minimize the long-term threat to the public health and safety.

"SEC. 13. REGULATION OF CERTAIN WASTES AT LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES.

"(a) COORDINATION OF REGULATORY RESPONSIBILITY.—

"(1) REVISION OF REGULATIONS.—Not later than 12 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission shall jointly revise the regulations—

"(A) issued under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a) (as such regulations are in effect on the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985); and

"(B) contained in part 61 of title 10, Code of Federal Regulations (as in effect on January 1, 1985).

"(2) RESOLUTION OF CONFLICTS.—The revisions under paragraph (1) shall resolve conflicts that arise because—

"(A) the enforcement of a regulation issued under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a) (as such regulation is in effect on the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985) would result in the violation of a regulation contained in part 61 of title 10, Code of Federal Regulations (as in effect on January 1, 1985); or

"(B) the enforcement of a regulation contained in part 61 of title 10, Code of Federal Regulations (as in effect on January 1, 1985) would result in the violation of a regulation issued under such subtitle (as such regulation is in effect on the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985);

as such regulations are involved in the disposal of any substance identified or listed as hazardous waste under such subtitle at a low-level radioactive waste disposal facility.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Not later than 12 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission shall jointly issue guidelines to coordinate the procedures for compliance with—

"(A) the regulations issued under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a) (as such regulations are in effect on the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985); and

"(B) the regulations contained in part 61 of title 10, Code of Federal Regulations (as in effect on January 1, 1985);

as such procedures pertain to the disposal of any substance identified or listed as hazardous waste under such subtitle at a low-level radioactive waste disposal facility.

"(2) CONSOLIDATION OF LICENSE AND PERMIT PROCEDURES.—Not later than 12 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission shall jointly issue guidelines to consolidate the procedures for applications for permits under section 3005 of subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6925) and licenses under part 61 of title 10, Code of Federal Regulations.

"(3) NUCLEAR REGULATORY COMMISSION RESPONSIBILITY.—The Nuclear Regulatory Commission shall be solely responsible for communications with low-level radioactive waste disposal facilities regarding any regulations or guidelines issued under this section.

"(c) APPLICABILITY.—The regulations revised under subsection (a) and guidelines issued under subsection (b) shall only apply to the disposal at low-level radioactive disposal facilities of substances that are—

"(1) identified or listed by the Administrator of the Environmental Protection Agency as hazardous waste under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a); and

"(2) low-level radioactive waste.

"(d) INTERIM REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any regional disposal facility referred to in paragraphs (1) through (3) of section 5(b) that is subject to regulation under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a) shall be required to comply with the interim status requirements of section 3005(e) of such subtitle as soon as practicable, but in no case later than 12 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985. Any such facility shall not be required to obtain a permit under section 3005 of such subtitle until the regulations under subsection (a) are promulgated.

"(2) DETERMINATION OF PRACTICABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of practicability under paragraph (1) shall be made by the Administrator of the Environmental Protection Agency.

"(B) STATE HAZARDOUS WASTE PROGRAMS.—In the case of a low-level radioactive waste disposal facility located in an agreement State or a State that has a state hazardous waste program authorized under section 3006 of subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6926), such determination shall be made by such State.

"(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission shall review and revise the regulations described in subparagraphs (A) and (B) of subsection (a)(1) and the procedures described in subsection (b), as determined by such Agency and Commission to be necessary. Any such revisions shall be made in accordance with such subsections.

"(f) ENVIRONMENTAL PROTECTION STANDARD.—Any revision of regulations or procedures under subsections (a), (b), or (e) shall, after such revision, provide a level of protection for human health and the environment at least equivalent to the level provided under such regulations or procedures, as in effect immediately before any such revision takes effect.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Not later than 24 months after the date of the enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission, shall jointly promulgate regulations govern-

ing the management and disposal of substances at commercial low-level radioactive waste disposal facilities that are—

(A) low-level radioactive waste; and

(B) identified or listed as hazardous waste under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a).

"(2) CONTENT.—Such regulations shall—

"(A) prescribe methods of treatment, handling, disposal, or monitoring appropriate for such substances;

"(B) provide for the consolidation of procedures for the application for permits under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925) and licenses under part 61 of title 10, Code of Federal Regulations; and

"(C) ensure a level of environmental protection at least equivalent to the level provided for such waste under such subtitle and the Atomic Energy Act of 1954.

"(3) TRANSMITTAL.—The Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission shall jointly transmit the regulations promulgated under paragraph (1) to the Congress.

"(4) EFFECT.—

"(A) EFFECTIVE DATE.—The regulations promulgated under this subsection shall supercede the revised regulations and guidelines promulgated under subsections (a) and (b) and shall take effect upon the enactment of a joint resolution of the Congress approving the regulations promulgated under this subsection.

"(B) JOINT RESOLUTION.—For purposes of this paragraph, the term 'joint resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the House of Representatives and the Senate approve the regulations promulgated under section 13(g) of the Low-Level Radioactive Waste Policy Act and submitted to the Congress on .'. The blank space in such resolution shall be filled with the date on which the Administrator of the Environmental Protection Agency and the Nuclear Regulatory Commission jointly transmit such regulations to the Congress under paragraph (3).

"(5) REVISION.—After the enactment of the joint resolution described in paragraph (4), the regulations promulgated under paragraph (1) may be revised in accordance with section 553 of title 5, United States Code.

"(h) DEFINITION.—For purposes of this section, the term 'low-level radioactive waste' means waste designated as low-level radioactive waste by the Nuclear Regulatory Commission.

"SEC. 14. WASTE DISPOSED OF AT A FEDERAL FACILITY.

"Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a) shall apply to any facility owned or operated by the Department of Energy that accepts for disposal any substance that is—

"(1) low-level radioactive waste; and

"(2) identified or listed as hazardous waste under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921-6939a).".

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER. pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, my colleague, Mr. MARKEY, and I, together with Mr. LUJAN, Mr. DINGELL, Mr. BROYHILL, and Mr. MOORHEAD, are bringing before the House legislation that represents a landmark in the history of the environmental movement in the United States. With H.R. 1083, the Low-level Radioactive Waste Policy Amendments Act, and a companion bill that will also be raised for your support today, we can approve and send into operation a new system for dealing with the disposal of low-level radioactive materials. The principles of this system are the equitable distribution of responsibility for siting new radioactive waste disposal facilities; national uniformity in standards of safety and in assurance that safe disposal will be available to all waste generators; and State and local control over the siting and operation of these facilities. I believe, particularly with respect to State responsibility for these activities, that we have met and overcome some of the most difficult conflicts that have developed between public awareness of the hazards of disposal of dangerous substances, and the needs of critical sectors of the economy for reliable access to waste disposal facilities.

We set out on this experiment in 1980, with passage of the Low-Level Radioactive Waste Policy Act. We had come to the painful realization that there is no place to put unwanted dangerous substance that does not turn out to be in someone else's backyard. In 1979, we were threatened with closure of all the operating low-level waste disposal sites in the country. We could find no State or region ready to volunteer to become the next national dump. We had little choice but to declare that each State or region would have to bear the responsibility for finding a disposal site for its own low-level radioactive waste.

At the forefront of this policy were the Governor of South Carolina, Mr. Riley, and our colleague, Mr. DERRICK. As head of President Carter's State Planning Council for Radioactive Waste Management, Mr. Riley led a group of Governors, including Gov. Bruce Babbitt of Arizona, to formulation of the policy that each State must take responsibility for providing for disposal of its own low-level radioactive waste. As Governor of a State hosting one of the three operating disposal sites in the country, Mr. Riley has effectively wielded a cruel club, prodding the States and the Congress into action with the continuing promise that South Carolina would not continue to make that capacity available if other States did not take action to deal with their own wastes.

The Governors of Nevada and Washington, the other low-level waste site hosts, circled their wagons with Governor Riley. In 1980, Mr. Derrick worked with the Interior Committee to get a small low-level waste title placed in our bill for high-level nuclear waste management. By the end of the 96th Congress, controversy had stymied the high-level waste program, which would not be enacted until 1982. But that low-level waste title slipped through, and States and citizens have been trying to come to terms with it ever since.

The Act of 1980 gave each State responsibility for disposal of low-level waste generated within its borders, and indicated that Congress would favorably consider ratifying interstate compacts that established disposal facilities for those States' exclusive use. A congressionally approved compact is necessary for States to restrict movement of wastes, because otherwise such restriction would conflict with the Constitution's protection of free interstate commerce.

H.R. 1083, and an omnibus bill ratifying seven interstate compacts, are a reaffirmation of the policy laid down in 1980, and a measure of the great extent to which the policy of State responsibility has been accepted. We did not reach this point without pain and controversy, and we have a considerable way to go now before our system of State-operated disposal facilities becomes a reality.

H.R. 1083 is primarily a resolution of the conflicts between the States that do not have disposal capacity, and the three States that have capacity but which were unwilling to allow continued access to the sites after 1985. January 1, 1986, was established in the Low-Level Waste Policy Act of 1980 as the date on which Congress would begin considering ratification of compacts formed by States to run exclusive disposal facilities. The three sited States early on interpreted that as a "drop-dead" date, and accordingly formed their compacts and made their plans assuming no out-of-region waste could enter their sites after 1985.

The 5 years since passage of the 1980 act have been more difficult for

the States not quick or lucky enough to have landed in one of the regions with operating disposal facilities. Each State has had to confront a policy challenge of intense public interest, which raised some of the most controversial political issues alive in the Nation today. The formation of compacts entails States entering into agreements that must result in a new low-level waste facility being established in one of their territories to service the region as a whole. States not willing to enter into such an arrangement accept the surety of having a low-level waste facility, and the threat that if the regional system doesn't work, they will be without the protection of a compact and vulnerable to becoming a national dump. It is discouraging but not surprising that at the beginning of this year, although great progress had been made in the formation of compacts, not one new site for a low-level waste disposal facility had been identified.

It was neither wise nor politically possible to ratify the compacts of the sited regions, leaving the unsited States and regions without disposal capacity. Last year, as the 1985 "drop-dead" date drew near, it was clear that some compromise between the sited and nonsited States would have to be reached, or the regional compact approach would have died in a noisy clash of parochial interests.

I jumped in to work with the sited Governors and a group formed under the auspices of the National Governors' Association to see if a settlement could be achieved. H.R. 1083 represents the diligent negotiating undertaken by that group. The fundamentals of their settlement are embodied in the bill we are bringing to the floor today: Continued access to the operating sites until 1993; reductions in waste volume delivered to the sites; certified progress in development of new sites by the States and compact groups, and assurance that the interstate compact system will always provide capacity in case of emergencies for out-of-region waste.

As the Committees of Interior and Insular Affairs and Energy and Commerce undertook the task of ironing out details of these policies, the role played by Mr. MARKEY, as chairman of the Energy Committee's Subcommittee on Energy Conservation and Power, was essential. Mr. MARKEY's State of Massachusetts, with its venerable history of conscientious public participation, and as a State that generates one of the highest volumes of low-level radioactive waste in the Nation, has had among the rockiest shoals through which to navigate these sensitive political issues. Mr. MARKEY ably represented both the needs of the nonsited States for time to develop publicly accepted waste disposal facilities, and the need of the Nation to come to terms with the sited States and to ratify these compacts so our new disposal system can become a reality. I want to thank him particularly, and to thank all the States and compacts and their representatives for the years of effort that have gone into this legislation.

Mr. Speaker, our committees have worked out the differences between our reported bills and developed a consensus amendment in the nature of a substitute, which we had printed in the CONGRESSIONAL RECORD of December 4 together with an explanation of the important changes we made. The amendment before the House today is identical in all respects but one.

Since our committees reported this legislation, an important date affecting a regulatory situation addressed by the bills has passed, raising a new issue that was brought to our attention following publication of the original consensus amendment. Section 13 of the amendment provides a new regulatory approach for dealing with wastes at a low-level waste disposal facility that are both radioactive and qualified as hazardous waste under the criteria of the Solid Waste Disposal Act.

Our original amendment called for resolution of conflicts between the two regulatory systems and for identification of the waste streams by the Federal and State regulatory agencies. In the amendment proposed as a substitute to H.R. 1083 today, subsection (a) of section 13 of the amendment printed December 4 has been eliminated, since the steps being taken by Federal and State agencies to address the problem of identification are adequate and could be slowed or diverted by the language in the original version of the amendment.

We need also clarify certain features of section 13 in light of the current status of regulation of these facilities. I am speaking for my colleagues, Mr. LUJAN, Mr. MARKEY, Mr. DINGELL, Mr. BROYHILL, and Mr. MOORHEAD as well as myself in making these clarifications. First, although November 8, 1985, was the final date for compliance with interim requirements of the Solid Waste Disposal Act, we have in subsection (d) of the amendment given affected licensees a 12-month grace period from that date, during which the facility shall be deemed to be under interim status even though they may not have been in compliance as of November 8. The facility must come into compliance during that 12-month period at such time as the two State or Federal agencies regulating the facility under the Solid Waste Disposal Act, and the Atomic Energy Act or Agreement States Program, determine compliance is practicable.

Subsections 13 (a), (b), (e), and (g) require the Environmental Protection Agency and the Nuclear Regulatory Commission to resolve substantive and procedural regulatory conflicts, and to consolidate procedures where practicable. We intend that State agencies regulating these facilities also resolve and consolidate this licensing and permitting system, in accord with the requirements of the Solid Waste Disposal Act and the Agreement States Program. State regulations would not be subject to congressional approval under subsection (h)(4).

Section (13) will provide for improved regulation of mixed wastes at low-level waste facilities and for reduction of the bureaucratic burden on facility operators inherent in a dual regulatory system.

With these comments, I again commend my colleagues for their effort and cooperation and ask the support of the House for H.R. 1083 and the amendment thereto.

□ 1350

Mr. LUJAN. Mr. Speaker, we find ourselves in the situation today having to bring this bill to the floor because the present law says that by 1986, by January 1, 1986, the States must have agreements as to what they are going to do with their low-level nuclear waste. Unless we extend it, that is what we proposed to do by this legislation, to 1991, the States will have no place to send their low-level nuclear waste. The host States, and there are three of them, Nevada, South Carolina, and the State of Washington, who now receive the low-level waste, said: "We are not going to continue to do it forever for you." So we must come up with a plan that says that for a certain period of time we shall have different steps to implement a program whereby the States' nuclear waste, low-level nuclear waste, can be taken care of. This legislation does exactly that, Mr. Speaker, and I would urge my colleagues to support the legislation.

Mr. Chairman, I want to thank Chairman UDALL for all he has done to move this important piece of legislation through the Interior Committee and onto the floor of the House.

This is one of the most detailed and complicated bills I have ever worked on. It took weeks and weeks to draft and mark up and I predict it will take a good deal more time to finish once the other body becomes involved.

H.R. 1083 is necessary because the low-level Waste Policy Act of 1980, Public Law 96–573, proved to set goals relating to the safety disposal of low-level nuclear waste which were well beyond the capabilities of the States. Some States have been unable to meet any of the requirements of the 1980 act while others have only begun to take those steps leading to the operation of new low-level radioactive waste disposal facilities.

The States of South Carolina, Washington, and Nevada have bent over backward

in assisting in working out this legislation so that all of the other States may continue to use the three operational disposal sites until 1992. However, let it be understood that H.R. 1083 has been drafted so that certain specific milestones can be met by each and every State. It is up to each State, either working through a regional compact or working on its own, to provide for the safe disposal of the radioactive waste generated within its borders.

The aggregate disposal requirement of the Barnwell regional disposal facility is set at 8.4 million cubic feet between January of 1986 and January of 1993. The aggregate requirement for the Richland facility is 9.8 million cubic feet and the requirement for the Beatty facility is 1.4 million cubic feet. Each of the States in which each of the aforementioned facilities is located may deny access to those respective facilities under conditions where the acceptance of waste would result in exceeding an appropriate maximum annual volume established in H.R. 1083.

In short, H.R. 1083 recognizes that the three States, South Carolina, Washington, and Nevada, now accepting everybody else's low-level radioactive waste have done far more than should be expected of them. Further allocations along similar lines are made for the period between January of 1990 and January of 1993.

Milestones are established in H.R. 1083 for the nonacted compact regions and nonmember States. By July 1, 1986, each nonmember State must either ratify a compact or indicate that it will establish a waste disposal site within its borders. Waste generators in States not complying with this milestone may be charged two times the surcharge applicable until the end of 1986. Thereafter noncomplying States may be denied access to the three regional disposal facilities now in operation. Other surcharges and other milestones are included in H.R. 1083 and I will refer my colleagues to the exact language involved the right to expect each and every other State to straighten out this inequity in a reasonable period of time. To do otherwise would be to totally ignore the basis precepts upon which this Nation is founded.

Another important provision in H.R. 1083 is that section which allocates the total waste capacity of the three existing facilities—11.9 million cubic feet—between commercial nuclear power reactors and other sources—7.7 million cubic feet.

This bill even allocates on a monthly basis until 1990 disposal capacity to each pressurized water reactor within a sited compact region—1,027 cubic feet—each pressurized water reactor not within a sited compact region—871 cubic feet—a boiling water reactor within a sited region—2,300 cubic feet—and a boiling water reactor not within a sited compact region—1,951 cubic feet.

Andrea Dravo, the Energy and Environment staff member who has literally spent years working on this legislation, may be the only living human being who completely understands exactly how H.R. 1083 will operate. Unfortunately, Ms. Dravo has indicated a desire to open up a consulting firm after the end of this session of Congress. Fortunately, she will be putting her experience and expertise to work here in Washington, DC. I expect to be consulting with her in her new capacity in the months ahead and I wouldn't be surprised if many licensees and other waste generators, all of whom must implement H.R. 1083, will also be relying on her for advice in the months ahead.

In conclusion, Mr. Chairman, I want to thank the Governors and legislatures of South Carolina, Washington, and Nevada for bearing with us. They have been under fire to throw in the towel and shut down their facilities; but, in face of this adversity, they have acted for the overall good of this Nation. I commend them for their patience. I thank them for their understanding and I hope we aren't here 6 years later still proding the rest of the Nation into doing what they should have done years ago.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I am pleased to be a comanager and supporter of this important low-level radioactive waste legislation. At the outset, I would like to commend my colleagues on the Energy and Commerce Committee, Chairman JOHN DINGELL, and the committee's ranking minority member, JIM BROYHILL, and our subcommittee's ranking minority member, CARLOS MOORHEAD. I also want to commend the chairman of the Interior and Insular Affairs Committee. Mo UDALL and the subcommittee's ranking minority member MANNY LUJAN. They have all been extremely helpful in bringing this consensus bill to the floor today.

I suppport the compromise bill before us today. However, as is true of any compromise bill, we have no absolute winners today, nor absolute losers. But what we do have is infinitely more important—a compromise that will benefit all. By acting today, we will have guaranteed that our hospitals, our university research programs, our industrials and our utilities will stay in business.

Five years ago, we passed the Low-Level Radioactive Waste Policy Act of 1980 in an attempt to deal with the politically contentious problem of low-level waste disposal. At that time, only three of the original six commercial low-level facilities were in operation. The three remaining facilities in operation are located in the States of South Carolina, Washington, and Nevada. The residents of these three States were becoming increasingly alarmed about assuming a role as the Nation's dumping ground. In order to lift the burden of disposal from these States, the 1980 act made each State responsible for its own waste, and permitted the States to enter into interstate compacts to provide for the development of new regional waste sites. A key element of the act was a provision which allowed compacts to exclude waste from outside their compact regions as of January 1, 1986.

However, it soon became apparent that the 1980 act set an unrealistically ambitious schedule for a task of such political intensity and difficulty. As of today, there are still only three operating facilities. Seven compacts have been formed, representing 39 States, but new facilities are still many years away from development and operation. Under these circumstances, Congress could not ratify the compacts and let the three operating facilities close their doors to the Nation's waste on January 1, 1986.

The Governors of the three sited States offered a creative compromise to solve the problem: In exchange for ratification of their compacts, they would agree to accept a limited amount of waste over a 7-year period. To ensure that States make progress in developing facilities over the 7-year period, the Governors recommended the establishment of milestones to measure the necessary steps along the way. The failure to meet such milestones would result in financial sanctions, and ultimately, the loss of access. In addition, since the sited States will only be accepting the amount of waste which they accepted in 1983, and 33 new reactors are schedule for operation during the 7-year period, the Governors devised allocations for utility generators which would represent reductions in the waste volumes which the three facilities would accept for disposal.

This compromise became the basis for our amendments to the Low-Level Radioactive Waste Policy Act of 1980. In the process of drafting such amendments, various concessions have been made by all sides in an effort to arrive at a bill which all parties could accept.

As a result, rather than facing a posssible loss of access in 1986, States will now have 7 years to develop and construct their own facilities. In return for providing this interim access, the sited States will now have the assurance that progress is being made by the unsited States, and that they will not be required to accept the Nation's waste indefinitely.

My primary concern throughout the consideration of this legislation was to ensure that any proposal accepted include sufficient protection for the public health and safety. This meant having realistic milestones, so that States would make well-considered decisions on the siting and construction of facilities. We cannot afford to repeat the disastrous history of low-level waste facilities such as West Valley, Sheffield, and Maxey Flats

which closed because of serious environmental problems.

In the process, we have sacrificed no environmental law and no nuclear regulatory standard. Although it is true that we have established an ambitious timetable for unsited States to meet in the development of disposal facilities, I have been impressed by the resolve of public officials across the country to meet this challenge as safely as possible. It is clear that only our failure to act would have threatened the continued safe disposal of this waste.

I once again want to thank my colleagues for their help in negotiating this compromise. It is certainly gratifying that we could resolve the differences between the two commmittees' bills with such expedition and good will.

I would like to take a few moments to explain some of the key provisions of this bill.

One of the significantly modified provisions of both the Energy and Interior bills relates to the treatment of mixed wastes. Several important concepts were preserved from the Energy bill. First, and most importantly, all State authorities, as delegated by EPA and NRC have been preserved. Second, there is clear authority to update and revise regulations. Third, the authorities of EPA and NRC are each preserved, although regulations are to be harmonized. A further provision requires EPA and NRC to jointly develop regulations for mixed waste. Such regulations would only become effective if a joint resolution of approval is enacted. The provision does not alter House rules to expedite consideration of such a resolution. However, it is the intention of the two committees to expeditiously hold hearings and consider the regulations, and to seek expeditious consideration on the House floor. In one instance, the bill which was printed in the CONGRESSIONAL RECORD last week has been changed: Subsection (a) of the mixed waste provision was dropped.

The bill before us does not explicitly permit States which are not members of compacts to exclude waste, including such language was found not to be necessary in order to accomplish such a purpose. The State of Texas that has chosen to develop its own disposal facility which will be limited to the disposal of waste generated within the State. The State of Texas believes there is clear legal precedent for the State to operate its site solely for the purpose of disposing of waste generated in Texas. I agree, and believe that it is equally clear that other States that have not enacted compacts could also follow the lead of Texas. For that reason, no specific language providing for a single State exclusion is included in the bill.

Mr. Speaker, I would like to thank Nancy Smith and David Schooler who have worked long and hard with members of other staffs in order to put this legislation together.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of H.R. 1083, the amendments to the Low-Level Nuclear Waste Policy Act, and H.R. 3878, which ratifies all of the existing low-level waste regional compacts.

As the only member of the Committee on the Interior who represents a State with an existing low-level waste site, I am well aware of the vital importance of this legislation for my State. I am also deeply concerned that this legislation becomes law as soon as possible, to avert the health and safety hazards caused by the closing of any existing sites.

Beatty, NV, was one of the six sites established in the 1960's to dispose of commercial low-level nuclear waste by shallow land burial. Of these, only three remain to accept all of the low-level waste being generated commercially in the United States.

Nevada has joined the Rocky Mountain Low-Level Waste Compact, which was endorsed by the Nevada Legislature in 1983 and 1985. Once ratified by Congress, this compact will work jointly to license and construct a low-level waste management facility in Colorado.

Other States have been frustratingly slow in complying with the law, causing Congress to amend and strengthen this act, as we are doing today.

The Governors of the three sited States offered a compromise proposal extending the closing date for their sites in return for ratification of the regional compacts and many other guarantees. There must be volume caps on the amount of waste accepted at Beatty, Hanford, and Barnwell, as well as an enforceable timetable for other States to license and construct new regional low-level waste facilities. Recent experience has shown that milestones must be met and penalties must be enforced against States which fail to comply with those milestones. If this is not made part of the law, another 6 years will pass and new low-level waste sites will still be under debate in State legislatures instead of under construction.

Mr. Speaker, Nevada, South Carolina, and Washington have done their fair share in bearing the full burden for this Nation's low-level nuclear waste, and it is now time for all States to enter into regional compact agreements or construct their own State facilities.

The Governors of the three sited States have agreed that, if this legislation is passed, the three sites will continue accepting limited amounts of low-level waste until 1992. If their compromise offer is ignored, or if this legislation is further delayed, it is likely that they will be forced to close their sites, as the law allows them to, next year.

Mr. Speaker, Congress must not neglect its responsibility, and I urge immediate passage of this legislation.

Mr. Speaker, I would like to engage in a colloquy with the chairman of the committee, if I may.

Mr. Chairman, on the disposal capacity, what is the meaning of the phrase, "shall make disposal capacity available," in section 5(a)(1)(a) and the phrase, "shall not restrict the availability of disposal capacity," in section 5(a) and (a)(b)?

Mr. UDALL. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the chairman of the committee.

Mr. UDALL. I thank the gentlewoman for yielding.

Mr. Speaker, these provisions mean only that, as provided in other parts of section 5, the States cannot take actions intended to interfere with the disposal of the volumes of waste stated in section 5(a)(2). These provisions do not mean that the States must act affirmatively to provide for disposal of waste generated within their borders or elsewhere. Nor do they preempt enforcement of the otherwise valid State laws and regulations undertaken for some other purpose that incidentally restricts access such as clean air and water laws, packaging and inspection laws, tax laws, and so forth.

Let me say to my colleague from Nevada, if she will continue to yield.

Mrs. VUCANOVICH. I am very happy to yield.

Mr. UDALL. There are a number of other items covered in the proposed colloquy that we have just started here.

One is that a State cannot be required to provide for disposal of NARM waste under this act, NARM [naturally occurring or accelerator produced] radium waste is not low-level radioactive waste for purposes of this legislation. Any State may, however, provide for disposal of NARM voluntarily and subject to the provisions of any compact of which the State is a member.

Another item of clarification is that nothing in section 5(j) is intended to preempt existing State authorities to obtain information to monitor compliance.

I have cleared these answers with Mr. MARKEY and his staff and members of the other committee. But I think, under leave to revise and extend, if there are any questions, we could place in the RECORD the colloquy as the gentlewoman wants it, and we will make sure that it is accurate and has proper concurrence.

Mrs. VUCANOVICH. I appreciate that, Mr. Chairman. I would like also to include my remarks in extensions or in part of this debate, whichever way that is appropriate.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that Mrs. VUCANOVICH and I have the right to revise and extend our remarks in the colloquy.

Mrs. VUCANOVICH. Thank you very much.

The SPEAKER pro tempore. The gentleman from Arizona cannot insert colloquy in the RECORD at any time.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. DERRICK], who has been instrumental and important in getting this legislation to this place today.

Mr. DERRICK. Mr. Speaker, I am extremely pleased to rise today in very enthusiastic support of both H.R. 1083, the Low-level Radioactive Waste Amendments Act of 1985, as well as an omnibus bill containing the texts of seven separate interstate compacts providing for the disposal of low-level radioactive waste.

As the sponsor of the southeast interstate low-level radioactive waste management compact, as well as the representative of a congressional district which includes one of only three operating low-level radioactive waste disposal sites, I can assure my colleagues that the legislation before the House today embodies the elements of a true compromise which will enable us to avert a potential crisis which would have developed early next year if we had failed to address this issue.

In 1980, we enacted the first comprehensive legislative proposal dealing with the disposal of radioactive wastes when we passed the Low-Level Radioactive Waste Policy Act of 1980. That act was a unique experiment in federalism. Congress passed a "bare-bones" statute which simply stated that the States would be responsible for the handling and disposal of low-level radioactive waste. Under this law, States were also urged to enter into regional interstate compacts to share a common dump site. Once the compacts were formed, Congress would grant consent to the restraint on interstate commerce, and beginning January 1, 1986, the compacts would be granted so-called exclusionary authority—power to enforce the compact border and exclude from disposal all waste generated outside the compact region.

Needless to say, we have come a very long way since 1980. To date, over 40 States have entered into these interstate agreements, and seven compacts for the disposal of low-level radioactive waste are before this Chamber today.

Consent to these compacts today is a critically important step in the process of affecting the policy of the 1980 act. To get to this point, however, the States with operating sites, so-called sited States, had to work very hard to form a compromise agreement which is embodied in H.R. 1083. The compacts we approve today will be approved subject to the compromise embodied in H.R. 1083.

Mr. Speaker, H.R. 1083 is a fair compromise. it gives to sited States the assurance that they will be able to control their own future. It gives nonsited States more time to develop disposal sites, but also establishes a very firm timetable and sanctions for failure to live up the agreement. It also provides limited but necessary exemptions from disposal limitations in the agreement to ensure public health and safety. As a package, this is the only consensus agreement that can work.

Mr. Speaker, the Governors of the three sited States have started in no uncertain terms that they intend to exercise the leverage they have available, to limit or stop accepting low-level waste for disposal, unless Congress takes action on this legislation this year.

We have come very far in meeting that challenge. I have nothing but the warmest praise for Chairmen UDALL, DINGELL, and MARKEY, and their staffs, for bringing this matter to this point. I remain confident and hopeful that the other Chamber will act on this measure within the next several days, so that we can send this most important legislation to the President for his signature in 1985.

If I may, Mr. Speaker, I would like to have a short colloquy with Chairman UDALL.

Mr. Chairman, under the terms of the southeast interstate low-level waste compact, the commercial disposal facility at Barnwell, SC, is scheduled to close by December 31, 1992. Is it your understanding that that closure date is preserved by this legislation?

Mr. UDALL. The answer is "Yes." It is my understanding that the Barnwell facility will be closed by December 31, 1992, and that nothing in this legislation could be construed to prevent its closure on that date.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Speaker, the Committee on Energy and Commerce, understanding is the same as that of the Committee on Interior and Insular Affairs.

Mr. DERRICK. I thank the gentleman. I thank both of the gentleman for their diligent and hard work on this legislation. It would not be here without their help.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I rise in support of H.R. 1083, the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation is vitally important to my constituents, and the rest of the citizens of the State of Washington, as we are one of only three States which have for years served as the Nation's low-level radioactive waste dumping grounds.

In 1980, Congress passed the Low-Level Radioactive Waste Policy Act in response to the fair insistence by Washington, South Carolina, and Nevada, that the rest of the country should share in the responsibility of disposing of low-level radioactive waste. That law established as Federal policy that each State is responsible for disposal of its own low-level radioactive waste, and that such disposal should be handled on a regional basis. It called upon the States to form regional waste disposal compacts; and it authorized such regions, upon congressional ratification of a compact, to keep out all out-of-region waste beginning January 1, 1986.

The Low-Level Radioactive Waste Policy Act was passed 5 years ago, almost to the day. My State, as well as South Carolina and Nevada, have kept faith with the agreement we made with the rest of the country in 1980, by continuing over these 5 years to take all of the Nation's low-level waste, even though we generate only a tiny fraction of it. Washington State, for example, currently takes about 53 percent of the waste, even though we have generated—over the years 1979 to 1983, only 1 percent of that waste. Furthermore, our three States are ready to continue to accept waste from within our regions—we do not shrug our legitimate responsibilities as defined by the 1980 act. But the rest of the country has not lived up to its part of the bargain. January 1, 1986, the date when we were supposed to be able to exclude out-of-region waste, is 23 days away. Yet Congress has not ratified a single compact.

It's obvious that no new disposal sites will be ready by January 1, and it will be several years before such sites are ready. That's not fair or reasonable in light of the clear directive given to the State by the 1980 act. But rather than shutting down our sites—which we have the authority to do—we are agreeable to extending the deadline for new sites, as long as this time we have a guaranteed firm date when we can turn away out-of-region waste.

The result is H.R. 1083, a compromise bill that will allow the other States 7 additional years to bring new regional facilities into operation, but will guarantee that my State, as well as South Carolina and Nevada, may close our borders to out-of-region waste no later than January 1, 1993. Because the regional compacts are being ratified by Congress along with the enactment of H.R. 1083, we will not have to await further congressional action. This time the deadline is real. This time if the rest of the country fails to act, it is at their peril, not our expense.

H.R. 1083 is a compromise. Chairman UDALL and Chairman MARKEY are primarily responsible for its development, and both deserve our thanks for working out a fair bill which became necessary because of unfair circumstances. I would like to briefly com-

ment on some of the specifics of the legislation.

First of all, as I mentioned before, H.R. 1083 is being adopted in conjunction with ratification of the regional compacts. the rest of the country has 7 additional years—for a total of 12 years after adoption of the 1980 act—in which to develop new sites. But on January 1, 1993—regardless of whether or not those new sites have been developed—our borders will close to out-of-region waste.

Second, the legislation establishes annual volume caps, which limit the amount of low-level waste which the existing sites are required to accept. Furthermore, it requires utilities, who are the primary generators of low-level waste, to reduce the volume of waste they ship to the existing sites.

Third, in order to provide an incentive for the development of new sites, the States with existing sites are authorized to impose surcharges for out-of-region waste. If the other States meet certain milestones for various stages of new site development, part of those surcharges will be rebated to them. On the other hand, if they miss the milestones, the amount of the surcharges will increase. If a State fails to meet the milestones even after generous grace periods, generators from that State may be denied access to the existing sites even before the 1993 date.

Fourth, in recognition of the unlikely possibility that an emergency might arise in which there is an immediate and serious threat to the public health and safety, this bill authorizes the Nuclear Regulatory Commission—under very narrow circumstances—to grant emergency access to an appropriate low-level waste site. Such access may not be granted unless there are no reasonable alternatives. An alternative is not unreasonable simply because it might be quite expensive. It should be noted that both the Interior Committee—in its bill—and the Energy and Commerce Committee—in its report—specifically state that the onsite storage of such waste is a reasonable alternative. Furthermore, such access may be granted only for 180 days at a time; and after January 1, 1993, no more than one extension of access may be granted, so that the maximum period for access under the worst circumstances would be 360 days.

Fifth, certain kinds of low-level radioactive waste contain hazardous components. These are known as mixed wastes. Unfortunately, the regulations for hazardous wastes, developed by the EPA, and the regulations for low-level radioactive wastes, developed by the NRC, are, in a limited number of circumstances, in direct conflict. That is, compliance with one set of regulations would result in the violation of the other set. This substitute includes the basic elements of an amendment which I offered in the Energy and Commerce Committee, and which that committee adopted. The amendment completely resolved the problem by requiring the EPA and the NRC to jointly revise their regulations so as to eliminate direct conflicts. The fundamental concern underlying my amendment was to find a solution which would not diminish the ability of the States to exercise their jurisdiction over either hazardous waste of low-level radioactive waste. The substitute retains that approach, and I would oppose any efforts to substantially weaken the environmental protections that it provides.

Finally, I would like to observe that although this bill is not entirely to my liking, I believe that it is, for the most part, a fair and balanced package. One provision, however, deserves comment because I believe it to be very misguided. This provision—the so-called nondiscrimination provision—deprives the Governor of a sited State the right to voluntarily grant access to medical generators who come from a State which has lost its rights of access. It is my view that a decision to deny access to medical generators should be made by the Governor on a case-by-case basis, and only after all of the possible consequences to public health have been considered. The problem with this provision is that it requires that such denial of access to medical generators be automatic and unthinking. Unfortunately, my view of this one matter has, thus far, been a minority viewpoint. I do not believe that this provision justifies voting against the bill—but I do believe that the bill would be substantially improved if it were gone.

Mr. Speaker, I would like to conclude by reiterating that this legislation, in conjunction with ratification of the compacts, is a fair and balanced package. The immediate passage of H.R. 1083, hopefully to be quickly followed by similar Senate action, is vitally important to my State, and to the successful implementation of the Federal policy established in the 1980 act. I urge all of my colleagues to vote for this measure.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. If I have time remaining, I yield to the gentleman from Massachusetts.

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Mr. MARKEY. I just wanted to at this point publicly compliment the gentleman from Washington because, as a State with a facility already sited there, he had a particularly important role to play in trying to be fair to States such as Massachusetts and others that do need some kind of emergency protection while at the same time setting tough goals and timetables that the entire country would have to meet in order to have these sites built on a regional basis. It was because of his State's particularly unique circumstance that he played a key leadership role in getting this legislation passed.

Mr. SWIFT. I thank the chairman for his very kind remarks. With all deference to Chairman UDALL, who did an excellent job in the Interior Committee, I worked with you on Energy and Commerce. You and the ranking minority member, Mr. MOORHEAD, of California, were extremely cooperative and helped us arrive at a very balanced approach.

Mr. LUJAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I want to commend our colleagues' efforts on this important piece of legislation. Congressional action this session is crucial to ensure the Low-Level Radioactive Waste Policy Act fulfills the goal which Congress envisioned in 1980; that is the implementation by regional compacts of a safe, environmentally sound, fair and effective program for disposal of low-level radioactive waste.

Since the enactment of the Low-Level Radioactive Waste Policy Act of 1980, great progress has been made toward this goal. But while States have progressed toward forming compacts, no new sites have been opened and new sites will probably not be ready to operate by the end of the year. This delay has caused a dilemma. The three States that have disposed of the Nation's Low-Level Radioactive Waste for the last 5 years are no longer willing to service the entire Nation and want Congress to ratify the compacts into which they have entered. This is understandable. There is great reluctance, however, to ratify such compacts, for fear that the county will lose access to the only available disposal sites.

Any legislation on this matter must strike a workable balance between those regions of the country that have developed compacts around existing disposal sites, and States, such as my own, that have not developed new disposal facilities. Ensuring access to existing sites for a transition period beyond January 1, 1986, and fashioning the legislative incentives necessary to encourage the development of new sites are two important tasks before us today.

The versions of H.R. 1083 reported to the House by the Interior and Insular Affairs and Energy and Commerce Committees were an excellent beginning. Both bills would extend access to the existing disposal sites until 1993 in return for a cap on the total volume of waste that can be shipped to such sites, and milestones, incentives, and sanctions to encourage the develop-

ment of new sites. Also, both bills would expedite the licensing of new disposal sites so that by the end of the 7-year transition period new sites will be in operation in the nonsited regions, thus ending the Nation's dependency for disposal on the States of South Carolina, Nevada, and Washington.

The amendment in the nature of a substitute to H.R. 1083 offered, by Mr. UDALL reconciles the differences between our committees' bills. I want to express my appreciation to Mr. UDALL for his leadership on this difficult matter. The substitute retains the primary features of both versions of H.R. 1083 and in some important regards is an improvement.

Both versions provide States with the authority to place a surcharge on waste accepted from outside the sited States' compact regions. The Energy and Commerce bill included a provision, however, whereby a portion of such charges may be refunded to nonsited States which meet milestones for the development of new disposal facilities. I am pleased to report that the substitute adopts this rebate mechanism, which should serve as a useful incentive for the timely development of new disposal capacity.

The substitute also addresses several of the weaknesses that I believed flawed the energy and commerce version of H.R. 1085—flaws that would probably have resulted in Congress having to revisit this matter in a few short years.

H.R. 1083, as reported by the Energy and Commerce Committee, failed to include language reconfirming Federal policy on the disposal of low-level radioactive waste. The substitute includes language from the interior bill that explicitly reiterates that the disposal of this waste can be most safely and efficiently managed on a regional basis.

Also, H.R. 1083, as reported by the Energy and Commerce Committee, included a provision on emergency access that could have undermined, if abused, the sanctions that have been included in this bill to ensure the timely development of new disposal capacity.

The substitute follows the language of the Energy and Commerce bill. It ensures that all generators have access to existing disposal sites in the event of an immediate and serious threat to the public health and safety. Such access can be obtained by any generator on an interim basis, may last for as long as 6 months, and can be reviewed almost indefinitely during the first 4 years of the transition period.

However, to ensure this provision is not abused, only one extension can be granted during the last 3 years of the transition period. Also, the substitute includes a restriction contained in the Interior bill that no site will be required to provide emergency access in any year for more than 20 percent of the total volume of waste accepted in the previous years, nor will the site be required to accept waste in excess of its capacity or license.

The substitute also contains a provision on what is known as mixed waste. Both versions of H.R. 1083 recognize the need for a legislative solution to the regulatory problems associated with material that is both slightly radioactive and hazardous as defined by the Resource Conservation and Recovery Act.

As such, this material is regulated by both the Nuclear Regulatory Commission and the Environmental Protection Agency. This dual regulation has resulted in many problems for the operators of the low level radioactive waste disposal facilities.

The substitute before us today is a hybrid of both bills.

Several questions on section 13 have been raised since this substitute amendment was published in the CONGRESSIONAL RECORD last week. I understand these concerns. I did not support the provision of mixed waste reported to the House by the Energy and Commerce Committee. The mixed waste provision included in this substitute is a hybrid between the provision included in the Energy and Commerce version of H.R. 1083, and the approach adopted by the Interior and Insular Affairs Committee—which I support. I would like to take this opportunity to explain this provision.

Section 13 embodies a three-stage process. The first stage, which may last for as long as 12 months after the enactment of this legislation, is a grace period that allows the operators of the existing low-level radioactive waste disposal sites to continue to accept mixed waste even though they are not now in compliance with the interim status requirements of section 3005(e) of subtitle C of the Solid Waste Disposal Act. This stage can be shorter than 12 months, but only if the Administrator of the EPA or a RCRA authorized State concludes under section 13(d)(2) of this bill that the operator's compliance with the interim requirements is practicable. It is my understanding that a RCRA authorized State would confer with the Environmental Protection Agency and the Nuclear Regulatory Commission before making such a finding. This consultation is particularly important when a RCRA authorized State does not have a State agency that serves the same purposes as the Nuclear Regulatory Commission.

The second stage is to start 12 months after enactment of section 13. At this point the dual regulation of mixed waste continues, but the NRC and EPA will have revised their regulations to eliminate inconsistencies. The EPA and NRC will also jointly issue guidelines to consolidate their licensing and permitting procedures, procedures for compliance with both agencies' regulations, and enforcement procedures.

During this second stage, the NRC will serve as the contact point for the agencies' communications with the site operator. As I understand section 13(b)(3), this provision is not intended to narrow the EPA's authority. It is, however, intended to be the channel through which such authority will be exercised. Also, since all communication will be through the NRC, the NRC is expected to serve as a filter for EPA mixed waste related regulatory requirements and enforcement actions. This should foster agency coordination and relieve the regulatory burden on the site operators during this second stage.

The third stage will start approximately 24 months after the enactment of this provision. At this time, the NRC and EPA will jointly promulgate consolidated regulations that will govern the disposal of mixed waste. This set of regulations will supersede the revised regulations and guidelines promulgated by the NRC and EPA during the second stage. There will be only one set of regulations concerning mixed waste.

I would also expect that in developing the consolidated regulations under section 13(g), that the NRC would be chosen as the appropriate agency for the day-to-day administering of such regulations. The NRC has always been responsible for the control of radioactive materials. It is only common sense for the NRC to be responsible for mixed waste since it is the NRC that is already intimately involved with the monitoring and regulation of low-level radioactive waste disposal sites.

I think that reaching this third stage is critical. Only this type of arrangement, with one set of regulations and one regulator, ensures efficiency, accountability, and clarity of regulatory requirements.

With this is mind, I would like to make one final point—the need for uniformity among the States. Nothing in this bill alters the authorized and agreement State status of States under both RCRA and the Atomic Energy Act. This does not mean, however, that Congress is willing to allow the regulation of mixed waste to vary widely from State to State.

First, the revisions of regulations and provisions under section 13(a) and the consolidated regulations to be jointly promulgated under 13(g) will govern States' regulation of mixed waste. RCRA authorized and agreement States will have to modify their own regulations to be consistent with the new Federal regulations for these States to retain their RCRA authorized and agreement State status.

Second, the States are expected to consult extensively with their Federal counterparts. This is very important to encourage uniformity among the States—particularly with regard to the identification of hazardous wastes that need to be regulated as mixed waste. In identifying such wastes, the States are expected to give serious consideration to the guidance provided by the Federal Government. The work expected to be completed shortly by the Brookhaven National Laboratory should be very helpful in this regard.

In sum, rational regulation is crucial to resolving the problems with mixed waste. While, I would have preferred the approach adopted by the Interior and Insular Affairs Committee, this compromise addresses some of my concerns, and should be an improvement over existing law. I hope our colleagues in the Senate will further refine the solution.

Thank you for letting me take the time to explain this provision. I urge my colleagues to support this amendment, and to favorably act on H.R. 1083.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise in support of H.R. 1083, the Low-Level Radioactive Waste Policy Amendments Act and also the compacts which accompany it.

I would like to commend Congressman UDALL, Congressman MARKEY, and Congressman MOORHEAD for their leadership on this particular bill, and Congressman LUJAN. This bill enables 47 other States to join in the process of taking care of low-level radioactive waste.

We have often said in this Congress that a radioactive waste site is a great thing for your neighbor's State to have. It is time we recognize the great contribution South Carolina, Washington and Nevada have made. It is time for the other 47 States to join in. This bill gives them 7 extra years in which to gear up. It does, however, provide a firm timetable.

I want to particularly commend Congressman MOORHEAD for a key amendment inserted in the Energy and Commerce Committee which restored the bill to the Interior Committee version, namely that no State could refuse indiscriminately waste from other States, they had to take them all, or nothing at all, they could not say, "Health waste is OK, other waste is not."

I also commend Congressman SWIFT for a key amendment which should straighten up the difficulty between the NRC and the EPA.

I would also like to just simply say that this is good legislation, it is timely. We should have done this 2 years ago, but better late than never. I urge everyone to support the bill.

Mr. LUJAN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. I thank the gentleman for yielding.

Mr. Speaker, my district in the central part of the State of Washington is the host area now for over half of the Nation's low-level nuclear waste, so this is a significant issue to me. And I have to compliment the committees for the way in which this has been handled. I believe the coordinated effort of the States involved has been a good example for all of us. I want to pay particular tribute to Governor Gardner of the State of Washington and Governor Riley of South Carolina for their efforts in recognizing that Congress was not going to be able to live up to the original timetable. The package they have set forth as evidenced by the legislation today reflects the milestones, the forced march now that as a nation we will have to take, with time lines, with costs that gradually escalate, but will force all States, all regions, all areas, to consider the ever-increasing amount of low-level nuclear waste that reflect the activities in our hospitals, in our research institutions, and the generation of nuclear power.

So again, my congratulations and thanks to the committee chairmen involved in this particular compromise, and I commend it to all Members, all of my colleagues, for their support on this vote today.

Mr. LUJAN, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1083, the Low-Level Radioactive Waste Policy Amendments Act of 1985, and the companion legislation granting the consent of Congress to the intereste compacts on low-level radioactive waste management.

In 1980, Congress passed Public Law 96-573, the Low-Level Radioactive Waste Policy Act. States were given responsibility for providing new low-level waste disposal capacity subject to congressional ratification of interstate compacts under which States could develop regionally exclusive disposal facilities.

I introduced H.R. 862, which grants the consent of Congress to the northwest interstate compact. The States of Hawaii, Washington, Oregon, Utah, Idaho, Montana, and Alaska comprise this compact region. Although Wyoming is eligible to join the northwest compact, the State has alternatively approved the Rocky Mountain interstate compact.

The State of the northwest region have a genuine concern regarding the disposal of low-level radioactive waste. For most of the last decade, only the States of Washington, Nevada, and South Carolina have maintained disposal sites for low-level nuclear wastes. The Hanford, WA, site currently receives approximately 53 percent of the low-level radioactive waste produced in the entire United States. Yet, the northwest region produces less than 4 percent of the Nation's low-level waste. Clearly, an unfair burden has been placed on the northwest region, particularly the State of Washington.

Mr. Speaker, low-level radioactive waste is an important issue for the citizens of the northwest compact States and, indeed, for the entire country. For too long, the people of the Northwest have shouldered more than their fair share of the responsibility for low-level nuclear waste disposal. Low-level radioactive waste regional compacts provide an equitable solution to the disposal problem. I encourage my colleagues to support the passage of H.R. 1083 and the companion measure ratifying the seven regional compacts on low-level radioactive waste management.

Mr. CAMPBELL, Mr. Speaker, before the House today is legislation which will impact every segment of our society; legislation that will determine the future development of our country; legislation that must be enacted by the Congress now. This legislation is the Low-Level Radioactive Waste Amendments of 1985. The time has come for those of us in the Congress to take a long look at just what this country is facing with respect to low-level waste.

H.R. 1083 is a matter of simple equity. It simply insists that all 50 States assume their fair share of the responsibility for the low-level nuclear waste that they generate. It rejects our present course of making the three States of South Carolina, Nevada, and Washington the nuclear storage grounds of the country. It rejects the notion that since these States have facilities within their boundaries, we can continue to rely exclusively on those facilities. Those of us from these three States applaud the legislation before us today, for we have had enough and we will no longer accept responsibility for the Nation's low-level nuclear waste.

If my colleagues will remember in 1979 when the States of South Carolina, Nevada, and Washington temporarily closed or restricted their sites, a disposal crisis emerged. The shutdown created problems for hospitals, laboratories, and the commercial nuclear industry. After realizing that these three States meant business, Congress was prompted to enact the Low-Level Radioactive Waste Policy Act of 1980, giving the 50 States the responsibility for establishing new regional disposal sites.

The threat of closure still hangs over our heads. If this legislation is not enacted, these three States have threatened once again to close their sites to all outside waste—effective January 1, 1986. I do not

think that my colleagues or those involved in the nuclear industry want to go through another crisis. The lesson should have been learned in 1980.

This compromise legislation before us today, H.R. 1083, will allow access to present operating facilities while phasing in the newly formed interstate compacts. It also ensures adequate time for States to form regional compacts through which to dispose of low-level waste. Federal policy is also reaffirmed through this legislation by requiring States to dispose of radioactive waste on a regional basis where it can be managed more efficiently and safely.

Mr. Speaker, the time has come for such legislation to be implemented. The three-State disposal facilities have made their statement. The citizens of these States have made their statements. We have reached an "either-or" situation: Either we enact H.R. 1083 and place radioactive waste disposal under uniform, comprehensive disposal compacts; or, we again face a crisis that would threaten, and affect, every segment of our society.

I commend the States and Members of Congress who have worked so hard to fashion this legislation, and I urge my colleagues to pass this legislation.

Mr. SYNAR. Mr. Speaker, I rise in strong support of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and the seven interstate compacts which we have before us today. Passage of this legislation is vital to ensure that we stay on the course that we charted 5 years ago; one that will lead to the development of regional waste sites by groups of States which have entered into compacts for the disposal of low-level radioactive waste.

As you know, Mr. Speaker, when we enacted the Low-Level Radioactive Waste Policy Act of 1980 we envisoned that States would form compacts and develop a system of regional disposal sites that would be operational as of January 1, 1986. So confident were we that States would proceed toward development of new waste sites, that the act included a provision whereby State compacts with disposal sites could refuse to take wastes from outside generators after January 1, 1986. Unfortunately, the 1980 act lacked the "teeth" needed to ensure that this process of identifying and developing new waste sites would not be delayed. Consequently, as of this date, not one new low-level radioactive waste disposal site has been developed and the three States with existing waste sites—South Carolina, Washington, and Nevada—continue to bear the burden of having to dispose of this waste.

The Low-Level Radioactive Waste Policy Amendments Act of 1985, in essence, embodies a new, carefully crafted agreement whereby the three existing-site States allow the January 1, 1986, cutoff date to be extended 7 years to December 31, 1992. In return, other States and waste generators agree to meet a series of milestones for joining compacts and establishing new disposal sites and, in the meantime, limit the waste that goes to the three existing sites and pay escalating surcharges for waste disposal at these sites.

I believe that this legislation provides us with an equitable solution to the potential crisis posed by the current 1986 cutoff date. But I am convinced that it will only become a solution if the new 1992 cutoff date is viewed as an absolute, final deadline. Nonsited States have 7 years to solve this problem. It is not a great deal of time considering how much remains to be done.

Fortunately, most of the States—including my own home State of Oklahoma—have entered into interstate agreements and seven compacts for the disposal of low-level radioactive waste are before us today. Let us pass this legislation immediately so that we can quickly move toward the process of identifying and developing new regional disposal sites.

Mr. SPRATT. Mr. Speaker, I rise in support of the bill. By passing this bill, the House can take a crucial step forward. We can avert a crisis in the disposal of low-level nuclear waste, and we can work toward solution of a problem that has troubled our Nation since the onset of nuclear technology.

Mr. Speaker, before speaking in support of the bill, let me pay special credit to our colleague, BUTLER DERRICK. He conceived and worked through Congress the original Low-Level Nuclear Waste Act of 1980, and he has worked doggedly ever since to see its plan of regional compacts and regional waste sites come to fruition in this bill. Without his efforts, we would not be here today. This bill is singularly important to South Carolina; and as one South Carolinian speaking in behalf of many, let me publicly express our gratitude to BUTLER DERRICK.

The Governors of the three States which now bury the Nation's low-level waste—South Carolina, Nevada, and Washington—should be commended also for their willingness to find a compromise solution. Without their leadership and cooperation this legislation would still be in committee. Along with Mr. DERRICK, Governor Riley of my State has worked for 6 long years to see a bill of this kind passed. Chairman UDALL of the Interior Committee, Chairman DINGELL of the Energy and Commerce Committee and Chairman MARKEY of the Energy Subcommittee have been diligent and fair in their efforts to pass a low-level waste bill this year. Those of us from States which now bear the burden of the problem thank you for helping us find a solution.

This is not an isolated issue which could be decided alone by the three disposal States, or by the nuclear industry, or by those States without disposal sites. It has taken historic cooperation by all parties to reach a compromise which will work and with which everyone can live.

H.R. 1083 allows continued access to the three existing low-level nuclear waste disposal sites for a 7-year period in return for solid guarantees that progress will be made and that by the end of 1992 we will have a regional disposal system in place. The bill has deadlines which nonsited States must meet and penalties for noncompliance. There are limitations on the amount of waste which the three sited States must accept during this interim period, levels which basically follow the amounts now being accepted by the sited States. To meet these limitations, nuclear waste producers will be required to reduce the volume of waste they produce, which is a positive step for the entire process.

No one will welcome a nuclear disposal site in his State. But the simple truth is that as long as we reap the benefits of nuclear technology, whether through nuclear power or nuclear medicine, we will be faced with the necessity of waste disposal. One merit of this bill is that it causes us as a nation to deal with reality.

Even with passage of this bill, it will not be easy over the next 7 years to put into place this regional disposal system. But with passage of this bill, we have the mechanism, and we have legal sanctions, to which we are all committed, in lieu of unilateral action by the States where waste disposal facilities are now sited.

It is urgent that both the House and Senate pass this legislation before we adjourn this year, and that the President give his approval. Otherwise we face the very real prospect of closure of some or all of the existing disposal sites and the disruption of nuclear power, nuclear medicine, and nuclear research. I do not believe any of us could legitimately fault Governor Riley, Governor Gardner, or Governor Bryan for taking such action if we in Congress do not follow through and create the regional compacts that Congress itself called for 5 years ago. For 5 years, States without sites have known this day was coming. Unfortunately, little progress has been made. South Carolina has already disposed of 17 million cubic feet of this country's low-level nuclear waste; this will be with us permanently. During the next 7 years, we are saying we will take an additional 8.4 million cubic feet, some 46 percent of all the waste produced in this Nation. Enough is enough. We have more than met our responsibility. It is past time to share the burden.

For South Carolina, this legislation means eventually the end of our State's historic role as the Nation's nuclear dumping ground. However, the bill does not impose an unreasonable burden on the rest of the country. For Congress, the legislation addresses a national problem which has been pushed aside far too long; it allows us to work out a solution to low-level nuclear waste before a national crisis arises.

I urge my colleagues to act today in the hope that the Senate will follow our lead before we adjourn.

Mr. REID. Mr. Speaker, I rise in support of H.R. 1083, the Low-Level Radioactive Waste Policy Amendment Act of 1985. As a Member, representing Nevada, one of the three States which has a low-level radioactive waste disposal facility, I am pleased to see this legislation brought to the floor of the House. I also want to take this opportunity to commend Mr. UDALL, chairman of

the Committee on Interior and Insular Affairs, and Mr. DINGELL, chairman of the Committee on Energy and Commerce for the hard work and the long hours they and their staffs spent developing this bill.

This legislation is not perfect by any stretch of the imagination. It is, at best, a compromise measure that allows 47 States to join Nevada, South Carolina, and Washington to get on with solving one of the great challenges of this Nation—disposing of low-level radioactive waste.

Nevadans have not been happy about being designated as a "garbage dump" for the Nation, whether it is for low-level radioactive waste or, for that matter, high-level nuclear waste!

This legislation which lays out ground rules and clarifies responsibilities necessary to provide for a national low-level radioactive waste interstate compact system is long overdue. Clarifying Federal and State responsibilities for low-level waste management, creating uniform definitions of low-level radioactive waste will help alleviate the anxiety the people of Nevada experience about the compromise allowing access to the Beatty site until 1992.

As I said earlier, this is not perfect legislation but it represents a workable compromise that meets the needs of the Nation. I urge my colleagues in the House to support passage of H.R. 1083.

Mr. UDALL. Mr. Speaker, before the question is put, I ask unanimous consent that on page 46, line 16, the word "waste" be inserted after the word "radioactive." This is simply a typographical error in the amendment to H.R. 1083 which we have just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 1083, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO PRESERVE THE ECOLOGY OF THE NASSAU RIVER VALLEY MARSHLANDS, FL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2483) authorizing the Secretary of the Interior to preserve the ecology of the Nassau River Valley marshlands in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, St. Marys, and St. Johns River Valleys, FL, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FORT CAROLINE NATIONAL MEMORIAL

SEC. 101. AMENDMENTS OF 1950 ACT.

The Act entitled "To provide for the acquisition, investigation, and preservation of lands to commemorate the historic Fort Caroline settlement, Saint Johns Bluff, Florida," approved September 21, 1950 (64 Stat. 897), as amended as follows:

(1) Section 2 is amended by adding the following after the final period: "Such historical park shall serve as the principal interpretive center and administrative facility for such ecological and historic and prehistoric sites as may be identified or administered by the Secretary in the vicinity and in the Nassau, Saint Marys, and Saint Johns River Valleys.".

(2) Section 3 is repealed, and sections 4 and 5 are redesignated as sections 3 and 4, respectively.

(3) Section 4, as so redesignated, is amended by striking out the phrase ", not to exceed $40,000,"

TITLE II—PRESERVATION OF NASSAU ECOLOGICAL AREA AND PROTECTION OF SIGNIFICANT HISTORIC ASSETS

SEC. 201. NASSAU ECOLOGICAL PRESERVE.

(a) ESTABLISHMENT.—There is hereby established the Nassau Ecological Preserve (hereafter in this Act referred to as the "Preserve"). The Preserve shall comprise the lands, waters, and interests therein within the boundaries generally depicted on a map entitled "Nassau Ecological Preserve" and dated November 1985, and numbered NA-NEP 80,000. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Preserve shall also include within its boundaries all that land consisting of approximately 500 acres adjacent to Fort Caroline National Memorial and known as the Theodore Roosevelt Preserve, being land formerly owned by one Willie Brown and donated by him to The Nature Conservancy.

(b) LAND ACQUISITION.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, submerged lands, interests therein, and improvements thereon within the Preserve by donation, purchase with donated or appropriated funds, or exchange, but no interest therein, improvements thereon, or lands other than marshlands shall be acquired without the consent of the owner. Lands, interests in lands, and improvements thereon within the boundaries of the Preserve which are owned by the State of Florida or any political subdivision thereof may be acquired only by donation or exchange.

(c) ADMINISTRATION.—The Secretary shall administer the Preserve in such a manner as to protect the natural ecology of its land and water areas in accordance with this Act and the provision of law generally applicable to units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; U.S.C. 1, 2-4). The Secretary shall permit boating, boating-related activities, hunting, and fishing within the Preserve in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety.

SEC. 202. PROTECTION OF SIGNIFICANT HISTORIC ASSETS.

The Secretary, with the consent of the owners thereof, may acquire by donation or purchase with donated funds the following properties or sites of significant historic interest in northeastern Florida:

(1) Spanish sixteenth century forts San Gabriel and San Estaban.

(2) Spanish eighteenth century fort Dos Hermanas.

(3) English eighteenth century forts Saint George on Fort George Island, Tonyn on the Saint Mary's River, and at Saint Johns Bluff.

(4) Spanish sixteenth and seventeenth century mission San Juan del Puerto.

(5) Site of the American Revolutionary War battles of Thomas Creek and Alligator Bridge.

(6) The eighteenth and nineteenth century buildings on the Zephaniah Kingsley plantation.

(7) The Spanish American War fortification on Saint Johns Bluff.

SEC. 203. INTEGRATED ADMINISTRATION AND INTERPRETATION.

The Secretary shall administer and interpret the Nassau Ecological Preserve established pursuant to section 201 and any properties of historic interest acquired pursuant to section 202 of this title in accordance with a plan that integrates the administration and interpretation of the ecological values of the Preserve and the historical values of the sites so acquired and the historical features of Fort Caroline. Such administration and interpretation shall be conducted through the facilities and staff of Fort Caroline National Memorial consistent with section 2 of the Act of September 21, 1950 (64 Stat. 897).

SEC. 204. AUTHORIZATION.

Effective October 1, 1986, there are authorized to be appropriated for purposes of this title for acquisition of lands and interests in lands not more than $5,000,000 and for development not more than $500,000. Such sums shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2483 was introduced by our colleague, CHARLES BENNETT. The bill would establish the Nassau Ecological Preserve near Jack-

sonville, FL, to be administered by the National Park Service.

The Subcommittee on National Parks and Recreation held hearings on H.R. 2483 and another dissimilar bill (H.R. 252) dealing with the same area, on July 23, 1985. The testimony received was primarily concerned with the need to protect the coastal marshlands, located within the tidal zone of the St. Johns River, Nassau River, and the Florida portion of the St. Marys River. The State of Florida does not consider such lands State lands, as do some coastal States, and these marshes are subject to filling and development.

The State of Florida has been attempting to acquire these marshes, and has made some progress. However, the State does not have condemnation authority for recreation purposes, and it is unlikely that it will be able to complete acquisition in the face of accelerated development pressures.

We saw lucid examples of that development pressure, Mr. Speaker, and in fact, the State of Florida, since 1972 through 1984, lost 11 million acres of wetlands to development pressure. Over half of the wetlands in Florida have been lost to development in this century.

The bill establishes the Nassau Ecological area near Jacksonville, FL, which would be administered by the National Park Service from the Fort Caroline National Memorial adjacent to the preserve. The bill also authorizes the acquisition of 10 historic sites related to the settlement of the area around the preserve.

No lands except the coastal marshlands (lands inundated for significant portions of the year) can be acquired by use of condemnation procedures. Lands owned by the State, or political subdivisions of the State, can only be acquired by donation or exchange.

Mr. Speaker, the estuarine areas formed by the Nassau, St. Johns, and St. Marys Rivers form a continuous tidal marshland, protected by barrier islands, and are considered by many biologists to among the richest, most productive marshes in the United States. This preserve is located adjacent to the Jacksonville metropolitan area and is heavily used for recreation purposes.

The area provides an unusual ecological system of three interrelated riverine estuaries protected by barrier islands. No similiar system is protected within a unit of the National Park System.

This region of nothern Florida also provides a remarkable rich tapestry of the history of European settlement of North America. Fort Caroline, on the southern boundary of the proposed ecological unit, established by the French in 1564, is a unit of the National Park System, but other sites reflecting the rich history of North American settlement are not protected.

Accordingly, the bill includes in the proposed boundary sites remaining from the British occupation after the French-Indian War; the first road built by the Spanish in 1565; a Spanish mission, San Juan del Puerto; the southernmost battlefields of the Revolutionary War at Thomas Creek and Alligator Bridge; and the Confederate fort at Yellow Bluff.

Mr. Speaker, I am pleased to have been able to work with our colleague, Mr. BENNETT, on this bill and commend the gentleman from Florida for his hard work, tenacity, and dedication to bringing this outstanding legislation to completion; and I urge all of my colleagues to support him in passage of H.R. 2483.

Mr. Speaker, I reserve the balance of my time.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking Republican on the Subcommittee on National Parks and Recreation, I rise in support of H.R. 2483.

This bill would establish an ecological preserve encompassing the Nassau, St. Marys, and St. Johns River Valleys in northeastern Florida. The preserve, which covers approximately 80,000 acres, would protect local estuarine wetlands as well as several historical sites dating back to the 16th century.

I would like to commend Chairman VENTO for his work on this legislation which resulted in an improved substitute bill. Under the substitute, which was adopted by the subcommittee and full Interior Committee, the State would donate approximately 50,000 of the total 80,000 acres. In addition, acquisition of private parcels, other than marshlands, requires the owner's consent. Futhermore, the historical properties could only be acquired with the consent of the owners and by donation or with donated funds.

Also, and this was a matter of some contention, all upland areas have been eliminated from the legislation.

I would also like to commend the gentleman from Florida, Representative BENNETT, for the time, effort, and finances he has personally invested in an attempt to protect this unique area. He is the foremost authority on the Nassau River Valley area and has written several interesting books on the history of the area, which I urge my colleagues to read. He has been most cooperative with the committee and has, in my opinion, done an outstanding job on this legislation.

While I do have some concerns about establishing new additions to the National Park System when the Park Service currently has an enormous backlog of areas that remain to be acquired, I do believe this area warrants inclusion in the Park System and would not require large Federal expenditures. Therefore, I urge my colleagues to support and approve H.R. 2483.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, our colleague, CHARLES BENNETT has fought for many years to have this remarkable area protected for future generations to enjoy. As many of the Members know, CHARLIE BENNETT is highly respected and is acknowledged as the authority on the long and varied history of northeast Florida.

Because of his great interest in preserving the history and protecting the ecology of this area, he started working on this legislation in the early 1970's. In fact, the Interior Committee held hearings on this very subject in 1972 at Representative BENNETT's request and because of his leadership.

I am pleased to yield such time as he may consume to the gentleman from Florida [Mr. BENNETT] the dean of the delegation and the leader for this Nassau Ecological Preserve Initiative.

Mr. BENNETT. I thank the gentleman for yielding to me.

Mr. Speaker, I am deeply grateful to the chairman and the committee and all those who have made this legislation possible. First, I would like to have a colloquy with the gentleman from Florida [Mr. VENTO].

It is my intent under this bill that areas now used for commercial fishing can continue to be so used after enactment of this bill. In its present form the bill states that the Secretary shall permit boating, hunting, and fishing in accordance with applicable law. Concerned citizens in Nassau County have wondered whether this would cover commercial fishing. I understand that this could have been clarified in the committee report. However, I did not learn of the strong feelings on this matter until late last week—too late to have the wording added to the committee report clarifying the situation. I want to make it clear that I can see no objection to allowing commercial fishing in areas in which it has gone on in the past, a rather limited area. If the Senate wants to take the matter up and amend the bill accordingly I would have no objections.

I yield to the gentleman for his response.

Mr. VENTO. Mr. Speaker, I concur with the honorable gentleman from Florida. I have no objection to allowing such commercial fishing as is now taking place in the areas outlined within this bill's jurisdiction. If such clarifying language is needed to ensure continuation of this right, I know of no reason why it should not be added.

I thank the gentleman again for his cooperation.

Mr. BENNETT. Mr. Speaker, the committee has so well explained this legislation that I will not trespass very long on the committee's time.

Basically, there are three great rivers in northern Florida. One of them separates Georgia from Florida; that is the St. Mary's. Another one is the St. John's River which is hundreds of miles long; in some places I believe it is 14 or 15 miles wide. It goes through the city of Jacksonville, and that is partly the southern boundary of my congressional district.

In between them is the Nassau River Valley. This valley has been relatively untouched but it is now in the city limits of Jacksonville, and congestion is right on the edges of getting close to it. There are great marshes there that ought to be protected because they protect the Brown Pelican, for instance, and the Manatee, and other endangered species.

There are also historical sites which, under this bill, can only be acquired by donation or by the consent of the owner. Sites included are one 16th-century French fort site; three Spanish 16th-century fort sites; and one 16th-century Spanish mission site. That mission site once was the head of the Spanish mission activities all the way in North America down to Cuba. That is called the San Juan Del Puerto. Also there are three 18th-century English forts; two American Revolutionary battlefields—the most southerly of the American Revolution—and one exquisite plantation, built, most of it, in the late 18th century and early 19th century.

So it has a lot of very interesting historical sites. These all have to be acquired by either donation or by gift. Mr. Speaker, I think this is very outstanding legislation and I would appreciate it very much if it could be unanimously supported.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to point out that all of us are very cost-conscious. It was pointed out that the St. John's River Water Management District specialists in that area are very supportive of this. Florida has five different districts and is among the leaders in terms of freshwater ecology on a national basis because of their investment through this conservation district program. But the cost of mitigating the problems with the Upper St. John's River is $111 million alone. Almost all of the money raised, and there will be substantial money raised for the trust funds in Florida, will in fact go for mitigation; not any for preservation. So I think this is one of the reasons that we can play an important role here by this designation which will preserve, interpret, and add absolute protection to the Nassau Spartins Marsh and historic designations in this area.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2483, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill authorizing the Secretary of the Interior to preserve the ecology of the Nassau Valley marshlands in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, Saint Marys, and Saint Johns River Valleys, Florida and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have permission to sit tomorrow when the House is meeting for amendments under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman if this has been cleared with the minority. I do not see anyone here on the floor.

I yield to the gentleman for his response.

Mr. MITCHELL. Mr. Speaker, the purpose of the meeting will be to mark up H.R. 2787, a bill to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act. This request has been cleared by my ranking minority member, Mr. JOSEPH M. MCDADE.

Mr. SOLOMON. Mr. Speaker, I would certainly take the gentleman's word for it; he is one of the most respected Members of this House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

GRANTING THE CONSENT OF CONGRESS TO CERTAIN INTERSTATE COMPACTS ON LOW-LEVEL RADIOACTIVE WASTE

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3878) to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste.

The Clerk read as follows:

H.R. 3878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act".

TITLE I—GENERAL PROVISIONS

SEC. 101. CONGRESSIONAL FINDING.

The Congress hereby finds that each of the compacts set forth in title II is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 102. CONDITIONS OF CONSENT TO COMPACTS.

The consent of the Congress to each of the compacts set forth in title II—

(1) shall become effective on whichever of the following occurs later:

(A) the date of the enactment of this Act; or

(B) the date of the enactment of legislation that provides for the limited availability of disposal capacity for a specified period beginning after December 31, 1985, in low-level radioactive waste disposal facilities subject to regulation by the Nuclear Regulatory Commission and in operation on January 1, 1985, for low-level radioactive waste generated outside the compact region in which any such facility is located;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with the provisions of such Act.

SEC. 103. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in title II after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

TITLE II—CONGRESSIONAL CONSENT TO COMPACTS

SEC. 201. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-Level Radioactive Waste Management. Such compact is substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I

"POLICY AND PURPOSE

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II

"DEFINITIONS

"As used in this compact:

"(1) 'Facility' means any site, location, structure or property used or to be used for the storage, treatment or disposal of low-level waste, excluding federal waste facilities.

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than 10 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

"(3) 'Generator' means any person, partnership, association, corporation or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste.

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III

"REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state.

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon.

"(3) Authorization of the containers in which such waste may be shipped and a requirement that generators use only that type of container authorized by the state.

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities and appropriate enforcement action is taken for violations.

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

"(6) Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

"ARTICLE IV

"REGIONAL FACILITIES

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

"(3) Until such time as paragraph (2) of this Article takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the State in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state and shall contain at least the following:

"(a) The generator's name and address;

"(b) A description of the contents of the low-level waste container;

"(c) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by an agent of the official or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state; and

"(d) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste, during shipment or after such waste reaches the facility, caused by improper packaging or handling by the generator or shipper.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in the region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facilities by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility to assure that closure perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

"ARTICLE V

"NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

"The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provisions of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

"ARTICLE VI

"ELIGIBLE PARTIES AND EFFECTIVE DATE

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this Article any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

"ARTICLE VII

"SEVERABILITY

"If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.".

SEC. 202. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

"ARTICLE I. POLICY AND PURPOSE

"The party states recognize that each state is responsible for the management of its non-federal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573) has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. 'Commission' means the Central Interstate Low-Level Radioactive Waste Commission;

"b. 'disposal' means the isolation and final disposition of waste;

"c. 'extended care' means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

"d. 'facility' means any site, location, structure or property used or to be used for the management of waste;

"e. 'generator' means any person who, in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. 'Generator' does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

"f. 'host state' means any party state in which a regional facility is situated or is being developed;

"g. 'low-level radioactive waste' or 'waste' means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954, as amended through 1978;

"h. 'management of waste' means the storage, treatment or disposal of waste;

"i. 'notification of each party state' means transmittal of written notice to the governor, presiding officer of each legislative body and any other persons designated by the party state's Commission member to receive such notice;

"j. 'party state' means any state which is a signatory party to this compact;

"k. 'person' means any individual, corporation, business enterprise or other legal entity, either public or private;

"l. 'region' means the area of the party states;

"m. 'regional facility' means a facility which is located within the region and which has been approved by the Commission for the benefit of the party states;

"n. 'site' means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

"o. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States; and

"p. 'storage' means the holding of waste for treatment or disposal; and

"q. 'treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or management, amenable for recovery, convertible to another usable material or reduced in volume.

"ARTICLE III. RIGHTS AND OBLIGATIONS

"a. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of this act, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

"b. To the extent authorized by federal law and host state law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

"c. Rates shall be charged to any user of the regional facility, set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

"d. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to section c. of this Article, for any regional facility within its borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficient, all party states shall share the costs in a manner to be determined by the Commission.

"e. To the extent authorized by federal law, each party state is responsible for enforcing any applicable federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

"f. Each party state has the right to rely on the good faith performance of each other party state.

"g. Unless authorized by the Commission, it shall be unlawful after January 1, 1986 for any person—

"1. to deposit at a regional facility, waste not generated within the region;

"2. to accept, at a regional facility, waste not generated within the region;

"3. to export from the region, waste which is generated within the region; and

"4. to transport waste from the site at which it is generated except to a regional facility.

"ARTICLE IV. THE COMMISSION

"a. There is hereby established the Central Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one voting member from each party state to be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

"b. Each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be binding unless a majority of the total membership casts its vote in the affirmative.

"c. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, by-laws and policies which are not inconsistent with this compact.

"d. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member.

"e. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms of the provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

"f. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

"g. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by acceptance of a federal grant, the staff shall serve at the Commission's pleasure irrespective of

the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

"h. Funding for the Commission shall be as follows:

"1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed $25,000 until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this section as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within 60 days of their receipt; and

"2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which—

"(a) shall be sufficient to cover the annual budget of the Commission; and

"(b) shall be paid to the Commission, provided, however, that each host state collecting such surcharges may retain a portion of the collection sufficient to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"i. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by this Article.

"j. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

"k. (1) Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

"(2) The Commission herein established is a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

"l. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the District wherein the Commission maintains its headquarters by filing in such court a petition for review within 60 days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

"m. The Commission shall—

"1. receive and approve the application of a non-party state to become a party state in accordance with Article VII;

"2. submit an annual report to, and otherwise communicate with, the governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

"3. hear and negotiate disputes which may arise between the party states regarding this compact;

"4. require of and obtain from the party states, and non-party states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

"5. approve the development and operation of regional facilities in accordance with Article V;

"6. notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

"7. revoke the membership of a party state in accordance with Articles V and VII;

"8. require all party states and other persons to perform their duties and obligations arising under this compact by an appropriate action in any forum designated in section e. of Article IV; and

"9. take such action as may be necessary to perform its duties and functions as provided in this compact.

"ARTICLE V. DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

"a. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

"b. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in section c. of this Article, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

"c. The Commission shall review and consider each applicant's proposal based upon the following criteria:

"1. The capability of the applicant to obtain a license from the applicable authority;

"2. The economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per cubic foot of waste;

"3. Financial assurances;

"4. Accessibility to all party states; and

"5. Such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

"d. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria anumerated in section c. and the needs of the region.

"e. Following notification of each party state of the results of the preliminary selection process, the Commission shall—

"1. authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

"2. require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed appplication is submitted.

"f. The preliminary selection or selections made by the Commission pursuant to this Article shall become final and receive the Commission's approval as a regional facility upon the issuance of a license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in this Article.

"g. The Commission may, by two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing, shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in section e. of Article VII.

"ARTICLE VI. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact shall be construed to—

"1. abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2. prevent the application of any law which is not otherwise inconsistent with this compact;

"3. prohibit or otherwise restrict the management of waste on the site where it is generated if such is otherwise lawful;

"4. affect any judicial or administrative proceeding pending on the effective date of this compact;

"5. alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

"6. affect the generation or management of waste generated by the federal government or federal research and development activities.

"b. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

"c. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

"d. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota and Oklahoma. Such initial eligibility shall terminate on January 1, 1984.

"b. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

"c. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the com-

pact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in section f. of this Article.

"d. Any party state may withdraw from this compact by enacting a statute repealing the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five years after the governor of the withdrawing state has given notice in writing of such withdrawal to each governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"e. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with section d. of Article III, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the compact shall be transmitted immediately following the vote of the Commission, by the chairman, to the governor of the affected party state, all other governors of the party states and the Congress of the United States.

"f. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this Article and to the power to ban the exportation of waste pursuant to Article III.

"g. The withdrawal of a party state from this compact under section d. of this Article or the revocation of a state's membership in this compact under section e. of this Article shall not affect the applicability of this compact to the remaining party states.

"h. This compact shall be terminated when all party states have withdrawn pursuant to section d. of this Article.

"ARTICLE VIII. PENALTIES

"a. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

"b. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

"ARTICLE IX. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.".

SEC. 203. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

"SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

"ARTICLE 1

"POLICY AND PURPOSE

"There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the state for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

"It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort; provide sufficient facilities for the proper management of low-level radioactive waste generated in the region; promote the health and safety of the region; limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region; distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and ensure the ecological and economical management of low-level radioactive wastes.

"Implicit in the congressional consent to this compact is the expectation by Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"(1) expeditious enforcement of federal rules, regulations, and laws;

"(2) imposing sanctions against those found to be in violation of federal rules, regulations, and laws;

"(3) timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws; and

"(4) timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

"ARTICLE 2

"DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"(1) 'Commission' or 'Compact Commission' means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

"(2) 'Facility' means a parcel of land, together with the structure, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

"(3) 'Generator' means any person who produces or processes low-level radioactive waste in the course of, or as an incident to, manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of wastes with respect to such waste generated outside the region.

"(4) 'High-level waste' means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the U.S. Nuclear Regulatory Commission.

"(5) 'Host state' means any state in which a regional facility is situated or is being developed.

"(6) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11 e. (2) of the Atomic Energy Act of 1954, or as may be further defined by federal law or regulation.

"(7) 'Party state' means any state which is a signatory party to this compact.

"(8) 'Person' means any individual, corporation, business enterprise, or other legal entity (either public or private).

"(9) 'Region' means the collective party states.

"(10) 'Regional facility' means (1) a facility as defined in this article which has been designated, authorized, accepted, or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State

of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

"(11) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

"(12) 'Transuranic wastes' means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under section 274 of the Atomic Energy Act of 1954.

"(13) 'Waste management' means the storage, treatment, or disposal of waste.

"ARTICLE 3

RIGHTS AND OBLIGATIONS

"The rights granted to the party states by this compact are additional to the rights enjoyed by soverign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

"(A) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, treated, or disposed of, as applicable, at regional facilities and, additionally, shall have the right of access to facilities made available to the region through agreement entered into by the Commission pursuant to Article 4(E)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

"(B) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the Commission.

"(C) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post-closure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of Article 5(B).

"(D) Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

"(E) Each party state must provide to the Commission on an annual basis any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligations.

"(F) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of waste requiring disposal.

"ARTICLE 4

"THE COMMISSION

"(A) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission ('Commission' or 'Compact Commission'). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

"(B) Each Commission member is entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

"(C) The Commission must elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

"(D) The Commission must meet at least once a year and also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the Commission must be open to the public.

"(E) The Commission has the following duties and powers:

"(1) To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(B).

"(2) To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(C).

"(3) To submit an annual report and other communications to the Governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

"(4) To develop and use procedures for determining, consistent with consideration for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

"(5) To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

"(6) To develop and adopt, within one year after the Commission is constituted as provided in Article 7(D) procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article 7(D), and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

"In developing criteria, the Commission must consider the following: the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

"The Commission shall conduct such hearings, require such reports, studies, evidence, and testimony, and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility.

"(7) In accordance with the procedures and criteria developed pursuant to Section (E)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

"(8) To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities.

"(9) Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facility's capability to handle such wastes.

"(10) To act or appear on behalf of any party state or states, only upon written request of both members of the Commission for such state or states as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the Commission, only after approval by a majority vote of the Commission.

"(11) To revoke the membership of a party state in accordance with Article 7(F).

"(F) The Commission may establish any advisory committees as it deems necessary for the purpose of advising the Commission on any matters pertaining to the management of low-level radioactive waste.

"(G) The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel, or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

"(H) Funding for the Commission must be provided as follows:

"(1) Each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars to the Commission which shall be used for costs of the Commission's services.

"(2) Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

"(a) must be sufficient to cover the annual budget of the Commission;

"(b) must represent the financial commitments of all party states to the Commission; and

"(c) must be paid to the Commission;

Provided, however, That each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

"(3) The Commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the Commission funds resulting from collection of such special fees and surcharges within sixty days of their receipt.

"(I) The Commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article 4(E)(3).

"(J) The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state, or the United States, or any subdivision, or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender shall be detailed in the annual report to the Commission.

"(K) The Commission is not responsible for any costs associated with:

"(1) the creation of any facility;

"(2) the operation of any facility;

"(3) the stabilization and closure of any facility;

"(4) the post-closure observation and maintenance of any facility; or

"(5) the extended institutional control, after post-closure observation and maintenance of any facility.

"(L) As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the Commission pursuant to the provisions of this compact. After January 1, 1986, the Commission may prohibit the exportation of waste from the region for the purposes of management.

"(M)(1) The Commission herein established is a legal entity separate and distinct from the party states capable of acting in its own behalf and is liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not personally be liable for action taken by them in their official capacity.

"(2) Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators and transporters of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

"ARTICLE 5

"DEVELOPMENT AND OPERATION OF FACILITIES

"(A) Any party state which becomes a host state in which a regional facility is operated shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

"(B) A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the Commission at least four years prior to the intended date of closure. Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

"(C) Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

"(D) No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

"ARTICLE 6

"OTHER LAWS AND REGULATIONS

"(A) Nothing in this compact shall be construed to:

"(1) Abrogate or limit the applicability of any Act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress.

"(2) Abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under section 274 of the Atomic Energy Act of 1954 in which a regional facility is located.

"(3) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact.

"(4) Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article 3, Article 4, and Article 5 and shall be subject to any action lawfully taken pursuant thereto.

"(5) Prohibit any storage or treatment of waste by the generator on its own premises.

"(6) Affect any judicial or administrative proceeding pending on the effective date of this compact.

"(7) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions.

"(8) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the United States Department of Energy or federal research and development activities as defined in Public Law 96-573.

"(9) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

"(B) No party state shall pass any law or adopt any regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

"(C) Upon formation of the compact no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"(D) Restrictions of waste management of regional facilities pursuant to Article 4 shall be enforceable as a matter of state law.

"ARTICLE 7

"ELIGIBLE PARTIES; WITHDRAWAL; REVOCATION; ENTRY INTO FORCE; TERMINATION

"(A) This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(B) Any state not expressly declared eligible to become a party state to this compact in Section (A) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to such provisions of this section. Upon satisfactorily meeting the conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the manner as those states declared eligible in Section (A) of this Article.

"(C) Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article 4 (H)(1). The Commission is the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

"(D)(1) The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article 4(H)(1) shall immediately, upon the appointment of their Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission; shall cause legislation to be introduced in Congress which grants the consent of Congress to this compact; and shall do those things necessary to organize the commission and implement the provisions of this compact.

"(2) All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of Section (C) of this Article.

"(3) The consent of Congress shall be required for the full implementation of this compact. The provisions of Article 5(D) shall not become effective until the effective date of the import ban authorized by Article 4(L) as approved by Congress. Con-

gress may by law withdraw its consent only every five years.

"(E) No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

"(F) Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than ninety days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

"The Commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action, along with a copy of the resolution, to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states, as well as chairmen of the appropriate committees of Congress.

"(G) Any party state may withdraw from the compact by enacting a law repealing the compact; *Provided,* That if a regional facility is located within such a state, such regional facility shall remain available to the region for four years after the date the Commission receives notification in writing from the governor of such party state of the recision of the compact. The Commission, upon receipt of the notification, shall as soon as practicable provide copies of such notification to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairmen of the appropriate committees of Congress.

"(H) This compact may be terminated only by the affirmative action of Congress or by the recision of all laws enacting the compact in each party state.

"ARTICLE 8

"PENALTIES

"(A) Each party state, consistently with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provisions of this compact.

"(B) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"ARTICLE 9

"SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.".

SEC. 204. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"ARTICLE I. POLICY AND PURPOSE

"There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1) providing the instrument and the framework for a cooperative effort;

"2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3) protecting the health and safety of the citizens of the region;

"4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

"5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

"6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

"7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

"8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radioactive waste than shallow-land burial facilities.

"b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1) expeditious enforcement of federal rules, regulations and laws;

"2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a) 'Commission' means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"b) 'Decommissioning' means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"c) 'Disposal' means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"d) 'Eligible' state means either the State of Illinois or the Commonwealth of Kentucky.

"e) 'Extended care' means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

"f) 'Facility' means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g) 'Generator' means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

"h) 'Host state' means any party state that is designated by the Commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

"i) 'Institutional control' means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control

of the disposal site to the state or federal government.

"j) 'Long-term liability' means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

"k) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11 e. (2) of the Atomic Energy Act of 1954.

"l) 'Management plan' means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"m) 'Manifest' means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

"n) 'Party state' means any eligible state which enacts the compact into law and pays the membership fee.

"o) 'Person' means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"p) 'Region' means the geographical area of the party states.

"q) 'Regional facility' means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"r) 'Shallow-land burial' means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

"s) 'Site' means the geographic location of a facility.

"t) 'Source reduction' means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

"u) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"v) 'Storage' means the temporary holding of waste for treatment or disposal.

"w) 'Treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

"x) 'Volume reduction' means those methods including, but not limited to, biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

"y) 'Waste management' means the source and volume reduction, storage, transportation, treatment or disposal of waste.

"ARTICLE III. THE COMMISSION

"a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting members from each state eligible to be a host state, one voting member from any other party state, and an ex officio non-voting member who is a member of the County Board of or who is a County Commissioner of each host county. The Governor of each party state shall notify the Commission in writing of its members and any alternates.

"b) Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership casts its vote in the affirmative.

"c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d) The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

"e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any member or the presiding officer.

"f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

"g) The Office of the Commission shall be in the first state eligible to be a host state. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

"i) The Commission may:

"1) Enter into an agreement or contract with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. No person may use a regional facility for waste generated outside the region unless both a majority of the members of the Commission and all members from the host state in which any affected regional facility is located vote in favor of permitting such use. No person in the region may use a storage, treatment or disposal facility outside the region without prior Commission approval. No such agreement or contract shall be valid unless specifically approved by a law enacted by the legislature of the host state.

"2) Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"5) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6) Suspend the privileges or revoke the membership of a party state.

"j) The Commission shall:

"1) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"2) Here, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"3) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

"4) Adopt an annual budget.

"k) Funding of the budget of the Commission shall be provided as follows:

"1) Each state, upon becoming a party state, shall pay $50,000 to the Commission which shall be used for the administrative costs of the Commission.

"2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"A) be sufficient to cover the annual budget of the Commission; and

"B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection.

"l) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report

shall be made a part of the annual report of the Commission required by this Article.

"m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

"n) The Commission is not liable for any costs associated with any of the following:

"1) the licensing and construction of any facility;

"2) the operation of any facility;

"3) the stabilization and closure of any facility;

"4) the extended care of any facility;

"5) the institutional control, after extended care of any facility; or

"6) the transportation of waste to any facility.

"o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"p) Except as provided under Sections (n) and (o) of this Article, nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.

"q) Any person aggrieved by a final decision of the Commission, which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a) Adopt procedures for determining, consistent with considerations of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

"b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

"c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or underground injection well.

"d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b) Other than the provisions of Article V(f), each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX(b) and IX(c). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(1).

"c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(1).

"d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to the regional facility for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and shall not be subject to the provisions of this compact.

"ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

"a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

"b) If all regional facilities required by the regional management plan are not developed pursuant to Section (a), or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

"c) A party state shall not be selected as a host state for any regional facility unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"d) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

"e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"f) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"g) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"h) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region.

"i) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.

"j) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensure, operation, preclosure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.

"k) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

"l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location

agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"n) A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"o) The host state shall create an 'Extended Care and Long-Term Liability Fund' and shall allocate sufficient fee revenues, received pursuant to Article VI(j), to provide for the costs of:

"1) decommissioning and other procedures required for the proper closure of a regional facility;

"2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

"3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

"4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Section shall in no manner limit the financial responsibilities of the site operator pursuant to Article VI(p) and the party states, or any other states which contract to dispose of wastes at the regional facility, pursuant to Article VI(q).

"p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(o) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

"q) All party states, or any other states which contract to dispose of wastes at the regional facility, shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(o) and from the property and third-party liability insurance as set forth in Article VI(p). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability for such party state shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a) Nothing in this compact:

"1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3) prohibits any storage or treatment of waste by the generator on its own premises;

"4) affects any administrative or judicial proceeding pending on the effective date of this compact;

"5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

"6) affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as defined in 42 U.S.C. 2021;

"7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

"8) requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

"9) Alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

"d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal for waste generated outside the region shall be allowed to dispose of such waste at a regional facility unless specifically approved by the Commission pursuant to the provisions of Article III(i)(1).

"ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

"b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

"c) The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.

"d) Other than the special circumstances for withdrawal in Section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region pursuant to Article III(i)(1).

"f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the Commission and to the governor of each party state. A state which withdraws from the compact under this Section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX. PENALTIES

"a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

"b) Unless otherwise authorized by the Commission pursuant to Article III(i), after January 1, 1986 it is a violation of this compact:

"1) for any person to deposit at a regional facility waste not generated within the region;

"2) for any regional facility to accept waste not generated within the region;

"3) for any person to export from the region waste which is generated within the region; or

"4) for any person to dispose of waste at a facility other than a regional facility.

"c) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 205. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress is hereby given to the States of Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, and such other eligible States as may in the future join, to enter into the Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"ARTICLE I. POLICY AND PURPOSE

"There is created the Midwest Interstate Low-Level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radio Active Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1. Providing the instrument and framework for a cooperative effort;

"2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3. Protecting the health and safety of the citizens of the region;

"4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;

"5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;

"6. Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste; and

"7. Ensuring the ecological and economical management of low-level radioactive wastes.

"b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1. expeditious enforcement of federal rules, regulations and laws;

"2. imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3. timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. 'care' means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

"b. 'commission' means the Midwest Interstate Low-Level Radioactive Waste Commission.

"c. 'decommissioning' means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"d. 'disposal' means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"e. 'eligible state' means any state qualified to be a party state to this compact as provided in Article VIII.

"f. 'facility' means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g. 'generator' means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste. 'Generator' does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

"h. 'host state' means any state which is designated by the Commission to host a regional facility.

"i. 'low-level radioactive waste' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11e. (2) of the Atomic Energy Act of 1954.

"j. 'management plan' means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"k. 'party state' means any eligible state which enacts the compact into law.

"l. 'person' means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"m. 'region' means the area of the party states.

"n. 'regional facility' means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"o. 'site' means the geographic location of a facility.

"p. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"q. 'storage' means the temporary holding of waste for treatment or disposal.

"r. 'treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

"s. 'waste management' means the storage, transportation, treatment, or disposal of waste.

"ARTICLE III. THE COMMISSION

"a. There is created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

"b. Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership cast their vote in the affirmative.

"c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws, and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d. The Commission shall meet at least once annually and shall also meet upon the

call of the chairperson or a Commission member.

"e. All meetings of the Commission shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded.

"f. The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management.

"g. The office of the Commission shall be in a party state. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h. The Commission may:

"1. Enter into an agreement with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the Commission, including the affirmative vote of the member of the host state in which any affected regional facility is located;

"2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

"5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with Article VIII.

"i. The Commission shall:

"1. Receive and act on the petition of a non-party state to become an eligible state.

"2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to Article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

"5. Adopt an annual budget.

"j. Funding of the budget of the Commission shall be provided as follows:

"1. Each state, upon becoming a party state, shall pay $50,000 or $1,000 per cubic meter shipped from that state in 1980, whichever is lower, to the Commission which shall be used for the administrative costs of the Commission;

"2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"a. be sufficient to cover the annual budget of the Commission; and

"b. represent the financial commitments of all party states to the Commission; and

"c. be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"k. The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds, and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this Article.

"l. The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report to the Commission.

"m. The Commission is not liable for any costs associated with any of the following:

"1. The licensing and construction of any facility,

"2. The operation of any facility,

"3. The stabilization and closure of any facility,

"4. The care of any facility,

"5. The extended institutional control, after care of any facility, or

"6. The transportation of waste to any facility.

"n. 1. The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the Commission are not liabilities of the party states. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"2. Except as provided under paragraphs m. and n.1, nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any casual or other relationships.

"o. Any person aggrieved by a final decision of the Commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within 60 days after the Commission's final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

"b. Develop and consider policies promoting source reduction of waste generated within the region;

"c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the Commission shall consider all the following:

"1. The health, safety, and welfare of the citizens of the party states.

"2. The existence of regional facilities within each party state.

"3. The minimization of waste transportation.

"4. The volumes of types of wastes generated within each party state.

"5. The environmental, economic, and ecological impacts on the air, land and water resources of the party states.

"d. Conduct such hearings, and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

"e. Prepare a draft management plan, including procedures, criteria and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the Commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b. Each part state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX.C. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III.

"c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III.

"d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e. Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

"a. Any party state may volunteer to become a host state, and the Commission may designate that state as a host state upon a two-thirds vote of its members.

"b. If all regional facilities required by the regional management plan are not developed pursuant to section (a), or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

"c. Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental and economic viability of possible facility locations.

"d. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"e. After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"g. The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region. The Commission shall make this designation following the procedures established under Article IV.

"h. Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the Commission may modify the period of its designation.

"i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs, including but not limited to the planning, siting, licensure, operation, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

"j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety or the state and region are ensured.

"k. A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational.

"m. A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact:

"1. Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3. Prohibits any storage or treatment of waste by the generator on its own premises;

"4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

"5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

"6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as defined in 42 U.S.C. 2021; or

"7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

"8. Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c. No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

"ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.

"b. Any state not eligible for membership in the compact may petition the Commission for eligibility. The Commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the Commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

"c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(j)(1).

"d. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

"e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the Commission in accordance with Article III(h)(6). Revocation takes effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the Commission to the governor of the affected party state, all other governors of the party states and the Congress of the United States.

"g. This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least three eligible states. However, Article IX, Section (b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under section (b) and (c) of this article and to the power of the region to ban the shipment of waste from the region pursuant to Article III.

"h. The withdrawal of a party state from this compact under section (e) of this article or the revocation of a state's membership in this compact under section (f) of this article does not affect the applicability of this compact to the remaining party states.

"i. A state which has been designated by the Commission to be a host state has 90 days from receipt by the Governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX. PENALTIES

"a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

"b. Unless otherwise authorized by the Commission pursuant to Article III(h) after January 1, 1986 it is a violation of this compact:

"1. For any person to deposit at a regional facility waste not generated within the region;

"2. For any regional facility to accept waste not generated within the region;

"3. For any person to export from the region waste which is generated within the region; or

"4. For any person to dispose of waste at a facility other than a regional facility.

"c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 206. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

"ARTICLE I. FINDINGS AND PURPOSE

"(a) The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the 'Low-Level Radioactive Waste Policy Act' (Public Law 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

"(b) It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly indicates otherwise:

"(a) 'Board' means the Rocky Mountain low-level radioactive waste board;

"(b) 'Carrier' means a person who transports low-level waste;

"(c) 'Disposal' means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

"(d) 'Facility' means any property, equipment or structure used or to be used for the management of low-level waste;

"(e) 'Generate' means to produce low-level waste;

"(f) 'Host state' means a party state in which a regional facility is located or being developed;

"(g) 'Low-level waste' or 'waste' means radioactive waste other than:

"(i) Waste generated as a result of defense activities of the federal government or federal research and development activities;

"(ii) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

"(iii) Waste material containing transuranic elements with contamination levels greater than ten (10) nanocuries per gram of waste material;

"(iv) By-product material as defined in section 11e.(2) of the 'Atomic Energy Act of 1954,' as amended November 8, 1978; or

"(v) Wastes from mining, milling, smelting or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

"(h) 'Management' means collection, consolidation, storage, treatment, incineration or disposal;

"(i) 'Operator' means a person who operates a regional facility;

"(j) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private;

"(k) 'Region' means the combined geographic area within the boundaries of the party states; and

"(l) 'Regional facility' means a facility within any party state which either:

"(i) Has been approved as a regional facility by the board; or

"(ii) Is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

"ARTICLE III. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS

"(a) There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one (1) regional facility shall be open and operating in a party state other than Nevada within six (6) years after this compact becomes law in Nevada and in one (1) other state.

"(b) Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

"(c) Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent (20%) or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection (d) of this article.

"(d) A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

"(i) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in article IV before allowing site preparation or physical construction to begin;

"(ii) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

"(iii) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

"(iv) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

"(v) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

"(vi) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

"(e) Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection (c) of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

"(f) Each party state:

"(i) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined

for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

"(A) Periodic inspection of packaging and shipping practices;

"(B) Periodic inspections of waste containers while in the custody of carriers; and

"(C) Appropriate enforcement actions with respect to violations.

"(ii) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

"(iii) May impose fees to recover the cost of the practices provided for in paragraph (i) and (ii) of this subsection;

"(iv) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

"(v) May impose requirements or regulations more stringent than those required by this subsection.

"ARTICLE IV. BOARD APPROVAL OF REGIONAL FACILITIES

"(a) Within ninety (90) days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

"(b) A regional facility shall be approved by the board if and only if the board determines that:

"(i) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

"(ii) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

"ARTICLE V. SURCHARGES

"(a) The board shall impose a 'compact surcharge' per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

"(b) A host state may impose a 'state surcharge' per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

"ARTICLE VI. THE BOARD

"(a) The 'Rocky Mountain low-level radioactive waste board', which shall not be an agency or instrumentality of any party state, is created.

"(b) The board shall consist of one (1) member from each party state. Each party state shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

"(c) Each party state is entitled to one (1) vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

"(d) The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting: *Provided, however,* That nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

"(e) The board shall pay necessary travel and reasonable per diem expenses of its members, alternates, and advisory committee members.

"(f) The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone: *Provided, however,* That any action taken by telephone shall be confirmed in writing by each member within thirty (30) days. Any action taken by telephone shall be noted in the minutes of the board.

"(g) The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

"(h) The board may establish its offices in space provided for that purpose by any of the party states, or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

"(i) Consistent with available funds, the board may contract for necessary personnel services and may employ such staff as it deems necessary to carry out its duties. Staff shall be employed without regard for the personnel, civil service, or merit system laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

"(j) The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

"(k) The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

"(l) The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

"(m) Upon legislative enactment of this compact, each party state shall consider the need to appropriate seventy thousand dollars ($70,000.00) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection (a) of article V of this compact.

"(n) The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

"(o) In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

"(i) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

"(ii) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

"(iii) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

"(iv) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

"(v) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

"(vi) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

"(vii) May develop a regional low-level waste management plan;

"(viii) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

"(ix) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

"(x) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

"(xi) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

"(xii) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

"(xiii) Shall have the power to sue; and

"(xiv) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

"ARTICLE VII. PROHIBITED ACTS AND PENALTIES

"(a) It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility: *Provided, however,* That a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

"(b) After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

"(i) The economic impact of the export of the waste on the regional facilities;

"(ii) The economic impact on the generator of refusing to permit the export of the waste; and

"(iii) The availability of a regional facility appropriate for the disposal of the waste involved.

"(c) After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

"(i) The impact of importing waste on the available capacity and projected life of the regional facilities;

"(ii) The economic impact on the regional facilities; and

"(iii) The availability of a regional facility appropriate for the disposal of the type of waste involved.

"(d) It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

"(i) The impact of allowing such management on the available capacity and projected life of the regional facilities;

"(ii) The availability of a facility appropriate for the disposal of the type of waste involved;

"(iii) The existence of transuranic elements in the waste; and

"(iv) The economic impact on the regional facilities.

"(e) Any person who violates subsection (a) or (b) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which would have been charged for disposal of the waste at a regional facility.

"(f) Any person who violates subsection (c) or (d) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which were charged for management of the waste at a regional facility.

"(g) The civil penalties provided for in subsections (e) and (f) of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

"(h) Out of any civil penalty collected for a violation of subsection (a) or (b) of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

"(i) Any civil penalty collected for a violation of subsection (c) or (d) of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

"(j) Violations of subsection (a), (b), (c), or (d) of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

"(k) No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

"ARTICLE VIII. ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

"(a) Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

"(b) An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact: *Provided, however,* That a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

"(c) This compact shall take effect when it has been enacted by the legislatures of two (2) eligible states. However, subsections (b) and (c) of article VII shall not take effect until Congress has by law consented to this compact. Every five (5) years after such consent has been given, Congress may by law withdraw its consent.

"(d) A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two (2) years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five (5) years after the effective date of the withdrawal: *Provided, however,* That this provision shall not apply to the existing facility in Beatty, Nevada.

"(e) A party state may be excluded from this compact by a two-thirds (⅔) vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligation under this compact. Such an exclusion may be terminated upon a two-thirds (⅔) vote of the members acting in a meeting.

"ARTICLE IX. CONSTRUCTION AND SEVERABILITY

"(a) The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

"(b) Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

"(c) If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.".

SEC. 207. NORTHEAST LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4 of the Low-Level Radioactive Waste Policy Act, the consent of the Congress hereby is given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

"ARTICLE I. POLICY AND PURPOSE

"There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, The Act), or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. 'commission' means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;

"b. 'custodial agency' means the agency of the government designated to act on behalf of the government owner of the regional facility;

"c. 'disposal' means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

"d. 'facility' means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;

"e. 'generator' means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transpor-

tation, treatment, storage or disposal of wastes generated outside the region;

"f. 'high-level waste' means 1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentration; and 2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

"g. 'host state' means a party state in which a regional facility is located or being developed;

"h. 'institutional control' means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

"i. 'low-level waste' means radioactive waste that 1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954 as amended; and 2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities;

"j. 'party state' means any state which is a signatory party in good standing to this compact;

"k. 'person' means an individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;

"l. 'post-closure observation and maintenance' means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements; prevention of unwarranted intrusion, and correction of problems;

"m. 'region' means the entire area of the party states;

"n. 'regional facility' means a facility as defined in this section which has been designated or accepted by the Commission;

"o. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

"p. 'storage' means the holding of waste for treatment or disposal;

"q. 'transuranic waste' means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

"r. 'treatment' means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amenable for recovery, convertible to another usable material or reduced in volume;

"s. 'waste' means low-level radioactive waste as defined in this section;

"t. 'waste management' means the storage, treatment, transportation, and disposal, where applicable, of waste.

"ARTICLE III. RIGHTS AND OBLIGATIONS

"a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region.

"1. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the affected host state(s).

"2. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the Commission and the affected host state(s).

"b. The rights, responsibilities and obligations of each party state to this compact are as follows:

"1. Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to Article IV(i)(11). The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

"2. To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur.

"3. Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.

"4. Each party state shall encourage generators within its borders to minimize the volumes of waste requiring disposal.

"5. Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact.

"6. Each party state shall provide to the Commission any data and information necessary for the implementation of the Commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined.

"7. Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.

"8. No non-host party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

"c. The rights, responsibilities and obligations of a host state are as follows:

"1. To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.

"2. In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

"3. To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose such restrictive requirements on the siting or operation of a regional facility that, along or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of such a facility.

"4. Each host state shall submit to the Commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operations, and other information as may be required by the Commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction.

"5. A host state shall notify the Commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the Commission. The Commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

"ARTICLE IV. THE COMMISSION

"a. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The Governor shall notify the Commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence.

"b. Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative.

"c. The Commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The Commission shall adopt and

publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.

"d. The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

"e. All meetings of the Commission shall be open to the public with reasonable prior public notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.

"f. The Commission may establish such committees as it deems necessary.

"g. The Commission may appoint, contract for, and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

"h. The Commission shall adopt an annual budget for its operations.

"i. The Commission shall have the following duties and powers:

"1. The Commission shall receive and act on the application of a non-party state to become an eligible state in accordance with Article VII(e).

"2. The Commission shall receive and act on the application of an eligible state to become a party state in accordance with Article VII(b).

"3. The Commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

"4. Upon request of party states, the Commission shall mediate disputes which arise between the party states regarding this compact.

"5. The Commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V.

"6. The Commission may conduct such legislative or adjudicatory hearings, and require such reports, studies, evidence and testimony as are necessary to perform its duties and functions.

"7. The Commission shall establish by regulation, after public notice and opportunity for comment, such procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.

"8. In accordance with the procedures and criteria set forth in Article V, the Commission shall accept a host state's proposed facility as a regional facility.

"9. In accordance with the procedures and criteria set forth in Article V, the Commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities.

"10. The Commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of Commission responsibilities.

"11. The Commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the Commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and of relevant environmental, economic, and public health factors, as defined by the appropriate regulatory authorities.

"12. The Commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the Commission and approved by the affected host states.

"13. The Commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the Commission. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.

"14. The Commission may impose sanctions, including but not limited to, fines, suspension of privileges and revocation of the membership of a party state in accordance with Article VII. The Commission shall have the authority to revoke, in accordance with Article VII(g), the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the Commission.

"15. The Commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with Articles V and IX.

"16. The Commission shall review the capability of party states to ensure the siting, operation, post-closure observation and maintenance, and institutional control of any facility within its borders.

"17. The Commission shall review the compact legislation every five years prior to federal congressional review provided for in the Act, and may recommend legislative action.

"18. The Commission has the authority to develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

"j. There is hereby established a Commission operating account. The Commission is authorized to expend monies from such account for the expenses of any staff and consultants designated under section (g) of this Article and for official Commission business. Financial support of the Commission account shall be provided as follows:

"1. Each eligible state, upon becoming a party state, shall pay $70,000 to the Commission, which shall be used for administrative cost of the Commission.

"2. The Commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V.

"3. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the Commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

"(a) 20 percent in equal shares;

(b) 30 percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U.S. census;

"(c) 50 percent in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.

"k. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission accounts and funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV(i)(3).

"l. The Commission may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loans, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the Commission.

"m. The Commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the Commission shall not be deemed liabilities of the party states, nor shall members of the Commission be personally liable for action taken by them in their official capacity.

"1. The Commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.

"2. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

"n. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the Commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 U.S.C. § 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission as set forth in the paragraph below.

"o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

"1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision.

"2. In the event that review is sought of the Commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.

"3. The courts shall not substitute their judgment for that of the Commission as to the decisions of policy or weight of the evidence on questions of fact. The Court may affirm the decision of the Commission or remand the case for further proceedings if it finds that the petitioners has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are:

"a. in violation of the Constitution of the United States;

"b. in excess of the authority granted to the Commission by this compact;

"c. made upon unlawful procedure to the detriment of any person;

"d. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

"4. The Commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

"ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

"a. The Commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

"1. a current inventory of all generators within the region;

"2. a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

"3. consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

"4. reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

"b. The Commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its post-closure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.

"1. Any party state may volunteer to host a regional facility within its borders. The Commission may set terms and conditions to encourage a party state to volunteer to be the first host state.

"2. Consistent with the review required above, the Commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

"c. If all regional facilities required by the regional management plan are not developed pursuant to section (b), or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the Commission shall convene to consider designation of a host state.

"1. The Commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The Commission shall base its decision on the following criteria:

"a. the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;

"b. the environmental, economic, and social effects of a regional facility on the party states;

"The Commission shall also base its decision on the following criteria:

"c. economic benefits and costs;

"d. the volumes and types of waste generated within each party state;

"e. the minimization of waste transportation; and

"f. the existence of regional facilities within the party states.

"2. Following its established criteria and procedures, the Commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

"3. The Commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.

"4. A party state which has been designated as a host state by the Commission and which fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"d. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.

"1. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.

"2. To the extent not prohibited by Federal law, a host state shall ensure the safe operation, closure, post-closure observation and maintenance, and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the Commission on the status of the post-closure and institutional control funds and the remaining useful life of the facility.

"3. A host state shall solicit comments from each party state and the Commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.

"e. A host state intending to close a regional facility within its borders shall notify the Commission in writing of its intention and reasons therefore.

"1. Except as otherwise provided, such notification shall be given to the Commission at least five years prior to the scheduled date of closure.

"2. A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the Commission in writing within three days of its action and shall, within 30 working days, show justification for the closing.

"3. In the event that a regional facility closes before an additonal or new facility becomes operational, the Commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

"f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.

"1. A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

"2. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

"3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the costs and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.

"4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such sur-

charges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

"ARTICLE VI. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended.

"b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.

"c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.

"d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.

"e. Except as provided for in Article III(b)(2) and (c)(3), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.

"f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.

"g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its borders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact.

"h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the Commission to suspend or terminate a party state's membership and privileges under this compact.

"i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are hereby repealed and declared null and void. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.

"j. Subject to Article III(c)(2), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is hereby repealed.

"ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. The initially eligible parties to this compact shall be the eleven states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.

"b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees required by Article IV(j)(1). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV(j)(1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.

"c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enacted into law by three party states and consent given to it by the Congress.

"d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII(b) shall immediately, upon the appointment of their Commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.

"1. The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.

"2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (b) of this Article.

"e. Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

"f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.

"g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the Commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a Commission decision suspending or revoking party state status, the Commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.

"h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no such withdrawal shall take effect until five years after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.

"1. Upon receipt of the notification, the Commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.

"2. A regional facility in a withdrawing state shall remain available to the region for five years after the date the Commission receives written notification of the intent to withdraw or until the prescheduled date of closure, whichever occurs first.

"i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.

"1. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections (b) and (e) of this Article.

"2. The withdrawal of a party state from this compact under section (h) or the revocation of a state's membership in this compact under section (g) of this Article shall not affect the applicability of the compact to the remaining party states.

"ARTICLE VIII. PENALTIES

"a. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the facility in the host state.

"b. Without the express approval of the Commission, it shall be unlawful for any

person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

"c. Unless specifically approved by the Commission and affected host state(s) pursuant to Article IV, it shall be a violation of this compact for: 1) any person to deposit at a regional facility waste not generated within the region; 2) any regional facility to accept waste not generated within the region; and 3) any person to export from the region waste generated within the region.

"d. Primary responsibility for enforcing provisions of the law will rest with the affected state or states. The Commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

"ARTICLE IX. COMPENSATION PROVISIONS

"a. The responsibility for ensuring compensation and clean-up during the operational and post-closure periods rests with the host state, as set forth herein.

"1. The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage (except any possible claims for diminution of property values) due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.

"2. The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this article alters the liability of any person or governmental entity under applicable state and federal laws.

"b. The Commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

"1. The Commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the Commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.

"2. The existence of this fund or other means of compensation shall not imply any liability by the Commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the Commission, by regulation, directs otherwise.

"c. Not withstanding any other provisions, the Commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and post-closure periods, as the Commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this Commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure period.

"d. The liability of the Commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the Commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation consenting to seven interstate compacts providing for the disposal of low-level radioactive waste.

I commend the States involved, as well as the Members who have sponsored these seven consent bills.

The seven compacts are the northwest interstate compact, central interstate compact, southeast interstate compact, central midwest interstate compact, midwest interstate compact, Rocky Mountain compact, and northeast interstate compact. Both the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs reported seven bills consenting to the compacts with conditions. Those bills were H.R. 862, 1046, 1267, 2062, 2635, 2702, and 3372. The legislative history in the reports of the two committees is intended to govern. We have combined the seven bills to expedite floor consideration.

The consent bills have all been amended to place them in accord with the bill just passed to amend the Low-Level Radioactive Waste Policy Act. All actions taken by the compact commissions must be consistent with that act, as amended by the bill just passed. This assures that the transitional access and emergency access provisions of that act will be fully implemented, and that the compacts cannot override these provisions.

The compacts cannot override Federal laws or reduce in any way the jurisdiction of Federal agenices or the courts. This limitation is fully explained in our committee reports on the consent bills.

I am pleased to support the approval of these compacts. Once again, I commend the States and the Members who sponsored these bills for their hard work on these bills.

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Mr. Speaker, I especially want to compliment the chariman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], for the long hours and hard work he put into this to make it possible for us to have such an amicable passage of this bill on its final day.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I thank the gentleman, and I wish to indicate my support for the legislation.

This is, as the gentleman has outlined, a companion to the bill just passed, and it has been a real pleasure and a joy to work with the gentleman and his staff on some really thorny and complicated issues. I think we have taken a good step for the country here today.

Mr. MARKEY. Mr. Speaker, I agree with the gentleman, and I compliment him.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we found ourselves in a situation where we had to do something about these compacts among the States because otherwise we would then have no place to put the low-level nuclear waste. So this is a responsible action, an action that should be taken.

Mr. Speaker, I yield to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of this important legislation supplemental to the bill that we just adopted, H.R. 1083. This approves the compacts in 7 areas of the United States, including all but 13 States in the United States.

It will enable us to go forward with our Federal Low-level Radioactive Waste Policy Act of 1980, and I ask for the support of the Congress.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like, in conclusion to this process, to compliment the ranking minority member on our subcommittee, the gentleman from California [Mr. MOORHEAD]. It has been a long, difficult course that we have taken over this past year in putting together this legislation. It has required considerable compromise on both sides to get legislation to this point. I think that all of us are proud of the final product, and I for one want to compliment him and compliment his staff for the work that they did.

Mr. CAMPBELL. Mr. Speaker, let me begin by congratulating the 37 States which have entered into regional compacts designed to regulate the disposal of low-level nuclear waste. This is a step in the right direction as we begin to work toward a comprehensive, safe, and efficiently managed disposal process for this waste.

Today the House will consider legislation that begins to address the issue of low-level nuclear waste storage. H.R. 3878 is the backbone to a regional solution to waste storage, proving that States are willing to work together in order to insure a safe disposal of this hazardous waste.

Again, I commend those States who have fashioned these compacts. I support this needed legislation and we should pass it.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3878.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3878, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL TECHNOLOGY TRANSFER ACT OF 1985

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3773) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Transfer Act of 1985".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 15 through 18, and by inserting immediately after section 11 the following new section:

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) GENERAL AUTHORITY.—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

"(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations including corporations, partnerships, and limited partnerships; industrial development organizations; public and private foundations; nonprofit organizations including universities; licensees of Federal inventions; or other persons; and

"(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities.

"(b) ENUMERATED AUTHORITY.—Under agreements described in subsection (a)(1), a Government-operated Federal laboratory shall have the authority (subject to subsection (c) of this section)—

"(1) to grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made by a Federal employee, or made jointly by a Federal employee and an employee of the collaborating party, under the agreement, retaining such rights as the Federal laboratory deems appropriate; and

"(2) to waive in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made by a collaborating party or employee of a collaborating party under the agreement.

"(c) AGENCY PLAN.—(1)(A) Within 180 days after the election by any Federal agency to implement subsection (a), revised regulations or instructions for that agency's cooperative research and development program shall be drafted or modified. The revised regulations or instructions need not apply to cooperative agreements entered into prior to the effective date of such regulations or instructions. Such revised regulations or instructions shall—

"(i) if they give the head of the agency or his designee an opportunity to disapprove or require the modification of any such agreement, provide a 30-day period beginning on the date the agreement is presented to him or her by the head of the laboratory concerned within which such action must be taken;

"(ii) give special consideration to small business firms, and consortia involving small business firms;

"(iii) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such invention will be manufactured substantially in the United States;

"(iv) establish employee standards of conduct for resolving potential conflicts of interest, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed); and

"(v) contain other elements deemed appropriate by the agency.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

"(C) If, in implementing subparagraph (A)(iv), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

"(2) Each agency shall maintain a record of all agreements entered into under this section.

"(d) DEFINITION.—As used in this section, the term 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the laboratory or laboratories will provide personnel, services, facilities, equipment, or other resources (but not funds to non-Federal parties) and the non-Federal party or parties will provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the agency; except that such term does not include a procurement contract as that term is used in section 6303 of title 31, United States Code, or a cooperative agreement as that term is used in section 6305 of such title.

"(e) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which shall be within the National Science Foundation and which, in cooperation with Federal laboratories and the private sector, shall—

"(A) develop and administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations, except that such techniques, courses, and materials may be administered only with the consent of the Federal laboratory concerned;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests for technical assistance from States and

units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Technical Information Service, refer such requests to that Service; and

"(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish technical volunteer service programs for the purpose of providing technical assistance to communities related to such laboratory;

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations; and

"(I) establish advisory committees in each Federal laboratory consortium region composed of representatives from State and local governments, large and small business, universities, and other appropriate persons to advise on the effectiveness of the program (and the members of any such advisory committee shall serve at no expense to the government).

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more member laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Science Foundation shall provide the Consortium on a reimbursable basis with administrative services, such as office space, personnel, and support services of the Foundation, as requested by the Consortium and approved by such Director.

"(5) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (6), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(6)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Science Foundation at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Foundation to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer may be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, are authorized to provide such additional support for operations of the Consortium as they deem appropriate.".

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

"(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b) RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking out "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by inserting immediately before the next to last sentence the following new sentence: "Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.";

(C) by striking out "requirements set forth in (1) and/or (2) of this subsection" in the next to last sentence and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(D) by striking out "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by inserting "all" before "federally owned" in paragraph (2);

(C) by striking out "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,"; and

(D) by striking out "in response to requests from State and local government officials" in paragraph (4) and inserting in lieu thereof "to State and local government officials".

(c) DISSEMINATION OF TECHNICAL INFORMATION.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

"(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests need a response involving more than the published information available to the Service;";

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking out "(c)(4)" in subsection (4) as so redesignated and inserting in lieu thereof "(c)(3)".

(d) AGENCY REPORTING.—Section 11(f) of such Act (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this Act) is amended—

(1) by striking out "prepare biennially a report summarizing the activities" in the first sentence and inserting in lieu thereof "report annually to the Congress, as part of the agency's annual budget submission, on the activities"; and

(2) by striking out the second sentence.

(e) FUNCTIONS OF THE SECRETARY.—Section 11 of such Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) FUNCTIONS OF THE SECRETARY.—The Secretary, in consultation with other Federal agencies, may—

"(1) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

"(2) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(3) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development program and projects.".

SEC. 5. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 12 the following new section:

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

"The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial applications or due to contributions to missions of the Federal agency or the Federal government, or

"(2) exemplary activities that promote the domestic transfer of science and technology developed within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.".

SEC. 6. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 13 the following new section:

"SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 12, and from inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law shall be retained by the agency involved in the production of the income. Such funds shall be transferred by the agency to its Government-operated laboratories, with the major share of the royalties or other income from any invention going to the laboratory where the invention occurred; and the funds so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(A) for payment of expenses incidental to the administration and licensing of inventions by that laboratory or by the agency with respect to inventions which occurred at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for invention management and licensing services;

"(B) to reward scientific, engineering, and technical employees of that laboratory as part of the agency's reward program established pursuant to the preceding section of this Act; provided that any payment made under this paragraph shall be in addition to the regular pay of the employee involved and to any other awards made to that employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof;

"(C) to further scientific exchange among the government-operated laboratories of the agency; or

"(D) for scientific research and development, for education and training of employees of that consistent with the research and development mission and objectives of the agency, and for other activities that increase the licensing potential for transfer of the technology of the Government-operated laboratories of the agency.

Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.

"(2) If the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated for the purposes described in subparagraphs (A) through (C) of paragraph (1) during that fiscal year or the succeeding fiscal year. Any funds not so used or obligated shall be paid into the Treasury of the United States.

"(b) CERTAIN ASSIGNMENTS.—In the event that the invention involved was one assigned to the Federal agency—

"(1) by a contractor, grantee, or party to a cooperative agreement with the agency, or

"(2) by an employee of the agency who was not working in a Government-operated laboratory at the time the invention was made,

the agency unit that funded or employed the entity that made such assignment shall be considered to be a Government-operated laboratory for purposes of this section.

"(c) REPORTS.—In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.".

SEC. 7. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) REPEAL OF NATIONAL INDUSTRIAL TECHNOLOGY BOARD.—Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

(b) CHANGES IN TERMINOLOGY OR ADMINISTRATIVE STRUCTURE.—(1) Section 3(2) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by striking out "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(2) Section 4 of such Act is amended—

(A) by striking out "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking out " 'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof " 'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking out "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking out paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking out "owned and funded" in paragraph (6) as so redesignated and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act is amended by striking out "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation".

(4) Section 5(b) of such Act is amended by striking out "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary".

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS."

(7) Section 6(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act is amended by striking out "basic and applied".

(9) Section 6(e) of such Act is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35, United States Code, shall apply to the extent not inconsistent with this section.".

(10) Section 6(f) of such Act is repealed.

(11) The heading of section 8 of such Act is amended by striking out "CENTERS FOR INDUSTRIAL TECHNOLOGY" and inserting in lieu thereof "COOPERATIVE RESEARCH CENTERS".

(12) Section 8(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(c) RELATED CONFORMING AMENDMENT.—Section 210 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1985, shall take precedence over the provisions of this chapter to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with such chapter.".

(d) ADDITIONAL DEFINITIONS.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

"(11) 'Small business firm' means a small business concern as defined in section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.".

(e) REDESIGNATION OF SECTIONS TO REFLECT CHANGES MADE BY PRECEDING PROVISIONS.—(1) Such Act (as amended by the preceding provisions of this Act) is further amended by redesignating sections 11 through 18 as sections 10 through 17, respectively.

(2)(A) Section 5(d) of such Act is amended by inserting "(as then in effect)" after "sections 5, 6, 8, 11, 12, and 13 of this Act".

(B) Section 8(a) of such Act is amended by striking out the last sentence.

(C) Section 9(d) of such Act is amended by striking out "or 13" and inserting in lieu thereof "or 12".

(3) Section 13(a)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "section 12" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 11".

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FUQUA] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the committee amendments to the Stevenson-Wydler Act of 1980.

It is now 5 years since the Congress with overwhelming bipartisan support sent the Stevenson-Wydler Act to the President for his signature. That act helped usher in a new era of cooperation in research between the public and private sectors. We in the Congress had recognized the need to take advantage of the unique contributions universities and Federal laboratories could make to the effort to stimulate our economy if encouraged to cooperate with private industry.

The stated purpose of this act was "to improve the economic, environmental, and social well-being of the United States by: First, establishing organizations in the executive branch to study and stimulate technology; second, promoting technology development through the establishment of centers for industrial technology; third, stimulating improved utilization of federally funded technology developments by State and local governments and the private sector; fourth, providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and fifth, encouraging exchange of scientific and technical personnel among industry, and Federal laboratories."

These ideas that were new then, are now almost universally accepted. The act's passage provided the spark for much of its intent to be carried forward by States and local governments as well as the Federal agencies originally given the responsibility.

Five years of experience under the Stevenson-Wydler Act have pointed up a variety of changes that should be made in the act. In addition, several very sound ideas to supplement the Stevenson-Wydler Act were proposed in H.R. 695 by Congressman MICHEL and H.R. 1572 by Congressman LUNDINE.

The Science Committee held hearings on the Stevenson-Wydler Act, including H.R. 695 and H.R. 1572, last May. Rather than to focus exclusively on one bill, the committee chose to review the entire act and then draft a set of Stevenson-Wydler Act amendments to bring that act up to date and to incorporate the best ideas of both H.R. 695 and H.R. 1572.

Mr. LUJAN, Mr. MICHEL, Mr. LUNDINE, and the entire membership of the subcommittee which first considered the Stevenson-Wydler amendments joined me in introducing that clean bill, which we are considering today. H.R. 3773 contains a package of amendments which conform the original Stevenson-Wydler Act to the ways technology transfer is conducted today. Furthermore, it provides important new initiatives in the areas of cooperative research and development and rewarding of Federal inventors. Finally, it puts the Federal laboratory consortium, which is a real key to better technology transfer, on a firmer legislative and financial footing. I urge my colleagues to lend their support to what I view as an important piece of legislation.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to our minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I wish to express my sincere thanks and appreciation to the gentleman from New Mexico [Mr. LUJAN] for yielding time to me at the very outset of the debate on this legislation.

As one of the authors of H.R. 3773, the Federal Technology Transfer Act of 1985, I rise in support of the bill and strongly urge its adoption.

H.R. 3773 represents a compromise between H.R. 695, which I introduced on January 24, and H.R. 1572 introduced by Congressman STAN LUNDINE on March 19. On the Senate side, Senator DOLE has introduced a bill identical to H.R. 695, and I understand that the Senate Commerce Committee may shortly report a variation of that bill.

In a nutshell, the Federal Technology Transfer Act is designed to increase research cooperation between Federal laboratories and private entities, and would help clear the way for greater commercial use of the ideas and inventions resulting from such research.

At present, we have some 380 Federal laboratories, in such diverse fields as health, space, energy, agriculture, and defense. They spend upward of $17 billion a year, and employ one-sixth of the Nation's research workers.

Yet, despite this major effort, the National Governors' Association concludes in a recent report that—

These National Laboratories are far from having begun to realize their full potential as catalysts for close industry-university research cooperation or as collaborators in joint university/industry research.

I guess one of my pet peeves over the years is that we tend to fund so much in the way of research at the Federal level which seemingly just ends up on some shelf gathering dust. I can recall as a member of the Appropriations Committee asking the question time and again: "What has resulted from your research and what uses are we putting it to?" We frequently received rather elaborate answers to the first part of that question, but relatively little in the way of response when it came to practical application.

This is particularly damaging when it comes to our competitive position in the world market. We all know what our trade deficit is. We all know how our position as world leader in the areas of technology, innovation, engineering, and manufacturing has been eroding. While there are many reasons for this, certainly one of the significant ones is the failure of our industry to consistently translate new technology into competitive products.

But while many companies may not be fully taking advantage of our Nation's research, foreign nations have no qualms in this regard. Much of the research which is not being used domestically is, in fact, being used abroad. Foreign countries have access to any research that is not patented or licensed for use in this country, and many foreign governments, particularly the Japanese, are taking full advantage of this.

This was brought home graphically to us in my own district, where they tell me that Japanese representatives are frequently seen prowling the halls of the Agriculture Research Lab in Peoria looking for ideas. In fact, one of the scientists in that lab was awarded a medal by the Japanese Government for helping to solve some of their agriculture problems.

Now, I have no problem with us being a friendly neighbor, but when other nations use our research to better compete against us by developing products which they in turn often import back into the United States, I think that is going too far. It is time we take steps to turn this situation around, and that is what this bill is designed to do.

In the 96th Congress, we passed legislation—Public Law 96-517—which eased the patent and licensing requirements with respect to federally funded research in universities. The result has been an increased collaboration between universites and industry at an unprecedented rate. When universities have undertaken to market their federally funded inventions, they frequently find that industry is willing to provide additional funding to further

the development of such inventions or to branch out into related areas.

There is no reason why we should have a different standard for federally funded research in universities that we do research in Federal laboratories. Both are similar in nature an both ought to be treated basically the same. That's what H.R. 3773 seeks to accomplish.

The Federal Laboratory Review Panel of the White House Science Council has recommended greater collaboration between Federal laboratories and industry. But if industry is to become involved and provide resources and capital, it must be able to protect its investment through patent and licensing rights. Without this protection, such investment and ultimate commercialization of a research product will not take place.

I become particularly aware of this problem, and undertook the introduction of this bill as a result of a collaborative effort that is being undertaken in my hometown of Peoria.

The Peoria Economic Development Council is presently organizing an agiculture research and development consortium which would pull together a number of corporations involved in agriculture research along with the Department of Agriculture Regional Research Laboratory in Peoria and several universities for the purpose of undertaking combined research endeavors. It is also expected that venture capital will be provided to turn the research findings into usable commercial products. The potential for jobs and new business investment is considerable.

I should also mention that the Illinois Legislature has enacted legislation which provides $50 million in low-interest bond funds for agriculture research and development. This indicates the importance which the entire State of Illinois places on cooperative research endeavors. For this State program to become effective, Congress must enact H.R. 3773.

In a nutshell, H.R. 3773 does the following:

First, it authorizes agencies to permit their laboratories to enter into cooperative research and development arrangements with private entities. This includes accepting funds or services from, or provide services to, collaborating parties.

Second, it provides legal authority to laboratories to grant collaborating parties the rights to inventions made during such arrangements, and authorizes an agency to allow its laboratories to negotiate patent licenses.

Third, it provides creativity incentives to Government employees by requiring the creation of a cash awards program to reward employees for useful and commercialized inventions.

Fourth, it establishes a Federal laboratory consortium for technology transfer for the purpose of making both Federal scientists and businesses aware of the commercial potential of Federal research.

This bill will help us become more competitive in the world market, increase the use of federally funded research, and assist in the creation of additional jobs in this country.

In closing, I would be remiss if I did not commend the chairman of the full committee, Mr. FUQUA, and the subcommittee chairman, Mr. WALGREN, as well as ranking members MANNY LUJAN and SHERRY BOEHLERT for their assistance and cooperation in moving this legislation through the committee and onto the floor. I also thank the gentleman from New York [Mr. LUNDINE] as well as the committee staff for their cooperation and efforts in developing the compromises necessary to help move this legislation along.

I urge adoption of the bill.

□ 1440

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I thank the chairman, the gentleman from Florida [Mr. FUQUA].

Mr. Speaker, I would like to say that this is a good bill we have here today and one that reflects the contributions of both the chairman of the full committee, the gentleman from Florida [Mr. FUQUA]; and the ranking Members from the other side on the Science and Technology Committee, the gentleman from New York [Mr. BOEHLERT] and the gentleman from New Mexico [Mr. LUJAN]; and the contributions from our side, the interest of the gentleman from New York [Mr. LUNDINE] in particular sections of this bill. Obviously, when the minority leader speaks for a bill like this, came before our committee and testified for it, it is a bill that has wide attention, and its presence here today I think indicates how important it is to have the attention of the leadership.

This bill is another step in our attempt to make the Federal scientific establishment contribute more to how our society is able to function.

We have in this committee brought forward legislation on patent access by those involved with Federal research. We have extended the ways that private sector parties can cooperate on research without being subject to the antitrust laws. We are now building on the Stevenson-Wydler Act of 1980, which attempted to encourage technology transfer from the Federal laboratories.

This is a big enterprise that we are involved in. In many ways, this area is a lesson in what we should, I think, be able to appreciate of the Federal Government. We often kick the tires, and that is our role here ever since Mark Twain set that as a precedent. But the truth of the matter is that the Federal Government expends about $50 billion on research and development, and that is about one-half of the total in the whole society.

We have about $18 billion in the Federal laboratories. We have in those laboratories about one out of every six scientists in the United States. So when we do anything that encourages something to happen to that size of resources that our society commits, it is important that it be the right thing, and I think this legislation is certainly the right thing.

The bill does several things in particular. First, it specifically authorizes federally operated laboratories to enter into cooperative research and development arrangements with private sector entities, particularly the kind the gentleman from Illinois [Mr. MICHEL] was interested in, and that is a very key thing, because we know that technology transfer does not happen unless people work side by side. This is a way to bring scientists together in the laboratory itself so that ideas can ferment and the transfer take place.

The legislation also gives a home and limited funding to the Federal Laboratory Consortium, at present a voluntary group of technology transfer officers in all the Federal laboratories who were largely encouraged by the original Stevenson-Wydler Act, but who do need some limited funding in order to function in any kind of a nationwide capacity, and this bill provides a very small set-aside of Federal research funds in order to enable a network of communications to take place between transfer agents and gives them a home within the National Science Foundation.

The bill also directs that royalties which might be retained by the agencies for the kinds of developments that are made within the agency be directed in cash awards to those scientists that have participated in their development.

It is a good bill, one that can certainly enhance the technology transfer of this very large scientific enterprise that the Federal Government funds, and I urge support for the bill.

Mr. LUJAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of the bill. As a member of the Science and Technology Committee, I am a strong believer in the importance of ensuring that the technology and know-how resulting from Federal research effort is transferred to the private sector. The Federal Government funds about half of the total R&D in the United States. The civilian R&D agencies receive over $20 billion each year, if we ignore the tremendous amount of research activity done by the defense agencies.

The payoff for this comes when U.S. industry can turn this basic research into new products and technologies. In the past, U.S. leadership in the world arena has been a function of U.S. leadership and technology—this will be even more true in the future.

Recently, the President's Task Force on Industrial Competitiveness concluded that maintaining our technological leadership is critical to maintaining our economic leadership. The Federal Laboratory Review Panel's report, known as the Packard report, recommended increased interaction between the Federal laboratories and industry. Last year, Joint Economic Committees of Congress reviewed entrepreneurship and innovation, and made a series of recommendations to improve technology transfer from the Federal laboratories. In addition to these three reports, even the Grace Commission pointed out the need for this legislation.

Since the State of New Mexico has two DOE laboratories as well as an Air Force laboratory, I am well aware of the valuable research that is performed at Government laboratories. This bill has a strong bipartisan background. It originated from two bills introduced last spring that had both Democrats and Republican sponsors. I particularly want to commend Mr. MICHEL who introduced one of these bills for his outstanding leadership. I believe the bill we have brought to the floor today represents a strong consensus of all the parties involved. I also want to commend the governor from New York [Mr. LUNDINE], a member of our Committee. I urge my colleagues to lend their support to this legislation.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. LUNDINE], who is the author of one of the bills incorporated into this legislation.

Mr. LUNDINE. Mr. Speaker, I am very pleased to rise in support of H.R. 3773, the Technology Transfer Act of 1985. This legislation is designed to promote technology transfer from the Federal laboratories and represents a compromise between H.R. 695, introduced by Congressman MICHEL, and H.R. 1572, which I introduced last March. It also reflects careful consideration by the Science and Technology Committee and comments received from key agencies and technology transfer professionals.

It is clear if the United States is to regain its premier position in the international marketplace, we will have to do a better job of translating new technology into competitive products. One way the Federal Government can contribute to this process is by promoting more effective utilization of technology produced by Federal laboratories. The Federal Government funds approximately half of this country's total research and development and much of this work is performed in Government-owned laboratories. The President's Commission on Industrial Competitiveness agreed and recommended that the Federal Government manage its research and development with more concern for commercial application and competitiveness.

In my view, the Technology Transfer Act takes a step in this direction by promoting more effective utilization of the technology produced by Federal laboratories and encouraging cooperative research agreements between Government-operated labs and industry. The scientific and engineering expertise, the technology base, and the facilities and equipment within these laboratories are valuable national resources. This legislation allows these resources to be more readily shared with private companies wishing to develop new products and with local governments in need of technical solutions to their problems.

First, under this proposal, Federal agencies may permit directors of their Government-operated labs to enter into cooperative R&D agreements with universities, industry, industrial development organizations, units of State and local government and others. Interest in cooperative research is increasing especially from State and local technology transfer organizations. These relationships should be encouraged and easier access to Federal technology permitted.

H.R. 3773 would allow Federal scientists and engineers to work side by side with their university or industrial counterparts on projects that are cofunded by their institutions. I believe that research in the Federal laboratories can be better attuned to industrial needs without compromising the laboratories' missions and that the benefits that accrue to industry from the Federal share of the funding are in the national interest.

These cooperative R&D agreements would be subject to a few conditions. In negotiating agreements, preference must be given to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement will be manufactured substantially in the United States. I feel that taxpayer-supported Federal technology should be used to create jobs and income at home, not abroad. A small business preference is also included.

In addition, Federal laboratories would have the authority to negotiate patent rights and licensing agreements with the collaborating party in an agreement.

Second, to further promote technology transfer from the Federal laboratories, the proposal formally establishes the Federal Laboratory Consortium for Technology Transfer. The consortium is currently an ad hoc organization of representatives from over 300 Federal laboratories representing 11 Federal agencies. It has been the principal body during the last decade for networking between Federal laboratories and for facilitating technology transfer from the Federal sector. The effectiveness of the Federal Laboratory Consortium has been limited only by the resources available to it as an ad hoc organization.

H.R. 3773 recognizes the important contributions being made by the Federal Laboratory Consortium and the need to enhance the consortium's capabilities. This is accomplished by providing a temporary source of funding for the FLC and a home within NSF, not by altering the present nature of the consortium as an organization of tech transfer officials from throughout the Government.

Finally, the proposal will provide incentives for Federal laboratories and their employees. Agencies would be permitted to retain royalties or other income received from the licensing or assignment of inventions under agreements. These funds are to be used by Federal laboratories for a wide range of activities including the payment of cash awards to inventors.

The legislation also requires Federal agencies with laboratories to have cash awards programs for rewarding scientific and technical personnel for inventions. If this authority is used effectively, incentive awards programs will encourage creativity and innovation among scientists, engineers, and technical personnel of the Federal Government. They will also boost employee morale and productivity by making individuals aware that their contributions to technology transfer are important.

The scientific and engineering expertise, the technology base, and the facilities and equipment within our Federal laboratories are valuable national resources. Our proposal allows these resources to be more readily shared with business wishing to develop new products, with local governments in need of technical solutions to their problems and, with universities interested in enhancing their research capabilities.

Staying competitive in the future is going to be a long distance race—U.S. industry must be conditioned for endurance and constantly working toward improving its capacity to run, and win. I believe that this measure will improve our capacity to run, by promoting the transfer of technology with commercial application and I strongly urge its adoption by the House.

Mr. LUJAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT], the ranking member on the subcommittee.

Mr. BOEHLERT. Mr. Speaker, this bill addresses one of the fundamental problems confronting our Nation—the growing threat of foreign economic competition.

Our record trade deficits have sent many Members of Congress casting about for remedies, including new programs, new economic structures and new trade laws. Many of these proposals have merit; indeed, I've made a few myself and I'm proud of them.

But before we embark on any new, untried effort, we ought to be sure we're using our existing capabilities to the limit. That's exactly what H.R. 3773 does; it makes sure we're getting all we can out of our Federal laboratories.

Many Members may be unfamiliar with our enormous, vital network of Federal labs. There are about 400 of them, spending upward of $17 billion a year to keep our Nation at the forefront of scientific research.

But until recently, we did little to harness this vast enterprise for economic growth. Our international competitors were not so negligent. Many of the foreign products that are swamping our markets are the fruits of fundamental research that was conducted in the United States.

H.R. 3773 encourages cooperation between Federal laboratories, universities and private industry to ensure that the United States economy reaps the benefits of Federal research.

In today's economy, knowledge truly is power—if that knowledge is applied. If we do not fully take advantage of Federal research, other nations will take advantage of our mistake.

I applaud my leader, Congressman MICHEL, and my colleague from New York, a member of our committee, Congressman LUNDINE, for working together to draft this bipartisan measure. I am pleased and proud to be a coauthor. And I wish to commend the bipartisanship so evident from our committee leaders, Chairman FUQUA and the gentleman from New Mexico [Mr. LUJAN].

I urge my colleagues to support ths bill.

Mr. WALGREN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Speaker, I stand in support of this legislation. Also, I want to thank the gentleman from Pennsylvania for yielding me this time.

Mr. Speaker, as the gentleman knows, and also Chairman FUQUA and the gentleman from New Mexico [Mr. LUJAN], I served on this committee for 4 years while I was in Congress. I had the opportunity to author chapter 11 of the Stevenson-Wydler Act about 5 years ago which basically provided the set-aside of some dollars that go to research to be utilized for technology transfer.

□ 1455

I think Members may recall that I attemped to get 5 percent of the research dollars set aside for technology transfer. We failed there, but finally we got one-half of 1 percent.

So out in the Federal laboratories today, of various sizes, they are supposed to be designated someone to be the technology transfer agent. Mr. Speaker, there is only one problem that exists. Many of the individuals who are designated to be the technology transfer people for these labs do not understand what they are supposed to do. They have not been communicated with, they have not been trained, and as a result, many of them are not doing the job that is necessary.

There are a few good examples, I think, of people knowing that technology transfer is all about.

In order to remedy this, I have worked with the Commerce appropriation subcommittee and I have worked on trying to get a few dollars set aside for a nonprofit corporation that is in technology transfer to work with some of the Federal laboratories, because I think they need to have the experience of practitioners who have been working with technology transfer.

As the gentleman from New York just stated, we have a wealth of information that has been shelved from the research laboratories. We spend about $45 billion a year on research, but very little of that has been out there for the people of America, to try to get the research applied through technology transfer.

I think we are missing a bet if we do not make sure that we get from our research the information to solve technology problems. The only way a technology problem can be solved is through a new product or a new process. I think our Federal laboratories have the keys that will unlock many of the problems that exist out there, and I would like to urge my colleagues here in the House to vote for this particular bill, and also state that I hope what I have done in trying to get a few dollars to get a nonprofit, private corporation to work out to get technology transferred and to help train some of the people in the Federal laboratories so they know what they are doing will also blend in and help accomplish this purpose.

Mr. LUNGREN. Mr. Speaker, I would like to take this opportunity to commend the Committee on Science and Technology for this important expansion of the Stevenson Wydler Technology Innovation Act. As a member of the Joint Economic Committee, I was privileged last year to be able to conduct hearings in Silicon Valley, California, and route 128 in Massachusetts concerning the U.S. climate for entrepreneurship and innovation.

The consensus of our hearings was that the Stevenson-Wydler Act has made a contribution to the promotion of technology transfer but that more can and should be done. The central question concerning America today is how to encourage technological innovation so our economy can compete in an increasingly global market. The use of the resources and experience of the Federal laboratory system is one way to foster such innovation. The improved flow of technology from Government research can be an important component of national innovation policy. It is imperative for Government to develop improved mechanisms to allow for the identification of technology and experience within Federal laboratories and find ways of making this information known to the business community. Commercialization is a vital element of the innovation process whereby an idea is transformed into a marketable good or service. Although the Federal Government has a direct involvement in basic research, commercialization is the responsibility of the private sector. Thus technology transfer becomes a vital link between public and private sector roles in the innovation process.

Our hearings revealed that the primary deficiency of the present system of technology transfer is attributible to the lack of explicit incentives at the Federal laboratory level to network with private businesses, universities, and State and local governments. In addition, it became apparent that there is some ambiguity in the perception of Federal laboratories concerning whether they have authority to enter into transfer agreements with the private sector.

In our report published by the Joint Economic Committee we recommended the need to identify the Federal laboratory consortium as the primary coordinating organization for the promotion of technology transfer and to provide a statutory basis for the consortium.

In this regard H.R. 3773 addresses many of the concerns raised in our hearings in that it authorizes Government operated laboratories to enter into cooperative R&D agreements for commercialization, and by offering Federal employees and agencies financial incentives for technological innovation. It also clarifies the law by explicitly establishing in the statute the National Laboratory Consortium for Technology Transfer. I, therefore, urge my colleagues to join me in supporting this very important enhancement of the innovation process.

Mr. RITTER. Mr. Speaker, as vice-chairman of the 140-member Republican Task Force on High Technology Initiatives, and as a former university professor and research administrator who experienced first hand public and private sponsored research, I would like to share some views with you. Our Nation's industrial competitiveness and ability to create new jobs depends on the evolution and application of new technology.

A strong technological base is important to strengthen our economy and enhance opportunity. We need to remember that while there are additional steps that we can take to improve our position in world markets, we have done many things right. Our European trading partners have acknowledged the impressive gains in new job creation in the United States. They have expressed surprise in the positive results that have stemmed from lesser amounts of government intervention and greater dependence on private investment in the economy. In fact, many are now moving to reduce government intervention in their own economies. We seem to be moving in the right direction but certain steps are necessary to keep jobs we have and create new jobs.

However, the question remains, "How can we better transfer technology developed from billions of dollars invested in Federal programs which will provide more benefits to the products, markets and competitive position of U.S. firms in the private sector?"

H.R. 3773 is a positive step to increase the effectiveness of America's science and technology base in meeting our industrial competitors in both the domestic and overseas markets.

This bill will, on a permanent basis, establish an effective Federal laboratory consortium for technology transfer, greatly improving the original Stevenson-Wydler Act. It establishes incentives for national laboratories to apply R&D results in the marketplace by authorizing government laboratories to enter into cooperative R&D agreements with private industry, universities, nonprofit organizations, and other parties. Under these agreements the Federal laboratories could provide personnel, facilities, or equipment if non-Federal parties are willing to supply funds and other resources. It also directs Federal research agencies to provide cash bonuses to employees who develop promising new technologies, using royalties the agencies receive when their innovations are patented.

Through the adaption of amendments which I proposed in the Science and Technology Committee, this already excellent bill was enhanced in two ways: First, by ensuring that the Office of Research and Technology Application [ORTA's] responsible for technology transfer in the Federal/national labs are staffed with highly competent technical managers; and second, by establishing regional advisory committees, one-half of which will be composed of industry and small business representatives, to further strengthen the transition of technology needed by America's industrial infrastructure.

As business in this country works to remain competitive with increasingly efficient foreign companies, legislation such as H.R. 3773 will help to insure that our industry retains its technological advantage thereby keeping America strong.

Mr. WALGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend the rules and pass the bill, H.R. 3773, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3773, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

VETERANS' COMPENSATION AND HEALTH CARE AMENDMENTS OF 1985

Mr. APPLEGATE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1538) to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, as amended.

The Clerk read as follows:

H.R. 1538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Amendments of 1985".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$275";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$389";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$490";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$618";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$716";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$805";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,339";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,664" and "$2,332", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,664";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,834";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,086";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,332";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$1,001" and "$1,491", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,498"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$290".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$148"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$349" and inserting in lieu thereof "$361".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof of the following:

"Pay grade	*Monthly rate*
E-1	$492
E-2	507
E-3	519
E-4	553
E-5	568
E-6	580
E-7	609
E-8	642
E-9	[1] 671
W-1	622
W-2	647
W-3	666
W-4	705
O-1	622
O-2	642
O-3	688
O-4	727
O-5	801

"Pay grade	Monthly rate
O–6	903
O–7	976
O–8	1,070
O–9	1,149
O–10	[2] 1,258

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $724.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,349.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) striking out "$143" in subsection (c) and inserting in lieu thereof "$148"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 6. DEPENDENCY AND INDEMINITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$248";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$357";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$461"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$461" and "$93", respectively.

SEC. 7. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$148";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$248"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 8. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this Act shall take effect on December 1, 1985.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. APPLEGATE] will be recognized for 20 minutes and the gentleman from Askansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amended bill we bring to you today will provide a much needed 3.4 percent cost-of-living adjustment for over 2.2 million service-connected disabled veterans and to over 300,000 widows and children of veterans who lost their lives in service or who died from service-connected causes.

On October 24, the House passed H.R. 3500, the Omnibus Reconciliation Act of 1985. This bill included a provision for a 3.7-percent increase effective December 1, 1985. Since that time, it has been established that Social Security recipients and the non-service-connected veterans pension program are entitled to an automatic 3.1-percent increase which became effective December 1, 1985.

Mr. Speaker, last year when we authorized a COLA for service-connected programs, we provided a 3.2-percent increase. This was done in the early fall and was based on the anticipated increase in the Consumer Price Index. Later on, the actual changes in the CPI showed a 3.5-percent increase and that amount was automatically given to the Social Security and non-service-connected veteran pensioners. In other words, we failed by three-tenths of 1 percent to ensure that compensation for our service-connected veterans, to whom we owe our highest priority, does not fall behind in purchasing power.

Last week, the other body passed S. 1887, which includes a 3.1-percent increase. That bill has numerous additional provisions differing from our legislation which will require extensive and time-consuming negotiations to resolve. Because of the importance of the COLA to over 2.2 million disabled veterans and other 300,000 widows and children, I do not believe we should delay this adjustment of benefits for weeks, probably until next year, while we work out our differences on the other pending issues.

The amendment we bring to you today for a 3.4-percent increase is $25 million less than the 3.7-percent increase we passed October 24 in H.R. 3500 but is above the amount proposed by the other body.

Mr. Speaker, the other body justified their 3.1 percent increase as being fair and equitable. I too believe in fairness and equity. I ask you to remember that service-connected veterans and widows were short-changed last year. It was our objective last year and this year to ensure that disabled veterans' compensation keeps pace with inflation. Because we approved legislation early last fall that contained an inadequate adjustment, simple justice mandates that we make up that shortage this year, no more, and no less.

The 3.4-percent in our bill today not only catches up with inflation but represents a compromise between the previous bills passed by both bodies. I urge approval of the bill and I also urge my colleagues to stand firm in our dealings with the other body to ensure that veterans' compensation does not lag behind the rate of inflation.

Mr. Speaker, in view of the lateness of the House and since we are not making a lot of progress with the other body in resolving the differences between the Senate and the House-passed compensation bills, we need to send a clean compensation COLA bill to the other body to assure that veterans receive an increase in their checks at the earliest possible time. In the meantime, we can continue to attempt to resolve our differences with the other body on mattters not related to the compensation and DIC programs.

Mr. Speaker, I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1538, as amended. This bill is a bipartisan effort by the House Veterans' Affairs Committee to separate the cost-of-living adjustment for veteran's disability compensation, and dependency and indemnity compensation from other issues on which we differ with the other body.

Mr. Speaker, it is time that the veterans of this Nation received their COLA. As it now stands, when one is passed, it will have to be retroactive to December 1, 1985.

We, therefore, must move the COLA along. The other body passed a 3.1-percent compensation increase just a few days ago, after we passed a 3.7-percent increase on October 24, 1985. With this bill, we propose 3.4 percent, which is higher than the 3.1 percent for Social Security, in order to make up for a COLA which last year was lower than that given to Social Security recipients. This is fair and helps to maintain a parity between the various adjustments.

The continuing able leadership on this measure of SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee; of Mr. APPLEGATE, chairman of the Subcommittee on Compensation, Pension, and Insurance; and of Mr. SOLOMON, ranking member of the subcommittee, should be acknowledged, and I congratulate each of the gentlemen for their essential roles in this legislation.

I urge each Member to support H.R. 1538, as amended, so that America's veterans and their survivors will have their increased benefits as soon as possible.

Mr. Speaker, I yield such time as he may consume to the ranking member of the subcommittee, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding this time to me to urge support for this important bill.

Mr. Speaker, as the ranking Republican member of the Veterans' Subcommittee on Compensation and Pensions, I hope every Member of this House will join with me in supporting this important bill.

This COLA increase is essential for the more than 2½ million service-connected disabled veterans and the

widows and children of veterans who have sacrificed their lives in defense of our great Nation.

The backgound behind this bill has already been presented, so I will not repeat it.

The simple fact of the matter is that unless we pass this straightforward 3.4 percent COLA today, we will be tied up in conference with the other body for some time, while our veterans and their dependents fall even farther behind in purchasing power.

Passage of this measure is important to ensure equity among other groups that receive COLA's and it is essential if we are to correct the COLA shortfall borne by these beneficiaries last year.

I should also point out to my colleagues the fine leadership of Chairman SONNY MONTGOMERY, JOHN PAUL HAMMERSCHMIDT, and Mr. APPLEGATE, the chairman of the Compensation Subcommittee with whom I am proud to serve, as well as all of the staff who always do an excellent job.

By bringing this expedited COLA bill to the floor today, they have once again demonstrated their unswerving dedication to our veterans and their families.

I strongly urge my colleagues to join with us in passing this bill, so the COLA can be paid as soon as possible.

□ 1505

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. APPLEGATE. Mr. Speaker, I just want to commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT] the ranking Member of the full committee, as well as the gentleman from New York [Mr. SOLOMON] ranking Member of the subcommittee, and the gentleman from Mississippi [Mr. MONTGOMERY] chairman of the full committee for all of the efforts and work that have been put into bringing this bill to where it is today, and also for the work that is being done in the conference committee to resolve the differences between the House and the Senate on the measure, H.R. 3500.

Mr. MONTGOMERY. Mr. Speaker, I support H.R. 1538, as amended. On October 24, 1985, we passed a 3.7-percent compensation and DIC cost-of-living adjustment as part of the reconciliation bill. The other body waited until last Monday to pass its compensation and DIC bill (S. 1887). Included in the Senate bill are many other provisions that our committee has not had an adequate opportunity to review.

In view of the lateness of the hour and since we are not making a lot of progress with the other body in resolving the differences between the Senate and House-passed compensation bills, we need to send a clean compensation COLA bill to the other body to assure that veterans receive an increase in their January checks.

In the meantime, we can continue to attempt to resolve our differences with the other body on matters not related to the compensation and DIC programs.

I urge my colleagues to support the bill.

H.R. 1538, as amended, would provide a 3.4-percent increase based on the latest CPI, adjusted to take care of a 3-percent shortfall in last year COLA. it is a fair and equitable proposal.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 1538, legislation authorizing a 3.4-percent cost-of-living adjustment [COLA] in the disability compensation and dependency and indemnity compensation [DIC] rates for our deserving veterans and their spouses. I would like to extend my appreciation to the gentleman from Ohio [Mr. APPLEGATE], for bringing this legislation before the full House today.

There are two primary programs through which the Federal Government provides financial compensation to veterans and their families for losses attributable to military service. The disability compensation program compensates disabled veterans based on the extent of their disability, for impaired earning capacity resulting from military service. The dependency and indemnity program [DIC] provides partial compensation for the loss of financial support, to the designated spouse and/or children of a veteran who dies of service-connected causes. These programs are vital to the well-being and economic health of thousands of veterans and their families; veterans who served our Nation valiantly and without regard for their own personal safety. I am pleased to be able to speak in support of this legislation.

The House addressed the COLA issue for our veterans earlier this fall when we considered H.R. 3500, the Omnibus Reconciliation Act of 1985. Due, in part, to a full legislative calendar and the many differences which exist between this measure and the Senate companion bill, H.R. 3500 is still tied up in a conference committee. In the interest of moving this matter forward—the original legislation placed the effective date for the COLA at December 1, 1985—the Committee on Veteran's Affairs has acted judiciously and brought separate legislation, H.R. 1538, before us today so that our veterans do not have to wait for the COLA to which they are entitled and which they have been told they would be receiving. In accordance with this measure, veterans and their families currently receiving benefits under the disability compensation and the dependency and indemnity compensation programs, will receive a 3.4-percent COLA retroactive to December 1, 1985.

Accordingly, I urge my colleagues to act swiftly in adopting this worthy legislation so that our service-connected disabled veterans and their families will receive the full benefits to which they are entitled.

Mr. APPLEGATE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. APPLEGATE] that the House suspend the rules and pass the bill, H.R. 1538, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 1538.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TEMPORARY PLACEMENT OF BUST OF DR. MARTIN LUTHER KING, JR., IN ROTUNDA OF CAPITOL FOR DEDICATION CEREMONIES

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 84) to authorize the temporary placement of a bust of the late Dr. Martin Luther King, Jr., in the rotunda of the Capitol for dedication ceremonies, and for other purposes.

The Clerk read as follows:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), That (a) the Joint Committee on the Library is authorized to place temporarily in the rotunda of the Capitol in January of 1986 the bust of the late Doctor Martin Luther King, Junior, as authorized by House Concurrent Resolution 153, ninety-seventh Congress, and to hold dedication ceremonies in the rotunda at that time. This bust shall remain on display in the rotunda for a period not to exceed one year, after which time the bust shall be moved to its permanent location. The Architect of the Capitol is authorized to make the necessary arrangements for the placement of the bust.

SEC. 2. (a) The proceedings of the dedication ceremony in the rotunda of the Capitol at the presentation by the Joint Committee on the Library of the bust of the late Doctor Martin Luther King, Junior, together with appropriate illustrations and other pertinent matter, shall be printed as a Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on the Library.

(b) The Joint Committee on Printing shall bind and print five thousand additional copies of the Senate document prepared pursuant to subsection (a), in such style as the Joint Committee on Printing shall direct, and shall make such copies available to the Joint Committee on the Library for further distribution.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 84 authorizes the temporary placement of a bust of the late Dr. Martin Luther King, to be placed in the rotunda of the Capitol, for dedication ceremonies in January 1986. The memorial sculpture, authorized in the 97th Congress shall remain on display in the rotunda for a period not to exceed 1 year. It shall then be moved to a permanent site selected by the Joint Committee on the Library.

The resolution also provides the customary and necessary authority for the Architect of the Capitol to make the arrangements for the placement of the bust, and authorizes the publication by the Joint Committee on the Library of the proceedings of the ceremony.

The printing cost estimate provided by the Government Printing Office is as follows: First 1,500 copies, $3,885; 5,000 additional copies, $2,860; total, $6,745.

Mr. Speaker, this placement will coincide with the first national holiday of Dr. King, befittingly, which will be celebrated for the first time January 20, 1986.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume just to state that we have no objection to this being brought up under suspension of the rules.

Mr. Speaker, I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and concur in the Senate concurrent resolution, (S. Con. Res. 84).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

SEAFOOD MARKETING COUNCILS ACT

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2935), to promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be cited as the "Seafood Marketing Councils Act".

SEC. 2. FINDING.

The Congress finds that it is in the national interest to promote the consumption of fish and fish products.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) strengthen the competitive position of the United States seafood industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States industry;

(3) encourage the utilization of domestically produced fish and fish products through market enhancement, promotion, and public relations;

(4) encourage the United States fishing industry to develop methods to improve product quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish and fish products;

(6) educate and inform the public about the nutritional and dietary value of fish and fish products; and

(7) enhance the role of the private sector in promoting the consumption of fish and fish products.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "council" refers to a seafood marketing council established under section 5.

(3) The term "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish and fish products.

(4) The term "fish" means finfish, molluscs, crustaceans, and all other forms of marine and freshwater life used for human consumption.

(5) The term "fish processing vessel" means a vessel that is used for the preparation of fish or fish products, other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling, for commercial sale.

(6) The term "fish product" means a product used for human consumption that consists, in whole or in part, of fish.

(7) The term "handle" means—

(A) the sale of fish and fish products by harvesters to receivers;

(B) the purchase of fish and fish products by receivers from harvesters; or

(C) the importation of fish and fish products by importers.

(8) The term "marketing and promotion" means an activity aimed at encouraging the consumption of fish and fish products or expanding or maintaining commercial markets for fish and fish products.

(9) The term "person" means—

(A) any individual who is a citizen or national of the United States;

(B) any group of individuals described in subparagraph (A); or

(C) any partnership, corporation, association, cooperative, or other private entity organized or existing under the laws of the United States or any State, commonwealth, territory, or possession of the United States.

(10) The term "quality standard" means a standard reflecting the relative degree or level of excellence of a fish or fish product.

(11) The term "research" means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products.

(12) The term "sector" means any of the following:

(A) The harvesting sector consisting of persons in the business of catching fish for purposes of sale.

(B) The importing sector consisting of persons in the business of importing fish or fish products into the United States or who acts as agents, brokers, or consignees for any person or nation that produces fish or fish products outside of the United States for sale in the United States.

(C) The marketing sector consisting of persons in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products.

(D) The processing sector consisting of persons in the business of preparing or packaging fish or fish products for sale and who are not receivers.

(E) The receiving sector consisting of owners of fish processing vessels and of persons in the business of acquiring fish directly from harvesters.

(F) The consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products.

(13) The term "United States" means the several States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

SEC. 5. COUNCIL ESTABLISHMENT.

(a) IN GENERAL.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6).

(b) APPLICATION.—An application for a charter for a council shall be made by filing with the Administrator the text of a proposed charter in such form as shall be prescribed by regulation by the Administrator. The text of a proposed charter must contain such information as the Administrator considers necessary or appropriate for carrying out the provisions of this Act, including but not limited to—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and the fish products for which the council will implement marketing and promotion plans under section 6;

(4) the identification of each sector and the number and terms of representatives thereof that will be represented as voting members of the council;

(5) the identification of those sectors (including harvesters, receivers and, if subject to assessment, importers) subject to a referendum to establish a council under subsection (e);

(6) a specification for each sector described under paragraph (5) of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in that referendum;

(7)(A) a description of the procedures for determining assessment rates under section 8;

(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum and the procedures for selecting a council chairman;

(9) a provision setting forth the voting procedures applicable to absentee council members; and

(10) such other provisions relating to Council administration as the Administrator deems necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to in this Act as "sector participants") that are considered by the applicants to meet the requirements specified in paragraph (6). The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 8, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) COUNCIL REQUIREMENTS.—The Administrator may not approve a proposed charter filed under subsection (a) unless the proposed council meets the following requirements:

(1) The council must have voting members representing the harvesting, receiving and, if subject to assessment, the importing sectors.

(2) The members of a council shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as council members.

(d) APPROVAL OF PROPOSED CHARTERS BY ADMINISTRATOR.—(1) Within 180 days of the receipt of an application to establish a council, the Administrator shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements, specified under subsection (b)(6), for eligibility to participate in the referendum under subsection (e);

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) who collectively accounted for, in the twelve-month period immediately preceding the month in which the application was filed, not less than 10 per centum of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by each sector identified in accordance with subsection (b)(5) during that period; and

(C) determine if the proposed charter is consistent with the provisions of this Act and any other applicable law.

(2) If negative determinations are made under paragraph (1) regarding an application and charter, the Administration shall advise in writing the sector participants who made the application of the reasons therefor. A corrected application may be submitted thereafter to the Administrator for approval.

(e) REFERENDA.—(1) Upon making affirmative determinations under subsection (d)(1) regarding a proposed charter, the Administrator, within 90 days after the date of the last of those determinations, shall hold a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subparagraph (d)(1)(A). If a majority of the voting sector participants in each sector who collectively accounted for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a), 66 per centum or more of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by that sector during that period approve the proposed charter, the Administrator shall by order establish the council and the proposed charter, as so approved, shall thereafter be treated as its charter.

(2) Not less than thirty days prior to holding a referendum under this subsection, the Administrator shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment including the opportunity for a public meeting.

(3) The Administrator shall pay all costs of the referendum which establishes a council under this subsection; but within two years after the Council is established, the Council shall reimburse the Administrator for any expenses incurred for the conduct of the referendum from assessments collected by the Council. Prior to the holding of a referendum under this subsection, the Administrator shall require sureties to post a bond or other security acceptable to the Administrator, in an amount which the Administrator determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to establish the Council. For the purpose of this Act, the term "expenses incurred for the conduct of the referendum" shall not include salaries of Government employees or other administrative overhead, but shall be limited to those additional direct costs incurred in connection therewith.

(f) COUNCIL MEMBER APPOINTMENTS.—(1) Within thirty days after a council is established under subsection (e), the Administrator shall solicit from the sectors represented on the council nominations for council members. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under this paragraph, and the appointments to the council made under paragraph (3), must, to the extent practicable, result in representation for the constituent regions.

(2) No individual is eligible for nomination or appointment as a council member unless that individual is knowledgable and experienced with regard to the activities of the sector which that individual will represent on the council and is or has been actively engaged in the business of the sector which that individual will represent on the council.

(3) The Administrator, within sixty days after the close of the thirty-day period in paragraph (1), shall appoint the members of the council from the nominees.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original appointment was made. A council member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(5) The Administrator shall remove any council member if the council concerned first recommends removal for cause by not less than two thirds of the council members. A removal recommendation of a council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(g) COUNCIL STATUS.—A council is not an instrumentality of the United States Government.

SEC. 6. FUNCTIONS AND POWERS OF COUNCILS.

(a) FUNCTIONS.—

(1) Each council shall—

(A) adopt a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Administrator, for review and approval under section 7(a)(1), a marketing and promotion plan and amendments thereto which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promotion plan and amendments thereto;

(E) determine the assessments to be made under section 8 and administer the collection of the assessments to finance council expenses described in paragraph (2);

(F) receive, investigate and report to the Administrator accounts of violations of rules or orders relating to assessments collected pursuant to section 8, or quality standard requirements established under subsection (c);

(G) prepare and submit to the Administrator, for review and approval under section 7(a)(1), a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council including—

(i) all administrative and contractual expenses,

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects,

(iii) the costs of the collection of assessments, and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

(H) maintain books and records, prepare and submit to the Administrator such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Administrator at the end of each fiscal year;

(I) reimburse the Administrator for the expenses incurred for the conduct of the referendum to establish the council or a subsequent referendum to terminate the council that fails; and

(J) prepare and submit to the Administrator from time to time such reports or proposals as a council determines appropriate for furthering the purposes of this Act.

(2) Funds collected by a council under section 8 shall be used by the council for—

(A) research, promotion and consumer information activities regarding the quality and marketing of fish and fish products;

(B) other expenses as described in subsection (a)(1)(G);

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Administrator;

(D) any reserve fund established under subsection (b)(5) and any administrative expenses incurred by the Administrator specified as reimbursable under this Act.

(3) Marketing and promotion plans and amendments thereto prepared by a council under subsection (a)(1)(C) shall be designed to increase the general demand for fish and fish products described in accordance with section 5(b)(3) by encouraging, expanding, and improving the marketing, promotion and utilization of the fish and fish products, in domestic or foreign markets or both, through consumer education, research, and other marketing and promotion activities.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments thereto may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) POWERS.—A council—

(1) may sue and be sued;

(2) may enter into contracts;

(3) may employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) may collaborate with other councils in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) may establish a reserve fund from monies collected and received under section 8 to permit an effective and sustained program of research, promotion, and consumer education regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced; but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) QUALITY STANDARDS.—(1) A council may develop and submit to the Administrator for approval, or upon the request of a council the Administrator shall develop, quality standards for a fish or fish product described in accordance with section 5(b)(3). Any quality standard developed under this paragraph shall be consistent with the purposes of this Act.

(2) A quality standard developed under paragraph (1) may be adopted by a council by a majority of the council members if first approved, in a referendum conducted by the council, by a majority of the voting sector participants of the sector concerned who collectively accounted for, in the 12-month period immediately preceding the month in which the referendum is held, not less than 66 per centum of the value of the fish or fish products described in accordance with section 5(b)(3) that were handled by that sector.

(3) With respect to a quality standard adopted under paragraph (2), the council shall develop and file with the Administrator an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

(4) The Administrator shall establish by regulation procedures for the use of an official identification filed with the Administrator under paragraph (3). Misuse of an official identification established under this section shall constitute a violation of this Act.

(5) Prior to issuing final regulations under paragraph (4) the Administrator shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Administrator accounts of violations of regulations issued under paragraph (4).

(7) Any regulation issued under paragraph (4) shall be immediately repealed by the Administrator upon the termination under section 11 of the Council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to the subsequent amendment or termination of the standard.

(d) CHARTER AMENDMENTS.—A council may submit to the Administrator amendments to the text of the council's charter. Any proposed amendments to a charter shall be approved or disapproved in the same manner as the original charter was approved under section 5 (d) and (e) with the exception of section 5(d)(1)(B).

SEC. 7. FUNCTIONS AND POWERS OF THE ADMINISTRATOR.

(a) FUNCTIONS.—In addition to the duties prescribed under section 5, the Administrator shall—

(1) review, for consistency with the provisions of the Act and other applicable law, and approve or disapprove, marketing promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget and reasons therefor;

(3) issue orders and amendments thereto that are necessary to implement quality standards under section 6(c);

(4) promulgate regulations necessary to carry out the purposes of this Act;

(5) enforce the provisions of this Act as provided under section 12; and

(6) make all appointments to the councils in accordance with section 5(f).

(b) POWERS.—The Administrator may provide, on a reimbursable or other basis, such administrative or technical assistance as the councils may request for purposes of the initial organization and subsequent operation of the Council.

SEC. 8. ASSESSMENTS.

(a) IN GENERAL.—A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this Act.

(b) NATURE OF ASSESSMENTS.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector or both as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector is—

(A) except for owners of fish processing vessels, in the form of a percentage of the value of the fish described in accordance with section 5(b)(3) when purchased by those participants from fish harvesters; and

(B) for owners of fish processing vessels, in the form of a percentage of the value of the fish described in accordance with section 5(b)(3) and harvested by such vessels that is no less than the value of those fish as determined in subparagraph (A).

(3) An assessment on sector participants in the importing sector is in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 5(b)(3) when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by those participants.

(c) EXCEPTIONS.—A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 5(e) by reason of failure to meet the requirements specified under section 5(b)(6).

(d) VOLUNTARY PAYMENTS.—Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) COUNCIL ACCOUNTS.—All funds collected or received by a council under this Section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) CONFIDENTIALITY OF INFORMATION.—(1) Sector participants shall make available to the Administrator such information and data as is necessary for the effectuation, administration or enforcement of this Act or any order or regulation issued pursuant to this Act. Except as provided in paragraphs (2) and (3), any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the National Oceanic and Atmospheric Administration, independent accountants and other persons who have access to such information.

(2) If the Administrator or an employee of the United States Government is party to a suit or administrative action involving an assessment, order, or regulation issued under this Act, the Administrator may disclose information obtained under paragraph (1) to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this Act which do not identify the information furnished by any person; or

(B) the publication by direction of the Administrator of the name of any person violating a requirement relating to the assessment imposed under section 8(a) or to quality standards implemented by the Administrator under section 6(c), and a statement of the particular provisions of the requirement violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the National Oceanic and Atmospheric Administration.

(g) PROHIBITION.—It shall be unlawful for any person to use the seal under subsection 6(a) or the official identification under subsection 6(c) unless such person is paying assessments under section 8 or has the express written permission of the Council to use the seal or official identification. The Administrator shall issue regulations to implement this prohibition.

SEC. 9. PETITIONS.

(a) IN GENERAL.—Any person subject to assessment under section 8 may file a written petition with the Administrator alleging that—

(1) the assessment;

(2) the plan approved under section 7(a)(1) on which the assessment is based; or

(3) any obligation imposed under the plan; is not in accordance with law and requesting the Administrator to modify, or take other appropriate action regarding the assessment or plan.

(b) PROCEDURAL REQUIREMENTS.—Petitions shall be in writing and filed within the period prescribed by the Administrator. A person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Administrator. After hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Administrator shall make a ruling upon the petition.

SEC. 10. REFUNDS.

Notwithstanding any other provision of this Act, any person who pays an assessment shall have the right to demand and promptly receive from the Council a refund of such assessment. A demand for refund must be made in accordance with the procedures and within such time, as shall be prescribed by the Council and as approved by the Administrator.

SEC. 11. COUNCIL TERMINATION.

(a) PETITION AND REFERENDUM.—(1) A petition to terminate a council may be filed with the Administrator by no less than three sector participants in any one sector. Any petition filed under this subsection shall be accompanied by a written document explaining the reasons for the petition.

(2) If the Administrator determines that a petition filed under paragraph (1) is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) who collectively accounted for, in the twelve-month period immediately preceding the month in which the petition to terminate was filed, not less than 20 per centum of the value of the fish or fish products described in accordance with section 5(b)(3) that were handled by that sector during that period, the Administrator, within 90 days after that determination, shall hold a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum under this subsection, the Administrator shall publish a notice of such referendum including the document explaining the reasons for the petition filed under paragraph (1) and any other relevant information the Administrator deems appropriate.

(4) If a majority of the voting sector participants who, in the period referred to in paragraph (2), collectively accounted for not less than 66 per centum of the value of such fish and fish products that were handled during that period by a sector referred to in paragraph (1) approve a referendum to terminate a council, the Administrator shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Administrator initially shall pay all costs of a referendum to terminate a council under this subsection. Prior to the holding of a referendum under this section, the Administrator shall require sureties to post a bond or other security acceptable to the Administrator in an amount which the Administrator determines to be sufficient to pay any expenses incurred for the conduct of the referendum.

(6)(A) If a referendum conducted under this section fails to result in the termination of the council, the Administrator shall immediately recover the amount of the bond posted by sureties under paragraph (5).

(B) If a referendum conducted under this section results in the termination of the council, the Administrator shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 8(e). If the amount remaining in such account is insufficient for the Administrator to recover all expenses incurred for the conduct of the referendum, the Administrator shall recover the balance of such expenses from the sureties that posted a bond under paragraph (5).

(b) RETURN OF ASSESSMENTS.—If a council is terminated under subsection (a), the Administrator, after recovering all expenses incurred for the conduct of the referendum under subsection (a), shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 8(e) are paid on a prorated basis to the sector participants from whom those moneys were collected under section 8.

SEC. 12. ENFORCEMENT.

(a) IN GENERAL.—(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this Act.

(2)(A) If the Council has reason to believe that a person subject to an assessment, order or regulation made or issued under this Act is violating such assessment, order or regulation, it may refer the matter to the Administrator.

(B) Except as provided in subparagraphs (C) or (D), any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A), shall be referred to the Attorney General for appropriate action.

(C) If the Administrator believes that the administration and enforcement of the provisions of the Act would be adequately served by taking administrative action under subsection (b) or providing written notice or warning to any person committing a violation of this Act, the Administrator is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred by a Council under subparagraph (A) and the Administrator or the Attorney General fails within 60 days of such referral to take appropriate action, the Council may, upon filing notice with the Administrator or Attorney General, as appropriate, and other interested parties, bring an action under its own name.

(b) PENALTIES.—(1)(A) When a Council brings an action under subsection (a)(2), it shall be entitled to recover costs of litigation, and where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of any order, (including a cease and desist order previously issued under this paragraph) or regulation issued by the Administrator under this Act, or who fails or refuses to pay, collect, or remit any assessment required under this Act, may be assessed a civil penalty by the Administrator of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Administrator may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Administrator with respect to such violation.

(D) Any order of the Administrator under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Administrator's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found under paragraph (1) may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator.

(B) The Administrator shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Administrator shall be set aside only if found to be unsupported by substantial evidence or if not in accordance with law.

(3)(A) If any person fails to pay a civil penalty after it has become final, the Administrator shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to file a civil action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

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SEC. 13. INVESTIGATIONS.

(a) IN GENERAL.—The Administrator may make such investigations as the Administrator determines necessary to—

(1) carry out the Administrator's responsibilities under this Act; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this Act.

(b) POWERS.—For the purpose of investigations under subsection (a), the Administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) ENFORCEMENT.—In case of contumacy or refusal to obey a subpoena by any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Administrator to produce records or to give testimony relating to the matter under investigation.

SEC. 14. APPROPRIATIONS.

Any authority of the Administrator to make payments under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2935, the Seafood Marketing Councils Act of 1985.

This bill is very similar to legislation that established many of the commodity marketing councils that have served the agriculture industry so well.

H.R. 2935 would allow the seafood industry to design, establish, and fund seafood marketing councils whose purpose would be to undertake marketing and promotion efforts designed to increase the consumption of seafood.

Charters establishing these councils would take effect if they meet the requirements spelled out in the act and other applicable law and if the industry itself approves of the charter by referendum. The councils would be funded by assessments collected on the sale of seafood products. Any person paying an assessment would have the right to request and promptly receive a refund. The industry could also terminate the councils by referendum. Referendums would be carried out by the Administrator of the National Oceanic and Atmospheric Administration but the vast majority of his costs would be reimbursed.

Mr. Speaker, recent medical studies have shown that the consumption of seafood on a regular basis decreases the risk of heart disease. In addition, the United States has had a trade deficit in fish and fish products since records have been kept and, in 1984, the fishery trade deficit was nearly $5 billion. This is perplexing because of the bountiful fishery resources found off our coasts.

Mr. Speaker, I am hopeful that the enactment of this bill will increase our consumption of seafood and thereby result in a healthier and stronger America. This is a bipartisan bill and I urge the Members to support its adoption.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2935.

This is a very good bill in that it provides for a maximum amount of flexibility for the U.S. fishing industry to decide for itself whether or not marketing councils would be beneficial in encouraging American consumers to eat more U.S. caught fish and shellfish. In addition, the cost of this legislation will be borne by the industry that is expected to benefit by it. These aspects of the legislation give it its strength.

The value of the marketing council concept is not universally accepted in the fishing industry. In fact, it may be that the warmwater shrimp industry will be the only sector of the fishing industry that actually establishes a marketing council by using this legislation. Although the impetus for this bill came from the shrimp industry, I want to compliment Congressman BREAUX and his staff for their work in producing a bill in a form which can easily be built upon to benefit other sectors of the fishing industry across the country, if it is their wish to use it. The legislation is fair in that it does not require the establishment of any council for any sector of the industry which may not see the value in assessing itself to pay for marketing its product. There has been some opposition to earlier marketing council proposals made in the other body. This legislation has broad support and I urge its adoption by the House.

There is one issue that I would like to emphasize, Mr. Speaker, we have made clear that quality standards are not to be used as a back-door attempt to influence the fisheries management process by alleging that fish caught with one type of gear is automatically of higher quality than fish caught with some other type of gear. This further protects the interests of those who might not be directly involved in a particular seafood marketing council.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 2935 as reported by the Committee on Merchant Marine and Fisheries and urge its adoption by the House.

The bill before us today is the product of many months of hard work by the members of the Committee on Merchant Marine and Fisheries, the committee staff, and representatives of the U.S. seafood industry. It follows on work done in the last Congress by members of the committee and Members of the other body including the senior Senator from Alaska, who first proposed the creation of a seafood marketing council. Although the bill that we have prepared is different in its approach from that taken by the Members of the other body last year, we should acknowledge their participation in bringing this concept to the attention of the Congress.

H.R. 2935 is a unique document. It is a bill that will be passed by this Congress that does not require any Federal expenditures. At the same time it is a bill that will help an important industry to further compete with similar industries in foreign nations. The bill will not impose any costs on U.S. taxpayers and it will not involve the Federal Government in the private marketplace. All that it does is give the U.S. seafood industry the capability to establish marketing councils so that they can better promote their product for the domestic consumer.

The idea of marketing councils for specific commodities is not a new one. In the agriculture sector we have seen marketing councils formed with the consent of this Congress on a wide variety of products. In developing this bill, we worked closely with representatives of the Department of Agriculture to ensure that previously successful ideas were included in our marketing bill for the seafood industry. We are not forcing the seafood industry to develop marketing councils; neither are we requiring that all fishermen and fish processors be involved. We are simply providing the authority for those fishermen and fish processors interested in doing so to establish marketing councils and thereby promote the consumption of seafood in the United States.

As many of you have heard me say before, the commercial fishing industry is extremely important to the economies of coastal States. Further, recent scientific studies have demonstrated conclusively that the consumption of seafood is good for one's health. In spite of this, the per capita consumption of seafood in the United States has remained at a fairly low level. Further, some 50 to 60 percent of the seafood that is consumed in this country is imported. We need to do two things: Increase the per capita consumption of sea-

food and increase the percentage of seafood consumed that is of domestic origin. H.R. 2935 will help in both of these areas.

As explained earlier by the chairman, H.R. 2935 establishes a procedure by which fishermen and fish processors can petition for and establish seafood marketing councils. Every effort is made to ensure fair representation on the councils and to ensure that those affected will have full rights to participate in establishment of the councils and in council activities. Once they are set up, the councils will be permitted to impose and collect assessments on those participating and to recommend quality standards for the fish products involved. In regard to the assessments, we have provided a process whereby individuals can request and obtain refunds from the assessments. In regard to quality standards, we have made their use voluntary so that no one would be precluded from selling any fish product, although the hope of all of us is that a higher quality seafood product will be made available to consumers. Further, we have made clear that quality standards are not to be used as a back-door attempt to influence the fisheries management process by alleging that fish caught with one type of gear is automatically of higher quality than fish caught with some other type of gear. This further protects the interests of those who might not be directly involved in a particular seafood marketing council.

Mr. Speaker, in short what we have done is provided a tool to be used by the seafood industry which is nearly identical to those tools currently used by our Nation's farmers. We are providing no new authorizations in the bill and in fact have specifically required that any up-front costs of the Federal Government be reimbursed by the seafood industry. We have done everything possible to ensure that this is a voluntary mechanism and that the rights of individual businessmen will not be adversely affected. Finally, and most emphatically, we have done everything possible to keep the Federal Government out of the marketplace. I think that H.R. 2935 is a good bill and one which deserves the full support of every Member of this body.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2935, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2935, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Ther was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Con. Res. 239, de novo;
H.R. 1083, de novo;
H.R. 3773, de novo; and
H.R. 1538, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

COMMENDING GOVERNMENTS OF IRELAND AND UNITED KINGDOM FOR AGREEING ON PEACEFUL SOLUTION FOR NORTHERN IRELAND

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 239.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution House Concurrent Resolution 239.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 1, not voting 53 as follows:

[Roll No. 437]

YEAS—380

Ackerman	Barnes	Boggs
Addabbo	Bartlett	Boland
Akaka	Bateman	Borski
Alexander	Bates	Boulter
Anderson	Bedell	Boxer
Andrews	Beilenson	Brooks
Annunzio	Bennett	Broomfield
Anthony	Bentley	Brown (CA)
Applegate	Bereuter	Brown (CO)
Archer	Berman	Bruce
Armey	Bevill	Bryant
Atkins	Biaggi	Burton (CA)
AuCoin	Bilirakis	Bustamante
Badham	Bliley	Callahan
Barnard	Boehlert	Campbell
Carper	Hansen	Moody
Carr	Hartnett	Moore
Chapman	Hatcher	Moorhead
Chappell	Hawkins	Morrison (WA)
Cheney	Hayes	Mrazek
Clay	Hefner	Murphy
Clinger	Heftel	Murtha
Coats	Hendon	Natcher
Cobey	Henry	Nichols
Coble	Hertel	Nielson
Coelho	Hiler	O'Brien
Coleman (MO)	Holt	Oakar
Coleman (TX)	Hopkins	Oberstar
Combest	Horton	Obey
Conte	Howard	Olin
Cooper	Hoyer	Ortiz
Coughlin	Hubbard	Owens
Courter	Huckaby	Oxley
Coyne	Hughes	Packard
Craig	Hunter	Panetta
Crockett	Hutto	Parris
Daniel	Hyde	Pashayan
Darden	Jeffords	Pease
Daub	Jenkins	Penny
Davis	Johnson	Pepper
de la Garza	Jones (NC)	Perkins
DeLay	Jones (TN)	Petri
Dellums	Kanjorski	Pickle
Derrick	Kaptur	Porter
DeWine	Kasich	Pursell
Dicks	Kastenmeier	Quillen
Dingell	Kemp	Rahall
DioGuardi	Kennelly	Rangel
Dixon	Kildee	Ray
Donnelly	Kleczka	Regula
Dorgan (ND)	Kolbe	Reid
Dornan (CA)	Kolter	Richardson
Downey	Kostmayer	Ridge
Dreier	LaFalce	Rinaldo
Duncan	Lagomarsino	Roberts
Durbin	Lantos	Robinson
Dwyer	Latta	Rodino
Dymally	Leach (IA)	Roe
Dyson	Leath (TX)	Roemer
Early	Lehman (CA)	Rogers
Eckart (OH)	Lehman (FL)	Rose
Eckert (NY)	Leland	Rostenkowski
Edgar	Lent	Roth
Edwards (CA)	Levin (MI)	Roukema
Edwards (OK)	Levine (CA)	Rowland (GA)
Emerson	Lewis (CA)	Roybal
English	Lewis (FL)	Rudd
Erdreich	Lightfoot	Russo
Evans (IA)	Lipinski	Sabo
Evans (IL)	Lloyd	Savage
Fascell	Loeffler	Saxton
Fawell	Long	Schaefer
Fazio	Lott	Scheuer
Feighan	Lowery (CA)	Schneider
Fiedler	Lowry (WA)	Schroeder
Fields	Lujan	Schuette
Fish	Luken	Schumer
Flippo	Lundine	Seiberling
Florio	Lungren	Sensenbrenner
Foley	Mack	Sharp
Ford (MI)	MacKay	Shaw
Ford (TN)	Madigan	Shelby
Frank	Manton	Shumway
Franklin	Markey	Shuster
Frenzel	Marlenee	Sikorski
Frost	Martin (IL)	Siljander
Fuqua	Martin (NY)	Sisisky
Gallo	Martinez	Skeen
Gaydos	Matsui	Skelton
Gejdenson	Mavroules	Slattery
Gekas	Mazzoli	Slaughter
Gephardt	McCain	Smith (FL)
Gibbons	McCandless	Smith (IA)
Gilman	McCollum	Smith (NE)
Gingrich	McCurdy	Smith (NJ)
Glickman	McDade	Smith, Denny (OR)
Gonzalez	McEwen	
Goodling	McGrath	Smith, Robert (NH)
Gordon	McHugh	
Gradison	McKernan	Smith, Robert (OR)
Gray (IL)	McMillan	
Gray (PA)	Meyers	Snowe
Green	Michel	Solomon
Gregg	Mikulski	Spence
Grotberg	Miller (CA)	Spratt
Guarini	Mineta	St Germain
Gunderson	Mitchell	Staggers
Hall (OH)	Moakley	Stallings
Hall, Ralph	Molinari	Stangeland
Hamilton	Mollohan	Stenholm
Hammerschmidt	Montgomery	Stokes

Strang	Valentine	Whitten
Stratton	Vander Jagt	Williams
Studds	Vento	Wilson
Stump	Visclosky	Wirth
Sundquist	Volkmer	Wise
Swift	Vucanovich	Wolf
Swindall	Walgren	Wolpe
Synar	Walker	Wortley
Tallon	Watkins	Wright
Tauke	Waxman	Wyden
Tauzin	Weaver	Wylie
Thomas (CA)	Weber	Yates
Thomas (GA)	Weiss	Yatron
Torres	Wheat	Young (AK)
Traficant	Whitehurst	Young (FL)
Traxler	Whitley	Young (MO)
Udall	Whittaker	

NAYS—1

Crane

NOT VOTING—53

Aspin	Dickinson	Morrison (CT)
Barton	Dowdy	Myers
Boner (TN)	Foglietta	Neal
Bonior (MI)	Fowler	Nelson
Bonker	Garcia	Nowak
Bosco	Hillis	Price
Boucher	Ireland	Ritter
Breaux	Jacobs	Rowland (CT)
Broyhill	Jones (OK)	Schulze
Burton (IN)	Kindness	Snyder
Byron	Kramer	Solarz
Carney	Livingston	Stark
Chandler	McCloskey	Sweeney
Chappie	McKinney	Taylor
Collins	Mica	Torricelli
Conyers	Miller (OH)	Towns
Dannemeyer	Miller (WA)	Zschau
Daschle	Monson	

□ 1530

Messrs. EDWARDS of Oklahoma, GROTBERG, and PETRI changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to the fog at the Indianapolis Airport today, I was unable to make today's votes. Had I been here, I would have voted for House Concurrent Resolution 239.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisons of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1083, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill, H.R. 1083, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 438]

YEAS—378

Ackerman	Dellums	Heftel
Addabbo	Derrick	Hendon
Akaka	DeWine	Henry
Alexander	Dicks	Hertel
Anderson	Dingell	Hiler
Andrews	DioGuardi	Holt
Annunzio	Dixon	Hopkins
Anthony	Donnelly	Horton
Applegate	Dorgan (ND)	Howard
Archer	Dornan (CA)	Hoyer
Armey	Downey	Hubbard
Atkins	Dreier	Huckaby
AuCoin	Duncan	Hughes
Badham	Durbin	Hunter
Barnard	Dwyer	Hutto
Barnes	Dymally	Hyde
Bartlett	Dyson	Jeffords
Bateman	Early	Jenkins
Bates	Eckart (OH)	Johnson
Bedell	Eckert (NY)	Jones (NC)
Beilenson	Edgar	Jones (TN)
Bennett	Edwards (CA)	Kanjorski
Bentley	Edwards (OK)	Kaptur
Bereuter	Emerson	Kasich
Berman	English	Kastenmeier
Bevill	Erdreich	Kemp
Bilirakis	Evans (IA)	Kennelly
Bliley	Evans (IL)	Kildee
Boehlert	Fascell	Kleczka
Boggs	Fawell	Kolbe
Boland	Fazio	Kolter
Bonior (MI)	Feighan	Kostmayer
Borski	Fiedler	LaFalce
Boulter	Fields	Lagomarsino
Boxer	Fish	Lantos
Brooks	Flippo	Latta
Broomfield	Florio	Leach (IA)
Brown (CA)	Foglietta	Leath (TX)
Brown (CO)	Foley	Lehman (CA)
Bruce	Ford (MI)	Lehman (FL)
Bryant	Ford (TN)	Leland
Burton (CA)	Frank	Lent
Bustamante	Franklin	Levin (MI)
Callahan	Frenzel	Levine (CA)
Campbell	Frost	Lewis (CA)
Carper	Fuqua	Lewis (FL)
Carr	Gaydos	Lightfoot
Chapman	Gejdenson	Lipinski
Chappell	Gekas	Lloyd
Cheney	Gephardt	Loeffler
Clay	Gibbons	Long
Clinger	Gilman	Lott
Coats	Gingrich	Lowery (CA)
Cobey	Glickman	Lowry (WA)
Coble	Gonzalez	Lujan
Coelho	Goodling	Luken
Coleman (MO)	Gordon	Lundine
Coleman (TX)	Gradison	Lungren
Combest	Gray (IL)	Mack
Conte	Gray (PA)	MacKay
Cooper	Green	Madigan
Coughlin	Grotberg	Manton
Courter	Guarini	Markey
Coyne	Gunderson	Marlenee
Craig	Hall (OH)	Martin (IL)
Crane	Hall, Ralph	Martin (NY)
Crockett	Hamilton	Martinez
Daniel	Hammerschmidt	Matsui
Darden	Hansen	Mavroules
Daschle	Hartnett	Mazzoli
Daub	Hatcher	McCain
Davis	Hawkins	McCandless
de la Garza	Hayes	McCollum
DeLay	Hefner	McCurdy
McDade	Robinson	Stenholm
McEwen	Rodino	Stokes
McGrath	Roe	Strang
McKernan	Roemer	Stratton
McMillan	Rogers	Studds
Meyers	Rose	Stump
Michel	Rostenkowski	Sundquist
Mikulski	Roth	Sweeney
Miller (CA)	Roukema	Swift
Mineta	Rowland (GA)	Swindall
Mitchell	Roybal	Synar
Moakley	Rudd	Tallon
Molinari	Russo	Tauke
Mollohan	Sabo	Tauzin
Montgomery	Savage	Thomas (CA)
Moody	Schaefer	Thomas (GA)
Moore	Scheuer	Torres
Moorhead	Schneider	Traficant
Morrison (WA)	Schroeder	Traxler
Mrazek	Schuette	Udall
Murphy	Schumer	Valentine
Natcher	Seiberling	Vander Jagt
Nichols	Sensenbrenner	Vento
Nielson	Sharp	Visclosky
Nowak	Shaw	Volkmer
O'Brien	Shelby	Vucanovich
Oakar	Shumway	Walgren
Oberstar	Shuster	Walker
Obey	Sikorski	Watkins
Olin	Siljander	Waxman
Ortiz	Sisisky	Weaver
Owens	Skeen	Weber
Oxley	Skelton	Weiss
Packard	Slattery	Wheat
Panetta	Slaughter	Whitehurst
Parris	Smith (FL)	Whitley
Pease	Smith (IA)	Whittaker
Penny	Smith (NE)	Whitten
Pepper	Smith (NJ)	Williams
Perkins	Smith, Denny (OR)	Wilson
Petri	Smith, Robert (NH)	Wirth
Pickle	Smith, Robert (OR)	Wise
Porter	Snowe	Wolf
Pursell	Solomon	Wolpe
Quillen	Spence	Wortley
Rahall	Spratt	Wright
Ray	St Germain	Wyden
Regula	Staggers	Wylie
Reid	Stallings	Yates
Richardson	Stangeland	Yatron
Ridge		Young (AK)
Rinaldo		Young (FL)
Roberts		Young (MO)

NOT VOTING—56

Aspin	Fowler	Murtha
Barton	Gallo	Myers
Biaggi	Garcia	Neal
Boner (TN)	Gregg	Nelson
Bonker	Hillis	Pashayan
Bosco	Ireland	Price
Boucher	Jacobs	Rangel
Breaux	Jones (OK)	Ritter
Broyhill	Kindness	Rowland (CT)
Burton (IN)	Kramer	Saxton
Byron	Livingston	Schulze
Carney	McCloskey	Snyder
Chandler	McHugh	Solarz
Chappie	McKinney	Stark
Collins	Mica	Taylor
Conyers	Miller (OH)	Torricelli
Dannemeyer	Miller (WA)	Towns
Dickinson	Monson	Zschau
Dowdy	Morrison (CT)	

□ 1545

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to the fog at the Indianapolis Airport today, I was unable to make today's votes. Had I been here, I would have voted for H.R. 1083.

FEDERAL TECHNOLOGY TRANSFER ACT OF 1985

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3773, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FUQUA] that the House suspend the rules and pass the bill, H.R. 3773, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 0, not voting 48, as follows:

[Roll No. 439]

YEAS—386

Ackerman	Crane	Gordon
Addabbo	Crockett	Gradison
Akaka	Daniel	Gray (IL)
Alexander	Darden	Gray (PA)
Anderson	Daschle	Green
Andrews	Daub	Gregg
Annunzio	Davis	Grotberg
Anthony	de la Garza	Guarini
Applegate	DeLay	Gunderson
Archer	Dellums	Hall (OH)
Armey	Derrick	Hall, Ralph
Atkins	DeWine	Hamilton
AuCoin	Dicks	Hammerschmidt
Badham	Dingell	Hansen
Barnard	DioGuardi	Hartnett
Barnes	Dixon	Hatcher
Bartlett	Donnelly	Hawkins
Bateman	Dorgan (ND)	Hayes
Bates	Dornan (CA)	Hefner
Bedell	Downey	Heftel
Beilenson	Dreier	Hendon
Bennett	Duncan	Henry
Bentley	Durbin	Hertel
Bereuter	Dwyer	Hiler
Berman	Dymally	Holt
Bevill	Dyson	Hopkins
Biaggi	Early	Horton
Bilirakis	Eckart (OH)	Howard
Bliley	Eckert (NY)	Hoyer
Boehlert	Edgar	Hubbard
Boggs	Edwards (CA)	Huckaby
Boland	Edwards (OK)	Hughes
Bonior (MI)	Emerson	Hunter
Borski	English	Hutto
Boulter	Erdreich	Hyde
Boxer	Evans (IA)	Jeffords
Brooks	Evans (IL)	Jenkins
Broomfield	Fascell	Johnson
Brown (CA)	Fawell	Jones (NC)
Brown (CO)	Fazio	Jones (TN)
Bruce	Feighan	Kanjorski
Bryant	Fiedler	Kaptur
Burton (CA)	Fields	Kasich
Bustamante	Fish	Kastenmeier
Callahan	Flippo	Kemp
Campbell	Florio	Kennelly
Carper	Foglietta	Kildee
Carr	Foley	Kleczka
Chapman	Ford (MI)	Kolbe
Chappell	Ford (TN)	Kolter
Cheney	Frank	Kostmayer
Clay	Franklin	LaFalce
Clinger	Frenzel	Lagomarsino
Coats	Frost	Lantos
Cobey	Fuqua	Latta
Coble	Gallo	Leach (IA)
Coelho	Gaydos	Leath (TX)
Coleman (MO)	Gejdenson	Lehman (CA)
Coleman (TX)	Gekas	Lehman (FL)
Combest	Gephardt	Leland
Conte	Gibbons	Lent
Cooper	Gilman	Levin (MI)
Coughlin	Gingrich	Levine (CA)
Courter	Glickman	Lewis (CA)
Coyne	Gonzalez	Lewis (FL)
Craig	Goodling	Lightfoot
Lipinski	Parris	Snowe
Lloyd	Pashayan	Snyder
Loeffler	Pease	Solarz
Long	Penny	Solomon
Lott	Pepper	Spence
Lowery (CA)	Perkins	Spratt
Lowry (WA)	Petri	St Germain
Lujan	Pickle	Staggers
Luken	Porter	Stallings
Lundine	Pursell	Stangeland
Lungren	Quillen	Stenholm
Mack	Rahall	Stokes
MacKay	Ray	Strang
Madigan	Regula	Stratton
Manton	Reid	Studds
Markey	Richardson	Stump
Marlenee	Ridge	Sundquist
Martin (IL)	Rinaldo	Sweeney
Martin (NY)	Roberts	Swift
Martinez	Robinson	Swindall
Matsui	Rodino	Synar
Mavroules	Roe	Tallon
Mazzoli	Roemer	Tauke
McCain	Rogers	Tauzin
McCandless	Rose	Thomas (CA)
McCollum	Rostenkowski	Thomas (GA)
McCurdy	Roth	Torres
McDade	Roukema	Traficant
McEwen	Rowland (GA)	Traxler
McGrath	Roybal	Udall
McHugh	Rudd	Valentine
McKernan	Russo	Vander Jagt
McMillan	Sabo	Vento
Meyers	Savage	Visclosky
Michel	Saxton	Volkmer
Mikulski	Schaefer	Vucanovich
Miller (CA)	Scheuer	Walgren
Mineta	Schneider	Walker
Mitchell	Schroeder	Watkins
Moakley	Schuette	Waxman
Molinari	Schumer	Weaver
Mollohan	Seiberling	Weber
Montgomery	Sensenbrenner	Weiss
Moody	Sharp	Wheat
Moore	Shaw	Whitehurst
Moorhead	Shelby	Whitley
Morrison (WA)	Shumway	Whittaker
Mrazek	Shuster	Williams
Murphy	Sikorski	Wilson
Murtha	Siljander	Wirth
Natcher	Sisisky	Wise
Nichols	Skeen	Wolf
Nielson	Skelton	Wolpe
Nowak	Slattery	Wortley
O'Brien	Slaughter	Wright
Oakar	Smith (FL)	Wyden
Oberstar	Smith (IA)	Wylie
Obey	Smith (NE)	Yates
Olin	Smith (NJ)	Yatron
Ortiz	Smith, Denny (OR)	Young (AK)
Owens	Smith, Robert (NH)	Young (FL)
Oxley	Smith, Robert (OR)	Young (MO)
Packard		
Panetta		

NOT VOTING—48

Aspin	Dickinson	Monson
Barton	Dowdy	Morrison (CT)
Boner (TN)	Fowler	Myers
Bonker	Garcia	Neal
Bosco	Hillis	Nelson
Boucher	Ireland	Price
Breaux	Jacobs	Rangel
Broyhill	Jones (OK)	Ritter
Burton (IN)	Kindness	Rowland (CT)
Byron	Kramer	Schulze
Carney	Livingston	Stark
Chandler	McCloskey	Taylor
Chappie	McKinney	Torricelli
Collins	Mica	Towns
Conyers	Miller (OH)	Whitten
Dannemeyer	Miller (WA)	Zschau

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to the fog at the Indianapolis Airport today, I was unable to make today's votes. Had I been here, I would have voted for H.R. 3773.

□ 1600

VETERANS' COMPENSATION AND HEALTH CARE AMENDMENTS OF 1985

The SPEAKER pro tempore (Mr. GRAY of Illinois). The pending business is the question of suspending the rules and passing the bill, H.R. 1538, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. APPLEGATE] that the House suspend the rules and pass the bill, H.R. 1538, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 46, as follows:

[Roll No. 440]

YEAS—388

Ackerman	Cobey	Fields
Addabbo	Coble	Fish
Akaka	Coelho	Flippo
Alexander	Coleman (MO)	Florio
Anderson	Coleman (TX)	Foglietta
Andrews	Combest	Foley
Annunzio	Conte	Ford (MI)
Anthony	Cooper	Ford (TN)
Applegate	Coughlin	Frank
Archer	Courter	Franklin
Armey	Coyne	Frenzel
Atkins	Craig	Frost
AuCoin	Crane	Fuqua
Badham	Crockett	Gallo
Barnard	Daniel	Gaydos
Barnes	Darden	Gejdenson
Bartlett	Daschle	Gekas
Bateman	Daub	Gephardt
Bates	Davis	Gibbons
Bedell	de la Garza	Gilman
Beilenson	DeLay	Gingrich
Bennett	Dellums	Glickman
Bentley	Derrick	Gonzalez
Bereuter	DeWine	Goodling
Berman	Dicks	Gordon
Bevill	Dingell	Gradison
Biaggi	DioGuardi	Gray (IL)
Bilirakis	Dixon	Gray (PA)
Bliley	Donnelly	Green
Boehlert	Dorgan (ND)	Gregg
Boggs	Dornan (CA)	Grotberg
Boland	Dowdy	Guarini
Bonior (MI)	Downey	Gunderson
Borski	Dreier	Hall (OH)
Boulter	Duncan	Hall, Ralph
Boxer	Durbin	Hamilton
Brooks	Dwyer	Hammerschmidt
Broomfield	Dymally	Hansen
Brown (CA)	Dyson	Hartnett
Brown (CO)	Early	Hatcher
Bruce	Eckart (OH)	Hawkins
Bryant	Eckert (NY)	Hayes
Burton (CA)	Edgar	Hefner
Bustamante	Edwards (CA)	Heftel
Callahan	Edwards (OK)	Hendon
Campbell	Emerson	Henry
Carney	English	Hertel
Carper	Erdreich	Hiler
Carr	Evans (IA)	Holt
Chapman	Evans (IL)	Hopkins
Chappell	Fascell	Horton
Cheney	Fawell	Howard
Clay	Fazio	Hoyer
Clinger	Feighan	Hubbard
Coats	Fiedler	Huckaby

Hughes	Mollohan	Skelton
Hunter	Montgomery	Slattery
Hutto	Moody	Smith (FL)
Hyde	Moore	Smith (IA)
Jeffords	Moorhead	Smith (NE)
Jenkins	Morrison (WA)	Smith (NJ)
Johnson	Mrazek	Smith, Denny (OR)
Jones (NC)	Murphy	
Jones (TN)	Murtha	Smith, Robert (NH)
Kanjorski	Natcher	
Kaptur	Nichols	Smith, Robert (OR)
Kasich	Nielson	
Kastenmeier	Nowak	Snowe
Kemp	O'Brien	Snyder
Kennelly	Oakar	Solarz
Kildee	Oberstar	Solomon
Kleczka	Obey	Spence
Kolbe	Olin	Spratt
Kolter	Ortiz	St Germain
Kostmayer	Owens	Staggers
LaFalce	Oxley	Stallings
Lagomarsino	Packard	Stangeland
Lantos	Panetta	Stenholm
Latta	Parris	Stokes
Leach (IA)	Pashayan	Strang
Leath (TX)	Pease	Stratton
Lehman (CA)	Penny	Studds
Lehman (FL)	Pepper	Stump
Leland	Perkins	Sundquist
Lent	Petri	Sweeney
Levin (MI)	Pickle	Swift
Levine (CA)	Porter	Swindall
Lewis (CA)	Pursell	Synar
Lewis (FL)	Quillen	Tallon
Lightfoot	Rahall	Tauke
Lipinski	Rangel	Tauzin
Lloyd	Ray	Thomas (CA)
Loeffler	Regula	Thomas (GA)
Long	Reid	Torres
Lott	Richardson	Traficant
Lowery (CA)	Ridge	Traxler
Lowry (WA)	Rinaldo	Udall
Lujan	Roberts	Valentine
Luken	Robinson	Vander Jagt
Lundine	Rodino	Vento
Lungren	Roe	Visclosky
Mack	Roemer	Volkmer
MacKay	Rogers	Vucanovich
Madigan	Rose	Walgren
Manton	Rostenkowski	Walker
Markey	Roth	Watkins
Marlenee	Roukema	Waxman
Martin (IL)	Rowland (GA)	Weaver
Martin (NY)	Roybal	Weber
Martinez	Rudd	Weiss
Matsui	Russo	Wheat
Mavroules	Sabo	Whitehurst
Mazzoli	Savage	Whittaker
McCain	Saxton	Whitten
McCandless	Schaefer	Williams
McCollum	Scheuer	Wilson
McCurdy	Schneider	Wirth
McDade	Schroeder	Wise
McEwen	Schuette	Wolf
McGrath	Schumer	Wolpe
McHugh	Seiberling	Wortley
McKernan	Sensenbrenner	Wright
McMillan	Sharp	Wyden
Meyers	Shaw	Wylie
Michel	Shelby	Yates
Mikulski	Shumway	Yatron
Miller (CA)	Shuster	Young (AK)
Mineta	Sikorski	Young (FL)
Mitchell	Siljander	Young (MO)
Moakley	Sisisky	
Molinari	Skeen	

NOT VOTING—46

Aspin	Fowler	Myers
Barton	Garcia	Neal
Boner (TN)	Hillis	Nelson
Bonker	Ireland	Price
Bosco	Jacobs	Ritter
Boucher	Jones (OK)	Rowland (CT)
Breaux	Kindness	Schulze
Broyhill	Kramer	Slaughter
Burton (IN)	Livingston	Stark
Byron	McCloskey	Taylor
Chandler	McKinney	Torricelli
Chappie	Mica	Towns
Collins	Miller (OH)	Whitley
Conyers	Miller (WA)	Zschau
Dannemeyer	Monson	
Dickinson	Morrison (CT)	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to the fog at the Indianapolis Airport today, I was unable to make today's votes. Had I been here, I would have voted for H.R. 1538.

□ 1610

SUNDRY BILLS LAID ON THE TABLE

The SPEAKER pro tempore. Without objection, the following bills are laid on the table:

H.R. 2062, H.R. 1046, H.R. 862, H.R. 1267, H.R. 2635, H.R. 2702, and H.R. 3372.

There was no objection.

SUPPORT H.R. 3688, THE SOCIAL SECURITY TRUST FUND PROTECTION ACT OF 1985

(Mr. ARCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. ARCHER. Mr. Speaker, I am submitting for the RECORD a recent mailing from the National Committee to Preserve Social Security and Medicare, those same folks who in September 1984, solicited from their members a 5-percent kickback for the 1985 COLA, which our former colleague, Barber Conable, described as a flagrant exploitation of senior citizens.

The present mailing, an urgent-action gram, solicits funds to hire lawyers, prepare lawsuits, and lobby Congress to stop the midnight raid on Social Security Trust Funds. I urge my constitutents in Houston and concerned citizens everywhere to save your money. Congress has heard your concerns and will enact remedial legislation.

If you want to lobby Congress, write directly to your representative and encourage him or her to support H.R. 3688, the Social Security Trust Fund Protection Act of 1985, which I have introduced. It appropriates funds to reimburse the trust funds for the loss of interest and also implements a mechanism to prevent such future disinvestments as a way around the Federal debt ceiling.

The concern in Congress over the trust fund disinvestment is broad and bipartisan. I am confident that Congress will enact H.R. 3688, or an alternative to it. So please, folks, save your money. James Roosevelt's group is at it again, setting up a strawman to rip off your dollars.

The mailing and its reply follow:

URGENT ACTION GRAM

To: Mr. — —,
Cincinnati, OH.

Your immediate action needed to stop "midnight raid" on Social Security Trust Fund.

Treasury Secretary, James A. Baker III, took 27 billion dollars out of Social Security Trust Fund in September, October and November.

Mr. Baker, as I write you this urgent message, only 8 billion is left, enough to pay only half the social security benefits for December.

And that 8 billion may have already been spent by time you receive this letter!

Social Security Trust Fund money was spent by Baker to pay for foreign aid, welfare payments, lavish defense contracts and other programs which have nothing to do with social security.

Baker's action is an unprecedented violation of a national trust. Threat to social security never so great. Immediate action required.

Congressional Budget Office estimates Baker's "midnight raid" will result in permanent loss to trust fund of up to 2 billion dollars in lost interest on invested funds.

And unless these raids are stopped in time social security system could collapse.

Your continued support is vital. The National Committee to Preserve Social Security and Medicare must raise $250,000 immediately to:

1. Support legislative and legal action to restore all money taken from Social Security Trust Fund monies.

2. Force government to repay all lost interest to trust fund.

3. Outlaw any future raids on Social Security Trust Fund.

I need your emergency contribution of $10 or $15 right now.

Lawyers must be hired and lawsuits prepared. Our Capitol Hill lobbying effort must be put in high gear.

All of this will cost money. But must be done to protect the benefits we've all earned and deserve.

Unless we stop this attack now, the government will continue to do whatever it wants with our money.

Please rush your emergency contribution of $15 or at least $10 as of today.

Use enclosed postage free envelope to return your urgent action-gram reply and your emergency check immediately.

JAMES ROOSEVELT,
Chairman, National Committee to Preserve Social Security and Medicare.

P.S.—Mr. ——, Treasury Secretary James A. Baker III, has raided Social Security Trust Fund and spent 77 percent of all social security assets. Return urgent action form below in enclosed envelope with emergency contribution of $10, $15 or more today to help restore the trust fund and protect the benefits we've earned.

URGENT-ACTION-GRAM-REPLY

To: JAMES ROOSEVELT,
NCPSSM, Washington, DC.

From: Mr. — —,
Cincinnati, OH.

MR. ROOSEVELT: Yes, we must restore all money taken from the Social Security Trust Fund by Treasury Secretary James Baker's "midnight raid" and stop all future raids on the trust fund. To protect our benefits and support our lobbying and legal action, I'm enclosing my emergency contribution of:

_ $10 _ $15 _ Other

Mr. _ , please make your check payable to NCPSSM (National Committee to Preserve Social Security and Medicare).

EDGAR SUPERFUND AMENDMENT SHOULD BE DEFEATED

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous material.)

Mr. DINGELL. Mr. Speaker, on Thursday last, without much understanding, the House narrowly adopted the Edgar amendment. I have been seeking to have this matter explained by the Environmental Protection Agency and I have a letter which I will insert at the conclusion of my remarks which I think my colleagues will find interesting. Mr. Thomas, the administrator of EPA, says,

The reach of the Edgar amendment is such that any chemical which shows any sign of an adverse effect from exposure in any amount could be subject to the reporting requirement. EPA would undoubtedly face lengthy court challenges for failure to list such substances.

Preliminary analysis based on information in the Registry of Toxic Effects of Chemicals Database indicates that far more chemicals would be covered by the Edgar amendment than the 150 mentioned during floor debate. We suspect that at least 5,000 chemicals may be covered by the broad definition in this amendment.

Among those covered, Mr. Thomas advises me, are 200,000 gasoline stations, 200,000 privately owned gasoline tanks, 175,000 commercial pesticide applicators, 165,000 industrial boilers, 50,000 vapor degreasers, more than 1 million space heating units in apartments, office buildings, and department stores, more than 1 million certified pesticide applicators including farmers.

He goes on:

In addition, countless other businesses, public utilities, and individuals may also be subject to the amendment's onerous reporting provisions. These include hardware stores, beauty parlors, waste water treatment facilities, hospitals, and many others.

Mr. Speaker, the public interest simply would not be served by the Edgar amendment.

Mr. Speaker, I intend to have a separate vote on this, and I hope with better understanding of this the House will reject the Edgar amendment. I observe that a list of these chemicals which will be subject to reporting will be included in the records along with these other comments. It includes such common substances as vitamins A and K, solvents used in the home, pesticides, tobacco, many food substances including sugar.

I would observe to my colleagues that this kind of reporting hardly serves the public interest or the public health. The House should reject the Edgar amendment.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 6, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Hon. JAMES T. BROYHILL,
Ranking Minority Member, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

Hon. GENE SNYDER,
Ranking Minority Member, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR CONGRESSMEN: I am extremely concerned about action taken December 5 by the House of Representatives adopting the Edgar Amendment to the Community Right-to-Know section of "The Superfund Amendments Act of 1985."

By expanding the coverage of this section to include literally thousands of chemicals, the amendment renders unworkable the entire provision relating to "Extremely Toxic Substances." Millions of businesses, regardless of size, handling these chemicals would be subjected to burdensome reporting requirements.

For these reasons, I strongly urge the House to reconsider this measure.

The reach of the Edgar Amendment is such that *any* chemical that shows *any* sign of an adverse health effect from exposure in *any* amount could be subject to the reporting requirements. EPA would undoubtedly face lengthy court challenges for failure to list such substances.

Preliminary analysis, based on information in the Registry of Toxic Effects of Chemicals database, indicates that far more chemicals would be covered by the Edgar Amendment than the 150 mentioned during floor debate. We suspect that at least 5,000 chemicals may be covered by the broad definition in this amendment.

The problems inherent in managing data on thousands of chemical substances would be compounded by the number of facilities submitting those data. Frequently, between one and five manufacturers produce each chemical substance. There may be three times as many that process the chemical, and several times that many may be users. Many of these facilities are small businesses. All could be subject to the reporting requirements.

The Edgar Amendment would require literally millions of facilities across the country to compile and submit emissions information to local authorities. The amendment covers a wide range of substances. Many types of facilities handling these substances would be affected, including:

200,000 gasoline stations,
200,000 privately owned gasoline tanks,
175,000 commercial pesticide applicators,
165,000 industrial boilers,
50,000 vapor degreasers that use solvents,
More than one million space-heating units in apartments, office buildings and department stores,
More than one million certified pesticide applicators, including farmers.

In addition, countless other businesses, public facilities, and individuals may also be subject to the amendment's onerous reporting provisions. These include hardware stores, beauty parlors, wastewater treatment facilities, hospitals and many others. The public interest simply would not be served by this measure.

As you know, I strongly support the community's right to obtain information necessary to protect citizens from hazards posed by chemical substances. EPA is actively working to develop a list of chemicals broad enough to be fully protective, yet reasonable enough to work. The Edgar Amendment is not the answer.

Sincerely,

LEE M. THOMAS.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, I was not present on Friday, December 6, 1985, when the House voted on rollcall No. 436. Had I been present, I would have voted "yes" on the amendment offered by the gentleman from Maine [Mr. MCKERNAN], grandfathering the six States that currently operate marine oil spill liability funds, thus allowing both existing State funds and new State funds to operate.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent on Thursday evening, December 5, 1985, for roll No. 434, the Edgar amendment, requiring companies to inventory and monitor chemical emissions believed to cause cancer, birth defects, heritable genetic mutations, or other chronic health effects in humans. Had I been present, I would have voted "aye."

ILLINOIS BANKING BILL CONTAINS CONSUMER PROTECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on November 25, the Governor of Illinois signed legislation making sweeping changes in Illinois banking law, including the creation of a seven-State Midwest banking region. Just as important, the legislation contains important consumer protections, including provisions requiring the establishment of basic checking services for the elderly and limiting holds on checks deposited by con-

sumers. The bill takes effect on July 1, 1986.

Much credit for the legislation must go to Illinois House Majority Whip Ralph C. Capparelli, whose 13th Legislative District includes much of my 11th Congressional District. Representative Capparelli is to be congratulated for his efforts in passing the bill. As his constituent, and chairman of the Subcommittee on Consumer Affairs, I want to thank him for his concern and action in helping pass strong consumer banking legislation in Illinois.

Under the law, every financial institution must offer any person over 65 years of age a basic checking account. The elderly consumer can open the account by either depositing a minimum initial deposit of $100, or entering into a written agreement requiring direct deposits of a recurring payment made to the consumer at least monthly. A senior citizen need only agree to have his or her Social Security benefits credited to the account monthly to open the account. Once the consumer deposits $100 or signs a direct deposit agreement, no other minimum balance or minimum deposit requirements may be imposed. In addition, the financial institution may not impose any charge for the first 10 checks the consumer writes each month.

This provision will greatly benefit our senior citizens. With it they will be protected from banks taking significant portions of their meager benefits each month through high service fees. In addition, it may encourage senior citizens to make greater use of direct deposit for their Social Security and other retirement benefits. This will protect against the risk of lost or theft of their check, and will assure that their funds are in their account the day they are due, rain or shine. And they need not worry about errors, because the Federal Electronic Fund Transfer Act, passed in 1978, regulates these transfers and provides for prompt resolution of any errors that might arise.

Another provision of the legislation benefits all Illinois consumers. Illinois becomes only the sixth State to impose an expedited funds availability schedule for accounts. Under the law, consumers will no longer have to suffer inordinate holds on their deposits. For any account that has been opened at least 90 days, financial institutions can hold checks issued by the United States, Illinois or local Illinois governments for no more than 2 banking days. For other checks drawn on Illinois banks, the hold cannot exceed 5 banking days, and for checks drawn on out of State banks, no more than 8 banking days.

As an original cosponsor of H.R. 2443, the Expedited Funds Availability Act, I strongly support legislation of this kind. Having participated in the recent hearings and markup on the bill, I know just how hard it is to pass such legislation. I will fully support H.R. 2443 when it comes to the floor, but House passage does not guarantee enactment by the other body. For my constituents, and all other Illinois consumers, they now have a law in place that outlaws excessive and unnecessary check hold policies.

Illinois also adopted a consumer account disclosure provision, which requires financial institutions to disclose the terms and conditions governing each consumer's account. These disclosures must be made when the account is opened and annually thereafter. This will enable every consumer to know just what terms govern his or her account, and the schedule of fees that apply. In addition, the disclosures must be accompanied by a brief description of all other available consumer accounts that the financial institution offers. This will enable the consumer to conveniently determine whether some other type of account might better suit his or her needs.

Finally, the regional banking provisions of the Illinois legislation also take consumer and community needs into account. No out of State bank is permitted to acquire an Illinois bank unless the banking commissioner is satisfied that the bank has served the convenience and needs of its community and will meet the needs of the Illinois community. The commissioner will take into account the out of State bank's ability to meet the various credit needs of the Illinois community, including its participation in programs designed for housing, small businesses and small farms, its participation in local community development and redevelopment, the extent of the bank's efforts to make the community aware of the bank's credit services, and evidence of the bank's compliance with laws governing its credit practices. The out of State bank must present a plan to the banking commissioner showing specifically what steps will be taken to meet the credit needs of individuals and small businesses in the communities affected by its acquisition of the Illinois bank.

I know that William Harris, Illinois commissioner of banks, will vigorously enforce the consumer protection provisions of the legislation and will carefully examine applications for acquisitions of Illinois banks. Commissioner Harris is an able and talented commissioner, and consumers in Illinois can be assured that there will be no evasion of this legislation under his watchful eye.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS. MR. Speaker, I was unable to be present from June 25 through June 27, 1985 on account of illness. I particularly regret missing votes on the amendments to the Department of Defense authorization, H.R. 1872 and the Federal Elections Commission authorization, H.R. 1532. Had I been present, I would have voted in favor of the Department of Defense cost containment, integrity, and accountability amendments including the Courter amendment requiring competitive bidding (Roll No. 186), the Hunter amendment to require the Secretary of Defense to give notice to employees of prohibited subsequent employment with defense contractors (Roll No. 188), the Hertel amendment to authorize the Inspector General to stop payment and debar contractors in the case of waste, fraud, abuse, or excessive charges (Roll No. 189), the Levine amendment to guarantee alternative sources for military materials (Roll No. 190) and the Boxer amendment to require defense contractors to break out labor costs (Roll No. 195).

I would have opposed the amendments which would delay or weaken the cost containment, integrity and accountability amendments. The weakening amendments include the Byron amendment (Roll No. 187) and the Courter and Brown amendments to the Boxer amendment (Roll Nos. 193 and 194).

Had I been present I would have voted for the Brown-Coughlin amendment to limit ASAT testing (Roll No. 196) and the Foley amendment (Roll No. 203) to limit the possibility that United States troops would be sent to Nicaragua. The Burton amendment to the Foley amendment would have permitted military operations in Nicaragua if it was determined that Nicaragua was supporting military operations in El Salvador, Honduras, or Costa Rica. Although the administration has contended that Nicaragua has supported rebels in El Salvador, the practical reality is that there has been no indication of weapons moving between Nicaragua and the Salvadoran rebels. Given the complexities of proving military support, or the lack thereof, I would have voted against the Burton amendment (Roll No. 202) and the Hunter amendment (Roll No. 201). The Markey amendment (Roll No. 207) would have received my vote because it is essential that provocative troop movements on the Nicaraguan-Honduran border cease. Although the Daniel substitute (Roll No. 206) to the Markey amendment provides far more limited assurances that hostile confrontations will occur in Honduras, I would have supported it also.

The reaction to the Walker spy case has produced responses which will not necessarily stop espionage in the future, but which will result in the loss of some of the liberty that we cherish. I would have voted for the Brooks amendment (Roll No. 199) to continue the current polygraph pilot study and voted against the Dickinson amendment (Roll No. 200) to establish a larger polygraph program in the Department of Defense. I would also have voted against the use of capital punishment for espionage under the Uniform Code of Military Justice (Walker amendment, Roll No. 208).

The drug problem in this country is a national disgrace. Drugs seem to readily enter the country and rapidly move to local pushers and users. Every reasonable effort must be made to stop the flow of drugs. I would have voted for the Bennett amendment (Roll No. 198) and against the English amendment (Roll No. 197).

I would have supported the continued linkage of military and civilian pay as pro-

posed in the Morrison amendment (Roll No. 205). The establishment of different pay policies through the authorization process rather than a deliberate consideration of the underlying law is foolish. The linkage was established by statute and it should not be changed without considering the statutory basis.

The Blaz amendment relating to the effective importation of vehicles outside of normal import channels is inappropriate in the absence of consideration of the import issue. I would have opposed this amendment (Roll No. 204).

Overall, it is discouraging to review the decisions which have been made through the Department of Defense authorization process. The House has called for capital punishment and polygraphs. Although the momentum for Department of Defense cost containment could not be totally stopped, the record indicates that substantial efforts were made to do just that.

The perceived need to once again state our opposition to the introduction of troops into Nicaragua is discouraging. Why must we constantly stand up to block movements toward provocative acts against our neighbors to the South?

As we move on to other issues, we must remember how we have decided to spend so much of our Nation's wealth. It should give us pause as we are confronted by the needs of our people and others throughout the world.

INTERNATIONAL HUMAN RIGHTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 60 minutes.

Mr. LANTOS. Mr. Speaker, tomorrow is International Human Rights Day. On behalf of the congressional human rights caucus and all of my colleagues who are deeply concerned about human rights, we have called for this special order.

Before we bring the regular presentations that we had planned, I yield to my friend and colleague, the gentlewoman from California [Mrs. BURTON], one of the leaders in this House in the field of human rights, for a brief observation.

Mrs. BURTON of California. Mr. Speaker, I really want to commend my dear friend, the gentleman from California, for bringing this special order.

It is a tragedy when people are not free. If one person is not free, none of us are free. It is imperative that we constantly remind those countries that do not have freedom of immigration, do not have freedom of religion, and I am very pleased that the gentleman brought this before us today.

Mr. LANTOS. Mr. Speaker, on December 15, 1791, our Founding Fathers celebrated the ratification of the first 10 amendments to the Constitution of the United States, a Bill of Rights that has helped to guarantee the freedoms that we all cherish.

In 1985, most nations on the face of this planet somehow recognized human rights, even nations that in their daily lives deprived millions of individuals of the most elementary human rights. We in the United States have a very special responsibility to advance the claims of the oppressed, to reaffirm the rights to life and liberty as fundamental rights upon which all others are based and to safeguard the rights to freedom of thought, freedom of conscience, and freedom of religion. As we are free, we must speak up for those who are not.

The list for whom we can speak up, for whom we must speak up, is almost endless. It begins in the Soviet Union where countless men and women are incarcerated for the simple reason of wanting to practice their religion, express their views, who wish to travel, want to function as free human beings.

The list includes the free trade unionists in Poland who are fighting against the oppressive Polish regime.

The list includes the millions in South Africa who are the victims of the policy of apartheid, racial discrimination, sanctioned by that Government.

The list includes members of the Bahai faith in Iran, who for the sole reason of their religious convictions are persecuted by the government of the Ayatollah.

The list includes people who would like to live freely in Chile and Paraguay.

The list includes courageous members of the Roman Catholic Church in Nicaragua who are fighting against governmental suppression there.

The list includes the countless freedom fighters in Afghanistan and those proud and bold Cambodians who are fighting against Vietnamese occupation.

The American people clearly recognize that it is the denial of human rights, not their advocacy, that is the source of world tensions. We recall the sacrifices that generations of Americans have made to protect and to preserve freedom and human rights around the world. In this century alone, tens of thousands of Americans have laid down their lives in distant battlefields to uphold the cause of human rights. We honor and cherish them today.

At the recent summit meeting in Geneva, Mr. Speaker, when we raised the issue of human rights, the leader of the Soviet Union denied that human rights is a problem in the Soviet Union. We indeed have come to see a dramatic change in the Soviet policy toward human rights. They not only deny that there are human rights violations in the Soviet Union, a fact that is known across the globe, but they focus attention on human rights violations in the United States and in the rest of the free world.

Now, clearly, we have human rights problems, but the fundamental difference between our human rights problems and the human rights violations in the Soviet Union and other totalitarian countries is that our Government is clearly aware of these problems, it is working hard to alleviate these problems, and has as its policy a society in which human rights are honored, cherished, and preserved.

As we celebrate International Human Rights Day, the congressional caucus, 150-strong, stands united, Republicans and Democrats, in our pledge that human rights will remain at the top of our agenda. It will have to be at the top of our agenda in dealing with the Soviet Union at the summit that we will have here in Washington 1 year from now, and the following summit in Moscow in 1987, because what fundamentally distinguishes our society from their society is not the power of our missiles, it is not the might of our economy, it is not our technological achievements, but it is our deep, abiding, unshakable commitment to human rights.

We are proud as Americans to recognize Human Rights Day tomorrow and to rededicate our efforts to spreading the cause of human rights globally.

Mr. Speaker, I would like to yield at this point, if I may, to my friend and colleague, the gentleman from Maryland [Mr. HOYER], who is chairman of the Helsinki Commission which, in fact, has played a pivotal role in the Congress in protecting human rights agreed to at the Helsinki Final Accords.

Mr. HOYER. Mr. Speaker, I thank my friend, the gentleman from California [Mr. LANTOS], who himself, along with the gentleman from Illinois [Mr. PORTER] and the group that he represents, 150-strong or more, and indeed all the Members of the Congress in both Houses, in his leadership and commitment to the issue of human rights. I want to thank both the gentleman from California and the gentleman from Illinois [Mr. PORTER] for reserving this time to commemorate International Human Rights Day. I commend them for their tireless leadership in the area of human rights, which spans the entire careers of my colleagues, I might add.

Mr. Speaker, there is no issue that unites us more than that of human rights. This is not a partisan issue, as my colleagues have demonstrated, for the issue of human rights is intrinsic to the deeply held values of the American people—the foundation upon which our concept of nationhood rests. It unites the parties in this country in a common sense of national purpose. Standing for civil, political, reli-

gious and cultural freedom at home and abroad gives America spiritual and moral strengths.

As my colleague, the gentleman from California [Mr. LANTOS], so eloquently just stated, it is the very essence of that which distinguishes us from the Soviet Union and other societies who do not recognize the individual dignity of every human being in their society.

If the legacies of Jefferson, Lincoln, and King, are to remain alive, if we are to be the America of which they spoke and in which they believed, then we must continue, as my colleagues here on the floor have, to denounce the forced surrender of human rights to the arbitrary will of government. We are the conscience of the world. The oppressed look to us for understanding and assistance in achieving social and political justice, for moral leadership.

December 10, International Human Rights Day, is a day for us to speak of the hopes of literally millions, for family reunification; freedom of religion, belief, thought, conscience, and expression; minority rights and self-determination of peoples, and equality before the law.

We are here today to speak of the dreams of individuals such as Sakharov and Mandela, whose commitment to the cause of human dignity is the inspiration of all peoples throughout the world.

The world has become smaller in the last 35 years, because our concerns are no longer limited by national boundaries. A State can no longer make the blanket assertion that the manner in which it treats its citizens is not the concern of other States. We cannot afford, Mr. Speaker, to live and act in the world today without taking responsibility for the fate and dignity of others.

The pressure of international public opinion should never be underestimated. It has resulted in Ylena Bonner's trip to the West for medical treatment. It has accelerated the cause of racial justice in South Africa. It has put all oppressive governments on notice that their repressive actions can no longer take place in obscurity.

The world, Mr. Speaker, is watching. I join my colleagues in rededicating the efforts of the U.S. Congress to the universal declaration of this noble principle.

Again, Mr. Speaker, I congratulate the gentleman from California [Mr. LANTOS], such an outstanding and outspoken leader in this field, as well as his cochairman, the gentleman from Illinois [Mr. PORTER].

I thank the gentleman for yielding this time.

Mr. LANTOS. Mr. Speaker, I am deeply grateful for my friend's comments and most gracious observations. He has been our leader on the Helsinki Commission, Mr. Speaker, and we all rest safely knowing that Congressman HOYER's leadership is with us, that to the best of our ability as a Nation, we will hold the Soviet Union and the other signatories to living up to the agreement they willingly signed at Helsinki.

□ 1625

He has been a distinguished leader in the human rights field, and we look forward to his leadership for many years to come.

Mr. Speaker, I would like to yield at this time to one of the most diligent, hardworking, eloquent, and effective fighters for human rights in the Congress of the United States, my distinguished friend and colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to add my support for the statement made by the gentleman from California [Mr. LANTOS] who along with our colleague from Illinois, Mr. PORTER, cochairs the human rights caucus; and both of whom have arranged this time for us today. Commemoration of the signing of the Universal Declaration on Human Rights in 1948 is indeed an excellent opportunity for all of us to discuss the state of human rights in the more than three decades in which the Declaration has been in effect.

Over the years, we have seen some improvements in human rights on several fronts; unfortunately, however, human rights have deteriorated for Soviet Jews and other ethnic minorities behind the Iron Curtain.

The Universal Declaration of Human Rights bears an international and multilateral philosophy that has spread over three decades to every corner of our globe. In 1948, it was a document whose provisions laid the cornerstone for human rights diplomacy. Following an era in which many who bore an ethnic or religious background different from the majority were considered subhuman and annihilated, the world reacted in 1948 by loudly declaring that human rights was an international concern, and indeed, one which could no longer be termed an "internal affair," as we so frequently hear from our Soviet counterparts.

As the world has changed, so too have our attempts in promoting human rights. In the years that followed, our Nation, as well as a host of other nations, including the Soviet Union, have signed additional human rights documents, thus giving even more credibility to the notion that the observance of human rights knows no geographic boundaries. Its tenets belong to each member of the human race; it is a right that should be as available as the air we breathe. And yet, sadly, it isn't. So our endeavors, worldwide, must continue.

Mr. Speaker, this particular commemoration of the signing of the Universal Declaration on Human Rights comes on the heels of the Geneva summit conference. Congress, the American people, and our President have made their feelings known time and time again on this very important and critical matter. We continue to emphasize to nations, such as the Soviet Union, that the individual cannot be subjugated by the state. International Human Rights Day is an important commemoration of that fact. We cannot sit idly by, just watching as Shcharansky, Sakharov—and Mrs. Sakharov, who just arrived in this country Saturday—Orlov, Berenshtein, and thousands of others are physically tortured and emotionally persecuted for their beliefs.

Each person, despite the Soviet Union's best efforts, continues to stubbornly prove to the Soviet regime and the world that they will not quietly submit to an unjust system.

We join them, and the many hundreds of thousands of others who suffer throughout the world for their personal philosophies, by reiterating our support for their noble cause. Let us hope and pray that the new year will bring much needed reforms for human rights around the globe and that we will never hesitate to speak out loudly and clearly in support of freedom and justice.

Mr. LANTOS. I want to thank my friend and colleague for those very moving and powerful remarks.

Mr. Speaker, I recall in the dead of winter last year that we were in the Soviet Union together. Every night, my distinguished friend from New York took the lead in taking a group of fellow Members of this body to various modest homes and apartments of dissidents and refuseniks to talk to them, to meet with them, to give them hope and encouragement. No one has done more, and more unselfishly, than my friend from New York on behalf of human rights and we are deeply grateful for his participation in this special order.

It was in another cold winter, Mr. Speaker, in the winter of 1959, that the then Lieutenant Governor of California, GLENN ANDERSON, asked me to go with him to Moscow. Human rights was not that much of a topic over a quarter of a century ago, but GLENN ANDERSON, with his vision and courage and farsightedness, already recognized that we would not be able to make peace with the Soviet Union until they relaxed the persecution of innocent victims. He has been a champion of human rights all of his distinguished political career, and I am proud and pleased to yield to him such time as he might need to speak on behalf of human rights.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman on taking this special order today marking International Human Rights Day.

Mr. Speaker, on December 10, 1948, the U.N. General Assembly unanimously adopted a statement of principles which defined basic human rights and freedoms. These principles, known collectively as the Universal Declaration of Human Rights, were established to serve as a universal standard by which member nations would promote and encourage such rights in cooperation with the world body. Today, on the eve of the 37th anniversary of the adoption of this important declaration, I rise to commemorate International Human Rights Day, to honor those men and women in nations throughout the world who have been made to suffer for their efforts to preserve basic human rights, and to reaffirm my support for human rights.

Although the Universal Declaration of Human Rights remains today the cornerstone of international human rights diplomacy, the high ideals of the document are continually ignored by numerous nations. As the holiday season is upon us, we must give special thought to our many blessings as a free people and remember the oppressed around the world. We cannot forget those incarcerated in the Soviet Union who speak out freely or who wish to emigrate, nor can we forget the isolation of Gorki of Nobel laureate Andrei Sakharov. We must remember the victims of the injustices of the apartheid system in South Africa, and the suppression of freedoms in Cuba, Vietnam, and Kampuchea. We must continue to speak out against the vicious war waged by Soviet troops in Afghanistan, and we cannot forget that December 13 marks the fourth anniversary of the imposition of martial law in Poland.

Nearly 200 years ago, our Founding Fathers ratified the first 10 amendments to the Constitution. This Bill of Rights guaranteed the recognition of freedoms which Americans have cherished through the ages, freedoms which we recognize as inherent to each and every human being. Consequently, we, as Americans, must realize our responsibility to speak up for those around the world who are not free. We must advance the claims of the oppressed and seek to reaffirm and safeguard the fundamental rights which they are denied.

Mr. Speaker, as we celebrate International Human Rights Day and the anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights, I call upon my distinguished colleagues and all Americans to join me in reaffirming our support and commitment to the principle of human rights. We must continue to serve as a source of hope and inspiration for the victims of suppression around the world.

Mr. LANTOS. I thank my colleague for those very eloquent and powerful words.

Mr. Speaker, I do not believe I have any more requests for time on the Republican side. I have one more colleague on our side.

Mr. Speaker, I am very pleased to call on my friend, a distinguished Member of this body, the gentleman from Texas [Mr. BUSTAMANTE].

□ 1635

Mr. BUSTAMANTE. Mr. Speaker, I want to thank the chairmen of the congressional human rights caucus, Congressmen LANTOS and PORTER, for organizing this special order commemorating International Human Rights Day.

Tomorrow will mark the 37th anniversary of adoption by the United Nations of the Universal Declaration of Human Rights which forms the cornerstone of international human rights diplomacy. While this binding international document guarantees people's rights to emigrate, to practice their religion, to hold political opinions that differ from their government, and the right not to be subjected to torture, we in Congress are confronted every day with reports of routine violations of these individual human rights.

During the course of the year, I have followed several cases of Soviet violations against Soviet Jews. To mention a few of the cases I have been following; I have followed the brutal Soviet persecution campaign against Hebrew teachers. The maiming beatings of Hebrew teachers Yuli Edeshtein and Yosif Berenshtein and the imprisonment of Evgeny Aisenberg, Dan Shapira, and Aryeh Volvovsky.

Mr. Speaker, on the eve of International Human Rights Day, I want to call attention to the case history of Hebrew teacher Aryeh Volvovsky. Mr. Volvovsky's case illustrates the situation of Hebrew teachers and refuseniks in the Soviet Union, whose human rights are violated routinely.

Aryeh Volvovsky graduated from the Gorky Polytechnical Institute's Department of Computers, and earned a degree at the U.S.S.R. Academy of Sciences, in Moscow. Before filing for an exit visa to Israel with his family in June 1974, he was employed as a senior engineer, and as a senior research fellow at the Moscow Research Institute of Complex Mechanization and Automation in Oil and Gas. After applying to emigrate, he was dismissed from his position and forced to work at various odd jobs.

In the spring of 1979, the Volvovskys moved to Moscow in order for Aryeh to find employment and to participate in Moscow's Jewish refusenik circles. In September, upon returning home from a vacation, they discovered that their apartment had been ransacked. Several hundred volumes on Jewish history and culture written in Russian, English, and Hebrew were taken. In addition, eviction papers were served by the landlord ordering Aryeh to vacate the apartment.

Leonid brought the case to civil court. He lost his case, his apartment and his Moscow residency permit. The Soviet authorities ordered him to relocate to the city of Gorky.

In the spring of 1980, during a visit to Kishinev, Volvovsky was arrested for alleged vagrancy. On the demand of the Kishinev prosecutor, he was detained for 30 days and threatened with trial and imprisonment. The charges were later dropped.

The Volvovsky family lived together in Gorky, where few Jews practice their religion and traditions. Nevertheless, Aryeh was active in promoting Jewish culture and teaching Hebrew. In addition to studying and teaching Hebrew, Volvovsky is a talmudic scholar.

The tremendous strain of the past few years has been extremely difficult for the Volvovsky's daughter, Kira. Because of her family's refusenik status, she has been subjected to a considerable amount of tension and harassment. In a recent letter to the West, Volvovsky expressed his concern for Kira:

> . . . For a child in our situation this is very hard . . . I am worried about her. I do so want her to grow up in Israel, but fate seems to decree otherwise . . . My prayer is that things will not change for the worse.

The Volvovsky's home was searched in the summer of 1983. All their books on Jewish religion and culture, as well as cassettes of Jewish and Israeli songs, were confiscated.

A year later, Volvovsky was warned by the local police of Gorky that he could face "serious consequences if he continues with Bible readings in his home." Despite warnings, he has continued studying and learning ritual Jewish slaughter as well.

On June 25, 1985 the Volvovsky apartment was again searched. A great deal of literature and personal letters were confiscated, and Aryeh was arrested. Following his arrest, the homes of his students were searched as well without warrants.

In late October, Aryeh's trial took place. Like so many other activists he was convicted under article 190/1 of the RSFSR Criminal Code for "* * * defaming the Soviet State * * *" with a maximun sentence of 3 years of deprivation of freedom. According to his charge sheet the defamation lies in his allegation that anti-Semitism exists inside the Soviet Union, and that there are great diffi-

culties in maintaining Jewish cultural life.

To substantiate its claim, the prosecution had recourse to the most dubious evidence backed up by even more dubious witnesses. For example, the main plank in the prosecution's case consists of a letter sent by Aryeh to Brezhnev several years ago.

Among members of Volvovsky's family who were present were Ludmila, his wife, Kira, his daughter and his mother. Also present at the start of the trial was Boris, the son of imprisoned Yosif Begun, a fellow Hebrew teacher. Boris was asked to leave the court on the first day, then Ludmila and her mother-in-law were also told to leave. Kira objected to being ordered out of the courtroom, insisting that she was entitled to be present at her father's trial. Her objections were called indecorous behavior, and she was physically ejected from the courtroom.

When Ludmila was asked to leave the courtroom, she too protested on grounds that except in cases where state security was involved, a prisoner had a constitutional right to have his family present. Her resistance was overcome with so much force as to leave her bruised.

Mr. Volvovsky appealed his conviction on December 5, 1985, to no avail.

Mr. Speaker, Aryeh Volvovsky's case illustrates the routine Soviet violations of guaranteed universal individual human rights. I join my colleagues today in honoring people like Aryeh, who struggle in the Soviet Union for the human rights guaranteed by the Universal Declaration On Human Rights.

Mr. LANTOS. Mr. Speaker, I am very grateful to my friend and colleague, the gentleman from Texas [Mr. BUSTAMANTE], who pinpointed specific cases of individual human rights violations, because the action is on specific cases, Mr. Speaker, and I am grateful for my friend's detailed, moving, impressive presentation. The gentleman is a fine champion of human rights in this body.

Mr. Speaker, we have already seen that human rights are indivisible. They cover all continents, all races, all religious faiths, all groups of people who are not allowed by their governments to exercise fundamental human rights.

Mr. Speaker, it is with extraordinary pleasure that I now yield to the cochairman of the congressional human rights caucus, who has been a proud, articulate and singularly eloquent champion in this struggle, the gentleman from Illinois, Congressman JOHN PORTER.

Mr. PORTER. Mr. Speaker, I thank my cochairman for yielding to me.

I want to say, Mr. Speaker, that it is a great privilege for me to join with the gentleman from California [Mr. LANTOS], and join with my other colleagues this afternoon in this special order to commemorate the 37th anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights.

Mr. Speaker, as stated in President Reagan's proclamation which names December 10 as International Human Rights Day:

> The United States recognizes a special responsibility to advance the claims of the oppressed; to reaffirm the rights to life and liberty as fundamental rights upon which all others are based; and to safeguard the rights to freedom of thought, conscience, and religion. As we are free, we must speak up for those who are not.

Mr. Speaker, many Members of this House have spoken out repeatedly, my colleague from California being among the most eloquent, the most thoughtful, and the hardest working on behalf of human rights.

But 37 years after the adoption of the Universal Declaration of Human Rights, it is clear that human rights are recognized more on paper, Mr. Speaker, than in practice. While countries claim to adhere to the U.N. declaration, at the same time, they are suppressing free elections, independent trade unions, due process of law, and freedom of religion.

The United States must continue to speak up more strongly and more loudly for people throughout the world whose voices are calling out for help, but are so often not heard by their governments.

As human rights have usually been defined since World War II, they constitute a body of natural law that coincides with the "inalienable rights" guaranteed American citizens in the Declaration of Independence.

□ 1645

However, ever since the negotiations that led to the U.N. Declaration of Human Rights in 1948, disagreements have persisted between East and West over the definition of basic human rights.

The Western nations, led by the United States, have tended to emphasize the freedoms protected in the U.S. Constitution and Bill of Rights, including the freedom of religion, of assembly, of movement, and access to information through a free press.

The Soviet Union and Eastern bloc nations have instead attached greater importance to such economic freedoms as freedom from want and the right to employment.

Upon his return from Geneva, President Reagan stated that the issue of human rights will be addressed more as a subject for private discussion. However, this should not be assigned to the public to reduce our efforts on behalf of persecuted individuals. The summit brought the issues of human rights and the plight of Soviet Jews to the attention of many—whether people voiced their concern by participating in a rally or by writing a letter to Secretary Gorbachev on behalf of a persecuted individual.

It is, therefore, important to keep this issue in the forefront, and although details of what is happening in terms of negotiations and discussions may be on a private agenda, we must remember to continue our public appeal and keep the pressure on governments until they are acting in fact in accordance with international agreements.

The summit seemed to establish a rapport between President Reagan and First Secretary Gorbachev, but one must remember that the Soviet approach is double-edged. In reply to United States criticism of Soviet emigration policies and the oppressive nature of Soviet society, the Kremlin has decided to take the offensive by bringing up so-called human rights violations in the United States, which included the accusations of censorship, persecution of dissidents, forced labor, religious discrimination, unemployment, and the plight of the homeless.

Along with the condemnations of American society, the Soviets decided to make some concessions on the eve of the summit, allowing Yelena Bonner to seek medical treatment in the West and resolving 10 of the 25 divided spouse cases.

While these symbolic gestures create the appearance of compromise, we cannot be satisfied until we see real results and the emigration numbers begin to increase to the levels of the 1970's.

Gorbachev stated, "There is no Jewish problem." Mr. Speaker, he is wrong. During this Hanukkah season, the Jewish Festival of Lights, we must remember the Soviet Jewry struggle for religious freedom and continue the fight until Sakharov, Shcharansky, Nudel, Orlov, and Volvosky and so many others are living in peace and freedom.

The Soviet Union and its satellite countries have committed many violations of human rights. These countries persistently fall below standards established by international agreements. Their governments respond to free expression with prisons, labor camps, or psychiatric hospitals.

Many Romanian citizens, for example, suffer from religious persecution by their government. Secretary of State George Shultz recently stated that when he visits Romania on December 15 he will warn Romanian leaders of the need for continuing responsiveness to United States concerns about their human rights record. We must let the Romanian Government know that the United States will not relax while they continue to ignore their international agreements.

One case that I have been involved in deserves special attention. Dorel Catarama is a Seventh Day Adventist who has been imprisoned since 1982. His imprisonment began after his brother and father were granted political asylum in the United States.

According to Amnesty International and former inmates of Mr. Catarama, he has been repeatedly beaten and tortured and his sentence has been extended due to trumped up charges.

The case of Dorel Catarama is not unique. There are over 450 cases of Romanian Government violations of the Helsinki accords. These violations include: the denial of the right of family reunification; the denial of the right of citizens to freely leave their country, including Romania; the right of freedom of opinion and expression in Romania, and many others. We must continue drawing attention to the violations that are taking place until the governments involved react and reaffirm their commitments to the freedom of their citizens.

However, there are many other signatory nations to such documents as the U.N. Declaration of Human Rights and the 1975 Helsinki accords on human rights beyond the Iron Curtain who have also fallen far short of the ideals expressed in these documents.

Chile lifted the state of siege in June of this year. Although this was a welcome development, Mr. Speaker, it in no way ended gross violations of human rights in that country. On the contrary, abuses by police has risen sharply, according to organizations monitoring the situation there.

There have also been reported increases in arrests of demonstrators who were participating in popular protests. Since the state of siege has been lifted, there have also been numerous attacks on Chilean human rights monitors, including the exile of a member of the Chilean Human Rights Commission.

The United States should not reward the Pinochet government with multilateral development loans, but rather we must make it clear that in order to secure the receipt of these loans, the Chilean Government must correct the present and reoccurring human rights violations within their borders.

Recently, a social committee of the U.N. General Assembly passed the first U.N. resolution expressing concern over alleged human rights violations in Iran and Afghanistan. In Iran, serious abuses continue to take place and the persecution of individuals of the Bahai faith should be singled out.

In 1984, according to a State Department report, at least 29 Bahais that were held in custody were killed, and that 750 or more remain in prison. The Bahais are a small minority who are trying to survive in fundamentalist Iran, and it is important that people hear the cries of this small group, Mr. Speaker, and work to increase the chances of their survival by allowing more of them to emigrate so that they can practice their religion without fear of being tortured or beaten, or losing their property.

In Afghanistan, the torture and murder of innocent men, women, and children continues by the Soviets and their surrogates. There are estimated to be 115,000 Soviet occupation troops within Afghanistan. The Mujahideen resistance fighters have lost approximately 500,000 men in their fight for freedom.

In Afghanistan, Soviet tactics include the use of rockets, cannons, and indiscriminate carpet bombing of resistance and civilian targets, including marked medical facilities. Ground operations against noncombatants have resulted in the murder and execution of women and children. The Soviets have also resorted to using booby-trapped toy bombs to kill and maim children, thus creating added burden on the resistance, medical facilities, and the atrocities continue.

The flagrant violations of the Helsinki accords in Afghanistan are destroying the entire country. The pressure on the Soviets to withdraw from that country will not stop until they adhere to principles such as refraining from the use of threat of force, recognizing equal rights and self-determination of peoples and complying in good faith with the obligations they have made under international law.

International Human Rights Day also is a time to emphasize that throughout the world no one has the right to restrict or threaten the lives of any other individual except under the rule of law. Acts of terrorism must be stopped, clear and simple. We must establish a clear cut counterterrorist policy that begins with the treatment of terrorist acts as acts of war. We must form a coordinated, counterterrorist intelligence network with other free nations of the world and under no circumstances should we negotiate with terrorists or listen to their inordinate demands.

Throughout the world, individuals are suffering or being persecuted by governments ignoring their international agreements. Thirty-seven years ago, Mr. Speaker, the United Nations adopted the Universal Declaration of Human Rights. The declaration was signed in the spirit of humanity with the hope that countries would demonstrate their commitments to peace through humanitarian gestures. I commend all of my colleagues who have worked so hard to assure that the rights and fundamental freedoms of individuals throughout the world are recognized and protected.

We are the voice of people who are struggling and fighting for their freedoms and for their lives. We here in the Congress are that voice, Mr. Speaker. We will not be silenced until our voices are indeed heard and the acts that are violating human rights are stopped.

I thank my colleagues, and particularly my colleague and cochairman of the Human Rights Commission, the gentleman from California [Mr. LANTOS] for joining in the celebration of International Human Rights Day, and demonstrating anew our commitment to peace and freedom.

Mr. LANTOS. Mr. Speaker, I am deeply grateful for the splendid statement of my colleague and cochairman of the congressional human rights caucus, Congressman JOHN PORTER of Illinois.

Congress is at its best when it acts in a bipartisan and nonpartisan fashion, and there is no issue, Mr. Speaker, where Congress is as united, as nonpartisan, as bipartisan, as it is in the field of human rights.

□ 1655

We will be here for a long time because human rights violations, unfortunately, will continue, and it is up to this body and to the American people to focus attention on human rights violations, to fight them and to insist at the summit and elsewhere that not until human rights violations cease can there be real peace on this planet.

Mr. LEVINE of California. Mr. Speaker, I welcome this opportunity to speak on behalf of International Human Rights Day and, specifically, on behalf of the Helsinki Final Act. This document builds upon the 1948 Universal Declaration on Human Rights; together, they represent the cornerstone of international human rights diplomacy. I would like to focus my remarks on Soviet violations of religious freedom and, specifically, persecution of Soviet Jewry, and how it relates to the recently concluded summit between President Reagan and Mr. Gorbachev.

In a November article I authored for a Jewish publication, I commented on how the Geneva summit between President Reagan and Mr. Gorbachev provided a unique opportunity to challenge the Soviets on their abysmal human rights record. In fact, prior to the summit, administration officials assured Jewish leaders that the issue of Soviet Jewry and human rights would be raised "forcefully" in the meetings with Gorbachev. In retrosepct, this issue seems to have fallen rather far on the list of priorities.

According to published reports, just hours after Reagan and Gorbachev completed their last session together—which had been billed in advance by the Americans as one which would concentrate on human rights—Deputy Presidential Press Secretary Larry Speakes told reporters that over the previous days the two leaders had discussed "all of the major issues of importance to us: arms control, bilateral rela-

tions, and regional conflicts." Human rights was conspicuously absent.

Other executive branch officials were quick to defend the administration's approach to the human rights issue. When asked whether Speakes' failure to mention human rights at his press conference as one of the areas of major U.S. concern signified a downgrading of the subject by the administration, Assistant Secretary of Defense Richard Perle responded, "Not at all. What we are doing is making our views known to the Soviets in private" so they would not, as Perle said, have an excuse to accuse the United States of manipulating the issue for political reasons.

Secretary of State George Shultz, when asked whether the President had raised the names of Anatoly Scharansky and Andrei Sakharov in his discussions with Gorbachev, replied that, "The President had an extensive discussion on the subject of human rights. And that is all I am going to say about it."

I have no reason to doubt the words of Assistant Secretary Perle and Secretary Shultz. I do believe that President Reagan did raise human rights with Mr. Gorbachev, and he should be commended and given full credit for his efforts. We should also keep in mind that any discussion of human rights must be seen in proportion, given the complexity of the issues involved in arms control, and the numerous regional and bilateral concerns which were brought up. And it can be argued that any improvement in the plight of Soviet Jewry must be preceded by an overall improvement in the climate of relations between the United States and U.S.S.R.

Nevertheless, there is an inherent danger in relegating such an important subject as Soviet Jewry to the backburner so as not to antagonize the Soviets. The less we press the issue of human rights and Soviet Jewry in general, and in particular the cases of the Scharansky's, Nudel's, Begun's, or Edelshtein's the more we run the risk of creating the impression that the West no longer cares. As difficult as the situation is for Jews in the U.S.S.R., there is little doubt that the intense congressional focus on Soviet Jewry, as well as the pressure applied by the American general public, has prevented even greater abuses and persecution. One story should be sufficient to illustrate this crucial point.

A colleague of mine visited the Soviet Union 2 years ago. He was taken to a Soviet post office by a Government official and shown a room with cards and letters stacked to the ceiling. When the Congressman asked what they were for, he was told that these cards had been sent from the West on behalf of various refuseniks. The official said that the Jews who are imprisoned are not allowed to see them, but that if these cards and letters ever stopped coming, the Jews in prison would be dead.

With that example in mind, I am disturbed—although not surprised—that there was no mention of the human rights issue in the joint statement issued by President Reagan and Mr. Gorbachev at the close of the summit. Yet, a high U.S. official told reporters that it was "astonishing" that the joint statement had mentioned what he termed "all of our main points." It took a dissident Soviet journalist, as opposed to the numerous Western journalists present, to stand up at the press conference of three prominent Soviet officials and point out concrete examples of Soviet antisemitism and anti-Zionism. The Soviets had no real response except for their kneejerk attack on alleged American Religious intolerance.

The Soviets must not be allowd to believe that the United States has forsaken the human rights issue. While we should applaud the release of Yelena Bonner for medical treatment, and the reunification of some divided spouses, we cannot let the issue rest there. It is likely that these actions were designed as public relations ploys. One need only look at the Soviet response to previous human rights inquiries to understand how unlikely it is that there will be any significant steps in the future to alleviate the plight of Soviet Jewry.

Gorbachev told American officials in Moscow last month that all Jews who chose to leave were free to do so. When asked by French journalists about human rights violations back home, during his October visit to Paris, Gorbachev replied, "I believe that the Soviet Union cannot be taken up as a partner in inconsequential debates." When these same journalists persisted, and focused specifically on Soviet Jewry, Gorbachev answered in outrageous fashion: "You speak of the Jewish issue. If anywhere else, in any country, Jews enjoy such political and other rights as in our country, I would be very glad to hear about it. It is not to be found anywhere."

Perhaps Mr. Gorbachev forgets about Scharansky, in failing health in Siberia, whose crime, like many other "Prisoners of Zion," was his active struggle to secure both his right to emigrate to Israel and the right of Jews to live as Jews free from discrimination in the U.S.S.R.; about Begun, whose draconian sentence was imposed merely because he tried to legitimatize the teaching of Hebrew and to disseminate Jewish culture; about the 25 Soviet citizens whose spouses reside in the United States and yet who are not allowed to emigrate, a clear violation of the principle of family reunification under the terms of the Helsinki accords. One such woman, 70 years old, has been blind for 15 years, and still is refused permission to join her husband in the West. What possible justification is there for holding this woman? The recent reunification of certain of these spouses is welcome, but why did the Soviets stop at half?

What about the recently concluded Moscow Book Fair, where the crowds surrounding the exhibits of both the American Jewish book publishers and the Israeli publishers were 7,000 strong each day? The director of the Israeli exhibit, Judith Gurevitz, said: "It's remarkable. They stand 2, 3 hours in line. People just don't want to leave—they've traveled thousands of miles to come here, and it's heartbreaking to ask them to make room for somebody else."

One woman who attended the exhibit exclaimed, "We wait like this for food, and we wait like this for knowledge." Mr. Gorbachev, are these the words of a Jew who enjoys freedoms "not found anywhere else?"

These cases merely scratch the surface of the difficulties facing Soviet Jewry, and barely mention the numbers of the Jews suffering persecution. I am skeptical whether there will be any improvement in their condition. In fact, I believe that the rumors we have been hearing of a massive Soviet airlift of Jews to Israel; of the release of Andrei Sakharov and Anatoly Scharansky for two Soviet spies; and of as many as 400,000 Jews being permitted to emigrate after the summit, are strictly rumors, and nothing more.

Nevertheless, it is absolutely essential that the administration and Congress continue to raise the human rights and Jewish emigration issues in the future in contacts with Soviet officials. These officials must be pressed to address an issue fundamental to all Americans, to public opinion in the West, and to an ultimate and lasting thaw in United States-Soviet relations.

Most importantly, the knowledge that we are raising this issue gives hope to our brethren in the Soviet Union. After all, as that story indicated earlier, it is our letters, our inquiries, that are the major reason many of them are still alive. Against all odds, they continue their struggle; On International Human Rights Day, we must pledge to do no less.

Mr. MANTON. Mr. Speaker, I would like to commend my colleagues, Mr. HOYER, Mr. LANTOS, and Mr. PORTER for calling this special order marking International Human Rights Day. December 10, 1985 marks the anniversary of the signing of the Universal Declaration on Human Rights in 1948.

While we have made progress in guaranteeing human rights around the world, many nations continue to deny their peoples freedom of religion, the freedom to emigrate, and to hold political opinions contrary to those of their governments. On the 37th anniversary of the declaration, it is appropriate to reaffirm the U.S. commitment to human rights.

One example of the continued denial of human rights is the plight of the Latvian people. As my colleagues know, November 18 marked the 67th anniversary of the proclamation of an independent Latvia, the Soviet Union continues to subjugate the Latvian people. The Latvian language has been targeted for elimination by the Soviet Union. Latvian religious are harassed and arrested. The United States has never ceased to recognize Latvia and the other Baltic states as independent nations. And, we must continue pressure the Soviet Union to afford the Latvian people their basic, human rights.

I also continue to be deeply concerned about the plight of Soviet Jews, particularly the case of Isof Berenshtein. Isoif Berenshtein, his wife Fania, and their daughter, Janna, applied for an exit visa to Israel in 1979. After being subjected to a campaign of harassment, Mr. Berenshtein was

arrested and sentenced to 4 years in a labor camp. Isoif was put into a prison cell with two hardened criminals and was attacked by them with a piece of broken glass. Mrs. Berenshtein believes this attack was encouraged by Soviet authorities. As a result of the attack, Iosif has lost 60 percent of the vision in his right eye, which he is unable to open, and he has lost 30 percent of the vision in his left eye. At the beginning of 1985, Iosif was transfered to Zheltie Vody Prison Camp in Donetsk. If Mr. Berenshtein does not receive medical attention, he faces the possibility of permanent and complete blindness. Prison authorities continue to refuse Mr. Berenshtein proper medical treatment.

Mr. Speaker, I take this opportunity to again call upon the Soviet Union to honor the universal declaration on human rights to which they are a signatory and grant the Jewish people of the Soviet Union their basic human rights. We in the Congress will not waiver in our commitment to Soviet Jewry. As we mark the anniversary of the adoption of the universal declaration of human rights, the Congress and the people of the United States reaffirms that we will continue to be the voice for these people who have no voice.

Mr. FRANK. Mr. Speaker, I am pleased to join my colleague from California [Mr. LANTOS] and the gentleman from Illinois [Mr. PORTER] in the important task of commemorating the 37th anniversary of the adoption by the United Nations of the universal declaration of human rights. As you know, December 10 has become known as International Human Rights Day. Human Rights Day affords us the opportunity to reaffirm our commitment to the principle of human rights and remember those who suffer at the hands of oppressive governments. It is inexcusable that many nations continue to violate basic rights to freedom and dignity. And they do so in direct contradiction to the international agreements that prohibit such treatment.

It has been more than 10 years since the 35 signatories of the Helsinki Final Act reinforced much of the United Nations Declaration of Human Rights by encouraging Eastern and Western Europe, Canada, and the United States to grant their citizens improved rights. Although followup meetings have been held, many of the member nations have not abided by the terms of the agreements. As the nation that was instrutmental in incorporating human rights into the charter of the United Nations, pressed for the creation of the Declaration of Human Rights, and promoted the Helsinki process, we have a duty to give support to these ideals. We must actively pursue a foreign policy that upholds human dignity and human rights in a forceful and consistent manner. International Human Rights Day is an important opportunity to remind ourselves of this commitment.

We must continue to bring to light human rights violations wherever they occur and to use all the appropriate avenues available to us to pursue, in an active way, a forceful human rights policy.

Mr. SCHEUER. Mr. Speaker, I join my colleagues here today to mark the 37th anniversary of the adoption by the United Nations of the Universal Declaration on Human Rights.

I wish I could say today that all is well in the world and all nations are biding by the precepts of this important declaration.

Unfortunately, it is not the case.

In countries far flung across the globe, innocent people are still subjected to abuse at the hands of dictators, despots and fanatics.

In the Soviet Union, Jews and other Russians are subjected to harsh treatment and the very abuses that the Universal Declaration on Human Rights sought to eliminate.

Thirty-seven years ago, the Soviet Union refused to sign the document and 37 years later they still trample on the human rights of their citizens.

In Afghanistan, freedom fighters armed with limited weapons are waging a fierce battle against the well-armed and repressive Soviet military machine.

In Central America, Roman Catholics are killed and persecuted by the Nicaraguan regime as they seek to provide Nicaraguan citizens with basic human rights.

In Chile and Paraguay, human rights violations against citizens are rampant.

In Iran, members of the Bahai faith are tortured and killed by the forces of the Ayatollah.

In Cambodia, innocent people are killed every day as they fight to rid their nation of the stranglehold imposed by the Communist Government of Vietnam.

In South Africa, a whole race is living under repression just because of the color of their skin.

Mr. Speaker, during this holiday season as we bask in the warmth and splendor of our freedoms in this country, let us not forget those members of our world community who are less fortunate.

Let us not forget the Schranskys and the Sakharovs. We must remember the Mandalas.

As a nation, we must remain in the forefront of the international battle for human rights for all people.

Sometimes we take our freedoms for granted.

But our freedom is limited as long as there are people in other parts of the world who are living under the cloak of fear and repression.

In every action we take, as a nation and as a people, we must include the concept of human rights.

The U.N. declaration passed 37 years ago is as important and appropriate today as it was then.

Mrs. BOXER. Mr. Speaker, I would like to thank Representatives LANTOS and PORTER for this important special order on human rights.

This special order is particularly timely for me. Late last week, a constituent contacted my office about a particular human rights case that she knew about. She wondered if there was anything I could do to help publicize the case. This special order has given me that chance.

My constituent had befriended on Iranian family in California. A relative of that family, Majgan Homayounfar, recently escaped from Iran to the Untied States, and told my constituent about her experiences at the hands of the Iranian Government and its feared Revolutionary Guards. I would like to take this opportunity to relate this tragic story:

Ms. Homayounfar was a teacher and a sympathizer of the opposition to the present Iranian Government. In 1981, Ms. Homayounfar was kidnapped off the street by members of the Iranian security forces, the Revolutionary Guards. She was taken by car outside of Teheran, beaten, slashed with a machete, and burned with a cigarette. Although she was going in and out of consciousness, she recognized one of her attackers and called out his name. At one point, she saw the man that she knew coming toward her with the machete. She passed out and awoke to see the Guards tossing something back and forth. As her vision cleared, she saw that they were playing with a human foot. Only then did she realize that it was her foot, which her captors had amputated.

The men then took Ms. Homayounfar in a car, dumped her out in the road and attempted to run her over. She was able to move slightly at the last moment, but her remaining good leg was crushed. The men then left her for dead.

Ms. Homayounfar was found by passers-by. However, word eventually got back to the Guards that she was still alive, and she was kidnapped again and taken to the notorious Evin prison in Teheran. After a 15-minute trial she was sentenced to 15 years in jail. She remained in prison for over 3 years. Because she received no medical treatment while in prison, her condition worsened.

Fortunately for Ms. Homayounfar, her case was known to people around Teheran. Fearing the repercussions from her death in jail, the Government released her, believing that with her medical problems, she would not survive. But she did survive, eventually making it to this country to tell her story.

As one of the few survivors of the Iranian jails, Ms. Homayounfar has many horrible stories to convey. An artist, she has attempted to draw many of the scenes she has witnessed, believing that words cannot convey their true horror. One device that she mentions is something the prisoners nicknamed the coffin. It is a box, just large enough for a person's body, that prisoners are meant to lay in. There is not even enough room to move around.

She has known several people that have been tortured and that have died.

I do not think it is overstating the case to suggest to my colleagues that Iran today is a human rights nightmare. There are reports of young children coerced into joining the war effort against Iraq to serve as human minesweepers in front of the Iranian tanks. There has been documentation of executions and widespread repression of members of the Bahai faith, concerns that

led Congress last year to pass a resolution condemning the Iranian Government's actions against the Bahais.

I quote from the 1984 Amnesty International report on human rights:

In 1984 Amnesty International learned of 661 executions. This brought the number of executions of which it was aware to 6,108 since the 1979 revolution. Amnesty International believed the true figures were much higher. . . . Amnesty International continued to receive reports of executions after summary trials, with no right of appeal. It also learned of cases in which prisoners were executed after being sentenced to relatively short terms of imprisonment, when both the prisoner and the family had been given to believe that release was imminent. Families were generally not informed until after the executions.

Last week, the United Nations passed a resolution condemning Iran for its human rights record. This is an important first step, but it is not enough. The international community must continue to put pressure on Iran to refrain from torture and repression of its citizens. I would ask that those concerned about human rights around the world continue to focus their attention on Iran and continue to make public the crimes that Iran has committed. Let us not allow Ms. Homayounfar to have suffered in vain.

Mr. SOLOMON. Mr. Speaker, I am pleased to join my many colleagues from both sides of the aisle to participate in this important discussion on the occasion of Human Rights Day. Before mentioning one or two specific cases that are of particular interest to the Subcommittee on Human Rights, on which I serve as ranking Republican, I would like to take a few moments to consider a broader issue that we need to think about.

Earlier today, this House debated a resolution that deplores man's inhumanity to man. The resolution makes specific reference to the massacre of Armenians in the early years of this century. As every member knows, a similar resolution concerning the great Ukrainian famines of the 1920's and 1930's is passed by the House every year. Other resolutions come up from time to time concerning the Nazi Holocaust and all of the hideous evils that attended that era of history. All of those resolutions serve to remind us—as well as the American people—of the tragedies that have visited other peoples and other lands. These resolutions make us grateful for the blessings of liberty, and they should cause us to renew our efforts on behalf of human rights and human dignity for all people today.

But these resolutions, in and of themselves, are not enough. No amount of resolutions about past tragedies can serve as a substitute for taking a clear-eyed, hard-nosed look at what is happening today. We are not being courageous by passing resolutions about events that took place 40, 50, or even 70 years ago if we are not also speaking up about the tragedies that have blighted our time as well.

In the past 10 years, the countries of Cambodia, Afghanistan, and Ethiopia have gone through Holocausts of their own—human suffering on a genocidal scale. We can all think of many pragmatic reasons why we shouldn't confront these problems. But our excuses are no more valid than the rationalizations offered by our predecessors a generation or two ago. Our silence is no less guilty than theirs.

My point simply is that Congress should not be content with merely passing resolutions about that tragedies that befell an earlier generation of people. We must deal with the totalitarian challenge of our own day as well. Otherwise, our successors 40 or 50 years from now will be passing resolutions about the Cambodian massacre, the planned famine in Ethiopia, and the holocaust in Afghanistan. And all of this assumes, of course, that there will even be a free world—or a free Congress—that would want to commemorate these horrors that happened on our watch.

Mr. Speaker, let me turn now to a couple of individual cases with which I am especially concerned.

Napoleon Fodor was a Romanian Trade Commissioner who sought asylum in the United States in 1982. Over the past 3 years, Mr. Fodor has sought in vain to be reunited with his wife and son. The Ceaucescu regime in Romania has repeatedly denied every attempt by Mrs. Fodor and her son to obtain an exit visa. The Fodor case is a typical example of how the Ceaucescu regime manipulates the citizens of Romania and denies them even the barest minimum of respect for their essential human dignity. Such is the regime that masquerades to the world as a liberal and independent state. Such also is the regime that I, and a growing number of my colleagues, believe should be denied most-favored-nation trade status with the United States.

Second, I would draw your attention to the family of Senor Alvaro Baldizon Aviles in Nicaragua. Senor Baldizon was the official who was in charge of human rights issues for the Ministry of Interior in the Sandinista regime. He defected to the United States last summer. Now it turns out that his wife, son, and brother, who are trapped in Nicaragua, have run afoul of the regime. Senor Baldizon's wife and son are under house arrest, and his brother has been charged with treason.

This case is all the more poignant for me because only a few weeks ago, at the initiative of Chairman YATRON, the Human Rights Subcommittee met with Senor Baldizon and heard his bad news about political repression in Nicaragua. We subsequently received word about the persecution that has befallen his family. Several Members of Congress, including Chairman FASCELL, Chairman YATRON, and myself have appealed to Commandante Ortega for the release of these people and for their right to emigrate to the United States.

These are just two examples, Mr. Speaker, of the tragedy and heartbreak that despotic regimes have foisted on innocent people. I am grateful for the opportunity to bring these families to the attention of my colleagues.

Mr. WOLF. Mr. Speaker, as a member of the human rights caucus, I join my colleagues in recognition of December 10 as "International Human Rights Day." This day in 1985 marks the 37th anniversary of the United Nations' adoption of the Universal Declaration of Human Rights. Agreement to this praiseworthy document was intended to guarantee specific human rights to all people. These include: First, freedom from torture; second, the right to emigrate; third, the right to practice religion; and fourth, the right to hold political opinions contrary to the government of one's nation.

I regret that on this anniversary we cannot also celebrate adherence to the Universal Declaration of Human Rights by all nations who are signatory. For example, I ask you to consider human rights abuses in a country I recently visited, Romania.

In July, I traveled to Romania with my House colleagues, TONY HALL and CHRIS SMITH, to investigate reports of human rights violations and religious repression in that country. It was clear that religious freedom is suppressed there. Lay leaders from various churches have been put in rubber suits, filled with water and beaten with rods, and left for dead; 20,000 Bibles have been recycled for use as toilet paper; and three churches have been bulldozed or partially demolished in the past year alone.

Upon our return, we wrote the Romanian Minister of Foreign Affairs and noted that while there is value to continue economic ties between our two countries, we believe ensuring human rights and religious freedoms is a moral responsibility we cannot shirk and is the foundation for any meaningful bilateral relationship.

We listed several specific examples of human rights violations and asked the minister to take immediate action to correct them. Even though a specific case we discussed was resolved by the emigration of Father Gheorghe Calciu, we remain concerned about the daily human rights abuses in Romania. To call attention to these continuing problems, Representatives HALL, SMITH, and I have joined as sponsors of H.R. 3599, legislation to suspend the valued most-favored-nation (MFN) trade status for Romania for 6 months pending improvements in Romania's dismal human rights record. Senators PAUL TRIBLE and BILL ARMSTRONG have introduced identical legislation, S. 1817, in the Senate.

Additionally, Secretary Shultz announced that during his December 15 visit to Bucharest, he will inform the Romanian Government that it would be difficult to extend Romania's MFN status unless they respond to U.S. concerns.

The most recent press conference about this legislation was held on December 5. A statement made by Father Calciu at this conference endorsed the bill and listed additional incidences of human rights abuses in Romania. I have enclosed a copy of this statement, which I think all Members of Congress should review.

In previously issued statements and letters, I have expressed my concern about

many human rights abuses including the use of slave labor in the Soviet Union, persecution of Vladimir Khailo, a Baptist from Krasny Luch, U.S.S.R., the persecution of Soviet Jews, and denial of basic human and civil rights in Nicaragua. I have also supported legislative initiatives and other efforts to bring an end to these situations.

As human rights abuses continue to occur, I will continue to speak out against them and support viable efforts to end such abhorrent treatment of our fellowman. Americans and other nations of the free world must continue to seek justice and adherence to the basic principles of human rights and freedom of speech, religion, and emigration worldwide.

STATEMENT OF THE REVEREND FATHER GHEORGHE CALCIU-DUMITREASA

(December 5, 1985—Washington, DC)

Distinguished Leaders, Ladies and Gentlemen of the Media: The one who stands now before you and speaks, spent over twenty-one years in the communist prisons of Romania. I am the Reverend Father Gheorghe Calciu-Dumitreasa.

I want to tell you about the terror and the injustice of the present regime in Romania, the suffering of the whole people who starve, freeze and live in the terror unleashed by President Nicolae Ceausescu and his family. Fifteen million people—more than three quarters of the population of the country—are suffering without any hope, in a world that offers them only increased misery and affliction.

Today, still, I am a victim of the communist regime sponsored by Mr. Ceausescu, because after so many years spent in jail, I was banished from my country together with my family. I am an older man, with permanent trauma in my soul and in my body. I am presently a man without a country, without any citizenship, and with no national identity.

Western countries are living with the illusion that Mr. Ceausescu has created a foreign policy which is independent from Moscow. They are wrong. This makes the Kremlin laugh with appreciation, and the poor, oppressed, suffering Romanians are in disbelief.

In the 1984-1985 winter, in only one hospital (the Grigore Alexandrescu Hospital in Bucharest), 93 newborn babies froze to death in their incubators because Mr. Ceausescu ordered that electricity be cut off eight hours daily. In Romania, there are several other hospitals which have suffered the same consequences. In addition, during the past winter, thousands and thousands of old people died of cold and hunger in Romania.

The United States renews Most Favored Nation (MFN) status to Romania annualy, but does not grant it to Czechoslovakia or Bulgaria.

How is one to explain that with all this generous help from the American government, that Romania is economically deteriorating faster than the economies of all the other communist countries?

It is obvious that the beneficiary of the MFN status is the Ceausescu family and the Romania Communist Party, and not the people who were intended to be helped through this U.S. economic assistance.

It is known that the Ceausescu government is providing weapons of war to terrorists organizations in Africa and the Middle East.

U.S. Representatives Christopher Smith, Tony Hall, and Frank Wolf, whom I dare to call my friends, have called for a six-month suspension of Romania's MFN status. I am present here today to request a total cancellation of Romania's MFN; however, if this is not possible, I support this Smith/Hall/Wolf measure H.R. 3599 as well as the Senate bill S. 1817 sponsored by U.S. Senators Paul Trible and Bill Armstrong which also calls for a six-month suspension of the status. I am asking this in the name of the children and old people who have died of cold and hunger during the last winter and in the names of those who face the same fate this winter because of the new restrictions on food and energy imposed by the Ceausescu regime. I make this request in the name of the dozens of churches and historical religious monuments destroyed because of the building of the new Ceausescu family palaces now under construction in Bucharest. I am making this request in the names of those who are imprisoned because of their Christian faith and for those who face other types of persecution.

Where are the miners Dobre and Jurca killed by the Romanian secret police for organizing the 1977 labor strike in Valea Jiului? Where is the engineer Radu Filipescu who was tortured and imprisoned in 1982 because of his support of freedom of faith and conscience? Where is the Brethren layleader Ilie Neamtu of Ploesti who was arrested on July 1, 1985 and from whom we have heard nothing further. (His wife and others fear that he has been murdered by the secret police.) Where are the physician Dr. Ionel Cana and the economist Gheorghe Brasoveanu who organized the Romanian Free Trade Union (SLOMR)? Where is the Adventist believer Dorel Catarama who was unjustly imprisoned April 9, 1982? Where is the Baptist Layleader Constantin Sfatcu who was arrested April 19, 1985?

You have before you a list which I have personally prepared of those who suffer for their human rights and religious activities in Romania. This list is representative of the many who are unjustly persecuted in this Marxist country.

The attempts by President Ceausescu and former Foreign Minister Stefan Andrei to assassinate Romanian emigre abroad are well known. This is the plain truth. We are bringing this message because the devil "was a murderer from the beginning, not holding to the truth, for there is no truth in him . . . for he is a liar and the father of lies" (John 8:44).

May God give us light to work for His glory and the welfare of mankind. Amen.

CALCIU REPRESENTATION LIST

Imprisoned people

Dorel Catarama, Seventh-day Aventist believer.
Constantin Sfatcu, Baptist layleader.
Radu Filipescu, engineer.
Ilie Neamtu, Brethren Layleader.
Gheorghe Olaru, Lutheran believer.
Ioan Olaru, Lutheran believer.
Emil Mocanu, Baptist believer.

Persons persecuted for promoting freedom of faith and conscience

Father Ilarion Agratu, Romanian Orthodox monk.

Father Stefan Gavrila, Romanian Orthodox priest.

Father Pamfil Radu, Romanian Orthodox priest.

Traian Dorz, Army of the Lord layleader and poet.

Ionel Cana, co-founder of Romanian Free Trade Union (SLOMR).

Gheorghe Brasoveanu, co-founder of SLOMR.

Carmen Popescu, co-founder of SLOMR.

Nicolae Pana, former legal adviser of Romanian Orthodox Patriarchate.

Persons who suffer because of desire to emigrate for family reunification

Nicolae Salveciu.
Vladu Gheorghe.
Popa Gheorghe.
Ionica Poru.

THE HOLY TRINITY
ROMANIAN ORTHODOX CHURCH
Los Angeles, Cal. November 14, 1985.

TO WHOM IT MAY CONCERN

(Re: Ioana Dumitru)

This is to certify that Mrs. Ioana Dumitru of 106 N. Commonwealth Ave., Los Angeles, CA 90004, an asylum status, is residing in the United States since September 11, 1982, when she arrived in this Country as a tourist.

Her family, made out of 3 people, husband and 2 children (Ionel Dumitru, and respectively: Daniel Gabrie & Dragos Ionel DUMITRU), now residing at: Str.Delinesti, no. 2, B1.A5, Sc.A,Et.2, Apt. 7, Drumul Taberie, Bucharest, Romania, are waiting for the reunification of the family on the Blessed soil of the U.S.A.

We also certify that Mrs. Dumitru, since her coming in the States never was a liability to this country, but rather she worked every single day, for her daily existence, now working at : Beverly Manor Convalescent Hospital, 1340-15th Street, Santa Monica, CA 90404. Her position there is of: Assistant Nurse. She is very much appreciated, earnes a decent salary and will be employed on an indefinite basis.

Ever since we knew her, she is a strong personality, devoted Christian, perfect wife and respectively mother, loving her family very much indeed. Although she lives in this Country, her soul is with her family in Romania, until the time they'll join her here.

We strongly recommend her, that her family be helped to arrive in the United States of America.

The said church submitted to the W.C.C. a petition, supporting her family to come to the USA.

Faithfully yours, Rev. Fr. Constantin Aleese.

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106 N. COMMONWEALTH AVE,
Los Angeles, CA, November 14, 1985.

RE IOANA DUMITRU

This letter is addressed to you by a disperate woman, of Romanian origin, by name IOANA DUMITRU, who left Romania, well-known as the "communist hell", for the United States on September 11, 1982.

On September 28, 1982 I have asked political asylum at the INS of Los Angeles, California. More than 2 years I have waited to be granted political asylum, but to my surprise I have received a letter of deportation from the INS for the reason that "I have not provided sufficient proves of my persecution in Romania if I will return back". This idea is outragious, because if we understand correctly the communist behavior, they persecute and jail innocent people, moreso they will tourch the people who dare to ask political asylum or even intended to defect in the West. And this is my case indeed.

I want to stress once more, as I did in the past in my asylum application that neither me or my husband were communist party members. In fact, my parents were well-to-do people before the communists took power in Romania. They were marked as members of the unhealthy society", or "capitalist exployters", for which reasons we, as their children, had to suffer the communist terror since our childhood, which would have continued to the graves if I still lived in Romania.

When I left Romania, I left behind my immediate beloved family: Ionel Dumitru, my husband, and the two children: Daniel 17 and Dragos 13 years of age, presently residing at: 2, Delinesti St., B1. A5, Sc.A, Et.II, Apt. #7, Drumul Taberii District, Bucharest, RO. Presently, my husband is unemployed—as the communists threw him out of job due to my defection in the States—, the children were thrown out of the school for the very same reason, almost starving (from time to time I send them food provisions), waiting in the disperate situation of joining me in the United States. Actually, they received Romanian passports and exit visa since January 1984, which are due to expire.

Therefore, dear Sir, I implore You to commend the INS Authorities to accept and grant the entry visa in the USA to my family before is too late, before the Romanian visa expire, before the communists revoke their rights to leave the country.

Disperate as I am, I pray you, dear Sir, to help me out with this problem, and I assure you of my loyality to this Country and my prayers for the welfare of the American people.

Yours faithfully,

IOANA DUMITRU.

Mr. YATRON. Mr. Speaker, as chairman of the subcommittee on Human Rights and International Organizations, I welcome the opportunity to participate in this special order highlighting December 10, International Human Rights Day.

The international human rights movement is based on the premise that every nation has an obligation to protect the human rights of its citizens. There are far too many countries which do not honor this international standard—governments whose violations are directed against the integrity of the person, through torture, disappearances, killing, and denials of the due process. There are also those regimes which deny civil and political rights—freedom of association, speech, and press, as well as economic and social rights.

Today we must examine in an unbiased manner the victims of human rights abuse whether they are in the Soviet Union, South Africa, Uganda, Cambodia, Guatemala, or in countries where violations are more difficult to assess. After we have determined that a human rights situation is serioius and merits our attention, them we must act swiftly and judiciously regardless of whether the perpetrator is from a friendly or unfriendly government.

There are steps which can be taken to address grievous human rights conditions. In Congress, hearings, resolutions, and statements denouncing violators are often effective. Where appropriate, we have disassociated ourself from governments with deplorable human rights records by voting against economic and military assistance as well as advocating diplomatic distance. The Subcommittee on Human Rights and International Organizations, entrusted with the reponsibility for human rights legislation in Congress, has also initiated legal measures to protect the integrity of an individual from torture, disappearances, and gross denials of due process.

Even when the success of our efforts cannot be determined, calling worldwide attention to the plight of those victimized is always advantageous. In recognition of International Human Rights Day, it is necessary to reaffirm our commitment to the oppressed, to let them know we join them in their struggle for freedom.

I would like to commend the cochairs of the human rights caucus, the gentleman from California [Mr. LANTOS], and the gentleman from Illinois [Mr. PORTER] for their valuable contributions to the human rights movement.

Mr. SHAW. Mr. Speaker, tomorrow marks International Human Rights Day, an occasion that celebrates many of the freedoms we enjoy here in the United States but also causes us to recognize those countries where the liberty we take for granted is in scarce supply.

Today I spoke to a gentleman in the Soviet Union who is fighting for his rights. His name is Lev Gendin and he is a Soviet refusenik. Mr. Gendin, who is Jewish, has asked to emigrate because of his religious beliefs and has been rejected for 14 years.

Residents of my own district in Broward County, FL frequently contact my office to help aid the emigration of a family member or friend who has been denied passage from Cuba or the Soviet Union. Although today marks the 37th anniversary of the Universal Declaration of Human Rights by the United Nations, many countries continue to ignore that document's simple declaration of human rights including the freedom of religion and the right to emigrate.

Mr. Speaker, the refusal of these basic rights is nowhere more evident than in the case of Soviet refuseniks like Mr. Gendin. Last year some 350,000 Soviet Jews asked to leave the U.S.S.R. Only 896 were allowed to go.

This dramatic denial of freedom demands a strong response from us. We must continue to push this issue to the forefront of our international policies and we commend the President, for making human rights a major topic of discussion at the summit meeting with Soviet leader Gorbachev in Geneva. We should urge the President to include human rights issues in the agenda at the next summit meeting in June.

And we must not forget the people themselves. It was a thrill for me to hear Mr. Gendin wish me "Happy Hanukkah" from the Soviet Union. Later this month members of the Jewish Federation of Broward County will join me in another transatlantic call to Mr. Gendin to assure him that he is not alone in his struggle.

Mr. Speaker, I urge all of us to consider today those whose basic freedoms are denied and to honor them on International Human Rights Day.

Mr. McKERNAN. Mr. Speaker, I join my colleagues in marking International Human Rights Day by reaffirming the need to continue our opposition to oppressive governments that violate basic human rights.

As tomorrow commemorates the 37th anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights, it is especially important that we assess the progress that has been made on behalf of international human rights, and target those areas for reforms where gross violations repeatedly occur. We cannot forget that governments which promote the use of torture and prohibit religious and political liberties are still very much in existence today.

Our efforts must concentrate on ensuring specific rights to victims of oppression, and on guaranteeing that other nations uphold their commitments to the tenets of the Universal Declaration of Human Rights.

Mr. FEIGHAN. Mr. Speaker, the critical issue of international human rights has long been a cornerstone of American foreign policy. Through the years, the United States has stood at the forefront of nations calling for justice for the oppressed people of the world. As a nation that was founded on the principles of freedom of thought and expression, we are obligated to take the lead in the fight to gain these same liberties for those who are less fortunate, those who are suppressed by the imprisonment, exile, or execution because of their race, religion, or political beliefs.

Woodrow Wilson, one of the first champions of human rights in this century once said, "Unless justice be done to others it will not be done to us." This obligation, then, is not one we take on grudgingly. Instead, we welcome it as a challenge to promote the virtues of these freedoms all around the world. This means that this obligation, this challenge is not just a duty that we owe to the oppressed, but it is also a moral obligation to ourselves.

As the defenders of international human rights, we cannot and should not have peace of mind knowing that we have not fulfilled our promise. As long as Soviet Jews struggle for religious freedom; as long as there are rebels fighting for freedom from the oppressive regime in Afghanistan; as long as the overwhelming black majority in South Africa is denied the right to vote; and as long as people in Central and South America, Eastern Europe, and Asia are denied the basic individual freedoms that we Americans sometimes take for granted; the United States cannot and will not rest until every man, woman, and child enjoys the same liberties we enjoy today.

Our policy must be strong and consistent. Vocal criticism and political pressure should be used realistically to express our dissatisfaction with the human rights practices of other countries when they are in violation of the standards of justice and morality that we cherish.

Today we have the opportunity in this special order to recognize and reaffirm our position and commitment to the promotion

of human rights. Tomorrow, we should also, as we approach the close of this session of the 99th Congress, reassert our responsibility to speak out against atrocities committed by man against many by passing House Joint Resolution 192, the Armenian genocide resolution. This resolution has fought a tortuous battle to the floor of the House. In special commemoration of International Human Rights Day, I urge all my colleagues to support House Joint Resolution 192 and end this session of Congress with a significant symbol of our lasting commitment to defend human rights everywhere.

Mr. DWYER of New Jersey. Mr. Speaker, I am especially proud to have the opportunity today to commemorate International Human Rights Day, and the 37th anniversary of the Universal Declaration of Human Rights. It is in the spirit of this day and this document that I would like to bring to the attention of my colleagues the case of the Osnis family.

The case of Marat and Claudia Osnis and their two small children is typical of many of the Soviet refuseniks. The family first applied for an exit visa in 1972 together with Marat's parents and his grandmother. Marat's grandmother and parents were allowed to emigrate to Israel, but Marat was refused on the grounds that he had been exposed to classified materials at his job as an engineer. However, he was told that he would be granted an exit visa within a short time.

Marat was not allowed to continue in his profession after applying for a visa and had to support his family by tutoring and odd manual jobs. His wife, Claudia, was expelled from the university where she was a student of economics. In 1979, Marat was told that he would receive his exit visa in 1981, 10 years after leaving his former job as an engineer, however he was refused again in October 1981 without explanation.

The oppression and limits on personal freedoms which the Osnis family, along with other Soviet refuseniks, must endure is unconscionable in today's world. By participating in this special order today, I believe we can offer hope to those who suffer violations of their human rights, as recognized by the Universal Declaration of Human Rights and the Helsinki accords, at the hands of oppressive governments.

Mr. MICA. Mr. Speaker, today, as nations around the world join in celebrating International Human Rights Day, it is imperative that we reaffirm our support for Jews in the Soviet Union. This year marks the 37th anniversary of adoption by the United Nations of the Universal Declaration of Human Rights, including the right not to be subject to torture, the right to emigrate, and the right to practice religion. On this anniversary, we must uphold the provisions of international human rights agreements, such as the Helsinki accords, which guarantee an individual's right to freedom of religion, cultural practices, and emigration.

Over the past few years, the plight of Soviet Jews has grown considerably worse as the Soviet regime continues to institute repressive policies designed to destroy Jewish culture. Antisemitism has spread throughout Soviet society—millions of innocent men and women have been executed, unjustly exiled, and imprisoned in labor camps.

Never in the history of Soviet Jewry has the emigration rate been so low. While we realize that Soviet attitudes toward Jewish emigration may change due to new leadership there, we cannot refute the ominous statistics—new leadership has emerged before, yet in the first 11 months of 1985, a mere 1,048 people were allowed to emigrate.

As a member of the Congressional Coalition for Soviet Jews, I have committed myself to speaking out to gain spiritual, intellectual, and physical freedom for Israel Achildiaev and his family, now denied the right to leave the Soviet Union. Over 6 years ago, the Achildiaev family submitted applications for exit visas to leave the Soviet Union. Although Israel Achildiaev's parents were given permission to leave, Israel and his young family were refused exit visas with no explanation given.

Israel Achildiaev, his wife, and two young children, are victims of Soviet persecution and intransigence. The Soviet Union has waged a relentless crusade against human rights and dignity. It is time for us to stand together to show the Soviets that religious freedom and the right of Jews to repatriate to their homeland are fundamental to U.S./U.S.S.R. relations. I will continue to make every effort to see that this cause is not forgotten.

Mr. MRAZEK. Mr. Speaker, today marks the 10th anniversary of the adoption by the United States of the Universal Declaration of Human Rights, perhaps the most important human rights document of our time.

The Universal Declaration upholds certain fundamental human rights, including the right of all individuals worldwide to practice the religion of their choice, to emigrate from their country, and to hold any political belief.

Mr. Speaker, over 150 countries are signatories to this resolution. Yet, when we scan the globe today, we see flagrant violations of these basic rights. Witness the persecution of Jews and political dissidents in the Soviet Union and Eastern bloc nations; the murders of disappearances of thousands of individuals in Central America over the past decade; torture in certain nations in South America, Southeast Asia, and Africa, and even the attempt by some people in our country to impose their religious beliefs on others.

Yet despite what may appear as a dismal record, significant strides have been made in the campaign to protect human rights throughout the world. Perhaps the most important development has been the proliferation of human rights organizations such as Amnesty International, Helsinki Watch, and Americas Watch. These organizations and others have brought the issue of human rights to the forefront of the political debate over U.S. relations with nations violating these basic human rights. Ten years ago, there was little debate in the Halls of Congress over any nation's—and specifically our allies'—persecution or discrimination against its citizens. Today, not a day passes without a reference in the CONGRESSIONAL RECORD or on the House floor to human rights violations.

Our work in Congress, combined with the resolve of U.S. and international human rights organizations, has given hope to thousands if not millions of people. It is therefore highly appropriate that today, on the eve of International Human Rights Day and on the 10th anniversary of the U.S. commitment to uphold these rights, that we take time to celebrate our successes and to resolve never to give up our fight to ensure that all individuals are guaranteed the basic human rights our Nation upholds.

Mr. MARTINEZ. Mr. Speaker, 37 years ago today, a unique revolution took place: for the first time in history, 48 nations placed certain individual rights above all laws and governments. The same year, another unique revolution took place: a popular army in the Central American nation of Costa Rica defeated the state military in civil war, and then proceeded to outlaw the military permanently. The connection is important, Mr. Speaker, because Costa Rica's abolition of the standing army has made it the closest adherent to the Universal Declaration on Human Rights in Latin America, and virtually the only one in Central America. Yet, now the Costa Rican revolution is in grave peril of being extinguished, and with it, the one beacon of democracy, peace, and human rights that Central America has known.

Ironically, the danger lies in Costa Rica's being a free and open society, and like all free and open societies, vulnerable to manipulation. Over the last 4 years, severe economic and political pressures have created a climate ripe for a small faction to swell, with strong outside support, into a formidable force capable of winning the upcoming presidential election and making Costa Rica the next Central American domino. But not a Marxist domino; rather, this faction is stridently anti-communist and pushing strongly for a Costa Rican military role in Central America closely aligned with current U.S. policy. It could also be pushing Costa Rica into the familiar military course that has turned the idea of human rights into a cruel joke for Costa Rica's four Central American neighbors.

What has been the force behind this shift? Do Costa Ricans feel that the Sandinistas present a unique and dire threat? The facts do not suggest this. Costa Rica was strongly sympathetic to the Nicaraguan revolution. Indeed, when the Sandinistas took power, relations could not have been better. As the two found that they had very little in common politically, relations cooled, but Costa Rica never had reason to fear a Nicaraguan invasion. The 1947 Inter-American Treaty of Reciprocal Assistance of the Organization of American States guarantees that Costa Rica's neighbors actively assist her if she is attacked. Panama and Venezuela have each given individual assurances of military aid if Nicaragua invades. But most of all, such a move by Nicaragua would instantly isolate it from

Europe, and give the Reagan administration a carte blanche for direct military intervention. Nicaragua has no desire for this.

Most of the pressure for the arming of Costa Rica has, in fact, come from farther north. From the time it entered office, the current adminsitration has been trying vigorously to sell its military wares to Costa Rica in an effort to encircle Nicaragua. At first, Costa Rica resisted fiercely. When then Ambassador Jeanne Kirkpatrick stated in 1981 that Costa Rica needed U.S. military aid to help counter terrorism, then President Rodrigo Carazo was so insulted that he demanded two letters of official apology—and got them.

President Luis Alberto Monge, however, has been much more sympathetic to U.S. views, and has been rewarded for it handsomely. U.S. economic aid to Costa Rica jumped from $16 million to $52 million between 1980 and 1982, and then up to $170 million in 1984. With the world's highest per capita debt, and a 50 percent drop in the middle and working class standard of living in 4 years, Costa Rica desperately needs generous friends. But many in Costa Rica are now wondering if it was a Faustian bargain.

The costs at Costa Rica's Nicaraguan border have been high. President Monge was obliged to look askance when the U.S.-supported Contra group, ARDE, led by Eden Pastora and Alfonso Robelo, adventured into Nicaragua and provoked retaliation. But the press did not ignore it; headlines screamed daily of Nicaraguan attacks against Costa Rica. Finally, in spring of 1983, Monge began deporting Contra leaders, and requested a Contradora observation force to patrol the border. But the ire between the two countries was only strengthened the following year with the installation of a Voice of America transmitter near the border, and the dispatching of seven U.S. Green Berets to train Costa Rica's primitive security forces.

The most crucial turn of all occurred that year also: almost overnight, Costa Rica's major newspapers began sizzling with anti-Nicaraguan tirades and warnings of imminent invasions. The abruptness and extremity of the turnaround suggested some sort of well orchestrated propaganda effort. But indigenous or not, it forced Monge to dissolve his cabinet soon after and rearrange it along more conservative lines.

As part of his tightrope act of gobbling U.S. aid while ducking U.S. military pressure, Monge has relied heavily on his 1983 declaration of Costa Rica's permanent, unarmed and active neutrality. This has allowed him to reject U.S. war games in Honduras, prohibit U.S. Navy maneuvers in a Costa Rican bay, and openly denounce U.S. maneuvers off Nicaragua as well as the invasion of Grenada. Yet at the same time, he maintains extremely cordial relations with the Reagan administration, and his declaration of neutrality is increasingly assaulted in the Costa Rican press as weak, isolationist and irresponsible.

But most dangerous has been the effect of the hawkish campaign on Monge's party, the National Liberation Party. Even Jose Figueres, the founder of Costa Rica's democracy and of the Liberation Party, has been widely criticized for taking a conciliatory attitude toward the Sandinistas. Once favored for the 1986 elections, the Liberation candidate, Oscar Arias, is being increasingly eclipsed by his conservative rival, Rafael Angel Calderon.

Though he has avoided overt references to reinstituting a standing army. Calderon has made clear that Costa Rica's internal security forces desperately need expansion and modernization. Such a move, however, would only provoke a parallel Nicaraguan buildup along the southern border, thus triggering an arms race between the two countries and very likely leaving Costa Rica with a substantial, well-equipped and U.S.-trained army. Having served as effective policy instruments in Honduras and El Salvador, an army in Costa Rica would most likely serve as the linchpin of United States Costa Rican policy. And like its counterparts in the other Central American counties, such a body would probably view human rights as little more than a political idea with very little practical application once the weapons caches are opened.

Though we should be proud to preserve a system whose very survival in Central America is a tribute to its being modeled on our own, we are instead fueling the fire that is gradually consuming it. Only last week, the Senate Foreign Relations Committee approved a $22 million aid package to modernize and train Central American police forces—enough of which would go to Costa Rica to fully revolutionize its civil and rural guard.

Costa Rica's spotless human rights record has not come from any intrinsic difference between Costa Ricans and other Latin Americans; it has come from a powerful national will to forgo the instruments of suppression that tempt men to subjugate and dominate their fellows. That will is now eroding, as it is battered by intense pressures, both real and false, from all sides. If that will breaks, the result will be a tragedy of inconceivable proportions for democracy and human rights in Central America. We can continue to watch Costa Rica's national identity be trampled under American combat boots, or we can act now to save the only light in the darkening Central American tunnel.

Mr. BOSCO. Mr. Speaker, tomorrow, December 10, is traditionally recognized by many United Nations countries as Human Rights Day. This day marks the unanimous adoption of the Universal Declaration of Human Rights by the U.N. General Assembly on December 10, 1948. The document guarantees to all people fundamental human rights, including the right to the freedoms of religious expression, conscience, and emigration. Mr. Speaker, as we commemorate the 37th anniversary of this landmark agreement and recommit ourselves to the principle of human rights, we must not forget the victims of human rights abuses around the world. Rather, we must intensify our efforts to ensure that all people are accorded these basic human rights.

Of particular concern to me is the plight of Soviet Jews whose mistreatment and persecution by Soviet authorities has been well documented. In the U.S.S.R., Jews are denied the right to worship free from the threat of reprisal. Yet, at the same time they are denied the right to emigrate to Israel or other countries where they might live a full Jewish life. In the Soviet Union, Jews that have applied for exit visas but have been turned down are referred to as refusniks. As a participant in the Congression Call to Conscience, I am proud to have "adopted" two brave young refusniks, Pavel Astrakhan and Alexander Kushnir. I recently received a brief update on Alexander Kushnir which I would like to share with my colleagues.

Since 1976, Alexander, a leading activist in the Jewish refusnik community of Odessa, has been trying to emigrate to Israel to join his family. He has been turned down for an exit visa six times. By profession, Kushnir is a construction engineer, but since his first application, he has been unable to find work in his field. According to this latest report, Alexander has been working as a night watchman and is plagued by severe back problems. In addition, this report indicates that Alexander is under constant surveillance and has been told by Soviet authorities to stop giving out information and meeting with tourists. Moreover, the KGB is pressuring him to denounce Irsael on Soviet TV and radio.

Unfortunately, Alexander Kushnir's situation is not uncommon in the Soviet Union. Thousands of Jewish men and women there struggle against religious repression while awaiting permission to leave. Tomorrow as we observe Human Rights Day, it is important that we remember individuals around the world like Alexander Kushnir who are not granted such liberties, and we must continue to push for actions to alleviate human rights abuses.

Mr. BERMAN. Mr. Speaker, I am honored to participate in this special order in recognition of International Human Rights Day. Thirty-seven years ago the United Nations adopted the Universal Declaration of Human Rights, sending the message to the world community that the right to emigrate, to practice religion, to express political opinions, and to be free from the fear of torture were fundamental human rights guarantees. Because these ideals continue to be abused in many countries, our continued support for the goals of the Universal Declaration is crucial.

That blacks are denied any semblance of freedom in South Africa, that Jews are held hostage in the Soviet Union, and that individuals who advocate human rights in the Philippines are harassed, have become facts of life. But the example of Winnie Mandela, who has spent the last 25 years banned or jailed, and has only recently defied the authorities and dared to speak in public at a mass funeral for 12 blacks shot by police, makes it our duty to use what-

ever means we have to protest the policies of the South African Government. Pavel Abramovich, Alexsandr Yakir, and Leonid Byaly, who have spent the last decade being physically and emotionally abused by the Soviet Government solely because they want to emigrate to Israel, remind us that the human rights issue remains an important stumbling block to better relations with the Moscow regime. The journalists, religious leaders, and attorneys who have been prime targets of violence in the Philippines compel us to reexamine our overall policy in the region.

Human rights is not an isolated issue. It is and must remain an integral part of foreign policy considerations. In most cases, our ability to influence the status of human rights abroad is limited. But if we make our position clear—that the United States is vehemently opposed to apartheid, will never stop pressing the issue of Soviet Jewry, and will not hesitate to base economic aid upon human rights conditions—we increase our effectiveness.

World events of recent years make it difficult to be optimistic about the status of international human rights. Yet, progress is never impossible. By reaffirming the goals of the Universal Declaration we strenghthen our commitment to ending racial, religious, and political persecution.

Ms. MIKULSKI. Mr. Speaker, I rise today to once again add my voice and my support to the issue of international human rights.

Tomorrow marks the 37th anniversary of the signing of the Universal Declaration on Human Rights—a document which continues to be the cornerstone of international human rights diplomacy and which served as the foundation for the Helsinki accords which were agreed to in 1975.

At issue here is something very basic—it's the right of every human being to be free from torture, free to emigrate, free to practice the religion of their choice, and free to hold political opinions of their choice.

In the 10 years I've been a Member of Congress, I've had the opportunity to visit almost every corner of the globe. Unfortunately, what I saw in my travels was that in too many countries, there are too many people who are being denied their basic human rights.

I've stood side-by-side in support of the workers of Polish Solidarity in their efforts to unionize and organize. This past summer, I went to the Soviet Union to press for the right of Soviet Jews to emigrate freely.

In Southeast Asia, I saw the horrors of genocide.

And, in Latin America and Central America, I met with mothers of the missing and with those who had been tortured and terrorized by the very military governments we are supporting.

When we talk about human rights, we are not talking about extravagant privileges—we are talking about basic rights that should be inherent to every human being. And when we talk about the denial of these rights and the abuse of them, we must resolve to be forceful and unyielding in our determination to guarantee that these basic rights are available to all the world's people.

Mr. Speaker, I have been proud to be not only a consistent vote for international human rights, I have been proud to be a strong voice for them.

I commend my colleagues for organizing this special order and for giving me the opportunity to speak up and speak out on this important issue.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEBATE ON ANGOLA: SHOULD THE UNITED STATES PROVIDE ASSISTANCE TO THE UNION FOR THE NATIONAL INTEGRATION OF ANGOLA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLARZ] is recognized for 60 minutes.

Mr. SOLARZ. Mr. Speaker, today Congressman HYDE and I, our colleagues, Congressman WOLPE and Congressman GINGRICH, will be beginning what we hope will be a series of debates during special orders on some of the more important international issues confronting our country.

Today's debate will be on the question of Angola: Should the United States provide assistance to the Union for the National Integration of Angola in its fight against the government of that country?

In the future we hope to have debates on star wars, on the arms sales to Jordan, and on our policy toward Nicaragua.

For the purposes of today's debate, Mr. HYDE, my very good friend from Illinois, will begin with a 10-minute statement. I will respond for our side with a 10-minute statement.

The gentleman from Georgia [Mr. GINGRICH] will then respond for his side for 5 minutes; the gentleman from Michigan [Mr. WOLPE] will then respond for our side for 5 minutes.

Mr. HYDE will then ask questions of us for 5 minutes; I will then ask questions of them for 5 minutes.

Then, in conclusion, Mr. GINGRICH of Georgia will sum up for their side for 10 minutes, and Mr. WOLPE will sum up for our side for 10 minutes.

With that introduction, let me now yield the floor to my very good friend from Illinois, Mr. HYDE, for his opening statement.

Mr. HYDE. I thank my friend from New York for this opportunity. I think it is very useful to discuss issues of vital importance, and people who are involved in these issues perhaps can contribute something to the general understanding of them.

Let me say by way of preface that I am sure as we talk the cameras will survey the room and show that it is empty of all but a very few hardy souls who are present physically to hear this debate.

I regret that that is a device chosen by the leadership in this House, really to embarrass those of us who take the time to come and speak on very important issues. We understand that we are not reaching our colleagues who are in their offices perhaps watching on closed circuit television or perhaps have gone about other affairs. But there is a vast audience out there on C-SPAN, and we hope to reach some of them and to be instructive.

So with that remark, I hope that none of our audience, whether they are in their offices or watching at home on C-SPAN, will be distracted by the periodic surveys and panning of the room to show the empty seats. I would suggest during the day when most of the debates are had here the same panning would occur and the same empty seats more or less would be shown to the audience.

With that by way of preface, I would like to say that we have had 10 years, 10 long years, to evaluate the accuracy of very strongly held views of our more liberal Democratic colleagues on the issue of aid to the resistance in Angola, because on January 27, 1976, virtually 10 years ago, this House then, as it is now, was dominated by liberal Democrats, and they forced an amendment through which forbad us to help the groups within Angola fighting against their country becoming what it has become, a Soviet-dominated client state, and the recipients in the last 2 years of $2 billion of Soviet military equipment. Angola is a nation of 7½ million people, and today as we talk it is a Marxist-Leninist state where human rights, human freedom, human dignity are nonexistent and where Luanda, its capital city, provides naval facilities for Soviet ships and air facilities for Soviet fighting aircraft.

How can this be? we ask, when some of our most prominent and self-assured Democratic colleagues told us just the opposite 10 years ago?

Take, for example, the words of one leading Democrat who soon was to become our Ambassador to the United Nations and today is now the mayor of

Atlanta who, on January 27, 1976, told us in floor debate, and I quote:

The Russians have been in Nigeria, they have been in Mozambique, they have been all over. They have been in Egypt. They cannot stay anywhere because Russians are worse racists than Americans. As soon as they are no longer needed, the Africans will put them out because the Russians do not get along with colored people. The same thing will happen in Angola.

Well, the Russians are there in greater numbers. The Russians are in Ethiopia in greater numbers. The Russians are in Mozambique. So that prediction gets a zero on the rating scale.

The twin themes of isolationism: "It's not our business; stay out of Africa," and irrelevance: "If Angola goes communist, so what?" characterized the thinking then of our Democratic colleagues, who were then dominant, and surprisingly, not surprisingly, it does so today, and, not surprisingly, they are still dominant.

If you seek a distillation of the prevailing Democratic philosophy on Angola 10 years ago and today, you need only read what my good friend, Mr. SOLARZ, said on January 27, 1976, and let me quote from the CONGRESSIONAL RECORD:

Mr. Speaker, I deplore the involvement of the Soviet Union in Angola, but I do not believe that simply because the Russians are gratuitously involved in some remote area of the world we necessarily have to be engaged there as well. The real issue is not whether we withdraw from the world but whether we choose to involve ourselves in what is, in essence, a tribally-based struggle, the outcome of which is ultimately unrelated to our own national security.

We are told that if the MPLA—those are the Marxist-Leninist communists—is triumphant in Angola it will result in the establishment of a Soviet satellite in that area. But the fact is that the tides of nationlism run far stronger in Africa than the imperatives of ideology.

Nice phrase that; wrong, but nice phrase.

Having just managed to extricate themselves from the clutches of the Portuguese, the Angolans are most unlikely to submit themselves to the domination of the Soviets. Even if the MPLA is triumphant—and that is something nobody can be sure of—the Russians are unlikely to have any more influence in Angola than they now have in Mozambique, in Algeria, or in Egypt. And these are countries where they spent substantially more money than they are now spending in Angola.

Continuing to quote from my friend from New York:

I believe there are areas in the world in which we have a legitimate interest in curbing the spreading of Soviet influence, but I do not believe Angola is among them.

So there you are, Angola is irrelevant to our national security, and we should not bother, it is a remote place in the world.

Now before getting too involved in the details of this discussion, I want to discuss the isolationist argument that we hear so often, that what happens in Angola does not matter to us. Is our national interest involved in Angola? If it is, we had better do something about it. This debates has gone on for generations. Is it any of our business what happens in foreign countries? Eastern Europe? Korea? Central America? Poland? Israel? Afghanistan? Cambodia?

Any useful definition of "national interest" ought to include national security, and anyone that doubts that a Soviet Africa would be a threat to our security lacks even a modest grasp of geopolitics, history, or global economics. Southern Africa contains, besides a lot of human beings for whom freedom is important, the largest reserves in the non-Communist world of gold, industrial diamonds, chromium, and many more essential minerals. To deny access to the West and to surround South Africa with Soviet weaponry is to invite World War III. And if you doubt our national interests are involved in Angola, it might be instructive to note how much of an effort the Soviet Union expends to dominate that area.

By our paralysis 10 years ago in response to the mandate of the Democratic majority we imposed a Soviet-Cuban military solution on Angola. Is that something to be proud of? I do not think so.

One of the interesting things about this situation is that the Cubans, and there are 35,000 of them today in Angola, they keep getting larger instead of smaller, and the Soviets never go near the South Africans. The 35,000 Cuban bayonets and the thousands of East bloc advisers in Angola are mainly used propping up an unpopular government against its own people. The Soviets and the Cubans are not using their weapons or their troops to kill South Africans; the Soviets, who are, after all, our major global antagonists, have poured $2 billion in weaponry into Angola in the last 2 years for which they are being paid from the oil revenues paid by American companies in the Cabinda Enclave to the Luanda government.

Those Mig-23's and those sophisticated tanks are not being used to kill South Africans, they are being used to kill black Angolan Africans. We estimate that Savimbi may have gotten $200 million over the last few years in equipment from the South Africans. Compare this to the 10 times greater sum the Soviets have put in, which I repeat is for the purpose of killing not South African apartheid defenders but of killing black Angolan Africans. The Soviets do not put that kind of money in there for the love of Angolans or in opposition to apartheid. They expect to get something in return that is of strategic interest to them.

Mr. GINGRICH will continue from our side, but meanwhile Mr. SOLARZ has an opening statement to make. Thank you.

Mr. SOLARZ. I want to compliment my very good friend from Illinois on the depth and breadth of his opening statement and particularly for his very wise selection of quotations from previous pages of the CONGRESSIONAL RECORD.

I was particularly flattered by the fact that he chose to devote so much of his limited and precious 10 minutes of time to a speech I delivered on the floor of the House almost a decade ago. And while I must confess that I no longer agree with everything I said on that occasion, I am pleased as I listened to the gentleman's rehearsal of my statement on that occasion how much of it really stands the test of time.

The issue before us today is not whether we have important interests in Angola but how best to advance them. The issue before us today is not between isolationism on the one hand and internationalism on the other, but between a responsible internationalism which is the position taken by Mr. WOLPE and myself, and what I would characterize as a rampant interventionism which appears to be the position taken by our very good friend on the other side of the aisle. Let us examine first the question of our interests in Angola, which surely do exist and which, in my judgment, are largely twofold.

Our primary interest with respect to Angola is to facilitate a solution to the conflict in that country which will result in the withdrawal of Cuban military forces that have been sent there. I do not think there is any disagreement about the extent to which it would clearly be in the national interest of the United States to facilitate the departure of the Cuban expeditionary forces in that country.

□ 1710

They belong not in Angola but in Cuba.

And our second major interest is in facilitating an internationally recognized settlement to the problem in Namibia where South Africa, in defiance of international law, continues to illegally occupy that territory.

Insofar as we have an interest in facilitating the withdrawal of Cuban troop from Angola, I would submit that the decision on the part of the United States advocated by my good friend from Illinois to have the United States provide assistance to UNITA and Mr. Savimbi would result not in the withdrawal of the Cuban military forces that are already there but probably in an increase in the Cuban military forces, as the Government of Angola, under additional pressure from UNITA and Mr. Savimbi, would undoubtedly ask Cuba to supplement

rather than to diminish the forces they have already sent to that country in order to protect them from the South African-supported and backed onslaught against them on the part of Mr. Savimbi's troops.

If we really want to get the Cuban troops out of Angola, the best way to do it is to bring about a negotiated settlement for the conflict in Namibia, which would result in the withdrawal of South African forces from Namibia and a cessation of the support which South Africa has been giving to UNITA. In the context of the withdrawal of the Cuban forces from Namibia and South African support for Savimbi, the need for the Cuban troops in Angola would undoubtedly diminish and, indeed, Angola has already said that it is prepared to have two-thirds of all of the Cuban forces withdrawn from Angola over the course of 3 years, with the remainder stationed over 1,700 miles north of the South African border.

There is every reason to believe that in the context of a Namibian settlement, in which South Africa agreed to withdraw its forces from Namibia and stop supporting Savimbi, that Angola would agree to the withdrawal of all of the Cuban forces in that country. And yet if we begin to provide military assistance or even so-called humanitarian assistance to Mr. Savimbi, the prospects for a Namibian settlement will go right down the diplomatic drain because South Africa, which is now Savimbi's major support, would leap at the opportunity to enter into a de facto strategic alliance with the United States in support of Mr. Savimbi and UNITA, and they would clearly lose whatever interest they now have in a Namibian settlement because if there were a Namibian settlement, they would have to withdraw their forces from Namibia and stop supporting Savimbi, which would deprive them of the advantages of a tacit strategic alliance with the United States in Angola.

Given the overriding desire of South Africa to avoid additional American pressure against their Government to bring an end to the apartheid system in South Africa, South Africa would clearly come to the conclusion that its interests required a continued occupation of Namibia, thereby preventing a political settlement of the Namibian problem, thereby making possible continued cooperation with the United States in Angola in support of Mr. Savimbi.

So if we embark on this endeavor to provide help to UNITA, not only are we likely to produce a situation in which we end up with more rather than less Cuban troops in that country, we are also likely to eliminate whatever chances there are for a Namibian settlement. But we will do even more, because virtually every one of the black African countries has called upon the United States not to provide aid to Mr. Savimbi in his fight against the duly constituted Government of Angola. By entering into an alliance with South Africa in support of UNITA, we would have created a propaganda and political bonanza for the Soviet Union throughout Africa. We would be portrayed as the allies of the racist regime in Pretoria. And whatever good will we have managed to generate for the United States as a result of our new-found willingness to impose economic sanctions against South Africa would be lost as a result of our willingness to enter into such an arrangement with South Africa and support of Mr. Savimbi.

Supporting an insurgency in Africa which is also backed by South Africa is a formula for diplomatic disaster, and that is precisely what would happen if we begin to provide aid to Mr. Savimbi.

So I would submit that our interests are best served by not providing that aid. I think there are better ways to solve the problem. The best way to do it is to bring about a negotiated resolution of the Namibian problem.

Some of my friends on the other side of the aisle say that what is involved in Angola is a struggle between the forces of freedom and the forces of communism. I am not at all sure that that is what really is involved. When Mr. Savimbi first led his movement for the independence of Angola, he was taking his support from the Chinese Communists and has subsequently characterized himself as a Marxist of the Chinese or Maoist variety. And if he came to power in Angola, there is absolutely no guarantee that he would establish a system of political pluralism with guarantees of freedom of speech and the press and assembly, and the like. What is really at stake in Angola is not an ideological conflict between freedom and totalitarianism; what is involved in Angola is a quintessential ethnic conflict between the old Ovimbundu people in the south led by Mr. Savimbi and UNITA, and the Kimbundu people in the north, whose interests are represented by the MPLA government which constitutes the present regime in that country.

At the present time, the Government of Angola is doing business with over 50 American companies. There is a very friendly relationship, obviously, with Gulf Oil, which produces the oil which is a major source of their revenue. They have indicated that they want to diminish there dependence on the Soviet Union and Cuba. They are waiting to be won over to the Western camp, and I believe the best way we can woo them away from the Soviets and induce them to be more friendly and more cooperative with us is not by helping Mr. Savimbi, thereby increasing the violence in Angola and bringing more Cuban troops and a greater dependence of the MPLA government on the Soviet Union, but by bringing about a negotiated settlement in Namibia, facilitating thereby the withdrawal of Cuban troops from that country, diminishing the dependence of the MPLA government on the Soviet Union and creating conditions in which we will be in a much better position over time to win the Government of Angola away from their relationship with the Soviet Union into a more cooperative relationship with the United States.

Follow that path, and we advance our interests; follow the path recommended by my friends on the other side of the aisle, and we will not only have set back the interests of the United States, but we will have also given the Soviet Union an enormous propaganda and political bonanza in Africa.

Now I yield to my very good friend from Georgia for a 5-minute statement on his side, which will be followed by a 5-minute statement from Mr. WOLPE on our side.

Mr. GINGRICH. Well, let me first of all compliment my friends and colleagues from New York and Michigan and Illinois for thinking up this idea. I think if we do our jobs right, this will be a very useful educational discourse, because I think it will let people see clearly where we do disagree.

I appreciate the distinction of my friend from New York between responsible internationalism and rampaging interventionism, and it is a good formula.

Let me suggest that on our side we might describe it as a choice between diplomatic impotence and an effective America.

I think there are certain inherent weaknesses in the structure of your dialog. On the one hand, you tell us, "There is a duly constituted Government of Angola," which I think you would concede, as you said a minute ago, is both a tribal dictatorship and in fact stayed in power largely because outside puppet forces established a new colonialism, that it was the Cuban and Soviet support for the new tribal dictatorship of MPLA which allowed us to be powerful, and one of the challenges to us particularly in Africa is: What do we mean by "duly constituted"?

Is any random government which happens to win the next military coup by definition "duly constituted" no matter how bad the atrocity?

I think that is a challenge that both sides have to wrestle with.

I tend to agree with your goals, if not your solutions. You say the best way to do it is to get a negotiated solution. I think we would agree if there were some magic device by which tomorrow morning we could achieve

what I think are the four American goals—and I suspect that both of our friends from Michigan and New York would agree with these goals: First, to get the Cuban forces out of Angola; second, to limit Soviet influence in southern Africa; third, to have power-sharing in Angola, leading ultimately to the democracy; and fourth, encouraging free enterprise to develop prosperity.

Those are the kinds of goals you could build a bipartisan majority for.

One of the deep arguments—this affects us on Nicaragua, it affects us on Angola, it affects us in a number of places—is whether or not you can get a Soviet-style dictatorship or its puppets to negotiate in the absence of real pressure.

It seems to me that we have been promised somehow the Cubans will leave but that in fact what they have done, the Soviets and the Cubans have found a new formula for stable dictatorship, and their new formula is to have Soviet-style secret police and a Soviet Army imposing military control for the dictatorship while the dictatorship visits Washington, shakes the hand of the President and accepts Western economic prosperity.

If they can have Gulf Oil pay for the troops while the Cubans provide the cadres, it seem to me you have the ultimate Soviet colony, a colony the West subsidizes while the Soviet Union exploits it.

The question from our side is: What do you do if in fact they will not negotiate? And how do you measure that?

The other point I would make is: There is always an excuse not to be effective. In Iran, the Shah was corrupt and cruel, so Khomeini was not that bad; in Nicaragua, Somoza was corrupt and cruel, so the Communists were not that bad; in Afghanistan we really cannot do enough to be effective because Pakistan will not permit it; in Ethiopia we really cannot stop the atrocities because then the Government will cut off the food aid; in Angola, Savimbi gets South African aid.

Let me just pose this challenge to my colleagues: I do not think anybody has argued seriously at any point that Savimbi is primarily a South African puppet. If South Africa disappeared tomorrow morning, as the gentleman from New York suggested, Savimbi would represent an authentic tribal interest in power sharing. He represents as legitimate a force and is personally as charismatic a leader as you have seen anywhere in Africa.

So the question then becomes: If Savimbi is legitimate, if he is in fact working seriously toward power sharing, if as President Reagan in his United Nations speech the first step away from raw dictatorship is to power sharing, then what are the steps America should take to support him?

In closing, let me just suggest that the worst thing we could do is to allow Savimbi to collapse, because if Savimbi does collapse, if the Soviet military buildup and the Cuban expertise does crush him, then there will be no future for power sharing and democracy in Angola.

I thank the gentleman.

Mr. WOLPE. Mr. Speaker, let me express my own appreciation to the gentleman from New York and the others who have been involved in the crafting of this approach to a formal debate in the course of the special order. I look forward not only to its continuence in this session, but also the debates that will follow. I think this is a very constructive exercise both for this institution and for the American public.

Let me say that as one who has been involved in the subject of African politics for many, many years, I have a keen sense of deja vu because the debate that is taking place at this point in time took place back in the 1970's, and we Americans are often at a disadvantage in these debates and matters of African policy because Africa is such a distant continent that at times we end up responding to labels that we think we know something about, knowing in the absense of concrete information contact with the societies and the countries that are really involved.

Nowhere is the danger of manipulation by labels more manifest, in my judgment, than in the debate over Angola. From the beginning of the struggle in Angola, there were several different factions involved within the country of Angola.

Henry Kissinger made the decision that we would throw our support to two of those factions on the theory that somehow the struggle that was taking place in Angola was related to our struggle with the Soviet Union.

In point of fact, all three factions within the Angolian struggle, going back to the 1970's and continuing to the present day, had very little differences ideologically. The differences among the factions fighting in Angola had much more to do with ethnicity, had much more to do with conflicts of personality, and that is as true today as it was back in 1975.

Mr. Jonas Savimbi, who we are now being told is the embodiment of Western values, as being pro-American and anti-Communist, actually began his independent political existence in 1964 when he broke with the United States-aided FNLA on the grounds that "no progressive action is possible with men who serve American interests, the notorious agents of imperialism."

Those are Jonas Savimbi's words. And this man who today is being portrayed as the anti-Communist embodiment of American values then took a secret trip to the Soviet Union to seek assistance from the Soviets. He did not get it at that point. So in his flexibility, he then turned to China, where he sought guerrilla training in China, whose social system he has continued to praise in quotations like this one, just last year, "Yes, UNITA is a socialist movement," Savimbi said. "We are in favor of socialism because it is necessary to socialize production. Only in this way can values be created in people. We felt the Chinese philosophy succeed in Angola, which was the case."

Now, there may be some other reasons for supporting Mr. Jonas Savimbi beyond those that he is somehow an anti-Communist embodiment of American values, but let us be very clear that those who are now trying to portray Mr. Savimbi as a freedom fighter are really missing the boat, the historical boat and contemporary reality.

Mr. Jonas Savimbi as an individual is—I guess the most generous characterization would be—ideologically flexible. Now that he is no longer receiving support from China, he has turned to South Africa. It is to that subject that I would like to address the remainder of my remarks in this first statement.

The gentleman from Georgia [Mr. GINGRICH] identified several objectives that we, the United States, had with Angola, and I do not have any quarrel with the objectives laid out involving the removal of Cuban forces. I think we do want to get the Cuban forces out of Angola. We certainly want to limit Soviet influence in Angola and in the region. We do want to encourage democracy, we do want to encourage prosperity and free enterprise within the country, and the like.

□ 1725

But I was struck by the absence of a couple of other goals. Namely, independence of Namibia; an end to illegal South African occupation of Namibia. Second, an end to apartheid itself. We need to understand that while we may pretend that we do not intend to ally ourselves with South Africa, the effect of giving aid to Jonas Savimbi at this point in time will be to put us squarely in alliance with South Africa. It is South Africa that is an open invitation to communism. It is South Africa that provides the opportunities for the Cubans and the Soviets to carry influence within that region. If we now throw ourselves on behalf of Jonas Savimbi and UNITA, we will be embracing South Africa in the eyes, not only of those within Southern Africa, but throughout the African Continent.

I cannot think of a better fashion to play directly into the hands of the Soviets and the Cubans, directly contrary to the ostensible policy objective.

Mr. SOLARZ. Mr. HYDE, you now have 5 minutes for questioning.

Mr. HYDE. I thank the gentleman.

Mr. SOLARZ, the remark has been made by your colleague, Mr. WOLPE, and yourself that if we aid UNITA, we become allies of the detestable South Africa, the home of apartheid. I just want to remind the gentleman of a quote that Winston Churchill made on June 21, 1941, when Hitler double-crossed his ally, the Soviet Union and invaded the Soviet Union.

Someone asked Churchill, "Will you help Russia?" And he said, "If the Devil himself agreed to come in on our side, I would at least make a favorable reference to him in the House of Commons."

Now, Savimbi is black, and he detests apartheid as every black African does and every decent person does in the world. But as he said, "Where do I get my guns from? Do they fall from the sky?" I believe that quote was provided by Mr. WOLPE.

I want to ask you a question, Mr. SOLARZ. We are, this week, falling all over ourselves to trade with China. You sir, are going to lead the fight on the floor to pass a resolution so that we might have a $6 billion peaceful nuclear technology exchange with Red China, to call back an old term.

Does that mean that we are allied with the People's Republic of China and their wretched human rights record? We are helping the Mujahadeen in Afghanistan defend their country against 120,000 Soviet troops. So is Iran helping the Mujahadeen. Does that mean we become the allies of Iran?

We are helping Son Sann, I hope we are, over in Kampuchea, as they call it over there, and they are allied with or on the same side as the Khmer Rouge, the genocidal Khmer Rouge. Does that mean we are the allies of the Khmer Rouge?

Mr. Baldrige, our Secretary of Commerce, today's Washington Post says, "Reaches Moscow with 150 businessmen for trade talks." Falling all over ourselves to trade with the Soviet Union, who, a few moments before, were excoriated for their human rights record. Now, we have urged disinvestment with South Africa, but we want to trade with the Soviet Union, which has been described as the "greatest assault in history on the spirit of man."

I just want to ask you, Mr. SOLARZ, how do you reach the conclusion that if we assist Savimbi, the largest black liberation force in Africa, regain his country, and he represents 40 percent of the population, why then does that make us allies of South Africa and its apartheid? In fact, if we were to aid Savimbi, would we then not obviate the need for him to turn to the only people that seem to help him, South Africa?

Mr. SOLARZ. I am tempted to ask the gentleman to repeat the question so I can get it straight. I think I got the drift of what the gentleman was trying to say.

Mr. HYDE. Surely the gentleman understands my question.

Mr. SOLARZ. Let me say we probably have no more eloquent orator in the House of Representatives than the gentleman from Illinois. If the gentleman from Illinois were dispatched by the President of the United States to visit each of the capitals of the 50 black African nations on that continent to make the argument that our support for Savimbi does not objectively create an alliance between the United States and South Africa in support of Savimbi, and if the gentleman could possibly succeed in pursuading the leaders of those countries of the merits of his point of view, then I might be prepared to dismiss this argument.

But the fact of the matter is that no matter who makes the case, even someone as eloquent as the gentleman from Illinois, the fundamental reality is that were we to begin helping Savimbi, it will be seen by all of the countries in Africa as an effort on the part of the United States to work with the racist regime in South Africa in support of UNITA in Angola.

Mr. HYDE. I have about 30 seconds, and in reclaiming my time I just want to say to my friend from New York the countries in black Africa never vote with us in the United Nations. Why are we so concerned about Egypt, the second largest beneficiary of our foreign aid, votes against us 86 percent of the time. I am not concerned about how Mozambique feels or Zaire or Ghana; I am concerned about freedom in Angola and our national security interests.

Mr. SOLARZ. Unlike the gentleman from Illinois, I am not prepared to write off an entire continent in terms of the national interests of the United States and take the position that it is of no relevance to us how we are viewed by virtually all of the countries in an important part of the world. The fact is, we do have many friends in Africa, and many of our closest friends on that continent would be deeply embarrassed if the United States were to enter into a tacit alliance with South Africa in support of Angola.

I fully agree, by the way, with Winston Churchill in World War II, that given the threat of Nazism, not only to his country, to ours, and the entire world, that we had no alternative but to enter into an alliance with the Soviet Union, which would not have won any medals for civil liberties, in order to defeat the even greater threat of Nazism. But the survival of civilization is not at stake in Angola, the way it was during the Second World War. Whereas, our willingness to help the Soviet Union did not create at that time any serious problems for us. Indeed, by our willingness to help the Soviet Union in the Second World War, we advanced our objective of defeating Nazism.

In the case of Angola, were we to provide aid to Savimbi, we would do enormous diplomatic and political damage to our interests in Africa and elsewhere throughout the world.

I would like to ask the gentleman from Illinois in my 5 minutes one of two questions. Perhaps the gentleman from Georgia might like to respond as well. The first question is, you advocate American assistance for Savimbi on the grounds that what is at stake in Angola is freedom, independence for the people there, and the need to get rid of a repressive regime which rules over them.

The question I would ask the gentleman from Illinois is: Is the gentleman also in favor of providing American assistance to the liberation movement in South Africa which seeks to overthrow the repressive regime in that country, which systematically denies the great majority of the people in that country their most fundamental human rights. If the gentleman is in favor of helping the insurgents in Angola but is not in favor of helping the insurgents in South Africa, could he explain to us why?

Mr. HYDE. I am against bloody revolutions where people get killed if there is another opportunity to avoid death. I think that opportunity exists in South Africa, where you have 15 percent minority whites surrounded by 85 percent majority blacks, and you have a very, very fragile, difficult situation.

Now, it seems to me Chief Buthelezi, of the largest tribe in South Africa, makes sense when he talks about nonviolent change in South Africa.

□ 1735

However, it is my experience that Communist governments do not yield power. I have racked my brain trying to think of one that has been negotiated out of anything.

Now, the Soviet Union and the 35,000 Cubans and the $2 billion they have poured into Luanda and into Angola is not because they hate apartheid. The Soviet grand strategy is to isolate the minerals of South Africa and the geostrategic importance of that location and to dominate it, which strikes at the heart of our economy and our ability to defend ourselves.

So my answer is there is a vast difference. We can support freedom in South Africa through moderate leaders, not Communist bomb tossers and revolutionaries.

Mr. SOLARZ. Well, I am opposed to becoming militarily involved in the lib-

eration struggles in both Angola and South Africa.

Mr. HYDE. But not Cambodia and not Afghanistan.

Mr. SOLARZ. Not Cambodia and not Afghanistan.

Mr. HYDE. Because they are real far away and that is okay.

Mr. SOLARZ. I agree with Emerson, as appararently the gentleman does not, that "foolish consistency is the hogoblin of little minds."

I think the world is much too complex to permit simplistic solutions to a variety of situations, each one of which has its own peculiarity.

Mr. HYDE. Negotiating with Communists is the essence of simplistic solutions.

Mr. SOLARZ. I think what we need to do is to respond to these problems on a case-by-case, country-by-country basis. In some situations like Afghanistan and Cambodia, it may be in the interests of the United States to provide assistance to the forces of freedom.

In other countries, like Angola, obviously I think it does not.

One final question of the gentleman from Illinois. In view of all the support the Angolans have received from the Soviet Union and the presence of the Cuban troops there, what leads the gentleman to believe that $27 million in humanitarian assistance to Mr. Savimbi and UNITA could possibly make a difference in bringing about fundamental change in Angola?

Mr. HYDE. It probably will not.

Mr. SOLARZ. If it would not, how much more aid would the gentleman be willing to give them?

Mr. HYDE. It probably would not, but it would signal that our pretentions as a leader of the Free world are not totally pretentious, that we do put the hand of help out to people struggling for independence and to throw the Marxists/Leninists out. I would like to triple that money.

Mr. SOLARZ. I think at this point the gentleman from Illinois and I will bow off the stage and the gentleman from Georgia will sum up for his side with a 10-minute statement and then the very distinguished chairman of the Subcommittee on Africa, the gentleman from Michigan [Mr. WOLPE] will probably sum up for us.

Mr. HYDE. Will the gentleman permit me a 5-second comment?

Mr. SOLARZ. Certainly.

Mr. HYDE. The $5 million that the gentleman generously provided for the Democratic forces fighting 140,000 Vietnamese in Cambodia is of the same character as the gentleman just spoke of in Angola, I take it. The gentleman is not ashamed of that.

Mr. SOLARZ. I certainly am not, but the difference is that whereas our help for the Democratic resistance forces in Cambodia was welcomed by most of the countries in the region, in the case of Angola where we, to help Mr. Savimbi, our aid would be opposed by most of our friends in the region.

I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Well, let me say first of all, that I think the dialog between the gentleman from Illinois and the gentleman from New York illustrates part of the disagreement.

I would agree with the gentleman from New York when he said, "I am not prepared to writeoff an entire continent."

The question is, it seems to me, how does one keep that continent and do we, in fact, have it today?

When you look at the United Nations' voting pattern, clearly we do not have that continent today. When you look at active alliances, there are Cuban troops in Ethiopia. There are Cuban troops in Mozambique. There are Cuban troops in Angola. I think it is a little hard to make a case that those are exactly pro-American enclaves.

Now, the question then becomes, over the long run, what should American policy be? I really think that the central difference between our friends who argue against aid to Angola and the gentleman from Illinois and myself is an anti-Soviet argument. I am not going to make the case that we ought to intervene in every country in the world does not have totally honest elections. Not only would that get us involved with our allies, there are some that would get us involved in some countries in the United States. I am not sure we are fully prepared to set up to a world standard for the United States to rush around.

What fascinates me, though, is that in the case of Afghanistan and Cambodia, we have a clear overt invasion by foreigners on behalf of the Communist empire. We have an indigeneous force that is fighting back and we have the general agreement, I think almost 95 percent of this body, that is appropriate for the United States to have those, and I commend the gentleman from New York for being more realistic and more forthright than, for example, the Secretary of State in understanding why the Cambodian freedom fighters deserve American aid.

The question then becomes, where do Angola and Nicaragua fit into this larger picture? Well, tonight is only on Angola, I think the argument generically is very similar.

I would argue analytically that we are in a situation today where the Soviets have effected a pretty good system for siding with the local dictatorship, rushing in enough military force, particularly through the use of Cuban puppets, to maintain power against an underarmed and undertrained local opposition and then claim legitimacy.

Now, by that standard, at some point in the next 2 or 3 years as we in the West grow tired, the Afghan-Soviet puppet government will become legitmate, and by that standard, the Cambodian puppet Communist government will become legitimate. We will find ourselves once again in the situation, as Ed Lubbock argued in his book on "The Grand Strategy of the Soviet Empire," that the Soviets have simply perfected a relatively subtle modern version of traditional colonialism.

The thing that bothers me, I guess, in the case of Savimbi is the willingness of our friends to engage in what is in effect McCarthyism against it, to smear Savimbi by association. Here is a guy who found himself with the American Congress prohibiting the President from helping him in 1975. He found himself in a situation where he was either going to be wiped out or take whatever help he could get. He took the help he could get and we now, in effect, have him in a catch-22.

If you take the help you can get so you can survive to ask for help, we are not going to help you because you took the help; but on the other hand, if you give up the help so you can die, we will help you after you die, because then you would be morally pure.

Now, as a Baptist, I happen to think that it is good to be born again, but I think we are asking Mr. Savimbi to take a pretty massive leap of faith to suggest to him that if only he would cut off the only aid he can get, he might somehow morally be pure enough to get the aid he cannot get.

I think it is pretty reasonable for him to suggest that he wants some kind of real support and some kind of real proof that people are committed to his survival.

I do not expect Mr. Savimbi to turn out next month to join either the Americans for Democratic Action or the Heritage Foundation and show up as either a right- or leftwing supporter of American style Democracy.

I would hope that Mr. Savimbi, in the process of getting to powersharing an Angola and that in the process of getting the Cubans out of Angola—and I frankly would like to see a foreigner free zone. I mean, I am for keeping the South Africans out from the south if we can keep the Cubans out from the Soviet side and have an area which has to have powersharing between the tribes. I do not see how we get to that without some kind of help for Savimbi.

If I might, and I think I have several minutes left, I would like to yield a couple of those minutes to the gentleman from Indiana, who is the ranking Republican expert on this topic and ask him if the might join in with us, because I think we can agree that this style of dialog is pretty useful.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I apologize if I am an interloper in this debate, but having served on the African Subcommittee and worked with the gentleman from Michigan [Mr. WOLPE] on this issue for some time, I felt it might be advisable, if the gentleman does not mind, for me to make these few comments.

The SPEAKER pro tempore. The gentleman from New York has the time and he will have to be the one to yield.

Mr. GINGRICH. I would ask the gentleman from New York, then, to yield to the gentleman from Indiana.

Mr. SOLARZ. Well, since I believe in national reconciliation, not only in Angola, but in the United States, I am pleased to see that the gentleman gets the time and I yield to him.

Mr. BURTON of Indiana. Well, I appreciate that and I thank the gentleman from New York.

The gentleman made a statement a while ago and said, "Foolish consistency is the hobgoblin of little minds," quoting Ralph Waldo Emerson. That my be true in some cases, but for foreign policy, as far as the foreign policy of the United States is concerned in our war against worldwide communism, sponsored by the Soviet Union, we must have a policy of consistency. They must know where we stand as far as their expansionist policies are concerned.

Now, in Angola, we have some very critical issues at stake, especially with respect to the United States and the security of our country as well as the entire free world.

The Soviet Union in the past year has poured $2 billion in there. The bottom line is they have poured $2 billion in military aid in there. There are 35,000 to 40,000 Cubans, their surrogates, over there trying to undermine freedom in that part of the world under the guise of helping stop South Africa and the UNITA forces, who are really not the purveyors of freedom.

Now, the thing that concerns me is that we must have a policy of consistency. Mozambique, Angola, Zimbabwe, that whole crescent there has gone Communist and if we see the freedom fighters dissipate and go away, as the Communists are trying to do right now, destroy them, then South Africa, in my mind, undoubtedly will fall at some point in the future and with it a great deal of the things that are so important to the freedom of the United States and the entire free world will go down the tube; minerals that are vital to the security of this country and the free world. Forty percent of the free world oil supplies go around the Cape of Good Hope and with Soviet ships in those harbors, they can control the flow of these energy supplies that are so vital to our security and to the security of our allies.

Now, right now the Soviets are bringing in each day five planeloads of military equipment to reinforce the Cubans and the Angolans who are about to launch—in fact, I think they have already started to launch a major offensive against the UNITA forces to destroy them, and we sit idly by arguing over here about hypothetical issues, while freedom is really going down the tube over there.

I think it is extremely important that my colleagues on both sides of the aisle tell this administration how important it is that we give those people who are fighting for freedom in Central America, in Mozambique, in Angola and elsewhere that we stand beside them in their fight for freedom, whether it is overt or covert aid.

I thank the gentleman for yielding.

Mr. GINGRICH. I think I have about 1½ minutes left, if I could ask the gentleman to yield to me.

Mr. SOLARZ. Certainly, I yield to the gentleman from Georgia.

Mr. GINGRICH. Let me close by just saying again to our very distinguished colleague, the gentleman from Michigan who will close for the other side, that there are two central principles I think that motivates us on the Republican side in this debate.

The first is that Angola is of use to the Soviets. I have here an Associated Press story of April 1982, talking about the fact that Soviet ships frequently operate along the African coast, sailing in and out of ports in Angola and Guinea. In addition, the Soviets fly reconnaissance missions aboard TU-95 bear bombers from fields in Guinea and Angola. It goes on to talk later about visits, for example, from the Musco Soviet helicopter carrier to Angola.

The fact is that if you are really engaged in a worldwide long-time competition with the Soviet empire, Angola does matter. So Savimbi is unique in that sense because for a change it gives us in the West a charismatic local leader who has successfully waged a guerrilla war. If we do not help him and he fails and his side collapses because of the sheer weight of Soviet power, how then, I would say to my friend, the gentleman from Michigan, can we expect to advance the cause of freedom in Angola?

If we do not help him and therefore he is forced into the arms of South Africa, how could we blame a black local national leader for having then the only help he could get?

I thank the gentleman from New York again for yielding the time.

Mr. SOLARZ. Mr. Speaker, I yield to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. In closing the debate this evening, I think it is important to emphasize that what really is at the core of the differences between the two sides in this debate is not whether or not we want to see the elimination of Cuban troops from Angola, the limitation of Soviet influence in the region. Clearly, those are objectives that are shared; but from the perspective of the gentleman from New York and myself, we cannot conceive of a means better calculated to enhance Soviet interests in the region and encourage increased dependence by the Angolan Government on the Cuban troops that are there now than to have the United States become directly involved in that conflict in Angola on the side of Joseph Savimbi and UNITA.

Now, why do we say that? First, our colleagues apparently do not take very seriously the African political response to American policy within southern Africa. My own judgment is that that is a very casual dismissal of something that is critical to American interests.

I do not write off the African continent. In fact, most African States are very firmly in a pro-Western posture when it comes to both economic and political issues. While there has been much focus in this country over the past 2 years about the Cuban troops present in Ethiopia and in Angola, there is another story to be told on the African continent and that is the fact that the Soviets have been rebuffed by state after state. They have been kicked out and limited in terms of their influence, not by Americans, but by Africans themselves who have learned very quickly that the Soviets have virtually nothing to offer the African Continent but the guns, nothing in the way of technical assistance or economic support. Whether it is Guinea or Somalia or Sudan or Egypt, in these instances and in others, the Soviets have had absolutely no success in their efforts on the continent; but by the same token, if there is one thing that unites Africans, and indeed, all people of color, it is the fight against the apartheid regime of South Africa. We need to understand as we look at the question of whether we should become involved on the side of the South African-backed UNITA in Angola, we need to understand in the last few years it is South Africa that has been engaged in the policy of regional aggression to bolster its internal regime.

□ 1750

It has invaded, attacked, sponsored insurgencies in and economically destabilized Angola, Mozambique, Zimbabwe, Lesotho, Botswana, and the Seychelles, and all the while it has conducted a major war to continue its illegal occupation of the country of Namibia. From its bases in Namibia, South Africa has been attacking Angola for more than a decade. It has invaded the country several times with as many as 10,000 troops. It has re-

cently attacked United States-owned oil facilities in northern Angola, direct attack, I might point out, on American interests.

The Government of South Africa, the regime, occupied southern Angola from 1981 to 1985. It has been the principal sponsor and arms supplier for the UNITA insurgents. South African ground and air forces have performed direct combat roles beside UNITA troops.

Some of our colleagues in the Congress, and individuals outside this institution, suggest that somehow we can support UNITA and not risk a direct perception on the part of the entire African Continent of an alliance with South Africa. They simply miss that reality in the field at the moment.

The declaration of the heads of state and government of the Organization of African Unity in July 1975 said that any American aid to UNITA would be, and I quote, "considered a hostile act against the Organization of African Unity." In November, just recently, the entire African group at the United Nations submitted a memorandum to American Ambassador Vernon Waltons warning, "It is our considered opinion that assistance in any form to the rebels would seriously put in question the credibility and good faith of the United States and undermine efforts to reach a peaceful solution to the conflicts in the region."

Considering our foreign policy interests not only in southern Africa but throughout the African Continent, why on Earth would we want to jeopardize those interests by alienating and antagonizing literally dozens of countries, most of whom can only be described as pro-Western in their support of American objectives in the region.

That is the first point. The second point that needs to be understood is that there is, in fact, a negotiation in process right now; that the Angolan Government, both publicly and in private diplomacy, has committed itself to the negotiation of the withdrawal of Cuban troops in exchange for the independence of Namibia.

Just recently negotiations were furthered in Africa by Mr. Crocker's visit, where meetings took place with the Angolans. Those negotiations are in process. In my judgment, Secretary of State Shultz is on target when he says that that negotiating process should be encouraged, and when the State Department has indicated its perception that covert military or other kinds of support right now to Jonas Savimbi and UNITA will only undermine America's role as a mediator in those negotiations, and will undermine that effort at securing both the independence of Namibia and the negotiated withdrawal of Cuban troops from Angola.

Why, then, do we want to take an action which would be viewed as threatening by the Angolan Government, whose only consequence will be to increase their dependence upon the Cubans and Soviets, when there is a negotiations process moving forward, when in fact it has been South Africa that has been the principal impediment to a negotiated agreement both on the subject of Namibia indpendence and on the related subject of Cuban troop withdrawal.

Keep in mind it is the South Africans whose presence has been the major security concern of the Angolan Government.

Finally, let me say that those who have been pressing for this assistance to Jonas Savimbi have had to create a mythology in order to get American taxpayers to believe that somehow they would be supporting American values by throwing our support to Jonas Savimbi. In point of fact, Mr. Savimbi is anything but the embodiment of American values, has virtually nothing in common with American interests, and for the United States now to be led by what is a very well-financed and, in fact, quite an effective propaganda campaign which is trying to portray—and I have heard one characterization of Mr. Savimbi as the George Washington of Africa—what we are witnessing is really the creation of a new mythology.

We need to understand that there is internal conflict in Angola that relates much more to an internal power struggle among a lot of actors who have been at each other's throats for many years, and that ideology and East-West conflict is not at the core of the Angolan dispute. The United States interest, in sum, can be far better advanced if we throw our support to the negotiating process, if we continue our effort to disassociate ourselves from the apartheid regime of South Africa, and if we put into abeyance the suggestion that somehow we ought to be getting involved in an internal Angolan conflict.

Those who are urging support for Jonas Savimbi have said very little about the limits of such assistance, very little, really, about the goals of that kind of intervention. It will be contrary to American interests, alienating again not only the entire southern African region and playing directly into the hands of the Soviets and the Cubans in the process, but risk as well undermining the American influence and prestige throughout the African Continent.

Mr. SOLARZ. Mr. Speaker, I will just make a brief statement of appreciation to my colleagues who have participated in this debate. I do not know if it is a great debate, but unlike many of the debates in this Chamber, I think it did shed more light than heat on the subject. I think it was a dignified discussion.

Mr. Speaker, I particularly want to express my appreciation to the gentleman from Illinois [Mr. HYDE], the gentleman from Georgia [Mr. GINGRICH] and to their utility hitter, the gentleman from Indiana [Mr. BURTON], who also participated, and, of course, to my very, very good friend, the chairman of the Subcommittee on Africa, the gentleman from Michigan [Mr. WOLPE], whose advice and guidance I have always sought on African issues, and who has done such a masterful job in his current position.

To all of you, I say thank you for participating in what I hope will be the first in a series of debates on some of the more critical foreign policy issues confronting our country, in the hope that through these interchanges we can contribute to a better understanding of these issues on the part of our colleagues and on the part of the people of this country.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman from Indiana [Mr. DAN BURTON], of the Subcommittee on Africa, who contributed, as always, to this discussion, and to express my apologies to the gentleman from Michigan [Mr. SILJANDER], who is also one of our experts on this, who was unable to be worked into our limited time, and to thank the gentleman from Michigan [Mr. WOLPE] and the gentleman from New York [Mr. SOLARZ] for their contribution which, as I understand it, was that we did nothing 10 years ago and their prescription now is to continue to do nothing, with more Soviets there, more Cubans. I think I understand.

CABINET AND ADVISERS NOT CONSULTED BY PRESIDENT ON STAR WARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. SEIBERLING], is recognized for 30 minutes.

Mr. SEIBERLING. Mr. Speaker, in the Akron Beacon-Journal for december 5, there was an article the headline of which was, "Reagan: God Guides Star Wars." It was a reprint from Newsday magazine and it went on as follows:

President Ronald Reagan said Wednesday that he had suggested to Mikhail S. Gorbachev that "the hand of Providence" is guiding him to "star wars."

It goes on to say:

He spoke at length of how he tried to sell the Strategic Defense Initiative, or star wars program, to the adamantly opposed Gorba-

chev. "I told him that with SDI * * * our deliverance from the awful threat of nuclear weapons may be on the horizon," Reagan recalled. "And I suggested to him that I saw the hand of Providence in that."

Then Reagan added.

I think he understood our sincerity on this issue.

□ 1800

Now, that is very interesting that the President has finally indicated that it was Providence that has guided him to make this decision with its earth-shaking repercussions from the standpoint of our defense strategy, from the standpoint of its impact on the nuclear arms race and, last but not least, from the trillion-dollar, or possibly multitrillion-dollar, impact on our huge federal arms budget.

A short time, ago, appearing in the November 17 Akron Beacon Journal was an article by Frank Greve, of Knight-Ridder Newspapers, on how the President decided this important issue at the White House.

The headline of this article of Sunday, November 17, was as follows: "Cabinet, advisers weren't consulted before Reagan unveiled 'star wars.'"

I would like to read some excerpts from this article. The article starts out this way, and I am now quoting:

Secretary of State George Shultz was livid. He had just learned that president Ronald Reagan would announce in two days a stunning change in the nation's nuclear-warfare policy.

It was a change that would immediately be nicknamed "star wars," a change Shultz opposed as dangerous and, on technical grounds, impossible.

But Shultz had not been consulted, a Knight-Ridder Newspapers examination of the origin of the defense plan reveals. He had simply been delivered a copy of Reagan's intended speech—an "eyes-only" copy Shultz could not share with Paul Nitze, his and the President's arms-control adviser. Nitze first learned about the defense plan at 11 a.m. on the day of the speech, March 23, 1983.

Like Shultz, members of the Joint Chiefs of Staff got two days' warning. So did the Defense Department's top nuclear strategist, Assistant Secretary Richard N. Perle, who was so enraged at being blindsided, according to an aide, that he "nearly fell on his sword."

Undersecretary Richard D. DeLauer, chief Pentagon scientist, learned of the biggest, most ambitious weapons-research program in history nine hours before its public announcement. Fred C. Ikle, undersecretary of defense for policy, notified at the same time, pleaded vainly for a chance to give NATO leaders advance notice. And so it went throughout the highest echelons of the Reagan administration.

Now, it is simply extraordinary that the President of the United States would make a decision of such enormity without careful consultation with his top scientific, military, and diplomatic advisers. Yet, apparently that is the fact.

I am now going on to read further from this article of Knight-Ridder Newspapers, and I now quote:

Yet the defense plan was not a decision arrived at "after careful consultation with my advisers," as Reagan said when he announced the plan on national television. Rather, it was a decision made by Reagan and kept secret by him and a half dozen National Security Council staff members from nearly everyone else, particularly the doubters.

Now that may seem like an extraordinary allegation, but apparently it has not been controverted.

And I would go on to read further from the article of the Knight-Ridder Newspapers:

In actuality, many insiders—including the Joint Chiefs of Staff, whom Reagan singled out twice in his speech as influential supporters—had reservations about the technology, timing and cost. Nearly all of Reagan's official advisers considered fanciful his suggestion that the new technologies might "give us the means of rendering these nuclear weapons impotent and obsolete."

"Those of us who knew what was really going on couldn't support that," said DeLauer, now a private consultant. "It was an overstatement with regard to how it would protect cities and the assertion that the protection would be leak-proof."

"We recognized that SDI was not a panacea" against nuclear threats of all kinds, said retired Army Gen. John W. Vessey Jr., then chairman of the Joint Chiefs of Staff. In fact, the Joint Chiefs had urged the President to consider strategic defense, but they had no specific plan in mind, simply considering it a concept worth carefull study.

Nuclear physicist George A. Keyworth II, for example, chief scientific adviser to the President, received five days' warning of the decision. He might have gotten less, according to a National Security Council member, "had not we asked ourselves, 'How can the President go on the tube directing a major high-technology initiative and tell his science adviser nothing?'"

Now that it is indeed a serious scientific question was very ably brought out, Mr. Speaker, in an article that appeared this Sunday in Parade Magazine, the supplement that goes with many newspapers around the country, including the Akron Beacon Journal and the Washington Post. Parade Magazine on December 8 contains an article by Carl Sagan, the well-known scientist and expert in space matters, entitled "Star Wars: The Leaky Shield."

This article goes on to point out that the so-called SDI system cannot possibly provide protection for the civilian population of the United States from a major nuclear attack on the United States, either now or at any time in the foreseeable future, even if we spend 30 years and $1 trillion or $2 trillion to try to create this system. It can easily be overwhelmed by the other side.

What it does do, of course, is to provide the possibility for a country that owns such a system of making a first strike against the other side's nuclear missiles and knocking enough of them out so that in a retaliatory strike from the other side, then there would only be a few missiles to get through and it would be possible for such a system to reduce the number that hit the target.

But, of course, the U.S. official policy, and I hope it will always be that, is that we will never initiate the first strike, a nuclear first strike. Therefore, there is no need for us to have that kind of a technology.

But the Soviet Union cannot assume that that will always be the case, as we would not assume it would be the case if the Soviet Union had such a capability. Therefore, they have to make their plans and their strategy on the assumption that such a first-strike capability would be sought by the United States and that, of course, is the reason, at least one of the reasons, why they so strongly and vigorously say that there is no possibility of nuclear disarmament in any significant way as long as we insist that we are going to develop, test, and deploy an SDI or "Star Wars Defense System."

□ 1810

Mr. Speaker, at this point I ask unanimous consent to include in the RECORD following my remarks the star wars article by Carl Sagan.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Now, there is an interesting quote in that article, in a little box, by President Eisenhower, on January 12, 1958. He spoke out on space weapons as follows, and I now quote:

I propose that we agree that outer space should be used only for peaceful purposes. We face a decisive moment in history in relation to this matter. Both the Soviet Union and the United States are now using outer space for the testing of missiles designed for military purposes. The time to stop is now.

That was in 1958. Here we are almost 30 years later, and we find that that very wise advice by President Eisenhower is now being called in to question by the star wars policy as well as by the antisatellite policies of the United States.

Now, Mr. Sagan also has a little box in here about how all uses of outer space, all military uses of outer space, are not bad. Some of them, of course, are very good.

We have satellites in outer space, as does the Soviet Union, that can monitor all kinds of things. Let me quote from Sagan, as follows:

Both nations have a flotilla of orbital reconnaissance stations that can track missile launchings, nuclear weapons production, new missile silo construction, nuclear submarines putting out to sea and the like. Mainly because of reconnaissance satellites, each side now has an excellent idea of the number and disposition of the strategic

forces of the other. These satellites, as President Lyndon Johnson once said, are worth their weight in gold. They minimize the likelihood of unpleasant surprises. They discourage paranoia about the potential adversary's capabilities. They would play an important role in monitoring deep cuts in the strategic arsenals. We need more, not fewer, satellites to monitor compliance with arms-control treaties. These satellites are, of course, run by the military of both nations. It is weapons in space—not all military activities in space—that is dangerous and destabilizing.

So we need to understand the distinction between putting satellites in space and weapons in space. Weapons that can be used to destroy other weapons, but weapons that can also be used for a first strike capability.

In a sense, it was an excellent proposal to bring the Soviet Union to the bargaining table, but once we get to the bargaining table, the question is what are we going to do to make use of it?

The article from the Knight-Ridder newspaper goes on to contain this remark, quote:

What led Reagan to act, at that moment, remains a mystery. McFarlane makes it a practice not to discuss his dealings with the President, and Reagan has said only, "I made the decision." What he liked most about the idea, he has said, was that it provided "a vision of the future that offers hope."

I question whether it offers hope. First of all, no one even knows whether it will work; but if it does work, it will create an accelerated arms race, and the mere fact that we insist upon going ahead with testing in space and deploying such a system will accelerate the arms race and bring about less hope rather than more.

The real hope is disarmament, nuclear disarmament, and if we can use an agreement not to proceed to test and deploy star wars as a means of bringing about a major reduction in the missiles of the Soviet Union and the United States down to the point where they don't threaten the entire human race as they do now, that would be indeed a hopeful development.

It was encouraging that after he got back from Geneva, President Reagan indicated a desire to move to that kind of strategic reduction; but I wonder if he really understood that if he is going to achieve that aim, then SDI is going to have to remain purely a research program, as indeed it must, so that we do not have the other side getting the jump through research on us.

To go beyond that and test it out in space where it can be easily detected or even yet deploy it would be a serious mistake.

I would like to read one more excerpt from the Knight-Ridder article; and the article goes on to say with respect to the President's decision:

A key White House analyst involved in the decision was asked recently whether such technical problems had been examined before Reagan's speech.

"That was not an issue," he replied. "The idea was to make a decision and then make it happen."

Sounds a little bit like making a Hollywood movie, but in any event, that is what he said.

Then the article goes on as follows:

What about whether the defense initiative, if it worked, would contribute to a sound military strategy?

"That wasn't considered either."

What about the likelihood that the Soviet Union would consider the defense initiative threatening?

"As best I could tell, none of that was really thought through either."

What about the system's relation to the Outer Space Treaty (banning weapons in space) and ABM (anti-ballistic missile) Treaty (limiting defenses against ballistic missels)?

"That was never considered.

"None of the things you assumed would be considered were considered at all," he continued. "People just don't believe that the President could make such a monmentous decision so impulsively. They think we must have thought through what it would do to the treaties and how it might work as a bargaining chip in Geneva, and so on, but I can't find it.

"Neither can anybody else who's undertaken a history of SDI, and the reason is, it isn't there."

So we are thrown back on the statement of the President that, it was providence that guided him to make this decision, and that "the hand of Providence" is going to deliver us from the awful threat of nuclear weapons through the SDI.

I suggest that if we proceed with the SDI, the President, if he lives long enough and I hope he does, and all the rest of us are going to realize that this is the work of the Devil and not the work of Providence, and that we have created a Frankenstein monster that could contribute to our destruction rather than to our salvation.

The President thought that he was acting as a true leader should act. He was focusing his eyes on the horizon and looking ahead and saying "Wouldn't it be nice if we could reach the point where we have a system that would make it impossible for the country to be attacked successfully with nuclear weapons."

Of course, everyone would have to say "Yes, indeed, it would be nice." The only thing is, the majority of scientific brains, the majority of arms control experts will tell us that it can't possibly happen this way.

There is one way to reach that state, and that is to get rid of the nuclear weapons entirely.

There is a very interesting book that was written recently by one of the most distinguished scientists in our country, Freeman Dyson, a book called "Weapons and Hope," and in that book, Freeman Dyson makes a very strong pitch—and this was written after the President made his star wars decision—makes a very strong pitch for defensive nuclear systems, defenses against nuclear weapons as a strategy.

However, he points out in his book, "timing is everything," and that the timing of such a defense system should come at the end of a disarmament process. That when you have gotten the level of nuclear weapons down to the point where they do not threaten the human race but there are still enough of them around so that they could be a serious threat from the terroristic standpoint, and where it is possible that some irresponsible heads of states, like a Qadhafi could develop some and use them to threaten and terrorize other countries.

At that point you need a defensive system, primarily to monitor and warn, but secondarily to knock out such a small number of weapons.

□ 1820

At that point, says Freeman Dyson, "Yes, you should be developing and deploying such a system but only after you have made tremendous steps in getting rid of the nuclear weapons."

So I suggest that the President had the right ultimate goal in terms of developing such a system, but an inadequate perception of how that related to the whole series of arms negotiation and arms reduction. I would hope that he would consult again the providence that guided his thinking and also consult some of his objective scientific advisers as well as some who are outside of Government, not just the Edward Tellers but also the Sagans, also the Freeman Dysons, the people who have no axes to grind but are thinking in terms of the interests, overall, of our country and of the human race, and see if he cannot take a second look at this and see, also, if it will not advance his goal of nuclear arms reductions.

The articles referred to follow:

REAGAN: GOD GUIDES "STAR WARS"

(By Myron S. Waldman)

FALLSTON, MD.—President Ronald Reagan said Wednesday that he had suggested to Mikhail S. Gorbachev that "the hand of Providence" is guiding him to "star wars." He also said he philosophized to the Soviet leader that an invasion from outer space could unite the United States and the Soviet Union.

The President also told a student audience that the Soviets had committed 23 violations of the SALT II agreement and that unless they ceased such actions, there was "no way" the United States would stick to the pact.

Reagan offered his recollections of the Geneva summit and his observations of Soviet behavior to several hundred students at Fallston High School, part of a wealthy Republican enclave in this heavily Democratic state.

He spoke at length of how he tried to sell the Strategic Defense Initiative, or star wars program, to the adamantly opposed Gorbachev. "I told him that with SDI . . . our deliverance from the awful threat of nu-

clear weapons may be on the horizon," Reagan recalled. "And I suggested to him that I saw the hand of Providence in that." Then Reagan added: "I think he understood our sincerety on this issue."

Once, when the two leaders were alone together, Reagan said, he hypothesized about an alien invasion from outer space. "When you stop to think that we're all God's children, wherever we may live in the world, I couldn't help but say to him, just think how easy his task and mine might be in these meetings that we held if suddenly there was a threat to this world from some other species from another planet outside in the universe. We'd forget all the little local differences that we have between our countries, and we would find out once and for all that we really are all human beings here on this Earth together."

Then the President said: "Well, I don't suppose we can wait for some alien race to come down and threaten us. But I think that between us, we can bring about that realization."

Later, during a question-and-answer session with about 40 students, Reagan was asked whether the United States would continue to comply with the terms of SALT II. He referred to a Defense Department report that Soviets have committed 23 violations of the treaty.

"There's no way that we can be so one-sided as to be destroying missiles and things of that kind and stay within the limit that they are violating," the President said. This year the United States has accused the USSR, among other charges, of installing two new missile systems when only one is allowed under the terms of the treaty.

He was asked to evaluate Gorbachev. "A very intelligent man," he answered, different from other "table-pounding" Soviet leaders. "He listened well; I listened to him," the President said. "It was affable. It was a case of disagreeing on particular issues but no hostility, no enmity."

CABINET, ADVISERS WEREN'T CONSULTED BEFORE REAGAN UNVEILED "STAR WARS"

(By Frank Greve)

WASHINGTON.—Secretary of State George Shultz was livid. He has just learned that President Ronald Reagan would announce in two days a stunning change in the nation's nuclear-warfare policy.

It was a change that would immediately be nicknamed "star wars," a change Shultz opposed as dangerous and, on technical grounds, impossible.

But Shultz had not been consulted, a Knight-Ridder Newspapers examination of the origin of the defense plan reveals. He had simply been delivered a copy of Reagan's intended speech—an "eyes-only" copy Shultz could not share with Paul Nitze, his and the President's arms-control adviser. Nitze first learned about the defense plan at 11 a.m. on the day of the speech, March 23, 1983.

Like Shultz, members of the Joint Chiefs of Staff got two days' warning. So did the Defense Department's top nuclear strategist, Assistant Secretary Richard N. Perle, who was so enraged at being blindsided, according to an aide, that he "nearly fell on his sword."

Undersecretary Richard D. DeLauer, chief Pentagon scientist, learned of the biggest, most ambitious weapons-research program in history nine hours before its public announcement. Fred C. Ikle, undersecretary of defense of policy, notified at the same time, pleaded vainly for a chance to give NATO leaders advance notice. And so it went throughout the higest echelons of the Reagan administration. The Strategic Defense Initiative proposal, which pushed Mikhail S. Gorbachev toward the bargaining table in Geneva, and which now is the principal obstacle to new arms-control agreements, came as a bolt from the blue. It is a proposal so expensive it has no price tag, so complicated it has no due date.

The plan to knock out incoming Soviet ballistic missiles, conceived almost casually in 1983, has become the biggest of the many differences between Reagan and Gorbachev on the eve of their Geneva summit.

"Whether strike weapons will make it to outer space or be barred from it is an all-important question," the Soviet leader said last week. "The answer to it is decisive to the course of developments in the world for many years ahead." Yet the defense plan was not a decision arrived at "after careful consultation with my advisers," as Reagan said when he announced the plan on national television. Rather, it was a decision made by Reagan and kept secret by him and a half-dozen National Security Council staff members from nearly everyone else, particularly the doubters.

Many of the generals, aides, scientists, bureaucrats and appointees who know about the beginnings of the defense initiative plan now have retired. Some consider it such a success that they are eager to chronicle its history and perhaps stake small claims to paternity. Others say they are appalled at what they consider folly's progress.

With significant exceptions, participants still in government asked not to be identified, a request honored in this story. All details coming from unidentified sources were confirmed by at least one other participant.

SKIRTING THE OPPOSITION

The basic strategy, under a plan carried out by Robert C. McFarlane, then the President's deputy national security adviser, was to skirt Congress, the bureaucracy and the news media. They, given half a chance, would smother the radical defense plan idea in its crib, proponents reasoned.

Hence, most top officials would not learn of the proposal until they had no choice but to back their boss, according to many of the principals. "If you supported Reagan, you supported SDI," one insider recalled recently.

In actuality, many insiders—including the Joint Chiefs of Staff, whom Reagan singled out twice in his speech as influential supporters—had reservations about the technology, timing and cost. Nearly all of Reagan's official advisers considered fanciful his suggestion that the new technologies might "give us the means of rendering these nuclear weapons impotent and obsolete."

"Those of us who knew what was really going on couldn't support that," said DeLauer, now a private consultant. "It was an overstatement with regard to how it would protect cities and the assertion that the protection would be leak-proof."

"We recognized that SDI was not a panacea" against nuclear threats of all kinds, said retired Army Gen. John W. Vessey Jr., then chairman of the Joint Chiefs of Staff. In fact, the Joint Chiefs had urged the President to consider strategic defense, but they had no specific plan in mind, simply considering it a concept worth careful study.

SECOND THOUGHTS

Both proponents and opponents of the defense plan agree that it was not carefully considered.

Nuclear physicist George A. Keyworth II, for example, chief scientific adviser to the President, received five days' warning of the decision. He might have gotten less, according to a National Security Council member, "had not we asked ourselves, 'How can the President go on the tube directing a major high-technology initiative and tell his science adviser nothing?'"

So McFarlane called Keyworth in on Saturday, March 19, 1983, and asked one crucial question: could Keyworth support stepped-up strategic defense research? Keyworth, without significant hesitation, said yes and was told to help draft the speech and build support within the scientific community.

His immediate reaction to the defense plan was, "Give me time. It's big. Give me time," Keyworth said in a recent interview.

"Most people saw the speech very close to delivery, and most—myself included, incidentally—had the same reaction: 'My God, let's think about this some more. Let's think about the implications for the allies. Let's think about what the Soviets are going to think. Let's think about what's technically feasible. Let's think about what the scientists are going to think. Let's think about the command and control problems.'"

They are formidable concerns. Under the system Reagan proposed, several layers of speed-of-light weapons, either space-based or with their beams reflected off space-based mirrors, would fire upon Soviet intercontinental ballistic missiles as they rose off their launch pads and arced through space toward the United States or Western Europe.

In a Soviet first strike, the system would have to destroy, within half an hour of their launch, thousands of warheads. In each instance, the beam would have to be aimed so precisely, according to DeLauer, that the feat would be like spotlighting, from earth, a basketball on the surface of the moon.

AN IMPULSIVE DECISION

A key White House analyst involved in the decision was asked recently whether such technical problems has been examined before Reagan's speech.

"That was not an issue," he replied. "The idea was to make a decision and then make it happen." (Hollywood!)

What about whether the defense initiative, if it worked, would contribute a sound military strategy?

"That wasn't considered either."

What about the likelihood that the Soviet Union would consider the defense intitiative threatening?

"As best I could tell, none of that was really thought through either."

What about the system's relation to the Outer Space Treaty (banning weapons in space) and the ABM (anti-ballistic missile) Treaty (limiting defenses against ballistic missles)?

"That was never considered.

"None of the things you assume would be considered were considered at all." he continued. "People just don't believe that the President could make such a momentous decision so impulsively. They think we must have thought through what it would do to the treaties and how it might work as a bargaining chip in Geneva, and so on, but I can't find it.

"Neither can anybody else who's undertaken a history of SDI, and the reason is, it isn't there".

Another participant said the decision was made "with little more consideration than

you give to the jacks before you bounce the ball." A third source, marveling at how Reagan slipped the fetters of his bureaucracy, said, "It was a fabulous study of top-down leadership."

Another took a more critical view. "You'd think that if the President proposes something absolutely off the wall," he said, "there'd be someone who would stand up and say, 'That's screwy!' Well, there wasn't."

What there was, by the consensus of three eminent scientists who have briefed him, was a president with the scientific acumen of the average man on the street. They are not surprised that Reagan has muffed some basic strategic facts, appearing on one occasion to be unaware that the Soviets rely heavily on land-based missiles, and on another describing mobile missiles as possible first-strike weapons.

The scientists add, however, that Reagan is quicker than most top business executives to recognize the implications of scientific advances. And they say that Reagan, more than anyone else in his administration, is optimistic that scientific research can solve national security problems.

ROOTS OF THE PROPOSAL

Reagan vividly encountered the strategic defense problem during a 1979 campaign visit to the North American Air Defense Command headquarters in Cheyenne, Wyo.

After observing NORAD radars tracking thousands of objects in space, including, he would later recall, an astronaut's glove, Reagan asked commanding Gen. Jim Hill what NORAD could do to stop an incoming Soviet missile.

"The answer was, 'Nothing.'" recalled Martin Anderson, an economic adviser who had accompanied Reagan.

So Anderson drafted a campaign memo in August 1979 suggesting that Reagan propose construction of a protective missile shield against Soviet ICBMs, perhaps exploiting laser-beam technologies.

A senior campaign adviser, Michael K. Deaver, said no. Deaver, who later would become deputy White House chief of staff, liked the idea but not the timing. He feared his candidate might look like a radical hawk if he proposed sharp changes in traditional nuclear doctrine.

Under that doctrine, called mutually assured destruction, or MAD, the superpowers have maintained nuclear peace by restricting defensive weapons and leaving themselves virtually naked to nuclear attack. The theory has been that the threat of retaliation produces a defensive effect.

Reagan has never liked this idea, calling it, privately, "a Mexican standoff."

"He said it was like two men with nuclear pistols pointed at each other's heads, and if one man's finger flinches, you're going to get your brains blown out," recalled retired Air Force Lt. Gen. Daniel Graham, a defense adviser to Reagan in 1976 and 1980. "He said it didn't make any sense to him."

Graham, former head of the Defense Intelligence Agency, favored a space-based defense. As he explained in an October 1980 U.S. News and World Report interview, "The kind of superiority we should seek is technological superiority—that is, to have some of our military capabilities in an area where the Soveits, with inadequate technology, cannot challenge us. . . . If we challenge them in a technical way—such as with a space-borne defense system—and make them face an entirely different military equation, we can quickly restore the balance."

PUSHING SPACE WEAPONS

After the election, Graham founded the Washington-based think tank High Frontier to promote space-based defenses against Soviet ICBMs.

Four members of the President's kitchen Cabinet initially were contributors to Graham's effort: brewer Joseph Coors, 68; paper magnate Karl Bendetsen, 78; investor and rancher William A. Wilson, 71, and foods magnate Jacquelin Hume, 80. All are influential supporters not only of Reagan, but of Stanford University's Hoover Institution on War, Peace and Revolution, the nation's premier conservative think tank.

In 1981, a senior scientist from the Hoover Institution approached science adviser Keyworth and said he wanted to offer his technical expertise to the President's well-meaning friends.

The scientist was nuclear physicist Edward Teller, 77, father of the hydrogen bomb and Keyworth's mentor. Teller, whom Keyworth described in an interview as "my father," had pushed Keyworth for the science adviser job.

Like Reagan, Teller has the gravest fear of Soviet intentions. Like Reagan, he considers the ABM treaty, which limits defensive weapons against ICBMs, a mistake that has undermined U.S. security.

Teller said he believes that "the old MAD policy of mutual assured destruction is nonsense" and that "MAD is not only morally bankrupt, it is rapidly getting technically bankrupt."

Guided by Teller, the four kitchen Cabinet members split from Graham and High Frontier. Thereafter, they used their influence to promote four meetings between Reagan and Teller prior to the defense initiative speech. Teller would not comment on the sessions. "If the President will tell you, then I will comment on it," he said.

Teller proposed to build an X-ray laser powered by a nuclear detonation. Called Excalibur in tests, the device would pick off Soviet ICBMs with powerful X-ray beams created by a controlled bomb-scale explosion in the weapon's core. It might be fired from a space-based platform or from a ground station, its beams reflected off orbiting mirrors.

LIFE OR DEATH QUESTION

In a Sept. 14, 1982, meeting with the President, Teller warned, according to two sources who were present, that the Soviet Union was developing an X-ray laser weapon similar to Excalibur. "Because the Soviets are doing it, by now it is a question of life or death," he explained in a recent interview.

Like Graham, Teller was not thinking of the weapon in strictly defensive terms. Excalibur, he promised the President, "would end the MAD era and commence a period of assured survival on terms favorable to the Western alliance."

It was not the first time Reagan had heard such an appeal and warning. In January 1982, kitchen Cabinet members Coors, Hume and Bendetsen had proposed an ABM system using directed energy weapons. Accounts of that meeting reveal much of Reagan's thinking about strategic defense.

Reagan wondered, for example, whether the system should be designed to protect missile silos or populations. (Protecting hardened silos is a relatively easy task called point defense; protecting cities and civilians is a much more demanding job called area defense.)

"Bendetsen told him that if you could do one, you could do the other, but that the cost and time would be very different," recalled a source present at the meeting. "He said it was a question which was not answerable by thinking of cost alone, and said that, if he had the President's permission and it were up to him, whatever the answer, it should be secret.

"Whatever the case, Bendetsen said, it was too early to make a distinction between city protection and silo protection and we ought to get on with it."

The President answered, "You're right," said the source, whose account was independently confirmed.

The question of how to deal with existing ABM and space treaties was quickly dismissed. Reagan appeared satisfied when Bendetsen stated, "So many people on your staff and State (Department) and committees on the Hill will be endlessly involved in those questions that it is more constructive for you to pursue the means that are involved."

Bendetsen, retired chairman of Champion International Corp., was an undersecretary of the Army from 1946 to 1952. He recommended that Reagan announce in a nationwide speech a quest, like the 1942 Manhattan Project that produced the atomic bomb, to develop new speed-of-light weaponry for strategic defense.

To do that, Reagan replied, he would need that recommendation from the Defense Department.

"Sir," Bendetsen said, "if it is going to come from the secretary of defense, you're going to have to talk him into it."

In February 1983, Vessey had the kind of good news-bad news problem that sometimes befalls chairmen of the Joint Chiefs of Staff. He and Reagan got on so well that the President had recently instituted monthly meetings with the joint chiefs. Now the problem was, Vessey couldn't decide what to talk about. He called the chiefs to his office on a Saturday morning.

"We decided we didn't want to just tell him readiness was up and so forth," a participant recalled recently. "We wanted to bring the President something new, different and exciting."

Adm. James Watkins, chief of naval operations, had an idea. Reading from notes, Watkins told the chiefs that it was time to consider the possibility that new technologies would make it possible to defend against a Soviet ICBM attack.

Gradually, in careful consultation with NATO allies, the United States should pursue the weapons technology advantage it had over the Soviet Union, Watkins suggested, according to notes that survived the session.

A Catholic who was deeply involved at the time in the church's nuclear-ethics debate, Watkins said it was more moral to protect Americans from nuclear attack than to hold them hostage to Soviet intentions under the MAD doctrine.

"Wouldn't it be better to save lives than to avenge them?" he asked.

And where had Watkins' idea come from? "If there was a father of the idea in Admiral Watkins' mind, it was Dr. Teller," said a key aide. Between October 1982 and January 1983, Teller and Watkins had met "a number of times," the aide said. "And it was Dr. Teller who brought the technical information to Watkins which got him so interested in SDI."

Teller confirmed the exchange but stressed that Watkins had initiated it. Watkins declined to be interviewed. In the same 1982-83 period, according to several sources,

Watkins had also met informally with McFarlane.

Still, on Feb. 11, when the joint chiefs met in the Roosevelt Room with the President, their strategic defense idea was vague and philosophic in tone. They did not distinguish between protecting cities and protecting missile silos or between space-based and ground-based defenses. They put the subject low on their agenda, considering it worthy, some day, of further study.

"Our recommendation was that we move into the defensive in the long run," Vessey recalled recently.

"The next step, we figured, would be to put a group together and see what was feasible and what the alternatives were," Army chief of staff Gen. E.C. "Shy" Meyer explained in an interview.

Administration accounts of the session say that the joint chiefs were polled on the feasibility of strategic defense, that they concurred, and that Reagan drew the determination to act from their counsel. Vessey and Meyer, in recent interviews, could not recall such a polling. Neither could others present. As far as the joint chiefs were concerned, the session with Reagan had gone well, particularly when he "perked up" as one participant put it, for Watkins' strategic defense briefing.

Reagan's recollection is somewhat different.

"Well, the whole thing started right in our Cabinet Room," he told U.S. News and World Report interviewers recently. "That was when, meeting with the Joint Chiefs of Staff, I brought up the question that nuclear weapons were the first weapons in the history of man that had not led to the creation of a defense system to protect against them. I asked if it was worthwhile looking into this. Is it possible to come up, with a defense? They were all agreed it was. And right there the program was given birth."

Reagan, it appears, seized on the joint chiefs' strategic defense idea as an endorsement of his own leanings. He plainly fell for Watkins' rhetorical figure, "Wouldn't it be better to save lives than to avenge them?" But when Reagan used the line in his defense initiative speech six weeks later, it had an expanded meaning. He meant to use spacebased weapons that would protect cities as well as missile silos.

THE PRESIDENT ACTS

Unknown to the chiefs, within hours after they had met with Reagan, McFarlane assigned three National Security Council staff members, all senior Air Force officers, to think about strategic defense.

McFarlane "told them he had the seeds of something, could they pull something together on strategic defense," according to a well-placed source.

They were to propose various options for strategic defense and weigh for each of them "the implications for the President's MX, B-1, Trident II and Pershing programs; probable international reactions; where support might come from."

What led Reagan to act, at that moment, remains a mystery. McFarlane makes it a practice not to discuss his dealings with the President, and Reagan has said only, "I made the decision." What he liked most about the idea, he has said, was that it provided "a vision of the future that offers hope." Disarmament?

He needed that in March 1983. One embattled offensive missile, the MX, couldn't find a home; his promised deployment of Pershing 2 and ground-launched cruise missiles in Europe had helped spawn an intimidating peace movement at home and abroad; U.S. Catholic bishops, who had issued a pastoral letter condemning nuclear warfare, threatened to make the anti-nuclear movement a mainstream crusade.

Congress, to make matters worse, appeared ready to cut by half the growth of the defense budget, and a popular nuclear freeze resolution loomed.

Reagan had contributed to the clamor, attacking communism as "the focus of evil in the modern world" in an address March 8 in Orlando, Fla. Pending nuclear freeze proposals, he said, ignored "the aggressive impulses of an evil empire."

A SECRET EFFORT

Shortly after the Orlando speech, the National Security Council staffers working on the defense initiative concept got new orders. They were to provide the content for the last five minutes of a speech Reagan planned to deliver on March 23 to promote his embattled 10 percent defense budget increase.

Specifically, the staffers were to provide some uplift. "The President wanted legitimately to offer some long-range hope because the rest of the speech was to be about the bucks required for his defense buildup," a source recalled.

"He wanted to say that, longrange, there was a prospect of real peace, and that the shift toward defensive systems offered us the possibility of resolving the nuclear dilemma."

The National Security Council staff members worked in the highest secrecy on a speech insert they nicknamed "The Annex." Scrap paper and drafts went into burn bags for disposal. No contact was permitted with speech writers of the remainder of the President's address, let along anyone outside the White House. Defense Department experts were excluded because "they leak over there," one analyst explained.

Outside scientific advisers were excluded, too, Keyworth said, "because if the President had gone outside the White House to solicit people for opinions, you've got to admit we would have had the leak of the month to say the least."

Had they not been excluded, the President might have heard daunting news.

A panel of experts from the White House Science Council had produced for Keyworth in January 1983 a highly classified report on exotic weapons technologies. The report was characterized by several sources as dubious about the military applicability of all of them, including chemical lasers and particle beams. The advisers deemed Teller's X-ray laser project to be the most promising technology, but still very remote from weapons applications.

"The report never went beyond Dr. Keyworth" in the formative period of SDI deliberations, according to an authoritative source. Keyworth said, in an interview, that all he believed the President to be proposing was a further examination of new technologies that might be useful in strategic defense.

WRITING THE SPEECH

Meanwhile, within National Security Council and the White House Situation Room, efforts to draft the defense initiative speech ran afoul of vagueness and confusion.

"The language of the drafts fluctuated from urgency to leisure in intent," according to one participant. "It ranged from, 'It might be a good idea to begin thinking about . . .' to 'As of tonight, I have reached . . . ,' followed by the High Frontier approach. On the one side, they were saying, we have the answer today, and on the other they were trying to stuff that widget back in the box."

This sawing back and forth intensified in the final days as selected officials received drafts, then weighed in with protests and amendments to McFarlane and Reagan. In several instances, the protests produced important changes in the final speech.

For example, arms-control expert Richard Perle managed to narrow the focus of the strategic defense concept to protection against a Soviet ballistic-missile attack. Otherwise, Soviet bombers and cruise missiles would have been included, dramatically increasing the complexity and cost of a strategic defense for the United States, let alone Western Europe.

Continued vulnerability to Soviet bombers and cruise missiles is often cited as the flaw in Reagan's pledge that strategic defense would "give us the means of rendering these nuclear weapons impotent and obsolete."

TAKING A FIRST STEP

Once they finally learned of the star wars decision, Perle, phoning from a NATO conference in Lisbon, and Shultz, in two hastily arranged meetings with Reagan, argued that his speech was unduly provocative. According to authoritative sources, they foresaw the instant Soviet nightmare that a U.S. first strike might destroy most Soviet ICBMs and a space-based defense would prevent retaliation with the remainder.

Their arguments led to Reagan's assurance that "I clearly recognize that defensive systems have limitations and raise certain problems and ambiguities. If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that."

Perle also sought to reassure NATO allies. He knew what the speech writers had overlooked: that Western Europe lies within six minutes of Soviet missiles, giving NATO allies a different, tougher strategic defense problem than the United States faces.

This produced some soothing phrases and this awkward sentence in Reagan's speech: "Tonight, consistent with our obligations under the ABM treaty and recognizing the need for closer consultation with our allies, I'm taking an important first step."

That first step, as Reagan phrased it, was "a comprehensive and intensive effort to define a long-term research and development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles." If that appeared vague, it was a reflection of the uncertainty among the star wars advisers and speech-writers.

The Army's Gen. Meyer has since had his doubts, he admitted, whether the system would work.

"Whether star wars is naive or not, I don't know," Meyer said. "It's naive to critics, but Reagan did what a leader does. He waves toward the horizon instead of toward the ground."

[From the Parade Magazine, Dec. 8, 1985]

STAR WARS: THE LEAKY SHIELD

(By Carl Sagan)

After World War II, the United States was invulnerable. Bounded east and west by great oceans and north and south by weak and friendly neighbors, we had no reason to fear an attack by any other nation.

All that has now changed. We invented the hydrogen bomb, having a destructive power up to 1000 times that of the weapons that destroyed Hiroshima and Nagasaki, and a succession of other bright ideas and brilliant inventions insinuated themselves into the American and (often soon afterward) Soviet arsenals.

In the late 1950s, the nuclear arms race really got going. The United States had a vast lead in numbers of nuclear weapons and intercontinental bombers. But the bombers, slow and lumbering, would take 10 hours or more to reach their targets in the Soviet Union. Now both sides were pursuing another "delivery system"—the first intercontinental ballistic missiles (ICBMs). Here—unlike most other strategic systems—the Soviets were slightly ahead. ICBMs could not carry as large a payload as a bomber, but even a single hydrogen bomb can destroy a city. And they had distinct advantages: They took only half an hour or less to reach their targets, and they moved so fast that, unlike bombers, they would be almost impossible to shoot down. Propelled well above the Earth's atmosphere into the blackness of nearby space, the warheads would follow long-arching trajectories, inertially guided to their distant targets.

At a meeting at the White House in 1960, the Defense Department asked President Dwight D. Eisenhower to authorize a U.S. contingent of 400 intercontinental missiles a year, each tipped by a hydrogen bomb. Eisenhower, who had commanded the Allied forces in the victory over Nazi Germany and who knew something about arms races, was uneasy. "Why don't we go completely crazy," he asked, "and plan on a force of 10,000?" missile-delivered strategic warheads, is roughly what we now have. The Soviets have a similar number. And a case can be made that we—Americans and Soviets together—have gone completely crazy.

The more missile silos, strategic airfields, ballistic missile submarine ports, command and control facilities, weapons storage depots and the like on one side, the more nuclear weapons and delivery systems are needed to destroy them by the other side. The U.S. and the USSR became locked in a deadly embrace. And so, from 1945 to the present, the two nations together have steadily increased the number of strategic nuclear weapons in the world, every year upping the ante. The ability of the United States to destroy the Soviet Union as a functioning society was reached in the 1960s, according to then Secretary of Defense Robert S. McNamara. A few yers later, the Soviets achieved a comparable ability to destroy the United States.

But the arsenals kept on growing. Most citizens of the two nations were unconcerned. Ever more weapons of mass destruction were necessary, we were told, to protect us. We believe it. The agencies of national propaganda inculcated fear and hatred of the potential adversary, and many people felt, despite their misgivings, that the issues were too technical and accountability too remote for the nation's leaders to be influenced much by public opinion. So we put it out of our minds. We hoped for the best. Psychiatrists call this "denial."

But eventually the weapons became so numerous, their accuracy so high, their delivery times so short and the consequences of nuclear war finally perceived to be so appalling that public unease reached unprecedented heights. Public education was aided when physicians, first in the United States and then in other nations, began making clear what they had long known but what government officials had apparently chosen not to think about—that the supply of intensive-care units, burn beds, blood, physicians and hospitals was utterly inadequate to care for the survivors of even a small nuclear war. Most of the victims would receive no medical treatment at all. Gradually, physicians and scientists became openly skeptical of bland official reassurances about the consequences of nuclear war, and a range of new and devastating findings emerged. Lately, they seem to be discovered at the rate of one or two a year.

In September 1985, a symposium on the medical implications of nuclear war was held at the National Academy of Sciences in Washington, D.C. It was sponsored by the Institute of Medicine, the nation's most distinguished body of medical experts. At this meeting, scientists from Stanford and Princeton universities estimated that the immediate civilian casualties in a nuclear war would be several times more than the number estimates by official sources, partly because of previously neglected superfires and firestorms. Such fires would pollute the lower atmosphere with toxic chemicals and, according to University of Colorado researchers, would work—together with the rising fireballs and smoke from multiple nuclear explosions—to deplete the thin layer of ozone that protects life on Earth from dangerous solar ultraviolet radiation.

A detailed study by scientists at the University of London of the causes of death at Hiroshima suggests that, under realistic conditions, the amount of radiation necessary to kill a human being might be half that in previous official estimates. According to a Brown University study, the combined effects of radiation, burns, malnutrition, stress and depression would compromise the immune systems of large numbers of survivors, attacking the human T-cells and inducing something rather like a global epidemic of AIDS.

Also reported at the Washington symposium were a number of recent studies on Nuclear Winter (described in PARADE Oct. 30, 1983), including a three-year investigation by 200 scientists from 30 nations. Their report states that the cold and the dark that would follow nuclear war would, by destroying agriculture and halting exports from northern midlatitudes, lead to the starvation of billions of people, including those far from the target zones. The report concludes: "As representatives of the world scientific community drawn together in this study, we conclude that many of the serious global environmental effects are sufficiently probable to require widespread concern. Because of the possibility of a tragedy of an unprecedented dimension, any disposition to minimize or ignore the widespread environmental effects of a nuclear war would be a fundamental disservice to the future of global civilization."

There were, in addition, a number of studies on the psychological and psychiatric aspects of nuclear war. It is evident that, by frightening children and adults and by suggesting that it is foolish to work hard now to ensure a better future later, the prospect of nuclear war already has claimed many casualties.

Scientific findings such as these make it clear that the United States and the Soviet Union have gone too far. They have placed in jeopardy our global civilization and possibly even the human species.

There seem to be only two ways out: to make massive reductions in the nuclear arsenals on both sides, or to erect shields to protect us from each other's strategic weapons. At least until the Geneva summit meeting between President Ronald Reagan and Communist Party Secretary Mikhail Gorbachev, the United States has opted for strategic defense, with massive arms reductions to occur only at some far distant date— after the defenses are in place. The hoped-for system is called the Strategic Defense Initiative (SDI) or Star Wars. The central concept is a multi-tiered defense that will shoot down some Soviet missiles as they leave their launch pads, destroy some warheads in space and mop up some fraction of the residue as they careen down on their designated targets. To accomplish this goal, a profusion of new technologies is proposed, many of which could not be fully deployed for decades, even under the most optimistic circumstances—including X-ray and chemical lasers, particle-beam weapons, electromagnetic rail guns and kinetic energy kill vehicles. Also proposed are orbiting mirrors that would reflect lasers beamed up from the United States down to incoming warheads.

If the number of weapons available to the Soviet Union were small, as it was in the 1950s, a vast Star Wars shield might make some sense. But as it is, there are now some 10,000 Soviet strategic warheads (and more U.S. warheads), and if the United States were to go ahead with Star Wars, that number woud doubtless increase in compensation. In addition, the Soviets would have powerful incentives to deploy huge numbers of decoys and so-called penetration aids, so that, in a full attack, a "threat cloud" of hundreds of thousands of objects—some warheads, most not—would be streaming, mainly over the Arctic Circle, from the Soviet Union to the United States.

Confronted with such numbers, competent observers—including Lt. Gen. James A. Abrahamson, director SDI—agree that even after decades of dedicated work (and the expenditure, according to some experts, of $1 trillion), the shield will still be leaky. The overwhelming consensus of computer experts is that writing reliable "battle management" software is hopelessly beyond our abilities for the foreseeable future—although here, as in many other areas of SDI technology, the U.S. is far ahead of the USSR.

Advocates of Star Wars often talk about 50 percent to 80 percent effectiveness. But let us suppose a shield that is 90 percent effective. We imagine that 90 percent of all incoming Soviet warheads are successfully picked out of the threat cloud and made to explode relatively harmlessly far from their American targets. The remaining 10 percent would penetrate the shield and explode in the United States. But a 10 percent leakage of 10,000 warheads corresponds to 1000 nuclear explosions on American territory—more than enough to destroy the United States.

Many experts think that 90 percent is wildly optimistic, but even if we accept higher efficiencies than projected by SDI's advocates, it is entirely clear that Star Wars would be unable to protect the civilian population of the United States—the goal of Star Wars, according to President Reagan's speech on March 23, 1983, and many later official pronouncements. After enormous expenditures of national treasure and the deflection of large numbers of first-rate scientists and engineers from useful research, the shield would not work. A contraceptive shield that deters 90 percent of 200 million sperm cells is generally considered worth-

less—20 million sperm cells penetrating the shield are more than enough. Such a shield is not better than nothing; it is worse than nothing, because it might well engender a false sense of security, bringing on the very event it was designed to prevent. The same is true for the leaky shield of Star Wars.

There are some in the United States who argue that, while a completely leakproof shield is impossible to imagine with present technology, perhaps startling future developments will occur to change all that. "After all," this argument goes, "they said we couldn't send a man to the Moon, didn't they?" But the Moon was unconcerned about U.S. efforts in space. The Moon did not fight back. The circumstances here are different. The Soviets—by increasing their offensive forces, developing decoys and developing orbiting mines to attack the space-based component of our Star Wars system—can hopelessly complicate the American SDI. The Soviets have caught up with the U.S. in every aspect of the nuclear arms race. No new weapons system has ever given the U.S. a decisive edge. And even with a tiny fraction of its present forces, each side retains an invulnerable capability to destroy the other.

So if Star Wars can't protect the people of America, why does the Soviet Union profess to be afraid of it? Among other things, the Soviets are concerned that there is a hidden agenda for Star Wars—that its real purpose is not defense but offense. In Russian nightmares, the United States launches a massive attack on the Soviet Union, destroying much of its retaliatory force. Then Star Wars is used to take care of the much smaller number of Soviet warheads that are launched in retribution. It is no good arguing that the U.S., when it had a nuclear monopoly, did not attack the Soviet Union. The Soviet military, like our own, must worry about even remote contingencies. If the situation were reversed, we would worry also—as we did when, in the negotiations leading to the 1972 ABM treaty, we successfully urged the Soviets to abandon their (feeble) strategic defense plans, in part by threatening massive buildups of our offensive weapons.

So Soviet military leaders might one day argue that a preemptive nuclear attack on the United States should be made to prevent Star Wars deployment. And if the Soviets would contemplate such a policy, U.S. leaders might contemplate an earlier, *pre*-preeemptive attack.

These are some of the reasons Star Wars has become a key point in the strategic negotiations between the United States and the Soviet Union. The difficulties with Star Wars are not a matter of different political perceptions or ideologies. They are intrinsic. They follow directly from the nature of the beast.

If there are no technological "fixes" to the nuclear arms race forthcoming, then it seems that we should consider agreement on equitable, bilateral, verifiable and massive cuts in the nuclear arsenals. If properly devised, such a treaty might be one of those endeavors in which both parties, and everyone around them, win big.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

ORDER OF BUSINESS

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent to go back and take up my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

SEVEN REASONS TO VOTE "NO" ON THE WAYS AND MEANS TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, this special order which is entitled "Seven Reasons To Vote 'No' on the Ways and Means Tax Bill" is an outline of what I think are the major concerns that Members should have when they look at the tax bill vote this week. There are, I think, seven major reasons why any Member should feel comfortable voting against the Ways and Means tax bill. First, because real tax reform should lead to growth in jobs, in savings and in take-home pay; this bill does not. Second, because the impact of imports on the trade deficit is a growing crisis, and this tax bill does not answer those problems, it makes it worse. Third, because we in the Congress have been committed to a profamily tax reform and the Ways and Means Committee tax bill actually fails on two counts to help families. Fourth, because the American people want tax simplicity. And I might say, Mr. Speaker, that at 1,379 pages this bill, on the face of it, fails the test of simplicity. Fifth, because the bill should be all about fairness, and in a variety of cases, which I will outline in detail, this is clearly an unfair bill. To take one example, this so-called reform bill, may mean a few dollars for some American families but will probably mean $80 million for the Gallo family. It is a bill which has a whole series of specific items in it which are special tax breaks and which apparently would cost between $2 billion and $3 billion, according to the New York Times report from this weekend. And sixth, despite all of the rhetoric and the hype and the pleas by some people that it is now or never, the fact is that the Reagan administration will be around, the Congress will be around, and we have plenty of time to consider tax reform. If we were to decide not to accept the Ways and Means bill, that would not mean the end of the process, it would simply be one more story. We could go on, we could learn the lessons of an improperly drawn, inexcusably complicated, absurdly special interest-oriented bill, and I think we could develop a far better tax bill.

Let me start again with the beginning, because I think the first concern of every Member of this House has to be jobs. If we do not have a growth in jobs, a growth in savings, a growth in take-home pay, if we are not able to go back home and say, "We did what we could to make sure Americans work," then the first rule against this bill has to be that it is wrong.

H.R. 3838 will clearly start a recession. In a series of newspaper reports, the President's Council of Economic Advisers warned the President that this bill would almost certainly lead to a recession in 1986. In addition, the only econometric analysis we have had so far suggests this bill would cost 1,500,000 jobs by 1991. That means the 1,379 pages of the Ways and Means tax bill is actually worse than the current Tax Code. It is more antijobs than the current Tax Code. In addition, when you recognize that there are tax changes in the Ways and Means bill which go into effect as early as September 1985, and most of the other changes go into effect on January 1, 1986. The net result of the Ways and Means is less investment due to the uncertainty it would create when the other body failed to act on it immediately, and we did not get around to passing a tax bill until June or July or August 1986. During the intervening 9 or 10 months as the average tax account looked at this massive bill, their advice to their company, to their investor, would be: "Why don't you wait? Let's not build the new factory, let's not buy the new machinery. Let's wait and see what is going to happen with the tax bill." The result is a virtually guaranteed recession in 1986.

So I think that a vote for the Ways and Means tax bill is, first of all, a vote for recession. Second, the most rapidly growing political issue in America is the question of imports and how can we make America competitive again in the world market? As the trade deficit gets bigger and bigger, as more and more Americans are concerned about trade, the question that more Americans are asking of this Representative is: "What are you doing?" whether it is the textile industry, the shoe industry, the copper industry, the automobile industry. Again and again, people who are worried about their jobs are saying: "What are you doing to save my job?"

Well, let us look at the Ways and Means tax bill, all 1,379 pages of it, in the context of world trade.

The first thing we know is that no one at Treasury, no one on the Ways and Means Committee staff, no one who looked at taxes started from the question: What changes are necessary for America to compete with Japan, with Korea, with Taiwan, and with the Common Market? In fact, basically the tax bill was written with no real concern for American competitiveness in the world market. Ironically, in those areas in which the tax bill does deal with competitiveness, it is consistently anti-U.S. exports and anti-U.S.

competition. In a whole series of special areas this tax bill makes it less likely that American companies will send workers overseas to sell their products, makes it less likely that American companies will engage in international trade. In a whole series of areas that we will illustrate in another special order later this week, specifically on the foreign trade impact of the Ways and Means tax bill, it makes it more likely we are going to have a big import problem, more likely we are not going to export enough, and more likely that the trade deficit would go up. Therefore, I would suggest it makes it more likely that the pressures for protectionism will increase.

So if your concern is to keep America in the world market, the Ways and Means bill by, for example, changing the ways in which we tax Americans working overseas makes it less likely that Americans will work overseas, more likely we will hire foreigners, less likely that American companies will be competitive, and more likely that foreign companies will dominate the world market.

Third, virtually every consultant on how America can compete with Japan says that the first key to competition is increasing savings. That is why those of us who are in favor of more savings like individual retirement accounts; that is why we encouraged a spousal IRA, individual retirement account, for housewives who stay at home or spouses who stay at home; that is why we encourage more retirement savings plans. Yet the fact is that H.R. 3838, the Ways and Means tax bill, is antisavings. Every study of the Ways and Means tax bill has said flatly that Americans are less likely to save for their retirement if we pass this bill.

Fourth, the groups in America that are profamily, the groups in America that have been encouraging, for example, a $2,000 deduction have looked carefully at the Ways and Means tax bill and come to the conclusion that it is, in fact, antifamily. It does not improve the status of families. Instead of getting a clean, simple, straightforward $2,000 per person deduction, there is a complicated, gimmicky deduction which says: "Well, you can take $2,000 in deductions per person if you don't itemize your deductions."

On the other hand, in its effort to make the people who come from high State tax States happy, it says: "You can deduct your State and local taxes. Now, of course if you deduct your State and local taxes," according to the Ways and Means bill, "you only get to take a $1,500 deduction." So if you come from New York, California, or a State that has a high State and local tax, you do not get the $2,000 deduction.

Finally, if you give a lot to your church or to a charity and you want to itemize your deductions, then you cannot take the $2,000 deduction either. So if you care a lot about charities, then you cannot have a $2,000 deduction.

Forty percent of the American people now itemize. That means for 40 percent of the American people the Ways and Means tax bill does not have a $2,000 deduction.

In addition, as I mentioned earlier, in the savings area one of the concerns we have had is what if a mother wants to stay home while her children are young? What if she wants to raise them? We think that mother is making a major contribution to America's future, and we think she should get the right to have an IRA, that is, an individual retirement account, because working as a mother is very important work for America's future.

That would encourage mothers to stay home, it would encourage families, it would not punish somebody who took 2, 3, 5 years out of work to raise their children when they were young before they went to school.

But the Ways and Means bill does not have a spousal IRA.

The fifth point is simplicity. When you go to almost any American neighborhood and you say, "Are you upset about taxes?" the average American says: "Yes." When you say, "Why are you upset about taxes?" the average American says: "Because it is too complicated, there are too many loopholes. I am paying my fair share, and somebody else is getting away without paying their fair share."

Simplicity is the No. 1 interest of the average American. They want a simple, straight, fair tax system. That is why, for example, the Kemp-Kasten bill was 58 pages long. That is right, 58 pages.

Now 58 pages, Mr. Speaker, is this much of the Ways and Means bill. That is right, 58 pages of a 1,379-page bill is about 4 percent. What about the other 96 percent of this bill? The fact is that anyone who is concerned about, "How can I go home and explain a vote against the Ways and Means bill?" I suggest you get a copy of the bill, walk home, walk into any town hall meeting, and say: "Are you all for simplicity?" Everyone will raise their hands, and just show them the 1,379 pages.

But it is worse than that. As you might expect, given the nature of the politics and the nature of the whole process of legislation, when the Ways and Means Committee began to write the bill, it just could not resist the temptation to make it complicated.

Instead of a 58-page bill, it became a 1,379-page bill, and that 1,379 pages has a lot of interesting items.

That gets me to item 6: Not only is it not simple, it is not fair.

Let me quote from a New York Times article of November 27. It discusses the fact that:

> As a rule, the legislation on tax revision that the House Ways and Means Committee finished drafting last weekend would prohibit the use of tax-exempt bonds to finance sports stadiums, convention facilities, and parking garages. But exceptions would be allowed for stadiums at Cleveland, Miami, Chicago, Memphis, and the Meadowlands of Northern New Jersey, a convention center in northern Miami, and for parking garages in Memphis and Charleston, South Carolina.
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> These and more than 2 dozen other exemptions to the general provisions are euphemistically called "transition rules." In reality, they are special favors inserted in the legislation personally on the last day of drafting.

□ 1835

I want to read parts of this because I, frankly, do not want to quote any particular Member by name, but I want every Member in this body to understand exactly how this was put together. The reason we have a 1,379-page bill is because there has to be plenty of room for just the right kinds of rules.

> Altogether, the special tax breaks would cost the Treasury $2 billion to $3 billion a year in lost revenue, more than twice what the government spends on cancer research.

It goes on to say, talking about one particular area and particular Member:

> In addition to winning special exemptions for a new stadium for the Miami Dolphins and a convention center in Miami Beach, (they) also got language in the legislation permitting special bond authority for a midtown redevelopment project and 2 heating and cooling systems.

Now, the article goes on to say:

> Chances are that no one in Congress except for those directly involved, including the members of the Ways and Means Committee who approved the rules covering the exemptions by voice vote Friday night, knows of the favors given to the Florida Congressman. Like all the rest of these rules, they were purposely written to conceal the beneficiary.
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> For example, the paragraph the committee approved about the Miami Beach convention center did not refer to * * * Miami Beach but said only that "an exemption from the repeal of authority to issued I.D.B.'s for convention centers would be provided for a specified amount of bonds issued for expansion of a convention center with respect to which a convention tax was upheld by a State supreme court on Feb. 8, 1985.

Now, I am going to repeat this because I want every Member of the House to think about this, the absurdity of a so-called tax reform bill that has this kind of a provision in it. Notice this is the language of the Tax Reform Act:

> * * * an exception from the repeal of authority to issued I.D.B.'s for convention centers would be provided for a specified amount of bonds issued for expansion of a convention center with respect to which a

convention tax was upheld by a State supreme court on Feb. 8, 1985.

Now, let me tell you, back home in Georgia we understand what that paragraph means. That means somebody got something and they do not want anyone else to know what it is. Now, it is not hard or complicated. Every time you write obscure law, you do it so somebody special gets a break. You can write clear law if everybody is getting a fair deal. I am going to, in a moment, read several sections of this proposed bill, but before I do, let me finish with the New York Times version of what happened.

Apparently two or three people sat down in a room and spent an entire day, Member by Member, talking with key players both in the Ways and Means Committee and elsewhere, and I suggest this article to anyone who wants to read it in detail. But I just want to put in a few parts of it because, quite candidly, I do not want to pick on any particular Member who is not on the floor to defend himself, but I want to make clear the kinds of favors that were being done.

Five waste-treatment plants in New York City and several on Long Island would be entitled to special tax treatment. Construction projects at St. Luke's Hospital and New York University would each be entitled to $150 million in tax-exempt bond authority outside the State-by-State ceiling that would normally apply to such bonds. The Metropolitan Transit Authority could maintain the particular tax treatment it uses to finance the purchase of new rail cars.

Merrill Lynch and Company would get special tax advantages on the construction of its new headquarters in Manhattan. The Ling-Temco-Vought Corporation and Fuqua Industries in Atlanta would get favorable tax treatment involving mergers and acquisitions. The Rouse Company, which specializes in large urban development projects, would get tax relief for its enterprises in Baltimore, Atlanta, Miami, Seattle, Jacksonville, Florida, and Portland, Oregon.

And a special provision was drafted to permit the Talman Home Federal Savings and Loan Association of Illinois to change ownership without having tax rules on operating losses applied.

Now, New York alone may be getting more tax breaks than entire States, that is, for New York City and the island of Manhattan, this so-called reform bill, the Ways and Means bill, may be offering more little deals, more breaks, than all of Wyoming, all of North and South Dakota, all of Minnesota, all of Nebraska, Iowa, you name it, all the medium-size States in America.

But you cannot tell that if you read the bill. One reason I started with the New York Times article is that they managed to figure out what certain things mean.

Let me give the Members of the House a few examples. We had staff sit down this afternoon—and, again, it is not easy, in the first place, just to read 1,379 pages of tax law. In the second place, when the law is deliberately written to be obscure, it is peculiarly easy to miss things.

Example: Merrill Lynch's headquarters. Here is how it is described, page 143 item (8), certain leasehold improvements, I am quoting from the bill.

(8) CERTAIN LEASEHOLD IMPROVEMENTS.—The amendments made by section 201 shall not apply to any reasonable leasehold improvements, equipment, and furnishings placed in service by a lessee if–

(A) the lessee is the original occupant of each building in which such property is to be used,

(B) such lessee is obligated to lease the building under a lease entered into before September 26, 1985, and to provide such property for such building, and

(C) such buildings are to serve as world headquarters of the lessee.

Now, what that said is Merrill Lynch gets a deal. But anyone who does not understand the exact circumstances and does not know where to find the exact reference could not possibly read this particular item and have any idea that it related to Merrill Lynch. And I am not picking on Merrill Lynch. They just happened to have been highlighted by the New York Times, so they give us a good example of how a really shrewd lawyer can write a really nice package which never identifies who is getting the goody, dropped it in somewhere, in a 1,300-page tax bill, and later on they happen to be a little bit richer.

Let me see if I can find another example where we are fairly certain. We are not always certain, frankly, exactly what these things mean. If you look on page 308, "(D) the conversion of a mutual savings and loan association holding a Federal charter dated March 22, 1985, to a stock savings and loan association purusant to the rules and regulations of the Federal Home Loan Board," we think that refers to Talman Home Federal Savings & Loan.

On page 653, it says:

(i) the hospital for which such facilities are being financed has been designated as the primary tertiary care provider in the region.

(ii) such hospital has expended $2,000,000 of its budget for feasibility studies and architectural and engineering services, and

(iii) the facilities are designed in four phases, including a seven floor patient tower.

Now, we are fairly certain that that is St. Luke's and New York University Hospital, but we are not totally sure, because, as I said, these are each individually, item by item, listed.

I could go on, but I think the point is fairly clear to any Member who pays attention to this whole dialog, that what you have here is not a tax reform bill. What you have is a standard Ways and Means take care of the gang, item by item, page after page of specifics.

Two of my favorites, in what is, after all, supposed to be a national reform bill, are on pages 655 and 656. Item (16) is a parking facility, I assume a parking garage, and item (17) is a parking garage. Neither one tells you what State they are in, what town they are in, who owns them, who is getting the deal or how much it is worth. They are just worded in such a way that only one place in America fits each parking garage. Now, I would suggest to my colleagues that a 1,379-page bill that has football stadiums, domed stadiums, baseball stadiums, parking garages, local heating facilities—is not tax reform. However, it is a wonderful, wonderful example of the power of public relations to believe that if people just chant "reform" long enough that the bill will actually look like reform, even if in fact it is business as usual.

Two of the specific examples that were described in the newspapers involve a family of one member of the Ways and Means Committee bill. And again I am not going to mention any names. But there was an article on October 31, 1985, in the Washington Post, entitled "Tax-Writer's Revisions Would Benefit Relatives. Timber Deductions, Writeoffs Preserved."

Now, I find this particularly interesting because in Georgia, in Mississippi, in Alabama, in a number of Southern States, timber is a very important issue, just as it is out West in places like Idaho, Washington State and Oregon.

However, apparently, at least according to the Washington Post version on October 31, one member of the Ways and Means Committee did all right, at least for his family. While many of us in our States are worried about the timber provisions, here is what it said:

The committee member did not mention that those small growers include his father, an uncle and several other relatives, who own a total of more than 150,000 acres of timber * * *. Based on figures provided by a cousin * * *, one of the two new tax breaks in the amendment would preserve a total of more than $500,000 in annual tax deductions for (the member's) relatives by 1990 * * *.

The point is this: If you knew the right person, if you were in the right place, if you had the right things going, you could, potentially, get a peculiar personal reform in the Ways and Means bill.

On a larger scale, this bill might suggest that it involves some savings for individuals, that you might, over time, get a little bit of a deal, a little better break for the average Member.

However, let me talk, briefly, about a Wall Street Journal article, October 31, 1985, in which one particular family really did well. It is entitled "'Gallo Amendment' Backed by Wine Family Opens Multimillion-Dollar Estate-Tax Loophole."

Now, this is a loophole which, according to the Treasury sources cited

by the Wall Street Journal, would affect no more than 350 families a year. In fact, one Member called it my little profamily amendment.

I want you to consider the irony of a tax reform bill that is ostensibly going to help the average American but does not have a straight $2,000 deduction. Oh, that would be too much for the average family. We cannot give every family $2,000 per person. That would be too expensive. It does not have an individual retirement account for the wife who stays home to take care of the children before they go to school. That would be too expensive. But the Ways and Means bill did not forget the right kinds of families. And here is what it says: This particular profamily amendment would allow the Gallo family to save approximately $40 million in taxes while giving $80 million to their grandchildren. In fact, it would exclude according to the Ways and Means staff, as reported by the Wall Street Journal, $84 million without incurring the tax.

Now, it is delightful to see that some members of the Ways and Means Committee were seriously concerned about some families and that they found a moment to write an $84 million exclusion. My impression is that this occurs on page 940. Again, I think when you recognize that the entire bill was rushed through, it was printed by the Government Printing Office over the weekend at a cost of some $500,000, because they had to go to overtime, and when you start printing up 1,379-page bills, you do not do it cheaply, it is deliberately written obscurely, and we have had very little time to study it, and, by the way, as a final grand irony, the Rules Committee insisted that amendments be available by last Friday at midnight so that it was impossible to track down all of these opportunities, all of these particular paragraphs. But I believe that this is the paragraph that gives the Gallo family $84 million better off than they were earlier. Page 940:

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in a trust, a specified portion of the trust assets are distributed to skip persons who are lineal descendants of the holder of such interest (or to 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property.

It goes on, down below, to say:

"(2) SPECIAL RULE FOR TRANSFERS TO GRANDCHILDREN.—For purposes of determing whether any transfer is a direct skip, if—

"(A) an individual is a grandchild of the transferor (or the transferor's spouse), and

"(B) as of the time of the transfer, the parent of such individual who is a lineal descendant of the transferor (or the transferor's spouse) is dead,

such individual shall be treated as if such individual were a child of the transferor and all of that grandchild's children shall be treated as if they were grandchildren of the transferor. In the case of lineal descendants below a grandchild, the preceding sentence my be reapplied.

"(3) $2,000,000 SPECIAL EXEMPTION.—The term 'direct skip' shall not include any transfer from a transferor to a grandchild of the transferor to the extent that the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

□ 1850

They go on to define skip and nonskip persons, but the point I think is fairly obvious.

On page 940 and 941 of the Ways and Means bill, the Gallo family did all right, even if the average American family did not.

There are a series of stadium opportunities, which again, without becoming repetitive, stadium by stadium, define each football or baseball stadium obscurely in a way that takes care of a particular town, a particular owner, a particular problem.

My summary point is this: A number of Members have said, "Well, how can I vote against the Ways and Means bill?" My answer is: Get a copy of the bill; look at it. Mark up the paragraphs that are deliberately obscure. Go back home or talk to your local reporters and read them, paragraphs at random. Let them come to understand that this is not a tax reform bill. This is one more tax complication bill.

Give them, for example, pages 647 to 650, where you have item 8, a convention facility. A, one particular facility on 648, a second facility on 648. Another facility on 649. Yet another facility on 649. Two more on 650, and just say then, why were six convention facilities good enough, but the rest of the country was not taken care of?

Why on page 640 do we have a domed stadium taken care of? Why do we have on 641 "A stadium to be used by an American League baseball team currently using a stadium in a city having a population in excess of 2,500,000." Or on 642, "such facility is a stadium or sports arena for Memphis, Tennessee," or again on 642, "a baseball stadium located in Hudson County, New Jersey," and so forth.

The point is not to pick on these particular institutions; I am sure they are good, legitimate causes. But how can we use the name tax reform to describe one more typical Ways and Means tax bill which takes care of everybody who is inside the room to be taken care of?

If in fact, we should be helping stadiums, there ought to be one paragraph in here that helps stadiums all over America. If we are not going to help stadiums, we should not single out a handful of districts for Members who are powerful.

It would suggest that when you come down to the basic principles, does the Ways and Means bill lead to a recession? The Council of Economic Advisers said it did, so well that the White House staff has hidden the report and will not release it and sent the Chairman of the Council of Economic Advisers out of town for a week.

Is it likely to cause us to lose jobs? The only econometric study done says that the Ways and Means tax bill will kill $1½ million that would exist in 1991 under current law. Is the Ways and Means bill profamily? Only if you are the Gallo brothers. If you are rich enough to give away $2 million to your grandchildren, this is a great bill. If you are a normal American family and you wanted that $2,000 deduction, this bill fails. If you are a normal American family and your wife wants to stay home to raise the children before they go to school, this bill does not allow her to set aside any money for retirement.

Finally, is the bill simple? As I said at the beginning, any Member who goes home, calls a townhall meeting or meets with the local news media, shows them page 1,379, and invites any member of the audience to walk up and read any paragraph wins the argument. This is a complex bill, it is a tax lawyers' bill, it is an accountants' bill, it is a special interest bill, it is a loophole for the friends of the Ways and Means Committee bill, it is not tax reform.

The last argument, No. 7. Even if this bill is everything I have said it is, should we not vote for it just to keep the process going? In a sense, that is the most simpleminded and narrowest argument of all. The fact is, the process is going to continue no matter what we do to this bill. If we pass this bill, it is going to go to the other body, where we have already had reports in the newspapers today that they may deal with such things as taxing fringe benefits. They may decide to tax State and local taxes. They may do a lot of things. So the process will continue and be out of our control and different things will happen and sometime next summer we will see a tax bill that may be very different from this one.

On the other hand, what if we were to defeat the Ways and Means Committee bill. Then we would have said to the Ways and Means Committee and to the Secretary of the Treasury, "We want a cleaner bill; a thinner bill; a simpler bill; a more profamily bill. We would like a bill that was for the average American family, not just the Gallo family and 349 other wealthy families each year."

Then we would have said, "In the middle of America's worst trading crisis ever, we need a bill that starts with the question, 'How do we make American jobs competitive with Japan and Europe and Korea?' "

Then we would have said, "How do we write a bill that is prosavings and truly profamily?" The process would go on because in January the Congress

would come back, because in January the Ways and Means Committee would meet. Now, it may be that a handful of people are saying that if they do not get their way this week they are not ever going to do anything again. They are going to sulk; they are not going to be involved. But I do not believe that. I think that if we were to defeat this bill, if our colleagues were to have the Christmas season, the New Year's season to think about it, to learn the lessons of this first try, we would start again.

So I say, the best vote for true tax reform is to defeat the Ways and Means Committee bill, to send a message to the Ways and Means Committee, to write a true tax reform bill, to come back in January and to start over with a much simpler, a much smaller, and a much cleaner bill.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LOWERY of California) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN, for 5 minutes, today.

Mr. SWINDALL, for 60 minutes, December 10.

Mr. GINGRICH, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, December 10.

Mr. GINGRICH, for 60 minutes, December 11.

Mr. GINGRICH, for 60 minutes, December 12.

Mr. GINGRICH, for 60 minutes, December 13.

Mr. WALKER, for 60 minutes, December 10.

Mr. WALKER, for 60 minutes, December 11.

Mr. WALKER, for 60 minutes, December 12.

Mr. PORTER, for 60 minutes, today.

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. SEIBERLING, for 30 minutes, today.

(The following Members (at the request of Mr. SEIBERLING) to revise and extend their remarks and include extraneous material:)

Mr. OBEY, for 60 minutes, on December 10, 11, 12, 13, 14, 16, 17, 18, 19, and 20.

Mr. OBERSTAR, for 30 minutes, on December 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BURTON of Indiana, following the votes today on House Concurrent Resolution 239, H.R. 1083, H.R. 3773, and H.R. 1538.

Mr. SEIBERLING, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,416.25.

(The following Members (at the request of Mr. LOWERY of California) and to include extraneous matter:)

Mr. GINGRICH.

Mr. CLINGER.

Mr. GILMAN in three instances.

Mr. SOLOMON.

Mr. COURTER.

Mr. MICHEL.

Mr. FRANKLIN in two instances.

Mr. O'BRIEN.

Mr. MCGRATH.

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mrs. LLOYD in five instances.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. DE LA GARZA in 10 instances.

Mr. EDWARDS of California.

Mr. HOYER.

Mr. SYNAR.

Mr. WRIGHT.

Mr. MRAZEK.

Mr. SCHEUER.

Mr. HOWARD.

Mr. OWENS.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 593. An act for the relief of the Merchants National Bank of Mobile, AL; to the Committee on the Judiciary.

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years; to the Committees on Interior and Insular Affairs, Post Office and Civil Service, and Ways and Means.

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System;

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Tuesday, December 10, 1985, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2360. A letter from the Architect of the Capitol, transmitting the semiannual report on expenditures of appropriations covering the period April 1, 1985 through September 30, 1985, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

2361. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed Letter of Offer to Singapore for defense articles and services estimated to cost $14 million or more (Transmittal No. 86-15), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2362. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed Letters of Offer to Korea for defense articles and services estimated to cost $57 million (Transmittal No. 86-16), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARKEY (for himself and Mr. UDALL):

H.R. 3878. A bill to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. DUNCAN (for himself, Mr. VANDER JAGT, Mr. FRENZEL, Mr. SCHULZE, Mr. GRADISON, Mr. MOORE, Mr. CAMPBELL, Mr. THOMAS of California, Mr. DAUB, and Mr. GREGG):

H.R. 3879. A bill entitled "The Tax Fairness and Reform Act of 1985"; to the Committee on Ways and Means.

By Mr. FOGLIETTA (for himself, Mr. GRAY of Pennsylvania, Mr. EDGAR, and Mr. BORSKI):

H.R. 3880. A bill to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office"; to the Committee on Public Works and Transportation.

By Mr. AUCOIN:

H.R. 3881. A bill to extend the tax credit for research activities; to the Committee on Ways and Means.

By Mr. FRANKLIN (for himself, Mr. LOWRY of Washington, Mr. FIELDS, Mr. CALLAHAN, and Mr. CHAPPIE):

H.R. 3882. A bill to amend the Panama Canal Act of 1979 with respect to the study of a sea-level canal; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 3883. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PASHAYAN (for himself and Mr. THOMAS of California):

H.R. 3884. A bill to modify the boundaries of the Sequoia National Forest, to establish the Scodies Wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 3885. A bill to designate wilderness areas in the Sequoia-Kings Canyon National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 235: Mr. BONIOR of Michigan and Mr. DYSON.

H.R. 471: Mr. LAGOMARSINO.

H.R. 567: Mr. HARTNETT.

H.R. 604: Mr. MATSUI.

H.R. 1353: Mr. WISE.

H.R. 1427: Mr. LOWRY of Washington.

H.R. 1479: Mr. RITTER and Mr. PURSELL.

H.R. 1715: Mr. HOYER, Mr. FISH, Mr. BONIOR of Michigan, Mrs. BOXER, Mr. THOMAS of Georgia, and Ms. MIKULSKI.

H.R. 1916: Mr. KOLTER, Mr. BIAGGI, Mr. ERDREICH, Mr. SAXTON, Mr. MRAZEK, Mr. DREIER of California, Mr. GRAY of Illinois, Mr. WORTLEY, Mr. HORTON, Ms. MIKULSKI, and Mr. RAHALL.

H.R. 2411: Mr. MATSUI.

H.R. 2412: Mr. MATSUI.

H.R. 2620: Mr. STRATTON and Mr. FOGLIETTA.

H.R. 2659: Mr. DIOGUARDI.

H.R. 2741: Mr. GILMAN, Mr. PURSELL, and Mr. MORRISON of Connecticut.

H.R. 2887: Mr. WILSON, Mr. BOLAND, Mr. COELHO, Mr. FOGLIETTA, Mr. CARR, Mr. CROCKETT, Mr. MARTINEZ, Mr. FORD of Michigan, and Mr. WHITEHURST.

H.R. 2943: Mr. ALEXANDER, Mr. MATSUI, Mr. DURBIN, Mr. BATEMAN, Mr. PARRIS, and Mr. CRAIG.

H.R. 2944: Mr. BARTON of Texas.

H.R. 3006: Mr. CRAIG.

H.R. 3260: Mr. BEVILL, Mr. CROCKETT, Mr. LOWRY of Washington, Mr. PURSELL, Mr. BOEHLERT, Mr. HENDON, Mrs. JOHNSON, and Mr. HATCHER.

H.R. 3445: Mr. DWYER of New Jersey, Mr. STALLINGS, Mrs. HOLT, Mr. RANGEL, Mr. WEAVER, Mr. RICHARDSON, Mr. MORRISON of Washington, Mr. BIAGGI, Mr. MARLENEE, Mrs. BENTLEY, Mr. MARTINEZ, Mr. SUNIA, and Mr. MRAZEK.

H.R. 3521: Mr. RALPH M. HALL, Mr. MURTHA, Mr. HUCKABY, Mr. ROWLAND of Georgia, Mr. YOUNG of Missouri, Mr. HEFNER, Mr. GEKAS, Mr. DONNELLY, and Mr. ROGERS.

H.R. 3570: Ms. KAPTUR and Mr. KILDEE.

H.R. 3582: Mr. NIELSON of Utah.

H.R. 3660: Mr. WYDEN, Mr. AUCOIN, Mr. BIAGGI, Mr. TRAFICANT, Mr. TALLON, Mr. TORRICELLI, Mr. STALLINGS, Mr. SCHUMER, Mr. CARPER, and Mr. FEIGHAN.

H.R. 3736: Mr. SOLOMON, Mr. GINGRICH, and Mr. PARRIS.

H.R. 3780: Mr. ACKERMAN, Mr. ADDABBO, Mr. AKAKA, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ASPIN, Mr. BARNARD, Mr. BARNES, Mr. BATES, Mr. BEDELL, Mr. BEILENSON, Mrs. BENTLEY, Mr. BERMAN, Mr. BONER of Tennessee, Mr. BONKER, Mr. BORSKI, Mr. BOUCHER, Mr. BOSCO, Mrs. BOXER, Mr. BREAUX, Mr. BROOKS, Mr. BROWN of California, Mr. BRUCE, Mr. BRYANT, Mrs. BURTON of California, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. CLAY, Mr. CLINGER, Mr. COBEY, Mr. COELHO, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONYERS, Mr. CROCKETT, Mr. DARDEN, Mr. DASCHLE, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. DONNELLY, Mr. DOWDY of Mississippi, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. ECKART of Ohio, Mr. EDGAR, Mr. EDWARDS of California, Mr. EVANS of Illinois, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. FROST, Mr. FUQUA, Mr. FUSTER, Mr. GAYDOS, Mr. GEJDENSON, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GRAY of Illinois, Mr. GRAY of Pennsylvania, Mr. HATCHER, Mr. HAWKINS, Mr. HAYES, Mr. HEFNER, Mr. HEFTEL of Hawaii, Mr. HERTEL of Michigan, Mr. HOWARD, Mr. HOYER, Mr. HUCKABY, Mr. HUGHES, Mr. JACOBS, Ms. KAPTUR, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LANTOS, Mr. LELAND, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LIGHTFOOT, Mr. LOWRY of Washington, Mr. LUKEN, Mr. LUNDINE, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MAVROULES, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCCURDY, Mr. MCKERNAN, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL, Mr. NELSON of Florida, Ms. OAKAR, Mr. ORTIZ, Mr. OWENS, Mr. PACKARD, Mr. PANETTA, Mr. PEASE, Mr. PENNY, Mr. PEPPER, Mr. RAHALL, Mr. REID, Mr. RICHARDSON, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROYBAL, Mr. SABO, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHARP, Mr. SHELBY, Mr. SIKORSKI, Mr. SMITH of Florida, Mr. SOLARZ, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STOKES, Mr. STUDDS, Mr. SUNIA, Mr. SWIFT, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, Mr. WATKINS, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WHEAT, Mr. WHITLEY, Mr. WILLIAMS, Mr. WIRTH, Mr. WISE, Mr. WOLPE, Mr. WORTLEY, Mr. WYDEN, and Mr. YATES.

H.J. Res. 7: Mr. THOMAS of Georgia, Mr. ROBERTS, Mr. COBLE, and Mr. COUGHLIN.

H.J. Res. 70: Mr. BRUCE.

H.J. Res. 101: Mr. DE LA GARZA, Mr. GREEN, Mr. HUNTER, Mr. IRELAND, Mr. JACOBS, Mr. JONES of North Carolina, Mr. KASICH, Mr. KEMP, Mr. LATTA, Mr. LEACH of Iowa, Mr. LIPINSKI, Mr. LUNGREN, Mr. MCDADE, Mr. MCEWEN, Mr. MCKINNEY, Mr. CHAPPELL, Mr. LUKEN, Mr. HENRY, and Mr. LEVINE of California.

H.J. Res. 127: Mr. SOLOMON and Mr. BARTLETT.

H.J. Res. 359: Mr. AKAKA, Mrs. BENTLEY, Mr. BURTON of Indiana, Mr. CAMPBELL, Mr. CARNEY, Mr. DANNEMEYER, Mr. DASCHLE, Mr. DAUB, Mr. DE LA GARZA, Mr. DORNAN of California, Mr. DOWDY of Mississippi, Mr. DYMALLY, Mr. DYSON, Mr. ERDREICH, Mr. FAZIO, Mr. FEIGHAN, Mr. FLIPPO, Mr. GINGRICH, Ms. KAPTUR, Mr. LEVIN of Michigan, Mr. LOEFFLER, Mr. MATSUI, Mr. MOAKLEY, Mr. MOLLOHAN, Ms. OAKAR, Mr. ROE, Mr. SHELBY, Mr. SILJANDER, Mr. SMITH of Florida, Mr. TRAXLER, Mr. VANDER JAGT, Mr. VENTO, and Mr. WILSON.

H.J. Res. 436: Mrs. SCHNEIDER, Mr. SIKORSKI, Mr. SILJANDER, Mr. SKELTON, Mr. SLAUGHTER, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mr. SMITH of New Hampshire, Mr. SPENCE, Mr. SPRATT, Mr. STANGELAND, Mr. STRANG, Mr. STUDDS, Mr. TAUKE, Mr. TORRICELLI, Mr. VANDER JAGT, Mr. WALKER, Mr. WAXMAN, Mr. WEBER, Mr. WHITLEY, Mr. WILSON, Mr. SCHUETTE, Mr. HERTEL of Michigan, Mr. HUNTER, Mr. HYDE, Mr. JENKINS, Mrs. JOHNSON, Mr. LAGOMARSINO, Mr. LATTA, Mr. LELAND, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LOEFFLER, Mr. LOWRY of Washington, Mr. MCDADE, Mr. MCCLOSKEY, Mr. MCCURDY, Mr. MCGRATH, Mr. MCHUGH, Mr. MACKAY, Mr. MADIGAN, Mr. MANTON, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MINETA, Mr. MOAKLEY, Mr. MOORE, Mr. MORRISON of Washington, Mr. MURTHA, Mr. NELSON of Florida, Mr. OBEY, Mr. PANETTA, Mr. PICKLE, Mr. RAHALL, Mr. RAY, Mr. RITTER, Mr. ROBERTS, Mr. ROSE, Mr. ROWLAND of Connecticut, Mr. SABO, Mr. SAVAGE, Mr. SCHAEFER, Mr. ANDERSON, Mr. ANDREWS, Mr. ANTHONY, Mr. BATES, Mr. BENNETT, Mr. BERMAN, Mr. BLILEY, Mr. BOEHLERT, Mr. BONIOR of Michigan, Mr. BONKER Mr. BOULTER, Mr. BROWN of California, Mr. BROWN of Colorado, Mrs. BURTON of California, Mr. CHAPPIE, Mr. COBEY, Mr. COMBEST, Mr. CONTE, Mr. CONYERS, Mr. CRAIG, Mr. DAVIS, Mr. DELAY, Mr. DE LUGO, Mr. DIOGUARDI, Mr. DORNAN of California, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EVANS of Iowa, Mr. FAWELL, Mr. FAZIO, Ms. FIEDLER, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FOWLER, Mr. GEPHARDT, Mr. GILMAN, Mr. GOODLING, Mr. GREGG, Mr. GRAY of Illinois, and Mr. GUNDERSON.

H.J. Res. 439: Mr. AUCOIN, Mr. PURSELL, Mr. ROBERT F. SMITH, Mr. ANTHONY, Mr. STALLINGS, amd Mr. CARPER.

H.J. Res. 451: Mr. CHAPMAN, Mr. PANETTA, Mr. LEVINE of California, Mr. PORTER, Mr. YOUNG of Florida, Mr. SMITH of New Hampshire, Mr. MAZZOLI, Mr. FAWELL, and Mr. GINGRICH.

H.J. Res. 462: Mr. DASCHLE, Ms. OAKAR, Mr. BOUCHER, Mr. CROCKETT, Mr. CONYER, Mr. FAUNTROY, Mrs. BURTON of California, and Mr. HORTON.

H.J. Res. 463: Mr. UDALL, Mr. SPENCE, Mrs. BOXER, and Mr. MCCAIN.

H. Con. Res. 197: Mr. BOEHLERT.

H. Con. Res. 211: Mr. MOLINARI, Mr. BEREUTER, Mr. THOMAS of Georgia, Mr. ANDERSON, Mr. SPRATT, and Mr. MCKINNEY.

H. Res. 40: Mr. BARTON of Texas and Mr. DENNY SMITH.

H. Res. 323: Mr. COMBEST, Mr. DELAY, Mr. BOULTER, Mr. BARTON of Texas, and Mr. SYNAR.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3525

By Mr. FRENZEL:

—On page 5, after line 16, insert the following new section:

SEC. 4. SUNSET PROVISION.

The amendments made by section 1, section 2, and section 3(a) shall apply only with respect to the Presidential general election in the year 1988, unless otherwise provided by law.

—On page 1, strike "continental" in the title of the bill.

On page 3, line 18, strike "continental".

On page 4, line 1, strike "continental".

On page 4, line 2, strike "continental".

On page 4, beginning on line 9, strike subsection (1).

On page 4, line 12, strike (2) and insert in lieu thereof (1).

On page 4, line 14, strike (3) and insert in lieu thereof (2).

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF DELAWARE.

"(a) Notwithstanding any other provision of this Act, the State of Delaware may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF DISTRICT OF COLUMBIA.

"(a) Notwithstanding any other provision of this Act, the State of District of Columbia may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF GEORGIA.

"(a) Notwithstanding any other provision of this Act, the State of Georgia may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF MAINE.

"(a) Notwithstanding any other provision of this Act, the State of Maine may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF MICHIGAN.

"(a) Notwithstanding any other provision of this Act, the State of Michigan may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF NEW HAMPSHIRE.

"(a) Notwithstanding any other provision of this Act, the State of New Hampshire may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF NORTH CAROLINA.

"(a) Notwithstanding any other provision of this Act, the State of North Carolina may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF OHIO.

"(a) Notwithstanding any other provision of this Act, the State of Ohio may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF PENNSYLVANIA.

"(a) Notwithstanding any other provision of this Act, the State of Pennsylvania may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF SOUTH CAROLINA.

"(a) Notwithstanding any other provision of this Act, the State of South Carolina may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF VERMONT.

"(a) Notwithstanding any other provision of this Act, the State of Vermont may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF VIRGINIA.

"(a) Notwithstanding any other provision of this Act, the State of Virginia may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF WEST VIRGINIA.

"(a) Notwithstanding any other provision of this Act, the State of West Virginia may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF INDIANA.

"(a) Notwithstanding any other provision of this Act, the State of Indiana may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF MISSISSIPPI.

"(a) Notwithstanding any other provision of this Act, the State of Mississippi may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF MISSOURI.

"(a) Notwithstanding any other provision of this Act, the State of Missouri may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF OKLAHOMA.

"(a) Notwithstanding any other provision of this Act, the State of Oklahoma may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF TEXAS.

"(a) Notwithstanding any other provision of this Act, the State of Texas may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF KANSAS.

"(a) Notwithstanding any other provision of this Act, the State of Kansas may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF COLORADO.

"(a) Notwithstanding any other provision of this Act, the State of Colorado may determine the closing time for their polls in presidential general elections."

—At the end of page 5, add the following new section:

"SEC. 4. EXEMPTION FOR THE STATE OF UTAH.

"(a) Notwithstanding any other provision of this Act, the State of Utah may determine the closing time for their polls in presidential general elections."

—On page 1, after the word "for" in the title, insert the following: "for presidential primary dates on which there is more than one state conducting its primary election and"

—Strike out line 16 on page 4 and all that follows through line 3 on page 5 and insert in lieu thereof the following:

SEC. 2. STUDY BY SECRETARY OF TRANSPORTATION.

The Secretary of Transportation shall conduct a study of the impact that an extension of daylight saving time in the Pacific time zone to the first Sunday after the date of each Presidential general election would have on the air and surface transportation system of the Nation. The Secretary shall report the results of the study to the Congress not later than December 31, 1986.

—On page 5, add the following section:

SECTION 4. EFFECTIVE DATE

The amendments made by this Act shall not apply unless prior to September 1 of the presidential election year, all of the television networks state, in writing in a form proscribed by the Federal Election Commission, their intention not to use exit poll data to suggest, through interpretation of that data, the probable winner in any state until polls in that state have closed and each of the major party presidential and vice-presidential nominees state, in writing in a form proscribed by the Federal Election Commission, their intention not to declare victory or concede defeat prior to all of the polls closing in the United States.

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the President shall provide for a study, with respect to Presidential general elections, of the impact of the availability of actual results from areas where the polls have closed on voting in areas where polls have not closed. The study shall be conducted in the manner prescribed by the President and shall include—

(1) an examination and analysis of the effect of such availability on total voter participation and patterns of voter participation; and

(2) an assessment of the need for, and the practicality of, a single poll closing time for such elections in the continental United States.

Not later than December 31, 1986, the President shall report the results of the study to the Congress.

By Mr. GREGG:

—On page 4, after line 7 insert the following:

"(b) Notwithstanding subsection (a), a polling place shall close, with respect to a Presidential general election, as provided by the law of the State involved, in the case of—

"(1) a polling place at which not more than 50 persons are eligible to vote; or

"(2) a polling place at which each person who is eligible to vote has voted."

On page 4, line 8, strike out "(b)" and insert in lieu thereof "(c)".

—On page 5, after line 16, insert the following new section:

SEC. 4. EXEMPTION FOR CERTAIN STATES.

The amendments made by section 1, section 2, and section 3(a) shall not apply with respect to a Presidential general election in any State if more than 60 percent of the eligible voters in that State voted in the previous Presidential general election.

—On page 5, after line 16, insert the following new section:

SEC. 4. EXEMPTION BASED ON RESULTS OF PREVIOUS ELECTION IN PACIFIC TIME ZONE.

The amendments made by section 1, section 2, and section 3(a) shall apply with respect to a Presidential general election only if the total of electoral votes of the States in the Pacific time zone would have changed the outcome of the preceding Presidential general election.

—On page 5, after line 16, insert the following new section:

SEC. 4. SENSE OF CONGRESS.

It is the sense of the Congress that a Presidential general election is the sum of 51 separate elections.

—On page 5, after line 16, insert the following new section:

SEC. 4. SENSE OF CONGRESS.

It is the sense of the Congress that a Presidential general election is the sum of 51 separate elections. Each State should take such action as may be necessary to assure that signs are posted in each polling place stating the principle expressed in the preceding sentence and encouraging eligible voters to vote regardless of projections and polling data.

—On page 5, after line 16, insert the following new section.

SEC. 4. REQUIRED BROADCAST OF CERTAIN MESSAGES BY NETWORKS.

Each network shall carry messages, with respect to each Presidential general election, encouraging eligible voters to vote regardless of election characterizations and polling data.

—On page 5, after line 16, insert the following new section.

SEC. 4. SENSE OF CONGRESS ON EARLY STATEMENTS BY CANDIDATES.

It is the sense of the Congress that no candidate of a major political party should claim victory or concede defeat in a Presidential general election before all polling places in the continental United States have closed.

—On page 5, after line 16, insert the following new section.

SEC. 4. SENSE OF CONGRESS ON EARLY STATEMENTS BY CANDIDATES.

It is the sense of the Congress that no candidates of a major political party should claim victory or concede defeat in a Presidential general election before all polling places in the United States have closed.

—On page 5, after line 16, insert the following new section.

SEC. 4. EXEMPTION FOR STATE WITHOUT UNIFORM POLL CLOSING REQUIREMENT.

The amendments made by section 1, section 2, and section 3(a) shall not apply to any State that does not have a State uniform poll closing requirement.

—On page 5, after line 16, insert the following new section:

SEC. 4. CONGRATULATIONS TO NETWORKS.

The Congress congratulates the networks for restraint in announcing a projected winner until the polls in a State had closed in the Presidential general election of 1984.

—On page 5, after line 16, insert the following new section:

SEC. 4. EFFECTIVE DATE.

The amendments made by section 1, section 2, and section 3(a) shall apply with respect to a Presidential general election only if the major networks agree in writing, at least 90 days before the date of that election, that such networks will not use exit polls to project winners of the election or characterize trends in the election.

—Strike out line 16 on page 4 and all that follows through line 3 on page 5 (and redesignate the following section accordingly).

—On page 5, after line 16, insert the following new section:

SEC. 4. EFFECTIVE DATE.

The amendments made by section 1, section 2, and section 3(a) shall apply with respect to Presidential general elections taking place after the Presidential general election of 1988.

—On page 5, after line 16, insert the following new section:

SEC. 4. FEDERAL REIMBURSEMENT TO STATES.

The Federal Government shall reimburse each State for any costs incurred by that State as a result of extended voting hours under amendments made by this act.

—On page 5, after line 16, insert the following new section:

SEC. 4. PRESIDENTIAL ELECTION DAY AS LEGAL PUBLIC HOLIDAY.

Section 6103(a) of title 5, United States Code, is amended by inserting after the item relating to Columbus Day the following new item: "Presidential general election day.".

—On page 5, after line 16, insert the following new section:

SEC. 4. EXEMPTION FOR CERTAIN POLLING PLACES.

Notwithstanding any amendment made by this Act, any polling place with fewer than 1,000 eligible voters shall be subject to State law with respect to poll closing time.

—On page 3, lines 18 and 19, strike out "IN THE CONTINENTAL UNITED STATES".

On page 4, line 1, strike out "in continental United States".

On page 4, lines 2 and 3, strike out "in the continental United States".

On page 4, line 4, strike out "9:00 o'clock" and insert in lieu thereof "11:00 o'clock".

On page 4, strike out lines 9 through 11.

On page 4, line 12, strike out "(2)" and insert in lieu thereof "(1)".

On page 4, line 14, strike out "(3)" and insert in lieu thereof "(2)".

On page 5, in the matter following line 11, strike out "in continental United States".

—On page 5, after line 16, insert the following new section:

SEC. 4. EXEMPTION FOR CERTAIN POLLING PLACES.

Notwithstanding any amendment made by this Act, any polling place with fewer than 1,000 eligible voters shall be subject to State law with respect to poll closing time if the polling place involved uses paper ballots.

By Mr. LUKEN:

—At the end of page 5, add the following new section:

"SEC. 4. COST AND WORKING CONDITION EXEMPTION.

(a) The provisions of this Act shall not apply to any state in which:

(1) the additional expenses for election-day personnel incurred as a result of the requirements of this Act would exceed current expenses by more than 25 percent as adjusted by the consumer price index; or

(2) Election-day employees would be required to work more than a 12 hour day as a result of the requirements of this Act."

H.R. 3838

By Mr. REID:

—Page 61, strike out line 18 and all that follows through line 17 on page 62.

Page 61, line 17, insert quotation marks after "education.".

H.J. RES. 192

By Mr. TAYLOR:

—Amend the title so as to read: "Joint resolution to designate December 10, 1986, as 'National Day of Remembrance of Man's Inhumanity to Man'."

Substitute amendment to the committee amendment.

—Page 3, line 8, strike "the governments of".

Substitute amendment to the committee amendment.

—Page 3, line 9, strike "Turkish".

Substitute amendment to the committee amendment.

—Strike the matter proposed to be inserted by the Committee amendment and insert in lieu thereof "by the governments of the Ottoman Turkish Empire".

Substitute amendment to the committee amendment.

—Strike the matter proposed to be inserted by the Committee amendment and insert in lieu thereof "by the Ottoman Empire".

—Page 3, line 6, strike "genocide" and insert in lieu thereof "inhumane events,".

Page 3, strike lines 7 through 11 and insert in lieu thereof the following: "million people of Armenian ancestry who were the victims of those events, such as the Christian and Muslim people of Armenian and Turkish ancestry who were the victims of events that occurred in 1915 and 1916 in the area then known as Anatolia.".

—Page 3, strike lines 1 through 11 and insert in lieu thereof the following:

That December 10, 1986, which marks—

(1) the 38th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations, and

(2) Human Rights Day, as established by United Nations resolution,

is designated as "National Day of Remembrance of Man's Inhumanity to Man", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide.

—Page 3, line 1, strike "April 24," and insert in lieu thereof "December 10,".

Page, 3, strike lines 6 through 11 and insert in lieu thereof the following: "for all victims of genocide.".

(Amendment in the nature of a substitute.)

—Page 3, strike lines 1 through 11 and insert in lieu thereof the following:

That—

(1) December 10, 1986, which marks—

(A) the 38th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations, and

(B) Human Rights Day, as established by United Nations resolution,

is designated as "National Day of Remembrance of Man's Inhumanity to Man", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide;

(2) in issuing the proclamation, the President may, if he determines it appropriate—

(A) call attention to the inhumane events that occurred during hostilities between the Russian Empire and the Ottoman Empire, and

(B) commemorate all victims of those events, such as the Christian and Muslim people of Armenian and Turkish ancestry who were the victims of events that occurred in 1915 and 1916 in the area then known as Anatolia; and

(3) if the President determines it appropriate to call attention to the events described in paragraph (2), appropriate recognition shall also be given to the fact that the Ottoman Empire was ended by Turkish revolution in 1922 and the present Republic of Turkey was formed in 1923.

SENATE—*Monday, December 9, 1985*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Praise the Lord of my soul. O Lord my God, thou art very great; thou art clothed with honor and majesty.—Psalm 104:1.

Mighty Lord our God, in this brief moment at the start of another day—another busy week—we acknowledge Thee and our need of Thee. We worship Thee, not because Thou dost need our worship, but because we need to do it. Our humanness requires it. If we do not worship Thee, we will worship someone else, something else. We satiate our bodies, starve our souls, and wonder why we are so short on spiritual resources. We have been reminded that there is a "God-shaped vacuum" in everyone which only God can fill. "Thou hast made us for Thyself O Lord, and restless are our hearts until they repose in Thee." (St. Augustine.) Receive our worship Lord and grant that we may face the vicissitudes of this week in the strength and wisdom of the God we serve. In the name of Jesus whose whole purpose was to please Thee. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, thank you.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each followed by routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, we will resume consideration of House Joint Resolution 465, the continuing resolution. Rollcall votes can be expected throughout the day. It is our hope—only a hope—that we might complete action on the continuing resolution today.

Let me indicate that we could be in the last week of the first session of the 99th Congress; we could not be in the last week of the first session. There are still five outstanding major pieces of legislation that must be completed. The farm credit bill, which will pass the House today, we are prepared to move on, or go to conference, or whatever may be required.

The farm bill is in conference now. It is my understanding, based on weekend reports and visiting with certain Members, that the debt ceiling extension with the Gramm-Rudman-Hollings amendment is near completion, and there could be a vote on that as early as Wednesday. The continuing resolution has passed the House, and is now on the Senate floor. So it is our hope that we could be in conference sometime tomorrow on that.

That leaves the reconciliation conference report. As I understand it, there are a number of so-called subconferences where they are in effect negotiating their differences. I guess the point I would make is that there is a lot of progress being made.

So it is not impossible to complete the work of the Senate this week. That would be including, I assume, a portion of the weekend. But much will also depend on the House schedule because they have the tax reform bill this week. That will take a couple of days. That may interfere with some other matters that we need to dispose of.

Mr. President, we are hopeful but not certain.

BIRTHDAY OF SPEAKER O'NEILL

Mr. DOLE, Mr. President, in this season of holiday cheer and, if you'll forgive me for using the word, reconciliation, it is my pleasure to rise to salute a colleague on his birthday. It has been both a privilege and an education to work with him during the past year. There are some around this town, and you know who you are, who regard him as the embodiment of Santa Claus, political as well as personal. I, however, regard him as one of a kind, an authentic legend, and one of the more decent men in Washington. His life here spans more than three decades, during which he has become a household word, a familiar figure in the morning headlines, and a daily maker of history. For all that, he remains a man from North Cambridge, the proud son of a laboring father who was preoccupied on the day of his son's birth with a dispute involving Harvard University and its army of grasscutters.

The boy grew up with his father's example before him. He grew into a spokesman for others who worked hard, practiced their faith, loved their families, served their country and usually voted the straight Democratic ticket. I grew up in a town very different from North Cambridge. But the values I was taught to believe in hardly differed from those of the other boyhood—save the practices of election day. Be that as it may, I am proud to call TIP O'NEILL my friend and colleague. And I can only hope he'll say something half as nice about me in his book.

Mr. President, I am honored to join with so many others in wishing a happy birthday to Speaker O'NEILL. We may be on opposite sides of the Hill—and the aisle—but we stand together in our veneration for this institution and the traditions it embodies. May his memory inspire us all, long after the man himself retires to his word processor. The only thing about TIP I won't miss come next year is his annual rendition of "I'll Be With You in Apple Blossom Time." But if Mrs. O'Neill can listen to it, more power to her. And may she go on hearing it for many more springtimes to come.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. HECHT). The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield back the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m. with statements therein limited to 5 minutes each.

CAN A SUPERPOWER MILITARY BUILDUP MAKE THE WORLD SAFER?

Mr. PROXMIRE. Mr. President, there has been some progress in nuclear weapons arms control over the past 25 years or so. There has been virtually no progress in limiting conventional weapons by the two superpowers. Now the United States and the Soviet Union may be on the verge of genuine progress on real conventional arms control. Or they may not be. It is quite a paradox. The December 5 New York Times relates two clashing contradic-

tory stories. Consider what appeared on page A14 in the New York Times on December 5, and then what appeared on the immediately following page, A15. On page A14 the New York Times reported the following encouraging news on conventional arms control agreements. Here was the headline: "New NATO Offer On Troop Cut Due." The subhead then read: "It Drops Demand That Two Sides First Agree on the Totals Now in Place in Europe." Here was encouraging news, until the reader moved to the very next page to see the following headline: "NATO Talks Stress Nonnuclear Arms." The subhead made the direction crystal clear. Here it is: "Strong Consensus is Reported on Need to Push Buildup on Conventional Forces."

So which way are the superpowers going on conventional arms? Will there be a mutual reduction in forces? Or will there be a buildup? The answer is both. Is that possible? It is. Will it bring a reduction in the prospect of a superpower war? It may. How can this be? Here is how: The NATO reduction in forces applies strictly to personnel. NATO and the Warsaw Pact have been engaged in talks on conventional force reductions for 12 years without significant progress. In order to begin progress NATO has proposed to remove 5,000 American troops from Western Europe and 11,500 Soviet troops from Eastern Europe. The numbers are not much. They do constitute a first step in the right direction. Far more important is something else. It is this: NATO also proposes a verification proposal that would reinforce such an agreement. NATO has proposed a remarkably strict verification. It has called for checkpoints to monitor the departure of troops. It has also asked that there be 30 onsite inspections a year to make sure that no additional troops have been sent in. That is right. I said 30 onsite inspections a year. Not 3; 30.

Mr. President, this proposal may have extraordinary significance. What an excellent precedent for nuclear weapons agreements. Here is precisely the kind of vigorous and constant on-the-spot inspection that could break the crucial objection of the administration to negotiating an end to nuclear testing. It could also apply to treaties restricting production and deployment. It is true that the Soviets have rejected such inspections in the past. If we succeed in persuading the Soviets to agree to this verification procedure on conventional forces, the principle as a precedent could greatly advance nuclear weapons arms control.

Now how do we square this encouraging new NATO posture on limiting conventional forces in Europe with the article on the next page of the New York Times that reports what appears to be the exact opposite, that is that NATO has reached "a high degree of consensus on the need to renew efforts to build up its conventional forces"? This report contends that the member countries of NATO in Europe now accept the argument of NATO Supreme Commander Gen. Bernard Rogers that a bigger and stronger conventional force will make it unnecessary for NATO to resort to nuclear weapons in response to Soviet aggression in Western Europe. With this in mind, in the last 2 years, NATO has engaged in a buildup in conventional ammunition stocks. There has been a hardening of aircraft shelters. There has been a doubling of $7.8 billion in the amount spent on airfields, satellite depots, and pipelines. There has been increased spending on new-technology conventional weapons that will permit NATO to engage in "deep strike" tactics far behind the adversary's front lines.

Could NATO reconcile this major weapons build-up with negotiations to reduce military personnel on both sides? Conceivably it could. Would it be arms control? Certainly not in the sense that there is a reduction in military strength.

The NATO buildup is obviously aimed at increasing NATO's military strength. We can certainly expect that if the Soviets should agree to a military personnel reduction on both sides as NATO has also proposed, the Soviets, like NATO, will increase the weapons strength of their forces. Nevertheless, it is undeniable that this kind of strengthening of conventional arms by NATO in Europe will certainly help to reduce the risk that a superpower clash in this power keg of central Europe will set off a nuclear war within days if not hours. It will give both sides a little precious time to think, to talk, to negotiate and to stop the ultimate catastrophe. Here is a vivid contradiction of the usual arms control purpose of mutual reduction of military strength. It may in this case serve the cause of peace.

GENOCIDE SPEECH: MEMORIAL CANDLES

Mr. PROXMIRE. Mr. President, a most extraordinary memorial service was held on October 13 at the Kennedy Center, where the Dallas Symphony Orchestra, under Eduardo Mata, presented the east coast premiere of Benjamin Lees' Symphony No. 4, "Memorial Candles."

The Dallas Symphony had commissioned the work to commemorate the 40th anniversary of the end of the Holocaust.

Lees, one of America's foremost composers, first began to think about the project during his visit to Israel in 1981. There he spoke with survivors, visited the Yad Vashem memorial, immersed himself in the literature of the Holocaust, and searched for the meaning and spirit of the country.

Early on, Lees decided that he had to include in his work the powerful words of the Nobel Prize-winning poet Nelly Sachs, a survivor of the Holocaust. She had been born in Berlin in 1891 and escaped in 1940 to Sweden, where she lived until her death in Stockholm in 1970. In Sweden, she earned her living by translating Swedish literary works into German. Her first major volume of poetry, "In the Habitations of Death," was published in East Berlin in 1947. Subsequent works included "Eclipse of the Stars" (1949), "And No One Knows How to Go On" (1957), "Flight and Transformation" and "Glowing Enigmas" (1965). Her poetry has been described as "the foremost poetic expression of the Nazi Holocaust" and "the only poetic testimony which can hold its own next to the speechless horror of documentary reports."

Sachs' poetry had a profound effect on the composer Lees. In the finished product, Lees inserted the text of Sachs' moving verses "That the Persecuted May Not Become Persecutors," "Someone Blew the Shofar," and "But Who Emptied Your Shoes of Sand."

Lees used the texts to create imagery and looked to the orchestra to provide the source of power for symphony No. 4. He felt something else was needed, however. The missing piece was the violin, traditionally the "soul" instrument of Central and Eastern Europe. World-class violinist Pinchas Zukerman was chosen to perform the short solos and obbligatos.

The performance of "Memorial Candles" was an emotionally stirring experience for those in attendance. Its inspiration and intensity cry out to the present day.

"Memorial Candles" was commissioned to commemorate the 40th anniversary of the Holocaust. Ratification of the Genocide Treaty would also be a fitting commemoration. Need we wait another 40 years?

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that door-to-door chauffeur service improves the productivity of senior Government officials.

Now here is a beltway myth, if there ever was one. While this myth has been developed and perpetuated by self-interested bureaucrats long envious of private sector perks, I can think of few Americans outside the Washington beltway who would buy this one for a minute.

It is easy to understand its allure inside the beltway. After all, the limo and chauffeur are the ultimate ego trip, the supreme sign of success that

shouts, "Here comes Mr. Big! Here is a guy who has really made it."

Of course, the devotees of this myth would never admit to motives so crass. Time and again, Congress hears the lament, "My time is so precious. I'm terribly overworked and this service permits me to be more productive by doing business while I commute."

Mr. President, I am sure that no one in this Chamber will be surprised by my holiday response to such tomfoolery, "Bah! Humbug!"

But what is surprising is when a Federal agency, particularly one as staid as the Justice Department, echoes these same sentiments.

That is just what they did in a little-known 1978 memorandum from the Justice Department's Office of Legal Counsel to the Carter White House.

Ridiculing the justification that chauffer service "conserves the valuable time of senior officials by permitting them to work while being transported," the Justice Department noted that such an interpretation would make the law prohibiting door-to-door chauffeur service virtually a "dead letter." Without a doubt, "There is hardly a senior official to whom this rationale would not, in fact or fancy, apply".

The Justice Department found "nothing in the text, background or prior interpretation of the law which supports a reading so contrary to its plain meaning." A position I have argued for well over a decade.

But that's not all. The Justice Department opinion goes on to offer a series of radical suggestions. For example, "A senior official may lengthen his or her working day, if necessary, by coming earlier, leaving later, and living closer to the office." And I would add to that list, the public transportation system; You can work in a bus or on the Metro subway, and, if you require more privacy, you can work in the back of a cab.

As the Justice Department memorandum concludes so aptly, "Using government transportation instead is a matter of personal convenience." A conclusion reaffirmed in a series of rulings by the Comptroller General of the United States, beginning with his landmark ruling in 1983.

Mr. President, the tens of millions of Americans who miraculously manage to get themselves to and from work without the aid of a taxpayersupported car and driver have never bought this myth. Now it's time that we destroy this myth inside the beltway as well.

MEDICAL MALPRACTICE REFORM

Mr. NICKLES. Mr. President, today I rise to cosponsor S. 1804, the Federal Incentives for State Health Care Professional Liability Reform Act of 1985, introduced by Senator HATCH on October 29 of this year. After careful consultation with the physicians in Oklahoma, I have come to the conclusion that Federal action is needed to address the medical malpractice crisis affecting every State and every sector of medicine.

Medical malpractice litigation has increased exponentially in recent years. Claims against physicians have risen from 3 claims per 100 doctors a year prior to 1978 to 8.6 claims per 100 during the years 1978-83. The average settlement, under $5,000 in 1979, has skyrocketed to $330,000 in just the last 6 years.

All of this has a cumulative economic effect on the cost of health care. According to the recent American Medical Association report, the threat of malpractice litigation has contributed to over $15 billion in defensive medical practices, much of which may be viewed as medically unnecessary. These costs are passed on to the patients through increased insurance premiums.

In October of this year, I wrote to the doctors of Oklahoma and asked for their imput on what actions, if any, should be taken by the Federal Government to curb the costs of medical malpractice litigation and awards. So far, I have received over 200 responses. There is almost complete consensus that the costs of medical malpractice litigation and awards, both to physicians and patients, have grown at such an alarming and prohibitive rate that some steps need to be taken at the national level to turn current trends around.

Dr. Ray V. McIntyre of Kingfisher, OK, serves on the board of directors of the Oklahoma Physicians Liability Insurance Co. He confirms that the malpractice problem is not just limited to States like New York and California. It has hit Oklahoma, as well. In 1980, Oklahoma had an average of 15 malpractice claims per month. Five years later, that average has grown to 60 claims per month. Statistically, every year one in five physicians in Oklahoma will be sued.

The especially hardest hit with suits is obstetricians-gynecologists. About sixty percent of all practicing obstetricians-gynecologists have been sued for malpractice. Twenty-five percent of Florida's obstetricians-gynecologists have stopped delivering babies. There is a tremendous risk involved in maintaining a delivery practice. This was eloquently expressed by one doctor in Oklahoma:

> One of the terrible situations with which I am personally involved as a pediatriction nearing retirement at the age of 71 is that the statute of limitation on each newborn runs for 19 years. If I retired today, I would not be free of liability until age 90. As a matter of fact, only two years ago a multimillion dollar suit, far above my insurance was filed against me by a 19 year old man whom I treated as a two pound premature baby. He was blinded by oxygen required to save his life. Only luck saved me in that his attorney could not find an expert witness to testify against me, Certainly a jury would have awarded a blind man a big award, although my choice was clearly between allowing the baby to die or try to save him and take a chance on blindness.

Because of the large rural populations of Oklahoma, we are at risk of losing all obstetricians-gynecologists services in parts of our State. Many of the doctors are just not willing to take the risk of being financially wiped out with one suit. Clearly, this is a serious problem, particularly for women in rural Oklahoma and other States faced with no one to deliver their children.

The bill that I am cosponsoring, S. 1804, has the distinct advantage of maintaining State jurisdiction over medical malpractice law and litigation for all cases. Rather than establishing any kind of a national system for resolving malpractice claims, this bill encourages States to reform their own laws with the "carrot approach"—the promise of Federal funds. Rather than usurping State law and getting the Federal Government totally involved in the business of regulating malpractice activities, States would make changes on their own.

Although this approach does allow States to maintain control over malpractice, I don't usually support the concept of using Federal dollars to marshal States toward actions which are deemed desirable by the Federal Government, particularly when faced with the deficit that is plaguing Uncle Sam. However, I believe that significant reforms in State malpractice law will be dramatic in bringing down the cost of health care. Since the Federal Government pays about one-third of all the Nation's bills for health care, a limitation on malpractice awards is in the best interest of consumers and payors, including the Federal Goverment. If the costs of defensive medicine are near $15 billion, then reducing the incentives for this could be significant. Sentiments of Oklahoma doctors ran similar to this one:

> As a staunch Republican, I have to see the Federal Government become involved in the health care delivery system. However, I believe the malpractice situation in this country is in the crisis state. As an Orthopedic Surgeon, I now tend to view every single patient as a potential malpractice suit and this results in numerous additional tests, and even consultations that under ordinary situations would not be warranted. . . . In short, I believe that this problem may well need to be handled at the Federal level.

Under this legislative proposal, States would receive $2 million the first year and $1 million for each of 2 more years if they make the following four changes in their laws governing malpractice suits, as well as some administrative changes.

First, require that awards over $100,000 be paid out over a period of time in installments, rather than a lump sum delivery.

Second, require awards to be offset by compensation received from other sources like insurance reimbursements.

Third, limit noneconomic damages—pain and suffering—to $250,000.

Fourth, limit attorney's contingency fees in the following manner:

Settlement/award	Attorney's fee
Under $50,000	Not more than 40 percent.
$50,000 to $100,000	Not more than $20,000 plus ⅓ of the excess over $50,000.
$100,000 to $200,000	Not more than $36,667 and 25 percent of the excess over $100,000.
Over $200,000	Not more than $61,667 plus 10 percent of the excess over $200,000.

It is my hope that the reforms contained in S. 1804 will achieve a more appropriate balance between two important goals. First, we need to maintain a system that allows patients who have been injured, either through negligence or bad results to receive just compensation for the harm that they have incurred. Second, we need to cap the spiraling growth in lawsuits and awards that are jeopardizing the availability and affordability of medical care for more and more people. I believe that S. 1804 represents a step in the right direction on both counts. I look forward to working with Senator HATCH in the Labor and Human Resources Committee on this issue.

CHESAPEAKE AND OHIO NATIONAL HISTORIC PARK

Mr. MATHIAS. Mr. President, I commend the Appropriations Committee for ensuring that emergency funds are made available to the Park Service to repair the damage done to the Chesapeake and Ohio National Historic Park by the recent flood.

It is estimated that the Park Service will need about $10 million to repair the damage fully and to restore the canal to its former state, and $2 million of that is needed in emergency funds to stabilize the structure and to prevent further erosion of this irreplaceable natural resource through the winter. The continuing resolution provides authority to the Park Service to borrow from other programs to finance the immediate needs and provides assurance that the Park Service will be reimbursed by the committee through a supplemental appropriations bill for any resulting shortfall.

Fortunately, there were no serious injuries or deaths along the canal. Much credit is due to Park Service staff for their quick and decisive response to this calamity and the many volunteers who assisted.

Although damage to the Washington metropolitan area was relatively light, the flooding caused serious damage to the C&O Canal. Only 40 miles remain open to bikers and hikers. The situation is urgent not only from a visitors' standpoint but from a physical standpoint as well. The C&O Canal is a delicate natural resource and it erodes rapidly. We must take the necessary preventive measures now to keep it from deteriorating further. As long as the towpath is not restored, every new rain will compound the problem.

This swift action by the committee comes as a welcome relief to me. As sponsor of legislation to establish the C&O National Historic Park, I am greatly concerned about the present condition of this historic link with the past. The cost of any delay, even until next year, would be high.

The C&O Canal is an exceptional public resource. The canal offers a breadth of natural assets unequaled anywhere. The towpath, starting a few steps from the urban streets of Georgetown, proceeds up the Potomac Valley through the rugged slopes of the Alleghenies. No other park can boast such scenery, wildlife, and history so accessible to millions of Americans. In its 184 miles, the canal capsulizes the Potomac Valley's growth, its commercial hopes, its enduring natural values, and its great human appeal. Envisioned by President John Quincy Adams as a "great central chain of union" between the eastern seaboard and the West, the canal is one of the finest examples of our Nation's canal-building era and its impressing engineering feasts.

Legislation to protect and preserve the canal and towpath was signed into law in 1971. It took the concentrated and collective efforts of many citizens, legislators, and government officials to rescue the canal and make this legislation a reality. We cannot afford to allow the canal to slip back to the state of disrepair it was in before the Federal Government made its commitment. The immediate release of funds to meet the current needs will ensure that this will not happen.

I urge my colleagues to approve the Senate Appropriations Committee's action on this important matter.

A TRIBUTE TO THE REV. THEODORE NEWMAN

Mr. HEFLIN. Mr. President, my home State of Alabama recently lost one of its outstanding religious leaders when the Rev. Theodore R. Newman of the American Methodist Episcopal Church passed away at the age of 80.

Reverend Newman's 54 years of ministerial service began when he was first licensed to preach in 1929, and was assigned to the Bethel AME Church. In that post, where he began with a small church of only seven members, his work was so inspirational and outstanding that he was awarded the honor of delivering the annual sermon at the next annual conference.

During the early 1930's, he went on to serve at Selma's Ward Chapel AME Church, the St. Mark AME Church of the Bessemer District, and the Ward Chapel AME Church of Prattville. During this period, he was also ordained as a deacon in the ministry, and later as an elder, the highest ministerial order in the AME Church.

In 1936, Reverend Newman was assigned to the Washington Chapel AME Church at Tuskegee Institute, AL, where he would remain for 13 years. During his tenure, a number of improvements in the church were made, leading to its recognition as one of the outstanding churches in the Ninth Episcopal District. The church was also twice accorded the honor of hosting the AME annual conference.

After leaving the Washington Chapel Church in 1949, Reverend Newman was named presiding elder of the Anniston District, where he served 3½ years. He later served the Union Springs District before being assigned to the Opelika District in 1953. It was another 30 years, in 1983, before Reverend Newman requested that he be granted supernumerary status in order that he might leave the active roster of presiding elders.

Born in Henry County, AL, in 1905, Theodore Newman received his bachelor of arts degree from Selma University. Since then, he has been awarded two honorary degrees—the doctor of divinity and the doctor of literary law.

Mr. President, I have been an admirer not only of Reverend Newman, but also of his son, Theodore R. Newman, Jr., who today has built an outstanding reputation as a judge on the court of appeals for the District of Columbia. I offer my condolences to Judge Newman and to his mother for their recent loss.

I ask unanimous consent that "Celebration of Life," the funeral service for Reverend Newman be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CELEBRATION OF REV. THEODORE ROOSEVELT NEWMAN FROM BIRTH TO ETERNITY

(*"Go ye therefore, and teach all nations, baptizing them in the name of the Father, and the Son, and the Holy Ghost."*—St. Matthew 28:19)

With love and respect we have come to celebrate the life of an humble servant of God, who came by the way of the cross leading to God and eternity.

Fifty-four years of illustrious service in the ministry of the African Methodist Episcopal Church began for Rev. Theodore R. Newman when he was licensed to preach and was assigned to the pastorate of Bethel A.M.E. Church (a mission charge in 1929) in Selma, Alabama. He became a part of the Selma District, Central Alabama Conference with Presiding Elder E. L. Martin, adopting him as his son in the ministry.

As a dynamic, devoted and self-sacrificing minister, he took up the post of this pastorate in the Lord's Vineyard and brought new life to the disenchanted small flock of seven members while instituting an active youth program. His first report to the annual conference, which was held at St. Paul A.M.E. Church, Mobile, Alabama, showed an increase in dollar money and won him the honor of preaching the annual sermon. Bishop Robert A. Grant was the Presiding Prelate.

He was assigned to the pastorate of Ward Chapel A.M.E. Church, also at Selma, Alabama from 1930 to 1932. His encouragement, as a leader, inspired many members of this church and especially the late Reverend W. H. Harris. When only a child at the age of twelve, Reverend Harris was appointed Dollar Money Secretary of the charge.

During the Central Alabama Conference at the Emmanuel A.M.E. Church, Mobile, Alabama in 1931, Reverend Newman was ordained a Deacon in the ministry. While serving at the pastorate of the Cahaba Circuit, 1932-33, he was named to carry out the term of Presiding Elder E. E. Martin who had passed on into enternity.

Under the leadership of Bishop Grant, Reverend Newman was ordained an Elder, the highest ministerial order in the African Methodist Episcopal Church, at the 1933 Central Alabama Conference which was held at Samuel Chapel A.M.E. Church, Prichard, Alabama.

His next charge for two years was at Saint Mark A.M.E. Church on the Bessemer District of the West Alabama Conference with the late Reverend G. R. Polk as the President Elder.

The last appointment received from Bishop Grant was to Ward Chapel A.M.E Church at Prattville, Alabama in November 1935. This church was on the Prattville District with Reverend H. M. Walker as Presiding Elder. At this pastorate his dedicated services were felt immediately. Great improvements were made in the parsonage and the church.

Bishop Sims saw a vision of hope for the future in the devout and dedicated leadership of Reverend Newman and decided that he was the minister needed for Washington Chapel A.M.E. Church at Tuskegee Institute, Alabama. At the Bethel A.M.E. Church, Andalusia, Alabama in 1936, Bishop Sims assigned Reverend Newman to this charge.

For thirteen years he remained at this pastorate, serving as a loyal, faithful and dedicated pastor. New improvements began with the renovation of the parsonage. In the church, improvements were made also. Some of them were: the digging out of the basement; the addition of restrooms; brick veneering of the church; redecorating of the sanctuary; the addition of new pews, pulpit chairs (which are presently in use) and the purchase of an organ. A small library was included for the children. The spiritual membership and financial growth of the church increased greatly.

The local church entertained the Annual Conference twice—once under Bishop E. Ward Nichols and once under Bishop Sherman L. Greene.

At the close of his tenure, Washington Chapel A.M.E. Church was recognized as one of the outstanding churches in the Ninth Episcopal District and in the Tuskegee Community.

The eight-year tenure law became effective at the General Conference in May 1948. In October 1949 at the East Alabama Conference held at Washington Chapel A.M.E. Church in Tuskegee Institute, Alabama, Bishop Sherman L. Greene appointed Reverend Newman as Presiding Elder of the Anniston District where he served three and one-half years. For six months he served the Union Springs District. Bishop Isaiah H. Bonner assigned him to the Alabama Conference held at Sylacauga, Alabama. During this tenure he served under Bishops Huey Robinson, Vinton Anderson and Philip R. Cousin.

In 1983, at St. Luke A.M.E. Church at Reynolds Newman of Henry County, Alabama on April 8, 1905. He passed into eternity on November 10, 1985 at 12:10 p.m. at Tuskegee, Alabama.

In the shadows of the twilight years, when health began to fail him we remember him as a vigilant shepherd caring for his flock as a pastor; a leader who had the ability to serve effectively small congregation as well as large ones; a towering giant who inspired many whose paths were fortunate to cross his; a leader who believed in the dignity of work as he labored as a painter, a lover of flowers and vegetable gardener, a leader who kept in touch with the masses and tried to instill in each individual that "Only what you do for Christ will last."

He leaves to cherish his memories: devoted wife, Ruth Louise Oliver Newman; a loving son, Judge Theodore R. Newman, Jr., Washington, D.C.; two brothers: J.D. Newman, Campbellton, Florida and J.B. Newman, Abeville, Alabama; one sister, Rosa Marie Newman Boyd, Cleveland, Ohio; a devoted nephew, Conrad Newman, Union Springs, Alabama among a host of caring nieces and nephews; a daughter-in-law, Mrs. Gloria Sulton Newman, Washington, D.C.; a sister-in-law, Mrs. Eva Newman, Campbellton, Florida; and other relatives and friends.

Let us rejoice and give thanks for this servant of God's life. ". . . Death is not said . . . it's time for elation."

A TRIBUTE TO ARTHUR FINCH

Mr. HEFLIN. Mr. President, I was saddened recently to learn of the passing of Arthur G. Finch, a longtime postmaster of Red Bay, AL, and a man for whom I held a great deal of personal admiration.

Mr. Finch was a native of Prentiss County, MI. After serving 4 years in the U.S. Navy, he first moved to Red Bay in 1931 as a distributor for an oil company. Three years later, Mr. Finch joined the Red Bay Post Office, where he would become an institution.

In 1944, President Roosevelt named Arthur Finch acting postmaster, and the next President Truman made the appointment official. Mr. Finch remained as postmaster until his retirement in 1972. During his career, he was recognized by the U.S. Postal Service for his work in training new postmasters throughout the Southeast. This is but one example of the great esteem in which he was held.

Mr. Finch's involvement in the Red Bay community went beyond his work at the post office. A lifelong Democrat, he was elected alderman at the young age of 26, and later served as the city's recorder. In addition, he was a member of the Red Bay Civitans and Lions Club, a past president of the board of the local hospital, and a past master of the Red Bay Masonic Lodge.

Mr. President, I first met Mr. Finch many years ago when he was a member of a church where my father was minister. I recall that my father had the greatest of admiration for Mr. Finch's Christian spirit and charity, and I came to know him as a truly fine example for everyone with whom he came in contact.

Mr. President, I express my deepest and most sincere personal sympathy to his widow, Mrs. Gladys Finch, his three sons, Arthur, John, and James, and the remainder of his family.

I ask unanimous consent that an article from the Florence Times Daily be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Florence (AL) Times Daily, Nov. 21, 1985]

SERVICE SET FOR ARTHUR FINCH

RED BAY.—The funderal for Arthur G. Finch, a longtime postmaster of Red Bay, will be at 2 p.m. today at First United Methodist Church, Red Bay, with the Rev. Brown O'Quinn officiating. Burial will be in Hillcrest Memorial Gardens, Deaton Funeral Home, Red Bay, directing.

He died Tuesday at his residence.

He was a native of Prentiss County, Miss., the son of Felix Braxton and Saretha Denson Finch. He was educated in Prentiss and Tishomingo County, Miss., served four years in the U.S. Navy and came to Red Bay in 1931 as a distributor for Pan American Oil Co.

He joined the Red Bay Post Office in 1934, was named acting postmaster in 1944 by President Franklin D. Roosevelt and appointed postmaster by President Harry S. Truman in 1945. He retired in 1972. He was recognized by the U.S. Postal Service for his work in training new postmasters in Alabama, Mississippi and Tennessee, and by the U.S. Department of the Navy for his support of that department while he was postmaster. He was a member of the National Postmasters Association.

He was a Democrat, was elected alderman in Red Bay at the age of 26 and served as recorder of the city. He was a past president of the Red Bay Hospital board of directors, past-master of Red Bay Masonic Lodge, a member of Red Bay Civitians and Lions Club, a supporter of the Boy Scouts of America and a member of First United Methodist Church, where he served on the Board of Stewards and was Sunday school superintendent.

Survivors include his wife, Mrs. Gladys Waldrep Finch, Red Bay; sons, the Rev. Arthur G. Finch Jr., Birmingham, John W. Finch, Washington, D.C., James D. Finch, Atlanta, Ga.; sisters, Mrs. Lois Brown, Little Rock, Ark., Mrs. Ethel Hester, Guin; brothers, J.D. Finch, Iuka, Miss., Curtis Finch, Camden, Ark.; four grandchildren; two great-grandchildren.

TRIBUTE TO CHARLIE BROOKS

Mr. HEFLIN. Mr. President, on one wall of the reception room of my office there are several editorial car-

toons which have been drawn about certain issues which have arisen during my career. Of these, naturally, some are more complimentary than others, to put it mildly. I feel, however, that editorial cartoons are an art form which illustrates some basic tenets of our society—the freedom of the press, and the freedom to criticize our Government, among them.

Many of these cartoons hanging in my office were drawn by one particularly talented cartoonist, Charles Brooks of the Birmingham News, who retired last month after 37 years.

A native of Andalusia, AL, Charlie attended my alma mater, Birmingham-Southern College, for 1 year before transferring to the Academy of Fine Arts in Chicago to develop his talent for drawing. While there, he also met his wife, Virginia. They have now been married for 43 years.

After serving in the Army in Europe during World War II, Charlie Brooks was hired as editorial cartoonist for the news. He remained there for 37 years.

For the last 15 years, Brooks has served as editor of an annual publication, the Best Editorial Cartoons of the Year. In addition, in 1960, he received the top award for editorial cartoons from Sigma Delta Chi, and was the first recipient of Troy State University's Hector Award for excellence in journalism. Brooks has also been a 15-time winner of the Freedom Foundation Award.

With Charlie Brooks' retirement, the Birmingham News is losing a valuable artist. Its readers, myself included, will miss his cartoons—whether they were controversial, patriotic, civil-oriented, or humorous. The walls of my office, however, will continue to be decorated with his work—cartoons concerning my terms as Alabama's Chief Justice and my work here in the Senate.

I wish Charlie Brooks the best in his retirement. After his years of dedicated service in informing Americans of the achievements, and foibles, of public figures, he deserves a time to work on his oil painting, away from the maddening crowd.

Mr. President, I ask unanimous consent that an article from the Birmingham News concerning Mr. Brooks' retirement be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BROOKS ENDS "WONDERFUL 37 YEARS," RETIRES FROM NEWS

(By Mike Bolton)

Without pomp and circumstance, Charles Brooks filled a cardboard box with the belongings from his desk Monday, punched an elevator button and became a part of the Birmingham News' past.

But, oh, what a past.

Brooks, The Birmingham News editorial cartoonist for the past 37 years, had earlier in the day attended a party held in his honor before a room full of friends, family and comrades.

Hugs, handshakes, well-wishes, gifts and a large cake were the order of the day for one of the most-respected and best-known newspaper personalities in Birmingham's history.

Brooks, who turned 65 Friday, took time to reflect on his distinguished career before leaving his desk for the final time Monday.

"I grew up in Andalusia and was raised reading The Birmingham News," Brooks recalled. "I started reading The News when I was 8 or 9 and I liked it and my folks liked it.

"I always thought to get a job at The Birmingham News would be the living end."

It took time, but Brooks eventually accomplished that goal which enabled him to mingle among presidents and commoners.

Brooks attended Birmingham-Southern College for one year after high school, but transferred to the Academy of Fine Arts in Chicago to develop his love for drawing. There he also developed his love for Virginia, now his wife for 43 years.

World War II put a quick end to art instruction, however, and Brooks joined the Army and served in Europe in such notable battles as the Normandy Invasion and the Battle of the Bulge.

Following the war, he was hired as editorial cartoonist for The Birmingham News and it would become the only job he would know for 37 years.

"It's just a big family here, and it's been a wonderful 37 years," he said, "Although I'm leaving, I'll still feel like part of that family."

Brooks' honors during his 37-year career have been enormous, but several stand above the rest. He received the Sigma Delta Chi's top award in 1960 for his editorial cartoons and he was the recipient of Troy State University's first Hector Award for journalistc excellence.

He has also been a 15-time winner of the Freedom Foundation Award for his work.

One of Brooks' biggest honors was a personal invitation to the White House in 1982 to present one of his original cartoons to President Ronald Reagan. Reagan had seen a Brooks' six-panel cartoon that depicted him and House Speaker Thomas P. "Tip" O'Neill and wanted a personal copy.

Brooks has also presented his originals to Presidents Richard Nixon, Gerald Ford and Jimmy Carter.

Brooks has served as the editor of the annual book, The Best Editorial Cartoons of the Year, for the past 15 years and he will continue that duty, he said. He said he hopes to dedicate more time to his wife, two children and four grandchildren and spend time painting with oils, a medium he has not had much time to practice over the years.

INMATE ILLITERACY

Mr. SIMON. Mr. President, I have been talking about the problems of illiteracy in our society for some time, and I hope that before this Congress expires we can at least take some small steps in the right direction.

The other day in the Chicago-Defender, I read an article by Sandra Crockett which starts out with this simple but accurate statement: "If more inmates could read, write, and fill out job applications, the burgeoning prison population just may be curtailed."

It is one more reason for moving on this problem of illiteracy. If we want a genuine anticrime program, and not just some phony public relations anticrime program, then one of the things we ought to do is to attack illiteracy. The majority of people in our prisons today are functionally illiterate.

How many of them would be in prison if we had decent schooling to catch their problems early and had programs to provide literacy training, no one knows. But the numbers in our prisons would be smaller.

I urge my colleagues to read the article by Sandra Crockett.

The article follows:

"IF MORE INMATES COULD READ . . . ."

(By Sandra Crockett)

If more inmates could read, write and fill out job applications, the burgeoning prison population just may be curtailed, said a literacy consultant who is asking the public to donate paperback dictionaries to prisoners.

Louis Gross, who was hired by the Chicago Public Library system to test the literacy level of inmates confined at 26th and California, said learning to read and write won't solve all problems, but it's a start.

"I think that not being literate is the cause of a lot of people being here," said Gross. "If you can't read or write or correctly fill out a job application, one thing leads to another. Of course, there are other things involved like drugs but being able to read and write would make a difference."

There is a strong desire among the inmates to improve their skills, said Gross.

Paperback dictionaries can be mailed or brought in to the Literacy Volunteers of America office, located on the 4th floor at 9 W. Washington St.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The Senate resumed consideration of the Joint resolution.

AMENDMENT NO. 1347

(Purpose: To prohibit the availability of funds for the transfer of nuclear equipment, materials, or technology to the People's Republic of China unless certain conditions are met)

Mr. GLENN. Mr. President, I rise today to submit an amendment to the continuing resolution.

The United States-China nuclear agreement for cooperation is scheduled to go into effect by midnight tonight. This will be a 30-year agreement with the largest Communist

nation on Earth and does not provide for safeguards to ensure peaceful uses of U.S. nuclear exports. The agreement says the following:

The parties will use diplomatic channels to establish mutually-acceptable arrangements for exchanges of information and visits to material, facilities and components subject to this agreement.

Mr. President, let me paraphrase that. What we are saying is that we are just going to use diplomatic channels to talk about what the arrangements may be sometime in the future. So the only verification the United States will have of peaceful uses will be through these yet-to-be-arranged visits, yet-to-be-arranged exchanges of information.

When this agreement was first brought back and we found out what it provided—or, more, what it did not provide—I found this very disturbing. So I introduced a bill, S. 1754, that had the effect of postponing implementation of the agreement until the President had certified that the arrangements on verification of peaceful uses had been made and would be essentially equivalent to those normally applied by the IAEA—the International Atomic Energy Agency.

Mr. President, that is so minimal to me that I cannot believe that this was not done already. What I asked for was not that there be new talks opened up with China on the agreement, but just that the processes of effective verification through safeguards be certified by the President to us before any shipments were actually made.

There were some other aspects of the agreement that were disturbing which I also covered. These included United States consent rights on reprocessing, and a written declaration from China describing their nonproliferation policies. We should recall that their previous policy was to actually proliferate to Socialist states. They made no bones about that. They advocated proliferation—in other words, spreading nuclear weapons around the world. That was one of the things I addressed, as well as the relationship of the agreement to U.S. export laws. We are eliminating all those considerations today, although I still think they are important in order to focus our attention on this one item on safeguards that I think is the most important of all, and I cannot imagine that we are going to let this agreement go through without some provision such as I am proposing today.

So while these other aspects to which I referred are disturbing, we will not go into them now.

Subsequent to the introduction of my bill, the Foreign Relations Committee proposed a joint resolution, Senate Joint Resolution 238, which dealt with the issues I raised in my own legislation, and did so through the process of Presidential certification, but did not deal with the issue of safeguards. The resolution was not much better than the original language in the agreement, because, under the new resolution passed by the Foreign Relations Committee, the President has a certification, all right, but all it says is that the arrangements on verification of peaceful uses "have been designed to be effective." I would hardly expect them to say they had been designed to be ineffective. But there is no definition of "effective."

The world standard of what is effective in this field is IAEA safeguards or their equivalent, and that is what more than 100 other nations have agreed to. It is required on other nuclear shipments. Yet, when it comes to this agreement, we back off and say this is not necessary, that it might offend someone.

This message will be greeted with great joy, I am sure, in the capitals of such nations as Iraq, Libya, South Africa, and Pakistan—countries which have supported cutbacks in the safeguards budget of the IAEA, and who have engaged in activities whose purpose can only be for the development of nuclear weapons.

I need not remind this body that in 1981 Israel attacked a nuclear reactor in Iraq because the IAEA safeguards system that was in place was not strong enough. An attack actually occurred.

To send a message now to the rest of the world that we have been requiring too much of safeguards and we are not going to have that as our continuing standard is the wrong signal to send. To send a message that the system is stronger than it needs to be is the wrong message at the wrong time and is false, regardless of how one looks at it.

Mr. President, although the agreement calls for diplomatic discussions on the subject of verification between the United States and the People's Republic of China, the State Department has made it clear that they do not expect these discussions to result in the acceptance of international safeguards by the Chinese on United States equipment.

Let me be very clear about what this means. It means that if our negotiators come back from Biejing with an agreement on verification arrangements that does not contain safeguards, and yet the President certifies in accordance with Senate Joint Resolution 238 that the arrangements are nonetheless effective for verifying peaceful uses. We will have sent a message to the entire world that the safeguards system of IAEA is tougher for all these other 100 nations around the world than it need be, and that effective verification can be done without these safeguards.

Accordingly, my amendment would deal with this problem by simply withholding any funds for the implementation of the United States-China nuclear agreement until the President certifies that the discussions on verification that are provided in the agreement for cooperation have in fact resulted in Chinese acceptance of IAEA safeguards, or their equivalent, on any United States exported materials or equipment.

Mr. President, that is such a minimal requirement that it is hard for me to believe that this would be opposed or not required in the first instance.

Mr. President, it is not an onerous burden on the Chinese, and let me give just a little bit of history of what they have already agreed to with some other nations. They have already made a statement that they will make a voluntary offer to the IAEA to have safeguards on some of their nuclear installations. Those installations have not been specified yet. But it shows that they are not necessarily against the IAEA safeguards.

Further than that, and this is the most important part, the People's Republic of China has already signed nuclear agreements with Japan, Argentina, and Brazil in which IAEA safeguards are in place on all exported items. Everything is provided for. Everything is covered under IAEA safeguards, with Japan, Argentina, and Brazil.

All this amendment does is to ensure that the Chinese offer for IAEA safeguards will apply to any United States exported nuclear materials or equipment to China.

Mr. President, just recently we learned about espionage activities by the People's Republic of China in the United States. A trusted employee of the CIA was apparently working for Beijing for nearly 40 years, supplying some of the most sensitive national security information for that country.

What has been our response to this? Our response, Mr. President, has been one of total silence.

Here we are about to let a 30-year nuclear agreement go through. The fact that some of our most tightly held secrets were being peddled to the Chinese by one of their agents has been met with no reaction by the administration.

This is not the only case, however, which should make us wary about agreements which contain no safeguard provisions.

In January 1984 we signed a nonnuclear high-technology export agreement with China and just 1 month later five persons were arraigned in the Federal District Court in Newark charged with trying to smuggle high-technology equipment to China.

Mr. President, the New York Times reported on February 14, 1984, that

the Assistant United States attorney called the plot involving up to $1 billion in missile-guidance and radar-jamming gear "a very serious defense matter." I repeat that it involved up to $1 billion in missile-guidance and radar-jamming gear.

Was that a unique case? No. I am afraid to say it was not because 3 months after the high-technology agreement went into effect, a 17-count indictment for the illegal export of electronic testing and calibrating equipment to China was filed in Los Angeles. An assistant United States attorney was quoted in the Los Angeles Times of April 11, 1984, as saying "A primary use of some of the exports is in nuclear research."

Later on the article says:

> Authorities believe that the individual arrested was supplying hardware for use in China's main nuclear testing site in the northwestern part of the country.

I am sure that is their major testing site at Lop Nor in Sinkiang Province. I visited out there adjacent to that area some years ago.

Mr. President, evidently the signing of a high-technology export agreement with China did not provide a sufficient incentive for good behavior of the People's Republic of China for high-technology trade.

Mr. President, I believe it would be the height of folly to allow the United States-China nuclear agreement to go through without demanding that our negotiators achieve a verification provision that includes the application of IAEA safeguards, or their equivalent. All we are saying is, please certify that we have at least an equivalent of IAEA safeguards in place because that has been the norm for the rest of the world and it is what we have always insisted on since the IAEA system came into existence. It is what more than 100 other nations have agreed to, and we do not want to send a signal to them that we are backing off on our leadership role in this world in requiring as much safety as possible wherein nuclear trade is involved.

Mr. President, one might ask why should we demand safeguards of the Chinese when they are already a weapons state and do not need our technology to make weapons?

The answer is that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear sub reactors, for instance.

In addition, Mr. President, anyone who has followed developments in the international nonproliferation regime over the past decade knows how sensitive the question of discrimination between weapon states and nonweapon states has become. If we do not demand safeguards of the Chinese, then we are saying to India, to Israel, to South Africa, and others, that all you have to do is declare yourself a nuclear weapons state and we will be glad to send you nuclear equipment and technology without safeguards.

We went through a very difficult period with India a few years ago because they would not accept full-scope safeguards. In fact, I think our difficulties with India over the nuclear matters still sour our relationship with the world's largest democracy.

Are we now to say that the People's Republic of China with its undemocratic Communist government, although we are glad to see them opening up some from the strict ideological approach they took to their government back just a short time ago, but it is the world's largest Communist government, with its past history of antagonism to America, its espionage and illegal smuggling activities against us, are we to say that the People's Republic of China is more deserving of nuclear trade with the United States than democratic India merely because the People's Republic of China is an overt weapons state? To say that makes sense is to create a climate where other countries will perceive it to be in their interest to make nuclear weapons if they want American nuclear technology.

So it is self-evident that not demanding safeguards undermines the nonproliferation regime no matter how you slice it.

I repeat another thing I think is very important here. You know the Chinese throughout their history have advocated nuclear proliferation. They made statements over and over again that nuclear weaponry is good if it is in the hands of the Socialist States; in other words, in the hands of the Communist States, as they see it. And it was only in January of last year that they finally made a public statement that said it is now their policy not to proliferate.

That is the only thing we have to go on as far as their intent is concerned.

Mr. President, one might ask another question. That is, what if the People's Republic of China just will not have safeguards? What happens in that case? Would we not be better off having influence over the Chinese nuclear program by trading with them than if the agreement goes down the tubes?

The answer is that this is a very traditional argument and has no validity. The logical conclusion of this argument is that we should have no requirements for nuclear trade at all, so that we can influence everybody's policies by nuclear trade.

Mr. President, this is the argument we went through back during the days when we were debating the Nuclear Nonproliferation Act that was passed in 1978, and I was a principal author of that act. Our debate at that time for about 6 or 7 months before we passed that act was whether we should have our American business people out advocating sales without restrictions, out trying to make sales, out making sales wherever we could all over the world so we could have as much influence as possible through normal business channels. Or should we in this interim period where we are trying to get control of nuclear weapons stockpiles with the Soviets, should we say while we try to negotiate those stockpiles down we will try on a government-to-government basis to prevent the spread of nuclear weapons to more and more countries?

That was the decision then.

So we had a looser policy on nuclear trade up until we passed that Nuclear Nonproliferation Act in 1978.

When we had our previous policy or looser policy before that act was passed the result was that instead of influencing our trade recipients to stay away from thinking about nuclear weapons we encouraged other suppliers to adopt loose trading policies of their own. And that is part of our problem today.

That is the main reason that the so-called problem countries as we call them now are closer to having nuclear weapons today.

I think the fact is that the best way of influencing China's policy is by sticking to our principles. Let me repeat again. This is not something of a great hurdle for the Chinese. They have already accepted safeguards as part of the agreements with Japan, Brazil, and Argentina. And they have even gone further and made a voluntary proposal that some of their other facilities, not specified as yet, but some of their facilities will, indeed, be under IAEA safeguards. Incidentally, the agreement they made with Japan provides for the complete recall of any Japanese equipment if the safeguards are violated. We have no provision and are asking for no such provision in our agreement.

So it is not as though we are asking them to make some great leap forward that they do not want to make. This is something they have already agreed to with other nations. It is unbelievable to me that we cannot get a similar agreement with the Chinese ourselves.

Mr. President, I urge my colleagues to support this amendment. I believe it is necessary. I believe, if we are to set the example before the rest of the world that we want to set and continue to set, this is a necessary amendment.

I repeat what I said starting out. The original proposal that I had that went to the Foreign Relations Committee had four different areas of con-

cern: verification of peaceful uses, which this safeguard proposal deals with; we also proposed protection of United States consent rights; we also proposed clarification of China's nonproliferation policy; and we proposed clarifying the relationship of the agreement to future United States export laws and regulations.

But the last three of those we are not even bringing up here on the floor today. I am not proposing anything on those. All I am asking for is that the President certify that the arrangements they have provided in this agreement that says that the parties will use diplomatic channels to establish mutually acceptable arrangements for exchange of information and visits subject to this agreement, all I am asking is that the President come back and certify to us that those arrangements have been made and that they are, at least, the equivalent of IAEA safeguards. That, it seems to me, is the bare bones, bottom line of what we should be proposing to the Chinese before we send any equipment out under this agreement.

Mr. President, when I started my talk here, I did not send the amendment to the desk. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposed an amendment numbered 1347.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . None of funds appropriated or otherwise made available by this joint resolution or any other provision of law may be available for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985, until the President certifies to the Congress that reciprocal arrangements on the verification of the peaceful uses of fush equipment, materials, and technology will include standards and methods of materials accounting and inspection essentially equivalent to those normally applied by the International Atomic Energy Agency.

Mr. GLENN. Mr. President, I have discussed the amendment, what it proposes to do and what it does not propose to do. It is very simple. It is very straightforward. I urge the support of this amendment.

I would be glad, if there are opponents to this proposal—I do not know whether any speeches are to be made in opposition to this—but I would be happy to have a voice vote on this. Absent that kind of an agreement from the floor managers, I would ask for the yeas and nays at the appropriate time.

I yield the floor.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1348

(Purpose: To change section 101(d) to insert the conference agreement on the D.C. Appropriations Act, 1986, in lieu of the Senate-passed bill)

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for the consideration of an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1348.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike lines 20 through 24, and insert in lieu thereof the following:

"(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1986 (H.R. 3067), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-419), as filed in the House of Representatives on December 5, 1985, as if enacted into law."

Mr. STEVENS. Mr. President, this is a technical amendment that provides that the rate for the funding of the D.C. appropriations bill will be at the level of the conference agreement that was filed last Thursday. There are different levels in the pending bill and this will conform the pending bill to the level of the conference agreement. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska [Mr. STEVENS].

The amendment (No. 1348) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1347

Mr. STEVENS. Mr. President, is the amendment of the Senator from Ohio pending once again?

The PRESIDING OFFICER. That is correct.

Mr. COHEN. Mr. President, I rise to join Senator GLENN in his effort to bring this matter to a vote.

Last month, after 2½ years of close congressional involvement in the issue of sharing nuclear technology with the People's Republic of China, the Senate quietly, quickly, and with indadequate notice passed a resolution approving, with contingencies, the United States-People's Republic of China Nuclear Cooperation Agreement.

Given the longstanding concerns of many Senators regarding this agreement, I am quite displeased with the manner in which that resolution was raised and passed. Despite the impression that might be created by the CONGRESSIONAL RECORD or the media coverage, no floor discussion took place. There was no opportunity for Senators who had been involved in the drafting of that legislation to discuss on the floor its meaning or the manner in which it should be implemented. After 2½ years of controversy, Senate Joint Resolution 238 was whispered through in a matter of seconds.

In my view, proceeding in such a manner on matters of great signficicance over which Senators have expressed strong interest is highly inappropriate. I find this particularly disturbing since goodwill and trust among the key executive and legislative players is essential if the agreement is to be successfully implemented through the process provided for in Senate Joint Resolution 238. Moreover, it is especially unfortunate that this occurred, since it culminated what was otherwise a rather cooperative endeavor among the members of the Foreign Relations Committee and the Subcommittee on Nuclear Proliferation.

I know that Senator GLENN has been involved in this issue, as have I, on the Subcommittee on Nuclear Proliferation for a number of years now, not only with respect to China but also with respect to India. And it is something that I think should interest all who are concerned about the spread of nuclear technology.

This past August I had an opportunity to travel, along with my colleague from Idaho, Senator McCLURE, to the People's Republic of China. They were very generous with their time. They were very gracious, as always. We had

a fairly vigorous discussion about this particular agreement.

There were indications, certainly by Senator MCCLURE, that he strongly favored the measure, as he does. There were also indications by others that some Members of the Senate were concerned about it, and were concerned about the ambiguity that still exists in the nature of this particular relationship.

Frankly, I find it somewhat astonishing that the United States would be so vocal in its concern over the birth control policies of China, and yet be quite reticent in trying to pin down exactly what we are agreeing upon when it comes to the potential spread of nuclear weapons. I find that an astonishing inconsistency.

How clear spoken, how vigorous, how condemnatory the United States was with respect to China's birth control policies. Yet the administration's policy on nuclear cooperation with China leaves the United States Senate and the American people hanging somewhat in limbo by the thread of a good deal of ambiguity.

What we have is basically the United States interpretation of what the People's Republic of China thinks it is agreeing to. I would like to pose the question as to whether or not we would ever have such an arrangement with the Soviet Union in an arms control agreement? I doubt it very much.

As I understand what Senator GLENN is asking for in this amendment, it is quite modest compared to what he was looking for in the legislation he proposed to the Senate Foreign Relations Committee.

While I supported the Foreign Relations Committee's legislation, Senate Joint Resolution 238, as being better than simply allowing the agreement to go into effect without any contingencies, I clearly stated that its requirements fell short of what I believe to be desirable in two critical areas—promoting adherence by China to its nascent nuclear nonproliferation policy, and monitoring whether China is using United States nuclear exports solely for the intended peaceful uses.

The amendment now under consideration addresses the latter point in what I believe is a responsible manner. This amendment would bar licensing of any export to the People's Republic of China under the agreement until the President certifies to the Congress that the reciprocal arrangements for monitoring the peaceful use of exports will be essentially equivalent to IAEA safeguards. In contrast, Senate Joint Resolution 238 would merely require that the President certify that the monitoring arrangements are "effective in ensuring" peaceful use.

The implications of the short-fall of Senate Joint Resolution 238 are significant. If the President certifies that verification arrangements less strict than IAEA safeguards are effective in ensuring peaceful use, he will be certifying that IAEA safeguards are tougher than necessary. This would be a troubling precedent and would greatly hamper efforts to convince problem countries to accept IAEA safeguards. These nations which operate unsafeguarded facilities will be in a position to claim that IAEA safeguards are not necessary to ensure peaceful use of nuclear equipment and materials.

I would not accept the argument that United States arrangements with China establish a precedent for United States dealings with nonnuclear-weapon states. Nonetheless, these problem countries will vigorously make this argument. We can avoid this difficulty by taking the reasonable and sensible step of using IAEA safeguards as the standard for the monitoring arrangements to be negotiated with China.

This is the position which I have advocated in my testimony to the Foreign Relations Committee, which was contained the legislative measure I proposed to the committee, and which I argued for on this floor following passage of Senate Joint Resolution 238.

There are a few important points which I would like to emphasize. China has signed nuclear cooperation agreements with Japan and Argentina. In both those agreements, China has agreed to accept IAEA safeguards on nuclear transfers it receives from those countries. It is clear that China does not find IAEA safeguards are unacceptable. Passage of this amendment would not jeopardize the United States-People's Republic of China Agreement.

Furthermore, this amendment does not vitiate the requirement set forth in Senate Joint Resolution 238. Rather, it makes that requirement more specific. It, in essence, interprets the vague requirement of Senate Joint Resolution 238 in what I believe to be an appropriate manner. Without this amendment, the administration would be free to certify that any arrangments it negotiates with China, no matter how inadequate, meets the congressional certification requirement. This amendment sets a standard for that certification requirement.

I believe that this amendment is a responsible means to deal with this difficult matter, and I would urge my colleagues to support it.

HISTORY OF CONGRESSIONAL INVOLVEMENT

Congressional interest in this agreement goes back several years. In July, 1983, I joined seven other Senators in writing the President to express our concern over reports on United States-People's Republic of China negotiations on such an agreement and to request that the matter be addressed publicly. Later that year, a hearing of the Governmental Affairs Committee's Subcommittee on Energy, Nuclear Proliferation and Government Processes provided an opportunity to question administration witnesses about these negotiations.

Numerous other senators have taken other action, such as writing to the President and to the Secretaries of Defense, State, and Energy concerning the agreement and China's nuclear export policies.

As I mentioned, in August of this year, Senator DOLE led a delegation, of which I was a member, to the People's Republic of China. The Chinese were quite gracious and generous to us during this visit. The Nuclear Cooperation Agreement was an important subject in our discussions with Chairman Deng and President Li. We informed them of the serious concerns in Congress about the People's Republic of China's nonproliferation policies, stemming from both China's historical attitude toward nuclear proliferation and Chinese actions up until very recently.

CHINA'S POLICY ON PROLIFERATION

The People's Republic of China's historical attitude toward nuclear nonproliferation can hardly bring comfort to those concerned about the spread of nuclear weapons. As the administration's nuclear nonproliferation assessment statement discusses, the People's Republic of China has consistently opposed both the concept and the reality of the international nuclear nonproliferation regime.

I recognize that many of the People's Republic of China's most worrisome declarations were made during the period of the cultural revolution, and that China has now entered the Deng Era. Nonetheless, these sobering facts of China's history have caused justifiable concern as the People's Republic of China has become involved in international nuclear commerce. Events of the last few years have demonstrated this concern to be well-founded.

As the Members of this body know, there have been reports that the People's Republic of China has provided Pakistan with assistance in acquiring a uranium enrichment capability and with detailed nuclear weapons design information. Significantly, reports indicated that such enrichment assistance continued even after the United States-People's Republic of China Nuclear Cooperation Agreement was initialed during President Reagan's visit to Beijing in April 1984. Other reports indicate that the People's Republic of China has provided enriched uranium to Argentina, and may have provided heavy water to Argentina, India, and South Africa and enriched uranium to South Africa.

All of this highlights the critically important opportunity associated with the understandings that accompany

the agreement. These understandings, which are contained in the State Department document "United States Summary of Discussions," concern the People's Republic of China's nuclear nonproliferation policies. If the "U.S. Summary" accurately reflects People's Republic of China nonproliferation policies and the People's Republic of China were to adhere to such policies, this would mark a significant step toward strengthening the nonproliferation regime.

QUESTIONS ABOUT THE UNDERSTANDINGS AND AGREEMENT

However, because the record of these understandings is a United States summary, not a People's Republic of China summary, uncertainty exists as to whether this faithfully reflects People's Republic of China nuclear nonproliferation policies. Other uncertainties also exist with regards to this United States document and People's Republic of China nuclear nonproliferation policies.

Additionally, several questions have been raised with respect to provisions of the Agreement, itself. Foremost among these are questions regarding United States prior consent rights, required by United States law, over potential People's Republic of China reprocessing or enrichment activities involving U.S-supplied materials or facilities. Questions have also been raised about guarantees of peaceful use of materials and equipment exported to the People's Republic of China under the agreement.

During the September, 1983, hearing which I mentioned, ACDA Director Adelman and I discussed situations in which the United States and another country have entered into an agreement without adequately clarifying the agreement's meaning:

Senator COHEN. Mr. Adelman, what has been your experience when there has been a disagreement between two major countries over an interpretation over a treaty provision?

Mr. ADELMAN. My experience has been that they just talk about it forever until the accusing party decides to forget it. It has not been a happy experience.

I would agree with Dr. Adelman's assessment and recall specific instances, such as the unilateral understanding of SALT I regarding heavy missiles. In my view, it is better to make the effort to create a solid foundation for our developing friendship with China than to build that relationship upon shifting sands of ambiguity and what may amount to unilateral declarations.

AGENDA FOR CONGRESSIONAL ACTION

I share the view that these are serious concerns that should be addressed. Congress, in my view, can play a productive role by taking action to:

Dispel the uncertainty as to whether the "U.S. Summary of Discussions" is a faithful representation of People's Republic of China nuclear nonproliferation policies; clarify the ambiguities with the agreement that appear to exists; and prevent the unorthodox aspects of the Agreement from serving as a precedent for future nuclear cooperation agreements.

I suggested to the Foreign Relations Committee specific legislative provisions for accomplishing this. Senate Joint Resolution 238 incorporates certain of these provisions and addresses the concerns dealt with by the others.

Let me outline the particular elements involved.

REAFFIRMING THE BEIJING UNDERSTANDINGS

It would not be responsible, in my view, for the Congress to approve implementation of the Agreement relying upon the "U.S. Summary of Discussions," as provided to the Congress. In my view, the Congress should have a written statement by the People's Republic of China itself—rather than by another branch of the U.S. Government—that clearly and precisely states the People's Republic of China's nuclear nonproliferation policies.

Senate Joint Resolution 238 would prohibit the licensing of any nuclear export under the agreement until two requirements are met. First, China must provide the United States with additional information regarding its nuclear nonproliferation policies beyond that already provided. Second, the President must certify, based on this and all other available information, that china is not engaged in proliferation-related activities and any previous proliferation-related activities have terminated.

As I have indicated, I would have preferred that Congress require that such additional information to be provided by China be in written form to avoid potential misunderstanding and that a minimum standard for such information—such as a reaffirmation of the "U.S. Summary of Discussions"—be set. In a recent hearing of the Energy and Nuclear Proliferation Subcommittee, I requested specific information from administration officials on what additional information it will seek and in what form, as well as the minimum additional information it believes it would need to be able to meet this certification requirement. It is my hope that there will be consensus between the executive and legislation branches on appropriate certification standards. If there is not, firmer congressional action may be necessitated.

GUARANTY OF PEACEFUL USE

The NNPA also requires that nuclear cooperation agreements include "a guaranty that safeguards as set forth in the agreement will be maintained." The matter of guaranty of peaceful use is addressed at various points in the agreement, including the provisions in article 8 for information exchanges and visits, but details regarding the implementation of these provisions are not addressed.

The Congress could accept the agreement with less trepidation, in my view, if it knew how this guaranty would be implemented. I proposed, as did Senator GLENN, that no nuclear export license for the People's Republic of China be issued until the President certifies to the Congress that the arrangements made pursuant to article 8 will be essentially eqivalent to that provided by the materials accounting and inspection standards normally applied by the IAEA.

Senate Joint Resolution 238 has a more ambiguous requirement that the President certify that these arrangements have been designed to be effective in ensuring that exports shall be used solely for the intended peaceful purposes. The IAEA norms provide a standard of effectiveness against which to measure the arrangements to be made pursuant to article 8. In my view, the administration should insist on arrangements as effective as IAEA norms, which, I would note, China has agreed to accept for nuclear transfers it receives from Japan and certain other countries. This amendment would ensure that this occurs.

U.S. PRIOR CONSENT RIGHTS

The Nuclear Non-Proliferation Act [NNPA] clearly states that agreements for nuclear cooperation must include a guaranty against reprocessing or enrichment activities involving United States supplied materials or facilities without prior approval of the United States. The provisions of the United States-People's Republic of China Agreement on this matter could invite misunderstanding unless they are clarified.

The administration has told Congress that these provisions, by which the United States undertakes to favorably consider such activities, do not prejudice the decision of the United States with regards to arrangements for such activities. I proposed to the Foreign Relations Committee that no nuclear export license be issued for the People's Republic of China under the agreement until after the President certifies the correctness of this interpretation. This requirement is contained in Senate Joint Resolution 238.

SUI GENERIS NATURE OF THE AGREEMENT

The United States-People's Republic of China Nuclear Cooperation Agreement is unique. As the President noted in his letter transmitting the agreement to Congress, the agreement—

is the first peaceful nuclear cooperation agreement by the United States with a Communist country and the only such agreement with another nuclear weapon state (the United Kingdom and France are covered by U.S. agreements with EURATOM).

Accordingly, I am pleased that Senate Joint Resolution 238 explicitly states that the agreement holds no

precendent for agreements for peaceful nuclear cooperation that the United States might negotiate, renegotiate, or enter into in the future.

PRIORITY OF U.S. LAW

Article 2 of the agreement states that:

The parties recognize, with respect to the observance of this agreement, the principle of international law that provides that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Such a statement does not occur in other recent agreements for nuclear cooperation signed by the United States, such as the agreements with Sweden and with Norway. Nor is such a statement included in the nuclear cooperation agreement between the People's Republic of China and Japan signed in July 1985.

The NRC states that it—

is concerned that this new provision could be read as reducing the flexibility of the U.S., including that of Congress, in enacting and implementing future legislation affecting future U.S./PRC nuclear relations. However, we believe that subsequently enacted domestic legislation that was inconsistent with the provisions of the Agreement would have priority.

State Department officials have stated that subsequently enacted legislation would, indeed, be treated as having priority.

Senate Joint Resolution 238 reaffirms this by declaring that each proposed export under the agreement shall be subject to U.S. laws and regulations in effect at the time of each such export.

CONCLUSION

I have outlined a number of areas in which Senate Joint Resolution 238 is adequate. However, as I indicated, there are two areas in which it falls short. This amendment addresses one of those, and it does so in a reasonable and responsible fashion. I urge my colleagues to support it.

Mr. GLENN. Mr. President, I appreciate the remarks of the distinguished Senator from Maine. He has indeed been a leader in this field. I know from all of our many private as well as committee and on-the-floor discussions we have had on this matter that he is just as concerned as I am, and has been through the years, about the fact that we be the leader in this field, that we not just stand by and let our nuclear know-how, let our superior nuclear technology, equipment, and knowledge just be spread around the world without applying safeguards and without applying stringent controls so that it is not just out of control.

When we look back at China's nonproliferation history, it is not a happy one. Going clear back about 20 years in the Peking Review, let me read this official statement by the Chinese:

Whether or not nuclear weapons help peace depends on who possesses them. It is detrimental to peace if it is in the hands of the imperialist countries. It helps peace if they are in the hands of socialist countries. Let it not be said indiscriminately. The danger of nuclear war increases along with the increase of nuclear powers. Nuclear weapons in the possession of a socialist country are always a means of defense against nuclear blackmail and nuclear war so long as the imperialists refuse to ban nuclear weapons. The greater the number of socialist countries possessing them, the better the guarantee of world peace.

There are other quotes I could go through.

In 1966, 1977, and 1981—as recent as that—a Chinese delegate declared to the United Nations Commission on Disarmament that "A comprehensive test ban can only tie the hands of those countries with weaker defense capabilities."

Mr. President, we have seen many newspaper reports in recent years that the Chinese pro-proliferation policy—not "non" now, but pro-proliferation policy—is backed up with more than words. I will not go into some of the charges that have been made with regard to other nations because those remarks have been made on this floor before. Some of them are classified. I do not want to get into that.

Now we are told by the executive branch that Chinese policies have changed and last year a public declaration was made by Premier Zhao Ziyang that "We by no means favor nuclear proliferation nor do we engage in such proliferation by helping other countries to develop nuclear weapons."

Mr. President, we have seen a couple of violent convolutions in the policies of the Chinese Government, the government of the People's Republic of China, over the past few years. All we are asking is that they give the same safeguards agreement to us they have given to Japan, to Brazil, and to Argentina in their nuclear arrangements that the provided information, the provided technology, the provided equipment will be under IAEA safeguards.

All we are asking the President to certify is that this minimal verification standard is being met in this agreement. Indeed, in the agreement itself it says that we will negotiate verification of peaceful uses. The actual agreement language says:

The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreement.

All I am asking for with this amendment is for the President to certify that those arrangements provided for in the agreement language have taken place, and that those agreements provide safeguards equal to the actual IAEA safeguards or their equivalent. That is so simple, so straightforward, and so minimal to any agreement that we should be making around the world that I find it difficult to find that this would be challenged.

Mr. President, I was asked on the floor a moment ago, why should we demand safeguards of the Chinese when they are already a weapons state, and do not need our technology to make weapons? That is true. I repeat my earlier statement that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear submarine reactors.

In addition, anyone who has followed developments in the international nonproliferation regime over the past decade knows how sensitive the question of trade discrimination between weapon states and nonweapon states has become. So if we do not demand safeguards of the Chinese, then we are saying to India, Israel, South Africa, and others "All you have to do is declare yourself a nuclear weapons state, and we will be glad to send you nuclear equipment and technology without safeguards."

We went through that with India a few years ago where there was a big misunderstanding about the agreement we had going on. They would not accept full-scope safeguards. Are we now to say that the People's Republic of China with its communist government, its past history of antagonism to America, espionage, and illegal smuggling activities against us is more deserving of nuclear trade with the United States than democratic India merely because the People's Republic of China is an overt weapons state?

I think Senator COHEN, the distinguished Senator from Maine, makes a good point. Would we make this same kind of agreement with the Soviet Union? We would not say this agreement is satisfactory without safeguards to the Soviet Union for American equipment, yet an even larger communist nation the world is China and we are saying we will make this agreement with them, and to say that makes sense is to create a climate where other countries will perceive it to be in their interest to make nuclear weapons if they want American nuclear technology.

So it is self-evident that not demanding safeguards undermines the nonproliferation regime no matter how you slice it. This amendment proposes such a minimal standard of acceptance, and all we require is that the President certify that IAEA safeguards equivalency is in place before shipments are made.

Mr. President, it is a very minimal amendment. I urge its support.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in strong support of the amendment being offered by the Senator from Ohio.

I think it is a sound and much needed amendment that ensures our national security will be maintained if we send highly sophisticated nuclear equipment and technology to the People's Republic of China.

Mr. President, this is a vertification amendment. It simply sets a standard to our trade with the People's Republic of China that we would set with any type of arms control agreement with a Communist nation—that it be verifiable.

All Senator GLENN is ensuring in this amendment is that our nuclear trade with the People's Republic of China be verifiable. Anyone who opposes this amendment is, in effect, saying that he does not care whether the United States-People's Republic of China nuclear cooperation agreement is verifiable.

Now let me say at the outset, that I favor closer economic ties with the People's Republic of China.

I agree with those who say that we should have a healthy trade relationship with the People's Republic of China. I think it serves the interest of both nations.

Clearly, the United States stands to benefit from energy technology transfers to the People's Republic of China in terms of expanded trade opportunities, improved diplomatic relations, and increased energy supplies on the world market.

But in considering the opportunities, we should not forget the fact that shipping sophisticated nuclear equipment technology, and materials to the People's Republic of China—or any country, for that matter—has its risks.

If the People's Republic of China misuses our nuclear trade or uses it in a way that undercuts our nonproliferation goals in other parts of the world, the United States might well end up with a national security nightmare on its hands.

Furthermore, in considering the opportunities for friendlier relations with the People's Republic of China, we should not forget the fact that the nonproliferation headaches we have had in the past with nuclear trade have been primarily with our friends.

We should not forget the fact that nuclear trade has often ended up being a source of friction and discord in our relations with individual countries. I think India is a perfect example of this fact.

Even though the People's Republic of China has changed its nonproliferation policy for the better in recent years, or says it has, even though it has joined the International Atomic Energy Agency and has recently announced that it would open some of its facilities to IAEA inspection, the People's Republic of China's commitment to preventing the spread of nuclear weapons can hardly be classified as enduring.

On the contrary, serious questions remain as to whether the People's Republic of China's current commitment to nonproliferation is anything more than a commitment of convenience—a commitment that could just as easily be reversed in the future.

The People's Republic of China's past attitude toward nonproliferation has been cavalier, to put it charitably.

Mr. President, I hope that you and other Senators will listen to the statements that have been made by the spokesmen.

In 1963, for example, a People's Republic of China Government spokesman stated that "it helps peace" if nuclear weapons "are in the hands of socialist countries."

In 1965, the Beijing Review stated that "China hopes that Afro-Asian countries will be able to make atom bombs themselves."

In 1966, then-Premier Zhou En-lai stated that "nuclear weapons cannot be monopolized."

In 1978, Foreign Minister Hua Huang stated that nonnuclear countries should not be pressured "to abandon their right of possessing nuclear strength for self-defense."

These are shocking statements, Mr. President. And they should not be ignored as we evaluate the People's Republic of China's present stand on nonproliferation.

Furthermore, they should not be ignored in light of persistent press reports that the People's Republic of China has aided Pakistan in nuclear weapons development, and that the People's Republic of China has made questionable or unsafeguarded nuclear exports to other nations, such as Argentina and South Africa.

Considering all the dangers associated with nuclear exports and considering all the uncertainties about what kind of nuclear trading partner the PRC will be, it is critically important that verification of the nuclear cooperation agreement we sign with the People's Republic of China is airtight.

But the People's Republic of China agreement has verification problems. The Nonproliferation Act requires that any cooperation agreement we sign with a nuclear weapons state like the People's Republic of China must have safeguards. These safeguards usually involve a thorough accounting and monitoring system for our nuclear exports.

Does the People's Republic of China agreement provide for safeguards? No. It does not, Mr. President.

The agreement only calls for negotiations for some vague visitation rights down the road. If the President negotiated such a vague verification provision in an arms control agreement with the Soviets, Mr. President, it would be laughed right out of the Senate.

Incidentally, it appears that our nuclear trade with Great Britain and France, our closest allies, is governed by much tighter verification under the Euratom safeguards than what we will impose on the People's Republic of China.

I therefore strongly urge my colleagues to support the Glenn amendment which would require International Atomic Energy Agency safeguards be in effect for our nuclear trade with the People's Republic of China.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I am delighted to yield to my good friend from New York.

Mr. MOYNIHAN. I say to the distinguished Senator from Wisconsin that shortly I will speak to the question of how the People's Republic of China has been voting in the United Nations on matters where the United States has a position that is opposed by the Soviets. I am going to have to report, as we reported to Deng Xiao-ping in August, that on every single occasion where there was a name-calling vote in 1984—that is, where the Russians had introduced a reference to the United States that was slanderous or worse, and the U.S. delegation had moved to strike—the People's Republic of China voted with the Soviet Union.

Mr. PROXMIRE. Voted with the Soviet Union.

Mr. MOYNIHAN. With the Soviet Union. Overall, 88.9 percent of the Chinese votes in the plenary session were with the Soviet Union and against us.

Mr. PROXMIRE. Mr. President, before the Senator goes on, let me point out that the Senator from New York is undoubtedly the outstanding expert on the United Nations. As we all know, he was an Ambassador representing this country in the United Nations. He speaks with far more authority on the subject than any other Member of the Senate.

Mr. MOYNIHAN. Mr. President, I would like the Senator to permit me to ask: is he not aware, as I think some of his inferences indicated, though they did not go quite this far, that for much of the 1960's and 1970's it was a formal position of the People's Repub-

lic of China that nuclear war was coming and that was not a bad thing at all; that it would destroy half of the human race but, of the remaining half, the Chinese would have more than their share and it would all work out?

I myself have heard a foreign minister of the People's Republic of China at a dinner table with the Secretary of State of the United States say, "Nuclear war is inevitable, and we are quite prepared for it."

I am sure the Senator is aware of this. I wonder if his remarks are completely convergent with this?

Mr. PROXMIRE. Well, they are, indeed. I think that the People's Republic of China spokesmen have made it clear over and over again that they think it would be a good thing to proliferate nuclear weapons because they think that Socialist countries like North Korea, for example, and other countries of that kind, should have nuclear weapons and there should not be a monopoly, it should not be limited to the fewest possible countries, which is exactly the opposite position than this country has taken, that we should prevent proliferation.

Mr. President, our greatest real danger is not by a strike from the blue from the Soviet Union. Deterrence has taken care of that for some years and may in the future. But the greatest threat, the real threat, is that that 5th, 6th, 7th, 8th, 9th, or 10th country may get it and someone in some way may use this vast power.

Mr. MOYNIHAN. And at which point, those of us in the United States and in the Soviet Union will know where the missile came from, will know whose bomb it is. The capacity for ruin is enormous.

Mr. President, I would like to report to the Senate on a meeting in the Great Hall of the People in Beijing on August 27, 1985 between an official Senate delegation and a group of Chinese officials headed by Dr. Deng Xiao-ping, who is the ranking member of the Government of the People's Republic of China and of the party.

Mr. President, may we have order? I do not know that this is pleasant to hear, but if people do not want to listen they can leave the floor.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOYNIHAN. Mr. President, I had the honor to be a part of a delegation of seven U.S. Senators, headed by our distinguished majority leader [Mr. DOLE]. We had been meeting with a number of Chinese officials during a 3-day stay in Beijing. This was the culminating meeting with Deng Xiaoping himself and his ministers and a rather considerable array of officialdom.

The meeting began with a very cordial welcome from Deng. He said that the relations between our two countries were solid, coherent, and nothing could change that, that we had everything to look forward to in the way of cooperation and this would be mutually beneficial. He acknowledged that this was basically a courtesy call, but noted his ministers would look to any specifics that we raised.

It happened that under Mr. DOLE's very thoughtful arrangements, at each of the different meetings, each Senator would be assigned a specific subject to raise. Sometimes the meetings were such that only one or two of us would speak; on other occasions there would be more.

On this particular occasion, it fell to me to speak to the question of the relations that the United States and the People's Republic enjoy in multilateral settings, which is to say places such as the United Nations or the International Atomic Energy Agency, which is a specialized agency in the U.N. system. Speaking for our delegation, as I did, and in the specific context of this nuclear cooperation proposal we are discussing today, I said to Mr. Deng Xiao-ping that while it was true that our bilateral relations were cordial and seemingly constructive, when we look to international settings, we do not find this same cordiality, we do not recognize the cordial relationship that Mr. Deng had described in his opening remarks.

I said, indeed, it appears to us that the People's Republic of China might be pursuing what I called a 2-U.S. policy, which might better be called a 2-America policy.

It is possible to measure this. There are numbers, statistics; the State Department has begun to keep voting records. It took a long time. I have to say the Department of State has been reluctant in this matter. The terms I raised with the Chinese on this occasion were not provided us in briefing books. We had asked for them. When we asked, we received, but, I repeat, we had to ask.

(Mrs. KASSEBAUM assumed the chair.)

Mr. MOYNIHAN. Madam President, I have here the State Department's Report to Congress on voting practices in the United Nations", dated May 20, 1985. These data refer to the 39th General Assembly—the last General Assembly.

In that last General Assembly, the nations of the nonaligned movement—which I do not have to say is really not nonaligned. Regrettably, it has become very much associated with the Soviet positions in the United Nations in the last 15 years and, indeed, one recent chairman of the nonaligned was Cuba, hardly a nonaligned nation.

During that 39th assembly, the nonaligned movement voted in agreement with the Soviet Union on plenary votes 86.1 percent of the time. That is a fairly high level of agreement with the Soviets if you consider that in the General Assembly, there are votes which are unanimous, simply procedural votes as we have them in this body, and the United States and the Soviet Union are in accord.

Yet, Madam President, in the 39th Genenal Assembly, the People's Republic of China voted more often with teh Soviet Union than did the nonaligned nations.

I see the distinguished Senator from Ohio is on the floor, the author of this amendment. I call this number to his attention, which he may not have previously noted, that in the 39th General Assembly of the United Nations—the International Atomic Energy Agency is located in that U.N. system—the Chinese voted with the Soviet Union 88.9 percent of the time, more frequently even than the nonaligned did, only slightly less often than Iran did. The simple fact is that the voting patterns of the People's Republic of China and the Soviet Union are, for all practical purposes, identical.

Madam President, that might arise out of a perceived identity of interests or, as I think is probably the case, a desire by both those parties to associate themselves with the new nations, as they are called, the nonaligned nations, if you like. I think we should not equate the Chinese voting record as one in which they voted with the Soviets because the Soviets voted in the same way. It may be that they were both voting with the Libyans, or the Arabs, or Zimbabwe—or whatever nation: India would be a good example.

However, Madam President, there is one set of votes on which you could not and ought not—and I, for one, certainly will not—accept the idea that the Soviets and the Chinese may perceive a common interest associated with some third party and therefore, their identical votes do not represent a bloc vote, but, rather, a different calculation.

In recent years, the Department of State has begun to compile a record of what they call name-calling votes. A name-calling vote at the General Assembly is a very simple affair. A resolution of some kind is introduced and, in the preambulatory language typically, there is a quite gratuitous reference to the United States. it can range from the merely vulgar to the outright slanderous. And they come over and over again and they do not deal with the substance of these matters typically; they are quite gratuitous. The "resolved" clauses, as we would say in the Senate, are not in any way related or affected. But in the meantime, the members have a chance to express their distaste for our country or their disapproval of our country, but in terms that are offensive, terms that do

not add to the exchange of opinion, certainly are not constructive, certainly do not make the forum involved a better one.

Might I just point out that over two centuries a good deal of the continuity of the U.S. Senate and such like bodies has depended on nothing more than the common courtesies of debate whereby colleagues are referred to as "distinguished" and "able" and "learned" and no great harm is done if this is not always and invariably the case. There are normal courtesies of a deliberative body and the United States, when these courtesies are flagrantly rejected at the United Nations, very properly has said, "Please now, stop that. Can we not eliminate this particular gratuitous name-calling directed against our country."

Now, in the 39th General Assembly we chose 20 such instances. There were more, I am sure. I do not precisely know. It does not matter. It makes sense to pick 10 or 20 as we have done. We picked 20.

Now, Madam President, on these 20 occasions, the People's Republic of China had an explicit opportunity to associate itself with the United States desire that it not be slandered, and disassociate itself with the attempt—typically it has Soviet origins but not always—to disassociate itself from the Soviet desire that we should be slandered. I speak without hesitation when I use that term. it is slanderous. And they are also nonsubstantive. They have no purpose other than slander.

Now, Madam President, on 20 such occasions, when the People's Republic of China had the opportunity to disassociate itself from a slanderous reference to the United States, on not one single occasion did it do so. To the contrary, on 17 occasions they voted to maintain the criticism, the slander of the United States; they voted directly against us; on 3 occasions they were absent. The voting record is perfect if you allow for three absences. There were no abstentions, where you can say, "We don't want to take a position." Every choice they made was a choice against the United States.

Now, I said that to Mr. Deng Xiaoping on August 27th at the Great Hall of the People. At this point Senator WILSON of California entered the exchange. He is not on the floor just now, and I hesitate to characterize his remarks in ways that he would not want me to do. But I do not think he would hesitate to have me say on the Senate floor what he said in the Great Hall of the People. I am sure, to the contrary, that he would as well prefer I did make the reference in this context.

Senator WILSON said to Deng Xiaoping:

> Mr. Chairman, we have to go back to our constituents and explain why we support, if that is the case, the agreement on nuclear cooperation which our Government, our Executive, has entered into with the People's Republic of China but which is subject to disapproval by the Congress. And obviously matters of trust are involved in such a relationship. How are we to explain this voting pattern to our constituents in terms of this is a nation with which we are on unfriendly, uncooperative terms.

What he said was perfectly sensible. He said, in effect, here we have this important agreement on this immensely sensitive subject, an agreement which presumes a level of trust which is high, and yet every time there is an opportunity at the United Nations to indicate a good, cooperative disposition., the People's Republic of China takes the opposite view.

It is not unimportant that this occurs in the United Nations. The International Atomic Energy Agency is a specialized agency of the United Nations.

Mr. Deng Xiao-ping did not respond to these specific remarks, nor did he respond to any of our interventions, as that is the phrase as the United Nations goes, but rather said his ministers would take them up. And perhaps they will. Perhaps they will have heard from the U.S. Senate delegation that we notice these things? Will we? I hope the Senate would notice them also in the context of the vote that is coming up on the amendment of the Senator from Ohio.

I wonder if the American negotiators who reached the agreement with the Chinese we are now considering, I wonder if they asked themselves what these votes meant. One of the most dangerous delusions that the Western mind is subject to these days—in this era—is the notion that things like this do not matter, that words do not matter, that slander does not mater, that associating yourself with assertions of the most venomous sort does not matter. It does matter. If there is any Senator on the floor who could tell me that during the course of the negotiations of that nuclear cooperation agreement any American negotiator so much as mentioned the record of the People's Republic of China with regard to the United States interests and views and ordinary concern for its reputation, I would be happy to hear it.

I doubt that on even one occasion in this entire negotiation—and it was a lengthy one—did anyone say:

> Well, now, we are going to have to have a measure of trust here. The People's Republic does not have the best-sounding record with regard to proliferation. You indeed went through the 1970's announcing that nuclear war was imminent and there was nothing to be worried about because if half of mankind disappeared in the course of the exchange there would still be plenty of Chinese left over.

Literally, that kind of talk you would hear from a Chinese foreign minister. And they looked forward with a measure of, I could not say anticipation but with great serenity to the coming nuclear exchanges, and they looked forward to proliferation as a natural right a nation takes and they welcomed that, too.

Well, that is not a very encouraging record. It is the case, Mr. President, if memory serves, that recently the Chinese People's Republic joined the International Atomic Energy Agency.

So they are members of the IAEA. They have not signed the nonproliferation treaty, nor do they propose to do so. They consider it an unequal treaty; and I would have to say that, from their perspective, it is an unequal treaty. Their experience of the 19th century probably precludes that kind of commitment. To join the IAEA, however, was a positive step, if it is accompanied by equally compatible conduct and international forums. I would have to say, Madam President, that I do not think it has been.

A country which votes with the Soviet Union 88 percent of the time in the General Assembly is not exactly a nation that has indicated any great interest in cooperation with the United States. The People's Republic of China, a nation which in 20 opportunities, has not once chosen to associate itself with the legitimate interests any nation has in its own good reputation.

With whom are we dealing here? What did the Department of State think it was doing? What did this administration think it was doing?

There was a time when these folks were generally referred to in this town as "ChiComs" and were thought to be very bad fellows, and that evidently is no longer the case.

I can see that persons in power might have great concern about communism and might moderate their views and deal with the realities of the existence of states, wanting to find ways to cooperate and, as always, wanting to find things to sell, which is natural behavior and not to be associated only with one administration.

Still, what do these U.N. votes suggest? Do they suggest that we have here a nation worthy of our trust? I do not know.

Do they suggest that we have here a nation concerned for the conduct of international affairs at a level of comity and respect for the good repute of members of the international community? I do not see that.

I see here a nation that has two polities: "We cooperate with you on a bipartisan basis and you give us technology we desire, and we slander you and vote against you and do everything we can to obstruct your interests when other nations are present."

That is not a policy that arouses confidence in this Senator, nor do I think it should arouse confidence in the Senate.

I think the Senator from Ohio is right in what he proposes to do, and I hope the Senate will support him.

Madam President, I will yield the floor, with the provision, if I may, that if there is any Member present or who joins the debate later can tell me that this United Nations record was brought up with the Chinese during this negotiation, I would be interested to know that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I indicated before that when this agreement came up before this body for its consideration of the resolution of approval, there was not a word of debate on the Senate floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. COHEN. I yield.

Mr. MOYNIHAN. Did Senators who had come to the floor know?

Mr. COHEN. This Senator had no knowledge.

Mr. MOYNIHAN. This Senator had been prepared to make this speech every day since August 28, and I was sorry to learn in one day's papers that I was not going to have an opportunity to bring these matters to the floor, because the subject had been brought to the floor very late one night—I believe after an announcement was made to the effect that there were not to be any rollcall votes.

Mr. COHEN. I say to my colleagues that I have spent considerable time testifying before the Senate Foreign Relations Committee, as did Senator GLENN, making my own views known, talking to individual Members, hoping to have an opportunity to debate the issue. It was my hope that no matter how the vote came out, at least the Chinese would be put on notice that there was some strong disagreement with the way in which the agreement was formulated: The absence of clarity, the presence of ambiguity, the questions as to why we have a different standard. Why is there a different standard?

I think it is important that Members have an opportunity to express their differences of interpretation and agreement with respect to this kind of language contained in Senate Joint Resolution 238.

I thought the legislation of the Senate Foreign Relations Committee was a vast improvement over what was presented to it by the administration. Nonetheless, there is some suggestion being made that the Senator from Ohio—and I ask him this question—is simply trying, through his proposed amendment, to vitiate the agreement that was passed by the Senate in that midnight hour in which, as Shakespeare said, strange things occur.

A strange thing did occur: A major piece of legislation, about which many Members were concerned, went whistling through here, with not a word of debate, with virtually no notice to any individual Member.

I ask the Senator from Ohio: Is it his intent, with this amendment, to somehow vitiate the action that took place on the floor at 3 or 4 a.m., back in November?

Mr. GLENN. I appreciate the Senator from Maine bringing this up, because I would like to make it clear.

What I am proposing was not intended to, nor does it in any way, vitiate Senate Joint Resolution 238. It strengthens Senate Joint Resolution 238 in that part that has to do with verification, because in Senate Joint Resolution 238 the President has to certify that verification arrangements will be effective in ensuring peaceful uses of our nuclear exports.

My amendment supplements that by adding that a Presidential certification of the IAEA safeguards or their equivalent will be applied, and that is all. It does not vitiate any of the other provisions, does not change the language of it. It adds this strengthening provision.

So if there has been any misunderstanding about that, I appreciate that the distinguished Senator from Maine has brought it up so that we can make sure it is not misunderstood by anyone.

It does not vitiate Senate Joint Resolution 238. It adds a measure of effectiveness to the language on verification. Nothing else is altered. It just says that safeguards or their equivalent will be in place on any U.S. exports.

Mr. COHEN. I thank the Senator for his explanation.

Madam President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I am honored to have the distinguished Senator from Maine aboard.

Mr. COHEN. I say to the Senator from New York that I was part of the delegation to the Far East. He did raise—as he has done on this occasion—the issue of the so-called two-America policy, in a very eloquent way.

Mr. MOYNIHAN. On behalf of the delegation.

Mr. COHEN. On behalf of the delegation, he did present a very eloquent case to Deng Xaio-ping and the leadership of the Chinese people. I think it was an important statement to make then and to make today.

I yield.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that I be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I appreciate that.

Madam President, I call for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI. Madam President, I wish to address the Glenn amendment at some length.

It is my contention that the amendment is unnecessary because its purpose has been basically addressed in Senate Joint Resolution 238.

The Foreign Relations Committee considered in detail the Nuclear Cooperation Agreement carefully with open and closed hearings and a classified intelligence briefing also took place.

At that time I recall the Senator from Ohio was the lead witness at our hearing, and there were four problems which set the agenda for discussion as a consequence of that meeting. Those four were ensuring peaceful use of exported items, ensuring that China's nonproliferation policies were sound, ensuring that all United States export laws would be applicable, and ensuring that United States has the right of consent to reprocessing or enrichment.

Madam President, Senate Joint Resolution 238 deals precisely with these points.

The committee in a bipartisan effort wrote the resolution in language which protected the interests of our Nation in a way most likely to allow peaceful nuclear cooperation and encourage further Chinese progress and stengthening the nonproliferation regime, safeguards to bilateral agreements between nuclear weapons states, and the Chinese have said before that they will not accept these.

The Glenn amendment describes the IAEA safeguards without really saying so.

The People's Republic of China recently said it would accept voluntary safeguards with IAEA as the other nuclear weapons states have done.

The committee noted that China had made great strides in this regard.

We have an interest in furthering the development. The resolution was reported out with an overwhelming majority and passed the Senate by a voice vote.

The State Department accepted the resolution, and it is my understanding will recommend that the President sign it into law.

Thus, should the Glenn amendment pass we will have a very confusing message vis-a-vis the House administration and the People's Republic of China.

I understand that the chairman of the Foreign Relations Committee, Senator LUGAR, cannot be here this morning, but I understand from his

staff that he is in opposition to the Glenn amendment.

It is inconceivable to me that we would attempt to mandate on the People's Republic of China the IAEA provision which we as a nation do not adhere to. Not having been here during the initial debate, I do not know whether my friend from Ohio has responded to that particular concern, but since we do not accept the dictates of this organization, I guess my question is an obvious one: Why would we expect to mandate it on an ally?

Mr. GLENN. Madam President, will the Senator yield?

Mr. MURKOWSKI. I am happy to yield for a question.

Mr. GLENN. Just in response to the comments there, we do have IAEA safeguards in our facilities here and all the other nations with which we deal have IAEA safeguards on those facilities at least that we have any association with.

That is all we would be requiring of the Chinese in this case. It would be that IAEA safeguards or their equivalent be in place just for the equipment, technology, or facilities that we would be sending to them under this agreement.

Mr. MURKOWSKI. Madam President, will my colleague from Ohio yield for another question?

Mr. GLENN. I yield.

Mr. MURKOWSKI. The countries that he mentioned, Brazil, Japan, Argentina, are these not nonnuclear weapons states and would that not be a distinction in itself, that there is substantial difference here since we are dealing with the People's Republic of China which has a substantial nuclear capability and as a consequence when the examples are used of Japan, Brazil, and others there is obviously a difference and that difference is they are nonnuclear, they do not have the capability?

Mr. GLENN. No; that is true. They are nonnuclear weapons states. But even they as nonnuclear weapons states were able to get the Chinese to agree to IAEA safeguards on all the nuclear trade that would be done back and forth with those states.

So, in effect, in fact weaker nations than our own, weaker nations than the United States are able to negotiate a safeguards agreement with the People's Republic of China and we apparently were not able to do that.

Now let me add this: They have similar agreements already in place that they have agreed to with the Japanese, the Brazilians, and Argentinians, and those were worked out. But somehow our negotiators said that the Chinese were adamant on making a similar arrangement for us. I think we just did not push hard enough.

This is certainly the bare minimum we should do, and all I am asking for with this amendment is that the President certify that there will be IAEA safeguards on their equivalent attached to our nuclear exports to the People's Republic of China.

Let me also say this: on the question as to whether we should demand safeguards of the Chinese when they are a weapons state and do not need our technology to make a weapon, I just respond that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear sub reactors.

In addition, anyone who has followed developments in the international nonproliferation regime over the past decades knows how sensitive the question of trade discrimination between weapon states and nonweapon states has become. If we do not demand safeguards of the Chinese, then we are saying to India, to Israel, to South Africa, and others, that all you have to do is declare yourself a nuclear weapons state and we will be glad to send you nuclear equipment and technology without safeguards. What does this say to the over 100 other nations that have agreed to safeguards in response to our offer to cooperate with them?

Mr. MURKOWSKI. Madam President, I wonder if my colleague will yield for another question.

Mr. GLENN. I yield.

Mr. MURKOWSKI. Is China not required to maintain life safeguards with nonnuclear weapons states since it has signed the IAEA as of January 1984?

Mr. GLENN. No; there is no requirement.

Mr. MURKOWSKI. So there is a reciprocity that has already been established, is there not?

Mr. GLENN. No; there is not such a requirement by joining IAEA.

Mr. MURKOWSKI. I intend to examine a little bit further because it is my understanding that there is in the relationship with China and the IAEA indeed at least an inferred offer that there is an agreement on maintaining life safeguards with nonnuclear weapons states.

Mr. GLENN. Madam President, will the Senator yield just for a clarification?

Mr. MURKOWSKI. I am happy to yield.

Mr. GLENN. Joining the IAEA does not mean that IAEA safeguards are applied then automatically on every agreement that China would make with another IAEA state.

I believe the arrangement there is that these agreements are still worked out on a bilateral basis for each and every agreemet that is made. All they have done in becoming a member of the IAEA is that they will support that organization and their worldwide efforts to put equipment and inspectors out there to monitor the facilities that have been put under IAEA safeguards, and they have agreed to be a member of that organization to do that.

Then any subsequent arrangements, as I understand it, that are made from the People's Republic of China or with anyone else is made on a bilateral basis just as we indeed ourselves are trying to work out a satisfactory agreement right now.

Mr. MURKOWSKI. That is my understanding. I thank my friend from Ohio.

I wonder if we could go back to one other point that I touched on earlier that I think needs further examination, and that is the matter in which we are attempting to dictate to the People's Republic of China, as a nuclear state negotiating with another nuclear state, to dictate that they must accept what we, in effect, are not prepared to accept as a nuclear state in being bound by the IAEA as a nuclear state. Is there not a substantial difference there in mandating that the People's Republic of China adhere when we do not accept such a mandate ourselves? I think, from the standpoint of a perception, that is a very real one and one that concerns us in our negotiations with the People's Republic.

Mr. GLENN. I would respond to the Senator, because the case is not as the Senator stated it. We have IAEA inspectors inspecting certain of our facilities in this country right now. We have agreed to that. It is not all of our facilites; it is not our nuclear weapons preparation facilities, nor will our agreement with China cover any IAEA inspection other than just the American-supplied plants, technology, equipment, whatever, that are covered under these agreements yet to be worked out.

That is all that would come under IAEA.

We could ask that they put all of their total nuclear programs under IAEA, but we do not do that in this country nor do we require that of other weapons states. But our relationship with other weapons states is such that we require safeguards even with the other weapons states. We do not send things in unrestricted to the United Kingdom or France or anyone else without having an agreement on third-party transfers, consent rights, and safeguards, and so on.

That is all we are asking in the one little area of safeguards, the tiny little area of safeguards, that we do no less than what we are doing with other nations.

Mr. MURKOWSKI. I think that is my very point. I would point out to the Senator from Ohio that what we do is voluntary. We do allow, as stated, IAEA, on the basis of observations, in certain areas. We do it on a voluntary basis. We are mandating, as I understand the Senator's amendment, that this be done as a matter of condition for the nuclear nonproliferation with the People's Republic of China.

Now, why is it not appropriate that they, too, be allowed the option of a voluntary IAEA inspection? I think that is the difference that we are concerned with here, is it not?

Mr. GLENN. These are reciprocal arrangements, I say to the distinguished Senator, such as we worked out with Canada, Australia, the United Kingdom, France, and every place we do nuclear trade with. In effect, if this goes through now without requiring at least the equivalency of IAEA safeguards, we would be, in effect, saying to the world's largest Communist nation—not that I want to raise all the Communist bugaboo in this context—but we would be saying to them, with their past record of supporting proliferation through the last 20 years or so, up until just 1 year age, they decided now they will not have that policy, and we are saying that the least we can do with American technology and equipment going over is to provide safeguards or their equivalent, as we do with other countries with which we have nuclear trade.

Mr. MURKOWSKI. I thank my friend from Ohio. But I believe one could deduce that a case has been made in the manner in which we allow, as a consequence of policy, a voluntary observation, then it seems to me that to attempt to dictate or mandate that the People's Republic of China has to operate under a different set of circumstances is something that is quite naturally offensive to the receiving country and, as a consequence, it would have been more expeditious had this matter been addressed in committee than at this rather late date to suddenly decide that we are going to change the rules and mandate a different set of procedures than we, indeed, are bound by ourselves.

Mr. GLENN. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield.

Mr. Mr. GLENN. What are these different requirements that we are putting on China that is different from those we do with reference to others that the Senator referred to?

Mr. MURKOWSKI. I am referring specifically to the fact that the United States maintains a voluntary acknowledgement under the ability of the IAEA to come in and do observations and other matters. We allow that. I am sure the Senator from Ohio would agree that the People's Republic of China could equally, as well, allow that type of voluntary observation.

Mr. GLENN. Madam President, so we make this very clear, our safeguards arrangement in the United States include those that were worked out as part of our bilateral nuclear relationships with Canada and Australia, if they send material to a United States nuclear facility. The IAEA safeguard inspector comes in and inspects those facilities.

I am glad the Senator brought the point up, because it is absolutely identical to what we would be proposing with China. We are working out a nuclear agreement with them. We are saying that as part of that agreement, we want any equipment we have there to be under the equivalent of IAEA safeguards. It is exactly what Canada insisted that we do, and we did it. It is exactly what Australia inisisted we do, and we did it.

All that I am asking for here is that before shipment can be made, the President will certify to us that the equivalency of IAEA safeguards has been provided for. It is so simple and straightforward and it is what we have agreed to with Canada to do in our country here.

To even go a step further, we say it will not be just the Canadians who are allowed to come in and inspect—we say the IAEA inspectors can come in and represent Canada and represent Australia.

Mr. MURKOWSKI. Well, while I appreciate the intent of the amendment of my friend from Ohio, I am wondering if he would care to respond to the light that this puts our relationship in with the People's Republic of China, in view of the previous committee action on this matter and the position that suddenly here, at a rather late time in the session, there is a change, a proposed change. While, obviously, our own national security is an item of utmost interest to the United States, the Senator from Ohio is addressing a rather narrow area in his amendment. There are those of us on the committee that feel that the safeguards have been adequately addressed and that, indeed, this puts the light as requiring the People's Republic of China to do something that we, indeed, would not mandate on others nor ourselves.

Mr. GLENN. Let me respond by saying we do mandate them right now on others and we have even done this in our own agreement here, as we just discussed, with Canada and Australia, and we go a step further. We permit IAEA safeguard inspectors to actually come into our country. Let me add also that this does not vitiate Senate Journal Resolution 238 in any way, shape, or form. It just strengthens it. Instead of just saying "effective," which is the language that came out of the committee, we are saying that "effective" will be defined as being IAEA safeguards or the equivalency thereof. And that is very straightforward.

Mr. COHEN. May I respond to the Senator's question about what does this do to our relationship with China, and why do we come at this late hour?

I point out there was a delegation of seven Senators who happened to pass through Alaska as I recall, stopped in, and paid a visit with the distinguished Senator from Alaska on our way to the People's Republic of China. We discussed this at some length with the leadership of the Chinese people—that there were Members, including the Senator from Maine, who were concerned about the nature of the agreement, and that it was going to be the subject of some debate in the U.S. Senate. Unfortunately, the Chinese people were put on much more notice than we were in the United States Senate. When this agreement or the resolution was brought to the floor at 3 or 4 in the morning, no notice was given to the Senators who were concerned about the legislation.

The Chinese leadership has been aware, certainly since August, that there was going to be a debate. Unfortunately, there was no debate because the committee chose to bring it up for unanimous consent during the course of debating another measure at 3 or 4 in the morning with no notice to the Members. That is why this amendment is being brought up today under these circumstances.

I do not think it will take the Chinese people by surprise, cetainly not as much surprise as the Members of the Senate were taken by when they found out that we approved it by voice vote with very little or no notice.

Mr. MURKOWSKI. I remind my colleague from Ohio that both Canada and Australia, it is my understanding, do not have the same safeguards as we have with them because they basically are nonnuclear states. I think the debate could go on at great length as to the difference between the agreements under binding nonnuclear states with nuclear states, and indeed the role of the IAEA. I do not differ with my friend from Maine with regard to the attitude of the Senate——

Mr. GLENN. Will the Senator yield?

Mr. MURKOWSKI [continuing]. With regard to this matter. I will yield in just a moment because I am about to conclude my statement. I want to follow my train of thought.

I think, indeed, the committee gave this matter a good deal of consideration within the committee itself, addressed the concerns that are being expressed here today, and felt if we are to have a meaningful relationship with the People's Republic of China on this matter that the safeguards are

sufficient without the inclusion of the additional requirements under the Glenn amendment.

I think the records of the committee would reflect that there was a full discussion and adequate debate on the concerns of the Senator from Ohio.

Mr. GLENN. I respond by saying that we had the Congressional Research Service check out the degree to which we have agreed to IAEA safeguards and what the other nations have done, Canada, Australia, and so on. We were told by CRS that they were reciprocal. So there is not that difference between the agreements.

In fact, we don't require any new negotiations with the Chinese. Because in the language that came back as part of that agreement from China, what was agreed to with regard to verification of peaceful uses, the agreement language says:

> The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreement.

The problem with that is there is no standard provided in that for verification of peaceful uses of exported equipment or materials or technology. The diplomatic discussions will not be completed until the congressional review is finished, and the agreement is in effect.

All we have asked for, and all I am asking for to correct this stituation is that the President certify that those arrangements are in place, and that they are equivalent to IAEA safeguards.

But let me go back a little bit further, too. One of the reasons I am disturbed about this arrangement with China is that we were asked many, many years ago to accept similar agreements with India, and do not worry about the Indians understanding this thing, their interpretation of it is the same as our understanding of what went on with the negotiations, India indeed is the world's largest democracy, we have been friends, and there will not be any misunderstandings.

Yet I submit to my distinguished colleague that what happened in not spelling out in the first place what our intent was, soured Indian relations to this very day. When we passed the Nuclear Nonproliferation Act of 1978, we had to decide whether we were going to ship fuel to India that in 1974 had exploded a nuclear device—they called it a PNE, peaceful nuclear explosion, but a bomb is a bomb is a bomb by any other name and could be used for other purposes than peaceful nuclear explosive capacity—they wanted us to ship more fuel to them.

That is where we got into a great misunderstanding about what our original agreement was with India. We debated some long, hard, tough hours on this floor about whether we would make that shipment to India. When the shipment was approved, I felt we violated our own precepts just established in 1978, then under the Nuclear Nonproliferation Act. I thought those precepts that we had set forth for our leadership position in the world were being violated.

So the point is that not understanding thoroughly the agreement, insisting on what we really meant, and not getting their agreement to it sours our relations with India to this day.

I just do not want to see a similar situation with misunderstandings going in that might lead to souring the relationships, our budding relationship, and I hope, our expanding relationship with the People's Republic of China.

Mr. COHEN. My response to a question posed by the Senator from Alaska perhaps conveyed slightly erroneous information regarding the time the vote occurred on this particular joint resolution, Senate Joint Resolution 238. The previous night we had been in session until roughly 11 o'clock in the evening following an all-day session. This measure was brought up the first thing the next morning by the two leaders about 9:30 or 10 o'clock that morning.

So it did not occur at midnight. It was going to occur apparently at midnight. They postponed it until the first thing the next morning when there were a scant amount of people on the Senate floor.

Mr. GLENN. If the Senator will yield there, I am not saying there was skullduggery afoot here on the committee. Far be it from me to accuse the committee or people on the committee of what happened here at that time. But I know there were some very drastic misunderstandings. I will put it this way. Our Cloakroom on the Democratic side says the call went out at 11:23 a.m., 2 days earlier notifying everybody on the hotline.

There had been some work going on in our office. Maybe we did not get the word. Senator MOYNIHAN said his office did not get the word. The Senator from Maine told me his office did not get the word from the Republican side. Maybe something happened to our communications system. But people that were leading this knew very well that some of us were interested in this and didn't contact us.

I say in the past when something like this has been about to come up I personally notified the people I knew or people on the other side of the issue. That is just a matter of courtesy here. I thought that where we knew this was an important matter as it is, where we had very strong thoughts and legislation actually proposed, I know the hotlines are supposed to do the job for us around here. But in that case they apparently failed us. I did not like that being brought up on a voice vote with almost no one present. I agree very much with the Senator from Maine.

Mr. MURKOWSKI. I wonder if the chairman of the committee might respond. I know the Senator has been very active within the committee.

Madam President, there were 2 full days of hearings in the Foreign Relations Committee on this matter, Senate Joint Resolution 238. There was also a classified briefing. To suggest that there was anything but deliberations within the committee I think is an incorrect assumption.

The Senate Joint Resolution was voted out 14 to 3, which certainly indicates overwhelming support for the action.

I think we can discuss this at greater length, and we may well do that, but I think it is fair to say that Senate Joint Resolution 238 does require the President to certify that the arrangements are designed to be effective in ensuring that the U.S. nuclear exports are used solely, and I emphasize solely, for their intended purpose.

The language is very clear. This serves the same purpose as the amendment proposed by my colleague from Ohio without basically killing the amendment. That is what I am inclined to think is going to happen if he prevails.

For these reasons, it is my intent to urge the Senate to defeat the amendment.

I yield to my colleague from Washington, if I have the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I would like to make a couple of clarifications.

The Senator is quite correct, there were 2 full days of hearings held before the Senate Foreign Relations Committee. That, in itself, ought to tell the other Members that this was considered to be a serious matter.

There was a classified briefing, and that, too, is a very serious matter. Frankly, there was some leakage of information that occurred on this issue which could very well have jeopardized some individuals, and which I thought was really not in keeping with the Senate's obligation in this particular matter.

There were 2 days of hearings and the classified briefing, very sufficient consideration given by the Senate Foreign Relations Committee. The insufficiency that comes about is the insufficiency of notice of Members of the Senate who wanted to debate this, for which we must accept some measure of responsibility ourselves. No one put a hold on the joint resolution.

As a result, it was slipped through by a unanimous-consent agreement arranged with the two leaders with very little in the way of advance notice.

The notice came in the morning. It did not occur at midnight, but it came the following morning after a very late session in the Senate.

There were many of us who felt that, because we had expressed interest before the committee, we would have the chance to express the same interest here on the floor if for no other reason than not only to praise the work done by the committee but to put the leadership of the Chinese and others on notice that we were greatly concerned about the issue, greatly concerned enough to want to debate it for perhaps a day or less. At least to clarify the concern that Members had about the remaining ambiguity that existed in the nature of the agreement and in the nature of the understanding accompanying the agreement. That is the complaint.

We are at fault ourselves for not having put a hold on the bill. We ought to admit that. It was not the Cloakroom's fault. It was not the hot line's fault. It was our fault for not putting a hold on the bill, and we ought to accept that.

Mr. GLENN. That is correct.

Madam President, let me respond to the committee action and my distinguished colleague's comment, that the committee insisted on having the word "effective" in there.

Let me ask him, if I might, did the committee define what would be "effective"? Did they set down the criteria of what "effective" means in this case?

Mr. MURKOWSKI. I am sorry, I did not know the question was addressed to me.

Mr. GLENN. I will restate the question. The Senator made a good point that the committee took this up, considered it at some length and had briefings on it. I had the same classified briefings that the committee had, so I am aware of what was discussed in those.

The wording that was used was that it would be "effective." How does the committee define "effective"? What are the criteria?

Mr. MURKOWSKI. I do not think there is a definition of expressing a judgment. Obviously, it would be what is in the interest of our national security. As a consequence, to attempt to spell out mechanical guidelines or parameters by which the President would make this judgment would basically take the responsibility away from the President and disallow him the opportunity to make an evaluation and put it into the hands of the Congress. That is what we have done here. What we are proposing is to give the President that authority as we give him authority to make other judgments on behalf of the national interest.

What is essentially equivalent is, I think, what is in your amendment.

Mr. GLENN. What I said in my amendment is that the IAEA safeguards would be there. That is very specifically spelled out and is considered the norm for the whole world, for everyone involved in nuclear trade. IAEA safeguards have been the norm.

Mr. MURKOWSKI. I might refer my colleague to that page of the amendment which states, "Inspection is essentially the equivalent."

Mr. GLENN. Essentially equivalent to IAEA safeguards is what it is referring to there.

Mr. MURKOWSKI. Does my colleague not think that the office of the President can appropriately interpret just what Senate Joint Resolution 238 is all about?

Mr. GLENN. Let me respond by saying that we have three centers of power in our form of Government. We do not turn everything over to the President. We do not make him a dictator. This is not a monarchy. We make our laws here and interpret those laws. We have them spelled out. We try to make a legislative history to spell them out as completely as we can so that the executive branch can then administer those laws and execute those laws with the intent of the Congress. We are the ones who represent the people here.

We would not leave it up to the President, just to say to him, "You put on whatever taxes you think are necessary, or you call off whatever taxes you think are unnecessary. You do whatever you want with regard to the military, Mr. President, because we know you are infallible in your judgments."

We do not do that here. Neither do we turn over our nuclear policy to him. We passed the Nuclear Non-Proliferation Act in this body to spell out what the President would do.

We do that all the time. We define the role of the President in this and what is expected in him carrying it out. That is what we do in this particular case.

We do not want to leave it so vague that any agreement where the word "effective" is used is acceptable. It would be much better to me if we had it so that the President would determine it as we defined with either the IAEA safeguards or their equivalency.

Mr. MURKOWSKI. I think that is a basic difference in what the committee has and what is at issue here today. It varies with the position of my colleague from Ohio, and specifically on the question of whether Senate Joint Resolution 238, as written, addresses the issue adequately by allowing the President to have the flexibility of foreign policy in this area, which represents an application of our foreign policy which traditionally has been a function of the office of the Presidency, and allows his judgment to prevail.

While I respect the opinion of my friend from Ohio, I personally take issue along with a majority of the committee that indeed the President has the obligation in many areas where policies and authorities are given to the President. This is just another case of authority being given to the President and the President dealing with it accordingly. The other alternative is the suggestion of my friend from Ohio which would mandate the provisions and take away the flexibility of the President. With all due respect, that is where we differ.

Mr. GLENN. Will the Senator yield for a question?

Mr. MURKOWSKI. I shall be happy to yield.

Mr. GLENN. Would the Senator accept an arms control agreement with the Soviets with no verification provisions except for the certification by the President that the arrangements he negotiates will be effective, without any further Senate approval of such an agreement?

Mr. MURKOWSKI. Of course not, Mr. President. That is not the question here.

Mr. GLENN. Mr. President, it is exactly the question.

Mr. MURKOWSKI. I think not. I think our relationship is entirely different. Obviously, the momentum has been generated with the People's Republic of China. It has been substantial and to suggest that there is a similarity between our relationship with the Soviet Union and that with the People's Republic of China—I really do not feel that it deserves debate at this time.

Mr. GLENN. Mr. President, I think it does deserve debate. But I think it is about the same. In fact, in some ways, it is worse, because we have a long history of dealing with the Soviet Union on arms control. We know what to expect. With the People's Republic of China on this matter of nuclear agreements, up until a year ago, their policy was to proliferate with the non-nuclear states of the world and they have stated that as a policy. To ask them to adhere at least to the equivalent of safeguards on materials and equipment and technology that we send out to them is just very prudent.

Mr. McCLURE. Mr. President, I approach this subject with some mixed feeling. Here we are, on the 9th day of December, supposed to be the last week of our session; at least, we are being told that it is, or that we hope it will be. I guess realism says it may not occur by Friday of this week. On last Friday, on several occasions, the Senate was put on notice that this matter would be before the Senate this morning. We got here—I have been here since the hour of 11 a.m., when this matter came up. It is difficult to get the responsible parties to

the floor to debate the issue. I say that in spite of the fact that the debate has been going on for 3 hours already, but it is pretty largely—it is more than monolog, but scarcely more than dialog.

That is all very interesting and it is a very important subject. I do not denigrate the rights or the feelings of any Member who has brought it to the floor here today, because I think it does come out of the surprise that many felt, that this matter went through in the Senate Foreign Relations Committee; the resolution was passed on a voice vote. I suppose the Senate is now paying the price of that action having been taken.

I particularly appreciate the distinguished Senator from Maine making the statement he did a moment ago—perhaps we should all have put holds on that matter when it came up and then we would have had the debate at that time rather than postponing the debate until now.

I also want to assure the staff of the respective cloakrooms that so far as I can tell, the staff dealt with this in an appropriate manner. Under the rules of the Senate, the practice is, at least on this side of the aisle, that matter had been reported from the Foreign Relations Committee by a vote of 14 to 3, which by some standards, at least, would have seemed less controversial than others had felt; it had been on the calendar for 6 days. Nobody notified the cloakroom that they wished to speak on the subject, let alone debate it. So it was not at all unusual, under those circumstances, that at the time of the calling of the calendar, it would have been cleared by the leadership on both sides.

I am sure the distinguished Senator from Indiana, the chairman of the Foreign Relations Committee [Mr. LUGAR], had been indicating that it had been cleared by the committee by that kind of vote and, therefore, ought to be considered expeditiously on the floor of the Senate.

But it is a controversial issue. The Senator from Maine has referred to the trip that a number of us made to a number of places, including the People's Republic of China, and that at each meeting, when we were meeting with responsible officials of that Government, they were put on notice that this matter was controversial in the United States, that it would be debated in the United States Senate, that certainly it was a closed question, in my mind. I stated in each instance that I had the opportunity to do so that while I favored the agreement—and I do favor the agreement—there are many in our country and in this body who do not, and because they do not favor the agreement or they think it does not have some of the requirements that should be stated, it would be debated.

I agree with the statement of the Senator from Alaska that the Foreign Relations Committee has dealt responsibly with this matter and Senate Joint Resolution 238, that was adopted by the Senate by voice vote, in my judgment, goes at least 90 percent in the direction of requiring the kind of appropriate actions by our Government to guarantee, as far as it is possible to guarantee, the security of this arrangement.

Mr. President, we have certainly much to talk about. I know the Senator from New York had indicated earlier that he had been waiting for months for the opportunity to bash China and suitably did so in his remarks this morning. I do not say it is not related to the subject matter of this agreement. It is, in a tangential way, at least, an important consideration. Maybe we ought at some time to debate whether or not we should have any kind of relationship with the People's Republic of China and whether or not we should have extended recognition of that Government.

But we have. The question of their conduct in the United Nations is a matter of concern to a great many of us, just as is our relationship to the United Nations a matter of great concern to many of us.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. GLENN. Let me make very clear something I should have made clear at the outset. I am not against having this agreement with the People's Republic of China. I favor it. I want to expand our relationship. I lived in China right after World War II and I have had a tremendous interest in that country and its development ever since that time, all the things that occurred in between. I want to see this agreement go through, but with the proper basis and the proper understanding on both sides that we understand and they understand so we cannot have a repeat of the Indian misunderstanding that sours our relationship to this day.

Mr. McCLURE. Mr. President, I understand the position of the Senator from Ohio. I heard him make the same statement earlier today, and I do not question his motive at all in that regard. I accept that on face value and upon his word.

I was one of those who did appear before the Senate Foreign Relations Committee in their hearings and testify in favor of the agreement. I say that even though I testified before they took their action in reporting out this resolution. The resolution not only approved the agreement, but went further to reestablish some conditions and requirements upon our President in regard to the agreement. But I think that in spite of the fact that this debate has been going on for over a year, it is time for us as a Senate to do what was done in the adoption of Senate Joint Resolution 238, affirm our support for our Government's policies. With the appropriate conditions as established in Senate Joint Resolution 238, I do not think it is necessary to go further.

I do not believe that the debate is important. I do believe it is important for the People's Republic of China to hear it and to understand that this body is divided on that issue and that this body is going to watch the development of the relationship of nuclear and other matters very carefully and that, indeed, while we are not advocating the abrogation of our recognition of the People's Republic of China at this time, that is something which is in the minds of at least some—not of this Senator, but in the minds of some—and this nuclear nonproliferation question is a troubling question in the minds of a larger number. Therefore, it is important for them to hear that we are concerned about that relationship. I think I can understand some of the reasons for their reluctance. I have heard it suggested that we have better arrangements with other nations, and indeed we do. The other nonweapons nations have more restrictive agreements than we have with weapons nations.

It has been suggested that somehow we ought to do as much here as we require of, say, Brazil or Pakistan. The situation is different, I would submit. We do have a different kind of arrangement with the Government of the United Kingdom, very similar to the kind of arrangement we have here. It has been suggested that the United Kingdom has a tighter relation through EURATOM. As a result, therefore, we can depend upon that relationship. Well, I would say that while China is not a member of EURATOM, they have become a member of the IAEA. They joined that organization, the International Atomic Energy Agency, in January 1984. In October 1985, they were made a member of the board of directors of that organization. They have submitted themselves to the safeguards that are required by that organization in their relationships with nonweapons countries.

Yes, I am concerned as to whether or not trade or commerce or technology that may be transferred would be transferrable to the weapons sphere. And there is a difficult line to draw between the peaceful, civilian uses of nuclear power and nuclear materials and the weapons applications of technologies and materials. But we do deal with the weapons states in a way that we do not deal with others, and what China has demanded of us in the agreement so far is that we do not single them out to demand something

of them that we do not demand of other nuclear weapons states, a matter of pride, if you will—some call it face—that they not be singled out for special treatment by the United States.

I can understand the concerns of many people in this country who say, "But they should be treated differently. They are a communist country. They have not been friendly to the United States." As my friend from New York pointed out in his rather long and eloquent speech, they vote against us in the United Nations all the time. And the others, with whom we have relationships in the nuclear trade are perhaps friendlier to us. But we are evolving a more friendly relationship with the People's Republic of China, and I think it is important for us not to stifle that movement. It is clear to me that the significant political and security gains the United States will achieve by endorsing this historic agreement far outweigh any of the publicized potential risks.

Are they moving more closely to us in position on these matters? I think it is important for us to look at the record, because the Chinese Premier in January 1984 in a toast at the White House said, "We do not engage in nuclear proliferation ourselves, nor do we help other countries to develop nuclear weapons," In May 1984, Premier Chou said in his Government report delivered at the sixth National People's Congress, "But we by no means favor proliferation, nor do we engage in such proliferation by helping other countries develop nuclear weapons." In September 1984, the Minister of the Chinese Ministry of Nuclear Industry said to the General Conference of the IAEA that China will "take a discreet and responsible attitude so as to ensure that nuclear cooperation is solely for peaceful purposes." These statements were reaffirmed by China at the 1985 Geneva conference.

I recognize that words are easy to utter and deeds are harder to come by and perhaps more accurate measurements, but if you look at their conduct in their negotiations with other countries and the application of safeguards to the civilian trade between China and other nonweapons countries, I think you would find that, indeed, their actions comply with the words as stated in their most recent statements over the last 18 months.

Mr. President, I think we are making a great deal of progress in our relationship with China on this precise point, but I agree with my friend from Maine that they need to be put on notice that there is a debate in this country about this issue and just as we did in our meetings with them try to notify them that that debate was real. I hope they will believe from the debate here on the floor of the Senate that this debate is real.

I join my colleagues in opposing this amendment, and I hope that a motion to table will be offered and will be successful. But in spite of that, and if that is the outcome, I want the Government of the People's Republic of China and the leaders in that Government to understand that we are very serious about this matter and that while we may resolve it in that manner today—and I hope we will—it does not mean that they must be less attentive to the concerns of the people of the United States as expressed in the debate and the actions here.

If, on the other hand, the motion to table fails, if by any chance this amendment should be adopted, it would be my hope that it be dropped in conference. But if not, if it should become the law of the land, I would hope, I would express the devout hope, that it would not have the result which some people are suggesting that it does, that it would in effect abrogate the agreement and require renegotiation of the agreement.

That is a very real possibility, Mr. President, I hope it is not a reality in the event that this should be adopted. I notice the Senator from Ohio has indicated that he believes it would not require renegotiation, it would not abrogate the agreement, but there are others who say quite the contrary. And if their advice is correct, it would be a devastating blow to the relationships that are so fragile, that are so important, and that are gaining for the peace and security of the world some additional, some additional safeguards in nuclear proliferation.

Let me underscore that last point in conclusion, Mr. President. China does not have to do business with the United States in nuclear trade and technology. They can deal with other countries in the world in a way that would be devastating to the nonproliferation goals of this country if they choose to do so. The fact that they are not, the fact that they are moving in their public statements to the position we have long held should be viewed as a success of our policy and as a result of our conversations with them. If we decide that we do not want to have that relationship, if we break off that relationship and those talks, I would say that the peace and security of the United States and the advancement of our nonproliferation goals would be severely jeopardized. Mr. President, I hope this amendment is not agreed to.

Mr. COCHRAN. Mr. President, I rise in opposition to the Glenn amendment. I urge Senators to recognize before this vote that the Senate Foreign Relations Committee has already acted to set in process the carrying out of the United States-China agreement. The amendment in my judgment would require us to write into the relationship requirements that are not contemplated by the Non-Proliferation Treaty. The United States-China agreement already provides for arrangements that are designed to ensure that any U.S. exports are used for peaceful purposes. I am afraid, if the amendment is agreed to, it would cause a devastating setback in United States-China relations. We made a great deal of progress with the Chinese in the nonproliferation area. Senators should know that there is a provision in the agreement relating to visits to facilities, for exchanges of information, on national accounting and control systems, to help ensure that any U.S. exports under the agreement would be used for peaceful purposes.

The House is going to act tomorrow on Senate Joint Resolution 238, I understand.

It would really cause an unraveling to take place of this entire arrangement if the Senate would vote today in support of this amendment. What the amendment does is to preclude the use of any funds for licensing or export approvals under the agreement unless arrangements between the two nations are made to impose IAEA safeguards that are the same as if we were dealing with a nonnuclear state.

I sympathize with the concerns of the Senator that we do everything in our power consistent with our national interests to prevent the spread of nuclear weapon technology and capabilities, and I certainly support that goal. But I hope that the Senate will not approve this amendment, because I am afraid it would not have the intended effect and would cause irreparable harm to our relationship with China.

Mr. EVANS. Mr. President, I think this has been a good and useful debate today, and I join those who suggest that we should have had this debate prior to a final vote on Senate Joint Resolution 238. But we are where we are.

I will take just a couple of moments to summarize, and then it will be my intent to move to table the amendment of the distinguished Senator from Ohio.

Before I do that, however, I should respect his unquestioned expertise and leadership in this field. He has been a student of nuclear proliferation, and that is to the great good of this Nation and this body. So it was with unusual attention that we in the Foreign Relations Committee listened to his testimony when he appeared before the committee on essentially the same subject. It was largely because of his testimony and that of the distinguished Senator from Idaho and others who appeared that the provisions in Senate Joint Resolution 238 were included.

We also were concerned, of course, about the effect of adding provisos to an agreement which had been reached and signed between the two nations.

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So we were very careful to bring into the consultations members of the administration. We felt that through the Foreign Relations Committee we had done the job of responding to the concerns and the needs of the Senator from Ohio and had done so without bruising the relationships between the United States and the People's Republic of China.

I speak today on behalf of the chairman of the Foreign Relations Committee as well as myself. He, unfortunately, cannot be here at this time but feels very strongly that we would bruise the relationships with the People's Republic of China if we were to take the action suggested by this amendment.

The Senator from Ohio questioned what the word "effective" meant. I suppose the same could be asked what is meant in his amendment by the term "essentially equivalent." We can all argue a little about the extent of the word "essentially" and the word "effective." I think "effective" has a pretty clear meaning, the dictionary meaning. It means just that: that it is something that will be carried out, and will be carried out with the intent and with the purposes of those who had signed the agreement, to make the things happen that they want to have happen.

There are three bases of power in this Government, the three branches of Government. Congress should have and cannot give up its constitutional right to comment and to provide law, and in doing so to give the administration their marching orders. But foreign policy, as some of my colleagues have said, is dramatically of Presidential leadership.

I think that in this case we have come down to a fairly simple question. It takes two to reach an agreement. To reach an agreement as sensitive as this one requires some delicate crafting. There is some give and some take. We probably did not get everything in this agreement that we wanted, and neither did the Chinese. Once that agreement had been reached, it was then submitted to Congress for its consideration.

I believe that the Foreign Relations Committee has carefully considered and modified the agreement, through Senate Joint Resolution 238, in an appropriate way to protect America's interests, to respond to the concerns of the Senator from Ohio, and to do so without potentially bruising their relationships with the People's Republic of China. I think that is the responsible and appropriate way for the Senate and Congress to deal with an agreement such as this, in making such modifications in it as they desire.

Mrs. KASSEBAUM. Mr. President, Senator GLENN has raised an important issue with this amendment. One that I consider particularly significant. However, I also consider the leadership's effort to keep amendments off the continuing resolution, an important one. Therefore, while I continue to support Senator GLENN's effort, I will support a tabling motion.

I was one of the original cosponsors of Senator GLENN's bill, S. 1754, to require that before this country licenses any nuclear exports to China, the president would have to certify that the key questions have been settled with the Chinese. The key questions, in my view, were the lack of a provision for safeguards on United States exports and no written statement by the Chinese of their nuclear nonproliferation policy.

I agree with my colleague from Ohio on the flaws in Senate Joint Resolution 238, the compromise resolution approving the agreement with the Senate passed by a voice vote on November 21. This compromise fell far short of addressing the cloud of unresolved doubts which continues to hang over the agreement.

I voted against this compromise in committee because it did not adequately address my concerns about safeguards. Nor did it adequately address my concerns about China's nuclear nonproliferation policy.

I welcome our growing trade relationship with the People's Republic of China. I also welcome the improvements that have occurred in China's nonproliferation policy over the past few years, including joining the IAEA.

But even when we are dealing with friendly governments, I think it is critical that we apply objective and strict standards to cooperation agreements in this very important area to ensure that any nuclear material, facilities or components provided by the United States be used solely for peaceful purposes.

As Senator GLENN has pointed out, the United States-China agreement contains no provision for verifying peaceful uses of our exported nuclear materials or equipment. Instead the agreement calls for discussions leading to "visits" and "exchanges of information." I also agree that the recent passage of Senate Joint Resolution 238 did not fix this problem. It merely stated that the President must certify that the verification arrangements are "effective" without providing a standard.

I do not think that it is pushing the Chinese too hard if we ask for safeguards equivalent to IAEA safeguards to apply to United States nuclear exports to China. The Chinese have already announced that they will make a voluntary offer to the IAEA to allow safeguards on some of their nuclear facilities. The Chinese have also signed nuclear trade agreements with Japan, Argentina, and Brazil in which IAEA safeguards on all exported items are required.

In our future discussions with the Chinese on this issue, provided for in the agreement, I hope that both our negotiators and the Chinese recognize the wisdom of applying safeguards similar to those equivalent to IAEA safeguards. Neither we nor the Chinese will benefit from future misunderstandings which can potentially cause lasting harm to our relationship and to the nonproliferation regime. We may already be sending a dangerous signal to the rest of the world that we consider IAEA safeguards too restrictive.

I also think it is very important that the Chinese unambiguously clarify their nonproliferation policy and their interpretation of the nuclear cooperation agreement. In my view, this is of particular importance given the Chinese record on nonproliferation. As early as last year, after the agreement was originally signed, Chinese technical personnel were reportedly discovered at the clandestine Pakistani nuclear enrichment plant at Kahuta. All other nuclear weapon states and the 125 nonweapon states that have signed the Nonproliferation Treaty have, in effect, issued such statements.

I do not understand claims that clarifying a 30-year agreement will undermine our relationship with the People's Republic of China. Cooperation and good relations can only be strengthened between the two sides if there is a clear understanding of agreements.

As this agreement now stands, the State Department has provided us a confidential summary of discussions which has not been formally endorsed by the Chinese Senate Joint Resolution 238 only requires that the President certify that the People's Republic of China has provided additional information concerning its nuclear nonproliferation policy.

In our future discussions, both the Chinese and the United States should continue efforts to ensure that there is a clear understanding of the Chinese nonproliferation policy provided by the Chinese. To allow ambiguity on China's nuclear policy to slip by unattended can only sow the seeds for damaging United States-China relations in the future. This is an outcome we and the Chinese must continue to work hard to avoid.

Mr. EVANS. Mr. President, many others have spoken on elements of this debate, so at this time I move to table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I ask for the yeas and nays on a motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. LUGAR], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 28, nays 59, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—28

Andrews	Gramm	Murkowski
Chafee	Hatch	Pell
Cochran	Hatfield	Pressler
Cranston	Heinz	Simpson
Dodd	Johnston	Stafford
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Evans	Mathias	Zorinsky
Garn	McClure	
Gorton	McConnell	

NAYS—59

Abdnor	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baucus	Gore	Nickles
Bentsen	Grassley	Nunn
Biden	Harkin	Packwood
Bingaman	Hart	Proxmire
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Helms	Rockefeller
Bumpers	Hollings	Roth
Burdick	Humphrey	Rudman
Byrd	Kennedy	Sarbanes
Cohen	Kerry	Sasser
D'Amato	Lautenberg	Thurmond
Danforth	Levin	Trible
Denton	Long	Wallop
Dixon	Matsunaga	Warner
Eagleton	Mattingly	Weicker
Exon	Melcher	Wilson
Ford	Metzenbaum	

NOT VOTING—13

Chiles	Inouye	Simon
DeConcini	Laxalt	Specter
Durenberger	Leahy	Stennis
East	Lugar	
Hawkins	Riegle	

So the motion to lay on the table amendment (No. 1347) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, the pending amendment raises serious questions that need to be discussed in some detail and at some length, because it affects, in a very large measure, the future of our relationship with the People's Republic of China. It has serious implications for the management of nuclear development in the world. It will affect, in a material way, the trade of the United States with the People's Republic of China. So there are many reasons why this amendment needs to be discussed.

Mr. President, I ask unanimous consent that I can yield to the majority leader without losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, if we could have order, first of all, I share the views just expressed by the distinguished Senator from Maryland in reference to this amendment. Second, I noted the chairman of the Appropriations Committee was on the floor. I was trying to get some indication of what his plans were for the remainder of the day because I have had many requests on both sides of the aisle from Members who had other plans later this afternoon and this evening.

It was my hope that we were getting fairly close to completing action on this bill Friday, but now I see the amendments piling up and piling up. None of them are really relevant or germane to the continuing resolution. But if I could be permitted by unanimous consent to ask the distinguished Chairman of the committee what his plans are on this particular legislation, it would be helpful.

Mr. HATFIELD. Mr. President, I am happy to respond to the majority leader's inquiry.

Mr. President, the best we can ascertain now, the dam has been pierced. To draw a rough analogy, the dam has been pierced, and we are about ready to be inundated by every possible amendent dealing with authorizations under the jurisdiction of many committees of the Senate.

There seems to be a growing feeling that this is the last chance to get policy legislation, appropriation, sense of the Senate, et cetera. I want to emphasize again we are wasting our time. We are absolutely wasting our time on all of these. I do not care what the amendment is. It is not going to go anywhere.

Our current continuing resolution expires Thursday midnight. We are going to be on this continuing resolution now before the Senate probably through the day, through tomorrow, possibly into Wednesday if all the amendments that we are aware of are offered and rollcalls are requested.

Obviously we cannot go to conference, have a product back from the House, and a conference report on this continuing resolution that is before the Senate today, by Thursday midnight. It is just not possible. So consequently what we are probably going to face is that we will have a fourth continuing resolution sent over from the House as a short, brief, stripped-down continuing resolution that will bridge us over until sometime in January or maybe the first of February.

So, again, I say to my colleagues with all the objectivity I can that if each one of you in effect offers an amendment that deals with legislation which is subject to a point of order here, and if not challenged here, would be subject to a point of order in the House of Representatives, you are wasting our time. I cannot put it more bluntly. You are wasting our time.

We could have this put together and put through by today sometime. Conceivably we could have gone to conference tomorrow, had one other option before us of working out an agreement with the White House to get them to sign this continuing resolution, have the continuing resolution conference report back and acted upon by both the House and the Senate by Thursday night, and it would be for the remaining fiscal year. But now we are faced with the situation where it is going to be a fourth continuing resolution.

Mr. GOLDWATER. Will the Senator yield?

On that point, I am glad the Senator from Oregon is here. We just met briefly outside. There are continuing resolution funds prescribed by the subcommittee dealing with military affairs. These funds total about $7.3 billion over and above what we have authorized. While it does not put the authorization back above what the President wanted, far from it because we knocked $20 billion out of the bill. But this is $7.3 billion that we have never heard a thing about.

We know some of the items, have heard most of the items, and we have had a meeting for 2 hours by my full Committee on Armed Services, which just concluded, trying to find out how and where we might yield in that list of things that is being requested by the subcommittee so that we could be able to come to the floor and say that we are in agreement.

But I have to say to my good friend from Oregon, and to the majority leader, that right now we are working on our last go. We have until 4 o'clock to do it. If we do not reach it by 4 o'clock, you are going to be in for one hell of a long fight on this floor.

Mr. HATFIELD. Mr. President, could I add one addendum? I forgot to mention not only does this constitute a potential extended debate, but I know of two amendments of which there has been an assurance there will be a filibuster on both of those amendments if either or both are offered on the continuing resolution.

So those are just some of the bits and pieces of the situation that I can offer at this time. These things can all blow out of the water at any moment in terms of people deciding not to offer them. But that is the situation.

Mr. DOLE. Mr. President, it is very encouraging. [Laughter.]

I think we just have to make a judgment. I cannot do it for the entire Senate. But if we want to complete our work this week, or early next week, then sooner or later we are going to have to decide to pass a continuing resolution or make it sort of a Christmas tree, and load up everything we can think of, every foreign policy, defense initiative or whatever. I know there are abortion amendments, and I think I counted six or eight foreign policy, and seven or eight defense amendments, some of which may be appropriate. But many are legislation.

I guess at the point we decide we want to go home we will start tabling all of the amendments. Apparently we have not reached that point.

It is only Monday. We only have the farm bill, the farm credit bill, debt ceiling, reconciliation, and this measure to complete. So maybe we can afford to waste a couple of days debating these matters that the chairman advises is just a waste of time.

I know they are very important. I do not want to be misunderstood. The amendment just considered is a very important amendment. But does it belong on the continuing resolution? Will the next amendment if there is another amendment belong on the continuing resolution? I just suggest that there is a glimmer of hope that we might adjourn this Friday or Saturday. That glimmer will become either brighter or less bright depending on the will of the Senate.

I hope that the distinguished chairman would push on today. Maybe there will be a recognition after a while that we ought to let you go to conference. I know we have a problem in the authorization and the appropriations area of defense. But there is a chance that could be resolved. At least I understand based on the chairman's statement it is a possibility.

Mr. GOLDWATER. If the Senator will yield, we are not basically arguing about money. As chairman of the Armed Services Committee, when anybody offers me a little more money, I am going to grab it. We are arguing more about jurisdiction, about whether we have reached the point in this body when the Appropriations Committee, with all due respect to my friend, has the authority to authorize—and I think that day has very near reached us. If that is the case, I see no need for standing committees.

I see no need to have an Armed Services Committee with 18 members that meets probably as regularly or more regularly than any other committee except Appropriations. That is the point that we are arguing about in our committee. It is not whether we are going to cut 100 tanks out or buy 50 less F-16's or so forth. It is whether or not we have reached the point that we no longer have authority under any committee to authorize, and the Appropriations Committee therefore has the power to write bills that we will decide on.

I think it is very important. I do not think it is something we can sort of laugh off. I do not think it is something the Parliamentarian can decide. I think that the Parliamentarian would probably rule in the favor of the Appropriations Committee. But, again, is that correct? Are we here to do our job as committee members, or are we here to do the job—with all due respect and a good job of the Senator—on the Appropriations Committee?

That is what we are arguing about here.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. HATFIELD. Mr. President, will the leader yield for just a moment?

Mr. DOLE. Yes.

Mr. HATFIELD. I would only like to say if the Senator from Arizona wishes to raise that question, No. 1, the Appropriations Committee never sought to be the authorizing committee. I would hope he would consider his amendment to apply to all authorizing committees as relates to appropriations bills, not just the armed services but all legislative committees.

Second, I hope it would then be considered that it would preclude us from responding to those committees which have come to us and asked us on the Appropriations Committee on many occasions to wrap their authorizing legislation into an appropriations bill because they have not been able to move it from their committee.

I would remind the Senate that one year we adopted the entire foreign operations authorization bill from the Senate Foreign Relations Committee at their request on an appropriations measure.

Mr. STEVENS. Mr. President, will the Senator yield,

Mr. DOLE. I yield.

Mr. STEVENS. My good friend from Arizona has a difficult problem and I realize the scope of that problem with regard to the defense appropriations bill, which is in this continuing resolution.

But the difficulty is not just the jurisdiction of a legislative committee. The difficulty is the differing application of the budget rules to the legislation from the authorizing committee as compared to the application of those same rules to an appropriations bill.

In connection with the defense bill, for instance, the Budget Committee does not score outlays against the authorization committee. That same bill comes to our committee and they do score outlays against the appropriations subcommittee. There is over $3 billion authorized by my good friend from Arizona and his committee in the authorization bill that cannot be in the appropriations bill unless it is moved to accounts that have lesser outlay impact for 1985.

The simple fact is we could not comply with the authorization bill because of the budget rules. We have had to create accounts. We have had to move money into other segments of the same service, the same function, where the outlay rates are different. But the moneys are there. The functions are there. The Department of Defense can carry out the defense of this country under the appropriations bill.

Should the authorization committee now say that the Appropriations Committee cannot do this, the loser is the defense of our country. At least $3 billion falls automatically. In addition to that, the House has not allowed some of the moneys in the authorization bill. There is more than $7 billion that we are talking about in terms of technicalities, not in terms of whether the money is needed for defense.

I urge my friend to keep in mind the problems of the Budget Act as that act applies to the appropriations process which has not been applied yet to the legislative committees. I think if we are going to have some reform around here we ought to have a level playing field as far as the authorizing committees and the Appropriations Committee are concerned in terms of the budget process.

Mr. KENNEDY. Will the Senator from Maryland yield?

Mr. MATHIAS. I have yielded to the majority leader.

Mr. DOLE. I yield.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I want to rise in support of the statement that has been made by the Senator from Arizona on what I think is a

very basic and fundamental institutional question. That is the extent that we are going to permit appropriations in the various areas where there is not authorization. I would not want my silence in listening to my good friend from Alaska to give the impression to this body that all of the action that was taken by the Appropriations Committee was just moving about various accounts. There were some very substantial changes in priorities that were made by the Appropriations Committee, particularly on the issues of readiness, modernization, preparedness, flying time, ammunition, and other elements of modernization.

I do believe that we ought to have the opportunity, even with the time constraints if we must, to have a discussion as to what is going to be the understanding of this body on that particular issue.

I think the point that has been raised by the chairman of the Appropriations Committee, and that is the rule that you are not going to permit appropriations where there has not been authorization, makes good sense. That is something that we have to perhaps entertain in the final hours of this Congress.

Mr. President, we are in the final week or 10 days of this particular session. The actions which have been taken by the Appropriations Committee have exceeded by far any interpretation of minor adjustment to try and accommodate various accounts. I do think that the observation and the position that has been taken by the chairman of the Armed Services Committee is eminently sound so far as we are concerned as an institution. Otherwise, what is being done here will be replicated for just about all the other standing committees.

As the chairman of the Armed Services Committee has stated, those standing committees will be virtually irrelevant.

I hope that perhaps at sometime we will have an opportunity to discuss this further.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. KENNEDY. I do not have the floor.

Mr. HATFIELD. The majority leader provided that opportunity.

I will ask the Senator for his observation, to indicate that he will withhold his legislative proposal on Medicare and the cigarette tax from this legislation.

Mr. KENNEDY. If I may respond to the chairman, the reason for the Medicare amendment is because it goes into effect on January 1 unless we take action at this particular time. On any other amendment I will withhold. The only reason that I would offer that is because this is the only vehicle in order to defer a dramatic increase that will affect the senior citizens across this country. If it was not going into effect on January 1, I would not offer it. But this is, I think, the only way that we are going to be able to address that particular issue that is going to affect the well-being of 8 million Americans, senior citizens.

If the chairman of the committee will give us some satisfaction that we can at least consider this, the substance of that issue, that in some way not to have the automatic increase, I will be glad to work out something.

Mr. HATFIELD. The Senator from Massachusetts has indicated that the legislation on appropriations activities does tend to lead to dead ends. I will follow the thought of keeping the Appropriations Committee free from such matters.

I would also indicate further that I can remember when the chairman of the Judiciary Committee came to us and asked us to adopt the crime bill, the entire crime bill, on an appropriations bill. That was done by the action of the Senate.

I just hope that at some time we can get back to an appropriations activity only rather than having to accommodate these other committees that do not get their work done.

Mr. DOLE. Mr. President, I think it is fair to say while the chairman is still here that we are going to try to move ahead on this bill today and into the evening. Those of us who have to be gone this evening will be gone. That is going to be up to the chairman of the committee.

I hope that there might be some way to temporarily set aside the pending amendment to see if we could resolve some differences. Otherwise, we are going to be on this amendment, I assume, for the balance of the day or the balance of the week.

Mr. GLENN. Reserving the right to object, Mr. President——

Mr. DOLE. I did not make that request.

Mr. GLENN. I understand. We had a vote at the conclusion of the debate. I think it was 59 to 28. That is a conclusive expression of the will of the Senate. I would be happy to move that along by vitiating the order for yeas and nays which has been entered on this and going to a voice vote. But I would object to setting this aside for anything else.

Mr. MATHIAS. Mr. President, I think the position of the distinguished chairman of the Committee on Appropriations is very sound. This is a measure which is of great importance. It is important on its own merits, and it is important insofar as it has a bearing on the relationship between the United States and the People's Republic of China. I do not believe we have yet had nearly the extent of discussion that both aspects of this amendment deserve. So I think we can examine in some detail exactly what is involved in this amendment.

First, let me say, Mr. President, that I have great admiration for the Senator from Ohio and for the concern and interest and commitment that he has exhibited on all nuclear questions. He has made outstanding contributions to our consideration of nuclear issues. Several years ago, he proposed a series of amendments to the provisions of law with respect to the International Atomic Energy Agency, amendments which I was very happy to cosponsor. I thought they were very positive and helpful and had they been adopted in full, they would have contributed greatly toward tightening up the international atomic and nuclear procedures, keeping better track of the transactions in nuclear material, keeping better records, and making more effective inspections of nuclear facilities in various parts of the world, particularly in the Third World.

All of these suggestions made by the Senator from Ohio did then and do now deserve very serious and favorable consideration. But in the case of this amendment, Mr. President, I have to differ with him. I do that not on the basis of a mere passing acquaintance with this subject. I have had long and serious discussions about this nuclear agreement with the People's Republic of China with the responsible officials in the United States Department of State and with Chinese officials. I have concluded from these discussions that a great deal is at stake here.

In the first place, the Senator from Ohio is suggesting that we should, in essence, apply the standards of the International Atomic Energy Agency to all sales to the People's Republic of China. It is at this point that I think we have to bring common sense into play. We are not dealing with a Third World country which is a novice in the field of nuclear energy and nuclear science. We are not dealing with a Third World country that we suspect might have ambitions to become a nuclear weapons state. We are dealing with one of the recognized, proclaimed, published, admitted, notorious nuclear weapons nations.

China is a nuclear power. There are no bones about it, there is nothing clandestine about it. China has the nuclear bomb. We all know it. So what we are discussing here is not a system of inspections or safeguards which will prevent China from becoming a nuclear weapons state. They are already there. That is a fait accompli. Maybe we do not like it; maybe the Soviet Union does not like it. But it is that way. China is a nuclear weapons state; it is a nuclear power. Under those circumstances, we have to approach this transaction in a slightly different light

than if, in fact, China were not known to have the secret of the nuclear bomb.

Having said that, Mr. President, we have to look at what was done in negotiating this agreement. I can testify from personal observation that great care was exercised in the construction of this agreement with the People's Republic of China. It may not be the perfect agreement; it probably is not; but is is probably the best agreement that could be obtained under the circumstances. There were long delays in arriving at it; this was not a hasty agreement.

The United States interposed objections of a very serious nature, and refused to go forward with the negotiations at various points during the discussions on this subject between the United States and the People's Republic of China. The nature of those objections is still so sensitive that I do not think they are the proper subject of discussion in open dabate. But they were resolved. They were not swept under the table. The United States stood firm and those objections were resolved.

I think that this history of negotiation is worth reciting simply because it will reassure Senators that this was not a hastily constructed agreement. This was not something into which we rushed. It was not undertaken in an ill-advised or dangerous manner. It was done very deliberately, very carefully. At times, the reticence of the United States to go forward in the absence of some response from the People's Republic of China raised questions as to whether or not there would ever be a successful conclusion to the negotiations.

But the history of this negotiation shows that the People's Republic of China did, in fact, take a responsible attitude. It did respond to the concerns expressed by the United States. It did provide assurance that would be helpful in resolving those concerns. The net result of this whole negotiation was that the United States and the People's Republic of China did, in fact, reach an agreement.

I think it is unfortunate that this subject arises on this particular vehicle, because we are under obvious time pressure. Yet it would be my perception that there is no way in the world that the President of the United States, having authorized personally, while in China, the culmination of this agreement, could then turn around and sign a bill which includes in it language such as the Glenn amendment.

What we are doing if we pursue this amendment is simply to foredoom the bill before us to an early veto. I have no advice from the President on that subject. I do not pretend to read the President's mind. But it seems to me that would certainly be the consequence of adopting the Glenn language, language which is inconsistent with the solemn undertaking of both China and the United States with respect to nuclear sales in the future.

I think that the Senator from Ohio has already contributed in a positive way to the development of this agreement. He has emphasized the necessity for an understanding about the peaceful use of nuclear technology, about the application of United States export laws, about Chinese nonproliferation policies, and about the reservation of the right of consent on the part of the United States for reprocessing and enrichment procedures. The Senator from Ohio is to be thanked for that participation. But I think to go beyond that and to try to apply other restrictions which will cause the whole agreement to fall through will be not positive but will, in fact, be negative.

The reason I say that is because, of course, the United States is not the sole source of this equipment or this technology. Far from it. There are many nations in the world which are well advanced in the science of nuclear energy. Just for example, the Republic of France has an extraordinarily well-developed nuclear industry. They have a number of nuclear reactors scattered throughout France for the purpose of generating energy. They have breeder reactors. They have enrichment facilities. They have reprocessing facilities at LaHaye and other places. They have a vitrification plant in southern France for the process of storing nuclear wastes. So the French are not backward in this technology. I could mention other countries, but France comes to mind. And the French are also very actively in the market to sell nuclear technology and nuclear equipment.

I think we have to look at the consequences of adopting this amendment on the future course of Chinese nuclear science. We now have an agreement which provides the United States with a degree of influence. I think it would demean the People's Republic of China to say that we had control, but we have a degree of influence and we have certain very clear understandings which are set forth in the agreement in writing. Those understandings give us the ability to influence in a positive way the outlook of nuclear science in China in the coming years. This will be to the benefit of the Chinese people. It will be to the benefit of the American people. And that influence will be used in a way that will benefit the citizens of the entire world insofar as it leads to a restrained and disciplined development of nuclear science in China.

But if we adopt this amendment, the agreement then is jeopardized. And if in fact the agreement is stillborn, which I think is the likely result of adoption of this amendment, then very simply the Chinese will turn elsewhere. You cannot blame them. They have made a good-faith effort to purchase their nuclear supplies and needs from the United States; they have accepted limitations on their freedom of action as a result of the agreements that they have made with the United States. But if their tender to us is rejected by the Senate, or at least is so altered by the action of the Senate that it amounts to a rejection, then I think we can expect they will decide that they no longer wish to delay the implementation of their plans for nuclear development. They will decide that they have to go into the world market and they have to look for another seller, another vendor, and that will not be hard to find. I am sure that other nuclear nations will be very happy to accommodate them.

The Germans, the French, and many other countries are very anxious to sell nuclear equipment and nuclear technology. I would hope that they would make agreements as careful and as restrictive as the one that we have made with the People's Republic of China. But once we destroy the agreement that is in being, we will have no further power to influence that consequence. Once we have dismantled the agreement that is in place, we will be opting out of the picture. And whatever happens then will happen without our concurrence.

It may be that there will be some among us who will say, "Well, so be it. At least then if it goes badly the blame will not be on our shoulders. We can turn our backs on it with a good conscience because we had nothing to do with it."

Well, I do not take that view. It seems to me that by remaining on the scene, by remaining active participants, by using the benefit of our influence and our position as vendor, we can have a greater degree of restraining influence than by any other way. To go forward and adopt this amendment, knowing that it will in all likelihood destroy the agreement with the People's Republic of China, is in fact to ask for much greater trouble for the world on the subject of nuclear development in the People's Republic of China. We would do better to take the agreements that have been worked out with such care and such deliberation, and to move forward on the basis of the foundation that has already been carefully constructed.

These are complex subjects and I think they deserve full attention of the Senate. They have already had careful attention in the Committee on Foreign Relations. This subject has been discussed in the committee and the committee has required a package of certifications which I think, when they are fully understood, will allay

the concerns of Members of the Senate.

The Senator from Ohio has pointed to the vote on the tabling motion which is about 2 to 1 against tabling.

Under normal circumstances, I would agree with him that that was conclusive proof of the disposition by the Senate of this matter. But I inquire of Senators whether they are in fact familiar with the package of certifications which was enacted by the Committee on Foreign Relations after a vote of 14 to 3, and which provides additional assurance beyond that already negotiated by the Department of State with respect to this Chinese nuclear agreement.

Have Members of the Senate actually read those certifications? Are they in fact familiar with the certifications? I will not ask the Senator from Louisiana if he is familiar with them, nor the Senator from Mississippi whether he is familiar with them. But I think we could go around the Senate, and leaving those two distinguished Senators out, we could probably find a large proportion of those who voted "no" on the past rollcall who in fact did not know what is contained in the certifications required by the Committee on Foreign Relations. They may not even know that there were certifications required by the Committee on Foreign Relations. They may be totally ignorant of that.

If we have to stay here long enough so that Members have an opportunity to read all that, we have to stay here. That, of course, is one of the infirmities of trying to legislate on a matter of critical importance in the field of foreign relations, as well as a complex issue in nuclear technology transfer, while we are in fact dealing with appropriations, and while we are under a severe time constraint.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield for a question.

Mr. JOHNSTON. Can the Senator tell me what it is contemplated that we would be transferring to the People's Republic of China under this agreement?

Mr. MATHIAS. We are contemplating here the establishment of a relationship of vendor-vendee.

Mr. JOHNSTON. Of what items?

Mr. MATHIAS. Any number of different items in the field of nuclear technology, primarily for the development of nuclear energy facilities within the People's Republic of China.

Mr. JOHNSTON. Primarily water reactors, so-called pressurized water reactors? Is that the transfer technology?

Mr. MATHIAS. I think it is dangerous to enumerate the specific items, because I do not want to omit any. But we are looking at a broad range of equipment and technology that would lead the People's Republic of China to the development of an efficient system of generation of nuclear technology.

Mr. JOHNSTON. It is equipment for the generation of electricity from fission reactors. Is that fair to say?

Mr. MATHIAS. That is correct.

Mr. JOHNSTON. Are we the only source of that technology in the world?

Mr. MATHIAS. Certainly not. That is my point: that if we adopt the Glenn amendment, we will jeopardize the agreement with the People's Republic of China. They will say: "We tried to buy it from you, and we were willing to accept the safeguards that you imposed on us. You held us up a year, and we do not like what you ask of us, but we agreed to take it and we will live by our agreement. But if you won't do it and if you keep adding more conditions, we are going to go to France or to Germany, where perhaps they will sell it to us without this additional restraint."

So we are not the sole source of this. The position taken by the Senator from Louisiana is exactly right, and Senators have to understand that. All we are doing by adopting this amendment is putting on notice the nuclear energy industries of France, Germany, and other places that they have a potential customer, and a big one. I suspect that after the rollcall vote on the tabling motion, there are already transatlantic phone calls going to Paris and Bonn at this very moment saying: "Get ready, boys, get your salesman's kit out and start heading for Peking, because there is big business to be had out there. The Americans have just blown it."

That is what we will be doing. That is the primary thing we will be doing by adopting this amendment. Aside from that, I think we will be setting up a more dangerous situation for the world, because without casting any aspersions on the good intentions of our friends around the world, I happen to think that the careful agreement that has been agreed to by the United States and the People's Republic of China is more restrained and more disciplined than anything which is likely to take its place between the People's Republic of China and any other nuclear vender.

The point made by the Senator from Louisiana is the point we have to remember: we are just creating business for other people. I am reluctant to do that. I am sure that the Senator from Ohio is as pained as I am by the state of the American trade balance. We are more deeply in debt in our international trade not only than ever before in our history, but also, ever before in the history of any nation.

We are giving up the chance, not only for the business that is immediately in prospect here, but also for a generation of business with the People's Republic of China in the future. I submit that we are not only kissing this transaction goodbye but also that it will have an effect on other commercial relationships with the People's Republic of China. They will conclude that even after they have approached us in good faith and worked out an agreement and accepted restrictions which they do not like, they have in fact found it impossible to do business with us. So if they cannot do business with us on this subject, why should they try on other subjects?

So I think the action of the Senate today can have far reaching effects on the long-term commercial relationships between the United States and the People's Republic of China, far beyond the single subject of nuclear technology and equipment.

I am concerned, Mr. President, that we should spend a sufficient amount of time on this subject. I do not think that any agreement that could be arrived at would be totally satisfactory to all parties. Agreements on serious subjects, by their very nature, are compromises.

I do not think we could say that this is a hastily-drawn agreement. It results from protracted negotiations, negotiations which were delayed by the United States until we were sufficiently reassured on serious issues.

It is an agreement which has been thoughtfully considered by people highly experienced in this field. I would hope that the distinguished Senator from Ohio, considering all of the circumstances here, would at the very least allow us to lay this amendment aside temporarily so that some accommodation might be discussed. Otherwise, it seems to me that we are in a hopeless situation. We are headed either for dismantling the United States agreement with the People's Republic of China or we are headed for an early veto of this bill, if I read the tea leaves accurately.

It seems to me that rather than just butt our heads against the wall for all the rest of the day and all tonight and all day tomorrow, we should lay this aside temporarily and see what can be done.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield for a question.

Mr. GLENN. If I would agree to set this aside, which I am not doing at this time, but if we could work out a time agreement for a time certain vote on this amendment tomorrow or the next day or whenever, a guarantee of it being prior to the final vote on the continuing resolution, would the distinguished Senator from Maryland agree to some arrangement such as that if we could work it out?

Mr. MATHIAS. As the Senator from Ohio well knows, no one Member of

the Senate could enter into such an agreement. What I would certainly do is to pass along the Senator's suggestion to the leadership and have other Members advised through the usual channels so there could be an appropriate chance for Members to consider positions on that.

Mr. GLENN. Would the Senator also agree that usually if the principals in oppositon work out such an agreement the leadership is usually very amenable to going along with those and so are other Members of the Senate? If there could be some sort of arrangement made where I could have a guarantee of a vote on this I would be happy to make such an agreement. Otherwise, I do not believe I would.

I think some of the issues that have been brought up here we have debated this morning during the 3 hours we were on the floor, and I am sorry that the distinguished Senator from Maryland was not here during that, but some of the statements that have been made with regard to this amendment I find it hard to accept them as being realistic because this requires no new negotiations at all. It says a Presidential certification, and that is all that is required is a Presidential certification.

I would say that the same kind of agreement that I am talking about are those that Japan, Brazil, Argentina already have approached China with and got China's agreement.

I am only asking that it go the route of IAEA safeguards or their equivalent. That is so minimal to me.

I gave up all the other things that I submitted to the Foreign Relations Committee, as my good friend knows, and he mentioned the agreement is not perfect, that there were long delays and he is very much aware after the classified briefing as to why the administration held it up for almost a year, what the other reasons were, which I do not believe should be brought out here on the floor. They cannot be without violating security.

All I am saying is there is good reason to say that I want and I think the Senate has expressed its will to want a Presidential certification that the verification of peaceful uses in the agreement language will meet the standard of IAEA safeguards to make certain our materials, technology, and equipment are not misused. It is so minimal. We require that with every other single nation. The Canadians required it and we signed that kind of agreement. The Australians required it when we signed that kind of agreement.

The original language says:

> The parties will use diplomatic channels to establish mutually acceptable agreements for exchanges of information and visits subject to this agreement.

That referred to how we are going to take care of the verification.

All we are saying is, "When those meetings and negotiations take place, Mr. President, certify to us that they essentially agree with IAEA," which is the norm for the world nuclear trade, and that is satisfactory and everything goes ahead.

That is so minimal. There were all these things said about how we are going to jeopardize this thing, where it is going to be a more dangerous world if we pass this, where it is going to be inconsistent with future nuclear sales requirements, where we will no longer have a degree of influence. The Senator from Maryland used the word with regard to China that some of the past activities have been notorious. That is his word, not mine. All I am trying to——

Mr. MATHIAS. I said it was notorious that they were a nuclear weapons power. It is notorious in the sense that is known to all the world.

Mr. GLENN. Notable, in other words.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question on this subject?

Mr. MATHIAS. If the question of the Senator from Ohio is finished.

Mr. GLENN. I finished my question.

Mr. JOHNSTON. I am wondering if the Senator from Maryland and indeed through him the Senator from Ohio would think of an appropriate way to resolve the present impasse might be temporarily to lay this matter aside for the purpose of bringing up other amendments which would then give to the Senator from Ohio the right to make this the pending business upon the seriatim consideration of any amendments. In other words, this amendment would automatically become the pending business after the disposal of each amendment which then in turn could be temporarily laid aside by unanimous consent. That way we could plow through the rest of these amendments and then at any point the Senator from Ohio could refuse to grant his consent to lay it aside further, in other words, just by calling for the regular order.

We are trying to get out of here by the weekend sometime and by making this suggestion, I do not seek to gain advantage for either side in the controversy but just rather than have a filibuster that wastes all the afternoon and then come to the same conclusion, I think we might plow ahead with other amendments.

Mr. MATHIAS. In response to the question of the Senator from Louisiana, I think his suggestion makes a good deal of sense. The Senator from Ohio thinks my concerns are overblown, that the situation is not as bad as I have pictured it. I hope he is right. I have such confidence in his judgment that I am prepared to admit he may be right. But I repeat that I have not had a chance to discuss this with the President of the United States. I do not know the administrations' view as to just how dangerous the Glenn amendment is. Maybe they agree with me. Maybe they agree with the Senator from Ohio. But it would be useful to have a chance to find out their views.

Furthermore, the distinguished Chairman of the Committee on Foreign Relations is not present. I think it is essential that we have the benefit of the advice of the chairman of the Committee on Foreign Relations. He will be here shortly. If we had some respite as to time, as suggested by the Senator from Louisiana, we could have those consultations I believe under the proposal that the Senator from Louisiana has made that the rights of the Senator from Ohio would be fully protected.

Mr. GLENN. Mr. President, if the Senator will yield, I find it a little disconcerting in that Friday afternoon I wanted to bring this up and they said no, we could not do it then. We received assurances time after time, which the RECORD will show, that when we take this up on Monday there would be votes all day on Monday and I was to be here at 11 o'clock. I flew back in late last night just to be here for that purpose today. The reason being given at that time was that the chairman of the Foreign Relations Committee was absent on Friday, that he would be here this morning. We would be all set to take this up and dispose of it today. Now I find that late in the day he is not going to be here for a while and I have other commitments later today, also, which we took into consideration in the agreement we made the other day, that I would be the first up at 11 o'clock. We have been on this now for some 4 hours.

I would prefer, with the overwhelming vote we had, to go ahead and vote on this thing and I would be happy to vitiate the yeas and nays. If that is going to be impossible and I realize that phones are probably ringing in every office all over town from the administration and time is needed by them, and I am not about to have people consider or reconsider their vote.

I did find it a little disconcerting that the Senator from Maryland feels he indicated Senators did not know what they were voting on. I think Senators very much knew what they were voting on. I think Senators do know on all votes what they are voting on here. So I do not question the validity of that vote. I would want to have a very firm agreement.

I would want to have a very firm agreement of a time certain or a period before final approval of the continuing resolution that we can get

a vote on this, either a voice vote or a record rollcall vote, either one.

Mr. MATHIAS. Mr. President, I believe we have to have the advice of the leadership before we enter into any kind of agreements of that sort. I would be happy to send a message to the majority leader and the Senator from Ohio can send a message to the minority leader to see what their views are on this subject.

Mr. GLENN. I would be happy to consult with both the majority and minority leaders. But I would not agree to set aside this amendment until we have that agreement in hand and agreed to.

Mr. MATHIAS. Then we should ask the Senate staff to advise the leadership, and we will continue to discuss this important subject until we get some further word from others who are so vitally affected.

Mr. GLENN. Mr. President, I think we might make some progress here if we had a chance to discuss this. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MATHIAS. I yielded for a question. I have no objection to a quorum call, if I have unanimous consent that I regain the floor at the end of the quorum call.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, under the previous unanimous consent order, the floor reverted to me. Therefore, I ask unanimous consent at this time that I may yield to the Senator from Alabama for the purpose of making a unanimous-consent request, and that I retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I thank the distinguished Senator from Maryland.

BO JACKSON: WINNER OF THE HEISMAN TROPHY

Mr. HEFLIN. Mr. President, this past Saturday evening, the Downtown Athletic Club of New York City awarded the 1985 Heisman Trophy, a symbolic recognition of being the most outstanding college football player of the year, to Bo Jackson of Auburn University.

Bo, a senior from Bessemer, AL, is certainly deserving of this outstanding recognition. During his 4 years at Auburn, Bo Jackson has helped lead the football team to an overall record of 37 wins against only 11 losses, while also writing his name on almost every page of the University's athletic record book.

At a school that has produced such outstanding running backs as William Andrews of the Atlanta Falcons, Joe Cribbs of the Buffalo Bills, Lionel James of the San Diego Chargers, and James Brooks of the Cincinnati Bengals, Bo Jackson has been blessed with such speed and power, not to mention an outstanding group of teammates, that he has eclipsed almost every one of their statistical records.

He ranks first in yards gained rushing during a career, with 4,303. This grows in magnitude when you consider that he has not only gained another 282 yards in bowl games, with a Cotton Bowl date against Texas A&M yet to come, but he has missed seven games due to injuries during his career.

This season, Bo set a single season rushing record of 1,786 yards—more than 1 mile. In addition, his freshman year, when he gained 829 yards, ranks 15th among the most prolific seasons for Auburn rushers, and his sophomore total of 1,213 yards ranks third. Only his junior statistics are not a part of Auburn's 1-year record book, and then only because he missed more than six games with a severe shoulder injury.

He also holds school records for career touchdowns with 44, career points with 274, points in a season with 102, and rushing touchdowns in a season with 17.

In an era where 100 yard games are a statistical measure of greatness for running backs, Bo Jackson has set his own standard. While other backs are striving for the 100 yard barrier, Bo has five times achieved 200 yards, with a high game of 290 yards. Indeed, his per game average is more than 113 yards, built largely upon an Auburn career record of 20 100 yard games. While most backs would be pleased with three 100 yard games in a season, or even in a career, this year Bo accumulated three 100 yard quarters.

The list of honors which have been accorded Bo Jackson during his collegiate career is befitting of a player who has built such a record of excellence. In 1982, he was named to the Freshman All-American team. In 1983, and again this year, he has been a consensus All-American. In the 1984 Sugar Bowl against Michigan, he was named the most valuable player. Last year, in the Liberty Bowl against Arkansas, he was again named the most valuable player.

Still, Bo Jackson has been more than a football star at Auburn. He has been the school's first athlete to earn varsity letters in three sports in more than 30 years, and the Southeastern Conference's first in 20 years. As a 2-year participant in track, he has qualified for the national semifinals in the 60-yard dash both years.

In addition, Bo is recognized as one of the premier players in college baseball. Last season, prior to being drafted by the California Angels, he batted .401 with 17 home runs. In that draft, he was given the highest rating of any player eligible for the draft, considering hitting for average, hitting for power, running, fielding, and arm strength.

Bo's all-around athletic ability clearly manifested itself at Bessemer's McAdory High School. Besides being named to the All-State football team, he was twice the Alabama high school decathlon champion, and set State records in six separate track events. For his baseball achievements, he was drafted by the New York Yankees in the second round of the 1982 draft.

Mr. President, I could go on and on listing Bo Jackson's athletic achievements and records. Perhaps more telling, however, is a quotation from Ray Perkins, head coach at the University of Alabama, who said, "Bo Jackson is the best running back in the world, college or pro."

Mr. President, I congratulate Bo Jackson on this outstanding recognition, and wish him the best in the Cotton Bowl and beyond.

Thank you, Mr. President.

ALABAMA'S SUPERCOMPUTER PROJECT

Mr. HEFLIN. Mr. President, according to a recent published report by the National Science Foundation:

U.S. Leadership in supercomputing is crucial for the advancement of science and technology and, therefore, for economic and national security.

Recently, the State of Alabama took a giant step towad providing this leadership by announcing plans to acquire and operate a multimillion-dollar supercomputer.

The project is a $22 million investment in the future and is designed to improve the research effort at the State's universities and to enhance the economic development of the State.

The brand of supercomputer the State will acquire has not been determined, but we do know it wil be the most advanced version available—1 of only 150 of its type in the world. Among the features of this type of computer are: The ability to perform 1.2 billion calculations per second; 50,000 times more power than a personal computer; and a 256 million word common memory. Two hours of computing on a supercomputer is the equivalent of 1 month of computing on most main frame computers used in research at colleges and universities. It would take a week and a half of number crunching on a personal computer to do the calculations of a supe-

computer can do in 2 minutes. Simply put, this machine will be the fastest computer available.

Current plans are for the supercomputer to be located in Huntsville, AL, the site of one of our Nation's leading high technology research parks. It will be operated by a special State authority—the Alabama Supercomputer Network Board. The State will operate at least six centers that will have direct access to the supercomputer in Huntsville. This system will be designed to link Alabama's five major research universities: the University of Alabama, the University of Alabama in Birmingham, the University of Alabama in Huntsville, Auburn University, and the University of South Alabama. The State's plans calls for industrial clients to have access to the machine through terminals located at one of these major universities. Thus, regardless of geographic location, researchers will have instant access to the supercomputer.

University researchers have proposed to deal with a variety of projects that can only be handled using state-of-the-art processors. These projects include, for example:

First, petroleum reservoir mapping, which is of great interest to firms in the process of determining the size and shape of oil and gas reserves—an area vital to the national economy and continued energy resources.

Second, computer aided design and manufacturing—an area in which the Nation needs to improve the quality and quantity of production, such as automobiles, farm equipment, weapons, and so forth.

Third, weather forecasting, which is of great interest to all people, particularly to the agricultural community. More research is needed for an improved system of forecasting devastating storms and their paths to help minmize loss of life and property.

Fourth, weapons system design and simulation—an area of vital interest to the national defense.

Fifth, crystallography research, dealing with chemical substances containing medical properties to help improve health care delivery.

University researchers will also be using the supercomputer in other areas of national significance. The University of Alabama in Huntsville [UAH] and Auburn University have been selected to lead research consortiums involved with the Strategic Defense Initiative Organization, and UAH has also, along with the University of Alabama in Birmingham [UAB], been selected to lead institutions in NASA's effort to conduct studies into the commercial development of space.

Auburn University will lead five institutions which will share $19 million over 4 years to develop power sources for space. To keep a defense system or a manufacturing facility in space for long periods of time, power must be generated, stored, and switched on and off in space. Scientists involved with this effort will be using the supercomputer to develop the most efficient and effective power systems.

UAH was chosen to lead nine universities sharing $9 million over 3 years to study high-speed computer techniques using beams of light to carry signals. The goal of the program is to conduct investigations leading to major advances in signal and image processing technology, which will lead to the development of an optical computer. In the space defense concept, an optical computer could be used to pick out incoming missiles and could target a weapon to destroy the missiles. Scientists involved in this effort will be using the supercomputer to simulate actual nuclear attacks and then determine the best defense.

UAH and UAB have both been designated as "centers for the commercial development of space." These centers are selected by NASA to stimulate high-technology development in space, including materials processing, biotechnology, remote sensing, and communications. UAH will be using the supercomputer for research in physical chemistry and materials transport through fluids, and the interactions of the two fields. UAB will work in protein crystallization, a highly promising field for understanding details of how the human body and diseases function, and how to tailor drugs to address specific problems.

These are just a sampling of research applications for the supercomputer. Scientists thoughout the State are in the process of developing many, many other projects of importance to the advancement of science and technology.

Obviously, the supercomputer will be a special boon to university researchers, and it will also strengthen the educational opportunities available to students at both the undergraduate and graduate levels. The common theme that runs through the comments of computer experts in academia is that lack of access to supercomputers is hurting American university research. According to Bill Busbee of the Los Alamos National Labs:

> Our ability to remain competitive in scientific research will require academics to have access to supercomputers.

Thus, the benefits of the State's decision to acquire a supercomputer will be considerable for Alabama's higher education community.

In addition, the supercomputer will aid Alabama's economic development in the following ways: First, the supercomputer will be an incentive for high technology industries to locate in Alabama; second, the supercomputer will help existing firms obtain high-technology contracts; third, a signficant portion of funds currently being expended outside the State on supercomputer access could be expended within the State; fourth, Alabama will benefit from a stronger competitive position in obtaining future and expanded Federal starts in space and military research projects.

A special aspect of the Alabama supercomputer is that it will be one of the few in the Nation shared by Federal and State agencies, universities and the private sector; and that's what makes this supercomputer project so exceptional. This project is the culmination of a tremendous 2-year cooperative effort between the Government, business, and higher education communities of Alabama. Numerous groups from all three segments invested much time and effort in planning and developing this project, and the amount of collaborative spirit that surfaced was truly remarkable. The leaders of these groups are to be commended. With this project they have positioned Alabama at the forefront of what is truly a major technological thrust in this country.

Gov. George C. Wallace is to be especially commended for his initiative and foresight in bringing these groups together and spearheading the State's efforts in acquiring this machine.

Other States throughout the Nation should recognize what this supercomputer means to Alabama and take note as to what can be accomplished if self-interests are put aside and an air of cooperation exists. This is what has occurred in Alabama, and as a result our State is now poised on the cutting edge of high technology and prepared to lead our Nation into the 21st century.

Thank you, Mr. President.

Mr. President, I yield back to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUSTICE POTTER STEWART

Mr. MATHIAS. Mr. President, Mrs. Mathias and I were saddened to learn of the death of Justice Potter Stewart. He was a distinguished lawyer. He was a great Justice of the Supreme Court. But he was also a personal friend.

We had the great privilege of knowing him for the years that we have been in Washington. We have had the benefit of his company, his knowledge, his opinions on public affairs, and the sense of humor with which he leavened the serious problems of life.

It was a matter of regret that Justice Stewart decided to retire from the Supreme Court because he took with him into retirement one of the important voices advocating commonsense and moderation. His opinions evidenced

careful, balanced objectivity. These qualities would be valuable on any court at any time, but they were particularly useful to the Supreme Court of the United States during the time that he served there.

It was typical of Justice Stewart that when he left the court he did not leave public life. He was employed in a number of interesting and useful projects which advanced the rule of law and the administration of justice. His many contributions were given enhanced value by his years of experience and service on the Supreme Court. His contributions had a unique flavor because of his personal commitment and because of his judicial experience.

Mr. President, Mrs. Mathias and I wish to extend our sympathy to Mrs. Stewart and to the members of the family.

I ask unanimous consent that the editorials on Potter Stewart which appeared today in the New York Times and the Washington Post be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

JUSTICE STEWART'S LEGACY

It would have been presumptuous or devious in almost any other public official, but Potter Stewart once asked President Nixon not to name him Chief Justice. He later explained that he had promised himself on reaching the Court in 1958 never to lust for higher office.

Justice Stewart, who died Saturday at age 70, was probably wrong about his capacity to lead his colleagues. But the episode dramatized his devotion to the institution and a lack of pretension that well served him and the Court. A foe of inflated rhetoric, he once leaned down to ask a lawyer denouncing a Government action, "Are you trying to shock us?"

Mr. Stewart always feared that his epitaph would be his 1964 concurring opinion saying he had trouble defining hard-core pornography but "I know it when I see it." All he meant was that judges, much as they may reach for exalted legal principle, are human and should occasionally admit resorting to common sense.

He spoke candidly and pungently about the law, but always reverently. A dissenter from many Warren Court rulings, he worried nevertheless that later justices would lightly overrule precedent just because they had the votes.

Justice Stewart was a pragmatist who, confronted with attempts to censor free expression, became a near-absolutist in First Amendment speech and press cases. His remarkable 1974 lecture at Yale Law School articulated well the state of the law and his challenge to the press:

"So far as the Constitution goes, the autonomous press may publish what it knows, and may seek to learn what it can. But this autonomy works both ways. The press is free to do battle against secrecy and deception in government. But the press cannot expect from the Constitution any guarantee that it will succeed. . . . The Constitution, in other words, establishes the contest, not its resolution."

Potter Stewart, a judge of few, well-chosen words, grew handsomely in office and left a legacy of good sense.

POTTER STEWART

Potter Stewart, who died Saturday in New Hampshire at the age 70, was the youngest federal court judge in the country when he was appointed to the Sixth Circuit Court of Appeals by President Eisenhower in 1954. Twenty-seven years later, he surprised friends and colleagues by retiring from the Supreme Court at the relatively young age of 66. Five justices older than he remained on the court, but he said he wanted to leave while he was still in good health and could enjoy his grandchildren. His judicial service thus paralleled the most productive years of most lawyers rather than the later careers of many judges, and his years on the bench serve as an example to both.

Justice Stewart said that he wished to be remembered as "a good lawyer who did his best." That respect for careful analysis, thorough preparation and the ability to bring objectivity and logic to a task was always apparent in his work. As a judge, his goal was to be "objective, conscientious, diligent and [to] remember always that every person is equal before the law." These guidelines, reflected in his opinions, earned him a reputation for moderation based not on insecurity or shifting philosophy but a firm devotion to the Constitution and his own view of judicial power and responsibility. Often characterized as a conservative during the Warren years and a centrist on the Burger court, he held views that were steady and consistent. It was the court that changed.

Justice Stewart believed in the importance of precedent and the desirability of deciding cases on the narrowest of grounds. Like the good lawyer he was, he made distinctions between cases and was not impelled by a political philosophy that put him always on the left or the right side. He voted to allow states to organize prayer in public schools but against public money for parochial schools. He sided with the majority in striking down laws against abortion, but wrote the opinion upholding Congress' right to ban Medicaid payments for the procedure. An early defender of civil rights remedies, he later objected to affirmative action plans that involved racial preferences. These opinions did not demonstrate inconsistency but rather a careful consideration of what the Constitution required in specific cases.

A strong defender of the right of privacy and of a free press, he once said, "So far as the Constitution goes, the autonomous press may publish what it knows and may seek to learn what it can." He knew that the states, the three branches of the federal government and the press have separate rights and responsibilities, and he sought to protect each.

Judges, government officials and constitutional scholars are today engaged in a debate on how the court should view the Constitution. Some believe the intent of the Framers should be controlling while others call for a judiciary that places more emphasis on its own view of today's problems. Justice Stewart would not be on either side in the debate. For decades on the bench he demonstrated restraint, respect for the Constitution and a pragmatic intelligence that enabled him to contribute much. His death is a loss not only to his family and colleagues but to his profession and his country as well.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

The Senate continued with the consideration of the joint resolution.

Mr. MATHIAS. Mr. President, I ask unanimous consent that following the suspension of the quorum call, which I am about to suggest, I will regain my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

Mr. GLENN. Reserving the right to object, I do not object.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is time that we move along in the consideration of the continuing resolution.

Mr. MATHIAS. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MATHIAS. Mr. President, I yield for a question.

Mr. KENNEDY. Mr. President, time is moving on. It is now 3:30 in the afternoon. I was on the floor about 2 hours ago and heard the admonition of the majority leader about moving expeditiously and not having irrelevant matters considered on the continuing resolution.

I know we are in the process of trying to get the principals together on an extremely important amendment.

Mr. President, is there any opportunity that those of us who do have amendments and who are prepared to agree to a time limit can be afforded the opportunity to move ahead without jeopardizing the positions of the managers of the bill and of those who currently have an amendment pending?

Mr. MATHIAS. Mr. President, I can respond to the Senator from Massachusetts that I personally would have no objection what so ever to laying aside temporarily the pending business.

But this matter is under consideration by the leadership. The Senator from Ohio just made several suggestions in this respect. I hope we will have an answer for the Senator from Massachusetts in the very near future.

Mr. KENNEDY. I thank the Senator from Maryland. I think all of us are mindful of the press that comes at times with regard to these matters. At the outset, I want to reject the thought that we are going to be stampeded into a situation where we will not have an opportunity either to

offer this amendment or take a short but important period of time. As I have said, I have been on the floor for a period of 5 hours. A good part of that was involved in a very important debate on the amendment of the Senator from Ohio, but I do have an amendment dealing with the increase in the deductible charge for Medicare recipients who utilize hospitalization.

Unless this amendment is accepted, there are going to be more than 8 million senior citizens in our country who are involved in the Medicare system who are going to see a very sizable jump in their deductible—close to $100—that they will have to pay for their Medicare deductible.

It does seem to me that, given the fact that the Senate has accepted a sense-of-the-Senate resolution to permit the Finance Committee to consider this particular very, very dramatic and significant increase in the deductible and that the Finance Committee chairman has indicated a willingness to address this issue, I do hope that those who know the importance of getting to an early conference—I certainly understand that, but I also know that unless we are going to have the opportunity to address this issue on this particular measure, effectively, there is no item coming down the track on which the Senate will have a chance to express its will. We are facing conference reports now and I think all of us present are mindful of the complexity which faces us in consideration of a conference report. So I wanted to indicate to the Senator from Maryland—I know he has not been denying us an opportunity to address this issue, but I also want to indicate that I do hope that we shall have an opportunity to address this issue in the very near future because it is of enormous importance to the seniors of this country.

Mr. MATHIAS. Mr. President, once again in response to the Senator from Massachusetts, I do not personally have any objection to seeing the matter presently under discussion laid aside, but that matter is being considered by other Members of the Senate and I think we shall have a decision soon.

Mr. President, I ask unanimous consent that, at the end of the quorum call which I am about to suggest, I retain the right to the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I see the distinguished chairman of the Committee on Foreign Relations on the floor. At this point I yield to the Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Maryland. I appreciate the distinguished Senator from Maryland and the Senator from Washington and others carrying on this vigorous debate in my absence.

Let me say, Mr. President, that I regret the vote occurred as it did and that this kind of issue has reached this particular point. In my own judgment, the amendment of the distinguished Senator from Ohio may very well kill the agreement with the Chinese. Members will have differing opinions upon whether that will be so or whether that would be a good thing on both counts. There are Members who in some cases would prefer no agreement and others who feel the Chinese have, as the distinguished Senator from Ohio has argued, made similar provisions with the IAEA as they might make with us.

But in any event, it seems to those of us who have counseled upon my return that it is well for the Senate to proceed with the continuing resolution. It is important business. This issue has been thoroughly debated, and so I would ask the distinguished Senator from Ohio if he would be willing to vitiate the yeas and nays in order that the issue might be voted on by voice vote with the understanding that it will carry.

Mr. GLENN. I would, Mr. President. I thank the distinguished Senator from Indiana for his consideration in this regard. It was a very decisive vote on this issue and left no doubt about the will of the Senate. I would move to vitiate the yeas and nays previously ordered on this amendment with a voice vote to follow.

The PRESIDING OFFICER. Is there objection? If not——

Mr. GLENN. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. MOYNIHAN. Mr. President, I would like to keep the Senate 2 minutes on this matter just to tell the distinguished chairman of the Committee on Foreign Relations that, in his brief and necessary absence this morning, we debated at some length the rather striking record of the People's Republic of China with respect to the United States and issues that arise in multilateral forums such as the International Atomic Energy Agency but most specifically the United Nations.

The nonaligned movement has scarcely distinguished itself in its support of the United States. In the 39th General Assembly, the Soviet Union voted against us by our measurement from information given to us by the State Department 86 percent of the time. The People's Republic bettered that record by voting against us 88 percent of the time.

Moreover, the State Department chose 20 votes which it calls name-calling votes in which quite, gratuitously, the United States is referred to in language that ranges from the unflattering to the slanderous. The origins of those references, which are never to the substance of the issue in particular but just gratuitous, are characteristically known to be in the Soviet Union. Not a single time in the 39th General Assembly, not once did the People's Republic of China vote with the United States. Invariably—17 times and 3 absences—they voted against us on simple motions to delete slanderous references to the United States.

A delegation led by the majority leader on August 27 this year met with Mr. Deng Xiao-ping in the Hall of the People. The Senator from Maine was present. It fell to me to raise this question with the officials and the head of the People's Republic. I said to Mr. Deng Xiao-ping that whilst we could agree with his characterization of our bilateral relationships as cordial and cooperative—and this agreement was tangible evidence of the cooperation—when we looked at them in other forums we could not recognize this relationship.

I said that it seemed to us they had a two-America policy.

Could I simply say to the chairman that this particular question of multilateral relations was never raised with us by the Department of State. We found this out when we asked for the information which we got. But we had to ask.

And it seems to me to raise questions about what do we think our relations with this country are, or what does it think they are—which gave rise to questions on both sides which I would hope the Senator from Indiana might raise with the Department with respect to this and indeed future agreements of its kind, with the People's Republic of China, particularly, and with other nations generally.

Could I take the Senator's calm visage as one of interest at least in the proposition?

Mr. LUGAR. Let me respond to the question from the distinguished Senator from New York——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio? Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object, what was the request?

The PRESIDING OFFICER. The question was whether to vitiate the yeas and nays.

Mr. LUGAR. Mr. President, I wish to respond for a moment to the distin-

guished Senator from New York. Indeed, his argument is an important one. But I do not wish to trouble the relations among Senators any more than I do with the People's Republic of China by additional comment. Indeed, this agreement is one in which I think all Senators entered into the initial consideration knowing that there are risks and also opportunities. I shall not try to detail the risks any more than the opportunities. On balance, this Senator felt this particular agreement was a worthwhile undertaking, and I still feel that is the case. It may be that history will serve the Senator well, that we should have put on this additional stipulation the Senator from Ohio has called for and that many Senators apparently support. In my judgment, this is a risky move but, on the other hand, one obviously that the Senate apparently supports. This is why I suggest we proceed to the voice vote and move on with the resolution.

Mr. MOYNIHAN. May I ask, did the Senator hear me with respect to the fact that international forums ought to be an aspect of our judgment of a relationship?

Mr. LUGAR. Indeed, it should. The Senator's point is well taken and one which I think has to be heavily weighed in this consideration.

Mr. MOYNIHAN. I thank the chairman.

Mr. GLENN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 1347) was agreed to.

AMENDMENT NO. 1350

(Purpose: To delay for 4½ months the increase in the Medicare inpatient hospital deductible, and to increase the cigarette tax by 1 cent for 3 years)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. BURDICK, proposes an amendment numbered 1350.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following new section:

MEDICARE HOSPITAL DEDUCTIBLE INCREASE DELAY; TEMPORARY INCREASE IN CIGARETTE TAX

SEC. . (a) HOSPITAL DEDUCTIBLE INCREASE DELAY.—Notwithstanding section 1813 of the Social Security Act, the increase in the inpatient hospital deductible which would otherwise become effective on January 1, 1986, pursuant to such section shall not become effective until May 15, 1986. The inpatient hospital deductible in effect for 1985 shall remain in effect until May 14, 1986.

(b) CIGARETTE TAX INCREASE.—

(1) RATE OF TAX.—Section 5701(b) of the Internal Revenue Code of 1954 (relating to rate of tax on cigarettes) is amended—

(A) by striking out "$8 per thousand" in paragraph (1) and inserting in lieu thereof "$8.50 per thousand, or $8 per thousand after September 30, 1988"; and

(B) by striking out "$16.88 per thousand" in paragraph (2) and inserting in lieu thereof "$17.53 per thousand, or $16.80 per thousand after September 30, 1988".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before December 14, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, 50 cents per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, 73 cents per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on December 14, 1985, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on January 2, 1986, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on December 14, 1985.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(D) EXCEPTION FOR RETAILERS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on December 14, 1985, at the place where intended to be sold at retail.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to cigarettes removed after December 13, 1985.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before November 15, 1985".

(c) TRANSFER TO MEDICARE TRUST FUND.—Section 1817(a) of the Social Security Act is amended—

(1) by striking out "100 per centum of" in the matter preceding paragraph (1);

(2) by striking out "(1) the taxes" in paragraph (1) and inserting in lieu thereof "(1) 100 percent of the taxes";

(3) by striking out "and" at the end of paragraph (1);

(4) by striking out "(2) the taxes" in paragraph (2) and inserting in lieu thereof "(2) 100 percent of the taxes";

(5) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(6) by inserting after paragraph (2) the following new paragraph:

"(3) 5.88 percent of the taxes imposed under section 5701(b) of the Internal Revenue Code of 1954 on cigarettes removed after December 13, 1985, and before October 1, 1988, and 100 percent of the taxes imposed under such section on floor stocks held on December 14, 1985.".

Mr. KENNEDY. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so that the Senator from Washington may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1351

(Purpose: to provide for the effectuation of a negotiated settlement between the Department of the Navy and the State of Washington and for other purposes)

Mr. GORTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1351.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following section:

"SEC. The Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of Federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

Mr. GORTON. Mr. President, the amendment I offer permits the Navy to discharge a liability to Washington State, a liability which the Navy acknowledges, which the Supreme Court has upheld, and which is accruing interest at the rate of almost $4,000 per day. It is surprising that I must offer an amendment to accomplish this, and so I would like to state for the record what the circumstances are that put me in this position.

Washington State assesses a sales and use tax on materials used on constuction projects. The Federal Government had challenged Washington State's authority to impose such a tax, appealing to the supremacy clause of the Constitution. But on March 29, 1983, the Supreme Court of the United States upheld the tax as constitional.

The Washington State Department of Revenue subsequently negotiated

with various Federal agencies to establish the precise amounts of the back tax liabilities. Although the liability fell, in the first instance, on the firms themselves, and only through them on the U.S. Government, all parties agreed that a settlement negotiated directly between the State and Federal Governments was infinitely preferable to the tortured process of issuing thousands of assessments on individual firms, and requiring each to contact the Navy directly. All of the Federal agencies negotiated in good faith, and resolution of the issue, though complicated, has generally been proceeding satisfactorily.

But surprisingly—indeed, almost shockingly—the House has refused to go along with this, and characterized the tax as "unfair."

Mr. President, fairness is not even the issue here. The Federal Government has a legal obligation to make this payment. The Supreme Court has affirmed this obligation. Certainly it will ulitmately be made. But in the meantime, the action of the House assures not only that Washington State's revenue planning will be thrown into unnecessary confusion, but also that the ultimate settlement will be even more costly to the Federal Government, because of the interest charges that continue to accrue.

Now, I have heard some say that the fact that the Supreme Court has upheld the tax liability is not a decisive point, because Congress makes the laws, and can change them if it wishes. But Mr. President, the case was decided before the Supreme Court on constitutional grounds. Does anyone seriously beleive that we are going to entertain a measure to repudiate this liability?

I can only assume that the House Members have somehow not had the opportunity to focus clearly on this subject, for if they had, certainly they would have realized that refusing to go along with this provision is counterproductive.

I want to thank Senators MATTINGLY and SASSER for understanding the situation and agreeing to accept the provision. Clearly, this effort will not succeed until we manage to make the case more persuasively to our House colleagues. And it is unfortunate that their reluctance to accept this provision creates so much turmoil among Washington State contractors. But I intend to pursue this issue until it is resolved.

Mr. President, the amendment relates to the military construction appropriation. It was included in the MilCon appropriation which was passed by the Senate, but was removed in conference. It simply authorizes the Navy to negotiate the settlement of a tax claim by the State of Washington, a tax claim which has been affirmed by the Supreme Court of the United States.

I am not certain that the House will agree to this amendment, even the second time around, but I should like to have the opportunity to do so. It has been cleared by both the distinguished Senator from Georgia [Mr. MATTINGLY], who is the chairman of that subcommittee, and by the distinguished Senator from Tennessee [Mr. SASSER], who is the ranking minority member of that subcommittee.

Mr. HELMS. Mr. President, inasmuch as the manager of the bill is not on the floor, I know that the Senator will permit me to suggest the absence of a quorum.

Mr. GORTON. Mr. President, the Senator from Massachusetts was kind enough to defer to me, and if we are not able to accept the amendment now, I simply ask unanimous consent that we go back to the amendment of the Senator from Massachusetts at this time. I make that request.

The PRESIDING OFFICER. Regular order is the amendment of the Senator from Massachusetts.

AMENDMENT NO. 1350

Mr. KENNEDY. Mr. President, the Department of Health and Human Services announced on September 30 that the Medicare hospital deductible will increase by $92 on January 1, 1986—the largest increase in the deductible in the history of Medicare. This whopping increase has been a source of distress and outrage to senior citizens all over the country.

The Medicare hospital deductible is the amount that each elderly and disabled Medicare beneficiary must pay out of his own pocket or his own insurance when he enters the hospital.

Eight million of our senior citizens must pay this deductible every year, and this scheduled $92 increase will bring the total deductible to a staggering $492, an increase of 173 percent just since 1980.

The exorbitant increase in the hospital deductible was not intended by anyone. It is an unintended consequence of the new Medicare prospective payment system and of Congress' failure to modify the method of calculating the deductible to reflect the new payment system.

Since the beginning of the Medicare Program, the deductible has been calculated on the basis of the cost of an average day of care.

Increases in the deductible were supposed to reflect increases in the cost to Medicare of a typical hospitalization, and as long as Medicare paid hospitals for services to Medicare beneficiaries on a daily cost basis, the annual increases in the deductible were reasonably fair.

But today Medicare no longer pays for hospital care on a daily cost basis. Beginning with legislation enacted in 1982, Medicare began to pay a fixed price—set in advance—for each Medicare admission. The fixed price varied depending on the diagnosis that was treated, but the key feature of this prosective payment system was that the price was set in advance and was based on admissions and diagnoses, not days of care.

The prospective payment system has reaped enormous savings for the Federal budget and has had a major impact in slowing the growth in health care costs. In the next 5 years alone. Prospective payment will reduce the deficit an estimated $37 billion, and that is without assuming any savings from this year's reconciliation bill.

But, while prospective payment has brought relief to the Federal budget, it has created heavy additional costs for senior citizens already burdened with high health care expenses. Prospective payment encourages hospitals to economize by reducing length of stay. Between 1982 and 1985, average hospitalization for Medicare beneficiaries dropped from 10.24 days to a projected 8.75 days. Between 1983 and 1984 alone, length of stay dropped almost a full day, from 9.84 to 9.05.

The result of this drop in length of stay—combined with the fact that hospital occupancy rates are now at historic lows—has been that hospitals' costs are concentrated in fewer days of care. The rate of increase in total cost and costs per admission has slowed dramatically, while the costs of care per day have soared.

There is nothing that better illustrates the unreasonableness of Congress' failure to reform the old method of calculating the hospital deductible than what will happen next year. That horrendous $92 dollar increase in the hospital deductible translates into a 23-percent rate of inflation. That is three times as high as the increase in Medicare's per admission payment in 1984, the base year on which the deductible is calculated.

And, it is 46 times as high as the increase in per admission payment to hospitals that is included in the reconciliation legislation passed by the Senate.

Mr. President, I say it is time for Medicare beneficiaries to share in the savings from prospective reimbursement rather than being saddled with additional costs. I announced legislation to correct this problem last spring. If that legislation had been enacted, sick Medicare beneficiaries would not face a $92 dollar tax increase every time they enter the hospital next year.

When we considered the reconciliation bill in this body, I offered a sense of the Senate resolution that was accepted unanimously. That resolution stated, in view of the $92 Medicare hospital deductible increase that will

go into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

The amendment that I am offering today would delay the imposition of the new hospital deductible 4½ months, to May 15, in order to give the Congress time to act. It would raise the cigarette tax a penny a pack for the next 3 years to assure that this delay does not increase the deficit.

Enactment of this amendment will send a message loud and clear that the Senate believes that our Nation's senior citizens should not be faced with that excessive, unfair increase in the Medicare hospital deductible on January 1, 1986.

I urge my colleagues in this body to join me in casting a vote for fairness for our senior citizens.

I ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Does the Senator from Massachusetts have a right to demand a division of this amendment?

The PRESIDING OFFICER. The amendment simply proposes to insert language. It contains two separate subsections. The amendment is divisible.

Mr. KENNEDY. Do I correctly understand that with a division, when we do vote on that, the first would be deferring the implementation of the increase in the deductible for 4½ months? Is that part of division A?

The PRESIDING OFFICER. The Chair does not interpret the effect of the amendment.

Mr. KENNEDY. For the benefit of the Members of the Senate, I say that that is the effect of such a first division.

The second part of the amendment would offset the increases in the budget some $60 million by a 1-cent tax on cigarettes.

That will be the effect of it.

Mr. President, I ask for yeas and nays on both divisions.

The PRESIDING OFFICER. Is there sufficient second?

There is not a sufficient second.

Mr. KENNEDY. Mr. President, I wish to renew that request or otherwise I wil ask for a quorum call.

Mr. HELMS. Mr. President, will the Senator withhold the quorum call.

Mr. KENNEDY. No.

If I cannot get a sufficient second, I will ask for a quorum call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, whether the Senator divides the amendment or not, it is subject to a point of order, either divided or as an entity.

I raise a point of order that it is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from North Carolina has raised a point of order on the question of whether this is a legislation on an appropriations bill.

The amendment amends existing law and consequently it is legislation.

The point of order is sustained.

Mr. KENNEDY. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. GORTON]. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, much as I admire the merits of many of the amendments of my good friend from Massachusetts, I think the point of order is well taken, and I move to table the appeal of the ruling of the Chair and ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the appeal of the ruling of the Chair.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—53

Abdnor	Grassley	Nunn
Andrews	Hatch	Packwood
Armstrong	Hatfield	Pressler
Baucus	Hecht	Proxmire
Bentsen	Heflin	Pryor
Boschwitz	Helms	Quayle
Cochran	Hollings	Roth
D'Amato	Humphrey	Rudman
Danforth	Kassebaum	Sasser
Denton	Kasten	Simpson
Dole	Long	Stevens
Domenici	Lugar	Symms
Evans	Matsunaga	Thurmond
Ford	Mattingly	Trible
Goldwater	McClure	Wallop
Gore	McConnell	Warner
Gorton	Melcher	Zorinsky
Gramm	Murkowski	

NAYS—37

Biden	Exon	Metzenbaum
Bingaman	Glenn	Mitchell
Boren	Harkin	Moynihan
Bradley	Hart	Nickles
Bumpers	Hawkins	Pell
Burdick	Heinz	Riegle
Byrd	Johnston	Rockefeller
Chafee	Kennedy	Sarbanes
Cohen	Kerry	Stafford
Cranston	Lautenberg	Weicker
Dixon	Leahy	Wilson
Dodd	Levin	
Eagleton	Mathias	

NOT VOTING—10

Chiles	Garn	Specter
DeConcini	Inouye	Stennis
Durenberger	Laxalt	
East	Simon	

So the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we have now about three amendments.

Mr. President, we have about five amendments that are pending at some point in order. We will continue on to accommodate Members with their amendments for as long as any Members have amendments to offer.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. JOHNSTON. A number of Senators on both sides of the aisle have inquired about whether we will have votes tonight. I indicated to some of my colleagues that we would try to find that answer at this point.

Mr. HATFIELD. I would expect we will have votes tonight because I would assume there will be those who will want a rollcall. I have talked to two Senators who expect to have to ask for a rollcall on their amendments.

I do not know about others. The Senator from Illinois is in a position to offer an amendment shortly, and I believe the Senator from Pennsylvania is going to be seeking recognition. I have not checked with how many want rollcalls. I have information given to me that there might be as many as four or five or six rollcalls.

Several Senators addressed the Chair.

Mr. FORD. Mr. President, will the floor manager yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. FORD. Is there a possibility, if there will be votes tonight, that we might have a window like from 6 until 8 or so?

Mr. HATFIELD. I hope so. I would certainly strive to get that unanimous-consent agreement with the leaders. I would have to take that up with the leaders.

Mr. FORD. Mr. President, I thank the chairman for yielding.

Mr. CHAFEE and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HEINZ. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I would like to say to the manager of the bill that there is no unanimity here on having a window. Some would like to get it finished, not late, but leave at a reasonable hour. I mean the least attractive thing as far as this Senator goes is to leave, and have to come back. Why not quit at 6:30 or 7 and do it tomorrow?

Mr. HATFIELD. I indicated to the Senator from Kentucky that would be a matter for the leadership to determine. I certainly am willing to request of the leadership to get a unanimous-consent agreement to the floor in order to achieve that.

AMENDMENT NO. 1352

(Purpose: To limit the increase in the Medicare inpatient hospital deductible)

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, in a minute I am going to send an amendment to the desk that deals differently with the same problem that the Senator from Massachusetts, Senator KENNEDY, was attempting to address in his amendment which was defeated on a point of order. My amendment will cap at a nonetheless substantial level the part A Medicare deductible. That, unless we act, will rise by some $92 from $400 to $492.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. I thank the Chair.

I serve, together with 19 of my colleagues, Mr. President, as a member of the Committee on Finance. In talking just a few moments ago with the chairman of our committee, Senator PACKWOOD, I had reconfirmed by recollection of the discussion of our Medicare legislation. It was my recollection that we knew at no time during the consideration of the Medicare amendments that are part of reconciliation, that an unintended consequence of the shift, the DRG, was going to result in this $92 per day deductible—you only pay it on the first day you are in the hospital—which sets, I am sorry to say, a tremendous record and also of sufficient size that the $92 is going to be keenly felt by the sick who will have to pay it.

We did not know that in shifting to a method of reimbursement, that is to say, prospective payment, which is going to save the taxpayers literally billions of dollars in the reconciliation legislation, that, in addition to that saving, there was going to be an added, very substantial beneficiary cost-sharing increment which is nothing less than a sick tax, a tax on the sick.

Had we known it at the time of our markup, there is no doubt in my mind that we at the very least would have found a way to mitigate the increase. We would have found a way to pay for that mitigation. We would have shared the increased cost some other way, with some other group in the jurisdiction of the Finance Committee.

As I said, I posed all of those possibilities in the chairman of the Finance Committee. He was candid. He said it was quite right, we really did not see this coming at the time we were marking up.

I know we all probably feel we ought to address this on reconciliation, that the proper measure that we ought to amend is in fact the reconciliation bill. But we do not have that opportunity anymore because that bill is in conference. We do not know when the conference on reconciliation will conclude. What we do know is that on January 1 this deductible is going to go into effect.

My amendment, Mr. President, would cap the increase.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. DIXON. Will my friend from Pennsylvania yield for a question?

Mr. HEINZ. If I may just explain the amendment, I will be happy to yield.

Mr. DIXON. Is the Senator offering an amendment?

Mr. HEINZ. The Senator is going to offer an amendment in just a moment. But, as you know, the rules of the Senate provide that once I offer an amendment, I lose my right to the floor if the rules are strictly enforced. I would not have a chance to explain the amendment. It is possible that a point of order could be made against the amendment. I hope not. But that is why I am pursuing this particular course.

Mr. SIMPSON. Mr. President, if the Senator from Pennsylvania would yield, I shall try to bring our colleagues up to speed, perhaps, on where we are.

Mr. HEINZ. If I may yield without losing my right to the floor.

Mr. SIMPSON. Indeed, without losing his right to the floor.

Mr. President, the majority leader indicated previously where we might be going. I must defer to the chairman of the Appropriations Committee. He has a chore to perform. He is making every effort to do that.

He has also indicated to all of us where this procedure is going to go, where it will end. It is a rather perilous course that he has outlined. The worth of the exercise we are going through here does not detract in any way from the substance of the amendments.

I do not think people have been prepared for a late evening this evening. That had not been the intention of the leadership. I would suggest that you continue to heed the words of the chairman of the Appropriations Committee, the floor manager of the bill, and Senator Johnston, the ranking member, as to what is their intention this evening. I would hope we would pursue and hope to get some votes on issues and then reassess this matter in another hour or so. We would have a better idea of what we need in the way of windows for 1½ hours or 2 hours, or where we will go with regard to later activity tonight.

That is about the best information I can provide.

Mr. DIXON. Will the assistant majority leader yield?

The PRESIDING OFFICER. The assistant majority leader does not have the floor to yield. The Senator from Pennsylvania has the floor.

Mr. HEINZ. I will yield for a question from the Senator from Illinois without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. May I say that I told the majority leader that I have had an amendment at the desk for some time. When the Senator from Pennsylvania concludes with his amendment, I am prepared to go forward with my amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. What my amendment would do would be to cap the increase in the part A premium at $476 instead of allowing to rise to $492. I frankly would have preferred to see it lower, but I have consulted with a number of the aging groups who feel keenly about what this may do to their constituencies. They recognize that we have a revenue problem, a deficit

problem, and a spending problem. They do not wish to unduly compound our difficulties.

As a result, this amendment would limit the increase in the part A deductible to about a 19-percent increase instead of about a 23-percent really whopping increase that we will have on January 1 unless we adopt this amendment, or one like it, or one like the amendment of the Senator from Massachusetts, Senator KENNEDY, who tried to offer his amendment a while ago.

I would hope that my colleagues would support this amendment and that we could vote it up or down on the merits.

I would like to briefly read into the RECORD the sizes of the increases in the part A deductible since 1980.

In 1980, Mr. President, the part A deductible was $180. It increased $24 the next year, 1981, to $204. The year after it increased by $56, to $260. In 1983, it increased by $44, to $304. In 1984, it increased by another $42, to $356. In 1985 it increased by $44, to an even $400. As I said a moment ago, this time it would increase not by $24, not by $56, not by $44 or $42, but it would increase by $92, all out of proportion to logic and reason if an amendment such as this is not adopted.

I hope, Mr. President, that my colleagues will support this amendment.

Let me say again—and I do not think that there is anyone who would rebut this—that when the Finance Committee attended to the issue of Medicare cost-sharing and savings in Medicare, we had absolutely no idea, there was nothing on the record that we knew of, that this was the size of the increase in the deductible that we were facing. And there is a terrible irony in it. The savings from prospective payment to our country are enormous, literally billions of dollars, and what we do if we not adopt this amendment is that we are conceding that, in spite of the fact that we are saving more now on Medicare, the beneficiaries ought to pick up a vastly increased amount of the cost of Medicare, on which we are saving a lot of money. To my mind, it makes no sense that we should have beneficiaries paying a vastly increased amount because of a saving initiative that is successful.

So, Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is informed that the pending business is the amendment of the Senator from Washington [Mr. GORTON], the present occupant of the chair.

Mr. HEINZ. Mr. President, would it be in order to ask unanimous consent to temporarily lay aside the pending amendment to send my amendment to the desk?

The PRESIDING OFFICER. It would be in order.

Mr. HEINZ. I so ask, Mr. President.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that the amendment offered by the Senator from Pennsylvania may be considered.

Mr. HEINZ. I thank the chairman. I thank all Senators.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], proposes an amendment numbered 1352.

At the appropriate place insert the following:

SEC. . Notwithstanding section 1813(b) of the Social Security Act, the inpatient hospital deductible for purposes of section 1813(a) of such Act for calendar year 1986 shall be $476.

Mr. HATFIELD. Mr. President, I make the point of order that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania proposes an exception to existing law and consequently is legislation on an appropriations bill. The point of order is well taken.

Mr. HEINZ. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HATFIELD. Mr. President, I move to lay the appeal of the Senator from Pennsylvania on the table.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the appeal on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. ABDNOR], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE] the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 41, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—45

Armstrong	Helms	Proxmire
Baucus	Humphrey	Pryor
Bentsen	Johnston	Quayle
Bingaman	Kassebaum	Rockefeller
Boschwitz	Long	Roth
Danforth	Lugar	Rudman
Denton	Matsunaga	Simpson
Domenici	Mattingly	Stafford
Evans	McClure	Stennis
Ford	McConnell	Stevens
Goldwater	Moynihan	Symms
Gorton	Murkowski	Thurmond
Gramm	Nunn	Trible
Hatfield	Packwood	Wallop
Hecht	Pressler	Zorinsky

NAYS—41

Andrews	Gore	Levin
Biden	Grassley	Mathias
Boren	Harkin	Melcher
Bradley	Hart	Metzenbaum
Bumpers	Hatch	Mitchell
Burdick	Hawkins	Nickles
Byrd	Heflin	Pell
Chafee	Heinz	Riegle
Cohen	Hollings	Sarbanes
Cranston	Kasten	Sasser
Dixon	Kennedy	Warner
Dodd	Kerry	Weicker
Eagleton	Lautenberg	Wilson
Exon	Leahy	

NOT VOTING—14

Abdnor	Dole	Inouye
Chiles	Durenberger	Laxalt
Cochran	East	Simon
D'Amato	Garn	Specter
DeConcini	Glenn	

So the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1351

Mr. HATFIELD. Mr. President, I believe the Gorton amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order. Will Senators who are conversing please retire to the cloakroom?

Mr. HATFIELD. Mr. President, the matter of the Gorton amendment, which is pending, has been debated and has now been cleared on both sides of the aisle and is ready for action.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate?

Mr. HEINZ. Mr. President, one question.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Is there any cost to the Federal Government associated with this amendment?

Mr. GORTON. The Senator from Pennsylvania is informed that this amendment authorizes the Navy to settle a judgment which the State of Washington has against it, and it has been affirmed by the Supreme Court of the United States, out of available funds. In that sense, of course, there will be a cost, but it will not add to the appropriation.

Mr. MATTINGLY. That is true.

Mr. HEINZ. And there is agreement that that is good?

Mr. GORTON. Yes. It is an obligation of the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1351) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349

Mr. DIXON. Mr. President, I have an amendment at the desk, amendment No. 1349, and it will be necessary to modify that amendment to reflect an agreement that I have achieved with the distinguished manager of the bill and the manager on our side. So I send an amendment to the desk which is a modification of the original amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1349, as modified.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified, is as follows:

On page 10, line 19, after "Haiti" insert a colon and the following:

"*Provided further,* That not more than $1,711,286,666 may be made available to carry out Chapter 4 of part II of the Foreign Assistance Act of 1961 (other than any project, activity, or other assistance for Israel or Egypt)."

Mr. DIXON. Mr. President, this amendment has been agreed upon between the managers on each side. It reduces funding for the economic support funds from $3.8 billion to $3.725 billion.

In effect, what has happened here is that the House numbers on the economic support fund are $150 million below the Senate numbers.

By agreement between the managers on each side, we have agreed to reduce the amendment that I had originally intended to offer so that the savings is $75 million instead of $150 million. In effect, this still puts the Senate level $75 million above the House level.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DIXON. I yield.

Mr. JOHNSTON. Mr. President, the Sentor correctly reflected our conversation. In the meantime, I am advised that Senator INOUYE is not here. He is the ranking minority member of this subcommittee.

I wonder if the Senator could put the matter off until tomorrow until Senator INOUYE would have a chance to look at it?

Mr. DIXON. Let me say, Mr. President, that I have no problem in accommodating anyone who wants to look at this amendment with the understanding that should the distinguished senior Senator from Hawaii, when he looks at it, change the agreement that I have entered into with the managers of the bill, I would then want to offer the $150 million cut instead.

Mr. JOHNSTON. Of course.

Mr. DIXON. I would not want to hold the managers to an agreement that they feel is subject to reexamination in the view of someone who has an interest in the matter.

I hope no one thinks I was trying to overreach. I simply went to the two managers without any knowledge that anyone else had any interest in this subject.

May I say again this is higher than the House number.

Mr. HATFIELD. Mr. President, will the Senator from Illinois yield?

Mr. DIXON. I yield.

Mr. HATFIELD. I say to the Senator from Illinois that he is precisely correct. The managers of the bill did make an agreement with him on that. We are in that position where the Appropriations Subcommittee chairman and the ranking Democrat of that subscommittee have not been consulted. With our apologies, we feel that we will have to vitiate that agreement we made.

Mr. DIXON. I would not want to hold any manager to an agreement entered into that anyone has any difficulty with. I do not do so.

Mr. HATFIELD. I urge the Senator to pursue his amendment and let us dispose of it in an orderly fashion as he had originally presented it in the writing to us and have the right to amend his amendment to put it back to the original figure.

Mr. DIXON. Mr. President, under the circumstances I suppose the appropriate thing to do is to ask unanimous consent that my pending amendment be set aside until such time in the morning when we can again take the matter up either keeping this agreement, if the distinguished senior Senator from Hawaii is willing to sign off on it, or offering my original amendment, if not.

Mr. HATFIELD. I would object to any unanimous agreement to set any amendment aside until tomorrow because that assumes we will be on the continuing resolution until tomorrow. I would like to continue on the pathway of attempting to finish the continuing resolution tonight.

I would agree to temporarily lay aside the Senator's amendment making it the pending amendment. I hope to dispose of it tonight with or without the Senator from Hawaii or other persons being present necessarily.

Mr. DIXON. I simply ask unanimous consent that my amendment be set aside for the time being while we take under consideration other business and we reach it at the appropriate time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1353

(Purpose: To amend the Ethics in Goverment Act of 1978 to improve the confidential disclosure system for executive branch personnel)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] for himself and Mr. LEVIN proposes an amendment numbered 1353.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution insert the following:

SEC. . (a) This section may be cited as the "Ethics in Government Act Amendments of 1985".

(b) Section 207 of the Ethics in Government Act of 1978 is amended—

(1) by striking out the heading for such section and inserting in lieu thereof the following:

"CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS";

(2) by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "(1) The President may require officers and employees in the executive branch (including the United States Postal Service, the Postal Rate Commission, members of the uniformed services, and special Government employees as defined in section 202 of title 18, United States Code) to file a confidential financial disclosure report, in such form as the President may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in regulations prescribed by the President, and may be less extensive than otherwise required by this title, or more extensive when determined by the President to be necessary and appropriate in light of sections 202 through 209 of

title 18, United States Code, regulations promulgated thereunder, or the authorized activities of any such department or agency. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.".

(c) The amendments made by this section shall be effective 90 days after the date of enactment of this section.

Mr. COHEN. Mr. President, the amendment I am offering today on behalf of myself and Senator LEVIN would clarify and improve the legal authority for the confidential financial disclosure system that applies to the executive branch. The amendment is necessary due to the Department of Justice's interpretation of the Ethics in Government Act of 1978 concerning the President's authority to require Government officials to file confidential financial disclosure reports with their Government agencies. It is a noncontroversial amendment but is an important one in the sense that we must take action soon or we are going to miss a very important deadline next spring.

In addition to the public financial disclosure reports required by the Ethics Act, the executive branch administers a cofidential financial disclosure reporting system. Under this system, which was established by Executive Order 11222, entitled "Prescribing Standards of Ethical Conduct for Government Officers and Employees," approximately 100,000 employees between the GS-13 and GS-16 pay levels file confidential disclosure statements with their respective agencies. These reports are the only means of knowing whether these officials, many of whom are responsible for the day-to-day decisions of Government, have actual or potential conflicts of interest with their official duties.

Department of Justice opinions have interpreted certain provisions of the Ethics in Government Act as superseding this confidential financial disclosure system that has been in effect since 1965.

The Department of Justice has taken the position that confidential financial statements should not be collected until a new reporting system is established, either by a new Executive order or legislation. Furthermore, the Department has suspended the collection of confidential disclosure statements from its own employees.

To date, we have been fortunate that other agencies have, under the direction of the Office of Government Ethics, continued to collect these important reports. It is crucial, however, that the Congress clarify ambiguities in the Ethics Act before the 1986 filing seasons for these reports begins, so that agencies requiring reports will not be subject to challenge by employees not wishing to file. It is also important to correct this technical problem in the Ethics Act so that other agencies do not follow the example of the Justice Department in not collecting these reports.

The amendment I am offering today would give clear authority to the President to establish an appropriate confidential disclosure reporting system covering employees who are not required to file publicly under the Ethics Act. The reports required could be less or more extensive than the public reports required by the Ethics Act, depending upon the needs of specific agencies. This change is intended to remedy problem language found in section 207(a) of the Ethics Act that any confidential reports required by the President must be "in the same form" as the public reports. In many instances, requiring the same information as required in public reports would be administratively costly and burdensome, and unnecessary to detect conflicts of interest by these midlevel employees. To date, the President has not established a new confidential reporting system due to this restrictive language in the act.

The amendment also authorizes the President to require executive branch officials who file publicly under the Ethics Act to file additional information confidentially when such facts are necessary to enforce the conflict of interest laws or the authorized activities of any department or agency.

It is expected that the President would delegate his authority under this amendment to the Director of the Office of Government Ethics who is charged by law to be the coordinator and head of the executive branch ethics program.

Mr. President, I want to stress that this amendment pertains only to those provisions of Executive Order 11222 that deal with confidential financial disclosure. This amendment in no way attempts to alter the provisions of that Executive order that set forth standards of conduct for Government employees. Further, nothing in this new subsection should be construed to restrict the public financial disclosure reporting system that has been established by the Ethics Act.

My amendment is based on legislation that has been proposed by the Office of Government Ethics and submitted to Congress by OGE's parent agency, the Office of Personnel Management. The Office of Government Ethics testified in favor of this proposal last April in hearings before my Subcommittee on Oversight of Government Management. Both the OGE and agency ethics officials have stated that a confidential financial disclosure system is crucial to an effective ethics program. By removing the statutory obstacle to establishing a confidential reporting system that suits the needs of the agencies. we hope that the President will act expeditiously to issue a new Executive order governing confidential financial disclosure.

Mr. President, as ranking minority member and chairman of the Subcommittee on Oversight of Government Management, which exercises jurisdiction over the Ethics Act, Senator LEVIN and I have repeatedly seen the importance of disclosure to ensure that Government officials and employees are acting in the best interest of the people they serve, rather than in their own interests. It is only through adequate disclosure that the Government—and the public—can be sure that its officials are acting free from conflicts. I urge my colleagues to adopt this amendment in order to signal the Congress' continued commitment to a strong ethics program in the Federal Government.

There is no controversy over the amendment. We have cleared it with Senator ROTH and Senator EAGLETON, the chairman and ranking member of the Committee on Governmental Affairs, and I would ask that it receive the approval of this body.

Mr. LEVIN. I thank the Chair.

Mr. President, I congratulate my friend from Maine in his leadership in this area.

This is a technical amendment. He described it well. I commend him.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1353) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask the Senator from Maine, just in order to put it on the public record, the discussion the Senator and I had prior to the adoption of his amendment, that this matter had been cleared with the authorizing committee of the Senate.

Mr. COHEN. The Senator is correct.

Mr. HATFIELD. I thank the Senator from Maine.

AMENDMENT NO. 1354

(Purpose: To place a cap on the Military Assistance Program)

Mr. PRYOR. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is an amendment by the Senator from Illinois which recurs at this time and must be set aside to proceed with the amendment of the Senator from Arkansas.

Mr. DIXON. Mr. President, I ask unanimous consent that my amendment be set aside once again.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is set aside of the Senator from Arkansas.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON proposes an amendment numbered 1354.

On page 10, line 19, before the period insert a colon and the following: "Provided, further, That not more than $764,648,000 may be available under the heading 'Military Assistance'."

Mr. PRYOR. Mr. President, I submit this amendment this afternoon on behalf of myself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON.

Mr. President, this amendment would cut the Military Assistance Program—that is the military grant part of the program for foreign assistance—by a mere, modest $40 million. This cut would be the same figure as proposed and accepted by the House of Representatives.

The committee, I might say, has voted to freeze military grant funding at last year's level of $805 million. My amendment would bring the total down to the House-approved level of $765 million.

This cut in no way would effect military assistance to Israel, which receives its funding through the Foreign Military Sales Program and the Economic Support Fund.

Mr. President, we need to take a very close look at enormous increases in our security assistance internationally over the last few years. Even should this amendment be adopted by the Senate and the reduction made of $40 million, we would have increased the military grant program by 400 percent since 1981. During the same period of time, economic support funds have increased by 69 percent; military aid by 88 percent; and development assistance, Mr. President, by only 2 percent in constant dollars.

Mr. President, I think this amendment is a good amendment. It is sound. It is a modest reduction. It is in compliance with what the House of Representatives has done. I ask, Mr. President, that this amendment be considered favorably.

Mr. President, I am prepared to vote on this amendment if the managers do not wish to accept it.

I reserve the balance of my time.

Mr. President, it is my pleasure to sponsor this amendment with my distinguished colleague, Senator PRYOR. Both of us have been involved in continuous efforts to bring our military assistance program funding levels down to a reasonable level, while at the same time protecting our national interest by working with our allies around the world.

Mr. President, last year's effort to slow down the increase in military aid to foreign countries reminded all of us that spending in this area increased by several hunderd percent from 1981 to 1985. For the past several years, we have been cutting many worthwhile domestic programs in an effort to bring this Nation's deficit under control. This disproportionate growth in military aid to various nations continues to be unreasonable and unfair.

This year, the Senate has an opportunity to lower the fiscal year 1986 figure to $765 million. Mr. President, even a $40 million reduction is a small step. If this effort is successful, we would still have funded a 400-percent increase in our overall military grant program since 1981. What we are proposing is a step in the direction of fiscal responsibility. We cannot continue to ask the American people to make sacrifices at home when we are unable to make similar serious reductions in the area of military assistance abroad.

Mr. President, I believe in a strong defense. I support funding levels in our foreign and military assistance programs which will provide our allies and friends with a strong defense. Unfortunately, we cannot justify these kinds of funding levels to American farmers, small businesses, students, senior citizens, or taxpayers generally. Budget sacrifices must be shared. For these reasons, I urge my colleagues to support this amendment.

Mr. KASTEN. Mr. President, the amendment by the Senator from Arkansas would cut the military assistance program by approximately $65 million, a cut which would be on top of a cut which we made in the committee of roughly 18 percent from the administration's request level. We are already 18-percent below the administration's request level in this program and now this would be a cut of $65 million more.

The appropriations level, $805 million, is the same as that provided in 1985 and the same as that provided in the authorization legislation which has passed this body.

Mr. President, it is a popular position these days to cut foreign aid. The foreign aid provision of the continuing resolution before the Senate now is $5 billion below the 1985 appropriation—$5 billion less than last year. That is almost a 25-percent reduction. Mr. President, there is not another of the remaining 12 appropriation bills that has been cut from last year's level to this year's by anything near this amount.

Now this amendment would go further, and it would cut a program which is absolutely vital to U.S strategic interests around the world. Mr. President, this program assists friendly countries obtain reasonable defense capabilities which benefit U.S. interests far in excess of the actual dollar costs. Programs provided by this and the FMS program directly reduce the possibility that U.S. Forces instead would be required in order to protect vital U.S. interests overseas.

As I mentioned, the amount in the bill is already 18-percent below the administration's request, and any further reduction would substantially reduce expected country levels and be perceived by our friends and allies as a demonstration that the United States is less than a reliable defense partner.

Mr. President, the foreign assistance program is often criticized. I have, as chairman of the Foreign Operations Subcommittee, been critical of the Foreign Operations Program and I think the criticism that all of us level is, in many cases, justifiable. It is rampant with large inefficiencies, and we are working to try to deal with that. But this particular program is, I believe, an exception. It is one of the better run foreign aid programs we have. Mr. President, I think the Members of the Senate should clearly understand what we are talking about here as far as which countries receive this aid and why. The lion's share goes to countries with which we have security relationships, usually base rights or base access agreements. Its major recipients include Morocco, Portugal, Turkey, Kenya, Somalia, Tunisia, and the Philippines, and, of course, a major part of the program goes to countries in Central America who are trying to combat active Soviet backed insurgencies—countries such as Honduras and El Salvador.

Mr. President, the chairman of the Foreign Relations Committee may wish to be heard on this question. I do not see him here. But I just want to point out the fact that this level is also the authorized level. It is not just the appropriated level.

I would have to rise in opposition. At one point, I will make a motion to table the amendment, but I do not want to cut off other debate.

Mr. PRYOR. Mr. President, I appreciate the remarks and the position of my distinguished friend from Wisconsin.

I wish to conclude my argument, Mr. President, by stating two things. First—and this is not the fault of the Senator from Wisconsin—my original amendment which was basically to comply with the House language, was a cut of $65 million. This amendment, which was drafted later is a cut of $40 million and not $65 million. And that is a mistake of the Senator from Arkansas and not the Senator from Wisconsin.

Second, the Military Assistance Program, since 1981, has risen by 400 percent. There is no program throughout the whole spectrum of our National

Government nor our international commitment that has risen anywhere near that degree of increase.

Finally Mr. President, this program, the Military Assistance Program, is not a loan program. It is a grant program. And I believe it is time to further scrutinize the use of these tax dollars.

With that, Mr. President, I will conclude my statement. I ask a favorable vote on this amendment and hope that the Members will vote against the tabling motion.

Mr. KASTEN. Will the Senator yield for a question?

Mr. PRYOR. I am glad to yield.

Mr. KASTEN. I listed some of the recipient countries, like Morocco, Portugal, Turkey, Kenya, Somalia, Tunisia, et cetera. Does the Senator have a suggestion as to what specific countries he would single out that we would take the money from? In certain cases, as the Senator must know, we have base rights agreements with them. These are negotiated dollars. Does the Senator have any suggestion in this amendment? I have not seen it since he changed the number, and I do not know if he targets specific countries.

Mr. PRYOR. In this amendment I am making no suggestions as to cuts for particular countries. I would just like to state to my distinguished friend that in the Philippines, the MAP funding would double under this year's bill from $25 million to $50 million. In addition to the military grant, President Marcos would receive $2.25 million in training funds and $20 million in the Foreign Military Sales Program, not to mention economic support funds. If you go to Peru, if the distinguished Senator would like to known those figures, the military aid programs there increased from zero to $18,350,000—that might be a possibility—and in Jamaica, from $5 million to $8 million.

There are big increases in many of these countries. Of course, it would be up to the administration to make the decision as to where any cuts would be. I certainly hope that the Senate will favorably consider my amendment. I believe it is an amendment recommending sound policy and certainly good economic sense.

Mr. KASTEN. I thank the Senator for his response to my question. I just wish to point out that, in a large number of these cases—the Philippines would be a good example—both the authorizing committee and the appropriations committee have carefully considered these issues. We have cut, for example, from a requested $100 million to, I believe, $75 million in both the authorization and the Appropriations Committees. So we have made a number of significant reductions; as I said before, roughly 18 percent from the administration's request in this particular account.

And I do not think that we can afford to go further.

Mr. President, I move to table the amendment.

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—51

Abdnor	Grassley	Murkowski
Andrews	Hatch	Nickles
Armstrong	Hatfield	Packwood
Biden	Hawkins	Pressler
Boschwitz	Hecht	Quayle
Chafee	Heinz	Roth
Cochran	Helms	Rudman
Cohen	Humphrey	Simpson
Danforth	Johnston	Stafford
Denton	Kasten	Stennis
Dodd	Kerry	Stevens
Domenici	Lugar	Symms
Durenberger	Mathias	Thurmond
Evans	Mattingly	Trible
Goldwater	McClure	Wallop
Gorton	McConnell	Warner
Gramm	Moynihan	Wilson

NAYS—38

Baucus	Gore	Mitchell
Bentsen	Harkin	Nunn
Bingaman	Hart	Pell
Boren	Heflin	Proxmire
Bradley	Hollings	Pryor
Bumpers	Kennedy	Riegle
Burdick	Lautenberg	Rockefeller
Byrd	Leahy	Sarbanes
Cranston	Levin	Sasser
Dixon	Long	Simon
Eagleton	Matsunaga	Weicker
Exon	Melcher	Zorinsky
Ford	Metzenbaum	

NOT VOTING—11

Chiles	East	Kassebaum
D'Amato	Garn	Laxalt
DeConcini	Glenn	Specter
Dole	Inouye	

So the motion to lay on the table amendment No. 1354 was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349

Mr. KASTEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Dixon amendment No. 1349 as modified.

Mr. KASTEN. Mr. President, we have had an opportunity to work with the Senator from Illinois over the last few minutes. I believe that we may be able to reach some kind of agreement on the amendment as modified.

I inquire if we are ready to go at this point.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank the Chair. I send to the desk an amendment which has been drafted in consultation with the distinguished Senator from Wisconsin and the managers of the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The question before the Senate is the Dixon amendment numbered 1349. Does the Senator wish to set that aside?

Mr. DIXON. Mr. President, I wish to set aside amendment No. 1349. I thought that had already been done. I am sending an amendment to the desk for immediate consideration. I ask that amendment No. 1349 be set aside.

The PRESIDING OFFICER. The Senator wishes to set aside amendment No. 1349. Is that correct?

Mr. DIXON. That is correct.

The PRESIDING OFFICER. The amendment will be set aside.

AMENDMENT NO. 1355

The PRESIDING OFFICER. The clerk will state the amendment of the Senator.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1355.

On page 10, line 19, after "Haiti" insert a colon and the following:

Provided further, That notwithstanding any other provision of this subsection, that not more than $3,745,000,000 may be made available for the "Economic Support Fund."●

Mr. DIXON. Mr. President, I rise to offer an amendment ot reduce funding for the economic support fund [ESF], from $3.8 to $3.745 billion, which amounts to a savings of $55 million. Let me state at the outset that Israel and Egypt will be held harmless under by amendment, because those nations' funds are earmarks in the bill.

The reason for this amendment is simple and straightforward: Since

fiscal year 1980, ESF has witnessed almost a full 100 percent growth in its budget—$1.946 billion in fiscal year 1980 to $3.800 billion in the committee bill appropriation. As far as the Senator from Illinois is concerned, it would be absolutely unfair and inappropriate to allow this sort of enormous growth in a period of fiscal conservation, when even the most worthwhile domestic social safety net programs are required to absorb cut after cut.

A few examples should illustrate my point:

The summer youth employment program was cut by $100 million from fiscal year 1985 in this year's budget. That means that literally thousands of urban youths will be without jobs this summer, who might otherwise have been gainfully employed. I tried to rectify that oversight, but was unsuccessful. Why? Because fiscal conservatism is uppermost in everyone's mind, even if that means that thousands of youngsters will be forced to suffer.

The dislocated worker program absorbed a cut of $122.5 million from the prior fiscal year. I tried to restore that money, too, but again, the banner of fiscal responsiblity was hoisted up the flagpole, to the detriment of those workers who would otherwise have been retrained for productive jobs in the private sector.

Mass transit is down $517 million from fiscal year 1985.

Highways are down $500 million below this year's budget request.

Community development grants have been cut drastically, by $347,200,000 from fiscal year 1985. These block grants are intended to finance block grants for such programs as adequate housing, a suitable living environment and expanded economic opportunities for low-income groups. So the community development program is taking it on the chin, too.

Student loans are down, food stamps have been cut back, revenue sharing is soon to be a creature of the past. The list goes on and on, Mr. President, Sitting over in the corner quietly, however, is the economic support program—up 100 percent since 1980. ESF is now provided to 44 nations and regional programs, compared to 11 in 1980. ESF just rolls down the hill, like a big, fat snowball, gathering speed and size, as it goes on its merry way.

Enough is enough, Mr. President. My amendment would reduce the funding level of ESF—from $3.8 to $3.745 billion. I find it exceedingly ironic, Mr. President, that the Senate figure is greater than the House figure. Since when is this so-called fiscally conservative Chamber more liberal than the House?

There it is, Mr. President. This amendment will save the taxpayer approximately $55 million. I believe it is a prudent amendment, and I urge its adoption.

Mr. President, the figure in my amendment is the correct figure that has now been agreed to by the distinguished Senator from Wisconsin, the managers of the bill, and others. I believe I could successfully represent at this point that this amendment, which reduces the amount of appropriated funds for the economic support fund by $55 million, striking a compromise between the House and the Senate, is an agreed amount. I wonder if the Senator from Wisconsin would comment upon that.

Mr. KASTEN. Mr. President, first, I would like to ask of the Senator from Illinois if it is his intention to withdraw the amendment that has been set aside. Is that correct?

Mr. DIXON. That is my intention.

Mr. KASTEN. And this is the only amendment on this subject that the Senator intends to bring forward?

Mr. DIXON. That is correct.

Mr. KASTEN. Mr. President, the committee position was a position which we believe was the necessary amount for us to go into conference with. All of these issues are issues that are going to be worked through and negotiated. I shall agree to the Dixon amendment at this time, recognizing the fact that it might weaken our position in conference somewhat, but I think we still will be able to have a strong economic support fund.

I also recognize the interests and the needs of other Members who have been working with the Senator from Illinois over the afternoon.

Therefore, Mr. President, I shall not object to the amendment.

Mr. JOHNSTON. Mr. President, the amendment is also acceptable to this side of the aisle specifically and is consistent with the position of Senator INOUYE.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1355) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349 WITHDRAWN

Mr. DIXON. Mr. President, I withdraw amendment No. 1349, if I may have unanimous consent to do so at this time.

The amendment (No. 1349) was withdrawn.

AMENDMENT NO. 1356

(Purpose: To express the sense of the Congress concerning reforms in United States foreign military assistance programs)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1356.

Mr. MURKOWSKI. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

The foreign debt burdens of many third world nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to then programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore,

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element to the recipient nation and that Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation

for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

Mr. MURKOWSKI. During the last few months, it has become increasingly clear that our foreign military assistance programs are in need of some major refinements, including adherence to the principle of truth-in-lending. And the key reason is because past foreign military assistance [FMS] loans have added to the onerous debt burdens some of our friends and allies have to bear.

Let us look at the worst examples:

[In millions]

Country	Total official debt	FMS debt
Israel	$12,000	$8,750
Egypt	8,500	4,550
Turkey	3,500	1,900
Jordan	830	325
Morocco	950	195
Sudan	400	105

Note.—All figures approximate.

While the rest of our military aid recipients are not in as extreme a situation, there is the potential that they could be unless some basic reforms are made in implementing our military assistance programs.

CONGRESSIONAL SUPPORT FOR FMS/MAP REFORM

The Congress has come slowly but surely to recognize these trends and to realize that it makes no sense to assist our friends and allies militarily while weakening their economies with added debt burdens. The Appropriations Committee report on the fiscal year 1986 foreign assistance appropriation bill encourages FMS debt reform for this very reason. Further, several requirements in the fiscal year 1986-87 foreign assistance authorization bill require the administration to explore additional ways to solve this long-term problem.

EARLIER REFORMS

In testimony before the Senate Foreign Relations Committee during a hearing on this subject last September 30, Under Secretary of State for Security Assistance William Schneider agreed with the need to find ways to alleviate the FMS debt problem and not to contribute further to it. He noted that the last few years have seen the creation or expansion of various programs, including special provisions for Israel and Egypt, that is, forgiven FMS credits; concessional—reduced rate—loans; extended-term repayment—30 years instead of the normal 12—loans; grace periods of interest-only repayment; rescheduling of payments; and the grant Military Assistance Program [MAP]. Each of these has helped slow the trend toward increased debt.

On November 18, the administration's mandated report on the military assistance system documented the debt problems noted above. Further, it stated that the Guarantee Reserve Fund, which is used when countries cannot repay their FMS loans on time, is at an unprecedentedly low level because of the problems some of our friends and allies have had in repaying their loans. It concluded that a new approach to funding this program and, by implication, resolving the FMS debt problem, was essential.

MORE FUNDAMENTAL REFORM NEEDED

I agree with the administration and the relevant committees on the objectives of previous FMS/MAP reforms. But I believe the means which have been created or suggested so far, while well-intentioned, are insufficient and, in one case, should be abolished. That was why, during the debate on the foreign assistance authorization bill last May, I proposed amendments to reform these programs so as to implement a more honest and open approach to these programs which will not add to our allies' debt burdens.

My proposals, which are explained further in an attachment, which I shall ask to have printed in the RECORD following my remarks, would simplify and refine our FMS and MAP Programs in the following ways:

A. REPEAL EXTENDED 30-YEAR REPAYMENT LOANS

This would repeal the provision in the law allowing some nations to stretch out their FMS loan repayment periods from 12 to 30 years. This provision eases the short-term debt burden of our allies—but increases their long-term debt burden significantly since paying off a loan over 30 years is several times more costly than over 12 years—even with inflated dollars. Also, since most military equipment doesn't last 30 years, it must be replaced during the term of the loan—often with new 30-year loans. Thus, those countries accepting such loans are faced with a kind of double jeopardy—a larger long-term debt burden and an accelerating debt spiral feeding upon itself as new loans are added to old before the old are paid off. Already some countries are repaying more per year on old FMS loans than they are receiving from new ones. As this program, which is comparatively new, expands, this situation can only worsen.

B. INTRODUCE TRUTH-IN-LENDING INTO OUR FMS PROGRAMS BY REPEALING THE CONCESSIONAL LOAN PROGRAM

This program allows nations to pay as little as 5 percent interest on their 12 year FMS loans. I obviously do not quarrel with the objective of this program, which is to ease the debt burdens of our friends. I quarrel only with the fact that we use this device to hide what is in fact a grant component, approximately 30 percent, in this program. That is, a 5-percent loan over 12 years will have a repayment 30 percent lower than a 12-percent loan over the same period—12 percent being the current Treasury rate on normal FMS loans. Since the taxpayer makes up the difference by having the Treasury subsidize it, the difference is a grant. We should admit this openly by abolishing this program and giving the aid recipients in question 30 percent more in grant MAP funds and the remaining 70 percent of the agreed aid level in Treasury rate 12-year loans. This would not affect the buying power of recipient countries and would mandate approximately the same aggregate dollars in repayment to the United States.

A STREAMLINED SYSTEM WOULD BE MORE EFFICIENT

If implemented, these changes would mean that our Military Assistance Program would consist solely of 12 year FMS Treasury rate loans and MAP grants. In that way, if an aid recipient is able to repay loans at the market rate, it should be granted a 12-year loan—which is the usual 5-year grace period. If its economy cannot manage yet another debt, we should offer aid as a MAP grant. If it falls in between, we should combine FMS loans and MAP grants according to the same criteria.

The overall aid levels would not be changed under this proposal. They would simply be implemented in a fairer and more honest way and would not add to the debt burdens of our allies and friends.

These changes would also ease the current problem with appeals from our allies for more favorable terms on military assistance to match those their neighbors are receiving. Sound criteria for assistance would better rationalize the types of assistance different countries would receive. The proposals might also help pave the way for a more honest look at the relationship between military assistance and base rights overseas. I for one do not believe there should be such a relationship. But as long as we have one, we should know on what basis it relates to our military assistance programs.

NEED FOR AN ADMINISTRATION/CONGRESSIONAL CONSENSUS ON REFORM

During his September 30 testimony, Dr. Schneider stated that the administration has used the devices in force because the Congress has been reluctant to use other means to achieve the objective of reducing our allies' debt burdens. He stated that until a new consensus is reached with the Congress, the administration prefers to stay with the current approach for fear of getting something worse.

The September 30 hearing, the administration's November report, and the foreign assistance authorization and appropriation bills all contain important elements of just such a consensus on the nature of the military fi-

nancing problem and the outlines of a solution.

The appropriate time to implement programmatic changes and solutions is early in the next session during consideration of the foreign assistance authorization bill. By that time the administration will have presented its proposed program and the relevant committees can make changes to assure an improved, refined Military Assistance Program.

FUNDAMENTAL PRINCIPLES FOR REFORM SHOULD BE AGREED TO NOW

However, I believe it would be worthwhile to take some action now to gain agreement on the principles which should guide those deliberations based on this consensus. This is why I am proposing this amendment.

It expresses the Sense of the Congress in support of major reforms in our military assistance programs along the lines of this emerging consensus. I believe that it is in our interest and that of our allies that their military security not be strengthened at the expense of their economic health. Reforms along the lines I have proposed will do so. And I am fully committed to doing all I can to assure the achievement of these objectives. Having the commitment of the Congress to the fundamental principles involved, through passage of this amendment, will be an important step in paving the way to assure that we do achieve those objectives. For all these reasons, I urge an overwhelming vote of support for my amendment.

Mr. President, I ask unanimous consent that the document to which I referred to be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

30-YEAR EXTENDED REPAYMENT LOANS: PROPOSED REFORM

Senator Murkowski's proposal would repeal the provision in the Arms Export Control Act permitting FMS loan recipients to stretch their repayments from 12 to 30 years.

While granting a country the right to repay an FMS loan over thirty years with a ten year interest-only grace period may seem like a generous act, in fact, it is a false economy for us and a debt time-bomb for that nation.

The reason is two-fold. First, many military hardware items will not last the thirty year term of the loan, and thus must be replaced two or even three times during that period—with new loans! These in turn added new debt to old debt. The second reason is that, as shown in the attached chart, thirty year loans are, by definition, more costly in the long term than a shorter term loan.

For example: If a country bought a $50,000 military truck with a ten year life in year 1, it would have to buy two more (in years 11 and 21) to keep the same capability. Let's say the second and third trucks cost $60,000 and $70,000 respectively. If these trucks are financed by 30 year extended repayment FMS loans (with a ten-year grace period), the country will have paid us some $440,00 by year 30, it will still owe us some $280,000, and in year 31 it will once again have to finance a new truck since the other three are no longer usable.

Contrast this with doing the same transactions with the normal FMS 12 year market rate loans (with a generous 5 year interest-only grace period). Over the same 30 year period, the nation would have paid back some $287,000 ($157,000 less) and it would still owe $105,000 ($175,000 less).

Multiply this example by the hundreds now in effect and by the $1 billion proposed for extended repayment in FY 86, and it becomes clear that this program only exacerbates needlessly the debt problems of our allies and friends.

The inevitable result, unless this program is re-structured or abolished, is the situation we face today (and will face for the indefinite future), where re-payment levels of old loans for countries scheduled to receive these loans are 50% or more (in one case 101%!) of the new loans proposed for FY 86.

Some examples:

[In millions of dollars]

Country	Fiscal year 1986 FMS	
	Proposed	Repayments
Greece	500	234
Turkey	560	406
Korea	228	231
Spain	400	291

The situation, already out of hand in countries like Korea, where they are paying us back more than we are loaning them, can only worsen, as payments from our left hand to our right hand increase.

CONCESSIONAL LOANS: PROPOSED REFORM

Senator Murkowski's proposal would repeal the concessional loan program. It would replace that program with a different formula to achieve the same objective, but more honestly.

The proposal would re-appropriate the funds voted for concessional (5 percent rate, 12 years, 5 year grace period) FMS loans at an approximate ratio of 70 percent in 12 year treasury rate FMS loans and 30 percent in MAP grants or FMS forgiven credits. This formula is based on the difference in payback between this rate and the current treasury rate on such loans, approximately 12 percent. (The ratio would, of course, change as the treasury rate changed).

The purpose of this change is to implement a more honest and straighforward military assistance policy. Since the U.S. Treasury, i.e. the U.S. taxpayer, must pay the 30 percent subsidy component in concessional loans, that amount is a grant. If so, we should call a grant a grant and give the recipient countries 30 percent of the agreed funding level as a MAP grant or FMS forgiven credit and 70 percent as a straightforward treasury rate FMS loan.

For example:

Given a $100 million loan with a 12-year payback schedule:

At a 5 percent concessional interest rate, a nation would pay back approximately $133 million over 12 years;

At a 12-percent rate, the nation would pay back approximately $189 million.

In this example, the difference in payback is $66 million, approximately 30 percent of the $189 million figure. The Treasury has to make up the difference, which is therefore a grant from the U.S. government.

Mr. MURKOWSKI. Mr. President, the amendment I have proposed is an attempt to provide the Congress with a firm foundation of principles for reforms in our foreign military assistance programs.

The amendment reflects an emerging consensus in the Congress and the administration on the need for simplification, greater attention to the debt problems of our allies, and a more coherent approach to these programs.

Mr. President, I understand that my amendment is acceptable to both sides.

Mr. JOHNSTON. Mr. President, we have not seen a copy of the amendment. Until we see a copy, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the amendment is agreeable with the minority.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1356) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1357

(Purpose: To authorize the President to deny most-favored-nation trade treatment to Afghanistan)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], for himself and Mr. KASTEN, proposes an amendment numbered 1357.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this Act, the President shall submit to the Congress on such date a report which states the reasons why the President has not denied such treatment.

(c) Notwithstanding any other provision of law, if the President takes any action under subsection (a), the President is authorized to—

(1) restore nondiscriminatory trade treatment to the products of Afghanistan, and

(2) extend credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

only if the President provides written notice of such restoration or extension to the Congress at least 30 days prior to the date on which such restoration or extension takes effect.

(d) For purposes of this Act, the term "product of Afghanistan" means any article which is grown, produced, or manufactured (in whole or in part) in Afghanistan.

Mr. HUMPHREY. Mr. President, the amendment has been cleared with the managers on both sides, likewise with the chairman of the Foreign Relations Committee and the chairman and ranking member of the Finance Committee. Very briefly, this is an amendment that would withdraw most-favored-nation status from the Government of Afghanistan. It was drafted in cooperation with the State Department.

I ask unanimous consent that the letter of support from William L. Ball III, Assistant Secretary for Legislative and Intergovernmental Affairs, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE
Washington, DC, October 23, 1985.

Hon. GORDON J. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: The Administration welcomes your recent draft legislation authorizing the President to discontinue Most Favored Nation (MFN) trade treatment for Afghanistan. The Administration, which has the authority to deny credits and credit guarantees to any country, has already discontinued the extension of credits to Afghanistan. We believe the bill's provisions on MFN are consistent with our overall policy toward the Kabul regime, and we stand ready to implement them as quickly as possible.

The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

WILLIAM L. BALL III,
ASSISTANT SECRETARY
Legislative and Intergovernmental Affairs.

Mr. KASTEN. Mr. President, I ask unanimous consent to be named an original cosponsor of the amendment.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I do not rise to object to this amendment. I do rise to object to what is taking place on the floor of the Senate at the moment. We just had a resolution that was adopted—I did not object to it—from Senator MURKOWSKI. I do not have concerns about the thrust of what he was proposing and what was adopted. I do not have objection to the thrust of what Senator HUMPHREY is proposing.

I have just been handed another one that is coming down the pike along a somewhat similar line. It just seems to me that the managers of this bill have some responsibility to us in the Senate not to tie on to the continuing resolution a potpourri of proposals of all sorts, some of which have merit, but they do not belong on a continuing resolution. What you do is open the door for the rest of us who have various and sundry proposals to feel, well, if you can put this on and you put the Murkowski one on, you put something else that Senators ABDNOR and DECONCINI are about to propose, the door is open and why not come forward with anything and everything that we have been wanting to get through over a period of time.

It was my understanding that the managers of the bill had a continuing resolution they wanted to bring to a conclusion. As a matter of fact, we were told last Friday that they thought they would dispose of it by then. But every time you take one of these, you open the door and urge upon others that they might come to the floor also and bring up their pet resolution or their pet amendment.

That is not the way to run the Senate, and I do not think we should add to the continuing resolution anything and everything that comes down the pike. I do not address myself specifically to the proposal of the Senator from New Hampshire. I address myself generally and to the procedure.

Mr. HATFIELD. Mr. President, I certainly agree with the sentiments expressed by the Senator from Ohio. That battle has been fought many times by me, as chairman of the committee, and ranking members of the committee as well.

Tonight, we have tabled or we have created a point of order for five amendments that were legislation on appropriation. We had hoped that we might persuade others in the Senate from offering such matters, but I think we have to recognize that there are occasions which make it very difficult for the Appropriations Committee and the managers of appropriations bills to withstand amendments.

I remember when the Senator from Ohio, as a member of the Senate Judiciary Committee, requested the Appropriations Committee to adopt the crime bill, the entire comprehensive piece of legislation, as reported on the floor, at the request of the Judiciary Committee. We did not seek to do that.

We had the chairman of the Senate Appropriations Committee ask us to adopt the foreign assistance authorization bill, which had not moved through the legislative process.

I could go on and on with the various and sundry requests we have received from authorizing committees.

I say to the Senator that all this shows somewhat of a breakdown or some kind of difficulty that exists in the legislative action and activities of the Senate whereby the appropriations vehicle then becomes the court of last resort or the last effort Members can make.

We had the Senator from Massachusetts argue a case today. There were certain deadlines and dates and problems relating to Medicare. I do not know how the Senator from Ohio voted on that one, but I do know that there are some very legitimate ones that are raised from time to time, and an appropriations vehicle is the only vehicle by which they can move that important authorizing legislation.

I would like to see a total and complete elimination. It cannot be either/or.

The Senator from Ohio says he does not object to these particular ones in substance, but it is the wrong method. I agree. But the Senator from Ohio has a different selection of priorities from that of some other Senator who thinks it is perhaps not as important to put this on the appropriations bill as maybe something else.

So the Senator can be very critical about his colleagues in this situation. But I say to the Senator, with all due respect, that I think he has participated in this very action on things that are important to him. I have. We all have.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. HATFIELD. I yield.

Mr. METZENBAUM. Is the Senator certain that the Senator from Ohio added on the crime package? My recollection was that that was proposed by the distinguished Senator from South Carolina, and I believe it was the Senator from Massachusetts. They were the chairman and the ranking minority member of the Judiciary Committee at that time and authors of that legislation. I believe the Senator from Oregon indicated that the Senator from Ohio had come forward with that proposal. I believe the Senator is in error.

Mr. HATFIELD. The Senator was not listening correctly. I merely said the Senator, as a member of the Judiciary Committee. The committee leadership represented that as a matter of the Judiciary Committee which was

adopted by the Senate on an appropriation measure.

All I am saying is that I would like to keep all of them off, all these matters that are extraneous, nongermane, legislation on appropriation.

By the same token, the Senate has not chosen to make that a blanket observation. Each Senator has adopted his own set of priorities as to when it should and should not happen, and it is difficult for the managers of the bill to deal with 98 other sets of agendas and priorities.

Mr. METZENBAUM. I urge upon the Senator from Oregon that he do everything possible to keep the continuing resolution as clean as it can be, whether or not it comes from me or any other Senator. I think the Senate would operate a lot better.

Mr. HATFIELD. I thank the Senator. We have done it on five occasions.

Would the Senator care to make the RECORD for me? Did the Senator from Ohio support the motion to table the Kennedy amendment earlier?

Mr. METZENBAUM No; Regrettably, I voted the other way. But the fact is that I said to the Senator from Massachusetts at the time, "You are right on the issue, but you are wrong on the procedure."

Mr. HATFIELD. I thank the Senator for clarifying the RECORD with respect to that action which he now criticizes.

Mr. JOHNSTON. Mr. President, I support my chairman on the issue of trying to keep this bill as pure and pristine as we can, but that is not possible any longer. We have already accepted some extraneous matters.

Therefore, since we can no longer be pure, let me tell the Senator from Ohio what my judgment will be, and that is to keep as much of the bill pure as we can, especially the more important provisions. But if there are some worthy amendments, such as this amendment on Afghanistan, which is supported on both sides of the aisle by all the players involved, by my chairman and by all the rest of them, and if we can get it done without a long debate and without a rollcall vote, then the fastest way to do it is to accept it. If it turns out to be bad later, we can drop it in conference. This is one that I hope will not be dropped in conference.

Mr. LONG. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. LONG. I say to my distinguished colleague—and anyone else—that I have been supporting the Chair. It seems to me that when the Chair does its duty, on the advice of the Parliamentarian, we should uphold the Chair. I am going to continue to support the Chair, no matter what someone else tells me about this matter.

It is easy for me to explain my position as long as I am consistent. If it comes to a rollcall vote, I will vote to sustain the Chair.

I can understand how things can be added to a bill where there is no objection, where everybody feels that way. Generally speaking, I hope that the committee will remain consistent. In that way we can avoid voting on the same thing 50 times and get on with the business of the Senate.

Mr. JOHNSTON. Mr. President, my colleague makes a very good point, and I hope Senators will take that to heart.

Let me say one more thing, because we want to get back into a fast cadence on this whole thing and finish it, not late tonight but early tonight.

If I sense the tempo in this body, we are now on what I would call the short strokes—that is, some would call them cats and dogs amendments. I would not call them that. I would call them the small matters that are not terribly controversial, save one broad matter, and that is the defense matter.

I think what we will try to do is finish the bill, other than defense, if we can, and then get unanimous consent that nothing else is in order.

So I urge all Senators who have amendments to bring them up now. I urge my friend from Ohio, if he can, to be on the floor, because we have a lot of small amendments now. I think most of them can be dealt with without a rollcall vote and they are noncontroversial.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1357) was agreed to.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the Senator from Louisiana, the comanager of the bill, has indicated that we are at that point where I think we have basically concluded the controversial amendments, with one exception, and that has to do with a matter that is now in discussion between the Armed Services Committee and the Appropriations Subcommittee on Defense. If the matter can be resolved—and I think it is down to about basically one question—we could conceivably even take that up and settle it tonight by such an agreement.

I am not optimistic enough to believe that we can accomplish that tonight, but I should like to put the Senate on notice that it would be our desire to complete all amendments that Senators have to offer, with the exception of the one I just referred to, relating to the armed services question, and then to seek a unanimous-consent agreement to make that the only amendment in order to be taken up tomorrow hopefully under a time agreement that could be worked out and thereby have the continuing resolution completed with that one exception and hopefully with the unanimous-consent agreement on dealing with it for tomorrow. That would be our exception at this time, at 6:20 p.m.

I urge also Senators to appear on the floor because if we reach the point where that becomes then the only unfinished business, we will propound that kind of unanimous consent request.

AMENDMENT NO. 1358

(Purpose: To provide loan authority to the Secretary of Energy from the Alcohol Fuels Loan Guarantee Reserve)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] on behalf of Mr. LUGAR and Mr. QUAYLE] proposes an amendment numbered 1358.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following:

Of the funds available from the Energy Security Reserve to the Secretary of Energy for Alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12 and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985: *Provided*, that—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3 million,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a nonfederal share in the amount of 10% of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary and at such rate as determined by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

Mr. McCLURE. Mr. President, I send this amendment to the desk on behalf of myself and Senators LUGAR and QUALYE.

Mr. LUGAR. Mr. President, the amendment which Senator QUAYLE and I are proposing would authorize a loan from funds available in the Alcohol Fuels Loan Guarantee Reserve to install a closed loop odor control system on the New Energy plant in South Bend, IN. The amendment requires that this be accomplished only on a cost sharing basis with other non-Federal interests.

The New Energy plant is the recipient of a $126.9 million loan guarantee from the Department of Energy. The plant is operating successfully, benefiting the local economy, increasing our domestic supply of energy, helping refiners to meet EPA lead phasedown regulations, and reducing agricultural expenditures through its favorable impact on corn prices and on crop surpluses.

The usually unpleasant odor which the plant has produced was unanticipated and has caused a very significant adverse public reaction in South Bend. A citizens group has filed suit under Indiana's nuisance law. The air pollution control board of the State of Indiana has ordered New Energy to submit within 120 days a plan for ending the South Bend ethanol odor problem.

Fortunately, a solution to this problem exists which is now under technical review by the Department of Energy. At a cost of approximately $3 million, a closed loop odor control system could be installed on the South Bend plant to eliminate this odor. While it would be preferable for the company to solve this problem on its own, this is unfortunately not possible. Donna Fitzpatrick, the assistant secretary of energy for renewable fuels, has informed me that she could not allow the company to borrow any money because it is not financially strong enough to support more debt.

It is appropriate for the Federal Government to help contribute to a solution to this problem on a cost sharing basis with non-Federal interests. Its loan guarantee is seriously threatened by the possibility that the plant will no longer be able to operate. The closed loop odor control system to be demonstrated could be made available to other alcohol fuels facilities with similar problems. All moneys loaned from alcohol Fuels Loan Guarantee Reserve would be repaid at an interest rate and on a time schedule to be determined by the Secretary of Energy.

Mr. QUAYLE. Mr. President, I am pleased to join my colleague, Senator LUGAR, in offering this amendment to make funds available in the form of a loan to the New Energy Corp. of South Bend, IN, for the purpose of installing an odor abatement system. This amendment requires that the loan not exceed $3 million and is contingent on assurances that the 10 percent non-Federal share of the cost of the project is available. It is important to note that this funding is not new money and will not add to our budget deficit.

The New Energy plant represents a successful public-private partnership and was constructed with the commitment of $126.9 million in loan guarantees by the Department of Energy. The plant has been in operation since October 1984, exceeding projections in both production and efficiency. Unfortunately, the plant has produced an unanticipated odor which has precipitated a strong objection by community residents.

While New Energy has met all environmental requirements, it is not in a financial position to install the odor abatement system on its own. However, the Department of Energy has advised us of their interest in this amendment granting authority to make funds available from the Alcohol Fuels Loan Guarantee Reserve. These funds would necessarily be repaid at an interest rate and time schedule set forth by the Secretary of Energy. DOE has also advised us that the odor control system which would be demonstrated at the New Energy plant, may be a prototype for other ethanol plants constructed with Federal loan guarantees.

I wish to express my appreciation to Senator MCCLURE, chairman of the Senate Appropriations Subcommittee on the Interior for his willingness to address the odor abatement problem at the New Energy plant and his agreement with this proposed solution. This loan will allow New Energy to continue in the vital task of providing energy from indigenous resources at a reasonable cost. Both the American people and the people of northern Indiana will benefit from the timely resolution of an unanticipated problem. I urge the adoption of this amendment.

Mr. McCLURE. Mr. President, we have a situation where an alcohol fuels plant under an energy program of the country that can participate in guaranteed Federal loans has been constructed in South Bend, IN. Unfortunately, this plant was designed without odor abatement and it is a slightly different technology than has been used before and a much larger plant than has been constructed before. The combination of the two events has caused an odor problem that has erupted into a political issue and into lawsuits in South Bend.

I think had this condition been known in advance the odor abatement would have been designed into the plant and would have been a part of the original loan and loan guarantee, and there would be no problem.

That is often the case with emerging or new technologies that we run into problems that were not anticipated at the appropriate time.

This amendment would simply provide that an additional $3 million loan could be made to be wrapped around the original loan requiring the sponsors to pay the interest on the loan to come up with at least 10 percent of the money in cash, to repay the loan at the end of the other loan and to pay all of the additional operation and maintenance that might be required as a result of the installation of the odor abatement loop that would be installed in the plant.

Mr. President, I do not know of any controversy concerning this particular amendment, although I confess that it has sprung on us rather quickly, and I would hope that this procedure could be followed here so that we can avoid the very real problems that are confronted now by this loan.

I would say to the Senate that it is my belief that if the loan is not made and the odor abatement equipment cannot be installed there is a very great risk—I cannot tell you that I know—but a very great risk that the plant will be abated either by the air quality control board of the State of Indiana or by the nuisance suits that has been brought by some of the residents who are affected by it and the $126 million loan which the Federal Government now guarantees could indeed be placed in jeopardy. It seems to me to be foolish to jeopardize $126 million because we were unwilling to advance an additional $3 million.

I hope the amendment will be agreed to by the Senate.

THE PRESIDING OFFICER. Is there further debate?

MR. JOHNSTON. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MR. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. JOHNSTON. Mr. President, we have no objection to the amendment.

MR. METZENBAUM. Mr. President, I am going to withhold my vote in connection with this issue and if I need unanimous consent, I will ask for it.

The owner, the head of this company, is a former top staffer of mine. Althought I have no business involvement with it, and I have no actual conflict of interest, I feel some embarrassment about it and therefore I will withhold my vote.

Mr. HATFIELD. Will the Senator use the microphone? I cannot hear it.

Mr. METZENBAUM. Mr. President, I intend to withhold my vote in connection with this issue. Although I have no conflict of interest and have no financial interest in the particular company involved, the head of the company is a former top staffer of mine who worked here in the Senate with me and I feel some sense of embarrassment in voting on a matter of this kind. Therefore, I intend to withhold my vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1358) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF FUNDING FOR THE ANADROMOUS FISH HABITAT PROGRAM IN ALASKA

Mr. STEVENS. Mr. President, the committee has recommended an appropriation of $9,537,000 for wildlife, range, and fish habitat research for the Forest Service. How will this affect the anadromous fish habitat research currently being conducted in Alaska?

Mr. McCLURE. This appropriation will restore funding for the Anadromous Fish Research Program in Alaska to its fiscal year 1985 funding level. The biologist positions and the operating budget will remain intact for the Forest Service lab in Juneau. The committee intends that the Forest Service assign high priority to the maintenance of the Juneau program.

FUNDS APPROPRIATED FOR ILLINOIS STUDY ON MINING SUBSIDENCE

Mr. DIXON. Mr. President, in the 1985 continuing resolution, $400,000 was allocated to the Bureau of Mines to conduct a study on the effects of mining subsidence on prime farmland in Illinois. This project is a multiyear study and needs funding for a number of years in order to be completed. I would like to ask a clarifying question regarding the funds appropriated in the fiscal year 1986 budget concerning this study.

Mr. McCLURE. Yes, please raise it.

Mr. DIXON. It is my understanding that the President's request for fiscal year 1986 includes $900,000 for the Bureau of Mines to study subsidence. Of this amount, approximately $325,000 would be earmarked for the Illinois subsidence study. Is this correct?

Mr. McCLURE. Yes, it is. In the past, approximately one-third of the funds appropriated for subsidence have been spent on the Illinois study. The Interior Subcommittee intends that this division be continued and $325,000 of the $900,000 would go to Illinois subsidence.

Mr. DIXON. It is further my understanding that the House and Senate both added $500,000 to the President's request for $900,000 to apply Appalachian mining subsidence technology. This would bring the total budget for subsidence to $1.4 million. Of this $1.4 million, $625,000 would be spent on the Illinois subsidence study. Is this also your understanding?

Mr. McCLURE. Yes, it is. The addition of $500,000 would bring the Bureau's budget for subsidence activity to $1.4 million. According to the distribution pattern of the past, this would mean around $625,000 could be made available for Illinois subsidence work.

Mr. DIXON. I thank the Senator for explaining the intended use of the funds to be allocated for the Illinois subsidence study.

AMENDMENT NO. 1359

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1359.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end insert: "Notwithstanding any other provisions of this Joint Resolution, strike the following beginning on line 11, page 32 through line 13, page 32 of H.R. 3011;

", at an interest rate of 4 per centum, to be repaid within a period of twelve years"

Mr. McCLURE. Mr. President, there was an inadvertent drafting error in one provision that deals with a provision on the payment of interest rates. This amendment would strike that provision so that it would be subject to negotiation by the Secretary. I know of no objection to the amendment.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Idaho yield for a question?

Mr. McCLURE. I am happy to yield.

Mr. METZENBAUM. As I understand it, this has to do with an airport loan. The law presently provides that it is to be at a rate of 4 percent.

Mr. McCLURE. If the Senator will yield, the House placed in a provision for the 4-percent interest rate. What we do is eliminate that provision for a mandated interest rate and permit the Secretary to negotiate on the interest rate.

Mr. METZENBAUM. I thank the Senator from Idaho.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho [Mr. McCLURE].

The amendment (No. 1359) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, many of our colleagues on both sides of the aisle have asked about the schedule for this evening. I want to assure my colleagues that, when we had our quality of life discussion the other day, we were not talking about Mondays in this calendar year. We were talking about the year 1986. You can see that that is quite correct, because we are doing our work tonight. I wish it were not so.

Nevertheless, the chairman of the Appropriations Committee and the ranking member advise—and I have not had the opportunity to visit with the minority leader—but I believe I must advise my colleagues that there is every prospect of further rollcall votes or a vote tonight. We are working toward resolving this matter. The chairman of the Appropriations Committee has described very carefully where we are with this issue and why we need to do it and the prospect of how these amendments will stay on the measure.

So I would just say there is a prospect of further rollcall votes or perhaps one, at least. We could have something more to report to the minority leader in another half-hour, I believe. I regret that.

Mr. BYRD. I thank the distinguished Senator.

AMENDMENT NO. 1360

(Purpose: To provide an appropriation for the Integrated Flood Observing and Warning System)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself and Mr. TRIBLE, proposes an amendment numbered 1360.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated an additional $3,000,000 to remain available until expended, for the National Oceanic and Atmospheric Administration for programs, projects, and activities for the integrated flood observing and warning system [Iflows].

Mr. BYRD. Mr. President, flash floods—torrents that rip through mountain hollows after sudden, heavy rainfalls—are the leading weather-related cause of death in the United States, according to the National Weather Service [NWS].

To combat the devastating effects of such floods, the NWS, an arm of the National Oceanic and Atmospheric Administration, has embarked upon a pilot project that links automated instruments at remote sites in West Virginia and surrounding States to sophisticated central computers with the purpose of assuring lifesaving early warnings of gathering floods in central Appalachia. This prototype flash-flood warning system is called the Integrated Flood Observing and Warning System [IFLOWS]. It was established in 1980, in a 12-county area along the boundaries of West Virginia, Kentucky, and Virginia. The IFLOWS Program was subsequently expanded to other flash-flood counties in these three States, as well as Pennsylvania, Tennessee, and North Carolina. The current goal is to complete IFLOWS within approximately 120 counties in 1987.

Mr. President, I have been a supporter of the IFLOWS project since its inception in 1980. Earlier this year, the Senate Appropriations Committee, at my request, included language in the report accompanying the fiscal year 1986 Commerce, Justice, State, the Judiciary, and Related Agencies appropriation bill, urging the Weather Service to give a high priority to completion of the IFLOWS project, inasmuch as it offered important potential for mitigating flood damage.

Last month, a major rain storm moved up the eastern seaboard of the United States, setting the stage for the worst flood disaster in West Virginia's history. At least 15,000 people were forced from their homes in West Virginia and Virginia, more than 60 people were killed, and the economic loss will probably exceed $1 billion.

The heaviest rain, which produced the catastrophic November floods, fell over areas not instrumented by IFLOWS.

The purpose of my amendment is to provide $3 million to accelerate the implementation of the current Iflows flash flood warning system. Further, it would expand the program into the counties declared as disaster areas during the recent floods in West Virginia and the surrounding States. For example, such expansion would involve 29 additional counties in West Virginia, 12 in Virginia, and 16 in Pennsylvania. Several counties in North Carolina and New York are also in need of coverage.

In summary, the proven Iflows prototype technology could have saved considerable life and property if it had been in place in the areas of West Virginia, Virginia, and Pennsylvania hit by devastating floods this November. The purpose of this amendment is to provide for accelerated Iflows implementation in West Virginia and the surrounding States, and expansion into those areas devastated by the recent floods.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

Mr. MATHIAS. Mr. President, I strongly support the amendment of the Senator from West Virginia.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment of the Senator from West Virginia [Mr. BYRD].

The amendment (No. 1360) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I thank both the manager and the ranking minority member of the bill for their favorable consideration.

Mr. JOHNSTON. Mr. President, I believe the distinguished Senator from Virginia [Mr. TRIBLE] has an amendment which we are prepared to clear on this side of the aisle.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 1361

Mr. ABDNOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and Mr. DECONCINI, proposes an amendment numbered 1361.

Mr. ABDNOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 49, after line 9 add the following new section:

SEC. . None of the funds appropriated by this Act or any other Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with 27 U.S.C., Section 205 (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Mr. ABDNOR. Mr. President, I believe this amendment has been cleared on both sides.

Mr. President, the Congress in 1937 enacted the Federal Alcohol Administration Act which, among other provisions to protect the alcohol beverage consumer of this country, provides that the Department of the Treasury shall provide, through regulation, labeling of all spirits, wine and malt beverages. For almost 50 years, the Treasury Department has implemented this statutory requirement by approving—before marketing—all such labels.

It is a simple procedure and not one which should be cast aside as a part of a notable and worthwhile program of paperwork reduction of the Office of Management and Budget. There are too many legitimate opportunities to understate or otherwise mislead consumers if we do not continue to demand the information now required by ATF's application for certificate of label approval, form 1649, which is the bulwark of consumer protection for alcohol beverage content in the United States.

All this amendment does is to require the Treasury Department to continue to issue certificates of label approval for all alcohol beverage products, including imports.

I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, will the distinguished Senator from South Dakota yield for a question?

Mr. ABDNOR. Yes.

Mr. METZENBAUM. There is a pending issue at the BATF having to

do with the matter of sulfites in connection with liquor and whether or not the appropriate labeling is provided for those sulfites. It is my understanding that the Bureau has been moving in that direction in connection with this subject, and I am curious to know whether or not the Senator's amendment has any relevance whatsoever to the entire question of labeling the sulfite content pertaining to alcoholic beverages.

Mr. ABDNOR. I happy to respond to my friend, the Senator from Ohio, by saying in no way does it. It does not. It simply is a certificate of application for production. There is other consideration to be given in this area. But this in no way affects that.

Mr. METZENBAUM. It in no way affects the sulfites.

Mr. ABDNOR. No. I can assure the Senator of that.

Mr. METZENBAUM. If it should be discovered at some point that the language does cover that issue, do we have assurance of the Senator from South Dakota that he would provide the leadership in undoing that which would be accomplished by this amendment?

Mr. ABDNOR. It is properly reported back to the Senate for study now, and is under consideration. This was simply taking the control and regulation for improperly producing alcohol. This is a protection to the public and a regulation. Industry does not want to regulate it. This in no way goes into the sulfite end of it, but when and if the time comes and ample justification is put forth, we certainly will go along with it. Yes.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 1361) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1362

(Purpose: To reform the Residential Conservation Service and reduce Federal energy costs)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk, which is unprinted, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. TRIBLE, proposes an amendment numbered 1362.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert the following:

SEC. . (a) This section may be cited as the "Conservation Service Reform Act of 1985".

(b)(1) Title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings) is hereby repealed.

(2) The table of contents for such Act is amended by striking out the items relating to title VII.

(3) Notwithstanding paragraph (1) any State energy conservation plan for commercial buildings and multifamily dwellings approved under section 721 of the National Energy Conservation Policy Act prior to August 1, 1984, may with respect to regulated utilities, continue in effect until one year after the date of enactment of this subsection if such plan meets the requirements of section 722 of such Act as in effect on August 1, 1984.

(c)(1) Sections 215(a), 215(d), and 217(a)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985" each place it appears and inserting in lieu thereof "January 1, 1988".

(2) The Comptroller General shall prepare and transmit to Congress before June 30, 1986 a report evaluating the utility and home heating supplier programs of the Residential Conservation Service implemented under part 1 of title II of the National Energy Conservation Policy Act. The Secretary of Energy shall conduct a survey in consultation with the Comptroller General to collect the information the Comptroller General determines is necessary for the preparation of such report. The report shall examine and assess, for the programs under this part—

(A) the potential for achievable energy savings through implementation of residential energy conservation measures in residential dwellings in the United States and the importance of the Residential Conservation Service in achieving these savings;

(B) Residential Conservation Service Program costs from a representative sample of States, taking into account costs to the taxpayer and ratepayers of affected utilities;

(C) Residential Conservation Service Program benefits from a representative sample of States, taking into account the value of energy conservation and the value of deferral of investment in new capacity to provide energy;

(D) efforts of utilities to encourage the implementation of residential energy efficiency measures by their customers and the relationship between these efforts and the observed response rate under Residential Conservation Service Programs;

(E) measured energy savings achieved in residential dwellings in which measures are installed under such programs;

(F) to the extent to which utilities have adopted programs voluntarily or under State law that offer more promise in encouraging energy efficiency than has been the case under the Residential Conservation Service;

(G) to the extent to which modifications in the regulations implementing the Residential Conservation Service could improve the cost effectiveness of the program;

(H) legislative changes that are necessary to improve the cost effectiveness of the program;

(I) the extent of unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, and the adequacy of procedures which are in effect to prevent such unfair, deceptive or anticompetitive acts or practices; and

(J) such other matters as seem appropriate in order to assist Congress in deciding the future of the Residential Conservation Service.

(3) The provisions of part 1 of title II of the National Energy Conservation Policy Act shall expire on January 1, 1988, but such expiration shall not affect any action or pending proceeding not finally determined on such date of expiration nor any action or proceeding based upon such act committed prior to such date of expiration.

(d) Section 218(a) of the National Energy Conservation Policy Act is amended by striking the last sentence thereof and inserting "Such temporary exemption may be granted or renewed until such date as determined by the Secretary.".

(e)(1) Part 1 of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end thereof the following:

"SEC. 226. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.

"(a) WAIVER.—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

"(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential buildings served by the utility that are equal to or greater than the savings that would be achieved if the utility were subject to the provision; and

"(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

"(b) DEFINITION.—For purposes of this section the term 'residential energy conservation program' means any program carried out by a utility that has as its purpose—

"(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

"(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

"(c) APPROVAL.—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

"(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

"(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

"(A) find that the showings under subsection (a) (1) and (2) are sufficient; and

"(B) support the request by the utility for the waiver; or

"(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

"(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) supports the request by the utility for the waiver.

"(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

"(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

"(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

"(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

"(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor, that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

"(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.".

(2) The table of contents for the National Energy Conservation Policy Act is amended by adding at the end of the table of contents for part 1 of title II the following:

"Sec. 226. Waiver for regulated and nonregulated utilities.".

(f) Subsection 220(b) of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by inserting after "ACTS.—", "(1)", and by inserting after the words "acts or practices.", the following new paragraph:

"(2) Nothing in this part shall be construed to—

"(A) bar any person from taking an action with respect to any anticompetitive act or practice related to activities conducted under any program established under this part, including activities conducted under subsection 216(b), (c), (d), or (e); or

"(B) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.".

(g)(1) Part 3 of title V of the National Energy Conservation Policy Act (Public Law 95-619) is amended by adding at the end thereof the following new section:

"SEC. 552. Energey Savings Contracts.

"(a) ENERGY SAVINGS CONTRACTS.—Notwithstanding any other law, the head of a Federal agency may contract for energy savings for periods of not more than 25 years and shall provide in these contracts that the contractor shall incur the initial cost, or a portion of the cost, of implementing energy savings measures in exchange for a share of any energy savings resulting from such implementation. As used in this section 'energy savings', means a reduction in the energy consumption or in the energy-related costs of an existing building or community of buildings caused by lease or purchase of equipment, supplies, or improvements; altered operation and maintenance; technical services; or other means or the increased efficient use of existing energy sources by cogeneration, heat recovery, or other means.

"(b) COSTS OF CONTRACTS.—The costs of contracts authorized under this section for any year may be paid from monies made available to the agency for utilities costs and related operations and maintenance costs.

"(c) CONTRACTS NOT CONTINUED.—In the event funds are not made available for the continuance of a contract authorized by this section for a subsequent fiscal year, the contract shall be cancelled or terminated and the costs of cancellation or termination may be paid from—

"(1) funds appropriated for the performance of the contract concerned;

"(2) appropriated funds otherwise available for the payment of these costs; or

"(3) funds appropriated for these costs.

"(d) SECRETARY'S ANNUAL REPORT.—The Secretary's annual report under section 550 and the information each Federal agency is required to furnish to the Secretary under section 550 shall include—

"(1) a description of the progress made by each Federal agency in conforming its regulations to this section to permit contracts for energy savings, and

"(2) a description of each Federal agency's progress in the use of such contracts.".

(2) Section 101(b) of the National Energy Conservation Policy Act (the table of contents) is amended by adding at the end of the table of sections for part 3 of title V the following new item:

"Sec. 552. Energy savings contracts.".

Mr. GRASSLEY. Mr. President, I would like to offer an amendment for myself and Mr. TRIBLE that I understand has been cleared on both sides of the aisle. This amendment is essentially the text of two provisions which have already passed the Senate.

This bill is identical to S. 410 which passed the Senate unanimously on July 29 and would extend and reform the Residential Conservation Program for 3 years, as well as repeal the Commercial and Apartment Conservation Program. There is no opposition to this bill in the Senate and there are several important reasons for including it in the continuing resolution package.

This amendment likewise has been cleared by both the Republican and Democratic managers as well as has been cleared with the Energy Committee on both sides of the aisle as well.

The authorization of the Residential Conservation Program has expired and is currently the subject of a complex legal argument between the Department of Energy and the General Accounting Office as to whether or not the program is terminated. This legislation clears up that argument, extends the life of the program for 3 years, and provides a definite termination date.

Additionally, this amendment includes an important waiver provision that would allow States and utilities to operate alternative conservation programs which are more effective than the DOE-approved program. This added flexibility is strongly desired by some States, like my own State of Iowa, which has been battling with the Department of Energy because it has devised a program that enjoys a higher participation rate and promises more energy conservation. However, Iowa needs this waiver provision to ensure that it has the authority to operate its more effective program.

This amendment also repeals the CACS Program which would achieve minimal energy savings, yet require utilities' ratepayers to subsidize the program. Legislation to repeal the CACS Program has already unanimously passed both Houses in the last Congress.

The last provision in this amendment has been approved by the Energy Committee and will allow the Federal Government to enter into shared savings contracts. The Department of Defense and the Department of Energy which have approved this legislation estimate that the Federal Government could reduce its overall energy bill by $400 million, or 10 percent over the next 10 years if this provision is enacted.

Mr. President, these provisions have all passed the Senate before, however, it is clear that there isn't enough time left in this session for separate legislation to be conferenced and passed. I hope that my amendment can be approved by this body at this time.

Mr. TRIBLE. Mr. President, I rise in support of the amendment being offered by my distinguished colleague from Iowa, Senator GRASSLEY. I supported these same provisions when they were unanimously passed by the

Senate last July as S. 410, the Conservation Service Reform Act of 1985.

Since that time, the legislative inaction of the other body on this matter has left the Department of Energy with no alternative but to continue the implementation of the Commercial and Apartment Conservation Service [CACS] Program—a program that the evidence clearly demonstrates achieves minimal energy savings but requires the investment of millions of dollars by public utilities.

Indeed, Congress has already recognized the need to repeal CACS: Last session, both Houses unanimously approved legislation which contained CACS repeal. Unfortunately, unresolved differences in other provisions of the bill prevented enactment into law. This year, House committee negotiations have once again yielded agreement on the need to repeal CACS. Even though disagreement still exists over the future of its sister program, the Residential Conservation Service Program [RCS], attachment of S. 410 to House Joint Resolution 465 would resolve a matter on which both bodies agree before more money is needlessly spent by utilities.

Moreover, S. 410 does not preclude or preempt the negotiations currently taking place in the House on RCS. It directs the GAO to conduct an exhaustive cost/benefit analysis so that Congress can then decide whether the program should be continued and reformed or allowed to expire in 1988.

That means that consideration of the future of the RCS Program can continue unabated for another 2 full years. Surely, it would be both illogical and irresponsible to force utility ratepayers to continue to foot the bill for the CACS Program during that time when there has been and continues to be unanimous agreement that the worth of CACS as a conservation program is dubious at best and should be repealed.

Let us not allow our differences over the RCS Program result in higher utility bills for our constituents. I applaud Senator GRASSLEY for taking this action and strongly encourage my colleagues to support this most worthy amendment.

Mr. JOHNSTON. Mr. President, this legislation has previously passed the Senate with a unanimous vote. We have no objection to the amendment.

Mr. McCLURE. Mr. President, we have no objection. It is a part and parcel of the reconciliation bill. We have no objection to its addition here.

Mr. METZENBAUM. Mr. President, will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Yes.

Mr. METZENBAUM. Is this the identical language that passed the Senate?

Mr. GRASSLEY. Yes.

Mr. METZENBAUM. Is it not a fact that once it left the Senate, it went to conference, and that the House and Senate conferees then came up with a different method of spelling out this issue?

Mr. GRASSLEY. The House has never passed its version of this bill. So that is the problem we are in right now. This program does expire.

Is the Senator making any reference to the shared savings portion of our amendment?

Mr. METZENBAUM. No; I am concerned about this: It is my understanding that the House Members who have jurisdiction as pertains to this issue had indicated some strong reservations on this subject. I am frank to say to the Senator from Iowa I do not know what the details of those reservations or concerns are. But I am aware of the fact that if it goes under the continuing resolution, they are not going to have an opportunity to be heard. And the Members who have indicated concern are those who are very much concerned about the whole matter of residential conservation and maintaining the standards that we presently have in the law.

As I understand this proposal, it would weaken the standards in favor of State enforcement because if there were a State enforcement because if there were a State program in force, then the Federal law would not be applicable.

Mr. GRASSLEY. It has the provision that allows the waiver for States that have a superior program, and allows that State to operate that superior program.

Mr. METZENBAUM. Who makes that determination as to whether it is or is not superior?

Mr. GRASSLEY. The Governor or the Secretary of Energy.

Mr. METZENBAUM. I am frank to say to my friend and colleague from Iowa that I am not sufficiently knowledgeable about the subject to oppose his amendment. But I think it is proof positive this is a very substantive piece of legislation. That is the reason that it should be on the continuing resolution. That is the reason we would make it subject to a point of order. I am reluctant to make the point of order.

Mr. GRASSLEY. If the Senator from Ohio will yield, I can amplify this to a greater extent. I did say this previously, but let me say it again. This amendment was reported out of the Energy Committee unanimously and the Senator from Ohio would have supported it at that point. It also passed unanimously on the Senate floor.

Mr. METZENBAUM. Would the Senator from Iowa give the Senator from Ohio the opportunity to check some facts, with a unanimous-consent request that the amendment be temporarily set aside?

Mr. GRASSLEY. I think the Senator from Ohio should be satisfied because we have worked so long and so hard on this program. With the opportunity that it might not be passed by the Senate, getting out of conference and all of that, and since we desire to go through, and with the Senator from Ohio having previously looked at it, I think it is perfectly legitimate that the Senator should be satisfied.

Mr. METZENBAUM. I appreciate the courtesy of the Senator.

Under those circumstances, Mr. President, I ask unanimous consent that this matter be temporarily laid aside until such time as we can return to it.

The PRESIDING OFFICER (Mr. TRIBLE). Is there objection? Without objection, it is so ordered.

The Senator from Idaho.

AMENDMENT NO. 1363

Mr. McCLURE. Mr. President, on behalf of the distinguished Senator from California [Mr. WILSON], and the distinguished Senator from Rhode Island [Mr. CHAFEE], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. WILSON and Mr. CHAFEE, proposes an amendment numbered 1363.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert in H.J. Res. 465: Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within its historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider Section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act.

Mr. WILSON. Mr. President, on behalf of myself and Senator CHAFEE, this amendment will direct the Secretary of the Interior to continue preparing an environmental impact statement on the translocation and establishment of an experimental population of California sea otters, a species listed as threatened under the Endangered Species Act.

On June 27, 1984, the Fish and Wildlife Service published in the Federal

Register a notice of intent to prepare an environmental impact statement [EIS] on its proposal to initiate the scoping process and establish an experimental population of sea otters outside of the population's current range. The Service identified San Nicolas Island—one of the Channel Islands in the southern California bight—as the preferred alternative for the translocation. Other alternative translocation sites under evaluation by the Service are northern California, southern Oregon, and northern Washington State. This amendment is not intended to affect in any way the Service's selection of any particular translocation site. However, it is intended to affect the alternatives under consideration in the EIS. It will also get the currently stalled process moving again.

The issue of sea otter translocation has been raised in the context of pending legislation to reauthorize the Endangered Species Act [ESA]. The bill that was recently approved by the Senate Committee on Environment and Public Works, S. 725, does not address the issue. The House-passed bill, on the other hand, H.R. 1027, contains a lengthy, detailed amendment to the ESA on this subject. Based upon the existence of H.R. 1027 and uncertainty over what actions the Senate will take on the proposed amendments, the Fish and Wildlife Service has stopped work on the EIS. The rationale used by the Service to justify its lack of work on the EIS reportedly has to do with the futility of expending time, effort, and money on a project that may be substantially modified by congressional action. Mr. President, such an argument could be used to justify work stoppage on all executive branch projects.

The Service is apparently prepared to continue the EIS process when they are given some assurances as to what the law will be. Unfortunately, we are not in a position to provide such assurances and cannot predict when such certainty will be forthcoming. Fortunately, there is an alternative that will allow the EIS process to go forward and will avoid the potential problem of wasted time, effort, and money. As set forth in this amendment, the Service is to continue the EIS process and to consider, as one alternative, a relocation that comports with the provisions of H.R. 1027 as if the House-passed amendments were law. Another alternative to be analyzed is one that does not assume enactment of H.R. 1027 as passed by the House but which assumes that the ESA has been amended to provide that, for purposes of implementing a relocation plan, no act by the Service, the appropriate State agency, or its authorized agents necessary to bring about the relocation or management of the sea otter under the plan may be treated as a violation of any provision of the Marine Mammal Protection Act of 1972 [MMPA]. This second alternative is to assume that a reading of the law suggesting that translocation of otters is precluded unless the translocation and subsequent management of the population can fall within the MMPA research exception is either erroneous or the law has been changed to make such a reading erroneous.

By directing the Service to review and anticipate in the EIS process possible legislative changes as alternatives or options for planning purposes, we are not suggesting our preference or predicting a particular outcome. Similarly, we are not limiting the alternatives or options that are to be reviewed. We are simply trying to get the process moving in a way that will avoid the wasteful expenditure of time, effort and money.

Mr. McCLURE. Mr. President, this amendment deals with the environmental impact statement on the translocation of California sea otters. I know of no opposition.

Mr. JOHNSTON. Mr. President, I understand this amendment is agreeable to all parties involved. We have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1364

Mr. EVANS. Mr. President, I send an amendment to the desk for myself and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. GORTON, proposes an amendment numbered 1364.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, insert the following new section:

"SEC. —. Notwithstanding any other provision of this resolution, the number '$15,033,000' on page 9, line 12 of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be increased to $16,733,000, of which $1,700,000 shall be available until expended to commence construction of fish hatchery facilities on the Nisgually River, Washington.".

Mr. EVANS. Mr. President, this amendment simply authorizes the first stage of construction of a fish hatchery on the Nisqually River. Appropriations for the development of plans and specifications were included in the 1985 budget year. This is the highest priority hatchery to come out of the United States-Canada treaty negotiations. It has been cleared on both sides of the aisle.

Mr. President, this is the first opportunity to offer this on the Interior appropriations. That is the reason we are bringing it to the continuing resolution.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, would the Senator from Washington yield for a question?

Mr. EVANS. Yes.

Mr. McCLURE. Mr. President, this amendment the Senator has offered deals with the construction of a fish hatchery which would be located on Fort Lewis, WA, but within the bounds of the Nisqually Reservation; am I correct?

Mr. EVANS. The Senator is correct.

Mr. McCLURE. As I understand the original and earlier intention as evidenced by a joint statement from the State of Washington and the Nisqually Indian community, dated February 6, 1980, there was a stated understanding that the hatchery would be constructed at the expense of the Federal Government, operated by the State of Washington, and then become the property of the Indian tribe.

My understanding of the amendment offered today by the Senator from Washington is that the money would be provided by direct appropriation, with the understanding that the Federal Government would retain title to the hatchery when constructed; that they could enter into any appropriate arrangement with the State of Washington and/or the Nisqually Tribe, but under the Senator's amendment, it would be the property of the United States.

Mr. EVANS. The Senator is correct. Under this amendment, the facility

would vest in the U.S. Government, not either the State of Washington or the Nisqually Indian Tribe. The title to the land, however, on which the facility is located is Nisqually tribal land.

The Nisqually Tribe, in consultation with the Fish and Wildlife Service, would maintain and operate the facility.

The formal letter of 1980 I do not think has been considered for some period of time. This, as I have seen it, is the understanding and the way for this to be carried out.

Mr. McCLURE. And the latter provisions with respect to the maintenance and operation of the facility would be pursuant to an appropriate agreement signed by the Federal Government and the tribe.

Mr. EVANS. It would be with the Fish and Wildlife Service, yes. It is important to point out that this notification will be served on the United States-Canada Commission carrying out the treaty which was signed earlier this year, as is required by the treaty.

This becomes part of the national fish hatcheries system and, in effect, a very important part of the system.

Mr. McCLURE. If the Senator will yield further, that latter portion of the statement of the distinguished Senator from Washington is both desirable and, in my view, necessary with respect to our relationships with our friends from Canada under that agreement. This is an enhancement of the fish run which is contemplated by the treaty with Canada for which the United States will be given credit under the treaty.

Mr. EVANS. The Senator is correct, and I think it is important for him to point that out. This clearly is an enhancement project post-treaty and the enhanced fishery from this will accrue to the benefit of the United States.

Mr. McCLURE. Mr. President, I have no objection to the amendment. I support the amendment. I would want the RECORD to reflect my understanding that the operation and maintenance by the tribe is subject to an appropriate agreement with the Federal Government and it, indeed, that is not consummated or if it should expire by its terms or otherwise, the operation and maintenance would be in the Federal Government in the absence of such an agreement.

With that understanding, Mr. President, I have no objection to the amendment. Indeed, I enthusiastically support it.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1364) was agreed to.

Mr. EVANS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1365

(Purpose: To designate the educational center at the Lowell National Historical Park, Massachusetts, as the Paul E. Tsongas Industrial History Center)

Mr. McCLURE. Mr. President, on behalf of Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself and Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, and Mr. ROTH, proposed an amendment numbered 1365.

At the end of the joint resolution insert the following new section:

SEC. . The educational center to be located at the Booth Hill Complex, Building No. 6, in the Lowell National Historical Park, Massachuesetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center."

● Mr. KERRY. Mr. President, this amendment would designate the education center to be located at the Lowell National Historical Park as the "Paul E. Tsongas Industrial History Center."

The city of Lowell, MA was, in the midseventies, a city on the brink of depression. today, its health and vitality are apparent to all who visit the city. And it is also clear that without the vision of Paul Tsongas and his commitment to creating a renewed Lowell through the Lowell National Park, Lowell might still be in that condition. The creation of the park by Paul and Congress is the single most significant event that brought Lowell and this crucially important part of New England back to life. For this alone, the people of New England owe Paul a great debt of gratitude.

But as we all know, Paul's vision has gone beyond Lowell. As a Peace Corps volunteer in Ethiopia, as a committed Foreign Relations Committee member developing initiatives, and as a participant in floor debate concerning the education of our young people, Paul has demonstrated his dedication to making life better and more secure for our people.

Consequently, with the acceptance of my amendment, we will be going well beyond recognizing Paul Tsongas' extraordinary contributions in the creation of the park and its subsequent vitality by naming for him this important educational center at the park. The center will offer a "continuing training" program that will be offered to elementary and secondary teachers interested in curricula on the history of industry. In addition, 20,000 to 30,000 students a year are expected to participate in programs at the Tsongas center and it is anticipated that it will become a focal point for the study of the commerce and industry that changed the face of America and the world. Paul's long interest in improving the education of our young people and his dedication to learning for the future through the past makes this honor especially fitting.

● Mr. McCLURE. Mr. President, this amendment has been cleared on both sides and I hope that it will be adopted. This is a fitting tribute to a distinguished former colleague. I support the adoption of the amendment.

● Mr. KERRY. I thank the distinguished managers of the bill for their cooperation in this matter.

Mr. President, I also have an amendment that would provide funds for construction, development, and acquisition of land for the Lowell National Historical Park and the Lowell Preservation Commission. My amendment would simply add to the Senate bill funding that is contained in the House bill.

The Lowell Historical Park and the Lowell Preservation Commission were established by Congress in 1978 under the sponsorshp of then Congressman Paul Tsongas. It is clear that both entities have made major contributions to the phenomenal economic revitalization of Lowell, MA. For those of us who knew Lowell in the years prior to the park and the commission, the transformation is nothing short of incredible. Back then, this chronically depressed mill town had an unemployment rate of 13 percent. In a relatively short time, unemployment has shrunk to almost 4 percent and new construction in 1983 increased by 160 percent, according to Dun & Bradstreet. Since the park's inception, a public sector contribution of $61 million in Federal and State funds has leveraged a private sector investment of over $167 million in the downtown area alone.

The park's benefits have been both direct and indirect. In terms of direct economic benefits, the National and State parks will attract some 700,000 visitors in 1985, each of whom will spend approximately $8, exclusive of lodging. In terms of development, funds appropriated by Congress under the park's development authorization represent half of the public-sector contribution to the downtown revitalization.

Just as important as the visitors from around the country and the world the park has brought to Lowell and the accompanying revitalization are some of the indirect benefits that have come to the region. The national park helped to create a consensus by articulating goals for the city and a clear vision for the future. It has contributed to a dramatic change in image—both the community's self-image and the image it projects to developers, businesses, and potential visi-

tors. Lowell and the surrounding communities have a bright future due in large part to the foresight of Paul Tsongas and the continued support of Congress in recognizing the importance of maintaining adequate support for these important projects.

● Mr. McCLURE. Will the Senator yield for a question? I want to take this opportunity to point out that Congress has appropriated moneys in excess of what was anticipated in a 5-year plan that was presented to us in 1983. In order that we might all better understand where we might be going in the future, would the Senator tell us what funds he anticipates will be necessary in the coming years.

● Mr. KERRY. Certainly. The manager of the bill is quite correct in pointing out that Congress has been very generous in appropriating funding for Lowell. I might also, perhaps presumptuously, extend an open invitation to the chairman to pay a visit to the city so that he might see how prudently and effectively that money has been spent.

In looking at that 5-year plan, I think it is important to note that most of the projects on the list are in some stage of production. In some cases the park and commission made some changes, but they were only in cases in which it was determined that it would be cost-effective to utilize historical leases in lieu of extensive rehabilitation of properties. On some items on the 5-year list, the construction estimates were, frankly, too low.

Looking at future plans for Lowell, I believe it is fair to say that we are nearing the end of the road for construction and acquisition needs. I have reviewed the anticipated expenses for development of the park and the commission for the next 3 fiscal years and I will tell the manager of the bill that these requests through fiscal year 1988 will total far less than many of the individual funding requests for the last several years.

The park at this time anticipates requiring $1.2 million for development and acquisitions in fiscal years 1987 and 1988 and an additional $588,000 for operations for the same 2 years. Additional appropriations after fiscal year 1988 for the park are not anticipated at this time and there are no known circumstances under which they would be requested.

The Preservation Commission, whose authorization expires after fiscal year 1987, anticipates requesting the remaining $2.5 million next year that has not yet been appropriated.

I have discussed this amendment with the distinguished manager of the bill and I understand concerns he has about amendments like this one. It is my understanding that there is some disagreement about the amount that the Interior title is over its budget mark, with a range of estimates from $2.5 billion below the budget resolution to $1.2 billion above the resolution. Consequently, I share your concerns about the spending level. I am also aware of the history of appropriations for the Lowell National Historical Park and the Lowell Preservation Commission. With the exception of last year, in which the chairman graciously accepted the amendment of my departing predecessor, the Senate has never included additional funding for Lowell in its appropriations bill. In conference, however, the Senate conferees have consistently accepted the House language and funding.

It is my strong hope that Congress will once again reaffirm its commitment to what has been referred to on this floor by the distinguished chairman of the Appropriations Committee as one of our national historic treasures.

● Mr. McCLURE. I have spoken with the Senator from Massachusetts about his proposed amendment and I believe that he understands my reluctance to include additional items in the Interior title at this time. However, the Senator is quite right about the history of appropriations for the Lowell Park and, while I cannot make a specific commitment at this time, I can assure him that if he will not call up his amendment, I will give his request every consideration in my discussion with the conferees in seeking an agreement on adequate funding for both the Lowell National Historical Park and the Lowell Historic Preservation Commission.

● Mr. KERRY. I want to thank the chairman for his consideration in this and with that understanding I will not call up my amendment.●

Mr. McCLURE. Mr. President, the purpose of this amendment which is offered by those of us named as sponsors—and I am sure others will want to be added as cosponsors—would designate the educational center to be located at the Lowell National Historical Park as the Paul E. Tsongas Industrial History Center.

There is no one in this body who was more involved in the development of and the support for the Lowell National Historical Park than our former colleague, Paul Tsongas. I think it is fitting for us to take this action which the distinguished Senator from Massachusetts [Mr. KERRY] has undertaken. I am grateful to him for having brought this matter to our attention and made this suggestion. I fully support this amendment.

Mr. President, I ask unanimous consent that the Senator from Ohio [Mr. METZENBAUM] be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1365) was agreed to.

Mr. McCLURE. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that all Members of the Senate be given until the close of business tomorrow to add their names as original cosponsors to this amendment if they so desire. I think the nature of the subject matter deserves that kind of consideration. I know many of our colleagues would like to have that opportunity.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I think we are getting very close to the point at which we hope to be able to close this down. I am told that there are a number of colleagues on our side of the aisle who have amendments that they want to bring up. I urge them to speak now because we hope they will soon have to hold their peace.

Mr. SIMPSON. Mr. President, many colleagues are inquiring about the agenda for the evening. The best that I think I can, after review, share with them is that I think the Senator from Wyoming [Mr. WALLOP], has an amendment which will be processed in a few minutes. I think it will require a rollcall vote.

I think after conferring with the minority leader, and he now is circulating a time agreement on his side of the aisle, we may have the opportunity to find that we can finish our activity tonight and have the only items of business locked into a unanimous-consent agreement be the amendment with regard to the Armed Services Committee and the discussion now going on between the Senator from Arizona and the Senator from Alaska.

The prospect is that we would then have, very likely, not more than one more rollcall vote this evening, and tomorrow, we would have the unanimous- consent agreement—this is what is being attempted to be obtained—to deal with the Armed Services Committee—Senator GOLDWATER, Senator NUNN, Senator STEVENS—proposal. That would be tomorrow, and one other amendment of Senator WALLOP's, which would have a time agreement, as I say, on anything other than the Stevens-Goldwater-Nunn proposal that is going on now. If we can do that, then we would have one more vote this evening and then I think the chairman of the Committee on Appropriations may have more to report on that, but that is the intent of the leadership so that we will not keep people here.

Yet, if we do not receive this type of indication of general support, we have no alternative but to proceed. I am perfectly willing to stay here as long as the chairman of the Appropriations Committee would like to remain so that he can do the business which he is doing so capably, along with Senator JOHNSTON.

Mr. HATFIELD. Mr. President, I thank the leadership for the résumé that he has just presented as to where we are in this process.

We have taken four rollcall votes challenging amendments either on a point of order that they were legislation on appropriations, or tabling such motions or amendments. We now have a new generation of amendments that are being identified, beginning with the Grassley amendment, which seeks again to establish the legislation on an appropriations measure by some major piece of authorizing legislation which has either already passed the Senate or has certain date problems to be accomplished.

The Senator from Delaware has prepared one, the Senator from Indiana, I understand, is preparing one.

I must say, Mr. President, hoping to bring this to some kind of orderly conclusion, that I am going to be forced to follow that action that we started early and indicate to those proponents of such measures that we will make a point of order.

I will at some appropriate time make a point of order on those, not in any way as indicating my feeling about the importance of the amendment or their rights to offer amendments but merely to try to expedite the continuing resolution process.

Mr. COHEN. Mr. President, will the assistant majority leader yield?

Mr. SIMPSON. Yes.

Mr. COHEN. Could I point out in any consideration we might give to propounding a unanimous-consent agreement we take into account the Senator from Virginia [Mr. TRIBLE], who is now sitting in the chair, who had proposed an amendment which apparently was about to be accepted and the Senator from Maine intervened at least in time, or with the purpose of allowing the Navy to examine the amendment.

It does have some importance to the State of Virginia and to Maryland and to perhaps several others, and it would be unfair to take advantage of this particular unanimous-consent proposal if one is propounded while the Senator is sitting in the chair.

Mr. JOHNSTON. Will the Senator yield for a question? Is the Senator handling that matter for the Armed Services Committee?

Mr. COHEN. I am awaiting the Navy to arrive right now.

The PRESIDING OFFICER. Has the Senator from Oregon yielded the floor?

Mr. HATFIELD. Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, what is the status of our business? Is there an amendment pending?

The PRESIDING OFFICER. The Grassley amendment has been set aside by unanimous consent for the purpose of receiving other amendments. A call for the regular order would return us to the Grassley amendment.

Mr. SIMPSON. May I inquire of my colleague from Iowa if he would perhaps withdraw that amendment, if we could proceed with this hoped-for process?

Mr. GRASSLEY. Yes. Before I withdraw it, I would like to make an explanation to the chairman of the Appropriations Committee, if I could. I would like to withdraw my amendment but I would like to say to the chairman of the Appropriations Committee I did not offer it until I had the OK of the floor manager at the time as well as the Democratic leader at the time, and also my understanding was it fell into the category of some amendments that had previously been adopted. So there was not any new campaign being started. If the Senator assures me that my amendment does fall into that category, then I am willing to withdraw it because it was not my intent to offer it unless it had been fully agreed to in the first instance.

Mr. HATFIELD. I say to the Senator, as he knows, these things have a way of proliferating without any particular strategy or design, and since the Senator had offered his amendment I have been alerted to two other similar amendments dealing with important legislative matters that will be offered and others that may be in the process of being drafted.

Now, whether or not it was the amendment of the Senator from Iowa that triggered this or these others were in the process I do not know, but I can only say we are not beginning now to face a diminution of amendments but it appears now we are seeing an expansion of amendments.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1366

(Purpose: To provide $150,000 for the National Park Service to be used for restoration and renovation of the Lonoke Depot in Lonoke, Arkansas)

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1366.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the period on page 4, line 12, insert the following: "; *Provided further,* That $150,000 shall be available to the National Park Service solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas."

Mr. BUMPERS. Mr. President, this amendment would provide $150,000 to be used for restoration and renovation work at the old Rock Island Railroad Depot in Lonoke, AK. The restoration of this historic building in the center of the Lonoke business district has been a community priority since 1981. The restoration of the depot would be a major step toward revitalizing the downtown business district in Lonoke.

The Lonoke Depot was constructed in 1912 to accommodate passenger and freight traffic along the Rock Island Railroad Line. The city of Lonoke grew up around the railroad line and thrived during the years that trains were the major form of transportation. During the late 1960's and the 1970's, the railroad company allowed the building to deteriorate and it was finally left standing vacant in 1977. When Rock Island was forced into bankruptcy, the Missouri Pacific Railroad Co., purchased that portion of the line in 1984 and sold the depot to the city of Lonoke for the sum of $1. The Lonoke Historical Society was designated as the sublessee of the building in order to facilitate the restoration of the building as a historic landmark in Lonoke.

In 1984, the Lonoke Depot was added to the National Register of Historic Buildings, this country's official list of properties considered especially worthy of preservation. In March of this year, the Lonoke Historical Society received a $10,000 grant from the Arkansas Industrial Development Commission to be used for planning and preliminary design purposes. The planning study has been completed and the cost of restoring and renovating the building has been estimated at $150,000. This cost estimate covers basic structural renovation to restore the building to its original condition and includes modern heating, cooling, and electrical work.

The depot is located in the center of the Lonoke business district. Because of a lack of funds for maintenance and renovation, the depot has continued to deteriorate and is an eyesore in the center of the town.

The city of Lonoke is in the process of developing an economic development strategy for the central business district which emphasizes the restora-

tion of the depot. The city plans to use the depot for community activities and will rent out one area as commercial space to provide enough money for maintenance and utilities.

The people of Lonoke are dedicated to the restoration of the depot and they have worked very hard to raise enough money to begin a little work on the depot to stop its deterioration. Through community fundraisers, citizens have contributed close to $13,000 for the depot project.

This appropriation would allow the citizens of Lonoke to push forward with their plan to restore the Lonoke Depot to its original position as a center of activity in their community and as the centerpiece of the complete revitalization of the city of Lonoke.

This is extremely vital to a very fine, small community in my State and I would appreciate the acceptance of the amendment.

Mr. McCLURE. Mr. President, as I understand it, this amendment would call for available funds; it is not additional money.

Mr. BUMPERS. The Senator is correct.

Mr. McCLURE. The Senator and I have discussed this matter and I cautioned the Senator that, with this not being in the House bill and this section of the bill being very tight, indeed, we might not be able to hold this matter in the conference. I think the Senator understands that. I have no objection to the amendment, but I did not want to be flying under false colors here tonight with respect to what the acceptance of the amendment might mean ultimately in conference.

Mr. BUMPERS. I thank the Senator.

Mr. PROXMIRE. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further debate, If not, the question is on agreeing to the amendment.

The amendment (No. 1366) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1367

(Purpose: To reduce U.S. funding for the United Nations to the level provided by the Union of Soviet Socialist Republics)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1367:

At the appropriate place, add the following:

Notwithstanding anything in this Act to the contrary, no funds may be expended for voluntary payments to the United Nations or any affiliate or subsidiary thereof which are in excess of the amount $15,000,000.

Mr. WALLOP. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I will not be long and I will try not to take the time of my colleagues.

Despite the prevalent rhetoric and debate on the subject of deficits and budget restraint, little actual restraint accompanies the rhetoric. The amendment I address today will not only save the American taxpayers almost $1 billion, but will also serve the best interest of our people while it saves money.

This amendment does not affect our assessed contributions to the United Nations, but will reduce the level of U.S. voluntary contributions to the United Nations to a level not to exceed that of the Soviet Union. In 1984 our voluntary contribution was $949,687,000; compared with the Soviet contribution of only $11,947,000. Reducing the amount of our contribution to that of the U.S.S.R. will save our taxpayers $930,340,000.

We all have firm opinions of the United Nations, for good or ill, and I do not propose a lenghly debate on this issue today. I believe, however, that before we vote on this measure a few points should be made.

The regular budget of the United Nations has grown from a 1946 level of $19.3 million to a 1984 budget of $792 million. This represents a 4,168-percent budget growth, or an average annual growth of over 100 percent. Last year 6 countries contributed 65 percent of this budget, but these generous nations comprise such a small voting bloc at the United Nations that they exercise virtually no control over the United Nations's profligate spending. The United States alone contributes 25 percent of the United Nations budget compared to the Soviet contribution of 10.34 percent. With a few countries providing a virtually powerless unrestricted money tree, there is little incentive within the United Nations to make any effort whatsoever to restrain spending or cut costs.

While the United Nations has no incentive to cut costs, the U.S. taxpayers—and those of us who represent them—do have that incentive.

A tip-of-the-iceberg look at how the United Nations spends its money leads to the inescapable conclusion that an inordinately large percent of that money is spent on staff and overhead, simply wasted, or spent on programs and activities directly contrary to the best interests of the free world.

Unesco provides a good example of money being wastefully or damagingly spent. It also serves as proof that the United States not only can but should take action to control our own resources. United States withdrawal from Unesco has been accomplished without apocalyptic consequences; leading one to conclude that similar restraint on the use of our dollars will likewise not bring the world to the brink of disaster. From 1981 to 1983, the U.S. share of selected Unesco programs was: $2,220,775 for aid to refugees and such "national liberation movements" as SWAPO, the PLO, and the ANC; $4,550 for a chauffeur and maintenance of motor vehicles for the President of the General Conference; $439,887 on travel and per diem for the Executive Board and President; $7,700 for medals conferred by the Directorate; $383,587 for interpretative services for the Executive Board; $283,275 for field staff salaries; and $3,967,350 for salaries of headquarters staff. Compare those generous amounts with: $1,800 on curriculum development and production of teaching aids in Pakistan; $25,950 for a special education advisor in Haiti; and a mere $250 for teacher training in Honduras. But they managed to find $1,144,000 of our money to spend on a conference on the Status of Women and participation of women in development.

Since we have withdrawn from UNESCO we are saving those ill-used dollars. But lest anyone think UNESCO was unique, let's look further. The U.N. Development Program has as its ostensible purpose the assistance of lesser-developed countries with efforts to accelerate social and economic progress, UNDP has a governing council of 48 members, of which only 17 are considered our allies; consistent with the U.N. policy of spending our money but denying us any real voice in determining how it is spent.

Our contribution to UNDP in 1982 was $127,300,000, the last year for which a compendium of programs was available (our contribution for this year is $165,000,000, or 25 percent of the entire budget). In 1982 we contrib-

uted about 19 percent of the UNDP grants, which warrant examination. The UNDP granted $980,000 to Ethiopia for logistical and technical support for food aid transport. At the same time, however, they were awarding to starving Ethiopia: $4 million for handicraft industries and leather development; $716 thousand for preservation and presentation of selected sites and monuments; $100 thousand for solar power and telecommunications; a total of $61 million in grants for the reporting period.

And it gets worse. There are other UNDP grants described in the program compendium in which we should take an active interest.

$7.4 million to Afghanistan for civil aviation fellowships, administrative reform, world bank development and assistance to the Afghan Institute of Development.

$3.5 to Bulgaria for ship handling and maneuverability, science and technology projects and ship hydrodynamics and robotics institute.

$24.3 million to Cuba, including money for training of personnel for the hotel and tourism industry and $1.8 million for the introduction of nuclear techniques into the national economy.

$3.1 million to Czechoslovakia, $2 million to Iran, $27.2 million to Laos, $8 million to Poland (including $1.8 million for the Trans-European Motorway connecting Soviet bloc nations), $5.5 million to Libya, $7.5 million to Mongolia, $6 million to Nicaragua, $11.1 million to Romania, $16.8 million to Syria, $57 million to North Vietnam, $7.5 million to Yugoslavia.

A look at UNICEF's record is about the same. Of the U.S. dollars contributed in 1984-85, $461,087 were spent on all programs in the Caribbean, South and Central America. Compare that with the U.S. contribution of $7,417,500 to African programs. Welfare services for children in East Asia and Pakistan added only another $25,233. Even the costs for overhead, personnel, publications, exhibits, etc., $3,247,043, far exceeded the program spending in our own hemisphere.

Even if one could overlook the recklessness with which billions of dollars are being spent, the inescapable conclusion must be drawn that the United States is not deriving any real benefit from the use of our dollars. On the contrary, we are largely financing the Eastern bloc in its fundamental assault on our system. The U.S. contributes over 8 times as much money to the United Nations as does the Soviet Union, even ignoring the fact that they are $200,000,000 in arrears in their payments now. This imbalance in contributions is reversed when benefits are considered. In 1983 the United States was given only 9.7 percent of the high-level secretariat posts, compared to the Soviet's 15 percent share. The Soviets pay their contributions, when they do pay, in ruples at an exchange rate they set themselves; effectively paying in currency worthless outside the U.S.S.R. By being permitted to maintain the ruse that the Ukraine and Byelorussia are independent States, the Soviets are given three votes in the General Assembly and three missions in New York—we of course have only one.

Furthermore, according to Arcady Shevchenko, Soviet employees at the United Nations are required to turn their U.N. salaries over to Moscow in exchange for much reduced salaries from the Soviet State. It has been estimated that well over 50 percent of the millions of dollars earned each year by the Soviet secretariat staff actually ends up in Moscow's coffers—largely at U.S. taxpayers' expense. And it is a well-accepted fact that the U.S.S.R. routinely uses its United Nations and embassy staff for extensive espionage operations in the United States. Our own FBI estimates that about one-third of the Soviet personnel in the United States are engaged in espionage; other estimates place that number as high as 50 percent. Whatever the number, it is too high, and we are paying for it. And we are paying for U.N. contributions, based on their own figures of 1981-84 grants, of $2.4 million to SWAPO, $2.9 million to PAC and $2.9 million to the ANC.

And despite our unchecked generosity, the United Nations continues to condemn our actions (Grenada), denounce our allies (Israel), and refuse to so much as slap the wrist of others for chemical rain, the invasion of Afghanistan, the genocide in Southeast Asia, the murder of innocent people aboard Korean airliner KAL007—the list goes on and on.

Surely it is an act of free world suicide for us to continue, without a whimper, financing the operations of those organizations and institutions dedicated to our destruction. And it is fiscally irresponsible to give the United Nations a blank check on the U.S. Treasury. Now is the time to put a halt to this process, and this amendment is the means to accomplish that.

The amendment means to put us to the same level of contribution as that of the Soviet Union—and, incidentally, the likelihood that we will pay ours and the likelihood that they will not pay theirs.

Mr. HATFIELD. Mr. President, it is certainly not personal, but I reluctantly rise at this time to move to table the amendment offered by the Senator from Wyoming.

Mr. WALLOP. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ARMSTRONG. Mr. President, will the Senator withhold the tabling motion briefly?

Mr. HATFIELD. Mr. President, I withhold the tabling motion.

Mr. METZENBAUM. But it has been made.

Does the Senator want unanimous consent to proceed to speak?

Mr. ARMSTRONG. Yes, for 15 seconds.

Mr. President, I rise in support of the amendment and therefore in opposition to the tabling motion.

Mr. SIMON. Mr. President, I ask unanimous consent that I may speak for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMON. Mr. President, I simply point out that the United States economy is more than double that of the Soviet economy. I do not know of any other area where we want to use the Soviets as examples, as the Senator from Wyoming is suggesting.

So far as the benefits from the United Nations are concerned, it has not been a perfect instrument, but in Cyprus, in parts of the Middle East, in other areas of the world, it has done remarkably good work, including the U.N. Development Program that is headed by a former Republican Member of the House, Brad Morse.

I hope the Senate will reject the amendment of the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Oregon has moved to table the amendment of the Senator from Wyoming. A request was made for the yeas and nays.

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATFIELD. We already have them, Mr. President.

The PRESIDING OFFICER. The Chair has not yet ruled.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Wyoming.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator fom Nevada [Mr. LAXALT], the Senator from Indiana [Mr. QUAYLE], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr.

DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. LONG], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Maryland [Mr. Sarbanes] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 35, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—42

Baucus	Gorton	Metzenbaum
Bingaman	Harkin	Moynihan
Boschwitz	Hart	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Cochran	Johnston	Pryor
Cranston	Kasten	Riegle
Danforth	Lautenberg	Rockefeller
Dixon	Leahy	Sasser
Dodd	Levin	Simon
Durenberger	Lugar	Simpson
Eagleton	Mathias	Stafford
Evans	Matsunaga	Stevens
Gore	Melcher	Weicker

NAYS—35

Abdnor	Grassley	Nickles
Andrews	Hatch	Pressler
Armstrong	Hawkins	Roth
Boren	Hecht	Rudman
Bradley	Heflin	Symms
Byrd	Helms	Thurmond
Cohen	Hollings	Trible
Denton	Humphrey	Wallop
Domenici	Mattingly	Warner
Exon	McClure	Wilson
Ford	McConnell	Zorinsky
Gramm	Murkowski	

NOT VOTING—23

Bentsen	Garn	Long
Biden	Glenn	Mitchell
Chafee	Goldwater	Nunn
Chiles	Inouye	Quayle
D'Amato	Kassebaum	Sarbanes
DeConcini	Kennedy	Specter
Dole	Kerry	Stennis
East	Laxalt	

So the motion to lay on the table amendment No. 1367 was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I will try to bring my colleagues up on where we are at this time of the evening.

We are presently circulating a unanimous-consent agreement which will try to indicate to us how many more amendments there are to this remarkable piece of legislation. I hope it can be something like flushing the quail out of the brush so that we might know how many more we have. We have plenty. But if we can lock in a unanimous-consent agreement that those be the only amendments, that will be the intent. That is being circulated at the present time.

I am not quite aware of when we will finish the hot line, and the procedures to determine if that is agreeable. If that is cleared, we can propound that unanimous-consent request, and then go on to maybe some noncontroversial or nonrollcall amendments so that there be no futher need for rollcall votes tonight. But if we cannot, I want the chairman of the Appropriations Committee to know that I am here to support him, and to support Senator JOHNSTON, in their efforts to try to get this thing processed because Thursday is coming. The intent of further negotiations, further possible vetoes, the whole scenario that Senator HATFIELD has outlined to you is very imminent.

With that, I say that we will proceed. I yield to the chairman of the Appropriations Committee for his further review of the matter.

Mr. HATFIELD. Mr. President, I believe the Democratic side and the Republican side both have sent out hotlines on this matter of trying to get an inventory of the amendments that might be offered. Senators have been indicating that they either plan to or want to be protected for the right of offering an amendment.

I am very hopeful that shortly we can get a completion of those various amendments. Then I would ask the unanimous-consent request to lock that in as a sort of a cap on any other amendments on the continuing resolution. Senators would not be required to bring up those amendments, but at least we would then ask to limit any further amendments but those that are on the list.

If we can get that unanimous-consent agreement, then I would say we could probably conclude here tonight as far as rollcall votes are concerned. We would press on to take up as many amendments on that list that we could that do not require a rollcall vote.

If we cannot get a unanimous-consent agreement on such a restricted list for further amendments, we will just have to then move and whatever comes along which might or might not require rollcall votes will be the gamble it will take. So I can only say everybody ought to remain here somewhere near the Senate floor until we compose and conclude a unanimous-consent request.

AMENDMENT NO. 1368

(Purpose: To provide additional funds for operation and maintenance of the Army National Guard out of funds appropriated to the Army National Guard for procurement)

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. ZORINSKY] proposes an amendment numbered 1368.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a) Of the funds appropriated in this joint resolution for procurement for the Army National Guard, the sum of $27,000,000 is transferred to and merged with funds appropriated in this joint resolution for operation and maintenance for the Army National Guard as follows:

(1) $7,000,000 shall be available only for the repair and restoration of Army National Guard armories.

(2) $20,000,000 shall be available only for Army National Guard armory operating costs attributable to activities of full-time Federal personnel of the National Guard and the housing of equipment.

(b) Additional funds made available for operation and maintenance under subsection (a) shall be allocated among the States for purposes described in clauses (1) and (2) of subsection (a) as prescribed by the Chief of the National Guard Bureau.

(c) None of the additional funds made available for operation and maintenance under subsection (a) may be allocated to any State that reduces the amount of State funds for operation and maintenance of the Army National Guard for fiscal year 1986 below the amount made available by such State for such purpose for fiscal year 1985.

Mr. ZORINSKY. Mr. President, the amendment I am calling up today addresses some major problems with the preparedness of the Army National Guard forces that this Nation relies on so heavily for its security under the total force concept. My amendment is not complicated. It is meant to speak to very basic difficulties that have come to my attention, as basic as having a roof over your head and a warm place to park your vehicle.

We are all aware of the important role the National Guard and Reserve forces play in our military structure these days. The Army's cap on active duty personnel, set at 781,000 troops for several years now, is expected to continue.

I doubt if we will see many of our colleagues rushing to the Senate floor demanding to increase the number of active duty Army personnel because of the high costs associated with larger active force levels. When we factor in things like training, recruiting, housing, benefit programs, equipment, transportation, and a host of other costs involved with keeping a soldier on active duty, it becomes clear that

nobody is going to insist on creating new drains on the Federal Treasury.

Let us face it: The big defense issues in Congress these days are weapons programs like SDI, and how much we pay for hammers and toilets seats. So I share the sentiments of the experts who believe that the Army's cap of 781,000 active duty troops will be with us for some time.

Of course, this number is not sufficient to meet our troop needs in case this country must engage in a major war using conventional forces. The plan is that the shortfall will be made up with large numbers of soldiers to be called up from the National Guard and Reserves. Make no mistake about the degree to which we rely on the Guard and Reserve. By the end of next year, over half of the total number of troops at our disposal to go to the battlefield in time of war will be members of the Guard and Reserve. Over half.

This represents quite a change in the mission of the National Guard over the years. In the earlier years of this century, the Guard's main reason for existing was to meet the needs of the local populace at the direction of a State Governor. A primary mission was to respond to local emergencies. A guardsman could look forward to filling sandbags to hold back floodwaters, or help restore civil order or stop looting.

The Federal component of the Guard's mission did not develop until World War II. The Guard's State mission has never changed; it remains the same as it always was. However, the Federal mission has grown geometrically, and our dependence on the Guard for our national defense is as great as it has ever been, and it grows each day.

It is a very large step from making sandbags along swollen American rivers to high-technology battlefields in Europe or the Middle East. Yet that is the step for which the Guard has been required to prepare. It is a step that would have to be made very quickly in times of crisis with the security of the United States on the line.

Under the total force concept developed in the early 1970's, many Guard units have been assigned early deployment roles. The total force concept has generated substantial new or increased costs to the States that continue to grow. States are required to increase their troop levels and place a greater emphasis on retention. But that is only the beginning.

Of course, the expanded role of the Guard has necessitated an increase in the full-time manning of the State armories by Federal personnel. These personnel are known as the Active Guard/Reserve—AGR's for short. They are instrumental in performing the day-to-day preparation and readiness duties, coordinating training programs, troop personnel, equipment—handling the grab-bag of responsibilities inherent in keeping the Guard units ready to train and mobilize if need be. Let me emphasize that the AGR's are full time Federal personnel working on the Federal mission.

They include technicians to keep the equipment running and regular army staff as well. Their number has expanded to 31,000 nationwide, and that number will grow as the troop units expand and the Federal mission increases. Of course, the mere presence and activity of the AGR's for the Federal mission in a state armory creates costs—costs that are funded solely by the States. Under current law, States are responsible for 100 percent of the operation and maintenance [O&M] costs to run armories.

Obviously, it costs money to provide office space, operate the lights and the heating and the air-conditioning. We can all understand that office space, utilities, and the physical plant required to keep the AGR's on the job do not come cheaply. And again, these costs generated by the increased Federal mission are forced onto the State O&M budgets with no Federal contribution.

Another effect of the expanding role of the Guard is the increased need for storage. It is elementary that more soldiers require more equipment, and that means more storage is necessary. This is what I was referring to when I spoke of having a roof overhead. I have seen information from the General Accounting Office indicating that a $200 million backlog of storage sheds to house Federal equipment at the State armories exists. What does it mean to have a storage backlog? It means you stack field equipment on floors and in offices where troops are supposed to train or work. It means parking expensive vehicles or performing maintenance outside where the weather is hard on both men and machines. It means having a shabby, crowded, and disorganized system overall, and it affects the operational readiness of the forces. Once again, this problem will grow as the Guard's Federal responsibility grows.

Let us consider the ramifications of armory underfunding and the current lack of O&M participation from the Federal level. The ultimate result is that the limited O&M funds are being syphoned away to cover the increased operation costs and there is little or no money left with which to make major repairs. Even rudimentary day-to-day maintenance goes by the wayside when the O&M budget goes to paying the bills that come in each month. From the information I have seen, the maintenance funding for armories across the Nation is woefully inadequate to say the least. A 1985 study performed by the House Armed Services Committee staff showed that the backlog for maintenance and repair, known as BMAR, for armories in the 54 States and territories was a staggering $175 million. The staff report indicates that the armories are generally in poor condition, requiring a great deal of work to bring them back to acceptable levels of repair.

According to figures compiled by the National Guard Bureau, 1,194 armories, or 42 percent of all armories, are considered to be in inadequate condition. That bears repeating. Nearly half of the armories housing one-half of our Army troops are in inadequate condition.

If that is not bad enough, we have to remember that over 60 percent of all armories are over 25 years old with estimated life cycles of 50 years. It is these older armories that are in the majority, and they need the most repair.

In response to my request for information on the BMAR trends, the GAO sent a questionnaire to the States and territories this year to ascertain where the BMAR situation is going. The study has not yet been made public but I can release some preliminary figures. Of 36 States responding, 25 indicated that the BMAR of armories will continue to increase in the next 5 years. Compared to 1980, 23 States said BMAR is worse in 1985. Disturbing facts beyond the numbers came to light: For example, three armories in a Midwestern State were closed due to lack of O&M funds. A Northeastern State closed 5 armories to community use because they did not meet State fire codes. One adjutant general reported that his repair budget was cut by his State—to one-tenth of his request.

It seems to me almost unbelievable that such a major factor in the conventional military readiness of the United States is in such a shabby state of repair. Clearly, such conditions adversely affect our ability to recruit, teach, train, and retain personnel and maintain and mobilize equipment in a time of national emergency.

Mr. President, I have identified only a few of the funding problems that exist today and will worsen due to the expanding role of the National Guard in our military force structure. It boils down to this: The old notion that States should absorb 100 percent of armory O&M costs is completely out of step with the modern notions of the Guard's Federal role in the national defense. The inequities in the current distribution of funding responsibilities is having a direct impact on the Guard's ability to train for and carry out the Federal mission it has been assigned. That, my friends, is a situation that calls for the immediate attention of the Senate.

We must remember that States are not deep pockets nowadays. I know in

my State of Nebraska that economic difficulties have taken their toll on tax revenues, forcing harsh budget cuts and restrictions for many spending functions. I know the same situation exists in most other States, too.

How can the States afford to increase their armory O&M budgets to keep pace with the growing needs of the Guard when other functions are facing steep cuts? Why should they have to, especially when the increased costs arise, not from a benefit conferred on the State level or a commitment made by a State, but instead to enhance the Federal mission in a decision made on the Federal level to meet a Federal need?

I imagine that many of my colleagues are asking, "Where did this issue come from? Why have we not heard about this before?" I will say that I had no idea this situation was developing until about 1 year ago when I began taking a look at some other aspects of the National Guard, and what I was seeing convinced me that I had seen the bare tip of a class of problems that do not grab our attention or that of the media, yet represent a real threat to our ability to mobilize a sound and effective Army in the face of a major threat to the world's strategic balance.

The problem is of such a magnitude that it will be necessary for our congressional committees to take a hard look at National Guard funding in the coming months. It is my hope that my esteemed colleagues and friends on the Senate Armed Services Committee, who always render service of incalculable value to the Senate with their diligence and hard work, and who have my greatest respect, will propose a long-term, detailed solution in the coming months as they bring their resources to bear on those issues.

But in the meantime, we need to act now, today, to keep the national backlog on maintenance and repair from getting any larger. With hard work and a modest amount of funding now, and a more permanent solution to follow later, we can take a forceful step toward reversing this ominous trend, the wasting away of the National Guard infrastructure.

And I suggest that we do act immediately, on this continuing resoluton, because the money provided by my amendment is only a fraction of what it will cost to replace just a few old buildings with new ones. I will remind my colleagues that, while the States pay all the O&M costs for armories, the Federal share for building new armories to replace old ones is 75 percent. Our choice is clear; we can pay a little now, or pay a lot later. If you believe in cost-effective and prudent use of funds to boost our conventional military forces, you have to believe in the approach I am putting forth today.

This amendment corresponds with funding provisions already appearing in the House version of H.R. 3629, the DOD appropriations bill for 1986, which was incorporated by reference into the House-passed version of House Joint Resolution 465. The House added $33 million to be divided in this manner: For modification and repair costs for full-time Federal personnel office space—$6 million; for partial Federal funding for major repairs and restoration on armories—$7 million; for Federal funding to support armory operational costs related to Federal equipment and personnel—$20 million. The Senate Appropriations Committee version of H.R. 3629, now incorporated into the continuing resolution we are considering today, held the office space funding but dropped the $7 million for major repairs and the $20 million for operations funding.

My amendment simply adds to the Senate bill the funding for major repairs and operations support, at a total cost of $27 million that the House has already approved.

The amendment is not an add-on expenditure, but rather is budget neutral in that the funds are to be transferred from the Army National Guard miscellaneous equipment account. The relatively small cost of my amendment, transferring from an equipment account, would go a long way toward turning this situation around. If it is important to provide robust funding for equipment, it seems clear that it is preferable to divert some of that money and ensure that there are well-maintained buildings in which to house it, that there are classrooms and training facilities where soldiers can be properly taught how to use it, and the list goes on. It seems senseless to procure a new piece of equipment and then house it in a building with a leaky roof.

Under my amendment, and in accordance with the House language, these funds would be distributed to the States by the chief of the National Guard Bureau in his discretion as to where the money would be most needed. I want to make it clear that this is not a pork-barrel amendment in any way, shape, or form. It certainly is not a Nebraska amendment. There is no guarantee that any of this money will come to my State, although I know of some leaky roofs in Nebraska, too. However, every State in the Union is eligible to receive money under my language, with one caveat. The purpose of this legislation is to reduce the backlog of maintenance and repair that has developed. It is meant to supplement the strained State budgets in this regard, not replace them.

The States should continue their present commitment to O&M funding, and not cut back their funds in anticipation of new Federal funding. Cutting back would only maintain the status quo, which is clearly unacceptable. Therefore, no State may receive money under this provision if it reduces its O&M funding for armories in fiscal year 1986 below the 1985 level. This language actually encourages and rewards States for continuing their commitment to armory funding, which provides a tangible benefit to Federal interests.

Mr. President, in another time we could debate the pros and cons of the total force concept and all it means for the Guard and Reserve. The point I make here today is that it is a major aspect of our military force structure, and we must be prepared to put the money into the system to make it work. It is not in America's best interests to hold to outdated divisions of financial responsibility when the sacrifice we make to preserve the status quo is the security of the Nation and the assurance that we are taking all reasonable steps to make a difficult system work in times of crisis.

As I said, there is no pork in this plan, there is no gold plating in having a roof that holds out the rain, doors that open wide enough to let equipment in and out of a storage shed, or a decent shelter in which to work and train. We have brought the National Guard into our force structure as a full and equal partner as far as mission is concerned; we need to bring it in as a full partner in other areas as well, certainly to the extent that it is able to perform the Federal mission it has been assigned. Who can dispute that we are responsible for giving the Guard the assets with which it can perform the tasks we have declared to be vital to the national security?

Often the Senate is accused of overlooking the small details that shape the bigger issues, many times for good reason. Somewhere in the massive military buildup this country has experienced in the last several years, National Guard armories have fallen through the cracks. But we are lucky. We can still do something about that, if we act.

I ask that my colleagues join with me today in a badly needed, cost-effective ounce of prevention to restore the integrity of the National Guard infrastructure.

Mr. President, I ask unanimous consent to have a letter from Maj. Gen. James Carmona, adjutant general of the Nebraska National Guard, evincing his strong support for this amendment, printed immediately following my statement in the RECORD, and I urge passage of my amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEBRASKA,
Lincoln, NE, December 6, 1985.
Honorable EDWARD ZORINSKY,
U.S. Senator—Nebraska,
Washington, DC.

DEAR SENATOR ZORINSKY: Your initiative and leadership in generating legislation at the National level for federal funding support for National Guard facilities in the States is truly commendable.

A definite strain has been placed upon Nebraska in attempting to support DOD's concept of military readiness where more emphasis is being placed upon the role of the National Guard and other Reserve Components.

Nebraska's federally funded fulltime personnel have increased from 594 in FY 82-83 to 858 by 1 February 1986. Although this increase in fulltime manning is proving to be a benefit to enhancing the readiness of the Nebraska National Guard, it has created a strain on the existing State facilities. Modifications to armories need to be made in order to accommodate this increase in personnel and additional federal equipment. However, the resources of Nebraska are limited and it would result in a fiscal hardship for the State to divert more dollars to the operation, maintenance, and modification of our armories.

State facilities have reached the age where major repairs are needed. Major maintenance and restoration is very much required for all of our State National Guard facilities.

The State of Nebraska can effectively utilize the proposed federal funds. I'm sure my position represents the feelings of all State Adjutants General.

Your efforts are truly laudable and very much appreciated.

Sincerely,

JAMES CARMONA,
Major General (Nebraska),
The Adjutant General.

Mr. ZORINSKY. Mr. President, I would like to address the Senator from Alaska, Mr. Stevens, the distinguished chairman of the Appropriations Subcommittee on Defense, regarding my amendment to transfer $27 million in House Joint Resolution 465 to provide operations and maintenance funding for National Guard armories.

As the Senator knows, my amendment corresponds with similar provisions adopted by the House Armed Services Committee in H.R. 3629 and later incorporated in the House version of the continuing resolution. I know that his subcommittee considered the $27 million transfer of funds, and rejected them. Is that a fair assessment of the situation?

Mr. STEVENS. Yes; it is. Although I share the concern of the Senator from Nebraska, about the readiness of our National Guard forces and the ability of some units to fulfill the mission assigned to them, I am concerned about what the Federal role should be in resolving the operations and maintenance dilemma.

Mr. ZORINSKY. I understand the Senator's concern. However, it is my opinion that the countrywide backlog of maintenance and repair on Guard armories is so large, getting larger, based largely on the expanded Federal mission they are required to execute, that we must act very soon to reverse the ominous trends I outlined in my statement. I do not know what policy the Senate will ultimately decide to employ as a long-time solution to the high BMAR levels. But I feel very strongly that the funds I am requesting today would provide a good interim remedial measure to prevent the problem from getting worse while those policy decisions are being made.

On the other hand, I understand the feeling of the Senator from Alaska with regard to the upcoming conference with the House. Of course, I am eager to assist in his efforts to present a strong Senate positon in the conference. Also, I feel that we need to expedite the Senate's action on this continuing resolution if we have any hope of dispensing with this legislation in any reasonable period of time.

Therefore, I am prepared to do my part to speed up the process by withdrawing my amendment and obviating the need for a prolonged debate and a vote, if I may have your assurance of consideration when this matter comes for debate in the continuing resolution conference. May I have your assurance thereto?

Mr. STEVENS. Let me say that I appreciate the good cooperation and desire of the Senator from Nebraska to move things along. If he will withdraw his amendment and let us take this issue to the conference as currently provided for in the Senate version of the continuing resolution, I will be pleased to ensure that his positon will be well represented in conference and we will give every reasonable consideration to the House position.

Mr. ZORINSKY. That assurance is acceptable to me. The Senator from Alaska is always true to his word, and I will be pleased to act on this assurance of consideration in the conference.

Mr. President, I ask unanimous consent that I be allowed to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1369

(Purpose: to add funding for the William Howard Taft Home)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1369.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Joint Resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the amount "86,220,000" on page 13, line 13, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "87,070,000", and of which not less than $850,000 shall be expended for the William Howard Taft Home.

Mr. METZENBAUM. Mr. President, this is an amendment having to do with funding of a lesser amount than that provided in the House bill for the William Howard Taft Museum Home in Cincinnati. It is $850,000. It has been cleared on both sides of the aisle.

I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCLURE. Mr. President, we have looked at the amendment. We have tried to be very careful to calculate what is the next reasonable and responsible step in the renovation. We believe $850,000 is adequate to do that.

I have no objection to the amendment in that sum.

Mr. JOHNSTON. Mr. President, we have looked for every possible means to object to this amendment. Finding none, we are reluctantly going to let it go by. [Laughter.]

Mr. METZENBAUM. I want the Senator from Louisiana to know how much I appreciate all of the support and assistance which he has given me in connection with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 1369) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1370

(Purpose: To amend the Foreign Assistance Act of 1961 to provide special assistance to combat terrorism in Central American countries)

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The bill clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 1370.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, after line 14, add the following new title:

TITLE II—CENTRAL AMERICAN COUNTERTERRORISM AND LAW ENFORCEMENT PROFESSIONALIZATION ACT OF 1985

SHORT TITLE

SEC. 201. This title may be cited as the "Central American Counterterrorism and Law Enforcement Professionalization Act of 1985".

SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES

SEC. 202. Chapter 8 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 577. SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES.—(a)(1) of the funds authorized to be appropriated for the fiscal year 1986 by section 575, not to exceed $21,000,000 shall be available only to combat terrorism in Central American countries.

"(2) Except as otherwise provided in this section, for the fiscal year 1986, Costa Rica, El Salvador, Guatemala, and Honduras are authorized to receive assistance under this section.

"(b) If the President determines that a country receiving assistance under this section is using such assistance to engage in acts of torture, the President shall terminate such assistance to such country.

"(c) The provisions of paragraph (2) of section 573(d), authorizing United States Government personnel to advise on antiterrorism matters outside the United States, shall apply to assistance provided under this section, except that the limitation of thirty consecutive calendar days shall be extended to ninety consecutive calendar days for purposes of this subsection.

"(d)(1) Except as otherwise provided in this subsection, the provisions of paragraphs (1), (3), and (5) of section 573(d) shall not apply to assistance furnished under this section.

"(2) To the maximum extent practicable, training services provided under this section shall be conducted in the United States, and no funds may be obligated for any such training service to be performed outside the United States unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified fifteen days in advance of such obligation. Each notification of any such proposed obligation shall specify—

"(A) the nature and purpose of such proposed obligation; and

"(B) the reasons why it is not feasible or desirable to conduct such training services in the United States.

"(3) None of the funds made available for assistance under this section shall be provided by or through any intelligence agency of the United States, and no personnel of any such intelligence agency may participate in the provision of assistance under this section except to the extent the participation of such personnel is directly related to antiterrorism training provided under this section and conducted in the United States.".

RESTRICTIONS ON ASSISTANCE

SEC. 203. Section 577 of the Foreign Assistance Act of 1961, as added by section 202, is amended by adding at the end thereof the following new subsections:

"(e)(1) No assistance under this section may be made available for any country until the President prepares and transmits to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report stating that—

"(A) the security forces of such country are not engaged in systematic human rights violations, and the leadership of these forces are committed to eradicating all human rights violations within their respective forces;

"(B) the government of such country is making substantial progress in creating law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts;

"(C) any assistance, including training, will achieve the purpose of professionalizing independent law enforcement agencies; and

"(D) such country has submitted a formal written request to the United States for such assistance.

"(2) For purposes of paragraph (1), the term "human rights violations" includes the use of torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, and prolonged detention without trial.

"(3) No funds under this section may be obligated or expended for any country on or after July 1, 1986, unless the President on June 30, 1986, prepares and transmits an additional report as described in paragraph (1).

"(4) Not later than March 31, June 30, and September 30, 1986, the Comptroller General of the United States shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report which—

"(A) describes the progress made by each country receiving assistance under this section toward achieving—

"(i) the elimination of human rights violations by the security forces of such country and a commitment by the leadership of these forces to an eradication of all human rights violations within their respective forces,

"(ii) the creation by the government of such country of law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts, and

"(iii) the professionalization of independent law enforcement agencies, and

"(B) includes a determination as to whether any country receiving assistance under this section has engaged in acts of torture, abuse, or other physical, or mental harm of prisoners, during the preceding three-month period or the period since the date of enactment of this section, whichever is shorter.

"(f) In addition to the requirements of subsection (e) applicable to Guatemala, no assistance under this section may be available for Guatemala unless the President certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that—

"(1) an elected civilian government is in power in Guatemala; and

"(2) the newly elected Government of Guatemala has demonstrated substantial progress—

"(A) in achieving control over its military and security forces;

"(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights; and

"(C) in respecting the internationally recognized human rights of its indigenous Indian population.".

TRANSFERS OF EQUIPMENT AND COMMODITIES

SEC. 204. Section 573(d)(4) of the Foreign Assistance Act of 1961 is amended—

"(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (D)";

(2) in subparagraph (B), in the text above clause (i), by inserting "(other than under section 577)" after "chapter";

(3) in subparagraph (C), by inserting after "this section" the following: "(other than equipment and commodities made available under section 577)"; and

(4) by adding at the end thereof the following new subparagraphs:

"(D) For the fiscal year 1986, articles on the United States Munitions List may be made available under section 577 only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c), articles in category X (relating to protective personnel equipment), or articles in subsection (h), (c), or (d) of category XIII, and they are directly related to anti-terrorism assistance under section 577; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(E) Not more than 10 percent of the value (in terms of original acquisition cost) of all equipment and commodities which are provided under section 577 to any country may constitute lethal commodities and equipment, and no shock batons or similar devices may be provided under section 577.".

COUNTERTERRORISM PROTECTION FUND

SEC. 205. The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 the following new section:

"SEC. 39. (a) The Secretary of State is authorized to reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents.

"(b)(1) There are authorized to be appropriated to the Secretary of State $1,000,000 for the fiscal year 1986 for use in reimbursing persons, agencies, or governments under this section.

"(2) Amounts appropriated under this section are authorized to remain available until expended.

"(c) Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. Section 575 of such Act is amended by striking out "$9,840,000 for fiscal year 1986" and inserting in lieu thereof "$30,840,000 for fiscal year 1986".

APPROPRIATIONS

At the end of section 101(j) in H.J. Res. 465, strike the period and add the following new language:

": *Provided further*, That in addition to amounts otherwise provided by this subsection, there are hereby appropriated

$22,000,000 to carry out title II of this joint resolution, except that such funds may not be made available for obligation for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance."

Mr. LUGAR. Mr. President, this amendment to the continuing resolution is comprised of a bill reported favorably by the Committee on Foreign Relations last Thursday which provides $22 million of counterterrorism assistance for the country's of Central America.

It includes $1 million for a witness protection fund to aid those providing information or other assistance against terrorist activity. The proposal arises from the urgent administration request for a counterterrorism funding for Central America. Our committee gave the request detailed examination during two open hearings, one closed briefing, and four business meetings.

At our final business meeting, a substitute for the administration bill was introduced by the distinguished Senator from Rhode Island, Senator PELL, and by me. After markup, the measure passed with a strong bipartisan vote of 15 to 1.

The committee has completed its activity on the bill and has completed a draft report giving details on our finding. We believe that the legislation meets the twin concerns of all Members. We resist as Americans attacks like those which slaughtered U.S. Marines, two other American citizens, and seven others at the Rosa Restaurant in El Salvador last June. We believe that the culprits should be apprehended. We believe that democratic governments should have the means to do this.

The legislation is designed also to ensure that the program meets the requirements for both restoration and strengthening of human rights in each of the recipient countries.

We appreciate that a very careful balance must be struck.

Mr. President, let me simply state to you the question very candidly: We believe that in the Central American countries that will be recipients there are now democratic civilian governments. In the case of Guatemala there will be a democratically-elected civilian government by mid-January. We require specific reports from those government about progress on human rights issues. We have prohibited torture and indicated that if torture is found at any of those countries that are to be recipients, all aid to assist the reforms that we are calling for will be stopped.

There is a number of prohibitions with regard to specific instruments of violence and torture that could be sent to those countries because we are cognizant of the history that is involved, of the sensitivity of the issue.

Mr. President, we are also mindful of the fact that it is important that our friends in Central America have an opportunity to reform their police forces.

The argument is sometimes made that they cannot be trusted with that type of reform, but we would say, I suppose, as a committee in response, Mr. President, that we have weighed the evidence of governments that are attempting to fashion democratic institutions. Among those must be the preservation of law and order and respect for human rights, and with modest provisions of money at this time we believe that antiterrorism will be furthered.

We believe that legitimate police training and activities will be furthered.

Mr. President, I am hopeful that the body will accept this amendment at this time.

I ask for the Chair to recognize, if possible, my distinguished colleague, the ranking member of the Foreign Relations Committee, Senator PELL.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this was a measure which we agonized over in the committee. This compromise may not meet the wishes of all of us nor completely meet the wishes of any of us, but what we sought was some measure to help these countries move in the proper direction, to try and wean their police forces away from the military umbrella, to try to give some support to these budding democracies.

We passed this in the committee after considerable discussion by a vote of 15 to 1. This was a resolution which gave me particular difficulty because I can remember years ago when we had the public safety program begun during the late fifties. Subsequently the Congress terminated that program in 1974 because of abuses by some of the very police personnel we had trained. Now we are told that it is a new age, a new time, and we believe that these countries have burgeoning democracies that need a little help and support which this measure would give.

I am reminded of Santayana's warning that those who forget the lessons of history are condemned to repeat them. In order to avoid that happening in this case, we wound around this measure several restrictions, restrictions which would require two Presidential certifications in the next twelve months and three GAO reports, as well as a variety of restrictions that apply throughout the actual text of the bill.

For example, we say that before any money under this bill can be given, to a country, there must be substantial progress demonstrated to achieving control over its military and security forces; toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses. A special certification, identical to that governing military aid in the foreign aid bill, is also in place for Guatemala.

Mr. President, I believe that this paired down bill, with these restrictions on the assistance, represents a solid bipartisan compromise and I urge passage of this measure.

Mr. DODD. Will the Senator yield?

Mr. PELL. I yield for a question.

Mr. DODD. I will get the floor later.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Foreign Relations Committee, I want to point out to everyone that this is legislation on an appropriations bill. That is something we have been discussing back and forth for the last couple of days.

At the same time, I want to point out that this is legislation on an appropriations bill which I think is needed and necessary and which I support.

There are times, and I think we all recognize this, when we do have to work legislation authorization as well as appropriations on an appropriations bill and this is one of them.

I believe this is a good compromise from the Foreign Relations Committee, and I believe that the 15-to-1 vote indicates that it has strong bipartisan support.

The administration strongly supports this provision. This continuing resolution is the only vehicle whereby we could have it enacted.

The program is designed, as the chairman and ranking member have said, to combat terrorism, I might say increasing terrorism activity in Central America, and, therefore, time is of the essence. I believe we must go forward.

The Appropriations Committee has worked with the authorization committee and we believe that the Appropriations Committee is protected by a clause, which the authorization committee agreed to, requiring a 15-day notification so that we could have an additional hearing on this overall subject. That notification process is reflected in the amendment of the Senator from Indiana.

As chairman of the Foreign Operations Subcommittee I support this amendment, and I am authorized to say that Senator INOUYE has no objection.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of this proposal. The provisions of it have been well-described and explained by the distinguished Senator from Indiana and the distinguished Senator from Rhode Island. I think it is worthwhile to point out a couple of additional pieces of informa-

tion for the benefit of our colleagues here today.

First of all, the original proposal as made by the administration called for the expenditure of some $57 million in this program. The proposal was originally submitted to us included very few, if any, restrictions at all on the expenditure of these funds and would have begun an open ended authorization that would have fundamentally changed what has been the historical position not only of this body but with regard to the other, in terms of the funding of so-called police training programs in Central America.

Those of our colleagues who have been here for a long period of time will recall that it was through a bipartisan effort that we restrained expenditures in these areas because of the significant and profound abuses that had occurred by the very security forces that we had been providing training for back more than two decades ago. In fact, it was these forces arguably that created some of the most serious problems that led to the unrest within the Central American region.

However, it was worthwhile to note that the administration proposal was submitted to the Foreign Relations Committee for a vote, that $57 million request, and that was rejected 16 to 1, again in a bipartisan fashion.

Again, people on both sides of the aisle felt that was far too excessive an amount of money. It had no restrictions and no reporting requirements in it at all, or very few. As a result of that effort and under the leadership of the chairman of the committee and the ranking minority member, we were able to fashion a compromise position that called for the expendire of $22 million, almost two-thirds of the amount requested. We provided some significant restrictions on how these dollars were to be spent. Most importantly, we added a provision which requires, as the Senator from Rhode Island points out, three reporting periods over the next 9 months by the administration for Congress to determine whether or not these funds are being spent for the kind of training and reform that is so essential.

It is a risk to support this program. I, for one, and I think I speak for many of my colleagues in the committee, did so with a great deal of reluctance.

The principal reason I think we were willing to support this particular program is the acceptance of the point that a central ingredient to ultimate reform in Central America will require that the security forces and the police forces of those countries be directly involved in those reform practices. To suggest that we are going to be able to change the climate in Central America, the political climate, in that part of the world merely through an electoral process would be to make a significant mistake. It will ultimately depend upon the security forces participating in those reform measures backing an electoral process and disengaging from the kind of significant human rights violations which have been perpetrated by these very forces over the last two decades or more.

This effort is a 1-year authorization, a 1-year appropriation, with those reporting requirements, with those restrictions. We shall be able to watch very carefully how these funds are being expended. If they are expended in an intelligent, thoughtful way, contributing to reform, then possibly we will have turned a very significant corner.

If they are not, we will know so, I think, in very short order and we will be able to take appropriate action in the coming fiscal year to restrain this kind of expenditure. But I believe on balance, the risk is worth taking, that it could contribute significantly to the kind of reform that is necessary, as I mentioned a moment ago, in that part of the world.

So, Mr. President, I, along with the majority of our side of the aisle on the committee, supported this proposition and we hope that the full body here will support this particular request, with the caveats and with the understandings that I have mentioned here this evening.

I yield the floor.

AMENDMENT NO. 1371

(Purpose: To prohibit the furnishing of any lethal commodity or equipment to Guatemala)

Mr. SIMON. Mr. President, I offer a second-degree amendment to the amendment. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HARKIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

The clerk must state the amendment first.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 1371 to amendment numbered 1370.

Mr. SIMON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

Section 573(d)(4)(E) of the Foreign Assistance Act of 1961, as added by the amendment, is amended—

(1) by striking out "(E) Not" and inserting in lieu thereof "(E)(i) Except as provided in clause (ii), not"; and

(2) by adding at the end thereof the following:

"(ii) No lethal commodity or equipment may be provided under section 577 to Guatemala.".

Mr. HARKIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Iowa will state the point of order.

Mr. HARKIN. Mr. President, I rise to make a point of order against the amendment offered by the distinguished Senator from Indiana [Mr. LUGAR] in that the amendment is in violation of rule XVI in that it contains legislation on an appropriations bill that has not heretofore been authorized by any standing committee of the U.S. Senate.

Mr. HATFIELD. Mr. President, am I being addressed by the Chair?

The PRESIDING OFFICER. The Senator from Iowa has stated his point of order.

Mr. HATFIELD. Mr. President, will the Senator yield for just one moment, withhold his point of order for just one moment?

Mr. HARKIN. I shall yield for a question or suggest the absence of a quorum.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I withdraw my point of order at this moment.

Mr. HATFIELD. Mr. President, this amendment offered by the Senator from Indiana is, indeed, a very important matter which I think all of us have to agree on. I indicated to the Senator from Indiana that we have had five rollcall votes on the question of either a point of order or a tabling motion and that there have been three other Senators who have withheld offering amendments because I have indicated I was going to rise, in just a routine manner, to challenge those amendments on a point of order without any criticism of the substance of the amendment.

I am sorry that the communication I should have extended to the Senator from Indiana had not been made. Now that he is clear on this, he would like to be recognized for the purpose of taking action on this amendment.

Mr. LUGAR. Mr. President, I thank the distinguished chairman of the Committee on Appropriations for his comment. Indeed, the communication was not sufficient and I apologize for that. Clearly, the Senator's point is well taken. I ask permission to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 1370) was withdrawn.

Mr. DODD. Mr. President, will the Senator from Indiana yield?

Mr. LUGAR. Yes.

Mr. DODD. Mr. President, I am curious as to what the Senator made reference to, what would be the disposition of this matter since this amendment has been withdrawn.

Mr. LUGAR. I wish I could respond accurately to the Senator's question. I have simply been apprised of the fact that this is legislation on an appropriations bill. The distinguished chairman of the Appropriations Committee has pointed out several precedents here today. In order to be consistent with his activity, which I fully approve, he needs to act in this respect. It is an important matter that needs to be considered but in my judgment and the judgment of the distinguished Senator, this is not the time and the place to do that, so we will have to counsel together to find the next opportunity.

Mr. DODD. If the Senator will yield, is it the intention of the distinguished chairman of the Foreign Relations Committee, sometime before we adjourn for the calendar year, to bring up that opportunity?

Mr. LUGAR. I shall look for the opportunity with the leadership. As the Senator knows, this is considered an emergency for the subject country so I appeal to him to be of assistance.

Mr. SIMON. Mr. President, if the Senator from Indiana will yield again, I simply urge that if he is not aware of this amendment, I prohibit lethal equipment to be sent to Guatemala. I simply urge that he and his committee retain this part of his amendment. The reality is the new government—and we are pleased with the election there—is not going to be taking office until after the first of the year. We will have time after that to make judgments as to what they are doing, whether or not they should be assisted but I urge—and I see my distinguished colleague from Rhode Island—that we consider such an amendment.

Mr. LUGAR. I appreciate the Senator's comment. I assure him we will consider it.

AMENDMENT NO. 1372

(Purpose: To increase the appropriation for the United Nations Environmental Program)

Mr. PELL. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1372.

Mr. PELL. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add "for fiscal year 1986, there are appropriated $9,000,000 for United Nations Environmental Program."

Mr. PELL. Mr. President, this amendment restores the United Nations Environmental Program—UNEP—to the $9 million that the House has approved for it from the $3 million figure that it is cut down to by the Appropriations Committee. This is similar to the amendment I introduced several days ago calling for a larger amount. This is being introduced in accordance with the understanding I have with the managers of the bill. This is a measure that I believe is a necessary one so that UNEP can continue doing its excellent work. I am delighted that the chairman of the appropriations subcommittee, the Senator from Wisconsin [Mr. KASTEN] now supports it. I trust that it may be supported in future years as well. My understanding is that it has been cleared on both sides.

Mr. KASTEN. Mr. President, this is a program that is very important. It is a program that I believe the Senate on both sides has strongly supported in the past. I was prepared to negotiate this item in conference, but I agree with the distinguished Senator from Rhode Island that it would be appropriate for the Senate to speak on its own and for us to increase the amount for the United Nations Environment Program. Therefore, I accept the amendment, and I hope that it will be passed.

Mr. JOHNSTON. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1372) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1373

Mr. PELL. Mr. President, I have an amendment which I send to the desk on behalf of my colleague, the junior Senator from Rhode Island [Mr. CHAFEE].

This amendment guarantees that Rhode Island, Hawaii, and the District of Columbia have access to section 1516 funds of the Public Health Service Act under the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. CHAFEE, proposes an amendment numbered 1373.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 11, add after the period the following new sentence:

"Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935(b) of the Omnibus Budget Reconciliation Act of 1981: *Provided*, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act."

Mr. PELL. Mr. President, this amendment which corrects an unfair treatment of Rhode Island, Hawaii, and the District of Columbia, has, I believe, been cleared on both sides of the aisle. I hope it will pass.

Mr. HATFIELD. Mr. President, may we see a copy of that on our side, please?

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

Mr. HATFIELD. Mr. President, the amendment is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1373) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1374

(Purpose: To direct the Army Corps of Engineers to undertake a salvage operation to protect critical habitat of certain endangered species)

Mr. STAFFORD. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] proposes an amendment numbered 1374.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add a new section, as follows, and number it appropriately:

"SEC. . Using available funds, the Secretary of the Army, acting through the Chief of Engineers, shall take immediate steps to remove the wreck of the "A. Regina" from the vicinity of Mona Island, Puerto Rico, unless the Chief of Engineers determines, after consultation with independent marine salvage experts and such other experts as deemed necessary, that removal of the vessel is not feasible for technical reasons, or the Fish and Wildlife Service and the National Marine Fisheries Service, in consultation with the Commonwealth of Puerto Rico and the Chief of Engineers, determine that removal of the vessel would cause greater adverse effect on the hawksbill turtle, green turtle, leatherback turtle, and loggerhead turtle, or their nesting or feeding habitat, than would occur leaving the vessel in place."

Mr. STAFFORD. Mr. President, this amendment would require the Secretary of the Army, acting through the Chief of the Corps of Engineers, to remove a shipwreck in the Caribbean that is threatening the nesting and feeding habitat of the hawksbill turtle, an endangered species. The amendment does not require an appropriation. It merely directs the Corps of Engineers to use existing funds to remove the wreck, unless the corps determines, after appropriate consultation, that removal is not feasible. I believe the amendment is acceptable to the managers of the resolution now before the Senate.

Mr. President, let me briefly review the events up to this point. On February 15 of this year, the *A. Regina*, a 335-foot, 4,000-ton ship, ran aground on a coral reef adjacent to Mona Island in the Caribbean Sea. The beach behind the reef is a designated critical habitat for the hawksbill turtle, an endangered species. The hawksbill uses the beach for nesting and the reef and lagoon for feeding. Mona Island is the most important habitat for this turtle in the Caribbean. Two other endangered turtle species and one threatened species also use this area.

Mr. President, the wreck is upwind and upcurrent from the beach and most of the reef. As it breaks up in the surf, debris from the wreck washes into the lagoon and onto the beaches. This debris—wiring, carpets, furniture, and other objects—impedes access to the beach for the turtles. They literally can get tangled up and die.

Also, the vessel is grinding up the reef, creating a sediment that is damaging and killing the coral some distance away. The turtles feed on sponges which inhabit the reef. Also, if the coral dies, the protecting reef will be destroyed and the seas will destroy the nesting beach itself.

Mr. President, I would like to insert into the record after these comments letters from the Fish and Wildlife Service, the National Marine Fisheries Service and the Commonwealth of Puerto Rico that describe the threat to the sea turtles posed by this wreck.

Since February, the Corps of Engineers, the Coast Guard, and the wildlife agencies have been in discussions about this wreck. No agency has been willing to take responsibility for its removal. This amendment would require the corps to take action because that agency has experience removing shipwrecks that pose navigation hazards. The corps may decide to leave the wreck in place if it determines that removal is not feasible.

Similarly, the Fish and Wildlife Service and the National Marine Fisheries Service may determine that removing the wreck would make matters worse. If so, the corps again would leave it in place.

Mr. President, this amendment is designed to force action to prevent an environmental disaster. It deserves the support of this body.

I might add, Mr. President, that this amendment is not intended to prejudice in any way any current or future legal actions against the owners of the vessel to recover costs or for any other purposes.

I urge my colleagues to support this amendment.

Mr. President, I believe the amendment is acceptable to the managers of the resolution now before the Senate.

Mr. HATFIELD. Mr. President, the Senator is correct. The amendment is supported, I believe, on both sides of the aisle.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 1374) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1375

Mr. HEINZ. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 1375.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 16, strike the number "$1,019,391,000" and insert in lieu thereof "$1,103,041,000" and on page 6, line 18, strike the number $1,419,451,000", and insert in lieu thereof $1,425,902,000".

Mr. HEINZ. Mr. President, this is an amendment that would add back the money to the Internal Revenue Service that the committee had originally proposed in its appropriation bill which was vetoed by the President. We are talking about therefore putting exactly the same amount of money back, $91,101,000, to restore the bill to what the original appropriation was. Of that amount, $83,650,000 goes for the processing of returns, $6,451,000 for compliance and collections.

The reason I bring this amendment before the Senate, Mr. President, is that we have had in this country what can only be described as an unmitigated disaster with the timely and accurate processing of income tax returns.

While I suppose there are some people in this body who would like to see tax rates higher, the income tax on both businesses and individuals still raises a very considerable amount of money—hundreds upon hundreds of billions of dollars. We are in jeopardy of undermining people's belief that the tax system can be operated, let us not even say fairly, let us just say semihumanely, with just a modicum of responsiveness.

We had people throughout the Nation trying to get through to the Internal Revenue Service to find out what happened to their income tax returns because the Internal Revenue Service changed this year to a new system of processing returns which, frankly, does not work very well. In fact, it worked so poorly at the Philadelphia regional service center that on one day so many people were trying to get through to the Philadelphia regional service center the entire phone service of the city of Philadelphia was nearly shut down, and well over half of it was shut down because of the overload.

For a period of weeks and even months, the typical taxpayer trying to get through to that center would not find it unusual to have to make 15 or 20 phone calls to the Philadelphia service center. On their lucky 15th or 16th phone call, they would then receive a recording saying, "Our phone lines are busy." The really persistent taxpayer, who might have been undaunted and chose to place another 15 or 20 calls, might have been fortunate enough to have a human being answer that call, who then might say, "I can't give you the information you request; the computer is down." And about one out of every four or five taxpayers

who actually did get through to a real live human being, having surmounted the busy signals and the answering equipment, might get information about the status of their tax return. In some of those instances—all too many, as a matter of fact—as they pursued the matter over the course of the spring and summer, they were told, "Please file a duplicate return, because we don't know what happened to your first one."

If that sounds like a chamber of horrors from the taxpayers' point of view, it was not a lot better from the standpoint of the employees who were under a quota system, part of a high-technology sweatshop, where the system was breaking down. But the quota of tax returns they had to process each day had to be achieved, irrespective of whether they were able to do a good job, or because the computer was out, or they did not understand what they were doing, or they were not trained properly because they were a new employee, or because they had an incompetent supervisor, like the first one we had at the beginning of this year, who ran the Philadelphia service center. If they were so unfortunate, they still had to process a number of returns, or else. You might say the returns had to get processed or it was their neck on the line.

Mr. President, this Senator is not going to sit back and let anybody tell me or anybody else that we do not need this $83,650,000 to help process returns. My office and the office of my colleague, Senator SPECTER, are not going to rest until we make sure that we do not have tens of thousands of unnecessarily and wrongly unhappy taxpayers in our home State of Pennsylvania.

We serviced some 5,000 individual taxpayers—5,000—during the course of 2 or 3 months. That may sound like a modest amount of case work to, say, the United Way, but we normally get about 300 cases a week. That works out to about 15,000 a year. To have 5,000 IRS cases puts an incredible burden not only on the taxpayer but also on our staff.

If you want to get an idea of how bad things were, I refer you to the GAO's November 1985 Report on Tax Administration, information on the IRS Philadelphia service center—God rest its soul—pages 32 and 33.

It got so bad that in April 1985, one of the janitorial employees found tax returns and remittances in a burn barrel because the employees were getting so frustrated. They found 109 envelopes which included 94 remittances for $333,440. That is what they found in one burn barrel—a third-of-a-million dollars, in one place, in 1 day.

Then, about 4 days later, on April 30, an internal auditor happened to be going past a wastebasket and reached into the wastebasket and took out four standard-sized brown remittance envelopes. In three of the four envelopes the internal auditor found nothing, and in one of the four envelopes he found a check to the Internal Revenue Service for $2,500.

If that were all there was to the problem, I suppose you might kind of gloss over all this and assume that they just had a bad week back in late April 1985. But the fact is that they had a bad year, as evidenced by the exhibits on page 32 in this compendium from the chamber of horrors called the Philadelphia service center of the IRS.

The taxpayers of this country, not just the Philadelphia region, literally cannot stand another year like the one they have just been through. They have been pushed around. They haven't been forgotten. Their legitimate requests have gone unanswered. Their refunds have been late. Late? Well, I had a town meeting in my home town of Pittsburgh just before the Thanksgiving recess. A very modestly, almost shabbily, dressed fellow who was seated in the front row came up to me and said: "Senator, I have a problem with the IRS."

I said, jokingly, "Well, I'll bet you have a refund problem. I'll bet you haven't gotten your refund check."

He said: "How did you know that? The IRS owes me $2,200. I filed back in January, and it is now November. What's going on with those people?"

Well, Mr. President, what is going on with those people is that they not only did not have the equipment, they also did not have the people, they did not have the trained people, they did not have the supervision, they did not have the system, they did not have the software, they did not have the wherewithal to do as fundamental a job as this Nation has to do; namely, to process its receipts intelligently. They did not have the wherewithal to come anyplace close to doing that job right.

We are all for economy. We all want to pinch the pennies, so that, as Andrew Carnegie said, the pounds will take care of themselves.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HEINZ. I am just getting warmed up right now with the Internal Revenue Service, but I will be with the Senator from Louisiana in a minute. I do not want my taxpayers to go through in 1986 what they went through in 1985.

If we do not get the IRS—they are not perfect, and they make mistakes—the personnel and the equipment they need, the term "tax rebellion" will be inadequate to describe what we are going to see from the taxpayers in 1986.

Mr. President, I ask unanimous consent that the name of Senator KERRY be added as an original cosponsor of this amendment.

The PRESIDING OFFICER [Mr. TRIBLE]. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, one last point: We talk about saving money around here, as I started to say a minute ago. In 1985—and this is through about the end of October 1985—the Internal Revenue Service incurred $41,848,530 just in interest penalties for failing to process tax returns on time—about half the amount of money we seek to restore. That number will grow substantially before the end of this year.

But one statistic we will not have is the statistic on people who have figured that the Internal Revenue Service cannot keep track of their tax returns, let alone process and calculate numbers in those tax returns. What we cannot begin to put a number on is the number of people who are going to underpay their income taxes on purpose and if they ever get caught they will simply say, "Well, can you find my return?" And the Internal Revenue Service will say, "Well, no." And those people say, "Well, I am sure my return was accurate and don't bother me until you find it."

Mr. President, I hope that my colleagues will support this amendment. I know that the chairman of the Appropriations Committee and the ranking member do not feel very comfortable about having had to cut this amount of money.

In fact, the committee report published on December 5, 1985 in the RECORD states:

> The committee is concerned that its proposals may have possibly adverse impact during fiscal year 1986. This committee, as well as several others, has spent considerable time and effort looking at the problems which faced the Internal Revenue Service during the 1984 tax filing season. All quarters have concluded that efforts must be made to insure that problems encountered during that time not be repeated.
>
> The committee wishes to stress that these reductions are not necessarily in the best interests of the Nation.

I could not have said it better. That is, I think, the best summation we could have from the committee.

I ask unanimous consent that Senator MOYNIHAN be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABDNOR. Mr. President, I do not want to take a lot of the Senate's time, but I believe it is very important to clear the air as far as the Treasury appropriations bill is concerned. This has not been an easy year for any of us. We are all committed to reducing the budget deficit. The Treasury bill has been reduced at almost every stage of its rocky course in an effort to meet the requirements stated by the Budget Committee, the budget resolution, the Office of Management and Budget,

and the President. Yet each time adjustments are made to meet those requirements, a funny thing happens—the requirements change.

Mr. President, I believe that a chronology of the events in the hapless life of H.R. 3036, the fiscal year 1986 Treasury, Postal Service, and General Government appropriations bill.

Mr. President, I want to begin with the President's budget request which arrived way back in February. The President requested a budget of $12,068,246,000. This budget request was lean. Times were tough. Things had to be done. The President rose to the challenge. How did he do it? He zeroed out the revenue forgone postal subsidy. That would save $1.2 billion. Next he proposed to reduce the pay of Federal employees by 5 percent, and to reduce the U.S. Customs Service by 887 positions, saving $27 million. After one takes away the revenue forgone subsidy almost 85 percent of the Treasury bills discretionary spending is devoted to personnel costs. So one can see this move would cut spending considerably more.

The committee began its hearings soon after the Budget Committee began deliberations. Budget deliberations stalled, yet the committee continued its task of refining a bill before the fiscal year expired. Time became a problem and the subcommittee was instructed to make its bill conform to the Senate-passed budget resolution. We did.

Mr. President, in the meantime the Congress and the White House came to one significant agreement which impacted the Treasury bill. The 5 percent pay reduction would not be enacted. That led us to a good news/bad news situation. The good news—the reduction would not be made, therefore, a budget amendment totaling $143 million would be forthcoming. The bad news—working under the Senate passed resolution did not allow the subcommittee room to add all of the money back without breeching the Senate-passed resolution. What could we do?

Well, Mr. President, we have been used to juggling funds in this bill to meet its requirements. We did not believe we could cut law enforcement activities, and the reductions to the Customs Service did not make good sense. We restored the funds for Customs and provided the pay restoration in full to the Bureau of Alcohol, Tobacco, and Firearms and the U.S. Secret Service. We also added back about 50 percent of the pay reduction for the Internal Revenue Service. Why only 50 percent? That was all we could do without breeching the cap. We asked all of the other agencies in the bill to eat the 5 percent. We knew it wouldn't be easy but felt that we had to do what we could to keep the bill within the bounds of the budget resolution. The subcommittee had succeeded. The bill totaled $12,328,301,000.

Mr. President, that unfortunately was the only high point, if one can call it that, of H.R. 3036.

The next step was to go to full committee. The only major change was the increase of the revenue forgone subsidy from the $139 million total to $801 million. This increase was significant, but still one that could be lived with because the budget resolution had been passed and it included $748 million for the subsidy. It appeared as though H.R. 3036 would be acceptable. The bill going to the floor totaled $12,990,301,000. The Budget Committee crosswalk totaled $13,078,000,000.

Mr. President, this is when things got tough for H.R. 3036. The Appropriations Committee, which has always worked in terms of budget authority, was told that outlays is the new watchword. Mr. President, we were informed the Treasury bill exceeded the budget resolution in outlays by $123 million. In order to reach that total it would be necessary to reduce the bill by $139 million. How could this be done? A 2-percent across-the-board cut was the answer. Mr. President, I was most distraught. First, I thought the committee had done a good job in meeting our goal. Second, I did not think this reduction was a good choice. Why, Mr. President? This bill included the IRS, Customs, and BATF, the Nation's revenue collection agencies. Reducing them, it seems obvious to me, reduces revenues.

Mr. President, I don't want to say the Budget Committee does not understand this. In fact, the Budget Committee says that the IRS should be increased over the President's request by $24 million, bringing the IRS total to $3,627,000,000. Customs should be increased to $764 million, which exceeded the President's request by $46 million. The committee applauded that action because it certainly was the right step to take.

However, Mr. President, a problem arose. The resolution incorporated function 920 reductions, which, when applied to the Treasury bill, totaled $150 million. How is 920 applied? Administrative overhead is to be cut by 10 percent saving $45 million. One less working day would save $12 million and the bill, as all others, would effectuate a 4-percent rate of attrition in the work force, saving $93 million.

Mr. President, here's where the rub comes. The first two approaches were included in the President's original budget request which had already been incorporated in the Treasury bill. In effect we had a double scoring savings. Now, Mr. President, I can live with that. Everyone else has to also. But my problem comes with the 4-percent attrition requirement. The IRS and Customs make up 70 percent of the personnel in the bill, so in effect they should take that percentage of attrition. But wait, Mr. President, didn't the budget resolution say we should increase IRS and Customs? How can this be reconciled?

Mr. President, the Budget Committee decided that the committee had overstepped its bounds by not taking steps to incorporate the 4-percent attrition by urging the Senate to impose an across-the-board reduction of 2 percent on the Treasury bill. The debate stated that all of the authorizing committees had made the tough choices in order to meet the goals of the budget resolution, so the Appropriations Committee should work as hard to do the same. Mr. President, I believe and agree with that debate. However, I want to clarify a couple of things. The Finance Committee reached its goal, not by raising taxes, not by cutting programs, but rather by authorizing more funding and personnel for IRS and Customs. The proposed to add $46.5 million and 1,550 people for IRS and $27.9 million and 800 people for Customs. These increases were to provide an additional $2 billion in revenue collections.

Well, that certainly is admirable and I must say is probably in our best interest as a nation, however, I want to get back to the problem. The Budget Committee said we were exceeding our target, but the Finance Committee was right on the mark. Mr. President, I think the Senate may be beginning to see the irony. The 4-percent attrition would take a reduction of $144 million and 3,500 positions at IRS and $27 million and 750 people at Customs. The Treasury Department tells me it would cost at least $2 billion in lost revenues. By simply adding those together, it would appear that in order to get the Treasury bill in compliance with the budget resolution, and I might add one could certainly become confused as to the direction one is to follow to meet this goal, we would cut $123 million in outlays at the expense of not collecting $2 bilion in taxes. That is $2 billion, Mr. President.

Nonetheless, the Senate made the choice. H.R. 3036 went to conference with the House. The Senate bill was $450 million below the House-passed bill. Mr. President, now I want to stress that even though I did not agree with the Senate action, as a conferee I felt bound to stay with the Senate position.

Mr. President, the day before the conference began, I received two letters, one from the Department of Treasury and the other from the distinguished majority leader. I would ask unanimous consent that these letters be included in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC.

Hon. JAMES ABDNOR,
Chairman, Subcommittee on Treasury, Postal Sercice and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you consider final action on the FY 1986 budget for the Department of the Treasury, I strongly urge that funding levels requested in the President's budget be adopted in conference for all Treasury bureaus, except for the Internal Revenue Service. This level has the approval of the Administration.

For bureaus other than the Internal Revenue Service, the Depatment's FY 1986 budget submitted to the Congress earlier this year was, in our judgment, the amount necessary to carry out our diverse responsibilities. It included only those items that were fully justifiable and essential to the accomplishment of our missions, and reflected substantial savings in productivity and streamlined administrative operations. Accordingly, we continue to support the President's budget request for all these bureaus. In total, the President's budget for these bureaus is below both the House and Senate approved levels.

We believe the $3.689 billion level approved by the House for the Internal Revenue Service is vital to provide for adequate tax administration in FY 1986. These resources are needed to restore a high level of quality in the Service and to assure an effective tax filing season. The $206 million reduction from the House allowance proposed by the Senate would jeopardize on-going efforts to revitalize tax processing capabilities and would reduce revenues at a time when they are critically needed. We encourage the conferees to identify reductions elsewhere in the bill to offset this increase for the Internal Revenue Service.

I greatly appreciate the continuing support provided by you and your Committee for Treasury progams during these difficult fiscal times. I ask that you give careful consideration to these issues.

Sincerely,

JOHN F.W. ROGERS,
Assistant Secretary of the Treasury (Management).

U.S. SENATE,
Washington, DC, October 28, 1985.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, DC.

DEAR JIM: I am writing to urge you to adopt the funding level for the Internal Revenue Service provided for in the House-passed version of the Treasury Department, Postal Service, and General Government Appropriation Bill. As Chairman of the Finance Subcommittee on Oversight of the Internal Revenue Service, I am very concerned that, if the funding level provided for in the Senate bill is adopted, taxpayers may again suffer from a breakdown in the processing of tax returns similar to the one that occurred this year. I am unsure whether our tax system can withstand another year in which the taxpayers' faith in the system is so severely challenged.

Perhaps even more important is that the Senate funding level would make impossible the $2 billion increase in revenues from enhanced tax compliance assumed by the budget resolution. Instead, the funding level provided for in the Senate would result in a revenue loss of more than $750 million in FY 1986 and $3 billion over four years.

We have enacted reforms in the compliance provisions of the Internal Revenue Code designed to make the cost of noncompliance higher and to make the possibility that the IRS will discover noncompliance more likely. But, in my judgment, we are reaching the point of significantly diminished returns from further substantive law changes in this area.

If we are going to reduce noncompliance, which costs the Government more than $90 billion per year in lost revenues, the most cost-efficient way to go about it is to provide the IRS with sufficient funds to administer the laws we have enacted. I might add that we have appropriated only about one-third of the funds necessary to cover the fixed costs of implementing the tax bills enacted in 1981, 1982, and 1984. These costs, such as revised and additional forms, new manuals, and new computer programs cannot be avoided. All that happens is that the IRS must reallocate available resources and can provide assistance to fewer taxpayers and examine fewer returns for accuracy. This, of course, allows compliance to deteriorate further.

The Administration's proposed budget for the IRS would have required a decrease of 4,800 positions according to the IRS. The Senate bill would require 4,000 additional positions to be cut. On the other hand, the House bill would require a decrease of 4,200 positions, compared with 1985 staffing levels. We should expect some gains in the efficiency of IRS computer systems, but we should be careful not to cut personnel more quickly than mechanical processing can be substituted. The processing disaster of 1985 should make this very clear.

I know that we all have heard the refrain that additional spending in one program or another will save many times the amount expended. I have been as cynical about this type of claim as anyone. However, I believe that if this argument has any validity anywhere, it certainly applies to the increased tax revenues derived from providing the IRS sufficient funds to administer the laws that we have enacted in an efficient and effective manner.

Sincerely yours,

BOB DOLE,
Majority Leader.

Mr. ABDNOR. Now, Mr. President, when the majority leader, who also serves as the chairman of subcommittee that oversees the IRS, supports an increase and the Treasury Department says that the administration also supports the higher funding level included in the House bill, my mind and the minds of the other conferees can be swayed. Knowing that it was the right move to make even though our action would bring back a bill that exceeded the budget target, we made it.

To cut a very long story a little shorter, I will take us instantly to the next step. The bill went to the President. I thought there was a good chance the bill would be signed. Unfortunately it was not. H.R. 3036 met an unceremonious end with a veto stamp.

Mr. President, in the President's veto message, he noted that the bill exceeded his budget by over $900 million and the budget resolution by $180 million. The main reason for the overage of the President's request was inclusion of $820 million for the revenue forgone subsidy and, of course, the IRS and Customs add-ons. The President did concede that even through he opposed the money for the revenue forgone subsidy that the budget resolution provided a funding level of $748 million, so in effect the additional $72 million was the objectionable part. The President also noted four objectionable language sections, one of which was included in his budget request.

Mr. President, there was no attempt to override the President's veto, so H.R. 3036 was rolled into the continuing resolution. The House chose to include the funding levels provided in the conference report, even though the Presidednt had noted that they were excessive. In an effort to meet the President's figure of $180 million, the committee chose to reduce the conference level by $162 million. Mr. President, I must point out here that the reductions came from the revenue forgone subsidy and the IRS. The IRS reduction lowered the bill total to approximately the President's fiscal year 1986 amended budget request. Granted, this does not go all of the way, but it leaves the bill only $18 million over the President's goa!.

Oh, Mr. President, I truly wish that was the case. I must say that I was utterly shocked when on Friday last week the statement of administration policy on the continuing resolution came to the Senate. Guess what one of the objectionable parts of the resolution is? Why, it's the Treasury section—and why is it objectionable? Well, it is $108 million over the budget resolution.

Mr. President, numbers can oftentimes befuddle the best of us, but simple addition and subtraction has always been one of my strong points. Now, if one takes 180 and subtracts 162, what do you get? Granted, when I went to school we did not have calculators or computers or even new math, but I think even if we utilized the machines of modern science, you will find it totals 18. That is 18. So, if anyone can, will they kindly tell me how we reached 108?

Mr. President, I am sure the Office of Management and Budget will have some sort of explanation. I can't say that it will be rational or logical, but it will be an explanation that will most likely tickle one's imagination. However, Mr. President, the explanation is not the point of this entire statement. The point is that we have been shooting for a goal since this exercise began. The goal was to reduce the deficit and no one can take a backseat to me in that commitment. But it is extremely difficult to hit a supposedly stationary target when it moves after you thought you had hit it.

Mr. President, I am going to say one thing as I wrap this up. We may have hit a target, but I believe it is misdirected. We have had to reduce funding for the IRS. Now it is not easy to go home and say, hey, I just gave more money to the Internal Revenue Service, but it is necessary. There is no member of this Senate who does not remember the fiasco during last year's filing season. The Commissioner has told me it can happen again if he does not have adequate resources. Mr. President, the money in this resolution does not give him those resources. You may ask, how do I know? Well, Mr. President, any Senator can call the Director of OMB and ask him. The IRS has a supplemental request sitting on his desk for well over $200 million. It was sent to OMB shortly after fiscal year 1986 began.

Mr. President, it is time to stop playing games. This exercise has been the height of folly. We have a tax gap of over $90 billion. The persistence of those not paying hurts every other conscientious American citizen. We are making that problem worse, but we will be able to say one thing: the Treasury bill hit its budget target, but the question lingers in my mind—how does the Finance Committee reach its target without those additional resources?

TAXPAYERS ASSISTANCE AND THE TAX GAP

● Mr. KERRY. Mr. President, I support the amendment offered by my colleague from Pennsylvania.

In March of this year, during consideration of the first budget resolution, I offered an amendment expressing the sense of the Senate that the Internal Revenue Service should be provided with additional resources needed for increased and improved collection, audits, returns processing, examinations, and other steps designed to reduce tax cheating, and at the same time, to improve voluntary compliance with our tax laws. I was very gratified to see that amendment, which was the first that I had offered, accepted by a vote of 93–2.

Unfortunately, the message of that vote seems to have been lost on the present administration, which continues to insist upon cutting resources and personnel from the Internal Revenue Service. The administration apparently believes that such cuts will help cut the Federal budget deficit, when in fact all evidence points in the opposite direction—that such cuts actually increase the "tax collection gaps."

The funds which this amendment would provide to the IRS are needed to support those services which directly benefit the honest taxpayers of this country. It is the voluntary compliance of the vast majority of our citizens upon which the integrity of our entire system of tax administration rests. Yet without the resources needed to assist these honest taxpayers, and to process tax returns quickly and accurately, voluntary compliance will continue to decline.

Just over a decade ago, according to IRS estimates, 84 percent of all Americans voluntarily complied with our tax laws. By 1986, the IRS says that number will have dropped to 81.6 percent, and it will continue to drop until something is done to reverse the trend. Those who wonder about the significance of these figures should note that each 1-percent change in voluntary compliance is worth more than $5.6 billion a year in tax collections. In other words, if we had maintained the 1974 compliance rate—just voluntary compliance—we would today be collecting an additional $17 billion a year. That $17 billion is instead being added to the tax bills sent to the 80 percent of our most honest and law-abiding citizens.

What could we have done to maintain tax compliance at 1974 levels, and what can we do to reverse the current decline and move toward full compliance? To begin with, we can insure that the IRS has the revenues needed to do its job. Between 1976 and 1983, while the number of tax returns filed increased by 17 percent, the resources devoted to examinations increased by only 2 percent. As a result, the share of returns examined fell from 2.6 percent to 1.67 percent. This represents a 29-percent decrease in individual audits and a 59-percent decrease in corporate audits.

Mr. President, I believe that given this serious deterioration in voluntary compliance, the level of support provided to the IRS will be inadequate even if this amendment is accepted. I strongly support this amendment, and I respectfully urge my colleagues to do the same.●

Mr. HATFIELD. Mr. President, I certainly applaud the remarks of the Senator from Pennsylvania. The only problem is he made them in the wrong forum. He should have made these remarks down at the White House.

I remind the Senator that this bill was vetoed by the President of the United States. He now seeks to add $92 billion or $92-plus billion back into the bill and in the working paper at the White House that was used for the veto message this was highlighted as being that much over the President's request.

Mr. HEINZ. Will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. HEINZ. This Senator has not looked over the working paper. I just read the veto message and the veto message does not make any mention of this.

Mr. HATFIELD. That is correct.

The veto message says we are $181 million or $182 million over the President's request level and that was broken down as to the working paper of the White House. This was one of the highlights where we were over. We were over precisely at this level which the Senator now seeks to restore. That is why I say the eloquence of the Senator from Pennsylvania should have been heard in the OMB office before they advised the President on this veto.

On page 13 of our report on this continuing resolution, the Appropriations Committee takes note and underscores the very points the Senator makes by saying that:

> The committee, as well as several others, has spent considerable time and effort looking at the problems which faced the Internal Revenue Service during the 1984 tax filing season. All quarters have concluded that efforts must be made to ensure that problems encountered during that time not be repeated.

The Senator has spelled them out in great eloquence.

The committee reluctantly took this action in order to meet the problem of the veto.

I also commend the Senator from Pennsylvania for when this bill was brought to the floor initially on September 26, 1985, the Senator voted with the losing side of this vote relating to the 2-percent, across-the-board reduction which hit at the IRS again that he is now seeking to try to restore. The Senator saw that early on. It was not just simply that that happened recently. That is the date of September 26.

But we went through that process beyond September. We found then when we sent that down to the White House, it was—by the way, we went into the conference with the House on that particular bill at about $400 million differential. We came out of it I believe somewhere around $180 million differential which was a fairly small percentage of the total bill.

But the President used that as the reason to veto the bill which he did on the basis of $180 million.

As I indicate to the Senator in that working paper, as we have been so informed, this was one of those component reasons for the veto message.

Therefore, I would only say to the Senator, as sympathetic as we have already proven ourselves to be by actions and not just words as far as Appropriations Committee recognition of the problems that he brings up here, we have done everything we could possibly do and we have failed by the fact of the President's veto.

I do not want to cut the Senator off. I am, therefore, required by the very situation we face here to move to table the Senator's amendment, not in any way being unsympathetic, being fully sympathetic, but just having to face the realities of getting the signature.

Mr. HEINZ. Mr. President, will the Senator yield before making the motion?

Mr. HATFIELD. Yes.

Mr. HEINZ. I understand his position.

First, let me say that I am well aware of the committee's concerns and the chairman and I have both put the same statement of this committee's concern into the RECORD. And I know the committee and the chairman feel that way.

I have to say—and I do not say this to reflect any criticism on the committee or any member of the committee or on the chairman or the ranking minority member—it makes me feel sad when we say that we are about to go through an exercise which is going to result in bad public policy, shortsighted public policy, policy that is going to cost us more than it saves us.

For that reason, I must say it is disappointing that the veto message did not spell out exactly what the President's problems were.

It is really not very helpful to the country to be vague in the specification of what one's veto message is all about and not release to the public a working paper.

There is a working paper down at the White House right now I understand for a $300 million supplemental for the Internal Revenue Service.

Mr. HATFIELD. That is right.

Mr. HEINZ. So we are here playing a game. I just do not want to be a part of that game. The Senator was kind. He said I should have been down there in the Office of Management and Budget.

I was not invited. I would have been there if he had invited me.

Mr. HATFIELD. I was not invited either.

Mr. HEINZ. I do not want to play this particular game because my taxpayers all played that game this year and they all lost and they did not like it one bit.

So I thank the Senator for his courtesy and willingness to yield. Notwithstanding the very, very reluctant objections of the Senator from Oregon, I hope we can pass the amendment.

Mr. HATFIELD. I thank the Senator.

Mr. President, I now move to table the amendment offered by the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Pennsylvania.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from North Carolina [Mr. HELMS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. QUAYLE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. LONG], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. STAFFORD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 11, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—60

Abdnor	Ford	McConnell
Andrews	Gorton	Melcher
Armstrong	Gramm	Metzenbaum
Baucus	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pressler
Bumpers	Hawkins	Proxmire
Burdick	Hecht	Riegle
Byrd	Heflin	Rudman
Cochran	Hollings	Sasser
Cohen	Humphrey	Simon
Cranston	Johnston	Simpson
Danforth	Kasten	Stafford
Denton	Leahy	Symms
Dixon	Lugar	Thurmond
Dodd	Mathias	Trible
Domenici	Matsunaga	Weicker
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky

NAYS—11

Bradley	Lautenberg	Roth
Eagleton	Levin	Sarbanes
Hart	Moynihan	Warner
Heinz	Pell	

NOT VOTING—29

Bentsen	Glenn	Mitchell
Biden	Goldwater	Nunn
Chafee	Gore	Pryor
Chiles	Helms	Quayle
D'Amato	Inouye	Rockefeller
DeConcini	Kassebaum	Specter
Dole	Kennedy	Stennis
Durenberger	Kerry	Stevens
East	Laxalt	Wallop
Garn	Long	

So the motion to lay on the table amendment No. 1375 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1376

(Purpose: To prohibit use of funds to carry out any painting project by the Navy using paint containing tributyltin)

Mr. TRIBLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. TRIBLE), for himself, Mr. MATHIAS, Mr. SARBANES, Mr. HEINZ, Mr. WARNER, and Mr. COHEN, proposes an amendment numbered 1376.

Mr. TRIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . None of the funds appropriated by this joint resolution may be obligated or expended to carry out a program to paint any naval vessel with paint known by the trade name of Organotin or with any other paint containing the chemical compound tributyltin.

Until such time as the EPA certifies to the Department of Defense that whatever toxicity is generated by Organotin paints is included in Navy specifications does not pose an unacceptable hazard to the marine environment.

Mr. TRIBLE. Mr. President, I offer this amendment on behalf of myself and Senators MATHIAS, SARBANES, HEINZ, WARNER, and COHEN. This amendment will help ensure the integrity of our marine environment by delaying the implementation of the Navy's Organotin fleet painting program until the Environmental Protection Agency certifies that the use of these paints does not pose an unacceptable hazard to the marine environment.

Why is this necessary? The very effectiveness of Organotin should give us pause. Organotin is an extremely effective antifouling paint because it is extremely toxic. It effectively kills barnacles and seagrass. The danger is that Organotin could also be lethal for

crabs, clams, oysters, and other waterlife.

How lethal? The short answer is no one can say with certainty. There is a desperate need for more data. We do not know what level of tributyltin concentration is destructive.

Lethality is only one unanswered question. We need more data on degradation of Organotins and their impact on marine life, on the flow of contaminated waters from Navy shipyards and berthing areas and on existing concentrations of TBT's.

We need to perform research to find the answers to these questions. Let me quote from a letter from the Environmental Protection Agency to Navy: "We have attempted to evaluate the Navy's proposed use of Organotin antifouling paints but have concluded that we do not have adequate date to determine whether this program would or would not have adverse impacts on the aquatic environment."

In other words, we just don't know. The use of Organotin is of special concern to Virginia'. The valuable marine resources of the Chesapeake Bay are in close proximity to the naval facilities in Hampton Roads. The oyster seed beds in the James River are only a few miles from the homeport of the Atlantic Fleet. These beds account for 90 percent of the oyster production in the lower Chesapeake Bay.

In addition there are major clam beds just across Hampton Roads from the Norfolk Navy Base and the major spawning area for most Chesapeake Bay blue crabs in just downstream near the mouth of the Bay.

Virginia, Maryland, Pennsylvania and the Federal Government are undertaking a massive bay cleanup program. We cannot jeopardize this effort by introducing unacceptable amounts of TBT into the bay.

But this is not only problem in the Chesapeake Bay. Organotin paints are widely used on commercial and pleasure craft and poses a potential risk to water life across America.

Mr. President, I ask unanimous consent that, letter from Charles Fox, the director of the Chesapeake Bay Project of the Environmental Policy Institute, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TRIBLE. Mr. President, I want to acknowledge the expert assistance of Senator COHEN and WARNER in perfecting this amendment and point out that the Navy has proceeded in good faith. The Navy has met and exceeded the requirements of law. For that reason, the Navy had expressed concern about being singled out by this amendment when organotin is so widely used by private ships.

I want to underscore the Navy's good faith and emphasize that this paint is used around the world. Accordingly, the lack of scientific data and the potential risks to the marine environment demand a more comprehensive response on the part of the Congress than we are offering tonight.

EXHIBIT 1

SUPPORT AMENDMENT REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT ON THE NAVY'S USE OF TOXIC BOAT PAINT IN CHESAPEAKE REGION

ENVIRONMENTAL POLICY INSTITUTE,
December 9, 1985.

U.S. Senate,
Washington, D.C.

DEAR SENATOR: Senator Paul Trible (R, VA) will be offering an amendment to the continuing Resolution which requires the Navy to prepare an environmental impact statement (EIS) on its proposed fleetwide use of highly toxic organotin (OT) anti-fouling paint. On behalf of the States of Maryland and Virginia, the Chesapeake Bay Foundation, the Clean Water Action Project, the Sierra Club and the National Audubon Society, we urge your support of the amendment.

The Navy recently performed an environmental assessment of its proposal and concluded with a "finding of no significant impact" based on its own admission of insufficient information on OT paint and its effect on the environment and public health. The U.S. Environmental Protection Agency (EPA) concluded: "we do not have adequate data to determine whether this program would or would not have adverse impacts on the aquatic environment." Among other comments, on August 20, 1985 EPA recommended that the Navy prepare an EIS on its proposed project.

In November 1985, the Navy stated that it will not prepare an EIS on the fleetwide use of toxic OT anti-fouling paint.

Though OT paints are currently registered with the EPA, recent studies have raised serious concerns about the acute and chronic toxicity of these compounds at very low concentrations. EPA is currently conducting a "Special Review" to re-examine the registration of this extremely toxic antifouling compound.

Senator Trible's amendment would prohibit the Navy's use of this paint in 1986 pending completion of an EIS. Given impending plans to begin application in the Chesapeake Bay region, it is only prudent that the Navy closely examine the potential grave consequences of its proposal.

If you desire more detailed information, please call. We urge your support of the amendment.

Sincerely,

J. CHARLES FOX,
Director, Chesapeake Bay Project.

ORGANOTIN ANTIFOULING PAINTS FOR MARITIME AND NAVAL APPLICATIONS

Organotin paints are routinely used on the hulls of pleasure craft and commercial shipping. We estimate 90 percent of commercial ships over 7,500 tons are painted with organotin paint, and over half of these (over 7,000 ships) use "ablative" formulations which renew the potency of the paint as the ship moves through the water.

Organotin paints, which are EPA-registered, can be purchased at any store carrying marine paints. In addition anyone can purchase high concentrate organotin solutions to mix with any marine paints. The only basis for commercial usage is paint life expectancy and cost, not the release rate of organotin

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TRIBLE. I will, but let me yield briefly to my colleague from Maine.

Mr. COHEN. I thank the Senator for yielding.

Just so we place this in its proper perspective, and I think the Senator from Virginia in his most recent remarks has indicated this point, this particular amendment is not aimed specifically at the Navy, indicating that the Navy is engaged in some wrongdoing. As a matter of fact, it is just the opposite: the Navy has the best record of anyone in the world in terms of the use of this particular type of paint.

The problem is that about 90 percent of the worldwide commercial shipping fleets and an equal proportion of pleasure boats are painted with this particular organotin antifouling paint, and only 50 percent of the ships that use the more effective and less toxic copolymer paints, from which the Navy gets paint specifications, are, in fact, complying with existing regulations.

The Navy meets all EPA regulations. They go even further than what is required in the commercial field. This is not directed specifically at the Navy because the Navy is doing more than any other segment of the industry—commercial, pleasure, or, in this case, national security.

I would point out that the difficulty is what Senator Trible and others who have cosponsored this particular amendment have seen, that we need is a shotgun. Unfortunately, what we have here is a .22.

In view of the fact that the Navy has been setting a precedent for trying to reduce the toxic content of this type of paint and is far in advance of any of those others in the commercial or private field who also use the paint, it seems to me only fair that we introduce legislation, which Senator Trible and others hopefully will have this week, to apply this across the board.

We are not singling out the Navy. We are saying the Navy has been setting the leadership role in trying to conduct the studies and to make sure we have the lowest possible toxic content in this paint.

We are also saying that we are going to introduce legislation that will be applied across the board to all commercial use and all private boats that might be painted with this particular substance.

So this is merely the .22 shot that is being fired and it is not being fired in anger but, rather, in praise of what the Navy has done to date. What we are simply trying to do is to say that if there is indeed even a de minimis risk at this point which goes unidentified, we ought to delay for a few months until we satisfy ourselves that what the Navy is doing does not jeopardize marine and aquatic life, and what we are trying to do is to get at those creating a much higher level of toxicity.

That will be across the board in industry and private use.

Senator Trible will be joining me tomorrow in introducing such legislation.

Mr. President, I ask unanimous consent that the letter from the Secretary of the Navy be printed in the RECORD at this point.

There being no objection, the letter was/were ordered to be printed in the RECORD as follows:

THE SECRETARY OF THE NAVY,
Washington, DC.

Hon. PAUL S. TRIBLE,
Hart Office Building, Washington, DC.

DEAR SENATOR TRIBLE: We believe that there has been a tremendous amount of research conducted by the Navy and the paint industry on the use of organotin anti-fouling bottom paints, and that organotin paints produced to our stringent specifications and applied using the methods we developed and approved are both safe and extremely cost-effective.

Moreover, if there is some problem we have not foreseen, we naturally support any maritime-wide testing that might be required.

We estimate that 90 percent of the worldwide commercial shipping fleet, and an equal proportion of pleasure boats, is painted with organotin anti-fouling paints, and that only 50 percent of those ships use the more effective and less-toxic copolymer paints from which we derive our paint specifications. In fact, our paint specifications are far more stringent in terms of toxicity and release rates than any used by industry.

Consequently, if a need exists to lower the concentrations of organotin in the environment, we naturally assume that you would want to first lower the paint specifications used by the civilian community.

Please rest assured that if there were a maritime-wide need to lower the level below our current standards or eliminate the use of organotin anti-fouling paints, we would be the first to comply.

As always, I am committed to insure that the Navy meets or exceeds any environmental standards set by the federal or state government. I have enclosed a paper which gives you some more details on the use of organotin anti-fouling paint in maritime and naval applications.

Sincerely,

JOHN.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend my distinguished colleague from Virginia for taking the initiative on this amendment. It is a subject which he and I have followed closely because it impacts on the marine aquatic industry in our State, a very important segment of our economic base.

I also wish to thank the distinguished chairman of the Subcommittee on Seapower of the Armed Services Committee who joined with me tonight to redraft some of the early versions of Mr. Trible's amendment, such that we would protect, to the extent possible, all interests in this matter.

This amendment I hope will serve the purpose not only of preventing further fouling of the water possibly attributed to the Navy, but for an expeditious examination of this subject by the Environmental Protection Agency so that we can learn at the earliest possible date the ramifications of this type of paint.

The PRESIDING OFFICER. Does the chairman seek recognition?

Mr. HATFIELD. Have we disposed of the amendment?

The PRESIDING OFFICER. No. we have not.

Mr. HATFIELD. We accept the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1376) was agreed to.

Mr. TRIBLE. Mr. President, I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are down now pretty much to, I think, a few noncontroversial amendments that we would like to act upon. We have unanimous consent then to follow the leadership on restricting further amendments to a list that has been in the process of being refined by both sides.

I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from Oregon. I commend him and the Senator from Louisiana on their effort, their truly Herculean effort, which is obvious when we try to restrict the number of amendments, when we try to get a unanimous-consent agreement that is being circulated at this time. I think it discloses to this point how many amendments are processed—39 amendments. But that is all. There will be, I am sure, many of those that will drop away tomorrow. But that list is being circulated and will be presented shortly. I cannot guarantee, I think the chairman of the Appropriations Committee would concur we cannot guarantee there will be no more rollcall votes until we see the disposition of that unanimous-consent request which is being circulated.

AMENDMENT NO. 1377

(Purpose: To make a technical correction change in section 101(d) relating to the D.C. conference agreement.)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1377.

On page 3, strike "law." at the end of Sec. 101. (d) and insert in lieu thereof the following: "law: Provided, that the appropriation for a federal contribution to the District of Columbia for the "Criminal Justice Initiative" under amendment number 2 shall be "$13,860,000" instead of "$14,010,000"."

Mr. HATFIELD. I ask unanimous consent that this amendment be in order modifying the Stevens amendment numbered 1348, agreed to this morning by voice vote. That amendment inserted the conference agreement just reached last week on the D.C. appropriations for the Senate-passed bill. This modification makes a necessary correction in that amendment. It is purely a technical amendment.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1377) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

(Purpose: To provide $10,000,000 within the DOD budget for research development and acquisition of a parallel super computer processing system)

Mr. HATFIELD. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1378.

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, out of funds available for Research, Development, Testing and Evaluation, Defense Agencies, within the Department of Defense, there shall be provided $10,000,000 for research, development and acquisition of a super computer with capabilities equal to or better than that of the Tesseract model parallel super computer system."

DARPA—SUPER COMPUTER ACQUISITION

Mr. HATFIELD. Mr. President, future breakthroughs in advanced computer science and engineering depends on the ability to develop what is referred to as parallel processing systems. Such a system is being developed and promise to be the fastest and most powerful computer ever built. Already DARPA, the Defense Advanced Research Projects Agency, is developing software for this system. Not only will this parallel processing system provide a major new asset for civilian and military science and engineering, but such an advanced system will assure that the United States stays ahead of foreign competitors in the super computer field.

This amendment will allow the department to provide for the acquisition of an early production model, or a model of equal or greater capability, of

what is currently known as the Tesseract system and build an appropriate staffing environment to demonstrate, as quickly as possible, the potential for significant scientific breakthroughs with the system. DARPA has been briefed on this system as has the White House science office which has expressed strong interest in the project.

Mr. President, this is an amendment relating to the processing system in the military that is developing software. It relates to $10 million that is not an add-on but merely designated within those funds.

This has been cleared on both sides of the aisle, Mr. President.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1378) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1379

(Purpose: To authorize certain timber sales by the Secretary of the Interior)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon Mr. [HATFIELD] proposes an amendment numbered 1379.

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

Mr. HATFIELD. Mr. President, this is to provide an explanation and background for the implementation of this very important provision affecting not just the Medford, OR, district of the Bureau of Land Management but which affects potential Federal timber revenues to the U.S. Treasury.

The amendment which I am offering at this time is similar to a provision which was adopted by the Senate, and later by the House, this past summer. The provision assures that legal and administrative protests may continue against the administration and management of new Federal timber sales, in this instance the BLM. But to the extent that such lengthy battles enjoin or delay the supply of Federal timber to an area, the Secretary of the Interior is directed to maintain the full annual allowable cut by making available timber from the Federal Timber Contract Modification Program.

Mr. President, because these volumes of timber resold under the contract modification program have already gone through the administrative and legal review process, and because the pertinent legal questions surrounding timber management continue to proceed in the courts on so-called new timber sales, this provision specifically states that such returned volumes shall not be subjected to further judicial review and shall be sold in order to sustain the Federal supply of timber to area operators.

The reason this amendment is necessary, Mr. President is because within the next few weeks, or perhaps the next several months when Congress has adjourned, the 213-million-board-feet timber sales program in Medford may be challenged in the courts and, given the legal history in the Northwest, may be enjoined through a court restraining order. The effect will be quite serious. $16 million in annual timber revenue is received from the Medford Timber Sales Program, and 4,900 jobs will be jeopardized which translates into almost $79 million in annual salaries to the local economy.

Along with this explanation of the amendment, I would like also to acknowledge several important limitations which have been included as a part of this provision. First, this provision is limited to the Medford district of the BLM and does not authorize such sales in any other BLM or U.S. Forest Service district. Because of the complicated and unique environmental and managerial circumstances, it would be virtually impossible and unwise for Congress to approve such a widesweeping provision for all timber producing areas.

Second, the resale of such timber without further judicial review is triggered only after a law suit or administrative action has in fact enjoined or delayed the timber supply, and even then only a similar volume of timber may be reoffered in order to sustain the allowable cut. This provision does not leave it to the Secretary's discretion as to when reoffered sales may proceed, nor does it allow one delayed sale of, for example 9 million board feet, to authorize the reoffering of the full 213-million-board-feet sales program.

Third, Mr. President, the provision as earlier drafted was to remain in effect for fiscal year 1986 and succeeding years, but has been restricted just to the fiscal year sales programs.

Finally, the amendment continues the statutory requirement included in the provision last summer requiring the Secretary to characterize the potential environment impact of such sales as minimal, moderate, or serious and further requiring that resale priority be given to those sales with the least risk of potential environmental degradation.

I have approached this matter with a great deal of caution. It is not my hope for Congress to resolve all the many and complicated environmental and legal disputes which are being raised within the forest products industry at this time. Instead I encourage a continuation of negotiations between environmentalists, industry and land managing agencies and vest with them the responsibility for resolving the competing use issues. But if such negotiations fail, and if, as a result of such failure, local communities lose their economic base and jobs are threatened, I believe it is appropriate for Congress to intervene within appropriate parameters and limitations.

I thank my colleagues for their support of this amendment. As I have mentioned earlier, this provision is virtually identical to language which was enacted into law by Congress last summer.

Mr. President, this amendment has been cleared on both sides of the aisle. It is to bring into conformity the legislation that we have passed to the Senate relating to forest sales as it relates to BLM lands.

Mr. JOHNSTON. Mr. President, this amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1379) was agreed to.

Mr. HATFIELD. I move to recosnder the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1380

(Purpose: To provide funds for the construction of the Brigade Activity Center at the U.S. Naval Academy, Annapolis, Maryland)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1380.

At an appropriate place in the bill, include the following new section:

MILITARY CONSTRUCTION, NAVY

For construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.

Mr. HATFIELD. Mr. President, I rise today in support of funding the construction of a Brigade Activities Center at the Naval Academy. This project, as requested in the President's budget and authorized in the fiscal year 1986 DOD authorization bill, will correct a serious deficiency at the Naval Academy by providing a facility capable of supporting the entire Brigade and staff.

The construction of an activity center is a project that is long overdue. If we are to help keep the Naval Academy competitive for recruitment of the highest quality students, we must make sure that its facilities are competitive with other universities. As my colleagues may know, the Navy Academy in Annapolis is the only military services academy that does not have a multipurpose building able to house the entire student population. West Point has the Eisenhower Center that was constructed 15 years ago at a cost of $33 million, and the Air Force Academy has an 8,000-seat auditorium that is too large and extensive to even use as a comparison. I believe it is high time that Congress allow the Navy to construct their own facility in order to enhance both its recruiting competitiveness as well as its educational capacity.

It is important to understand exactly what we are talking about in terms of the proposed usage of the Brigade Activity Center. I would like to point out that this facility in no way is analagous to a "student union" building that would serve only in a recreational capacity. It will not house pool tables, ping-pong tables, and the like. Instead, the Activity Center will provide for additional administrative office space; facilitate group meetings, seminars, clubs and briefings; and will provide seating for both formal and informal assemblies.

The Brigade Activity Center is essential to allow the seating of the brigade to provide the academic, professional and cultural programs needed to ensure a well-rounded education for our future Navy leaders. The Naval Academy enjoys a unique advantage in that it is located near Washington and is able to attract a variety of truly distinguished speakers. The Naval Academy, unlike other service academies, has no facility adequate to seat the entire brigade under reasonable acoustic or environmental circumstances, therefore, a great opportunity is lost.

Mr. President, this project has been a priority for the Navy for quite a long time. The need for a Brigade Activity Center has been recognized in three Navy studies, the earliest of which was conducted in 1948. Surely it is time to fill this need, of which the latest of the studies, completed last year, termed "a very necessary requirement for the Naval Academy, one which we consider to be the Number One priority."

Mr. President, this is an amendment that was adopted by the Senate in the military construction bill that went to conference. It relates to the Brigade Activities Center at Annapolis. What we are doing here is that was dropped in the conference with the House of Representatives. We are merely adding it back. It has been authorized and approved by all the committees and we are merely having another go at it with another conference with the House.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1380) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1381

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1381.

On page 37, after line 12, insert:

SEC. . Section 203(g) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government."

Mr. HATFIELD. Mr. President, this is another technical amendment, but let me explain the matter in a little more detail. At the present time, as we know, the Congressional Research Service is an integral part of the Library of Congress. The Congressional Research Service has submitted its budget in the past independently, directly to Congress. With the change in leadership of the CRS, with Mr. Gilbert Gude in the process of retiring, we felt this was a good time to provide that that budget which the CRS proposes each year merely be reviewed by the Librarian. This would merely make it subject to his review. Rather than having parallel budgets come to us, this would be merely a unifying amendment.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1381) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1382

Mr. McCLURE. MR. PRESIDENT, ON BEHALF OF THE SENATOR FROM NEVADA [MR. HECHT], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. HECHT, proposes an amendment numbered 1382.

At the appropriate place, insert the following:

SEC. . The approximately 21,600 acres of public land in Churchill County, Nevada covered by the Department of the Navy withdrawal application N-19622 of March 6, 1978 are hereby segregated until such withdrawal is acted upon by the Congress. Segregation shall be to the extent specified in withdrawal application N-19622 and shall not prevent compatible land uses which would be allowed under the terms of the proposed withdrawal. During the segregation period, the Secretary of the Interior may prohibit public entry and use of the lands for reasons of public health and safety.

● Mr. HECHT. Mr. President, I rise today to offer an amendment to the continuing resolution for the purpose of temporarily withdrawing the area known as Bravo-20 in Churchill County, NV, from public use. Bravo-20 is approximately 21,600 acres of public land that has been utilized by the Navy as a target and practice bombing range for over 40 years. Unfortunately, questions have surfaced recently over who actually controls Bravo-20, and the situation has become quite confusing. I am sorry to say, and I think it should be made clear, that while the debate continues over Bravo-20, the problem has become acute within the last 6 months.

I would like to illustrate, Mr. President, the seriousness of this situation. In July of this year, responding to a decision by the Secretary of the Navy which implemented a supersonic operating area within the Fallon range, citizens from Churchill County, NV, began camping upon Bravo-20 in pro-

test. Mr. President, no one in this Chamber or in this country would deny an individual the right to express his opinion, whether it be for or against something. But it should be pointed out, however, that these people were jeopardizing their own lives by camping upon a bombing target, surrounded by live, unexploded ordnance, subject to the very real possibility of being injured should an unexploded bomb accidently go off.

Mr. President, legislation to permanently withdraw Bravo-20 is currently being considered in the House and will be shortly in the Senate. The lateness of this session of Congress, however, makes it imperative that a temporary withdrawal be enacted. The amendment I am offering today would do just that. Until Congress has a chance to approve a permanent withdrawal of Bravo-20, I firmly believe it is in the public's best interest that this land be set aside. As a representative of the people of Nevada, I feel the present situation should not be allowed to continue, and strongly urge the adoption of this amendment.●

Mr. McCLURE. This amendment, I think, has been cleared on both sides, Mr. President. It deals with the temporary withdrawal of a portion of public land being used for a military reservation. There is a need to have the segregation on a temporary basis until we can legislate.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question?

Mr. McCLURE. I shall be happy to yield.

Mr. METZENBAUM. This is a sort of surprise to me. I understand this is an agreement to withdraw some lands from a military reservation?

Mr. McCLURE. No, Mr. President, it is public land that is now being used as a military reservation under an improper legal or without a proper legal withdrawal. It is being used. There is a public safety question involved. We are trying to get that taken care of in legislation but we were unable to get the legislation cleared in time to do it. This would simply allow a temporary withdrawal before the legislation.

Mr. METZENBAUM. How big a parcel is it?

Mr. McCLURE. It is 21,600 acres.

Mr. METZENBAUM. Mr. President, I object.

Let me just address myself to the chairman of the Energy and Natural Resources Committee. This is a matter where we are not talking about a couple of small areas of land. We are talking about a fantastic piece of property, 21,600 acres. That may not be big in Idaho, but it is pretty big in Ohio.

In fact, that is the size of some of our cities. I do not understand what the sense of urgency is about in this matter.

Mr. McCLURE. Mr. President, this is an area that is used by the Navy as a bombing range, and you have people that are now trespassing on that bombing range for a whole variety of reasons. There is a public safety question involved when they do not have the legal authority because they have not properly exercised it in the past. There is a legal blemish on the withdrawal problem. If the Senator wants to get somebody blown up out there, just object.

Mr. METZENBAUM. I object.

Mr. McCLURE. It is just going to get somebody blown up out there. We need to protect the public health and safety until we can legislate.

Mr. METZENBAUM. Mr. President, I really think it is unfair to ask us to pass on this, this evening. It is a total surprise. I would ask my colleague to get unanimous consent to lay it over until tomorrow so we will have a chance to find out what it is all about.

Mr. McCLURE. Mr. President, I am not trying to railroad this through, and I have no objection to doing so, if I can offer it again tomorrow so the distinguished Senator can take a look at it, but there is a real need to do this.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. McCLURE. But I will say to the managers of the bill I reserve the right to offer it again tomorrow.

Mr. METZENBAUM. Certainly. And by that time we will have a chance to learn what it is about.

Mr. McCLURE. I thank the Senator for not objecting tonight, although I do really urge him to take a careful look at it. There is a real need for it.

Mr. METZENBAUM. We will take a look at it.

Mr. McCLURE. I will be happy to talk to the Senator about it before we offer it tomorrow.

AMENDMENT NO. 1383

(Purpose: To appropriate funds for capital improvements for roads and trails in the Mount St. Helens National Volcanic Monument)

Mr. McCLURE. MR. PRESIDENT, I SEND AN AMENDMENT TO THE DESK ON BEHALF OF THE SENATOR FROM WASHINGTON [MR. GORTON] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. GORTON, proposes an amendment numbered 1383.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, $11,023,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction and related facilities to serve the Mt. St. Helens National Volcanic Monument, Washington: *Provided*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any state other than the state of Washington.

Mr. McCLURE. Mr. President, this amendment deals with the paving of a road in the Mount St. Helen's National Volcanic Monument. We have discussed this amendment with the people on both sides of the aisle, the Energy and Natural Resources Committee, and the Environment and Public Works Committee. I very much appreciate the forbearance of the current occupant of the Chair, the distinguished chairman of the Environment and Public Works Committee, and the Public Roads Subcommittee chairman, my distinguished colleague from Idaho (Mr. SYMMS).

Mr. GORTON. Mr. President, the amendment I propose would add $11,023,000 from the Federal Highway Trust Fund for the Department of Agriculture's Forest Service to be spent for necessary road, trail, and recreational facility construction in the Mount St. Helens National Volcanic Monument.

The largest portion of this request, $9,000,000 is needed so that the Forest Service may proceed as soon as possible with extensive and necessary improvements to road 99, the primary tourist access road to the monument. In its present condition road 99 constitutes a significant safety hazard to the millions of visitors who have already begun to visit the monument. Visitors use road 99 extensively as it leads to Windy Ridge which is the only point inside the monument from which visitors are able to view the crater and the dome inside the crater. For much of its length, road 99 is unpaved and is often little more than one car lane wide. It winds along precipitous slopes without any guard rails. Left unimproved, road 99 presents a grave hazard to visitors if the road is not soon improved.

Already the Forest Service has experienced accidents along this road resulting from recreational vehicles and tour buses trying to navigate the narrow passageway. Improvements to this road are urgently needed to bring the road up to a forest development road standard—a paved, two-lane wide road—that can accommodate the heavy volume of tourist traffic to the monument and to foreclose the possibility of a traffic disaster.

My amendment adds $915,000 for road engineering and planning for future road construction. This money

will ensure that the road construction program for the monument proceeds on schedule with the development of the monument. This amendment also adds $778,000 to be spent for the construction of recreational and interpretive facilities such as campgrounds, picnic areas, spur roads into these areas and other necessary visitor facilities; and $330,000 be spent for the construction of trails into the monument. All of these specific improvements were identified in the Mount St. Helens Comprehensive Management plan. All are central to the recreation and interpretation programs that have been developed for the monument.

This amendment addresses the first phase in the capital improvement construction identified in the comprehensive management plan. This program will continue over the next several years. The Forest Service has planned future improvements to its road around the perimeter of the monument that will improve accessibility between the monument and other nearby attractions such as Mount Rainier National Park as well as Interstate 5, the primary north-south highway traveled by tourists. These improvements will create a loop around the monument, allowing the visitor to take advantage of all items of interest in the monument.

Mr. McCLURE. Mr. President, I would like to ask the Senator from Washington a few questions. Will my colleague from Washington explain whether there will be further appropriations necessary to complete the development of the Mount St. Helens National Volcanic Monument?

Mr. GORTON. I am happy to answer the question of my colleague from Idaho. There will be future appropriations requests until this Capital Improvement Program is completed. The long-run total north-south loop cost will be approximately $29 million. The next largest portion of this expenditure is scheduled for fiscal year 1987, $10.6 million and an additional $3.1 million will be needed in fiscal year 1988.

Mr. McCLURE. Is there any source of funding that could help to mitigate the future impact of this road construction program on the Interior appropriations?

Mr. GORTON. I appreciate the concerns of my colleague. These are large expenditures of money and I am committed to only seeking those funds which are necessary to develop the monument as a tourist facility that can provide adequately for the tourists to the monument. For future appropriations for road construction, I will try as I have in this amendment to offset the impact to the Interior appropriations by seeking some of the funding for this project from the Federal Lands Highway Program.

Mr. McCLURE. Will these appropriations requests also include requests for other facilities such as visitors centers and trails, and will the Forest Service receive any assistance from State and local governments?

Mr. GORTON. These appropriations will go primarily toward improvements to Forest Service roads. In some cases, the roads are owned in conjunction with the State. These appropriations requests will go toward only those portions of the road owned by the Forest Service. Where a local government shares jurisdiction for the road, a cooperative agreement will be pursued for a contribution to the Capital Improvement Program.

Funds for the Visitor Center have been appropriated and it is not anticipated that future appropriations will be necessary. On this project, we received over half a million dollars in contributions from State and local governments. There will be requests for trail construction to develop the recreation potential of the monument. These are not the type of expenses that State and local governments share as the trails will be located within the monument itself.

Mr. President, Mount St. Helens provides a rare opportunity for Americans to witness first hand the extraordinary geological and biological effects of an active volcano. The monument is already experiencing heavy tourist traffic. These visitors come from every State in the United States and over 40 countries. To assure the safety of these visitors, and to provide a meaningful recreational experience, the Forest Service needs to proceed with these improvements to the monument.

I seek only to ensure that funds be added to the Interior appropriations so that we eliminate the present hazardous condition of the primary access route to the monument—that we provide for the safety of the visitors to the monument—and that we proceed with development of Mount St. Helens as a unique and significant recreational facility. I urge my colleagues to support this amendment to House Joint Resolution 465 to include these funds so that the U.S. Forest Service may proceed with these important construction projects in the Mount St. Helens National Volcanic Monument.

Mr. McCLURE. With these assurances, I have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1383) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1384

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. Hatfield, proposes an amendment numbered 1384.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Year 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review."

Mr. McCLURE. Mr. President, this amendment I believe has been cleared on both sides of the aisle.

Mr. METZENBAUM. Will the Senator be good enough to tell us what this amendment does?

The PRESIDING OFFICER. The Chair advises that this amendment has already been agreed to.

Mr. McCLURE. Mr. President, I was not aware that the Senator from Oregon had offered the amendment. Therefore, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 1385

(Purpose: To assure that students residing in areas designated as natural disaster areas may qualify for Pell Grants for the academic year 1985-1986 even if the loss of income does not meet the regulatory requirements of the Pell Grant program)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself and Mr. TRIBLE, proposes an amendment numbered 1385.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provisions of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may, if otherwise eligible for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965, qualify for a Pell Grant under such subpart without regard to the limitation on the loss of income in the calendar year in the determination of expected family contribution under such subpart.

Mr. BYRD. Mr. President, this amendment will offer some relief to students who may not otherwise be able to return to college because their parents have suffered a loss of employment due to the flood which took place during the first week in November. This amendment would allow students residing in areas designated as national disaster areas to qualify for Pell grants for the academic year 1985-86 without regard to the 10-week loss of income, provided that these students meet all of the other requirements of the law.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1385) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the managers on both sides for their support.

Mr. DOLE. Mr. President, inasmuch as I just missed four votes, I am proud to announce that there will be no more votes this evening.

There is no need to try to get an agreement when you have 40-some amendments floating around.

It seems to me that we have to decide among ourselves if we want to go home this week or next week or Christmas Eve. We are never going to make it at this pace. I think the better judgment would be to come in tomorrow morning, get on the bill by 10 o'clock, and start down the amendment list. Those the chairman does not want to take, I hope we will start tabling in rapid fire order. Table them all.

Those who want to go home will vote to table, and those who want to stay the next 2 or 3 weeks will vote not to table. It is all right with me.

As I understand the first consent agreement contained 3 amendments, and now they are still coming on, and there are 44, and rising.

MEDICARE DEDUCTIBLE INCREASE—KENNEDY AMENDMENT NO. 1350

Mr. BYRD. Mr. President, on January 1, 1986, the Medicare hospital deductible will increase 23 percent—to a record $492 out-of-pocket expense for a Medicare patient. It is clear that the method for calculating the Medicare "part A" deductible must be changed. The Kennedy amendment will temporarily delay imposition of this increase, so that the Finance Committee will have the opportunity to change the means of calculating the deductible. I support that portion of the amendment, and am pleased to join the Senator from Massachusetts in urging our colleagues to support it.

Mr. President, Medicare beneficiaries are now paying more out-of-pocket expenses for health care, as a percentage of their incomes, than were the aged prior to enactment of the Medicare Program in 1965. In 1965, elderly Americans spent an average of 15 percent of their incomes on health care. In 1984, Medicare beneficiaries averaged out-of-pocket expenses of 15 percent of their incomes—equal to the pre-Medicare days. This year, average spending again will hit that 15-percent-of-income level. With the scheduled 23-percent increase in the "part A" deductible, it will go higher.

This 23-percent increase will push the Medicare deductible far above the deductible levels in many private insurance plans. It will cause a hardship for many Medicare beneficiaries across the Nation, and for many of the 284,841 Medicare beneficiaries in West Virginia. And the hardship will be exacerbated by Congress' action this year on the "part B" deductibles for outpatient care and physician services.

A number of my colleagues and I tried to stem the "part B" increase earlier this year during our consideration of the budget. Thankfully—due in some measure to our efforts—the increase in the "part B" deductible included in the reconciliation bill that passed the Senate earlier this year is not nearly as Draconian at it would have been if the original Republican leadership provision had been accepted. Surely, while that provision was being debated, it was not known how it would be magnified by what the formula for determining the level of the "part A" deductible was doing out of sight.

The "part A" deductible increase which confronts us in January is an unintentional, backdoor increase. It is largely an unintended result of the establishment of the Medicare prospective payment system in 1983. Under this system, Medicare pays hospitals a fixed amount for each Medicare patient based on the patient's diagnosis, rather than reimbursing hospitals on the basis of the number of days of care provided and the fees charged for each service provided to the patients. This prospective system is designed to remove any incentive to keep Medicare patients in the hospital longer than necessary, or to provide them with more services than they need. In this way, the system is intended to produce cost savings in the Medicare Program—and so far it is having that effect.

But because the prospective system is decreasing the average length of stay, the average daily cost of each hospital stay is increasing faster than before. Since the Medicare "part A" deductible is based on the average daily cost of care, the deductible is increasing far more rapidly than if it were based solely on the overall increase in hospital costs.

It was not intended that the prospective payment system—as a side effect of saving Medicare funds by cutting back unnecessary treatment and unnecessarily long hospitalization—would act to dramatically raise the part A deductible. The result is a twisted circumstance where the more the average hospitalization episodes are reduced in duration, the higher the deductible climbs.

We must remedy this situation. For this reason I am hopeful we will have the opportunity to vote for that portion of the amendment of the senior Senator from Massachusetts that would delay the effectiveness of the increase now scheduled for January until April 15, to give the Finance Committee an opportunity to modify the formula in an appropriate way to avoid this tremendous increase.

For this reason, I voted against tabling the appeal of the ruling of the Chair.

GLENN AMENDMENT NO. 1347 ON UNITED STATES-CHINA NUCLEAR AGREEMENT

Mr. RIEGLE. Mr. President, I am pleased that the Senate has accepted the Glenn amendment which strengthens the safeguards provisions of the United States-China Nuclear Agreement. Had I been present, I would have joined the majority in voting against tabling this important amendment.

As submitted to the Senate, the United States-China Nuclear Agreement was deficient in important respects. It provided insufficient safeguards against the misuse of United States nuclear exports to China, and it

contained no requirement that China provide a detailed public statement describing its nuclear nonproliferation policies.

The Glenn language addresses those shortcomings by, among other things, requiring the President to certify that international safeguards or their equivalent will apply to United States nuclear exports to China, and that China has provided in writing, a detailed and public statement of its nonproliferation policies.

I believe the Senate has demonstrated sound judgment in requiring that the United States-China Nuclear Agreement be subjected to the standard used by the International Atomic Energy Agency [IAEA] for verifying the peaceful use of our exported nuclear materials or equipment. This is the same standard recognized by more than 100 nations, including all the nuclear weapons states.

The strong vote against tabling the Glenn amendment, demonstrates the belief of a majority of Senators that the pending United States-China agreement, with its $6 billion in potential nuclear trade benefits to this country, must not be allowed to erode ongoing United States efforts to prevent the proliferation of nuclear weapons.

Regardless of the potential nuclear trade benefits to this country, it would be unwise for us to enter into a 30-year nuclear agreement with China without guarantees that IAEA safeguards standards will govern verification.

While I welcome the improvement in United States-China relations and believe every effort must be made to increase bilateral cooperation, I believe that such a relationship must be based upon a clear understanding of the strong United States interest in safeguarding the nuclear materials and equipment it exports.

Finally, Mr. President, I want to commend the Senator from Ohio for his diligence in overseeing this critically important issue and for offering this important amendment.

NIOSH STUDY OF OCCUPATIONAL EXPOSURE TO DIOXIN

Mr. LAUTENBERG. Mr. President, the National Institute of Occupational Safety and Health is planning to study the health effects of dioxin in chemical herbicide workers. This will be an epidemiological study relating health to dioxin exposure. Exposure information on chemical workers is more detailed and accurate than on any other group that could be studied. A study using this population group will provide better data than has previously been available. I am particularly interested in this issue because most of the study population consists of former workers from a plant in New Jersey.

Because of the importance of this study, I was disturbed to learn that OMB has disapproved it. This seems to be part of a continuing pattern of opposition by OMB to data collection efforts needed for sound policy decisions.

The White House Agent Orange Working Group has reviewed the study design and supports it. The Environmental Protection Agency also supports the study, and will be providing funding assistance for it.

During the Senate Appropriations Committee markup of House Joint Resolution 465, the continuing resolution, the committee adopted report language expressing concern about OMB's action blocking this NIOSH study. The report states that—

> The Committee believes that the study should go forward without further interference from OMB.

I would like to ask the distinguished chairman of the Labor, HHS, and Education Appropriations Subcommittee, which has jurisdiction over NIOSH, if he agrees that the committee report language states the Congress' intent that this dioxin study should go forward without any further delays or objections from OMB.

Mr. WEICKER. I thank the Senator from New Jersey for his interest in this matter. I do agree that the committee intends for the NIOSH study to get underway as quickly as possible. We have been advised that the data from this study cannot be provided in any other way. Scientists who have been looking at dioxin and humans think that this is a much-needed addition to the knowledge of this highly toxic chemical.

I know that NIOSH has been planning for this study for several years. It does not appear that OMB has adequate justification for disapproving the study. Let me assure the Senator from New Jersey that my understanding is that the committee intends for OMB to let the dioxin exposure study proceed. I will be monitoring progress on this project. If there are further unwarranted delays, I will be pleased to join the Senator from New Jersey in considering action necessary to get the study moving as soon as possible.

BUILDING A DEFENSE THAT WORKS

Mr. CRANSTON. Mr. President, the legislation before us today contains $288 billion to fund the most essential obligation of the National Government: to provide for our country's defense.

I regret that the Senate will not spend more time on this measure. While I am not a member of the Armed Services or Appropriations Committee, where many of these issues have already been explored, I remain deeply concerned that we in this Nation are not getting adequate value for our defense dollar.

DEFENSE SPENDING AND NATIONAL SECURITY

More than 75 percent of all goods and services purchased by American taxpayers go for Pentagon programs. And nearly 30 percent of all Federal spending is on defense. Americans have a right to expect decisive improvements in our defense capabilities for these types of expenditures.

Yet these vastly increased defense expenditures have not necessarily resulted in improved strength. And today the Washington debate about defense remains too much a game of numbers. One is either for "more" or "less" defense spending; those who favor spending more money are presumed to be for a "strong" defense. Those who advocate restraint in spiraling defense costs are said to support unilateral disarmament by the United States.

Such rhetoric is irresponsible; this "numbers debate" obscures the real questions, for it fails to peel beneath the surface of the budget numbers to ask what are we purchasing with our defense dollars? It fails to address the question of whether our money is being spent wisely; of whether we are closer to achieving our purpose of making America safer, more secure, and less vulnerable to enemy attack.

In a similar vein, we must consider the role defense spending plays in our economic security and our day-to-day individual security. A nation which is militarily mighty but which cannot lend a hand in meeting basic needs of its own people is not truly strong. The current fiscal year budget deficit of $200 billion hurts every American; indeed, it threatens our national security by undermining our economy. If we fail to get our economy back on solid ground, we will leave our children a disastrous legacy of red ink: we will mortgage our future and the future of generations to come.

All parts of the Federal budget, therefore, require close scrutiny—social spending as well as defense spending. No area of Federal expenditure should be given carte blanche authority. Given the enormous percentage of Federal funds furnished to the Pentagon, we have a special responsibility to make sure our military expenditures meet our defense goals.

AGREEING ON A DEFENSE STRATEGY

How much we spend and what we purchase on defense presupposes an agreed definition of what our goals are. To provide for the national defense requires having an agreed strategy for dealing with possible threats to the United States and our allies.

Strategy is the calculated relationship of purpose and power. It involves choices within a framework of finite resources, and an ability to distinguish between the desirable and the possible, the essential and the expendable. The choices will not always be easy; they never are. A strategy whose goals exceed available resources for its implementation spells disaster. A sound

sense of priorities is the essence of sound strategy and nowhere is this more true than in the field of defense policy.

A sound defense strategy must have three basic components: An effective and ready conventional military force, a modern, credible nuclear deterrent, and an enduring commitment to negotiate mutual, verifiable arms reductions.

U.S. nuclear force modernization is proceeding apace. In the late 1970's the Carter administration pushed the Trident program, cruise missiles, the D-5 missile, the Stealth bomber, and the MX missile. The Reagan administration has pressed ahead with each of these programs, as well as the B-1 bombers and the star wars efforts. While arms reductions efforts regrettably have been stalled in the 1980's, new initiatives growing out of the Geneva summit hold the prospect of eventual progress. But the area of defense strategy which has suffered most deeply in recent years has been one of equal importance—that is the area of conventional readiness.

CONVENTIONAL FORCES

Mobile, combat ready conventional forces are essential if we are to keep the nuclear threshold high and reduce the likelihood of a military conflict "going nuclear." Those aspects of our defense expenditures that ensure our conventional readiness—the money that goes toward training purposes and maintaining and operation equipment—have long suffered from neglect.

Furthermore, I am deeply concerned that maintaining conventional readiness is certain to become an even more difficult task when the Gramm-Rudman deficit reduction amendment takes effect. This proposal sets annual deficit targets and ceilings that the President and Congress must meet. If projected deficit levels are exceeded, automatic across-the-board reductions in Federal spending are triggered.

The effects of these procedures on readiness could be devastating, since it is probable that defense spending reductions would fall much more heavily upon basic operation and support programs than upon weapons procurement programs. Some analysts predict that by the end of the decade the uniformed services would have to be cut by a third. Spare parts and personnel training accounts could dry up and we would face a serious readiness crisis.

Historically, when the defense budget must be cut, the ax has fallen upon conventional readiness accounts—not only because such aspects of the defense budget are the least glamorous, but also because current accounting practices make it the easiest place to find the most savings the fastest. The fact is 97 percent of all funds appropriated for military personnel is spent in the year for which it is appropriated. In weapons procurement, however, only an average of 13 percent of annually appropriated funds is spent. Thus, a $103 million cut in budget authority for a personnel program generates $100 million in immediate outlay savings. A budget authority reduction of $770 million of a weapons program, however, would be required to generate a comparable $100 million in immediate savings. The result? Lop-sided savings—short-term budgetary savings at the expense of the Nation's long-term readiness needs.

Conventional readiness is an essential aspect of national security. We cannot afford to neglect it. Yet the military establishment has not adapted to meet this crucial challenge, and has thus increased our reliance upon nuclear weapons.

READINESS AND GOLDPLATING

Overemphasis upon high-tech weaponry also works to the detriment of our conventional fighting capabilities. The Pentagon has put too much stock in constant modernization for modernization's sake and in so doing has greatly neglected the role and value of our conventional forces.

The Pentagon's weapons design philosophy and procurement policies have produced unnecessarily complex and costly weapons that cannot be bought in sufficient numbers or properly maintained. Unrealistic cost planning by Defense Department personnel and force development decisions contribute directly to the escalation of costs which are now beyond the capacity of even generous budgets.

Complexity greatly increases equipment costs while driving down the size of fighting forces. Advocacy of less complex weaponry does not mean reverting to weapons that are technically primitive. It simply means that we shouldn't always go for the latest laboratory invention if we can have greater reliability and greater cost-effectiveness with simpler application of advanced technology. Often, too, using more basic hardware means lower unit costs and larger arms stockpiles.

Highly complex technology is more prone to break down. No amount of technological complexity changes the long-shot character of complex battle tasks. The more complex weapons are not as effective in actual combat as weapons with simpler applications of the same advanced technology. Overemphasis on long-shot technology has diverted attention away from the most vital considerations of all: leadership, tactics, and unit structure and training.

A strong defense requires more than just dollars. Priorities must be established, a strategy defined, and goals related realistically to the day-to-day missions of the military services. We must recognize that we cannot continue to tradeoff conventional readiness for complex weapons systems—we need to place greater emphasis upon procuring weapons that are simpler, more durable, less costly, and more reliable. Maintaining a better balance between conventional and strategic forces is essential if we are to serve the national interest.

Mr. PROXMIRE. Mr. President, I would like to bring to the attention of my colleagues a section in the committee report on the fiscal year 1986 Department of Defense appropriations (Rept. 99-176) that deals with the amount of money the Department of Defense factors into its budget each year to account for inflation.

First, let me give my colleagues a little history on how DOD has budgeted for inflation in the past.

Since the early 1970's, each defense budget has contained a forecast for inflation and Congress has provided what it thought was the appropriate amount for inflation.

But in the 1970's, when we had high inflation, Congress usually underfunded for inflation. Usually, more inflation occurred than we predicted.

When that happened, DOD was always quick to let Congress know how much it had underfunded for inflation and to ask Congress for a supplemental to make up for the loss.

In 1982, however, we reformed the way the Defense Department budgeted for inflation.

To solve the problem of underbudgeting for inflation we, in effect, began to overbudget for inflation.

From 1982 on, we added a surcharge onto whatever the predicted inflation was for a particular weapons system. Instead of funding a weapons system at 100 percent of its predicted inflation, we began funding it at 130 percent of the predicted inflation.

That way, DOD would be covered when inflation turned out to be higher than expected—which had been the case in the 1970's. It would have the cushion with the addition of this 30-percent kicker, which was called the major commodity index.

But what's happened to inflation since 1982? It has gone down.

And what's happened each year with DOD's inflation forecast? Instead of being too optimistic—as it was in the 1970's—it has been too pessimistic since 1982.

The Defense Department has budgeted for more inflation than has actually occurred since 1982. And each year, when we predicted an inflation rate that was too high, we were passing excess appropriations to cover that higher rate.

In other words, a portion of the inflation rate we have been funding each year never actually occurred.

How much inflation has Congress funded in the DOD budget that never actually occurred?

There are a number of estimates. The General Accounting Office, in a report submitted to two of my colleagues on this committee—Senator HATFIELD and Senator D'AMATO—estimated that DOD has budgeted $36.8 billion more for inflation since fiscal year 1982 than was needed to cover inflation.

Secretary Weinberger has stated that the dollar amount for excess inflation during that period was $28.4 billion.

Not only has Congress had a difficult time getting a handle on how much excess inflation has been funded for Defense, it has been next to impossible for Congress to track where all this money has ended up in the DOD budgets.

When we underfunded for inflation, we could always count on DOD to be there Johnny-on-the-spot with detailed information on where we have spent too little.

As we can all imagine, DOD has not been as dilligent in telling us when we have given them too much money for inflation.

For that reason, I asked my good friend from Alaska, the chairman of our Defense Subcommittee, to include language in the committee report to require that DOD identify these excess inflation funds.

And I am pleased that he has agreed to include such language in the committee report. That language requires the Defense Department:

To identify the excess payments that have been made for inflation;

To show what money can or cannot be recouped;

To justify any future inflation indices that may be above the GNP deflator;

And to report on ways we can better estimate inflation for these weapons systems and track excess inflation funds.

Again, I would like to thank Senator STEVENS for including these requirements in the Committee report. I would also like to recognize two other Senators who have taken the lead on bringing this issue to light—my good friend from Arkansas, Senator PRYOR, and my good friend from Missouri, Senator EAGLETON.

I would point out that this report language does not solve the problem of excess inflation funding. We still have a long way to go before we reach any solutions.

But at least this report language begins the process of identifying this excess funding so we can deal with it in future DOD budgets.

Mr. BENTSEN. Mr. President, I wish to endorse a particular amendment the Appropriations Committee has added to the continuing resolution as passed by the House. I had strongly encouraged the Appropriations Committee to include funding for the sewage treatment construction grant program under the Clean Water Act, and I am gratified that they have done so. The appropriation of the full $2.4 billion budgeted for fiscal year 1986, and the immediate momentum in this vital program.

The authorization for the construction grant program expired September 30. Although the Senate passed legislation reauthorizing the Clean Water Act in June, and the House in July, the involvement of the House Public Works Committee in the Superfund reauthorization effort has prevented the conference committee from meeting. While we would have preferred to have an authorization in place before appropriating funds for this program, the need for program continuity forces us to act in this way.

A sizable amount of money was carried over as unobligated funds from fiscal year 1985, and continued to be available. We had hoped this would prove sufficient until the reauthorization bill was enacted. Some States had completely utilized their 1985 funds, however, and others had much of their unobligated funds tied up in contested projects or mandated set asides, leaving little effectively available in 1986. Nearly 30 States are virtually out of funds. My own State of Texas is a good example—on paper there appears to be an unobligated balance of $10 million—compared to an annual program of nearly $100 million, but various commitments and set asides reduce the amount effectively available to less than $1.5 million.

It appears likely that the Clean Water Act conference will not conclude until late February or later. In many States failure to make more money available until that time would mean the loss of the 1986 construction season and could jeopardize attainment of the 1988 deadline for municipal compliance with the secondary treatment standard.

For these reasons the Committee on Environment and Public Works, the authorizing committee, has joined with the Appropriations Committee to provide this limited funding for fiscal year 1986. We believed it is important at this time to appropriate the full $2.4 billion recognized in the budget resolution and contained in the reauthorization bill, so that our commitment to this program will be fully reflected in the budget adjustment process. At the same time, the Clean Water Act reauthorization bill passed by the Senate contains many needed reforms, including a new allocation formula reflecting current needs, and we wished to maintain an incentive to reach final enactment of that bill as early as possible.

Therefore we agreed with the Appropriations Committee on a provision that makes available for immediate obligation only $600 million, or 25 percent of the full $2.4 billion. Since this is a continuing resolution, this money will be alloted on the basis of the formula used to allot fiscal year 1985 funds. When the balance of the $2.4 billion is released, it will be allotted so that the total $2.4 billion is allotted to reflect the new formula for 1986 adopted by the conference committee on the reauthorization bill. The partial release of these funds, using the old formula, in no way prejudices the decision of the conference on the development of a new formula.

I want to thank Senator GARN and Senator LEAHY for their leadership on this question and for their cooperation with Senators CHAFEE, MITCHELL, STAFFORD, and myself, and other members of the Environment and Public Works Committee, in seeing that this funding is included in the continuing resolution. I will continue to work with them to encourage the House to accept this needed provision.

MEDICARE PART A DEDUCTIBLE

Mr. BAUCUS. Mr. President, on October 23, the Senate unanimously agreed to an amendment that I offered to the reconciliation bill that highlighted the problem of the steep increase in the Medicare hospital insurance deductible.

My amendment requires the Secretary of HHS to notify Congress earlier than is now required of any future changes in this direct out-of-pocket cost to the elderly for health care.

Back in October, I promised my colleagues that I would continue to work on this issue by urging the conferees on the budget reconciliation bill to take swift action to lower the unwarranted and unintended increase in costs to beneficiaries for hospitalization.

I continue to believe that this issue must be resolved before the end of the year and that it is entirely appropriate that the conferees on the reconciliation bill should examine the best way to achieve the reduction in the Medicare deductible.

Last Friday, I sent a letter to each of the Senate conferees from the Budget Committee and the Finance Committee expressing my strong belief in the need to take action to resolve this issue in the days ahead.

I ask that the text of my letter be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 6, 1985.

DEAR SENATE CONFEREE: I am writing to urge you to support a fair and reasonable limit on the out-of-pocket health care costs paid by America's senior citizens for hospital care.

On September 30, the Secretary of Health and Human Services had some startling news for Medicare beneficiaries. HHS announced that the Medicare Part A hospital

insurance deductible—the amount that beneficiaries are called on to pay before Medicare begins to cover hospital expenses—will increase by 23 percent starting on January 1, 1986. This amount is much higher than the average increase in the deductible for the past 20 years. It also comes at the same time that Social Security checks will increase by only 3.1 percent.

Each year, HHS calculates the Medicare hospital insurance deductible based on a formula which measures the increase in the cost per day of hospitalization. When Medicare began twenty years ago, beneficiaries paid a $40 deductible. By 1985, it has risen to $400. Now, HHS has announced that beneficiaries will be responsible for the first $492 for hospital care before Medicare coverage begins, a 23 percent increase over last year.

Senior citizens will also pay 23 percent more next year in coinsurance for lengthy stays in hospitals and skilled nursing facilities. These daily coinsurance amounts are paid by the beneficiary for hospital stays beyond 60 days and for stays beyond 20 days in a skilled nursing facility.

The steep increase in the deductible and coinsurance amounts for 1986 is largely due to the recent sharp decline in the amount of time Medicare patients spend in the hospital. Simply put, the decline in the length of stay means that the fixed costs of hospital care are spread out over fewer days, resulting in much higher average daily costs. This decline in the length of stay also means that the deductible is overstated for next year by almost $50.

Health care providers and the federal budget have both benefited from the decline in the amount of time that patients now spend in hospitals. Indeed, these declines are directly attributable to the fundamental reforms we have made in Medicare with the new Prospective Payment System, which rewards hospitals for shorter stays.

It would be grossly unfair if the 1983 prospective payment reforms penalize Medicare beneficiaries with a completely unintended increase in their charges for hospital care.

I urge you, as a conferee on this year's reconciliation bill, to take action to set the Medicare deductible at a fair and reasonable level. Action is needed during the conference to ensure that next year's amount is more consistent with historical change in this out-of-pocket expense. Surely, nobody wants to see senior citizens penalized for declines in hospital stays which have distorted the level of the deductible by almost $50.

On October 23, the Senate approved an amendment that I offered to the budget reconciliation bill which highlighted the problem with the Medicare deductible. My amendment requires the Secretary of HHS to publish a more timely notice in the Federal Register of the annual increase in the Medicare deductible. This amendment simply reduces the chance the Congress will be taken by surprise by sudden changes in the deductible and coinsurance amounts in future years.

However, further action must be taken now if we are to remedy the unwarranted increases in the 1986 deductible and coinsurance amounts.

Several bills have now been introduced in both the House and Senate to address this problem and senior citizens are writing and calling to urge us to lower these charges. I hope you will support America's senior citizens by taking action during the conference to establish a fair limit on out-of-pocket health care expenses for next year.

With best personal regards, I am

Sincerely yours,

MAX BAUCUS

Mr. BAUCUS. Mr. President, I know how important this issue is to the senior citizens of this country, many of whom are struggling now to meet their share of the costs of hospital care. I hope that other Senators will join me in letting members of the conference know that today's procedural votes on this issue should not be interpreted as a sign that we believe that the increase in the hospital insurance deductible should be allowed to take effect on January 1, 1986.

I urge you to support efforts to lower this out-of-pocket health care expense as the Congress continues to consider Medicare legislation in the days remaining in this session.

VITAMIN A AMENDMENT TO HOUSE JOINT RESOLUTION 465

Mr. CHAFEE. Mr. President, I would like to thank Senator KASTEN and the staff of the Appropriations Committee for incorporating my vitamin A legislation into S. 1816, the foreign assistance appropriations bill which has been included in the continuing resolution.

The committee has included language earmarking $8 million in the agriculture, rural development and nutrition account of the Agency for International Development [AID], for the vitamin A deficiency programs.

An estimated 500,000 children go blind in developing countries each year because they do not get enough vitamin A. Approximately 35 million of the world's 42.2 million blind live in developing nations. That number is expected to double by the end of the century. Blindness can easily be prevented but programs for its prevention have lacked support. Before blindness occurs, however, damage to the intestinal tract and respiratory system cause many other illnesses and even death. Ten million children suffer from this nutritional disorder annually. The World Health Organization considers vitamin A deficiency a public health problem in 73 countries and territories.

These funds will be used to set up programs worldwide to distribute megadoses of vitamin A and to teach people how to grow foods rich in vitamin A and to prepare those foods properly to ensure no nutrient loss. These programs will be administered by AID, the World Health Organization and the International Vitamin A Consultative Group—known as IVACG.

The IVACG Secretariat is located at the University of Rhode Island. IVACG was established to maintain flexible participation by policymakers, programmers, and scientists concerned with vitamin A deficiency and representatives from countries where hypovitaminosis was a problem. Thus, IVACG continues to be dedicated to reducing the prevalence of vitamin A deficiency worldwide. It has been located at the University of Rhode Island because the university is—I am proud to say—one of the major centers for education on foods and nutrition specializing in vitamin A and provitamin A research activities.

"IVACG under the supervision of two University of Rhode Island professors, Dr. C.O. Chichester and Dr. Paul Maugle," according to Dr. Edward M. DeMaeyer of the World Health Organization [WHO] in Geneva, "will act as the scientific body advising WHO on research requirements in the 10-year plan to combat vitamin A deficiency."

Mr. President, needless to say the people of Rhode Island continue to be proud of the work done by the IVACG at URI. I would once again like to thank the Senate Appropriations Committee for taking a positive step toward a solution to this dreadful problem and urge the Senate to approve this measure.

Seldom do we have a simple and available opportunity to improve the lives of so many. This legislation will prevent blindness and death in areas of the world where enough hardships already confront mankind.

GROUND PROXIMITY WARNING SYSTEM

Mr. GORTON. Mr. President, Senator EVANS and I would like to direct the Senate's attention to a program that was not considered in the Defense Appropriations markup. The technology for this program is available now and would save lives and taxpayer dollars in the years to come if our armed services would incorporate it into their aircraft. It is called the ground proximity warning system, the same system, I would like to point out, that is required on all commercial passenger aircraft. When an aircraft is outfitted with the GPWS, an aural alarm warns the crew when a dangerous trajectory is maintained. The term of art which describes the kinds of crashes of concern here is "controlled flights into terrain." Prior to the installation of GPWS's in commercial aircraft, 50 percent of all U.S. commercial airline fatalities resulted from this kind of accident. Today, such accidents have become a thing of the past—except in our Armed Forces.

The natural defense application is in transport and other normal performance aircraft, but flight tests suggest that high performance fighter aircraft may also benefit. It is estimated that as many as 211 out of the more than 300 Naval aircraft that were lost between 1970 and 1984 in controlled-flight-into-terrain crashes would not have been lost if they had been equipped with modern GPWS's.

Even without considering the human toll, the GPWS is highly cost

effective. If the GPWS were to save just one $40 to $50 million aircraft (a reasonable cost estimate for transport aircraft outfitted with sophisticated equipment), the savings realized would permit installation of GPWS's in over a thousand aircraft.

The Office of the Secretary of Defense has acknowledged an almost flat aircraft attrition rate and recommended GPWS as a solution. Some military aircraft have been equipped to date, but these constitute only a small percentage of the total that could benefit. The President's budget did not include a request for the system.

In my view, this is unfortunate.

Mr. EVANS. I commend my colleague from the State of Washington for bringing this matter to the attention of the Senate. Mr. President, I am often puzzled by the logic employed by the Department of Defense. We are implored day after day after day to support tremendous expenditure levels to maintain our national security. Yet, when presented with an opportunity to save money, the services tell us that it is a low priority.

Mr. President, the Air Force has admitted, in hearings before the House of Representatives, that the ground proximity warning system is a high priority program for airlift aircraft. Yet, they state that this system is a relatively low priority program for transport aircraft. They say this in spite of the fact that we lose four or five transport aircraft in so-called controlled-flight-into-terrain accidents each year and that at least half of such accidents in the past 5 years would likely have been prevented with a ground proximity warning system.

Mr. President, every time we save an aircraft, we buy an aircraft. These systems, I am told, cost approximately $10,000 per aircraft. I believe we would be getting a pretty good deal if we can purchase, effectively, a $40 million transport aircraft for $10,000.

As my colleague has indicated, this is a cost-effective system and I would urge that the services rethink their priorities and consider very seriously the possibility of installing these systems not only on transport aircraft but on fighter aircraft as well.

Mr. GORTON. We seek an assurance from the distinguished senior Senator from Alaska, who has done as much as anyone in this body to provide our country with the best possible defense at the most reasonable cost, that he will look favorably in conference upon the language in the House appropriations bill that supports the use of modification funds for installation of GPWS equipment. We understand that this language does not require the services to spend any of these funds, so we also request that the chairman of the Defense Appropriations Subcommittee will also look favorably upon the program during the committee's consideration and markup of the fiscal year 1987 Defense Appropriations bill.

Mr. STEVENS. I am familiar with the achievements of the ground proximity warning system in the commercial field, and am also aware of the potential benefits the system could provide our Armed Forces. As you are aware, there are many programs that are worthy of strong consideration, but budgetary limitations require tough decisions to be made. As you point out, however, the case can be made that this program may more than pay for itself by preventing loss of lives and aircraft. Although I cannot guarantee that we will recede to the House position in conference; I can offer assurances that I will look favorably on the proposal from the Senators from Washington and do my best to accommodate them during conference.

In addition, I agree that the GPWS deserves serious consideration next year by the subcommittee. I would hope that the Department of Defense and the services also give the GPWS their full consideration in anticipation of our focus on this issue next year.

5-TON TRUCKS

Mr. QUAYLE. Mr. President, I would like to compliment my friend, the Senator from Alaska, on his subcommittee's work on this appropriations bill, and ask him if he would help clarify a matter for me, my colleagues, and the executive department.

Mr. STEVENS. I would be glad to do so, Mr. President.

Mr. QUAYLE. I rise to seek the assistance of my esteemed colleague from Alaska in eliminating any ambiguities that might be read into the committee's report language with respect to restrictions on the use of authority for an extension of the current production contract for 5-ton trucks.

As the Senator knows, the authorizing committee, on which I serve, provided such authority for an extension for a very good reason. Without it, there is a very good chance that there will be a production gap of, as I understand it, some 9 to 12 months. That is bad for the Army, and it is bad for the taxpayer. For that reason, the Armed Services Committee authorized such an extension, which can be viewed as an insurance policy. It is, if you will, a plan to insure there will be no break in production while we are in the process of conducting the competition and awarding a new multiyear contract.

I seek the committee's assurances that an absolute restriction on the use of that contract extension is not the intent of the committee.

Mr. STEVENS. Mr. President, I appreciate the valid point raised by my friend from Indiana. I welcome the opportunity to clarify the intent of this language in our report. The Senator is absolutely correct in his assumption that it was not the committee's intent to preclude altogether the use of an extension to the current contract for 5-ton trucks. The Senate will note that the language is advisory, and not directive.

I reassure the Senator that the committee merely wished to specify that once truck production can begin under the new, follow-on 5-year contract, then we should move on from the old contract or any extension to it. I hasten to emphasize that it would not be the committee's wish that there be a production gap for this vehicle for which our armed services have an immediate 12,000-truck shortfall.

Mr. QUAYLE. I am encouraged to hear the chairman's assurances. I would note, for the record, that this summary of the report language and committee intent corresponds to the clarification made on the floor of the House of Representatives during that body's consideration of the defense appropriations bill on October 30. While I certainly understand the committee's reservations over such a contract extension, I am pleased that the committee does not have a problem with allowing the use of this mechanism should it become necessary to avoid any production gap.

We cannot allow the production of these badly needed vehicles to falter. Neither can we allow suppliers throughout the country to cease production and then start back up later. This would only increase the costs incurred by the taxpayer for this very necessary conventional program and the spare parts to support it.

I thank my friend from Alaska for his assurances, and I again salute him and the ranking subcommittee minority member, my esteemed colleague from Mississippi, Mr. STENNIS, for their hard work on this legislation.

THE PROFESSIONAL SPORTS COMMUNITY PROTECTION BILL

Mr. HATCH. Mr. President, this week the majority leader reserved time for the consideration of S. 259, the professional sports community protection bill, which Senators DANFORTH, DIXON, SIMON, and EAGLETON introduced in January, and which was subsequently cosponsored by me and five other Senators. This legislation was reported from the Commerce Committee on April 2, and was later referred to the Judiciary Committee for its review. Since July it has been on the calendar awaiting action.

Subsequent negotiations have resolved almost all of the outstanding problems in connection with this bill, and I believe consensus legislation has developed which will promote legal and economic stability in professional sports and enjoys nearly unanimous support in the Senate.

The bill cannot go forward, however, because of a dispute over league expansion. So that the record may be set straight on that issue, I offer the following observation:

Expansion of the National Football League, as well as other sports leagues is a subject near and dear to the hearts of many Senators. I believe we should encourage expansion, and by creating an atmosphere of legal and economic stability in professional athletics, this bill provides incentives to expand and reaches toward that end.

Instead of incentives, we are confronted by a demand that the National Football League expand by a specific number of teams to be added by a certain date.

Mr. President, incentives to expand are one thing, mandates are another. At its heart, expansion is a business judgment. It is for the businessmen, not Congress, to determine how big or small a business may be. How does Congress come to make these kinds of decisions? Have we conducted economic surveys? Can we assert that expansion by any preordained number of teams will be economically viable? Is it our money which is at stake if statutory expansion produces undue economic dilution? I submit, Mr. President, that we are not able to make those judgments about steel, electronic, or automobile industries or any other form of business.

Mandated expansion is a horrible precedent. It is indistinguishable, I might add, from mandated shrinking, although I detect absolutely no sentiment for that.

An amendment which would have required expansion was offered during Commerce Committee consideration of this bill. It was defeated 2 to 14. Now incorporation of that ill-founded amendment is the price demanded for the Senate even having the opportunity to consider the bill at all. In essence, the committee process counts for nothing. The votes of the 14 members of the Commerce Committee who opposed this provision count for nothing.

In sum, Mr. President, I want the record to be clear, the sponsors of this bill and its many supporters are for expansion and we are prepared to go as far as providing incentives to expand, but we will not attempt to extend the long arm of Government into areas where it clearly does not belong. If the Senate is ever given the opportunity to vote on the provisions now being demanded as the price for consideration of this bill, I have no doubt that proposal would meet a resounding defeat.

TRIBUTE TO SNOW COLLEGE IN EPHRAIM, UTAH

Mr. HATCH. Mr. President, it is with much pride today that I rise to pay tribute to the players and coaches of the Badgers football team of Snow College in Ephraim, UT.

Snow College is a relatively small school. It boasts an enrollment of only 1,400. Still, like its larger neighbor up the road, Brigham Young University, it is fast becoming known as a football powerhouse.

The proof:

Saturday, Snow defeated the favored Norsemen from Northeastern Oklahoma A&M in the Mid-American Bowl, held in Tulsa, OK. The score was a convincing 29-14. As a result, the Badgers close out the season with a perfect 11-0 record and will most likely be named national champions when the final vote is taken later this week by the 12 geographical representatives of the National Junior College Athletic Association [NJCAA].

Mr. President, a good portion of the credit should go to freshman quarterback Kevin White, who passed for two touchdowns and ran for another. In the beginning, Northeastern Oklahoma A&M took a 7-0 lead, but the Badgers kept their composure and, from then on, it turned into the "Keven White Show" with, let me hasten to add, support from his offensive line and a pair of spectacular catches for touchdowns by Chris Patane and Mike Borich. White finished the game completing 28 of 45 passes for 361 yards. Needless to say, he was named the game's offensive MVP.

But, Mr. President, although it is the players who went out into the field, took the knocks and carried the ball, the influence and teaching of their head coach, Walt Criner, cannot be underestimated. He is one of the best in the profession. And he is a man of his word. Last winter, surprisingly enough, he made up a plaque for his players that read: "Those who stay will be champions." All but four from last year's 4-6 team stayed.

He has, indeed, lived up to his word.

JUSTICE POTTER STEWART

Mr. METZENBAUM. Mr. President, I join many Americans in mourning the passing of a fellow Ohioan, Justice Potter Stewart. Justice Stewart served this country with distinction and dignity for many years, and he will be missed.

Justice Stewart's entire career was noted by his competence and common sense. He worked as a reporter for the Cincinnati Times-Star, and served the people of Cincinnati as a city councilman and vice mayor.

In 1954, he was named by President Eisenhower to the Sixth Circuit Court of Appeals, with jurisdiction over Ohio and neighboring States. At the time, he was the youngest appellate court judge in the Federal system.

His work so impressed President Eisenhower that, in 1958, he was elevated to the Supreme Court. Justice Stewart took the seat held by another Ohioan, Justice Harold Burton.

On the Court, Justice Stewart's record was one of moderation. He diligently tried to decide cases based on his impartial view of the law and precedents, not ideology. His record reflects a strong commitment to protection of privacy interests contained in the Bill of Rights.

He was the author of a leading decision interpreting the fourth amendment protection against unreasonable searches and seizures. In the Katz case, Justice Stewart held that places beyond one's home in which a citizen has a reasonable expectation of privacy were protected by the Bill of Rights. In that case, a warrantless wiretap placed on a public phone booth was held to be illegal.

Perhaps his work as a reporter gave him a special sympathy with the importance of the first amendment in our democracy. He strongly dissented, for example, to the Government's use of the grand jury to force reporters to reveal confidential sources.

His work was often characterized by his keen abilities with the English language. One of his best phrases was one used in condemning as arbitrary and capricious the 1972 Georgia death penalty statute. "These death sentences are cruel and unusual," Justice Stewart wrote, "in the same way that being struck by lighting is cruel and unusual."

Justice Stewart's disagreement with the majority of the Warren Court is much in vogue these days, he is often cited by those on the ideological right who proclaim their views are historically or constitutionally correct. But it is well worth noting that Justice Stewart concurred with strong Supreme Court majorities in ensuring one-person/one-vote representation in State legislatures; in protecting a woman's right to reproductive choice, and in many Supreme Court orders desegregating our Nation's schools.

In 1981, the Nation was surprised to learn of Justice Stewart's retirement from active service on the Court. He was quoted as saying that he wished to spend more time with his grandchildren.

Mr. President, I can think of no better reason for excusing oneself from the rigors of public service after a long career.

But his public service did not end with his retirement. In a part-time capacity, Justice Stewart sat by special designation on the Sixth Circuit Court of Appeals and other tribunals. He also devoted a great deal of time and energy into hosting a public television series on the Constitution. This outstanding series will remain a strong

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legacy of Justice Stewart's and an excellent teaching device for law students and lay students alike.

Justice Stewart's dedication to public service continued a tradition of service by the Stewart family to the people of Ohio. His father served as mayor and councilman from Cincinnati, and later on the Ohio Supreme Court.

Mr. President, I extend heartfelt condolences to Mary Ann Stewart, their three children and six grandchildren.

LEAVE OF ABSENCE

Mr. MATHIAS. Mr. President, I ask unanimous consent, under provisions of rule VI, to be absent from the Senate next week so that I may discharge the duties of the president of the North Atlantic Assembly.

The PRESIDING OFFICE. Is there objection? Without objection, it is so ordered.

RECOGNITION OF ELVA KROGH

Mr. MATHIAS. Mr. President, Miss Elva Krogh, a former resident of the District of Columbia, now living in Monterey, CA, worked for 30 years in the decimal classification section in the Library of Congress. I believe her innovative contributions to library science over a working lifetime for the Federal Government deserve recognition.

The Dewey decimal classification system is widely regarded as having revolutionized library science. The system, invented by Melvil Dewey, was periodically refined in editions published by the Forest Press. In the process of working with the system and adapting it to the requirements of new subject matter, improvements were made. One of the most important improvements, contributed by Miss Krogh, was an error-proof method of extending the numbers available in each classification category of the system.

This innovation, credited by Melvil Dewey's son, Godfrey, as "the best thing to have happened to the system in a long time," was acknowledged in the 17th edition of the classification system as a "new and striking concept." It is a concept which has been applied to all classification tables published in subsequent years and thus resulted in a lasting contribution to the field of library science. For this, Miss Elva Krogh deserves the recognition and appreciation of her profession and her government.

PROFESSOR MELVILLE B. NIMMER

Mr. MATHIAS. Mr. President, on November 23, the field of copyright law lost its most authoritative scholar and commentator. Prof. Melville B. Nimmer, who died last month in Los Angeles at the age of 62, was the undisputed giant of American copyright law.

Like Prosser, Wigmore, and Williston, Professor Nimmer's name is synonymous with an entire body of law. His four-volume treatise, "Nimmer on Copyright," has been cited countless times by the courts, and is universally regarded as an indispensable reference by virtually every practitioner in this field. Although Professor Nimmer was an acknowledged expert on the first amendment, and on entertainment law matters, it is in copyright above all that his passing leaves a void that can never be entirely filled.

His stature is aptly summarized by the headline that accompanied a profile of Professor Nimmer in the October 10, 1983 edition of the "National Law Journal": "The Man Who Wrote the Book: Melville B. Nimmer is the King of Copyright."

As chairman of the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary, I know that Mel Nimmer will be missed. I speak for all Senators in extending my condolences to Mrs. Nimmer and to the rest of his family.

Mr. President, I ask unanimous consent that Professor Nimmer's obituary from the November 27 edition of the New York Times be printed in the record at this point, along with the 1983 article from the National Law Journal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The New York Times, Nov. 27, 1985]

MELVILLE B. NIMMER, 62 DIES; EXPERT ON LAW OF COPYRIGHT

(By Wolfgang Saxon)

Prof. Melville Nimmer an expert on copyright laws and an advocate of free speech, died of cancer Saturday at Cedar-Sinai Medical Center in Los Angeles. He was 62 years old and a resident of Los Angeles.

Professor Nimmer joined the facility of the University of California at Los Angeles School of Law in 1962. He continued as a practicing lawyer, winning noted cases before the United States Supreme Court and California's high court.

In 1971 he won a benchmark case in the United States Supreme Court that is now included in many textbooks on Constitutional law.

The case, Cohen v. California, involved, a young man who was arrested on Federal property for wearing a jacket bearing a slogan that used an obscenity in protest of the draft. The case established that the defendant had made a protected political statement.

Professor Nimmer contended that "symbolic" speech deserved "full and equal protection" under the First Amendment.

BOOK PUBLISHED IN 1963

Mr. Nimmer's four-volume treatise, "Nimmer on Copyright," first published in 1963, has been quoted in countless legal briefs and judicial opinions on the subject. A companion work, "Nimmer on Freedom of Speech," appeared last year.

Congress passed a new copyright statute in 1976, but computer software, home video tapes and other new technology led to a flood of litigation in which Professor Nimmer's writings again were usually cited.

In addition, his advice was sought on such subjects as plagiarism and censorship as they relate to writers and the entertainment field. He lectured extensively here and abroad, including in Israel and Australia, where he taught last summer. He was also a fellow at the Max Planck Institute in West Germany

NATIVE OF LOS ANGELES

Melville Bernard Nimmer, a native of Los Angeles, graduated from the University of California at Berkeley in 1947 and from Harvard Law School three years later. Since no course on the subject was then available, he got his grounding in the copyright laws by reading cases.

After working for a time in the legal department of Paramount Pictures, he became a partner in 1957 in the firm of Nimmer & Selvin as well as general counsel to the Writers Guild of America, which represents Hollywood film and television writers.

Professor Nimmer is survived by his wife, Gloria; a duaghter, Rebeca Marcus of Tucson, Ariz.; two sons, Laurence Nimmer, of Van Nuys, Calif., and David Nimmer, of Los Angeles, and five grandchildren.

A memorial service was to be announced.

[From the National Law Journal, Oct. 10, 1983]

MELVILLE B. NIMMER IS KING OF COPYRIGHT

(By Mary Ann Galante)

LOS ANGELES.—Melville B. Nimmer may not know everything there is to know about copyright law, but if he doesn't, who does?

In the two decades since Mr. Nimmer's four-volume treatise on copyright law was published, the 60-year-old University of California at Los Angeles law professor has become the acknowledged dean of his subject. And "Nimmer on Copyright," like "Prosser on Torts" or "Wigmore on Evidence," has become the Bible in its field.

With the explosion in copyright litigation in recent years, Mr. Nimmer's work has become a well-thumbed Bible at that. Even though a new copyright statute was enacted in 1976—the first since 1909—the rapid development of such new technology as computer software and home videotapes has raised a host of troublesome legal issues that Congress could not anticipate eight years ago.

And as lawsuits testing the new law and the new technology wend their way through the courts, the authority most likely to surface is Mr. Nimmer and his treatise.

"There's no question the treatise stands alone as the most comprehensive in the field," said Alan Latman, of New York's Cowan, Liebowitz & Latman, P.C., a professor at New York University School of Law who is working on a world copyright law treatise with Mr. Nimmer.

One result of Mr. Nimmer's having cornered the copyright market is that the views he advocates in his treatise are often quoted in cases, and in time, have become accepted as the law.

Another by-product is that Mr. Nimmer, who is of counsel in Los Angeles to Chicago's Sidley & Austin, invariably will be approached by one side or the other in almost

any major copyright case to serve as a witness or co-counsel on a brief.

Mr. Nimmer is able to charge $350 per hour for his expertise, a figure he admits is not exactly a fire-sale rate. He also can be choosy about what he works on, usually limiting his association to those cases he finds interesting or in which he will be able to carve out new law.

BLUE-CHIP CLIENTS

The combination has resulted in a largely blue-chip roster of clients, with Mr. Nimmer serving as counsel to such sizable clients as 20th Century-Fox in a battle over alleged infringement of "Star Wars" and the estate of Margaret Mitchell in a pending dispute over sequel rights to "Gone With the Wind."

That's not to say, however, that being generally regarded as the nation's formost authority doesn't have its risks. While Mr. Nimmer can—and sometimes does—cite himself in briefs, opposing lawyers can quote his position with equal ease.

"He does trip on the treatise occasionally," said David A. Gerber, a copyright lawyer with Loeb and Loeb in Los Angeles and a former student of Mr. Nimmer who has worked on several appeals with him. "Then someone will ask on oratorical fury, 'Your honor, whom are we to believe? Nimmer the advocate? Or Nimmer the scholar?' "

Mr. Nimmer usually answers such verbal attacks by telling opponents they do not understand his treatise, then referring them to sections in his work.

"Or else think of what Wilt Williston is quoted as saying when the court called his attention to something in his contract treatise," said Mr. Nimmer, "He answered, 'Your honor, since I wrote that, I've learned a great deal.' "

Nonetheless, Mr. Nimmer bristles at the idea that he would cite his treatise to support a point of law. He quickly points out that he only refers to the work as a shorthand abbreviation for a long string of cases or a complex argument, "I hope I never say that something should be the law because I say so," he added.

In one case decided six years ago by the 9th U.S. Circuit Court of Appeals, however, lawyers on both sides—including Mr. Nimmer—cited his treatise for authority. The copyright infringement suit by television producers Sid and Marty Krofft against McDonald's Corp., and its advertising agency eventually resulted in a damage award of $1.04 million for the couple, who were represented by Mr. Nimmer in the appeal. The court's 15-page opinion quoted and cited Mr. Nimmer's treatise 11 times. *Sid & Marty Krofft Television v. McDonald's Crop.*, 562 F.2d 1157.

THE BETAMAX CASE

Four years later, 9th Circuit Judge John F. Kilkenny of Portland, Ore., was also influenced by the treatise when he referred to the work seven times in the controversial "Betamax" case. *Universal City Studios v. Sony Corp. of America*, 659 F.2d 963 (1981).

The suit was brought by two movie studies against Sony Corp., Manufacturer of the Betamax video recorder. The 9th Circuit opinion, scheduled for U.S. Supreme Court review last term and held over to this term, found that home video taping, even for private use, violates U.S. copyright laws. The appellate court suggested such remedies as banning further home taping—dismissed by Mr. Nimmer as "unthinkable"—or payment of damages for copyright infringement. Borrowing from Mr. Nimmer's treaties, the circuit panel also suggested a royalty payment on future sales of machines or tapes.

Mr. Nimmer, who is not directly involved in the case, will not predict the outcome, instead terming the case "almost a 50-50."

Hearing him discuss the issues, however, it becomes clear that Mr. Nimmer believes such video taping is a copyright infringement. "The fact that it's done in the home really doesn't change [the fact that] there clearly is a use of copyrighted works that is not compensated."

The solution is a form of compulsory licensing, requiring the seller of machines, or tapes, or both, to pay a royality fee based upon sales volume, or perhaps a percentage of the sales price, Mr. Nimmer said in a recent interview.

A royality payment for Betamax use could be established by court decree or created by a congressional statute, with funds then being paid to copyright claimants, similar to the approach now used to make payments to the american Society of Composers, Authors and Publishers and similar organizations, Mr. Nimmer said.

A bill to adopt such compulsory licensing of home video taping is not in Congress, Mr. Nimmer noted. "And I think the handwriting is on the wall. There probably is going to be some kind of statutory license."

When it comes to home taping of phonograph records, the case is even stronger for finding an infringement of copyright, Mr. Nimmer said. "It's at least as open a question as the television home taping," he noted, "I don't think it's at all clear that [audio taping] is fair use" and therefore outside the copyright owner's control.

There, too, Mr. Nimmer suggested a percentage formula might be used to provide for royalty payments based on the sale of tapes.

'A PRIVATE MAN'

In his third-floor office on the UCLA campus, Mr. Nimmer, a private, subdued man, leans back in his chair, tapping a pipe as he talks. Short, with a creased, tanned face and thinning grey hair, Mr. Nimmer has the tweedy, conservative, almost stuffy look of an academician.

Tempermentally, Mr. Nimmer is unflappable and reserve. Longtime friends swear they have rarely seen him angry or upset and use words like "mellow" to describe him.

He speaks slowly and in a low tone, surrounded by three walls of books, including his casebook and multivolume treatise, along with countless rows of outdated law reviews. Shopping bags and boxes of books clutter the floor, piled on top of more boxes of books.

Mr. Nimmer is proud of his ability to juggle teaching, entertainment and constitutional law with his consulting work, writing and research. A disciple of the Socratic method—that plodding process of teaching through questioning—his classroom style parallels Professor Kingsfield, the stern instructor in the "Paper Chase," according to former students.

A native Californian, Mr. Nimmer recalled he "always wanted to be a lawyer—even before I knew what they did." The son of a schoolteacher and a wholesale manufacturer, he attended UCLA for two years before joining the Navy. He was graduated from the University of California at Berkeley in 1947.

At Harvard Law School, Mr. Nimmer learned copyright law by reading cases because no formal course was offered. It paid off when he won first prize in an annual copyright essay contest sponsored by ASCAP, "The national award really got me interested."

Out of school, his first permanent job was with the legal department of Paramount Pictures, starting in 1951. Six years later, he opened an office, Nimmer and Selvin, with Paul Selvin, an entertainment lawyer. "I guess I can't deny that representing copyright owners as a young lawyer has influenced the sharing of my philosophy to some extent," he said.

By 1960, Mr. Nimmer had become chief counsel for the Writers Guild of America. He worked on his treatise during a six-month strike that year when "I'd wake up early. . . . It was my one touch with sanity. Ultimately, it became clear that I needed more time."

Within a year, he had decided to teach law instead of practicing it. He continued work on the treatise, at first tape recording everything that came to mind. Next, he said, he "read every copyright case from 1909 on—it took years. At the end, I had a first draft. Then I had to do a second draft."

The treatise was finished in 1963, after five years of work. Mr. Nimmer now spends about three months a year reading cases and updating the work, using two typewriters—one for the text, the other for footnotes. "Nimmer on Copyright" is entirely his own work—he doesn't depend on students for research.

'WEARING TWO HATS'

Mr. Nimmer acknowledged in a quiet moment that an awkwardness exists in maintaining academic independence while practicing as an adversary. "There is some tension, but the roles are consistent. I think, as long as I recognize I'm wearing two hats."

When he is wearing his advocate's hat. Mr. Nimmer is not at all bashful about expressing his views on what direction the law should take. His views on how the law might keep pace with technology, for instance, suggest he would like to extend copyright protection as far as possible under current statutes.

He maintained, for instance, that public commercial renting of video and audio cassettes is really no different than selling copyright-infringing books in bookstores. And so, such commerical renting "should simply be recognized as a copyright owner's right to control and be a matter of licensing" between the owner and those renting out cassettes.

COMPULSORY LICENSE

Satellite dishes used by homeowners to pick up broadcast signals are another matter. There, Mr. Nimmer said, new laws might again be needed to modify what is an "infringing performance."

The remedy "would have to be some sort of compulsory blanket license." he said. "It may be that by legislation, someone who picks up a signal off the air should be regarded as infringing copyright."

Such payment-oriented schemes have led some observers to characterize Mr. Nimmer's treatise, which is published by Mathew Bender, as favoring copyright owners. "He's more protectionist than not. He tends to favor the interests of the copyright proprietor," said Stephen R. Barnett, a copyright law professor at Berkeley, echoing others.

Mr. Nimmer disagrees: "I happen to think I have a balanced view," he said, somewhat defensively, "I'm not a firebrand fanatic

who wants to make copyright control the world."

Instead, Mr. Nimmer said, he relates copyright protection to the law's underlying purpose of encouraging creativity. "There is a balance—an important balance. And I never forget the ultimate source of copyright is the author," he said.

His belief in a balance becomes more evident when Mr. Nimmer talks about how to protect computer programs. He has taken a wait-and-see attitude, saying all that is clear right now is that programs are protectable.

"It is pretty clear you can't blatantly copy somebody's computer program and put it on the market," he observed. "But I want to at least reserve the thought that maybe at some point, if that appears to be too strong a monopoly, we might modify computer program protection to only protect those programs that would result in what would be regarded as copyrightable works," he said. That approach could mean excluding, for example, programs that determine building traffic flow or building heat.

At the lest, Mr. Nimmer predicts, computer protection issues will generate more litigation and more laws. "The fundamental problem in copyright these days is how do we harness copyright to technology. It's one thing to say we need more protection," he noted. "The challenge is how."

FIRST AMENDMENT TREATISE

A self-described civil libertarian with a mind as well as a heart," Mr. Nimmer these days is focusing his energy on finishing yet another treatise—this one on the First Amendment, which he hopes will be published next year.

He likes to compare and contrast the rights of free speech and copyright, holding them up to the light, dissecting them, finding them endlessly fascinating. The First Amendment "is the other side of the coin in copyright, as I see it. Copyright is a limitation on speech and a proper one—as long as it's within proper bounds. And the other side is that there exists a right to speak out."

On a wall in his office hangs a black and white photo of a long-haired young man, superimposed over a framed copy of the opening pages, of Mr. Nimmer's brief to the U.S. Supreme Court in *Cohen v. California*, 403 U.S. 15 (1971). The case, which he handled without pay for the ACLU from the municipal court level through appeal, is better known as the "—— the draft" free speech case, now in most constitutional law casebooks.

Today, Mr. Nimmer recalls the case with pride, and points to it as the most satisfying in his career. His interest in free speech has always been present, he said. "But in my earlier years, I was more uncritically on the copyright owner's side. Through thinking about the First Amendment, reading cases, I have a more balanced view now."

Asked how his beliefs have changed, Mr. Nimmer scratches his chin and is momentarily silent. "I used to take the view that copyright should not be treated differently than other forms of property, when you go from generation to generation in perpetuity. If I could own Blackacre forever, why not 'Black Beauty?' Or Blackstone?"

"But I've finally concluded there is an answer," he said, pausing. "And that difference is the First Amendment."

THE SITUATION AT ELECTRIC BOAT

Mr. CHAFEE. Over the past few days, I have heard and read many divergent suggestions as to what should be done about the alleged wrongdoing by four corporate executives of the Pomona Aerospace Division of General Dynamics 8 years. The entire company was suspended last week from further bidding on military contracts.

First, I would like to clearly state that I do not condone wrong-doing on the part of any company or individual dealing with the Federal Government. I applaud the move in the Department of Defense to crack down on misappropriations and mismanagement of funds. As a taxpayer, I resent the waste that occurs in many areas of our Government. If these charges are proven correct in a court of law, those individuals who are guilty should be punished.

I completely fail to understand, however, why, when four executives of the General Dynamics Pomona Aerospace Division were indicted last week, all the divisions of General Dynamics were suspended. I see no merit in the idea that the employees of the other General Dynamics divisions should be punished for the alleged 5- to 8-year-old transgressions of corporate executives 3,000 miles away in a totaly unrelated division.

In particular, I am concerned about the Electric Boat Division that employs over 9,000 Rhode Islanders at Quonset, RI, and Groton, CT. This summer Electric Boat worked very closely with the Secretary of the Navy to set up procedures that would, among other things, ensure that the problem that is alleged at Pomona would not happen at Electric Boat. In a meeting with Secretary Lehman last week, he indicated he intends to ascertain whether those procedures are working as intended, and will move to reinstate Electric Boat as soon as possible if his investigation shows no problems. Secretary Lehman further stated that he is impressed with the solid professionalism displayed by Fritz Tovar, vice president and general manager of Electric Boat, as well as the workers at Electric Boat.

There have been many charges that Secretary Lehman is being soft on General Dynamics because he announced that he would delay an upcoming bid for four Los Angeles class attack submarines until the suspension of Electric Boat is lifted.

Mary McGrory, in a Sunday Washington Post column, charged the suspension of General Dynamics is only a slap on the wrist and that the delay of the submarine bidding shows that Secretary Lehman's war on fraud is not truly being fought. Hobart Rowen stated on another page of Sunday's Washington Post that, because the submarine bidding was delayed, it "lends credibility to the charges that the military establishment only want to calm down congressional and press critics of its contracting practices, but intends to do little about curing waste and tackling fraud."

I find it unbelievable that critics of Pentagon spending are not applauding the Secretary's action. Without bids by Electric Boat, the submarine contract for *Los Angeles* class boats would go by default, as a sole source contract, to the Newport News shipyard in Virginia. The bidding competition is believed to reduce the cost of each submarine by about $50 million, or a saving of about 10 percent each. Without this competitive bidding the taxpayer would once again be the loser.

It is incomprehensible to me that these normally thoughtful writers, among others, urge no delay in these bids. Without the delay, The submarines would be built at a far greater cost to the taxpayers. As in the recent case of General Electric, I urge the Defense Department to narrow the suspension to the division involved in the indictment and not hold hostage those innocent workers in other divisions of General Dynamics, as well as the taxpayers of this country.

AFFIRMATIVE ACTION IN JEOPARDY

Mr. CRANSTON. Mr. President, for almost 5 months now, a struggle has been raging within the Reagan administration over the future of Executive Order 11246, the 20-year old Presidential directive mandating equal employment efforts on the part of Federal contractors. Executive Order 11246 reflects the Federal Government's commitment to ensuring that Federal funds are not used to support the continuation of discrimination in this country. I and many others in both parties, in the private sector, and in various Federal agencies, firmly believe that we must not abandon that commitment and have been gravely concerned by the attempts to alter this Executive order.

Executive Order 11246, was issued in 1965 by President Lyndon Johnson. It was enforced by the administrations of Presidents Nixon, Ford, and Carter, and is the most recent in a series of Presidentially mandated prohibitions against employment discrimination by Federal contractors dating back without interruption to the Presidency of Franklin Roosevelt, who in 1941, issued the first Executive order outlawing employment discrimination in Federal contractor workplaces. The efforts to rescind the current Executive order threaten to reverse a bipartisan policy that has been supported and developed by this country's executive branch for more than 40 years.

Under Executive Order 11246, Federal contractors are required to take affirmative action to ensure that job applicants and employees are treated without regard to race, color, religion, sex, or national origin. In practice, this broad mandate obligates Federal contractors and their subcontractors to setting, and making good faith efforts to reach, goals and timetables to correct underrepresentation of qualified minorities and women in their workforces. The regulations implementing the Executive order expressly prohibit the use of rigid and inflexible quotas in achieving these self-imposed targets.

Over the last two decades, the affirmative action programs carried out under Executive Order 11246 have been a major tool in bringing down employment barriers that have long kept qualified minorities and women out of Federal contractor workplaces. A comprehensive study commissioned by the Department of Labor during the first term of the Reagan administration demonstrates that affirmative action programs of firms with Federal contracts have resulted in significantly greater increases in the numbers of minorities and women workers than has occurred in firms not covered by the Executive order, and, to a greater extent, has shifted the employment status of those workers away from low-skilled jobs toward higher-skilled jobs.

In the State of California alone, there are over 8,200 offices or plants, employing approximately 2 million workers, which are subject to the requirements of the Executive order. Nationally, conservative estimates indicate that at least 23 million workers are employed by Federal contractors. Approximately $170 billion in Federal funds are currently contracted out nationwide to these businesses, and by next year that figure is expected to rise to approximately $200 billion. From the magnitude of these numbers, it is clear that the efforts to dismantle this affirmative action program carry with them the potential of reaching deep into the economy and disrupting the social fabric of the country.

Over the last 20 years, the progress made in eliminating discrimination against minority and female workers has been steadily advancing, but, like all socioeconomic progress, it can be reversed if the tools needed to secure and build upon those advances are destroyed. This is precisely the threat posed by the changes to Executive Order 11246 now being proposed by the Attorney General of the United States, Edwin Meese III, and the Assistant Attorney General for Civil Rights, William Bradford Reynolds.

Although a number of proposed revisions to the Executive order have been advanced by Department of Justice officials over the last 5 months, all of them have been and continue to be aimed at stripping from the Executive order the requirement that Federal contractors take positive and measurable steps, involving goals and timetables, to include qualified minorities and women in their work forces. Furthermore, those proposals would remove from the Executive order the legal basis for current affirmative action programs, raising the specter of protracted and costly litigation for every Federal contractor who chooses to continue operating such a program.

Earlier this year, when the antiaffirmative action campaign of Mr. Meese was first revealed, I coauthored a letter to President Reagan with my good friend and colleague from California, Representative GUS HAWKINS, along with Representative JIM JEFFORDS, the chairman and the ranking minority member, respectively, of the House Committee on Education and Labor, expressing our deep concerns over the proposed amendments to the Executive order. Our letter, dated September 17, 1985, strongly urged that Mr. Reagan take no action regarding the Executive order until there has been a full public review of any proposed changes and an opportunity to assess their potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights. To date, 180 Members of the House of Representatives and 44 Members of the United States Senate have endorsed that view. In addition, a similar letter to President Reagan, authored by Senator DURENBERGER, has been signed by 17 of our Republican Senate colleagues.

During this same period, the AFL–CIO, the United States Conference of Mayors, the Leadership Conference on Civil Rights, the New York Chamber of Commerce and Industry, and the National Association of Manufacturers, have been among the many organizations which have made clear their firm opposition to Mr. Meese's efforts to undermine affirmative action efforts.

The mainstream of the business community is clearly alarmed by the revisions to the Executive order that the Attorney General is seeking to have the President accept. Over the last two decades, Federal contractors have put into place affirmative action programs that have broadened the diversity and talents of their work forces and provided management with a tool for charting progress in bringing into their companies minorities and women, who make up an increasing percentage of working Americans. Moreover, they recognize that their affirmative action efforts raise the morale of minority and woman workers, enhancing the human factor in productivity that no business can afford to ignore.

These businesses have defended the Executive order on other grounds as well. One of their reasons stems from the fact that the affirmative action program lessens the potential for successful discrimination suits against them, provided employers can show they are implementing their programs. Yet another factor relates to the business community's vast preference for a single Federal policy as compared to the myriad State and local equal employment opportunity requirements to which they would be subjected if the requirements mandated under the Executive order were eliminated.

Peter Robertson, Senior Consultant of the Organization of Resources Counselors, Inc., which includes most of the Fortune 250 companies among its clients, in an article that appeared in the Washington Post on November 10, 1985, more fully outlines the reasons why most businesses are opposed to the proposed changes to Executive Order 11246. In addition, Ralph P. Davidson, chairman of the board of Time, Inc., in an article published in the New York Times of November 25, 1985, eloquently defends affirmative action against the unfounded claims which have been raised in an attempt to discredit the concept. More recently still, on November 27, 1985, Mr. Alexander B. Trowbridge, president of the National Association of Manufacturers, wrote President Reagan, expressing support for the goals and timetables required under the Executive order and opposition to the efforts to revoke those crucial features of this affirmative action program.

Affirmative action has made equality of employment opportunity a reality for countless numbers of American men and women. The power to halt and even reverse the gains made in this area is, at this very moment, in the hands of President Reagan. I hope that he will reaffirm the Federal Government's commitment to eliminate employment discrimination through affirmative action by rejecting any proposed revisions to Executive Order 11246.

Mr. President, I ask unanimous consent that the text of our letter of September 17, 1985, to President Reagan, along with two subsequent letters endorsing the statements and recommendations in that letter, and the text of Senator DURENBERGER's letter to the President be printed in the RECORD, followed by the Robertson and Davidson articles and the text of the Trowbridge letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, September 17, 1985.

Hon. RONALD W. REAGAN,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We understand that White House staff has drafted an executive order repealing requirements that federal contractors set numerical goals to remedy discrimination in the workplace. The proposed amendment to Executive Order 11246 would effectively undercut a major tool against employment discrimination which has been in effect and indeed has been strengthened by Republican and Democratic Administrations since 1961.

As you know, Mr. President, civil rights victories have been won in our nation only because of bipartisan cooperation. We have fought against discrimination in education, voting, public accommodations and employment. Today minorities and women have finally began to be included in the American mainstream.

Executive Order 11246 has now been in place for twenty years, during three Republican and two Democratic Administrations. It has been a mainstay of federal efforts to combat discrimination in the workplace. Complaints about the enforcement of the regulations issued pursuant to the Executive Order, where valid should be addressed. However, we do not believe that we can successfully maintain our efforts against discrimination without the use of numbers.

We understand that there have been objections to numerical goals and timetables on the ground that such goals and timetables are tantamount to quotas, giving rise to complaints of reverse discrimination. However, the regulations implementing the Executive order state that, "goals may not be rigid and inflexible quote which must be met, but must be targets reasonably attainable by means of applying every good faith efforts to make all aspects of the entire affirmative action program work" (41 C.F.R. sec. 60-2.12 (1984)). Thus, the regulations draw a distinction between the two terms. In the same way, the use of statistical comparisons in proving discrimination in employment, which has been sanctioned by the Supreme Court, creates a presumption, not a conclusive determination, that discrimination is the basis for any statistical disparity found.

The use of goals and timetables as well as statistics remains an essential tool in combatting discrimination. Indeed, the Supreme Court has sanctioned the use of statistics in proving discrimination in employment. Moreover, Congress and the Executive Branch often set numerical goals to measure the effectiveness of programs. We think much of the success of the Job Training Partnership Act, for example, can be laid to the fact that the law stipulates performance standards to provide a numerical measure of our training programs' success. Likewise, we think we must continue to use numbers to measure our affirmative action programs' success.

Business "goes by the numbers" in production, sales and finance. It is commonplace to do so in hiring and promotion as well. Indeed, some members of the business community have urged the continued use of numerical goals and timetables in the belief that setting numerical goals is a useful business practice, entirely apart from the affirmative action responsibilities incumbent upon a federal contractor.

Congress itself in the 1972 amendments to title VII of the Civil Rights Act of 1964 (section 717) not only required that federal departments, agencies, and instrumentalities be made free from any discrimination in employment based on race, color, religion, sex, or national origin, but also specifically required each to develop and maintain an affirmative program of equal employment opportunity and submit periodic progress reports on the operation of its equal employment opportunity plan. Similarly, Congress imposed affirmative action plan requirements for federal departments, agencies, and instrumentalities in connection with the employment of handicapped individuals (section 501(b) of the Rehabilitation Act of 1973) and the employment of service-connected disabled veterans (section 2014(c) of title 38, United States Code). In the case of handicapped individuals, service-connected disabled veterans, and Vietnam-era veterans, Congress also expressly imposed affirmative action plan requirements on federal contractors and subcontractors (section 503 of the Rehabilitation Act of 1973 and section 2012 of title 38, United States Code).

In enacting these laws, Congress was cognizant and supportive of the Executive Branch policy of implementing affirmative action requirements through goals and timetables and statistical evaluations.

We believe that continuation of affirmative action, including the use of numerical goals and timetables, is a necessary and proper response to the tragic legacy of historical discrimination which continues to plague our country today. It is a tribute to the success of efforts against discrimination that we are seldom today faced with the types of overt discrimination we faced twenty years ago. The discrimination which remains today is more subtle and more difficult to eradicate. Without the use of numbers as an indicator, our job of eliminating discrimination in the workplace will be vastly more difficult, if not impossible.

We also believe that the use of recruitment and training as the only affirmative action measures mandated by the government would be an insufficient response to the problems of discrimination. Nondiscrimination laws involving only voluntary efforts did not work. It was only after the use of goals and timetables were established that discrimination began to fall.

The fundamental principle underlying Executive Order 11246 is that federal monies must not be used to subsidize discrimination and that the privilege of doing business with the Federal Government entails certain special responsibilities. Indeed, many employers understand this imperative and have, by now, incorporated affirmative action principles throughout their personnel procedures. By eliminating the use of goals, timetables and statistics to remedy the effects of discrimination, the Federal Government will be dramatically retreating from this principle.

We strongly urge, Mr. President, that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights.

Sincerely,

AUGUSTUS F. HAWKINS,
Chairman,
Committee on Education and Labor.
JAMES M. JEFFORDS,
Ranking Republican Member,
Committee on Education and Labor.

Members of the United States House of Representatives:

Peter W. Rodino, Jr., Don Edwards, Dennis E. Eckart, Pat Schroeder, Matthew G. Martinez, Charles A. Hayes, Walter E. Fauntroy, Lee H. Hamilton, Jim Moody, Bob Edgar, Cardiss Collins, Harold Ford, Chet G. Atkins, Jim Wright, Claude Pepper, W. L. Clay, John Conyers, Geo. W. Crockett, Jr., Ronald V. Dellums, Julian C. Dixon, Mervyn M. Dymally, William H. Gray, III, Mickey Leland, Parren J. Mitchell, Major R. Owens, Louis Stokes, Alan Wheat, Austin J. Murphy, Pat Williams, Sam Gejdenson, Gus Savage, Mel Levine, E. Towns, Charles B. Rangel, Ted Weiss, Edward R. Roybal, Barney Frank, Mike Lowry, Norman Mineta, Thomas S. Foley, Pete Stark, Bill Richardson, Henry Gonzalez, Robert Garcia, Stephen Neal, Mo Udall, Lane Evans, James J. Howard, Les Aucoin, William D. Ford, Edward J. Markey, Carl C. Perkins, Thomas J. Downey, Tom Lantos, William Lehman, Bernard J. Dwyer, Jaime B. Fuster, Sala Burton, Bob Kastenmeier, Jim Weaver, Dante Fascell, Gerry Sikorski, Claudine Schneider, Albert G. Bustamante, Glenn M. Anderson, James Traficant, Olympia Snowe, Barbara Boxer, Howard Wolpe, Dale E. Kildee, George E. Brown, Jr., Howard L. Berman, Hamilton Fish, Jr., Barbara B. Kennelly, Jack Brooks, Bruce A. Morrison, Steny H. Hoyer, Dave McCurdy, Frederick C. Boucher, Bill Hughes, Barbara A. Mikulski, Al Swift, Esteban E. Torres, Ronald D. Coleman, Thomas M. Foglietta, Mary Rose Oakar, Bruce Vento, Terry L. Bruce, John Bryant, John Seiberling, Robert T. Matsui, Norm Dicks, Frank J. Guarini, Les Aspin, Silvio O. Conte, Tony Beilenson, Dick Durbin, Ben Gilman, Solomon P. Ortiz, Sander Levin, Vic Fazio, Henry A. Waxman, Robert G. Torricelli, Lindy Boggs, Stewart B. McKinney.

Members of the United States Senate:

Alan Cranston, Donald Riegle, John F. Kerry, Paul Simon, Spark Matsunaga, Howard Metzenbaum, Daniel K. Inouye, Paul S. Sarbanes, Charles McC. Mathias, Jr., John H. Glenn, Jr., Gary Hart, Ted Kennedy, Lowell Weicker, Christopher J. Dodd, Bill Proxmire, Claiborne Pell, Robert T. Stafford, Tom Harkin, Thomas F. Eagleton, Carl Levin, David Durenberger, Daniel P. Moynihan.

U.S. SENATE,
Washington, DC, October 22, 1985.

Hon. RONALD W. REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We join in support of the statements and recommendations expressed by the 126 members of the House of Representatives and United States Senate in their letter of September 17, 1985, which strongly urges "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

Ernest F. Hollings, John Melcher, David L. Boren, Quentin N. Burdick, Dennis DeConcini, Frank R. Lautenberg, Bill Bradley, Joseph R. Biden, Jr., Wendell H. Ford, Lloyd Bentsen, John D. Rockefeller IV.

U.S. SENATE,
Washington, DC, November 25, 1985.
Hon. RONALD W. REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish to add our support for the statements and recommendations in the letter of September 17, 1985, endorsed by 188 members of the House of Representatives and the United States Senate, strongly urging "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

Alan J. Dixon, Patrick J. Leahy, J. James Exon, Max Baucus, Sam Nunn, James R. Sasser, Jeff Bingaman, Albert Gore, Jr., J. Bennett Johnston.

U.S. SENATE,
Washington, DC, November 25, 1985.
The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that you are considering amendments to Executive Order 11246, which would weaken the equal employment opportunity obligations of federal contractors. The Order currently prohibits federal contractors from employment discrimination on the basis of race, color, religion, sex, or national origin. It also requires contractors to take affirmative steps to ensure that such discrimination does not take place.

Executive Order 11246 currently enjoys broad-based support including a majority of the business community. If the Order is amended, it will open the floodgates to a proliferation of litigation and legislation. Such a result will engender instability in the business community and a serious disruption of the legislative process.

Over the years we have made great strides toward eliminating discrimination of any kind. However, regrettably, there is a public misperception that the Republican party has become lax in its commitment to equality of opportunity.

We hope that you will carefully consider the potentially damaging impact of any amendments to Executive Order 11246 and that you will not take any action which jeopardizes the progress that we have made.

Sincerely,

Senators: Robert Stafford, Dave Durenberger, Slade Gorton, William Cohen, Daniel Evans, Lowell Weicker, John H. Chafee, Bob Packwood, Arlen Specter, Nancy Kassebaum, Rudy Boschwitz, John Heinz, Mark Andrews, Charles McC. Mathias Jr., Mark O. Hatfield, Dan Quayle, Thad Cochran.

[From the Washington Post, Nov. 10, 1985]

WHY BOSSES LIKE TO BE TOLD TO HIRE MINORITIES

(By Peter C. Robertson)

President Reagan is being urged to weaken enforcement of affirmative action programs for federal contractors. The proposition has divided the Cabinet, stalling action. But if Reagan still is trying to make up his mind, here's a message from the business community: Go slow.

Although business has major problems with the program, it now supports the basic principles of affirmative action as implemented under Presidents Kennedy, Johnson, Nixon, Ford and Carter.

The reasons corporations are not interested in seeing those principles weakened have more to do with business than with civil rights. Business—led by the National Association of Manufacturers—sees that its own self-interest requires affirmative action. And if the Reagan administration thinks American business will thank it for weakening affirmative action enforcement, then the administration isn't listening to what businessmen outside the Beltway are saying.

The government's present affirmative action program requires companies doing business with the federal government to have written affirmative action plans including goals and timetables to increase the employment of qualified minorities and women where they are "under-utilized." Press reports indicate the administration may no longer require goals and timetables and might even prohibit their voluntary use as a management tool.

There are at least 10 good reasons that business, while seeking administrative reforms, might take a position that voluntary goals and timetables should continue to be allowed and government should have some kind of mandatory program:

1. *Changing Labor Market:*

Women and minorities will be 75 percent of labor force growth between 1990 and 2000. Employers without plans to eliminate barriers to hiring or promoting those groups will be cut off from a major part of America's labor force.

C.W. Parry, chief executive officer at Alcoa, recently sent a memo to all employes noting that Alcoa's "best prospects for survival and growth lie in our skillful selection of the best individuals" from a "broad-based talent pool that includes women and minorities."

2. *Minimizing Risk of Reverse Discrimination Suits:*

In a recent survey of chief executive officers by the management consulting firm for which I work, 95 percent indicated that they will use numbers as a management tool to measure corporate progress whether the government requires them or not. However, once the government requirements are gone, there would be a risk of so-called "reverse discrimination" suits alleging that employers have gone too far with affirmative action.

The continuation of a responsible and balanced government program that sanctions goals and timetables will make it less likely that such suits will be successful, according to National Association of Manufacturers President Alexander Trowbridge.

3. *Compatibility with Management:*

The use of goals and timetables and other numerical measures to track the employment of minorities and women is consistent with how corporations deal with all important areas.

In recent meetings with more than 150 companies, the consistent question we were asked was "If we can't count, how can we measure? If we can't measure, how can we manage?"

William McEwen, director of equal-opportunity affairs at Monsanto Co. in St. Louis and chairman of the human resources steering group of the NAM, told a House of Representatives subcommittee in July that "business . . . sets goals and timetables for every aspect of its operations—profits, capital investment, productivity increases and promotional potential for individuals. Setting goals and timetables for minority and female participation is a way of measuring progress and focusing on potential discrimination."

Senior corporate officials clearly recognize that managers must be measured on all of the things they are expected to do.

A survey of more than 200 major companies found 76 percent saying they used "voluntary internal numerical objectives to assess [equal employment opportunity] performance." One-fourth of the companies said that incentive compensation plans for managers include equal employment objectives and that performance against those objectives can affect incentive payments positively or negatively. By 1988 more than half the companies predict they will be basing incentive pay in part on EEO performance.

4. *Use of Numbers as a Defense:*

One proposal might eliminate the possibility that businesses could use goals and timetables even voluntarily or point to progress in minority and female employment as part of the evidence in defending against discrimination charges, although the Supreme Court has emphasized the appropriateness of such a defense. Employers clearly want to use their progress as a defense and to be able to avoid further government investigations of their activities if they have done well, as measured by the numbers of minorities and females they employ.

At the same time, the program does not require any quotas. The goals and timetables program is a flexible one that business can live with. Ralph P. Davidson, board chairman of Time, Inc. told Congress that at "no time [was his company] subject to anything resembling 'quotas' [and that they] weren't presented with rigid, predetermined statistics for the hiring of women and minorities." He said that the government never tried "to dictate a final, inflexible result."

5. *State and Local Government Programs:*

Historically, large companies opposed federal regulations pleading states' rights. However, today they prefer the uniformity of a single federal regulation, even if the companies don't always like all the details, to having to meet a multiplicity of state and local regulations.

One national financial services company presently has affirmative action programs with 60 local jurisdictions, each of which calculates its requirements differently.

Recently, NAM President Trowbridge has noted that if states and cities believe the federal program is inadequate, it could lead to a proliferation of "conflicting and complicated standards" that "are bound to cost more ultimately and result in less effective programs." Trowbridge has called for reforms in the federal program without amending the underlying executive order. The NAM believes that such amendments would be "ill-advised," in part, because they might trigger such state and local action.

6. *Avoiding Inflexible Federal Legislation:*

Employers are concerned that Congress might freeze the present program into law and thus deny flexibility to alter the regulations. Rep. Augustus F. Hawkins (D-Calif.), chairman of the House Education and Labor Committee, has pledged legislative action should the executive order be weakened. He would probably get bipartisan support in both houses. Sen. Robert Dole (R-Kan.) urged the president not to weaken the new executive order and congressman and senators of both parties have written him strong letters supporting a similar position.

7. *Employee Morale and Productivity:*

Companies who have made significant progress in hiring minorities and women

would have morale and productivity problems if their employes believe that the federal government is reducing its commitment to affirmative action, particularly if they believe that business pressure led to such a change.

For example, IBM now has 30,000 minority employes and 30,000 women who would not be there if the company's percentage of minority and female employment was the same as it had been in the early 60's. Such a company needs its employes to think affirmative action is being eliminated like it needs a corporate hole in the head. In fact, IBM's chief executive officer, John Akers, just issued an IBM-style, 16-page report on its affirmative action program with statistics and a description of the company's programs to achieve these gains. Similar reports have been issued by others: Schering-Plough, Philip Morris, Exxon, AT&T, Westinghouse, and Chemical Bank to mention just a few.

The Alcoa memo noted that Alcoa would continue its programs "whatever the government's eventual position." In a similar vein, Davidson, of Time, Inc., told a House Judiciary subcommittee this week that "when press reports indicated that [the presidential order on affirmative action] might be weakened or watered down, Time, Inc. issued a statement [that] "should this happen, we want to assure you we will maintain our affirmative action program. We have been well served by that program including the setting of internal hiring and promotion goals for minorities and women. . . .'"

8. *Faith in the Legal System:*

Corporations have a vested interest in our legal system and citizen faith in that system. Laws prohibiting discrimination were preceded by demonstrations by those who had no faith that we could solve our problems by law. President Kennedy wanted to achieve civil rights under law. The late Republican Sen. Everett M. Dirksen (R-Ill.) spoke of "an idea whose time had come" and helped achieve Kennedy's dream of getting the problem out of the streets and into the courts. Employers may argue with how government regulations are applied but they would rather have these arguments occur in a legal framework than in the Streets.

9. *Third Party Pressures:*

If faith in the ability of the legal system to increase employment opportunities were to fade, we may not see marches in the streets again, but we will certainly see increasing pressure on employers from outside the legal system. Already, private civil rights organizations have substantially increased their demands for affirmative action plans or fair share agreements outside the context of government requirements. Most employers would prefer to deal with the government, even when perceived as slightly misguided, than to negotiate the details of how they do business with a wide variety of competing private groups whose standards are not subject to judicial review.

10. *Management Flexibility.—The Deregulatory Issue:*

This is perhaps the most important reason employers favor continued use of voluntary goals and timetables and even support appropriately crafted mandatory ones. NAM president Trowbridge made the point when he pointed out that retaining flexible goals and timetables as a measure of good faith compliance to ensure progress would "give business the necessary guidelines to ensure compliance with federal mandates," and pointed out that "absent such guidelines, individual enforcement officers will be left with decisions as to what comprises compliance with affirmative action."

The present rules mandating goals and timetables were adopted by the Nixon administration, in part at the request of business, in essence as a deregulatory move in the area of employment discrimination and affirmative action.

Under pre-Nixon programs, there were major confrontations with government investigators concerning the adequacy of specific details in corporate affirmative action programs. The Nixon pro-business, deregulatory approach was to adopt goals and timetables as an objective measure of corporate progress and thus eliminate many of the arguments about the adequacy of specific programs. In fact, in the lead Supreme Court decision approving race-conscious affirmative action using numbers, the court said that such approval was given in part because of this deregulatory aspect. The court noted that to allow appropriately circumscribed race-conscious affirmative action would permit employers to comply in accord with "traditional management prerogatives" and was consistent with the congressional desire to implement anti-discrimination requirements in a fashion that would "avoid undue federal regulation to private businesses."

It would be ironic indeed if an administration known for its deregulation program and its desire to help business were to go in the exact opposite direction in dealing with affirmative action. The president ought to think twice before eliminating a program begun under a Republican president with business support and originally implemented by George P. Shultz when he was Secretary of Labor.

The president ought to think twice before eliminating an objective numerical measure and substituting bureaucratic examination of the details of employers' practices to see if they meet government standards. He ought to think twice before doing something that might lead to a proliferation of competing and uncontrollable pressures on business from state and local governments and civil rights groups; and he should certainly think twice before taking a step that much of his own business constituency believes is ill-conceived.

[From the New York Times, Nov. 25, 1985]

KEEP FEDERAL AFFIRMATIVE ACTION STRONG

(By Ralph P. Davidson)

Imagine a Government program that's been supported by five Presidents, Republicans and Democrats in both houses of Congress, the A.F.L.-C.I.O. and the National Association of Manufacturers. Imagine, too, a program credited with increasing the participation of women and minorities in our economy at small cost to taxpayers. Such a program, combining the goals of social justice with economic common sense, might seem an abstract ideal. It already exists. It's called affirmative action.

Affirmative action was set in place almost a quarter century ago by President John F. Kennedy and strengthened by the executive order signed into law by President Lyndon B. Johnson in 1965. Since then, affirmative action has proven its worth, using the leverage of Federal contracts and public investment to create equal job opportunities and thus translate the dreams of the civil rights struggle into reality.

Now there's pressure in the Administration to change the executive order by removing the statistical measurements—the "goals and timetables"—that give affirmative action its teeth. Proponents of this change base their case on three major points.

First, they argue that the order creates racial "quotas"—fixed and unalterable percentages to be met at any cost. "Quota" is a word that rankles and outrages many people, and if the order had in fact established quotas, pressure to rewrite it would have arisen long ago.

But this hasn't been the case. Most companies supported—and continue to support—the executive order. Why? For the simple reason that affirmative action isn't a bureaucratic inquisition aimed at enforcing a quota system. It hasn't meant the imposition of inflexible numbers. What it has meant is that those doing business with the Government must demonstrate a "good faith" effort to give women and monorities a fair share of the opportunities generated by Federal contracts. Instead of coercing businesses to follow a course they would otherwise resist, this requirement has, in many cases, reinforced already existing private sector affirmative action programs.

Second, opponents of the executive order complain that it constitutes a hidden tax, adding needlessly to the expenses of companies forced to keep records of their attempts to comply. But this ignores the fact that most companies routinely establish explcit goals to be met within prescribed periods of time. "Management-by-objective" isn't a creature of affirmative action. It's a tested business technique, and, as applied to hiring, it's an effective way of tapping new talent and opening avenues for those who, no matter how talented or ambitious, were denied advancement because of race or sex.

The third objection is that affirmative action is unnecessary. Now that de jure discrimination has been dismantled, the argument goes, the way is clear for women and minorities. The free market will do the rest.

In a time of economic growth and relative prosperity, it's tempting to believe this. Unfortunately, the statistics tell another story. While the poverty rate recently showed an overall decline, it's still significantly higher than a decade ago. The rate for Hispanics actually rose. Unemployment is more than twice as high for blacks as for whites. Female-headed households still make up the bulk of the disadvantaged.

The bottom line is that the same people who suffered the most from the deep cuts in social spending of the past few years—in housing, education, job training, nutrition, child care—also profited the least from economic growth. For most of them, there is no fabled ladder of economic opportunity but rather a treadmill of underemployment and joblessness, of opportunities forever beyond their reach.

Any change in the executive order would only deprive us of one of the few proved and practical means we have of helping people stand on their own feet. It would open the way for the slow unraveling of all the hard-won gains of the past two decades.

Two centuries ago, Edmund Burke pointed out that "a state without the means of some change is without the means of its own conservation." Affirmative action is the means of constructive change. With it, we can continue to open doors to those long denied the opportunity to compete. The executive order should be affirmed. The door should not be closed.

NATIONAL ASSOCIATION OF MANUFACTURERS,
November 27, 1985.

Hon. RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the National Association of Manufacturer's 13,500 members, we urge you not to revise Executive Order 11246 affecting affirmative action requirements for federal contractors. NAM believes the current Executive Order provides the framework for an effective affirmative action policy. Since it was signed into law, dramatic progress has been achieved in incorporating talented minorities and women into our workforce. Companies affiliated with NAM have consistently expressed the belief that the Executive Order has served as a major impetus in achieving a diverse workforce.

NAM's Board of Directors, representing small and large companies throughout the country, in May adopted policy which stated that the use of goals is an effective affirmative action tool. This policy has continued to receive enthusiastic support from our members.

While NAM opposes the use of hiring quotas, whether government-imposed or self-imposed, they are significantly distinct from goals and timetables. They mandate that a pool of qualified applicants of all races, national origin and sex be given the opportunity to be hired. Further goals and timetables are used in many aspects of business operations to measure progress and are an integral component of most companies' personnel functions.

NAM believes the Executive Order is sound policy, but we continue to urge reforms in the implementing regulations of the Office of Federal Contract Compliance. More flexibility should be given to companies in complying with their goals and timetables. Good faith compliance should be the measure of progress. However, the business community is concerned that the elimination of goals and timetables could result in confusing compliance standards on federal, state and municipal levels and a proliferation of reverse discrimination suits.

Though we support some fine-tuning of the implementing regulations, the NAM believes that Executive Order 11246 has benefited our country and should be continued to ensure the continued participation of all segments of our society in our nation's economy.

Thank you for your consideration of NAM's views on this issue.

Sincerely,

A.B. TROWBRIDGE.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

The message also announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System;

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

The enrolled bill H.R. 3424 was subsequently signed by the President pro tempore [Mr. THURMOND].

At 7:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1116. An act to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 84. A concurrent resolution to authorize the temporary placement of a bust of the late Dr. Martin Luther King, Jr., in the rotunda of the Capitol for dedication ceremonies, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mr. MYERS of Indiana, Mr. ROGERS, Mr. SKEEN, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 3128) to make changes in spending and revenue provisons for purposes of deficit reduction and program improvment, consistent with the budget process; and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate; it insists upon its amendment to the amendment of the Senate to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the entire Senate amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 502(a) and 503 of the House amendment to the Senate amendment: Mr. GRAY of Pennsylvania, Mr. DERRICK, Mr. WOLPE, Mr. BARNES, Mr. SCHUMER, Mrs. BOXER, Mr. MACKAY, Mr. SLATTERY, Mr. ATKINS, Mr. LATTA, Mrs. MARTIN of Illinois, Ms. FIEDLER, Mr. GOODLING, Mr. SMITH of Oregon, Mr. DENNY, and Mr. WEBER.

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, and 205, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B, of the House amendment to the Senate amendment: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JONES of Oklahoma, Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. GEPHARDT, Mr. DOWNEY of New York, Mr. DUNCAN, Mr. CRANE, Mr. GRADISON, Mr. CAMPBELL, Mr. THOMAS of California, and Mr. MCGRATH.

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. PANETTA, Mr. COELHO, Mr. BEDELL, Mr. MADIGAN, Mr. EMERSON, Mr. JEFFORDS, and Mr. COLEMAN of Missouri.

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment: Mr. DE LA GARZA, Mr. ROSE, Mr. JONES of North Carolina, Mr. HATCHER, Mr. WHITLEY, Mr. TALLON, Mr. THOMAS of Georgia, Mr. HOPKINS, Mr. ROBERTS, Mr. FRANKLIN, and Mr. COMBEST.

From the Committee on Agriculture, solely for the consideration of section 2502(b) of division B of the House amendment to the Senate amendment: Mr. DE LA GARZA, Mr. ROSE, Mr. WHITLEY, Mr. HOPKINS, and Mr. ROBERTS.

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and title I of division A of the House amendment to the Senate amendment: Mr. ASPIN, Mr. MONTGOMERY, Mrs. SCHROEDER, Mr. DICKINSON, and Mr. HILLIS.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment: Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MITCHELL, Mr. LUNDINE, Ms. OAKAR, Mr. VENTO, Mr. FRANK, Mr. WYLIE, Mr. MCKINNEY, Mrs. ROUKEMA, and Mr. BARTLETT.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment: Mr. ST GERMAIN, Mr. LAFALCE, Mr. LUNDINE, Mr. WYLIE, and Mr. SHUMWAY.

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment: Mr. HAWKINS, Mr. FORD of Michigan, Mr. BIAGGI, Mr. WILLIAMS, Mr. OWENS, Mr. HAYES, Mr. PERKINS, Mr. BRUCE, Mr. JEFFORDS, Mr. COLEMAN of Missouri, Mr. GUNDERSON, Mr. MCKERNAN, and Mr. HENRY.

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitles B and C of title III of division A, and of section 2181 and title VI of division B, of the House amendment to the Senate amendment: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. KILDEE, Mr. OWENS, Mr. HAYES, Mr. DYMALLY, Mr. ATKINS, Mr. JEFFORDS, Mr. PETRI, Mrs. ROUKEMA, Mr. BARTLETT, Mr. CHANDLER, Mr. ARMEY, and Mr. FAWELL.

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment: Mr. HAWKINS, Mr. MURPHY, Mr. CLAY, Mr. WILLIAMS, Mr. JEFFORDS, Mr. PETRI, and Mr. BARTLETT.

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713-716, parts 2-5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)-(4) of section 746), sections 769B, 770, 772 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B-G of title I, and section 2302 of division B of the House amendment to the Senate amendment: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. WALGREN, Ms. MIKULSKI, Mr. LELAND, Mrs. COLLINS, Mr. WYDEN, Mr. BROYHILL, Mr. MADIGAN, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. BILIRAKIS, and Mr. BLILEY.

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code: Mr. DINGELL, Mr. ECKART of Ohio, Mr. HALL of Texas, Mr. TAUZIN, Mr. DOWDY of Mississippi, Mr. LUKEN, Mr. SWIFT, Mr. SHELBY, Mr. SYNAR, Mr. BROYHILL, Mr. LENT, Mr. RITTER, Mr. FIELDS, Mr. COATS, and Mr. SCHAEFER.

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521-524, and 536 of the Senate amendment, of subtitles A-E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment: Mr. DINGELL, Mr. SHARP, Mr. MARKEY, Mr. WALGREN, Mr. SWIFT, Mr. LELAND, Mr. SHELBY, Mr. SYNAR, Mr. TAUZIN, Mr. BROYHILL, Mr. DANNEMEYER, Mr. MOORHEAD, Mr. WHITTAKER, Mr. OXLEY, and Mr. ECKERT of New York.

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment: Mr. DINGELL, Mr. WIRTH, Mr. SCHEUER, Mr. LUKEN, Mr. SWIFT, Mr. LELAND, Mrs. COLLINS, Mr. SYNAR, Mr. TAUZIN, Mr. BROYHILL, Mr. RINALDO, Mr. TAUKE, Mr. OXLEY, Mr. MOORHEAD, and Mr. NIELSON of Utah.

From the Committee on Energy and Commerce, solely for consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794, of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment: Mr. DINGELL, Mr. FLORIO, Mr. SHARP, Mr. TAUZIN, Mr. HALL of Texas, Mr. ECKART of Ohio, Mr. DOWDY of Mississippi, Mr. RICHARDSON, Mr. SLATTERY, Mr. BROYHILL, Mr. LENT, Mr. RITTER, Mr. COATS, Mr. TAUKE, and Mr. FIELDS.

From the Committee on Government Operations, solely for consideration of subtitle G of title VII of the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mr. WEISS, Mr. HORTON, and Mr. WALKER.

From the Committee on Government Operations, solely for consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Mr. HORTON, and Mr. MCCANDLESS.

From the Committee on Interior and Insular Affairs, solely for consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment: Mr. UDALL, Mr. SEIBERLING, Mr. WEAVER, Mr. MILLER of California, Mr. SHARP, Mr. RAHALL, Mr. VENTO, Mr. HUCKABY, Mr. GEJDENSON, Mr. YOUNG of Alaska, Mr. LUJAN, Mr. LAGOMARSINO, Mr. MARLENEE, Mr. CHENEY, and Mr. PASHAYAN.

From the Committee on the Judiciary, solely for consideration of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting subsection 4041(C)(2)(B)(iii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment: Mr. RODINO, Mr. GLICKMAN, Mr. EDWARDS of California, Mr. FISH, and Mr. KINDNESS.

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment: Mr. JONES of North Carolina, Mr. BIAGGI, Mr. ANDERSON, Mr. BREAUX, Mr. STUDDS, Ms. MIKULSKI, Mr. LOWRY of Washington, Mr. BOSCO, Mr. HUGHES (except as listed below), Mr. TAUZIN (in lieu of Mr. HUGHES solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. LENT, Mr. SNYDER, Mr. YOUNG of Alaska (except as listed below), Mr. DAVIS, Mr. CARNEY (in lieu of Mr. YOUNG of Alaska solely for consider-

ation of section 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. SHUMWAY, and Mr. FIELDS.

From the Committee on Post Office and Civil Service, solely for consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment: Mr. FORD of Michigan, Mr. LELAND, Ms. OAKAR, Mr. TAYLOR, and Mr. GILMAN.

From the Committee on Public Works and Transportation, solely for consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment: Mr. HOWARD, Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. EDGAR, Mr. YOUNG of Missouri, Mr. RAHALL (except as listed below), Mr. SNYDER, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. STANGELAND, Mr. GINGRICH, Mr. CLINGER and Mr. BREAUX (in lieu of Mr. RAHALL solely for consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment).

From the Committee on Science and Technology, solely for consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment: Mr. FUQUA, Mr. SCHEUER, Mr. WIRTH, Mr. LUJAN, and Mrs. SCHNEIDER.

From the Committee on Small Business, solely for consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment: Mr. MITCHELL, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. MCDADE, and Mr. CONTE.

From the Committee on Veterans' Affairs, solely for consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment: Mr. MONTGOMERY, Mr. EDGAR, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, and Mr. WYLIE.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway"; to the Committee on Energy and Natural Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 9, 1985, she had presented to the President of the United States the following enrolled bill:

S. 1264. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 992: A bill to discontinue or amend certain requirements for agency reports to Congress (Rept. No. 99-211).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN (for himself and Mr. HATCH):

S. 1911. A bill to direct the Administrator of General Services to release, on behalf of the United States, certain conditions and reservations contained in a conveyance of land to the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. MOYNIHAN, Mr. HATFIELD, Mr. HEINZ, Mr. LONG, Mr. WALLOP, Mr. PRYOR, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SYMMS, Mr. ROTH, Mr. BAUCUS, Mr. BOREN, Mr. MITCHELL, Mr. CHAFEE, Mr. ARMSTRONG, Mr. KERRY, Mr. LEVIN, Mrs. HAWKINS, Mr. D'AMATO, Mr. THURMOND, Mr. RIEGLE, Mr. SIMON, Mr. GORTON, Mr. BUMPERS, Mr. MATTINGLY, Mr. EXON, Mr. DENTON, Mr. STENNIS, Mr. BINGAMAN, Mr. DODD, Mr. EVANS, Mr. KENNEDY, Mr. HOLLINGS, Mr. HEFLIN, Mr. KASTEN, Mr. DECONCINI, Mr. SASSER, Mr. ZORINSKY, Mr. LAXALT, Mr. CRANSTON, Mr. GARN, Mr. DOMENICI, Mr. HARKIN, Mr. DIXON, Mr. GORE, Mr. SPECTER, Mr. ROCKEFELLER, Mr. NUNN, Mr. MELCHER, Mr. MCCLURE, Mr. COHEN, Mr. HECHT, Mr. SARBANES, Mr. PRESSLER, Mr. LAUTENBERG, Mr. ABDNOR, Mr. WILSON, Mr. COCHRAN, Mr. JOHNSTON, Mr. ANDREWS, and Mr. EAGLETON):

S. 1912. A bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. D'AMATO:

S. 1913. A bill to amend and extend laws relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GORTON (for himself, Mr. DANFORTH, Mr. RIEGLE, Mr. HEFLIN, Mr. GORE, Mr. ROCKEFELLER, Mr. DOLE, Mr. HOLLINGS, and Mr. INOUYE):

S. 1914. A bill to amend the Stevenson-Wydler technology Innovation Act of 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself and Mr. INOUYE):

S. Con. Res. 92. A concurrent resolution to affirm the national policy of metric conversion benefiting the United States; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself and Mr. HATCH):

S. 1911. A bill to direct the Administrator of General Services to release, on behalf of the United States, certain conditions and reservations contained in a conveyance of land to the State of Utah; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN LAND IN THE STATE OF UTAH

● Mr. GARN. Mr. President, the legislation Senator HATCH and I are introducing today is a housekeeping measure which will allow the Upland Industries Corp. to obtain approximately 150 acres of land from the State of Utah as part of an exchange with the State for 3,519 acres of prime wetlands, now owned by that company.

The 150-acre parcel of land is part of a larger tract of land deeded to the State of Utah by the Federal Government. The need for legislation at the Federal level stems from the existence of reversionary clauses on the land as well as a right to surface entry for mineral rights contained in a Quitclaim Deed conveyance from the United States through the General Services Administrator to the State of Utah dated July 26, 1950. In short, these State lands cannot be developed by the State or other private parties for purposes which may conflict with provisions contained in the reversionary clauses. This legislation will clear the title to these State lands and make it possible for a significant wetland habitat to be protected in northern Utah as a result of the exchange.

As a practical matter, the 150-acre tract of State land is now surrounded by industrial parks and other commercial development in the center of the Salt Lake Valley. The reversion clauses were written in 1950, a time in which these lands were agricultural range lands with no development anywhere near them. Any argument that these reversionary clauses still have application would be equivalent to saying the island of Manhattan should still be set aside as a wildlife refuge or a military base.

The Upland proposal is supported by the Governor of Utah and I am confident it will be supported by environ-

mental groups as well. I would hope the Senate will take action on this measure early in 1986.●

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. MOYNIHAN, Mr. HATFIELD, Mr. HEINZ, Mr. LONG, Mr. WALLOP, Mr. PRYOR, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SYMMS, Mr. ROTH, Mr. BAUCUS, Mr. BOREN, Mr. MITCHELL, Mr. CHAFEE, Mr. ARMSTRONG, Mr. KERRY, Mr. LEVIN, Mrs. HAWKINS, Mr. D'AMATO, Mr. THURMOND, Mr. RIEGLE, Mr. SIMON, Mr. GORTON, Mr. BUMPERS, Mr. MATTINGLY, Mr. EXON, Mr. DENTON, Mr. STENNIS, Mr. BINGAMAN, Mr. DODD, Mr. EVANS, Mr. KENNEDY, Mr. HOLLINGS, Mr. HEFLIN, Mr. KASTEN, Mr. DECONCINI, Mr. SASSER, Mr. ZORINSKY, Mr. LAXALT, Mr. CRANSTON, Mr. GARN, Mr. DOMENICI, Mr. HARKIN, Mr. DIXON, Mr. GORE, Mr. SPECTER, Mr. ROCKEFELLER, Mr. NUNN, Mr. MELCHER, Mr. MCCLURE, Mr. COHEN, Mr. HECHT, Mr. SARBANES, Mr. PRESSLER, Mr. LAUTENBERG, Mr. ABDNOR, Mr. WILSON, Mr. COCHRAN, Mr. JOHNSTON, Mr. ANDREWS, and Mr. EAGLETON):

S. 1912. A bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954; to the Committee on Finance.

EXTENSION OF CERTAIN TEMPORARY PROVISIONS OF THE INTERNAL REVENUE CODE

Mr. DANFORTH. Mr. President, I am joining today with Senators BENTSEN, MOYNIHAN, HATFIELD and a majority of our colleagues in introducing legislation to deal with numerous provisions of our income tax laws which either have expired in recent months or are scheduled to expire at the end of this year.

The bill is quite simple. It extends all expiring (or expired) provisions until June 30, 1986. I emphasize that all expiring provisions would be extended under the bill. The bill is not selective. It does not deal only with provisions I (or one of the other cosponsors) personally support. In fact, the bill includes certain provisions which I believe should be either eliminated from the Internal Revenue Code or substantially modified.

The reason for extending all expiring provisions is that under normal circumstances both the Senate and the House of Representatives would have examined these expiring provisions during the regular course of this past year and would have made a legislative decision whether each of the provisions should be extended or allowed to expire. This past year, however, has been anything but normal as far as tax legislation is concerned.

In November 1984, the Treasury Department released a three volume report containing detailed proposals for an in-depths revision of the Internal Revenue Code. On May 28, 1985, President Reagan sent Congress his proposals for specific changes and modifications to our income tax laws.

Upon receiving the President's proposals, the House and the Senate commenced the most extensive and comprehensive series of hearings ever held on tax reform. Following these hearings, the staffs of the Joint Committee on Taxation and the Committee on Ways and Means prepared a set of tax reform options for consideration by the Committee on Ways and Means. In the last several months, that committee has marked up tax legislation which incorporates some concepts from the original Treasury report, some concepts from the President's proposals, some concepts from the staff options and some entirely new concepts. The entire House of Representatives will vote on this legislation later this week.

The process of drafting major tax legislation is a time-consuming one that leaves taxpayers in an unfortunate quandry. The original Treasury report, the President's proposals, the staff options and the bill reported by the Committee on Ways and Means all deal with the expiring provisions covered by our bill in different ways. The uncertainty created by this legislative process is unfair to the taxpayer and unhealthy for the economy.

Our bill does not deal with all of the implications that repeal or modification of various income tax laws would have on the economy. Nor does our bill deal with the question of the appropriate effective date for certain tax law changes. We merely propose to extend for 6 months current law for those provisions which have already expired or are scheduled to expire in the near future. If the House passes its tax bill and the Senate agrees with the House's treatment of one or more of the expiring provisions, a different effective date for such provisions may well be appropriate. In the meantime, however, I believe it is only fair that these expiring provisions be extended to provide some certainty for taxpayers and to give the Senate an opportunity to determine in the regular course of the legislative process whether each provision should be allowed to expire, be extended or modified in accordance with a House-passed bill, or be extended or modified under other conditions.

Mr. President, I think it is important to note two additional points relating to our bill. First, several of the expiring provisions in the bill have already been examined by the Senate in the context of the budget reconciliation bill. Some of these provisions—for example, the award of attorneys fees in Tax Court cases—were treated differently than a mere extension of current law. Nothing in our bill should be interpreted as an explicit or implicit change in the position of the Senate with respect to the items covered by the reconciliation bill.

Second, our bill does not address expired or expiring excise taxes such as the Superfund tax on certain chemicals. Our bill deals almost exclusively with income tax provisions, and, while extension of the excise taxes mentioned above may be necessary, we did not feel this bill was the appropriate vehicle for such action.

Mr. President, I request unanimous consent that the text of our bill be included in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Subsection (c)(1) of section 126 of the Deficit Reduction Act of 1984 is amended by striking out "August 1, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 2. CREDIT FOR INCREASED RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—Section 30 of the Internal Revenue Code of 1954 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after June 30, 1986.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before July 1, 1986, and ends after June 30, 1986, the amount of qualified research expenses taken into account for the base period with respect to such taxable year shall be the amount which bears the same ratio to the total qualified research expenses for such base period as the number of days in such taxable year before July 1, 1986, bears to the total number of days in such taxable year.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(1) by striking out ", and before January 1, 1986" in paragraph (1), and

(2) by striking out the last sentence of paragraph (2)(A).

SEC. 3. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

Paragraph (2) of section 190(d) of the Internal Revenue Code of 1954 (relating to application of section) is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 4. NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

Subsection (g) of section 806 of the Tax Reform Act of 1976 is amended—

(1) by striking out "December 31, 1985" in paragraph (2) and inserting in lieu thereof "June 30, 1986", and

(2) by striking out "January 1, 1986" in paragraphs (2)(B) and (3) and inserting in lieu thereof "July 1, 1986".

SEC. 5. MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.

Paragraphs (1) and (3) of section 531(g) of the Tax Reform Act of 1984 are each amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 6. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (3) of section 51(c) of the Internal Revenue Code of 1954 (defining wages qualifying for targeted jobs credit) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, and 1986".

SEC. 7. AWARDING OF COURT COSTS AND CERTAIN FEES.

Subsection (f) of section 7430 of the Internal Revenue Code of 1954 (relatiing to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 8. EDUCATIONAL ASSISTANCE PROGRAMS.

Subsection (d) of section 127 of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 9. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

Subsection (e) of section 120 of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 10. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

Subsection e) of section 124 of the Internal Revenue Code of 1954 (relating to effective date) is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 11. DIVIDEND REINVESTMENT.

Paragraph (12) of section 305(e) of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 12. BUSINESS ENERGY CREDITS.

Subparagraph (A) of section 46(b)(2) of the Internal Revenue Code of 1954 (relating to energy percentage) is amended by striking out "Dec. 31. 1985" each place it appears in the table and inserting in lieu therof "June 30, 1986".

SEC. 13. RESIDENTIAL ENERGY CREDIT.

Subsection (f) of section 23 of the Internal Revenue Code of 1954 is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 14. SOCIAL SECURITY COVERAGE OF RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

Section 4 of Public Law 98-118 is amended—

(1) by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Mr. BENTSEN. Mr. President, I am happy to join today with my good friend Senator DANFORTH in introducing this bill to extend expiring tax provisions. A total of 64 Members of the Senate are sponsors or cosponsors of this bill, including 17 of the 20 Members of the Finance Committee.

What this bill does is very simple: It extends for 6 months all the tax expenditure provisions that are scheduled to expire at the end of 1985. There are a number of such provisions, including the R&D tax credit, the energy tax credits, the targeted jobs tax credit, the tax exemption for group legal plans and employer-provided educational assistance, and the moratorium on IRS enforcement of the 1976 net operating loss carryover rules. We made no effort to pick and choose among expiring tax provisions; the bill extends all the provisions equally. There are some items on the list that I am not entirely sympathetic with, and I know that that is also the case with Senator DANFORTH and probably with each of the other cosponsors.

Although there are some expiring provisions that some of us would prefer not to extend, we all feel it is important for individuals and businesses to know what the tax rules are for the next several months before the Senate acts on the tax reform bill. Sometimes we in the Senate overlook the fact that real business decisions rest on the tax laws. It would be irresponsible for the Congress to let the expiring tax provisions lapse for even a few months, when the public can have no idea what the provisions will look like in the final tax reform bill. It would be one thing if the public could be reasonably sure that the expiring provisions will be reenacted in their current form on the next major tax bill. That is sometimes the case with expiring provisions. But that is not the case now. Rather, the Ways and Means Committee bill makes significant changes in the operating rules for almost every expiring provision, which means that until the Congress finishes the tax reform bill, the public is wholly in the dark on what the rules will be.

Mr. President, there has been some discussion about the possibility of enacting a year-end extension bill that includes only those provisions extended in the Ways and Means tax reform bill, and with all the modification included in the Ways and Means bill with respect to those provisions. I for one would not like to see that happen. The Finance Committee and the entire Senate should have a chance to review carefully the extensive changes made by Ways and Means in such provision as the R&D credit and the energy credits before we approve them even for a short period. I think the Senate should have a chance to write its version of the tax reform bill on a clean slate. That is why the bill introduced by us today extends all the expiring provisions based on current law.

Senator DANFORTH and I acknowledge that a 6 month extension may not be long enough. But we think the Senate will probably be well along on its tax reform bill by July 1986, and we should have a better idea at that time of whether a further extension is necessary. If a further extension is necessary, I would certainly think the Congress should provide it at that time.

Mr. President, Senator LAUTENBERG has raised the possibility of enacting an extension of the Superfund taxes that expired at the end of September. The Superfund taxes are not included in this bill since the bill is intended to deal only with tax expenditure provisions and not also with taxing provisions. The two expiring taxing provisions—the Superfund taxes and the 16-cents-per-pack cigarette tax—raise unique and difficult issues that are beyond the scope of this simple bill. Having said this, however, I note that it may well be advisable to extend the Superfund taxes before we finish this session. The House has scheduled votes on the tax title of their Superfund bill for tomorrow. Depending on the outcome, we may want to suggest to them an extension of the recently expired taxing provisions.

Last, Mr. President, I would like to say a word about the revenue effect of this bill. We are told preliminarily by the Joint Tax Committee staff that the bill will have a revenue loss of about $2 billion over 3 years. But that estimate is somewhat misleading. Almost all of the expiring provisions are extended in the Ways and Means tax reform bill without a gap—that is, from January 1, 1986. So the revenue cost of extending these provisions will actually be a part of the overall revenue calculation of the tax reform bill. Of course, there is certainly a possibility that the effective date of the tax reform bill will be pushed back to some later date in 1986 or even to 1987. If that is a concern of my colleagues, I for one would certainly be willing to consider ways of raising offsetting revenues to eliminate the revenue loss of the bill.

I urge my colleagues to give this bill quick action.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor this bill temporarily extending several expiring tax expenditure programs, including the Targeted Jobs Tax Credit, the R&D Tax Credit, and the Energy Tax Credit. Each of these programs will be carefully examined when we draft our tax reform bill. Some may survive unscathed, some may be modified, and some may be repealed.

In any case, fairness requires that we extend all of the programs until their ultimate fate is determined. I

congratulate Senators DANFORTH and BENTSEN for their leadership in assembling this extension bill, and I urge the full Senate to make every effort to enact it during the closing days of this session.

The bill also extends the section 7430 attorney's fees provisions. The Senate recently passed legislation that not only extends these provisions, but also improves their operation. I urge the Senate reconciliation conferees to insist that this provision be retained in the reconciliation conference report, so that today's mere extension is unnecessary.

I also would like to call another issue to the attention of my colleagues. As Senator BENTSEN notes in his statement, this bill does not extend the Comprehensive Environmental Response and Liability Act, or "Superfund." The original Superfund authorization expired October 1. The Senate passed legislation reauthorizing Superfund several months ago, and the House is making progress on its version of reauthorizing legislation, with final House action expected later this week. Even so, it will be extremely difficult for the conferees to work out a final version before we adjourn for the year.

Since the time that the original Superfund authorization expired, the Environmental Protection Agency has taken appropriate steps to preserve the fund to insure that the cleanup program continues and that adequate funding is available to provide for emergency responses.

But this approach has not been without cost. It has slowed progress at a time when we need to be accelerating the program. For example, the Environmental Protection Agency has instituted a hiring freeze, which is affecting the ability of both the Environmental Protection Agency and States to address the need to keep the Superfund Program moving forward.

I have become increasingly concerned that by waiting until Congress returns to reauthorize Superfund, we may seriously undermine the Environmental Protection Agency's ability to meet the goal of cleaning up the Nation's hazardous waste.

It is my goal to reauthorize a greatly expanded Superfund Program. In the interim, we need to insure that adequate funding continues to be available for the Environmental Protection Agency to meet the objectives of the program. Therefore, I hope that we consider Superfund extension legislation later this week.

Mr. D'AMATO. Mr. President, I rise today to reiterate my support for Federal tax reform. I believe it is absolutely necessary that we pursue the administrator's goal of a tax system that is both fair and simple. However, it is apparent that tax reform will not pass this year.

For this reason, Mr. President, I rise in cosponsorship of the 6 month tax extension bill championed by my distinguished colleagues from Missouri and Texas.

This legislation will extend several provisions of tax law currently due to expire on December 31, 1985. Many of these tax credits and deductions will be dealt with in the tax-reform package due to be considered by the Senate early next year. To allow these provisions to expire prior to full review of the tax-reform package, however, is not practical. Allowing these provisions to expire before fully discussing tax reform would only create confusion.

This legislation will extend the following provisions of law through June 30, 1986:

First, the prohibition on the application of regulations dealing with the allocation of research and development expenditures between United States and foreign source income;

Second, the research and development tax credit;

Third, the deduction for qualified architectural and transportation barrier removal expenses;

Fourth, the moratorium on the application of the 1976 amendments concerning net operating losses;

Fifth, the moratorium prohibiting the promulgation of any new regulations providing for the inclusion in income of the excess of the fair market value of qualified campus lodging the greater of (a) the operating costs paid in furnishing the lodging or (b) the rent received;

Sixth, the targeted job-tax credits;

Seventh, the award of attorneys fees in certain Tax Court cases;

Eighth, the exclusion from income of certain employer-provided educational assistance;

Ninth, the exclusion from income of the value of legal services received under a qualified group legal services plan;

Tenth, the exclusion from income of the value of qualified transportation provided by an employer between an employee's residence and place of employment;

Eleventh, the exclusion from income of qualified reinvestment dividends; and

Twelfth, the energy and renewable resource tax credits.

Extension of these provisions for 6-months will keep many businesses running smoothly, allowing them to plan for new tax conditions expected under tax reform.

This legislation is for an effective economy. I encourage my colleagues to give it their full and enthusiastic support.

By Mr. D'AMATO:

S. 1913. A bill to amend and extend laws relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce a bill that addresses many of the housing concerns that have been raised during the 99th Congress. This legislation is offered in response to some of the many important housing and community development issues facing the Congress; it includes some items that are contained in H.R. 1, as well as some of the House and Senate housing reconciliation items that were included in H.R. 3500 and S. 1730.

This legislation in no way encompasses all current housing and community development program needs. Rather, it reflects my attempt to include only those items with strong bipartisan support. Hopefully, other major items that are not included in this legislation, the Housing and Community Development Amendments Act of 1985, can be addressed during the 2 sessions of the 99th Congress.

It is my hope that this bill might serve as a compromise position for housing legislation during this session of Congress. It has 5 titles with 48 sections. In adition to making program extensions which must be enacted this year, it contains a limited number of timely program amendments and new initiatives which would be beneficial if enacted this year. It includes a homeless shelter program, the Nehemiah Homeownership Program and a comprehensive grant program.

The major thrust of the Multifamily Housing Preservation Loan Program contained in H.R. 1 has been incorporated into the existing flexible subsidy program for troubled multifamily projects with no additional authorization. Substantive items also included in title I dealing with housing include: Making the section 8 voucher program freestanding, in addition to its support of section 17 rental rehabilitation units; a freeze in the PHA administrative fee structure for the Section 8 Existing Housing Program, as it existed on January 1, 1985; technical assistance for resident management entities in public housing projects; a public housing comprehensive grant program; extension of the troubled project program to older section 202 projects; and a provision to help HUD prevent overpayments to persons receiving housing subsidies.

Title II contains the two rural housing provisions in S. 1730 which are unchanged, except for the addition of a 1-year extension of the Section 515 Multifamily Program and the Section 523 Mutual and Self-Help Housing Grant and Loan Program.

Title III contains provisions for activities that support homeownership, often referred to as the Nehemiah

Program, without a request for funds above those provided in fiscal year 1986 appropriations; also included is a permanent entitlement transition of 5 years in lieu of the ad hoc grandfathering that has occurred in the past, revision of the section 108 loan guarantees as contained in S. 1730, and amendments to the Urban Development action Grant [UDAG] program. Authorization of UDAG is extended through 1987 in conformance with the funding level contained in S. 1730. The section on UDAG selection in this bill combines provisions in H.R. 1 and S. 1730 to provide major reforms contained in both bills.

Title IV includes greater flexibility in FHA mortgage limits in high cost areas, the removal of limitations on HUD setting interstate land sales registration fee; increases to 40 percent the FHA-ARM's allocation; extends the Home Mortgage Disclosure Act for 3 years; and restricts various fees and charges.

Title V contains a homeless initiative, essentially the same as previously introduced in the Senate.

Mr. President, I firmly believe that our Nation will benefit from the housing and community development provisions included in this bill. As I have stated on numerous previous occasions, it is noteworthy that for more than the past 50 years, the Federal Government has played a major role in advancing national housing policies in its partnership with the housing industry. We have provided Federal tax incentives to promote homeownership and the availability of affordable housing. Government assistance has been provided in establishing specialized financial institutions. Government chartered thrift institutions have channeled funds into housing and have given home buyers access to affordable mortgage credit. Programs also have been developed to revitalize and renovate our communities.

If our cities and neighborhoods are to grow and prosper, the Federal Government must continue to play an important role in housing. Therefore, I hope that my colleagues will join me in supporting this legislation which provides a necessary continuation and fine tuning of our housing and community development assistance programs.

Mr. President, we must not destroy the economic development that has been initiated in our communities. Instead, we must give each community an opportunity to continue to expand and develop. The efforts made by our cities and neighborhoods are worthy of our assistance.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Amendments Act of 1985".

TITLE I—HOUSING ASSISTANCE

Sec. 101. Lower income housing authorization.
Sec. 102. Public housing amendments.
Sec. 103. Section 8 amendments.
Sec. 104. Housing for the elderly and handicapped.
Sec. 105. Congregate services.
Sec. 106. Section 235 homeownership program.
Sec. 107. Preventing fraud and abuse in HUD programs.
Sec. 108. Troubled multifamily housing projects.

TITLE II—RURAL HOUSING

Sec. 201. Rural housing authorizations.
Sec. 202. Management of insured loans.

TITLE III—COMMUNITY DEVELOPMENT

Sec. 301. Homeownership assistance.
Sec. 302. CDBG entitlement transition.
Sec. 303. Section 108 loan guarantees.
Sec. 304. Urban development action grants.
Sec. 305. Rehabilitation loans.
Sec. 306. Neighborhood Reinvestment Corporation.
Sec. 307. Neighborhood development demonstration program.
Sec. 308. Urban homesteading.

TITLE IV—MORTGAGE CREDIT/ MISCELANEOUS PROVISIONS

Sec. 401. Extension of mortgage insurance programs.
Sec. 402. Amount to be insured under National Housing Act.
Sec. 403. Mortgage limits for multifamily projects in high cost areas..
Sec. 404. GNMA mortgage-backed securities limitations.
Sec. 405. Fees and charges.
Sec. 406. Home Mortgage Disclosure Act extension.
Sec. 407. Counseling.
Sec. 408. Research authorization.
Sec. 409. Interstate land sales registration fees.
Sec. 410. Flood insurance.

TITLE V—HOMELESS ASSISTANCE

Sec. 501. Definitions.

PART I—EMERGENCY FOOD AND SHELTER PROGRAM

Sec. 511. National Board.
Sec. 512. National Board transition.
Sec. 513. Distribution of programs funds.
Sec. 514. Agency responsibilities.
Sec. 515. Local boards.
Sec. 516. Local homeless assistance plans.
Sec. 517. Service providers.
Sec. 518. Use of funds.
Sec. 519. Limitation on certain costs.
Sec. 520. Program guidelines.
Sec. 521. Authorization.
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TITLE I—HOUSING ASSISTANCE

LOWER INCOME HOUSING AUTHORIZATIONS

SEC. 101. (a)(1) Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding before the period at the end thereof: ", and on October 1, 1985".

(2) Section 5(c)(7)(B) of such Act is amended by—

(A) inserting "and fiscal year 1986" immediately after "1985";

(B) striking out "$150,000,000" in clause (vii) and inserting in lieu thereof "such sums as may be approved in an appropriation Act"; and

(C) striking out $150,000,000" in clause (viii) and inserting in lieu thereof "such sums as may be approved in an Appropriation Act".

(b) Section 9(c) of such Act is amended by striking out "and by" after "1983", and by inserting after "1984" the following ", and not to exceed such sums as may be approved in an appropriation Act on or after October 1, 1985."

PUBLIC HOUSING AMENDMENTS

SEC. 102. (a) Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c)(1) on September 30, 1985, or the date of enactment of the Housing and Community Development Amendments Act of 1985, whichever is later, in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary pursuant to subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. This cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan, the repayment of which was not to be made using annual contributions, or to any loan, all or part of the proceeds of which are due to a public housing agency from contractors or others.

"(2) On September 30, 1985, or on the date of enactment of the Housing and Community Development Amendments Act of 1985 into law, whichever is later, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest which has accrued on each obligation, is forgiven; and any other term or condition specified by each such obligation is canceled.

"(3) Nothing in paragraph (1) or (2) shall be construed to terminate the obligations of a public housing agency with respect to the management or operation of, or tenant eligibility for, units financed with the notes or obligations canceled earlier than such obligations would have terminated without such cancellation.".

(b) Section 14 of the United States Housing Act of 1937 is amended by adding the following new subsections at the end thereof:

"(k) During fiscal year 1986, the Secretary may make available up to $1,500,000 from amounts otherwise available during such fiscal year for purposes of this section, for assistance to public housing agencies that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including, but not lim-

ited to, formation of such entities, development of the management capability of newly formed or existing entities, and identification of project social support needs and securing such support."

"(C) Section 14 of the United States Housing Act of 1937 and its heading are amended to read as follows:

"COMPREHENSIVE GRANT PROGRAM

"SEC. 14. (a) The purpose of this section is to provide public housing agencies with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing public housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living condition for lower income families.

"(b) The Secretary may make available, and contract to make available, financial assistance to public housing agencies in accordance with the provisions of this section with respect to public housing projects owned and operated by such agencies.

"(c) No financial assistance may be made available under this section unless the public housing agency has certified that it has completed and retained in its files a comprehensive plan, it has submitted a 1-year work plan, as required by subsection (d), and the work plan is approved, in accordance with subsection (f), except where necessary to correct conditions which constitute an immediate threat to the health and safety of tenants. However, agencies which the Secretary determines are not making reasonable progress toward meeting the performance standards under subsection (g)(2)(c) shall submit their comprehensive plan to the Secretary for review and approval. The comprehensive plan shall contain—

"(1) a comprehensive assessment of (A) the current physical condition of each project owned and operated by the agency, (B) the physical improvements necessary for each project to permit the project to be rehabilitated to a level equal to the minimum property standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan, and (C) the replacement needs of equipment systems and structural elements which will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the assessment;

"(2) a Comprehensive assessment of the improvements needed to upgrade the management and operation of the agency and of each project so that decent, safe, and sanitary living conditions will be provided, including at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the agency for the projects;

"(B) the adequacy and qualifications of personnel employed by the agency in the management and operation of the projects for each category of employment; and

"(C) the adequacy and efficacy of (i) tenant programs and services; (ii) the security of each project and its tenants; (iii) policies and procedures of the agency for the selection and eviction of tenants; and (iv) other policies and procedures of the agency relating to the projects, as listed in regulations issued by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably assure the long-term viability of the project at a reasonable cost;

"(4) based on reasonable expectation of continued funding, a 5 year work plan to correct the deficiencies identified under paragraphs (1) and (2) to the extent possible. The 5 year work plan shall provide for making the improvements and replacements identified under paragraphs (1) and (2) which, pursuant to the analysis described in paragraph (3), the agency anticipates will reasonably assure the long-term viability of projects at a reasonable cost, and reasonably assure the efficient use of funds to achieve decent, safe, and sanitary living conditions for the most lower income families. The work plan shall include at least a schedule, in priority order, of the actions which are to be completed, over a period of not more than 5 years, and which are necessary (A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and (B) to upgrade the management and operation of the agency and its projects as identified under paragraph (2);

"(5) a certification from the chief executive officer of the unit of general local government (or Indian tribal official, if appropriate), that it has been consulted on the development of the comprehensive plan, has had an opportunity to comment, and will cooperate in the work process and provision of tenant programs and services.

"(6) a certification from the chief executive officer of the agency that it has complied with the public comment requirements in subsection (d);

"(7) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(8) such other information as that Secretary may require.

"(d) To permit tenant, public, and local government examination and appraisal of the comprehensive plan, to further enhance agency flexibility and accountability, and to facilitate coordination of activities among various levels of government, the agency shall in a timely manner—

"(1) give the tenants, the public, and the local government information concerning the amount of funds expected to be available each year for comprehensive improvements;

"(2) publish the proposed comprehensive plan so tenants, the public, and the local government have an opportunity to examine it and to submit comments on it and on the performance of the agency;

"(3) hold at least one meeting for tenants in projects to be affected by each comprehensive plan to obtain views on the agency's comprehensive plan and performance;

"(4) hold at least one public hearing to obtain views on the agency's comprehensive plan and performance, and

"(5) take comments into consideration.

"(e)(1) To receive assistance with respect to any fiscal year, each public housing agency shall prepare and submit to the Secretary, a 1-year work plan indicating the particular activities to be conducted with financial assistance in the next agency fiscal year. The 1-year work plan shall be based on the comprehensive plan and reflect the actions necessary to assure the long-term viability of the projects at a reasonable cost and the schedule of priorities contained in the comprehensive plan.

"(2) The agency shall submit, with the 1-year work plan, certifications—

"(A) that it has completed the comprehensive plan;

"(B) that the 1-year work plan is consistent with the comprehensive plan;

"(C) that it has provided the tenants of the public housing and other interested parties the opportunity to review the work plan and comment on it, and that such comments have been taken into account in formulating the plan as submitted to the Secretary;

"(D) from the chief executive officer of the unit of general local government (or Indian tribal official, if appropriate), that the officer has been consulted on the development of the 1-year work plan, has had an opportunity to comment on it, and will cooperate in the work process and provision of tenant programs and services;

"(E) that it will spend the funds available under the 1-year work plan in accordance with subsection (h) in such a way as to accomplish the actions in the plan in a cost-effective manner; and

"(F) that it will implement the 1-year work plan in conformance with title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968 and section 504 of the Rehabilitation Act of 1973.

"(f)(1) The Secretary shall approve a 1-year work plan submitted under subsection (d) unless—

"(A) the plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing agency's projects or the management and operations of the agency, the Secretary determines that the agency's identification of work is plainly inconsistent with or inappropriate to contributing to the long-term viability of the projects or maintaining the decent, safe and sanitary character of the projects; or

"(C) there is evidence available to the Secretary which tends to challenge in a substantial manner any certification contained in the plan.

"(2) The plan shall be considered to be approved unless the Secretary notifies the agency in writing within 75 days of submission that the Secretary has disapproved the plan as submitted, details the reasons for disapproval and the modifications required to make the plan approvable, and where appropriate, specifies why the proposed work is inconsistent with or inappropriate to contributing to the long-term viability of the projects or maintaining their decent, safe, and sanitary character.

"(g)(1) Each public housing agency receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the agency shall include its assessment of the relationship of such use, as well as the use of other funds, to the needs identified in the applicable 1-year work plan of the agency and to the purpose of this section. The agency shall certify that it made the report available for review and comment by tenants, the public, the local government, and other interested parties before its submission to the Secretary.

"(2) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine

whether each agency receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its 1-year work plan;

"(B) has a continuing capacity to carry out its 1-year work plans in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, which shall include at least that the agency shall—

"(i) maintain all occupied dwelling units in public housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) maintain at least a 97 percent occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 9(a), equal to at least 20 percent of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14, as it existed immediately before the effective date of section 102(c) of the Housing and Community Development Amendments Act of 1985.

the Secretary shall make the determination under clause (D) of the preceding sentence before providing financial assistance under this section with respect to the first funding cycle after the effective date of section 102(c) of the Housing and Community Development Amendments Act of 1985.

"(3) Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with paragraph (1) or (2) or if an audit under paragraph (3) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.

"(h) A public housing agency may use financial assistance received under this section only—

"(1) to undertake activities described in its approved 1-year work plan;

"(2) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for correction is indicated in its comprehensive plan or 1-year work plan;

"(3) to prepare a comprehensive plan and 1-year work plan, including reasonable costs in connection with public comment, and annual performance and evaluation report, and an audit; and

"(4) to operate public housing projects consistent with the requirements that apply to amounts provided under section 9, except that not more than 20 percent of the amount received under this section for any agency fiscal year may be so used.

"(i)(1)(A) There are authorized to be appropriated under this section to provide assistance for the current needs for capital improvements of public housing agencies such sums as may be necessary for fiscal years 1987, 1988, 1989.

"(B) Of the amounts appropriated under subparagraph (A), 4 percent shall be reserved by the Secretary to provide assistance to correct conditions in public housing agencies that constitute an immediate threat to the health or safety of tenants.

"(2) There are authorized to be appropriated under this section to provide assistance for the future needs for capital improvements in replacement reserves for public housing agencies such sums as may be necessary for fiscal years 1987, 1988, 1989.

"(3) Any amount appropriated under this subsection shall remain available until expended."

(d)(1) The amendments made by subsection (c) shall not take effect until Congress, by law, established criteria for a formula or other allocation method to be used by the Secretary under this section in determining—

(A) for each public housing agency, the amounts necessary to address current needs for capital improvements.

(B) for each agency, the amounts necessary to address current needs for capital improvements;

(C) the relative needs of agencies of different sizes for the amounts described in paragraph (1) and (2).

The system for allocating assistance under section 14 of the United States National Housing Act of 1937 as it existed before the effective date of subsection (c) shall remain in effect until the effective date.

(2) Within one year of enactment of this Act, the Secretary shall submit to the Congress a report setting forth—

(A) the proposed proportion of total funds available under section 14 of the United States Housing Act of 1937 to be used for unanticipated or extradordinary needs;

(B) the proposed method of determining the division of funds between existing deficiencies and annual accrual of future needs, recognizing the magnitude of existing deficiencies;

(C) the proposed method of determining amounts provided to individual agencies under existing deficiencies and under annual accrual which may include a formula for specifying amounts for individual agencies or a method of regional, field office, or other allocations;

(D) the proposed procedures the Secretary of Housing and Urban Development will follow to assure that 0 the physical condition of public housing projects will be improved when an agency does not warrant the determination under section 14(g)(2)(D) of the United States Housing Act of 1937, as amended by subsection (c);

(E) an analysis of the objectively measurable data or other information used to make the determinations under paragraphs (A), (B), and (C) along with a comparison of the proposed allocations to recent previous funding;

(F) a proposed cash management system for agencies to accumulate annual accrual amounts in advance of actual repair expenses for meeting repair needs which occur before accrual grants; and

(G) the criteria for distinguishing between large and small agencies.

(3) Any amount that the Secretary has obligated to a public housing agency under section 14 of the United States Housing Act of 1937, as it existed immediately before the effective date of subsection (c), shall be used for the purposes for which such amount was provided, or for purposes consistent with a 1-year work plan submitted by the agency and approved by the Secretary under Section 14, as amended by subsection (a), as the agency considers appropriate.

(e) Section 9(a)(1) of the United States Housing Act of 1937 is amended by adding after the first sentence the following new sentence: "A public housing agency may also use any available amounts provided under this section in accordance with the purpose and requirements of section 14 of this Act.".

SECTION 8 AMENDMENTS

SEC. 103. (a) Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraphs:

"(2) Assistance payments may also be made under this subsection for a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family.

"(3) The method of calculation, the preliminary fee, and the percentage established for administrative fees paid to a public housing agency administering a contract under this subsection shall be the method of calculation, the preliminary fee, and the percentage established by the Secretary before January 1, 1985, and in effect on such date and shall be applicable to administrative fees payable with respect to the administrative activities of a public housing agency after December 31, 1984.".

(c) Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking out "In" and all that follows through ", the" and inserting in lieu thereof "The";

(2) by striking out paragraph (4);

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(4) in paragraph (5), as so redesignated by this subsection, by striking out "an initial" and inserting in lieu thereof "a".

(d) The first sentence of section (8)(o)(3) of the United States Housing Act of 1937 is amended—

(1) by striking out "or" before "(C)"; and

(2) by inserting before the period at the end thereof the following: ", or (D) a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family".

HOUSING FOR THE ELDERLY AND HANDICAPPED

SEC. 104. (a)(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 as amended—

(A) by striking out "and" the first place it appears; and

(B) by inserting after "1984," the following: "and to such sums as may be approved

in an appropriation Act on October 1, 1985,".

(2) Section 202(a)(4)(C) of the Housing Act of 1959 is amended by striking out everything after "Acts" the first place it appears and before the period at the end thereof.

(c)(1) Section 202(a) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraph:

"(8) To the maximum extent practicable, the Secretary shall encourage each corporation to provided for appropriate community participation in the development of the housing project assisted under this section.".

(2) Section 202 (d)(2)(B) of the Housing Act of 1959 is amended to read as follows:

"(B) that owns and is responsible for the operation of the housing project assisted under this section; and".

(d) Section 202(k) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraph:

"(3) Not later than 90 days after the date of enactment of this paragraph, the Secretary shall establish policies and procedures specifically for applications for financing group homes and independent living complexes to house nonelderly handicapped persons and families. Such policies and procedures shall account for the smaller scale of construction of such housing, the particular physical requirements of handicapped individuals living in such projects, and the need for flexibility in applying fair market rentals determined on the basis of apartment rental experience to smaller group homes and independent living complexes. The Secretary shall not require more than single occupancy in group home units that qualify as efficiences and such units shall be subject to the fair market rentals for semi-detached/row structures.".

(e) Section 223 (a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is repealed.

CONGREGATE SERVICES

SEC. 105. Section 411(a) of the Congregate Housing Services Act of 1978 is amended by striking out "fiscal year 1985" in paragraph (6) and inserting in lieu thereof "fiscal years 1985 and 1986".

SECTION 235 HOMEOWNERSHIP PROGRAM

SEC. 106. (a) Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(b) Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

PREVENTING FRAUD AND ABUSE IN HUD PROGRAMS

SEC. 107. (a) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban development involving initial and periodic review of the income of the applicant or participant, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) sign a consent form approved by the Secretary authorizing (1) the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify the information furnished by the applicant or participant, and (2) any Federal, State, or local agency or private person or entity to release information related to the determination of eligibility and benefit level. The information may include, but is not limited to, data concerning wages (not including return information as defined in section 6103(b)(2) of the Internal Revenue Code of 1954), unemployment compensation, benefits made available under the Social Security Act, and veterans benefits under title 38, United States Code. Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code. An applicant or participant shall have the right to obtain, examine, and correct any information that the Secretary, public housing agency, or owner responsible for determining eligibility or level of benefits has received under this section before the Secretary, public housing agency, or owner takes any action on the basis of such information, unless a criminal investigation is pending. An applicant or participant shall also have the right to file a statement disputing or augmenting any such information and to have such statement included in any records of such information.

(c) For purposes of this section:

(1) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(2) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 108. (a) Section 201 (a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(b) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end thereof the following: ", or received a loan under section 202 of the Housing act of 1959 before October 1, 1970".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out everything that follows "the owner has agreed" and inserting in lieu thereof the following: "to apply for sufficient assistance under this section, section 8 of the United States Housing Act of 1937, or any other appropriate housing assistance program to permit the owner to maintain both the financial soundness and the low- and moderate-income character of the project and to maintain the low- and moderate-income character of the project for a period at least equal to the lesser of ten years or the remaining term of the project mortgage or such longer period up to the remaining period of the project mortgage during which sufficient assistance is provided to the project to maintain the low- and moderate-income character of the project;".

(d) Section 201(f)(1) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "and" at the end of paragraph (C);

(2) by striking out the period at the end of paragraph (D) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(E) an amount determined by the Secretary to be necessary to finance a major repair or replacement of a capital item in a project.".

(e) Section 236(f)(3) of the National Housing Act is amended by striking out "1985" and inserting in lieu thereof "1986".

TITLE II—RURAL HOUSING

RURAL HOUSING AUTHORIZATIONS

SEC. 201. (a) Section 513 of the Housing Act of 1949 is amended to read as follows:

"PROGRAM LEVELS AND AUTHORIZATIONS

"SEC. 513. (a)(1) The Secretary may insure and guarantee loans under this part during fiscal year 1986 in an aggregate amount not to exceed $2,027,180,000, of which—

"(A) $1,370,580,000 shall be for loans under section 502; and

"(B) $630,000,000 shall be for loans under section 515.

"(2) Notwithstanding any other provision of law, insured and guaranteed loan authority in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this part.

"(b) There are authorized to be appropriated for fiscal year 1986—

"(1) $13,000,000 for grants pursuant to section 504;

"(2) $1,000,000 for the purposes of section 509(c);

"(3) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(4) $12,000,000 for financial assistance pursuant to section 516; and

"(5) $8,000,000 for the purposes of section 523.

"(c) The Secretary may enter into rental assistance contracts aggregating $240,200,000 under section 521(a)(2)(A) during fiscal year 1986.".

(b) Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(d) Section 523(g) of the Housing Act of 1949 is amended—

(A) by striking out "$5,000,000" and inserting in lieu thereof "$700,000; and

(B) by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1986".

MANAGEMENT OF INSURED LOANS

SEC. 202. (a) Section 517(d) of the Housing Act of 1949 is amended:

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following:

"(2) The Secretary shall, to the extent practicable, sell loans insured or guaranteed under this part to the public. Each loan made by the Secretary or other lender under this part is insured in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (and determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.

"(3) Each loan made by the Secretary or other lender under this part that is insured in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this part;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this part, including consideration for interest subsidy, moratorium, reamortization, refinancing, and repeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 per centum of the outstanding face amount of the loans held by the public at any time.".

(b) Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(c) Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

TITLE III—COMMUNITY DEVELOPMENT

HOMEOWNERSHIP ASSISTANCE

SEC. 301. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate new construction or substantial reconstruction in instances in which persons of low- and moderate-income own and occupy a home that the grantee determines is not suitable for rehabilitation.".

(b)(1) It is the purpose of this subsection (A) to encourage homeownership by families in the United States who are not otherwise above to afford homeownership; (B) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and (C) to increase the employment of neighborhood residents.

(2) For the purposes of this subsection:

(A) The term "Fund" means the Nehemiah Housing Opportunity Fund established in paragraph (9)(A).

(B) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(C) The term "lower income families" has the meaning given in such term in section 3(b)(2) of the United States Housing Act of 1937.

(D) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(E) The term "nonprofit organization" means a private corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(F) The term "Secretary" means the Secretary of Housing and Urban Development.

(G) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(H) The term "substantial rehabilitation" means—

(i) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(ii) the rehabilitation of a vacant, uninhabitable structure.

(I) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(3) The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this subsection. Such assistance shall be made in the form of grants. Applications for assistance under this subsection shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(4)(A) Any nonprofit organization receiving assistance under this subsection shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this subsection.

(B) Each loan made to a family under this subsection shall—

(i) be secured by a second mortgage held by the Secretary on the property involved;

(ii) be in an amount not exceeding $15,000;

(iii) bear no interest; and

(iv) be repayable to the Secretary upon the sale or other transfer of such property.

(5)(A) Assistance provided under this subsection may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(B) Each Family purchasing a home under this subsection shall—

(i) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(I) 115 percent of the median income for a family of 4 persons in the metropolitan statistical area involved; or

(II) the national median income for a family of 4 persons; and

(ii) and shall not have owned a home during the 3-year period preceding such purchase.

(C)(i) Each family purchasing a home under this subsection shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(ii) Any downpayment made shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(D) No family purchasing a home under this subsection may lease such home.

(6)(A) No proposed Nehemiah housing opportunity program may be approved by the Secretary under this subsection unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(i) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(ii) it has the approval of each unit of general local government in which such program is to be located.

(B) Each nonprofit organization applying for assistance under this subsection shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(C) Minimum participation. No nonprofit organization receiving assistance under this subsection may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be contructed or substantially rehabilitated are constructed for sale to purchasers who intend to live in such homes and the required downpayments are made.

(D) The Secretary may not provide any assistance under this subsection to any nonprofit organization unless such organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(E) A Nehemiah housing opportunity program may be approved under this subsection only if it provides that—

(i) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(I) the greater of (a) 50 homes; or (b) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such programs; or

(II) 250 homes;

(ii) each home constructed or substantially rehabilitated under such program will comply with—

(I)(a) applicable local building code standards or

(b) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(II) the energy performance requirements established under Section 526 of the National Housing Act;

(iii) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or indentifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(iv) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by subparagraph (E)(1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhoods; and

(v) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this subsection upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such homes without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(7)(A) In selecting Nehemiah housing opportunity programs for assistance under this subsection from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(i) non-Federal public or private entities will contribute land necessary to make each program feasible;

(ii) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(iii) each program will produce the greatest number of units for the least amount of assistance provided under this subsection, taking into consideration the cost differences among different market areas;

(iv) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(v) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(vi) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(B) To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in clause (i) or (ii) of subparagraph (a), the Secretary shall not consider such form of contribution in evaluating such program.

(8)(A) Following the selection of any Nehemiah housing opportunity program for assistance under this subsection, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(B) Distribution of Assistance. Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this subsection, the Secretary shall provide to the sponsoring organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(iii) The assistance provided to any nonprofit organization under this subsection may not exceed $15,000 per home.

(9)(A) There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under paragraph (3).

(B) The Fund shall consist of—

(i) any amount appropriated under paragraph (12);

(ii) any amount received by the Secretary under paragraph (4)(B)(iv); and

(iii) any amount received by the Secretary under subparagraph (C).

(C) Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provision of this subsection shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(10) The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this subsection. Such report shall include—

(A) an analysis of the characteristics of the families assisted under this subsection during the preceding year, including family size, number of children, family income, sources of family income, race, age and sex;

(B) an analysis of the market value of homes purchased under this subsection during the preceding year;

(C) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(D) an analysis of the sale prices of homes under this subsection during the preceding year;

(E) an analysis of the amounts of the grants made to programs under this subsection during the preceding year; and

(F) any recommendations of the Secretary for modifications in the program established by this subsection in order to ensure the effective implementation of such program.

(11) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(12) There are authorized to be appropriated such sums as may be provided by a fiscal year 1986 appropriation Act. Any amount appropriated under this paragraph shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

CDBG ENTITLEMENT TRANSITION

SEC. 302. Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1985, shall retain its classification as a metropolitan city for that fiscal year and the succeeding four fiscal years.".

SECTION 108 LOAN GUARANTEES

SEC. 303. (a) Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(1) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

(b) The amendment made by paragraph (1) shall take effect on July 1, 1986.

(c) The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

URBAN DEVELOPMENT ACTION GRANTS

SEC. 304. (a) Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the provisions of this section not to exceed $440,000,000 for each of the fiscal years 1984 and 1985, not to exceed $352,000,000 for fiscal year 1986, and not to exceed $366,000,000 for fiscal year 1987. Any amount appropriated under the preceding sentence shall remain available until expended.".

(b)(1) Section 119(d) of the Housing and Community Development Act of 1974 is amended—

(A) by indenting clauses (A) and (B) of paragraph (1);

(B) by striking out "as the primary criterion," in clause (A);

(C) by striking out clause (C) of paragraph (1) and inserting in lieu thereof the following:

"(C) at least the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(v) the extent to which State or local government funding or special economic incentives have been committed;

"(vi) the extent to which the project is located in the portion of the applicant city or urban county with the highest comparative degree of economic distress and the projects

will directly improve the quality of housing or employment opportunities for low and moderate income residents of that portion;

"(vii) the extent to which the project will produce goods or services the majority of which can be expected to be exported from the applicant's economy; and

"(viii) to the extent the Secretary deems appropriate, the extent to which other Federal assistance is to be made available shall be considered in applying the criteria referred to in clauses (i), (ii), (iv) of this subparagraph;

"(D) additional consideration for the extent to which the projects, in the determination of the Secretary, would—

"(i) retain jobs which would be lost without the provision of a grant under this section; and

"(ii) relieve the applicant's most pressing employment or residential needs by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally,

"(II) retaining recently unemployed residents in new skills, or

"(III) providing training to increase the local pool of skilled labor; and

"(E) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county to which no grant under this section was made during the preceding twelve-month period; and

"(ii) twice the amount of the additional consideration provided under clause (i) in the case of a grant for projects to be located in cities or urban counties to which no grant under this section was made during the preceding twenty-four month period."; and

(D) by adding at the end thereof the following:

"(3) The Secretary may not award a grant under paragraph (1) unless he determines that the project would have a substantial impact on physical and economic development of the city or urban county, that the proposed activities are likely to be accomplished in a timely fashion within the grant amount available, and that the city or urban county has demonstrated performance in housing and community development programs.

"(4) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the factors referred to in subparagraph (A) of paragraph (1);

"(B) not more than 35 points on the basis of the factors referred to in subparagraph (B) of paragraph (1);

"(C) not more than 30 points on the basis of the factors referred to in subparagraph (C) of paragraph (1), of which not more than 3 points in the aggregate shall be awarded for the factors referred to in clauses (vi) and (vii) of subparagraph (C);

"(D) not more than 3 additional points as the Secretary deems appropriate for projects described in subparagraph (D) of paragraph (1); and

"(E) not more than 2 additional points as the Secretary deems appropriate for projects described in subparagraph (E) of paragraph (1).

"(5) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) two-thirds of the funds are first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) one-third of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C), (D), and (E) of paragraph (1).

"(6) In determining the score to be awarded each of the criteria under subparagraph (C), (D), and (E) for applications for grants for housing activities, the Secretary shall compare such applications only with other applications for grants for housing activities. For purposes of this subparagraph, an application shall be considered an application for a grant for housing activities if such application proposes that—

"(A) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and

"(B) not less than 20 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income.

"(7)(A) For each fiscal year, the Secretary shall hold—

"(i) 3 competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (i) (relating to small cities) and urban counties; and

"(ii) 3 competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately ⅓ of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(2) Nothwithstanding any provision of section 119 of the Housing and Community Development Act of 1974, for purposes of funding decisions made before February 1, 1986, the Secretary of Housing and Urban Development shall give additional consideration, equal to the points otherwise awarded under clause (C) of paragraph (1) of section 119(d) of the Housing and Community Development Act of 1974, as amended by paragraph (1) of this subsection, in the case of a project to be located in a city or urban county to which no grant under section 119 of such Act was made during the preceding twenty-four month period if such project has met the criteria for preliminary approval in the three consecutive funding cycles immediately preceding the date of enactment of this paragraph.

(3) The provisions of paragraphs (1)(E), (4)(E), and (5) of section 119(d) of the Housing and Community Development Act of 1974, as amended by paragraph (1) of this subsection, and the provisions of paragraph (2) of this subsection shall take effect on the date of enactment of this Act, except that in applying section 119(d)(5)(b) of such Act prior to the issuance of implementing regulations under the second sentence of this paragraph, the Secretary shall exclude those criteria for which regulations are required to be issued. The remainder of the amendments made by paragraph (1) shall take effect upon the issuance of implementing regulations, which the Secretary shall issue not later than four months after the date of enactment of this Act.

(4)(A) Not later than March 15, 1986, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974. Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties. Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Secretary shall make recommendations to the Congress on whether or not data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Secretary shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section. Such report shall also describe in detail the standard and criteria utilized by the Secretary to evaluate project quality under paragraphs (C), (D), (E) of section 119(d)(1) of such Act.

(B) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(i) the targeting of grant funds to cities and urban counties having the highest level or degrees of economic distress;

(ii) the distribution of grant funds among regions of the United States;

(iii) the number and types of projects receiving grants; and

(iv) the per capita funding levels for each city, urban county, or identifiable community described in section 119(p) of such Act, receiving assistance under that section.

(c) Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case where the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities which are or would be eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii, except that in the case of such counties grants shall be made only to assist projects that, in the determination of the Secretary, are located in and will improve the employment base of urban areas within such counties.".

(e) Section 119(r) of the Housing and Community Development Act of 1974 is amended by striking out "among programs" and inserting in lieu thereof "against projects"; and is further amended by striking out "In" and inserting in lieu thereof "Except as provided in subsection (D) (6), in".

(f) On or before July 1, 1986 the Secretary of Housing and Urban Development shall report to the Congress any recommendations as to legislation that may be needed or desirable in the implementation of Section 119(h) of the Housing and Community Development Act of 1974.

REHABILITATION LOANS

SEC. 305. Section 312(h) of the Housing Act of 1964 is amended by striking out "1985" each place it appears and inserting in lieu thereof "1986".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 306. Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1985 and 1986."

NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM

SEC. 307. Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "1984 and 1985" and inserting in lieu thereof "1984, 1985, and 1986".

URBAN HOMESTEADING

SEC. 308. Section 810(k) of the Housing and Community Development Act of 1974 is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal years 1985 and 1986".

TITLE IV—MORTGAGE CREDIT AND MISCELLANEOUS PROVISIONS

MORTGAGE INSURANCE PROGRAMS

SEC. 401(a) Section 2(a) of the National Housing Act is amended by striking out "December 16, 1985" in the first sentence and inserting in lieu thereof "October 1, 1986".

(b) Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986."

(c) Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "September 30, 1986."

(d)(1) Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(2) Section 244(h) of the National Housing Act is amended by striking out "December 16, 1985" in the last sentence and inserting in lieu thereof "October 1, 1986".

(e) Section 245(a) of the National Housing is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(f)(1) Section 80(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(2) Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(g) Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(h) Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT

SEC. 402. (a) Section 531 of the National Housing Act is amended by striking out "and 1985" and inserting in lieu thereof the following: ", 1985, and 1986".

(b) Section 251(c) of the National Housing Act is amended by striking out ", Section 245(c) and Section 252" and is further amended by striking out "10 percent" and inserting "40 percent."

(c) Section 252(g) of the National Housing Act is amended by striking out "this section, Section 245(c), and Section 251" and inserting "this section and Section 245(c)."

(d) Section 245 (c)(2) of the National Housing Act is amended by striking out "subsection, section 251," and inserting "subsection" in the last sentence.

MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS IN HIGH COST AREAS

SEC. 403. Section 207(c)((3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by striking out "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting in lieu thereof the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved". Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof, "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140" and "$53,942", respectively.

GNMA MORTGAGE-BACKED SECURITIES LIMITATIONS

SEC. 404. Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986".

FEES AND CHARGES

SEC. 405. (a) (1) No fee, premium or other charge shall be assessed or collected by the United States (including any executive department, agency, or independent establishment thereof) on or with regard to loans, guarantees or insurance provided by the Secretary of Housing and Urban Development unless such fee, premium or other charge is established at no greater than an amount, if any, that reasonably could be expected to compensate the United States with respect to such activities for such actual administrative expenses and anticipated losses on actual experience.

(2) Any fee, premium or other charge in effect as of November 1, 1985, shall be deemed to be in compliance with paragraph (1) of this subsection.

(b) No risk premium or loan fee may be assessed or collected by the Secretary of Housing and Urban Development or any other Federal agency directly or indirectly from the borrower with regard to a loan made by the Secretary under section 312 of the Housing Act of 1964.

(c) No fee, premium or other charge shall be assessed or collected by the United States (including any executive department, agency, or independent establishment thereof) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest or other security by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank; Provided, however, that nothing herein shall prohibit incidental imposition of any reasonable and appropriate fee or charge pursuant to section 304(c) or 309(g) of the Federal National Mortgage Association Charter Act, section 303(c) of the Federal Home Loan Mortgage Corporation Act, or section 11(i) of the Federal Home Loan Bank Act.

(3) (A) No fee or charge in excess of 6 basis points (other than fees or charges for the issuance of commitments or miscellaneous administrative fees that do not exceed the level set for such fees by the Government National Mortgage Association as of September 1, 1985) may be assessed or collected by the United States (including any executive department, agency or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on trust certificates or securities backed or based on mortgages that are secured by one to two family dwellings, and insured by the Federal Housing Administration pursuant to title II of the National Housing Act, or which are insured or guaranteed under the Serviceman's Readjustment Act of 1944 or chapter 37 of title 38 of the United States Code, or title V of the Housing Act of 1949. The fees charged for the guaranty of securities or trust certificates backed or based on all other types of mortgages, as authorized by other provisions of law shall be set by the Government National Mortgage Association at a level adequate to create reserves sufficient to meet anticipated claims based on actuarial analysis, and for no other purpose. The Secretary of Housing and Urban Development shall certify to Congress 90 days prior to any increase in these fees that the fees charged (or the proposed increases) are solely for the purposes specified in the preceding sentence.

(B) Fees or charges for the issuance of commitments or miscellaneous administrative fees shall remain at the level set for such fees as of September 1, 1985. Any increases in these fees shall be reasonably related to the cost of administering the program, and for no other purpose. The Secretary shall certify to Congress 90 days prior to any increase in these fees that the fees charged (or the proposed increases) are solely for the purposes specified in the preceding sentence.

(4) Section 203(c) of the National Housing Act is amended to read as follows:

(C) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this title but in the case of any mortgage such charge shall not be more than 3.8 per centum of the principal obligation of the loan or mortgage involved. The fee charged for the insurance of mortgages under this title shall be set by the Secretary at a level adequate to create reserves sufficient to meet anticipated claims based on actuarial analysis, and for no other purpose, except: that premium charges fixed for insurance (1) under sections 245, 247, 251, 252 or 253 or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsections (n) and (k) are not required to be the same as the premium charges for

mortgages insured under the other provisions of this section.".

(d) This section shall not be deemed to authorize any fee, premium or other charge in excess of that allowable under another statute or to authorize any fee, premium or other charge to be imposed that is not authorized under any other statute.

HOME MORTGAGE DISCLOSURE ACT EXTENSION

SEC. 406. Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "1985" and inserting in lieu thereof "1988".

COUNSELING

SEC. 407. Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended by inserting before the period in the first sentence the following: ", and for fiscal year 1986 there are authorized to be appropriated such sums as may be approved in an appropriations Act".

RESEARCH AUTHORIZATION

SEC. 408. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended—

(1) by striking out "and the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and by such sums as may be approved in an appropriations Act for fiscal year 1986".

INTERSTATE LAND SALES REGISTRATION FEES

SEC. 409. Section 1405(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "a fee, not in excess of $1,000" and inserting in lieu thereof "a reasonable fee".

FLOOD INSURANCE

SEC. 410. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "November 14, 1985" and inserting in lieu thereof "September 30, 1986".

(b) Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "November 14, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title such as may be approved in an appropriation Act for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.".

(d) The premium rates charges for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1986.

TITLE V—HOMELESS ASSISTANCE

DEFINITIONS

SEC. 501. For the purpose of this title—

(1) the term "emergency shelter" means an entire facility, or that part of a facility, which is used or designated to be used to provide temporary housing to not fewer than twenty individuals;

(2) the term "operating costs" means expenses incurred by States, local governments, and private nonprofit organizations operating transitional housing for the homeless with respect to—

(A) the administration, maintenance, minor repairs, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; residents of such housing; and

(C) the conducting of the assessment of supportive services to the residents of such housing; and

(D) the provision of supportive services to the residents of such housing;

(3) the term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under subtitle A of such code, and which has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(6) The term "supportive services" means assistance to the residents of transitional housing in obtaining permanent housing, medical and psychological counseling and supervision, employment counseling, referral to job training, nutritional counseling, and such other services essential for establishing independent living as the Secretary determines to be appropriate. Such term includes the provision of assistance to the residents of transitional housing in obtaining other Federal, State, and local government asssitance available for such person, including mental health benefits, employment counseling, referral to job training programs, and medical assistance; and

(7) the term "transitional housing" means a single- or multi-family structure suitable for the provision of housing and supportive services for not more than 15 homeless persons, who cannot presently live independently without supportive services in a supervised residential setting but who are believed capable of transition to independent living with 6 months of assistance in a stable environment.

PART 1—EMERGENCY FOOD AND SHELTER PROGRAM

NATIONAL BOARD

SEC. 511. (a) The Director of the Federal Emergency Management Agency shall, as soon as practicable after September 30, 1985, constitute a national board for the purpose of carrying out an emergency food and shelter program.

(b) The national board shall consist of seven members. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the United States of America, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board.

(c) The representative of the Federal Emergency Management Agency shall chair the national board.

NATIONAL BOARD TRANSITION

SEC. 512. (a) The national board constituted by the Director of the Federal Emergency Management Agency, pursuant to section 511, shall continue to be authorized until March 30, 1986, and on such date, the personnel, property, records, and undistributed program funds of such national board shall be transferred to the national board constituted under subsection (b).

(b) On or before March 30, 1986, the Secretary of Housing and Urban Development shall constitute a national board for the purpose of carrying out an emergency food and shelter program. This national board shall consist of the same representatives, or their successors, of the same organizations as the national board constituted pursuant to section 511(b), except that the Secretary of Housing and Urban Development shall designate a representative to replace the Federal Emergency Management Agency representative. Such national board shall assume authority on March 30, 1986.

DISTRIBUTION OF PROGRAM FUNDS

SEC. 513. The national boards constituted pursuant to sections 511 and 512(b) shall determine how program funds are to be distributed to individual localities. The national board shall identify localities having the highest need for emergency food and shelter assistance, based on unemployment and poverty rates and such other need-related data as the national boards deem appropriate, determine the amount and distribution of funds to these localities, and ensure that funds are properly accounted for.

AGENCY RESPONSIBILITIES

SEC. 514. (a) The Director of the Federal Emergency Management Agency shall award a grant for such amount as Congress appropriates for this program to the national board constituted pursuant to section 511 within 30 days after the beginning of fiscal year 1986, for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(b) The Director of the Federal Emergency Management Agency, or his representative, shall have the following responsibilities: provision of guidance, coordination, and staff assistance to the national board in carrying out the program; and cooperation and coordination with the Secretary of Housing and Urban Development in the conducting of an audit of program funds awarded to the national board constituted pursuant to section 511 or transferred to the national board constituted pursuant to section 512(b). The responsibilities of the Director of the Federal Emergency Management Agency with respect to this program shall end with the completion of the audit for program funds distributed during fiscal year 1986.

(c) The Secretary of Housing and Urban Development shall award a grant for such program to the national board constituted pursuant to section 512(b) within 30 days after the beginning of fiscal years 1987 and 1988, for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(d) The Secretary of Housing and Urban Development shall have the following responsiblities: provision of guidance, coordination, and staff assistance to the national board in carrying out the program; and the conducting of an audit of program funds awarded to and transferred to the national boards constituted pursuant to sections 511 and 512(b).

(e)(1) In carrying out the responsibilities under subsection (d), the Secretary shall coordinate activities with the Federal Interagency Task Force on Food and Shelter, chaired by the Secretary of Health and Human Services, to identify vacant and surplus Federal facilities which could be renovated or converted for use as emergency shelter facilities for the homeless.

(2) Not later than 3 months after the end of fiscal year 1986, the Secretary shall submit to the Congress a report on obsta-

cles, if any, including agency rules or procedures, to the availability of vacant and surplus Federal facilities for renovation or conversion to use as emergency shelter facilities for the homeless, with recommendations for legislative or administrative changes to overcome such obstacles.

LOCAL BOARDS

SEC. 515. (a) Each locality designated by the national boards constituted pursuant to sections 511 and 512(b) shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national boards, except that the mayor or other appropriate heads of government will replace the Federal Emergency Management Agency or Department of Housing and Urban Development member; organizations providing services on a locality wide basis should also be allowed to serve on the local board. The chair of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

(b) Local Boards shall have the following responsibilities: determining which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers; monitoring recipient service providers for program compliance; reallocation of funds among service providers; ensuring proper reporting; and coordinating with other Federal, State, and local government assistance programs available in the locality.

(c) Prior to March 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 511. On and after March 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 511(b).

LOCAL HOMELESS ASSISTANCE PLAN

SEC. 516(a) At the end of each fiscal year, each local board shall submit to the national board constituted pursuant to section 512(b), a plan describing programs, goals, and objectives for providing assistance to the homeless in that locality. The plan shall be developed in cooperation with the local government head represented on the local board.

(b) The local plan shall address the following subjects: description of existing shelter, mass feeding, and food bank activities in that locality, including activities not receiving assistance under this subtitle; use and availability of all public and private resources in the locality to assist the homeless; coordination of all public and private services and resources in that locality to assist the homeless; coordination among all shelter providers in the locality to use all available shelter space for the homeless; and preservation of low-income housing in the locality.

(c) The local plan shall be placed on file in the office of the local government head represented on the local board and shall be made available to the public. The local plan shall be forwarded to that individual locality's representatives in Congress. The national board shall maintain files of local plans and make them available upon request to other localities.

(d) The preparation and submission of the local plan shall be regarded as the legal duty of the local board, but failure to do so shall not be grounds for the withholding of funds appropriated under this title from that locality. Any citizen residing in the locality in which such local board is constituted shall have standing in the Federal district court of jurisdiction to seek an order compelling the preparation and submission of the local plans as required by this section. The substance and contents of the local plan shall be within the sole discretion of the local board and shall not be subject to administrative or judicial review.

SERVICE PROVIDERS

SEC. 517. Designation by the local board of a service provider to receive program funds should be based upon a private nonprofit organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are deemed appropriate to program objectives by the local board.

USE OF FUNDS

SEC. 518. (a) The national boards constituted by sections 511 and 512(b) may authorize the following use of funds to address the emergency food and shelter needs of needy individuals:

(1) Expenditures necessary to purchase emergency food and shelter for needy individuals, to supplement and extend currently available resources and not to substitute or reimburse ongoing programs and services; and

(2) Expenditures necessary to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities to make facilities safe, sanitary, and bring them into compliance with local building codes.

(b)(1) Local boards are authorized to expend up to 25 percent of the funds allotted to that locality for substantial renovation or conversion, but no acquisition or new construction, of buildings for use as emergency shelter facilities to provide additional shelter space. Such expenditures shall be made in the form of noninterest bearing advances, repayment of which shall be waived if—

(A) the applicant utilizes the building as an emergency shelter facility for not less than the 10-year period following the completion of such renovation or conversion, or

(B) the Secretary determines that such facility is no longer needed to provide shelter to the homeless and approves use of the building for another charitable purpose for the remainder of such 10-year period. If the recipient of such advance fails to comply with the conditions for such a waiver, the recipient shall repay to the Secretary in cash the full amount of the advance received on such terms as the Secretary shall require. It shall be the responsibility of the local board to obtain documentation, signed by the responsible official, showing that the recipient of such advance is aware of and agrees to the conditions of its receipt.

(2) Local boards are encouraged to provide, to the neighborhood in which a new emergency shelter facility is to be located, adequate notice and an opportunity to comment. Local boards are also encouraged to achieve the widest possible distribution of emergency shelters throughout the locality to avoid a disproportionate burden on any one section or neighborhood of the locality.

LIMITATION ON CERTAIN COSTS

SEC. 519. Not more than 3 percent of the total appropriation for this program each year may be expended for the costs of administration.

PROGRAM GUIDELINES

SEC. 520. (a) The national boards constituted pursuant to section 511 and 512(b) shall establish written guidelines for carrying out this program, including methods for identifying localities with the highest need for emergency food and shelter assistance; methods for determining amount and distribution to these localities; eligible program costs, with the aim of providing emergency essential services based on currently existing needs; and responsibilities and reporting requirements of the national boards, local boards, and service providers.

(b) These guidelines shall be published annually, and whenever modified, in the Federal Register. The national boards shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code.

(c) Guidelines established by the national board constituted pursuant to section 511 shall continue in effect until modified or revoked by that board or by the national board constituted pursuant to section 512(b).

AUTHORIZATION

SEC. 521. (a) To carry out this part, there are authorized to be appropriated such sums as may be approved in an appropriation Act for fiscal year 1986, $88,000,000 in fiscal year 1987, and $91,000,000 in fiscal year 1988.

(b) Any appropriated funds not obligated in a fiscal year shall remain available for obligation during the following fiscal year.

SURPLUS FOOD DISTRIBUTION

SEC. 522. The Commodity Credit Corporation shall process and distribute surplus commodities acquired by the corporation for the purpose of carrying out the food distribution and emergency shelter program in cooperation with the national boards constituted pursuant to sections 511 and 512(b)

PART 2—TRANSITION TO INDEPENDENCE DEMONSTRATION PROJECT

AUTHORITY TO MAKE GRANTS

SEC. 531. (a) The Secretary of Housing and Urban Development shall make grants to States, local governments, or private nonprofit organizations for the operation of demonstration projects to develop and apply innovative approaches in providing transitional housing and supportive services to the homeless to assist them in the transition to independent living.

(b) Grants under subsection (a) may be made in the form of—

(1) annual payments for operating expenses of transitional housing, not to exceed 75 percent of the annual operating expenses of such housing;

(2) technical assistance in establishing and operating transitional housing and providing supportive services to the residents of such housing to assist them in the transition to independent living; and

(3) a one-time only non-interest bearing advance, not to exceed $100,000, for the purposes of acquiring, rehabilitating, or acquiring and rehabilitating an existing structure for use in providing transitional housing, if the applicant agrees to utilize such structure as transitional housing, if the applicant agrees to utilize such structure as transitional housing for not less than 5 years. Repayments of such advance shall be waived if the applicant utilizes the structure as transitional housing for not less than the 10-year period following the initiation of operation of such transitional housing facility, or if the Secretary determines that such

structure is no longer needed for use as transitional housing and approves the use of such structure for another charitable purpose for the remainder of such 10-year period. If the applicant fails to comply with the conditions for waiver of repayment, the applicant shall repay to the Secretary in cash the full amount of the advance received on such terms as the Secretary shall require.

(c) Grants made under this section are to be used to supplement and extend currently available resources and not to substitute or reimburse ongoing programs and services.

APPLICATIONS FOR GRANTS

SEC. 532. Each application for a grant submitted by a State, local government, or private nonprofit organization shall contain—

(1) documentary material demonstrating that such applicant has the ability and resources necessary to operate transitional housing;

(2) documentary material describing the program and supportive services intended to be provided in such transitional housing, including the innovative quality of the proposed program;

(3) documentary material demonstrating that the State, local government, or private nonprofit organization involved has provided the emergency food and shelter program local board, constituted pursuant to section 515, if such local board has been constituted in the locality where the proposed transitional housing will be located, an opportunity to comment with respect to this application, and a statement as to whether the local board approves or disapproves of such application and its reasons for any disapproval; and

(4) such other information or material as the Secretary shall establish.

ALLOCATION OF GRANTS

SEC. 533. In selecting States, local governments, or private nonprofit organizations for assistance in providing transitional housing under this title, the Secretary shall consider—

(1) the innovative quality of the proposal to provide transitional housing and supportive services to the homeless to assist them in the transition to independent living;

(2) the ability of the State, local government, or private nonprofit organization to develop and operate transitional housing for homeless persons and to provide supportive services to the residents of such housing;

(3) the need for such transitional housing and supportive services in the locality to be served; and

(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the demonstration project established in this Act in an effective and efficient manner.

PROGRAM REQUIREMENTS

SEC. 534. (a) Each State, local government, or private nonprofit organization receiving assistance under this part shall agree—

(1) to operate transitional housing assisting residents in the transition to independent living and generally limiting the stay of individual residents to not more than 6 months;

(2) to conduct an assessment of the supportive services required by the residents of such transitional housing to assist them in the transition to independent living;

(3) to employ a full-time residential supervisor with sufficient expertise to provide, or supervise the provision of, supportive services to the residents of such housing;

(4) to keep and make available to the Secretary such records of the expenditure of funds as the Secretary may require by rule; and

(5) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the demonstration project established by this part in an effective and efficient manner.

(b) Each homeless individual residing in transitional housing assisted under this part shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

REGULATIONS

SEC. 535. Not later than 120 days following the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this part.

REPORTS TO CONGRESS

SEC. 536. (a) The Secretary shall submit to Congress—

(1) not later than 3 months after the end of each of the fiscal years 1986 and 1987, an interim report summarizing the activities carried out under this part during such fiscal year and setting forth any preliminary findings, conclusions, or recommendations of the Secretary as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1988, a final report summarizing all activities carried out under this part and setting forth any findings, conclusions, or recommendations of the Secretary as a result of such activities.

(b) Such interim and final reports shall address—

(1) the cost of operating transitional housing and providing supportive services to the homeless to assist them in the transition to independent living;

(2) the various types of transitional housing assisted under this part, including innovative approaches to assisting the homeless in the transition to independent living;

(3) the social, financial, and other advantages and disadvantages of transitional housing and supportive services as a means of assisting the homeless;

(4) the success of transitional housing programs assisted under this part, as measured in terms of placement of homeless individuals in permanent housing, placement in employment, and reductions in welfare dependency; and

(5) such other findings conclusions, and recommendations as the Secretary deems appropriate with regard to assisting the homeless in the transition to independent living.

AUTHORIZATION

SEC. 537. To carry out this part, there are authorized to be appropriated such sums as may be approved in an approriation Act for fiscal year 1986, and $15,000,000 in each of the fiscal years 1987 and 1988. Any amount appropriated under this section shall remain available until expended.●

By Mr. GORTON (for himself, Mr. DANFORTH, Mr. RIEGLE, Mr. HEFLIN, Mr. GORE, Mr. ROCKEFELLER, Mr. DOLE, Mr. HOLLINGS, and Mr. INOUYE):

S. 1914. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TECHNOLOGY TRANSFER ACT

Mr. GORTON. Mr. President, our country is the world leader in innovation. Our scientists and engineers work on the leading edge of almost every field of research. And yet, our Nation faces strong competition in the international marketplace in even the newest areas of technology, where we should enjoy the strongest advantage. How can we translate our successes in the laboratory into new products and processes in the marketplace? How can we accelerate the rate of technological innovation for the benefit of consumers here at home and for the benefit of American industry competing in the international marketplace?

One way, I believe, is to open up our Federal laboratories to industry and to universities for cooperative research. The Federal Government will invest $60 billion in research and development in 1986. Much of that money goes to our universities. Over $18 billion, however, goes to 380 Government laboratories, which employ 1 out of every 6 research scientists in this country. There are eight of these laboratories in my home State of Washington, conducting research in such diverse areas as agriculture, fisheries, mining, and energy.

A few years ago a White House panel chaired by David Packard was commissioned to see if we are getting our money's worth out of the Federal laboratories. It concluded that the Federal laboratories need to provide much more access to their facilities by universities and industry.

This year the President's Commission on Industrial Competitiveness concluded that the United States needs to support basic scientific research and make it more useful for commercial purposes. There have been other reports, as well. The National Governors' Association published a report on State initiatives in technological innovation which concluded that the national laboratories are far from realizing their full potential as catalysts for joint research.

These reports are unanimous in their advocacy of allowing the Federal labs to enter into the kinds of joint research and licensing arrangements with which the universities have had to much success. The Commerce Committee held a series of three hearings on these subjects this year, which also led me to the same conclusions. Our job in Congress is to clear away unnecessary legal and institutional barriers to technology transfer, and that is the purpose of this bill.

The bill which I and my colleagues are introducing today gives explicit permission for the federally operated laboratories to enter into cooperative

research arrangements with private industry, universities, and other persons. The authority is broad and permissive. It is designed to decentralize the decisionmaking about cooperative research, and about the licensing of inventions.

The bill also establishes a system to reward our scientists both for their work in areas with commercial potential and for outstanding work in noncommercial areas. It includes royalty sharing with the inventor of a minimum of 15 percent of the royalties of a given invention, and it directs agencies to use the existing cash award system to reward scientists and technicians for innovation. Our scientists, engineers, and technicians are the Government's most precious scientific resource, and must be rewarded accordingly.

The bill also makes official the status of the Federal Laboratory Consortium for Technology Transfer. This organization has been providing an effective networking function between the Federal laboratories for more than a decade. It deserves to be recognized and funded sufficiently to continue its work in transferring technology to the private sector.

Finally, the bill amends the Stevenson-Wydler Technology Innovation Act of 1980 to make it more acceptable, less confusing, and to bring it into conformity with existing practice.

Mr. President, this bill is the result of work by many people. Many of its provisions have their origin in S. 65, a bill introduced by Senators DOLE and DANFORTH. S. 65 was referred to the Judiciary Committee. Because of the similarities, I would not object to referring this legislation to Judiciary for a short period of time.

I am enthusiastic about the potential for technological innovation and development in our Federal laboratories. Some already have outstanding accomplishments that have found their way into our economy. I hope that this legislation, once enacted, will clear the way for many more.

I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Technology Transfer Act of 1985".

UTILIZATION OF FEDERAL TECHNOLOGY

SEC. 2. (a) Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following:

"(2) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b)(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by striking "requirements set forth in (1) and/or (2) of this subsection" and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(C) by striking "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by inserting "all" before "federally owned" in paragraph (2);

(C) by striking "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,";

(D) by striking "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(E) by adding at the end thereof the following:

"(5) to participate, where feasible, in regional, State, and local government programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the federal laboratory is located.".

(c) Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking all from "(d)" through "shall—" and inserting in lieu thereof the following:

"(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking paragraph (2);

(3) by striking "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;";

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking "(c)(4)" in paragraph (4), as so redesignated, and inserting in lieu thereof "(c)(3)".

(d) Section 11(e) of such Act (15 U.S.C. 3710(e)) is amended by striking "Center for the Utilization of Federal Techology" and inserting in lieu thereof "Assistant Secretary for Productivity, Technology, and Innovation".

ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER

SEC. 3. Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710), as amended by section 2 of this Act, is further amended—

(1) (1) redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal laboratories and the private sector, shall—

"(A) develop and, with the consent of the Federal laboratory concerned, administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse, at the laboratory level, for requets for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations (including universities), Federal agencies and laboratories, and other persons, and—

"(i) to the extent that a response to such requests can be made with published information available to the National Technical Information Service, refer such requests to that Service; and

"(ii) otherwise refer such requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish technical volunteer service programs for the purpose of providing technical assistance to communities related to such laboratory; and

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations.

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representation to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (6), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(6)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau of the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer may be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they consider appropriate.".

FUNCTIONS OF THE SECRETARY OF COMMERCE

SEC. 4. Section 11 of such Act (15 U.S.C. 3710), as amended by this Act, is further amended by adding at the end thereof the following:

"(g) FUNCTIONS OF THE SECRETARY.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to Federal laboratories, including research and development limited partnerships;

"(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

"(2) Two years after the date of enactment of this subsection, and every two years thereafter, the Secretary shall submit a report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall, to the extent permitted by law, provide the Secretary with all information necessary to prepare such reports.".

COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

SEC. 5. The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 15 through 18, respectively, and by inserting after section 11 the following:

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) GENERAL AUTHORITY.—(1) Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

"(A) to enter into cooperative research and development arrangements (subject to such regulations or review procedures as the agency considers appropriate) with other Federal agencies, units of State or local government, industrial organizations (including corporations, partnerships and limited partnerships), public and private foundations, non-profit organizations (including universities), or other persons (including licensees of inventions owned by the Federal agency); and

"(B) to negotiate licensing agreements under section 207 of title 35, United States Code, or other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be volunatrily assigned to the Government.

"(2) Under arrangements entered into pursuant to paragraph (1), a laboratory may—

"(A) accept funds, services, and property from collaborating parties and provide services and property to collaborating parties;

"(B) grant or agree to grant in advance to a collaborating party patent licenses, assignments, or options thereto, in any invention made by a Federal employee under the arrangement, retaining such rights as the Federal agency considers appropriate;

"(C) waive, in whole or in part, any right of ownership which the Government may have under any other statute to any inventions made by a collaborating party or employee of a collaborating party under the arrangement; and

"(D) to the extent consistent with any applicable agency requirements, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

"(3) Each agency shall maintain a record of all agreements entered into under this section.

"(b) DEFINITION.—As used in this section, the term—

"(1) 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government provides personnel, services, facilities, equipment, or other resources (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the agency, except that such term does not include a procurement contract or cooperative agreement as those terms are used in section 6303, 6304, and 6305 of title 31, United States Code; and

"(2) 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research and development by employees of the Federal Government.".

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES

SEC. 6. The Stevenson-Wydler Technology Innovation Act of 1980, as amended by this Act, is further amended by inserting after section 12 the following:

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES

"(a) CASH AWARDS PROGRAM.—The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Goverment-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial applications or due to contributions to missions of the Federal agency or the Federal government; or

"(2) exemplary activities that promote the domestic transfer of science and technology developed within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.

"(b) PAYMENT OF ROYALTIES.—Any royalties or other income received by an agency from the licensing or assignment of inventions under this section or under section 207 of title 35, United States Code, or other authority shall be transferred to the agency's government-operated laboratories with a substantial percentage being returned to the laboratories whose inventions produced the royalties or income. Such royalties or income shall be disposed of as follows:

"(1) At least 15 percent of the royalties or other income received each year by the laboratory on account of any invention shall be paid to the inventor or coinventors if they were employees of the agency at the time the invention was made. Payments made under this paragraph are in addition to the regular pay of the employee and to any awards made to that employee, and such payments shall not affect the entitlement or limit the amount of the regular pay, annuity, or other awards to which the employee is otherwise entitled or for which the employee is otherwise eligible.

"(2) The balance of any royalties or related income earned during any fiscal year after paying the inventors' portions under paragraph (1) may be retained by the laboratory up to the limits specified in this paragraph, and used—

"(A) for mission-related research and development of the laboratory;

"(B) to support development and education programs for employees of the laboratory;

"(C) to reward employees of the laboratory for contributing to the development of new technologies and assisting in the transfer of technology to the private sector, and for inventions of value to the Government that will not produce royalties;

"(D) to further scientific exchange to and from the laboratory; and

"(E) for payment of patenting costs and fees and other expenses incidental to promoting, administering, and licensing inventions, including the fees or costs for services of other agencies or other persons or organi-

zations for invention management and licensing services.

If the balance for any laboratory after paying the inventors' shares under paragraph (1) exceeds 5 percent of the annual budget of the laboratory, 75 percent of the excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the purposes listed in subparagraphs (A) through (E), by the end of the fiscal year subsequent to the one in which they were received. Any funds not so used or obligated by the end of such fiscal year shall be paid to the Treasury of the United States.

"(c) ASSIGNED INVENTIONS.—If the invention was one assigned to the agency either (1) by a contractor, grantee, or the recipient of a cooperative agreement of the agency, or (2) by an employee of the agency that was not working in the laboratory at the time the invention was made, the agency unit that funded or employed or assigned the assignee shall, for purposes of this section, be considered to be a laboratory.

"(d) REPORTS.—In making their annual budget submissions, Federal agencies shall submit to the appropriate authorization and appropriation committees of both Houses of the Congress summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.".

EMPLOYEE ACTIVITIES

SEC. 7. The Stevenson-Wydler Technology Innovation Act of 1980, as amended by this Act, is further amended by inserting after section 13 the following:

"SEC. 14. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency may allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid up license to practice or have practiced the invention throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

"(b)(1) Section 3(2) of such Act (15 U.S.C. 3702(2)) is amended by striking "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(2) Section 4 of such Act (15 U.S.C. 3703) is amended—

(A) by striking "Industrial Technology" in paragraph (l) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking " 'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof " 'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking "owned and funded" in paragraph (6), as so redesignated, and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act (15 U.S.C. 3704(a)) is amended by striking "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation".

(4) Section 5(b) of such Act (15 U.S.C. 3704(b)) is amended by striking "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking all from "a Director of the Office" and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act (15 U.S.C. 3704(c)) is amended by striking "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary".

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS.".

(7) Section 6(a) of such Act (15 U.S.C. 3705(a)) is amended by striking "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act (15 U.S.C. 3705(b)(1)) is amended by striking "basic and applied".

(9) Section 6(e) of such Act (15 U.S.C. 3705(e)) is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technological innovation and commercialization of research and development efforts by Centers under this section, chapter 18 of title 35, United States. Code, shall apply.".

(10) Section 6(f) of such Act (15 U.S.C. 3705(f)) is repealed.

(11) The heading of section 8 of such Act is amended by striking "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(12) Section 8(a) of such Act (15 U.S.C. 3707(a)) is amended by striking "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(c) Section 4 of such Act (15 U.S.C. 3703), as amended by subsection (b)(2) of this section, is further amended by adding at the end thereof the following:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments, as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made", when used in conjuction with any invention, means the conception or first actual reduction to practice of such invention.".

(d)(1) Such Act (as amended by this Act) is further amended by redesignating sections 11 through 18 as sections 10 through 17, respectively.

(2)(A) Section 5(d) of such Act (15 U.S.C. 3704(d)) is amended by inserting "(as then in effect)" after "Act" the second time it appears.

(B) Section 8(a) of such Act (15 U.S.C. 3707(a)) is amended by striking the last sentence.

(C) Section 9(d) of such Act (15 U.S.C. 3708(d)) is amended by striking "or 13" and inserting in lieu thereof "10, or 14".

SECTION-BY-SECTION ANALYSIS

Section 2 contains amendments to the Stevenson-Wydler Technology Innovation Act of 1980. It amends the policy statement to provide that technology transfer efforts should be treated positively in evaluations and promotions of federal employees. It changes the size of a laboratory which must have one full-time staffer in its office of research and technology applications from a laboratory with $20,000,000 annual budget to one with 200 or more scientists and technicians. And it eliminates the waiver of this requirement.

Section 2 changes the name of the Center for the Utilization of Federal Technology to the National Technical Information Service, and clarifies its duties. It also changes the reporting requirement for the technology transfer functions in Stevenson-Wydler from the Center for the Utilization of Federal Technology to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

Section 3 adds a new section to Stevenson-Wydler to establish the Federal Laboratory Consortium for Technology Transfer. The section establishes the Consortiums's duties and membership, provide it with administrative services, and provides that each agency shall provide the Consortium with an amount equal to .005 percent of its laboratory's research and development budget for 1978 through 1991.

Section 4 amends Stevens-Wydler to clarify the duties of the Secretary of Commerce and to require a biannual report to Congress on how federal agencies are using the authorities established under this Act.

Section 5 adds a new section to Stevenson-Wydler authorizing agencies to permit their government-operated laboratories to enter into cooperative research and development arrangements with private industry, other units of government, universities, or other persons. The section also authorizes the agencies to permit their laboratory directors to negotiate patent licensing agreements.

To effectuate cooperative research agreements, the section gives federal laboratories the authority to accept funds, services, and property from the collaborating parties; to agree to grant in advance licenses to patents and inventions made by federal employees; to waive the government's right of ownership to inventions made by an employee of a collaborating party; and to permit employees to help commercialize their inventions, to the extent this is consistent with agency requirements.

The section defines cooperative agreements as those in which the federal government provides resources, but not funds, along with a collaborating party, toward the conduct of specific research or development which is consistent with the missions of the agency.

Section 6 requires federal agencies which do a substantial amount of research and development to set up a cash award system for rewarding scientific and technical personnel for inventions, innovations, or other out-

standing scientific and technological contributions. It also requires federal agencies to transfer royalties from inventions to its laboratories, with a substantial percentage going to the laboratory which produced the invention. At least 15% of the royalties from a given invention must be paid to the inventor, and the balance may be retained by the laboratory, up to 5% of its annual budget. At that point the laboratory must return 75% of its royalty income to the Treasury, and may keep the remaining 25%. The laboratory may use the income for mission-related research and development, for education programs for laboratory employees, for employee awards, for scientific exchange, and to pay the costs of commercializing inventions.

Section 7 authorizes federal agencies to transfer rights of ownership in an invention to the inventor if the agency does not intend to commercialize or file for a patent license on the invention.

Section 8 contains miscellaneous and conforming amendments to Stevenson-Wydler which generally bring the Act into conformity with existing practice.

Mr. DOLE. Mr. President, I am pleased to join Senator GORTON in introducing this bill which would amend the Stevenson-Wydler Technology Innovation Act so that it authorizes agencies to allow their Government-operated labs to enter into cooperative research agreements with universities and private business.

Specifically, this bill contains the key provisions of the "Federal Laboratory Utilization Act of 1985", S. 64, which I introduced at the beginning of this legislative session. Thanks to the hard work of Senator GORTON and his staff, certain revisions have been made to the bill which have broadened its base of support.

Like S. 64, the bill we are introducing today would provide legal authority for Federal labs to enter into collaborative research agreements and to license inventions resulting from those agreements. It would also permit the labs to pay a share of the royalties so generated to the inventors. Most of the remainder of the royalties could be used to reward other employees, as well as to support employee development programs, further technology transfer, pay for patenting costs, and mission related research. The bill also authorizes the Department of Commerce to assist agencies and their labs prepare for and implement these new authorities.

Unlike S. 64, this bill contains a provision recognizing the Federal laboratory consortium—a presently informal network of laboratory technology transfer officials who steer people with technological problems to the labs best able to solve them. Though I believe the idea of providing statutory recognition for the consortium has merit, I do have some concerns about the requirement for agencies to transfer to the National Science Foundation an amount equal to 0.005 percent of their laboratory research budgets for operation of the consortium. I would like to receive more input from the research community, affected agencies and others before making a final decision on whether to support this particular provision.

Mr. President, let me thank and congratulate Senator GORTON for all the work he and his staff have put into this bill. I look forward to working with him in seeing to it that these important new authorities for agencies and their labs are enacted into law.

Mr. HOLLINGS. Mr. President, I am pleased to cosponsor this important legislation. By allowing Government-operated laboratories to enter into cooperative agreements with industry, and by strengthening the organization that transfer Federal expertise to the business community and the States, this bill will improve the contribution that Federal labs make to the Nation's industrial modernization, economic development, and overall competitiveness. And it will do without spending any new Federal dollars.

The Federal Government's laboratories are a tremendous national resource, employing one-sixth of the Nation's scientists and engineers. Of course, their primary function is to perform research in support of essential Federal missions, from defense and energy to health, food, and natural resources. At the same time, however, hearings and research by the Commerce Committee's Science Subcommittee show that these labs also have unique facilities, expertise, and inventions which could help the private sector, if they only had legal authority to cooperate with private industry, universities, and the States. For example, we now have over 25,000 federally funded inventions, many of which could lead to valuable commercial products if only Government labs and industry were allowed to work together more closely. Moreover, Federal scientists and engineers could provide advice and technical assistance to State and local governments on a wide range of issues.

A few Federal laboratories have the necessary legal authority now, particularly several of the Energy Department facilities run by contractors. Already we are seeing beneficial results. For example, scientists at Los Alamos National Laboratory have invented a process that identifies viruses and bacteria in minutes, rather than the days of weeks now needed. A private company is now working with Los Alamos to develop the product commercially. In addition, the National Bureau of Standards and Oak Ridge National Laboratory are working with the steel industry to modernize steelmaking. The bill that we introduce today would extend this legal authority to over 300 Federal laboratories operated by the Government itself rather than by contractors.

The legislation would allow agencies with Government-operated laboratories to allow these labs to enter into cooperative agreements with corporations, universities, and State and local governments—at the partner's expense—for the purpose of developing new technologies, products, and companies. The labs could waive patent rights to resulting invention, if that seemed the best way to encourage commercialization of a product, or they could negotiate royalty requirements and reserve such rights as they deem appropriate.

In addition, the new bill also would strengthen the laboratory organizations that provide information and assistance to industry and to State and local officials. These organizations include the small Federal Laboratory Consortium, the one nationwide group that links laboratory technical information specialists to each other.

I want to put to rest one particular concern about cooperative agreements. Some people fear that allowing Government labs to work with private industry may lead the labs to neglect their fundamental Government responsibilities. Believe me, if I thought for a moment that this bill would compromise Federal programs, I would oppose it. But this bill provides the proper safeguards. No agency is required to work with industry—the bill simply permits agency heads, at their discretion, to allow some cooperation with industry. The agency head determines the level of cooperation, the kinds of projects, and what royalties to collect. At the same time, Federal labs would continue to perform their Government responsibilities.

Mr. President, this bill will not magically solve the Nation's economic problems or instantly rejuvenate all industries. It is not a panacea. Many other steps can and should be taken to help American industry regain its technological lead and international competitiveness. This legislation, however, is a concrete and valuable step toward better utilization of the tremendous technology and expertise present in our national laboratories. It will not cost the taxpayers a dime, and it may actually make some money for the Government.

This is an important, innovative bill. I am pleased to join colleagues from both parties in sponsoring it, and I look forward to working with my other Senate colleagues to enact it.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 8, a bill to grant a Federal charter to the Vietnam Veterans of America, Inc.

S. 104

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 104, a bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing bullets.

S. 361

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 361, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers.

S. 670

At the request of Mr. PELL, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 670, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1250

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1250, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit for 5 years, and for other purposes.

S. 1747

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1747, a bill to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries.

S. 1748

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1748, a bill to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries.

SENATE JOINT RESOLUTION 234

At the request of Mr. WILSON, the names of the Senator from Nevada [Mr. LAXALT], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. ANDREWS], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from North Dakota [Mr. BURDICK], were added as cosponsors of Senate Joint Resolution 234, a joint resolution to designate the week of February 9, 1986 through February 15, 1986 as "National Burn Awareness Week".

SENATE JOINT RESOLUTION 235

At the request of Mr. DANFORTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

SENATE JOINT RESOLUTION 236

At the request of Mr. GORTON, the names of the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. ABDNOR], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 236, a joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week".

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. DANFORTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

SENATE RESOLUTION 223

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 223, a resolution to express the sense of the Senate regarding automobile carriers.

SENATE CONCURRENT RESOLUTION 92—AFFIRMING THE POLICY OF METRIC CONVERSION BENEFITING THE UNITED STATES

Mr. PELL (for himself and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 92

Whereas a decade ago the Congress passed the Metric Conversion act of 1975 (15 U.S.C. 205a et seq.);

Whereas it is the policy of the United States Government to coordinate and plan the increasing use of the metric system;

Whereas significant achievements have been made in industry toward the use of the metric system and Federal agencies have removed barriers which support and accommodate metrication to trade, travel, and communication;

Whereas the principal benefit of accelerating the metric changeover is an improvement in the ability of the Nation to export and compete more favorably in growing world markets;

Whereas United States trade deficits could be substantially reduced by the introduction of metric available products to our trading partners;

Whereas corporate policies toward manufacturing and international trade in the use of metrics can expand productivity and increase small business opportunity;

Whereas the metric changeover should continue to take place in the United States when it is in the best interests of the consumer and the producer; and

Whereas the Federal Government, by law or regulation should not discourage or prohibit the voluntary process of metric transition: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress finds that—

(1) the increasing use of the metric system has benefited the Nation over the last decade;

(2) conversion to the metric system shall assist in reduction of the trade deficits by making United States products more marketable in international trade, thereby preserving jobs, and bringing growth opportunities to the United States economy; and

(3) the Federal Government should encourage the transition toward metrication and supports the national policy set forth in the Metric Conversion Act of 1975 (15 U.S.C. 205a).

● Mr. PELL. Mr. President, I am very pleased indeed to have another opportunity to support the concept of conversion to the metric system. The concurrent resolution that I am submitting today, along with Senator INOUYE, affirms the national policy of metric conversion which has benefited our Nation. The concurrent resolution resolves that the Federal Government should further encourage the transition toward metrication and supports the national policy set forth in the Metric Conversion Act of 1975.

Mr. President, the ability of the United States to compete in world trade is becoming more important and more difficult each day as our competitors get stronger. Since about 95 percent of the world uses the metric system of measure, the absence of metric in U.S. goods and services can directly reduce our ability to be successful in world markets.

Certainly, metric is only one part of the answer to our balance-of-trade problems. I believe, however, that it is an important part of those problems. We may not increase our sales because our products are metric, but we could surely lose sales if they are not.

All markets are rapidly becoming world markets, and all of the important trading partners of the United States have made the transition to metric. The following nations have decided to change since World War II: Australia, Canada, China, Greece, India, Israel, Japan, Nigeria, Saudi Arabia, and the United Kingdom.

Moreover, the European Economic Community has set 1989 as the date after which imported products must be labeled in metric units.

This point becomes clearer if we take a historical perspective. An article appearing in an educational journal noted that metric advocacy has been with us almost since the birth of our Nation. In 1979, then Secretary of State Thomas Jefferson proposed a decimal-based measurement system as one way of achieving national uniformity of weights and measures. In

1821, a study by John Quincy Adams acknowledged the distinct advantages of the metric system, but because our major trading partner, Great Britain, did not use it, the study concluded that it was not practical then for the United States to adopt the metric system.

In 1866, the Congress authorized use of the metric system and supplied each State with a set of metric weights and measures. In 1875, the United States reinforced its continuing interest by becoming one of the original signatory nations to the "Treaty of the Meter." In 1893, we began to define the foot, pound, and inch in terms of the metric system.

When Congress passed the Metric Conversion Act of 1975, it declared "a national policy of coordinating the increasing use of the metric system in the U.S. and * * * the voluntary conversion to the metric system." Today, the reasons that formerly justified rejection of metric are exactly reversed. Our trading partners are now predominately metric, including Great Britain.

Mr. President, our concurrent resolution encourages voluntary cooperation between public and private international organizations concerned with the development of engineering standards. I believe that such cooperation can only result in furthering our increasingly vital worldwide trade interests.●

AMENDMENTS SUBMITTED

FURTHER CONTINUING APPROPRIATIONS, 1986

GLENN (AND OTHERS) AMENDMENT NO. 1347

Mr. GLENN (for himself, Mr. COHEN, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.R. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes; as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds appropriated or otherwise made available by this joint resolution or any other provision of law may be available for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation between The Government of the United States of America and the Government of the People's Republic of China concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985, until the President certifies to the Congress that reciprocal arrangements on the verification of the peaceful uses of such equipment, materials, and technology will include standards and methods of materials accounting and inspection essentially equivalent to those normally applied by the International Atomic Energy Agency.

STEVENS AMENDMENT NO. 1348

Mr. STEVENS proposed an amendment to the joint resolution H.J. Res. 465, supra; as follows:

On page 3, strike lines 20 through 24, and insert in lieu thereof the following:

"(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1986 (H.R. 3067), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-419), as filed in the House of Representatives on December 5, 1985, as if enacted into law."

DIXON AMENDMENT NO. 1349

(Ordered to lie on the table)

Mr. DIXON submitted an amendment, which was subsequently modified, intended to be proposed by him to the joint resolution H.J. Res. 465, supra; as follows:

On page 10, line 19, after "Haiti" insert a colon and the following: "*Provided further,* That not more than $1,711,286,666 may be made available to carry out Chapter 4 of part II of the Foreign Assistance Act of 1961 (other than any project, activity, or other assistance for Israel or Egypt)."

KENNEDY (AND BURDICK) AMENDMENT NO. 1350

Mr. KENNEDY (for himself and Mr. BURDICK) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution add the following new section:

MEDICARE HOSPITAL DEDUCTIBLE INCREASE DELAY; TEMPORARY INCREASE IN CIGARETTE TAX

SEC. —. (a) HOSPITAL DEDUCTIBLE INCREASE DELAY.—Notwithstanding section 1813 of the Social Security Act, the increase in the inpatient hospital deductible which would otherwise become effective on January 1, 1986, pursuant to such section shall not become effective until May 15, 1986. The inpatient hospital deductible in effect for 1985 shall remain in effect until May 14, 1986.

(b) CIGARETTE TAX INCREASE.—

(1) RATE OF TAX.—Section 5701(b) of the Internal Revenue Code of 1954 (relating to rate of tax on cigarettes) is amended—

(A) by striking out "$8 per thousand" in paragraph (1) and inserting in lieu thereof "$8.50 per thousand, or $8 per thousand after September 30, 1988"; and

(B) by striking out "$16.80 per thousand" in paragraph (2) and inserting in lieu thereof "$17.53 per thousand, or $16.80 per thousand after September 30, 1988".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before December 14, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, 50 cents per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, 73 cents per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on December 14, 1985, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on January 2, 1986, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on December 14, 1985.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(D) EXCEPTION FOR RETAILERS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on December 14, 1985, at the place where intended to be sold at retail.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to cigarettes removed after December 13, 1985.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before November 15, 1985".

(c) TRANSFER TO MEDICARE TRUST FUND.—Section 1817(a) of the Social Security Act is amended—

(1) by striking out "100 per centum of" in the matter preceding paragraph (1);

(2) by striking out "(1) the taxes" in paragraph (1) and inserting in lieu thereof "(1) 100 percent of the taxes";

(3) by striking out "and" at the end of paragraph (1);

(4) by striking out "(2) the taxes" in paragraph (2) and inserting in lieu thereof "(2) 100 percent of the taxes";

(5) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(6) by inserting after paragraph (2) the following new paragraph:

"(3) 5.88 percent of the taxes imposed under section 5701(b) of the Internal Revenue Code of 1954 on cigarettes removed after December 13, 1985, and before October 1, 1988, and 100 percent of the taxes imposed under such section on floor stocks held on December 14, 1985.".

GORTON AMENDMENT NO. 1351

Mr. GORTON proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill add the following section:

"SEC. . The Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

HEINZ AMENDMENT NO. 1352

Mr. HEINZ proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place insert the following:

"SEC. . Notwithstanding section 1813(b) of the Social Security Act, the inpatient hospital deductible for purposes of section 1813(a) of such Act for calendar year 1986 shall be $476.

COHEN (AND LEVIN) AMENDMENT NO. 1353

Mr. COHEN (for himself and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution insert the following:

SEC. . (a) This section may be cited as the "Ethics in Government Act Amendments of 1985".

(b) Section 207 of the Ethics in Government Act of 1978 is amended—

(1) by striking out the heading for such section and inserting in lieu thereof the following:

"CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS";

(2) by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "(1) The President may require officers and employees in the executive branch (including the United States Postal Service, the Postal Rate Commission, members of the uniformed services, and special Government employees as defined in section 202 of title 18, United States Code) to file a confidential financial disclosure report, in such form as the President may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in regulations prescribed by the President, and may be less extensive than otherwise required by this title, or more extensive when determined by the President to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of any such department or agency. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.".

(c) The amendments made by this section shall be effective 90 days after the date of enactment of this section.

PRYOR (AND OTHERS) AMENDMENT NO. 1354

Mr. PRYOR (for himself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 10, line 19, before the period insert a colon and the following: *"Provided, further,* That not more than $764,648,000 may be available under the heading 'Military Assistance'."

DIXON AMENDMENT NO. 1355

Mr. DIXON proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 10, line 19, after "Haiti" insert a colon and the following:

Provided further, That notwithstanding any other provision of this subsection, that not more than $3,745,000,000 may be made available for the "Economic Support Fund."

MURKOWSKI AMENDMENT NO. 1356

Mr. MURKOWSKI proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill, insert the following:

The foreign debt burdens of many third world nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to the programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore,

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element to the recipient nation and that the Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

HUMPHREY (AND KASTEN) AMENDMENT NO. 1357

Mr. HUMPHREY (for himself and Mr. KASTEN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following:

SEC. —. (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this Act, the President shall submit to the Congress on such date a report which states the reasons why the President has not denied such treatment.

(c) Notwithstanding any other provision of law, if the President takes any action under subsection (a), the President is authorized to—

(1) restore nondiscriminatory trade treatment to the products of Afghanistan, and

(2) extend credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program, only if the President provides written notice of such restoration or extension to the Congress at least 30 days prior to the date on which such restoration or extension takes effect.

(d) For purposes of this Act, the term "product of Afghanistan" means any article which is grown, produced, or manufactured (in whole or in part) in Afghanistan.

McCLURE (AND OTHERS) AMENDMENT NO. 1358

Mr. McCLURE (for himself, Mr. LUGAR, and Mr. QUAYLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At an appropriate place in the bill, insert the following:

Of the funds available from the Energy Security Reserve to the Secretary of Energy for Alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12, and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985:

Provided, that—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3 million,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a nonfederal share in the amount of 10% of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary and at such rate as determined by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

McCLURE AMENDMENT NO. 1359

Mr. McCLURE proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Notwithstanding any other provisions of this Joint Resolution, strike the following beginning on line 11, page 32 through line 13, page 32 of H.R. 3011;

", at an interest rate of 4 per centum, to be repaid within a period of twelve years"

BYRD (AND TRIBLE) AMENDMENT NO. 1360

Mr. BYRD (for himself and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated an additional $3,000,000 to remain available until expended, for the National Oceanic and Atmospheric Administration for programs, projects, and activities for the Integrated Flood Observing and Warning System (IFLOWS).

ABDNOR (AND DeCONCINI) AMENDMENT NO. 1361

Mr. ABDNOR (for himself and Mr. DeCONCINI) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 49, after line 9 add the following new section:

SEC. . None of the funds appropriated by this Act or any other Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with 27 U.S.C., Section 205 (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

GRASSLEY (AND TRIBLE) AMENDMENT NO. 1362

Mr. GRASSLEY (for himself and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the joint resolution insert the following:

SEC. . (a) This section may be cited as the "Conservation Service Reform Act of 1985".

(b)(1) Title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings) is hereby repealed.

(2) The table of contents for such Act is amended by striking out the items relating to title VII.

(3) Notwithstanding paragraph (1) any State energy conservation plan for commercial buildings and multifamily dwellings approved under section 721 of the National Energy Conservation Policy Act prior to August 1, 1984, may with respect to regulated utilities, continue in effect until one year after the date of enactment of this subsection if such plan meets the requirements of section 722 of such Act as in effect on August 1, 1984.

(c)(1) Sections 215(a), 215(d), and 217(a)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985" each place it appears and inserting in lieu thereof "January 1, 1988".

(2) The Comptroller General shall prepare and transmit to Congress before June 30, 1986 a report evaluating the utility and home heating supplier programs of the Residential Conservation Service implemented under part 1 of title II of the National Energy Conservation Policy Act. The Secretary of Energy shall conduct a survey in consultation with the Comptroller General to collect the information the Comptroller General determines is necessary for the preparation of such report. The report shall examine and assess, for the programs under this part—

(A) the potential for achievable energy savings through implementation of residential energy conservation measures in residential dwellings in the United States and the importance of the Residential Conservation Service in achieving these savings;

(B) Residential Conservation Service Program costs from a representative sample of States, taking into account costs to the taxpayer and ratepayers of affected utilities;

(C) Residential Conservation Service Program benefits from a representative sample of States, taking into account the value of energy conservation and the value of deferral of investment in new capacity to provide energy;

(D) efforts of utilities to encourage the implementation of residential energy efficiency measures by their customers and the relationship between these efforts and the observed response rate under Residential Conservation Service Programs;

(E) measured energy savings achieved in residential dwellings in which measures are installed under such programs;

(F) to the extent to which utilities have adopted programs voluntarily or under State law that offer more promise in encouraging energy efficiency than has been the case under the Residential Conservation Service;

(G) to the extent to which modifications in the regulations implementing the Residential Conservation Service could improve the cost effectiveness of the program;

(H) legislative changes that are necessary to improve the cost effectiveness of the program;

(I) the extent of unfair, deceptive or anticompetitive acts or practices affecting the commerce that relate to the implementation of such residential energy conservation programs, and the adequacy of procedures which are in effect to prevent such unfair, deceptive or anticompetitive acts or practices; and

(J) such other matters as seem appropriate in order to assist Congress in deciding the future of the Residential Conservation Service.

(3) The provisions of part 1 of title II of the National Energy Conservation Policy Act shall expire on January 1, 1988, but such expiration shall not affect any action or pending proceeding not finally determined on such date of expiration nor any action proceeding based upon such act committed prior to such date of expiration.

(d) Section 218(a) of the National Energy Conservation Policy Act is amended by striking the last sentence thereof and inserting "Such temporary exemption may be granted or renewed until such date as determined by the Secretary.".

(e)(1) Part 1 of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end thereof the following:

"SEC. 226. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.

"(a) WAIVER.—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

"(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential buildings served by the utility that are equal to or greater than the savings that would be achieved if the utility were subject to the provision; and

"(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

"(b) DEFINITION.—For purposes of this section the term 'residential energy conservation program' means any program carried out by a utility that has as its purpose—

"(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

"(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

"(c) APPROVAL.—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

"(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

"(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

"(A) find that the showings under subsection (a) (1) and (2) are sufficient; and

"(B) support of the request by the utility for the waiver; or

"(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

"(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) supports the request by the utility for the waiver.

"(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

"(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

"(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

"(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

"(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor, that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

"(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.".

(2) The table of contents for the National Energy Conservation Policy Act is amended by adding at the end of the table of contents for part 1 of title II the following:

"Sec. 226. Waiver for regulated and nonregulated utilities.".

(f) Subsection 220(b) of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by inserting after "Acts—", "(1)", and by inserting after the words "acts or practices.", the following new paragraph:

"(2) Nothing in this part shall be construed to—

"(A) bar any person from taking an action with respect to any anticompetitive act or practice related to activities conducted under any program established under this part, including activities conducted under subsection 216 (b), (c), (d), or (e); or

"(B) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.".

(g)(1) Part 3 of title V of the National Energy Conservation Policy Act (Public Law 95-619) is amended by adding at the end thereof the following new section:

"SEC. 552. ENERGY SAVINGS CONTRACTS.

"(a) ENERGY SAVINGS CONTRACTS.—Notwithstanding any other law, the head of a Federal agency may contract for energy savings for periods of not more than 25 years and shall provide in these contract that the contractor shall incur the initial cost, or a portion of the cost, of implementing energy savings measured in exchange for a share of any energy savings resulting from such implementation. As used in this section 'energy savings', means a reduction in the energy consumption or in the energy-related costs of an existing building or community of buildings caused by lease or purchase of equipment, supplies, or improvements; altered operation and maintenance; technical services; or other means or the increased efficient use of existing energy sources by cogeneration, heat recovery, or other means.

"(b) COSTS OF CONTRACTS.—The costs of contracts authorized under this section for any year may be paid from monies made available to the agency for utilities costs and related operations and maintenance costs.

"(c) CONTRACTS NOT CONTINUED.—In the event funds are not made available for the continuance of a contract authorized by this section for a subsequent fiscal year, the contract shall be cancelled or terminated and the costs of cancellation or termination may be paid from—

"(1) funds appropriated for the performance of the contract concerned;

"(2) appropriated funds otherwise available for the payment of these costs; or

"(3) funds appropriated for these costs.

"(d) SECRETARY'S ANNUAL REPORT.—The Secretary's annual report under section 550 and the information each Federal agency is required to furnish to the Secretary under section 550 shall include—

"(1) a description of the progress made by each Federal agency in conforming its regulations to this section to permit contracts for energy savings, and

"(2) a description of each Federal agency's progress in the use of such contracts.".

(2) Section 101(b) of the National Energy Conservation Policy Act (the table of contents) is amended by adding at the end of the table of sections for part 3 of title V the following new item:

"Sec. 552. Energy savings contracts.".

WILSON (AND CHAFEE) AMENDMENT NO. 1363

Mr. McCLURE (for Mr. WILSON, for himself and Mr. CHAFEE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place insert in House Joint Resolution 465:

"Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within its historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider Section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act.".

EVANS (AND GORTON) AMENDMENT NO. 1364

Mr. EVANS (for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution, insert the following new section:

"SEC. . Notwithstanding any other provision of this resolution, the number "$15,033,000" on page 9, line 12 of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be increased to $16,733,000, of which $1,700,000 shall be available until expended to commence construction of fish hatchery facilities on the Nisqually River, Washington.".

McCLURE (AND OTHERS) AMENDMENT NO. 1365

Mr. McCLURE (for himself, Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, Mr. METZENBAUM, and Mr. ROTH) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following new section:

SEC. . The educational center to be located at the Boott Mill Complex, Building No. 6, in the Lowell National Historical Park, Massachusetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center".

BUMPERS AMENDMENT NO. 1366

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Before the period on page 4, line 12, insert the following: "; *Provided further,* That $150,000 shall be available to the National Park Service solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas."

WALLOP AMENDMENT NO. 1367

Mr. WALLOP proposed an amendment to the joint resolution (H.J. Res. 465); supra; as follows:

At the appropriate place, add the following:

Notwithstanding anything in this Act to the contrary, no funds may be expended for voluntary payments to the United Nations or any affiliate or subsidiary thereof which are in excess of the amount $15,000,000.

ZORINSKY AMENDMENT NO. 1368

Mr. ZORINSKY proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a) of the funds appropriated in this joint resolution for procurement for the Army National Guard, the sum of $27,000,000 is transferred to and merged with funds appropriated in this joint resolution for operation and maintenance for the Army National Guard as follows:

(1) $7,000,000 shall be available only for the repair and restoration of Army National Guard armories.

(2) $20,000,000 shall be available only for Army National Guard armory operating costs attributable to activities of full-time Federal personnel of the National Guard and the housing of equipment.

(b) Additional funds made available for operation and maintenance under subsection (a) shall be allocated among the States for purposes described in clauses (1) and (2) of subsection (a) as prescribed by the Chief of the National Guard Bureau.

(c) None of the additional funds made available for operation and maintenance under subsection (a) may be allocated to any State that reduces the amount of State funds for operation and maintenance of the Army National Guard for fiscal year 1986 below the amount made available by such State for such purpose for fiscal year 1985.

METZENBAUM AMENDMENT NO. 1369

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provsion of this joint resolution, the amount "86,220,000" on page 13, line 13, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "87,070,000", and of which not less than $850,000 shall be expended for the William Howard Taft Home.

LUGAR AMENDMENT NO. 1370

Mr. LUGAR proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 51, after line 14, add the following new title:

TITLE II—CENTRAL AMERICAN COUNTERTERRORISM AND LAW ENFORCEMENT PROFESSIONALIZATION ACT OF 1985

SHORT TITLE

SEC. 201. This title may be cited as the "Central American Counterterrorism and Law Enforcement Professionalization Act of 1985".

SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES

SEC. 202. Chapter 8 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 577. Special Assistance to Combat Terrorism in Central American Countries.—(a)(1) Of the funds authorized to be appropriated for the fiscal year 1986 by section 575, not to exceed $21,000,000 shall be available only to combat terrorism in Central American countries.

"(2) Except as otherwise provided in this section, for the fiscal year 1986, Costa Rica, El Salvador, Guatemala, and Honduras are authorized to receive assistance under this section.

"(b) If the President determines that a country receiving assistance under this section is using such assistance to engage in acts of torture, the President shall terminate such assistance to such country.

"(c) The provisions of paragraph (2) of section 573(d), authorizing United States Government personnel to advise on antiterrorism matters outside the United States, shall apply to assistance provided under this section, except that the limitation of thirty consecutive calendar days shall be extended to ninety consecutive calendar days for purposes of this subsection.

"(d)(1) Except as otherwise provided in this subsection, the provisions of paragraphs (1), (3), and (5) of section 573(d) shall not apply to assistance furnished under this section.

"(2) To the maximum extent practicable, training services provided under this section shall be conducted in the United States, and no funds may be obligated for any such training service to be performed outside the United States unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified fifteen days in advance of such obligation. Each notification of any such proposed obligation shall specify—

"(A) the nature and purpose of such proposed obligation; and

"(B) the reasons why it is not feasible or desirable to conduct such training services in the United States.

"(3) None of the funds made available for assistance under this section shall be provided by or through any intelligence agency of the United States, and no personnel of any such intelligence agency may participate in the provision of assistance under this section except to the extent the participation of such personnel is directly related to antiterrorism training provided under this section and conducted in the United States.".

RESTRICTIONS ON ASSISTANCE

SEC. 203. Section 577 of the Foreign Assistance Act of 1961, as added by section 202, is amended by adding at the end thereof the following new subsections:

"(e)(1) No assistance under this section may be made available for any country until the President prepares and transmits to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report stating that—

"(A) the security forces of such country are not engaged in systematic human rights violations, and the leadership of these forces are committed to eradicating all human rights violations within their respective forces;

"(B) the government of such country is making substantial progress in creating law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts:

"(C) any assistance, including training, will achieve the purpose of professionalizing independent law enforcement agencies; and

"(D) such country has submitted a formal written request to the United States for such assistance.

"(2) For purposes of paragraph (1), the term "human rights violations" includes the use of torture, incommunicado detention, of persons solely for the nonviolent expression of their political views, and prolonged detention without trial.

"(3) No funds under this section may be obligated or expended for any country on or after July 1, 1986, unless the President on June 30, 1986, prepares and transmits an additional report as described in paragraph (1).

"(4) Not later than March 31, June 30, and September 30, 1986, the Comptroller General of the United States shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which—

"(A) describes the progress made by each country receiving assistance under this section toward achieving—

"(i) the elimination of human rights violations by the security forces of such country and a commitment by the leadership of these forces to an eradication of all human rights violations within their respective forces,

"(ii) the creation by the government of such country of law enforcement and judicial systems which promote and encourage the investgation and prosecution of criminal acts, and

"(iii) the professionalization of independent law enforcement agencies, and

"(B) include a determination as to whether any country receiving assistance under this section has engaged in acts of torture, abuse, or other physical, or mental harm of prisoners,

during the preceding three-month period or the period since the date of enactment of this section, whichever is shorter.

"(f) In addition to the requirements of subsection (e) applicable to Guatemala, no assistance under this section may be available for Guatemala unless the President certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that—

"(1) an elected civilian government is in power in Guatemala; and

"(2) the newly elected Government of Guatemala has demonstrated substantial progress—

"(A) in achieving control over its military and security forces;

"(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights; and

"(C) in respecting the internationally recognized human rights of its indigenous Indian population.".

TRANSFERS OF EQUIPMENT AND COMMODITIES

SEC. 204. Section 573(d)(4) of the Foreign Assistance Act of 1961 is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) and (D)";

(2) in subparagraph (B), in the text above clause (i), by inserting "(other than under section 577)" after "chapter";

(3) in subparagraph (C), by inserting after "this section" the following: "(other than equipment and commodities made available under section 577)"; and

(4) by adding at the end thereof the following new subparagraphs:

"(D) For the fiscal year 1986, articles on the United States Munitions List may be made available under section 577 only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c), articles in category X (relating to protective personnel equipment), or articles in subsection (b), (c), or (d) of category XIII, and they are directly related to anti-terrorism assistance under section 577; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(E) Not more than 10 percent of the value (in terms of original acquisition cost) of all equipment and commodities which are provided under section 577 to any country may constitute lethal commodities and equipment, and no shock batons or similar devices may be provided under section 577.".

COUNTERTERRORISM PROTECTION FUND

SEC. 205. The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 the following new section:

"SEC. 39. (a) The Secretary of State is authorized to reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents.

"(b)(1) There are authorized to be appropriated to the Secretary of State $1,000,000 for the fiscal year 1986 for use in reimbursing persons, agencies, or governments under this section.

"(2) Amounts appropriated under this section are authorized to remain available until expended.

"(c) Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. Section 575 of such Act is amended by striking out "$9,840,000 for fiscal year 1986" and inserting in lieu thereof "$30,840,000 for fiscal year 1986".

APPROPRIATIONS

At the end of section 101(j) in H.J. Res. 465, strike the period and add the following new language: ": *Provided further*, That in addition to amounts otherwise provided by this subsection, there are hereby appropriated $22,000,000 to carry out title II of this joint resolution, except that such funds may not be made available for obligation for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance."

SIMON AMENDMENT NO. 1371

Mr. SIMON proposed an amendment to amendment No. 1370 proposed by Mr. LUGAR to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the amendment add the following:

Section 573(d)(4)(E) of the Foreign Assistance Act of 1961, as added by the amendment, is amended—

(1) by striking out "(E) Not" and inserting in lieu thereof '(E)(i) Except as provided in clause (ii), not"; and

(2) by adding at the end thereof the following:

"(ii) No lethal commodity or equipment may be provided under section 577 to Guatemala.".

PELL AMENDMENT NO. 1372

Mr. PELL proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill add "for fiscal year 1986 there are appropriated $9,000,000 for United Nations Environmental Program.".

CHAFEE AMENDMENT NO. 1373

Mr. PELL (for Mr. CHAFEE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 33, line 11, add after the period the following new sentence: "Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935 (b) of the Omnibus Budget Reconciliation Act of 1981: *Provided*, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act.".

STAFFORD AMENDMENT NO. 1374

Mr. STAFFORD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution, add a new section, as follows, and number it appropriately:

"SEC. . Using available funds, the Secretary of the Army, acting through the Chief of Engineers, shall take immediate steps to remove the wreck of the "A. Regina" from the vicinity of Mona Island, Puerto Rico, unless the Chief of Engineers determines, after consultation with independent marine salvage experts and such other experts as deemed necessary, that removal of the vessel is not feasible for technical reasons, or the Fish and Wildlife Service and the National Marine Fisheries Service, in consultation with the Commonwealth of Puerto Rico and the Chief of Engineers, determine that removal of the vessel would cause greater adverse effect on the hawksbill turtle, green turtle, leatherback turtle, and loggerhead turtle, or their nesting or feeding habitat, than would occur leaving the vessel in place."

HEINZ (AND OTHERS) AMENDMENT NO. 1375

Mr. HEINZ (for himself, Mr. KERRY, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 6, line 16, strike the number "$1,019,391,000" and insert in lieu thereof "$1,103,041,000" and on page 6, line 18, strike the number $1,419,451,000", and insert in lieu thereof $1,425,902,000".

TRIBLE (AND OTHERS) AMENDMENT NO. 1376

Mr. TRIBLE (for himself, Mr. MATHIAS, Mr. SARBANES, Mr. HEINZ, Mr. WARNER, and Mr. COHEN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . None of the funds appropriated by this joint resolution may be obligated or expended to carry out a program to paint any naval vessel with paint known by the trade name of Organotin or with any other paint containing the chemical compound tributyltin. Until such time as the EPA certifies to the Department of Defense whatever toxicity is generated by Organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment.

HATFIELD AMENDMENT NO. 1377

Mr. HATFIELD proposed an amendment to amendment No. 1348 proposed by Mr. STEVENS to the joint resolution (H.J. Res. 465), supra; as follows:

On page 3, strike "law." at the end of section 101(d) and insert in lieu thereof the following: "law: *Provided*, That the appropriation for a federal contribution to the District of Columbia for the 'Criminal Justice Initiative' under amendment number 2 shall be '$13,860,000' instead of '$14,010,000'."

HATFIELD AMENDMENT NOS. 1378 THROUGH 1381

Mr. HATFIELD proposed four amendments to the joint resolution (H.J. Res. 465), supra; as follows:

AMENDMENT NO. 1378

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, out of funds available for Research, Development, Testing and Evaluation, Defense Agencies, within the Department of Defense, there shall be provided $10,000,000 for research, development and acquisition of a super computer with capabilities equal to or better than that of the Tesseract model parallel super computer system."

AMENDMENT NO. 1379

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as mininal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified,

including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review."

AMENDMENT No. 1380

At an appropriate place in the bill, include the following new section:

MILITARY CONSTRUCTION, NAVY

For construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.

AMENDMENT No. 1381

On page 37, after line 12, insert:

SEC. . Section 203(g) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government."

HECHT AMENDMENT NO. 1382

Mr. McCLURE (for Mr. HECHT) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place, insert the following:

SEC. . The Approximately 21,600 acres of public land in Churchill County, Nevada covered by the Department of the Navy withdrawal application N-19622 of March 6, 1978 are hereby segregated until such withdrawal is acted upon by the Congress. Segregation shall be to the extent specified in withdrawal application N-19622 and shall not prevent compatible land uses which would be allowed under the terms of the proposed withdrawal. During the segregation period, the Secretary of the Interior may prohibit public entry and use of the lands for reasons of public health and safety.

GORTON AMENDMENT NO. 1383

Mr. McCLURE (for Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, $11,023,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction and related facilities to serve the Mt. St. Helens National Volcanic Monument, Washington: *Provided*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any state other than the state of Washington.

HATFIELD AMENDMENT NO. 1384

Mr. McCLURE (for Mr. HATFIELD) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

BYRD AMENDMENT NO. 1385

Mr. BYRD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may, if otherwise eligible for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965, qualify for a Pell Grant under such subpart without regard to the limitation on the loss of income in the calendar year in the determination of expected family contribution under such subpart.

HATCH AMENDMENT NOS. 1386 AND 1387

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 465), supra; as follows:

AMENDMENT NO. 1386

At the appropriate place add the following new title:

TITLE II

SEC. 201. This title may be cited as the "Sex Discrimination in the United States Code Reform Act of 1985"

PART A—UNIFORMED SERVICES AND MERCHANT MARINE AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 211. (a) Section 920 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, if guilty of carnal knowledge and shall be punished as a court-martial may direct.".

(b) Section 933 of title 10 United States Code, is amended by inserting "or a gentlewoman" after "gentleman".

AMENDMENTS TO TITLE 10. UNITED STATES CODE, RELATING TO THE ARMY

SEC. 212. (a) Section 3683 of title 10 United States Code, is repealed.

(b) Section 3963 of such title is repealed.

(c) Section 4309(b) of such title is amended by striking out "males" and inserting in lieu thereof "persons".

(d) The second sentence of section 4313(a) of such title is amended by striking out "man" and inserting in lieu thereof "competitor".

(e) Section 4651 of such title is amended to read as follows:

"§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

"Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.".

(f) Section 4712(d) of such title is amended by striking out clauses (1) through (9) and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) A next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(q) Section 4713(a)(2) of such title is amended by striking out subclauses (A) through (T) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. 213. (a) Section 6160(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(b) Section 6964(e) of such title is amended by striking out "men" and inserting in lieu thereof "persons".

(c) Section 7601 of such title is amended—

(1) in subsection (a), by striking out "widows" and inserting in lieu thereof "surviving spouses"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" each place it appears and inserting in lieu thereof "the Secretary".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE AIR FORCE

SEC. 214. (a) Section 8683 of title 10, United States Code, is repealed.

(b) Section 8963 of such title is repealed.

(c) Section 9651 of such title is amended to read as follows:

"§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

"Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.".

(d) Section 9712(d) of such title is amended by striking out clauses (1) through (9), and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(e) Section 9713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE ARMED FORCES GENERALLY

SEC. 215. (a) Section 311(a) of title 10, United States Code, is amended—

(1) by striking out "males" and inserting in lieu thereof "persons"; and

(2) by striking out "and of female citizens of the United States who are commissioned officers of the National Guard".

(b) Section 772(c) of such title is amended—

(1) by striking out "his" and inserting in lieu thereof "the retired officer's"; and

(2) by striking out the second sentence.

(c)(1) Section 1431(b) of such title is amended—

(A) in the first and second sentences—

(i) by striking out "he" each place it appears and inserting in lieu thereof "the person"; and

(ii) by striking out "his" each place it appears and inserting in lieu thereof "the person's";

(B) in the third sentence—

(i) by striking out "he" each place it appears and inserting in lieu thereof "the member"; and

(ii) by striking out "his" and inserting in lieu thereof "the member's";

(C) in the fourth sentence, by striking out "him" and inserting in lieu thereof "the member";

(D) in clause (1) of the fifth sentence—

(i) by striking out "he is entitled" and inserting in lieu thereof "the elector's entitlement of";

(ii) by striking out "his being granted" and inserting in lieu thereof "the grant of"; and

(iii) by striking out "his" and inserting in lieu thereof "the elector's"; and

(E) in clause (3) of such sentence—

(i) by striking out "his widow" and inserting in lieu thereof "the elector's surviving spouse"; and

(ii) by striking out "his death" and inserting in lieu thereof "the member's death".

(2) Section 1431(c) of such title is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the member's"; and

(B) in the second sentence, by striking out "he" and inserting in lieu thereof "the member".

(3) Section 1431(d) of such title is amended by—

(A) by striking out "he" the first place it appears and inserting in lieu thereof "the member"; and

(B) adding after "he" the second place it appears "or she".

(d) Section 1451(a)(2) of title 10, United States Code, is amended—

(1) by adding "or widower" after "widow" each place it appears; and

(2) by inserting "or father's" after "mother's".

REPEAL OF AUTHORITY TO MAKE TEMPORARY APPOINTMENTS AS OFFICERS IN THE ARMY

SEC. 216. The Act entitled "An Act to authorize temporary appointment as officers in the Army of the United States of members of the Army Nurse Corps, female persons having the necessary qualifications for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices), and female persons having the necessary qualifications for appointment in such department as female dietetic or physical-therapy personnel, and for other purposes.", approved June 22, 1944 (58 Stat. 324; 50 U.S.C. App. 1591 et seq.) is repealed.

AMENDMENTS TO THE SOLIDERS AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 217. (a) Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) in subsection (1), by striking out "wife" and inserting in lieu thereof "spouse"; and

(2) in subsection (4)—

(A) by inserting "or she" after "he"; and

(B) by striking out "wife" and inserting in lieu thereof "spouse".

(b) Section 503 of such Act (50 U.S.C. App. 563) is amended—

(1) in subsection (1), by striking out "his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or" and inserting in lieu thereof "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or"; and

(2) in subsection (2), by inserting "or she" after "he".

(c) Section 504 of such Act (50 U.S.C. App. 564) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

(d) Section 510 of such Act (50 U.S.C. App. 570) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

AMENDMENTS RELATING TO ALLOTMENT OF PENSIONS OF INMATES OF THE SOLDIERS' HOME

SEC. 218. Section 4 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes.", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52) is amended—

(1) in the first sentence—

(A) by striking out "wife" each place it appears and inserting in lieu thereof in each such place "spouse"; and

(B) by striking out "his" and inserting in lieu thereof "the inmate's";

(2) in the third sentence—

(A) by striking out "him" each place it appears and inserting in lieu thereof in each such place "the pensioner"; and

(B) by striking out "his";

(3) in the fourth sentence—

(A) by striking out "his" each place it appears and inserting in lieu thereof in each such place "the inmate's"; and

(B) by striking out "he" and inserting in lieu thereof "the pensioner"; and

(4) in the fifth sentence—

(A) by striking out "him" and inserting in lieu thereof "the pensioner"; and

(B) by striking out "his" and inserting in lieu thereof "the pensioner's".

MISCELLANEOUS AMENDMENTS RELATING TO THE UNIFORMED SERVICES

SEC. 219. (a) The Act entitled "An Act to authorize the burial in national cemeteries of the remains of certain commissioned officers of the Public Health Service", approved April 30, 1956 (70 Stat. 124; 42 U.S.C. 213 note), is amended by—

(1) striking out "wife, widow" the first place it appears and inserting in lieu thereof "spouse, surviving spouse"; and

(2) striking out "wife, widow" the second place it appears and inserting in lieu thereof "spouse".

(b) Section 551 of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "his wife" in subparagraph (A) and inserting in lieu thereof "the member's spouse";

(B) by striking out "his" in subparagraphs (B) and (C) and inserting in lieu thereof "such member's"; and

(C) by striking out "his designee" in subparagraph (E) and inserting in lieu thereof "the designee of such Secretary"; and

(2) in paragraph (2) by striking out "his" and inserting in lieu thereof "such members".

TECHNICAL AMENDMENTS

SEC. 220. (a) The table of sections at the beginning of chapter 353 of title 10, United States Code, is amended by striking out the item relating to section 3683.

(b) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3963.

(c) The table of sections at the beginning of chapter 853 of such title is amended by striking out the item relating to section 8683.

(d) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8963.

SAVING PROVISIONS

SEC. 221. (a) The repeal made by section 212(a) shall not apply in the case of any person who performed active service described in section 3683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(b) The repeal made by section 212(b) shall not apply in the case of any member of the Regular Army described in section 2963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(c) The repeal made by section 214(a) shall not apply in the case of any person who performed active service described in section 8683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(d) The repeal made by section 214(b) shall not apply in the case of any Air Force nurse or medical specialist described in section 8963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(e) The repeal made by section 216 shall not apply in the case of any officer in the Army appointed and assigned under the first section of the Act referred to in section 216, as such Act was in effect on the day before the date of enactment of this title.

PART B—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE SOCIAL SECURITY ACT AND THE RAILROAD RETIREMENT ACT

SOCIAL SECURITY ACT PROVISIONS

SEC. 231. (a) Section 213(a) of the Social Security Act (42 U.S.C. 413(a)(2)(B)) is amended by—

(1) striking out "(if a woman) or age 65 (if a man)";

(2) in clause (iii), by striking out "him" and inserting in lieu thereof "such individual"; and

(3) in the matter between clause (vii) and subsection (b), by—

(A) striking out "his primary" and inserting in lieu thereof "such individual's primary";

(B) striking out "his having" and inserting in lieu thereof "such individual having";

(C) striking out "his quarters" and inserting in lieu thereof "such individual's quarters";

(D) striking out "his survivor" each place it appears and inserting in lieu thereof "the survivors of such individual"; and

(E) striking out "his record" and inserting in lieu thereof "such individual's record".

(b) Section 213(c)(1) of the Social Security Act (42 U.S.C. 413(c)(1)) is amended by striking out "him" and inserting in lieu thereof "such individual".

(c) Section 213(d) of the Social Security Act (42 U.S.C. 413(d)) is amended by striking out "his delegate" and inserting in lieu thereof "the delegate of such Secretary".

(d) Section 215(f)(5) of such Act (42 U.S.C. 415(f)(5)) is amended by—

(1) striking out "a man" and inserting in lieu thereof "an individual";

(2) striking out "his" each place it appears and inserting in lieu thereof "such individual's"; and

(3) striking out "he" each place it appears and inserting in lieu thereof "such individual".

(e) Section 402(a)(19)(G)(iv)) of such Act (42 U.S.C. 602(a)(19)(G)(iv) is amended by striking out "mother" and inserting in lieu thereof "parent", and by striking out "she".

(f) The amendments made by this section shall apply on and after the date of the enactment of this title, and in the case of monthly benefits under title II of the Social Security Act shall only apply to benefits payable for months beginning on or after such date of enactment.

RAILROAD RETIREMENT

SEC. 232. (a) Section 2(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(c)) is amended—

(1) in subdivision (1)(ii)(C) (45 U.S.C. 231a(c)(1)(ii)(C)), by striking out ", in the case of a wife, has in her care (individually or jointly with her husband)" and inserting in lieu thereof "has in his or her care (individually or jointly with his or her spouse)";

(2) in subdivision (2) (45 U.S.C. 231a(c)(2)), by inserting "or divorced husband" after "divorced wife" each place it appears;

(3) in subdivision (3) (45 U.S.C. 231a(c)(3))—

(A) by striking out "who (i)" and inserting in lieu thereof "who", and

(B) by striking out "; and (ii)" and all that follows and inserting in lieu thereof a period; and

(4) by amending subdivison (4) (45 U.S.C. 231a(c)(4)) to read as follows:

"(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—

"(i) Such individual (A) is entitled to an annuity under subsection (a)(1) of this section, and (B) has attained age 62;

"(ii) such divorced wife or divorced husband (A) has attained retirement age (as defined in section 216(1) of the Social Security Act), and (B) is not married; and

"(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in such Act,

shall, subject to the condition set forth in subsections (e), (f), and (h) of this section, be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.".

(b) Section 2(d) (45 U.S.C. 231a(d)) of such Act is amended—

(1) in subdivision (1)(i) (45 U.S.C. 231a(d)(1)(i)), by striking out ", and who, in the case of a widower" and all that follows and inserting in lieu thereof a semicolon;

(2) subdivision (1)(ii) (45 U.S.C. 231a(d)(1)(ii)), by inserting "or widower (as defined in section 216 (g) and (k) of the Social Security Act)" after "a widow (as defined in section 216 (c) and (k) of the Social Security Act)", and by striking out "her care" and inserting in lieu thereof "her or his care";

(3) by amending subdivision (1)(v) (45 U.S.C. 231a(d)(1)(v)) to read as follows:

"(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph—

"(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual entitled to an annuity under subsection (c) of this section,

"(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202 (e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,

"(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,

"(F) the reference in section 202(e)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and

"(G) the references in section 202(c)(3) and section 223(a) that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section."; and

(4) by amending subdivision (2)(B) (45 U.S.C. 231a(d)(2)(B)) to read as follows: "the last month for which the widow or widower was entitled to an annuity under clause (ii) of subdivision (1) as the widow or widower of the deceased employee, or".

(c) Section 2(e)(5) (45 U.S.C. 231a(e)(5)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(d) Section 2(f)(2) (45 U.S.C. 231a(f)(2)) of such Act is amended by inserting "or divorced husband's" after "divorced wife's" each place it appears.

(e) Section 2(h)(3) (45 U.S.C. 231a(h)(3) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(f) Section 4(a)(1) (45 U.S.C. 231c(a)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(g) Section 4(f)(2)(iii) (45 U.S.C. 231c(f)(2)(iii)) of such Act is amended to read as follows:

"(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annu-

ity or the basis of the provisions of suction 2(d)(1)(v) of this Act.".

(h) Section 4(g)(5) (45 U.S.C. 231c(g)(5)) of such Act is amended to read as follows:

"(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(i) Section 4(h)(2) (45 U.S.C. 231c(h)(2)) of such Act is amended by striking out the first sentence thereof and inserting in lieu thereof the following; "Subdivision (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(j) Section 4(i) (45 U.S.C. 231c(i)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(k) Section 5(c)(3) (45 U.S.C. 231d(c)(3)) of such Act is amended—

(1) by inserting "or husband" after "wife" each place it appears in the first sentence thereof;

(2) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(3) by inserting "or divorced husband" after "divorced wife" each place it appears in the second sentence thereof.

(l) Section 5(c)(6) (45 U.S.C. 231d(c)(6)) of such Act is amended—

(1) by inserting "or widower" after "widow";

(2) by inserting "or he" after "she" each place it appears; and

(3) by striking out "her care" and inserting in lieu thereof "her or his care".

(m) Section 6(a)(3) (45 U.S.C. 231e(a)(3)) of such Act is amended by inserting "or divorced husband" after "divorced wife" and by inserting "or divorced husband's" after "divorced wife's".

(n) Section 6(a)(2) (45 U.S.C. 231e(b)(2)) of such Act is amended by inserting "surviving divorced husband," after "widower," the first place it appears.

(o) Section 6(c)(2) (45 U.S.C. 231e(c)(2)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(p) Section 7(b)(2)(B) (45 U.S.C. 231f(b)(2)(B)) of such Act is amended by inserting "or divorced husband" after "husband".

(q) Section 7(d)(2)(i)(B) (45 U.S.C. 231f(d)(2)(i)(B)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(r) The amendments made by this section shall be effective with respect to annuities payable for months after December 1985.

WORK INCENTIVE PROGRAM

SEC. 233. (a) Section 433(a) of the Social Security Act (42 U.S.C. 633(a)) is amended by striking out all after the colon in the last sentence thereof and inserting in lieu thereof the following: "first, unemployed parents who are the principal earners (as defined in section 407); second, mothers or fathers, whether or not required to register pursuant to section 402(a)(19)(A), who volunteer for participation under a work incentive program; third, other mothers or fathers and pregnant women, registered pursuant to section 402(a)(19)(A), who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or employment related training; and fifth, all other individuals so certified.".

(b) The amendment made by this section shall become effective on the date of the enactment of this title.

PART C—MISCELLANEOUS AMENDMENTS

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 241. (a) Section 2108(3) of title 5, United States Code, is amended by striking out subparagraphs (F) and (G) and inserting in lieu thereof the following:

(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) such parent's spouse is totally and permanently disabled;

(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and

(G) any parent of a service-connected permanently and totally disabled veteran, if—

(i) such parent's spouse is totally and permenantly disabled;

(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

(iii) such parent has remarried but is widowed, divorced or legally separated when preference is claimed;".

(b) Section 5561(3)(A) of title 5, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(c) Section 8332(j)(1) of title 5, United States Code, is amended by—

(1) striking out "his widow" each place it appears and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

IMMIGRATION

SEC. 242. (a) The first sentence of section 283 of the Immigration and Nationality Act (8 U.S.C. 1353) is amended by striking out 'wives" and inserting in lieu thereof "spouses".

(b) Section 340 of such Act (8 U.S.C., 1451) is amended—

(1) in subsection (a) by—

(A) striking out "his naturalization" and inserting in lieu thereof "his or her naturalization";

(B) striking out "his subversive" and inserting in lieu thereof "his or her subversive"; and

(C) striking out "his residence" and inserting in lieu thereof "his or her residence".

(2) in subsection (b) by—

(A) striking out "his residence" and inserting in lieu thereof "his or her residence"; and

(B) striking out "upon him".

(3) in subsection (d) by—

(A) striking out "his nativity" and inserting in lieu thereof "his or her nativity"; and

(B) striking out "his petition" and inserting in lieu thereof "his or her petition";

(4) in subsection (e) by—

(A) striking out "his certificate" and inserting in lieu thereof "his or her certificate"; and

(B) striking out "wife" and inserting in lieu thereof "spouse"; and

(5) in subsection (f) by—

(A) striking out "he may" and inserting in lieu thereof "he or she may"; and

(B) striking out "his citizenship" and inserting in lieu thereof "his or her citizenship".

(c) The first sentence of section 341 of such Act (8 U.S.C. 1452) is amended by striking out "husband" and inserting in lieu thereof "spouse".

(d) Section 357 of such Act (8 U.S.C. 1489) is amended—

(1) by striking out "woman" each of the two places it appears and inserting in lieu thereof "person"; and

(2) by inserting before "her" each of the two places it appears "his".

(e) The Act entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes", approved June 25, 1910 (36 Stat. 826, chapter 395; 8 U.S.C. 1557) is amended—

(1) by amending the title to read as follows: "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of adults and youths, and for other purposes"; and

(2) by striking out "women and girls" each of the five places it appears and inserting in lieu thereof "adults and youths".

(f) Section 1 of the Act entitled "An Act Making Appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", approved June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended by—

(1) inserting "or her" after "his" each place it appears; and

(2) striking out in the third sentence "widow" and inserting in lieu thereof "surviving spouse".

(g) Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is amended in paragraph (3) of subsection (a) by striking out "the naturalization of the mother".

WALSH-HEALEY

SEC. 243. (a) Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (commonly referred to as the Walsh-Healey Act), approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35) is amended by striking out "no male person under sixteen years of age and no female person under eighteen years of age" and inserting in lieu thereof "no person under sixteen years of age".

(b) The first sentence of section 2 of such Act (49 Stat. 2037; 41 U.S.C. 36) is amended by striking out "each male person under sixteen years of age or each female person under eighteen years of age," and inserting in lieu thereof "each person under sixteen years of age".

AGRICULTURE

SEC. 244. Selection 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended—

(1) by striking out "of working mothers" in the third sentence of subsection (c) and inserting in lieu thereof "from households in which both parents work or from single parent households in which the parent works"; and

(2) by striking out "his" in the third sentence of subsection (g) and inserting in lieu thereof "the Secretary's".

INDIAN AFFAIRS

SEC. 245. The Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for

other purposes" approved November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) is amended by striking out "field matrons,".

SEC. 246. Section 3 of the Act of March 3, 1875 (18 Stat. 449, chapter 132; 25 U.S.C. 137) is hereby repealed.

SEC. 247. The Act entitled "An Act in relation to marriage between white men and Indian women" approved August 9, 1888 (25 Stat. 392; 25 U.S.C. 181 et seq.) is amended—

(1) by amending the title to read as follows: "An Act in relation to marriage between non-Indians and Indians";

(2) in section 1 (25 Stat. 392; 25 U.S.C. 181) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman";

(3) by repealing section 2 (25 Stat. 392; 25 U.S.C. 182); and

(4) in section 3 (25 Stat. 392; 25 U.S.C. 183) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman".

SEC. 248. The Act of June 7, 1897 (30 Stat. 62, chapter 3) is amended—

(1) in section 1 (30 Stat. 90, chapter 3; 25 U.S.C. 184) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian";

(B) striking out "woman" each place it appears;

(C) striking out "her death" each place it appears and inserting in lieu thereof "his or her death"; and

(D) striking out "mother" and inserting in lieu thereof "Indian parent"; and

(2) in section 1 (30 Stat. 83, chapter 3; 25 U.S.C. 274) by striking out "girls as assistant matrons and Indian boys" and inserting in lieu thereof "youths as dormitory aids and".

SEC. 249. (a) Section 3 of the Act of September 21, 1959 (73 Stat. 592; 25 U.S.C. 933(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

(b) The Act of September 5, 1962 (76 Stat. 429; 25 U.S.C. 971 et seq.) is amended by repealing sections 1 throught 9 and the first sentence of section 10.

SEC. 250. Section 5 of the Act of February 28, 1891 (26 Stat. 795, Chapter 383; 25 U.S.C. 371) is amended by striking out "father" and inserting in lieu thereof "parents".

SEC. 251. (a) Section 245 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "his judgment" and inserting in lieu thereof "the judgment of such Attorney";

(2) in subsection (c), by striking out "his" each place it appears and inserting in lieu thereof "such individual's".

(b) Section 1153 of title 18, United States Code, is amended by striking out "female, not his wife" and inserting in lieu thereof "person not his or her spouse".

(c)(1) Section 2032 of title 18, United States Code, is amended by—

(A) striking out "female" and inserting in lieu thereof "person"; and

(B) striking out "wife" and inserting in lieu thereof "his or her spouse".

(2) The heading for section 2032 of title 18, United States Code, is amended to read as follows:

"§ 2032. Carnal knowledge of a person under 16".

(3) The table of sections for chapter 99 of title 18, United States Code, is amended by striking out the item for section 2032 and inserting in lieu thereof the following:

"2032. Carnal knowledge of a person under.".

(d) Sections 2198, 2424, 3286, and 3614 of title 18, United States Code, and all references to such sections including the items relating to such sections in the table of sections, are repealed.

(e) Section 2421 of title 18, United States Code, is amended—

(1) by striking out "Whoever" each place it appears and inserting in lieu thereof "Any individual who";

(2) by striking out "person" in the second paragraph and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person";

(4) by inserting "himself or" before "herself" each place it appears; and

(5) by striking out "her" in the second paragraph and inserting in lieu thereof "such other person".

(f) Section 2422 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "Any individual who";

(2) by striking out "person" and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person"; and

(4) by striking out "her" and inserting in lieu thereof "such other person's".

(c)(1) Section 2424 of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "woman or girl" each place it appears;

(ii) by striking out "she has entered" each place it appears and inserting in lieu thereof "such alien has entered";

(iii) by inserting "he or" before "she" each place it appears;

(iv) by inserting "his or" before "her" each place it appears; and

(v) by striking out "his knowledge" and inserting in lieu thereof "his or her knowledge";

(B) in subsection (b), by striking out "him" each place it appears and inserting in lieu thereof "such person"; and

(C) in the section heading, by striking out "female".

(2) the table of sections for chapter 117 of title 18, United States Code, is amended by striking out "female" in the item relating to section 2424.

PUBLIC LANDS

SEC. 252. Section 2287 of the Revised Statutes (43 U.S.C. 161) is amended—

(1) in the first sentence by striking out "Every person who is the head of a family, or who has" and inserting in lieu thereof "Every person who is married or who has one or more dependents or who has"; and

(2) by inserting after "his" each place it appears the following: "or her".

SEC. 253. Section 2290 of the Revised Statutes (43 U.S.C. 162) is amended in the matter before the first semicolon by striking out "the head of a family, or is over twenty-one years of age," and inserting in lieu thereof "is married, or has one or more dependents, or is over twenty-one years of age,".

SEC. 254. Section 2291 of the Revised Statutes (43 U.S.C. 164) is amended by—

(1) striking out "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself" and insert in lieu thereof "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death prior to making entry the enterer's heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer";

(2) striking out "he, she, or they" each place it appears and inserting in lieu thereof "they";

(3) striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(4) in the second proviso by—

(A) striking out "date of his death" and inserting in lieu thereof "date of his or her death"; and

(B) striking out "had he lived" and inserting in lieu thereof "had he or she lived"; and

(5) in the third proviso by—

(A) striking out "area of his entry" and inserting in lieu thereof "area of his or her entry"; and

(B) striking out "by him".

SEC. 255. Section 3 of the Act entitled "An Act for the relief of settlers on public lands", approved May 14, 1880 (21 Stat. 141; 43 U.S.C. 166) is amended—

(1) in the first sentence by—

(A) striking out "time to file his" and inserting in lieu thereof "time to file his or her";

(B) striking out "perfect his original entry" and inserting in lieu thereof "perfect original entry";

(C) striking out "and his right" and inserting in lieu thereof "and the right"; and

(D) striking out "if he settled" and inserting in lieu thereof "if the settler settled";

(2) in the matter before the first proviso in the second sentence by—

(A) striking out "unmarried women" and inserting in lieu thereof "unmarried person";

(B) striking out "she" and inserting in lieu thereof "the person";

(C) striking out "her marriage" and inserting in lieu thereof "the marriage"; and

(D) striking out "her right" and inserting in lieu thereof "his or her right";

(3) in the first proviso by striking out "she does not abandon" and inserting in lieu thereof "the person does not abandon his or";

(4) by striking out the second proviso; and

(5) in the remaining provisos by—

(A) striking out "he" and inserting in lieu thereof "the settler"; and

(B) striking out "his" both places it appears and inserting in lieu thereof "his or her".

SEC. 256. The Act entitled "An Act providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the right of either to a patent after compliance with the law a year, to apply to existing enterers", approved April 6, 1914 (38 Stat. 312; 43 U.S.C. 167) is amended to read as follows:

"The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but if they choose to live together, they

shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the term 'enterer' shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.".

SEC. 257. The Act entitled "An Act to provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien", approved October 17, 1914 (38 Stat. 740; 43 U.S.C. 168) is repealed.

SEC. 258. The Act entitled "An Act to provide for issuing patents for public lands claimed under the homestead laws by deserted wives", approved October 22, 1914 (38 Stat. 766; 43 U.S.C. 170) is amended—

(1) in the matter before the first proviso by—

(A) striking out "wife" both places it appears and inserting in lieu thereof "spouse";

(B) striking out "by her husband" and inserting in lieu thereof "by the enterer spouse";

(C) striking out "in her name" and inserting in lieu thereof "in his or her name"; and

(D) striking out "entryman" and inserting in lieu thereof "enterer";

(2) in the first proviso by—

(A) striking out "wife" and inserting in lieu thereof "deserted spouse";

(B) striking out "herself" and inserting in lieu thereof "such deserted spouse"; and

(C) striking out "her husband" and inserting in lieu thereof "the enterer spouse"; and

(3) in the second proviso by—

(A) striking out "wife" and inserting in lieu thereof "spouse"; and

(B) striking out "husband" and inserting in lieu thereof "deserting enterer spouse".

SEC. 259. The Act entitled "An Act for the protection of homestead settlers who enter the military or naval service of the United States in time of war", approved June 16, 1898 (30 Stat. 473; 43 U.S.C. 240) is amended by—

(1) inserting after "his" each place it appears the following: "or her"; and

(2) inserting after "he" each place it appears "or she".

SEC. 260. The Act entitled "An Act to allow credit in connection with homestead entries to widows of persons who served in certain Indian wars", approved March 3, 1933 (47 Stat. 1424; 43 U.S.C. 243a) is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

SEC. 261. Section 2293 of the Revised Statutes (43 U.S.C. 255) is amended by—

(1) striking out "himself" and inserting in lieu thereof "himself or herself";

(2) striking out "he" and inserting in lieu thereof "the person"; and

(3) striking out "wife" and inserting in lieu thereof "spouse".

SEC. 262. Section 2305 of the Revised Statutes (43 U.S.C. 272) is amended—

(1) in the matter before the first semicolon by adding after "he" the following: "or she";

(2) in the clause after the first semicolon by striking out "his homestead for a period of at least one year after he shall have commenced his improvements" and inserting in lieu thereof "his or her homestead for a period of at least one year after the improvements were commenced";

(3) by striking out the proviso and inserting in lieu thereof the following: *"Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the settler's surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue."

SEC. 263. (a) Section 2307 of the Revised Statutes (43 U.S.C. 278) is amended by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "entrywoman" and inserting in lieu thereof "enterer".

(b) Section 2304 of the Revised Statutes (43 U.S.C. 271) is amended by striking out "after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement." and inserting in lieu thereof "after locating a homestead and filing a declaratory statement within which to make entry and commence settlement and improvement of the land.".

MISCELLANEOUS

SEC. 264. Section 604(a)(7) of title 28, United States Code, is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

SEC. 265. Section 2 of the Act of August 16, 1941 (55 Stat. 623 chapter 357; 42 U.S.C. 1652) is amended in subsection (b) by—

(1) striking out "surviving wife" the first place it appears and inserting in lieu thereof "the surviving spouse";

(2) striking out "surviving wife" the second place it appears and inserting in lieu thereof "surviving spouse"; and

(3) striking out "his option" and inserting in lieu thereof "his or her option".

SEC. 266. (a) Section 1981 of the Revised Statutes (42 U.S.C. 1986) is amended by—

(1) striking out "his legal representatives" and inserting in lieu thereof "his or her legal representatives"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(b) Section 4 of the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes" (84 Stat. 1863, 33 U.S.C. 857-4) is amended—

(1) in subsection (a) by striking out "enlisted men" and inserting in lieu thereof "enlisted members"; and

(2) in subsection (c) by striking out "their widows" and inserting in lieu thereof "the surviving spouses of such members".

(c) Section 222 of the National Housing Act (12 U.S.C. 1715m), is amended—

(1) by striking out "servicemen" each place it appears and inserting in lieu thereof "service members";

(2) by striking out "serviceman" each place it appears and inserting in lieu thereof "service member";

(3) by inserting "or her" after "his" each place it appears;

(4) in subsections (a) and (c), by striking out "him" each place it appears and inserting in lieu thereof "such Secretary"; and

(5) in subsection (g), by—

(A) striking out "serviceman's" each place it appears and inserting in lieu thereof "service member's";

(B) striking out "surviving widow" and inserting in lieu thereof "surviving spouse"; and

(C) striking out "widow" each place it remains and inserting in lieu thereof "surviving spouse".

(d) Section 2 of the Act of July 5, 1946, commonly known as the Trademark Act of 1946 (15 U.S.C. 1052), is amended in subsection (c) by—

(1) striking out "his written consent" and inserting in lieu thereof "the written consent of such individual";

(2) striking out "his widow" and inserting in lieu thereof "the surviving spouse of such President"; and

(3) striking out "the widow" and inserting in lieu thereof "such surviving spouse".

(e) Section 5572 of the Revised Statutes (48 U.S.C. 1413) is amended in the first sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, or administrator, or assigns of the discoverer".

(f) Section 5574 of the Revised Statutes (48 U.S.C. 1415) is amended in the second sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

(g) Section 5577 of the Revised Statutes (48 U.S.C. 1418) is amended by—

(1) striking out "his discretion" and inserting in lieu thereof "the discretion of such President"; and

(2) striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

SAINT ELIZABETHS HOSPITAL

Sec. 267. (a) Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by striking out "he" each place it appears in the second sentence;

(2) by inserting "or her" after "his" in the second sentence;

(3) by striking out "and, in the case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any," in the last sentence before the proviso and inserting in lieu thereof "and the spouse, minor children, and dependent parents of the pensioner,";

(4) by striking out "shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife" in the last sentence before the proviso and inserting in lieu thereof "shall be paid to the spouse of the pensioner, if living, or if no spouse survives the pensioner, then to the minor children of the pensioner; and in case there is no spouse";

(5) by inserting "or her" before "credit at said home" in the proviso;

(6) by striking out "his said transfer" in the proviso and inserting in lieu thereof "the transfer";

(7) by striking out "be transferred with him" in the proviso and inserting in lieu thereof "also be transferred";

(8) by striking out "placed to his" in the proviso and inserting in lieu thereof "placed to the pensioner's";

(9) by striking out "his return from said hospital" in the proviso and inserting in lieu thereof "the pensioner's return from such hospital"; and

(10) by inserting "or her" before "credit at said hospital" in the proviso.

(b) The third clause of section 4843 of the Revised Statutes (24 U.S.C. 191) is amended by striking out "Men" and inserting in lieu thereof "Persons".

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

SEC. 268. (a) Section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843) is amended—

(1) in subsection (a)—

(A) by striking out "commencement of his employment" in the second sentence and inserting in lieu thereof "the commencement of employment";

(B) by striking out "he" the first place it appears in the second sentence and inserting in lieu thereof "the worker";

(C) by inserting "or she" after "he" the second place it appears in the second sentence;

(D) by inserting "or her" after "his" in the fourth sentence; and

(E) by striking out "advise him of his rights" in the fifth sentence and inserting in lieu thereof "advise the miner of the miner's rights";

(2) in subsection (b)—

(A) by striking out "from his position" each place it appears in paragraphs (1) and (2);

(B) by striking out "him" in paragraph (3) and inserting in lieu thereof "the miner"; and

(C) by striking out "his" in paragraph (3); and

(3) by striking out "him" in the first sentence of subsection (c) and inserting in lieu thereof "the miner"; and

(4) by striking out "such miner" in the first sentence of subsection (d) and all that follows through the end of the sentence and inserting in lieu thereof "such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.".

(b) Section 402 of such Act (30 U.S.C. 902) is amended—

(1) in subsection (a)(2)—

(A) by inserting "or husband" after "wife" in the first sentence;

(B) by striking out "her" the first place it appears in the first sentence;

(C) by striking out "husband" in the first sentence and inserting in lieu thereof "spouse";

(D) by inserting "his or" before "her" each place it appears (after the amendment made by subparagraph (B));

(E) by inserting "or 'husband' " after " 'wife' " in the second sentence; and

(F) by striking out "The term 'wife' also includes a 'divorced wife' " in the third sentence and inserting in lieu thereof "The terms 'wife' and 'husband' also include a 'divorced wife' and a 'divorced husband', respectively.";

(2) in subsection (e)—

(A) by striking out "The term 'widow' included the wife" in the first sentence and inserting in lieu thereof "The terms 'widow' and 'widower' include the spouse";

(B) by striking out "his" each place it appears and inserting in lieu thereof "the miner's";

(C) by inserting "or 'widower' " after " 'widow' " in the second sentence;

(D) by striking out "a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act" (42 U.S.C. 416(d)(2)) in the third sentence and inserting in lieu thereof "a 'surviving divorced wife' and 'a surviving divorced husband' as defined in paragraphs (2) and (5), respectively, of section 216 of the Social Security Act" (42 U.S.C. 416);

(E) by inserting "his or" before "her" each place it appears in the third sentence; and

(F) by striking out "Such term also includes" in the third sentence and inserting in lieu thereof "Such terms also include"; and

(3) by striking out "widow" each place it appears in the third sentence of subsection (g) and inserting in lieu thereof "the miner's widow or widower".

(c) Section 411 of such Act (30 U.S.C. 921) is amended—

(1) in subsection (a)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "his"; and

(2) in subsection (c)—

(A) by striking out "his" in paragraph (1) and insertng in lieu thereof "the";

(B) by striking out "his" in the first sentence of paragraph (2);

(C) by striking out "he" each place it appears in paragraph (3) and inserting in lieu thereof "the miner";

(D) by striking out "his" each place it appears in paragraph (3) and each place it appears in the first sentence of paragraph (4);

(E) by striking out "widow's," in the first sentence of paragraph (4) (after the amendment made by subparagraph (D)) and inserting in lieu thereof "or the miner's widow's, widower's";

(F) by striking out "he" in the first sentence of paragraph (4) and inserting in lieu thereof "the miner";

(G) by inserting "or husband's" after "wife's" in the second sentence of paragraph (4);

(H) by striking out "he" in the third sentence of paragraph (4) and inserting in lieu "the Secretary"; and

(I) by striking out "his" in the fourth sentence of paragraph (4) and inserting in lieu thereof "such miner's".

(d) Section 412 of such Act (30 U.S.C. 922) is amended—

(1) in subsection (a)—

(A) by striking out "his widow" in paragraph (2) and inserting in lieu thereof "the widow or widower".

(B) by striking out "he were" in paragraph (2);

(C) by striking out "his" each place it appears in the first sentence of paragraph (3);

(D) by inserting "or widower" after "widow" each place it appears n paragraph (3);

(E) by striking out "her" in the first sentence of paragraph (3) and inserting in lieu thereof "the widow's or widower's";

(F) by striking out "he" in the first sentence of paragraph (3) and inserting in lieu thereof "the child";

(G) by inserting "or she" after "he" in the first proviso of paragraph (3);

(H) by striking out "his" the first place it appears in the first sentence of paragraph (5);

(I) by striking out "at the time of his death" each place it appears in the first sentence of paragraph (5) (after the amendment made by subparagraph (H));

(J) by striking out "a widow or a child" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, or child";

(K) by striking out "a widow, child, or parent" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, child, or parent";

(L) by striking out "at the time of his or her death" each place it appears in the first sentence of paragraph (5);

(M) by striking out "a brother only if he is—" in the fourth sentence of paragraph (5) and inserting in lieu thereof "a brother or sister only if the brother or sister is—";

(N) by striking out "who is," after "(2)" in paragraph (5); and

(O) by striking out "him" in paragraph (6) and inserting in lieu thereof "the Secretary"; and

(2) by striking out "his widow," each place it appears in the first sentence of subsection (b) and inserting in lieu thereof "the miner's widow, widower,".

(e) Section 413 of such Act (30 U.S.C. 923) is amended—

(1) in subsection (b)—

(A) by striking out "he uses" in the first sentence and inserting in lieu thereof "used";

(B) by striking out "his wife's" in the second sentence and inserting in lieu thereof "the wife's or husband's"; and

(C) by striking out ", widow," in the ninth sentence and inserting in lieu thereof "or the miner's widow, widower,"; and

(2) by inserting "or her" after "his" in subsection (c).

(f) Section 414 of such Act (30 U.S.C. 924) is amended—

(1) in subsection (a)—

(A) by inserting "or widower" after "widow" in paragraph (1);

(B) by striking out "her husband" and inserting in lieu therefor "the miner" in paragraph (1); and

(C) by striking out "his" in paragraph (2)(C) and inserting in lieu thereof "the claimant's"; and

(2) in subsection (e)—

(A) by inserting "widower," after "widow," in the matter preceding clause (1); and

(B) by striking out "his" in clause (1) and inserting in lieu thereof "the miner's".

(g) Section 421 of such Act (30 U.S.C. 931) is amended—

(1) by inserting "widowers," after "widows," in subsection (a); and

(2) in subsection (b)(2)—

(A) by striking out "if he finds" in the matter preceding subparagraph (A) and inserting in lieu thereof "upon finding"; and

(B) by striking out "by him" in subparagraph (F).

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

SEC. 269. Section 9 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 909), as renamed by sector 27(d)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984 (Public Law 98-426; 98 Stat. 1654), is amended—

(1) by striking out "dependent" in subsection (b);

(2) by striking out "his compensation" and inserting in lieu thereof "such child's compensation" in subsection (b);

(3) by striking out "his discretion" and inserting in lieu thereof "the discretion of such Commissioner" in subsection (b);

(4) by striking out "dependent husband" in subsection (c) and inserting in lieu thereof "widower"; and

(5) by striking out "wife" each place it appears in subsection (g) and inserting in lieu thereof "spouse".

CONSERVATION

SEC. 270. The last proviso of the subparagraph entitled "Federal Aid in Wildlife Restoration" under the paragraph "Fish and Wildlife Service" of the first section of the Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes", approved July 2, 1942 (56 Stat. 557; 16 U.S.C. 754) is amended by striking out "per man per day" and inserting in lieu thereof "per day".

MISCELLANEOUS

SEC. 271. Section 1 of title 1, United States Code, is amended by striking out the clause beginning "words importing the masculine gender" and inserting in lieu thereof "words importing the masculine or feminine gender include the other as well".

BENEFITS FOR INTERNEES

SEC. 272. Section 2004 of title 50, Appendix, United States Code, is amended—

(1) In subsection (d) by—

(A) inserting "or her" after "his";

(B) striking out "husband" each place it appears in paragraphs (1), (2) and (3) and inserting in lieu thereof "widower"; and

(C) striking out "husband" in paragraph (4) and inserting in lieu thereof "widow, widower";

(2) In subsection (f)7) by—

(A) inserting "or widower" after "widow"; and

(B) inserting "herself or" before "himself"; and

(3) in subsections (g)(4) and (i)(4) by—

(A) inserting "or her" after "his";

(B) striking out "husband" in subparagraph (A) and inserting in lieu thereof "widower"; and

(C) striking out "dependent husband" each place it appears in subparagraphs (B) and (C) and inserting in lieu thereof "widower".

SPOUSES OF FORMER PRESIDENTS

SEC. 273. The Act of August 25, 1958, as amended (72 Stat. 838; 3 U.S.C. 102 Note), is amended in subsection (e) by—

(1) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(2) inserting "he or" before "she".

SEC. 274. (a) Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking out all after "gross income and deductions" the second place it appears and inserting in lieu thereof "of the spouse who is carrying on the trade or business".

(b) Section 210(a)(3)(A) of the Social Security Act (42 U.S.C. 210(a)(3)(A)) is amended by—

(1) striking out "Service performed by an individual in the employ of his spouse, service" and inserting in lieu thereof "Service"; and

(2) striking out "his father" and inserting in lieu thereof "such child's father".

(c) Section 3121(b)(3)(A) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "service performed by an individual in the employ of his spouse, and"; and

(2) by striking out "his father" and inserting in lieu thereof "such child's father".

SEC. 275. Subsection (b) of section 245 of title 18, United States Code, is amended by—

(1) redesignating paragraphs (3) through (5) as paragraphs (4) through (6); and

(2) inserting a new paragraph after paragraph (2) to read as follows:

"(3) any person because of such person's sex, in violation of such person's right, that in fact is federally secured, not to be subject to discrimination on that account, and because such person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or".

TITLE IV—EFFECTIVE DATE

SEC. 281. Except as otherwise provided, the amendments made by this title shall become effective upon the date of enactment.

AMENDMENT NO. 1387

At the appropriate place, add the following:

SEC. . Section 706 of title 2, United States Code, is amended by inserting after the words "not to exceed $5,000." and before the words "No action" the following: This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 702 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled on Monday, December 9, 1985, at 2 p.m. before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources has been cancelled. This hearing may be rescheduled next session.

The purpose of this hearing was to receive testimony on S. 1330, a bill to amend section 504 of the Alaska National Interest Lands Conservation Act to allow expanded mineral exploration of the Admiralty Island National Monument in Alaska.

For further information regarding this hearing, please contact Mr. Tony Bevinetto of the subcommittee staff at 202-224-5161.

ADDITIONAL STATEMENTS

POP INTO A PARK

● Mr. WILSON. Mr. President, I would like to take this opportunity to call attention to a unique new park program in the State of California particularly designed to bring elementary and inner-city school children into the State parks for the purpose of educating and heightening awareness of the enjoyment to be had in our natural parklands.

The California State Park System has mounted an extensive campaign to boost awareness of its more than 260 State parks, beaches, and wilderness areas. This program represents an unprecedented move by the governmental agency to join forces with the private sector in increasing park visits off-season—particularly by school-age children.

Pacific Bell and General Foods are the corporate sponsors of "Pop into a Park." Elements of the effort include free or reduced admission, an in-school Park Education Program for elementary age students, a guide to California State Parks, and statewide telephone "hot lines," which offer recorded information concerning the program.

Students from more than 5,000 public and private schools in inner-city and rural areas were provided with kits on California's history and ecology. This was supplemented by field trips, four to State parks, during which Pacific Bell volunteers assisted park rangers in leading students through activities.

Such public-private sector cooperation to promote a worthy cause is an example that could be followed in other States. In the case of California, this program means that hundreds of children had the opportunity to enjoy and learn about some of the Nation's most beautiful resources.

SHOAH

● Mr. ARMSTRONG. Mr. President, on Tuesday, December 10, at 11 a.m., broadcasting of the film "Shoah" will begin on U.S. Capitol TV cable system—channel 6—and will continue until 4 p.m. on that same day. The broadcast will continue at 11 a.m. on Thursday, December 12 and conclude by 4 p.m.

This is a 9½-hour film. A cassette copy of the film has been loaned to the Republican Policy Committee for a short period of time and we have scheduled this showing in the only block of time immediately available on the closed circuit network.

I realize this is a busy week, but urge Senators, staff, and anyone else with access to the Capitol TV system to watch as much of the film as time permits. Columnist George Will declared

"Shoah" the "noblest use to which cinema has been put, ever." Washington Post film critic Paul Attanasio wrote: "Shoah is the film event of the year—in some sense, the film event of the century." I ask unanimous consent that Mr. Will's and Mr. Attanasio's articles be printed here in the RECORD for the benefit of those who would like to read more about this remarkable film.

The article follows:

CONTINUING ATROCITY AND CONTINUING RESISTANCE

There has never been anything like it, or its subject, so there is something flat about saying that "Shoah" is the finest film ever. So say this: it is the noblest use to which cinema—the technology, the techniques—has been put, ever.

Claude Lanzmann's 9½-hour masterpiece, "Shoah" (the Hebrew word for annihilation), contains not a frame from the '40s. It is an elicitation of memories of the Holocaust and it proves that the unspeakable is not inexpressible.

No subject is too large or lurid to be encompassed by words well chosen. And when words are joined with pictures that do not subordinate the words to visual values, even plain words are set like diamonds in platinum.

Cinema rarely rises from a craft to an art. Usually it just manufactures sensory blizzards for persons too passive to manage the active engagement of mind that even light reading requires. Cinema, with its enervating bath of sights and sounds, usually is a medium for modest attention spans. But, paradoxically, "Shoah," a near-perfection of cinematic art, is brilliant because it is an active of cinematic modesty. It uses pictures—usually of people plainly framed or landscapes slowly panned—as a sort of silent music behind the words.

Rhetorical flourishes are few and far between. (A death-camp survivor says: "If you could lick my heart, it would poison you.") There are some moments of savage illumination, as when an SS veteran replies to a question about how many were killed at a particular place: "Four something—four hundred thousand or forty thousand." As eloquent as even the most eloquent words are the silences, the pauses, the flickering expressions as facial muscles register the struggle for composure.

The most stunning episode in this shattering film lasts about five minutes and involves "only" the talk of a barber now in Israel. While he clips the hair of a customer he talks, never needing to raise his voice to be heard over the small sounds of a familiar ambience. He describes his duties in Treblinka, cutting hair from naked women on the threshold of the gas chamber, and the day a fellow barber saw his wife and sister enter the room.

The film's recurring image is of trains rolling across Poland's flat terrain. There is a sinisterness, a menace in the mere clackety-clack of wheels rolling down a single track between lovely pines toward a shimmering clearing, a camp. A locomotive engineer, old now, his face the texture of elm bark, tells how he was with vodka to enable him to push to unloading platforms the freight cars packed with Jews dying of thirst.

On reviewer got it exactly right when he described Lanzmann as a "cinematic pointillist." He works in minutiae that, cumulatively, become portentous. He asks a question such as, "Was this road asphalted then?" and the person questioned begins to talk and a narrative builds, detail piled upon detail, until you have hell in a monotone, and it is the more hellish for its matter-of-factness.

One person, after seeing "Shoah," wrote to Lanzmann that it was the first time he had heard the cry of an infant in the gas chamber. He had not, of course. What he had heard was the quiet description by an Auschwitz survivor of the way bodies were jumbled when the gas-chamber doors opened, and what that jumble of flesh and blood and vomit and excrement told about the final minutes in the dark when fathers lost their grips on their sons and the strong climbed over the weak as the gas fumes rose.

Here is a task—a duty—for Jewish and other organizations: subsidize the sale of cassettes of this film. No church or school should be without it. Lanzmann's little questions ("What color was the truck?") wind up answering one big question: What was it like? The answer to that contains the answer to another big question, the question that is the title of the only other film Lanzmann has made: "Why Israel?"

The Nazi project was to erase European Jewry—not just kill but erase traces. So the Nazis ground to dust the bones that would not burn and threw the dust in rivers and lakes. "Shoah," like Solzhenitsyn's "Gulag," is an act of continuing resistance to a continuing atrocity.

Continuing? Yes, it is an assertion of memory against a program of erasure, a program that will not be fulfilled until memory fades and indifference reigns. Lanzmann cites a philosopher's statement that Europe's massacred Jews "are not just of the past, they are the presence of an absence." Wherever "Shoah" is seen, and for as long as it lasts, they are present.

"SHOAH": THE COURAGE OF REMEMBRANCE

(By Paul Attanasio)

There I go again, the old song and dance—Adolf Eichmann, in his cell in Jerusalem, 1961

NEW YORK.—We think of it first as numbers, too large to understand: 6 million Jews exterminated in merely three years. Break it down further: 3 million Polish Jews, 105,000 Dutch, 300,000 Rumanian, 150,000 Hungarian, 54,000 Greek . . . still too large. Today, 300 dead in a plane crash leads the evening's news; during the peak period at Treblinka, one of the Nazis' six death camps, 12,000 to 15,000 Jews could be gassed and cremated in a single day. Or, with Nazi obliquity, "processed."

Next, we think of images. The photographs, the films, taken by the Allied soldiers who liberated the camps; the documentary footage shot by George Stevens and Alfred Hitchcock. The Nazis themselves assiduously recorded their handiwork, sometimes filming directly into the gas chambers, film that is slowly becoming available. The Holocaust has become the stuff of melodramas (Stanley Kramer's "Judgment at Nuremberg") and TV mini-series.

The numbers are just numbers, the photographs photographs, and instead of bringing us closer to what happened, they push us away. You could almost see it as the final victory of the Nazi strategy; *keep it abstract.* Eichmann proudly called himself "an idealist"; their rhetoric was full of bastardized philosophy. Göring's phrase, "the Final Solution of the Jewish Question," sounds like the title of a seminar paper. Corpses were referred to as *Figuren* (puppets) or *schmattes* (rags); the victims in the gas vans were "the merchandise," the gas chambers "showers."

Now comes "Shoah," Claude Lanzmann's 561-minute documentary that is showing at the Cinema Studio in New York, and that, if our local exhibitors have any conscience, will shortly be booked here. "Shoah" is the film event of the year—in some sense, the film event of the century; it's one of the few films that can be said to be *necessary,* restoring that meaning that has been lost, as the Holocaust became a metaphor, as the photographs came to evoke not Auschwitz and Treblinka and Bergen-Belsen, but only other photographs. Produced over 10 years, transcribed in a book (Pantheon, $11.95), "Shoah" (the title is the Hebrew for "annihilation") is a supreme act of artistic courage, remembering what cannot be remembered and what must be remembered.

"Poetry," Wallace Stevens once remarked, "seeks out the relation of men to facts." "Shoah" includes no archival footage, little narration; it relies instead on interviews Lanzmann conducted with Holocaust survivors, with Poles who lived and worked around the camps, and with former SS and Nazi officials. And always, Lanzmann asks not for impressions but specifics: How fast did the gas vans travel? What color were they? Was the road asphalted? How many guards? What was the temperature?

In between, Lanzmann takes his camera back to the original sites, and the interviews are intercut with, and sometimes overlaid upon, these shots: pans across the landscape of Treblinka and up to its mute Holocaust memorial; across the pine trees the Nazis planted to hide what happened at Chelmno; long tracking shots up the railway ramp to Auschwitz, which alone among the camps remains largely intact; shots of houses in Polish towns where the Jews lived, of the synagogue in Grabow that is now a furniture store, of the church in Ehelmno where they awaited the gas vans; and throughout, trains lumbering across the Polish landscape, trains very much like the ones that brought the Jews to their deaths.

The structure of "Shoah" isn't linear, but concentric; the movie returns to its themes, colors and enlarges them; the images of the trains accumulate to a crescendo. We hear pieces of songs the victims sang, as well as a fatuous ditty composed for the SS at Treblinka:

Looking squarely ahead, brave and joyous,
at the world,
the squads march to work.
All that matters to us now is Treblinka . . .
We know only the word of our commander,
we know only obedience and duty,
we want to serve, to go on serving,
until a little luck ends it all. Hurray!

Our minds fill with screaming; we see and smell the gas rising from the mass graves in the August heat, feel the bitter cold as the victims, naked, awaited execution (with typical efficiency, the Nazis used the clothes). With Lanzmann, we pace off the distances, from the station to the camp, from the ramp to the crematoria. The effect is to allow you to reimagine the Holocaust, free of metaphor. When Hannah Arendt, trafficking in abstractions, distilled the Holocaust to "the banality of evil," she was obviously confusing it with the banality of her conclusions; "Shoah" moves in an opposite direction—immersing you in the most banal

details, it leads you to a place where "banal" is an obscenity.

In "Shoah," the simplest objects become infused with menace, and with a horrible sense of loss. A railway sign is not just a railway sign when it reads "Treblinka." Perhaps the film's most haunting image is a slow pan across a pile of suitcases, some battered, some chic, all brought by Jews deluded that they were merely being "resettled" (yet another Nazi euphemism).

And the working of the most natural human process—the function of memory—becomes an act of unspeakable courage, both for the survivors and for Lanzmann, who continually prods them to continue when his interview subjects break down and plead with him to stop. It's hard to talk about opening the doors to a gas van and watching your wife and children tumble out, dead; harder still when (as in the case of many survivors), you survived because you were part of the "special detail," Jews who worked in the camps.

"The trainloads from the Balkans brought us to a terrible realization," says Richard Glazar, one of "Shoah's" subjects. "We were the workers in the Treblinka factory, and our lives depended on the whole manufacturing process, that is, the slaughtering process at Treblinka."

Lanzmann takes this carmera into the barbershop of Abraham Bomba, a survivor of Treblinka, and the characteristic movement of "Shoah" takes place: first, recognition of the concrete detail, a haircut, utterly routine; slowly, recognition that in the camps, a haircut was a prelude to death, since women's hair, like the clothing, like gold dental fillings, was harvested by the Nazis.

Bomba, a slight man with a face like a crumpled sack, talks dispassionately of his role at Treblinka, describing in detail the room where the haircuts took place, the number of barbers, the absence of mirrors, the physical relation of the room to the gas chambers. And then the following colloquy takes place:

"Some of the women that came in on a transport from my town of Czestochowa, I knew a lot of them. I knew them; I lived with them in my town. I lived with them in my street, and some of them were my close friends. And when they saw me, they started asking me, Abe this and Abe that—'What's going to happen to us? What could you tell them? What could you tell?

"A friend of mine worked as a barber—he was a good barber in my home town—when his wife and his sister came into the gas chamber . . . I can't. It's too horrible. Please."

"We have to do it. You know it."

"I won't be able to do it."

"You have to do it. I know it's very hard. I know and I apologize."

"Don't make me go on please."

"Please. We must go on."

"I told you today it's going to be very hard. They were taking that in bags and transporting it to Germany."

"Okay, go ahead. What was his answer when his wife and sister came?"

"They tried to talk to him and the husband of his sister. They could not tell them this was the last time they stay alive, because behind them was the German Nazis, SS men, and they knew that if they said a word, not only the wife and the woman, who were dead already, but also they would share the same thing with them. In a way, they tried to do the best for them, with a second longer, a minute longer, just to hug them and kiss them, because they knew they would never see them again."

The idea that an entire culture, an entire nation of Europe, however dispersed, could be erased in the space of three years (far less than it took Lanzmann to make his film), boggles the mind. The great danger is to make the sufferings of millions a prop to personal umbrage: Yale psychologist Robert Jay Lifton has had the remarkable presumption to call himself a survivor, simply by virtue of studying the subject; even the peregrinations of Elie Wiesel, though he's a survivor himself, sometimes seem, however unfairly, like a form of emotional profiteering.

Lanzmann avoids this pitfall. A character himself in the film, he's a vivid presence in a leather jacket, dangling a ubiquitous cigarette—with his big black glasses, shock of black hair and thick sideburns, he looks a little like David Halberstam. He includes segments of casual chat with his subjects, and while this does nothing to advance the narrative, it affords a fascinating glimpse of how he seduces them (particularly the Nazis) into talking. And for the most part, he keeps his own indignation, and the obsessiveness that drove him to shoot 350 hours of film (and go into debt to the tune of half a million), in the background. He's almost wholly at the service of his story.

Still, the question remains: Why did the Holocaust happen? For "Shoah," the menas were new (the technology is explained in excruciating detail), the end old. The Poles interviewed in the film have learned nothing, though they have seen firsthand what anti-Semitism leads to. Standing on the steps of the church in Chelmno that served as the waiting room for the gas vans, they suggest that the Holocaust occurred because the Jews were rich, even because the Jews had to expiate their role in the Crucifixion.

Standing among them, his eyes betraying nothing but registering all, is Simon Srebnik. An SS bullet missed his vital brain centers, and he became one of two survivors, out of 400,000, to survive the annihilation at Chelmno.

In other interviews, Polish contempraries of Srebnik's suggest that the Jews smelled bad, that "Jewish women only thought of their beauty and clothes," that "above all, they were dishonest," that "all Poland was in the Jews' hands."

It is tempting to think that the Holocaust was the result of historical forces—of nationalism, of class struggle, even of the historical suffering of the Jewish people. In some sense, it was the natural outgrowth of the development in the 20th century of the "mass man." Lanzmann, implicitly, rejects such an explanation as an exculpation. In "Shoah," the Holocaust wasn't the crime of totalitarianism against humanity; it was crimes committed by men against other men.

Relentlessly, he returns the focus to the individual. He brings us to a Munich beer hall, and attempts to engage the iron-face bartender in conversation. The bartender refuses, puts on thick glasses that hide his face, walks away. Lanzmann produces a photograph and baits him with it:

"Do you recognize this man? No? Christian Wirth? Mr. Oberhauser! Do you remember Belzec? No memories of Belzec? Of the overflowing graves? You don't remember?"

He gets nothing from former SS officer Joseph Oberhauser, but the purpose has been accomplished: He's put a face on the bureaucracy, made the evil personal.

With the other Nazis, Lanzmann is more cagey. The interviews are shot with a hidden video camera, and Lanzmann poses as a "Dr. Sorel" (the name of the French right-wing theorist is decidedly pointed), a historian sympathetic to the Nazis. He draws information out of them, but the effect, again, is the same: these aren't cogs in a machine. They are individuals, and their guilt is individual.

He accomplishes the same thing, from the other end, with the survivors; "Shoah" isn't about The Suffering of the Jewish People, but the suffering of individuals, individually remembered. The movie is not about the Holocaust, exactly, but about memory: it is memory that is real, memory that must be cherished.

The memory of Filip Muller, a survivor of Auschwitz:

"The violence climaxed when they tried to force the people to undress. A few obeyed, only a handful. Most of them refused to follow the order. Suddenly, like a chorus, they all began to sing. The whole 'undressing room' rang with the Czech national anthem, and the *Hatikvah*. That moved me terribly, that . . .

"That was happening to my countrymen, and I realized that my life had become meaningless. Why go on living? For what? So I went into the gas chamber with them, resolved to die. With them. Suddenly, some who recognized me came up to me. For my locksmith friends and I had sometimes gone into the family camp. A small group of women approached. They looked at me and said, right there in the gas chamber . . .

"One of them said: "So you want to die. But that's senseless. Your death won't give us back our lives. That's no way. You must get out of here alive, you must bear witness to our suffering, and to the injustice done to us."

WEEKLY BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of December 2, 1985, prepared by the Congressional Budget Office in response to section 5 of the First Budget Resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., December 9, 1985.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 6, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report the Congress has cleared for the President's signature the Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562), the Commerce, State,

Justice Appropriation, 1986 (H.R. 2965), and the Labor, Health and Human Services, and Education Appropriation, 1986 (H.R. 3424), changing budget authority, outlay, and revenue estimates.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985

[Fiscal year 1986, in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current Level [1]	1,067.3	983.6	792.9	1,902.0
Budget Resolution, S. Con. Res. 32	1,069.7	967.6	795.7	[2] 2,078.7
Current Level is:				
Over resolution		16.0		
Under resolution by	2.4		2.8	176.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for this approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $1,903.8 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			792,800
Permanent appropriations and trust funds	717,617	631,009	
Other appropriations		185,348	
Offsetting receipts	[1] 162,006	[1] 162,006	
Total enacted in previous sessions	555,610	654,351	792,800
II. Enacted this session:			
Famine Relief and Recovery in Africa (Public Law 99–10)		421	
Federal Supplemental Compensation Phaseout (Public Law 99–15)			10
Appropriations for the MX Missile (Public Law 99–18)		368	
Contemporaneous Recordkeeping Repeal Bill (Public Law 99–44)			13
U.S.-Israel Free Trade Act (Public Law 99–47)			−8
Statue of Liberty-Ellis Island Coin Act (Public Law 99–61)	−15	31	
International Security and Development Cooperation Act (Public Law 99–83)	−25	−25	
Supplemental Appropriations Bill (Public Law 99–88)	36	3,138	
State Department Authorization (Public Law 99–93)			2
Emergency Extension Act of 1985 (Public Law 99–107)	−49	−230	210
Simplification of Imputed Interest Rules (Public Law 99–121)			−31
Health Professions Educational Assistance (Public Law 99–129)		−8	
Amendments-Special Defense Acquisition Fund (Public Law 99–139)	100		
Energy and Water Appropriations, 1986 (Public Law 99–141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99–145)	280	−5	
Legislative Branch Appropriations, 1986 (Public Law 99–151)	1,599	1,385	
Temporary Debt Limit Increase (Public Law 99–155)	−34	−156	140
Agricultural Extension, Tobacco Provision (Public Law 99–157)	−20	−20	
HUD-Independent Agencies Appropriations, 1986 (Public Law 99–160)	56,909	36,247	
Offsetting receipts	−4,185	−4,185	
Military Construction Appropriations, 1986 (Public Law 99–167)	8,498	2,151	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted this session	78,346	47,356	335
III. Continuing resolution authority:			
Continuing Appropriations, 1986 (Public Law 99–154)	348,779	212,985	
Offsetting receipts	−4,449	−4,449	
Total continuing resolution authority	344,330	208,536	
IV. Conference agreements ratified by both Houses:			
NASA Authorization Act of 1986 (H.R. 1714)		107	
Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562)			−200
Commerce, State, Justice Appropriations, 1986 (H.R. 2965)	11,926	9,711	
Offsetting receipts	−118	−118	
Labor, HHS, Education Appropriations, 1986 (H.R. 3424)	94,862	81,406	
Offset receipts	−19,816	−19,816	
Total conference agreements	86,853	71,291	−200
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund			
Claims, defense	10	10	
Claims, defense	7	3	
Payment to the foreign service retirement trust fund [2]	(1)	(1)	
Range improvements	1		
BLM: Miscellaneous trust fund	([1])		
Payment to air carriers, DOT	18	17	
Retired pay—Coast Guard	21	19	
Maritime, operating-differential subsidies		3	
BIA: Miscellaneous trust funds	([1])	([1])	
Retirement pay for PHS officers	3		
Medical facilities loan guarantee	3		
Payment to health care trust funds [2]	(907)	(907)	
Child nutrition programs	254	234	
Child support enforcement	3	3	
Advances to unemployment trust fund [2]	(51)	(51)	
Federal unemployment benefits and allowances	65	64	
Black lung disability trust fund	46	46	
Special benefits (disabled coal miners)	36	36	
Assistance payments	544	544	
Supplemental security income	52	52	
Veterans readjustment benefits	180	137	
Veterans pensions	10		
Payment to civil service retirement [2]	(214)	(214)	
National wildlife refuge fund	([1])	([1])	
Defense pay raise—military	925	897	
Total entitlements	2,179	2,066	
Total current level as of Dec. 6, 1985	1,067,319	983,599	792,935
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		15,999	
Under budget resolution	2,381		2,765

[1] Less than $500 thousand.

[2] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

EXTENSION OF THE TARGETED JOBS TAX CREDIT

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1250, legislation to extend the targeted jobs tax credit [TJTC] program until 1990. This measure was introduced by my distinguished colleague from Pennsylvania, Senator HEINZ. Without prompt action by Congress, this successful and cost-effective program will expire on December 31, 1985.

In fiscal year 1985, 623,000 TJTC jobs were created nationwide. This was an increase of 10.7 percent over fiscal year 1984's total of 563,000 TJTC jobs. This program has been widely used in many States including California, Texas, Florida, Ohio, Illinois, Missouri, Washington, Louisiana, Pennsylvanai, and New York. The State of New York has been the Nation's leader in using TJTC to create new jobs for economically disadvantaged individuals.

In 1985, 51,112 New York State workers found their jobs through this program—more than in any other State. These workers included economically disadvantaged youth, public assistance recipients, handicapped people, disadvantaged Vietnam veterans, and exoffenders. These people are now working because TJTC gave them a chance that otherwise wouldn't be there for them. This was an increase of 12.8 percent over the previous year's figure of 45,387 jobs.

Employers receive Federal tax crdits for each TJTC worker hired. The credits equal 50 percent of the first $6,000 in wages earned by a worker in the first year, and 25 percent of the first $6,000 of wages in the worker's second year of employment.

Employers also are permitted to claim a Federal tax credit equal to 85 percent of the first $3,000 in wages earned by eligible 16- and 17-year-olds hired for the summer. The result is that employers may pay the equivalent of 50 cents per hour, after calculating the tax credits, to a minimum wage, summer employee—but the young worker is still paid at least $3.35 per hour. TJTC was instrumental in the success of New York City's summer jobs program in 1985. About one-third of the 30,000 disadvantaged youth hired last summer were certified through TJTC.

The New York State Department of Labor, in testimony presented to the Senate Finance Committee, stated:

On an annual basis the payroll of the 51,000 New Yorkers hired under TJTC in fiscal 1985 probably was in the range of $400 to $450 million, and its rippling effect somewhere between $1.0 and $1.4 billion.

Moreover, those jobs went to people much more likely to be social liabilities than contributors because of the labor market barriers they usually face.

TJTC is not just a socially beneficial program, it makes good economic sense as well. Commissioner Lillian Roberts of the New York State Department of Labor has calculated that the gross national welfare savings that flow from TJTC are $418 million. These savings are greater than the entire $364 million cost of the program for all of the targeted groups.

Welfare savings of $51 million have been made by New York State in fiscal year 1985. As a result, the total 1985 net savings for TJTC, including pro-

gram costs, exceed $43 million in New York State alone. TJTC is not only a low-cost program, but it is socially beneficial in both monetary and human terms. TJTC pays for itself!

Mr. President, I believe that TJTC is one of our most effective job creation programs. We must not let it expire, and we must not let TJTC lose its momentum through costly interruptions in the continuity of its administration. I commend my friend, Senator HEINZ, for introducing this bill, and I urge the rest of my Senate colleagues to join me in cosponsoring and voting for this vital legislation, S. 1250.

CLEAN COAL TECHNOLOGY RESERVE

● Mr. HEINZ. Mr. President, as the Nation meets its energy needs in the future, ways must be found to expand the use of one of our most abundant domestic energy sources—coal—in a way that protects our other natural resources. Thus, it is important this year for Congress to provide funding for the Clean Coal Technology Reserve.

The Reserve is a Federal program supporting the cost-shared demonstration of technologies to burn coal cleanly. To be eligible to receive funding, a proposal would have to provide at least 50 percent private sector investment. The Appropriations Committee has approved funding for the Reserve over the next 4 years. It is very important that this concept of multiyear funding be retained. In this way the private sector will be given the confidence in the program necessary to offer substantial amounts of their own investment.

Coal is very important to my State of Pennsylvania. Coal provides three-fourths of Pennsylvania's electric utility consumption and more than a third of its industrial energy consumption. Furthermore, Pennsylvania is one of the Nation's leader in coal produciton with 24,500 coal miners hard at work. Much of Pennsylvania's coal, however, is high sulfur coal, raising environmental questions about its use. Fortunately, through the development of technologies to burn coal cleanly, the expanded use of coal can be made compatible with natural resource protection.

A recent article in Electric Perspective magazine, discusses the future of coal-fired electricity in the United States. The following excerpt points out the role that clean coal technologies and the Reserve can play in environmental protection; and I ask that it be printed in the RECORD.

The article follows:

CLEAN COAL TECHNOLOGY: JUST IN TIME

* * * * *

CLEAN COAL AND THE ENVIRONMENT

Emerging coal technologies are designed to comply with environmental regulations in a cost-effective manner. The Clean Air Act, enacted originally in 1963 and amended in both 1970 and 1977, seeks to control the release of sulfur dioxide, nitrogen oxides (NO_x), and particulates from coal-burning power plants. The Environmental Protection Agency's (EPA) New Source Performance Standards, first issued in 1971 and revised in 1978, require new power plants to remove 70 to 90 percent of the sulfur oxide emissions from their flue gases. Proposed Clean Air Act amendments would require extensive modifications to older coal-burning power plants.

To date, the primary method for complying with existing environmental regulations has been installation of a flue gas desulfurization system known as a "scrubber." This technology has been effectively required for all new pulverized coal-fired power paints since 1977.

"Scrubbers have proven to be among the most costly and least reliable pieces of equipment in the utility industry," said Richard E., Balzhiser, senior vice president for research and development at EPRI. He pointed out that the typical scrubbing system creates a tremendous amount of solid waste, can cost up to $100 million, uses huge amounts of water (more than 1,000 gallos per minute), and consumes 3 to 8 percent of the power plant's total energy output. In addition, it is subject to fouling and corrosion, and its maintenance cost is two to 20 times that of the rest of the power plant.

There are now about 120 scrubber-equipped generating units operating at U.S. utilities; more than 100 additional units are planned or under construction. Together with greater use of low-sulfur fuel, they have helped reduce air pollution in the United States considerably. According to EPA, total sulfur dioxide emissions dropped 28 percent throughout the country from 1973 to 1983. Emissions from electric power plants dropped 19 percent during that period, while power plant coal use increased by more than 60 percent. Despite these improvements in air pollution control, however, the acidity of rainfall in the Northeast has not changed appreciably in the last 15 years.

It is this conundrum that is fueling the current debate over proposed additional acid rain legislation. One side seeks further reductions in sulfur dioxide emissions; the other side argues that other factors also may contribute to the acid rain problem. "In essence, the debate has been reduced to an argument over which sources should be forced to further control sulfur dioxide emissions, by what means, and at whose expense," said Balzhiser. Utility industry planners see far greater promise in the commercialization of new coal-burning technology than in further construction of costly and complex scrubbing systems.

Research and demonstration programs have provided data showing both the short-term and long-range environmental benefits of new coal-burning technologies. As shown in Table 1, six new coal combustion technologies could control emissions as effectively or better than a conventional coal-fired power plant equipped with flue gas desulfurization. In the long term, as shown in Figure 1, the results may be even more dramatic. Retrofitting older power plants with new pollution control equipment would reduce emissions in the short term—between 1990 and 2010. At about that time, however, increasing demand for electricity would cause emissions to begin rising again, eventually returning to current levels. Alternatively, the introduction of new coal technology would cause sulfur dioxide emissions to begin dropping by the mid-1990s and to continue dropping steadily through the next three decades.

POLLUTION CONTROL POTENTIAL OF NEW COAL TECHNOLOGIES

Technology	Sulfur oxide (percent removal)	Nitrogen oxide emissions (lb/10^6 Btu)	Particulate emissions (lb/10^6 Btu)
Conventional pulverized coal technology with flue gas desulfurization [1]	90–98	0.5–0.6	0.03
Atmospheric fluidized bed combustion	90–95	0.2	0.01
Advanced pulverized coal/flue gas desulfurization	90–95	0.2–0.3	0.01
Pressurized fluidized bed combustion	90–95	0.1	0.01
Gasification combined cycle	90–99	0.1–0.3	0.003
Fuel cell gasification combined cycle	99	0.003	nil
Limestone injection with staged combustion/baghouse or precipitator (slagging combustor)	90–95	0.1	0.01

[1] EPA New Source Performance Standards.

Source: Edison Electric Institute.

* * * * *

THE NEW TECHNOLOGIES

With coal, there are opportunities for pollution control before, during, and after combustion. New technologies are being developed to attack the pollution problem at each of these three stages. In addition, there are combined and advanced systems under development, some of which avoid the combustion process altogether. The needs of individual utilities will help dictate the choice of applicable technologies as they become commercially available.

* * * * *

FEDERAL HELP IS NEEDED NOW

These and other technologies currently under development could radically change the way that coal is used to provide reliable electric power. For these new technologies to have an environmental and economic impact soon enough, however, an accelerated commercialization program must begin immediately, according to EEI's Kuhn. "Clean coal technologies must be demonstrated at or near commercial scale before they will have the confidence of the electric utility industry and the agencies which regulate it," he said. "Federal participation could accelerate technology development, thereby assisting the U.S. economy with expanded and more efficient coal utilization."

* * * * * indicates an omission in text.●

RHODE ISLAND IS PROUD OF ASTRONAUT "WOODY" SPRING

● Mr. PELL. Mr. President, when the space shuttle *Atlantis* returned to Earth earlier this week it marked the successful conclusion of an adventure that has captivated Rhode Islanders.

The flight crew included Sherwood "Woody" Spring, who left a farm in Harmony, RI, more than 20 years ago with the goal of soaring in the heavens.

He earned a place in the astronaut corps in January 1980 as 1 of 19 men and women picked at the same time.

This week he earned the right to wear the gold shuttle pin of a space veteran.

Throughout Rhode Island we hailed him as our first native son to fly in space. We watched his flight, cheered his successful mission and welcomed his return as the first Rhode Island astronaut.

Many Americans have developed a blase attitude toward space flight, forgetting that only our modern technology and the courage of our astronauts have made space flight a seemingly routine reality.

When a native son was aboard the shuttle, however, Rhode Islanders found renewed interest in the continuing drama of our Nation's scientific efforts to push back the boundaries of the unknown.

Rhode Islanders had a particular interest as they joined the Nation watching his work during a pair of space walks. He helped assemble and disassemble a 45-foot tower and a pyramid of 12-foot girders while we watched.

It was a flawless demonstration of the ease of construction techniques that NASA hopes can be used to build a permanent orbiting space station by 1993.

The Nation owes "Woody" Spring and his fellow crew members a vote of thanks for yet another thoroughly professional space flight, but we owe him a bit more in Rhode Island.

We owe him thanks for reminding us of the spirit of adventure that helped found Rhode Island and that continues to inspire our citizens. I know all Rhode Islanders join me in welcoming him home.

We wish him and his family all the best.

I ask that an editorial, "Well Done and Welcome Home, Woody," from today's Providence Journal be printed in the RECORD.

The editorial follows:

[From the Providence Journal, Dec. 5, 1985]

WELL DONE AND WELCOME HOME, WOODY

When Sherwood "Woody" Spring stepped off the shuttle *Atlantis* upon his team's perfect landing after seven days in orbit, it was one small step for Woody—who stepped so broadly during his two space walks—and one (excuse us) big little step for Rhode Island.

Well, obviously the biggest little state in the Union is pleased as punch that Woody's back, that the shuttle flight was so picture-perfect, that we had in our own astronaut one great excuse to pay great attention to the voyage of the *Atlantis*. Mr. Sherwood will excuse his native state for its proprietary interest in his exploits. The shuttle missions have become so workaday that they no longer automatically stimulate the nation's almost insatiable appetite for adventure.

Having a native son aboard the shuttle gave us all an excuse to lay aside our normally blase American attitude toward space flight. "Cando" spirit is old-hat. These days it's more a "been-done" spirit, in which year after year, launch after launch, the shuttle goes up and gets the job done, its astronauts proving so reliable that we on the ground have quite forgotten the drama that adheres to every flight.

Not so for Rhode Islanders this time. There was televised footage of Woody climbing the tower or working on the pyramid or snaking around the cabin with his merry crew. It was all the more fascinating because we felt this man was one of us, not just another astronaut from Houston. His presence gave us someone to root for during the week-long voyage. In and out of the shuttle, his exploits helped space flight come alive for thousands of viewers and, through the clear and detailed reports filed by science writer C. Eugene Emery Jr., to readers of the *Journal-Bulletin* as well. Down here, it was not just news but adventure.

Job for job, task for task, this may have been the most successful trip of the shuttle program so far. But all good things must end. "God, I hate to go in," Woody said as the last space walk of the mission drew to a close.

We can't blame you.

Welcome home.●

THE FISH AND WILDLIFE SERVICE'S WORK IN THE CHESAPEAKE BAY

● Mr. MATHIAS. Mr. President, I applaud the Senate Appropriations Committee for including approximately $1 million in the continuing resolution for the U.S. Fish and Wildlife Service's involvment in the Chesapeake Bay Cleanup Program. These funds will enable the Service to continue its vital work in the bay, including raising striped bass for release to the bay and protecting ecologically sensitive areas, so vital to all the bay's organisms.

The Fish and Wildlife Service plays a key role in the cleanup program. The Service's bay activities center on the effects of the bay's pollutants on biological resources, primarily fish, shellfish, waterfowl, aquatic vegetation, and endangered species. The main objective of the Service is to assess the effects of nonpoint source pollution from urban and agricultural runoff on fish and wildlife habitats and to recommend ways to prevent or minimize those impacts.

The Fish and Wildlife Service is focusing its immediate attention on the Choptank River on Maryland's Eastern Shore. Last spring and summer, it reviewed 34 sites to evaluate water quality and the health of fish and wildlife habitats there. To help maintain those habitats, the Service encourages best management practices, which improve the water quality and benefit the bay's living resources.

Another important objective of the Fish and Wildlife Service is to help other agencies evaluate and reduce the danger from industrial toxic substance discharges into the bay. About 3,000 discharge sites exist in the bay region, each allowed under State or Federal permits to discharge specified amounts of toxins. At selected sites, the Service is assessing the effects that these discharges may have on the bay's living resources and is recommending necessary modifications to the discharge permits.

In general, fish and wildlife resources of the bay have decreased in recent years, and one of the first signs of that decline was the lower number and smaller size of striped bass caught. Many believed it was a cyclical temporary decline and that striped bass populations soon would be back to normal. But that did not occur. There was an extensive reproductive failure of the bay's striped bass. The situation now has deteriorated so severely that restrictions on commercial and sport catches of striped bass are in place not only in Maryland, but also up and down the east coast.

To start the long-term reversal of this tragic situation, the Fish and Wildlife Service and the State of Maryland have underway a 5-year pilot program to supplement the striped bass' natural production with hatchery-reared fish. This past spring, adult striped bass were captured and artificially spawned. The eggs were incubated and the young fish, were distributed to six national fish hatcheries east of the Mississippi and one State hatchery for rearing. About 250,000 young striped bass—6 to 8 inches long—will be released into the same bay tributaries from which they came this fall.

Plans are to double striped bass production in 1986 and in the future years the goal is to add as many as 1.5 million young striped bass per year to the bay to augment the natural population. Using innovative computer chip tags, some of the young fish will be tagged to follow their growth and survival. In support of this Federal/State cooperative effort, the Fish and Wildlife Service recently placed a fishery biologist at Annapolis to develop appropriate fish stocking strategies, coordinate Federal/State activities, and evaluate the success of the striped bass stocking program. It is anticipated that the fish stocking program in concert with improved habitat quality and effective fishery management procedures will help restore striped bass as a valuable recreational and commercial species of the bay.

In addition to striped bass, the Fish and Wildlife Service is determining the abundance and health of other living resources in the bay, including canvasback and black ducks, shad, blue crabs, oysters, and submerged aquatic vegetation, sometimes called SAV. Causes for declines of these important resources will be identified and recommendations for corrective actions will be made.

Already, much progress has been made in analyzing the loss of SAV, the sea grasses of the bay, used for food and shelter by so many of the bay's or-

ganisms. The Fish and Wildlife Service with other Federal and State agencies, is mapping the distribution, density, and species composition of submerged aquatic vegetation throughout the bay. Maryland watermen and other volunteers are also helping in this effort. Johns Hopkins University is analyzing bay sediments to determine how sediment affects submerged aquatic vegetation and what land practices affect the loss of this valuable resource.

The Fish and Wildlife Service is playing an important role in restoring Chesapeake Bay. It is a role that cannot be omitted from the overall bay cleanup program. I urge the approval of the Appropriations Committee's decision to provide the necessary funding to continue this vital effort to restore living resources of the Chesapeake Bay.●

THE NATIONAL COMMISSION ON RURAL AMERICA

● Mr. DURENBERGER. Mr. President, during debate on the farm bill, I offered an amendment which was cosponsored by 13 of my colleagues, to establish a National Commission on Rural America.

I consider this Commission to be the key to the future of rural America. What I see happening in the agricultural sector of Minnesota is only one aspect of a growing national problem. Declining commodity prices, land values, and farm income have created a downward economic spiral threatening the very existence of thousands of small towns across America's heartland. Erosion of the tax base has undermined rural schools, hospitals and public works and the overall quality of life in rural areas. Main Streets all over the country are suffering from slow, perhaps irreversible, decline.

The farm bill we have just passed will not solve these problems. There is an urgent need to communicate the severity of the situation and begin to fashion national solutions.

The National Advisory Commission on Rural America would be composed of representatives of the administration, Congress, State and local governments, farm groups, rural businesses, and related interests. The Commission is charged with the task of undertaking a comprehensive study of the problems which have already surfaced in rural areas across this country and to call attention to the emerging crisis they foreshadow. The Commission will report their findings to the President and Congress including proposed solutions and the appropriate responsibilities of Federal, State, and local governments. In doing their work, the Commission would draw on ongoing government, academic and private sector research activities, hold public hearings around the country, and conduct original research.

Mr. President, because of the urgent need for action the Commission is allowed 1 year to conduct their work and report their findings. Senate passage of this amendment is only the first step. We've a long row to hoe to get this Commission off the ground and running. Funding is the next step—$800,000 is authorized for fiscal year 1986 for the Commission to carry out its activities.

Mr. President, I prepared an amendment to the continuing resolution to appropriate these important funds. I have decided not to upset the apple cart by offering this amendment, since the Commission is not technically authorized until the farm bill is signed into law. I am concerned however that the funds be forthcoming. In this regard, I would like to address a question to my good friend and colleague, the chairman of the Subcommittee on Agricultural Appropriations.

Would Senator COCHRAN consider including $800,000 for the Commission in the fiscal year 1986 supplemental appropriation's bill when it comes through the Senate?

Mr. COCHRAN. I appreciate the decision of my colleague from Minnesota not to offer his amendment. I recognize the urgency of addressing the problems being experienced throughout the rural communities of this Nation. I commend him on his leadership in developing this Commission and as chairman of the Subcommittee on Agricultural Appropriations I assure the Senator that it will receive the Subcommittee's full consideration when the fiscal year 1986 supplemental comes before the Senate.●

ORDERS FOR TUESDAY

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Tuesday, December 10, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for the transaction of routine morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS BETWEEN 12 NOON AND 2 P.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that on tomorrow, the Senate stand in recess between 12 noon and 2 p.m. for the weekly party caucuses.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business tomorrow, we will be back on House Joint Resolution 465, the continuing resolution.

Rollcall votes can be expected throughout the day and evening and prior to 12 noon—maybe all evening; maybe all night.

It is the hope of the distinguished chairman of the Appropriations Committee, and I think the manager on the Democratic side, Senator JOHNSTON, that we will complete action on the continuing resolution tomorrow.

There are major issues to be resolved—defense, SDI, and others. I do not fault Senators for reserving possible amendments. They know, as the distinguished minority leader pointed out, that nothing is going to happen until those issues are resolved, so it does make it rather attractive.

We hope that tomorrow we can make a judgment as to when we can finish the continuing resolution tomorrow and be in the Gramm-Rudman-Hollings amendment on Wednesday; farm credit maybe Wednesday or Thursday; then go the farm bill and reconciliation. So there is still a glimmer of hope for completing business this week.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. Tomorrow night, a fellow down the street has a party. Are we to assume, by reason of that, that there will not be a working session tomorrow night? The President has a party.

Mr. DOLE. That is right. There is a party down there.

Mr. METZENBAUM. I am trying to know, so that we can all guide ourselves accordingly. It helps for domestic tranquillity if we can advise our spouses what is going on.

Mr. DOLE. I think it is a matter on which we should give some advance notice. I think it is 8 o'clock. Maybe we can have some idea by, say, midafternoon where we are going on the continuing resolution.

Mr. METZENBAUM. I appreciate it. Just so that we can all be guided.

Mr. DOLE. As I understand, it is black tie. Is that correct?

Mr. METZENBAUM. I do not think I will be there.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I ask unanimous consent that the Senate stand in

recess until 9:30 a.m. on Tuesday, December 10, 1985.

There being no objection, at 9:47 p.m. the Senate recessed until tomorrow, Tuesday, December 10, 1985, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 9, 1985:

THE JUDICIARY

Danny J. Boggs, of Kentucky, to be U.S. circuit judge for the sixth circuit vice a new position created by Public Law 98-353, approved July 10, 1984.

DEPARTMENT OF JUSTICE

Joseph M. Whittle, of Kentucky, to be U.S. attorney for the Western District of Kentucky for the term of 4 years vice Ronald E. Meredith, resigned.

Thomas C. Greene, of Alabama, to be U.S. marshal for the Northern District of Alabama for the term of 4 years. (Reappointment)

Melvin E. Jones, of Alabama, to be U.S. marshal for the Middle District of Alabama for the term of 4 years. (Reappointment)

Herman Wirshing Rodriquez, of Puerto Rico, to be U.S. marshal for the District of Puerto Rico for the term of 4 years vice Jose A. Lopez.

Roger Ray, of Virginia, to be U.S. marshal for the Eastern District of Virginia for the term of 4 years vice Herbert M. Rutherford III, resigned.

Delaine Roberts, of Wyoming, to be U.S. marshal for the District of Wyoming for the term of 4 years. (Reappointment)

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Barry R. Moore
William C. Bennett
Richard L. Roseberry
Barry A. Harner
Arthur E. Cubbon, Jr.
Joel R. Whitehead
Douglas E. Martin
John E. Crowley, Jr.
Richard A. Rooth
Jon T. Byrd
Wayne D. Gusman
George A. Capacci
David J. Radachy
Michael S. Canavan
John J. Davin, Jr.
Richard R. Houck
Brenton S. Whitener
Donald R. Opedal
David M. Mogan
Wallace R. Ridley
Stephen D. Heath
Richard R. Kowalewski
Robert A. Kuhn
Edward J. Dewitt
Robert G. Pond
John H. Harper, Jr.
Paul K. Westcott
Kenneth W. Keane, Jr.
John Salvesen
Peter A. Richardson
Clifford W. Heideman
Carlo E. Porazzi
Thomas L. Stewart
Douglas O. Pine
Frederick R. Wright
Kenneth D. McKinna
Terrence Mulligan
Scott J. Olin
Kenneth D. Elmer
John W. Zoch
James A. Peoples, Jr.
Van M. Richardson, Jr.
Gary G. Poll
Charles M. Shirk
James W. Dunlap
William C. Hall
Peter C. Blaisdell
Francis L. McClain
Peter Mason
Lawrence T. Yarbrough
Ronald J. Morris
Randolph Meade III
William P. Cummins
Patrick J. Danaher
Edward J. McCauley
James G. McKnight
Donald W. Gold III
William L. Johnson
Steven A. Newell
Christopher R. Marple
Dwight G. Hutchinson III
Thomas A. Watkins
James J. Lober, Jr.
Eugene L. McDermott
Ty G. Waterman
William C. Kessenich
Lawrence M. Brooks
Michael J. Devine
Jonathan T. Gunvalson
Timothy E. Tilghman
Dennis C. Thorseth
Paul R. Von Protz
Robert M. Segovis
Roland R. Isnor
Larry J. Lockwood
John P. Delong
Brent A. Bosin
Thomas F. Conlan
James D. Spitzer
Sally Brice-O'Hara
Rita A. Nesel
Steven L. Sparks
Galen R. McEachin
Janice E. Page
James A. Stamm
Melville B. Guttormsen
Charles A. Teaney
John D. Christensen
Walter A. Dodge
William J. Savage
Brian N. Durham
Thomas J. Martin
James E. Quarles, Jr.
Christopher J. Snyder
Ronald E. Walters
Richard H. Holzshu
Harry B. Milford II
Robert L. Sainlar
Claude H. Hessel
John J. Ryan

Paul D. Luppert
Randall D. Shaw
Roger D. Defauw
James N. Meisner
Lee W. Ellwein
David M. Tucker
James G. Parker II
Susan G. Moritz
Andrew J. Matta
Clayton W. Evans
Douglas Mihalik
Ronald R. Rutledge
Jane R. Ditto
Michael D. Russell
Richard A. Blais
Bruce R. Frall
Theodore A. Holloman
Eric N. Fagerholm

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant:

Terrence W. Walsh
Russell D. Krull
Jeffrey T. Noblet
Damon S. Starring
Frederick D. Pendleton
Maurice K. Jenkins
Gerald A. Demetriff
Thomas A. Jarrad
Christian P. Kisvarday
Michael A. Holincheck
David A. Albaugh
Barry L. Dragon
Thomas D. Hooper
David W. Vermillion
Robin H. Orr
Bruce E. Grinnell
Michael D. Stanley
William M. Stromberg
Mitchell D. West
Charles L. Smith, Jr.
Edwin M. Stanton
Timothy P. Powers
Michael K. Brokaw
Matthew B. Crawley
Keith P. Steinhouse
Douglas A. McCann
Jay G. Manik
Daryl T. Dejean
Brian T. Sullivan
Kurt J. Colella
Lance L. Bardo
Brian K. Swanson
Jonathan S. Keene
Darrell E. Milburn
Francis X. Irr, Jr.
Robert A. Farmer
Brad J. Suchanek
Brian J. Goettler
Richard M. Kaser
Kurtis J. Guth
Stephen J. Minutolo
Georgia G. Privon
Virginia K. Holtzman-Bell
Bruce T. Campbell
Patrick J. Moran
Daniel A. Laliberte
Richard L. Feffer
Matthew M. Blizard
Daniel T. Kuhn
Robert J. Legier
Jeffrey W. Holt
Robert E. Korroch
Thomas P. Ostebo
Lucretia A. Flammang
Dean L. Faina
Mark A. Prescott
Thomas D. Criman
Stephen J. Ohnstad
Thomas A. Giguere
Mark S. Guillory
Frank M. Paskewich
Steve M. Barker
Preston D. Gibson
Donald S. Stadtfield
Thomas E. Hobaica
David L. Hill
Karen J. Tweed
Jeffrey R. Freeman
Robert B. Edrington
David R. Wilkins
Robert G. Lambourne
Douglas J. Flammang
Marshall V. Lott III
Fulton M. Gregg
Peter M. Keane
John R. Zantek
William E. Pearson
Edward M. Hill
Barry L. Youngblood
John J. Pittman
Richard A. Farrell, Jr.
Larry J. Clark
Robert L. Kaylor
Steven H. White

Robert H. Hazelton
Paul W. Langner
Steven M. Doss
Raymond B. Marvel, Jr.
John H. Wigger
Bruce E. Hensel
Willie M. Dupriest
Kevin L. McCarron
Timothy M. Butler
James C. Howe
Judith E. Keene
Philip H. Sullivan
Eric B. Brown
David W. Kramking
Stephen C. Duca
Scott L. Krammes
Robert J. Malkowski
Michael L. Fisher
Jon P. Burden
Joseph P. Geraghty
Charles W. Ray
Timothy M. Henry
Gary E. Felicetti
Paul A. Jensen
Robert R. Albright
Michael J. Sobey
Kevin B. Rahl
Daniel R. MacLeod
Robin M. Voiles
Kurt W. Devoe
Richard A. Rendon
Bryan D. Schroder
Dale L. Chittenden
Warren E. Soloduk
Robert M. Loesch
Marshall B. Lytle
Larry J. Rudy
Timothy E. Bushrow
Kenneth H. Sherwood
David M. Dunlevy
John M. Lang
Alexander R. Larzelere
Carol C. Bennett
Craig A. Kohler
Timothy M. Cantwell
Thomas J. Rogers
Jon B. Tingley
David J. Turner
Michael F. Rall
Brian D. Perkins
Eric M. Linton
James T. Hubbard
George P. Vance
Terrence P. Keenan
Anthony S. Reynolds
Timothy J. Youmans
Gifford A. Hammar
James B. Beckham
Christopher J. Paquette
Robert M. Atkin
Daniel M. Wray
Kenneth R. Burgess
Mark D. Rutherford
Warren L. Haskovec
Orie T. Davis
Craig V. Sattergren
Pamela Morrow
David S. Stevenson
Michael P. Farrell
Christopher L. Bruening
Richard A. Stanchi
Mark S. Hoesten
James G. Gunther
Peter K. Oittinen
Joseph P. Sargent
Scott S. Graham
Timothy C. Chenoweth
James A. Esposito
Mark R. Devries
Christine D. Balboni
Mellissa A. Wall
Mary E. McCaffrey
Paul E. Hansen
Patrick B. Trapp
Jennifer L. Yount

The following temporary regular officers of the U.S. Coast Guard for permanent appointment in the grade in which serving:

Maurice K. Jenkins
Gerald A. Demetriff
Thomas A. Jarrad
Christian P. Kisvarday
Michael A. Holincheck
David A. Albaugh
Barry L. Dragon
Thomas D. Hooper
David W. Vermillion
Robin H. Orr
Larry J. Clark
Robert L. Kaylor
Steven H. White
Robert H. Hazelton
Paul W. Langner
Steven M. Doss
Michael K. Brokaw
Douglas J. Flammang
Marshall V. Lott III
Fulton M. Gregg
Peter M. Keane
John R. Zantek
William E. Pearson
Edward M. Hill
Barry L. Youngblood
John J. Pittman
Bruce E. Grinnell
Michael D. Stanley
William M. Stromberg
Mitchell D. West
Charles L. Smith, Jr.
Edwin M. Stanton
Raymond B. Marvel, Jr.
John H. Wigger

IN THE ARMY

The following-named officers for appointment in the reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3353:

MEDICAL CORPS

To be colonel

Benny L. Bachulis, xxx-xx-xxxx
Gene F. Conway, xxx-xx-xxxx
Jerome M. Hershman, xxx-xx-xxxx
M. Mark Hoffer, xxx-xx-xxxx
Donald D. Trunkey, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

James F. Blakely, xxx-xx-xxxx
Albert C. Diddams, xxx-xx-xxxx
Gerald P. Falletta, xxx-xx-xxxx
Ritchie P. Gillespie, xxx-xx-xxxx
Edward J. Glasser, xxx-xx-xxxx
Samuel Goldberg, xxx-xx-xxxx
Arnold J. Jackson, xxx-xx-xxxx
Leroy W. Johnson, xxx-xx-xxxx
George A. Lightbourn, xxx-xx-xxxx
Hubert A. Mayes, xxx-xx-xx...
John J. Millin, xxx-xx-xxxx
John P. Mullen, xxx-xx-xxxx
Leroy C. Olson, xxx-xx-xxxx
Alejandro Osorio, xxx-xx-xxxx
Francis W. Parnell, Jr., xxx-xx-xxxx
George M. Pomerantz, xxx-xx-xxxx
Wilfredo Souffront, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Anthony E. Curcio, xxx-xx-xxxx

EXTENSIONS OF REMARKS

HOME VIDEO PROGRAM BY PACIFIC INSTITUTE HEARTENING DEVELOPMENT

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. WRIGHT. Mr. Speaker, with all the increasing emphasis upon the American family and what is happening to it, the development and release by the Pacific Institute of a family home video program is a heartening development indeed.

This institute which for the past 15 years has offered its services to the corporate world through seminars and video taped programs aimed at enhancing individual performance and self-realization in the achievement of common goals, now has brought its vast experience to focus upon enhancing just these qualities in our most intimate and most important relationships within the family.

The thrust of these incisive and remarkably perceptive family circle talks, now reduced to tape and available at a nominal price within the range of most American families, is heightened self-esteem and mutual acceptance and reinforcement within the family unit.

Studies have revealed that children from the age of 5 through their high school years actually spend more time watching television than they do in formal classroom instruction. One unfortunate byproduct of our preoccupation with the "tube" is what it has done to diminish the art of conversation and the resultant understanding and sharing within the family of one another's problems and one another's aspirations. One result has been the often remarked decline of the family as our most basic and most indispensable unit.

The Pacific Institute series, which I recently had the privilege of reviewing, strikes me as a marvelously useful home video tool to promote togetherness and really productive family conversation on a regular and sustained basis, serving as an invaluable aid in goal setting and in helping each member of the family to achieve a better self-image with enhanced creativity, better communication, clearer goals and improved performance not only in school but in the various challenges of life.

In a world grown suddenly small and keenly demanding, with almost everything we see and do posing the threat of disorientation and dissolution of the family to a great many Americans who are concerned about the unhealthy drift that seems increasingly to undermine family responsibility and dissolve family ties.

From its base in Seattle, WA, the Pacific Institute has drawn upon the skills of professional educators and specialists in personal and family development to perfect a series of 21 home video programs. Each forms a splendid basis for the free exchange among family members and the kind of wholesome inner family communication that often has been sadly lacking. The institute promises to make these services available widely throughout the country.

THE MEDVID CASE: AMERICAN HONOR LOST

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. GINGRICH. Mr. Speaker, consistent with its policy of refuting the Reagan administration's foreign policy, the State Department together with the Immigration and Naturalization Service [INS], has denied Miroslav Medvid the right to asylum and possibly the basic right to live. The handling of the Medvid case will go down in history as an embarrassment and a blow to American honor.

One of the best articles I've seen so far on this incident was written by my esteemed colleague, Congressman FRED ECKERT. I urge my colleagues to study this article and to work together to prevent this kind of injustice and hypocrisy from ever happening on American territory again. Congressman ECKERT's piece appeared in the Wall Street Journal on November 21, 1985.

THE MEDVID CASE: AMERICAN HONOR LOST

(By Fred J. Eckert)

In the early evening of Oct. 24, on board the Soviet grain freighter Marshal Konev, docked in the Mississippi River just outside New Orleans, a 25-year-old Ukrainian seaman approached the ship's rail and looked down.

He was standing 40 feet above the river. It was dark, stormy and raining.

Miroslav Medvid was ready to jump ship and defect to America. He was wearing short pants, a sweater and tennis shoes. He held a container protecting personal papers valuable to him.

He jumped, from three stories high, into deep, turbulent water. The shore was more than the length of a football field away. He struggled to reach American soil. He struggled to reach freedom.

Miroslav Medvid reached American soil. He did not reach freedom.

Five days later Anatoly Dobrynin, the Soviet ambassador, emerged from a meeting with Secretary of State George Shultz at the State Department to tell reporters: "It's settled. He's coming home."

One persistent reporter asked: "If Seaman Medvid really wanted to return to the Soviet Union, why did he jump ship and why did he do so many other things that so clearly indicated he wanted to defect?"

Mr. Dobrynin said: "I am not a sailor," Then he chuckled. And then he turned his back and walked away.

RETURN TO A NIGHTMARE

For the Soviet ambassador, the sad case of the Ukrainian seaman is something to laugh about. But for young Miroslav Medvid, his life has turned into a nightmare, a nightmare inflicted upon him by the incompetence and insensitivity of low-level U.S. officials. A nightmare caused by the feeble fears and limp leadership of high-level U.S. government officials.

After Mr. Medvid jumped ship and swam to shore, he encountered Joseph and Wayne Wyman in the parking lot of their jewelry store. The Wymans say he was very excited and nervous, and that he kept looking over his shoulder to see if he was being followed. The Wymans and Mr. Medvid could not understand anything they said to each other.

The Wymans guessed Mr. Medvid might be Russian and concluded that they were witnessing an attempted defection. They also concluded that he was asking them to take him to the police. Wayne Wyman drove him to a police station. Mr. Medvid was so grateful that he tried to kiss Wayne's hand.

The police took Mr. Medvid to the Harbor Police, who in turn handed him over to the Border Patrol, a part of the U.S. Immigration and Naturalization Service. The police say Mr. Medvid smiled and laughed and seemed very happy.

The Border Patrol set up a three-way telephone interview with Mr. Medvid, a Border Patrol agent and Irene Padoch, a New York-based translator who works part time for INS. She is the only American ever to have spoken with the Ukrainian seaman in Ukrainian. She has testified that she told officials at the scene that Mr. Medvid said he didn't want to return to the ship and did want political asylum. It is standard INS procedure to tape and transcribe such a sensitive conversation—but it was not done in this case.

For reasons that have yet to be explained, U.S. Border Patrol officials told two employees of Universal Shipping Agencies, the private shipping company that serviced the Soviet ship, to turn Mr. Medvid back to the Soviets. The two men hired a launch and set off for the ship. Raymond Guthrie, the launch pilot, said: "I felt sorry for the seaman. He was kicking and screaming. He didn't want to go back." And Mr. Medvid ran his fingers across his throat—a gesture indicating he feared harm would come to him.

When the launch came abreast the Soviet ship at about 2 a.m., a Soviet officer spoke to Mr. Medvid. The seaman became even more frightened. He again dived into the river and swam to shore. Soviet officers and the two U.S. shipping-company employees grabbed him. Mr. Medvid screamed, kicked, punched and bit, but he couldn't get free.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

They handcuffed him, with handcuffs that had been turned over to these private citizens—and, it turns out, to Soviet authorities, too—by the U.S. Border Patrol. Mr. Medvid then began to bang his head against rocks along the shore. He was overpowered again. Finally, he was returned to the Marshal Konev.

Under well-established U.S. government procedure, Mr. Medvid should have been detained for several days until he had time to complete all necessary interviews and applications. But he wasn't.

No Soviet ship sails abroad without KGB agents on board. Now the KGB was free to interrogate and intimidate the young sailor. Free to threaten him with retaliation against family and friends. Free to do whatever it wished.

It was not until Mr. Medvid had been back on the ship for more than 12 hours that the State Department was informed of the matter. One would think that procedures in such a sensitive matter should call for prompt notification to higher-ups. They do—but they weren't followed.

Four days later the State Department issued a statement that ends by saying, "The United States Government considers this matter closed." The statement opens by assuring us that from the moment the department "was first informed of this case, the Department of State has been attempting to determine the intentions of Soviet Seaman Miroslav Medvid."

One would think that a review of Mr. Medvid's actions would make it clear what his intentions were—but nowhere in the State Department "case closed" statement is there a single reference to Mr. Medvid's actions prior to his return to the ship.

The department assures us that it "immediately" dispatched "a Russian-speaking Foreign Service Officer." But Mr. Medvid is Ukrainian, not Russian! And the State Department does not mention in its report that it had rebuffed offers of Ukrainian language translators. The department says it provided "an expert Russian interpreter . . . to ensure there would be no difficulty in communicating with Seaman Medvid." No difficulty for him to communicate in a language that Ukrainians resent? Maybe. Maybe not.

Yes, a team of U.S. officials and a U.S. doctor did communicate with Mr. Medvid aboard the Marshal Konev and later aboard a U.S. Coast Guard cutter. But, no, they never once spoke with Mr. Medvid without Soviet agents present. And never once in his own language.

"We insisted," the State Department boasts in its statement, "on a non-threatening environment in which to conduct the interview." Baloney! Wouldn't it have been more non-threatening if Mr. Medvid had been permitted to speak to U.S. officials without Soviet agents glaring at him and listening to his every word?

We are assured by the State Department that "Medvid appeared to be in generally good condition." Oh? Did the physical examinations given him include blood and urine tests to detect the presence of drugs? Well, no. This despite the fact that we had intercepted a communication between the Soviet Embassy and the captain of the Marshal Konev in which the embassy instructed the captain to administer certain specified drugs to Mr. Medvid.

"Generally good condition?" But U.S. officials observed that Mr. Medvid's wrist had been slit. No mention of that in the official statement! That came out days later in a congressional hearing. Was Mr. Medvid asked if he had attempted suicide? Did we conclude he had been tortured? Such questions aren't raised in the report.

The State Department does mention that Mr. Medvid was examined by a U.S. psychiatrist who found him competent to decide whether he wanted to defect or not. But the department does not mention that the psychiatrist believed that Mr. Medvid knew what he was doing when he jumped ship and that he believed he had been threatened and that he believed the threats involved Mr. Medvid's parents, and possibly a threat against their lives.

The State Department report has it that we gave this man every chance to defect and that later we afforded him a nice "non-threatening environment" in which to think things over.

The truth, of course, is that a frightened sailor who had been dragged back to the Soviets has very good reason to be leery of Americans—and even more good reason when later they permit Soviets to stand watch over him while they promise him that this time he really can be free.

CONGRESSMEN INCENSED

But the State Department report was enough to convince the White House to echo that the case was closed. It was also enough to incense this member of Congress and many of my colleagues. Some of us asked the president to order an investigation (which he did do) and to detain the ship and give Mr. Medvid another chance at freedom (which he did not do).

We should have announced the immediate suspension of those government employees responsible for this fiasco—pending dismissal proceedings. Mr. Medvid should have come off that ship and into U.S. custody even if we would have had to physically remove him. We should have detained him until the effects of the drugs inside him had dissipated. And we should have demonstrated to him that most Americans are not as dumb and insensitive as the Border Patrol agents who handed him back the first time and not as feeble and deferential toward the Soviets as the U.S. officials who handed him back the second time. And we should have let him meet with Ukrainian-Americans, including those who say they are related to him. We should have done all this not only to give Miroslav Medvid another chance for freedom but also to give ourselves a chance to atone for disgrace and dishonor.

We should have. But we didn't.

Somewhere out on the high seas the Marshal Konev is carrying Ukrainian Seaman Miroslav Medvid to the hell that awaits him back in the Soviet Union. The ship is also carrying away a full load of American grain. And pieces of America's reputation, pride and honor.

FATHER LAWRENCE JENCO HELD HOSTAGE IN LEBANON 11 MONTHS

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. O'BRIEN. Mr. Speaker, Sunday will mark the end of the 11th month Father Lawrence Jenco has been held hostage in Lebanon.

Monday will be the beginning of the seventh month of captivity for Thomas Sutherland, dean of the American University School of Agriculture.

William Buckley, a U.S. foreign service officer was kidnaped in Beirut 643 days ago today.

The Associated Press Beirut bureau chief, Terry Anderson, has been held hostage in Lebanon for 267 days.

David Jacobsen, the director of the American University Hospital, was kidnaped 195 days ago.

Today also marks the 70th day since the disappearance of Peter Kilburn, the American University librarian.

Mr. Speaker, America has its fingers crossed, hoping and praying for the swift release of the hostages in Lebanon. I think it is appropriate, Mr. Speaker, to recall the words of an ancient crusader's prayer:

Father . . . rescue those unjustly deprived of liberty and restore them to the freedom you wish for all men as your sons.

A TRIBUTE TO DR. MORTIMER B. LIPSETT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. HOYER. Mr. Speaker, Dr. Mortimer B. Lipsett, Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, National Institutes of Health [NIH], died of cancer on November 10, 1985, at the clinical center, NIH. He was 64 years old. Dr. Lipsett, known internationally for his expertise in a variety of endocrine-related disorders, served the NIH for over 25 years as a biomedical investigator, physician, and administrator. He has the distinction of having been named director of three major components of the NIH: The Warren Grant Magnuson Clinical Center, the world's largest research hospital; and two NIH Institutes.

After receiving his medical degree at the University of Southern California in 1951, Dr. Lipsett worked as a research fellow at the Sloan-Kettering Institute in New York City and came to the NIH in 1957 to continue his research. He was Chief of the Endocrinology Branch, National Cancer Institute, from 1966–70. In 1970, he was appointed to the dual roles of Associate Scientific Director and Chief, Reproduction Research Branch, National Institute of Child Health and Human Development, positions in which he served until 1974. Dr. Lipsett left the NIH to organize and direct the Cancer Center of Northeast Ohio from 1974–76. He then returned to the NIH to become Director of the Clinical Center, a 500-bed research facility. Under his leadership, the ambulatory care research facility for outpatient services was constructed. While Director of the Clinical Center, he instituted a lecture series, Medicine for the Layman, which is still regularly presented. Dr. Lipsett was named Director of the National Institute of Child Health and Human Devel-

opment in 1982, a post he held until he was appointed Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases in January 1985. In the latter position, he was responsible for recognizing contamination in growth hormone being administered to children and for hastening its replacement by a synthetic substitute.

Dr. Lipsett's early research focused on how the adrenal steroid hormones, then newly discovered, regulated the body's handling of salt and water. His extensive research included studies of patients undergoing endocrinologically directed treatments for advanced cancer of the breast. This led to a major, career-long interest in the relationship between hormones and cancer. He was organizer and founding chairman of the breast cancer task force, and, along with colleagues at NCI, he studied the effects of hormones on breast cancer, which helped establish the scientific basis for the modern treatment of this disease. He was a major part of the NIH group that revolutionized cancer treatment by curing a large fraction of patients with an aggressive cancer, choriocarcinoma, by chemotherapeutic agents. This approach has been adapted successfully to numerous cancers, especially leukemias and related conditions.

In collaboration with NIH chemists, he developed a series of more sensitive tests to measure accurately in human blood many adrenal and gonadal steroid hormones and closely related substances. The hormone measurements, in addition to applications to cancer, led to innovative studies in reproductive endocrinology, a field in which Dr. Lipsett soon achieved a major leadership role. Studies by Dr. Lipsett and his colleagues of hormonal changes in the normal and disturbed menstrual cycle are especially noteworthy.

Despite a heavy program of administrative duties, he continued a serious commitment to research. Recently, he returned to his early interests in adrenal hormones and how they work. Along these lines, Dr. Lipsett and his colleagues were the first to characterize an inborn defect in receptors on cells of patients who cannot respond properly to the major adrenal hormone, cortisol.

Among his many honors and awards are two bronze stars with oak leaf cluster for "heroic achievement in action" as a combat medic by the U.S. Army in 1945; the Alfred P. Sloan Award for Cancer Research in 1955; the Distinguished Leadership Award of the Endocrine Society in 1976; the Department of Health and Human Services [DHHS] Senior Executive Performance Award in 1980; the DHHS Distinguished Service Award in 1981; the DHHS Senior Executive Service Meritorious Rank Award in 1982; and the Distinguished Andrologist Award in 1984.

Dr. Lipsett has authored or coauthored over 275 scientific papers and is one of the most frequently cited scientists in the world. He served as president of the American Endocrine Society in 1979; secretary general of the International Society of Endocrinology from 1976–84; and president of the American Physicians Fellowship since 1984. Dr. Lipsett was editor-in-chief of the Journal of Clinical Endocrinology and Metabolism from 1968–73 and coeditor-in-chief of the journal Hormone and Metabolic Research since 1984. He served as a consultant to the Food and Drug Administration for endocrinology and metabolism since 1975.

He is listed in Who's Who in America, World Who's Who in Science, and American Men and Women of Science.

In addition to his professional activities, Dr. Lipsett was a life master at bridge, an accomplished chess player, and an avid tennis and squash player.

His marriage to the former Marie Nieft ended in divorce. Survivors include his wife, Lois, of Bethesda; two sons from his previous marriage, Roger, of Bethesda and Edward, of Tokyo, Japan; two stepchildren, Alan Tomkins, of Silver Spring and Janice Jackson, of Rockville; and five grandchildren.

A memorial service was held in the Jack Masur Auditorium in the Clinical Center at NIH on November 19 at 1 p.m.

Donations in Dr. Lipsett's memory may be sent to the Endocrine Society, 9650 Rockville Pike, Bethesda, MD 20814, and will be used to establish a Mortimer B. Lipsett memorial fund.

ACADEMIC SUCCESS AND ATHLETIC SUCCESS ARE COMPATIBLE

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. HOWARD. Mr. Speaker, there are many factors which explain why some collegiate basketball teams are more successful than others. Among these factors are quickness, strength, agility, size, coaching, and academic success. Wait a minute—academic success? Yes, contrary to popular belief, it is possible to excel on the court and in the classroom.

Last June, USA Today reported on the graduation rate of basketball players at NCAA Division I schools between the 1972–73 and 1981–82 seasons. By using those figures, you will find that the majority of the successful schools have not only won basketball games, but historically they have graduated their athletes.

For instance, four out of the last five NCAA champions—Villanova, Georgetown, North Carolina and Indiana—have graduated an average of 91 percent of their basketball players. The fifth school, North Carolina State, refused to participate in the USA Today survey.

This year appears to be no different. Nine out of the 10 top rated teams, according to the most recent Associated Press poll, graduated an average of 81 percent of their basketball players. Kansas, a top 10 team, did not participate in the survey. Even in football this year, the No. 1 rated team in every poll is Penn State, which under the leadership of Joe Paterno has established a reputation for insisting that players place a high priority on academics.

But, unfortuately, there are the others. Three teams in the top 20 AP poll graduated only 30 out of 149 athletes according to the USA Today survey. This dismal record of these institutions prompted me to introduce H.R 2620, the College Athelete Education and Protection Act of 1985. My legislation recognizes the fact that the Federal Government underwrites athletic programs by allowing contributions to the programs to be tax deductible in the name of "advancing education." My bill requires institutions to graduate a reasonble number of their scholarship athletes or they would forfeit their tax benefits.

As we know, the athletes are not supposed to be paid for their services—instead they are compensated by promises of an education. Obviously, some institutions are failing miserably to live up to that commitment. And by not advancing education, these institutions are failing to live up to their commitment to the Federal Government.

I would suggest to these institutions that before Congress takes appropriate action by adopting my bill, they should look at the successful athletic programs—not at the success on the court, but at the success in the classroom. Perhaps these institutions can learn a valuable lesson that will lead to greatness and a national championship. But even if they do not reach this lofty goal, their athletes will have obtained something much more valuable—an education and a life after intercollegiate athletics.

CATERPILLAR: MEETING THE CHALLENGE THROUGH AUTOMATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. MICHEL. Mr. Speaker, in recent years many of our basic industries depending upon world markets have fallen victim to a number of economic ills, ranging from outmoded technology at home to shrunken world markets because of foreign competition. The major question is: What can be done to shape the future so that American industry regains its rightful place among the leaders of international trade? Caterpillar Tractor Co. has recently made the decision to meet the challenges of the modern world through increased automation. Most investment analysts agree that Caterpillar is going in the right direction.

At this time I wish to insert in the RECORD, "Experts See Benefit in Caterpillar Plan," from the New York Times, Monday, December 9, 1985.

EXPERTS SEE BENEFIT IN CATERPILLAR PLAN

(By Steven Greenhouse)

CHICAGO, Dec. 8.—Investment analysts today praised the Caterpillar Tractor Company's statement this weekend that it would spend $600 million to install more automation in nine plants over the next four years as part of its efforts to cut costs.

Officials at Caterpillar, the world's No. 1 producer of earthmoving equipment, also said in interviews this weekend that the automation program would help the company reduce its work force by 20 percent—or about 10,000 workers—over the next five years. The officials said they hope that more than half the employment cuts would be through attrition.

Caterpillar officials said they have reached their goal of cutting costs by 22 percent since 1982 and now aim to reduce costs by more than 15 percent over the next three years.

In a telephone interview, George A. Schaefer, chairman and chief executive officer of the Peoria, Ill.-based company, said the cost-cutting was aimed at making Caterpillar compete more effectively against foreign producers, especially Komatsu Ltd., the Japanese company that has grown rapidly to be No. 2 in the industry because of its low costs.

RIGHT NEAR KOMATSU

"What Cat is saying is they will cut their costs by 35 to 40 percent over seven years," said John E. McGinty, an analyst at the First Boston Corporation. "But Komatsu, which already had lower costs, could not cut its costs more than 15 percent. Thus, if the yen-dollar ratio stays near where it is, Cat's cost-cutting would put it right near Komatsu on a cost basis."

In the view of several Wall Street analysts, Caterpillar's cost-cutting strategy has two main parts. The first part has been to cut variable costs, including labor and materials costs. As part of this step, Caterpillar—which has lost close to $1 billion over the last three years—has reduced its worldwide labor force from a peak of about 90,000 in 1979 to about 53,000 today.

"The next step is to try to convert some of these savings into more permanent cost reductions," said Eli S. Lustgarten, an analyst with Paine Webber Inc. "That is done by downsizing and by changing manufacturing philosophy to accommodate lower volume and worldwide competition."

Mr. Lustgarten said that under Caterpillar's modernization program, the company would seek to set up "factory cells" that would speed production and lower costs through automated materials handling and processing.

He said that Caterpillar, which plans total capital spending of about $320 million next year, would focus on this phase from 1986 to 1988. In this way, Caterpillar's production of tractors and other heavy equipment would be transformed from a step-by-step assembly line into a system where work is done in stages in various factory areas.

Another part of the $600 million automation program would focus on robotics, computer-aided manufacturing and flexible manufacturing systems. This would involve not only more automated materials handling, but also more robot welders, as well as additional foundry robots, which automatically heat and cool metal as it is shaped.

THE HIDDEN EVILS

"In the first round of cost-cutting, you try to take care of white-collar costs, some factory costs and material costs," said Mr. McGinty. "In the next round, you get rid of some hidden evils, such as inventory costs and indirect labor. You do that through flexible automation."

According to Ray Adams, Caterpillar's director of manufacturing, the company hopes to reduce its inventory costs by 65 percent by 1989 through a "just-in-time" inventory system, which pegs the arrival of a stock item to the time it is needed.

As another cost-trimming measure, Caterpillar is aiming to increase the percentage of parts it purchases from overseas suppliers to 25 percent within two years, from the current 16 percent.

"We have long said that we would try to cut our costs by 5 percent a year for the next three years," Stephen E. Newhouse, a Caterpillar spokesman, said today.

Caterpillar's cost-cutting is paying off. After losing money each of the past three years because of a sharp drop in demand, Caterpillar expects to be profitable in 1985. For the first nine months of this year, Caterpillar had net income of $111 million, on sales of $4.92 billion. In the comparable period a year earlier, the company lost $177 million, on sales also totaling $4.92 billion.

BECOMING A LOW-COST PRODUCER

"They have identified correctly that they are in a mature market where the probability of a substantial improvement in volume is not very high," said Mr. Lustgarten. "They recognize that international competition is here to stay, and they're taking the necessary steps to become a low-cost producer."

Mr. Lustgarten also praised a decision by Caterpillar to begin marketing farm tractors. While that move puts Caterpillar in a market that is ailing, the entry will not require huge new outlays for the company and it will give Caterpillar's dealers a wider line of products to sell.

Caterpillar, which traditionally focuses on large equipment, also recently introduced a backhoe loader, a small piece of equipment often used in home and office building. Mr. Lustgarten lauded this effort because two of Caterpillar's traditional markets that use large equipment—oil drilling and mining—are depressed, while office and home construction are far stronger.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. CLINGER. Mr. Speaker, I was absent from the floor of the House of Representatives on the evenings of December 4 and 5, 1985. Had I been present, I would have voted in the following fashion:

Rollcall No. 428: H.R. 3700, Higher Education Amendments, the House rejected the Bartlett amendment that sought to limit the total authorization on all programs except student assistance to the fiscal year 1985 appropriation level with increases for inflation, "no";

Rollcall No. 429: H.R. 3700, Higher Education Amendments, the House passed the measure to amend and extend the Higher Education Act of 1965, "aye";

Rollcall No. 430: Journal, the House approved the Journal of Wednesday, December 4, "yea";

Rollcall No. 431: H.R. 3424: Labor-HHS-Education Appropriations, the House agreed to the conference report on the measure making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, "yea";

Rollcall No. 432: H.R. 2817: Superfund Amendments, the House agreed to the rule (H. Res. 331) on the measure, "yea"; and

Rollcall No. 433: H.R. 2817, Superfund Amendments, the House rejected the Daub amendment that sought to provide that there be no liability for a person who can establish that the release of hazardous substances does not include any substance with respect to which such person had any relationship, "no".

TRIBUTE TO JOSEPH G. GAVIN, JR.

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. MRAZEK. Mr. Speaker, I'd like to take a moment to call to the attention of my colleagues the recent retirement of Joseph G. Gavin, Jr. of Huntington, Long Island from a long and distinguished career with the Grumman Corp.

His retirement marks the official end of a remarkable 39-year career at Grumman for Mr. Gavin, the last 9 years as president of the corporation. His tenure has seen the aeronautics world move from the first applications of jet propulsion to the space age, and to dreams of much, much more.

Perhaps his most lasting legacy, Mr. Speaker, came in our Nation's great quest to leave our earthly bounds and to, in the words of President John F. Kennedy, "put a man on the Moon and bring him safely back to Earth." Grumman was awarded the contract in 1962 to build the lunar module, the craft which would carry American astronauts from lunar orbit to the surface of the moon and back again. Mr. Gavin was made director of Grumman's lunar module program, a stewardship which not only took Neil Armstrong and Buzz Aldrin to their fateful rendevous with Tranquility Base on the lunar surface, but which also oversaw six other manned lunar landings.

For his leadership in these daring adventures, Mr. Gavin received NASA's Distinguished Public Service Medal in 1971. It also brought him selection to the National Academy of Engineering in 1974.

Mr. Gavin's aeronautical career began in a distinctly different era. When he initiated his engineering studies at Massachusetts Institute of Technology in the late 1930's, powered flight was still in its relative infancy when compared to today's SST's and interplanetary probes. He received his bachelor's and master's degrees in aeronautical engineering in 1942, then served with the U.S. Navy's Bureau of Aeronautics as a jet fighter project officer.

Mr. Gavin joined Grumman as a design engineer at the conclusion of World War II and worked on the first operational jet built by the company, as well as other jet prototypes. In the late 1950's, he turned his attention to the fledgling space race, serving as chief experimental project engineer and chief missile and space engineer.

As I've related, Mr. Gavin's contributions to our Nation's successful Apollo moon-landing program are legion. He became a Grumman vice president at the same time that he assumed leadership over the company's lunar module program, then was named the company's director of space programs in 1968.

In 1969, Mr. Gavin was elected a director of Grumman Aerospace, then promoted to senior vice president of the flagship subsidiary in 1970. In 1972, he became president of Grumman Aerospace, and chairman of the board in 1973. Finally, in 1976, Mr. Gavin was named president of the parent Grumman Corp.

As a key player in Grumman's Long Island family, Joe Gavin has been a part of the company's rise to a position as Long Island's leading employer and a keystone of the area's economy. He will continue to serve as a senior management consultant to the company, relaying priceless experience and savvy to a new generation of Grumman innovators.

Mr. Speaker, I am privileged to represent Mr. Gavin in New York's Third Congressional District. I am even more honored to be his friend. This tribute would not be complete without mention of the extraordinary woman named Dorothy Dunklee, whom Joe married in 1943. Dorothy has contributed her heart and her energy in a host of community activities that make my hometown of Huntington a better place for all of us who live there.

I'm sure my colleagues join with me in wishing Joe Gavin the best as he begins to enjoy his retirement years. He has served his company and his country with distinction.

In the words of Thomas Wolfe, if a man "has a talent and learns somehow to use the whole of it, he has gloriously succeeded, and won a satisfaction and triumph few men ever know." I would suggest, Mr. Speaker, that Joseph G. Gavin, Jr. not only has earned that satisfaction and triumph, but that he richly deserves it.

SALUTE TO THE WORKING ORGANIZATION FOR RETARDED CHILDREN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. SCHEUER. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding and compassionate endeavors of the Working Organization for Retarded Children, which I am proud to say is based in my Eighth Congressional District of New York.

The Working Organization for Retarded Children has, as its primary purpose, the development of community services to meet the needs of individuals with multiple handicaps which include severe and profound mental retardation. These community services are for the purpose of providing a life experience which approximates, if not achieves, the normal life experience enjoyed by every citizen. The organizational mission is to prevent institutionalization, reduce the current level of institutionalization, and encourage movement toward independence and lesser degrees of restrictiveness for each individual served.

Philosophically, the Working Organization for Retarded Children believes in the inherent worth and dignity of every individual, irrespective of the degree or type of handicapping condition. The Working Organization of Retarded Children adheres to the principles of normalization and the developmental model of individual growth.

The great majority of our Nation's 6 million mentally retarded now live in the community, not in institutions. Instead of going to special schools, many attend regular public schools, mixing freely with other students. A big push is also on to move retarded adults into competitive jobs with wages and benefits that make independent living possible. We are seeing tale after tale of retarded individuals who flourish when they emerge from institutionalization: holding jobs, living independently, even marrying. The Working Organization for Retarded Children has succeeded in demonstrating on a small scale that the transition from institutional living to residential living can be accomplished even for severely mentally retarded children and young adults with right kind of loving care and sensitive attention. The hard task is to repeat the accomplishments of the Working Organization for Retarded Children on a larger scale.

Last Friday, at my home in Douglaston, NY, I had the pleasure of hosting a reception for the life members of the Working Organization for Retarded Children, the individuals who have been so very important to its success. These outstanding people deserve special mention for their tireless and dedicated efforts to improve the quality of life for our retarded citizens. They are: Seymour and Jill Hirsh; Martin and Beatrice Adler; Naphtali and Ruth Kroll; Sidney and Anita Blank; Joseph and Laura Stagnitta; Samuel and Ruth Ostrowsky; Richard and Noele Berger; Herbert and Ethel Perry; Rabbi Hyman Levine; Manny and Barbara Lautman; Nat and Marsha Bassen; Al and Mary Lou Ries; Murray Seigal; Irving and Gertrude Rudd; Ellen Weisenfeld; Marion Henken; John Toscano; Karen Levine; Ron and Sharon Segall; Willie Goodman; Millie and Abe Werfel; Steven J. Gottesman; Stephen and Helen Jubyna; Mel and Ruth Katz; and Dr. and Mrs. Richard Schere. The Semantics, Inc., and Barclays Bank of New York, N.A., are corporate life members of the Working Organizaton for Retarded Children.

These special people, through their exemplary efforts with the Working Organization for Retarded Children, have set a high standard of service not only for New York City but also for our Nation. I extend to all of them my sincere best wishes for continued success in their unique and compassionate work.

MOTHERS AGAINST DRUNK DRIVING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. GILMAN. Mr. Speaker, I was pleased to join with many of our colleagues this morning in welcoming Norma Phillips, the president of Mothers Against Drunk Driving, and the other participants in MADD, as they concluded their 4,205-mile "Tang March Across America" here at the U.S. Capitol.

Thousands of Americans of all ages participated in this 15-state, 4,205-mile transcontinental march to demonstrate their concern, and to call to the attention of all Americans the tragedy of drunk driving.

I was pleased that just last week, my home State of New York joined the growing list of 37 States raising the drinking age back to 21.

I have long supported this measure as one which will help save lives, after years of needless tragedy touching so many innocent lives. The statistics have spoken for themselves; approximately 5,000 persons are killed each year in alcohol-related crashes involving drivers under the age of 21. Although motor vehicle operators under the age of 21 comprise only 10 percent of all drivers on the road, this same age group is involved in over 20 percent of all alcohol related traffic fatalities.

Alcohol-related auto accidents is now the No. 1 cause of death among our Nation's teenagers.

We must no longer allow these precious, irreplaceable lives to be taken when the ability to change this bloody course is so readily available to us.

To MADD President Norma Phillips and to all involved with MADD, I extend my heartiest congratulations, and to the 13 States and the District of Columbia who have not yet acted toward a 21-year drinking age, we urge your prompt compliance.

In the 115 days between the "kickoff" of the "Tang March Across America" on August 17th, through its conclusion here in Washington today, MADD has captured the hearts and minds of Americans everywhere.

Mr. Speaker, we all agree that the mayhem and murder on our highways have gone on long enough. Accordingly, I invite all our colleagues to join with us in saluting MADD upon the successful conclusion of the "Tang March Across America" and in urging the 13 States and the District of Columbia to join the 37 other States in enhancing safety on our streets and highways.

GEORGE H. MAHON

SPEECH OF

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 3, 1985

Mr. UDALL. Mr. Speaker, I want to join my colleagues in paying tributes to a former member of this House, George H. Mahon, who died in San Angelo, TX, on November 19.

One of the great rewards of this job is that it has enabled me to know people like George Mahon.

This was a kind and good man, unpossessed of any pretentions and absolutely devoted to the very best ideals of public service. George was simply what he was: a rough-hewn Texas traditionalist who never forget his boyhood poverty and who was never anything less than a gentleman. He was fiercely in favor of strong national defense, but he was, long before most, a fierce enemy of waste in the Defense Department.

It is men like George Mahon who do honor to this House, who bring to it a special measure of humanity and selflessness that in turn become measurements for those who come afterward.

George was in this Hall for 44 years. His even temperament and judicious common sense approach to legislation remain the best of examples for all of us. He was a fairminded man who never turned his back on his roots; indeed, when his time here was finished, he went home to Loraine, where he cared for his 400-acre cotton farm.

George was an idealist. His trademark was his steadfastness.

My deepest sympathy goes to his wife, Helen, and the Mahon family. George was my friend, and I am sorry that he is gone.

SOLOMON AMENDMENT ENFORCEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. SOLOMON. Mr. Speaker, I am pleased to announce that Secretary of Education Bennett and Director of Selective Service Turnage have signed a joint memorandum of understanding between Education and Selective Service to strengthen enforcement of the Solomon amendment.

Under a law passed in 1982 (the Solomon amendment), male students must be in compliance with the Military Selective Service Act as a condition to receiving Federal student financial assistance.

The joint Department of Education/Selective Service System MOU will establish a program to cross check the names of millions of students receiving Federal higher education assistance with current Selective Service compliance files. This program will seek to identify individuals who have failed to register with Selective Service and fraudulently received Federal education assistance.

Individuals who have failed to register, if required to do so, and received student financial assistance are guilty of defrauding the U.S. Government and their names will be turned over to the FBI and the Justice Department for investigation and prosecution. In addition, failure to register is a felony punishable by up to 5-year imprisonment and/or a fine of up to $250,000.

Registration with Selective Service is a process demanding extremely little on the part of young men. And yet, the program of peacetime registration contributes 2 months to our Nation's readiness in the event America is forced to mobilize for war or a national emergency. I am very pleased that the Director of Selective Service and the Secretary of Education are committed to enforcing this most important law.

AN ARGUMENT FOR THE POLYGRAPH BAN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. COURTER. Mr. Speaker, the following editorial entitled "Lie Detector Lies," from the New York Times, December 8, 1985, succinctly points out the importance of banning "lie-detector" tests in the workplace. The need to combat on-the-job theft cannot justify the use of an invalid test which each year subjects 2 million Americans to the possibility of unjustified job-related penalties.

The editorial is enclosed:

[From the New York Times, Dec. 8, 1985]

LIE DETECTOR LIES

Two million Americans each year are required to take lie-detector tests as a condition of employment. At least 50,000 are then denied jobs or promotions even though the results are unreliable. Now, after years of desultory debate, Congress appears convinced that this injustice is intolerable.

A bill to outlaw use of polygraphs in private employment already has been approved by the House Education and Labor Committee. It is expected to win approval of the full House by the end of the year. Virtually identical legislation has been introduced in the Senate by Edward Kennedy of Massachusetts and Orrin Hatch of Utah, a bipartisan combination that bodes well for passage there.

Organized labor has complained for years that companies use lie detectors to ferret out employees they consider to be troublesome or inclined to join a union. A more telling criticism, however, has to do with the effectiveness of polygraphs. They do not detect lies. Rather, they detect physiological changes that indicate anxiety. The human operator decides whether or not the anxiety is evidence of falsehood.

Congress's Office of Technology Assessment, in 1983, said there was "some evidence" for polygraph validity in criminal investigations, but little evidence of validity in "screening situations, whether they be pre-employment, pre-clearance, periodic or aperiodic, random or 'dragnet.'" In fact, the agency said, error rates in pre-employment polygraph screening could be as high as 50 percent.

Spokesmen for some business groups contend that polygraphs are a vital tool to combat employee theft, which they say raises the cost of consumer goods as much as 15 percent. But Senator Hatch has pointed out that "even the most respected and reputable polygraphers make mistakes." Can a nation dedicated to assuring justice for every individual tolerate 50,000 such mistakes a year, with such drastic penalties as loss of jobs or advancement?

Almost half the states prohibit or limit the use of polygraphs in most private employment decisions. Critics say some companies circumvent state laws by taking employees across state lines for tests. Congress can end the subterfuge and the injustice by passing Federal legislation.

THE PANAMA CANAL

HON. WEBB FRANKLIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. FRANKLIN. Mr. Speaker, in 1979, we gave Panama a canal. A Rolls Royce of a canal, at that.

In 1985, we are about to embark on a course that will overhaul that Rolls Royce, then give it away again. If the State Department has its way, we will literally pay for the Panama Canal all over again, just in time to turn it over to the Panamanians. In fact, we may even end up digging a whole new canal, and picking up the bulk of a multi-billion-dollar tab for its construction.

I need not remind you that the 1977 treaty completely transfers control of the canal, abolishes what was known as the Canal Zone, and eliminates the need for SouthCom, the military base responsible for defending the canal.

In that treaty, there is an article stating that "during the duration of this treaty, both parties (shall) commit themselves to study jointly the feasibility of a sea level canal in the Republic of Panama."

Whether or not one thinks that is necessary, and I don't, since it's already been done, that's a very straightforward, explicit provision. It authorizes a study of one specific alternative, a study that would be limited in scope and that could be completed at a relatively modest cost.

Our State Department, however, appears to be headed in a different direction. To date, they have taken the following steps:

The State Department has signed an agreement committing the United States to participation in a study of all alternatives to the current canal. This would take $20 to $30 million to complete, with the United States paying at least one-third of the cost, and probably quite more.

The Department has specifically excluded Department of Defense and Panama Canal Commission representatives from highest level participation in the U.S. commission that will participate in this study. That is astounding, since those two entities have historically been responsible for the 17 pre-

vious feasibility studies that have been made regarding the canal.

The Department has chosen to undertake the study between 1986 and 1991. Because of other treaty obligations, and because of the state of the Panamanian economy, you can expect the United States to pick up both our share and Panama's share of the cost of implementing whatever recommendations the study makes, building additional locks, widening the canal, or other alternatives. The simplest alternative costs over $4 billion.

The congressional committee of jurisdiction—the Merchant Marine and Fisheries Committee—has been bypassed completely during this process.

The State Department is clearly going far beyond the terms of the original agreement. Consequently, a number of questions have now arisen in the Panama Canal Subcommittee.

Why begin at this time? Is it in our best interest to conclude a study 8 years before the transfer of the canal? Would we not have more leverage in future negotiations with Panama if we forestall payment for future improvements to the canal until the latest possible date?

Why not pay for our obligations through Panama Canal tolls rather than general revenues?

Why has the State Department, and not the Corps of Engineers, taken the lead role in what is essentially an engineering study?

What will become of SouthCom, the United States military force in Panama which is, in fact, our only full-time military installation in Central America?

I and several of my colleagues—including the chairman and ranking minority member of the Panama Canal Subcommittee—have introduced a bill which establishes specific guidelines and specific limitations for any future studies of the canal. Our bill would restrict the study to the terms spelled out in the treaty; would specify where U.S. representatives to the study commission should come from; and would place specific restrictions on U.S. funding of this effort.

This is not an attempt to renegotiate the Panama Canal Treaty, to evade our legitimate obligations under that treaty or to influence a matter which is not within our committee's jurisdiction. This is an effort to clarify how our responsibilities should be carried out, and, quite simply, to keep our Government from giving away any more than we've already given away.

POSITION OF AGENCY ON TOXIC CHEMICALS ASSAILED BY FLORIO

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. EDGAR. Mr. Speaker, recent action by the Environmental Protection Agency [EPA] highlights the need for uniform Federal community right to know legislation such as the provisions we have included in the Superfund legislation the House is currently considering (H.R. 2817). A few weeks ago, the Agency announced that it had compiled a list of 403 toxic chemicals and planned to give the list to local officials to take whatever action they thought was appropriate.

The immediate reaction of the business community and State and local officials to EPA Voluntary Program was surprise and dismay. Business feels, understandably, that the agency's effort to punt on this crucial issue was irresponsible and would lead to burdensome, duplicative regulation on the local level. State officials fear that the EPA Voluntary Program will only cause confusion and detract from State efforts to pass strong community right to know laws.

Our best response to this unfortunate EPA initiative is to continue to pursue the strong community right to know provisions that have been included in the Superfund legislation we are currently considering. Two amendments, sponsored by Representatives SIKORSKI, CARPER and myself, further improved these provisions when the House considered this section of the bill last Thursday and Friday. I urge my colleagues to resist any efforts to delete these provisions when the bill is reported to the full House.

I would draw my colleagues' attention to two recent articles that describe the controversy engendered by EPA's misguided program in more detail:

[From the Asbury Park (NJ) Press, Nov. 20, 1985]

POSITION OF AGENCY ON TOXIC CHEMICALS ASSAILED BY FLORO

(By Fred Simmonds)

WASHINGTON.—The Environmental Protection Agency is thrusting upon municipalites too much responsibility in responding to toxic chemical releases, Rep. James J. Florio, D-N.J., contends.

"A whole lot of people are scared," Florio said at a news conference yesterday.

The EPA has announced a program whereby it will identify 403 chemicals hazardous to human health and will provide information, training and technical assistance to local officials on how to handle the substances and improve plans to respond to those emergencies.

Florio said, however, the EPA has the responsibility under the Clean Air Act to evaluate, list and regulate the chemicals. The agency is giving to communities the job it should be doing, he said.

EPA officials noted that the Occupational Safety and Health Administration already oversees plant and worker safety at fixed facilities, the Department of Transportation regulates the transport of hazardous materials and the EPA has a sophisticated federal response program.

They said the EPA's interpretation of the Clean Air Act calls for its regulation of chronic low-level emissions. The EPA is providing information and assistance to local authorities on one-time accidental releases because they are the first ones on the scene at an emergency, they said.

"The objectives of this whole action is for the community to be prepared for a Bhopal-type action," said EPA spokesman Christian H. Rice.

The release of a lethal gas from a chemical plant in Bhopal, India, killed 2,000 persons and injured another 200,000.

Florio said he sees three major flaws in the program. The first is that it provides for no uniform regulation or enforcement, he said. Some municipalities may be more aggressive than others in gathering information and some companies will be more cooperative than others in disclosing information about what chemicals they handle, he said.

Secondly, the program presumes companies will cooperate with local officials, Florio said.

"It is totally voluntary," he said.

"Thirty states have community or worker right-to-know laws that can be invoked in an effort to solicit the information," replied EPA spokeswoman Robin Woods. "We support right to know laws on the federal level."

Some type of right-to-know provision is expected to be included in the Superfund reauthorization bill.

Finally, the program assumes expertise at the local level, Florio said. EPA officials have testified before one of his subcommittees that the agency did not have the capacity to evaluate, list and regulate the chemicals, he said, but now they are telling local officials to talk to chemical companies about handling the substances.

"Many communities across the United States are developing hazardous material response programs," Ms. Woods explained, "and in that effort we are committed to providing as much technical expertise as possible to help them."

She said the municipalities could obtain information on chemicals faster than if the EPA gathered and circulated it.

State governments are often in a position to help municipalities in drafting response plans and meeting emergencies, she said.

While the EPA is avoiding a national regulatory system it is attempting to show that it is fostering a community right-to-know program, Florio charged.

Businessmen are concerned, Florio said, that municipalities may view the EPA guidelines as regulations and unduly implement them through local ordinances. They also feel the EPA program is setting them up to be targets of local environmentalists, Florio said.

He said the industry prefers its own self-regulating mechanisms. Its second choice is uniform, modest standards. Florio said, and its last choice is what the EPA program does.

Florio said the EPA is using the bomb throwing" approach by tossing out the list of toxic chemicals and hoping local authorities can prepare for accidental releases.

"Coming up with a list is nothing more than creating confusion," said Robert E. Hughey, commissioner of the N.J. Department of Environmental Protection.

"The easiest thing in the world is to publish a list," said Hughey, who hasn't seen a copy yet. "The hardest thing in the world is to explain what it means. I don't think they can do the second (thing)."

"I don't know how he can make the statement because he hasn't seen the information that will be accompanying the lists," said Ms. Woods.

The list will explain the criteria for an acutely toxic chemical. The program will include information on how to determine whether a potential hazard exists at a plant and how communities can prepare for contingency planning, said R. Craig Matthies-

sen, section chief in the EPA's Chemical Engineering Branch, Office of Toxic Substances, Washington.

But the EPA's list and program could "undermine" the state's mandatory right-to-know law and the proposed "Toxic Catastrophe Prevention Act," said Donald A. Deieso, director of the DEP's Division of Environmental Quality.

The state's efforts are aimed at prevention, while the EPA's efforts are directed at preparing communities for releases—when it's too late, he said.

Under the right-to-know law, some 30,000 companies in New Jersey have less than 90 days to compile a list of the chemicals they use and send the document to local emergency response teams, the DEP and the State Department of Health.

The Toxic Catastrophe Prevention Act, which passed the Assembly Sept. 12, would require firms that generate, store or handle "extraordinarily hazardous substances" to register with the DEP.

Companies that handle such substances would have to undergo a review by a private consultant to evaluate specific risks associated with possible equipment failure, human errors or procedural flaws, according to the bill.

In addition, the DEP has started looking at facilities that handle five dangerous substances on a "priority list": chlorine, bromine, allyl chloride, phosgene and phosphorus trichloride, said Deieso and Loretta O'Donnell, a DEP spokeswoman.

"Somehow the EPA came out with a lot of fanfare with their program," he said "Frankly, we think it's illconceived and a poorly defined program . . . . everything else the EPA does takes years. This was a program developed in four months."

The EPA didn't ask for the input of officials from New Jersey or other states, he added.

[From the States Ledger, Nov. 20, 1985]

FLORIO VIEWS EPA LIST AS RIGHT-TO-KNOW DODGE

CATALOGING OF TOXINS CALLED BID TO CIRCUMVENT THE CLEAN AIR ACT

(By J. Scott Orr)

WASHINGTON.—The Environmental Protection Agency (EPA) recently compiled a list of 403 highly toxic chemicals in an effort to diffuse pressure on Congress to enact "community right-to-know" legislation, Rep. James Florio (D-1st Dist.) charged yesterday.

Florio charged that the agency put the list together in an effort to avoid complying with tougher regulatory requirements already contained in the Clean Air Act. The congressman has been a frequent critic of the EPA and a supporter of legislation to force chemical plants to disclose information about the substances they use.

The EPA recently prepared a list of what it considered to be the most dangerous chemicals manufactured, sold or used in the U.S. The list is expected to be distributed to local authorities to help them determine if plants within their communities pose serious health threats.

Robin Woods, a spokeswoman for the agency, said EPA supports federal rights-to-know language and that the list was not intended to serve in lieu of required disclosure provisions.

She said the agency has been working with local authorities to help them determine what kind of chemicals are being used within their borders and what steps to take to avoid accidental discharges and to deal with those that do occur.

Woods added that the EPA has held discussions with the chemical industry aimed at making sure the industry will cooperate in furnishing information to local authorities. The list, she said, will not be formally released until next month.

But Florio said the agency has a hidden agenda. "I suspect the purpose is to diffuse the pressure that is building to have community right-to-know laws that are strong," Florio said. He referred to amendments to the superfund reauthorization bill that would require chemical plant owners to let local authorities know what chemicals they are producing, using or storing.

"It's not a reasoned response to the problem . . . What EPA is doing is giving back to the local communities and the citizens the job that EPA should be doing," Florio said.

He maintained that the agency complied the list in an effort to "appear to be responsive to the overwhelming concern the American people have about the Bhopal syndome." He charged that the agency began putting the list together after public concern surfaced over chemical releases in Bhopal, India, West Virginia and New Jersey.

Florio said the EPA has the responsibility to list hazardous chemicals under the Clean Air Act, but the agency has refused to comply with the law. Formal listing would require regulatory action, a step EPA is unwilling to take according to Florio.

"They've put it on a piece of paper, which is a list, but there's a big difference between that and listing, which triggers the regulatory system, he said.

Florio complained that the EPA list would do little to help local authorities deal with potential hazards within their borders. He said the list does not require chemical companies to provide communities with information on their operations.

"It's totally voluntary, what they are saying is that we hope these plant people will come forward and make this information available," Florio said. He said even if plant owners are cooperative, most local authorities are lacking in the expertise needed to make use of the data.

In addition, he said, local regulation of chemicals would result in a patchwork of ordinances and regulations from municipality to municipality.

TRIBUTE TO EX-CAPTAIN JOHN MORRISON

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. MCGRATH. Mr. Speaker, I would like to take this opportunity to recognize a constituent of mine, ex-captain John Morrison, of the Garden City Fire Department, which serves many of my constituents. This weekend, he will be honored as a 50-year member of that department.

John has spent his entire adult life following a tradition that dates back to 1717 in America, when the first volunteer fire department was established in Boston. Two of our best known Founding Fathers, George Washington and Benjamin Franklin were actively involved in organizing volunteer departments in Philadelphia and Virginia.

As our Nation developed, volunteer firefighters have steadily upgraded their skills, equipment, and services to meet ever changing demands and hazards to life and property. Without dedicated individuals like John Morrison those improvements would not have been possible. The time and effort they have expended has provided nearly 3 million residents of Long Island and millions more nationwide with first-class fire protection, emergency medical service, and a wide variety of other more specialized needs.

The assistance John and his brother firefighters have rendered to their fellow citizens is given in the true spirit of America. Meals, holidays, family gatherings, and countless night's sleep must have been missed over 50 years of service. I salute and congratulate John on this special occasion, and I wish him, his family and the members of the Garden City Fire Department many more years of health and happiness together.

IN TRIBUTE TO CONGRESSMAN GEORGE MAHON

SPEECH OF

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 3, 1985

Mr. de la GARZA. Mr. Speaker, it is not often in life when one has the opportunity to know—and establish an extraordinary friendship with—a legislator possessing the stature and respect earned by the greatest solons of our time. The Honorable George Mahon was such a legislator.

But in his passing from this life, he has left us a splendid trail to follow. For those who would emulate his magnificent career—that trail will be a hard one to navigate. Not all those who begin the journey will finish with the brilliance that marked Representative Mahon's life and times in the U.S. House. And that is good—because the tasks of life are nobler when the level to which we aspire is set as high as the plateau George Mahon reached.

For all the loft position he achieved Representative Mahon never lost his common touch. This was a man who was not only a brilliant legislator patterned after the legendary lawmakers of classical times—but he was a friend and a good west Texan to the core. While he loved the House of Representatives, he also befriended the multitude of lives he touched. He was a raconteur; and he never went to a party that he did not lead the singing. If there were a piano around, he would play. And even if there were no piano, he would start the singing of a good song—be it a gospel song or any old favorite melody that stirred the group in unison. Always he was joined by his beloved bride of many years, Helen. One of his favorite songs was the much loved "South of the Border"—and he

always let me sing the refrain, ay, ay, ay, ay.

He was a man admired and respected by all. He was a man who fulfilled the term "great" in all its aspects. It is not often that one is privileged to have known such a tremendous man—a giant among his peers.

We join his family in mourning their loss—and in thanksgiving for having known him.

EXTEND R&D TAX CREDIT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. AuCOIN. Mr. Speaker, later this week the House will consider the omnibus tax reform bill. One of the many proposed changes that will influence the future economic growth of this Nation concerns the Federal tax credit for research and development activities.

This credit, which is so vital to the Nation's high tech industry, will expire at the end of this year if the Congress takes no action. Although the Ways and Means Committee bill does propose to extend this credit for 3 more years—unfortunately at a lower rate than is currently available—it's obvious by now that, despite the Herculean efforts of committee members, we will not see a new tax bill enacted into law by December 31, 1985.

Therefore, without any action by this Congress, the R&D credit will expire on December 31.

This is no time to banish industries that are so dependent on the R&D credit to tax limbo. Letting the credit expire will wreak havoc among the high tech industries, such as those in Oregon, that are working so hard on developing new ways to compete with foreign competition. It would mean that at least for the first and second quarters of 1986, there would be no credit available to industries such as the semiconductor industry.

To guarantee that the R&D tax credit does not expire, I am introducing today the "Research and Development Tax Credit Extension Act." Very simply, this bill would continue to make the credit available through December 31, 1986. And it will continue to provide a credit of 25 percent following current law. Upon the passage of an omnibus tax bill, my legislation would become inoperative.

A short while ago, the National Semiconductor Corp. announced a loss of $53.5 million for its first fiscal quarter. This is the largest loss in its history. At the same time, our tremendous trade deficit continues to worsen. It is a very inappropriate time to pull the rug out from under our high tech industries.

Mr. Speaker, the State of Oregon—which boasts its own "Silicon Forest"—is still reeling from the effects of the 1981 recession. Economic growth lags far behind that of the rest of the Nation. One reason for this is that our leadership in technology and science is now under serious challenge from overseas competitors.

Yet, the R&D tax credit has been proven to be a stimulator of growth. Several economic studies have shown that, under the worst case scenario, making this credit permanent would increase the GNP by $1.2 billion a year by 1986 and $2.9 billion annually by 1991. Under a more optimistic view, the R&D credit would yield $7.5 billion in annual GNP increases by 1986 and $17.7 billion by 1991.

This is no time to let such a useful Federal incentive fall through the cracks. I encourage the support of my colleagues for extending the R&D tax credit until December 31, 1986 at the current 25 percent rate.

STRONG SUPERFUND HELPS ILLINOIS AND THE NATION

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. DURBIN. Mr. Speaker, when we enacted Superfund legislation 5 years ago we made a commitment to addressing a public health problem of crisis proportion by aggressively cleaning up hazardous waste sites across our country.

But the crisis has not abated, and EPA's administration of the Superfund Program has taught us that a much more comprehensive measure must be passed today if we are to meet out commitment to protecting America's health and environment. Only five National Priority List sites have been completely cleaned up since 1980, far short of the 150 targeted cleanups.

Both the Office of Technology Assessment and the Congressional Budget Office have dramatically increased their estimates of total sites and corresponding cleanup costs: We now face 378,000 hazardous waste sites across the Nation at a cost of $100 billion.

In Illinois there are 853 hazardous waste sites, 22 of them on the NPL. My district is very fortunate not to have an NPL site, although we have not been left unscathed, with toxic landfills in the cities of Quincy and Taylorville. While our State is addressing these problems, it would be premature to rule out the existence of additional, perhaps more dangerous, toxic sites in or adjacent to my district.

I support a strong Superfund bill that provides sufficient funds, tough cleanup schedules and standards, and protections so that all Americans can feel confident that we are protecting their health and welfare.

PERSONAL EXPLANATION

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. MORRISON of Connecticut. Mr. Speaker, because official busines required that I be in my district today, I was unable to be present and cast my vote on four bills on the Suspension Calendar.

Had I been present, I would have voted "Aye" on House Concurrent Resolution 239, commending the Anglo-Irish Agreement; H.R. 1083, the Low-Level Radioactive Waste Disposal Act; H.R. 3773, the Federal Technology Transfer Act, and H.R. 1538, the Veterans Compensation COLA.

THE RETIREMENT OF MARTHA J. WHEELER

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. CARR. Mr. Speaker, Martha J. Wheeler is retiring after more than 25 years of service to the North Oakland and Clarkston communities. I would like to take this opportunity to share with my colleagues a small part of Marty's long record of service to her community.

Marty Wheeler does not only merit special recognition because she raised four children with her husband, Charles. She does not only merit special recognition because of her long record of service to the local bank. What makes Marty worthy of the type of recognition we give her today is her ability to excel professionally while continuously giving her time and resources in an untarnished record of community service.

Over the past 25 years Marty has managed to involve herself in several areas. She has contributed not only her considerable talents and time, but also her financial support to several local charitable groups. Her efforts have assisted the Clarkston SCAMP Program in its effort to send needy children to camp and helped raise funds for agencies such as the Salvation Army and the United Way.

While doing this Mary has managed to find time to distinguish herself professionally as well. She has risen through the ranks of the Pontiac State Bank, advancing from teller to vice president. She has accumulated a host of awards including Woman of the Year for the Waterford/Clarkston Business and Professional Women's Association in 1985. She has served on such boards and organizations as the Business Association of Independence Township, the Economic Development Corporation for Independence Township, the Independence Township Planning Commission, the Village Business Association and served as president of the Business and Professional Women's Association from 1982 until 1984.

Martha Wheeler's long record of public service and involvement speaks for itself. I am certain my colleagues will join me in commending her for her years of dedicated public service as she begins her retirement. She is a shining example of the type of person needed to keep the fabric of our society strong and vibrant. America can claim to be no greater than its people, and

Marty Wheeler is an example of the best America has to offer.

FIRST WORD

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. ANTHONY. Mr. Speaker, The science of medicine quite often moves at a more rapid rate than our ability to devise needed governmental and regulatory interpretations, particularly in the fields associated with human genetic research. In the case of in vitro fertilization [IVF], the National Institutes of Health are prohibited by regulations of the Department of Health and Human Services from supporting basic reseach in this area. This policy exists despite a 1979 ethics committee report from within the Department that such research is both ethical and desirable. The need for greater research in genetic abnormalities and in methods for correcting infertility is evident. It is a proper function of Government and should not be proscribed by Government policy based on misunderstanding and a distortion of what are sound ethical principles. I am sure many of my colleagues would be interested in reading an article in the December issue of Omni magazine by Dr. Howard Jones on this subject. Dr. Jones is a leading IVF researcher and physician in Norfolk, VA.

the article follows:

[From Omni magazine, December 1985]

FIRST WORD

(By Dr. Howard Jones)

Medically, human reproduction is surprisingly inefficient. With normal and regular sexual intercourse, the average woman can expect to become pregnant only one month of every three. Of all women who even become pregnant in any given year, only 50 percent will become pregnant after three months of trying.

If it so difficult to have a baby, why are there now more than 4 billion of us? The answer is simple. A woman's reproductive system operates 13 times a year. As a result, the system can tolerate some inefficiency and indeed may be the better for it.

To the reproductive scientist, however, the inefficiences of the human-reproductive process pose an intriguing conundrum. Reproductive problems are most severe in humans; yet animal models seem inadequate for study. The best scientific evidence indicates that many human germ cells, both male and female, are genetically defective and produce genetically defective embryos that fail to survive.

In fact, abnormal human embroys seem to be more common than normal ones. Fortunately, the body usually aborts the most severely abnormal embryos spontaneously, sometimes so early that a pregnancy is not even suspected. On other occasions, the woman's rejection mechanism can fail, and a seriously abnormal fetus is carried to birth, becoming in life a seriously handicapped child—a burden, albeit sometimes a loving burden, to the family and society as a whole. A child with Down's syndrome is such a case.

There remain millions of individuals who are affected by hundreds of genetic abnormalities, such as diabetes, that are not nearly as serious or debilitating as Down's syndrome. Most of these people live healthy and gainful lives. It is very likely that all of us have many abnormal genes; since we have two copies of most genes—one from each parent—a defect may not be expressed if one copy is normal. Most humans are quite normal, and their genetic structure acts to remedy any imbalances that might otherwise be present.

It is perhaps not surprising that so fickle and imperfect a mechanism as human reproduction may sometimes not function at all. Infertility—the inability to have a child after one year of trying—affects about 15 percent of all couples who wish to reproduce. Since many patients do not respond to traditional therapies, newer methods are constantly being devised; in vitro fertilization (IVF), the use of donor sperm or eggs, the use of donor-fertilized eggs, and surrogacy—the temporary use of another's reproductive capacity in various forms. Freezing, a method used to preserve the embryo for future implantation, has also been introduced.

Most of these newer reproduction techniques have ruffled some ethical feathers and each method has its own special issues. Archconservatives, however, have voiced a blanket complaint against the "unnaturalness" of the entire field and have questioned the moral status of the fertilized egg. These trivial objections to IVF have largely been silenced by the birth of more than 1,000 babies who were conceived through this process.

Society has always been leery of innovation and change, particularly at the scientific level. Remember the tribulations of Galileo. Our moral attitudes toward the newer methods of reproduction would be more easily clarified if there were a suitable ethical yardstick. For centuries, physicians have subscribed to the Hippocratic oath and when faced with medical dilemmas, have been guided by their desire to cure the ills of their patients. This has been considered highly ethical, provided the benefits of the treatment outweigh the risks not only for the patient but for others involved.

Before research can go forward in a meaningful way, society must reach, if not a consensus, at least a majority view about these issues. Scientific endeavor does not flourish without popular support.

Because of a vocal minority, the secretary of the Department of Health, Education, and Welfare (HEW) in 1974 issued regulations that have effectively prevented the National Institutes of Health from supporting research in human IVF and, by extension, other reproductive research that has developed since that time. In 1979 an ethics committee formed by the secretary of HEW concluded that IVF research was not only ethical but worthy of funding. Nonetheless, the moratorium persists, and Government funding remains withdrawn. Any money that we are able to get for research has to come from individuals or private foundations, but many of the largest funding groups are taking their cue from the Government and staying clear of any research involving human embryos.

Research on preembryonic development would enable us to determine which embryos are viable and which are not, thus helping increase the number of successful pregnancies through IVF. Although this kind of research has been sanctioned by the HEW ethics committee, there persists a feeling of uneasiness because fertilized eggs are involved. Unfortunately, embryo research gets confused with abortions because some of the fertilized eggs are ultimately discarded.

But if we were allowed to go ahead with research on the preembryo, we would be more able to understand the inefficiencies of human reproduction. Not only would these new insights benefit millions of infertile couples, they would also help us devise more effective methods of birth control. The lack of Government action may in fact be the most unethical act of all—the risks of research are small, while the potential benefits to the individual and society are great.

NEW YORK CITY'S APPEAL TO U.S.D.O.T. ON THE TRANSPORTATION OF NUCLEAR WASTE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. SCHEUER. Mr. Speaker, I would like to bring to the attention of my colleagues and to the public some troubling concerns I have over an issue of the utmost importance to our Nation, the safe transportation of spent nuclear fuel. I have been deeply concerned about this matter for more than a decade and I know it is an issue of vital interest not only to a considerable number of Members of Congress, but also to hundreds of State and local governments and their residents.

In 1976, the city of New York amended its health code to ban shipments of large quantities of radioactive materials and spent fuel through the city. In 1981, the U.S. Department of Transportation [DOT] issued regulations (known by the designation HM-164) which preempted State and local authority over these shipments. New York City filed a lawsuit challenging HM-164. Although a Federal district court sided with New York City, a U.S. circuit court of appeals overturned that decision and New York City appealed to the U.S. Supreme Court. When the Supreme Court refused to hear the case in February 1984, New York City applied to DOT for a waiver of statutory preemption as provided for by Congress in the Hazardous Materials Transportation Act. On September 9, 1985, the Department of Transportation issued Non-Preemption Determination No. NPD-1 [50 FR 37308 (September 12, 1985)] denying the city's request for a waiver of preemption. On October 8, 1985, New York City filed an administrative appeal with DOT's Research and Special Programs Administration in accordance with 49 CFR 107.225.

I have been following closely the processing of New York City's application for a waiver of preemption and the administrative appeal now under consideration by the Research and Special Programs Adminis-

tration [RSPA]. I am particularly troubled by a recent RSPA notice in the Federal Register [50 Fed. Reg. 2528 (November 15, 1985)] soliciting public comment on the city's appeal from RSPA's denial of its application for a nonpreemption determination. New York City's appeal is legal in nature and, unlike a rulemaking, not appropriate for public comment. While public involvement in the issue of nuclear waste transportation is desirable and indeed crucial in the proper context, RSPA's resort to public notice and invitation to comment in this instance constitutes foot dragging by the agency on the city's appeal.

I find it extraordinary that RSPA would solicit public comment as an aid in adjudicating the city's appeal. RSPA denied the city's appeal based in part on its claim that Congress intended that an applicant for a nonpreemption determination must demonstrate "exceptional circumstances" in addition to the statutory criteria set forth in 112(b) of the Hazardous Material Transportation Act [HMTA]. Whether RSPA's interpretation of the government statute is correct should be based upon a reading on the statute in light of its legislative history. The public's view of Congress' intent is irrelevant and RSPA's solicitation of public comments gives the entire process the air of a popularity contest rather than an adjudicatory proceeding.

Second, RSPA has not presented a fair and accurate characterization of the arguments raised by the city in its appeal. For example, the city's objection to resort to the mechanism for State designation of alternate routes is not based simply on that fact that all of the routes go through Connecticut, which has opposed their designation; rather, both the city of New York and the State of New York pointed out that "the lack of any procedural mechanism in the Department's regulation to resolve inter-jurisditional disputes (that is, the impasse between Connecticut and New York) and the Department's unwillingness to play any constructive role in mediating a solution, are clear evidence that HM-164 is an unworkable tool which cannot be seriously viewed as an adequate remedy."

Third, if RSPA was serious about inviting public comments on whether the RSPA "ruling was inconsistent with prior statements made by the Department," it should have published the text of the city's appeal in the Federal Register. RSPA's failure to publish the text of the city's appeal or even to cite the city's appeal document as one which persons intending to comment should examine, is further evidence that the agency is incapable of dealing with the city's appeal in a fair and impartial manner.

I am therefore reprinting the full text of the city's appeal in the CONGRESSIONAL RECORD in order to permit interested parties to have access to the arguments raised by the city of New York.

THE CITY OF NEW YORK,
LAW DEPARTMENT,
New York, NY, October 8, 1985.

Re appeal of the denial of the city's application for a non-preemption determination, Docket No. NPD-2.

Hon. ELIZABETH DOLE,
Secretary of the U.S. Department of Transportation, Washington, DC.

DEAR SECRETARY DOLE: The City files this appeal in accordance with 49 CFR § 107.225 from a decision by the Research and Special Programs Administration (RSPA) of the United States Department of Transportation dated September 9, 1985, which denied the City's application for a non-preemption determination.

Before proceeding to an analysis of RSPA's decision, we wish to express our disappointment that RSPA saw fit to reject the City's application, not on the basis of the statutory criteria set forth in Section 112(b) of the Hazardous Materials Transportation Act (HMTA or Act) or its regulations, but by means of a novel interpretation of the legislative history of the Act which flies in the face of the plain language of the statute. The City financed a study conducted with the Department's guidance and in accordance with the Department's specifications, which showed that there are alternatives to the shipment of spent fuel by Interstate highway through the City which provide up to a 32% reduction in overall risk. This study was completely ignored in RSPA's decision. The findings of the Arthur D. Little (ADL) study clearly support the use of safer circumferential routes around the City for the shipment of Brookhaven's spent fuel. In an egregious evasion of its statutory responsibilities, and despite years of litigation, Congressional hearings, and the investment of an extraordinary amount of time and expense in scientific studies, RSPA fails to come to grips with the fundamental issues of public health and safety raised by the City's application.

RSPA's decision is based upon two factors: (1) the City's purported failure to meet a threshold showing of "exceptional circumstances" or "emergency situations" and (2) that a non-preemption proceeding is an inappropriate vehicle for the relief sought. Neither rationable has merit.

In simple and straightforward terms Section 112(b) of the HMTA requires the Secretary to grant non-preemption requests upon the satisfaction of two criteria: whether the inconsistent requirement (1) affords an equal or greater level of protection to the public than is afforded by the requirements of the HMTA or of regulations issued under the Act and (2) does not unreasonably burden commerce. Notwithstanding the plan language of the statute, RSPA contends that a third element—the necessity to make a threshold showing of "exceptional circumstances"—is a separate and independent requirement.

No support for this "interpretation" of Section 112 can be found in the statute. As the District of Columbia Circuit stated in *Markham* v. *Colonial Mortg. Serv. Co. Associates*, 605 F.2d 566, 569-70 (1979), "[w]hen the plain meaning of a statute appears on its face, we need not concern ourselves with legislative history, see *Caminetti* v. *United States*, 242 U.S. 470, 485 . . ., especially when evidence of the legislation's history . . . does not argue persuasively for a narrower meaning than that which is apparent from the statutory language," citing *Boston Sand & Gravel Co.* v. *United States*, 278 U.S. 41, 48 (1928) (footnote omitted).

RSPA reads various obscure phrases in the legislative history as authorizing preconditions to an application under Section 112(b). Although the Senate Commerce Committee referred to "exceptional circumstances" and "emergency situations"[1] as descriptive of the types of circumstances where resort to § 112(b) would be warranted, there is nothing in the legislative history which indicates that these circumstances meant anything other than the two statutory criteria set forth in § 112(b).[2] Congress' reference to "exceptional circumstances" and "emergency situations" simply meant that because the Secretary was empowered to "protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1801), Federal rules would presumptively preempt inconsistent state and local rules. However, Congress also recognized that this sweeping preemption provison needed to be balanced against the need for states and localities to secure more stringent regulations. The § 112(b) procedures provide an appropriate mechanism for securing this balance.

This view of the statute is in accord with the decision of the Court of Appeals in *City of New York* v. *United States Department of Transportation*, 715 F.2d 732, 740 (2d Cir. 1983). "This non-preemption procedure was added to HMTA so that in 'certain exceptional circumstances' DOT could limit the preemptive force of federal regulations 'to secure more stringent regulations' by local authorities." If, as RSPA contends, its sole purpose in the context of non-preemptive proceedings is to implement the Congressional policy of protecting the Nation "adequately" against the dangers inherent in hazardous materials transport, it is difficult to imagine why Congress would have created § 112(b) as an exception to the general rule. Rather than interpreting the statute, RSPA is using the legislative history to supercede the statute. As the Supreme Court said in *Mohasco Corp.* v. *Silver*, 447 U.S. 807, 825 (1980), an agency's "interpretation of the statute cannot supersede the language chosen by Congress."

Additional evidence that RSPA's reading of the legislative history is flawed is its grudging concession that it is "theoretically possible" to read the statute to mean exactly what it says: to wit, that non-preemption is available as a remedy where unique local conditions afford a given locale a greater level of safety than that achievable under the national rule (Opinion at p. 8). This concession that the statute can be read in a manner consistent with its express terms is significant because it belies the need to resort to the legislative history to discern Congress' intent.

Quoting from its decision in *Consumer Product Safety Comm'n* v. *GTE Sylvania, Inc.*, 447 U.S. 102, the Supreme Court re-

[1] RSPA's claim that § 112(b) is limited to "emergency situations" cannot be reconciled with its earlier pronouncement in IR-1 (April 4, 1978) that "[t]he statutory history indicates that paragraph (b) waivers were thought likely to be used in emergency situations, *although they are clearly not limited to emergencies, since a waiver continues in effect so long as the State requirement is effectively enforced and administered.*" 43 Fed. Reg. 16954, 16955 (April 20, 1978) (emphasis supplied).

[2] In the public notice and invitation to comment on the City's application, RSPA stated that comments should be restricted to the two statutory criteria. 50 Fed. Reg. 2528, 2530 (Jan. 16, 1985).

cently reaffirmed that "[a]bsent a clearly expressed legislative intention to the contrary, [the statutory] language must ordinarily be regarded as conclusive." *Rodriguez v. Compass Shipping Co., Ltd.*, 451 U.S. 596, 604 (1981). Here, the Department has placed undue reliance on isolated phrases in the legislative history which is plainly an insufficient basis to disregard the explicit terms of the statute.

In yet another attempt to evade coming to grips with the merits of the City's application, RSPA claims that HM-164 dictates that only a state agency has the authority to designate alternate routes, and therefore the City's recourse to a non-preemption procedure is improper.

In light of the Department's past assurances that § 112(b) was an appropriate remedy for the relief the City seeks, we find it remarkable that RSPA would choose to wait until the eleventh hour to disavow the non-preemption process and direct the City to proceed through a state routing agency. RSPA's rationale is nothing but a thinly veiled attempt to mire the City's application in further delay.

First, RSPA's claim that granting the City's application would "usurp the authority of the state" [3] ignores the fact that the State of New York has supported the City's application. By letter dated April 11, 1985, (a copy of which is annexed as Exhibit "A"), Thomas B. Tyree, the Assistant Commissioner of the New York State Department of Transportation stated:

The City's proposed ban affords the total public a greater level of protection than is afforded by the route currently followed. Any of the three routes suggested by the A.D. Little study would expose a smaller number of the total public to the hazards of this type of transportation . . . *Our review of the New York City request for a non-preemption determination indicates an accurate assessment of the highway routes in New York State has been made.* (emphasis supplied)

Not only has the State been apprised of and endorsed the City's study, but by letter dated January 17, 1985, David Axelrod, the Commissioner of Health of the State of New York forwarded a copy of the ADL study to his counterpart in Connecticut, Colonel Lesten J. Forst, Commissioner of Public Safety, requesting the opportunity to explore the feasibility of alternative shipment routes. See Exhibit "B" annexed hereto. Unfortunately, the State of Connecticut not only rejected New York State's efforts to reach a mutually agreeable solution, but has actively opposed New York City's application. (See letter from Governor Mario Cuomo to Honorable Mario Biaggi, dated May 10, 1985, and annexed as Exhibit "C").

As to the second prong of RSPA's rationale concerning the rights of local jurisdictions (e.g., the cities of Bridgeport and New London) and the State of Connecticut to engage in substantive consultation prior to designation of an alternate preferred route, surely the Department is aware of the extensive comments submitted by these jurisdictions and by the Connecticut Attorney General's Office opposing the City's application. The tenor of these comments and the public positions taken by the State of Connecticut in the press and at a recent Congressional hearing before Congressman Florio's Subcommittee on Transportation and Tourism, clearly suggests that resort to the mechanisms of HM-164 would be futile. The lack of any procedural mechanism in the Department's unwillingness to play any constructive role in mediating a solution, are clear evidence that HM-164 is an unworkable tool which cannot be seriously viewed as an adequate remedy.

Nor can RSPA's position—that the City must seek its relief through the mechanism of HM-164—be reconciled with the Department's prior statements. In an exchange of correspondence with the City beginning in January 1982 and extending to December 1984, the Department gave no hint that the City was proceeding improperly and in fact gave the City direction and advice as to the details of the study and methodology that would be acceptable in order for the Department to make the findings required by Section 112(b). Thus, in a letter dated January 15, 1982, Alan I. Roberts, the then Associate Director of the Material Transportation Bureau, provided a detailed response to the City's pending application explaining the analytical and technical deficiencies that needed to be addressed before the application could be considered. In that letter, Mr. Roberts never viewed the City's application as an attempt to alter the status of a preferred highway; rather, he repeatedly referred to the City's regulation as a "ban" which was inconsistent with HM-164 and that:

In order for DOT to proceed further with the City's application for a non-preemption determination, the City must provide DOT with a detailed analysis comparing the levels of safety and costs associated with the specific situations that would result, on the one hand, from the preemption of the City's requirement, as an effect of HM-164, and, on the other hand, from the continued effectiveness of that requirement, as a result of the issuance of a non-preemption determination.

The Department appreciates the degree of effort on the part of the City that the analysis described above will require. *However, it is our firm view that that effort is required in order to substantiate the determinations required by § 112(b).* (emphasis supplied)

Following the Supreme Court's dismissal of the City's appeal in the case of City of New York v. United States Department of Transportation, the City wrote of DOT by letter dated March 30, 1984 requesting DOT's guidance as to the methodology and data which would be required to support the City's application. Specifically, the City requested input on whether DOT's letter of January 15, 1982, expressed the Department's "current view of the showing the City must make in order to satisfy the criteria set forth in § 112(b) of the HMTA."

By letter dated June 4, 1984, the Department replied in the affirmative, making specific reference to its letter of January 15, 1982 and to the fact that § 112(b) of the HMTA "expressly mandates that the Secretary consider not only the effect of a requirement on safety, but also the reasonableness of the burden it imposes on commerce." As recently as December 17, 1984, Cynthia Douglass, the Administrator of RSPA, noted that:

The alternative(s) that the City proposes *must satisfy the criteria stated in Section 112(b) of the Hazardous Materials Transportation Act (HMTA) of 1974, which pertain to the affording of "an equal or greater level of protection to the public" and not "unreasonably burden(ing) commerce".* As such, the application must contain a comparative analysis between the City's proposal and a "base case" or norm that would obtain absent the ban.[4] " (emphasis supplied)

And, on August 21, 1984, the City received a letter from you responding to Mayor Koch's proposal that a blue ribbon panel decide the Brookhaven issue. In that letter, you expressly assured the Mayor that "[both the non-preemption provisions of the Hazardous Transportation Act (49 U.S.C. 1811(b)) and the procedural regulations promulgated thereunder (49 CFR 107.215-107.225) . . . are binding on both DOT and applicants . . . [and] strikes an appropriate balance between the need to address unique regional circumstances and the need to maintain the free flow of interstate commerce. *The prospective transportation of spent nuclear fuel through New York City raises precisely that type of issue which the non-preemption process is intended to resolve.*" (emphasis supplied)

Given the Department's repeated assurances that the City was proceeding in the proper forum and under appropriate guidelines, it is manifestly improper for RSPA to now repudiate this long established policy and thrust the City into yet another procedural quagmire.

The plain fact is that there are no real obstacles to RSPA's deciding the City's application on the basis of the evidence submitted except bureaucratic unwillingness to face the issues. The gloss which RSPA has placed on the statute and its regulations has no statutory or regulatory basis. The matter should be decided on the merits.

Respectfully submitted,

STEPHEN P. KRAMER,
Senior Litigator.

[3] The State of New York does not view the instant proceeding as a usurpation of its authority. In fact, the State "wholeheartedly supports the City in its appeal." (See letter from Darrell W. Harp, Assistant Commissioner, Office of Legal Affairs, to Stephen P. Kramer dated Octiber 3, 1985 and annexed as Exhibit A-1).

[4] The Douglass letter also stated that the Department's Chief Counsel had determined that sponsorship of the City's application by the State of New York—a requirement stipulated in the Roberts letter of January 15, 1982—was unnecessary and that the City may apply on its own behalf.

PANAMA CANAL TRANSITION

HON. WEBB FRANKLIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1985

Mr. FRANKLIN. Mr. Speaker, I would like to call the House's attention to a matter that has interested me as a member of the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee.

As the Members know, from now through 1999, the Panama Canal Zone is in a state of transition from United States to Panamanian control. While I think that the Panama Canal Commission is doing a creditable job of helping smooth this transition for the American citizens living in the Canal Zone, our subcommittee has found a number of areas which I think deserve the attention of the Congress.

One of my principal concerns is that the United States appears about to embark on a costly project that I fear may ultimately recommend that our Government pay for several billion dollars worth of improve-

ments to the canal between now and the time it is officially turned over to Panama. Whether one agrees or disagrees with the treaties that exist between the United States and Panama, there is clearly no reason for the United States to pay for a massive program of capital improvement for the canal.

Today, I have introduced legislation which begins to address this potential problem, and I intend to take additional time to discuss this situation on the floor of the House at a later date.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extension of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 10, 1985, may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

DECEMBER 11

9:00 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1523, to create a Federal statute of limitations against civil suits by foreign governments seeking the return of art, artifacts, and other cultural property.
SD-226

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider S. 1192 and H.R. 3113, bills to coordinate the operation of the Central Valley project with the State water project in California, S. 1171, to authorize additional funds for assistance to non-Federal organizations for developing reclamation projects, and the nominations of Ralph W. Tarr, of Virginia, to be Solicitor, Department of the Interior, J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior, John C. Layton, of Virginia, to be Inspector General, Department of Energy, and David M.L. Lindahl, of Virginia, to be Director of the Office of Alcohol Fuels, Department of Energy.
SD-366

Finance
Business meeting, to consider S. 1567, authorizing funds for fiscal year 1986-90 to the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, the nominations of Otis R. Bowen, of Indiana, to be Secretary of Health and Human Services, Anne E. Brunsdale, of the District of Columbia, to be a member of the U.S. International Trade Commission, Paul Freedenberg, of Maryland, to be an Assistant Secretary of Commerce, and Francis A. Keating, II, of Oklahoma, to be an Assistant Secretary of the Treasury, and other pending calendar business.
SD-215

Veterans' Affairs
To resume hearings on issues related to veterans exposed to ionizing radiation.
SR-418

Select on Intelligence
Closed briefing on intelligence matters.
SH-219

10:00 a.m.
Armed Services
To continue hearings on the organization and decisionmaking procedures of the Department of Defense and Congress.
SD-G50

Environment and Public Works
To hold oversight hearings on the Acid Rain Precipitation Assessment Program.
SD-406

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Armed Services
Preparedness Subcommittee
To hold open and closed hearings on the Department of Defense ammunition production base.
SR-222

Judiciary
To hold oversight hearings on the creation of new bankruptcy judgeships.
SD-226

3:00 p.m.
Labor and Human Resources
To hold hearings on the nomination of Otis R. Bowen, of Indiana, to be Secretary of Health and Human Services.
SD-430

DECEMBER 12

9:00 a.m.
Armed Services
To continue hearings on the organization and decisionmaking procedures of the Department of Defense and Congress.
SD-G50

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nominations of Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary of Energy (Conservation and Renewable Energy), Mary L. Walker, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health), James R. Richards, of Virginia, to be Inspector General, Department of the Interior, Gerald R. Riso, of New York, to be an Assistant Secretary of the Interior (Policy, Budget and Administration), and C. Dale Duvall, of Washington, to be Commissioner of Reclamation, Department of the Interior.
SD-366

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings to explore problems of groundwater pollution caused by nutrient applications.
SD-406

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

2:00 p.m.
Armed Services
To continue hearings on the organization and decisionmaking procedures of the Department of Defense and Congress.
SD-G50

4:00 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH-219

DECEMBER 13

11:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
Business meeting, to consider pending private immigration relief bills.
SD-226

DECEMBER 17

10:00 a.m.
Labor and Human Resources
To hold hearings on the nominations of Wendell L. Willkie, II, of the District of Columbia, to be General Counsel, and Bruce M. Carnes, of Virginia, to be Deputy Under Secretary for Planning, Budget and Evaluation, both of the Department of Education.
SD-430

DECEMBER 19

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the participation of older workers in the Job Training Partnership Act (P.L. 97-300).
SD-628

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

51-059 O-87-34 (Pt. 25)

JANUARY 28

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-342

CANCELLATIONS

DECEMBER 10

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittees
To hold hearings on S. 1785, to amend the Garrison diversion project in North Dakota.
SD-366

SENATE—*Tuesday, December 10, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable SLADE GORTON, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of justice, grace, love and mercy, celebration of Hanukkah and Christmas with all their implications for our families, stir hopes within that the Senate can adjourn sine die this week. For this we pray. The weight of business, and the inevitable pressure which builds as adjournment nears, dampens hope. But we pray, gracious Father, for Whom nothing is impossible, that You will work Your wonders in mind and heart for each and all of us. Grant to our leadership a special measure of wisdom and to each Senator the will to abstain from actions which cause inordinate delay and to do all in his power to cooperate for efficient, effective, productive completion of essential business these next 4 days. To the glory of God, the benefit of the Nation, and the blessing of all who are part of Senate life and their families. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, December 10, 1985.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SLADE GORTON, a Senator from the State of Washington, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. GORTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, after the standing order of 10 minutes each for the floor leaders of the Republicans and Democrats, we will turn to routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Then following routine morning business the Senate will resume consideration of House Joint Resolution 465, the continuing resolution. Rollcall votes can be expected prior to the hour of 12 o'clock noon and throughout the day and into the evening.

The Senate will stand in recess between the hours of 12 noon and 2 p.m. for the weekly party caucuses.

It is still the hope of the majority leader to complete action on House Joint Resolution 465 sometime today or this evening.

Mr. President, our objective today is to finish the continuing resolution. We will attempt to reduce the number of amendments to be offered to the continuing resolution. As of the close of business last night, we knew of 45 to 50 amendments to the continuing resolution.

If—and this is a big "if"—if we are to adjourn this weekend, we will have to reduce that number and work very late each and every night for the rest of this week to dispose of the necessary items prior to adjournment. These would be, first, the continuing resolution; second, the debt limit conference report, including Gramm-Rudman; third, the reconciliation conference report; fourth, the farm bill conference report; fifth, the farm credit conference report; and sixth, regular appropriations bills conference reports.

At this point, Mr. President, I yield 5 minutes of the majority leader's time to the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. I thank my friend, the Senator from Iowa, for yielding to me.

IONIZING RADIATION REGISTRY

Mr. MURKOWSKI. Mr. President, it is imperative that I bring to the attention of my colleagues a matter with which the Veterans' Affairs Committee, which I have the honor of chairing, has been grappling for some time. It is an extremely emotional issue. And it affects almost a quarter of a million of our Nation's veterans. It is a matter about which we are all concerned.

I am referring to the effects of ionizing radiation on the thousands of soldiers, sailors, and airmen who either participated in the occupation of Hiroshima and Nagasaki, or who witnessed any of the many nuclear tests triggered from the late 1940's through the early 1960's.

I believe all of us understand the great risk unleashed ionizing radiation poses to living organisms; proof abounds to instruct us that exposure to nuclear blasts has the potential for wreaking havoc with the human body. We need look no further than to the survivors of two Japanese cities to find such proof.

It is important to note that the Congress has enacted legislation providing health care eligibility for these veterans. This year, that eligibility was extended. Last year, Congress required the Veterans' Administration to improve its claims adjudication process for radiation-related claims. This year, the VA has recently completed regulations to implement those improvements. The Defense Nuclear Agency has spent $54 million and several years accumulating information about the blasts and exposure data. They have even reconstructed, using a complex mathematical formula, radiation doses for those veterans whose exposure is not known.

But, Mr. President, there remains in our minds—even to this day 40 years later—the question of the effect of ionizing radiation on the health of our veterans exposed during the nuclear test program or Japanese occupation.

Scientific experts in and out of Government have designed and conducted 80,000 technical studies to determine the effects of low level and high level radiation on animals and people. But in 1983, Congress wanted a veteran-specific study intended to yield veteran-specific results. We wanted to establish once and for all what trends of sickness or disability or death has been experienced by the 220,000 "atomic veterans."

The Office of Technology Assessment reported to us, however, that this study would not be feasible. There would be too many methodological and other difficulties. It would not be possible to obtain scientifically valid results.

So here we are. We have scientific studies, health care eligibility, claims adjudication procedures, and recon-

structed doses. And we still do not know if these veterans are ill as a result of radiation exposure during their military service.

Therefore, I have asked Harry Walters, Administrator of the Veterans' Administration, to initiate an ionizing radiation registry and to use this tool to learn all we can about the individual veterans who were exposed to radiation during the course of their service. I ask unanimous consent that my letter of December 4 to Harry Walters be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 4, 1985.

Hon. HARRY N. WALTERS,
Administrator of Veterans' Affairs, Veterans' Administration, Washington, DC.

DEAR HARRY: I am writing to follow up on my remarks during the November 14 Senate Veterans' Affairs Committee hearing on issues relating to veterans who were exposed to ionizing radiation. During the hearing I stated that I intended to request the VA to initiate immediately an Ionizing Radiation Registry.

I am now formally requesting that you establish such a registry to provide an ongoing data base of, first, veterans who, as a result of the enactment of Public Law 97-72, are eligible for VA health care and who use or seek to use the VA health care system and, second, veterans who apply for VA compensation for disabilities allegedly resulting from radiation exposure. I believe it would be useful to the VA, to veterans who were exposed to ionizing radiation, and to the Congress if the registry included information encompassing a full case history of a patient's visit—personal data, medical history, clinical findings, etc.—including the veteran's name, address, medical history, results of any examinations and clinical findings, VA medical facilities involved, as well as information about the veteran's military service, an estimate of radiation exposure, and any other appropriate findings.

The registry should also document any claims filed for VA compensation for radiation-related diseases resulting from participation in the U.S. atomic weapons test program or the occupation of Hiroshima and Nagasaki. This information should document the veteran's participation in the tests or occupation, an estimate of radiation exposure, the veteran's disability or disabilities, and any VA decisions pertaining to any claims made by or on behalf of the veteran, or the veteran's spouse or survivors.

I believe that a compilation of both the veteran's medical and benefits information related to any ionizing radiation exposure experiences would serve to help detect health trends in such veterans and to indicate any specific characteristics of this particular group of veterans. This is especially critical in light of the recent Office of technology Assessment determination that an epidemiological study of veterans exposed to ionizing radiation as required by Public Law 98-160, would not be feasible. The compilation of this information would also serve to consolidate information about such veterans collected by the Department of Medicine and Surgery and the Department of Veterans' Benefits. Consequently, it would expedite the exchange of such information for the purposes of eligibility determinations by VA medical facilities for VA health care services and for the claims adjudication process for radiation-related claims. I wholeheartedly support the VA's Agent Orange Registry and the VA's recent announcement of the forthcoming establishment of a Spinal Cord-Injury Registry and would hope that an Ionizing Radiation Registry would serve a similar purpose.

I request that you carefully consider my request and let me know your plans regarding the establishment of such a registry as soon as possible.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. Mr. President, the registry would provide an ongoing data base on "atomic veterans." For the first time, all health care and claims information would be compiled for each of these veterans using the VA health care system and for each veteran filing a claim for disability compensation. A full case history including medical history, radiation exposure estimate, and disability claims decisions would be collected. The registry would enable the VA to systematically detect and analyze any health problems among this group of veterans.

It is this quesiton that we must answer: Who among these veterans is sick and with what illness, and who, if anyone, has died as a result of radiation exposure? We must find these people, care for them, and ensure that compensation is provided when appropriate.

Mr. President, I know my colleagues share with me the concern that this issue be resolved to the satisfaction of those veterans seeking relief from the burdens of disabilities or illnesses they believe stem from their exposure to atomic radiation. The development of the ionizing radiation registry can go a long way toward that resolution.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order the acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, first I ask unanimous consent that 2 minutes of the Democratic leader's time be reserved for his use at any time today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CARNEGIE REPORT SAYS NUKE PROLIFERATION GETTING WORSE

Mr. PROXMIRE. Mr. President, for many years at least 90 percent of the time, attention, and energy devoted to struggling for peace has concentrated on the relations between the two superpowers and their respective nuclear arsenals. That concentration reached a peak in the 2 months before the Geneva summit. It still lingers. Now an authoritative new study has appeared that calls attention to a far more urgent and likely threat of nuclear war. The study describes the recent developments in the spread of nuclear weapons to countries that have previously been regarded as nonnuclear states. For more than a generation the world has lived in nuclear peace while each of the two superpowers possessed the capacity to destroy, utterly destroy the other. So, of course, this terrible Armageddon has riveted our attention. Meanwhile, three other nations, the United Kingdom, France, and the People's Republic of China, have had far smaller nuclear arsenals. Also, rumors have persisted that India, Pakistan, South Africa, and two or three other nations might be approaching the capability of building nuclear weapons.

Mr. President, on Monday, November 25, the Carnegie Endowment for International Peace, issued its annual report by Senior Associate Leonard S. Spector on the current status of nuclear weapons proliferation. Mr. Spector previously served as chief counsel for the Senate Energy and Nuclear Proliferation Subcommittee. He was a principal author of legislation drafted in 1978 against the spread of nuclear weapons. This just-off-the-press Carnegie report finds that Pakistan has continued its efforts to develop nuclear weapons. As the report puts it: "Pakistan is on the threshold of becoming a nuclear weapons state." This finding contradicts the 1984 pledge by Pakistan that it would not produce weapons grade material at its nuclear installations. The President of Pakistan, Mohammed Zia ul-Haw repeated that pledge only last February. But the Carnegie document confirms the existence of intelligence reports verifying the construction in Pakistan of dummy weapons and the detonation of nonnuclear portions of a nuclear weapon.

The Carnegie report also reveals a predictable reaction from Pakistan's longtime adversary, India. The report contends that India is in the process of expanding its ability to produce nuclear weapons grade plutonium. Author Spector specifies that India is doing this by building nuclear power reactors and reprocessing plants that can separate plutonium. This activity would not be subject to international safeguards.

Spector also highlights a serious weakening in the enforcement of safeguards against nuclear weapons proliferation. Those convicted of violating laws against smuggling nuclear weapons materials have been given the gentlest kind of a slap on the wrist. The Carnegie report cites the case of Albrecht Migule. Migule was arrested

and convicted in West Germany of exporting a plant that can transform natural uranium into uranium hexafluoride and that means weapons grade material. Migule sold the plant for $6 million. Migule's profits could result in the death of millions of people and could trigger a spreading of nuclear war. So what punishment did Migule receive? He was fined $10,000. He also got an 8-month prison sentence. How much time did Migule actually serve? Answer: None. His sentence was suspended. Considering the fact that Migule sold his lethal material for $6 million, that $10,000 fine was a joke.

In two other areas the Carnegie report issued further ominous warnings. North Korea is building a large research reactor. The reactor is big enough to produce plutonium sufficient for nuclear weapons. Now, Mr. President, North Korea has consistently been the Communist bad boy of the Far East. If there is a more ruthless Communist dictatorship anywhere in the world than North Korea, where is it? The Carnegie report also finds that good, old South Africa may now have enough enriched uranium to build 10 to 15 nuclear weapons.

Mr. President, the utter failure of the superpowers to make any progress toward nuclear weapons arms control has created an international nuclear weapons policy vacuum. The United States and the Soviet Union by virtue of their size, the level of their technology, and their immense military power, can provide the only true effective leadership for stopping the spread of nuclear weapons throughout the world. And what leadership have the superpowers provided? Mr. President, it is pathetic. Every day both of the superpowers mindlessly add to their already infinitely destructive nuclear arsenals. Their laboratories employ tens of thousands of the world's greatest scientists and engineers working feverishly to develop ever newer and more destructive nuclear weapons. Both superpowers have promised to stop nuclear weapons testing. This testing is quintessential for the development not only of more destructive, but also smaller and cheaper nuclear weapons. These latter are the nuclear weapons of the future for the smaller, poorer countries. They will be the equalizers. They will put smaller countries on a terror basis equal to the superpowers.

The superpowers have promised to stop nuclear testing but they have refused to negotiate to do so.

Mr. President, there is one chance in a thousand of a bolt from the blue—an intercontinental nuclear strike by either superpower against the other. Such a strike would be an obvious act of suicide. Ah, but consider how very likely it is that a North Korea in a fit of fury might finish off a neighbor with a nuclear attack that could start in a matter of minutes and continue to spread worldwide for years. We cannot, we must not ignore the immense dangers of nuclear proliferation as the Carnegie report so wisely warns.

MENGELE REVISITED

Mr. PROXIMIRE. Mr. President, we will soon have several new accounts of the Auschwitz doctor, Dr. Mengele. Dr. Mengele, otherwise known as the mad dog of Auschwitz, conducted horrific and often fatal experiments on Jewish prisoners of the Nazi death camp.

The first of the accounts, a book entitled "The 'Last' Nazi: The Life and Times of Dr. Josef Mengele" has just been published. This book was written by Gerald Astor, a New York journalist. Home Box Office is currently broadcasting "The Search for Mengele," a 1-hour special.

In addition, a forthcoming biography of the Nazi doctor promises to release new material on Mengele's escape from U.S. forces and his encounter with an Israeli kidnap team.

According to a New York Times article of October 29, 1985:

> More than 5,000 pages of letters, diaries and other writings of Dr. Josef Mengele and his protectors have been provided for a forthcoming biography of the Nazi war criminal * * *.

The authors of the book, tentatively titled "Mengele: The Complete Story" obtained the papers and about 1,000 family photographs from the doctor's son, Rolf Mengele.

Mr. President, the current flood of accounts of the life of Dr. Mengele indicate that interest in the Holocaust has not faded. On the contrary, the horror with which we view genocide and the perpetrators of this awful crime has increased.

Given the concern of the American public and American journalists with the crime of genocide and the fact that we have a valuable tool for the prevention of additional horrors, I can see no reason why we have not yet taken significant action against genocide.

Mr. President, I am referring to ratification of the Genocide Convention. This treaty has been before the Senate since 1949, has been reported favorably from the Senate Foreign Relations Committee six times, and has been endorsed by seven Presidents.

I call on my colleagues to acknowledge the concern that the Holocaust and Nazi war criminals like Dr. Mengele continues to generate. I call on my colleagues to join me in working toward ratification of the Genocide Convention this year.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that AFDC benefit levels encourage welfare mothers to have illegitimate babies.

The notion that AFDC mothers have additional children to increase payments is an enduring myth. And while critics of safety net programs such as AFDC are fond of citing the local case that proves their point, the evidence, taken as a whole, does not substantiate this myth.

Consider these points:

First, in a study to be published in a forthcoming issue of the Journal of Labor Research, David Ellwood and Mary Jo Bane review national data on the relationship between illegitimacy and welfare benefit levels. After all, if high AFDC benefit levels are an inducement to welfare mothers to have illegitimate children, clearly we should see a more pronounced effect in high-benefit-level States, like Wisconsin, than States known for meager AFDC payments.

And what did they find? Illegitimacy rates among the States bear no relationship to the AFDC benefit levels in the States. In fact:

> Differences in welfare do not appear to be the primary cause of variation in family structure across States, or over time. Largely unmeasurable differences in culture or attitudes or expectations seem to account for a large portion of the differences in birth rates to unmarried women and in divorce and separation patterns among families with children.

Second, consider the composition of the AFDC rolls. If welfare benefits provide an inducement for welfare mothers to have additional children, we should see a high number of AFDC families with large numbers of children.

In a brochure soon to be published by the Wisconsin Department of Health and Social Services, the State of Wisconsin reviews the latest data on the composition of AFDC families. They found that one-half of AFDC families only contained one child and another one-fourth of AFDC families only had two children. Thus, while popular wisdom asserts that the overwhelming number of AFDC families have multiple children, in fact, 75 percent of AFDC families have only one or two children.

And those numbers have been constant over the last decade. A similar review of Wisconsin's AFDC rolls in 1977 found precisely the same composition.

And, finally, do AFDC benefit levels encourage illegitimacy as a way of extending eligibility for welfare benefits?

Here again, the Wisconsin data disputes this myth. The average length of stay for mothers receiving AFDC benefits is 20 months; for intact two-parent families receiving AFDC-U ben-

efits, the average length of stay is only 14 months.

And the key point is that two-thirds of those who leave the AFDC rolls in Wisconsin, stay off.

Mr. President, this Senator has often been critical of the operation of the AFDC Program. There clearly is fraud and abuse. There clearly should be a mandatory work or training requirement for all heads of households in two-parent AFDC-U families. But we do not improve program administration by perpetuating stereotypes.

And this is one myth that needs to be discarded.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements therein limited to 5 minutes each.

FOREST MANAGEMENT PRACTICES

Mr. SASSER. Mr. President, I would like to take this opportunity to discuss an issue that will be a national topic of debate over the months ahead—the prudent management of our Nation's forest resources. It had been my hope that the full Senate would debate forest management practices in conjunction with the Interior appropriations bill. Since that is no longer the case, I, nonetheless, believe that it is important to begin the dialog on the direction of forest resources management. The prudent management of our Nation's immense forest resources is the No. 1 public lands challenge facing this Nation.

As many of my colleagues are aware, the Forest Service is presently developing over 100 plans for the management of 191 million acres of forest lands. The direction and emphasis reflected in these plans will have profound and far-reaching implications for the future integrity of our public land resources. I believe that we have an obligation to ensure that each and every one of these plans upholds the highest and best uses for our Nation's forest lands.

The final plan for the Cherokee National Forest in Tennessee is due to be released in January. When the initial draft plan was released earlier this year, I submitted extensive comments for the public record. I ask unanimous consent that a copy of my comments appear in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. SASSER. Mr. President, the plan due to be released next January represents a change over the initial draft, but I do not believe that it goes far enough in balancing the future needs of the Cherokee National Forest.

I am not satisfied, Mr. President, that the proposed final plan for the Cherokee National Forest correctly emphasizes the best uses for the forest. I believe that a greater emphasis should have been placed on enhancing the biological diversity and recreational potential of the Cherokee National Forest. Instead, the Forest Service's final plan embarks upon a course of commodity resource development, such as timber harvesting, to the detriment of multiple-use resource development. I do not agree with the Forest Service's proposed direction for the Cherokee National Forest, and I will briefly outline my specific objections.

The final plan for the Cherokee National Forest recommends 33,735 acres of wilderness. I believe that this wilderness recommendation is woefully inadequate, particularly in light of the Forest Service's own analysis of the forest which stated that "wilderness management has an extremely high benefit/cost ratio when compared to full resource development." There are 18 roadless areas totaling some 111,456 acres in the Cherokee National Forest. Yet, the Forest Service recommends that less than a third of this acreage be added to the Wilderness Preservation System.

Each year, Mr. President, over 2.5 million visitors come to enjoy the recreational opportunities in the Cherokee National Forest and that number is steadily increasing. Presently, the current demand for increased recreational use in the Cherokee National Forest far exceeds the current available supply. I believe that the Forest Service should further modify its recommendation to accommodate anticipated future demands for increased recreational use in the Cherokee National Forest.

Equally critical to a discussion of prudent forest management priorities is the issue of clearcutting. Clearcutting is a controversial management tool that causes me and many of my constituents a great deal of concern. I believe that the criticisms of clearcutting as a forest management tool stems not just from its obvious esthetic impact. Rather, there is genuine concern about the negative impact of clearcutting on diverse biological species and wildlife habitats in the forest. Yet, the final Forest Service recommendation proposes clearcutting as the prime harvesting mechanism in the Cherokee National Forest. I believe that the Forest Service should rethink its priorities on clearcutting.

In the Cherokee National Forest, there are 168,000 acres of cove hardwood forests. The Forest Service final proposal states that 41 percent or about 68,000 acres of cove hardwoods, are unsuitable for timber harvesting. Thus, 100,000 acres, or 59 percent of the cove hardwoods in the Cherokee National Forest, would be available for clearcutting. Mr. President, I believe that this level of cove hardwoods eligible for clearcutting is both excessive and imprudent.

Mr. President, clearcutting potentially over half of the Cherokee's cove hardwoods would have a profoundly negative environmental impact on the forest. Not only does such clearcutting cause extensive stream siltation problems—it is bound to have a negative impact on the unique and extraordinary biological diversity and wildlife habitat in the forest. There are 1,000 flowering plants, 80 species of reptiles and amphibians, 150 different kinds of birds, 47 different kinds of mammals, and 135 species of fish within the Cherokee National Forest. I believe that the Forest Service plan should better maintain and protect this diversity. A starting point in that direction would be the utilization of other harvesting options, such as group selection and shelter woodcutting, to minimize any negative impacts on species diversity in the Cherokee National Forest.

Mr. President, I also have some grave concerns about the proposed doubling of timber harvesting and the construction of additional new roads in the Cherokee National Forest. In the interest of time, I will address these issues at length in the very near future. But, for the record, I will say that the Forest Service has yet to convince this Senator of the need for emphasizing timber resource development over noncommodity resources, such as wildlife, recreation, or wilderness. The record clearly reflects losses on an annual basis of over $1.8 million from timber sales in the Cherokee National Forest. Road construction costs contributed significantly to these losses. Timber sales and road construction activities in the Cherokee National Forest have been economically and environmentally unproductive. Unless or until the Forest Service can provide sound justification for the escalation of timber sales and new road construction, I believe that the Forest Service should stay within its current timber harvesting accounts and maximize the use of existing roads.

Mr. President, the Cherokee National Forest is a magnificent, multiple-use resource with abundant recreational potential. I believe that the final plan that the Forest Service proposes to release in January inadequately promotes the best and highest uses for the forest. Additional emphasis can and must be directed toward tapping the tremendous scenic and recreational potential of the Cherokee National

Forest. In the weeks and months ahead, I will work to ensure that the public's investment in our public forest lands is preserved to the fullest degree.

EXHIBIT No. 1

UNITED STATES SENATE,
Washington, DC, April 22, 1985.

Mr. DONALD L. ROLLENS,
Forest Supervisor, Cherokee National Forest, 2800 North Ocoee Street, Post Office Box 2010, Cleveland, TN.

DEAR SUPERVISOR ROLLENS: I recently reviewed the U.S. Forest Service Management Plan for the Cherokee National Forest. Overall, I do not believe that the Forest Service preferred alternative No. 6 offers an appropriate balance of resources for the long-term growth and vitality of the Cherokee National Forest. I have some specific concerns regarding the preferred alternative No. 6. I offer the following comments for the Record.

WILDERNESS RECOMMENDATION

The Wilderness Act of 1964 established the National Wilderness Preservation System. This was a landmark effort to protect and preserve wild and fragile resources for the benefit of present and future generations of Americans. Today, some 86.6 million acres of wilderness lands, primarily in the West, vividly embody our heritage as a nation and as a people.

But there are also millions of acres of wild and unspoiled lands in the eastern half of the United States. By and large, these lands have not received the level of protection afforded wild, roadless areas in the West. The Eastern Wilderness Act of 1975 was enacted to change this inequity. By law, the Eastern Wilderness Act of 1975 placed valuable land resources in the eastern United States on the same protective footing as Western wilderness areas.

The Great Smoky Mountains National Park is the most significant land resource in the eastern half of the United States. Last year, we celebrated the 50th anniversary of the Great Smoky Mountains National Park. Yet, despite the efforts of numerous conservation organizations and me, the Great Smoky Mountains remain unprotected. The administrative management of the Park, as wilderness, while a temporary solution, is a poor substitute for full wilderness protection. Last year, I worked with my colleague Mr. Baker and other members of the Tennessee Congressional delegation to secure wilderness protection for 24,833 acres of the Southern portion of the Cherokee National Forest.

In this context, the Cherokee National Forest, in combination with the Great Smoky Mountains National Park, represents the most formidable tract of land in the eastern United States. The combined biological and botanical diversity of these areas is unrivaled anywhere else in the United States and the world.

The preferred alternative #6 proposes 22,214 acres in four areas—Pond Mountain, Jennings Creek, Unaka Mountain, and Big Frog Extension for wilderness designation. This is inadequate. There are almost 100,000 acres of wild, roadless lands eligible for wilderness designation. These acres deserve more thorough consideration.

By the Forest Service's own analysis on the Cherokee National Forest, "wilderness management has an extremely high benefit/cost ratio when compared with full resource development." The figures bear this out. "During fiscal year 1981, the Forest Service recorded 2,408,000 visitor days of use, the equivalent of 7.97 million active occasions. Developed recreation use occurs at 29 campgrounds, 36 picnic grounds, and at 84 other developed sites. Dispersed recreation use occurs on 500 miles of trail, several hundred miles of streams, and on most of the general forest area.

Yet, the draft management plan fails to accommodate this rise in recreational use. Demand for increased recreational use far exceeds the current available supply. The proposed designation of an additional 22,214 acres of wilderness falls short of meeting the anticipated future demand.

TIMBER HARVESTING

The draft Forest Service plan proposes a tripling of annual harvest levels over the next forty years. Under the Forest Service plan, almost 320,000 acres, or more than half of the Cherokee National Forest would be slated for clearcutting. In my opinion, this is most excessive, especially in light of the very low benefit/cost ratio of past timber production.

Since 1979, timber expenditures in the Cherokee National Forest have far outpaced timber receipts. In recent years, only 41 cents of every dollar has been returned from timber expenditures. It is significant that this is without factoring in the road construction costs. Where those costs are considered in conjunction with timber expenditure, the return on investment has only been some 22 cents. During the period from 1979 to the present, the Forest Service has lost some $1.8 million annually on timber production efforts in the Cherokee National Forest.

The proposed Forest Service timber plan threatens the very future of the Cherokee National Forest. I must strenuously object to this dramatic proposed increase in timber harvesting, particularly since some prime wilderness areas, such as Rogers Ridge, Flint Mill, and Big Laurel Branch, would be available for timber harvesting and road construction. By law, marginal lands, i.e., those on which timber harvesting is impractical due to cost/benefit constraints, are unsuitable for timber harvesting. In 1975, the Forest Service identified 186,347 acres, or 30 percent of the Cherokee National Forest as marginal for timber production. Now, ten years later, the Forest Service proposes the clearcutting of nearly half of the Forest. The lack or productivity in the Cherokee National Forest during the past six years blatantly discounts this proposed timber harvesting initiative.

Moreover, increased timber production and road construction activities, to the extent proposed in alternative #6, would adversely alter the very character of the Cherokee National Forest. Such development would have a profoundly negative and irreversible impact on the biological diversity within the Forest. A decision to triple harvesting and double road construction mileage would represent a serious retreat from the delicate ecological balance within the Cherokee National Forest. Such dramatic timber harvesting would permanently and irreparably alter the face of the Cherokee National Forest.

MULTIPLE USES

The task of balancing this nation's conservation and development needs is often difficult. The Cherokee National Forest, however, presents an easier case for consideration. The highest and best use of many areas of the Cherokee National Forest is wilderness. There are 1,000 flowering plants, 80 species of reptiles and amphibians, 150 birds, 47 mammals, and 135 species of fish within the forest. Wilderness designation would enhance this biological diversity; intensive timber harvesting and road construction would not.

Clearcutting almost half of this forest is bound to have some impact, most logically negative, on the future of diverse species within the Forest's boundaries. While some animals might be able to adjust to such dramatic changes, others, such as the black bear, would not. In addition, increased timber harvesting would likely cause increased sedimentation. Increased sedimentation would have a decidely adverse impact on brook trout, many of which habitate in roadless areas recommended in alternative #6 for clearcutting.

CONCLUSION

Having reviewed the Forest Service plan for the management of the Cherokee National Forest over the next fifty years, I must conclude that the preferred alternative #6 would inadequately sustain the wilderness quality and biological diversity within the Cherokee National Forest. We must never plan unproductive harvesting quotas at the expense of this, or any other, fragile, limited natural resource. Management plans for this Forest should better reflect the recreational potential of the Cherokee National Forest. I urge you to further review management alternatives for the Cherokee National Forest.

Sincerely,

JIM SASSER
U.S. Senator.

HUGE INCREASE IN OIL IMPORTS PREDICTED BY ENERGY DEPARTMENT

Mr. JOHNSTON. Mr. President, the United States faces a continuing long-term decline in domestic oil reserves and production, coupled with greatly increased oil imports. This projection is contained in the Department of Energy's soon-to-be-released national energy policy plan, according to an article in the December 3 issue of the Energy Daily.

This translates into very expensive reliance on oil imports with costs increasing from $60 billion this year to more than $100 billion per year by 2000, or $2.4 trillion from 1984 to 2010.

The preliminary DOE projections closely track a separate study done by the independent and highly respected Gas Research Institute.

Mr. President, these studies clearly demonstrate why it is very much in our national interest to continue our strategic petroleum reserve and synthetic fuels programs, as well as taking care that we do not discourage domestic oil production by changes in our tax laws. I ask unanimous consent that the text of the Energy Daily article be published in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUGE INCREASE IN OIL IMPORTS FORECAST IN NEW DOE STUDY

(By Bill Rankin)

The United States faces a continuing long-term decline in domestic oil reserves and production, coupled with increased oil imports. This translates into spiralling costs for imported oil, from roughly $60 million this year to more than $100 billion a year by 2000. In total, the U.S. will spend more than $2.4 trillion for oil imports from 1984-2010, according to a draft of the President's 1985 National Energy Policy Plan (NEPP).

The soon-to-be-released plan has been completed by the U.S. Department of Energy staff and is now circulating through federal agencies for comment.

Although many government and industry energy observers question the reliability and accuracy of such projections, this year's plan presents a staggering picture of increased and very expensive reliance upon oil imports into next century. Concurring with the preliminary NEPP projections to a large extent is the Gas Research Institute, which released its 1985 baseline projections of U.S. energy supply and demand yesterday.

The draft NEPP assumes that Saudi Arabia will increase its production by next spring and maintain it at roughly 4.5 million barrels a day for the rest of the decade. This means relatively low oil prices for the period. In the 1990s, however, the Organization of Petroleum Exporting Countries (OPEC) is presumed to regain market control, with resulting price increases, according to the preliminary plan.

Using these assumptions as a reference, NEPP predicts:

U.S. domestic oil production (10.1 million barrels a day in 1984) will decline to 9 million b/d in 2000 and 7.6 million b/d by 2010, or 25 percent less than in 1984;

Annual oil import costs (constant 1984 dollars) will grow from $54 billion in 1990 to $106 billion in 2000 and $182 billion in 2010;

Total U.S. oil import costs will be roughly $350 billion for 1984-1990, $800 billion for 1991-2000 and $1.4 trillion for 2001-2010;

By 1990, the U.S. will be more heavily dependent upon oil imports than it was before the 1973 oil embargo; by 2000, oil imports could provide 47 percent of total U.S. oil consumption (versus 1984's 35 percent), an all-time U.S. record; and

From 1990 to 2010, U.S. domestic oil production will drop by 1.6 percent a year (from 10.5 million b/d to 7.6 million b/d, although real oil prices will increase at a substantial 4.6 percent annual rate (from $23 to $57 per barrel).

The preliminary plan predicts oil prices will increase gradually over the next 25 years: by 1990, $23 per barrel; 1995, $30; 2000, $37; 2005, $47; and 2010, $57. This constitutes a significant change of heart by the Administration, which in its 1984 forecast predicted oil prices to rise to $61 a barrel in 2000 and $90 a barrel by 2010. (The Gas Research Institute's projections, however closely track the 1985 NEPP projections. GRI predicts oil prices to cost $26 per barrel in 1990, $38.50 in 2000 and $57 in 2010).

The preliminary NEPP plan also contains another drastic change from last year's plan. The 1985 draft says that by 2000, net energy imports will supply 17.2 percent of U.S. demand by 2000 and 15.3 percent by 2010. Last year's projection, however, predicted that net energy imports would account for just 8 percent of demand by 2000 and only 2.5 percent by 2010.

But sharing DOE's view of increased imports and decreased domestic production is GRI. Petroleum consumption will increase to 16.9 million b/d by 2010, says the institute, (NEPP says 16.4 million b/d.) "As a result, primary petroleum consumption grows at only 45 percent of the rate of growth in total energy demand," says the GRI forcast.

Despite the relatively slow growth in petroleum consumption, "declining petroleum production results in a significant increase in petroleum imports," says GRI. The institute projects that domestic production will fall from 10.3 million barrels per day in 1984 to 7.8 million barrels per day in 2010. GRI also predicts that between 1984 and 2010, the amount of petroleum imports needed to meet demand will increase from 4.8 million barrels per day to 9.3 million barrels per day.

Overall, GRI projects that total primary energy consumption will increase from 77.8 quads in 1984 to 102.2 quads in 2010 (a rate of 1.1 percent per year). Over the same period, the gross national product will grow at a 2.5-percent rate, says the forecast.

THE WAYS AND MEANS COMMITTEE TAX REFORM PROPOSAL

Mr. JOHNSTON. Mr. President, I strongly support the concept of tax simplification and I applaud those individuals who have taken on the monumental effort of achieving this goal. However, I have strong reservations about the reform bill that was recently marked up by the House Ways and Means Committee. It is true that this bill reduces the number of individual tax brackets from 15 to 4 and that it eliminates or limits a number of credits and deductions. However, in a number of areas, the Ways and Means bill adds complexity to an already complex Tax Code, reduces the incentive that is needed to encourage individuals to invest in high risk and capital intensive industries and diminishes an individual's flexibility to plan for his retirement years.

For example, under the name of tax simplification, the committee has decided to treat small banks differently than large banks and to treat incorporated timber operations differently than nonincorporated timber operations. The result of this action is a more complex Tax Code that will encourage massive disinvestment and a consequent depressed market. By repealing the investment tax credit and lengthening the depreciation schedules, this bill discourages investment and capital formation and encourages the export of jobs in the industrial sector. And by limiting an individual's flexibility to invest in both individual retirement accounts and employer-sponsored 401(k) plans, the Ways and Means bill will hinder a taxpayer's ability to care for himself during the later years of his life.

Taken as a whole, I fear that enactment of this bill will adversely affect economic growth, threaten national security, increase unemployment and exacerbate the position of U.S. industry in international markets. The ultimate loser, Mr. President, will be the American people.

A brief review of this proposal indicates that its adoption would be especially disastrous for Louisiana. Its primary targets appear to be my State's lifeblood; namely, the oil and gas and timber industries. It would also tighten restrictions on business entertainment, thereby affecting the economic well-being of New Orleans. Conversely, the Ways and Means bill would encourage investment in the high technology and service related sectors, industries which are virtually nonexistent in Louisiana. Consequently, adoption of this bill would transfer jobs from Louisiana to the Silicon Valley's of our country.

All together, there is not one section of my State that would not be adversely affected by this proposal and consequently, I would like to put my colleagues on notice. Should a bill similar to the Ways and Means Committee bill be considered by the full Senate, I will do all that I can to see that it is defeated.

OIL AND GAS

Mr. President, the Ways and Means Committee bill would raise $4.2 billion over 5 years from the oil and gas production industry. This revenue would be raised by phasing out the percentage depletion allowance, restricting the deductibility of intangible drilling costs and subjecting a portion of drilling expenditures to minimum tax liability. Adoption of this proposal will weaken Louisiana's economy, devastate the oil and gas industry, and threaten national security. Given the fact that the petroleum industry is already one of the most heavily taxed industries in the United States, I find these proposals to be unconscionable.

Mr. President, Louisiana has not yet recovered from the recession of the early 1980's. Our unemployment rate is currently 10.9 percent. That is 4 percent higher than the national average; and, in sections of the State that are most directly involved with oil and gas and petrochemical production, the rate is even higher. For example, the chemical industry is the prime employer in Lake Charles where unemployment exceeds 13 percent.

Sixty-two of Louisiana's sixty-four parishes are involved in oil and gas production. In 1981, 95,400 individuals were engaged in oil and gas extraction activity. By October 1985, that number had decreased to 74,200. That represents a 22.2 percent—or almost one-fourth—decrease in employment during the past 4 years, 8.3 percent of which has occurred in 1985 alone. Activity of this nature is occurring in every sector of my State's energy production industry and I do not know how much more we can take.

This bleak economic condition is directly caused by the recession in the oil and gas industry. For example, in the first week of December, only 1,962 or 43 percent of rotary drilling rigs were operating in the United States. The other 57 percent were idle. In Louisiana, the oil and gas industry is the backbone of the State's economy; it pays out more than $3 billion in earnings to 120,000 workers. In fiscal year 1984, severance tax collections exceeded $800 million; and bonuses, royalties, and rental payments totaled $500 million. Thus you can see that this industry directly pumps more than $1.3 billion annually into the State's treasury; and these figures do not even begin to account for income that is derived from businesses that provide support services to the oil and gas industry. Taken together, it is clear that in Louisiana idle drilling rigs translate into unemployment and State revenue loss and I fear that adoption of the Ways and Means tax bill will exacerbate this situation.

Mr. President, one of the most onerous energy related provisions in the Ways and Means bill is the proposal to phase out percentage depletion. Depletion is to natural resources what depreciation is to equipment. It is a means of recognizing consumption of a finite asset. Percentage depletion was first adopted in 1926 to promote the search for oil and gas, and through the subsequent 60 years, it has become an integral part of the oil and gas industry. Today, it is only available to independent producers and royalty owners and is used by them to entice outside capital to an inherently risky investment. With the current industry recession, it is an essential component of the industry's survival.

Earlier this year, the interstate oil compact completed a study which showed that over the next 5 years repeal of percentage depletion would have the following consequences for the Nation and Louisiana: It will result in a loss of 46,500 oil and gas related jobs per year; 12,150 of which will occur in Louisiana. That represents an annual decline of 10 percent of all individuals who are employed by the State's oil and gas production industry.

Repeal of percentage depletion would also decrease State severance tax payment collections by an average of $24 million per year for the same period; $10 million of which will be borne by Louisiana. That represents an annual decrease of 12.5 percent to Louisiana. As I have stated, my State's economy has not yet recovered from the recession of the early 1980's and we simply cannot sustain additional losses of this magnitude.

Of equal importance are the findings of the compact study which show that in Louisiana, repeal of percentage depletion will result in an annual reduction of $243 million in drilling expenditures; an annual decline of $76 million in oil and gas revenues; a reduction of 10,700 barrels per day in oil and gas production and a reduction of 121,000,000 barrels per day in additional oil and gas reserves.

What upsets me most about this provision, Mr. President, is that these losses will be borne by only one sector of the oil and gas production industry; namely, by independent producers. The importance of independents to the industry cannot be overstated. Historically, independents have accounted for 90 percent of wildcat drilling and 85 percent of all domestic drilling, both onshore and offshore. Independents find more than 80 percent of significant new discoveries and have accounted for 56 percent of new reserves found.

On a national level, Louisiana produces over 15 percent of this country's crude oil and the independent's own 60 percent of those reserves. In addition, Louisiana produces 31 percent of the country's natural gas and the independents hold one-half of those reserves. Without the contribution of independents, domestic production today would be about 1.1 million barrels per day below the 1979 production rate.

The Ways and Means Committee bill would also restrict the deductibility of intangible drilling costs. Intangible drilling costs are simply the expenses incurred in drilling a well which are never recovered, that is, they have no salvage value. They include such things as drilling mud, wages, fuel, repairs, and so forth. Mr. President, the Tax Code permits all businesses to deduct their expenses. To simply limit this deduction as it applies to the oil and gas industry is patently unfair and discriminatory.

Mr. President, I have not yet seen any studies which examine the impact of this provision on the oil and gas industry. However, when combined with the other provisions in the Ways and Means bill, I can tell you that adoption of this provision will reduce the producers cash flow, discourage outside investment, and ultimately reduce the incentive for drilling.

Finally, I would also like to remind my colleagues that a viable U.S. petroleum industry is an essential component of National security. One need only recall the energy crises of the 1970's to realize the importance of maintaining a workable energy production industry. I hope that we have learned our lessons and will not do anything to increase the risk that our Nation will once again be hostage to OPEC for our energy requirements.

TIMBER

Mr. President, the Ways and Means bill would also raise $4.9 billion over 5 years from the timber industry. This revenue would be raised by limiting the capital gains tax treatment of timber sales, requiring timber owners to amortize all management expenses and repealing the 84-months amortization of reforestation expenses by small producers.

Furthermore, under the labels of reform and simplification, the committee has agreed to tax timber owners differently depending upon whether the taxpayer is a corporation or an individual and upon whether he is a small producer or a large producer. These provisions are a classic example of how the Ways and Means proposal will add complexity to the Internal Revenue Code. Ultimately, these provisions will encourage disinvestment, depress all timber prices, decrease the acreage of harvestable standing timber, exacerbate our trade deficit and adversley affect my State's economy.

Commercial forestland comprises more than 50 percent of the total land area of Louisiana; virtually all of which is owned by more than 115,000 private forest owners. In addition, the forest manufacturing industries pay out annually close to $420 million to 30,000 Louisiana workers. Put another way, the Louisiana-based forest industries employ 15 percent of the employees that are engaged in all manufacturing industries in the State and account for 14 percent of the payroll for all State industries.

Mr. President, the capital gains tax treatment of timber sales has been instrumental in providing incentives to produce a higher quality and quantity of trees. For example, prior to 1944, capital gains treatment was only available to individuals who held timber strictly as an investment and sold their trees in a bulk sale. If a forest owner engaged in any activity to sustain his harvest—that is, if he planted new seedlings, or cut his trees for sale or use in his business—then he was only accorded ordinary income treatment of any income derived from the property.

This tax policy created a disincentive for maintaining and encouraging high yield forests. Consequently, prior to 1944, our inventory of growing stock on private forest lands was declining by 7 billion cubic feet per year. Adoption of the timber capital gains provision reversed that trend and today, the Nation's inventory of standing timber has increased by more than 195 billion cubic feet. It is clear to me that this provision has done its job and I fear that a partial return to pre-1944 tax treatment will threaten our ability to meet our Nation's future timber needs.

I am also concerned with a provision in the Ways and Means Committee bill which would require producers to amortize over 5 or 40 years all costs incurred in maintaining their property,

including management costs, property taxes and interest expenses. Under current law, the industry must capitalize all direct costs associated with planting and establishing standing timber; however, like all other industries, timber owners are permitted to expense the costs associated with maintaining their business once harvest has been established. To change this rule only as it applies to the timber industry is discriminatory and will discourage investment in this high-risk, low-yield industry.

For example, it takes a long time to grow a harvestable forest, sometimes up to 50 years. Adoption of this proposal would mean that a large forest owner—that is, one who owns more than 50,000 acres—would have to write off over 40 years any cost associated with maintaining and protecting his property. Small timber owners would have to write these costs off over 5 years. This simply is not equitable.

Mr. President, preliminary estimates indicate that if these proposals become law, the timber that is needed to build 400,000 houses per year will be lost. Over the course of five years, this means we will have lost the timber that is needed to build 2 million houses. Losses of this magnitude will result in unemployment at home and a surge of timber imports.

I have been told that the Ways and Means timber provisions are as disastrous as the provisions that were contained in Treasury II. In October 1985, George Banzhaf & Co. released a study which shows that under Treasury II, the internal rate of return to timber plantation owners would decrease from 8.7 percent to 4.7 percent for individual taxpayers and from 8 percent to 5 percent for corporate taxpayers. This study also showed that timber investments would decrease by 44 percent and ordinary income investments would increase by approximately 30 percent. This is a heavy burden for one industry to bear.

Mr. President, historically, timber has been our Nation's second largest export, surpassed only by agricultural commodities. Our largest export markets are Japan, Canada, and the EC countries, countries with which we must increase our balance of payments. Consequently, I seriously question the wisdom of adopting my policy which would further weaken the ability of the timber industries to effectively compete both at home and in the international markets.

Our failure to encourage timber investment may not be felt tomorrow, but in the long term, could have an adverse and irreparable effect on our economy. A mistake of this magnitude simply cannot be corrected over night.

CONCLUSION

In conclusion, Mr. President, I cannot overemphasize the degree to which Louisiana will be injured by the Ways and Means tax proposal. Currently, my State ranks second in the Nation in unemployment. This bill has targeted Louisiana's primary industries as revenue sources, and if enacted, may very well bankrupt my state. Therefore, I have no option but to oppose it or any similar bill that is considered by the full Senate.

SALUTE TO HEISMAN TROPHY WINNER BO JACKSON

Mr. DENTON. Mr. President, as I am sure that every sports fan in the country is now aware, Vincent "Bo" Jackson of Auburn University in Auburn, AL, has been awarded the Heisman Trophy. As a Senator from Alabama, I am proud to say that the Nation's outstanding college football player of the year is from Bessemer, AL.

It is a well-earned honor for the senior tailback. During his career, Bo Jackson gained 3,828 yards on 563 carries and scored 38 touchdowns. During his senior year, he ran for 1,786 yards and scored 17 touchdowns. He helped lead the 8-3 Auburn Tigers to a berth in the Cotton Bowl. He made a difference.

Against another great team, the University of Alabama, in the final game of the regular season, Bo Jackson rushed for 142 yards on 31 carries and scored two touchdowns. He managed that with two cracked ribs. Bo Jackson is an extraordinary football player.

The Heisman Trophy winner is selected from among excellent football players. This year's selection was particularly hard. All of the candidates should feel proud of their accomplishments, and I offer my congratulations to them for their accomplishments. I am confident that they would agree that the tradition of the Heisman is in good hands with Bo Jackson from Auburn University.

I am sure that Bo Jackson will be surpassing other records in the years to come. I bet he won't forget that he is from Alabama, and I know that we from Alabama will still be bragging about him and claiming him as one of our own. Alabama takes great pride in the honor bestowed upon an outstanding Alabamian. Congratulations, Bo Jackson.

ON COURT STRIPPING—ADDRESS BY SENATOR MOYNIHAN

Mr. BRADLEY. Mr. President, on November 27, our colleague, the senior Senator from New York, received the Emory Buckner Medal from the Federal Bar Council in New York City. Senator MOYNIHAN used the occasion to share with those in attendance some important thoughts as we celebrate the Bicentennial of our Constitution. He traced the important lessons we should remember about past efforts to deprive our judicial system of the independence that has been its bedrock since the earliest days of our country. I would like to share with my colleagues the wise thoughts of Senator MOYNIHAN because I believe they are doubly important to keep in mind today. I ask unanimous consent that his speech, "On Court Stripping," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ON COURT STRIPPING

(An Address By Senator Daniel Patrick Moynihan)

In a short while now, the United States will be observing the Bicentennial of our present Constitution and the beginnings of our present government.

A fair amount of celebration can be expected—and some cerebration as well. Mr. Gladstone's celebrated observation concerning "the most remarkable work known to me in modern times to have been produced by the human intellect," no doubt, will be received.[1] Perhaps more to the point, Madison's judgment that it was a "miracle" will be remembered.[2] This and much more, for in the annals of mankind there has been no equivalent of two centuries of continuous government under one set of written rules. That this, in the main, has been felicitous government, giving structure to an immensely successful society, only adds to the wonder of the things.

Despite such wonder, it is still possible to be thoughtful about the subject. The Constitution drafted in Philadelphia in 1787 is still in place, because from time to time it has been amended. These amendments, however—a spare twenty-six—have never gone to the essential structure of the national Government devised in Philadelphia.

The first ten, our Bill of Rights, were adopted in 1791, the XIth four years later and the XIIth amendment on the Electoral College in 1804. Save for the Civil War amendments, the Constitution remained untroubled until the next century. We have changed some things since, but to no purpose that could not have been achieved by statute. As I read our history, only one of the 20th century amendments concerned activities of the Federal government, as such. This was the XVIth amendment in 1913, that permitted a graduated income tax, and that was more a matter of scruple over a strict reading of Article II Sec. 8.

Indeed, if I read correctly, the only significant change we have seen with respect to the structure of our national Government was the Supreme Court's assertion of judicial independence, successfully carried off in 1803 by John Marshall in Marbury v. Madison.[3] Marshall's constitutional coup was no "technical correction", but it came early enough so as not to unsettle any previous patterns, and in that sense was part of the constitution-making period.

In this sense, after 200 years of an intact constitution, 1988 will verily be an *annus mirabilis.*

It comes as something of a surprise, then, that this season also should be one of considerable questioning of the constitution, a great range of proposals for changing it, and, in the particular matter I propose to explore here, something like a concerted assault upon it. But this may not be so sur-

prising after all. J.H. Plumb, one of the truly wise men of our age, has written that contrary to the modern sensibility so fascinated with the onset of instability in society—call it revolution, or liberation, or what you will—it is the onset of *stability* which is wondrous and rare.[4] The stability of the American arrangement is historical, and we should expect questions about it.

There is abroad now a genuine and sincere sense that our governmental arrangements may not be working well, that eighteenth century concerns no longer fit twentieth century needs. Persons of this view are to be distinguished by the fact that, generally speaking, they are not mad at anybody or about anything. They merely wish we could devise a better way to adopt a budget, or ratify a treaty. I count myself of this view, and like to think that in time, more will be heard of it from Constitutional scholars, such as are assembled in the Committee on the Constitutional System.

We come upon quite a different level of intensity and specificity, however, when we look at the groups seeking constitutional change *now*, at *this* moment.

Thus we find ourselves in the midst of an extraordinary effort to convene "a convention for proposing amendments," as provided for under Article V of the Constitution. Nominally, this is part of a campaign to bring about a balanced budget amendment; but the Constitution speaks of "amendments" plural and there would be no containing such an assemblage should it take place. (It is worth recalling that the Philadelphia Convention assembled because New York State was taxing firewood imported from Connecticut, and other such concerns.)

Thirty-two state legislatures have called for such a convention, and of late we go through the now annual exercise to see whether another two will put the score over the required two-thirds. I make no prediction. For one thing I don't know how long a legislature's application remains valid. Indefinitely? Article V is silent. The earliest application we have on hand is from the State of Mississippi, more than a decade old, dated April 29, 1975. (In case of fire, or other such mishaps, perhaps I should record that the thirty-two current applications are contained in the third drawer of a four-drawer filing cabinet, in Room S-221 of the Capitol, under the supervision of the Secretary of the Senate.)

In the meantime, there also are quite a number of proposals around to amend the Constitution in the traditional way for some specific purpose. The Equal Rights Amendment, passed once by Congress and pending again, is the most venerable of these proposals. More recently, and less advanced, have come proposals concerning school prayer, and abortion.

It may be noted that apart from the ERA, the present state of proposed constitutional amendments, as the proposal for a second constitutional convention, are directed *against* the existing constitutional arrangements, in the sense that they are designed to change the present system, or to reverse decisions which the present system has brought about. Feelings run high on these matters; indeed, how could they not?

But of all these developments it appears to me that none should demand more attention than an emergent mood in the Senate in support of what has come to be known as "court stripping." To amend the Constitution, to revise a particular provision according to prescribed procedure, is a matter wholly within the framework of accepted practice. Court stripping is different. It would be, in its way, a constitutional coup, and could impair in a profound way the judicial power as established under the Constitution—especially as we have received it from Marshall. Yet, no less a document, no less a political authority, than the 1984 Platform of the Republican Party, adopted August 2 in Dallas, stated, "it is not a judicial function to reorder the economic, political and social priorities of our nation." True enough—the Supreme Court spends its time on Constitutional priorities, which, of course, may appear in economic, political, or social realms. The platform, however proceeds to state, "where appropriate, we support congressional efforts to restrict the jurisdiction of Federal courts."

Four years ago, as the 97th Congress was convening, the then-President of the American Bar Association, Mr. David Brink, testified before the Judiciary Committee of Congress about the impact of court-stripping legislation. He said:

"We confront, at this very moment, the greatest constitutional crisis since the Civil War."

The difficulty here is that while, indeed, we may face a constitutional crisis, we may be getting there by a route many would argue is constitutionally permissible.

Let us consider the possibility of such a constitutional oxymoron. Article III, Section 2, of the Constitution, states in relevant part:

"The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

I repeat: "With such exceptions, and under such regulations as the Congress shall make." Now, since the vast majority of the Supreme Court's work obviously is appellate in nature, the meaning of this phrase is of some critical moment.

There are those who claim that under the "exceptions" clause, Congress may pass laws setting the boundaries for the Supreme Court's appellate jurisdiction wherever it chooses—or should we say, wherever it deems proper. Those who take the view that Congress can restrict the Court's jurisdiction rely, in the main, on a case decided by the Supreme Court 117 years ago, *Ex Parte McCardle*.[5]

I will not review *McCardle* before this distinguished company, lest having done so you decide to take your award back. It is enough, in any event, to cite the views of Justice Owen J. Roberts in an address given to the Association of the Bar of the City of New York in 1948, after he had retired from the Court.[6] "Now is the Time" his title declared, for "Fortifying the Supreme Court's Independence." He proposed four amendments. The first would set the size of the Court at nine persons. James Bryce had noted the problem almost a century ago. What, Roberts asked, "would prevent there from being twenty if Congress so legislate." He would require retirement at seventy-five, and prohibit anyone once a Justice to be eligible to the office of President or Vice President.

But by far his most important proposal, in his view, addressed the question of what we have come to call court stripping. Mr. Justice Roberts was a conservative judge properly construed. He was not much for amending the Constitution:

"I am all for the view that it ought to be a document stating great principles and not attempting the meticulousness of a regulatory statute. Every time you suggest an amendment you violate, to some extent, that great principle."

Even so he thought it essential and even urgent to amend the Judiciary Article to "give the Supreme Court appellate jurisdiction in all cases under the Constitution . . ." Given several decisions by Marshall, and given *McCardle* he asked:

"What is there to prevent Congress taking away, bit by bit, all the appellate jurisdiction of the Supreme Court of the United States, not doing it by direct attack but by that sort of indirect attack? I see nothing. I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions. The jurisdiction is exercised now under the terms of the Judiciary Act. Suppose Congress should decide to let the decisions of state courts of appeal be final on constitutional questions. How could the Supreme Court assert a power to take those questions, notwithstanding the act of Congress."

Such an effort has been underway in a most explicit form in the Senate for the past six years. Somehow the concerted and successful (so far as attaining a Senate majority) nature of this effort has escaped notice.

Here is the record: eight specific majority votes to strip the Court of some jurisdiction or other. None of the measures has become law either because we have been able to avoid a final vote by extended debate—some of the eight occasions were on cloture where 60 votes are required—or else the House has demurred. Still a Senate majority has been prepared throughout. To wit:

On April 9, 1979, the Senate voted 51-40 in favor of an amendment by Senator Helms of North Carolina excluding from the Supreme Court's appellate jurisdiction cases calling into question state or local laws permitting voluntary school prayer.

On February 4, 1982, the Senate passed 58-38 a Helms amendment to the Department of Justice Authorization Bill, to prevent any court of the United States from ordering students bused to a public school other than the one closest to their home.

On September 15, 1982, the Senate voted 50-44 in favor of ending debate on a Helms amendment regarding court jurisdiction in abortion cases.

On September 20, 1982, the Senate voted 50-39 in favor of ending debate on a Helms amendment providing that the Court would have no jurisdiction to hear cases relating to voluntary school prayer.

On September 21, 1982, the Senate voted 53-47 in favor of ending debate on a Helms amendment.

On September 22, 1982, the Senate voted 54-46 in favor of ending debate on the same Helms amendment.

On September 23, 1982, the Senate voted 53-45 in favor of ending debate on the same Helms amendment.

On October 1, 1984, the Senate voted 56-41 not to table an appeal of the Chair's ruling that a busing amendment was nongermane to the Grove City bill.

I have been one of the filibusterers—extended debate is the polite term—and my argument has been simple. Thus, on September 20, 1982, when we prevented cloture on school prayer I said:

"If you can strip from the Supreme Court the right to hear one question, you can strip from it the right to hear any question. There is no right in the Constitution that would not be placed in jeopardy. The great

fear of the founding fathers was that we should have a tyranny of the majority. They spoke over and over again of a tyranny of the majority and they devised the Court as the institution in which minority rights would be protected. Those rights are embodied in the Constitution and the right of the Supreme Court in the end to say, as Justice Marshall said, it is emphatically the province of the Court to declare what the law is. It is not for us to do. We may have our views, we make the laws, but we make them in the context of a high law, the Constitution, and the Court compares."

Mind, we have not been alone in resisting those who would strip the Court of jurisdiction. No less a person than President Reagan's former Attorney General, the Honorable William French Smith said in 1982:

"Congress may not . . . consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers." [7]

There is much I could add, including a discourse on the appearance of "majority cloture," a technique for ending debate by a simple majority vote.

But it all comes to this. For a generation or more—for a century or more—we have been taking the chance that something that could happen to our constitutional arrangements won't happen. Mr. Justice Roberts put it well, when he described this school of thought thus: "Don't touch the Constitution . . . It has a great big hole in it. Nobody has run through the hole yet, and let's take a chance that nobody ever will." Realistically, this may be our only option. But given the risks we have gone through these past years, ought we not expect to hear more from the public, especially the bar, about this matter?

We have had nothing like the "popular uprising" that Mr. Justice Roberts saw as the only way to deter a Congress determined in this matter. I would hope then we might at least hear more from the Federal Bar. Congress listens you know. But if you do not speak, I dare to think there could be many an issue of large importance in years ahead which the Supreme Court will not hear.

FOOTNOTES

[1] British Prime Minister William Gladstone, in a letter to members of a government-appointed committee celebrating the Centennial of the American Constitution. July 20, 1887.

[2] James Madison. Outline Notes. September 1829.

[3] *Marbury V. Madison*, 5 U.S. (1 Cranch) 137 (1803).

[4] See J.H. Plumb's *The Origins of Political Stability, 1675-1725*, London: MacMillan, 1967, P. XVII.

[5] *Ex Parte McCardle*, 74 U.S. (7 Wall.) 506 (1869).

In 1867, the Reconstruction Congress determined to try to protect the rights of former slaves who had served the Union Army. In 1865, to encourage enlistments in the border states of the union, where slavery was still allowed, Congress had passed a law stipulating that the wife and children of any slave who volunteered for the Union Army would be considered free. In 1867, in order to help enforce the 1865 law, Congress passed a new law reaffirming the rights of such persons to a writ of *habeas corpus* and authorizing appeals to the Supreme Court of denials of the writ by lower courts.

McCardle tried to use this law against the Congress. He was an ex-confederate newspaper editor being held for trial before a military commission, accused of publishing incendiary and libelous articles. McCardle filed for a writ of *habeas corpus*, alleging unlawful restraint by military force. When the lower courts denied his petition, he appealed to the Supreme Court, taking advantage of the 1867 statute.

The Supreme Court heard arguments on the case in 1868. But before the Court could issue its decision, Congress passed another statute, this time explicitly withdrawing the Court's jurisdiction to review lower court denials of those *habeas corpus* writs issued under the 1867 law.

The Supreme Court was faced with a new issue; did Congress act properly—under the Constitution—by passing a law in 1868 that stripped the Court of jurisdiction over cases under the 1867 statute? The Court acknowledge, first, that Congress could make exceptions to its jurisdiction to hear appeals and recognized further, in this instance, that:

"The provisions of the Act of 1867, affirming the appellate jurisdiction of this Court in cases of *habeas corpus*, (were) expressly repealed. It is hardly possible to imagine a plainer instance of positive exception."

The Court held it did *not* have jurisdiction to hear the appeal, and dismissed the *McCardle* case for want of jurisdiction.

[6] Roberts, *Fortifying the Supreme Court's Independence*, 35 A.B.A.J. 1 (January 1949).

[7] Letter from Attorney General Smith to Senator Strom Thurmond, Chairman of the Senate Judiciary Committee, May 6, 1982 [printed at 128 Cong. Rec. 11814 (1982)].

THE 168TH ANNIVERSARY OF MISSISSIPPI'S ADMISSION TO THE UNION

Mr. COCHRAN. Mr. President, I rise today to honor my home State of Mississippi—a State rich in tradition—on the occasion of the 168th anniversary of its admission as the 20th State of the Union.

Mississippi's history is unique and tells much about its people and their heritage. Prior to the first settlement of the Mississippi region by European explorers in the 17th century, the area was ruled by three powerful Indian tribes: the Chickasaw, the Choctaw, and the Natchez. When the first white explorers arrived, that region was occupied by between 25,000 and 30,000 Indians.

Before becoming a State on December 10, 1817, what is now Mississippi flew the flags of a number of nations. In 1541, the Spanish flag was raised with the arrival of Hernando de Soto. But de Soto made no settlements there. Instead, Robert Cavalier of France came along, and, in 1682, claimed the entire Mississippi valley for his native country. He was impressed with the region's trading potential and its strategic location in halting English expansion inland from the Atlantic. Strictly speaking, though, the first settlement in what is now Mississippi came in 1699, when Pierre le Moyne, or D'Iberville as he was commonly known, established the first French colony at Fort Maurepas or Old Biloxi, now called Ocean Springs.

In the early 1800's, an improved Mexican variety of cotton was introduced to Mississippi farmers. With an abundance of fertile land, cotton soon became the source of the State's economic boon. The down side of this agriculturally based prosperity was an upturn in the use of slave labor, a circumstance that did much to foment the regional conflict that quickly divided the Nation.

With the beginning of the Civil War, Mississippi's economy began to suffer with the loss of land and manpower. Over 100 battles, including the Battle of Vicksburg in 1863, were fought on Mississippi soil. Of the 78,000 Mississippians who went off to war in the service of the Confederacy, more than 59,000 either died or were wounded. At Gettysburg, it was a group of University of Mississippi students, the University Grays, who were among the first to face the Union soldiers. Of the 103 University Grays who fought at Gettysburg, none survived.

Mississippi has grown slowly but steadily since it was readmitted into the Union in February 1870, after 2 years of military rule. The 1980 census figures indicate that over 2½ million people live in the State. That marks an almost 14 percent increase over the 1970 figure.

Today, as in our past, agriculture is a mainstay of Mississippi's economy. Cotton still plays a vital role in the agricultural sector, although the production of wheat, rice, soybeans, and farm-raised catfish is now of major importance. Mississippi's forests now occupy 16.7 million acres, well over half of the State's total area. In 1984 State foresters harvested $518 million in forest products, making it the third most valuable crop in the State. Mr. President, 80 percent of the Nation's shrimp are caught each year by Mississippi fishermen. Mississippi ranks as a leading producer of petroleum, each year producing over 45 million barrels of petroleum from about 2,200 wells.

The largest source of personal income in the state comes from manufacturing. In Pascagoula, some 11,000 employees work to produce, design and overhaul our Nation's naval vessels at the Ingalls Shipbuilding Division of Litton Industries. The gulf coast has also played an important role in the areas of space exploration. The National Space Technology Laboratory, located near Bay St. Louis, was originally used to test the rocket boosters that put the first man on the moon. The center is currently used to test space shuttle engines.

In the field of medicine, Mr. President, Mississippi has had several firsts. In 1963, the world's first human lung transplant was performed at the University of Mississippi Medical Center in Jackson. Mississippi was also the first state to establish an institution for the blind and deaf, and was the first State to legislatively establish an emergency helicopter service district to aid in quickly transporting victims of serious accidents to hospitals from outlying areas.

But these facts and figures do nothing to explain why Mississippi is the fine State that it is. Instead, it's her people who make it unique. Mr. President, I'd like to take just a moment

here to run down a partial list of the many outstanding Mississippians who have made, and who are making, significant contributions to this country.

My predecessors in the Chamber include Jefferson Davis, who served the United States as the Secretary of War under President Franklin Pierce before assuming the Presidency of the Confederacy. Davis's friend and contemporary, L.Q.C. Lamar, served Mississippi and the nation as a U.S. Congressman, Senator, chairman of the Senate Democratic Caucus, Secretary of the Interior, and U.S. Supreme Court Justice. It was L.Q.C. Lamar who, in 1874 while the country was still mending its sectional wounds from the Civil War, stood on the House floor to deliver a eulogy for Massachusetts Republican Congressman Charles Sumner, a noted foe of the South. It had been not quite 13 years since Lamar had written Mississippi's Ordinance of Secession, but in eulogizing his colleague, Lamar said:

Shall we not, over the honored remains of this earnest pleader for the exercise of human tenderness and charity, lay aside the concealments which serve only to perpetuate misunderstnadings and distrust, and frankly confess that on both sides we most earnestly desire to be one * * * in feeling and in heart?

Almost a century later, John F. Kennedy wrote in his book "Profiles in Courage":

No partisan, personal or sectional considerations could outweigh [Lamar's] devotion to the national interest and to the truth. He was not only a statesman but also a scholar and one of the few original thinkers of his day.

The more recent of my predecessors include Senators Pat Harrison and James Eastland, both former Presidents pro tempore in this body. Today, I have the pleasure of serving with Senator JOHN STENNIS, who, but for Carl Hayden of Arizona, has been a U.S. Senator longer than anyone else, having served his country and State for over 38 years.

In the field of literature, Mississippi stands alone. One of the greatest novelists of this century, William Faulkner, grew up in New Albany, MS, and lived most of his life in Oxford, MS. The Sartoris and Snopes characters that Faulkner brought to life in his books gave the world a unique look at life in our State, the grandeur and injustices of which, as Faulkner was quick to remind those hasty to judge, were not unique to Mississippi. Instead, Faulkner used Mississippi as a microcosm for society. Faulkner's poignant portrayals came from a deep understanding of his fellow man, and in his 1950 Nobel Prize acceptance speech, he echoed his sentiments in words that today appear above the entrance to the University of Mississippi undergraduate library:

I decline to accept the end of man. I believe that man will not merely endure: he will prevail. He is immortal, not because he alone among creatures has an inexhaustable voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance.

Mississippi is the proud home of other literary giants, such as Eudora Welty, the first lady of American fiction; Tennessee Williams, the accomplished playwright who brought us, among other fine plays, "A Streetcar Named Desire" and "Cat on a Hot Tin Roof"; Beth Henley, another playwright who recently won the Pulitzer Prize for her play, "Crimes of the Heart;" William Alexander Percy; Walker Percy; Richard Wright; former Pulitzer Prize-winning editor of the "Delta Democratic Times," Hodding Carter, Jr., and Willie Morris, a former editor of Harper's magazine and author of "North Toward Home," and other books.

In the field of music, the list of Mississippians is almost as impressive. Elvis Presley was delighting admirers in his hometown of Tupelo long before his name would become familiar to the rest of the Nation. New York Metropolitan Opera star Leontyne Price was the first black American to achieve international stardom in her field. Meridian native Jimmie Rogers, known as the Father of Country Music, was the very first inductee into the Country Music Hall of Fame in Nashville. Other country music celebrities from Mississippi include Tammy Wynette, Charlie Pride, and Conway Twitty. In the area of rhythm and blues, a man without equal is a Mississippi native: Riley King, better known to us all as B.B. King. Greenwood native Bobbie Gentry's song "Ode to Billy Joe" was also the source of a movie of the same name. Last but not least, Clarksdale, MS can claim as one of its own Miss Tina Turner, whose records have entertained two generations.

Mississippi stars of stage and screen from my home State include James Earl Jones, who many of us know as the man behind the imposing voice of Darth Vader in the "Star Wars" movie trilogy; Muppets creator Jim Henson; motion picture star Dana Andrews; actresses Stella Stevens and Mary Ann Mobley, who is one of four Mississippians to hold the title of Miss America. The current title holder, Susan Akin, is also a Mississippian.

Sports figures include Chicago Bears running back Watler Payton, who holds a number of NFL records, including most yards gained in a single season and most consecutive games rushing for over 100 yards, last Sunday's game against Indianapolis marked his ninth; Ole Miss quarterbacks Archie Manning—a fine player and former NFL Man of the Year—and Charlie Conerly, a fabulous New York Giant; St. Louis Cardinal pitcher Dizzy Dean (an adopted Mississippian and old member of the famous "Gas House Gang" of the 1920's); and olympic gold medalist Wilma Rudolph.

Mr. President, I guess it's natural to boast of celebrities from your area, but let me emphasize that Mississippi is also proud of its unsung heroes; its farmers, manufacturers, salespeople, educators, and professionals who, though unknown to most of us, are known to one another through their mutual love of their home State.

Eudora Welty once noted that "time is very important to Mississippians because it has dealt with us. We have suffered and learned and progressed through it." Mr. President, I salute the people of Mississippi for their pride and their love of their State—its past and future—and join with them in wishing our home State a very happy 168th birthday.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. MCCONNELL). Morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The Senate resumed consideration of the joint resolution.

Mr. HATFIELD. Mr. President, there appear to be no more amendments at this time. No one is on the floor to offer such amendments. I assume we are about to go to third reading of the CR. I will put in a brief quorum call in order to alert Members, if there are any other amendments. If there are no other amendments to be offered this morning, then I will call for third reading of the joint resolution.

Mr. JOHNSTON. Mr. President, I think it is extremely good fortune that we are apparently going to be able to finish this measure early today, since we can go to third reading I guess in a few minutes. I congratulate the Senator for his good work of getting rid of all those amendments during the night.

Mr. HATFIELD. I thank the comanager of the bill, the Senator from Louisiana. He has been very able in helping us get rid of all those amendments which appeared to be here last night when we recessed. I guess during the night most Members decided they were not important enough to offer and that is why they are not here.

As I say, Mr. President, at this point I would like to urge that if the Sena-

tor from Louisiana and I are misreading the picture at all by the absence of our brethren and, therefore, the absence of any further amendments, we would like to give that opportunity to be corrected.

At this point I will put in a brief quorum call, following which we will call off the quorum call and go to third reading if there are no amendments.

Mr. JOHNSTON. Mr. President, the chairman is saying that our dalliance with this question of waiting for third reading will not last for very much longer, just long enough for Senators to get to the floor if they really do want to offer amendments.

Mr. HATFIELD. The Senator is correct. I am very anxious to have that happen very shortly. As I say, within the next few minutes we will go to third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1388

(Purpose: To delete $12,000,000 for a DARPA computing research program at Syracuse University)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] for himself and Mr. DANFORTH proposes an amendment numbered 1388.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the total amount appropriated by this joint resolution for Defense Agencies of the Department of Defense for research, development, test, and evaluation is reduced by $12,000,000. The reduction made by this section is in addition to the reduction made by any other provision of this joint resolution.

Mr. PROXMIRE. Mr. President, this is an amendment which would affect another Member of the Senate [Mr. D'AMATO]. He offered the amendment in committee and in effect, I am striking the amendment he offered in committee. I understand Senator D'AMATO has been notified and will come to the floor—I hope he will. I have been urged to offer this amendment at the moment, because, of course, the committee is very anxious to move ahead.

Mr. President, this amendment strikes from this joint resolution a $12 million item under the Department of Defense, earmarking funds for Syracuse University for a sole-source noncompetitive award.

Twelve million dollars was added to the defense appropriations bill for a computer facility at Syracuse. This earmarking was not requested by the Defense Department, it is not based on any competitive award, it is not based on merit, it has not been subject to a peer review, and it distorts the national system of allocating Federal research dollars according to merit-based criteria.

Mr. President, I do not mean to single out just Syracuse—which is a fine institution, but there is a principle here which more and more frequently is being violated by Congress. That principle is the free competition for research grants and awards. Congress has no business inserting language in a defense bill, or any other bill, which instructs the executive department to make contract awards to particular academic institutions without going through the normal awards process.

We need to put a stop to this practice and we have an example before us where we can initially make this determination to return to merit-based awards.

Membership on a particular committee should not determine which academic institution receives an award. Political clout should not determine the distribution of grants to colleges. Reelection considerations or "bringing home the bacon" factors should not justify earmarking of funds for specific research centers.

Let's stop this practice before it gets out of hand. The National Association of State Universities and Land-Grant Colleges agrees with me. The Association of American Universities agrees with me. College and university presidents across the country have told me that such political earmarkings are not only wrong but inefficient and they penalize other worthy institutions.

Mr. President, the $12 million added to the defense bill is an unbudgeted item. The Defense Department did not request funds for this purpose. They do not support the inclusion of these funds for Syracuse University. Other universities in New York oppose this earmarking as unfair. The president of the University of Rochester wrote me saying:

To bypass the traditional process of merit consultation and peer review can seriously erode the firm foundations underpinning a healthy relationship between science and government as well as the continued effectiveness of our national scientific research effort.

We need a policy in this body. That policy should be to keep hands off the process of merit-based selection of colleges and universities for Federal grants. Let them compete on a fair basis—not sneak in the back door with an earmarking in an appropriations bill. Let them withstand the test of competition, peer-group review, rigid analysis by the Department of Defense or other Government departments. Let them be judged on the basis of merit, not political pull.

What does the National Association of State Universities and Land-Grant Colleges and the Association of American Universities have to say about this earmarking?

The presidents of both institutions recently wrote me making the following points:

The most important (reason for opposing the practice of earmarking for research facilities) is that its continuation will result in research of lower quality.

Mr. President, I want to repeat that quotation from the head of the land-grant college institution.

The most important (reason for opposing the practice of earmarking for research facilities) is that its continuation will result in research of lower quality.

The letter goes on to say:

It will undermine our tested and successful national system of allocating federal research dollars according to merit-based criteria and award processes. The practice eliminates open competition among qualified scientists and scientific programs and it bypassed agency scientific and technical review of the research to be performed. In so doing it eliminates the possibility of an objective assessment of the research capabilities of institutions. The nation's research investments will yield their maximum returns only if the best research, as determined by those qualified to judge, is funded via open competition. If we are willing to settle for less than the best research of which we are capable, we will get just that, and the nation will suffer as a consequence.

As for the particular award in question in this amendment, these two presidents, representing the Nation's colleges and universities said:

We urge you to reject a proposed earmark of $12 million of DARPA research funds for a research project at Syracuse University. The $12 million is a substantial sum. To award such a major research project without benefit of an objective review of its scientific and technical merits is a destructive precedent in DoD funding for university research programs. The willingness and the ability of the Department to expand its investments in university research programs and facilities modernization in an orderly fashion will be undermined. If the $12 million project is approved it will create new incentives and pressures on other institutions to seek similar treatment from the Congress. The list of claimants surely will grow. . . .

Mr. President, I ask unanimous consent that two letters from the Association of American Universities and the National Association of State Universi-

ties and Land-Grant Colleges be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AAU/NASULGC,
Washington, DC, November 4, 1985.

Hon. WILLIAM PROXMIRE,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR PROXMIRE: When the Senate Committee on Appropriations meets on November 5 to consider the FY 1986 Defense Appropriations bill, we urge you to reject a proposed earmark of $12 million of DARPA research funds for a research project at Syracuse University.

On October 31 the Subcommittee on Defense rejected a proposal to earmark $29.5 million of funds from the new University Research Initiative (URI) for the proposed Syracuse project. We are grateful to the Subcommittee for its support of the URI program. The Subcommittee's recommendation to move the project to DARPA and to reduce funding for it to $12 million is a step in the right direction, but that partial solution hardly constitutes sound research policy. For the following reasons we remain concerned about the implications for DOD university programs of approving the project as proposed, and we ask that you oppose it.

First, the $12 million proposed is a substantial sum. To award such a major research project without benefit of an objective review of its scientific and technical merits is a destructive precedent in DOD funding for university research programs. Second, the willingness and the ability of the Department to expand its investments in university research programs and facilities modernization in an orderly fashion will be undermined. Third, if the $12 million project is approved it will create new incentives and pressures on other institutions to seek similar treatment from the Congress. The list of claimants surely will grow in much the same manner as the list of earmarked projects that now appears in the Energy and Water Development Appropriations bill. Finally, the proposed funding level exceeds that intended by the House and Senate Armed Service Committees. The authorization committees reluctantly approved only $1 million for the project. In the conference report they cautioned that it ought not to be seen as a precedent.

We urge you to object to the proposed earmark of $12 million of DARPA research funds for Syracuse University and to reaffirm the merit-based allocation of DOD research and research facilities funds. In a time of severely restricted research funding, it is essential that federal support be provided for the highest quality research programs as determined by competent, competitive, equitable, merit-based review.

Sincerely yours,

ROBERT M. ROSENZWEIG,
President, Association of American Universities.

ROBERT L. CLODIUS,
President, National Association of State Universities and Land-Grant Colleges.

AAU/NASULGC,
Washington, DC, November 20, 1985.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Senate Dirksen Office Building,
Washington, DC.

DEAR BILL: Thank you for giving careful attention to the issue of earmarking of research and research facilities funds for universities and colleges. We have reviewed the list of precedents to the pending proposed earmarks in the FY 1986 Defense and Commerce appropriations bills that you provided to us. We find it to be quite complete. Enclosed, as you requested, is an annotated version of your list prepared by our staff. It elaborates on a few of the cases and provides an addendum of recent cases not included in your list.

The combined list is indeed a lengthy one, but, we are encouraged to note, not all of the proposed earmarked projects have been funded. At the urging of the research community, some initiatives have been terminated by the Congress at various stages in the legislative process. (As you know, we are now asking the Congress to follow those precedents by barring funding for the earmarked projects that appear in the Defense and Commerce appropriations bills.) The list also includes several different types of activities and projects. Not all of them are in the category that is most troubling to us, i.e., the earmarking of university research and research facilities projects.

We would like to take this opportunity to restate briefly for you our reasons for opposing the practice of earmarking for research facilities. The most important of them is that its continuation will result in research of lower quality. It will undermine our tested and successful national system of allocating federal research dollars according to merit-based criteria and award processes. Legislative earmarking of research projects harbors serious and adverse consequences for the administrative integrity and stability of agency research programs. In addition, the practice eliminates open competition among qualified scientists and scientific programs, and it bypasses agency scientific and technical review of the research to be performed. In so doing, it eliminates the possibility of an objective assessment of the research capabilities of institutions. The nation's research investments will yield their maximum returns only if the best research, as determined by those qualified to judge, is funded via open competition. If we are willing to settle for less than the best research of which we are capable, we will get just that, and the nation will suffer as a consequence.

For more than forty years the research community, the Executive agencies, and the Congress have maintained a commendable discipline aimed at protecting the integrity of the merit-based system of research investment. The System, it is commonly understood, has not worked perfectly. Opportunities to strengthen it have been identified by all parties, and over the years significant improvements have been made. Upon this disciplined, merit-based system of investment decisions we have successfully built the world's premier research enterprise.

But in important respects our research system also is a fragile one. In recent years the accumulating facilities needs of institutions, in combination with the scarcity of resources, have fed pressures to seek funds outside the essential quality control mechanisms. With growing frequency, needy institutions and their sympathetic sponsors are resorting to direct funding of research facilities. They are doing so for the simple reason that none of the leading federal research agencies have competitive construction or modernization programs with in which qualified institutions may compete openly for facilities funding.

We are convinced that many institutions engaged in earmarking activities are doing so reluctantly. If a reasonable chance for competitive success were present, they would prefer to compete on their merits with other equally qualified and deserving insitutions. Absent that opportunity, however, they see no alternative but to pursue special-interest legislation available to them. While we understand their motivations, we believe we have a responsibility to call to the attention of the Congress and the research community the consequences of forsaking proven competitive, merit-based award processes.

Although we may not prevail in all instances, we and a large majority of our members will continue to oppose earmarking of federal funds for research projects and research facilities. For your information we also are enclosing resolutions adopted by our organizations two years ago in response to earmarking initiatives by certain institutions. Similar statements were adopted by other leading organizations, including the American Council on Education, the National Academy of Sciences and the American Association for the Advancement of Science. Our discussions with the leaders of these associations and others indicate that they share our continuing strong opposition to the earmarking of funds for research projects and research facilities.

We appreciate your concern and leadership on this issue. We hope that we can continue to count on you to strongly defend the principles of the competitive, merit-based system of research and research facilities investment. We shall be pleased to be of assistance to you.

Sincerely,

ROBERT L. CLODIUS,
President, National Association of State Universities and Land-Grant Colleges.

ROBERT M. ROSENZWEIG,
President, Association of American Universities.

Mr. PROXMIRE. So the major universities and colleges are opposed to this earmarking and have said so. But it does not stop here. The two most prestigious scientific organizations in the Nation, and some say the world, also are opposed to this earmark. The president of the National Academy of Sciences, Frank Press, wrote me on December 4, 1985, that "approval of (the Syracuse earmaking) creates new incentives and pressures for other institutions to seek similar treatment from the Congress." He "respectfully urges that these earmarked projects be eliminated from the 1986 Defense appropriations bill" and that the Congress "support the position that project approval be based upon a competent, competitive, merit-based review."

Following in the same vein is William D. Carey, executive officer of the American Association for the Advancement of Science who has written on December 6:

I am not in the habit of writing Congressional leaders concerning legislation. In this case the principle is of such importance, however, that I respectfully urge you * * * to delete the earmarking of research funds for specific institutions from the FY 1986 Defense Appropriations Bill and, instead,

insist on merit-based review as a prerequisite for the award of such funds by the Department of Defense.

This is a small item in an enormous bill. But the principle is large, the consequences of continued inaction are large, and we can start today by saying no to earmarking for scientific research. It serves no one's purpose—not even the university receiving the coveted funds, for tomorrow, next week, or next year. Syracuse may be the leading institution to receive an award or Federal grant only to find that the Senator from some other State had intervened and earmarked funds for another institution—perhaps not as qualified, not as efficient, without the same academic experience. And that would be just as unfair then to Syracuse as the earmarking to that school is now unfair to all the other competing institutions in the United States.

Mr. President, I ask unanimous consent that the letters from the National Academy of Sciences and the American Association for the Advancement of Science be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ACADEMY OF SCIENCES,
Washington, DC, December 4, 1985.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Washington, DC.

DEAR SENATOR PROXMIRE: As further Senate action on the fiscal year 1986 Defense Appropriations bills progresses this week, I wish to bring to your attention a matter of great concern to the scientific and academic communities. As you are undoubtedly aware, these constituences have followed with dismay and alarm the increasing number of major research projects earmarked for specific academic institutions in public laws authorizing and appropriating funds for the several Federal agencies.

For example, the pending defense appropriations measure includes a proposed earmark of $1 million in the bill, as passed by the House, to provide for research at the Oklahoma State University in Stillwater, Oklahoma, out of the program entitled "University Research Initiative." The Senate-passed bill provided for the earmarking of $12 million made available under DARPA's research funds for a project at Syracuse University. Approval of such earmarking creates new incentives and pressure for other institutions to seek similar treatment from the Congress.

In October 1983, the Council of the National Academy of Sciences adopted a statement calling attention to the adverse effects of such earmarking. Today, this statement has even greater relevance as federal research funds are being severely restricted by budgetary constraints. I have enclosed a copy of that statement for your information. Now, more than ever, it is essential that federal support be provided for the highest quality research programs. Thus, I respectfully urge that these earmarked projects be eliminated from the 1986 Defense Appropriations bill and that you support the position that project approval be based upon a competent, competitive merit-based review.

Yours sincerely,

FRANK PRESS,
President.

Enclosure.

STATEMENT OF THE COUNCIL: FEDERAL FUNDING FOR RESEARCH FACILITIES AND INSTRUMENTATION

In recent months, there have been a few instances in which federal funding decisions for major university scientific facilities have not been subject to an appropriate review process. Informed peer judgments on the scientific merits of specific proposals, in open competition, should be a central element in the awarding of all federal funds for science.

In the past, such objective systems of evaluation have met the needs of our country well, and have contributed to the scientific preeminence of the United States. In the long term, they also help to maintain the pluralism that is important to the productivity of American science and is characteristic of political decision making.

We urge that the academic community and public officials exercise vigilance to protect this informed evaluation and decision-making process in the awarding of funds, not only for the support of scientific research proposals, but also for major scientific facilities and instrumentation.

AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE,
Washington, DC, December 6, 1985.

Hon. JOHN C. STENNIS,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR STENNIS: I am writing in my capacity as chief executive officer of the American Association for the Advancement of Science (AAAS) concerning the FY 1986 Defense Appropriations bill which, I understand, is now in conference. My concern, and that of the AAAS Board of Directors with which I have discussed the matter at its meeting today, is the alarming increase in the practice of earmarking funds for research projects in legislation.

The AAAS Board of Directors in December 1983 and the Association's full Council in May 1985 took strong stands against practices which undermine the principle of awarding funds for research and research facilities without prior review by appropriate experts. Breach of this principle reduces the efficiency of our system of research support and can only play into the hands of our nation's competitors in the commercial and military spheres. Attached you will find copies of the stated positions of our Council and Board of Directors.

I am not in the habit of writing Congressional leaders concerning legislation. In this case the principle is of such importance, however, that I respectfully urge you and your fellow conferees to delete the earmarking of research funds for specific institutions from the FY 1986 Defense Appropriations bill and, instead, insist on merit-based review as a prerequisite for the award of such funds by the Department of Defense.

Sincerely yours,

WILLIAM D. CAREY,
Executive Officer.

Mr. PROXMIRE. Mr. President, I earnestly hope the Senate will recognize that this is not in any way meant to be in opposition to a particular Senator or a particular institution. This is a principle that just seems so crystal clear; if we believe in high quality, we must rely on the peer groups that we have set up to make reviews. We do not have that scientific capability ourselves. No Senator pretends to have that. How many people in this body have the kind of scientific expertise that could evaluate these very complex research awards? Obviously, we cannot do it. We set these institutions up to make this evaluation. We should rely on them and not undercut them.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, in the consideration of this bill in the Appropriations Committee there was an amount that I had recommended to be included after a suggestion was received by the Senator from New York in order to finance the completion of this center at Syracuse University. This is not a case where the Senator from the State involved has made the decision and brought it to the floor. The matter was submitted to our subcommittee and we recommended $29.5 million, as a matter of fact, to the full committee. During the full committee markup, there was disagreement concerning the amount and it was reduced to $12 million.

The impact is that it will still be possible with some additional funds which will come from State and industrial sources to fund the equipping of the Case computer center at Syracuse University. Now, this is not the first money that has gone to this university for computer science technology. The university has already received $13 million in Federal, State, and industrial funds for advanced research in artificial intelligence, computer research applications, and software engineering in the past 2 years alone. As I examined this, I found that this center has the possibility of going ahead in five major areas to continue to take advantage of what has already been invested there at a fairly low cost, a project that will be of substantial benefit to the Nation. They will research into the fifth generation computers. Those are intelligent machines, new computer architectures, microelectronics, software engineering and computer-enhanced reasoning. They will research into artificial intelligence. That involves problem solving, expert maintenance and distributed problem solving through computer technology.

The third is computer controlled experiments and processes. This is the state-of-the-art application of computers to laboratory experimentation. Research into information systems is the fourth major area, and that is the alternative approach to human networking, the impact of information and computer technology on information workers.

And the last is the foundations of computing. It is the logic program-

ming and the further development of a higher order of programming langauages to push us even beyond the concepts of computers as we think of them today.

We must take advantage of the money that has already been put in there and not listen to these groups that tell us we have got to dribble money all over the country to keep all college presidents happy and forget about the goals of this money, it is defense money going into research which was started with Federal money and was followed up by State and industrial money. We need it. It would cost us $100 million to start from scratch—in effect, to put it somewhere else because the university community is upset that the Congress saw fit to use some ingenuity and decided to pursue one institution that had shown great leadership in this area and wants to develop this project. The people of this area are willing to put in industrial money. The State is willing to put in money. No one else came forward to do that. To the credit of the Senator from New York he saw the advantage of what was there and presented a paper to our subcommittee in August, a concept paper of this whole center after meeting with the people at that university. He has problems within his own State. People talk about the politics of this thing. Several other universities wanted the same thing, and he made a hard choice and decided to pursue this in terms of making this the center in this part of the country.

We have other centers. We have some large grants in other areas that are trying to pursue the same things but not in terms of the university center. They are in the industrial area.

I believe that this amount is the bare minimum necessary to pursue the money we have already invested from defense funds and to take us into this fifth generation. It is absolutely necessary that we do this and that we maintain the lead in this technology.

We are using the funds of DARPA. In the Appropriations Committee, the objection was raised that we were using university research initiative funds. It seemed logical to extend that. That was basically my recommendation to the chairman of the subcommittee, to extend that from the university line item. That is where the other $13 million came from. We believe that we should use those funds. But since there was an objection, we went back into the basic DARPA funds. They are DARPA-managed computer program funds, and this $12 million did not come from the university funds.

The university people should be satisfied with the fact that we raised their allocation by fourfold—from $25 million to $100 million—in this bill. Then, because we took $12 million out of another line item and did not give it to them, all these college presidents come in here and bang us on the head.

I think it is high time that we realized that someone has to manage the defense moneys so that the investment makes sense. We need these fifth-generation computers. If we do not build this center, it will cost us $100 million to create it somewhere else. Instead of a decision made by the Senate and Congress as a whole, it will be made by some college professors who do not care about the defense budget. They would be happy to take more money out of the defense budget in terms of trying to pursue this somewhere else, in order to prove to us that we should not look into the wise investment of our moneys.

So that no one misunderstands this, the universities will receive $1.2 billion in R&D funding out of this bill, not counting this $12 million—$1.2 billion allocated primarily by the people to whom the Senator from Wisconsin has referred. They give their advice to the Defense Department on where those moneys go.

They and the Senator from Wisconsin are bringing to us a dispute over $12 million, when we gave them $1.2 billion to allocate. I guess they wanted us, after we got to the point where we decided that this computer center should go forward, to go back to them and give it to them for some peer review. I do not know what peer review would do to it. In this area, we need excellence and we need it as fast as we can get it, and this group in New York has indicated a willingness to go forward and develop for us one of the best computer center projects in the world.

This is not politics. This is hardheaded decisionmaking.

Again, I applaud the Senator from New York. He has these other people, from Rochester and other places, banging him over the head for having had the guts to make the decision. As we looked at it, the decision had to be made. Do we take advantage of the investment we already made or say we should go back to the university people and decide where this kind of thing should go ahead?

I say to my good friend that it is strange. They are arguing about one one-hundredth of the total money involved. No one has challenged them in terms of their ability and right to make recommendations to the department about the $1.2 billion. But I claim at least to have the right to make a recommendation to the Senate about the $12 million, and this is my recommendation.

The Senator from New York gave our subcommittee the paper, and it is on my desk, if anyone wants to see it. In August 1985, he brought this subject to us. I looked into it and talked to the people involved, and to the department, and I determined that we should have it.

As a matter of fact, I wish we had the $29.5 million. They say they can make it with the $12 million. We might be sorry we did not push it as fast as we should in terms of this concept of a new generation of computers. We are looking at almost every system, and particularly the SDI. If SDI investments are going to be worthwhile, we need this generation of computers.

As a matter of fact, my good staff director reminds me that when the matter first came to our attention, it was $29.5 million. I cut that back, and the committee cut it back further. We are down to $12 million from the original $29.5 million, and the private and State sources will make up the remainder. It is the best deal in the computer field that I know of for the investment of defense funds today.

Mr. HATFIELD. Mr. President, I move to table the amendment.

Mr. PROXMIRE. Mr. President, will the Senator withhold that? The Senator from New Mexico is on the floor, waiting to speak on this matter. Give him a chance.

Mr. HATFIELD. I will be happy to give him a chance. I have never failed to give anyone a chance. I did not see the Senator from New Mexico seeking recognition.

Mr. BINGAMAN. Mr. President, I would appreciate a chance to make a brief statement in support of the amendment offered by the Senator from Wisconsin.

Mr. President, I rise in support of Senator PROXMIRE's amendment to strike the funds, a total of $12 million, which were added to the strategic computing initiative beyond the authorized level and earmarked for Syracuse University. I basically think that such add-ons for specific universities are bad public policy. There has been no review of the merits of this proposal, and I suspect it would not fare well if compared with other proposals which the Department of Defense has received for funding in the area of artificial intelligence. If it would fare well, I simply do not understand why Syracuse is unwilling to take its chances in a merit-based competition.

One of the main arguments of the proponents for this approach of essentially turning research budgets into "pork barrel" programs is that it has been done in the past in some 30 cases with varying degrees of success. But bad public policy remains bad public policy even if, on a few occasions, it has happened before. And most recently, the evidence is growing that the Congress wants to put a stop to this sort of add-on. During deliberations on the Commerce, State, Justice appropriations bill, four projects which had been added to the bill at

the Rochester Institute of Technology, University of Nevada, Las Vegas, Northeastern University, and in South Carolina were deleted from the bill. Earlier this year, when the defense authorization bill was in conference, the conferees decided to eliminate add-ons for Argonne National Laboratory and KMS Fusion. We very reluctantly agreed to authorize $1 million for Syracuse University under the University Research Initiative with a clear statement this would not be a precedent for the future. But that $1 million has since grown to $12 million and indeed an attempt was made to get $29 million for Syracuse University in this bill.

I think that this trend of refusing to fund such "pork barrel" science research is healthy both for the Congress and for the American science and technology enterprise. We should not be the ones trying to decide how each project in the National Institutes of Health or the National Science Foundation or the Defense Department is funded. We simply do not have the expertise to trade off one project versus another. Nor do we have the facts on which to base such decisions. If we were to move in the other direction and continue to fund university research projects in this fashion as proposed by the Senator from New York, each of us will come under increasing pressure to take care of his or her own State's institutions in the same fashion. Every time an institution in the State we represent loses a competition for funds they will come running to us to take care of them. And the appropriations for science agencies will become the sum total of such "pork barrel" projects. Good science will be driven out by the mediocre as we play a zero sum game with these appropriations.

I hope that Senator PROXMIRE's amendment will receive a strong mandate from the Senate to discourage future efforts of this sort. I urge my colleagues to support the amendment.

Mr. PROXMIRE. Mr. President, I should like to respond to the Senator from Alaska.

This is $12 million that was not budgeted. It was not requested by the Department of Defense. They say it is for defense. The Defense Department is not known for failing to request what they feel they need.

The problem here is that it is not competitive. Is Syracuse the best place to do the job? We do not know. That is why we set up this group to make the best study we can.

The fact is that most of the money here does not go for research. It will go for a building.

The argument was made that only Syracuse came forward in this case. Only Syracuse came forward because none of the other institutions knew that the opportunity was there. If they had known that it was open for competitive opportunity for other universities, others would have come forward and could have made a decision as to who was the best qualified.

We know the House did not put it in.

But most important of all, Mr. President, it seems to this Senator, that if we are going to stop earmarking on the basis of political clout, we should stop it now. This thing can get out of hand and get out of hand very, very easily.

I am proud of the fact that we have in the University of Wisconsin superb computer facilities, I think as good as any in the country. They want to compete. They do not want either their junior or senior Senator down here to get projects for them whether they are best qualified or not.

In my State, and I think it is true of almost every State in the country, we are all proud of the fine institutions we have in our States. What these institutions want is an opportunity to compete on a fair basis and not have an allocation made without their having a shot at it also.

This is not a matter of professors sitting around and taking something out of the defense budget. Defense did not want this. They did not ask for it.

At any rate, it is perfectly clear to this Senator that the issue here is whether you should have fair, open competition on an equal basis or not.

I earnestly hope that the amendment will be adopted and that the tabling motion will not be accepted.

Mr. STEVENS. Mr. President, I have great admiration for the Senator from Wisconsin. He does present his arguments forcefully and well. There is no question about that. I would not want the record to indicate that this was the first time that there has been earmarking of funds in a appropriation bill for the universities.

As a matter of fact, I remember well in 1983. I have a list of them since 1983. For instance, the people from Georgetown University came to me and talked to me about the feasibility study for a fuel cell demonstration project, and we reviewed that in our committee and decided it was a good thing, and I recommended that and Congress approved it. That was not politics. It had nothing to do with my State; 1983 was the year and it was in a similar bill.

We have had money that has been earmarked in appropriations bills since 1983 for the University of Oregon, for Tufts, for the University of New Hampshire, for Boston College, Georgetown University, the University of Pennsylvania, the University of Hartford, the University of Georgia, the University of Massachusetts, the University of Connecticut, the University of Hawaii, Boston University, Lincoln University, and Cheyney State in Pennsylvania, and Florida State where, as a matter of fact, a supercomputer facility was put into the appropriations bill at a cost of $63 million for the Federal Government to fund 70 percent of it.

There are also Catholic University in Washington; Northwestern University; West Virginia University, a cancer research center; the University of North Carolina; Dartmouth; Tufts; the University of Utah; the University of Kansas—by the way there are two in this bill that earmark money for the University of Kansas. The House has a specific earmark in the bill itself for one. We insist that they go in reports. But they put one in the bill itself.

Loyola University in Louisiana, St. George University in Utah, Mississippi State, Tulane, Brown, Atlanta University, University of Alabama, and Columbia University.

And we accepted on the Labor-Health and Human Services bill an amendment for the University of New Mexico and Indiana University.

Those are all earmarkings in appropriation bills in a similar fashion to this since 1983—1983 and 1984.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. PROXMIRE. That is exactly my point. Over and over and over again we earmarked here on the basis of having something for a university here and a university there. It is wrong. It is wrong. We should not do that.

If this were the only one, that might be different. But this extends a very, very bad principle. We are not in a position to know; none of us are qualified, as I say, to make these determinations as to which university will do the best job. The distinguished Senator from Alaska, on the subcommittee, an able Senator, has pointed out over and over again we earmarked these matters. We should not do it except on the basis of competition. In this case there is no competition.

Mr. STEVENS. Mr. President, in this case we did not take the university funds. We took funds from the Defense Advanced Research Project Agency, which the Case Center will be part of. They will be involved in one of the most sensitive areas of our research in computer technology going into the fifth generation and beyond. The total funding for DARPA is approximately $750 million.

We have earmarked. We have not increased. We have earmarked $12 million out of that.

Is this not audacious? And it is. It is for a building complex to bring it all together so that we can then have a center at that university to pursue further the whole concept of computer engineering.

I tell you, Mr. President, I do not know of a better investment in this bill in the interest of national security

than to pursue the capabilities of that university in this area. It is not my university. I do not have any connection with it. But I studied it, and I tell you it is a good investment.

Mr. HATFIELD. Mr. President, I move to table the amendment offered by the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Wisconsin.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from North Carolina [Mr. EAST], the Senator from Washington [Mr. EVANS], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—55

Abdnor	Gramm	Murkowski
Andrews	Grassley	Packwood
Armstrong	Harkin	Pressler
Bentsen	Hatch	Quayle
Biden	Hatfield	Rockefeller
Boren	Hawkins	Simpson
Boschwitz	Hecht	Specter
Byrd	Heflin	Stafford
Chafee	Heinz	Stennis
Cochran	Helms	Stevens
D'Amato	Hollings	Symms
Denton	Humphrey	Thurmond
Dole	Johnston	Trible
Domenici	Kassebaum	Wallop
Durenberger	Laxalt	Warner
Ford	Lugar	Weicker
Garn	McClure	Wilson
Glenn	McConnell	
Gorton	Moynihan	

NAYS—35

Baucus	Hart	Nickles
Bingaman	Kasten	Nunn
Bradley	Kerry	Pell
Bumpers	Lautenberg	Proxmire
Burdick	Leahy	Pryor
Cranston	Levin	Riegle
Danforth	Long	Rudman
Dixon	Mathias	Sarbanes
Dodd	Mattingly	Sasser
Eagleton	Melcher	Simon
Exon	Metzenbaum	Zorinsky
Gore	Mitchell	

NOT VOTING—10

Chiles	Evans	Matsunaga
Cohen	Goldwater	Roth
DeConcini	Inouye	
East	Kennedy	

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thought I would take this opportunity to indicate that—or at least suggest—it is our hope to complete action on the continuing resolution today.

If I understood the distinguished chairman earlier this morning at the White House, there are still some 40 amendments floating around. It would be my hope that we could table all of them, and maybe that would discourage amendments later on unless they are going to be accepted by the mangers of the bill.

There is also, I think, an event at the White House tonight some Members have an interest in.

But I do not know that we are in a position at this point to state whether or not we will work through that time or not because there is still that glimmer of hope of getting out of here this weekend.

Obviously, there are about 44 people who do not want to go this weekend. But maybe the other 56 do. That would be enough to table all of the amendments.

But in any event, we can complete action on the continuing resolution tonight. I understand the differences over Gramm-Rudman are close to resolution and we might be able to complete that tomorrow.

That would leave reconciliation, farm credit, and the farm bill for the Senate to do. The House would also have tax reform.

So I think it is a question of what the Members have in mind. Obviously, if there is a disposition to complete our work, we may be able to do it depending on what comes from the House. We believe there is a good shot at getting the conference report on the farm bill by late tomorrow.

So I am trying to offer some encouragement on the one hand. But it is still up to the membership. The leaders are powerless to let anything happen as long as amendments are offered, and I do not quarrel with those who have amendments. But there may be other vehicles other than the continuing resolution sometime next year.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, I share the distinguished majority leader's wishes that action be completed on the continuing resolution today if at all possible. The majority leader referred to a list of amendments. I think I have three or four amendments on the list myself. If others will restrain themselves on both sides, I would be glad, perhaps, not to offer any of those. Reportedly, an amendment is going to be offered to cut clean coal technology. If that is true, we may not finish this measure later today. [Laughter.]

But I would be willing, otherwise, to drop most of mine.

I think it is important that this resolution be completed today if at all possible.

Mr. DOLE. I thank the distinguished minority leader. I think that is an attitude I have picked up on this side.

The PRESIDING OFFICER. Will the majority leader suspend again? The Senate is not in order. There are conversations in all parts of the room which are too loud.

Mr. DOLE. I think if Members feel compelled to offer amendments some will be accepted. Others may require rollcall votes. I remember we had a meeting last week on the quality of life. One of the thrusts was to try to reduce the number of rollcalls. I would hope that at least the Members who attended that session will keep that in mind. Certainly I am willing to do that.

I guess it is the intent of the managers to complete action today. Is that correct?

Mr. HATFIELD. The leader is correct.

Mr. President, the information we have is that one of the major issues that confronts us is the discussion going on between the Defense Subcommittee and the Armed Services Committee, the authorizing committee. I understand that that is near resolution. If that issue is near resolution, we are rapidly then coming to a third reading possibility. I hopefully expect that we will finish this continuing resolution sometime today and earlier than later.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. DOLE. I yield.

Mr. THURMOND. The Armed Services Committee met a while ago. Four people have been appointed, Senators STENNIS and NUNN on the Democratic side and Senator WARNER and I on the Republican side, to meet with Senator STEVENS at 11:30. There is a chance that it will be resolved. We hope it will be.

Mr. HATFIELD. We can assume that it will be.

Mr. JOHNSTON. Mr. President, I wonder if the leader will yield.

Mr. DOLE. I yield.

Mr. JOHNSTON. Senator HATFIELD and I have sort of appointed ourselves as aiders in the quest for quality of life. In that spirit, we wonder if all Senators might be on notice that they need to be here when their amendment comes up, or when the time for their amendment comes up, because after that defense amendment is disposed of, we hope we can dash to the finish line very quickly by early afternoon so that we can finish this bill.

We do not take seriously this long list of amendments because we think a lot of people list amendments without really being serious about them. If they are serious about them, we would urge them to be here just as soon as that defense amendment is taken care of so we can finish the bill.

Mr. DOLE. Mr. President, I think we are making progress. I thank the managers.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1389

(Purpose: To establish a special panel on asylum)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], for himself and Mr. DIXON, proposes an amendment numbered 1389.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 18, in the paragraph dealing with refugee and entrant assistance activities under the Immigration and Naturalization Act, insert after the semicolon the following: "provided, however, that—

SECTION 1. (a) That there is hereby established a special panel of the Senate, which may be called, for convenience of expression, the Special Panel on Asylum, to conduct an investigation and study of the general problem of persons from Communist countries asking the United States for asylum, including recent instances involving such persons and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in connection with such instances, and to determine whether in its judgment any occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new congressional legislation to safeguard the rights of any person asking the United States for asylum in the future.

(b) The special panel created by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the special panel shall not be taken into account.

(c) The special panel shall select a chairman and vice chairman from among its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the special panel during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the special panel or the chairman. Vacancies in the membership of the special panel shall not affect the authority of the remaining members to execute the functions of the special panel and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the special panel shall constitute a quorum for the transaction of business, but the special panel may fix a lesser number as a quorum for the purpose of taking tesimony or depositions.

SEC. 2. That the special panel is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in section 1(a). Without abridging or limiting in any way the authority conferred upon the special panel by the preceding sentence, the Senate further expressly authorizes and directs the special panel to make a complete investigation and study of the activities of any and all persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matter or questions:

(1) Whether current procedures for handling persons asking the United States for asylum adequately protect the rights of such persons.

(2) Whether any officer or employee of the United States violated any law of the United States or of any state or municipality in connection with the defection attempt of Miroslav Medvid, including, but not limited to 18 U.S.C. 241, 18 U.S.C. 242, 18 U.S.C. 1201, 18 U.S.C. 1505, 18 U.S.C. 2, 18 U.S.C. 3, 18 U.S.C. 371, or any other statute, regulation, or procedure promulgated pursuant to the laws of the United States, or any state law or local ordinance.

(3) Whether there have been any additional instances in which persons asking the United States for asylum have been returned to the Soviet Union or other Communist nations in violation of the laws of the United States or any state or municipality thereof, or any regulation or procedure promulgated thereunder.

(4) What changes in the laws of the United States should be adopted to more adequately protect the constitutional, statutory, and moral rights of persons asking the United States for asylum.

SEC. 3. (a) To enable the special panel to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the special panel as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses of any persons who the special panel believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm or corporation to produce for its consideration or for any use as evidence in its investigation and study any books, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpoena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm or corporation to produce before the panel any books, correspondence, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate Committees or any subcommittees of such other Senate committees whenever the special panel or its chairman deems that such action is necessary or appropriate to enable the special panel to make the investigation and study authorized and directed by this resolution; (11) to have access through the agency of any members or the special panel, chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the special panel to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by this resolution and to make the investigation and

study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the special panel acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the special panel, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the special panel shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The special panel shall have authority to recommend the enactment of any new congressional legislation which its investigation considers is necessary or desirable to safeguard the rights of persons asking the United States for asylum.

SEC. 5. The special panel shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than one year after the effective date of this resolution. The special panel may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the special panel shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the special panel under this resolution shall not exceed $300,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special panel. The minority members of the special panel shall have one-third of the professional staff of the special panel (including minority counsel) and such part of the clerical staff as may be adequate.

The PRESIDING OFFICER. The Senate is not in order. There are staff consultations going on all over the Chamber which should take place in the Cloakroom. The Senator is entitled to be heard.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, this is a matter we have discussed. At this point, I make a point of order against the amendment on the ground that it is legislation on an appropriations measure.

Mr. HUMPHREY. I raise the defense of germaneness. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, is the amendment germane? No debate is permitted. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Washington [Mr. EVANS], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusette [Mr. KENNEDY], and the Senator from Montana [Mr. MELCHER] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 47, as follows:

[Rollcall Vote—No. 363 Leg.]

YEAS—46

Abdnor	Grassley	Riegle
Andrews	Hatch	Roth
Armstrong	Hecht	Rudman
Boren	Heflin	Sarbanes
Bradley	Helms	Sasser
Bumpers	Humphrey	Simon
D'Amato	Kasten	Specter
DeConcini	Kerry	Stennis
Denton	Lautenberg	Stevens
Dixon	Levin	Symms
Dodd	McClure	Wallop
Eagleton	Mitchell	Warner
Exon	Moynihan	Wilson
Ford	Nickles	Zorinsky
Glenn	Packwood	
Gore	Proxmire	

NAYS—47

Baucus	Gorton	Mattingly
Bentsen	Gramm	McConnell
Biden	Harkin	Metzenbaum
Bingaman	Hart	Murkowski
Boschwitz	Hatfield	Nunn
Burdick	Hawkins	Pell
Byrd	Heinz	Pressler
Chafee	Hollings	Pryor
Cochran	Johnston	Quayle
Cohen	Kassebaum	Rockefeller
Cranston	Laxalt	Simpson
Danforth	Leahy	Stafford
Dole	Long	Thurmond
Domenici	Lugar	Trible
Durenberger	Mathias	Weicker
Garn	Matsunaga	

NOT VOTING—7

Chiles	Goldwater	Melcher
East	Inouye	
Evans	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 47. The judgment of the Senate is that the amendment is not germane. Therefore, the amendment falls as not germane.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was ruled not germane.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1390

(Purpose: To bar the implementation and permanent adoption of a rule regarding parole for insider trading offenses)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. PROXMIRE, Mr. D'AMATO, Mr. CRANSTON, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. METZENBAUM, proposes an amendment numbered 1390.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16. after line 2, insert the following new section:

SEC. . (a) Notwithstanding any other provision of this joint resolution, no funds made available to the Department of Justice during Fiscal Year 1986 shall be used to implement, or to adopt as a permanent rule, New Offense Example 363, providing coverage for "insider trading" offenses, of 28 C.F.R. section 2.20.

(b) This section shall become effective upon the date of enactment of this act and shall expire 180 days after the effective date of this act.

Mr. LAUTENBERG. Mr. President, this amendment is quite simple. It would suspend a U.S. Parole Commission rule that is soft on insider trading, a rule that lets insider traders walk, while those convicted of other securities frauds and comparable white collar crimes remain in prison.

Joining me in offering this amendment are Senators PROXMIRE, D'AMATO, CRANSTON, RIEGLE, MOYNIHAN, and Metzenbaum.

Mr. President, insider trading is a serious offense. It is fraud against innocent, uninformed investors. It destroys the integrity of the stock markets. And it impairs capital formation on which our economy depends.

At issue are Parole Commission guidelines. These guidelines set a time range in which parole is generally granted. The time range varies with the kind of crime, and the kind of criminal. But not all crimes are listed. That was the case with insider trading.

Then, on October 3, without any prior public notice, the Parole Commission issued an interim guideline on insider trading. The interim rule became effective November 4 without any public comment—in fact, without consulting the members of the SEC.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a letter from John Shad, Chairman of the Securities and Exchange Commission, confirming this point.

The PRESIDING OFFICER. Without objection, is is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. Mr. President, the guideline took the case of a typical, first-time, white collar offender, a good parole risk, but someone who traded on inside information, where the trading's economic impact was as

much as $1 million, and the Parole Commission said: that person could be paroled almost the day he stepped in prison.

The guideline says: Parole in zero to 10 months. If the economic impact tops $1 million, the guideline says: Parole in 12 to 18 months.

By contrast, under current rules, if the same white collar criminal committed securities fraud, or any other kind of fraud, and $500,000 was involved, that person would have to serve 40 to 52 months.

More than 3 to 4 years in jail for fraud, zero to 10 months for insider trading of $1 million, 12 to 18 months for insider trading of any amount over that. The guideline is unfair and violates the intent of Congress to get tough on insider trading.

For that reason, I offer this amendment to bar the Parole Commission from enforcing this interim rule, and to bar the Commission from making it permanent. The amendment would be prospective only. It would apply for 6 months. So the Parole Commission has time to reconsider the issue.

In sum, Mr. President, this amendment would send a signal to the Parole Commission: Fraud is fraud. Insider traders should enjoy no special treatment. To promote the public's respect for the law, we must guarantee equal treatment under the law. The guidelines on insider trading do not.

This amendment has been cleared with the chairman and ranking member of the Judiciary Committee—which has jurisdiction over the Parole Commission, and I understand that the amendment is agreeable to the managers of the bill.

EXHIBIT 1

U.S. SECURITIES AND EXCHANGE COMMISSION

Washington, DC, December 6, 1985.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: In response to your call this afternoon concerning the U.S. Parole Commission's decision to treat those convicted of criminal violations of the prohibitions against insider trading differently than other criminal violations of the securities laws, our Commission has not considered the issue and is not aware of the rationale for such a distinction.

I understand an attorney from the Parole Commission advanced the proposition to the former Chief Litigation Counsel of the Enforcement Division of the SEC that inside traders should be accorded similar treatment to those who violate the antitrust laws, rather than the other antifraud provisions of the securities laws and regulations, but that she opposed this distinction. In any case, the matter was never brought to the attention of the members of the Commission.

Please let me know if I can be of further assistance.

Sincerely yours,

JOHN S.R. SHAD.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. LAUTENBERG. I yield.

Mr. JOHNSTON. Mr. President, as I read this amendment, first of all, it is not legislation on an appropriation bill. It is not intended to be legislation on an appropriation bill.

Mr. LAUTENBERG. Absolutely not.

Mr. JOHNSTON. And this has been cleared all around, as I understand it.

Mr. LAUTENBERG. It has been cleared on both sides by the respective senior people on the Judiciary Committee and by the chairman of the Subcommittee on Appropriations for Commerce, State and Justice. It has been cleared.

Mr. JOHNSTON. Mr. President, not to interrupt, but we are prepared to take it on this side of the aisle.

Mr. HATFIELD. Mr. President, the Senator is correct. It has been cleared on this side of the aisle and we are prepared to accept it.

Mr. LAUTENBERG. I yield the floor.

Mr. METZENBAUM. Mr. President, I support this amendment and am pleased to be a cosponsor.

This amendment will ensure that the Parole Commission does not dramatically reduce the minimum prison time for those convicted of criminal insider trading.

The proposed parole guidelines would allow a criminal to be released in less than 10 months; less than 18 months if the securities fraud involved more than $1 million.

In contrast, fraud, forgery, embezzlement, and other theft crimes result in minimum sentences of 40 months where the amount stolen was in excess of $500,000.

It is imperative that significant prison time be imposed on white-collar offenders.

First, these are crimes of greed, not passion. They are often perpetrated by those who do not need the money, who merely want it, and conclude that stealing is an efficient way to obtain wealth. Prison is a particularly effective deterrent for these crimes.

Second, it is important that our system of justice be perceived as fair. To have the length of a thief's sentence depend on the color of his collar undermines faith in our criminal justice system.

The Parole Commission rules are a new twist on this administration's treatment of white collar crime. Up to now, the perception has been created that the administration is tough on street crime but soft on white collar crime. Now we have a new distinction—between types of white collar crime.

For the middle class white collar criminal, who might engage in forgery or embezzlement, we have modestly tough sentences. But for the rich who engage in stock manipulation, we have more lenient sentences.

There is no basis to treat insider trading differently from any other fraud.

Mr. D'AMATO. Mr. President, let me commend my colleague from New Jersey for moving expeditiously as he has.

Mr. President, the U.S. Parole Commission has recently issued guidelines which severely undermine congressional efforts to increase the sanctions imposed on those who trade in our securities markets on the basis of inside information. In 1984, after much deliberation, the Insider Trading Sanctions Act was enacted into law. This legislation was designed to facilitate the crackdown on insider trading that has been given high priority by the SEC because insider trading threatens investor confidence in the fairness and integrity of our capital markets.

Although the SEC has expended considerable efforts in investigating and prosecuting insider trading cases, the SEC, with its limited resources, cannot hope to deter insider trading through enforcement activities alone. Therefore, increased sanctions for trading violations were viewed as a necessary deterrent because the sanctions, prior to the passage of the Insider Trading Sanctions Act were proved inadequate to deter violations. The Insider Trading Sanctions Act represents a congressional determination that it was time to get tough with those trading on inside information.

The U.S. Parole Commission issued a guideline in October, that became effective in November, which directly contravenes the legislative intent of the Insider Trading Sanctions Act. It appears that neither the SEC, nor the appropriate Members of Congress were consulted by the Parole Commission about their action that essentially trivializes the penalties that we sought to impose upon inside traders.

The fact that the Parole Commission has acted in this manner without congressional consultation is unconscionable, especially where the impact of its actions has such a potentially advantageous affect on Paul Thayer, former Assistant Secretary of Defense, who was recently sentenced to 4 years imprisonment due to convictions that stemmed from his trading on inside information. Perhaps the guidelines were not designed with the Thayer case in mind, however, the guidelines send the wrong message to the American people. That message is that white collar criminals will be treated more favorably than those who engage in similar acts of fraud, deceit, or thievery. Make no mistake, insider trading is an especially pernicious form of thievery. The actions by the Parole Commission suggest that the frauds perpetrated by inside traders can be distinguished from other forms of fraud, forgery, or embezzlement.

Under the new guidelines, a garden variety fraud is subject to 3 or 4 years imprisonment while the sanctions for an inside trade has been minimized since that crook can be eligible for parole in zero to 10 months. Such treatment is inexcusable.

Therefore, I join with my colleague in offering this amendment to the continuing resolution that would prevent the Parole Commission from enforcing this guideline. I implore my colleagues to support this amendment to prevent the Parole Commission from, in essence, vetoing legislation, that was so recently enacted. To allow these guidelines to become effective reduces the public's confidence in our capital markets, hampers the SEC's enforcement program in this area and sends the wrong message to those who are willing to trade on inside information.

The Senator from New Jersey is absolutely correct. It would be outrageous for us to allow this to take place.

We are doing what is correct with the Parole Commission. We were doing what was correct when we passed the law in 1984 with respect to insider trading.

It is virulent. It should be stopped. People should know they could go to prison for it.

Mr. President, I commend Senator LAUTENBERG for his initiative.

I thank the Chair.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I rise in support of Senator LAUTENBERG'S amendment which will prohibit the Parole Commission from implementing a new policy guideline they have developed concerning parole eligibility for those convicted of inside trading. The Lautenberg amendment will delay for 6 months, the implementation of this new guidelines that I believe minimizes the seriousness of insider trading offenses. Hopefully, during this 6 month period Congress and the Securities and Exchange Commission will have a chance to review this proposal in more detail before it is put into effect.

Mr. President, trading securities based on inside information is a fraud against innocent uninformed investors. The Congress spoke to this issue last year when we passed the Insider Trading Sanctions Act. In that legislation we raised the civil and criminal penalties for this offense. Congress clearly stated a need to get tougher on this type of white collar crime.

Meanwhile, the Parole Commission in their wisdom propose new guidelines that potentially make it easier for a convicted inside trader to be released from prison. The new Parole Commission guidelines would permit an inside trader whose crime involved up to $1 million consideration for parole eligibility the first day he/she walks into prison. That is a disparity not only as it relates to street crime like burglary or robbery but even within the class of other white collar offenses. For example, a person convicted of forgery or embezzlement involving an equal sum of $1 million would have to serve 40 to 52 months before being eligible for parole.

Mr. President, as the ranking member of the Judiciary Committee I worked long and hard with the chairman and my colleagues to pass the Comprehensive Crime Control Act of 1984. One of the most crucial elements of that far reaching anticrime reform legislation was how to deal with disparity in sentencing. In that legislation we agreed to abolish the entire parole system which I believe distorts and confuses the entire Federal sentencing system. A defendant should know when he walks into prison how much time he will serve. The public deserves to know that when a judge sentences an individual to 4 years that barring good time, that person will be incarcerated for the entire term. The parole system has undercut a fair and consistent criminal justice system. Abolishing parole and establishing new and tighter sentencing guidelines should ultimately prove to be one of the major contributions.

Mr. President, this example, of the parole system bascially undercutting the intent of Congress, further supports the decision we made last year to get rid of the entire process. Sending a signal that the Federal Government is not serious about white collar crime in general and insider trading specifically only promotes apathy and distrust by the American people in our entire criminal justice process. We cannot let that happen.

I ask my colleagues to join me in supporting this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 1390) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I believe we are ready for another amendment. If there are no other amendments, then third reading.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, in visiting with the managers of the bill, it is their hope, and I believe the hope of nearly every Member, that we could dispose of this continuing resolution early this afternoon. I am advised that, when we return from the policy luncheon at 2 o'clock, it will be the intent of the managers to go to the defense controversy. I would advise those who are working on that that they can expect some action on that matter at 2 o'clock. Following that, hopefully, there will be a third reading.

So I would suggest to my colleagues that they are on notice that the managers do intend to complete action on this continuing resolution early this afternoon. Of course, if that happened, that would free up Members who wanted to go to the black tie affair at the White House or other events that they might have some conflict with if we are in session.

Again, the managers would like us to complete action on this today. The alternative is to stay here tonight and complete action and forego any other commitments we may have outside the Senate.

So I am optimistic. It seems to me there is a will to complete action early this afternoon. If I have misstated the intention of the managers, I would be happy to be corrected.

Mr. HATFIELD. Mr. President, the majority leader has correctly stated the strategy of the managers of the bill. We intend to press on to the completion of this continuing resolution.

We are still optimistic that the defense issue can be resolved by the sessions that are occurring at this time. Once that issue is behind us, there are really no other issues that I know of, even from the list of those amendments that we gathered last night, that are of such consequence that the Republic would not be better served if we moved ahead without them.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HATFIELD. Yes.

Mr. JOHNSTON. I understand, after the defense matter is disposed of, that if no further amendments are forthcoming, we will be ready for third reading at that point.

Mr. HATFIELD. The Senator is correct. The Senator recalls that we almost had that third reading even without the defense measure.

Mr. JOHNSTON. And we will not be sending out any engraved invitations or hot lines inviting more amendments.

Mr. HATFIELD. No, we will not wait for Members to decide whether to

offer an amendment or not. If there is a void on the floor as far as amendment activity is concerned, I intend to call immediately for a third reading at that point.

Mr. JOHNSTON. I thank the Senator.

Mr. DOLE. I thank the managers.

AMENDMENT NO. 1391

(Purpose: To increase during 1986 the limit on certain distilled spirit plants exempt from bond requirements when producing alcohol fuels)

Mr. DOLE. Mr. President, with that admonition, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1391.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

Sec. —. In the case of any distilled spirits plant which, for each calendar quarter during 1984 and 1985, was required to obtain, and obtained, a bond under section 5181 of the Internal Revenue Code of 1954, section 5181(c) of such code shall, for each calendar quarter during 1986, be applied by substituting "5,000,000 proof gallons" for "10,000 proof gallons".

AMENDMENT TO INCREASE LIMIT ON DISTILLED SPIRIT PLANTS EXEMPT FROM BOND REQUIREMENTS

Mr. DOLE. Mr. President, during a recent town meeting in Garden City, KS. I was approached by two men who own a small alcohol fuel producing plant in Leoti, KS. These men were concerned that as of January 1, 1986, they would be forced to close their plant and lay off approximately 12 employees because of a Federal law requiring them to furnish a $110,000 bond. Officials with the Bureau of Alcohol, Tobacco and Firearms inform me that this bonding requirement is to guarantee that an alcohol fuel producing plant will pay any Federal tax liability accruing on the distilled spirits produced by the plant. It seems rather strange to me, Mr. President, that such a bonding requirement should result in the closing of an alcohol fuel producing facility, as there is no Federal tax liability on alcohol fuel.

According to the two men operating this plant, it has been impossible for them to obtain the federally mandated bond. Their bank is a small agricultural-oriented facility and due to the sad shape of the agricultural economy these bonding companies have no interest in underwriting such a bond.

I do understand, Mr. President, that at one stage in the alcohol distillation process there is some concern that the alcohol produced by an alcohol fuel plant could be diverted and used for beverage purposes. Should this happen there would be Federal excise taxes due on the product. However, Mr. President, I have been assured by officials with the Bureua of Alcohol, Tobacco and Firearms, that Public Law 96-223 sets out specific criminal penalties for any such illegal activities—thereby providing the Government with a form of recourse against those diverting the product illegally.

Today, I offer an amendment to increase the limit on distilled spirit plants exempt from bonding requirements when producing alcohol fuels. This amendment will raise the bonding threshold for those plants in operation for at least 2 years, from the 10,000 proof gallon level to a 5,000,000 proof gallon level, for 1 year. It will allow those small alcohol fuel production plants experiencing bonding problems to remain open next year, and give Congress enough time to fully discuss the merits of the bonding requirements. Mr. President, I urge the adoption of this amendment.

I understand the amendment has been cleared by the managers and by Senator METZENBAUM.

Mr. HATFIELD. Mr. President, the Senator is correct. The amendment is cleared and we are willing to adopt it on this side.

Mr. JOHNSTON. Mr. President, the amendment has been cleared with the Democrats, Republicans, and Senator METZENBAUM.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1391) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 11:58 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SYMMS).

The PRESIDING OFFICER. The Senate will come to order.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1392

(Purpose: To express the sense of the Senate that funds should not be used to provide permits for commercial activities within certain areas proposed for wilderness designation in the State of Colorado)

Mr. HART. Mr. President, I wonder if I may have the attention of the Senator from Louisiana.

Mr. President, there has been great encouragement on the part of the majority leader for us to get moving on this bill. I have an amendment. I am prepared to offer it. I do not see anyone to manage for the majority side. I wonder if in light of all of this urging that the Senate get about its business if we are going to see the floor manager for the majority here. Does the Senator from Louisiana know anything about that?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I am advised that the Senator from Oregon is en route here. I am sure he will be here at any second.

Mr. HART. Mr. President, would it be in order for the Senator to introduce his amendment to get the debate going or should I wait?

Mr. JOHNSTON. Mr. President, if the Senator would like to lay down his amendment and get it up——

Mr. MELCHER. Will the Senator yield to me?

Mr. HART. Yes. I yield to the Senator from Montana.

Mr. MELCHER. I ask unanimous consent the Senator may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. I have an amendment I believe is going to be accepted. I wonder if the Senator will withhold.

Mr. HART. How long will it take?

Mr. MELCHER. It will only take 30 seconds.

I thank the Senator.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. HART. Yes.

Mr. DOMENICI. Is this amendment with reference to the wilderness?

Mr. HART. It is, indeed. The amendment is a sense-of-the-Senate resolution.

Mr. DOMENICI. I wanted to advise the Senator's counterpart. As I understand, he has an interest in this. If this is a wilderness preservation amendment, I would want him to know.

Mr. HART. We have notified my colleague from Colorado that the amendment will be brought up.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. HART] proposes an amendment numbered 1392.

At the end of the joint resolution, insert the following new section:

SEC. . It is the sense of the Senate that no funds available pursuant to this Act may be used by any Federal agency or department to provide a permit for any commercial activity that would adversely affect the wilderness characteristics of any area proposed for wilderness designation in S. 69, 99th Congress.

Mr. HART. Mr. President, the amendment I have sent to the desk is just six lines long. Its brevity speaks to its simplicity. It requires no spending. In fact, it expresses the sense-of-the-Senate in opposition to an expenditure. It requires no regulatory action, and it should not interfere with any current commerical activities.

Mr. President, this sense-of-the-Senate amendment simply indicates that no Federal agency—specifically the U.S. Forest Service or Bureau of Land Management—should grant a permit for any activity that would damage the wilderness characteristics of Colorado lands now awaiting permanent designation as wilderness.

Mr. President, the lands in question comprise more than 700,000 acres, nearly all of them selected in 1984 by my colleague from Colorado, Senator ARMSTRONG, and myself, as candidates for wilderness protection in our own home State of Colorado. They are currently embodied in a bill—S. 69—which I introduced on January 3, the first day of this session.

Mr. President, nearly all of these lands, excepting a few adjacent acreages added in consultation with interested parties within the State were originally indentified for wilderness preservation through the Rare 1 and Rare 2 processes, which involved literally thousands of Coloradans, and months and years of activity.

The wilderness designation of these lands has been interrupted by disagreements within our own delegation and among interested parties in our State and elsewhere. These disagreements have little if anything to do with either the commerical value or the wilderness qualities of the acreage in question. The sticking point is the traditional issue of water rights, and the applicability of water rights to these prospective wilderness lands.

Mr. President, the relationship between wilderness and water rights was the subject of a ruling 2 weeks ago by a Federal district judge in Denver.

This Senator shares the judge's view that conflicts between wilderness water needs and other water uses are likely to be rare and the rights of all can be respected without resort to further litigation.

But whether we follow such a course of compromise between Coloradans or subject the issue to further review in the Federal courts, we know it is going to take time. And that means the fruits of our long campaign for wilderness in Colorado will still be withheld from all who would enjoy them.

Worse yet, it means that commercial activities not yet underway—activities allowed under current or future permits—may despoil portions of the candidate lands in question before their legal and permanent protection as wilderness is in force.

Obviously, Mr. President, this would not serve the interests of any of the parties involved. And it would not serve the purposes of the Congress, which has clearly indicated its willingness to designate and protect wilderness lands.

We cannot address the controversy itself today. That is not the intent of this Senator. We will need more time for either Coloradans or the courts to settle that. But we can act here today to prevent any interim uses of these lands that might otherwise render the eventual decision moot.

This Senator does not wish to be pessimistic, but we could face years of delay if the issue at hand goes back to court. And what happens to these singular lands while we wait? Do we want them laid open to exploitation in the interim? If we allow this, we may well lose the horse before the courts get the barn door closed.

Mr. President, we have sought the protection proposed in this amendment through communications with the Forest Service itself. While we have appealed for management of these lands by the spirit of the wilderness law—we have been informed by the Service Administrator that only the letter will be observed.

We appeal here only for the treatment of candidate lands that is followed throughout most of the Nation's wilderness study and further planning areas.

Such protection is now denied Colorado candidate lands by section 105(c) of the 1980 Wilderness Act. This section, passed when we expected to complete the designation process well before mid-decade, exempts Colorado from the protection given candidate lands elsewhere from livestock grazing, oil and gas, and mineral exploration.

Even now there are live permits for timbering and live leases for oil and gas in lands envisioned for wilderness designation in S. 69.

In Colorado, several organizations concerned with wilderness preservation have compiled a list of such threats. These groups—the Sierra Club, the Wilderness Society, the Colorado Mountain Club and the Colorado Open Space Council—document dozens of instances where encroachment impends. But what matters is that encroachment is possible at all.

Without this amendment, we have no protection against these potential encroachments.

When I expressed concern about this situation in the past, I have been told these lands were safe from any dilution of their wilderness desirability. I was told that no one was threatening these lands—yet.

If this is so, if these particular lands are not threatened, then surely no one can object to this amendment, which seeks to forestall a threat some say does not exist. If these lands are not threatened, then surely there is no reason they should not enjoy the same protection afforded such lands in others States.

Mr. President, I ask unanimous consent that the addendum to my statement, which lists the areas under discussion for wilderness designation and the actual or potential threats for commercial activity in those lands, be included in the RECORD.

There being no objection, the update was ordered to be printed in the RECORD, as follows:

UPDATE ON ENCROACHMENT THREATS

[These are the sites of greatest concern to the enviro consortium that performed the 1984 survey of threats to lands that would become wilderness under S. 69. This list comes from Alan Salazar's latest consultation with the umbrella organization, the Colorado Open Space Council. Refer to their 1984 survey.]

(1) Service Creek (Further Planning Area) potential timber sales.

(2) Sangre De Cristo (Wilderness Study Area) oil and gas lease applications currently pending with Forest Service.

(3) Buffalo Peaks—timber and habitat manipulation by the Forest Service in the WSA.

(4) Wheeler Geologic Study Area—now allowing motorized vehicles.

(5) Cannibal Plateau—more off-road vehicles.

(6) Oh-Be-Joyful—access to surrounding non-wilderness area for mining development has already been permitted by Forest Service and affirmed by the Secretary.

(7) Greenhorn Mountain—proposed for opening for timbering; some acres already leased for oil and gas potential.

(8) Davis Peak—timber sales and new roads planned by USFS.

(9) Fossil Ridge—limestone mining industry has expressed interest in leasing here; there's also high potential for gold, copper, silver and other metals.

(10) Piedra—timber sales proposed.

(11) St. Louis Peak—timber sales proposed.

(12) South San Juans—oil and gas leases exist, more applications pending.

(13) Spanish Peaks—applications pending for oil and gas leases.

(14) Williams Fork—timber sales proposed.

Mr. HART. Mr. President, I urge adoption of this amendment.

Let me just say one more time, Mr. President, this amendment does not raise the question of whether these lands should be designated with a wilderness designation. What it does do is

say that no money shall be spent to commercially despoil these lands while that designation is under discussion here in the Senate. I hope the managers of the bill and all Senators will see their way clear to accept this amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator, who is delegated very temporarily to manage this bill, speaks, I believe, for the vast majority of the Members of the Senate in saying that he knows nothing about the controversy over potential wilderness legislation in the State of Colorado. We are dealing with a continuing resolution in an attempt to fund the Federal Government, or much of the Federal Government, for the next 8 or 10 months. Overwhelmingly, this seems to be an inappropriate issue with which to deal in a brief and desultory debate on its merits during the consideration of the continuing resolution.

For that reason, Mr. President, I move to table the amendment of the Senator from Colorado.

Mr. HART. Will the Senator withhold?

Mr. GORTON. If the distinguished Senator from Colorado wishes to speak further, I will withhold.

Mr. HART. I do wish to speak further. If the debate is desultory, it is not the fault of the Senator from Colorado. If someone wishes to oppose this amendment on its merits, I would like to hear from them. Then the debate would not be brief and desultory.

I wonder if I might have the attention of the Senator from Washington.

The fact of the matter is this is an appropriate vehicle for this measure. Steps are being taken by Federal agencies using money from this bill to permit commercial activities on lands that have been discussed and have been selected after months and years of study for wilderness designation. That issue as to whether or not they should be designated has not been resolved yet. But the issue is, if they are commercially developed, it becomes academic.

I do not know any other way to protect the lands in my State than to attach this measure to this appropriations bill. This bill appropriates money for the Forest Service and the Bureau of Land Management that will be used to undertake activities directly adverse to those lands in my State. How can the Senator from Washington stand there and talk about a brief and desultory debate and move to table without a response to my amendment? This is of concern to the State of Colorado. I frankly object to the kind of offhanded way that this is being handled by the manager on the majority side.

The PRESIDING OFFICER. Does the Senator pursue his motion to table?

Mr. GORTON. Mr. President, the Senator from Washington recognizes the strong feelings of the Senator from Colorado but that does not change the proposition that the continuing resolution is not the appropriate vehicle for wilderness legislation. Obviously, it is vital within the State of Colorado. It obviously should be debated on its own merits. Unless there is an agreement with the Senator from Colorado that he wishes to speak further and at length, I renew my motion to table.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HART. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislation clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from New Hampshire [Mr. RUDMAN], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—50

Abdnor	Grassley	Nickles
Andrews	Hatch	Packwood
Armstrong	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Chafee	Hecht	Roth
Cochran	Heinz	Simpson
Cohen	Helms	Specter
D'Amato	Humphrey	Stafford
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Trible
Durenberger	Lugar	Wallop
Evans	Mathias	Warner
Garn	Mattingly	Weicker
Gorton	McClure	Wilson
Gramm	Murkowski	

NAYS—45

Baucus	Dixon	Inouye
Bentsen	Dodd	Johnston
Biden	Eagleton	Kennedy
Bingaman	Exon	Kerry
Boren	Ford	Lautenberg
Bradley	Glenn	Leahy
Bumpers	Gore	Levin
Burdick	Harkin	Matsunaga
Byrd	Hart	Melcher
Cranston	Heflin	Metzenbaum
DeConcini	Hollings	Mitchell
Moynihan	Pryor	Sasser
Nunn	Riegle	Simon
Pell	Rockefeller	Stennis
Proxmire	Sarbanes	Zorinsky

NOT VOTING—5

Chiles	Goldwater	Rudman
East	McConnell	

So the motion to lay on the table Amendment No. 1392 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the issue that has been sort of hovering over this continuing resolution ever since we introduced it to the floor had to do with a conflict between the Committee on Armed Services and the Subcommittee on Defense of the Appropriations Committee. Over the last few days they have been meeting, and it appears now that there has been a resolution of that matter, which means that we can now see the light at the end of the tunnel.

I hope that after I yield for the purpose of the Senator from South Carolina making a report of this ad hoc group that has been meeting, we can handle that by a voice vote and then move on to clean up the remaining amendments.

A number of Senators have contacted me and Senator JOHNSTON and indicated that they will not offer amendments which were on the list last night. They would refrain from offering such amendments. It appears that that list of 38, on the basis of those Senators who have indicated to me their willingness to withhold, is down to about a half-dozen or maybe fewer.

We do have an SDI question on which there are four amendments which may be offered. We hope to work out some arrangement whereby that issue can be handled at one time.

In other words, it appears that we may be able to finish perhaps by 5 o'clock, if these matters can be handled as I have outlined.

I just wanted to make that report to the Senate.

At this time, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I send a resolution to the desk.

Mr. BYRD. Mr. President, I am a little concerned over the prognostication that has been presented here. It is probably not accurate, at this point, insofar as this side is concerned.

I had, in the conference today, indicated that the two managers were very desirous of pressing ahead if they can get final action on this measure today.

I indicated that I had three, or four amendments but that I would be very willing not to offer any of them to this resolution if others restrained themselves, and I asked for a show of hands

from those who would restrain themselves. There must have been 20 hands.

I later found, however, that the hands that went up were of Senators who did not intend to call up amendments anyhow, and whose names were not on the amendment list.

Mr. President, I would like a little further opportunity on this side to shop around a little and work with Senator Johnston who is managing the bill and see if we indeed can reduce the number of amendments as much as possible.

Mr. President, I still stand before you and say I will be happy to restrain myself in the offering of amendments if others will do so.

Do I understand that Senators on that side of the aisle are going to withhold the urge to call up amendments?

Mr. HATFIELD. Mr. President, I say to the Senator that I have had Democratic Senators, including the Democratic leader, indicate a willingness to withhold amendments. The Democratic leader indicated that to me this morning.

I have had Republican Senators with very controversial amendments who have indicated their willingness to withhold. As an example, the Senator from North Carolina [Mr. HELMS] indicated I could say he would be willing to withhold an amendment on parental consent for contraceptive devices.

That is merely an indication that Senators are anxious to wind this up, as I have interpreted those offers, and if we can get that kind of mood rather than, I would hope, the Democratic leader when he said "shop around" it is not a matter of inviting more amendments.

Mr. BYRD. No.

Mr. HATFIELD. Because last night we were down to about a half dozen and sent out a couple of hot lines and by the time the hot lines reported back, we had about 38 amendments.

I would hope we would not make out an invitation for amendments but, rather, a disinvitation.

Mr. BYRD. Mr. President, may I ask the distinguished majority leader if we really are going to try to adjourn this body sine die this week. I have a notion that Senators on my side feel that, after all, we are not going to go out for the week anyhow, so they should go ahead and call up their amendments. And I doubt the majority leader will be able to say much because he probably does not know what is going to happen in conference. But does he feel that we stand a fighting chance of getting out this week, if we can get this resolution passed today?

Mr. DOLE. Mr. President, in my view, there is a possibility that we can get out this week—I have been saying there is a glimmer, and it is still a glimmer, but how quickly we get out depends on how quickly we can move this bill into conference.

We have a farm bill conference that we think we can complete by tomorrow. The House is acting on the farm credit bill as we speak, or maybe they have already finished. And there will be a very short conference.

We hope to have Gramm-Rudman on the floor by Thursday morning. That leaves the continuing resolution conference report and the reconciliation report.

Of course, we do not have the others in hand yet. So my view is that we have a 50-50 chance of getting out this week.

In addition, I am advised, at least the Speaker indicated this morning at the White House meeting that he felt if we passed the continuing resolution and the debt ceiling we should leave here. I do not share that feeling. We have to pass the farm bill and farm credit bill and hopefully the reconciliation bill.

But we cannot go to conference until we finish this bill and there will be a very long conference. There is about $400 billion in spending involved in this matter.

Until Members decide that we have a chance to go home and stop offering amendments, there is no chance of going home this weekend. We need some bipartisan tabling efforts around here.

Mr. BYRD. Mr. President, will the distinguished majority leader state what legislation we would have up before us tomorrow? In the event the Senate does complete action on the continuing resolution tonight, is there any one of the "must" conference reports that would be ready for action in the Senate tomorrow?

Mr. DOLE. Probably not, but it would permit our conferees to be off the floor. In fact, we were reminded today in our policy luncheon by the distinguished Senator from Alaska [Mr. STEVENS] that they would like to have a 24-hour period with no rollcalls so they could all go to conference and more or less resolve some of the issues.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. BYRD. I yield the floor.

Mr. McCLURE. Mr. President, I just want to make the following point that I think is absolutely essential to understand, which is the people who are managing this bill on the floor are all the same people that have to be in the conference to resolve this when it goes to the conference. They have to be in the conferences that are necessary to resolve the reconciliation. They have to be in the conference with respect to the Gramm-Rudman and debt ceiling.

You simply cannot be legislating here on the floor with everyone being held here on the proposed amendments and conduct the businesses of the conference.

Mr. BYRD. The Senator makes a valid point.

Mr. McCLURE. Yes.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1393

(Purpose: To prohibit obligation or expenditure of funds not authorized by legislation other than this joint resolution)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for himself and Mr. NUNN, Mr. STEVENS, Mr. STENNIS, Mr. WARNER, and Mr. McCLURE proposes an amendment numbered 1393.

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, none of the funds appropriated pursuant to this joint resolution to or for the use of the Department of Defense may be obligated or expended for any purpose unless such funds have been authorized to be appropriated for such purpose by law other than this joint resolution. However, the preceding sentence does not apply to funds appropriated pursuant to this joint resolution for Coastal Defense Augmentation; $375,000,000.

Mr. THURMOND. Mr. President, as ranking majority member of the Armed Services Committee and acting chairman in the absence of Senator GOLDWATER, I am very pleased we have been able to bring a resolution to the issue in question.

I commend Senator STEVENS and all the members of the Appropriations Defense Subcommittee for the fine work they have done in preparing the defense portion of the continuing resolution. Senator STEVENS and his subcommittee members have a difficult task ahead in negotiating with the House conferees on many very controversial defense programs. Those of us on the Armed Services Committee want to lend our support for Senator STEVENS' efforts and want to ensure that he has all the flexibility he needs to negotiate successfully in that conference.

To that end, we have reached an agreement with the Appropriations Committee on the issue of appropriations which exceed authorizations. We have agreed that those appropriations accounts which exceed the authorization account levels will be subject to a subsequent authorization. However, we have also agreed to exempt the coastal defense augmentation fund from this requirement in this year's budget.

Mr. President, I wish to express my appreciation to Senator STEVENS and all the members of the Appropriations Committee for their cooperation in helping to resolve this very difficult jurisdictional problem. I also express

Senator GOLDWATER's appreciation. Unfortunately, he is not able to be here with us today. Mrs. Goldwater is extremely ill.

Senator GOLDWATER came yesterday, but he was called back, and we are very sorry that he could not be here at this time.

We extend our deepest regrets to Senator GOLDWATER on the illness of his wife.

Mr. President, I wish to state that this arrangement was signed by myself, Mr. NUNN, the ranking minority member on the Armed Services Committee; Mr. STENNIS, a member of both the Appropriations and Armed Services Committees; Mr. WARNER, a member of the Armed Services Committee; and Mr. STEVENS and Mr. MCCLURE representing the Appropriations Committee.

Mr. STEVENS. Mr. President, I compliment the members of the Armed Services Committee and my good friend from South Carolina, the Senator from Virginia, also, and the others who have signed this agreement for their willingness to reach an accord over the thorny authorization issue raised this year by the defense appropriations bill.

I fully understand the concern they feel over the direction of the appropriations for the Department of Defense which was necessitated by the extremely difficult problems raised by the budget authority and outlay constraints of the congressional budget resolution.

Many concerns remain, I know, and it was not easy to reach an accord that satisfied all negotiators on this issue.

It is my hope, Mr. President, that we will not have to confront this problem in the future, and I intend to say something about that later as we consider this bill.

So, let me now set forth the terms of the agreement, as I see them, and ask the distinguished acting chairman of the Armed Services Committee if my statement fully reflects our understanding.

First, under this agreement, it is the intent of the agreement to require subsequent authorization of all amounts in excess of authorization in those appropriation accounts that went above the amounts set forth in the 1986 fiscal year defense authorization bill. These accounts are specifically cited in the Appropriations Committee report accompanying the Senate-reported defense appropriation bill. I ask unanimous consent that that material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDED APPROPRIATIONS OVER AUTHORIZATION

Recommended appropriations acutally over authorization act reported under Senate Rule 26, paragraph 12:

[In millions of dollars]

Appropriation	Amount	Amount over authorization
O&M, Army Reserve	793.1	13.0
O&M, Air Force Reserve	910.2	8.1
O&M, Army National Guard	1,656.5	30.7
Ammunition, Army	2,588.2	39.2
MCM ships (shipbuilding)	197.2	30.1
ARTB training ship (shipbuilding)	190.0	165.5
Other Procurement, Navy	6,463.6	422.7
Other Procurement, Air Force	8,831.7	260.6
Procurement, Defense Agencies	1,342.3	84.6
Guard & Reserve Equipment—total	(658.4)	(1,405.4)
Army Reserve	440.0	440.0
Navy Reserve	230.0	210.0
Marine Corps Reserve	100.0	80.0
Air Force Reserve	230.0	110.0
Army National Guard	590.4	475.4
Air National Guard	150.0	90.0
R&D, Air Force	13,861.1	141.4
R&D, Defense Agencies	7,033.7	313.3
R&D, Office of Test & Evaluation	143.5	50.0
Total		2,962.2

Mr. STEVENS. In addition, subsequent authorization is required by this amendment for the counterterrorism contingency fund, for which $100 million is appropriated, and the ADP management fund for which $150 million is appropriated. The $375 million coastal defense augmentation account is specifically excluded from this agreement and the parties agree no additional separate authorization is required for that funding.

Further, this requirement for subsequent authorization does not apply to the allocation or transfer of prior year funds.

I wish to ask the distinguished Senator from South Carolina, the acting chairman of the Armed Services Committee, if my statement fairly represents the substance of our agreement.

Mr. THURMOND. Mr. President, in response to the able Senator from Alaska, I will say that in our opinion it does reflect the agreement reached.

Mr. STEVENS. I thank the Senator very much. I regret deeply that my good friend from Arizona is not here. I do not think anyone in the Chamber has greater love for that man than I do. He has been called away on a personal problem. Our thoughts and prayers are with him and Mrs. Goldwater.

But he is very concerned about this. I am hopeful that the agreement that we have reached will allay his concerns and will enable us to proceed now with the bill.

Mr. President, in my judgment, were it not for the constraints of the budget outlay consideration which applied to the defense appropriation bill, but did not apply to the authorization bill, we would not have had this problem. We will attempt to alleviate that, as I said, for future consideration.

I do wish to thank my good friend, the chairman of the Appropriations Committee, for permitting me to negotiate this on behalf of the committee.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I just want to make some remarks of thanks and appreciation to the other Members that have done months and really a year's work on these massive matters that are included in this agreement. It is one of the finest pieces of work, in many ways, that I have seen happen here on a concern not only for our preparedness, but it concerns most of the membership here because of items that are in their States and they will get inquiries about this. And it goes to some of the important parts of our whole military program.

I really have not gotten into appropriations of this kind lately, and I was surprised at the demands and the extent of the work that is required by the membership and by the staff members. They did an exceptionally fine job. These hearings run on this for 6 or 8 months, maybe. One thing that makes the confusion is that the testimony favoring authorization comes along in the early part of the year and then the testimony requesting the appropriations will come along at the last part of the year. Many other facts can intervene.

So this illustrates the growing difficulty and enormous load of work and judgment that is required here to give these items the proper attention.

I, frankly, do not believe that we can continue to carry on the high quality of work that has been done so far unless we straighten out the system of marking of appropriation and authorization bills and also avoid so much repetition in these procedures.

This is a complete agreement. It covers everything under consideration for this year, without impinging on any of the things that may come up next year regarding the same subject. Again, I wish to emphasize the fine work that has been done by the other Members, not including myself. I know they did a fine job on the merits. I know it is a great service to the country and to this body, the Senate.

I yield the floor.

Mr. NUNN. Mr. President, I will not explain the amendment further. The Senator from South Carolina has done that very well.

I also wish to commend the Senator from South Carolina for taking charge of the committee in the absence of Senator GOLDWATER and dealing with some matters of extreme importance at the end of a session. Senator GOLDWATER has stayed in touch on this particular matter, as well as others. He has done an amazing job of keeping abreast of the committee activities in these closing days, under great personal strain and personal problems in his own family. I know that all of us have our thoughts and prayers both with Senator GOLDWATER and with Mrs. Goldwater at this time.

Mr. President, I am pleased to join my colleagues in sponsoring this amendment that deals with the issue of unauthorized appropriations.

For those who are not familiar with this issue there is a two-track Senate procedure of authorization and appropriation in the defense area that is underscored in both law and by Senate rules and procedures.

In law, section 138 of title 10 states that "no funds may be appropriated for any fiscal year to or for the use of any Armed Force or obligated or expended for" nine major areas such as procurement, R&D or O&M, unless funds therefore have been specifically authorized by law. The law is very clear and explicit.

Senate rule XVI requires the Appropriations Committee to report every instance where they recommend an appropriation that exceeds an authorized level.

In prior years, the Appropriations and the Armed Services Committees have been able to work out the few instances where appropriations in excess of authorizations arose.

But this year, the level of unauthorized appropriation in the fiscal year 1986 Defense Appropriations bill has reached an unprecedented level. On a budget account basis, the Senate Appropriations Committee bill referenced in the continuing resolution exceeds the levels authorized in the fiscal year 1986 Defense Authorization Act by $3.8 billion. On a program-by-program basis, the continuing resolution provides approximately $7.6 billion for some 97 defense programs, projects, or activities which either exceed the level provided for in the conference report on the fiscal year Defense authorization bill, or were not even included in that conference report.

The Armed Services Committee spent months in hearings and markup and weeks on the floor and in conference. The committee is not willing to overlook either our jurisdiction as provided for in Senate rules and procedures or the requirements of the law for all defense appropriations to be authorized.

This is not a new issue between us. It is one we have struggled with for several years.

We have been meeting frequently during the past several weeks in both the Armed Services Committee and with representatives from the Appropriations Committee to try to reach a resolution with respect to the problem of unauthorized appropriations.

What we have agreed to today deals with the problem of unauthorized appropriations in this bill this year. It also provides a solid framework for dealing with this issue on a permanent basis in the future as we all recognize we must. That long-term solution may involve changes in the Senate rules, or changes in law, or some combination of the two.

The agreement embodied in this amendment is a statutory provision that subjects appropriations in excess of the authorized level to a subsequent authorization before the funds in this bill can actually be obligated or expended by DOD. It operates primarily at the traditional budget account levels. It does not reduce any of the funds provided in this bill.

There is one exemption to the requirement for subsequent authorization and that is for the coastal defense augmentation fund—$375 million. The Armed Services Committee will address the need for an authorization in this area on a prospective basis next year.

In terms of the mariner fund of $852 million, this agreement does not cover that provision. That fund would, however, be subject to authorization in any event due to the provision already included in the Senate-reported version of the Defense Department Appropriation Act. However, all Members have explicitely reserved our rights to both assert our jurisdiction and to challenge that fund if that is the decision of either the Armed Services Committee or individual Senators.

Mr. President, this agreement upholds the jurisdiction of the Armed Services Committee as provided for in Senate rules and procedures and as required by law.

I cannot speak for the chairman, but it is my expectation that our committee would deal on an expedited fashion early next year with the legislative authority needed for any appropriations in the conference agreement on this joint resolution which would be subject to this provision.

As part of this agreement, it is also our understanding that the managers will hold firm on this statutory provision in conference.

This has been a difficult issue. The Armed Services Committee membership has met at least four times in the last week to discuss this matter. In additon, Senators STEVENS and STENNIS have been very generous with their time in meeting with our members. We all miss our chairman, Senator GOLDWATER, who flew back from Arizona to lead us at a critical juncture in our committee's deliberations. I regret the circumstances that required him to return to Arizona.

The successful resolution of this issue is due to his leadership. Our thoughts and prayers are with him.

Again, Mr. President, I want to make special mention of the work by Senator THURMOND who ably acted in the chairman's absence.

I also wish to commend Senator STENNIS for giving us the benefit of his years of wisdom on both the Armed Services and Appropriations Committees. This compromise, as I see it, upholds the jurisdiction of the Armed Services Committee as provided for in the Senate rules and procedures and as required by law.

But I do not believe this compromise solves all of the problems of duplication that have been alluded to by Senator STENNIS, the Senator from Mississippi. I believe we have to sort out ways to improve our procedures and the coordination between our two committees. We are all busy. We all have time pressures. We are dealing with very complex matters.

Senator STEVENS has done, I believe, a good-faith job of trying to cope with his committee and his committee responsibilities. Inevitably, toward the end of a session, there are many things that have changed from the time we made our authorization decisions. On the other hand, we feel very strongly that we go into these matters in great detail. We do not have a monopoly on expertise, but we do believe that, in the final analysis, we have every right and expectation to be consulted with as these matters come down to the wire.

I believe this is a challenge to all of us on both committees to try to find a better way of doing business. We have a situation where the Defense Department comes up and testifies before both committees, and they do this on both sides of Capitol Hill. They also testify before the Budget Committee. We have a situation where all of us are so busy we cannot really do all the things that are expected of us. And yet we are going through the same basic witnesses, the same basic procedures, before both committees. Then we are debating the defense bill on the floor for a couple of weeks, usually in the spring or early summer, on the authorization bill, and coming back in the fall and debating the same thing again on an appropriations bill. Of course, this year, it is being done on the continuing resolution.

Mr. President, I will rest the case here and say that I appreciate the cooperation of all Senators on the Appropriations Committee, led by Senator STEVENS and assisted by Senator MCCLURE; and on the Armed Services Committee. Senator WARNER has also played a major role. Both sides have been dealing in good faith.

These are not easy issues and there are no easy answers. But I believe we have reached the best conclusion we can for the time being.

I do not think anyone ought to believe, though, that these issues are permanently put to rest, because the nature of the process, the complexity of the process, and the fact that we, in effect, have duplicating jurisdictions in many respects, makes this a matter we need to address in order to make our own organization more effective and more efficient.

Mr. JOHNSTON. Mr. President, I, too, wish to congratulate those who were able to put together a very difficult and divisive issue.

I wish to say, on the part of the Appropriations Committee, that it was not an intention to disregard the Armed Services Committee. Rather, I believe, the beginning of this problem came because of the budget resolution which had a particular compromise where we went with the high Senate budget authority and the low House outlays, and that, in turn, drove certain directions for the Senate bill. Specifically, we needed to cut the fast spending programs in order to reduce outlays and increase the slow spending programs to take advantage of the high Senate budget authority in the process to be able to go to the conference committee. That is what this whole matter was about. We hope that next year we are not straitjacketed with that problem.

Mr. President, there is one problem that may or may not be solved within the four corners of this compromise. I hope it is. That has to do with the strategic defense initiative. I have an amendment prepared which I have circulated with a "Dear Colleague" letter which would reduce the strategic defense initiative from the present level in the bill which is $2.9 billion-plus down to the authorized level of $2.75 billion.

My question is this: The account in which the strategic defense initiative lies I think is the defense agencies. Does SDI compromise the entire account so that in effect this compromise holds the SDI down to the authorized level, or is it not possible—I believe it is possible—to hold the SDI account harmless while reducing other items within the defense agencies account?

Mr. STEVENS. Mr. President, I might respond to my good friend from Louisiana by stating that account is subject to this amendment. It is over the authorization in the total amount of $313 million. It is $213 million over as far as SDI, and that would be subject to further authorization if it comes out of conference in that fashion.

It is not something that is immune. It would have to be adjusted to the SDI account by that amount or it would have to be reauthorized.

Mr. JOHNSTON. By how much? By the full amount by which it exceeds the authorization?

Mr. STEVENS. The Defense agencies funding exceeds the authorization more than the amount on SDI. It is $313.3 million over the authorized level. That again is the precise reason the Senator from Louisiana mentioned this—because of the outlay problems. As we come back from conference that will not be the case.

Mr. JOHNSTON. The Senator is stating that it would not be possible within this account to reduce other items in order to hold SDI harmless?

Mr. STEVENS. No. It would not only not be possible but it is not our intention.

Mr. JOHNSTON. It would be possible to do so?

Mr. STEVENS. Not under the terms of the agreement. The overage would be subject specifically to the requirement of authorization to the extent that account is over the amount of the authorization if it comes out of conference in that way.

Mr. JOHNSTON. I understand that is the total account but the account is bigger than just the SDI as I understand it.

Mr. STEVENS. Yes. It is.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. THURMOND. Whatever amount comes out of conference, if it is over the amount, it would be subject to reauthorization. If it is not over, it would not be.

Mr. JOHNSTON. My point is this, I say to my friend from South Carolina: the account in which SDI resides, which is the defense agencies account, contains other items as well as SDI. My amendment prepared for later introduction would have held SDI to the SDI authorization which is 2.75. My question was would the effect of the instant amendment hold SDI to $2.75 billion plus whatever is authorized later up to the amount appropriated here, or would it be possible to come out of conference with the total amount appropriated here and reduce other items within the account?

I think the answer is the other items in the account could be reduced and hold SDI harmless, which means that I would have to go forward with my amendment to achieve the result of holding SDI to the authorized amount.

Mr. STEVENS. I might say, Mr. President, if I may, that would be contrary to the spirit of the understanding we had with the authorization committee. The impact of that, we would have to assume, is that the additions made to that account by the Senate would also survive.

It is our judgment that that could not happen, and as I have said to my good friend, the problem really is to accomplish what the Senator just mentioned in view of the fact it is a House outlay level on budget authority that governs this bill. We had to find accounts which had a low outlay level in order to get to conference with sufficient funds in order to reach an agreement with the House on the overall bill.

As a result of that conference agreement, I am confident that we will not be in excess on the item that the Senator speaks of nor will this account in and of itself have been in excess. Therefore, it is technically subject to the excess requirement, the requirement of authorization for the excess right now, but it should not be when we come out of conference.

I would point out to my friend that, should the impossible happen that he suggests, there would always be the possibility of the Senator from Louisiana offering an amendment to an amendment in disagreement to impose the limitation he suggests ought to be applied to SDI. If he does it at that time, I can tell the Senator I would not oppose it at that time. But right now, I would oppose it because I think it limits our ability to take the funds that are required for a good conference with the House on the overall bill into conference.

It is, after all, the requirement of this committee that we cannot exceed the limitation set by the budget resolution in terms of the outlay requirements on us. And we have not done so nor are we in excess on the budget authority.

I hope the Senator knows that. We are in total compliance with the budget resolution in this bill before the Senate today.

Mr. JOHNSTON. May I suggest a fix on this which I believe will serve the purposes which the Senator from Alaska wishes to serve and also serve my purposes; that is, to add on to this amendment the limitation that not more than $2.75 billion may be available for the Strategic Defense Initiative Program unless authorized later by the Armed Services Committee.

Mr. STEVENS. Mr. President, I would state to the Senator that is what it says right now.

Mr. JOHNSTON. No; I believe it says that there is a larger limitation applying to a larger account of which SDI is only a part.

Mr. STEVENS. I urge the Senator not to confuse this amendment with his amendment. If he wants to bring it up separately, do so. We have a carefully crafted amendment which involves some very technical interpretations of the words as to what are funds and what are appropriated accounts. It has taken a long time to get where we are.

Mr. JOHNSTON. I certainly do not want to upset this. I think it is a very simple fix. I know what we want to do. I want to give life to what the Senator says it does. But I do not believe it does that.

Mr. STEVENS. If the Senator pursues that, by doing so, it reads into this language some implication we have agreed we will not act on this year; that is, the question of the accounts as opposed to the programs and projects and activities within those accounts. We have put that aside for

this year because of the outlay problem. We all admit we have to face it next year either in the authorization and appropriations process, and the Senator raises that specific question by his amendment.

I would hope he would not do that on this amendment.

Mr. NUNN. Will the Senator yield?

Mr. JOHNSTON. Yes; I yield to my friend from Georgia.

Mr. NUNN. Let me see if I can clarify this.

I agree with most of what the Senator from Alaska has said. I certainly would urge the Senator from Louisiana not to offer his amendment. I understand the Thurmond amendment is still pending. Would the Chair inform me if the Thurmond amendment is still pending?

The PRESIDING OFFICER (Mr. ARMSTRONG). The amendment of the Senator from South Carolina is the amendment before the Senate.

Mr. NUNN. I would urge the Senator from Louisiana not to put his amendment on SDI on this Thurmond amendment. This is carefully packaged in the way it has been worked out. This is a jurisdictional kind of package that has taken a great deal of time to negotiate. This authorization—appropriation relationship applies, however, to the accounts, not to the program items. SDI is an item within an account.

The limitation of the Thurmond amendment requires that there be another authorization, if the conference committee on this joint resolution comes out with any appropriations over the account level of authorization. But that would not preclude coming out with a higher SDI items level in the conference report than has been authorized for that item. There is an important distinction between items and accounts.

The agreement we entered into I hope would go through as it is now. There is nothing in the agreement, however, nor could we have precluded individual Senators from trying to reduce any specific items in this appropriation bill. That would be beyond the scope of any group of Senators negotiating off the floor.

I do not intend to challenge items. But if the Senator from Louisiana cares to challenge SDI, F-15's, F-16's, ships, or any other item in this bill, he is entitled to do so.

I hope he would separate that from this very delicately negotiated jurisdicational agreement because if the two are confused we are confusing substance in terms of an individual program, and feelings on an individual program, with an extremely delicate and sensitive jurisdictional type arrangement.

Mr. JOHNSTON. Mr. President, I will not put that fix on this amendment. I thought it would be an easy way to avoid later amendments. I think we have substantially a meeting of the minds on where we would end up on this. I was trying to short-circuit a couple of amendments. I will not put any amendment on this. I will simply endorse the present agreement and hope it will be adopted.

Mr. WARNER. Mr. President, as one of the signatories of this agreement, I personally want to join others in praising the leadership of Senator GOLDWATER, who made a special effort to return. Also, many of us have participated in many days of discussion and owe a special debt of gratitude to Senator STENNIS, who traced the history of the authorization committee and the Appropriations Committee. It was that strong arm which I believe guided us in accepting this on behalf of the Senate. We also have had a learning experience on how these committees can work together in the future, to work together more compatibility and not have this sort of delay.

Mr. PRYOR. Mr. President, if the Senator from Alaska will yield for a question, I would like to ask him a question.

A few moments ago I was in the Chamber when the Senator from Alaska was explaining the agreement which has been worked out and presented on the floor. I compliment all parties to that agreement.

The Senator from Alaska said something to the effect that this particular proposal does not apply to the allocation or transfer of funds. Will the Senator explain what he means by that statement?

Mr. STEVENS. Mr. President, the agreement applies to new budget authority. One of the disputes between the House and the Senate has been in terms of the allocation of savings from prior years and whether or not they have to be reappropriated in order to be reallocated. It has been the position of the Senate that those do not have to be reappropriated because if they did they would then be taken into the Budget Act as a portion of the current year's budget authority. The funds are already available but are in the form of savings. They hit the outlay level but not the budget authority level.

Mr. PRYOR. Then those funds, I think about $5.5 billion from previous years we are transferring those to 1986. Do those funds have to be reauthorized?

Mr. STEVENS. No, Mr. President. They do not have to be reauthorized. They have to be reallocated. There are different types of funds involved. Let me assure the Senator that we have a situation where there are funds that are already appropriated that are available and those funds have been redirected as we have indentified the savings and applied them in terms of the defense program to new areas and, therefore, we really reduced the budget authority required for this year.

Mr. PRYOR. But, you have not reduced the budget authority for this year. I say to my friend from Alaska that this Senator from Arkansas is not a member of the Armed Services Committee of the Appropriations Subcommittee on Defense. These terms should be explained to all Members of the Senate. Would the Senator explain if there is any difference between reallocation and reprogramming?

Mr. STEVENS. There may or may not be. To reprogram would be to shift funds into another program. It could be within the same account or it could be to a different account. We have had some disagreement with the authorization committee on that level and we have decided that that will be resolved in the future, except for this agreement. The agreement is specific in that regard.

Mr. PRYOR. Does the reprogramming bypass the authorization committee, the Armed Services Committee?

Mr. STEVENS. No, it does not. Most reprogrammings are subject to approval by both committees. But in this instance we have, within the same function, redirected some moneys.

Mr. PRYOR. In referring to the individual Senators who have been part of this agreement, knowing it has been labeled as an intricate agreement, I wonder if there could be an assurance which could be generally agreed on this afternoon which could give this Senator some guaranty that we are not about to approve billions and billions of dollars to the Defense Department, or to any other department,for that matter, that are ultimately going to be reprogrammed in the matter of the next several months and utilized for purposes not authorized and maybe not even appropriated by the Appropriations Committee and certainly not brought to the attention of the vast majority of us.

Mr. STEVENS. In allocating the funds, we have determined where they will go. They will not be reprogrammed. In fact, we have put the congressional direction into this Defense Department program.

Mr. PRYOR. But will the individual Members of the Senate get an opportunity to look at those reallocations or amend those reallocations or express our will on the floor?

Mr. STEVENS. They are covered in our report as specified. There is a basic law that requires this. It is a matter that is fully disclosed in the report. By doing so, we save the necessity for further budget authority in subsequent years. We have reallocated these funds in a way that will reduce the budget demand.

Mr. PRYOR. Seen from another perspective, however, it adds to the deficit, and as I earlier stated it amounts to "ghost money". But, I will not take further time of the Senate. This is very troublesome to this Senator. There is no system for proper approval. I think we are losing control of billions of dollars. I have requested the General Accounting Office to give us some figure for the last 4 years as to what has been reprogrammed and, without the consent, in my opinion, of the Senate and House. I am deeply troubled by this whole system.

Mr. STEVENS. If the Senator wants to look at page 358 of our report, it shows, in terms of procurement, for instance, of weapons and tracked combat vehicles that we have a total account level of $4.6 billion. Of that, $240 million has been allocated from prior appropriations so we do not require new money. We have redirected old money into that account. The budget authority level is $4.6 billion. We have also allocated $240 million from prior-year appropriations into that account.

I want to assure the Senator we are saving money.

Mr. PRYOR. I am concerned about saving money and I am concerned about having the Congress put its stamp of approval on where the money is spent. If money is "saved" from previous years, it should be saved, period. Somehow, money saved last year is becoming money not saved this year. I would like to ask the distinguished Senator from Alaska what has happened to the Divad money? Since Divad was canceled, what has happened to that $800 million?

Mr. STEVENS. That money, a substantial portion of it, is in this bill in procurement and in research and development for follow-on air defense systems. The money is no longer available for Divad. It is available under those functions for air defense as requested by the Secretary of Defense and it will be used for air defense follow-on systems.

Mr. PRYOR. I thank the Senator. I appreciate his patience.

Mr. STEVENS. It will not be spent for Divad.

Mr. PRYOR. I thank the Senator.

Mr. METZENBAUM. Will the Senator from Alaska yield for a question?

Mr. STEVENS. I am happy to do so.

Mr. METZENBAUM. I do not myself question the specific amendment, but I ask the Senator to address himself to the incorporating language on page 3 of the resolution, which provides that it shall incorporate the language of H.R. 3629. Under H.R. 3629 we are revisiting a subject that was here a year ago, where we provide for the expenditure of something in the area of $850 million, almost $1 billion, to be transferred to the mariner fund. As I understand it, none existed then and none exists now. Without that amendment, H.R. 3629 or that portion of H.R. 3629, there would actually be $850 million available from shipbuilding and conversion, Navy, funds which were unobligated balances.

Is the Senator from Ohio correct in his understanding?

Mr. STEVENS. Partially. The provision for the mariner fund was passed by the Congress in the Eisenhower administration creating a mariner account.

This provision for earmarking the moneys that were in the unobligated balances of the shipbuilding and conversion account have been transferred into the mariner fund subject to an enactment of legislation establishing such a fund for the construction and lease of militarily useful vessels. That money is earmarked in this bill. It cannot be spent for any purpose other than that and cannot be spent unless there is a bill enacted by Congress for that purpose of building military vessels, the sea-lift vessels that we need. Under the mariner program, if it is authorized, those vessels would be utilized in our commercial merchant marine but be available and maintained, manned, and managed, ready for use in event of emergency. It is a matter that is still subject to debate by Congress. This does not make any money available unless there is a bill passed that authorizes such a program.

Mr. METZENBAUM. Mr. President, did I understand the Senator from Alaska to indicate that there was a mariner fund established in the Eisenhower administration?

Mr. STEVENS. Yes, Mr. President; those moneys are expended already.

Mr. METZENBAUM. So in order to expend these funds, there would have to be created a mariner fund.

Mr. STEVENS. The money is earmarked for a mariner fund if it is authorized by the Congress. The bill specifically provides that this should be for the construction and lease of militarily useful vessels.

Mr. METZENBAUM. Is it not a fact that what we are doing is setting aside $850 million or thereabouts of unobligated balances to be used in a fund that is not yet created and that, absent that language, that $850 million would be used, could be used for reallocation or could be kept in the U.S. Treasury; that what we have here is a repetition of the very same debate that I had with my colleague from Alaska and I think my colleague from Hawaii as well last year on this very same issue. I want to know why we in Congress should be appropriating or allocating funds to a fund that does not exist when, if we decide that we want to have such a fund, at that time, we can provide the funding for the mariner fund as well.

Mr. STEVENS. Mr. President, my good friend can debate the merits of the fund at a later time if he wishes to do so. This merely earmarks those funds in those unobligated balances so they cannot be spent for anything else during this period. It has no budgetary impact until such a fund is in fact authorized by Congress. We have attempted to be as completely open and aboveboard about this as we can possibly be.

What we are saying to Congress is, look, under the current procedure, we acquire vessels, we tie them up to a dock. They are supposedly the ready reserve. It costs us $100 million a year to keep those vessels tied up to the dock. They are not used by anybody. There are no mariners available to put on them that have been used to running them. There is no management for them. Under the Eisenhower concept of a mariner fund, the vessels were built by defense moneys. They were then leased to the commercial merchant marine and were then available for immediate commercial use and both the vessels and the mariners were available on 24-hour notice by the Federal Government for use in an emergency.

It was a true ready reserve. In 8 years, the cost of the current program will be roughly equivalent to the cost of this mariner program. But instead of having ships that are not in use, not maintained, not being manned, we will have a manned program.

Mind you, Mr. President, that requires an authorization to do that. Until that time, all this says to the Navy is do not reprogram or use that block of money for anything else until Congress tells you whether it is going to approve the mariner fund. This does not move any money out of the Treasury, does not spend a nickel, does not cost anything in terms of budget. It just says to the Navy, do not plan to use those funds for anything else. We preserve them to be used for a mariner fund if one is contemplated by the President.

Again, the budget is not impacted by this amendment. The mariner fund is specifically subject to authorization, so it is not part of this amendment that is pending.

I shall be happy to discuss the mariner portion of the bill with the Senator, but we would like to get the understanding we have worked out, a very delicate one, between the Armed Services and the Appropriations Committees approved. I might say that was specifically part of the discussion and we have all reserved our right to debate the pros and cons of the mariner fund when and if it comes before the Senate. It is not before the Senate. All this says is, and I am sure my colleagues will say it is correct, do not attempt to use that portion of these funds for any other purpose because Congress has directed that they be

maintained until we can see whether we establish the mariner fund.

Mr. METZENBAUM. I understand what my colleague from Alaska is saying, but it seems to me at the same time, it is appropriate that we also say that that language which is being incorporated in this resolution, providing for the transfer of unobligated funds, should not take place.

Mr. STEVENS. This does not transfer moneys. In no way does that transfer money.

Mr. METZENBAUM. Mr. President, I think I have the floor.

Mr. STEVENS. I think I have the floor.

Mr. METZENBAUM. The Senator may be my guest. But let me tell him when he says it does not provide for the transfer of funds, let me read the language: "The following unobligated balances of shipbuilding and conversion, Navy, appropriations shall be transferred to the mariner fund."

Then it provides how much in 1982-86, how much in 1983-87, how much in 1984-88, and how much in 1985-89.

Then it goes on: "Provided, that this paragraph shall be effective only upon enactment of legislation establishing a mariner fund for constuction and lease of militarily useful vessels."

Mr. STEVENS. Mr. President, the Senator just read it correctly. It is not effective until such fund is authorized. It serves notice on the Navy that we intend to do it. It does not transfer money yet. It is to be effective only upon enactment of that legislation.

Mr. METZENBAUM. My point is why should we be transferring money to a mariner fund that does not exist when we have such a demand to find money throughout this entire appropriations bill for necessary purposes that we know about. Now we have $850 million that is not tied up, that is free, unobligated, and the Senater is saying we are going to tie them up, hold them on a shelf until such time as there is a mariner fund and we are going to put them in it.

Mr. STEVENS. Mr. President, who has the floor? Do I have the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, again, I want to get this amendment agreed to. The Senator asked me to respond to a question, he took the floor, I did that, I say to him this does not transfer one penny until there is created a mariner fund. Until then it merely puts the Navy on notice not to try to reprogram or use those funds because we have a congressional intent to use them if the fund is authorized. But it is not a transfer section.

We have other provisions in this bill that do transfer money. This one does not transfer a penny until the legislation is passed.

I do not know how I can spell it out any clearer. It is not something that is subject to this agreement, because it does not in fact transfer money yet.

SEVERAL SENATORS. Vote! Vote!

AMENDMENT NO. 1394

(Purpose: To prohibit funds from being used by the mariner fund)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1394 to amendment numbered 1393:

Add the following sentence at the end thereto: "However, no funds may be obligated, transferred or expended for the use of the mariner fund."

Mr. STEVENS. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to table the——

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question before the Senate is the motion of the Senator from Alaska to table the amendment of the Senator from Ohio.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that we may dispose of other amendments while we are working on this amendment.

The PRESIDING OFFICER. Does the Senator request that the amendment of the Senator from Ohio be temporarily laid aside?

Mr. JOHNSTON. The entire subject matter.

The PRESIDING OFFICER. The Thurmond amendment?

Mr. THURMOND. I object to that, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The question now is on the amendment of the Senator from Alaska to table the amendment of the Senator from Ohio.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be permitted to withdraw my motion to table the amendment of the Senator from Ohio.

The PRESIDING OFFICER. Is there objection? Hearing none, the motion is withdrawn.

Mr. STEVENS. Mr. President, the Senator from Ohio has an amendment to the defense appropriations bill to offer, pertaining to the mariner fund. If he wants to offer that as a separate amendment, I am prepared to recommend to the Senate that we adopt that amendment. But I still would resist an amendment to the amendment that is pending, which is an agreement by the two committees, which is a very sensitive matter.

Mr. METZENBAUM. Mr. President, I understand that the Senator from Alaska and the Senator from Georgia and others have been involved in this and there are strong feelings that the language of the Thurmond amendment represents a difficult series of negotiations on this entire subject. I have not been a party to those negotiations, nor do I desire to interfere with them.

I do have a concern, however, with respect to the matter of the $850 million that is provided for the mariner fund. It is my understanding that there will be accepted an amendment on the continuing resolution which would, in effect amend the language that is provided in H.R. 3629 so as to provide that not only would there be a transfer at the time of the establishment of a mariner fund, but there will be accepted language indicating that the expenditure of the funds that are provided in this transfer amendment would have to be authorized by the U.S. Congress.

Is that the understanding of the Senator from Alaska?

Mr. STEVENS. Mr. President, I say to my good friend from Ohio that is the understanding of the Senator from Alaska. We would be happy to accept his modification to the amendment for purpose of clarification.

Mr. METZENBAUM. Mr. President, I withdraw my amendment to this amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1393

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from South Carolina, Mr. THURMOND.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I call for the question on this amendment. I think we can agree to it by voice vote.

The PRESIDING OFFICER. Are you ready for the question?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I am just going to take a few moments. I have been waiting to make a statement on this.

I wish to congratulate the leadership of the Armed Services Committee and the leadership of the Appropriations Committee for working out a very, very delicate situation. We had indications that we might have considerable debate on the floor of the U.S. Senate, so I rise in support of the amendment.

However, I would say, at the same time, I believe that this process that we are going into here, where we revise the traditional positions of the U.S. Senate by appropriating things and then authorizing them later is probably not the most orderly process for this most deliberative body in the world to launch upon.

But, under the circumstances, I think that this is the only way we can resolve this, and I hope that the amendment will be accepted.

Mr. NUNN. Mr. President, I thank the Senator from Nebraska. I apologize to him. I did not realize he was waiting to speak or I would not have called the question. He has been very involved in this in all of the meetings and has been very helpful in his suggestions and his observations.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina [Mr. THURMOND].

The amendment (No. 1393) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1395

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment No. 1395.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike line 22, page 5, through line 4, page 6.

Mr. JOHNSTON. Mr. President, the fiscal year 1986 military construction appropriation bill was signed this morning. This amendment simply strikes the Milcon provisions from this, which are now signed into law.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 1395) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1396

(Purpose: To prohibit the use of funds to conduct, in connection with the Strategic Defense Initiative program, development, test, or evaluation involving any explosive device which uses fissionable material)

Mr. KERRY. Mr. President, I will be sending an amendment to the desk. I would like to discuss that amendment before I do send it to the desk, if I may.

Mr. President, this is a very brief amendment, which states that:

Notwithstanding any other provision of this joint resolution, none of the funds appropriated may be obligated or expended to carry out, in connection with the Strategic Defense Initiative program, development, test, or evaluation of, a warhead, bomb, or other explosive device which uses fissionable material.

Mr. President, the purpose of this amendment is not to stop the SDI program. It is not an anti-SDI amendment. It is an amendment which seeks to hold us, in our expenditure process, to the policy of the President of the United States, as set out on no less than 17 different occasions.

This amendment seeks to ensure that the strategic defense initiative be conducted in accordance with President Reagan's many statements that the program investigate only nonnuclear strategic defenses. The President has directly expressed this wish on a number of occasions, as I stated, most recently when this body went over to the House for the joint session of Congress following the return of the President from the summit on November 21.

On that date of the joint session, the President described his negotiating sessions with Mr. Gorbachev, and how he sought to meet Soviet fears that the SDI Program threatened the Soviet Union.

President Reagan said the following to all of us at that joint session.

Mr. Gorbachev insisted that we might use a strategic defense system to put offensive weapons into space and establish nuclear superiority. I made it clear that SDI has nothing to do with offensive weapons; that, instead, we are investigating non-nuclear defense systems that would only threaten offensive missiles, not people.

As the President stated, he formally told the Soviet Union that the SDI Program had nothing to do with offensive weapons and was only investigating nonnuclear defenses. That is the formal United States position in negotiations with the Soviets at Geneva.

In making this statement to Congress and to Mr. Gorbachev, the President was not being imprecise. He has said that SDI would be nonnuclear on many occasions, in writing as well as orally.

For example, in response to questions submitted by the Times of London on April 10 of this year, President Reagan said:

Our allies know the truth. We have consulted closely with them on the nature and purposes of SDI research is to find nonnuclear technologies which, if deployed, would strengthen stability and enhance our mutual security.

President Reagan made a similar statement on April 18 of this year to ABC of Spain. And in an interview in U.S. News & World Report published on November 18, he was directly asked the question, "Is your SDI system nonnuclear?" The President answered, "That's right. Yes."

Indeed, President Reagan affirmed that SDI was a nonnuclear program in his State of the Union Address on February 15 of this year, stating that the program is "A Strategic Defense Initiative aimed at finding a nonnulcear defense against ballistic missiles."

So President Reagan has told not only the Soviets and the Congress but our allies and the American people as well that SDI research is nonnuclear.

Mr. President, I believe that we have a responsibility to make sure that the SDI Program complies with the President's negotiating position in Geneva, and complies with his description of it to our allies, complies with his description of it to the Congress, and most importantly, complies with his description of it to the American people.

Accordingly, this amendment would prohibit funding under the strategic defense initiative—not under other areas but under the strategic defense initiative which is supposed to be nonnuclear. It prohibits the funding of any development, test, or evaluation of a warhead or bomb or other explosive device which uses fissionable material. Let me make very clear it does permit research. It does not put us in the po-

sition of falling behind the Soviet Union. It does not put us in the position of being subject to breakout by the Soviet Union.

We may research. We should research. We should indeed do everything we need to do to safeguard ourselves against the eventuality of any Soviet breakout. But it does guarantee that we are not unilaterally proceeding ahead on our own with the creation of the new nuclear bomb device which in and of itself would be a violation of the outer space treaty were it put in outer space, and even if it were in a popup system would also be a possible violation of that treaty.

In other words, this amendment would make certain that the SDI Program only goes forward with nonnuclear defenses, just as the President proposed that it ought to to the people of this country.

You may ask why such an amendment is necessary, given the President's clear and repeated statement?

The amendment is necessary because, as press accounts confirm, the United States is engaged in rapidly developing nuclear defenses under the SDI Program in the form of the x-ray laser, which is driven by a nuclear explosion. Indeed, these nuclear defenses are being frantically pushed toward development, despite the President's directive.

The director of the SDI Program, Lt. Gen. James Abrahamson, admitted this recently to Defense Week, when he said that "we are all convinced that the x-ray laser research program is one that should be accelerated as quickly as possible, and, yes, we are trying to accelerate it."

To date most of the funding for this concept remains under the Department of Energy, and nothing in my amendment touches the money in the Department of Energy. The Department of Energy will continue its effort. What this does is says that what we say the SDI Program is, it will in fact be. The Department of Energy has more than $100 million dedicated to this.

But we are funding the nuclear powered x-ray laser under the SDI Program, too. The SDI request for fiscal year 1986 includes—and I quote as it is captioned in this particular bill—"Nuclear-Driven Directed Energy Concepts," for which funding was requested at $28.6 million for this year and $48.68 million for next year. According to the unclassified SDI report to the Congress, these funds are to supplement efforts in the Department of Energy to develop nuclear-driven directed energy for the purposes of strategic defenses.

While this project, the x-ray laser, is highly classified, it is no secret—and in fact has been published in nonclassified form—that the laser gets its destructive power through the detonation of a nuclear bomb in space—and that this new type of nuclear weapon may well be more effective for the offense than for the defense, just as the Soviets fear.

For example, Newsweek describes the x-ray laser in the following terms:

> The most significant recent advance in space-based missile-defense research is the x-ray laser—and it may turn out to be more effective on offense than defense.
>
> Powered by a nuclear explosion, the x-ray laser would emit a lethal blast of x-ray beams in the milliseconds before the device destroyed itself. In the Star Wars defense scenario envisioned by physicist Edward Teller, the father of the hydrogen bomb, a phalanx of x-ray lasers born aloft by rockets would "pop up" at the first warning of a nuclear attack to shoot down enemy missiles . . . But in fact, the x-ray laser might be even more effective against the Star Wars satellites and space-based battle stations, with their known and well-potted positions, than against incoming missiles.

Another possibility for the x-ray laser, is that these nuclear weapons would be put in orbit. Either way, as Steven Rockwood, the director of SDI research at Los Alamos, told Science magazine recently, the x-ray laser will inevitably be viewed by the Soviets as a nuclear weapon with the potential to be used offensively, as well as defensively.

Mr. President, I ask my colleagues to pause and think about this. Our own director of SDI-owned research at Los Alamos is saying that this weapon has offensive capabilities. And I quote him.

> What would you think if this satellite is passing over Washington 5 times a day and you know it's carrying a nuclear weapon?" Dr. Rockwood asks. "Will you trust me that it's only a defensive weapon, and not something that can be dropped on your head without any notice or warning? I don't think the Soviets in their paranoid attitude will ever believe what we tell them.

As the Los Alamos scientist recognized, the key problem with the x-ray laser is that a nuclear weapon that is being developed for defense can also readily be a nuclear weapon which can be used for offense—exactly as the Soviets feared, exactly as Mr. Gorbachev expressed to President Reagan at the summit.

That is why it is so important that we follow the President's wishes. We must make certain that the SDI Program does not continue to develop the dangerously destructive nuclear powered x-ray laser.

As the Los Angeles Times recently editorialized, the x-ray laser is nothing less than a new type of nuclear bomb:

"Assuming that such a device can be built, there are practical objections," the Times editorialized:

> As generally perceived, a fleet of nuclear-armed laser devices would have to stand guard in permanent Earth orbit. Since the nuclear pump is really a bomb, we aren't sanguine at the prospect of dozens or hundreds of these bombs—some American, some Russian—whizzing around overhead. Critics also note that nuclear-pumped lasers would probably blow up other parts of a defense system that were anywhere near them. And nobody has explained why Livermore is spending more than $100 million a year on nuclear x-ray laser research when the President says that the defense shield should be non-nuclear.

If we continue to fund the x-ray laser, we are funding the development of nothing less than a nuclear weapon in space.

I ask my colleagues to question in this vote particularly whether we are prepared to tell the American public that the strategic defense initiative is not nonnuclear; that the strategic defense initiative is not what the President has told the Congress; that it is not what he has told the leader of the Soviet Union in Geneva.

Are we prepared to tell the public the strategic defense initiative is to develop technologies to put nuclear weapons in space?

I think we should make the decision today that that program ought to be what we say it is.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. KERRY. I yield for a question.

Mr. JOHNSTON. Is the Senator aware that the President has, on 17 separate occasions in the last 12 months, described the SDI as nonnuclear?

Mr. KERRY. Yes, the Senator is aware of that. I thank the Senator for pointing that out. On at least 17 occasions it has been pointed out that it is nonnuclear.

I do not think there is a Senator in this institution who does not recall vividly the President of the United States proposing to America, in a justifiable vision of what we would like this world to be as a nonnuclear world, proposing to America that this system was going to render nuclear weapons impotent and obsolete.

I ask my colleagues how it is that we can already be funding a new nuclear explosive device that we are willing to contemplate putting into space. Or even if we pop it up at the moment of attack we are making a lie out of that vision or out of the dream because you cannot have a system that depends on a nuclear explosion to destroy nuclear bombs and render nuclear weapons impotent and obsolete. We would think it a joke of the President's own effort and own vision.

They say, the scientists at Los Alamos and Livermore, it would require nuclear explosions of upwards of 100 kilotons to be able to produce the kind of energy that can be directed through rods in order to be part of a laser process that could destroy an incoming missile.

The reason we are turning to this is because we are so caught up in this idea that we want lasers as part of a defense system and we are in a rush to

try to find the energy that we cannot produce now in order to create those new kinds of lasers.

What are we doing? We are turning to an immediately available source of energy, a nuclear explosion, and trying to harness that nuclear explosion in the process.

I do not think Americans are ready to accept the notion that they are ready to put nuclear weapons in space. I do not think Americans believe that in that advertisement, when they see a shield drawn across houses that repels bombs and missiles, that they believe a heat shield is made up of a nuclear bomb in space.

I do not believe if President Reagan were asked at any press conference or any moment by any Member of this body, that he would answer that he was prepared or seeks to put a nuclear weapon in space.

I ask my colleagues today to say that we are not going to put $28 million under SDI.

If we want to do it, then let us discuss it and do it outside of the parameters of SDI, which we say is defense and nonnuclear.

If we want to develop some new kind of nuclear bomb and we want to proceed ahead in the face of a nuclear offer for a moratorium on testing, let us go ahead and do it. But let us have the common sense at least to discuss it in the context of why we are going to build it and what it is going to add to the strategic abilities of the United States of America.

Again I state, I believe my amendment is not an SDI detraction. It is an effort to try to hold the program on course. It permits research. There is nothing in it that denies research. I believe we should be doing the research to protect this country. But we should not be testing a new device. And I might add, there is going to be increasing effort by this Senator and others to call the attention of this body to the process of the testing.

I ask unanimous consent that there be printed at the end of my remarks a couple of articles, one by Flora Lewis in the New York Times, "The Star Wars Coverup," and another in the Los Angeles Times, "Shadow of Star Wars," which discuss the great discrepancy which is breaking out between scientists in Los Alamos and Livermore over the entire issue of testing. In fact, two scientists have resigned as a result of their feeling that the results of the prior tests have been misreported and the facts miscalculated.

The PRESIDING OFFICER. With objection, it is so ordered.

[See exhibit 1.]

Mr. KERRY. My amendment does not even reach that. My amendment simply says that we are not now to proceed to make this system nuclear in the face of the President's own desire for it not to be and in the face of what I hope will be our common sense.

EXHIBIT 1

A "STAR WARS" COVERUP

(Flora Lewis)

PARIS.—The hyper-selling of "Star Wars" has gone far beyond the childish crayola spot aimed at the general public on TV, beyond the vague claim made to businessmen and allies by the program director, Lieut. Gen. James A. Abrahamson, of progress at an "incredible pace." It has gone to the point of covering up scientific failure in a way that endangers the honesty of research.

Some of the scientists involved are bursting with frustration. They don't know how to cope with this government disinformation campaign. A top official at Livermore and another at Los Alamos, the two national labs where the key research takes place, have resigned, though they are too discreet to explain their decisions.

Ray Kidder, a physicist at Livermore, was quoted in The Los Angeles Times as saying: "The public is getting swindled by one side that has access to classified information and can say whatever it wants and not go to jail, whereas we [the skeptics] can't say whatever we want. We would go to jail, that's the difference."

Energy Secretary John S. Herrington, however, has both denounced the doubters for hurting the national interest in speaking up and called it just a "little squabble" among scientists.

Mr. Herrington said that the next test, scheduled in Nevada this month and named "Goldstone," was going "full speed ahead" despite clear evidence that it cannot be properly measured with existing instruments. The X-ray laser, pet project of the physicist Edward Teller and the centerpiece on which he sold Star Wars to President Reagan, is the current focus of many of the scientists' distress.

It was Mr. Teller himself who leaked last April that a test took place on March 23, and his cronies put out word that it was highly successful. It wasn't. It turned out that the monitoring instruments themselves were excited by the X-rays to emit light. Therefore the brightness they measured was much greater than what the device actually produced and the result was completely unreliable. One scientist in the program concluded that "instead of a weapon we have have a toy."

Undaunted, Mr. Teller went to Mr. Reagan and wangled another $100 million for the project, including this month's test, which will probably cost $30 million. Participants urged a delay until the measuring problem could be solved, which would take six months to a year. That was rejected on the grounds that loss of momentum would be politically unfavorable, even though the test is almost sure to be futile in the circumstances.

Furthermore, although the Administration keeps saying its antimissile program is nonnuclear, the X-ray laser relies on a nuclear explosion for its energy. Insistence on continuing these tests is a major reason Washington won't even listen to the Soviet proposal for a comprehensive test ban.

There are other well-grounded scientific doubts about the X-ray laser. The assumption that it can kill Soviet missiles while they are being boosted rests on their current technology; they take three to five minutes to burn out and carry warheads some 200 miles above the earth. But American experts know that it wouldn't be hard, nor inordinately expensive, for the Russians to accelerate burning time, bringing it down to some 50 seconds and completing the boost at 50 or 60 miles high.

X-rays can't penetrate the atmosphere, and at that altitude they wouldn't get through even if the loss of shoot time could be overcome. But nothing else has been developed as far, so X-ray lasers remain the chief hope for boost-phase missile defense.

The willful distortion of research is a scandal, reminiscent of Stalin's support for Trofim Lysenko's phony theories of genetics because they were politically pleasing. The result set Soviet biology back a generation.

The American physicists working on the Strategic Defense Initiative aren't threatened with the gulag, but they are being put in a demeaning position that undermines their integrity. It isn't a violation of their high security clearance to say that, but it could be if they gave out details to support their stand.

They have been arguing inside the program for some time, to no avail. Apparently they haven't been able to get through to President Reagan to let him know what is happening. That is why their concerns are seeping into public print despite the gag rule.

Apart from the other arguments for and against Star Wars, if it isn't based on good science it can never be anything more than what President Reagan calls it, his "dream." But it could be a devastating nightmare, sapping the authenticity of American science.

SHADOW OVER "STAR WARS"

The results of scientific experiments can only be as valid as the accuracy of the instruments used to measure them. This elemental truth appears not to have been taken very seriously by researchers in one of the major areas of the "Star Wars" program: the quest for an X-ray laser capable of zapping attacking Soviet missiles.

As staff writer Robert Scheer reported in The Times on Tuesday, the Lawrence Livermore Laboratory is proceeding with plans for a $30-million test of a nuclear-driven X-ray laser despite warnings by other government scientists that a key measuring device is faulty and inaccurate.

The experiments involve exploding nuclear devices underground and converting the energy that the explosions release into a powerful X-ray laser beam. As a strategic defense weapon, a nuclear-pumped laser would have to be deployed in space because X-rays cannot easily penetrate the Earth's atmosphere. For the same reason, the laser would have to catch rising enemy missiles after they had entered space.

Assuming that such a device can be built, there are practical objections. As generally perceived, a fleet of nuclear-armed laser devices would have to stand guard in permanent Earth orbit. Since the nuclear pump is really a bomb, we aren't sanguine at the prospect of dozens or hundreds of these bombs—some American, some Russian—whizzing around overhead. Critics also note that nuclear-pumped lasers would probably blow up other parts of a defense system that were anywhere near them. And nobody has explained why Livermore is spending more than $100 million a year on nuclear X-ray laser research when the President says that the defense shield would be non-nuclear.

Those problems all lie in the future. The immediate problem is that project managers at Livermore are claiming dramatic success in underground tests while scientists at the Los Alamos weapons laboratory warn that the tests may not be valid because the device used to measure the laser beam's intensity had a serious design flaw. An internal review by other scientists at Livermore agrees with the Los Alamos assessment of the test results.

Rather than accept the six-months-to-a-year delay that waiting for a new mechanism would involve, the program managers at Livermore are going ahead with plans for a new test. Critics charge that political considerations were a major factor in the decision.

Whatever the motive, it is self-evident that millions of taxpayer dollars should not be thrown away in a test that cannot be accurately and reliably calibrated. The Administration should put further tests on hold until the measuring-equipment problem is solved.

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 1396.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution insert the following: ": Notwithstanding any other provision of this joint resolution, none of the funds appropriated may be obligated or expended to carry out, in connection with the Strategic Defense Initiative program, development, test, or evaluation of, a warhead, bomb, or other explosive device which uses fissionable material.

Mr. STEVENS. Mr. President, the Senator has referred to SDI. We are talking about research into the area of nuclear-driven directed energy. We need to have the capability to understand that technology for the simple reason that the Soviets already have a considerable capability in that area.

In the research, there has been no one talking about sending anything into space with nuclear weapons in it at all. We are trying to understand the concept of the lethality of such technology so that we know our own capability and we know what we might be dealing with, the effect of such weapons against SLBM's, ICBM's, and satellites.

Mr. KERRY. Will the Senator yield?

Mr. STEVENS. Mr. President, I will make a short statement and then I will be happy to yield.

The President has made clear what the goal of our research is. The goal is to achieve a nonnuclear defense against ballistic missiles. That goal does not mean that we forego research and testing in the field of nuclear-driven directed energy concepts. To do so would be sticking our head in the sand.

I am one who has great hopes that we will have a new agreement with the Soviets concerning arms control. We spend a great deal of our time trying to understand the process and the thinking of the Soviets in this area.

We should not put our heads into the sand. I urge the Senate to realize we are talking about research money. This would prohibit research. SDI is a research program. The key is research. Under present circumstances, we are not near developments of anything.

Mr. President, I would be forced to oppose the Senator's amendment and will move to table as soon as he has asked his question.

Mr. KERRY. I thank the Senator from Alaska.

Let me comment for just 1 minute.

The Senator has just said that the President seeks a nonnuclear program, nonnuclear defense. He cannot have a nuclear bomb by definition that drives x-rays. This is an explosion of a nuclear bomb of upward of 100 kilotons to be able to penetrate and do what it has to do.

Even if we can intensify that and it is less kilotonnage, we are still talking about a fissionable product, a nuclear explosion, which, by capturing and separating electrons and speeding them up and having rods in place, directs x-ray lasers at the target.

That target could be satellites, it could be space stations; it does not have to be missiles. It is a whole new development.

Let me ask the Senator, is he aware that in my amendment, there is nothing that prohibits research? It only restricts funds with respect to development or test of a warhead, a bomb, or an explosive device. That is the simple part of it: Explosive device, warhead, or bomb. It does not restrict research.

My head is not in the sand with respect to what the Soviet Union is doing. I am aware that they are doing testing and research. Again, I reiterate, is the Senator aware that there is nothing in this language that restricts research?

Mr. STEVENS. Mr. President, my contention is that the Senator's amendment does in fact restrict research.

Mr. KERRY. Will the Senator point out the language that does that?

Mr. STEVENS. If the Senator would let me finish, I would do that. In prohibiting the test or evaluation of a bomb or explosive device which uses fissionable material, we would be prohibited from testing what we know of the Soviets' progression. We are getting into very classified areas, but we need to know what they know. We need to know what would be the defenses against what they might develop. We certainly need the ability to test, including underground testing of some of the fissionable materials they may be considering in terms of their concept of SDI. Testing is an important aspect of the SDI research program.

Should some of the other aspects of SDI fail, should we be unable to effect an SDI for deployment other than the one that involved the x-ray concept coming out of the nuclear device, this Senator would still back the concept of SDI. So what the Senator's amendment would do would be to forestall the exploration through research projects of SDI, the full spectrum of SDI concepts, the full knowledge of what the Soviets would do.

If the Senator has one more comment, I would be glad to consider it, but I do believe we should move to table his amendment soon.

Mr. KERRY. Mr. President, I know the Senator is giving me an opportunity to air a position here and I respect that. I know it is very, very important. I know the majority leader is anxious to move on and so are my colleagues.

My comment would be that the Soviet Union has offered a moratorium as to testing. They have not tested, we know they have not tested, for a period of time. If we proceed with underground testing, and everybody knows this is one of the great restraints on our willingness to have a comprehensive test ban, it seems to me we are unilaterally setting the arms race onto a different course.

Again, I come back: There is nothing in here that prohibits us from evaluating what the Soviet Union is doing.

I think the Senator from Alaska has just said very clearly that we must go ahead and test—he used the language, "test." So I believe the Senator from Alaska is at odds with what the President of the United States said about whether or not we are going to be developing a nonnuclear versus a nuclear system.

I ask the Senator, is he in fact saying that, notwithstanding what the President says, we should be developing a program different from what the President says?

Mr. STEVENS. Mr. President, I have stated repeatedly this is not a development program, this is a research program. I move to table the Senator's amendment.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, is my understanding correct that there was a sufficient second?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I thank the Chair. I move the question.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay the amendment of the Senator from Massachusetts on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 32—as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—64

Abdnor	Garn	Murkowski
Andrews	Glenn	Nickles
Armstrong	Gorton	Nunn
Bentsen	Gramm	Packwood
Bingaman	Grassley	Pressler
Boren	Hatch	Quayle
Boschwitz	Hatfield	Roth
Bradley	Hawkins	Rudman
Byrd	Hecht	Simpson
Cochran	Heflin	Specter
Cohen	Heinz	Stafford
D'Amato	Helms	Stevens
Danforth	Hollings	Symms
DeConcini	Humphrey	Thurmond
Denton	Kassebaum	Trible
Dixon	Kasten	Wallop
Dole	Laxalt	Warner
Domenici	Long	Weicker
Durenberger	Lugar	Wilson
Evans	Mattingly	Zorinsky
Exon	McClure	
Ford	McConnell	

NAYS—32

Baucus	Inouye	Mitchell
Biden	Johnston	Moynihan
Bumpers	Kennedy	Pell
Burdick	Kerry	Proxmire
Chafee	Lautenberg	Pryor
Cranston	Leahy	Riegle
Dodd	Levin	Rockefeller
Eagleton	Mathias	Sarbanes
Gore	Matsunaga	Sasser
Harkin	Melcher	Simon
Hart	Metzenbaum	

NOT VOTING—4

Chiles	Goldwater
East	Stennis

So the motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, if we may have order, I shall make a short announcement here.

Mr. President, I have been advised by the manager on this side and I think the same goes for the manager on the other side that we do intend to finish this bill this evening.

There have been a lot of inquiries, and amendments are still coming out of the woodwork. I assume whenever they stop coming, or we are sort of on a roll here now on tabling many of these amendments, we can complete action.

There is still some hope that can be done by 6 p.m. or 6:30 p.m.

If not, I am advised by the managers that we will continue into the evening.

Mr. JOHNSTON. Mr. President, to set the right tone here, let me say that I have decided to take yes for an answer from the distinguished Senator from Alaska and not put in my amendment on SDI. I think his assurances given earlier were sufficient to suit me that the bill will not emerge out of conference on SDI at a greater level than that authorized.

I am willing to accept his assurances and I believe on that basis at least two other amendments on SDI will not also be pressed.

AMENDMENT NO. 1397

(Purpose: To require legislation before funds can be expended)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana for [Mr. JOHNSTON] for Mr. METZENBAUM proposes an amendment numbered 1397.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution add the following new language:

In the lanugage to be incorporated from H.R. 3629, on page 51, line 21, after the word "legislation" add the following "authorizing such expenditures and."

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of Senator METZENBAUM and gives life to the agreement that was affected earlier between him and Senator STEVENS making clear that the Mariner Fund must be authorized before such expenditures can be made.

Mr. STEVENS. Mr. President, could the Senator read to the Senate how the section will read if that is adopted.

Mr. JOHNSTON. Yes.

Mr. President, at the appropriate place in the resolution, the words "authorizing such expenditures and" will be added.

The continuing resolution references the defense appropriations bill and the phrase "authorizing such expenditures and" would, therefore, be added to the language referenced from the defense appropriations bill.

Mr. STEVENS. So it will read "that enactment of legislation authorizing such expenditures and establishing a mariner fund." That is the way it will read; is that right?

Mr. JOHNSTON. The Senator is correct.

Mr. STEVENS. Mr. President, I have no objection. That is pursuant to our previous agreement, and I urge adoption of the amendment.

Mr. METZENBAUM. Mr. President, the Senator from Louisiana has on my behalf offered this amendment. There has been some disagreement previously about offering an amendment on the agreed-upon amendment that had been worked out between the Armed Services Committee and the Military Appropriations Subcommittee. I was asked not to go with the amendment at that point but, rather, to offer it at a subsequent point.

There were also some changes made with respect to the language.

This is an acceptable compromise to the Senator from Ohio and I am pleased to see that it will be accepted.

I think the basic issue is that this $850 million not be expended without Congress having an opportunity to indicate that it approves of such expenditure.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1397) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1398

Mr. BOREN. Mr. President, on behalf of myself and Mr. GRASSLEY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself and Mr. GRASSLEY, proposes an amendment numbered 1398.

At the end of the joint resolution, insert the following new section:

Sec. —. None of the funds made available by this joint resolution, or any other Act, to the Department of Defense may be obligated or expended for new contracts or subcontracts entered into by any military department with the General Dynamics Corporation or any of its subsidiaries, which are now under suspension, until at least 5 days after the Secretary of Defense reports to the appropriate committees of Congress that the Department of Defense intends to

remove the suspension of either the entire company or of any individual subsidiaries thereof.

1. Such report shall specify the degree to which the contractor or subsidiary has implemented an effective and reliable policy of ethical business conduct which is fully operational and functioning properly

2. Such report shall further include the recommendations of the Secretary on the advisability of reclaiming title to government-owned property if corporations, utilizing such property, are found guilty of defrauding the Government.

(Mr. LAXALT assumed the chair.)

Mr. BOREN. Mr. President, I have not stopped the clerk from reading this amendment in full because I wanted the Members to be able to listen carefully to what it does.

It provides that there be no new contracts or new subcontracts to the General Dynamics Corp., now under suspension by the Department of Defense for its past conduct, until at least 5 days after the Secretary of Defense has notified the appropriate committees of Congress that the Department of Defense intends to lift the suspension. The report which he would make to the committees of Congress would spell out the degree to which, in the belief of the Secretary of Defense, the contractor or the subsidiary has implemented an effective and reliable policy of ethical business conduct which is fully operational and functioning properly.

It would also further include any recommendations of the Secretary on the advisability of reclaiming title to Government-owned property if corporations, utilizing such property, are found guilty of defrauding the Government.

I would point out that this does not require that the Secretary act on the suspension in terms of the total company. The flexibility would remain in the hands of the Secretary to either continue the suspension which now exists against the entire corporation or it would allow the Secretary to lift portions of the suspension against individual subsidiaries or divisions of the company if that was found to be in the national interest by the Secretary of Defense.

It does not tie the hands of the Secretary. The Secretary of Defense has already taken an action to suspend the granting of new contracts or subcontracts with the General Dynamic Corp.

I would like to review with my colleagues the situation with which we are dealing. On March 5, Secretary Weinberger ordered a freeze on all overhead payments to the General Dynamics Corp. to last until the company changed accounting and management practices to prevent charges to the Government for expenses unrelated to the production of weapons.

On March 25, General Dynamics announced that it would withdraw $23 million in overhead charges for the years 1979 to 1982. The company had charged $170 million for overhead expenses, of which the Defense Contract Audit Agency had challenged $63.6 million.

The Pentagon auditors, on April 4, found that General Dynamics charged the Government, over the last 12 years, $244 million more than it should have. DOD announced on April 30 that it had received full restitution of these charges.

Mr. President, I believe we are all aware of those kinds of charges that have been publicized and publicized in the records of Congress, the hearing records of both the House and the Senate Committees on Armed Services. For example, in 1982, according to our own reports, General Dynamics charged the Pentagon $18,000 for country club dues, and for corporate executives flying the chairman to a Georgia farm; $330,000 for promotional giveaways, including art work, branding knives, tie tacks, hats; $577,000 for dinner parties, caps, golf shirts, and I could go on and on. I believe all of us are aware of the kinds of expenditures that have been made.

As I say, the Department of Defense found and announced on April 4 that there had been overcharges of $244 million—not $244, not $244,000, but $244 million over this period of time.

The Secretary of the Navy, John Lehman, suspended two of General Dynamics' divisions on May 21. He also canceled and repealed two contracts of $22½ million. He fined the corporation $676,000 for gifts, over some years, to Admiral Rickover, who rejected recommendations to ban three top General Dynamics officials. In May, however, the chairman and chief executive officer announced his resignation.

This ban on General Dynamics was lifted in August. Now, just a few months later, an indictment has been handed down by a Federal court involving four more General Dynamics executives. They are charged with conspiracy to defraud the Government by improperly billing some $7½ million, from 1979 to 1981, during the production of the Divad, the defunct Army program.

Mr. President, how can Congress continue to overlook the obvious disregard of Federal law by some defense contractors? I do not think that I am the only one that is sick of this particular means of proceeding. I am, therefore, offering this amendment to the continuing resolution to send a message that this behavior can no longer and will no longer be tolerated.

My good friend from Iowa lends his support, which I appreciate very much, since he has become recognized as a watchdog over defense waste, fraud, and abuse.

The amendment is simple and direct, as I mentioned a minute ago. No further funding of new contracts with General Dynamics can be made, to it or its subsidiaries, available until at least 5 days after the Secretary of Defense reports to Congress that he finds sufficient progress has been made, and it has implemented an effective and reliable policy of ethical business conduct and it is making progress on having this policy function properly and, therefore, he intends to release or remove the suspension that he has now made.

The second report is to be made by the Secretary on the advisability of reclaiming title for use of Government-owned facilities if corporations are found guilty of conspiring to defraud the Government. This, coupled with the enforcement changes in this year's defense authorization, including the 100-fold increase in penalties, should put any corporation on notice that the Congress intends to protect the American taxpayer to the maximum extent possible.

Mr. President, in offering this amendment, I certainly do not intend to be making a comment on the indictment that is now pending. I do not think that would be appropriate for the Senate of the United States.

The system of justice that we have, appropriately, assumes that any person that is indicted or charged with a crime is considered to be innocent until proven guilty. Of course, I strongly support that policy. I hope that no one would interpret the offering of this amendment as a comment on a pending case or a prejudgment of a pending case. I want the legislative record to clearly reflect that it is not the intent of this author to make such a comment, nor, if this amendment were, in fact, adopted by the full Senate, do I believe that anyone should read into that action a comment by the Senate or any individual Senator upon the innocence or guilt of any person that has been charged with a crime or indicted or an alleged offense.

But I do think it is extremely important that we take some action that will get the attention of the largest contractors in this country who do business with our Government. When we are facing huge deficits, how can we go home, those of us who believe in a strong national defense and support our defense policy, how can we go home and say that we are doing all that we can do to get the most out of every defense dollar when these kinds of activities are continuing to go on; when the hard-pressed taxpayers are being charged $18,000 for country club dues or $177,000 for dinner parties for executives; when funds that are due to be allocated or costs that are due to be allocated to one particular project like

the Divad are allocated and charged to other contracts or allegedly charged?

The company has admitted to overcharges. They, in fact, have made some restitution already. I say some restitution, 244 million dollars' worth of restitution.

The Department of Defense clearly believes that there has not yet been sufficient progress made in cleaning up the internal situation in the company to allow them to continue to bid on new contracts at this time.

By taking this action, the Senate does not disturb the action already underway in the Department of Defense. In fact, we do not add to that action. I am not proposing that we, for the first time on the continuing resolution, take action to suspend a company. That suspension has already been made. It has been made by the Department of Defense, by the Secretary of Defense and the Secretary of the Navy, after a thorough investigation. They have already determined. It is their responsibility in the Department of Defense to make certain that contracts are fairly administered. They have made the determination that the suspension take place.

We are simply saying that before they lift that suspension, notification should be made to the Congress. Suspensions have been rapidly lifted in the past without full public discussion.

I think it would certainly be healthy for both the Department of Defense and the company involved in this case to know that there are going to be at least 5 days of public scrutiny and discussion of the lifting of any suspension. It will help the company have an incentive to work harder to assure that the proper internal controls are in place.

It will also be an incentive to the Government to try to determine everything has been done before such suspension is lifted.

Mr. DODD. Mr. President, I voted no on the question of the germaneness of the amendment by Senator BOREN suspending all funding for new contracts with the General Dynamics Corp. I appreciate Senator BOREN's efforts to put pressure on defense contractors to adhere to a strict standard of ethics in their business with our Government. This amendment, however, was the wrong measure on the wrong vehicle. For one, it was clearly nongermane to the legislation at hand, the joint resolution on appropriations. Furthermore, the proposed amendment was misdirected insofar as, if accepted, it was likely to hurt our Nation's defense and tens of thousands of innocent workers. It would have had little effect on those officials whose misdeeds were the reason Senator BOREN proposed his amendment. Those four present and former General Dynamics officials who were indicted last week all worked at the Pomona division of General Dynamics and their activities had nothing to do with other divisions of the corporation. It would be an unreasonable penalty to deprive all divisions across-the-board of new contracts thereby endangering the livelihood of so many workers.

This amendment was also redundant, it duplicated what was already done last summer. On May 21 of this year Secretary of the Navy John Lehman suspended all new contracts to the Electric Boat and Pomona divisions of General Dynamics subject to five conditions. One of those conditions was to develop and implement an ethics code for all General Dynamics employees; 12 weeks later, on August 13, the Navy has determined that General Dynamics had satisfied the above conditions. According to Assistant Navy Secretary Everett Pyatt, General Dynamics had adopted a "rigorous code of ethics" and, as a result, the contract ban was lifted. Now, when the code has been in effect for 4 months it makes no sense to reinstate the suspension with a similar condition for transgressions that were alleged to have been committed 4 to 7 years ago at one single division of the corporation.

Mr. President, I support every reasonable measure to reform our defense procurement process. I think our law enforcement agencies ought to go after the guilty individuals aggressively, and put them in jail for long prison terms if that is what is called for in the law. This amendment was flawed both substantially as well as procedurally and I am pleased that my colleagues overwhelmingly rejected it.

Mr. BIDEN. Mr. President, I want to commend the distinguished Senator from Oklahoma [Mr. BOREN] for the indignation which he has appropriately expressed with regard to the status of General Dynamics Corp., given the criminal fraud cases currently pending against that company. In the last week, General Dynamics has been indicted yet again for illegal cost overruns on a military contract. And once again, the response of the Defense Department has been to temporarily suspend the company from receiving new Government contracts—that is, at least, what one part of the Pentagon decided. At the same time, however, the Navy took steps to keep General Dynamics in the bidding to build four submarines, 1 day after the suspension went into effect.

It is certainly appropriate that the Pentagon take some meaningful steps to ensure that a new code of business ethics is put in place at General Dynamics. But I am really not sure that suspension of the corporation from bidding for Government contracts is the answer. Everyone knows that General Dynamics holds a unique, if not indispensable position, in the defense procurement establishment. But no individual is indispensable to the management of that corporation. That is why I believe that the suspension and debarment of those individual corporate executives whose actions have resulted in fraud against the Government may be the most effective means of assuring that such criminal conduct is not repeated.

Next year, the Judiciary Committee is going to undertake an extensive inquiry on the issue of white collar crime in general, and defense procurement fraud in particular. I am currently discussing a schedule for an in-depth set of hearings with other members of the committee, including its distinguished chairman. It is anticipated that at least 2 to 3 days would be spent on procurement fraud, including the pending General Dynamics cases, the General Electric case, the charges against Rockwell, the case against GTE, and others.

I appreciate the approach suggested here today by the distinguished Senator from Oklahoma. We are going to explore every avenue—from better and more coordinated prosecutions to new crimes and sanctions—to seek a solution to this problem. It is my belief that more than money is at stake, although the billions of dollars squandered through procurement fraud is reason enough to act decisively. However, what is at stake is the public's faith in our system of justice. When those individuals who commit the crimes lose their jobs and go to jail, the public will begin to believe that justice has been done.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. DENTON). The Senator from Connecticut.

Mr. WEICKER. Mr. President, I make the point of order that this is legisation on an appropriations bill. I ask for the yeas and nays.

Mr. BOREN. I raise the defense of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under rule XVI the question of whether the amendment is germane is submitted to the Senate without debate. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. LEVIN] is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 19, nays 77, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—19

Biden	DeConcini	Mitchell
Boren	Ford	Nickles
Bradley	Grassley	Proxmire
Bumpers	Hart	Pryor
Burdick	Humphrey	Rockefeller
Byrd	Lautenberg	
Cranston	Melcher	

NAYS—77

Abdnor	Harkin	Murkowski
Andrews	Hatch	Nunn
Armstrong	Hatfield	Packwood
Baucus	Hawkins	Pell
Bentsen	Hecht	Pressler
Bingaman	Heflin	Quayle
Boschwitz	Heinz	Riegle
Chafee	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Inouye	Sarbanes
D'Amato	Johnston	Sasser
Danforth	Kassebaum	Simon
Denton	Kasten	Simpson
Dixon	Kennedy	Specter
Dodd	Kerry	Stafford
Dole	Laxalt	Stennis
Domenici	Leahy	Stevens
Durenberger	Long	Symms
Eagleton	Lugar	Thurmond
Evans	Mathias	Trible
Exon	Matsunaga	Wallop
Garn	Mattingly	Warner
Glenn	McClure	Weicker
Gore	McConnell	Wilson
Gorton	Metzenbaum	Zorinsky
Gramm	Moynihan	

NOT VOTING—4

Chiles	Goldwater
East	Levin

The PRESIDING OFFICER. On this vote, the yeas are 19, the nays are 77. The judgment of the Senate is that the amendment is not germane. Therefore, the amendment falls as not germane.

Mr. DOLE. Mr. President, I think this vote indicates the desire of Members to complete action on the continuing resolution. I hope we can continue to keep nongermane amendments off the continuing resolution.

Let me also indicate for the record the reason this vote was held up: A Member indicated that he had voted but he was not recorded as voting. We felt in that exceptional case, he should have an opportunity to come to the floor.

The PRESIDING OFFICER. The Chair shall have to remark that I did hear the Senator vote.

The Senator from Wyoming is recognized.

AMENDMENT NO. 1399

(Purpose: To provide assistance to the National Union for the Total Independence of Angola)

Mr. WALLOP. Mr. President, in behalf of myself and Senators ARMSTRONG, HAWKINS, SYMMS, MCCLURE, ABDNOR, HELMS, HATCH, THURMOND, GARN, KASTEN, DENTON, and TRIBLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] for himself, Mr. ARMSTRONG, Mrs. HAWKINS, Mr. SYMMS, Mr. MCCLURE, Mr. ABDNOR, Mr. HELMS, Mr. HATCH, Mr. THURMOND, Mr. GARN, Mr. KASTEN, Mr. DENTON, and Mr. TRIBLE, proposes an amendment numbered 1399.

At the appropriate place, add the following:

Not less than $50,000,000 of the funds proposed to be appropriated pursuant to the paragraph beginning on page 21, line 21 of S. 1816, as reported by the Senate Committee on Appropriations, shall be expended for the assistance to the National Union for the Total Independence of Angola (UNITA).

Mr. WALLOP. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WALLOP. Mr. President, I thank the Chair, and I hope that the manager will indulge the Senator from Colorado [Mr. ARMSTRONG] for a brief statement at the conclusion of my remarks, before making whatever motion he makes.

I do not bring up this amendment lightly. I know the anxiety of Senators who wish to go home and the eagerness of the managers of the bill to conclude work on it. This provides aid to UNITA, led by Jonas Savimbi, representatives of whose organization are in this building and who have been informed that a winter offensive, a wet-season offensive, under way since last Friday, is beginning to move in directions that are still unclear to them. But what is clear to them is that Soviet helicopters and Mig's are engaged in this battle today.

Those forces do not have time for the niceties of congressional process. Either we do stand or do not stand for aid to freedom fighters, particularly in Angola.

Under the present emergency, I am certain that should my amendment fail—I have learned from the majority leader—we are going to have a nice, little resolution at the conclusion of it, which will let everybody go home and feel comfortable for having done something, and not one bullet can be shot, not one life can be saved, not one Cuban foot advance can be halted. While Congress considers the Soviets act. It may make us feel responsible—but it is irresponsible in the extreme to idle while urgency exists. So perhaps the managers would view the emergency that exists here.

Mr. President, it is essential to the preservation of the Angolan resistance fighters, UNITA, led by Jonas Savimbi, that the United States provide direct military assistance as soon as possible to the UNITA forces in Angola. What Savimbi and his forces need is military equipment in order to counter the massive Soviet offensive against them. Why is this so? The Soviets are mounting a major offensive in Angola right now to try to wipe out the Western-oriented, democratic UNITA forces. Although those forces have survived Marxist-backed assaults in the past, they will not be able to hold out forever and may not be able to withstand the current Soviet-backed mass offensive against them.

UNITA is in a dire position. It has suffered a military setback as a result of a major escalation of the war by the Soviet-Cuban forces. UNITA is watching the intensifying involvement of the Soviets and their allies while there is no response from the West. The mounting direct involvement of Soviet and Cuba forces in the fighting in Angola is a reflection of the intensification of the Soviet and Cuban commitment to the "liberation" of Southern Africa and the irreversibility of the socialist regime in Angola. Moreover, UNITA is also worried about its possible isolation from the outside world due to the emergence of a Soviet-Cuban influenced better-unified "front" and the effects of the growing pressure on the Republic of South Africa.

There has been mounting pressure on UNITA in a series of Cuban-Angolan offensives since the summer. A major offensive could determine or freeze the situation during the forthcoming rainy season. The prime reason for the improvement in the performance of the Cuban-Angolan forces is that Soviet officers asssumed direct command over their conduct. These officers utilize their effective experience in counterinsurgency fighting acquired in Afghanistan.

It is clear that the Soviet-Cuban backed MPLA forces intend to try to wipe out UNITA as soon and as fast as possible. The Soviets have supplied Angola with airpower capable of extending the battlefield and delivering deep strikes. This air force is far beyond anything the MPLA needs to meet the UNITA threat. The combat helicopter fleet is growing steadily. The Soviets and Cubans are deploying a saturated air-defense system, and it is being rapidly reinforced. They have constructed a C-31 battle management system that far exceeds local needs. In order to facilitate the simultaneous launch of a countrywide offensive, and, in order to avert and prevent the logistical crises of the past, the Soviets are conducting an airlift with strategic assets and national level assets.

Can we not see that in this situation the Marxists intend to wipe out the only democratic resistance forces, those of UNITA? Is it not obvious that this is Soviet policy? They are committed politically to this goal. The Soviets, Cubans and their African allies are in the midst of an intensive series

of high-level political and military consultations, in which a long-term policy is being formulated. For example, N. Kosukhin of the African Institute said recently:

> Today, the main problems of the global struggle against imperialism, neocolonialism and socialism and for genuine and complete political and economic independence are centered in Africa. That continent's national and social liberation is an uneven but inevitable process. (Summer, 1985)

An analysis in "Red Star" (a daily of the military) included the following statement:

> The Soviet Union, Cuba, and other socialist countries, loyal and their international duty, are rendering Angola assistance in strengthening its national army, and defending the sovereignty and territorial integrity of the country. (November 8, 1985)

How can the United States sit idly by and let the Marxists simply wipe out the only democratic resistance forces, the UNITA, which are trying valiantly to counter the Soviet-backed offensive? According to the advance preparations of the all-important 27th Congress CPSU—the prime goal of Gorbachev is the unification, increase and entrenchment of the world socialist (Communist) movement. The initial step will be to ensure the stability and irreversibility of regimes currently challenged such as Angola and Nicaragua.

Is it not clear now to the United States that the Soviet Union has played its usual game of concentrating our attention on such things as the summit and the arms control negotiations while it planned this offensive in Africa in the hope that we would be caught offguard and unprepared? Have they not done this often enough in the past? We absolutely cannot tolerate another Soviet move to increase its hold on yet another part of the world it intends to dominate. The United States must do everything a great power should do to draw the line against this latest Soviet offensive. To do nothing is to show weakness and to send a signal to the Soviet Union and Cuba that it can get away with anything. The only language they understand is that of strength and determination. Does Mr. Crocker indulge in the idle dream that he will negotiate differences away in the absence of any threat whatsoever?

To wait now for the complex implementation of a covert action plan which might fail is absurd. We waited for that when the Soviets moved in Afghanistan until it was too late. When we had the courage to take immediate and swift action in Grenada, we succeeded. When should it be any different in Angola? We are not going to war there, but we can and must support the resistance forces swiftly and effectively.

It is time the United States stood up to the Soviet Union and its clients wherever and whenever they step over the line. Therefore we must have an immediate, effective, overt military assistance program for UNITA in Angola to show the world that we mean to defend our system against all enemies, wherever they may appear, and that we will expect our friends and allies to support us in these efforts.

Mr. President, I ask unanimous consent to have printed in the RECORD two statements by President Reagan and a letter from President Reagan to Lewis Lehrman regarding the freedom fighters of the world.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President Reagan in his State of the Union speech, February 6, 1985:

"We must not break faith with those who are risking their lives—on every continent, from Afghanistan to Nicaragua—to defy Soviet-supported aggression and secure rights which have been ours from birth. . . . Support for freedom fighters is self-defense."

President Ronald Reagan at the United Nations on October 24, 1985. After recommending a three point regional peace process, the President said:

"Despite past difference with these regimes, the United States would respond generously to their democratic reconciliation with their own people, their return to the family of free nations. Of course, until such time as these negotiations result in definitive progress, America's support for struggling democratic resistance forces must not and shall not cease.

THE WHITE HOUSE,
Washington, May 30, 1985.

MR. LEWIS E. LEHRMAN,
Chairman, Citizens for America, Massachusetts Avenue, NE., Washington, DC.

DEAR LEW: I understand you're off to attend a gathering of freedom fighters. From what I'm told, this is surely a unique event.

Around the world we see people joining together to get control of their own affairs, and to free their nations from outside domination and an alien ideology. It is a global trend, and one of the most hopeful of our times. Those of us lucky enough to live in democratic lands have to be moved by the example of men and women who struggle every day, at great personal risk, for rights that we have enjoyed from birth. Their goals are our goals.

Good luck and God bless you.

Sincerely,

RONALD REAGAN.

Mr. WALLOP. Mr. President, I state one last time: This is a matter of some emergency. This is not a time for us to stand on the niceties of Senate politics and convenience. This is a time of desperation for the only freedom fight that remains in southern Africa.

I urge the Senate to stand by this amendment as the vote goes through.

Mr. President, I ask unanimous consent that the name of the Senator from Georgia [Mr. MATTINGLY] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I make a point of order that this is legislation——

Mr. WALLOP. Mr. President, will the Senator withhold? There was an understanding that the Senator from Colorado would have recognition for a statement.

Mr. INOUYE. I withdraw that.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I rise to congratulate my colleague from Wyoming for bringing forward this amendment and to urge Senators to rally behind him.

Our friend from Wyoming is absolutely right. The amendment which he has introduced and which I am proud to join and cosponsor represents an opportunity for the Senate to aid a group of people who are struggling heroically for freedom and self-determination.

Unfortunately, during the last decade the United States has turned a blind eye and a deaf ear to their efforts and too their calls for our help, and the consequences of our neglect over this last decade may well be the death knell for the attempts of the people of Angola to achieve self-determination.

Angola has been in the midst of colonial and civil war for more than 2 decades, first against Portugese rule and now between Marxist and free forces.

For a brief time in the mid-1970's it appeared that a coalition government could emerge as stipulated in the Alvor Agreement and this would be a starting point toward truly representative government.

Sadly those hopes were crushed when the Soviets provided massive military aid and training to the Marxist faction, the People's Movement for the Liberation of Angola, MPLA.

Where was the United States when this happened? Where was the Congress of the United States when the Soviets, through their proxies, the Cubans, stole Angola's chance for self determination?

I will tell you where we were. We were right here passing the so-called Clark amendment to prohibit both monetary and moral support to any faction in Angola, including those which sought free elections and representative government.

However, despite our neglect, Dr. Jonas Savimbi and UNITA have fought back against tremendous odds to a point where even 35,000 Cuban troops cannot effectively control them. To date, UNITA entirely controls one-third of Angola and according to the Washington Post, it "has placed innumerable small guerrilla units throughout 90 percent of the na-

tional territory." Only in the capital city of Luanda are MPLA and supporting Soviet bloc personnel relatively safe from UNITA's growing activities.

Someone might ask, "Well, if UNITA is doing so well, why do we not just leave well enough alone? Why should the United States interfere at this time? Why should we send aid?"

That seems to be a fair question and one we should think of in the historic perspective.

When the United States passed the Clark amendment more than 10 years ago, in effect we said we were not going to take sides, we were going to take no interest in supporting those who were fighting for freedom in Angola. In light of the times, the experience we had been through in Vietnam, that was an understandable position for the United States to take, although a regrettable one.

UNITA was disappointed, but regrouped, and over the next 10 years made striking military gains and proved to be a progressive force on a continent where self-government has not easily been maintained.

UNITA is in addition becoming a sophisticated political organization capable of providing extensive social services, including education, medical care, and agricultural cooperatives within the territory it controls. It seeks negotiations with MPLA and free elections, and that, my friends, is really the issue in Angola today. It is free elections.

While UNITA has made tremendous progress, recent events cast doubt about the future in Angola. For the first time, actual Soviet personnel are serving as battle commanders and pilots in Angola.

Intelligence indicates the ever-growing presence of Cuban troops, and military equipment continues to arrive.

However, perhaps the events of the last weekend or the last several days are the most alarming, as our colleague from Wyoming has pointed out. The Marxist president of Angola, Jose Edwards dos Santos, stated in a speech that negotiations with the free forces of UNITA are "unthinkable." This remark leads little hope that the Marxist government will soon allow free elections or even negotiate seriously for a coalition government.

Perhaps, in conjunction with this speech, it appears that a major offensive was launched last Friday night. We have information, which is confirmed in the European press and from other sources but which in all fairness I must say is not confirmed from U.S. intelligence sources at this time, which I believe to be correct but which I would say to Senators is not absolutely verified, that in the last several days roughly 15 flights per day of Soviet military transport planes have arrived delivering hundreds of tons of offensive equipment to the front, including an entire squadron of Hind gunships, numerous personnel carriers and T-55 tanks, and some 5,000 troops, including 1,500 Cubans. Friday night, again, according to the same sources which are not completely verified but for which there is substantial information, Soviet Mig's began bombing in areas sympathetic to UNITA.

The amendment before us provides open overt aid to UNITA. The reason we are doing this out in the open rather than through some back channel, through some covert process, it seems to me is very clear. There are those who argue that, yes, we would like to help the freedom fighters in Angola but we would like to do it in secret. I just do not understand that line of thought. It is in my opinion consistent with the highest traditions and ideals of the United States and of this legislative body to extend a helping hand to those who are fighting for freedom who are trying to gain for the first time free elections for their people. For us to do it secretly almost concedes that there is something questionable or even shameful about our attempt to do so, and I do not believe that.

The contrast between UNITA and the Marxist MPLA could scarcely be more clear. UNITA seeks negotiations with all factions and free elections; the Marxist MPLA last week stated negotiations are unthinkable and denied any opportunity for free elections.

UNITA is set up as a representative assembly and democratically elects officers from a broad base. The Marxist MPLA is a Communist puppet run by those who provide it with arms and soldiers—the Soviet Union and Cuba. UNITA is building schools, hospitals, and encouraging free enterprise. The Marxist MPLA has drained its territory dry and thousands have fled to other countries and even to UNITA-held areas to find basic subsistence.

The standard of living in the area controlled by the central government of MPLA has declined significantly in the last 10 years.

Mr. President, in closing, may I point out that support for an amendment, along the lines which the Senator from Wyoming and I have offered with the endorsement and cosponsorship of other Members of this body, is broad based and bipartisan. The reasons are varied, but perhaps they are summed up in a statement by the National Jewish Coalition for the House Foreign Affairs Committee which said:

Modern Jewish history has taught us what it is like to live under totalitarian domination. UNITA is not asking for our troops. It is merely asking for U.S. assistance to continue its own battle. This seems a small price to pay to help people seeking freedom.

Mr. President, I ask unanimous consent that the full statement of the National Jewish Coalition submitted to the House Foreign Affairs Committee on October 31 be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. ARMSTRONG. Mr. President, one final point, if I may make it before I yield the floor. Sometimes we hear the argument that we should not be supporting a regime which is also accepting support from the Government of South Africa.

Now, I am not here to defend South Africa, and that is for sure. But I just want to point out that when the United States absolutely cut off any aid or support, Dr. Savimbi and his supporters faced the choice of where were they going to get some help, and one place where they have evidently been able to secure some help is from South Africa.

That does not constitute an endorsement by Dr. Savimbi of South Africa. If we also helped the UNITA forces, that does not constitute an endorsement on our part of South Africa.

That sort of reasoning is simply not borne out by any assessment of the facts.

As a matter of record, I call to mind what one of our colleagues, Congressman CLAUDE PEPPER, said on the House floor just this last summer.

Talking about this matter, talking about the support given by South Africa to UNITA, he said this:

And so if for once South Africa happens to have done something right and decent, that is not going to prevent me from doing something right and decent.

CLAUDE PEPPER is right. Just because we do not like someone who may be helping UNITA is not the issue. The question is whether or not this country and this Congress is going to offer some degree of support and help to the people who are fighting for freedom, who are fighting to avoid domination of their country by the Soviets and the Cubans, and to gain free elections, and that is the issue, whether or not we are going to stand up and help in a modest way in a long overdue manner people who are fighting for freedom in their country.

I urge support of the Wallop amendment.

EXHIBIT 1

STATEMENT FOR THE RECORD SUBMITTED BY THE NATIONAL JEWISH COALITION

Mr. Chairman, the National Jewish Coalition is pleased to have this opportunity to submit this statement for the record in support of providing $27 million in humanitarian aid for the National Union for Total Independence of ANGOLA-U.N.I.T.A.

The Coalition would also like to take this opportunity to express its appreciation for the efforts of Congressman Jack Kemp (R-NY), Congressman Claude Pepper (D-FL),

and Congressman Mark Siljander (R-MI) to build bipartisan support for this funding. These members reflect the American tradition of bipartisanship in foreign policy decision making and are an indication of the growing support in the Congress for aiding anti-Communist forces around the world.

The National Jewish Coalition was formed after the recent elections because of a feeling on the part of many American Jews that there is a need for a change in the traditional, liberal approach to the nation's domestic and foreign policies. We have spoken out forthrightly about the Soviet Union's mistreatment of its own Jewish citizens, the involvement of the P.L.O. in Central America and the need for a strong U.S.-Israel relationship. Having spoken out so strongly when Jews and Jewish interests have been threatened, it is now time for us to speak out on behalf of others whose freedoms are in jeopardy.

The Soviet Union during the 1970's carried out the most extensive expansion of its power since the end of World War II. They invaded Afghanistan, tightened their grip in Southeast Asia and deployed proxies such as Cuba throughout Africa and Latin America.

It is true that Angola has aligned itself with forces in the world that are hostile to Jews and Jewish interests. They have consistently supported anti-Israel resolutions at the United Nations, such as efforts to deny Israel's credentials in the U.N.

However, it is not for these reasons that we submit this statement. Rather, the National Jewish Coalition believes that we in the West, particularly we Jews, must, as a matter of principle, help those who seek freedom and democracy, and speak out against repression and dictatorship. Modern Jewish history has taught us what it is like to live under totalitarian domination UNITA is not asking for our troops. It is merely asking for U.S. assistance to continue its own battle. This seems a small price to pay to help people seeking freedom.

We must make our voices heard against the gravest threat to the free world: Soviet expansionism. It is for this reason we support granting $27 million in humanitarian aid to UNITA and urge this committee to act as soon as possible. Thank you.

Mr. SYMMS. Mr. President, the Senate made a very, very definitive statement on June 11 when it repealed the Clark Amendment, the pernicious legislation which told the world that the United States had shunned the cause of freedom in Angola. I am happy to say that the House followed suit July 10 of this same year. This is a wide bipartisan support for this.

I know that my colleagues are anxious to move forward, and I am also anxious to move forward and return to my home State for the Christmas season. But I do think that this issue, as the Senator from Wyoming and the Senator from Colorado have very clearly said, we should take just a little time to reflect on exactly what has happened here.

Over the past few months, the Soviet Union launched a major military push against UNITA, the greatest offensive the freedom fighters have ever faced in the course of the 10-year civil war. Thankfully, the news reports from Angola acknowledged that UNITA repelled the Soviet thrust, and the cost of the offensive to the Russians was painfully high. The rainy season has now set into Angola, and the UNITA forces will be on the offense. But I have no doubt that the Soviets will try again to militarily defeat UNITA. The MPLA has already replenished the stock it depleted in its last offensive. There is little doubt that the Communist offensive will resume when the rainy season ends.

There were several motives behind the most recent offensive. Primarily, the Soviet's were interested in testing the will of the Congress and of this administration to back with action our professed allegiance with and support for freedom fighters around the world. While President Reagan and Secretary Shultz have spoken often with conviction about the need for America to stand by her allies, the National Union for the Total Independence of Angola [UNITA] remains without American support. While the Congress has willingly backed assistance to the Nicaraguan resistance, the Afghanistan Mujahedin, and now the Cambodians, UNITA remains isolated from American support in the eyes of the world. Surely, the people of Angola must wonder why their cause is less just than that of the suffering Afghans, Nicaraguans, and Cambodians. This inexplicable discrimination must be reversed; it is vital that the United States demonstrate solidarity with those fighting for independence from Soviet colonialism in Angola, as in other areas around the world.

Some of my colleagues who opposed repealing the Clark amendment on the House side advocated that the administration seek outlines through negotiation, rather than through military assistance. Those arguments fail to recognize the meaning of the Brezhnev doctrine, which states that once a country is pulled into the Soviet orbit, it is never voluntarily relinquished. Angola is no exception to that rule.

We have tried negotiation with the MPLA, without pressure of military support for UNITA. For 5 long years, while the Soviet Union and the Cubans were spilling the blood of innocent Angolans and amassing sophisticated weapons in the country, we attempted to negotiate with the MPLA. The Soviets bought themselves more time; all that resulted from our patient diplomacy was further American concessions in the form of Exim Bank loans of questionable legality, Public Law 480 assistance, and promises of diplomatic recognition to the unelected regime.

All these tactics failed, because the policy being pursued failed to recognize the fundamental unwillingness of the MPLA to negotiate in good faith on Cuban troop withdrawal. It would be senseless for the MPLA to call off its guard dogs—the regime would collapse like a pin-pricked balloon without the Cuban puppet forces and their Soviet masters. While the State Department tendered one carrot after the next, the MPLA cynically accepted our profferings, and grew stronger from American financial assistance. At the same time, the MPLA continued its relentless military build-up, which the State Department has said amounts to $2 billion worth of equipment over the past 18 months. The Soviet grip on Angola only increased during the years of constructive engagement with the Communist regime.

After Lusaka, the peace agreement which South Africa and Angola signed in early 1984 and which the State Department touts as evidence of its successful negotiation strategy, the heavy Soviet hardware began to pour in in massive quantities. The Lusaka agreement forced South Africa to concede territory in southern Angola in exchange for Angola's promise not to allow SWAPO to continue its raids of terror, murder, sabotage, and intimidation in Namibia. The Soviet/MPLA-backed and supplied SWAPO forces have violated that agreement approximately 150 times, but to my knowledge, our Government has never vociferously protested against SWAPO incursions into Namibia. It has, strangely enough, vocally protested South Africa's tracking down of SWAPO terrorists in Angolan territory, which gives them sanctuary. From reports from our media and the foreign broadcast information service, it seems that only South African pursuits of SWAPO into Angola are criticized, while the offenses of the Communist terrorists go unreported.

The State Department, frustrated by MPLA intransigence, brokered a proposal in March of this year that could only be a product of the Department's overeagerness to produce an agreement. Maybe even a bad, unverifiable agreement seemed better than nothing at all. This proposal grossly favored the MPLA, by allowing for a Cuban withdrawal process that would have been impossible to verify, and by risking turning Southwest Africa, Namibia, over to pro-Soviet SWAPO under the U.N. 435 plan. The only plausible outcome of such a proposal would have been the crushing of UNITA between the hostile forces of the entrenched Soviet-backed MPLA in northern Angola, and SWAPO, which would then be able to consolidate its power in Namibia and participate in the Soviet goal to eliminate UNITA. Thanks to UNITA, currently 50 percent of SWAPO forces are committed to fighting against Savimbi's troops, rather than slaughtering civilians and conducting sabotage in Namibia, to which the other 50 percent devote their time.

Mr. President, policies can only succeed if they are based on realism. The State Department proposed to link Cuban withdrawal with independence for Namibia, which is a solid concept, but our diplomats fail to recognize that for paper agreements to resolve major international disputes which involve enormous strategic consequences, good faith is of absolute importance. Our diplomats, from the proposals they have offered, obviously do not take into account the duplicity of the Soviets and the MPLA in the negotiation process. The MPLA has never accepted any notion of Cuban troop withdrawal unless the democratic resistance is removed as a threat. And that is something the United States, as a supporter of freedom movements, can never accept. It should be readily evident to everyone that the only practical solution is for the United States to provide sufficient assistance to UNITA to force the MPLA to realize that they face either negotiation toward national reconciliation and free and fair elections, or military defeat.

The Cubans will not leave Angola until sufficient military pressure is placed upon them to force them out. Castro himself has said that he will send another 200,000 troops into Angola if that is what it takes to keep Angola in the Communist camp. But Castro's troops are spread pretty thin. The Cuban dictator is having to pay with bodies for the vast sums of money the Soviet Union has been pouring into his island. The Cubans are sick and tired of fighting and dying in Angola. Likewise, the Soviets weary of their frustrating campaign in Angola, just as they are exasperated with their unsuccessful war-waging in Afghanistan.

In fact, a recent article in People magazine on the mutiny aboard a Soviet vessel in 1975 suggests that the mutiny may have been largely prompted by the Soviet intervention in Angola that year. Apparently, the Soviets canceled leave requests and discharges, and Soviet sailors rebelled at the idea that they should sacrifice their lives fighting for African foreigners. The United States can exploit the terrible morale problem of the Cubans and the Russians by backing UNITA.

Let me make it clear that UNITA is not asking America to shed her men's blood on foreign shores. UNITA, unlike the MPLA, does not need foreign troops to maintain her strength. UNITA draws its strength from the native Angolans, not from Cuba.

We have the capability to make Angola the Soviets' Vietnam! In desperation, the Russians have sought to pummel Angolans with massive air strikes and bombing raids, but they cannot defeat the will of the people, and their aspirations for true freedom.

Jonas Savimbi, UNITA's remarkable president, whom I hope all my colleagues one day will have the privilege to meet, was asked in a recent interview whether he thought the South African defense forces should come to UNITA's aid in light of the heavy Soviet presence now in his country. Now I want all my colleagues who accused UNITA of being tainted by South African connections, and who accuse South Africa of collusion on the battlefield with UNITA to listen to the president's response. Savimbi's reply was that if the South African forces were to cross the border in support of UNITA, "We will be in the same position as the MPLA with the Cubans and with the Russians." Savimbi wants his people to win their own war, and to be responsible for their own victory. But the battle his citizens are waging is our battle too, because it is in the Third World that the greatest Soviet challenge to America is taking place.

President Savimbi is a man who has distinguished himself like no other freedom fighter in the world today. He is a brilliant military tactician, an avid national patriot, and he still feels tremendous affection for the United States and respect for our political system, despite the fact that the U.S. Congress pulled the rug out from him 10 years ago.

Savimbi's base camp, Jamba, which I had the pleasure to visit last year, typifies the UNITA organizational ability—the camp is spotlessly clean, the carpentry shops, the hospital, the schools, and the machine shops are all run with precision, in sharp contrast to most enterprise in the African Marxist states. There are two churches in Jamba, in sharp contrast to the usual Communist suppression of religion. Jonas Savimbi tasted communism; he originally went to the Soviet Union seeking assistance in his battle against Portuguese colonialism. He said the Russians treated him worse than the Portuguese, and he left the U.S.S.R. after 1 week. His military training came from Red China, but he recognizes the failures of the Chinese brand of communism. It is Western-style freedoms that the people of his organization emulate.

The time for American aid to UNITA is now. Either we support freedom, or we give credibility to the Brezhnev doctrine and admit that once the Soviet Union occupies a country, it is lost to freedom forever. I, for one, renounce the Brezhnev doctrine. In Grenada, that doctrine was shattered. Despite the 5-year war in Afghanistan, the Russians have yet to crush the indefatigable Afghan people, and with our continued help, they never will. Angola does not yet "belong" to the U.S.S.R., and in fact, one-third of Angola is liberated and administered by UNITA. The odds are that Angola will never be a permanent fixture in the Soviet orbit, especially if America acts to turn the tide of history.

Just for a minute, let me turn to geostrategic Soviet designs on Angola, Namibia, and South Africa. Their ambitions in this area are evidenced by the tremendous amount of military armaments being brought into Angola over the past 18 months:

JET AIRCRAFT

Between 23 to 32 Mig-23's; between 57 to 85 Mig-21's; approximately 18 Mig-17's, and approximately 18 SU-22's.

COMBAT HELICOPTERS

From 55 to 59 MI-8's; approximately 10 MI-17's; and from 21 to 26 Hind helicopters, the deadly flying tank also in use in Afghanistan and Nicaragua.

Reports are, as Senators ARMSTRONG and WALLOP pointed out, that the Mig's are being piloted by Cubans, the Hinds by either Soviet or Eastern bloc pilots. The Soviets have installed a virtually impenetrable air defense system in Angola, now extending to the lower part of the country. This air defense system is obviously not for protection from UNITA, which doesn't have an air force. That heavy radar network is intended to stop the one country in the region which is a real threat to Soviet territorial ambitions—South Africa, from finding out just what type of hardware the Soviets are exporting to Angola.

I do not have numbers of the tanks that the Soviet Union has brought in, but I know they include the T-62, the T-55, and others of similar sophistication, uncommon to guerrilla war.

Luanda, the capital of Angola, and the only area that the MPLA completely controls, serves, according to the 1985 DOD publication "Soviet Military Power," as the most important port for Moscow's West African Naval Units. Further, the airfield at Luanda continues to serve TU-95 Bear-D maritime reconnaissance aircraft, which deploy in pairs about three or four times per year. The Soviets also have maintained an 8,500-ton capacity floating drydock in Luanda, capable of handling most major Soviet naval combatants since the middle of 1982. For any of my colleagues concerned about the strategic threat to America's interest in Africa, the Soviet developments in Angola must be of deep concern. Again, UNITA is a viable solution to this growing threat.

Mr. President, I am proposing today that we aprove an aid package that will help prevent our friends in Angola from the total annihilation the Soviet Union is bent on delivering them. As Members of Congress who have taken solemn oaths to defend our country from enemies here and abroad, providing help to genuine democratic patri-

ots is a duty and a moral responsibility that we cannot ignore or neglect.

America's credibility in Africa hangs in the balance. As President Nixon remarked in his book, "The Real War," America lost ground and allies in Africa because we failed to recognize what the Soviets perceived—that to dispense the means of achieving and maintaining power is vital to Africans. While the Soviets trained and recruited comrades in Africa who share their vision of conquest of the capitalist countries, America refused to help African allies who shared our vision of democratic government and respect for individual rights. As a result, Soviet puppet states emerged, and entire countries were made Soviet client states.

Angola can be saved from that fate, if America so decides. The President has already given tremendous inspiration to UNITA in his speech to the United Nations. For the first time to my recollection, the President made national reconciliation a goal in Angola. That was a key point, because it is the refusal to allow the people of Angola to decide their destiny that sowed the seeds for the 10-year civil war in Angola.

Legislation has already been introduced in the House of Representatives, by Congressman CLAUDE PEPPER, to provide $27 million in assistance to UNITA. This aid is critical if the people of free Angola are to defend their hard-won liberties against the vicious military onslaught of the U.S.S.R. I encourage my fellow Senators to join in this effort, which I am convinced is the only hope for national reconciliation, for free and fair elections in Angola, and for a lasting peace in that war-torn nation.

Mr. President, I believe that we certainly, as a minimum, should accept this amendment. I hope the leadership of this committee would accept this amendment per se and that we could go on and put a meager amount of money in to demonstrate that we will, in fact, support those people in the world who are our friends and those people in the world who are resisting oppression and tyranny.

Mr. President, I ask unanimous consent that a pamphlet entitled "Facts on Angola and UNITA," which is prepared for the Tuesday Group by the American Security Council, be printed in the RECORD. It is a very brief explanation of what the issues are. There are 19 simple questions that people ask about this and it has very direct, concise answers.

There being no objection, the pamphlet ordered to be printed in the RECORD, as follows:

FACTS ON ANGOLA AND UNITA: THE NEED FOR U.S. SUPPORT

1. What is UNITA?

It is THE NATIONAL UNION FOR TOTAL INDEPENDENCE OF ANGOLA, a national liberation movement led and founded in March 1966 by Dr. Jonas Malheiro Savimbi to fight colonial oppression.

2. How did the Soviets, Cubans and South Africans become involved in Angola?

In the 1960's, three national liberation movements (FNLA, MPLA and UNITA) launched the armed struggle against the Portuguese colonial rule in Angola. In 1974, following a coup in Portugal, the new government in Lisbon signaled its intention to end its colonial rule. But the three Angolan liberation movements, having been divided, were in no position to effectively negotiate the country's independence with Portugal. Jonas Savimbi seized the opportunity to initiate and carry out a diplomatic campaign that culminated in a cease-fire with the Portuguese army, the reconciliation of the three Angolan nationalist groups under the auspices of the late Jomo Kenyata, then President of Kenya, and the holding of the historic Alvor Conference in January 1975. This conference was held in the Portuguese town of Alvor, and UNITA, MPLA, FNLA and the Portuguese government signed the independence agreement, known as the *Alvor Agreement.* This agreement stipulated, among other things, (a) the establishment of an interim (Portugal-UNITA-MPLA-FNLA coalition) government to run Angola until the proclamation of independence, (b) the holding of free elections for a Constituent Assembly in October 1975 and (c) the proclamation of Angola's independence on November 11, 1975. Given the existence of three legitimate parties vying for power, the Alvor Agreement obviously provided for the safest framework—pluralist democracy—for Angola to enter into sovereignty peacefully, harmoniously and durably. Unfortunately, the Soviet Union and its long-time protege, the MPLA, were not interested in power sharing. The interim government had barely begun to function when Soviet weapons were smuggled in and distributed to arm the MPLA. This was at a time, when, according to the Alvor Agreement, the three national guerrilla armies were to be transformed into what would have become Angola's national army. As early as March 1975, Cuban troops were already training at the MPLA's guerrilla camps. Skirmishes and shooting between the MPLA and FNLA began in March and rapidly intensified. UNITA stayed out of the initial fighting and tried, instead, to secure a cease-fire and salvage the Alvor Agreement. In June 1975, Jomo Kenyata, at Savimbi's request, summoned the three Angolan groups to Nakuru (Kenya) where a peace conference and a cease-fire agreement were carried out. The Nakuru agreement was broken two weeks after its signing and thus fighting resumed across the country. By August 5, 1975, the interim government collapsed amidst increased insecurity and total paralysis. At this point UNITA's neutrality became untenable. In the very first battles against the MPLA forces in the central western province of Benguela, UNITA forces encountered Cubans alongside MPLA forces. Three Cuban soldiers were subsequently captured by UNITA and were presented to the public. Alarmed by the deep Soviet-Cuban involvement, Jonas Savimbi traveled to several African countries (Zambia, Zaire, Gabon, Congo-Brazzaville, Uganda, and Cameroon) where he told the heads of state that the conflict in Angola had become internationalized and that Angolans alone would no longer be able to find a solution. South Africa subsequently appeared on the scene in October, partly in response to western and African leaders who had advised her to intervene in order to counter the Cubans, and partly based on her own reaction to Soviet-Cuban military build-up in a neighboring country.

In December of 1975, the United States Congress passed the so-called Clark Amendment, which banned U.S. assistance to the democratic forces. This law was in effect until July of 1985 when it was repealed by both houses. A decade ago Senator Dick Clark (D-Iowa) said the Congress should pass his legislation because the MPLA would fall on its own and the Cubans would leave.

3. Were the Cubans invited by the Angolan Government to help repel the South African Invasion?

Absolutely not. It is totally inaccurate for anyone to assert that "the Cubans came to Angola at the request of the Angolan government to repel a South African invasion," as the MPLA and its friends allege post ex factor. The undisputable chronology of events as indicated in item #2 above shows that the South Africans intervened precisely in response to the Cuban moves. And the only government in place in Angola at the time of the Cuban arrival was the interim government composed of the three Angolan parties and Portugal. The Cubans were invited by an Angolan faction; they came to torpedo the Alvor Agreement and to install the Soviet protege (MPLA) in power.

4. Is the present MPLA regime a legitimate government?

Absolutely not. The regime was installed in power by the Cuban expeditionary force and Soviet guns, it is sustained in power by foreign armies. Legitimacy to a government cannot be conferred except by the people through a plebiscite or free elections. The Angolan people have never been allowed to exercise their inalienable right to self-determination. Obviously, the present MPLA government was not elected and is definitely illegitimate.

5. Does the OAU (Organization of African Unity) recognition confer legitimacy to the MPLA regime?

No. A prime example is Idi Amin Dada of Uganda who came to power by force, and overthrew a duly elected government. And yet, when Idi Amin's atrocities were at their peak and endless massacres were being directed against the Ugandan people, he was at the same time the chairman of the OAU! Since there are so many atrocious, corrupt and illegitimate regimes in Africa (as elsewhere among Third World countries), it is understandable to expect the OAU member governments to protect each other by never criticizing a member country for its internal situation. Were the OAU to act effectively to promote peace, justice and legitimacy in Angola, it would set a precedent for the downfall of many regimes.

6. How did the OAU react foreign intervention in Angola?

The ad hoc summit conference held by African heads of state on January 21, 1976 in Addis Ababa (Ethiopia) had recommended the immediate and total withdrawal of all foreign forces from Angola—the Cubans and the South Africans alike. The South Africans withdrew by February 1976; but the Cubans remained and increased their numbers from 12,000 (in early 1976) to 45,000 (by late 1985).

7. What are UNITA's goals?

UNITA seeks (a) the withdrawal of all foreign forces from the country, (b) the formation of a government of national unity, (c) national reconciliation, (d) holding of free

elections and (d) the creation of durable democratic institutions for socio-economic progress and well-being. UNITA wishes to achieve these goals by peaceful means alone. But for the time being, armed resistance has been imposed on it by the refusal of the other side to negotiate.

8. How successful is UNITA'a armed resistance to the Soviet-Cuban occupation?

Today UNITA controls more than one-third of Angola; schools, clinics, repair shops, agriculture, trade, road and bridge construction are some of the social and economic activities that are normally carried out in the UNITA-controlled area to ensure self-sufficiency in food, social services and manpower. UNITA enjoys vast popular support not only in the areas under its control but also in the enemy-controlled portion of the country. Most of the fighting in Angola actually takes place in the Soviet-Cuban-MPLA controlled part of the country where UNITA has extended its military programs. UNITA has a 50,000-strong army of regular and semi-regular troops with both conventional and guerrilla warfare training. The remarkable improvement in the fighting capability and overwhelming popular support have now enabled UNITA to achieve overall strategic superiority, notwithstanding the other side's vast arsenal of highly sophisticated weapons, tanks and aircraft. Above all, UNITA is blessed with the very competent leadership of Dr. Jonas Savimbi. The group's popular support cuts across all of Angola's ethnic groups, in the countryside as well as in urban areas.

9. Is UNITA an Ovimbundu-based movement?

While enjoying the overwhelming support of the Ovimbundu people (who take up 43% of the Angolan population), UNITA is totally multi-ethnic in its origin, leadership composition and actual presence throughout the country. UNITA was founded on March 13, 1966 in the village of Mwangai in the central eastern province of Moxico predominated by the Luena and Chokwe ethnic groups. The founding members included Ovimbundu, Chokwe, Luena Cabinda, Cuanhama, Bakongo and Kimbundu people, integrating Angola's main ethnic groups. UNITA's penetration and consolidation of its guerrilla bases today in the north (Bakongo and Kimbundu), center (Ovimbundu and Kimbundu), south (Ovimbundu, Cuanhama, Ganguela and Humbe), east (Chokwe and Luena), and northeast (Chokwe and Lunda) were made possible only with its multi-ethnic base of support and appeal.

10. What is UNITA's view on race harmony?

In 1975, during independence negotiations and discussions among the three nationalist groups on qualifications for citizenship, UNITA was the only one to successfully argue in favor of Angolan citizenship for all Angolans, irrespective of the color of their skin or origin. For UNITA, Angola is multi-ethnic and multi-racial; Angola's national integrity, cultural heritage and overlook for socio-economic progress can only be conceived when its racial and ethnic diversities are taken into account.

11. Is Jonas Savimbi a Communist?

Absolutely not. UNITA's economic, political and social philosophy has been duly enunciated in its publication titled "The Angola Road to National Recovery: Defining the Principles and Objectives." Individual freedom, free enterprise, public accountability, human liberties, respect for cultural identity, health and education, free trade unions, agriculture and industry, the countryside and urbanism, commerce and international relations, etc., are some of the issues addressed in detail. Dr. Jonas Savimbi, like many other freedom fighters in the 60's, underwent guerrilla warfare training in the People's Republic of China. Such training was absolutely necessary because in Angola even peaceful means of independence struggle were totally outlawed by the colonial rule. Armed struggle was the only way to pursue self-determination. The West and the Free World offered no training programs for those wanting to fight colonial oppression. Ironically, the Communist countries opened their doors to liberation movements. Savimbi cherishes the knowledge he acquired in China which not only enabled UNITA to succeed in the anti-colonial struggle, but also makes possible today the effective challenge to Soviet-Cuban domination. Savimbi studied Marxism in his university days, like most intellectuals, but he soon came to the conclusion that Marxism-Leninism can never bring peace and prosperity. According to Savimbi, "Marxism teaches people to hate others; we need cooperation, not class-hatred, which is not very different from race-hatred. Marx' materialism undermines the foundation of an African's basic world view, a belief in ancestral force which transcends man, a higher Being whatever its name may be. We teach people to work for themselves, to be productive for themselves as individuals because that is how to make their village/country prosper. Marx teaches that the individual is unimportant. We think the countryside must be developed before the cities and that Angola's first priority is to be self-sufficient in food; the MPLA wants an urban proletariat and heavy industry, which is wholly inappropriate for Africa. For the MPLA, the state must be the boss, and the people obedient servants. For us, the state must be a referee between free people. Marxists claim the right to impose their ideology on others, even by force; we seek peacefully coexistence and dialogue in diversity." UNITA is totally committed to free elections and pluralistic democracy.

12. Is UNITA a terrorist organization?

Absolutely not. The MPLA regularly executes hundreds of Angolans and foreigners accused by its "people's tribunals" of cooperation with the opposition; in 1976, for example, the bodies of two American citizens were flown back to the U.S. after being summarily executed by the MPLA regime on charges of cooperation with the opposition. The MPLA regularly carries out "scorched earth" military operations against Angolan villages accused of supporting UNITA. There are vast concentration camps and high security prisons containing thousands of political dissenters to the MPLA regime. Torture and cruelty to the prisoners is the norm. And the MPLA refuses visits of envoys from Amnesty International and the International Committee of the Red Cross to political detainees in Luanda. UNITA, on the other hand, strictly respects the Geneva Convention on the treatment of war prisoners. Officials of all international human rights organizations have been freely allowed to visit UNITA's detainees. No prisoner has ever been executed or condemned to death by UNITA. In the actual conduct of war, UNITA's targets are selected strictly on the basis of their relationship to the Soviet-Cuban-MPLA ability to wage the war. Obviously, Cuban living quarters, whether in cities or the countryside, are a justifiable target for UNITA's military activities. It is pure demagaoguery to label such acts as "urban terrorism," as UNITA's adversaries have often attempted to promote in their propaganda. In fact, drawing most of its support from the people, UNITA cannot afford to endanger the well-being of innocent Angolans. The Cubans in Angola are not innocent: they are the harbingers of death; they are the wedge that keeps Angolans from talking to each other to find peace. The war against Cubans is total, and no compromose should be expected until they leave the country. When a Cuban living or working quarters is destroyed and some 176 Cubans lose their lives, such as happened in the city of Huambo in the spring of 1984, then no demagogic outcries should be permitted to blind the public.

13. Where does UNITA get its support?

From several friendly countries in Africa, Asia, Europe and the Middle East. However, 65 percent of UNITA's weapons are those captured in combat; the rest is received and/or purchased from outside. The main source of the movement's strength is, however, the practice of scrupulous *self-reliance.* Thus, there are no foreign advisors and no foreign camps for training for UNITA. While deeming foreign support indispensable, UNITA is not dependent on such assistance. UNITA's ties with South Africa are strictly within the context of South Africa's economic dominance in the region where all the countries find it literally impossible not to cooperate with Pretoria, notwithstanding all Africans' sincere commitment to fighting apartheid.

14. Is United States' assistance needed?

Absolutely. The struggle against aggressive Soviet expansionism needs U.S. moral, political, diplomatic and material help. It could mean the difference between a very protracted agony and early peace with justice in Angola. U.S. support would effectively relate the Angolan struggle to the ongoing worldwide process for freedom and justice in Afghanistan, Nicaragua, Indochina, Ethiopia and elsewhere. In addition, most of the friendly countries would do more to help UNITA if the United States were to be counted on.

15. What kind of support is needed from the United States?

It is not a question of humanitarian versus military aid, but rather support of any kind—of all kinds. Today, more than 3 million Angolans (out of a population of 7 million) live in UNITA-controlled parts of Angola. UNITA faces the pressing problems of education, health care, clothing, transportation, etc., on a daily basis. They are appealing to the characteristic generosity and compassion of the American people to help the Angolans in their suffering. At the same time, it should be pointed out that the source of much of Angola's misery is the Soviet-Cuban military involvement. The Soviet Union is pumping more and more lethal weapons into the country; over the past 18 months alone, more than $2 billion in new military hardware has reportedly been unloaded in Angola. It would therefore be most appropriate to help UNITA to deal effectively and decisively against Soviet MiGs, Hind helicopters and tanks. A successful end to the fighting would eliminate the source of Angolans' suffering. Despite its massive military investment to maintain its foothold, Moscow is actually quite vulnerable to Angola. For those who argue that the Soviet Union has already invested too massively in Angola for U.S. material support to make a difference, they should be reminded that this massive Soviet expenditure is, ironically, in response to UNITA's

successful resistance, which has cost the West practically nothing! In other words, what Dr. Savimbi requires today as military assistance in order to decisively change the military stalemate in UNITA's favor is not $2 billion, not $500 million, but something much less.

16. Wouldn't assistance to UNITA undermine the efforts to negotiate the Cuban withdrawal and the Namibia independent settlement?

U.S. assistance to UNITA would actually enhance any diplomatic efforts towards a negotiated Cuban withdrawal. The Soviet-Cuban-MPLA side has always conditioned the withdrawal of the Cubans on the cessation of any internal opposition to the MPLA regime. The MPLA steadfastly refuses any accommodation with UNITA within the framework of a pluralistic democracy. The MPLA refused to talk when UNITA was militarily very weak in the late 70's, and it maintains its refusal now that UNITA is strong. During the past five years of U.S. diplomatic efforts toward Cuban withdrawal, the Soviets have actually escalated their involvement with more military hardware, more aircraft, more radar installations, more coastal patrol boats, more Cuban troops and more procrastination. Experience from the past years clearly indicates that far from increasing the MPLA's dependence on the Soviet Union and Cuba, a strong UNITA could encourage the MPLA to negotiate a cease-fire and accept reconciliation with its compatriots.

17. Would U.S. assistance to UNITA be tantamount to endorsing apartheid?

South Africa is committed to the fight against Soviet expansionism, no matter what the world thinks about apartheid. Had the West helped Angolans to repel the Cuban invasion the South Africans would never have intervened in the first place. As long as armed Communist aggression looms just across her borders, South Africa will always be involved, out of what she perceives to be her security interests in the region. Helping to get the Cubans and the Russians out of Angola is the only way to stop South Africa from getting involved. Obviously, the responsibility confronting the United States cannot be reduced to the oversimplified choice between apartheid and Communism. The United States can and should effectively help to bring about peace with justice in Angola and change in South Africa. Also incomprehensible is the attitude of those who castigate the Angolan freedom fighters (UNITA) merely because South Africa is sympathetic to their cause! There are three distinct but interrelated problems in southern Africa: apartheid, Namibian independence and the Soviet-Cuban occupation of Angola. Where the South African participation can help resolve one of these conflicts shouldn't such participation be accepted and even encouraged? Should the Western powers have kept Communist Russia from joining them in the war against Hitler? Of course Russia had to join the allies for her own national interests, irrespective of what the allies felt about Communism.

18. Is a Cuban military defeat possible in Angola?

Definitely. The Cuban troops are demoralized. They are no longer the "invincible" warriors they appeared to be in the first few years following their success in 1975. Rising casualties, increasing hostilities from the very people they claim to have come to help (the MPLA) and a totally unpopular war that has dragged on endlessly are some of the reasons Cuban troop morale has dropped drastically. To the Cuban soldiers returning from Angola there has been no hero's welcome. Angola has also become a place for punishment for many Cuban officers, such as those defeated in Grenada two years ago. The defeat of the Cuban troops in Angola could enhance enormously the United States' options in dealing with Fiedel Castro's adventurism.

19. What is UNITA's position in relation to SWAPO?

Today, SWAPO's military units are killing Angolans especially in the Bie province in central Angola, as part and parcel of the Soviet-Cuban-MPLA military apparatus. UNITA remains in total sympathy with the fraternal Namibian people's quest for independence. But UNITA strongly hopes that the Namibian people will be spared the tragedy that befell Angola: an unelected totalitarian regime backed by Soviet-Cuban-East German troops and guns.

Mr. SYMMS. Mr. President, I ask unanimous consent that a letter from UNITA to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITA,
December 9, 1985.

Senator SYMMS,
Washington, DC.

DEAR SENATOR SYMMS: On behalf of UNITA, I want to thank you for voting for the repeal of the Clark Amendment.

It has come to my attention that certain administration officials are claiming that President Jonas Savimbi supports negotiations in lieu of legislation to aid UNITA. Those officials who make this claim on our behalf are incorrect.

As the official representative of UNITA to the United States, I wish to affirm to you that President Savimbi strongly favors legislation that provides military aid to UNITA. We also favor the initiatives of Representative Claude Pepper and Senator Orrin Hatch in providing $27 million worth of aid to UNITA.

Recent developments belie the claims of the MPLA faction that they are negotiating. Fresh reinforcements of thousands of Cuban troops, hundreds of Soviet advisors, billions of dollars in new Soviet tanks, gunships, jets, and artillery continue to pour into our country.

Just this last week we counted 15 flights a day pouring Soviet IL-76 and An-26 transports into Cuito Cuanavale with hundreds of tons of offensive equipment. Cuito Cuanavale is only 200 miles from UNITA's base at Jamba. Even as I write this letter to you, I received an urgent communique from Angola stating that the Soviet-Cuban sponsored MPLA offensive began on Friday night, December 6th.

We are certain the Angolan resistance will survive this new assault as it has in the last twenty years. But if the fresh Soviet intervention is not effectively countered, victory in Angola's costly struggle to be free will be delayed. The people of Angola will pay the price for this delay with their lives.

UNITA welcomes all congressional and administration initiatives to help us. The need is now more urgent than ever before.

FIGUEIREDO PAULO,
Representative to United States.

Mr. SIMON. Mr. President, I am opposed to any U.S. intervention in the Angolan war.

The United States is currently Angola's leading trading partner and Angola buys more American goods than all but two or three countries in sub-Saharan Africa. No American citizen or property has been touched by the Government. Any destruction of American property or murder of American citizens in Angola has been carried out by South Africa and UNITA.

Angola is by no means a democracy; yet criticism of the Government is not only tolerated but widespread, and few look over their shoulders when discussing Government policies or ministers. There are few political prisoners. In both of these respects the Angolan Government is far more tolerant then its larger neighbors to the south and north, South Africa and Zaire.

If the Reagan administration truly is interested in mitigating the Soviet and Cuban presences in Angola, it should continue on its present course of negotiations, not enter the war. Giving aid to the insurgents will only increase the threat of the introduction of more Cuban troops and make the United States unpopular throughout Africa.

While the American-sponsored negotiations have been slow and laborious, they represent the only hope for the United States to realize its goals of reducing the number of Cubans, and promoting national reconciliation in Angola. No one can be certain that the negotiations will succeed, but if they fail the position of the United States will not be harmed further. If we join hands with South Africa on the Angolan battlefield, we will worsen the conflict and greatly damage our interests and prestige in the rest of the world.

A fundmental United States objective in Angola has been to bring about the removal of Cuban troops. A decision to assist UNITA would complicate this effort by undermining our role as a mediator. United States involvement in the Angolan conflict would be perceived throughout Africa as a decision to consciously collaborate with the policies of the Government of South Africa and would damage United States efforts to bring about the resolution of a host of complex questions in all of southern Africa.

Mr. TRIBLE. Mr. President, I am proud to join my colleagues who speak in behalf of the freedom fighters in Angola.

It is imperative that the United States provide support to the anti-Communist rebel force under Jonas Savimbi—the National Union for the Total Independence of Angola (UNITA). Quite simply, such assistance will foster democracy in southern Africa. Moreover, it will symbolize America's rejection of the so-called Brezhnev Doctrine, whose fundamen-

tal tenet is the permanence of Communist domination.

Sadly, symbols of that nature are in short supply. For too many years, the United States has shied away while communism was on the move. But to stand still in the face of an aggressor is to gradually, but inexorably, lose ground.

Only in the past several years has the United States been willing to provide visible, substantial assistance to freedom fighters around the world. In Afghanistan and in Nicaragua, we have offered support to those brave forces who are willing to battle tyranny. In so doing, we have finally responded to Soviet expansionism by saying: "No further."

But, inexplicably, we have failed to offer the same support to Jonas Savimbi and his anti-Communist forces, support which is needed now more than ever.

Mr. President, 10 years ago, the Portuguese withdrew from Angola. Shortly thereafter, the Marxist Popular Movement for the Liberation of Angola [MPLA] seized power, and was promptly rewarded with a massive infusion of Soviet and Cuban assistance. A mere 1 month after declaring a Marxist state, the MPLA had received an estimated $50 million in Soviet aid, together with several thousand Cuban combat troops and hundreds of Soviet advisers. And just last weekend, the MPLA launched a massive offensive, using powerful Soviet weapons and carried out, in part, by Cuban personnel.

Over the years, the presence of Soviet and Cuban personnel in Angola has multiplied rapidly. Today, an estimated 5,000 to 10,000 advisers from the Soviet Union, East Germany, and Cuba are present in Angola. So, too, are an estimated 30,000 Cuban combat personnel, who are equipped with weaponry that is more and more sophisticated and more and more destructive.

In the years since the Marxist MPLA came to power, the Angolan people's hopes for democracy and freedom have been crushed. The MPLA's constitution provides for popular participation in the Government. But the MPLA is the only legal political party in Angola. Its opponents have simply been outlawed, and as a consequence, Angolan citizens have no opportunity to change their Government.

Moreover, the MPLA has proscribed the vast array of rights and freedoms enjoyed by the West. The State Department's own country reports on human rights practices paints a dismal portrait of Angolan life:

In Angola today, there is no semblance of due process, with respect to either arrests or trials. There is no freedom to travel within Angola, and very little opportunity to leave. There is no freedom of speech. There is no freedom of the press. There is no freedom of assembly.

Moreover, Cuban forces appear increasingly bent on reigning in the activities of the Christian church in Angola. At present, the majority of Angolans are Christians, and perhaps for this reason, the MPLA has not moved to shut down all churches. But the government continues to emphasize the importance of "atheism" and remains critical of religion, and several films have been shown on Capitol Hill which detailed the bombing of churches by Cuban military personnel.

Simply put, we are witnessing a massive effort by the Soviet Union, Cuba, and the Marxist MPLA to extinguish the last vestiges of freedom in Angola. And this, we must not allow.

Recently, this Congress opened the door to aiding the UNITA forces by repealing the ill-advised Clark amendment, which for a decade had banned U.S. assistance to the Angolan rebels. We must now walk through that opened door. It is time again for the United States to fulfill its historic promise to combat tyranny and foster freedom around the world.

A concerted effort to aid UNITA will help thwart the Communists' plans in Angola and in southern Africa generally. It will reward those forces in Angola who still believe in freedom and who are still committed to democracy.

Support for Democratic Resistance Forces in Angola

Mr. DOLE. Mr. President, UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the aspirations of so many Angolans, deserve the support of this Congress.

For that reason, I am very sympathetic to the aims of the amendment offered by the distinguished Senator from Wyoming.

Indeed, considering the emerging consensus in the Senate to keep this continuing resolution as clean as possible, without any unnecessary amendments—and we've now had a long series of votes which reflect that consensus—the strong positive vote received by Senator WALLOP's resolution shows that many Senators share those same aims. An up-and-down vote, without the considerations of keeping the continuing resolution clean or other parliamentary or procedural questions which are of importance to many Members, might very well have yielded a majority for the program which Senator WALLOP offered or one similar to it.

Unfortunately, the overall situation—the fact that we're already deep into December and the fact that we have to move this continuing resolution as quickly and cleanly as possible—has yielded the result we just saw.

But it is not too late, I hope, to express the support which many of us strongly feel for UNITA and to put ourselves on record as saying to the Marxist MPLA in Angola that our patience has worn out. We want Angola rid of the Cubans and Soviets, and we want good-faith negotiations with UNITA, and we want those actions taken now.

As many of the Members know, I have a resolution I intend to offer for myself and Senators LUGAR, DURENBERGER, COCHRAN, ROTH, and DECONCINI which makes this political statement and which will set the stage for even more concrete action next session, if the situation in Angola doesn't change. I hope to introduce it and get action on it within the next several days. I would include the text of the resolution in the RECORD at this point and urge my colleagues to review it. I hope that an overwhelming majority of Senators will see it as I do—a strong statement, a needed statement, another step in a comprehensive policy to pursue the same policy goals implicit in Senator WALLOP's amendment.

The resolution follows:

RESOLUTION

Expressing the sense of the Senate regarding support by the United States for the National Union for the Total Independence of Angola (UNITA).

Whereas the National Union for the Total Independence of Angola (hereafter in this resolution referred to as "UNITA") led by Dr. Jonas Malheiro Savimbi, represents the views and wishes of a large number of Angolans;

Whereas UNITA was denied the legitimate role in the political life of Angola envisioned for it in the Alvor Accord of 1975, an agreement among all political elements in Angola which called for free and fair elections in Angola, when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") faction, backed by Soviet and Cuban troops, illegally seized power in Angola;

Whereas since that time UNITA has waged a courageous and effective guerrilla war, with the support of a large part of the Angolan population, aimed at pressuring the MPLA to live up to its commitments under the Alvor Accord, permit free and fair elections in Angola, and remove Soviet and Cuban forces from Angola;

Whereas that struggle has achieved such success that many independent observers have concluded that, in free and fair elections, UNITA and Savimbi would likely enjoy the support of a large portion of the Angolan population;

Whereas the MPLA, faced with the possibility that the popularly supported forces of UNITA could militarily defeat the forces of the MPLA, has introduced even larger numbers of Soviet and Cuban forces, so that more than 35,000 such troops and advisers are now in Angola;

Whereas this Cuban and Soviet intervention represents the most blatant foreign intervention in the post-colonial history of Africa;

Whereas the civil war in Angola, caused primarily by the illegal acts of the MPLA and waged increasingly by Cuban and Soviet troops, has led to widespread suffering for the people of Angola;

Whereas the MPLA, at the urging and with the extensive involvement of Soviet and Cuban troops and advisers, has recently undertaken a major offensive utilizing massive new shipments of modern arms from the Soviet Union and Cuba, aimed at wiping out UNITA;

Whereas UNITA has temporarily blunted that offensive, reestablishing a practical stalemate in the military situation;

Whereas MPLA nonetheless may seek and obtain even more modern and extensive armaments and perhaps even more combat troops from its Communist suppliers and will launch further attacks on UNITA, leading to more suffering among, and greater suppression of, the Angolan people;

Whereas the MPLA, despite being offered the opportunity to seek a solution to these problems through negotiations in which the United States Government has sought to play a facilitating role, has refused to take any meaningful steps to lessen its dependency on Soviet and Cuban forces, to end the civil war, or to grant UNITA and its followers their legitimate place in the political life of Angola;

Whereas the only practical way in the foreseeable future to achieve a viable solution to the problems within Angola would be for the MPLA to effect the removal of Soviet and Cuban forces and to enter into direct and meaningful negotiations with UNITA concerning the political future of Angola; and

Whereas the main barrier to such a solution has been and is the refusal of the MPLA and its Communist allies to agree to meaningful negotiations aimed at bringing it into effect: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the legitimate aspirations of the people of Angola for democracy, justice, peace, and freedom from foreign interference deserve the support of the United States;

(2) UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the political aspirations of a large number of the Angolan people, have the right to play a commensurate role in the political life of Angola;

(3) UNITA and Savimbi deserve the political and moral support of the people of the United States and freedom-loving people everywhere, in demanding and struggling for that right;

(4) the MPLA has violated the rights of the Angolan people through its illegal seizure of power and suppression of the population;

(5) the MPLA, further, has compromised the sovereignty of the Angolan nation by introducing large numbers of Cuban and Soviet forces into Angola;

(6) the growing intensity of the civil war, suffering of the Angolan people, presence of foreign forces in Angola, and failure of the MPLA to respond to diplomatic initiatives calling for the elimination of foreign forces and free and fair elections in Angola have given new urgency to efforts to deal effectively with the Angolan situation;

(7) the MPLA should agree promptly to a process of meaningful negotiations, to include direct and good-faith negotiations with UNITA, aimed at ending the presence of Soviet and Cuban forces in Angola, terminating the civil war, and setting up an administration which respects the rights and reflects the wishes of the Angolan people, with a mandate to organize free and fair elections for a new government; and

(8) if the MPLA, during the current rainy season in Angola, continues to be intransigent, by—

(A) refusing to engage in good faith negotiations, including negotiations with UNITA, aimed at eliminating the presence of foreign forces and reaching a just political settlement in Angola, or

(B) continuing its preparations for a new military offensive,

then the Senate would support the provision early in 1986 of material assistance to UNITA and would impose economic sanctions against those sectors of the Angolan economy which provide resources to support the Cuban troop presence.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. INOUYE. Mr. President, I make a point of order that this is legislation on an appropriations bill.

Mr. WALLOP. Mr. President, I raise the defense of germaneness as referenced in the continuing resolution and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under rule XVI, the question of whether the amendment is germane is submitted to the Senate without debate. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—39

Abdnor	Gramm	McConnell
Andrews	Grassley	Murkowski
Armstrong	Hatch	Nickles
Boschwitz	Hawkins	Pressler
Cochran	Hecht	Quayle
D'Amato	Heflin	Rudman
Danforth	Helms	Sasser
Denton	Hollings	Symms
Dole	Humphrey	Thurmond
Domenici	Kasten	Trible
Ford	Laxalt	Wallop
Garn	Mattingly	Warner
Gorton	McClure	Wilson

NAYS—58

Baucus	Dixon	Johnston
Bentsen	Dodd	Kassebaum
Biden	Durenberger	Kennedy
Bingaman	Eagleton	Kerry
Boren	Evans	Lautenberg
Bradley	Exon	Leahy
Bumpers	Glenn	Levin
Burdick	Gore	Long
Byrd	Harkin	Lugar
Chafee	Hart	Mathias
Cohen	Hatfield	Matsunaga
Cranston	Heinz	Melcher
DeConcini	Inouye	Metzenbaum
Mitchell	Riegle	Stafford
Moynihan	Rockefeller	Stennis
Nunn	Roth	Stevens
Packwood	Sarbanes	Weicker
Pell	Simon	Zorinsky
Proxmire	Simpson	
Pryor	Specter	

NOT VOTING—3

Chiles	East	Goldwater

The PRESIDING OFFICER. On this vote, the yeas are 39, the nays are 58. The judgment of the Senate is that the amendment is not germane. Therefore, the amendment falls as not germane.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate first it is my hope we can have a vote on a freestanding resolution with reference to support before we adjourn this year.

Let me indicate I have again had a visit with the managers and they want to complete this bill this evening. Others who have other plans will just have to encourage our colleagues to stop offering amendments. I think we have demonstrated now sort of a bipartisan effort here to table or otherwise dispose of amendments that, when offered, may not prevail.

I can only say to my colleagues there will be no window. For those who wish to attend the White House function at 8 o'clock, I suggest you go without black tie and take your beeper.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1400

(Purpose: To delete section 8095 of H.R. 3629, the Department of Defense Appropriations Act, 1986, as reported to the Senate on November 6, 1985, requiring that alcoholic beverages procured with nonappropriated funds for resale on a military installation be procured in the state in which the military installation is located)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 1400.

At the appropriate place in the Joint Resolution, insert the following new section:

"SEC. . Notwithstanding any other provision of this Joint Resolution, Section 8095 of H.R. 3629 as reported to the Senate on November 6, 1985, is hereby deleted.".

Mr. GLENN. Mr. President, the amendment I am offering would delete an anticompetitive, unfair provision from the fiscal year 1986 Defense appropriations bill reported to the Senate and referenced in the continuing resolution. The provision I am deleting—section 8095 in the bill reported to the Senate—would require that

all alcoholic beverages purchased with nonappropriated funds for resale on a military installation located in the United States be purchased in the State in which the military installation is located.

If I ever saw a special interest provision, Mr. President, this is it, because this provision would benefit alcohol beverage distributors in every State and some of the State governments at the expense of important morale, welfare, and recreation programs for our military servicemen and their families.

Today all of the military services sell alcoholic beverages in military package stores, in officer and enlisted clubs, and in military exchanges located on military installations. Under Defense Department policies, the prices in military package stores must be within 10 percent of the prices of local civilian commercial outlets, so there is no question of unfair competition.

The profits from sales of alcohol in military package stores, like the profits from the military exchanges and officer and enlisted clubs, are used in supporting the morale, welfare, and recreation programs in each of the military services. These important programs operate physical fitness centers, libraries, child care centers, outdoor recreation programs and other activities which exist to improve the quality of life for military members and their families.

In 1983, the U.S. Fifth Circuit Court of Appeals held that States cannot regulate where the military services purchase alcoholic beverages. As a result, the military services have developed consolidated alcohol purchasing programs to buy in volume directly from the most competitive source, regardless of location.

If section 8095 of H.R. 3629 as reported to the Senate becomes law, the military services would be forced to purchase all of the alcohol for resale on a military installation within the State where the military installation is located.

Mr. President, this is terrible procurement policy, and flies directly in the face of all of the pressure Congress is putting on the Defense Department to increase competition in Defense procurement. Rather than encourage competition, this provision would severely restrict competition because it will eliminate the military services' current ability to negotiate and purchase alcohol beverages in volume from the most competitive source.

If this provision becomes law, the military services will be forced to purchase alcoholic beverages in smaller lots from wholesalers, brokers and other middlemen, inevitably meaning higher prices. It is not surprising that we have been hearing from the local alcohol beverage distributors back home on this one; they know a good deal when they see it.

Section 8095 of the bill reported by the Senate Appropriations Committee would also reduce the profits from military package stores and thereby reduce the amount of funds available each year to support morale, welfare, and recreation programs for our military members and their families. The Defense Department estimates that the requirement to purchase all alcoholic beverages in-State would cost military morale, welfare, and recreation programs between $8 and $10 million this year from reduced package store profits. The potential outyear annual impact could go as high as $30 million in reduced profits.

Mr. President, this kind of money would not be missed in a lot of Defense hardware programs, but we are talking here about programs that have a direct and immediate impact on the day-to-day quality of life of military members and their families. Just to maintain the present level of morale, welfare, and recreation programs, Congresss would have to raise the level of appropriated funding for these activities—which is unlikely—or the military services would have to raise the current user fees and charges for these activities.

Finally, this Senate Appropriations Committee provision would undermine the Federal Government's sovereign immunity from taxation by the States and provide an inequitable benefit only to certain States. Each of the 32 States where State-licensed, commercial distributors serve as wholesalers would be able to collect alcohol beverage taxes from the military—and the Federal Government—on an indirect basis. But there are 18 States where the States themselves are the alcoholic beverage wholesalers and where the prices charged directly to the military cannot include State taxes because this would amount to illegal direct taxation of the Federal Government. These 18 "monopoly" States would not be able to share in the windfall tax collections that would be enjoyed by the 32 "license" States.

Mr. President, I find it particularly frustrating to be debating this amendment for the second time this year.

The version of the fiscal year 1986 Defense authorization bill passed by the House contained this amendment. The Senate bill did not contain this amendment. We debated this provision in the conference on the fiscal year 1986 Defense authorization bill and I am glad that the conferees recognized this amendment for what it is: A narrow, special-interest provision that reduces competition; undermines the sovereign immunity of the Federal Government by subjecting it to mandatory, indirect taxation by some of the States; and reduces funds for important morale, welfare, and recreation programs for our military members and their families.

We deleted this provision from the fiscal year 1986 Defense authorization bill already this year.

I urge my colleagues to join me in deleting this provision from the fiscal year 1986 appropriations bill.

Mr. President, I must reiterate that I find it very discouraging that this provision is reappearing on this defense appropriations bill after having been turned down in the Senate Armed Services Committee and in conference.

The fact that this provision deals with alcoholic beverages does not alter the principle at stake. To require that all alcoholic beverages be purchased in the State in which the military installation is located would be the same as if we mandated that each base buy all of its fuel locally, preventing the military from contracting nationally. If we permit this provision, perhaps the next step would be to require that other items such as trucks be purchased only in the State where that base is located. I do not think we want to see that.

We must continue to encourage the Defense Department to broaden and not narrow the base of competition to buy in larger quantities so they can achieve economies of scale. That is exactly what I think should be done in this particular case.

Also, I know the argument will undoubtedly be made that these funds are necessary because there will be a greater amount of policemen needed off the base to monitor local drivers. This is hardly a compelling justification for this provision.

Mr. President, this provision would be a bad precedent. There are many States that would be quite glad to have the hundreds of millions of payroll dollars that come from these bases. We fight to get military bases established in our States. To make the argument that there somehow needs to be this extra revenue coming from our military bases at the expense of morale, welfare, and recreation programs for service personnel is unconscionable.

Mr. President, I urge my colleagues to join me in deleting this provision from the fiscal year 1986 defense appropriations bill. I would be quite happy to accept a time limit and have a vote on this amendment. I yield the floor.

Mr. KENNEDY. Mr. President, the House version of the defense authorization bill contained a provision which would have required the Services to purchase their alcoholic beverage requirements from within the States where their military installations were located. Because of the enormously adverse impact that this provision would have on the morale, welfare,

and recreation funds of military installations, that provision was deleted during the conference and was not included in the final DOD Authorization Act, fiscal year 1986, that was recently signed into law by President Reagan.

But the Senate Appropriations Committee has, for some reason, gone back and inserted this provision in the DOD appropriations bill.

The amendment I am offering with Senator WILSON and Senator GLENN would—again—delete this particular provision.

There is absolutely no justification for taking limited MWR funds from our service men and women and putting those funds into the pockets of local liquor distributors. This is a bad provision any way you look at it, and it should be struck from this bill.

According to the Air Force Military Personnel Center at Randolph Air Force Base in Texas—which has done a study of this matter—if this provision is enacted into law, it will cost military MWR programs somewhere in the vicinity of $8 to $10 million per year immediately, and in the outyears, this provision could result in an annual loss to MWR funds of as much as $30 million per year.

While these dollar amounts may not be very significant in comparison with other sums the Senate will be discussing in the defense appropriation bill, these sums are of enormous importance to the services' morale, welfare, and recreation programs. These MWR funds depend heavily on revenues obtained from sales of alcohol on installations, and if installations were required to purchase their alcohol requirements from within the State in which they are located, the costs will skyrocket and the MWR funds will be correspondingly depleted.

In addition to the actual, direct damage that this provision will do to military MWR programs, this provision has other negative effects.

For one thing, it will undermine the fundamental principle that should govern military procurement—that is, that purchases should be made under the most favorable circumstances possible. This proposal will result in higher prices to the military for alcohol purchases with no offsetting justification whatsoever. More specifically, this provision means more bucks for the beer distributors and fewer MWR services for our military personnel.

It will reduce per order volume and thereby eliminate opportunities to secure volume discounts;

It will eliminate the opportunity to procure from prime sources and will instead force the installations to use wholesalers, brokers, and other local middlemen;

Military bases will lose the advantage of competitive prices that are presently available even from certain in-State sources if the possibility of out-of-State purchasing is eliminated; and

Certain bases will be limited to single source procurement for their supplies because of franchising and other internal State limitations.

For another thing, this provision will subject military actvities to indirect State taxation of the military installation's alcoholic beverage purchases. Under the Constitution, "direct State taxation" of the Federal Government is illegal. But if the Federal Government has no option of purchasing out-of-State, it will be indirectly captive to State taxes and will have to bear an additional economic burden. The Federal Government has the right to make these purchases out-of-State, but if it gives up this right—which is what would occur if this provision is enacted—the Government will have no alternative sources of procurement other than from inside the State and will then be forced to pay State taxes.

Make no mistake about two aspects of this proposal: First, this provision is the product of direct pressure from a well-organized special interest group—the beer, wine, and liquor distributors throughout this country. They are the prime beneficiaries of this prohibition.

Second, their windfall profits will not come at the expense of the American taxpayer—which is bad enough—it is not the U.S. Treasury that is being raided here. They will be taking money directly out of the pockets of ordinary service men and women who rely on their MWR funds to improve the quality of their lives on those military installations.

Although the Appropriation Committee's requirement of in-State purchase will increase the cost of liquor to the military, it will have no effect on the price of liquor to the service customer. That price remains the same. The MWR fund will simply have to absorb the loss in revenues that would inevitably result from higher procurement prices.

As Secretary Weinberger wrote to Chairman HATFIELD on this subject:

> This is not a liquor control provision; it is not designed to reduce consumption. It would not affect the sale prices. It would simply remove DoD procurements of these products from the competitive market place where we try to obtain the best terms available. The increase in cost to the Department . . . could eventually amount to $30 or $40 million annually (and) would effectively reduce the operating margin and decrease earnings needed to support community programs on military installations, e.g., libraries, bowling alleys.

We are not talking about huge sums of money here, but we are talking about a rip-off, and I don't think we should let it happen.

I urge you to support this amendment to preserve the military's MWR funds and to delete section 8095 of this bill.

Mr. ANDREWS. Mr. President, I do not want to take too much time of the Senate on this amendment, but I want to make one point. This was put into this bill with good reason. It is not anticompetitive. It merely says that those individuals on an air base pay the same taxes for policing of excessive use of alcohol as anyone else. Now, if the Senator from Ohio is going to say that somehow or another the servicemen do not drive on the roads when they have had too much to drink, they are a different group of servicemen than I have seen. They are like all Americans because they are Americans.

Let me very briefly point out, Mr. President, that in the 3 hours we have known this amendment was going to be offered, because it is a States right rule as it was put into the bill if anything ever was, we have contacted some States. We have about half of the Governors already saying that they support retention of the language in the bill—the States of Arkansas, Colorado, Florida, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, Texas, and Virginia for starters, Mr. President. Those Governors have all indicated to us this afternoon they need the retention of this language. It does not say you cannot buy from a wholesaler. It does not say you cannot buy from some lower priced outlet. All it says is that you have to be a good citizen and pay the same liquor taxes which any other consumer pays in that State. It makes these military bases good neighbors, it makes them fair in their treatment of the community and the community's needs, and I think it is good legislation. I do not want to take up the time of the Senate because we have more important things to do. But I hope a motion will be made to table and that it will be supported overwhelmingly.

Mr. HATFIELD. Mr. President, I move to table the amendment offered by the Senator from Ohio.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is not a sufficient second. The question is on agreeing to the motion to table.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The

question is on agreeing to the motion to table.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. LEAHY. Mr. President, will the Senator withhold that just for one moment for me to ask the distinguished chairman a question?

Mr. HATFIELD. I would be happy to respond.

Mr. LEAHY. Mr. President, I would like to ask the distinguished chairman if it would require unanimous consent to just vote on all the rest of these amendments en bloc. We would probably accomplish as much as we are doing by several more hours of debate.

Mr. HATFIELD. I would be very happy to do that. I want to say, if I could respond at the same time, that I was asking suspension of the quorum call merely to give the Senator from Ohio an opportunity to request the yeas and nays.

Mr. GLENN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Arizona [Mr. GOLDWATER], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—66

Abdnor	Ford	McConnell
Andrews	Garn	Melcher
Armstrong	Grassley	Murkowski
Baucus	Harkin	Packwood
Bentsen	Hatch	Pressler
Biden	Hatfield	Proxmire
Bingaman	Hawkins	Pryor
Boren	Hecht	Riegle
Boschwitz	Heflin	Roth
Bumpers	Helms	Rudman
Burdick	Inouye	Sarbanes
Chafee	Johnston	Simon
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
DeConcini	Lautenberg	Stafford
Dixon	Laxalt	Stevens
Dodd	Leahy	Thurmond
Dole	Long	Trible
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Weicker
Evans	Mattingly	Zorinsky

NAYS—29

Bradley	Denton	Gramm
Byrd	Exon	Hart
Cochran	Glenn	Heinz
Cohen	Gore	Hollings
Cranston	Gorton	Humphrey
Kennedy	Mitchell	Quayle
Kerry	Moynihan	Sasser
Levin	Nickles	Symms
McClure	Nunn	Wilson
Metzenbaum	Pell	

NOT VOTING—5

Chiles	Goldwater	Stennis
East	Rockefeller	

So the motion to lay on the table the amendment (No. 1400) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1401

(Purpose: Making Technical Corrections)

Mr. HATFIELD. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1401.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 7, strike the word "is" and insert in lieu thereof "are".

On page 18, line 2, after the first comma, insert the following: "an additional".

On page 18, line 7, strike the words "Joint Resolution" and insert in lieu thereof "joint resolution".

On page 19, line 8, strike "section 101" and insert in lieu thereof "any other provision".

On page 20, line 11, strike "section 102" and insert in lieu thereof "any other provision".

On page 21, line 1, strike "section 102" and insert in lieu thereof "any other provision".

On page 21, line 23, insert after the word "this" the following: "joint resolution".

On page 24, line 15, strike "'Pro-" at the end of the line and insert in lieu thereof "of feral burros and horses: Pro-".

On page 25, strike line 24, and insert in lieu thereof the following: "not available for obligation until July 1, 1986: Provided further, That the Secretary of the Interior shall".

On page 26, line 16, insert quotation marks at the beginning of the line.

On page 26, line 22, insert quotation marks at the beginning of the line.

On page 27, line 1, insert quotation marks at the beginning of the line.

On page 27, line 4, insert quotation marks at the beginning of the line.

On page 27, line 8, insert quotation marks at the beginning of the line.

On page 27, line 14, insert quotation marks at the beginning of the line.

On page 27, line 19, insert quotation marks at the beginning of the line.

On page 28, line 1, insert quotation marks at the beginning of the line.

On page 28, strike line 22, and insert in lieu thereof the following: "follows: "sales from any national forest: Provided, That not less than $24,000,000 shall be".

On page 32, line 25, strike "is" and insert in lieu thereof "are".

On page 37, line 8, strike "is" and insert "are".

In lieu of amendment numbered 1355 on page 10, line 19, before the period insert the following: ": *Provided further,* That notwithstanding any other provisions of this subsection, there are appropriated $9,000,000 for the United Nations Environment Program".

In lieu of amendment numbered 1351 effectuating a negotiated settlement between the Department of the Navy and the State of Washington, and for other purposes insert the following:

"SEC. . Notwithstanding any other provision of this joint resolution or any other Act, the Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

In lieu of amendment numbered 1380 providing funding for the Brigade Activity Center at the United States Naval Academy, insert the following:

"SEC. . Notwithstanding any other provision of this joint resolution or any other Act, for construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.".

Mr. HATFIELD. Mr. President, this is a series of technical amendments changing "is" to "are," "are" to "is" and renumbering the paragraphs that have been cleared on the other side of the aisle.

Mr. JOHNSTON. Mr. President, this has been cleared. It is purely technical.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 1401) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1402

(Purpose: To appropriate funds for the procurement of point air defense of United States airbases and other critical United States military facilities in Italy)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1402.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, the amount appropriated for "NATO Cooperative Programs" for acquisition of point air defense of United States airbases and other critical United States military facilities in Italy is $15,000,000.

Mr. STEVENS. Mr. President, a total of $75 million is authorized for NATO air base defense. It was not budgeted and therefore we did not provide funds for it.

The Department of Defense has now contacted us and requested this portion of the authorization be funded.

There are no funds in the House bill. If this funding is not provided now it could jeopardize a cooperative agreement that has been entered into with Italy concerning air base defense.

It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this has been cleared.

Mr. STEVENS. Yes, it has

Mr. HATFIELD. Mr. President, the matter has been cleared.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1402) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1403

(Purpose: Delete section 8090 of H.R. 3629 as reported to the Senate)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1403.

On page 3, line 14, insert after "October 30, 1985," the following: "and section 8090 as reported to the Senate on November 6, 1985".

Mr. STEVENS. Mr. President, this is a technical amendment. It is an item that was called to our attention by the Senator from Indiana. We left out a statement as we deleted the matters pertaining to procurement in this bill, and we wish to have this section added to the items that are deleted from the bill.

Mr. HATFIELD. Mr. President, this is a technical amendment that has been cleared on this side.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. If there be no futher debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1403) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1404

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for Mr. MELCHER, Mr. BURDICK, Mr. ANDREWS, Mr. ABDNOR, Mr. PRESSLER, and Mr. HATCH proposes an amendment numbered 1404.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section as follows:

Sec. . There is hereby appropriated $6,000,000 which, notwithstanding any other law, is immediately available for obligation before January 18, 1986 by the Secretary of the Interior through the Bureau of Indian Affairs only for the emergency provision of hay to Indians using the distribution formula of the Indian Acute Distress Donation Program to aid in maintaining foundation cattle herds in Montana, North Dakota, and South Dakota. The Secretary may, but is not required to, enter into contracts under section 102 of the Indian Self Determination Act of (88 Stat. 2206; 25 U.S.C. 450f) in connection with the appropriation made in this paragraph and no indirect cost or overhead shall be allowed under any such contract from any appropriation. All costs incurred directly or indirectly by the Secretary in connection with the appropriation made in this paragraph for other than the direct cost of the hay and its transportation shall be met from amounts appropriated for the operation of Indian programs. Any part of the appropriation made in this paragraph which is not expended by March 15, 1986, shall be deobligated and shall not be available for obligation or expenditure and an amount equal to the amount deobligated shall be an obligation of the amount appropriated for the operation of Indian programs.

The Secretary of the Interior shall make a report or reports to Congress by September 1, 1986 on (1) the use of the appropriation in the preceding paragraph, (2) the impact of the drought disaster on the Indian Reservations in Montana, North Dakota, and South Dakota, (3) long-term strategies to address the disaster on each of those reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use of Indian reservations throughout the United States with recommendations to improve that effectiveness.

Mr. MELCHER. Mr. President, I am offering an amendment today to continuing resolution House Joint Resolution 465 which will appropriate $6 million for an emergency hay relief program for Indian tribes in Montana, North Dakota, and South Dakota. I am pleased that the chairman of the Subcommittee on Interior Appropriations has agreed to accept this amendment which Senators HATCH, ABDNOR, BURDICK, ANDREWS, PRESSLER, and I are offering to alleviate a desperate crises for Great Plains tribal governments.

This amendment will: First, provide funds to purchase the amount of hay shortfall for drought-affected tribes in the Great Plains; second, enable tribes to maintain approximately 200,000 head of foundation breeding stock; and third, mandate the Bureau of Indian Affairs to conduct a comprehensive assessment of the drought and the overall BIA role in ranching and agriculture and make recommendations to Congress about effective long-term strategies.

We are all aware of the disastrous effects which the drought has had upon the Western States which I and my distinguished colleagues represent. The drought is the worst since the Great Depression and has reduced forage and hay production by an average of 50 percent. Consequently, the cost of hay transported from other areas has skyrocketed to more than double the cost for normal years. To make matters worse, the harshest winter conditions since the 1890's have set in, creating a longer winter feeding season and prohibiting the use of range for winter forage. Most areas in the Plains have snow cover of 20 to 30 inches and cold factors in the subzero ranges.

These conditions pose hardships for all ranching operators. Therefore, let me make it clear that I am not proposing this measure principally to help individual Indian ranchers. I am proposing this amendment because I am convinced that the enmasse failure of the Indian ranching industry will bring about a crippling financial blow to tribal governments which are sustained primarily by income from grazing leases. While we do not have a specific responsibility to individuals, we do have a trust responsibility to tribes. I maintain that this is a case of paying now to protect the major source of income for tribal governments, or

paying later for increased social service and municipal costs when the bulwark or the plains reservation economy fails.

The tribes have appealed to Congress as a last-chance option to deal with this crisis because they have exhausted other options. I am forced to offer this amendment at this late date because of the failure of the BIA and other agencies to respond. It has been my hope that the BIA, recognizing the severity of the current problem and its repercussions, would voluntarily address the issue. However, in spite of repeated urgings from the tribes and Congressmen, they have done nothing. Indeed, high-ranking bureaucrats have asserted that this problem is one for the Hill.

Others have been more responsive. The State Governors have declared the reservations as disaster areas and in Montana, for example, Secretary Block has concurred that the reservations are drought-disaster areas. Therefore, the Farmers Home Administration has made low-interest emergency loans available. Unfortunately, Indian ranchers cannot access this program because of jurisdictional and other problems. The BIA is making Commodity Credit Corporation surplus grain available. The grain helps, but a cow is a ruminating animal and requires roughage in the form of hay to survive.

Tribes have also adopted all possible measures to deal with the disaster: spring turn-in dates have been delayed to protect the range from further deterioration; operators have reduced herds by an average of 50 percent, salvaging only core breeding stock; many grazing fees have been deferred; and the overall grazing season has been shortened. These actions were based on the recommendations of leading range scientists consulted by the tribes.

The only options which remain are to completely eliminate herds, thereby forcing Indian ranchers out of business, or to implement a pay supplement program. However, let us make no mistake—Indian ranchers have already tolerated all they can take. If they go out of business, they will not re-enter the industry. They will join State, Federal, and tribal welfare rolls, swelling the overcrowded ranks of American Indians who are without opportunity to provide for themselves or their families.

We are already seeing some of the effects of this problem. As I stressed previously, the tribes in question rely upon grazing income to operate tribal government, excluding Federal funds which are earmarked for specific programs. For example, the Blackfeet Tribe in Montana has already lost $300,000, the Fort Peck Tribe $400,000 and so forth. This will have several effects. Obviously it limits the tribal capacity to provide municipal services, and it also weakens the tribal ability to fund social programs or to match Federal funds. Often we at the Federal level do not realize the bulk of non-Federal tribal money goes to meet pressing socioeconomic problems on reservations. Therefore, we cannot look to tribal governments to fund the Emergency Hay Program.

There is also a more frightening spectre on the horizon. The tribes in question are in debt to BIA, FHA, and private lenders to the tune of $43 million for land-acquisition leases. The collateral supporting these loans is grazing revenue. Tribes are extremely concerned about their ability to meet loan payments if the ranchers who lease tribal grazing lands go out of business. In the past, non-Indians have taken up the slack, but in this period of economic decline, it appears that non-Indians also lack the wherewithal to lease additonal Indian land. In 1984, 93 percent of all Indian-owned land was used by Indians. By 1985 this percentage had fallen to 80 percent. Consequently, there has been a substantial increase in Indian land which is not utilized nor income producing.

Tribal leaders also fear the effect which these conditions will have upon Indian land ownership patterns. Failure by Indian ranchers to survive this crisis and remain in business may force a sale of Indian lands to non-Indians. It has been my understanding that we support the retention of the Indian land base. I hope we will continue along that course.

The amendment I am proposing along with my colleagues is at best a stopgap measure. It will enable the remaining Indian operators to survive the winter—it is a temporary measure to alleviate a current crisis. The heart and real value of this proposal is mandating the BIA to assess the drought area and to make recommendations for long-term solutions. Further, it requires the BIA to make a self-study to improve its overall role in Indian ranching and agriculture. Is it possible that we could have avoided this current dilemma if the BIA and other Federal agencies had truly exercised their trust responsibility? I suspect so.

Again, I appreciate the support of the chairman for this amendment and hope the rest of our colleagues will lend their support.

Mr. JOHNSTON. Mr. President, this is an amendment on behalf of the Senator from Montana [Mr. MELCHER]. It has been cleared. It appropriates $6 million for an emergency hay relief program for the Indian tribes in Montana, North Dakota, and South Dakota.

Mr. HATFIELD. Mr. President, the matter has been cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1404) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1405

(Purpose: Provide relief for Federal leaseholders engaged in court case with the Department of the Interior)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. MELCHER proposes an amendment numbered 1405.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following new section:

"Sec. —. Notwithstanding any other provision in law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary had directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: *Provided*, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends."

Mr. JOHNSTON. Mr. President, this amendment is also submitted on behalf of the distinguished Senator from Montana [Mr. MELCHER].

This amendment is necessary to correct an unforeseen difficulty due to a court case.

Under an order issued in *Conner* v. *Burford*, No. CV-82-42-BV, U.S. District Court for the District of Montana, certain leases in the Flathead and Gallatin National Forests were deemed to be subject to the National Environmental Policy Act and to the Endangered Species Act. The court determined that the Federal defendants—Forest Service, BLM, and Department of the Interior—had not complied with the requirements of the above referenced acts, leaving the lessees in a state of confusion over lease rights.

BLM subsequently suspended the lease terms and rentals on some 712 leases totaling over 1.3 million acres. Appropriate legal appeals are proceed-

ing, but resolution of this landmark case may take up to 3 years. In the meantime, lessees remain chargeable for that acreage under 43 CFR 3101.2-1 and the Mineral Leasing Act.

Because of the limitation, lessees interested in acquisition of additional interests through new leases, farmouts, or working agreements must count the suspended leases toward the total acreage limitation. This will result in either a decision not to participate, or a decision to release other acreage in order to meet the State limit. In either case, less Federal acreage will be leased and competition will be reduced.

This amendment provides relief from counting suspended acreage covered in Conner against Burford to allow lessees who acquired acreage positions in good faith to participate in Federal leasing programs without having to divest or limit prospects in other areas. The proposed relief would be in effect only for the period up to final resolution of litigation, after which lessees would have 180 days to comply with the State acreage limitation. The effect on total leasing in Montana would be minimal. Moreover, lessees with suspended interests in the Flathead and Gallatin National Forests would not be faced with the difficult decision of disposition of property rights acquired in good faith prior to the filing of the lawsuit.

It has been cleared on both sides.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1405) was agreed to.

AMENDMENT NO. 1406

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. MELCHER proposes an amendment numbered 1406.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or of law, the limitation placed on the Secretary of the Interior by the last sentence of Sec. 319 of "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes", as enacted into law by Public Law 98-473 (98 Stat. 1837), shall remain in effect until Congress determines otherwise.

Mr. JOHNSTON. Mr. President, this amendment, submitted on behalf of the distinguished Senator from Montana [Mr. MELCHER] prohibits further geothermal leasing in the Yellowstone National Park or within the boundaries thereof.

It has been cleared on both sides.

Mr. McCLURE. Mr. President, this amendment was adopted in the continuing resolution a year ago.

The argument has been as to whether that was permanent language or temporary language.

This amendment here now being offered is to indicate that the language adopted last year was permanent language.

We have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1406) was agreed to.

SEVERAL SENATORS. Third reading.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, we are not going to third reading at this moment. There are two unfinished items here that Senators are completing.

As soon as they are finished, we will then go to third reading.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I do not have an amendment, but I do want to talk a little bit about an item in the Interior section of the continuing resolution.

I was going to offer an amendment but I choose not to.

Rather than offer the amendment, I wish to share with the Senate my thoughts on funding a new clean coal technology program.

Within the Interior appropriations bill, which we incorporate in the continuing resolution by reference, there is an item called the Clean Coal Technology Program.

I wish we had a few hours. I think it would be a very interesting debate for the Senate. Although we are trying to complete this bill, I must address the single most significant item unacceptable to the White House in this whole continuing resolution. The continuing resolution is unacceptable for a number of reasons, but the single most significant item is funding a new Clean Coal Program. And I think they are right.

In this bill, believe it or not, in these budgetary restrained and constrained times, we fund a new demonstration program for clean coal technology. The cost is not $25 million, which some of us run around here and get through at the last minute, not $50 million, not even $100 million, but $750 million.

We have already spent $2 billion on clean coal research, moving toward that day when we can burn high-sulphur American coal in an environmentally responsible manner. And this Senator is not opposed to that. But clearly, as an appropriator, as chairman of the Energy Research and Development Subcommittee, and as chairman of the Budget Committee, it seems unwise to fully fund a new $750 million program, created in last year's continuing appropriations bill, rather than through the normal authorizing process.

By providing a $650 million advance appropriation, the committee has fixed it so that the Congress does not ever have to take appropriations action again. That is convenient—for the next 3 years, we do not have to appropriate for this new Clean Coal Program. This is not an entitlement. Some may not object to the first year appropriation as being excessive, because the Committee has fixed it so that the first year appropriation is $100 million. But Congress does not get another shot at it. If this bill is enacted, the whole $750 million will be spent across this country to demonstrate coal research technology.

Frankly, I would offer an amendment. I really believe, as I indicated awhile ago, that an amendment to strike the entire appropriation, an amendment to strike the advance appropriations, or even an amendment—which is hard to draw because we are on a continuing resolution where the bill is actually not even before us, it is only referenced—to require the Congress to appropriate it every year, is appropriate. We could try all three. It would seem to me that one of the three would pass sooner or later, and 51 Senators would conclude that we ought not to do business like this.

I received a letter from the OMB Director, and I talked to the White House a little while ago. The administration has already said the whole continuing resolution will be vetoed if it is sent over like it is. And I am sure the Appropriations Committee will try, in conference, to work it out so the bill will not be vetoed. But the administration has also said the single most offensive item, in terms of fiscal policy, is funding of $750 million for a new Clean Coal Program.

BUDGET ISSUES

In my capacity as the chairman of the Budget Committee, I must rise to oppose funding for a new program, and particularly the use of advance appropriations. I was going to offer this amendment to support the deficit reduction efforts set out in the budget resolution, which passed the Congress with overwhelming bipartisan support. This new funding, not envisioned in the budget resolution, will lock us into

increasing appropriations adding $750 million to the deficit.

Mr. President, we should not start funding for a new program during a time when we are addressing the budget deficit through three extraordinary measures: across-the-board reductions in appropriation bills, major reforms and cutbacks in the reconciliation bills, and the budget balancing Gramm-Rudman proposal.

My colleagues should recognize that they will not just be voting for $100 million in fiscal year 1986, but their one vote here today will be for $175 million in fiscal year 1987, $300 million in fiscal year 1988, and $175 million in fiscal year 1989.

Mr. President, why does this bill have increasing advance appropriations? The reason is that it is a maneuver around the budget process. For the purposes of scoring this year's appropriation bills we only look at fiscal year 1986. By providing $650 million in appropriations for this new program beyond fiscal year 1986, the proponents have cleverly dodged our future budget resolutions. I would point out that we do not provide advance appropriations for any other energy and environmental programs, such as Superfund and nuclear waste programs.

Mr. President, the distinguished chairman of the Appropriations Committee has pointed out that this appropriation represents one of the administration's major objections with the continuing resolution. In this case, I fully agree with the administration.

ENERGY AND ENVIRONMENTAL ISSUES

Mr. President, do we need this new program? The Department of Energy says, "no." The OMB says, "no." The White House says, "no." And as chairman of the Energy R&D Subcommittee, I say "no."

Mr. President, let me elaborate:

Since 1980, the DOE has spent $2 billion on clean coal technology.

In fiscal year 1986, we will spend about $350 million on coal-related research.

In 1985, the Electric Power Research Institute will spend $60 million of its $280 million budget on coal research.

Mr. President, the advocates of this program will say it is needed in order to demonstrate new technologies by the year 1995. They will say that by the year 2000 there will be the equivalent of 115 1,000-megawatt plants that will be over 40 years old and they will have to be replaced. They will say that we need to have new Federal demonstration projects to replace them.

Let me just say to my colleagues that the proposed projects to be funded under this new program will not do the job. They are primarily technologies for new plants—they are not for retrofit of these old plants.

Mr. President, the utilities have announced plans to simply refurbish almost every one of these old plants. They will do this because it is cheaper and because they will be able to avoid the requirement that new or retrofited plants have to meet new source performance standards. What this new federally supported program will do is provide new subsidized plants for utilities. In some cases these Federal dollars will be devoted to utilities who never have complied with clean air standards. Unfortunately, those utilities and consumers who obeyed the law will not benefit from this new Federal subsidy, but they will pay for it.

Mr. President, we already have a significant clean coal program, the gap in technology in the 1990's will not happen because economics and clean air regulations will simply cause us to rebuild old plants, and, lastly, just bringing new technologies into a few plants will not erase the acid rain problem as some of its supporters claim.

I have said enough. This is not said in any way to criticize those who support this research; there are a lot of people who support this research. Companies in the electric utility business support it. There are a lot of companies that say we have to do this in order to get ready for the decade of the nineties. There are a lot of environmentalists who say that we ought to do it because they want us to spend money to demonstrate ways to ensure the clean use of coal and meet their percentage reduction requirements under the Clean Air Act. This requirement never was right, but we are stuck with it. So they say, let us go on spending more money, even though we have plenty of clean coal in the country.

Mr. President, I say to the distinguished chairman that I will not offer my amendment on the clean coal program at this time. I yield the floor.

Mr. HATFIELD. I thank the Senator from New Mexico for not offering his amendment.

CLEAN COAL TECHNOLOGY PROGRAM

Mr. BYRD. Mr. President, the fiscal year 1986 Department of the Interior and related agencies appropriation bill, which is incorporated by reference in this continuing resolution, contains $750 million for the Clean Coal Technology Program. This program provides for joint Federal-private sector, cost-shared demonstrations of various new coal cleaning, combustion, or conversion processes which will permit wider use of coal in an environmentally acceptable manner. This $750 million is provided in the following manner: $100 million in budget authority for fiscal year 1986, and advance appropriations of budget authority in the amounts of $175 million in fiscal year 1987, $300 million in fiscal year 1988, and $175 million in fiscal year 1989. This funding will be scored in the year in which the funds are made available according to information in a September 20, 1985, letter from Mr. Rudolph Penner, Director, Congressional Budget Office. Consequently only $100 million in budget authority is scored against this bill this year.

Other features of the program include the requirement that industrial partners contribute at least 50 percent of the cost for each project. This high level of cost sharing will ensure that only those projects which are strongly supported by industry will be pursued. Also, the projects must meet present environmental retrofit and new source performance standards as applicable. And, lastly, only commercial technologies, which have a chance to be competitive at today's prices, will be eligible for Federal partnership. I believe that these requirements will ensure that solid, well-thought-out projects will be advanced under the Clean Coal Technology Program.

The benefits of the program are numerous. The technologies eligible for consideration under this program will employ a wide range of coals, both high and low in sulphur content, and the improved performance of the new technologies will permit the greater use of vast domestic coal reserves in an environmentally acceptable manner. At the same time, the expansion of coal production in this country will create additional domestic jobs in related industries. Greater use of domestic coal will reduce our payments for foreign oil, which are now running at $54 billion annually, and a related benefit would be greater national security. And, finally, the greater inherent efficiencies of the new clean coal technologies will provide useful energy at lower cost to consumers.

The $750 million program was first approved by the Congress in the fiscal year 1985 continuing resolution—Public Law 98-473. That resolution contained a five-point compromise related to the continuation of the Synthetic Fuels Corporation. One of those points was the establishment of this $750 million program. The overall compromise was the product of 5 months of negotiations between the Congress and the administration. Both were party to the final agreement last year.

The most recent congressional commitment to this program came on July 31, when the House voted overwhelmingly 317 to 98 in favor of a 3-year, $500 million Clean Coal Technology Program. The strength of the House is underwritten by the widespread non-Federal support which this program enjoys. This program has been endorsed by coal producers, labor, and environmental organizations alike, as is evidenced by the following list of supporters: The National Coal Association, the Electric Power Research Institute, the Edison Electric Institute,

the United Mine Workers, the Sierra Club, the Environmental Policy Institute, the Izaak Walton League, the National Governors Association, and the League of Women Voters. Furthermore, the program is supported by the Department of Energy's own assembly of non-Federal expert advisers who make up the Energy Research Advisory Board.

Mr. President, I believe that any program which leverages private investment as strongly as the Clean Coal Technology Program does, and which is supported by such a broad spectrum of the public, merits a correspondingly strong commitment from the Federal Government. So, I hope my colleagues will support the recommendation of the Appropriations Committee and fully fund the Clean Coal Technology Program at this time.

Mr. President, the fall issue of Electric Perspectives contains an excellent article entitled "Clean Coal Technology: Just in Time," It explains in detail the importance of the Clean Coal Technology Program. I recommend the article to my colleagues and ask unanimous consent that it be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLEAN COAL TECHNOLOGY: JUST IN TIME

(By Leslie Braunstein)

[Charts not reproducible for the RECORD.]

Clean coal technology can make a big difference in how America's power plants do their job.

Coal combustion methods, which have changed little since the introduction of pulverized coal boilers in the 1920s, are now being adapted to meet today's environmental, economic, and financial realities. From coast to coast, electric utilities are on the brink of commercializing new technologies that have been looking good in the research and development stage.

The new technologies range from the basic, such as improved coal cleaning, to the exotic, such as magnetohydrodynamics. The humble lump of coal is being crushed, ground, sifted, dewatered, pulverized, micronized, pressurized, and desulfurized. It is being subjected to microwaves and magnetism, tossed around in a "fluidized bed," and transformed into a clean-burning gas.

As a result of such high-tech manipulation, coal can be burned more cleanly than ever—with 90 to 99 percent of its potentially polluting sulfur content removed. In addition to this environmental benefit, clean coal technology offers numerous other advantages over conventional combustion and pollution control methods: less solid waste, less overall cost, shorter construction time, reduced power plant financing charges, improved efficiency, and the ability to use a wider range of fuels.

Clean coal technology is entering the scene at a crucial time. Electric utilities, which have been minimizing construction during the last decade, must begin building new power plants to avoid possible brownouts and blackouts near the turn of the century. Since nuclear power plants have become too costly and problematical, coal has emerged as the only reliable domestic fuel for baseload power plants. "Electric utilities need to demonstrate new technologies as expeditiously as possible in order to have them commerically available during the middle part of the 1990s," said Thomas R. Kuhn, executive vice president of the Edison Electric Institute (EEI).

To demonstrate new technologies in a regulated, "risk-adverse" industry however, federal support is needed, Kuhn pointed out. "As a regulated industry, utilities do not have the flexibility to compensate for the financial risk of new technology demonstrations in a manner similar to other private sector industries." he said.

Commented Jack H. Ferguson, president and chief operating officer of Virginia Power, "Without federal support, we could easily have a situation in which utilities will not embrace, and their regulators will not permit, new technology until it is demonstrated by another company . . . While this may be a prudent approach for each utility and its regulators, it will not be in the best interest of the nation."

Indicating its confidence in clean coal technology's future, the electric utility industry already has invested hundreds of millions of dollars in research and demonstration programs, independently and through contributions to the Electric Power Research Institute (EPRI). And the efforts are beginning to pay off. Successful demonstration of new technologies is causing excitement throughout the industry.

Fueling this excitement is the success of the Cool Water coal gasification demonstration plant in California's Mojave Desert. Since the summer of 1984, the 120-megawatt (MW) power plant has been converting 1,000 tons of coal per day into a clean synthetic gas, which has been used to provide electric power for about 100,000 households. It was built in just under 29 months—about one-third the time it takes to build a conventional coal-fired power plant. Its emissions have averaged one-tenth of permissible levels, leading sponsors to call Cool Water "the world's cleanest coal plant."

Cool Water's equity owners are Texaco Inc., Southern California Edison Company, EPRI, Bechtel Power Corporation, General Electric Company, and the Japan Cool Water Program Partnership. The Empire State Electric Energy Research Corporation (ESEERCO) and Standard Oil Company of Ohio contributed additional funding, and the Synthetic Fuels Corporation is providing price supports during the plant's first five years of operation. After the demonstration ends in June 1989, Southern California Edison may buy the facility.

Welcoming the good news from California, other utilities are now exploring the prospects of coal gasification. For example, the Potomac Electric Power Company (PEPCO) is considering the construction of a 360-MW commercial plant using the Cool Water integrated gasification combined cycle (IGCC) technology, which could be brought on line in three phases beginning in 1995. Two 108-MW combustion turbines would be scheduled to begin service in 1995 and 1996 respectively, to be augmented by a coal gasifier and heat recovery generators providing 144 MW of power beginning in 1997 "PEPCO's tentative plans have been influenced by the success of the Cool Water project," said company spokesman Tom Welle, adding that many of the 35 member utilities of the Utility Coal Gasification Assocation are contemplating building IGCC plants in the 1990s.

Another clean coal technology showing near-term commercial promise is fluidized bed combustion. Encouraging results at the Tennessee Valley Authority's (TVA) 20-MW pilot plant near Paducah, Kentucky, have helped spur interest in this environmentally advantageous method of using coal. Participating along with TVA in the test program are EPRI, Duke Power Company, the State of Kentucky, and Babcock & Wilcox which designed and built the boiler and associated equipment with aid from Stone & Webster.

Successful operation of the pilot plant since 1982, highlighted by up to 95 percent sulfur removal (depending on the type of coal and other factors), has led the sponsors to proceed to a larger, commercial-scale demonstration. A 160-MW unit, with the boiler to be built by Combustion Engineering, is slated to begin operating in 1988. After a four-year test program, it should begin full commercial operation in 1993.

Although the integrated gasification combined cycle process and fluidized bed combustion are considered "front-runners" for new power generation, they are but two of a wide variety of clean coal technologies being developed by both industry and government. Different technologies will be required to meet the diverse needs of utilities. Some of the most promising technologies are still in the early stages of development.

Many major ongoing coal research programs began some time ago, during the 1960s, in response to concern about the environmental effects of coal combustion. That concern remains an important issue today, as the nation turns to coal for an increasing share of its energy needs.

CLEAN COAL AND THE ENVIRONMENT

Emerging coal technologies are designed to comply with environmental regulations in a cost-effective manner. The Clean Air Act, enacted originally in 1963 and amended in both 1970 and 1977, seeks to control the release of sulfur dioxide nitrogen oxides (NO_x), and particulates from coal-burning power plants. The Environmental Protection Agency's (EPA) New Source Performance Standards, first issued in 1971 and revised in 1978, require new power plants to remove 70 to 90 percent of the sulfur oxide emissions from their flue gases. Proposed Clean Air Act amendments would require extensive modifications to older coal-burning power plants.

To date, the primary method for complying with existing environmental regulations has been installation of a flue gas desulfurization system known as a "scrubber." This technology has been effectively required for all new pulverized coal-fired power plants since 1977.

"Scrubbers have proven to be among the most costly and least reliable pieces of equipment in the utility industry," said Richard E. Balzhiser, senior vice president for research and development at EPRI. He pointed out that the typical scrubbing system creates a tremendous amount of solid waste, can cost up to $100 million, uses huge amounts of water (more than 1,000 gallons per minute), and consumes 3 to 8 percent of the power plant's total energy output. In addition, it is subject to fouling and corrosion, and its maintenance cost is two to 20 times that of the rest of the power plant.

There are now about 120 scrubber-equipped generating units operating at U.S. utilities; more than 100 additional units are planned or under construction. Together with greater use of low-sulfur fuel, they have helped reduce air pollution in the United States considerably. According to

EPA, total sulfur dioxide emissions dropped 28 percent throughout the country from 1973 to 1983. Emissions from electric power plants dropped 19 percent during that period, while power plant coal use increased by more than 60 percent. Despite these improvements in air pollution control, however, the acidity of rainfall in the Northeast has not changed appreciably in the last 15 years.

It is this conundrum that is fueling the current debate over proposed additional acid rain legislation. One side seeks further reductions in sulfur dioxide emissions; the other side argues that other factors also may contribute to the acid rain problem. "In essence, the debate has been reduced to an argument over which sources should be forced to further control sulfur dioxide emissions, by what means, and at whose expense," said Balzhiser. Utility industry planners see far greater promise in the commercialization of new coal-burning technology than in further construction of costly and complex scrubbing systems.

Research and demonstration programs have provided data showing both the short-term and long-range environmental benefits of new coal-burning technologies. As shown in Table 1, six new coal combustion technologies could control emissions as effectively or better than a conventional coal-fired power plant equipped with flue gas desulfurization. In the long term, as shown in Figure 1, the results may be even more dramatic. Retrofitting older power plants with new pollution control equipment would reduce emissions in the short term—between 1990 and 2010. At about that time, however, increasing demand for electricity would cause emissions to begin rising again, eventually returning to current levels. Alternatively, the introduction of new coal technology would cause sulfur dioxide emissions to begin dropping by the mid-1990s and to continue dropping steadily through the next three decades.

NEW COAL TECHNOLOGY TO MEET GROWING ELECTRICITY DEMAND

In addition to offering long-term environmental advantages, clean coal technology appears to be one of the few practical options for meeting the nation's growing demand for electric power through the early part of the next century.

Federal government and industry forecasters have predicted that the demand for electric power will grow at an annual rate of 2 to 4 percent through the year 2000. "Even after considering the effects of conservation, load management techniques, and cogeneration, the electric utility industry, on a national average, is projecting an annual growth in consumption of 2.7 percent," said Kuhn. Figure 2 shows projected power demand with annual demand growth rates of 2.0 percent, 2.5 percent, and 4.0 percent. New capacity will be needed not only to meet growing demand, but also to replace deteriorating power plants, displace high-cost fuels, and provide a reserve margin for reliability.

Utilities must plan now to add substantial amounts of new capacity in the 1990s—at least 10,000 MW each year after 1992, according to an EPRI calculation—because capacity margins are dropping, and electric power demand is expected to increase steadily even if overall economic growth rates are modest. A number of developments have contributed to this situation:

Oil price hikes, conservation, and slowed demand growth rates during the 1970s left utilities with high capacity margins.

Utilities adopted policies to minimize capacity margins and cancelled power plants. Now margins are dropping and may reach dangerously low levels in the next decade if current trends continue.

The financial difficulty of completing nuclear power plant construction, exacerbated by the Three Mile Island incident, led to further plant cancellations.

Even in periods of slow economic growth, the demand for electric power has been rising. In the decade following 1972, while U.S. energy use dropped by 5 percent and oil use dropped by 13 percent, energy devoted to electricity production rose by 22 percent. Presently accounting for about a third of the nation's energy use, electric power may provide half the nation's energy demand by the end of the century.

As shown in Table 2, EPRI projects a need for up to 420 gigawatts (GW) (1 gigawatt = 1,000 megawatts) of new electric generating capacity in the 1990s. About 131 GW are planned for service between 1985 and 1993. If electric power demand grows more than 3 percent annually each percentage increase will translate to an annual additional new power generating requirement of 100 GW.

To meet the increasing electric power demand, coal will play a major role. The financial and regulatory difficulty of building new nuclear power plants has virtually eclipsed that once-promising source of baseload power. No new nuclear plants have been ordered since 1978. The long-term price and supply of oil and natural gas remain too uncertain for planned baseload power use. Coal, which currently provides more than half the nation's electricity, may have to satisfy up to 70 percent of America's power demand as the century closes.

THE NEED FOR MODULAR POWER PLANTS

The electric utility industry's current financial situation is one of the major factors driving the need for new coal-based technology. During the 1960s and early 1970s, the industry thrived on growing demand for electricity, low inflation, low fuel cost, improvements in technical efficiency, and expanding economies of scale. Now, of course, the situation has been reversed. Utilities face high fuel cost, uncertain demand growth, higher inflation, and costly construction delays. "In some cases, the cost of adding a baseload generating plant can exceed the net worth of a company," notes EEI's Kuhn. "Frequently, construction is a threat to the financial standing of a company. Financial incentives are to forego construction if at all possible."

"We are now in slower growth, rising cost planning environment," Kuhn continued. The imperatives of this situation, aside from attempting to change the ways in which utilities are regulated and financed, include: Building smaller baseload power plants; reducing construction lead times; and matching supply increments more closely with demand.

These needs are interrelated. Smaller power plants, simply by being smaller, could more easily keep pace with slow-growing demand and require less time to plan and build. Furthermore, plants which promise minimal adverse impact on the environment could receive rapid regulatory approval, avoiding costly construction delay. There is a possibility that power plants built in a modular fashion could be "eased" into the rate base, lessening "rate shock." Thus new power generation technologies have great potential for public acceptance, from both an environmental and an economic standpoint.

THE NEW TECHNOLOGIES

With coal, there are opportunities for pollution control before, during, and after combustion. New technologies are being developed to attack the pollution problem at each of these three stages. In addition, there are combined and advanced systems under development, some of which avoid the combustion process altogether. The needs of individual utilities will help dictate the choice of applicable technologies as they become commercially available.

Pre-combustion technologies

Before it is burned, coal can be cleaned and/or mixed with other substances to enhance combustion efficiency, to reduce the cost of maintaining boilers and equipment, and to remove potential pollutants. Physical coal cleaning methods involve grinding the coal into a sand-like powder and separating out impurities, resulting in removal of 20 to 50 percent of the coal's sulfur content. Research is aimed at removing up to 90 percent of the sulfur, primarily by grinding coal down further to the consistency of talcum powder. Such "micronized" coal would be 10 times finer than the ground coal produced by current methods. The Coal Cleaning Test Facility near Homer City, Pennsylvania, has spearheaded research in this area since 1981. Its sponsors are EPRI, Pennsylvania Electric Company, New York State Electric and Gas Corporation, and ESEERCO.

Other physical coal cleaning approaches focus on different ways to remove impurities during the cleaning process. Some techniques involve treating the ground coal with an oil-based substance that adheres only to coal particles and not to impurities. After the treated coal powder is agitated, impurities can be removed efficiently. In another approach, magnetic force is used to remove sulfur.

In a water-based system, once coal is ground to a very fine powder and cleaned, it must be dried or "dewatered" for shipping and burning. Established dewatering methods are unlikely to work well with extremely fine coal powders. Research is directed at developing new dewatering methods, such as one using microwaves, as well as ways to force cleaned coal particles to "agglomerate" or bind together.

Other coal cleaning approaches involve the use of chemicals, microwave energy, and even bacteria. For example, one research group is using Freon in a cyclone separator to remove up to half of the overall sulfur content (both pyritic and organic) in very fine coal. Another project, based on the fact that microwaves pass through coal but not through sulfur or other impurities, has reduced ash and sulfur by almost 90 percent in laboratory tests. And in yet another experiment, bacteria removed 90 percent of the organic sulfur from coal in five to ten days.

Once coal has been reduced to a relatively clean powder, it can be mixed with oil, water or other substances to be burned instead of oil if necessary. Coal/oil mixtures, first used in the 1920s, are presently commercial in the United States, but are seldom used by utilities due to their high cost. Coal/water "slurries" using 70 percent coal and 30 percent water have burned cleanly in test burns, but utility-scale demonstrations have not taken place. Pipeline slurries using 50 percent coal and 50 percent water, demonstrated domestically 20 years ago, may help bring relatively inexpensive coal-based

energy to power plants located far from coal-mining regions.

New coal combustion techniques

Much of the excitement over new coal technology focuses on processes which modify the way in which coal is burned in order to remove potential pollutants during combustion and to improve thermodynamic efficiency. In addition to the atmospheric fluidized bed combustion approach being tested near Paducah, Kentucky, major utility demonstrations of this technology also are being built at Burnsville, Minnesota, (125 MW) and at Nucla, Colorado, (110 MW). The Minnesota facility, to be operated by Northern States Power Company, is scheduled to come on line in 1986. Colorado Ute Electric Association's Nucla plant is scheduled to begin operating in 1987. About 40 industries in the United States have ordered atmospheric fluidized bed boilers, and many manufacturers are vying to enter the market. "Not since the early days of nuclear power have technology developers competed so keenly," stated *Energy Daily* July 3.

In atmospheric fluidized bed combustion, powdered coal mixed with limestone is burned while suspended on a "bed" of air. The calcium in the limestone combines with the sulfur in the coal to form a dry, solid waste product, calcium sulfate. In this manner, not only is the need for scrubbers eliminated, but the solid waste disposal problem is minimized. Furthermore, the process uses lower combustion temperatures, resulting in lower nitrogen oxide emissions. Atmospheric fluidized bed combustion offers unprecedented fuel flexbility: it can cleanly burn such low-grade fuels as peat, tree bark, industrial and sewage sludge, oil shale, lignite, and even cow manure.

A more advanced version of the fluidized bed combustion concept is the pressurized fluidized bed combustor (PFBC), in which hot pressurized combustion gases are used to power a gas turbine. Waste heat from that process, in turn, produces additional steam to drive a turbine. This combined cycle increases the efficiency of the total process—to about 40 percent, from standard levels of about 33 percent. Research forces not only on demonstrating the technology, but also on preventing abrasive particulates from eroding turbine blades and other equipment.

In one pressurized fluidized bed combustion approach, called turbocharged PFBC, gas is cooled in a convection pass above the fluidized bed before it enters the gas turbine. This lower inlet temperature helps reduce gas turbine blade deterioration. Several utilities have expressed interest in this technology, which may eventually offer lower unit cost and shorter construction lead time than some of its competitors. American Electric Power Company has proposed a 70-MW demonstration at Brilliant, Ohio, in cooperation with Babcock & Wilcox and ASEA-PFBC. Power company officials have said that if federal assistance can be obtained, the plant could be operating by 1990.

In addition to modifying the combustion process with technologies such as fluidized bed combustion in order to reduce sulfur oxide emissions, combustion modifications can also be made to reduce nitrogen oxide emissions. Low-NOx burners are commercially available; advanced low-NOx burners, presently being introduced to the market, reduce emissions further by controlling the fuel/air mix, temperature, and combustion chemistry.

In the future, new low-NOx burners could be retrofitted along with another new combustion modification system that reduces sulfur dioxide emissions: furnace sorbent injection. The leading furnace sorbent injection system is the limestone injection multistage burner (LIMB), which introduces dry limestone directly into the combustion furnace to capture the coal's sulfur content. EPA- and EPRI-funded research aims to improve this technology's efficiency and reliability and to achieve a 50 to 70 percent reduction in sulfur dioxide emissions. The largest LIMB projects include a 640-MW boiler operated by the Pennsylvania Electric Company and a 104-MW demonstration at Ohio Edison's Edgewater plant.

Post-combustion pollution control

If potential pollutants cannot be removed from coal before or during combustion, then post-combustion pollution control measures must be used by many power plants. The most problematical pollutant is sulfur dioxide; the major sulfur dioxide removal method, as mentioned earlier, is flue gas desulfurization. EPRI has invested $50 million to date in efforts to improve this technology's performance. EPRI's research, to be augmented by an additional $50 million investment over the next five years, includes failure cause analysis, process chemistry improvement, materials study, hardware design, study of water and energy use, and the collection and interpretation of performance data.

Advanced scrubbing concepts, currently being tested with federal and private sector funds, may supplant flue gas desulfurization in the long term. In one approach, electron beams pass through combustion gas that has been treated with ammonia, converting sulfur dioxide and nitrogen oxides to dry materials.

Post-combustion pollution control technology also includes the use of baghouses and electrostatic precipitators to remove particulates from combustion gases. A baghouse is an array of bags, typically about 50 feet long, with powerful fans that vacuum particulates out of flue gases. In a precipitator, electrically charged particulates are attracted to high-voltage metal plates. The performance of precipitators can be adversely affected by scrubbers and other pollution control equipment. For this reason, industry and government are seeking to upgrade existing precipitator technology, as well as developing advanced systems.

Coal gasification, liquefaction, and combined cycle systems

Another pollution control approach is to change the coal into a clean liquid or gaseous fuel prior to combustion. Coal-based synthetic fuel technology was developed in Germany during World War II. Since then, synfuels interest in the United States has waxed and waned with fluctuations in oil price and availability. Despite current low oil prices, however, there is renewed interest in synfuels technology that can meet the constraints of today's power plant economics.

One such technology, noted earlier, is integrated gasification combined cycle, as presently being demonstrated at the Cool Water plant near Daggett, California. At Cool Water, coal is first converted to a clean synthetic gas in a gasifier developed by Texaco. (Other gasification combined cycle facilities may use different gasifiers.) The resulting hot gas (2,300–2,800 degrees F.) must be cooled before being desulfurized and then fired in a gas turbine. The cooling process yields high-pressure steam. Both the steam and the cooled gas are used to generate power in a combined cycle turbine system. Then waste heat from the gas turbine is recovered and used to generate steam for additional power generation. The total energy conversion efficiency is about 37 percent.

Recent EPRI studies indicate that a power plant of 500 or 600 MW using the Cool Water technology would cost about 10 percent less to build than a new direct coal-fired power plant with flue gas desulfurization. Its economic attractiveness is due primarily to its modular construction. Prefabricated power plant units can be delivered relatively quickly, reducing construction lead times and capital risk. Modular construction could enable utilities to order smaller units to more closely match supply with demand and minimize "rate shock."

Cool Water's emission rates during its first year of operation were far below permissible EPA levels. The mineral residue from the combustion process, recently classified as non-hazardous by California authorities, can be used as material for insulation and road building. Yet another environmental benefit is the plant's reduced water use—about a third less than a conventional coal-fired power plant with flue gas desulfurization.

"Although the Cool Water plant represents only one approach to GCC technology and presently has been fired on only one type of coal," said EEI's Kuhn, "we believe it offers significant insights into the potential of this technology to ultilize many qualities of coal in environmentally acceptable ways in both new and retrofit situations." Illinois #6 and Pittsburgh #8 are scheduled for test runs later this year and early in 1986.

While the Potomac Electric Power Company is contemplating its 360-MW gasification combined cycle power plant in Maryland, Virginia Power has proposed a similar project using a slagging Lurgi gasifier. Interest in this technology also has been expressed by the Cleveland Electric Illuminating Company and the Nevada Power Company.

Although gasification combined cycle seems to be a leading synthetic fuel technology, other synfuels processes may be applicable to utilities' special needs in the future. Coal liquefaction, for example, could provide a "hedge" against potential oil price hikes. Technologies such as the solvent refined coal process and the Exxon Donor Solvent process, which have been studied by government and industry since the early 1970s, could provide fuels for use in conventional-oil fired burners.

Advanced coal-based systems

The use of coal can extend beyond the limits of combustion technology. Advanced processes can extract the energy from coal without the inherent environmental effects of fossil fuel burning. In fuel cells, for example, coal is first transformed to hydrogen-rich gas; then, instead of being burned, the gas is fed to a power section that extracts energy electrochemically. Research and demonstration will continue to develop fuel cells with different materials used as electrolytes, including phosphoric acid, molten carbonate, solid oxide.

In an even more advanced technololgy, magnetohydrodynamics (MHD), coal's energy is converted to an extremely hot gas called a plasma. The plasma is "seeded" with potassium salts, both to improve its

conductivity and to remove its sulfur content. The hot seeded gas moves at ultrasonic speed through a channel, which is surrounded by a very powerful magnetic field. Passing through the magnetic field, the hot gas generates electricity, which is tapped by electrodes in the channel wall. The hot gas gives up about 25 percent of its energy in this manner; some of the remaining energy can be recovered for use in a conventional steam turbine system. Such a system in commercial use could have an overall efficiency of about 50 percent.

FEDERAL HELP IS NEEDED NOW

These and other technologies currently under development could radically change the way that coal is used to provide reliable electric power. For these new technologies to have an environmental and economic impact soon enough, however, an accelerated commercialization program must begin immediately, according to EEI's Kuhn. "Clean coal technologies must be demonstrated at or near commercial scale before they will have the confidence of the electric utility industry and the agencies which regulate it," he said. "Federal participation could accelerate technology development, thereby assisting the U.S. economy with expanded and more efficient coal utilization."

CLEAN COAL TECHNOLOGY

Mr. WARNER. Mr. President, I rise today in strong support of the clean coal technology demonstration program which is funded in the fiscal year 1986 Interior Appropriations bill.

I urge my colleagues to join in supporting this important initiative.

I ask unanimous consent to insert at this point in the RECORD a letter which 25 Senators and I have sent to the President in support of the Clean Coal Program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 5, 1985.

The PRESIDENT,
The White House
Washington, DC.

DEAR MR. PRESIDENT: The Congress is currently considering a program which is important to our energy security, to meeting our environmental goals, and to resolving a dispute with Canada over acid rain. We strongly recommend that you join with us and support the Clean Coal Program to encourage the utilization of our most abundant national fossil fuel resource in an environmentally acceptable manner and to lead both the United States and Canada into a constructive dialogue on improving air quality in both countries.

Federal and state regulatory policies currently preclude electric utilities from absorbing the entire economic risk associated with proving new technologies at commercial levels. Under these circumstances, utilities have been reluctant to venture into new, untried technologies. Uncertainty over sulfur and nitrogen oxide regulatory policy makes it difficult for many utilities to reserve current earnings for the demonstration of new technologies.

The result has been that while new technologies are ready for commercial demonstration, electric utilities are not moving forward to bring these units to the commercial marketplace. We believe the Federal Government has an obligation and an opportunity to assist in the development of these promising technologies. The Clean Coal Program is an ideal vehicle for doing this, and one which we support strongly.

We would be very reluctant to move forward with this program if we did not see strong support in the private sector for these technologies and this program. To date, 28 utilities have identified specific projects that they want to demonstrate and have indicated that they would be willing to contribute more than $2.1 billion out of total project cost estimates of $3.5 billion. Clearly, this exceeds the 50/50 cost sharing requirements established by Congress. In our view, this is most encouraging and demonstrates the commitment of the private sector. While not all these projects can be funded, with this kind of private sector participation the Federal government has an obligation, even in a tight budget year, to evaluate and support the program.

We also have been monitoring the dialogue between the United States and Canada over acid rain. Acceptable solutions cannot be found so long as the only point for debate is which country will punish polluters and consumers with additional regulatory controls. The clean coal program gives a new direction in the dialogue to both countries.

Thank you for your consideration. We hope that you will join with us in what we consider to be an important environmental and energy program.

With kindest regards,

Sincerely,

JOHN WARNER
(with 25 cosponsors).

Mr. WARNER. Coal is our most abundant fossil energy resource and, I am proud to say, Virginia is one of our great coal States.

Our country is blessed with hundreds of years of coal reserves, but in order for coal to realize its potential as our most abundant fossil fuel, we must find ways to burn coal cleaner and more efficiently.

That's why successful demonstration of clean coal technologies is so vitally important.

The Appropriations Committee has included $750 million in this bill to fund the Clean Coal Program over the next 4 fiscal years.

Then ensure that only the most commercially viable technologies are pursued, this bill requires the private sector to put up at least 50 percent of project costs.

Last year, at the direction of the Congress, the Department of Energy solicited expressions of interest in the Clean Coal Program from the private sector.

The response was overwhelming and clearly demonstrated industry's willingness to share the risks in demonstrating technologies.

But the Federal Government must live up to its side of the bargain.

Multiyear appropriations are critical to the success of this demonstration program to assure the private sector that the Government, as a partner, is committed to continue its support of selected projects.

Additionally, these multiyear appropriations will enable the Government to negotiate greater equity and increased risk assumption from the private sector.

Congress will have every opportunity to review this program, to make funding adjustments, and to ensure that the partnership works.

The Department of Energy, which will select projects and negotiate contracts, will also have the necessary authority to closely direct the program and the expenditure of funds.

Mr. President, during the 98th Congress I chaired three hearings of the Senate Subcommittee on Natural Resources Development and Production regarding the reintroduction of coal as a fuel for railroad locomotives.

I was convinced then and I remain convinced that the technology exists to burn coal cleanly and efficiently in a railroad locomotive.

The potential for increasing coal use and saving fuel costs is staggering.

I will continue to advocate that a new coal-fired, clean-burning railroad locomotive be among the technologies which will receive Federal cost-sharing dollars from the clean coal fund.

Successful demonstration of clean coal technologies will mean more American jobs, a reduction in the trade deficit, lower costs for electric ratepayers, and improved generating plants to meet the large electric load growth requirements which are projected for the early 1990's.

Mr. President, I urge my colleagues to support a multiyear appropriation for the Clean Coal Technology Demonstration Program.

AMENDMENT NO. 1407

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposed an amendment numbered 1407.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 5, strike "(i)" and insert in lieu thereof "(h)".

On page 8, line 17, strike "(j)" and insert in lieu thereof "(i)".

On page 10, line 20, strike "(k)" and insert in lieu thereof "(j)".

Mr. HATFIELD. Mr. President, this is a technical amendment that has about five lines of grammatical changes that has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this is a technical amendment that has been cleared.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon [Mr. HATFIELD].

The amendment (No. 1407) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1408

(Purpose: To express the sense of the Congress on Navy ship maintenance policy.)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS], for herself, Mr. WILSON, Mr. WARNER, and Mr. TRIBLE, proposes an amendment numbered 1408.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Congress finds that—

(1) service in the Navy frequently requires personnel to spend extended periods of time at sea away from their families;

(2) family separation is the number one personnel retention problem in the Navy;

(3) the performance of short-term maintenance and repair of Navy vessels in their homeports permits the Navy personnel assigned to those vessels to be with their families for additional periods of time; however,

(4) at the same time all maintenance and repair outside the homeport area is important to instill additional competition in the industry, and retain the broadest possible industrial mobilization base, and

(5) there would be marginal impact on personnel considerations for Navy Reserve Fleet repair conducted outside the homeport area,

(b) It is the sense of the Congress that: (1) competition for ship repair should be maximized with the objective of attaining lowest cost to the government while cognizant of personnel impact. In this regard, consideration of the competitive contract bidding methodology should be determined on the basis of work to be performed, independent of duration, while mindful of personnel considerations, and (2) in view of the marginal personnel impact of Naval Reserve Vessel Industrial work such contracts involving vessels above 1,000 tons should be performed through coast wide competitive bidding procedures.

Mrs. HAWKINS. Mr. President, the purpose of my amendment is to encourage the Navy to bring come clarity and direction to its overhaul and repair policy. It does this by means of a sense of the Congress resolution that seeks to achieve a sense of balance between the competing the concerns of personnel, morale, and family separation, and providing the least cost to the Government for Navy overhauls and repairs.

Mr. President, I want to thank the managers of the bill as well as the Senator from Alaska for their assistance in achieving this balance in this amendment. Their assistance has been most sincerely appreciated. The success of this amendment would never have been possible without their cooperation.

I would like to put this amendment into perspective. The reason this issue has come up at all is because of certain report and legislative language drawn up by the Appropriations Committee that drastically affected Navy overhaul and repair policy. The committee's report language as it stands now would be a serious setback for Navy families that already have too little time together. It would, in effect, further lengthen the time that Navy families are separated from their husbands and fathers.

My principle concern in offering this amendment is that Navy personnel policy and considerations not be sacrificed in the Appropriation Committee's rush to get the least cost for Navy ship repairs and maintenance. Current Navy policy requires that in homeports where there are sufficient competition for Navy contracts, that the SRA be restricted to the homeport. The reason for this policy—family separation. After being separated from their families for 6 or more months at sea, the Navy does not believe that it should needlessly increase the time that families are separated by sending the ship out of its homeport for short-term (usually around 8–10 weeks) repairs.

In cases of long-terms repairs (in excess of 6 months) Navy Travel Regulations allow the crew, their families, to the port where the ship is repaired and be reimbursed. There are no such provisions for family moves when repairs are less than 6 months in duration. As a result, if ships are sent out of their homeports for short-term SRAs it will only compound the family problems that come when sailors spend 6 months or more away from their families already.

Report language in the Senate DOD Appropriation report, instructs the Navy to review its short-term repair policy with regard to restricting ships to homeports when sufficient competition is present. Specificially it instructs the Navy to open up bidding for SRA's to other ports that are within a 250 mile radius of the homeport. Although this is not as drastic as the recommendations of the House DOD appropriations report language which call for coast-wide bids for such contracts, it would nonetheless result in increasing the amount of time that Navy families have to be separated. The result is that the committee recommends increasing the time that Navy families are separated in spite of the fact that family separation is the No. 1 problem sited when sailors decide to leave the Navy. And who can blame them. They sacrifice a great deal in their service of the country—both family and sailor—but apparantly the committee believes that they need to sacrifice even more. At this rate the committee will leave us with hundreds of ships, but no one to man them.

My language, while not binding legislatively would put the Congress on record as favoring a balanced approach between the important issues of Navy families and cost savings for the Government.

Furthermore, Mr. President I ask unanimous consent to have printed in the RECORD a letter from Assistant Secretary Pyatt indicating the Navy's support for current policy regarding the Interport Differential and Selected Restricted Availabilities.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
ASSISTANT SECRETARY OF THE NAVY,
Washington, DC., December 9, 1985.

Hon. PAULA HAWKINS,
U.S. Senate, Washington, DC

DEAR SENATOR HAWKINS: In response to your query, the issue of Selected Restricted Availabilities (SRA) now before the Senate is of great importance to the crews of our ships. The House Appropriations Committee report directs the Navy to compete all SRAs coastwide; the Senate Appropriations Committee report contains language which, although less restrictive, will result in the same undesirable impact on our personnel and ship readiness.

During the last year, we have changed policy and extended the bid area coastwide for all ship Regular Overhauls (ROHs) to increase competition and reduce costs and in recognition of a maintenance philosophy shift to more short SRAs and fewer long term ROHs. We have made these changes in recognition of the need to maintain a coastwide ship repair industrial base and in full accord with previous congressional direction.

In the case of ROHs we are able to offer the crews the opportunity to relocate with the ship. For the shorter SRAs, usually about 3 to 4 months, we continue to compete in the homeport. This assures an adequate repair base in our homeport areas but more importantly it keeps the crews home with their families. Our crews are already required to be deployed away from their families more than we desire. They make this sacrifice because of the importance of the task. Increasing their time away from home, in many cases just before or after completion of an overseas deployment, will have a very serious adverse impact on their morale and the quality of family life.

Readiness will also be impacted. During these short SRAs, the non-engineers in the crew make extensive use of the shore training facilities to sharpen their warfare skills by day and return, on duty days, to the ships for duty at night. Bidding SRAs coastwide would deny many ships use of the

shore training sites and result in degraded readiness. Work-arounds to this situation would be costly and would again dramatically impact family life.

I believe we have responded responsibly to the changing economic conditions in the ship repair industry while at the same time recognizing the needs of our Navy families and the maintenance of shipboard readiness levels. Our new policies need to be given the opportunity to work; if further change appears required we have the means to alter existing policy. Indeed, it is in our best interest to do so. Such changes should be made only after full consideration of all the facts and not in reaction to the demands of special interest groups.

I sincerely appreciate your interest in this issue because of its great importance to our sailors and their families. They will be the big losers if either the House or Senate language survives in its current form. If I can be of further assistance on this issue, please let me know.

Sincerely,

EVERETT PYATT.

Mrs. HAWKINS. It is clear that the Navy considers personnel considerations to be extremely important—and I believe that that is exactly how it should be. I believe that any truly balanced overhaul and repair policy by the Navy must address the concerns raised in the Assistant Secretary's letter.

Mr. President, I would also ask unanimous consent that an article describing some of the problems caused by long family separations in the Navy be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. HAWKINS In my view, the committee's report language on limiting SRAs to a 250 mile radius of the homeport area undermines our national defense and further erodes the strength of the family. For that reason, I was especially pleased when Senator HATFIELD and Senator, STEVENS agreed to vitiate the committee report language regarding the 250-mile limit as part of our agreement on this amendment.

Mr. President, I want to commend the Chairman, Mr. HATFIELD, and the Defense Subcommittee Chairman, Mr. STEVENS, for their help in trying to work through this difficult issue. It is important that the Navy conduct its business in such a way to save as much money as possible. But we also have an obligation to weigh carefully the impact of Navy policies on Navy families. We must find a way to balance these two difficult, but important issues.

EXHIBIT 1

'NORMAL PEOPLE AREN'T SEPARATED ALL THE TIME'

MILITARY WIVES REJECT TRADITIONAL NOTION

Wives of senior naval officers aid that one major reason for the Navy's pilot shortage is the changed-value system shared by young military wives.

They reject the traditional notion that the family should sacrifice its interests, including the wife's job in an interesting city, to advance the officer's career.

Vicki Bonnano, 30, wife of Lt. Cmdr. Sammy Bonnano, is a University of Wisconsin graduate, former Navy ensign, Virginia Beach real estate agent and mother of two children.

Her view of Navy life is shared by many young military wives:

"We started talking about Sammy getting out of the Navy after he got to VF43 [in Oceana]. If Sammy went on five more cruises, the Navy would be better, but what about his family? Who is he more important to? We obviously feel he is more important to us.

"Two years ago, I might have said the Navy is the only way to go because he is so completely satisfied in his job. We only had one child, and he was much younger, and Sammy being gone had not started to affect him. But now our little boy is older [5] and it's starting to affect him. And we've got another new one now.

"The separation is the biggest thing that bothers me. When he was at the Armed Forces Staff College [in Norfolk], he was home every night. And we had never had that, before. It seems strange to think that was the first time he could come every night from work. But all his other jobs, even shore duty, he had always been gone all the time.

"He'd be home for three weeks; he'd be gone for three weeks. There was always a det [detached duty]. There was always a carrier qual [qualification] which took him out to the boat. There was workups for cruises.

"For those six months [when] he came home every night from the staff college, I all of a sudden realized that normal people aren't separated all the time. Normal people don't have to do this. And it was fun. I've really looked forward to have my husband come home every night and to having him here on the weekends. So when it's time for him to go away again, it really hurts.

"If the Navy could figure out a way to not make those cruises so long, to make them not so unbearable, it might make a difference. And the workups beforehand, where it's nothing for them to go out for three months at a time. We've had friends who have gone on cruises for seven months and been extended out there for nine months.

"Once they tell you it's going to be so long, and then you sit there with your fingers crossed because you don't know if it's really only going to be seven months. You count the days; you even count the hours.

"But they never shorten the cruises. They only make them longer. They told us years ago that cruises would be no more than five months; no more than six months. They didn't do it then, and they're not going to do it now. They've lost their credibility with me."

Mr. WILSON. Mr. President, I would like to take this opportunity to express my strong support for the amendment I have cosponsored, being offered by my distinguished colleague from Florida.

I cosponsored this amendment not only because it makes economic sense, but because it protects the quality of life of our sailors and their families.

I wish to address the issue of selected restricted availability or SRA. SRA is a term used to designate maintenance and repair work, short of a regular overhaul, performed on a naval vessel. The purpose of a SRA is to extend ship operating periods between full overhauls. A full overhaul requires at a mimimum, 6 months, but most frequently, 9 months or more. SRAs require only 3–4 months and are conducted at the homeport. SRAs while economically beneficial, also enhance readiness by giving a ship a longer operational period.

The committee report language, that accompanied the referenced appropriations bill, in addition to generating further unnecessary costs, would have a devastating effect on Navy morale. Assistant Secretary, Everett Pyatt in a letter to Congress wrote:

Our crews are already required to be deployed away from their families more than we desire. They make this sacrifice because of the importance of the task. Increasing their time away from home, in many cases just before or after completion of an overseas deployment, will have a very serious adverse impact on their morale and the quality of family life."

While SRA's require only 3–4 months, they are most frequently undertaken subsequent to deployments of 5 to 6 months. Therefore, families could be unnecessarily separated for close to a year! To further exacerbate the strains of separation, the sailors must endure considerable financial burdens: due to the relatively short duration of this type of work, sailors are not reimbursed for travel to visit their families. I am gravely concerned about the impact to family life and Navy morale.

What could possibly be the benefits of a provision such as this, we must ask? There are tangible costs involved with moving a vessel from one port to another for an overhaul. Among them are fuel, berthing and messing for the crew, transfer of materiel and equipment, and administrative paperwork. These funds will have to be appropriated or squeezed out of O&M account. At this time of fiscal belt-tightening why would we support a measure so fiscally unsound, which at the same time risks harming morale and sets the stage for retention problems? Where is the sense in further straining limited resources without any benefits, rather guaranteed problems?

Mr. STEVENS. The modified Hawkins amendment is acceptable as it endorses competition for ship repair work. It also recognizes that accomplishment of shipyard work in the homeport does minimize family separations from ship crews.

Over the last 2 years, the committee has outlined procedures to induce competition for ship repair work in order to achieve lowest cost. To the extent that bids are attained from a wide range of potential contractors, open competition has produced substantial savings. Solicitation of con-

tract bids on a coastwide basis for ship repair has proved to be a cost-saving method. The Hawkins amendment endorses this principle.

The Hawkins amendment also raises valid points on the personnel impact of performing short-term, minor maintenance work outside the homeport area. Existing Navy policy restricts competitive bidding to the homeport area for these short-term maintenance efforts. But the amendment also recognizes that the determination of bidding procedures should be based on the nature of the work to be performed rather than by duration of time. This works favorably toward our objective to attain the lowest possible cost while keeping personnel considerations in mind.

By endorsing competitive procedures based on the nature of the work to be performed, the amendment vitiates a segment of the committee report language pertaining to expansion of homeport bidding radius to 250 miles. The amendment also requires coastwide competitive bidding procedures for all larger Naval Reserve ships. These modifications are acceptable since expanded competition for ship repair is formally endorsed.

Mr. HATFIELD. Mr. President, I join my colleague from Florida Senator HAWKINS in proposing a compromise to our two respective problems with the Navy Ship Overhaul Program.

On the one hand an increasing number of Navy overhaul contracts are being restricted to the home port areas which preclude nonhome port shipyards from bidding on the jobs, even if they have an exceptional price and high quality control. According to the General Accounting Office, because of current overhaul policy 89 percent of all the regular overhauls and smaller SRA repair contracts in fiscal year 1986 will be conducted in the home port areas. Even within some home port areas work is concentrating, skewing the entire ship repair industry. For example, in fiscal year 1980 the Seattle naval district conducted about 16.4 percent of the Navy's west coast work while in fiscal year 1984 they conducted just 2.1 percent. During this same period, work in the San Diego naval district increased from 36.1 percent to nearly 70 percent.

Be that as it may, Mr. President, in our compromise we are agreeing that efforts to expand bidding opportunities to nonhome port areas have an impact on the Navy personnel which must be addressed. Individual morale is affected by the length of time Navy personnel are stationed away from their families. Such absences impact not only recruiting and retention, but can have impacts on performance. We must find a way to balance these mutual policy goals of increasing industry competition and preserving morale of our service personnel.

Therefore, Mr. President, we have agreed to retain section 8100 of the defense appropriations bill which continues the statutory prohibition on interport differential charges, but will withdraw from the committee's report language which directed the Navy to expand home port bidding to within 250 miles of the home port area. In addition, Mr. President, we are proposing sense of the Senate language which outlines the need to resolve the conflicting policy goals I have outlined.

Mr. President, I want to thank my colleague from Florida for her cooperation in coming to this agreement. I recognize that she feels as committed to her position as I do to mine and believe this agreement most appropriately resolves our differences. As well, Mr. President, I want my colleague to know that I intend to uphold our agreement in conference with the House but will notify her if any unanticipated problems arise. And finally, Mr. President, I would like my colleagues to know that I have spoken directly with Assistant Secretary of the Navy Everett Pyatt who has no substantive problems with this agreement, as it simply returns both the interport differential and SRA homeporting issues to a status consistent with existing law.

Mr. President, the amendment has been cleared on this side of the aisle.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side. It is a sense-of-the-Congress resolution.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida [Mrs. HAWKINS].

The amendment (No. 1409) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. HAWKINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1409

(Purpose: To express the sense of the Senate that the U.S. Government, through both its executive and legislative branches, launch an energetic and thorough investigation and audit for all defense contractor billing practices, and all other practices involving Government contracts, to expose all fraudulent action; that the Government seek indictments against companies believed to have defrauded the Government or the people of the United States; and further, that the Government more aggessively use suspension or debarment of contractors convicted of crimes as appropriate supplemental penalty for such conviction)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], on behalf of Mr. HART, proposes an amendment numbered 1409.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

SEC. — (a) The Senate finds that—

(1) there have been an increasingly large number of criminal actions or accusations of fraud brought against defense contractors, in which a number of leading defense contractors have pleaded guilty to criminal activity;

(2) such fraudulent activity on the part of corporations entrusted with responsibility for our national defense is a threat to our national security and an abuse of the public trust;

(3) such fraud by those who seek to contract with the Government represents the most reprehensible kind of corporate conduct;

(4) the Government must ensure that it contracts only with responsible companies, especially in areas vital to our national defense;

(5) it is vital that sufficient resources of the Federal Government be allocated to the exposure and prosecution of such fraud;

(6) the Department of Justice must exhibit a commitment to the prosecution of procurement law violations; and,

(7) only through a genuine commitment to seek criminal and civil penalties against corporations engaged in procurement law violations will such violations be deterred.

(b) It is therefore the sense of the Senate that the United States Government, through both its executive and legislative branches, launch an energetic and thorough investigation and audit for all defense contractor billing practices, and all other practices involving Government contracts, to expose all fraudulent action; that the Government seek indictments against companies believed to have defrauded the Government or the people of the United States; and further, that the Government more aggressively use suspension or debarment of contractors convicted of crimes as appropriate supplemental penalty for such conviction.

Mr. HART. Mr. President, this amendment is a sense-of-the-Senate resolution on the matter of defense procurement fraud. The resolution calls upon the executive and legislative branches of this Government to heighten their efforts against these unconscionable taxpayer to ripoffs that threaten our security.

Just last week we received fresh evidence that the plague of procurement fraud continues unabated among defense contractors. Four current and past executives of the General Dynamics Corp. were indicted for fraudulent billing on the DIVAD project, the so-called Sergeant York gun.

But while that case involves $7.5 million in billings, it may be just small potatoes in a very large and very ugly potato patch. Eleven of the Pentagon's top 12 defense contractors have now been touched by indictments, while literally hundreds of smaller contractors are under either indictment or investigation for criminal wrongdoing.

Even more important than the waste of dollars is the danger all this poses to our national security.

It is certainly sobering to reflect that the same people now accused of cooking the books on the Divad are manufacturing the F-16, the cruise missile, the Trident submarine, the M-1 tank, and other weapons crucial to our Nation's defenses. It is also clear that such scandals undermine public support for a sustainable and reasonable defense budget.

Last week's indictments show we can uncover some incidents of procurement fraud. But continuing stories of defense waste strongly suggest we are not discovering, prosecuting and convicting nearly enough of the guilty firms and individuals.

And it is my conviction that unless we vigorously prosecute these violations—seeking both criminal and civil penalties—some corporations will continue to treat their defense contracts as a license to steal. Defense contracting practices have demonstrated that merely seeking restitution for overcharges is not good enough. Contractors treat overcharges like interest-free loans. If they're caught—too bad. If not, all the better. That's their attitude.

Unless this Government provides our investigators and prosecutors with the resources they need—unless the Department of Justice demonstrates the commitment and the political will to pursue these cases—these tragic abuses of the public trust will continue.

One Pentagon official has estimated that wasteful procurement practices and fraudulent contractor billing cost the American taxpayer as much as $50 billion each year. Yet we are attempting to rein in this outrage with $11 million—for the activities of the U.S. attorneys—and a little more than $2 million for centralized antifraud efforts here in Washington. These few individuals are charged with monitoring and scrutinizing the purchases of a department that spends nearly a billion dollars a day.

Think of it: $11 million to root out fraud when DOD has 15 million contracts. It's a joke.

Under those circumstances, how are the U.S. attorneys faring? After all, they are our front line of defense in terms of prosecuting these cases.

I've been told by investigators and committee staffs alike that U.S. attorneys around the country have sought staff to fight procurement scandals only to be told the money was not available.

According to the Associate Attorney General's estimate, a little more than 3 percent of the current account for salaries and expenses in the U.S. attorneys' offices goes to defense procurement fraud.

Given the enormity of these crimes, we would expect that this Department of Justice would vigorously pursue violations of the law. Recent investigations by the Joint Economic Committee and the Senate Judiciary Committee reveal, however, that the office allegedly in charge of coordinating these efforts has grown dangerously short of breath.

The Department of Justice Defense Procurement Fraud Unit was originally established to investigate and prosecute defense fraud. In the last few months, the unit has described itself as merely a "screening agency." It now spends time referring cases to those who can handle them. But in some cases, the unit has appeared to act as an impediment to effective prosecutions.

One congressional investigator has said:

> The head of the fraud unit turned off the investigation of the Newport News Shipbuilding and Drydock Case on his own initiative . . . It was worth pursuing. But he closed it down. A lot of people are complaining that the screening/referral process emphasis puts this unit in a position to veto any further pursuit of a given case. It's become more of a bottleneck than anything else.

Asked whether the unit would do a better job with more resources, the investigator said:

> We think there are serious problems with this unit. Under present circumstances—the way it's structured and managed—(giving them more money) is not the right way to go.

The Department of Justice authorization bill has not been considered this year. There are parliamentary tools available to earmark or otherwise provide funds for procurement fraud investigations and prosecutions. But more money will mean little, if the Department lacks the political will to pursue these cases.

My amendment urges the executive and legislative branches to launch thorough energetic investigations of defense contractor billing practices. The resolution urges the Government to seek indictments against firms which defraud the Government, and to use suspension or disbarment with more regularity when contractors are convicted.

Finally, I believe the Department ought to have the guts to come to Congress and ask for money for the U.S. attorneys. It ought to have the sense of responsibility to straighten out the problems in the Defense Procurement Fraud Unit. And it ought to exercise the political will to get this job done for the American people, who are footing the bill; and for the soldiers, whose lives are on the line.

Mr. JOHNSTON. Mr. President, this is a sense-of-the-Senate amendment on behalf of Senator HART. It is a second iteration of a previous amendment relative to hortatory language suggesting the executive and legislative branch launch an effective and thorough investigation and audit for all defense contract billing practices, and otherwise to expose fraudulent action.

There was, in a previous iteration, some offending language which has been removed and it is now cleared on both sides, I am advised.

Mr. HATFIELD. Mr. President, the amendment is cleared on this side.

Mr. HART. Mr. President, I thank the floor managers.

The PRESIDING OFFICER (Mr. GRASSLEY). The question is on agreeing to the amendment.

The amendment (No. 1409) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1410

(Purpose: To locate the International Trade Administration in the World Trade Center in Boston)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1410.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 49, line 12, strike the words "and hereby authorize" and insert the word "shall".
>
> On page 49, line 14, strike the word "to".

Mr. JOHNSTON. Mr. President, this amendment, which has been cleared on both sides, simply directs the International Trade Administration to move into the World Trade Center Building in Boston. It has been cleared on both sides.

Mr. HATFIELD. Mr. President, the Senator is correct. It has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1410) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1411

(Purpose: Relating to hospital deductible under Medicare)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], for himself and Mr. KENNEDY, proposes an amendment numbered 1411.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the proper place in the bill, insert the following new section:

SEC. . In view of the $92 Medicare hospital deductible increase that will go into effect on January 1, 1986, it is the sense of the Senate that the Committee on Finance shall report legislation no later than April 15, 1986, which will reform the calculation of the annual increase of such deductible so that it is more consistent with annual increases in Medicare payments to hospitals. It is further the sense of the Senate that any reforms reported shall be retroactive to January 1, 1986.

Mr. HEINZ. Mr. President, this is a sense of the Senate resolution dealing with the subject that we voted on yesterday on the point of order by a vote of 45 to 41. I have discussed it with both managers of the bill. I offer it on behalf of Senator KENNEDY and myself.

Mr. President, I am sending an amendment to the desk that will address the problem of the substantial out-of-pocket costs paid by America's 30 million Medicare beneficiaries.

Mr. President, on September 30, the Secretary of Health and Human Services announced that the part A hospital deductible—that fee paid out-of-pocket by Medicare beneficiaries for their first day of a hospital stay—will increase from $400 to $492. That is a whopping 23-percent hike in 1 year, Mr. President, and close to a 141-percent jump since 1981.

The impact of this increase will be felt not only by those beneficiaries requiring hospitalization; it will also affect those beneficiaries requiring extended nursing home stays since the copayment for skilled nursing care is linked to the inpatient deductible. It will hit hardest on America's low-income elderly at a time when they are already facing skyrocketing out-of-pocket costs. And it will hit them at the worst time—when they are going into the hospital.

I know that there are many Members of the Senate who are concerned about this issue. Indeed, the Senate has already indicated its support for holding down the deductible as part of the omnibus budget reconciliation bill. This concern is admirable; our intentions are good. But for the 30 million Americans on Medicare, actions speak louder than words.

On December 9, the Members of this body—by a vote of 45 to 41—blocked an amendment on a procedural motion to cap the deductible at $476, the amount originally announced last winter by HHS. I appreciate that many Members may have been reluctant to support a legislative change on an appropriations bill. But I do not believe that the Members of this body wish to see the part A deductible go up as scheduled.

And for these older citizens, time is running out. Unless Congress acts, the deductible will go up as scheduled to $492 on January 1. It is also no secret that there are few opportunities left for Congress to act to reduce the scheduled increase.

Mr. President, the announcement of September 30 caught everyone by surprise. The administration had indicated last winter that the deductible would go up to $476, still a hefty 19-percent increase, but nevertheless one for which beneficiaries could plan. Had we known that the increase was going to jump by an unprecedented 23 percent, I am sure that we would have tried to address this issue in the Finance Committee as part of the reconciliation bill. But we did not, and now, we are faced with a January 1 deadline and nothing to stop the increase from occurring.

Today, I along with my colleague, Senator KENNEDY, am offering a sense of the Senate resolution that directs the Finance Committee to report legislation no later than April 15, 1986, which will reform the calculation of the annual increase of the deductible so that it is more consistent with the annual increases in Medicare payments to hospitals. The resolution also provides that any reforms reported back by the Finance Committee would be retroactive to January 1, 1986.

The existing formula which has produced the 23-percent increase is an artifact of the old cost-based Medicare reimbursement system, and uses as its base the annual average cost per day of hospitalization. It ignores the fact that under PPS, the time patients spend in the hospital has decreased significantly. Thus, under PPS, the fixed costs per hospitalization are being spread out over a smaller number of days. As a result, the current formula dramatically overstates the real increase in hospital costs for next year. Under the current formula, patients will continue to be asked to pay more and more for first day coverage even as they are being discharged quicker and sicker than before.

Senator KENNEDY and I have both introduced bills to change the calculation of the part A deductible so that the annual increase is pegged to the increase in the Medicare payment to hospitals. Our resolution today will encourage the Finance Committee to examine these and other proposals as soon as possible and come up with a reform in the part A deductible that will be fairer to beneficiaries.

At a time when PPS is saving the Medicare Program billions of dollars and beneficiaries' out-of-pocket costs are skyrocketing, the very least we can do for America's 30 million Medicare beneficiaries is to pass this amendment, indicating to the Finance Committee, of which I am a member, the strong desire on the part of the Senate to reform the calculation of the part A deductible.

The amendment is simply that the Finance Committee by a date certain—April 15—take some action addressing this issue of the increase in the $92 deductible.

Mr. KENNEDY. Mr. President, the Department of Health and Human Services announced on September 30 that the Medicare hospital deductible will increase by $92 on January 1, 1986—the largest increase in the deductible in the history of Medicare. This whopping increase has been a source of distress and outrage to senior citizens all over the country.

The Medicare hospital deductible is the amount that each elderly and disabled Medicare beneficiary must pay out of his own pocket or his own insurance when he enters the hospital. Eight million of our senior citizens must pay this deductible every year, and this scheduled $92 increase will bring the total deductible to a staggering $492, an increase of 173 percent just since 1980.

The exorbitant increase in the hospital deductible was not intended by anyone. It is an unintended consequence of the new Medicaid prospective payment system and of Congress's failure to modify the method of calculating the deductible to reflect the new payment system.

Since the beginning of the Medicare Program, the deductible has been calculated on the basis of the cost of an average day of care.

Increases in the deductible were supposed to reflect increases in the cost to Medicare of a typical hospitalization, and as long as Medicare paid hospitals for services to Medicare beneficiaries on a daily cost basis, the annual increases in the deductible were reasonably fair.

But today Medicare no longer pays for hospital care on a daily cost basis. Beginning with legislation enacted in 1982, Medicare began to pay a fixed

price—set in advance—for each Medicare admission. The fixed price varied depending on the diagnosis that was treated, but the key feature of this prospective payment system was that the price was set in advance and was based on admissions and diagnoses, not days of care.

The prospective payment system has reaped enormous savings for the Federal budget and has had a major impact in slowing the growth in health care costs. In the next 5 years alone, prospective payment will reduce the deficit an estimated $37 billion, and that is without assuming any savings from this year's reconciliation bill.

But, while prospective payment has brought relief to the Federal budget, it has created heavy additional costs for senior citizens already burdened with high health care expenses. Prospective payment encourages hospitals to economize by reducing length of stay. Between 1982 and 1985, average hospitalization for Medicare beneficiaries dropped from 10.24 days to a projected 8.75 days. Between 1983 and 1984 alone, length of stay dropped almost a full day, from 9.84 to 9.05.

The result of this drop in length of stay—combined with the fact that hospital occupancy rates are now at historic lows—has been that hospitals' costs are concentrated in fewer days of care. The rate of increase in total costs and costs per admission has slowed dramatically, while the costs of care per day have soared.

There is nothing that better illustrates the unreasonableness of Congress' failure to reform the old method of calculating the hospital deductible than what will happen next year. That horrendous $92 increase in the hospital deductible translates into a 23-percent rate of inflation. That is three times as high as the increase in Medicare's per admission payment in 1984, the base year on which the deductible is calculated.

And, it is 46 times as high as the increase in per admission payment to hospitals that is included in the reconciliation legislation passed by the Senate.

Mr. President, I say it is time for Medicare beneficiaries to share in the savings from prospective reimbursement rather than being saddled with additional costs. I announced legislation to correct this problem last spring. If that legislation had been enacted, sick Medicare beneficiaries would not face a $92 tax increase every time they enter the hospital next year.

Yesterday, the Senate rejected an amendment I offered to delay imposition of the unfair deductible increase. It rejected an amendment by Senator HEINZ that would have modestly reduced this unfair increase.

Senator HEINZ and I are offering an amendment today which gives the Senate another chance to help our senior citizens. The amendment I am offering today is a sense-of-the-Senate resolution directing the Finance Committee to report out legislation reforming the calculation of the deductible by April 15 and to make reforms retroactive to January 1, 1986. It is identical to an amendment I proposed to the reconciliation bill that was adopted unanimously, except that the amendment today specifies a date for action and specifies that any reform be retroactive.

Enactment of this amendment will send a message loud and clear that the Senate believes that our Nation's senior citizens should not be saddled with that excessive, unfair increase in the Medicare hospital deductible.

I urge my colleagues in this body to join me in casting a vote for fairness for our senior citizens.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side of the aisle.

Mr. JOHNSTON. Mr. President, this amendment has not been cleared on this side. I have not been able to talk to my distinguished colleague, Mr. LONG. However, I am advised that the first amendment could easily pass if it went to a vote.

Second, it is only a sense of the Senate amendment which would direct the Finance Committee to take action which I understand Senator PACKWOOD is willing to take. Therefore, I state no position on the amendment, and allow it to go to a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 1411) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1412

(Purpose: To provide an additional $80,000 for the Florida Panther Recovery Program)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] proposes an amendment numbered 1412.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

Sec. . Notwithstanding any other provision of this joint resolution, the amount "303,522,00" on page 8, line 22, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "303,602,000".

Mrs. HAWKINS. Mr. President, this amendment is simple and straightforward. It is in cooperation with the Senator from Idaho. It provides sums above those provided through the State cooperative grants account.

This amendment would maintain the present pace and schedule for the Florida Panther Recovery Program.

This amendment provides an additional $80,000 for the Florida Panther Recovery Program from the Fish and Wildlife Service Recovery Program account. The Florida Game and Freshwater Fish Commission has been forced to pull $80,000 from other important Florida endangered species programs to continue the Panther Recovery Program at effective operating levels. This cannot continue. My amendment will provide the Panther Recovery Program the additional funds so badly needed.

Mr. McCLURE. Mr. President, I have reviewed the amendment offered by the Senator from Florida and I have no problems with it. I recognize the importance of the Florida Panther Recovery Program and I appreciate the Senator from Florida offering the amendment.

Mrs. HAWKINS. I thank the Chairman.

Mr. McCLURE. Mr. President, we have carefully reviewed this amendment. We fully support it and urge its adoption.

Mr. JOHNSTON. Mr. President, the amendment provides for $50,000 for a study.

It is acceptable on this side.

Mr. METZENBAUM. Mr President, I do not have any objection to the $50,000. But I do have objection to the pandemonium that is on this floor at the moment. We are calling up amendments, and passing them. No one knows what we are doing on the floor of the Senate this evening. I think it is a terrible way to run the U.S. Senate.

Mr HATFIELD. Mr. President, I would only say to the Senator that I agree that there is too much pandemonium. But I can assure the Senator that the two managers know precisely what is going on.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 1412) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1413

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 1413.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . (a) No Member, officer, or employee of the Senate or House of Representatives compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such a firm, partnership, association or corporation; or (3) practice a profession for compensation to any extent during regular office hours of the Senate office or House of Representatives office, as the case may be, in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.

(b) No Member, officer, or employee of the Senate or House of Representatives compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

(1) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;

(2) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees, of the Senate or House of Representatives or their families, if such service is performed without compensation; or

(3) a member of the board of a corporation, institution, or other business entity, if (A) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate or House of Representatives, (B) the amount of time required to perform such service is minimal, and (C) the Member, officer, or employee is not a member of, or a member of the staff of any Senate or House committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

Mr. BIDEN. Mr. President, this amendment applies to Senate and House rules with regard to participation in law firms, and boards. It has been accepted by both managers of the bill.

I yield the floor.

Mr. HATFIELD. Mr. President, the Senator is correct. It has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 1413) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I think a couple of remarks on the side of the defense appropriation are in order at this time. I shall not send any amendments to the desk, but I will call the attention of my colleagues to the following: At the end of fiscal year 1985 approximately $172 billion remained in unspent fiscal year 1985 defense appropriations.

Most of this is in multiyear contracts for ships, planes, and so forth. That we can understand, Mr. President. But there is $43 billion remaining now at the end of fiscal 1985 that was unobligated. That was at the end of September of this year, and funds that were not tied up in multiyear contracts but had not been obligated because of holdups in contracts or other commitment problems.

The amount of unobligated funds appropriated to the Department of Defense at the end of the fiscal year has increased from 1981 to this year. In 1981, it was $21.4 billion. In 1985, it was $43.5 billion.

This failure of the Pentagon to be able to use the funds unobligated in the year in which they are appropriated can be laid at the doorstep of the huge amounts of funds that have gone to the Pentagon in recent years.

Not only have we seen many cases of overcharging, fraud, and waste in defense contracting but the Pentagon is becoming increasingly unable to even obligate the huge amounts of funds in the year they are appropriated. It would be good discipline for the Department of Defense to turn back those funds they have not obligated, and it would also help to cut our budget deficit.

Mr. President, along this same line, I call to the attention of the conferees on this appropriation bill these facts.

The Senate-reported bill provides for $36 billion for fiscal year 1986 in just research and development funds. This is a 15-percent increase over 1985 funding. So for next fiscal year we are going to be spending 15 percent more in just research and development. That totals $36 billion. The House figure is 6 percent over the 1985 amount appropriated for research and development.

In fiscal year 1981, defense R&D funding amounted to $16.6 billion. So funding at the House level represents a doubling of R&D funding since 1981.

Historically, this funding has been about 10 percent of the defense budget. Now it is up to 12 percent. We should follow what we set out to do in appropriations this year for defense and have it zero growth—zero real growth—but we are exceeding that in R&D. I believe this is a matter that is serious for the conferees from the Senate on this matter. I hope they can come back at least to the level of research and development in defense appropriations that the House has.

Mr. KASTEN. Mr. President, I rise to speak on the fiscal year 1986 appropriation for the Great Lakes Indian Fish and Wildlife Commission.

The GLIFWC is an organization with members in Wisconsin, Michigan, and Minnesota dedicated to protecting Indian rights to fish and hunt in the inland ceded territories, to protect Indian rights to fish on the Great Lakes, and to provide sound management of these resources. The Appropriations Committee has chosen to fund the GLIFWC at the level of $1.3 million, an increase of $100,000 over the fiscal 1985 level.

In the short time it has been in existence, the GLIFWC has made great strides in the difficult task of managing the complex fisheries and ecosystems of the Great Lakes. It could do a much better job if accorded funds proportional to the size of the territory it covers and the number, variety, and complexity of the treaty-related issues it must deal with.

I do not mean here to criticize the Interior Subcommittee of the Appropriations Committee, or its chairman, the distinguished Senator from Idaho, Mr. MCCLURE. I do wish, however, to point out that wildlife and fisheries management programs for Western tribes are funded at much greater levels—over $13 million.

This appears to me to be another example of how Wisconsin and other States in the Midwest are shortchanged in the distribution of Federal program dollars. I will seek to achieve more equitable treatment for Wisconsin in this area during the fiscal year 1987 appropriations process.

Mr. LAUTENBERG. Mr. President, I rise in support of House Joint Resolution 465, the continuing resolution, which includes the appropriations for the Department of Commerce, as provided in the Departments of Commerce, Justice, and State, the Judici-

ary, and related agencies appropriations bill, pursuant to the conference report, approved by the Senate.

The Senate Appropriations Committee report on the Commerce appropriations bill includes language that I offered in the subcommittee, to halt efforts to close the National Weather Service station in Newark. In May, the Department of Commerce published its intention to close the Newark station. It has been preparing to issue requests for proposals to provide local weather observations by private contractors.

But, Mr. President, over 75 percent of the man-hours at the station are dedicated to functions other than observations. These would have to be relocated, or simply terminated. The result would be added expenses at other stations, or a dimunition in service to the people of New Jersey.

The airport station plays a key role in the area's flood warning system. That system is critical to the health and safety of citizens in flood-prone northern New Jersey. The station also provides adaptive local forecasting, tailoring general New York forecasts to the particular geography and climate of New Jersey.

The station also provides on-the-spot weather information for air transportation. There have been a disturbing number of air traffic accidents this year—many of them weather-related. We should not risk the safety of air travelers, by reducing our ability to monitor the latest breaking weather developments affecting air transportation.

Mr. President, the Department has presented no evidence that the contracting out of this station would result in the most efficient means of providing essential weather service. I am not opposed to contracting out, where the private sector can accomplish the same goals more efficiently.

But, what we have here is not apparently a case of Government for less cost. At best, we have a case of less Government for less cost. But, it is no great managerial feat to save money simply by cutting essential services.

At worst, we have a case of less Government for greater cost, as the Department will have to hire new people in New York and elsewhere to pick up some of Newark's functions, while paying contractors to conduct observations in New Jersey.

For all these reasons, I sought, and the committee included in its report, a direction to the Department not to proceed with its plan or otherwise reorganize weather service functions at Newark Airport unless it first secures the committee's prior approval. Lastly, the report requires the Department to supply the analysis that has been lacking thus far on how existing weather service and public safety functions would be continued, what impact the contracting out would have, and what real cost savings would result.

Mr. President, I am pleased that this bill is accompanied by this important report language, which will help ensure the maintenance of essential weather service to northern New Jersey. I urge my colleagues to support the bill.

LONG-TERM-CARE GERONTOLOGY CENTERS

Mr. HEINZ. I have some information that I would like to share with the distinguished chairman of the Labor-HHS-Education Appropriations Subcommittee. I note that the conference report for the regular Labor-HHS bill, which is referenced in the continuing resolution, states that "The conferees reaffirm their interest in the long-term-care gerontology centers in existence in fiscal year 1985 and direct the Administration on Aging to continue to fund these centers."

I have strongly supported the long-term-care gerontology centers, funded under title IV of the Older Americans Act. These centers have made important advances in developing more effective, comprehensive, and humane systems for delivering a wide range of health and supportive services to chronically ill and vulnerable older persons. The centers provide model programs for delivering primary care services to the elderly, education and training to strengthen the skills of professional geriatricians and gerontologists, and efforts to sensitize the aging network about effective means to respond to the long-term-care needs of older Americans.

Continued funding for these centers is crucial because the demand for long-term care has never been greater, and this demand will continue to grow as our over 65 population continues to increase.

In April of this year, I wrote to the Acting Commissioner of the Administration on Aging expressing my concern that these centers continue to receive funding. Seven months later, on November 21, 1985, I received a very noncommittal response from the Acting Commissioner, saying that the centers were welcome to apply for funding under AOA's discretionary grants program although new priorities for this program have been chosen by the agency.

This is certainly not the acknowledgement of clear congressional intent that I had hoped to receive. I wanted to bring this disappointing response to the attention of the distinguished manager of the bill so that we could have this opportunity to make clear our intent regarding the funding of these centers.

Mr. WEICKER. I thank my good friend from Pennsylvania for sharing this information with us. He is correct in saying that the House and Senate Appropriations Committees included report language accompanying H.R. 3424 providing for the continued funding of the 11 long-term-care gerontology centers that were in existence in fiscal year 1985. The conferees insisted upon this language in order to make absolutely clear to the Administration on Aging our strong bipartisan support for these centers and our desire that it continue to fund them at the fiscal 1985 funding levels.

Mr. HEINZ. I thank my good friend from Connecticut for taking the time to send this clear message to the AOA in support of these vital resources.

POPULATION DEVELOPMENT ASSISTANCE

Mr. HELMS. Mr. President, House Joint Resolution 465 as reported with the amendments of the Senate Appropriations Committee appropriates moneys for foreign operations, generally speaking, as in S. 1816, the Foreign Assistance and Related Programs Appropriations Act, 1986, as reported to the Senate on October 31, 1985. With respect to population assistance, House Joint Resolution 465 specifically incorporates the following provision from S. 1816:

Population, Development Assistance: for necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization:

Mr. President, the language of the proviso is identical to the Kemp/Inouye/Helms amendment in the supplemental appropriations bill from last summer, which became Public Law 99-88. It is also identical to the proviso incorporated by the unamended House version of House Joint Resolution 465, which incorporates the House foreign operations appropriations bill, H.R. 3228. Thus, there is apparent agreement between the House and Senate on the appropriate restrictive language against coercive abortion and involuntary sterilization in the U.S. population control program.

Although I believe that this proviso language is clear and has been clear since its original enactment in August 1985, certain confusion has been engendered by comments from spokesmen at the Agency for International Development and others. So that there will be no further doubts of any kind, let me, as one of the original sponsors, state the intent of this language.

The intent here is that no population assistance may be extended to any organization or program which, as determined by the President, supports a program of coercive abortion or involuntary sterilization, or participates in the management of a program of coercive abortion or involuntary sterilization. For an organization or pro-

gram to qualify under this restriction, it is not enough that it simply withdraws from the management of a program of coercive abortion or involuntary sterilization; it must also cease even supporting, in any way, a program of coercive abortion or involuntary sterilization.

PLUSES AND MINUSES IN THE DOD CONTINUING RESOLUTION

Mr. PRYOR. Mr. President, I will not take much time, but I have some comments and questions regarding the defense title of the continuing resolution we are considering.

I and Senator LEAHY had expressed some concern to the subcommittee chairman that we have been to readily offering up for sale to allies tanks from the inventory of the National Guard and Army Reserve. The stocks of tanks for these forces are already too low, well below modestly set peacetime requirements, and the situation is getting worse. We are selling off reserve force tanks faster than they are being replaced. With the cooperation of the subcommittee chairman and his staff, we were able to agree on report language to address this concern and to provoke further thought on this problem in the State Department and the Defense Department before we rush to deplete further our too low reserve tank stocks.

I also want to thank the subcommittee chairman for the amount of agreement we could reach on a far more fundamental issue: how the Congress and the Defense Department budget for inflation. While differences between us remain and while I take some strong exception to some of the assertions of the committee report on this important subject matter, I want to thank the chairman and his staff for incorporating some language that could be agreed on. This language will be important to all of us because it will help to generate the kind of information Congress will need when we receive the fiscal year 1987 budget request. I am sure the subcommittee chairman will agree that we have not yet solved the inflation budgeting problems we now know exist and that the report requirements contained in the committee report will do much to help us address the problem, hopefully effectively, first thing next year.

Next, Mr. President, I want to offer some praise to the subcommittee chairman—in addition to my thanks for his cooperation on what we could agree on. The defense portion of this bill has obviously been the subject of some serious and productive scrutiny. Past budgets have been scrubbed for excess funds, lying around. Earlier this year, Secretary Weinberger told us of $4 billion extra he found in previous defense budgets that could be applied to this year's spending. With the help of the GAO and the CBO, the Defense Subcommittee was able to find a lot more, $5.5 billion—all from previous years, all excess to requirements for one reason or another (primarily inflation), and all available to be saved to help out on the deficit. The subcommittee and its staff deserves a lot of praise for finding all this fat—$5.5 billion.

I do, however, have a concern here. With all this excess money found lying around, not a penny of it is to be saved. All of it is to be transferred under this bill to new defense programs, many of them not authorized by the authorizing bill, many of them not requested by the executive branch. Furthermore, Mr. President, none of this $5.5 billion counts in judging whether this bill is over or under the budget ceiling. Being old appropriations, this $5.5 billion is additional spending to be made in fiscal year 1986 above and beyond the budget ceiling approved in the first concurrent budget resolution. It is a $5.5 billion add-on for the defense budget. The money spent will add to the deficit, but it will not count in determining if Congress is beginning to balance the budget. It is ghost money: Money that does not appear to be there, but money that nonetheless can cause unpleasant things to happen—namely, an increase in the deficit.

I fully understand that the Appropriations Committee has followed traditional practices in how it has scored this money against the budget ceiling. I am also fully aware of the committee's rationale that it should not count in the budget ceiling because it is old appropriations that should not be counted a second time.

There are, however, two important points to be made. First, a very large amount of the $5.5 billion was originally intended to pay for inflation. That inflation never occurred; now it is to be spent on programs, not useless inflation. The money was found to be excess to previous defense budgets; should not it be returned to the Treasury to reduce the deficit? If the money is not to be saved, is not to be spent for the originally intended inflation payments, but now is to go for hardware, should not it at least count within the budget ceiling?

Second, Mr. President, the amount of fat that has been found, $5.5 billion, is much more than has ever been found in previous years. The indications are that, because of the inflation phenomenon, amounts in this order of magnitude will be found to be excess in this and future fiscal years until we get an appropriate handle on how we here in Congress, and in the executive branch, appropriate for inflation. The errors that the GAO and others tell us created a huge windfall for the Defense Department are continuing. My concern is that with these huge amounts being found excess and with our handling them in a manner that does not appear to be increasing the deficit—but which actually does—aren't we all just fooling ourselves? We may be reaching all of our Budget Act and now the Gramm-Rudman spending ceilings, but in actual fact, we will be passing elephants under the table—elephants that can eat us out of house, home, and balanced budgets. We are playing a game with this money we should not be playing. We will be looking like we are doing our deficit reduction job, but in actual fact we will not be.

These concerns lead me to a third area of concern. We have procedures here in the Congress called reprogramming and transferring. It is all perfectly legal, and we all have been using these procedures for years. They have become a normal part of our budgeting practices. Up until now, no one has questioned them in the slightest. But, it may be time, Mr. President, to take a closer look at what we have been doing and at what others have been doing. Each year we reprogram and transfer billions of dollars. Some of that activity is done with our approval, or at least the approval of some of us. But, a great deal of it is done without our approval. Some of it is done without even our knowledge. Billions and billions of dollars are passing through these reprogramming and transfer pipelines, and very few, sometimes none, of us watching. I fear that if we permit ourselves to continue to engage in these perfectly legal practices, we will be completely unable to tell our constituents with a straight face that we are cutting all unnecessary spending out of our budgets. We may find ourselves to be drastically cutting many defense and civilian programs that we would otherwise like to support. While we are inflicting real budgetary pain on Federal programs, we may have a cellar full of extra money that we should be returning to the Treasury, but aren't. If we don't look more seriously into these practices, we could be allowing money to be stolen from deficit reduction; stolen fair, square and perfectly legal, but stolen nonetheless.

Mr. President, I will not delay the Senate any further with my concerns at this time, but I can promise that I will be speaking to these issues in the future. I and some of my colleagues have asked various investigatory agencies to look into these issues, further than they have already looked, and I can promise that we will bring our findings to the Senate together with some recommendations to end some of the mistakes we have been making.

I look forward to working with my colleagues on these issues which I consider to be of fundamental importance.

FUNDING FOR REFUGEE TARGETTED ASSISTANCE

Mr. EVANS. The conference report on Labor/HHS/Education and related agencies (H. Rept. 99-402) explains why the Senate amendment offered by myself and Senator GORTON regarding fiscal year 1985 funding for refugee targeted assistance was deleted as unnecessary. I would like to ask a few questions of the distinguished chairman of the Appropriations Subcommittee pursuant to this matter.

The language of the report states that $11,526,000 "will be counted as a 1985 expenditure and will not be counted as a 1985 carryover balance." Does this statement mean that the administration cannot argue that the $50 million in the continuing resolution for targeted assistance should be reduced by the release of the $11.5 million to the States as a result of a Federal injunction order against OMB?

Mr. WEICKER. That is precisely what the language means. The administration is to expend the entire $50 million in new budget authority during fiscal year 1986 in addition to the fiscal year 1985 $11.5 million recently distributed to the States in compliance with the Federal district and appellate court orders.

Mr. EVANS. The report language makes clear that Congress wants the fiscal year 1985 funds released immediately. This conference statement follows the Comptroller General's official report of an unlawful rescission of budget authority by OMB and Congress refusal to agree affirmatively with such a rescission.

Mr. WEICKER. That is correct and our action on the continuing resolution appropriates $50 million in new fiscal year 1986 funds.

Mr. EVANS. I thank the Senator for his continuing commitment to Federal refugee assistance.

Mr. DOMENICI. Mr. President, I rise in opposition to House Joint Resolution 465, further continuing appropriations for 1986.

Mr. President, the committee-reported continuing resolution provides $474.1 billion in budget authority and $313.7 billion in outlays. The bill, together with outlays from prior-year budget authority and other adjustments is under the committee's overall 302(a) allocation by $4.8 billion in budget authority and exceeds the allocation by $1.2 billion in outlays.

This is a substantial improvement compared to the scoring of the continuing resolution prior to mark up. The committee reduced its excess over the section 302(b) allocation by three-fourths—from $4.5 billion in outlays to $1.2 billion in outlays. This is real progress.

Along the way the committee deleted a scorekeeping provision and a provision to buy down interest rates on foreign military loans, to which this Senator objected, to bring the Foreign Operations Subcommittee into comformance with its 302(b) allocation.

The Senate Appropriations Committee also adopted an amendment to address a significant overage in the Department of Defense appropriation bill.

The committee also removed several provisions in the Agriculture title which the administration strongly opposed.

However, these efforts, while commendable and more successful than I thought possible a few days ago, does not warrant passing the continuing resolution when $200 billion deficits haunt the Nation.

This Senator did not work for a year to achieve reconciliation savings with the authorizing committees, and work night and day for months on the Gramm-Rudman budget balancing amendment, just to turn around and vote to exceed the budget on this continuing resolution.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the congressional budget, the House-passed bill, and the President's request and a summary of total appropriations action to date, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
SPENDING TOTALS		
Outlays from prior-year budget authority, bills enacted this session, and other actions completed	86.2	241.2
H.J. Res. 465 as reported to the Senate	474.1	313.7
Possible later requirement (see table A for details)	3.3	3.1
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustment	−1.4	−2.7
Appropriations Committee total	562.3	555.3
Appropriations Committee 302(a) allocation	567.1	554.1
House-passed level	547.0	556.3
President's request	567.9	562.3
Appropriations Committee total compared to:		
302(a) allocation	−4.8	+1.2
House-passed level	+15.3	−1.0
President's request	−5.6	−6.9

Note.—Details may not add to totals due to rounding.

TABLE A.—POSSIBLE LATER REQUIREMENTS

[In billions of dollars]

	Fiscal year 1986	
	Budget authority	Outlays
Agriculture: Agricultural Stabilization and Conservation Service—Salaries and expenses	0.1	
Defense: Military pay raises	.9	0.9
HUD-independent agencies:		
Veterans compensation COLA	.4	.3
Readjustment benefits	.2	.1
Interior: Forest firefighting	.1	.1
Labor-HHS:		
Federal unemployment benefits	.1	.1
Advance to unemployment trust funds	(1)	(1)
Black lung	(1)	(1)
Payment to health care trust fund	.9	.9
Special benefits for coal miners	(1)	(1)
Supplemental security income	(1)	(1)
Aid to families with dependent children	.5	.5
Legislative branch: Official mail costs	(1)	(1)
Total, possible later requirements	3.3	3.1

[1] Less than $50,000,000.

Note.—Details may not add to totals due to rounding.

SUMMARY OF FISCAL YEAR 1986 APPROPRIATIONS ACTION AS OF DEC. 6, 1985

[In millions of dollars]

Appropriations subcommittee	President's request		302(b) allocation		Current status		Current status over/under ( ) President's request		Current status over/under ( ) 302(b) allocation	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	27,641	24,098	28,200	25,200	28,226	25,194	585	1,096	26	(6)
Commerce-Justice	11,391	11,575	12,000	11,900	11,936	12,016	545	441	(64)	116
Defense	304,533	263,403	285,500	252,200	284,150	252,146	(20,383)	(11,257)	(1,350)	(54)
District of Columbia	532	532	500	500	550	550	18	18	50	50
Energy-Water	15,345	15,581	15,300	15,600	15,267	15,582	(78)	2	(33)	(18)
Foreign Assistance	15,032	14,875	15,200	14,700	15,219	14,672	187	(203)	19	(28)
HUD-Independent	52,545	62,899	58,700	61,200	59,946	61,244	7,401	(1,656)	1,246	44
Interior	7,188	8,905	8,200	8,900	5,200	9,151	(1,988)	247	(3,000)	251
Labor-HHS	101,411	112,457	108,000	115,300	107,993	115,315	6,582	2,858	(7)	15
Legislative Branch	1,830	1,848	1,700	1,700	1,686	1,724	(144)	(125)	(14)	24
Military Construction	10,340	7,884	9,000	7,600	8,498	7,539	(1,842)	(345)	(502)	(61)
Transportation	7,860	25,989	10,500	26,600	10,384	27,000	2,525	1,011	(116)	400
Treasury-Postal	12,211	12,222	13,100	13,100	13,214	13,193	1,003	971	114	93
Subtotal	567,858	562,270	565,900	554,500	562,268	555,327	(5,591)	(6,943)	(3,632)	827
Unassigned to subcommittees	0	0	1,200	(400)	0	0	0	0	(1,200)	400

SUMMARY OF FISCAL YEAR 1986 APPROPRIATIONS ACTION AS OF DEC. 6, 1985—Continued

[In millions of dollars]

Appropriations subcommittee	President's request		302(b) allocation		Current status		Current status over/under ( ) President's request		Current status over/under ( ) 302(b) allocation	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Total	567,858	562,270	567,100	554,100	562,268	555,327	(5,591)	(6,943)	(4,832)	1,227

Note.—Negative numbers appear in( ).

H.J. RES. 465 3D CONTINUING RESOLUTION FOR FISCAL YEAR 1986 AS OF DEC. 6, 1985

[In millions of dollars]

Appropriations subcommittee	Enacted to date		3d continuing resolution for fiscal year 1986		Possible later requirements		Mandatory and other adjustments		Total subcommittee adjusted	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	380.639	2,179.272	28,257.104	23,073.839	60	0	(472)	(59)	28,225.743	25,194.111
Commerce-Justice	20.386	2,597.267	11,945.618	9,724.056	0	0	(30)	(305)	11,936.004	12,016.323
Defense	578.500	92,957.371	282,646.012	158,291.995	925	897	0	0	284,149.512	252,146.366
District of Columbia	0	0	549.970	549.970	0	0	0	0	549.970	549.970
Energy-Water	15,252.608	15,653.467	0	0	0	0	14	(71)	15,266.608	15,582.467
Foreign Assistance	0	8,793.547	15,818.792	6,160.945	0	0	(600)	(282)	15,218.792	14,672.492
HUD-Independent	57,290.991	62,145.503	2,455.000	42.000	550	448	(350)	(1,392)	59,945.991	61,243.503
Interior	15.000	3,904.591	5,073.134	5,314.867	100	100	12	(168)	5,200.134	9,151.458
Labor-HHS	11,030.469	32,368.265	95,524.572	81,890.492	1,664	1,664	(226)	(608)	107,993.041	115,314.757
Legislative Branch	1,645.573	1,705.296	1.000	.624	44	29	(5)	(11)	1,685.573	1,723.920
Military Construction	0	0	8,497.859	7,538.701	0	0	0	0	8,497.859	7,538.701
Transportation	0	17,984.054	10,350.270	9,009.615	0	0	34	6	10,384.270	26,999.669
Treasury-Postal	0	892.493	13,000.349	12,092.523	0	0	214	208	13,214.349	13,193.016
Subtotal	86,214.166	241,181.126	474,119.680	313,689.627	3,343	3,138	(1,409)	(2,682)	562,267.846	555,326.753
Unassigned to subcommittees	0	0	0	0	0	0	0	0	0	0
Total	86,214.166	241,181.126	474,119.680	313,689.627	3,343	3,138	(1,409)	(2,682)	562,267.846	555,326.753

Note.—Negative numbers appear in ( ).

Mr. EAGLETON. Mr. President, today I had prepared to offer an amendment that simply put, would have deleted $12,247 million under the Wild Horse and Burro Program in the Bureau of Land Management and Budget, and would have authorized the Bureau of Land Management to remove up to 4,000 wild horses and burros from the public lands in fiscal year 1986.

I believe it is especially wasteful to appropriate this money when there is no need to do so. The Bureau of Land Management had claimed it must remove over half of the Nation's wild horses and borros from the range to relieve overgrazing. But, the Bureau is still in the process of studying the overgrazing problem with the help of the National Academy of Science, at the request of the Appropriations Committee last year. This important study is still underway. So the efforts by the Appropriations Committee to remove another 17,000 wild horses next year is an attempt to second guess the scientific studies underway.

Studies done by the National Academy of Sciences have seriously questioned BLM's management goals for wild horses and burros. Dr. Fred Wagner of Utah State University, chairman of the National Academy of Sciences Committee on Wild Horses and Burros, said in 1983 following release of the committee's report, that BLM "had not made a case" for reducing wild horses and burro herds by more than 50 percent. The committee reported that it had found few examples of severe impacts on the range attributable to wild horses, although it had asked BLM to identify them.

Furthermore, one BLM official is quoted in the October 3 Public Land News that the agency hasn't completed all the land-use plans necessary to justify spending the money on more removals and that he wasn't sure that BLM would need to remove another 17,000 animals in any event. In fact BLM's own budget estimate for fiscal year 1986 plans on removing 4,000 horses and burros. The action by the committee has given BLM over $15 million to remove and feed 13,000 more animals than it wants to, or may be capable of.

Personally, I believe that we'd be far better off to adopt the House position: eliminate all money for new roundups and leave enough to feed and care for the animals in corals until they are adopted. That was the original purpose of my amendment. I have no doubt that's the wise thing to do from a fiscal standpoint as well as from the program standpoint.

But, due to the nature of the continuing resolution, I don't believe that there is adequate time to debate this issue and for the Senate to give it proper discussion. Therefore, I do not plan to offer any amendment today, but I would hope that the conferees would be sympathetic to the situation that exists.

MHD RESEARCH FUNDING

Mr. BAUCUS. Mr. President, I rise to express my appreciation to the chairman of the Interior Appropriations Subcommittee and to other members of the committee for including $29 million in this bill for MHD research.

This funding will make it possible to continue research on magnetohydrodynamics technology. MHD is an efficient, environmentally sound method of using coal to produce electric power. MHD could be the key to American energy independence in future decades, and it is vitally important that we continue to fund this basic research program.

I ask unanimous consent that an editorial from the Bozeman Chronicle be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Bozeman Chronicle, Oct. 1, 1985]

MHD IS A HOT IDEA

It sounds almost too good to be true. A power generator that is efficient and clean, fired by America's most abundant energy source—coal.

But this isn't wishful thinking. It is the reality of MHD.

MHD is short for magnetohydrodynamics, a process that has been developed over the last decade at a test facility in Butte. It's a high-tech way to produce electricity from coal. Recent tests show that it works.

That's the good news. The bad news is that the MHD research is costly. Federal taxpayers have been and will continue to pick up most of the tab. And efforts to cut off funding rear up regularly.

Some American energy planners are counting pretty heavily on MHD to decrease our country's dependence on unreliable sources of foreign oil. MHD can bridge the energy void between today's reliance on

finite oil supplies and tomorrow's development of reliable new energy sources.

America has vast coal reserves that, if developed, can protect our nation from the unstable international oil market. And MHD is clean and efficient compared to conventional coal-fired plants.

Conventional plants convert only about 33 percent of coal's energy potential, while MHD is about 50 percent efficient. MHD increases its efficiency rating when a cogeneration unit is added on, using hot exhaust to create steam for a conventional plant.

The economic and environmental costs of preventing air pollution from conventional plants are very high, but the MHD process doesn't produce the black smoke that must be cleaned up at the smokestack.

Tests are proving MHD is technologically viable; what's left is to prove that it is economically viable. Actually, that is a policy question as much as it is an economic question. Government and industry must recognize the long-term benefit of MHD and support it.

We can't afford not to. These days of ample energy supplies cannot go on forever; we continue to hear predictions that we will see a return to the oil shortages of the '70s. Meanwhile, we have let our sense of urgency about solving our energy demands relax.

We need to look ahead at our energy needs and to ways to fuel this nation in the generations to come.

MHD is a way. We know it can work; we need to make it work. It is time for industry to get behind the idea and cooperate with the government to make this technology work. At this point, that means to keep paying the bills to develop MHD.

The MHD scientists are doing their job. Policymakers and businessmen need to catch up with the scientists.

America should pour on the coal to make MHD part of our energy solutions.

Mr. BAUCUS. As I said, Mr. President, I am grateful to the committee for including funds in next year's budget for continued MHD research. However, I am disturbed by some of the statutory and report language included by the committee this year for MHD. I fear that the large increases in industry cost sharing will force key industry participants to pull out of the program. Creating new cost-sharing requirements for MHD research at the proof-of-concept stage would be a major policy change and could foreclose completion of the MHD research program.

I ask unanimous consent that a letter from the MHD Industrial Forum to Chairman MCCLURE be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MHD INDUSTRIAL FORUM,
Washington, DC, September 25, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Interior Appropriations Subcommittee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the MHD community I want to thank you and the Subcommittee for marking up the FY 1986 MHD budget at $29 million for implementation of the June, 1984 DOE proof-of-concept program.

We firmly believe that MHD power generation can be a major contributor to the nation's growth and well being in future years. It can provide environmentally clean, economic electric power using domestic coal in the most efficient manner known and will provide new domestic and foreign market opportunities for the nation's electric power equipment manufacturers. As you know, the private sector has contributed significantly to MHD research and technology development over the years and intends to continue to do so. In fact, it has submitted a formal proposal to cost share 50% of the retrofit plant when the proof-of-concept phase is completed.

The report language, which Senator Cochran submitted during the Interior Appropriations Subcommittee markup, defined and formalized Congressional direction that the private sector contribute to the MHD program while directing DOE to implement the June, 1984 DOE/industry agreement on the redirected MHD program. Unfortunately, the statutory and report language which accompanies the Senate Interior Appropriations bill is both restrictive and open to such wide interpretation that it will create more problems than it solves. Some of our concerns are discussed below.

The statutory language fails to recognize the difference between the current research and development proof-of-concept program and the potential future clean coal technology retrofit demonstration program. It inaccurately interprets the June, 1984, DOE MHD program redirection. Rather than an MHD program "targeted on proof-of-concept testing," the redirected program is targeted on completing the proof-of-concept engineering and supporting research and development testing leading to the design, construction and testing of retrofit demonstration.

Another problem with the statutory language is the directive ". . . that cost sharing shall not be required for the basic supporting research activities." This can literally be interpreted to exempt from cost sharing all elements of the existing program except the Federal CDIF test facility in Montana. Also the attempt to define "basic supporting research" in the report language is totally inconsistent with definitions used throughout DOE fossil energy documents or even in past DOE related Congressional language.

The report language requirement that a "DOE/industry agreement be in place within thirty days after enactment" is unrealistic. Even if the language was clear, the time limit is insufficient for the bureaucracy to react or for the private sector to respond with a financial package, particularly in a cost sharing situation never before required on a government research and engineering development program. Furthermore, the time limit leaves a wide open opportunity for DOE to assume an uncompromising negotiating stance and thereby achieve its objective to terminate the MHD program.

The statutory language uses the terms "amortized, depreciated and expensed" inappropriately. In todays economy the net amortized, depreciated or expensed value of goods does not necessarily reflect the true or current market value of an asset.

Another problem raised by the report language is the directive that DOE enter into discussions with the "involved private sector companies." DOE Fossil Energy officials already are interpreting this as a requirement to renegotiate existing agreements with present contractors to reflect twenty percent contributions rather than seeking overall program fund matching.

The private sector position has always been that cost sharing should be cumulative and involve all interested parties, such as EPRI, state and foreign governments, etc. The major MHD R&D contractors such as TRW, Avco, the University of Tennessee and MSE, Inc., are unlikely to be the principal beneficiaries of the technology. The components that TRW and Avco are developing will represent only a small fraction of any commercial MHD plant and profits will never be large. Furthermore, the developers have no patent protection and since the component fabrication is relatively simple, they will face competitors who have made no investment and thus will have an unfair pricing advantage. The principal beneficiaries of MHD will be utility companies, design and construction firms, and ancillary equipment suppliers.

The language implies that contribution by state, foreign, and non-DOE contractors like EPRI, General Dynamics, etc., may not be allowed as part of the overall cost share package. To eliminate interested organizations not directly involved in the DOE program from participating in the cost sharing would certainly not be in the best interest of moving forward MHD technology development or commercialization. Any expectation that the principal DOE R&D contractors will underwrite the total private sector cost share portion of the program is misguided. Corporate energy sales and profits have been declining and the business outlook does not justify investments of the required magnitude. General Electric has dropped energy R&D from its business line and even TRW recently announced that it is evaluating the role of its energy divisions in light of declining profitable market opportunities.

Meanwhile, the Soviet Union, China, Japan, France and other countries are aggressively pursuing MHD and other energy high technology programs. A major advantage this country enjoys over the rest of the world is our ability to stay ahead in high technology. When near term economic incentives do not warrant private sector investment, the government, in my judgment, has an obligation to take the lead as it did with computers, micro chips and other technologies resulting from DOD and NASA R&D programs. If the nation loses this lead in high technology, our trade deficit will worsen and we will be dependent upon foreign sources for advanced technologies to secure our energy future.

It is for the reasons discussed here that I suggested in my earlier letter to you that FY 1986 be allowed for the private sector and DOE to agree on what is a ground breaking effort in government energy R&D funding. Since it can be assumed that a cost sharing requirement will ultimately be applied to other DOE research and engineering development programs, it is important that whatever is done with MHD—which will be first—should be done carefully and with adequate forethought. Indeed, the implications of requiring substantial private sector investment at the early stages of long maturing advanced technologies should be the subject of much debate and close congressional scrutiny to ensure that the nation's high technology capability and leadership position are not jeopardized.

In my letter to you of September 17, I indicated the percentage level the private sector believed it could afford to contribute to this research and engineering development effort. I am hopeful that cost share language can be worked out in conference

that will be acceptable to the House, the Senate and industry.

Your consideration of these matters is much appreciated.

Sincerely,

DAVE BROWN,
President.

CLEAN COAL TECHNOLOGY PROGRAM

Mr. BAUCUS. Mr. President, I am not only concerned that this increased cost-sharing makes unrealistic demands on key industry participants; in addition, I am concerned about the policy implications of requiring significant industry cost-sharing for Government-sponsored basic research projects.

I believe the implications of these cost-sharing requirements go far beyond the MHD research program. If this language is not changed, Congress will be announcing an intention to force industry cost-sharing at the research and development stage of energy technology programs. The private sector has a limited capacity to fund energy technology research and development, and by imposing these cost-sharing requirements we may foreclose major future commercial technology development.

For instance, this bill also contains the new Clean Coal Technology Program, which I strongly support. Adoption of these cost-sharing requirements for other emerging coal technologies would wipe out the carefully designed incentives in the new Clean Coal Technology Program. The Clean Coal Technology Program recognizes that private industry does not have the financial capacity to see advanced technology research and development on this scale through to its expected commercial potential.

Because we want to be sure of industry's commitment and confidence in new technology commercialization, the Clean Coal Technology Program requires 50-50 cost sharing in all stages of demonstration development. That is entirely appropriate. The cost-sharing requirement at the demonstration stage spurs faster development of near-commercial technologies, and the multiyear funding mechanism in turn provides some assurance to the private sector that the Government will be a reliable partner in each project.

At first glance, it appears that the committee is imposing industry cost-sharing requirements for MHD in a similar way. However, MHD is not a near-commercial technology. It may make sense to require cost sharing for R&D on technologies that are commercial or near-commercial, like atmospheric fluidized bed or pressured fluid bed technology. But MHD is further away from being a mature commercial technology.

It has been demonstrated time and time again that U.S. utility companies and their suppliers and manufacturers can afford to invest only in those technologies that project a short-term payoff on their investment. MHD is still in the basic research and engineering phase, and does not offer investors any return in the near future.

In about 5 years, we hope to be ready to retrofit an existing coal-fired powerplant for a full-sized test of the technology. Industry has shown its confidence in MHD and its willingness to cooperate with the Government by submitting a 50-50 cost share proposal for that retrofit demonstration plant under the clean coal technology initiative.

INTERNATIONAL EFFORTS IN MHD RESEARCH

I should point out, Mr. President, that we are not the only nation interested in MHD technology. The Press Institute of India reported recently that a 5MW MHD generator has been completed at Tiruchi, India. India thus becomes the seventh country in the world to begin major testing of MHD technology. They are planning to build a 200MW powerplant by 1995 if their testing goes well, and they expect to retrofit existing coal-fired plants with MHD technology before then.

The bulk of this research is being financed by the Indian Government. Other countries with major MHD technology efforts include the Soviet Union, Poland, Italy, and the Netherlands.

CONCLUSION

Mr. President, I am grateful to the committee for agreeing to include significant funding in this bill for MHD research. I do not intend to offer any amendments to the bill. But I do want to ask the committee to give serious consideration to these problems during the conference with the House of Representatives. I believe that MHD research should be treated under the same policy guidelines as our other major energy research programs, so that major industry contributions would be required at the demonstration stage but not at the more basic proof-of-concept stage.

Again, I thank the Senator from Idaho for his help and consideration.

STUDENTS IN NATURAL DISASTER AREAS

Mr. BYRD. Mr. President, yesterday I offered an amendment, which the Senate adopted, to allow students—whose parents have lost their source of income as a result of a natural disaster in the 1985-86 school year—to file a special condition application under the Pell Grant Program.

Regulations governing special condition applications under the Pell Grant Program require a 10-week loss of income in a calendar year before an adjustment to income can be made to file for assistance. Because there were only 8 weeks remaining in 1985 when the flooding hit West Virginia and other States in early November, students in those States will not be able to file a special condition application to reflect the impact of the flood on their 1985 income, which, in turn, would mean that those students could not file for assistance for the second half of the 1985-86 school year.

West Virginia University advises that 54 percent or 6,486 or its in-State students reside in the 29-county area designated as natural disaster areas. Obviously this amendment will not help all of those students. What it is designed to do is to help those students whose families have suffered a loss of employment because of the flooding and who otherwise qualify for a Pell grant.

It is difficult to imagine the devastation caused by the flooding. In many cases, families that were fortunate enough to escape the loss of their homes, have found that they no longer have a job. Many businesses have been demolished by the flooding, and others have had their access to the marketplace severed by the destruction of highways, bridges and rail lines.

My amendment allows those students in areas that have been declared natural disaster areas, and who otherwise meet the qualifications for Pell grant assistance, to file a special condition application, thus enabling such students to complete the second half of the 1985-86 school year.

I thank my colleagues for their support of this amendment.

STRATEGIC PETROLEUM RESERVE

Mr. BRADLEY. Mr. President, I wish to call attention to an amendment which has been included in the continuing resolution. I refer to an amendment which couples a program that would barter surplus food for oil for the strategic petroleum reserve [SPR] and a straight rescission of $160 million from the SPR funds allocated for oil purchases. This amendment demonstrates that two bad policies don't make one good one.

Let's consider the Commodity Bartering Program. First, it is billed as incurring no cost to the Government. Clearly, it is not. A CBO analysis performed recently assesses the cost of this program at $120 million more than the value of the crops. Without question, this barter arrangement will reduce the world price for these crops and thereby increase the dollar amount of price supports paid to U.S. farmers. The U.S. farmers will be more dependent on Government handouts, at a time when we are trying to reinforce the competitive aspects of the domestic farm business.

Further, the program will be costly to administer. Shipping and managing such a momentous swap of perishable commodities will not be cheap, if it can even be achieved, which leads to a second concern: the program can only be achieved with great difficulty, and

probably abundant waste. The personnel at the Department of Energy are ill-qualified to handle such a transaction involving at least $300 million worth of oil.

The second aspect of the amendment is likewise imprudent. It is true that the SPR currently holds nearly 500 million barrels of oil, enough to replace imports for 100 days. But it is also true that the quantity of imports is increasing every month. By 1995, the Department of Energy predicts that our daily appetite for oil, imported oil, will have doubled from today's levels. This 100-day cushion will have become merely 50 days of supplies. At the same time, our sources of foreign supply are expected to become increasingly consolidated because the largest supply of known reserves is found in the most unstable area of the world, the Persian Gulf. As our reliance on imports grows, so will our dependence on unstable Middle Eastern and OPEC nations.

A rescission of $160 million will stop the flow of oil to the reserve by the end of the next month. And the alternative of "food-for-crude" is not likely to prove effective or desirable. Let's not delude ourselves into thinking that the grab-bag policy represented in the amendment is clever or worthwhile. It is neither. It is an unwise distraction. This is not the time to renege on our commitment to energy security. I hope the conferees will drop these imprudent provisions in conference.

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. LAUTENBERG. Mr. President, the continuing resolution includes the appropriation for the District of Columbia, as provided for in the conference report and in the joint explanatory statement of the conference committee on H.R. 3067, the fiscal year 1986 District of Columbia appropriations bill.

The District of Columbia appropriations bill, as passed by the Senate, included a provision barring the District of Columbia from using Federal funds to seek a major league baseball franchise, and that maintained the Senate's neutrality on the matter of the location of expansion baseball franchises.

The appropriation for the District of Columbia originally included $55,000 in funding for the D.C. Commission on Baseball, which is engaged in an effort to secure another baseball franchise for the District.

Along with Senator HART and Senator LUGAR, I offered an amendment, adopted in the Senate, that barred the District from using any Federal funds for the purpose of obtaining a major league baseball franchise. It stated clearly that the Congress had no preference for the District's efforts.

My reasons for seeking the amendment were simple. New Jersey is among those areas seeking one of the two expansion franchises now contemplated by major league baseball. I believe New Jersey has a strong case for getting a franchise. New Jersey's Meadowlands has been a first-class home for professional sports teams in basketball, hockey, football, and soccer. New Jersey has the wherewithal to provide a home for a baseball team, and it has the fans to support it.

So, I thought it inappropriate for the Congress, without reliance on any objective criteria, to appear to favor the efforts of the District of Columbia. Although the House insisted on dropping the Senate language from the conference report, I was pleased that the Senate conferees reaffirmed its position in the committee of conference.

Mr. President, I feel very strongly about this. The Congress should not be throwing its weight behind the effort of the District, to the possible detriment of New Jersey and other areas.

SEWAGE TREATMENT FACILITIES

Mr. President, House Joint Resolution 465 provides $2.4 billion for the construction of sewage treatment facilities; $600 million is made available to the Environmental Protection Agency [EPA] immediately while the remaining funds will be available pursuant to future appropriations acts. I strongly support this funding.

Mr. President, the Clean Water Act establishes our Nation's commitment to cleaning up the Nation's waters—waters which are used for fishing, swimming, recreation and drinking water. The act contains numerous programs to achieve this goal. One of the most important programs is the funding of sewage treatment plants. Properly running sewage treatment facilities are an essential component of the Clean Water Act's program for cleaning up the Nation's waters.

Early this year, the Senate passed the Clean Water Act Amendments of 1985 by a vote of 94–0. This bill includes a continuation of the Construction Grants Funding Program and a gradual transition to State revolving loan programs. The Senate's vote on this bill is a strong statement about the importance of providing Federal assistance for constructing sewage treatment plants. The House of Representatives also has passed a Clean Water Act bill which provides for the continuation of the Construction Grants Program. Unfortunately, the conference committee has not yet met. Thus, funds were not provided for the Construction Grants Program in the HUD-independent agencies appropriations bill for fiscal year 1986 because of the lack of a reauthorization for the Construction Grants Program.

Because there are only limited unobligated construction grants funds from fiscal year 1985 and no funds appropriated for fiscal year 1986, the Construction Grants Program across the Nation is grinding to a halt. I understand that around 30 States are virtually out of Federal construction grants funds. Even in those States such as New Jersey which have funds remaining, many projects would be delayed because of the lack of funds.

To address this situation, the Senate Appropriations Committee appropriated immediately $600 million for the Construction Grants Program. I strongly supported this initiative by Senator GARN, subcommittee chairman and Senator LEAHY, ranking minority member. These funds will keep the States Construction Grants Programs running until the Congress can reauthorize the Clean Water Act and appropriate the remaining $1.8 billion construction grants funding for fiscal year 1986. In New Jersey, construction could begin on two or three important projects.

The initial funding will be allocated according to the formula which just expired. Once a new formula is established, the remaining funds will be appropriated so that each State receives the allocation it is entitled to for the entire year under the reauthorized program.

Mr. President, the HUD-independent agency appropriations bill which the President has now signed includes my amendment overturning OMB's prohibition on EPA providing fiscal year 1985 funds for new construction starts. I am pleased that the continuing resolution repeats this policy for construction grant funds appropriated in fiscal year 1986.

The Environment and Public Works Committee, of which I am a member, spent a significant amount of time on the Construction Grants Program during its consideration of the Clean Water Act Amendments of 1985. One option before the committee was the administration's proposal to fund no new starts of sewage facilities. Only plants under construction by the end of fiscal year 1985 would continue to receive Federal funding. EPA's testimony, however, showed that remaining sewage treatment needs eligible for Federal funding are estimated by EPA to exceed $50 billion nationwide. In my own State of New Jersey, eligible sewerage treatment needs are $4.5 billion.

The administration's proposal simply would have dumped this problem into the laps of States and local governments at a time when these entities are facing a 1988 deadline for installing sewage facilities which provide secondary treatment. The Environment and Public Works Committee rejected the administration's proposal and this rejection was affirmed in the Senate's vote on the Clean Water Act. The administration's proposal also has

been rejected by the House of Representatives.

It was with shock, then, that I learned that the Office of Management and Budget [OMB] tried to prohibit EPA from funding any new project starts. Simply put, this is a backhanded way of achieving the administration's "No New Starts" proposal by administrative order. EPA has approximately $800 million remaining in obligated fiscal year 1985 construction grants funds. OMB's orders prohibiting EPA from spending these funds on new starts could have a devastating effect on those local governments that were planning to initiate sewage treatment construction with Federal funds this year. In New Jersey, at least two sewage treatment facilities would be adversely affected by OMB's order.

To address this situation, I offered an amendment to the HUD-independent agencies appropriations bill for fiscal year 1986 to overturn OMB's order as it applied to fiscal year 1985 unobligated funds. My amendment was adopted by the Senate and is now law. The Senate Appropriations Committee continuing resolution provides that the OMB order also is ineffective to funds appropriated in fiscal year 1986.

Mr. President, while I would have liked to have reauthorized the Clean Water Act and appropriated the full $2.4 billion by now, I believe that the provision in the continuing resolution is an important, interim measure. It continues the Construction Grants Program in all States and sends a message of Congress' intent to appropriate the entire $2.4 billion authorized in the Senate version of the Clean Water Act.

NEWARK COURTHOUSE PROVISION

Mr. President, I am pleased to note that the resolution before the Senate contains funding for a new Federal building/courthouse in Newark, NJ. This funding was originally contained in the fiscal year 1986 appropriations bill for the Treasury, Postal Service, and General Government. That bill was vetoed by the President. Therefore, funding for these agencies is included in the continuing resolution.

Mr. President, the President's fiscal year 1986 budget for the General Services Administration included funding to construct a $58 million new courthouse and Federal building in Newark. The workload of the Federal judiciary in Newark has expanded. There is an acute need for courtrooms and office space to accommodate this growth. I was pleased to work with the chairman of the Environment and Public Works Committee, Senator STAFFORD, in securing an authorization for this building earlier this year. I appreciate the efforts of Senators ABDNOR and DECONCINI, chairman and ranking member of the Treasury, Postal Service, and General Government Appropriations Subcommittee, with whom I worked to secure appropriations for this building in the Senate and in conference with the House.

Mr. President, I would be remiss if I failed to note the cooperation and assistance of Representative JAMES HOWARD of New Jersey, the chairman of the House Public Works and Transportation Committee. JIM HOWARD labored over several years to make this new building a reality. His support was essential to securing this funding.

Newark needs this building. The Federal judiciary needs the building. The construction of new Federal building/courthouse is consistent with the policy of housing our Federal courts and agencies in buildings owned by the Federal Government. I am pleased that this resolution contains funding for this badly needed building.

MINIMUM DRINKING AGE ACT AMENDMENTS

Mr. President, House Joint Resolution 465, as reported by the Appropriations Committee, contains an important amendment to the Uniform Minimum Drinking Age Act of 1984, Public Law 98-363.

In June 1984, the Senate approved legislation, supported by Secretary of Transportation Elizabeth Dole and President Reagan, which will withhold highway funds from those States not having 21 as their minimum drinking age as of October 1, 1986. The President signed this legislation into law on July 17, 1984.

The Uniform Minimum Drinking Age Act has worked very well. Since July 17, 1984, 14 States have passed 21 laws; 32 States now have 21 as their minimum drinking age. As it stands now, 37 States will have 21 as their minimum drinking age by October 1, 1986. Thirteen States and the District of Columbia have yet to take action.

Of the 14 States which passed 21 laws, most acted exactly as Congress contemplated. That is, they made permanent changes in their minimum drinking ages. A few States have sought to circumvent congressional intent. They have passed laws which will save their highway funds, but make no long-term contribution to a uniform minimum drinking age nationwide. As long as the Federal Government is withholding highway funds, these States will have 21 as their minimum drinking age. When withholding ends, so will their minimum drinking age of 21, reverting to a lower age.

In January, State legislatures will be meeting to consider whether to comply with Federal law. It is necessary for the Congress to make very clear that we will not tolerate the circumvention of congressional intent. It is necessary for the Senate to reaffirm its commitment to a uniform minimum drinking age.

The amendment contained in House Joint Resolution 465 will make the withholding of 10 percent of highways funds from noncomplying States, scheduled to end in 1988, permanent. In addition, funds withheld after October 1, 1988, will not be reimbursed as are funds withheld in fiscal years 1987 and 1988. States which pass 21 laws, grandfathering in those legally able to drink on the date of enactment of their laws, will be in compliance provided they pass such laws prior to October 1, 1986. Finally, this amendment will extend the period of availability of funds withheld in fiscal years 1987 and 1988 so that the funds will not lapse and be lost to the States.

Like the original statute, this amendment is a combination of provisions which respect the rights of the States and attempt to make it as easy as possible for States to come into compliance. The amendment does, however, make it very clear that Congress supports a uniform minimum drinking age and is willing to exercise limited but firm constitutional power in an effort to achieve this important public safety objective.

Mr. President, we are beginning to see the results of this legislation. In New Jersey, the drinking age was lowered in 1973. Alcohol-related fatalities in the 18 to 21 year-old age group grew steadily to a peak of 85 in 1981. In 1983, New Jersey raised its drinking age to 21. In 1984, there were only 22 deaths of 18 to 21 year-olds on New Jersey roads attributable to drunk driving. Measured against the performance of 1984, when the Federal statute took effect, full compliance by the States can save about 1,000 lives per year.

The purpose of this amendment, Mr. President, is to assure that we do not return to the crazy patchwork quilt of differing minimum drinking ages across the Nation. This pattern resulted in blood borders crossed by young people in search of alcohol. Too many of them never made it home. We did not pass legislation in 1984, only to see us return to this patchwork quilt in 1988. This amendment will prevent that and it needs to become law this year.

Mr. President, the Uniform Minimum Drinking Age Act, and this amendment, have one purpose: to save the lives of young Americans. The amendment has the support of groups like MADD, started by mothers and fathers who have lost a son, daughter, or loved one to drunk driving. This legislation will not bring back those who have been lost to this senseless practice, but it can save another father or mother from feeling the grief of losing their most precious possession, their child.

WESTLANDS AMENDMENT

Mr. METZENBAUM. Mr. President, I wish to clarify the meaning of the committee amendment regarding the Westlands Water District. Will the Senator from Idaho, the chairman of the Interior Appropriations Subcommittee and the chairman of the authorizing committee with jurisdiction over reclamation issues, tell me if I am correct that nothing in the committee amendment or the report language explaining it shall be interpreted to waive or otherwise affect the applicability of section 226 of the Reclamation Reform Act, 43 U.S.C. 485(h)(f)?

Mr. McCLURE. The Senator from Ohio is correct. Nothing in the amendment or the report language waives or otherwise affects the applicability of section 226 of the Reclamation Reform Act, 43 U.S.C. 485(h)(f), nor does it make such section applicable if it would not otherwise be so.

Mr. METZENBAUM. I thank the Senator from Idaho. I wanted to be certain that we did nothing here that would prejudice the interests of any present or future party to the Westlands litigation which is the subject of this amendment, nor that could be interpreted by a court as a congressional determination on the applicability of section 226 of the Reclamation Reform Act.

BIA SCHOOLS

Mr. MELCHER. I appreciate the generosity of the chairman of the Interior Appropriations Committee in helping me to resolve the issue of funding for construction of BIA schools. As the chairman knows I had intended to offer an amendment to appropriate $5 million for the onsite construction of two schools in Montana which are first and second on the Bureau of Indian Affairs' priority list for new school construction. The first is the Two Eagle River School at Dixon, MT, and the second is the Rocky Boy High School at Rocky Boy, MT.

The House included $4 million for construction of the two schools using modular type construction. Both schools have been diligently working with their engineers and architects to cut costs and both have come up with reasonable plans for onsite construction at a cost of about $2.5 million each. However, I recognize the dilemma the chairman faces and will withdraw the amendment I intended to propose with your assurance that funds will be made available at the first opportunity next year, in other words, with the first fiscal year 1986 supplemental.

Mr. McCLURE. Mr. President, the Senator from Montana is correct that these two schools are first and second on the priority list. If planning and design has progressed to such a stage that the schools could actually be placed under construction this summer, we will, indeed, recommend that funds be included in the supplemental.

Mr. MELCHER. I am convinced by the tribes and their architects that the schools can be site built for about $2.5 million each. The BIA was the prime mover behind the House action with respect to modular construction. But in fact the information supplied to the House was totally inaccurate because the BIA claimed that the Black Mesa, AZ, BIA school was modular. It also claimed that Colstrip High School in Montana—a public school—was an excellent example of modular construction. Site visits to both schools by the tribes, the House committee staff, BIA personnel and others showed that this assertion was patently not true. The modular facilities at Colstrip were built to house a great influx of children and are not now being used since the main school facility was built—using standard construction. Similarly, Black Mesa is site built except that parts of the gym were preengineered.

According to the BIA capability statement:

> These schools will be designed by the fourth quarter of FY 1986 and ranked as number one (Two Eagle River) and two (Rocky Boys) among Bureau priorities. Construction could not begin until the first quarter of FY 1987, and be completed by the middle of FY 1987. The schools would actually be open to students in the fall of 1987. It should be noted that delaying the appropriation to FY 1987 would not change this opening date.

Again the BIA seems to be pulling rabbits out of a hat. There is simply no way these schools could be open in the fall of 1987 if we delay the appropriations till the fall of 1986. In Montana, the season does not start until early May and there is at least a 9- to 12-month construction period required.

The Senate report on H.R. 3011 explains that no funds have been requested for the construction of the two schools because the planning and design for the schools will not be complete until the fourth quarter of fiscal year 1986. I may be just dealing with semantics but the BIA capability statement says planning and design will be complete by the fourth quarter. Now that is not a significant difference but it could be if, in fact, planning and design is completed even as late as sometime in the third quarter—it would give the BIA enough time to issue bids and get construction underway before the construction season ends in Montana. The inside could be finished during the winter months and the tribes would not have to wait and worry 1 more year about whether they will be getting construction funds or not. Following this colloquy, I would like the RECORD to include correspondence from both the schools and their architects that speaks both to the issue of modular construction and timing of site built construction.

In any case, following up on the House language, the BIA has issued stop work orders for the architects at both schools. Is it possible for the chairman to assure me and the two tribes that the BIA will be instructed to lift this order immediately so that planning and design for conventional construction can resume?

Mr. McCLURE. Mr. President, as there is no wish to delay either of these projects, I will be happy to request of our counterparts in the House that report language be provided directing the Bureau of Indian Affairs to immediately resume work on planning and design.

Mr. MELCHER. I believe I can speak for the tribes in assuring you and the BIA that a high-quality, low-cost, no-frills design will be forthcoming for both schools. The children at Two Eagle River School are occupying a facility which has been condemned since 1966 by the Federal Government. The school officials are extremely distressed that the Senate Interior Appropriations Subcommittee is not recommending an appropriation on the false assumption that the planning and design phase will not be completed in time for a startup construction date in the spring of 1986. The school, in a September 16 letter says:

> We can assure you that our plan and design will be completed as early as March of 1986 thus making it possible for a spring construction startup.

With a spring startup time, the outside shell of the school would be completed in the fall, giving the winter of 1986–87 to complete the inside construction.

Similarly, the Rocky Boy has submitted an estimate from their architect that shows an early May 1986, completion date if the stop work order is lifted by November 15, 1985. That is plenty of time to get construction underway during the construction season and finish the facility so that it can open for the 1987–88 academic year. I simply believe the BIA is stretching the truth in the information it is providing to the appropriations committees. And it will not be the first time the BIA has been known to do this. Specifically, I refer to the information provided to the House Appropriations Committee, which I mentioned earlier in my statement.

On the issue of modular construction, the BIA itself admits that a facility built with standard construction has a life expectancy of around 50 years and that preengineered components can be expected to last up to 30 years and modular units about 20 years. Frankly, it seems penny wise and pound foolish to spend $2 million for a building that might last 20 years when for another $500,000 we can

invest in a facility that will last an additional 30 years. And, in Montana, I don't have to tell you that whether and seismic conditions simply don't lend themselves to flimsy structures. And, there is no doubt in my mind that modular structures, regardless of design, are flimsy things. Therefore, Mr. Chairman, I ask your further assurance that BIA will be instructed to build these schools under conventional building standards.

Mr. McCLURE. I cannot give the Senator from Montana any absolute assurance on this question. As you know, the House required that the schools be designed for modular construction. I will raise this issue with the chairman of the House Interior Appropriations subcommittee to see if we can reach agreement in this area.

This is the first year I can recall that no funds have been recommended for construction of BIA schools, and, I suspect that the last time this happened was during the Second World War. The education of Indian children has long been a Federal responsibility and we shirk that responsibility when we allow children to attend schools under grossly inadequate conditions. If we delay this year, we delay the next and the next and we fail once again to live up to our trust obligation to Indian children.

MHD

Mr. SASSER. Mr. President, the Interior appropriations bill includes statutory language concerning requirements for cost-sharing in the MHD Research Program. Frankly, I do not have any problem with the language which appears in the bill. I share the chairman of the subcommittee's belief that the time has come that those for-profit corporations participating in the MHD Program should be required to provide a level of cost-sharing to assure the Federal Government's continued participation. The austerity of the Federal budget in fiscal year 1986 requires such cost-sharing practices.

However, I am concerned that the report language seems to go much further than the bill language and requires cost-sharing for most of the research being carried out by the University of Tennessee Space Institute in Tullahoma, TN. To that extent, the report language seems to conflict with the intent of the bill language to exempt public institutions from the cost-sharing requirements.

I say to the distinguished chairman of the subcommittee that UTSI is a public body. It is not a for-profit corporation. It is a university. And, as such, UTSI has no funds available to participate in a cost-sharing arrangement such as is assumed in the report language.

I am bringing this matter to the chairman's attention because I hope he will review this issue before it goes to conference. In my view, there is a clear distinction between public and private institutions. Private, for-profit corporations should be able to provide the level of cost-sharing assumed by this bill and report. However, UTSI, a State-owned university, has no source of funds to tap in order to participate in such a cost-sharing arrangement.

So, I ask the chairman if he would consider this matter very carefully before taking it to conference. If UTSI is forced into a cost-sharing arrangement, it will be unable to do so, and a very vital element of the MHD Research Program will be lost.

Mr. McCLURE. Mr. President, I appreciate the remarks of the senior Senator from Tennessee. Certainly, there is a clear distinction between UTSI and private corporations which are participating in the MHD Program. The intent of the bill language is to assure cost-sharing for what I would term the demonstration portion of the MHD Program, as contrasted to the research portion of this program. UTSI is in a difficult position because, in managing the CFFF facility for an estimated $6 million per year, it constitutes a major part of the total MHD Program.

Since the Senator first brought the matter to my attention, I have asked the staff to review the matter carefully to ascertain the exact impact a cost-sharing requirement would have upon the University of Tennessee.

I share the Senator's view that to the degree that it is conducting research, UTSI, as a public institution, should be treated in the same manner as other participants in the program conducting research. Therefore, I want to assure the Senator that I will take this into consideration as we go to conference with the House on this bill and will endeavor to make the necessary adjustments in the language to assure that any cost-sharing requirements are not improperly applied to UTSI. I have asked the Assistant Secretary of Energy and the representative of UTSI to get together and discuss the CFFF Program, to see if an agreement can be reached concerning how much of the UTSI Program is research versus other activities, but they have not yet concluded their discussions.

Mr. SASSER. I thank the chairman for his interest and consideration of this matter. With those assurances, I will not seek to offer an amendment to the bill at this point to better clarify the cost-sharing language. I give the chairman the flexibility he needs in addressing these issues in conference. I appreciate his willingness to view the work being done at UTSI in a different manner from that being undertaken by other participants.

Mr. GORE. Mr. President, I add my concerns to those of the senior Senator from Tennessee. Private sector cost sharing on Federal programs is a very sound concept and encourages the private sector to be more diligent and committed in their program participation. Philosophically speaking, private sector cost sharing is an investment in the future of the private sector. Profits generated through commercial production are invested in new developments that potentially offer a high return on capital.

However, for universities the case is very different. They do not have the purpose or ability to generate a profit. As a consequence, universities are unable to invest profits through cost sharing. While it is reasonable to encourage universities to attend to other market functions such as efficiency and cost reductions, it is not reasonable to require universities to cost share.

I am sure that the Nation's universities are not ready or able to contribute 20 percent or any other substantial amount to federally sponsored contracts; I hope the Senator will be sensitive to the delicacy of this situation and the danger of such a precedent; I am optimistic that this problem will be resolved in conference.

THE NATIONAL PARK SERVICE

Mr. HOLLINGS. Mr. President, as the Senate considers the appropriation of funds for the Department of the Interior, I would like to point out that the National Park Service has gained a fine reputation for high quality river assessments. By contributing their technical expertise to several State projects, Park Service personnel have played a key role in rejuvenating river conservation efforts in these States. With this expertise in mind, I would like to bring a proposal by the South Carolina Water Resources Commission to this body's attention. This proposal requests the assistance of the Park Service in identifying rivers which should be protected under South Carolina's Scenic Rivers Program.

From discussions in the Interior Appropriations Subcommittee, I am aware that funds are available to provide a limited amount of direct technical assistance to review river conservation projects. I also understand that in past years, most assessments have been conducted by the Mid-Atlantic staff and little funding has been available to other Park Service regional offices for this purpose. As a matter of fact, to the best of my knowledge, the Southeast Regional Office has never conducted a cooperative river assessment.

Mr. President, I point out that South Carolina, like most other Southeastern States, is rapidly expanding its industrial base. This growth will undoubtedly cause conflicts in the future between various river user groups. A statewide river assessment would enable the Water Re-

sources Commission to reduce these conflicts. It is my understanding that the Interior Subcommittee has no objection to funds being made available to the Park Service's Southeast Regional Office to conduct this study, if the National Park Service ranks this project highly enough. Am I correct, Senator McCLURE?

Mr. McCLURE. The Senator is correct. I can appreciate the Senator from South Carolina's concern over this issue and would have no objection to the Department's review of this request.

FOREIGN OPERATIONS

Mr. KASTEN. Mr. President, I would like to say a few words about the foreign assistance section of this continuing resolution. What we are recommending is a rate of spending as contained in the appropriations legislation, S. 1816, as reported by the Appropriations Committee on October 31. This is in place of the House provision which would provide foreign assistance at the rate of the House reported bill.

In addition, the committee made a number of adjustments to the committee reported bill, first of all in order to bring the overall numbers within the allocations provided under the 302(b) allocations. Those adjustments included a decision to withdraw the FMS debt reform provision, and to provide for $1.8 billion in direct loan activity for the Export-Import Bank, and to reduce the soft loan window of the World Bank by $375 million. As well, in consultation with the Foreign Relations Committee, the Appropriations Committee made a number of other adjustments on some particular items of interest to the Foreign Relations Committee. Most of those adjustments have no budgetary effects, but were rather earmarks which were of concern to Senators on that committee.

Mr. President, the foreign operations section of the continuing resolution contains a provision that clarifies the relationship between earmarks, ceilings, and nonconditional prohibitions on the use of funds contained in the foreign aid authorization and those contained in the report of the appropriations bill. The provision states that no earmark or ceiling on the use of foreign assistance funds contained in any other act has validity and was also included in the fiscal year 1986 appropriations bill.

For example, the ceiling on the amount of foreign military credit sales assistance that can be provided at concessional rates contained in Public Law 99-83 is made inapplicable to funds made available under the continuing resolution. Similarly, provisions contained in other legislation which unconditionally prohibit the use of funds for a country or program—as oppossed to provisions which prohibit the use of funds for a country or program unless a specific event occurs such as a Presidential certification, or which restricts the use of funds to specify purposes—are effective only if also included in the appropriations bill.

Mr. President, I would like to conclude my remarks by complimenting the ranking member of the Foreign Operations Subcommittee, Senator INOUYE, who as usual was very helpful and cooperative as we developed the bill providing for foreign assistance appropriations. I would also like to pay my compliments to the authorizing committee who has been very cooperative in helping to support and develop this legislation.

DE CONCINI-CRANSTON CHILD-CARE AMENDMENT

Mr. CRANSTON. Mr. President, I am delighted that the Appropriations Committee agreed to include in the continuing resolution an amendment which the distinguished Senator from Arizona [Mr. DECONCINI] and I had proposed to continue to make available to the States the $25 million for child care training activities which was authorized and provided for under the fiscal year 1985 continuing resolution, Public Law 98-473.

FISCAL YEAR 1984 AMENDMENT

As a result of the efforts and the leadership of the Senator from Arizona, the Senate last year adopted his amendment to make available to States an additional $25 million under title XX of the Social Security Act in order to help improve the quality of care provided to young children and to reduce the likelihood of child abuse through various child care training programs for providers, State licensing and monitoring staff, and parents. The House approved, in 1985, a similar amendment authored by my good friend and colleague from California, Representative GEORGE MILLER, who serves as the chairman of the House Select Committee on Children, Youth, and Families.

Mr. President, the fiscal year 1985 amendment provided a special focus upon training in child abuse prevention. The Senate action last year came, in large part, in response to widespread concern about reports of problems in certain child care programs. Although the media coverage of this issue has died down, the problems have not gone away. The need to provide adequate training services, both to the actual child care providers and to various State monitoring and licensing personnel, is as great this year, as it was last year.

When the fiscal year 1986 HHS appropriation bill, H.R. 3424, was before the Senate, Senator DECONCINI and I had intended to offer an amendment to continue these funds. In deference to the wishes of the chairman of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, the Senator from Connecticut [Mr. WEICKER], we withheld that amendment with the understanding that the issue would be handled in the continuing resolution as it was last year.

CHILD CARE LICENSING/REGISTRATION AND MONITORING STANDARDS

Mr. President, in addition to making available $25 million under the title XX program for child care training activities, section 401 of Public Law 98-473 also directed the Secretary of Health and Human Services to draft and distribute to the States for their consideration, a Model Child Care Standards Act containing minimum licensing or registration standards for day care centers, group homes, and family day care homes regarding matters including: First, the training, development, supervision, and evaluation of staff; second, staff qualification requirements, by job classification; third, staff-child ratios; fourth, probation periods for new staff; fifth, employment history checks for staff; and sixth, parental visitation rights.

HHS released its Model Child Care Standards Act in January of this year. I believe that HHS could have done a better job in providing guidance to the States in its Model Act, which consists in most areas of a description of the range of ways various States have dealt with each of the subject areas delineated in section 401(c)(1) of Public Law 98-473. However, the act did include in its appendixes the "Standards for Day Care Service" prepared by the Child Welfare League of America and "Accreditation Criteria and Procedures" developed by the National Academy of Early Childhood Programs, a division of the National Association for the Education of Young Children. These two private organizations have done excellent work in outlining specific areas where States can improve the licensing or registration standards and monitoring procedures. Taken together, the Model Act and its appendixes can provide a useful tool to a State attempting to improve its standards and procedures.

Mr. President, following through on the initiative begun last year which required HHS to produce this Model Act and on S. 810 which we introduced on March 28, 1985, the language in the provision Senator DECONCINI and I proposed would require that in order to receive an allotment of the $25 million, each State must certify to the Secretary of HHS that it has completed a process, or has instituted or plans to institute a process which it will complete within 6 months, to review its child care licensing or registration and monitoring standards, taking into consideration the information and materials contained in the HHS Model Child Care Standards Act, including the appendixes, in order to identify and correct deficiencies in such licens-

ing or registration and monitoring standards in terms of protecting the welfare of children in child care settings.

In other words, Mr. President, States would be required to certify that they have completed or will complete a self-evaluation process, utilizing the information and materials in the new HHS Model Child Care Standards Act, aimed at eliminating deficiencies in their standards and procedures relating to child care and improving such standards and procedures. Upon such certification, a State would be entitled to its share of the $25 million in the same proportion that other title XX funds are allocated. Although the bill does not specify what information HHS should solicit from individual States in this certification process, the committee report makes clear that it expects HHS to provide information about what the States have done in response to this provision before the fiscal 1987 Labor-HHS-Education Appropriations Subcommittee hearings on human development activities.

Mr. President, last year's amendment included a provision relating to criminal records checks for child care workers. This provision is not included in the amendment, but States would be expected to include in their review process an assessment of the adequacy of their State laws relating to this issue. The HHS Model Act discusses a variety of approaches regarding background screening of individuals involved in child care programs, including the use of criminal background checks.

RELATIONSHIP TO S. 810 AND S. 1169

Mr. President, as I indicated earlier, this requirement that States undertake some type of review of their child care licensing or registration standards and monitoring procedures is derived from legislation S. 810, the proposed Child Care Standards Improvement Act, which I introduced in the Senate on March 28, 1985. At the time I introduced S. 810, I spoke extensively about the data indicating the tremendous range in States' standards for child care programs and the enforcement of those standards. There is also substantial evidence that in the past several years, child care program supervision has deteriorated signficantly and that there is growing interest and attention being paid to the need to make sure that adequate safeguards are instituted. My statement summarizing these issues appears in the CONGRESSIONAL RECORD of March 28, 1985, at S. 3677.

Mr. President, in addition to the Senator from Arizona [Mr. DECONCINI], S. 810 has been cosponsored by Senators DODD, KENNEDY, RIEGLE, HART, ROCKEFELLER, ANDREWS, KERRY, MOYNIHAN, SARBANES, HOLLINGS, and GORE. Section 2 of S. 810 would require the governor of each State to establish or designate a State advisory committee on child care standards to examine, investigate, and study the State's laws, regulations, and procedures for licensing, regulating, and monitoring child care facilities. I was honored to have the provisions of S. 810 included as part of the Senate version of the 1985 Women's Economic Equity Act, S. 1169, which was introduced by the distinguished Senator from Minnesota [Mr. DURENBERGER], on May 20, 1985.

Mr. President, the amendment in House Joint Resolution 465 differs from the provisions of S. 810 in that it does not specify the manner in which States should carry out their reviews, but the thrust is the same: To stimulate State self-evaluation processes which will lead to voluntary State actions to improve the quality of child care and the protection of the welfare of children in child care settings.

CONCLUSION

Mr. President, I am confident that this amendment will help improve the quality of child care programs throughout the country both by making funds available for the training of child care workers and licensing staff and by stimulating States to implement review processes that can help identify areas for improvements in State licensing or registration and monitoring procedures. Working parents throughout the country need to know that the facilities and homes where their children are being cared for are safe and adequate places. Government licensing and monitoring programs cannot alone guarantee the safety and security of children but they can contribute signficantly to ensuring that these goals of safety and adequacy are met. Training programs for child care workers and those who supervise child care programs—as well as parents themselves—can also contribute signficantly to improving the quality of child care.

The Senate, by its action today in continuing the initiative begun in the last Congress, has demonstrated its commitment to helping improve the quality of child care in this Nation.

I again congratulate my great friend from Arizona [Mr. DECONCINI] for his leadership and thank him and his staff for their close cooperation on this initiative with me and my staff.

Mr. President, I ask unanimous consent that a letter I sent to the Chairman of the Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittee, the Senator from Connecticut [Mr. WEICKER] regarding this amendment be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
DECEMBER 2, 1985.

Hon. LOWELL P. WEICKER, JR.,
Chairman, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR LOWELL: I wanted to let you know how much I appreciate your accommodating Senator DeConcini and me with regard to including a provision during markup this week of the FY 86 Continuing Resolution to continue to make available the $25 million for child-care training under title XX of the Social Security Act (as provided for FY 1985 in last year's Continuing Resolution, Public Law 98-473) subject to the condition that in order to receive an allotment from these funds, each state must certify to the Secretary of Health and Human Services that the state has, or will, review its child-care licensing or registration standards and monitoring standards in light of the information and material contained in the HHS Model Child Care Standards Act, drafted and distributed to the States pursuant to Public Law 98-473.

This provision would continue and further the policy underlying section 401 of Public Law 98-473 of encouraging and stimulating states to do a better job of protecting the welfare of children in child-care settings. The amendment would not mandate any state action other than certification that the state has undertaken its own self-evaluation process, taking into consideration the options outlined in the HHS Model Act. Our hope and intent is that the result of this self-evaluation process will be voluntary action by the states of enhance and improve the quality of child care.

As you will recall, Senator DeConcini and I had originally intended to offer this amendment to the Fiscal Year 1986 Health and Human Services appropriation bill, H.R. 3424, but withheld because of your willingness to include our amendment in the Continuing Resolution. Again we greatly appreciate your assistance and support.

With warm regards,
Cordially,

ALAN CRANSTON.

FUNDING FOR THE EMERGENCY VETERANS' JOB TRAINING ACT OF 1983

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am delighted to rise in support of the provisions of the second continuing resolution for fiscal year 1986 that would appropriate for fiscal year 1986, $55 million for continued operations under the Emergency Veterans' Job Training Act of 1983 [EVJTA] contingent upon the enactment of a law authorizing that appropriation.

The EVJTA Program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean conflict veterans. The program authority has at the present time expired in one respect; the period during which veterans could apply for participation closed on February 28, 1985. However, the period during which veterans who have applied and been certified eligible for the program may enter training, which had expired on September 1, 1985, was extended to July 1, 1986, by Public Law 99-108. The program

presently has a carryover balance—from the $150 million originally appropriated for the program in the fall of 1984—of some $15 to $20 million which is being used to place previously certified eligible veterans.

More than 37,000 veterans have entered into training under EVJTA. According to a recent evaluation of the program—carried out under contract with the Veterans' Administration—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

Although an authorization of fiscal year 1986 appropriations has not yet been enacted, it very likely will be in the near future. On May 20, the House of Representatives passed legislation, in H.R. 1408, authorizing the appropriation of $75 million for EVJTA in fiscal year 1986.

Last Monday, December 2, the Senate approved an amendment to S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985," offered on behalf of the distinguished chairman of the Veterans' Affairs Committee [Mr. MURKOWSKI] and myself, that includes a fiscal year 1986 authorization level of $55 million and program improvements designed to deal with certain weaknesses outlined in the EVJTA Program evaluation. The Senate-passed legislation would also generally provide for reopening the program for new applications for eligible veterans for a 1-year period beginning February 1, 1986, and would extend to July 31, 1987, the ending date of the period for entering training. My statement on the amendment—which appears at page S16634 of the CONGRESSIONAL RECORD for December 2—discusses in detail the provisions of the amendment approved by the Senate.

Mr. President, we thus anticipate enactment of both the necessary authorization and some form of an extension of the program in the very near future. By making available the additional funds in this continuing resolution we will be ensuring that, when the program reopens on February 1, 1986, sufficient resources are available to serve the veterans it is designed to assist.

Mr. President, I want to take this opportunity to note that the distinguished Senator from Arizona [Mr. DECONCINI], who serves on both the Veterans' Affairs Committee and the Appropriations Committee, deserves the thanks of all veterans for his successful efforts in persuading the Appropriations Committee to adopt his amendment—by a vote of 15 to 11—adding these funds to the pending measure. I also thank all those Senators who voted in committee for our amendment—specifically, Senators ABDNOR, ANDREWS, BUMPERS, BURDICK, D'AMATO, HARKIN, HOLLINGS, INOUYE, JOHNSTON, LAUTENBERG, LEAHY, MATTINGLY, SASSER, and SPECTER.

Finally, Mr. President, I strongly urge the Senate conferees on this measure to do all they can to retain these funds during negotiations with the House on the bill.

Mr. MURKOWSKI. Mr. President, the continuing resolution appropriates $55 million to fund continuation of the Emergency Veterans' Job Training Act [EVJTA]. It fulfills the commitment the Nation has made to assist veterans with serious unemployment problems in finding and qualifying for stable long term jobs. On Monday, December 2, this body acknowledged this commitment by agreeing to S. 1887, as amended. This bill would reopen, for 1 year, a job training program that has lifted almost 38,000 veterans from the ranks of the long-term unemployed. The reimbursement formula would be changed to allow limited funds to serve more veterans. The bill would provide for followup services to veterans in training to assist them in completing their programs.

Mr. President, a followup study has established that EVJTA is popular with employers because of minimal paperwork. The same study shows veteran participants enjoy higher employment and wage rates than qualified veterans who were not trained under the program.

In continuing the program the Senate took one step toward meeting the employment and training needs of veterans suffering from long term unemployment. Now it is time to take the second step by providing the funds necessary to operate the program. I know my colleagues join me in my concern for the need to reduce the deficit, however, I ask my colleagues to remember that the Congress originally authorized $300 million for this veterans' employment program. Adoption of the continuing resolution will bring the amount actually appropriated to $205 million.

The Senate and the Nation can be proud of the accomplishments of the men and women who have worn the uniform of our Nation. Both during and after their service they have created an admirable record of success. On the average, veterans are better educated and enjoy higher income than non-veterans. But that is "on the average." Many veterans, through no fault of their own, still seek their chance to join the mainstream of America because they still suffer from long term unemployment. This continuing resolution, by continuing funding for a job training program of demonstrated success, offers them a chance to share the benefits of an economy their service helped make possible. I urge my colleagues to join me in supporting this necessary measure.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, there are no other amendments that we are aware of.

I call for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

So the bill (H.J. Res. 465 as amended) was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me indicate to my colleagues that I am awaiting a telephone conversation concerning whether or not we should act on the debt ceiling extension tonight with the Gramm-Rudman-Hollings amendment.

It is my understanding that the distinguished chairman of the Finance Committee, Senator PACKWOOD, would like us to act.

Normally, they would act first in the House. But my understanding is they want us to act first.

Mr. President, I will remind Members that I at least want to lay it down tonight and hopefully complete action tomorrow morning. It will be laid down tonight and there may be some preliminary debate on it. I am prepared, however, to indicate there will be no more rollcall votes this evening.

I thank my colleagues and the managers.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments to House Joint Resolu-

tion 465 and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. GRASSLEY] appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I understand there are two or three items we might be able to take up at this point.

There will be no more votes tonight. If there should be a rollcall demanded, we will postpone the vote.

After that, I would suggest that we stand in recess until 8:30 p.m. and we hope at that time to have the papers on the debt ceiling extension. Hopefully, we will have some of that debate this evening. Senator PACKWOOD would very much like to dispose of the entire evening, but I doubt that that would have been possible.

BILL HELD AT DESK—H.R. 2976

Mr. SIMPSON. Mr. President, after conferring with the minority leader, I ask unanimous consent that once the Senate receives from the House of Representatives H.R. 2976, dealing with a parcel of land conveyed to New York State, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

URGING THE NOBEL PRIZE COMMITTEE TO RESCIND AWARD TO DR. CHAZOV

Mr. SIMPSON. Mr. President, after conferring with the minority leader, I send a joint resolution to the desk on behalf of Senator DOLE, Senator D'AMATO, and Senator HUMPHREY, and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 243) urging the Nobel Prize Committee to rescind its award to Dr. Chazov.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and, without objection, the joint resolution will be considered to have been read the second time at length.

The Senate proceeded to consider the joint resolution.

Mr. D'AMATO. Mr. President, I rise today to ask for the support of the U.S. Senate for a resolution calling upon the Nobel Prize Committee to reconsider its decision to present the Nobel Peace Prize to Dr. Yevgeni Chazov. Chazov received this most prestigious international award at a ceremony in Oslo, Norway, this morning.

Today is International Human Rights Day. It is outrageous that the most important international award for work in the cause of peace should be presented to Dr. Yevgeni Chazov on this day. Dr. Chazov is a cosigner of a letter which was published in the September 2, 1973, edition of Izvestiya. This letter was a significant event in the officially orchestrated campaign of public attacks on Dr. Andrei Sakharov, the leading Soviet dissident and a past winner of the Nobel Peace Prize. This campaign was a part of the official Soviet persecution of Dr. Sakharov, which culminated in his exile to the closed city of Gorky.

It is particularly inappropriate to present the Nobel Peace Prize to a man who played a role in the persecution of a previous Nobel Peace Prize winner. The Nobel Committee should have taken his actions into account before selecting him to represent the Soviet branch of the International Physicians for the Prevention of Nuclear War. By presenting this award to Chazov, the Nobel Committee places Chazov in the company of moral giants—individuals like Albert Schweitzer, Martin Luther King, Jr., Woodrow Wilson, Theodore Roosevelt, Mother Teresa, and Lech Walesa. He does not deserve to be in their company.

International Human Rights Day is a day dedicated to everyone who respects human rights and fundamental freedoms and to everyone who is fighting for these rights and freedoms. We mock them and their cause by presenting this award to Dr. Chazov.

Human rights and fundamental freedoms are based upon respect for the individual human being. Dr. Chazov proves himself an ally of those who would deny the basic dignity of the individual human being. His attacks upon Dr. Sakharov and his role in the suppression of unofficial Soviet peace groups place him on the side of those who are opposed to the cause of peace.

Lasting peace begins with peace between the state and its citizens. This means respect for basic individual liberties—freedom of conscience, freedom of belief, freedom of expression, freedom of movement, the right to be secure in one's person and property, the rights to be united with the members of one's own family, and the right to live in a place of one's choice. These rights are guaranteed to the Soviet Union's citizens through international agreements—particularly the Helsinki Final Act—to which the Soviet Union is a party.

Dr. Chazov through his actions has proven himself to be a willing participant in Soviet violations of its promises and commitments. Worse, his specific actions run directly counter to the principles for which the Nobel Peace Prize stands. Presenting him with this award ratifies and endorses his actions and the Soviet Government's hypocrisy and cynical disregard of its obligations to respect human rights and fundamental freedoms.

It is incumbent upon us to send a clear message to the Nobel Prize Committee that the U.S. Congress joins with and supports the rising tide of world protest against the award to Chazov. The Chancellor of the Federal Republic of Germany, Helmut Kohl, along with the leaders of other European Christian Democratic Parties, sent a letter to the Nobel Prize Committee on December 1, 1985, making a similar request.

Yesterday, the Helsinki Commission, of which I am Chairman, sent a telegram to the Nobel Prize Committee requesting that they reconsider this action.

Indeed, the U.S. Department of State has taken a public position on the award of the Nobel Peace Prize to Dr. Chazov. Let me quote from their statement:

> We believe the efforts of Dr. Lown and other non-governmental international participants [in the International Physicians for the Prevention of Nuclear War] who states their views and publicize them through the West are a sincere effort to grapple with difficult issues. The same cannot be said for Dr. Chazov who is an official of the USSR and who will not take public positions not sanctioned by his government. Private peace groups in the Soviet Union have been rigorously suppressed. It is also ironic that while the group's efforts have been widely circulated in the West, only careful chosen portions are reported openly in the Soviet press.

What the State Department in its normal diplomatic language does not say is that Dr. Chazov himself played a role in the suppression of unofficial peace groups within the Soviet Union. This activity is of a piece with his complicity in the persecution of Dr. Sakharov. Those of us who believe in the cause of peace and who recognize the central role that respect for human rights and fundamental freedoms

must play in the establishment of lasting peace must speak out clearly and in unison against the award of a Nobel Peace Prize to Dr. Chazov.

In closing, I again call upon my colleagues in the Senate to voice our unanimous support for this resolution. Let's send a message to Oslo and to Moscow. If we remain silent now the cause of peace and the cause of human rights still remain defenseless as presentation of this award strikes a blow against both.

Mr. President, I ask unanimous consent that a translation of the text of the September 2, 1973, letter signed by Dr. Chazov, the text of the Commission's telegram to the Nobel Prize Committee, the Washington Times story entitled, "Norwegians Name Alternative Prize Winner in Protest," by Peter Almond, and the Washington Post story entitled, "Nobel Prize Winner Draws Fire," by William Drozdiak was inserted in the RECORD following my remarks as if read.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

LETTER FROM MEMBERS OF THE U.S.S.R. ACADEMY OF MEDICINE

IZVESTIA.—Sept. 2. We Soviet medical scientists are outraged by Academician A.D. Sakharov's behavior, which is a discredit to the honor and dignity of a Soviet scientist, and, together with scientists of the U.S.S.R. Academy of Sciences, resolutely condemn his activity aimed against the Soviet Union's peaceful policy.

Academician A.D. Sakharov's irresponsible statements to foreign correspondents and his slander against our people and the Soviet government's foreign and domestic policy have made us feel indignant. . . .

We representatives of the most humane profession have devoted our lives and activity to the struggle for the people's health. Any statement aimed against the strengthening of peace and the easing of international tension sounds blasphemous to us. Together with all the Soviet people, we wholly and completely approve and support the Soviet Union's foreign-policy course aimed at the implementation of the Peace Program.

We are proud of the Soviet Union's successes in all fields of the national economy, science and culture. The fulfillment of the plans for the development of our state that were outlined by the 24th Congress is creating the necessary basis for a further rise in Soviet people's living standards and serves the interests of the strengthening of peace throughout the world.

Academician A.D. Sakharov, who has lost contact with his own people, does not want to understand this. His activity is fundamentally alien to all Soviet scientists.—[signed] Academicians of the U.S.S.R. Academy of Medicine A.P. Avtsyn, A.D. Ado, A.I. Arutyunov, O.V. Baroyan, A.F. Bilibin, N.N. Blokhin, L.K. Bogush, P.A. Vershilova, A.A. Vishnevsky, M.V. Volkov, Z.V. Yermolyeva, G.A. Zedgenidze, Yu. M. Lopukhin, P. Ye. Lukomsky, S.R. Mardashev, A.A. Minkh, A.I. Nesterov, S. Ye. Severin, Ye. I. Smirnov, V.D. Solovyev, E.I. Struchkov, Ye. M. Tareyev, Ye. I. Chazov, L.M. Shabad and Ye. V. Shmidt.

[A letter signed by a former Partisan follows on the same page.]

CHAZOV TELEGRAM TEXT

We, the undersigned members of the Commission on Security and Cooperation in Europe, wish to express our deep disappointment with the Nobel Peace Prize Committee's decision to award the Nobel Peace Prize to Dr. Yevgeni Chazov, as a co-recipient for the International Physicians for the Prevention of Nuclear War. Dr. Chazov represents an officially-sponsored organization whose public statements stand in stark contrast to Soviet actions. Those actions are intolerance toward genuine peace activists and denial of human rights and fundamental freedoms. Dr. Chazov has been personally involved in the persecution of Dr. Andrei Sakharov, himself a former Nobel Peace Prize recipient. We believe that award of the Nobel Peace Prize to Dr. Chazov would damage the high international standing of the Prize itself and would be a blow to aspirations of those who long for peace throughout the world. Accordingly, we call upon the Committee to review its decision and seek a recipient other than Dr. Chazov for this most prestigious and important award.

[From the Washington Times, Thursday, Dec. 5, 1985]

NORWEGIANS NAME ALTERNATIVE PRIZEWINNER IN PROTEST

(By Peter Almond)

LONDON—A group of Norwegian academics and humanitarians will award a peace prize in Oslo on Saturday as an alternative to the increasingly controversial presentation of the Nobel Peace Prize to a leading Soviet physician accused of violating the human rights of his fellow Soviet citizens.

The alternative award will go to Dr. Anatoly Koryagin, a 47-year-old Soviet psychiatrist, who is reportedly near death in a Siberian labor camp. He is serving 12 years for allegedly refusing to sign a document in 1981 saying 16 of his dissident patients were insane.

The award will be received on his behalf by Dr. Allan Wynn, a British founder of the International Association on the Political Use of Psychiatry. The group in 1983 pressured the World Psychiatric Association to expel the Soviet Union, which it accused of flouting medical ethics.

Among the Norwegians who will present the award to Dr. Wynn will be Eigil Nansen, grandson of the famous Norwegian explorer and humanitarian Frietjhof Nansen. Mr. Nansen will present a candlestick similar to the one he presented to representatives of two prominent Nobel Peace Prize winners, Polish Solidarity leader Lech Walesa and Soviet physicist Andrei Sakharov.

What has stirred most of the outrage of the Nobel Peace Prize Committee is that on the 10th anniversary of the awarding of the peace prize to Mr. Sakharov, it is awarding the same prize to one of the people who is said to have played a major role in putting Mr. Sakharov in prison—Prof. Yevgeni Chazov, 56, a member of the Communist Party's Central Committee, a personal physician to many Kremlin leaders and the head of a bureau that acts as a liaison between medical authorities and the KGB, the Soviet Union's secret police.

Earlier this week Chancellor Helmut Kohl of West Germany, the head of the Christian Democratic Party, and the leaders of Christian Democratic parties in Spain, Switzerland, Italy, Austria, Greece, Belgium, the Netherlands, and Luxembourg, wrote to the the Nobel Peace Prize Committee urging it not to present the $200,000 reward to Dr. Chazov in Oslo next Tuesday.

Committee chairman Eigil Aarvik said yesterday the awards ceremony would go on as planned. He told The Washington Times he had received Dr. Kohl's letter but would not respond to it because the Nobel Institute's rules forbid him to comment on deliberations and decisions of the committee.

"I can only restate the reasons is not for any individuals. It is for the Prevention of Nuclear War, in cooperating across all sorts of borders, East-West, North-South, across ideologies, in the cause of world peace."

The co-recipient of the Nobel Prize will be Dr. Bernard Lown, 54, of Harvard University. Dr. Lown is a leading U.S. cardiologist and the cochairman of the international physicians group, which claims a membership of 145,000 in 41 countries.

Many critics regard the physicians group as a front for Soviet propaganda and its Western members naive for not looking more closely at the Soviets involved.

"I do not think an organization which can accept as members physicians who are of the opinion that healthy people could be sent to a psychiatric institute deserves this prize," said Mrs. Anse Lionness, a member of the Nobel Peace Prize Committee for 30 years and its chairman for 10 years. She's presented to Dr. Yelena Bonner, wife of Mr. Sakharov, the peace prize for her husband in 1975.

"I don't think an organization which has members who break medical ethics is worthy of the Peace Prize. [Dr. Chazov and others] have disregarded human rights."

One of the other Soviet members of the organization was said by academician Viktor Roddvik, one of the Norwegian organizers of the alternative peace prize, to be Moscow psychiatrist Marai Vartanian, deputy director of the Soviet Union's most prestigious psychiatric institution, who has repeatedly denied any political abuse of psychiatry despite alleged detailed examples of his own involvement.

The strong opposition of Mrs. Lionness, together with the protests of Western Europe's Christian first open protest from a serving head of state—has caused great concern in Norway. Sources say the protests, particularly from Chancellor Kohl, have caused embarrassment for the Norwegian government, despite its non-involvement with the Nobel Institute.

Scott Hamilton, international director of the Bristish Conservative Party, said the Norwegian Conservatives were concerned about the Peace Prize becoming any more of a political football—for the Socialist International could mount a protest next year.

[From the Washington Post, Monday, Dec. 9, 1985]

NOBEL PEACE PRIZE WINNER DRAWS FIRE

(By William Drozdiak)

OSLO, Dec. 8—The Nobel Peace Prize, one of the world's most prestigious honors as well as a lightning rod for controversy, again has emerged as a target of international outrage, this time because one of the winners took part in a propaganda crusade against a previous laureate, dissident Soviet physicist Andrei Sakharov.

The decision to invite Dr. Yevgeni Chazov, a cochairman of the International Physicians for the Prevention of Nuclear War, which won this year's prize, to appear at the

awards ceremony Tuesday has embarrassed the Nobel Committee.

Committee members now admit that they did not know that Chazov had signed a letter in 1973 attacking Sakharov for slandering his country and "grossly distorting the realities of [Soviet] life."

Chazov's role has provoked an outcry, particularly in conservative European circles. West German Chancellor Helmut Kohl and nine other leaders of European Christian Democratic parties have written to the Nobel Committee urging that Chazov be dropped from this year's award ceremony.

The Nobel Committee pointedly rebuffed Kohl's letter, noting that the last such protest by a government leader was lodged by Adolf Hitler in 1935.

The ambassadors in Oslo of the United States, Britain and West Germany have given notice that they will not attend the awards ceremony on Tuesday, although the State Department has denied that U.S. Ambassador Robert Stuart's absence represents a boycott.

Chazov, a deputy health minister who has served as the personal physician of Soviet leaders, became a full member of the Communist Party Central Committee in 1982. As a leading figure in the Soviet scientific establishment, he has followed Moscow's policy views dutifully.

He recently wrote an article in the Communist Party daily Pravda blaming the United States for the nuclear arms race because it was "choosing to accumulate the most death-dealing arms in a futile attempt to gain a one-sided military advantage."

As a cofounder of the group, informally known as the Doctors Against Nuclear War, Chazov also has been accused of using the forum to promote Soviet antinuclear policy through the medical profession.

Two months ago, the group's 135,000 doctors and health professionals were named for the prize without protest for their work in alerting mankind to the medical and environmental risks of nuclear conflict.

The antinuclear physicians were lauded in the Nobel citation for providing "a considerable service to mankind by spreading authoritative information and by creating awareness of the catastrophic consequences of nuclear warfare."

The committee also felt that its choice would draw attention to the virtues of East-West cooperation. The group was created five years ago on the initiative of two leading cardiologists, the Russian Chazov and his American friend Bernard Lown.

Instead of focusing on the rapport between the Soviet and American doctors in their struggle against nuclear war, public attention soon became riveted on Chazov's background in the anti-Sakharov crusade that started more than a decade ago.

Yesterday, a Norwegian protest group awarded an alternative peace prize to the imprisoned Soviet psychiatrist Anatoly Koryagin, who reportedly was arrested for protesting Moscow's use of mental hospitals to incarcerate political dissidents. A candle was accepted as a token on Koryagin's behalf by the British doctor Allen Wynn, who described this year's selection for the peace prize as "the greatest mistake the Nobel Committee has ever made."

Wynn charged that the letter signed by Chazov and 21 other Soviet doctors, published in the government newspaper Izvestia in 1973, launched the official campaign to discredit Sakharov that finally resulted in his exile to Gorki without trial in 1980.

Lown has defended his relationship with Chazov, as well as their organization. He contends that the group's aims are political and must not be buried in "cold war" rhetoric.

Lown rejected charges of a pro-Soviet bias in the doctors' campaign and said its primary goal was to educate people about the effects of any nuclear war.

Jakob Sverdrup, director of the Norwegian Nobel Institute, admitted Friday that the committee felt "uncomfortable" about the fact that it had been unaware of Chazov's denunciation of Sakharov when it chose him two months ago as a co-winner.

Sverdrup indicated, however, that the Nobel Committee had become resigned to inevitable questioning about its judgment. During the course of the Nobel Prize's 84-year history, other choices have aroused much greater criticism, he said. As examples, Sverdrup noted that giving the Nobel Peace Award to Henry Kissinger and Le Duc Tho in 1973 for their ill-fated negotiations on the Vietnam War, and to Menachem Begin and Anwar Sadat in 1978 for the Camp David peace treaty, had provoked more widespread antagonism than this year's choice.

Egil Aarvik, the chairman of the selection committee, added: "We are used to divergent views on the committees' decisions. This is something we must live with."

The Soviet ambassador, as well as other envoys from the Eastern Bloc, have said that they will attend the Nobel ceremony for the first time since Sakharov won the 1975 award. At the time, the selection was decried by Moscow's state-run media as "a prize for anti-Sovietism."

In the past decade, the Soviet press has denigrated the Nobel Peace Prize, devoting little attention to winners. In contrast, Chazov's involvement now was acclaimed by the Soviet press.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I well understand the concerns that lie behind this resolution. No one in this Chamber is an admirer of the human rights practices of the Soviet Union, and all here recognize clearly that Soviet officials—including those who participate in multinational groups such as the International Physicians for the Prevention of Nuclear War—do so as representatives of their government. The resolution derives from a belief that the inclusion of Dr. Chazov in this year's Nobel Prize compromises the significance of the award. With that premise, Mr. President, I cannot disagree but I oppose the enactment of this resolution for two reasons.

First, I believe that a congressional effort seeking to exert influence on the Nobel Prize Committee would be not only inappropriate but also futile. Individual Senators may wish to make their views on this matter known, and should. Through such means, international attention has already been drawn to legitimate doubts about Dr. Chazov's status and statute. But to act in a more formal way would gain us nothing other than the resentment of the Norwegian people and Parliament.

Second, we must note that the action called for by the resolution—the withdrawal of the award from Dr. Chazov—is hardly feasible. The award has not gone to Dr. Chazov as an individual but to the group of which he is but one member, a group which includes a number of distinguished Americans whose dedicated work has now been recognized by the Nobel Prize.

So I submit, Mr. President, that we should instead be focusing on the positive. The Nobel Prize has been awarded to a group whose purpose—the prevention of nuclear war—we can only applaud. And let us contemplate with some confidence that the people of Norway and their leaders harbor no more illusions than we about the character of Soviet Government and Soviet life.

Mr. SIMPSON. Mr. President, I see the Senator from New Hampshire is present in the Chamber. I yield to him.

Mr. HUMPHREY. Mr. President, I commend the Senate for taking up this issue of the awarding of the Nobel Peace Prize to Dr. Chazov of the Soviet Union. Yesterday, I sent a telegram protesting the proposed award.

Mr. President, there can never be peace between the Western nations and the Soviet Union as long as that nation engages in massive and brutal violations of human rights. One of the most disgusting violations of human rights in which the Soviets engaged is the use of psychiatry in medicine for political purposes. That is the declaring of political dissenters as insane or incompetent and the incarceration of the same and the abuse by injection of drugs of such persons. This is a practice widely engaged in in the Soviet Union and Dr. Chazov, as a member of the Ministry of Health—indeed, the head of the Fourth Directorate; that is, the KGB Directorate of the Ministry of Health—countenances and sanctions and undoubtedly helps carry out that use of psychiatry for political repression. It is disgusting, it is cowardly, and I find it a very sad thing indeed that the Nobel Peace Prize Committee would seek to further the cause of peace by making an award to one such as Dr. Chazov, who, in an official capacity, participates in the Sovet policies of human rights repressions. I thank the Chair.

Mr. SIMPSON. Mr. President, I move the adoption of the joint resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the joint resolution.

The joint resolution (S.J. Res. 243) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 243

Whereas the Nobel Peace Prize is highly regarded throughout the world and has

been awarded in recognition of unique service to peace and humanitarianism;

Whereas past recipients of the Nobel Peace Prize have included such luminaries as Theodore Roosevelt, Woodrow Wilson, Henri Dunant, Albert Schweitzer, Martin Luther King, Mother Teresa, Andrei Sakharov, Bishop Desmond Tutu and Lech Walesa;

Whereas the Nobel Prize Committee has awarded the 1985 Nobel Peace Prize to the group, the International Physicians for the Prevention of Nuclear War, of which Dr. Yevgeni Chazov is Co-Director;

Whereas Dr. Yevgeni Chazov, who has been U.S.S.R. Deputy Minister of Public Health since 1967, and in that and other official capacities has been actively involved in such morally reprehensible Soviet government policies as the psychiatric incarceration of dissidents, including members of unofficial Soviet peace groups;

Whereas Dr. Chazov with 24 colleagues signed a letter of condemnation of Dr. Andrei Sakharov which was published in the September 2, 1973 issue of Izvestia;

Whereas the U.S. State Department officially noted on September 9, 1985 that Dr. Chazov is a Soviet official who will not take public positions in opposition to those of his government, and that private peace groups within the Soviet Union have been rigorously suppressed, and that only carefully chosen reports of the efforts of the International Physicians for the Prevention of Nuclear War are reported to the Soviet people;

Whereas the leaders of the Christian Democratic Parties of Europe, the European Peoples Party and the European Union of Christian Democrats sent a letter to the Nobel Prize Committee on December 1 to protest the awarding of the Nobel Peace Prize to Dr. Chazov;

Whereas the awarding of the Nobel Peace Prize on December 10, International Human Rights Day, to Dr. Chazov, a member of the U.S.S.R. Central Committee, serves as a tragic reminder of the Soviet Union's flagrant and continuing violations of its commitment to respect human rights and fundamental freedoms, violations in which Dr. Chazov is personally implicated;

Whereas as a member of the Soviet government, Dr. Chazov shares responsibility for such reprehensible official Soviet actions as the invasion and occupation of Afghanistan, the incarceration of an estimated 10,000 Soviet political prisoners in deplorable conditions, and the general suppression of all independent human rights groups in the U.S.S.R., particularly informal peace groups and the Soviet Helsinki Monitoring Groups. Therefore, be it resolved that:

The Nobel Prize Committee should rescind its decision to award the 1985 Nobel Peace Prize to Dr. Yevgeni Chazov in view of his active involvement in various Soviet government activities which are inimical to peace and human rights; and

The Department of State should convey a copy of this resolution to the Chairman of the Nobel Prize Committee in Oslo, Norway in the most expeditious possible manner.

Mr. SIMPSON. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. SIMPSON. Mr. President, after conferring with the minority leader, I ask unanimous consent that the Senate go into executive session to consider the nomination of Stanley A. Twardy, Jr., of Connecticut, to be U.S. attorney for the District of Connecticut.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Stanley A. Twardy, Jr., of Connecticut, to be U.S. attorney for the District of Connecticut.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. SIMPSON. I move to reconsider the vote.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER D.C. DEPUTY MAYOR'S INDICTMENT CAUSES CONCERN

Mr. MATHIAS. Mr. President, today's indictment and guilty plea by the former Deputy Mayor of the District of Columbia, Ivanhoe Donaldson, is of serious concern to the Senate Subcommittee on Governmental Efficiency and the District of Columbia. As the subcommittee charged by the Senate with responsibility for the District and for monitoring the implementation of the Home Rule Act, the Subcommittee on Governmental Efficiency and the District of Columbia will immediately initiate a thorough investigation and, if necessary, schedule oversight hearings to review the situation in the city.

Only slightly more than 100 years ago, in the expansion years of the post-Civil War era, corruption in the District of Columbia government—and in many other city governments—led the Congress to abolish this city's municipal government and to exercise its constitutional duties to legislate "exclusively" for the District. It took fully one century to return to the people of the District the right to rule themselves. It is imperative that today's events not be allowed to jeopardize the integrity of institutions of government in the Nation's Capital.

The ranking minority member of the subcommittee, Senator EAGLETON, joins me in expressing the subcommittee's concern and in making a pledge to our colleagues and to the people of the District of Columbia to work to minimize the effects of today's events on the future of the city and its home rule government.

UNITED STATES-SOVIET RELATIONS

Mr. STEVENS. Mr. President, it is amazing that in this age of high technology and sophisticated communications, the leader of the Soviet Union is completedly misinformed on the values and reality of American life.

Yet this is the case, according to a Washington Post article published December 2. General Secretary Mikhail Gorbachev reportedly believes that Nazism abounds in New York City, that our cities and towns are boiling with civic unrest—supposedly caused by massive unemployment—and that America is controlled by a small and elite group of individuals.

These views are reported after numerous interviews about what Mr. Gorbachev had to say at the Geneva summit and in other meetings with American officials.

One has to wonder, if the Soviet leader believes these things about our country, what must the Soviet citizenry—who get bombarded daily with anti-American propaganda—think about us?

At a time when national attention is focused on espionage and super sleuths, we are learning that perhaps the greatest failure of the Soviet espionage apparatus has been its inability to gauge the true values of the American people, cut through the propaganda, and properly relay the truth to the Kremlin leadership.

Historians tell us that the people of the Soviet Union, and particularly the Russian leaders, are by nature suspicious of foreign governments. The distrust goes back centuries when invading hordes and armies continually fought over and conquered what is today Soviet soil.

President Reagan is right on the mark when he says the United States "cannot afford illusions about the nature of the U.S.S.R.," and that we "cannot assume their ideology and purpose will change."

But, as Mr. Reagan has pointed out, we can take steps to understand each other better and to remove suspicions and mistrust that stand between us.

Only by taking steps in this direction can we really hope to reduce nuclear stockpiles and lessen the risk of war.

The President was correct to stand tough on the strategic defense initiative and to raise questions about Soviet troops and advisers in countries like Afghanistan and Nicaragua. But he also should be applauded for his initiatives to break down the barriers between our two societies.

The general exchange agreement signed by President Reagan and General Secretary Gorbachev culminates a year-and-a-half process which began in June 1984 when the President announced the United States was prepared to negotiate this kind of program.

As a result of this agreement, American and Soviet exhibits depicting each country's life and society will be traveling through the other's cities. Several exchange program were agreed upon in Geneva, including a plan to allow United States and U.S.S.R. Parliamentarians and Government officials to visit each other's country.

Moreover, there will be an expansion of civic and social organization exchanges. Publications and academic and educational programs will be exchanged, as will a wide variety or professional fields such as art, journalism, medicine, architecture, music, sports, law, theater, museums, radio and television.

These are just some of the items that comprise the general exchange agreement. They are people-to-people programs that hopefully will lead to greater understanding between two vastly different cultures.

We have nothing to lose by opening our doors to people who have only seen or read about America through Government-controlled mediums.

Most people in this country recognizes that the road ahead for United States-Soviet relations is one that is fraught with difficulties. But opening up our society to Soviet schoolchildren and professionals from all walks of Russian life may well provide an important step toward reducing the tension between the two superpowers.

TAX ON FEDERAL ANNUITIES

Mr. STEVENS. Mr. President, I am very concerned about a proposal in the various tax reform packages now being considered which would radically change the way in which retirement annuities are taxed. This change would have a particularly adverse effect on Federal service retirees. The proposed change would eliminate the 3-year rule for tax-free recovery of an individual's contribution to his/her retirement fund.

Under the current system, Federal employees' annuities are paid entirely out of their own contributions for 18 months to 2 years on the average, tax-free. Of course, this money was taxed as income during working years. Many of our Federal employees count on using this initial period of time in retirement to pay taxes on other retirement savings, IRA's and lump sum accrued leave payments.

With these proposed tax changes, the employee's contributions would be spread out and paid in the form of annuities over the actuarially estimated period of the retiree's life. Beginning in the first year of retirement, the retiree would pay taxes on the portion of the annuity which comes from the Government's contribution. This would be in addition to the other taxes which must be paid on IRA's, accrued leave lump sum payments, et cetra.

During the past few weeks there has been a considerable amount of confusion in the Federal work force about this proposal. To begin with, the House Ways and Means Committee and Treasury proposals initially set a January 1, 1986, effective date for this very significant change, which meant that employees were faced with making a decision to retire in December on very short notice. In fact, under one interpretation employees would have had to retire by December 3 to avoid the tax change. Needless to say, this created a degree of panic among Federal employees nearing retirement. The employees were very confused and the agencies were equally perplexed about advising employees on retirement.

I understand that the Ways and Means proposal now sets an effective date of July 1, 1986, which at least relieves some of the time pressure. On November 27, 1985, the Office of Personnel Management issued a memorandum to the agencies explaining the proposed tax change and informing them of the July 1 effective date. I ask unanimous consent to insert that memorandum at the end of my remarks.

I am troubled by the implications of the repeal of the 3-year recovery rule for Federal workers. Choosing when to retire is a major life decision. As a result, planning for retirement is a long-term process, requiring carefully thought-out financial arrangements. Many Federal employees have made lifelong plans for their retirement income security under the current rules.

Eliminating the 3-year recovery rule would mean undue, and sometimes irreversible, disruption to long standing financial arrangements for retirement. It would mean that Federal retirees would pay thousands of dollars more in taxes much sooner than expected. The average retiree would pay about $8,500 additional taxes over a 2-year period. Higher-income employees could be paying an additional $25,000 to $30,000 more over 3 years.

At present, Federal employees do not enjoy the same advantages of tax deferred retirement savings as their private sector counterparts do. We, of course, hope to offer that in the future as a part of the supplemental Federal retirement plan I introduced which was passed by the Senate last month. Nor do Federal employees have the advantage of tax-deferred retirement contributions as do private sector employees. Eliminating the "3-year recovery" rule compounds the current inequity, putting the Federal employee at an even further disadvantage.

There is also a short range pitfall as I see it. We run the risk of driving out a number of key senior Federal employees who have no choice but to retire before July 1, 1986, because of the tremendous financial loss they will face.

All in all, I sincerely regret the disruptive havoc created in the Federal work force during the past few weeks as a result of this pending proposal. Although I am grateful that the House Ways and Means Committee changed the projected effective date to relieve the immediate anxiety, I am quite concerned about the substance of the proposal itself.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC, November 25, 1985.

Subject: Legislative Developments Affecting Income Tax on Federal Annuities.

From: James W. Morrison, Jr., Associate Director for Compensation.

In its deliberations on the pension and deferred compensation provisions of the tax reform proposal, the Committee on Ways and Means of the House of Representatives has proposed a change in the way that retirement benefits to Federal annuitants and others are treated for income tax purposes. This memorandum will bring you up to date on the status of the proposal and its current provisions.

The Committee has proposed repeal of the current 3-year rule on recovery of the annuity basis. That rule provides a tax-free period of up to three years for an annuitant to recover through annuity payments an amount equal to the amount (basis) contributed from salary to the Civil Service Retirement System during active employment.

If the Committee proposal is enacted, a portion of Federal retirement payments would be subject to income tax from the outset. In fact, the basis recovery would be spread out over an actuarilly determined period (perhaps as many as 20 years), and only that portion of annuity attributed to recovery of the basis in a given year would be tax free. Assuming 20 years to be the actuarial life-time expectation for receipt of annuity payment, then 95% of the annuity received in any year would be subject to income tax.

The Committtee is now drafting language which would repeal the 3-year rule as of July 1, 1986. Any Federal retiree whose annuity commences before that date would not be subject to the rule change.

I would like to emphasize that the final details of any change in the tax on Federal annuities is still far from known. Employees who are eligible for optional retirement should be cautioned against taking precipitous retirement decisions based solely on the proposal of the Ways and Means Committee. Further deliberations in the House of Representatives and the Senate could substantially alter what has been agreed to by the Committee.

TRIBUTE TO DR. ROY O. McCLAIN

Mr. THURMOND. Mr. President, it was with great sadness that I learned of the death of Dr. Roy O. McClain on November 21, 1985. As the pastor of the Orangeburg, SC, First Baptist Church, Dr. McClain became involved in almost every facet of the community. He was a World War II veteran, author, lecturer, television and radio personality, and trustee of several colleges, universities, and seminaries. Newsweek magazine named him one of the 10 greatest pastors in America. Never one to fear involvement, Dr. McClain motivated many to follow his example and join him in bettering his community.

As a tribute to a great South Carolinian and American, I ask unanimous consent, Mr. President, that the following editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Orangeburg (SC) Times and Democrat, Nov. 23, 1985]

REV. DR. ROY O. McCLAIN

"Few things are uglier in the contemporary church than the role of fear and cowardice. Involvement demands risks—risks that do not assure immunity against harm or hurt. If the greatest man of all time was crucified for his convictions, by what stretch of rationalization should we expect different consequences. . . ."

Those words were taken from a statement given to The Times and Democrat in 1971 by the Rev. Dr. Roy O. McClain in describing the role of the church in the community. And the words are a reflection of the life of Dr. McClain, the pastor of Orangeburg's First Baptist who died Thursday afternoon following a heart attack.

From ministering to the wounded and dead Marines on the bloody beaches of Iwo Jima during World War II to attacking the evil forces which plague America's way of life, Dr. McCain was himself a man who did not relate to fear or cowardice. He was a man of strong conviction and no matter the risk or consequences, he didn't back off when convinced his cause was the right one.

Dr. McClain, or, "Roy" as he preferred to be called, has made an historical impact upon Orangeburg and the surrounding area. The Family Life Center, now under construction on Columbia Road, will be an enduring testimonial to his many great contributions in life.

But Dr. McClain's life touched many in other places, too:

He was an author, lecturer, television and radio preacher and personality and trustee of a number of colleges, universities and seminaries. In fact, his abilities earned him "Newsweek" magazine's designation as "one of the 10 greatest preachers in America."

For four years, Dr. McClain was heard on 565 radio stations as the Baptist Hour Preacher. He also was on NBC-TV's "Frontiers of Faith."

He was an editorial writer for the Atlanta Constitution, as well as for other newspapers. He was the author of four books, including "This I Believe."

McClain held pastorates in South Carolina and in Indiana. He became pastor of the First Baptist Church in Orangeburg in 1950, leaving here in 1953 to go to the First Baptist Church in Atlanta, one of the nation's largest churches. His death has saddened many there who remember his 17 years of inspirational service.

Of course the people of Orangeburg will remember him most for the years of service here. From 1971 to the day he died, Dr. McClain laid many building blocks of humanity for our community.

Dr. McClain, however, was not a "brick and mortar" pastor. Many times during his lifetime he said a church was at its best when it reaches out to "the least, last and the lost." It was serving "the least, last and the lost" to which Dr. McClain devoted most of his life.

THE APPLICABILITY OF THE MARGIN REQUIREMENT TO JUNK BOND FINANCED HOSTILE TAKEOVERS

Mr. DOMENICI. I rise to recommend the Federal Reserve Board for its announcement last Friday that it intends to enforce the margin requirement to certain junk bond financed takeover transactions. This is an action which I have long encouraged it to take. By enforcing the margin requirement in such transaction, the Federal Reserve will be taking a much needed step in insuring the integrity of our Nation's financial markets.

Section 7 of the Securities Exchange Act of 1934 authorizes the Board of Governors of the Federal Reserve System to regulate the term under which credit can be extended when securities are used as collateral for a loan in connection with financing an acquisition. Pursuant to this authority, the Fed has issued a series of regulations establishing the margin requirement. The margin requirement limits the amount a person can borrow to finance the purchase of stock by using the stock as security. Currently the margin requirement is 50 percent. Regulation G establishes margin rules for lending by persons other than broker-dealers and banks. Regulation G states that credit may not be extended for the purpose of purchasing stock when the dollar amount of credit extended would exceed 50 percent of the value of such securities and the loan is secured directly or indirectly only by the stock to be purchased.

The margin requirement serves several functions. Historically, its primary function has been to protect the Nation's economy by preventing the excessive use of credit resources for securities speculation, rather than for the purposes of commerce, industry, and agriculture. Its secondary historical purpose has been to provide one means of preventing instability in the securities markets. Such instability can occur when margin requirements are inadequate, because securities held as collateral for margin loans must be sold when they decrease in value and when customers are unwilling or unable to provide additional collateral. Such forced sales can accelerate the decline of securities prices. Third, margin requirements provide a measure of investor protection by preventing the extension of credit beyond what is reasonable for investors to carry.

In the military there is a saying that safety regulations are written in blood. The margin requirement is written in the blood of 1929. It arose because stock market speculators were purchasing stock with no money down and no collateral to support the advance. When the market began its slide, these loans were called in. The speculators had no money to pay off their debts. The market slide became a crash as the speculators defaulted on their obligations. Thus was the Depression ushered in.

Junk bonds are being used as unsecured loans for stock purchases, but prior to last Friday they had not been defined as subject to the margin requirement by the Federal Reserve. Junk bonds are those bonds which are rated BB or lower by Standard & Poor's bond index or Baa or lower by Moddy's bond index. It is estimated that there is over 60 billion dollars' worth of junk bonds in the marketplace. Junk bonds, although they give a better than average yield, are a risky investment. They have default rates which are over 18 times the rate bonds as a whole. The past few years have seen a phenomenal growth in the issuance of junk bonds. Approximately 80 percent of the outstanding "new issue" junk bonds—some 24 billion dollars' worth—was floated in the past 3 years. Many of these issues are for the purpose of corporate takeovers. According to a sampling earlier this year of 93 tender offer disclosure forms filed with the Securities and Exchange Commission, one third of all tender offer financing is derived from junk bonds.

Corporate raiders float junk bonds in order to obtain the funds to purchase the target company's stock. These junk bonds are in many cases secured only by the assets of the corporation to be purchased. The raider anticipates being able to retire the issue by selling off the assets of the target company. If for any reason, the raider is unable to sell off these assets after obtaining control, there will be

no way to pay off the loan obtained by junk bond financing.

When junk bonds are utilized to obtain over 50 percent of the purchase price of the target corporation, such deals clearly violate the margin requirement. The extent to which junk bond financed takeovers exceed the margin requirement cannot be determined with any accuracy, but we do know the requirement is being exceeded. One recent notorious example was T. Boone Pickens attempt to take over Unocal Corp. In order to finance his $3.46 billion tender offer for Unocal, Mr. Pickens was prepared to issue 2.4 billion dollars' worth of junk bonds to be secured by the target corporation's assets.

In the attempted takeover of Unocal, although the junk bonds did not formally secure the purchase of the stock, the only asset of the shell corporation would have been the Unocal stock. Sensible people do not lend billions of dollars to shell corporations without relying on some security—in the Unocal case, the Unocal stock. The junk bond buyers knew that the Unocal shares would remain in a place as security for their loans, because Mesa would never, as a practical matter, allow the shell company to dispose of the shares and use the junk bond loans to go into another business. In short, even though nothing was in writing, there was an economic arrangement or understanding that restricted the shell company's ability to dispose of the Unocal stock.

Another example is the recent hostile takeover of Revlon, Inc. by Pantry Pride, Inc. According to individuals in the financial community, the purchase price for the outstanding Revlon stock was $1.836 billion; assorted fees and expenses brought the total purchase price for the stock to $1.985 billion. The funds for this purchase were derived from three sources. The first source was $750 million in Pantry Pride's general corporate funds. These funds were primarily derived from a July 1985 issue of junk bonds, which were issued for the purpose of an unstated acquisition. It is worth noting that, at that time, Pantry Pride admitted that it did not have the finances to service the debt issue.

A second source of the funds for the Revlon takeover was a $770 million issue of Pantry Pride notes. These notes were junk bonds placed by Drexel Burnham Lambert Inc. Pantry Pride's final source of funds for its takeover of Revlon was a $465 million bank line of credit, which I am told was directly secured by the stock to be purchased. Based on my understanding of the financing arrangements supporting Pantry Pride's hostile takeover of Revlon, it appears that Pantry Pride has violated the margin requirement.

Such deals obviously circumvent the rule's intent to prevent excessive use of credit and to discourage speculation. Unfortunately, the Federal Reserve Board in a letter ruling dated August 13, 1984, seemed to indicate that the margin requirement does not apply to junk bond financing of takeovers. Although that question was not precisely before the Board, that letter ruling has been used by corporate raiders to justify their disregarding the margin requirement.

Like any other individuals, corporate raiders can overextend themselves, especially in an atmosphere where tender offers can create an inflated price for the stock of the target company. Rumors of takeover can promote sharp market fluctuations, which margin requirements may temper. But, perhaps most important, a corporate takeover involves greater amounts of credit than the financing of individual speculation. The need to insure that the margin requirements are applied to junk bond financing of corporate takeovers is thus all the more critical.

Last Friday, the Federal Reserve took action to halt the circumvention of the margin requirement. The Federal Reserve issued a proposed interpretation of regulation G which would establish that in certain circumstances the margin requirement does apply to junk bond financed takeovers. The ruling would create a presumption that junk bonds issued by a shell corporation for the purpose of a corporate takeover are indirectly secured by the stock to be purchased. Such transactions consequently would be subject to the margin requirement. This presumption could be rebutted by specific evidence that the junk bonds are secured by assets other than the stock to be purchased.

In other cases, there would be no presumption that the margin requirement applies, but the particular circumstances of the transaction might give rise to a finding that the margin requirement applies and is being violated. Generally, the margin requirement normally would not apply to takeovers which do not utilize a shell corporation, according to the Federal Reserve. The Federal Reserve, however, has indicated that it will examine such transactions on a case-by-case basis to determine whether the margin requirements do apply.

The need for regulation of margin requirements in the area of corporate acquisitions is obvious. Last June, I introduced the Junk Bond Limitation Act of 1985. The Junk Bond Limitation Act would:

First, prohibit all federally insured financial institutions from having more than 10 percent of their assets in junk bonds;

Second, prevent a federally insured financial institution from investing in junk bonds if its net worth—amount of assets above liabilities—is less than 6 percent of the total worth of the instituion; and

Third, clarify that the Federal Reserve's margin requirement applies to junk bond financed takeovers.

The Federal Reserve's action is a welcome step in addressing some of the concerns which motivated me to introduce the Junk Bond Limitation Act. The ruling, however, applies only to one aspect of the takeover phenomenon. Other actions need to be taken. I hope that Congress will soon address the Junk Bond Limitation Act, as it is necessary to protect the safety and soundness of our Nation's financial institutions and to reserve the integrity of our financial markets.

As I told Chairman Volcker of the Federal Reserve, if the Fed feels that it is safe to lower the margin requirement or to spell out exceptions for particular deals, fine. But unitl then let's enforce what the law says now. The Federal Reserve is to be commended for doing just that. By affirming that junk bond financing of takeovers is subject to the margin requirement in certain cases, the purposes of the margin requirement have been served. We will help to prevent the diversion of credit away from productive uses; we will help dampen the speculative fever that the takeover craze has engendered; and we will help slow the trend toward the overleveraging of American corporations.

I ask unanimous consent that my letter to Chairman Volcker, dated November 18, 1985, and his response, dated December 6, 1985, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, November 18, 1985.

PAUL A. VOLCKER,
Chairman, Board of Governors,
Federal Reserve System, Washington, DC.

DEAR PAUL: On May 13 of this year, I wrote to you regarding the applicability of the Federal Reserve Board's margin regulations to junk bond financed takeovers. In your reply dated May 31, 1985, you stated that the applicability of the margin regulations to such transactions was "cloudy" and promised to look into the issue.

Since my last communication with you regarding junk bonds, I have introduced the Junk Bond Limitation Act of 1985 (S. 1286). This bill has two purposes. The first is to limit the amount of junk bonds that federally insured financial institutions can own. The second purpose is to ensure that the margin regulations are applied to cover junk bond financed takeovers. The Junk Bond Limitation Act would achieve this second purpose by adding language regarding non-investment grade securities and tender offers to section 7 of the Securities Exchange Act of 1937.

Junk bond financed takeovers circumvent the margin regulations by their reliance on shell corporations with no assets. These

shell corporations issue junk bonds to finance the purchase of stock of the target company. The junk bonds are loans, but are not secured by any tangible assets. The only conceivable security for the bonds is the stock to be purchased. The economic reality of such financing arrangements is that the security for the loan will be the stock acquired with the proceeds of the loan. It is clearer to me that, in certain circumstances, such arrangements violate Regulation G of the Board, which prohibits the extending of credit for the purchase of stock if the loans are secured directly or indirectly, by the stock to be purchased and if the loans exceed fifty percent of the purchase price.

A case in point is the recent hostile takeover of Revlon, Inc. by Pantry Pride, Inc. The purchase price for outstanding Revlon stock is $1.836 billion; assorted fees and expenses bring the total purchase price for the stock to $1.985 billion. The funds for this purchase are to be derived from three sources. The first source is $750 million in Pantry Pride's general corporate funds. These funds are primarily derived from a July 1985 issue of junk bonds, which were issued for the purpose of an unstated acquisition. At that time, Pantry Pride admitted that it did not have the finances to service the debt issue. A second source of the funds for the Revlon takeover is the $770 million issue of Pantry Pride Notes. These notes are junk bonds placed by Drexel Burnham Lambert, Inc. Pantry Pride's final source of funds for its takeover of Revlon is a $465 million bank line of credit, which I am told is directly secured by the stock to be purchased. Based on my understanding of the financing arrangements supporting Pantry Pride's hostile takeover of Revlon, it appears that Pantry Pride has violated the margin regulations.

The Board, however, has never taken the position that the margin regulations apply to junk bond financed takeovers. On the contrary, in a letter dated August 13, 1984, the staff of the Board seemed to declare that the margin regulations do not apply to junk bond financed takeovers. Such an interpretation, however, runs contrary not only to the letter, but also to the policy of the margin regulations and should be rejected. The margin regulations have three goals: (1) to protect the nation's economy from the excessive use of credit for securities speculations; (2) to prevent instability in the securities markets; and (3) to provide a measure of investor protection by preventing the extension of credit beyond what is reasonable for investors to carry. Affirmation that the margin regulations apply to junk bond financed takeovers would fulfill these goals.

If the Board feels that it is safe to lower the margin regulations or to spell out exceptions for particular deals, such as junk bond financed takeovers, it is free to do so. Until that time, however, the Federal Reserve should enforce the margin regulations as written.

By affirming that junk bond financing of takeovers is subject to the margin regulations, the law as written will be upheld and the purposes of the margin regulations will be served. We will help to prevent the diversion of credit away from productive uses; we will help dampen the speculative fever that the takeover craze has engendered; and we will help slow the trend toward the over-leveraging of American corporations.

I, therefore, encourage you to examine closely the use of junk bonds in corporate takeovers and to determine categorically that junk bond financed takeovers are subject to the margin regulations. Let me assure you that I intend to continue to press for Congress to address this issue until the problem is resolved.

Paul, I hope that you will consider my views when you address the issue of the applicability of the margin regulations to junk bond financed takeovers. Thank you for your consideration.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM,
Washington, DC, December 6, 1985.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: This is in response to your letters dated May 13 and November 18, 1985, concerning the use of debt securities to finance the acquisition of stock as part of a corporate takeover attempt. Your letter expresses concern about the growth of debt security-financed takeover attempts and their effect on the economy and financial system. You request that the Board use its authority under section 7 of the Securities Exchange Act of 1934 to restrict the use of such debt securities in connection with the financing of corporate takeovers, either by interpreting existing margin rules or by adopting additional specific rules to deal with this matter.

Many of the issues raised in your letter have also been raised in petitions filed with the Board by corporations part by below-investment-grade debt securities. These petitions have requested the Board to find that the lending restrictions contained in the Board's Regulation G apply to debt securities that are issued by a shell corporation set up by the acquiring firm to effect the acquisition or that are issued by the acquiring firm in amounts that greatly exceed its net worth.

The lending restrictions in the Board's Regulation G apply to credit extended by a lender (other than a bank or a broker/dealer) for the purpose of buying margin stock where the credit is directly or indirectly secured by margin stock. Typically, debt securities issued in connection with the acquisition of a target company's stock are purchased in large minimum denominations by large commercial firms and other sophisticated purchasers that may be lenders for purposes of Regulation G. Such transactions clearly involve "purpose credit" as defined in the Regulation. Since such securities typically are not directly secured by margin stock or other collateral, the lending restrictions in Regulation G would apply only if the credit extended by the purchasers of the debt securities is indirectly secured by the margin stock.

The Board has considered the applicability of the margin rules to the purchase of debt securities to finance takeover attempts and has proposed an interpretation of the existing regulation, a copy of which is enclosed for your convenience. While public comment on such an interpretation is not required and would normally not be expected, particularly in the light of the limited application of the interpretation, in this instance in order to provide full assurance of no unintended effects, the Board is allowing a short period of public comment, ending on December 23, 1985. Subject to final review after such comment, the interpretation will take effect for written contracts to extend credit entered into after December 31, 1985.

The interpretation states that, absent compelling evidence to the contrary, one limited class of transactions are subject to margin requirements. That class involves only those debt securities issued by a shell corporation that is used as an acquisition vehicle in the context of a corporate takeover. Such debt securities are indirectly secured by the stock to be acquired and thus subject to the restrictions of the margin regulations.

This conclusion is based on the fact that the shell corporation would have substantially no assets other than the margin stock of the company to be acquired and no significant business function other than to hold the margin stock to facilitate the acquisition of the target company. Therefore, loans to such companies cannot, in good faith, be made without reliance on the stock as security. The interpretation is also supported by the fact that there is a practical restriction on the shell corporation's ability to dispose of the margin stock acquired in light of the clear understanding of the lenders that the proceeds of the credit will be used by the shell corporation to acquire sufficient margin stock to control a particular target company. The presumption that the borrowing was indirectly secured in these circumstances would not apply if there is additional, specific evidence that lenders could in good faith rely on other assets to support the credit, such as a guaranty by the shell's parent company that has substantial non-margin stock assets.

In considering this interpretation, the Board recognized that more commonly takeovers financed with debt securities do not entail use of a shell corporation. Instead, the debt is issued by a company engated in an ongoing business and having substantial assets other than margin stock. The Board has considered the applicability of the margin rules to such debt securities and is of the opinion that the purchase of these debt securities should not be presumed to be "indirectly secured" by the margin stock of the company to be acquired. Since the borrowing company ordinarily would have income and substantial assets in addition to the margin stock to be acquired, the purchasers of the debt securities should not be presumed to be relying solely on the margin stock as the source of repayment of the credit.

Thus, the proposed interpretation will impact only a limited class of borrowing tranactions—those involving shell companies—that appear quite clearly to come within the scope of the present regulations. On the other hand, the Board did not conclude that a broader class of transactions fall within the margin regulations—those where the debt obligation is that of a borrowing company with income and substantial assets. The Board believes it is not possible to establish a presumption that such a company's borrowings are indirectly secured by the margin stock. Accordingly, the interpretation which the Board has proposed deals with one limited financing technique, and would not affect borrowing by other methods to accomplish merger or acquisition transactions.

More generally, earlier this year the Board testified before Congress regarding the effect of the recent increase in merger and takeover activity on the credit markets. The Board expressed its concern about debt-financed acquisition activity and indicated its intent to continue to monitor merger and takeover activity and its effects on the financial markets. The Board does share your

concern about the broad movement toward higher leverage, because of the implied reduction in the financial strength of business firms. Margin regulations do not appear well adapted to dealing with the broader problem. However, I would point out that, among other factors, present provisions of the tax code do greatly favor the use of debt rather than equity instruments, and could be addressed directly.

I should also note in a letter to various members of Congress dated January 11, 1985, a copy of which is enclosed for your convenient reference, the Board stated that there are at present serious questions as to the need for continuing federal regulation to further the objectives originally sought by Congress when it enacted section 7 of the Securities Exchange Act of 1934. The current takeover controversy points up the need for Congressional reexamination of those goals in light of the structural and technological changes that have occurred in financial markets in the past 50 years.

Two members of the Board dissented from this interpretation, specifically noting that margin requirements need to be reassessed as the appropriate means of carrying out the objectives that Congress has sought to achieve through these requirements and, accordingly, felt new interpretations of margin requirements were inappropriate at this time. Moreover, they noted that the approach adopted by the Board was also likely to be ineffective as a means of addressing problems associated with debt financing of takeovers in view of the variety of techniques that can and will be employed to finance corporate acquisitions and that fall outside the scope of the regulations. Finally, the dissenting members do not believe that the Board should presume that debt securities issued by a shell corporation in a corporate takeover are indirectly secured by the stock of the target company, since the purchasers of such securities may be relying on the income and assets of the target company, rather than its stock, for repayment of the debt.

Sincerely,

PAUL.

CONGRATULATING ROBERT L. CLARKE

Mr. DOMENICI. Mr. President, I rise to congratulate Robert L. Clarke, who is being sworn in as the new Comptroller of the Currency today.

Mr. Clarke grew up in Hobbs, NM, graduating from Hobbs High School in 1959. From there he went on to Rice University and Harvard Law School. While in law school, Mr. Clarke served as a legislative assistant for Senator Ed Mechem of New Mexico. After graduating from Harvard, Mr. Clarke returned to New Mexico and practiced law in Roswell prior to enlisting in the Army as a staff attorney and moving to Texas. Although it has been many years since Mr. Clarke lived in New Mexico, he is still fondly remembered by many residents, especially in the Hobbs area. Mr. Clarke was highly recommended for the post of Comptroller of the Currency by a number of New Mexicans, and I personally recommended Mr. Clarke to the Secretary of the Treasury.

Mr. Clarke is assuming a large task. He will oversee the financial practices of our Nation's banks. Our banks have encountered many difficulties in the past few years, and the need for reform is obvious. It will take a great deal of intelligence and patience to accomplish these reforms. I am confident that Mr. Clarke possesses these qualities and will make an excellent Comptroller of the Currency. I join with all New Mexicans in congratulating Mr. Clarke and in wishing him good luck in his new position.

THE TUNNEL AND RESERVOIR PLAN OF METROPOLITAN CHICAGO

Mr. DIXON. Mr. President, I rise to take the opportunity to share with my colleagues a progress report on a landmark plan which will provide flood and pollution control benefits for generations of people of Chicago, the Great Lakes States, and our Canadian neighbors, as well.

In an effort to meet the water quality goals of the Clean Water Act, to prevent backflows into Lake Michigan, and to provide an outlet for flood waters, the Metropolitan Sanitary District of Greater Chicago designed the bold two-phase Tunnel and Reservior Pan [TARP]. The TARP phase I plan, which was judged by EPA on two occasions as the most cost-effective system available to meet the goals of the Clean Water Act, is a combined sewer overflow (CSO) elimination system. TARP phase II will provide flood control.

TARP phase I is an intricate system of drop shafts, tunnels, and pumping stations which will capture combined sewer overflows from a service area of 375 square miles, containing 13,500 miles of sewers. Of the 109.6 miles of tunnels comprising TARP phase I, the largest is the Mainstream Tunnel. The completed portion of the Mainstream consists of 31 miles of tunnels 13 to 33 feet in diameter and 240 to 300 feet below ground.

This year, the Mainstream portion of TARP was completed and placed in operation. This innovative pollution control project was constructed utilizing U.S. EPA Clean Water Act funding. I have been informed by the president of the sanitary district, Nicholas J. Melas, that this massive undertaking was completed on schedule and under budget. This accomplishment is extraordinary, considering the scale and the engineering complexity involved in the plan.

At this juncture, I would like to take a moment to advise my colleagues of the proven effectiveness of this plan, which truly serves as a model of Federal dollars well-spent. On October 18, 1985, the first operational filling of the tunnel occurred. This happened when a 12-hour duration rainfall generated 3 inches of rain in the Chicago metropolitan area. A rainfall of this magnitude normally causes health-threatening water pollution and backflows of raw sewage and polluted water into Lake Michigan, the source of the area drinking water. These backflows have occurred in the past several times a year. As the direct result of the mainstream tunnel system, however, over 1 billion gallons of combined raw sewage was prevented from being discharged into the Chicago waterways. This capacity also prevented the direct release of 85 million gallons of combined sewage into Lake Michigan. As an additional benefit to pollution control, flooding in the areas adjacent to the 31.2 mile TARP tunnel was virtually nonexistent.

On November 2, 1985, a 30-hour rainstorm filled the tunnel for the second time and on November 19, 1985, the tunnel was filled for the third time as a result of another heavy rain, thus preventing the exposure of citizens of the Chicagoland area to possible health risk. What the Sanitary District is rightly proud of is the contribution this plan has made to the health and the environment of the adjoining Great Lakes States and to our neighbors to the north in Canada. By preventing these unhealthy backflows into Lake Michigan, this plan has proven to the region and to the Nation that we are serious about improving the quality of our international waters for generations to come. Further, TARP stands as an example to the Nation that environmentally-wise and cost-effective solutions need not be mutually exclusive.

Since it has been placed in operation, the TARP pumping station has pumped over 13 billion gallons of captured combine sewage for complete treatment. During treatment of this polluted water, an estimated 5,000 tons of sewage solids were removed.

Mr. President, in the first year of operation, the mainstream system has proved to be a highly successful venture. The project, while relating most specifically to the 16 tributary municipalities in northeastern Illinois, is also beneficial to our downstream communities, such as Joliet and Peoria. These benefits occur because of the retention of water in the tunnels during high-flow periods and by cleaning of the ultimate discharge before being released into downstate waterways.

TARP was designed to give the Chicago and surrounding metropolitan area the highest environmental protection that any water pollution control project could possibly provide. In addition, no other project was found to be more cost-effective. Ultimately, the beneficial use of the project will be enhanced by the addition of the planned flood control facilities. Published data by the Corps of Engineers

on these facilities have shown a tremendous potential for increasing even further the cost-effectiveness of the entire project. TARP stands as a tribute to our Nation's clean water goals and one that has been accomplished within the most economical constraints.

A success story like this should strengthen our faith in and commitment to the need for a continued Federal role in the pollution control program. I look forward to working with my colleagues in continuing to support such a worthwhile program.

CONTRACTING WITH FOREIGN MANUFACTURERS

Mr. QUAYLE. Mr. President, I would like to draw the attention of the Senate to a provision in the report of the House Committee on Appropriations on H.R. 3629, the Department of Defense Appropriations bill for fiscal year 1986.

Along with many of my colleagues in the Congress, I have long been concerned over the need to maintain fair and open trade with the world community while still ensuring that the United States protects its defense industrial base to meet our essential defense and related strategic requirements in the event of a conflict. It is very difficult for many American firms to prosper, or even remain in business in many cases, when they face overseas competitors who are not required to play by the same rules—whether these rules be compliance with environmental protection regulations or simple subsidization by their governments—as our companies are.

This is of particular concern when we realize that many companies facing this dilemma produce items which are vital to our national security and defense industrial base.

On page 145 of the House Appropriations Committee's report on H.R. 3629, the committee expresses its concern that in some instances our domestic manufacturing capacity that would be critically needed for mobilization may be jeopardized by unfair competition from foreign vendors. The committee, therefore, has directed the Defense Department to look into this matter and evaluate the contract requirements and compliance record as these apply to foreign vendors and domestic manufacturers. The text of the committee's statement of concern is as follows:

CONTRACTING WITH FOREIGN MANUFACTURERS

The Committee is concerned that in some instances our domestic manufacturing capacity that would be critically needed for mobilization may be jeopardized by unfair competition from foreign vendors.

Accordingly, the Committee directs the Secretary of Defense to determine;

1. whether Department of Defense contract requirements for foreign vendors are the same as those for domestic firms with respect to compliance with U.S. statutes and regulations;

2. whether compliance with such contract terms is enforced in the same manner for domestic and foreign firms; and

3. whether the U.S. is at risk of losing required domestic defense-manufacturing capabilities either to foreign manufacturers, or to U.S. firms with overseas operations.

The Secretary should report his findings to the Congress prior to May 1, 1986.

I call this expression of concern and request for information to my colleagues' attention. It would be my hope that the Senate conferees on the fiscal year 1986 Defense Department Appropriaitons section of the continuing resolution will be able to note in the conference report their specific support for this reporting requirment.

YOUTH EMPLOYMENT OPPORTUNITY WAGE

Mr. HATCH. Mr. President, I confess I was very tempted to offer the text of S. 797, the Youth Employment Opportunity Wage Act, as an amendment to the continuing resolution. I regret very much that the Senate has not yet dealt substantively with the youth wage issue. I have been on "red alert", ready to come to the Senate floor on a moment's notice for more than a year and a half to debate this proposal. But there were always lots of reasons why the Youth Employment Opportunity Act could not be offered to a particular bill. There were always lots of reasons why the Senate could not afford the floor time. These reasons were always legitimate, and I was sympathetic. I am not blind to the controversial nature of this proposal and the inconveniences a debate on such an amendment would cause. That is why I will not prolong our consideration of the continuing resolution by offering this amendment.

I appreciated Senator STEVENS' understanding when I selected H.R. 1534 as the vehicle for this amendment. It would be unfair to imply he was happy about it, but he understood the predicament, and for that I am appreciative. I have always supported the option of flexible work hours and compressed work schedules for Federal employees. I voted for this experimental program in 1978 and again in 1982. Many Senators did not then think flextime would work, believing that it would create administrative havoc and inefficiency in the Federal agencies and departments. Skeptics believed nothing would get done. On the contrary, the experiment has been a success by all accounts, and the program deserves to be made permanent.

I would just like to see the same opportunity given to the youth wage concept. The Youth Employment Opportunity Wage Act, S. 797, calls for a 3-year test of the idea, followed by a thorough evaluation of its effectiveness.

There are ample expert studies concluding that the proposal will create jobs for teenagers. The Bureau of Labor Statistics has estimated that 400,000 additional summer jobs could be created if the bill were made law. The estimate increases to 650,000 jobs if those States with full or parital barriers to the business' use of the youth wage modified their statutes to permit the experiment as well. I will be the first to admit that these numbers are estimates, but if the estimates are even half right, the bill has potential to create over a half million opportunities for youth over the next 3 years. If the estimates are on target, and we fail to pass this bill, jobs for over 1.2 million teenagers have gone right out the window. What do we have to lose by trying this approach? How long can we wait to find out if it works?

Forty organizations representing millions of Americans have endorsed and campaigned for enactment of the Youth Employment Opportunity Wage Act. Do these organizations see the youth wage as a 100-percent solution to youth unemployment? Of course not, neither does anyone else. Do they see it as a substitute for current or future training programs? No, they do not, and neither does anyone else. They do see it as action the Congress can take immediately to assist youth because it does not require the expenditure of millions of dollars during tight budget years. They see it as a positive weapon in the war against youth unemployment. It should not be written off. It should be tested. And, as Mayor Marion Barry noted during his testimony before the Labor and Human Resources Committee on behalf of the National Conference of Black Mayors, the matter has been studied to death. It is time for some action.

I would like to extend my thanks to the Boy's Clubs of America, Chamber of Commerce, National Conference of Black Mayors, National Alliance of Business, SER–Jobs for Progress, National Alliance of Postal and Federal Employees, National Association of Manufacturers, National Federation of Independent Business, OIC of America, and all the others for publicly expressing their confidence in the youth wage proposal, and for their efforts to provide this opportunity for our Nation's unemployed youth. I want to assure them, Mr. President, that we will continue to press for a 3-year demonstration of this inherently worthwhile legislation. I ask that a list of the organizations endorsing the Youth Employment Opportunity Wage Act be included in the RECORD.

Mr. President, I hope that my decision not to offer S. 797 as an amendment to the continuing resolution will not be construed as abandonment of the youth wage legislation. Good ideas

do not die easily. One of these days, unemployed youth will get this opportunity, I apologize to all 1.7 million of them who were unemployed this summer for having to wait still longer for Congress to realize the potential of this proposal. I just hope they do not become unemployed adults, as Mayor Barry forecasted, because they never had a chance as teenagers.

The list follows:

ORGANIZATIONS IN SUPPORT OF THE YOUTH EMPLOYMENT OPPORTUNITY WAGE

American Association of Black Women Enterpreneurs.
American Association of Nurserymen.
American Farm Bureau
American Furniture Manufacturers Association.
American G.I. Forum.
American Textile Manufacturers Institute, Incorporated.
Associated Builders and Contractors.
Boys Clubs of America.
Business Roundtable.
Board of Supervisors, County of Los Angeles.
Coalition of Hispanic Mental Health and Human Services Organizations.
Food Service and Lodging Institute.
Fraternal Order of Police.
National Alliance of Business
National Alliance of Postal & Federal Employees.
National Association of Cuban-American Women and Men.
National Association for Equal Opportunity in Higher Education.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Association of Retail Grocers.
National Association of Truck Stop Operators
National Association of Uniform Manufacturers & Distributors.
National Association of Wholesale Distributors.
National Conference of Black Mayors.
National Conference of Republican Mayors and Municipal Elected Officials.
National Club Association.
National Federation of Independent Business.
National Grocers Association.
National Puerto Rican Forum.
National Restaurant Association.
National Small Business Association.
Organization of Chinese American Women.
Printing Industries of America.
Retail Bakers Association.
Recreational Vehicle Dealers Association.
SER-Jobs for Progress, Inc.
U.S. Chamber of Commerce.
Congress of Racial Equality.
Community Service Society of New York.

ESTABLISHMENT OF A SPECIAL PANEL ON ASYLUM

Mr. D'AMATO. Mr. President, I rise today to cosponsor legislation introduced by my good friend and colleague, the senior Senator from New Hampshire. This resolution, Senate Resolution 267, would establish a special panel on asylum to investigate the handling of the Soviet sailor, Miroslav Medvid, who recently tried to defect to the United States in Louisiana.

On October 24, Miroslav Medvid, a Soviet sailor, jumped from his ship, the MV *Konev,* and swam ashore. He was picked up by the Border Patrol only to be brought back to the M.V. Konev. On the way back, however, he again jumped overboard and again swam to shore. Incredibly, he was returned again to the *Marshal Konev.* Medvid remained in Soviet custody aboard the M.V. *Konev* for 2 days until he was interviewed by U.S. officials on Monday, October 28.

It is very important that all the facts about this most unfortunate incident be brought to light. America has always prided itself as a Nation which provides safe haven for political refugees. That is why I find it so hard to understand why U.S. officials would return to his oppressors an Eastern bloc national who wished to seek asylum in the United States. This bill will bring to light the facts we need to know how to prevent such a debacle from reoccurring.

I do not think there is any doubt that Miroslav Medvid was coerced into changing his mind. We all know it is not difficult for Soviet authorities to change a Soviet citizen's mind. If they did not threaten Mr. Medvid personally, then they threatened his family. With this specter over his head, I am not surprised he signed a statement denying his desire to defect.

Although Seaman Medvid should have been given another chance to defect, his best chance for asylum disappeared when he was returned the second time to the *Marshal Konev.* I firmly believe the State Department's eagerness to avoid entanglements with the Soviet Union so close to the summit may have prevented Miroslav Medvid a legitimate chance for asylum.

Mr. President, the matter may officially be closed, but there are still too many questions to be answered. U.S. officials blundered, and a small window of opportunity of asylum for Miroslav Medvid was slammed shut. We must have a complete accounting of the events surrounding this matter.

The Soviet ship returned to the Soviet Union with an Ukrainian sailor, whose life will be changed forever. We will be the only ones to blame if sailor Medvid disappears or becomes a nonperson.

On November 1 of this year, the Senate passed an amendment I sponsored to the State, Justice, Commerce appropriations bill which requires U.S. officials at the INS and the Border Patrol, and any other officials who deal with possible asylum situations, to be better educated to respond to such situations. Where none now exist, formal procedures for U.S. agencies regarding the handling of persons seeking political asylum must be established. Current procedures should be revised as well to ensure that there will not be a repeat of this incident.

The creation of a special panel on asylum established in Senate Resolution 267 will help in the prevention of any further bungled defection attempts. We cannot repeat this tragedy.

Mr. President, I ask my colleagues to join me on this resolution and I urge its quick adoption.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that on December 3, 1985, he had approved and signed the following enrolled bill and joint resolutions:

S. 1042. An act to authorize certain construction at military installations for fiscal year 1986, and for other purposes.

S.J. Res. 139. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Home Care Week."

S.J. Res. 195. Joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Temporary Services Week."

MESSAGES FROM THE HOUSE

At 2:06 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2183. An act to amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes;

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State;

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary;

H.R. 3266. An act to declare certain lands in the city of Coalinga, CA, abandoned by the Southern Pacific Transportation Co.; and

H.J. Res. 419. Joint resolution to approve Public Land Order numbered 6607 of July 8, 1985.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 239. A concurrent resolution commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1706. An act to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, DC.

The message further announced that the Speaker makes the following corrections in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.".

The conferees from the Committee on Ways and Means are also appointed for the consideration of sections 746(e)(2)-(4) and 759 of the Senate amendment, and are excepted from the consideration of parts E and G of title I of division B of the House amendment to the Senate amendment.

The second group of conferees from the Committee on Education and Labor are also appointed for the consideration of section 2505 of division B of the House amendment to the Senate amendment.

The conferees from the Committee on the Judiciary are appointed for that portion of section 1548, in division A of the House amendment to the Senate amendment, inserting subsection 4041(C)(2)(B)(ii), rather than (iii), in the Employee Retirement Income Security Act.

The conferees from the Committee on the Budget are appointed for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment, rather than sections 502(a) and 503 thereof.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1957. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

At 8:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of House Joint Resolution 372.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1957. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Environment and Public Works.

H.R. 2183. An act to amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes; to the Committee on the Judiciary.

H.R. 3266. An act to declare certain lands in the City of Coalinga, California abandoned by the Southern Pacific Transportation Company; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 419. Joint resolution to approve Public Land Order Numbered 6607 of July 8, 1985; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar.

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary.

MEASURES HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent pending further disposition:

H.R. 2976 An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The VICE PRESIDENT announced that on today, December 10, 1985, he signed the following enrolled bill and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag".

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 10, 1985, she had presented to the President of the United States the following enrolled bill:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2101. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period January 1 to February 28, 1986; to the Committee on Armed Services.

EC-2102. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of various functions at the Navy Station, New York, to performance by contract; to the Committee on Armed Services.

EC-2103. A communication from the Secretary of the Treasury transmitting a draft of proposed legislation to require the registration and regulation of brokers and dealers in government securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-2104. A communication from the Commandant of the U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, notice that the Coast Guard plans to study the conversion of certain functions to performance by contract; to the Committee on Commerce, Science, and Transportation.

EC-2105. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the activities undertaken by the Department of Energy to implement the alternative fuels production portion of the Interior and Related Agencies Appropriations Act of 1980; to the Committee on Energy and Natural Resources.

EC-2106. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report entitled "Report of Review and Revision of Royalty Pay-

ments for Fiscal Years 1983 and 1984 for Federal Onshore and Outer Continental Shelf Oil and Gas Leases"; to the Committee on Energy and Natural Resources.

EC-2107. A communication from the Inter-Agency Task Force, National Acid Rain Precipitation Assessment Program, transmitting, pursuant to law, the 1984 Annual Report of the National Acid Rain Precipitation Assessment Program; to the Committee on Environment and Public Works.

EC-2108. A communication from the Administrator of General Services, transmitting, pursuant to law, a copy of the Report of Building Project Survey for the City of Jasper, Alabama; to the Committee on Environment and Public Works.

EC-2109. A communication from the Acting Director of the Institute of Museum Services, transmitting, pursuant to law, the annual report of the Institute under the Government in the Sunshine Act for calendar years 1983 through 1985; to the Committee on Governmental Affairs.

EC-2110. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development for the period April 1 to September 30, 1985; to the Committee on Governmental Affairs.

EC-2111. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the semi-annual report on the civil misrepresentation activities of the United States Postal Service for the period April 1 to September 30, 1985; to the Committee on Governmental Affairs.

EC-2112. A communication from the Deputy Under Assistant Secretary of Health and Human Services (Intergovernmental Affairs) and the Director of the Federal Interagency Task Force on the Homeless, transmitting jointly, pursuant to law, the status report on the activities and accomplishments of the Federal Interagency Task Force on the Homeless; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1134: A bill to amend title 5, United States Code, to provide administrative civil penalties for false claims and statements made to the United States by certain recipients of property, services, or money from the United States, by parties to contracts with the United States, or by Federal employees, and for other purposes (Rept. No. 99-212).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 1915: An original bill to amend the Foreign Assistance Act of 1961 to provide special assistance to combat terrorism in Central American countries (Rept. No. 99-213).

S. Res. 268: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1915; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 1230: A bill to amend the patent laws implementing the Patent Cooperation Treaty.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Warren J. Baker, of California, to be a member of the National Science Foundation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before an duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Jerry Lee Calhoun, of Washington, to be a member of the Federal Labor Relations Authority for the remainder of the term expiring July 29, 1987.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR from the Committee on Foreign Relations:

S. 1915. An original bill to amend the Foreign Assistance Act of 1961 to provide special assistance to combat terrorism in Central American countries; placed on the calendar.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. HATCH) (by request):

S. 1916. A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. KENNEDY):

S. 1917. A bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes; to the Committee on Foreign Relations.

By Mr. LUGAR:

S. 1918. A bill to change the date for transmittal of a report; to the Committee on Foreign Relations.

By Mr. ANDREWS (for himself, Mr. HEINZ, Mr. DURENBERGER, Mr. PRYOR, Mr. CRANSTON, Mr. WEICKER, Mr. STEVENS, Mr. HATFIELD, Mr. HATCH, and Mr. GRASSLEY):

S. 1919. A bill to establish a task force to examine the issues associated with abuse of the elderly; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself, Mr. STAFFORD, Mr. MITCHELL, Mr. DURENBERGER, Mr. BAUCUS, and Mr. MOYNIHAN):

S. 1920. A bill to extend the Superfund taxes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. ANDREWS):

S. 1921. A bill to amend title 31, United States Code, to require that in the President's budget for a fiscal year the economic assumptions pertaining to inflation for major weapon system programs of the Department of Defense be the same as those for the rest of the budget; to the Committee on Governmental Affairs.

By Mr. SIMPSON (for Mr. DOLE (for himself, Mr. HUMPHREY, and Mr. D'AMATO)):

S.J. Res. 243. A joint resolution urging the Nobel Prize Committee to rescind its award to Dr. Chazov; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR, from the Committee on Foreign Relations:

S. Res. 268. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1915; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. HATCH) (by request):

S. 1916. A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; to the Committee on the Judiciary.

PRESERVING THE AUTHORITY OF THE SUPREME COURT

Mr. THURMOND. Mr. President, by request, I, along with Senator BIDEN, the ranking minority member of the Senate Committee on the Judiciary, and Senator HATCH, am introducing legislation to preserve the authority of the Supreme Court Police to provide protection services for justices and court personnel off Court premises.

This authority was formally recognized by Congress in 1982, but a sunset date of December 29, 1985, was included in that legislation. The increased need for off-premises protection of Justices and Court employees, the efficient manner in which the Police have handled security problems over the last 3 years, and the relatively low administrative cost of such protection indicate that this service should be extended.

I ask unanimous consent that the bill, the transmittal letter, and accompanying materials from the Supreme Court of the United States be printed in the RECORD following my remarks.

Since this is such a time sensitive and noncontroversial matter, I urge my colleagues to adopt this measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", as approved August 18, 1949 (40 U.S.C. § 13f), section 9(c) of such Act as added by the Act of December 29, 1982 (Public Law 97-390; 96 Stat. 1958), is amended to read as follows:

"(c) The Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection. Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section."

SUPREME COURT OF THE UNITED STATES,
Washington, DC, November 25, 1985.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed is a copy of my letter to the Speaker transmitting a draft bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel off Court premises. As the materials accompanying my letter explain, preservation of that authority, approved by your committee three years ago, beyond its scheduled expiration date of December 29, 1985, is justified both by the increased need for such authority and by the minimal cost incurred for its exercise within the past three years.

Let me thank you for whatever consideration your committee may be able to accord the request. Supreme Court staff will provide whatever assistance you may request in reviewing this proposal. If you do require assistance, please have your staff contact Mr. Richard Schickele, in our legal office (479-3282).

With warm personal regards, I am,
Respectfully,

WARREN E. BURGER.

SUPREME COURT OF THE UNITED STATES,
Washington, DC, November 25, 1985.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am transmitting, for your consideration, a draft bill to preserve the status and jurisdiction of the police force which serves the Supreme Court of the United States. This draft bill would continue the authority of the Supreme Court Police to protect Supreme Court Justices, personnel and official guests on and off the Supreme Court grounds as provided by 40 U.S.C. § 13n. The draft bill would also eliminate the requirement that the Marshal of the Court file a special report annually with Congress on the administrative costs associated with protection outside the Court grounds.

The police officers of the Supreme Court have rendered outstanding protection for the Justices, employees and premises of the Supreme Court since it moved from quarters in the United States Capitol to the Supreme Court Building in 1935. In 1949, Congress accorded the Supreme Court Police legal recognition and established their jurisdiction as a special force to patrol the Supreme Court building and grounds, just as the Capitol Police provide similar services for your buildings and personnel.

In 1982, Congress amended 40 U.S.C. § 13n to formally recognize the authority of the Supreme Court Police to carry firearms and to provide an explicit statutory basis for the protection of Court personnel outside the Court premises. That legislation, however, included a provision which automatically terminates the Supreme Court Police's authority outside the Court grounds on December 29, 1985.

The enclosed draft bill preserves the authority of the Supreme Court Police recognized by Congress in 1982 and eliminates the reporting requirement imposed upon the Marshal of the Court. This proposal is supported by the increased need for off-premises protection of Justices and Court employees, the efficient manner in which the Police have handled security problems over the past three years, and the relatively low administrative cost of such protection. A memorandum is enclosed which more fully explains the proposed draft bill. Also enclosed are copies of all three special annual reports filed to date.

The enactment of the proposed bill would be of great assistance in ensuring the continued efficient administration of the Supreme Court by according the Supreme Court Police the permanent legal status and recognition merited by the nature of its present duties. I would therefore be grateful for whatever consideration Congress might give this matter. The staff of the Supreme Court will, of course, provide any assistance the Congress may request in reviewing this proposal.

With warm personal regards, I am
Respectfully,

WARREN E. BURGER.

SUPPORTING MEMORANDUM FOR PROPOSED BILL TO CONTINUE THE AUTHORITY AND JURISDICTION OF THE SUPREME COURT POLICE TO PROTECT JUSTICES, COURT PERSONNEL AND GUESTS OUTSIDE THE COURT PREMISES

PURPOSE

The purpose of the proposed legislation is to continue the authority of the Supreme Court Police under 40 U.S.C. § 13n to protect Justices, Court employees and official visitors on and off the Supreme Court grounds.

BACKGROUND

In 1800, the Federal Government moved to Washington, D.C., a new city and permanent Capitol. Since no provisions were made for a Judiciary building, the Court was loaned space by Congress in the new Capitol building. At that time, the United States Capitol Police provided security for the Court. After numerous relocations of the Court within the Capitol, President William H. Taft persuaded Congress to authorize construction of a permanent "home" for the Court. Under the leadership of Chief Justice Hughes, construction proceeded from 1932 to 1935, when the Court was finally able to occupy its own building directly across the street from the United States Capitol.

In 1935 the United States Capitol Police detailed a small contingent of officers from the Capitol to provide security for the Justices and Court employees, as well as the new building and grounds. Those officers, who formed the nucleus for the security force of the Supreme Court, were appointed as special police officers by the Commissioners of the District of Columbia under 30 Stat. 1057. Their authority to enforce the law on the Supreme Court premises remained unquestioned until September 1948.

In September 1948, the Corporation Counsel of the District of Columbia, realizing that the statute was ambiguous in respect to appointment of special police officers, issued an order that all special police commissions were to expire December 31, 1948. By the request of Chief Justice Vinson, the expiration date was extended to provide time to pass legislation providing for "policing of the building and grounds of the Supreme Court of the United States." Under the direction of the Chief Justice, the Marshal of the Court, Thomas E. Waggerman, worked with the leadership of both houses of Congress and with Mr. Perley, Legislative Counsel to the House of Representatives, to formulate legislation and put it into effect. Their resulting bill was patterned after S. 2405—Public Law 570 of the 79th Congress (2nd Session)—the intention being "to place [the Supreme Court] police force, within its jurisdictional limitation, on practically the same 'power and authority' basis under which the United States Capitol Police operates."

In 1982, Congress formally recognized the authority of the Supreme Court Police to protect the Justices, Court personnel and official visitors outside the Court premises. The new legislation provided specific statutory authorization to carry firearms and expanded the jurisdiction of the Supreme Court Police to "any part of the United States." The legislation also included limitations, however. A provision was inserted which automatically terminates the Supreme Court Police's authority to protect the Justices outside Court grounds on December 29, 1985. Another provision requires a special annual report to Congress from the Marshal of the Supreme Court concerning the administrative cost of such protection, duplicating information provided in annual appropriations oversight.

NEED FOR UPDATED LEGISLATION

Since Congress recognized the Supreme Court Police's jurisdiction outside the Court grounds in 1982, threats of violence against the Justices and the Court have increased. This has created an increased need for the Supreme Court Police to provide protection to Justices when they are away from the Court building.

Prior to 1982, arrangements were made to have certain Supreme Court Officers deputized as Special Deputy United States Marshals in order to ensure that they could carry firearms away from the Court. This arrangement, although only occasionally invoked, was not satisfactory to either the United States Marshal's Service or the Supreme Court. The present need for constant protection of the Justices and employees outside the Court grounds cannot be met by the ad hoc appointment of special United States Marshals.

Another factor contributing to the Supreme Court Police's need to carry firearms off Court premises is the location of the Court's parking lot for employees, approximately one-half block east of the Supreme Court building. Supreme Court Police officers have an obligation to protect employees going to and from the parking lot, particularly late at night. If the current authorization is allowed to lapse, officers would not have clear statutory authority to carry firearms as they walk the one-half block to and from the parking lot. The need for officers

to carry weapons is supported by the fact that several years ago a Supreme Court employee was shot to death within a few blocks of the Supreme Court.

Over the last three years, the Supreme Court Police have provided the Justices and Court employees with the necessary protection at a minimal cost. Since the 1982 amendments to 40 U.S.C. § 13n, there have been only 14 requests for protection beyond the Washington, D.C. metropolitan area at a total additional cost of $1,491. Officers providing off-premise protection perform such duties in addition to their regularly assigned tasks on the Supreme Court grounds. In this way, most trips in the Washington, D.C. metropolitan area are accommodated without the payment of overtime or the need to call on additional personnel. If the Supreme Court Police's present authorization is allowed to lapse, the Supreme Court Police may not be permitted to protect the Justices off Court premises. Nonetheless, the need for protection will remain and alternate arrangements for security are likely to be more expensive.

Finally, there is no evidence that there has been any abuse of the authorization over the last three years. In light of the increase in the number of reported threats to Court personnel, the fact that off-premises security expenditure has only cost $1,491 in three years belies any suggestion of abuse. To the contrary, the court has made every effort to ensure that proper security is provided at minimal cost.

SPECIFIC STATUTORY CHANGES PROPOSED

The proposed legislation would eliminate the first two sentences of 40 U.S.C. § 13n(c) which (1) automatically terminate the authority of the Supreme Court Police to protect Justices, Court personnel and official guests outside the Court premises on December 29, 1985 and (2) require the Marshal of the Supreme Court to report annually to the Congress regarding the administrative cost of such protection. If the present authority of the Supreme Court Police is made permanent, there may well be no need for a separate annual report on the administrative cost of protection in addition to our regular reports to Congress as part of the annual appropriations authorization process. Should Congress conclude that the degree of legislative review which is necessary cannot be achieved through annual consideration of the Court's budget, the enclosed draft bill can be revised and special annual reports will be routinely filed each year.

CONCLUSION

This proposed bill is necessary to ensure the continued protection of the Justices, employees and official visitors of the Supreme Court. The Court's experience over the last three years reveals that the Supreme Court Police have provided the requisite security at a minimal cost and that there has been no abuse of the authority. The enactment of this proposed legislation would be of great assistance in ensuring the continued efficient administration of the Supreme Court by according the Supreme Court Police the permanent legal status and recognition merited by the nature of its present duties.

SUPREME COURT OF THE UNITED STATES,
Washington, DC, February 28, 1983.

Re: Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying Out Duties Under 40 U.S.C. 13n(c).

DEAR MR. PRESIDENT: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to Justices, official guests and employees of the Supreme Court. This report is required by secton 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

The subcommittee discussion surrounding the enactment of this bill and the legislative history indicated that only incremental protective costs resulting from the enactment of this new legislation need to be reported. In other words, the cost of routine protection provided by the Supreme Court Police prior to the enactment of this new legislation need not be reported. Only additional activity resulting from the enactment of this bill which is not routine and which is outside of the Washington, D.C., vicinity need be reported.

Therefore, we have implemented an accounting system to record all protection provided outside a fifteen mile radius of Washington, D.C., excluding Dulles and Baltimore International airports. A fifteen mile radius has been selected because the Chief Justice of the United States suggested the fifteen mile radius in his September 29, 1982 letter to Senator Thurmond, which appeared in the October 1, 1982 issue of the Congressional Record, on p. S 13012 along with the amendment requiring this annual report. Because all Justices currently reside within fifteen miles of the court, that radius was selected to avoid incorporating routine costs into the reporting system that predated the bill. For the same reason, transportation to and from Dulles and Baltimore-Washington International airports was similarly excluded. Should be Congress have a different interpretation of this new legislation please advise and I will try to accommodate your needs. Absent instructions to the contrary, we shall assume that our reporting system comports with the intent of Congress.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were no incremental costs resulting from the protective function during the reporting period from December 29, 1982, to February 15, 1983, and protective services were not provided outside of a 15 mile radius of the Supreme Court (excluding Dulles and Baltimore International airports) during that period of time.

Sincerely,

ALFRED WONG,
Marshal of the Court.

Annual Report to Congress on the Cost of Protective Function under 40 U.S.C. 13n(c), March 1, 1985

Number of protective trips made outside a 15 mile radius of Washington, DC (including Baltimore-Washington International and Dulles airports) from Dec. 29, 1982 to Feb. 15, 1983	0
Total number of miles for such trips.	0
Transportation cost of such protective trips	0
Cost of personnel for such protective trips	0
Total number of authorized Supreme Court Police on Dec. 29, 1982	83
Total number of authorized Supreme Court Police at end of reporting period on Feb. 15, 1983	83

ALFRED WONG,
Marshal of the Supreme Court of the United States.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC, February 29, 1984.

Re: Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying out Duties Under 40 U.S.C. 13n(c).

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to Justices, official guests and employees of the Supreme Court. This report is required by section 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

The subcommittee discussion surrounding the enactment of this bill and the legislative history indicated that only incremental protective costs resulting from the enactment of this new legislation need to be reported. In other words, the cost of routine protection provided by the Supreme Court Police prior to the enactment of this new legislation need not be reported. Only additional activity resulting from enactment of this bill which is not routine and which is outside of the Washington, D.C., vicinity need be reported.

As you are aware, in our February 28, 1983 report, we implemented an accounting system to record all protection provided outside a fifteen mile radius of Washington, D.C., excluding Dulles and Baltimore International airports. A fifteen mile radius was selected because the Chief Justice of the United States suggested the fifteen mile radius in his September 29, 1982 letter to Senator Thurmond, which appeared in the October 1, 1982 issue of the Congressional Record, on p. S 13012 along with the amendment requiring this annual report. Because all Justices currently reside within fifteen miles of the court, that radius was selected to avoid incorporating routine costs into the reporting system that predated the bill. For the same reason, transportation to and from Dulles and Baltimore-Washington International airports was similarly excluded. Absent any information to the contrary, we shall assume that our previous report comported with the intent of Congress.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were only minor incremental costs resulting from the protective function during the reporting period from February 16, 1983, to February 15, 1984.

Sincerely,

ALFRED WONG,
Marshal of the Court.

Annual Report to Congress on the Cost of Protective Function under 40 U.S.C. 13n(c)

Number of protective trips made outside a 15-mile radius of Washington, DC (excluding Baltimore-Washington International and Dulles Airports) from Feb. 16, 1983, to Feb. 15, 1984	10
Total number of miles for such trips	2,725
Transportation cost of such protective trips	$545.00
Cost of personnel for such protective trips	$172.50
Total number of authorized Supreme Court Police on Dec. 29, 1982	83
Total number of authorized Supreme Court Police at end of reporting period on Feb. 15, 1984	81

ALFRED WONG,
Marshal of the Supreme Court of the United States.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC, March 1, 1985.

Re: Annual Report of the Marshal of the Supreme Court of the United States regarding administrative cost of carrying out duties under 40 U.S.C. 13n(c)

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. BUSH: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to justices, official guests and employees of the Supreme Court. This report is required by section 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into Law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

In this final reporting period we are presenting the overall costs by year since the enactment of the legislative requirement.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were only minor incremental costs resulting from the protective function during the reporting period from February 16, 1984 to February 15, 1985.

Sincerely,

ALFRED WONG,
Marshal.

ANNUAL REPORT TO CONGRESS ON THE COST OF PROTECTIVE FUNCTION UNDER 40 U.S.C. 13n(c)

	1983 [1]	1984	1985
Number of protective trips made outside a 15-mile radius of Washington, D.C. (excluding Baltimore-Washington International and Dulles Airports) from February 16, to February 15, unless otherwise noted	0	10	4
Total number of miles for such trips	0	2,725	2,690
Transportation cost of such protective trips	0	$545.00	$742.42
Cost of personnel for such protective trips	0	$172.50	$1,318.50
Total number of authorized Supreme Court Police on December 29, 1982	83	83	83
Total number of authorized Supreme Court Police at end of reporting period	83	81	76

[1] From December 29, 1982 to February 15, 1983.

ALFRED WONG,
Marshal of the Supreme Court of the United States.

By Mr. BRADLEY (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. KENNEDY):

S. 1917. A bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes; to the Committee on Foreign Relations.

UNIVERSAL CHILD IMMUNIZATION ACT

Mr. BRADLEY. Mr. President, on behalf of my distinguished colleagues, Senators DECONCINI and MATSUNAGA, I send a bill to the desk and ask that it be referred to the appropriate committee.

Mr. President, the Universal Child Immunization Act of 1986 will raise our commitment to assuring universal access to childhood immunization by 1990. Each year, Mr. President, 3.5 million children die needlessly because they have not been vaccinated against six major childhood diseases: polio, measles, whooping cough, diptheria, tetanus, and tuberculosis. An equal number of children who survive these diseases suffer permanent physical and mental handicaps or are so severely weakened that they succumb more readily to the ravages of malnutrition and diarrhea. This legislation is urgently needed by the world's children. Today, and each day that we delay, 10,000 children will perish from these preventable diseases.

The technology is available to thwart this daily tragedy. The immunization of young and defenseless children to shield them from agonizing death and lifelong disability is the foremost of humanitarian goals. All civilized nations must refuse to accept this magnitude of preventable child deaths. The six childhood diseases that take such a toll on children in the developed world are virtually unknown in industrialized societies. From our confortable vantage point, we have difficulty conceiving of these diseases as real killers. Yet, in 1985, 2 million children died from measles alone. On any given day, over 5,000 mothers and fathers in developing countries must watch helplessly as their children suffer agonizingly painful deaths from measles.

While these figures are sobering, if immunizations remain at current levels for the next 10 years, the toll on children will be significant. More than 2.5 million children will be permanently paralyzed by polio; 20 million children will die needlessly from measles, a disease that is preventable with a single injection.

Achieving universal access to immunization will require a commitment on the part of all of the world's nations. The United States is not being asked to take sole responsibility. Approximately 80 percent of the needed resources to carry out vaccination programs are provided by developing nations. But, help from industrialized countries is badly needed. This legislation commits the United States to contribute to the worldwide immunization effort by assisting developing nations with the delivery, distribution, and use of vaccines. It will help countries develop local delivery systems capable of immunizing their own children.

The human suffering that will be avoided with universal childhood immunization is immeasurable. In addition, a commitment to universal immunization is a cost-effective strategy. The international campaign to eradicate smallpox is a case in point. In 1967, smallpox killed an estimated 2 million people. Ten years later, the world recorded the last case of smallpox. With the eradication of smallpox, the United States discontinued the routine smallpox vaccinations that most of us grew up with and dismantled public health procedures to protect our citizens against this plague. Each year, the United States saves $120 million in today's dollars—thereby achieving a savings every few months of the $32 million invested in the eradication program. for every dollar spent on immunization in developing countries, $20 will be saved in medical and rehabilitation costs.

The United States spends $50 million in our own country on measles vaccinations and surveillance measures. We must continue to do so as long as measles poses a threat to our children. This means, quite simply, that the United States' yearly contribution to vaccinating all the world's children against the six preventable killing diseases is equal to what we currently spend to protect our children from measles alone. With the worldwide eradication of measles, vaccinations in our country would no longer be needed.

The American people are a generous and caring people. A volcanic eruption in Colombia, a chemical leak in Bhopal, and the famine in Ethiopia are catastrophic events that have mobilized an outpouring of aid from Americans. At the same time we must not forget about the catastrophe that kills 10,000 children each day with little public notice but with equal significance in terms of human suffering. Sadly, this daily human suffering is preventable. The world has the technology to disarm the threat of polio, measles, whooping cough, diptheria, tetanus, and tuberculosis. What is needed is the will to translate this capacity into a reality for the world's children.

Mr. President, I ask unanimous consent that a copy of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that 3.5 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diptheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) at the 1984 "Bellagio Conference" it was determined that the goal of universal childhood immunization by 1990 is indeed achievable; and

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 2. (a) The Congress calls upon the President to direct the Agency for International Development, working through the Center for Disease Control and other appropriate Federal Agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

Sec. 3. (a) Section 104(c)(2)(B) of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for fiscal year 1987" and inserting in lieu thereof "$75,000,000 for fiscal year 1987 (of which $50,000,000 shall be used to carry out paragraph (3) of this subsection)".

(b) Section 104(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of section 620(e) of this Act shall not apply to the provision of assistance to carry out paragraph (3).".

By Mr. ANDREWS (for himself, Mr. HEINZ, Mr. DURENBERGER, Mr. PRYOR, Mr. CRANSTON, Mr. WEICKER, Mr. STEVENS, Mr. HATFIELD, Mr. HATCH, and Mr. GRASSLEY):

S. 1919. A bill to establish a task force to examine the issues associated with abuse of the elderly; to the Committee on Governmental Affairs.

TASK FORCE ON ELDERLY ABUSE ACT

Mr. ANDREWS. Mr. President, I rise today to introduce legislation entitled the Task Force on Elderly Abuse Act of 1985. Unlike carriers of highly contagious diseases that once identified can be quarantined, abusers of the elderly are silent, methodical killers. They destroy dignity, trample hope, deny dreams, lay waste to the spirit, and otherwise physically or mentally brutalize one of the most vulnerable and valuable elements in society—our senior citizens.

We hear a good deal about the need to get our national economic house in order by taming and controlling the Federal deficit. I totally agree. I also believe that to ignore the causes of elderly abuse and to delay appropriate legislative action to eliminate this new American tragedy points up a deficit of decency that trivializes us as a nation and as a people.

Recently, the media has dramatically publicized the effects of this growing epidemic. But it is the cause of this tragedy that must be statistically documented and verified, so that decisive and immediate action can be taken to eliminate this blight on our society.

Let me tell you some of the things we do know about elderly abuse.

Some gerontologists claim that roughly 1.1 million senior citizens are abused. This would be about 4 percent of our senior population.

Other estimates, however, suggest that the incidences of abuse are far greater than available data indicates—since only one of every five or six elderly abuse cases is actually reported. Given that estimate, the implication is that closer to 20 percent of the total aged population are victims of some type of abuse.

According to the House Aging Committee, the typical abuse victim is female, age 75, in poor health, and lacking financial resources to care for herself.

Although elderly abuse can take a variety of forms, research indicates that of all reported cases, roughly 75 percent involve some type of physical abuse.

Finally, only 37 States and the District of Columbia have mandatory elderly abuse reporting laws on the books.

For many Americans, the golden years of retirement are indeed a time of joy and contentment. For others, however, the golden years have become a nightmare. Motivated by the need to quickly and thoroughly determine and verify the causes of elderly abuse and then respond legislatively to this impending crisis, we have joined today to introduce the Task Force on Elderly Abuse Act of 1985. The legislation establishes a 17-member task force under the direction of the Secretary of Health and Human Services. Its primary responsibility will be to examine the problem of elderly abuse and, within a 9-month period, submit a written report with its findings and recommendations to the President and the Congress.

This legislation represents a first step toward developing a legislative agenda and strategy through which we can work to eradicate elderly abuse in America. As a compassionate society, we simply cannot and will not allow the victimization of our elderly to continue. As a society governed by law, reason, and social conscience, to do less would be intolerable.

In closing, Mr. President, let me say that I greatly appreciate the strong bipartisan support this legislation has elicited; in particular, the firm commitment from my good friend from Utah, Senator HATCH, to give the bill hearings early on in the next session of Congress. With this type of commitment, I am confident that Congress and the American people can forge ahead to eliminate the problem of elderly abuse in the United States.

Mr. President, I ask unanimous consent that a brief synposis of the bill be printed in the RECORD.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

BILL SYNOPSIS

PURPOSE

Establish a Task Force to: (1) define and analyze the causative factors of elder abuse; (2) suggest alternatives that can be developed in the private sector to alleviate the problem of elder abuse; and (3) examine and assess methods of educating and encouraging cooperative efforts between the general public, health professionals, law enforcement officials and appropriate agencies.

The Task Force will be appointed by the Secretary of Health and Human Services and will be comprised of the following individuals:

(a) the Secretary;

(b) the director of the National Institute on Aging;

(c) five representatives from health and senior citizen organizations having experience in elder abuse matters;

(d) one representative from each of the 10 regions in the U.S. as set forth by the Office of Management and Budget. The 10 individ-

uals would currently be involved with the administration of a state aging services program.

The Task Force would meet no later than 45 days following enactment of the bill. Five months after the first meeting, the Task Force would be required to submit an interim report to the President and Congress. A final report would be forthcoming nine months after the first meeting.

The final report will include findings, conclusions, and recommendations as to what can be done legislatively and/or administratively to curb elder abuse. Once the final report is received, the President would determine which department or agency is affected by that report. Each department or agency so specified would then submit its own recommendations to the Congress with respect to implementing the Task Force recommendations.

Mr. HEINZ. Mr. President, I rise in support of the legislation introduced by my colleague from North Dakota to create a Task Force on Elder Abuse.

Our Nation's senior citizens, like America's children, represent a valuable national resource. Their "golden years" culminate a lifetime invested in this country's peace and prosperity—as worker, teacher, soldier, parent. They are a window on our past and a pathway to our future.

Yet too often this window clouds, the pavement cracks when these most venerable—and most vulnerable—individuals fall victim to abuse.

In the five-county area of my own home town of Pittsburgh, 162 reports of elder abuse were made in a 12-month period ending this past June. Although physical maltreatment accounts for about 75 percent of reported cases, many abusers of the elderly employ more subtle, yet equally devastating, means.

Take the case of a 74-year-old stroke victim, left strapped to a wheel chair each day, to sit in her own urine and feces. Or the 85-year-old woman whose daughter takes her Social Security checks and spends them for shopping sprees and drugs. Or the "devoted" son who refuses to allow his elderly mother to eat.

If a society is judged in part by how it treats its aged citizens, then we must don a hair shirt of shame. Shame that one million elderly Americans may be victims of abuse each year, with that number increasing by 100,000 in just 4 years. Shame that we spend less than $3 on protective services for each elder abuse victim—while we spend 7 times that amount for child abuse victims. Shame that in a Nation where the 75-plus is the fastest growing segment of the population, and statistically the most at risk of abuse, we know so very little about the extent of the problem, even less about the causes, and nothing at all about solutions.

Mr. President, what we do know is that family caregivers, not personnel in nursing homes and other institutional settings, most often raise their fists or their emotional ire against their aged parents or grandparents. As chairman of the Special Committee on Aging, I am particularly sensitive to added pressures created for these caregivers by Medicare's new method of hospital reimbursement.

Under the prospective payment system, patients come out of hospitals sicker, needing greater levels of care for more extended periods of time. Families burdened with such heavy levels of care will experience stress that can lead to abuse. Exacerbating the situation is the absence of any coherent long-term care system, including home health, homemaker services, and adult day care. Even the loving and well-intentioned family member can find caring for a chronically ill adult difficult and burdensome—and unbearable over time without help. In many ways, the abusers are as much victims of circumstance as the abused.

Mr. President, we must act to turn down the heat under the pressure cooker of families caring for elderly family members. My legislation to provide a tax credit for families who care for aged parents represents one step in that direction. More legislation is needed.

Today's proposal, with the recommendations we can anticipate from the task force, represent a sensible and necessary measure. I would urge its prompt consideration.

Mr. PRYOR. Mr. President, I am proud to join the distinguished Senator from North Dakota [Mr. ANDREWS] and others of my colleagues in sponsoring an act to establish a Task Force on Elder Abuse, and I applaud his efforts to work toward the elimination of this serious problem.

In 1980, I was privileged to cochair a joint hearing on elder abuse with Congressman CLAUDE PEPPER, then chairman of the House Aging Committee. I also held a hearing in my home State of Arkansas on this important and emotional issue. Some experts on the issue of elder abuse have informed those of us in the Congress that the amount of knowledge we now have in this area regarding the extent of this problem, and public awareness of it, is at the stage that the area of child abuse was at about 20 years ago. And I would contend that detection of elder abuse may be even more difficult in some cases than the detection of child abuse, as many elderly live isolated lives and are not seen on a continuing basis by school officials or neighbors. And elder abuse may take many forms, including physical, financial, psychological, and sexual abuse. These abuses are particularly hard to detect because many of the victims will not admit to having been abused for fear of retaliation and because they are ashamed of what has happened to them.

The legislation I am cosponsoring would establish a Task Force on Elder Abuse comprised of 17 individuals—including the Secretary of Health and Human Services—appointed by the Secretary. Five of the members must be representatives of health and senior citizen organizations and may not be employees of the U.S. Government; one would be the Director of the National Institute on Aging; and the 10 remaining members would each represent one of the 10 regions of the United States and must be responsible for the administration of State aging services. The task force's duty would be to assess the nature and extent of public and private efforts needed to report, monitor, and redress the incidence of elder abuse throughout the United States. The task force's final report would be due no later than 9 months after the first meeting of the task force. Following the submission of the final report, each effected executive department will submit to the President recommendations for implementing the final report.

Mr. President, I believe that this is an excellent manner in which to develop a comprehensive body of knowledge regarding the issue of elder abuse, and a good framework for developing appropriate strategies for dealing with this problem. I urge my colleagues to join in support of this measure.

Mr. STEVENS. Mr. President, I am proud to support this effort of my good friend from North Dakota to establish a task force to study the often hidden, but unfortunately growing, problem of abuse of the elderly, both in the home and in institutions.

Last year Senator ANDREWS cosponsored a bill I introduced to authorize block grants to States for programs of assistance to victims of family violence. Abuse of elderly family members is one facet of the violence that has infected so many families in our Nation; spouse abuse and child abuse complete this horrible cycle of family conflict that perpetuates itself over and over. Statistics show that individuals abused as children frequently grow up to become abusers, or the abused, later in life; the example of physical violence as a means of solving problems or relieving tensions is, sadly, a lesson that is all too often too well learned.

As a society, we need to focus on how to eradicate the violence which has permeated the relationships of family members of every socioeconomic group in this Nation. The Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act are both examples of congressional action to address the problem of family violence. Senator ANDREW'S proposal for a task force which will come to grips with the facts about elder abuse is another important step. But much more remains to be done if we are to eliminate violence

within the family. We need to identify the root causes of this shocking phenomenon, and then go after them. This proposed task force on elderly abuse will, I hope, not only provide us with the important direction for dealing with the problem of abuse of the elderly, but will also enhance our efforts to address the total problem of family violence, be it between husband and wife or parent and child.

Mr. HATFIELD. Mr. President, today I join Senator ANDREWS and several colleagues from both sides of the aisle in introducing the Task Force on Elder Abuse Act of 1985. With the introduction of this bill the Senate will be taking an important step in its efforts to find the root causes and symptoms of abuse within our Nation's elderly population. The task force will investigate this national tragedy and make recommendations to this body regarding appropriate legislative and administrative actions.

Advertisements often refer to the retirement years as "golden," and indeed, Americans look forward to the time when they leave their jobs to travel or indulge in personally rewarding activities. But there is a darker side in the lives of some elderly people. A fixed income and ill health often limit the enjoyment of one's later years. Comprehensive programs such as Social Security, Medicare, and the many projects funded by the Older Americans Act were created by the Federal Government to help ease the burdens which may come with time.

As we become more aware of the unique challenges facing our senior citizens, we also become aware of the multiplying incidence of elderly abuse. The proportion of citizens over 75 is our fastest growing population, and life expectancies are increasing rapidly. Steadily climbing, too, are the reported abuses of these citizens. It is increasingly clear that financial problems and ill health are not the only problems facing the elderly. Cases of emotional and physical violence have been brought to national attention. Abuses may range from neglect, to emotional torment, to violent physical beatings. This torment can occur in care facilities or even in the private home. Sadly, caregivers and family members are most often guilty of inflicting this emotional pain on our elderly, with many men and women too frightened to report the injustice they suffer.

Many States have come to the aid of the elderly, realizing that there is a responsibility to fully protect their rights. In my home State of Oregon the legislature has been actively working to protect senior citizens, passing legislation mandating the reporting of elderly abuse in nursing facilities and other care facilities, and laws protecting the rights of the elderly. The State of Oregon reports that the number of reported abuses is over 1,000 a year, while estimates indicate that over 1 million abuses are occurring nationally.

The time has come to focus on this issue and to initiate Senate action. the task force on Elder Abuse Act of 1985 is that first step. The task force will be instructed to determine the scope and methods of efforts to report, monitor, and redress the incidence of elder abuse in the United States, and report its findings to the President and Congress. Participating in the task force effort will be the Secretary of Health and Human Services, representatives of health and senior citizen organizations, the Director of the National Institute on Aging and a State official from each of the 10 regions of the Department of Health and Human Services.

The importance of this legislation cannot be denied, and I am proud to join my colleagues in cosponsorship of this legislation. I urge all Members to consider the urgent mission this task force seeks to undertake and hope that this legislation will be adopted at the earliest possible date.

Mr. DURENBERGER. Mr. President, I am pleased to join my distinguished colleague from North Dakota and a number of my fellow Senators in introducing legislation to create a National Task Force to Study Elder Abuse in the United States. This task force will focus attention on the issue of abuse of the elderly and provide guidance to the Congress and other policymakers.

Mr. President, my colleague from North Dakota has asked the Congress to focus on a critically important social issue. At this time, when the Congress is so consumed with Gramm-Rudman, reconciliation, and tax reform, it is easy for us to succumb to the temptation to ignore social and health concerns in which the Federal Government has a legitimate responsibility.

This bill addresses an array of issues because we do not know how pervasive the problem is; we just see the symptoms all over the country. The task force will advise us on what these symptoms mean and provide us with direction in drafting appropriate public policies.

Mr. President, a particular aspect of this problem of interest to me is the exploitation of the elderly in the health care system. As alternative medical care plans become available to the Medicare eligible population, we must be alert to the possibility that the marketing strategies used by some of these private plans may exploit the elderly. This is particularly worrisome in regions of our country where there is only one, or a single dominant, health plan.

In such situations the many advantages of competition will surely not be realized, while irresponsible entrepreneurs may market packages of services that do not well serve the needs of the elderly. While we have little data to inform us about this type of elder abuse, Congressman PEPPER has recently warned us of such situations in his home State of Florida.

There are many issues worthy of the consideration of the task force and of the Congress. I look forward to working on these issues with my distinguished colleagues who have joined me in the introduction of the Task Force on the Elder Abuse Act of 1985.

By Mr. LAUTENBERG (for himself, Mr. STAFFORD, Mr. MITCHELL, Mr. DURENBERGER, Mr. BAUCUS, and Mr. MOYNIHAN):

S. 1920. A bill to extend the Superfund taxes; to the Committee on Finance.

SUPERFUND TAX EXTENSION

● Mr. LAUTENBERG. Mr. President, I am joined today by my colleagues, Senators STAFFORD, DURENBERGER, MITCHELL, BAUCUS, and MOYNIHAN, in introducing a temporary extension of the expired Superfund tax. Yesterday, Senators DANFORTH, and BENTSEN introducted S. 1912, to extend a variety of expiring tax credits and deductions, which I cosponsored along with 63 other Senators. The legislation that we are introducing today to extend the Superfund tax would complement the Danforth-Bentsen 6-month tax extender legislation.

The Danforth-Bentsen bill would extend expiring tax provisions until the Congress enacts tax reform legislation. The intent of the legislation that we introduce today is similar. It would provide temporary funding for the Superfund Program by extending expired taxing authority for 6 months while the Senate and House complete action on the Superfund reauthorization bills, H.R. 2005 and H.R. 2817.

Mr. President, this legislation would extend Superfund taxes for 6 months. The extension would be retroactive to October 1, 1985, the date the taxing authority expired, and last until March 31, 1986. This 6-month extension will raise approximately $150 million in revenues for the Hazardous Substance Response Trust Fund. The legislation would also extend the expired borrowing authority under the Superfund Program and, thus, enable the Environmental Protection Agency to borrow against anticipated tax receipts upon enactment of the extension.

There is no question that Congress will authorize a Superfund tax. The tax to be collected at a future date will be at least five times higher than the original tax. The legislation I am offering today simply provides EPA with interim funding until next March, when the Superfund conference

should be completed. Provisions in that legislation should compensate for lost funds between October and March for the more modest tax proposal embodied in our legislation.

Mr. President, there has been important progress in reauthorizing the Superfund in the House of Representatives. However, even if the House completes action on Superfund this week, as is anticipated, it is unlikely that the Senate and House will be able to complete a conference on the Superfund bill before the holiday recess.

Introduction of this extension should in no way be construed as taking pressure off Congress to complete action on the Superfund reauthorization at the earliest possible time. It simply provides funds to help EPA tread water in the interim. I hope the Senate Finance Committee can give this legislation serious consideration, should it take up the Danforth-Bentsen tax extension legislation before Congress recesses for the holidays.

The extension would make approximately $150 million available to EPA. While those funds fall far short of the funding needed to bear up the program to an acceptable pace, they will lessen further cannibalization of the program before final approval of the reauthorization legislation.

The Superfund Program has been brought almost to a standstill with the expiration of taxing authority. EPA has funding available for the minimum of duties; administration of the program, emergency response actions, and a limited number of site remedial investigation and feasibility studies. The agency has had to fund these activities primarily by pulling back funds from site cleanups, studies, interagency agreements, and other activities. The funds made available through the extension would slow down the process of nickle and diming previous funding commitments until Congress authorizes a new tax.

Mr. President, the Appropriations Committee considered interim funding during its consideration of the fiscal year 1986 HUD-independent agencies bill and continuing resolution. Without an extension of the taxing provisions, the committee was able to free up only limited funds in the HUD-independent agencies bill. Unfortunately, the majority of the funds freed up are not immediately available to EPA, but will trickle in over the course of the year in cost recoveries, interest on unspent funds, and collection of residual taxes. Report language, that I offered during consideration of the continuing resolution, instructs EPA to advise the committee at the earliest possible time if insufficient funding threatens to impair the administrative functions of the program.

I do not believe, as recess rapidly approaches and the prospects for a conference on Superfund grow dimmer and dimmer, this is an appropriate state for Congress to leave the program in. Discussions with EPA have revealed that less than $180 million of the original $1.6 billion fund remains. EPA expects that it will spend approximately $60 million of these funds in the first quarter of fiscal year 1986, $176 million, or 25 percent less than what was planned for this quarter, primarily by freezing funding of remedial action at over 100 sites across the Nation and 16 in New Jersey.

In the second quarter, which begins January 1, the cutback in budgeting for program needs looks even bleaker. There will be additional funding freezes for site cleanup, a scaled down schedule for cleanup and design studies at sites, and cancellations of interagency agreements.

Yet the EPA comptrollers office cannot give us assurance that they will be able to fund an even more limited program through March 31, the end of the second quarter. And I have to ask, even if they do make it through, with what cost to the integrity of the program? And to the ability of the EPA, HHS, and other agencies, as well as the A&E firms and cleanup contractors to gear up for an expanded program once the reauthorization is approved by Congress?

Additionally, the EPA scenario for the second quarter assumes that funds necessary for emergency response will not be any higher than average. What if there was a major chemical spill in New Jersey or in any other State while Congress is on recess? No Senator would want to leave for the holidays without the assurance that there are adequate funds for responding to chemical spills in their State. EPA could find themselves in the difficult position of having to decide between emergency response or keeping their staff on. The legislation that we are introducing today gives us an insurance policy against such unexpected expenses and unsavory tradeoffs.

Mr. President, I was hopeful that the Congress could complete action on the Superfund reauthorization bill this year. However, that does not appear to be in the cards. Therefore, I am introducing this bill today to provide interim taxing authority for the Superfund Program pending reauthorization.

I hope it will receive consideration before we adjourn for the year.

Mr. President, I ask unanimous consent that the bill and several letters from EPA dealing with budgetary problems caused by the expiration of the Superfund tax be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1920

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4611(d) of the Internal Revenue Code of 1954 (relating to termination of environmental taxes) is amended by striking out "September 30, 1985" and inserting in lieu thereof "March 31, 1986".

(b)(1) Section 223(c)(2)(B) of the Hazardous Substance Response Revenue Act of 1980 is amended by striking out "1983" and inserting in lieu thereof "1986".

(2) Section 223(c)(2)(D) of the Hazardous Substance Response Revenue Act of 1980 is amended by striking out "September 30, 1985" and inserting in lieu thereof "March 31, 1986".

(3) Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

(c) The amendments made by this Act shall apply on and after October 1, 1985.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, August 1, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to a question you posed to Dr. J. Winston Porter during his confirmation hearing before your committee July 24. It concerns the funding required to run an enforcement-only Superfund program. Additionally, I have been asked by Congressman John Dingell, Chairman of the House Committee on Energy and Commerce, to explain the impact on the program should the Congress fail to reauthorize Superfund at all, or for only a limited period of time. This letter addresses each of these concerns.

Superfund must remain a total program. Enforcement alone in not enough. To succeed, we must have an effective emergency response program capable of addressing immediate hazards to public health and the environment. We must have adequate funding to assure cleanup of those sites posing long-term threats. Use of these two cleanup authorities whenever necessary is the foundation for an effective enforcement program. Without them, our enforcement presence will be drastically diminished.

I am gravely concerned about the future of the Superfund program. Failure to pass a five-year reauthorization similar to the proposal offered by the Administration in January, prior to the expiration of the existing taxing provision on September 30, 1985, will cause tremendous disruption in the program within a short period of time. Stop-gap funding measures or a one-year reauthorization will cripple the momentum we have established during the past two and one-half years.

During the past five years, we have worked hard to develop an effective cleanup program capable of responding to both emergency situations and chronic hazards. Because cleanup of national priority sites takes several years to complete, we have established a pipeline of major projects in various stages of development. The pipeline is now full. Some projects are in the engineering phase. At others, we have chosen and are designing a remedy. At still others, actual construction is underway.

It is critical that we have an assured source of funds during the next five years to guarantee that this cleanup momentum

continues. Without it, the pipeline will slow to a trickle. Long-term cleanup of major sites requires long-term planning and assured funding.

The consequences of a failure to pass a five-year reauthorization of Superfund will be readily apparent. Damage to the program will be almost immediately disruptive and potentially long-lasting. Yet these are the prospects we face.

Given the current status of Superfund on Capitol Hill, and the possibility that it will not be reauthorized by September 30, I am confronted with limited choices. I can continue to operate the program assuming that it will be extended in a timely fashion. Or, I can ease the program into a slowdown in hopes of minimizing the damage. The consequences of playing brinksmanship are unacceptable to me. I feel I must choose the latter option.

During the next several weeks, I will begin to implement a slowdown of the cleanup program. We face the bleak prospect of slowing or halting cleanup work at many sites nationwide. My staff is currently compiling a list of sites which are now in the pipeline awaiting normal contractual commitments. These are the sites where work will cease first. As we move into fiscal year 1986, more sites will be affected. Once the list is completed, I will provide you with a copy.

In addition, I will place a moratorium on new hiring for Superfund, reduce our support contracts, and limit all other work not directly related to emergency response activities.

These actions are dramatic. Yet is is necessary to ensure that there will be sufficient funds remaining to carry on critical functions as we enter fiscal year 1986. We must keep our emergency response capability intact. We must also maintain the cadre of experienced and dedicated professionals that are the very heart of our Superfund program. It has taken years to develop an infrastructure of trained staff, reliable contractors, and adequate laboratory services. We now have an effective relationship with state agencies as well as the public's trust in our ability to get the job done.

As you requested, I am enclosing an analysis of the costs to run the Superfund enforcement—only program. I have also included my projection of additional resources needed to fund a continued emergency cleanup program as part of a plan to phase down the rest of the Superfund effort. I emphasize, however, this is not a solution to the Superfund reauthorization problem.

Superfund is not a short-term program that lends itself to short-term fixes. It is a long-term program that must have a long-term funding commitment. A one-year reauthorization is not good enough for Superfund. The continuity of a five-year reauthorization is essential.

The nation has made a tremendous emotional and financial investment in Superfund. One that must be respected. I urge you to work with your colleagues in the Senate and the House to complete reauthorization of this vital program as soon as possible.

Sincerely,

LEE M. THOMAS.

COST OF AN ENFORCEMENT-ONLY SUPERFUND PROGRAM

1. The basic question is what would be the cost of an enforcement-only Superfund program. The answer requires a number of assumptions; thus the answer is developed in three parts:

I. *Phase down the non-enforcement, non-removal portion of the budget.* The following data is based on an analysis of each major program activity in Superfund.

a. Assumptions:

The phasedown will be orderly and will take most of FY 86 to accomplish.

Non-enforcement, non-removal employees will be released at the end of FY 86.

b. Computation:

	Million
Nonenforcement, nonremoval contract needs during the phasedown period—primarily finishing off remedial work at various sites	$59
Costs for personnel and personnel support activities	+52
Termination costs for about 800 nonenforcement, nonremoval employees	+12
Termination costs for various contracts	+5
Total	128

II. *Maintain the removal program.* It is assumed that the removal program as established in the President's budget request is the basic program needed to respond to emergencies. The total is $94 million which includes 150 workyears and $86 million for contracts.

III. *Maintain an effective enforcement program.* While it could be argued that an enforcement-only program would be significantly larger than the enforcement component of the planned comprehensive Superfund program, we do not believe this would be so, at least in FY 86.

During the phasedown, we would have to concentrate on closing up the current phase of the project at Fund-Lead sites.

The current enforcement component of the planned comprehensive Superfund program envisioned maximum use of enforcement authorities.

Thus, we would identify the cost of an effective enforcement program as that identified in the President's budget request. This total is $72 million which includes 690 workyears and $40 million for contracts.

2. To recap our three parts, the phasedown is $128 million, removals are $94 million, and enforcement is $72 million, for a total of $294 million.

SUPERFUND REAUTHORIZATION CONTINGENCY PLAN FINDINGS

Contingency planning for Superfund reauthorization investigated three basic questions:

(1) What funding will be available in 1986 if taxes are not reauthorized?

(2) What amount of resources will be needed to fund a minimal program in 1986?

(3) What actions can the Agency take to ensure that the program can operate as long as possible in FY 1986?

AVAILABLE FY 1986 FUNDING

The revenues generated through the first five years of the Fund will be fully obligated if we allow the program to obligate the full amount of funding appropriated through 1985.

Additional revenues of approximately $60 million from interest, cost recovery and residual taxes can be expected in FY 1986 even without reauthorization. This funding, however, will not be immediately available in 1986 but will gradually accumulate throughout the year.

MINIMAL PROGRAM NEEDS

Approximately $340 million will be needed to continue a minimal program in 1986.

This total assumes that the basic structure of the program will remain intact so that the program can come back to full program capability as quickly as possible.

This minimal program would continue the removal program, maintain support contract capability, freeze hiring, delete funding for contracts that are not directly site-related, reduce new RI/FS starts, and fund no new or ongoing remedial design or construction work.

AGENCY ACTIONS TO INCREASE AVAILABLE FUNDING IN FY 1986

The only method by which the Agency could ensure that a significant amount of funding would be available for Agency use in FY 1986 is to limit 1985 obligations in August and September for remedial designs and constructions. This action would carryover approximately $114 million for 1986 use.

Other Agency actions, including deobligations of prior year funds, could yield up to another $20–$25 million.

The Agency could not fully fund the minimal program needs of $342 million for a full year since available funding, even with a freeze on site obligations, only totals, $180–$190 million. At best, the Agency could operate at the minimal program level for about two quarters.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, September 30, 1985.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: This is in response to your letter of August 21, 1985, to Lee M. Thomas, Administrator of the Environmental Protection Agency (EPA), concerning this Agency's contingency plan for conserving unobligated funds under the Comprehensive Environmental Response, Compensation, and Liability Act. You requested an analysis of the immediate impact of the freeze on 11 New Jersey sites, and a discussion of the impact on the fiscal year 86 Superfund program as it relates to New Jersey.

Before addressing your specific concerns, I would like to discuss the circumstances and the planning process which led to the freeze. As you are aware, this action was ordered to conserve resources and enable us to continue providing essential Superfund services in the event Congress has not completed action on reauthorization legislation by September 30, 1985. We have halted new obligations of funds for remedial design and construction work at sites that would have been funded between August 15 and September 30, 1985. In every case, new obligations were identified in the Agency's Superfund Comprehensive Accomplishments Plan (SCAP), the management tool used to plan long-range spending at remedial sites.

The Agency initiated a contingency planning process in April 1985, recognizing that reauthorization might not be completed before the statutory expiration date of the Superfund tax. Since that time, working through a special Contingency Plan Work Group, we have considered resource needs for continuing Superfund in the event of resource constraints. All along, the concern has been that we would be left with no reliable source of revenue after September 30, if we did not institute some type of responsi-

ble contingency plan. The Work Group has focused on this problem since it was formed.

The process of building the contingency plan was an orderly one. We developed three budgeting options: a "barebones" program costing approximately $340 million, a straight-line continuation of the fiscal year 1985 effort, and a fully funded $900 million program.

We then examined all resources which could be available in fiscal year 1986. This included some $60 million in revenues to be generated during fiscal year 1986 from carryover taxes due, interest on unexpended funds, cost recovery actions and do obligations of certain funds. In addition, an estimated $125 million in fiscal year 1985 funds could be carried over if we took action to delay obligations for remedial designs and constructions during the remainder of this fiscal year.

Given that a total of only $185 million could be generated through the contingency plan, we had no choice but to select the "barebones" option. At that, we will only be able to fund about half of the program. The original "barebones" option would have basically maintained our emergency response and enforcement capabilities while delaying all remedial design and construction and some engineering investigations at sites.

We selected August 14 as the cutoff date beyond which new obligations would be stopped. Work is being suspended only at sites due for new obligations for remedial design and construction. Each site was part of the most current SCAP. Once the sites were identified, we undertook a review of each, in conjunction with our Regional Offices, to verify the site's status and to ensure that we were being consistent in our selection process.

With respect to the 11 sites in New Jersey, most of the projects will have a remedy selected in the very near future. For these projects, which include Bog Creek Farm; Burnt Fly Bog; GEMS Landfill; Glen Ridge Radon; Montclair Radon; Goose Farm; Helen Kramer Landfill; Lipari Landfill; and Swope Oil, the freeze will prevent initiation of remedial design. Some of these projects, however, have responsible parties with whom we are currently negotiating and it is possible that the remedial designs could proceed if a settlement is reached. For Bridgeport Rental and Oil Services, the design specifications for the first phase of remedial construction will be completed in November 1985. The freeze will delay award of a construction contract for removal of the storage tanks and associated wastes. At the D'Imperio Property, the plans and specifications for the first remedial phase will be completed in October 1985. The freeze will delay award of a construction contract for the removal and disposal of approximately 3,900 cubic yards of surface drums, waste, and contaminated soil. For both Bridgeport and D'Imperio, in addition to the Lone Pine Landfill, the State of New Jersey had offered to fund the projects so work can proceed without interruption. Our Region II Office in New York is currently pursuing this option with the State.

The freeze will not result in shut-down or start-up costs because it only affects new obligations. The phase of work currently underway will be completed and there will be no need to interfere with work on existing contracts. At the present time, we do not anticipate that the freeze will prompt additional interim actions to stabilize any of the sites in New Jersey. I would note, however, that we will have funds to deal with emergency situations posing an immediate hazard to human health or the environment.

I share your concern about this slowdown and can assure you that it is very disappointing to take this action. At the same time, responsible program management leaves us with no alternative. I am ready to work with you in any way to complete the reauthorization process in a timely fashion.

Sincerely yours,

J. WINSTON PORTER,
Assistant Administrator.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, November 8, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This letter is to provide you with an update on the status of EPA's efforts to maintain an operational hazardous waste cleanup program under Superfund as Congress continues to debate its reauthorization.

I cannot stress enough my concern at the prospects of having to continue operating Superfund under the current circumstances. It is imperative that Congress immediately complete work on a five-year renewal of this vital program. Failure to reauthorize Superfund before the end of the year could have significant long-term consequences for our program.

As you know, in mid-August we incrementally slowed Superfund remedial work at sites around the country. This action was taken to conserve funds and keep the program in place while Congress debated reauthorization beyond the October 1 expiration of taxing authority.

The slowdown was designed to allow us to continue providing essential Superfund services—emergency response capability, aggressive enforcement, and engineering studies at on-going projects—during what we hoped would be a very brief period. We were very careful to avoid actions that would inflict lasting damage on the program.

Unfortunately, it seems Congress is still far from resolving the fundamental reauthorization issues that will enable us to get on with our primary task—cleaning up the nation's worst abandoned and uncontrolled hazardous waste sites.

I am concerned that we are approaching an important turning point under Superfund. It is becoming more and more difficult to manage the program in the absence of a new authorization. There is no doubt in my mind that the overwhelming majority of members in both the House and Senate support a renewed, expanded, multi-year Superfund program. But the hard reality of this situation is that our cleanup effort will continue to suffer while we wait for final action.

Without new authority, and funds to carry out our responsibilities, we will continue to see this important program damaged. Our ability to maintain the Superfund infrastructure, respond to emergency situations, and conduct aggressive enforcement efforts will be harmed by additional delay.

To date, we have been forced to delay nearly 140 actions at over 110 national priority sites. As time goes by, cleanup activity will be underway at fewer and fewer sites. It is a fact that since mid-August no new obligations for construction have occurred at any National Priority List site in this country using federal funds.

The public's faith in government's ability to address what is clearly perceived as our number one environmental challenge will be seriously damaged if we do not resolve the Superfund reauthorization issue just as soon as possible. It is imperative that we complete this essential task. I stand ready to help in this effort in any way that I can.

Sincerely,

LEE M. THOMAS.●

By Mr. D'AMATO (for himself and Mr. ANDREWS):

S. 1921. A bill to amend title 31, United States Code, to require that in the President's budget for a fiscal year the economic assumptions pertaining to inflation for major weapons system programs of the Department of Defense be the same as those for the rest of the budget; to the Committee on Governmental Affairs.

SPECIAL INFLATION FACTOR USE PREVENTION

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation which would prevent the Department of Defense from continuing to use a special 130-percent-inflation multiplier for major weapons systems.

Because of high inflation under the Carter administration, this special multiplier was created to account for the high cost of inflation for certain defense weapon systems. OMB granted the exception to DOD in 1981 and allowed 30-percent increases above inflation estimates for new ships, aircraft, missiles, and tracked vehicles. Between fiscal year 1983, the first year of use for the special inflation multiplier, and this fiscal year, $12.6 billion was allocated for these major weapon systems over normal inflation allowances.

Responding to a request I made in May, the General Accounting Office has provided me with a study of excess funds in our defense budget. GAO has discovered that DOD has budgeted $37.3 billion more than necessary for inflation between fiscal years 1982 and 1985. Of this amount, $28.2 billion was from lower than expected inflation and $9.1 billion was from the unnecessary use of the special 130-percent-inflation multiplier for major weapons systems. For fiscal year 1986, GAO estimates that there will be $3.5 billion of inflation dividends to the DOD due to their use of this special multiplier.

Although it would be very difficult to locate most of the excess funds accumulated from lower than expected inflation over the past several years, Congress can eliminate the unneeded major weapons inflation multiplier to guarantee savings in future defense bills.

GAO found no justification for the special inflation multiplier. There is a negligible difference between the increase in costs of major weapons systems and inflation over the past 3 years. GAO found that prices for all defense goods rose at roughly the same rate as inflation for other goods.

Passage of the Gramm-Rudman deficit reduction bill will make our bill even more urgent. There could be major reductions in defense spending under the Gramm-Rudman bill; elimination of the 130-percent-inflation multiplier will ensure that essential defense programs will not be put on the chopping block.

The special inflation multiplier is bad budgeting. It does not provide program managers of these major weapon systems any incentive to minimize costs. Programs in which costs grew rapidly in the past receive an inflation reward for this cost growth.

Over the next 5 years, the inflation multiplier could cost our Nation up to $20 billion. If this bill becomes law, close to $2 billion in interest costs alone can be saved.

Even though DOD has an elaborate planning, programming, and budgeting system, the accounting system which tracks the actual use of funds is not directly linked to the budgetary process. Congress, which must appropriate money for defense, seems to be losing control over where this money goes. This bill will set straight one aspect of DOD budgeting.

I ask my colleagues in the Senate to cosponsor this legislation and I urge its quick passage. I also ask unanimous consent, Mr. President, that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In preparing the budget for any fiscal year, the economic assumptions pertaining to inflation that are used with respect to major weapon system programs of the Department of Defense included in the budget shall be the economic assumptions pertaining to inflation that are determined by the Office of Management and Budget and used with respect to all other programs, projects, and activities included in the budget.".●

ADDITIONAL COSPONSORS

S. 1107

At the request of Mr. NUNN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1107, a bill to authorize the Society of the Third Infantry Division to erect a Memorial in the District of Columbia or its environs.

S. 1450

At the request of Mr. HEINZ, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1450, a bill to prohibit the Secretary of Health and Human Services from changing reimbursement levels or methodologies for home health services under the Medicare Program prior to October 1, 1986, or during a freeze period.

S. 1525

At the request of Mr. PELL, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1525, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects.

S. 1710

At the request of Mr. HOLLINGS, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1818

At the request of Mr. DENTON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1818, a bill to prevent sexual molestation of children in Indian country.

S. 1912

At the request of Mr. DANFORTH, the names of the Senator from Maryland [Mr. MATHIAS], the Senator from Arizona [Mr. GOLDWATER], the Senator from Connecticut [Mr. WEICKER], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1912, a bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 230

At the request of Mr. KERRY, the name of the Senator from Maryland [Mr. MATHIAS] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution to designate the week of December 1 through December 7, 1985, as "National Autism Week."

SENATE JOINT RESOLUTION 231

At the request of Mr. RIEGLE, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. EVANS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Idaho [Mr. SYMMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Georgia [Mr. MATTINGLY] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the year of 1986 as the "Year of the Flag."

SENATE CONCURRENT RESOLUTION 83

At the request of Mr. D'AMATO, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Senate Concurrent Resolution 83, a concurrent resolution expressing the sense of the Congress that Federal tax reform legislation not take effect until its date of enactment, but in no case earlier than July 1, 1986.

AMENDMENT NO. 1385

At the request of Mr. BYRD, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Amendment No. 1385 proposed to House Joint Resolution 465, a joint resolution making further continuing appropriations for the fiscal year 1986.

SENATE RESOLUTION 268—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LUGAR, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 286

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1915, a bill to amend the Foreign Assistance Act of 1961 to provide special assistance to combat terrorism in Central American countries. Such waiver is necessary, on an emergency basis, to authorize funds to combat an increase in terrorism in certain Central American countries.

AMENDMENTS SUBMITTED

FURTHER CONTINUING APPROPRIATIONS, 1986

PROXMIRE (AND DANFORTH) AMENDMENT NO. 1388

Mr. PROXMIRE (for himself and Mr. DANFORTH) proposed an amendment to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes; as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the total amount appropriated by this joint resolution for Defense Agencies of the Department of Defense for research, development, test, and evaluation is reduced by

$12,000,000. The reduction made by this section is in addition to the reduction made by any other provision of this joint resolution.

HUMPHREY (AND DIXON) AMENDMENT NO. 1389

Mr. HUMPHREY, (for himself and Mr. DIXON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 11, line 18, in the paragraph dealing with refugee and entrant assistance activities under the Immigration and Naturalization Act; insert after the semicolon the following: "provided, however, that—

Section 1. (a) That there is hereby established a special panel of the Senate, which may be called, for convenience of expression, the Special Panel on Asylum, to conduct an investigation and study of the general problem of persons from Communist countries asking the United States for asylum, including recent instances involving such persons and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in connection with such instances, and to determine whether in its judgment any occurrences which may be revealed by the investigation and study indicate the necessity or desirability of the enactment of new congressional legislation to safeguard the rights of any person asking the United States for asylum in the future.

(b) The special panel created by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the special panel shall not be taken into account.

(c) The special panel shall select a chairman and vice chairman from among its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the special panel during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the special panel or the chairman. Vacancies in the membership of the special panel shall not affect the authority of the remaining members to execute the functions of the special panel and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the special panel shall constitute a quorum for the transaction of business, but the special panel may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

SEC. 2. That the special panel is authorized and directed to do everything necessary or appropriate to make the investigation and study specified in section 1(a). Without abridging or limiting in any way the authority conferred upon the special panel by the preceding sentence, the Senate further expressly authorizes and directs the special panel to make a complete investigation and study of the activities of any and all persons or organizations of any kind which have any tendency to reveal the full facts in respect to the following matters or questions:

(1) Whether current procedures for handling persons asking the United States for asylum adequately protect the rights of such persons.

(2) Whether any officer or employee of the United States violated any law of the United States or of any state or municipality in connection with the defection attempt of Miroslav Medvid, including, but not limited to 18 U.S.C. 241, 18 U.S.C. 242, 18 U.S.C. 1201, 18 U.S.C. 1505, 18 U.S.C. 2, 18 U.S.C. 3, 18 U.S.C. 371, or any other statute, regulation, or procedure promulgated pursuant to the laws of the United States, or any State or local ordinance.

(3) Whether there have been any additional instances in which persons asking the United States for asylum have been returned to the Soviet Union or other Communist nations in violation of the laws of the United States or any state or municipality thereof, or any regulation or procedure promulgated thereunder.

(4) What changes in the laws of the United States should be adopted to more adequately protect the constitutional, statutory, and moral rights of persons asking the United States for asylum.

SEC. 3. (a) To enable the special panel to make the investigation and study authorized and directed by this resolution the Senate hereby empowers the special panel as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses of any persons who the special panel believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm or corporation to produce for its consideration or for any use as evidence in its investigation and study any books, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpoena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm or corporation to produce before the panel any books, correspondence, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202 (i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the special panel or its chairman deems that such action is necessary or appropriate to enable the special panel to make the investigation and study authorized and directed by this resolution; (11) to have access through the agency of any members of the special panel, chief majority counsel, minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the special panel to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the special panel acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the special panel, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the special panel shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The special panel shall have authority to recommend the enactment of any new congressional legislation which its investigation considers is necessary or desirable to safeguard the rights of persons asking the United States for asylum.

SEC. 5. The special panel shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than one year after the effective date of this resolution. The special panel may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the special panel shall have three calendar months to close its affairs, and on the expi-

ration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the special panel under this resolution shall not exceed $300,000, of which amount not to exceed $25,000 shall be available for procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special panel. The minority members of the special panel shall have one-third of the professional staff of the special panel (including minority counsel) and such part of the clerical staff as may be adequate.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1390

Mr. LAUTENBERG (for himself, Mr. PROXMIRE, Mr. D'AMATO, Mr. CRANSTON, Mr. RIEGLE, Mr. MOYNIHAN, Mr. METZENBAUM, and Mr. BIDEN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 16, after line 2, insert the following new section:

SEC. . (a) Notwithstanding any other provision of this joint resolution, no funds made available to the Department of Justice during Fiscal Year 1986 shall be used to implement, or to adopt as a permanent rule, New Offense Example 363, providing coverage for "insider trading" offenses, of 28 C.F.R. section 2.20.

(b) This section shall become effective upon the date of enactment of this act and shall expire 180 days after the effective date of this act.

DOLE AMENDMENT NO. 1391

Mr. DOLE proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . In the case of any distilled spirits plant which, for each calendar quarter during 1984 and 1985, was required to obtain, and obtained, a bond under section 5181 of the Internal Revenue Code of 1954, section 5181(c) of such Code shall, for each calendar quarter during 1986, be applied by substituting "5,000,000 proof gallons" for "10,000 proof gallons".

HART AMENDMENT NO. 1392

Mr. HART proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . It is the sense of the Senate that no funds available pursuant to this Act may be used by any Federal agency or department to provide a permit for any commercial activity that would adversely affect the wilderness characteristics of any area proposed for wilderness designation in S. 69, 99th Congress.

THURMOND (AND OTHERS) AMENDMENT NO. 1393

Mr. THURMOND (for himself, Mr. NUNN, Mr. STEVENS, Mr. STENNIS, Mr. WARNER, and Mr. MCCLURE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, none of the funds appropriated pursuant to this joint resolution to or for the use of the Department of Defense may be obligated or expended for any purpose unless such funds have been authorized to be appropriated for such purpose by law other than this joint resolution. However, the preceding sentence does not apply to funds appropriated pursuant to this joint resolution for Coastal Defense Augmentation; $375,000,000.

METZENBAUM AMENDMENT NO. 1394

Mr. METZENBAUM proposed an amendment to amendment No. 1393 proposed by Mr. THURMOND (and others) to the joint resolution (H.J. Res. 465), supra; as follows:

Add the following sentence at the end thereto: "However, no funds may be obligated, transferred, or expended for the use of the Mariner Fund."

JOHNSTON AMENDMENT NO. 1395

Mr. JOHNSTON proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Strike line 22, page 5, through line 4, page 6.

KERRY AMENDMENT NO. 1396

Mr. KERRY proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution insert the following: ": Notwithstanding any other provision of this joint resolution, none of the funds appropriated may be obligated or expended to carry out, in connection with the Strategic Defense Initiative program, development, test, or evaluation of, a warhead, bomb, or other explosive device which uses fissionable material.".

METZENBAUM AMENDMENT NO. 1397

Mr. JOHNSTON (for Mr. METZENBAUM) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution add the following new language:

In the language to be incorporated from H.R. 3629, on page 51, line 21, after the word "legislation" add the following "authorizing such expenditures and."

BOREN (AND GRASSLEY) AMENDMENT NO. 1398

Mr. BOREN (for himself and Mr. GRASSLEY) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . None of the funds made available by this joint resolution, or any other Act, to the Department of Defense may be obligated or expended for new contracts or subcontracts entered into by any military department with the General Dynamics Corporation or any of its subsidiaries, which are now under suspension, until at least 5 days after the Secretary of Defense reports to the appropriate committees of Congress that the Department of Defense intends to remove the suspension of either the entire company or of any individual subsidiaries thereof.

1. Such report shall specify the degree to which the contractor or subsidiary has implemented an effective and reliable policy of ethical business conduct which is fully operational and functioning properly.

2. Such report shall further include the recommendations of the Secretary on the advisability of reclaiming title to government-owned property if corporations, utilizing such property, are found guilty of defrauding the Government.

WALLOP (AND OTHERS) AMENDMENT NO. 1399

Mr. WALLOP (for himself, Mr. ARMSTRONG, Mrs. HAWKINS, Mr. SYMMS, Mr. MCCLURE, Mr. ABDNOR, Mr. HATCH, Mr. HELMS, Mr. THURMOND, Mr. GARN, Mr. KASTEN, Mr. DENTON, Mr. TRIBLE, and Mr. MATTINGLY) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place, add the following:

Not less than $50,000,000 of the funds proposed to be appropriated pursuant to the paragraph beginning on page 21, line 21 of S. 1816, as reported by the Senate Committee on Appropriations, shall be expended for the assistance to the National Union for the Total Independence of Angola (UNITA).

GLENN AMENDMENT NO. 1400

Mr. GLENN proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the Joint Resolution, insert the following new section:

"SEC. . Notwithstanding any other provision of this Joint Resolution, Section 8095 of H.R. 3629 as reported to the Senate on November 6, 1985, is hereby deleted.".

HATFIELD AMENDMENT NO. 1401

Mr. HATFIELD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 11, line 7, strike the word "is" and insert in lieu thereof "are".

On page 18, line 2, after the first comma, insert the following: "an additional".

On page 18, line 7, strike the words "Joint Resolution" and insert in lieu thereof "joint resolution".

On page 19, line 8, strike "section 101" and insert in lieu thereof "and other provision".

On page 20, line 11, strike "section 102" and insert in lieu thereof "any other provision".

On page 21, line 1, strike "section 102" and insert in lieu thereof "any other provision".

On page 21, line 23, insert after the word "this" the following: "joint resolution".

On page 24, line 15, strike ""Pro-" at the end of the line and insert in lieu thereof "of feral burros and horses: Pro-".

On page 25, line 24, and insert in lieu thereof the following: "not available for obligation until July 1, 1986: Provided further, That the Secretary of the Interior shall".

On page 26, line 16, insert quotation marks at the beginning of the line.

On page 26, line 22, insert quotation marks at the beginning of the line.

On page 27, line 1, insert quotation marks at the beginning of the line.

On page 27, line 4, insert quotation marks at the beginning of the line.

On page 27, line 8, insert quotation marks at the beginning of the line.

On page 27, line 14, insert quotation marks at the beginning of the line.

On page 27, line 19, insert quotation marks at the beginning of the line.

On page 28, line 1, insert quotation marks at the beginning of the line.

On page 28, strike line 22, and insert in lieu thereof the following: "follows: sales from any national forest: Provided, That not less than $24,000,000 shall be".

On page 32, line 25, strike "is" and insert in lieu thereof "are".

On page 37, line 8, strike "is" and insert "are".

In lieu of amendment numbered 1355 on page 10, line 19, before the period insert the following: ": *Provided further*, That notwithstanding any other provision of this subsection, there are appropriated $9,000,000 for the United Nations Environment Program".

In lieu of amendment numbered 1351 effectuating a negotiated settlement between the Department of the Navy and the State of Washington, and for other purposes, insert the following:

"SEC. . Notwithstanding any other provisions of this joint resolution or any other Act, the Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

In lieu of amendment numbered 1380 providing funding for the Brigade Activity Center at the United States Naval Academy, insert the following:

"SEC. . Nothwithstanding any other provision of this joint resolution or any other Act, for construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.".

STEVENS AMENDMENT NOS. 1402 AND 1403

Mr. STEVENS proposed two amendments to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution insert the following:

SEC. . Notwithstanding any other provision of this joint resolution, the amount appropriated for "NATO Cooperative Programs" for acquisition of point air defense of United States airbases and other critical United States military facilities in Italy is $15,000,000.

AMENDMENT No. 1403

On page 3, line 14, insert after "October 30, 1985," the following: "and section 8090 as reported to the Senate on November 6, 1985."

MELCHER (AND OTHERS) AMENDMENT NO. 1404

Mr. JOHNSTON (for Mr. MELCHER, for himself, Mr. BURDICK, Mr. ANDREWS, Mr. ABDNOR, Mr. PRESSLER, and Mr. HATCH) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution add the following new section as follows:

SEC. . There is hereby appropriated $6,000,000 which, notwithstanding any other law, is immediately available for obligation before January 18, 1986 by the Secretary of the Interior through the Bureau of Indian Affairs only for the emergency provision of hay to Indians using the distribution formula of the Indian Acute Distress Donation Program to aid in maintaining foundation cattle herds in Montana, North Dakota, and South Dakota. The Secretary may, but is not required to, enter into contracts under section 102 of the Indian Self Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in connection with the appropriation made in this paragraph and no indirect cost or overhead shall be allowed under any such contract from any appropriation. All costs incurred directly or indirectly by the Secretary in connection with the appropriation made in this paragraph for other than the direct cost of the hay and its transportation shall be met from amounts appropriated for the operation of Indian programs. Any part of the appropriation made in this paragraph which is not expended by March 15, 1986, shall be deobligated and shall not be available for obligation or expenditure and an amount equal to the amount deobligated shall be an obligation of the amount appropriated for the operation of Indian programs.

The Secretary of the Interior shall make a report or reports to Congress by September 1, 1986 on (1) the use of the appropriation in the preceding paragraph, (2) the impact of the drought disaster on the Indian Reservations in Montana, North Dakota, and South Dakota, (3) long-term strategies to address the disaster on each of those reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States with recommendations to improve that effectiveness.

MELCHER AMENDMENT NOS. 1405 AND 1406

Mr. JOHNSTON (for Mr. MELCHER) proposed three amendments to the joint resolution (H.J. Res. 465), supra; as follows:

AMENDMENT No. 1405

At the end of the resolution add the following new section:

"SEC. . Not withstanding any other provision in law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act; *Provided*, that any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184), within six months from the date the suspension of operation and production ends.".

AMENDMENT No. 1406

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or of law, the limitation placed on the Secretary of the Interior by the last sentence of Sec. 319 of "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes", as enacted into law by Public Law 98-473 (98 Stat. 1837), shall remain in effect until Congress determines otherwise.

HATFIELD AMENDMENT NO. 1407

Mr. HATFIELD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 6, line 5, strike "(i)" and insert in lieu thereof "(h)".

On page 8, line 17, strike "(j)" and insert in lieu thereof "(i)".

On page 10, line 20, strike "(k)" and insert in lieu thereof "(j)".

HAWKINS (AND OTHERS) AMENDMENT NO. 1408

Mrs. HAWKINS (for herself, Mr. WILSON, Mr. WARNER, and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Congress finds that—

(1) service in the Navy frequently requires personnel to spend extended periods of time at sea away from their families;

(2) family separation is the number one personnel retention problem in the Navy;

(3) the performance of short-term maintenance and repair of Navy vessels in their homeports permits the Navy personnel assigned to those vessels to be with their families for additional periods of time; however,

(4) at the same time all maintenance and repair outside the homeport area is important to instill additional competition in the industry, and retain the broadest possible industrial mobilization base, and

(5) there would be marginal impact on personnel considerations for Navy Reserve Fleet repair conducted outside the homeport area,

(b) It is the sense of the Congress that: (1) competition for ship repair should be maximized with the objective of attaining lowest cost to the government while cognizant of personnel impact. In this regard, consideration of the competitive contract bidding methodology should be determined on the

basis of work to be performed, independent of duration, while mindful of personnel considerations, and (2) in view of the marginal personnel impact of Naval Reserve Vessel Industrial work such contracts involving vessels above 1,000 tons should be performed through coastwide competitive bidding procedures.

HART AMENDMENT NO. 1409

Mr. JOHNSTON (for Mr. HART) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . (A) The Senate finds that—

(1) There have been an increasingly large number of criminal actions or accusations of fraud brought against defense contractors, in which a number of leading defense contractors have pleaded guilty to criminal activity;

(2) Such fraudulent activity on the part of corporations entrusted with responsibility for our national defense is a threat to our national security and an abuse of the public trust;

(3) Such fraud by those who seek to contract with the Government represents the most reprehensible kind of corporate conduct;

(4) The government must ensure that it contracts only with responsible companies, especially in areas vital to our national defense;

(5) It is vital that sufficient resources of the Federal government be allocated to the exposure and prosecution of such fraud;

(6) The Department of Justice must exhibit a commitment to the prosecution of procurement law violations; and,

(7) Only through a genuine commitment to seek criminal and civil penalties against corporations engaged in procurement law violations will such violations be deterred.

(B) It is therefore the Sense of the Senate that the United States government, through both its Executive and Legislative Branches, launch an energetic and thorough investigation and audit for all defense contractor billing practices, and all other practices involving government contracts, to expose all fraudulent action; that the government seek indictments against companies believed to have defrauded the government or the people of the United States; and further, that the government more aggressively use suspension or debarment of contractors convicted of crimes as appropriate supplemental penalty for such conviction.

JOHNSTON AMENDMENT NO. 1410

Mr. JOHNSTON proposed two amendments to the joint resolution (H.J. Res. 465), supra; as follows:

On page 49, line 12, strike the words "and hereby authorize" and insert the word "shall".

On page 49, line 14, strike the word "to".

HEINZ (AND KENNEDY) AMENDMENT NO. 1411

Mr. HEINZ (for himself and Mr. KENNEDY) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the proper place in the bill, insert the following new section:

SEC. . In view of the $92 Medicare hospital deductible increase that will go into effect on January 1, 1986, it is the sense of the Senate that the Committee on Finance shall report legislation no later than April 15, 1986, which will reform the calculation of the annual increase of such deductible so that it is more consistent with annual increases in Medicare payments to hospitals. It is further the sense of the Senate that any reforms reported shall be retroactive to January 1, 1986.

HAWKINS AMENDMENT NO. 1412

Mrs. HAWKINS proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the amount "303,522,000" on page 8, line 22, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "303,602,000".

BIDEN AMENDMENT NO. 1413

Mr. BIDEN proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place insert the following:

SEC. . (a) No Member, officer, or employee of the Senate or House of Representatives compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such a firm, partnership, association or corporation; or (3) practice a profession for compensation to any extent during regular office hours of the Senate office or House of Representatives office, as the case may be, in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.

(b) No Member, officer, or employee of the Senate or House of Representatives compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

(1) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;

(2) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate or House of Representatives or their families, if such service is performed without compensation; or

(3) a member of the board of a corporation, institution, or other business entity, if (A) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate or House of Representatives. (B) the amount of time required to perform such service is minimal, and (C) the Member, officer, or employee is not a member of, or a member of the staff of any Senate or House committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, December 10, to consider the nomination of Ralph E. Kennickell, Jr., of Virginia, to be Public Printer of the United States, to which position he was appointed during the last recess of the 98th Congress, December 11, 1984. Also scheduled is the selection of a vendor to provide a new telephone system for the Senate, and the consideration of a proposed amendment to the mass-mail regulations which would provide for reporting the cost on a quarterly basis of mass-mailings by each committee, leadership office, party conference, officer of the Senate, and other senatorial offices.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, December 10, in closed session to conduct a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES-CANADA TRADE NEGOTIATIONS

● Mr. LUGAR. Mr. President, today President Reagan will formally notify the Congress of his intention to enter into negotiations with Canada leading to a substantial reduction in trade barriers between our two countries. This is a step of substantial political courage for President Reagan and Prime Minister Brian Mulroney to oppose rising protectionism on both sides of the border and make a bold new effort for free trade. The success of these negotiations should set a positive example for the new round of GATT negotiations.

Mr. President, at $120 billion, the United States-Canada trading relationship is the largest in the world. Canada is both America's largest export market and our fastest growing export market, absorbing one-fifth of all our exports. On the Canadian side, 76 percent of her exports come to the United States.

If these negotiations are successful, Canada will be assured of continued access to the largest market in the Free World. Canada's producers will be able to develop the economies of scale necessary for them to grow and prosper into the 21st century. American producers and workers will see the reduction and elimination of barriers to our exports.

The essence of these negotiations is mutuality. The United States and Canadian economies are very different in size and composition. However, these negotiations, to be successful, will not favor one side at the expense of the other. There will be no threats to anyone's economics or cultural sovereignty. Canadians will remain Canadians and Americans will remain Americans. However, our North American ties will be enhanced and barriers between us will be reduced.

This is in fact an historic occasion and I hope that American and Canadian negotiators will take advantage of a once in a lifetime opportunity to conduct as wide ranging a negotiation as possible. Tackle all barriers—trade, investment, subsidies, intellectual property, tariffs—whatever restricts the free flow of goods and services between us. I wish the best of luck to our American negotiators Ambassador Peter Murphy and Deputy Assistant USTR William Merkin as well as their Canadian counterparts Deputy Minister Simon Reisman and his team.

I submit for the RECORD, an article from the New York Times relating to this matter.

REAGAN TO SEEK TALKS ON FREER CANADA TRADE

(By Clyde H. Farnsworth)

WASHINGTON, December 9.—President Reagan is preparing to notify Congress on Tuesday that he wants to begin negotiating a liberalized trade agreement with Canada in the new year, Administration officials said today.

The action, which is required under United States trade law, formally sets in motion a process that could lead to important reductions in the remaining tariff and nontariff barriers between the two countries. Already nearly 80 percent of Canada's exports to the United States enter duty-free, while 65 percent of American exports pay no tariffs into Canada.

Negotiations between American and Canadian teams could start in the spring. Despite strong desires in Ottawa and Washington to liberalize trade, the talks could take two or three years because of the complexity of some issues and fears on both sides about being disadvantaged.

Congressional aides said they did not expect either chamber to block negotiations. However, legislators whose districts have lumber, steel and other industries sensitive to trade with Canada were expected to try to use their assent as leverage to extract concessions.

"I'll do what I can to prevent Congressional approval until I see satisfactory progress of Canadians backing off their subsidy of timber," said Senator Max Baucus, Democrat of Montana, a member of the Senate Finance Committee. A number of legislators, chiefly from Western states, have taken up complaints from timber industry constituents that the Canadians trade unfairly.

Canada has moved cautiously toward a new trade pact with the United States since Brian Mulroney became Prime Minister in September 1984. In September 1985 the Canadian leader, who is a Progressive Conservative, officially informed Mr. Reagan that Ottawa wanted negotiations to begin.

The Reagan Administration, which says it is a strong believer in free trade and has already concluded a free trade pact with Israel, welcomed the initiative. The pre-notification is the first official signal that Washington is now ready to negotiate as well.

The President will tell the two Congressional committees primarily concerned with trade, the House Ways and Means Committee and the Senate Finance Committee, that they have 60 legislative days in which to object to the start-up of negotiations.

The pre-notification is a legal requirement under the Trade and Tariff Act of 1984. Congress has worked out a streamlined, so-called fast-track approach for approving trade agreements. But it insisted on advance notification to give it the power to veto talks with any country before they begin.

CHIEF NEGOTIATORS

Both sides, in anticipation of the negotiations, have already designated their chief negotiators. Ottawa announced that Canada's will be Simon Reisman, former Deputy Minister of Finance and one of Canada's most respected civil servants, who negotiated a free-trade pact in automobiles with the United States in the mid-1960's. According to American trade officials, his American counterpart will be Peter O. Murphy, a former chief American textile negotiator. He has been the deputy United States trade representative in Geneva for the last three years.

Aides of both the Ways and Means and Finance Committees said hearings will probably be held on the Canadian trade issue early in the new year.

In addition, the Administration is expected shortly to ask the International Trade Commission, a Federal trade-investigative agency, to report on the impact of free trade with Canada on sensitive American industries.

RELOCATION OF BUREAU OF LABOR STATISTICS

● Mr. WEICKER. Mr. President, I understand that some consideration is being given to possibly moving the Bureau of Labor Statistics; in my view, such a move would not be in the best interest of the agency. I plan to raise this issue at next year's hearings, and oppose any move of BLS—in whole or in part—out of the downtown Washington, DC, area at this time.

Staff of the Bureau of Labor Statistics are currently spread throughout several buildings in the downtown, Washington, DC, area and should be consolidated in one convenient location. This would enhance security for sensitive data which now is used as a basis for a commodities trading index. Proximity to Capitol Hill is important, in view of the almost daily need for timely access to important data, including regular releases of unemployment statistics and consumer price indexes. Most of the major economic policy agencies that utilize BLS are also located downtown.

As chairman of the Labor-HHS-Education Appropriations Subcommittee which has jurisdiction over the BLS budget, I would be very concerned about precipitous actions to force a move of any components of this agency. Senator PROXMIRE, the ranking minority member of the subcommittee, has long been a friend and leading advocate of BLS, and shares my concern. I therefore plan to carefully monitor developments in this area until satisfactory resolution of this matter is achieved.●

RESEARCH AND DEVELOPMENT BY FEDERAL LABORATORIES

● Mr. RIEGLE. Mr. President, yesterday S. 1914 was introduced. I am pleased to cosponsor this bill to let the Federal laboratories contribute more fully to American industrial innovation and to State economic development. Recent economic developments clearly point out the need for this vital amendment.

Over the last decade this country has become less competitive in world markets for high-technology products; American shares of the world market for 8 out of the 10 leading high-technology exports have fallen. As developing countries begin to mass produce high technology as well as low technology products, we must push even harder to maintain an advantage in the newest and technologically most advanced product markets. Unfortunately, we are failing to do so.

The efforts of Federal scientists and engineers have been insufficiently helpful to U.S. industry—not because they have failed to come up with new ideas, but because rigid Government restrictions have prevented many of their innovations from being commercially developed. Last year, the Federal Government spent nearly $18 billion on research and development, primarily through the network of national labs. However, until recent legislation was enacted, restrictive patent policies and personnel practices discouraged scientists and engineers from bringing their innovations to the marketplace. Consequently, less than 5 percent of the patents granted to personnel in Federal labs were developed into commercial products. We must do more to foster inventiveness and promote technology transfer.

Congress has acted to help America get more of its money's worth out of our national labs. The original Stevenson-Wydler Act set technology transfer as a national priority. The Bayh-Dole Act of 1980 allowed nonprofits and small for-profit businesses to

retain ownership of inventions and receive royalties. In 1984, this right was extended to universities. In recent years, the Department of Energy has allowed some corporations to commercialize inventions developed at government-owned and contractor-operated labs. This transfer of Federal technology should be expanded.

This bill would authorize scientists and engineers at Government-owned and operated labs to work closely with industry. Inventions at these labs can currently be licensed to private sector firms, with the Government receiving the royalties. The problem, however, has been that these innovations often need a great deal of development before they can be commercialized. This bill would further encourage technology transfer in several ways.

First, directors of government labs would be allowed to enter into cooperative Research and Development arrangements with industrial organizations and State governments. This provision does not impose mandatory requirements on Federal scientists, but allows them to cooperate with American industry to pursue opportunities created by their work. The national labs would be enabled to receive funds and property from their partners in return for royalties. National labs would not necessarily have to forfeit their licensing rights; negotiating arrangements are left to their discretion.

Second, this bill would improve currently existing technology transfer organizations. It would streamline government labs by waiving the requirement for an Office of Research and Technology Applications [ORTA's]. In addition, it would fund the Federal Laboratory Consortium, a volunteer organization helping to transfer technology from the labs to private businesses with a small set-aside from the National Bureau of Standards. This limited amount of funding would begin in fiscal year 1987 and end automatically in fiscal year 1991.

These provisions contain no new authorization and require no new Federal spending. In fact, the Government could receive a stream of new income from successfully bringing unused patents to the market.

This is a modest bill: a prudent, but important first step. I hope our colleagues will join us in support of this legislation by taking action in a timely fashion.●

REPORT ON THE EMPLOYMENT SITUATION

● Mrs. HAWKINS. Mr. President, Secretary of Labor William E. Brock has issued a statement on the November employment situation, and Bureau of Labor Statistics Commissioner Dr. Janet L. Norwood has issued a statement before the Joint Economic Committee, also on the November employment situation.

These statements report the strong and widespread growth of employment in the United States and the continued reduction in the unemployment rate. I am particularly pleased about the number of new jobs that have been created in the State of Florida.

Mr. President, I ask that the text of the statements by Secretary Brock and Commissioner Norwood be printed in the RECORD.

The statements follow:

STATEMENT BY SECRETARY OF LABOR WILLIAM E. BROCK ON NOVEMBER EMPLOYMENT SITUATION

America's economy reached a new milestone in November by bringing the total number of new jobs created over the past three years to over 10 million—280,000 a month.

This record 10.1 million increase in employment exceeds the 3-year job creation record from any recession low in history, topping the average of prior expansions by almost 4 million jobs. This is all the more remarkable when viewed against a backdrop of sustained improvement in jobless rates and low inflation. Over the past 36 months, President Reagan's economic program has paid off with a recovery that not only has put record numbers of Americans to work, but is allowing them to keep more of what they earn.

With an economy capable of generating hundreds of thousands of new jobs each month, our nation has an underlying strength virtually unmatched around the world. In many European countries, no net new jobs have been created in the past 10 years.

It is most heartening that the nation's total employment reached an all-time peak of nearly 110 million.

The 10 million new jobs generated over the past three years have touched all sectors of our economy—1.3 million net new jobs have been created in manufacturing and 8 million net new jobs have been created in service producing industries.

The message contained in the latest figures from the Bureau of Labor Statistics' payroll survey, and affirmed proportionately in its household survey, is clear: America is just beginning to flex its economic muscle.

This is all good news for America's expanding work force.

FACT SHEET

EMPLOYMENT GROWTH IN THE UNITED STATES—NOVEMBER 1982 TO NOVEMBER 1985—(PERIOD OF ECONOMIC RECOVERY)

More than 10 million new jobs have been created in the 3 years since the economic recovery began in November 1982—better than any previous 3-year job creation from a recession low.

The 6.9 percent overall unemployment rate in November amounts to a 35 percent drop in unemployment levels since November of 1982—the greatest decline in unemployment in 33 years.

An average 280,000 new jobs per month have been created since November 1982.

While the service producing side of the economy has shown the greatest job growth, employment gains have been across-the-board.

Manufacturing jobs up by 1.3 million in 3 years.

Service jobs up 8.0 million in 3 years.

A shift toward service sector employment is a natural development of an economy experiencing strong income growth. The service producing sector contains many relatively high wage occupations.

In fact, research shows a shift in employment toward higher paying jobs and away from low paying occupations.

A record 116 million civilian labor force was reached in October 1985, with almost 108 million employed, also a record.

In March of 1985, another historic record of 60.3 percent of the total population was employed. This record was matched again in October, 1985 and November, 1985.

Also in November 1985, employment in nonfarm industries reached a record high of 98.8 million, with 73.7 million workers in the service industry group.

The growth in employment for women was 11.2 percent; for men, 8.3 percent.

Nearly one out of every five new jobs went to a black man, woman, or teenager in the 3-year period.

Blacks have gained an average of 37,000 new jobs every month for the past 36 months.

Blacks have experienced a far stronger average job gain per month than in any recovery since 1954.

The United States outstripped all of the employment increases combined of Japan, West Germany, France and Great Britain since 1970 with almost 30 million more workers or a 37 percent jump.

Based on establishment (payroll) survey. Simultaneously, the household survey indicates growth of almost 9 million for same period.

Household survey (counting people), upon which unemployment rate is based, covers entire civilian noninstitutional population 16 years and over has no duplication of workers.

Establishment survey only counts wage and salary employees whose names appear on payrolls of nonfarm firms.

(Jobs in establishment survey are real jobs. Other real jobs not counted in this survey are jobs in agriculture, the self-employed, unpaid family workers, private household workers, and members of the Armed Forces.)

STATEMENT OF DR. JANET L. NORWOOD, COMMISSIONER, BUREAU OF LABOR STATISTICS, BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. Chairman and Members of the Committee: I am pleased to have this opportunity to offer the Joint Economic Committee a few comments to supplement our Employment Situation news release issued this morning.

Payroll jobs continued to increase in November, as the economy completed its third year of recovery, and joblessness remained at about the October level. Both the overall and the civilian worker unemployment rates—at 6.9 and 7.0 percent, respectively, in November—have changed little since last August. Both rates were three-tenths of a percentage point below the rates posted for the first half of the year.

Unemployment rates for most major demographic groups in November were not much different from October. The rate for adult men, which had been in the 6.2 to 6.5 percent range from July of last year to July of this year, was a 6.0 percent for the fourth month in a row. The rate for adult women was unchanged from October at 6.4 percent, the same as the rate at the end of 1984 but

down from figures prevailing earlier in the year. During 1985, large numbers of women came into the labor force, and, by November, close to 55 percent of all adult women were working or looking for work. The teenage jobless rate fell to 18.4 percent, following a sharp increase in October. After having declined from higher recession levels, unemployment for this group has remained in the 18 to 20 percent range for most of the last two years.

Unemployment among white workers edged down to 5.9 percent in November, whereas the jobless rate for black workers rose to 15.9 percent. Joblessness among black workers has improved during the recovery period, but their unemployment rate has remained in the 15 to 16 percent range during most of the last year.

The civilian labor force held steady in November, following 2 months of strong growth. Over the last year, the labor force has grown by 2 million, and adult women have accounted for nearly 70 percent of that growth.

Nonfarm payroll jobs increased by 180,000 from October to November. Increases were widespread, with the largest gains occurring in the services industry and in finance, insurance and real estate. Both of these industries have shown considerable job gains throughout the recovery period. Employment in retail trade, however, which had been growing steadily each month, changed little in November after seasonal adjustment, although the increase in holiday seasonal hiring in general merchandise stores was less than usual at this time of the year.

Following a job pickup in October of more than 60,000, factory employment in November remained near the October level, after seasonal adjustment. I think it is important to note, however, that no further factory job loss has occurred in the last 2 months. Between January and September, employment in manufacturing had declined by 325,000. Factory employment—at 19.4 million in November—was up about 100,000 over September's level, although about 20,000 of that total represented a return to the payroll of workers who had been on strike.

Elsewhere in the goods-producing sector, employment in the construction industry, which has shown steady job gains since early in 1983, and mining employment, which is still at 1983 employment levels, were both unchanged over the month.

The average workweek of production or nonsupervisory workers on private nonfarm payrolls edged down by 0.1 hour in November. But the factory workweek, which has been at very high levels for 4 months in a row, remained at 40.7 hours. Factory overtime rose over the month. The factory hours data confirm the recent improvement in factory employment; they may suggest future hiring activity, since employers usually increase hours before hiring new employees.

A BROADER PERSPECTIVE

Strong and widespread employment growth has taken place during the entire 36 months of the current expansion, although the pace of the job gains has slowed somewhat during the last year. The expansion has reduced the unemployment rate by 3.7 percentage points. Nearly all of this improvement in joblessness took place in 1983 and 1984, however. Job growth over the past year was just about enough to provide the number of jobs needed to accommodate the 2 million people who entered the labor force.

The household survey shows total civilian employment up by 8.8 million over the 3-year period of the recovery. But the business survey shows even larger gains—10.1 million in 3 years, including 2.9 million in the last year alone.

Throughout 1983 and the first half of 1984, the two surveys had shown fairly consistent employment growth. Since mid 1984, however, the business survey has shown considerably more job growth than the household survey. While it is true that we have frequently had discrepancies between the two surveys, such a large difference over such a long period is quite unusual. The two surveys are, of course, quite different. The household survey is based on interviews of working-age residents of 60,000 households; it measures the number of persons who are working. The business survey, on the other hand, is based on the payroll records of more than 200,000 business establishments and measures the number of jobs that are filled. I do not know why the difference between the two surveys is so large. I think that the household survey is probably understating employment growth. Although the business survey could be overstating growth to some extent, I believe that it is closer to the truth. In any case, the important point is that both surveys have shown extraordinary employment growth over the 36 months of the recovery period.

In summary, some improvement in the labor market occurred in November. Job gains in the service-producing sector continued to mount, factory employment held its own over the month and increased over the past 2 months, and the unemployment rate remained below the levels in the first half of this year.

My colleagues and I will now be glad to answer any questions you may have.●

THE RETIREMENT OF HAL M. CHRISTENSEN OF THE AMERICAN DENTAL ASSOCIATION

● Mr. FORD. I wish to call to the attention of the Senate the impending retirement of Hal M. Christensen, who for the past 22 years has directed the Washington office of the American Dental Association.

Very few people in this town have been around as long as Hal Christensen. Fewer still have had such an impact on behalf of the dental profession upon legislation over the years. In fact, to many of us, Mr. Christensen is the dental profession here in Washington.

Mr. Christensen joined the ADA in 1957 as assistant secretary of the association's council on legislation, following 3 years as an associate counsel to the Subcommittee on Legal and Monetary Affairs of the House Committee on Government Operations. He was appointed secretary to the council in 1960, and in 1961 he was named Washington counsel of the ADA. In 1963 he was appointed director of the Washington office.

Currently, Mr. Christensen is also assistant executive director for legislative affairs of the ADA.

Under Mr. Christensen's direction, the American Dental Association's Washington office has expanded from a 1-person operation to a staff of nearly 20. Recently the ADA acquired a new 12-story office building in downtown Washington to house the Washington staff and several related dental organizations, a move which Mr. Christensen was heavily involved in bringing about.

The past quarter-century has been a period of development and unprecedented growth of government health care programs. Both the dental profession and the oral health of Americans have benefited greatly from Hal Christensen's efforts to ensure that dental health care was made an integral part of this expansion.

Mr. President, Hal Christensen will retire from his position at the ADA at year's end. I have known him for many years. In fact, back when I was Governor, I had the pleasure of commissioning him a Kentucky Colonel. Never have I regretted that action, for Mr. Christensen has not only been a great representative of the dental profession, but a great Kentucky Colonel as well.

I am sure I speak for a great many of my colleagues in the Senate when I express my very best wishes for a long life and happy retirement.●

TAX CREDIT PROVISIONS

● Mr. HATFIELD. Mr. President, I am proud to join Senators DANFORTH and BENTSEN with more than 60 of our colleagues in cosponsoring S. 1912. This bill would extend to June 30, 1986, various tax credit provisions in the Internal Revenue Code which are expiring at the end of this year.

One of the inevitable, though not intended, effects of repeated congressional revision of the Tax Code is the quandry in which both businesses and individuals find themselves when faced with the need to make decisions based, at least in part, on particular Tax Code provisions. The present climate of uncertainty created by this latest tax reform effort is further exacerbated by the sunset of a number of Tax Code provisions at the end of this year, only perhaps to be reinstituted as the Senate considers tax reform legislation in early 1986.

These "temporary provisions" include the tax credit for qualified research and development activities and the tax credit for expenses incurred in the utilization of renewable energy and conservation resources by businesses and individuals. I am particularly interested in assuring that the current renewable energy and conservation tax credit be extended for this 6-month period.

As my colleagues know, I previously have introduced S. 1220, the Renewable Energy and Conservation Transition Act of 1985, and have been joined in this effort by 36 of my colleagues.

The additional 6-month time period provided by S. 1912 would permit the Senate Finance Committee and the Senate as a whole to examine the provisions of S. 1220 and consider including them as part of the Senate's version of tax reform legislation.

Notwithstanding my particular interest in the renewable energy and research and development tax credits, let me emphasize that this bill does not pick and choose between tax provisions but applies to extend all provisions which have expired at the end of 1985. The purpose of this bill is simply to maintain the status quo for a sufficient time to allow the Senate to give each Tax Code provision the careful evaluation it merits as part of the orderly legislative process.

In the interest of good lawmaking, I urge my colleagues to support this legislation.●

RECESS UNTIL 8:30 TONIGHT

Mr. SIMPSON. Mr. President, I move that the Senate stand in recess until 8:30 tonight.

The motion was agreed to; and, at 7:33 p.m., the Senate recessed until 8:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. CHAFEE].

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVING PRINTING ON PARCHMENT OF THE ENROLLMENT OF HOUSE JOINT RESOLUTION 372

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 473, providing for a hand enrollment of the debt limit conference report.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 473) waiving printing on parchment of the enrollment of H.J. Res. 372.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the first and second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 473) was considered, ordered to a third reading, read the third time, and passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M., WEDNESDAY

Mr. PACKWOOD. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, December 11, 1985.

ROUTINE MORNING BUSINESS

Following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, it will be the intention of the majority leader to turn to the consideration of the conference report to accompany House Joint Resolution 372, the debt limit bill.

Also, the Senate can be expected to take up S. 1396, White Earth Indians.

Votes are expected throughout the day.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. There is no objection to the unanimous-consent request, it being understood that the paragraph with reference to the conference report on the debt limit bill and the White Earth Indian bill is merely a statement of the distinguished acting majority leader.

The PRESIDING OFFICER. It is recognized that it is not part of the unanimous-consent request.

Is there objection to the unanimous-consent request pertaining to the hour of convening and to the period for the transaction of routine morning business?

If not, without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate now stand in recess until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 8:38 p.m., recessed until Wednesday, December 11, 1985, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10, 1985:

DEPARTMENT OF DEFENSE

H. Lawrence Garrett III, of Virginia, to be general counsel of the Department of Defense, vice Chapman B. Cox.

DEPARTMENT OF THE INTERIOR

Jed Dean Christensen, of Virginia, to be Director of the Office of Surface Mining Reclamation and Enforcement, vice John D. Ward, resigned.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Della M. Newman, of Washington, to be a member of the National Advisory Council on Women's Educational Programs for the remainder of the term expiring May 8, 1987, vice Peter Douglas Keisler, resigned.

ENVIRONMENTAL PROTECTION AGENCY

J. Craig Potter, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency, vice Joseph A. Cannon.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Henry F. Schickling, of Pennsylvania, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988, reappointment.

CONFIRMATION

Executive nomination confirmed by the Senate December 10, 1985:

DEPARTMENT OF JUSTICE

Stanley A. Twardy, Jr., of Connecticut, to be U.S. attorney for the district of Connecticut for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Tuesday, December 10, 1985*

The House met at 12 o'clock noon.

The Most Reverend John M. Allin, presiding bishop of the Episcopal Church, U.S.A., New York, NY, offered the following prayer:

Holy and gracious One:

I pray we as a nation can be more occupied with the hopes and means of sharing life than with the fears and weapons of spreading death.

Enable, we pray, this Congress to deal decisively with the debt that plagues this Nation.

I pray for conviction and courage for free Americans to agree and accept our fair burden of taxes to provide for a fairer share of life for all.

Enable these public servants to provide policies which consistently make the American ideal of justice and peace an increasing reality attractive and beneficial to the peoples of all nations.

I pray for grace and goodness in and of each Member of this House and for the people we are called to serve in the name of Him who came to serve before being served, Jesus of Nazareth, my Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GREGG. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GREGG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 116, answered "present" 2, not voting 27, as follows:

[Roll No. 441]

YEAS—289

Ackerman	Andrews	Aspin
Addabbo	Annunzio	Atkins
Akaka	Anthony	AuCoin
Alexander	Applegate	Barnard
Anderson	Archer	Barnes
Bateman	Guarini	Myers
Bates	Hall (OH)	Natcher
Bedell	Hall, Ralph	Neal
Beilenson	Hamilton	Nichols
Bennett	Hammerschmidt	Nielson
Berman	Hansen	Nowak
Biaggi	Hatcher	Oakar
Boggs	Hawkins	Oberstar
Boland	Hayes	Obey
Bonior (MI)	Hefner	Olin
Borski	Heftel	Ortiz
Bosco	Hertel	Owens
Boucher	Hillis	Packard
Boxer	Holt	Panetta
Broomfield	Hopkins	Pashayan
Brown (CA)	Horton	Pease
Bruce	Howard	Pepper
Bryant	Hoyer	Perkins
Burton (CA)	Hubbard	Petri
Bustamante	Huckaby	Pickle
Byron	Hughes	Porter
Callahan	Hutto	Quillen
Campbell	Hyde	Rahall
Carper	Jeffords	Rangel
Carr	Jenkins	Ray
Chapman	Johnson	Regula
Chappell	Jones (NC)	Reid
Clinger	Jones (TN)	Richardson
Coats	Kaptur	Rinaldo
Coelho	Kastenmeier	Robinson
Coleman (TX)	Kemp	Rodino
Collins	Kennelly	Roe
Combest	Kildee	Rose
Conyers	Kleczka	Rostenkowski
Cooper	Kolter	Rowland (GA)
Coyne	Kostmayer	Roybal
Craig	LaFalce	Rudd
Crockett	Lantos	Russo
Daniel	Leath (TX)	Sabo
Darden	Lehman (CA)	Savage
Daschle	Lehman (FL)	Schaefer
Davis	Leland	Scheuer
de la Garza	Levin (MI)	Schneider
Dellums	Levine (CA)	Schulze
Derrick	Lipinski	Schumer
Dicks	Livingston	Sharp
Dingell	Lloyd	Shelby
Dixon	Long	Shumway
Donnelly	Lowry (WA)	Sisisky
Dorgan (ND)	Lujan	Skelton
Dowdy	Luken	Slattery
Downey	Lundine	Smith (FL)
Duncan	Lungren	Smith (IA)
Dwyer	MacKay	Smith (NE)
Dyson	Madigan	Smith (NJ)
Early	Manton	Snyder
Eckart (OH)	Markey	Solarz
Eckert (NY)	Marlenee	Spratt
Edgar	Martin (NY)	St Germain
Edwards (CA)	Martinez	Staggers
English	Matsui	Stallings
Erdreich	Mavroules	Stark
Evans (IL)	Mazzoli	Stenholm
Fazio	McCloskey	Stokes
Feighan	McCollum	Strang
Fish	McCurdy	Studds
Flippo	McDade	Sweeney
Florio	McEwen	Swift
Foglietta	McHugh	Synar
Foley	McMillan	Tallon
Ford (MI)	Mica	Tauzin
Fowler	Mikulski	Taylor
Frank	Miller (CA)	Thomas (GA)
Franklin	Miller (WA)	Torres
Frost	Mineta	Torricelli
Fuqua	Moakley	Towns
Garcia	Molinari	Traficant
Gejdenson	Mollohan	Traxler
Gibbons	Montgomery	Udall
Glickman	Moody	Valentine
Gonzalez	Moore	Vento
Gordon	Morrison (CT)	Visclosky
Gradison	Mrazek	Volkmer
Gray (IL)	Murphy	Walgren
Green	Murtha	Watkins
Waxman	Williams	Wyden
Weaver	Wilson	Wylie
Weiss	Wirth	Yates
Wheat	Wise	Yatron
Whitehurst	Wolpe	Young (MO)
Whitley	Wortley	
Whitten	Wright	

NAYS—116

Armey	Gingrich	Pursell
Badham	Goodling	Ridge
Bartlett	Gregg	Roberts
Barton	Grotberg	Roemer
Bentley	Gunderson	Rogers
Bereuter	Hartnett	Roukema
Billirakis	Hendon	Rowland (CT)
Bliley	Henry	Saxton
Boehlert	Hiler	Schroeder
Boulter	Hunter	Schuette
Brown (CO)	Jacobs	Sensenbrenner
Burton (IN)	Jones (OK)	Shaw
Carney	Kasich	Shuster
Chandler	Kindness	Sikorski
Cheney	Kolbe	Siljander
Clay	Kramer	Skeen
Cobey	Lagomarsino	Slaughter
Coble	Latta	Smith, Denny (OR)
Coleman (MO)	Leach (IA)	
Conte	Lent	Smith, Robert (NH)
Coughlin	Lewis (CA)	
Courter	Lewis (FL)	Smith, Robert (OR)
Crane	Lightfoot	
Dannemeyer	Loeffler	Snowe
Daub	Lott	Solomon
DeLay	Lowery (CA)	Spence
DeWine	Mack	Stratton
Dornan (CA)	Martin (IL)	Stump
Dreier	McCain	Sundquist
Durbin	McCandless	Swindall
Edwards (OK)	McKernan	Tauke
Emerson	Meyers	Thomas (CA)
Evans (IA)	Michel	Vander Jagt
Fawell	Mitchell	Walker
Fiedler	Monson	Weber
Fields	Moorhead	Whittaker
Frenzel	Morrison (WA)	Wolf
Gallo	Oxley	Young (FL)
Gekas	Parris	Zschau
Gilman	Penny	

ANSWERED "PRESENT"—2

Dymally	O'Brien

NOT VOTING—27

Bevill	Fascell	Miller (OH)
Boner (TN)	Ford (TN)	Nelson
Bonker	Gaydos	Price
Breaux	Gephardt	Ritter
Brooks	Gray (PA)	Roth
Broyhill	Ireland	Seiberling
Chappie	Kanjorski	Stangeland
Dickinson	McGrath	Vucanovich
DioGuardi	McKinney	Young (AK)

□ 1210

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with

the budget process," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon.

The message also announced, that the following Senators be conferees on the part of the Senate:

Senate committee	Republican conferees	Democratic conferees
Budget—general conferees.	Domenici, Armstrong, Kassebaum, Boschwitz, Symms.	Hollings, Johnston, Sasser, Metzenbaum.
Agriculture	Helms, Dole, Lugar, Cochran.	Zorinsky, Leahy, Melcher.
Armed Services	Goldwater	Nunn.
Banking	Garn, Heinz, Hecht	Proxmire, Reigle.
Commerce	Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens.	Hollings, Long, Inouye, Ford, Riegle.
Environment and Public Works.	Stafford, Chafee, Simpson, Symms.	Bentsen, Burdick, Lautenberg.
Finance—General Conferees.	Packwood, Roth, Danforth, Chafee.	Long, Bentsen, Matsunaga.
Finance—for PBGC and ERISA Subconference only.	Packwood, Chafee, Heinz	Mitchell, Moynihan.
Finance—for CHAMPUS, Medicare, Subconference only.	Durenberger	Baucus.
Finance—for private health insurance coverage, Subconference only.	Heinz, Wallop, Durenberger.	Baucus, Pryor.
Governmental Affairs	Roth, Stevens, Mathias, Cohen.	Eagleton, Levin, Core.
Labor and Human Resources—General Conferees.	Hatch, Stafford, Quayle	Kennedy, Pell.
Labor and Human Resources—for PBGC and ERISA, subconference only.	Hatch, Nickles, Thurmond	Kennedy, Metzenbaum.
Small Business	Weicker, Gorton	Bumpers.
Veterans' Affairs	Murkowski, Simpson	Cranston.
Energy Committee General Conferees.	McClure, Domenici, Wallop	Johnston, Ford.
Energy Committee conferees on title VI, sec. 6701 only.	McClure, Hatfield, Domenici.	Johnston, Ford.
Commerce conferees on title VI, sec. 6701 only.	Danforth, Packwood, Goldwater.	Hollings, Long.

□ 1220

THE MOST REVEREND JOHN M. ALLIN

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, this morning our guest chaplain is the Most Reverend John M. Allin, the presiding bishop of the Episcopal Church of the United States.

Bishop Allin was born in Helena, AR, and was educated at the University of the South at Sewanee, TN.

He was installed as the 23d presiding bishop of the Episcopal Church of the United States in 1974 and is retiring next month after 12 years of service.

Under Bishop Allin's leadership, a new dimension has been added to the old word "mission." By teaching individual and personal responsibilities for Episcopalians to join a ministry of service to the needy, the work of the church has increased dramatically in the inner city, on Indian reservations, and in foreign countries. As a result, there is a heightened credibility among members of the Episcopal Church, and respect for the work of the church has reached an all time high.

Bishop Allin has also engaged in a broad effort to bolster its ministries of education, evangelism, pastoral care, and worship. His leadership has given vision and understanding to the church during years of significant social change and moral challenge. He is strongly committed to international peace, and frequently serves as a counselor to many of us in Congress, as well as other leaders around the world.

During Bishop Allin's retirement, it is my hope that he will share the insight gained from his tenure as bishop with political leaders so that they may be guided by his past experience.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I join my colleague, BILL ALEXANDER, in welcoming Bishop John Allin to be Chaplin of the day. As BILL said, John Allin has been presiding bishop of the Episcopal Church for the past 12 years.

As an Episcopalian, I know what an outstanding job he has done in leading our church on uncharted courses while keeping the stability that most of us wanted.

In my opinion, John Allin is one of the best, if not the best presiding bishop our church has ever had. He is warm and thoughtful and cares about every individual.

The Episcopal Church of America has been fortunate to have John Allin as presiding bishop for the past 12 years. Now he plans to teach at the University of the South in Sewanee, TN. I know he will take with him a great knowledge and love of God and love of man that will be a benefit to those who will come in contact with Bishop Allin down the road of life.

GLOBAL IMMUNIZATION BY 1990

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, one of the most disturbing tragedies of our time is the prevalence of sickness, hunger, and death of the world's children. Every year 4 million children die from polio, measles, diphtheria, tetanus, whooping cough, and tuberculosis. Another 5 million who contract these diseases each year are permanently handicapped or crippled. Most handicapped children in the less developed countries have no access whatsoever to the medical, educational, or legal accommodations that one finds here. So in addition to their poverty these children have an additional strike against them.

Last April, I joined UNICEF officials and the great Dr. Albert Sabin, originator of the oral polio vaccine, in El Salvador to observe the third and final mass vaccination day. Up to 300,000 children were immunized. Approximately 20,000 medical staff and volunteers manned more than 2,000 vaccinations sites in virtually every part of the country. For the first time in history, a cease-fire was declared in the midst of war for the singular purpose of innoculating children. There is no doubt in my mind that the Vaccine Program in El Salvador can serve as an extremely useful model. El Salvador is a success story, an inspiration and an example to be duplicated elsewhere in the developing world.

I am pleased to point out that on October 25, at ceremonies at the United Nations in New York, numerous countries, including the United States, rededicated themselves to the goal of immunizing the world's children by 1990 against the six child killing diseases. Several speakers, including myself, expressed our gratitude to UNICEF for its leadership in this endeavor and especially to Executive Director Jim Grant for his tremendous vision and drive. But words and sentiment are not enough. The only true barometer of commitment is performance. Deeds speak louder than words.

While the United States can be proud of its contributions to saving and enhancing the lives of children through immunization programs notably the child survival fund, it seems clear that the goal of universal immunization by 1990 will not be realized unless up to $150 million more per year from various sources is pumped into the program.

Today Mr. HALL, Mr. GILMAN, and I are introducing legislation to provide $50 million over and above our current commitment. The additional funding will join new grants from Canada, Spain, and Italy, just to mention a few, in an accelerated effort to get the job done. It is hoped that our generosity will encourage other governments and organizations to beef up their pledges in this lifesaving effort.

Finally, let me just say that I believe that children, born and unborn, healthy and unhealthy, rich and poor, are God's most precious gift. But they are also vulnerable. We must never be too busy, or too comfortable, to hear their plea, to see their tears, to empathize with their plight and to respond with all the love and generosity we have to muster.

A FAIR ELECTION IN GUATEMALA

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, after 15 years of military rule and re-

pression, Guatemala on Sunday elected a Christian Democrat, Vinicio Cerezo, as President.

As cochairman with Senator HATFIELD, of the delegation that observed the election, I can attest to the fact that the elections were fair, efficiently run, and the turnout unusually high.

Guatemalans are hopeful that their new democracy will be viable so that they can get ahead with the task of national reconstruction. It remains to be seen, however, whether the Guatemalan military will stay out of politics. If they do not give this new government a chance, then the international community and the U.S. Congress will undoubtedly be most reluctant to help.

The new President is an impressive, reform-minded politician. He deserves our support and congratulations.

Guatemala on Sunday cast an important vote for its democratic future.

INTRODUCTION OF BILL AMENDING BANK SECRECY ACT

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WORTLEY. Mr. Speaker, it's a crime that money laundering isn't. It's a crime to evade taxes and it's a crime not to fill out currency transaction forms, but it's not a crime to launder money.

I think it should be.

No one knows for sure but estimates of $40 to $60 billion per year in illgotten gains enter the U.S. payments system. I don't think money launderers are necessarily any smarter than the rest of us. They just seize the opportunities placed in front of them.

Money launderers know that the Government moves in mysterious ways. They know that the government uses the latest in 19th century technology to combat crimes that Buck Rogers villians would be proud to commit.

So what do we do?

We make it harder for them to push their blood money through financial institutions and tax shelters. This will take legislation. Existing rules and regulations are not enough.

Today, I am introducing a bill to amend the Bank Secrecy Act. My bill defines monetary instruments and financial institutions and generally prohibits all exemptions from filling out currency transaction reports. It requires all Federal agencies that have access to exemption lists to share their information among themselves. It also makes it more difficult for the less upstanding among us to buy financial institutions.

And should an occasional evildoer slip through the cracks of the tough new law, my legislation requires that laundered funds can be confiscated and earmarked for use by the Treasury Department to combat money laundering.

The text of my bill follows:

H.R. 3892

A bill to amend title 31, United States Code, to strengthen certain currency reporting requirements, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL INSTITUTIONS AND MONETARY INSTRUMENTS.

Section 5312(a) of title 31, United States Code, is amended—

(1) in paragraph (2) (defining financial institutions)—

(A) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(B) by inserting after subparagraph (S) the following new subparagraph:

"(T) any foreign subsidiary or affiliate of any entity described in this paragraph;"; and

(2) in paragraph (3) (defining monetary instruments)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) as the Secretary may prescribe by regulation, any transfer of funds.".

SEC. 2. RESTRICTIONS ON EXEMPTIONS.

Section 5318(3) of title 31, United States Code, is amended by inserting after "prescribed under this subchapter" the following: ", except that the Secretary shall review each exemption not less than once during each calendar year and in any case in which there is a change in management or control of a financial institution, the Secretary shall review any exemption involved not later than 30 days after the date on which such change in management or control occurs".

SEC. 3. CHANGE IN BANK CONTROL ACT AND CHANGE IN SAVINGS AND LOAN CONTROL ACT AMENDMENTS.

(a) The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended—

(1) by striking out "or that" and inserting in lieu thereof ", that"; and

(2) by adding before the period at the end thereof the following: ", or that additional time is needed to assure that all persons involved will comply with subchapter II of title 31, United States Code (relating to records and reports on monetary instruments transactions)".

(b) The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended—

(1) by striking out "or that" and inserting in lieu thereof ", that"; and

(2) by adding before the period at the end thereof the following: ", or that additional time is needed to assure that all persons involved will comply with subchapter II of title 31, United States Code (relating to records and reports on monetary instruments transactions)".

SEC. 4. PROCEEDS OF ILLEGAL ACTS AVAILABLE TO COMBAT MONEY LAUNDERING.

Amounts in the general fund of the Treasury which are attributable to the proceeds of—

(1) monetary instruments (as defined by section 5312(a)(3) of title 31, United States Code), and

(2) deposits or accounts in any depository institution (as defined by subparagraph (A) of section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A))),

which were declared forfeited to the United States under any law of the United States authorizing the forfeiture and seizure of the proceeds from any unlawful act shall be available, as provided by appropriation Acts, to the Secretary of the Treasury (and such other head of a law enforcement agency of the United States as the Congress may provide) for the purpose of enforcing the provisions of subchapter II of title 31, United States Code (relating to records and reports on monetary instruments transactions).

CRISIS FOR AMERICAN FARMERS INCREASING

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, I was pleased last Saturday that the President of the United States in his weekly radio address used a letter from a farm wife Debbie Wilson, from Bennington, OK, my boyhood hometown. The letter from Debbie Wilson explained the economic crisis on the farms in rural America.

However, I was not pleased to hear that our Chief Executive, President Reagan, still blames President Carter for the farm problem 5 years after President Reagan has been the President. The fact is the grain prices during the embargo of Jimmy Carter were higher than they are today under the policies of President Reagan.

Furthermore, the dropping land prices of this country parallels the time that President Reagan initiated Reaganomics, his tax-budget policy, and since that time the domestic deficit has grown from $58 billion in 1981 to $200 billion a year. Furthermore, with the 40-percent overvalued dollar which has increased under Reagan, less agriculture products are being exported. The U.S. trade balance has gone from a surplus in 1981 to a $150 billion trade deficit this year. Today the United States has become a debtor nation for the first time since 1914.

The crisis facing the American farmer has increased under the Reagan policy. The President could instruct Secretary John Block to sell the surplus agriculture commodities in the Commodity Credit Corporation at competitive world prices. That action along with a farm policy centered on supply management could lead the American farm community out of these economic crises quicker than anything we could do.

Mr. President, you have been the Chief Executive Officer for 5 years. I hope you will accept that responsibility and try to initiate the changes that

are necessary to allow the American farmer to make a profit.

THE DECLINING QUALITY OF AMERICAN EDUCATION

(Mr. SWINDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWINDALL. Mr. Speaker, according to the President's recent Commission on Education, the quality of education in America for the last 22 years has declined dramatically. Not coincidentally during the last 22 years, the Federal commitment in terms of dollars for education has increased significantly, in fact by over 18-fold, from less than $1 billion to nearly $18 billion.

Typical of the Federal programs established during the last 22 years has been the title I, now chapter 1 program, whose budget has increased from less than $1 billion to $3.7 billion.

Regrettably, the program has yet to achieve its objectives. A number of Americans, including myself, believe that one of the reasons that educational quality has declined in America has been the fact that with Federal dollars come Federal control.

In an effort to restore parents into the decisionmaking process, a number of my colleagues and I have offered the Equity and Choice Act of 1985, commonly known as Teach, a piece of legislation that will modify the chapter 1 program so as to use the GI bill concept of vouchers.

I would urge anyone who has not yet made up his mind about this bill to join me tonight for a special order to argue the merits.

THE MISCHIEVOUS UNIFORM POLL CLOSING BILL

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, the uniform poll-closing bill, scheduled on the floor today, is at once well-intentioned, and likewise mischievous.

Requiring a uniform time for poll closing, on all States in three varying time zones in Washington dictating in an area traditionally and constitutionally left to the States.

It would be, as the Ohio secretary of state has observed, "an unreasonable burden on the States and an unnecessary intrusion by the Federal Government into the election process."

In the Cincinnati area, a 9 p.m. closing would mean election results would be available about 3 or 4 a.m., instead of midnight or 1 a.m. Ohio election officials would have to employ two shifts, easier said than done, even if we could find the million or so dollars. Some election officials would have to work an 18-hour day, and make a few mistakes in the process.

And for what? The networks aren't going to live by any so-called agreement, and we wouldn't want them to. We don't need codification, or fossilization; we need to keep searching, with the networks, for better answers, not laws.

THE EDGAR-SIKORSKI AMENDMENT TO THE SUPERFUND AMENDMENTS OF 1985

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, late last Thursday night the House passed an amendment to the Superfund legislation offered by our colleague from Pennsylvania, Mr. EDGAR. Although I am sure that the amendment was well-intended, it has the potential to cause unbelievable burdens on the American people, with no apparent benefit.

The Edgar amendment would require reports of releases of any chemical with suspected chronic health effects. This is a potentially limitless list. These reports are not limited to big chemical plants, however. Under the language of the Edgar amendment, everyone must comply. Therefore, your constituents could be responsible to report, on an annual basis, the amount of bleach or household cleaner that they dispose of. Such an overboard reporting requirement is clearly burdensome with no apparent benefit.

H.R. 2817, the Superfund reauthorization legislation, is a very good bill which would require large companies to report releases of acutely toxic chemicals. The Edgar amendment greatly expands this reporting requirement in an unreasonable, burdensome manner. I urge my colleagues to join me and vote no today when a separate vote occurs on the Edgar amendment.

SUPPORT OF THE EDGAR-SIKORSKI AMENDMENT

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, an effort will be made later today to reverse our important vote on the Edgar-Sikorski amendment to the community right to know portions of the bill. It would be most unfortunate if this effort succeeded.

The vote on Edgar-Sikorski was clearly one of the most significant environmental votes of the year and we should sustain our commitment to the simple principle that our constituents have the right to know about cancer-causing emissions in their midst.

Dioxin, vinyl chloride, benzene, asbestos—these dangerous chemicals have become part of every American's vocabulary as our national consciousness regarding toxic pollution grows. These chemicals have been called "silent killers" because their effects on human health are gradual and insidious.

Cancer, birth defects, genetic mutations—all are the tragic outcome of exposure to chronic health effect chemicals. Although they take years to develop, such chronic diseases are no less deadly than the immediate effect of the so-called acute chemicals which were originally covered by the compromise bill.

The Edgar-Sikorski amendment adds the silent killers to the bill so that we do not miss this important opportunity to require the disclosure of information about chronic as well as acute health effect chemicals. Without the amendment, the bill would only give communities a right to know about emissions that can kill instantly. With the amendment, our constituents will have the right to know about emissions that kill and maim over the long term.

Both kinds of information are vitally important if we are ever to eliminate the poisoning of our environment. It has been said by some that a vote against the Edgar-Sikorski amendment is a vote in favor of cancer. This somewhat colorful statement is closer to the truth than some of us may wish to acknowledge.

If we reverse the amendment today, we will be telling our constituents that they can remain ignorant about the most dangerous hazards which threaten their health. None of us should allow distortions about the impact of the amendment to force us into such an untenable position.

The simple truth is that the Edgar-Sikorski amendment does not cover the family farmer or local dry cleaner. It does not burden small business. It will not result in the listing of thousands of chemicals and drown industry in paperwork. It is a reasonable, moderate proposal that requires minimal disclosure.

I urge my colleagues to continue to support the Edgar-Sikorski amendment.

□ 1235

VOTE "NO" ON EDGAR AMENDMENT TO SUPERFUND

(Mr. LENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LENT. Mr. Speaker, later today the House will continue its consideration of H.R. 2817, the Superfund Act. Before we vote on final passage, a separate vote will be requested on the

Edgar amendment which was adopted by the Committee of the Whole House late last Thursday night.

I urge my colleagues to vote "no" on this amendment. The Edgar amendment would require an annual report on the release of any chemical which may have a chronic health effect. This could be thousands of substances. Under the Superfund statute, almost anything one does with a chemical is a release.

This report will not just be required of manufacturers or chemical companies, but everyone handling these chemicals, including small businesses, gas stations, dry cleaners, hardware stores, beauty parlors, hospitals, liquor stores and schools. According to EPA, millions of businesses will be involved. It also would impose detailed reporting requirements on the owners of apartment houses and buildings and department stores with space-heating units. Farmers would actually be responsible for reporting the exact amount of pesticides used on their crops.

This would be a ridiculously onerous requirement. I urge my colleagues to join me later today in voting "no" on the Edgar amendment.

A HOPE FOR PEACE IN NORTHERN IRELAND

(Mr. BOLAND asked and was given permission to address the House for 1 minute.)

Mr. BOLAND. Mr. Speaker, the Christmas season is a time for hope—most especially a time for a hope that peace and reason will supplant the violence and hatred that separate far too many of the world's people.

Yesterday, this body gave a nearly unanimous endorsement to a measure that I hope will encourage a peaceful resolution to the dispute which divides the people of Northern Ireland. In so doing, we put the House of Representatives on record in support of the recently achieved historic agreement between the Republic of Ireland and Great Britain, and the step down the road to peace and justice in Northern Ireland which I believe it represents.

No one, least of all those of us who proudly claim an Irish heritage need be unrealistic about the difficulties inherent in the Anglo-Irish accord. Even though ratified by the Parliaments of Ireland and Great Britain, the accord will be difficult to implement, given the weight of the political, social, and economic problems in Northern Ireland. The United States can, however, increase the chances of the agreement's success by providing moral and material support. That is the route we chose overwhelmingly yesterday, and I hope we can move expeditiously to implement that choice in the days ahead.

Mr. Speaker, violence has not, and cannot, resolve the troubles in Northern Ireland. A political solution, which renounces violence and acknowledges that the future of Northern Ireland must be determined by the people—all of the people—of Northern Ireland is the only way to solve those problems. That is the course charted by the New Ireland Forum, and endorsed by the Anglo-Irish agreement, and I am pleased that is the course clearly favored by the Members of the House of Representatives.

A CHOICE OF EDUCATION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I think it is ironic that in this country today, parents have the unlimited choice to choose the type of preschool education they feel suits their child best and later in life unlimited choice to attend any college they desire; yet during the students' most crucial period, kindergarten through 12th grade, there is little choice especially for many poor and minority children. Choice is a luxury for the more affluent. One wonders how much better as a nation we would be if all children had the same choice in education.

I think it is time that we explore the possibilities offered to us by the teach legislation. I can think of no other group of people who can benefit more from this than chapter I recipients since it is they who have the least amount of choice.

It wasn't too long ago that powerful individuals fought against opening up educational opportunities for women, blacks, veterans, and handicapped. They said it would erode public education and splinter society. They were wrong. I submit that we are stronger as a nation because of these bold and enlightened moves. I believe it is time to truly open the door of opportunity for all.

THE INDUSTRIAL DINOSAUR OF FOREIGN AUTO SALES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this last week we have found that the foreign penetration of new auto sales for the month of November was almost 33 percent. I came on the House floor a week ago to announce that in October it was 30.7 percent.

Without question, we have a future industrial dinosaur on our hands and nobody in this country seems to be willing to even look at that problem while we are addressing tax reform here later this week. It is very important. My God, no one has yet come to realize that without an appropriate trade reform policy and a national industrial policy in this country, we will lose our major industry and certainly threaten it as we go down through the years.

I might caution every Member who might laugh at that statement that what is happening in the auto industry now parallels the steel industry in the early 1960's. By failing to act, when the bottomless pit falls out as it did with steel, America can face bankruptcy and total financial collapse.

I am asking that this Congress and its leaders address our trade policies before it is too late.

PERMISSION TO REFER HOUSE JOINT RESOLUTION 436 FROM COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that House Joint Resolution 436 be referred from the Committee on Banking, Finance and Urban Affairs to the Committee on Post Office and Civil Service.

This should not be considered a precedent. It has been cleared with the minority.

The SPEAKER pro tempore. (Mr. MITCHELL). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PROMPT PASSAGE OF SUPERFUND LEGISLATION ESSENTIAL

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, after approximately a year, we are finally taking out of legislative limbo the Superfund bill. This essential piece of House legislation will hopefully pass the House today and be sent on for final passage out of conference.

This is a critical piece of legislation. What is most important about this piece of legislation is its size, the fact that we are increasing its funding levels from $1.5 billion to $10 billion, approximately a sixfold increase, an increase that is essential in order to address the many health hazards which are covered in the Superfund bill.

Superfund is an essential health fund bill. There are many waste sites, not only in New Hampshire but throughout this Nation, which are awaiting funding from this institution and it is essential that we go forward with prompt passage.

SUPPORT WAYS AND MEANS SUPERFUND PROPOSAL

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, later today we will be making a selection of the mix of funding for Superfund. I want to urge rejection of both alternatives to the proposal of the Committee on Ways and Means.

I think all of us realize that the petrochemical industry is responsible for many of the dumpsites that need to be cleaned up in this country. It is only fair for those industries to shoulder a reasonable burden to help clean up those dumpsites. Under the Committee on Ways and Means proposal, the petrochemical industries will shoulder the lion's share of the burden for that funding. Over half of the money for the Superfund will come from those industries. How? Feedstock taxes, waste end taxes, a tax on gasoline products, plus any of the excise tax that falls on their shoulders as well.

The petrochemical industries are not the only major cause of the hazardous waste dumpsites; there are 10,000 companies and 33 other industries that have contributed to this mess. Those companies should bear some of the cleanup burden. Under the Committee on Ways and Means proposal, they do.

I urge the rejection of the Downey and the Duncan amendments and urge support of the Committee on Ways and Means proposal.

"TEACH"—THE EQUITY CHOICE ACT OF 1985

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, Congressman SWINDALL has recently introduced H.R. 3821, the Equity Choice Act of 1985, of which I am an original cosponsor. My reasons for supporting the vouchers concept for the chapter I remedial education program are important. Congress instituted the chapter I program to provide special educational services to all educationally disadvantaged students. Under the current system, each school determines the number of their students who qualify for this money to calculate the amount of chapter I funds to which they are entitled.

The Equity Choice Act of 1985, better known as teach, would provide the parents of educationally disadvantaged children with a voucher and the permission to use it at any public or private school of their choice. By expanding the range of choices available to parents through the use of a voucher system, teach would allow them to send their children to the school that provides programs which best meet their children's individual needs. Parental choice will promote healthy competition among schools to improve the education of chapter I children.

The amount of the voucher itself will vary depending on each area's cost of education. The average voucher would be about $630. It is important to note that the parents of these children would not receive a check for this amount of money, but a certificate which they would give to the school of their choice as the equivalent of a tuition payment. Because it is not a check, it could not be cashed and misappropriated by parents.

This bill does not create a new program or increase Federal spending in any way. It merely changes the way this already existing program is administered to allow parents more choice in the educational process.

I urge my colleagues to join with me in supporting this legislation which would foster parental participation, healthy competition in our schools, and ultimately a better educational system.

SMALL BUSINESS COMMITTEE TAKES NO OFFICIAL STAND ON EDGAR/SIKORSKI AMENDMENT

(Mr. MITCHELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL. Mr. Speaker, a number of Members have telephoned me saying that they have received phone calls indicating that the Small Business Committee has taken an official position on the Edgar-Sikorski amendment. That is simply not true. The Small Business Committee has not met on this issue. As a general practice, we as a committee do not take stands on such amendments.

We have a similar situation in my State of Maryland. It requires a one-page report, that is all, nothing more onerous. As I understand it, under the amendment the EPA has the right not to impose an undue burden on a number of small businesses and farmers.

I think the record, no matter how you feel about the amendment, should be absolutely clear that the committee that I have the honor to chair has not and will not take an official position on the Edgar-Sikorski amendment.

VOTE "NO" ON EDGAR-SIKORSKI AMENDMENT TO SUPERFUND AMENDMENTS OF 1985

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I would like to direct the attention of my colleagues to the Edgar amendment to H.R. 2817, the Superfund Amendments of 1985, that was passed by the Committee of the Whole during a late night session last Thursday. Although I am sympathetic to the general intent of the sponsors of this amendment, it is clear that few understood the widespread and potentially devastating economic impact of this amendment.

In short, the Edgar-Sikorski amendment would require anyone who produces, uses or stores a substance that may cause an adverse health effect to estimate and report all emissions of that substance. My fellow colleagues, if this amendment were enacted into law tomorrow, there would be very few businesses that would not be subject to the requirements of this legislation, including beauty salons, restaurants, gasoline stations, and dry cleaners to name just a few.

The amendment would also cover local government operations, such as publicly owned water treatment facilities, and require hospitals to estimate all of the emissions of any substances which may cause harm. Apartment buildings, department stores and even households could fall subject to the requirements of this legislation.

It is difficult to believe that such a broad and encompassing piece of legislation will even be helpful. This is just not responsible legislation. I urge a "no" vote on the Edgar-Sikorski amendment, when it comes up for a vote later today.

VOTE DOWN EDGAR AMENDMENT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DINGELL. Mr. Speaker, today the Edgar amendment is going to come back before the House for a vote when the Committee of the Whole has concluded its business on the Superfund bill. It has been touted as a community right-to-know provision.

The interesting thing about it is that the local community emergency organizations which would be charged with knowing do not particularly want all the information the Edgar amendment would foist upon them.

I have received a letter from the vice chairman of the Energy and Environment Committee of the National Association of Counties, who represents those officials who would be charged with the responsibility of receiving and handling information of this kind; that is Mr. Edward F. Williams III.

He says as follows:

We urge you to seek reconsideration of the Edgar amendment in the House.

The Edgar amendment will seriously undermine and divert community emergency response committees. Submission of status sheets for chronic hazards will overwhelm

the capabilities of these communities. Vote no on the Edgar amendment.

What they are saying is you are going to drown the emergency response committees in paper and preclude them from responding to serious situations of the kind that occurred in Bhopal.

I ask that this letter be included in the RECORD so all Members can understand the real effect of the Edgar amendment.

WASHINGTON, DC,
December 8, 1985.

Hon. JOHN DINGELL,
Chairman,
Hon. JAMES T. BROYHILL,
Ranking Minority Member, Rayburn House Office Building, Washington, DC.

GENTLEMEN: We urge you to seek reconsideration of the Edgar amendment in the House.

The Edgar amendment will seriously undermine and divert community emergency response committees, submission of status sheets for chronic hazards will overwhelm the capabilities of these committees. Vote no on the Edgar amendment.

EDWARD F. WILLIAMS III,
Vice Chairman, Energy and Environment Committee, National Association of Counties, County Commissioner, Shelby County, TN.
JOHN R. SCOTT,
Chairman, Memphis-Shelby County, Hazardous Materials Advisory Committee.
DR. GEORGE WOOD,
Toxicologist, University of Tennessee Health Center, Former Director, Southern Poison Center.

EDGAR-SIKORSKI AMENDMENT PLACES IMPOSSIBLE AND POTENTIALLY DEVASTATING BURDEN ON SMALL BUSINESS

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, we in Congress repeatedly hear about the importance of small businesses to the overall health of our Nation's economy. It is these businesses which are responsible for a disproportionate share of the development of new technologies and products that will keep America strong.

In light of this fundamental fact, let me direct the attention of my colleagues to an amendment to H.R. 2817, the Superfund Amendments of 1985, that was passed by the Committee of the Whole during a late night session last Thursday, without exaggeration, this amendment would threaten the survival of many small businesses across the country.

The amendment would require these businesses to estimate and report the emissions of any substance which may be suspected of causing an adverse health effect. This is literally thousands of chemicals since almost any chemical can cause harm in sufficient concentrations.

This is an impossible and potentially devastating burden to place on small business. As many of you know, these businesses often operate on strained and limited budgets that allow them to compete with larger firms in new fields. They lack both the technical skills and resources to even begin to meet the requirements of this amendment.

In fact, it is my belief that the passage of this amendment will have a crippling effect on the strength of small businesses in this country. For this reason, I urge you to vote no on the Edgar-Sikorski amendment when a separate vote occurs later today.

EDGAR-SIKORSKI AMENDMENT IS SIMPLE ISSUE OF COMMUNITY RIGHT TO KNOW

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, one of the first proposals I voted for in the State senate 9 years ago generated an interesting and now familiar discussion. The opponents argued how it would:

First, burden small business;
Second, destroy farming; and
Third, cause horrendous paperwork.

They marched these horribles in front of us in a parade that would have made Phillip Sousa proud. The legislation: a commemoration of Mother's Day.

You've all watched this parade of horribles before; and this week we're treated to it again against community right to know. Yet the music is sour and the notes off key.

Community right to know does not touch farmers and small businesses or create mounds of paperwork. Two States already do it—without any of the horribles—and the other body adopted an even stronger community right to know provision without controversy or opposition.

The issue is simple: If you want your constitutents to know of chemical releases causing cancer, birth defects and brain damage, vote for Edgar-Sikorski. If not, vote against it.

DRUNK DRIVING

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, it is that time of the year again—with the continuing resolution coming down the track, it can only mean one thing: The Christmas season is now again upon us. It is a special time of year when friends and relatives gather together and celebrate the spirit of Christmas. The Christmas holiday is also the time of year that some people create problems by mixing drinking and driving. Statistics have shown that a few problem drinkers, about 7 percent of the total driving population, account for over 66 percent of all alcohol-related fatalities.

Over the past 10 years 250,000 Americans have died in accidents caused by drunk driving. During the holiday season, we need to be especially attentive to this problem. Figures from the Department of Transportation indicate that, of the 670 traffic deaths which occurred last Christmas, approximately one-half were alcohol-related.

All Americans should remember the danger drinking and driving presents, and act to limit the number of deaths and accidents that occur this Christmas season. By being aware of the hazards of drinking and driving, and personally monitoring our own actions, we can play an important role in preventing drunken driving accidents this holiday season. We can help this season be a time of celebration, instead of a time of tragedy.

VOTE FOR THE EDGAR-SIKORSKI AMENDMENT

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, last week we voted to give our constituents the right to know about emissions of cancer-causing chemicals in their communities by passing the Edgar-Sikorski amendment to Superfund.

Opponents of the amendment have made many claims about Edgar-Sikorski. The truth about Edgar-Sikorski is:

It will not impose an undue burden on small business and farmers.

The EPA Administrator is directed to set threshold amounts for reporting. The Agency can and should set amounts high enough to exclude gas stations, dry cleaners, family farmers, and others with minimal emissions.

The workable, reasonable reporting systems in existing State right-to-know laws are based on similar requirements and ask only for simple reporting sheets.

Edgar-Sikorski will not require reporting on thousands of chemicals. A CRS report issued yesterday shows that comparable lists of chronics put out by Maryland, New Jersey, the National Toxicology Program, and the Federal Interagency Testing Committee have never exceeded 200 chemicals each.

The Edgar-Sikorski amendment simply gives our constituents the right to know they are breathing or drinking silent killers like dioxin, asbestos, vinyl chloride, and benzene. Vote for Edgar-Sikorski.

REMEMBERING THE HOSTAGES AT CHRISTMAS TIME

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, it is 15 days until Christmas, and for 15 hostages somewhere in the Lebanon area, 4 Frenchmen, 1 Englishman, and the 6 Americans—William Buckley (believed dead), Father Lawrence Jenco, Terry Anderson, David Jacobsen, Thomas Sutherland, and Peter Kilburn—this must be the bleakest time of their lives. Father Jenco was allowed to say Mass only twice for the other three with whom he is imprisoned.

All of our prayers are with them. As you, my colleagues recognize, it is difficult to find a solution to the terrorism in Lebanon. Last month, I asked all of you for ideas and suggestions on how we might help solve this problem. None of us has been able to come up with a single thing to tell our President on what to do other than pray for Terry Waite, the representative of the Archbiship of Canterbury, who is over there.

Let's continue to pray for the hostages quick release.

ADMINISTRATION'S CHAPTER I VOUCHER PROPOSAL

Mr. Speaker, a lot has been said over the past few years about academic decline and the need for an education system capable of meeting the demands of chance. I honestly feel that the administration's chapter I voucher proposal will help improve the learning opportunities for the minority and disadvantaged students which the program serves.

Joseph Califano, former Secretary of Health, Education, and Welfare under President Carter, wrote in his book "Governing America" the following:

> I came to HEW enthusiastic about the opportunity to improve education in America, and determined to step up Federal funding sharply. * * * I left alarmed over the deterioration of public education in America and troubled by the threat to academic freedom that the Federal role, enlarged and shaped by special interests, poses.

Former Secretary Califano also warned of two dangers to education when he wrote:

> Mediocrity at the price of excellence and financial dependence to the point of relinquishing academic freedom—pose as great a threat to our democracy as the military-industrial complex that concerned President Dwight Eisenhower in 1960. Neither of these two dangers will materialize overnight. They will seep slowly into the system, unnoticed for years. But, as is the case with the physical cancer they mimic, prevention is the only cure.

Vouchers were not the issue at this time, but Mr. Califano was right on target pointing out these two severe dangers to education. I believe that the enactment of vouchers would indeed serve as a prevention to these dangers.

CHANUKAH, A HOLIDAY FOR ALL AMERICANS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, in this holiday season for both Christians and members of the Jewish faith, I would like to take the opportunity to bring to the attention of the House the meaning of Chanukah, the Festival of Lights. This holiday commemorates the rededication of the temple in Jerusalem after an invading nation was defeated by Judah Macabee and his followers.

Chanukah should be celebrated by all of us. The invading army crushed the Hebrew religion, desecrated their temples, banished their rabbis, and forced the Israelis to follow the religion of the invaders. But, the Israelis fought back, not only to free their country, but to save their religion. When at long last the temples were won back and the invaders vanquished, the temple in Jerusalem was rededicated to God. The miracle of the temple lamps burning for 8 days when there was oil for only 1 day is a miracle that speaks to us even today as a victory for freedom of religion.

How appropriate that Chanukah be celebrated in this great country of ours, where freedom of religion is the law of the land. Each and every one of us can think right now of places in the world where this freedom does not exist. Indeed there are places right now that persecute and oppress their people when they even express a simple belief in God.

It is this Festival of Lights that gives us a light to banish the darkness of oppression and tyranny—with hope and faith that—along with the rest of our basic freedoms—the freedom of religion will be restored to those who are crying out for it today.

And I echo the words of my colleague, ROBERT DORNAN, that those being held prisoner in Lebanon today be freed in the spirit of these holidays.

ADVERSE EFFECTS OF EDGAR AMENDMENT

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, there has been reference to a position of the Small Business Committee, and I totally agree with the chairman, the gentleman from Maryland [Mr. MITCHELL], in that this was not a position of the Small Business Committee as such.

There is a letter that has been circulated by myself and six members of the Small Business Committee against the Edgar amendment. It is also supported by some 37 small businesses who concur with the language in the letter that we have sent to you pointing out some big problems associated with the Edgar amendment as it pertains to small business men and women.

The Edgar amendment would place significant new paperwork requirements on small businesses, including retailers and service industries which are not even considered hazardous waste generators.

□ 1300

Some 5,000 individual chemicals could become involved under this legislation, should the Edgar-Sikorski amendment stand. That is the letter that we were circulating. We ask you to read it; we ask you particularly to read what the EPA has to say about this amendment, and then form your judgment as we vote, when the whole House considers this amendment once again.

I will add for the RECORD the statements of those 37 small businesses who are concerned about this amendment:

SMALL BUSINESS OPPOSES EDGAR AMENDMENT

On behalf of the more than 500,000 small and independent business owners who are members of NFIB, I am urging you to vote "no" on the Edgar amendment to H.R. 2817, the Superfund Amendments Act of 1985.

The Edgar amendment would place significant, new paperwork requirements on small businesses, including retailers and service industries which are not even considered hazardous waste generators. According to EPA, this amendment would require millions of businesses nationwide to provide information on an estimated 5,000 chemicals to local authorities. While EPA is already working on a list of chemicals to be reported under community right-to-know regulations, the Edgar amendment would require that the list be expanded to include any chemical that poses any threat to human health and the environment in any way.

In short the small businesses that would be affected by the Edgar amendment do not have the expertise to fill out the extensive forms needed to provide the information, and these businesses are not the source of community environmental problems. The vote scheduled for Tuesday on the Edgar amendment will be considered a Key Small Business Vote. Again, I urge a "no" vote.

Sincerely,

JOHN J. MOTLEY III,
Director of Federal Legislation.

DECEMBER 9, 1985

DEAR CONGRESSMAN: We, the undersigned organizations, representing thousands of businesses, many of which are small, and local government officials, are writing to urge you to oppose the Edgar amendment to the pending Superfund bill. This amendment would tremendously and unnecessarily expand substances covered under the bill's Emergency Planning and Community Right-to-Know provision.

The original compromise bill's provision, agreed to by both the House Energy and Commerce and Public Works Committees, addresses the public's right to be informed about hazardous substances, the releases of "which are likely to cause an imminent and substantial endangerment to the public health." Further, it addresses the needs of the emergency response community to mitigate such endangerment. Ensuring local communities' ability to respond to hazardous substance emergencies is extremely important. The compromise bill establishes a system of planning and preparedness for emergencies involving releases of hazardous substances.

The Edgar amendment diverts attention away from this objective by improperly expanding the scope of the program and requiring the reporting of minor releases which are already addressed by requirements under existing environmental, health and safety statutes. These additional reporting requirements will be redundant and counterproductive.

The focal point of the program should be to protect human health by ensuring that an emergency response mechansim is in place. The relationship of the Edgar amendment to this goal is not apparent. An effective emergency response program must not be burdened with extraneous data and paper concerning emergency risks which are not real. Volumes of paper and information of no particular relevance will only increase the danger that a true emergency will not receive effective response.

Sincerely,

National Electrical Manufacturers Association, American Textile Manufacturers Institute, American Furniture Manufacturers Association, Society of American Wood Preservers, Laundry Cleaning Council, Printing Industries of America, International Fabricare Institute, Institute of Industrial Launderers, National Paint and Coatings Association, Coin Laundry Association, Textile Care Allied Trades Association, Textile Rental Services Association of America, National Association of Institutional Laundry Managers, Adhesive and Sealant Council.

Automotive Service Councils, Inc., Automotive Service Industry Association, Compressed Gas Association, American Mining Congress Energy and Environment Committee of the National Association of Countries, Independent Automotive Service Association, Leather Industries of America, National Association of Chemical Distributors, National Independent Dairy Food Association, Pressure Sensitive Tape Council, Rubber Manufacturers Association, Society of the Plastics Industry.

National Association of Manufacturers, Synthetic Organic Chemical Manufacturers Association, Formaldehyde Institute, Chamber of Commerce of the United States, American Petroleum Institute, Chemical Manufacturers Association, NEDA—Clean Air Act Project, Motor Vehicle Manufacturers Association, National Association of Metal Finishers, Man-Made Fibers Association, National Federation of Independent Business.

"TEACH" GIVES FREEDOM OF CHOICE TO DISADVANTAGED CHILDREN

(Mr. COBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBEY. Mr. Speaker, one of the greatest freedoms enjoyed by Americans is the freedom of choice. Nowhere in the world does a consumer have so many options from which to select whatever satisfies their individual desires.

The Reagan administration has developed a proposal that will introduce freedom of choice into our educational system. H.R. 3821, The Equity Choice Act of 1985 introduced by my colleague from Georgia, will give disadvantaged children under chapter I educational programs the luxury of choice and new opportunity in their educations.

This bill will provide social equity by giving poor families some of the educational choices currently available to more affluent families who can select a public school through choice of neighborhood or a private school. I urge every Member to take a close look at this bill and to support choice for those parents who have economic constraints.

A CHRISTMAS PRESENT TO 5 MILLION DISADVANTAGED CHILDREN

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, it is a time of giving, a season for sharing, and this Congress could end up being one of the greatest Santa Clauses of all seasons to 5 million disadvantaged children.

Under the Supreme Court Felton decision, these 5 million children cannot be attended to, assuming they attend a private school by public school teachers. The Equity and Choice Act, called TEACH, would allow a voucher system—not for all of education, but simply a voucher system using the presently authorized $3.2 billion of chapter I funds to allow parents to choose which institution they choose to send their disadvantaged children to.

Is it not time that we helped the minority and disadvantaged children this holiday season? There is a very easy way to do so, without one penny of extra cost to the taxpayers of America: Yes, it is the Equity and Choice Act, called TEACH. A great opportunity for Congress to give to the poor and give to the needy.

SUPPORT THE SWINDALL VOUCHER-EDUCATION PROGRAM

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, a common point of agreement all of us share is that our educational system should provide opportunity and access for all. Yet, for many parents, this promise has not been fulfilled. Many families, regardless of their preferences, remain locked into educational systems that do not reflect their values or aspirations for their children. They simply do not have the ability to obtain the education their children need and deserve.

There is, however, a solution to this inequity; one which I believe Congress should take a long, hard look at. By allowing States to use their chapter I funds to support local programs which encourage choice and educational diversity, we can go a long way toward meeting the needs of parents seeking the best possible education for their children.

I hope, Mr. Speaker, that both Congress and the administration will work for the promise of growth and fulfillment that Mr. SWINDALL's voucher program can offer.

EDGAR AMENDMENT TO SUPERFUND BILL SHOULD BE DEFEATED

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SNYDER. Mr. Speaker, last Thursday the House acted, with more than one-sixth of our colleagues absent, to adopt a Superfund amendment offered by the gentleman from Pennsylvania [Mr. EDGAR] which will render much of the community right-to-know title of the bill unworkable and which will place a prohibitively onerous burden on American business. Many who voted in support of the Edgar amendment did so based on the sponsor's representation that the amendment's effect would be to add approximately 150 substances to the list for which emission inventorying and reporting is required by the bill. In the last few days, we have received official notification from the Administrator of the Environmental Protection Agency that, because of the vague and extremely broad language of the Edgar amendment, at least 5,000 substances may be covered. The Edgar amendment would require literally millions of facilities across the country to compile and submit detailed emission information. In many, if not most, of these cases, the information to be

provided would be of only marginal value. Regardless of the information's potential value, however, the amendment will result in local emergency response authorities being deluged with paper in a way that will overwhelm their ability to manage the information being provided and will completely eliminate any value that the emissions reporting provisions of the bill are intended to accomplish. I urge support for a separate vote in the full House to correct this situation and defeat the Edgar amendment to H.R. 2817, the Superfund Amendments Act of 1985.

The EPA letter follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 6, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

Hon. JAMES T. BROYHILL,
Ranking Minority Member, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, DC.

Hon. GENE SNYDER,
Ranking Minority Member, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMEN: I am extremely concerned about action taken December 5 by the House of Representatives adopting the Edgar Amendment to the Community Right-to-Know section of "The Superfund Amendments Act of 1985."

By expanding the coverage of this section to include literally thousands of chemicals, the amendment renders unworkable the entire provision relating to "Extremely Toxic Substances." Millions of businesses, regardless of size, handling these chemicals would be subjected to burdensome reporting requirements.

For these reasons, I strongly urge the House to reconsider this measure.

The reach of the Edgar Amendment is such that any chemical that shows any sign of an adverse health effect from exposure in any amount could be subject to the reporting requirements. EPA would undoubtedly face lengthy court challenges for failure to list such substances.

Preliminary analysis, based on information in the Registry of Toxic Effects of Chemicals database, indicates that far more chemicals would be covered by the Edgar Amendment than the 150 mentioned during floor debate. We suspect that at least 5,000 chemicals may be covered by the broad definition in this amendment.

The problems inherent in managing data on thousands of chemical substances would be compounded by the number of facilities submitting those data. Frequently, between one and five manufacturers produce each chemical substance. There may be three times as many that process the chemical, and several times that many may be users. Many of these facilities are small businesses. All could be subject to the reporting requirements.

The Edgar Amendment would require literally millions of facilities across the country to compile and submit emissions information to local authorities. The amendment covers a wide range of substances. Many types of facilities handling these substances would be affected, including:

200,000 gasoline stations.
200,000 privately owned gasoline tanks.
175,000 commercial pesticide applicators.
165,000 industrial boilers.
50,000 vapor degreasers that use solvents.

More than one million space-heating units in apartments, office buildings and department stores.

More than one million certified pesticide applicators, including farmers.

In addition, countless other businesses, public facilities, and individuals may also be subject to the amendment's onerous reporting provisions. These include hardware stores, beauty parlors, wastewater treatment facilities, hospitals and many others. The public interest simply would not be served by this measure.

As you know, I strongly support the community's right to obtain information necessary to protect citizens from hazards posed by chemical substances. EPA is actively working to develop a list of chemicals broad enough to be fully protective, yet reasonable enough to work. The Edgar Amendment is not the answer.

Sincerely,

LEE M. THOMAS.

THE EDGAR-SIKORSKI AMENDMENT TO H.R. 2817 IS AN OVERREACTION TO UNPROVEN RISKS

(Mr. RITTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, supporters of the Edgar-Sikorski amendment to the Superfund bill would have us believe that we are facing a hazardous emissions crisis. That is simply not true. All peer-reviewed scientific and health effects studies show otherwise.

The demagoguery of late Thursday night was meant to scare and not enlighten. The truth is that age-adjusted cancer rates are flat from almost all kinds of cancer in the United States; and this is true despite increasing use of chemicals by the thousands.

Indeed, when you look at other countries, cancer mortality is not even positively correlated with the degree of industrialization. Beyond that, our modern technological society cannot afford to conduct Salem-type witch hunts on every polysyllabic chemical substance.

Such misplaced consideration of risk actually reduces society's overall health by focusing resources in the wrong areas.

A second fact is that scientists now believe that diet, lifestyle and heredity play much larger roles in causing cancer.

A third fact is that our exposure to indoor toxic pollutants far exceeds our exposure to pollutants outdoors. This makes a lot of sense since we spend at least 90 percent of our lives indoors.

Finally, when one examines the risk from air toxics outside the home, as EPA did in a peer-reviewed study, the majority of the risks do not come from chemical and manufacturing, but from people's fireplaces, cars, and small area sources such as gasoline stations and sewage treatment plants. Even then the statistics show relatively small numbers of affected parties compared to other health affects.

Mr. Speaker, the Edgar-Sikorski amendment misses the problem entirely. I urge my colleagues to consider the facts and vote against the Edgar-Sikorski amendment, when a separate vote occurs later today.

EDGAR AMENDMENT TO SUPERFUND LEGISLATION PLACES HEAVY FINANCIAL BURDEN ON INDUSTRY

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FIELDS. Mr. Speaker, I would like to bring to the attention of the House a letter from the Oil, Chemical & Atomic Workers International Union dated December 9, regarding the Downey-Frenzel amendment that we will be considering shortly during the Superfund debate.

The letter begins:

OIL, CHEMICAL AND
ATOMIC WORKERS
INTERNATIONAL UNION,
Washington, DC, December 9, 1985.

DEAR REPRESENTATIVE: We are writing to urge your support for the Ways and Means Superfund tax when the vote is taken on the House Floor on Tuesday, December 10th.

The Oil, Chemical and Atomic Workers International Union strongly opposes the Downey-Frenzel Substitute because it will produce direct American job losses by making U.S. chemical products non-competitive with foreign-produced goods.

The Ways and Means Bill poses no threats to U.S. jobs or trade, because it is trade-neutral. What's more, the Ways and Means Bill pays for Superfund in a much fairer way than the Downey-Frenzel Bill. The Ways and Means Superfund excise tax would be paid by the entire manufacturing industry, and in recognition of the fact that all manufacturers have been identified as responsible parties for creation of hazardous waste Superfund sites, we believe this is the fairest approach for funding.

The Ways and Means Superfund excise tax spreads the costs of financing so broadly that no perceptible economic impact will be felt by any one economic sector or consumer. Compare that with the economic impact of the Downey-Frenzel Substitute which will cause the loss of more U.S. jobs and manufacturing capacity in the oil, chemical and petrochemical industries.

Your vote is needed on this issue of vital importance to the U.S.A. as well as to OCAW. We urge you to support the broad-based funding of the Ways and Means Bill

and to oppose the Downey-Frenzel alternative.

Sincerely,

NOLAN W. HANCOCK,
Director,
Citizenship-Legislative Department.

Mr. Speaker, in the last few years, the trade position of basic industries, such as metal, steel, oil, and chemical production, has changed dramatically. In 1980, according to the Commerce Department, these industries had a positive net trade balance of $11.8 billion. In 1984, these same industries had a negative trade balance of $12.7 billion.

The current trade problems have been a major concern to all of us here in Congress. That is why I would like to direct the attention of the House to the Edgar amendment to H.R. 2817. The Superfund Amendments of 1985, that would further accelerate the decline of these important industries in world trade.

The Edgar amendment would result in a heavy financial burden to chemical producers and manufacturers as well as most other industries in the United States. It would require firms to estimate and report the emissions of any substance which may cause an adverse health effect—literally thousands of substances.

This amendment comes at a time when these firms can least afford an increased tax and remain competitive with foreign producers and manufacturers. For chemical producers alone, the net trade balance declined 28 percent from 1980 to 1984.

Mr. Speaker, not only am I afraid that this amendment will cause significant economic harm, I am also concerned that it will have a negative effect on community awareness of chemical dangers. The amendment would require so much paperwork that it is very likely that communities will be overwhelmed with information that will be meaningless to them. Instead of requiring only that information which is important, this amendment will drown communities in unnecessary statistics.

Mr. Speaker, it is unfortunate that we are risking so much economically for so little in terms of added health protection. I urge you to vote no when a separate vote on the Edgar-Sikorski amendment comes up later today.

PROTECTING WORKERS THROUGH LIE DETECTOR BAN

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, several days ago, the Education and Labor Committee reported out H.R. 1524, the Polygraph Protection Act, which prohibits the use of polygraphs and other so-called lie detectors in the workplace. I strongly support this legislation, which I have cosponsored, and I comment Representative PAT WILLIAMS for his leadership.

The use of polygraphs as a condition of employment is an extremely important civil rights issue. Too often, these devices have been used for purposes of employee intimidation—intentionally or unintentionally—to weed out employees with political or union beliefs which are unacceptable to the employer—and as an excuse to dismiss employees.

When the Polygraph Protection Act is brought to the floor, those opposed to the ban will point to the security needs of many industries. But this argument misses the important point that polygraphs are not an accurate determinant of guilt or innocence—a study by the Office of Technology Assessment found little scientific evidence to establish their validity—and are therefore worthless for purposes of crime detection or deterrence. In fact, the admission of polygraph results as evidence is almost uniformly prohibited by American courts

For all of these reasons, I would urge the House to pass this important civil rights bill when it comes up for consideration on the floor.

□ 1310

LET US MOVE ON THE WAR CHEST BILL—HELP PROTECT AMERICAN JOBS

(Mrs. JOHNSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON. Mr. Speaker, in a tiny article in the Wall Street Journal, we see the announcement that the Japanese Government is preparing to subsidize small exporters that have been hurt by the rising yen. The report goes on to describe Japan's new $500 million program to subsidize low-interest loans for small exporters, plans to relax credit rules, and provide loans without collateral.

Mr. Speaker, our Treasury has been working hard with a group of five economic powers, including the Japanese, to ease pressure on the United States dollar and to improve our trade balance with the rest of the world. Unbelievably, at the same time, Japan, with whom we have the largest trade deficit and which already provides exports financing support for at least 40 percent of her exports, is planning a new half-billion dollar program of deep export subsidies. In contrast, Mr. Speaker, the Banking Committee of this Congress last week reported back to subcommittee the $300 million war chest bill that we need to combat foreign export financing subsidies.

The panel is waiting on OMB to specify where it wants the money to come from (which I thought was our job) but the point is that our trade negotiators are going to look silly and weak next month when they sit down to complain about financing subsidies emptyhanded when the Japanese have moved once again with speed and effectiveness to address their own interests and counter on important joint initiative to reduce our trade imbalance.

Mr. Speaker, we are in a vicious trade war that demands aggressive action now. If we want to protect American jobs and assure our competitiveness in the future, we must pass that war chest bill, and I urge my colleagues to join me in so doing.

FATHER LAWRENCE JENCO HELD HOSTAGE IN LEBANON 11 MONTHS

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, last Sunday was the beginning of the 12th month Father Lawrence Jenco has been held hostage in Lebanon.

Father Jenco was kidnaped on the streets of Beirut January 8. Sunday was his 335th day of captivity.

Monday was the beginning of the seventh month of captivity for Thomas Sutherland, dean of the American University school of agriculture in Beirut.

William Buckley, a U.S. Foreign Service officer, was kidnaped in Beirut 644 days ago today.

The Associated Press bureau chief in Beirut, Terry Anderson, has been held hostage in Lebanon for 268 days.

David Jacobsen, the director of the American University hospital, was kidnaped 196 days ago today.

Today also marks the 371st day since the disappearance of Peter Kilburn, the American University librarian.

Mr. Speaker, America has its fingers crossed, hoping and praying for the swift release of the hostages in Lebanon.

BOB DORNAN and I think it would be appropriate that we storm the stars, Mr. Speaker, that we plead for a heavenly private bill, if you will, and in so doing reach back for the words of an ancient prayer used by families of captive crusaders some several hundred years ago: "Father, rescue those unjustly deprived of liberty, and restore them to the freedom you wish for all men as your sons."

LET US VOTE FOR THE FARM CREDIT BILL

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, we will soon be taking up the farm credit

bill. I had first opposed that bill. I now support it, as does the Springfield Bank in our district. So I speak to those Members from the Northeast and the Mid-Atlantic States. The House bill gives much more protection than the Senate bill for transfers from those remaining healthy banks in the system. They are limited to insure those banks' continued viability.

Second, the board of directors spending the money will be those from the banks contributing the money.

Third, the transfers are considered an investment, not a loan.

Fourth, they are better off under this bill than they would be under present existing loss-sharing agreements.

The most important thing for our farmers is to keep the cost of money down. This bill would keep the cost of the farm credit bonds' interest down. A "yes" vote will do this also.

WE ARE STANDING IDLY BY AS SOVIET UNION CONTINUES TO MOVE ON SOUTHERN AFRICA

(Mr. BURTON of Indiana asked and was given permission to adddress the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the freedom of the countries of southern Africa is vital to the security of the entire Free World. Five minerals that are essential to the freedom of the free world come from southern Africa; 40 percent of the free world oil supplies come around the Cape of Good Hope. Yet we are standing idly by as the Soviet Union and her surrogates continue to move on the countries of southern Africa to take away their freedoms and to checkmate the free world.

Right now in Angola the Soviet Union is moving very strongly, along with her Cuban allies, to take away all of the freedoms in Angola and move on Namibia and ultimately South Africa. They have worked in Mozambique as well.

So a crescent has been formed across southern Africa, they are moving rapidly to take all of southern Africa into the Communist bloc.

This past week 15 planeloads per day of Soviet weapons have been flying into Angola; military supplies by the ton are coming in there to defeat the freedom fighters who are fighting not only for their freedom but the freedom of the entire free world.

Mr. Speaker, for us to turn our backs on these people and to let the Communists have their way with all the countries of southern Africa is a sin. We must open our eyes before it is too late.

CORRECTION IN APPOINTMENT OF CONFEREES ON H.R. 3128, OMNIBUS BUDGET RECONCILIATION ACT

The SPEAKER pro tempore (Mr. CARPER). Without objection, the Chair makes the following correction in the appointment of conferees on H.R. 3128, the Omnibus Budget Reconciliation Act:

The conferees from the Committee on Ways and Means are also appointed for the consideration of sections 746(e) (2)-(4) and 759 of the Senate amendment, and are excepted from the consideration of parts E and G of title I of division B of the House amendment to the Senate amendment.

The second group of conferees from the Committee on Education and Labor are also appointed for the consideration of section 2505 of division B of the House amendment to the Senate amendment.

The conferees from the Committee on the Judiciary are appointed for that portion of section 1548, in division A of the House amendment to the Senate amendment, inserting subsection 4041(C)(2)(B)(ii), rather than (iii), in the Employee Retirement Income Security Act.

The conferees from the Committee on the Budget are appointed for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment, rather than sections 502(a) and 503 thereof.

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING THE 5-MINUTE RULE ON WEDNESDAY, DECEMBER 11, 1985

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule on Wednesday, December 11.

I would state further that this has been cleared by the minority, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

FARM CREDIT AMENDMENTS ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1884) to amend the Farm Credit Act of 1971, and for other purposes, as amended.

The clerk read as follows:

H.R. 3792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Amendments Act of 1985".

TITLE I—PROVISIONS TO STRENGTHEN THE OPERATION OF FARM CREDIT SYSTEM LENDING INSTITUTIONS

CAPITAL AND FINANCING

SEC. 101. Part A of title IV of the Farm Credit Act of 1971 is amended by—

(1) amending section 4.0 to read as follows:

"SEC. 4.0. REVOLVING FUNDS; INVESTMENTS.—The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, and the revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, and continued by Public Law 96-592, shall be merged and shall be available to the Farm Credit Administration for the purchase, on behalf of the United States, of capital stock of the Capital Corporation. The Farm Credit Administration may make such purchases of stock as the Farm Credit Administration determines, in its discretion, are necessary to achieve the purposes of this Act.";

(2) striking out section 4.1;

(3) in section 4.3—

(A) redesignating subsection (b) as subsection (c); and

(B) by striking out the matter preceding subsection (b) and inserting in lieu thereof the following:

"SEC. 4.3. CAPITAL ADEQUACY OF BANKS AND ASSOCIATIONS.—(a) The Farm Credit Administration shall cause System institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the Farm Credit Administration deems appropriate. The Farm Credit Administration may establish such minimum level of capital for a System institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the System institution.

"(b)(1) Failure of a System institution to maintain capital at or above its minimum level as established under subsection (a) may be deemed by the Farm Credit Administration, in its discretion, to constitute an unsafe and unsound practice within the meaning of this Act.

"(2)(A) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Farm Credit Administration may issue a directive to a System institution that fails to maintain capital at or above its required level as established under subsection (a). Such directive may require the System institution to submit and adhere to a plan acceptable to the Farm Credit Administration describing the means and timing by which the System institution shall achieve its required capital level, but may

not require merger or consolidation without a majority vote of the voting stockholders or the contributors to the guaranty fund of the institution.

"(B) Any directive issued under this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 5.31 of this Act to the same extent as an effective and outstanding order issued under section 5.25 of this Act that has become final.

"(3) The Farm Credit Administration may consider such System institution's progress in adhering to any plan required under paragraph (2) whenever such System institution, or an affiliate thereof, seeks the requisite approval of the Farm Credit Administration for any proposal that would divert earnings, diminish capital, or otherwise impede such System institution's progress in achieving its minimum capital level. The Farm Credit Administration may deny such approval where it determines that such proposal would adversely affect the ability of the System institution to comply with such plan."; and

(4) in section 4.4—

(A) redesignating subsection (c) as subsection (d); and

(B) inserting, after subsection (b), the following:

"(c) For purposes of this part, the term 'bank' shall include the Capital Corporation.".

APPOINTMENT OF CONSERVATOR OR RECEIVER

SEC. 102. Section 4.12 of the Farm Credit Act of 1971 is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Farm Credit Administration may appoint a conservator or receiver for any System institution on the determination by the Farm Credit Administration that one or more of the following exists, or is occurring, with respect to the institution: (1) insolvency, in that the assets of the institution are less than its obligations to its creditors and others, including its members; (2) substantial dissipation of assets or earnings due to any violation of law, rules, or regulations, or to any unsafe or unsound practice; (3) an unsafe or unsound condition to transact business; (4) willful violation of a cease and desist order that has become final; (5) concealment of books, papers, records, or assets of the institution or refusal to submit books, papers, records, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration. The Farm Credit Administration shall have exclusive power and jurisdiction to appoint a conservator or receiver. If the Farm Credit Administration determines that a ground for the appointment of a conservator or receiver as herein provided exists, the Farm Credit Administration may appoint ex parte and without notice a conservator or receiver for the institution. In the event of such appointment, the institution, within thirty days thereafter, may bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration to remove such conservator or receiver, and the court, shall on the merits, dismiss such action or direct the Farm Credit Administration to remove such conservator or receiver. On the commencement of such an action, the court having jurisdiction of any other action or enforcement proceeding authorized under this Act to which the institution is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.".

FARM CREDIT SYSTEM CAPITAL CORPORATION

SEC. 103. Title IV of the Farm Credit Act of 1971 is amended by inserting, after section 4.28, the following:

"PART D1—FARM CREDIT SYSTEM CAPITAL CORPORATION

"SEC. 4.28A. EXISTENCE OF CORPORATION.—The Farm Credit Administration, not later than 60 days after enactment of the Farm Credit Amendments Act of 1985, shall (1) charter the Farm Credit System Capital Corporation (referred to in this Act as 'the Capital Corporation'), which, subject to the provisions of this part and the regulations of the Farm Credit Administration, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System, and (2) revoke the charter for the Farm Credit System Capital Corporation issued under part D of this title. The charter issued to the Farm Credit System Capital Corporation pursuant to this paragraph shall be reviewed on December 31, 1987. The Farm Credit Administration Board shall submit to Congress by December 31, 1987, a report and analysis of the Capital Corporation together with any recommendations for legislation to extend the charter of the Farm Credit System Capital Corporation.

"SEC. 4.28B. PURPOSES.—For the sole purpose of carrying out a program of financial and technical assistance to institutions within the Farm Credit System (and their borrowers) which are experiencing financial difficulties, the Capital Corporation shall, in accordance with this part—

"(1) carry out a program of financial assistance among institutions of the Farm Credit System;

"(2) acquire from other Farm Credit System institutions and participate with such institutions in nonperforming assets of such institutions;

"(3) hold, restructure, collect, and otherwise administer nonperforming assets acquired from or participated in with other Farm Credit System institutions, and guarantee performing and nonperforming assets held by other Farm Credit institutions;

"(4) provide technical assistance and related services to other Farm Credit System institutions in connection with the administration of their loan portfolios;

"(5) provide assistance and related services to Farm Credit System institutions to assist them in restructuring or refinancing loans of their member-borrowers; and

"(6) receive and administer financial assistance for Farm Credit System institutions that originates outside of the Farm Credit System.

"SEC. 4.28C. BOARD OF DIRECTORS OF THE CAPITAL CORPORATION.—(a) The Board of Directors of the Capital Corporation shall consist of five members, four of whom shall be elected in accordance with guidelines established by the Farm Credit Administration from the contributing farm credit district boards of the banks that own voting stock of the Capital Corporation, and one of whom shall be appointed by the Chairman of the Farm Credit Administration. The person appointed by the Chairman shall be selected from United States citizens who are not borrowers from, shareholders in, or employees of any System institution, and who are experienced in financial services and credit. Members of the board of directors shall serve three-year terms, except that, of the first board of directors, one elected member and one appointed member shall serve initial terms of one year. The board of directors shall elect, on an annual basis, a Chairman from among its members.

"(b) Members of the board may succeed themselves and may serve until their successors are duly seated. Vacancies on the board shall be filled in the same manner as the vacant position was previously filled.

"(c) The bylaws of the Capital Corporation shall prescribe the procedure by which directors of the Capital Corporation shall be nominated and elected by the contributing banks that own voting stock of the Corporation. Each stockholder bank shall be entitled to one vote regardless of the number of shares held by it.

"SEC. 4.28D. COMPENSATION OF BOARD MEMBERS.—Members of the board of directors of the Capital Corporation shall receive compensation, including reasonable allowances for necessary expenses, in attending meetings of the board. The compensation shall not be in excess of the level set by the Farm Credit Administration.

"SEC. 4.28E. BOARD PROCEDURES.—The board of directors of the Capital Corporation shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"SEC. 4.28F. CHIEF EXECUTIVE OFFICER OF THE CORPORATION.—The chief executive officer of the Capital Corporation shall be selected by the board of directors of the Capital Corporation, subject to the approval of the Farm Credit Administration, and shall serve at the pleasure of the board.

"SEC. 4.28G. GENERAL CORPORATE POWERS.—(a) The Capital Corporation shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have the power to—

"(1) operate under the direction of its board of directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) prescribe by its board of directors its bylaws, not inconsistent with law, which shall provide for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; the manner in which its officers, employees, and agents are selected; its property is acquired, held, and transferred; its loans, commitments, and other financial assistance are made; its general business is conducted; and the privileges granted by law are exercised and enjoyed;

"(5) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(6) contract with System institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation;

"(7) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and guarantee, sell, or exchange any securities or obligations, and otherwise exercise all the usual incidents of

ownership of property necessary and convenient to its business;

"(9) authorize, through its board of directors, the issuance and sale of obligations, including notes, bonds, debentures, capital notes, and voting or nonvoting securities, to the Secretary of the Treasury or the Farm Credit Administration, under such terms and conditions as shall be determined;

"(10) obtain insurance against loss;

"(11) modify or consent to modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or in which it has an interest under this Act;

"(12) borrow from any commercial bank on its own individual responsibility on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(13) join with Farm Credit System banks in the issuance of System-wide notes, bonds, debentures, and other similar obligations under section 4.2(d) of this Act, or assume liability with respect to outstanding System-wide obligations. If it satisfies the requirements applicable to banks under section 4.3(c) of this Act, it shall be jointly and severally liable with the System banks for the payment of principal and interest on such obligations, and pay on such obligations any sums as may be called on by the Farm Credit Administration to make payments of principal or interest that any bank or banks primarily liable therefor are unable to make;

"(14) require other institutions of the Farm Credit System, through purchase of stock in, or obligations of, the Capital Corporation, to make funds available to the Capital Corporation to enable it to make financial assistance available to institutions of the Farm Credit System as provided in paragraph (15). The Capital Corporation may also assess at such times and under such circumstances as it deems appropriate, System Institutions for the purpose of covering its operating expenses not to include interest costs. The guidelines to be used by the Capital Corporation in obtaining funds from other institutions of the Farm Credit System for the purpose of aggregating resources to assist System institutions, to the extent practicable, shall give priority to obtaining funds through the use of transactions that require the Capital Corporation, on reasonable terms, to repay the contributed funds from surpluses accumulated by the Capital Corporation, and otherwise shall be in conformity with regulations issued by the Farm Credit Administration;

"(15) administer financial assistance under regulations of the Farm Credit Administration which shall—

"(A) include standards to ensure that, consistent with sound business practices and subject to the criteria established under subparagraph (B) of this paragraph, the available capital and reserves of System institutions are committed to providing financial assistance to those institutions of the Farm Credit System eligible therefor. The term 'available capital and reserves', as used in this subparagraph, shall not include capital stock, participation certificates and allocated equities held by borrowers that are not associations chartered under this Act;

"(B) establish criteria pursuant to which the Capital Corporation shall require other institutions of the Farm Credit System, through the purchase of stock in, or obligations of, the Capital Corporation to make funds available to the Capital Corporation under paragraph (14). Such criteria shall—

"(i) provide for an equitable sharing of the burden of such assessments or purchases, taking into account (I) the relative financial strength and ability to pay of the contributing institutions; (II) the effect, including the effect on loan interest rates, on current borrowers and members of each System institution of the loss of the use of the accumulated net worth of their institution; and (III) the effect on lending rates of financial assistance already provided to other System institutions; and

"(ii) be designed to ensure that (I) the capital strength, earning capacity, loanable funds and overall financial viability of each System institution providing funds to the Capital Corporation are maintained at such a level that credit shall continue to be available to eligible borrowers on reasonable and competitive terms taking into account the relative rates and terms available to them prior to investments in the Capital Corporation, (II) each bank shall continue to have access to funds in the public financial markets, and (III) each bank is able to maintain adequate financial resources to satisfy its liability on its own obligations and on that portion of systemwide notes, bonds, debentures, or other obligations for which it is primarily liable; and

"(C) establish criteria to be used in determining eligibility of System institutions for financial assistance from the Capital Corporation and the types and amounts of financial assistance that can be obtained from the Corporation. Such regulations shall provide that an institution shall be eligible to receive financial assistance when its financial condition has deteriorated to a point where its continued operation is jeopardized and the provision of such financial assistance is necessary to ensure that farm credit services will continue to be available to borrowers in the institution's territory;

"(16) purchase at fair market value from any other System institution, on the request of such institution, loans (or interests in loans) that have been placed in nonaccrual status and assets (or interests in assets) in the account for acquired properties;

"(17) require System institutions to sell to the Capital Corporation loans, assets, and interests described in paragraph (16) as a condition to receiving financial assistance from the Capital Corporation;

"(18) exercise all the rights and privileges of any System institution with respect to any loan which it has acquired or in which it has participated, including the adjustment of interest rates, compromise of indebtedness, waiver of default, and other such rights and privileges;

"(19) assume debt or other liabilities from System institutions in connection with the acquisition of loans or interests therein or other assets from such institutions;

"(20) refinance, reamortize, guarantee, or compromise indebtedness, and otherwise provide debt adjustment assistance, with respect to any loan to a borrower of a System institution purchased under paragraph (16) or participated in by the Capital Corporation, and, after a determination by the Capital Corporation that the borrower could not reasonably be anticipated to meet loan servicing charges under a refinanced, reamortized, or otherwise restructured loan under reasonable terms and conditions acceptable to the Capital Corporation, liquidate any such loan;

"(21) purchase from associations undergoing liquidation all assets which are performing loans not voluntarily purchased by other associations;

"(22) adopt a salary scale for officers and employees of the Capital Corporation, in accordance with the directives of the board of directors; and

"(23) deposit its securities and its current funds with any member of the Federal Reserve System or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act and pay fees therefor and receive interest thereon as may be agreed.

The Capital Corporation shall have such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this Act.

"(b) The powers of the Capital Corporation set forth in subsection (a) of this section, to the extent they authorize the financial assistance of any type to borrowers and System institutions, shall be limited after December 31, 1990, as provided in this subsection. The powers of the Capital Corporation to directly or indirectly increase the level of such financial assistance to a borrower or institution or to provide directly or indirectly any such financial assistance to a borrower or institution not receiving such assistance on December 31, 1990, shall terminate on that date. All other powers, including those necessary for management and orderly liquidation of commitments made and obligations incurred in providing such assistance to borrowers and institutions on or before December 31, 1990, shall remain in effect thereafter.

"(c) Officers or employees of the Capital Corporation, like other Farm Credit System employees, shall not be considered officers or employees of the Federal Government. Funds held by the Capital Corporation shall not be construed to be Government funds or appropriated moneys.

"SEC. 4.28H. SUCCESSION OF THE CORPORATION.—On the issuance by the Farm Credit Administration of the new charter for the Capital Corporation under this part, the Capital Corporation shall succeed to the assets of and be liable for and assume all debts, obligations, contracts, and other liabilities of the Farm Credit System Capital Corporation chartered under part D of this title (referred to in this section as 'the predecessor corporation'), matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation. The stock of the predecessor corporation shall be converted into stock of the Capital Corporation. The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Capital Corporation chartered under this part. To the extent that, on the extinguishing of liabilities assumed by the Capital Corporation under this section, and full performance or other final disposition of contract obligations under contracts assumed by the Capital Corporation under this section, there remain surplus funds attributable to such obligations or contracts, the Capital Corporation shall distribute such surplus funds among the System institutions that contributed funds to the predecessor corporation on the basis of the relative amount of funds so contributed by each institution.

"SEC. 4.28I. LIMITATION OF POWERS.—(a) The powers of the Capital Corporation under this part shall be exercised only for the purposes specified in this part and shall not be exercised in a manner that would result in the Capital Corporation supplanting the Farm Credit System institutions operating under titles I through III of this Act as the primary providers of credit and other financial services to farmers, ranchers, and their cooperatives.

"(b) Sales by the Capital Corporation of real property formerly securing a liquidated loan shall be conducted pursuant to guidelines adopted by the Capital Corporation that are compatible with the following criteria:

"(1) Notice of pending sales shall be made public.

"(2) Previous owners shall be advised of the pending sale and shall not be precluded from purchasing their former property.

"(3) The sale of real property acquired by the Corporation in large tracts shall be discouraged.

"SEC. 4.28J. AUTHORITY OF THE SECRETARY OF THE TREASURY.—(a) On certification by the Farm Credit Administration that (1) the Farm Credit System is in need of financial assistance to address financial stress of System institutions, (2) the System has committed its available capital surplus and reserves to address such financial stress of System institutions, (3) officers of System institutions have frozen their salaries and benefits, such freeze to remain in effect until the earlier of five years after the freeze begins or such time as the Secretary no longer holds any obligations issued by the Capital Corporation, and (4) the System has used such capital surplus and reserves to the extent that further contributions from, or losses incurred by, System institutions likely will preclude such institutions from making credit available to eligible borrowers on reasonable terms, the Secretary of the Treasury, in the Secretary's discretion, may purchase any obligations issued by the Capital Corporation under this part, as heretofore, now, or hereafter in force; and for such purpose the Secretary of the Treasury may use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The authorities provided to the Secretary of the Treasury by the preceding sentence shall be effective only to such extent or in such amounts as provided in advance in appropriation Acts. The Secretary of the Treasury, at any time, may sell, on such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public-debt transactions of the United States. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be on terms and conditions as shall be determined by the Secretary of the Treasury, taking into consideration the objectives that System institutions retain the ability to make credit available to eligible borrowers on reasonable terms and that banks of the System continue to have access to funds in the public financial markets.

"(b) The Farm Credit Administration promptly shall submit a copy of any certification made under subsection (a) to Congress, and the Secretary of the Treasury shall, not later than forty-five days after such certification is made, make known to the Congress and the Farm Credit Administration the Secretary's decision as to exercising the authority under subsection (a) and the reasons and documentation therefor, if that decision is not to purchase obligations of the Capital Corporation.

"SEC. 4.28K. INITIAL CAPITALIZATION.—The Farm Credit Administration shall provide for the initial capitalization of the Capital Corporation by requiring, in accordance with section 4.28G, institutions of the System to contribute capital to the Capital Corporation in such amounts and under such terms and conditions as the Farm Credit Administration, in consultation with System institutions, may prescribe.".

CONFORMING AMENDMENT

SEC. 104. Title IV of the Farm Credit Act of 1971 is further amended by inserting before section 4.2 the following:

"SEC. 4.1. REQUIREMENTS TO PURCHASE STOCK AND PAY ASSESSMENTS AND CONTRIBUTE CAPITAL TO CAPITAL CORPORATION.—The Federal land banks, the Federal intermediate credit banks, the banks for cooperatives, the Federal land bank associations, and the production credit associations shall purchase stock in, or obligations of, the Capital Corporation, pay assessments, make capital contributions, and take such other related actions as required by the Capital Corporation in the exercise of its powers under this Act. Any payment for retirement of stock so purchased, or repayment of obligations so purchased, by the Capital Corporation shall be distributed among all holders of such stock or obligations on the basis of the book value of the stock or obligations held by each such holder at the time of the distribution.".

CENTRAL RESERVE

SEC. 105. Part A of title IV of the Farm Credit Act of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.9 the following:

"SEC. 4.9A. CENTRAL RESERVE FOR FARM CREDIT SYSTEM.—(a) The Farm Credit Administration may, effective January 1, 1991, establish and maintain a central reserve for the Farm Credit System.

"(b) Such central reserve shall be held in the form of Treasury securities and demand deposits.

"(c) The Farm Credit Administration may use the reserve to make temporary deposits and temporary investments in financially troubled banks or associations of the Farm Credit System.

"(d)(1) The Farm Credit Administration may order payments into such central reserve of one-tenth of 1 percent of the proceeds of each individual, consolidated, or System-wide note, bond, debenture, or other obligation issued by the Farm Credit System, or any part thereof, under this Act.

"(2) Such payments under paragraph (1) may be ordered during any period when such central reserve contains the unobligated sum the Farm Credit Administration deems inadequate to achieve the purposes of such central reserve, but not more than a sum equal to 3 percent of the total of loans outstanding on December 31 of the last preceding calendar year from institutions in the Farm Credit System to persons other than other such institutions.

"(e) The Farm Credit Administration shall require a bank or association to repay in whole or in part a temporary deposit or retire in whole or in part a temporary investment, made in such bank or association under this section, at such time as in the opinion of the Farm Credit Administration such bank or association has resources available therefor and the need for such temporary deposit or temporary investment is reduced or no longer exists.

"(f) The Farm Credit Administration shall issue rules and regulations implementing this section.".

TITLE II—REGULATION OF THE FARM CREDIT SYSTEM

RESTRUCTURE OF THE FARM CREDIT ADMINISTRATION

SEC. 201. Part B of title V of the Farm Credit Act of 1971 is amended by—

(1) amending sections 5.7 through 5.12 to read as follows:

"SEC. 5.7. THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall be an independent agency in the executive branch of the Government. It shall be composed of the Farm Credit Administration Board and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this Act.

"SEC. 5.8. THE FARM CREDIT ADMINISTRATION BOARD; APPOINTMENT; TERM OF OFFICE; ORGANIZATION AND COMPENSATION.—(a) The management of the Farm Credit Administration shall be vested in a Farm Credit Administration Board (referred to in this part as 'the Board'). The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. Of the persons thus appointed, one shall be designated by the President to serve as Chairman of the Board for the duration of the member's term. The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

"(b) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, first appointed under subsection (a) shall expire, one on the expiration of two years after the date of appointment, and one on the expiration of four years after the date of appointment. Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than six years may be reappointed for a full six-year term and members appointed to fill unexpired terms of three years or less may be reappointed for a full six-year term. Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as such after the expiration of the member's term until a successor has been appointed and qualified.

"(c) Each member of the Board, within fifteen days after notice of appointment, shall subscribe to the oath of office. The Board may transact business if a vacancy exists, provided a quorum is present. A quorum shall consist of two members of the Board. The Board shall hold at least one meeting each month and such additional meetings at such times and places as it may fix and determine. Such meetings shall be held on the call of the Chairman or any two Board members. The Board shall adopt such rules as it deems appropriate for the transaction of its business and shall keep permanent

and accurate records and minutes of its acts and proceedings.

"(d) The members of the Board shall devote their full time and attention to the business of the Board. The Chairman of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5 of the United States Code. Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the member's official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. This subsection shall be subject to the provisions of section 5.11 of this Act.

"SEC. 5.9. POWERS OF THE BOARD; CIVIL PROCEEDINGS.—The Board shall manage and administer, and establish policies for, the Farm Credit Administration. It—

"(1) shall approve the rules and regulations for the implementation of this Act not inconsistent with its provisions;

"(2) shall provide for the examination of the condition of, and general regulation of the performance of the powers, functions, and duties vested in, each institution of the Farm Credit System;

"(3) shall provide for the performance of all the powers and duties vested in the Farm Credit Administration; and

"(4) may require such reports as it deems necessary from the institutions of the Farm Credit System.

"SEC. 5.10. CHAIRMAN; RESPONSIBILITIES; GOVERNING STANDARDS.—(a) The Chairman of the Board shall be the executive officer of the Board and the chief executive officer of the Farm Credit Administration. The Chairman shall be responsible for directing the implementation of the policies and regulations adopted by the Board and the execution of all of the administrative functions and duties of the Farm Credit Administration. The Chairman shall be the spokesman for the Board and the Farm Credit Administration and shall represent the Board and the Farm Credit Administration in their official relations within the Government. Under policies adopted by the Board, the Chairman shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System of the powers conferred under section 4.2 of this Act, with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy, and with the Secretary of Agriculture in connection with the effect of System policies on farmers and the agricultural economy.

"(b) In carrying out responsibilities under this Act, the Chairman of the Board shall be governed by general policies adopted by the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make and, as to third persons, all acts of the Chairman of the Board shall be conclusively presumed to be in compliance with such general policies and regulatory decisions, findings, and determinations.

"(c) The Chairman of the Board shall enforce the rules, regulations, and orders of the Board. Except as provided in section 518 of title 28 of the United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman shall represent the Farm Credit Administration in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships. Attorneys designated by the Chairman may represent the Farm Credit Administration in any other civil proceedings or civil action when so authorized by the Attorney General under provisions of title 28.

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.—The Chairman of the Board, in carrying out the powers and duties now or hereafter vested in the Chairman by this Act and acts supplementary thereto, may establish and fix the powers and the duties of such divisions or other units as the Chairman may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties vested in the Board and the Farm Credit Administration. The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. Officers and employees of the Farm Credit Administration shall be subject to the Ethics in Government Act of 1978 and shall be considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18 of the United States Code. Officers and employees of the Farm Credit Administration shall be subject to section 5373 of title 5 of the United States Code. The powers of the Chairman as chief executive officer of the Farm Credit Administration may be exercised and performed by the Chairman through such other officers and employees of the Farm Credit Administration as the Chairman shall designate. The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15 of this Act.

"SEC. 5.12. ADVISORY COMMITTEES.—The Chairman of the Board may establish one or more advisory committees in accordance with the Federal Advisory Committee Act and may appoint to such committee or committees individuals who are members of the Federal Farm Credit Board when such Board is terminated by the Farm Credit Amendments Act of 1985.";

(2) striking out section 5.13;

(3) redesignating section 5.14 as section 5.13, and, in section 5.13, as so redesignated, striking out "Governor" and inserting in lieu thereof "Board";

(4) redesignating section 5.15 as section 5.14, and, in the second sentence of section 5.14, as so redesignated, striking out "section 5.16(b)" and "section 5.16(a)" and inserting in lieu thereof "section 5.15(b)" and "section 5.15(a)", respectively;

(5) redesignating section 5.16 as section 5.15;

(6) redesignating section 5.17 as section 5.16, and, in section 5.16, as so redesignated—

(A) striking out "section 5.15" in the first sentence and inserting in lieu thereof "section 5.14";

(B) striking out "Federal Farm Credit" in paragraph (2) of the first sentence; and

(C) striking out "section 5.16" and inserting in lieu thereof "section 5.15"; and

(7) redesignating section 5.18 as section 5.17 and amending subsection (a) thereof to read as follows:

"(a) The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this Act:

"(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Board, with the concurrence of the district boards involved.

"(2) Where necessary or appropriate to carry out the policy and objectives of this Act, issue and amend or modify Federal charters of institutions of the System; approve change in names of banks operating under this Act; approve the merger of districts when agreed to by the boards of the districts involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 4.10 of this Act; approve mergers of banks operating under the same title of this Act, merger of Federal land bank associations, merger of production credit associations, and the consolidation or division of the territories that they serve when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved; and approve consolidations of boards of directors or management agreements when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved. In issuing charters for district-wide mergers of associations where stockholders of one or more associations did not approve the merger, the charter of the new or merged association shall not include the territory of the disagreeing association or associations; charters issued during calendar year 1985 for district-wide new or merged associations which included the territory of a disagreeing association shall be revoked and reissued to exclude such territory; and the Farm Credit Administration shall ensure that the board of directors of district banks does not discriminate against the disapproving associations in exercising its supervisory authorities. The Chairman of the Farm Credit Administration Board, after consultation with the respective district board or boards and the board of directors of the Capital Corporation may require two or more banks of the Farm Credit System (other than Central Banks for Cooperatives) operating under the same title to merge if the Chairman determines that one of such banks has failed to meet outstanding obligations of such bank.

"(3) Make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 5.19 of this Act, and on the manner and extent to which the purposes and objectives of this Act are being carried out and, from time to time, recommend directly legislative changes. The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Federal land banks and Federal intermediate credit banks under section 4.19(b) of this Act relating to programs for serving young, beginning, and small farmers and ranchers.

"(4) Approve the issuance of obligations of the System under subsections (c) and (d) of section 4.2 of this Act for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

"(5) Grant approvals provided for under this Act either on a case-by-case basis or through regulations that confer approval on actions of Farm Credit System institutions that meet standards and criteria established by the Farm Credit Administration, including standards and criteria with respect to

(A) interest rates on obligations of Farm Credit System institutions and on loans made or discounted by such institutions, and (B) the payment of dividends or patronage refunds by Farm Credit System institutions.

"(6) Establish standards for the System institutions with respect to loan security requirements and the borrowing, repayment, and transfer of funds and equities between institutions of the System.

"(7) Conduct loan and collateral security review.

"(8) Make investments in stock of the Capital Corporation out of the revolving fund referred to in section 4.0, and require the retirement of such stock.

"(9) Regulate the preparation by System institutions and the dissemination to stockholders and investors of information on the financial condition and operations of such institutions.

"(10) Prescribe rules and regulations necessary or appropriate for carrying out this Act.

"(11) Exercise the powers conferred on it under part C of this title for the purpose of ensuring the safety and soundness of System institutions.

"(12) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this Act.

"(13) Sue and be sued, complain and defend in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Farm Credit Administration shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount of the controversy; and the Farm Credit Administration may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect. Service of process on the Farm Credit Administration shall be in accordance with provisions of title 28 of the United States Code and rules adopted under title 28 for suits in which an agency of the United States is a party. The Farm Credit Administration shall designate an agent at its principal office to accept service of process.

"(14) Require surety bonds or other provisions for protection of the assets of the institutions of the System against losses occasioned by employees.".

DELEGATIONS

SEC. 202. (a) Section 5.19 of the Farm Credit Act of 1971 is repealed.

(b) Part B of title V of the Farm Credit Act of 1971 is further amended by inserting, after section 5.17, as so redesignated by section 201 of this title, the following:

"SEC. 5.18. PRIOR DELEGATIONS.—Any delegations by the Farm Credit Administration and redelegations thereof made in accordance with section 5.19 of the Farm Credit Act of 1971 as in effect prior to the effective date of the Farm Credit Amendments Act of 1985 may continue in full force and effect, at the discretion of the Farm Credit Administration, for the period ending twelve months after the date of enactment of such Act.".

FARM CREDIT ADMINISTRATION EXAMINATIONS; CONFORMING AMENDMENT

SEC. 203. (a) Section 5.20 of the Farm Credit Act of 1971 is redesignated as section 5.19 and amended to read as follows:

"SEC. 5.19. EXAMINATIONS.—(a) Each institution of the System shall be examined by Farm Credit Administration examiners at such times as the Chairman of the Board may determine, but in no event less than once each year. Such examinations shall include, but are not limited to, an analysis of credit and collateral quality and capitalization of the institution, and appraisals of the effectiveness of the institution's management and application of policies governing the carrying out of this Act and regulations of the Farm Credit Administration and servicing all eligible borrowers. At the direction of the Chairman of the Board, Farm Credit Administration examiners also shall make examinations of the condition of any organization, other than national banks, to, for, or with which any institution of the System contemplates making a loan or discounting paper. For the purposes of this Act, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, and Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

"(b) Each institution of the System shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration by regulation may require. Such financial statements of System institutions shall be audited by an independent public accountant.

"(c) The Farm Credit Administration may publish the report of examination of any System institution that does not, before the end of the 120th day after the date of notification of the recommendations and suggestions of the Farm Credit Administration, based on such examination, comply with such recommendations and suggestions to the satisfaction of the Farm Credit Administration. The Farm Credit Administration shall give notice of intention to publish in the event of such noncompliance at least 90 days before such publication. Such notice of intention may be given any time after such notification of recommendations and suggestions.".

(b) Sections 5.21, 5.22, 5.23, 5.24, and 5.25 of the Farm Credit Act of 1971 are redesignated as sections 5.20, 5.21, 5.22, 5.23, and 5.24, respectively.

ENFORCEMENT POWERS

SEC. 204. Title V of the Farm Credit Act of 1971 is amended by inserting after section 5.24, as so redesignated by section 203(b), the following:

"PART C—ENFORCEMENT POWERS OF FARM CREDIT ADMINISTRATION

"SEC. 5.25. CEASE AND DESIST PROCEEDINGS.—(a) If, in the opinion of the Farm Credit Administration, any institution in the Farm Credit System, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such an institution is engaging or has engaged, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Farm Credit Administration in connection with the granting of any application or other request by the institution or any written agreement entered into with the Farm Credit Administration, the Farm Credit Administration may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Farm Credit Administration at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit Administration may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions that may be mandatory or otherwise, require the institution or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(b) A cease and desist order shall become effective at the expiration of thirty days after the service of such order upon the institution or other person concerned (except in the case of a cease and desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein except to such extent as it is stayed, modified, terminated, or set aside by action of the Farm Credit Administration or a reviewing court.

"SEC. 5.26. TEMPORARY CEASE AND DESIST ORDERS.—(a) Whenever the Farm Credit Administration shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution under section 5.25, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of the investors in Farm Credit System obligations or shareholders in the institution prior to the completion of the proceedings con-

ducted under section 5.25, the Farm Credit Administration may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (b), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the institution or such director, officer, employee, agent, or other person, until effective date of such order.

"(b) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease and desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under section 5.25, and such court shall have jurisdiction to issue such injunction.

"SEC. 5.27. ENFORCEMENT OF TEMPORARY CEASE AND DESIST ORDERS.—In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued under section 5.26, the Farm Credit Administration may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"SEC. 5.28. SUSPENSION OR REMOVAL OF DIRECTOR OR OFFICER.—Whenever, in the opinion of the Farm Credit Administration, any director or officer of any institution in the Farm Credit System has committed any violation of law, rule, or regulation or of a cease and desist order that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty as such director or officer, and the Farm Credit Administration determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its shareholders or investors in Farm Credit System obligations could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one that demonstrates a willful or continuing disregard for the safety or soundness of the System institution, the Farm Credit Administration may serve upon such director or officer a written notice of its intention to remove him from office.

"(b) Whenever, in the opinion of the Farm Credit Administration, any director or officer of an institution in the Farm Credit System, by conduct or practice with respect to another institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to continue as a director or officer, and whenever, in the opinion of the Farm Credit Administration, any other person participating in the conduct of the affairs of an institution in the Farm Credit System, by the conduct or practice with respect to such institution or other institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such institution, the Farm Credit Administration may serve upon such director, officer, or other person a written notice of its intention to remove that director, officer, or other person from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(c) In respect to any director or officer of an institution in the Farm Credit System or any other person referred to in subsection (a) or (b) of this section, the Farm Credit Administration may, if it deems it necessary for the protection of the institution or the interests of its shareholders and the investors in the Farm Credit System obligations, by written notice to such effect served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (e) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (a) or (b) and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the institution of which the person is a director or officer or in the conduct of whose affairs the person has participated.

"(d) A notice of intention to remove a director, officer, or other person from office or to prohibit such director's, officer's, or other person's participation in the conduct of the affairs of an institution in the Farm Credit System, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Farm Credit Administration at the request of (1) such director or officer or other person, and for good cause shown, or (2) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, such director, officer, or other person shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate. A copy of an order issued under this subsection shall be served upon the institution concerned. Any such order shall become effective at the expiration of thirty days after service upon such institution and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(e) Within ten days after any director, officer, or other person has been suspended from office or prohibited from participation in the conduct of the affairs of a System institution under subsection (d)(3) of this section, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for a stay of either such suspension or prohibition, or both, pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subsection (a) or (b), and such court shall have jurisdiction to stay either such suspension or prohibition, or both.

"SEC. 5.29. SUSPENSION OR REMOVAL OF DIRECTOR OR OFFICER CHARGED WITH FELONY.—(a) Whenever any director or officer of an institution in the Farm Credit System, or other person participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interest of the institution's shareholders or the investors in the Farm Credit System obligations or may threaten to impair public confidence in the institution or Farm Credit System, by written notice served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Farm Credit Administration. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or

other person, and at such time as such judgment is not subject to further appellate review, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System, issue and serve upon such director, officer, or other person an order removing such director, officer, or other person from office or prohibiting such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Farm Credit Administration. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Farm Credit Administration from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in Farm Credit System affairs under section 5.28. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (b) unless terminated by the Farm Credit Administration.

"(b) Within thirty days from service of any notice of suspension or order of removal issued under subsection (a), the director, officer, or other person concerned may request in writing an opportunity to appear before the Farm Credit Administration to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interest in Farm Credit System obligations. Upon receipt of any such request, the Farm Credit Administration shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before the Chairman of the Farm Credit Administration or designated employees of the Farm Credit Administration to submit written materials (or, at the discretion of the Farm Credit Administration, oral testimony) and oral argument. Within sixty days of such hearing, the Farm Credit Administration shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated, or otherwise modified, or whether the order removing such director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Farm Credit Administration's decision, if adverse to the director, officer or other person. The Farm Credit Administration may prescribe such rules as may be necessary to effectuate the purposes of this subsection.

"SEC. 5.30. HEARINGS AND JUDICIAL REVIEW.—(a) Any hearing provided for in this part (other than the hearing provided for in section 5.29) shall be held in the Federal judicial district or in the territory in which the home office of the institution is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. Such hearing shall be private, unless the Farm Credit Administration, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Farm Credit Administration has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this part. Judicial review of any such order shall be exclusively as provided in this subsection (g). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (b), and thereafter until the record in the proceeding has been filed as so provided, the Farm Credit Administration may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Farm Credit Administration may modify, terminate, or set aside any such order with permission of the court.

"(b) Any party to the proceeding, or any person required by an order issued under this part to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served under subsection (a) (other than an order issued with the consent of the System institution or the director or officer or other person concerned, or an order issued under section 5.29) by the filing in the court of appeals of the United States for the circuit in which the home office of the institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Farm Credit Administration be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Farm Credit Administration, and thereupon the Farm Credit Administration shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of subsection (a) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Farm Credit Administration. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

"(c) The commencement of proceedings for judicial review under subsection (b) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Farm Credit Administration.

"SEC. 5.31. JURISDICTION AND ENFORCEMENT.—The Farm Credit Administration may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this part no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part, or to review, modify, suspend, terminate, or set aside any such notice or order.

"SEC. 5.32. PENALTY.—(a) Any institution in the System that violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order that has become final and was issued under section 5.25 or 5.26 of this Act, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues, but the Farm Credit Administration may, in its discretion, compromise, modify, or remit any civil money penalty that is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the Farm Credit Administration by written notice.

"(b) In determining the amount of the penalty, the Farm Credit Administration shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the System institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The System institution or person assessed shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5 of the United States Code. The Farm Credit Administration determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any System institution or person against whom an order imposing a civil money penalty has been entered after a Farm Credit Administration hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the System institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days after the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Farm Credit Administration. The Farm Credit Administration shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28 of the United States Code. The findings of the Farm Credit Administration shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5 of the United States Code.

"(e) If any System institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Farm Credit Administration, the Farm Credit Administration shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Farm Credit Administration shall promulgate regulations establishing procedures necessary to implement sections 5.31 and 5.32.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

"SEC. 5.33. FURTHER PENALTIES.—Any director or officer, or former director or officer of a System institution, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under section 5.28 or 5.29 of this Act, and who (1) participates in any manner in the conduct of the affairs of the institution involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such institution, or (2) without the prior written approval of the Farm Credit Administration, votes for a director, serves or acts as a director, officer, or employee of any System institution, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

"SEC. 5.34. REPLACEMENT OF SUSPENDED OR REMOVED DIRECTORS.—If at any time, because of the suspension or removal of one or more directors pursuant to section 5.28 or 5.29 of this Act, there shall be on the board of directors of a System institution less than a quorum of directors not so suspended, the Chairman shall appoint persons to serve temporarily as directors in their place and stead so as to establish a quorum until such time as those who have been removed are reinstated or their respective successors are duly elected and take office.

"SEC. 5.35. DEFINITIONS.—As used in this part—

"(1) the terms 'cease and desist order that has become final' and 'order which has become final' mean a cease and desist order, or an order, issued by the Farm Credit Administration with the consent of the System institution or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Farm Credit administration has been filed and perfected in a court of appeals as specified in section 5.30(b) of this Act, or with respect to which the action of the court in which such petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in section 5.30(b) of this Act, or an order issued under section 5.29 of this Act;

"(2) the term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation;

"(3) the terms 'institution in the System', 'System institution', and 'institution' mean all institutions enumerated in section 1.2 of this Act, any service organization chartered under part D of title IV of this Act, and the Capital Corporation; and

"(4) the term 'unsafe or unsound practice' shall have the meaning given to it by the Farm Credit Administration by regulations, rule, or order.

"SEC. 5.36. NOTICE OF SERVICE.—Any service required or authorized to be made by the Farm Credit Administration under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Farm Credit Administration may by regulation or otherwise provide. Any such service by mail is complete upon mailing. Copies of any notice or order served by the Farm Credit Administration on any association or any director or officer thereof or other person participating in the conduct of its affairs, under the provisions of this part, shall also be sent to the supervisory bank.

"SEC. 5.37. ANCILLARY PROVISIONS; SUBPENA POWER; ETC.—In the course of or in connection with any proceeding under this part or any examination or investigation under this Act, the Farm Credit Administration or any designated representative thereof, including any person designated to conduct any hearing under this part, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Farm Credit Administration is empowered to make rules and regulations with respect to any such proceedings, claims, examinations, or investigations. The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. The Farm Credit Administration or any party to proceedings under this part may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this part by a System institution or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the System institution or from its assets. Any person who willfully shall fail or refuse to attend or testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Farm Credit Administration, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a)(1) Title V of the Farm Credit Act of 1971 is further amended by inserting after section 5.37, as added by section 204, the following heading:

"PART D—MISCELLANEOUS".

(2) Sections 5.26, 5.27, 5.28, 5.29, and 5.30 of the Farm Credit Act of 1971 are redesignated as sections 5.40, 5.41, 5.42, 5.43, and 5.44, respectively.

(b) Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) in the first sentence of subsection (a)—

(A) striking out "rules and regulations" and inserting in lieu thereof "standards"; and

(B) striking out "and approved by the Farm Credit Administration";

(2) in the first sentence of subsection (b)—

(A) striking out "regulations" and inserting in lieu thereof "standards"; and

(B) striking out "with the approval of the Farm Credit Administration as provided in" and inserting in lieu thereof "subject to the provisions of"; and

(3) in the last sentence of subsection (b)—

(A) striking out "regulations" and inserting in lieu thereof "standards"; and

(B) striking out "or of Farm Credit Administration".

(c) Section 1.2 of the Farm Credit Act of 1971 is amended by striking out "supervision of" and inserting "regulation by" in lieu thereof.

(d) Title I of the Farm Credit Act of 1971 is amended by—

(1) in section 1.4—

(A) striking out "supervision" in the matter preceding paragraph (1) and inserting in lieu thereof "regulation";

(B) in paragraph (17), striking out "vested in or delegated to the bank";

(C) striking out paragraph (19); and

(D) redesignating paragraphs (20), (21), (22), and (23) as paragraphs (19), (20), (21), and (22), respectively;

(2) in section 1.5(d), striking out "to the Governor of the Farm Credit Administration,";

(3) in section 1.5(e)—

(A) striking out the first sentence; and

(B) striking out "other" in the second sentence;

(4) in section 1.13—

(A) striking out "GOVERNOR" in the section heading and inserting in lieu thereof "FARM CREDIT ADMINISTRATION";

(B) striking out "the Governor of" in the seventh sentence;

(C) striking out "Governor" each place that word appears in the eighth, ninth, and tenth sentences and inserting in lieu thereof "Farm Credit Administration"; and

(D) striking out "him" and "he" in the tenth sentence and inserting in lieu thereof, in both instances, "the Farm Credit Administration";

(5) in section 1.15—

(A) inserting "the regulation" before "of the Farm Credit Administration" in the matter preceding paragraph (1); and

(B) striking out "or delegated to" in paragraph (12);

(6) in section 1.17(b)—

(A) striking out paragraph (2); and

(B) redesignating paragraph (3) as paragraph (2); and

(7) in section 1.20, striking out "the Governor of the Farm Credit Administration".

(e) Title II of the Farm Credit Act of 1971 is amended by—

(1) in section 2.1—

(A) striking out "supervision of" in the matter preceding paragraph (1) and inserting in lieu thereof "regulation by";

(B) striking out "vested in or delegated to the intermediate credit bank" in paragraph (14); and

(C) striking out paragraph (21);

(2) in the first sentence of section 2.2(d), striking out "the Governor of the Farm Credit Administration, and may";

(3) in section 2.2(f)—

(A) striking out "Dividends" and all that follows through "noncumulative" and inserting "Noncumulative" in lieu thereof in the first sentence; and

(B) striking out ", when the Governor of the Farm Credit Administration holds no stock in the bank," in the second sentence;

(4) in section 2.2(g), striking out "After all stock held" and all that follows through "other stock" and inserting in lieu thereof "The bank may retire stock";

(5) in section 2.2(h), striking out "Governor" and inserting in lieu thereof "Farm Credit Administration";

(6) in the first sentence of section 2.3(c)—

(A) striking out "(a)(1) and (2)" and inserting in lieu thereof "(a)(2)"; and

(B) striking out "(in the case of financing institutions under subsection (a)(2) of this section)";

(7) striking out subsections (a) and (b) of section 2.6;

(8) in section 2.6(c), by striking out "If, at" and all that follows through "the net earnings of such bank" and inserting in lieu thereof "At the end of each fiscal year, the net earnings of each Federal intermediate credit bank";

(9) in the first sentence of section 2.7, striking out ", of all the stock held by the Governor of the Farm Credit Administration at par; third";

(10) in section 2.10—

(A) striking out "the Governor of" in the sixth sentence;

(B) striking out "Governor" in the seventh sentence and inserting in lieu thereof "Farm Credit Administration";

(C) striking out "Governor" in the eighth sentence and inserting in lieu thereof "Farm Credit Administration"; and

(D) in the ninth sentence—

(i) striking out "Governor" and inserting in lieu thereof "Farm Credit Administration"; and

(ii) striking out "him" and "he" and inserting in lieu thereof in both places "Farm Credit Administration";

(11) in section 2.12—

(A) in the matter preceding paragraph (1), inserting "regulation by" before "the Farm Credit Administration"; and

(B) striking out "or the Farm Credit Administration" in paragraph (19);

(12) in section 2.13(c), striking out "the Governor of the Farm Credit Administration and";

(13) in section 2.13(d)—

(A) striking out "to the Governor and"; and

(B) striking out ", except that all" and all that follows through "voting hereunder".

(14) in section 2.13(j), striking out "the Governor or";

(15) in section 2.14(b), striking out ", except that when the Governor" and all that follows through "Administration; and

(16) striking out the last two sentences of section 2.17.

(e) Title III of the Farm Credit Act of 1971 is amended by—

(1) in section 3.1—

(A) in the matter preceding paragraph (1), striking out "supervision" and inserting in lieu thereof "regulation";

(B) in paragraph (13)(A), inserting "under regulations issued" after "authorized";

(C) striking out paragraph (16); and

(D) redesignating paragraphs (17), (18), and (19) as paragraphs (16), (17), and (18), respectively;

(2) in section 3.2(a), striking out "Governor with the advice and consent of the Federal Farm Credit Board"; and inserting in lieu thereof "Farm Credit Administration";

(3) in section 3.3(d), inserting "under regulations issued by" after "authorized";

(4) in section 3.3(e), striking out ", except for stock held by the Governor,".

(5) in section 3.4, striking out "the Governor of";

(6) in section 3.5—

(A) striking out the first sentence and all that follows through "nonvoting" in the second sentence and inserting "Nonvoting" in lieu thereof; and

(B) in the fourth sentence, striking out "When the requirements of section 4.0(b) have been met, voting" inserting in lieu thereof "Voting";

(7) striking out subsection (a) of section 3.11;

(8) in section 3.11—

(A) in subsection (b), striking out "Whenever" and all that follows through "Administration, the net" and inserting in lieu thereof "At the end of each fiscal year, the net"; and

(B)(1) in subsection (c), striking out "subsection (a) or (b)" and inserting "subsection (b)" in lieu thereof; and

(ii) in subsection (d), striking out "subsection (a) or (b)" and inserting "subsection (b)" in lieu thereof;

(9) in section 3.12—

(A) striking out ", any stock held by the Governor of the Farm Credit Administration at par"; and

(B) striking out "stock held by the Governor of the Farm Credit Administration,"; and

(10) striking out the last two sentences of section 3.13.

(f) Title IV of the Farm Credit Act of 1971 is further amended by—

(1) in section 4.2—

(A) in the matter preceding subsection (a), striking out "supervision of" and inserting in lieu thereof "regulation by";

(B) in subsection (b)—

(i) striking out "4.3(b)" and inserting in lieu thereof "4.3(c)"; and

(ii) striking out "Governor" and inserting in lieu thereof "Farm Credit Administration";

(C) in subsection (c), striking out "Governor" and inserting in lieu thereof "Farm Credit Administration"; and

(D) in subsection (d)—

(i) striking out "Governor" in the first sentence and inserting in lieu thereof "Farm Credit Administration"; and

(ii) in the second sentence, striking out "Governor" each place it appears and inserting in lieu thereof "Farm Credit Administration";

(2) in section 4.4(b)—

(A) striking out "Governor to execute" in the first sentence and inserting in lieu thereof "execution of"; and

(B) striking out "by the Governor" in the second sentence;

(3) in section 4.5, striking out "Governor" in the fourth sentence and inserting in lieu thereof "Farm Credit Administration";

(4) in the second sentence of section 4.11, striking out "Governor with the advice and consent of the Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration";

(5) in section 4.12(a), striking out "Federal Farm Credit Board" in the third sentence and inserting in lieu thereof "Farm Credit Administration";

(6) in the first sentence of section 4.17, inserting ", as provided in section 5.17(a)(5) of this Act," after "with the approval of";

(7) in section 4.18, inserting "under regulations issued" after "authorized";

(8) in section 4.25—

(A) striking out "the Governor of" in the second sentence;

(B) striking out "Governor" in the third sentence and inserting in lieu thereof "Farm Credit Administration"; and

(C) striking out "Governor" in the fourth sentence and inserting in lieu thereof "Farm Credit Administration";

(9) in section 4.26—

(A) striking out "GOVERNOR" in the section heading and inserting in lieu thereof "FARM CREDIT ADMINISTRATION";

(B) striking out "Governor" wherever that word appears in the text and inserting in lieu thereof "Farm Credit Administration";

(C) striking out "he" in the first sentence and inserting in lieu thereof "the Farm Credit Administration"; and

(10) in section 4.27, striking out "supervision" and inserting in lieu thereof "regulation".

(g) Title V of the Farm Credit Act of 1971 is further amended by—

(1) in section 5.0—

(A) striking out "Federal Farm Credit Board" in the first and second sentences and inserting in lieu thereof "Farm Credit Administration"; and

(B) striking out "5.18(2)" in the third sentence and inserting in lieu thereof "5.17(2)";

(2) in section 5.1(b), striking out "Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration Board";

(3) in section 5.2(a), striking out "Governor with the advice and consent of the Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration Board";

(4) in section 5.2(d), striking out "sections 5.1 and 5.2" and inserting in lieu thereof "section 5.1 and this section";

(5) in section 5.6(a), striking out "supervision of" in paragraph (5) and inserting in lieu thereof "regulation by"; and

(6) in section 5.15(b), as so redesignated by section 201(5)—

(A) striking out "said Administration" both places that phrase appears in the first sentence and inserting in lieu thereof "the Farm Credit Administration"; and

(B) striking out "the Administration" and "such Administration" in the second sentence and inserting in lieu thereof "the Farm Credit Administration".

TITLE III—PROTECTION FOR FARMERS AND OTHER FARM CREDIT SYSTEM BORROWERS

DISCLOSURE AND ACCESS TO INFORMATION

SEC. 301. (a) Section 4.13 of the Farm Credit Act of 1971 is redesignated as section 4.13B.

(b) The Farm Credit Act of 1971 is amended by inserting before section 4.13B, as so redesignated by subsection (a), the following:

"SEC. 4.13. DISCLOSURE.—(a) In accordance with regulations of the Farm Credit Administration, System institutions shall provide to their borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure of the following:

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including, but not limited to, the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the lending institution in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of the required purchase of stock or participation certificates in the institution on the effective rate of interest; and

"(4) any change in the interest rate applicable to the borrower's loan.

"(b) In accordance with regulations of the Farm Credit Administration, System institutions shall develop a policy governing for-

bearance. Each System institution shall provide borrowers with a copy of the institution's policy regarding forbearance at such time or times as the Farm Credit Administration shall prescribe in such regulations.

"SEC. 4.13A. ACCESS TO DOCUMENTS AND INFORMATION.—In accordance with regulations of the Farm Credit Administration, System institutions shall provide their borrowers, at the time of execution of loans, copies of all documents signed by the borrower and at any time thereafter, on a borrower's request, copies of all documents signed or delivered by the borrower and at any time, on request, a copy of the institution's articles of incorporation or charter and bylaws.".

NOTICE ON APPLICATIONS

SEC. 302. Section 4.13B of the Farm Credit Act of 1971, as so redesignated by section 301(a), is amended by (1) inserting "written" before "notice" and (2) inserting, before the period at the end thereof, the following: ", and of the applicant's right to review under section 4.14".

RECONSIDERATION

SEC. 303. Section 4.14 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTION ON LOAN APPLICATION.—The board of directors of each Farm Credit System institution shall establish from among such board's members a credit review committee. Any loan applicant who has received written notice, under section 4.13, of a decision to deny or reduce the loan applied for, if the applicant so requests in writing within thirty days after receiving such notice, may obtain a review of such decision in person before the credit review committee. Promptly after any such review, the applicant shall be notified in writing of the credit review committee's decision and the reasons therefor.".

NOTICE WITH RESPECT TO STOCKHOLDERS ON LOAN DEFAULT

SEC. 304. (a) The sixth sentence of section 1.16(a) of the Farm Credit Act of 1971 is amended by inserting, before the period at the end thereof, the following: "and on written notice to the stockholder".

(b) Section 2.13(k) of the Farm Credit Act of 1971 is amended by inserting, before the period at the end thereof, the following: ", on written notice to the borrower and approval by the bank of such retirement".

MINIMIZING THE ADVERSE EFFECT ON BORROWERS OF SYSTEM INSTITUTION INSOLVENCY

SEC. 305. (a) Section 4.12(a) of the Farm Credit Act of 1971 is amended by inserting, immediately after the first sentence, the following: "In the case of a voluntary liquidation of an association, such regulations, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution.".

(b) Section 4.12 of the Farm Credit Act of 1971 is amended by inserting after the subsection (b) added by section 102, the following:

"(c) In the case of an involuntary liquidation of an association, regulations of the Farm Credit Administration, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution.".

MINERAL RIGHTS LIMITATION

SEC. 306. The Farm Credit Act of 1971 is amended by adding at the end of title IV the following:

"PART F—MISCELLANEOUS

"SEC. 4.35. LIMITATION ON SEPARATE SALE.—If real property is acquired by any institution of the Farm Credit System through foreclosure, no institution of the Farm Credit System shall sell the surface rights to that real property to any person unless the institution also sells all mineral rights to that real property to that person.

"SEC. 4.36. LIMITATION ON SALE OF TRACTS OF REAL ESTATE.—No institution of the Farm Credit System shall sell any real property that previously served as security for a loan in a tract larger than a normal family size farm in the vicinity of the property for less than the amount it can receive from the Capital Corporation.".

TITLE IV—IMPLEMENTATION PROCEDURES

EFFECTIVE DATE

SEC. 401. The provisions of titles I, II, III, and VI of this Act shall become effective thirty days after enactment.

INTERIM IMPLEMENTATION

SEC. 402. (a) Until the Chairman of the Farm Credit Administration Board provided for under the amendment made by section 201(1) of this Act is appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 as in effect on the day before the date of enactment of this Act, shall perform the functions of the Chairman prescribed for the Chairman by this Act.

(b)(1) Except as provided in paragraph (2), until at least two members of the Farm Credit Administration Board provided under the amendment made by section 201(1) of this Act are appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 as in effect on the day before the date of enactment of this Act, shall perform the functions of the Farm Credit Administration Board prescribed for such Board by this Act.

(2) When the Chairman of such Board is so appointed and confirmed, the Chairman shall assume any responsibilities and powers of the Board being exercised by the Governor under this subsection.

(c) All regulations of the Farm Credit Administration or the institutions of the System, and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Farm Credit Act of 1971, before the date of enactment of this Act, shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act.

SENSE OF CONGRESS

SEC. 403. It is the sense of Congress that the pressing needs of the Farm Credit System and the United States agricultural industry require the implementation of this Act as soon as practicable, and that the President should ensure that the members of the Farm Credit Administration Board constituted under section 201(1) are appointed not later than thirty days after enactment of this Act.

TITLE V—NATIONAL COMMISSION ON AGRICULTURAL FINANCE

SEC. 501. (a) The President shall appoint a National Commission on Agricultural Finance. Such Commission shall be comprised of 15 members, of whom 7 shall be appointed by the President and 4 each by the Speaker of the House of Representatives and the President pro tempore of the Senate. The Commission shall consist of representatives of the financial community, the agricultural sector, and government.

(b) The National Commission on Agricultural Finance shall conduct a study of methods to ensure the availability of adequate credit to agricultural producers and agribusiness, taking into account the long-term financing needs of the agricultural economy; the roles of the commercial banks, the Farm Credit System, and the Farmers Home Administration in meeting those financial needs.

(c) In conducting such study, the National Commission on Agricultural Finance shall—

(1) evaluate the financial circumstances relative to both lenders and borrowers of farm credit;

(2) evaluate the structure, performance, and conduct of private lenders—commercial bankers and the Farm Credit System—and public lenders;

(3) explore the need for long-term assistance in stabilizing the value of agricultural assets; and

(4) evaluate the effect on suppliers, producers, processors, and local communities when financial institutions fail.

(d) Not later than one year after the date of enactment of this Act, the Commission shall submit a report containing the results of the study required by this section, together with comments and recommendations for legislation providing for a sound, reasonable, and primarily self-supporting credit program for farmers and ranchers as the Commission considers appropriate, to Congress.

(e) The Commission shall be comprised of volunteers and no Federal funds shall be expended by the Commission.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. Section 1.5 of the Farm Credit Act of 1971 is amended by adding at the end the following:

"(h) Nothing in this section limits the power of the Farm Credit Administration to provide general direction to Federal land banks with regard to the payment of dividends and patronage refunds.".

SEC. 602. Subsection (a) of section 1.17 of the Farm Credit Act of 1971 is amended to read as follows:

"(a) Federal land banks shall be required to carry a reserve account. Such reserve account shall be kept in accordance with standards set by the Farm Credit Administration.".

SEC. 603. Section 1.18 of the Farm Credit Act of 1971 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Federal land bank associations shall be required to carry a reserve account. Such reserve account shall be kept in accordance with standards set by the Farm Credit Administration."; and

(2) adding at the end of subsection (b) the following: "Nothing in this subsection limits the power of the Farm Credit Administration to provide general direction to Federal land bank associations with regard to the payment of dividends and patronage refunds.".

SEC. 604. Subsection (f) of section 2.2 of the Farm Credit Act of 1971 is amended by adding at the end thereof the following: "Federal intermediate credit banks shall be subject to the general direction of the Farm Credit Administration with regard to the payment dividends.".

SEC. 605. Section 2.14 of the Farm Credit Act of 1971 is amended by—

(1) striking out the parenthetical matter in subsection (a) and inserting in lieu thereof the following: "(including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles)";

(2)(A) in the first sentence of subsection (b), striking out "so provide," and inserting in lieu thereof "so provide and subject to the general directions of the Farm Credit Administration,"; and

(B) in the second sentence of subsection (b), striking out "Any" and inserting in lieu thereof "In accordance with the foregoing, any".

SEC. 606. Section 3.4 of the Farm Credit Act of 1971 is amended by adding before the period at the end thereof the following: ", subject to the general direction of the Farm Credit Administration".

The SPEAKER pro tempore. Is a second demanded?

Mr. WALKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, once again we come before the House addressing the issue of the plight of rural America and our agricultural sector.

Mr. Speaker, the Committee on Agriculture brings this bill to the House because it is in the national interest to safeguard the long-term stability of the Nation's largest single agricultural lending agency, the Farm Credit System.

The System is a network of borrower-owned cooperatives providing loans to farmers and their marketing and supply co-ops. It is organized in 12 farm credit districts. Within each district, there is a Federal land bank which makes long term real estate loans, a Federal intermediate credit bank to make short and intermediate-term loans, and a bank for cooperatives. Finally, there is a central bank for cooperatives to participate in loans that exceed district lending limits.

The land banks serve their borrowers through a network of local land bank associations. The intermediate credit banks provide operating credit for producers through their network of local production credit associations. The banks for cooperatives makes loans to agricultural, aquatic, and rural utility co-ops and provide financial services for cooperatives in international trade.

This System—which is regulated by a Federal agency called the Farm Credit Administration—was set up by Congress, beginning in 1916, to meet the unique credit needs of agriculture. Government seed money was used to establish the System units at first, but all of that money was repaid nearly 18 years ago. Ever since 1968, the Farm Credit System banks and associations have been owned completely by their borrower stockholders.

The Farm Credit System has about $73 billion in loans outstanding to farmers, ranchers, and agricultural and rural utility cooperatives—about one-third of all credit used in agriculture. This System is in trouble today primarily because it operates in a single industry—agriculture—and that industry is in the grip of an economic depression. It simply stands to reason that when tens of thousands of farmers can't earn enough to pay their bills, a credit system which serves only agriculture will be under great economic stress.

That stress is affecting the Farm Credit System today. The volume of nonaccrual loans on which payments are not being made rose over 150 percent in the first 9 months of 1985 to over $3.5 billion. And on the basis of Agriculture Department projections of continuing stress in the farm economy, the combined total of so-called nonaccrual loans and foreclosed property held by the System is projected to rise to $60 billion by mid-1986 and to between $10 billion and $12 billion by the end of 1987.

In spite of this bad financial news, I am not telling the House that the System, as a whole, is on the verge of collapse today. It is not.

For the short term, the System as a whole appears to have the resources needed to cope with its losses and to pay back the private money market investors who buy its securities.

At the same time, however, there is growing concern about the viability of a number of individual banks and associations within the System unless steps are taken to address their problems. Over many years, the System has developed a system in which its units are knitted together by loss-sharing agreements and by the fact that they are jointly and severally liable for securities sold to the investing public. Those ties made the System strong, produced investor confidence and kept interest rates low for borrowers. More recently, the well-publicized problems of the System have led buyers of farm credit securities to demand a significantly higher spread between interest rates on System securities and the rates on Treasury securities. We must avoid the possibility that future developments could at some time drive investors out of the market for farm credit securities.

In this situation, Congress must act to help the system marshal its own resources to help its weaker units. But we must also provide that, if the System does all it reasonably can to help itself and still needs additional assistance, it can be made available. These actions are needed to preserve the confidence of the investors who furnish the continuing supply of funds needed to operate the entire System.

Before discussing in detail what the committee has proposed to meet these problems, let me tell the House what we are not doing.

We are not providing a bailout with mandates for Federal loans and guarantees. This bill stops short, in other words, of the mandatory assistance that was provided in cases like those of Chrysler, Continental Bank of Illinois, Boeing and New York City.

What we bring the House is a carefully designed, barebones approach which does several things:

First, H.R. 3792 provides strengthened, more effective Federal regulation of the System.

Second, the bill recognizes that much can and should be done by the System itself, using its own reserves, before outside aid is warranted—but with approporiate protection against endangering sound banks and units and their ability to serve borrowers on reasonable terms. It should be noted that the System already has taken some important steps to share resources with several of its institutions.

Third, the bill provides new legal protection for borrowers to help make sure that they get fair treatment and every realistic chance to avoid liquidation.

And finally, the bill recognizes that if the situation in agriculture continues to deteriorate, the Federal Government must be authorized to give the System a safety net similar to arrangements that are already authorized for other Government-sponsored agencies. In this connection, I am proposing an amendment to the bill as reported by the Agriculture Committee. The amendment, which is similar to a provision adopted by the other body, would make the assistance authorized by the bill subject to the appropriations process.

Nobody says that passage of this bill can, by itself, solve all the economic problems of agriculture or bring farm prices back to reasonable levels. But we do say two things—first, that the Farm Credit System today provides services which are essential to modern agriculture; and second, that in the unlikely event the entire System was ever allowed to collapse, there would be great damage both to our troubled

agricultural industry and to the overall national economy.

My statement that the entire Nation has a stake in assuring the continued viability of the Farm Credit System is based on a recent report produced for Farm Credit System institutions by a private economic firm, Chase Econometrics. That study looked at what might happen if the System defaulted on its obligations in 1986.

The Chase study gives us an idea of why the System's continued viability is important to the whole national economy. The study concludes, for example, that a System default would lead to a general increase in interest rates on other types of securities, and mortgage rates for homeowners around the country would rise. The study predicts that business investment would suffer because of generally higher interests rates, real income for consumers would decline and employment would fall below currently predicted levels. As a result of these and other developments, the Federal deficit by fiscal 1987 could be $53 billion above current baseline forecasts.

Before continuing, I want to emphasize and underline again the fact that we do not expect a default and we do not predict one. But I also want to emphasize and underline the fact that the whole Nation has a stake in making sure that we safeguard the stability of the Farm Credit System.

Because of that national interest, as well as the welfare of agriculture, the Agriculture Committee has adopted H.R. 3792 on a bipartisan basis. I want now to outline for the House the major features of this legislation.

STRONGER REGULATION

The bill takes two principal steps toward more effective regulation of the Farm Credit System by the Farm Credit Administration.

First, the legislation would cut the main organizational ties between the System and the Farm Credit Administration, thus turning the Federal agency into the kind of arms-length regulator that we have for other financial agencies. The FCA would get out of the business of participating in management of the System and deeper into the business of regulating it in a manner which is more accountable to both Congress and the executive branch. To cut structural ties between the System and the regulating agency, the bill abolishes the System under which the Farm Credit Administration has been run by a 13-member, part time board whose members are nominated by the System institutions. Under the new arrangement, the FCA would be run by a three-member, full-time board appointed by the President and confirmed by the Senate. One of the board members would be appointed as chairman, and he would serve as the Farm Credit Administration's chief operating officer. At present, this function is performed by the FCA Governor who is appointed by the Board.

Second, the legislation junks the old practice under which the FCA delegated to the System itself the responsibility for examining the financial condition of its institutions. Instead, the bill directs the reshaped FCA to approve rules and regulations for the System and to demand strict annual examinations of System institutions under generally accepted accounting principles. In addition, the bill gives the FCA a number of enforcement powers which it now lacks but which have long been held by other financial regulatory agencies. One primary example is the authority provided by the bill for cease and desist orders if any institutions are engaging or about to engage in unsafe or unsound practices.

SELF-HELP

As I have noted, the System already has loss-sharing agreements and has already implemented assistance packages for several of its banks. To promote more effective self-help, H.R. 3792 would create a new Farm Credit System Capital Corporation, a unit within the System with power to raise funds from inside the System and to receive and administer any outside aid. The Corporation would become a central source of aid to troubled System units and a warehouse for bad loans or property from other system institutions.

This new Capital Corporation would be an extremely important part of the machinery created by H.R. 3792. It is worth looking more closely at how it would be controlled and at some of the things it could and could not do.

It would be run by a five-man board, with four members elected by System banks which hold voting stock in the Corporation and the fifth appointed by the FCA. While System banks elected most of the directors, however, the FCA would be given regulatory power over the institution and its operations.

It would have power to draw funds from existing System resources, but it would be forbidden to take resources from financially healthy institutions to the point at which they could no longer serve their own borrowers on reasonable terms, and it could not require institutions to make contributions from their borrower stock, participation certificates and allocated equities. I would, personally, have favored some more specific definition of safeguards for healthy institutions, but the language in the bill represents the committee's consensus.

It would be forbidden to go beyond the powers specifically laid down in the bill in order to make sure that it could not evolve into a central bank or bank holding company supplying credit for farmers, ranchers, and cooperatives.

Its authority to take on new liabilities would end on December 31, 1990, although it could continue indefinitely to handle obligations existing on that date.

ADDITIONAL BACKUP ASSISTANCE

The Agriculture Committee, in drafting H.R. 3792, rejected the idea of a direct, mandated infusion of Federal funds into the Farm Credit System. Partly this was done because the need for outside assistance depends to a large degree on future developments in agricultural prices and land values. The committee decided that the most prudent way to deal with this uncertainty was to provide that if the Farm Credit Administration certifies that a need for assistance exists after maximum self-help efforts within the System, the Secretary of the Treasury would have discretionary authority to purchase obligations of the Farm Credit System Capital Corporation.

The discretionary authority contained in the bill is patterned after similar models in existing laws governing the Federal National Mortgage Association and the Student Loan Marketing Association. The bill provides that if a Farm Credit Administration certification is made, the Secretary of the Treasury would have discretion on two counts—first, he could decide, after reviewing the facts presented by the Farm Credit Administration, whether to provide aid or not; and if he decided that aid was necessary, he could determine the amount to be provided. Before the Secretary could actually deliver any such assistance, Congress would have to act through the appropriations process.

BORROWER PROTECTION

Stress on some farm credit institutions recently has resulted in management decisions causing unfortunate tension between some institutions and borrowers. The bill is designed to reduce these tensions by bolstering confidence in the System's stability and mandating fair treatment for borrowers.

To accomplish this, the bill provides among other things that System institutions would be required to give written notice of actions on loans applications including explanations of any denials and would be required to allow appeals by applicants. Written notice would be required of any actions to retire or cancel borrower stock. Institutions would be required to provide borrower stockholders, on request, with copies of documents relating to their loans. And in cases where stockholders of a local association fail to agree to a merger creating a new districtwide association, the FCA could not permit the new institution to operate in the territory of the nonmerging association or associations.

Mr. Speaker, I want to add that I, personally, do not think that the amendment we add today, subjecting discretionary Federal aid to the appropriation process, improves our bill. It injects an extra step into a system that should ideally be as flexible as possible. But because many Members believe it is urgent that we act on the bill quickly in order to maintain the confidence of investors—and because controversy over the appropriation issue could cause delay—we have agreed to add the amendment.

Unfortunately, the hard times that have come upon us force that we might need to have an infusion of funds from the Federal Government. This legislation allows the Secretary of the Treasury and gives him the discretion, subject to appropriations, an amendment that has been added to this amendment to satisfy the concern of several of our colleagues, including the chairman of the Committee on Appropriations, the chairman of the Committee on the Budget. That issue is addressed to their satisfaction. We revamp the system and give it more tools for operation, both the system and the Farm Credit Administration.

I would hope that in this very difficult time for agriculture our colleagues would give us this added tool to allow them to continue helping themselves with their own resources, with a possible assist from the Federal establishment if necessary.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I am very glad to yield 2½ minutes to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Speaker, very briefly, I rise in support of the Farm Credit Act amendments brought to the floor of the House by the gentleman from Texas [Mr. DE LA GARZA], the gentleman from Tennessee [Mr. JONES], the gentleman from Missouri [Mr. COLEMAN], myself, and other members of the House Committee on Agriculture who reported this bill from committee on a voice vote.

The bill does exactly what the distinguished charman of the full committee has described it as doing. I should like to read to my colleagues in the House, if I may, this statement of administration policy on the date of December 6, 1985:

The administration supports prompt resolution of the financial difficulties currently facing the farm credit system and applaud the House for considering H.R. 3792 in an expedited fashion. Although the administration opposes the authorization for financial assistance to the farm credit system and will seek to modify this provision in conference, we urge House passage of H.R. 3792 under suspension of the rules.

Let me repeat that the administration is urging that the House of Representatives pass this bill today under suspension of the rules. The issue has arisen as to whether or not the provisions of the borrowing authority from the Treasury Department allowed as a third part of the bill which we have before us would be subject to appropriations. And that, I understand, is the reason for the administration concern.

Let me read to you, if I may, the statement made to me yesterday by the Department of Treasury which would be exercising this borrowing authority. The Treasury Department has said that;

To comply with the requirements of the 1974 Budget Act, any funds used under that borrowing authority would have to be appropriated funds in order to comply with the provisions of the 1974 Budget Act. They would either have to ask for an appropriation or they would have to ask Congress to pass language overriding the 1974 Budget Act. It would be their intention to ask for an appropriation.

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Notwithstanding that, I understand it is the intention of the gentleman from Texas, as well as the gentleman from Illinois, to accept the Senate provision subjecting the Treasury authority to appropriations.

I thank the gentleman for yielding.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume, and I yield to my colleague, the gentleman from Oregon [Mr. WEAVER], a member of our committee.

Mr. WEAVER. I thank the distinguished chairman for yielding, and I want, first, to say that I commend him, my chairman of the subcommittee, the gentleman from Tennessee [Mr. JONES], as well as the ranking minority members, the gentleman from Illinois [Mr. MADIGAN] and the gentleman from Missouri [Mr. COLEMAN], for their fine work on this bill.

I opposed the bill in committee. I did so because I offered an amendment to make the funding provisions of the bill subject to appropriations. I want to ask the chairman now, does the bill which has been submitted to the desk contain additional language to that which passed the Agriculture Committee, which would include my amendment making it subject to appropriations?

Mr. DE LA GARZA. I would tell the distinguished gentleman that the amendment that is at the desk has indeed that language that the legislation would be subject to appropriations thereof.

Mr. WEAVER. I want to tell my chairman that I thank him. I think this is a wise move.

I would say to all my colleagues I sent out a "Dear Colleague" letter saying it was essential such language be in the bill. Now that the ranking members and the chairman have seen fit to put this language in this bill, that makes this bill satisfactory. We will not spend a single penny of taxpayers' money whatsoever unless they bring it to the Appropriations Committee with their arguments and by another act of Congress such funds are appropriated. So we are entirely safe now in this bill in having any open-ended funding. There is none in the bill. For that reason, Mr. Chairman, I support this bill. I think it is an important bill to reinvigorate the Farm Credit System, and I urge all my colleagues to vote "aye."

Mr. DE LA GARZA. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. PENNY], a distinguished member of our committee.

Mr. PENNY. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 3792 and to enter into a brief colloquy with you as one of the principal authors of this legislation. One major section of this bill establishes rights farmers have as borrowers from the Farm Credit System. I know you share with me the belief that applicants and member-borrowers need assurances throughout the process that they are being treated fairly. In addition to such guidelines and regulations, will this legislation provide applicants and member-borrowers the option of utilizing the court system to ensure they are properly enforced?

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for assisting us in clarifying this issue.

Yes, Mr. PENNY, as you indicate, a major section of this bill does establish a set of borrowers' rights, and it would be my understanding that the rights of applicants and member-borrowers as set forth in this act and in the regulations of the Farm Credit Administration shall be enforceable in courts of law. I thank the gentleman from Minnesota for his contribution and his support.

Mr. PENNY. I thank the gentleman.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Speaker, I rise in opposition to H.R. 3792, the Emergency Farm Credit Act of 1985. This legislation is the culmination of the hard work of many members of the Agriculture Committee all of whom are seeking a solution to the emergency credit crisis facing family agriculture. Unfortunately, for many reasons I oppose its consideration on the suspension calendar.

Income—that is the only solution to the agricultural crisis facing family farming and ranching. If farmers and ranchers received a fair price for their agricultural commodities, we would not be debating this legislation on the House floor today.

Nearly every agricultural indicator projects a continued depression in the agricultural economy. "Farm Income May Fall

to $22 Billion in 1986, $4 Billion Less Than 1985." "Agricultural Assets Decline by $250 Billion Since 1981," and "Agricultural Exports at Eight Year Low," are headlines facing family farmers and ranchers every single day. Nearly every component of agriculture that would permit farmers and ranchers to earn a fair price for their commodities has been on a steady 5-year decline.

This legislation does not address this fundamental problem. Farmers and ranchers tell me that we should not provide them with more loans if they do not receive a fair return for their commodities. It is time that those standing in the way of a fair farm policy recognize this fundamental solution.

Because a farm bill acceptable to the administration will have to be one that reduces farm income, and doesn't permit the return on investment family farmers and ranchers will need to pay their own bills, regrettably we must also address this serious credit crisis. This crisis will match that which we faced earlier this year during consideration of the emergency credit legislation vetoed by the President.

The problems of the Farm Credit System are a "tip of the iceberg." Borrowers from commercial lending institutions and FmHA are facing the same problems of FCS borrowers. Declining farm income, eroding assets, and rising expenses have created an economic climate with a prescription for disaster for not only farmers and ranchers, but the thousands of small communities, schools, and businesses that directly depend on a healthy agricultural economy.

The Farm Credit System will not fail. Despite the allegations that have been made, this committee and the administration will not allow this to happen. These unfounded charges unfortunately cloud the basic and fundamental question that needs to be addressed when considering this legislation. Will this bill help family farmers and ranchers during this difficult economic credit crisis, or will it serve to primarily reassure investors in the system?

Many farmers and ranchers, a good number of which are Federal land bank and Production Credit Association borrowers, have tagged this legislation as a "lenders bill." "What is there for the borrower?" is the question I have been repeatedly asked during the past several weeks. Despite the well-intentioned efforts of the Agriculture Committee, this legislation has not been able to shake the label that this is a "lender's bill," that little assurance exists for the producer that the needs of the borrower will be first and foremost objective of the System.

This criticism is specifically directed at the Capital Corporation. While the Corporation will be provided with all the tools necessary to place the needs of the borrower above all others, many borrowers view the Corporation with suspicion. They ask, "Right now, my loan is in my backyard, and I feel I have little control over my destiny. If that loan is sent to a corporation in a far away city, will not any accountability that existed before be gone?"

At the same time the Capital Corporation is formed, an unlimited line of credit is provided to the Secretary of the Treasury to purchase bonds from the Farm Credit System. Congress cannot hold the System accountable as to whether they are using every possible means to maintain the solvency of their borrowers. Nor can the member borrowers. In order to assure accountability of the Farm Credit System, let us first determine if the System is using the reorganization tools and their own assets before we give them any bail-out. Even by holding the right to provide appropriations later, we can do very little to prevent the Secretary of the Treasury from making commitments to the System prior to the time Congress approves the appropriation.

I am not opposed to compromise on this legislation. I share the concern that the Congress and the administration provide the assurances that the System will not be allowed to fail. However, we must have more support from this administration, more than the lukewarm comments we have received to date. In fact, I have seen nothing to date to indicate this bill will receive the signature of the President. We must also have the assurances that the System will do all that it can internally before we commit tax dollars to their relief.

Above all, as one Member of Congress, it is time that the System be held accountable for their actions. This legislation will do little to strengthen the basic foundation of the Farm Credit System, and uphold a premise that I believe many borrowers feel the System has forgotten—that the borrowers themselves are the owners and their needs must be considered. Above all, that need must be a decent price—denied them this year by the President and by the Congress.

Mr. HUCKABY. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Speaker, I want to take a moment to commend the chairman of the committee, as well as the gentleman from Tennessee [Mr. JONES], for their excellent work on this legislation.

To those of my colleagues in the House who are not familiar with it, let me point out that I think it is absolutely mandatory that we pass this legislation today, that we reach final agreement and get it to the President's desk.

The key to this is the Farm Credit System Capital Corporation, a corporation that is going to acquire nonperforming assets from the Federal land banks, set this aside, they are going to pay fair market value for it so that we can preserve the integrity of the Federal land banks, because keep in mind that we have a debt of excess of $200 billion in the farm system today. It is absolutely necessary that Congress intervene at this time.

Mr. DE LA GARZA. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. JONES], the distinguished chairman of the subcommittee, who has done yoeman work in this endeavor.

Mr. JONES of Tennessee. Mr. Speaker, I thank the chairman for yielding me this time, and I rise as an original cosponsor and a strong supporter of this bill.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, I would just like to clarify for the record that I am the author of the amendment which provides a freeze in salaries for officers of the Farm Credit System during the time period that a Federal line of credit from the Treasury is in effect.

It was my intention that the freeze shall apply to executive officers of the System and not to officers of PCA's and land banks throughout this country, and I wanted to make this point clear at this time.

Mr. JONES of Tennessee. I thank my friend for making that explanation real clear. It was understood by some of us but maybe not by all.

Mr. Speaker, those of us with responsibility over agricultural credit matters have been monitoring this situation closely for over a year. All the time, we have been publicly hoping this bill would not be needed; but personally knowing it would have to be done sooner or later. Our first testimony on this matter came in March of this year, and we held five other hearings directly focused on farm credit.

Those hearings produced the overwhelming concensus that this legislation is necessary now. It is necessary to allow the Farm Credit System to cope with its present crisis. It is necessary because it provides the kind of regulation necessary to prevent a reoccurrence of the crisis.

Most importantly, it is necessary to avert a serious problem in the agricultural sector of our economy; a sector that is already plagued by economic problems caused by low prices and falling farmland values. If we do not act on this legislation now, the big losers are going to be the farmers of this country who must go into the marketplace to obtain operating credit. Failure to act on this bill could result in farmers having to shoulder additional economic burdens which they cannot shoulder in the economic climate that exists in rural America today.

Throughout the proceedings of the subcommittee and the full Agriculture Committee, we have sought to maintain a constructive dialog to insure that all interested parties had the op-

portunity to voice their comments on this proposal.

By and large, I think we have accomplished the goal of obtaining a diverse set of opinions in that process. The result is this legislation which is best described as a bare bones response to a potentially serious situation. The bill calls for self-help and tighter Federal regulation first; and then provides for a discretionary safety net which the Department of Treasury says will not be needed.

I sincerely hope that Treasury is correct in its assessment. However, I and each of you, should feel much more comfortable about this Nation's financial markets after this safety net is in place.

I urge you to support this bill today. It has strong bipartisan support and we badly need it in place.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentlewoman from Nebraska [Mrs. SMITH] for a colloquy.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Speaker, I do want to express my strong support to the gentleman for his powerful leadership in bringing this to the floor of the House, to Mr. DE LA GARZA, to Mr. MADIGAN, and to Mr. COLEMAN, and I will ask the gentleman to yield for two short questions.

Mr. JONES of Tennessee. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman very much.

Mr. Speaker, I have some concerns that impact adversely upon my district in Nebraska. Currently, 16 production credit associations in the Omaha farm credit district, three in my district, currently have frozen Class B stock. Will this bill do anything to free up this stock?

Mr. JONES of Tennessee. Yielding back my time, I would reply that as the bill reads, the Farm Credit Administration will set regulations governing the powers of the Farm Credit System Capital Corporation to enable it, through the warehousing concept, to free associations of nonaccrual and nonperforming loans. These regulations, of course, have not yet been written, but I believe, after implementation, this will allow associations to once again start retiring the frozen B stock.

Mrs. SMITH of Nebraska. I thank the gentleman, and I would ask the gentleman if he would yield for another brief question.

Mr. JONES of Tennessee. I would be glad to yield.

Mrs. SMITH of Nebraska. Will this bill cap or reduce interest rates to member borrowers as it currently reads?

The SPEAKER pro tempore. The time of the gentleman from Tennessee [Mr. JONES] has expired.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mr. JONES of Tennessee. If the gentlewoman will yield, this bill includes provisions that several financial securities experts have estimated will narrow the yield spreads between farm credit securities and Treasury obligations from an average of approximately 85 basis points today to 40 points, thus lowering the System's cost of funds. The bill should further lower interest rates to borrowers by allowing the Capital Corporation to remove bad loans from the associations' books, thus easing the cost burden of carrying those nonperforming loans.

Mrs. SMITH of Nebraska. I thank the gentleman. I strongly support this bill. I have one brief last question: Will the gentleman's committee revisit these issues if the bill fails to produce the intended results of easing the credit burden of System borrowers?

Mr. JONES of Tennessee. I can assure the gentlewoman from Nebraska that the subcommittee will maintain vigilant oversight of the implementation of this bill. If it fails to produce the expected results of stabilizing financial conditions in the Farm Credit System, I have no doubt about the need to revisit the Farm Credit Act again in the future, we will certainly do so.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. WALKER. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, first, I would like to commend all of the members of the Agriculture Committee for the expeditious manner in which they have handled this bill and for bringing it so quickly to the attention of the full House. I strongly support those provisions of the bill which would bring about the reorganization of the Farm Credit System and given greater supervisory authority to the Farm Credit Administration. I think those are absolutely imperative.

Like, however, the Administration, I am opposed to the financing provisions within the bill which give the Treasury authority to make loans to the Farm Credit System. Initially, there has been talk about $3 billion, $6 billion, and $10 billion, and because it was thought that it might be difficult to come to the floor with an authorization bill containing a precise figure, $3 billion, $5 billion, $10 billion, the easy answer was: Make it unlimited.

Now, what are we doing here today, right now? Well, let us suppose that we are talking about bad intentional loans. Are we going to give the Secretary of the Treasury unfettered authority to subsidize a warehouse for those bad loans? Now, they happen to belong to the Farm Credit System. Would you be so willing to give the authority, even though it would be subject to appropriation, if it were international loans to the Third World? Would you be so interested in doing it if it were energy loans, or what have you? I think not.

Another point: There has been no independent audit of the Farm Credit System, to my knowledge, in the history of the Farm Credit System. Earlier this year, they did commission an audit from Price Waterhouse. That audit was supposed to be ready by October 1 of this year. It is not ready. The audit will not be ready, now we are advised, until February. So what we are doing right now is, we are buying a pig in a poke. We really do not know the status of the Farm Credit System, and we will not until that audit comes in.

Now, is there a necessity for immediate financial action? There is a necessity for immediate reorganization and greater supervisory authority. However, insofar as financial authority, I think not. The FCS now has $5.5 billion in earned surplus, $1.6 billion in loss reserves, and $5.3 billion in member borrower stock.

It can resort to those, in the first instance, in my judgment and in the judgment of the Reagan administration.

Moreover, the fact that we do not have to go immediately to financial authority to the Treasury is quite obvious from the agreement by the members of the Agriculture Committee to subject this authorization to the appropriations process. Clearly we would not be going to an appropriations process until sometime in February, at the very earliest, if appropriations were necessary.

□ 1340

Why then could we not take up the provisions of this bill on the regular calendar absent the authorization, during which time we might be able to offer rational amendments that would both limit the authorizing amounts and, most importantly, impose adequate conditions upon the exercise of that authorizing authority.

What would those adequate conditions be? Well, we have had considerable experience with conditioning financial assistance. We conditioned the financial assistance to New York City. We granted it, but we conditioned it. We granted financial assistance to Chrysler, but we conditioned it. We do not have any legislative conditions contained within this bill. We had a board in those instances; we do not have a board here. It is totally up to the discretion of the Secretary of the Treasury.

Now, admittedly the Secretary of the Treasury can unilaterally impose those conditions if he wants, but there is no legislative establishment of the conditions, and it is the Secretary of the Treasury acting unilaterally, unlike the precedence this Congress has previously established.

I would hope that we could, A, defeat the bill before us, and B, within a matter of hours take up the bill absent the financial authority given to the Treasury and pass it immediately. That, according to the Treasury Department, should solve all the present problems of the Farm Credit System while we continue to examine the need for additional financial authority.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman.

Mr. WEAVER. I thank the gentleman for yielding.

Mr. Speaker, my friend knows that I oppose this bill as well, because my amendment in the Agriculture Committee to make it subject to appropriations was defeated there. But that amendment is now a part of the bill we have before us. This bill now does not have any open-ended funding. It does not give license to the Secretary of the Treasury.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. LAFALCE] has expired.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. I just want to conclude by asking a question. The bill before us now has a provision making any funding subject to appropriations. It is going to have to come back to the Appropriations Committee for an entirely new law. So I want to ask my friend from New York how he can say it is open-ending funding. There is no longer any open-ended funding in this bill.

I yield to the gentleman for his response.

Mr. LAFALCE. No. 1, subjecting it to the appropriations process proves that we do not have to act in such an unseemly, hasty manner as we are acting today on the suspension calendar.

Second, my concern has been with the language on authorization, not appropriations.

Any number of financial institutions—some of them quite large, others just well organized—are watching us closely here. We must set a precedent for responding not just with promptness, but with firmness and flexibility. The Chrysler Loan Guarantee Board sets a useful example. That board possessed all three attributes in a fashion that cannot be provided by this bill's proposed combination of congressional appropriations and Treasury approval. The Chrysler Board was comprised of the Secretary of the Treasury, the Chairman of the Federal Reserve System, and the Comptroller General. The witnesses provided to our hearings by the latter two showed an expertise on the FCS that would be valuable in dealing with the FCS.

The Chrysler Board had to oversee the company's operating and financial plans and to negotiate contributions from those it benefited—management, labor, local governments, creditors, suppliers, dealers, et cetera. Thus, it could set prior conditions on the company in advance of receiving lending assistance. This bill does require a 5-year pay freeze for FCS officers if they borrow at the Treasury, but that provision is at once too rigid and incomplete. In recent years, officers in some regions have received big pay raises despite poor performance. On the other hand, officers in other regions have done well and should not necessarily have to do penance for 5 years. On the other hand, financial assistance would benefit more than FCS officers and every effort should be made to extract contributions from them as a condition of Federal assistance.

Mr. DE LA GARZA. The gentleman has made his statement completely outside of the realm of what the legislation reads.

For example, "Each purchase of obligations by the Secretary of the Treasury under this subsection shall be on the terms and conditions as shall be determined by the Secretary of the Treasury." It is not like you are turning them loose or anything like that.

Mr. LAFALCE. If the gentleman will yield, oh, well, that does turn him loose. We do not establish what those terms and conditions shall be, as we have done in previous bail-out legislation.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this legislation. It is urgent that we address the credit problems facing the agriculture community. Any delay prior to adjournment will inflict unnecessary pain on thousands of American farmers now held captive by the disastrous economic conditions all through the farm belt.

I recognize that some Members have concerns over certain parts of the bill. However, it is urgent that we enact legislation prior to adjourning, and I am concerned that any delay today will only serve to jeopardize those prospects.

The bill before us essentially does three things:

First, it reorganizes the Farm Credit Administration to make it more accountable and effective as a central authority for the sound management of the system.

Second, it requires the stronger elements of the farm credit family to help its weaker components.

Third, it provides authority for the Federal eagle to once again fly within this system.

We should all recall that when the Farm Credit System was started in 1916 it was funded entirely by the Federal Government. Since then the System regularly and periodically repaid that Federal capital until it became entirely farmer owned and privately funded.

Now there's a severe and unrelenting credit crunch in rural America, particularly so in the regions which are heavily reliant upon grain production.

The Committee on Agriculture and the other body have both responded to this serious problem by producing bills that keeps Government involvement to a minimum but concentrates on giving the Farm Credit System the tools it needs to meet the crisis head-on.

I realize of course that there are several differences between the two versions and some of those are quite profound.

But I believe that the differences aren't so great that they cannot be constructively reconciled in the final days of this session, through a House-Senate conference.

Thus, I urge all members to support the passage of this bill today.

The prompt and timely enactment of remedial farm credit legislation is clearly in the interest of American agriculture and the American people.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the gentleman for yielding to me this time.

Mr. Speaker, I wish to congratulate my friend from Texas, the chairman of the committee, and other members of the committee for bringing out this bill. I realized, perhaps, more than others, that we are going to have to have a healthy agriculture to ever save a Farm Credit System. But we have got to have a System saved, and I am glad we are here today with a bill carrying on the Farm Credit System and giving us a chance to let it proceed with its work.

As we know, the Farm Credit debenture or notes are paid for by farm income. We are going to have to increase farm income so that we can keep this System. By all means we should pass this legislation and keep the Farm Credit System and then go to work to see that the farm price comes from the purchaser and not from the Treasury. When 3 percent of

the people have to compete with the 97 percent of the people for dollars out of the Treasury, it does not work out too well, as we see it today. But for years the buyer had to pay a fair price on basic commodities. We are going to have to return to that. But whatever we have to do in the future, we must save the Farm Credit System today.

When our Appropriations Committee began to work on House Joint Resolution 465, making further continuing appropriations for fiscal year 1986, I included sections 105 and 106, which read as follows:

SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriations, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

SEC. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy or foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

These sections were included in the continuing resolution that passed the House last Wednesday.

Sections 105 and 106 call for use of existing laws to prevent the critical agricultural situation from becoming worse. These sections call on the administration to use authority that already exists; they add nothing new to the law. They are necessary because of the failure to carry out such law in the past. Many do not realize that reduced prices per unit cause increased production as the farmer just tries to break even. This has been proven time and again.

For 40 years those engaged in agriculture made consistent progress, for during that period, by a system of loans for basic commodities, farmers and lenders knew a minimum price at the beginning of the year, keeping them to a degree in line with industry and labor.

The Commodity Credit Corporation was set up to see that American basic commodities moved in world trade by offering them at competitive prices. It is in the last few years when this proven program was changed to one where the producers of basic farm commodities have to look to appropriations for part of their cost, and as production was held off world markets that farmers and farm-related industries and credit sources have become bankrupt. During this period, about half the farmers are either bankrupt or on the verge of bankruptcy along with their banks, the Farm Credit Systems and the Farmers Home Administration. The farmer's share has dropped from 51 percent of the consumer dollar to 27 percent while that of industry and labor, from whom he must buy, has gone from 49 to 73 percent by virtue of laws. Our friends are doing the best they can, but our largest industry, industry and labor's biggest and best consumer, the 3 percent of the people on the farm with tremendous investments and increasing costs cannot compete successfully with the other 97 percent for appropriations.

What we need to do is call for using the laws which proved so successful. Reduced prices per unit means the farmer produces more not less in an effort to break even. Perishable commodities are a different story. Section 32 funds are used to buy the surplus there.

The farm debt of $214 billion was largely brought on by the Government policy of holding commodities off world markets in favor of our competitors.

We must make an adjustment of that debt and demand the use of the Commodity Credit Corporation which was created by Congress. The authority for the Corporation is found in section 714c of title 15 of the United States Code and provides, among other things, that the Corporation shall:

Support the prices of agricultural commodities through loans, purchases, payments, and other operations.

Procure agricultural commodities for sale to other Government agencies, foreign governments, and domestic, foreign or international relief or rehabiliation agencies, and to meet domestic requirements.

If we don't adjust the debt and use CCC, the bankruptcy of our largest industry will continue and will drag down our farm bank, small banks, the larger ones, the Farm Credit System, and then our overall economy which is dependent upon a prosperous agriculture.

Remember, the original farm program maintained a reasonable balance between agriculture, industry and labor. Under it farmers took care of the land for the rest of us, bought and paid for farms, and sent their sons and daughters to college. Our colleagues on the Agriculture Committee have done their best with this bill, but while we work to save the Farm Credit System, let's not forget to save the farmer.

I hope the Members will support the chairman and the members of his committee in this bill.

Mr. WALKER. Mr. Speaker, I yield 2½ minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding me this time.

Mr. Speaker, during the committee consideration of this legislation, I and my colleague from Texas, Mr. STENHOLM, engaged in a discussion with Treasury Assistant Secretary Seethness on several issues relating to the authority of the regulator, the Farm Credit Administration, to establish capital requirements, maintain loss reserve levels, and approve interest rates of each Farm Credit System institution. Mr. Chairman, I would like to establish with you my understanding of that exchange.

As drafted, the legislation grants FCA the authority to set capital requirements for System institutions. It is my understanding that the regulator would not establish higher capital requirements for financially stronger institutions than financially weaker institutions.

Is that your understanding, Mr. Chairman?

Mr. DE LA GARZA. If the gentleman will yield; yes, it is.

Mr. JEFFORDS. Each institution maintains loss reserves to cover future losses that the institution may face. It is my understanding that the regulator would not assess or require the pooling of the reasonable allowance for losses that are established according to generally accepted accounting principles [GAP] in each Farm Credit System institution.

Do you agree Mr. Chairman, with my understanding of this exchange?

Mr. DE LA GARZA. If the gentleman will yield, I will inform the gentleman that I do agree.

Mr. JEFFORDS. It is my understanding that this legislation will remove any authority for the Farm Credit Administration to order an increase in interest rates for the purpose

of generating funds for the Capital Corporation.

Is that your understanding, Mr. Chairman?

Mr. DE LA GARZA. If the gentleman will yield; yes, it is.

Mr. JEFFORDS. Mr. Speaker, I ask unanimous consent that pages 42 and 43 of the committee report that include the exchanges be made a part of the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. DE LA GARZA. That is the colloquy that was had in the committee between the gentleman from Vermont and Mr. Sethness, the representative of Treasury at that meeting.

Mr. JEFFORDS. That is correct; embodying the discussion that we have had.

I would ask the gentleman from Texas [Mr. STENHOLM] if he would concur with me that after we talked about lost reserves, or rather an amendment that I offered on lost reserves, that the gentleman had a colloquy with Mr. Sethness, which basically said that reasonable lost reserves under generally accepted accounting principles would not be subject to transfer to the corporation from one of the institutions, is that the gentleman's understanding?

I yield to the gentleman for his response.

Mr. STENHOLM. That is correct. That was the response that we got from Mr. Sethness. We confirm existing law, current law, which provides for institutions and production credit associations.

Mr. JEFFORDS. I thank the gentleman for his response.

EXCERPT FROM AGRICULTURE COMMITTEE REPORT

Mr. JEFFORDS. I do not have any amendments, but I would like to ask some questions of Mr. Sethness in order to try to alleviate some of the concerns that the farmers and administrators of our district have with respect to this bill.

One of my concerns is that the Farm Credit Administration might order an increase in interest rates to farmers in various districts in order to generate funds to be transferred to the Capital Corporation. Can you give me some assurance that this bill gives FCA no authority to order an increase in interest rates?

Mr. SETHNESS. This bill, in fact, removes FCA's existing authority to approve interest rates; FCA will not regulate FCS interest rates.

Mr. JEFFORDS. I appreciate that. That will be very helpful to us in relieving some of the concerns.

It is my understanding, however, that there is authority within this bill to require an increase in capital. I understand why that might be necessary, but I also want to know—and I realize that you perhaps cannot give a definitive opinion but only a judgment—as to whether or not it would be normal regulatory practice, or however you want to phrase it, to provide that there should be an increase in capital for banks that are not in trouble without requiring an increase in capital for banks that are in trouble.

Mr. SETHNESS. If you'd give me the liberty to answer that question and expand on the whole concept somewhat, I would appreciate it.

FCA does have the power under this legislation to set capital requirements, as other financial institution regulators do. It seems very unlikely to me that a regulation that sets a higher capital standard for a stronger and less risky institution than for a weaker one would survive any serious legal challenge.

It's also true that Mr. Gunderson's amendment, following the efforts of Mr. Stenholm and Mr. Jeffords, would protect the borrowers' stock component of the equity of Farm Credit System institutions from assessments by the new Capital Corporation. This amendment, which the subcommittee passed, ensures that the farmer/borrowers' stock in strong districts is safe from the Capital Corporation.

This is a good deal more protection than commercial bank shareholders have; I believe it's designed to help preserve the farmers' stock.

Mr. JEFFORDS. I thank you for that answer and would like to pursue it further. If I understand you, you are saying that, by virtue of that amendment, there is more protection in this bill for institutions than would normally be provided under the regulations with respect to commercial banks' requirements? Is that correct?

Mr. SETHNESS. Well, there is more protection to the farmer-investor.

Mr. JEFFORDS. To the farmer-investor?

Mr. SETHNESS. Yes. There is, distinctly more.

Mr. JEFFORDS. I appreciate that—

Mr. SETHNESS. And the legislation also provides for the establishment of a number of important criteria to be considered in the process of deciding how and to what extent to assess the earned surplus of those institutions. If I might add a response on another topic, I think it is terribly important to recognize that one of the most significant effects that this bill will have is to ensure that FCS will be able to continue to borrow at extremely attractive interest rates that will get passed along to all farmer-borrowers.

□ 1350

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I want to take this opportunity to commend my good friend and colleague, Mr. JEFFORDS, for the diligent work he has undertaken in developing legislation to address the problems facing the Farm Credit System. While it is unfortunate that he was not able to convince his Agriculture Committee colleagues of the importance and necessity of a cap on interest rate increases, he was successful in gaining approval of three important provisions.

This legislation would allow contributing banks to elect the Corporation's Board of Directors. It specifies a number of criteria that the Corporation and the FCA must follow in determining the contributions made by member banks, with specific consideration being given to the impact they would have on interest rates, and it treats such contributions as investments.

Mr. Speaker, I urge my colleagues to support this measure. It may not satisfy all the concerns which have been expressed about the future of the Farm Credit System, but it is a step in the right direction. When taken in perspective with the provisions contained in the legislation already approved by the other body, it goes much farther in preserving the system's integrity, while at the same time protecting the members and borrowers of sound banks such as Springfield Bank in the Northeast.

I salute Mr. JEFFORDS for his accomplishments, and again urge the support of my colleagues for H.R. 3792.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, the financial situation of the Farm Credit System requires the immediate attention of this Congress and I urge my colleagues to support the Farm Credit Act Amendments of 1985.

The financial problems of the Farm Credit System, an independent farmer owned cooperative, are very serious. The System holds over one-third of the nearly $210 billion in total outstanding farm debt in the United States. By some estimates, as much as 15 percent of the System's $73 billion in loans outstanding may be nonperforming loans.

Agriculture is experiencing a critical transitional period. Declining land values and record low farm incomes have only compounded the problems of the Farm Credit System. Favorable economic conditions are not predicted to return to the farm sector any time in the near future.

The Farm Credit System is a network of borrower owned cooperatives organized to provide loans to farmers and their marketing and supply cooperatives. Since the Farm Credit System was created by Congress in 1916 to meet the unique credit needs of agricultural producers, it has repaid all original Federal capital and has maintained itself as a borrower owned System. But because the System is completely dependent on agricultural lending and because of the unprecedented economic hard times in agriculture, it requires action by Congress to remain viable.

Funds to finance loans made by the Farm Credit banks come primarily from the sales of Farm Credit securities on Wall Street. Typical investors include commercial banks, savings and loan associations, credit unions, insurance companies, States and municipalities, pension funds, foreign banks and governments, and individuals. The recent lack of confidence in the Farm Credit System securities has led to sig-

nificantly higher spreads for investors. In recent years, the spreads between interest rates on System securities and U.S. Treasury obligations of like maturities have been in the range of only 5 to 15 basis points instead of the 100 to 125 basis point spreads of recent months. Let me remind my colleagues that this increased cost of raising money for the Farm Credit System is directly passed along to farmers. S. 1884 has three key provisions that will bolster the Farm Credit System, provide a steady line of credit to farmers, restore investor confidence in the System and assure taxpayers that their money would be used wisely and prudently if Federal assistance is needed.

The bill will reshape the Farm Credit Administration to make it a stronger, arms-length regulator of the System. It will give the Farm Credit System broader authority to use its own resources to shore up weak System units. And, finally, it will provide that if the Farm Credit Administration certifies that the System needs financial aid and has made the maximum practicable effort to deal with financial stress, the Secretary of the Treasury would have the discretionary power to backstop the System by purchasing obligations of the newly created Farm Credit System Capital Corporation.

At present, FCA is directed by a part-time Federal Farm Credit Policy Board which selects a full-time Governor to manage the agency. The current Board is appointed by the President from recommendations submitted by the Farm Credit System.

Critics have argued that because the Governor serves at the pleasure of the Board the regulator is tied too closely to the System regulated. H.R. 3792 reduces this possibility by creating an independent Farm Credit Administration Board to manage the FCA. The new board will consist of three members appointed by the President with the consent of the Senate. The President will designate one of the three to serve as Chairman of the Board and Chief Executive Officer of the FCA.

The FCA will cease the day-to-day participation in management of System activities as inconsistent with an arms-length regulator. Instead, the FCA will approve rules and regulations for the System and assure periodic examinations of member institutions. In the past, the responsibility for examinations was delegated to the System itself. We expect that the new procedure will provide more objective, accurate assessment of the financial condition of System institutions.

In addition, each System institution will be required to undergo an annual audit by an independent public accountant, and publish the report of that audit. The financial statement will be prepared in accordance with generally accepted accounting principles. By requiring System institutions to adopt GAAP, there will be a universal accounting method used throughout the System.

This legislation provides the FCA enforcement powers similar to Federal financial regulators. It gives the FCA the authority to issue cease-and-desist orders to System institutions engaging in or about to engage in unsafe or unsound practices or violating FCA regulations. If necessary, the FCA can issue temporary orders designed to immediately halt unsafe practices or remove officers or directors.

The second section of this legislation gives the Farm Credit System broader authority to use its own resources to shore up weak units in the System. It creates the Farm Credit System Capital Corporation as the vehicle to marshall its funds and receive and administer aid coming from outside the System. The bill carefully limits the powers of the Capital Corporation, whose authority to incur new liabilities would expire on December 31, 1990. However, it could continue to work through existing obligations for an indefinite period.

The Capital Corporation will draw funds from other System institutions through the purchase of capital stock in the Corporation or other financial obligations. H.R. 3792 clearly protects borrower stock, participation certificates, and allocated equities held by member-borrowers. The bill stipulates that an institution would not be required to contribute funds if its financial viability is threatened or if it could not make credit available to its own eligible borrowers on reasonable terms.

The composition of the Board of Directors for the Capital Corporation allows the System to maintain control over the Corporation. However, the FCA will have strong regulatory authority over the Capital Corporation and appoint one of its Board members. The FCA will regulate the Capital Corporation's authority to provide financial assistance to and raise funds from System institutions.

The third section of H.R. 3792 provides authority to borrow from the Department of Treasury, at the Secretary of Treasury's discretion, if the FCA certifies that the System needs financial aid and has exhausted its own resources. This will help restore investor confidence in the Farm Credit System so farmers will be assured a steady and competitive line of credit. This provision, patterned after the borrowing authorities of the Federal National Mortgage Association and the Student Loan Marketing Association is critical if we are to calm the fears on Wall Street so that the System can continue to raise sufficient funds to lend and keep borrowing costs and interest rates down.

Mention has been made about the fact that we have a line of credit at the Treasury. Let me simply say I look at that line of credit or borrowing authority as kind of like having a life preserver on board a ship. You hope you never have to use it, but you are sure in heck a lot more confident and a lot more secure knowing that it is on board in case you have to. That is the same kind of confidence that we want to instill in this System in order to lower the borrowing costs and pass that savings on to America's farmers, who are going through one of the most difficult transitional periods in the history of our country.

Therefore, I rise in support of S. 1884, bipartisan effort, and endorse it and hope that its swift passage today will be able to generate a bill that we can send to the President for his signature before adjournment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] has 6 minutes remaining, and the gentleman from Texas [Mr. DE LA GARZA] has 6 minutes remaining.

Mr. WALKER. Mr. Speaker, I yield 15 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I support S. 1884. It is not a perfect bill, but rarely do we get a chance to vote on a perfect bill. This legislation does go a long way in addressing the concerns of the farmers in my district, as well as the concerns of farmers throughout the country. I think it deserves our support.

Mr. Speaker, I rise today in support of legislation, S. 1884, strengthening the Farm Credit System [FCS]. Most of my colleagues are aware of the serious difficulties facing the farmers of this Nation. It is time that this body take appropriate action to alleviate the tragic plight of this important element of American society.

Mr. Speaker, the Farm Credit System [FCS] is in serious financial difficulty, and for a variety of reasons. In my view, overexpansion, high interest rates, poor investment decisions by some individual farmers and 50 years of meddling in the fine details of the Farm Credit System have led to this unfortunate and tragic situation. Because Federal law requires that 100 percent of the System's loan portfolio be in agriculture, the System suffers from the same financial conditions confronting the rest of the farm economy. As a result of low commodity prices, plummeting land values, and declining agricultural exports, many farmers cannot meet their FCS loan obligations. In October, the FCS reported a third-quarter loss of $522.5 million compared with third-quarter earnings of $126.4 million in 1984. During the current month, approximately $13 billion in FCS securities will mature and will be required to be rolled over. If financial markets cannot be stabilized, farmers will incur enormous costs. An increase

of one percentage point in the System's cost of funds would cost farmers $300 million in the first year alone.

In a tragic note, Mr. Speaker, this morning's news reports that another of America's farmers has taken the life of several people, and his own life, because he was distraught at the fact that he was unable to pay off his farm loans. It is sad but true that many farmers in this Great Nation of ours are facing troubled times. It is time that this body take appropriate action to alleviate the plight of America's farmers.

Mr. Speaker, many of the farmers in my district in California are facing serious financial problems. Some cannot afford to pay the interest on their farm loans. Others are facing specific problems in getting their products into overseas markets. But one factor is common with all of these farmers: They all request—nay, demand—that this body act and act now to shore up the ailing Farm Credit System.

S. 1884, in my view, is not a perfect bill. But rarely is a perfect bill presented to us for a vote. However, this legislation, in my opinion, goes a long way to address the concerns of the farmers in my district, as well as the concerns of farmers throughout the country, and deserves our support.

Farmers are the heart and soul of this mighty Nation, Mr. Speaker. Many pose the question if we aren't willing to help the farmers, the very backbone of this Nation, then who are we willing to help? Today we have an opportunity to express our solidarity with America's farmers. I urge my colleagues to suspend the rules and pass S. 1884.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise today to express my serious reservations about bringing this bill, H.R. 3792, to the floor under a suspension of the rules. Given the magnitude of the problems facing the Farm Credit System and the agricultural economy in general, I am appalled that we are contemplating a major restructure of the Farm Credit System under circumstances which provide little opportunity for debate and no opportunity for amendment.

Major reforms in the Farm Credit System are needed but this is not the manner in which they should be made. All through this year, this Member and many others have known that the Farm Credit System was in serious trouble. Many of us pleaded with the leadership of the System and the Farm Credit Administration to come forward with recommendations which would address the problems within the System; such a request was made by this Member as early as January 1985. Instead our inquiries about the System and offers of assistance were rebuked and rejected.

Now in light of record losses within the System and panic looming on the bond market, we are besieged with pleas for assistance during the latter part of this session.

Earlier this year, concerned Farm Belt Members were told to be quiet and do nothing concerning the Farm Credit System because it would adversely affect the bond market. Now we are told that if we don't pass this bill, the Farm Credit System will be unable to sell several billion dollars worth of bonds at reasonable costs in the next few weeks to keep the System solvent.

While we must do what is necessary to keep the Farm Credit System a viable lender, we cannot overlook the fact that the System is owned by, and exists for, the benefit of farm borrowers. Thus, any legislation which attempts to address the problems of the Farm Credit System should not be designed to merely save the System, but to save its borrowers.

There is, however, a difference between saving the Farm Credit System and saving farm borrowers with agricultural debt problems. This bill, unfortunately provides for no guarantee of Federal assistance before the System itself is bled dry. And, it also does nothing for the farmers, ranchers, and producers who borrow from other sources of credit such as commercial banks or the Farmers Home Administration.

While I oppose the procedure under which we are considering this bill, I have no choice but to vote "yes" because thousands of farm families in my State of Nebraska will be important beneficiaries of this legislation. Any Member of the House or the other body from the troubled farm State Omaha district who votes against this legislation is very clearly voting against the best interests of all the farm families in those States who borrow from or hope to borrow from the Farm Credit System. They may offer excuses, but they are not valid.

It is ironic that this body can spend months debating and drafting a farm bill which in my opinion provides little hope for immediate and dramatic improvement in the agricultural economy and yet in 40 minutes pass a major overhaul of the Farm Credit System.

I would only hope when we return next year that this body will give equally expeditious consideration to legislation that will address the individual debt problems of borrowers from the Farm Credit System, from commercial agricultural banks, from the Farmers Home Administration, and other producers regardless of their source of credit. While I do not oppose assisting the Farm Credit System or its borrowers, my preference was, and is for legislation that will assist a broader section of distressed farmers and ranchers and their leaders.

I urge my colleagues to support this legislation.

Mr. Speaker, as this Member noted, I deplore the procedure by which this bill is brought to the floor. However, given the circumstances the House Agriculture Committee has handled the bill very well. I was able to sit in on some of the markups. I commend them for bringing it to us.

This bill is not a bailout of the stockholders. It relates, as the gentleman from Missouri [Mr. COLEMAN] said, to the cost of credit for all farmers using the Farm Credit Administration across the whole country.

I would make these points in the short time I have been assigned. The action taken by the chairman of the Agriculture Committee to make the Treasury actions subject to the appropriation process is crucial. This bill, therefore, has been changed; it is not an openended process. Second, I was concerned about the adequacy of regulatory functions given to the Farm Credit Administration under this proposal. The Department of the Treasury has looked at the regulatory title of this bill.

Indeed, they have indirectly helped craft it; it is to the best of our ability to judge it at this point, satisfactory. Certainly I think that the Banking Committee really ought to have been assigned jurisdiction on the bill but we have the best possible alternative to such scrutiny, as I see it.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, as one who represents a contributing district, need I say more about the difficulties that this particular legislation is causing at this particular point in time? But after reviewing the record of the current law, taking a look at the financial records of the Farm Credit System as we know it today, and then paticipating in both the subcommittee markup and the full-committee markup, I have no hesitation, with all of the facts, in recommending to all of my colleagues that they support this bill today.

I believe that it will prove to be the most prudent decision that we could make within the concerns that have been expressed by many regarding the open endedness of this legislation. It is my judgment that we will spend less taxpayer money, if any at all, by doing it as we have crafted this legislation with the full support and counsel of the administration to bring the bill to us today.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

[Mr. ALEXANDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I rise in strong support of H.R. 3792.

Mr. Speaker, I support H.R. 3792, legislation to assist the Farm Credit System. This legislation is wise, necessary, and biparti-

san. It demonstrates that Congress is paying at least some attention to the farmer's plight. It also shows that Congress is not wholly skeptical of the connection between the health of the farm economy and the national economy.

The importance of the Farm Credit System to the agriculture community is clear. The System is the single, largest source of credit to the farm sector. It accounts for $77 billion of the $212 billion in outstanding agriculture loans.

Equally clear, is the serious financial problems of the System today. In October, the FCS reported third quarter losses of $522 million compared to third quarter gains of $126.4 million in 1984. If the financial markets cannot be stabilized and the cost of capital continues to increase, the effect on farmer-borrowers will be extreme. An increase of 1 percent of fund costs will balloon farmer costs to the tune of $300 million.

The bill before us will permit the Secretary of the Treasury to purchase FCS obligations assuring the financial markets of the viability of System bonds and staving off devastating interest rate increases to farmers.

It also provides a host of borrower protections including disclosure of current System interest rates, delivery of all loan documents, the opportunity to appeal loan denials and reductions and written notice of borrower stock retirements or cancellations.

Finally, the bill requires that the Farm Credit Administration monitor the System more closely. FCA will act more like FDIC; as a regulator, not a cheerleader, of the System's actions. Independent audits will become the rule, not the exception. The legislation will ensure that bells and whistles will sound off much earlier about storm clouds brewing on the horizon than they have in the past. This is in the farmer-borrower's interest because it ensures the System's assets are being closely watched.

In short, Mr. Speaker, this is not a perfect bill. It does not deal with the impending crisis of agriculture commercial banks which have been recently highlighted by the failure of an ag bank in Broken Bow, NE. It is, however, a bill badly needed and I urge its adoption.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I rise in strong support of S. 1884.

Mr. Speaker, S. 1884 is emergency legislation that is absolutely essential to restore faith and confidence in this Nation's farmer-owned agricultural credit system.

Sadly, we are today truly facing a problem of disastrous proportion. We must pass this legislation. Our failure to do so would be far too costly, not just to American agriculture, but to the United States and the entire world economy.

Agriculture accounts for fully one-fifth of our Nation's gross national product. Agribusiness employs 20-percent of the American work force.

Farm credit is the oil that keeps the engine of agriculture moving. Today's federally chartered, farmer-owned credit system accounts for one-third of the entire $212 billion farm debt. It's loan volume qualifies the federally-chartered system as America's fourth largest bank.

Clearly, we can't let this system collapse. To do so would be to invite disaster in rural and urban-based economies. It would severely undermine the integrity of all of our financial systems, and it could have severe international implications.

Farm credit conditions are deteriorating rapidly and interest rates to farmers continue to climb while commercial interest rates are dropping.

I urge my colleagues in the strongest possible terms to join me in voting for this legislation today, in the hopes that we may send this critical legislation to the President before we leave for the Christmas holiday.

Mr. WALKER. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, our farmers and ranchers are painfully aware of surplus commodities, poor commodity prices, and the inability of some to pay back their loans. Farm prices are at their lowest since the 1930's and too many farmers are living with the constant fear of foreclosure, not only of their business, but a way of life that started generations ago.

Among the many casualties in the agricultural sector, is the Farm Credit System, a nationwide cooperative which is a lender of long-term loans for land, farm operations, as well as loans to agribusiness cooperatives. The Farm Credit System's loan portfolio of more than $70 billion in outstanding loans makes it the largest agricultural lender in the country with more than 30 percent of all agricultural loans. Almost 1 million farmers and ranchers rely on the Farm Credit System for financial assistance to run their enterprises.

THE PROBLEM

In the first 9 months of 1985 the Farm Credit System has lost $426 millon, a figure that is likely to increase significantly by yearend. In 1984 the System earned $363 million, nearly an $800 million turn around from right now.

While minimal earnings were recorded in the first and second quarter, losses of $522 million were realized in the third quarter. The problem with these losses is that the farmer borrowers of the System have to foot the bill with higher interest rates.

It is also interesting to note that loans in nonaccrual status, those loans which are uncollectable increased from $2 billion at June 30, 1985, to $3.5 billion only 3 months later.

The System is looking at loan losses of more than $3 billion and nonperforming assets of $10 billion. In September when the financial condition of the Farm Credit System was made public, there were several people that felt the problem wasn't that serious and that it could be worked out internally. With nonperforming loans nearing $13 billion and capital surplus of $3.6 billion it is evident that the System needs restructurization and the opportunity to receive Federal assistance.

H.R. 3792, the Farm Credit Act Amendments of 1985, seeks to give more regulatory authority to the Farm Credit Administration, the organization which oversees the actions of the farmer-borrower Farm Credit System; as well as give the Farm Credit System the ability to move its assets from its stronger districts to those which have been hardest hit by this most recent economic disaster to strike the American farmer. The legislation gives the Secretary of the Treasury discretionary authority to provide Federal assistance to the Farm Credit System if and only if the agriculture lender discovers that it cannot remain solvent after using its own assets. The Farm Credit System isn't just asking for funds to bail itself out in the short term; but, is looking to make the changes necessary to respond to today's agricultural climate.

Specifically, the bill creates a Capital Corporation to carry out a program of financial assistance among System institutions. The Capital Corporation will acquire funds from the 12 districts and work with them to hold, restructure, collect, or otherwise administer the nonperforming assets of borrowers.

The Capital Corporation will be governed by a five-member board of which four will be elected by the Farm Credit System from elected members of the district boards. The other member will be appointed by the Farm Credit Administration and will have no ties to the Farm Credit System.

WHY DO WE NEED TO SAVE THE FARM CREDIT SYSTEM?

Critics of the bill and saving the Farm Credit System in general have indicated that nothing should be done. They properly state that there wouldn't be a credit problem if producers were receiving more for the commodities they produce. While this is true, we cannot deal with farm income in this bill, that is up to the farm bill and other matters. Now we have to consider the fate of nearly 1 million borrowers if they cannot get credit from the Farm Credit System and would have to go elsewhere to obtain financial assistance.

Bank failures are at their highest levels since the 1930's. There are the problems of foreign debt, mortgage defaults, security losses, and loan losses within the commercial banking industry. A study done by Chase Economet-

rics indicates that a default by the Farm Credit System could result in the foreclosure of 88,000 farmer-borrowers, a decrease of $28 billion in commercial bank capital, an increase from 141 currently to 2,300 agricultural banks with inadequate capital and a decrease in the gross national product of $76 over a 2-year timeframe. A default could also mean an increase of $65 billion to the Federal deficit in a 2-year span. Most importantly, it would drive interest rates up by 3 to 4 percent.

The Farm Credit Act Amendments of 1985 is responsible and necessary legislation that could allow approximately 90,000 farmers and ranchers to continue to operate their businesses while at the same time bring some security to an already troubled financial sector.

When the Subcommittee on Conservation, Credit and Rural Development, of which I'm a member, began its second round of hearings to get a more firm grasp of the financial condition of the Farm Credit System, I suggested to the members that we keep five basic guidelines in mind: First, do what has to be done now because Congress cannot deal with the problem on an annual basis; second, pass legislation by the end of the year; third, resist the temptation to include all rural credit institutions in the legislation because this is a unique and individual problem that needs to be considered by itself; fourth, give the Government the necessary authority to regulate the System; and fifth, to the greatest extent possible make sure the proposal not only assists the System but the individual farmers and ranchers as well.

H.R. 3792 meets all my criteria. The bill has been designed to make the Farm Credit System a trimmer and more efficient organization that will be able to handle the changes we will see in agriculture. It includes only provisions dealing with the Farm Credit System and allows the Government to determine whether or not the System has used all its resources before any Federal assistance will be considered. Finally, the bill gives the investment community security and at the same time protects the investment stock and allocated equities of the farmer-borrowers.

The components of the Farm Credit System were established between 1916 and 1933 to meet the unique credit needs of agricultural producers and to address the financial problems they faced during the deteriorating agricultural economy in the 1920's and 1930's. We are facing many of the same problems today and we must give the Farm Credit System a chance to continue being a viable lender to America's most vital resource; the farmer.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

If I might, Mr. Speaker, I would just like to respond briefly to one of the things said earlier by the gentleman from New York who was in the well.

With regard to the allegation that there has been no audit of this System in its history, there has been no external audit of the entire System done by one external auditor. The various parts of the System have been subject to audits of those various parts. It has not been audited as a nationwide System because the various parts have been autonomous or have been regarded as being autonomous. One of the things our legislation does is to consolidate them. But each system has had audits on an ongoing basis. It is not correct to say that it have never been audited.

May I also say that with regard to the unlimited-authority question, it is subject to the discretion for the Secretary of the Treasury. There is no requirement that he do anything, and there is certainly no requirement that he do anything before the external audit is available.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER], a distinguished member of our committee.

Mr. VOLKMER. Mr. Speaker, I wish to commend the chairman of the committee, the chairman of the subcommittee, and the ranking minority members of the full committee and the subcommittee for bringing this much-needed legislation before us.

This legislation, as has been pointed out, will basically provide self-help to this System to bring itself into a condition where it can again provide much needed agriculture credit for our farmers. It is basically the self-help provision that we need to support.

The third provision of it is subject to appropriations, and the question as to whether or not there will be public funds used will have to be determined by later action of the Congress.

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I wish to point out to the Members of the House that this System provides approximately one-third of the total agriculture credit to all of our farmers. We cannot permit this System to go into default and, therefore, as the gentleman from Wisconsin has pointed out, lose approximately 88,000 of our farmers and have land values further decline rapidly.

So I urge all Members to support this legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to a distinguished member of our committee, the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. Mr. Speaker, I rise to commend those who have worked so hard on this legislation.

We have a serious problem before us in agriculture. This does not solve all those problems. We are not going to solve those problems unless we do something to address the problem of farm income. But in my opinion, to let the FARM CREDIT SYSTEM go down would be a total disaster, not only for agriculture, but for the whole country.

I support this legislation, and I commend those people who worked so hard for it.

Mr. WALKER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I believe the Agriculture Committee has worked hard on this bill. I believe that they have attempted to do their best in coming up with a bill which represents the compromises necessary to try to move the Farm Credit System out of its present dire straits; but I would say, Mr. Speaker, that I do not think this is any way to legislate.

We bring to the floor an open-ended authorization under a suspension calendar with major changes in one of the most important programs that affects our farm community and we do it under a process that allows no amendments and very limited discussion.

I mean, we are standing over here trying to balance time for a few people to be able to speak on this program under the suspension calendar and we are out here with absolutely no chance to offer amendments.

For example, there are some elements of the Farm Credit System that are not facing dire straits, that have managed their portfolios pretty well, and in fact are in a pretty stable financial condition. Those farm credit systems are being folded into this whole package and some of those people are going to experience higher interest rates and we are going to undermine some of the stronger areas of agriculture that we have left in the country as a result of this particular program.

We have not really had a chance to even discuss that. We certainly have not had a chance to offer amendments that would deal with that particular issue out here on the floor.

I think this is a pretty lousy way to legislate on major pieces of a program that are vital to the survival of the farm economy.

I would suggest that Members ought to vote against this bill on suspension. We ought to get this bill back out here immediately under a process that would allow for amendments, that would allow for full discussion of this bill, that would allow us to look, for example, at that open-ended authorization process.

I think the bill has been approved to some degree by making it subject to

appropriations, but nevertheless, an open-ended authorization going into the outyears does strike me as no way to proceed when we are faced with major deficit problems.

This is precisely the kind of thing that gets us in trouble over the long haul. We are trying to make short-term changes. We are trying to issue a short-term process here for something that has been a long time in the making and is going to be a long time in the solution. So I am quite concerned about the procedure we are using here. I think we ought to have legislated differently. I wish the Members would vote "no."

Mr. DE LA GARZA. Mr. Speaker, I yield myself the remainder of the time.

Mr. Speaker, there is no beginning and no end to those we need to thank for their participation in this endeavor; also, for the negative words that we have heard. We consulted with the Treasury Department. We consulted with the Agriculture Department, with the administration, and with every Member who wished to be consulted. We consulted with the Farm Credit System and the Farm Credit Administration. There was no stone left unturned.

This is not precise legislation. It never is. However, it is good legislation. It is consensus legislation. It is the art of the possible, the possible today, now, this minute.

Why this process? Why bring this bill under the rules of suspensions? Because we are running out of time.

Time ran out yesterday for Dale Burr of Iowa, who shot himself, his wife, a banker, and a neighbor. If he would have had the word that the Congress cared, that somebody cared, that we were trying to do something, not arguing about jurisdiction or about whether it is appropriated annually or whether we came the fast or the slow route through here, perhaps if we had done this last week, Dale Burr would be alive today. I do not know what his problem was. I do not know what brought him to the brink, but certainly the whole process we follow here is aimed at helping to avoid financial stress that brings about such tragedies, such a sad decision in the end. That is why we are here on the fast track.

They say we are going to end this session Friday, yet on the other side we are still meeting in conference on the farm bill, hopefully to get it out here before Friday.

Why are we here today at this stage? Because of delays caused by the budget and the multiplicity of other factors that kept us from acting sooner. We were ready to act on the farm bill last April, but we had to wait out a budget process. We would have been happy to be here with this legislation earlier, but we had to listen to everyone who needed to speak. We gave everyone interested the opportunity to be heard.

So I say to my colleagues, yes, it is not perfect. Some of my fellow Texans are not happy. Some of the northeasterners are not happy. Some of the Members are not happy, but this is what is available now. And now is when we have to act. This is regular procedure. We have got to send the message out to the agricultural sector of this country that we care.

I do not know if it will help anyone, but the odds are that it will, and that help is needed now, today, this minute, not yesterday.

Yesterday we lost Dale Burr and several others because the farm crisis is causing many to go to the brink.

Legislation is not written in stone. It can be rewritten. We can come back, modify and amend, but the time to act on this piece of legislation is now.

I urge you to support this legislation.

Mr. SHUMWAY. Mr. Speaker, I rise in reluctant support of H.R. 3792 for one reason and one reason only: Given the precipitous downward spiral of the Farm Credit System and its very apparent need to restructure in order to remain a viable lender for America's farmer, this legislation may be the only option available to Congress to effect the necessary changes in the short time remaining this year.

We are behind the eight ball, so to speak, in that unlike other bank-like regulations, the Farm Credit Administration has had no real regulatory oversight and control over those which the agency supposedly regulates—the entities within the Farm Credit System. Likewise, in addition to its mounting loan losses and possible collapse, the Farm Credit System has been plagued by inconsistent internal operations, dissension among its various bank districts, flight of solvent farmer borrowers from the System, and an inability to marshal the System's resources to help the weaker, financially troubled bank districts. In short, the FCS is in a state of disorder.

In recognition of these problems, H.R. 3792 provides for some vitally needed reforms of the FCA and the FCS. The legislation restructures the FCA into a true arms-length regulator, possessing full examination and supervision authorities. Further, it broadens the authority of the FCS so that it can mobilize its resources to absorb operating losses and manage troubled loan assets.

I believe these reforms should be endorsed and enacted as soon as possible simply because they will quickly bring order out of chaos and, in the process, help the FCS remain a viable lender and reassure concerned capital market investors, the source of the FCS' funds.

Despite these warranted reforms, I am troubled by the Federal financial assistance provisions for the FCS and hence, the legislation as a whole, for two reasons.

First, a key provision of the bill provides the FCS with permanent Federal financial assistance through the Treasury's purchase of FCS bonds. This assistance is being provided despite varying opinions as to whether or not it is needed at this time. Indeed, during Banking Committee hearings last month on this matter, various witnesses—including the Federal Reserve, the U.S. Department of Agriculture and the Department of Treasury—testified as to the considerable strengths of the FCS and the substantial amount of capital and liquid assets that it could bring to bear on its problems.

Worse still, the financial assistance provision is openended—with no cap on the amount—and contains no sunset date on which the assistance is to terminate. This leaves open the door to all types of possibilities; for example, Treasury could purchase no bonds or $20 billion, depending on the particular administration. Congressional delegation of this type of discretion is irresponsible.

Further, the assistance is provided in the absence of complete data as to the financial condition and viability of the System itself. It was very apparent during the Banking Committee hearings that no one knows—literally—with any degree of certainty what the financial condition of the FCS is, the extent of the problems, et cetera. In fact, the first complete audit of the FCS—conducted by Price-Waterhouse—is now underway, with a completion date set for February of 1986. Given the lack of information to justify financial assistance, I believe we should not act prematurely or in haste, particularly since the FCS can—in the interim—obtain assistance from the Federal Reserve for short-term liquidity problems.

Most significantly, the provision fails to set appropriate prior conditions for the FCS to receive credit and to protect the Government's interest in underwriting the System—conditions which were imposed in earlier rescues of Chrysler, Lockheed, and New York City. I believe we should not place either the Government or the American taxpayer at risk unless safeguards are built into the assistance.

Second, I am troubled by the procedural approach taken in moving this bill through the legislative process. The Banking Committee, specifically, the Economic Stabilization Subcommittee, of which I am the ranking minority member, was denied joint or even sequential referral of the financial assistance provisions of H.R. 3792. The subcommittee has been the subcommittee of primary jurisdiction over other Federal rescue packages, including Chrysler, Lockheed, and New York City. Further, the subcommittee has held a series of hearings on the farm credit crisis, during which numerous experts testified. Hence, in addition to its expertise in financial matters, the subcommittee—indeed, the full committee—became well versed in the area of agriculture credit.

While I do not discount the knowledge and experience of my colleagues on the Agriculture Committee in this area, I do think that referral of the legislation to the Bank-

ing Committee would have been appropriate, and should have occurred.

This becomes more significant because the legislation is being taken up under the suspension calendar today. H.R. 3792 does not fit the description of noncontroversial legislation. It makes substantive changes to existing law and, as such, deserves full consideration by the House, including being subject to the amendatory process. As it now stands, the Banking Committee members and, for that matter, the other Members of the House, will not have the opportunity to offer any amendments, even those which might improve the legislation.

This is not the right way to legislate, even though a limited time remains during this session. However, despite my grave reservations, it is for this very reason—the need for expedited action—that I reluctantly will support the bill.

Mr. FRENZEL. Mr. Speaker, it is a rare, perhaps unprecedented act for me to vote for an important, expensive substantive bill like H.R. 3792 under the suspension process.

Normally, I find the use of suspension process odious for all bills, except those which are routine, inexpensive, and noncontroversial. Suspension is a dodge to avoid debate and to avoid amendment. It is grossly overused and abused in this House.

The reason I make an exception in this case is that there is a real emergency in agricultural credit.

I would have preferred the normal, orderly process. It would have been possible in this case. Nevertheless, I am willing to make an exception because of the distressing condition of our production credit association and our land banks.

There is, once in a blue moon, reason to violate procedures set up to protect our citizens and their interests. I am persuaded that this bill is one of those blue moon cases. I shall vote for H.R. 3792 in the hope that it will restore some confidence in our Farm Credit System.

Mr. BOLAND. Mr. Speaker, I want to urge my colleagues to support H.R. 3792, the Farm Credit Act Amendments of 1985. The legislation is essential to help assure the continued strength of the federally chartered, farmer-owned Farm Credit System. I commend the distinguished chairman of the Committee on Agriculture, Mr. DE LA GARZA, and the ranking minority member, the gentleman from Illinois [Mr. MADIGAN], for their foresight and even-handed leadership in bringing this bill to the floor of the House.

The nationwide Farm Credit System, which provides one-third of this country's agricultural credit, faces an unprecedented crisis due to declining farm income and falling agricultural land values in many parts of the country. Expected losses on agricultural loans far exceed the capital reserves the System has accumulated over the years. H.R. 3792 represents a balanced response to this crisis, combining improved regulation, strengthened System self-help, and a backup plan for Federal financial assistance.

The other body has passed legislation similar in many respects to H.R. 3792. Hopefully, we will have the opportunity to hold a conference on the bills and send legislation to the White House before adjourning. There are three critical provisions of the House version of this legislation which are lacking in the version passed by the other body. These provisions are essential to ensure that when we require sound institutions of the Farm Credit System to help absorb losses in other parts of the System, we do not plunge them into the very circumstances which have necessitated this legislation.

First, H.R. 3792 sets forth criteria for determining how much of its resources a sound institution must contribute to solving the System's difficulties. If these criteria are adhered to, sound institutions will make a substantial contribution to System self-help without endangering their own financial health. It should be remembered that capital contributions will not come from a readily available cash drawer. Capital reserves are typically invested.

Second, the bill provides that control of the Capital Corporation, which administers the bill's capital-pooling mechanism, shall be in the hands of the farmers whose capital will be invested in solving the System's problems. Since those farmers will be the shareholders of the Capital Corporation, it is only fair that they should have a strong hand in its management of their funds.

Third, and finally, H.R. 3792 protects farmers' investments in the System by requiring that contributions of capital must be in the form of investments. It is expected that the System will return to financial strength in the near future and these investments will be repaid.

I congratulate the chairman of the Agriculture Committee for including these important safeguards in the legislation. In my opinion these safeguards are absolutely essential to the effectiveness of this bill. I strongly urge the chairman and other conferees on this bill to insist on retaining these provisions in conference.

Mr. ECKERT of New York. Mr. Speaker, I rise today in support of H.R. 3792, the Farm Credit Act Amendments of 1985. H.R. 3792 establishes the Farm Credit System Capital Corporation [FCS–CC], strengthens the authority and responsibilities of the Farm Credit Administration [FCA], provides safeguards for FCS borrowers, authorizes Treasury to purchase FCS obligations under certain circumstances and creates a commission to study agricultural credit.

The facts show that the Springfield bank is in relatively good financial shape. The bank and the farmers in the Northeast have done a good job in managing their business and their farm debt. Additionally, the farmers in my district have called and written in in supoort of help for the Farm Credit System but they have also been firm in what they see as the requirements for a good farm credit bill. First, they are willing to support legislation to help other troubled banks in the System but they will not support a blank check approach. Second, they want representation on the new Capital Corporation which reflects their contribution to it. Third, they see money contributed to the Capital Corporation from the Springfield bank as a loan which is to be paid back, not as a gift.

I support H.R. 3792, the Farm Credit Act Amendments of 1985, because these areas of concern to those of us who represent farmers from the Northeast are contained in the bill. The bill establishes criteria to limit capital contributions from the strong institutions in order that the stronger institutions in the System are not weakened in trying to assist the weaker institutions. The bill also provides that a majority of the directors of the Farm Credit System Capital Corporation will be selected by the farmer borrowers from the contributing districts. Third, the bill provides that the contributions from the institutions throughout the system are to be investments and ultimately are to be repaid.

Mr. Speaker, it is beyond a doubt that the Federal Government has contributed to the problems we have today in agriculture. It is therefore imperative that the Federal Government take some role in straightening out the mess. This bill provides that assistance while protecting the interests of the farmers in the Northeast who have acted in a responsible fashion in managing their debt. That is why I will be voting in support of this important bill.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in reluctant support of H.R. 3792, the Farm Credit Act Amendments of 1985. I commend the distinguished chairman of the Committee on Agriculture and ranking minority member, the gentleman from Illinois, for their leadership in promptly bringing this very important legislation to the House floor.

During the past week, my colleagues on the Committee on Agriculture worked extremely hard to develop balanced, equitable legislation which would help restore the financial strength of the Farm Credit System. However, I do have some reluctance and reservation as to how much direct assistance will be afforded to the family farmer as a result of the enactment of this bill.

Currently, the financial situtation for farmers is very bleak indeed. The prices that the farmers are now receiving are so low that the majority cannot make a living. In fact, recent economic forecasts predict that farm income in North Dakota will drop by over one-third from 1983 to this year. The value of farmland in my State declined almost 20 percent from last year to date.

On a nationwide scale, half of all farmers—852,000—who accounted for 40 percent of all production—had a negative cash flow in 1985. They could not meet operating or family living expenses from combined farm and off-farm earnings.

The Federal Credit System holds approximately $70 billion in farm loans—which is about one-third of the Nation's overall $214 billion farm debt. With the current farm crisis, the FCS has begun experiencing

losses on its loans; about 15 percent of the FCS's loans are considered uncollectable. Furthermore, the System reported losses of nearly $500 million in the first 9 months of this year, and FCS officials testified that losses could total $6 billion over the next 3 years.

So today, Congress will once again take up the serious business of solving and paying for part of this problem by ensuring the soundness of the FCS. However, I want to reiterate that keeping the FCS on its feet is only a partial solution to the farm credit crunch.

As I stated before the Subcommittee on Conservation, Credit and Rural Development on September 11 of this year, I still strongly believe that the "percolate up" approach, meaning the improvement of farm income and therefore farmer's loan repayability, is the very best solution to this financial crisis. This could be done by restructing Federal farm programs to target a greater share of benefits to family-sized farmers, which is the opposite of what we do now.

Mr. Speaker, it just makes no sense to me to pour money into the System, without addressing the problem that got us where we are now—low farm income. And again, we can best tackle that problem by layering in the strongest support we can for family-sized farmers.

We should not lose sight of the fact that low-farm income is a direct cause of uncollectable farm debt. We desperately need to trade the trickle down economics for some "percolate up" economics.

In closing, let me say that there are some areas of concern; that is, falling land prices, declining farm income, et cetera, which I had hoped could be addressed in the legislation. Nonetheless, on the whole, the bill offers a chance to protect the long-term stability of the Farm Credit System and preserve the confidence of the financial community which invests in the System. It thus offers a way to keep open a vital source of credit on which so many family farmers depend.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of S. 1884, legislation to reorganize our troubled Farm Credit System. I would like to take this opportunity to thank the gentleman from Texas [Mr. DE LA GARZA], for bringing this sorely needed bill through the committee he so able chairs, the Committee on Agriculture, in such a timely fashion. The very fact that this bill comes before us during this, perhaps the final and most hectic weeks of this session of Congress, speaks of the important role that agriculture and the Farm Credit System plays in our economy.

Mr. Speaker, I represent the 22d Congressional District in New York. My district is included within the first farm credit district, otherwise known as the Springfield district, 1 of 12 such districts in the federally chartered nationwide Farm Credit System. The first farm credit district encompasses New England, New York, and the State of New Jersey; running the full length of the northeastern seaboard. With over $70 billion of loans outstanding, the Farm Credit System accounts for roughly one-third of U.S. agricultural credit. Adoption of this legislation is the first step toward insuring the continued viability of the Farm Credit System and must be taken before the Federal Government can offer any economic assistance. I believe that with adoption of H.R. 3792, Congress will be able to create a fair and equitable mechanism to aid failing farm credit institutions and their farmer cooperative borrowers.

H.R. 3792 establishes the Farm Credit System Capital Corporation [FCS–CC] to provide financial assistance in the form of stock purchases, loans or contributions to individual FCS institutions which cannot operate without aid. The FCS–CC will serve as a "systemwide warehouse" to which FCS institutions could sell acquired properties and nonperforming loans. The bill also gives the FCS–CC authority to restructure, administer, guarantee, refinance, reamortize, or liquidate such loans if necessary. H.R. 3792 reorganizes and strengthens the Farm Credit Administration [FCA] to make it a full-time regulator of the FCS. As introduced, the bill requires the President to appoint a three-member board to operate the FCA. This board will examine and regulate FCS institutions. This measure also provides safeguards for FCS borrowers by allowing them increased access to, and communication with, their lending institution. And finally, this bill authorizes the Treasury to purchase FCS obligations under certain circumstances and to provide terms of repayment for such purchases.

The financial strength of the banks and associations of the first district, which sets them apart from many other System institutions, gives rise to special concerns with any legislation to restructure the System. The Springfield district has a portfolio of $2 billion and ranks as the leading agricultural lender in the Northeast. Although financially strong today, the first district has the same need as other Farm Credit institutions to plan for potential adversity, such as a severe adjustment period of the dairy industry in our region.

As amended by the House Agriculture Committee, H.R. 3792 contains three important provisions which will insure that all portions of the system remain solvent. The first amendment adopted in committee establishes criteria to limit capital contributions by these institutions so that the strongest parts of the System will remain sound while contributing as much as is possible to shoring up any ailing institutions. The committee also adopted language providing that a majority of the directors of the Farm Credit System Capital Corporation, the entity which under this new legislation will administer capital pooling among System institutions, will be selected by farmer-borrowers from contributing farm credit districts. Finally the bill provides that the contributions of sound institutions to the Capital Corporation are to be investments and ultimately may be repaid. Nonrefundable assessments are permitted to cover only the operating expenses of the Capital Corporation. I regret that an amendment offered by Congressmen JEFFORDS and STENHOLM to place a cap on the amount of funds that the Capital Corporataion can require an institution to contribute was defeated during the committee's consideration. The Jeffords-Stenholm amendment would have limited the amount to be borrowed to an amount which would result in loan rate increases to those borrowers of not more than 0.5 percent. While I strongly supported the amendment, and commend the gentlemen for addressing this troubling issue, I still believe that we have a good piece of legislation which will be of great assistance to our farmers.

We must act immediately to shore up the Farm Credit System and insure the continued viability of our domestic agricultural and related industries. The health of our Nation, our farmers and ultimately of ourselves will be placed in question if we do not act swiftly and adopt this measure. Accordingly, I urge my colleagues to join with me in suspending the rules and adopting, H.R. 3792, the Farm Credit Act Amendments of 1985.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the Senate bill, S. 1884, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Pennsylvania demands the yeas and nays.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, has a vote been ordered on the measure?

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania withdrew his demand for the yeas and nays and the vote has been postponed until the conclusion of the other two suspensions at which time the vote will be de novo and a record vote could be ordered.

OCEAN DUMPING AMENDMENTS ACT OF 1985

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1957) to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended.

The Clerk read as follows:

That this Act may be cited as the "Ocean Dumping Amendments Act of 1985".

SEC. 2. DUMPING PERMIT PROGRAM.

Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out ", and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, for which no permit may be issued," and inserting ", and except as provided in paragraphs (2) and (3),";

(C) by striking out "and beaches." in paragraph (C) and inserting in lieu thereof ", beaches, and wetlands.';

(D) by striking out the last sentence thereof; and

(E) by adding at the end thereof the following new paragraphs:

"(2) No permit may be issued under this title in relation to the following:

"(A) Radiological, chemical, and biological warfare agents.

"(B) High-level radioactive waste.

"(3) No permits may be issued or renewed under this title that authorizes the dumping, or the transportation for purposes of dumping, after December 31, 1986, of municipal sludge, whether or not the sludge is subject to section 104A, unless—

"(A) the sewerage authority or other unit of State or local government operating the plant at which the municipal sludge is generated is in compliance with those requirements of sections 307(b) and 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1317(b) and 1342(b)(8)) which are related to the quality of municipal sludge; and

"(B) the Administrator, in consultation with the Governor of the State in which the unit is located, finds that a suitable land-based alternative to the ocean disposal of the sludge is not currently available,";

(2) by amending subsection (c) to read as follows:

"(c)(1) The Administrator shall designate sites at which materials may be dumped to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will likely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the factors set forth in subsection (a) and shall specifically take into account the following:

"(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources;

"(B) The ability of the waters at the site to disperse, detoxify, or neutralize the materials;

"(C) The importance of the site to the surrounding bilogical community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms; and

"(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103 to make independent determinations regarding appropriate locations for dumping.

"(2) The Administrator shall—

"(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

"(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

"(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administor shall—

"(A) limit dumping at the site to certain materials or at certain times or both; or

"(B) suspend or terminate the designation of the site under paragraph (1).

In making a determination under the preceding sentence that a site is no longer suitable for dumping pursuant to section 103, the Administrator shall consult the Secretary."; and

(3) At the end of section 102, add the following new subsection:

"(f) No funds authorized under this title may be used to finance, in whole or in part, the dumping of material or the transportation of material for the purpose of dumping, as authorized under this section.".

SEC. 3. SPECIAL PERMIT PROVISIONS AFFECTING THE DUMPING OF HARMFUL MUNICIPAL SLUDGE AND INDUSTRIAL WASTE.

(a) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 102 the following new section:

DUMPING OF HARMFUL MUNICIPAL SLUDGE AND INDUSTRIAL WASTE

"SEC. 102A. (a) The Administrator shall—

"(1) end the dumping of harmful municipal sludge into ocean waters and into waters described in section 101(b) as soon as possible after the date of the enactment of this section, except that in no case may any dumping of harmful municipal sludge—

"(A) occur after the last day of the 18-month period beginning on such date of enactment; or

"(B) be authorized under this title for other than an eligible authority within the meaning of section 104A(a)(1)(C); and

"(2) end the dumping of industrial waste into such waters, except as provided in subsections (b) and (c).

"(b) On and after the date of the enactment of this section, the Administrator may issue permits under section 102 for the dumping of industrial waste into ocean waters, or into waters described in section 101(b), if the Administrator determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

"(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than 6 consecutive months.

"(c) On and after the date of the enactment of this section, the Administrator may issue emergency permits under section 102 for the dumping of industrial waste into ocean waters, or into waters described in section 101(b), if the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used in this subsection, the term 'emergency' refers to situations requiring action with a marked degree of urgency.

"(d) For purposes of this section—

"(1) The term 'harmful municipal sludge' means municipal sludge (as defined in section 3(n) the ocean dumping of which may be harmful to human health, welfare, amenities, or the marine environment, ecological systems, and economic potentialities. Municipal sludge shall be considered to be harmful, for purposes of this section, if it fails to meet the environmental impact criteria of the Environmental Protection Agency's regulations issued under this title.

"(2) The term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, and economic potentialities.".

(b) Section 4 of the Act entitled "An Act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978", approved November 4, 1977 (33 U.S.C. 1412a), is repealed.

SEC. 4. CORPS OF ENGINEERS PERMITS.

Section 103(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "In conducting the independent determination under the preceding sentence, the Secretary shall consider the relative environmental impact of, and shall give equal treatment to, all alternative forms of disposal. In considering appropriate locations, he shall, to the extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 102(c). The Secretary in consultation with the Administrator shall be responsible for management, including appropriate monitoring, of sites utilized pursuant to this section.".

SEC. 5. PERMIT CONDITIONS.

Section 104 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Permits issued under this title shall designate and include—

"(1) the type of material authorized to be transported for dumping or to be dumped;

"(2) the amount of material authorized to be transported for dumping or to be dumped;

"(3) the location where such transport for dumping will be terminated or where such dumping will occur;

"(4) the length of time for which the permits are valid and their expiration date;

"(5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate—

"(A) alternatives for the disposal of the material,

"(B) processes for reducing or eliminating any contaminants in the material, or

"(C) processes for recycling the material;

"(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

"(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) The Administrator or the Secretary, as the case may be, shall prescribe by regulation and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount, not to exceed $10,000, that is commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.".

"(2)(A) The Administrator shall prescribe by regulation, after opportunity for a hearing on the record, and collect a special fee for permits issued under section 102 to recover the costs incurred, or expected to be incurred, in the undertaking of measures by Federal agencies to determine compliance with permit terms, and the undertaking of only the monitoring necessary to make a reasonable assessment of the direct effects on the marine environment caused by disposal activities carried out under the permit. Such fee shall be an amount which will not have a substantial adverse effect on the competitive prospects for commercial implementation of effective and efficient ocean-based waste destruction technologies that otherwise meet the requirements of law. The special fee shall be deposited to the principal appropriation account or accounts used to carry out site and compliance monitoring, surveillance, and enforcement activities.

"(B) The funds collected under subparagraph (A) may be transferred in part to other Federal agencies for the costs incurred or expected to be incurred in connection with their activities described in subparagraph (A).

"(3) The expenditure of funds raised by these fees shall be subject to appropriations.".

(3) Subsection (e) is redesignated as subsection (e)(1) and after it the following new paragraph is inserted:

"(2) The Administrator and the Secretary shall establish and maintain quality assurance programs to ensure the validity, accuracy, and sufficiency of information submitted to or used by the Administrator or the Secretary in connection with applications for permits or other activities undertaken pursuant to this title. Such quality assurance programs shall encompass, but not be limited to, the design, implementation, and analysis of sampling, testing, and monitoring procedures and results. The Administrator and the Secretary shall each individually report annually, as a part of the report required under section 112 of this title, on the status of implementation of this subsection; except that the first such quality assurance reporting shall be submitted to the Congress no later than 1 year after the effective date of this subsection.".

(4) The following new subsection is added at the end thereof:

"(j) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions authorized by permits issued under this title.".

SEC. 6. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection:

"(A) The term 'apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(4)(A) Within 3 years after the date of the enactment of this section, the Administrator shall prepare and submit to the Congress a New York Bight Apex Restoration Plan. In preparing the plan, the Administrator shall hold public hearings in order to obtain the views and comments of interested persons.

"(B) The New York Bight Apex Restoration Plan required under subparagraph (A) shall—

"(i) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping that are affecting the water quality and marine resources of the Apex;

"(ii) identify those uses in the Apex that are being inhibited because of those inputs;

"(iii) determine the fate of the contaminants from those inputs and their effect on the marine environment;

"(iv) identify technologies and management practices, and determine the costs, necessary to control those inputs;

"(v) identify impediments to the cleanup of those inputs;

"(vi) devise a schedule of economically feasible projects to implement the controls identified under clause (iv) and to remove the impediments identified under clause (v); and

"(vii) develop recommendations for funding and coordinating various Federal, State, and local government programs necessary to implement the projects devised under clause (vi).

Within 6 months after the date of the enactment of this section, the Administrator shall submit to the Congress a detailed schedule (and the associated funding requirements) for completing the restoration plan required by this paragraph.

"(5) Within 1 year after the date of the enactment of this section, the Administrator shall prepare and submit to Congress a report on the technological and economic feasibility of establishing and implementing quality standards for disposal of municipal sludge through ocean or land-based methods. The quality standards shall set forth maximum permissible concentrations of heavy metals, PCB's, persistent plastics, microbiological constituents, pathogens, and any other material found in municipal sludge regarding which the Administrator considers the establishment of maximum permissible concentrations to be warranted.

"(6) In addition to funds authorized under section 111, there are authorized to be appropriated to the Environmental Protection Agency, for purposes of preparing the New York Bight Apex Restoration Plan required under paragraph (4)(A), the following amounts:

"(A) $2,000,000 for fiscal year 1986.

"(B) $2,000,000 for fiscal year 1987.

"(C) $1,000,000 for fiscal year 1988.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).

"(c) SITE FOR DUMPING BY THE MASSACHUSETTS WATER RESOURCES AUTHORITY.—(1)(A) The Administrator shall designate, under section 102(c), a site in the ocean waters beyond the edge of the Continental Shelf and Continental Slope, but not within Georges Bank and not west of 69° W. Longitude, for the dumping of municipal sludge by the Massachusetts Water Resources Au-

thority (hereinafter in this subsection referred to as the 'Authority').

"(B) The Administrator shall make the site designation required under subparagraph (A) before January 1, 1989. The Administrator shall take such actions as may be necessary to expedite the designation so that the site can be designated and made available for use by that date.

"(C) The site designation made under subparagraph (A) shall expire—

"(i) if the application for the permit under paragraph (2) is withdrawn, on the date of withdrawal;

"(ii) if the Administrator determines not to issue the permit under paragraph (2), on the date that determination becomes final; or

"(iii) if the permit is issued under paragraph (2), on the date of the permit or any renewal of the permit expires.

"(D) If judicial review of a site designation under subparagraph (A) is sought, no court may enjoin, before conclusion of the review, the dumping of, or transportation for purposes of dumping, municipal sludge at the site.

"(2)(A) The Administrator may issue a permit under section 102(a) to the Authority (and only to the Authority for dumping of municipal sludge within the site designated under paragraph (1).

"(B) The permit issued under subparagraph (A) will expire December 31, 1991, unless renewed by the Administrator. The Administrator may renew the permit if the Administrator determines that the Authority has made, and is continuing to make, diligent efforts to develop a suitable land-based alternative for the disposal of municipal sludge and that any such alternative is not currently available. No renewal may authorize dumping after the scheduled date when a suitable land-based alternative must be available for use, as established by an order issued pursuant to *U.S. against Metropolitan District Commission, et al.*, Civil Action 85-0489-MA (D.C., Mass. 1985), and in no event after December 31, 1994.

"(C) A permit application submitted by the Authority under section 102 for the ocean disposal of municipal sludge at any other site shall be considered by the Administrator to be an application for a permit to dump municipal sludge at the site designated under paragraph (1). The Administrator, as a result of that designation, may require the Authority to submit such additional information in connection with the application as the Administrator considers necessary.

"(3)(A) In addition to the funds authorized under section 111, there are authorized to be appropriated to the Environmental Protection Agency $2,000,000 for fiscal years beginning after September 30, 1985, to carry out this subsection.

"(B) There are authorized to be appropriated to the Department of Transportation $100,000 for each fiscal year in which dumping occurs under a permit issued under paragraph (2) for use by the United States Coast Guard in carrying out its enforcement responsibilities in connection with that dumping.

SEC. 7. CONVENTION ADHERENCE.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by adding at the end thereof the following new subsection:

"(g) To the extent that they may do so without relaxing the requirements of this title, and in accordance with chapter 5 of title 5, United States Code, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States when implementing this title.".

SEC. 8. TRANSITIONAL PROVISIONS.

Until completion of the site designation or denial of site designation by the Administrator of the Environmental Protection Agency with respect to any areas of ocean waters approved for dumping on an interim basis before July 1, 1982, and any areas of ocean waters used for dumping pursuant to a court order, the amendments made by this Act to the Marine Protection, Research, and Sanctuaries Act of 1972 (other than section 102(a) of that Act as amended by section (2)(1) of this Act, other than subsection (c)(2) and (3) of section 102 of that Act as added by section 2(2) of this Act and other than amendments made by sections 3, 5, 6, 9, 10, 11, 15, and 16 of this Act) shall not be applicable to those areas of ocean water.

SEC. 9. DEFINITIONS.

Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended—

(1) by inserting ", and the subjacent areas," immediately after "those waters" in subsection (b);

(2) by striking out "sewage sludge," in subsection (c) and inserting in lieu thereof "municipal sludge,";

(3) by adding at the end thereof the following new subsection:

"(m) 'Monitoring' means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trends, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures, depending upon the type of waste to be dumped and the characteristics of the site: (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisms to determine levels of hydrocarbon, trace metals, and chemical and pathogenic contaminants identified as constituents of wastes to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.".

"(n) 'Municipal sludge' means solid, semisolid, or liquid waste generated by a waste water treatment plant of a sewerage authority or other unit of State or local government or a privately owned or operated waste water treatment plan which treats predominantly domestic sewage."; and

(4) by striking out "the Canal Zone," in subsection (d).

SEC. 10. PENALTIES.

Subsection (b) of section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended as follows:

(1) The text is redesignated as paragraph (1) of such subsection.

(2) Paragraph (1), as so redesignated, is amended by adding at the end thereof the following new sentence: "Any action authorized by this section shall be consistent with international law.".

(3) The following new paragraph is added at the end thereof:

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring, sampling, or testing device or method required to be maintained or implemented under this title, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. For purposes of this section, the term 'person' shall mean, in addition to the definition contained in section 3(e) of this title, any responsible corporate officer.".

SEC. 11. ORDERS.

Section 105(g) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415), is amended—

(1) by redesignating subparagraph (5) as subparagraph (6) and by inserting immediately after paragraph (4) the following:

"(5) Upon application of any person, the district courts of the United States shall have jurisdiction to order the Administrator to implement in a timely manner the site designation provisions of this title for those sites for which site designation proceedings are incomplete and at which dumping is authorized pursuant to permits issued under sections 102 and 103. Nothing in this paragraph is intended to affect the conduct of any dumping activity under a permit issued under this title pending the completion of site designation proceedings. Paragraph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph.";

and

(2) by striking out "injunctive" in subparagraph (6), as so redesignated.

SEC. 12. SCHEDULE FOR COMPLETION.

The Administrator of the Environmental Protection Agency shall establish a schedule for expeditiously completing the study and designation or denial of designation of all areas of ocean waters approved before July 1, 1982, for dumping on an interim basis and areas of ocean waters used for dumping pursuant to a court order. The Administrator shall submit this schedule to Congress not later than the one hundred and eightieth day after the date of enactment of this Act.

SEC. 13. ANNUAL REPORTS.

Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended to read as follows:

"SEC. 112. In March of each year, the Administrator and the Secretary shall each individually report to the Congress on the administration of this title during the previous calendar year.".

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended by striking out "and" immediately following "fiscal year 1981," and inserting "and not to exceed $8,864,000 for each of fiscal years 1986, 1987, and 1988," immediately after "fiscal year 1982,".

SEC. 15. EXTENSION OF UNITED STATES AUTHORITY.

(a) Whenever in this section there is a reference to a section, subsection or paragraph of existing law, the reference is to the

Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(b) In section 2(c)(2), strike the words "territorial sea or the contiguous" and insert in lieu thereof the following: "territorial sea or the exclusive economic".

(c) Add to the end of section 3, the following new subsection:

"(o) 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983.".

(d) Strike section 101(b) and insert in lieu thereof the following:

"(b) Except as may be authorized by a permit issued pursuant to section 102 of this title, and subject to regulations issued pursuant to section 108 of this title, no person shall dump any material transported from a location outside the United States (1) into the territorial sea of the United States, or (2) into the exclusive economic zone of the United States.".

SEC. 16. RELATION TO OTHER FEDERAL LAW.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by adding at the end thereof the following new paragraph:

"(h) Nothing in this Act shall affect or modify the rights or liabilities of any person under other Federal law with respect to damage caused by noncompliance with any requirement of this Act or any permit issued under this Act.".

SEC. 17. PERMIT FEE STUDY.

(a) As used in this section, the term "Federal waste disposal program" means any program under which the United States Government regulates the disposal, discharge, or emission of materials or substances that cause environmental pollution.

(b) The Administrator of the Environmental Protection Agency shall prepare a report regarding the permit fee systems that are applied in implementing Federal waste disposal programs. The report shall include—

(1) a description of the permit fee system applied in administering each Federal waste disposal program;

(2) an evaluation of the extent to which each permit fee system described under paragraph (1) recovers the costs expended by the United States Government in administering the related program;

(3) if the evaluation under paragraph (2) indicates that more of the costs to the United States Government in administering any waste disposal program should be borne by the permittees, recommendations for changing the permit system to achieve that result;

(4) an analysis of those conditions under which, and the extent to which, permit fees should be used—

(A) to encourage or discourage the use of particular disposal, discharge, or emission alternatives, or

(B) to encourage waste reduction, reuse, or recycling; and

(5) any legislative proposals that the Administrator considers appropriate in view of the results of the matters addressed under paragraphs (1) through (4).

(c) The report required under subsection (b) shall be prepared and submitted to the Speaker of the House of Representatives and the majority leader of the Senate for referral to the appropriate committees of Congress within 18 months after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleagues, the gentlewoman from Maryland [Ms. MIKULSKI], the chair of the Oceanography Subcommittee, the gentleman from New Jersey [Mr. HOWARD], and the gentleman from New Jersey [Mr. ROE], the distinguished chairmen of the Public Works Committee and Water Resources Subcommittee, as well as the gentleman from New York [Mr. LENT], in urging the House to pass H.R. 1957, as amended, a bill to amend and reauthorize title I of the Marine Protection, Research and Sanctuaries Act of 1972.

Now, Mr. Speaker, this bill was scheduled to be considered under suspension yesterday. I came on the floor thinking that all parties had been satisfied, only to learn that there was a great amount of dissension. I did not know whether I was a referee in a game between the Bullets and the Knicks or the Knicks and the Nets; but anyhow, with all the dissension that we had yesterday, I am happy and delighted to say that we come here today with a united front, all differences being compromised during the evening hours. For that I want to thank the staffs involved and the untiring efforts of the three committees that are involved. So now let's play ball.

Mr. Speaker, H.R. 1957, as amended, reflects an agreement between our committee and the Public Works Committee, together with other interested Members of the House, on the reauthorization of the ocean dumping programs for EPA and the Corps of Engineers. The bill which our committees bring before the House today reflects careful deliberations on this reauthorization that have occurred over the past three Congresses. In fact, the House of Representatives has, in the two previous Congresses, favorably acted on proposals largely similar to the bill which we bring before our colleagues today. The overall purpose of this bill is to strengthen the provisions of title I of the Ocean Dumping Act, which govern the permitting activity of the EPA and the Corps of Engineers for ocean dumping of municipal sludge, industrial wastes, and dredged materials.

This bill contains several provisions which deserve special mention. First, under the leadership of Chairman HOWARD and Congressman HUGHES, the committees have decided to prohibit any new municipalities from using the 106 mile site beyond those currently authorized to use the 12 mile site. The purpose of this prohibition is to ensure that the 106 mile site does not become a general dumpsite for all municipalities, so that the limited use will ensure no harm to the marine environment. In bringing this provision of the bill to the floor today, I must recognize the able and diligent leadership of the chairman of the Public Works Committee, Mr. HOWARD, in ensuring that we impose these reasonable limits on the use of the 106 site.

This bill also contains a directive to EPA to designate a temporary municipal sludge site for use only by the city of Boston. The purpose of this directive is to enable the city of Boston to terminate as quickly as possible the continuing discharges of municipal sludge in Boston Harbor while undertaking the necessary actions to develop a long-term land-based alternative. In identifying this short-term alternative, the legislation will enable the city of Boston to terminate further discharges into the harbor and permit the rapid environmental recovery of the harbor and the adjacent coastal environments.

In short, the provisions of H.R. 1957, as amended, contain numerous directives to EPA and the Corps of Engineers that are intended to preserve and enhance the quality of our coastal waters, and I urge my colleagues to support this important measure.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY COMMITTEE SUBSTITUTE TO H.R. 1957 OFFERED BY HON. WALTER B. JONES, CHAIRMAN, MERCHANT MARINE AND FISHERIES COMMITTEE

The following section-by-section analysis of the Committee's substitute to H.R. 1957, as brought before the House of Representatives today under Suspension of the Rules, contains several modifications to the legislation that reflect an agreement between the Committees on Merchant Marine and Fisheries and Public Works and Transportation. By and large, the modifications to this legislation reflect recommendations of either one of the two Committees; thus, the reports issued by our two committees (H. Rpt. #99-107, Parts I and II), contain relevant legislative history that should be considered for additional explanations of the legislation. In addition, however, several modifications to those recommendations have been included in this legislation. The purpose of this analysis is to provide additional explanations of these new provisions.

Section 102(c) of Title I, as amended by section 2 of this bill, states that nothing contained in subsection (c)(1) shall be construed to limit the authority of the Secretary under section 103 to make an independent determination as to appropriate locations for dumping. The reference to an inde-

pendent determination as to appropriate locations for dumping is derived directly from the second sentence of section 103(b) of title I, which authorizes the Secretary to make independent determinations as to the need for dumping and as to other possible methods of disposal and to appropriate locations for dumping. The purpose of this statement is to clarify that the modification to section 102(c) is not intended to revoke the authority of the Secretary under section 103(b) to make these independent determinations. Nevertheless, since these determinations are made on the basis of the criteria in section 102(c), the modifications proposed by this bill to the criteria of section 102(c) will affect the exercise of the Secretary's authority to make independent determinations under section 103(b).

Section 3 of the substitute text proposes a technical redrafting of current law as modified by section 13 of H.R. 1957, as reported by the Merchant Marine and Fisheries Committee. This new section 3 is intended to restructure a free-standing provision of law enacted as section 4 of P.L. 95-153, as amended, that relates to the issuance of permits for the dumping of harmful municipal sludge and industrial wastes and the issuance of research and emergency permits. The purpose of this new section 3 is to incorporate the provisions of existing law into title I of the MPRSA itself, rather than as free standing provisions of law affecting the authority of the Administrator under title I.

Section 5 of the substitute text proposes to amend section 104(b) by directing the Administrator and the Secretary, as the case may be, to prescribe certain fees. The substitute text to H.R. 1957 that the Committee brings before the House of Representatives today includes a cap of $10,000 for the application fees required under subsection (b)(1), as amended. These application fees are intended to recoup the reasonable administrative costs incurred by the Administrator or Secretary in processing permits under section 102 or 103 of title I. By the term "reasonable administrative costs," the Committees intend to include the costs incurred directly by the Agencies in reviewing and processing applications for permits, including the costs of any public hearings required by the applications. Reasonable administrative costs are not to include the costs of defending administrative decisions in the event of a judicial challenge to them. Nor is the application fee intended to recoup general program costs associated with developing and promulgating program regulations or conducting technical or scientific research relating generally to the ocean dumping programs of either EPA or the Corps. In no event is the application fee to exceed $10,000.

The substitute text also includes into section 104(b)(2), as amended, a special fee applicable to section 102 permittees. The provision requires EPA to prescribe, after a hearing on the record, a special fee that is intended to recoup the costs of monitoring to determine compliance with the terms of the permit, and the costs of only the monitoring necessary to make reasonable assessments of the direct effects on the marine environment caused by the disposal activities carried out under a permit. The fee, however, must not have a substantial adverse effect on the competitive prospects for commercial implementation of effective and efficient ocean-based waste destruction technologies that otherwise satisfy the requirements of law.

Section 6 of the substitute creates a new section 104A of title I, entitled "Special Provisions Regarding Certain Dump Sites." This new section contains the text of section 4 of H.R. 1957, as reported by the Merchant Marine and Fisheries Committee, and additional provisions relating to the use of the 106 mile site and the designation of a new site for dumping by the Massachusetts Water Resources Authority.

Section 104A(a) of title I, as amended, contains the provisions relating to the closure of the New York Bight Apex proposed by section 4 of H.R. 1957, as reported by the Merchant Marine and Fisheries Committee, with the following changes. First, the substitute revises the termination date for dumping within the New York Bight Apex from 18 months after enactment of H.R. 1957 to December 15, 1987, the final date for phasing out the dumping of municipal sludge in the New York Bight Apex pursuant to the consent decree between EPA and eligible authorities in *City of New York v. EPA*, 543 F. Supp. 1084 (S.D.N.Y. 1981). In adopting the phase out schedule approved pursuant to this consent decree, the Committee intends that all interim phaseout dates in the schedule continue to apply, beginning on March, 1986 and continuing through December, 1987.

The substitute also includes a new section 104A(b) to title I, as amended, that would bar the issuance or renewal of any permit under title I to authorized persons other than eligible authorities to dump municipal sludge within the 106-mile ocean waste dump site, as described in 49 *Federal Register* 19005.

Further the substitute also provides a new subsection 104A(c) relating to the selection of a temporary dump site for use of the Massachusetts Water Resources Authority. Subsection (c) directs EPA to designate a site in ocean waters beyond the edge of the continental shelf and continental slope and beyond Georges Bank for the dumping of municipal sludge by the Massachusetts Water Resources Authority. The site must also be located east of 69 Degrees West Longitude. The Committee has adopted these special limitations to protect the important fishery resources of the area from any risk of pollution. The Committee stresses that any selection should also provide maximum protection to any fishery recruitment areas as well. EPA is directed under the subsection to complete the site designation by January 1, 1989, and is directed to take all necessary lawful action to expedite the designation so as to be able to comply with the January 1, 1989, date. The Committee wishes to make clear, however, that the site selection and site designation process is to be in accordance with criteria under section 102(c), and that other Federal law, including the Administrative Procedures Act and the National Environmental Policy Act, shall continue to apply. Nevertheless, the Committee also emphasizes its intent that EPA undertake all necessary actions consistent with law to comply with the designation date.

The site designated pursuant to this subsection is to be made available only for dumping of municipal sludge by the Massachusetts Water Resources Authority. If the Authority is issued an ocean dumping permit pursuant to section 102(a), the site designation pursuant to this subsection shall expire when that permit or its renewal expires. If a decision is made by the Massachusetts Water Resources Authority not to apply for a permit under section 102 or if the application for a permit is denied, the site designation shall also expire.

In designating the site under this subsection, the Committee intends that no temporary restraining order or injunctive relief may be granted by a court reviewing the decision of the Administrator to designate a site pending final judgment in the action. This prohibition on the use of temporary relief pending final judgment is intended by the Committee to apply only to the decision to designate a site under the subsection, and is not intended to apply to any decisions relating to the issuance of permits under section 102(a).

Subsection (c) also imposes additional requirements on the issuance of permits under section 102 to the Massachusetts Water Resources Authority. The permit itself will expire on December 31, 1991 unless renewed by the Administrator pursuant to this section. The Administrator may renew that permit if the Administrator determines that the Authority has made and is continuing to make all diligent efforts to develop a suitable land-based alternative, and that the alternative is not currently available. No renewal may be authorized that extends the dumping beyond the date by which the Authority must begin to use their land-based option, as established by a court order issued pursuant to *U.S. v. Metropolitan District Commission et al.*, Civil Action 85-0489-MA (D.C. Mass. 1985), but in no event later than December 31, 1984.

The Committee wishes to stress that it views the use of the "ocean option" by the Metropolitan Regional Water Authority as a temporary option in order to allow them to end their discharges into Boston harbor as soon as possible. While the Committee is reluctant to require the designation of any new municipal sludge sites, it believes that the interests of environmental protection dictate the use of deep-water disposal as a temporary measure in order to begin the restoration of the harbor and nearshore areas while permanent, land based options are developed.

The Committee is fully aware of the ongoing efforts of the parties in *U.S.* v. *Metropolitan District Commission*, et al. to develop schedule for ending further discharges into the harbor. The Committee has attempted to support those efforts by adopting permit expiration dates that reflect when the M.D.C. is scheduled to have completed their dewatering facilities and should be able to commerce their land-based option. The Committee is also aware that the parties have not yet selected a final date by which the land facility must be available for use, and that the court is expected to retain jurisdiction over the matter in order to issue additional orders as may be necessary. The Committee fully endorses the effort of the court to develop a timely schedule for developing the final, land based option. The Committee has therefore authorized EPA to renew the permit for ocean dumping up until the date when the M.D.C. is, pursuant to court order, required to begin using their land facilities. In the event of unforeseen circumstances delaying the entry of a final order, however, the Committee has also incorporated a termination date of December 31, 1994, by which time all ocean dumping by the M.D.C. must end. The Committee does not, however, intend to imply its approval of continued dumping up through 1994, and urges instead the parties to undertake all necessary actions to develop the land options as quickly as possible.

Finally, the new subsection includes an additional authorization to EPA for $2 million beginning in FY 1986 to carry out the requirements of his subsection. Also included is an authorization to the Department of

Transportation of $100,000 for each fiscal year in which dumping occurs under a permit to the Massachusetts Water Resources Authority for use by the Coast Guard in carrying out its enforcement and surveillance responsibilities.

Section 7 of the substitute repeals the last sentence of section 102(a) of title I. This sentence implements the London Dumping Convention (LDC) into title I; its repeal is simply a technical amendment to reflect the fact that section 7 of the substitute includes into section 106 of title I a new subsection implementing the requirements of the Convention.

Section 9 of the substitute contains several modifications to the definitions in the MPRSA, including a change to the term "ocean waters" to include within that term the subjacent areas of the seabed. The purpose of this amendment, as explained in the Committee report, is to clarify that subseabed emplacement of wastes is included within the preview of title I. In adopting this amendment, however, the Committee notes that, as a technical matter, the disposal of wastes into the subseabed differs significantly from the disposal of wastes directly into the water column. The Committee anticipates that EPA will take account of these significant technical differences when developing regulations governing seabed emplacement.

Section 10 of the substitute text modifies section 105(b) of title I, the penalties section. The substitute proposes to include a new sentence at the end of section 105(b)(1) of title I, as redesignated, which specifies that any action undertaken under this section must be consistent with international law.

This additional modification to section 105(b)(1) of title I should be read in conjunction with section 15 of the substitute relating to the extension of U.S. authority to 200 miles. Section 15 extends the applicability of title I of the MPRSA to the dumping of materials into the territorial sea or exclusive economic zone (EEZ) of the United States. In doing so, section 15 would authorize the applicability of Title I prohibitions and penalties to the dumping activities of foreign vessels within the U.S. EEZ. The penalty provisions authorized by section 105(b) of title I include the imposition of criminal penalties and imprisonment. However, imposition of the penalty of imprisonment on a foreign citizen who violates a requirement of title I seaward of the territorial sea is generally contrary to accepted international law, as reflected by article 230(1) of the Convention on the Law of the Sea. That is, if a person is not a U.S. citizen and is onboard a vessel or aircraft which is not registered in the United States nor flying the U.S. flag, then the individual is not subject to imprisonment under international law for violations of the MPRSA occurring beyond the territorial sea. In order to make clear that the penalty provisions authorized by section 105(b) do not authorize EPA or the Coast Guard to imprison this class of foreigners, the additional amendment to section 105(b) was included to make clear that actions undertaken pursuant to that section must comply with international law.

Finally section 17 of the substitute includes a new section entitled Permit Fee Study. The purpose of section 17 is to require the Administrator of EPA to prepare a report for Congress on the types of permit fee systems currently used by the Administrator in regulating the disposal, discharge or emission of materials into the environment. The report, to be submitted within 18 months of enactment, is intended to require a survey of existing permit fee systems currently used by the Administrator, and an evaluation of the extent to which each permit fee system does and should recoup costs currently incurred by the U.S. that should more properly be borne by permittees. In addition to this cost sharing subject, the section also requires an analysis of those conditions where and the extent to which permit fee systems should be used to encourage or discourage the use of particular disposal, discharge or emission alternatives. That is, the report should analyze the extent to which permit fees should be utilized as an instrument of policy to affect sound waste management decisions. The analysis should also include the extent to which permit fee systems should be utilized to encourage waste reduction, reuse or recycling by providing permittees with economic incentives to select waste disposal options that best reflect sound public policy. The report is directed to include any legislative proposals the Administrator considers appropriate in view of the results of the matters reviewed therein.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I'm pleased to be able to support H.R. 1957, legislation to reauthorize and amend title I of the Marine Protection, Research and Sanctuaries Act, or better known simply as the Ocean Dumping Act.

The bill, if enacted, would by statute implement an EPA decision to end the ongoing dumping of sewage sludge by certain New York and New Jersey municipalities at the 12-mile dump site known as the New York Bight Apex.

This resolution to this longstanding regional controversy has been agreed to by the dumpers, and within 18 months of enactment, all sludge dumping will have to be moved out to a more environmentally suitable 106-mile site, as designated by EPA.

Further, because of the potential health effects of the severely degraded New York Bight region, the bill contains a one-time special authorization of $5 million over 3 years for EPA to prepare an environmental restoration plan for the New York Bight area.

The bill has been criticized by some because it is said that it establishes a preference for onland disposal of sewage sludge by requiring the EPA Administrator to make a finding that no suitable land disposal site exists before permitting ocean dumping.

I agree. That is precisely the long-range intent of the bill—to move as quickly and as effectively as possible to end ocean dumping once and for all.

The act provides EPA with the authority to closely regulate the dumping of all materials into our U.S. waters, and permit only that dumping which it determines will not "unreasonably degrade or endanger" human health, welfare, amenities, or the marine environment.

In addition, the act also authorizes the U.S. Army Corps of Engineers with permitting authority over the dumping of dredged materials.

The administration supports reauthorization of this program at a level of $8.864 million—the amount which the program is authorized for in the bill before us today for the next 2 fiscal years.

Mr. Speaker, this legislation contains several substantive amendments to the Ocean Dumping Act, many which have passed the House in previous years but, for whatever procedural reasons, have not quite found their way into law.

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The bill contains additional factors for EPA to consider when designating ocean dumping sites; it specifically authorizes EPA to administer permit application fees and other "special" fees to help recover the program's costs from ocean dumpers; as well, it extends EPA's ocean dumping legal regulatory authority to the 200-mile limit of our Nation's exclusive economic zone.

It is my hope that the other body will act promptly on this matter and we can send this bill to the President's desk sometime early next year.

This legislation will end dumping at the 12-mile bight site and will make important steps in ensuring the water quality of our oceans. Again, I support this legislation and urge its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. SNYDER].

Mr. SNYDER. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 1957, the Ocean Dumping Amendments Act of 1985. The Public Works and Transportation Committee and the Merchant Marine and Fisheries Committee reported similar versions of the bill months ago. Since then, the two committees have ironed out any differences between their bills. The legislation before you today is a sound and workable compromise, deserving the strong support of each Member.

First, let me thank the leadership of each committee for a job well done. The chairman of the Public Works Committee, JIM HOWARD, subcommittee chairman, BOB ROE, and ranking minority member of the subcommittee, ARLAN STANGELAND, have all worked hard and offered great guidance throughout the process. The Merchant Marine and Fisheries Committee is to be commended, as well. In particular, I would like to thank Chairman JONES, ranking minority member NORMAN LENT, and other important contributors such as MARIO BIAGGI and BILL HUGHES.

Mr. Speaker, title I of the Marine Protection, Research and Sanctuaries Act of 1972—commonly known as the Ocean Dumping Act—regulates the dumping of material into the ocean by U.S.-flag vessels or the dumping of material into ocean

waters within 12 miles of the U.S. baseline. Since 1972, the act has established a policy of prohibiting or strictly limiting the ocean dumping of materials harmful to humans or the marine environment. Specifically, the statute: First, directs EPA and the Army Corps of Engineers to prohibit dumping of some materials and to establish a permit system to regulate dumping of others in ocean waters; second, directs the National Oceanic and Atmospheric Administration [NOAA] and EPA to research the effects of and alternatives to ocean dumping; and third, provides for the identification and designation of marine sanctuaries. The act also requires EPA to follow standards and criteria of the London Dumping Convention, and international agreement on ocean dumping to which the United States is a contracting party, so long as such action does not relax the act's own requirements.

H.R. 1957, the bill before you today, would amend title I of the Ocean Dumping Act to protect the marine environment and improve upon administrative and regulatory procedures even further. Mr. Speaker, the Nation has needed this legislation for many years. Today's H.R. 1957 is particularly timely and crucial. Recently, numerous ocean dumping issues have captured the Nation's attention. These issues include radioactive waste disposal, ocean incineration of hazardous wastes, and sewage sludge disposal in the New York Bight Apex. H.R. 1957 incorporates language directed at these concerns along with provisions previously passed by the House in H.R. 1761 and H.R. 4829 during the 98th Congress.

Allow me to highlight some of the bill's major features. H.R. 1957 authorizes appropriations of $8.86 million for each of the fiscal years 1986, 1987, and 1988 to the Environmental Protection Agency [EPA] for administering the title. The bill mandates that EPA conduct studies of waste-disposal sites and determine whether such sites are suitable for ocean dumping, providing specific criteria for use by EPA when designating sites and monitoring programs for the sites. H.R. 1957 also prohibits the continued dumping of municipal sludge at the 12-mile sludge dumping site located within the New York Bight Apex and establishes a high priority for cleanup of the site. The bill authorizes additional permit conditions, requires the establishment of a quality-assurance program, imposes penalties for data falsification, and requires the collection of fees to cover administrative costs of processing permit applications and special fees to cover costs of issuing permits for ocean dumping of nondredged materials.

To ensure greater protection of the marine environment, H.R. 1957 adds wetlands to the list of factors to be considered when assessing the effects of dumping. The bill also requires the Administrator to consider, when designating sites, such factors as the biological importance of the site and the immediate and accumulative effects on human health and the ecosystem. The Administrator must also periodically monitor dumpsites, and upon finding that the site is no longer appropriate, he must either limit or terminate the dumping.

One of H.R. 1957's most important features is its comprehensive approach to the municipal sludge problem at the New York Bight Apex. The apex has become one of the most severely degraded open coastal areas in the world. As a result of dozens of hearings and years of legal battles over dumping in the apex, H.R. 1957 contains farsighted provisions to eliminate dumping in the apex, strengthen municipal sludge dumping requirements generally, and significantly improve water quality in the bight apex. The bill specifically finds that the apex is no longer a suitable location for ocean dumping of municipal sludge.

H.R. 1957 limits applicants seeking to dump municipal sludge in the apex to those sewerage authorities and governmental units authorized under a 1983 court order to dump municipal sludge at the site. The bill also prohibits EPA from issuing or renewing permits that authorize the dumping of any sludge within the apex after December 15, 1987, or after the first day EPA determines sludge reasonably can be dumped at a designated site outside the apex, whichever occurs first. EPA must report to Congress within 1 year on the economic and technical feasibility of establishing and implementing quality standards for all muncipal sludge dumping. H.R. 1957 also directs EPA to develop a restoration plan for improving the overall quality and marine resources of the apex and authorizes a total of $5 million in fiscal years 1986–88 for preparation of the plan.

The bill makes many other significant amendments to the Ocean Dumping Act. It extends the act's coverage by expanding U.S. jurisdiction over dumping into ocean waters which are within the "exclusive economic zone," that is, 200 nautical miles from the shore. H.R. 1957 also absolutely prohibits the dumping of "harmful municipal sludge" after 18 months of enactment. In addition, the bill clarifies that, in their actions pursuant to the Ocean Dumping Act, EPA and the Corps of Engineers must comply with the international obligations of the London Dumping Convention, subject to the rulemaking requirements of the Administration Procedure Act.

The compromise version of H.R. 1957 contains some important new provisions that were added by the Public Works Committee during markup. One amendment requires the Secretary, in determining whether to issue permits for dredged material, to consider the relative environmental impacts of all forms of disposal alternatives. Another amendment, now contained in the bill, requires that sewerage authorities generating the sludge to be dumped comply with all pretreatment requirements under the Federal Water Pollution Control Act—The Clean Water Act. The Public Works Committee also clarifies section 2 of the bill by stating that nothing in the provision making EPA's site designation mandatory is to limit the Secretary's authority to designate dumping sites for dredged material. We have also made clear that, to the extent feasible, the corps shall use sites designated by EPA and recommended for ocean dumping of dredged material. Where EPA designated sites are not available or suitable, the corps may make an independent determination of the location for dumping dredged material and shall be responsible for management, including appropriate monitoring of sites used pursuant to section 103.

Mr. Speaker, this bill is very similar to legislation developed by the two committees during the past three Congresses. In the last 2 years the House has passed H.R. 1761, in 1983, and H.R. 4829, in 1984. This year the House can pass an even stronger bill. H.R. 1957 builds upon the previous legislation to become the most sensible and environmentally sensitive ocean dumping amendments legislation to date.

Therefore, Mr. Speaker, I strongly urge each Member to support this vital bill. Time is running out; we cannot affort to wait until next year. H.R. 1957 is a timely and comprehensive response to the Nation's needs and it deserves to be enacted today.

Mr. SAXTON. Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. I thank the gentleman for yielding this time to me.

Mr. Speaker, I just wish to congratulate all those who have been involved in this important piece of legislation, the leadership and members of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], the gentleman from New York [Mr. LENT].

For many, many years our two committees have been able to work together for the improvement of the environment in this Nation, and with this bill we take a long step in that advancement.

As a Representative of the State of New Jersey, I also wish to thank the members of both committees, and especially the delegation from the State of Massachusetts, because we did have an impasse for a short while, and it was only due to good faith effort by those Members, along with those of us from New Jersey, that we have a reasonable compromise worked out here.

I just want to congratulate everyone, thank them for their efforts, and urge everyone to support this bill. I think it should pass unanimously.

Mr. Speaker, I rise today in support of H.R. 1957 as amended by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation. I especially want to note that language that I proposed has been included in the committee substitute to continue the Federal policy of opposition to the ocean disposal of sewage sludge. This provision

prohibits any new entrants from disposing of sludge off the New Jersey shore.

This amendment does not effect the nine authorities that are already scheduled to transfer their operations from the 12-mile site to the 106-mile site off New Jersey, but it prohibits the Environmental Protection Agency from issuing any additional permits.

It should be made clear that this provision is not merely special interest protection of a specific geographical area. It is a continuation of congressional policy that has been in effect since 1972 to discourage the ocean disposal of sludge. It would be a complete reversal for EPA to consider a new application for ocean disposal, much less approve the application. This Congress must make that point clear to the Agency. It has been our policy to seek land-based alternatives and we intend that policy to continue.

This amendment was prompted by an application submitted by the Massachusetts Water Resources Authority to dump its sewage sludge off the New Jersey coast. Approval of that application would be unacceptable. Massachusetts officials have for years delayed making the necessary decisions to comply with the Clean Water Act. They are under court order to clean up Boston harbor. But dumping off the New Jersey shore is not an easy way out for them. New Jersey is not going to be anybody's sewer.

This bill directs the EPA to designate a new dump site for sewage sludge off the Massachusetts coast. It will be in their own waters but it will be for a limited period of time and for Massachusetts only. The designation of a temporary dump site off their own coast will encourage Massachusetts officials to develop a land-based alternative. It will prevent them from sending their sludge to New Jersey and forgetting about it.

The residents of the New Jersey shore have lived with constant and massive pollution of their ocean waters from various forms of dumping and sewage discharge for more than a half-century. The concerns about our environment and the economics of an area that depends on tourism and recreation have frequently been subordinated to the economic demands of our more populous neighbors to the north. In recent years, we have begun to see a turnaround.

We won a major victory earlier this year when the Environmental Protection Agency agreed to close the site located 12 miles east of Sandy Hook for disposal of sewage sludge and ordered all dumping transferred to the 106-mile site. The dumping was not only moved away from the beaches of my district but for the first time the dumpers would have to weigh the costs of ocean disposal compared to land disposal on a more equitable basis.

This decision was a major victory for the New Jersey shore. We are not about to let that slip away by allowing even more dumping at the 106-mile site. Our concern is not just with Massachusetts but with any other agency on the east coast that would view the New Jersey shore as an easy sludge disposal site. My provision will protect our environment and, combined with the direction to EPA to designate a new site, will allow Boston a temporary solution for its problem. According to EPA, the new site meets the basic requirements of being located off the Continental Shelf, away from major shipping lanes and removed from major fishing areas. I thank my colleagues from Massachusetts for their cooperation in developing this legislation. I am especially grateful to the gentleman from Massachusetts [Mr. ATKINS], a member of the committee, for his help on this issue.

This bill also includes deadlines for the closing of that 12-mile site. The deadlines included in the bill reflect the agreement that EPA reached earlier this year with the nine authorities involved in the dumping. The schedule will permit the dumping to continue on a reduced basis until December 1987. By including the agreement in the statute we can ensure that there will be no foot-dragging and no slippage in meeting this deadline as there has been so many times before.

This bill provides important procedural protections for the environment in the designation of ocean dumping sites and in issuing of permits as well as the specific protection for the area of the New York Bight, where the majority of the Nation's ocean dumping of dredge material and sewage sludge is concentrated.

I strongly urge my colleagues to support this legislation.

Mr. SAXTON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the request of the gentleman from North Carolina, Chairman JONES, to suspend the rules and pass H.R. 1957. As ranking minority member of the Committee on Merchant Marine and Fisheries, and as cosponsor of a bill whose most important features have been incorporated into H.R. 1957, I am very pleased that we finally are moving this important legislation through the House.

I want to thank several Members for their dedicated assistance on this bill: the chairman, the gentleman from North Carolina [Mr. JONES]; the gentleman from New Jersey [Mr. SAXTON]; the chairman of the Public Works and Transportation Committee [Mr. HOWARD]; the ranking minority member, the gentleman from Kentucky [Mr. SNYDER]; and the rest of that committee leadership; the gentlelady from Maryland, chairwoman of the Oceanographic Subcommittee [Ms. MIKULSKI]; the gentleman from Massachusetts [Mr. STUDDS]; and last but absolutely not least, my friend, the gentleman from New Jersey [Mr. HUGHES].

As all Members of Congress who have dealt with the issue of sewage sludge dumping in the New York Bight can well appreciate, the most important feature of this bill is its ban on all dumping of sewage sludge at the "12-mile site" not later than December 15, 1987. This would reinforce the decision earlier this year by Lee Thomas, the Administrator of the Environmental Protection Agency, to deny redesignation of the 12-mile site for further municipal sewage sludge dumping. We understand that EPA has negotiated an orderly phaseout of dumping at the 12-mile site. I commend EPA for taking this action, and I also commend Mayor Koch, the city of New York, the other affected municipalities—including Nassau County—and my colleagues on the committee, especially Congressman BIAGGI and Congressman MANTON, for their efforts to cooperate in implementing EPA's decision. I also commend the efforts of the leadership of the Public Works and Transportation Committee for their cooperation and assistance in these efforts.

H.R. 1957 also requires EPA to prepare a "New York Bight Restoration Plan." This restoration plan acknowledges that municipal sewage sludge dumping is not the sole cause of environmental problems in the New York Bight. The restoration plan would identify the various sources of pollution, identify possible controls on those sources, and recommend a specific, coordinated implementation plan to address the overall problem.

Mr. Speaker, in recent months we have given substantial thought to the "user fee" provisions of this bill, particularly as they affect development and implementation of technology for destroying hazardous wastes at sea by incineration. H.R. 1957 requires the Administrator of EPA to charge all section 102 permittees a special compliance assurance fee. However, the amount of that fee may not be set at a level which will have a substantial adverse effect on the competitive prospects for commercial implementation of effective and efficient ocean-based waste destruction technologies that otherwise meet the requirements of law, for example, ocean incineration vessels destroying hazardous liquid chemicals.

I fully support the concept of user fees, but I do not believe it is wise policy to impose high fees on one type of technology which appears very beneficial when quite similar technologies regulated under other statutes (for example, land-based incinerators) pay only nominal—or no—user fees.

Finally, Mr. Speaker, we intend the special compliance assurance fee to allow EPA to recover costs, subject to the caveat I just mentioned, incurred in undertaking only the monitoring necessary to make a reasonable assessment of the direct effects on the marine environment caused by disposal activities carried out under the

permit. This is not intended to authorize charging user fees for gathering baseline data, nor to recoup the costs of a comprehensive, long-term oceangraphic research program.

Some of the issues addressed by the Ocean Dumping Act have been quite controversial in the past, and EPA has run into administrative and legal difficulties on several issues. As our Nation faces the enormous task of designing environmentally appropriate waste disposal practices, we should not categorically exclude the ocean from consideration, if the disposal practices and technologies are environmentally safe. It is important that Congress, and the administration, continue to give EPA their full political and financial support as EPA spearheads the Federal Government's day-to-day efforts to control the sewage sludge disposal and hazardous waste disposal problems.

Mr. Speaker, I urge my colleagues to support the request of the gentleman from North Carolina to suspend the rules and pass H.R. 1957.

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Maryland [Ms. MIKULSKI], the chairman of the Subcommittee on Oceanography.

Ms. MIKULSKI. I thank the gentleman for yielding this time to me.

Mr. Speaker, as the sponsor of H.R. 1957, I rise in strong support of the amendment in the nature of a substitute, and urge my colleagues to support this bill.

H.R. 1957 reauthorizes title I of the Ocean Dumping Act for fiscal years 1986 and 1987 at a level of $8.8 million annually. In addition, it makes important changes in existing law to strengthen the protection of our ocean resources and coastal communities that depend on clean beaches and waters for economic growth and productivity.

This bill, as reported by the Committees on Merchant Marine and Fisheries and Public Works and Transportation, is designed to accomplish several major aims.

First, to the extent that we must use the oceans for waste disposal, we do everything possible to minimize potential adverse effects on human health and the environment from these activities.

As a result, the bill sets new standards for selecting the most appropriate disposal sites, and authorizes additional funds to strengthen EPA's presite selection study program, and the monitoring of sites where ocean waste disposal takes place.

Second, the bill provides a comprehensive framework for phasing out sludge dumping in the New York Bight Apex and providing for the restoration of its degraded waters.

It is my hope that this provision, combined with EPA's decision to deny reissuing permits to sludge dumping currently using the Bight Apex, will finally resolve this long-standing and controversial issue.

Third, the bill protects our Nation's sovereignty by extending its authority under the Ocean Dumping Act out to the 200-mile limit. This will help prevent activities regulated under the act, like ocean dumping or incineration, from taking place close to our shores unless the United States expressly chooses to allow it.

The Merchant Marine and Public Works versions of the bill were reported with some differences between them. I am pleased that we have resolved those differences and placed the agreed-upon language in the substitute.

First, the substitute retains a provision included in the Merchant Marine bill offered by Mr. STUDDS that restores the rights or liabilities of any person under any other law due to recover damages caused by noncompliance with the ocean dumping act.

A number of recent court decisions have incorrectly suggested that Congress intended to preempt those rights when it passed the Ocean Dumping Act in 1972.

The language in the substitute clarifies congressional intent by restoring previously existing rights to sue for damages based upon noncompliance with the Ocean Dumping Act.

Second, the substitute contains no subsidies for reimbursing those municipalities who must move their sludge dumping from the New York Bight to the 106-mile site.

Third, the bill protects the Corps of Engineers right to make an independent determination for selecting appropriate dredge spoil disposal sites at sea.

Modifications in this bill are not intended to impede the work of the corps in their efforts to maintain the Nation's ports and navigable waterways. While the bill adopts several new additional factors to be considered in site designation, they are not intended to supersede other factors already listed in section 102(a) of the act.

Finally, this substitute addresses an issue which emerged following both committees had reported H.R. 1957.

The substitute bans any parties from using the 106-mile site for dumping who are not already permitted to. This will prevent the city of Boston from asking EPA to grant it a permit to dump there. I strongly support this provision as a representative from the State of Maryland because I believe that the 106-mile site is not a preferred disposal area.

The citizens of the coasts of Maryland, Delaware and New Jersey should not have to run the risk of having a new aquatic landfill in their backyards which threatens marine life and the beaches which are the very heart of their economies.

At the same time, the bill does require EPA to designate an interim dump site for the Boston Metropolitan Water Authority by January 1989 as an interim solution for their sludge disposal problem. This authority has a sunset provision, however, which will force Boston to come up with a suitable land-based alternative within a 3- to 6-year period after the site is designated.

Mr. Speaker, this bill is the result of very diligent and determined work by the Merchant Marine and Public Works committees over the last three congresses.

Many members played a role in the bill's development. In particular, I want to commend my chairman, WALTER JONES, and my committee colleagues, BILL HUGHES and TOM CARPER. Each has proven to be a protector of the ocean's resources and an advocate for people who need healthy ocean resources for economic growth and opportunity.

I also want to commend my friends on the public works committee, particularly chairman JIM HOWARD, and water resources subcommittee chairman BOB ROE. They are both from New Jersey, and like BILL HUGHES, have demonstrated to this member that the citizens of that State are well-represented and protected in this body.

Mr. Speaker, H.R. 1957 offers important protections for our ocean resources and for our coasts that border the oceans. As a result, I strongly urge my colleagues to support this legislation.

□ 1425

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in support of the bill, and in so doing I want to commend the chairman of the committee, Mr. JONES, the chairwoman of the subcommittee, Ms. MIKULSKI, and the respective ranking minority members, Mr. LENT and Mr. SHUMWAY, for their work on this important measure.

I would specifically like to address two provisions of the bill.

First of all, I am pleased that the text before us includes an amendment that I offered to clarify congressional intent with respect to the right of persons to sue for compensation for damages resulting from pollution.

This amendment was prompted by recent court decisions that concluded that Congress, through enactment of the MPRSA, preempted Federal common and maritime tort law in the field of ocean pollution. These decisions would prevent private parties,

such as fishermen and beachfront property owners, from seeking compensation under Federal law for damages resulting from pollution occurring as a result of noncompliance with MPRSA. This means that the owner of a vessel could intentionally dump oil or hazardous substances on top of a Cape Cod shellfish bed or in a lobstering canyon without incurring any liability under Federal law to those whose income would be lost as a result of that pollution. The amendment is based on the premise that Congress did not intend to preempt private parties from seeking compensation for pollution damage under applicable Federal law, including maritime law. The amendment would not create any new rights, but would merely restore rights that existed prior to the recent court judgments pertaining to the effect of the MPRSA.

Among the court cases involved was a recent unsuccessful effort by the Massachusetts Lobsterman's Association to recover for loss of income due to the presence of hazardous substances in New Bedford Harbor and Buzzards Bay. Despite this, my amendment is not intended to affect any particular environmental dispute or legal action. The goal is simply to restore the right of persons to recover damages under Federal common law or maritime law to the extent that right would exist if the recent court decisions had not been made.

This amendment is more limited in its intent than earlier legislative efforts to overturn one of the court decisions involved, the so-called Milwaukee II case. In that case, Illinois sought to force various Wisconsin jurisdictions to limit discharges into Lake Michigan. This amendment is, first of all, not substantively relevant to the Milwaukee situation, or to other cases involving sewage discharges from land-based facilities, because it only applies to the MPRSA. Just as significantly, the amendment would not overturn the most important findings of the Milwaukee II decision.

The amendment does not question the fact that the MPRSA preempted the right of persons to seek injunctive relief outside the scope of that law;

The amendment does not assert the right of persons to seek damages when no violation of the law has occurred; and

The amendment provides only that people who are damaged by illegal actions should have a right to seek compensation. They will not have that right in the absence of this amendment.

The amendment will not create any new legal right or cause of action. It is not offered for the purpose of affecting any specific environmental dispute or any specific legal action. The goal is simply to restore the right to recover damages under other Federal statutory or maritime law to the extent that right would exist if the courts had not interpreted congressional intent in the manner they have.

The amendment would not preempt, or affect in any other way, any rights available under State law.

Finally, the amendment would not apply to suits for damages resulting from acts of noncompliance with the MPRSA that occurred prior to the enactment of the amendment.

This is an important amendment for those in my district and elsewhere around the country who depend on marine resources for their livelihood, and I want to thank the leadership of both committees with jurisdiction over the bill for their support.

The second issue I would like to address invovles the possible designation by EPA of new ocean dumping site.

I regret the need to include this provision in the bill. We should never have arrived at a point where ocean dumping would be an environmentally preferable alternative for disposing of sewage sluge from the Boston metropolitan area, even for a limited period of time. The responsibility for this—and responsibility is a polite word for blame—rests squarely with the city of Boston and the metropolitan district commission. For years, Boston failed to act while other municipalities developed alternatives to the ocean dumping of sluge. In 1973, when the Ocean Dumping Act became law, 250 muncipalites engaged in this practice; today ther are only 9. And then there is Boston, which continues to dumpt its sluge into Boston Harbor.

Obviously, we do not have the power to alter the past. But because of this history of neglect, we must now deal with a problem that is far more difficult and expensive than it should have ever been allowed to become. The process of deduction that produced the compromise in this bill, is, I think, pretty obvious.

First and foremost, dumping sewage sludge in Boston Harbor has to stop.

Second, dumping Boston's sludge at the 106 mile site would, in my judgment, have been an acceptable short-term solution, but Mr. HOWARD and Mr. HUGHES from New Jersey have expressed a different view, and we have been constrained to accept their judgment on that point.

Third, land disposal options for Boston's sludge are on the drawing board, but State authorities do not believe they will be viable for at least 5 years.

That leaves us with the approach in this bill.

H.R. 1957, as we consider it today, directs the Administrator of EPA to designate a site for ocean disposal of sewage sludge that will be available only for permitting to the Massachusetts Water Resources Authority. This site cannot be located on Georges Bank or elsewhere on the Outer Continental Shelf or the continental slope. It will not be available beyond the end of 1991 unless the authority demonstrates that it has made, and is continuing to make, diligent efforts to develop a suitable land-based alternative and unless such an extension is consistent with any orders from the district court supervising the cleanup of Boston Harbor. Under no circumstances will EPA be allowed to designate a site for ocean dumping that does not fully meet the environmental criteria established in the Ocean Dumping Act.

It is my expectation that EPA will seek to designate a site that is in extremely deep water, that is not adjacent to significant fisheries resources, and that is characterized by currents that tend to flow away from the coast.

In adopting this legislation today, I think the intent of Congress should be clearly stated that the ocean dumping of sewage sludge is strictly a last resort; and that in the case of Boston, it is strictly a short-term solution. I am supporting this proposal because the alternative of continuing to dump sludge in the harbor is unacceptable, and because I am willing to place at least some faith in the intentions and abilities of those chosen to guide the newly created Massachusetts Water Resources Authority.

Recognizing, therefore, that what we are really doing is making the best of a bad situation, I urge the acceptance of this bill.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume for the purposes of entering into a short colloquy with the gentleman from Massachusetts [Mr. STUDDS] relative to the location of the proposed site. I will say that I share with the gentleman from Massachusetts [Mr. STUDDS] his concern regarding the establishment of new sites. Those of us from New Jersey, had a great concern relative to the overuse or potential overuse at the new 106-mile site. It was recognized when the site was proposed by EPA that there might be a certain capacity or a certain danger if the amount of spoils that were dumped, or sludge that was dumped there exceeded a certain amount. That is why those of us from New Jersey opposed the shipping of Boston's sludge there.

For the purpose of clarification, the gentleman mentioned the new site must be beyond certain limits. I wonder if it might be possible for the gentleman to describe more precisely how many miles that might be offshore, and if there are any type of limits other than those geographical or ocean-bottom characteristics which the gentleman mentioned?

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, in response to the gentleman, let me say that as he well knows, we do not pretend or purport in this bill to designate the site. That is something that is beyond our purview.

There are conditions placed upon it. As I said, it may not be on George's Bank, it may not be on the Continental Slope, and it must be well beyond both. There is also a westernmost line, the 69th parallel, put in at the request of the New Jersey delegation.

If the gentleman will yield for one further observation, let me just say again I appreciate his efforts to clarify the situation that Boston faces, not unlike that which you folks have dealt with for some time. And as is the case and was the case in previous years with your problem, it is not a question, as the gentleman well knows, of should we or should we not dump this stuff in the waters. In the case of Boston, it is going in the water and it has gone in for years, and the question is is there a less-dangerous interim solution for this than the one that is currently going on.

I thank the gentleman for his question.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. For the purpose of further clarification, I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding. I think the gentleman from Massachusetts [Mr. STUDDS] has stated this very well.

Of course, what we are all looking forward to is our calling these sites temporary sites as we move forward toward the eventual nonocean dumping period so that we may be able to find acceptable land or other places for this.

I thank the gentleman for yielding.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 1957 and urge my colleagues to approve this important measure.

As you know, the ocean disposal of municipal and industrial wastes has been the subject of considerable controversy for a number of years now. In 1977, the President signed into law legislation which I sponsored to end the ocean dumping of sewage sludge which unreasonably degraded the marine environment. Since that time, a number of municipalities have developed land-based alternatives to ocean dumping.

Despite the 1981 deadline on the ocean dumping of harmful sewage sludge, however, a handful of municipalities have continued to dispose of their wastes in the shallow waters off the New Jersey coast. Although I fully support the phaseout schedule which EPA has developed to permanently close the 12-mile site by December 1987, I strongly believe the municipalities need to develop suitable land-based alternatives. The 106-mile site should only be viewed as an interim disposal alternative and not a long-term solution to the region's waste disposal problems.

The legislation before us today is designed to address the problems resulting from ocean dumping in the mid-Atlantic area while at the same time making a number of important improvements to the Ocean Dumping Act.

In addition to closing the 12-mile site by the end of 1987, the legislation provides for the development of a "New York Bight Restoration Plan" to improve the overall water quality of the area. The plan, to be prepared by EPA and submitted to Congress within 3 years after the date of enactment, addresses the broad range of pollutant inputs into the Hudson-Raritan estuary, including industrial and municipal wastes, storm sewer overflows, urban and agricultural runoff, and upstream contaminant sources.

H.R. 1957 also makes a number of substantial changes to the Ocean Dumping Act to improve State and Federal coordination and to make certain that environmental concerns are addressed in the site designation and monitoring process. Among other things, the bill prohibits the ocean dumping of wastes from municipalities which fail to meet EPA's pre-treatment provisions, or where the Administrator finds that suitable land-based alternatives are available. The bill also prohibits the dumping of municipal wastes which fail to meet EPA's environmental criteria and provides for ocean dumping fees to recover some of EPA's costs associated with environmental assessments and compliance monitoring activities.

The legislation also addresses problems relating to the Massachusetts Water Resources Authority's need to find a short-term disposal alternative for their municipal waste. The legislation provides for the designation of an interim dumpsite in the New England area beyond the edge of the Continental Shelf and outside of George's Bank to be used for a period not to exceed 6 years while the authority develops suitable land-based alternatives. At the same time, the bill prohibits new entrants, such as Boston, from utilizing the 106-mile dumpsite.

I commend my colleague from New Jersey, as well as my colleagues, the gentlemen from Massachusetts [Mr. MOAKLEY and Mr. STUDDS], among others, for crafting this particular compromise. No one is totally happy with it, but I think it is a fair and a reasonable compromise.

Mr. Speaker, the provisions of H.R. 1957 represent more than 10 years of congressional oversight and legislative work by members of the Merchant Marine and Fisheries Committee and the Public Works Committee to develop a consistent and comprehensive ocean dumping policy. Many of the provisions in this bill were developed by the late Congressman Forsythe and myself in an effort to establish a bipartisan proposal which the members of both committees could support. I know that Congressman Forsythe would be happy to see the substantial progress which the municipalities, EPA, and Congress have made in addressing these problems.

I am grateful for the support I have received from members of the Merchant Marine and Fisheries Committee and the New York and New Jersey delegations in working to resolve the complex and controversial problems associated with ocean dumping. Congressmen TOM CARPER and JIM SAXTON have made a substantial contribution to this legislation, as has BARBARA MIKULSKI, who has provided valuable leadership as chairwoman of the Oceanography Subcommittee. Without the fine work of Chairman JIM HOWARD and BOB ROE from the Public Works Committee, this legislation would not be before us today.

I am also indebted to Chairman WALTER JONES and to Congressman NORMAN LENT, the ranking minority member on the Merchant Marine and Fisheries Committee, for their support and efforts in deveioping this comprehensive legislative reform.

I urge my colleagues to join with me in supporting this comprehensive bill.

Mr. SAXTON. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MOAKLEY].

□ 1440

Mr. MOAKLEY. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 1957, the ocean dumping amendments.

Specifically, I wish to express my appreciation to the Committee on Merchant Marine and Fisheries for its leadership in presenting the House with a balanced and environmentally responsible solution, to the controversies raised by the pending ocean dumping permit by the Massachusetts Water Resources Authority.

A few weeks ago, when there was some thought of handling this bill in the Committee of the Whole, the able gentleman from New Jersey [Mr. HOWARD] was planning to offer an amendment that would bar Massachusetts from the new "106-mile site."

The members of the Massachusetts congressional delegation are sensitive

to the concerns of our colleagues from New Jersey and we appreciate their willingness to work with us in trying to balance our concerns.

Mr. Speaker, section 6(b) of the committee substitute is the Howard amendment, which bars ocean dumping of municipal sludge at the 106-mile site by any unit of government which is not currently dumping at the 12-mile site.

Boston is under a court finding that it is in violation of the environmental quality laws and sludge is being dumped at Boston Harbor illegally. Massachusetts has applied for a permit to dump at the 106-mile site. If that permit were issued harbor discharge would be in compliance and, in the absence of this agreement, the legal authority of the court or EPA to force Massachusetts to move to a land-based disposal would be in doubt. Our delegation does not consider ocean dumping acceptable except as an emergency measure for the shortest possible duration.

We therefore consider the enactment of this agreement to be essential to assuring the dual goals of advancing the harbor cleanup and assuring that ocean dumping does not become a permanent disposal method.

Section 6(c) of the committee substitute is a provision for designation of a temporary site for use by the Massachusetts Water Resources Authority.

The authority's application for a permit to use the 106-mile site will continue, pending enactment of this legislation. It is our hope upon enactment that Massachusetts and the Environmental Protection Administration will be able to rely on much of the material developed in the current application process to weigh a permit for the Commonwealth at the temporary site.

Section 6(c) requires EPA to designate a site subject to all the environmental safeguards of the Marine Protection Research and Sanctuaries Act of 1972. It is specifically required that the site be located beyond the continental shelf and the slope. It must be outside of Georges Bank and west of 69 degrees longitude.

The designation is required to be made by the beginning of 1989. The authority can be considered for a three-year permit for that site.

The amendment ties the permit process closely to the court-ordered harbor cleanup. The authority anticipates that a land based alternative could be in place by September 1991. Therefore the amendment sets an expiration date for the first permit at the end of that year.

Only one renewal would be permitted but the renewal would have to be consistent with the court order then in effect and cannot exceed three years. The amendment requires the site to be closed at the end of its use.

The amendment authorizes not to exceed $2 million for EPA in making the site designation. The Massachusetts delegation has been particularly concerned that adequate funding be available to assure that a designation is made and that it is based on a high-quality study.

It is expected that EPA and the Coast Guard would monitor the site. EPA has authority under existing law to suspend the permit a renewal or the designation if it becomes aware of any environmental degradation.

The committee has presented a fair and balanced approach, that it environmentally sound, and I urge adoption of the pending motion.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in strong support today of the Ocean Dumping Act Amendments Act of 1985 which are before us, and I strongly urge its adoption.

For their contributions, I would like to commend our committee chairman, the gentleman from North Carolina [Mr. JONES], I would like to commend the ranking minority member, the gentleman from New York [Mr. LENT], the chairman of the Oceanography Subcommittee, the gentlewoman from Maryland [Ms. MIKULSKI], and the chairman of the Committee on Public Works, the gentleman from New Jersey [Mr. HOWARD]. I would especially like to commend my colleague from New Jersey [Mr. HUGHES] for the leadership that he has shown on this issue of ocean dumping for the last 3 years and for many years before that.

Mr. Speaker, ocean dumping is an issue which has been of great interest and concern to the Committee on Merchant Marine and Fisheries for over a decade now. And as we contemplate a new ocean-based technology to incinerate hazardous waste, we are becoming ever more dependent on a strong ocean dumping act to insure that the marine environment is protected to the maximum extent possible.

This legislation goes a long way toward ensuring that indiscriminate use of our valuable marine environment for disposal purposes is a matter of past history. The bill would prohibit the disposal of harmful municipal sewage sludges into the ocean within 18 months of enactment. It also closes the highly degraded municipal sludge dumpsite 12 miles outside of New York harbor, and restricts the use of the new deepwater dumpsite 140 miles off the New Jersey, Delaware, and Maryland coasts to existing dumpers by prohibiting the use of the deepwater site by new dumpers.

The bill also requires for the first time that dumpers offset the Federal costs of permitting, monitoring, and enforcing dumping activities. I am firmly convinced that the use of oceans for waste disposal purposes should not be subsidized by the American taxpayer. For that reason, I also added during the committee's consideration of the bill a prohibition of the use of funds authorized by this act to subsidize the move of municipal dumping from the degraded 12-mile site to the newly designated 106-mile site.

All in all, this is a much stronger bill than was passed overwhelmingly by the House last year, and I urge the support of my colleagues for this bill today.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise in strong support of H.R. 1957, a bill to amend title I of the Marine Protection, Research and Sanctuaries Act of 1972, commonly known as the Ocean Dumping Act.

This bill was referred to the Committee on Merchant Marine and Fisheries and was sequentially referred to the Committee on Public Works and Transportation for consideration of those matters within our jurisdiction. The version of the bill that is before the House today is acceptable to both committees and is substantially similar to the text of H.R. 4829 and H.R. 1761, both of which passed the House in the 98th Congress, but were not acted upon by the other body.

The Ocean Dumping Act regulates ocean dumping by authorizing the Secretary of the Army and the Administrator of the Environmental Protection Agency, to issue permits for the transportation or dumping of materials in the oceans if they determine that such dumping will not unreasonably degrade or endanger the environment.

This bill strengthens the environmental protection provided by the Ocean Dumping Act in a number of respects. For example, it adds wetlands to the list of factors to be considered when assessing the effects of ocean dumping, and it directs the EPA to take into account a number of specific environmental factors during its site designation process. It requires the EPA to periodically monitor dumping sites and to terminate or limit dumping at sites that are found to be no longer suitable. It prohibits ocean dumping permits for radiological, chemical, and biological warfare agents or for high-level radioactive wastes. It prohibits the issuance or renewal of any permit for the dumping of municipal sludge unless the responsible sewerage authority is in compliance with all the requirements of the Water Pollution Control Act relating to pretreatment and unless a suitable land-based alternative to ocean disposal is not currently available. It also directs the EPA to end the dumping of

harmful municipal sludge into ocean waters as soon as possible and at least within 18 months.

The bill contains special provisions regarding the ocean dumping of municipal sludge in the New York Bight Apex. It requires the EPA to submit to Congress a New York Bight Apex restoration plan and establishes a program for projects to improve the water quality of the New York Bight consistent with that plan. It also contains a provision that within 18 months will end the issuance or renewal of permits for the dumping of municipal sludge within the New York Bight Apex.

Mr. Speaker, I support this bill as amended. It will materially improve the protection of our environment, as I have indicated, and it also contains many provisions, which I have not enumerated, that will improve the overall efficiency of the ocean dumping programs of the Corps of Engineers and the EPA I strongly urge its adoption by the House.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], whose district is vitally affected by this legislation.

Mr. MARKEY. Mr. Speaker, I thank the committee chairman for his help and cooperation in helping us to work out this acceptable compromise for Massachusetts on this very difficult issue.

I want to compliment the other Members of the Massachusetts delegation; Mr. MOAKLEY, Mr. STUDDS, and Mr. ATKINS and all the rest of the Members who helped us, and I especially want to thank the gentleman from New Jersey [Mr. HOWARD], who has once again given us a lesson in the creative use of the legislative process to solve otherwise very sticky and ostensibly and apparently unsolvable problems; and we have come to a resolution which I believe is going to solve the problems of New Jersey and Massachusetts; and that was utimately our goal.

It will result in Massachusetts, the city of Boston, and my own town of Winthrop, being able to use an offshore site for a limited period of time to dump sludge pending the permanent construction of a facility within our own State.

This legislation gives us that kind of a solution; the gentleman from New Jersey has worked long and hard with us over the past week, and we are very, very confident that this does solve our problem as it solves New Jersey's, and there are very few times when you can come to the floor and know that all problems have been solved; two States have been able to resolve issues, and it is only through his hard work that it has been possible.

So I want to compliment him, the chairman of the full committee, Mr. DONNELLY, and all who have played a role in this, because it has in fact been a cooperative effort, and I thank the Chair for his indulgence.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. I thank the chairman for yielding me this time. I rise in support of the bill.

Mr. Speaker, today, the House has under consideration H.R. 1957, the Ocean Dumping Amendments Act of 1985. This bill is similar to H.R. 4829 which passed the House in the last Congress, but was not acted on by the Senate. The bill strengthens the ocean dumping program administered by the Environmental Protection Agency and the Corps of Engineers. Chairman JONES' motion suspends the rules and makes in order a substitute that reflects an agreement between the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

H.R. 1957, as considered in the House today, contains a provision requiring the EPA Administrator to designate a deepsea site for the temporary dumping of municipal sludge by the Massachusetts Water Resources Authority [MWRA]. The language in the legislation specifies that the new site shall be designated before January 1, 1989. The Administrator shall take such lawful actions as may be necessary to expedite the designation of the site within that timeframe. This site designation and subsequent permit for the dumping of municipal sludge by the MWRA is intended to serve as only a temporary disposal method until permanent, land-based facilities are in place for long-term sludge management. Massachusetts is under court order to have permanent, land-based sludge management in place and operational by September 1991. The well-crafted language of the bill's provision on the designation of this new deepsea sludge dumping site makes it abundantly clear that the permit for MWRA use of the new site will only be considered for extension if the EPA Administrator determines that the authority has made, and is continuing to make, diligent efforts to implement a suitable land-based alternative for sludge disposal.

Mr. Speaker, the carefully crafted compromise language before us today is responsive to a number of legitimate concerns. By prohibiting new entrants into the existing 106-mile site, we respond to the concerns of the residents of New Jersey who fear that the 106-mile site off their coastline will become a permanent and expanded dumpsite. Their concerns have been ably voiced by their Representatives, our friends from New Jersey.

The compromise language is environmentally responsive. Ocean dumping should not be seen as a permanent sludge disposal method. Massachusetts, under the auspices of the newly-empowered water resources authority, has begun the arduous but essential undertaking of cleaning up Boston Harbor. Under watchful guidance and monitoring by the EPA and the court, the authority has decided on the location for construction of a new, secondary wastewater treatment facility that will significantly reduce the discharge of waste into the waters of Boston Harbor. Siting of a land-based sludge management facility will require a similar degree of resolve, and capital expenditure. While progress toward meeting the deadline for activation of a land-based facility is being made, a limited permit for deepsea sludge disposal under strict environmental regulations will result in a marked improvement of water quality in Boston Harbor in the near term. The legislation is sound, it enhances the environmental goals of the act. It deserves the support of this House.

Mr. MARKEY. Mr. Speaker, I rise in support of this bill and in reluctant support of the provisions in the bill relating to the dumping of Boston Harbor sludge. This agreement has been reached after much negotiation among the Massachusetts delegation and with the gentleman from New Jersey [Mr. HOWARD], and although I wish the extraordinary action of designating a new ocean dumping site was not necessary, I recognize the problems facing Members and I am confident that this compromise enables the cleanup of Boston Harbor to move forward without threatening the ocean environment.

I commend the gentleman from New Jersey for his good humor in this process, and I also want to recognize my colleague from Massachusetts, JOE MOAKLEY, for his efforts in trying to reach an agreeable resolution to this problem.

This compromise accomplishes two very important goals: First, it gives the Massachusetts Water Resource Authority an interim site to dump the sludge that will be created when they begin to clean up Boston Harbor. Second, it makes sure that the authority sticks to a realistic schedule to get out of the ocean as quickly as possible and into a final sludge management facility.

This compromise does not tie the hands of the authority. Rather, it merely reinforces the position of the court that the authority must stick to a firm schedule to end ocean dumping as soon as it is feasible to do so. If for some reason, that schedule changes, and all of the parties closest to this matter think that an ocean dumping extension is necessary, then this compromise gives the authority needed flexibility to continue dumping only for as long as absolutely necessary.

I think this compromise is the best that we could do given the circumstances. I thank the gentleman from New Jersey and the chairman of the Merchant Marines Committee for their patience in this proc-

ess, and I urge the House to approve this important proenvironment, pro-ocean bill.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 1957, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1450

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1957, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DIRECTING ARCHITECT OF THE CAPITOL TO CONSTRUCT A BUILDING ON CAPITOL GROUNDS FOR THE JUDICIAL BRANCH

Mr. YOUNG of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2416) to direct the Architect of the Capitol to construct a building on the U.S. Capitol Grounds to provide office space for the judicial branch of the Federal Government, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF CONSTRUCTION OF OFFICE BUILDING.

(a) REQUIREMENT FOR JOINT STUDY.—The Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, shall jointly study alternatives for the construction on squares 721 and 722, bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast, in the District of Columbia, of a building or buildings to meet the current and future needs of the administrative office of the United States Courts, the Federal Judicial Center, and other judicial functions and such other commercial, governmental, cultural, educational, and recreational activities which the Architect and the Secretary determine may appropriately be located in such building or buildings. Such building or buildings shall complement the areas surrounding such squares and fulfill the goals of mixed use in the Public Buildings Cooperative Use Act of 1976.

(b) ELEMENTS OF STUDY.—The study under subsection (a) shall include—

(1) a study of alternative sizes and designs for such building or buildings and the estimated cost of each such alternative necessary to meet the current and future needs referred to in subsection (a);

(2) an analysis of other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings;

(3) an analysis of methods of providing security, utility, fire, and other related services for such building or buildings and allocating the cost of providing such services among the occupants of such building or buildings;

(4) an analysis of methods for financing and constructing such building or buildings in the most feasible and economical manner; and

(5) an analysis of methods of financing the construction of such building or buildings, including methods to minimize or eliminate initial capital investment by the United States through the use of public-private partnerships or nongovernmental sources of financing such construction.

(c) REPORT.—Not later than August 15, 1986, the Architect of the Capitol and the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the size and design of such building or buildings and methods of financing the construction of such building or buildings.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Architect of the Capitol $2,000,000 for fiscal year 1986 to carry out this Act. From funds appropriated to carry out this Act, the Architect shall make available to the Secretary of Transportation such amounts as may be necessary for the Secretary to carry out the Secretary's functions under this Act. Funds appropriated to carry out this Act shall remain available until expended.

Amend the title so as to read: "A bill to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SHAW. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. YOUNG] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri, [Mr. YOUNG].

Mr. YOUNG of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2416, as amended by the committee substitute, which the Committee on Public Works and Transportation brings before the House today is very sound legislation which directs the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for the construction of a building or buildings necessary to meet the current and future needs of the administrative office of the United States Courts, the Federal Judicial Center and other judicial functions on property located on a portion of the U.S. Capitol Grounds bounded by F Street, Second Street, Massachusetts Avenue, and Columbia Plaza, Northeast, in the District of Columbia which is immediately to the east of Union Station. The legislation directs the Architect of the Capitol and the Secretary of Transportation to report back to Congress no later than August 15, 1986, on the results of the study, together with recommendations concerning the size and design of such construction and methods of financing the construction. There is authorized to be appropriated to the Architect of the Capitol $2 million to carry out the study which will be comprehensive and shall address among other factors the potential for commercial, governmental, cultural, and recreational activities which may appropriately be located in the building or buildings; and an analysis of methods of financing the construction of a building or buildings, including methods to minimize or eliminate the initial capital investment by the United States through the use of public-private partnerships or nongovernmental sources of financing the construction.

Mr. Speaker, for more than a decade, the Chief Justice of the United States has sought to consolidate the judiciary's administrative activities in a single location in close proximity to the Supreme Court. Currently the administrative office of the U.S. Courts, which administer funding, budget accounting, and other details of judicial administration, be located at five different locations, and the Federal Judicial Center, the research and development arm of the Federal judiciary, is located at three different locations in the Washington, DC, metropolitan area. Although both of these judicial activities have less than 750 employees between them, the geographical disbursal severely hampers, on a daily basis, the efficiency and effectiveness of both agencies. The Judicial Conference of the United States has expressed concern that having these eight separate locations creates a major obstacle to the achievement of productivity and an undesirable hindrance to the necessary oversight required of the Chief Justice. In this regard, last year, the Judicial Conference of the United States unanimously approved a resolu-

tion endorsing the construction of a judicial branch building on the Capitol Grounds. In addition, the master plan for the U.S. Capitol Grounds of 1981 envisions the construction of a judicial branch building adjacent to Union Station on Squares 721 and 722 in the District of Columbia, properly which is part of Capitol Grounds. Currently, the judicial branch is assessed approximately $3 million annually by the General Services Administration for approximately 200,000 square feet of space. However, that figure is projected to increase to approximately $5 million annually for the same amount of space due to escalating lease costs.

Accordingly, Mr. Speaker, H.R. 2416 as originally reported by the House Committee of Public Works and Transportation proposed the construction of a building to house the administrative offices of the judiciary on the Capitol Grounds property immediately east of Union Station at a cost of $70.5 million. However, subsequent to bringing the legislation to the House for consideration, considerable interest was expressed by the private sector suggesting that development of the property located on squares 721 and 722 in the District of Columbia, could be carried out by a public-private partnership with nonpublic sources financing all for a portion of the structure or structures.

Mr. Speaker, in order to fully explore all options available for the development and financing of the Capitol Grounds property located adjacent to Union Station, I strongly recommend the House pass H.R. 2416 which will allow for this opportunity when the report prepared under the direction of the Architect of the Capitol and the Secretary of Transportation is transmitted to the Congress on August 15, 1986.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, along with the gentleman from Missouri [Mr. YOUNG], I rise in support of this legislation which will provide the desperately needed first step to finding a long-term solution to the housing needs of the Federal judiciary.

This bill, as it will soon be amended by the committee, will provide for analysis of various methods of financing the construction of a new facility for the administrative office of the courts and related agencies in conjunction with the economic revitalization of Union Station through private development.

Earlier this year, the General Services Administration proposed the lease consolidation of the courts which was the impetus behind the committee efforts to find a long-term, cost-effective solution for the space requirements of the courts.

The GSA proposal would have satisfied the current needs of the courts but at a 10-year cost which could have run as high as $51 million.

Contrast this with the fact that the estimated cost of constructing a brand-new building which would meet the current and future space needs of the courts is $70 million.

So, I think it is clear that leasing is not the way to proceed which is why we are here today.

As originally introduced, H.R. 2416 directs the Architect to construct a new courts building on land adjacent to Union Station and authorizes $70.5 million for this purpose.

However, in light of current fiscal pressures and the expression of interest by private developers to make mixed use of this building site and as part of that use construct a facility for the courts at little or no cost, the committee feels a more thorough evaluation of alternative financing methods should be undertaken prior to the initiation of this project.

Accordingly, the committee plans to offer a substitute for H.R. 2416 so this might be accomplished.

The substitute directs the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to jointly study alternatives for constructing a building or buildings adjacent to Union Station to meet the current and future needs of the judicial branch.

The Architect and the Secretary must, by August 15, 1986, submit a report to Congress on the results of the study, along with recommendations on the size and design of the building and the methods of financing its construction.

The proposed structure would both complement the redevelopment of Union Station already underway and permit consolidation of the Administrative Office of the United States Courts and related activities. Currently, those offices are scattered throughout eight locations in Washington.

In addition to meeting the needs of the courts, the building might house offices to be rented or leased to other agencies or non-Federal groups, in line with the goals of the Public Buildings Cooperative Use Act of 1976.

The report to be filed with Congress is expected to contain the findings of a study of alternative sizes and designs for the proposed building and the estimated cost of each alternative.

It will also contain an analysis of other commercial, governmental, cultural, educational, and recreational activities that may be located in the building.

The study will contain specific recommendations as to the most feasible and economical methods that might be used to finance the building. That could involve a public-private partnership to construct the building. Nonpublic sources could, thus, finance all or part of the project.

The substitute also provides a 1-year extension of the authorities now vested in the Marshal Service to protect the Supreme Court Justices, personnel, and official guests on and off the Supreme Court grounds.

I believe that with approval of the amendment in the nature of a substitute, we will have a bill that will meet the clearly documented needs of the judiciary, complement the authorized redevelopment of Union Station, and utilize the proposed new structure to the maximum extent for the benefit of the Government and the taxpayers of this Nation.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, is there going to be anything in this study that would have a look taken at whether or not by eliminating the Davis-Bacon regulations we could reduce the cost of such construction, either in a public-financed project or in a public/private mix?

Mr. SHAW. No, there is no specific recommendation as to that. However, it does provide that there could be private construction involved, and I am not sure that even with the Federal ownership of that property, I do not think the Davis-Bacon in that instance would apply to such construction. However, I will want to ask another authority to be sure on that, whether or not I am right.

Mr. WALKER. There is nothing in that legislation that would prevent the study from including some language or some research into whether or not Davis-Bacon savings could be achieved here?

Mr. SHAW. I believe I could indirectly address that particular question. The legislation itself does not specifically address Davis-Bacon, or even refer to it. However, various alternatives of construction financing are considered, so I would guess that if the individual involved wished to address that, they could.

Mr. WALKER. Well, the gentleman is aware that there are considerable costs associated with Davis-Bacon. And it seems to me, as we look toward major new construction, that we may have to authorize in the future that a study that is aimed at doing something about that should include at least a look at how we save that money. What I am trying to determine here is whether or not there is anything at all in the legislation that would prevent the study commission

from looking into the option of saving money by not having Davis-Bacon imposed on this project.

Mr. SHAW. Well, if I might address just one paragraph of the bill itself, which I suppose you can interpret that way if you wish to, and I am sure that people doing this study could interpret it this way, which provides "an analysis of the methods for financing and constructing such building or buildings in the most feasible and economic manner."

Now, I am sure the gentleman, knowing his position with regard to Davis-Bacon, would think that that would instruct them to also take a look at that. However, it is my opinion that the analysis of the bill does not require that, and if they want to address it, they could.

Mr. WALKER. If the gentleman would yield further, it does not require them to do so, but it would be the gentleman's interpretation of that language that they would be permitted to do so?

Mr. SHAW. I think they would certainly be permitted.

Mr. WALKER. Would that be the chairman's understanding of that language, too, that the study could include a look at the possibility of Davis-Bacon provisions being eliminated for this construction so as to reduce costs?

Mr. SHAW. I would yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. I do not think I have the time. Would the gentleman restate the question?

Mr. WALKER. Well, the gentleman from Florida has just referred to language in the bill that would seem to give the study commission an opportunity to look at various ways of financing that would be in the best interests of the taxpayer.

□ 1505

My question is whether or not that language would permit the study commission to look at the option of eliminating Davis-Bacon as one of the things that could be done in order to save costs in the program.

Mr. YOUNG of Missouri. It would be my impression that the possibility would exist that the study could come up with that sort of recommendation.

Mr. WALKER. So if I understand correctly, it is the chairman's interpretation and the ranking minority Member's interpretation that that particular option is open to this commission upon its recommendation to the Congress.

Mr. YOUNG of Missouri. That would be my impression.

Mr. SHAW. I would say to the gentleman from Pennsylvania that this document that we are considering gives the study extremely wide latitude. It allows them to go in and look at other uses. They might look at uses in conjunction with a hotel, they might look at uses in conjunction with a private office building. The bill does address those types of questions, and it also leaves completely open the whole question of financing. I see no reason why it cannot look at it as to whether it is built in the private sector, which does not have to answer to Davis-Bacon, or whether it be done as a Federal project. As the gentleman knows, it is much more expensive, in most instances, for the Federal Government to build these buildings than it is the private sector.

Mr. WALKER. I thank the gentleman.

Mr. SNYDER. Mr. Speaker, I rise in support of H.R. 2416, which would enable the judicial branch to eventually consolidate its currently fragmented activities in a single facility to be located adjacent to Union Station.

The activities to be consolidated include the Administrative Office of the Court, Federal Judicial Center, headquarters of the Judicial Conference of the United States, and satellite groups such as the offices of the Clerks of the Judicial Panel on Multidistrict Litigation and the Board of Certification for Circuit Executives. Space would also be needed to provide chambers for retired Supreme Court Justices and storage space for the clerk of the Supreme Court.

At the present time the Administrative Office of the Court and its 635 employees and the Federal Judicial Center and its 122 employees are scattered among eight buildings in Washington. Many of these offices are miles from the Supreme Court, and in fact, the judicial branch printing and storage facility is located in Forestville, MD.

The situation hampers the efficiency and effectiveness of these agencies, a fact that has not been lost on either the Judicial Conference of the United States or the Chief Justice. Only last year, the Conference unanimously approved a resolution endorsing the construction of a judicial branch building on the Capitol Grounds.

Chief Justice Warren Burger has personally advised me of his concern over the difficulties of having the Court's administrative operations housed in nine different buildings. He is pleased that we may be on the way to a solution of locating all of the judiciary's staff under one roof.

Actually, the Administrative Office of the Courts had been located in the Supreme Court Building until the 1950's when the need for additional space forced it to move and disperse to several new locations.

The Administrative Office, Federal Judicial Center, and Judicial Panel on Multidistrict Litigation now occupy 193,000 square feet of space.

Earlier this year, the Public Works and Transportation Committee rejected a prospectus submitted by the General Services Administration which proposed a partial consolidation, housing four organizations of the judiciary in 172,572 square feet of leased space. The estimated cost of the lease arrangement over a 10-year period was $51.7 million.

The committee correctly concluded that in view of the leasing costs associated with the proposed consolidation, substantial savings would be achieved over the next decade and beyond if the judiciary were to have its own building.

Moreover, the master plan for the U.S. Capitol recommends construction of a Federal structure on square 721, east of Union Station for use by the Administrative Office of the Courts.

Earlier this year, the committee drafted and reported H.R. 2416, which directed the Architect of the Capitol, in consultation with the Chief Justice of the United States, to construct an office building for the judicial branch on the Capitol Grounds near Union Station, and it authorized $70.5 million for that purpose.

Since our committee's action, however, the Senate has passed S. 1706, as reported by the Environment and Public Works Committee. While it shares our purpose of providing a facility for the judiciary adjacent to Union Station, the bill does not authorize outright construction. Rather, it provides $2 million for the Architect of the Capitol to conduct a three-stage design process, in concert with the Union Station Development Corporation, and to file a report with Congress by August 15, 1986. Under the Senate language, the Architect and the Corporation would study alternatives for the size, design and estimated cost of a building or buildings on the Union Station site.

In light of current fiscal pressures and the urgent need to come to grips with mounting budget deficits, the committee feels that other financing alternatives should be evaluated prior to the full and direct authorization of funds for this project.

Accordingly, a committee amendment in the nature of a substitute will be offered today that will expand somewhat on the Senate's provision for a study of alternatives for construction of a building for the Court at the Union Station site and bring the Department of Transportation into the process, since that Department has the responsibility for the renewal of Union Station and the option on use of squares 721 and 722.

The housing needs of the Federal judiciary are great, and favorable action on this legislation would be an important step toward addressing those needs. It would also be an important addition to the ongoing redevelopment of Union Station and to the sound development of the nothern edge of the U.S. Capitol Grounds.

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 2416, as amended, which directs the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for the construction of a building or buildings on Capitol Grounds property which is located on F Street, Second Street, Massachusetts Avenue, and Columbia Plaza, Northeast, in the District of Columbia to meet the current and future needs of the Administrative

Office of the United States Courts, the Federal Judicial Center and such other commercial, cultural and recreational activities which may appropriately be located in the building or buildings. In addition to addressing the appropriate use of squares 721 and 722 which is adjacent to Union Station, the report shall address various methods of financing the construction of the building or buildings, including methods to minimize or eliminate initial capital investment by the United States through the use of public-private partnerships. There is authorized to be appropriated to the Architect of the Capitol $2 million necessary to carry out the study and a report is due back to the Congress by August 15, 1986.

Mr. Speaker, the Administrative Office of the Courts and the Federal Judicial Center are currently splintered into eight different locations in the Washington, DC metropolitan area. Due to this dispersal, their work product is hampered on a daily basis. The Judicial Conference of the United States has approved a resolution endorsing construction of a judicial branch building in close proximity to the Supreme Court and the master plan of the U.S. Capitol Grounds of 1981 identified a building on this particular property for use by the judicial branch.

Mr. Speaker, I urge adoption of H.R. 2416 which will provide Congress with the information necessary to formulate a decision regarding future use of this property adjacent to Union Station. This property is currently utilized for parking and development of it in a manner which would complement the surrounding areas should be addressed in a very careful, informative manner.

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Missouri. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). The question is on the motion offered by the gentleman from Missouri [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 2416, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes."

A motion to reconsider was laid on the table.

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1706) to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, DC, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 116, subtitle B, of the National Visitors Center Facilities Act of 1968, as amended by Public Law 97-125, the Architect of the Capital shall, by August 15, 1986, file a report, with recommendations, to the Committees on Appropriations and Environment and Public Works of the Senate, and the Committees on Appropriations and Public Works and Transportation of the House of Representatives for the construction on squares 721 and 722 in the District of Columbia of a building or buildings for the use of the administrative office of the U.S. Courts, the Federal Judicial Center, and other judicial functions (hereinafter referred to as the "administrative agencies of the Federal judiciary").

(b) In the report authorized by this section, the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation (hereinafter referred to as the "Corporation"), shall:

(1) study alternatives for the size, design, and estimated cost of constructing a building or buildings on squares 721 and 722 to meet the current and future needs of the administrative agencies of the Federal judiciary, together with such other commercial, governmental, cultural, educational, and recreational activities as may appropriately occupy such building or buildings in a manner that benefits the United States;

(2) seek to utilize squares 721 and 722 in a manner that complements the surrounding area, fulfills the goals of mixed use contained in the Public Building Cooperative Use Act (Public Law 94-541), and is not inconsistent with either the master plan for the U.S. Capitol or the intent of section 116 of Public Law 97-125; and

(3) make specific recommendations on the most feasible and most economical methods for financing and constructing such building or buildings in the shortest possible time.

(c) As studies warrant, the Architect of the Capitol shall file interim reports under this Act with the committees of the Congress specified in subsection (a) of this section.

SEC. 2. (a) In preparing the report required by section 1 of this Act, the Architect of the Capitol shall, as soon as possible, contract with the Corporation to:

(1) develop a program of space utilization that will accommodate the current and future needs of the administrative agencies of the Federal judiciary and provide for the renting, leasing, or use of any space not needed immediately by the administrative agencies of the Federal judiciary: *Provided,* That no space in the building or buildings shall be rented or leased to anyone having business before, or whose business would be incompatible with the mission of, the administrative agencies of the Federal judiciary; and

(2) develop a plan that will be compatible with the authorized redevelopment of Union Station and with other developments in the vicinity, including residential neighborhoods.

(b) In cooperation with the Corporation, the Architect of the Capitol shall devise and undertake a limited and selected competition to choose an architect for such building or buildings, based on the excellence of design.

(c) In cooperation with the Architect of the Capitol, the Corporation shall—

(1) recommend ways that will minimize or eliminate the initial capital investment in such project by the United States through the use, when appropriate, of a public-private partnership to finance and construct such project, and

(2) solicit proposals from nongovernmental sources to finance and construct such project in accord with paragraph (1) of this subsection: *Provided, however,* That such property remains in the ownership of the United States.

SEC. 3. For the purposes of this Act, the sum of $2,000,000 is authorized to be appropriated to the Architect of the Capitol in the fiscal year ending September 30, 1986, such sum to remain available until expended.

MOTION OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Missouri moves to strike out all after the enacting clause of the Senate bill, S. 1706, and to insert in lieu thereof the provisions contained in the bill, H.R. 2416, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2416) was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FARM CREDIT AMENDMENTS ACT OF 1985

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and pass-

ing the Senate bill, S. 1884, as amended, on which further proceedings were postponed earlier today.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the Senate bill, S. 1884, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry. I thought the Chair had previously agreed to give a rollcall vote on this.

The SPEAKER pro tempore. That is not correct. The yeas and nays were not ordered after the debate. An objection has now been made that a quorum is not present.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 32, not voting 9, as follows:

[Roll No. 442]

YEAS—393

Ackerman	Carney	Eckert (NY)
Addabbo	Carper	Edgar
Akaka	Carr	Edwards (CA)
Alexander	Chandler	Edwards (OK)
Andrews	Chapman	Emerson
Annunzio	Chappell	English
Anthony	Cheney	Erdreich
Applegate	Clay	Evans (IA)
Aspin	Clinger	Evans (IL)
Atkins	Coats	Fascell
AuCoin	Cobey	Fazio
Badham	Coble	Feighan
Barnard	Coelho	Fiedler
Barnes	Coleman (MO)	Fields
Bartlett	Coleman (TX)	Fish
Barton	Collins	Flippo
Bateman	Combest	Florio
Bedell	Conte	Foglietta
Beilenson	Cooper	Foley
Bennett	Coughlin	Ford (MI)
Bentley	Courter	Ford (TN)
Bereuter	Coyne	Fowler
Berman	Craig	Franklin
Bevill	Crockett	Frenzel
Biaggi	Daniel	Frost
Billrakis	Darden	Fuqua
Bliley	Daub	Gallo
Boehlert	Davis	Garcia
Boggs	de la Garza	Gaydos
Bonior (MI)	Dellums	Gejdenson
Bonker	Derrick	Gekas
Borski	DeWine	Gephardt
Bosco	Dicks	Gibbons
Boucher	Dingell	Gilman
Boulter	DioGuardi	Gingrich
Boxer	Dixon	Glickman
Breaux	Donnelly	Gonzalez
Brown (CA)	Dorgan (ND)	Goodling
Brown (CO)	Dornan (CA)	Gordon
Broyhill	Dowdy	Gradison
Bruce	Downey	Gray (IL)
Bryant	Duncan	Gray (PA)
Burton (CA)	Durbin	Green
Burton (IN)	Dwyer	Grotberg
Bustamante	Dymally	Guarini
Byron	Dyson	Gunderson
Callahan	Early	Hall (OH)
Campbell	Eckart (OH)	Hamilton
Hammerschmidt	McDade	Sensenbrenner
Hansen	McEwen	Sharp
Hartnett	McGrath	Shaw
Hatcher	McHugh	Shelby
Hawkins	McKernan	Shumway
Hayes	McMillan	Shuster
Hefner	Meyers	Sikorski
Heftel	Mica	Siljander
Hendon	Michel	Sisisky
Henry	Mikulski	Skeen
Hertel	Miller (CA)	Skelton
Hiler	Miller (WA)	Slattery
Hillis	Mineta	Slaughter
Holt	Mitchell	Smith (FL)
Hopkins	Moakley	Smith (IA)
Howard	Molinari	Smith (NE)
Hoyer	Mollohan	Smith (NJ)
Hubbard	Monson	Smith, Denny (OR)
Huckaby	Montgomery	
Hughes	Moody	Smith, Robert (OR)
Hunter	Moore	
Hutto	Moorhead	Snowe
Hyde	Morrison (WA)	Snyder
Ireland	Mrazek	Solarz
Jacobs	Murphy	Solomon
Jeffords	Murtha	Spence
Jenkins	Myers	Spratt
Jones (NC)	Natcher	St Germain
Jones (OK)	Nichols	Staggers
Jones (TN)	Nielson	Stallings
Kanjorski	Nowak	Stangeland
Kaptur	O'Brien	Stenholm
Kasich	Oakar	Stokes
Kastenmeier	Oberstar	Strang
Kemp	Obey	Stratton
Kennelly	Olin	Studds
Kildee	Ortiz	Stump
Kindness	Owens	Sundquist
Kleczka	Oxley	Sweeney
Kolbe	Packard	Swift
Kolter	Panetta	Swindall
Kostmayer	Parris	Synar
Kramer	Pashayan	Tallon
Lagomarsino	Pease	Tauke
Lantos	Penny	Tauzin
Latta	Pepper	Taylor
Leach (IA)	Perkins	Thomas (CA)
Leath (TX)	Petri	Thomas (GA)
Lehman (CA)	Pickle	Torres
Lehman (FL)	Pursell	Torricelli
Leland	Quillen	Towns
Lent	Rahall	Traficant
Levin (MI)	Rangel	Traxler
Lewis (CA)	Ray	Udall
Lewis (FL)	Regula	Valentine
Lightfoot	Reid	Vander Jagt
Lipinski	Richardson	Vento
Livingston	Ridge	Visclosky
Lloyd	Rinaldo	Volkmer
Loeffler	Roberts	Vucanovich
Long	Robinson	Walgren
Lott	Rodino	Watkins
Lowery (CA)	Roe	Waxman
Lowry (WA)	Roemer	Weaver
Lujan	Rogers	Weiss
Luken	Rose	Wheat
Lundine	Rostenkowski	Whitehurst
Lungren	Roth	Whitley
Mack	Roukema	Whittaker
MacKay	Rowland (CT)	Whitten
Madigan	Rowland (GA)	Wilson
Manton	Roybal	Wirth
Markey	Rudd	Wise
Marlenee	Russo	Wolf
Martin (IL)	Sabo	Wolpe
Martin (NY)	Savage	Wright
Martinez	Saxton	Wyden
Matsui	Schaefer	Wylie
Mavroules	Schneider	Yatron
Mazzoli	Schroeder	Young (AK)
McCain	Schuette	Young (FL)
McCandless	Schulze	Young (MO)
McCloskey	Schumer	Zschau
McCurdy	Selberling	

NAYS—32

Anderson	Fawell	Porter
Archer	Frank	Ritter
Armey	Gregg	Scheuer
Bates	Hall, Ralph	Smith, Robert (NH)
Broomfield	Horton	
Conyers	Johnson	Stark
Crane	LaFalce	Walker
Dannemeyer	Levine (CA)	Weber
Daschle	McCollum	Williams
DeLay	Morrison (CT)	Wortley
Dreier	Neal	Yates

NOT VOTING—9

Boland	Chappie	Miller (OH)
Boner (TN)	Dickinson	Nelson
Brooks	McKinney	Price

□ 1520

The Clerk announced the following pair:

On this vote:

Mr. Brooks and Mr. Boland for, with Mr. Nelson of Florida against.

Mr. LEVINE of California and Mr. NEAL changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3792) was laid on the table.

□ 1530

SUPERFUND AMENDMENTS OF 1985

The SPEAKER pro tempore. Pursuant to House Resolution 331 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2817.

□ 1531

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2817) to amend the Comprehensive Environmental Response Compensation, and Liability Act of 1980, and for other purposes, with Mr. HOYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, December 6, 1985, title V of the text of H.R. 3852, which is considered as an original bill for the purpose of amendment, had been considered as having been read for amendment. Pending was an amendment offered by the gentleman from Tennessee [Mr. DUNCAN], on which there are 15 minutes of debate remaining, and there are 15 minutes of debate remaining on an amendment proposed to be offered by the gentleman from New York [Mr. DOWNEY].

After the disposition of the amendments to title V, the Committee had agreed that debate on an amendment to be offered by the gentleman from Massachusetts [Mr. FRANK], adding a new title VI and all amendments thereto, would be limited to 50 minutes to be equally divided and controlled by the gentleman from Massa-

chusetts [Mr. FRANK], and a Member opposed thereto.

The gentleman from Tennessee [Mr. DUNCAN] had 7½ minutes of debate remaining on his amendment and the gentleman from New York [Mr. DOWNEY] had 7½ minutes of debate remaining in opposition.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first vote today is between the committee bill, which includes a value-added tax, and my bill, which does not include a value-added tax but which provides up to the same level of financing as the committee bill.

The second vote today will be between the bill of my distinguished colleague, the gentleman from New York [Mr. DOWNEY], and the survivor of the first vote. I will save my remarks on the second vote until that is before us.

Regarding the first vote, we should focus on the policy issues. The value-added tax is regressive, placing the highest burden on the lowest income people. The value-added tax would have a destabilizing effect. Regarding the value-added tax and its effect on business, it would be most burdensome on marginal enterprises, many of which are smaller startup businesses.

Funding a program with such a regressive tax is as yet unprecedented. If Congress adopts a value-added tax, there will be little opportunity to act against increasing the rates. Adoption of this 0.8-percent tax for Superfund will almost certainly assure that a value-added tax will become the source of funding for every important program we consider. A 20-percent tax rate is not unheard of in the European Community.

For Superfund the value-added tax would cost more to administer than it would raise. For future programs it will not cost any more, but it will almost certainly expand.

Mr. Chairman, the Duncan amendment provides the fairest method of providing sufficient resources for the Superfund Program. I certainly hope that Members will give it their support.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, there are several things wrong with the Duncan amendment.

First, it has a tax that basically no one knows how to figure it will be applied. It is based on the number of employees a firm employs; it bears little relationship those to who pollute and those who pay. One thing we have found in writing tax legislation: This is not the place to try exotic experiments.

Second, the Ducan amendment does not provide $10 billion for 5 years; it is less money than that, as will be explained in some detail by the gentleman from New Jersey [Mr. FLORIO].

We have an opportunity here to make our voice heard when my amendment comes up later, when we can kill the value-added tax and kill the Duncan tax, which frankly will not, in my opinion, raise the money, nor will it be properly applied to the people who have done the polluting.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the Duncan amendment.

The Duncan amendment is good public policy because it requires the petroleum and chemical industries to pay their fair share for hazardous waste site cleanup, but it does not tax those industries so heavily that their international competitiveness will suffer.

The petrochemical industry is one of the few industries which improves the U.S. balance of trade. But, the industry is already declining in world competitiveness. The industry's positive trade balance declined from $14 billion in 1981 to $10.3 billion in 1984. Employment in the petrochemical industry has declined 14 percent.

Yet, under the Downey amendment, chemical feedstock taxes would increase 66 percent.

The Downey amendment would hit the U.S. refining industry particularly hard; 119 of the 315 domestic refineries that were in operation at the beginning of 1981 have been shut down.

Employment in the U.S. petroleum refining industry has fallen by more than 32,000 workers between 1981 and 1984. Under the current conditions of slack demand, refiners would not be able to pass through the massive 1500 percent increase in crude oil taxes called for by the Downey amendment.

Although the Downey amendment taxes imports as well as domestic products, foreign competitors could avoid the tax by shifting to the production of downstream products. The Downey amendment attempts to tax downstream products—but, estimates are that the downstream tax will only collect $70 million. So, I have to conclude that the downstream tax will be far from effective.

And, finally, U.S. products made with petrochemical products for export will be more expensive and less competitive in the world market if Downey passes.

Now is not the time to raise petroleum taxes 1,500 percent and chemical taxes 66 percent.

If you don't want to increase our trade deficit. If you don't want the petrochemical industry to follow the path of domestic steel and automobiles—don't pass the Downey amendment. Support the Duncan alternative.

□ 1540

Mr. DOWNEY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise today in opposition to the amendment of the gentleman from Tennessee, and in strong support of the amendment offered by our colleagues, Mr. DOWNEY and Mr. FRENZEL, which would strike the value-added tax from this title and replace it with a slight increase in chemical and waste disposal taxes, and an increase in the petroleum excise tax. It is no accident that this alternative to the financing package reported by the Ways and Means Committee is supported by a broad coalition of manufacturers, labor unions, environmental groups, and taxpayer organizations, as well as the chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI himself.

The Downey-Frenzel amendment enjoys this wide range of support because it is the only proposal that meets both the essential criteria for a sound Superfund financing program: It raises the $10 billion in revenues that are required and it avoids regressive value-added taxation.

It achieves this goal by the logical approach of linking Superfund revnues with the products and practices that gave rise to the cleanup program in the first place. This, the committee proposal fails to do. The petroleum and chemical industries generate 71 percent of the Nation's hazardous waste, but they would pay only 18 percent of the value-added tax proposed in the committee bill. Under that plan, an unfair 82 percent of the value-added tax burden would fall on industries and products that are not anywhere near as directly responsible for the hazardous waste crisis facing our Nation today.

Moreover, the value-added tax of the committee bill runs directly counter to the historic doctrine—upon which Federal environmental law is grounded—that those responsible for pollution should pay for its cleanup. The broad-based value-added corporate tax simply makes no sense—either from the standpoint of tax fairness or environmental policy.

By contrast, the Downey-Frenzel amendment places the tax burden on those most directly responsible for pollution. But its approach is reasonable. Contrary to the claims of some, the Downey-Frenzel amendment is in fact sensitive to the competitive problems facing the petrochemical industry in the international marketplace. While the proposal slightly increases

the chemical feedstock tax rates, they remain much lower than the rates approved by the House in last year's superfund proposal and should have a minimal impact on the chemical industry, which has experienced a strong recovery since 1982. Moreover, chemicals produced for export are wholly exempt from the new tax, while imported raw chemicals and their derivatives are taxed.

As for the petroleum excise tax, which should be of particular concern to those of us who come from the Midwest and Northeast, its rate under Downey-Frenzel is set so low that it would add less than three-tenths of a cent to the price of a gallon of gasoline or heating oil. This would add no more than $1.50 to the annual gasoline bill of a driver averaging 10,000 miles per year at 20 miles per gallon. Such an increase can only have a negligible impact on consumers, the chemical industry, and our balance of trade.

Finally, the waste-end tax—which encourages permanent solutions to the toxics problem by making such activities as incineration and recycling tax-exempt—is also slightly increased in the Downey-Frenzel plan. The Department of the Treasury has testified, however, that the impact of a domestic waste-end tax on international trade would be "miniscule" when compared with other economic factors.

In short, the amendment offered by Mr. DOWNEY and Mr. FRENZEL today is a well thought out plan that offers a logical, consistent and fair method for financing this essential environmental program. It fully deserves the enthusiastic, bipartisan support of this body.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. HARTNETT].

Mr. HARTNETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to H.R. 2817 and the amendments thereto.

Mr. Chairman, In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund). The purpose of this legislation was to assist in the cleanup of hazardous waste sites that posed an imminent threat to the public welfare. As such, Congress authorized the expenditure of $1.6 billion over a 5-year period, expiring September 30, 1985.

Today, therefore, the House is proposing to increase funding for this program to $10 billion over the next 5 years. This would expand the funding for Superfund by approximately 700 percent. There should be no doubt that the Superfund must be increased. The hazardous waste sites of this country are not only dangerous, they are an embarrassment to a society as technologically advanced as ours. However, Congress must realize that all the ills of this country can not be cured by merely increasing funding levels. What started off as a logical proposal to increase funding for a critical governmental program, has turned into an illogical contest to see who can enact the largest fund, regardless of practicality. Recent evidence suggests that increasing funding beyond an adequate level will not accelerate the pace of cleanups. In fact, the Office of Technology Assessment states that increased spending may have little if any effect on the disposal of hazardous waste. "Iowever, you can rest assured that regardless of which funding mechanism the House approves, the creation of a $10 billion fund will result in the loss of American jobs.

Obviously, the health of the American people is the first priority of any legislation. If I believed that $10 billion would be a more functional sum to fulfill the original purpose of the Superfund legislation, I would enthusiastically support this funding level. Unfortunately, this amount is unrealistic and unbearable. Rest assured that I support increasing the Superfund and the theory that the polluter should pay, but, not at the price of American jobs. Therefore, I urge my colleagues to vote against each of the $10 billion funding alternatives offered today in order to consider a more focused and practical authorization level.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE], a member of the committee.

Mr. MOORE. Mr. Chairman, last Friday we concluded most of the debate on these important amendments. I would like to recap the issue for just a moment.

You have three ways of paying for the Superfund. The first one you are about to vote on is the Duncan amendment. I support it. I certainly support it over and above the Downey amendment, which comes after it.

The Duncan amendment recognizes that all Americans should be paying something into the Superfund because all Americans are causing the toxic waste with the consumer goods they are buying and by the 9,000 manufacturers across the country who are not in the oil, gas, and chemical industries that are creating the toxic waste. It does that by having some of this money come out of the general fund and then if that is not enough, triggering in an environmental surtax on all manufacturers at a later point.

His method, therefore, is superior to the Downey amendment. He is realizing the important point that we all have an obligation and that an industry that only causes 15 percent, and that is all the oil, gas and chemical companies cause, 15 percent of the wastes should not be paying 100 percent of the taxes, or 92 percent of the taxes, as they do under the Downey amendment.

So I would urge my colleagues to vote for the Duncan amendment. It is a far more realistic, a far more fair proposition.

The basic question is, Who is going to pay for Superfund? We all want it. Let us be fair about it and let us, all of us who are contributing to it, pay our fair share.

Mr. DOWNEY of New York. Mr. Chairman, I yield one-half minute to the gentleman from Georgia [Mr. FOWLER].

Mr. DUNCAN. Mr. Chairman, I also yield one-half minute to the gentleman.

The CHAIRMAN. The gentleman from Georgia [Mr. FOWLER] is recognized for 1 minute.

Mr. FOWLER. Mr. Chairman, I thank the gentleman from Tennessee and the gentleman from New York. I thank both my colleagues for yielding me this minute simply to defend the package of the Ways and Means Committee.

I commend the gentleman from New York [Mr. DOWNEY] and the gentleman from Tennessee [Mr. DUNCAN]. We are all on board trying to do one thing, to find a way to eliminate these poisons that are in the ground, that are in the water, and that must be cleaned up.

This debate over taxes has only one real essential. How do we do it?

Well, we have heard all the arguments about fairness. I say to you that 80 cents on $1,000 as the price we pay for operating an industrial society is a very, very cheap price tag so that we get the job done. We can spend years in litigation with oil and chemical companies. We can spend years, as we have, in pointing fingers of blame.

The manufacturers' excise tax at the level it is, a dollar for a refrigerator, $4 for a $10,000 car, will get the job done to eliminate the poisons and toxic wastes on the fairest possible basis.

Vote "no" on Duncan. Vote "no" on Downey.

The best solution is in the bill.

Mr. DUNCAN. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Ohio [Mr. LATTA].

Mr. LATTA. Mr. Chairman, at the outset, let me say that there is more involved than merely extending Superfund in this legislation. The question has to be, Are we ready to give birth to a new form of taxation, namely, VAT?

Now, if we were to ask that same question to a former Member of this House, a former chairman of the Ways and Means Committee, Mr. Al Ullman, his answer would be "no," because if there is one thing that brought his defeat, it was his sponsorship of VAT. When he went home to face the elec-

torate, they said with loud voices, "We don't want VAT."

The question is whether or not this House or whether the American people now want VAT. I say that they do not. I think we ought to consider that before we vote on this matter.

Let me say that the Downey-Frenzel approach makes the polluters pay. The question is whether or not we want all Americans to pay for what the polluters are doing.

According to the U.S. Environmental Protection Agency, three industries generate 93 percent of the toxic wastes in this country. In my judgment, these industries should bear the largest financial burden for cleaning up their wastes.

Mr. DOWNEY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I rise in opposition to the Duncan amendment and in support of the Downey amendment.

The Duncan amendment amounts to nothing more than an effort to cut the funding level contained in the bill from $10 billion to $7.7 billion. Even this inadequate amount relies on over $2.3 billion in general revenues upon the general taxpayer.

Efforts to lower the $10 billion funding level contained in the bill have repeatedly been rejected—both in the context of last year's bill and during the course of every committee's consideration of Superfund legislation this year. These efforts have been rejected because it has become clear that $10 billion is needed to begin to address the problem which lies ahead of us. The General Accounting Office, for example, tells us that Superfund's share of total cleanup costs could run as high as $39 billion. Even at the level of $10 billion for 5 more years, we are only making a downpayment on the total cleanup effort.

Supporters of the Duncan amendment may try to blur the issue of funding level by explaining in intricate detail how their amendment could conceivably result in a fully funded Superfund. The simple fact is it won't. Proposing a $2.3 billion standby tax at the discretion of an OMB which repeatedly told us that it only wants $5 billion is fairly transparent. We cannot for a moment delude ourselves into thinking that this amendment will result in a $10 billion fund.

The Duncan amendment is also a budget buster. It relies on $2.3 billion in general revenues, far more than any other proposal, and far more than the budget resolution provides. We cannot endorse an approach which puts the cleanup burden on the general taxpayer at a time when so many programs are competing for Federal budget dollars.

The Duncan amendment is worse than the committee version and the Downey amendment because it tries to make every American pay for cleaning up these sites. If we are ever to achieve satisfactory environmental protection in this country, we must make the market reflect the cost of pollution. We will never do that by forcing the costs of cleanup onto the American taxpayer. Those who are responsible for pollution should pay for it. The Duncan amendment completely violates this principle.

I urge my colleagues to oppose the Duncan amendment.

Mr. Chairman, I rise in support of one of the most important amendments we will consider today. This amendment would restore to Superfund the principle that the polluter should pay to clean up the damage he has caused. It would eliminate the regressive tax system narrowly approved by the Ways and Means Committee that not only violates this principle, but requires the average citizen to foot the bill for toxic waste cleanup.

In marathon, late night session, the Ways and Means Committee approved by one vote the imposition of a value-added tax to support Superfund. This regressive tax would be assessed on all industries regardless of their relative innocence in creating the toxic waste problems addressed by the progam. Ultimately it is a tax paid by all Americans, by all those who buy products.

This value-added tax is opposed by the administration by the environmental community and by an enormous coalition of business groups. The administration believes the tax is regressive and will damage any prospects for meaningful reform of our Tax Code. The environmental community opposes the tax because it violates the important principle that polluting industries should be forced to absorb the costs of decades of negligent waste management. Industry groups believe that the value-added tax opens the door for enormous tax increases in the years ahead, and that they should not be required to pay for cleaning up someone else's pollution.

The President has threatened to veto any Superfund bill that contains a broad-based tax proposal. This threat escalates the tax debate to a new level—approval of a broad-based tax system could jeopardize the timely reauthorization of this important program. We simply cannot afford to engage in such a game of brinkmanship over legislation as important as this bill.

The feedstock taxes in the Downey amendment are far more moderate and less burdensome than the taxes the House approved overwhelmingly last year, 323 to 33. These taxes would be imposed on industries which currently have an overall negative corporate income tax rate—according to a report by the Joint Committee on Taxation, the effective U.S. corporate income tax rate for the chemical industry was minus 17 percent in 1982.

The subcommittee I chair held hearings on the crucial issue of whether Superfund taxes will contribute to the worsening balance of trade problems now experienced by our domestic chemical industry. The clear conclusion of these hearings was that the industry's problems are not caused by Superfund—but rather by far more significant international conditions such as the value of the dollar and cheap energy prices abroad.

The Downey amendment is designed to provide fairness to our domestic chemical industry. First, it extends taxes on imported feedstocks at the same level as those produced domestically so there is no disadvantage to domestic producers. Second, it contains a new tax on imported derivatives of feedstocks to minimize any advantage of producing feedstocks and their derivatives outside the United States.

The Downey amendment represents a responsible approach to the funding of the Superfund Program. I urge my colleagues to support this important amendment.

Mr. KEMP. Mr. Chairman, I rise in opposition to the Ways and Means Superfund tax bill and the Downey-Frenzel substitute, and in support of the Duncan-Gregg substitute.

First, I strongly support reauthorization of the Superfund Program. I believe that one of our top national priorities must be to clean up these abandoned hazardous waste sites so that Americans no longer need to worry about the contents of leaking barrels near their homes or what's buried under the grassy hill their children use as a playground.

While I am not happy about each and every provision in H.R. 2817, I believe that the bill is a vast improvement over the Superfund legislation which expired at the end of September. H.R. 2817 should effectively focus the Government's resources and efforts on expeditiously cleaning up abandoned hazardous waste sites.

I do oppose the funding mechanism adopted by the Committee on Ways and Means, however. While the committee may call it by some other name, the plain fact is that the financing package creates a value-added tax that would fall disproportionately on the poor and lower income Americans.

The value-added tax is one of the most unfair and regressive forms of taxation. Because a VAT shows up as higher prices to consumers, it absorbs a larger percentage of a lower income family's earnings. A VAT especially hurts the unemployed, the elderly, and families who are trying to reach the first rung on the ladder of economic opportunity.

I also oppose the Downey-Frenzel substitute, which would dramatically increase the tax burden on the petrochemical industry

and basically require only these industries to pay for the bulk of cleanups, despite the fact that they have contributed only a small portion of wastes to these sites.

The EPA has indentified more than 4,000 businesses, industries, and government firms as contributors of waste to Superfund sites. Yet, only a dozen petrochemical companies pay alsmost 70 percent of current Superfund taxes, completely out of proportion to the level of hazardous wastes they dispose of each year. Loading the industry up with additional taxes will not get at those companies that illegally dump hazardous wastes. Such action will, however, cripple one of the most crucial industries in our country.

We all benefit from petrochemicals. While petrochemicals may be generated by a specific industry, they are used by practically every industry in this country, from auto producers to grocery manufacturers to the home furnishings industry to clothing manufacturers to cosmetic companies. I believe that it violates any sense of fairness to hold one industry responsible for the disposal methods of thousands of industries.

I do intend to vote for the Duncan-Gregg substitute. While I do not favor an environmental surcharge. I believe that Duncan-Gregg is the best alternative of the plans from which we have to choose.

I strongly feel that the cleanup of hazardous wastes should be paid for by the broadest based tax of all—the income tax. If a clean environment is one of our top naltional priorities, then we should not be afraid to use general revenues to pay for it. We all benefit from a clean environment and from the products in which petrochemicals are used.

I strongly support increased funding for the Superfund Program, which the Duncan-Gregg substitute ensures. I do have serious doubts as to whether EPA can effectively use $10 billion over the next 5 years. So I am pleased that the surcharge would not go into effect unless the additional money actually can be used to clean up hazardous waste sites.

I believe that House passage of the Duncan-Gregg substitute also will improve chances for final enactment of Superfund legislation. The other body has already gone on record as opposing a value-added tax, and I think that the Downey-Frenzel substitue will be unacceptable to them. Passage of the Duncan-Gregg substitute will enable conferees to find an acceptable mix of financing mechanisms to ensure expeditious passage of a final Superfund package.

Mr. Chairman, we need to pass a strong Superfund Program, which ensures adequate funding and strikes a balance between environmental needs and economic realities. I believe that our best chance to achieve this most important environmental goal is to approve this legislation with the Duncan-Gregg substitute tax package.

I urge my colleagues to support the Duncan-Gregg substitute and oppose the Downey-Frenzel substitute and the Ways and Means VAT tax bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Chairman announced that the noes appeard to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 74, noes 349, not voting 11, as follows:

[Roll No. 443]

AYES—74

Archer	Hansen	Rogers
Bartlett	Hendon	Rudd
Barton	Henry	Schuette
Bateman	Hiler	Schulze
Bereuter	Hillis	Shumway
Bilirakis	Hyde	Siljander
Boulter	Kemp	Smith (NE)
Broomfield	Kindness	Smith, Denny (OR)
Brown (CO)	Kramer	Smith, Robert (OR)
Broyhill	Latta	Spence
Callahan	Lewis (FL)	Strang
Campbell	Lott	Stump
Cheney	Lowery (CA)	Sundquist
Cobey	Luken	Sweeney
Coble	Lungren	Swindall
Crane	Madigan	Taylor
Dannemeyer	McCollum	Thomas (CA)
DeLay	McEwen	Traxler
DeWine	McMillan	Vander Jagt
Dornan (CA)	Michel	Walker
Duncan	Moore	Whitehurst
Fields	Moorhead	Wylie
Gekas	Oxley	
Gingrich	Pashayan	
Goodling	Quillen	
Hammerschmidt	Regula	

NOES—349

Ackerman	Chappell	Evans (IA)
Addabbo	Clay	Evans (IL)
Akaka	Clinger	Fascell
Alexander	Coats	Fawell
Anderson	Coelho	Fazio
Andrews	Coleman (MO)	Feighan
Annunzio	Coleman (TX)	Fiedler
Anthony	Collins	Fish
Applegate	Combest	Flippo
Armey	Conte	Florio
Aspin	Conyers	Foglietta
Atkins	Cooper	Foley
AuCoin	Coughlin	Ford (MI)
Badham	Courter	Ford (TN)
Barnard	Coyne	Fowler
Barnes	Craig	Frank
Bates	Crockett	Franklin
Bedell	Daniel	Frenzel
Beilenson	Darden	Frost
Bennett	Daschle	Fuqua
Bentley	Daub	Gallo
Berman	Davis	Garcia
Bevill	de la Garza	Gaydos
Biaggi	Dellums	Gejdenson
Bliley	Derrick	Gephardt
Boehlert	Dicks	Gibbons
Boggs	Dingell	Gilman
Boland	DioGuardi	Glickman
Bonior (MI)	Dixon	Gonzalez
Bonker	Donnelly	Gordon
Borski	Dorgan (ND)	Gradison
Bosco	Dowdy	Gray (IL)
Boucher	Downey	Gray (PA)
Boxer	Dreier	Green
Breaux	Durbin	Gregg
Brown (CA)	Dwyer	Grotberg
Bruce	Dymally	Guarini
Bryant	Dyson	Gunderson
Burton (CA)	Early	Hall (OH)
Burton (IN)	Eckart (OH)	Hall, Ralph
Bustamante	Eckert (NY)	Hamilton
Byron	Edgar	Hartnett
Carney	Edwards (CA)	Hatcher
Carper	Edwards (OK)	Hawkins
Carr	Emerson	Hayes
Chandler	English	Hefner
Chapman	Erdreich	Heftel
Hertel	Miller (CA)	Sharp
Holt	Miller (WA)	Shaw
Hopkins	Mineta	Shelby
Horton	Mitchell	Shuster
Howard	Moakley	Sikorski
Hoyer	Molinari	Sisisky
Hubbard	Mollohan	Skeen
Huckaby	Monson	Skelton
Hughes	Montgomery	Slattery
Hutto	Moody	Slaughter
Ireland	Morrison (CT)	Smith (FL)
Jacobs	Morrison (WA)	Smith (IA)
Jeffords	Mrazek	Smith (NJ)
Jenkins	Murphy	Smith, Robert (NH)
Johnson	Murtha	Snowe
Jones (NC)	Myers	Snyder
Jones (OK)	Natcher	Solarz
Jones (TN)	Neal	Solomon
Kanjorski	Nichols	Spratt
Kaptur	Nielson	St Germain
Kastenmeier	Nowak	Staggers
Kennelly	O'Brien	Stallings
Kildee	Oakar	Stangeland
Kleczka	Oberstar	Stark
Kolbe	Obey	Stenholm
Kolter	Olin	Stokes
Kostmayer	Ortiz	Stratton
LaFalce	Owens	Studds
Lagomarsino	Packard	Swift
Lantos	Panetta	Synar
Leach (IA)	Parris	Tallon
Leath (TX)	Pease	Tauke
Lehman (CA)	Penny	Tauzin
Lehman (FL)	Pepper	Thomas (GA)
Leland	Perkins	Torres
Lent	Petri	Torricelli
Levin (MI)	Pickle	Towns
Levine (CA)	Porter	Traficant
Lewis (CA)	Pursell	Udall
Lightfoot	Rahall	Valentine
Lipinski	Rangel	Vento
Livingston	Ray	Visclosky
Lloyd	Reid	Volkmer
Loeffler	Richardson	Vucanovich
Long	Ridge	Walgren
Lowry (WA)	Rinaldo	Watkins
Lujan	Ritter	Waxman
Lundine	Roberts	Weaver
Mack	Robinson	Weiss
MacKay	Rodino	Wheat
Manton	Roe	Whitley
Markey	Roemer	Whittaker
Marlenee	Rose	Whitten
Martin (IL)	Rostenkowski	Williams
Martin (NY)	Roth	Wilson
Martinez	Roukema	Wirth
Matsui	Rowland (CT)	Wise
Mavroules	Rowland (GA)	Wolf
Mazzoli	Roybal	Wolpe
McCain	Russo	Wortley
McCandless	Sabo	Wright
McCloskey	Savage	Wyden
McCurdy	Saxton	Yates
McDade	Schaefer	Yatron
McGrath	Scheuer	Young (AK)
McHugh	Schneider	Young (FL)
McKernan	Schroeder	Young (MO)
Meyers	Schumer	Zschau
Mica	Seiberling	
Mikulski	Sensenbrenner	

NOT VOTING—11

Boner (TN)	Hunter	Nelson
Brooks	Kasich	Price
Chappie	McKinney	Weber
Dickinson	Miller (OH)	

□ 1605

Mrs. LONG, Mr. BURTON of Indiana, and Mr. SOLOMON changed their votes from "aye" to "no."

Messrs. MADIGAN, BURTON of Indiana, STUMP, and BOULTER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DOWNEY OF NEW YORK

Mr. DOWNEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Downey of New York: Strike out title V of the bill and insert in lieu thereof the following:

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1985".

PART I—SUPERFUND AND ITS REVENUE SOURCES

SEC. 511. EXTENSION OF ENVIRONMENTAL TAXES.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1954 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 512. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "11.9 cents".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 513. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; LEAD ADDED AS TAXABLE CHEMICAL.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment) is the following amount per ton:
Organic substances:	
Acetylene	$6.25
Benzene	6.25
Butadiene	6.25
Butane	5.54
Butylene	6.25
Ethylene	6.25
Methane	3.44
Napthalene	6.25
Propylene	6.25
Toluene	6.25
Xylene	11.19
Inorganic substances:	
Ammonia	4.20
Antimony	6.25
Antimony trioxide	6.25
Arsenic	6.25
Arsenic trioxide	6.25
Barium sulfide	6.25
Bromine	6.25
Cadmium	6.25
Chlorine	4.03
Chromite	1.52
Chromium	6.25
Cobalt	6.25
Cupric oxide	6.25
Cupric sulfate	6.25
Cuprous oxide	6.25
Hydrochloric acid	1.24
Hydrogen fluoride	6.25
Lead	6.25
Lead oxide	6.25
Mercury	6.25
Nickel	6.25
Nitric acid	3.90
Phosphorous	6.25
Potassium dichromate	6.25
Potassium hydroxide	6.25
Sodium dichromate	6.25
Sodium hydroxide	3.72
Stannic chloride	6.25
Stannous chloride	6.25
Sulfuric acid	1.03
Zinc chloride	6.25
Zinc sulfate	6.25."

(b) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of 1/2 of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) of such Code (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) of such Code is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) EXEMPTION FOR LEAD HAVING TRANSITORY PRESENCE DURING EXTRACTING PROCESS.—Clause (i) of section 4662(b)(5)(B) of such Code (relating to substance having transitory presence during extracting process), as redesignated by paragraph (1), is amended by inserting "lead," before "lead oxide".

(3) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(4) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton."

(e) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662

of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(f) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(g) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on November 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1985.

SEC. 514. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 515. WASTE MANAGEMENT TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 (as amended by section 514 of this Act) is amended by adding after subchapter B the following new subchapter:

"Subchapter C—Hazardous Waste Management Tax

"Sec. 4671. Waste management tax.

"Sec. 4672. Exemptions; reduction of tax where prior taxable event.

"Sec. 4673. Special rules for waste water treatment, incineration, etc.

"Sec. 4674. Backup tax on generator.

"Sec. 4675. Definitions and special rules.

"SEC. 4671. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

	If the taxable event is:	
	Land disposal	Any other taxable event
"For calendar year:	The tax per ton is:	
1986	$37.00	$4.15
1987	39.00	4.15
1988	42.00	4.15
1989	44.00	4.15
1990	47.00	4.15.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

"(A) hazardous waste, see section 4675(a)(1), and

"(B) land disposal and any other taxable event, see section 4675(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit,

issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such a State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

"(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

"(A) the weight of hazardous waste involved in the later taxable event, multiplied by

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

"SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

"SEC. 4674. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"(f) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

"SEC. 4675. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disposal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms 'landfill', 'surface impoundment', 'waste pile', and 'land treatment unit' have the respective meanings given such terms in regulations prescribed by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'any other taxable event' means—

"(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter."

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter."

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by redesignating section 6708 (relating to mortgage credit certificates) as section 6709 and by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by redesignating the item relating to mortgage credit certificates as section 6709 and by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste."

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes)."

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Hazardous waste management tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) BACKUP TAX ON GENERATOR.—Section 4674 of the Internal Revenue Code of 1954 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1986.

SEC. 516. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter C the following new subchapter:

"Subchapter D—Tax on Certain Imported Substances

"Sec. 4677. Imposition of tax.
"Sec. 4678. Definitions and special rules.

"SEC. 4677. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4678. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if—

"(A) the substance is contained in the list under paragraph (3), or

"(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) INITIAL LIST OF TAXABLE SUBSTANCES.—

Cumene
Styrene
Ammonium nitrate
Nickel oxide
Isopropyl alcohol
Ethylene glycol
Vinyl chloride
Polyethylene resins, total
Polybutadiene
Styrene-butadiene, latex
Styrene-butadiene, snpf
Synthetic rubber, not containing fillers
Urea,
Ferronickel
Ferrochromium nov 3 pct
Ferrochrome ov 3 pct carbon
Unwrought nickel
Nickel waste and scrap
Wrought nickel rods and wire
Nickel powders
Phenolic resins
Polyvinylchloride resins
Polystyrene resins and copolymers
Ethyl alcohol for nonbeverage use
Methylene chloride
Polypropylene
Propylene glycol
Formaldehyde
Acetone
Propylene oxide
Polypropylene resins
Ethylene oxide
Ethylene dichloride
Cyclohexane
Isophthalic acid
Maleic anhydride
Phthalic anhydride
Ethyl methyl ketone
Chloroform
Carbon tetrachloride
Chromic acid
Hydrogen peroxide
Polystyrene homopolymer resins
Melamine
Acrylic and methacrylic acid resins
Vinyl resins
Vinyl resins, NSPF.

"(4) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) (including items listed by reason of paragraph (3)) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new item:

"Subchapter D. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 517. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1985, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, or 4677 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC. OF HAZARDOUS SUBSTANCES.—Amounts in the Superfund shall not be available for any transfer or disposal which could not be made but for section 118(d) of the Superfund Amendments of 1985, as in effect on the date of the enactment thereof.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted

under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(1) 1986, $316,600,000,
(2) 1987, $316,600,000,
(3) 1988, $316,600,000,
(4) 1989, $316,600,000, and
(5) 1990, $316,600,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(c) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on November 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 521. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 of the Internal Revenue Code of 1954 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

"(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

"(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

"(2) TERMINATION.—

"(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

"(i) September 30, 1990, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS; FUELS USED IN AVIATION.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) LIQUIDS OTHER THAN GASOLINE USED IN MOTOR VEHICLES, MOTORBOATS, OR TRAINS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.2 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(3) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Subsection (b) of section 4042 of such Code (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.2 cents a gallon.

"(3) EXCEPTION FOR FUEL TAXED UNDER SECTION 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use.

"(4) TERMINATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, AND INLAND WATERWAYS TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(3) INLAND WATERWAYS TRUST FUND.—Paragraph (1) of section 203(b) of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—

(A) TERMINATION NOT TO APPLY TO ADDITIONAL 0.2 CENT TAX.—Subsection (h) of section 6421 of such Code (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(B) REPAYMENT OF ADDITIONAL TAX FOR OFF-HIGHWAY BUSINESS USE TO APPLY ONLY TO CERTAIN VESSELS.—Subsection (e) of section

6421 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) SECTION NOT TO APPLY TO CERTAIN OFF-HIGHWAY BUSINESS USES WITH RESPECT TO THE TAX IMPOSED BY SECTION 4081(B).—This section shall not apply with respect to the tax imposed by section 4081(b) on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES, ETC.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) LIMITATION ON EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—For purposes of subparagraph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business.

"(C) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(5) Paragraph (2) of section 6416(b) of such Code is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 522. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline),

"(2) taxes received in the Treasury under section 4042 to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b), and

"(3) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34,

with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 531. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by section 511 of this Act, are each amended by striking out "of 11.9 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 11.9 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the oil spill rate for any period the excess of the aggregate amount paid by the taxpayer into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund over the amount of such payments taken into account under this subsection for all prior periods."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985, and before October 1, 1990.

"(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990."

(2) Subsection (d) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(3) Subsection (b) of section 9505 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 532. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974,

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in section 401(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under section 464 of such Act.

"(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS.—Amounts shall be available under subparagraph (A) for payments to any government only for removal costs and administrative expenses related to removal costs.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(iii) REFERENCES TO OTHER ACTS.—Any reference in any clause of subparagraph (A) to any Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART IV—STUDIES

SEC. 541. STUDY OF IMPACT OF WASTE MANAGEMENT TAX ON DOMESTIC MANUFACTURERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study on the effects of the tax imposed by section 4671 of the Internal Revenue Code of 1954 on the ability of domestic manufacturers to compete in international trade.

(b) REPORT.—Not later than July 1, 1986, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include recommendations to minimize the trade impact of such tax and there shall be considered, in making such recommendations, a waste management tax export credit, an import equalization fee, and a maximum amount of tax with respect to hazardous waste generated by economically distressed industries.

SEC. 542. STUDY OF LEAD POISONING.

(a) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works, and the Committee on Finance, of the Senate and the Committee on Energy and Commerce, and the Committee on Ways and Means, of the House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information:

(1) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(2) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(3) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead, including (but not limited to) diminution in intelligence and increases in morbidity and mortality; and

(4) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(b) EVALUATION OF SPECIFIC SITES.—Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(c) AUTHORIZATION FROM SUPERFUND.—There are authorized to be appropriated from the Hazardous Substance Superfund such sums as may be necessary to prepare and submit the report required by this section.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

SEC. 551. COORDINATION.

(a) IN GENERAL.—Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund which are not also authorized by this title,

shall have no force or effect.

(b) EXCEPTION FOR PAYMENTS FROM TRANS-ALASKA PIPELINE LIABILITY FUND.—Subsection (a) shall not apply to amounts rebated to owners of oil in accordance with section 442(a) of the Comprehensive Oil Pollution Liability and Compensation Act.

In the table of contents of the bill, strike out the items relating to title V and insert in lieu thereof the following:

Title V—Amendments of the Internal Revenue Code of 1954

Sec. 501. Short title.

PART I—SUPERFUND AND ITS REVENUE SOURCES

Sec. 511. Extension of environmental taxes.
Sec. 512. Increase in tax on petroleum.
Sec. 513. Increase in tax on certain chemicals.
Sec. 514. Repeal of post-closure tax and trust fund.
Sec. 515. Waste management tax.
Sec. 516. Tax on certain imported substances derived from taxable chemicals.
Sec. 517. Hazardous Substance Superfund.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

Sec. 521. Additional taxes on gasoline, diesel fuel, special motor fuels, fuels used in aviation, and fuels used in commercial transportation on inland waterways.
Sec. 522. Leaking Underground Storage Tank Trust Fund.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

Sec. 531. Increase in environmental tax on petroleum.
Sec. 532. Oil Spill Liability Trust Fund.

PART IV—STUDIES

Sec. 541. Study of impact of waste management tax on domestic manufacturers.
Sec. 542. Study of lead poisoning.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

Sec. 551. Coordination.

Mr. DOWNEY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to the provisions of House Resolution 331 and the unanimous-consent agreement of the committee on Friday, December 6, 1985, the gentleman from New York [Mr. DOWNEY] will be recognized for 7½ minutes and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the parliamentary situation is as follows: The amendment that the gentleman from Minnesota [Mr. FRENZEL] and I have offered will preserve the notion of the polluters-pay concept under Superfund. If our amendment is not adopted, the Ways and Means provision passed by the committee, 18 to 17, including a value-added tax, will be the House position.

That is exactly the same provision as the other body has. If we fail to adopt my amendment, Members will go on record as having supported a value-added tax. There will be no room for the House conferees to work out any other tax.

What the gentleman from Minnesota [Mr. FRENZEL] and I have attempted to do was take the lessons of last year, when a Superfund tax of about the same size passed 322 to 33. In that bill, there was a $5 billion chemical feedstock tax.

Under our proposal, there is a $2 billion chemical feedstock tax. There was a $2.7 billion crude oil tax; under our bill, there is a $3.1 billion crude oil tax.

It preserves the notion that the people who are responsible for waste, generating and polluting, will pay the cost of Superfund. That is the first most important principle.

The second equally important principle is it kills the value-added tax. If there ever was an idea whose time has not come, it is financing the problems of Superfund with a value-added tax which all consumers will pay.

Even if you thought a value-added tax was a good idea, this is a bad one. It exempts 10 million dollars' worth of business from people who do polluting. It does not exempt drugs and prosthetic devices as European VAT's do for the elderly and the poor.

It is a regressive tax and it is an enormous mistake.

Mr. DUNCAN. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York [Mr. DOWNEY] says the polluters ought to pay. Yet under his provision, he lets the chemical industry and the oil industry pay all of the tax while allowing all other industries off scot-free. This is in spite of the cold, hard facts that show virtually every manufacturing industry has been a responsible party at Superfund sites.

He increases the crude oil tax now from 0.79 a barrel to 12 cents per barrel. The Ways and Means Committee increased that tax to 3.8 cents per barrel. We made a fourfold increase, so the oil industry will still pay for plenty of the cleanup.

The gentleman from New York [Mr. DOWNEY] makes a 15-fold tax increase to oil companies. That is not fair and it abandons the principle of "the polluter should pay."

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Mr. DOWNEY of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I rise in support of the Downey-Frenzel amendment and in opposition to a national sales tax.

I'm sure you'll hear many speeches today, so let me be brief.

The value-added tax is a hidden tax, which, once enacted is here to stay. Even if the need for Superfund ceases to exist, I have no doubt that the VAT would simply continue to provide the EPA and other agencies with funding for questionable projects.

Imposition of a value added tax substitutes a "consumer pays" principle for the "polluter pays" principle which has governed Superfund since its inception.

The value added tax is a complex tax which will require a huge bureaucracy and bureaucratic budget to implement.

The VAT places the machinery in motion and greases the wheels for a national sales tax. To paraphrase Will Rogers, I've never met a sales tax I liked—and I'm sure most American's haven't, either. Just this fall, every State official in Oregon from the Governor to the local dogcatcher campaigned for a State sales tax proposal and the voters defeated it by a 4-to-1 margin.

The President will veto any Superfund bill containing a VAT should that occur, it will be even longer before resumption of Superfund revenue collections begin and even longer before sites can be cleaned up.

There is still much work for Superfund to accomplish.

Let's not saddle the bill with a provision that will delay clean up procedures.

Let's not saddle this Nation's businesses with an unfair tax.

And let's not saddle American citizens and consumers with a supertax that will be hidden in the price of all manufactured goods.

I urge my colleagues to vote for the Downey-Frenzel amendment.

Mr. DUNCAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Chairman, I rise in reluctant support of the Downey amendment and wish to explain my distaste for the tax proposals before us.

I oppose the Ways and Means broad-based value-added tax on manufacturers because in an intensively competitive global economy, such a tax will increase our competitive disadvantage in international markets, in my estimation.

Yet, the Downey-Frenzel amendment depends too heavily on feedstock taxes and will have a devastating effect on the domestic petrochemical industry, without which the United States of America cannot continue to enjoy economic growth and technological leadership in today's world and tomorrow's trade battles.

I strongly support the imposition of a reasonable waste end tax, a more realistic reliance on general revenues, and an effective import tax to fund hazardous waste cleanups. Unfortunately, these alone cannot provide the amount of money called for by the various programs in this bill.

I hope that the Downey-Frenzel amendment will prevail today and that this body will go to conference with a tax title that is unlike the Senate provisions in its choice of a broad-based source of revenue to complement those dollars raised through a reasonable feedstock, waste end, and import taxes to fully fund a strong cleanup program, and that this difference will force continued efforts to more reasonably structure Superfund's tax base. If this amendment succeeds, I hope the conferees will reduce the feedstock tax, which doubles under this amendment, so that domestic petrochemical companies will not be forced out of business or offshore and do further damage to job opportunities domestically and to our imbalance of trade. Some may hate to admit it, but man-made chemicals make possible our way of life. I for one believe a balance is within reach and I hope my colleagues agree.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Chairman, the question now ends this debate as it began: Who is going to pay the tax? We are now down to one last vote, that of for or against the Downey amendment, and that is the end of the tax section of the bill; that vote determines who pays the tax.

My colleagues, the choice is now one between every possible polluter paying the tax; that is the bill's provision; or only a very few, that is the Downey provision.

The Downey provision would increase fifteen fold the taxes on a certain few companies who are paying those taxes now. Those industries already pay 95 percent of the taxes, and that is in spite of the fact that the Environmental Protection Agency has indicated that only 15 percent of the pollution found at toxic waste sites are caused by these companies.

Fifteen percent. What do you do about the other 85 percent who are escaping paying any tax, while we piously sit here and call for a larger Superfund—which I agree with, but we are unfairly not having everybody responsible pay their part.

The Environmental Protection Agency has identified 9,000 firms—here is the computer printout—9,000 firms in America, from 33 industries, who are not paying anything now who are part of that 85 percent, and Downy will let them go untaxed while he increases fifteenfold the tax on those 15 percent of the hapless souls that are paying it now.

Do not be mislead into thinking that these companies that are paying the taxes now, in the committee will do not pay anything or have their burdened lessened. Under the committee bill, these companies are going to still pay 57 percent of the total Superfund tax. Under the Downey amendment, these same companies will be paying 92 percent of the tax.

So do not get the mistaken impression these companies are getting away with something and not paying their fair share; their burden goes up, and they are still paying well over half in spite of the fact they are responsible for only 15 percent of the toxic waste.

Lastly, I would point out, this particular industry has been healthy. This particular industry is one that has been a net exporter; and we need that in our balance of trade. They have been selling each year overseas more in chemicals than we import; but that, as you can see from this chart, has been steadily going downhill.

The Downey provision will contribute, I believe, to the demise of that industry as a net exporter and perhaps to its very existence in this country. I would point to a statement from the Office of Technology Assessment, OTA:

> An expanded program of the order of $10 billion over five years, based largely on expanded lists of feedstocks and greatly increased rates of taxation of feedstocks, runs a definite risk of having significant negative impacts on this industry. The fears of the industry of such impacts appear to be well-founded.

That is not me; that is our own governmental agency saying it would be a mistake to adopt the Downey amendment.

One thing further. These domestic manufacturers of chemicals who are now exporting chemicals cannot pass on this tax that we are about to put on them if we pass the Downey amendment. They have to eat it.

Now, the Downey amendment does have a provision trying to cover imports, but it only raises $67 million while these companies are paying $10 billion, so it does not come anywhere near taking care of the problem they face.

Meanwhile, the committee bill protects these companies from unfair trade by simply saying that every tax that they pay on anything being exported is rebated; and so this excise tax is rebated, seeing to it our domestic companies are not prejudiced.

Lastly, I want to say that people keep calling this a value-added tax. Do not fall into that trap. This is nothing more than a technique of calling something something its not to try to defeat it. It is not a value added tax; it does not add a tax at every stage of production of a good or an item, which is definition of a value-added tax. It is an excise tax.

Mr. DOWNEY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, as between imperfect choices, it seems to me Downey-Frenzel is the least imperfect. Of course there are inequities; of course people are going to have to pay more than if the alternative were selected, certain people; but it seems to me those who most contribute to the toxic waste will be the ones who will pay the most and to me that is much more fair.

Most importantly, we are opening a trap door with a bottomless hole once we start imposing a value-added tax. Now, my friend from Louisiana said this is not a value-added tax. Well, I think it is.

There is an old Italian saying, "If you dress the shepherd in silk, he will still smell of the goat," and this value-added tax smells of the goat.

I urge support for Downey-Frenzel.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, the question on this vote now and into the future is one of responsibility.

The Members probably have not had the time to investigate some of the individual landfills, some of the individual Superfund sites, but they show hundreds of responsible parties. For example, the Northside Sanitary Landfill in Indiana, out of the top 10 disposers of hazardous wastes, there are three chemical companies. The contributors represent a cross-section of U.S. industry. Stringfellow has a similar array of contributors.

It is not just chemical companies; it is not just oil companies; it is steel companies, it is smokestack industries that generate wastes and would be subject to a substantially increased "waste fund" tax in the Downey-Frenzel amendment.

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So it is basic industry that is at stake here also. Hazardous wastes disposed of in Superfund sites come from automobile companies, banks, dealerships, municipalities, universities, and so forth. They come from a broad cross-section of American industry. That is what the Ways and Means measure sought to tax, and I urge its support.

Mr. DOWNEY of New York. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from New York [Mr. DOWNEY] has 4 minutes remaining and the gentleman from Tennessee [Mr. DUNCAN] has 2 minutes remaining.

Mr. DOWNEY of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, with the defeat of the Duncan amendment, this is the last chance to stop the imposition of a national sales tax. An affirmative vote for the Downey-Frenzel amendment is all that stands between your constituents and a national sales tax. I do not know if this sales tax smells like a goat or quacks like a duck, but I do know that your constituents are going to call it a sales tax, and I suggest and urge that you vote for Downey-Frenzel instead.

Mr. DUNCAN. Mr. Chairman, I yield one-half minute to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Chairman, most of us in this body have been victimized in campaigns by radical political groups who use a technique of attaching a label to us that is not accurate and then repeating it over and over again. That is precisely what the opponents of the committee financing structure are doing. This is not a VAT, it is not a national sales tax. The Tax Code definition of those two does not apply to this. It was taken precisely from the excise tax portion of the Tax Code. It is identical to the manufacturers excise tax put upon fishing tackle equipment or firearms which most of already voted for last year in the House. That is what this tax is. And that is what it ought to be called. The second point I want to make: This financing mechanism in the committee bill is the only one before us that respects the principle of "The Polluter pays." Last year when we voted on Superfund, we did not have an EPA study; this year we do. It shows that the chemcial and oil industries are responsible for only 22 percent of the problem, the disposal of untreated waste.

The Downey amendment would have them pay 92 percent of the tax to clean it up, and that is not fair.

The third point I want to make from an environment point of view: The committee amendment is the only reliable source of revenues to clean up this toxic waste site. That is why the Public Works Committee, the Ways and Means Committee, the Energy and Commerce Committee, and the National Wildlife Federation endorsed the broad-based tax.

Final point, some other environmental groups seem opposed to it. This is not a key environmental vote. The Duncan amendment was.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my mind there are three excellent reasons to vote against the Downey amendment. First, it is unfair. Second, it is bad for our economy and will add further to our trade imbalance. Third, it relies too greatly on general revenues.

Let's talk about fairness. Under the Downey amendment, the chemical and oil industries will pay 80 to 90 percent of all Superfund taxes despite the fact that they represent less than one-quarter of the potentially responsible parties identified by EPA to date. In Mr. DOWNEY's State of New York, in fact, chemical producers represent only 17 percent of the total number of identified potentially responsible parties.

While it may be easier and more convenient to increase the tax burden on these two industries to the exclusion of the great majority who are actually responsible for disposing of wastes in Superfund sites, to do so would be to fly in the face of equity and fairness.

The Ways and Means Superfund excise tax raises $4.5 billion over 5 years from a wide spectrum of manufacturing industries. This approach recognizes the fact that hazardous wastes is a societal problem. It recognizes the fact that the lifestyles and products we enjoy as American consumers and the products we manufacture as American businesses involve the broad use of chemicals. The Superfund excise tax is the fair approach to financing the $10 billion Superfund which we all agree is desperately needed to deal responsibly with our hazardous waste problem.

Second, the Downey amendment would have disastrous trade consequences. It would raise the price of crude oil by 12 cents per barrel, an increase of 15 times the current price, increasing the cost of fuel and forcing U.S.-based oil companies overseas, costing Americans their jobs.

The Superfund excise tax, on the other hand, is designed to be trade-neutral. The tax would be rebated to companies that manufacture products for export but would be imposed on imports. Unlike the Downey amendment, it addresses the expensive problem of cleaning up our Superfund sites without making two critical industries less competitive in the process.

Third, the Downey amendment relies on general revenues at a level nine times higher than that of the Ways and Means bill. During this historic period of cutting the deficit, we cannot resort to this kind of spending.

Mr. Chairman, the Downey amendment would create gross inequities in a major statute for no other reason than convenience. It fails to recognize the devastating impact it would have on our trade deficit. And it ignores the imperative of budgetary constraint. It deserves for these reasons to be defeated.

Mr. HORTON. Mr. Chairman, I rise in strong support of the amendment offered by my good friend and fellow New Yorker, Mr. DOWNEY. This amendment would strike the value-added tax from title V and it enjoys the support of the AFL-CIO, Grocery Manufacturers Association, and a broad coalition of environmental groups and taxpayer organizations. It is the only revenue proposal which adheres to the principle that "He Who Pollutes Should Pay."

My colleagues preceding me have discussed in detail the problems posed by a VAT and the many reasons for supporting this amendment. They cited hard data in support of our argument that the petroleum and chemical industries must play a significant role in the cleanup process. But there is one argument that I feel compelled to address myself.

A "Dear Colleague" came across my desk this morning which proclaimed: "If you support an oil import fee, then you should vote for the Downey-Frenzel Amendment on Superfund Financing."

The authors argued that this amendment will dramatically increase energy costs for the taxpayers and companies of the Northeast. I appreciate their concern for the energy consumers of my region. But there is no one who has fought harder or longer than I to protect the energy concerns of my region. In 1976, several of my colleagues and I founded the NE-MW Congressional Coalition. Along with my current cochair, Mr. WOLPE, I am committed to protecting the interests of the Northeast and Midwest. I would not advocate a proposal which compromised this commitment in any way.

To illustrate my point, I would like to draw from an analysis prepared by Eric Schaeffer of the NE-MW Institute. This analysis points out that the 18 NE-MW States account for 38 percent of the national consumption of petroleum products. Because of this dependency on oil and gas, we took a long hard look at the impact this amendment would have in our region. We concluded that the petroleum exise tax contained in the Downey-Frenzel amendment would increase the cost of crude oil, gasoline, and heating oil by less than fourtenths of 1 percent per gallon. The argument that this will place an undue burden on our region does not bear up to close examination.

I do not want to leave any my colleagues with the thought, however, that I support this amendment because of purely regional concerns. I support this amendment because it offers the soundest means of raising the revenue needed to clean up America's hazardous waste sites. It retains the critical relationship between responsible parties and revenue; and it raises the money needed to ensure the job is done promptly and effectively.

I urge all of my colleagues to support the Downey-Frenzel amendment.

Mr. ECKERT of New York. Mr. Chairman, I rise today to speak in support of the broadbased Superfund financing plan approved by the Ways and Means Committee.

I want to ensure that the revenues to support Superfund are collected in a manner that poses the least economic harm, while dividing the burden for cleanup as equitably as possible. The Superfund excise tax [SET] developed by the Ways

and Means Committee and recommended by the Energy and Commerce and Public Works and Transportation Committees accomplishes these goals. The Downey substitute proposal offered on the House floor fails the test.

H.R. 2817, the Superfund Amendments of 1985, provides $10 billion for cleanup over 5 years. The $10 billion is raised through a combination of a tax on crude oil, chemical feedstocks, a waste generation tax, a small amount of general revenues, and a broad-based "Superfund excise tax."

I support the approach recommended by the three committees and contained in H.R. 2817 and oppose the Downey substitute for the following reasons:

First, the SET tax is fair and would be paid by a broad category of manufacturers, in recognition of the fact that essentially all types of manufacturers have been identified as being responsible for the hazardous wastes found in Superfund sites. The Environmental Protection Agency's list of priority waste sites contain hazardous materials, in large quantities, from over 30 U.S. industries. A classification of the industries and organizations identified at Superfund sites include: Aerospace, airlines, automobile, banks, beverage, cities, communications, computers, cosmetics, defense, electronics, eye products, financial, grocery, hospitals, hotels, medicine, paint, paper and packaging, railroads, real estate, religious organizations, retail chains, rubber products, steel, textiles, tobacco, universities, and utilities.

In addition, the EPA reports there are over 8,000 potentially responsible parties at Superfund sites yet only 611 companies have paid the feedstock tax since 1981 according to the International Revenue Service.

In conclusion, the evidence clearly shows that the cost of Superfund is presently being paid by fewer than 10 percent of the industries which dispose of hazardous waste and less than 10 percent of the dumpers. We must remedy this unfair situation and broaden the program so that all polluters pay, not just a few. That is why I am supporting the SET tax. The SET tax ensures that Superfund taxes are collected in a manner that poses the least amount of economic harm while dividing the burden for cleanup as equitably as possible. On the other hand, the Downey substitute compounds the current inequity by extracting even greater taxes from less than 10 percent of the polluters.

Second, the SET tax proposal is the only proposal which does not further undermine our balance of payments position and threaten even more jobs dependent on exports and affected by imports. Over the past 10 years, petrochemicals have run a surplus balance of trade. However, from 1980 to 1984, the positive balance of trade of the U.S. petrochemical industry declined from $8.6 billion to $5.5 billion, a decline of 37 percent. The balance of trade in chemicals alone declined from $14 billion to $10 billion during the same period. The Downey substitute would unfairly burden these industries by raising their taxes while allowing foreign chemicals to avoid the taxes for cleanup. The SET tax proposal places the tax on all chemicals, even those coming into the country, while providing a rebate on exported chemicals so they are not saddled with additional burdens in international markets. Clearly, if you want to help with our balance of payments in international trade, you will support the SET proposal and oppose the Downey substitute.

Third, the Ways and Means SET tax is not a value-added tax but rather an excise tax on manufacturers who contribute hazardous waste to dumps but currently pay no tax. By definition, a value-added tax is an incremental excise tax that is levied on the value added at each stage of the processing of a raw material or the production and distribution of a commodity and that typically has the impact of a sales tax on the ultimate consumer. The SET tax does not fit the definition of a value-added tax because it is not passed up through the chain from manufacturing to consumption but is only assessed at the manufacturing level, and then only if you have annual sales of $10 million or more. If you examine the different stages of production and sales and examine whether or not the SET tax proposal would apply or whether or not a value-added tax would apply, you can clearly see the SET tax is not a value-added tax.

WHAT IS TAXED

	SET	VAT
Manufactured products	Yes	Yes
Food and food processing	No	Yes
Agriculture and fishing	No	Yes
Fertilizer	No	Yes
Small business	No	Yes
Unprocessed timber	No	Yes
Retail sales	No	Yes
Wholesale sales	No	Yes
Distribution	No	Yes
Services	No	Yes
All other commerce	No	Yes

It is clear that the SET tax proposal is not a value-added tax.

Finally, the SET tax proposal is far better for consumers of the Northeast than the Downey substitute. The Northeast region of our country is a large oil-consuming region. Therefore, the larger the tax increase on petroleum products the larger the tax which must be paid by heating oil, gasoline, and diesel fuel purchasers in the Northeast. The Downey substitute would raise the crude oil tax 15 times its current level and would add an additional $2.1 billion in petroleum taxes over and above what the SET tax proposal would raise. Since the Northeast depends heavily on heating oil for heating purposes, it follows that the Northeast will pay a larger percentage of the Superfund taxes under the Downey substitute than it would under the Ways and Means SET proposal. In New York, those who use heating oil will pay an additional $6.58 million in fuel oil taxes over and above the SET tax proposal. Over the 5-year life of the bill, residential fuel oil users in New York will pay an additional $32.9 million in Superfund taxes. Clearly, if you want those who heat their homes with fuel oil to pay more in Superfund taxes, you want the Downey substitute; if you think the cost should be divided up in a more equitable fashion, then you want the Ways and Means Committee SET proposal.

Mr. TAUZIN. Mr. Chairman, I must rise in opposition to the amendment offered by our colleague, Mr. DOWNEY of New York. I do so because it is detrimental to domestic industry and encourages the export of American jobs.

This House has paid too little attention to the ramifications proposed tax changes have for the American work force. The bottom line is simple—raising taxes in the wrong place can put people out of work. This is a matter we, no doubt, will confront again when we consider the Tax Reform Act of 1985.

But I want to draw Members' attention to the specific issue of feedstock tax increases before before us right now. The Downey amendment increases the current Superfund feedstock taxes by $500 million. That's not much, the proponents tell us, in view of the profits of the various chemical companies. Yet, I'm afraid it just might be enough to tranform many basic chemical plants which make imtermediate chemical products into cost centers.

No; I am not here to defend the huge multinational chemical companies; in fact, I'm here because I don't trust them. I know for a fact that these companies will, as they have in the past, move jobs overseas when the cost of producing a product or chemical building block here in the United States exceeds the cost of investing in foreign countries and making the same product over there.

Imports of intermediate chemical products, which bear none of the superfund tax burden of domestic products under the Downey amendment, are one of the fastest moving trends in the market. In part, that is true because competitor nations have subsidized their chemical manufacturing sector with everything from construction loans to the oil and gas essential to making chemical raw materials and intermediate chemical products.

The proponents of the amendment suggest the Superfund taxes we place on feedstocks can be passed along in the price of chemical intermediate products. In fact, there is reason to doubt that. Even the administration, which opposes the tax provisions in the bill before us now, testified at one of the first of many hearings our able colleague, Mr. FLORIO, scheduled that domestic companies, faced with imports of low-priced intermediate chemical, were finding it increasingly difficult to pass along feedstock taxes even at current levels.

As a result, domestic plants which use feedstocks and make intermediate chemical products are rapidly becoming corporate cost centers. Chemical company executives do not ask themselves it they will continue to make these products, they only ask where the job will be done. If it costs less to make chemical intermediates overseas,

they'll darn well do it and then import those products for further processing into plastics, fibers, medicines, and a host of other finished goods. And by doing so, they can gain a price advantage through Superfund tax avoidance.

All things being equal in the international market—which they aren't—a domestic company that uses domestic oil, on which the Downey amendment increases taxes, to make benzene, which is then subject to the Downey amendment's increased feedstock taxes, will end up with a higher costed product that can be made overseas. If that overseas competitor also receives natural resources subsidies, passage of the Downey amendment will be just the icing on his cake. And we'll be telling unemployed Americans they can eat cake. But I warn you, that attitude didn't work for King Louis of France, and it won't work for us either.

My able colleague from New York, basking in a rare concurrence with the Reagan administration and the Heritage Foundation, would convince us that we are going after the people who provided the bullets. Never mind that the facts tell us other people aimed the gun and pulled the trigger. I remind my colleagues that a former House Member, who concurred frequently with the Reagan administration and the Heritage Foundation, warned that in this House we shoot real bullets.

The gun is loaded. The Downey amendment aims it directly at domestic workers. In a moment, you will be asked to decide—yes or no—whether we pull the trigger.

I urge a "no" vote.

Mr. NEAL. Mr. Chairman, I would like to urge support of the Downey-Frenzel amendment.

Mr. Chairman, the Downey-Frenzel amendment would remove the value-added tax included in the committee bill, which I consider unfair, regressive, and a foot in the door leading to tax abuse on a grand scale. We are all too familiar with the sorry history of VAT taxes used in Europe and the drag these taxes—some of the highest in the free world—have had on European economic productivity. And I do not think this body would want to use the European experience as an economic role model. This is not a petty concern, Mr. Chairman. We are told by the Office of Technology Assessment that cleaning up toxic waste sites might cost as much as $100 billion. A vastly expanded, but hidden VAT tax would be tempting for future Congresses to use if given the precedent in this legislation.

Additionally, Mr. Chairman, this tax would profoundly alter the basic principle underlying the Superfund, which is that the polluter pays. EPA tells us that 93 percent of toxic wastes are produced by three industries—the oil, chemical, and metal industries. It is only proper that these industries pay their fair share of the costs associated with cleaning up this mess. We should remember that the House overwhelmingly endorsed a Superfund bill last year that would have meant a substantial increase in oil and chemical feedstock taxes over any of the proposals before us today. And that EPA is given other tools in this bill to ensure that all companies identified as contributors to toxic waste dumps reimburse EPA for their share of the cleanup costs.

If imposed, Mr. Chairman, the VAT tax would have a harmful impact on a wide variety of industries, ranging from furniture to groceries, that have little relationship to the hazardous waste problem.

Another little known problem associated with the VAT tax is the cost to the Treasury. I understand that it would cost over $5 million a year just to administer a VAT tax, compared with the current cost of collecting Superfund taxes of $2,000 per year. Certainly, the new program would be more expensive for Treasury to administer, but nowhere near the cost of a VAT tax. A broader VAT tax, according to Treasury, might cost close to $1 billion a year to collect.

Mr. Chairman, Downey-Frenzel is the logical alternative to the committee bill and I urge my colleagues to support it.

Mr. MARKEY. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. DOWNEY]. An important part of crafting a strong, tough Superfund Program is providing for an adequate, sound financing mechanism. The Downey admendment provides sufficient funding—$10 billion—for a strong Superfund Program, and maintains a fair tax system at the same time.

The Ways and Means provision, while supplying nearly the same amounts as the Downey amendment, would raise about 40 percent of its total from a value-added tax. Whether this provision is cloaked in the language of "broad-based tax," "manufacturer's excise tax," or some other obfuscatory phrase, it is nonetheless a value-added tax. I have long opposed such a tax as a regressive economic measure, falling most heavily on the poor and the elderly. Using this mechanism to finance Superfund would set a very poor precedent.

The Downey amendment would replace the value-added tax by increasing other components of financing: The chemical feedstock tax, a petroleum tax, and a management tax on those who generate hazardous waste. The Downey amendment would also maintain the concept that "the polluter pays." According to the EPA, 93 percent of all hazardous waste generated in the United States is produced by the chemical, petroleum, and metal-related industries, which are the companies which pay the chemical feedstock taxes.

The Duncan amendment must be rejected because it fails to supply sufficient funds, and too much of the funding it supplies would come from general revenues. This amendment would use $2.3 billion from general revenues, more than either the Ways and Means provision or the Downey amendment. This would increase the amount of public funds devoted to correct private malfeasance. In addition, the Duncan amendment would provide an assured fund of only $7.7 billion; the remainder would come from a surcharge tax, to be implemented at the discretion of the administration. But allowing EPA discretion has been one of the major shortcomings in the present Superfund. An administration, such as the present one, which was indifferent or inimical to a strong Superfund Program, could cripple Superfund by failing to implement a surcharge, keeping overall funding low.

Finally, the need for a legislated Superfund financing mechanism could be eliminated if toxic chemical polluters were more willing to accept economic responsibility for their actions. Superfund could be a revolving account, requiring no further Federal contribution, if companies would promptly reimburse the fund as EPA uses it to finance hazardous waste cleanup. But EPA recover from responsible polluters has been low, and the Ways and Means version assumes this low recovery rate—$0.3 billion out of $10 billion needed—will continue. The oil and chemical companies complain that they bear too much of the burden to finance Superfund. If these companies would encourage their corporate brethren to accept full responsibility for cleanup, the need to raise Superfund money by taxing could be eliminated.

Until such a scenario develops, however, the need remains to provide a sound Superfund financing mechanism. The Downey amendment raises the money necessary to support a tough, comprehensive program, and retains tax fairness in the process. I urge my colleagues to adopt the Downey amendment.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 2817, the Superfund Amendments of 1985. This bill represents the hard work and the cooperation of the five committees of jurisdiction, each of which contributed significantly to its formulation. As a cosponsor of this important piece of legislation, I thank and commend each of the members of those five committees because they worked in a bipartisan fashion to produce a thorough and comprehensive measure that addresses the urgent need to clean up our abandoned hazardous waste sites.

In response to the discovery of contamination in the Love Canal area of Niagara Falls, NY, in the late 1970's, Congress created a major Federal program in 1980 to clean up the worst abandoned hazardous waste sites; $1.6 billion was set aside for the Hazardous Waste Response Trust Fund, or Superfund. The law requires the Environmental Protection Agency to determine the most dangerous sites and gives it power to force those responsible to clean them. When such action would not be fast enough, the EPA can use Superfund money to clean up the sites and sue later to recover the money from responsible parties.

In the 5 intervening years since the enactment of Superfund, we have become acutely aware of the enormity of the hazardous waste problem. The EPA has put 541 sites on the national priorities list—a list of the Nation's most dangerous abandoned waste sites, "the dirtiest of the dirty"—and has proposed inclusion of another 309 sites. To date, the EPA has only

completed clean up work at 13 sites. The EPA estimates that between 1,500 and 2,500 abandoned hazardous waste sites will require Federal cleanup and that up to $22.7 billion will be needed to complete the job. Our experience to date with hazardous waste management is reflected in H.R. 2817, which sets the level of funding for Superfund for the next 5 years at $10 billion. This appropriation represents more than a sixfold increase than that which was appropriated for the 1980–85 program years.

This bill contains many of the same provisions of last year's Superfund bill, a bill which I also cosponsored and which the House adopted by an overwhelming margin. Unfortunately, the other Chamber did not act on that Superfund bill before adjournment, and it is necessary for Congress to readdress this troubling issue. Since the 1980 authorization for Superfund expired on September 30 of this year, it is of the utmost importance that this legislation be enacted into law in order to stave off health threats of disastrous proportions.

In light of the slow progress made by the EPA thus far in cleaning up hazardous waste sites, H.R. 2817 sets a timetable by which to begin cleanup of those sites. The EPA is required to commence cleanup construction work at no fewer than 600 sites between fiscal years 1986 and 1990. National uniform cleanup standards are established by the bill, and the EPA is required to select permanent cleanup solutions to the maximum extent practicable. Where a permanent cleanup solution is not provided, the EPA must periodically review that site to determine whether the temporary cleanup is adequately protecting the public health and the environment.

Another significant provision of H.R. 2817 is the establishment of a program to provide for cleanup of leaking underground storage tanks. Such tanks pose a grave threat to the quality of our drinking water. Once the waste from these storage tanks infiltrates the water table, it is virtually impossible to prevent it from contaminating our water supplies. The EPA is authorized to undertake corrective action for leaking underground storage tanks or require the responsible party to act. If the EPA takes action, it is permitted to recover the costs of the corrective action from the owners or operators of the storage tanks.

This legislation also establishes a new trust fund to provide a comprehensive system of liability and compensation for damage caused by oil pollution, particularly oil spills. The trust fund will provide payment for costs of cleaning up oil spills, with up to $200 million available for any single accident. While New York State already has established such a fund, I am pleased that this legislation will have a fund to cover all 50 States.

H.R. 2817 again breaks new legislative ground by dealing with a new and potentially deadly environmental problem that only recently has come to the attention of Congress. High concentrations of radioactive radon gas have been discovered along the Reading Prong, a geological formation that runs through parts of New York, New Jersey, Pennsylvania, and Connecticut. I am deeply concerned about this problem because it affects some of my own constituents in Orange County, NY. Numerous cases of lung cancer have been attributed to the natural emission of radon gas, and questions remain as to other long-term effects of exposure to this dangerous gas. As a cosponsor of several bills which are concerned with the radon gas problem, I am pleased that H.R. 2817 takes the first Federal steps to correct this health hazard. The bill provides funding for radon gas research along the Reading Prong area as part of a national assessment of the problem. This research is to lead to Federal recommendations of methods to remediate radon contamination.

I fully support all of these major provisions of the bill, and while I commend the committees for their work on the right-to-know provisions of H.R. 2817, I plan to support the Edgar amendment. As the bill is currently worded, facilities are required to immediately notify State and local emergency officials when a release causing a hazardous substances emergency occurs. The Edgar amendment requires certain companies to report on chemicals that cause chronic health problems, rather than just immediate health problems, and further requires reporting for 403 acutely toxic chemicals which the EPA has listed as part of the acute-hazards program. I believe that communities do have a right to know if cancer-causing chemicals are being emitted in their area, and therefore urge my colleagues to join me in support of the Edgar amendment.

H.R. 2817 allows citizens to sue private parties to stop an "imminent and substantial endangerment" caused by releases of hazardous substances. Citizens are also permitted to sue the Federal Government for failure to carry out its mandatory duties as specified under the Superfund law. I am in complete agreement with these provisions, and will seek to strengthen the rights of citizens by supporting the Frank amendment. Representative FRANK's amendment will permit people who suffer personal injury or economic loss due to a hazardous substance release the right to sue for medical costs and damages in Federal as well as State courts. For much the same reasons I am supporting the Frank amendment and oppose the Daub amendment which would weaken the liability amendments of this bill.

As a member of the New York congressional delegation, I am particularly concerned that this bill be adopted because New York has 29 sites listed on the national priorities list, with 30 more that have been proposed to be placed on the list. H.R. 2817 will continue and expand Federal efforts, which are so desperately needed, to clean up hazardous waste sites. Such sites present serious threats, both in the long and short runs, to the health and welfare of the citizens of this country. Accordingly, I urge my colleagues to join in support of this bill and vote for its adoption.

Mr. YOUNG of Missouri. Mr. Chairman, I rise in strong support of H.R. 2817, legislation to reauthorize the Superfund Program to clean up hazardous waste sites. I have participated in the debate over Superfund as a member of the Committee on Public Works and Transportation and as a Member of Congress with hazardous waste sites in my district, including Times Beach.

I want to congratulate the leadership of the Committees on Public Works and Transportation and Energy and Commerce for their fine efforts in producing a strong Superfund bill. Both committees have spent many hours in hearings and debates on this vital issue, and I believe that the final product of their deliberations represents a great improvement to the Superfund Program and legislation which can and will be supported by Members of the House of Representatives.

In the 5 years since Congress created Superfund, we have learned a great deal about the nature, extent and pervasiveness of the hazardous waste problem. We have learned much more about the complexity of the hazards at waste sites, and we now know that rather than a few sites that can be cleaned up quickly, we have a vast number of sites scattered across the Nation. We understand that each site has unique characteristics that must be taken into consideration in planning each cleanup. We know that the answers are not simple, and they will not be inexpensive. The challenge we have faced is to incorporate all of these lessons into legislation which will create a balanced, effective program that does the best possible job of protecting the health and welfare of our communities. The Public Works-Energy and Commerce bill meets that challenge.

The bill provides a mandatory but reasonable schedule for the Environmental Protection Agency to clean up waste sites. It is a schedule that can be met, and which will assure our communities that their waste problems will be addressed carefully and within a reasonable period of time. It imposes standards for cleanup which will ensure that the requirements of current laws which protect the environment are met. It ensures that citizens will receive information about the hazardous substances in their communities and that they will have the right to sue if the law is violated or if they face imminent danger from leaking waste sites. I am particularly pleased that the strong community right to know provisions which I supported in the Public Works Committee are included in the compromise bill.

This legislation strongly encourages the permanent cleanup which must be the final answer to the hazardous waste problem—destruction or immobilization of waste whenever technically feasible. Where responsible parties can be identified, they will be encouraged to accept responsibility and contribute their fair shares to the costs of cleanup. Most important, our legislation ensures that the communities affected by hazardous waste sites are involved in cleanup plans and have an opportunity to

express their views. I am convinced that the understanding and support of communities are vital to the success of cleanups.

As taxpayers, producers and consumers, all of us have a stake in the proper disposal and cleanup of hazardous waste, whether or not we are directly affected by waste sites. I believe that this legislation will produce a strong, effective program, and I urge its support.

Mr. DUNCAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Tennessee [Mr. DUNCAN] has 30 seconds remaining, and the Chair understands the gentleman is yielding that remaining time to himself.

Mr. DUNCAN. Mr. Chairman, I urge my colleagues to vote against the Downey amendment. The Downey amendment is not the only avenue to vote against the value-added tax, which I am as strong or stronger than perhaps he is against the value-added tax. We can vote against the committee bill because apparently even our chairman is not for the committee bill, and we ought to come back with a proper financing mechanism.

Mr. DOWNEY of New York. Mr. Chairman, I yield the balance of my time to the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 3½ minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I strongly support the Downey amendment.

While the tax title reported by the Committee on Ways and Means raises adequate revenue to clean up hazardous waste sites, the method by which it raises a large part of that revenue is seriously flawed.

The bill now imposes broad-based taxes to fund hazardous waste cleanup. If the Congress wants to use general revenue to finance Superfund, we should use our existing tax base and not invent a new, complex, and flawed tax that is only vaguely related to the problem.

H.R. 2817 contains what is called a Superfund excise tax. Call it what you will, it is a value-added tax. It is a broad-based tax on consumption.

This proposed Superfund excise tax is very similar to the type of VAT used in Canada because it is imposed on sales by manufacturers. In Canada it is referred to as a manufacturers' VAT.

To date in our 200-year history, the Federal Government has avoided any form of broad-based consumption tax. And for good reasons. Americans have believed that the income tax is the proper way to finance most costs of Government. We believe that taxation should be based on ability to pay and not consumer spending. We have left the field of general sales taxes to State and local governments.

Before we break new and historic ground, there ought to be a broad-based public debate on the merits of broad-based consumption taxes. We should not let the camel's nose under the tent just bacause the proposed tax rate is low and the spending objective is noble.

The history of VAT, and similar taxes in other countries, is that the rate starts low and the base broad. But any VAT-like tax is a money machine. Small rate increases yield big revenues. No wonder some have looked at the structure of the Superfund excise tax and have proposed massive expansion in the deceptive name of a business transfer tax to fund income tax cuts, or to protect corporations from tax reform, or to address the budget deficit.

Any VAT is regressive. With any tax like this, pressure builds to erode the base in an effort to improve equity. Even this bill has had its base eroded by exemptions for food, fertilizer, unprocessed agricultural, and fishery products. Other necessities, like medicines, clothing, and housing are fully taxed.

This is not the time, and this bill is not the place to start America on the path to a national sales tax on consumers.

Mr. Chairman, I believe the Downey amendment is the best possible resolution of the difficult problem of financing Superfund. The Committee on Ways and Means defeated broad-based tax proposals seven times before this version of the VAT was adopted by a vote of 18 to 17. Two of the previously defeated amendments had included an excise tax identical to the one which eventually passed. Also, the administration has made it clear that the committee's VAT would be vetoed by the President.

I urge members to support the Downey amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. DOWNEY].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 206, not voting 8, as follows:

[Roll No. 444]

AYES—220

Ackerman	AuCoin	Bennett
Addabbo	Barnard	Berman
Akaka	Barnes	Biaggi
Annunzio	Bates	Bilirakis
Aspin	Bedell	Boehlert
Atkins	Beilenson	Bonior (MI)
Bonker	Hyde	Porter
Boucher	Ireland	Pursell
Boxer	Jeffords	Rangel
Broomfield	Johnson	Regula
Brown (CA)	Jones (TN)	Reid
Burton (CA)	Kanjorski	Robinson
Byron	Kaptur	Rodino
Carr	Kastenmeier	Rostenkowski
Chandler	Kennelly	Roth
Clay	Kildee	Rowland (CT)
Coats	Kindness	Roybal
Coleman (MO)	Kleczka	Rudd
Collins	LaFalce	Sabo
Conte	Lantos	Savage
Conyers	Latta	Scheuer
Cooper	Leach (IA)	Schneider
Coyne	Lehman (CA)	Schroeder
Crockett	Lehman (FL)	Schumer
Daniel	Levin (MI)	Seiberling
Darden	Levine (CA)	Sensenbrenner
Daschle	Lightfoot	Sharp
Davis	Lipinski	Shaw
Dellums	Lloyd	Shuster
DeWine	Lowry (WA)	Sikorski
Dicks	Luken	Skelton
Dixon	Lundine	Smith (FL)
Donnelly	Lungren	Smith (IA)
Dorgan (ND)	Mack	Smith (NJ)
Downey	MacKay	Smith, Denny (OR)
Durbin	Madigan	Smith, Robert (NH)
Dwyer	Markey	Snowe
Dymally	Martin (IL)	Solarz
Dyson	Martin (NY)	Solomon
Early	Martinez	St Germain
Edgar	Matsui	Stallings
Edwards (CA)	Mavroules	Stark
Evans (IA)	McCain	Stokes
Evans (IL)	McCloskey	Stratton
Fascell	McDade	Studds
Fawell	McEwen	Swift
Fish	McGrath	Tauke
Florio	McHugh	Taylor
Foley	McKernan	Torres
Ford (MI)	Meyers	Torricelli
Frank	Mica	Towns
Frenzel	Michel	Traficant
Garcia	Mikulski	Traxler
Gejdenson	Miller (WA)	Valentine
Gekas	Mineta	Vento
Goodling	Mitchell	Vucanovich
Gordon	Moakley	Walker
Green	Molinari	Waxman
Gregg	Moody	Weaver
Guarini	Morrison (CT)	Weiss
Gunderson	Morrison (WA)	Wheat
Hall (OH)	Mrazek	Whitley
Hamilton	Neal	Whitten
Hawkins	Nowak	Wolf
Hayes	Oberstar	Wolpe
Henry	Obey	Wortley
Hertel	Owens	Wyden
Hiler	Panetta	Wylie
Holt	Parris	Yates
Hopkins	Pashayan	Yatron
Horton	Pease	Young (FL)
Howard	Penny	Zschau
Hoyer	Pepper	
Hughes	Petri	

NOES—206

Alexander	Burton (IN)	Dingell
Anderson	Bustamante	DioGuardi
Andrews	Callahan	Dornan (CA)
Anthony	Campbell	Dowdy
Applegate	Carney	Dreier
Archer	Carper	Duncan
Armey	Chapman	Eckart (OH)
Badham	Chappell	Eckert (NY)
Bartlett	Cheney	Edwards (OK)
Barton	Clinger	Emerson
Bateman	Cobey	English
Bentley	Coble	Erdreich
Bereuter	Coelho	Fazio
Bevill	Coleman (TX)	Feighan
Bliley	Combest	Fiedler
Boggs	Coughlin	Fields
Boland	Courter	Flippo
Borski	Craig	Foglietta
Bosco	Crane	Ford (TN)
Boulter	Dannemeyer	Fowler
Breaux	Daub	Franklin
Brown (CO)	de la Garza	Frost
Broyhill	DeLay	Fuqua
Bruce	Derrick	Gallo
Bryant	Dickinson	Gaydos

Gephardt	Lujan	Schaefer
Gibbons	Manton	Schuette
Gilman	Marlenee	Schulze
Gingrich	Mazzoli	Shelby
Glickman	McCandless	Shumway
Gonzalez	McCollum	Siljander
Gradison	McCurdy	Sisisky
Gray (IL)	McMillan	Skeen
Gray (PA)	Miller (CA)	Slattery
Grotberg	Mollohan	Slaughter
Hall, Ralph	Monson	Smith (NE)
Hammerschmidt	Montgomery	Smith, Robert
Hansen	Moore	(OR)
Hartnett	Moorhead	Snyder
Hatcher	Murphy	Spence
Hefner	Murtha	Spratt
Heftel	Myers	Staggers
Hendon	Natcher	Stangeland
Hillis	Nichols	Stenholm
Hubbard	Nielson	Strang
Huckaby	O'Brien	Stump
Hunter	Oakar	Sundquist
Hutto	Olin	Sweeney
Jacobs	Ortiz	Swindall
Jenkins	Oxley	Synar
Jones (NC)	Packard	Tallon
Jones (OK)	Perkins	Tauzin
Kasich	Pickle	Thomas (CA)
Kemp	Quillen	Thomas (GA)
Kolbe	Rahall	Udall
Kolter	Ray	Vander Jagt
Kostmayer	Richardson	Visclosky
Kramer	Ridge	Volkmer
Lagomarsino	Rinaldo	Walgren
Leath (TX)	Ritter	Watkins
Leland	Roberts	Whitehurst
Lent	Roe	Whittaker
Lewis (CA)	Roemer	Williams
Lewis (FL)	Rogers	Wilson
Livingston	Rose	Wirth
Loeffler	Roukema	Wise
Long	Rowland (GA)	Wright
Lott	Russo	Young (AK)
Lowery (CA)	Saxton	Young (MO)

NOT VOTING—8

Boner (TN)	McKinney	Price
Brooks	Miller (OH)	Weber
Chappie	Nelson	

□ 1645

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Brooks against.

Mr. Weber for, with Mr. Chappie against.

Messrs. MILLER of California, RUSSO, ROSE, and COBLE changed their votes from "aye" to "no."

Mr. PASHAYAN changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I ask unanimous consent to offer an amendment to substitute a new title IV in the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. LENT. Mr. Chairman, reserving the right to object, I will not object, but I want to hear the gentleman's explanation of this amendment.

□ 1700

Mr. STUDDS. Mr. Chairman, if the gentleman will yield, I offer this amendment, which is imposing in size, but noncontroversial in substance, as a substitute to title IV of the substitute bill.

The amendment has a single purpose, which is to conform the text to the section of the title of the bill developed by the Committee on Ways and Means that pertains to oil pollution liability and compensation.

This is necessary for the simple reason that the Committee on Merchant Marine and Fisheries acted on this measure before the Ways and Means Committee title was reported. The Ways and Means title includes language that makes some of the language in the present title IV unnecessary and confusing. The Merchant Marine Committee never likes to do anything that is unnecessary or confusing, so we are proposing to strike those parts of the current title that are essentially restated, albeit in somewhat different form, by the Committee on Ways and Means.

I can assure members that the proposed substitute does not contain any language that is not already in the bill before us. It merely eliminates language and redesignates terms to conform to the Ways and Means title.

I regret that we were not able to develop this language in time to include it in the substitute bill introduced last week by Mr. WRIGHT. Unfortunately, we had to wait until we knew what the rule for consideration of this bill would be, as well as what the position of the Ways and Means Committee would be on certain issues related to oilspill liability, before we were assured of the desirability of offering this language.

I would like to thank Chairman ROSTENKOWSKI and his staff for their cooperation in developing an agreement on oilspill liability that was included in the amendments offered to title V. We appreciate this cooperation, and we look forward to the continued support of the committee for a strong oilspill bill in conference, or in any other arena where the issue may in the future arise.

Mr. LENT. Mr. Chairman, I rise in strong support of the amendment by the gentleman from Massachusetts.

This body has long sought to enact a comprehensive system of liability and compensation for oilspill damage and cleanup costs. There is virtually no dispute over the fact that we need a comprehensive system to replace the hodgepodge of separate Federal oilspill statutes that presently exist. This oilspill provision is fully consistent with the overall environmental and liability objectives of Superfund, and is essentially the same in substance as this body adopted in the 98th Congress.

This language represents a delicate but fair balance among all affected interests. I urge all of these interests to assist us to make sure that this comprehensive system of liability and compensation for oilspill damage—a goal we have been seeking for nearly a decade—is promptly enacted into law.

Mr. Chairman, the substitute Superfund reauthorization that we have been considering already contains an oilspill provision—the gentleman's amendment now is a conforming amendment to cleanup the Superfund substitute in light of decisions we have made here on the floor in the course of adopting this legislation.

I thank the gentleman from Massachusetts [Mr. STUDDS] for offering this compromise and Chairman ROSTENKOWSKI and the ranking member, Mr. DUNCAN, for their efforts in helping bring about this provision.

I urge all my colleagues to support this amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield.

Mr. LENT. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, we are in agreement in the Public Works and Transportation Committee.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we also had a chance to review this amendment. It is a conforming amendment, and it helps to cleanup that section of the bill. We have no objection to it.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of this provision concerning title IV, the Comprehensive Oil Pollution Liability and Compensation Act. This title establishes a comprehensive system of liability and compensation for damages caused by oil pollution and makes conforming amendments with regard to title V. It is legislation that I and many of my colleagues have worked on for nearly a decade. The need for a uniform law to provide a comprehensive system as proposed is well recognized. Although I would have preferred a corporation structure to administer the fund, I recommend that we all support this title as a good compromise that accommodates all committees.

In particular, this approach accommodates the repeal and rebate of the Trans-Alaska Pipeline Liability Fund. It is my understanding that the report language reported by the Merchant Marine and Fisheries Committee in House Report 99–253, part 4, will be considered as part of the legislative history for this proposal except where the title has been amended in the bill we are considering today. In particular, I would note that the language regarding the Trans-Alaska Pipeline Liability Fund be referred to as part of the legislative history on that fund. I note that the report states a concern regarding the liability of officers and trustees of the TAPLF Fund that may continue after that fund is ended. It was noted that the fund could take all steps necessary and proper to defray any of the lawful costs associated with officer and

trustee liability, including purchasing insurance and securing releases from satisfied claimants or contributors receiving rebates. Further, the TAPLF provision provides for the assumption of liability under this act for all TAPLF claims beginning on the effective date of this provision.

Further, I want to voice my support for the provision which provides for a limitation or restriction on the payment of costs or expenses of administration of the oil spill title. This restriction is the same one that applies to section 111 of the CERCLA law and is intended to apply in the same manner as it applies to the EPA regarding the costs of the chemical spill and cleanup program. What this means is that these funds may only be used to the extent that the costs or expenses are necessary for, and incidental to, the implementation of this title. Thus, this prevents the bureaucratic temptation to expand a program merely because funds are available in the oil spill fund. The oil spill fund is set up to compensate innocent victims and to perform all necessary cleanup work that needs to be done in the case of a spill. It should not be used to pay for personnel or other expenses that would be handled in the normal appropriations process for the agency that is given responsibility to carry out the functions of this title. This provision is a needed cost control measure.

I thank the gentleman from Massachusetts for offering this important amendment and his work in forging this compromise. Thus, in summary, I support this oil spill amendment and again urge my colleagues to support this important provision.

Mr. LENT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection

The CHAIRMAN. The clerk will report the amendment.

The clerk read as follows:

Amendment offered by Mr. STUDDS: Strike out title IV of the bill and insert in lieu thereof the following:

TITLE IV—COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 400. SHORT TITLE.

This title may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

SUBTITLE A—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 401. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "claim" means a demand in writing for a sum certain;

(2) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(3) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(4) "facility" means a structure, or group of structures, which is either—

(A) located, in whole or in part, on the outer Continental Shelf and used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the outer Continental Shelf, or

(B) licensed under the Deepwater Port Act of 1974;

(5) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(6) "guarantor" means the person, other than the responsible party, who provides evidence of financial responsibility for a responsible party;

(7) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, which causes, or poses a substantial threat, of oil pollution;

(8) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo or in residue from cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(9) "internal waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside that baseline which are a part of the Gulf Intracoastal Waterway;

(10) "lessee" means a person holding a leasehold interest in an oil and gas lease on submerged lands of the outer Continental Shelf granted or maintained under the Outer Continental Shelf Lands Act;

(11) "licensee" means a person holding a license issued under the Deepwater Port Act of 1974;

(12) "mobile offshore drilling unit" means every watercraft or other contrivance (other than a public vessel of the United States) capable of use as a means of transportation on water and as a means of drilling for oil on the outer Continental Shelf;

(13) "natural resources" means living and nonliving resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(14) "Navigable waters" means the waters of the United States, including the territorial sea;

(15) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(16) "oil pollution" means—

(A) the presence of oil in or on the navigable waters or on land within the United States immediately adjacent thereto, or in or on the waters of the contiguous zone—

(i) which has been discharged from a vessel or facility; and

(ii) which has been discharged in quantities which the President has determined may be harmful pursuant to paragraph (4) of subsection (b) of section 311 of the Federal Water Pollution Control Act;

(B) the presence of oil (other than natural seepage) in or on waters outside the territorial limits of the United States and of any foreign country—

(i) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(ii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or from a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port licensed under such Act;

(iii) causing injury to or loss of natural resources; or

(iv) which has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) for transportation to a port in the United States; and

(C) the presence of oil (other than natural seepage) in or on the waters, including the territorial sea, or adjacent shoreline, of a foreign country—

(i) which has been discharged from a vessel located within the navigable waters;

(ii) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(iii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port under such Act; or

(iv) which, in the case of the waters or adjacent shoreline of Canada, has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) for transportation to a port in the United States;

(17) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of a pipeline, any person, except the owner, who is responsible for the operation of such pipeline by agreement with the owner;

(18) "Outer Continental Shelf" has the meaning set forth in subsection (a) of section 2 of the Outer Continental Shelf Lands Act;

(19) "owner" means, in the case of a vessel or a pipeline, any person holding title to, or in the absence of title, any other indicia of ownership of, the vessel or pipeline, whether by lease, permit, contract, license, or other form of agreement, except that such term does not include a person who, without participating in the management or operation of a vessel or a pipeline, holds indicia of ownership primarily to protect his security interest in the vessel or pipeline;

(20) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act;

(21) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or any other commercial, legal, or governmental entity;

(22) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State or political subdivision thereof, or (iii) a foreign government, and

(B) is not engaged in commercial service;

(23) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (1) of section 311 of the Federal Water Pollution Control Act, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974, and

(B) cleanup costs, other than the costs described in subparagraph (A);

(24) "responsible party" means—

(A) with respect to a vessel or a pipeline, the owner or operator of such vessel or pipeline;

(B) with respect to a facility (other than a deepwater port or pipeline), the lessee or permittee of the area in which such facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which such facility is located where such holder is a different person than the lessee or permittee; and

(C) with respect to a deepwater port, the licensee;

(25) "Secretary" means the Secretary of Transportation;

(26) "ship" means a vessel (other than an inland oil barge) carrying oil in bulk as cargo or in residue from cargo;

(27) "Trust Fund" means the Oil Spill Liability Trust Fund established by section 9507 of the Internal Revenue Code of 1954;

(28) "United States" and "State" mean the several States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(29) "United States claimant" means any person residing in the United States, the Government of the United States or any agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim; and

(30) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 402. COORDINATION WITH INTERNATIONAL CONVENTIONS.

During any period in which both the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984, are in force with respect to the United States, this subtitle shall not apply with respect to damage arising out of or directly resulting from oil pollution or a substantial threat of oil pollution to the extent that compensation is available under such conventions and subtitle D.

SEC. 403. DAMAGES AND CLAIMANTS.

(a) DAMAGES FOR WHICH CLAIMS MAY BE ASSERTED.—Claims may be asserted, to the extent provided in this section, for damages for economic loss incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution or the substantial threat of oil pollution for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) reasonable costs incurred in (A) assessing both short-term and long-term injury to, or destruction of, natural resources, (B) preparing a restoration and acquisition plan with respect to the damaged resources, and (C) restoring or acquiring the equivalent of the damaged resources;

(4) loss of subsistence use of natural resources;

(5) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages are sustained during the two-year period beginning on the date the claimant first suffers such loss; and

(6) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) REMOVAL COSTS RECOVERABLE BY ALL CLAIMANTS.—

(1) GENERAL RULE.—A claim may be asserted under paragraph (1) of subsection (a) by any person.

(2) LIMITATION ON RECOVERY BY RESPONSIBLE PARTY.—(A) The responsible party with respect to a vessel or facility involved in an incident may assert a claim under paragraph (1) of subsection (a) only if he can show that—

(i) he is entitled to a defense to liability under section 404(c), or

(ii) he is entitled to a limitation of liability under section 404(b).

(B) A claimant who is not entitled to a defense to liability, but who is entitled to a limitation of liability, may assert a claim under paragraph (1) of subsection (a) only to the extent that the sum of the removal costs incurred by the responsible party plus the amounts paid by the responsible party or by the guarantor on behalf of the responsible party for claims asserted under subsection (a) exceeds the amount to which the total of the liability under section 404(a) and removal costs incurred by, or on behalf of, the responsible party is limited under section 404(b).

(c) OTHER DAMAGES RECOVERABLE BY UNITED STATES CLAIMANTS.—

(1) INJURY TO PROPERTY; SUBSISTENCE USE OF NATURAL RESOURCES.—A claim may be asserted under paragraphs (2) and (4) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(16) by any United States claimant, but only if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant.

(2) INJURY TO NATURAL RESOURCES.—A claim may be asserted under paragraph (3) of subsection (a) by the President as trustee for natural resources controlled by the United States or by the Governor of any State for natural resources within the boundary of the State and controlled by the State or a local government within the State.

(3) LOSS OF PROFITS.—A claim may be asserted under paragraph (5) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(16) by any United States claimant, but only if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource or, if such activities are seasonal in nature, 25 percent of the claimant's earnings during the season in which such activities took place.

(4) LOSS OF TAX REVENUE.—A claim may be asserted under paragraph (6) of subsection (a) only by a State or political subdivision thereof.

(d) OTHER DAMAGES RECOVERABLE BY FOREIGN CLAIMANTS.—

(1) GENERAL RULE.—A claim may be asserted under paragraph (2), (3),m (4), or (5) of subsection (a) with respect to oil pollution described in subparagraph (C) of section 401(16) by a foreign claimant who is a resident of the country in which the oil pollution occurs, to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraph (A) of section 401(16), if—

(A) the foreign claimant is not otherwise compensated for his loss; and

(B) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country of which the claimant is a resident, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

(2) SPECIAL RULE FOR CANADIAN CLAIMANT RESPECTING TRANS-ALASKA PIPELINE OIL.—In the case of any oil pollution described in section 401(16)(B)(iv) or 401(16)(C)(iv), a claim may be asserted under paragraph (2), (3), (4), or (5) of subsection (a) by a resident of Canada without regard to subparagraph (B) of paragraph (1), to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraphs (A) and (B) of section 401(16).

(e) ATTORNEY GENERAL.—A claim may be asserted under subsection (a) by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of Unites States claimants who may assert a claim under this section.

(f) GROUP OF CLAIMANTS.—If the Attorney General fails to act under subsection (e) within sixty days after the date on which the Secretary designates a source under section 406, any member of a group may assert a claim for damages on behalf of the group. Failure of the Attorney General to act shall have no bearing on any claim for damages asserted under this section.

SEC. 404. LIABILITY.

(a) JOINT, SEVERAL, AND STRICT LIABILITY.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection and subsections (b) and (c), the responsible party with respect to a facility or a vessel (other than a public vessel) that is the source of oil pollution, or poses a substantial threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 401(23)(A), shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 403.

(2) SPECIAL RULE FOR MODU'S.—(A) Except as provided in subparagraph (B), in any case in which a mobile offshore drilling unit is being used as a facility and is the source of oil pollution originating on or above the surface of the water or poses a substantial threat of such oil pollution, such unit shall be deemed to be a vessel which is a ship for purposes of this subtitle.

(B) To the extent that damages for which claims may be asserted under section 403 from any incident described in subparagraph (A) exceed the amount for which the responsible party is liable under subparagraph (A) (as such amount may be limited under subsection (b)(1)(B)), the mobile offshore drilling unit shall be deemed to be a facility covered by subsection (b)(1)(D), except that for purposes of applying subsection (b)(1)(D) the amount specified in such subsection shall be reduced by the amount for which the responsible party with respect to a ship is liable under subparagraph (A).

(C) In the case of any incident described in subparagraph (A)—

(i) which is caused primarily by willful misconduct or gross negligence within the privity or knowledge of both the owner or operator of the mobile offshore drilling unit and the lessee or permittee of the area, or holder of a right of use or easement for the area, in which such unit is located; or

(ii) with respect to which both such owner or operator and such lessee or permittee or

holder fail or refuse to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activites;

such owner or operator and such lessee or permittee or holder shall be jointly, severally, and strictly liable (without limitation under subsection (b)) for all loss for which a claim may be asserted under section 403.

(b) LIMITS ON LIABILITY.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the responsible party with respect to an incident shall be limited to—

(A) in the case of a vessel other than a ship or an inland oil barge, $500,000 or $300 per gross ton whichever is greater;

(B) in the case of a ship, $3,000,000 or $420 per gross ton, whichever is greater (but not to exceed $60,000,000);

(C) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater; or

(D) in the case of a facility, $50,000,000.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) when the incident is caused primarily by willful misconduct or gross negligence within the privity or knowledge of a responsible party; or

(B) when a responsible party fails or refuses to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activities.

(3) REPORT.—The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations on liability specified in this subsection.

(c) DEFENSES TO LIABILITY.—

(1) COMPLETE DEFENSES.—Except when the responsible party has failed or refused to report an incident where required by law, there shall be no libability under subsection (a) if the responsible party proves that the incident—

(A) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character, or

(B) was wholly caused by an act or omission of a person other than—

(i) a responsible party;

(ii) an employee or agent of a responsible party; or

(iii) one whose act or omission occurs in connection with a contractual relationship with a responsible party.

(2) PARTICAL DEFENSES.—There shall be no liability under subsection (a)—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) LIABILITY OF TRUST FUND.—

(1) GENERAL RULE.—The Trust Fund shall be liable for damages for which claims may be asserted under section 403 and for which claims are presented under this subtitle, to the extent that the damages are not otherwwise compensated.

(2) DEFENSES TO LIABILITY.—Except for the removal costs specified in section 401(23)(A), there shall be no liability under paragraph (1)—

(A) where the incident is caused wholly by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or the economic loss is caused by the negligence of that claimant.

(e) LIABILITY FOR INTEREST.—

(1) GENERAL RULE.—The responsible party or his guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of a claim under section 403 for the period described in paragraph (2).

(2) PERIOD FOR WHICH INTEREST IS OWED.—(A) Except as provided in subparagraph (B), the period for which interest shall be paid under paragraph (1) is the period beginning on the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claimant is paid, inclusive.

(B) If the responsible party or guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in subparagraph (A) shall not include the period beginning on the date such offer is made and ending on the date such offer is accepted. If such offer is made within sixty days after the date upon which the claim is presented, or of the date upon which advertising is begun pursuant to section 406, whichever is later, the period described in subparagraph (A) shall not include any period before such offer is accepted.

(3) RATE OF INTEREST.—The interest paid under this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve bulletin.

(4) RELATIONSHIP TO LIABILITY LIMITS.—Interest under this subsection shall be in addition to damages for which claims may be asserted under section 403 and shall be paid without regard to any limitation of liability under subsection (b). The payment of interest under this subsection by a guarantor shall be subject to section 405(e).

(f) AGREEMENTS.—

(1) LIABILITY NOT TRANSFERABLE.—A responsible party may not transfer the liability imposed under this section to any other person.

(2) INDEMNIFICATION AGREEMENTS.—Nothing in this title shall preclude an agreement whereby a person who, by an agreement with a responsible party, agrees to indemnify the responsible party for the liability imposed under subsection (a).

(g) RELATIONSHIP TO OTHER CAUSES OF ACTION.—Nothing in this subtitle shall bar a cause of action that a responsible party subject to liability under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(h) RELATIONSHIP TO OTHER LAW.—To the extent that it is in conflict with, or otherwise inconsistent with, any other law (other than title V or any amendment made by title V) relating to liability or the limitation thereof, this section supersedes such other law.

(i) ADMINISTRATIVE COSTS.—The Trust Fund shall not be available for the payment of costs and expenses of administration of this title, unless such costs and expenses are necessary for and incidental to the implementation of this title.

SEC. 405. FINANCIAL RESPONSIBILITY.

(a) VESSELS.—

(1) REQUIREMENT.—The responsible party with respect to each vessel (except a public vessel or a non-self-propelled vessel that does not carry oil as cargo or fuel) over three hundred gross tons that uses a facility or the navigable waters shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum liability under section 404 of this subtitle to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where a responsible party owns or operates more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have the certification required under this subsection or the regulations issued hereunder.

(3) DENYING ENTRY TO OR DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (B) detain at the facility or at the port or place in the United States, any vessel subject to this subsection that, upon request, does not produce the certification required under this subsection or regulations issued hereunder.

(b) FACILITIES.—The responsible party with respect to each facility shall establish and maintain, in accordance with regulations issued by the secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where the responsible party is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to one such facility.

(c) METHODS.—Financial responsibility under this section may be established by any one, or by any combination, of the following methods acceptable to the Secretary: evidence of insurance, surety bond, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(d) CLAIMS AGAINST GUARANTOR.—Any claim authorized by section 403(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section for any responsible party with respect to a facility or vessel. In defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under this subtitle. He may also invoke the defense that the incident was caused by the willful misconduct of the responsible party, but he may not invoke any other defense that he might be entitled to invoke in proceedings brought by the responsible party against him.

(e) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this subtitle shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceeds, in the aggregate, the amount of financial responsibility which that guarantor has provided for the responsible party for any vessel or facility that was a source of oil pollution in that incident. Nothing in this subsection shall be construed to limit any other statutory, contractual, or common law liability of a guarantor to any responsible party for whom such guarantor provides evidence of financial responsibility including, but not limited to, the liability of such guarantor for negotiating in bad faith a settlement of any claim.

SEC. 406. DESIGNATION AND ADVERTISEMENT.

(a) DESIGNATION OF SOURCE AND NOTIFICATION.—When the Secretary receives information of an incident that involves oil pollution, he shall, where possible and appropriate, designate the source or sources of the oil pollution. if a designated source is a vessel or a facility, the Secretary shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) ADVERTISEMENT BY THE RESPONSIBLE PARTY OR GUARANTOR.—If a responsible party or guarantor fails to inform the Secretary, within five days after receiving notification of a designation under subsection (a), of his denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented to such party or guarantor, in accordance with regulations promulgated by the Secretary. Advertisement under the preceding sentence shall begin no later than fifteen days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the Secretary shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than thirty days.

(c) ADVERTISEMENT BY THE SECRETARY.—If—

(1) the responsible party and the guarantor both deny a designation within five days after receiving notification of a designation under subsection (a),

(2) the source of the oil pollution was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the oil pollution under subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Trust Fund.

SEC. 407. CLAIMS SETTLEMENT.

(a) PRESENTATION TO RESPONSIBLE PARTY OR GUARANTOR.—Except as provided in subsection (b), all claims shall be presented to the responsible party or guarantor of the source designed under section 406(a).

(b) PRESENTATION TO TRUST FUND.—Claims may be presented to the Trust Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 406(c);

(2) by a responsible party who may assert a claim under section 403(a); or

(3) by the Governor of a State for cleanup costs incurred by that State.

(c) ELECTION.—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 180 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 406(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Trust Fund. Such an election shall be irrevocable and exclusive.

(d) UNCOMPENSATED DAMAGES.—If a claim is presented in accordance with subsection (a) and full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 404 or because the responsible party and his guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Trust Fund.

(e) TRANSMITTAL OF CLAIM AND DOCUMENTS.—In the case of a claim which has been presented to any person under subsection (a) and which is being presented to the Trust Fund under subsection (c) or (d), that person, at the request of the claimant, shall transmit the claim and supporting documents to the Trust Fund. The Secretary may, by regulation, prescribe the documents to be so transmitted and the terms under which they are to be transmitted.

(f) PROCEDURES.—The Secretary shall establish procedures and standards for the prompt appraisal and settlement of claims against the Trust Fund, including procedures for ensuring the rapid and equitable settlement of claims submitted by the Governor of any State for cleanup costs incurred by that State.

(g) USE OF PRIVATE ORGANIZATIONS AND FEDERAL PERSONNEL.—The Secretary may use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Trust Fund and may contract for those facilities and services. To the extent necessitated by extraordinary circumstances, where the services of private organizations or State agencies are inadequate, the Secretary may use Federal personnel, on a reimbursable basis, to process claims against the Trust Fund.

(h) JUDICIAL REVIEW.—Any claimant, or any other person suffering legal wrong because of, or adversely affected or aggrieved by, a final determination of the Secretary with respect to a claim, may bring an action for judicial review of the determination in accordance with chapter 7 of title 5, United States Code. Such action shall be brought under section 409 and shall be the exclusive judicial remedy with respect to such final determination of the Secretary. Such an action shall be filed not later than thirty days after the Secretary issues notification of the final determination. Venue for any such action shall lie in any district wherein the claimant resides, in addition to any district described in section 409(b).

(i) ACTIONS AGAINST RESPONSIBLE PARTY OR GUARANTOR.—(1) SERVICE OF PLEADINGS ON TRUST FUND.—In any action brought under this subtitle against a responsible party or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Trust Fund at the same time those pleadings are served upon the opposing parties.

(2) INTERVENTION OF TRUST FUND.—The Trust Fund may intervene as a party as a matter of right in any action in which a complaint has been served upon it under paragraph (1).

(3) ADMISSION OF LIABILITY.—In any action to which the Trust Fund is a party, if the responsible party or his guarantor admits liability under this subtitle, the Trust Fund shall be dismissed therefrom to the extent of the admitted liability.

(4) EFFECT OF JUDGMENT.—If the Trust Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in paragraph (1), the Trust Fund shall be bound by any judgment entered therein, whether or not the Trust Fund was a party to the action.

(5) FAILURE TO SERVE PLEADINGS.—(A) If the plaintiff fails to serve a copy of the complaint upon the Trust Fund as required by paragraph (1), the plaintiff shall not recover from the Trust Fund any sums not paid by the defendant.

(B) If the defendant fails to serve a copy of the initial answer to a complaint upon the Trust Fund as required by paragraph (1), the limitation of liability otherwise permitted by subsection (b) of section 404 shall not be available to the defendant.

(C) If neither the plaintiff nor the defendant serves a copy of the complaint and all subsequent pleadings upon the Trust Fund as required in paragraph (1), the Trust Fund may serve a motion for a new trial for the purposes specified in this subparagraph. The motion must be served not later than ten days after the Trust Fund has received notice of the entry of the judgment in the action, but in no case later than ninety days after the entry of that judgment. The Trust Fund must establish in its motion that, due to the failure of the plaintiff or defendant to comply with paragraph (1), the Trust Fund failed to receive timely notice of one or more issues raised in the action, which might affect the liability of the Trust Fund in any case brought under this subtitle. When the Trust Fund does so, the court shall open the judgment, if one has been entered, and shall take additional pleadings and testimony on the identified issue or issues. The court may amend findings of fact and conclusions of law or make new findings and conclusions and direct the entry of a new judgment in the action.

(j) JOINDER OF PARTIES.—In any action brought against the Trust Fund the plaintiff may join any responsible party or his guarantor, and the Trust Fund may implede any person, who is or may be liable to the Trust Fund.

(k) PERIOD OF LIMITATIONS.—No claim may be presented, nor may any action be commenced for damages recoverable under this subtitle, unless that claim is presented to, or that action is commenced against, a responsible party or his guarantor or against the Trust Fund as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (a) of section 403, or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SEC. 408. SUBROGATION.

(a) RIGHT OF SUBROGATION.—Any person, including the Trust Fund, who compensates any claimant for an economic loss compensable under section 403 shall be subrogated to all rights, claims, and causes of action which that claimant has under this subtitle.

(b) RECOVERY BY TRUST FUND.—

(1) DENIAL OF SOURCE DESIGNATION OR LIABILITY.—In a case in which the Trust Fund has compensated a claimant for a claim pre-

sented to the Trust Fund under section 407(b)(1) or 407(c)(1), the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid to the claimant;

(B) interest on that amount for the period beginning on the date on which the claim was first presented by the claimant to the Trust Fund or the responsible party or guarantor and ending on the date on which the Trust Fund is paid by the responsible party or guarantor, except that if the Trust Fund offered to the claimant the amount finally paid by the Trust Fund to the claimant in satisfaction of the claim against the Trust Fund the responsible party or guarantor shall not be liable for interest for the period beginning on the date the Trust Fund made such offer and ending on the date on which the claimant accepted such offer; and

(C) all costs incurred by the Trust Fund by reason of the claim of the claimant against the Trust Fund and by reason of the claim of the Trust Fund against the responsibility party or guarantor.

(2) FAILURE TO SETTLE WHERE PAYMENT BY TRUST FUND EXCEEDS OFFER BY RESPONSIBLE PARTY.—In a case in which the Trust Fund has compensated a claimant for a claim presented to the Trust Fund under section 407(c)(2) where the amount the Trust Fund has paid to the claimant exceeds the largest amount, if any, the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid the claimant, except that the portion of such amount in excess of the amount offered to the claimant by the responsible party or guarantor shall be subject to dispute by the responsible party or guarantor;

(B) interest on the portion of such excess, is any, which is recovered by the Trust Fund, for a period determined in the same manner as in paragraph (1)(B); and

(C) all costs incurred by the Trust Fund by reason of the claim of the Trust Fund against the responsible party or guarantor.

(3) FAILURE TO SETTLE WHERE PAYMENT OF TRUST FUND DOES NOT EXCEED OFFER BY RESPONSIBLE PARTY.—In a case in which the Trust Fund has compensated a claimant for a claim presented to the Trust Fund under section 407(c)(2) where the amount the Trust Fund has paid to the claimant is less than or equal to the largest amount the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid to the claimant; and

(B) interest—

(i) for the period beginning on the date on which the claim was presented by the claimant to the responsible party or guarantor and ending on the date on which the responsible party or guarantor offered to the claimant the largest amount referred to in this paragraph, except that if the responsible party or guarantor offered such amount within sixty days after the date upon which the claim of the claimant as presented to the responsible party or guarantor or advertising was commenced under section 406, whichever is later, the responsible party or guarantor shall not be liable for interest for such period; and

(ii) for the period beginning on the date on which the claim of the Trust Fund against the responsible party or guarantor was presented to the responsible party or guarantor to the date on which the Trust Fund is paid, inclusive, except that if the responsible party or guarantor offers to the Trust Fund the amount finally paid to the Trust Fund is satisfaction of the claim of the Trust Fund, interest shall not be paid for the period beginning on the date on which such offer is made and ending on the date on which the Trust Fund accepts that offer, inclusive.

(4) SPECIAL RULES.—For purposes of this subsection—

(A) interest shall be calculated in accordance with section 404(e); and

(B) costs recoverable under paragraphs (1)(C) and (2)(C) include, but are not limited to, processing costs, investigating costs, court costs, and attorney's fees.

(c) PAYMENT OF CERTAIN INTEREST TO CLAIMANT.—The Trust fund shall pay over to the claimant that portion of any interest the Trust Fund recovers under subsections (b)(1)(B) and (b)(2)(B) for the period beginning on the date on which the claim of the claimant was first presented to the Trust Fund or the responsible party or guarantor to the date upon which the claimant was paid by the Trust Fund, inclusive.

(d) APPLICATION OF LIABILITY LIMITS.—The Trust Fund is entitled to recover for all interest and costs specified in subsection (b) without regard to any limitation of liability to which the responsible party or guarantor may otherwise be entitled. The payment of such interest and costs by a guarantor shall be subject to section 405(e).

SEC. 409. JURISDICTION AND VENUE

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction over all controversies arising under this subtitle and subtitles B and C, without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Unless otherwise provided in this title, venue shall lie in any district wherein the injury complained of occurred, or wherein the responsible party or guarantor resides, may be found, or has his principal office. For purposes of this section, the Trust Fund resides in the District of Columbia.

SEC. 410. RELATIONSHIP TO OTHER LAW.

(a) PREEMPTION.—Except as provided in this title, or in section 9507 of the Internal Revenue Code of 1954—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for an economic loss compensable under this subtitle.

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for damages for an economic loss described in section 403(a), except that, for a period of three years beginning on the effective date of this section, any State which on such date has in effect a statute that requires such contributions may continue to require such contributions within the limits established by such statute as those limits exists on such date, and

(3) no person may be required to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim compensable under this subtitle.

(b) STATE FINANCING OF PREPARATION FOR OIL POLLUTION CLEANUP.—Nothing in this title shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment or to finance other preparations for responding to a discharge of oil which affects such State.

(c) ACTIONS BY TRUST FUND.—Nothing in subsection (a) shall prohibit an action by the Trust Fund under any other provision of law to recover compensation paid under this subtitle.

SEC. 411. PENALTIES.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 405 or the regulations issued thereunder or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years beginning on or after October 1, 1985, such sums as may be necessary to carry out this title.

Subtitle B—Report and Coordination With Other Provisions

SEC. 421. ANNUAL REPORT.

The Secretary shall report annually to the Congress on the activities of the Trust Fund during the preceding year. The Secretary shall include in any such report any recommendations for legislative changes needed for the Trust Fund to carry out the purposes of this title.

SEC. 422. COORDINATION WITH OTHER PROVISIONS OF THIS ACT.

(a) If any provision of this title provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to the Trust Fund, any claim which arises before the effective date of such transfer (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the Trust Fund.

(b) If any provision this title authorizes amounts to be expended from the Trust Fund which are not authorized by title V (or an amendment made by title V), such provision shall have no force or effect.

Subtitle C—Regulations, Effective Dates, and Savings Provisions

SEC. 441. EFFECTIVE DATES.

(a) PROVISIONS TAKING EFFECT ON DATE OF ENACTMENT.—This section, section 401, section 402, section 412, subtitle B, section 442(a)(1) and (3), section 443, 444, and each provision of subtitle A that authorizes the promulgation of regulations shall be effective on the date of the enactment of this title.

(b) SUBTITLE D.—Subtitle D shall take effect on the first date on which both the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation

for Oil Pollution Damage are in force with respect to the United States.

(c) PROVISIONS TAKING EFFECT IN 180 DAYS.—All other provisions of this title, and the regulations issued under this title, shall take effect 180 days after the date of enactment of this title, except that the penalty prescribed by section 411 for failure to comply with the requirements of section 405 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this title, whichever is earlier.

(d) REGULATIONS RESPECTING FINANCIAL RESPONSIBILITY.—Any regulation respecting financial responsibility, issued pursuant to any provision of law repealed by section 442, and in effect on the day immediately preceding the effective date of section 442 shall remain in force until superseded by regulations issued under subtitle A.

SEC. 442. CONFORMING AMENDMENTS.

(a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) The first sentence of subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(b); 87 Stat. 586) is amended by inserting "in the State of Alaska" after "any area" and by inserting "related to the trans-Alaska oil pipeline" after "any activities". Such subsection is further amended by inserting at the end thereof the following new sentence: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 401 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(2) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed. Such repeal shall not affect the applicability of such subsection to claims arising before the effective date of this paragraph. Notwithstanding section 441, the repeal of—

(A) paragraph (4) of such subsection (establishing the Trans-Alaska Pipeline Liability Fund),

(B) paragraph (6) of such subsection (to the extent it permits costs of administration to be paid from the Fund and permits amounts in the fund to be invested), and

(C) paragraph (8) of such subsection (permitting recovery by subrogation),

shall only become effective upon the payment by the Board of Trustees of the Trans-Alaska Pipeline Liability Fund of all claims certified under paragraph (3) of this subsection, the rebate of all remaining amounts under paragraph (3) of this subsection, and the completion of all actions required to carry out paragraph (3) of this subsection.

(3)(A) Not later than 210 days after the date of enactment of this paragraph, the Board of Trustees of the Trans-Alaska Pipeline Liability Fund shall certify to the Secretary of Transportation the total amount of claims outstanding against such Fund, as of the effective date of paragraph (2) of this subsection. The amount in the Trans-Alaska Pipeline Liability Fund exceeding the total amount certified under the preceding sentence shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(B) After the settlement of all claims described in subparagraph (A) and the completion of all actions, if any, by the Trans-Alaska Pipeline Liability Fund for recovery of amounts paid on such claims, the remaining amounts in such Fund shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(C) Whenever a rebate is made on a pro rata basis to the owners of oil under subparagraph (A) or (B), each such owner's share of the rebate shall be an amount determined by dividing the amount contributed by such owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners to such Fund.

(D) Trustees and former trustees of the Trans-Alaska Pipeline Liability Fund who were designated by the Secretary of the Interior shall not be subject to any liability incurred by that Fund or by the present and past officers and trustees of that Fund, other than liability for gross negligence or willful misconduct.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (33 U.S.C. 1486; 88 Stat. 10) is amended to read as follows:

"SEC. 17. The Oil Spill Liability Trust Fund established under section 9507 of the Internal Revenue Code of 1954 shall be available to the Secretary for actions and activities relating to oil pollution (as defined in section 401 of that Act), or the substantial threat of oil pollution, taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Subsection (a) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof a semicolon and by adding at the end the following new paragraph:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence by inserting after "person" the following: "or his employer".

(3) Subparagraph (A) of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge"; and

(B) in the third sentence, by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Subparagraph (B) of paragraph (6) of subsection (b) is amended in the first and second sentences by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge".

(5) Subsection (c)(2)(H) is amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: ", in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Oil Spill Liability Trust Fund".

(6) Subsection (d) is amended by striking out the last sentence.

(7) Subsection (f), (g), and (i) of section 311 of the Federal Water Pollution Control Act shall not apply with respect to any discharge of oil resulting in damages for which a claim may be asserted under subtitle A of this title.

(8) Subsection (i) is amended by striking out "(1)" after "(i)" and by striking our paragraph (2) and (3).

(9)(A) Subsection (k) is repealed, effective upon the payment from the fund established by such subsection of all claims certified under subparagraph (B) and all remaining amounts to the general fund of the Treasury under subparagraph (B).

(B) Not later than 180 days after the effective date of this paragraph, the Secretary of Transportation shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the fund established by subsection (k) as of the effective date of this paragraph. The amount in such fund exceeding the total amount certified shall be transferred to the general fund of the Treasury. If the amount paid in settlement of such claims is less than the amount so certified, the remainder shall be transferred to the general fund of the Treasury. Any amounts received by the United States under section 311 with respect to such claims after the effective date of the repeal of subsection (k) shall be deposited in the general fund of the Treasury.

(10) Subsection (1) is amended by striking out the second sentence.

(11) Subsection (p) is repealed.

(12) Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Oil Spill Liability Trust Fund shall be available to carry out subsections (c), (d), (i), and (1) as those subsections relate to discharges of oil. Any amounts received by the United States under this section with respect to claims arising on or after the effective date of this subsection shall be deposited in the Oil Spill Liability Trust Fund.".

(d) DEEPWATER PORT ACT OF 1974.—The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.; 88 Stat. 2126) is amended as follows:

(1) Section 4(c)(1) is amended by striking out "section 18(1) of this Act" and inserting in lieu thereof "section 405 of the Comprehensive Oil Pollution Liability and Compensation Act".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed and subsections (c), (k), and (m) of section 18 are redesignated as subsections (b), (c), and (d), respectively.

(3) Paragraph (3) of subsection (b) of section 18 (as redesignated by paragraph (2)) is amended by striking out "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "Oil Spill Liability Trust Fund.".

(4) Subsection (c) of section 18 (as redesignated by paragraph (2)) is amended to read as follows:

"(c) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Any amounts remaining in the Deepwater Port Liability Fund established by section 18(f) of the Deepwater Port Act of 1974 shall be deposited in the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund under the Deepwater Port Act of 1974.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Oil Spill Liability Trust Fund established by subtitle B of this title. The Oil Spill Liability Trust Fund shall assume

all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 443. REGULATIONS AND DELEGATION OF AUTHORITY.

The Secretary of Transportation may prescribe regulations to carry out this title.

SEC. 444. SEPARABILITY.

If any provision of this title or the applicability thereof is held invalid, the remainder of this title shall not be affected thereby.

Subtitle D—Implementation of Conventions

SEC. 461. RECOGNITION OF THE INTERNATIONAL FUND.

The International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention is recognized under the laws of the United States as a legal person and shall have the capacity under the laws of the United States to contract, to acquire and dispose of real and personal property, and to institute and be a party to legal proceedings. The Director of the International Fund is recognized as the legal representative of the International Fund. The Director shall be deemed to have appointed irrevocably the Secretary of State his agent for service of process in any action against the International Fund in any court in the United States.

SEC. 462. SERVICE OF PROCESS AND INTERVENTION.

(a) SERVICE OF PROCESS ON FUNDS.—In any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention, the plaintiff or defendant, as the case may be, shall serve a copy of the complaint and any subsequent pleading therein upon the International Fund and the Oil Spill Liability Trust Fund at the same time the complaint or other pleading is served upon the opposing parties.

(b) INTERVENTION.—The International Fund may intervene as a party as a matter of right in any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention.

(c) EFFECT OF JUDGMENT.—If the International Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in subsection (a), the International Fund shall be bound by any judgment entered therein, whether or not the International Fund was a party to the action.

SEC. 463. EXEMPTION FROM TAXATION.

The International Fund and its assets shall be exempt from all direct taxation in the United States.

SEC. 464. PAYMENT OF CONTRIBUTIONS.

(a) PAYMENTS TO BE MADE FROM OIL SPILL LIABILITY TRUST FUND.—The amount of any contribution to the International Fund which is required to be made under article 10 of the International Fund Convention by any person with respect to oil received in any port, terminal installation, or other installation located in the United States shall be paid to the International Fund from the Oil Spill Trust Fund. Before the International Fund Convention enters into force with respect to the United States, the President shall make, and deposit with the Secretary-General of the International Maritime Organization, a declaration under article 14 of the International Fund Convention that the United States assumes the obligation to pay contributions under article 10 of such Convention in respect of oil received within the territory of the United States and that such amount will be paid from the Oil Spill Liability Trust Fund.

(b) INFORMATION.—The Secretary shall, by regulation, require persons who are required to make contributions with respect to oil received in any port, terminal installation, or other installation in the United States under article 10 of the International Fund Convention to provide such information relating to that oil as may be necessary to carry out subsection (a).

SEC. 465. JURISDICTION OF DISTRICT COURTS.

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction of all controversies arising under the Civil Liability Convention or the International Fund Convention in—

(1) the territory, including the territorial sea, of the United States, or

(2) the exclusive economic zone of the United States established by Proclamation Numbered 5030, dated March 10, 1983,

without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For purposes of this subjection, the International Fund shall reside in the District of Columbia.

SEC. 466. RECOGNITION OF JUDGMENTS.

Any final judgment of a court of any nation which is a party to the Civil Liability Convention or the International Fund Convention in an action for compensation under either such convention shall be recognized by any court of the United States or of a State when that judgment has become enforceable in such nation and is no longer subject to ordinary forms of review, except where—

(1) the judgement was obtained by fraud; or

(2) the defendant was not given reasonable notice and a fair opportunity to present his case.

SEC. 467. FINANCIAL RESPONSIBILITY.

(a) U.S. DOCUMENTED SHIPS.—The owner of each ship which is documented under the laws of the United States and is carrying more than two thousand tons of oil in bulk as cargo shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The Secretary shall issue a certificate to each such owner who complies with this paragraph, in the form and manner required by the Civil Liability Convention.

(b) U.S. OWNED SHIPS.—With respect to any ship owned by the United States, the Secretary shall issue a certificate stating that the ship is owned by the United States and that the ship's liability is covered within the limits of liability prescribed by the Civil Liability Convention.

(c) OTHER SHIPS.—The owner of each ship (other than a ship to which subsection (a) or (b) applies), wherever registered, which is carrying more than two thousand tons of oil in bulk as cargo and which enters or leaves a port or offshore terminal in the United States (including the territorial seas) shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The owner of a ship which is registered in, or flying the flag of, a nation which is a party to the Civil Liability Convention shall be considered to have met the requirements of this paragraph if the ship is carrying a certificate issued by such nation attesting that insurance or other financial security is in force which meets the requirements of such Convention.

(d) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any ship which does not have a certificate showing compliance with the requirements of financial responsibility under subsection (a) or (c).

(e) DENYING ENTRY AND DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (1) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (2) detain at the facility or at the port or place in the United States, any vessel subject to this section that, upon request, does not produce the certificate required under this section or regulations issued hereunder.

SEC. 468. CIVIL PENALTY.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 464(b) or 467, the regulations issued under either such section, or any denial or detention order under section 467(e) shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions any civil penalty which is subject to imposition or which has been imposed under this subsection. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 469. WAIVER OF SOVEREIGN IMMUNITY.

The United States waives all defenses based on its status as a sovereign State with respect to any controversy arising under the Civil Liability Convention or the International Fund Convention relating to any ship owned by the United States and used for commercial purposes.

SEC. 470. RULES AND REGULATIONS.

The Secretary may issue such rules and regulations as are necessary to implement the Civil Liability Convention and the International Fund Convention.

SEC. 471. DEFINITIONS.

For purposes of this subtitle—

(1) terms defined in subtitle A have the same meanings when used in this subtitle;

(2) the term "Civil Liability Convention" means the International Convention on Civil Liability of Oil Pollution Damage, 1984;

(3) the term "International Fund" means the International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention; and

(4) the term "International Fund Convention" means the International Convention

on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984.

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

Mr. ECKART of Ohio. Mr. Chairman, I ask unanimous consent that after consideration of the Frank amendment and any amendments thereto there be 20 minutes debate on the Edgar amendment which was adopted to title III. The time would be equally divided and controlled by Representative EDGAR and a Member opposed to that amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. LENT. Mr. Chairman, reserving the right to object, I do so for the purpose of hearing from the gentleman from Ohio what it is that he is proposing.

I yield to the gentleman for his response.

Mr. ECKART of Ohio. At the time of the adoption of this amendment late in the evening on Thursday night, there were approximately 86 Members who, for various reasons of importance to them and their districts or to other legislative business, were unable to either attend and participate in that debate or to ultimately make the rollcall vote. That number represents about 1 out of 5 of our colleagues at that very late hour who, unfortunately, were not able to fully understand and participate in the consequences of that debate.

What I propose here in a manner not inconsistent with what has been done in other bills at other times is to allow those 86 Members to hear, in an abbreviated version, the debate revolving around this very important amendment which was decided by a very small margin.

Additionally, Mr. Chairman, continuing under the reservation of objection of the gentleman from New York, it has come to this gentleman's attention that several individual groups which signed a letter that was circulated on the floor of the House have since repudiated their endorsement either as having not been involved or now not supporting the amendment

Clearly, in light of the fact that there have been either substantial changes——

POINT OF ORDER

Mr. EDGAR. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. EDGAR. Mr. Chairman, the reservation has been made on this unanimous-consent request. The gentleman from Ohio is now debating the substance of the issue, and I think that we ought to raise the question of whether or not a reservation will in fact take place on this issue.

Mr. ECKART of Ohio. Mr. Chairman, may I be heard on this point of order?

The CHAIRMAN. The gentleman has a right to be heard under the reservation of the gentleman from New York who yielded to him for the purposes of explaining why he was making the unanimous-consent request of the committee.

Mr. ECKART of Ohio. I thank the Chair.

Mr. Chairman, I would reply and give to the offeror of the point of order my purpose of placing this unanimous-consent request, and to raise the issues that would be discussed in the course of the debate, certainly I think, would influence the body as to whether or not they would like to have an additional airing of the changed issues that have intervened in the last several days.

Clearly, a matter of such great substance and importance which the gentleman advocated so eloquently on the floor Thursday evening deserves that full and complete airing particularly for those more than 20 percent of the Members of the House who, because of commitments and other legislative matters were unable to attend.

In light of these changed circumstances, in light of these changed endorsements, in fact, even repudiations of alleged endorsements, many of which we have not had the time to reexamine as to their veracity or continued accuracy, and in light of the fact that 86 of our colleagues did not hear this debate on this most critical issue that my colleague from Pennsylvania cited so wonderfully and eloquently last Thursday evening, I think a sense of fairness and fair play would auger well for a very limited, very abbreviated debate, the time to be equally divided between the proponents and the opponents after the consideration of the amendment of the gentleman from Massachusetts who has waited so long and patiently.

It is merely a question of fair play I would point out to my colleagues. I thank the gentleman from New York for reserving.

Mr. LENT. I thank the gentleman for his explanation.

Mr. Chairman, under my reservation of objection I yield to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman from Ohio said that there are changed circumstances, and there are.

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Mr. Chairman, if the gentleman will yield further, the other day when we were arguing this debate, we did not have the shopping list of all the groups that have in fact now endorsed the amendment. We feel very confident about the support that is growing on this issue, and we note very clearly that today under 1-minute speeches there were ample opportunities to speak. In fact, those opponents of the Edgar-Sikorski amendment took that opportunity in 1-minute speeches.

We note that the hour is late, that it is time for us to pass a strong Superfund bill, and I would urge the author of this request to amend his unanimous-consent request to 5 minutes on each side, so that each, the proponent and opponent of the position, could clearly state what the amendment says, and then we could cast a vote.

In the pressure of time, I would hope that the gentleman would rephrase his unanimous-consent request. If he does not, I think I will be constrained to object.

Mr. LENT. Mr. Chairman, further reserving the right to object, I am happy to yield under my reservation to the gentleman from Ohio for any purpose that he might have in mind.

The CHAIRMAN. First, the Chair would observe that we had 7½ minutes of debate on one side and 7½ minutes on the other side on both the Duncan and Downey amendments.

The Chair now recognizes the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, if the Chair's suggestion on the gentleman's reservation is correct, what I would be willing to do is to take the suggestion of the gentleman and amend my unanimous-consent request to limit it to 15 minutes of debate that would be equally divided, in light of the precedent that has been created earlier this afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. SNYDER. Mr. Chairman, reserving the right to object, and I shall not object, but in view of the fact that we have perfunctory motions available moving to strike the requisite number of words, I would like to see, after this is agreed to, that the gentleman then makes a unanimous-consent request that debate on the bill and all amendments thereto conclude at the conclusion of that vote.

Mr. EDGAR. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. LENT. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Chairman, I think the gentleman makes a good point. There is under the rules of the House the opportunity to move to strike the last word, and I think if the gentleman agrees to the 7½ minutes on each side, we can adequately describe the amendment, and not take the time of the House through additional 5-minute-rule time which would be available to us. So I would hope the gentleman would suggest that after the Barney Frank amendment and after we have 7½ minutes on either side on the Edgar-Sikorski proposal, all time on this bill and all other amendments thereto appertaining would in fact end, and we would move to full consideration in the House.

Mr. ECKART of Ohio. Mr. Chairman, will the gentleman yield so that I may restate my unanimous-consent request?

Mr. LENT. Mr. Chairman, I yield to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, I ask unanimous consent that after consideration of the Frank amendment and any amendment thereto, there be 15 minutes of debate on the Edgar amendment adopted to title III, that the time would be equally divided and controlled by Representative EDGAR and a Member opposed thereto, and that all debate on the bill and the balance of the bill would conclude at the conclusion of this 15 minutes.

Mr. SNYDER. Mr. Chairman, I withdraw my reservation of objection.

Mr. LENT. Mr. Chairman, based on the gentleman's explanation and the understanding arrived at, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the final request of the gentleman from Ohio [Mr. ECKART]?

There was no objection.

The CHAIRMAN. The Chair will state that we will now proceed with the 50 minutes of debate on the Frank amendment.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 439, after line 4, add the following:

TITLE VI—FEDERAL CAUSE OF ACTION

SEC. 601. DEFINITIONS.

For purposes of this title:

(1) MEDICAL COSTS.—The term "medical costs" means the costs of all appropriate medical, surgical, hospital, nursing care, ambulance, and other related services, drugs, medicines, as appropriate for both diagnosis and treatment, and any rehabilitative programs within the scope of section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723).

(2) DEPENDENT.—The term "dependent" means with respect to any deceased person the individual or individuals referred to in section 8110 of title 5, United States Code, as in effect on May 10, 1984.

(3) RELEASE.—The term "release" means the discharge, deposit, injection, dumping, spilling, leaking, storing, treating, or placing, of any hazardous substance into or on land, air, or water, except that such term shall not include activities referred to in subparagraphs (B) through (D) of section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(4) SUPERFUND TERMS.—The terms "Administrator", "act of God", "hazardous substance", and "facility" shall have the same meaning when used in this title as when used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

SEC. 602. LIABILITY.

(a) LIABILITY.—Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (d) of this section, the persons described in subsection (b) shall be liable for damages to an individual (and his dependents) if the plaintiff establishes each of the following by a preponderance of the evidence:

(1) There is a release of a hazardous substance from a facility.

(2) The release causes the incurrence of the damages.

(3) The damages are compensable under this title.

(b) PERSONS LIABLE.—The following persons shall be liable under subsection (a):

(1) The owner and operator of the facility at which the release occurred.

(2) Any person who owned or operated the facility at which the release occurred at the time any hazardous substance was disposed of at such facility.

(3) Any person who by contract, agreement, or otherwise made one of the following arrangements:

(A) An arrangement for disposal or treatment by any other party or entity of hazardous substances owned or possessed by such person, at any facility—

(i) which is owned or operated by another party or entity,

(ii) which contains such hazardous substances,

(iii) from which the release occurred.

(B) An arrangement with a transporter for transport of hazardous substances owned or possessed by such person for disposal or treatment by any other party or entity at any facility referred to in clauses (i) through (iii) of subparagraph (A).

(4) Any person who accepts or accepted any hazardous substance for transport to disposal or treatment facilities or sites selected by such person from which such release occurred.

A person described in paragraph (3) or (4) shall be liable under this section only if the plaintiff establishes by a preponderance of the evidence that the type of hazardous substance involved in the disposal or treatment referred to in paragraph (3) or (4) causes the type of damages incurred by the plaintiff.

(c) STRICT; JOINT AND SEVERAL.—(1) The liability of any person under this title shall be strict. Except as provided in paragraph (2) of this subsection, such liability shall be joint and several. Nothing in this section shall be construed to affect the equitable powers of apportionment of any court following an adjudication of liability.

(2) If any defendant in an action under this section establishes by a preponderance of the evidence that the harm for which damages are compensable under this title is divisible, he shall be liable only for his portion of such harm and shall not be jointly and severally liable.

(d) DEFENSES.—(1) There shall be no liability under subsection (a) for any defendant who can establish by a preponderance of the evidence that the exposure to a hazardous substance or the damage resulting from such exposure, was caused solely by one or more of the following:

(A) An act of God.

(B) An act of war.

(C) An act or omission of a thrid party if the defendant establishes each of the following by a preponderance of the evidence:

(i) The defendant exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances.

(ii) The defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions.

(2) Paragraph (1)(C) shall not apply in the case of a third party which is one of the following:

(A) An employee or agent of the defendant.

(B) A person whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail).

(3) No defendant described in subsection (b)(3) or (4) shall be liable under this section if he establishes by a preponderance of the evidence that both of the following are minimal in comparison to other hazardous substances involved in the release which caused the incurrence of damages:

(A) The amount of the hazardous substance involved in the defendant's arrangement referred to in subsection (b)(3) and the defendant's transportation referred to in subsection (b)(4).

(B) The toxic or other hazardous effects of the hazardous substance involved in the defendant's arrangement referred to in subsection (B)(3) and the defendant's transportation referred to in subsection (b)(4).

(4) No defendant shall be liable under this section if he establishes each of the following by a preponderance of the evidence:

(A) That the defendant is the owner of the real property on or in which the facility is located.

(B) That the defendant did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility.

(C) That the defendant did not contribute to the release of a hazardous substance at the facility through any action or omission. The defense under this paragraph shall not be available to a defendant who purchased the real property and who knew or reasonably should have known that the property was used for the generation, transportation, storage, or disposal of any hazardous substance.

(e) CONTRIBUTION.—After adjudication of liability and recovery of damages in any action under this section, any defendant held liable for damages in such action may bring a separate action in the appropriate United States district court to require any

other person referred to in paragraph (1), (2), (3), or (4) of subsection (a) to contribute to payment of such damages.

(f) APPORTIONMENT.—Following an adjudication of joint and several liability in an action under this section, the court may apportion damages among parties held jointly and severally liable. In apportioning the damages the court may consider, among other factors, each of the following:

(1) The amount of hazardous substances involved.

(2) The degree of toxicity of the hazardous substances involved.

(3) The degree of involvement by the parties in the generation, transportation, treatment, storage, or disposal of the hazardous substances, taking into account the characteristics of such hazardous substances.

(4) The degree of cooperation by the parties with Federal, State, or local officials to prevent any harm to public health or the environment.

(5) The amount of damages which should justly be attributed to other potentially liable parties who are not, and could not be, brought before the court.

(g) JOINDER.—Joinder of claims and persons in actions under this section shall be in accordance with the Federal Rules of Civil Procedure.

SEC. 603. REALLOCATION OF UNCOLLECTIBLE APPORTIONED SHARES.

Upon a motion made by any plaintiff or defendant in an action under this title not later than 2 years after judgment is entered, the court shall determine whether all or part of the amount for which another jointly liable party is responsible is uncollectible from that liable party, and shall reallocate any uncollectible amount among the other jointly liable parties, according to the ratio of their previously apportioned share of the damages. The jointly liable parties whose shares are reallocated are nonetheless subject to contribution and to continuing liability to the plaintiff.

SEC. 604. EVIDENCE.

The Federal Rules of Evidence shall apply in actions under this title. Any information which tends to establish that exposure to a hazardous substance in question causes or contributes, or does not cause or contribute, to damages compensable under this title of the type or class allegedly suffered by an individual, shall be treated as relevant evidence in an action under this title, including the following:

(1) Any toxicological profile prepared under section 116 of the CERCLA Reauthorization Act of 1985.

(2) Any health effects study carried out under section 104(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(3) An increase in the incidence of injury or illness, or an increase in the incidence of death, in the exposed population above that which is otherwise expected.

(4) Epidemiological studies.

(5) Animal studies.

(6) Tissue culture studies.

(7) Micro-organism culture studies.

(8) Laboratory and toxicologic studies.

SEC. 605. COMPENSABLE DAMAGES.

The following damages shall be compensable under this title:

(1) Any medical expenses, rehabilitation costs, or burial expenses due to personal injury, illness, or death.

(2) Any loss of income or profits or any impairment or loss of earning capacity due to personal injury, illness, or death.

(3) Any pain and suffering which results from personal injury, illness, or death.

(4) Any economic loss and any damages to property, including real and significant diminution in value.

Pain and suffering shall not be compensable under this title for an individual to the extent that such pain and suffering results from such individual's unreasonable fear of experiencing his own physical injury, illness, or death where such individual has not experienced any such physical injury, illness, or death or from such individual's unreasonable fear of another person's personal injury, illness, or death where such other person has not experienced any such physical injury, illness, or death.

SEC. 606. JURISDICTION: COSTS OF LITIGATION.

(a) JURISDICTION.—Any action under this title may be maintained in a district court of the United States in a district in which either the plaintiff or defendant resides or in which the defendant's principal place of business is located, without regard to the amount in controversy. Jurisdiction of the United States district courts over an action under this title shall be concurrent with the jurisdiction of the courts of any State over such an action and nothing in this section shall be construed to affect the jurisdiction of any State court with respect to any action under this title.

(b) COSTS OF LITIGATION.—In issuing any final order in any action under this part, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such award is appropriate.

SEC. 607. STATE LAW.

Nothing in this title shall be construed to preempt, or otherwise affect, any Federal or State law, or rule or principle of Federal or State law, regarding liability for damages in connection with any hazardous substance.

SEC. 608. LIMITATIONS.

(a) 3-YEAR PERIOD.—No action may be brought by any individual under this title after the end of a 3-year period beginning on the later of the following:

(1) The date the individual knew (or reasonably should have known) that the injury, illness, or death or other expense was caused by the hazardous substance concerned.

(2) The date of enactment of this Act.

(b) MINORS AND INCOMPETENTS.—The time limitation described in subsection (a) shall not begin to run—

(1) against a minor, until that minor reaches 18 years of age or has had a legal representative appointed; or

(2) against an incompetent individual, until that individual becomes competent or has had a legal representative appointed.

(c) DAMAGES INCURRED BEFORE ENACTMENT.—No action may be brought by any person under this title for any damages due to the illness, injury, or death of any individual if such damages were incurred more than 10 years before the date of the enactment of this Act.

(d) OTHER STATUTES.—No action may be brought by an individual under this title for any damages if, prior to the enactment of this Act, the statute of limitations has expired for any cause of action which (but for such expiration) would have been available to such individual under any other authority of law for recovery of the same damages and if the rights of such individual under such other authority of law (including the applicable statute of limitations) are equivalent to such individual's rights under this title.

SEC. 609. WORKER'S COMPENSATION.

No employee, or employee's spouse, dependent, relative, or legal representative, who may assert a claim against the employee's employer under a State or Federal workers' compensation law based on the employee's workplace exposure to a hazardous substance shall be entitled to recover any amount under this title from the employee's employer, such employer's insurance carrier, or a fellow employee based on that exposure.

SEC. 610. COLLATERAL RECOVERY.

No person may bring separate actions in both the courts of any State and the courts of the United States for damages compensable under this title which result from harm caused by the release of a hazardous substance.

SEC. 611. ADDITIONAL RECOVERY.

(a) ADDITIONAL AMOUNTS.—No individual who has recovered any amount in an action under this title with respect to harm caused by the release of any hazardous substance shall be prohibited from recovering from the same defendant or defendants an additional amount under this title if—

(1) such individual establishes (in a subsequent action under this title) that—

(A) personal injury, illness, or death which becomes manifest after the prior action was caused by such release, and

(B) such personal injury, illness, or death was not known, and reasonably could not have been known (on the basis of the facts and circumstances regarding the release) at the time the prior action was brought under this title, and

(2) such individual did not receive compensable damages in anticipation that such personal injury, illness, or death would be discovered.

(b) ACTIONS UNDER OTHER LAW.—An individual who previously brought suit in State or Federal court under any other authority of law for damages compensable under this title which were caused by the release of any hazardous substance may not bring an action under this title for the same damages caused by the same release if judgment on the merits was entered or amicable settlement was completed in the prior suit in State or Federal court.

SEC. 612. CLASS ACTIONS.

It is the policy of the Congress to encourage certification of class actions in actions under this title involving common issues of fact or law. In furtherance of that policy, the Congress finds that the requirements of Rule 23 of the Federal Rules of Civil Procedure are met in actions under this title arising from the same release and presenting common issues of fact or law and involving 30 or more potential claimants.

SEC. 613. PUNITIVE DAMAGES.

In any action under this title, punitive damages may be awarded in the case of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by a hazardous substance, pollutant, or contaminant and constituting an extreme departure from accepted practice.

SEC. 614. LIABILITY OF THE UNITED STATES.

The United States shall not be liable under this title, either directly or indirectly or through indemnification, in any action brought under this title or under section 1346(b) of title 28 of the United States Code. No State or local government shall be

liable under this title either directly or indirectly or through indemnification in any action brought under this title.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

PARLIAMENTARY INQUIRY

Mr. GLICKMAN. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GLICKMAN. Mr. Chairman, is this an appropriate time to get the Chair's division of time on this particular amendment and how the amendment will be divided in terms of time?

The CHAIRMAN. The Chair was just about to state that.

Pursuant to the unanimous-consent agreement adopted by the Committee on Thursday, December 5, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 25 minutes and a Member opposed will be recognized for 25 minutes.

The Chair understands that the gentleman from Kansas [Mr. GLICKMAN] will control the 25 minutes of the opponents.

Mr. GLICKMAN. That is correct, Mr. Chairman.

Mr. KINDNESS. Mr. Chairman, reserving the right to object——

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRANK. Mr. Chairman, what is the gentleman reserving the right to object to? Nothing is pending.

The CHAIRMAN. The answer to the gentlemen's parliamentary inquiry is that he asked unanimous consent to dispense with further reading of the amendment. The Chair recognizes the gentleman from Ohio [Mr. KINDNESS] for the purpose of reserving his right to object to that request.

Mr. KINDNESS. I thank the Chair.

My question is a follow-on to the inquiry of the gentleman from Kansas, and that is with respect to the division of time beyond the point discussed. This side has a number of Members who would wish to address the issue, and I would ask the gentleman from Kansas if he would explain his intention.

Mr. GLICKMAN. Mr. Chairman, if I may respond to the gentleman, it is my intention to yield half my time to the gentleman, so I would have 12½ minutes and he would have 12½ minutes.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman.

Mr. GLICKMAN. Mr. Chairman, I withdraw my reservation of objection.

Mr. KINDNESS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Pursuant to that understanding, without objection, the further reading of the amendment is dispensed with and it may be printed in the RECORD.

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized in support of his amendment, and the gentleman has 25 minutes.

The Chair will inquire, is the gentleman trying to yield some time?

Mr. FRANK. No, Mr. Chairman, I was not trying to yield. I might say that the gentleman from Ohio [Mr. SEIBERLING] has an amendment, and I might defer to him for that purpose.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. FRANK

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the amendment offered by Mr. FRANK: Section 608 is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection (c):

(c) PROSPECTIVE APPLICATION.—No action may be brought by any person under this title for any damages due to the illness, injury, or death of any individual if such damages were incurred, and the individual knew or should have known that the illness, injury, or death was caused by the hazardous substance concerned, before the date of the enactment of this Act.

Mr. FRANK. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SEIBERLING] on his amendment.

Mr. SEIBERLING. Mr. Chairman, I am sympathetic to the purposes of the gentleman from Massachusetts [Mr. FRANK] in offering his amendment.

Toxic tort victims have not only had to suffer the tragic consequences of their exposure to hazardous substances but have also had to face difficult obstacles in the State courts in their attempts to secure adequate compensation for their injuries. The Frank amendment not only makes the legal process more equitable but provides an additional incentive to the industry to do all that it can to protect individuals and communities from such dangerous exposure.

However, the Frank amendment contains one provision which does nothing to strengthen the incentive to prevent such exposure. That provision allows an individual to bring a retroactive Federal cause of action for injuries due to exposure which occurred up to 10 years prior to enactment of this bill. While I am certainly sensitive to the plight of individuals who have been exposed to hazardous waste, I think it is going too far to subject industry to suits for injuries which occurred as much as 10 years before a Federal cause of action was enacted and indeed 5 years before any Superfund legislation was enacted.

Moreover, one purpose of allowing suits by victims is to deter conduct which may cause such injuries, but retroactively allowing suits for past injuries caused by such conduct obviously has no deterrent effect as far as past conduct is concerned.

The purpose of my amendment to the Frank amendment is to remove the retroactive provision and replace it with a provision which applies to a Federal cause of action prospectively only. Under my amendment an individual who suffered an illness or injury due to exposure from hazardous substances and who knew or should have known before enactment of this bill that the injury was caused by such exposure could not bring a Federal cause of action. However, someone who was exposed before enactment but who did not know or had no reason to know that this illness was caused by the exposure would not be barred from bringing such an action.

Mr. Chairman, I think my amendment makes the Frank amendment fairer to all parties, and I urge its adoption.

Mr. GLICKMAN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I have no objection to this amendment. I was going to offer a similar amendment myself, but I chose not to.

I think that this amendment does improve the Frank amendment by making its application substantially prospective. I think the Frank amendment still has serious problems even with this amendment in there. This amendment is reasonably prospective. You could still have some claims that occurred prior to the date of the enactment of the statute, but it does improve the amendment.

Mr. Chairman, I have no objection to the amendment and would urge that it be adopted.

Mr. KINDNESS. Mr. Chairman, I yield myself 30 seconds to speak in opposition to the amendment.

This is an example of exactly why the basic amendment should not be considered here on the floor today when we are concerned with Superfund. This is an entirely different and somewhat obtuse part of the law that has to be dealt with. But in this amendment we have language concerning the plaintiff having to know that the injury was caused by the hazardous substance concerned when in fact one cannot identify the hazardous substance concerned, and it is not necessary to do so under the Frank amendment.

The amendment to the Frank amendment does not really do anything to improve it. It is intended to be prospective in application, but it is an-

other example of why this should be taken up and studied in the Committee on the Judiciary and the subcommittee of the gentleman from Kansas.

Mr. Chairman, I urge that the amendment not be adopted.

□ 1720

Mr. FRANK. Mr. Chairman, I yield myself 2 minutes.

I would prefer to have the amendment that I have offered adopted without the amendment that my good friend, the gentleman from Ohio, has put forward, but prudence suggests that that is not likely to happen; so that I hope that the amendment to the amendment will be adopted.

I think my friends on the other side are in a little bit of a dilemma. One of the sticks with which they wanted to defeat this amendment is in danger of being taken away, so they are going to oppose an amendment which would remove one of the things to which they would otherwise object. That is a perfectly legitimate parliamentary tactic, but we ought to understand what is happening.

They are resisting making the amendment better from their standpoint because they want to have it to be able to argue against.

What the amendment of the gentleman from Ohio will do if it is accepted, and I gather now because of the opposition on the other side that we will have two votes in a row, that is, we will not get to the vote on the amendment of the gentleman from Ohio until the conclusion. We will vote first on his amendment and then on my amendment, as amended, or not.

What we will then be able to deal with is the fundamental question about whether or not you are to be able to sue.

The gentleman from Ohio has dealt with one of the issues that was a major concern before, and that is retroactivity. Some people on the other side like having retroactivity to complain about so they can discredit the underlying cause.

We are going to, I hope, adopt an amendment that will get rid of the retroactivity issue and we can deal with the general issue.

Mr. LENT. Mr. Chairman, will the gentleman just yield for a clarification?

Mr. FRANK. I yield.

Mr. LENT. Mr. Chairman, did I hear the gentleman say this amendment removes all retroactivity from the application of the gentleman's amendment, because as I read this, it does not do anything of the sort.

Mr. FRANK. Well, the intention is to reduce retroactivity substantially.

I should yield to the gentleman from Kansas, because he is the one who drafted this amendment. The gentleman from Kansas, I should tell people, said to me that he thought it would be better, without necessarily committing himself on the amendment, if it had no retroactivity. The gentleman drafted the amendment and he is the one who represented this as substantially removing retroactivity. I believe it does substantially remove it. There might be some possibility of it. Of course, if the gentleman thought it did not go far enough, then it can be dealt with further.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. FRANK. Mr. Chairman, I yield myself 1 additional minute.

If the gentlemen on the other side thought that this did not go far enough in reducing retroactivity and they were seriously concerned about retroactivity, they could then offer an amendment that would further reduce it. The amending process is open.

I repeat it does not. What they are doing, on the one hand they are going to object to the possibility of retroactivity to discredit the underlying idea, but at the same time object to either reducing or removing the retroactivity that is there. It clearly makes it substantially less open to retroactivity, and if that were central to the gentleman's concern he could have offered an amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Kansas, because he is the drafter of the amendment.

Mr. GLICKMAN. Mr. Chairman, I would say this. I am not going to support the Frank amendment. I think the gentleman deserves the right to perfect his own amendment.

This amendment goes most of the way on retroactivity, not completely, because you could have had an incident that occurred prior to the date of this bill—I want to make it clear—that a person should have known language that could have been in there, but I think that it is much better than without the amendment.

Mr. FRANK. Mr. Chairman, I do not yield further.

Mr. LENT. Mr. Chairman, will the gentleman yield for a clarification?

Mr. FRANK. The gentleman can get time on that side. I am not going to yield further.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRANK. Mr. Chairman, if there is a rollcall on the Seiberling amendment, does that come out of my 15 minutes?

The CHAIRMAN. No, it does not.

Mr. FRANK. Mr. Chairman, then I yield myself 1 more minute.

I want to make very clear what is involved in the amendment offered by the gentleman from Ohio. It substantially reduces retroactivity. There were some circumstances under which there might be some left. Others are free, of course, to further go after it.

Clearly, people on the other side do not want to see the amendment adopted, because they want to have a better argument against the whole bill.

If in fact the question was whether or not the amendment should be adopted on its merits, it would be virtually unanimous on all sides, given the present situation; so I would hope that we could proceed to a vote on the amendment. I would hope we would not have to take a rollcall and keep Members here another 15 minutes. I an not going to ask for one, but I would hope we could then vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. SEIBERLING] to the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment to the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I yield myself 3 minutes.

First of all, I want to compliment the gentleman from Massachusetts. I think this is an important issue to debate during this bill, but I reluctantly have to oppose it. A similar amendment was defeated, not exactly the same, the amendment is improved from last year by the vote of 208 to 200.

I would encourage my colleagues to think about this very seriously and vote it down.

I would like to make just a couple quick points and when I want to yield to my colleague, the gentleman from Michigan. I want to make the following points:

The real purpose of Superfund is the cleanup of hazardous waste sites, and while I think that a Federal cause of action is interesting, it does turn the Superfund Program into a private compensation program. I do not think that that is what we are trying to do right here. We are trying to clean up sites. I think this kind of an amendment deviates from the basic purpose of the bill.

Second of all, I think the Federal cause of action will substantially reduce the incentives for voluntary action and private cleanups that are in the bill. If a responsible party faces strict joint and several liability for private damage actions, he will be more reluctant to come forward to clean up the site and settle with the Government. Responsible waste disposal will be virtually impossible because this

added liability I think will be uninsurable.

I would also like to point out one final thing. I am very interested in the whole subject of civil justice reform, tort liability in this country, relationships between compensation and damage and harm. What I fear this amendment will do will be substantially to expand the utilization of the courts for tort claims in this country at a time when we need to be considering very, very carefully how we want this kind of increased litigation to go forward.

I would note, however, for the record, that there is language in the bill which is very, very important, which deals with the issues of procedural reform in the States. If possible, I would like to engage on my time the gentleman from Michigan [Mr. DINGELL] in a brief colloquy.

The compromise version of Superfund contains an important provision which really addresses the major problem addressed by the Federal cause of action—the fact that currently residents of some States have no right to sue for damages arising from hazardous substances because the State statute of limitations applicable to their claim has already passed before they even know they have been injured.

This provision, called Section 203 State Procedural Reform adds a new section 309 to Superfund. This section, which is based on the section 301(e) study mandated by Superfund, provides that State statutes of limitations will not commence until the injured person knew or reasonably should have known that their personal injury or property damages were caused by exposure to a hazardous substance.

Thus, under this provision, all persons, regardless of which State they live in, will be able to sue for damages when they know they have been damaged. This is of particular importance because of the long latency period for many injuries resulting from exposure to hazardous substances, and because both the fact that a person was exposed and the fact that he was harmed by such exposure are often known only at a date much later than their exposure.

I would like to ask the gentleman from Michigan if he will vigorously support this provision in conference with the other body?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield.

Mr. DINGELL. The answer to the gentleman's question is "Yes."

If the gentleman will continue to yield——

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

Mr. GLICKMAN. Mr. Chairman, I yield myself 30 additional seconds.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, section 203 is designed to override the problems which exist with regard to State statutes of limitations and provide uniform commencement dates in all State courts based on the discovery of the injury and its cause for filing damage claims.

This is the reason, or one of the major reasons we have this question of civil actions being permitted along the lines of the Frank amendment.

I will strongly support the language referred to in conference.

Mr. GLICKMAN. I think that is very important, because if that language is adopted it substantially takes care of the problem that I think the gentleman from Massachusetts [Mr. FRANK] is referring to.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I would also like to agree with the colloquy between the gentleman from Michigan and the gentleman from Kansas.

Mr. GLICKMAN. So the gentleman would agree to support that in conference?

Mr. LENT. I would certainly agree to support that in conference.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, just count me in. I will be glad to support that position.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

Mr. GLICKMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Chairman, I think the question we are here to decide is who is on first?

I want to just make one point very briefly and that is the biggest reason in committee why the argument was made that we needed a Federal cause of action was because we had a lot of problems with the various States that had different statutes of limitations as to when they had to sue to stop some of these spills or some of the actions against people who were causing the damage. The legislation in the committee bill addresses that.

What it says, and I think it already takes care of some of the basic concerns brought about by the Frank amendment, it simply says that if States have a statute of limitations period that is short, which means that a plaintiff has a shorter time in which to bring a cause of action, that that State short statute of limitations will be superseded by the Federal statute, which would mean that any citizen anywhere in any State would have a long enough and a sufficient amount of time to bring a suit against anyone who he thinks is not following the laws under the Superfund legislation.

So what I am saying is that the legislation already takes care of any problems that anyone from any State might have by having confusion as to how long he has or she has in which to bring a cause of action to enforce the provisions of the Superfund legislation. Those problems have already been taken care of in the bill as it now stands.

I think the amendment, therefore, is not necessary if it is being offered for the purpose of clearing up the statute of limitations problem. It has already been taken care of by the committee and I think we should stick with the committee product in that regard.

Mr. KINDNESS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I rise today in opposition to the amendment before us to create a Federal cause of action under the Superfund Program. I'd like to explain where I am coming from on this issue. My record on environmental issues speaks for itself and is a record I am proud of. I support the strengthening of the Superfund Program and supported the Edgar amendment on community right-to-know and the Judiciary Committee's position on citizen suits. I am concerned about the health and safety of the American people. This amendment however, is not in our best interest.

While this amendment is not identical to the language rejected by the full House of Representatives last year—208-to-200 record vote—its fundamental defects remain the same. In fact, these defects have been amplified.

The purpose of the Superfund law is to provide a Federal response to the urgent need to clean up existing hazardous waste sites. This bill to extend the authorization of the existing Superfund Program, is appropriately focused on cleanup activities. This House has consistently rejected expanding the Superfund statute to deal with legal rights aimed at compensation for damages arising out of injuries caused by the toxic substances involved. This approach is, plain and simple, a matter of selecting national priorities.

As the Washington Post stated in a still timely editorial issued in August 1984:

> The Superfund legislation ought not to be diverted into the very separate question of dealing with environmental health damages * * *."

That same editorial noted that a Commission created by section 301(e) of the original Superfund law made up of well-known legal practioners specifically chose not to recommend the cre-

ation of a Federal cause of action in the Superfund statute. Among the organizations that concluded that there was "no need" for a Federal civil liability law were the American Bar Association, the Association of Trial Lawyers of America, the American Institute, and the National Association of State Attorneys General.

The language of this amendment contains an extremely weak causal relationship between the actual release of the hazardous substance, the resulting exposure, and the asserted injury caused. Under the language of this amendment, a businessman who has taken every reasonable effort to dispose of a hazardous substance in a responsible manner, nevertheless remains potentially liable for all the injury that may result from that disposal. The liability under the Frank amendment is, with specified exceptions, absolute liability, and it is also joint and several liability.

The defenses available to the generator of a hazardous waste, the transporter of a hazardous waste, or the operator of a hazardous waste site are also extremely limited. In fact, the language in section 602(d)(3)(C) may mean that even if the individual has not contributed any of the hazardous substance to a particular site which is asserted to have caused the injury, he still may have no realistic legal defense available.

This amendment authorizes a new cause of action in Federal district courts—with no diversity requirements and no requirement with respect to a minimum amount in controversy. The amendment further contains a liberal attorney's fee provision that can only result in encouraging plaintiffs to choose Federal courts as their forum, instead or proceeding with their existing, traditional State court remedies.

Under section 608(c) of the amendment, liability is retroactive for a 10-year period dating back from the date of enactment of this bill. This means that an individual will be able to sue, asserting damages resulting from hazardous substances going back to 1975. The Superfund statute that we are extending did not even exist until the year 1980.

Section 604 of the amendment says that the Federal rules of evidence are applicable, but in fact the next sentence of the section disregards and bypasses rule 401 of the Federal Rules of Evidence—which are normally considered in the Judiciary Committee, but that was not the case with this amendment. It deems certain toxicological and other studies relevant, when they would now be ruled irrelevant in a Federal court.

Section 608 of the amendment would establish a discovery rule under this new Federal cause of action. Under its terms, an individual may bring his/her suit within 3 years after discovering that the injury or illness in question was caused by a particular hazardous substance. The effect of applying an open-ended discovery rule and greatly nullifying the statute of limitations, principle has extemely serious and negative implications regarding the ability of a businessman to obtain the necessary personal injury insurance to continue in business. Indeed, major insurers have indicated that this amendment would make major segments of the business community "permanently uninsurable," thereby worsening the lot of injured persons.

This amendment also contains three new sections that were not present in the Federal cause of action proposal rejected by the full House of Representatives. All three of these new sections add new arguments for defeating this amendment. Section 611 of the amendment totally disregards the legal principle of res judicata, allowing an individual plaintiff to sue more than once on the same incident. The language of section 611 would even permit a plaintiff to sue the same defendant more than once under essentially the same cause of action.

In addition, section 612 disregards the current requirements in rule 23 of the Federal Rules of Civil Procedure, with respect to class actions. Finally, section 613 specifically authorizes the assessment of punitive damages in these cases.

Last, proponents of this cause of action have specifically exempted the United States, States, and local governments from liability under this amendment. The Congressional Budget Office last year stated that the potential liability of the United States under such a cause of action would be impossible to estimate and could add significantly to the costs of the Federal Government. By specifically removing the United States, States, and local governments from this liability, the proponents have admitted that liability under this title is essentially indefensible given its scheme of near-absolute, joint, several and noncausal nexus liability. They have also raised a serious equal protection of the laws issue. Why should Government exempt itself from a liability it is imposing on its citizens?

Mr. Chairman, I am personally and deeply committed to a strong Superfund law. There is no question but that the cleanup activities to date under this important statute have been seriously derelict. This bill would authorize a total of $10 billion over the next 5 years and would allow an effective, efficient cleanup program to proceed. I am supportive of the citizen suit provision because I believe that injunctive relief suits are a necessary adjunct to identifying those sites that need immediate cleanup attention.

However, I think it would be extremely counterproductive to approve this defective language. Aside from its complete lack of balance and fairness for one side of the litigation—potential defendants—this amendment should be rejected because it would interfere with and divert the attention of the Government and the private sector from the fundamental purpose of this law. The American people deserve a quick, efficient and final cleanup of hazardous waste sites. This amendment simply does not serve that goal.

Mr. Chairman, I cannot support this amendment and ask my colleagues to do likewise.

□ 1735

Mr. FRANK. Mr. Chairman, I yield myself such time as I may consume.

Once again, Mr. Chairman, some of the opponents of this are having a little difficulty. This is substantially modified from the amendment that the House defeated previously. It is substantially tighter. It is harder to win under this if you are the plaintiff. It has a great many safeguards.

Opponents, understandably, having succeeded in beating the old amendment with its weaknesses, are loathe to get rid of the weaknesses. In fact, we had circulated by a number of business organizations a denunciation of the amendment in which the amendment was quite unrecognizable. It seemed to me it was spearheaded by the U.S. Chamber of Commerce which, with its unerring instinct for inaccuracy, managed to hold onto all the old shibboleths. In fact, we have heard some of these today.

This does require that you show by a preponderance of the evidence, and I am quoting the bill now:

> A person shall be liable only if the plaintiff establishes by a preponderance of the evidence that the type of hazardous substance involved in the disposable treatment referred to causes the type of damages incurred.

You also have to show by a preponderance of the evidence that the releases of the hazardous substance occurred, that it caused the incurrence of the damages, and that the damages are compensable under the title. It specifically says the Federal rules of evidence will be used.

Retroactivity has been substantially diminished. I was interested to note that when the gentleman cited the provision which clarified State law, and that is an interesting notion here, we are not going to create a Federal cause of action. We will just under this dictate to the 50 States what they are going to do with their own statutes of limitations. Understand what you are being asked to do in the underlying bill without the amendment.

My proposal is the Federal Government ought to offer the Federal courts to people. Instead, we are told, "Oh, no, we will not do that. We will just order all 50 States to do it the way we

would like." I think that is all right, but it is hardly the kind of absolute abstention from the legal issue that has been described here.

But the language with regard to potentially retroactive causes is exactly the same there. It is one you should have known. So I think that is a very interesting point.

We were told that under the amendment I have offered, people are going to be able to go to court accessibly, and I think there is a great contradiction here. When the amendment was originally brought up a couple years ago, people said we have problems where we cannot get access to State courts. Now we are being told this amendment that I am offering will bring too many people into court. Simultaneously, though, we are told that the underlying bill makes sure that every one of those people can get into State courts.

So the question is not, by the admission of the opponents of my amendment, not whether more people will be allowed to sue because they very proudly and justifiably pointed out their dicta to the States, saying, "You will have to allow these people into court." The question is not whether or not anyone can get into court, because as I understand what they were saying, if you can get into Federal court under my amendment, you can get into State court under the underlying bill. The question is: Is this of sufficient importance to try and give plaintiffs some uniformity?

The issue of whether or not there will be more people in court, I think, has been mooted by their own emphasis on their underlying amendment. They are proud of the fact that they are letting people get into State courts. The question then is: Is there something inherently wrong about, on this kind of an issue, saying that we ought to be able to get into Federal court? I do not understand why it is perfectly legitimate to tell the State courts, "You are going to let all these people in and we are going to amend all 50 State statutes of limitations to conform to our own but we are not going to do it at a Federal level." I think it is perfectly consistent to do both.

Mr. LENT. Mr. Chairman, will the gentleman from Massachusetts yield just for a question?

Mr. FRANK. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman, as I understood it, said that this amendment does provide the requirement of causation, the same as we have at the common law. I am reading the gentleman's amendment, and he says, "The plaintiff must establish by a preponderance of the evidence that the type of hazardous substance involved in the disposable treatment referred to causes the type of damages incurred."

Mr. FRANK. Mr. Chairman, I will take back my time because the gentleman misstated me.

Mr. LENT. That is not the same as common law causation.

Mr. FRANK. I will take back my time. The gentleman misstated me. I never said that this is the same as common law. I want to assure the gentleman that I cannot remember the last time I discussed the common law in public and I do not intend to do that again. I do not think I have. I never said "the common law."

My point of comparison was, with regard to retroactivity, that the phrase "should have known," dealing with a potential retroactivity, is in the underlying bill in the language you have all brought forward dealing with the right to get into State court, that was the point of comparison.

What I said was, there is language in here that requires you to show some causality. I never mentioned the common law, so your rebuttal of my point about the common law is a rebuttal of a point I never made. I never mentioned the common law and have no intention of doing it.

Mr. LENT. You just have to show generalities.

Mr. DINGELL. Mr. Chairman, will the gentleman yield for a couple of questions so I can understand?

Mr. FRANK. The gentlemen have their own time and I am on somewhat limited time.

Well, I will yield for one question from the gentleman from Michigan.

Mr. DINGELL. I have several questions about the differences between last year's bill and the Frank amendment.

First I would ask the gentleman: Last year's bill permitted lawsuits with regard to disposal, which was defined as depositing the substance on the land or into the water. Is the gentleman's amendment more broad this year than that?

As I understand the gentleman's amendment, it deals also with emissions into the air. Is that correct?

Mr. FRANK. I am sorry. Will the gentleman repeat that? I just want to get the exact language.

Mr. DINGELL. Last year's bill dealt with depositing substances on land or into water. As I understand the gentleman's amendment, it extends it to air. Is that correct?

Mr. FRANK. Air. That is correct.

Mr. DINGELL. With regard to this matter, I understand that it includes air emissions of all types, even those emissions which are permitted under Federal laws such as the Clean Air Act, Federal Water Pollution Control Act, Safe Drinking Water, RCRA, and so forth. Is that correct?

Mr. FRANK. If you go into court and show that you have been harmed by these, then you can sue. In many cases it would be a defense if you could show, as it often is under the law, that you had legal authorization to do it you would have this as a defense. But if things cause harm, you can bring them into court.

I would suggest further to the gentleman that if the gentleman wants to debate the amendment he is entitled to do that, but not on my time.

Mr. DINGELL. I am just trying to understand.

Mr. FRANK. The gentleman is debating the amendment, and he is entitled to do that, but he ought to debate that on his time, not on my time.

Mr. DINGELL. I am trying to ask the gentleman exactly what the amendment means.

Mr. FRANK. I do not yield further to the gentleman to debate against the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] does not yield further time.

The gentleman from Massachusetts [Mr. FRANK] has consumed 6 minutes, and he has 12 minutes remaining.

Mr. GLICKMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I was trying to get in the differences between the Frank amendment and the comparable provisions of last year. I think it is important that we should look to see what the Frank amendment in fact does.

The Frank amendment, first of all, covers emissions into the air.

Second, it makes subject-to-suit actions which are permitted under Federal law, such as the Clean Air Act and the Federal Water Pollution Control Act. They become suable under this, regardless of the fact that they are permitted under Federal law.

Beyond this, the Frank amendment includes joint and several liability. The gentleman is a lawyer and understands hard cases make bad law, but bad law makes hard cases.

If you have a refinery in an area which releases benzene, a dry-cleaning establishment, and a gas station, all under the Frank amendment are equally liable to damages. If you sue the refinery, the dry-cleaning establishment, and the gas station, you can collect from any one or all of the three. You can totally ignore the refinery and you could proceed against the gas station and the dry-cleaning establishment, even though they are relatively inoffensive.

If there is a high school in the area which is using a little bit of benzene and causing a little bit of problem, they are equally, under the Frank amendment, liable with all of the other polluters.

It will result in significant increases in litigation over property values because it deals not with health alone but, rather, it deals with questions where there is real and significant diminution in property values near a hazardous waste site. So anybody who wishes to go in and sue in the kind of case that I have alluded to, where you have a school, a dry cleaner, a gasoline station, and an oil refinery, and with the oil refinery being the major polluter and the others being de minimis polluters and the others being polluters who are functioning fully within the requirements of Federal law, they are all responsible for every single damage equally, jointly, and severally liable to all of the persons who live in the area.

This is a sweeping change in the law. It is one which should be considered by the committees of jurisdiction. It goes well beyond the needs of the case. It establishes totally new jurisprudence. It establishes rights which go far beyond the needs of the situation, and it addresses questions far beyond those desirable changes which are made by section 230, which deals with the statute of limitations question.

I rise in opposition to the amendment of the gentleman from Massachusetts [Mr. FRANK]. This amendment in several important respects is broader than the Federal cause of action provision defeated by the House last year. Last year's provision keyed liability to the term "disposal" which was defined as:

* * * the discharge, deposit, injection, dumping, spilling, leaking, storing, treating, or placing of any hazardous substance *into or on land or water* * * *.

The pending amendment keys liability to the term "release" which is defined as:

* * * the discharge, deposit, injection, dumping, spilling, leaking, storing, treating, or placing of hazardous substance into or on *land or water or air* * * *.

So the provision has been expanded to include air emissions of all types. For example, benzene is a hazardous substance under Superfund because it is a hazardous air pollutant under section 112 of the Clean Air Act and a hazardous waste listed pursuant to section 3001 of the Solid Waste Disposal Act. Therefore, this broad expansion would allow unwarranted Federal damage actions to be brought against all neighborhood gas stations based on their emissions of benzene vapors from gas pump operations. Further, this provision allows a Federal cause of action against owners and operators of facilities which have released hazardous substances even though those releases were federally permitted under the Federal Water Pollution Control Act, Solid Waste Disposal Act, Clean Air Act, Safe Drinking Water Act, and Marine Protection, Research, and Sanctuaries Act of 1972. Even if these persons are operating in total compliance with the Federal permit, they would be subject to this cause of action.

There are other good and valid reasons to oppose the Federal cause of action amendment. Let me cite a few:

First, the joint and several absolute liability standard established by the amendment is wholly inappropriate in the context of determining personal injury compensation.

This amendment would establish a system of joint and several absolute liability against any party associated with the generation, transportation, or storage of a hazardous substance which causes damage as a result of its release from a facility.

While I strongly agree with this standard for attributing cleanup costs, where the harm, that is contamination of the site, is indivisible, there is no precedent whatsoever in tort law for using such a standard for determining liability for personal injury compensation. Because of the strict liability standard already existing under CERCLA, this provision would make a defendant jointly and severally liable for personal injury or property damage caused primarily or even solely by substances attributable to another person which are stored at the same site. Although a strict, joint, and several liability standard is important and warranted when securing the cleanup of hazardous waste sites, where everyone's chemicals must be addressed, it does not work with respect to personal injury or property damage which can be and should be linked to individual chemicals and thus individual responsibility.

Second, the amendment will result in a substantial increase in litigation largely over injury to property values instead of health problems.

It is highly likely that this amendment will result in a substantial increase in litigation, which—particularly in light of its complexity—will severely strain the resources of the Federal judiciary. Ironically, much of this litigation may have less to do with alleged personal injuries than with asserted "real and significant diminution" in property values near a hazardous waste site. It is likely that even where absolutely no personal injury is caused by a release, litigation will result in which thousands of persons living within miles of a hazardous waste site will be joined in one or more class actions asking the court to assess the fair market value of their property, and award them the difference plus their attorneys' fees.

Third, finally, this year's Superfund legislation in section 203, provides important State procedural reforms which respond to the inequities created by some States' statute of limitation laws. It was these inequities that provided much of the impetus for the Federal cause of action provision last year. The committees of jurisdiction, both Energy and Commerce and Public Works, have established a federally required commencement date to State statutes of limitation in section 203 to address this problem.

Thus, the Federal cause of action amendment is unwise and unnecessary, and I urge my colleagues to oppose it.

□ 1745

Mr. KINDNESS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. SNYDER].

Mr. SNYDER. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Massachusetts [Mr. FRANK]. The amendment would create a Federal cause of action for persons alleging that they have been injured by hazardous substances. While all of us are sympathetic to the plight of individuals who suffer personal injury which have been caused by a release of a hazardous substance, State personal injury law is the proper remedy available to those individuals.

In 1980 when Congress initially set up the Superfund law, the question of the appropriateness of a Federal cause of action was an issue considered by the Congress. We declined to authorize such a provision, and instead called for a study of the matter by a distinguished panel of legal experts. That study, undertaken by representatives of the American Bar Association, the American Trial Lawyers Association, the American Law Institute, and the National Association of States Attorneys General concluded that there was no need to establish a new Federal cause of action in this area.

The gentleman's amendment would significantly change some of the basic principles that have evolved in our system of jurisprudence. It would subject persons to enormous liabilities without allowing them defenses that are available under existing law. Liability would be strict, joint and several, which may be an appropriate standard to compel cleanup but is inappropriate in the context of simple tort law. Under this scheme, a person that had acted in good faith and was completely innocent of any wrongdoing or negligence could be subject to personal injury claims of staggering proportions. This would come at a time when environmental liability insurance is almost completely drying up. If we adopt this change, we can write off all of the reasonable provisions in the rest of this bill that seek to alleviate the problems of not having adequate insurance.

My gravest concern about the amendment, however, is that it runs counter to the basic purpose of Superfund, which is the cleanup of hazardous waste sites. Adoption of the Frank amendment will make it almost impossible to get potentially responsible parties to enter into settlements to clean up sites. Instead, companies will be devoting greater resources to litigation in efforts to avoid being held responsible not only for cleanup costs but the rash of personal injury claims that would inevitably follow.

Mr. Chairman, all of us have recognized that it is sometimes difficult for

those who suffer from damages which may be caused by exposure to hazardous waste sites to recover in a personal injury case. I believe that revised State statutes and judicial interpretations are moving in the direction of improving remedies in the toxic tort area. I also note that the amendments that have been incorporated into the compromise version of H.R. 2817 now before us significantly move in that same direction. Specifically, the problems associated with restrictive State statutes of limitation are being adequately addressed in this bill. Section 203 of the compromise provides for a uniform approach with respect to State statutes of limitations for people exposed to hazardous substances, requiring that the State's statute may not begin to toll until the plaintiff knew or should have known of the injuries or damages that he or she incurred.

In addition, I note that the bill confers broad authority on EPA and the Agency for Toxic Substances and Disease Registry to undertake health assessments, toxicological profiles and, if necessary, to provide for medical testing and treatment to persons exposed to hazardous waste. While I would have preferred to devote almost all of our resources to cleaning up sites, we have agreed to a limited program for health assessments and medical assistance. I totally oppose, however, the expansion that is being proposed in this amendment to establish a Federal cause of action. The amendment is not needed in light of evolving State law and the procedural reforms in our bill. It will overtax the courts, divert cleanup resources, and impose catastrophic burdens on American industries.

Mr. Chairman, by introducing a new Federal cause of action we will be channeling our resources into an area that the legal experts of this country believe is adequately being dealt with in the State courts. This issue has been extensively reviewed on numerous occasions by different experts. I already referred to the study undertaken pursuant to the original authorization of Superfund. Last year this body fully debated the issue and voted down a Federal cause of action. The Subcommittee on Investigations and Oversight of our Committee on Public Works and Transporation conducted extensive hearings into this basic issue during the 98th Congress. They heard from the legal experts and from persons alleging injury as a result of exposure to hazardous substances. Although the final report has not yet been issued, it is my understanding that the preliminary findings are consistent with the recommendations of the Superfund task force on Federal cause of action. In fact, the evidence that we have seen more recently indicates that State common law is evolving in the direction of providing improved remedies for those injured by exposure to hazardous waste.

Finally, I note that the issue of whether or not to authorize a Federal cause of action was carefully considered by the Committee on the Judiciary this year. After extended deliberations, that committee declined to authorize a new Federal cause of action for toxic torts.

It would be extremely unwise for this body to ignore the recommendations that have been made against the provision by almost every study and legislative review. Accordingly, I urge my colleagues to defeat the amendment by the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I yield myself 3 minutes.

Again, I think I am a little surprised at some of the arguments.

The gentleman from Michigan [Mr. DINGELL] quite eloquently denounced the principle of joint and several liability which is a fundamental principle of Superfund. He sounded in his denunciation of joint and several liability like some opponents of the whole notion of Superfund.

In fact, in my amendment, while it begins with joint and several liability, there are several qualifications. He referred to the person who does minimal damage.

On page 5 on line 16 and following, there are releases from people who make only minimal contributions to the problem. So there is an explicit release for people who are de minimis contributors. That is in the bill explicitly.

On page 4, when it talks about joint and several liability, it immediately follows by saying at line 5, "Nothing in this section shall be construed to affect the equitable powers of apportionment of any court following an ajudication of liability," so the judge can deal with the poor little drycleaner, and it would be unfair situation to go after the drycleaner and nobody else.

There is also explicit affirmation on page 6 of the right of contribution. Anyone held liable may go after other people.

So, yes, we take, as does the Superfund itself, the basic principle of joint and several liability. We qualify it in several ways. We give an explicit release to people who are only de minimis contributors. We allow explicit affirmation of the equitable powers of a court to do apportionment so as to avoid these kinds of horrors, and I think judges would take it. And we explicitly affirm again the right of contribution of joint and several liability as a way to force people to come forward with evidence and to contribute their knowledge so you can know who did what to whom. It does in both the underlying bill when you are assessing liability for cleanup and in this bill when you are assessing liability for damage start with joint and several liability, but it modifies that in my amendment in several ways that I think comport with common sense and fairness.

Again, Members may be opposed to the whole concept, but I think it is a little inconsistent to be putting forward a bill that relies on joint and several liability as its main enforcement mechanism in the cleanup area, but suddenly becomes some terrible attack on jurisprudence when it is being used here, especially since, as I said, the specific questions of apportionment, of contribution and of de minimis release are all explicitly spelled out in the bill.

I reserve the balance of my time.

Mr. KINDNESS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I want to thank the gentleman for yielding and to compliment the gentleman from Massachusetts [Mr. FRANK] for creativity in this legislation this year. He has created some novel and complex defenses. He has also created a new tort damage of mental distress in here, but he has weaved it around so that it also is creative.

Under most laws of our States today, unless there is an association with actual physical injury, you cannot have a recovery for damages of mental distress, intentionally or otherwise inflicted. But in this legislation, I think it is one of the things that is really bad in this legislation, there is a new tort damage recovery for mental distress, and albeit creative, it does have some exceptions to it, but the bottomline points I want to make is despite the novelties in this legislation this time, in this amendment at this time, the same bottom line is there as before.

This is the creation of a new Federal cause of action of strict liability for anyone involved in the transportation or the storage of hazardous waste, and the persons that concern me the most are those who are involved in the transportation, the people who have got to get these things around who have relatively little contact except for that factor. They are so very strongly liable under this legislation and they are not going to get out from under it.

I do not know who is kidding whom about this, but nobody in his right mind in the business of transporting anything is going to want to transport hazardous waste if they can get the insurance at all, for the costs are going to be exhorbitant. The cost of this very type of thing we want to see here in getting hazardous waste disposed of is going to be so great that I doubt that it is going to happen.

We are talking about a staggering strict liability for the fellow who is the

small entrepreneur who is out there trying to do the job of disposing of hazardous waste, not in the facility itself, not owning it, not having any responsibility for it, but simply transporting it, simply doing the job that the primary purpose of this statute really wants to encourage.

We are going to see a lot more civil litigation, we are going to see a lot less cleanup, and we are certainly going to see a lot more cost involved in this process if the Frank amendment is adopted, and I encourage my colleagues: Do not create a new Federal cause of action. Let the State laws apply.

Mr. FRANK. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I am pleased to rise in support of the concept in this amendment that the gentleman from Massachusetts [Mr. FRANK] is offering.

We have heard a lot about a lot of things today, but we have not heard anything about the injured people who, through no fault of their own, have come in direct proximity with hazardous waste sites, with dump sites, and have been injured.

The record of the various committees is full of testimony about individuals who have effectively been shut out of the opportunity to receive compensation for their injuries through the court system.

This, in a sense, is essentially a procedural amendment dealing with fairness through the court system. We are being asked to spend $10 billion to clean up toxic waste dump sites. We are not cleaning up those toxic waste dump sites because they are physically unattractive. We are cleaning them up because they constitute health hazards to people, imminent and substantial hazards to people's health and environment. That is the threshold test by which you can use any of the money to clean up these sites.

The 310(e) study that was commissioned under Superfund came to the conclusion that there is no question about the fact that the State toxic tort system is inequitable. It is does not provide fairness to people who are injured.

What we are being asked to do with the amendment of the gentleman from Massachusetts [Mr. FRANK], is to give to our citizens who have been injured the same rights as the EPA bureaucrat who is going to try to recoup the money for the fund that has been spent on cleaning up these sites. That bureaucrat has the capability of suing under strict, joint and several liability in order to recoup the money for the fund, which is commendable. But under current law we are saying that the citizen who lives next to the site, who has been damaged, injured, should not have those same procedural rights to go forward.

Representation has been made that the burden of proof somehow has been changed by the Frank amendment. The burden of proof has not been changed. Under the amendment, causal connection is required to be proved by a preponderance of the evidence. Under the amendment, proximate cause is required to be demonstrated. Actual damages have to be demonstrated and proved. There is an opportunity for an apportionment of damages if the defendant can show that he has contributed only a proportion of the damages to the individual.

What this amendment embodies is the principles of the common law that there are higher responsibilities on those who deal with materials that are by definition extremely hazardous.

I think it is important to note, and I do not know what the outcome of this amendment is going to be, but I think it is important to note that 10 years from now, if not sooner, this concept will be embodied in the law. We will endorse the concept that uniformity in these areas is desirable and required across the 50 States. The irony, of course, is that many in the business community argue before this body and the other body for the principle of uniformity in the product liability area. I am making the point that the business community in some areas sees the virtue of uniformity, sees the virtue of not having 50 different States with 50 different judicial systems, with idiosyncratic aspects that effectively preclude appropriate and fair recovery. But in this instance, they do not see that same desire for uniformity.

I am convinced that in the next number of years, if not in this year, we are going to realize that we cannot be having 50 different systems when we are dealing with products in interstate commerce. We should have the same arguments for uniformity with regard to product liability as well as for toxic torts.

Mr. FRANK is offering an important addition to the basic bill now before us—an amendment which will guarantee the right to those injured by toxic wastes to recover their damages under the same principles of liability that apply when the Federal Government sues a polluter for cleanup.

Many will remember that the original Superfund legislation in 1980 included relief for victims, but it was dropped in a last minute compromise. Instead, we commissioned a blue ribbon panel of legal experts to study this important problem. The panel, composed of representatives from the American Bar Association, the National Association of Attorney's General, the American Trial Lawyers Association and the American Law Institute, issued its report in June 1982. The report concluded that the current State tort law system—as of now the exclusive remedy of those injured by their exposure to hazardous substances—was totally inadequate to deal with the long latency diseases caused by exposure to toxic and hazardous wastes.

In response to the panel's concerns, Mr. FRANK has formulated a modest and limited remedy. Essentially, the Federal cause of action contained in the bill has:

First, it reforms various procedural rules such as statutes of limitation which cut off the right to sue years before such long latency diseases as cancer manifest themselves.

Second, the bill applies the same liability standards as apply under the current Superfund law to such toxic tort cases. This change puts individuals whose health has been irreparably damaged by hazardous substances on the same legal footing as the Government is when it sues polluters to clean up such sites.

In February of 1984 the Harvard School of Public Health issued a study documenting a tragedy in Woburn, MA. Harvard found that contaminated drinking wells in the area had caused an outbreak of fatal childhood leukemia and neverous disorders. The Harvard study is but the latest in a series of recent developments documenting the devasting impact of toxic substances in our environment on human health.

When the House considered Superfund legislation last year, we voted by a narrow margin to delete a Federal cause of action for toxic victims. Over the past year, Mr. FRANK and others have worked hard to address many of the concerns that were raised by Members over the scope of that original proposal. The amendment we have before us represents a thoughtful and moderate compromise of those concerns.

The right of all citizens to gain access and a fair deal from courts is fundamental to our entire American system of justice. We must protect this fundamental right of toxic tort victims. I urge my colleagues to support this amendment.

Mr. KINDNESS. Mr. Chairman, may I inquire as to the amount of time remaining for the three parties?

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The gentleman from Massachusetts [Mr. FRANK] has 5 minutes remaining; the gentleman from Ohio [Mr. KINDNESS] has 6 minutes remaining; and the gentleman from Kansas [Mr. GLICKMAN] has 3½ minutes remaining.

Mr. KINDNESS. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Chairman, a year ago, if my colleagues will remember,

we had an exciting debate on this issue under the 5-minute rule, one of the most stimulating debates I think I have experienced in my time in Congress.

The amendment, although improved, I must say to the gentleman from Massachusetts, still, in my opinion, means that anyone alleging an injury from exposure to hazardous substances would be able to recover damages under a legal standard that would render defendants virtually defenseless.

The issue really is insurability. Currently enormous costs of insurance are at crisis proportions. This amendment will exacerbate the problem and will ensure, in my opinion, perhaps permanently, the unavailability of insurance for the hazardous waste industry.

The private sector will not be able to provide the services and facilities for the safe and orderly handling of hazardous waste. Rather than face wide open liability under Frank, without insurance, generators will either quit the business or dump the waste in unsafe and untraceable places.

The amendment jettisons the traditional tort notions of fault and causation.

Liability for personal injury would be triggered by merely depositing or storing a hazardous substance even if the party did nothing to contribute to the activity which approximately causes the harm. Thus, the mere presence of material which is released by the negligent or perhaps even malicious conduct of another will relieve a defendant depositor of liability for personal injury.

Strict liability, where negligence is not at issue, would be mandatory even though courts have said that strict liability is not always rigidly available under other Superfund provisions.

Defenses are limited to those specifically stated in the statute. Thus, such fault based defenses like contributory or comparative negligence wouldn't be allowed even though common law remedies today may allow them. Smoking or drinking which may be an important factor in a plaintiff's injury cannot be considered in damage awards.

We are not talking about choosing between no legal remedy or a Federal cause of action for injured parties. We are talking about a choice between existing common law and State statutory remedies which govern most areas of personal injuries today or a system which can be fairly described as the Insurance Coverage Devastation and Lawyers Employment Amendment of 1985". Let's defeat the amendment. It is not going to solve our problems.

□ 1800

Mr. GLICKMAN. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Chairman, I rise in opposition to the amendment.

We are talking about a Federal cause of action, which may remove some of the barriers for plaintiffs exposed to hazardous waste from seeking judicial remedy. While I commend the gentleman for his effort, and I indeed agree that something in this area should be done, I am not convinced we have taken all of the steps available prior to a Federal cause of action being instituted. It appears that we, more and more, are becoming a litiginous society, unable to solve any differences or problems outside of filing suit.

There are in my opinion, many reasons this amendment should be defeated. But I want to focus on one area. While we may know the etiology of cancers from toxic substances in some instances, such as mesothelioma, which is related to asbestos. There are many occasions when we do not know the relationship. It seems to me that this amendment presumes a great deal.

More information is necessary and we have the vehicle in the Superfund amendments. Under section 116, the health assessment study would be a complilation of complete data on: First, the nature and extent of the contamination, second, the existence of potential pathways of human exposure, third, the size and potential susceptibility of communities around the facility, fourth, comparisons of human exposure levels, and fifth, comparisions of existing mortality and morbidity data. This provision will provide documented evidence to assist us in determining the appropriate avenues of redress for victims seeking compensation from toxic exposure.

Therefore, I urge the defeat of this amendment and ask that we allow the States to deal with this problem now, giving us time to accumulate more information about the true relationship between toxic substances and disease. Before going forward with a Federal cause of action.

Mr. KINDNESS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, the Frank amendment is certainly a radical change in what we view as Federal law today; particularly in the tort area. It does not belong in a cleanup bill as has been pointed out before.

I want to specifically talk about section 14, which I find to be the most interesting part of the Frank amendment. That is the section that exempts the Federal Government, the State governments and all local government from any liability, which to me seems to be rather an extraordinary approach, and quite unfair.

What it means, of course, is that private citizens would be made to compensate individuals for damages to which a government entity or entities clearly and obviously contributed.

We talked earlier on this bill about the case where you have repositories for waste that have been for the most part used by government entities. As I read the Frank amendment, they would be, the government entities themselves; whether they were the total participants or partial participants would be totally exempt under the auspices of the Frank amendment. I find that clearly unfair and very difficult to believe.

I am not sure that we want to set up a double standard under the Frank amendment that would totally exempt governments while at the same time those private individuals, whether they be the ones who are transporting the items or whether they be dealing with the cleanups, find themselves vulnerable to Federal lawsuits under the Frank amendment.

I yield to my friend from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I want to identify with the statement that the gentleman has made. I ask the gentleman, what about the intended purpose of Superfund; namely, inducing people, responsible parties, to come forward and voluntarily, using their own money, clean up the hazardous waste dumps?

I would like to ask the gentleman, what is his opinion of, what private parties are ever going to come forward now, assuming the Frank amendment were to be adopted and volunteer to clean up their waste dumps. What would the chances be?

Mr. OXLEY. The chances would be very slim, and of course if I were advising those parties, I would advise them not to participate.

Mr. KINDNESS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in the interests of bringing the debate on this amendment to a conclusion, I think we are all trying to condense our time here; but I would just like to point out, the Superfund legislation that is before us is intended to protect the public interest, to clean up hazardous waste sites in order to protect the public interest.

The Frank amendment goes at odds with that; it has to do with adjustment of private rights and liabilities and remedies. Let us not use up all of the assets of those responsible parties by responding to such private lawsuits when indeed it is the public interest we are here to protect.

There are a lot of things that can be said about the Frank amendment by way of opposition to it, but I think the most devastating is that it was not offered at the subcommittee; it was not offered at the full committee; it is offered in a setting here in which it is ill-considered and many of us who have

the opportunity to take a look at it are thoroughly convinced that if you had time to debate it fully, it would certainly be defeated, and I ask for its defeat.

Mr. GLICKMAN. Mr. Chairman, I yield myself 1 minute and 30 seconds.

To close, Mr. Chairman, I would like to say the following things. This amendment overrides normal evidentiary rules of the States and it overrides substantive standards of the States, so this is not just a procedural amendment; we are overriding substantive laws in the various States.

Now, in addition to that, I want to bring my colleagues' attention to section 611, which provides something called additional recovery. When you read it, it allows the opportunity for a person to be sued twice for the same incidence; maybe three times, maybe four times; and to have dual, triple, and possibly quadruple recovery under certain circumstances.

This amendment allows punitive damages. That was not in the amendment allowed last year.

The most important point that I want to talk about has to do with joint and several liability. Yes, it is important that we have joint and several liability for cleanup purposes. But that is not consistent with this Nation's historical jurisprudence with respect to personal injury.

We have always believed, under tort law in this country, that personal injury or property damage which is required to be judged with respect to an individual liability should and can be linked to individual chemicals and thus individual responsibility.

We believe in joint and several when it comes to cleanup, because that is the only way you are going to get the sites cleaned up, but to have joint and several liability with respect to private damage actions will create enormous potential liability for individuals, which will have nothing to do with cleanup. I urge defeat of the Frank amendment.

Mr. FRANK. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, this amendment is extremely mischievous to the purpose of Superfund—it distorts Superfund—and it will have the effect of destroying Superfund.

Let me tell you why.

Superfund is a cleanup statute. It is a program to clean up privately created toxic waste dumps—tens of thousands of them. To do this, because the public problem is so great, we not only set up special taxes to pay for the cleanup, we also revamped, in this limited situation, the entire law of torts. We impose strict, joint and several, retroactive liability on all parties—on whoever put a shovelful of debris into a waste pit. All of the usual concepts of the common law—legal responsibility; of fault; of negligence; of the reasonable man; of contributory negligence; of comparative negligence; of the rules of evidence; that the dump had a State or local license; that the dumper was directed to the dump by Government authority; that the responsible party was completely ignorant that the transporter misdirected the materials to the dump—concepts of real damages, as opposed to the fear of injury—all of the traditional tort defenses and concepts are summarily wiped out in this special situation, for the higher goal of cleaning up toxic waste dumps. And this Superfund, unlike its embarrassingly unsuccessful predecessor, is crafted in such a way as to encourage responsible parties to come forward and cleanup, at their own expense. There are breakthrough settlement provisions in this legislation. There are settlement windows to induce voluntary cleanup. There are special rules for third-party actions and special rules for contribution from others. We think the Commerce Committee and the Public Works Committee have produced a workable program, using these extraordinary new legal concepts, to help get the job done.

Now, along comes the Frank amendment and says, in effect, hey, wow, look at these great new tort laws we have created here in Superfund.

Let's make them available to all people with cancer, lymphoma, lung problems, birth defects, and skin rashes of any kind.

They will have to sue in Federal court, of course, because State courts have these old, burdensome, common law concepts of fault and negligence and contributory negligence and causation and proof of damages.

And they can sue anybody—whoever put a spadeful of toxics into any dump, these poor unfortunate folks, who ever lived near or drove by or flew over a dump on the Superfund list.

And it doesn't matter when the stuff was dumped in, or when or how the injury or sickness was inflicted. There is joint and several liability—it is retroactive—you can put into evidence all kinds of studies done by college students or professors—without cross examination—without the need to prove causation—and the sky's the limit for the measure of damages. And you can collect for fear of injury to yourself—or someone else in your family regardless of actual injury.

Now this is a great deal for lawyers. It's bonanza for lawyers. It's a full employment act for lawyers.

But what about the intended purpose of Superfund—the cleanup of tens of thousands of dumps. I ask you: What private party is ever going to come forward now—with this Federal cause of action—and admit to responsibility and put up its own money to clean up, using the breakthrough settlement provisions we have crafted into this legislation, when the minute they do, they expose themselves to such unlimited, joint and several liability, under Superfund standards.

The answer, my friends, is no one will ever come forward, voluntarily, under Frank. If you liked the old Superfund law, if you think cleaning up only five dumps in 5 years is a great record, then you will love the Frank amendment because if it is adopted, we will continue to focus our resources in the court rooms of America, rather than the dump sites of America.

Mr. FRANK. Mr. Chairman, I yield myself 1 minute and 30 seconds.

Mr. Chairman, I thank the gentleman from Nebraska [Mr. DAUB], who acknowledged that this amendment deals with many of the objections people had before.

People opposing this amendment are not arguing that people should not go to court, because I want to remind Members that they very proudly, justifiably proudly pointed to a section in this bill which enhances people's right to go into State courts; in some cases guaranteeing them what might be a retroactive shot in State court by a Federal change of the State standards.

So we agree that you ought to be able to go to court. The question is, should you be able to go into Federal court.

Joint and several liability, as I have pointed out before, is substantially modified in this bill. The specific objections people had to a Federal cause of action which were brought out in our last debate have been dealt with substantially.

We now have the fundamental question: If you are substantially harmed—we have punitive damages only if there is blatant and conscious indifference; it is a very tough standard to get punitive damages. If you are actually harmed; you have to be under this bill, can you go into Federal court, and with the Federal rules of evidence applying and with the preponderance of evidence being your burden, can you show that this type of substance was released from this place; it causes these damages; if people were diminimus, they are released. If there is a problem of contribution, the courts can drop it.

So the question is very straightforward; should someone who is unarguably injured by the release of hazardous wastes have any remedy in Federal court? That is the question on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KINDNESS. Mr. Chairman, I yield back the balance of my time.

Mr. GLICKMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in support of H.R. 2817. I have waited many months for this bill to come to the floor.

I have four Superfund sites in my district. Remedial action at those sites has been delayed because the authorization for the Superfund law expired. Those delays threaten the health of my constituents.

My district needs a strong Superfund law. My constituents do not just want the EPA to go into areas and clean up landfills. They want more. They want to make sure that when one site is cleaned up that the toxic waste is not sent over to a neighboring landfill where it can leak there.

My constituents are familiar with the toxic waste shell game. You may have heard of the Stringfellow acid pits. That Superfund site is one of the most notorious of all the sites on the national priority list. Water is contaminated, soil is contaminated and the health of everyone living near the site is threatened. Remember Rita Lavelle? She didn't even want to clean up that site.

Now, Rita Lavelle is gone and the cleanup at Stringfellow is starting slowly. And yet, when the waste from Stringfellow was first removed, it was dumped at another landfill about an hour away located in my district. The landfill in my district was chosen because it was the closest hazardous waste landfill to Stringfellow. Any safer treatment and disposal facilities do not even exist in southern California.

Last year, the landfill in my district started to leak. It started to leak the same waste that had come from the Stringfellow site. My constituents were evacuated. EPA issued abatement orders. And the landfill was closed to hazardous waste dumping.

To my constituents, the shell game became a reality. Waste was transferred from one leaking landfill to another leaking landfill. The problem continues. Today, the waste from Stringfellow is now being sent to another landfill further north of my district. And, guess what? That landfill also has begun to leak.

We must stop the shell game. This Superfund legislation would do just that. This legislation says that if a State cannot show that it has the capacity to treat and dispose of hazardous waste in a safe manner, then, it should not be getting Superfund moneys. Doesn't that make sense? Why should we spend money to clean up sites, if the waste we are cleaning up is just sent somewhere else to leak and poison the environment? We must guarantee that if we clean up a site, we clean the site permanently and not just spread it around.

This version of Superfund will make sure that the shell game really ends. I can support this version of Superfund.

Mr. GLICKMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK], as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 261, not voting 11, as following:

[Roll No. 445]

AYES—162

Ackerman	Ford (MI)	Morrison (CT)
Addabbo	Ford (TN)	Natcher
Akaka	Frank	Nowak
Alexander	Frost	Oakar
Anderson	Gallo	Oberstar
Annunzio	Garcia	Obey
Aspin	Gejdenson	Ortiz
Atkins	Gephardt	Owens
AuCoin	Gibbons	Penny
Barnes	Gilman	Pepper
Bates	Gonzalez	Petri
Bedell	Gray (PA)	Pickle
Beilenson	Green	Rahall
Bennett	Hall (OH)	Rangel
Berman	Hawkins	Reid
Biaggi	Hayes	Rinaldo
Boehlert	Hertel	Robinson
Boggs	Horton	Rodino
Boland	Howard	Roe
Boner (TN)	Jacobs	Roemer
Bonior (MI)	Jeffords	Roybal
Bonker	Kaptur	Sabo
Boucher	Kastenmeier	Savage
Boxer	Kennelly	Scheuer
Brown (CA)	Kildee	Schneider
Bruce	Kleczka	Schroeder
Bryant	Kostmayer	Schumer
Burton (CA)	LaFalce	Seiberling
Clay	Lantos	Sharp
Coleman (TX)	Leach (IA)	Sikorski
Collins	Lehman (CA)	Smith (FL)
Conte	Lehman (FL)	Smith (IA)
Conyers	Leland	Smith (NJ)
Cooper	Levine (CA)	Snowe
Coughlin	Lipinski	Solarz
Courter	Long	St Germain
Coyne	Lowry (WA)	Staggers
Crockett	Lundine	Stark
Dellums	MacKay	Stokes
DioGuardi	Markey	Studds
Dixon	Martinez	Synar
Donnelly	Matsui	Torres
Downey	Mavroules	Torricelli
Durbin	McCloskey	Traficant
Dwyer	McDade	Udall
Early	McHugh	Vento
Edgar	McKernan	Waxman
Edwards (CA)	Mikulski	Weaver
Evans (IA)	Miller (CA)	Weiss
Evans (IL)	Mineta	Wheat
Fascell	Mitchell	Williams
Feighan	Moakley	Wolpe
Florio	Molinari	Wyden
Foglietta	Moody	Yates

NOES—261

Andrews	Carney	Dicks
Anthony	Carper	Dingell
Applegate	Carr	Dorgan (ND)
Archer	Chandler	Dornan (CA)
Armey	Chapman	Dowdy
Badham	Chappell	Dreier
Barnard	Cheney	Duncan
Bartlett	Clinger	Dymally
Barton	Coats	Dyson
Bateman	Cobey	Eckart (OH)
Bentley	Coble	Eckert (NY)
Bereuter	Coelho	Edwards (OK)
Bevill	Coleman (MO)	Emerson
Bilirakis	Combest	English
Bliley	Craig	Erdreich
Borski	Crane	Fawell
Bosco	Daniel	Fazio
Boulter	Dannemeyer	Fiedler
Breaux	Darden	Fields
Broomfield	Daschle	Fish
Brown (CO)	Daub	Flippo
Broyhill	Davis	Foley
Burton (IN)	de la Garza	Fowler
Bustamante	DeLay	Franklin
Byron	Derrick	Frenzel
Callahan	DeWine	Fuqua
Campbell	Dickinson	Gaydos
Gekas	Manton	Shaw
Gingrich	Marlenee	Shelby
Glickman	Martin (IL)	Shumway
Goodling	Martin (NY)	Shuster
Gordon	Mazzoli	Siljander
Gradison	McCain	Sisisky
Gray (IL)	McCandless	Skeen
Gregg	McCollum	Skelton
Grotberg	McCurdy	Slattery
Guarini	McEwen	Slaughter
Gunderson	McGrath	Smith (NE)
Hall, Ralph	McMillan	Smith, Denny (OR)
Hammerschmidt	Meyers	Smith, Robert (NH)
Hansen	Mica	Smith, Robert (OR)
Hartnett	Michel	Snyder
Hatcher	Miller (WA)	Solomon
Hefner	Mollohan	Spence
Heftel	Monson	Spratt
Hendon	Montgomery	Stallings
Henry	Moore	Stangeland
Hiler	Moorhead	Stenholm
Hillis	Morrison (WA)	Strang
Holt	Mrazek	Stratton
Hopkins	Murphy	Stump
Hoyer	Murtha	Sundquist
Hubbard	Myers	Sweeney
Huckaby	Neal	Swift
Hughes	Nichols	Swindall
Hunter	Nielson	Tallon
Hutto	O'Brien	Tauke
Ireland	Olin	Tauzin
Jenkins	Oxley	Taylor
Johnson	Packard	Thomas (CA)
Jones (NC)	Panetta	Thomas (GA)
Jones (OK)	Parris	Towns
Jones (TN)	Pashayan	Traxler
Kanjorski	Pease	Valentine
Kasich	Perkins	Vander Jagt
Kemp	Porter	Visclosky
Kindness	Pursell	Volkmer
Kolbe	Quillen	Vucanovich
Kolter	Ray	Walker
Kramer	Regula	Watkins
Lagomarsino	Richardson	Whitehurst
Latta	Ridge	Whitley
Leath (TX)	Ritter	Whittaker
Lent	Roberts	Wilson
Levin (MI)	Rogers	Wirth
Lewis (CA)	Rose	Wise
Lewis (FL)	Rostenkowski	Wolf
Lightfoot	Roth	Wortley
Livingston	Roukema	Wright
Lloyd	Rowland (CT)	Wylie
Loeffler	Rowland (GA)	Yatron
Lott	Rudd	Young (AK)
Lowery (CA)	Russo	Young (FL)
Lujan	Saxton	Young (MO)
Luken	Schaefer	Zschau
Lungren	Schuette	
Mack	Schulze	
Madigan	Sensenbrenner	

NOT VOTING—11

Brooks	McKinney	Walgren
Chappie	Miller (OH)	Weber
Hamilton	Nelson	Whitten
Hyde	Price	

□ 1825

Messrs. ORTIZ, BRYANT, SMITH of Florida, and CROCKETT changed their votes from "no" to "aye."

Mr. HOWARD changed his vote from "present" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

Mr. JEFFORDS. Mr. Chairman, I rise in support of H.R. 2817, legislation to amend and reauthorize the Superfund Program. I would also like to take this time to commend the members of the Public Works and Energy and Commerce Committees for their diligence in reaching a compromise on this important legislation.

There is no question that this is an issue of tremendous concern to the Congress and to the American public. Five years ago we

entered new territory with the enactment of the Superfund law. The primary goal of this legislation was to create a mechanism by which those parties responsible for polluting the environment with hazardous wastes are ultimately responsible for cleaning them up. Yet the bill also recognized that in many cases immediate, Government-financed responses would be necessary because of the difficulty in identifying those responsible and potential legal delays in cleanups.

In the ensuing 5 years we have seen the program confronted by a number of obstacles—some technological, some institutional, some political, some legal. Those who would blame the EPA for the inability of Superfund to clean up a significant number of sites ignore many of the fundamental obstacles to an effective national hazardous waste cleanup effort.

Our job now is to improve the Superfund Program in a manner which will, to the extent possible, remove these obstacles and allow EPA to get the job done. I believe that H.R. 2817, as amended, will do just that.

The bill contains mandatory, enforceable, and I believe reasonable schedules for cleanups of sites on the National Priorities List. It calls upon EPA to complete remedial action on all 541 sites currently on the NPL within 5 years, or else explain why this outcome cannot be achieved. This section also requires EPA to add 1,600 new sites to the NPL by 1988, and begin at least 525 new remedial investigation and feasibility studies within 3 years.

The bill will also establish tough standards which will insure that Superfund sites are really cleaned up. Cleanups must conform to existing standards under Federal environmental laws or water quality standards which are applicable or relevant and appropriate under the circumstances. Language in this bill instructs the EPA to use permanent cleanup technology whenever possible, and provides for interim reviews of the applicability of emerging technologies for those sites which have not been permanently cleaned up. It also specifies that in States with standards tougher than those under Federal law, those State standards would apply.

H.R. 2817 contains provisions which allow affected parties to sue private parties to force cleanup of hazardous waste facilities when these sites pose an imminent and substantial threat to public health or the environment. While I would like to insure to the great extent possible that society's resources are spent on cleanups rather than on litigation, past experience dictates that these citizen suit provisions are necessary to force cleanups.

The bill contains community right-to-know provisions which create notification requirements for those handling hazardous chemicals. Facilities which handle these chemicals, which are so acutely toxic that release in any amount endangers human health, are required to keep an inventory of these substances and notify State and local officials of any release of these substances into the environment. State and local organizations are responsible for coordination and emergency planning within their local communities.

An important new program created in this bill addresses the problem of leaking underground storage tanks. A tax on gasoline will provide $850 million to clean up these leaking tanks, which pose a serious threat to our Nation's ground water supply. Under the bill's provisions, EPA (or the State) is authorized to undertake these cleanups or require responsible parties to do so. The intent is identical to other Superfund provisions: to make those responsible parties pay for cleanups, yet in cases where delays are imminent, provide the funds to do the job now and recover from those responsible later.

It is very important that the funding mechanism for Superfund reinforce the goals of the program. Those companies which generate large volumes of hazardous waste should be the ones financing Superfund cleanups. The Superfund excise tax proposed by the Ways and Means Committee violates this polluter pays principle. It would have taxed those firms which produce no waste on an equal basis with those who generate large volumes.

I would like to see a tax scheme which is based upon the volume of waste generated. Such a system would encourage waste reduction technologies. The market price of a product would reflect all of the costs of production, including the costs of waste disposal.

Of the funding proposals before the House, the Downey substitute best meets this polluter pays principle. It contains a waste end tax to generate $2 billion, along with chemical and petroleum taxes totalling $5.1 billion. I commend my colleagues for adopting this Superfund revenue mechanism.

Mr. Chairman, I do not agree with every provision contained in this bill. But I think this is a very strong bill, and the members of those committees which worked hard to craft this bill should be commended.

This bill strengthens our commitment to protecting future generations from the mistakes of the past. This improved Superfund Program will make real progress over the next 5 years. We are providing EPA with the mandate and the funds to get the job done. I urge my colleagues to support this bill.

Mr. LIGHTFOOT. Mr. Chairman, the need to reauthorize Superfund for another 5 years is urgent. The Nation's most threatening environmental problem is that of dangerous abandoned toxic waste sites. These abandoned toxic wastes are like a disease, lying in the Earth, gradually spreading throughout the aquifers, our water supplies. They threaten our health, the health of our children, and, unless we act to clean them up, the health of generations to come. The Superfund reauthorization bill before us today would provide strong protection for the public health and environment, and I strongly support it insofar as it addresses our needs in this area.

I would also like to point out that possible inequities to the American farmer have been corrected in this bill. The original version of H.R. 2817 would have brought farmers within the scope of Superfund for the first time, potentially subjecting them to litigation as a result of the normal use of fertilizers and pesticides. However, the public works committee recognized that farmers are not the polluters that Superfund is intended to address, and therefore changes were made in the bill to correct this problem.

However, Mr. Chairman, I believe there may still be a problem about this bill which has not been addressed, and that is the $10 billion level of funding. I am shocked at how little debate on this bill has been addressed to its cost to the American taxpayer. Over the past 5 years we spent $1.2 billion on Superfund. This relatively low funding level combined with some mismanagement resulted in very few cleanups being completed. However, to address this problem the Environmental Protection Agency requested $5.3 billion for the next 5 years—a 425-percent increase over the first 5-year authorization. EPA says anything over that amount could not possibly be spent effectively. The other body earlier this year went beyond that request and approved a funding level of $7.5 billion. And now, the bill we have before us would provide $10 billion to be spent over 5 years, which is nearly double the amount requested and $2.5 billion more than what was approved by the other body.

If $10 billion can be spent effectively to clean up toxic waste faster than a lower level of funding, then I would support this level. But our ability to use these additional funds effectively has not been demonstrated. The people who will be doing the job say the extra funds cannot be spent effectively, and I for one don't believe I'm in a position to question that.

The series of events that has led to such a high funding level in this bill reminds me of the technique a horse salesman will use to get a higher price than he knows he deserves. Instead of asking for what he knows the horse is worth, he doubles the amount and then settles somewhere in between. The difference in this case is that there was no settling—the horse salesman is getting double what he asked for even though he knows it's much more than the horse is worth. And once again, the deeply indebted American taxpayer is left to foot the bill.

I would remind my colleagues of all our earlier efforts to cut the Federal deficit this year. We've forced so many of our constituents to tighten their belts by making unprecedented freezes and cuts in Federal programs. Now we have a chance to cut $5 billion that an agency says it doesn't even need, but for some reason no one seems willing to do it. This seems to be a classic example of a well-intended attempt to solve an urgent problem simply by throwing more money at it. I realize that no one wants to be perceived as being against Superfund and the cleanup of toxic wastes, but let's keep in mind that wasteful spending in the Superfund program is just as

wrong as wasteful spending in the Department of Defense or any other program.

Again, Mr. Chairman, because of the urgent nature of the toxic waste program in the United States, I intend to support H.R. 2817 today. But I still believe we can address the urgent need to clean up toxic waste with a more manageable level of funding, and I look forward to the opportunity to support a more reasonable level should a conference with the other body produce such a compromise.

Mr. LEVIN of Michigan. Mr. Chairman, there is no environmental issue more threatening to the American people than the problem of toxic waste. Each year in this country, over 60 million tons of toxic waste material are generated. Additionally, decades of unregulated dumping of hazardous waste into literally thousands of now abandoned landfills have left a legacy of leaking toxic poisons, which threaten the lives, health and welfare of citizens of every State.

I am pleased to support H.R. 2817, the Superfund reauthorization bill, and urge its passage. When Congress enacted the original Superfund Program in 1980, I believe it had taken a significant step toward reducing the risk posed by abandoned hazardous waste sites. Five years and $1.6 billion later, we find that of the 850 most toxic waste sites listed on the National Priority List, EPA has only managed to clean up six of them. Of these six, two sites were really insignificant waste problems, and should never have been on the National Priority List to begin with. Yet another of the supposedly cleaned sites burst open following the heavy rains from Hurricane Gloria earlier this year. As a result, 100,000 gallons of oily toxics spilled into the Susquehanna River. So it seems EPA only managed to clean up three sites in 5 years.

This deplorable record does not come as a complete surprise. EPA's response to the task of cleaning up this Nation's abandoned toxic waste sites has been inept. Allegations of mismanagement, sweetheart deals that let polluters off the hook, and political manipulation of the Superfund led to the resignation of more than 20 top EPA officials, including EPA's director, Anne Burford, in 1983.

It is clear that EPA cannot be left to its own devices in the cleanup of this Nation's toxic waste sites. I am therefore pleased to support a Superfund program which imposes mandatory cleanup schedules for EPA to begin actual cleanup at a minimum of 600 hazardous waste sites in the next 5 years. The bill also mandates, for the first time, that cleanup at Superfund sites meet statutory standards.

Finally, this $10 billion reauthorization gives strong incentives to producers of toxic waste to recycle waste or dispose of it permanently, rather than simply bury it in landfills, which may themselves become Superfund sites in time. I support the waste-end tax which will help place the burden of Superfund cleanup on the polluters.

The Office of Technology Assessment estimates that there may be as many as 10,000 dangerous toxic waste sites which will someday require cleanup. Mr. Chairman, it is past time that this country start making headway against this backlog. I urge passage of the Superfund reauthorization.

Mrs. LLOYD. Mr. Chairman, I rise to offer my support for this necessary legislation, H.R. 2817, the Superfund amendments of 1985 and I want to commend my colleagues on the energy and commerce and public works committees for their diligence in reaching this compromise position on how waste cleanup should proceed.

While I do support the entire legislative package, with the expectation that certain unfortunate amendments leading to unnecessary costs will be rejected, I want to comment on two provisions of particular interest to me. I am very pleased that the bill includes a section on research, development and demonstration which is chiefly modeled on H.R. 3065 which was reported by the Science and Technology Committee on September 4. These provisions authorize a coordinated Federal effort to promote the development of alternative and innovative treatment technologies for use in cleaning up toxic waste sites. These same provisions authorize a human health research effort under the auspices of EPA and the Department of Health and Human Services and provides grants to universities to conduct some of this important research work.

I believe that the research and development portion of this legislation is an important one although there has been little real discussion of this aspect of waste cleanup in the media coverage. We cannot understate the importance of moving ahead with the cleanup of these already toxic sites, but our efforts now in developing alternative and innovative technologies will have vast implications for our future cleanup efforts. The fact is that it is not at all clear what is required to achieve compliance in the remedial action on these sites. The waste sites must be characterized and thoroughly assessed before cleanup plans can be developed. It is clear that the scope of such plans and the costs of cleanup will depend greatly on the cleanup technologies available.

From my position on the Science and Technology Committee, I have watched with great concern as various segments of society persist in the belief that zero risk can be achieved. Issues ranging from the release of genetically-engineered organisms to the selection of an acid rain abatement strategy require some form of risk assessment to provide a more rational basis for public decisionmaking. The R&D elements of this bill will help EPA and other agencies address the degree of risk more reasonably and remind us that our technological health depends increasingly on the skill with which we are able to address and resolve such issues recognizing that there are no zero risk alternatives.

I am very familiar with the type of waste problems we face at Federal facilities. The Y-12 weapons facility at Oak Ridge, TN, in my district, had serious environmental problems with mercury and other pollutants. It has required a significant monitoring effort and careful analyses to assess the extent of the cleanup problems and provide a technical basis for cleanup plans. The research, development and demonstration projects authorized in this bill are critical to providing both Federal agencies and industry with the confidence that adequate technology will be available for the entire spectrum of cleanup activities.

My second comment concerns the specifics of dealing with Federal waste sites. I can understand each States concerns in dealing with expensive and necessary cleanup of existing toxic waste sites and I certainly believe that the States should have a reasonable involvement in cleanup decisions. However, I hope my colleagues will see the wisdom of ensuring that cleanup efforts of already-contaminated sites at our Federal installations are handled in the most effective manner with regard to the States rights under the accepted guidelines. In other words, we need to ensure that Federal facilities/agencies will have the final word in cleanup actions and not be subjected to unnecessary cleanup expenses imposed by the States if the State cannot identify alternative disposal sites.

Thank you, Mr. Chairman. I urge my colleagues' support of this legislation.

Mr. DREIER of California. Mr. Chairman, the Superfund legislation we have been considering these past few legislative days is one of the most important environmental laws with which Congress has ever dealt with. It comes at a time when the extent of toxic waste contamination in this country is so overwhelming that potential environmental damage may be irreversible. Clearly, the Nation's abandoned hazardous waste dump sites pose a dangerous threat to our public health and the environment, and I support a strong and effective Superfund Program which will address this national crisis.

Traditionally, I have always been a proponent of greater enforcement responsibility and cost sharing at the State level. However, the generation, transportation, and disposal of toxic waste is very much an interstate issue. For example, one toxic waste landfill located near my California district had been receiving hazardous waste from as far away as Virginia. The dump has since stopped accepting hazardous waste as a result of leaking contaminants into a nearby residential community. This situation demonstrates the need for strong Federal intervention.

I believe H.R. 2817 is a good foundation in which to build a Superfund Program committed to locating and cleaning up permanently our Nation's most dangerous hazardous waste sites. As we know, there are close to 10,000 Superfund sites which have already been identified, and potentially thousands more will probably be discovered sometime in the near future. There isn't one region of the country that is immune from the threat of toxic contamination.

Southern California, where leaking dump sites are contaminating a considerable number of ground water wells, is a tragic example. In fact, in the San Gabriel Valley

alone, almost one-third of the water wells are so contaminated that they have either been shut down, or the water has been treated to meet the States health requirements. In this regard, I view the Superfund Program as more than just a hazardous waste cleanup program. It is the centerpiece of a national commitment to reverse the considerable damage caused by illegal dumping and the mismanagement of hazardous waste storage facilities.

My main concern, Mr. Chairman, is that the resources needed to address all of the potential health threats created by leaking hazardous waste dump sites go well beyond what is currently at our disposal. For this reason, I believe it is essential that we not deter our limited resources or undermine the primary purpose of the Superfund Program: to promptly clean up our Nation's most dangerous abandoned hazardous waste dump sites.

More important, we must do more than just react to the threat of toxic contamination. We need to put considerably more emphasis on efforts to prevent future Superfund sites. This, I believe, entails a vigorous program of technological development to improve current cleanup methods, as well as the development of innovative ideas to control, reduce, or even eliminate altogether future sources of contamination. Today, unfortunately, there is a definite lack of available, affordable, and environmentally sound waste management facilities.

In the first 5 years of the Superfund Program, the EPA devoted not more than $25 million on cleanup technology research and development. H.R. 2817 makes drastic improvements in that area, and this I find very encouraging. I hope, however, that we can continue to promote technology research and development beyond the scope of Superfund. One of the greatest sources of technological innovation can be found in the small business sector. I believe we should successfully utilize the vast potential of small entrepreneurs by providing them with favorable incentives to develop alternative waste management techniques.

Mr. Chairman, a strong and effective Superfund Program is a national priority and a vital element of our efforts to protect public health and safety and to clean up the environment. I hope Congress and the President will move expeditiously in approving the Superfund legislation so we can rapidly attend to our Superfund agenda; to clean up permanently the Nation's worst abandoned hazardous waste sites. More important, Mr. Chairman, I hope we can work beyond Superfund to promote the development and implementation of advanced technology necessary to prevent future Superfund sites.

Mr. CHANDLER. Mr. Chairman, section 126 of the legislation we are currently considering would, simply put, require the Occupational Safety and Health Administration [OSHA] to promulgate regulations to protect workers employed to clean up toxic waste sites. Such a provision has great merit; however, section 126, as written is problematic in several areas:

First, the provision applies to State and local workers. When Congress enacted the Occupational Safety and Health Act, it intentionally excluded from coverage State and local governments. A Superfund bill is not the appropriate place to expand coverage of the Occupational Safety and Health Act.

Second, section 126 also sets forth with specificity what provisions must be included in the standard promulgated by OSHA. This is in direct contradiction to the Occupational Safety and Health Act, which requires the Secretary of Labor to develop standards, and I quote, "which most adequately assure * * * that no employee will suffer health impairment," end of quote, based upon the best available evidence. Section 6 of the Occupational Safety and Health Act further requires that development of standards under the above-mentioned section be based upon research, demonstrations, latest available scientific evidence, public comment and other appropriate information. Now along comes this Superfund bill which effectively tells the Secretary of Labor that with regard to toxic waste sites, Congress is the expert on what is necessary to protect workers, not OSHA.

Let me repeat, a Superfund bill is not the appropriate place to amend OSHA. If my colleagues believe that OSHA is not doing or cannot do its job, the rules of this House require that it be dealt with by the Education and Labor Committee, which has sole jurisdiction over the Occupational Safety and Health Act.

I will honor the agreement to limit amendments by not offering an amendment to section 126 but would urge my colleagues who may be chosen to serve as conferees on this issue to look to the Senate language dealing with worker protections.

Mr. KOSTMAYER. Mr. Chairman, today I rise in support of the Superfund tax as approved by the House Ways and Means Committee.

As we attempt to finance an expanded Superfund Program, we want to ensure that these revenues are raised in a manner that poses the least economic harm, while spreading the burden for cleanup as equitably as possible. The Ways and Means Superfund tax accomplishes these goals. The substitutes that will be offered on the House floor fail the test.

The Ways and Means legislation will provide $10 billion for cleanup over 5 years through a combination of a tax on crude oil, chemical feedstock taxes at current levels, a waste generation tax, a small amount of general revenues, and a broad-based Superfund excise tax [SET].

I support this approach for the following reasons:

First, the Superfund excise tax is fair and would be paid by a broad category of manufacturers, in recognition of the fact that essentially all types of manufacturers have been identified as being responsible for the hazardous wastes found in Superfund sites. As a means of removing any doubts about the question of responsibility, the SET provides exemptions for food products, unprocessed agricultural and fishery products, timber, and fertilizer. A small business exemption from the tax is also provided.

Second, the SET is trade neutral. The tax is imposed on imports, while domestic manufacturers would get a rebate on their exports. The two substitutes that will be offered on the floor do not protect domestic producers from unfair foreign competition. As a matter of fact, the Downey-Frenzel substitute, with its increases in taxes on chemical feedstocks and crude oil, would give an advantage to foreign competitors.

Third, the SET is levied at an extremely low rate—eight one-hundredths of 1 percent and—it protects consumers from economic harm. Calculations show that the SET would add only one one-hundredth of 1 penny to the price of a loaf of bread, and only $6 to the price of a mid-sized American car. By contrast, the chemical feedstock tax increases in the Downey-Frenzel substitute would force some U.S. producers to close their doors, driving jobs and manufacturing capacity overseas.

Fourth, the SET is a carefully targeted revenue tax, which, by law, can be applied only to Superfund cleanup. Similarly, the rate is set by law. Absent separate congressional action, the rate cannot be increased and the tax cannot be used for any other purpose.

In sum, the Ways and Means superfund tax legislation is a fair means of providing cleanup money. It does so in a way that avoids economic burdens and protects domestic industry and jobs from unfair foreign competition.

Mr. HENRY. Mr. Chairman, I want to take this opportunity to rise in support of section 212 of the Superfund reauthorization legislation currently before the House. The provisions of this section, providing for research, development, and demonstration projects for innovative hazardous waste treatment technologies are badly needed. The small amount of Federal funds provided for in this section are a potentially tremendous investment in at last making real progress in controlling hazardous wastes within Superfund sites.

In hearings before the NRARE Subcommittee of the Science and Technology Committee, on which I serve, we were told that 87 percent of the current repositories of hazardous wastes now in use are in danger of leaking, and probably one half of all new storage facilities currently under construction may themselves become Superfund sites.

Clearly, much of the current problem facing this country in regard to hazardous wastes is the simple fact that innovative technologies capable of eliminating or vastly reducing the amount and toxicity of waste are either not available or are little used. This has led to the sad fact that in many cases Superfund and other toxic waste sites have not been cleaned up, but rather their waste have simply been shifted from place to place. Moving wastes from site to site, without actually reducing their

amount or toxicity, is no permanent answer to the hazardous waste problem.

This deplorable situation is addressed in the current legislation before the House. Section 212 is aimed at encouraging innovative treatment technologies, their testing, evaluation, and implementation and, hopefully, widespread application to reduce the actual amount of hazardous wastes. The legislation also provides for participation from public entities, nonprofit laboratories, universities, and the private sector in reducing hazardous waste levels.

Briefly, the legislation provides authority in three areas through the establishment of grant programs for health research and training, for research and demonstration involving innovative cleanup technologies, and for regional hazardous waste research centers at universities. To coordinate these efforts, the legislation also sets up advisory councils in each area.

First, it authorizes a 5-year, $98 million program for a hazardous substance research, development, and training program, in which the National Institute of Environmental Health Sciences in HHS would contract with universities to help find ways to reduce threats to human health and environment. Universities could subcontract with private firms and State and local governments.

Second, the legislation authorizes $100 million over 5 years for a Superfund RD&T Program to encourage research in and demonstration of innovative technologies designed to provide permanent cleanup. EPA would be required to designate at least 10 such field R&D sites in each of the 5 years, either running these projects itself or contracting with public, nonprofit private, or university entities. Special liability standards would be set to allow researchers to test their technologies.

Third, the bill would authorize $25 million for EPA to make grants to universities to establish and operate at least five hazardous waste research centers.

The dollar amounts provided for in this section are small. But the potential benefit to society are great. I applaud the work of those in the Science and Technology Committee, especially Mr. TORRICELLI and Mr. SCHEUER, as well as the chairmen and ranking members of all the committees involved in the reauthorization of Superfund, for recognizing the need for innovative treatment technologies and incorporating provisions in the legislation before us.

Mr. BRUCE. Mr. Chairman, I am pleased today to rise in support of the reauthorization of the Superfund Program. As we are all aware, this has been a controversial bill. Unfortunately most of the controversy arises because of the dismal performance of the Environmental Protection Agency. If EPA were aggressively implementing the current law, many of the provisions of this bill would be unnecessary. However, EPA has performed poorly and any Superfund reauthorization must establish standards and goals for cleaning up the Nation's hazardous wastes.

In 1980, Congress passed the original Superfund law that committed $1.6 billion to the cleanup of abandoned hazardous waste sites. EPA has listed more than 800 sites as national priority sites for cleanup, out of the 23,000 such facilities that are known to exist across the country. In my own State of Illinois, we have 22 toxic sites on the National Priorities List, with two of those sites in my district.

Unfortunately, after 5 years of EPA effort, two sites on the National Priorities List have been cleaned up. EPA's record on all other parts of this program is equally as disappointing. If we have learned anything from the experiences from the last 5 years, it is that without a clear directive from Congress the EPA will do nothing. Leaving the agency to follow its preferences is not helpful to the environment, to public health, or even to the companies whose money is being used to pay for these cleanups.

I have always believed that a credible effort to reform the Superfund Program must contain, at a minimum, the following provisions:

A strict, mandatory annual schedule for the initiation of cleanup at priority sites;

Uniform national cleanup standards to determine when work at a site has been sufficient to protect human health and the environment. Such standards must mandate permanent treatment of Superfund sites;

Establishment of a citizen's right to sue polluters for cleanup when EPA and the States are not acting on the site;

Prohibition of sweetheart deals in which polluters' future liability for undetected contamination is waived and the fund is left to absorb all cleanup costs;

Establishment of a strong and effective community right to know program which requires the disclosure of basic information about the nature and scope of toxic emissions from operating chemical plants.

I am extremely pleased that this compromise incorporates the items which I have mentioned. There are strong annual schedules, real cleanup standards, liability for future releases, citizens' suits, and a community right-to-know. I believe the bill can be improved in some areas, and I think there will be various amendments offered which address these important concerns and deserve our support. For instance, I hope amendments will be added to the bill that will strengthen the communities right to know provision by requiring the tracking of chronic health effect chemicals into the environment and a provision to establish a Federal cause of action giving innocent victims of hazardous substances the ability to sue in Federal court.

I feel that we all can be proud of the public policies outlined in this legislation. By passing this bill, the House will be better defining the standards for cleaning up hazardous waste sites as well as ensuring that the residents of the affected communities are part of any long-term solution.

Mr. KLECZKA. Mr. Chairman, I rise in strong support of this Superfund reauthorization, and urge its passage in the House.

Back in 1980, when the Superfund Program was first enacted, Congress had only a partial understanding of the hazardous waste problem. Initially, it seemed that cleaning up some 500 priority sites would provide a permanent solution to toxic hazards.

Recent studies, however, by the Office of Technology Assessment and the Environmental Protection Agency, suggest that there may be as many as 10,000 toxic waste dumps in America that pose an imminent health risk. Moreover, we are still learning the effects of toxic wastes on ground water and other critical resources.

These discoveries require a strong response by the Federal Government, and I am pleased to say that the bill before us is such a response. Mandatory cleanup schedules, broad community right-to-know provisions, tough cleanup standards, citizen suit provisions and a $10 billion funding level over 5 years make this bill landmark commitment to a cleaner environment.

Perhaps most important is the mandate this bill provides to the administration to commit its full energies to enforcing Superfund. EPA's reluctance to comply with the law in its early years has been well documented; to date, only six sites on the national priorty list have been completely cleaned up. In my own congressional district, in fact, there are two national priority list sites awaiting Federal action.

In the midst of our difficult efforts to reduce the deficit and restore our trade position, it is important that we remember America's most vital long-term resource: the environment. I am proud to support this bill, and ask my colleagues to register their support for a cleaner and healthier America.

Mr. APPLEGATE. Mr. Chairman, I would like to take this opportunity to explain my opposition to the proposed mechanisms for financing Superfund.

I believe that many of my colleagues will agree with the fact that all three proposals are flawed and that the long-term effect of any of these proposals is that the consumer pays, not the polluter. We are, therefore, faced with the decision of voting on the lesser of three evils. This section of the legislation should be formulated in a much more reasonable and more effective manner. I am pleased to say that there is an alternative that will meet this criteria. I only wish that we had the opportunity to consider this alternative.

The alternative is based on a law that passed in 1974. The Hazardous Material Transportation Act of 1974, mandated the Secretary of Transportation to establish and maintain a central reporting system and data center in the transporting of hazardous materials. This section of law was never properly implemented and we now have a system that is inadequate and dangerous.

I am pleased to report to this House that there is a system available that would implement to the fullest extent, the purpose and intent of the 1974 law. We would have the ability to control the transporting of

hazardous materials, reduce the risks involved for communities as well as those transporting, and fund Superfund at an appropriate level. This commuterized system is available now and we can make it work at a reasonable cost to business.

This system perfects the current manifest system that was implemented by the Chemical Manufacturing Association [CMA] in response to the 1974 law. CMA's attempt is commendable, but the system lacks the proper controls and enforcement mechanisms. CMA's system is also more expensive than the system that I support. DuPont has reported that their costs for manifesting to be $35. This new system would carry with it a cost of $10 per manifest. This $10 fee also includes the filing of the necessary semiannual State and Federal reports for industry, saving millions of additional dollars. This new system is the answer to the problems surrounding Superfund legislation. It allows for community right to know, it reduces the risks currently involved in hazardous material transportation, and it protects our constituents from unnecessary exposure to hazardous materials.

Based on these merits alone this system should be implemented. However, as I stated, this system would provide a mechanism to fund this environmental legislation. We could increased the $10 manifest cost to $20, the additional $10 would be used to cleanup our environment. Keep in mind that $20 a manifest is still much lower than the current $35. The system is designed to provide the Treasury Department with the necessary information and could even work to collect these funds. This would not be a tax, it would be an operating cost that already exists and is required by law.

I had planned to offer an amendment at the committee level that would have required the full and complete implementation of the 1974 law, however, I was advised by leadership to wait and include this provision in the reauthorization of the Motor Carrier Safety Act. Had I known that I would be forced to vote on an amendment simply because it is the lesser of three evils, I would have pursued this option much more aggressively. The three proposals offered to finance Superfund are harmful, unfair, costly, and more importantly they are not trade neutral. The crisis in trade is only made worse and we simply cannot afford any further imbalance. I cannot offer my support to any provision that exports jobs and increases our trade imbalance.

We are agreeing to a section to Superfund that we all know is flawed and unfair. How can this be justified when the technology is available that would require the true polluter to pay. I have heard many of my colleagues state on the House floor that these proposals are imperfect, but they were the best possible alternative. Imperfect? Yes. Best possible alternative? No. By accepting the financing mechanism included in the bill, instead of the one I have discussed, we have flawed what was once a sound piece of legislation.

Mr. GAYDOS. Mr. Chairman, H.R. 2817, the Superfund Amendments of 1985, may well be one of the most significant pieces of legislation to pass the Congress this year. It provides us with a structure for continuing and, perhaps speeding, the cleanup of several thousand sites where toxic and hazardous materials have been stored and buried.

The compromise package achieves a great deal and I urge my colleagues to support it. And, while I support the entire bill, I would like to focus on one specific issue addressed in it: worker protection standards.

The bill requires the Secretary of Labor to issue health and safety standards focusing on training, medical surveillance, protective equipment, exposure limits and engineering controls in order to safeguard those workers involved in the actual cleanup activities.

This is a vital addition to the Superfund legislation. In May of this year, the Subcommittee on Health and Safety conducted a hearing into this matter. It was clear from testimony presented to the Subcommittee by witnesses from the Environmental Protection Agency, the Occupational Safety and Health Administration [OSHA], and the International Union of Operating Engineers, that OSHA has failed to provide adequate safeguards for those workers who are being exposed to all kinds of toxic and hazardous materials during the cleanup process.

OSHA admitted that it saw little need for more than simple modification of general construction standards to protect those workers at Superfund sites. As a result of OSHA's failure to better protect workers, testimony showed that workers were permitted on Superfund sites wearing little more than everday work clothes, boots, gloves and, perhaps, a hard hat.

By contrast, EPA has much more stringent requirements for its employees who are onsite—requiring the wearing of moon suits, self-contained breathing apparatus and other gear.

In addition, since OSHA inspectors at Superfund cleanup sites fall under EPA requirements, those OSHA inspectors must comply with EPA standards for personal protection—considerably more stringent than the standards OSHA applies to those men and women who are most likely to be exposed to a substance during the actual cleanup process.

The EPA believes that some of the substances at Superfund sites are so toxic that anything less than full protection is merely an invitation to disease and possibly death. Further, EPA witnesses said that not all substances at Superfund sites have been identified and, given that circumstance, it is better to be overly cautious.

The EPA, unfortunately, does not have jurisdiction over the health and safety of workers. That is an OSHA responsibility and it is clear from the testimony presented to the Subcommittee on Health and Safety that OSHA isn't doing all that it should with regard to workers at Superfund cleanup sites.

My support of this section of H.R. 2817 does not in any sense imply that the Committee on Education and Labor and the Subcommittee on Health and Safety is not exercising its exclusive jurisdiction in this area. In an effort to assist in the movement of this bill and, most importantly, because the Subcommittee has had hearings on the issue of worker protection at Superfund site cleanup, Mr. HAWKINS, chairman of the full Committee, and I agreed not to ask for a sequential referral on the bill.

In fact, if this section had not been included as part of H.R. 2817, I was prepared to offer it as an amendment to the bill because of its importance to workers.

But it is a part of the bill and it is a major step forward in ensuring that those workers handling and being exposed to toxic and hazardous substances at Superfund sites be offered every possible safeguard.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair informs the committee that under a previously approved unanimous consent request there will now be 15 minutes debate on the previously adopted Edgar amendment. That amendment is not subject to a vote at this time; but under the unanimous consent request, there will be 7½ minutes on each side.

The gentleman from Pennsylvania [Mr. EDGAR] will control 7½ minutes and the gentleman from Ohio [Mr. ECKART] will control 7½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Chairman, I am very surprised that there is the extent of controversy about this bill, and I want my colleagues to know that the gentleman from Pennsylvania did not request the additional time. We discussed this fully on Thursday night, and a vote was cast and I was successful. We now have another set of circumstances where we are going to discuss the merits of this issue. I hope the Members will listen clearly because the merits have not changed and we need the attention of the committee on this very important issue.

Mr. Chairman, for the purposes of our opening debate, I yield 2½ minutes to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, the American Lung Association is on record supporting the listing of chronic hazards under the community right-to-know provision of Superfund. It has specifically endorsed amendments to do just that included in the bill passed overwhelmingly and without opposition by the other body, but it has not specifically reviewed the language in Edgar-Sikorski. At least 47 other groups have likewise gone on record supporting the inclusion of chronic health hazards—steel workers, AFL-CIO, League of Women Voters, U.S. Conference of Mayors, International

Association of Fire Fighters, the National Association of Local Governments and Hazardous Waste, the League of Conservation Voters, and 43 others.

In the legislative process, we often hear a general curious attack against something that people want, something supported by the facts.

Mr. Chairman, it was not this side's desire to have another debate and impose on the time of the Members, but we are in this situation. Repeatedly in the legislative process we have these general curious attacks on proposals that are supported by the facts, supported by logic, and supported overwhelmingly by the people. We are told at different times that a proposal will cause horrendous, incredibly negative consequences, burden small businesses, destroy family farming, cause horrendous paperwork, flat feet, falling arches and hair, and the heartbreak of psoriasis. These horribles are marched in front of us in a manner that would make John Phillip Sousa proud of the parade.

You have all seen this parade of horribles time and time again in the legislative process, and this week we have been treated to it again, against community right to know. Yet the music is sour, the notes off key, it is based on fearful nonsense. Community right to know does not touch farmers and small businesses or create mounds of paperwork. Two States already do it without the horribles. And the other body adopted an even stronger community right-to-know provision without controversy or opposition.

Mr. Chairman, the issue is simple. If you want your constituents to know of chemical releases causing cancer, brain damage, and birth defects, vote for Edgar-Sikorski. If you do not, do not vote for it. If you want your fire, police, and medical personnel to know the chemicals they are exposed to, vote for Edgar-Sikorski. If you do not, vote against it. If you want your constituents to know of poison in the soil of their kids' playground, in the air they breathe, and in the water their neighborhood drinks, vote for Edgar-Sikorski. If you do not want them to know that, vote against that.

Mr. ECKART of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, as a Member who was very involved in the development of the community right-to-know provisions, I must tell you that the committee took them very seriously. The question here is: Is the community going to be able to utilize effectively the information it knows?

I suspect every Member here, either as an individual or in the committee that the Member has worked on, has had the experience where they have asked an agency for some information, asked them some tough questions that they did not want to answer, and so they love you to death. They send a truckload of documentation up here, and you are buried under it and you cannot find out what you want to know.

The Edgar amendment unintentionally has done the same thing to communities. It will bury most communities under a volcano of annual reports.

We have a wire here from the National Association of Counties, which says, in part, that the Edgar amendment will seriously undermine and divert community emergency response committees. Submission of status sheets for chronic hazards will overwhelm the capabilities of these communities.

□ 1840

What is so serious about this is that the intent of the original provision of the bill was to be sure that each community knew with precision what acutely hazardous substances existed in that community. That is defined in "those substances which can pose imminent and substantial threat to public health and safety."

The Edgar amendment loves that provision to death. It requires so much more information on so many more substances that it will make it all but impossible for all but the very most sophisticated local governments to be able to absorb and handle that information.

Mr. EDGAR. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding me this time.

Mr. Chairman, many of us have heard allegations that the Edgar-Sikorski Superfund amendment to require reporting of emissions of cancer-causing chemicals would hurt farmers. Nothing could be farther from the truth.

Let's get the facts straight:

The bill as drafted directs the EPA Administrator to set threshold amounts for reporting. The Agency can and should set amounts high enough to exclude family farmers and others with minimal emissions.

The Edgar-Sikorski amendment does not require that any pesticide be banned or removed from farm use. It is a right-to-know provision, requiring only that a heavy user of a carcinogen file a 1-page report each year so that his neighbors will know what they're exposed to. Is that too much to ask?

Finally, in an amendment to the Superfund bill the gentleman from Illinois [Mr. MADIGAN] specifically excluded pesticides from liability under Superfund.

Any remaining questions about family farmers can be easily handled in conference. I ask my colleagues to again support the right of their constituents to know when they are breathing or drinking cancer-causing chemicals. Vote "yes" on Edgar-Sikorski.

Mr. ECKART of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman that just preceded me made a point about agriculture, and I share his concern about agricultural reporting also. But I take an entirely different interpretation, and because of that I oppose this amendment.

In the sheet that is before you, "Reasons to Vote 'Yes,'" it says, "The EPA has full discretion to set both the list and the reporting threshold," so there is no problem with burdensome numbers or paperwork. That is the point that Mr. PENNY was attempting to make.

It is for that very reason that I am worried. I am worried because I do not know what the EPA is going to say both the list and the threshold is going to look like. If we had the list, if we had the threshold, it might be reasonable, but since it is not, we can only imagine the worst. The National Council of Farmer Cooperatives says that increased reporting can cost us more in food prices. The American Farm Bureau Federation is concerned that without the threshold and without the list we could have every farmer sending in a report for every application of a pesticide or fertilizer.

I urge a "no" vote.

Mr. ECKART of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. SNYDER].

Mr. SNYDER. I thank the gentleman for yielding me this time.

Mr. Chairman, I would just like to follow up on what the gentleman from North Carolina said. Mr. PENNY may believe that it will not hurt the farmer, but the EPA says it will. In their letter of December 6, they said it will cover over 1 million farmers. The Department of Agriculture believes it will. In Mr. Block's letter of today, he says,

> Because of the expansion of the definition provided in the Edgar amendment and the broad reporting requirements, over 1 million farmers could be required to compile and submit emissions information to local emergency and planning agencies.

The American Farm Bureau believes that it does, as does the National Council of Farmers. In addition to that, Mr. Chairman, I would like to bring up the point that the Association of American Medical Colleges and the American Council on Education, which are the organizations which collectively represent all institutions of higher education as well as, and get this, the Nation's major teaching hospitals, indicate that under this provision huge amounts of resources will

needlessly be diverted by requiring institutions to constantly monitor the release of thousands of chemicals used in ongoing research and patient care activities.

We do not need to do violence to these organizations and their efforts.

The full text of the letters from Secretary Block and Dr. John Cooper, president of the Association of American Medical Colleges, follow:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, December 10, 1985.

Hon. EDWARD R. MADIGAN,
Ranking Minority Member, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MADIGAN: I am extremely concerned about the action taken last week by the House of Representatives adopting the Edgar amendment to the Community Right-to-Know section of "The Superfund Amendments Act of 1985," and the adverse impact it could have on this nation's already troubled farm sector.

Because of the expansion of the definition of "extremely toxic substances," provided in the Edgar amendment and the broad reporting requirements, over one million farmers could be required to compile and submit emissions information to local emergency planning agencies. I do not believe that this information will provide any environmental protection or health benefit to the farmers or their local communities. It will, however, place an additional, unnecessary and potentially burdensome reporting requirement on them.

I urge the House to reconsider its position and defeat the Edgar amendment.

Sincerely,

JOHN R. BLOCK,
Secretary of Agriculture.

DECEMBER 9, 1985.

DEAR REPRESENTATIVE: The Association of American Medical Colleges (AAMC) and the American Council on Education (ACE) are writing to express their opposition to the Edgar-Sikorski amendment added last week to Section 311(c) of H.R. 2817, "Superfund Amendments of 1985." An amendment will be offered imminently on the House floor to strike the Edgar-Sikorski language from H.R. 2817, and we urge you to support this effort.

Our Associations collectively represent all institutions of higher education, as well as the nation's major teaching hospitals, concerned that the health of the American people be protected against the release of hazardous substances into the environment. However, the extensive, costly and time-consuming reporting requirements that would be necessitated by the Edgar amendment levy an unnecessarily high cost in a well intended but faultily executed instrument to achieve that objective. This provision requires the monitoring and reporting to local government entities of the release—however infinitesimal—of chemicals "which are known to cause or are suspected of causing cancer, birth defects, inheritable genetic mutations, or other chronic health effects in humans." Under it, huge amounts of resources could needlessly be diverted, by requiring institutions to constantly monitor the release of thousands of chemicals used in ongoing research and patient care activities. Dangerous chemical releases are already regulated under the Clean Air Act.

While it is reasonable to require institutions to report to local governments on the release of wastes that are acutely toxic, as does H.R. 2817, it is not reasonable to mandate the reporting of the smallest amounts of substances that are only suspected of causing health risks. At issue here is the appropriate balance of health and environmental considerations and the operational realities facing individual institutions. Unfortunately, the Edgar amendment is heavily tilted towards inchoate fears about health risks. There is conceivably almost no limit to the reporting requirements embodied in the Edgar-Sikorski amendment. We urge you to reject this amendment and focus monitoring efforts where they are most needed.

Sincerely,

JOHN A.D. COOPER, M.D., Ph.D.,
President, Association of American Medical Colleges.

ROBERT H. ATWELL,
President, American Council on Education.

Mr. EDGAR. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. I thank the gentleman for yielding me this time.

Mr. Chairman, in 1 minute the Superfund bill that we will pass I think is going to do a superb job and we have addressed very well the issue of acute releases. In my judgment, something far more important is the issue of chronic releases.

In June of this year, my staff compiled a work called "Ill Winds" which was circulated in June to every office. What it shows is that as a result of the acute releases, those counties that are downwind of petrochemical complexes have amazingly high incidences of cancer. Now, we do not factor in smoking; we cannot claim it is a scientific work, and we do not. But the facts are indisputable. Look at it. If you read it, the arguments for the Edgar amendment are compelling.

For an area like mine, this is far more important than acute releases. I beg you, I urge you to support the Edgar amendment.

Mr. ECKART of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding time to me.

Mr. Chairman, the plain and simple truth is that the Edgar amendment has the potential to devastate our Nation's small businesses.

Since passage of this amendment, we have heard from scores of small businesses urging that this vote be reversed. I have a letter here from the National Federation of Independent Businesses, representing over 500,000 business owners, strongly urging a "no" vote.

The original compromise bill's provision, agreed to by both the House Energy and Commerce and Public Works Committees, already addresses the public's right to be informed about hazardous substances, the releases of "which are likely to cause an imminent and substantial endangerment to the public health." Further, it addresses the needs of the emergency response community to mitigate such endangerment. The compromise bill establishes a careful system of planning and preparedness for emergencies involving releases of hazardous substances.

The focal point of the Communities Right To Know Program should be to protect human health by ensuring that an emergency response mechanism is in place. The relationship of the Edgar amendment to this goal is not apparent. An effective emergency response program should not be burdened with extraneous data and paper concerning emergency risks which are not real. Volumes of paper and information of no particular relevance will only increase the danger that a true emergency will not receive effective response; a point made by the Association of Counties and the International Association of Fire Chiefs.

EPA Administrator Lee Thomas has informed us that, under the Edgar amendment, millions of hardware stores, beauty parlors, gas stations, hospitals, schools, dry cleaners and department stores will have to document the amount of all chemicals, in any amount, that are released. This would be required regardless of the size of the business. This makes little sense.

I urge my colleagues to reject the Edgar amendment.

In addition to the paperwork burden, those newly covered businesses might be uninsurable, given the growing unavailability or prohibitive cost of liability insurance when so-called "toxic torts" are initiated.

□ 1850

Mr. EDGAR. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, after the Bhopal tragedy we looked at the chemical industry and we found that many chemicals are coming out of those chemical plants around this country. We do not know about them. Only six are being regulated. Rather than regulate, the Edgar amendment says at least let us get an inventory. This is in the bill now. The community right to know is the right to know what is going into the air that people are exposed to.

The bill says that only those very toxic chemicals will be listed. That excludes dioxin, PCB's, very dangerous chemicals that cause cancer and birth defects. Let us at least get them listed.

Are you worried that they are going to be listed where they are really not a factor? Well, the EPA can only list them if they are over a certain threshold. That makes it so that we are not regulating to get information about

chemicals that are not really going into the air for a large amount of exposure. If they are going into the air over that threshold, we ought to know about those chemicals that cause chronic disease, not just those that kill people immediately.

If you believe in the community's right to know, they ought to have this information so that they can then use it to say that they want protection from those chemicals that kill them.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. ECKART] who has 3 minutes remaining.

Mr. ECKART of Ohio. Mr. Chairman, I reserve the balance of my time for the purpose of closing the debate.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. EDGAR] who has 1½ minutes remaining.

Mr. EDGAR. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, the result of striking the Edgar amendment from the bill will leave us with a situation where communities will have a right to know what it is to be reported in the annual report with regard to toxic chemicals, but only those that are acutely toxic, as opposed to those that are chronically toxic. That means they will have no information provided to them with regard to asbestos, no information with regard to dioxin, PCB's, benzene, tuolene, all known carcinogenic materials, will not be required to be reported under the provision of the Edgar amendment, if struck.

Mr. WIRTH. Mr. Chairman, when we proceed to final consideration of H.R. 2817, the Superfund bill, it is expected that a motion will be made to reconsider the Edgar-Sikorski amendment which we wisely adopted late last Thursday evening. At that time, I urge my colleagues to vote to retain these important public health protection requirements.

As brought to the floor, H.R. 2817 provides for a critical step toward ensuring that our communities—their citizens and their emergency response authorities—would be apprised of the volumes and types of acute substances which are emitted into their environments. That is a long-overdue step. The authors of the compromise Superfund legislation are to be commended for taking this action.

It is important to note that the Edgar-Sikorski amendment does. As adopted last week, this proposal simply extends the coverage of Superfund emissions inventory requirements to include chronic substances, including such clearly recognized dangerous substances as dioxin and benzene. On the other hand, Edgar-Sikorski does not impose, as its opponents have alleged, any onerous reporting requirements on industry. In fact, as adopted, the amendment grants discretion to the Environmental Protection Agency to set specific threshold levels at which the reporting requirements will be triggered. I believe that this reasonable compromise will prevent the unnecessary imposition of these reporting requirements on small business and individual handlers.

Mr. Chairman, over the past decade, our national awareness of the long-term health effects of exposure to even minute levels of hazardous substances has grown considerably. The American public has rightfully demanded that it be protected—to the maximum extent feasible—from such exposure. It seems but a small step in that direction to require that large volume handlers of both acute and chronic substances provide our citizens with the information necessary to assess dangerous chemicals handled in their communities.

Edgar-Sikorski provides the opportunity to take a long-overdue step toward protecting our communities and I urge my colleagues to retain this important provision in the legislation before us today.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Chairman, the gentleman from Pennsylvania inquires of the manager of the bill whether he has only one additional speaker in his time.

Mr. ECKART of Ohio. That is correct. I am the last speaker to close debate on our side.

Mr. EDGAR. Mr. Chairman, I yield myself the final 1 minute.

Mr. Chairman, for the life of me, I cannot understand what we are trying to hide from the American people. We are talking about poisons. Whether the poison kills you today or tomorrow or next week, we are talking about poisons.

The bill only includes "acute," unless the Edgar amendment is there.

Does your community have the right to know whether workers are being exposed to vinyl chloride or dioxin or toluene? Does a mother have the right to know whether her children are playing in PCB's or dioxin released from a nearby factory? Do pregnant women have the right to know the amounts of discharges which may cause birth defects in their children?

I say yes, and I think it is incumbent upon this House, not only to listen clearly to what the amendment does, but to support this amendment. It does not impose excess burdens on small business. It does not impose excess burdens on farmers. It helps firefighters and hospitals and communities to know that poisons are in their communities.

We have a responsibility as a House to give them their right to know.

Mr. Chairman, I urge support for the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, last Thursday I joined with the majority of you in voting for the Edgar-Sikorski amendment. I joined with you in voting for this amendment because of two important representations. First, that it was similar to that which passed unanimously in the other body, and second, that there had been an adequate opportunity to discuss these provisions.

Well, Mr. Chairman, in fact what has been the case is that this provision is not similar to what is included in the other body. In fact, our provision now, as amended by the Edgar-Sikorski amendment, does not include exemptions for small businesses that produce 20,000 pounds of a chemical a year or less, businesses that use 2,000 pounds of a chemical a year or less, or that employ 10 people a year or less. These are fundamental differences.

I supported the Edgar-Sikorski amendment because I believed it had substantial support in the community. Since its passage, I received a letter from the American Lung Association, a group which was listed on the literature just distributed on this floor as in support of the bill. Let me read to you what they say:

> The American Lung Association was not consulted regarding support for this specific amendment and is unfamiliar with its content and therefore takes no position.

Now, Mr. Chairman, I have not had an opportunity to examine all the other alleged supporters of this particular amendment, but I certainly urge caution regarding the representations which have been made.

We have also been told to rely on EPA's flexibility. Well, the supporters of the amendment said they oppose the Energy and Commerce bill because "it gives the EPA too much flexibility." Now they say, "trust the EPA because it needs the flexibility."

It has been argued that this provision is similar to the Senate measure, but in fact the Senate has only a temporary program, not a permanent national enforcement program. It was represented in the RECORD that we were looking at between 300 and 400 chemicals tops, when in reality we are talking about close to 5,000 chemicals.

Mr. Chairman, I believe that we, or at least I, was mislead as to the direction and intent of the language. The impact, its breadth, the similarity of this amendment to language allegedly included in its exact same form in the other body, is not to be found in this amendment. An analysis shows how much was left out of the Edgar-Sikorski amendment from the Senate provision to which it was allegedly similar.

Mr. Chairman, it is not easy for any of us to change our votes. It is a diffi-

cult proposition; but as Winston Churchill said when asked why he made a decision change during the course of World War II, "I made yesterday's decision based on yesterday's information. I make today's decision with today's information."

Today's information shows that the supporters were not correct. The language was not the same. The impact is too broad, too deep. We need to reject, with correct hindsight, the Edgar-Sikorski amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BROWN of California] having assumed the chair, Mr. HOYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2817) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes, pursuant to House Resolution 331, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. DINGELL. Mr. Chairman, I demand a separate vote on the so-called Edgar amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

The Clerk will report the amendment on which a separate vote had been demanded?

The Clerk read as follows:

Amendment: Page 279, in line 19, insert the following before the period: "and chemicals (such as vinyl chloride, benzene, asbestos, and poly chlorinated biphenyls) which are known to cause or are suspected of causing cancer, birth defects, heritable genetic mutations, or other chronic health effects in humans".

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. EDGAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 212, nays 211, not voting 11, as follows:

[Roll No. 446]

YEAS—212

Ackerman	Akaka	Anderson
Addabbo	Alexander	Annunzio
Applegate	Goodling	Owens
Aspin	Gordon	Panetta
Atkins	Gray (IL)	Pease
AuCoin	Gray (PA)	Penny
Barnes	Green	Pepper
Bates	Gregg	Petri
Bedell	Guarini	Pickle
Beilenson	Hall (OH)	Rahall
Bennett	Hamilton	Rangel
Berman	Hawkins	Reid
Biaggi	Hayes	Richardson
Boehlert	Heftel	Ridge
Boland	Hertel	Rinaldo
Boner (TN)	Horton	Robinson
Bonior (MI)	Howard	Rodino
Borski	Huckaby	Roe
Bosco	Hughes	Roemer
Boucher	Jacobs	Rostenkowski
Boxer	Jeffords	Roukema
Brown (CA)	Jenkins	Rowland (CT)
Bruce	Kanjorski	Roybal
Bryant	Kaptur	Russo
Burton (CA)	Kastenmeier	Sabo
Bustamante	Kennelly	Savage
Carper	Kildee	Saxton
Clay	Kleczka	Scheuer
Clinger	Kolbe	Schneider
Coleman (TX)	Kolter	Schroeder
Collins	Kostmayer	Schumer
Conte	LaFalce	Selberling
Conyers	Lantos	Sensenbrenner
Coughlin	Leach (IA)	Sharp
Courter	Lehman (FL)	Sikorski
Coyne	Leland	Smith (FL)
Daschle	Levin (MI)	Smith (IA)
de la Garza	Levine (CA)	Smith (NJ)
Dellums	Lipinski	Smith, Robert (NH)
Dicks	Long	Snowe
DioGuardi	Lowry (WA)	Solarz
Dixon	MacKay	Spratt
Donnelly	Manton	St Germain
Dorgan (ND)	Markey	Staggers
Downey	Martinez	Stallings
Durbin	Matsui	Stark
Dwyer	Mavroules	Stokes
Dyson	McCloskey	Studds
Early	McCurdy	Thomas (GA)
Edgar	McDade	Torres
Edwards (CA)	McGrath	Torricelli
Erdreich	McHugh	Towns
Evans (IL)	McKernan	Traficant
Fascell	Mica	Traxler
Fawell	Mikulski	Udall
Fazio	Miller (CA)	Vento
Fish	Miller (WA)	Visclosky
Flippo	Mineta	Volkmer
Florio	Mitchell	Waxman
Foglietta	Moakley	Weaver
Fowler	Molinari	Weiss
Frank	Moody	Wheat
Gallo	Morrison (CT)	Williams
Garcia	Mrazek	Wirth
Gaydos	Murphy	Wise
Gejdenson	Neal	Wolf
Gephardt	Nowak	Wolpe
Gibbons	Oakar	Wyden
Gilman	Oberstar	Yates
Glickman	Obey	Yatron
Gonzalez	Ortiz	

NAYS—211

Andrews	Carney	Dickinson
Anthony	Carr	Dingell
Archer	Chandler	Dornan (CA)
Armey	Chapman	Dowdy
Badham	Chappell	Dreier
Barnard	Cheney	Duncan
Bartlett	Coats	Dymally
Barton	Cobey	Eckart (OH)
Bateman	Coble	Eckert (NY)
Bentley	Coelho	Edwards (OK)
Bereuter	Coleman (MO)	Emerson
Bevill	Combest	English
Bilirakis	Cooper	Evans (IA)
Bliley	Craig	Feighan
Bonker	Crane	Fiedler
Boulter	Crockett	Fields
Breaux	Daniel	Foley
Broomfield	Dannemeyer	Ford (MI)
Brown (CO)	Darden	Ford (TN)
Broyhill	Daub	Franklin
Burton (IN)	Davis	Frenzel
Byron	DeLay	Frost
Callahan	Derrick	Fuqua
Campbell	DeWine	Gekas
Gingrich	Madigan	Shumway
Gradison	Marlenee	Shuster
Grotberg	Martin (IL)	Siljander
Gunderson	Martin (NY)	Sisisky
Hall, Ralph	Mazzoli	Skeen
Hammerschmidt	McCain	Skelton
Hansen	McCandless	Slattery
Hartnett	McCollum	Slaughter
Hatcher	McEwen	Smith (NE)
Hefner	McMillan	Smith, Denny (OR)
Hendon	Meyers	Smith, Robert (OR)
Henry	Michel	Snyder
Hiler	Mollohan	Solomon
Holt	Monson	Spence
Hopkins	Montgomery	Stangeland
Hoyer	Moore	Stenholm
Hubbard	Moorhead	Strang
Hunter	Morrison (WA)	Stratton
Hutto	Murtha	Stump
Hyde	Myers	Sundquist
Ireland	Natcher	Sweeney
Johnson	Nichols	Swift
Jones (NC)	Nielson	Swindall
Jones (OK)	O'Brien	Synar
Jones (TN)	Olin	Tallon
Kasich	Oxley	Tauke
Kemp	Packard	Tauzin
Kindness	Parris	Taylor
Kramer	Pashayan	Thomas (CA)
Lagomarsino	Perkins	Valentine
Latta	Porter	Vander Jagt
Leath (TX)	Pursell	Vucanovich
Lehman (CA)	Quillen	Walker
Lent	Ray	Watkins
Lewis (CA)	Regula	Whitehurst
Lewis (FL)	Ritter	Whitley
Lightfoot	Roberts	Whittaker
Livingston	Rogers	Wilson
Lloyd	Rose	Wortley
Loeffler	Roth	Wright
Lott	Rowland (GA)	Wylie
Lowery (CA)	Rudd	Young (AK)
Lujan	Schaefer	Young (FL)
Luken	Schuette	Young (MO)
Lundine	Schulze	Zschau
Lungren	Shaw	
Mack	Shelby	

NOT VOTING—11

Boggs	McKinney	Walgren
Brooks	Miller (OH)	Weber
Chappie	Nelson	Whitten
Hillis	Price	

□ 1915

Mr. DE LA GARZA and Mr. ALEXANDER changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DELAY. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DELAY moves to recommit the bill, H.R. 2817, the Superfund Amendments of 1895, to the Committee on Energy and Commerce, the Committee on Public Works and

Transportation, and the Committee on Ways and Means.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 33, not voting 10, as follows:

[Roll No. 447]

YEAS—391

Ackerman	Coughlin	Glickman
Addabbo	Courter	Gonzalez
Akaka	Coyne	Goodling
Alexander	Craig	Gordon
Anderson	Crockett	Gradison
Andrews	Daniel	Gray (IL)
Annunzio	Dannemeyer	Gray (PA)
Anthony	Darden	Green
Applegate	Daschle	Gregg
Aspin	Daub	Grotberg
Atkins	Davis	Guarini
AuCoin	de la Garza	Gunderson
Barnard	Dellums	Hall (OH)
Barnes	Derrick	Hall, Ralph
Bateman	DeWine	Hamilton
Bates	Dickinson	Hammerschmidt
Bedell	Dicks	Hansen
Beilenson	Dingell	Hatcher
Bennett	DioGuardi	Hawkins
Bentley	Dixon	Hayes
Bereuter	Donnelly	Hefner
Berman	Dorgan (ND)	Heftel
Bevill	Dowdy	Hendon
Biaggi	Downey	Henry
Bilirakis	Dreier	Hertel
Bliley	Duncan	Hiler
Boehlert	Durbin	Holt
Boggs	Dwyer	Hopkins
Boland	Dymally	Horton
Boner (TN)	Dyson	Howard
Bonior (MI)	Early	Hoyer
Bonker	Eckart (OH)	Hubbard
Borski	Edgar	Huckaby
Bosco	Edwards (CA)	Hughes
Boucher	English	Hutto
Boxer	Erdreich	Hyde
Breaux	Evans (IA)	Ireland
Broomfield	Evans (IL)	Jacobs
Brown (CA)	Fascell	Jeffords
Brown (CO)	Fawell	Jenkins
Broyhill	Fazio	Johnson
Bruce	Feighan	Jones (NC)
Bryant	Fiedler	Jones (OK)
Burton (CA)	Fields	Jones (TN)
Bustamante	Fish	Kanjorski
Byron	Flippo	Kaptur
Campbell	Florio	Kasich
Carney	Foglietta	Kastenmeier
Carper	Foley	Kemp
Carr	Ford (MI)	Kennelly
Chandler	Ford (TN)	Kildee
Chapman	Fowler	Kindness
Chappell	Frank	Kleczka
Clay	Frenzel	Kolbe
Clinger	Frost	Kolter
Coats	Fuqua	Kostmayer
Cobey	Gallo	Kramer
Coble	Garcia	LaFalce
Coelho	Gaydos	Lagomarsino
Coleman (MO)	Gejdenson	Lantos
Coleman (TX)	Gekas	Latta
Collins	Gephardt	Leach (IA)
Conte	Gibbons	Lehman (CA)
Conyers	Gilman	Lehman (FL)
Cooper	Gingrich	Leland
Lent	Ortiz	Smith, Robert (NH)
Levin (MI)	Owens	Smith, Robert (OR)
Levine (CA)	Oxley	Snowe
Lewis (CA)	Packard	Snyder
Lewis (FL)	Panetta	Solarz
Lightfoot	Parris	Solomon
Lipinski	Pashayan	Spence
Livingston	Pease	Spratt
Lloyd	Penny	St Germain
Long	Pepper	Staggers
Lowery (CA)	Perkins	Stallings
Lowry (WA)	Petri	Stangeland
Lujan	Pickle	Stark
Luken	Porter	Stokes
Lundine	Pursell	Strang
Lungren	Quillen	Stratton
Mack	Rahall	Studds
MacKay	Rangel	Sundquist
Madigan	Ray	Sweeney
Manton	Regula	Swift
Markey	Reid	Swindall
Martin (IL)	Richardson	Synar
Martin (NY)	Ridge	Tallon
Martinez	Rinaldo	Tauke
Matsui	Ritter	Tauzin
Mavroules	Robinson	Taylor
Mazzoli	Rodino	Thomas (GA)
McCain	Roe	Torres
McCandless	Roemer	Torricelli
McCloskey	Rogers	Towns
McCollum	Rose	Traficant
McCurdy	Rostenkowski	Traxler
McDade	Roth	Udall
McEwen	Roukema	Valentine
McGrath	Rowland (CT)	Vander Jagt
McHugh	Rowland (GA)	Vento
McKernan	Roybal	Visclosky
McMillan	Russo	Volkmer
Meyers	Sabo	Vucanovich
Mica	Savage	Walker
Michel	Saxton	Watkins
Mikulski	Schaefer	Waxman
Miller (CA)	Scheuer	Weaver
Miller (WA)	Schneider	Weiss
Mineta	Schroeder	Wheat
Mitchell	Schuette	Whitehurst
Moakley	Schulze	Whitley
Molinari	Schumer	Whittaker
Mollohan	Seiberling	Williams
Monson	Sensenbrenner	Wilson
Moody	Sharp	Wirth
Moore	Shaw	Wise
Moorhead	Shelby	Wolf
Morrison (CT)	Shuster	Wolpe
Morrison (WA)	Sikorski	Wortley
Mrazek	Siljander	Wright
Murphy	Sisisky	Wyden
Murtha	Skeen	Wylie
Myers	Skelton	Yates
Natcher	Slattery	Yatron
Neal	Slaughter	Young (FL)
Nichols	Smith (FL)	Young (MO)
Nowak	Smith (IA)	Zschau
O'Brien	Smith (NE)	
Oakar	Smith (NJ)	
Oberstar	Smith, Denny (OR)	
Obey		

NAYS—33

Archer	DeLay	Marlenee
Armey	Dornan (CA)	Montgomery
Badham	Eckert (NY)	Nielson
Bartlett	Edwards (OK)	Olin
Barton	Emerson	Roberts
Boulter	Franklin	Rudd
Burton (IN)	Hartnett	Shumway
Callahan	Hunter	Stenholm
Cheney	Leath (TX)	Stump
Combest	Loeffler	Thomas (CA)
Crane	Lott	Young (AK)

NOT VOTING—10

Brooks	Miller (OH)	Weber
Chappie	Nelson	Whitten
Hillis	Price	
McKinney	Walgren	

□ 1930

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, pursuant to the provisions of House Resolution 331, I move to take from the Speaker's table the bill H.R. 2005, with the Senate amendments thereto, and agree to the Senate amendments to the text and the title with amendments inserting in lieu thereof the texts of H.R. 2817 as passed by the House and its title respectively. I would further move that the House insist on its amendments to H.R. 2005 as amended by the Senate and that the House request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HATCHER). Pursuant to House Resolution 331, the amendments are considered as having been read.

The text of the Senate amendments is as follows:

Strike out all after the enacting clause and insert:

That this Act may be referred to as the "Superfund Improvement Act of 1985".

TITLE I

INDIAN TRIBES

SEC. 101. (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by striking "and" at the end of paragraph (31), striking the period at the end of paragraph (32), and adding a new paragraph as follows:

"(33) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and"; and

(2) in paragraph (16) by striking "or" the last time it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(b) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 109 of this Act, is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

(c) Section 104(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by section 114 of this Act, is amended by inserting "or Indian tribe" after the phrase "political subdivision" each time that phrase occurs.

(d) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (a) by inserting "or an Indian tribe" after "State";

(2) in subsection (f) by inserting after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation:"; by inserting "or Indian tribe" after "State" the fourth time that word appears; by adding before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe"; and by inserting "or the Indian tribe" after "State government";

(3) in subsection (i) by inserting "or Indian tribe" after "State" the first time it appears; and

(4) in subsection (j) by inserting "or Indian tribe" after "State" the first time it appears.

(e) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in subsection (b) by inserting before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) in subsection (c)(2) by inserting "or Indian tribe" after "State";

(3) in subsection (f) by inserting "or Indian tribe" after "State"; and

(4) in subsection (i) by inserting after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(f) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"INDIAN TRIBES

"SEC. 116. The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding cooperation in establishing and maintaining national registries), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the national priority list).".

DEDICATED DEFENSE PRODUCTION

SEC. 102. Section 101(20) of the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980 is amended by adding the following subparagraph:

"( ) in the case of a facility containing any hazardous substance resulting from manufacturing operations dedicated to the production of munitions or ordnance parts for the Department of Defense (or any subdivision thereof) using equipment owned by such Department or subdivision, the term 'owner or operator' shall include the United States Government;".

METHANE RECOVERY

SEC. 103. (a) Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following subparagraph:

"(D) in the case of a facility at which equipment for the recovery or processing (including recirculation of condensate) of methane has been installed (i) the term 'owner or operator' shall not include the owner or operator of such equipment, unless such owner or operator is also the owner or operator of the facility at which such equipment has been installed, and (ii) the owner or operator or manufacturer of such equipment (other than the owner or operator of the facility at which such equipment has been installed) shall not be considered to have arranged for disposal or treatment of any hazardous substance at such facility pursuant to section 107 of this Act, except to the extent that there is a release of a hazardous substance from such facility which was primarily caused by activities of the owner or operator of such equipment other than the recirculation of condensate or other waste material which is not a waste meeting any of the characteristics identified under section 3001 of the Solid Waste Disposal Act.".

(b) Unless the Administrator promulgates regulations under subtitle C of the Solid Waste Disposal Act addressing the extraction of wastes from landfills as part of the process of recovering methane from such landfills, the owner and operator of equipment used to recover methane from a landfill shall not be deemed to be managing, generating, transporting, treating, storing, or disposing of hazardous or liquid wastes within the meaning of that subtitle: Provided, however, That if the aqueous or hydrocarbon phase of the condensate or any other waste material removed from the gas recovered from the landfill meets any of the characteristics identified under section 3001 of that subtitle, then such condensate phase or other waste material shall be deemed a hazardous waste under that subtitle, and shall be regulated accordingly.

RESPONSE ACTION CONTRACTORS

SEC. 104. Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of of 1980 is amended by adding the following new subparagraph:

"( ) In the case of any person carrying out a written contract or agreement with any Federal agency, or any State (or any political subdivision thereof), or any responsible party to provide any response action or any services or equipment ancillary to such response action—

"(i) the term 'owner or operator' does not include any such person, and

"(ii) any such person shall not be considered to have caused or contributed to any release or to have arranged for disposal, treatment, or transport of hazardous substances, except to the extent that there is a release of a hazardous substance that was primarily caused by activities of such person. This subparagraph shall not apply to any person potentially responsible under section 106 or 107 other than those persons associated solely with the provision of response action or ancillary services or equipment;".

COMMUNITY RELOCATION

SEC. 105. (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provision of assistance identical to that authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974: Provided, That the costs of such assistance shall be paid from the Trust Fund;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

OFFSITE REMEDIAL ACTION

SEC. 106. Section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the last sentence of the paragraph; striking the period after "welfare" the third time that word appears, and inserting a semicolon in lieu thereof, striking "or" before "contaminated materials" and inserting "and associated" in lieu thereof; and inserting before the period after "environment" the third time that word appears, the following: ", as well as the offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials".

ALTERNATIVE WATER SUPPLIES

SEC. 107. Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is amended by striking the period at the end of paragraph (30) and inserting in lieu thereof a semicolon; and by adding after new paragraph (33) the following new paragraph:

"(34) 'alternative water supplies' includes, but is not limited to, drinking water and household water supplies.".

LIABILITY LIMITS FOR OCEAN INCINERATION VESSELS

SEC. 108. (a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new paragraph:

"( ) 'incineration vessel' means any vessel which carries hazardous substances for the purpose of incineration of such substances, so long as such substances or residues of such substances are on board.".

(b) Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Subsection (a)(3) is amended by inserting "or incineration vessel" after "facility";

(2) Subsection (a)(4) is amended by inserting ", incineration vessels" after "facilities";

(3) Subparagraph (A) of subsection (c)(1) is amended by inserting ", other than an incineration vessel," after "vessel";

(4) Subparagraph (B) of subsection (c)(1) is amended by inserting "other than an incineration vessel," after "other vessel,";

(5) Subparagraph (D) of subsection (c)(1) is amended by inserting "any incineration vessel or" before "any facility".

(c) Section 108 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Paragraph (1) is amended by inserting "to cover the liability prescribed under paragraph (1) of section 107(a) of this Act" after "whichever is greater)";

(2) Add a new paragraph to read as follows:

"(4) In addition to the financial responsibility provisions of paragraph (1) of this subsection, the President shall require additional evidence of financial responsibility for incineration vessels in such amounts, and to cover such liabilities recognized by law, as the President deems appropriate, taking into account the potential risks posed by incineration and transport for incineration, and any other factors deemed relevant.".

(d)(1) Section 105(g)(5) of the Marine Protection, Research and Sanctuaries Act of 1972 is amended by striking "The injunctive relief provided by this subsection shall not" and inserting in lieu thereof "Nothing in this Act, including the injunctive relief provided by this subsection, shall", and by inserting before the period ", including relief under title 42, United States Code, section 1983, or as a maritime tort".

(2) Section 107(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting ", under maritime tort law," after "with this section" and by inserting before the period "or the absence of any physical damage to the proprietary interest of the claimant".

IMPROVEMENTS IN NOTIFICATION AND PENALTIES

SEC. 109. (a) Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting "(1)" after "immediately notify"; and

(2) inserting after "of such release" the following: ", and (2), in the case of any such release of a hazardous substance with a reportable quantity of one pound or less or any release of any other hazardous substance in a quantity determined by the President by regulation to potentially require emergency response, all State and local emergency response officials identified under any local contingency plan or otherwise likely to be affected by the release".

(b) Section 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) inserting after "appropriate agency of the United States Government" the following: "(or, in the case of a release to which subsection (a)(2) applies, any appropriate State or local emergency response official)"; and

(2) striking "$10,000 or imprisoned for not more than one year, or both." and inserting in lieu thereof "$25,000 or imprisoned for not more than two years, or both (or in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five years, or both).".

(c) Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(g)(1) In addition to any other relief provided, whenever on the basis of any information available to the President the President finds that any person is in violation of subsection (a), (b), or (j) of this section the President may assess a civil penalty of not more than $10,000 for each failure to notify the appropriate agency. The penalty under this subsection shall increase to not more than $25,000 for a second violation by the same person, not more than $50,000 for a third violation by the same person, and not more than $75,000 for a fourth or subsequent violation by the same person.

"(2) No civil penalty may be assessed under this subsection unless the person accused of the violation is given notice and opportunity for a hearing with respect to the violation.

"(3) In determining the amount of any penalty assessed pursuant to this subsection, the President shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.

"(4) Any person against whom a civil penalty is assessed under this subsection may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the President. The President shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the President may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

"(5) The President may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(6) Action taken by the President pursuant to this subsection shall not affect or limit the President's authority to enforce any provision of this Act: Provided, however, That a failure to notify the appropriate agency which is penalized administratively under this subsection shall not be the subject of a criminal penalty under subsection (b) of this section.".

(d)(1) Section 103(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$20,000" and inserting "$25,000" in lieu thereof.

(2) Section 106(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "$5,000" and inserting "$10,000" in lieu thereof.

HAZARDOUS SUBSTANCES INVENTORY

SEC. 110. Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by this Act, is further amended by adding after "Notice, Penalties" in the title to section 103: ", Inventory, and Emergency Response". Section 103 is further amended by adding at the end thereof the following new subsection:

"(h)(1) The requirements of this subsection shall apply to owners and operators of facilities that have ten or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufacture or process more than 200,000 pounds per year of a chemical substance listed pursuant to paragraph (2) or that use more than 2,000 pounds per year of a substance listed pursuant to paragraph (2). For purposes of this subsection,

"(A) The term 'manufacture' means to produce, prepare or compound a chemical substance.

"(B) The term 'process' means the preparation of a chemical substance, after its manufacture, for distribution in commerce—

"(i) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance,

"(ii) as part of an article containing the chemical substance.

"(C) The term 'use' means to use for purposes other than processing.

"(2)(A) Not later than July 1, 1986, the President shall publish a list of toxic chemical substances which, on the basis of available information and in the judgment of the President, are manufactured in or imported into the United States in aggregate quantities that exceed 500,000 pounds per year and, (i) based on epidemiological or other population studies, generally accepted laboratory tests, or structural analysis are known to cause or are suspected of causing in humans adverse acute health effects, cancer, birth defects, heritable genetic mutations, or other health effects such as reproductive dysfunction, neurological disorder, or behavioral abnormalities, or (ii) because of toxicity, persistence, or tendency to bioaccumulate in the environment, may cause adverse environmental effects. Unless and until such list is published, those specific chemical substances identified in section 101(14) of this Act shall constitute such list.

"(B) The President shall, as necessary, but no less often than every two years, review and revise the list required by this paragraph. Any person may petition the President to add a chemical substance to the list or to remove a chemical substance from the list.

"(C) The President may establish a quantity different from that established in paragraph (1), (2), or (3) for particular chemical substances, based on the toxicity, extent of usage and such other factors as the Presi-

dent deems appropriate. The President, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this subsection to the owners and operators of any particular facility that manufactures, processes, or uses a chemical substance listed under subparagraph (A) if the President determines that such action is warranted on the basis of toxicity of the substance, proximity to other facilities that release the substance or to population centers, the history of releases of such substances at such facility, or such other factors as the President deems appropriate.

"(3) The owners or operator of a facility subject to this subsection shall complete a Toxic Chemical Release Inventory form as published under paragraph (4) for each chemical substance listed under paragraph (2) that was manufactured, processed, or used in quantities exceeding those established under paragraph (1) or, where applicable, subparagraph (2)(C), during the preceding calendar year at such facility. Such form shall be submitted on or before June 30, 1987, June 30, 1990, and June 30, 1993, and shall contain data reflecting releases during the preceding calendar year. If the President has not published the form required by paragraph (4) on or before December 31, 1986, owners and operators required to submit information under this subsection shall do so by letter to the Administrator of the Environmental Protection Agency postmarked on or before June 30, 1987.

"(4)(A) Not later than June 1, 1986, the President shall publish a Toxic Chemicals Release Inventory Form. Such form shall provide for the name and location of and principal business activities at the facility and shall provide for submission of the following information for each listed substance known to be present at the facility—

"(i) the use or uses of the chemical substance at the facility;

"(ii) the annual quantity of the chemical substance transported to the facility, produced at the facility, consumed at the facility, and transported from the facility as waste or as a commercial product or byproduct or component or constituent of a commercial product or byproduct;

"(iii) the annual quantity of the chemical substance entering each environmental wastestream, including air, surface water, land, subsurface injection, and discharge to publicly owned treatment works; and

"(iv) for each wastestream, the waste treatment methods employed and the annual quantity of the chemical substance remaining in the wastestream after treatment.

"(B) For purposes of this paragraph, facility owners and operators may utilize readily available data collected pursuant to other State and Federal environmental laws, or, where such data are not readily available, reasonable estimates. Nothing in this subsection shall require the monitoring or actual measurement of quantities of substances or releases beyond that required under other authorities. In order to assure consistency, the President shall require that data be expressed in common units.

"(5) The Governor of each State shall designate an official or officials of the State to receive Toxic Chemical Release Inventory Forms. The facility owner or operator shall submit the form to such official or officials and to the President.

"(6) Subject to the provisions of paragraph (8), the President and the Governor shall make the information submitted pursuant to this subsection available to the public. The President and the Governor may charge reasonable fees to recover the cost of reproduction and mailing of data.

"(7) The President shall establish and maintain in a computer database a National Toxic Chemical Release Inventory based on data submitted under this section. EPA shall make these data accessible by computer telecommunication to any person on a cost-reimbursable user fee basis.

"(8)(A) The President may verify the data contained in the Toxic Chemicals Release Inventory Form using the authority of section 104(e) of this Act.

"(B) Information submitted under this subsection shall be treated as information submitted under section 104(e) and (other than data on the quantity and nature of any release and the identity of the chemical substance released) shall be subject to the provisions of section 104(e).

"(9) Any person who knowingly omits material information or makes any false material statement or representation in the Toxic Chemicals Release Inventory Form, shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than one year, or both.

"(10) Nothing in this subsection shall be construed to limit the ability of any State or locality to require submission of information related to hazardous substances, toxic chemical substances, pollutants or contaminants or other materials.

"(11) Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, is further amended by inserting 'and section 103' after 'under this section' in the first sentence.".

MATERIAL SAFETY DATA SHEETS AND EMERGENCY INVENTORY

SEC. 111. (a) Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following new subsections:

"(i) MATERIAL SAFETY DATA SHEETS AND EMERGENCY INVENTORY.—(1) Each owner or operator of a facility at which a hazardous chemical is produced, used, or stored shall file a Material Safety Data Sheet and Emergency Inventory form, as published under paragraph (3) of this subsection, not later than 180 days after enactment of the Superfund Improvement Act of 1985 for such hazardous chemical with the emergency planning committee established under section 105(d), for the area in which such facility is located and the Governor of the State in which the facility is located. In addition, the Emergency Inventory form shall be filed with the Environmental Protection Agency. If no emergency planning committee exists for the area in which a facility is located, the Governor of the State in which the facility is located shall designate appropriate area officials to receive the Material Safety Data Sheet and Emergency Inventory form. The Governor of the State in which a facility is located shall notify owners and operators of facilities required to comply with the provisions of this subsection.

"(2) Whenever a Material Safety Data Sheet is revised (as required under regulations under the Occupational Safety and Health Act of 1970) each such facility owner or operator shall file, as promptly as practicable, but not later than 90 days after such revision, the revised material safety data sheet. On an annual basis, or whenever a significant change occurs in the amount or presence of the hazardous chemical located at the facility, such owner or operator shall file a new Emergency Inventory form with the recipients designated in paragraph (1).

"(3) The President shall publish the Emergency Inventory form in the Federal Register within 90 days of the enactment of the Superfund Improvement Act of 1985. The Emergency Inventory form shall provide for an estimate of the maximum amounts of the hazardous chemical present at the facility at any time during the preceding calendar year (in ranges), a brief description of the use or storage of the hazardous chemical at such facility, and the location of the hazardous chemical at such facility.

"(4) The Material Safety Data Sheets and Emergency Inventory forms shall be made available by the emergency planning committee to the public upon request. If no emergency planning committee exists for the area in which the facility is located, the Material Safety Data Sheets and Emergency Inventory forms shall be made available to the public by the Governor of the State in which the facility is located upon request.

"(5) Nothing in this subsection shall be construed to limit the ability of any State or locality to require submission or distribution of information related to hazardous substances.

"(6) The President may establish quantities for hazardous chemicals below which no facility at which a hazardous chemical is produced, used, or stored shall be subject to the provisions of this subsection.

"(7) The President may order a facility owner or operator to comply with this subsection. The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

"(j) EMERGENCY NOTIFICATION.—(1) The owner or operator of any facility at which a release occurs in an amount requiring a report under subsection (a) shall immediately provide notice of such release to the community emergency coordinator for the emergency planning committees, established pursuant to subsection 105(d), for any area likely to be affected by the release and to the Governor of any State likely to be affected by the release. If an emergency plan prepared pursuant to section 105(d) does not exist, an operator shall instead provide notice to the emergency response authority of the affected jurisdictions.

"(2) Notice under paragraph (1) shall include (to the extent known at the time of the notice)—

"(A) the chemical name or identity of any hazardous substance involved in the release;

"(B) an estimate of the quantity of any such hazardous substance that was released into the environment;

"(C) the time and duration of the release;

"(D) the medium or media into which the release occurred;

"(E) the nature of the health of safety hazard posed by any substance released to the population as a whole and to sensitive populations, and the likely symptoms of exposure at different levels and types of exposure (unless such information is readily available to the emergency coordinator pursuant to the emergency plan);

"(F) proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the emergency coordinator pursuant to the emergency plan); and

"(G) the name and telephone number of the person or persons to be contacted for further information.

"(3) As soon as practicable after a release to which this subsection applies, such owner or operator shall provide a followup notice (or notices, as more information becomes available) updating the information required under paragraph (2), and including additional information with respect to—

"(A) actions taken to respond to and contain the release;

"(B) any known or anticipated acute or chronic health risks associated with the release, and

"(C) where appropriate, advice regarding medical attention necessary for exposed individuals.".

(b) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding at the end thereof the following new paragraphs:

"(35) 'hazardous chemical' means, for purposes of section 103(i), any substance which is treated as a 'hazardous chemical' pursuant to the Occupational Safety and Health Administration's hazard communication standard (codified in July 1985 in 29 CFR 1910.1200), except that the following substances shall not be treated as a 'hazardous chemical' for such purposes:

"(A) any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

"(B) any manufactured item that contains a hazardous chemical present as a solid which does not result in exposure to the hazardous chemical under normal conditions of use;

"(C) any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

"(D) any substance to the extent it is used in a laboratory, hospital, or medical facility under the direct supervision of a technically qualified individual;

"(E) any substance to the extent it is used in routine agricultural operations; and;

"(F) any substance to the extent it is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968.

"(36) 'Material Safety Data Sheet' means a material safety data sheet developed for a hazardous chemical pursuant to the hazard communication regulations promulgated under the Occupational Safety and Health Act of 1970 (codified in July 1985 at 29 CFR 1910.1200).".

SCOPE OF PROGRAM

SEC. 112. (a) Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking that language between the word "environment" the third time it appears and the period and inserting in lieu thereof a period and the following: "The President shall give primary attention to those releases which may present a public health threat. The President may authorize the owner or operator of the vessel or facility from which the release or threat of release emanates, or any other responsible party, to perform the removal or remedial action if the President determines that such action will be done properly by the owner, operator, or responsible party".

(b) Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(3) The President shall not provide for a removal or remedial action under this section in response to a release or threat of release—

"(A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found;

"(B) from products which are part of the structure of, and result in exposure within, residential buildings or business or community structures; or

"(C) into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(4) Notwithstanding paragraph (3) of this subsection, to the extent authorized by this section the President may respond to any release or threat of release if in the President's discretion it constitutes a public health or environmental emergency and no other person with the authority and capability to respond to the emergency will do so in a timely manner.".

STATUTORY LIMITS ON REMOVALS

SEC. 113. (a) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "six months" and inserting "one year" in lieu thereof and inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with permanent remedy,".

(b) Section 104(c) of such Act (as amended by sections 117 and 118 of this Act) is amended by adding at the end thereof the following new paragraph:

"(8) Nothing in this Act shall limit the President in taking such action as may be necessary to assure continuous remedial action or to institute interim remedial action when it becomes necessary to reopen bidding or otherwise recontract for the performance of remedial action.".

STATE CREDIT

SEC. 114. (a) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "The President shall grant the State a credit against the share" and all that follows down through the end of such section 104(c)(3) and inserting in lieu thereof the following: "In determining the portion of the costs referred to in this section which is required to be paid by a participating State, the President shall grant the State a credit for amounts expended or obligated by such State or by a political subdivision thereof after January 1, 1978, and before December 11, 1980, for any response action costs which are covered by section 111(a) (1) or (2) and which are incurred at a facility or release listed pursuant to section 105(8). Such credit shall have the effect of reducing the amount which the State would otherwise be required to pay in connection with assistance under this section.".

(b)(1) Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new sentence: "For the purposes of the last sentence of subsection (c)(3) of this section, the President may enter into a contract or cooperative agreement with a State under this paragraph under which such State will take response actions in connection with releases listed pursuant to section 105(8)(B), using non-Federal funds for such response actions, in advance of and without any obligation by the President of amounts from the Fund for such response actions.".

(2) Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following sentence: "The President shall grant the State a credit against the share of costs for which it is responsible under this paragraph for any reasonable, documented, direct out-of-pocket non-Federal funds expended or obligated by the State under a contract or cooperative agreement under the last sentence of subsection (d)(1).".

FUNDING OF REMEDIAL ACTION AT FACILITY OPERATED BY A STATE OR POLITICAL SUBDIVISION

SEC. 115. Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by amending section 104(c)(3)(C)(ii) to read as follows:

"(ii) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision for the release) of any sums expended in response to a release at a facility, that was operated by the State or a political subdivision thereof, either directly or through a contractual relationship or otherwise, at the time of any disposal of hazardous substances therein. For the purpose of subparagraph (C)(ii) of this paragraph, the term 'facility' does not include navigable waters or the beds underlying those waters."; and

(2) by adding at the end thereof the following: "In the case of any State which has paid, at any time after the date of the enactment of the Superfund Improvement Act of 1985, in excess of 10 per centum of the costs of remedial action at a facility owned but not operated by such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess.".

SELECTION OF REMEDIAL ACTIONS

SEC. 116. Section 104(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(4)(A) The President shall select appropriate remedial actions determined to be necessary to carry out this section which, to the extent practicable, are in accordance with the national contingency plan and which provide for cost-effective response. In evaluating the cost-effectiveness of proposed alternative remedial actions, the President shall take into account the total short- and long-term costs of such actions, including the costs of operation and maintenance for the entire period during which such activities will be required.

"(B) Remedial actions in which treatment which significantly reduces the volume, toxicity or mobility of the hazardous substances is a principal element, are to be preferred over remedial actions not involving such treatment. The offsite transport and disposal of hazardous substances or contaminated materials without such treatment should be the least favored alternative remedial action, where practicable treatment technologies are available.

"(C) Remedial actions selected under this paragraph or otherwise required or agreed to by the President under this Act shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants from the environment and of control of further release at a minimum which assures protection of human health and the environment. Such remedial actions shall be relevant and

appropriate under the circumstances presented by the release or threatened release of such substance, pollutant, or contaminant.

"(D) No permit shall be required under subtitle C of the Solid Waste Disposal Act, section 402 or 404 of the Clean Water Act, or section 10 of the Rivers and Harbors Act of 1899, for the portion of any removal or remedial action conducted pursuant to this Act entirely onsite: Provided, That any onsite treatment, storage, or disposal of hazardous substances, pollutants, or contaminants shall comply with the requirements of subparagraph (C).

"(E) Subject to the requirements of this paragraph, the President shall select the appropriate remedial action which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threats.".

STATE AND FEDERAL CONTRIBUTIONS TO OPERATION AND MAINTENANCE

SEC. 117. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraphs:

"(5) For the purposes of paragraph (3) of this subsection, in the case of ground or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore ground and surface water quality to a level that assures protection of human health and the environment. With respect to such measures, the operation of such measures for a period up to five years after the construction or installation and commencement of operation shall be considered remedial action. Activities required to maintain the effectiveness of such measures following such period or the completion of remedial action, whichever is earlier, shall be considered operation or maintenance.

"(6) During any period after the availability of funds received by the Trust Fund under sections 4611 and 4661 of the Internal Revenue Code of 1954 or section 221(b)(2) or section 303(b) of this Act, the Federal share of the payment of costs for operation and maintenance pursuant to paragraph (3)(C)(i) or paragraph (5) of this subsection shall be from funds received by the Trust Fund under section 221(b)(1)(B).".

SITING OF HAZARDOUS WASTE FACILITIES

SEC. 118. Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"(7) Effective three years after the date of enactment of the Superfund Improvement Act of 1985, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act with adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the twenty-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed.".

COOPERATIVE AGREEMENTS

SEC. 119. Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking all of the existing paragraph (other than that added by this Act) and substituting the following:

"(d)(1) Where the President determines that a State or political subdivision has the capability to carry out any or all of the actions authorized in this section, the President may, in the discretion of the President and subject to such terms as the President may prescribe, enter into a contract or cooperative agreement and combine any existing cooperative agreements with such State or political subdivision (which may cover a specific facility or facilities) to take such actions in accordance with criteria and priorities established pursuant to section 105(8) of this title and to be reimbursed from the Fund for the reasonable response costs and related activities associated with the overall implementation, coordination, enforcement, training, community relations, site inventory and assessment efforts, and administration of remedial activities authorized by this Act. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.".

ACCESS AND INFORMATION GATHERING

SEC. 120. Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by striking "(2)" and inserting "(5)" in lieu thereof and by striking all of existing paragraph (1) and inserting in lieu thereof the following:

"(1) For the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title, any officer, employee, or representative of the President, duly designated by the President, or any duly designated officer, employee, or representative of a State, is authorized where there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance—

"(A) to require any person who has or may have information relevant to (i) the identification or nature of materials generated, treated, stored, transported to, or disposed of at a facility, or (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, to furnish, upon reasonable notice, information or documents relating to such matters. In addition, upon reasonable notice, such person either shall grant to appropriate representatives access at all reasonable times to inspect all documents or records relating to such matters or shall copy and furnish to the representatives all such documents or records, at the option of such person;

"(B) to enter at reasonable times any establishment or other place or property (i) where hazardous substances are, may be, or have been generated, stored, treated, disposed of, or transported from, (ii) from which or to which hazardous substances have been or may have been released, (iii) where such release is or may be threatened, or (iv) where entry is needed to determine the need for response or the appropriate response or to effectuate a response action under this title; and

"(C) to inspect and obtain samples from such establishment or other place or property or location of any suspected hazardous substance and to inspect and obtain samples of any containers or labeling for suspected hazardous substances. Each such inspection shall be completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. If any analysis is made of such samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(2)(A) If consent is not granted regarding a request made by a duly designated officer, employee, or representative under paragraph (1), the President, upon such notice and an opportunity for consultation as is reasonably appropriate under the circumstances, may issue an order to such person directing compliance with the request, and the President may ask the Attorney General to commence a civil action to compel compliance.

"(B) In any civil action brought to obtain compliance with the order, the court shall, where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance: (i) in the case of interference with entry or inspection, enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection, unless under the circumstances of the case the demand for entry or inspection is arbitrary and capricious, an abuse of discretion, or not in accordance with law; and (ii) in the case of information or document requests, enjoin interference with such information or document requests or direct compliance with orders to provide such information or documents, unless under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or not in accordance with law. The court may assess a civil penalty not to exceed $10,000 against any person who unreasonably fails to comply with the provisions of paragraph (1) or an order issued pursuant to paragraph (2).

"(3) Nothing in this subsection shall preclude the President from securing access or obtaining information in any other lawful manner.

"(4) Notwithstanding this subsection, entry to locations and access to information properly classified to protect the national security may be granted only to any officer, employee, or representative of the President who is properly cleared. Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all Executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable any grant of access to properly classified information under any provision of this Act, including section 103.

"(5) No person required to provide information or documents under this Act may claim that the information is entitled to protection under this section unless such claimant shows that—

"(A) the claimant has not disclosed the information to any other person, other than to an employee of the claimant or a person who is bound by a confidentiality agreement or to a person to whom the data has been supplied on a confidential basis in compliance with this Act, and the claimant has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures;

"(B) the information could not reasonably be discovered by anyone other than such persons in the absence of disclosure; and

"(C) knowledge of such information gives the claimant an opportunity to obtain a significant advantage over competitors who do not know such information and disclosure of the information is likely to cause substantial harm to the claimant's competitive position.

"(6) The following information with respect to any hazardous substance as defined in section 101(14) shall not be entitled to protection under this section:

"(A) The chemical name, CAS number, trade name, and common name of the hazardous substances.

"(B) The physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees celsius.

"(C) The hazards to health and the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards.

"(D) The potential routes of human exposure to the substance at the facility, establishment, place, or property being investigated, entered, or inspected under this subsection.

"(E) The location of disposal of any waste stream.

"(F) The identity and quantity of any waste stream.

"(G) Any monitoring data or analysis of monitoring data pertaining to disposal activities.

"(H) Any hydrogeologic or geologic data.

"(I) Any groundwater monitoring data.".

HEALTH-RELATED AUTHORITIES

SEC. 121. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(i)", by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), and by adding the following new paragraphs:

"(2) The Agency for Toxic Substances and Disease Registry shall provide consultations upon request on health issues relating to exposure to hazardous or toxic substances, on the basis of available information, to the Environmental Protection Agency, State officials, and local officials. Such consultations to individuals may be provided by States under cooperative agreements established under this Act.

"(3)(A) The Administrator shall perform a health assessment for each release, threatened release or facility on the National Priority List established under section 105. Such health assessment shall be completed not later than two years after the date of enactment of the Superfund Improvement Act of 1985 for each release, threatened release or facility proposed for inclusion on such list prior to such date of enactment or not later than one year after the date of proposal for inclusion on such list for each release, threatened release or facility proposed for inclusion on such list after such date of enactment. The Administrator shall also perform a health assessment for each facility for which one is required under section 3019 of the Solid Waste Disposal Act and, upon request of the Administrator of the Environmental Protection Agency or a State, for each facility subject to this Act or subtitle C of the Solid Waste Disposal Act, where there is sufficient data as to what hazardous substances are present in such facility.

"(B) The Administrator may perform health assessments for releases or facilities where individual persons or licensed physicians provide information that individuals have been exposed to a hazardous substance, for which the probable source of such exposure is a release. In addition to other methods (formal or informal) of providing such information, such individual persons or licensed physicians may submit a petition to the Administrator providing such information and requesting a health assessment. If such a petition is submitted and the Administrator does not initiate a health assessment, the Administrator shall provide a written explanation of why a health assessment is not appropriate.

"(C) In determining sites at which to conduct health assessments under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subparagraph (E).

"(D) Any State or political subdivision carrying out an assessment shall report the results of the assessment to the Administrator of such Agency, and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of such Agency shall include the same recommendation in a report on the results of any assessment carried out directly by the Agency, and shall issue periodic reports which include the results of all the assessments carried out under this paragraph.

"(E) For the purposes of this subsection and section 111(c)(4), the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. The Administrator of the Agency for Toxic Substances and Disease Registry shall use appropriate data, risk assessments, risk evaluations and studies available from the Administrator of the Environmental Protection Agency. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(F) At the completion of each health assessment the Administrator shall provide the Administrator of the Environmental Protection Agency and each affected State with the results of such assessment, together with any recommendations for further action under this subsection or otherwise under this Act.

"(G) In any case in which a health assessment performed under this paragraph (including one required by section 3019 of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such releases.

"(4) Whenever, in the judgment of the Administrator, it is appropriate on the basis of the results of a health assessment, the Administrator shall conduct a pilot study of health effects for selected groups of exposed individuals, in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population. Whenever in the judgment of the Administrator it is appropriate on the basis of the results of such pilot study, the Administrator shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects for the population exposed to hazardous substances in a release or suspected release.

"(5) In any case in which the results of a health assessment indicate a potential significant risk to human health, the Administrator shall consider whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection, taking into account circumstances bearing on the usefulness of such a registry, including the seriousness or unique character of identified diseases or the likelihood of population migration from the affected area.

"(6) The Administrator shall conduct a study, and report to the Congress within two years after the date of enactment of the Superfund Improvement Act of 1985, on the usefulness, costs, and potential implications of medical surveillance programs as a part of the health studies authorized by this section. Such study shall include, at a minimum, programs which identify diseases for which an exposed population is at excess risk, provide periodic medical testing to screen for such diseases in subgroups of the exposed population at highest risk, and provide for a mechanism to refer for treatment individuals who are diagnosed as having such diseases.

"(7) If a health assessment or other study carried out under this subsection contains a finding that the exposure concerned presents a significant risk to human health, the President shall take such steps as may be necessary to reduce such exposure and eliminate or substantially mitigate the significant risk to human health. Such steps may include the use of any authority under this Act, including, but not limited to—

"(A) provision of alternative water supplies, and

"(B) permanent or temporary relocation of individuals.

"(8) In any case which is the subject of a petition, a health assessment or study, or a research program under this subsection, nothing in this subsection shall be construed to delay or otherwise affect or impair the authority of the President or the Administrator of the Environmental Protection Agency to exercise any authority vested in the President or such Administrator under any other provision of law (including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Dispos-

al Act) or the response and abatement authorities of this Act.

"(9)(A) The Administrator shall, within six months after the date of enactment of the Superfund Improvement Act of 1985, jointly with the Administrator of the Environmental Protection Agency, prepare a list of at least one hundred hazardous substances which the Administrator, in his sole discretion, determines are those posing the most significant potential threat to human health due to their common presence at the location of responses under section 104 or at facilities on the National Priority List or in releases to which a response under section 104 is under consideration. Within twenty-four months after enactment, the Administrator, in consultation with the Administrator of the Environmental Protection Agency, shall prepare a list of an additional one hundred or more such hazardous substances. The Administrator, in consultation with the Administrator of the Environmental Protection Agency, shall not less often than once every year thereafter add to such list other substances which are frequently so found or otherwise pose a potentially significant threat to human health by reason of their physical, chemical, or biological nature.

"(B) For each such hazardous substance listed pursuant to subparagraph (A), the Administrator (in consultation with the Administrator of the Environmental Protection Agency and other agencies and programs of the Public Health Service) shall assess whether adequate information on the health effects of such substance is available. For any such substance for which adequate information is not available (or under development), the Administrator, in cooperation with the Director of the National Toxicology Program, shall assure the initiation of a program of research designed to determine the health effects (and techniques for development of methods to determine such health effects) of such substance. Where feasible, such program shall seek to develop methods to determine the health effects of such substance in combination with other substances with which it is commonly found. Such program shall include, but not be limited to—

"(i) laboratory and other studies to determine short, intermediate, and long-term health effects;

"(ii) laboratory and other studies to determine organ-specific, site-specific, and system-specific acute and chronic toxicity;

"(iii) laboratory and other studies to determine the manner in which such substances are metabolized or to otherwise develop an understanding of the biokinetics of such substances; and

"(iv) where there is a possibility of obtaining human data, the collection of such information.

"(C) In assessing the need to perform laboratory and other studies, as required by subparagraph (B), the Administrator shall consider—

"(i) the availability and quality of existing test data concerning the substance on the suspected health effect in question;

"(ii) the extent to which testing already in progress will, in a timely fashion, provide data that will be adequate to support the preparation of toxicological profiles as required by subparagraph (F) of this paragraph; and

"(iii) such other scientific and technical factors as the Administrator may determine are necessary for the effective implementation of this subsection.

"(D) In the development and implementation of any research program under this paragraph, the Administrator of the Agency for Toxic Substances and Disease Registry and the Administrator of the Environmental Protection Agency shall coordinate such research program implemented under this paragraph with the National Toxicology Program and with programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate, in the discretion of the Administrator and consistent with such purpose, a research program under this paragraph may be carried out using such programs of toxicological testing.

"(E) It is the sense of the Congress that the costs of research programs under this paragraph be borne by the manufacturers and processors of the hazardous substance in question, as required in programs of toxicological testing under the Toxic Substances Control Act. Where this is not practical, the costs of such research programs should be borne by parties responsible for the release of the hazardous substance in question. To carry out such intention, the costs of conducting such a research program under this paragraph shall be deemed a cost of response for the purposes of recovery under section 107 of such costs from a party responsible for a release of such hazardous substance.

"(F) Based on all available information, including data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator shall prepare toxicological profiles sufficient to establish the likely effect on human health of each of the substances listed pursuant to subparagraph (A). Such profiles shall be revised and republished as necessary, but no less often than once every five years. Such profiles shall be provided to the States and made available to other interested parties.

"(10) All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review. In the case of research conducted under the National Toxicology Program, such peer review may be conducted by the Board of Scientific Counselors. In the case of other research, such peer review shall be conducted by panels consisting of no less than three nor more than seven members, who shall be disinterested scientific experts selected for such purpose by the Administrator of the Agency for Toxic Substances and Disease Registry or the Administrator of the Environmental Protection Agency, as appropriate, on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels shall be provided by the Agency for Toxic Substances and Disease Registry, or by the Environmental Protectioin Agency, as appropriate.

"(11) In the implementation of this subsection and other health-related authorities of this Act, the Administrator is authorized to establish a program for the education of physicians and other health professionals on methods of diagnosis and treatment of injury or disease related to exposure to toxic substances, through such means as the Administrator deems appropriate. Not later than two years after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall report to the Congress on the implementation of this paragraph.

"(12) For the purpose of implementing this subsection and other health-related authorities of this Act, the President shall provide adequate personnel to the Agency for Toxic Substances and Disease Registry, which shall be no fewer than one hundred full time equivalent employees.

"(13) The activities described in this subsection and section 111(c)(4) shall be carried out by the Agency for Toxic Substances and Disease Registry established by paragraph (1), either directly, or through cooperative agreements with States (or political subdivisions thereof) in the case of States (or political subdivisions) which the Administrator of such Agency determines are capable of carrying out such activities. Such activities shall include the provision of consultations on health information, and the conduct of health assessments, including those required under section 3019 of the Solid Waste Disposal Act, health studies and registries.".

(b) Section 111(c)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) by inserting "in accordance with subsection (n) of this section and section 104(i)," after "(4)"; and

(2) by striking "epidemiologic studies" and inserting in lieu thereof "epidemiologic and laboratory studies and health assessments".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(n) For fiscal year 1986 and for each fiscal year thereafter, not less than 5 per centum of all sums appropriated from the Trust Fund, shall be directly available to the Agency for Toxic Substances and Disease Registry and used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i), including any such activities related to hazardous waste stored, treated, or disposed of at a facility having a permit under section 3005 of the Solid Waste Disposal Act. Any funds so made available which are not committed by the beginning of the fourth quarter of the fiscal year in which made available shall be made available in the Trust Fund for other purposes.".

(d) The last sentence of section 3019(b)(2) of the Solid Waste Disposal Act is amended to read as follows: "If so requested, the Administrator of such Agency shall conduct such health assessment.".

(e) Section 104(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking "the Surgeon General of the United States" and inserting in lieu thereof "the Secretary of Health and Human Services";

(2) inserting in the second sentence thereof after "of said Agency" the following: "(hereinafter in this subsection referred to as 'the Administrator')";

(3) striking "chromosomal testing" in subparagraph (D) and inserting in lieu thereof "appropriate testing".

(f)(1) The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on

Energy and Commerce of the United States House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information—

(A) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(B) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(C) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead and including but not limited to, diminution in intelligence, increases in morbidity and mortality; and

(D) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(2) Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(3) The costs of preparing and submitting the report required by this section shall be borne by the Hazardous Substances Response Fund.

(g) Section 111(c)(6) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is amended by inserting at the end thereof the following: "Standards for health and safety protection of employees engaged in hazardous waste operations, including emergency response, shall be promulgated by the Secretary of Labor, under the Occupational Safety and Health Act, not later than one year after enactment of the Superfund Improvement Act of 1985. The cost of training such employees, in an amount not to exceed $10,000,000 per year, shall be considered a permissible cost of the program authorized by this paragraph.".

EXPEDITED REMEDIAL ACTION AGREEMENT PROCEDURES

SEC. 122. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"( )(1) The President may enter into agreements pursuant to this subsection for the purpose of expediting remedial action with respect to a release or threatened release of a hazardous substance, in cases involving more than one potentially responsible party. As a matter of public policy, the President shall act to facilitate agreements under this Act, in order to protect human health and the environment by facilitating remedial action and to minimize litigation under this Act.

"(2)(A) At a date not later than that of the completion of the Remedial Investigation and Feasibility Study, the President shall provide all persons who are potentially responsible for a release or a threatened release—

"(i) the identity of any other potentially responsible parties who have been identified and served with notice of potential liability;

"(ii) a Nonbinding Preliminary Allocation of Responsiblity among all identifiable potentially responsible persons at a facility, including those parties which may be unknown, insolvent, or similarly unavailable. The allocation shall be based on the President's estimate and ranking of the volumetric contributions by such potentially responsible persons, and such additional factors, including, but not limited to, toxicity and mobility of the identified hazardous substances, as in the discretion of the President may be relevant to the preparation of such allocation;

"(iii) public information regarding successful agreements involving other facilities, as compiled beginning no later than January 1, 1987, and updated on a quarterly basis thereafter; and

"(iv) any other technical or scientific information, not otherwise privileged or attorney work product, which the President will utilize in determining whether to accept or reject an agreement offer under this section.

"(B) The information required by this paragraph (other than subparagraph (A)(ii)) shall be available in advance of such notice upon the request of a potentially responsible person in accordance with procedures established by the President.

"(C) The provision of subsection (e) of this section regarding protection of confidential information shall apply to information subject to distribution under this paragraph.

"(3)(A) The procedures of this subsection shall apply to each case of remedial action with respect to a release or threatened release of a hazardous substance involving more than one potentially responsible party, unless in the discretion of the President use of these procedures is inappropriate because:

"(i) sufficient information to effectively use these procedures is not available;

"(ii) there is an urgent need for response and enforcement action that could not be met if these procedures were used;

"(iii) the number of responsible parties who are not de minimis is so small that use of the procedures would not expedite settlement; or

"(iv) an equitable settlement could be more expeditiously or effectively achieved through other settlement or other alternative dispute resolution procedures.

"(B) If the President declines under this paragraph to use the procedures set forth in this subsection, the President shall notify potentially responsible parties at the facility of such decision and the reasons why use of such procedures is inappropriate.

"(4)(A) The President may not commence a remedial action under this section or take any action under section 106 until 180 days (or 90 days where the facility involves 9 or fewer potentially responsible parties) after providing notice of an intent to engage in the procedures under this subsection. Advance disclosure of information upon the request of a potentially responsible party under paragraph (2)(B) shall not commence the 180-day period (or 90 days where the facility involves 9 or fewer potentially responsible parties).

"(B) Nothing in this subsection shall limit the President's authority to undertake response action regarding a significant threat to public health or the environment within the negotiation period. The President may also commence any additional studies or investigations authorized under subsection (b) of this section, including remedial design, during the negotiation period.

"(5) To collect information necessary or appropriate for performing the allocation under paragraph (2)(A) of this subsection, the President may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the President deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subponea, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

"(6) the persons with whom the President reaches agreement under this subsection shall undertake or finance the remedial action and all previous costs of response, including operation and maintenance, or a discrete part of such remedial action, as provided by the agreement.

"(7)(A) The persons receiving notice under paragraph (2) of this subsection shall have 90 days (or 45 days in cases involving 9 or fewer potentially responsible parties) to make a proposal to the President for undertaking or financing the remedial action. In extraordinary cases, the President may grant a thirty-day extension of such period.

"(B) Where potentially responsible parties offer to provide payment or the undertaking of remedial action exceeding 50 per centum of the total shares as estimated by the President in the Nonbinding Preliminary Allocation of Responsibility, and such offer provides for response or costs of response for an amount equal to or greater than the cumulative total, under the Nonbinding Preliminary Allocation of Responsibility, of the potentially responsible persons making the offer, such an offer will be considered to be in 'good faith' and the Federal district court in the district in which the facility is located may order the President to accept the offer.

"(C) The President's decision to reject an offer shall not be subject to judicial review, unless such offer is considered good faith under this paragraph. Where the President rejects an offer meeting such criteria, such rejection shall be in writing and shall be reviewable in the Federal district court in the district in which the facility is located. In such cases the President shall have the burden of persuasion to establish that the rejection was not unreasonable, in light of additional information received after the completion of the Nonbinding Preliminary Allocation of Responsibility. The record for such appeal shall consist of the written notice of rejection, the documents and evidence referred to therein, all comments and evidence submitted by others in response to the written notice of rejection, the President's rationale for rejection, as well as any information of which the court may take judicial notice.

"(D) Judicial review under this subsection shall be limited to the President's decision to reject the good-faith offer and shall not include any other issues relating to the selection or scope of the remedy, the computation of costs associated with response action, or the Nonbinding Preliminary Allocation of Responsibility. Remedial action shall not be delayed solely because of such review.

"(E) Where the President's decision to reject a good faith offer under this paragraph is found to be unreasonable, the Fund shall be liable to the potentially responsible persons who brought suit, for any legal fees and other reasonable costs incurred during such judicial review.

"(F) Where the good faith offer of potentially responsible parties would include the entire share of cleanup allocated to all po-

tentially responsible parties under the Nonbinding Preliminary Allocation of Responsibility (other than the shares allocated to unknown, insolvent or similarly unavailable parties under section 106), such offer, if accepted, shall be granted a "bonus" from the Fund representing 10 per centum of the cost of response action. Such bonus shall not be available in the case of facilities where there are three or fewer potentially responsible parties.

"(8) If, as part of any agreement, the President will be carrying out remedial action and the parties will be paying amounts to the President, the President may, notwithstanding any other provision of law, retain and use such funds for purposes of carrying out the agreement.

"(9) If an additional responsible party is identified during the negotiation period or after an agreement has been entered into under this subsection concerning a release or threatened release, the President may bring the additional party into the negotiation or enter into a separate agreement with such party.

"(10) The costs incurred by the President in producing the Nonbinding Preliminary Allocation of Responsibility shall be reimbursed by the potentially responsible parties whose offer is accepted by the President under this section. Where an offer under this section is not accepted, such costs shall be considered costs of response.

"(11) The Nonbinding Preliminary Allocation of Responsibility shall not be admissible as evidence in any proceeding under section 106 or 107 of this Act, and no court shall have jurisdiction to review the Nonbinding Preliminary Allocation of Responsibility in any action under section 106 or 107. The Nonbinding Preliminary Allocation of Responsibility shall not constitute an apportionment or other statement on the divisibility of harm or causation.

"(12)(A) If a good-faith proposal for undertaking or financing a remedial action has not been submitted within 90 days (or 45 days in cases involving 9 or fewer potentially responsible parties) of the provision of notice pursuant to this subsection, the President may thereafter commence a remedial action under this section or take an action against any person under section 106 of this Act.

"(B) If an agreement has been entered into under this subsection, the President may take any action under section 106 against any person who is not a party to the agreement, once the 90-day period (or 45 days in cases involving 9 or fewer potentially responsible parties) for submitting a proposal has expired.

"(13) Whenever the President has entered into an agreement for remedial action under this subsection, the liability under this Act of each party to the agreement, including any future liability arising from the release or threatened release that is the subject of the agreement, shall be limited as provided in the agreement.

"(14) Nothing in this subsection shall be construed to affect:

"(A) the liability of any person under section 106 or 107 with respect to any costs or damages which are not included in the agreement; or

"(B) the authority of the President to maintain an action under section 106 or 107 against any person who is not a party to the agreement.

"(15) The liability of any party to an agreement under this subsection for contribution shall be limited as provided in section 107(1)(3).

"(16) Whenever the President enters into an agreement under this subsection, the agreement, following approval by the Attorney General, shall be entered as a consent decree under section 106 of this Act. Any party failing to comply with an agreement shall be liable for a penalty not to exceed $25,000 for each day during which such failure continues.".

PUBLIC PARTICIPATION

SEC. 123. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(j) Before selection of appropriate remedial action to be undertaken by the United States or a State or before entering into a covenant not to sue or to forebear from suit or otherwise settle or dispose of a claim arising under this Act, notice of such proposed action and an opportunity for a public meeting in the affected area, as well as a reasonable opportunity to comment, shall be afforded to the public prior to final adoption or entry. Notice shall be accompanied by a discussion and analysis sufficient to provide a reasonable explanation of the proposal and alternative proposals considered.".

LOVE CANAL PROPERTY ACQUISITION

SEC. 124. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(k) In determining priorities among releases and threatened releases under the National Contingency Plan and in carrying out remedial action under this section, the Administrator shall establish a high priority for the acquisition of all properties (including nonowner occupied residential, commerical, public, religious, and vacant properties) in the area in which, before May 22, 1980, the President determined an emergency to exist because of the release of hazardous substances and in which owner occupied residences have been acquired pursuant to such determination.".

ADMINISTRATIVE ORDERS FOR SECTION 104(b) ACTIONS

SEC. 125. Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection as follows:

"(l)(1) If the President determines that one or more responsible parties will properly carry out action under subsection (b) of this section, the President may enter into a consent administrative order with such party or parties for that purpose.

"(2) The United States district court for the district in which the release has occurred or threatens to occur shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $10,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN—HAZARD RANKING SYSTEM

SEC. 126. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(a)" immedately following "105." and by adding the following at the end thereof:

"(b) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985, the President shall revise the National Contingency Plan to reflect the requirements of such amendments. The portion of such Plan known as 'the National Hazardous Substance Response Plan' shall be revised to provide procedures and standards for remedial actions undertaken pursuant to this Act which are consistent with amendments made by the Superfund Improvement Act of 1985 relating to the selection of remedial action.

"(c) Not later than twelve months after the date of enactment of the Superfund Improvement Act of 1985 and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the President shall by rule promulgate amendments to the hazard ranking system in effect on September 1, 1984. Such amendments shall assure, to the maximum extent feasible, that the hazard ranking system accurately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review. The President shall establish an effective date for the amended hazard ranking system which is not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985 and such amended hazard ranking system shall be applied to any site or facility to be newly listed on the National Priority List after the effective date established by the President. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to full force and effect.

"(d)(1) This subsection applies to facilities—

"(A) which as of July 1, 1985, were not included on, or proposed for inclusion on, the National Priorities List; and

"(B) at which special study wastes described in section 3001(b)(2)(B) or (3)(A) of the Solid Waste Disposal Act or any leachate from abandoned mine sites are present, including any such facility from which there has been a release of a special study waste or leachate, except that this subsection shall not apply to a facility which does not involve the presence of any such waste or leachate in any significant quantity.

"(2) Pending revision of the hazard ranking system under subsection (c), no facility to which this subsection applies may be added to the National Priorities List unless the Administrator makes the following specific findings, based on facility-specific data—

"(A) as to the status of studies by the Environmental Protection Agency on such waste under the Solid Waste Disposal Act and of regulation of such waste under subtitle C thereof;

"(B) as to the extent to which the hazard ranking system score for the facility is affected by the presence of any special study waste at, or any release from, such facility;

"(C) as to the quantity, toxicity, and concentration of hazardous substances that are constituents of any special study waste at, or release from such facility, the extent of or potential for release of such hazardous constituents, and the degree of risk to human health or the environment posed by the release of such hazardous constituents at such facility: Provided, That, the findings in this subparagraph shall be based on actual concentrations of hazardous substances and not on the total quantity of special study waste at such facility; and,

"(D) that based on the findings in subparagraph (C), the degree of risk to human health or the environment posed by such facility is equal to or greater than the risk posed by facilities at which no special study

waste is present and which are proposed for inclusion on the National Priorities List.

A person may be subject to liability under section 106 or 107 under this Act for any waste or release referred to in paragraph (1) of this subsection at any facility to which this subsection applies only if the specific findings required under this paragraph with respect to that facility have been made and such suit against such person supports each specific finding with appropriate facility-specific data. This paragraph shall not apply to any facility that is included on the National Priorities List pursuant to a hazard ranking system revised in accordance with subsection (c) so as to incorporate the factors identified in subparagraph (C) and (D) of this paragraph.

"(3) Following the Administrator's completion of the applicable special study waste required under section 8002 (f), (m), (n), (o), or (p) of the Solid Waste Disposal Act, and the determination required under section 3001(b)(3)(C) or, in the case of a special study waste described in section 3001(b)(2)(B), the authorization of regulations by Congress pursuant to section 3001(b)(2)(B)), of such Act, if a special study waste is not a hazardous waste listed under section 3001 of the Solid Waste Disposal Act, the waste stream, or one of the constituents thereof, may not be deemed to be a hazardous substance unless such waste, at the facility in question, has one of the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act.

"(4) Nothing in this subsection shall be construed to limit the authority of the Administrator to remove any facility which as of July 1, 1985, is included on the National Priorities List from such List, or not to list any facility which as of such date is proposed for inclusion on such list.

"(5) Nothing in this subsection shall be construed to limit the authority of the Administrator or the Attorney General from seeking abatement of an imminent and substantial endangerment under section 106(a).".

EMERGENCY PLANNING

SEC. 127. Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(d) EMERGENCY PLANNING.—(1)(A) The President shall publish a list of extremely hazardous substances, taking into account the toxicity, reactivity, volatility, flammability, and usage of such substances. For the purposes of the preceding sentence, the term 'toxicity' shall include any acute or chronic health effect which may result from an acute exposure to the substance. The President shall review, and modify as necessary, such list not less often than every two years. Such list shall identify each extremely hazardous substance and shall establish a quantity of each such substance which, if released at a facility, would likely pose an imminent and substantial endangerment to the public health or to the environment. Facilities that have present such a quantity of such a substance shall notify the Governor in accordance with paragraph (2)(A).

"(B) Within 30 days after enactment of the Superfund Improvement Act of 1985, the President shall publish an initial list of substances and quantities as described in subparagraph (A), which shall be the same as substances and quantities listed by the Council of the European Communities in its 'Council Directive of June 24, 1982, on the Major Accident Hazards of Certain Industrial Activities, Annex III,' published in the Official Journal of the European Communities, August 5, 1982.

"(2)(A) Not later than 90 days after the date of enactment of the Superfund Improvement Act of 1985, or not later than 60 days after any revision of the list, each owner or operator of a facility (other than motor vehicles, rolling stock, or aircraft) that has present a quanitity of a substance that requires notification under paragraph (1) shall notify the Governor of the State in which such facilitly is located that such facility is subject to the requirements of this subsection. The Governor may designate additional facilities that shall be subject to the provisions of this subsection.

"(B) Not later than 180 days after the date of enactment of the Superfund Improvement Act of 1985, the Governor of each State shall designate emergency planning districts in order to facilitate preparation and implementation of emergency plans. Where appropriate, the Governor may designate existing political subdivisions or multijurisdictional planning organizations as such districts. In emergency planning areas that involve more than one State, the Governors of each potentially affected State may designate emergency planning districts and emergency planning committees by agreement. In making such designation, the Governor shall indicate which facilities designated under subparagraph (A) are within such emergency planning district.

"(C) Not later than 210 days after such date of enactment, the Governor shall appoint members of an emergency planning committee for each emergency planning district. Each Committee shall include representatives of the public, appropriate State and local organizations, and owners and operators of facilities designated under subparagraph (A). In making such appointments, the Governor shall consider persons who would be expected to play a major role in the event of a release of an extremely hazardous substance, such as elected officials, law enforcement and firefighting personnel, public health, medical, hospital, and environmental protection personnel, civil defense personnel, transportation officials, and representatives of broadcast and print media. Interested persons may petition the Governor to modify the membership of such committee. Such committee shall appoint a chairperson and shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan.

"(D) Each emergency planning committee shall complete preparation of emergency plans in accordance with this subsection not later than two years after such date of enactment. The committee shall review such plan at least annually, or as changed circumstances in the community or at any facility may require.

"(E) Each emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required, and the means for providing such additional resources.

"(F) Each emergency plan shall include (but is not limited to)—

"(i) identification of facilities designated pursuant to subparagraph (A) that are within the emergency planning district, and identification of routes likely to be used for the transportation of substances listed pursuant to subparagraph (A);

"(ii) methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances;

"(iii) designation of a community emergency coordinator and a facility emergency coordinator, who shall make determinations necessary to implement the plan;

"(iv) procedures providing reliable, effective, and timely notification by the facility emergency coordinator and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements under section 103(j));

"(v) methods for determining the occurrence of a release, and the area or population likely to be affected by such release;

"(vi) evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

"(vii) training programs, including schedules for training of local emergency response and medical personnel; and

"(viii) methods and schedules for exercising such plan.

"(G) The owner or operator of each facility designated pursuant to subparagraph (A) shall—

"(i) within 210 days after such date of enactment, notify the emergency planning committee for the emergency planning district in which such facility is located that a facility representative will participate in the emergency planning process;

"(ii) promptly inform the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur; and

"(iii) upon request from the emergency planning committee, promptly provide information to such committee necessary for developing and implementing the emergency plan.

"(H) The National Response Team shall publish guidance documents for preparation and implementation of emergency plans. Such documents shall be published not later than 150 days after such date of enactment.

"(I) The Regional Response Teams shall review and comment upon such emergency plans or other issues related to preparation, implementation, or exercise of such plan upon request of the emergency planning committee. Such review shall not delay implementation of such plans.

"(3) The President may order a facility owner or operator to comply with paragraphs (2) (A) and (G) of this subsection. The United States district court for the district in which the facility is located shall have jurisdiction to enforce the order, and any person who violates or fails to obey such an order shall be liable to the United States for a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.".

NATIONAL CONTINGENCY PLAN

SEC. 128. (a) Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as redesignated by this Act, is amended by striking "at least four hundred of" when it appears.

(b) Section 105(8)(B) is further amended by striking the phrase "at least" following the word "facilities" the second time it appears and by inserting "A State shall be allowed to designate its highest priority facili-

ty only once." after the third full sentence thereof.

DE MINIMIS CONTRIBUTOR SETTLEMENT PROVISIONS

SEC. 129. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new subsection:

"(d) The President shall consider, but may accept or reject, good-faith offers of settlement under this section or section 107 from any person potentially liable under such sections, and in the discretion of the President is authorized to accept such offers if the offer does not constitute a substantial portion of the costs of response, if—

"(1) the amount of the hazardous substances contributed to the release by the party making the offer, and

"(2) the toxic or other hazardous effects of the substances contributed to the release by the party making the offer are minimal in comparison with contributions to the release by other potentially responsible parties. For the purposes of this subsection, a good faith offer is one which is reasonable based on the objective evidence. Not later than March 1, 1986, the President shall publish guidance documents defining what would constitute de minimis contributions under this section.".

MIXED FUNDING

SEC. 130. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(c) The President may use monies from the Fund to pay for that portion of the response costs (or of a remedy to be performed jointly with responsible parties) which is attributable to the contribution of hazardous substances from parties who are determined by the President, on the record, to be unknown or insolvent, or similarly unavailable.".

RELEASES FROM LIABILITY

SEC. 131. Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(e)(1) The President may provide any person with a covenant not to sue concerning any future liability under this Act resulting from a future release or threatened release of hazardous substances addressed by a remedial action, whether that action is onsite or offsite, if this covenant not to sue would expedite response action consistent with the National Contingency Plan under section 105 of this Act, and—

"(A) the person is in full compliance with an administrative order or consent decree under this section for response to the release or threatened release of hazardous substances, and

"(B) this response action has been approved by the President.

"(2)(A) In assessing the appropriateness of a covenant not to sue, the President shall consider whether the covenant is in the public interest, taking into account whether the cleanup will be done, in whole or in significant part, by the responsible parties themselves. To the extent that private parties perform the cleanup and are in full compliance with an administrative order or consent decree approved by the President, such parties shall receive a more expansive covenant not to sue than if the cleanup were performed entirely by the Government. However, this section is not intended to limit the President's discretion in settling with de minimis contributors under subsection (d) of this section.

"(B) Factors to be taken into account in the President's consideration of the public interest under this subsection include, but are not limited to, the following:

"(i) the effectiveness and reliability of the remedy, in light of the other alternative remedies considered for the facility;

"(ii) the nature of the risks remaining at the facility after completion of the remedy;

"(iii) the extent to which performance standards are included in the order of decree;

"(iv) the extent to which the response action provides a complete remedy for the facility, including the elimination of the hazardous nature of the substances at the facility; and

"(v) whether the Fund or other sources of funding, including other responsible parties, would be available for any additional response actions that may become necessary for the facility.

"(3) In the case of remedial actions undertaken jointly by the President and responsible parties, any governmental entity taking part in such remedial action shall be subject to future liability as a private responsible party. Any future response actions arising at the same facility, and which give rise to further liability, shall obligate the Fund to the extent of the obligation of the President under the earlier remedial action responsibility. The President's contribution to such future response actions may be made through Fund expenditures or through payment, following settlement or enforcement action, by parties who were not signatories to the original agreement.

"(4) The President is authorized to include any provision allowing future enforcement action under this section or section 107 that in the discretion of the President is necessary and appropriate to assure protection of public health, welfare, and the environment.

"(5) In the case of any person to whom the President is authorized under paragraph (1) of this subsection to provide a convenant not to sue, for the portion of remedial action—

"(A) which involves the transport and secure disposition offsite of hazardous substances in a facility meeting the requirements of sections 3004 (c), (d), (e), (f), (g), (m), (o), (p), (u), and (v) and 3005(c) of the Solid Waste Disposal Act, where the President has rejected a proposed remedial action that is consistent with the National Contingency Plan that does not include such offsite disposition and has thereafter required offsite disposition; or

"(B) which involves the treatment of hazardous substances so as to destroy, eliminate or permanently immobilize the hazardous constituents of such substances, such that in the judgment of the President the substances no longer present any current or currently foreseeable future significant risk to public health, welfare or the environment, no byproduct of the treatment or destruction process presents any significant hazard to public health, welfare or the environment, and all byproducts are themselves treated, destroyed, or contained in a manner which assures that such byproducts do not present any current or currently foreseeable future significant risk to public health, welfare or the environment,

the President shall provide such person with a covenant not to sue with respect to future liability under this Act for a future release or threatened release of hazardous substances from such facility, and a person provided such convenant not to sue shall not be liable under section 106 or 107 with respect to such release or threatened release at any future time. The President is authorized to include in such convenant not to sue a provision allowing future enforcement action under this section or section 107, in the case of any fraud or misrepresentation by such person.

"(6) Any convenant not to sue provided by the President under this subsection shall be effective only when approved by a Federal District Court, upon the application of the President, after consideration of the conditions and factors specified in this subsection.".

FOREIGN VESSELS

SEC. 132. Section 107(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "(otherwise subject to the jurisdiction of the United States)".

STATE AND LOCAL GOVERNMENT LIABILITY

SEC. 133. (a) Section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(d)" and adding the following new language:

"(2) No State or local government shall be liable under this title for costs or damages as a result of non-negligent actions taken in response to an emergency created by the release or threatened release of a hazardous substance, pollutant, or contaminant generated by or from a facility owned by another person.".

(b) Section 101(20) is amended by inserting immediately before the semicolon at the end of clause (A) the following: "nor does such term include a unit of State or local government which acquired ownership or control involuntarily through bankruptcy, foreclosure, tax delinquency, abandonment, or similar means of alienation".

(c) Section 101(20) is further amended by deleting clause (iii) and substituting the following:

"(iii) in the case of any facility, title, or control of which was conveyed due to abandonment, bankruptcy, foreclosure, tax delinquency or similar means to a unit of State or local government, any person who owned, operated or otherwise controlled activities at such facility immediately beforehand.".

NATURAL RESOURCE DAMAGE CLAIMS

SEC. 134. (a) Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2)(A) The President shall designate in the National Contingency Plan published under section 105 of this Act the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act. Such officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship, and may upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under a State's trusteeship.

"(B) The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Clean Water Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act for those resources under their trusteeship.

"(C) Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Clean Water Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Clean Water Act.

"(D) The President shall promulgate the regulations required under section 301 of this Act not later than six months after the enactment of the Superfund Improvement Act of 1985.".

(b) Section 111(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "No money in the Fund may be used for the payment of any claim under subsection (a)(3) or subsection (b) of this section in any fiscal year for which the President determines that all of the Fund is needed for response to threats to public health from releases or threatened releases of hazardous substances.".

(c) Section 111(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is repealed.

CONTRIBUTION AND PARTIES TO LITIGATION

SEC. 135. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding a new subsection to read as follows:

"(l)(1) Any person may seek contribution from any other person who is liable or potentially liable under subsection (a), during or following any civil action under section 106 or under such subsection (a). Such claims shall be brought in accordance with section 113 and the Federal Rules of Civil Procedure, and shall be governed by Federal law. In resolving contributions claims, the court shall allocate response costs among liable parties using such equitable factors as the court determines are appropriate. Nothing in this subsection shall diminish the right of any person to bring an action for contribution or indemnification in the absence of a civil action under section 106 or this section.

"(2) When a person has resolved its liability to the United States or a State in a judicially approved good faith settlement, such person shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others to the extent of any amount stipulated by the settlement.

"(3) Where the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in a good faith settlement, the United States or the State may bring an action against any person who has not so resolved its liability. A person that has resolved its liability to the United States or a State in a good faith settlement may, where appropriate, maintain an action for contribution or indemnification against any person that was not a party to the settlement. In any action under this paragraph, the rights of any person that has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be brought in accordance with section 113, and shall be governed by Federal law.".

FEDERAL LIEN

SEC. 136. Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(m)(1) All costs and damages for which a person is liable to the United States under subsection (a) of this section shall constitute a lien in favor of the United States upon all real property and rights to such property belonging to such person that are subject to or affected by a removal or remedial action.

"(2) The lien imposed by this subsection shall arise at the time costs are first incurred by the United States with respect to a response action under this Act and shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113(e).

"(3) The lien imposed by this subsection shall not be valid as against any purchaser, holder of a security interest, or judgment lien creditor until notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is physically located. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is physically located. For purposes of this subsection, the terms 'purchaser' and 'security interest' shall have the definitions provided in section 6323(h) of title 26, United States Code. This paragraph does not apply with respect to any person who has or reasonably should have actual notice or knowledge that the United States has incurred costs giving rise to a lien under paragraph (1) of this subsection.

"(4) The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.".

DIRECT ACTION

SEC. 137. (a) Sections 108 (c) and (d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(c) In any case where a person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or where with reasonable diligence jurisdiction in the Federal Courts cannot be obtained over a person liable under section 107 likely to be solvent at the time of judgment, any claim authorized by section 107 or 111 may be asserted directly against the guarantor providing evidence of financial responsibility for that person. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) The total liability under this Act of any guarantor shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument provided by the guarantor to the person liable under section 107: Provided, That nothing in the subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to the person liable under section 107 including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim: Provided further, That nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under section 107 or 111 of the Act or other applicable law.".

(b) Section 108(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

LEAD CONTAMINATION

SEC. 138. Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(8) payment of the cost, not to exceed $15,000,000, of a pilot program for the removal of lead-contaminated soil in one to three different metropolitan areas.".

TECHNICAL ASSISTANCE GRANTS

SEC. 139. Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended by adding the following new paragraph:

"( ) Subject to such amounts as are provided in appropriation Acts, the costs of a program of technical assistance grants, in accordance with rules promulgated by the President, to community organizations or groups of individuals potentially affected by a release or threatened release at any facility listed on the National Priorities List, not to exceed $75,000 per facility. Such grants may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal action at such facility.".

FUND USE OUTSIDE FEDERAL PROPERTY BOUNDARIES

SEC. 140. Section 111(e)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting before the period a colon and the following: "Provided, That money in the Fund shall be available for the provision of alternative water supplies (including the reimbursement of costs incurred by a municipality) in any case involving groundwater contamination outside the boundaries of a federally owned facility in which the federally owned facility is not the only potentially responsible party".

STATE MATCHING GRANTS

SEC. 141. Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"(o)(1) Notwithstanding any other provision of this section, the President is authorized to provide up to $1,000,000 per year to each State, out of the Fund, to be matched by an equivalent expenditure by such State, up to a cumulative national total from the Fund of $50,000,000 per year, for State-administered and designed programs for the cleanup and stabilization of facilities contaminated by releases of hazardous substances.

"(2) The following conditions shall be attached to monies provided by the Fund as State Matching Grants—

"(A) no monies may be expended for any litigation-related expenses;

"(B) there shall be no liability of the Fund or the United States (including third party claims of any type) arising from such response action;

"(C) monies expended under this subsection may be used at any facility, as determined by the State, in consultation with the President, to be appropriate; and

"(D) facilities selected for cleanup with such monies shall be facilities for which there is no reasonable likelihood of recovery of costs under existing authority.

"(3) In determining whether a substance is a hazardous substance, pollutant, or contaminant for purposes of this subsection, the exclusion of petroleum under the last sentences of sections 101(14) and 104(a)(2) shall not apply.".

STATUTE OF LIMITATIONS

SEC. 142. (a) Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (d) and relettering the following subsection.

(b) Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(e)(1) No claim may be presented, nor may any action be commenced under this title—

"(A) for the cost of response, unless that claim is presented or action commenced within six years after the date of completion of the response action: Provided, however, That within the limitation period set out herein a State or the United States may commence an action under this title for recovery of any cost or costs at any time after such cost or costs have been incurred;

"(B) for damages under subparagraph (C) of section 107(a), unless that claim is presented or action commenced within six years after the date on which final regulations are promulgated under section 301(c) or within three years after the date of the discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later; or

"(C) for any other damages, unless that claim is presented or action commenced within three years after the date of discovery of the loss and its connection with the release in question or the date of enactment of this Act, whichever is later: Provided, however, That the time limitations contained in this paragraph shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him nor against an Indian tribe until the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this subsection. No claim may be presented or action be commenced under this subparagraph for any damages, if prior to the date of enactment of the Superfund Improvement Act of 1985, the statute of limitations which would otherwise apply under this paragraph has expired.

"(2) No action for contribution may be commenced under section 107 more than three years after the date of entry of judgment or the date of the good-faith settlement.

"(3) No action based on rights subrogated pursuant to section 112 by reason of payment of a claim may be commenced under this title more than three years after the date of payment of such claim.".

JUDICIAL REVIEW

SEC. 143. Section 113(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"SEC. 113. (a)(1) Review of any regulation promulgated under this Act may be had upon application by any interested person in the Circuit Court of Appeals of the United States for the District of Columbia or in any United States court of appeals for a circuit in which the applicant resides or transacts business which is directly affected by such regulation. Any such application shall be made within one hundred and twenty days from the date of promulgation of such regulation, or after such date only if such application is based solely on grounds which arose after such one hundred and twentieth day. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

"(2)(A) If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of the first such application more than thirty days before receiving written notice of the filing of the second application, then the record shall be filed in that court in which the first application was filed. If applications for review of the same agency action have been filed in two or more United States courts of appeals and the President has received written notice of the filing of one or more applications within thirty days or less after receiving written notice of the filing of the first application, then the President shall promptly advise in writing the judicial panel on multidistrict litigation authorized by section 1407 of title 28, United States Code, that applications have been filed in two or more United States courts of appeals, and shall identify each court for which he has written notice that such applications have been filed within thirty days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the President, the judicial panel on multidistrict litigation thereupon shall select the court in which the record shall be filed from among those identified by the President. Upon notification of such selection, the President shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the President, the record shall be filed in the United States court of appeals which remanded such action.

"(B) Where applications have been filed in two or more United States courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the United States court of appeals in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed may postpone the effective date of the agency action until fifteen days after the judicial panel on multidistrict litigation has selected the court in which the record shall be filed.

"(C) Any court in which an application with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such application to any other United States court of appeals for the convenience of the parties or otherwise in the interest of justice.".

PRE-ENFORCEMENT REVIEW

SEC. 144. (a) Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking the word "subsection" and inserting in lieu thereof the words "subsections," and inserting "and (f)" after "(a)".

(b) Section 113 is further amended by adding at the end thereof the following new subsections:

"(f) No court shall have jurisdiction to review any challenges to response action selected under section 104 or any order issued under section 104(b), or to review any order issued under section 106(a), in any action other than (1) an action under section 107 to recover response costs or damages or for contribution or indemnification; (2) an action to enforce an order issued under section 104(b) or 106(a) or to recover a penalty for violation of such order; or (3) an action for reimbursement under section 106(b)(2).

"(g) In any judicial action under section 106 or 107, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record. The objections which may be raised in any such judicial action under section 106 or 107 must be based upon the comments received and the evidence contained in the record. In considering such objections, the court shall uphold the President's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was not reasonably justified under the criteria set forth in the national contingency plan, including the cost effectiveness of such action, or that the decision was otherwise not in accordance with law. If the court finds that the President's decision in selecting the response action was not reasonably justified under the criteria set forth in the national contingency plan, including the cost effectiveness of such action, or that the decision was otherwise not in accordance with law, the court shall award only the response costs or damages or other relief being sought to the extent that such relief is not inconsistent with the national contingency plan. In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.

"(h) The President shall promulgate regulations in accordance with chapter 5 of title 5, United States Code, commonly known as

the Administrative Procedure Act, establishing procedures for the appropriate participation of interested persons in the development of the adminisrative record on which judicial review of the reponse actions will be based. For remedial actions, such regulations shall include procedures for providing, before adoption of any plan for remedial action to be undertaken by the United States or a State or any other person under section 104 or section 106 of this Act—

"(1) notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered;

"(2) a reasonable opportunity to comment and provide information regarding the plan;

"(3) an opportunity for a public meeting in the affected area;

"(4) a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under such procedures; and

"(5) agency support for the basis and purpose of the selected action.

The administrative record shall include the items developed and received pursuant to the procedures established under this subsection.".

(c) Section 106(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking out "who willfully" and inserting in lieu thereof "who, without sufficient cause, willfully"; and

(3) adding at the end thereof the following new paragraph:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within sixty days of completion of the required action, petition the President for reimbursement from the Fund for the reasonable costs of such action, plus interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate that applies to investments of the Fund under section 223(b) of this Act.

"(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within thirty days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund.

"(C) To obtain reimbursement, the petitioner must establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order: Provided, however, That a petitioner who is liable for response costs under section 107(a) may recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in selecting the response action ordered was not resonably justified under the criteria set forth in the national contingency plan, including the requirement for cost effectiveness of such action, or was otherwise not in accordance with law. In any such case, the petitioner shall be awarded all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be not reasonably justified under the criteria set forth in the national contingency plan, including the requirement for cost effectiveness of such action, or was otherwise not in accordance with law.".

NATIONWIDE SERVICE OF PROCESS

SEC. 145. Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by this Act, is amended by adding the following new subsection:

"(h) In any action by the United States under section 104, 106, or 107, process may be served in any district where the defendant is found, or resides, or transacts business, or has appointed an agent for the service of process.

"(i) Any litigation relating to permits of the Administrator issued pursuant to the Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act, the Toxic Substances Control Act, and this Act, and for which such permitted facilities would guarantee the availability of treatment, incineration, or disposal capacity of at least 25 per centum for Superfund wastes shall be afforded priority consideration over other civil litigation by the respective United States Court of Appeals having jurisdiction over the litigation. It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the extent possible the disposition of any matter covered by this subsection.".

NOTICE OF COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ACTIONS

SEC. 146. Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(i) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the United States, the plaintiff shall provide a copy of the complaint to the Attorney General of the United States and to the Administrator.".

PREEMPTION

SEC. 147. Section 114 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking subsection (c) and relettering the following subsection accordingly.

FEDERAL FACILITIES CONCURRENCE

SEC. 148. Section 115 of the Comprehensive Environmental, Compensation, and Liability Act of 1980 is amended by inserting before the period at the end thereof a colon and the following: "Provided, That with respect to a Federal facility or activity for which such duties or powers are delegated to an officer, employee or representative of the department, agency or instrumentality which owns or operates such facility or conducts such activity, unless the Administrator has entered into a memorandum of understanding with the head of such department, agency or instrumentality, the concurrence of the Administrator (and the responsible State official where a cooperative agreement has been entered into) shall be required for the selection of appropriate remedial action and the administrative order authorities of section 106(a) are hereby delegated to the Administrator".

FEDERAL FACILITIES COMPLIANCE

SEC. 149. Title I of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended by adding at the end thereof the following new section:

"FEDERAL FACILITIES

"SEC. 117. (a) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—The Administrator shall establish a special Federal Agency Hazardous Waste Compliance Docket which shall contain all information submitted under section 3016 of the Solid Waste Disposal Act regarding any Federal facility and notice of each subsequent action taken under this Act with respect to the facility. Such docket shall be available for public inspection at reasonable times. Three months after establishment of the docket and every three months thereafter, the Administrator shall publish in the Federal Register a list of the Federal facilities which have been included in the docket during the immediately preceding three-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the Docket under this subsection.

"(b) ASSESSMENT AND EVALUATION.—Not later than eighteen months after the date of enactment of the Superfund Improvement Act of 1985, the Administrator shall take steps to assure that a preliminary assessment is conducted for each facility for which information is required under section 3016 of the Solid Waste Disposal Act. Following such preliminary assessment, the Administrator shall where appropriate—

"(1) evaluate such facilities in accordance with the criteria established in accordance with section 105 under the National Contingency Plan for determining priorities among releases.

"(2) include such facilities on the National Priorities List maintained under such plan. Such evaluation and listing shall be completed not later than twenty months after such date of enactment.

"(c) RIFS AND INTERAGENCY AGREEMENT.—

"(1) RIFS.—Not later than six months after the inclusion of any facility on the National Priorities List (NPL), or within six months of the enactment of the Superfund Improvement Act of 1985, whichever is later, the department, agency, or instrumentality which owns or operates such facility shall enter into an agreement with the Administrator and appropriate State authorities under which such department, agency, or instrumentality will carry out a remedial investigation and feasibility study for such facility. The agreement shall provide for a timetable and deadlines for commencement and expeditious completion of such investigation and study.

"(2) INTERAGENCY AGREEMENT.—(A) Within six months after completion of each such remedial investigation and feasibility study, the Administrator shall review the results of such investigation and study and shall enter into an interagency agreement with the head of the department, agency, or instrumentality concerned for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. All such intergency agreements shall comply with the public participation requirements of section 104(j). Such agreement shall require that substantial continuous physical onsite remedial action is commenced at each facility which is the subject of such an agreement within twelve months after the completion of remedial design.

"(B) Each interagency agreement under this paragraph shall include, but shall not be limited to—

"(i) a review of alternative remedial actions and selection of a remedial action plan by the Administrator;

"(ii) a schedule for the completion of each such remedial action; and

"(iii) arrangements for long term operation and maintenance of the facility.

"(3) COMPLETION OF REMEDIAL ACTIONS.—Remedial actions at facilities subject to interagency agreements under this section shall be completed as expeditiously as practicable from the date the interagency agreement was entered into. Each agency shall include in its annual budget submissions to the Congress a review of alternative agency funding which could be used to provide for the costs of remedial action. The budget submission shall also include a statement of the hazard posed by the facility to human health, welfare and the environment and identify the specific consequences of failure to begin and complete remedial action.

"(4) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to—

"(A) a report on the progress in reaching interagency agreements under this section;

"(B) the specific cost estimates and budgetary proposals involved in each interagency agreement;

"(C) a brief summary of the public comments regarding each proposed interagency agreement; and

"(D) a description of the instances in which no agreement was reached.

With respect to instances in which no agreement was reached within the required time period, the department, agency, or instrumentality filing the report under this paragraph shall include in such report an explanation of the reasons why no agreement was reached. The annual report required by this paragraph shall also contain a detailed description on a State-by-State basis of the status of each facility subject to this section, including a description of the hazard presented by each facility, plans and schedules for initiating and completing response action, enforcement status (where appropriate), and an explanation of any postponements or failure to complete response action. Such reports shall also be submitted to the affected States.

"(d) ACTION BY OTHER PARTIES.—If the Administrator in consultation with the head of the relevant department, agency, or instrumentality of the United States, determines that a remedial investigation and feasibility study or remedial action will be done properly at the federal facility by another potentially responsible party within the deadlines provided in paraghraphs (1), (2), and (3) of subsection (c), the Administrator may enter into an agreement with such party providing for assumption of the responsibilities set forth in these paragraphs. Following approval of the agreement by the Attorney General, the agreement shall be entered in the appropriate United States district court as a consent decree under section 106 of this Act.

"(e) STATE AND LOCAL PARTICIPATION.—

"(1) the Administrator shall consult with the relevant officials of the State and locality in which the facility is located and shall consider their views in selecting the remedial action to be carried out at the facility.

"(2) Each department, agency, or instrumentality responsible for compliance with this section shall afford to relevant State and local officials the opportunity to participate in the planning and formulation of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans.

"(f) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by Executive order of the President or otherwise, to any other office or employee of the United States or to any other person.

"(g) APPLICATION OF REQUIREMENTS TO FEDERAL FACILITIES.—All guidelines, rules, regulations, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priority List, or applicable to remedial actions at such facilities shall also be applicable to facilities which are owned and operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities, except for any requirements relating to bonding, insurance, or financial responsibility. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act. The President may exempt any site or facility of any department, agency, or instrumentality in the Executive branch from compliance with any such guidelines, rules, regulations or criteria if the President determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the reason for granting each such exemption.

"(h) FEDERAL AGENCY SETTLEMENTS.—The head of each department, agency, or instrumentality or his designee may consider, compromise, and settle any claim or demand under this Act arising out of activities of his agency, in accordance with regulations prescribed by the Attorney General. Any award, compromise, or settlement in excess of $25,000 shall be made only with the prior written approval of the Attorney General or his designee. Any such award, compromise, or settlement shall be paid by the agency concerned out of appropriations available to that agency.".

CITIZEN SUITS

SEC. 150. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new section:

"CITIZEN SUITS

"SEC. 118. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on such person's behalf—

"(1) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the Eleventh Amendment to the Constitution, who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act; or

"(2) against the President for failure to perform any act or duty under this Act which is not discretionary with the President.

Any action under this subsection shall be brought in the district court for the district in which the alleged violation occurred. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such requirement, to order the President to perform such act or duty, as the case may be, or to order such person in violation, of any standard, regulation, condition, requirement, or order to take such action as may be necessary to correct the violation or to apply appropriate civil penalties under this Act: Provided, however, That no district court shall have jurisdiction under this section to review any challenges to response action selected under section 104 or any order issued under section 104, or to review any order issued under section 106(a).

"(b) No action may be commenced under subsection (a) of this section (1) prior to ninety days after the plaintiff has given notice of the violation (A) to the President; (B) to the State in which the alleged violation occurs; and (C) to any alleged violator of a standard, regulation, condition, requirement, or order; or (2) if the President or State has commenced and is diligently prosecuting an action under this Act or the Solid Waste Disposal Act to require compliance with such standard, regulation, condition, requirement, or order.

"(c) In any action commenced by the President or a State, under this Act or under the Solid Waste Disposal Act, in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and such applicant is so situated that the disposition of the action may, as a practical matter, impair or impede such applicant's ability to protect that interest, unless the President or the State shows that the applicant's interest is adequately represented by existing parties.

"(d) In any action under this section, the United States or the State may intervene as a matter of right.

"(e) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the President or a State agency).".

HAZARDOUS SUBSTANCE RESEARCH AND TRAINING

SEC. 151. (a) Title I of the Comprehensive Environmental Response, Compensation,

and Liability Act of 1980 is amended by adding the following new section:

"HAZARDOUS SUBSTANCE RESEARCH AND TRAINING

"SEC. . (a) AUTHORITIES.—The Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency may each, consistent with their respective missions, support the following health-related activities through grants, cooperative agreements, and contracts—

"(1) Research (including epidemiologic and ecologic studies) in—

"(A) advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances;

"(B) methods to assess the risks to human health presented by hazardous substances, including workplace hazard assessment;

"(C) methods and technologies to detect hazardous substances in the environment and methods and technologies to reduce the amount and toxicity of hazardous substances, including recycling, incineration, biodegradation, chemical inactivation, and encapsulation; and

"(D) improved health and safety practices in, and equipment for the handling and disposal of hazardous substances.

"(2) Training, including—

"(A) short courses and continuing education for State and local health and environment agency personnel and other personnel engaged in the handling of hazardous substances, in the management of facilities at which hazardous substances are located, and in the evaluation of the hazards to human health presented by such facilities; and

"(B) graduate training in environmental and occupational health and in the public health aspects of hazardous waste control.

"(b) AWARDS.—A grant, cooperative agreement, or contract may be made or entered into under this section by the Administrator of the Environmental Protection Agency or the Secretary of Health and Human Services (through the National Institute of Environmental Health Sciences or other appropriate agency or, in the case of training, through the National Institute for Occupational Safety and Health or other appropriate agency), with an accredited institution of higher education, a research institution, a State or local health agency, or other entity as the Secretary or the Administrator deems appropriate. Awards under this subsection shall be subject to peer review in a manner substantially similar to that of section 475 of the Public Health Service Act.

"(c) ADVISORY COUNCIL.—To assist in the implementation of this section, the Secretary and the Administrator may each, or they may jointly, appoint an advisory council. Such council(s) shall be representative of the relevant Federal Government agencies, the chemical industry, the toxic waste management industry, institutions of higher education, State and local health and environmental agencies, and the general public.

"(d) PLANNING.—Within one year after the enactment of the Superfund Improvement Act of 1985, the Secretary and the Administrator shall complete a joint plan for the implementation of this section and shall report to the Congress on the plan and the implementation. The head of the Agency for Toxic Substances and Disease Registry shall coordinate the plan, which shall be drawn up with the participation of the Directors of the National Institute of Environmental Health Sciences and the National Institute for Occupational Safety and Health, and other officials as the Secretary and the Administrator deem appropriate.".

(b) Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new paragraph:

"( ) the cost of carrying out the research and training program under section , to the extent that such costs do not exceed $5,000,000 for fiscal year 1986; $10,000,000 for fiscal year 1987; $20,000,000 for fiscal year 1988; $35,000,000 for fiscal year 1989; and $40,000,000 for fiscal year 1990;".

CONTRACTOR INDEMNIFICATION

SEC. 152. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section:

"INDEMNIFICATION OF CONTRACTORS

"SEC. . (a)(1) The President shall, in contracting, or arranging for response action to be undertaken pursuant to contracts or cooperative agreements in accordance with section 104(d)(1) of this Act, and funded in accordance with section 111 of this Act, agree to hold harmless and indemnify a contracting or subcontracting party against claims, including the expenses of litigation or settlement, by third persons for death, bodily injury or loss of or damage to property arising out of performance of a cleanup agreement to the extent not covered by available insurance and to the extent that any such damages awarded do not arise out of the negligence, recklessness, or intentional misconduct of the contracting or subcontracting party.

"(2) The President may, in the President's discretion, agree to hold harmless and indemnify a contracting or subcontracting party against such claims to the extent not covered by available insurance and to the extent that any such damages awarded do not arise out of the gross negligence, recklessness, or intentional misconduct of the contracting or subcontracting party, so long as such indemnification is in the public interest.

"(b)(1) Amounts expended pursuant to this section shall be considered costs of response to the release with respect to which resulted in liability. Costs incurred in the defense of suits against indemnified parties under subsection (a)(1) may be paid to such contractor in a timely manner, in quarterly or other increments, unless and until such contracting or subcontracting party is proven negligent in a court or such contractor accepts liability for negligent action. The United States shall not otherwise participate, directly or indirectly, in the defense of contracting parties unless the United States is named as a first party defendant. No other amounts shall be expended pursuant to this section until after entry of a judgment or a final order.

"(2) Indemnification contracts entered into pursuant to this section shall not be subject to section 1301 or 1340 of title 31 or section 11 of title 41 of the United States Code.".

ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH

SEC. 153 (a) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section:

"ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH

"SEC. 119. (a)(1) The President is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies that may be utilized in response actions under section 104 or section 106 of this Act to achieve more permanent protection of the public health and welfare and the environment.

"(2) In carrying out the program established by this section, the President shall conduct a technology transfer program, including the development, collection, evaluation, coordination and dissemination of information relating to the utilization of alternative or innovative treatment technologies for response actions. The President shall establish and maintain a central reference library for such information. The information maintained by the President shall be made available to the public.

"(3) In carrying out activities under subsection (1), the President is authorized to enter into contracts and cooperative agreements with, and make grants to, any persons including public entities, accredited institutions of higher learning, and nonprofit private entities (as defined by 26 U.S.C. 501(c)(3)). The President shall, to the maximum extent possible, enter into appropriate cost-sharing arrangements under this section.

"(b)(1) The President may, consistent with the provisions of this section, provide assistance or information to any persons, including public entities, accredited institutions of higher learning, and nonprofit private entities who wish to have alternative and innovative treatment technologies tested or evaluated for utilization in response activities.

"(2) The President may arrange for the use of sites, either wholly or in part, listed as national priority sites under section 105(a)(8)(B), or at which a response is taken pursuant to section 104 or 106, for the purposes of research, testing, evaluation, development, and demonstration under such terms and conditions as the President shall require to assure the protection of human health and the environment.

"(3) Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

"(c) To carry out the program authorized by this section, the President shall, within 2 years after the date of enactment of this section, and after notice and an opportunity for public comment, designate at least 10 sites listed under section 105(a)(8)(B) as appropriate for field demonstrations of alternative or innovative treatment technologies, after analyzing sites for potential response actions. If the President determines that 10 sites cannot be designated consistent with the criteria of this subsection, the President shall within the 2-year period report to the Environment and Public Works Committee of the Senate, and the Science and Technology Committee, the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives explaining the reasons for the failure to designate such sites. Other funding priorities shall not be deemed sufficient explanation under this subsection for failure to designate such sites. Not later than 12 months after designation of a site under this section, the President shall begin or cause to begin a demonstration of alternatives or innovative treatment technologies at such site. In designating such sites under this section, the President shall, consistent with the protection of human health and the environment, consider each of the following criteria:

"(1) The potential for contributing to solutions to those waste problems that pose the greatest threat to human health, which cannot be adequately controlled with present technologies, or which otherwise pose significant management difficulties.

"(2) The availability of technologies that have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(3) The suitability of the sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the sites, the capability to conduct demonstrations in such a manner as to assure the protection of human health and the environment, and the comments of the public.

"(4) The likelihood that the data to be generated from the demonstration at the site will be applicable to other sites.

"(d) In selecting alternative or innovative treatment technologies for use in response actions under this title, the President shall determine that response actions incorporating such technologies provide for cost-effective response if their life cycle cost does not exceed the life cycle of the most effective alternative by more than 300 per centum.

"(e) For the purposes of this section, the term 'alternative or innovative treatment technologies' means those technologies that permanently alter the composition of hazardous waste through chemical, biological or physical means so as to signficantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. This term also includes technologies that characterize or assess the extent of contamination or the chemical or physical character of the contaminents at such sites.

"(f) REPORTS TO CONGRESS.—(1) At the time of the submission of the annual budget request to Congress, the President shall submit a report to the Environment and Public Works Committee of the Senate and the Science and Technology Committee; the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives on the progress of the research, development, and demonstration program authorized by this Act, including an evaluation of the demonstration projects undertaken, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous substances, the costs of such demonstrations, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

"(2) If the total estimated Federal contribution to the cost of any field demonstration project under section (a) exceeds $5,000,000, the President shall provide a full and comprehensive report on the proposed demonstration project to the Environment and Public Works Committee of the Senate, and the Science and Technology Committee, the Energy and Commerce Committee, and the Public Works and Transportation Committee of the House of Representatives, and no funds may be expended for such project under the authority granted by this section prior to the expiration of 30 calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) from the date on which the President's report on the proposed project is received by the Congress.

"(g) The President shall, to the maximum extent practicable, provide adequate opportunity for small business participation in the activities authorized under this Act.".

(b) Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended as follows:

(1) Strike out "and" at the end of paragraph (8)(B).

(2) Strike out the period at the end of paragraph (9) and substitute "; and".

(3) Add the following new paragraph at the end thereof:

"(10) standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this Act.".

(c) Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection:

"( ) There is authorized to be appropriated for each of the fiscal years 1986, 1987, 1988, 1989, and 1990, from sums appropriated or transferred to the Hazardous Substance Response Trust Fund under section 9505(b)(1)(c) of the Internal Revenue Code of 1954, not more than $25,000,000 to be used for purposes of carrying out the research, development and demonstration program for alternative or innovative technologies authorized under section 116. Amounts made available under this subsection shall remain available until expended.".

(d) Within 4 years from the date of the enactment of this section, the President shall transmit to Congress a study of the effects of the standards of liability and financial responsibility requirements imposed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 on the cost of, and incentives for, developing and demonstrating alternative and innovative treatment technologies.

ADMINISTRATIVE CONFERENCE RECOMMENDATION

SEC. 154. The Congress finds that recommendation 84-4 of the Administrative Conference of the United States (adopted June 29, 1984) is generally consistent with the goals and purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and that the Administrator should consider such recommendation and implement it to the extent that the Administrator determines that such implementation will expedite the cleanup of hazardous substances which have been released into the environment.

PROCUREMENT PROCEDURES

SEC. 155. Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new section at the end thereof:

"PROCUREMENT PROCEDURES

"SEC. . Notwithstanding any other provision of law, any executive agency may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a civil or criminal action under this Act, whether or not the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this Act and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.".

RADON PROTECTION AT CURRENT NATIONAL PRIORITIES LIST SITES

SEC. 156. It is the sense of the Congress that the President, in selecting response action for facilities included on the National Priorities List published under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 because of the presence of radon, is not required by statute or regulations to use fully demonstrated methods, particularly those involving the offset transport and disposition of contaminated material, but may use innovative or alternative methods which protect human health and the environment in a more cost-effective manner.

PROPOSED RECOMMENDED MAXIMUM CONTAMINANT LEVELS OF ORGANIC AND INORGANIC CHEMICALS

SEC. 157. Not later than October 9, 1985, the Director of the Office of Management and Budget shall complete his review and make available for publication in the Federal Register all of the proposed recommended maximum contaminant levels for those organic and inorganic chemicals published by the Administrator of the Environmental Protection Agency in volume 48, Federal Register, page 45502 and submitted by the Administrator to the Director prior to April 30, 1985.

CENTERS TO STUDY THE BIOLOGICAL AND GENETIC EFFECTS OF WASTES AND MATERIALS FOUND IN THE ENVIRONMENT

SEC. 158. Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "develop and construct regional centers at appropriately qualified universities, research and medical institutions for the study of the biological and genetic effects of wastes and materials found in the environment".

CENTERS FOR THE STUDY OF BIOLOGICAL AND GENETIC EFFECTS ON HUMANS, ANIMALS AND PLANTS OF WASTES AND MATERIALS FOUND IN THE ENVIRONMENT

SEC. 159. Section 111(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following: "subject to such amounts as are provided in appropriations Acts, all costs necessary to develop and construct regional centers for study of the biological and genetic effects on humans, animals and plants of wastes and materials found in the environment".

REVIEW OF EMERGENCY SYSTEMS

SEC. 160. (a) The Administrator of the Environmental Protection Agency is directed to initiate, not later than thirty days after enactment of this Act, a comprehensive review of emergency systems for monitoring, detecting, and preventing releases of extremely hazardous substances at representative domestic facilities that produce, use, or store extremely hazardous substances. The Administrator may select representative extremely hazardous substances for the purposes of this review. Such extremely hazardous substances shall be the same substances and quantities listed by the Council of the European Communities in its "Council Directive of June 24, 1982, on the Major Accident Hazards of Certain Industrial Activities, Annex III", published in the official Journal of the European Communities, August 5, 1982. The Administrator shall report interim findings to the Congress not later than two hundred and ten days after such date of enactment, and issue a final report of findings and recommendations to the Congress not later than three hundred sixty five days after such date of enactment. Such report shall be prepared in consultation with the States and appropriate Federal agencies.

(b) The report required by this section shall include the Administrator's findings regarding:

(1) the status of current technological capabilities to: (A) monitor, detect, and prevent, in a timely manner, significant releases of extremely hazardous substances, (B) determine the magnitude and direction of the hazard posed by each release, (C) identify specific chemicals, (D) provide data on the specific chemical composition of such releases, and (E) the relative concentrations of the constituent chemicals;

(2) the status of public emergency alert devices or systems for providing timely and effective public warning of an accidental release of extremely hazardous substances to the environment, including: releases into the atmosphere, surface water, or groundwater, from facilities that produce, store, or use significant quantities of such extremely hazardous substances; and

(3) the technical and economic feasibility of establishing, maintaining, and operating perimeter alert systems for detecting releases of such extremely hazardous substances to the atmosphere, surface water, or groundwater, at facilities that manufacture, use, or store significant quantities of such substances.

(c) The report required by this section shall also include the Administrator's recommendations for:

(1) initiatives to support the development of new or improved technologies or systems that would facilitate the timely monitoring, detection, and prevention of releases of extremely hazardous substances, and

(2) improving devices or systems for effectively alerting the public in a timely manner, in the event of an accidental release of such extremely hazardous substances.

POST CLOSURE LIABILITY PROGRAM STUDY, REPORT TO CONGRESS AND SUSPENSION OF LIABILITY TRANSFERS

SEC. 161. (a) Subsection (k) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new paragraphs:

"(5)(A) The Administrator shall conduct a study of options for a program to finance the post-closure maintenance of hazardous waste treatment, storage, and disposal sites in a manner which complements the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and assures the protection of human health and the environment.

"(B) A report setting forth the conclusions of such study and recommendations of the Administrator shall be submitted to the Congress not later than March 1, 1988.

"(C) The study shall include assessments of treatment, storage, and disposal facilities which have been or are likely to be issued a permit under section 3005 of the Solid Waste Disposal Act and the likelihood of future insolvency on the part of owners and operators of such facilities. Separate assessments shall be made for different classes of facilities, and for different classes of land disposal facilities, and shall include but not be limited to—

"(i) the current and future financial capabilities of facility owners and operators;

"(ii) the current and future costs associated with facilities, including the costs of routine monitoring and maintenance, compliance monitoring, corrective action, natural resource damages, and liability for damages to third parties; and

"(iii) the availability of mechanisms by which owners and operators of such facilities can assure that current and future costs, including post-closure costs, will be financed.

"(D) The recommendations of the Administrator shall include assessments of various mechanisms and combinations of mechanisms to complement the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and to assure that the current and future costs associated with hazardous waste facilities, including post-closure costs, will be adequately financed and, to the greatest extent possible, borne by the owners and operators of such facilities. Mechanisms to be considered include, but are not limited to—

"(i) revisions to closure, post-closure, and financial responsibility requirements under subtitles C and I of the Solid Waste Disposal Act;

"(ii) voluntary risk pooling by owners and operators;

"(iii) legislation to require risk pooling by owners and operators; and

"(iv) modification of the Post-Closure Liability Trust Fund previously establish by section 232 of this Act, and the conditions for transfer of liability under this subsection, including limiting the transfer of some or all liability under this subsection only in the case of insolvency of owners and operators.

"(6) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) of this subsection and subsection (j) of section 111 of this Act, no liability shall be transferred to or assumed by the Post-Closure Liability Fund previously established by section 232 of this Act prior to completion of the study required under paragraph (5) of this subsection, transmission of such study and report to both Houses of Congress, and authorization of such a transfer or assumption by Act of Congress following receipt of such study and report.".

DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM

SEC. 162. (a) ENVIRONMENTAL RESTORATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the "Defense Environmental Restoration Program".

(2) APPLICATION OF SECTION 117.—The program shall be carried out subject to section 117 (relating to Federal facilities).

(3) DESIGNATION OF ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have the responsibility for carrying out the program.

(b) PROGRAM GOALS.—Goals of the program shall include the following:

(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances and wastes.

(2) Correction of other environmental damage, such as detection and disposal of unexploded ordnance, which creates an imminent and substantial endangerment to the public health or welfare, or to the environment.

(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of and this title) all response action for which the Secretary is responsible with respect to releases of hazardous substances from each of the following:

(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the administrative jurisdiction of the Secretary.

(B) Each facility or site which was under the administrative jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

(C) Each vessel of the Department of Defense, including vessels owned or bareboat chartered and operated.

(2) STATE FEES AND CHARGES.—The Secretary shall pay all fees and charges imposed by State authorities for permit services for the storage or disposal (or both) of hazardous substances on lands which are under the administrative jurisdiction of the Secretary to the same extent that nongovernmental entities are subject to fees and charges imposed by State authorities for permit services. This requirement shall not apply where such payment is the responsibility of a lessee, contractor, or other private person.

(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of his responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any offsite contaminations possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's administrative jurisdiction.

(e) ENVIRONMENTAL RESTORATION TRANSFER ACCOUNT.—

(1) ESTABLISHMENT OF TRANSFER ACCOUNT.—

(A) ESTABLISHMENT.—There is hereby established an annual appropriation account for the Department of Defense to be know as the "Environmental Restoration, Defense" account (hereinafter in this section referred to as the "transfer account"). All sums appropriated to carry out the functions of the Secretary relating to environmental restoration under this or any other Act shall be appropriated to the transfer account.

(B) REQUIREMENT OF AUTHORIZATION OF APPROPRIATION.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

(C) AVAILABILITY OF FUNDS IN TRANSFER ACCOUNT.—Amounts appropriated to the transfer account shall remain available until transferred under paragraph (2).

(2) AUTHORITY TO TRANSFER TO OTHER DOD ACCOUNTS.—Amounts in the transfer account shall be available to be transferred by the Secretary to any other appropriation account or fund. Funds so transferred shall be merged and available for the same purposes and for the same period as the account or fund to which transferred.

(3) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) and subsection (e)(2) may only be obligated or expended from the account or fund to which transferred in order to carryout the functions of the Secretary under this Act of environmental restoration functions under any other Act, including functions for removal of unsafe buildings or debris of the Department of Defense at sites formerly used by the Department of Defense.

(4) LIMITATION ON EXPENDITURES.—

(A) GENERAL RULE.—The Secretary may not obligate or expend funds for purposes of this Act or any other purpose relating to environmental

(B) EXCEPTION FOR EMERGENCY RESPONSE ACTION.—The Secretary may obligate or expend funds which are available to the Secretary for operation and maintenance to carry out emergency response actions authorized under this Act whenever the Secretary determines that such obligation or expenditure is necessary to protect the public health or welfare, or the environment. In any such case, the operation and maintenance account concerned shall be reimbursed from the transfer account.

(C) REPROGRAMMING.—Any reprogramming request relating to environmental restoration into the transfer account must be forwarded to the Senate Armed Services Committee, the House Armed Services Committee, the Senate Appropriations Committee and the House Appropriations Committee on a notification basis. The request for reprogramming will be considered approved unless action to the contrary is taken by any one of those committees within a twenty-one-day period beginning on the date of the notification is received by those committees (or after each such committee has approved the reprogramming request, if the committees approved the request before the end of that period).

(5) AMOUNTS RECOVERED UNDER SUBTITLE A.—Amounts recovered under section 107 for response actions of the Secretary shall be credited to the transfer account (if appropriated by Congress for that purpose).

(f) MILITARY CONSTRUCTION FOR RESPONSE ACTION.—

(1) AUTHORITY.—Subject to subsection (b), the Secretary may carry out a military construction project not otherwise authorized by law if necessary to carry out a response action under this Act.

(2) CONGRESSIONAL NOTICE-AND-WAIT.—

(A) NOTICE TO CONGRESS.—When a decision is made to carry out a military construction project under this section, the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the following:

(i) The justification for the project and the current estimate of the cost of the project.

(ii) The justification for carrying out the project under this section.

(iii) A statement of the source of the funds to be used to carry out the project.

(B) OVERSIGHT PERIOD.—The project may then be carried out only after the end of the twenty-one-day period beginning on the date of the notification is received by those committees (or after each such committee has approved the project, if the committees approved the project before the end of that period).

REPORT TO CONGRESS BY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE ATTORNEY GENERAL

SEC. 163. Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act is amended by adding the following new subsections:

"( ) The Administrator of the Environmental Protection Agency and the Attorney General shall submit to Congress annually on the first day of January a report including:

"(1) the rules, guidelines, criteria and procedures used to determine which potentially responsible parties to include as defendants in a judicial or administrative enforcement action under this Act;

"(2) the rules, guidelines, criteria, and procedures used to develop facts and information regarding potentially responsible parties at priority sites and to provide such information to potentially responsible parties in order to assist the settlement process;

"(3) the rules, guidelines, criteria and procedures used to determine whether, to what extent, and on what basis to use Fund resources for removal or remedial actions in connection with a settlement or voluntary cleanup.".

HAZARDOUS MATERIALS TRANSPORTATION

SEC. 164. (a) Section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "within ninety days after the date of enactment of this Act" in the first sentence and inserting in lieu thereof "by June 1, 1986,"; and by inserting the words "and regulate" before the words "as a hazardous material".

"(b) Section 306(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the words "and regulation" after "prior to the effective date of the listing".

TITLE II—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Superfund Revenue Act of 1985".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. 5-YEAR EXTENSION OF TAX ON PETROLEUM AND CERTAIN CHEMICALS; CERTAIN EXEMPTIONS.

(a) 5-YEAR EXTENSION; TERMINATION IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—

(1) IN GENERAL.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax imposed by this subsection shall not apply after September 30, 1990.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND IS MORE THAN CERTAIN AMOUNT.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $2,225,000,000 or $3,000,000,000, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $2,225,000,000 or $3,000,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under section 4001, 4611, or 4661 during calendar year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) NO TAX IF AMOUNTS COLLECTED EXCEED $7,500,000,000.—

"(A) ESTIMATES BY SECRETARY.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under sections 4001, 4611, and 4661 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) TERMINATION IF $7,500,000,000 CREDITED BEFORE SEPTEMBER 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $7,500,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section after the date on which the Secretary estimates $7,500,000,000 will be so credited to the Fund.

"(4) PROCEDURES FOR TERMINATION.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section and section 4661.".

(2) CONFORMING AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(b) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) IN GENERAL.—Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) a tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that such person—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(2) REFUND OR CREDIT.—Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" in subparagraph (B) and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" in the last sentence and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (e) of this section)".

(c) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—

(1) IN GENERAL.—Section 4662(b) (relating to exceptions and other special rules) is amended by adding at the end thereof the following new paragraph:

"(7) RECYCLED CHROMIUM, COBALT, AND NICKEL.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, or nickel which is diverted or recovered from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXCEPTION FOR IMPORTS.—This paragraph shall not apply to the sale of any chromium, cobalt, or nickel which is diverted or recovered outside the United States and then imported into the United States.

"(C) CERTAIN PERSONS NOT ELIGIBLE.—

"(i) IN GENERAL.—This paragraph shall not apply to any taxpayer during any period during which the taxpayer is a potentially responsible party for a site which is listed on the National Priorities List published by the Environmental Protection Agency under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, except that such period shall not begin until the Administrator of the Environmental Protection Agency notifies the taxpayer that the taxpayer is such a party.

"(ii) EXCEPTION WHERE TAXPAYER IS IN COMPLIANCE.—Clause (i) shall not apply to any portion of the period during which the taxpayer is in compliance with each order, decree, or judgment issued against the taxpayer with respect to the site in any action or proceeding under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, or both.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal.".

(2) CREDIT OR REFUND.—Paragraph (1) of section 4662(d), as amended by subsection (b)(2), is amended by inserting "(b)(7) or" before "(e)" in the last sentence thereof.

(d) TAX EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to the tax on certain chemicals), as amended by subsection (c)(1), is amended by adding at the end thereof the following paragraph:

"(8) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.".

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(8), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(8) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.".

(e) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsection (b), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) EXCEPTION FOR EXCHANGES WHERE RECIPIENT NOT TAXABLE.—Subparagraph (A) shall not apply to any inventory exchange if the person receiving the taxable chemical would not be subject to tax on the sale of such chemical (other than by reason of subsection (b)).

"(C) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(D) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means an exchange in which a person exchanges property which, in the hands of such person, is property described in section 1221(1) for property of another person which, in such other person's hands, is so described.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1985.

(2) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendment made by subsection (e) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (e) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of the Internal Revenue Code of 1954 and paid the tax imposed by such section.

(C) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(C) of such Code (as added by subsection (e)) shall apply to exchanges made after December 31, 1985.

SEC. 203. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—SUPERFUND EXCISE TAX

"SUBCHAPTER A. Imposition of tax.
"SUBCHAPTER B. Taxable transaction.
"SUBCHAPTER C. Taxable amount; exempt transactions; credit against tax.
"SUBCHAPTER D. Administration.
"SUBCHAPTER E. Definitions; special rules.

"Subchapter A—Imposition of Tax

"Sec. 4001. Imposition of tax.
"Sec. 4002. Termination.

"SEC. 4001. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this chapter, the amount of the tax shall be .08 percent of the taxable amount.

"SEC. 4002. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under this section after December 31, 1990.

"(b) NO TAX IF FUNDS UNSPENT OR $7,500,000,000 COLLECTED.—No tax shall be imposed under subsection (a) during any period during which no tax is imposed under section 4611(a) by reason of paragraph (2) or (3) of section 4611(d), except that section 4611(d)(3) shall, for purposes of this subsection, be applied by substituting 'December 31, 1990' for 'September 30, 1990' each place it appears.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period which begins before and ends after the date of any termination under this section, the tax imposed by section 4001 (and the credit allowable under section 4013) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined without regard to the termination) as—

"(A) the number of days in such taxable period up to and including the date of termination, bears to

"(B) the number of days in such taxable period.

"(2) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"Subchapter B—Taxable Transaction

"Sec. 4003. Taxable transaction.
"Sec. 4004. Taxable person.

"SEC. 4003. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this chapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property in the United States by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the customs territory of the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—For exempt transactions, see section 4012.

"SEC. 4004. TAXABLE PERSON.

"Except as otherwise provided in this chapter, for purposes of this chapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4003(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4003(a), the importer of the tangible personal property.

"Subchapter C—Taxable Amount; Exempt Transactions; Credit Against Tax

"Sec. 4011. Taxable amount.
"Sec. 4012. Exempt transactions.
"Sec. 4013. Credit against tax on sales and leases.

"SEC. 4011. TAXABLE AMOUNT.

"(a) SALE.—For purposes of this chapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4001 with respect to such transaction.

"(b) IMPORTS.—For purposes of this chapter, the taxable amount in the case of any import shall be—

"(1) the customs value plus customs duties and any other duties which may be imposed, or

"(2) if there is no such customs value, the fair market value (determined as if the importer had sold the property).

"(c) LEASES.—For purposes of this chapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) CONTAINERS, PACKING AND TRANSPORTATION CHARGES; CONSTRUCTIVE SALES PRICE.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing and transportation charges, etc., and constructive sales price) shall apply in computing the taxable amount.

"(e) SPECIAL RULE WHERE SALE OR LEASE PAYMENTS RECEIVED IN MORE THAN 1 TAXABLE PERIOD.—

"(1) SALES.—In the case of a sale where the consideration is received by the seller in more than 1 taxable period, the taxable amount for each such taxable period shall include that portion of the taxable amount which is includible in the gross income of the taxable person for purposes of chapter 1 for taxable years ending with or within such taxable period (or would be so includible if it were not excludable from gross income).

"(2) LEASES.—In the case of a lease with a term which includes more than 1 taxable period, the taxable amount for each such taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4012. EXEMPT TRANSACTIONS.

"(a) IMPORTS OF $10,000 OR LESS.—No tax shall be imposed under section 4001 on any tangible personal property imported into the customs territory of the United States as part of a shipment (within the meaning of section 498(1) of the Tariff Act of 1930; 19 U.S.C. 1498(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) EXPORTS.—Under regulations, no tax shall be imposed under section 4001 on the sale of any property which is to be exported outside the United States.

"(c) GOVERNMENTAL ENTITIES AND EXEMPT ORGANIZATIONS EXEMPT FROM TAX ON SALES AND LEASES.—

"(1) GOVERNMENTAL ENTITIES.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by the United States, any State or political subdivision, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

"(2) EXEMPT ORGANIZATIONS.—No tax shall be imposed under section 4001 on the sale or leasing of any tangible personal property by any organization which is exempt from taxation under chapter 1 by reason of section 501(a), unless the taxable transaction is part of an unrelated trade or business (within the meaning of section 513).

"SEC. 4013. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 4001 for any taxable period on taxable transactions described in paragraph (1) of section 4003(a) an amount equal to the greater of—

"(1) 0.08 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) the amount of the tax imposed by section 4001 on such taxable transactions, to the extent such amount does not exceed $4,000.

"(b) LIMITATION BASED ON TAX LIABILITY; CARRYFORWARD OF EXCESS CREDIT.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4001 for such period.

"(2) CARRYFORWARD OF EXCESS CREDIT.—If the credit allowable under subsection (a) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a) for such succeeding taxable period.

"(c) QUALIFIED INVENTORY COSTS.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) EXPENSING RATHER THAN DEPRECIATION OR AMORTIZATION.—The qualified inventory costs of any taxpayer for any taxable period shall, in lieu of any allowance for depreciation or amortization, include any amount paid or incurred during such taxable period for tangible personal property acquired or leased incident to, and necessary for, production or manufacturing operations or processes.

"(B) TAXPAYERS USING METHODS OF ACCOUNTING OTHER THAN THE FULL ABSORPTION METHOD.—In the case of a taxable person using a method of accounting other than the full absorption method used in determining the inventory of a manufacturer under section 471, the qualified inventory costs of such person shall, except as provided in regulations, include only those costs included in the inventory of a manufacturer under such full absorption method.

"(C) PROPERTY MANUFACTURED FOR LEASE BY MANUFACTURER.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) SPECIAL RULE FOR TAXPAYERS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—All persons which are—

"(A) members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of applying the $4,000 amount under subsection (a)(2).

"(2) ALLOCATION OF $4,000.—The $4,000 amount under subsection (a)(2) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"Subchapter D—Administration

"Sec. 4021. Liability for tax.
"Sec. 4022. Return requirement; taxable period; depositary requirements.
"Sec. 4023. Regulations.

"SEC. 4021. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4001.

"SEC. 4022. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITARY REQUIREMENTS.

"(a) RETURN REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4001 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if there is no return of tax under chapter 1, the due date (including extensions) under chapter 1 for a taxable year which is the calendar year.

"(2) EXCEPTION FOR SALES OR LEASES OF $5,000,000 OR LESS.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4003(a) if the aggregate taxable amount for such transactions is $5,000,000 or less.

"(3) OTHER EXCEPTIONS.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) TAXABLE PERIOD.—For purposes of this chapter, the term 'taxable period' means—

"(1) the taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) DEPOSITARY REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any person with respect to whom a tax is imposed under section 4001 for any taxable period on any taxable transaction described in paragraph (1) of section 4003(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) SPECIAL RULE FOR 1ST TAXABLE PERIOD.—Notwithstanding paragraph (1), a deposit shall be required for the first taxable period of any taxable person to which this chapter applies if the gross receipts of such person during the first taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.

"SEC. 4023. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.

"Subchapter E—Definitions; Special Rules

"Sec. 4031. Definitions; special rules.

"SEC. 4031. DEFINITIONS; SPECIAL RULES.

"(a) MANUFACTURING.—For purposes of this chapter—

"(1) PRODUCTION INCLUDED.—The term 'manufacturing' includes the production of tangible personal property, including raw materials.

"(2) CERTAIN ACTIVITIES NOT INCLUDED IN MANUFACTURING.—The term 'manufacturing' does not include—

"(A) the furnishing of services incidental to storage or transportation of property,

"(B) the preparation of food in a restaurant or other retail food establishment, or

"(C) the incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) MANUFACTURER.—For purposes of this chapter, the term 'manufacturer' includes any producer of tangible personal property (including raw materials), but does not include any person conducting an activity described in subsection (a)(2).

"(c) PERSON.—For purposes of this chapter, the term 'person' includes any governmental entity.

"(d) UNITED STATES.—For purposes of this chapter, the term 'United States', when used in a geographical sense, includes a Commonwealth and any possession of the United States.

"(e) TANGIBLE PERSONAL PROPERTY.—For purposes of this chapter, the term 'tangible personal property' does not include unprocessed agricultural products or unprocessed food products.

"(f) UNPROCESSED AGRICULTURAL PRODUCTS.—For purposes of this chapter, the term 'unprocessed agricultural product' includes timber and fish.

"(g) CUSTOMS TERRITORY OF THE UNITED STATES.—For purposes of this chapter, the term 'customs territory of the United States' has the meaning given such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States (19 U.S.C. 1202).

"(h) TAX ON IMPORT IN ADDITION TO DUTY.—The tax imposed by section 4001 on the importing of any tangible personal property shall be in addition to any duty imposed on such importation.

"(i) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 and any similar provision of law which requires an internal revenue tax collected by the United States to be paid to a Commonwealth or possession of the United States shall not apply to any tax imposed by section 4001.

"(j) SPECIAL RULE FOR SHORT TAXABLE PERIODS.—In the case of a taxable period which is less than 1 calendar year, there shall be substituted for the $4,000 amounts in subsections (a) and (d) of section 4013 and the $5,000,000 amount in section 4022(a)(2) the amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

"(k) SALE TO INCLUDE CERTAIN EXCHANGES AND TRANSFERS.—For purposes of this chapter, except as provided in regulations, the term 'sale' includes any exchange or transfer other than a gift (within the meaning of section 102 or section 170).".

(b) APPLICATION OF CERTAIN PENALTIES.—

(1) FAILURE TO FILE RETURN OR PAY TAX.—Paragraph (1) of section 6651(a) (relating to addition to tax) is amended by inserting "section 4022 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) NEGLIGENCE PENALTY.—Section 6653(a) (relating to negligence or intentional disregard of rules and regulations) is amended—

(A) by inserting ", by chapter 30 (relating to Superfund excise tax)," after "subtitle B" in paragraph (1) thereof, and

(B) by striking out "Windfall Profit" in the heading thereof and inserting in lieu thereof "Certain Excise".

(3) FAILURE TO MAKE DEPOSITS.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR SUPERFUND EXCISE TAX.—For purposes of subsection (a), in the case of the tax imposed by section 4001, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4001 during the taxable period on taxable transactions described in paragraph (1) of section 4003(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting before the item relating to chapter 31 the following new item:

"CHAPTER 30. Superfund excise tax.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods beginning after December 31, 1985.

(2) SPECIAL RULE FOR IMPORTS.—In the case of imports, the amendments made by this section shall apply to articles entered, or withdrawn from warehouse, for consumption after December 31, 1985.

(3) SPECIAL RULE FOR TAXABLE PERIOD INCLUDING JANUARY 1, 1985.—In the case of any taxable period which begins before January 1, 1985, and ends after January 1, 1985, the tax imposed by section 4001 of the Internal Revenue Code of 1954 (and the credit allowable under section 4013 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after December 31, 1985, bears to

(B) the number of days in such taxable period.

SEC. 204. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section, or

"(2) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Superfund amounts equivalent to—

"(A) the taxes received in the Treasury under section 4001 (relating to Superfund excise tax),

"(B) the taxes received in the Treasury under section 4611 or 4661 (relating to taxes on petroleum and certain chemicals),

"(C) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(D) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(E) penalties assessed under title I of CERCLA, and

"(F) punitive damages under section 107(c)(3) of CERCLA.

"(2) TRANSFER OF CERTAIN OTHER FUNDS.—There shall be transferred to the Superfund—

"(A) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year, and

"(B) the unobligated balance in the Post-closure Liability Trust Fund as of October 1, 1985.

"(c) EXPENDITURES FROM THE SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 of CERCLA (other than subsection (j) thereof) as in effect on the date of the enactment of the Superfund Improvement Act of 1985, including—

"(A) response costs,

"(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

"(C) claims for injury to, or destruction or loss of, natural resources, and

"(D) related costs described in section 111(c) of CERCLA (other than paragraph (7) thereof).

"(2) LIMITATIONS ON EXPENDITURES.—At least 85 per centum of the amounts appropriated to the Superfund shall be reserved—

"(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of CERCLA, and

"(B) for the repayment of advances made under subsection (d), other than advances subject to the limitation of subsection (d)(2)(B).

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be neces-

sary to carry out the purposes of the Superfund.

"(2) LIMITATIONS ON ADVANCES TO SUPERFUND.—

"(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts described in paragraph (1) of subsection (b) which will be transferred to the Superfund during the following 12 months.

"(B) ADVANCES FOR CERTAIN COSTS.—The maximum aggregate amount advanced to the Superfund which is outstanding at any one time for purposes of paying costs other than costs described in section 111 (a)(1), (2), or (4) of CERCLA shall not exceed 15 percent of the amount of the estimate made under subparagraph (A).

"(C) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before December 31, 1990.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund (or when required by paragraph (2)(C)).

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Improvement Act of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund is unable (by reason of paragraph (1)) to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.".

(b) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9505. Hazardous Substance Superfund.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 205. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) REFUND OF UNOBLIGATED BALANCE.—An amount equal to the unobligated balance in the Post-Closure Liability Trust Fund as of October 1, 1985, which is transferred into the Hazardous Substance Superfund pursuant to section 9505(b)(2) of the Internal Revenue Code of 1954, shall be paid out from such Superfund, effective March 1, 1989, as refunds of the taxes paid under section 4681 of such Code (as in effect prior to October 1, 1985), unless, prior to March 1, 1989, congressional action has been taken pursuant to section 107(k)(6) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Such refunds shall be paid on a proportional basis to the amounts of such taxes paid, and without interest.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1985.

SEC. 206. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 207. REPORT ON METHODS OF FUNDING SUPERFUND.

Not later than January 1, 1988, the Comptroller General of the United States or his delegate shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to various methods of funding the Hazardous Substances Superfund, including a study of the effect of taxes on the generation and disposal of hazardous wastes.

SEC. 208. CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 1982, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1954 shall be reduced by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall apply only to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facilitly by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

SEC. 209. SENSE OF THE SENATE RELATING TO THE VALUE ADDED TAX.

(a)(1) The Value Added Tax is a regressive tax which places the burden of paying for pollution on persons other than those responsible for it.

(2) The Value Added Tax on H.R. 2005 represents a dangerous shift toward the principle of a broad-based tax on sales.

(3) The Value Added Tax has escalated rapidly in virtually every country in which it has been implemented.

(4) The administration has stated, in a September 16, 1985, Statement of Administration Policy the "(t)he President's senior advisors will recommend disapproval of any legislation containing a value-added or other broad-based tax".

(5) The House of Representatives is expected to adopt a financing mechanism for the Superfund bill which will not include the Value Added Tax.

(6) The Administration will not be prepared to release its alternative to the Value Added Tax until after the Senate has completed action on the Superfund legislation.

(7) Prolonged debate on the floor of the Senate concerning an alternative to the Value Added Tax would unduly delay, consideration of this legislation.

(b) The sense of the Senate that the committee on conference on H.R. 2005 or such other comparable Superfund reauthorization legislation as shall be approved by both Houses of Congress should report legislation containing a reliable financing mechanism for the Superfund program which does not include the Value Added Tax.

TITLE III—LEAD FREE DRINKING WATER

SHORT TITLE

SEC. 301. This title may be cited as the "Lead Free Drinking Water Act."

SAFE DRINKING WATER ACT AMENDMENTS

SEC. 302. (a) IN GENERAL.—Part B of title XIV of the Public Health Service Act is amended by adding at the end thereof the following new section:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

"SEC. 1417. (a) IN GENERAL.—

"(1) PROHIBITION.—Any pipe, solder, or flux, which is used after date of enactment of the Safe Drinking Water Act of 1985, in the installation or repair of—

"(A) any public water system, or

"(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

must be lead free (as defined in subsection (d)). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.

"(2) PUBLIC NOTICE OF ADVERSE EFFECTS.—Each community public water system shall provide notice, developed in consultation with the Administrator, to all users of the system with respect to—

"(A) the adverse health effects of exposure to lead, including a description of those populations which may be particularly sensitive to such exposure; and

"(B) any means reasonably available to such users for mitigating lead exposure from drinking water, taking into consideration the need to conserve water.

"(b) STATE ENFORCEMENT.—

"(1) ENFORCEMENT OF PROHIBITION.—The requirements of subsection (a)(1) shall apply to all States effective 24 months after the date of the enactment of this section. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

"(2) ENFORCEMENT OF PUBLIC NOTICE REQUIREMENTS.—The requirements of subsection (a)(2) shall apply to all States effective 24 months after the date of the enactment of this section.

"(c) PENALTIES.—If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may commence a civil action under section 1414(b).

"(d) DEFINITION OF LEAD FREE.—For purposes of this section, 'lead free' means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.".

(b) CIVIL ACTION.—Section 1414(b) of the Public Health Service Act is amended—

(1) in the matter preceding paragraph (1), by inserting ", or with section 1417," after "or 1416"; and

(2) in paragraph (1), by inserting ", or under section 1417" after "subsection (a)".

(c) NOTIFICATION TO STATES.—The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act within 90 days after the date of the enactment of this Act.

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

SEC. 303. (a) PROHIBITION.—(1) The Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

(2) For purposes of paragraph (1), "lead free" means solders and flux containing not more than 0.2 percent lead, and pipes and pipe fittings containing not more than 6.0 percent lead.

(b) EFFECTIVE DATE.—Subsection (a) shall become effective 24 months after the date of the enactment of this Act.

LEAD SOLDER AS A HAZARDOUS SUBSTANCE

SEC. 304. (a) IN GENERAL.—Section 2(f)(1) of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(E) Any solder which has a lead content in excess of 0.2 percent.".

(b) LABELING.—Section 4 of the Federal Hazardous Substances Act is amended by adding at the end thereof the following:

"(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 24 months after the date of the enactment of this Act.

TITLE IV—POLLUTION INSURANCE

AMENDMENTS RELATED TO THE INSURANCE OF POLLUTION LIABILITY

SEC. 401. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following at the end thereof:

"TITLE IV—POLLUTION INSURANCE

"SEC. 401. This title may be cited as the 'Pollution Liability Insurance and Risk Retention Act'.

"DEFINITIONS

"SEC. 402. (a) As used in this title—

"(1) 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law;

"(2) 'pollution liability' means liability for injuries arising from the release of hazardous substances, pollutants or contaminants;

"(3) 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability or of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis; and

"(5) 'State' means any State of the United States or the District of Columbia.

"(b) Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State, and the definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this Act, including recognition or qualification of risk retention groups or purchasing groups.

"(c) The authority to offer or to provide insurance under this title shall be limited to coverage of pollution liability risks and this title does not authorize a risk retention group or purchasing group to provide coverage of any other line of insurance.

"RISK RETENTION GROUP EXEMPT FROM STATE LAWS

"SEC. 403. (a) Except as provided in this section, a risk retention group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

"(1) make unlawful, or regulate, directly or indirectly, the operation of a risk retention group except that the jurisdiction in which it is chartered may regulate the formation and operation of such a group and any State may require such a group to—

"(A) comply with the unfair claim settlement practices law of the State;

"(B) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State;

"(C) participate, on a nondiscrimatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism;

"(D) submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses;

"(E) register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process, and, upon request, furnish such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction;

"(F) submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group; and

"(G) comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (F) of this paragraph;

"(2) require or permit a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong;

"(3) require any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in that State; or

"(4) otherwise discriminate against a risk retention group or any of its members, except that nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

"(b) The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

"(c) A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"PURCHASING GROUPS

"SEC. 404. (a) Except as provided in this section, a purchasing group is exempt from any State law, rule, regulation, or order to the extent that such law, rule, regulation, or order would—

"(1) prohibit the establishment of a purchasing group;

"(2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

"(3) prohibit a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection;

"(4) prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

"(5) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form;

"(6) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

"(7) require that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State; or

"(8) otherwise discriminate against a purchasing group or any of its members.

"(b) The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group; and

"(2) the sale of—

"(A) pollution liability insurance, and comprehensive general liability coverage;

"(B) insurance related services; or

"(C) management services;

to a purchasing group or member of the group.

"(c) A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"APPLICABILITY OF SECURITIES LAWS

"SEC. 405. (a) The ownership interests of members in a risk retention group shall be—

"(1) considered to be exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

"(2) considered to be securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

"(b) A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

TITLE V—INDOOR AIR QUALITY RESEARCH

SEC. 501. SHORT TITLE.—This title may be cited as the "Indoor Air Quality Research Act of 1985".

SEC. 502. FINDINGS.—The Congress finds that—

(1) indoor air exposures account for a significant portion of total human exposures to hazardous pollutants and contaminants in the environment;

(2) various scientific studies have suggested that indoor air pollution, including exposure to naturally occurring chemical elements such as radon, poses a significant public health and environmental risk;

(3) high levels of radon have been measured within structures throughout the country and within the Reading Prong;

(4) existing Federal indoor air quality research programs are fragmented and underfunded;

(5) the Environmental Protection Agency's programs on indoor air quality and radon have been hindered by a lack of clear statutory authority for conducting research on indoor air quality; and

(6) an adequate information base concerning potential indoor air quality problems, including exposure to radon, does not currently exist and should be developed by the Federal Government.

SEC. 503. INDOOR AIR QUALITY RESEARCH PROGRAM.—

(a) DESIGN OF PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a research program with respect to indoor air quality, including radon. Such program shall be designed to—

(1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment;

(2) coordinate Federal, State, local, and private research and development efforts relating to the improvement of indoor air quality; and

(3) assess appropriate Federal Government actions to mitigate the environmental and health risks associated with indoor air quality problems.

(b) PROGRAM REQUIREMENTS.—The research program required under this section shall include—

(1) research and development concerning the identification, characterization, and monitoring of the sources and levels of indoor air pollution, including radon, which includes research and development relating to—

(A) the measurement of various pollutant concentrations and their strengths and sources,

(B) high-risk building types, and

(C) instruments for indoor air quality data collection;

(2) research relating to the effects of indoor air pollution and radon on human health;

(3) research and development relating to control technologies or other mitigation measures to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems);

(4) demonstrations of methods for reducing or eliminating indoor air pollution and radon, including sealing, venting, and other methods that the Administrator determines may be effective;

(5) research, to be carried out in conjunction with the Secretary of Housing and Urban Development, for the purpose of developing—

(A) methods for assessing the potential for radon contamination of new construction, including (but not limited to) consideration of the moisture content of soil, porosity of soil, and the radon content of soil; and

(B) design measures to avoid indoor air pollution; and

(6) the dissemination of information to assure the public availabilility of the findings of the activities under this section.

(c) ADVISORY COMMITTEES.—The Administrator shall establish a committee comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality and an advisory group comprised of individuals representing the States, the scientific community, industry, and public interest organizations to assist him in carrying out the research program for indoor air quality.

(d) IMPLEMENTATION PLAN.—Not later than ninety days after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for implementation of the research program under this section. Such plan shall also be submitted to the EPA Science Advisory Board, which shall, within a reasonable period of time, submit its comments on such plan to Congress.

(e) INTERIM REPORT.—No later than one year after the date of this Act, the Administrator shall prepare an interim report providing—

(A) a preliminary identification of the locations and amounts of radon in structures across the United States, and

(B) guidance and information materials based on the findings of research of methods for mitigating radon.

(f) REPORT.—

(1) Not later than two years after the date of enactment of this Act, the Administrator shall, in consultation with advisory committees and groups identified in subsection (c), submit to the Congress a report assessing—

(A) the state of knowledge concerning the risks to human health associated with indoor air pollution, including naturally occurring chemical elements such as radon;

(B) the locations and amounts of indoor air pollutants, including radon, in residential, commercial, and other structures throughout the country;

(C) the existing standards for indoor air pollutants, including radon, suggested by Federal or State Governments or scientific organizations and the risk to human health associated with such standards;

(D) the research needs and relative priority of these needs;

(E) the potential effectiveness of possible government actions necessary to mitigate the environmental and health risks associated with indoor air quality problems, including radon, in existing and in future structures,

and making such recommendations as may be appropriate.

(2) In developing such report, the Administrator shall consult with the National Academy of Sciences on the scientific issues regarding the quality of indoor air and the risks to human health associated with indoor air pollution.

(g) CONSTRUCTION OF SECTION.—Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or of any other agency or instrumentality of the United States under any other authority of law.

(h) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the activities under this section not to exceed $3,000,000 for each of the fiscal years 1986 and 1987.

Amend the title so as to read: "An Act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.".

The text of the House amendments to the Senate amendments is as follows:

In lieu of the matter proposed to be inserted by the Senate, insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Superfund Amendments of 1985".

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Sec. 551. Coordination.

SEC. 2. CERCLA AND ADMINISTRATOR.

As used in this Act—

(1) CERCLA.—The term "CERCLA" refers to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (52 U.S.C. 9601 et seq.).

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. LIMITATION ON CONTRACT AND BORROWING AUTHORITY.

Any authority provided by this Act, including any amendment made by this Act, to enter into contracts to obligate the United States or to incur indebtedness for the repayment of which the United States is liable shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—PROVISIONS RELATING PRIMARILY TO RESPONSE AND LIABILITY

SEC. 101. AMENDMENTS TO CERCLA DEFINITIONS.

(a) USE OF TERM "PRESIDENT".—

(1) ADMINISTRATOR.—CERCLA is amended by striking out "President" each place it appears (except in subsections (e)(2) and (f) of section 301 and section 307(b)) and inserting in lieu thereof "Administrator".

(2) DEFINITION.—Section 101(2) of CERCLA (defining the term "Administrator") is amended by inserting before the semicolon at the end thereof the following: ", except as provided in subsection (b)".

(3) DELEGATIONS OF AUTHORITY.—Section 101 of CERCLA is amended by inserting "(a) IN GENERAL.—" after "101." and by adding at the end thereof the following new subsection:

"(b) USE OF TERM 'ADMINISTRATOR'.—

"(1) DELEGATIONS RETAINED.—Where, before the date of the enactment of the Superfund Amendments of 1985, any authority under this Act was delegated to the head of any other department, agency, or instrumentality of the United States (or where any such authority has been retained by the President), the term 'Administrator' refers to the head of such department, agency, or instrumentality (or to the President in the case of an authority retained by the President).

"(2) EXCEPTION FOR FEDERAL FACILITIES.—Paragraph (1) shall not apply to any authority delegated to a department, agency, or instrumentality with respect to any facility owned or operated by that department, agency, or instrumentality. With respect to such facilities, the term 'Administrator' when used in this Act refers to the Administrator of the Environmental Protection Agency.".

(b) HAZARDOUS SUBSTANCES.—Section 101(a)(14)(C) of CERCLA is amended by inserting after "Congress" the following: "and not including used oil that is listed or identified as a hazardous waste under the Solid Waste Disposal Act if such used oil (i) is treated, managed, or recycled in such a way as to remove or render harmless the hazardous constituents contained in such oil or such used oil does not contain hazardous constituents, and (ii) such used oil is in compliance with a final rule promulgated by the Administrator, which rule shall authorize the Administrator to order any corrective action necessary for any release of used oil.

(c) RELEASE.—Section 101(22) of CERCLA is amended by inserting after "environment" the following: "(including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant)".

(d) REMEDIAL ACTION.—Section 101(24) of CERCLA (relating to the definition of "remedy" or "remedial action") is amended—

(1) by striking out "welfare. The term does not include offsite transport" and all that follows down through the semicolon at the end of such paragraph and inserting in lieu thereof "welfare; the term includes offsite transport and offsite storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials;"; and

(2) by striking out "or" before "contaminated materials" and inserting in lieu thereof "and associated".

(e) RESPONSE.—Section 101(25) of CERCLA is amended by striking out "and" and by inserting before the semicolon at the end thereof the following: ", and enforcement activities related thereto".

(f) STATE.—Section 101(a)(27) of CERCLA is amended by inserting before the semicolon at the end thereof the following: "; the term 'State' as used in sections 197(a)(4)(A) and 197(f) does not include a municipality or other political subdivision of a State".

(g) POLLUTANT OR CONTAMINANT.—

(1) DEFINITION.—Section 101 of CERCLA is amended by striking out "and" at the end of paragraph (31), by striking out the period at the end of paragraph (32) and inserting in lieu thereof "; and" and by adding the following new paragraph at the end thereof:

"(33) 'pollutant or contaminant' shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term 'pollutant or contaminant' shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).".

(2) CONFORMING AMENDMENT.—Section 104(a) of CERCLA is amended by striking out paragraph (2).

(h) FEDERALLY LICENSED DAMS.—Section 101(a)(20) of CERCLA is amended by adding the following at the end thereof:

"(D) in the case of a hazardous substance, pollutant, or contaminant which—

"(i) has been released into the environment upstream of a dam which is licensed under part 1 of the Federal Power Act; and

"(ii) has subsequently come to be located in the reservoir created by such dam,

the term 'owner or operator' does not include the owner or operator of the dam, unless such owner or operator is a person who would otherwise be liable for such release or threatened release under section 107;

SEC. 102. REPORTABLE QUANTITIES.

Section 102(a) of CERCLA is amended by adding the following new sentence at the end thereof: "The Administrator shall promulgate regulations establishing such reportable quantities for all hazardous substances by December 31, 1986.".

SEC. 103. NOTICES; PENALTIES.

Section 103(b) of CERCLA is amended by striking out "paragraph" in the last sentence and inserting in lieu thereof "subsection" and by adjusting the left hand margin of the text of such subsection following "federally permitted release," the third place it appears so that there is no indentation of such text.

SEC. 104. RESPONSE AUTHORITIES.

(a) PUBLIC HEALTH THREATS.—Section 104(a)(1) of CERCLA is amended by adding the following at the end thereof: "The Administrator shall give primary attention to those releases which he deems may present a public health threat.".

(b) RESPONSE BY POTENTIALLY RESPONSIBLE PERSONS.—Section 104(a)(1) of CERCLA is amended by striking out ", unless the President determines" and all that follows down through "party." and inserting in lieu thereof a period and the following: "When the Administrator determines that such removal and remedial action will be done properly and promptly by the owner or operator of the facility from which the release or threat of release emanates, or by any other responsible party, the Administrator may allow such owner or operator or party to carry out the removal or remedial action in accordance with section 122. The Administrator may permit the owner or operator of the facility from which the release or threat of release emanates, or any other responsible party, to conduct a remedial investigation to determine the nature and extent of the problem presented by the release or threat of release or a feasibility study of alternatives to remedy the problem presented by the release or threat of release only if the person conducting such investigation or study for the responsible party is qualified to conduct such investigation or study and is approved by the Administrator, if the Administrator enters into a contract with any qualified objective person to oversee and review the conducting of such investigation or study, and if the responsible party agrees to reimburse the Fund for any cost incurred by the Administrator under the oversight contract.".

(c) REMOVAL ACTION.—Section 104(a) of CERCLA is amended by adding at the end the following new paragraph:

"(2) REMOVAL ACTION.—Any removal action undertaken by the Administrator under this subsection (or by any other person referred to in section 122) shall contribute to the efficient performance of any long term remedial action to the maximum extent practicable with respect to the release or threatened release concerned.".

(d) COORDINATING OF INVESTIGATIONS.—Section 104(b) of CERCLA is amended by inserting "(1)" after "(b)" and by adding the following new paragraph at the end:

"(2) The Administrator shall promptly notify the appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from releases under investigation pursuant to this section and shall seek to coordinate the assessments, investigations, and planning under this section with such Federal and State trustees."

(e) INITIAL OBLIGATION OF FUND.—

(1) LIMITATION.—Section 104(c)(1) of CERCLA is amended by striking out "$1,000,000" and "six months" and inserting in lieu thereof "$2,000,000" and "12 months", respectively.

(2) CONTINUED RESPONSE.—Section 104(c)(1) of CERCLA is amended by inserting before "obligations" the following: "or (C) continued response action is otherwise appropriate and consistent with the remedial action to be taken,".

(f) FACILITIES OWNED AND OPERATED BY STATES.—

(1) IN GENERAL.—Paragraph (3) of section 104(c) of CERCLA is amended—

(A) by striking out "and (C)" and inserting in lieu thereof "(C) the State will assure the availability of hazardous waste treatment or disposal facilities which (i) have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the 20-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed, (ii) are within the

State or outside the State in accordance with an interstate agreement or regional agreement or authority, (iii) are acceptable to the Administrator, and (iv) are in compliance with the requirements of subtitle C of the Solid Waste Disposal Act; and (D)"; and

(B) by striking out the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect on the date of the enactment of this Act, except that the amendment made by paragraph (1)(A) shall take effect three years after such date of enactment.

(g) STATE CREDITS.—Section 104(c) of CERCLA is amended by inserting the following new paragraph after paragraph (3) and by redesignating paragraph (4) as paragraph (5):

"(4) STATE CREDITS.—

"(A) GRANTING OF CREDIT.—The Administrator shall grant a State a credit against the share of the costs, for which it is responsible under paragraph (3) with respect to a facility listed on the National Priorities List under the National Contingency Plan, for amounts expended by a State for remedial action at such facility pursuant to a contract or cooperative agreement with the Administrator. The credit under this paragraph shall be limited to those State expenses which the Administrator determines to be reasonable, documented, direct out-of-pocket expenditures of non-Federal funds.

"(B) EXPENSES BEFORE LISTING OR AGREEMENT.—The credit under this paragraph shall include expenses for remedial action at a facility incurred before the listing of the facility on the National Priorities List or before a contract or cooperative agreement is entered into under subsection (d) for the facility if—

"(i) after such expenses are incurred the facility is listed on such list and a contract or cooperative agreement is entered into for the facility, and

"(ii) the Administrator determines that such expenses would have been credited to the State under subparagraph (A) had the expenditures been made after listing of the facility on such list and after the date on which such contract or cooperative agreement is entered into.

"(C) ADMINISTRATIVE EXPENSES.—The credit under this paragraph shall include amounts expended or obligated by the State or political subdivision for administration of this Act. The Administrator shall promulgate such rules as may be necessary to implement this subparagraph.

"(D) RESPONSE ACTIONS BETWEEN 1978 AND 1980.—The credit under this paragraph shall include funds expended or obligated by the State or a political subdivision thereof after January 1, 1978, and before December 11, 1980, for cost-eligible response actions and claims for damages compensable under section 111.

"(E) STATE EXPENSES AFTER DEC. 11, 1980, IN EXCESS OF 10 PERCENT OF COSTS.—The credit under this paragraph shall include 90 percent of State expenses incurred at a facility owned, but not operated, by such State or by a political subdivision thereof. Such credit applies only to expenses incurred pursuant to a contract or cooperative agreement under subsection (d) and only to expenses incurred after December 11, 1980, but before the date of the enactment of this paragraph.

"(F) ITEM-BY-ITEM APPROVAL.—In the case of expenditures made after the date of the enactment of this paragraph, the Administrator may require prior approval of each item of expenditure as a condition of granting a credit under this paragraph.

"(G) USE OF CREDITS.—Credits granted under this paragraph for funds expended with respect to a facility may be used by the State to reduce all or part of the share of costs otherwise required to be paid by the State under paragraph (3) in connection with remedial actions at such facility. If the amount of funds for which credit is allowed under this paragraph exceeds such share of costs for such facility, the State may use the amount of such excess to reduce all or part of the share of such costs at other facilities in that State. A credit shall not entitle the State to any direct payment.".

(h) CROSS REFERENCE TO CLEANUP STANDARDS.—Section 104(c)(5) of CERCLA, as redesignated by subsection (g) of this section, is amended to read as follows:

"(5) SELECTION OF REMEDIAL ACTION.—The Administrator shall select the remedial actions to carry out this section in accordance with section 121 of this Act (relating to cleanup standards).".

(i) TREATMENT OF CERTAIN ACTIVITIES AS MAINTENANCE OR REMEDIAL ACTION.—Section 104(c) of CERCLA is amended by adding the following new paragraph after paragraph (5):

"(6) OPERATION AND MAINTENANCE.—For the purposes of paragraph (3) of this subsection, in the case of groundwater or surface water contamination, completed remedial action includes the completion of treatment or other measures, whether taken onsite or offsite, necessary to restore groundwater and surface water quality to a level that assures protection of human health and the environment. Activities required to maintain the effectiveness of such measures following the completion of remedial action shall be considered maintenance.".

(j) COOPERATIVE AGREEMENTS WITH STATES.—Section 104(d) of CERCLA is amended by inserting "COOPERATIVE AGREEMENTS WITH STATES.—" after "(d)" and by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—

"(A) STATE APPLICATIONS.—A State or political subdivision thereof may apply to the Administrator to carry out actions authorized in this section. If the Administrator determines that the State or political subdivision has the capability to carry out any or all of such actions in accordance with the criteria and priorities established pursuant to section 105(a)(8) and to carry out related enforcement actions, the Administrator may enter into a contract or cooperative agreement with the State or political subdivision to carry out such actions. The Administrator shall make a determination regarding such an application within 90 days after the Administrator receives the application.

"(B) TERMS AND CONDITIONS.—A contract or cooperative agreement under this paragraph shall be subject to such terms and conditions as the Administrator may prescribe. The contract or cooperative agreement may cover a specific facility or specific facilities.

"(C) REIMBURSEMENTS.—Any State which expended funds during the period beginning September 30, 1985, and ending on the date of the enactment of this subparagraph for response actions at any site included on the National Priorities List and subject to a cooperative agreement under this Act shall be reimbursed for the share of costs of such actions for which the Federal Government is responsible under this Act.".

(k) INFORMATION GATHERING AND ACCESS AUTHORITIES.—Section 104(e) of CERCLA is amended by redesignating paragraph (2) as paragraph (8) and aligning such paragraph with paragraphs (1) through (7) of such section, by inserting "CONFIDENTIALITY OF INFORMATION.—" before "(A) Any records", by striking out paragraph (1), and by striking out "(e)" and inserting in lieu thereof the following:

"(e) INFORMATION GATHERING AND ACCESS.—

"(1) ACTION AUTHORIZED.—Any officer, employee, or representative of the Administrator, duly designated by the Administrator, is authorized to take action under paragraph (2), (3), or (4) (or any combination thereof) at a vessel, facility, establishment, place, property, or location or, in the case of paragraph (3) or (4), at any vessel, facility, establishment, place, property, or location which is adjacent to the facility, establishment, place, property, or location referred to in such paragraph (3) or (4). Any duly designated officer, employee, or representative of a State under a contract or cooperative agreement under subsection (d)(1) is also authorized to take such action. The authority of paragraphs (3) and (4) may be exercised only if there is a reasonable basis to believe there may be a release or threat of release of a hazardous substance or pollutant or contaminant. The authority of this subsection may be exercised only for the purposes of determining the need for response, or choosing or taking any response action under this title, or otherwise enforcing the provisions of this title.

"(2) ACCESS TO INFORMATION.—Any officer, employee, or representative described in paragraph (1) may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to such matter:

"(A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.

"(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

"(C) Information relating to the ability of a person to pay for or to perform a cleanup.

In addition, upon reasonable notice, such person either shall grant any such officer, employee, or representative access at all reasonable times to any vessel, facility, establishment, place, property, or location to inspect or copy all documents or records relating to such matters copy and furnish to the officer, employee, or representative all such documents or records, at the option and expense of such person.

"(3) ENTRY.—Any officer, employee, or representative described in paragraph (1) is authorized to enter at reasonable times any of the following:

"(A) Any vessel, facility, establishment, or other place or property where any hazardous substance or pollutant or contaminant, may be, or has been generated, stored, treated, disposed of, or transported from.

"(B) Any vessel, facility, establishment, or other place or property from which or to which a hazardous substance or pollutant or contaminant has been or may have been released.

"(C) Any vessel, facility, establishment, or other place or property where such release is or may be threatened.

"(D) Any vessel, facility, establishment, or other place or property where entry is

needed to determine the need for response or the appropriate response or to effectuate a response action under this title.

"(4) INSPECTION AND SAMPLES.—

"(A) AUTHORITY.—Any officer, employee or representative described in paragraph (1) is authorized to inspect and obtain samples from any vessel, facility, establishment, or other place or property referred to in paragraph (3) or from any location of any suspected hazardous substance or pollutant or contaminant. Any such officer, employee, or representative is authorized to inspect and obtain samples of any containers or labeling for suspected hazardous substances or pollutant or contaminants. Each such inspection shall be completed with reasonable promptness.

"(B) SAMPLES.—If the officer, employee, or representative obtains any samples, before leaving the premises he shall give to the owner, operator, tenant, or other person in charge of the place from which the samples were obtained a receipt describing the sample obtained and, if requested, a portion of each such sample. A copy of the results of any analysis made of such samples shall be furnished promptly to the owner, operator, tenant, or other person in charge, if such person can be located.

"(5) COMPLIANCE ORDERS.—

"(A) ISSUANCE.—If consent is not granted regarding any request made by an officer, employee, or representative under paragraph (2), (3), or (4), the Administrator may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

"(B) COMPLIANCE.—The Administrator may ask the Attorney General to commence a civil action to compel compliance with a request or order referred to in subparagraph (A). Where there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance or pollutant or contaminant, the court shall take the following actions:

"(i) In the case of interference with entry or inspection, the court shall enjoin such interference or direct compliance with orders to prohibit interference with entry or inspection.

"(ii) In the case of information or document requests or orders, the court shall enjoin interference with such information or document requests or orders or direct compliance with the requests or orders to provide such information or documents.

The court may assess a civil penalty not to exceed $25,000 for each day of noncompliance against any person who unreasonably fails to comply with the provisions of paragraph (2), (3), or (4) or an order issued pursuant to subparagraph (A) of this paragraph.

"(6) OTHER AUTHORITY.—Nothing in this subsection shall preclude the Administrator from securing access or obtaining information in any other lawful manner.

"(7) CLEARANCE.—Notwithstanding this subsection, entry to locations and access to information properly classified to protect the national security may be granted only to any officer, employee, or representative of the Administrator who is properly cleared.".

(l) REPEAL OF SECTION 104(i).—Section 104(i) of CERCLA is repealed. For related provisions, see section 116 of this Act.

(m) MANDATORY SCHEDULE.—Section 104 of CERCLA is amended by adding the following at the end thereof:

"(i) MANDATORY SCHEDULE.—

"(1) LISTING OF FACILITIES ON NPL.—The Administrator shall list not fewer than 1,600 facilities on the National Priorities List by January 1, 1988.

"(2) COMMENCEMENT OF RIFS.—The Administrator shall ensure commencement of remedial investigations and feasibility studies for all facilities listed on the National Priorities List in accordance with the following schedule:

"(A) 150 facilities during the first 12-month period after the date of the enactment of this subsection.

"(B) 175 facilities during the second 12-month period after such date.

"(C) 200 facilities during each 12-month period thereafter.

"(3) COMMENCEMENT OF REMEDIAL ACTION.—The Administrator shall take such steps as may be necessary to ensure that substantial and continuous physical on-site remedial action commences at facilities on the National Priorities List at a rate of not fewer than—

"(A) 125 facilities during the fiscal year beginning on October 1, 1986;

"(B) 140 facilities during the fiscal year beginning on October 1, 1987;

"(C) 160 facilities during the fiscal year beginning on October 1, 1988; and

"(D) 175 facilities during the fiscal year beginning on October 1, 1989.

"(4) COMPLETION OF PRELIMINARY ASSESSMENTS.—Not later than January 1, 1987, the Administrator shall complete preliminary assessments of all facilities which are listed, as of the date of the enactment of the Superfund Amendments of 1985, on the Comprehensive Environmental Response, Compensation, and Liability Information System list. Each preliminary assessment shall include a statement as to whether a site inspection is necessary and by whom it should be carried out.

"(5) COMPLETION OF SITE INSPECTIONS.—Not later than January 1, 1988, the Administrator shall complete site inspections at all facilities for which the Administrator has stated under paragraph (4) that a site inspection was necessary.

"(6) COMPLETION OF REMEDIAL ACTION AT EXISTING NPL FACILITIES.—The Administrator shall take such steps as may be necessary to ensure that remedial action is completed, to the maximum extent practicable, for all facilities listed on the National Priorities List, as of the date of the enactment of the Superfund Amendments of 1985, within five years after such date of enactment. If remedial action is not completed at such facilities within such five-year period, the Administrator shall publish an explanation of why such remedial action could not be completed within such period.".

(n) ACQUISITION OF PROPERTY.—Section 104 of CERCLA is amended by adding the following new subsection at the end thereof:

"(j) ACQUISITION OF PROPERTY.—

"(1) AUTHORITY.—The Administrator is authorized to acquire, by purchase, lease, condemnation, donation, or otherwise, any real property or any interest in real property that the Administrator in his discretion determines is needed to conduct a remedial action under this Act. There shall be no cause of action to compel the Administrator to acquire any interest in real property under this Act.

"(2) STATE ASSURANCE.—The Administrator may use the authority of paragraph (1) for a remedial action only if, before an interest in real estate is acquired under this subsection, the State in which the interest to be acquired is located assures the Administrator, through a contract or cooperative agreement or otherwise, that the State will accept transfer of the interest following completion of the remedial action.

"(3) EXEMPTION.—No Federal, State, or local government agency shall be liable under this Act solely as a result of acquiring an interest in real estate under this subsection.".

SEC. 105. NATIONAL CONTINGENCY PLAN.

(a) REVISION OF PLAN.—

(1) AMENDMENTS MADE BY THIS ACT.—Not later than 18 months after the enactment of this Act, the Administrator shall revise the National Contingency Plan (NCP) referred to in section 105 of CERCLA in order to reflect the amendments made by this Act.

(2) NEW RESPONSE ACTIONS.—Any provision of the NCP adopted pursuant to any other provision of law which is inconsistent with the requirements of the amendments made by this Act shall not apply to response actions commenced, after the enactment of this Act, under CERCLA.

(3) HAZARD RANKING SYSTEM.—

(A) REVIEW OF HAZARD RANKING SYSTEM.—Not later than 12 months after the enactment of this Act and after publication of notice and opportunity for submission of comments in accordance with section 553 of title 5, United States Code, the Administrator shall commence a proceeding to review the hazard ranking system in effect under the NCP. Such review shall assure, to the maximum extent feasible, that the hazard ranking system appropriately assesses the relative degree of risk to human health and the environment posed by sites and facilities subject to review.

(B) HEALTH ASSESSMENT OF WATER CONTAMINATION RISKS.—In conducting the review under this paragraph, the Administrator shall ensure that the human health risks associated with the contamination or potential contamination of surface water, either directly or as a result of the runoff of any hazardous substance or pollutant or contaminant from sites or facilities subject to review, which are, or can be, used for recreation or potable water consumption, are appropriately assessed. In making the assessment required pursuant to the preceding sentence, the Administrator shall take into account the potential migration of any hazardous substance or pollutant or contaminant through such surface water to downstream sources of drinking water.

(C) COMPARISON WITH PRELIMINARY POLLUTANT LIMIT VALUE SYSTEM.—In conducting the review under this paragraph, the Administrator shall evaluate the preliminary pollutant limit value system used by the Department of Defense to assess the risks of hazardous substances and compare such system with the hazard ranking system. In particular, the Administrator shall study the effectiveness of each system in appropriately assessing the relative degree of risk to human health and the environment posed by facilities subject to each such system.

(D) CONTENTS OF REVIEW.—The review under this paragraph shall include—

(i) an explanation of the hazard ranking system, including the manner in which it was developed and the method of determining the relative hazard at different facilities under the system;

(ii) a determination of the relationship between the value determined for a facility under the hazard ranking system and the

potential danger to human health and the environment;

(iii) an examination, based on the determination under clause (ii), of the effect of establishing a threshold value of 28.5 for facilities to be included on the National Priorities List;

(iv) a determination, based upon the determination under clause (ii) and the examination under clause (iii), of whether a new threshold value should be established for inclusion of facilities on such list; and

(v) a determination of the relationship between the value determined for a facility under the hazard ranking system and the types of remedial actions that are appropriate at such facility.

(E) REEVALUATION NOT REQUIRED.—The Administrator shall not be required to reevaluate, after the enactment of this Act, the hazard ranking of any facility which was evaluated in accordance with the criteria under section 105 of the CERCLA before such enactment and which was assigned a national priority under the National Contingency Plan.

(F) NEW INFORMATION.—Nothing in subparagraph (E) shall preclude the Administrator from taking new information into account in undertaking response actions under CERCLA.

(b) PRELIMINARY ASSESSMENT AND EVALUATION.—Section 105 of CERCLA is amended by inserting "(a) REVISION AND REPUBLICATION.—" after "105." and by adding the following new subsection at the end thereof:

"(b) PETITION FOR ASSESSMENT OF RELEASE.—Any person who is, or may be, affected by a release or threatened release of a hazardous substance or pollutant or contaminant, may petition the Administrator to conduct a preliminary assessment of the hazards to public health and the environment which are associated with such release or threatened release. If the Administrator has not previously conducted a preliminary assessment of such release, the Administrator shall, within 12 months after the receipt of any such petition, complete such assessment or provide an explanation of why the assessment is not appropriate. If the preliminary assessment indicates that the release or threatened release concerned may pose a threat to human health or the environment, the Administrator shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in paragraph (8)(A) of subsection (a) to determine the national priority of such release or threatened release.".

(c) HAZARD RANKING SYSTEM.—Section 105(a)(8)(A) of CERCLA is amended by inserting the following after "ecosystems,": "the damage to natural resources which may affect the human food chain and which is associated with any release or threatened release, the contamination or potential contamination of the ambient air which is associated with the release or threatened release,".

(d) NATIONAL PRIORITY LIST.—Subparagraph (B) of section 105(a)(8) of CERCLA is amended as follows:

(1) Strike out "at least four hundred of" when it appears.

(2) Strike out "at least" following the word "facilities" the second time it appears.

(3) Insert "A State shall be allowed to designate its highest priority facility only once." after the third full sentence thereof.

(e) STANDARDS AND PROCEDURES FOR INNOVATIVE TREATMENT TECHNOLOGIES.—Section 105(a) of CERCLA is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and by inserting after paragraph (9) the following new paragraph:

"(10) standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for utilization in response actions authorized by this Act.".

(f) RELEASES FROM EARLIER SITES.—Section 105 of CERCLA is amended by adding the following new subsection at the end thereof:

"(c) RELEASES FROM EARLIER SITES.—Whenever there has been, after January 1, 1985, a significant release of hazardous substances or pollutants or contaminants from a site which is listed by the Administrator as a 'Site Cleaned Up To Date' on the National Priorities List (revised edition, December 1984) the site shall be restored to the National Priorities List, without application of the hazard ranking system.".

(g) MINORITY CONTRACTORS.—(1) Section 105(a)(9) of CERCLA is amended by adding the following after "therefor": "and including consideration of minority firms in accordance with subsection (d)."

(2) Section 105 of CERCLA is amended by adding the following new subsection at the end thereof:

"(d) MINORITY CONTRACTORS.—In awarding contracts under this Act, the Administrator shall consider the availability of qualified minority firms. The Administrator shall describe, as part of any annual report submitted to the Congress under this Act, the participation of minority firms in contracts carried out under this Act. Such report shall contain a brief description of the contracts which have been awarded to minority firms under this Act and of the efforts made by the Administrator to encourage the participation of such firms in programs carried out under this Act.".

SEC. 106. ABATEMENT ACTIONS.

Section 106 of CERCLA is amended by adding the following new subsection after subsection (c):

"(d) PESTICIDES.—The Administrator shall not take action under this section with respect to any release or threatened release resulting from the normal application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act. Nothing in this subsection shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law, for damages, injury, or loss resulting from a release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action for such hazardous substance.".

SEC. 107. LIABILITY.

(a) FOREIGN VESSELS.—Section 107(a)(1) of CERCLA is amended by striking out "(otherwise subject to the jurisdiction of the United States)".

(b) COSTS AND DAMAGES.—Section 107(a)(4) of CERCLA is amended as follows:

(1) In subparagraph (A) insert after "not inconsistent with the national contingency plan" the following: "and all costs incurred by the United States Government or a State under section 104(b)".

(2) Strike out "and" at the end of subparagraph (B), strike out the period at the end of subparagraph (C) and insert in lieu thereof "; and", and insert at the end of such section the following:

"(D) the costs of any health assessment or health effects study carried out under section 116.

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D). Such interest shall accrue from 90 days after the date on which an action for recovery of such amounts is filed. The rate of interest on the outstanding unpaid balance of the amounts recoverable under this section shall be the same rate as is applicable to investments of the Fund under section 9602 of the Internal Revenue Code of 1954. For purposes of applying section 9602 of the Internal Revenue Code of 1954, the term 'comparable maturity' shall be determined with reference to the date 90 days after the date of filing of the action for recovery under this section.".

(c) EMERGENCY RESPONSE ACTIONS.—

(1) LIABILITY FOR.—Section 107(d) of CERCLA is amended by striking out "damages" each place it appears and inserting in lieu thereof "costs and damages" and by inserting before the second sentence the following: "This subsection shall not alter the liability of any person who is liable or potentially liable under subsection (a) of this section who subsequently undertakes a response action.".

(2) GOVERNMENTAL RESPONSE TO EMERGENCY.—Such section 107(d) is further amended by inserting "(1) RENDERING CARE OR ADVICE.—" after "(d)" and adding the following new paragraph at the end thereof:

"(2) GOVERNMENTAL RESPONSE TO EMERGENCY.—

"(A) IN GENERAL.—No Federal, State, or local government agency shall be liable under this title for costs and damages resulting from actions taken by the agency in response to an emergency created by the release or threatened release of a hazardous substance, pollutant, or contaminant from a vessel, facility, or site owned by another person. This paragraph shall not affect the liability of any Federal, State or local government agency for negligence.

"(B) PERSONS RETAINED OR HIRED.—Any person retained or hired by a State to take any action described in subparagraph (A) shall have the same exemption from liability provided to the State under subparagraph (A).".

(d) NATURAL RESOURCES.—

(1) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—Section 107(f) of CERCLA is amended by inserting "(1) NATURAL RESOURCES LIABILITY.—" after "(f)" and by adding at the end thereof the following new paragraphs:

"(2) DESIGNATION OF FEDERAL AND STATE OFFICIALS.—

"(A) FEDERAL.—Each Federal agency designated as a natural resource trustee under the National Contingency Plan published under section 105 of this Act shall assess damages for injury to, destruction of, or loss of natural resources under its trusteeship resulting from a release of hazardous substances for the purposes of this Act and section 311(f)(4) and (5) of the Federal Water Pollution Control Act and may, upon request of and reimbursement from a State, assess damages for those natural resources under the State's trusteeship.

"(B) STATE.—The Governor of each State shall designate the State officials who may act on behalf of the public as trustees for natural resources under this Act and section 311 of the Federal Water Pollution Control Act and shall notify the Administrator of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act and such section 311 for those resources under their trusteeship.

"(C) REBUTTABLE PRESUMPTION.—Any determination or assessment of damages to natural resources for the purposes of this Act and section 311 of the Federal Water Pollution Control Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of this Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any judicial proceeding under this Act or section 311 of the Federal Water Pollution Control Act.".

(2) USE OF RECOVERED FUNDS.—Section 107(f)(1) of CERCLA (as designated by paragraph (1) of this subsection) is amended by striking out the third sentence and inserting in lieu thereof the following: "Sums recovered by the United States Government as trustee under this subsection shall be retained by the Administrator, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subparagraph (C) of subsection (a) shall not be limited by the sums which can be used to restore or replace such resources.".

(e) NORMAL APPLICATION OF PESTICIDES.—Section 107(i) of CERCLA is amended by inserting "normal" before "application of a pesticide".

(f) FEDERAL AGENCIES.—Section 107(g) of CERCLA is amended to read as follows:

"(g) Federal AGENCIES.—For provisions relating to Federal agencies, see section 119 of this Act."

(g) FEDERAL LIEN.—Section 107 of CERCLA is amended by adding at the end thereof the following new subsections:

"(k) FEDERAL LIEN.—

"(1) IN GENERAL.—All costs and damages for which a person is liable to the United States under subsection (a) of this section (other than the owner or operator of a vessel under paragraph (1) of subsection (a)) shall constitute a lien in favor of the United States upon all real property and rights to such property which—

"(A) belong to such person; and

"(B) are subject to or affected by a removal or remedial action.

"(2) DURATION.—The lien imposed by this subsection shall arise at the later of the following:

"(A) The time costs are first incurred by the United States with respect to a response action under this Act.

"(B) The time that the person referred to in paragraph (1) is provided (by certified or registered mail) written notice of his potential liability.

Such lien shall continue until the liability for the costs (or a judgment against the person arising out of such liability) is satisfied or becomes unenforceable through operation of the statute of limitations provided in section 113.

"(3) NOTICE AND VALIDITY.—The lien imposed by this subsection shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected under applicable State law before notice of the lien has been filed in the appropriate office within the State (or county or other governmental subdivision), as designated by State law, in which the real property subject to the lien is located. Any such purchaser, holder of a security interest, or judgment lien creditor shall be afforded the same protections against the lien imposed by this subsection as are afforded under State law against a judgment lien which arises out of an unsecured obligation and which arises as of the time of the filing of the notice of the lien imposed by this subsection. If the State has not by law designated one office for the receipt of such notices of liens, the notice shall be filed in the office of the clerk of the United States district court for the district in which the real property is located. For purposes of this subsection, the terms 'purchaser' and 'security interest' shall have the definitions provided under section 6323(h) of the Internal Revenue Code of 1954.

"(4) ACTION IN REM.—The costs constituting the lien may be recovered in an action in rem in the United States district court for the district in which the removal or remedial action is occurring or has occurred. Nothing in this subsection shall affect the right of the United States to bring an action against any person to recover all costs and damages for which such person is liable under subsection (a) of this section.

"(l) MARITIME LIEN.—All costs and damages for which the owner or operator of a vessel is liable under subsection (a)(1) with respect to a release or threatened release from such vessel shall constitute a maritime lien in favor of the United States on such vessel. Such costs may be recovered in an action in rem in the district court of the United States for the district in which the vessel may be found. Nothing in this subsection shall affect the right of the United States to bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(m) LANDOWNER LIABILITY.—There shall be no liability under subsection (a)(1) of this section for a person otherwise liable who can establish by a preponderance of the evidence that he—

"(1) is the owner of the real property on or in which the facility is located;

"(2) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility, the release or threatened release of which causes significant environmental hazards;

"(3) did not contribute to the release or threat of release of a hazardous substance at the facility through any act or omission; and

"(4) did not acquire the property with actual or constructive knowledge that the property was used prior to the acquisition for the generation, transportation, storage, treatment, or disposal of any hazardous substance.".

SEC. 108. FINANCIAL RESPONSIBILITY.

(a) DEADLINE FOR ISSUANCE OF REGULATIONS.—Section 108(b)(1) of CERCLA is amended by inserting after "this Act" the first place it appears the following: "and not later than one year after the date of submission of the insurability study under section 301(g) to Congress".

(b) EVIDENCE OF FINANCIAL RESPONSIBILITY.—Section 108(b)(2) of CERCLA is amended by adding the following at the end thereof: "Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.".

(c) PHASE-IN PERIOD.—Section 108(b)(3) of CERCLA is amended by striking out "over a period of not less than three and no more than six years" and inserting in lieu thereof "as quickly as can reasonably be achieved but in no event more than four years".

(d) DIRECT ACTION; LIABILITY.—Subsections (c) and (d) of section 108 of CERCLA are amended to read as follows:

"(c) DIRECT ACTION.—

"(1) RELEASES FROM VESSELS.—In the case of a release or threatened release from a vessel, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such vessel under subsection (a). In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. The guarantor may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but the guarantor may not invoke any other defense that the guarantor might have been entitled to invoke in a proceeding brought by the owner or operator against him.

"(2) RELEASES FROM FACILITIES.—In the case of a release or threatened release from a facility, any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility for such facility under subsection (b), if the person liable under section 107 is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or if, with reasonable diligence, jurisdiction in the Federal courts cannot be obtained over a person liable under section 107 who is likely to be solvent at the time of judgment. In the case of any action pursuant to this paragraph, the guarantor shall be entitled to invoke all rights and defenses which would have been available to the person liable under section 107 if any action had been brought against such person by the claimant and all rights and defenses which would have been available to the guarantor if an action had been brought against the guarantor by such person.

"(d) LIMITATION OF GUARANTOR LIABILITY.—

"(1) TOTAL LIABILITY.—The total liability under this Act of any guarantor for a vessel or facility shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the person liable under section 107.

"(2) OTHER LIABILITY.—Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual, or common law liability of a guarantor, including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed, interpreted, or applied to diminish the liability of any person under section 107 of this Act or other applicable law.".

SEC. 109. PENALTIES.

(a) SECTION 103.—

(1) CRIMINAL PENALTY.—Section 103(b) of CERCLA is amended by—

(A) inserting after "knowledge of such release" the following: "or who submits in such a notification any information which he knows to be false or misleading"; and

(B) striking out "not more than $10,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "in ac-

cordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both".

(2) CIVIL PENALTY.—Section 103(b) of CERCLA is amended by inserting the following before the last sentence: "Any such person shall also be subject to a civil penalty of not more than $25,000 for each day during which such failure continues.".

(3) DESTRUCTION OF RECORDS.—Section 103(d)(2) of CERCLA is amended by striking out "not more than $20,000, or imprisoned for not more than one year or both." and inserting in lieu thereof "in accordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both. Any such person shall also be subject to a civil penalty of not more than $25,000 for each day during which such violation continues.".

(b) SECTION 104.—Section 104(e)(2) of CERCLA is amended by adding the following at the end thereof:

"(9) CIVIL PENALTY.—Any person who fails or refuses to comply with a request or order under this subsection shall be subject to a civil penalty of not more than $25,000 for each day during which such failure or refusal continues.".

(c) SECTION 106.—Section 106(b) of CERCLA is amended—

(1) by striking out "who willfully" and inserting in lieu thereof "who, without sufficient cause, willfully"; and

(2) by striking out "$5,000" and inserting in lieu thereof "$25,000".

(d) SECTION 108.—Section 108 of CERCLA is amended by adding at the end the following:

"(e) CIVIL PENALTY.—Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of this section, the regulations issued under this section, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $25,000 for each day of violation.".

(e) ASSESSMENT AND COLLECTION OF CIVIL PENALTIES.—Section 109 of CERCLA is amended to read as follows:

"SEC. 109. ASSESSMENT AND COLLECTION OF CIVIL PENALTIES.

"(a) UNDER SECTION 16 OF TOSCA.—Any civil penalty under this Act (other than section 106(b)) shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16 of the Toxic Substances Control Act.

"(b) SUBPOENAS.—In any proceeding for the assessment of a civil penalty under this Act (other than section 106(b)), the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures.

"(c) AWARDS.—The Administrator of the Environmental Protection Agency may pay an award of up to $10,000 to any individual who provides information leading to the arrest and conviction of any person for a violation subject to a criminal penalty under this Act, including any violation under section 103 and under this section. The Administrator shall by regulation prescribe criteria for such an award and may pay any award under this subsection from the Fund, as provided in section 111.

"(d) RESPONSE CLAIMS.—(1) Section 111(a)(2) of CERCLA is amended to read as follows:

"(2) payment of any claim for necessary response costs incurred by any other person as a result of carrying out the national contingency plan established under section 311(c) of the Clean Water Act and amended by section 105 of this title: *Provided, however,* That such costs must be approved under said plan and certified by the responsible Federal official prior to the taking of any action for which costs may be sought; and".

(2) Section 112 is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) No claims may be asserted against the Fund pursuant to section 111(a)(2) of this title unless such claim is presented in the first instance to the owner, operator, or guarantor of the vessel or facility from which a hazardous substance has been released, if known to the claimant, and to any other person known to the claimant who may be liable under section 107 of this title. In any case where the claim has not been satisfied within sixty days of presentation in accordance with this subsection, the claimant may present the claim to the Fund for payment: *Provided,* That no claim against the Fund may be considered during the pendency of an action in court to recover costs which are the subject of the claim.".

(3) Section 112(b) is amended by striking "$5,000" in paragraph (1) and inserting "$25,000" in lieu thereof; and by striking all of paragraphs (2), and (3), and (4) and inserting in lieu thereof the following:

"(2) The President may, if he is satisfied that the information developed during the processing of the claim warrants it, make and pay an award of the claim: *Provided,* That no claim may be awarded to the extent that a judicial judgment has been made on the costs that are the subject of the claim. If the President declines to pay all or part of the claim, the claimant may, within thirty days after receiving notice of the President's decision, request an administrative hearing.

"(3) In any proceeding under this subsection, the claimant shall bear the burden of proving his claim.

"(4) All administrative decisions made hereunder shall be in writing, with notification to all appropriate parties, and shall be rendered within ninety days of submission of a claim to an administrative law judge, unless all the parties to the claim agree in writing to an extension or unless the President, in his discretion, extends the time limit for a period not to exceed sixty days.

"(5) All administrative decisions hereunder shall be final, and any party to the proceeding may appeal a decision within thirty days of notification of the award or decision. Any such appeal shall be made to the Federal district court for the district where the release or threat of release took place. In any such appeal, the decision shall be considered binding and conclusive, and shall not be overturned except for arbitrary or capricious abuse of discretion.

"(6) Within twenty days after the expiration of the appeal period for any administrative decision concerning an award, or within twenty days after the final judicial determination of any appeal taken pursuant to this subsection, the President shall pay any such award from the Fund. The President shall determine the method, terms, and time of payment".

(f) SECTION 112.—Section 112(b)(1) of CERCLA is amended by striking out "up to $5,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "in accordance with section 3623 (or 3571 if applicable) of title 18 of the United States Code or imprisoned for not more than three years, or both".

SEC. 110. SECTION 110.

Section 110 is not amended.

SEC. 111. USES OF FUND.

(a) AMOUNT OF FUND.—Section 111 of CERCLA is amended by inserting after "(a)" the following: "IN GENERAL.—For the purposes specified in this section there is authorized to be appropriated from the Hazardous Substance Superfund established under section 221 not more than $1,830,000,000 for each of the first 5 fiscal years beginning after September 30, 1985 (plus for each such fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection as has not been appropriated before the beginning of the fiscal year involved).".

(b) USE OF FUND FOR GRANTS.—Section 111(a) of CERCLA is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(5) the cost of grants under section 117(e) (relating to grants for technical assistance).".

(c) USES INCLUDED.—(1) Section 111(c) of CERCLA is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding the following new paragraphs at the end thereof:

"(7) costs incurred by the Administrator in evaluating facilities pursuant to petitions under section 105(b);

"(8) the costs of contracts entered into under section 104(a)(1) to oversee and review the conduct of remedial investigations and feasibility studies undertaken by persons other than the Administrator and the costs of appropriate Federal and State oversight of remedial activities at National Priorities List sites resulting from consent orders or settlement agreements, where the responsible party or parties have been determined, but where inadequate oversight assistance has been provided by that responsible party or parties;

"(9) the costs incurred by the Administrator in acquiring real estate or interests in real estate under section 104(j);

"(10) the cost of carrying out section 311(b) (relating to research, development, and demonstration of alternative and innovative treatment technologies and training programs), section 311(c) (relating to hazardous waste research), and section 311(d) (relating to university hazardous substance research centers), except that the amounts available for such purposes shall not exceed the amounts specified in subsection (o);

"(11) reimbursements to local governments under section 123, except that during the 5-fiscal-year period beginning October 1, 1985, not more than 0.1 percent of the total amount appropriated from the Fund may be used for such reimbursements;

"(12) the costs of worker training and education grants under section 126(e), to the extent that such costs do not exceed $10,000,000 for each of the fiscal years 1986, 1987, 1988, 1989, and 1990; and

"(13) the costs of any awards granted under section 109(c).".

(2) Section 111(c)(4) of CERCLA is amended by striking out "epidemiologic studies" and inserting in lieu thereof "epide-

miologic and laboratory studies, health assessments, preparation of toxicologic profiles".

(d) DEFINITION OF HEALTH ASSESSMENT.—Section 111(c) of CERCLA is amended by adding the following at the end thereof: "As used in paragraph (4), the term 'health assessment' shall have the meaning provided by section 116(f)(7).".

(e) NATURAL RESOURCE DAMAGE CLAIMS.—Section 111(b) of CERCLA is amended as follows:

(1) Insert "(1)" after "(b)".

(2) Add the following new paragraph at the end thereof:

"(2) PAYMENT OF NATURAL RESOURCE CLAIMS.—

"(A) GENERAL REQUIREMENTS.—No natural resource claim may be paid from the Fund unless the Administrator determines that the claimant has exhausted all administrative and judicial remedies to recover the amount of such claim from persons who may be liable under section 107. All natural resource claims filed after December 1, 1985, may be paid only if a natural resource damage assessment has been carried out in accordance with regulations promulgated by the Secretary of the Interior.

"(B) CLAIMS PENDING AS OF DECEMBER 1, 1985.—(i) The Administrator shall determine the sum of natural resource claims against the fund which were pending but unpaid as of December 1, 1985.

"(ii) The Administrator may pay all or a portion of any claim referred to in clause (i) in accordance with the applicable requirements of this Act, except that the total amount paid from the Fund for the total of such claims shall not exceed 50 percent of the sum determined under clause (i). The Administrator may not pay any such claim unless the claim has been determined to be valid.

"(C) DEFINITION.—As used in this paragraph, the term 'natural resource claims' means claims for injury to, or destruction or loss of, natural resources. The term includes claims for the cost of natural resource damage assessment.".

(f) AMENDMENT TO SECTION 111(e).—Section 111(e)(1) of CERCLA is amended by inserting "pursuant to subsection (a)(2)" after "Fund" the first place it appears.

(g) INSPECTOR GENERAL.—Section 111(k) of CERCLA is amended to read as follows:

"(k) INSPECTOR GENERAL.—In each fiscal year, the Inspector General of each department, agency, or instrumentality of the United States which is carrying out any authority of this Act shall undertake the following:

"(1) AUDIT.—The conduct of an annual audit of all payments, obligations, reimbursements, or other uses of the Fund in the prior fiscal year, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The audit shall include an examination of a random sample of agreements with States carrying out response actions under this title and an examination of remedial investigations and feasibility studies prepared for remedial actions.

"(2) STATUS REPORT.—The preparation of a report on the status of all remedial and enforcement actions undertaken during the prior fiscal year. The status report shall include a comparison to remedial and enforcement actions undertaken in prior fiscal years.

"(3) ESTIMATE.—The preparation of an estimate of the amount of resources, including the number of work years or personnel, which would be necessary for the department, agency, or instrumentality to complete the implementation of all duties vested in the department, agency, or instrumentality under this Act.

The Inspector General shall submit to the Congress an annual report regarding the audit and status report required under this subsection. The report shall contain such recommendations as the Inspector General deems appropriate. Each Federal agency shall cooperate with the Inspector General in carrying out this subsection.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 111 of CERCLA is amended by adding the following subsection after subsection (l):

"(m) GENERAL REVENUE SHARE OF SUPERFUND.—

"(1) IN GENERAL.—The following sums are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund:

"(A) For fiscal year 1986, $250,000,000.
"(B) For fiscal year 1987, $250,000,000.
"(C) For fiscal year 1988, $250,000,000.
"(D) For fiscal year 1989, $250,000,000.
"(E) For fiscal year 1990, $250,000,000.

In addition there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Revenue Act of 1980) as has not been appropriated before the beginning of the fiscal year involved.

"(2) COMPUTATION.—The amounts authorized to be appropriated under paragraph (1) of this subsection in a given fiscal year shall be available only to the extent that such amount exceeds the amount determined by the Secretary under section 221(b)(1)(B) for the prior fiscal year.".

(i) ATSDR.—Section 111 of CERCLA is amended by adding the following new subsection after subsection (m):

"(n) AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.—For fiscal year 1986 and each fiscal year thereafter, not less than $30,000,000 shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 116. Any funds so made available which are not obligated by the end of the fiscal year in which made available shall be returned to the Fund.".

(j) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—Section 111 of CERCLA is amended by adding the following new subsection after subsection (n):

"(o) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(1) For each of the fiscal years 1986, 1987, 1988, 1989, and 1990, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) (relating to research, development, and demonstration) other than basic research. Such amounts shall remain available until expended.

"(2) From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a) (relating to hazardous substance research, demonstration, and training activities):

"(A) For the fiscal year 1986, $3,000,000.
"(B) For the fiscal year 1987, $10,000,000.
"(C) For the fiscal year 1988, $20,000,000.
"(D) For the fiscal year 1989, $30,000,000.
"(E) For the fiscal year 1990, $35,000,000.

No more than 10 percent of such amounts shall be used for training under section 311(a) in any fiscal year.

"(3) For each of the fiscal years 1986, 1987, 1988, 1989, and 1990, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d) (relating to university hazardous substance research centers).".

(k) CERTAIN NOTIFICATION PROCEDURES.—Section 111 of CERCLA is amended by inserting after subsection (o) the following new subsection:

"(p) NOTIFICATION PROCEDURES FOR LIMITATIONS ON CERTAIN PAYMENTS.—Not later than 90 days after the date of the enactment of this subsection, the Administrator shall develop and implement procedures to adequately notify, as soon as practicable after a site is included on the National Priorities List, concerned local and State officials and other concerned persons of limitations, set forth in subsection (a)(2) of this section, on the payment of claims for necessary response costs incurred with respect to such site.".

SEC. 112. CLAIMS PROCEDURE.

Section 112(d) of CERCLA is amended to read as follows:

"(d) STATUTE OF LIMITATIONS.—

"(1) CLAIMS FOR RECOVERY OF COSTS.—No claim may be presented under this section for recovery of the costs referred to in section 107(a) after the date six years after the date of completion of all response action.

"(2) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when he reaches eighteen years of age or the date on which a legal representative is duly appointed for him, or

"(B) against an incompetent person until the earlier of the date on which his incompetency ends or the date on which a legal representative is duly appointed for him.".

SEC. 113. LITIGATION, JURISDICTION, AND VENUE.

(a) NATIONWIDE SERVICE OF PROCESS.—Section 113 of CERCLA is amended by adding the following new subsection at the end thereof:

"(e) NATIONWIDE SERVICE.—In any action by the United States under section 106 or 107, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.".

(b) CONTRIBUTION; STATUE OF LIMITATION.—Section 113 of CERCLA is amended by adding the following new subsections after subsection (e):

"(f) CONTRIBUTION.—

"(1) CONTRIBUTION.—Except as provided in paragraph (2), any person potentially liable or held to be liable in an action under section 106 or section 107 may bring an action for contribution or indemnity against any other person liable or potentially liable. In any such action in a court of the United States the Federal Rules of Civil Procedure shall apply. In any such contribution action in a court of the United States, the court may use its equitable powers to apportion costs among the liable parties, taking relevant equitable considerations into account. Except as provided in paragraph (2) of this subsection, this subsection shall not impair

any right of contribution or indemnity under existing law.

"(2) SETTLEMENT.—A person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement which was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(3) PERSONS NOT PARTY TO SETTLEMENT.—(A) If the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in an administrative or judicially approved settlement, the United States or the Secretary may bring an action against any person who has not so resolved its liability.

"(B) A person who has resolved its liability to the United States or a State for some or all of a response action or for some or all of the costs of such action in an administrative or judicially approved settlement may bring an action for contribution or indemnification against any person who is not party to a settlement referred to in paragraph (2).

"(C) In any action under this paragraph, the rights of any person who has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be governed by Federal law.

"(g) STATUTE OF LIMITATIONS.—

"(1) ACTIONS FOR NATURAL RESOURCE DAMAGES.—Except as provided in paragraph (3), no action may be commenced for damages (as defined in section 101(6)) under this Act, unless that action is commenced within 3 years after the later of the following:

"(A) The date of the discovery of the loss.

"(B) The date on which regulations are promulgated under section 301(c).

With respect to any facility listed on the national priorities list, any Federal facility identified under section 120, or any facility at which a remedial action is otherwise scheduled, an action for damages must be commenced within 3 years after the completion of the remedial action (excluding operation and maintenance activities), but in no event may an action for damages with respect to such a facility be commenced before selection of the remedial action if the Administrator is diligently proceeding with a remedial investigation and feasibility study under section 104(b). The limitation in the preceding sentence on commencing an action before selection of the remedial action does not apply to actions filed on or before December 11, 1983.

"(2) ACTIONS FOR RECOVERY OF COSTS.—An initial action for recovery of the costs referred to in section 107 must be commenced—

"(A) for a removal action, within 3 years after completion of the removal action, except that such cost recovery action must be brought within 6 years after a determination to grant a waiver under section 104(c)(1)(C) for continued response action; and

"(B) for a remedial action, within 6 years after initiation of physical on-site construction of the remedial action, provided that, if the remedial action is initiated within 3 years after the completion of the removal action, costs incurred in the removal action may be recovered in the cost recovery action brought under this subparagraph.

In any such initial action, the court shall enter a declaratory judgment on liability for response costs that will be binding on any subsequent action or actions to recover further response costs. A subsequent action or actions under section 107 for further response costs at the facility may be maintained at any time during the response action, but must be commenced no later than 3 years after the date of completion of all response action. Except as otherwise provided in this paragraph, an action may be commenced under section 107 for recovery of costs at any time after such costs have been incurred.

"(3) CONTRIBUTION.—No action for contribution for any response costs or damages may be commenced more than 3 years after—

"(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

"(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

"(4) SUBROGATION.—No action based on rights subrogated pursuant to this section by reason of payment of a claim may be commenced under this title more than 3 years after the date of payment of such claim.

"(5) MINORS AND INCOMPETENTS.—The time limitations contained herein shall not begin to run—

"(A) against a minor until the earlier of the date when he reaches eighteen years of age or the date on which a legal representative is duly appointed for him, or

"(B) against an incompetent person until the earlier of the date on which his incompetency ends or the date on which a legal representative is duly appointed for him.".

(c) PRE-ENFORCEMENT REVIEW.—

(1) CONFORMING AMENDMENT.—Section 113(b) of CERCLA is amended by striking out "subsection" and inserting in lieu thereof "subsections" and inserting "and (h)" after "(a)".

(2) TIMING OF REVIEW; ADMINISTRATIVE RECORD.—Section 113 of CERCLA is amended by adding at the end thereof the following new subsections:

"(h) TIMING OF REVIEW.—No court shall have jurisdiction to review any challenges to removal or remedial action selected under section 104 or any order issued under section 104(b) or to review any order issued under section 106(a), in any action other than one of the following:

"(1) An action under section 107 to recover response costs or damages or for contribution or indemnification.

"(2) An action to enforce an order issued under section 104(b) or 106(a) or to recover a penalty for violation of such order.

"(3) An action for reimbursement under section 106(b)(2).

"(4) An action under section 310 alleging that the removal or remedial action taken under section 104 or secured under section 106 was in violation of any requirement of this Act. Such an action may not be brought with regard to an ongoing removal where a remedial action is to be undertaken at the site.

"(5) An action by the United States under section 106 for injunctive relief.

"(6) A motion by a potentially responsible party to review the Administrator's selection of the remedy under a consent decree which has been entered under section 106 and in which such potentially responsible party has made a commitment to undertake a remedial investigation and feasibility study and to perform or cause to be performed all of the judicially approved remedial action.

"(7) A motion by a potentially responsible party to review the Administrator's selection of the remedy under a consent decree which has been entered under section 106 and in which such potentially responsible party has agreed to perform or cause to be performed all of the judicially approved remedial action.

"(8) A motion by a potentially responsible party who is a recipient of an administrative order under section 106 to review the Administrator's selection of the remedy, where the recipient of the order has, without admitting that the release in question constituted an imminent and substantial endangerment under section 106 and without admitting liability, agreed to the terms of the order except for the Administrator's selection of the remedy. In such cases, the order shall be entered in the District Court as a consent decree.

In ruling on motions under paragraphs (6), (7), and (8), the District Court shall act without delay and shall rule expeditiously. There shall be no right of appeal by any party from such ruling.

"(i) INTERVENTION.—In any action commenced under subsection (h), any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest.

"(j) JUDICIAL REVIEW.—

"(1) IN GENERAL.—For purposes of judicial review under this section, the administrative record shall consist of—

"(A) in the case of a removal action, the record developed under regulations issued pursuant to subsection (1)(2)(A); and

"(B) in the case of a remedial action, the record developed under subsection (1)(2)(B).

"(2) LIMITATION.—In any judicial action under section 106 or 107, judicial review of any issues concerning the adequacy of any response action taken or ordered by the Administrator shall be limited to the administrative record. Objections and evidence which were not made a part of the administrative record may be considered by the court only if such objections and evidence were not reasonably available when the record was being developed.

"(3) STANDARD.—In considering objections raised in any judicial action under section 106 or 107, the court shall uphold the Administrator's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law.

"(4) REMEDY.—If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award only the response costs or damages or other relief being sought to the extent that such relief is not inconsistent with the national contingency plan.

"(5) PROCEDURAL ERRORS.—In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the

action would have been significantly changed had such errors not been made.

"(k) ADMINISTRATIVE RECORD AND PARTICIPATION PROCEDURES.—

"(1) ADMINISTRATIVE RECORD.—The Administrator shall establish an administrative record upon which the Administrator shall base the selection of a response action. The record shall consist of—

"(A) in the case of a removal action, the record developed under regulations issued pursuant to paragraph (2)(A); and

"(B) in the case of a remedial action, the record developed under paragraph (2)(B).

The administrative record shall be available to the public at or near the facility at issue. The Administrator also may place duplicates of the administrative record at any other location.

"(2) PARTICIPATION PROCEDURES.—

"(A) REMOVAL ACTION REGULATIONS.—The Administrator shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code establishing procedures for the appropriate participation of interested persons in the development of the administrative record on which the Administrator will base the selection of removal actions and on which judicial review of removal actions will be based.

"(B) REMEDIAL ACTION REQUIREMENTS.—The Administrator shall provide for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the Administrator will base the selection of remedial actions and on which judicial review of remedial actions will be based. The administrative record under this subparagraph shall include, at a minimum, the following:

"(i) Notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered.

"(ii) A reasonable opportunity to comment and provide information regarding the plan.

"(iii) An opportunity for a public meeting in the affected area, in accordance with section 117(a)(2).

"(iv) A response to each of the significant comments, criticisms, and new data submitted in written or oral presentations.

"(v) A statement of the basis and purpose of the selected action.

For purposes of this subparagraph, the administrative record shall include all items developed and received under this subparagraph and all items described in the second sentence of section 117(d). The Administrator shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code to carry out the requirements of this subparagraph.

"(C) POTENTIALLY RESPONSIBLE PARTIES.—The Administrator shall make reasonable efforts to identify and notify potentially responsible parties as early as possible before selection of a response action. Nothing in this paragraph shall be construed to be a defense to liability under this Act.".

(d) REIMBURSEMENT.—Section 106(b) of CERCLA is amended as follows:

(1) Insert "(1)" after "(b)".

(2) Strike out "who willfully" and insert "who, without sufficient cause, willfully".

(3) Add at the end thereof the following new paragraph:

"(2)(A) Any person who receives and complies with the terms of any order issued under subsection (a) may, within 60 days after completion of the required action, petition the Administrator for reimbursement from the Fund for the reasonable costs of such action, plus interest. Any interest payable under this paragraph shall accrue on the amounts expended from the date of expenditure at the same rate that applies to investments of the Fund under section 223(b) of this Act.

"(B) If the Administrator refuses to grant all or part of a petition made under this paragraph, the petitioner may within 30 days of receipt of such refusal file an action against the Administrator in the appropriate United States district court seeking reimbursement from the Fund.

"(C) Except as provided in subparagraph (D), to obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that it is not liable for response costs under section 107(a) and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order.

"(D) A petitioner who is liable for response costs under section 107(a) may also recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the Administrator's decision in selecting the response action ordered was arbitrary and capricious or was otherwise not in accordance with law. Reimbursement awarded under this subparagraph shall include all reasonable response costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.

"(E) Reimbursement awarded by a court under subparagraph (C) or (D) may include appropriate costs, fees, and other expenses in accordance with subsections (a) and (d) of section 2412 of title 28 of the United States Code. A petitioner who has established pursuant to subparagraph (C) that it is not liable for any response costs may also receive compensatory damages. Any reimbursement awarded under this subparagraph shall not be paid from the Fund.

"(F) In any action under section 113(h), if the remedial action conducted under an administrative order or consent decree is determined to be arbitrary and capricious or otherwise not in accordance with law, any person who has complied with the terms of any administrative order or consent decree issued under subsection (a) may petition the Administrator for reimbursement from the Fund for the reasonable costs of such action, including interest. The Administrator shall grant such petition for all reasonable response costs incurred by the petitioner pursuant to the portions of the administrative order for consent decree found to be arbitrary and capricious or otherwise not in accordance with law.".

SEC. 114. RELATIONSHIP TO OTHER LAW.

Section 114(c) of CERCLA is amended to read as follows:

"(c) STATE FUNDS.—Notwithstanding any provision of this or any other law, a State may require any person to contribute to any fund the purpose of which is to pay for any costs of response or damages.".

SEC. 115. DELEGATION OF FUNCTIONS.

Section 115 of CERCLA is amended to read as follows:

"SEC. 115. AUTHORITY TO DELEGATE FUNCTIONS AND ISSUE REGULATIONS.

"(a) DELEGATION OF FUNCTIONS.—

"(1) THE PRESIDENT.—The President is authorized to delegate and assign any duties or powers imposed upon or assigned to him necessary to carry out the provisions of this title.

"(2) THE ADMINISTRATOR.—The Administrator is authorized to delegate and assign to officers and employees of the Environmental Protection Agency any duties or powers imposed upon or assigned to him necessary to carry out the provisions of this title.

"(b) REGULATIONS.—The Administrator is authorized to issue any regulations necessary to carry out the provisions of this title.".

SEC. 116. PUBLIC HEALTH ASSESSMENT AND PROTECTION AUTHORITIES.

Title I of CERCLA is amended by inserting the following new section after section 115:

"SEC. 116. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

"(a) ESTABLISHMENT.—There is hereby established within the Public Health Service an agency, headed by an administrator, to be known as the Agency for Toxic Substances and Disease Registry (hereinafter in this Act referred to as 'ATSDR'). The Administrator of ATSDR shall report to the Secretary of the Department of Health and Human Services.

"(b) DUTIES.—The Administrator of ATSDR shall effectuate and implement the health-related authorities of this Act with the cooperation of—

"(1) the Administrator,

"(2) the Commissioner of the Food and Drug Administration,

"(3) the Directors of the National Institutes of Health, the National Institute of Environmental Health Sciences, the National Institute of Occupational Safety and Health, and the Center for Disease Control,

"(4) the Administrator of the Occupational Safety and Health Administration,

"(5) the Administrator of the Social Security Administration,

"(6) the Secretary of Transportation, and

"(7) appropriate State and local health officials.

"(c) LIST OF RESTRICTED AREAS.—In cooperation with the States and other agencies of the Federal Government, the Administrator of ATSDR shall establish and maintain a complete listing of areas closed to the public or otherwise restricted in use because of contamination by hazardous substances.

"(d) LIST OF SUBSTANCES.—

"(1) INITIAL 100.—Within six months after the date of the enactment of this section, the Administrator of ATSDR and the Administrator shall prepare a list, in order of priority, of at least 100 hazardous substances which are most commonly found at facilities on the National Priorities List and which are posing the most significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances at facilities on the National Priorities List or at facilities to which a response to a release or a threatened release under section 104 is under consideration.

"(2) REVISION.—Within 24 months after the date of the enactment of this section, the Administrator of ATSDR and the Administrator shall revise the list prepared under paragraph (1). Such revision shall include, in order of priority, the addition of 100 or more such hazardous substances. In each of the three consecutive 12-month periods that follow, the Administrator of ATSDR shall revise, in the same manner as provided in the two preceding sentences, such list to include not fewer than 25 additional hazardous substances. The Administrator of ATSDR and the Administrator shall not less often than once every year thereafter revise such list to include addi-

tional hazardous substances in accordance with the criteria in paragraph (1).

"(e) INFORMATION ON HEALTH EFFECTS.—

"(1) LITERATURE, STUDIES, ETC.—The Administrator of ATSDR shall establish and maintain an inventory of research literature, reports, and studies on the health effects of each hazardous substance listed pursuant to subsection (d).

"(2) TOXICOLOGICAL PROFILES.—Based on all available information, including information maintained under paragraph (1) and data developed and collected on the health effects of hazardous substances under this paragraph, the Administrator of ATSDR shall prepare toxicological profiles of each of the substances listed pursuant to subsection (d). The toxicological profiles shall be prepared in accordance with guidelines developed by the Administrator of ATSDR and the Administrator. Such profiles shall include, but not be limited to—

"(A) an examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects;

"(B) a determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects; and

"(C) where, appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

The profiles required to be prepared under this paragraph for those hazardous substances listed under paragraph (1) of subsection (d) shall be completed, at a rate of 25 per year, within four years after the date of the enactment of this section. A profile required on a substance listed pursuant to paragraph (2) of subsection (d) shall be completed within three years after addition to the list. The profiles prepared under this paragraph shall be of those substances highest on the list of priorities under subsection (d) for which profiles have not previously been prepared. Profiles required under this paragraph shall be revised and republished as necessary, but no less often than once every three years. Such profiles shall be provided to the States and made available to other interested parties.

"(3) HEALTH EFFECTS RESEARCH.—For any hazardous substance for which adequate information is not available (or for which such information is under development as determined under paragraph (2)(B)), the Administrator of ATSDR shall assure the initiation of a program of research designed to determine the health effects of such hazardous substance. Where feasible, such program shall seek to develop methods to determine the health effects of such hazardous substance in combination with other hazardous substances with which it is commonly found. Before assuring the initiation of such program, the Administrator of ATSDR shall consider recommendations of the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act on the types of research that should be done and on who should do the research.

"(4) COORDINATION.—The Administrator of ATSDR and the Administrator shall coordinate the development and implementation of any research program under this subsection. The purpose of such coordination shall be to avoid duplication of effort and to assure that the hazardous substances listed pursuant to this subsection are tested thoroughly at the earliest practicable date. Where appropriate in the discretion of the Administrator and the Administrator of ATSDR and consistent with such purpose, a research program under this subsection may be carried out using programs of toxicological testing established under the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act.

"(f) HEALTH ASSESSMENTS.—

"(1) FACILITIES ON NPL.—The Administrator of ATSDR shall perform a health assessment for each facility on the National Priorities List established under section 105 which meets each of the following criteria:

"(A) The presence of a hazardous substance has been confirmed at the facility.

"(B) Pathways of human exposure to hazardous substances have been demonstrated to exist at the facility, especially if such pathways involve direct contact with hazardous substances.

"(C) A human population has been exposed, or there exists a significant possibility that a human population has been exposed, to hazardous substances through the identified pathways and there may exist a significant threat of current or future adverse health effects for the population so exposed.

The determination of whether any facility on such list meets such criteria shall be based on information provided by the Administrator regarding such criteria. Nothing in this paragraph shall preclude the Administrator of ATSDR from performing, where appropriate and consistent with the National Contingency Plan, health assessments of releases of hazardous substances from any other facilities, including facilities which are not on such list. The Administrator or any State may request the Administrator of ATSDR to perform a health assessment under this section. The Administrator of ATSDR and the Administrator shall coordinate the performance of health assessments under this section.

"(2) PETITION TO ADMINISTRATOR OF ATSDR.—Any individual or group of individuals may submit a petition to the Administrator of ATSDR to perform a health assessment under this subsection. The petition shall provide evidence demonstrating that such individual or group is being exposed to a hazardous substance, and an empirical analysis of the level of exposure. The Administrator of ATSDR shall take action under paragraph (3)(A) if the Administrator of ATSDR determines that there is a reasonable likelihood that the exposure may present a significant risk to human health and that there is a reasonable likelihood that the hazardous substance is from one of the following facilities:

"(A) A facility where such substance is (or was in the past) treated, stored, recycled, or disposed of, on a regular basis.

"(B) A facility at which removal action is being taken (or was taken in the past) under any provision of this Act.

"(3) INITIATION OR EXPLANATION REQUIRED.—Within 45 days after receipt of a petition under paragraph (2), the Administrator of ATSDR shall do one of the following:

"(A) Initiate a health assessment.

"(B) Publish a written explanation of one of the following:

"(i) A determination that there is not a reasonable likelihood that the substance is from a facility referred to in paragraph (2).

"(ii) A determination that there is not a reasonable likelihood that the exposure presents a significant risk to human health.

"(iii) A determination that the evidence submitted or information available to the Administrator of ATSDR is not adequate to determine whether there is a reasonable likelihood that the substance is from a facility referred to in paragraph (2) or there is a reasonable likelihood that the exposure presents a significant risk to human health. If the Administrator of ATSDR determines under this clause that the evidence submitted is not adequate, the Administrator of ATSDR shall, in the written explanation, identify the additional information necessary for the Administrator of ATSDR to determine whether there is a reasonable likelihood that the substance is from a facility referred to in paragraph (2) or there is a reasonable likelihood that the exposure may present a significant risk to human health.

"(C) Respond in writing to the petition submitted under paragraph (2) by setting forth a schedule for review of the petition or a schedule to initiate a health assessment.

Each assessment under this paragraph shall be completed within six months after the date on which the health assessment is initiated.

"(4) PRIORITIES OF ASSESSMENTS.—In determining the priority in which to conduct health assessments under this subsection, the Administrator of ATSDR, in consultation with the Administrator, shall give priority to those facilities at which there is documented evidence of the release of hazardous substances, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of ATSDR existing health assessment data are inadequate to assess the potential risk to human health as provided in paragraph (7). In determining the priorities for conducting health assessments under this subsection, the Administrator of ATSDR shall consider the National Priorities List schedules and the needs of the Environmental Protection Agency pursuant to schedules for remedial investigation and feasibility studies.

"(5) RIFS.—Where a health assessment is done at a site on the National Priorities List, the Administrator of ATSDR shall complete such assessment promptly and, to the maximum extent practicable, before the completion of the remedial investigation and feasibility study at the facility concerned.

"(6) NOTICE AND REPORTING.—Any State or political subdivision carrying out a health assessment for a facility shall report the results of the assessment to the Administrator of ATSDR and the Administrator and shall include recommendations with respect to further activities which need to be carried out under this section. The Administrator of ATSDR shall state such recommendation in any report on the results of any assessment carried out directly by the Administrator of ATSDR for such facility and shall issue periodic reports which include the results of all the assessments carried out under this subsection.

"(7) DEFINITION.—For the purposes of this section and section 111(c)(4), the term 'health assessment' means a determination of the potential individual and population

human health risks posed by a facility. A health assessment shall be based on but not limited to the following information:

"(A) The nature and extent of contamination.

"(B) The existence, scope, and magnitude of potential pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination).

"(C) The size, population characteristics, and potential susceptibility of the community within the likely pathways of exposure.

"(D) The comparison of measured or estimated human exposure levels which are identified for hazardous substances and any exposure levels for such hazardous substances which are determined to be of significance to human health, including but not limited to those determined in the toxicological profiles under subsection (e)(2).

"(E) The comparison of appropriate existing morbidity and mortality data, relevant to the suspected population at risk of exposure, on diseases that may be associated with the observed levels of exposure.

If a significant excess of disease in a population is identified under subparagraph (E), the health assessment shall include, to the maximum extent practicable, an assessment of attributable risk for the purpose of determining the most likely explanations for that excess. A health assessment may include literature searches, information summarization and evaluation of existing environmental data, pilot samples, testing for food chain contamination, and similar activities. The Administrator of ATSDR shall utilize appropriate data available from the Administrator to avoid duplication of effort.

"(8) PURPOSE.—The purpose of health assessments under this section shall be to assist in determining whether actions under subsection (k) of this section should be taken to reduce human exposure to hazardous substances from a facility and whether additional information on human exposure and associated health risks is needed and should be acquired by conducting epidemiological studies under subsection (g), establishing a registry under subsection (h), establishing a health surveillance program under subsection (i), or through other means. In using the results of health assessments for determining additional actions to be taken under this section, the Administrator of ATSDR may consider additional information on the risks to the potentially affected population from all sources of such hazardous substances including known point or nonpoint sources other than those from the facility in question.

"(9) RESULTS, RECOMMENDATIONS, AND EVALUATIONS.—At the completion of each health assessment, the Administrator of ATSDR shall provide the Administrator and each affected State with the results of such assessment, including recommendations concerning the need to further reduce exposure. In addition, if the health assessment indicates that the release or threatened release concerned may pose a serious threat to human health or the environment, the Administrator of ATSDR shall so notify the Administrator who shall promptly evaluate such release or threatened release in accordance with the hazard ranking system referred to in section 105(a)(8)(A) to determine whether the site shall be placed on the National Priorities List or, if the site is already on the list, the Administrator of the ATSDR may recommend to the Administrator that the site be accorded a higher priority.

"(10) RECOVERY OF COSTS.—In any case in which a health assessment performed under this subsection (including one required by section 3019(b) of the Solid Waste Disposal Act) discloses the exposure of a population to the release of a hazardous substance from a facility, the costs of such health assessment may be recovered as a cost of response under section 107 of this Act.

"(g) STUDIES.—

"(1) PILOT HEALTH EFFECTS STUDIES.—Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of a health assessment, the Administrator of ATSDR shall conduct a pilot study of health effects for selected groups of exposed individuals in order to determine the desirability of conducting full scale epidemiological or other health studies of the entire exposed population.

"(2) FULL SCALE.—Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of such pilot study or other study or health assessment, the Administrator of ATSDR shall conduct such full scale epidemiological or other health studies as may be necessary to determine the health effects on the population exposed to hazardous substances from a release or threatened release.

"(h) REGISTRY.—

"(1) AUTHORITY TO ESTABLISH.—In any case in which the results of a health assessment or epidemiologic study indicate a potential or observed significant risk to human health, the Administrator of ATSDR shall evaluate whether the establishment of a registry of exposed persons would contribute to accomplishing the purposes of this subsection. The Administrator of ATSDR shall establish such registry when such evaluation determines that an effective mechanism can be established to satisfactorily maintain such registry over a sufficient period of time to accomplish the desired purposes of this paragraph and either—

"(A) the registry could benefit its participants by prevention or early detection of serious adverse health effects from exposure to hazardous substances; or

"(B) the registry could provide significant information not currently available on human health effects of exposure to one or more hazardous substances.

"(2) UNLAWFUL DISCLOSURE.—The identity of any individual listed on a registry shall not be disclosed to any person except as may be necessary to carry out this section. Any person violating this paragraph shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and shall be required to pay the costs of prosecution.

"(i) HEALTH SURVEILLANCE PROGRAM.—Where the Administrator of ATSDR has determined that there is a significant increased risk of adverse health effects in humans from exposure to hazardous substances based on the results of a health assessment conducted under subsection (f), an epidemiologic study conducted under subsection (g), or an exposure registry that has been established under subsection (h), and the Administrator of ATSDR has determined that such exposure is the result of a release from a facility, the Administrator of ATSDR shall initiate a health surveillance program for such population. This program shall include but not be limited to—

"(1) periodic medical testing where appropriate of population subgroups to screen for diseases for which the population or subgroup is at significant increased risk; and

"(2) a mechanism to refer for treatment those individuals within such population who are screened positive for such diseases.

"(j) REPORT EVERY TWO YEARS.—Two years after the date of the enactment of this subsection and every two years thereafter, the Administrator of ATSDR shall prepare and submit to the Administrator and Congress a report on the results of the activities of ATSDR regarding—

"(1) health assessments and pilot health effects studies conducted;

"(2) epidemiologic studies conducted;

"(3) hazardous substances which have been listed under subsection (d), toxicological profiles which have been developed, and toxicologic testing which has been conducted or which is being conducted under subsection (e);

"(4) registries established under subsection (h); and

"(5) an overall assessment, based on the results of activities conducted by the Administrator of ATSDR, of the linkage between human exposure to individual or combinations of hazardous substances due to releases from facilities covered by this Act or the Solid Waste Disposal Act and any increased incidence or prevalence of adverse health effects in humans.

"(k) REDUCTION OF EXPOSURE.—

"(1) SIGNIFICANT HUMAN EXPOSURE LEVEL.—If a health assessment or other study carried out under this Act identifies an individual or individuals exposed to a hazardous substance in a manner which presents a significant risk to human health, the Administrator shall take such steps as may be necessary to abate the risk. Such steps may include the following:

"(A) Provision of alternate household water supplies.

"(B) Temporary or permanent relocation of individuals.

"(2) INSUFFICIENT INFORMATION.—In any case in which information is insufficient, in the judgment of the Administrator of ATSDR or the Administrator to determine a significant human exposure level with respect to a hazardous substance, the Administrator may take such steps as may be necessary to reduce the exposure of any person to such hazardous substance to such level as the Administrator deems necessary to protect human health.

"(l) NO DELAY OF OTHER ACTION.—In the case of any hazardous substance which is subject to a petition or study under this section, nothing in this section shall be construed to delay or otherwise impair the authority of the Administrator to exercise any authority vested in the Administrator under any other provision of law, including, but not limited to, the imminent hazard authority of section 7003 of the Solid Waste Disposal Act or the response and abatement authorities of this Act.

"(m) PEER REVIEW.—All studies and results of research (other than health assessments) conducted under this section shall be reported or adopted only after appropriate peer review. Such peer review shall be completed, to the maximum extent practicable, within a period of 60 days and shall be conducted by panels consisting of no less than three nor more than seven members, who shall be scientific experts selected for such purpose by the Administrator of ATSDR on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Support services for such panels

shall be provided by the Administrator of ATSDR.

"(n) EDUCATIONAL MATERIALS.—In the implementation of this section and other health-related authorities of this Act, the Administrator of ATSDR shall assemble, develop, as necessary, and distribute to the States, and upon request to medical colleges, physicians, and other health professionals, appropriate educational materials on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease related to exposure to hazardous substances (giving priority to those listed in subsection (d)), through such means as the Administrator of ATSDR deems appropriate.

"(o) DIRECT ACTION AND COOPERATIVE AGREEMENTS.—The activities described in this section and section 111(c)(4) shall be carried out by the Administrator of ATSDR, either directly or through cooperative agreements with States (or political subdivisions thereof) which the Administrator of ATSDR determines are capable of carrying out such activities. Such activities shall include provision of consultations on health information, the conduct of health assessments, including those required under section 3019(b) of the Solid Waste Disposal Act, health studies, registries, and health surveillance.

"(p) MINIMUM NUMBER OF EMPLOYEES.—The President shall provide adequate personnel for ATSDR, which shall not be fewer than 100 employees. For purposes of determining the number of employees under this subsection, an employee employed by ATSDR on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek.

"(q) FEDERAL FACILITIES.—In accordance with section 120, the Administrator of ATSDR shall have the same authorities under this section with respect to facilities owned or operated by a department, agency, or instrumentality of the United States as such Administrator has with respect to any nongovernmental entity.

"(r) EMERGENCIES.—In cases of public health emergencies caused or believed to be caused by exposure to toxic substances, the Administrator of ATSDR—

"(1) shall arrange for medical testing and care to exposed individuals, including, but not limited to, tissue sampling, chromosomal testing, epidemiological studies, or any other assistance appropriate under the circumstances;

"(2) shall offer technical assistance and consultation to local and State health authorities that are providing medical testing and care to exposed individuals; and

"(3) shall use any authority provided under this section;

whether or not the determinations or other preliminary steps otherwise required under this section have been made or taken. Nothing in this subsection shall be construed to create an entitlement program.

"(s) POLLUTANTS AND CONTAMINANTS.—If the Administrator of ATSDR determines that it is appropriate for purposes of this section to treat a pollutant or contaminant as a hazardous substance, such pollutant or contaminant shall be treated as a hazardous substance for such purpose.".

SEC. 117. PUBLIC PARTICIPATION.

Title I of CERCLA is amended by adding the following new section after section 116:

"SEC. 117. PUBLIC PARTICIPATION.

"(a) PROPOSED PLAN.—Before adoption of any plan for remedial action to be undertaken by the Administrator or by a State or by any other person at any site, the Administrator or State, as appropriate, shall take both of the following actions:

"(1) Publish a notice and brief analysis of the proposed plan and make such plan available to the public.

"(2) Provide a reasonable opportunity for submission of written and oral comments and an opportunity for a public meeting at or near the facility at issue regarding the proposed plan and regarding any waivers under section 121 (relating to cleanup standards). The Administrator shall keep a transcript of the meeting and make such transcript available to the public.

The notice and analysis published under paragraph (1) shall include sufficient information as may be necessary to provide a reasonable explanation of the proposed plan.

"(b) FINAL PLAN.—Notice of the final remedial action plan adopted shall be published and the plan shall be made available to the public before commencement of any remedial action. Such final plan shall be accompanied by a discussion of any significant changes (and the reasons for such changes) in the proposed plan and a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under subsection (a).

"(c) EXPLANATION OF DIFFERENCES.—After adoption of a final remedial action plan—

"(1) if any remedial action is taken,

"(2) if any enforcement action under section 106 is taken, or

"(3) if any settlement or consent decree under section 106 is entered into,

and if such action, settlement, or decree differs in any significant respects from the final plan, the Administrator shall publish an explanation of the significant differences and the reasons such changes were made.

"(d) PUBLICATION.—For the purposes of this section, publication shall include, at a minimum, publication in a major local newspaper of general circulation. In addition, each item developed, received, published, or made available to the public under this section shall be available for public inspection and copying at or near the facility at issue.

"(e) GRANTS FOR TECHNICAL ASSISTANCE.—

"(1) AUTHORITY.—In accordance with rules promulgated by the Administrator, the Administrator may make grants available to any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List under the National Contingency Plan. Such grants shall be for the purpose of enabling the group to obtain technical assistance to review and assess data and information which has been prepared by the Administrator with respect to such facility and which is required to be published under this subsection.

"(2) AMOUNT.—The amount of any grant under this subsection may not exceed $25,000 for a single grant recipient. The Administrator may waive the $25,000 limitation in any case where such waiver is necessary to carry out the purposes of this subsection. Each grant recipient shall be required, as a condition of the grant, to contribute at least 20 percent of the total of costs of the expert advice and technical assistance for which such grant is made. The Administrator may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility. Not more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action.".

SEC. 118. MISCELLANEOUS PROVISIONS

(a) GENERAL PROVISIONS RELATING TO RESPONSE UNDER TITLE I.—Title I of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 118. GENERAL PROVISIONS RELATING TO RESPONSE UNDER TITLE I.

"(a) SCOPE OF PROGRAM.—The Administrator shall not respond under this Act to any of the following:

"(1) A release or threat of a release of a hazardous substance or pollutant or contaminant from residential dwellings or businesses or community structures where such dwellings or structures are not used for the deposition, storage, processing, treatment, transportation, or disposal of hazardous substances.

"(2) A release or threat of a release of a hazardous substance or pollutant or contaminant into public or private drinking water supplies due to deterioration of the system through ordinary use.

"(3) A release or threat of a release resulting exclusively from the mining of coal for which a timely response action is available and authorized under the Surface Mine Control and Reclamation Act of 1977.

"(4) A release or threat of a release of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found.

Notwithstanding the preceding provisions of this subsection, the Administrator may respond under this Act to any release or threat of release of a hazardous substance or pollutant or contaminant (including radon) in any form if the Administrator determines, in his discretion, that the release or threat of release constitutes a major public health or environmental emergency. As used in this subsection the term 'respond under this Act' includes response action under section 104 and abatement action under section 106.

"(b) HIGH PRIORITY FOR WELLS AND CERTAIN AQUIFERS.—For purposes of taking action under section 104 or section 106 and listing facilities on the National Priorities List, the Administrator shall give high priority to facilities where the release of hazardous substances or pollutants or contaminants has resulted in the closing of drinking water wells or has contaminated a sole or principal drinking water source designated under section 1424(e) of title XIV of the Public Health Service Act (the Safe Drinking Water Act).".

(b) REMOVAL AND TEMPORARY STORAGE OF CONTAINERS OF RADON CONTAMINATED SOIL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall make a grant of $7,500,000 to the State of New Jersey for transportation from residential areas in the State of New Jersey and temporary storage of approximately 14,000 containers of radon contaminated soil which is the subject of a remedial action for which a remedial investigation and feasibility study has been initiated before such date. Such containers shall be transported to and temporarily stored at any site in the State of New Jersey designated by the Governor of such State. For purpose of section 111(a) of CERCLA, the grant under this subsection

for transportation and storage of such containers shall be treated as payment of governmental response cost inserted pursuant to section 104 of CERCLA.

(C) UNCONSOLIDATED QUARTERNARY AQUIFER.—Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quarternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This subsection may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this subsection shall be considered a violation of section 301 of such Act.

(d) STUDY OF SHORTAGES OF SKILLED PERSONNEL.—The Comptroller General shall study the problem of shortages of skilled personnel in the Environmental Protection Agency to carry out response actions under CERCLA. In particular the Comptroller General shall study—

(1) the types of skilled personnel needed for response actions for which there are shortages in the Environmental Protection Agency,

(2) the extent of such shortages,

(3) pay differential between the public and private sectors for the skilled positions involved in response actions,

(4) the extent to which skilled personnel of Federal and State governments involved in response actions are leaving their positions for employment in the private sector,

(5) the success of programs of the Department of Defense and the Office of Personnel Management in retaining skilled personnel, and

(6) the types of training required to improve the skills of employees carrying out response actions.

The Comptroller General shall complete the study required by this subsection and submit a report on the results thereof to Congress not later than 12 months after the date of the enactment of this Act.

(e) STATE REQUIREMENTS NOT APPLICABLE TO CERTAIN TRANSFERS.—No State or local requirement shall apply to the transfer and disposal of any hazardous substance or pollutant or contaminant from a facility at which a release or threatened release has occurred to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act is in effect if the following conditions apply—

(1) Such permit was issued after January 1, 1983 and before November 1, 1984.

(2) The transfer and disposal is carried out pursuant to a cooperative agreement between the Administrator and the State.

The terms used in this section shall have the same meaning as when used in CERCLA.

SEC. 119. RESPONSE ACTION CONTRACTORS.

Title I of CERCLA is amended by adding the following new section after section 118:

"SEC. 119. RESPONSE ACTION CONTRACTORS.

"(a) LIABILITY OF RESPONSE ACTION CONTRACTORS.—

"(1) RESPONSE ACTION CONTRACTORS.—Notwithstanding section 114, a person who is a response action contractor with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a vessel or facility shall not be liable under this title, under any other Federal law, under the law of any State or political subdivision, or under common law to any person for injuries, costs, damages, expenses, or other liability (including but not limited to claims for indemnification or contribution and claims by third parties for death, personal injury, illness or loss of or damage to property or economic loss) which results from such release or threatened release.

"(2) NEGLIGENCE, ETC.—Paragraph (1) shall not apply in the case of a release that is caused by conduct of the response action contractor which is negligent, grossly negligent, or which constitutes intentional misconduct.

"(3) EFFECT ON WARRANTIES.—Nothing in this subsection shall affect the liability of any person under any warranty under Federal, State, or common law.

"(4) GOVERNMENTAL EMPLOYEES.—A state employee or an employee of a political subdivision who provides services relating to response action while acting within the scope of his authority as a governmental employee shall have the same exemption from liability (subject to the other provisions of this section) as is provided to the response action contractor under this section.

"(b) SAVINGS PROVISIONS.—

"(1) LIABILITY OF OTHER PERSONS.—Nothing in this section shall affect the liability under this Act or under any other Federal or State law of any person, other than a response action contractor.

"(2) BURDEN OF PLAINTIFF.—Nothing in this section shall affect the plaintiff's burden of establishing liability under this title.

"(c) INDEMNIFICATION.—

"(1) IN GENERAL.—The Administrator may agree to hold harmless and indemnify any response action contractor meeting the requirements of this subsection against any liability (including the expenses of litigation or settlement) for negligence arising out of the contractor's performance in carrying out response action activities under this title, unless such liability was caused by conduct of the contractor which was grossly negligent or which constituted intentional misconduct.

"(2) APPLICABILITY.—This subsection shall apply only with respect to a response action carried out under written agreement with—

"(A) the Administrator;

"(B) another Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this title; or

"(D) any potentially responsible party, as defined by section 122.

"(3) NONAPPLICABILITY.—This subsection shall not be subject to section 1301 or 1341 of title 31 of the United States Code or section 3732 of the Revised Statutes (41 U.S.C. 11).

"(4) REQUIREMENTS.—An indemnification agreement may be provided under this subsection only if the Administrator determines that each of the following requirements are met:

"(A) The liability covered by the indemnification agreement exceeds or is not covered by insurance available, at a fair and reasonable price, to the contractor at the time the contractor enters into the contract to provide response action, and adequate insurance to cover such liability is not generally available at the time the response action contract is entered into.

"(B) The response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover such liability.

"(C) In the case of a response action contract covering more than one facility, the response action contractor agrees to continue to make such diligent efforts each time the contractor begins work under the contract at a new facility.

"(5) LIMITATIONS.—

"(A) LIABILITY COVERED.—Indemnification under this subsection shall apply only to response action contractor liability which results from a release of any hazardous substance or pollutant or contaminant if such release arises out of response action activities.

"(B) DEDUCTIBLES AND LIMITS.—An indemnification agreement under this subsection shall include deductibles and shall place limits on the amount of indemnification to be made available.

"(C) CONTRACTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(i) DECISION TO INDEMNIFY.—In deciding whether to enter into an indemnification agreement with a response action contractor carrying out a written contract or agreement with any potentially responsible party, the Administrator shall determine an amount which the potentially responsible party is able to indemnify the contractor. The Administrator may enter into such an indemnification agreement only if the Administrator determines that such amount of indemnification is inadequate to cover any reasonable potential liability of the contractor arising out of the contractor's negligence in performing the contract or agreement with such party. The Administrator shall make the determinations in the preceding sentences (with respect to the amount and the adequacy of the amount) taking into account the total net assets and resources of potentially responsible parties with respect to the facility at the time of such determinations.

"(ii) CONDITIONS.—The Administrator may provide indemnification for the amount determined under clause (i) under an indemnification agreement referred to in clause (i) only if the contractor has exhausted all administrative, judicial, and common law claims for indemnification against all potentially responsible parties participating in the clean-up of the facility with respect to the liability of the contractor arising out of the contractor's negligence in performing the contract or agreement with such party. Such indemnification agreement shall require such contractor to pay any deductible established under subparagraph (B) before the contractor may recover any amount from the potentially responsible party or under the indemnification agreement.

"(D) RCRA FACILITIES.—No owner or operator of a facility regulated under the Solid Waste Disposal Act may be indemnified under this subsection with respect to such facility.

"(E) PERSONS RETAINED OR HIRED.—A person retained or hired by a person described in subsection (f)(2)(A) shall be eligible for indemnification under this subsection only if the Administrator specifically approves of the retaining or hiring of such person.

"(6) REGULATIONS.—Within one year after the date of the enactment of this section,

the Administrator shall promulgate regulations for carrying out the provisions of this subsection.

"(7) STUDY.—The Comptroller General shall conduct a study in the fiscal year ending September 30, 1989, on the application of this subsection, including whether indemnification agreements under this subsection are being used, the number of claims that have been filed under such agreements, and the need for this subsection. The Comptroller General shall report the findings of the study to Congress no later than September 30, 1989.

"(d) EXCEPTION TO EXEMPTION.—The exemption provided under subsection (a) and the authority of the Administrator to offer indemnification under subsection (c) shall not apply to any person covered by the provisions of paragraph (1), (2), (3), or (4) of section 107(a) with respect to the release or threatened release concerned if such person would be covered by such provisions even if such person had not carried out any actions referred to in subsection (e) of this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RESPONSE ACTION CONTRACT.—The term 'response action contract' means any written contract or agreement entered into by a response action contractor (as defined in paragraph (2)(A) of this subsection) with—

"(A) the Administrator;

"(B) any other Federal agency;

"(C) a State or political subdivision which has entered into a contract or cooperative agreement in accordance with section 104(d)(1) of this Act; or

"(D) any potentially responsible party;

to provide any response action under this Act with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility or to provide any evaluation, planning, engineering, surveying and mapping, design, construction, equipment, or any ancillary services thereto for such facility.

"(2) RESPONSE ACTION CONTRACTOR.—The term 'response action contractor' means—

"(A) any—

"(i) person who enters into a response action contract with respect to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility and is carrying out such contract; and

"(ii) person, public or nonprofit private entity, conducting a field demonstration pursuant to section 311(b); and

"(B) any person who is retained or hired by a person described in subparagraph (A) to provide any services relating to a response action.

"(3) INSURANCE.—The term 'insurance' means liability insurance which is fair and reasonably priced, as determined by the Administrator, and which is made available at the time the contractor enters into the response action contract to provide response action.

"(f) COMPETITION.—To protect the health and safety of the public and to assure the selection of technically superior response action contractors, no potential offeror of a bid or proposal for a contract, subcontract, or cooperative agreement to be performed and funded under the authority of this Act shall be denied the opportunity to compete for such contracts. Response action contractors and subcontractors for program management, construction management, architectural and engineering, surveying and mapping, and related services shall be selected in accordance with title IX of the Federal Property and Administrative Services Act of 1949. The Federal selection procedures or equivalent State requirements shall apply to appropriate contracts negotiated by all governmental agencies involved in carrying out this Act under memoranda of understanding, State cooperative agreements, or other means. Such procedures (or equivalent requirements) shall be followed by response action contractors and subcontractors.

"(g) Nothing in this Act shall limit the Administrator in taking such action as may be necessary to assure continuous remedial action or to institute interim remedial action when it becomes necessary to reopen bidding or otherwise recontract for the performance of remedial action.".

SEC. 120. FEDERAL FACILITIES.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 119:

"SEC. 120. FEDERAL FACILITIES.

"(a) APPLICATION OF ACT TO FEDERAL GOVERNMENT.—

"(1) IN GENERAL.—Each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) shall be subject to, and comply with, this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 107 of this Act. Nothing in this section shall be construed to affect the liability of any person or entity under sections 106 and 107.

"(2) APPLICATION OF GUIDELINES, ETC., TO FEDERAL FACILITIES.—All guidelines, rules, regulations, and criteria which are applicable to preliminary assessments carried out under this Act for facilities at which hazardous substances are located, applicable to evaluations of such facilities under the National Contingency Plan, applicable to inclusion on the National Priorities List, or applicable to remedial actions at such facilities shall also be applicable with respect to facilities which are owned or operated by a department, agency, or instrumentality of the United States in the same manner and to the same extent as such guidelines, rules, regulations, and criteria are applicable with respect to other facilities. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this Act.

"(3) EXCEPTIONS.—This subsection shall not apply to the extent otherwise provided in this section with respect to applicable time periods. This subsection shall also not apply to any requirements relating to financial responsibility. Nothing in this Act shall be construed to require a State to comply with section 104(c)(3) in the case of a facility which is owned or operated by any department, agency, or instrumentality of the United States.

"(4) STATE LAWS.—State laws concerning removal and remedial action, including State laws regarding enforcement, shall apply to removal and remedial action at facilities owned or operated by a department, agency, or instrumentality of the United States when such facilities are not included on the National Priorities List. The preceding sentence shall not apply to the extent a State law would apply any standard or requirement to such facilities which is more stringent than the standards and requirements applicable to facilities which are not owned or operated by any such department, agency, or instrumentality.

"(b) NOTICE.—Each department, agency, and instrumentality of the United States shall add to the inventory of Federal agency hazardous waste facilities required to be submitted under section 3016 of the Solid Waste Disposal Act (in addition to the information required under section 3016(a)(3) of such Act) information on contamination from each facility owned or operated by the department, agency, or instrumentality if such contamination affects contiguous or adjacent property owned by the department, agency, or instrumentality or by any other person, including a description of the monitoring data obtained.

"(c) FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET.—

"(1) ESTABLISHMENT.—The Administrator shall establish a special Federal agency hazardous waste compliance docket for each department, agency, or instrumentality of the United States which shall contain each of the following:

"(A) The inventory required to be submitted by the department, agency, or instrumentality in accordance with section 3016 of the Solid Waste Disposal Act and subsection (b) of this section.

"(B) Information submitted by the department, agency, or instrumentality under section 3005 or 3010 of such Act.

"(C) Information submitted by the department, agency, or instrumentality under section 103 of this Act.

"(2) INSPECTION.—The docket established under this subsection shall be available for public inspection at reasonable times. The Administrator shall establish a program to provide information to the public with respect to facilities which are included in the docket under this subsection.

"(3) PERIODIC NOTICES.—Six months after establishment of the docket under this subsection and every six months thereafter, the Administrator shall publish in the Federal Register a list of the Federal facilities which have been included in the docket during the preceding six-month period. Such publication shall also indicate where in the appropriate regional office of the Environmental Protection Agency additional information may be obtained with respect to any facility on the docket.

"(d) EVALUATION.—

"(1) DEADLINE.—Not later than January 31, 1987, where the Administrator determines that such evaluation is warranted on the basis of a site inspection or preliminary assessment, the Administrator shall evaluate each facility included in the docket established under subsection (c) in accordance with the criteria established under the National Contingency Plan for determining priorities among releases for inclusion on the National Priorities List. Upon the receipt of a petition from the Governor of any State, the Administrator shall make such an evaluation of any facility included in the docket.

"(2) DEADLINE FOR INCLUSION.—Within 12 months after completion of the evaluation of a facility, the Administrator shall include the facility on the National Priorities List if the facility meets the criteria for inclusion on such list. Such criteria shall be applied in the same manner as the criteria are applied to facilities which are owned or operated by other persons.

"(e) REQUIRED ACTION BY DEPARTMENT.—

"(1) RIFS.—Not later than six months after the inclusion of any facility on the Na-

tional Priorities List, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator, commence a remedial investigation and feasibility study for such facility. In the case of any facility which is listed on such list before the date of the enactment of this section, the department, agency, or instrumentality which owns or operates such facility shall, in consultation with the Administrator, commence such an investigation and study for such facility within one year after such date of enactment.

"(2) COMMENCEMENT OF REMEDIAL ACTION; INTERAGENCY AGREEMENT.—The Administrator shall review the results of each investigation and study conducted as provided in paragraph (1). Within 180 days thereafter, the head of the department, agency, or instrumentality concerned shall enter into an interagency agreement with the Administrator for the expeditious completion by such department, agency, or instrumentality of all necessary remedial action at such facility. Substantial continuous physical onsite remedial action shall be commenced at each facility not later than 15 months after completion of the investigation and study. For purposes of completing the remedial action as promptly as practicable, each department, agency, or instrumentality shall request adequate funding in the President's annual budget submittal to the Congress. For purposes of public participation in accordance with section 117, the proposal of a plan for remedial action in an interagency agreement shall be treated as the proposal of a plan for remedial action and the adoption of such an agreement shall be treated as the adoption of a final plan.

"(3) CONTENTS OF AGREEMENT.—Each interagency agreement under this subsection shall include, but shall not be limited to, each of the following:

"(A) A review of alternative remedial actions and selection of a remedial action plan by the Administrator.

"(B) A schedule for the completion of each such remedial action.

"(C) Arrangements for long-term operation and maintenance of the facility.

"(4) ANNUAL REPORT.—Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section. Such reports shall include, but shall not be limited to, each of the following items:

"(A) A report on the progress in reaching interagency agreements under this section.

"(B) The specific cost estimates and budgetary proposals involved in each interagency agreement.

"(C) A report on progress in conducting investigations and studies under paragraph (1).

"(D) A report on progress in conducting remedial actions.

"(E) A report on progress in conducting remedial action at facilities which are not listed on the National Priorities List.

"(5) SETTLEMENTS WITH OTHER PARTIES.—If the Administrator, in consultation with the head of the relevant department, agency, or instrumentality of the United States, determines that remedial investigations and feasibility studies or remedial action will be done properly at the Federal facility by another potentially responsible party within the deadlines provided in paragraphs (1), (2), and (3) of this subsection, the Administrator may enter into an agreement with such party under section 122.

"(f) TRANSFER OF AUTHORITIES.—Except for authorities which are delegated by the Administrator to an officer or employee of the Environmental Protection Agency, no authority vested in the Administrator under this section may be transferred, by executive order of the President or otherwise, to any other officer or employee of the United States or to any other person.

"(g) PROPERTY TRANSFERRED BY FEDERAL AGENCIES.—

"(1) NOTICE.—After the last day of the six-month period beginning on the effective date of regulations under paragraph (2) of this subsection, whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any federally regulated hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency, or instrumentality shall include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

"(2) FORM OF NOTICE; REGULATIONS.—Notice under this subsection shall be provided in such form and manner as may be provided in regulations promulgated by the Administrator. As promptly as practicable after the date of the enactment of this subsection but not later than 18 months after such date of enactment, and after consultation with the Administrator of the General Services Administration, the Administrator shall promulgate regulations regarding the notice required to be provided under this subsection.

"(3) CONTENTS OF CERTAIN DEEDS.—After the last day of the six-month period beginning on the effective date of regulations under paragraph (2) of this subsection, in the case of any real property owned by the United States on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity shall contain—

"(A) to the extent such information is available on the basis of a complete search of agency files—

"(i) a notice of the type and quantity of such hazardous substances,

"(ii) notice of the time at which such storage, release, or disposal took place, and

"(iii) a description of the remedial action taken, if any, and

"(B) a covenant warranting that—

"(i) all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer, and

"(ii) any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

The requirements of subparagraph (B) shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party (as defined in section 122(j)) with respect to such real property.

"(h) OBLIGATIONS UNDER SOLID WASTE ACT.—Nothing in this section shall affect or impair the obligation of any department, agency, or instrumentality of the United States to comply with any requirement of the Solid Waste Disposal Act (including corrective action requirements).

"(i) STATE COORDINATOR.—A State may request and be granted by the Administrator the role of on-scene coordinator for Federal facility projects within its boundaries. The necessary and reasonable expenses of the on-scene coordinator shall be paid to the State by the Agency.

"(j) NATIONAL SECURITY.—

"(1) SITE SPECIFIC PRESIDENTIAL ORDERS.—The President may issue such orders regarding response actions at any specified site or facility of the Department of Energy or the Department of Defense as may be necessary to protect the national security interests of the United States at that site or facility. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title or under title III of the Superfund Amendments of 1985 with respect to the site or facility concerned. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed 1 year. Additional exemptions may be granted each upon the President's issuance of a new order under this paragraph for the site or facility concerned. Each such additional exemption shall be for a specified period which may not exceed 1 year. It is the intention of the Congress that whenever an exemption is issued under this paragraph the response action shall proceed as expeditiously as practicable. The Congress shall be notified periodically of the progress of any response action with respect to which an exemption has been issued under this paragraph.

"(2) CLASSIFIED INFORMATION.—Notwithstanding any other provision of law, all requirements of the Atomic Energy Act and all Executive orders concerning the handling of restricted data and national security information, including 'need to know' requirements, shall be applicable to any grant of access to classified information under the provisions of this Act or under title III of the Superfund Amendments of 1985.".

(b) LIMITED GRANDFATHER.—Section 120(a) of CERCLA shall not apply to any response action or remedial action for which a plan is under development by the Department of Energy on the date of the enactment of this Act with respect to facilities—

(1) owned or operated by the United States and subject to the jurisdiction of such Department,

(2) located in St. Charles and St. Louis counties, Missouri, or the city of St. Louis, Missouri, and

(3) published in the National Priorities List.

In preparing such plans, the Secretary of Energy shall consult the Administrator of the Environmental Protection Agency.

SEC. 121. CLEANUP STANDARDS.

Title I of CERCLA is amended by adding the following new section after section 120:

"SEC. 121. CLEANUP STANDARDS.

"(a) BASIC REQUIREMENTS.—The Administrator shall select appropriate cost-effective remedial actions to be carried out under section 104 or secured under section 106. Such actions—

"(1) shall be in accordance with the National Contingency Plan,

"(2) shall be in accordance with the requirements of this section, and

"(3) shall require that level or standard of control of each hazardous substance or pollutant or contaminant at the facility which is necessary to protect human health and environment.

"(b) PERMANENT SOLUTIONS.—

"(1) GENERAL REQUIREMENT.—If a permanent solution meets the requirements of subsection (a) with respect to a facility and such solution is feasible and achievable, the Administrator shall, to the maximum extent practicable, select such solution as the remedial action for the facility.

"(2) DETERMINATION OF PRACTICABILITY.—For purposes of this section, the Administrator shall determine whether or not a remedial action is practicable by taking into consideration the following factors, among others: availability of technology, installation period, uncertainties related to level of performance of the solution or remedial action, level of public support for the solution or remedial action, and whether or not the solution or remedial action has been achieved in practice at any other facility or site which has characteristics similar to the facility or site concerned.

"(c) NONPERMANENT MEASURES.—If the Administrator determines that a permanent solution is not feasible and achievable with respect to any release or threatened release of a hazardous substance or pollutant or contaminant, the Administrator shall provide such remedial action as he deems necessary to protect human health and the environment in accordance with the provisions of this section.

"(d) TREATMENT OF SITES AND FACILITIES WITH NONPERMANENT SOLUTIONS.—

"(1) SEPARATE CATEGORY ON NPL.—Whenever a permanent solution has not been selected according to the requirements of subsections (a) and (b) with respect to a release at any site or facility, the site or facility shall be placed in a separate category on the National Priorities List labeled 'Interim Category'.

"(2) PERIODIC REVIEW.—The Administrator shall assure (in cooperation with the State) periodic monitoring and shall periodically review each facility for which the remedy selected under this section does not provide a permanent solution. The review of each site or facility in the Interim Category on the National Priorities List shall be no less frequent than every 5 years following placement in such category. The purpose of such monitoring and review shall be to determine each of the following:

"(A) Whether or not a permanent solution is available for such facility in accordance with subsections (a) and (b).

"(B) Whether or not the remedy selected is adequately protecting human health and the environment.

"(3) PERMANENT SOLUTION AVAILABLE.—If the Administrator determines that a permanent solution is available for the facility in accordance with subsections (a) and (b), the Administrator shall require that remedial action be undertaken to implement such solution unless the Administrator determines that the existing remedy being implemented at the facility is adequately protecting human health and the environment.

"(4) ADDITIONAL MEASURES.—If the Administrator determines that a permanent solution is not available for the facility in accordance with subsections (a) and (b) and that the remedy implemented at the facility is not adequately protecting human health and the environment, the Administrator shall take or require to be taken such additional remedial action as may be necessary to protect human health and the environment.

"(5) ABOVE-GROUND STRUCTURES.—If the Administrator determines that a permanent solution is not feasible and achievable, the Administrator shall consider remedial actions in which hazardous substances and pollutants and contaminants are securely contained in such above-ground engineered structures.

"(e) SELECTION OF REMEDIAL ACTION.—In evaluating alternative remedial actions (including whether to utilize onsite or offsite remedial actions), the Administrator shall specifically assess the long-term effectiveness of various alternatives, including an assessment of permanent solutions and alternative treatment technologies and resource recovery technologies that, in whole or in part, will result in a permanent and significant decrease in the toxicity, mobility, or volume of the hazardous substance, pollutant, or contaminant, taking into account each of the following:

"(1) The long-term uncertainties associated with land disposal.

"(2) The goals, objectives, and requirements of the Solid Waste Disposal Act.

"(3) The persistence, degradability in nature, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents.

"(4) The potential threat to human health and the environment associated with excavation, transportation, and redisposal.

"(5) Short- and long-term potential for adverse health effects from human exposure.

"(6) Long-term maintenance costs.

"(f) PREFERRED ACTIONS.—Remedial actions which significantly reduce the volume, toxicity, or mobility of the hazardous substance or pollutant or contaminant are to be preferred over remedial actions which do not result in such reductions.

"(g) ONSITE REMEDIAL ACTION.—

"(1) APPLICABILITY.—This subsection shall apply only to hazardous substances and pollutants and contaminants which remain onsite.

"(2) APPLICATION OF OTHER FEDERAL ENVIRONMENTAL STANDARDS AND CRITERIA.—If any—

"(A) standard under one or more provisions of the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, the Federal Water Pollution Control Act, or the Solid Waste Disposal Act, or

"(B) water quality criteria under any provision of the Federal Water Pollution Control Act,

is legally applicable to the hazardous substance or pollutant or contaminant concerned or is relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant, the remedial action selected under section 104 or secured under section 106 shall require, at the completion of the remedial action, a level or standard of control for such hazardous substance or pollutant or contaminant which is at least equivalent to such legally applicable or relevant and appropriate standards or criteria. In determining whether or not any water quality criteria under the Federal Water Pollution Control Act is relevant and appropriate under the circumstances of the release or threatened release of a hazardous substance or pollutant or contaminant, the Administrator shall consider the following: the designated or potential use of the surface or groundwater, the environmental media affected, the purposes for which such criteria were developed, and the latest information available. In determining a level or standard of control for a hazardous substance or pollutant or contaminant the Administrator shall consider any tolerance level established under the Federal Food, Drug, and Cosmetic Act which is applicable to that hazardous substance or pollutant or contaminant.

"(3) MORE STRINGENT STATE STANDARDS AND STATE SITING STANDARDS OR LAWS.—In any case in which there is a promulgated standard under a State environmental law which is—

"(A) legally applicable to the hazardous substance or pollutant or contaminant concerned or relevant and appropriate under the circumstances of the release or threatened release of such hazardous substance or pollutant or contaminant; and

"(B) more stringent than the standard which would otherwise be selected under this section;

and there is a cost-effective remedial action which will achieve such State standard and meets the requirements of this section, the provisions of subsection (j) shall govern the use of such State standard for purposes of remedial action selected under section 104 or secured under section 106. In any case in which there is a promulgated State siting standard or law which is applicable to the remedial action, the provisions of subsection (j) shall govern the use of such State siting standard or law, except where such State standard or law may effectively result in the prohibition of land disposal of a hazardous substance, pollutant or contaminant.

"(4) CONTAINMENT.—Where the remedial action selected under section 104 or secured under section 106 at any facility does not include the removal of all hazardous substances and pollutants and contaminants from such facility, any remedial action providing for the containment of any such substance or pollutant or contaminant at such facility shall comply with the standards applicable to facilities required to obtain permits under section 3005 of the Solid Waste Disposal Act.

"(5) CONTAMINATION FROM OTHER SOURCES.—The level or standard of control required in accordance with this subsection shall be required only regarding remedial actions taken with respect to the release or threatened release of a hazardous substance or pollutant or contaminant from the facility concerned and shall not be applicable to contamination from other sources.

"(h) OFFSITE REMEDIAL ACTION.—

"(1) TRANSFER TO A COMPLYING FACILITY.—In the case of any removal or remedial action involving the transfer of any hazardous substance or pollutant or contaminant offsite, such hazardous substance or pollutant or contaminant shall only be transferred to a facility which is operating in compliance with sections 3004 and 3005 of the Solid Waste Disposal Act (or, where applicable, in compliance with the Toxic Substances Control Act). Such substance or pollutant or contaminant may be transferred to a land disposal facility only if the Administrator determines that both of the following requirements are met:

"(A) The unit to which the hazardous substance or pollutant or contaminant is transferred is not releasing any hazardous waste, or constituent thereof, into the groundwater or surface water.

"(B) All such releases from other units at the facility are being controlled by a corrective action program approved by the Admin-

istrator under subtitle C of the Solid Waste Disposal Act.

"(2) DEFINITION OF LAND DISPOSAL.—As used in this subsection, (A) the term 'land disposal' has the meaning provided by section 3004 of the Solid Waste Disposal Act, and (B) the term 'hazardous waste' means hazardous waste listed or identified under section 3001 of that Act.

"(i) WAIVERS.—

"(1) IN GENERAL.—The Administrator may waive the application of the requirements of subsection (g) with respect to any facility and select alternative remedial or abatement action which does not comply with such requirements if the Administrator makes any of the following findings:

"(A) The Administrator finds that such alternative remedial or abatement action will provide protection of human health and the environment substantially equivalent to the remedial or abatement action which would be necessary to comply with such requirements.

"(B) The Administrator finds that compliance with such requirements at that facility will result in greater risk to human health and the environment than alternative options. This finding shall be on the basis of a quantitative assessment to the maximum extent possible.

"(C) The Administrator finds that compliance with such requirements is technically impracticable from an engineering perspective.

"(D) The Administrator finds that compliance with such requirements at that facility will consume a disproportionate share of the Fund, taking into account the size and complexity of the facility and benefits to human health and the environment which may be obtained through other uses under this Act of the sums available in the Fund which would be expended to comply with such requirements.

"(E) The Administrator finds and certifies in writing that compliance with such requirements will require the expenditure of private party resources, which expenditure would substantially exceed the expenditures associated with the remedy which would have been selected by the Administrator if the remedy had been financed by the Fund and if the Administrator, without regard to amounts in the Fund, had invoked the waiver under paragraph (4). In applying this subparagraph, the Administrator shall consider the Fund as having a level of funding equivalent to that authorized.

"(2) PRIVATELY FINANCED ACTIONS.—A finding under subparagraph (A), (B), or (C) of paragraph (1) may also be made with respect to remedial action financed in whole or in part by private parties. In such case, the finding shall be made on the basis of the same considerations as would be used with respect to remedial action financed by the Fund.

"(3) RESTRICTIONS.—

"(A) PROHIBITION ON VIOLATION OF CERTAIN LAWS.—No waiver may be granted under this subsection if it would result in a violation of any of the following: the Federal Water Pollution Control Act, the Marine Protection, Research, and Sanctuaries Act of 1972, the Clean Air Act, and the Safe Drinking Water Act.

"(B) SUBPARAGRAPH (E) WAIVERS.—The Administrator may not grant a waiver under subparagraph (E) of paragraph (1) unless—

"(i) the Administrator has first promulgated final regulations establishing procedures for implementing such subparagraph, including health and environmental impact procedures; and

"(ii) the Administrator explains why granting such waiver is in the public interest.

"(j) ONSITE CLEANUP; PERMITS; STATE STANDARDS.—

"(1) FEDERAL AND STATE PERMITS.—This paragraph applies to any remedial action selected by the Administrator under this Act which does not involve the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to an offsite facility. No Federal or State permits shall be required for such remedial actions other than permits under the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, and State groundwater laws, if any. For purposes of expediting such remedial actions, the Administrator may, in consultation with the States, establish consolidated procedures applicable to the issuance of Federal and State permits. No permits shall be required under Federal, State, or local law for any removal action under emergency circumstances under this Act.

"(2) LIMITATIONS REGARDING STATE PERMITS.—

"(A) STANDARDS IDENTIFIED IN NOTIFICATION.—Permits may be required only for those State standards which the State identifies in its notification to the Administrator during the remedial investigation and feasibility study.

"(B) DEADLINE FOR ISSUANCE OF STATE PERMITS.—If a State permit is not issued before completion of the final remedial engineering design, construction and implementation of the remedy shall proceed. The State shall have an additional 30 days to issue the permit. If the State does not issue the permit within such period, the requirement for its issuance shall be deemed to be waived. The State may require the party responsible for obtaining any permit to file an application for such permit at any reasonable time after the selection of the remedial action.

"(C) RELATIONSHIP TO REMEDIAL ACTION PLAN.—The permit shall conform to and may not modify the terms of the remedial action plan. Permits may not significantly increase the estimated costs of the action. All conflicts between the provisions of the Acts referred to in subparagraph (A) and this Act shall be resolved in favor of this Act. There shall be no separate State or Federal procedures under any other laws for obtaining or reviewing the permit. Only the procedures provided for under this Act shall apply for such purposes. Nothing in this subparagraph shall be deemed to affect any requirements under the Federal Water Pollution Control Act.

"(D) INJUNCTIONS DURING REVIEW.—Remedial action which is unrelated to or not inconsistent with the State permit shall not be enjoined pending a proceeding to review the permit.

"(E) JURISDICTION TO REVIEW.—The appropriate Federal district court shall have exclusive jurisdiction to resolve all conflicts, disputes, and disagreements over the permit. The court shall not have jurisdiction to review the selection of the remedial action during an action to enforce or review the permit. Only the State attorney general or the Administrator shall have authority to enforce the permits.

"(3) REGULATIONS FOR STATE INVOLVEMENT.—The Administrator shall promulgate regulations providing for substantial and meaningful involvement by each State in initiation, development, and selection of remedial action to be undertaken in that State. The regulations, at a minimum, shall include each of the following:

"(A) State involvement in decisions whether to perform a preliminary assessment and site inspection.

"(B) Allocation of responsibility for hazard ranking system scoring.

"(C) State concurrence in deleting sites from the National Priorities List.

"(D) State participation in long-term planning process for all remedial sites within the State.

"(E) A reasonable opportunity for States to review and comment on each of the following:

"(i) The remedial investigation and feasibility study and all data and technical documents leading to its issuance.

"(ii) The planned remedial action identified in the remedial investigation and feasibility study.

"(iii) The engineering design following selection of the final remedial action.

"(iv) Other technical data and reports relating to implementation of the remedy.

"(v) Any decision by the Administrator to exercise the waiver authority of subsection (i).

"(F) Notice to the State of negotiations with potentially responsible parties regarding the scope of any response action at a facility in the State and an opportunity to participate in such negotiations. Such regulations shall also provide for the States to be given notice and an opportunity to comment on the Administrator's proposed plan for remedial action as well as on alternative plans under consideration. The Administrator's final decision regarding the selection of remedial action shall be accompanied by a response to the comments submitted by the State. Such response shall be provided to the State.

"(G) Prompt notice and explanation of each proposed action, including an explanation regarding any decision under paragraph (4) on compliance with promulgated State standards to the State in which the facility is located.

"(4) STATE SUBSTANTIVE STANDARDS.—The State standards referred to in subsection (g)(3) shall apply to remedial actions selected under section 104 or secured under section 106 unless the Administrator determines that one or more of the following circumstances exists:

"(A) The State has agreed with a decision by the Administrator not to apply the State standard.

"(B) The remedial action selected provides protection of public health and the environment that is substantially equivalent to that provided by the State standard.

"(C) The State has not consistently applied the standard (or planned to apply the standard) in similar circumstances at other remedial actions within the State.

"(D) The Administrator exercises one of the waivers under subsection (i) with respect to the State standard. No waiver under subsection (i)(1)(D) shall apply at any facility owned or operated by an agency or instrumentality of the United States. If the Administrator determines, under this paragraph not to apply a State standard, the application of the State standard shall be determined in accordance with paragraph (5), (6), or (7).

"(5) STATE CONCURRENCE PROCEDURE FOR FUND-FINANCED REMEDIAL ACTIONS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to remedial action undertaken pursuant to section 104.

"(B) OPPORTUNITY TO CONCUR.—Within 30 days of the publication of the Administrator's final remedial action plan, the State shall notify the Administrator that it concurs or does not concur with any decision of the Administrator under paragraph (4) not to comply with a promulgated State standard or siting requirement. If the State concurs in the decision, the remedial action selected by the Administrator shall proceed through completion. If the State fails to act within 30 days after the close of the comment period, such failure shall be deemed concurrence for purposes of this paragraph.

"(C) STATE PAYMENT.—If the State notifies the Administrator within 30 days of the close of the comment period that it does not concur with the decision under paragraph (4) not to comply with a promulgated State standard or siting requirement, and within 60 days after close of the comment period provides assurances deemed adequate by the Administrator that the State will pay or assure payment of the additional costs attributable to compliance with the State standard or requirement, as determined by the Administrator, the remedial action shall comply with such State standard or requirement and shall proceed through completion. If the State fails to provide such assurances within 60 days, the remedial action selected by the Administrator shall proceed through completion.

"(D) ENFORCEMENT.—The State may enforce any Federal or State standard or requirement to which the remedial action is required to conform under this Act in the United States district court in which the facility concerned is located.

"(E) COST RECOVERY.—In any action under section 107 to recover from responsible parties any additional costs paid by the State to have a remedial action conform to a State standard, the State may recover such additional costs if it establishes, on the administrative record, that the Administrator's decision not to require the remedial action to conform to the State standard was not supported by substantial evidence.

"(6) STATE CONCURRENCE PROCEDURE FOR ACTIONS UNDER SECTION 106.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply to remedial actions secured under section 106.

"(B) OPPORTUNITY TO CONCUR OR REFUSE TO CONCUR.—Within 30 days of the lodging of the consent decree, the Administrator shall provide an opportunity for the State to concur or not to concur that the remedial action plan embodied in the consent decree properly takes State standards into account. If the State concurs, the State may become a signatory to the consent decree.

"(C) STATE NONCONCURRENCE.—If the State does not concur in the remedial action plan embodied in the consent decree on the basis that State standards have not been properly taken into account, and the State desires to have the remedial action conform to such standards, the State may intervene in the action under section 106, as a matter of right, prior to entry of the consent decree to seek to have the action conform to such State standards. The remedy shall conform to the State standard if the State establishes, on the administrative record, that the Administrator's decision not to have the remedial action conform to the State standard was not supported by substantial evidence. If the court determines that the remedy shall conform to a State standard, the consent decree shall be so modified and the State may become a signatory to the decree. If the court determines that the remedy need not conform to the State standard, and the State pays or assures payment of the additional costs attributable to meeting the State standard, the consent decree shall be modified to incorporate the State standard, and the State shall become a signatory to the decree.

"(D) AUTHORITY OF EPA.—The Administrator may conclude settlement negotiations and enter into consent decrees with potentially responsible parties without State concurrence.

"(E) CONDITIONS.—The Administrator and the State may request the court to include reasonable conditions in any consent decree under section 106 to assure that the remedial design and its implementation meet the conditions and requirements of the remedial action plan.

"(7) STATE CONCURRENCE PROCEDURE FOR REMEDIAL ACTIONS AT FEDERAL FACILITIES.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply to remedial action at facilities owned or operated by an agency or instrumentality of the United States.

"(B) OPPORTUNITY TO CONCUR OR NOT TO CONCUR.—The State may participate in the development and selection of the remedy and seek to have the remedial action conform to State standards. Within 30 days of the publication of the Administrator's final remedial action plan, the State may concur or not concur that the Administrator has taken proper account of State standards in the final remedial action. If the State concurs, or does not act within 30 days, the remedial action may proceed.

"(C) STATE NONCONCURRENCE.—If the State does not concur as provided in subparagraph (B), and desires to have the remedial action conform to the State standard, the State may maintain an action as provided in subparagraph (D).

"(D) REVIEW OF EPA DECISION.—

"(i) AUTHORITY TO BRING ACTION.—If the Administrator has notified the State of its decision not to require a remedial action which conforms to a State standard, the State may bring an action within 30 days of such notification for the sole purpose of determining whether the Administrator's decision not to adopt the State standard is supported by substantial evidence. Such action shall be brought in the United States district court in the district in which the facility is located.

"(ii) REJECTION OF EPA DECISION.—If the State establishes, on the administrative record, that the Administrator's decision not to adopt a State standard is not supported by substantial evidence, the remedial action shall be modified to conform to such standard.

"(iii) EPA DECISION UPHELD.—If the State fails to establish that the Administrator's decision was not supported by substantial evidence and if the State pays, within 60 days of judgment, the additional costs attributable to meeting the State standard, the remedial action shall be selected to meet the State standard. If the State fails to pay within 60 days, the remedial action that does not meet the State standard shall proceed through completion.

"(E) ENFORCEMENT.—The State may enforce any Federal or State standard or requirement to which the remedial action is required to conform under this Act in the United States district court in the district in which the facility is located.

"(F) INJUNCTIONS.—Nothing in this Act precludes, and the court shall not enjoin, the Federal agency from taking any remedial action unrelated to or not inconsistent with the State standard.

"(G) CONDITIONS.—During an action brought by the State regarding the Administrator's notification of the State requirement to pay the additional costs associated with meeting the State standard, the State may also request the court to establish reasonable conditions to assure that the remedial design and implementation meets the conditions and requirements of the remedial action plan.

"(8) CORRECTIVE ACTION AT FEDERAL FACILITIES.—The waiver under this subsection of any requirement for a permit shall not be construed to exempt any solid waste management unit within the boundaries of a facility owned or operated by a department, agency, or instrumentality of the United States from the corrective action required by section 3004(u) of the Solid Waste Disposal Act for releases of hazardous waste or constituents, unless such unit is within the scope of the response action taken at a site on the National Priorities List under this Act.

"(9) ATTORNEY AND WITNESS FEES.—Whenever a State recovers its additional costs under this subsection from any responsible person, such person shall be liable for the costs incurred by the State in such action, including reasonable attorney and witness fees. Whenever the court upholds a determination under paragraph (4), the State which brought the action under this subsection shall be liable for the costs incurred by the Administrator and the responsible person in such action, including reasonable attorney and witness fees.

"(10) SAVINGS PROVISIONS.—(A) Nothing in this section shall be deemed to affect the authority of any State to undertake a response action under this Act.

"(B) Nothing in this section shall affect the authority of any State to impose, after remedial action is completed, any requirement (including a fee) with respect to any operation and maintenance activities required with respect to a hazardous substance or pollutant or contaminant.

"(11) STATE ENVIRONMENTAL IMPACT REQUIREMENTS.—Prior to commencement of a remedial investigation and feasibility study, the Administrator shall notify the State of such action. If within 60 days thereafter, the State notifies the Administrator of any State procedural requirements which would be applicable under State statutes requiring preparation of environmental impact statements, the Administrator shall, in consultation with the State, establish functionally equivalent procedures governing the preparation of such investigation and study which adopt such State requirements unless the State waives such requirements. Compliance with this subsection shall be deemed to be compliance with such State environmental impact statutes.

"(12) OFFSITE.—Nothing in this subsection shall be construed to affect any requirement of Federal, State, or local law to the extent that such requirement applies to response action involving the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to another facility.

"(13) CONSOLIDATION OF PERMIT PROCEDURES.—If one or more State or Federal permits are required for any response action, the Administrator shall consolidate the procedures, including any requirements for public participation, of such permits with the procedures under this Act. Nothing in this paragraph shall affect the substantive requirements of such permits.

"(k) DESTRUCTION OF DIOXIN WASTES.—

"(1) TREATMENT TECHNOLOGY.—With respect to any remedial action which involves treatment of a hazardous substance or pollutant or contaminant containing chlorinated or halogenated dioxins or chlorinated or halogenated dibenzofurans, the Administrator shall, to the maximum extent practicable, require treatment technology that provides each of the following:

"(A) A destruction and removal efficiency meeting or exceeding 99.9999 percent.

"(B) A treatment process which minimizes accidental emissions of chlorinated or halogenated dioxins, dibenzofurans, and other highly toxic materials to the environment.

"(C) Protection against emissions of any hazardous substance or pollutant or contaminant into the air during normal operation and equivalent protection during nonsteady operations including start-up, shutdown, and power failures.

"(D) Protection against secondary formation of halogenated dioxins and dibenzofurans.

"(2) REQUIREMENTS.—The requirements specified in paragraph (1) shall not apply if the Administrator determines that—

"(A) an alternative method of treatment or disposal provides comparable or greater protection of human health and the environment, or

"(B) there will be no human exposure to the hazardous substance or pollutant or contaminant containing chlorinated or halogenated dioxins or chlorinated or halogenated dibenzofurans.

"(l) VALUE ENGINEERING REVIEW.—In any evaluation under this section of the cost effectiveness of a response action, the Administrator shall require value engineering review in accordance with this subsection. The Administrator shall require value engineering review for any response action to be carried out under this Act by the United States, a State, or a political subdivision of a State if the cost of the response action, including the cost of removal and construction related to hazardous substances and pollutants and contaminants, and including the cost of operation and maintenance, is projected to exceed $4,000,000. For purposes of this subsection, the term 'value engineering review' means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

"(m) PERMITS FOR ONSITE CLEANUP UNDER STATE AUTHORITY.—In the case of remedial actions specifically involving mobile incinerator units in a State which has specifically authorized the use of such units (as of the date of enactment of this section), if such remedial actions are undertaken by the State under the authority of a State Superfund law or equivalent authority, the State may waive any permit requirement under subtitle C of the Solid Waste Disposal Act which would be otherwise applicable to such action to the extent that the following conditions are met:

"(1) The State files notice with the Administrator of its intention to waive the permit requirement of and the Administrator does not object to such waiver within 120 days.

"(2) The incinerator does not involve the transfer of a hazardous substance or pollutant or contaminant from the facility at which the release or threatened release occurs to an offsite facility.

"(3) The remedial action provides each of the following:

"(A) changes in the character or composition of the hazardous substance or pollutant or contaminant concerned so that it no longer presents a risk to public health.

"(4) Protection against accidental emissions during operation.

"(5) Protection of public health considering the multimedia impacts of the treatment process.

"(6) The State provides procedures for public participation regarding the response action which are at least equivalent to the level of public participation procedures applicable under this Act and under the Solid Waste Disposal Act.

The waiver of any permit requirement under this subsection shall not be construed to waive any standard or level of control which is applicable to any hazardous substance or pollutant or contaminant involved in the remedial action involved and which would otherwise be contained in the permit. Such waiver of any permit requirement under subtitle C of the Solid Waste Disposal Act shall only apply to the extent that the facility or remedial action involves the onsite treatment with a mobile incineration unit of waste present at such site. The waiver shall not apply to any other regulated or potentially regulated activity, including the use of the mobile incineration unit for actions not authorized by the State. The authority of this subsection shall terminate at the end of three years, unless the State demonstrates, to the satisfaction of the Administrator, that the operation of mobile incinerators in the State has sufficiently protected public health and the environment and is consistent with the criteria required for a permit under subtitle C of the Solid Waste Disposal Act.".

SEC. 122. SETTLEMENTS.

Title I of CERCLA is amended by adding the following new section after section 121:

"SEC. 122. SETTLEMENTS.

"(a) EPA AUTHORITY TO ENTER INTO AGREEMENTS.—The Administrator, in his discretion, may enter into an agreement with any person (including the owner or operator of the facility from which a release or substantial threat of release emanates, or any other potentially responsible person), to perform any action described in subsection (b) of section 104 or in subsection (a) of section 106 if the Administrator determines that such action will be done properly by such person. As a matter of public policy the Administrator is encouraged to facilitate agreements under this Act that are in the public interest and consistent with the National Contingency Plan in order to expedite effective site cleanups and minimize litigation. If the Administrator decides not to use the procedures in this section, the Administrator shall notify in writing potentially responsible parties at the facility of such decision and the reasons why use of the procedures is inappropriate. The decision of the Administrator not to use the procedures in this section is not subject to judicial review.

"(b) AGREEMENTS WITH POTENTIALLY RESPONSIBLE PARTIES.—

"(1) MIXED FUNDING.—An agreement under this section may provide that the Administrator will reimburse the parties to the agreement from the Fund, with interest, for certain costs of actions under the agreement that the parties have agreed to perform but which the Administrator has agreed to finance.

"(2) REVIEWABILITY.—The Administrator's decisions regarding the availability of fund financing under this subsection shall not be subject to judicial review under subsection (d).

"(3) RETENTION OF FUNDS.—If, as part of any agreement, the Administrator will be carrying out any action and the parties will be paying amounts to the Administrator, the Administrator may, notwithstanding any other provision of law, retain and use such amounts for purposes of carrying out the agreement.

"(c) EFFECT OF AGREEMENT.—

"(1) LIMITATION OF LIABILITY.—Whenever the Administrator has entered into an agreement under this section, the liability under this Act of each party to the agreement with respect to liability, including any future liability, arising from the release or threatened release that is the subject of the agreement shall be limited as provided in the agreement in accordance with subsection (f). The agreement may provide that a settling parties' future liability, if any, shall not exceed the percentage of liability agreed to by such party in the agreement. Nothing in this paragraph shall limit or otherwise affect the authority of any court to review in the consent decree process under subsection (d) any limitation on liability contained in an agreement under this section. In determining the extent to which the liability of parties to an agreement shall be limited under this subsection, the Administrator shall be guided by the principle that a more complete limit of liability shall be given for a more permanent remedy proposed by such parties.

"(2) ACTIONS AGAINST OTHER PERSONS.—If an agreement has been entered into under this section, the Administrator may take any action under section 106 against any person who is not a party to the agreement, once the period for submitting a proposal under subsection (e)(2)(B) has expired. Nothing in this section shall be construed to affect either of the following:

"(A) The liability of any person under section 106 or 107 with respect to any costs or damages which are not included in the agreement.

"(B) The authority of the Administrator to maintain an action under section 106 or 107 against any person who is not a party to the agreement.

"(d) ENFORCEMENT.—

"(1) CLEANUP AGREEMENTS.—

"(A) CONSENT DECREE.—Whenever the Administrator enters into an agreement under this section with any potentially responsible party with respect to action under section 106, following approval of the agreement by the Attorney General, the agreement shall be entered in the appropriate United States district court as a consent decree under that section. The Administrator need not make any finding regarding an imminent and substantial endangerment to the public health or the environment.

"(B) EFFECT.—The entry of any consent decree under this subsection shall not be construed to be an acknowledgment by the parties that the release or threatened release concerned constitutes an imminent and substantial endangerment to the public health or welfare or the environment. The participation by any party in the process under this section shall not be considered an admission of liability for any purpose, and the fact of such participation shall not be admissible in any judicial or administrative proceeding, including a subsequent proceeding under this section.

"(C) STRUCTURE.—The Administrator may fashion a consent decree so that (i) the entering of such decree and compliance with

such decree or with any determination or agreement made pursuant to this section shall not be considered an admission of liability for any purpose, and (ii) the entering of such decree and such compliance and such determination or agreement shall not be admissible in any judicial or administrative proceeding, including a subsequent proceeding under this section.

"(2) PUBLIC PARTICIPATION.—

"(A) FILING OF PROPOSED JUDGMENT.—At least 30 days before a final judgment is entered under paragraph (1), the proposed judgment shall be filed with the court.

"(B) OPPORTUNITY FOR COMMENT.—The Attorney General shall provide an opportunity to persons who are not named as parties to the action to comment on the proposed judgment before its entry by the court as a final judgment. The Attorney General shall consider, and file with the court, any written comments, views, or allegations relating to the proposed judgment. The Attorney General may (i) withdraw or withhold its consent to the proposed judgment if the comments, views, and allegations concerning the judgment disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper, or inadequate, or (ii) oppose an attempt by any person to intervene in the action.

"(3) 104(b) AGREEMENTS.—Whenever the Administrator enters into an agreement under this section with any potentially responsible party with respect to action under section 104(b), the Administrator shall issue an order setting forth the obligations of such party. The United States district court for the district in which the release or threatened release occurs may enforce such order. Any party to an agreement under this section who fails or refuses to comply with the requirements of the order shall be liable for a civil penalty in an amount not to exceed $25,000 for each day during which such failure or refusal continues.

"(e) SPECIAL NOTICE PROCEDURES.—

"(1) NOTICE.—Whenever the Administrator determines that a period of negotiation under this subsection would facilitate an agreement under this subsection with potentially responsible parties for taking action under subsection (b) of section 104, or action under section 106, the Administrator shall so notify all such parties and shall provide them with information concerning each of the following:

"(A) The identity of other notice recipients.

"(B) To the extent such information is available, the volume and nature of substances contributed by each potentially responsible person identified at the facility.

"(C) A ranking by volume of the substances at the facility, to the extent such information is available.

The Administrator shall make the information referred to in this paragraph available in advance of notice under this paragraph upon the request of a potentially responsible party in accordance with procedures provided by the Administrator. The provisions of subsection (e) of section 104 regarding protection of confidential information apply to information provided under this paragraph.

"(2) NEGOTIATION.—

"(A) MORATORIUM.—Except as provided in this subsection, the Administrator may not commence action under section 104(a) or take any action under section 106 for 120 days after providing notice and information under this subsection with respect to such action. Except as provided in this subsection, the Administrator may not commence action under section 104(b) for 90 days after providing notice and information under this subsection with respect to such action.

"(B) PROPOSALS.—Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section 106 shall have 60 days from the date of receipt of such notice to make a proposal to the Administrator for undertaking or financing the action under section 106. Persons receiving notice and information under paragraph (1) of this subsection with respect to action under section 104(b) shall have 60 days from the date of receipt of such notice to make a proposal to the Administrator for undertaking or financing the action under section 104(b).

"(C) ADDITIONAL PARTIES.—If an additional potentially responsible party is identified during the negotiation period or after an agreement has been entered into under this subsection concerning a release or threatened release, the Administrator may bring the additional party into the negotiation or enter into a separate agreement with such party.

"(3) FAILURE TO PROPOSE.—If the Administrator determines that a good faith proposal for undertaking or financing action under section 106 has not been submitted within 60 days of the provision of notice pursuant to this subsection, the Administrator may thereafter commence action under section 104(a) or take an action against any person under section 106 of this Act. If the Administrator determines that a good faith proposal for undertaking or financing action under section 104(b) has not been submitted within 60 days after the provision of notice pursuant to this subsection, the Administrator may thereafter commence action under section 104(b).

"(4) SIGNIFICANT PUBLIC HEALTH THREATS.—Nothing in this subsection shall limit the Administrator's authority to undertake response action regarding a significant threat to public health within the negotiation period established by this subsection.

"(f) COVENANT NOT TO SUE.—

"(1) IN GENERAL.—The Administrator may, in his discretion, provide any person with a covenant not to sue concerning any liability under this Act, including future liability, resulting from a release or threatened release of a hazardous substance addressed by a remedial action, whether that action is onsite or offsite, if each of the following conditions are met:

"(A) The covenant not to sue is in the public interest.

"(B) The covenant not to sue would expedite response action consistent with the National Contingency Plan under section 105 of this Act.

"(C) The person is in full compliance with a consent decree under section 106 (including a consent decree entered into in accordance with this section) for response to the release or threatened release concerned.

"(D) The response action has been approved by the Administrator.

"(2) REQUIREMENT THAT REMEDIAL ACTION BE COMPLETED.—A covenant not to sue concerning future liability shall not take effect until the Administrator certifies that remedial action has been completed in accordance with the requirements of this Act at the facility that is the subject of such covenant.

"(3) GROUNDWATER AND SURFACE WATER PROTECTION FUND.—

"(A) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the 'Groundwater and Surface Water Protection Fund', consisting of amounts required to be contributed under a covenant not to sue under this subsection.

"(B) USE OF FUND.—Amounts of contributions made to the Groundwater and Surface Water Protection Fund with respect to a facility shall be available for a period of ten years only for remedial actions required at such facility after the Administrator makes the certification with respect to such facility under paragraph (2). After the end of such period, such amounts shall be available for remedial actions at any facility for which a certification has been made under paragraph (2) and with respect to which contributions are made under this subsection.

"(4) FACTORS.—In assessing the appropriateness of a covenant not to sue and any condition to be included in a covenant not to sue (including the amount of contributions required to be paid to the Groundwater and Surface Water Protection Fund), the Administrator shall consider whether the covenant or condition is in the public interest on the basis of such factors as the following:

"(A) The effectiveness and reliability of the remedy, in light of the other alternative remedies considered for the facility concerned.

"(B) The nature of the risks remaining at the facility.

"(C) The extent to which performance standards are included in the order or decree.

"(D) The extent to which the response action provides a complete remedy for the facility, including a reduction in the hazardous nature of the substances at the facility.

"(E) The extent to which the technology used in the response action is demonstrated to be effective.

"(F) Whether the Fund or other sources of funding would be available for any additional remedial actions that might eventually be necessary at the facility.

"(G) Whether a waiver has been granted under section 121(i)(1)(E).

"(5) SATISFACTORY PERFORMANCE.—Any limitation of liability provided to a party under this subsection shall be subject to the satisfactory performance by such party of its obligations under the agreement concerned.

"(6) ADDITIONAL CONDITIONS FOR FUTURE LIABILITY.—A covenant not to sue a person concerning future liability shall include one of the following:

"(A) An exception to the covenant that allows the Administrator to sue such person concerning future liability resulting from the release or threatened release that is the subject of the covenant where such liability arises out of conditions which are unknown at the time the Administrator certifies under paragraph (2) that remedial action has been completed at the facility concerned.

"(B) A requirement that such person make contributions to the Groundwater and Surface Water Protection Fund sufficient to provide resources likely to be adequate to clean up any groundwater or surface water contamination resulting from conditions which were unknown or reasonably could not have been known at the time the Administrator certifies under paragraph (2) that remedial action has been completed at the facility concerned. The Administrator shall determine whether resources are adequate to clean up such contamination on the basis of—

"(i) the likelihood of groundwater or surface water contamination resulting from conditions which are unknown at the time the remedial action is completed, and

"(ii) the probable cost of cleanup in the event of groundwater or surface water contamination.

"(g) DE MINIMIS SETTLEMENTS.—

"(1) EXPEDITED FINAL SETTLEMENT.—Whenever practicable and in the public interest, as determined by the Administrator, the Administrator shall as promptly as possible reach a final settlement with a potentially responsible party in an administrative or civil action under section 106 or 107 if such settlement involves only a minor portion of the response costs at the facility concerned and, in the judgment of the Administrator, the conditions in either of the following subparagraph (A) or (B) are met:

"(A) Both of the following are minimal in comparison to other hazardous substances at the facility:

"(i) The amount of the hazardous substances contributed by that party to the facility.

"(ii) The toxic or other hazardous effects of the substances contributed by that party to the facility.

"(B) The potentially responsible party—

"(i) is the owner of the real property on or in which the facility is located;

"(ii) did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility; and

"(iii) did not contribute to the release or threat of release of a hazardous substance at the facility through any action or omission.

This subparagraph does not apply if the potentially responsible party purchased the real property with actual or constructive knowledge that the property was used for the generation, transportation, storage, or disposal of any hazardous substance.

"(2) RELEASE FROM LIABILITY.—The Administrator may provide a covenant not to sue with respect to the facility concerned, or grant a release from liability with respect to the facility concerned, to any party who has entered into a settlement under this subsection unless such a covenant or release would be inconsistent with the public interest as determined under subsection (f).

"(3) EXPEDITED RELEASES.—The Administrator shall reach any such settlement, grant any such covenant not to sue, or grant any such release from liability as soon as possible after the Administrator has available the information necessary to reach such a settlement, grant such a covenant, or grant such a release from liability.

"(4) CONSENT DECREE OR ADMINISTRATIVE ORDER.—A settlement under this subsection shall be entered as a consent decree or embodied in an administrative order setting forth the terms of the settlement. The district court for the district in which the release or threatened release occurs may enforce such order.

"(5) EFFECT OF RELEASE.—A party who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement that was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(6) SETTLEMENTS WITH OTHER POTENTIALLY RESPONSIBLE PARTIES.—Nothing in this subsection shall be construed to affect the authority of the Administrator to reach settlements with other potentially responsible parties under this Act.

"(h) EPA COST RECOVERY SETTLEMENT AUTHORITY.—

"(1) AUTHORITY TO SETTLE.—The head of any department or agency with authority to undertake a response action under this Act pursuant to the national contingency plan may consider, compromise, and settle a claim under section 107 for costs incurred by the United States Government if the claim has not been referred to the Department of Justice for further action. Any claim for costs and damages which in the aggregate is in excess of $500,000 (excluding interest) may be compromised only with the prior written approval of the Attorney General or his designee.

"(2) FINALITY OF SETTLEMENT.—A settlement under this subsection shall be final and conclusive as to the matters addressed in the settlement, unless the settlement was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact. No court shall have jurisdiction to review the settlement unless there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, other misconduct, or mutual mistake of fact.

"(3) USE OF ARBITRATION.—Arbitration in accordance with regulations promulgated under this subsection may be used as a method of settling claims of the United States Government under this section. After consultation with the Attorney General, the department or agency head may establish and publish regulations for the use of arbitration or settlement under this subsection. An arbitration under this subsection shall be final and conclusive to the extent provided in paragraph (2).

"(4) RECOVERY OF CLAIMS.—If any person fails to pay a claim that has been settled under this subsection, the department or agency head shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount of such claim, plus costs, attorneys' fees, and interest from the date of the settlement. In such an action, the terms of the settlement shall not be subject to review.

"(5) CLAIMS FOR CONTRIBUTION.—A person who has resolved its liability to the United States under this subsection shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. This paragraph does not apply to a settlement which was achieved through fraud, misrepresentation, other misconduct by one of the parties to the settlement, or mutual mistake of fact.

"(i) SETTLEMENT PROCEDURES.—

"(1) PUBLICATION IN FEDERAL REGISTER.—At least 30 days before any settlement (including any settlement arrived at through arbitration) may become final under subsection (h), or under subsection (g) in the case of a settlement embodied in an administrative order, the head of the department or agency which has jurisdiction over the proposed settlement shall publish in the Federal Register notice of the proposed settlement. The notice shall identify the facility concerned and the parties to the proposed settlement.

"(2) COMMENT PERIOD.—For a 30-day period beginning on the date of publication of notice of a proposed settlement under paragraph (1), the head of the department or agency which has jurisdiction over the proposed settlement shall provide an opportunity for persons who are not parties to the proposed settlement to file written comments relating to the proposed settlement.

"(3) CONSIDERATION OF COMMENTS.—The head of the department or agency shall consider any comments filed under paragraph (2) in determining whether or not to consent to the proposed settlement and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

"(j) NATURAL RESOURCES.—

"(1) NOTIFICATION OF TRUSTEE.—Where a release or threatened release of any hazardous substance that is the subject of negotiations under this section may have resulted in damages to natural resources under the trusteeship of the United States, the Administrator shall notify the Federal natural resource trustee of the negotiations and shall encourage the participation of such trustee in the negotiations.

"(2) COVENANT NOT TO SUE.—An agreement under this section may contain a covenant not to sue under section 107(a)(4)(C) for damages to natural resources under the trusteeship of the United States resulting from the release or threatened release of hazardous substances that is the subject of the agreement, but only if the Federal natural resource trustee has agreed in writing to such covenant. The Federal natural resource trustee may agree to such covenant if the potentially responsible party agrees to undertake appropriate actions necessary to protect and restore the natural resources damaged by such release or threatened release of hazardous substances.

"(k) DEFINITION OF POTENTIALLY RESPONSIBLE PARTY.—As used in this section and section 119, the term 'potentially responsible party' means, with respect to any release or threatened release, a person against whom an action could be brought under section 106 with respect to such release or a person who would be liable under section 107 if response costs were incurred by the Administrator with respect to such release or threatened release.

"(l) SECTION NOT APPLICABLE TO VESSELS.—The provisions of this section shall not apply to a release from a vessel.".

SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

(a) Title I of CERCLA is amended by adding the following after section 122:

"SEC. 123. REIMBURSEMENT TO LOCAL GOVERNMENTS.

"(a) APPLICATION.—Any general purpose unit of local government for a political subdivision which is affected by a release or threatened release at any facility may apply to the Administrator for reimbursement under this section.

"(b) REIMBURSEMENT.—

"(1) TEMPORARY EMERGENCY MEASURES.—The Administrator is authorized to reimburse local community authorities for expenses incurred in carrying out temporary emergency measures necessary to prevent or mitigate injury to human health or the environment associated with the release or threatened release of any hazardous sub-

stance or pollutant or contaminant. Such measures may include, where appropriate, security fencing to limit access, response to fires and explosions, and other measures which require immediate response at the local level.

"(2) PROTECTION OF PUBLIC DRINKING WATER.—The Administrator is authorized to reimburse local communities for expenses incurred in carrying out emergency measures for the protection of public drinking water supplies as a result of contamination by the release of any hazardous substance or pollutant or contaminant into existing sources of public drinking water. Such measures may include, where appropriate, treatment to remove contaminants and other measures which require immediate response at the local level.

"(c) AMOUNT.—The amount of any reimbursement to any local authority under subsection (b)(1) may not exceed $25,000 for a single response. The reimbursement under this section with respect to a single facility shall be limited to the units of local government having jurisdiction over the political subdivision in which the facility is located.

"(d) PROCEDURE.—Reimbursements authorized pursuant to this section shall be in accordance with rules promulgated by the Administrator within one year after the date of the enactment of this section.".

SEC. 124. LANDFILL GAS OPERATORS.

Title I of CERCLA is amended by adding the following after section 123

"SEC. 124. LANDFILL GAS OPERATORS.

"(a) EXEMPTION FROM CERTAIN LIABILITY.—

"(1) GENERAL RULE.—Notwithstanding the provisions of section 114, a landfill gas operator shall not be liable for the following in an action under section 106 or 107 of this Act (including an action for contribution or indemnification):

"(A) Any amount with respect to a release or threatened release from a landfill gas operation.

"(B) Any amount resulting from the operation of a landfill gas operation.

"(C) Costs of cleanup, removal, response and remedial actions, and claims for natural resources damages.

The exemption from liability under this paragraph also applies in any action with respect to a release or threatened release of a hazardous substance from a landfill gas operation for recovery of any amount referred to in subparagraph (A), (B), or (C) under the laws of any State or political subdivision of a State.

"(2) NEGLIGENCE, ETC.—Paragraphs (1) and (2) shall not apply in the case of a release that is caused by conduct of the landfill gas operator which is negligent or grossly negligent or which constitutes intentional misconduct.

"(b) SAVINGS PROVISIONS.—

"(1) LIABILITY OF OTHER PERSONS.—Nothing in this section shall affect the liability under this Act or under any other authority of Federal or State law of any person, other than a landfill gas operator.

"(2) BURDEN OF PLAINTIFF.—Nothing in this section shall affect the plaintiff's burden of establishing liability under this title.

"(c) CONDENSATE.—

"(1) EXCLUSION.—Except as provided in paragraph (2), a landfill gas operation shall not be deemed to be management, generation, transportation, treatment, storage, or disposal of any hazardous or liquid waste within the meaning of subtitle C of the Solid Waste Disposal Act.

"(2) REGULATION.—If the aqueous or hydrocarbon phase of the condensate or any other waste material removed from gas recovered from a landfill meets any of the characteristics identified under section 3001 of the Solid Waste Disposal Act, such condensate phase or other waste material shall be deemed a hazardous waste under subtitle C of the Solid Waste Disposal Act and shall be regulated accordingly under such subtitle.

"(3) RETURN OF CONDENSATE.—Condensate removed from gas recovered by a landfill gas operator shall not be returned to the landfill in a container, unless such condensate is treated so that it is no longer a free liquid.

"(d) DEFINITIONS.—As used in this section—

"(1) LANDFILL GAS OPERATION.—The term 'landfill gas operation' means the installation or operation of a system for the recovery or processing of methane from a landfill.

"(2) LANDFILL GAS OPERATOR.—The term 'landfill gas operator' means the owner or operator of a landfill gas operation.".

SEC. 125. SECTION 3001(b)(3)(A)(i) WASTE.

Title I of CERCLA is amended by adding after section 124 the following new section:

"SEC. 125. SECTION 3001(b)(3)(A)(i) WASTE.

"(a) REVISION OF HAZARD RANKING SYSTEM.—This section shall apply only to facilities which are not included or proposed for inclusion on the National Priorities List and which contain substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act. As expeditiously as practicable, the Administrator shall revise the hazard ranking system in effect under the National Contingency Plan with respect to such facilities in a manner which assures appropriate consideration of each of the following site-specific characteristics of such facilities:

"(1) The quantity, toxicity, and concentrations of hazardous constituents which are present in such waste and a comparison thereof with other wastes.

"(2) The extent of, and potential for, release of such hazardous constituents into the environment.

"(3) The degree of risk to human health and the environment posed by such constituents.

"(b) INCLUSION PROHIBITED.—Until the hazard ranking system is revised as required by this section, the Administrator may not include on the National Priorities List any facility which contains substantial volumes of waste described in section 3001(b)(3)(A)(i) of the Solid Waste Disposal Act on the basis of an evaluation made principally on the volume of such waste and not on the concentrations of the hazardous constituents of such waste. Nothing in this section shall be construed to affect the Administrator's authority to include any such facility on the National Priorities List based on the presence of other substances at such facility or to exercise any other authority of this Act with respect to such other substances.".

SEC. 126. WORKER PROTECTION STANDARDS.

Title I of the CERCLA is amended by adding the following new section after section 125.

"SEC. 126. WORKER PROTECTION STANDARDS.

"(a) ISSUANCE.—The Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, issue, within one year after the date of the enactment of this section, standards for the health and safety protection of employees, including employees of State and local governments, engaged in hazardous waste operations.

"(b) MINIMUM GENERAL REQUIREMENTS.—Such standards shall include, but not be limited to, the following worker protection provisions:

"(1) SITE ANALYSIS.—Requirements for a formal hazard analysis of the site and development of a site specific plan for worker protection.

"(2) TRAINING.—Requirements for contractors to provide initial and routine training of workers before such workers are permitted to engage in hazardous waste operations which would expose them to toxic substances.

"(3) MEDICAL SURVEILLANCE.—A program of regular medical examination, monitoring, and surveillance of workers engaged in hazardous waste operations which would expose them to toxic substances.

"(4) PROTECTIVE EQUIPMENT.—Requirements for appropriate personal protective equipment, clothing, and respirators for work in hazardous waste operations.

"(5) ENGINEERING CONTROLS.—Requirements for engineering controls concerning the use of equipment and exposure of workers engaged in hazardous waste operations.

"(6) MAXIMUM EXPOSURE LIMITS.—Requirements for maximum exposure limitations for workers engaged in hazardous waste operations, including necessary monitoring and assessment procedures.

"(7) INFORMATIONAL PROGRAM.—A program to inform workers engaged in hazardous waste operations of the nature and degree of toxic exposure likely as a result of such hazardous waste operations.

"(8) HANDLING.—Requirements for the handling, transporting, labeling, and disposing of hazardous wastes.

"(9) NEW TECHNOLOGY PROGRAM.—A program for the introduction of new equipment or technologies that will maintain worker protections.

"(10) DECONTAMINATION PROCEDURES.—Procedures for decontamination.

"(11) EMERGENCY RESPONSE.—Requirements for emergency response and protection of workers engaged in hazardous waste operations.

"(c) SPECIFIC TRAINING STANDARDS.—

"(1) OFFSITE TRAINING; FIELD EXPERIENCE.—The training standards issued under subsection (b)(2) shall require that general site workers such as equipment operators, general laborers, and other supervised personnel receive a minimum of 40 hours of initial instruction off the site, and a minimum of three days of actual field experience under the direct supervision of a trained, experienced supervisor, at the time of assignment. Workers who may be exposed to unique or special hazards shall be provided additional training.

"(2) TRAINING OF SUPERVISORS.—Such training standards shall require that onsite management and supervisors directly responsible for the hazardous waste operations, such as foremen, receive the same training as general site workers set forth in paragraph (1) of this subsection and at least eight additional hours of specialized training on managing hazardous waste operations.

"(3) CERTIFICATION; ENFORCEMENT.—Such training standards shall contain provisions for certifying that general site workers and supervisors have received the specified training and shall prohibit any individual who has not received the specified training from engaging in hazardous waste operations covered by the standard.

"(4) TRAINING OF EMERGENCY RESPONSE PERSONNEL.—Such training standards shall set forth requirements for the training of workers who are responsible for responding to hazardous emergency situations who may be exposed to toxic substances in carrying out their responsibilities.

"(d) DEADLINE FOR INTERIM REGULATIONS.—The Secretary of Labor shall issue interim final rules under this section within 60 days after the date of the enactment of this section which shall provide no less protection under this section for workers employed by contractors and emergency response workers than the protections contained in the Environmental Protection Agency Manual (1981) 'Health and Safety Requirements for Employees Engaged in Field Activities' and existing standards under the Occupational Safety and Health Act of 1970 found in subpart C of part 1926 of title 29 of the Code of Federal Regulations.

"(e) GRANT PROGRAM.—

"(1) GRANT PURPOSES.—Grants for the training and education of workers who are or may be engaged in activities related to hazardous waste removal or containment or emergency response may be made under this subsection.

"(2) ADMINISTRATION.—Grants under this subsection shall be administered by the National Institute of Occupational Safety and Health.

"(3) GRANT RECIPIENTS.—Grants shall be awarded to nonprofit organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be engaged in hazardous waste removal or containment or emergency response operations.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the general fund of the Treasury for grants under this subsection $10,000,000 per fiscal year for each of the fiscal years 1986, 1987, 1988, 1989, and 1990.".

SEC. 127. LIABILITY LIMITS FOR OCEAN INCINERATION VESSELS.

(a) DEFINITION.—Section 101 of CERCLA is amended by adding at the end the following new paragraph:

"(33) 'incineration vessel' means any vessel which carries hazardous substances for the purpose of incineration of such substances, during any period when such substances or residues of such substances are on board the vessel.".

(b) LIABILITY.—Section 107 of CERCLA is amended—

(1) in subsection (a)(3) by inserting "or incineration vessel" after "facility";

(2) in subsection (a)(4) by inserting ", incineration vessels" after "facilities";

(3) in subparagraph (A) of subsection (c)(1) by inserting ", other than an incineration vessel," after "vessel";

(4) in subparagraph (B) of subsection (c)(1) by inserting "other than an incineration vessel," after "other vessel,"; and

(5) in subparagraph (D) of subsection (c)(1) by inserting "any incineration vessel or for" before "any facility".

(c) FINANCIAL RESPONSIBILITY.—Section 108(a) of CERCLA is amended—

(1) in paragraph (1) by inserting "to cover the liability prescribed under paragraph (1) of section 107(a) of this Act" after "whichever is greater)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out "paragraphs (1) of" in paragraphs (3) and (4), as so redesignated; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In addition to the financial responsibility required by paragraph (1) of this subsection, the Administrator may require additional evidence of financial responsibility for incineration vessels in such amounts as the Administrator deems appropriate, taking into account the potential risks posed by incineration and transport for incineration, and by any other factors deemed relevant.".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. POST CLOSURE.

(a) REPEAL OF POST-CLOSURE PROVISIONS.—Sections 107(k) and 111(j) of CERCLA are hereby repealed. Section 101(11) of CERCLA is amended by striking out "or, in the case of" and all that follows through the semicolon at the end thereof and inserting in lieu thereof a semicolon.

(b) POST-CLOSURE PROGRAM.—The Comptroller General shall conduct a study of options for a program for the management of the liabilities associated with hazardous waste disposal sites after their closure.

(c) PROGRAM ELEMENTS.—The program referred to in subsection (b) shall be designed to assure each of the following:

(1) Incentives are created and maintained for the safe management and disposal of hazardous wastes so as to assure protection of human health and the environment.

(2) Members of the public will have reasonable confidence that hazardous wastes will be managed and disposed of safely and that resources will be available to address any problems that may arise from the release or off-site migration of hazardous wastes from disposal sites, and to cover costs of long-term monitoring, care, and maintenance of such sites.

(3) Persons who are or seek to become owners and operators of hazardous waste disposal facilities will be able to manage their potential future liabilities and to attract the investment capital necessary to build, operate, and close such facilities in a manner which assures protection of human health and the environment.

(d) PROCEDURES.—In carrying out the responsibilities of this section, the Comptroller General shall consult with the Administrator, the Secretary of Commerce, the Secretary of the Treasury, and the heads of other appropriate Federal agencies.

(e) CONSIDERATION OF OPTIONS.—In conducting the study under this section, the Comptroller General shall consider all options which may serve the purposes set forth in subsection (c) including each of the following:

(1) Closure requirements and financial responsibility requirements.

(2) Private insurance.

(3) Insurance provided by the Federal Government.

(4) Coinsurance, reinsurance, or pooled-risk insurance, whether provided by the private sector or provided or assisted by the Federal Government.

(5) Reinstitution of and modification to the Post-Closure Liability Trust Fund.

(6) Creation of a new program to be administered by a new or existing Federal agency or by a federally chartered corporation.

(f) RECOMMENDATIONS.—The Comptroller General shall consider options for funding any program under this section and shall, to the extent necessary, make recommendations to the appropriate committees of Congress for additional authority to implement such program.

SEC. 202. TRANSPORTATION OF HAZARDOUS MATERIALS.

Section 306 of CERCLA is amended by inserting after "listed" each place it appears in subsections (a) and (b) "and regulated".

SEC. 203. STATE PROCEDURAL REFORM.

(a) IN GENERAL.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 309. ACTIONS UNDER STATE LAW FOR DAMAGES FROM EXPOSURE TO HAZARDOUS SUBSTANCES.

"(a) STATE STATUTES OF LIMITATIONS FOR HAZARDOUS SUBSTANCE CASES.—

"(1) EXCEPTION TO STATE STATUTES.—In the case of any action brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility, if the applicable limitations period for such action (as specified in the State statute of limitations or under common law) provides a commencement date which is earlier than the federally required commencement date, such period shall commence at the Federally required commencement date in lieu of the date specified in such State statute.

"(2) STATE LAW GENERALLY APPLICABLE.—Except as provided in paragraph (1), the statute of limitations established under State law shall apply in all actions brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility.

"(3) ACTIONS UNDER SECTION 107.—Nothing in this section shall apply with respect to any cause of action brought under section 107 of this Act.

"(b) DEFINITIONS.—As used in this section—

"(1) TITLE I TERMS.—The terms used in this section shall have the same meaning as when used in title I of this Act.

"(2) APPLICABLE LIMITATIONS PERIOD.—The term 'applicable limitations period' means the period specified in a statute of limitations during which a civil action referred to in subsection (a)(1) may be brought.

"(3) COMMENCEMENT DATE.—The term 'commencement date' means the date specified in a statute of limitations as the beginning of the applicable limitations period.

"(4) FEDERALLY REQUIRED COMMENCEMENT DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'federally required commencement date' means the date the plaintiff knew (or reasonably should have known) that the personal injury or property damages referred to in subsection (a)(1) were caused or contributed to by the hazardous substance or pollutant or contaminant concerned.

"(B) SPECIAL RULES.—In the case of a minor or incompetent plaintiff, the term 'federally required commencement date' means the later of the date referred to in subparagraph (A) or the following:

"(i) In the case of a minor, the date on which the minor reaches the age of majority, as determined by State law, or has a legal representative appointed.

"(ii) In the case of an incompetent individual, the date on which such individual becomes competent or has had a legal representative appointed.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect with respect to actions brought after December 11, 1980.

SEC. 204. CONFORMING AMENDMENT TO FUNDING PROVISIONS.

(a) HAZARDOUS SUBSTANCES SUPERFUND.—Section 221(a) of CERCLA is amended by striking out "Hazardous Substance Response Trust Fund" and inserting in lieu thereof "Hazardous Substances Superfund".

(b) CROSS REFERENCE TO FUNDING PROVISIONS.—Section 221(c) of CERCLA is amended to read as follows:

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Response Trust Fund shall be available for expenditure only as provided in section 111 of this Act.".

SEC. 205. CLEANUP OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS.

(a) DEFINITION OF PETROLEUM.—Section 9001(2)(B) of the Solid Waste Disposal Act is amended by striking out all that follows "petroleum" and inserting in lieu thereof a period. Section 9001 of such Act is amended by adding at the end thereof the following:

"(8) The term 'petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).".

(b) STATE INVENTORIES.—Section 9002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) STATE INVENTORIES.—Each State shall make two separate inventories of all underground storage tanks in such State containing regulated substances, and those of such tanks from which there is a known release of regulated substances. One inventory shall be made with respect to petroleum and one with respect to other regulated substances. In making such inventories, the State shall utilize the notification procedures and forms developed pursuant to subsections (a) and (b) of this section. Each State shall submit its inventories to the Administrator not later than November 8, 1986.".

(c) EPA RESPONSE PROGRAM.—Section 9003 of the Solid Waste Disposal Act is amended by adding after subsection (g) the following new subsection:

"(h) EPA RESPONSE PROGRAM FOR PETROLEUM.—

"(1) BEFORE (c)(4) REGULATIONS.—Before the effective date of corrective action regulations under subsection (c)(4), the Administrator is authorized to—

"(A) undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the Administrator, to protect human health and the environment; or

"(B) require the owner or operator of the underground storage tank to undertake such corrective action with respect to any such release unless the Administrator determines that such action will not be carried out properly by such owner or operator.

The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment. In undertaking or requiring such corrective action, the Administrator shall take into account the distinctions referred to in subsection (b). The Administrator shall use funds in the Leaking Underground Storage Tank Trust Fund for payment of costs incurred for corrective action under subparagraph (A). Subject to the priority requirements of paragraph (3), the Administrator shall give priority in undertaking such actions under subparagraph (A) to cases where the Administrator cannot identify a solvent owner or operator of the tank who will undertake the action properly.

"(2) AFTER (c)(4) REGULATIONS.—Following the effective date of regulations under subsection (c)(4), all actions of the Administrator (or ordered by the Administrator) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Administrator may undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank only if such action is necessary, in the judgment of the Administrator, to protect human health and the environment and one or more of the following situations exists:

"(A) No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—

"(i) an owner or operator of the tank concerned,

"(ii) subject to such corrective action regulations, and

"(iii) capable of carrying out such corrective action properly.

"(B) A situation exists which requires prompt action by the Administrator under this paragraph to protect human health and the environment.

"(C) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under section 9006 to comply with the corrective action regulations.

"(3) PRIORITY OF CORRECTIVE ACTIONS.—The Administrator shall give priority in undertaking corrective actions under this subsection, and in issuing orders requiring owners or operators to undertake such actions, to releases of petroleum from underground storage tanks which pose the greatest threat to human health and the environment.

"(4) CORRECTIVE ACTION ORDERS.—The Administrator is authorized to issue orders to the owner or operator of an underground storage tank to carry out subparagraph (B) of paragraph (1) or to carry out regulations issued under subsection (c)(4). Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under section 9006.

"(5) ALLOWABLE CORRECTIVE ACTIONS.—The corrective actions undertaken by the Administrator under paragraph (1) or (2) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (2), the Administrator may also determine the health effects of the release concerned. The costs of any study to determine such effects shall not be treated as corrective action for purposes of paragraph (6), relating to cost recovery.

"(6) RECOVERY OF COSTS.—

"(A) IN GENERAL.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (7), for undertaking corrective action with respect to the release of petroleum from an underground storage tank, the owner and operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act.

"(B) INTERIM LIMIT ON LIABILITY.—

"(i) INITIAL CORRECTIVE ACTION.—Except as provided in clause (ii) of this subparagraph and subparagraph (C) and until a determination is made under subparagraph (D), the maximum liability under this paragraph for each corrective action undertaken at a facility at which a release of petroleum from an underground storage tank occurs shall be—

"(I) $1,000,000 in the case of an operator who is not an owner and who operates seven or fewer tanks containing petroleum at such facility;

"(II) $3,000,000 in the case of an owner who owns seven or fewer tanks containing petroleum at such facility; and

"(III) $5,000,000 in the case of an owner or operator who owns or operates more than seven such tanks at such facility.

"(ii) INCREASED LIMITS.—Except as provided in subparagraph (C) and until a determination is made under subparagraph (D), the maximum liability under this paragraph for each corrective action undertaken at a facility at which a release of petroleum from an underground storage tank occurs shall be—

"(I) $10,000,000 in the case of an owner or operator whose gross assets are more than $1,000,000,000 but not more than $5,000,000,000;

"(II) $25,000,000 in the case of an owner or operator whose gross assets are more than $5,000,000,000 but not more than $10,000,000,000; and

"(III) $50,000,000 in the case of an owner or operator whose gross assets are more than $10,000,000,000.

"(iii) ADDITIONAL CORRECTIVE ACTION.—Additional corrective action which is required to respond to a release of petroleum from an underground storage tank which occurs after completion of corrective action in response to an earlier release from such tank shall be treated as a separate corrective action for purposes of clauses (i) and (ii) of this subparagraph.

"(iv) APPLICATION.—The limitation on liability under this subparagraph shall apply only with respect to liability under this paragraph for costs incurred by the Administrator or a State for undertaking corrective action with respect to the release of petroleum from an underground storage tank. Such limitation shall not affect the liability of any person under any other authority of law for any other costs or damages.

"(C) LIMITATIONS INAPPLICABLE.—The limitations under subparagraph (B) shall not apply if—

"(i) the release or threat of release was the result of willful misconduct or gross negligence within the privity or knowledge of such person; or

"(ii) the person fails or refuses to provide all reasonable cooperation and assistance requested by a responsible public official in connection with corrective action activities under this Act.

"(D) PERMANENT REGULATIONS.—At the time financial responsiblity regulations are promulgated by the Administrator under this section, the Administrator shall determine whether limitations on the liability imposed under subparagraph (A) are appropriate. At such time, the Administrator may, by regulation, establish classes or categories of underground storage tanks and establish lower limits on liability than the limits prescribed by subparagraph (B) for such classes or categories, if the Administrator determines it appropriate on the basis of the following factors:

"(i) the size, type, location, storage, and handling capacity of underground storage

tanks in the class or category and the volume of petroleum handled by such tanks;

"(ii) the likelihood of release and the potential extent of damage from any release from underground storage tanks in the class or category;

"(iii) the economic impact of the limits on owners and operators of each such class, particularly relating to the small business segment of the petroleum marketing industry;

"(iv) the results of studies and actions undertaken in accordance with subsection (g); and

"(v) such other factors as the Administrator deems pertinent.

"(E) EFFECT ON LIABILITY.—

"(i) NO TRANSFERS OF LIABILITY.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any underground storage tank or from any person who may be liable for a release or threat of release under this subsection, to any other person the liability imposed under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) NO BAR TO CAUSE OF ACTION.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(F) FACILITY.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all underground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(7) STATE AUTHORITIES.—Whenever a State has primary enforcement responsibility under section 9004, the State may submit to the Administrator a proposal to exercise the authorities of the Administrator under paragraphs (1), (2), (3), (4), (5), and (6) of this subsection. If the Administrator determines that such State has demonstrated the ability to exercise and enforce such authorities in a manner substantially equivalent to the Federal program under this subsection, the Administrator may delegate such authorities to the State. For purposes of funding corrective actions undertaken by a State pursuant to such delegated authorities, the Administrator may make such grants to the State from the Leaking Underground Storage Tank Trust Fund as the Administrator deems necessary to further the objectives of this subsection. Such grants shall be apportioned among the States applying for grants as follows:

"(A) 50 percent on the basis of the number of underground storage tanks containing petroleum which are located in each such State, and

"(B) 50 percent on the basis of the number of such tanks located in each such State from which there is a known release of petroleum.

Determinations under subparagraphs (A) and (B) shall be based on information provided by the States in the surveys required under subsection (h).

"(8) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary to effect the purpose of this subsection. The Administrator shall promulgate regulations prescribing the circumstances under which such authority shall be used and any procedures governing the use of such authority which the Administrator deems necessary.

"(9) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an underground storage tank, holds indicia of ownership primarily to protect his security interest in the tank.".

(d) METHODS OF FINANCIAL RESPONSIBILITY.—The first sentence of section 9003(d)(2) of the Solid Waste Disposal Act is amended by striking out "or" after "credit," and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.".

(e) POLLUTION LIABILITY INSURANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the availability of pollution liability insurance, leak insurance, and contamination insurance for owners and operators of petroleum storage and distribution facilities. The study shall assess the current and projected extent to which private insurance can contribute to the financial responsibility of owners and operators of underground storage tanks and the ability of owners and operators of underground storage tanks to maintain financial responsibility through other methods. The study shall consider to what extent, if any, the placement of limitations on liability for corrective action costs by owners or operators of underground storage tanks will have on the availability of such insurance. The study shall consider the experience of owners or operators of marine vessels in getting insurance for their liabilities under the Federal Water Pollution Control Act and the operation of the Water Quality Insurance Syndicate.

(2) REPORT.—The Comptroller General shall report his findings under this subsection to the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate within nine months after the date of the enactment of this subsection. Such report shall include recommendations for legislative or administrative changes that will enable owners and operators of underground storage tanks to maintain financial responsibility sufficient to provide for all clean-up costs and damages that may result from reasonably foreseeable releases and events.

SEC. 206. CITIZENS SUITS.

Title III of CERCLA is amended by adding the following new section after section 309:

"SEC. 310. CITIZENS SUITS.

"(a) AUTHORITY TO BRING CIVIL ACTIONS.—Except as provided in subsections (d) and (e) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who—

"(A) is alleged to be in violation of any requirement which has become effective pursuant to this Act; or

"(B) has contributed or is contributing to the release or threatened release of any hazardous substance from a hazardous waste disposal site, if such release or threatened release may present an imminent and substantial endangerment to public health or the environment; or

"(2) against—

"(A) the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator; or

"(B) any other department, agency, or instrumentality of the United States where there is alleged a failure of such department, agency, or instrumentality to perform any act or duty under section 120 of this Act (relating to Federal facilities) which is not discretionary with such department, agency, or instrumentality.

For purposes of this subsection, the term 'hazardous waste disposal site' means a site at which disposal of hazardous waste has occurred or is occurring.

"(b) VENUE.—

"(1) ACTIONS UNDER SUBSECTION (a)(1).—Any action under subsection (a)(1)(A) shall be brought in the district court for the district in which the alleged violation occurred. Any action under subsection (a)(1)(B) shall be brought in the district court for the district in which the release or threatened release occurred.

"(2) ACTIONS UNDER SUBSECTION (a)(2).—Any action brought under paragraph (2) of subsection (a) may be brought in the United States District Court for the District of Columbia.

"(c) RELIEF.—The district court shall have jurisdiction in actions brought under subsection (a)(1)(A) to enforce the requirement concerned and to impose any civil penalty provided for violation of that requirement. The district court shall have jurisdiction in actions brought under subsection (a)(1)(B), to immediately restrain any person contributing to the endangerment referred to in subsection (a)(1)(B), to order such person to take response action as provided for under this Act, or both. The district court shall have jurisdiction in actions brought under subsection (a)(2) to order the Administrator or other department, agency, or instrumentality to perform the act or duty concerned.

"(d) SUBSECTION (a)(1) ACTIONS.—

"(1) NOTICE.—No action may be commenced under subsection (a)(1) of this section prior to 60 days after the plaintiff has given notice of the violation or release or threatened release—

"(A) to the Administrator;

"(B) to the State in which the alleged violation or release or threatened release occurs; and

"(C) to any alleged violator or person who contributed or is contributing to the release or threatened release.

Notice under this paragraph shall be given in such manner as the Administrator shall prescribe by regulation.

"(2) ACTIONS UNDER PARAGRAPH (1).—No action may be commenced under subsection (a)(1) if the Administrator—

"(A) has commenced and is diligently—

"(i) pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty under this Act with respect to the violation of such requirement,

"(ii) pursuing an administrative order or civil action to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment, or

"(iii) prosecuting an action in court under section 106 of this Act, or under section 7003

of the Solid Waste Disposal Act, with respect to such violation or endangerment;

"(B) is actually engaging in a removal action under section 104 with respect to such violation or endangerment;

"(C) is diligently proceeding with a remedial investigation and feasibility study under section 104(b) of this Act or has completed a remedial investigation and feasibility study and is diligently proceeding with a response action with respect to such violation or endangerment; or

"(D) has obtained a court order (including a consent decree) under section 106 of this Act or under section 7003 of the Solid Waste Disposal Act under which any responsible party—

"(i) is diligently conducting a removal action,

"(ii) is diligently proceeding with a remedial investigation and feasibility study, or

"(iii) has completed a remedial investigation and feasibility study and is diligently proceeding with a response action,

with respect to such violation or endangerment.

In the case of an administrative order referred to in subparagraph (A), actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of such administrative order.

"(3) ACTIONS UNDER SUBSECTION (a)(1)(B); STATE ACTIVITY.—No action may be commenced by any person other than the State under subsection (a)(1)(B) if, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment, the State—

"(A) has commenced and is diligently prosecuting an action under subsection (a)(1)(B) with respect to such endangerment;

"(B) is actually engaging in a removal action under section 104 with respect to such endangerment; or

"(C) has incurred costs to initiate a remedial investigation and feasibility study under section 104(b) of this Act and is diligently proceeding with a remedial action under this Act.

"(4) STANDING.—For purposes of this section, only a person who has an interest which is or may be adversely affected may bring an action under subsection (a)(1)(B).

"(e) SUBSECTION (a)(2) ACTIONS.—No action may be commenced under paragraph (2) of subsection (a) prior to the 60th day following the date on which the plaintiff gives notice to the Administrator or other department, agency, or instrumentality that the plaintiff will commence such action. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(f) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(g) OTHER RIGHTS.—Nothing in this Act shall restrict or expand any right which any person (or class of persons) may have under any Federal or State statute or common law to seek enforcement of any standard or requirement relating to hazardous substances or to seek any other relief (including relief against the Administrator or a State agency).

"(h) INTERVENTION.—

"(1) BY THE UNITED STATES.—In any action under this section the United States, if not a party, may intervene as a matter of right.

"(2) BY PERSONS.—In any action under this section, any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the Administrator or the State shows that the person's interest is adequately represented by existing parties in the action.

"(i) FEDERALLY PERMITTED RELEASE.—It shall be a defense in an action under subsection (a)(1)(B) if the defendant establishes that the release referred to in subsection (a)(1)(B) was a federally permitted release. For purposes of this subsection, the term 'federally permitted release' has the meaning given such term by section 101(10), except that such term shall not include discharges from a point source which are identified in a permit application (but not in a permit) under section 402 of the Federal Water Pollution Control Act.

"(j) PESTICIDES.—No action may be brought under this section with respect to any release or threatened release resulting from the normal application of a pesticide product registered under, or whose application is otherwise authorized under, the Federal Insecticide, Fungicide, and Rodenticide Act. Nothing in this subsection shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law (including common law)—

"(1) for damages, injury, or loss resulting from a release of any hazardous substance,

"(2) for removal or remedial action, or

"(3) for the costs of removal or remedial action for such hazardous substance.

"(k) DEFINITIONS.—The terms used in this section shall have the same meanings as when used in title I.".

SEC. 207. INDIAN TRIBES.

(a) IN GENERAL.—Title I of CERCLA is amended by adding the following new section after section 206:

"SEC. 207. INDIAN TRIBES.

"(a) DEFINITION.—As used in this Act, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The term does not include any Alaska Native regional or village corporation.

"(b) FUTURE MAINTENANCE AND COST-SHARING REQUIREMENTS.—The requirements of section 104(c)(3) of this Act for assurances regarding future maintenance and cost-sharing shall not apply to remedial action to be taken on any of the following:

"(1) Land or water held by an Indian tribe.

"(2) Land or water held by the United States in trust for Indians.

"(3) Land or water held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation).

"(4) Land or water within the borders of an Indian reservation.

In the case of remedial action to be taken on any such land or water, the Secretary of the Interior shall provide the assurance required by section 104(c)(3) regarding the availability of a hazardous waste disposal facility.

"(c) CONTRACTS OR COOPERATIVE AGREEMENTS.—

"(1) AUTHORITY.—If the Administrator determines that an Indian tribe has the capability to carry out any or all of the actions authorized in this section, the Administrator may, in his discretion, enter into a contract or cooperative agreement with such an Indian tribe to take such actions in accordance with criteria and priorities established pursuant to section 105(a)(8) and to be reimbursed for the reasonable response costs thereof from the Fund.

"(2) ENFORCEMENT.—If the Administrator enters into a contract or cooperative agreement pursuant to this subsection, and the Indian tribe thereof fails to comply with any requirements of the contract, the Administrator may, after providing 60 days notice, seek in the appropriate Federal district court for specific enforcement of the terms of the contract or to recover any funds paid under the contract in an amount not to exceed the costs incurred by the Administrator because of the breach of the contract by the Indian tribe.

"(d) NATURAL RESOURCES LIABILITY.—

"(1) LIABILITY TO TRIBE.—Liability under section 107(a)(4)(C) shall be to the Indian tribe in the case of an injury to, destruction of, or loss of natural resources belonging to, managed by, controlled by, or appertaining to the tribe, or held in trust for the benefit of the tribe, or belonging to a member of the tribe if such resources are subject to a trust restriction on alienation.

"(2) EXEMPTIONS.—No liability to an Indian tribe shall be imposed under section 107(a)(4)(C), where the party sought to be charged has demonstrated each of the following:

"(A) The damages to natural resources complained of were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement or other comparable environmental analysis.

"(B) A decision to grant a permit or license authorizes such commitment of natural resources, and the facility or project was otherwise operating within the terms of its permit or license. In the case of damages occurring pursuant to a Federal permit or license, this subparagraph applies only so long as the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe. No liability to an Indian tribe shall be imposed under section 107(a) where the damages to natural resources complained of were the result of causes indentified in section 107(b).

"(3) RECOVERY.—The Secretary of the Interior, or the authorized representative of any Indian tribe, shall act on behalf of the public as trustee of natural resources described in paragraph (1) to recover for damages described in paragraph (2). Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Indian tribe, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources. There shall be no recovery under the authority of section 107(a)(4)(C) where the damages complained of and the release of a hazardous substance from which such damages resulted have occurred wholly before the date of the enactment of this Act.

"(e) DELEGATION.—The Administrator is authorized to delegate authority to obligate money in the Fund or to settle claims to officials of an Indian tribe operating under a contract or cooperative agreement with the Federal Government pursuant to section 104(d).

"(f) COMMUNITY RELOCATION.—Should the Administrator determine that proper remedial action is the permanent relocation of tribal members away from a contaminated site because it is cost effective and necessary to protect their health and welfare, such finding must be concurred in by the affected tribal government before relocation shall occur. The Administrator, in cooperation with the Secretary of the Interior, shall also assure that all benefits of the relocation program are provided to the affected tribe and that alternative land of equivalent value is available and satisfactory to the tribe. Any lands acquired for relocation of tribal members shall be held in trust by the United States for the benefit of the tribe.

"(g) STUDY.—The Administrator or his agent shall conduct a survey, in consultation with the Indian tribes, to determine the extent of hazardous waste sites on Indian lands. Such survey shall be included within a report which shall make recommendations on the program needs of tribes under this Act, with particular emphasis on how tribal participation in the administration of such programs can be maximized. Such report shall be submitted to Congress along with the President's budget request for fiscal year 1988.

"(h) LIMITATION.—Notwithstanding any other provision of this Act, no action under this Act by an Indian tribe shall be barred until the later of—

"(1) the applicable period of limitations has expired, or

"(2) two years after the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this Act.

"(i) APPLICATION OF OTHER PROVISIONS.—The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 116 (regarding health assessments and protection), and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the National Priorities List).".

(b) CONFORMING AMENDMENTS.—(1) Section 101(a)(16) of CERCLA is amended by striking out "or" the last place it appears and by inserting before the semicolon at the end thereof the following: ", any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe".

(2) Section 107 of CERCLA is amended—

(A) in subsection (a), by inserting "or an Indian tribe" after "State";

(B) in subsection (i), by inserting "or Indian tribe" after "State" the first place it appears; and

(C) in subsection (j), by inserting "or Indian tribe" after "State" the first place it appears.

SEC. 208. COMMENCEMENT OF DRILLING FLUIDS, ETC. STUDY.

The Administrator shall commence the study required under section 8002(m) of the Solid Waste Disposal Act not later than six months after the date of the enactment of this Act.

SEC. 209. INSURABILITY STUDY.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

"(g) INSURABILITY STUDY.—

"(1) STUDY GROUP.—The Comptroller General of the United States shall appoint a study group to carry out a study under this subsection. The study group shall be comprised of the following:

"(A) 1 representative of the Comptroller General and 2 representatives of the Administrator.

"(B) 4 representatives of persons described in paragraph (2).

"(C) 2 representatives of groups or organizations comprised generally of persons adversely affected by releases or threatened releases of hazardous substances.

"(D) 3 representatives of property and casualty insurers.

"(E) 1 representative of reinsurers.

The representative of the Comptroller General shall be the chairperson of the study group. One reporter shall be elected from among the members of the study group.

"(2) STUDY.—The study group shall undertake a study to determine the insurability of the liability of the following:

"(A) Persons who generate hazardous substances: liability for costs under this Act.

"(B) Persons who own or operate facilities: liability for costs under this Act.

"(C) Persons liable for harm to persons or property caused by the release of hazardous substances into the environment.

"(3) ITEM EVALUATED.—As part of their study in accordance with this section, the study group shall evaluate, among other matters, the following:

"(A) Current economic conditions in, and the future outlook for, the commercial market for insurance and reinsurance.

"(B) Current trends in statutory and common law remedies.

"(C) The impact of possible changes in traditional standards of liability, proof, evidence, and damages on existing statutory and common law remedies.

"(D) The effect of the standard of liability and extent of persons upon whom it is imposed under this Act on the underwriting and pricing of insurance coverage.

"(E) Current trends in judicial interpretation and construction of applicable insurance contracts.

"(F) The frequency and severity of a representative sample of claims closed during the calendar year preceding the date of the enactment of this subsection.

"(G) Other impediments to insurability.

"(4) SUBMISSION.—A report on the results of the study shall be submitted to Congress with appropriate recommendations within 18 months after the date of the enactment of this subsection.".

SEC. 210. POLLUTION LIABILITY INSURANCE.

CERCLA is amended by adding the following new title at the end thereof:

"TITLE IV—POLLUTION INSURANCE

"SEC. 401. DEFINITIONS.

"As used in this title—

"(1) INSURANCE.—The term 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law.

"(2) POLLUTION LIABILITY.—The term 'pollution liability' means liability for injuries arising from the release of hazardous substances or pollutants or contaminants.

"(3) RISK RETENTION GROUP.—The term 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) PURCHASING GROUP.—The term 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis.

"(5) STATE.—The term 'State' means any State of the United States and, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

"SEC. 402. STATE LAWS.

"Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State. The definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this title, including recognition or qualification of risk retention groups or purchasing groups.

"SEC. 403. RISK RETENTION GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a risk retention group shall be exempt from the following:

"(1) A State law, rule, or order which makes unlawful, or regulates, directly or indirectly, the operation of a risk retention group.

"(2) A State law, rule, or order which requires or permits a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong.

"(3) A State law, rule, or order which requires any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in the State.

"(4) A State law, rule, or order which otherwise discriminates against a risk retention group or any of its members.

"(b) EXCEPTIONS.—

"(1) STATE LAWS GENERALLY APPLICABLE.—Nothing in subsection (a) shall be construed to affect the applicability of State laws generally applicable to persons or corporations. The State in which a risk retention group is chartered may regulate the formation and operation of the group.

"(2) STATE REGULATIONS NOT SUBJECT TO EXEMPTION.—Subsection (a) shall not apply to any State law which requires a risk retention group to do any of the following:

"(A) Comply with the unfair claim settlement practices law of the State.

"(B) Pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State.

"(C) Participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism.

"(D) Submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses.

"(E) Register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process.

"(F) Furnish, upon request, such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction.

"(G) Submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group.

"(H) Comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (G).

"(c) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

"(d) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"SEC. 404. PURCHASING GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a purchasing group is exempt from the following:

"(1) A State law, rule, or order which prohibits the establishment of a purchasing group.

"(2) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.

"(3) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection.

"(4) A State law, rule, or order which prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.

"(5) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.

"(6) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.

"(7) A State law, rule, or order which requires that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State.

"(8) A State law, rule, or order which otherwise discriminate against a purchasing group or any of its members.

"(b) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to the following:

"(1) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group.

"(2) The sale of any one of the following to a purchasing group or a member of the group:

"(A) Pollution liability insurance and comprehensive general liability coverage.

"(B) Insurance related services.

"(C) Management services.

"(c) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"SEC. 405. APPLICABILITY OF SECURITIES LAWS.

"(a) OWNERSHIP INTERESTS.—The ownership interests of members of a risk retention group shall be considered to be—

"(1) exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

"(2) securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

"(b) INVESTMENT COMPANY ACT.—A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) BLUE SKY LAW.—The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

SEC. 211. RELEASES ASSOCIATED WITH BRINE DISPOSAL.

Title I of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 130. RELEASES ASSOCIATED WITH BRINE DISPOSAL.

"(a) REVIEW.—The Administrator shall conduct a review of State programs to protect public health and the environment in States in which annular injection of brines associated with oil and gas production is permitted. The review shall only be conducted in the case of States in which there are more than 2500 active wells at which annular injection is used as of the date of enactment of this section.

"(b) ENFORCEMENT.—

"(1) DETERMINATION.—If the Administrator determines, on the basis of the review conducted under subsection (a), that any State subject to such review is not adequately enforcing a State program to assure that human health or the environment will not be endangered by releases into the environment associated with the annular injection or surface disposal of such brines, the Administrator shall after notice to the State take or order such enforcement or corrective action in such State as may be necessary to assure protection of human health or the environment from endangerment by releases into the environment associated with such injection or other disposal practices.

"(2) CIVIL ACTION.—The Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any enforcement or corrective action taken or ordered under paragraph (1) in any State referred to in subsection (a). The court may enter such judgment as protection of human health or the environment may require, including the imposition of a civil penalty not to exceed $5,000 for each day of violation of any enforcement or corrective action taken or ordered by the Administrator.

"(c) DEADLINES.—The review required under subsection (a) shall be completed, and any enforcement or corrective action taken or ordered under subsection (b) commenced, no later than 18 months after the date of the enactment of this section.

"(d) DEFINITION.—For purposes of this section, the term 'annular injection' means the reinjection of brines associated with the production of oil or gas between the production and surface casings of a conventional oil or gas producing well."

SEC. 212. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) PURPOSE.—The purposes of this section are as follows:

(1) To establish a comprehensive and coordinated Federal program of research, development, demonstration, and training for the purpose of promoting the development of alternative and innovative treatment technologies that can be used in response actions under the Superfund program, to provide incentives for the development and use of such technologies, and to improve the scientific capability to assess, detect and evaluate the effects on and risks to human health from hazardous substances.

(2) To establish a basic university research and education program within the Department of Health and Human Services and a research, demonstration, and training program within the Environmental Protection Agency.

(3) To reserve certain funds from the Hazardous Substance Trust Fund to support a basic research program within the Department of Health and Human Services, and an applied and developmental research program within the Environmental Protection Agency.

(4) To enhance the Environmental Protection Agency's internal research capabilities related to Superfund activities, including site assessment and technology evaluation.

(5) To provide incentives for the development of alternative and innovative treatment technologies in a manner that supplements, but does not compete with or duplicate, private sector development of such technologies.

(b) AMENDMENT OF CERCLA.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 311. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

"(a) HAZARDOUS SUBSTANCE RESEARCH AND TRAINING.—

"(1) AUTHORITIES OF SECRETARY.—The Secretary of Health and Human Services (hereinafter in this subsection referred to as the Secretary), in consultation with the Administrator, may conduct and support the following activities (through grants, cooperative agreements, and contracts):

"(A) Basic research (including epidemiologic and ecologic studies) in the following:

"(i) Advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances.

"(ii) Methods to assess the risks to human health presented by hazardous substances.

"(iii) Methods and technologies to detect hazardous substances in the environment and basic biological, chemical, and physical methods to reduce the amount and toxicity of hazardous substances.

"(B) Training, including each of the following:

"(i) Short courses and continuing education for State and local health and environmental agency personnel and others involved in hazardous waste management and control or in the evaluation of the risks to human health presented by hazardous substances.

"(ii) Graduate or advanced training in environmental and occupational health and safety and in the public health and engineering aspects of hazardous waste control.

"(iii) Graduate training in the geosciences, including hydrogeology, geological engineering, geophysics, geochemistry, and related fields necessary to meet professional personnel needs in the public and private sectors and to effectuate the purposes of this Act.

"(2) DIRECTOR OF NIEHS.—The Director of the National Institute for Environmental Health Sciences shall cooperate fully with those agencies specified in subparagraphs (A) through (H) of paragraph (5) in carrying out the purposes of this section.

"(3) RECIPIENTS OF GRANTS, ETC.—A grant, cooperative agreement, or contract may be made or entered into under paragraph (1) with an accredited institution of higher education. The institution may carry out the research or training under the grant, cooperative agreement, or contract through contracts, including contracts with any of the following:

"(A) Generators of hazardous wastes.

"(B) Persons involved in the detection, assessment, evaluation, and treatment of hazardous substances.

"(C) Owners and operators of facilities at which hazardous substances are located.

"(D) State and local governments.

"(4) PROCEDURES.—In making grants and entering into cooperative agreements and contracts under this subsection, the Secretary shall act through the Director of the National Institute for Environmental Health Sciences. In considering the allocation of funds for training purposes, the Director shall ensure that at least one grant, cooperative agreement, or contract shall be awarded for training described in each of clauses (i), (ii), and (iii) of paragraph (1)(B). Where applicable, the Director may choose to operate training activities in cooperation with the Director of the National Institute for Occupational Safety and Health. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed under this subsection.

"(5) ADVISORY COUNCIL.—To assist in the implementation of this subsection and to aid in the coordination of research and demonstration and training activities funded from the Fund under this section, the Secretary shall appoint an advisory council (hereinafter in this subsection referred to as the 'Advisory Council') which shall consist of the following:

"(A) The Assistant Administrator of the Environmental Protection Agency for Research and Development who shall serve as chairman.

"(B) The Assistant Administrator of the Environmental Protection Agency for Solid Waste and Emergency Response.

"(C) The Director for the Center for Environmental Health in the Centers for Disease Control.

"(D) The Director of the National Institute for Occupational Safety and Health.

"(E) The Director of the National Cancer Institute.

"(F) The Administrator of ATSDR.

"(G) The Director of the National Center for Toxicologic Research of the Food and Drug Administration.

"(H) The Director of Environmental Policy within the Office of the Secretary of Defense.

"(I) A representative of the toxic chemical waste producing industry.

"(J) A representative of entities engaged in the management of toxic chemical wastes.

"(K) Three representatives of institutions of higher education (one from the field of medicine with expertise in occupational health and safety, one from the field of chemical engineering with expertise in hazardous waste engineering, and one from the field of biological sciences with expertise in environmental science).

"(L) Two representatives from State and local health or environmental agencies.

"(M) One representative from community-based organizations concerned with hazardous substances.

"(N) One representative with scientific expertise from a national environmental organization concerned with hazardous substances.

"(6) PLANNING.—Within six months after the date of the enactment of this subsection, the Secretary, acting through the Director of the National Institute for Environmental Health Sciences, shall issue a plan for the implementation of paragraph (1). The plan shall include priorities for actions under paragraph (1) and include research and training relevant to scientific and technological issues resulting from site specific hazardous substance response experience. The Secretary shall, to the maximum extent practicable, take appropriate steps to coordinate program activities under this plan with the activities of other Federal agencies in order to avoid duplication of effort. The plan shall be consistent with the need for the development of new technologies for meeting the goals of response actions in accordance with the provisions of this Act. The Advisory Council shall be provided an opportunity to review and comment on the plan and priorities and assist appropriate coordination among those agencies specified in subparagraphs (A) through (H) of paragraph (5).

"(b) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH AND DEMONSTRATION PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies (hereinafter in this subsection referred to as the 'program') which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment.

"(2) OFFICE OF TECHNOLOGY DEMONSTRATION.—The program shall be administered by the Administrator, acting through an office of technology demonstration established under this subsection and shall be coordinated with programs carried out by the Office of Solid Waste and Emergency Response and the Office of Research and Development. The Administrator shall establish such Office of Technology Demonstration within four months after the date of the enactment of this section. Such office shall be headed by a Director.

"(3) CONTRACTS AND GRANTS.—In carrying out the program, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, persons, public entities, and nonprofit private entities which are exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954. The Administrator shall, to the maximum extent possible, enter into appropriate cost sharing arrangements under this subsection.

"(4) USE OF SITES.—In carrying out the program, the Administrator may arrange for the use of sites at which a response may be undertaken under section 104 for the purposes of carrying out research, testing, evaluation, development, and demonstration projects. Each such project shall be carried out under such terms and conditions as the Administrator shall require to assure the protection of human health and the environment and to assure adequate control by the Administrator of the research, testing, evaluation, development, and demonstration activities at the site.

"(5) DEMONSTRATION ASSISTANCE.—

"(A) PROGRAM COMPONENTS.—The demonstration assistance program shall include the following:

"(i) The publication of a solicitation and the evaluation of applications for demonstration projects utilizing alternative or innovative technologies.

"(ii) The selection of sites which are suitable for the testing and evaluation of innovative technologies.

"(iii) The development of detailed plans for innovative technology demonstration projects.

"(iv) The supervision of such demonstration projects and the providing of quality assurance for data obtained.

"(v) The evaluation of the results of alternative innovative technology demonstration projects and the determination of whether or not the technologies used are effective and feasible.

"(B) SOLICITATION.—Within 90 days after the date of the enactment of this section, and no less often than once every 12 months thereafter, the Administrator shall publish a solicitation for innovative or alternative technologies at a stage of development suitable for full-scale demonstrations at sites at which a response action may be undertaken

under section 104. The purpose of any such project shall be to demonstrate the use of an alternative or innovative treatment technology with respect to hazardous substances or pollutants or contaminants which are located at the site or which are to be removed from the site. The solicitation notice shall prescribe information to be included in the application, including technical and economic data derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the technology's potential and the types of remedial action to which it may be applicable.

"(C) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitation. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

"(D) PROJECT SELECTION.—In selecting technologies to be demonstrated, the Administrator shall fully review the applications submitted and shall consider at least the criteria specified in paragraph (7). The Administrator shall select or refuse to select a project for demonstration under this subsection within 90 days of receiving the completed application for such project. In the case of a refusal to select the project, the Administrator shall notify the applicant within such 90-day period of the reasons for his refusal.

"(E) SITE SELECTION.—The Administrator shall propose one or more sites at which a response may be undertaken under section 104 to be the location of any demonstration project under this subsection within 60 days after the close of the public comment period. After an opportunity for notice and public comment, the Administrator shall select such sites and projects. In selecting such site, the Administrator shall take into account the applicant's technical data and preferences either for onsite operation or for utilizing the site as a source of hazardous substances or pollutants or contaminants to be treated offsite.

"(F) DEMONSTRATION PLAN.—Within 60 days after the selection of the site under this paragraph to be the location of a demonstration project, the Administrator shall establish a final demonstration plan for the project, based upon the demonstration plan contained in the application for the project. Such plan shall clearly set forth how and when the demonstration project will be carried out.

"(G) SUPERVISION AND TESTING.—Each demonstration project under this subsection shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of the demonstration project, and the limitations established by subparagraph (J) shall not apply to such costs.

"(H) PROJECT COMPLETION.—Each demonstration project under this subsection shall be completed within such time as is established in the demonstration plan.

"(I) EXTENSIONS.—The Administrator may extend any deadline established under this paragraph by mutual agreement with the applicant concerned.

"(J) FUNDING RESTRICTIONS.—The Administrator shall not provide any Federal assistance for any part of a full-scale field demonstration project under this subsection to any applicant unless such applicant can demonstrate that it cannot obtain appropriate private financing on reasonable terms and conditions sufficient to carry out such demonstration project without such Federal assistance. The total Federal funds for any full-scale field demonstration project under this subsection shall not exceed 50 percent of the total cost of such project estimated at the time of the award of such assistance. The Administrator shall not expend more than $10,000,000 for assistance under the program in any fiscal year and shall not expend more than $3,000,000 for any single project.

"(6) FIELD DEMONSTRATIONS.—In carrying out the program, the Administrator shall initiate or cause to be initiated at least 10 field demonstration projects of alternative or innovative treatment technologies at sites at which a response may be undertaken under section 104, in fiscal year 1987 and each of the succeeding three fiscal years. If the Administrator determines that 10 field demonstration projects under this subsection cannot be initiated consistent with the criteria set forth in paragraph (7) in any of such fiscal years, the Administrator shall transmit to the appropriate committees of Congress a report explaining the reasons for his inability to conduct such demonstration projects.

"(7) CRITERIA.—In selecting technologies to be demonstrated under this subsection, the Administrator shall, consistent with the protection of human health and the environment, consider each of the following criteria:

"(A) The potential for contributing to solutions to those waste problems which pose the greatest threat to human health, which cannot be adequately controlled under present technologies, or which otherwise pose significant management difficulties.

"(B) The availability of technologies which have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(C) The availability and suitability of sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in such a manner as to assure the protection of human health and the environment.

"(D) The likelihood that the data to be generated from the demonstration project at the site will be applicable to other sites.

"(8) TECHNOLOGY TRANSFER.—In carrying out the program, the Administrator shall conduct a technology transfer program including the development, collection, evaluation, coordination and dissemination of information relating to the utilization of alternative or innovative treatment technologies for remedial actions. The Administrator shall establish and maintain a central reference library for such information. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5 of the United States Code and section 1905 of title 18 of the United States Code, and to other Government agencies in a manner that will facilitate its dissemination; except, that upon a showing satisfactory to the Administrator by any person that any information, or portion of this subsection by the Administrator directly or indirectly from such person, would, if made public, divulge—

"(A) trade secrets; or

"(B) other proprietary information of such person,

the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18 of the United States Code. This subsection is not authority to withhold information from Congress or any committee of Congress upon the request of the chairman of such committee.

"(9) TRAINING.—The Administrator is authorized and directed to carry out, through the Office of Technology Demonstration, a program of training and an evaluation of training needs for each of the following:

"(A) Training in the procedures for the handling and removal of hazardous substances for employees who handle hazardous substances.

"(B) Training in the management of facilities at which hazardous substances are located and in the evaluation of the hazards to human health presented by such facilities for State and local health and environment agency personnel.

"(10) DEFINITION.—For purposes of this subsection, the term 'alternative or innovative treatment technologies' means those technologies which permanently alter the composition of hazardous waste through chemical, biological, or physical means so as to significantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. The term also includes technologies that characterize or assess the extent of contamination, the chemical and physical character of the contaminants, and the stresses imposed by the contaminants on complex ecosystems at sites. The term also includes proprietary or patented methods.

"(c) HAZARDOUS WASTE RESEARCH.—The Administrator may conduct and support, through grants, cooperative agreements, and contracts, research with respect to the detection, assessment, and evaluation of the effects on and risks to human health of hazardous substances and detection of hazardous substances in the environment. The Administrator shall coordinate such research with the Secretary of Health and Human Services, acting through the advisory council established under this section, in order to avoid duplication of effort.

"(d) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—

"(1) GRANT PROGRAM.—The Administrator shall make grants to institutions of higher learning to establish and operate not less than five hazardous substance research centers in the United States. In carrying out the program under this subsection, the Administrator should seek to have established and operated ten hazardous substance research centers in the United States.

"(2) RESPONSIBILITIES OF CENTERS.—The responsibilities of each hazardous substance research center established under this subsection shall include, but not be limited to, the conduct of research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances and publication and dissemination of the results of such research.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The hazardous substance research center shall be located in a State which is representative of the needs of the region in which such State is located for improved hazardous waste management.

"(B) The grant recipient shall be located in an area which has experienced problems with hazardous substance management.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated research resources.

"(D) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate hazardous substance management problems.

"(E) The grant recipient shall make a commitment to support ongoing hazardous substance research programs with budgeted institutional funds of at least $100,000 per year.

"(F) The grant recipient shall have an interdisciplinary staff with demonstrated expertise in hazardous substance management and research.

"(G) The grant recipient shall have a demonstrated ability to disseminate results of hazardous substance research and educational programs through an interdisciplinary continuing education program.

"(H) The projects which the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional hazardous substance research center and related research activities at or above the average level of such expenditures in its two fiscal years preceding the date of the enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 80 percent of the costs of establishing and operating the regional hazardous substance research center and related research activities carried out by the grant recipient.

"(7) LIMITATION ON USE OF FUNDS.—No funds made available to carry out this subsection shall be used for acquisition of real property (including buildings) or construction of any building.

"(8) ADMINISTRATION THROUGH THE OFFICE OF THE ADMINISTRATOR.—Administrative responsibility for carrying out this subsection shall be in the Office of the Administrator.

"(9) EQUITABLE DISTRIBUTION OF FUNDS.—The Administrator shall allocate funds made available to carry out this subsection equitably among the regions of the United States.

"(10) TECHNOLOGY TRANSFER ACTIVITIES.—Not less than five percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.

"(e) REPORT TO CONGRESS.—At the time of the submission of the annual budget request to Congress, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate and to the advisory council established under subsection (a), a report on the progress of the research, development, and demonstration program authorized by subsection (b), including an evaluation of each demonstration project completed in the preceding fiscal year, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous wastes, the costs of such demonstration projects, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

"(f) SAVING PROVISION.—Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

"(g) SMALL BUSINESS PARTICIPATION.—The Administrator shall ensure, to the maximum extent practicable, an adequate opportunity for small business participation in the program established by subsection (b).

"(h) BUDGET AUTHORITY FOR CONTRACTS.—Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(c) TESTING PROCEDURES AND STANDARDS.—The Administrator shall revise and republish the National Contingency Plan required by section 105 of CERCLA. The revisions shall include standards and testing procedures by which alternative or innovative treatment technologies can be determined to be appropriate for use in response actions under title I of CERCLA. The revision shall be made within one year after the date of enactment of this Act and after notice and opportunity for public comment.

(d) RECOVERY PROCESS.—For purposes of this subsection, the Administrator may approve a process, the primary purpose of which is to recover vanadium, cobalt, nickel, molybdenum, and alumina from waste in any form for commercial sale. If the Administrator approves such a process, any person who provides such waste to another person to carry out such process shall not be liable under CERCLA for any act or omission of a person other than the person who so provides the waste, which act or omission occurs after the waste is so provided.

SEC. 213. DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) IN GENERAL.—(1) Title 10, United States Code, is amended—

(A) by redesignating section 2701 as section 2721; and

(B) by inserting after chapter 159 the following new chapter:

"CHAPTER 160—ENVIRONMENTAL RESTORATION

"Sec.
"2701. Environmental restoration program.
"2702. Research, development, and demonstration program.
"2703. Environmental restoration transfer account.
"2704. Commonly found unregulated hazardous substances.
"2705. Notice of environmental restoration activities.
"2706. Annual report to Congress.
"2707. Definitions.

"§ 2701. Environmental restoration program

"(a) ENVIRONMENTAL RESTORATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the 'Defense Environmental Restoration Program'.

"(2) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the program described in subsection (b)(1) shall be carried out subject to section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA').

"(3) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

"(4) ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

"(b) PROGRAM PURPOSES.—The purposes of the program shall include the identification, investigation, and cleanup of hazardous substances, pollutants, and contaminants at sites under the jurisdiction of the Secretary through response and remedial actions covered by CERCLA.

"(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

"(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following:

"(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

"(B) Each facility or site which was under the administrative jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

"(C) Each vessel of the Department of Defense, including vessels owned or bareboat chartered and operated.

"(2) OTHER RESPONSIBLE PARTIES.—Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 of CERCLA.

"(3) STATE FEES AND CHARGES.—The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

"(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-

site contamination possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

"(e) LIABILITY OF RESPONSE ACTION CONTRACTORS.—The provisions of section 119 of CERCLA apply to for response action contractors (as defined in that section) who carry out response actions under this section.

"§ 2702. Research, development, and demonstration program

"(a) PROGRAM.—As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator. The program shall include research, development, and demonstration with respect to each of the following:

"(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

"(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

"(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

"(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by the Department of Defense.

"(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treat hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the Office of Technology Demonstration of the Office of Emergency and Remedial Response of the Environmental Protection Agency.

"(b) SPECIAL PERMIT UNDER SECTION 3005(g) OF RCRA.—The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act to issue a permit for testing and evaluation which receives support under this section.

"(c) CONTRACTS AND GRANTS.—The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are available for that purpose.

"(d) INFORMATION COLLECTION AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

"(2) ROLE OF EPA.—The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information.

"§ 2703. Environmental restoration transfer account

"(a) ESTABLISHMENT OF TRANSFER ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Department of Defense an account to be known as the 'Defense Environmental Restoration Account' (hereinafter in this section referred to as the 'transfer account'). All sums appropriated to carry out the functions of the Secretary of Defense relating to environmental restoration under this chapter or any other Act shall be appropriated to the transfer account.

"(2) REQUIREMENT OF AUTHORIZATION OF APPROPRIATIONS.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

"(3) AVAILABILITY OF FUNDS IN TRANSFER ACCOUNT.—Amounts appropriated to the transfer account shall remain available until transferred under subsection (b).

"(b) AUTHORITY TO TRANSFER TO OTHER DOD ACCOUNTS.—Amounts in the transfer account shall be available to be transferred by the Secretary to any appropriation account or fund of the Department for obligation from that account or fund. Funds so transferred shall be merged with and available for the same purposes and for the same period as the account or fund to which transferred.

"(c) OBLIGATION OF TRANSFERRED AMOUNTS.—Funds transferred under subsection (b) may only be obligated or expended from the account or fund to which transferred in order to carry out the functions of the Secretary under this Act or environmental restoration functions under any other Act.

"(d) BUDGET REPORTS.—In proposing the Budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amount requested for environmental restoration programs of the Department of Defense under this chapter or any other Act.

"(e) AMOUNTS RECOVERED UNDER CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.

"§ 2704. Commonly found unregulated hazardous substances

"(a) NOTICE TO HHS.—

"(1) IN GENERAL.—The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under his jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

"(2) DEFINITION.—In this subsection, 'unregulated hazardous substance' means a hazardous substance—

"(A) for which no standard is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

"(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

"(b) TOXICOLOGICAL PROFILES.—The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

"(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

"(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

"(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

"(c) DOD SUPPORT FOR TOXICOLOGICAL PROFILES.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such toxicological profiles under subsection (b). The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this section.

"(d) EPA HEALTH ADVISORIES.—

"(1) PREPARATION.—At the request of the Secretary of Defense, the Administrator shall in a timely manner prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance—

"(A) for which no advisory exists;

"(B) which is found to threaten drinking water; and

"(C) which is emanating from facilities under the administrative jurisdiction of the Secretary.

"(2) CONTENT OF HEALTH ADVISORIES.—Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where available toxicological data exist.

"(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

"(e) CROSS REFERENCE.—Section 116 of CERCLA applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section for other Federal facilities.

"(f) FUNCTIONS OF HHS TO BE CARRIED OUT THROUGH ATSDR.—The functions of the

Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency of Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 116 of CERCLA.

"§ 2705. Notice of environmental restoration activities

"(a) EXPEDITED NOTICE.—The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

"(1) The discovery of releases or threatened releases of hazardous substances at the facility.

"(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

"(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

"(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

"(b) COMMENT BY EPA AND STATE AND LOCAL AUTHORITIES.—

"(1) RELEASE NOTICES.—The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

"(2) PROPOSALS FOR RESPONSE ACTIONS.—The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

"(c) TECHNICAL REVIEW COMMITTEE.—Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of any such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

"§ 2706. Annual report to Congress

"(a) REPORT ON PROGRESS IN IMPLEMENTATION.—The Secretary of Defense shall submit to Congress a report each fiscal year describing the progress made by the Secretary during the preceding fiscal year in implementing the requirements of this chapter.

"(b) MATTERS TO BE INCLUDED.—Each such report shall include the following:

"(1) A statement for each facility under the jurisdiction of the Secretary of the number of individual facilities at such installation at which a hazardous substance has been identified.

"(2) The status of response actions contemplated or undertaken at each such facility.

"(3) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each such facility.

"(4) A report on progress on conducting response actions at sites other than sites on the National Priority List.

"§ 2707. Definitions

"In this chapter:

"(1) 'Environment', 'facility', 'hazardous substance', 'person', 'release', 'removal', 'response', 'disposal', and 'hazardous waste' have the meanings given those terms in section 101 of CERCLA.

"(2) 'Administrator' means the Administrator of the Environmental Protection Agency.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 159 the following new item:

"160. Environmental Restoration..... 2701".

(b) MILITARY CONSTRUCTION PROJECTS.—(1) Chapter 169 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§ 2810. Construction projects for environmental response actions

"(a) Subject to subsection (b), the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under chapter 160 of this title or the Comprehensive Environmental Response, Compensation, and Liability Act.

"(b)(1) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include—

"(A) the justification for the project and the current estimate of the cost of the project; and

"(B) the justification for carrying out the project under this section.

"(2) The project may then be carried out only—

"(A) after the end of the 21-day period beginning on the date the notification is received by such committees; or

"(B) after each such committee has approved the project, if the committees approve the project before the end of that period.

"(c) In this section, 'response action' has the meaning given that term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end thereof the following new item:

"2810. Construction projects for environmental response actions.".

(c) EFFECTIVE DATE.—Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986.

SEC. 214. OVERSIGHT AND REPORTING REQUIREMENTS.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

"(h) OVERSIGHT AND REPORTING REQUIREMENTS.—

"(1) CONGRESSIONAL OVERSIGHT.—The appropriate authorizing committees of Congress shall conduct oversight hearings not less often than annually to ensure that this Act is being implemented according to the purposes of this Act and congressional intent in enacting this Act.

"(2) ANNUAL REPORT BY EPA.—The Administrator of the Environmental Protection Agency shall submit a report annually to the Congress on the progress achieved in implementing this Act. In addition such report shall specifically include each of the following—

"(A) A detailed description of each feasibility study carried out at a facility under title I of this Act.

"(B) The status and estimated date of completion of each such study.

"(C) Notice of each such study which will not meet a previously published schedule for completion and the new estimated date for completion.

"(D) An evaluation of newly developed feasible and achievable permanent treatment technologies.

"(E) Progress made in reducing the number of facilities in the Interim Category on the National Priorities List.".

SEC. 215. RADON GAS.

(a) NATIONAL ASSESSMENT.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall—

(1) identify the locations in populated areas in the United States where radon gas and radon daughters are forming from naturally occurring deposits of uranium and are collecting in residences and other structures;

(2) assess for each location identified under paragraph (1) the amounts of radon gas and radon daughters that are forming and the amounts that are present in residences and other structures;

(3) determine the level of radon gas and radon daughters which poses a threat to human health and assess for each location identified under paragraph (1) the extent of the threat to human health; and

(4) determine methods of reducing or eliminating the threat to human health of radon gas and radon daughters.

The Administrator shall submit a report to Congress on the results of the assessment conducted under this subsection not later that one year after the date of the enactment of this Act.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator shall conduct a demonstration program to test methods of reducing or eliminating the threat to human health of radon gas and radon daughters. Such methods shall include venting of residences and other structures and any other methods the Administrator determines may be effective in reducing or eliminating such threat. The demonstration program under this section shall be conducted at the Reading Prong, Pennsylvania and New Jersey, and at such other sites as the Administrator considers appropriate.

(2) REPORTS.—The Administrator shall submit interim reports not later than September 30, 1986, and September 30, 1987, on the status of the demonstration program

carried out under this subsection. The Administrator shall submit a final report on the results of such program not later than December 31, 1988.

(3) AUTHORIZATION.—There is authorized to be appropriated for the fiscal years 1986 through 1988 a total of $2,000,000 to carry out this subsection.

SEC. 216. STUDY OF JOINT USE OF TRUCKS.

(a) STUDY.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study of problems associated with the use of any vehicle for purposes other than the transportation of hazardous substances when that vehicle is used at other times for the transportation of hazardous substances. At a minimum, the Administrator shall consider—

(1) whether such joint use of vehicles should be prohibited, and

(2) whether, if such joint use is permitted, special safeguards should be taken to minimize threats to public health and the environment.

(b) REPORT.—The Administrator shall submit a report, along with recommendations, to Congress on the results of the study conducted under subsection (a) not later than 180 days after the date of the enactment of this Act.

SEC. 217. LOVE CANAL PROPERTY ACQUISITION.

(a) CONGRESSIONAL FINDINGS.—

(1) The area known as Love Canal located in the city of Niagara Falls and the town of Wheatfield, New York, was the first toxic waste site to receive national attention. As a result of that attention Congress investigated the problems associated with toxic waste sites and enacted Superfund legislation to deal with these problems.

(2) Because Love Canal came to the nation's attention prior to the passage of Superfund and because the Superfund was not available to compensate for all of the hardships endured by the citizens in the area, Congress has determined that special provisions are required. These provisions do not affect the lawfulness, implementation or selection of any other response actions at Love Canal or at any other facilities.

(b) AMENDMENT OF SUPERFUND.—Title III of the Comprehensive Environmental Response Compensation and Liability Act of 1980 is amended by adding the following new section at the end thereof.

"SEC. 310. LOVE CANAL PROPERTY ACQUISITION.

"(a) ACQUISITION OF PROPERTY IN EMERGENCY DECLARATION AREA.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') may make grants not to exceed $2.5 million to the State of New York (or to any duly constituted public agency or authority thereof) for purposes of acquisition of private property in the Love Canal Emergency Declaration Area. Such acquisition shall include (but shall not be limited to) all private property within the Emergency Declaration Area, including non-owner occupied residential properties, commercial, industrial, public, religious, non-profit, and vacant properties.

"(b) PROCEDURES FOR ACQUISITION.—No property shall be acquired pursuant to this section unless the property owner voluntarily agrees to such acquisition. Compensation for any property acquired pursuant to this section shall be based upon the fair market value of the property as it existed prior to the emergency declaration. Valuation procedures for property acquired with funds provided under this section shall be in accordance with those set forth in the agreement entered into between the New York State Disaster Preparedness Commission and the Love Canal Revitalization Agency on October 9, 1980.

"(c) STATE OWNERSHIP.—The Administrator shall not provide any funds under this section for the acquisition of any properties pursuant to this section unless a public agency or authority of the State of New York first enters into a cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State or an agency created under the laws of the State shall take title to the properties to be so acquired.

"(d) MAINTENANCE OF PROPERTY.—The Administrator shall enter into a cooperative agreement with an appropriate public agency or authority of the State of New York under which the Administrator shall maintain or arrange for the maintenance of all properties within the Emergency Declaration Area that have been acquired by any public agency or authority of the State. Ninety (90) percent of the costs of such maintenance shall be paid by the Administrator. The remaining portion of such costs shall be paid by the State (unless a credit is available under Section 104(c). The Administrator is authorized, in his discretion, to provide technical assistance to any public agency or authority of the State of New York in order to implement the recommendations of the habitability and land-use study in order to put the land within the emergency declaration area to its best use.

"(e) HABITABILITY AND LAND-USE STUDY.—The Administrator shall conduct or cause to be conducted a habitability and land-use study. The study shall (1) assess the risks associated with inhabiting of the Love Canal Emergency Declaration Area; (2) compare the level of hazardous waste contamination in that Area to that present in other comparable communities; and (3) assess the potential uses of the land within the Emergency Declaration Area, including but not limited to residential, industrial, commercial and recreational, and the risks associated with such potential uses. The Administrator shall publish the findings of such study and shall work with the State of New York to develop recommendations based upon the results of such study.

"(f) FUNDING.—For purposes of section 111 and 221(c) of this Act, the expenditures authorized by this section shall be treated as a cost specified in section 111(c).

"(g) RESPONSE.—The provisions of this section shall not affect the implementation of other response actions within the emergency declaration area that the Administrator has determined (before enactment of this section) to be necessary to protect the public health or welfare or the environment.

"(h) DEFINITIONS.—For purposes of this section:

"(1) EMERGENCY DECLARATION AREA.—The terms 'Emergency Declaration Area' and 'Love Canal Emergency Declaration Area' mean the Emergency Declaration Area as defined in section 950, paragraph (2) of the General Municipal law of the State of New York, Chapter 259, Laws of 1980, as in effect on the date of the enactment of this section.

"(2) PRIVATE PROPERTY.—As used in subsection (a), the term 'private property' means all property which is not owned by a department, agency, or instrumentality of (A) the United States or (B) the State of New York (or any public agency or authority thereof).

TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW

Subtitle A—Emergency Planning

SEC. 301. ESTABLISHMENT OF STATE COMMISSIONS AND LOCAL COMMITTEES.

(a) ESTABLISHMENT OF STATE EMERGENCY RESPONSE COMMISSIONS.—Not later than six months after the date of the enactment of this title, the Governor of each State shall appoint an emergency response commission. The Governor may designate as the emergency response commission one or more existing emergency response organizations that are State-sponsored or appointed. The Governor shall, to the extent practicable, appoint persons to the commission who have technical expertise in the emergency response field. The emergency response commission of a State shall appoint local emergency response committees under subsection (b) and shall supervise and coordinate the activities of such committees. If the Governor of any State does not designate a State commission within such period, the Administrator shall operate as the State commission until the Governor makes such designation and may make the initial designations and appointments under subsection (b).

(b) ESTABLISHMENT OF LOCAL EMERGENCY RESPONSE COMMITTEES.—

(1) IN GENERAL.—Not later than six months after the date of the establishment of a State commission under subsection (a), the commission shall—

(A) designate political subdivisions or combinations of political subdivisions as emergency response districts for purposes of this title; and

(B) appoint a local emergency response committee for each emergency response district designated under subparagraph (A).

(2) INTERSTATE AGREEMENTS.—Pursuant to interstate agreements, political subdivisions in more than one State may be included in an emergency response district under paragraph (1)(A) and members of an emergency response committee may be designated under paragraph (1)(B) from each State.

(c) COMPOSITION OF LOCAL COMMITTEES.—A local emergency response committee shall include representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and covered operators.

(d) OFFICERS; AD HOC COMMITTEES.—A local emergency response committee may elect such officers and spokesmen and appoint such ad hoc committees of interested citizens, and request such assistance of State and local officials, as it deems necessary to assist it in carrying out its duties.

(e) REVISIONS.—The emergency response commission of a State may revise its designations and appointments under subsection (b) with respect to any local emergency response committee as it deems appropriate.

SEC. 302. COMPREHENSIVE EMERGENCY RESPONSE PLANS.

(a) PLAN REQUIRED.—Not later than 24 months after the date of the enactment of this title, each local emergency response committee shall complete an emergency response plan designed to minimize the injury to human health and the environment which could result from any hazardous substance emergency arising out of activities carried out at any covered facility located in the emergency response district for which such committee is established. The plan

shall be integrated with existing emergency response plans at the discretion of the committee. A covered operator shall submit to the local emergency response committee any information in addition to the information required under section 311 (other than information which may be withheld from disclosure under section 322), with respect to a covered facility that the committee may request for purposes of completing such plan. The committee may revise such plan as necessary to protect human health and the environment.

(b) PLAN PROVISIONS.—Each plan required under this section shall include each of the following at a minimum:

(1) Designation of one or more State or local officials whom the covered operator will notify in case of a hazardous substance emergency.

(2) Designation of the names and emergency telephone numbers of personnel employed by the covered operator who should be contacted in case of a hazardous substance emergency.

(3) A description of measures which should be taken to mitigate and minimize the risks to human health and the environment posed by a hazardous substance emergency.

(4) A description of a system or method and procedures and communications systems (including alarm and warning systems) to notify members of the affected public of a hazardous substance emergency.

(5) A description of emergency equipment and facilities in the community, and at each facility in the community at which a substantial inventory of a hazardous substance is maintained, and an identification of the persons responsible for such equipment and facilities.

(6) Emergency evacuation plans, as well as an evaluation of the adequacy of existing transportation facilities to accomplish an evacuation.

(7) A description of training programs and drill schedules to be used for purposes of emergency response planning and preparedness.

(8) An evaluation of medical, police, health, and firefighting resources available in the event of a hazardous substance emergency and recommendations, if appropriate, concerning what additional resources should be developed by State or local governments.

(c) REVIEW BY THE GOVERNOR.—After completion of a plan under subsection (a) for an emergency response district, the local emergency response committee shall submit a copy of such plan to the Governor of each State in which such district is located. The Governor or Governors shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency response districts.

(d) ASSISTANCE.—Upon request of a local emergency response committee, the Administrator shall provide technical assistance in developing and implementing an emergency response plan.

Subtitle B—Notification Requirements

SEC. 311. BASIC NOTIFICATION REQUIREMENTS.

(a) SUBMISSION OF MATERIAL SAFETY DATA SHEETS.—

(1) BASIC REQUIREMENT.—The owner or operator of any facility at which any hazardous chemical is produced, used, or stored shall submit a material safety data sheet for each such chemical to the appropriate local emergency response committee and such local and State officials as may have been designated to receive such sheet by such committee.

(2) FURNISHING OF SHEETS TO OTHER OWNERS AND OPERATORS.—

(A) IN GENERAL.—Each owner or operator of a facility who is required to submit a material safety data sheet for a hazardous chemical under paragraph (1) and who supplies such a chemical to any other such owner or operator shall furnish such sheet, and any revised sheet under paragraph (3), to such other facility owner or operator. The initial sheet shall be furnished before, or at the time of, the first shipment of such chemical to such other owner or operator. Any revised sheet shall be furnished before, or at the time of, the first shipment of such chemical to such other owner or operator after such sheet is revised.

(B) UNAVAILABILITY FROM MANUFACTURER OR IMPORTER.—The requirements of this subsection shall not apply to a facility owner or operator (other than a manufacturer or importer of the hazardous chemical)—

(i) who has not received a material safety data sheet for such hazardous chemical from the person who supplied such hazardous chemical to such facility owner or operator; and

(ii) who has made and documented reasonable efforts to obtain such material safety data sheet by contacting such person and requesting such person to send the sheet.

(3) INITIAL SHEET AND UPDATING.—The initial material safety data sheet required under this subsection with respect to a hazardous chemical shall be provided before the later of—

(A) 12 months after the date of the enactment of this title; or

(B) 3 months after such chemical is first produced, used, or stored at a facility.

Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical which was originally required to be disclosed on such sheet under this subsection, the sheet shall be revised.

(b) HAZARDOUS SUBSTANCE REPORTS.—

(1) BASIC REQUIREMENT.—The covered operator with respect to each covered facility at which any covered hazardous substance is present in a significant amount shall prepare and submit to the appropriate local emergency response committee a hazardous substance report.

(2) CONTENTS OF REPORT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a hazardous substance report shall contain each of the following items of information with respect to each covered hazardous substance present at the covered facility in a significant amount:

(i) The type and approximate amounts of the covered hazardous substance to be found at the facility.

(ii) A map showing the location at the facility of each such substance stored at the facility.

(iii) Potential routes of human exposure to each such substance.

(iv) Symptoms of such exposure.

(v) Appropriate emergency and first aid procedures for spills, fires, explosions, and other releases involving such substance.

(vi) Emergency telephone numbers for appropriate personnel of the covered operator of the facility.

(B) EXCEPTION WHEN MSDS UNAVAILABLE.—With respect to any covered hazardous substance for which a covered operator has not received a copy of the material safety data sheet required to be furnished under subsection (a)(2), such operator may satisfy the requirements of this subsection by including in a hazardous substance report the information required by clauses (i) and (ii) of subparagraph (A) and a statement that the covered operator has not received such sheet.

(3) INITIAL REPORT AND UPDATING.—The initial report required under this subsection with respect to a covered facility shall be provided before the later of either of the following:

(A) 18 months after the date of the enactment of this title.

(B) 6 months after a facility becomes a covered facility.

The hazardous substance report shall be revised and submitted to the appropriate local emergency response committee every six months. With respect to the requirements contained in paragraph (2)(A)(i), any revised report shall list the average amount of the substance present at the facility during the period since the last report was submitted and the maximum amount of the substance present at such facility at any time during such period.

(4) LIST OF COVERED HAZARDOUS SUBSTANCES AND THRESHOLD FOR REPORTING.—

(A) LIST OF SUBSTANCES.—Not later than 24 months after the date of the enactment of this title, the Administrator shall publish a list of those hazardous substances and hazardous chemicals which the Administrator determines have characteristics of volatility, combustibility, reactivity, dispersability, or toxicity such that the release of the substance or chemical is likely to cause an imminent and substantial endangerment to the public health or the environment. The Administrator may revise such list from time to time.

(B) THRESHOLD FOR REPORTING.—At the time a substance is listed under this paragraph, the Administrator shall determine what is a significant amount of such substance for purposes of the reporting requirements of this subsection.

(C) PETITION.—Any person and any local emergency response committee may petition the Administrator to designate a substance as a covered hazardous substance. Within six months after receipt of such a petition, the Administrator shall either designate such substance as a covered hazardous substance or publish a written explanation of the reasons for the determination that such substance is not a covered hazardous substance.

(5) FORMAT OF REPORTS.—

(A) IN GENERAL.—The Administrator shall publish a uniform format for hazardous substance reports within three months after the date of the enactment of this title.

(B) USE OF MSDS FOR CERTAIN ITEMS.—A covered operator may meet the requirements of clauses (iv), (v), and (vi) of subparagraph (A) of paragraph (2) with respect to a covered hazardous substance by submitting a copy of the most recent material safety data sheet for such substance.

(6) SUPERFUND SITES.—The report required under this subsection for any covered facility referred to in section 326(1)(B) shall not be required to contain any information which is not contained in the remedial investigation and feasibility study for that facility or which is not otherwise available to the covered operator. A report for such a facility shall not be required to be revised under paragraph (3).

(7) OTA REPORT.—Within four years after the date of the enactment of this Act, the Congressional Office of Technology Assess-

ment shall report to Congress on the need for and feasibility of requiring hazardous substance reports from owners or operators of facilities which have been issued permits under section 3005 of the Solid Waste Disposal Act.

(c) EXTREMELY TOXIC SUBSTANCE STATUS SHEETS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The covered operator of each covered facility—

(i) at which an extremely toxic substance is present during any applicable 12-month period in excess of the 12-month cumulative threshold amount, and

(ii) from which such substance is released into the environment during such period,

shall prepare an extremely toxic substance status sheet for such substance for such facility.

(B) ANNUAL APPLICATION OF REQUIREMENT.—An extremely toxic substance status sheet shall be submitted to the appropriate local emergency response committee not later than 3 months after the date the initial hazardous substance report is submitted under subsection (b)(1) with respect to a facility for which such status sheet is required. For each 12-month period ending on the same date each year thereafter for which the requirements of subparagraph (A) apply, the covered operator shall submit such a status sheet within three months.

(2) CONTENTS OF STATUS SHEET.—An extremely toxic substance status sheet shall contain each of the following items of information with respect to the covered facility concerned:

(A) The total amount of each extremely toxic substance released into the environment during the preceding 12-calendar month period.

(B) A summary of each report submitted to the Administrator or a State during such 12-month period under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 regarding a release of a reportable quantity of an extremely toxic substance.

(C) A summary of each report submitted to the Administrator or a State during such 12-month period under the Federal Water Pollution Control Act, the Clean Air Act, or the Solid Waste Disposal Act of a discharge into the environment of any hazardous substance in excess of the amount permitted to be discharged under a permit under such Act.

(3) USE OF AVAILABLE DATA.—In order to provide the information required under this subsection, the covered operator may utilize readily available data (including monitoring data) collected pursuant to other provisions of law or, where such data is not readily available, reasonable estimates of the amounts involved. Nothing in this subsection requires the monitoring or measurement of the quantities, concentration, or frequency of any extremely toxic substance released into the environment beyond that monitoring and measurement required under other provisions of law or regulation.

(4) LIST OF EXTREMELY TOXIC SUBSTANCES AND THRESHOLD FOR REPORTING.—

(A) LIST OF SUBSTANCES.—Not later than 12 months after the date of the enactment of this title, the Administrator shall publish a list of substances which he deems, in his judgment and based on the best information available to him, to be extremely toxic substances. The list may be revised periodically. For purposes of this section, extremely toxic substances are those covered hazardous substances which are so acutely toxic that their release into the environment in any amount or form may present an imminent and substantial endangerment to human health and chemicals (such as vinyl chloride, benzene, asbestos, and poly chlorinated biphenyls) which are known to cause or are suspected of causing cancer, birth defects, heritable genetic mutations, or other chronic health effects in humans. If the Administrator fails to publish such list within such 24 month period, the list shall consist of the Acute Hazards List developed by the Administrator as part of its Federal Initiative for Responding to Accidental Releases of Air Toxics (described in the July 26, 1985, notice from the Office of Solid Waste and Emergency Response of the Environmental Protection Agency) until such list is published.

(B) THRESHOLD FOR REPORTING.—At the time a substance is listed under this subsection, the Administrator shall also establish a 12-month cumulative threshold amount for such substance for purposes of the reporting requirements of this subsection.

(5) USE OF SHEET.—The sheet required under this subsection is intended to provide general information to the Federal, State, and local governments and the citizens of communities surrounding covered facilities. The sheet shall be available, consistent with section 312(a), to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering, to aid in the development of appropriate regulations, guidelines, and standards, and for other similar purposes.

(6) TELEPHONE INQUIRIES.—The Administrator shall establish a toll-free telephone number, operating 24 hours per day, that is computer accessible, to respond to inquiries concerning the information contained in extremely toxic substance status sheets.

(d) RECORDS.—Each owner or operator under subsection (a) and each covered operator under subsection (b) or (c) shall maintain records of the information filed in compliance with this section for a reasonable period to be determined by the Administrator. The Administrator shall take such steps as may be necessary to assist such covered operators and owners and operators in complying with this section and to reduce unnecessary or burdensome paperwork.

(e) EXEMPTIONS.—

(1) MATERIAL SAFETY DATA SHEETS.—The Administrator may exempt an owner or operator from the requirements of subsection (a) with respect to—

(A) any hazardous chemical or group of hazardous chemicals;

(B) any facility or group of facilities; and

(C) specific activities carried out by such owner or operator in a specific location.

(2) HAZARDOUS SUBSTANCE REPORTS.—The Administrator may exempt from the requirements of subsection (b) reporting with respect to—

(A) any covered hazardous substance or group of covered hazardous substances;

(B) any covered facility or group of covered facilities; and

(C) specific activities carried out by any covered operator in a specific location.

(3) PROCEDURES.—An exemption may be granted under this subsection by the Administrator on his own motion or upon petition of any person. An exemption may be granted only after notice and opportunity for public comment. No exemption may be granted under paragraph (1)(C) or (2)(C) for specific activities carried out by any covered operator or owner or operator until notice and an opportunity for a hearing have been provided in the locality in which such activities are carried out.

(4) STANDARD FOR EXEMPTION.—An exemption may be granted under this subsection only if the Administrator finds that the covered hazardous substance or hazardous chemical, facility, or activity concerned does not present a reasonable likelihood of injury to human health or the environment.

SEC. 312. PUBLIC AVAILABILITY OF PLANS, DATA SHEETS, REPORTS, STATUS SHEETS, AND EMERGENCY BULLETINS.

(a) AVAILABILITY TO PUBLIC.—Each emergency response plan, material safety data sheet, hazardous substance report, extremely toxic substance status sheet, and emergency bulletin shall be made available to the general public during normal working hours at the location or locations designated by the appropriate local emergency response committee. Upon request by a covered operator, the appropriate local emergency response committee shall withhold from disclosure under this section the information required by section 311(b)(2)(B) to be contained in a hazardous substance report.

(b) NOTICE OF PUBLIC AVAILABILITY.—Each local emergency response committee shall annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, hazardous substance reports, and extremely toxic substance status sheets have been submitted under this section. The notice shall state that hazardous substance emergency bulletins may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, report, sheet, or emergency bulletin may do so at the location designated by the local emergency response committee.

SEC. 313. PROVISION OF INFORMATION TO HEALTH PROFESSIONALS, DOCTORS, AND NURSES.

(a) DIAGNOSIS OR TREATMENT BY HEALTH PROFESSIONAL.—A covered operator shall provide the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical to any health professional who requests such information in writing if the health professional provides a written statement of need under this subsection and a written agreement of confidentiality under subsection (d). The written statement of need shall be a statement that the health professional has a reasonable basis to suspect that—

(1) the information is needed for purposes of diagnosis or treatment of an individual;

(2) the individual or individuals being diagnosed or treated have been exposed to the substance concerned; and

(3) knowledge of the specific chemical identity of such substance will assist in diagnosis or treatment.

Following such a written request, the covered operator to whom such request is made shall promptly provide the requested information to the health professional. The authority to withhold the specific chemical identity of a substance under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(b) MEDICAL EMERGENCY.—A covered operator shall provide a copy of a material safety data sheet, a hazardous substance report, or an extremely toxic substance status sheet, including the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical, to any treating physi-

cian or nurse who requests such information if such physician or nurse determines that—

(1) a medical emergency exists;

(2) the specific chemical identity of the covered hazardous substance or hazardous chemical is necessary for or will assist in emergency or first-aid diagnosis or treatment; and

(3) the individual or individuals being diagnosed or treated have been exposed to the substance or chemical concerned.

Immediately following such a request, the owner or operator to whom such request is made shall provide the requested information to the physician or nurse. The authority to withhold the specific chemical identity of a substance from a material safety data sheet, a hazardous substance report, or an extremely toxic substance status sheet under section 322 when such information is a trade secret shall not apply to information required to be provided to a treating physician or nurse under this subsection. No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the facility owner or operator disclosing such information may require a written confidentiality statement in accordance with subsection (d) and a statement setting forth the items listed in paragraphs (1) through (3) as soon as circumstances permit.

(c) PREVENTIVE MEASURES BY STATE AND LOCAL HEALTH PROFESSIONALS.—

(1) PROVISION OF INFORMATION.—A covered operator shall provide the specific chemical identity, if known, of a covered hazardous substance or a hazardous chemical to any health professional (such as a physician, toxicologist, or epidemiologist)—

(A) who is a State or local government employee or a person under contract with the State or local government, and

(B) who requests such information in writing and provides a written statement of need under this subsection and a written agreement of confidentiality under subsection (d).

(2) WRITTEN STATEMENT OF NEED.—The written statement of need shall be a statement that describes with reasonable detail one or more of the following health needs for the information:

(A) To assess the hazards of the substance or chemical to which persons living in a State or local community will be exposed.

(B) To conduct or assess sampling of the atmosphere to determine exposure levels of various population groups.

(C) To conduct periodic medical surveillance of exposed population groups.

(D) To provide medical treatment to exposed individuals or population groups.

(E) To conduct studies to determine the health effects of exposure.

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the State or local health professional. The authority to withhold the specific chemical identity of a substance under section 322 when such information is a trade secret shall not apply to information required to be provided under this subsection, subject to the provisions of subsection (d).

(d) CONFIDENTIALITY AGREEMENT.—Any person obtaining information under subsection (a) or (c) shall, in accordance with such subsection (a) or (c), be required to agree in a written confidentiality agreement that he will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing such information. The confidentiality agreement under this subsection may provide for appropriate legal remedies in the event of a breach of the agreement, including stipulations of a reasonable pre-estimate of likely damages. Nothing in this subsection shall preclude the parties to a confidentiality agreement from pursuing non-contractual remedies to the extent permitted by law.

SEC. 314. HAZARDOUS SUBSTANCE EMERGENCY NOTICE AND BULLETIN.

(a) NOTIFICATION REQUIREMENT.—

(1) IMMEDIATE NOTICE.—In addition to any other notice required by this Act, in the case of any hazardous substance emergency at any covered facility, the covered operator shall immediately notify (by telephone, by radio, or in person) the appropriate local emergency response committee and any State and local officials designated by such committee to receive such notice of the existence of the hazardous substance emergency. Such notice shall include as much of the information referred to in subsection (b) as is known to the owner or operator at the time notice under this subsection is provided so long as no delay in responding to the emergency results.

(2) EMERGENCY BULLETIN.—In the case of a hazardous substance emergency at any facility, the facility owner or operator shall provide an emergency bulletin to such committee and officials as soon as practicable.

(b) CONTENTS OF EMERGENCY BULLETIN.—Each emergency bulletin under this section shall include a full description of the hazardous substance emergency so that appropriate health and safety measures can be taken. Such notification shall include, at a minimum each of the following:

(1) The chemical name or identity of the hazardous substance or substances involved in the emergency.

(2) The actions taken to respond to the emergency.

(3) The covered operator's best estimate of the scope of the emergency, including the owner or operator's best estimate of the amount and duration of the release.

(4) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(5) Recommendations for additional actions, if any, that are necessary.

SUBTITLE C—GENERAL PROVISIONS

SEC. 321. STATE AND LOCAL LAW.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this title shall be construed to limit the ability of any State or locality to require submission of information related to hazardous chemicals or to limit the authority of any State to preempt any local law relating to the submission of information related to hazardous chemicals.

(b) EFFECT ON MSDS REQUIREMENTS.—

(1) Any State or local law enacted after August 1, 1985, which requires the submission of a material safety data sheet from facility owners or operators shall require that the data sheet be identical in content and format to the data sheet required under subsection (a) of section 311. In addition, a State or locality may require the submission of information which is supplemental to the information required on the data sheet, through additional sheets attached to the data sheet or such other means as the State or locality considers appropriate.

(2) Any State or local law—

(A) enacted after August 1, 1985, and

(B) which requires a facility owner or operator who supplies a hazardous chemical to any other facility owner or operator to furnish a material safety data sheet to such other facility owner or operator,

shall be identical to the requirements under section 311(a)(3).

SEC. 322. TRADE SECRETS.

(a) AUTHORITY TO WITHHOLD INFORMATION.—With regard to a hazardous chemical or covered hazardous substance, any facility owner or operator required to submit or furnish any information to any other person or entity under this title may withhold from such submittal the specific chemical identity, including the chemical name and other specific identification, as defined in regulations prescribed by the Administrator of the Environmental Protection Agency under subsection (b), if the claim that the information withheld is a trade secret can be supported by showing that—

(1) the facility owner or operator has not disclosed the information to any other person, other than a member of a local emergency response committee, an officer or employee of the United States or a State or local government, an employee of such facility owner or operator, or a person who is bound by a confidentiality agreement,

(2) the information is not required to be disclosed to the public under any other Federal or State law, and

(3) knowledge of the withheld information may give the facility owner or operator an opportunity to obtain an advantage over competitors who do not know or use such information.

(b) TRADE SECRET REGULATIONS.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall prescribe trade secret regulations which are identical (except for provisions relating to the procedure for the review of petitions challenging trade secret claims, and any minor conforming changes the Administrator considers appropriate), consistent with subsection (a), to the provisions concerning trade secrets in the Occupational Safety and Health Administration Hazard Communication Standard and any revisions of such trade secret provisions prescribed by the Secretary of Labor in accordance with the final ruling of the courts of the United States in *United Steelworkers of America, AFL-CIO-CLC* v. *Thorne G. Auchter.*

(2) PETITION FOR REVIEW.—The Administrator of the Environmental Protection Agency shall establish a procedure for any affected citizen to petition the Administrator to review a trade secret claim made by a facility owner or operator under this section. Any appropriate United States district court shall have jurisdiction to review a determination by the Administrator under this section.

(3) TIMETABLE.—The Administrator shall prescribe the regulations under paragraph (1) as soon as practicable after the date of the enactment of this Act, and shall prescribe the regulations under paragraph (2) no later than 4 months after the date on which the regulations under paragraph (1) become final.

(c) EXCEPTION FOR INFORMATION PROVIDED TO HEALTH PROFESSIONALS.—Nothing in this section or regulations adopted pursuant to this section shall authorize any person to withhold information which is required to be provided to a health professional or a doctor or nurse in accordance with section 313.

SEC. 323. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any person (other than a governmental entity)—

(1) who violates any requirement of section 311(b), 311(c), or 314 shall be liable to the United States for a civil penalty in an amount not to exceed $20,000 for each such violation; and

(2) who violates any requirement of section 311(a) or 313(b), and any person who fails to furnish information withheld under section 322(a) from a material safety data sheet when requested by the Administrator for purposes of carrying out a review under section 322(b), shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

Each day such a violation continues shall, for purposes of this paragraph, constitute a separate violation.

(b) COLLECTION OF PENALTY.—Any civil penalty for which a person is liable under this title shall be collected in an action brought by the United States in the United States district court for the district in which the person from whom the penalty is sought resides or in which such person's principal place of business is located.

(c) SPECIAL ENFORCEMENT PROVISIONS FOR SECTION 313.—Whenever any facility owner or operator required to provide information under section 313(b) to a doctor or nurse who has requested such information fails or refuses to provide such information in accordance with section 313(b), such doctor or nurse may bring an action in the appropriate United States district court to require such facility owner or operator to provide the information. Such court shall have jurisdiction to issue such orders and take such other action as may be necessary to enforce the requirements of section 313(b).

(d) STUDY OF CRIMINAL PENALTIES.—The Attorney General shall study the need for, and appropriateness of, criminal penalties for violations of this title. The Attorney General shall submit to Congress a report on the results of such study, along with recommendations, not later than four years after the date of the enactment of this Act.

SEC. 324. EXEMPTION.

This title shall not apply to the transportation, including the storage incident to such transportation, of any hazardous chemical or covered hazardous substance.

SEC. 325. EMERGENCY TRAINING AND PILOT PROGRAM.

(a) EMERGENCY TRAINING.—

(1) PROGRAMS.—Officials of the United States Government carrying out existing Federal programs for emergency training are authorized to specifically provide training and education programs for Federal, State, and local personnel in hazard mitigation, emergency preparedness, fire prevention and control, disaster response, long-term disaster recovery, national security, technological and natural hazards, and emergency processes. Such programs shall provide special emphasis for such training and education with respect to hazardous chemicals.

(2) STATE AND LOCAL PROGRAM SUPPORT.—There is authorized to be appropriated to the Federal Emergency Management Agency for each of the fiscal years 1986, 1987, 1988, 1989, and 1990, $5,000,000 for making grants to support programs of State and local governments, and to support university-sponsored programs, which are designed to improve emergency planning, preparedness, mitigation, response, and recovery capabilities. Such programs shall provide special emphasis with respect to emergencies associated with hazardous chemicals. Such grants may not exceed 80 percent of the cost of any such program. The remaining 20 percent of such costs shall be funded from non-Federal sources.

(3) OTHER PROGRAMS.—Nothing in this section shall affect the availability of appropriations to the Federal Emergency Management Agency for any programs carried out by such agency other than the programs referred to in paragraph (2).

(b) PILOT PROGRAM.—

(1) AUTHORITY.—The Administrator shall carry out a pilot program for testing methods for determining total emissions from facilities of substances described in paragraph (3). In carrying out the program, the Administrator shall use quantitative measurements and analyses to the maximum extent practicable. The Administrator shall enter into a contract with the National Academy of Sciences to develop guidelines for the conduct of the program. The contract shall require the National Academy of Sciences to report such guidelines to the Administrator and Congress within one year after the date of the enactment of this Act. Within six months after receiving the guidelines, the Administrator shall initiate the program.

(2) SELECTION OF FACILITIES.—The Administrator shall carry out the pilot program at the ten facilities owned and operated by the United States Government which, in the Administrator's discretion, are best suited for carrying out the pilot program under this subsection. The facilities selected shall be similar to facilities in the private sector so that the Administrator can determine the applicability of such methods in the private sector.

(3) DESCRIPTION OF SUBSTANCES.—The substances described in this paragraph are each of the following:

(A) Any substance designated as toxic or hazardous by the Occupational Safety and Health Administration under the Occupational Safety and Health Act of 1970.

(B) Any substance listed in the most recent edition of the "Annual Report on Carcinogens" published by the National Toxicology Program of the United States Public Health Service.

(C) Any substance for which a Threshold Limit Value (TLV) has been established by the American Conference of Government Industrial Hygienists.

(D) Any substance listed by the National Fire Protection Association in "Hazardous Chemicals Data" (NFPA 49).

(E) Any substance identified in "Occupational Health Guidelines for Chemical Hazards" published by the National Institute for Occupational Safety and Health.

(F) Any substance listed by the National Fire Protection Association and rated II through IV as health hazards or rated III through VI as flammability or reactivity hazards in "Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids" (NFPA 325M).

(G) Any substance designated as a carcinogen by the International Agency for Research on Cancer.

(H) Any substance listed as a carcinogen by the Carcinogen Assessment Group of the United States Environmental Protection Agency.

(I) Any pesticide the use of which is controlled under section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(J) Any substance listed in a review by National Cancer Institute scientists published in the Journal of Toxicology and Environmental Health, 8:251-280, tables 3 through 6, and in subsequent published reviews by National Cancer Institute scientists of substances which meet the criteria of the National Toxicology Program for significant carcinogenic effect.

(K) Any substance defined as a "hazardous substance" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(4) REPORT.—The Administrator shall submit an interim report to Congress regarding the pilot program within one year after the program is initiated. Within two years after initiating the program, the Administrator shall complete the pilot program and shall submit a final report on the results thereof to Congress. The report shall discuss the technological and economic feasibility of emissions and discharge reporting, as well as the usefulness and value of the information collected. The Administrator shall make recommendations on whether a permanent emissions and discharge and inventory reporting program should be established on a continuing basis and, if so, how such a program should be structured.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to carry out this subsection.

(c) SAVINGS PROVISION.—Nothing in this title shall affect the requirements of the Occupational Safety and Health Act of 1970.

SEC. 326. DEFINITIONS.

For purposes of this title—

(1) COVERED FACILITY.—The term "covered facility" means—

(A) a facility at which any hazardous chemical is produced, used, or stored; and

(B) a facility listed on the National Priorities List under the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 for which a remedial investigation and feasibilty study has been completed.

(2) COVERED HAZARDOUS SUBSTANCE.—The term "covered hazardous substance" means a substance listed under section 311(b)(4).

(3) COVERED OPERATOR.—The term "covered operator" means any person (including any department, agency, or instrumentality of the United States) who owns or operates a covered facility.

(4) EXTREMELY TOXIC SUBSTANCE.—The term "extremely toxic substance" means a covered hazardous substance listed by the Administrator under section 311(c)(4).

(5) HAZARDOUS CHEMICAL.—The term "hazardous chemical" means any chemical for which a material safety data sheet is required to be submitted under section 1910.1200(g) of title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

(A) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(B) Any manufactured item which contains a hazardous chemical present as a solid which does not result in exposure to the hazardous chemical under normal conditions of use.

(C) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(D) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct su-

pervision of a technically qualified individual.

(6) HAZARDOUS SUBSTANCE EMERGENCY.—The term "hazardous substance emergency" means an accidental or abnormal release of a hazardous substance (as defined by section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) from a covered facility which may present an imminent and substantial endangerment to the public health or the environment. For purposes of this paragraph—

(A) the term "abnormal release" means a release which is not a continuous release and which is in excess of the normal amounts associated with routine operations of the covered facility; and

(B) the term "accidental release" means a release which is not planned.

The term "hazardous substance emergency" also includes any release of a hazardous substance in amounts which require notification of the Environmental Protection Agency under CERCLA and which constitute a substantial threat to the public health and environment. The Administrator of the Environmental Protection Agency shall promulgate regulations to carry out this subparagraph.

(7) MATERIAL SAFETY DATA SHEET.—The term "material safety data sheet" means the sheet required to be developed under section 1910.1200(g) of title 29 of the Code of Federal Regulations, as that section may be amended from time to time.

(8) CERCLA TERMS.—The terms used in this title which are defined for purposes of title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 shall have the meanings provided by section 101 of that Act.

TITLE IV—COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 400. SHORT TITLE.

This title may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

Subtitle A—Oil Pollution Liability and Compensation

SEC. 401. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "claim" means a demand in writing for a sum certain;

(2) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(3) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(4) "facility" means a structure, or group of structures, which is either—

(A) located, in while or in part, on the outer Continental Shelf and used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the outer Continental Shelf, or

(B) licensed under the Deepwater Port Act of 1974;

(5) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(6) "guarantor" means the person, other than the responsible party, who provides evidence of financial responsibility for a responsible party;

(7) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, which causes, or poses a substantial threat, of oil pollution;

(8) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo or in residue from cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(9) "internal waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside that baseline which are a part of the Gulf Intracoastal Waterway;

(10) "lessee" means a person holding a leasehold interest in an oil and gas lease on submerged lands of the outer Continental Shelf granted or maintained under the Outer Continental Shelf Lands Act;

(11) "licensee" means a person holding a license issued under the Deepwater Port Act of 1974;

(12) "mobile offshore drilling unit" means every watercraft or other contrivance (other than a public vessel of the United States) capable of use as a means of transportation on water and as a means of drilling for oil on the outer Continental Shelf;

(13) "natural resources" means living and nonliving resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(14) "navigable waters" means the waters of the United States, including the territorial sea;

(15) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(16) "oil pollution" means—

(A) the presence of oil in or on the navigable waters or on land within the United States immediately adjacent thereto, or in or on the waters of the contiguous zone—

(i) which has been discharged from a vessel or facility; and

(ii) which has been discharged in quantities which the President has determined may be harmful pursuant to paragraph (4) of subsection (b) of section 311 of the Federal Water Pollution Control Act;

(B) the presence of oil (other than natural seepage) in or on waters outside the territorial limits of the United States and of any foreign country—

(i) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(ii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or from a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port licensed under such Act;

(iii) causing injury to or loss of natural resources; or

(iv) which has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) for transportation to a port in the United States; and

(C) the presence of oil (other than natural seepage) in or on the waters, including the territorial sea, or adjacent shoreline, of a foreign country—

(i) which has been discharged from a vessel located within the navigable waters;

(ii) which has been discharged in connection with activities conducted under the Outer Continental Shelf Lands Act;

(ii) which has been discharged from a deepwater port licensed under the Deepwater Port Act of 1974 or a vessel transiting to or from a deepwater port and located in a safety zone of a deepwater port under such Act; or

(iv) which, in the case of the waters or adjacent shoreline of Canada, has been discharged, before being brought ashore in a port in the United States, from a ship that received such oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C./ 1651 et seq.) for transportation to a port in the United States;

(17) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of a pipeline, any person, except the owner, who is responsible for the operation of such pipeline by agreement with the owner;

(18) "Outer Continental Shelf" has the meaning set forth in subsection (a) of section 2 of the Outer Continental Shelf Lands Act;

(19) "owner" means, in the case of a vessel or a pipeline, any person holding title to, or in the absence of title, any other indicia of ownership of, the vessel or pipeline, whether by lease, permit, contract, license, or other form of agreement, except that such term does not include a person who, without participating in the management or operation of a vessel or a pipeline, holds indicia of ownership primarily to protect his security interest in the vessel or pipeline;

(20) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act;

(21) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or any other commercial, legal, or governmental entity;

(22) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State of political subdivision thereof, or (iii) a foreign government, and

(B) is not engaged in commercial service;

(23) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (1) of section 311 of the Federal Water Pollution Control Act, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974, and

(B) cleanup costs, other than the costs described in subparagraph (A);

(24) "responsible party" means—

(A) with respect to a vessel or a pipeline, the owner or operator of such vessel or pipeline;

(B) with respect to a facility (other than a deepwater port or pipeline), the lessee or permittee of the area in which such facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which such facility is located where such holder is a different person than the lessee or permittee; and

(C) with respect to a deepwater port, the licensee;

(25) "Secretary" means the Secretary of Transportation;

(26) "ship" means a vessel (other than an inland oil barge) carrying oil in bulk as cargo or in residue from cargo;

(27) "Trust Fund" means the Oil Spill Liability Trust Fund established by section 9507 of the Internal Revenue Code of 1954;

(28) "United States" and "State" mean the several States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(29) "United States claimant" means any person residing in the Unites States, the Government of the Unites States or any agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim; and

(30) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 402. COORDINATION WITH INTERNATIONAL CONVENTIONS.

During any period in which both the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984, are in force with respect to the United States, this subtitle shall not apply with respect to damage arising out of or directly resulting from oil pollution or a substantial threat of oil pollution to the extent that compensation is available under such conventions and subtitle D.

SEC. 403. DAMAGES AND CLAIMANTS.

(a) DAMAGES FOR WHICH CLAIMS MAY BE ASSERTED.—Claims may be asserted, to the extent provided in this section, for damages for economic loss incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution or the substantial threat of oil pollution for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) reasonable costs incurred in (A) assessing both short-term and long-term injury to, or destruction of, natural resources, (B) preparing a restoration and acquisition plan with respect to the damaged resources, and (C) restoring or acquiring the equivalent of the damaged resources;

(4) loss of subsistence use of natural resources;

(5) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages are sustained during the two-year period beginning on the date the claimant first suffers such loss; and

(6) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) REMOVAL COSTS RECOVERABLE BY ALL CLAIMANTS.—

(1) GENERAL RULE.—A claim may be asserted under paragraph (1) of subsection (a) by any person.

(2) LIMITATION ON RECOVERY BY RESPONSIBLE PARTY.—(A) The responsible party with respect to a vessel or facility involved in an incident may assert a claim under paragraph (1) of subsection (a) only if he can show that—

(i) he is entitled to a defense to liability under section 404(c), or

(ii) he is entitled to a limitation of liability under section 404(b).

(B) A claimant who is not entitled to a defense to liability, but who is entitled to a limitation of liability, may assert a claim under paragraph (1) of subsection (a) only to the extent that the sum of the removal costs incurred by the responsible party plus the amounts paid by the responsible party or by the guarantor on behalf of the responsible party for claims asserted under subsection (a) exceeds the amount to which the total of the liability under section 404(a) and removal costs incurred by, or on behalf of, the responsible party is limited under section 404(b).

(c) OTHER DAMAGES RECOVERABLE BY UNITED STATES CLAIMANTS.—

(1) INJURY TO PROPERTY; SUBSISTENCE USE OF NATURAL RESOURCES.—A claim may be asserted under paragraphs (2) and (4) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(16) by any United States claimant, but only if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant.

(2) INJURY TO NATURAL RESOURCES.—A claim may be asserted under paragraph (3) of subsection (a) by the President as trustee for natural resources controlled by the United States or by the Governor of any State for natural resources within the boundary of the State and controlled by the State or a local government within the State.

(3) LOSS OF PROFITS.—A claim may be asserted under paragraph (5) of subsection (a) with respect to oil pollution described in subparagraph (A) or (B) of section 401(16) by any United States claimant, but only if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource or, if such activities are seasonal in nature, 25 percent of the claimant's earnings during the season in which such activities took place.

(4) LOSS OF TAX REVENUE.—A claim may be asserted under paragraph (6) of subsection (a) only by a State or political subdivision thereof.

(d) OTHER DAMAGES RECOVERABLE BY FOREIGN CLAIMANTS.—

(1) GENERAL RULE.—A claim may be asserted under paragraph (2), (3), (4), or (5) of subsection (a) with respect to oil pollution described in subparagraph (C) of section 401(16) by a foreign claimant who is a resident of the country in which the oil pollution occurs, to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraph (A) of section 401(16), if—

(A) the foreign claimant is not otherwise compensated for his loss; and

(B) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country of which the claimant is a resident, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

(2) SPECIAL RULE FOR CANADIAN CLAIMANTS RESPECTING TRANS-ALASKA PIPELINE OIL.—In the case of any oil pollution described in section 401(16)(B)(iv) or 401(16)(C)(iv), a claim may be asserted under paragraph (2), (3), (4), or (5) of subsection (a) by a resident of Canada without regard to subparagraph (B) of paragraph (1), to the same extent that a United States claimant would be able to assert a claim with respect to oil pollution described in subparagraphs (A) and (B) of section 401(16).

(e) ATTORNEY GENERAL.—A claim may be asserted under subsection (a) by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this section.

(f) GROUP OF CLAIMANTS.—If the Attorney General fails to act under subsection (e) within sixty days after the date on which the Secretary designates a source under section 406, any member of a group may assert a claim for damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any claim for damages asserted under this section.

SEC. 404. LIABILITY.

(a) JOINT, SEVERAL, AND STRICT LIABILITY.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection and subsections (b) and (c), the responsible party with respect to a facility or a vessel (other than a public vessel) that is the source of oil pollution, or poses a substantial threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 401(23)(A), shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 403.

(2) SPECIAL RULE FOR MODU'S.—(A) Except as provided in subparagrah (B), in any case in which a mobile offshore drilling unit is being used as facility and is the source of oil pollution originating on or above the surface of the water or poses a substantial threat of such oil pollution, such unit shall be deemed to be a vessel which is a ship for purposes of this subtitle.

(B) To the extent that damages for which claims may be asserted under section 403 from any incident described in subparagraph (A) exceed the amount for which the responsible party is liable under subparagraph (A) (as such amount may be limited under subsection (b)(1)(B)), the mobile offshore drilling unit shall be deemed to be a facility covered by subsection (b)(1)(D), except that for purposes of applying subsection (b)(1)(D) the amount specified in such subsection shall be reduced by the amount for which the responsible party with respect to a ship is liable under subparagraph (A).

(C) In the case of any incident described in subparagraph (A)—

(i) which is caused primarily by willful misconduct or gross negligence within the privity or knowledge of both the owner or operator of the mobile offshore drilling unit and the lessee or permittee of the area, or holder of a right of use or easement for the area, in which such unit is located; or

(ii) with respect to which both such owner or operator and such lessee or permittee or holder fail or refuse to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activities;

such owner or operator and such lessee or permittee or holder shall be jointly, severally, and strictly liable (without limitation under subsection (b)) for all loss for which a claim may be asserted under section 403.

(b) LIMITS ON LIABILITY.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the responsible party with respect to an incident shall be limited to—

(A) in the case of a vessel other than a ship or an inland oil barge, $500,000 or $300 per gross ton whichever is greater;

(B) in the case of a ship, $3,000,000 or $420 per gross ton, whichever is greater (but not to exceed $60,000,000);

(C) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater; or

(D) in the case of a facility, $50,000,000.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) when the incident is caused primarily by willful misconduct or gross negligence within the privity or knowledge of a responsible party; or

(B) when a responsible party fails or refuses to report the incident where required by law or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup and removal activities.

(3) REPORT.—The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations on liability specified in this subsection.

(c) DEFENSES TO LIABILITY.—

(1) COMPLETE DEFENSES.—Except when the responsible party has failed or refused to report an incident where required by law, there shall be no liability under subsection (a) if the responsible party proves that the incident—

(A) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character, or

(B) was wholly caused by an act or omission of a person other than—

(i) a responsible party;

(ii) an employee or agent of a responsible party; or

(iii) one whose act or omission occurs in connection with a contractual relationship with a responsible party.

(2) PARTIAL DEFENSES.—There shall be no liability under subsection (a)—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) LIABILITY OF TRUST FUND.—

(1) GENERAL RULE.—The Trust Fund shall be liable for damages for which claims may be asserted under section 403 and for which claims are presented under this subtitle, to the extent that the damages are not otherwise compensated.

(2) DEFENSES TO LIABILITY.—Except for the removal costs specified in section 401(23)(A), there shall be no liability under paragraph (1)—

(A) where the incident is caused wholly by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or the economic loss is caused, in while or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or the economic loss is caused by the negligence of that claimant.

(e) LIABILITY FOR INTEREST.—

(1) GENERAL RULE.—The responsible party or his guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of a claim under section 403 for the period described in paragraph (2).

(2) PERIOD FOR WHICH INTEREST IS OWED.—(A) Except as provided in subparagraph (B), the period for which interest shall be paid under paragraph (1) is the period beginning on the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claimant is paid, inclusive.

(B) If the responsible party or guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in subparagraph (A) shall not include the period beginning on the date such offer is made and ending on the date such offer is accepted. If such offer is made within sixty days after the date upon which the claim is presented, or of the date upon which advertising is begun pursuant to section 406, whichever is later, the period described in subparagraph (A) shall not include any period before such offer is accepted.

(3) RATE OF INTEREST.—The interest paid under this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve bulletin.

(4) RELATIONSHIP TO LIABILITY LIMITS.—Interest under this subsection shall be in addition to damages for which claims may be asserted under section 403 and shall be paid without regard to any limitation of liability under subsection (b). The payment of interest under this subsection by a guarantor shall be subject to section 405(e).

(f) AGREEMENTS.—

(1) LIABILITY NOT TRANSFERABLE.—A responsible party may not transfer the liability imposed under this section to any other person.

(2) INDEMNIFICATION AGREEMENTS.—Nothing in this title shall preclude an agreement whereby a person who, by an agreement with a responsible party, agrees to indemnify the responsible party for the liability imposed under subsection (a).

(g) RELATIONSHIP TO OTHER CAUSES OF ACTION.—Nothing in this subtitle shall bar a cause of action that a responsible party subject to liability under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(h) RELATIONSHIP TO OTHER LAW.—To the extent that it is in conflict with, or otherwise inconsistent with, any other law (other than title V or any amendment made by title V) relating to liability or the limitation thereof, this section supersedes such other law.

(i) ADMINISTRATIVE COST.—The Trust Fund shall not be available for the payment of costs and expenses of administration of this title, unless such costs and expenses are necessary for and incidental to the implementation of this title.

SEC. 405. FINANCIAL RESPONSIBILITY.

(a) VESSELS.—

(1) REQUIREMENT.—The responsible party with respect to each vessel (except a public vessel or a non-self-propelled vessel that does not carry oil as cargo or fuel) over three hundred gross tons that uses a facility or the navigable waters shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum liability under section 404 of this subtitle to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where a responsible party owns or operates more than one vessel subject to this subsection, evidence of financial responsibility needs be established only to meet the maximum liability applicable to the largest of such vesels.

(2) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have the certification required under this subsection or the regulations issued hereunder.

(3) DENYING ENTRY TO OR DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (B) detain at the facility or at the port or place in the United States, any vessel subject to this subsection that, upon request, does not produce the certification required under this subsection or regulations issued hereunder.

(b) FACILITIES.—The responsible party with respect to each facility shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the responsible party would be exposed in a case where he would be entitled to limit his liability in accordance with subsection (b) of section 404. In cases where the responsible party is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to one such facility.

(c) METHODS.—Financial responsibility under this section may be established by any one, or by any combination, of the following methods acceptable to the Secretary: evidence of insurance, surety bond, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(d) CLAIMS AGAINST GUARANTOR.—Any claim authorized by section 403(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section for any responsible party with respect to a facility or vessel. In defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under this subtitle. He may also invoke the defense that the incident was caused by the willful misconduct of the responsible party, but he may not invoke any other defense that he might be entitled to invoke in proceedings brought by the responsible party against him.

(e) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this subtitle shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceeds, in the aggregate, the amount of financial responsibility which that guarantor has provided for the responsible party for any vessel or facility that was a source of oil pollution in that incident. Nothing in this subsection shall be construed to limit any other statutory, contractual, or common law liability of a guarantor to any responsible party for whom such guarantor provides evidence of financial responsibility including, but not limited to, the liability of such guarantor for negotiating in bad faith a settlement of any claim.

SEC. 406. DESIGNATION AND ADVERTISEMENT.

(a) DESIGNATION OF SOURCE AND NOTIFICATION.—When the Secretary receives information of an incident that involves oil pollution, he shall, where possible and appropri-

ate, designate the source or sources of the oil pollution. If a designated source is a vessel or a facility, the Secretary shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) ADVERTISEMENT BY THE RESPONSIBLE PARTY OR GUARANTOR.—If a responsible party or guarantor fails to inform the Secretary, within five days after receiving notification of a designation under subsection (a), of his denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented to such party or guarantor, in accordance with regulations promulgated by the Secretary. Advertisement under the preceding sentence shall begin no later than fifteen days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the Secretary shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than thirty days.

(c) ADVERTISEMENT BY THE SECRETARY.—If—

(1) the responsible party and the guarantor both deny a designation within five days after receiving notification of a designation under subsection (a),

(2) the source of the oil pollution was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the oil pollution under subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Trust Fund.

SEC. 407. CLAIMS SETTLEMENT.

(a) PRESENTATION OF RESPONSIBLE PARTY OR GUARANTOR.—Except as provided in subsection (b), all claims shall be presented to the responsible party or guarantor of the source designated under section 406(a).

(b) PRESENTATION TO TRUST FUND.—Claims may be presented to the Trust Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 406(c);

(2) by a responsible party who may assert a claim under section 403(a); or

(3) by the Governor of a State for cleanup costs incurred by that State.

(c) ELECTION.—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 180 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 406(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Trust Fund. Such an election shall be irrevocable and exclusive.

(d) UNCOMPENSATED DAMAGES.—If a claim is presented in accordance with subsection (a) and full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 404 or because the responsible party and his guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Trust Fund.

(e) TRANSMITTAL OF CLAIM AND DOCUMENTS.—In the case of a claim which has been presented to any person under subsection (a) and which is being presented to the Trust Fund under subsection (c) or (d), that person, at the request of the claimant, shall transmit the claim and supporting documents to the Trust Fund. The Secretary may, by regulation, prescribe the documents to be so transmitted and the terms under which they are to be transmitted.

(f) PROCEDURES.—The Secretary shall establish procedures and standards for the prompt appraisal and settlement of claims against the Trust Fund, including procedures for ensuring the rapid and equitable settlement of claims submitted by the Governor of any State for cleanup costs incurred by that State.

(g) USE OF PRIVATE ORGANIZATIONS AND FEDERAL PERSONNEL.—The Secretary may use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Trust Fund and may contract for those facilities and services. To the extent necessitated by extraordinary circumstances, where the services of private organizations or State agencies are inadequate, the Secretary may use Federal personnel, on a reimbursable basis, to process claims against the Trust Fund.

(h) JUDICIAL REVIEW.—Any claimant, or any other person suffering legal wrong because of, or adversely affected or aggrieved by, a final determination of the Secretary with respect to a claim, may bring an action for judicial review of the determination in accordance with chapter 7 of title 5, United States Code. Such action shall be brought under section 409 and shall be the exclusive judicial remedy with respect to such final determination of the Secretary. Such an action shall be filed not later than thirty days after the Secretary issues notification of the final determination. Venue for any such action shall lie in any district wherein the claimant resides, in addition to any district described in section 409(b).

(i) ACTIONS AGAINST RESPONSIBLE PARTY OR GUARANTOR.—

(1) SERVICE OF PLEADINGS ON TRUST FUND.—In any action brought under this subtitle against a responsible party or guarantor, both the plaintiff and defendant shall serve as copy of the complaint and all subsequent pleadings therein upon the Trust Fund at the same time those pleadings are served upon the opposing parties.

(2) INTERVENTION OF TRUST FUND.—The Trust Fund may intervene as a party as a matter of right in any action in which a complaint has been served upon it under paragraph (1).

(3) ADMISSION OF LIABILITY.—In any action to which the Trust Fund is a party, if the responsible party or his guarantor admits liability under this subtitle, the Trust Fund shall be dismissed therefrom to the extent of the admitted liability.

(4) EFFECT OF JUDGMENT.—If the Trust Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in paragraph (1), the Trust Fund shall be bound by any judgment entered therein, whether or not the Trust Fund was a party to the action.

(5) FAILURE TO SERVE PLEADINGS.—(A) If the plaintiff fails to serve a copy of the complaint upon the Trust Fund as required by paragraph (1), the plaintiff shall not recover from the Trust Fund any sums not paid by the defendant.

(B) If the defendant fails to serve a copy of the initial answer to a complaint upon the Trust Fund as required by paragraph (1), the limitation of liability otherwise permitted by subsection (b) of section 404 shall not be available to the defendant.

(C) If neither the plaintiff nor the defendant serves a copy of the complaint and all subsequent pleadings upon the Trust Fund as required in paragraph (1), the Trust Fund may serve a motion for a new trial for the purposes specified in this subparagraph. The motion must be served not later than ten days after the Trust Fund has received notice of the entry of the judgment in the action, but in no case later than ninety days after the entry of that judgment. The Trust Fund must establish in its motion that, due to the failure of the plaintiff or defendant to comply with paragraph (1), the Trust Fund failed to receive timely notice of one or more issues raised in the action, which might affect the liability of the Trust Fund in any case brought under this subtitle. When the Trust Fund does so, the court shall open the judgment, if one has been entered, and shall take additional pleadings and testimony on the identified issue or issues. The court may amend findings of fact and conclusions of law or make new findings and conclusions and direct the entry of a new judgment in the action.

(j) JOINER OF PARTIES.—In any action brought against the Trust Fund the plaintiff may join any responsible party or his guarantor, and the Trust Fund may implead any person, who is or may be liable to the Trust Fund.

(k) PERIOD OF LIMITATIONS.—No claim may be presented, nor may any action be commenced for damages recoverable under this subtitle, unless that claim is presented to, or that action is commenced against, a responsible party or his guarantor or against the Trust Fund as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (a) of section 403, or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SEC. 408. SUBROGATION.

(a) RIGHT OF SUBROGATION.—Any person, including the Trust Fund, who compensates any claimant for an economic loss compensable under section 403 shall be subrogated to all rights, claims, and causes of action which that claimant has under this subtitle.

(b) RECOVERY BY TRUST FUND.—

(1) DENIAL OF SOURCE DESIGNATION OR LIABILITY.—In a case in which the Trust Fund has compensated a claimant for a claim presented to the Trust Fund under section 407(b)(1) or 407(c)(1), the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid to the claimant;

(B) interest on that amount for the period beginning on the date on which the claim was first presented by the claimant to the Trust Fund or the responsible party or guarantor and ending on the date on which the Trust Fund is paid by the responsible party or guarantor, except that if the Trust Fund offered to the claimant the amount finally paid by the Trust Fund to the claimant in satisfaction of the claim against the Trust Fund the responsible party or guarantor shall not be liable for interest for the period beginning on the date the Trust Fund made such offer and ending on the date on which the claimant accepted such offer; and

(C) all costs incurred by the Trust Fund by reason of the claim of the claimant

against the Trust Fund and by reason of the claim of the Trust Fund against the responsible party or guarantor.

(2) FAILURE TO SETTLE WHERE PAYMENT BY TRUST FUND EXCEEDS OFFER BY RESPONSIBLE PARTY.—In a case in which the Trust Fund has compensated a claimant for a claim presented to the Trust Fund under section 407(c)(2) where the amount the Trust Fund has paid to the claimant exceeds the largest amount, if any, the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid the claimant, except that the potion of such amount in excess of the amount offered to the claimant by the responsible party or guarantor shall be subject to dispute by the responsible party or guarantor;

(B) interest on the position of such excess, if any, which is recovered by the Trust Fund, for a period determined in the same manner as in paragraph (1)(B); and

(C) all costs incurred by the Trust Fund by reason of the claim of the Trust Fund against the responsible party or guarantor.

(3) FAILURE TO SETTLE WHERE PAYMENT OF TRUST FUND DOES NOT EXCEED OFFER BY RESPONSIBLE PARTY.—In a case in which the Trust Fund has compensated a claimant for a claim presented to the Trust Fund under section 407(c)(2) where the amount the Trust Fund has paid to the claimant is less than or equal to the largest amount the responsible party or guarantor offered to the claimant in satisfaction of the claim of the claimant against the responsible party or guarantor, the Trust Fund shall recover under subsection (a)—

(A) the amount the Trust Fund has paid to the claimant; and

(B) interest—

(i) for the period beginning on the date on which the claim was presented by the claimant to the responsible party or guarantor and ending on the date on which the responsible party or guarantor offerd to the claimant the largest amount referred to in this paragraph, except that if the responsible party or guarantor offered such amount within sixty days after the date upon which the claim of the claimant was presented to the responsible party or guarantor or advertising was commenced under section 406, whichever is later, the responsible party or guarantor shall not be liable for interest for such period; and

(ii) for the period beginning on the date on which the claim of the Trust Fund against the responsible party or guarantor was presented to the responsible party or guarantor to the date on which the Trust Fund is paid, inclusive except that if the responsible party or guarantor offers to the Trust Fund the amount finally paid to the Trust Fund in satisfaction of the claim of the Trust Fund, interest shall not be paid for the period beginning on the date on which such offer is made and ending on the date on which the Trust Fund accepts that offer, inclusive.

(4) SPECIAL RULES.—For purposes of this subsection—

(A) interest shall be calculated in accordance with section 404(e); and

(B) costs recoverable under paragraphs (1)(C) and (2)(C) include, but are not limited to, processing costs, investigating costs, court costs, and attorney's fees.

(c) PAYMENT OF CERTAIN INTEREST TO CLAIMANT.—The Trust Fund shall pay over to the claimant that portion of any interest the Trust Fund recovers under subsections (b)(1)(B) and (b)(2)(B) for the period beginning on the date on which the claim of the claimant was first presented to the Trust Fund or the responsible party or guarantor to the date upon which the claimant was paid by the Trust Fund, inclusive.

(d) APPLICATION OF LIABILITY LIMITS.—The Trust Fund is entitled to recover for all interest and costs specified in subsection (b) without regard to any limitation of liability to which the responsible party or guarantor may otherwise be entitled. The payment of such interest and costs by a guarantor shall be subject to section 405(e).

SEC. 409. JURISDICTION AND VENUE.

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction over all controversies arising under this subtitle and subtitles B and C, without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Unless otherwise provided in this title, venue shall lie in any district wherein the injury complained of occurred, or wherein the responsible party or guarantor resides, may be found, or has his principal office. For purposes of this section, the Trust Fund resides in the District of Columbia.

SEC. 410. RELATIONSHIP TO OTHER LAW.

(a) PREEMPTION.—Except as provided in this title, or in section 9507 of the Internal Revenue Code of 1954—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for an economic loss compensable under this subtitle,

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for damages for an economic loss described in section 403(a), except that, for a period of three years beginning on the effective date of this section, any State which on such date has in effect a statute that requires such contributions may continue to require such contributions within the limits established by such statute as those limits exist on such date, and

(3) no person may be required to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim compensable under this subtitle.

(b) STATE FINANCING OF PREPARATION FOR OIL POLLUTION CLEANUP.—Nothing in this title shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment or to finance other preparations for responding to a discharge of oil which affects such State.

(c) ACTIONS BY TRUST FUND.—Nothing in subsection (a) shall prohibit an action by the Trust Fund under any other provision of law to recover compensation paid under this subtitle.

SEC. 411. PENALTIES.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 405 or the regulations issued thereunder or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years beginning on or after October 1, 1985, such sums as may be necessary to carry out this title.

Subtitle B—Report and Coordination With Other Provisions

SEC. 421. ANNUAL REPORT.

The Secretary shall report annually to the Congress on the activities of the Trust Fund during the preceding year. The Secretary shall include in any such report any recommendations for legislative changes needed for the Trust Fund to carry out the purposes of this title.

SEC. 422. COORDINATION WITH OTHER PROVISIONS OF THIS ACT.

(a) If any provision of this title provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to the Trust Fund, any claim which arises before the effective date of such transfer (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the Trust Fund.

(b) If any provision of this title authorizes amounts to be expended from the Trust Fund which are not authorized by title V (or an amendment made by title 2), such provision shall have no force or effect.

Subtitle C—Regulations, Effective Dates, and Savings Provisions

SEC. 441. EFFECTIVE DATES.

(a) PROVISIONS TAKING EFFECT ON DATE OF ENACTMENT.—This section, section 401, section 402, section 412, subtitle B, section 442(a) (1) and (3), section 443, 444, and each provision of subtitle A that authorizes the promulgation of regulations shall be effective on the date of the enactment of this title.

(b) SUBTITLE D.—Subtitle D shall take effect on the first date on which both the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage are in force with respect to the United States.

(c) PROVISIONS TAKING EFFECT IN 180 DAYS.—All other provisions of this title, and the regulations issued under this title, shall take effect 180 days after the date of enactment of this title, except that the penalty prescribed by section 411 for failure to comply with the requirements of section 405 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this title, whichever is earlier.

(d) REGULATIONS RESPECTING FINANCIAL RESPONSIBILITY.—Any regulation respecting financial responsibility, issued pursuant to any provision of law repealed by section 442, and in effect on the day immediately preceding the effective date of section 442 shall remain in force until superseded by regulations issued under subtitle A.

SEC. 442. CONFORMING AMENDMENTS.

(a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—The first sentence of subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(b); 87 Stat. 586) is amended by inserting "in the State of Alaska" after "any area" and by inserting "related to the trans-Alaska oil pipeline" after "any activities". Such subsection is further amended by inserting at the end thereof the following new sentence: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 401 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(2) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed. Such repeal shall not affect the applicability of such subsection to claims arising before the effective date of this paragraph. Notwithstanding section 441, the repeal of—

(A) paragraph (4) of such subsection (establishing the Trans-Alaska Pipeline Liability Fund),

(B) paragraph (5) of such subsection (to the extent it permits costs of administration to be paid from the Fund and permits amounts in the Fund to be invested), and

(C) paragraph (8) of such subsection (permitting recovery by subrogation),

shall only become effective upon the payment by the Board of Trustees of the Trans-Alaska Pipeline Liability Fund of all claims certified under paragraph (3) of this subsection, the rebate of all remaining amounts under paragraph (3) of this subsection, and the completion of all actions required to carry out paragraph (3) of this subsection.

(3)(A) Not later than 210 days after the date of enactment of this paragraph, the Board of Trustees of the Trans-Alaska Pipeline Liability Fund shall certify to the Secretary of Transportation the total amount of claims outstanding against such Fund, as of the effective date of paragraph (2) of this subsection. The amount in the Trans-Alaska Pipeline Liability Fund exceeding the total amount certified under the preceding sentence shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(B) After the settlement of all claims described in subparagraph (A) and the completion of all actions, if any, by the Trans-Alaska Pipeline Liability Fund for recovery of amounts paid on such claims, the remaining amounts in such Fund shall be rebated directly, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(C) Whenever a rebate is made on a pro rata basis to the owners of oil under subparagraph (A) or (B), each such owner's share of the rebate shall be an amount determined by dividing the amount contributed by such owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners to such Fund.

Trustees and former trustees of the Trans-Alaska Pipeline Liability Fund who were designated by the Secretary of the Interior shall not be subject to any liability incurred by that Fund or by the present and past officers and trustees of that Fund, other than liability for gross negligence or willful misconduct.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (33 U.S.C. 486; 88 Stat. 10) is amended to read as follows:

"SEC. 17. The Oil Liability Trust Fund established under section 9507 of the Internal Revenue Code of 1954 shall be available to the Secretary for actions and activities relating to oil pollution (as defined in section 401 of that Act), or the substantial threat of oil pollution, taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Subsection (a) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof a semicolon and by adding at the end the following new paragraph:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence by inserting after "person" the following: "or his employer".

(3) Subparagraph (A) of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge"; and

(B) in the third sentence, by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Subparagraph (B) of paragraph (6) of subsection (b) is amended in the first and second sentences by striking out "or person in charge" each place it appears and inserting in lieu thereof "person in charge, or employer of such person in charge".

(5) Subsection (c)(2)(H) is amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: ", in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Oil Spill Liability Trust Fund".

(6) Subsection (d) is amended by striking out the last sentence.

(7) Subsections (f), (g), and (i) of section 311 of the Federal Water Pollution Control Act shall not apply with respect to any discharge of oil resulting in damages for which a claim may be asserted under subtitle A of this title.

(8) Subsection (i) is amended by striking out "(1)" after "(i)" and by striking out paragraphs (2) and (3).

(9)(A) Subsection (k) is repealed, effective upon the payment from the fund established by such subsection of all claims certified under subparagraph (B) and all remaining amounts to the general fund of the Treasury under subparagraph (B).

(B) Not later than 180 days after the effective date of this paragraph, the Secretary of Transportation shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the fund established by subsection (k) as of the effective date of this paragraph. The amount in such fund exceeding the total amount certified shall be transferred to the general fund of the Treasury. If the amount paid in settlement of such claims is less than the amount so certified, the remainder shall be transferred to the general fund of the Treasury. Any amounts received by the United States under section 311 with respect to such claims after the effective date of the repeal of subsection (k) shall be deposited in the general fund of the Treasury.

(10) Subsection (l) is amended by striking out the second sentence.

(11) Subsection (p) is repealed.

(12) Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Oil Spill Liability Trust Fund shall be available to carry out subsections (c), (d), (i), and (l) as those subsections relate to discharges of oil. Any amounts received by the United States under this section with respect to claims arising on or after the effective date of this subsection shall be deposited in the Oil Spill Liability Trust Fund.".

(d) DEEPWATER PORT ACT OF 1974.—The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.; 88 Stat 2126) is amended as follows:

(1) Section 4(c)(1) is amended by striking out "section 18(1) of this Act" and inserting in lieu thereof "section 405 of the Comprehensive Oil Pollution Liability and Compensation Act".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed and subsections (c), (k), and (m) of section 18 are redesignated as subsections (b), (c), and (d) respectively.

(3) Paragraph (3) of subsection (b) of section 18 (as redesignated by paragraph (2)) is amended by striking out "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "Oil Spill Liability Trust Fund.".

(4) Subsection (c) of section 18 (as redesignated by paragraph (2)) is amended to read as follows:

"(c) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Any amounts remaining in the Deepwater Port Liability Fund established by section 18(f) of the Deepwater Port Act of 1974 shall be deposited in the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund under the Deepwater Port Act of 1974.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Oil Spill Liability Trust Fund established by subtitle B of this title. The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 443. REGULATIONS AND DELEGATION OF AUTHORITY.

The Secretary of Transportation may prescribe regulations to carry out this title.

SEC. 444. SEPARABILITY.

If any provision of this title or the applicability thereof is held invalid, the remainder of this title shall not be affected thereby.

Subtitle D—Implementation of Conventions

SEC. 461. RECOGNITION OF THE INTERNATIONAL FUND.

The International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention is recognized under the laws of the United States as a legal person and shall have the capacity under the laws of the United States to contract, to acquire and dispose of real and per-

sonal property, and to institute and be a party to legal proceedings. The Director of the International Fund is recognized as the legal representative of the International Fund. The Director shall be deemed to have appointed irrevocably the Secretary of State his agent for service of process in any action against the International Fund in any court in the United States.

SEC. 462. SERVICE OF PROCESS AND INTERVENTION.

(a) SERVICE OF PROCESS ON FUNDS.—In any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention, the plaintiff or defendant, as the case may be, shall serve a copy of the complaint and any subsequent pleading therein upon the International Fund and the Oil Spill Liability Trust Fund at the same time the complaint or other pleading is served upon the opposing parties.

(b) INTERVENTION.—The International Fund may intervene as a party as a matter of right in any action brought in a court in the United States against the owner of a ship or his guarantor under the Civil Liability Convention.

(c) EFFECT OF JUDGMENT.—If the International Fund has been served a copy of the complaint and all subsequent pleadings in an action referred to in subsection (a), the International Fund shall be bound by any judgment entered therein, whether or not the International Fund was a party to the action.

SEC. 463. EXEMPTION FROM TAXATION.

The International Fund and its assets shall be exempt from all direct taxation in the United States.

SEC. 464. PAYMENT OF CONTRIBUTIONS.

(a) PAYMENTS TO BE MADE FROM OIL SPILL LIABILITY TRUST FUND.—The amount of any contribution to the International Fund which is required to be made under article 10 of the International Fund Convention by any person with respect to oil received in any port, terminal installation, or other installation located in the United States shall be paid to the International Fund from the Oil Spill Trust Fund. Before the International Fund Convention enters into force with respect to the United States, the President shall make, and deposit with the Secretary-General of the International Maritime Organization, a declaration under article 14 of the International Fund Convention that the United States assumes the obligation to pay contributions under article 10 of such Convention in respect of oil received within the territory of the United States and that such amount will be paid from the Oil Spill Liability Trust Fund.

(b) INFORMATION.—The Secretary shall, by regulation, require persons who are required to make contributions with respect to oil received in any port, terminal installation, or other installation in the United States under article 10 of the International Fund Convention to provide such information relating to that oil as may be necessary to carry out subsection (a).

SEC. 465. JURISDICTION OF DISTRICT COURTS.

(a) JURISDICTION.—The United States district courts shall have exclusive original jurisdiction of all controversies arising under the Civil Liability Convention or the International Fund Convention in—

(1) the territory, including the territorial sea, of the United States, or

(2) the exclusive economic zone of the United States established by Proclamation Numbered 5030, dated March 10, 1983,

without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For purposes of this subsection, the International Fund shall reside in the District of Columbia.

SEC. 466. RECOGNITION OF JUDGMENTS.

Any final judgment of a court of any nation which is a party to the Civil Liability Convention or the International Fund Convention in an action for compensation under either such convention shall be recognized by any court of the United States or of a State when that judgment has become enforceable in such nation and is no longer subject to ordinary forms of review, except where—

(1) the judgment was obtained by fraud; or

(2) the defendant was not given reasonable notice and a fair opportunity to present his case.

SEC. 467. FINANCIAL RESPONSIBILITY.

(a) U.S. DOCUMENTED SHIPS.—The owner of each ship which is documented under the laws of the United States and is carrying more than two thousand tons of oil in bulk as cargo shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The Secretary shall issue a certificate to each such owner who complies with this paragraph, in the form and manner required by the Civil Liability Convention.

(b) U.S. OWNED SHIPS.—With respect to any ship owned by the United States, the Secretary shall issue a certificate stating that the ship is owned by the United States and that the ship's liability is covered within the limits of liability prescribed by the Civil Liability Convention.

(c) OTHER SHIPS.—The owner of each ship (other than a ship to which subsection (a) or (b) applies), wherever registered, which is carrying more than two thousand tons of oil in bulk as cargo and which enters or leaves a port or offshore terminal in the United States (including the territorial seas) shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility in amounts sufficient to cover the maximum liability of such owner for pollution damage arising from one incident under the Civil Liability Convention. The owner of a ship which is registered in, or flying the flag of, a nation which is a party to the Civil Liability Convention shall be considered to have met the requirements of this paragraph if the ship is carrying a certificate issued by such nation attesting that insurance or other financial security is in force which meets the requirements of such Convention.

(d) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any ship which does not have a certificate showing compliance with the requirements of financial responsibility under subsection (a) or (c).

(e) DENYING ENTRY AND DETAINING VESSELS.—The Secretary of the department in which the Coast Guard is operating may (1) deny entry to any facility, to any port or place in the United States, or to the navigable waters, or (2) detain at the facility or at the port or place in the United States, any vessel subject to this section that, upon request, does not produce the certificate required under this section or regulations issued hereunder.

SEC. 468. CIVIL PENALTY.

Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 464(b) or 467, the regulations issued under either such section, or any denial or detention order under section 467(e) shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit with or without conditions any civil penalty which is subject to imposition or which has been imposed under this subsection. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 467. WAIVER OF SOVEREIGN IMMUNITY.

The United States waives all defenses based on its status as a sovereign State with respect to any controversy arising under the Civil Liability Convention or the International Fund Convention relating to any ship owned by the United States and used for commercial purposes.

SEC. 470. RULES AND REGULATIONS.

The Secretary may issue such rules and regulations as are necessary to implement the Civil Liability Convention and the International Fund Convention.

SEC. 471. DEFINITIONS.

For purposes of this subtitle—

(1) terms defined in subtitle A have the same meanings when used in this subtitle;

(2) the term "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1984;

(3) the term "International Fund" means the International Oil Pollution Compensation Fund established by article 2 of the International Fund Convention; and

(4) the term "International Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984.

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. SHORT TITLE.

This title may be cited as the "Superfund Revenue Act of 1985".

PART I—SUPERFUND AND ITS REVENUE SOURCES

SEC. 511. EXTENSION OF ENVIRONMENTAL TAXES.

(a) IN GENERAL.—Subsection (d) of section 4611 of the Internal Revenue Code of 1954 (relating to termination) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The taxes imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(b) TECHNICAL AMENDMENT.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 512. INCREASE IN TAX ON PETROLEUM.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "11.9 cents".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 513. INCREASE IN TAX ON CERTAIN CHEMICALS.

(a) INCREASE IN RATE OF TAX; LEAD ADDED AS TAXABLE CHEMICAL.—Subsection (b) of section 4661 of the Internal Revenue Code of 1954 (relating to amount of tax imposed on certain chemicals) is amended by striking out the table contained in such subsection and inserting in lieu thereof the following:

"In the case of:	The tax (before any inflation adjustment is the following amount per ton:
Organic substances	
Acetylene	$6.25
Benzene	6.25
Butadiene	6.25
Butane	5.54
Butylene	6.25
Ethylene	6.25
Methane	3.44
Naphthalene	6.25
Propylene	6.25
Toluene	6.25
Xylene	11.19
Inorganic substances	
Ammonia	4.20
Antimony	6.25
Antimony trioxide	6.25
Arsenic	6.25
Arsenic trioxide	6.25
Barium sulfide	6.25
Bromine	6.25
Cadmium	6.25
Chlorine	4.03
Chromite	1.52
Chromium	6.25
Cobalt	6.25
Cupric oxide	6.25
Cupric sulfate	6.25
Cuprous oxide	6.25
Hydrochloric acid	1.24
Hydrogen fluoride	6.25
Lead	6.25
Lead Oxide	6.25
Mercury	6.25
Nickel	6.25
Nitric acid	3.90
Phosphorus	6.25
Potassium dichromate	6.25
Potassium hydroxide	6.25
Sodium dichromate	6.25
Sodium hydroxide	3.72
Stannic chloride	6.25
Stannous chloride	6.25
Sulfuric acid	1.03
Zinc chloride	6.25
Zinc sulfate	6.25."

(b) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INFLATION ADJUSTMENTS IN AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) APPLICABLE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) APPLICABLE PRICE INDEX.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(c) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

(1) Section 4662 of such Code (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXEMPTION FOR EXPORTS OF TAXABLE CHEMICALS.—

"(1) TAX-FREE SALES.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT REQUIRED.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) CREDIT OR REFUND WHERE TAX PAID.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION TO ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical, or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(2) Paragraph (1) of section 4662(d) of such Code (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section" and inserting in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) SPECIAL RULES FOR CERTAIN CHEMICALS.—

(1) REPEAL OF EXEMPTION FOR CHEMICALS DERIVED FROM COAL.—

(A) Section 4662(b) of such Code (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) of such Code is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) EXEMPTION FOR LEAD HAVING TRANSITORY PRESENCE DURING EXTRACTING PROCESS.—Clause (i) of section 4662(b)(5)(B) of such Code (relating to substance having transitory presence during extracting process), as redesignated by paragraph (1), is amended by inserting "lead," before "lead oxide".

(3) SPECIAL RULE FOR XYLENE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR XYLENE.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(4) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR NITRIC ACID USED IN PRODUCTION OF NITROCELLULOSE.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton."

(e) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(f) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 of such Code (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is a qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 of such Code (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(g) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 of such Code (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufactures, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsecton, the amendments made by this section shall take effect on November 1, 1985.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE OCTOBER 1, 1985.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before October 1, 1985, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If one the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (g) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (g) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (g)) shall apply to exchanges made after December 31, 1985.

SEC. 514. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 of the Internal Revenue Code of 1954 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Response Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 515. WASTE MANAGEMENT TAX.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 (as amended by section 514 of this Act) is amended by adding after subchapter B the following new subchapter:

"Subchapter C—Hazardous Waste Management Tax

"Sec. 4671. Waste management tax.
"Sec. 4672. Exemptions; reduction of tax where prior taxable event.
"Sec. 4673. Special rules for waste water treatment, incineration, etc.
"Sec. 4674. Backup tax on generator.
"Sec. 4675. Definitions and special rules.

"SEC. 4671. WASTE MANAGEMENT TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

"(1) the receipt of hazardous waste at a qualified hazardous waste management unit,

"(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and

"(3) the exportation of hazardous waste from the United States.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

	If the taxable event is:	
	Land Disposal	Any Other Taxable Event
"For calendar year:	The tax per ton is:	
1986	$37.00	$4.15
1987	39.00	4.15
1988	42.00	4.15
1989	44.00	4.15
1990	47.00	4.15.

"(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—For definition of—

"(A) hazardous waste, see section 4675(a)(1), and

"(B) land disposal and any other taxable event, see section 4675(a)(5).

"(c) LIABILITY FOR TAX.—

"(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator

of the qualified hazardous waste management unit.

"(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972.

"(3) WASTE EXPORTED.—The tax imposed by subsection(a)(3) shall be paid by the exporter.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4672. EXEMPTIONS; REDUCTION OF TAX WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS, ETC.—The tax imposed by section 4671 shall not apply to the receipt or export of hazardous waste pursuant to—

"(1) a corrective action specified in—

"(A) an initial or final order, or

"(B) a proposed or final permit, issued by the Administrator under the Solid Waste Disposal Act or a State under a hazardous waste program authorized under section 3006 of such Act,

"(2) a proposed or final closure plan approved by the Administrator or such a State,

"(3) a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 which has been selected or approved by the Administrator, or

"(4) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4671 shall not apply to any hazardous waste received at any facility owned by the United States.

"(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT.—

"(1) IN GENERAL.—If—

"(A) tax under section 4671 or 4674 was paid with respect to any hazardous waste, and

"(B) tax under section 4671 is subsequently imposed on such waste (hereinafter in this subsection referred to as the 'later taxable event'),

then the tax under section 4671 on the later taxable event shall be reduced by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

(A) the weight of hazardous waste involved in the later taxable event, multiplied by

"(B) the lesser of—

"(i) the highest rate of tax paid under section 4671 or 4674 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

"(ii) the rate of tax imposed by section 4671 with respect to the later taxable event (as so determined).

"SEC. 4673. SPECIAL RULES FOR WASTE WATER TREATMENT, INCINERATION, ETC.

"(a) EXEMPTION FOR WASTE RECEIVED AT CERTAIN WASTE WATER TREATMENT UNITS.—The tax imposed by section 4671 shall not apply to hazardous waste received at any waste water treatment unit.

"(b) INCINERATION, ETC, WITHIN 90 DAYS OF RECEIPT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste management unit or for transport described in section 4671(a)(2), and

"(B) such waste is incinerated on land (or the equivalent of incineration on land) by any person within 90 days after the date of the first receipt referred to in subparagraph (A),

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) EQUIVALENT OF INCINERATION.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

"(A) such method, technique, or process meets detailed performance standards established by the Environmental Protection Agency, and

"(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

"(c) QUALIFIED CHEMICAL FUELS OR SOLVENTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) tax under section 4671 was paid with respect to any hazardous waste,

"(B) such waste is used by any person in the production of any qualified chemical fuel or solvent, and

"(C) such fuel or solvent is by such person sold for use or used in any industrial or commercial use,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(2) QUALIFIED CHEMICAL FUEL OR SOLVENT.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

"(d) RECYCLING OF BATTERIES.—Under regulations prescribed by the Secretary, if—

"(1) tax under section 4671 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

"(2) the recycling of such battery begins at such a unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit,

then the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4671.

"(e) TAX TO APPLY WHILE CORRECTIVE ACTION NOT COMPLETED.—

"(1) IN GENERAL.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this section) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

"(2) REQUIRED CORRECTIVE ACTION.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted during the period—

"(A) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(B) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(3) RATE OF TAX WITH RESPECT TO WASTE WATER TREATMENT.—The rate of tax imposed by section 4671 by reason of this subsection with respect hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

"SEC. 4674. BACKUP TAX ON GENERATOR.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each ton of hazardous waste which, as of the close of the 270-day period beginning on the day after the day on which such waste was generated, has not been—

"(1) received at a qualified hazardous waste management unit,

"(2) received for transport from the United States for the purpose of ocean disposal, or

"(3) exported from the United States.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the rate of tax applicable to land disposal under section 4671 at the end of the 270-day period described in subsection (a).

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the generator of the hazardous waste.

"(d) EXEMPTIONS.—

"(1) SMALL GENERATORS.—The tax imposed by subsection (a) shall not apply to hazardous waste generated during any month if the generator of such waste does not generate more than 100 kilograms of hazardous waste during such month.

"(2) WASTE LEGALLY DISPOSED OF IN PUBLICLY OWNED TREATMENT WORKS.—The tax imposed by subsection (a) shall not apply to hazardous waste disposed of in any publicly owned treatment works if the disposal of such waste is not in violation of Federal, State, or local law.

"(3) OTHER EXEMPTIONS TO APPLY.—The exemptions provided by subsections (a) and (b) of section 4672 shall apply to the tax imposed by subsection (a).

"(4) EXEMPTIONS UNDER REGULATIONS; APPLICATION OF LOWER RATE.—The Secretary may prescribe regulations which provide exemptions from the tax imposed by subsection (a) (or the application of a lower rate) which are not inconsistent with the purposes of this section.

"(e) GENERATOR.—For purposes of this section, the term 'generator' means the person whose act or process produces the hazardous waste.

"(f) TERMINATION.—No tax shall be imposed by this section on waste generated after September 30, 1990.

"SEC. 4675. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste which is listed or identified as of the date of the enactment of the Superfund Revenue Act of 1985 under section 3001 of the Solid Waste Disposal Act. Rainwater shall not be treated as hazardous waste unless mixed with hazardous waste (as defined in the preceding sentence).

"(2) QUALIFIED HAZARDOUS WASTE MANAGEMENT UNIT.—The term 'qualified hazardous

waste management unit' means the specified area of land or structure—

"(A) which isolates the hazardous wastes within a qualified hazardous waste facility, and

"(B) which is subject to the requirements for obtaining interim status or a final permit under subtitle C of the Solid Waste Disposal Act.

"(3) QUALIFIED HAZARDOUS WASTE MANAGEMENT FACILITY.—The term 'qualified hazardous waste management facility' means any facility, as defined under subtitle C of the Solid Waste Disposal Act, which has received a permit or is accorded interim status under—

"(A) section 3005 of the Solid Waste Disporal Act, or

"(B) a State program authorized under section 3006 of such Act.

"(4) OCEAN DISPOSAL.—The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, pursuant to section 102 of such Act.

"(5) DEFINITIONS RELATING TO AMOUNT OF TAX.—

"(A) LAND DISPOSAL.—The term 'land disposal' means a taxable event described in section 4671(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

"(B) LANDFILL, ETC.—For purposes of subparagraph (A), the terms 'landfill', 'surface impoundment', 'waste pile' and 'land treatment unit' have the respective meanings given such terms in regulations prescribed by the administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

"(C) OTHER TAXABLE EVENT.—The term 'any other taxable event' means—

"(i) a taxable event described in section 4671(a)(1) which is not land disposal, and

"(ii) a taxable event described in paragraph (2) or (3) of section 4671(a).

"(6) WASTE WATER TREATMENT UNIT.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

"(A) for which a permit is required under section 402 of the Clean Water Act,

"(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

"(C) which is a zero discharge treatment system—

"(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

"(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

"(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

(8) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(9) TON.—The term 'ton' means 2,000 pounds.

"(10) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) TREATMENT OF CONTAINERS, ETC. WHICH ARE RELATED TO INJECTION UNITS.—For purposes of this subchapter—

"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and

"(2) the injection well into which such waste is injected,

shall be treated as a single hazardous waste management unit.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsection (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter."

(b) INFORMATION REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"Each person on whom a tax is imposed under subchapter C of chapter 38 shall (at such time and in such manner as the Secretary may require) submit to the Secretary such information as the Secretary may require, including information which such person is required to provide the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall also apply to persons not described therein with respect to information which the Secretary determines is necessary or appropriate to the administration of such subchapter."

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by redesignating section 6708 (relating to mortgage credit certificates) as section 6709 and by adding at the end thereof the following new section:

"SEC. 6710. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection with respect to any failure shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information with respect to management tax on hazardous waste."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by redesignating the item relating to mortgage credit certificates as section 6709 and by adding at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste."

(c) PENALTY FOR NEGLIGENCE TO APPLY TO ENVIRONMENTAL TAXES.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(i) NEGLIGENCE PENALTY TO APPLY TO ENVIRONMENTAL TAXES.—For purposes of applying paragraphs (1) and (2) of subsection (a), paragraph (1) of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c)) of tax imposed by chapter 38 (relating to environmental taxes)."

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Hazardous waste management tax."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) BACKUP TAX ON GENERATOR.—Section 4674 of the Internal Revenue Code of 1954 (relating to backup tax on generator), as added by this section, shall apply to waste generated after December 31, 1986.

SEC. 516. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding after subchapter C the following new subchapter:

"Subchapter D—Tax on Certain Imported Substances

"Sec. 4677. Imposition of tax.
"Sec. 4678. Definitions and special rules.

"SEC. 4677. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemicals or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax

shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1990.

"SEC. 4678. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if—

"(A) the substance is contained in the list under paragraph (3), or

"(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) INITIAL LIST OF TAXABLE SUBSTANCES.—

Cumene
Styrene
Ammonium nitrate
Nickel oxide
Isopropyl alcohol
Ethylene glycol
Vinyl chloride
Polyethylene resins, total
Polybutadiene
Styrene-butadiene, latex
Styrene-butadiene, snpf
Synthetic rubber, not containing fillers
Urea,
Ferronickel
Ferrochromium nov 3 pct
Ferrochrome ov 3 pct carbon
Unwrought nickel
Nickel waste and scrap
Wrought nickel rods and wire
Nickel powders
Phenolic resins
Polyvinylchloride resins
Polystyrene resins and copolymers
Ethyl alcohol for nonbeverage use
Methylene chloride
Polypropylene
Propylene glycol
Formaldehyde
Acetone
Propylene oxide
Polypropylene resins
Ethylene oxide
Ethylene dichloride
Cyclohexane
Isophthalic acid
Maleic anhydride
Phthalic anhydride
Ethyl methyl ketone
Chloroform
Carbon tetrachloride
Chromic acid
Hydrogen peroxide
Polystyrene homopolymer resins
Melamine
Acrylic and methacrylic acid resins
Vinyl resins
Vinyl resins, NSPF.

"(4) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) (including items listed by reason of paragraph (3)) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4677."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter C the following new item:

"Subchapter D. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 517. HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section,

"(2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1985, or

"(3) credited to the Superfund as provided in section 9602(b).

"(b) TRANSFERS TO SUPERFUND.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4611, 4661, 4671, 4674, or 4677 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) EXPENDITURES FROM SUPERFUND.—

"(1) IN GENERAL.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purposes of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments of 1985, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) EXCEPTION FOR CERTAIN TRANSFERS, ETC., OF HAZARDOUS SUBTANCES.—Amounts in the Superfund shall not be avaiable for any transfer or disposal which could not be made but for section 118(d) of the Superfund Amendments of 1985, as in effect on the date of the enactment thereof.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

(1) 1986, $316,600,000,
(2) 1987, $316,600,000,
(3) 1988, $316,600,000,
(4) 1989, $316,600,000, and
(5) 1990, $316,600,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980, as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.

(c) CONFORMING AMENDMENTS.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of

such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Hazardous Substance Superfund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on November 1, 1985.

(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 521. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) GENERAL RULE.—

(1) GASOLINE.—Section 4081 of the Internal Revenue Code of 1954 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) TAX TO FUND HIGHWAY PROGRAM.—

"(1) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

"(2) TERMINATION.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) ADDITIONAL TAX TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

"(2) TERMINATION.—

"(A) IN GENERAL.—The tax imposed by paragraph (1) shall not apply after the earlier of—

"(i) September 30, 1990, or

"(ii) the last day of the termination month.

"(B) TERMINATION MONTH.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

"(C) NET REVENUES.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 9506(c)(2) (relating to transfer from Leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) DIESEL AND SPECIAL MOTOR FUELS; FUELS USED IN AVIATION.—Section 4041 of such Code (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL TAXES TO FUND LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) LIQUIDS OTHER THAN GASOLINE USED IN MOTOR VEHICLES, MOTORBOATS, OR TRAINS.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.2 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) TERMINATION.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(3) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Subsection (b) of section 4042 of such Code (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.2 cents a gallon.

"(3) EXCEPTION FOR FUEL TAXED UNDER SECTION 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use.

"(4) TERMINATION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, AND INLAND WATERWAYS TRUST FUND.—

(1) HIGHWAY TRUST FUND.—

(A) IN GENERAL.—Subsection (b) of section 9503 of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 9503(c)(4) of such Code (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 9502 of such Code (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(3) INLAND WATERWAYS TRUST FUND.—Paragraph (1) of section 203(b) of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) REPAYMENTS FOR GASOLINE USED ON FARMS, ETC.—

(1) GASOLINE USED ON FARMS.—Subsection (h) of section 6420 of such Code (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.—

(A) TERMINATION NOT TO APPLY TO ADDITIONAL 0.2 CENT TAX.—Subsection (h) of section 6421 of such Code (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(B) REPAYMENT OF ADDITIONAL TAX FOR OFF-HIGHWAY BUSINESS USE TO APPLY ONLY TO CERTAIN VESSELS.—Subsection (e) of section 6421 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) SECTION NOT TO APPLY TO CERTAIN OFF-HIGHWAY BUSINESS USES WITH RESPECT TO THE TAX IMPOSED BY SECTION 4081(b).—This section shall not apply with respect to the tax imposed by section 4081(b) on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

(3) FUELS USED FOR NONTAXABLE PURPOSES.—

(A) Subsection (m) of section 6427 of such Code (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 of such Code is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) of such Code (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) CONTINUATION OF CERTAIN EXEMPTIONS FROM ADDITIONAL TAXES, ETC.—

(1) Subsection (b) of section 4041 of such Code (relating to exemption for off-highway

business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TAXES IMPOSED BY SUBSECTION (d).—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) LIMITATION ON EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—For purposes of subparagraph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business.

"(C) TERMINATION NOT TO APPLY.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) of such Code (relating to exemption for farm use) is amended by striking out "On and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) of such Code (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) of such Code (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(5) Paragraph (2) of section 6416(b) of such Code is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

SEC. 522. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline),

"(2) taxes received in the Treasury under section 4042 to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b), and

"(3) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments of 1985.

"(2) TRANSFERS FROM TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

"(2) IN GENERAL.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

"(d) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on November 1, 1985.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 531. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) IN GENERAL.—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by section 511 of this Act, are each amended by striking out "of 11.9 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) INCREASE IN TAX.—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 11.9 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the oil spill rate for any period the excess of the aggregate amount paid by the taxpayer into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund over the amount of such payments taken into account under this subsection for all prior periods."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after October 31, 1985, and before October 1, 1990.

"(2) OIL SPILL RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1985, and before October 1, 1990."

(2) Subsection (d) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) APPLICATION OF TAXES.—The tax imposed by this section shall apply after October 31, 1985, and before October 1, 1990."

(3) Subsection (b) of section 9505 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 532. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974,

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in section 401(24)(A) of the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under section 464 of such Act.

"(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS.—Amounts shall be available under subparagraph (A) for payments to any government only for removal costs and administrative expenses related to removal costs.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(iii) REFERENCES TO OTHER ACTS.—Any reference in any clause of subparagraph (A) to any Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

PART IV—STUDIES

SEC. 541. STUDY OF IMPACT OF WASTE MANAGEMENT TAX ON DOMESTIC MANUFACTURERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study on the effects of the tax imposed by section 4671 of the Internal Revenue Code of 1954 on the ability of domestic manufacturers to compete in international trade.

(b) REPORT.—Not later than July 1, 1986, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include recommendations to minimize the trade impact of such tax and there shall be considered, in making such recommendations, a waste management tax export credit, an import equalization fee, and a maximum amount of tax with respect to hazardous waste generated by economically distressed industries.

SEC. 542. STUDY OF LEAD POISONING.

(a) IN GENERAL.—The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1986, submit to the Committee on Environment and Public Works, and the Committee on Finance, of the Senate and the Committee on Energy and Commerce, and the Committee on Ways and Means, of the House of Representatives, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information.

(1) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(2) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(3) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead, including (but not limited to) diminution in intelligence and increases in morbidity and mortality; and

(4) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(b) EVALUATION OF SPECIFIC SITES.—Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking system of the National Priorities List.

(c) AUTHORIZATION FROM SUPERFUND.—There are authorized to be appropriated from the Hazardous Substance Superfund such sums as may be necessary to prepare and submit the report required by this section.

PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT

SEC. 551. COORDINATION.

(a) IN GENERAL.—Notwithstanding any provision of this Act not contained in this title, any provision of this Act (not contained in this title) which—

(1) imposes any tax, premium, or fee,

(2) establishes any trust fund, or

(3) authorizes amounts to be expended from any trust fund which are not also authorized by this title,

shall have no force or effect.

(b) EXCEPTION FOR PAYMENTS FROM TRANS-ALASKA PIPELINE LIABILITY FUND.—Subsection (a) shall not apply to amounts rebated to owners of oil in accordance with section 442(a) of the Comprehensive Oil Pollution Liability and Compensation Act.

In the table of contents of the bill, strike out the items relating to title V and insert in lieu thereof the following:

TITLE V—AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954

Sec. 501. Short title.

PART I—SUPERFUND AND ITS REVENUE SOURCES

Sec. 511. Extension of environmental taxes.
Sec. 512. Increase in tax on petroleum.
Sec. 513. Increase in tax on certain chemicals.
Sec. 514. Repeal of post-closure tax and trust fund.
Sec. 515. Waste management tax.
Sec. 516. Tax on certain imported substances derived from taxable chemicals.
Sec. 517. Hazardous Substance Superfund.

PART II—LEAKING UNDERGOUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

Sec. 521. Additional taxes on gasoline, diesel fuel, special motor fuels, fuels used in aviation, and fuels used in commercial transportation on inland waterways.
Sec. 522. Leaking Underground Storage Tank Trust Fund.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

Sec. 531. Increase in environmental tax on petroleum.

Sec. 532. Oil Spill Liability Trust Fund.
PART IV—STUDIES
Sec. 541. Study of impact of waste management tax on domestic manufacturers.
Sec. 542. Study of lead poisoning.
PART V—COORDINATION WITH OTHER PROVISIONS OF THIS ACT
Sec. 551. Coordination.

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.".

The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The conferees will be appointed by the Speaker tomorrow.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO SENATE AMENDMENTS TO H.R. 2005

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate amendments to H.R. 2005 the clerk be authorized to make changes in punctuation, cross-references, section numbers and other technical corrections to reflect actions taken by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 2817, the Superfund Amendments of 1985, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 947, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1985

Mr. BONKER submitted the following conference report and statement on the Senate bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation:

CONFERENCE REPORT (H. REPT. 99-428)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House Amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1985".

SEC. 2. REFERENCE TO THE ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Assistance Act of 1961.

SEC. 3. INCOME LEVELS IN LESS DEVELOPED COUNTRIES.

Section 231 (22 U.S.C. 2191) is amended in paragraph (2) of the second undesignated paragraph—

(1) by striking out "$680 or less in 1979 United States dollars" and inserting in lieu thereof "$896 or less in 1983 United States dollars"; and

(2) by striking out "$2,950 or more in 1979 United States dollars" and inserting in lieu thereof "$3,887 or more in 1983 United States dollars".

SEC. 4. PROTECTION OF HEALTH, SAFETY, AND THE ENVIRONMENT.

(a) POLICY DIRECTIVES.—Section 231 (22 U.S.C. 2191) is amended—

(1) in the second undesignated paragraph—

(A) in paragraph (1) by striking out "and" after the semicolon;

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (2) the following:

"(3) ensure that the project is consistent with the provisions of sections 118 and 119 of this Act relating to the environment and natural resources of, and biological diversity in developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act.";

(2) in subsection (1) by striking out "and" after the semicolon;

(3) in subsection (m) by striking out the period at the end and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(n) to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.".

(b) NOTIFICATION OF COUNTRIES OF ENVIRONMENTAL RESTRICTIONS ON CERTAIN ACTIVITIES.—Section 237 (22 U.S.C. 2197) is amended by adding at the end thereof the following:

"(m)(1) Before finally providing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the Interntional Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

"(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 239(g).

"(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

"(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

"(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

"(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this title before the date of enactment of this subsection and which is in the Corporation's portfolio on that date.".

(c) ENVIRONMENTAL IMPACT ASSESSMENTS.—Section 239(g) (22 U.S.C. 2199(g)) is amended to read as follows:

"(g) The requirements of section 118(c) of this Act relating to environmental impact statements and environmental assessements shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country.".

SEC. 5. WORKERS RIGHTS; PUBLIC HEARINGS.

(a) ESTABLISHMENT OF REQUIREMENTS.—Title IV of chapter 2 of part I is amended by inserting after section 231 (22 U.S.C. 2191) the following new section:

"SEC. 231A. ADDITONAL REQUIREMENTS.

"(a) WORKER RIGHTS.—

"(1) "(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country).

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)). The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the

Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

"(b) PUBLIC HEARINGS.—The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this title.".

(d) EFFECTIVE DATE.—Subsection (a) of section 231A, as added by subsection (a) of this section, shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act.

SEC. 6. INSURANCE FOR LOSS DUE TO BUSINESS INTERRUPTION.

(a) ISSUING AUTHORITY.—Section 234(a) (22 U.S.C. 2194(a)) is amended—

(1) in paragraph (a).

(A) in subparagraph (B) by striking out "and" after the semicolon;

(B) in subparagraph (C) by strikilng out the period and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

(D) loss due to business interruption caused by any of the risks set forth in subparagraph (A), (B), and (C). "; and

(2) in paragraph (4)—

(A) by striking out "civil strife insurance for the first time" and inserting in lieu thereof "insurance for the first time for loss due to business interruption";

(B) by striking out "definition of civil strife" and inserting in lieu thereof "definition of 'civil strife' or 'business interruption'";

(C) by inserting immediately before the period at the end of the paragraph the following: "and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered"; and

(D) by adding at the end of the paragraph the following: "Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notification pursuant to section 634A of this Act.".

(b) COMPENSATION FOR LOSS.—section 237(f) (22 U.S.C. 2197(f)) is amended in the first sentence—

(1) by striking out "and (2)" and inserting in lieu thereof "(2)"; and

(2) by inserting immediately before the period at the end of the sentence the following: ", and (3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost".

SEC. 7. MAXIMUM CONTINGENT LIABILITY FOR INVESTMENT GUARANTEES.

Section 234(b) (22 U.S.C. 2194(b)) is amended in the last proviso by striking out "10" and inserting in lieu thereof "15".

SEC. 8. POOLING AND RISK-SHARING AGREEMENTS.

Section 234(f)(2) (22 U.S.C. 2194(f)(2)) is amended by striking out "other national or".

SEC. 9. FACULTATIVE REINSURANCE PROGRAM.

(a) ESTABLISHMENT.—Title IV of chapter 2 of part I is amended by inserting after section 234 (22 U.S.C. 2194) the following new section:

"SEC. 234A. FACULTATIVE REINSURANCE PROGRAM.

"(a) ESTABLISHMENT.—In order to encourage greater availability of political risk insurance for eligible investors, the Corporation shall establish, not later than one year after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, a pilot program of facultative reinsurance. The program shall provide reinsurance to insurance companies, financial institutions, other persons, or groups thereof, with respect to insurance issued by such companies, institutions, persons, or groups for new investments, and expansions of existing investments, by eligible investors, in excess of limits which the Corporation would otherwise normally apply for its exposure to such investments. Contracts of reinsurance issued under the program shall be on equitable terms. The program, and any project covered by reinsurance under the program, shall be consistent with the provisions of this title.

"(b) PERSONS ELIGIBLE FOR THE PROGRAM.—An insurance company, financial institution, or other person shall be eligible to participate in the facultative reinsurance program established under subsection (a) if that company, institution, or other person is an eligible investor under this title. The Corporation shall take steps to encourage equitable participation in the program by all eligible persons.

"(c) MAXIMUM EXPOSURE.—The exposure of the Corporation under the facultative reinsurance program at any one time may not exceed $150,000,000 or, with respect to any one country, $50,000,000.

"(d) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the program of facultative reinsurance under this section. The group shall be composed of 9 members as follows:

"(A) Three officers or employees of the Corporation designated by the Board.

"(B) Four persons appointed by the Board, of whom at least one shall represent an insurance company, one a reinsurance brokerage firm, and one an underwriter, a financial institution, or other person or entity eligible for the facultative reinsurance program under this section. In selecting such persons, the Board shall consider their previous active involvement in the field of political risk insurance or reinsurance and shall consult with any major organizations representing insurance, reinsurance, and brokerage institutions as to the suitability of the respective candidates to represent their industry.

"(C) Two persons appointed by the Board from among persons who are eligible investors, other than persons described in subparagraph (B).

"(2) FUNCTIONS.—The advisory group shall advise the Corporation on the development and implementation of the facultative reinsurance program under this section, including ways to ensure equitable participation in the program by all eligible persons.

"(3) MEETINGS.—The advisory group shall meet not later than 180 days after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, and not less than once in every 180-day period thereafter.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) REPORT TO THE CONGRESS.—The Corporation shall, not later than 18 months after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of the facultative reinsurance program established under subsection (a).".

(b) TECHNICAL AMENDMENTS.—

(1) Section 235(d) (22 U.S.C. 2195(d)) is amended in the first sentence by striking out "or under similar predecessor guaranty authority" and inserting in lieu thereof ", under similar predecessor guaranty authority, or under section 234A".

(2) Section 237(f) (22 U.S.C. 2197(f)) is amended in the last sentence by inserting "or 234A" after "234".

(3) Section 240 (22 U.S.C. 2200) is amended in the last sentence by inserting "and section 234A" after "234".

SEC. 10. EXTENSION OF ISSUING AUTHORITY.

Section 235(a)(5) (22 U.S.C. 2195(a)(5)) is amended by striking out "1985" and inserting in lieu thereof "1988".

SEC. 11. AUDITS OF THE CORPORATION.

Section 239(c) (22 U.S.C. 2199(c)) is amended to read as follows:

"(c)(1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

"(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every 3 years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The General Accounting Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the General Accounting Office considers necessary.

"(3) In lieu of the financial and compliance audit required by paragraph (2), the General Accounting Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

"(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office.".

SEC. 12. EXEMPTION FROM TAXATION.

Section 239 (22 U.S.C. 2199) is amended by adding at the end thereof the following:

"(j) the Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United

States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.".

SEC. 13. PUBLICATION OF POLICY GUIDELINES.

Section 239, as amended by the preceding section of this Act, is further amended by adding at the end thereof the following:

"(k) The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this title, the policy guidelines of the Corporation relating to its programs.".

SEC. 14. EFFECTS OF OPIC ACTIVITIES ON EMPLOYMENT IN THE UNITED STATES.

(a) OPIC REPORTS.—Section 240A (22 U.S.C. 2200a) is amended—

(1) by inserting "(a)" immediately before "After" in the first sentence; and

(2) by adding at the end of the section the following new subsections:

"(b)(1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) Each report required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). The reports may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c)(1) Not later than December 31, 1987, the Corporation shall submit to the Congress a report analyzing the actual effects, as of September 30, 1986, on employment in the United States of all projects with respect to which any insurance, reinsurance, or guaranty issued by the Corporation was in effect on September 30, 1986, or with respect to which repayments on direct loans by the Corporation were bying made as of that date. The report shall set forth—

"(A) the amount of United States exports generated by those projects during each fiscal year,

"(B) to the extent feasible, the final destination of the products produced each fiscal year as a result of those projects, and

"(C) the impact oif such production on the production of similar products in the United States during each fiscal year with regard to both domestic sales and exports.

"(2) In preparing this report, the Corporation shall collect factual data for each of the projects described in paragraph (1). The report may, however, present this information and the analysis of this information in aggregate form, but only if—

"(A) those projects which have a positive effect on employment in the United States and those projects which have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the impact of the projects in each economic sector on the level of employment in the United States and on the United States trade balance.

"(3) The Corporation shall consult with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in determining the methodology to be used in acquiring the information and in doing the analysis necessary to prepare the report required by this subsection, including identification of which projects should be analyzed. To facilitate this consultation, the Corporation shall submit to those committees by September 30, 1986, a written description of its proposed methodology, including its proposed methodology with respect to determining final destinations.

"(4) To the extent that the report required by this subsection does not identify the final destination of the products produced as a result of a particular project, the report shall explain why it was not feasible to provide that information.

"(d) The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by subsection (c), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the reports required by either subsection (b) or (c).

"(e) Subsections (b) and (c) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).".

(b) GAO STUDY AND REPORT.—The Comptroller General shall conduct a study of the impact on employment in the United States of the activities of the Overseas Private Investment Corporation and shall prepare and transmit to the Congress a report setting forth the findings of that study within one year after the date of enactment of this Act.

SEC 15. RETURN OF APPROPRIATED FUNDS.

Section 240B (22 U.S.C. 2200b) is repealed.

SEC. 16. FALSE ADVERTISING OR MISUSE OF THE NAME OF THE CORPORATION.

Section 709 of title 18, United States Code, is amended by inserting after the tenth paragraph the following:

"Whoever uses the words 'Overseas Private Investment', 'Overseas Private Investment Corporation', or 'OPIC', as part of the business or firm name of a person, corporation, partnership, business trust, association, or business entity; or".

SEC. 17. TECHNICAL AMENDMENTS.

(a) CLARIFICATION OF DEFINITION OF ELIGIBLE PERSON.—Clause (2) of section 238(c) (22 U.S.C. 2198(c)(2)) is amended by striking out "or any State or territory thereof" and inserting in lieu thereof ", any State or territory thereof, or the District of Columbia,".

(b) CONFORMING INTERNAL CROSS-REFERENCES.—Section 235 (22 U.S.C. 2195) is amended—

(1) in subsection (c)—

(A) by striking out "section 235(d)" and inserting in lieu thereof "subsection (d) of this section";

(B) by striking out "section 234(e)" and inserting in lieu thereof "subsection (e) of this section"; and

(C) by striking out "section 235(f)" and inserting in lieu thereof "subsection (f) of this section"; and

(2) in subsection (d) by striking out "section 235 (f)" each place it appears and inserting in lieu thereof "subsection (f) of this section".

(c) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 9 of the Overseas Private Investment Corporation Amendments Act of 1981 (Public Law 97-65) is amended—

(1) by striking out "(a)" after "Sec. 9"; and

(2) by striking out subsection (b).

And the House agree to the same.

DANTE B. FASCELL,
LEE H. HAMILTON,
DON BONKER,
DAN MICA,
SAM GEJDENSON,
HOWARD L. BERMAN,
WM. BROOMFIELD,
ROBERT J. LAGOMARSINO,
TOBY ROTH,
DOUGLAS BEREUTER,
Managers on the Part of the House.

RICHARD G. LUGAR,
CHARLES McC. MATHIAS,
DANIEL J. EVANS,
CLAIBORNE PELL,
PAUL SARBANES,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

ENVIRONMENT

The House amendment applies to OPIC projects the environment and natural resource standards and considerations now applicable to AID projects; prohibits OPIC support for any project which OPIC determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in significant degradation of national parks or similar protected areas; and requires OPIC to notify appropriate host government officials of relevant environmental protection guidelines and standards.

The Senate bill contains no comparable provision.

The conference substitute is the House provision.

INTERNATIONALLY RECOGNIZED WORKER RIGHTS

The Senate bill contains a provision which would require OPIC to operate its programs only in countries which are taking steps to adopt and implement laws to extend internationally recognized worker rights—defined as the right of association; the right to organize and bargain collectively; a prohibition on any form of forced or complusory labor; a minimum age for the employment of children; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. The Senate bill permits the President to waive this prohibition with respect to a particular country if he determines that the operation of OPIC programs in such country would be in the national economic interests of the United States, and so reports to Congress.

The House amendment contains an identical provision, with the exception that it does not include the Presidential waiver.

The conference substitute is the Senate provision.

The conferees note that promoting respect for internationally recognized worker rights is vital to insuring that the populations of the host countries benefit from OPIC programs. Denial of worker rights in developing countries tends to perpetuate poverty and to limit the benefits of economic growth to a narrow segment of the population, thereby retarding economic development and increasing social and political instability in these countries.

The conferees also took note of the fact that "taking steps to adopt and implement laws" to extend internationally recognized worker rights is open to some interpretation. The conference substitute requires that the Corporation utilize the reports prepared annually pursuant to section 505(c) of the Trade Act of 1974 concerning the status of worker rights in the countries where OPIC operates. The conferees expect the Corporation to consult with the Departments of State and Labor, which are charged with preparing this report, in implementing this provision. The conferees stress that the mere ratification of International Labor Organization conventions which deal with the specific rights enumerated in this section is not sufficient evidence that a country is "taking steps to adopt and implement internationally recognized worker rights," if that country fails to take measures domestically to meet its obligations pursuant to these conventions. The conferees expect an annual review of the worker rights situation for each country in which OPIC intends to operate, including any country where the President has utilized his waiver authority previously, to ensure that progress continues to be made toward implementing worker rights, and in cases where this provision has been waived, that the U.S. economic interests still warrant such a waiver in the absence of any improvement in workers' conditions.

BUSINESS INTERRUPTION COVERAGE

The House amendment authorizes a new form of OPIC insurance to cover new projects against losses due to business interruption.

The Senate bill contains no comparable provision.

The conference substitute is the House provision with an amendment establishing congressional review procedures with respect to the offering of this new coverage, which are similar to those used for reprogrammings of foreign assistance funds.

POOLING AND RISK-SHARING AGREEMENTS

The House amendment would permit OPIC to engage in pooling and risk-sharing agreements with multilateral insurance or financing agencies or groups of such agencies without regard to the criteria of section 231 of the act.

The Senate bill contains no comparable provision.

The conference substitute is the House provision with an amendment which retains existing law applying section 231 criteria to such arrangements.

FACULTATIVE REINSURANCE PROGRAM

The Senate bill creates a pilot program of facultative reinsurance to encourage greater availability of political risk insurance.

The House amendment contains identical provisions, except for minor differences in the membership of the advisory group.

The conference substitute is the Senate provision.

AUTHORIZATION

The Senate bill extends the authority for OPIC through July 1, 1987.

The House amendment extends the authority for OPIC through September 30, 1989.

The conference substitute extends the authority for OPIC for 3 years, through September 30, 1988.

PUBLICATION OF OPIC POLICY GUIDELINES

The House amendment requires OPIC to publish and make available to applicants its policy guidelines.

The Senate bill contains no comparable provision.

The conference substitute is the House provision.

EMPLOYMENT IMPACT

The Senate bill requires a GAO report on the impact on employment in the United States of OPIC activities 1 year after the date of enactment.

The House amendment requires OPIC to include in its annual report a description of the effects on employment in the United States of each OPIC project.

The conference substitute retains the Senate provision and incorporates a modification of the House amendment. The conference substitute requires OPIC to include in each annual report projections of the effects on employment in the United States of all projects initiated during the previous fiscal year, including the amount of United States exports generated, the final destination of products, and the impact on production of similar goods in the United States for domestic sales and exports. The substitute also requires OPIC to report to Congress not later than December 30, 1987, factual data and its analysis of the actual effects on employment in the United States as of September 30, 1986, of each project active as of that date. The Corporation must consult with the Committee on Foreign Affairs and the Committee on Foreign Relations in determining the methodology to be used in gathering information and in preparing the analyses, and in determining which projects should be analyzed. The reports required under this provision may present information and analysis in aggregate form, but only if projects having positive and negative effects on U.S. employment are grouped separately, and the key characteristics of projects in each grouping, such as the economic sector and host country, are set forth. OPIC is further required to maintain all information and analysis collected and prepared in connection with these reports.

It is the conferees' intent that in preparing the one-time report on U.S. employment impact required by section 240A, as amended, the Corporation may utilize the services of a private, independent auditing firm. The conferees note that the substitute includes a provision relating to freedom of information which is designed to allow the Corporation to protect proprietary business information from public disclosure. The conferees expect that the GAO will share with the Corporation any raw data, especially that relating to onsite inspection and monitoring, gathered during the preparation of its report.

DANTE B. FASCELL,
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Managers on the Part of the House.

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DANIEL J. EVANS,
CLAIBORNE PELL,
PAUL SARBANES,
Managers on the Part of the Senate.

MAKING IN ORDER ON WEDNESDAY, DECEMBER 11, 1985, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 372, PUBLIC DEBT LIMIT INCREASE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order to consider the conference report on House Joint Resolution 372 on Wednesday, December 11, 1985, or any day thereafter, that the conference report be considered as having been read if it has been available to the members for at least 2 hours before consideration, and that all points of order against the conference report and against its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

WAIVING THE PRINTING ON PARCHMENT OF THE ENROLLMENT OF HOUSE JOINT RESOLUTION 372

Mr. FOLEY. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 473) waiving the printing on parchment of the enrollment of House Joint Resolution 372, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 473

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the requirement of 1 U.S.C. 106 and 107 that the enrollment of House Joint Resolution 372 be printed on parchment be waived, and that the enrollment of House Joint Resolution 372 be in such form as may be certified by the Committee on House Administration to be a truly enrolled joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1940

KOMITAS VARTABED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO], is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the 50th anniversary of the death of Komitas Vartabed (1869–1935) will be observed in Armenian-American communities throughout the United States and the world on December 22, 1985.

Komitas Vartabed, an outstanding musician and member of the clergy, was instrumental in documenting and preserving Armenian church and folk music. He is regarded today as being perhaps the most outstanding musician in the entire history of the Armenian nation.

Unfortunately, in April 1915 he was caught up with other Armenian intellectuals in the infamous deportations and massacres, but through the efforts of the American Ambassador, Henry Morgenthau, and the Turkish poet, Mehmet Emin Yurdakul, Komitas was released, but the atrocities he had witnessed had taken their toll. He was reduced to a "mere shell of his former self" and died in an asylum in Paris in 1935.

Mr. Speaker, I would like to insert at this point in the RECORD one of the few available biographies of Komitas Vartabed, including a brief explanation of historical events which preceded the resurgence of Armenian arts and letters in the 19th century, the period in which Komitas lived. This material follows:

KOMITAS VARTABED (1869–1935)

PREFACE

Music has been an integral part of Armenian history. Rich in variety, the music spans the gamut of emotion from plaintive to joyous, from deeply religious to festively secular. Like the Armenian language and architecture, it is basically Eastern in origin and concept, but at the same time shows significant traces of contact with European tradition. As with ethnic groups everywhere, the folk music is unique to the nation and its history. In the case of the Armenians, however, the liturgical music also has a singularly original character. Through centuries of oppression, both the Armenian Church and its music helped mightily to preserve the identity of the nation and instilled the indomitable will to survive.

Armenian roots have been imbedded in the Mount Ararat area of Asia Minor for about twenty-five centuries. As with Mount Olympus to the Greeks and Fujiyama to the Japanese, there is a mystical, almost religious aura encircling Mount Ararat to the Armenians. The snowy peak of this historic volcano symbolizes for them the Divine Power and the rebirth of humanity. It is on this hallowed ground that Armenia became a nation.

During the reign of King Tiridates III (250–330 A.D.), St. Gregory the Enlightener converted Armenia to Christianity. This conversion was effected neither smoothly nor easily. The wealthy and powerful priestly class who owned vast lands and treasures backed up with military might, resisted change with every resource at their disposal. After much strife and turmoil, and the crucially important conversion of the King to Christianity, St. Gregory built the See of *Etjmiadzin* (the seat of the Armenian Catholicos) on the site of ancient *Vagharshabad.*

St. Mesrop (361–440 A.D.), scholar and man of letters, finding the several current alphabets used by the Armenians inadequate, invented a truly phonetic alphabet which has remained in active use to the present day. The invention of the alphabet signalized the beginning of a great intellectual advance in Armenia. St. Sahak (353–439 A.D.) who was then Catholicos of Armenia, called on St. Mesrop to assist him as coadjutor in the translation of the Bible into Armenian. The result was a scholarly triumph which has retained its preminence among translations for nearly sixteen centuries; it also had a most important side-effect in the awakening of a historic sense in the Armenian people for it was their mountain and their country which was recorded in the Holy Book. With a language and literature all their own, national sentiment was born; the literary language emerged rich, subtle and adaptable to further development and advancement.

Besides translations of other documents of the early Christian Church, original and important works of a historical nature were written. An exceptional poet, Gregory of Narek (950–1004 A.D.) wrote a "Book of Lamentations" containing over 1100 prayers. Church hymns called *Sharagans,* (row of gems) were introduced. Composed by both men and women, they were written for specific occasions, holy days, saints' days and Sundays. They were notated in Armenian neumes *(Khaz),* introduced by Khachadour Vartabed of Taron another writer of *Sharagans.* The melodies used today are partially as traditionally sung, and partially as indicated by the neumes. A countless number of hymns presently used in the Church were written by St. Nerses the Gracious (1102–1173 A. D.). These beautiful and impressive *Sharagans* represent a school of church music which is comparable in quality and variety to any of the known Eastern styles of ecclesiastical music.

Until recent years, there existed a number of *Ashoughs,* counterparts of the Greek minstrels, French troubadours, German minnesingers, who combined their profession of poet-musician with that of chronicler. *Ashoughs* kept alive the great traditions of their country's history and endeavored to instill unity of feeling in the nation. They sang of love and gallantry, and extolled the beauties of nature. These men were held in high esteem and their fame was widespread. There were many *Ashoughs* in the 15th to 19th centuries but the names of only a few are known today. These few are not necessarily the most accomplished but are remembered because they introduced their own names into the verses of their songs and the names have lved with the works.

The art of the *Ashoughs* flourished during the 15th century, and in this era. Nahabed Kouchag was one of the most original. His works encompassed small quatrains, most of which are delightful love songs. In the 18th century, two prominent *Ashoughs* were Tatul of Garin, singer of wine, and David, singer of flowers. The most renowned and typical *Ashough* was Sayat Nova, court singer to the last of the Georgian kings. He accompanied himself on the *kemancha,* a three-stringed, bulbous, bowed instrument played in the vertical position. Many of his songs retain their popularity to this day.

Armenia's musical heritage is rich. Its folk songs include the plowing and threshing songs of the peasant, epic songs, love songs, songs of village life and dance tunes distinctive in the vitality of their melodic patterns and rhythmic pulse. The words of the songs are given precedence over the melody and tonal duration, thus creating varied rhythmic groupings. Patter syllables without specific meaning are used to stress rhythmic patterns or to fill in the poetic meter. *Vye, le, le; Lo, lo; Nye, na nye; Dooy, dooy* are some familiary examples. They may express joy or sorrow. The love songs are beautifully simple; more tender than voluptuous and mainly lyrical in character, they reflect the sentiments and emotions of the peasant for his draft animals, the good earth and all of nature. Oriental frills and melisma are used sparingly. The lyrics of the many cradle songs and lullabies are lovely and their melancholy, plaintive melodies possess a charm of their own.

The nineteenth century witnessed a resurgence of Armenian art and letters. Poets, writers, painters, sculptors and musicians flourished in response to the ferment of intellectual activity in Europe. The outstanding musician of the period, and perhaps even of the whole history of the nation was Komitas Vartabed (1869–1935). Born Soghomon Soghomonian in Gudina (Kutahya, Asia Minor) on September 26, 1869, he was orphaned at the age of eleven. A year later he was sent to *Etjmiadzin* for study. His singing attracted the attention of Catholicos Kevork IV. After serving as *Sargavak* (deacon) and as instructor at the Kevorkian *Jemaran* (academy), he was ordained *Apegha* (monk) in 1893, assuming according to custom, a new name, Komitas. Two years later he became a *Vartabed* (a clerical title comparable to the doctorate). At the monastery he received his first instruction in Armenian music from the monks and continued further study with Gara-Mourza who greatly influenced him. His innate musicianship led him deeper into the secular and sacred music of Armenia. After frequent visits to Tiflis, Georgia, he availed himself of the opportunity to study European music with Magar Yegmalian, a noted figure in the history of Armenian church music.

STUDY IN GERMANY

In May 1896, Komitas went to Berlin where he consulted the famous violin virtuoso Joseph Joachim for musical guidance. After a lengthy and thorough examination of Komitas' musical knowledge and ability, Joachim advised him to study at the Richard Schmidt Conservatory. For three years he received private tutoring in piano, theory and harmony from Richard Schmidt, direc-

tor of the Conservatory. His formal education was continued at the Frederick Wilhelm Imperial University under Max Friedlander, Oscar Fleischer and Gottfried Bellermann. He was awarded a Ph.D. in Musicology in 1899. In September of that year, he returned to *Etjmiadzin* as choirmaster and instructor of music at the *Jemaran*. It was at this time that he undertook the application of his musical knowledge to the study and notation of the obscure music of his race. New impetus was given to research on Armenian church melodies and their notation. He analyzed manuscripts of the ancient Armenian liturgy unearthed in various monasteries and proceeded to notate and harmonize the classical liturgy.

KOMITAS' WORK

Komitas' chief work was the rediscovery of the native Armenian folk music, centuries old, beautiful, imaginative and vibrant. Painstaking craftsman that he was, he spent years collecting and collating material. Like Béla Bartók of Hungary, he journeyed from one province to another, frequently stopping a few days in some tiny hamlet to observe the villagers and peasants. His aim was to sift out the genuine expression of the people, unadulterated, pure and original. He meticulously transcribed the singing of each individual separately and attached great importance to every detail. Special care was given to the purging of Arabic, Kurdish, Turkish and Western influences which might have seeped into the music. It was to be transcribed faithfully, with precise inflections and true characteristics. No peasant was too humble or too crude to interest Komitas. He often observed that it was the folk music which was freest of foreign influence and therefore of greatest musicological value.

A simple man, he disliked pump and ostentation. He loved his Church and his people. He was happiest when he could partake of an informal cup of tea in the congenial company of some poor or modest family. During these times his disposition was most pleasant, jolly and witty. He enjoyed listening to personal anecdotes and narratives. He did not permit unjust criticism from jealous and malicious sources to interfere with his work. He was straightforward and unswerving, sometimes even rigid when it was necessary to assert his convictions.

DIFFICULTIES

Although many of the monastics and clergy of *Etjmiadzin* loved and admired the work of Komitas, there were those who criticized and reprimanded him for his emphasis on the secular folk music. This opposition was intensified after the death of Catholicos Khrimian, lovingly called *Hairig* (little Father), who not only appreciated Komitas but actively supported him. Conditions were no longer conducive to fruitful work; he was disturbed, perplexed, disillusioned and felt engulfed in a dense cloud. He petitioned the new Catholicos, Mattheos Izmirlian, for relief from his obligations at *Etjmiadzin*, and for permission to go to the monastery at *Sevan* where he would be able to continue his work. "I want light, to see clearly, to soar up high into the sky, to live with the burning sun, but I can not find my way. I am choking in an unjust atmosphere," He eventually left for Constantinople, one of the great Armenian cultural centers.

CONSTANTINOPLE

It was here that he organized a chorus of three hundred voices, an inconceivable accomplishment in the then conflicting social structure of that city. In addition to problems caused by the political instability of the community, Komitas was again harassed by his ecclesiastical superiors who castigated him for permitting the use of religious music in concert halls, and for making recordings—a practice which could result in performances in non-religious surroundings. But perseverance and determination saw him through. He embarked on a series of concert and lecture tours of the capitals of Europe, acclaimed by his peers and music critics alike as an outstanding musical figure. His success revitalized the Constantinople Armenian community's interest in its own music and turned the attention of this most cosmopolitan of Armenian centers to its own national background. Encouraged by this display of cultural interest, Komitas felt the need to establish an Armenian conservatory of music. Due to the prevailing unfavorable political climate, this dream proved impracticable and futile.

Komitas Vartabed's first lecture on Armenian music was delivered in Berlin on May 10, 1899, before the International Music Society, of which he was a founding member. Many renowned musicologists were present at this and subsequent lectures of which there were close to twenty-five. His years of research and study of the Armenian folk music were distilled into these lectures and revealed a sophisticated and consistent theoretical basis, albeit one which was in large measure unknown as it was surprising and exciting to the western musical mind. In 1914, in response to an invitation from the International Music Society of Paris, he delivered his most important lecture on the Armenian neumes, folk music and composition, an event which not only established the value of Armenian music in the minds of Europeans but also engendered utmost respect for him and his people.

In April 1915, together with other Armenian intellectuals, Komitas was caught up in the infamous, notorious deportations and massacres. Through the efforts of the American Ambassador, Henry Morgenthau, and the Turkish poet, Mehmet Emin Yurdakul, Komitas was released within a short time. But the sufferings of his people and the atrocities he had witnessed had already exacted their toll. The brilliant, courageous Komitas was reduced to a mere shell of his former self, physically weak and mentally ill. He was sent to Paris in 1919 with the hope that medical science might effect a cure but all efforts were futile and on October 22, 1935, he died a lonely death.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting on December 5, 1985 and for the first rollcall vote on December 6, 1985. Had I been present, I would have voted "aye" on roll No. 430, a motion to approve the Journal; "aye" on roll No. 431, to agree to the conference report on H.R. 3424, Labor-HHS-Education appropriations; "aye" on House Resolution 331, adoption of the rule to allow consideration of H.R. 2817, the Comprehensive Environmental Response, Compensation and Liability Act, "nay" on roll No. 433, the Daub amendment to H.R. 2817; "aye" on roll No. 434, the Edgar amendment to H.R. 2817; and "aye"on roll No. 435, a motion to approve the Journal.

HONORING THE RETIREMENT OF JUDGE LEANDER J. FOLEY, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, On December 1, 1985 Judge Leander J. Foley, a lifelong resident of Milwaukee, resigned his position as a Wisconsin circuit court judge and retired from the bench. Although Judge Foley continues to serve as a reserve judge, I wish to take this opportunity to pay tribute to him for his fine career of service to Milwuakee county and Wisconsin, and to recognize the influence he has had upon family court practices and procedures throughout the United States.

Judge Foley has served on the bench of county, civil and circuit courts in Milwaukee county and Wisconsin for more than 25 years. He is among the judges most widely respected and most often consulted by his peers. In addition, Judge Foley is a nationally recognized and respected expert on family court matters, and a long-time member of the faculty of the National College of the State Judiciary.

Judge Foley's innovative family court practices—including procedures designed specifically to protect the rights of children—have been replicated by courts throughout the United States and the territories. Judge Foley's teachings at the national college, and his writings on family court matters, have influenced several generations of family court judges.

Recently, the Milwaukee Journal published an article and an editorial highlighting Judge Foley's career of service, and quoting praise offered by national, State and local legal experts. I ask that these articles be reprinted in their entirety at the end of my statement.

I offer my best wishes to Judge Foley upon his retirement, and I congratulate him on his fine career of service to his community and to the law.

[From the Milwaukee Journal, Nov. 24, 1985]

FOLEY, THE "JUDGE'S JUDGE," RETIRES FROM BENCH

(By Mary Ann Esquivel)

Leander J. Foley, Jr., known as the "judge's judge" among his peers, announced his retirement from the judiciary Saturday.

Foley, 63, said he was leaving his elective office in mid-term to devote more time to teaching law at Marquette University. He also will practice family law.

"I'm young enough and healthy enough to do something different, and I've contributed," Foley said. "I always said 25 years was enough."

Foley is the second Milwaukee County Circuit Court judge to announce his retirement in mid-term within a week. He notified Gov. Earl of his decision in a letter.

Circuit Judge Harold B. Jackson Jr. told Earl last week that he would resign Dec. 16 to take a job with the Metropolitan Sewerage District.

Both their terms expire July 31, 1988.

Both vacancies will be filled by appointees named by Gov. Earl in a process expected to take up to 10 weeks. Applications will be considered by an eight-member judicial selection advisory council, which will recommend five applicants for each opening to Earl.

Foley said that although his last day as judge was Friday, he would continue in his courtroom as a reserve judge until his successor was named.

Foley began his judicial career in 1959 when he became what was then known as a civil judge.

He became a county judge in 1962 and has been a circuit judge since 1964. He was an unsuccessful candidate for the State Supreme Court in 1976.

Victor Manian, chief judge of the Milwaukee County Circuit Court, said Foley would be missed.

"He always was considered to be the epitome of the judiciary," Marian said. "He's one of those kind of people who fits in right away and rapidly becomes the kind of judge people look to for solutions and to set the standard."

Wearing his black robe during an interview in his Courthouse chambers, Foley said:

"I'm just an old shoe. I'm comfortable here. I like the work. I didn't even like being a judge. I liked the work of judging.

"I'm the kind of person who does the best job I can. Then I cut the balloon and it goes away. I don't fret over decisions . . . and I hope I'm a good litigator."

Over the years, Foley, a Milwaukee native who earned his law degree from Marquette, served in all branches of the judiciary here, including Children's and Civil Courts. He served two terms as chief judge of Milwaukee County. His most recent assignment was in Family Court, where many agree that he left his mark.

Foley has earned a national reputation as an expert on family law from his Family Court tenure and from his 15-year stint on the faculty of the National College of the State Judiciary at Reno, Nev.

Just this week, NBC correspondent Roger Mudd consulted Foley for background on a story, the judge said.

In one of Foley's most celebrated cases, in 1968, the flamboyant San Francisco lawyer Melvin Belli represented a West German divorcee in a child-custody dispute with her ex-husband, a US serviceman.

Years later on a national radio show, Belli ranked Foley as among the best judges before whom he had appeared.

Belli said Foley "had a very friendly way about him but, boy, oh boy, did he control the courtroom."

Said Foley: "A judge has to not only know the law, he has to know the lawyers in front of him and the subject of the litigation and the law applied to that. If you don't know that, you can't control the courtroom."

Former Supreme Court Justice Robert W. Hansen is a close friend and former colleague of Foley from the time when the two were assigned to Family Court here.

Hansen says he and Foley pioneered the concept of protecting the interests of the child in custody disputes. The idea not only caught on in Wisconsin but also became standard in other parts of the country, Hansen said.

Foley also fostered the concept of relying on as many community resources as possible to help resolve cases in the best interest of the parties involved, Hansen said.

Manian said that when Foley last presided at Children's Court in the early 1980s, he arranged for troubled youths to visit his farm.

Speaking of his years on the bench, Foley said, "I hope I didn't hurt anybody. I don't think I did. I just tried to resolve their dispute within the context of the law. And that statement makes me emotional."

Dist. Atty. E. Michael McCann, who has known Foley for more than 40 years and is distantly related to him by marriage, said:

"He's what a good judge should be. In the thousands of cases he disposed, he was just. He was a man concerned about justice. He was intelligent, he was patient, and he was respectful.

"I wish he wouldn't quit."

[From the Milwaukee Journal Nov. 29, 1985]

WELL DONE, JUDGE

Leander Foley, a judge in Milwaukee County for 25 years, has served with distinction in the old Civil Court, the old County Court and most recently the Circuit Court. He leaves the bench for retirement with the respect of lawyers, judges and the public.

Although we have occasionally disagreed with Foley, we have not doubted his passion for justice, his judicial temperament or his legal scholarship and expertise. Foley has made a mark in the field of family law, and is regarded as a pioneer advocate of the now-accepted concept that the interests of the child should be paramount in custody cases.

Foley says he wants to pursue law-school teaching and to practice family law. We wish him well.

CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, on behalf of Chairman WILLIAM H. GRAY III, pursuant to the Committee on the Budget and section 311(b) of the Congressional Budget Act of 1974, I am submitting the official letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1986. Since my last report, Congress has cleared for the President's signature H.R. 2965, Department of Commerce, Justice, and State, the Judiciary and related agencies appropriation bill; H.R. 3424, Labor, HHS and Education appropriation bill; and H.R. 1562, Textile and Apparel Trade Enforcement Act of 1985.

The current level is used to compare enacted spending after the start of a fiscal year with the aggregate ceiling on budget authority, outlays, and revenues established in a second budget resolution and enforced by point of order pursuant to section 311(a) of the act. The term current level refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As with last year, the procedural situation with regard to the spending ceiling is affected this year by section 3(b) of Senate Concurrent Resolution 32. Enforcement against possible breaches of the spending ceiling under section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed it's "appropriate allocation" made pursuant to section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered. This exception is only provided because an automatic budget resolution is in effect and will cease to apply if Congress revises the budget resolution for fiscal year 1986.

The intent of the section 302(a) "discretionary budget authority" and "new entitlement authority" subceiling provided by section 3(b) of the resolution is to protect a committee that has stayed within its own spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on Senate Concurrent Resolution 32 were printed in the CONGRESSIONAL RECORD, September 5, 1985, H. 7290.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, December 10, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule 10, I am herewith transmitting the status report under S. Con. Res. 32, the First Concurrent Resolution on the Budget for Fiscal Year 1986. This report reflects the adopted budget resolution of August 1, 1985, and the current CBO estimates of budget authority, outlays, and revenues.

As with last year, the procedural situation with regard to the spending ceiling is affected this year by Section 3(b) of S. Con. Res. 32. Enforcement against possible breaches of the spending ceiling under Section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its "appropriate allocation" made pursuant to Section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation incudes "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered. This exception is only provided because an automatic budget resolution is in effect and will cease to apply if Congress re-

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The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority and of new entitlement authority.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1986 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 32

REFLECTING COMPLETED ACTION AS OF DECEMBER 6, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate Level	1,069,700	967,600	795,700
Current Level	1,067,892	984,352	792,835
Amount Under Ceilings	1,808		
Amount Over Ceilings		16,752	
Amount Under Floor			2,865

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $1,808 million for fiscal year 1986, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 32 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate in outlays for fiscal year 1986, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 32 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1986, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 32.

Fiscal year 1986 budget authority comparison of current level and budget resolution allocation by committee

[In millions of dollars]

	Current level budget authority [1]	*Budget authority* [1]
House Committee:		
Total current level		−1,808
Appropriations committee, discretionary		(−14,107)
Authorizing committee—discretionary action:		
Agriculture		(+1,230)
Armed Services		(+280)
Banking, Finance, and Urban Affairs		(+2,067)
District of Columbia		(.....)
Education and Labor		(.....)
Energy and Commerce		(+14)
Foreign Affairs		(+75)
Government Operations		(.....)
House Administration		(.....)
Interior and Insular Affairs		(+3,827)
Judiciary		(.....)
Merchant Marine and Fisheries		(+100)
Post Office and Civil Service		(.....)
Public Works and Transportation		(.....)
Science and Technology		(.....)
Small Business		(+216)
Veterans' Affairs		(.....)
Ways and Means		(+1,232)

[1] Committees are over(+) or under(−) their 302(a) allocation.

CURRENT LEVEL NEW ENTITLEMENT AUTHORITY (NEA)

Committee	NEA target	Enacted NEA
Agriculture	−1,250	−20
Armed Services	−100	+1,781
Education and Labor	−339	
Energy and Commerce	−80	
Interior and Insular Affairs	+307	
Post Office and Civil Service	−145	
Veterans' Affairs	+45	
Ways and Means	−2,454	−391
Total	−4,016	+1,370

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 9, 1985.

Hon. WILLIAM H. GRAY III,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1986 budget (S. Con. Res. 32). This report for fiscal year 1986 is tabulated as of close of business December 6, 1985, and is based on assumptions and estimates consistent with S. Con. Res. 32. A summary of this tabulation is as follows:

[In millions of dollars]

	Budget authority	Outlays	Revenues
Current Level	1,067,892	984,352	792,835
1985 Budget Resolution, S. Con. Res. 32	1,069,700	967,600	795,700
Current Level is:			
Over Resolution by		16,752	
Under Resolution by	1,808		2,865

Since my last report the Congress has cleared for the President's signature the Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562), the Commerce, State, Justice Appropriation, 1986 (H.R. 2965), and the Labor, Health and Human Services, Education Appropriation, 1986 (H.R. 3424), changing budget authority, outlay, and revenue estimates.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

PARLIAMENTARIAN STATUS REPORT HOUSE REPORTING DETAIL, FISCAL YEAR 1986 AS OF CLOSE OF BUSINESS DECEMBER 6, 1985

[In millions of dollars]

		Budget authority	Outlays	Revenues
I.	Enacted in previous sessions:			
	Revenues			792,700
	Permanent appropriations and trust funds.	708,221	631,009	
	Other appropriations		185,348	
	Offsetting recipts	−162,006	−162,006	
	Total enacted in previous sessions.	546,214	654,351	792,700
II.	Enacted this session:			
	Famine Relief and Recovery in Africa (P.L. 99–10).		421	
	Federal Supplemental Compensation Phaseout (P.L. 99–15).			10
	Appropriations for MX Missile (P.L. 99–18).		368	
	Contemporaneous Recordkeeping Repeal Bill (P.L. 99–44).			13
	U.S.-Israel Free Trade Act (P.L. 99–47).			−8
	Statute of Liberty-Ellis Island Coin Act (P.L. 99–61).	−15	31	
	Cooperation Act (P.L. 99–83).	−25	−25	
	Supplemental Appropriations Bill (P.L. 99–88).	36	3,138	
	State Department Authorization (P.L. 99–93).			2
	Emergency Extension Act of 1985 (P.L. 99–107).	−49	−230	210
	Simplification of Imputed Interest Rules (P.L. 99–121).			−31
	Health Professions Educational Assistance (P.L. 99–129).		−8	
	Amendments-Special Defense Acquisition Fund (P.L. 99–139).	100		
	Energy and Water Appropriations, 1986 (P.L. 99–141).	15,252	8,245	
	Department of Defense Authorization Act, 1986 (P.L. 99–145).	280	−5	
	Legislative Branch Appropriations, 1986 (P.L. 99–151).	1,599	1,385	
	Temporary Debt Limit Increase (P.L. 99–155).	−34	−156	140
	Agricultural Extension, Tobacco Provisions (P.L. 99–157).	−20	−20	
	HUD-Independent Agencies Appropriations, 1986 (P.L. 99–160).	56,909	36,247	
	Offsetting receipts	−4,185	−4,185	
	Military Construction Appropriations, 1986 (P.L. 99–167).	8,498	2,151	
	Total enacted this session.	78,346	47,356	335
III.	Continuing resolution authority:			
	Continuing Appropriations, 1986 (P.L. 99–154).	357,975	212,985	
	Offsetting receipts	−4,449	−4,449	
	Total Continuing resolution authority.	353,526	208,536	
IV.	Conference agreements ratified by both Houses:			
	NASA Authorization Act of 1986 (H.R. 1714).		107	
	Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562).			−200
	Commerce, State, Justice Appropriations, 1986 (H.R. 2965).	11,926	9,711	
	Offsetting receipts	−118	−118	
	Labor, HHS, Education Appropriations, 1986 (P.L. 99–3424).	94,862	81,406	
	Offsetting receipts	−19,816	−19,816	
	Total conference agreements.	86,853	71,291	−200

PARLIAMENTARIAN STATUS REPORT HOUSE REPORTING DETAIL, FISCAL YEAR 1986 AS OF CLOSE OF BUSINESS DECEMBER 6, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund.	10	10	.....
Claims, defense	7	3	.....
Payment to the foreign service retirement trust fund.	(1)	(1)	.....
Range improvements	1	.....	.....
BLM: Miscellaneous trust fund.	(2)	.....	.....
Payment to air carriers, DOT.	18	17	.....
Retired pay-Coast Guard	21	19	.....
Maritime, operating-differential subsidies.	.....	3	.....
BIA: Misecellaneous trust funds.	(2)	(2)	.....
Retirement pay for PHS officers.	3	.....	.....
Medical facilities loan guarantee.	2	.....	.....
Payment to health care trust funds [1].	(907)	(907)	.....
Child nutrition programs	254	234	.....
Child support enforcement	3	3	.....
Advance to unemployment trust fund [1].	(51)	(51)	.....
Federal unemployment benefits and allowances.	65	64	.....
Black lung disability trust fund.	46	46	.....
Special benefits (Disabled coal miners).	36	36	.....
Assistance payments	544	544	.....
Supplemental security income.	52	52	.....
Veterans readjustment benefits.	180	137	.....
Veterans pensions	10	.....	.....
Payment to civil service retirement [1].	(214)	(214)	.....
National Wildlife refuge fund.	(2)	(2)	.....
Defense pay raise-military	1,699	1,649	.....
Total entitlements	2,953	2,818	.....
Total current level as of December 6, 1985.	1,067,892	984,352	792,835
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution	.....	16,752	.....
Under budget resolution	1,808	.....	2,865

[1] Interfund transactions do not add to budget totals.
[2] Less than $500,000.
Note: Numbers may not add due to rounding.

BEYOND THE SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 45 minutes.

Mr. BROWN of California. Mr. Speaker, as the Congress tries to complete the last few days of this session, there are a number of issues relating to defense and arms control which require a further examination in light of the results of the Reagan-Gorbachev summit meeting in November.

Disappointing as that summit was in terms of progress on arms control, regional conflict settlements, and human rights improvements, it seems clear to me that it left a mood of hope and encouragement for progress in the future. A decision to hold further summit meetings in 1986 and 1987 at which this progress might be crystallized into additional agreements between the two countries is welcomed throughout the world. If a majority of the Congress wishes to further this progress, as I believe it does, then it should take positive action to encourage it, and avoid taking those actions which will make such progress more difficult.

President Reagan is to be commended for stressing the close relationship among the issue of arms control, regional conflicts and human rights, and the need for progress in all three areas. He might even have added a fourth issue—economic, social and political development in the Third World, where the struggle for such development is generally the proximate cause for many of the regional conflicts in which the superpowers are involved. Moderating the climate of intense hostility between the superpowers is the first and most essential step in making progress in each of the substantive areas of concern, and this moderation has been initiated, if not fully accomplished.

The rewards for progress in reducing the level of tension between the United States and the U.S.S.R. will be a real increase in the national security of both countries. President Reagan can achieve the first significant reversal of the nuclear arms buildup since the beginning of the nuclear age, a goal he has frequently espoused, and a halt to the rush toward putting weapons into space, which the Soviets consider the greatest threat to their security. These actions can pave the way for a reduction in the intensity, or ending, of several regional conflicts, and furthering the improvement of human rights in the U.S.S.R. The creation of confidence-building programs such as the Warner-Nunn nuclear risk-reduction centers, and the resumption of a variety of exchange programs and technical agreements will further contribute to security on both sides. Translated into dollars, these actions would probably mean savings of $250 billion in the Defense Department budget over the next 5 years, below currently expected baselines. Such a reduction brings a balanced budget from the realm of fantasy into the realm of reality.

No President could leave a greater legacy to his successors than these important steps toward world peace, national security and economic progress. President Eisenhower, in his Farewell Address, expressed his own regret that he had not achieved more during his administration in these words:

Together we must learn how to compose differences, not with arms, but with intellect and decent purpose. Because this need is so sharp and apparent, I confess that I lay down my official responsibilities in this field with a definite sense of disappointment. As one who has witnessed the horror and the lingering sadness of war—as one who knows that another war could utterly destroy this civilization which has been so slowly and painfully built over thousands of years—I wish I could say tonight that a lasting peace is in sight.

President Reagan has in his power to do more than any President in my lifetime to secure what Eisenhower could not "* * * that a lasting peace is in sight."

It should be clear to all Members of Congress who support this route to national security and economic progress that it will be bitterly opposed by a strong faction within the Reagan administration, and a substantial number of House and Senate Members. Their opposition will be strongly imbedded in a matrix of conservative movement orthodoxy, which has been expressed loudly and often on the floor of the House. Key features of that orthodoxy are adherence to a view of the Soviets as an "Evil Empire" and unremitting opposition to any hint of pragmatism in our relations with them. For them, Nixon-style detente is a work of the devil. Moderating the climate of hostility, and its expression in the most virulent of language, will require superhuman effort on their part, even with the good example set by the President.

The conservative movement disciples will not be without political muscle. Part of that muscle will be the massive financial resources that are available in the corporate defense community, whose enthusiasm for curtailing the arms race is not large. We would do well to remember the words of Eisenhower in that regard, likewise expressed in his Farewell Address:

In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

What are the components of a near-term program upon which progress might be achieved, and that progress reflected in future summits? First, it seems clear that both countries, as well as the rest of the world, want to see a large reduction—50 percent or more—in nuclear weapons, balanced by categories so as to retain some degree of equivalent security on each side. It seems equally clear that the Soviets perceive the deployment of space-based defensive systems as a major threat to their security, despite all of Reagan's reassurances. In addition, they correctly perceive that the deployment of such systems will require abrogation of the ABM Treaty, and therefore lessen or destroy the significance of all past and future arms control efforts. In view of the fact that the Secretary of Defense has repeatedly told the Congress that Soviet defense programs, ranging from bomb shelters and urban evacuation schemes to upgraded air defense and ground-based lasers, constitute a serious threat to U.S. security, it is difficult to deny the validity of Soviet perceptions of SDI and Asat's.

On the other hand, Soviet objections to SDI research programs per se is an obvious ploy, a contrived effort to achieve some kind of propaganda benefit on the global stage. It is likewise hypocritical in view of

the Soviet's extensive research on space defense systems.

It seems obvious that we can achieve the major strategic nuclear arms reduction we seek by coupling that with a new commitment to observe the existing ABM Treaty, with some redefinition of terms to cover exotic systems in space, and new provisions providing a longer notice to the other party for termination of the treaty. Present treaty provisions dealing with development and testing of components of ABM systems require considerable clarification to avoid fruitless arguments between the parties. The present 6 months notification of abrogation should be increased to several years.

An agreement in principle for a 50-percent reduction in strategic nuclear missiles, and for continued observance of a redefined and strengthened ABM Treaty should be the primary goal for our negotiation in Geneva over the next 6 months.

Coupled with this should be agreement on steps to improve verification and compliance procedures for the ABM Treaty, as well as for SALT II, for the limited nuclear test ban treaty, and for other agreements, and steps to strengthen the role of the Standing Consultative Committee in resolving ambiguities and complaints on noncompliance by either party to any of these treaties.

It would be desirable for the United States to propose, and the Soviets to accept, specific language recognizing the legality and propriety of research and development relating to defense systems of all types, whether Earth or space based, and regardless of whether based on presently known scientific principles or principles not yet discovered, as long as treaty restrictions are met. If such language is accepted on both sides, the Congress would be justified in funding the SDI Program at reasonable and prudent levels.

Given the continuation of a vigorous SDI research and development program, properly directed to avoid violations of the ABM Treaty, it would be essential for both sides to halt further testing of their Asat systems, as the Soviets have already done, and to avoid deploying them. The logic of this is inescapable. Each of the separate BMD technologies now undergoing research and development in the SDI Program and in similar Soviet R&D programs would be a candidate for an effective Asat system long before it was feasible as a BMD system. The universe of military satellites that would be targeted on either side is very small, a few dozen at the most, all in fixed orbits that are well described and all inherently more fragile than nuclear missile reentry vehicles. The task of managing an attack on the other side's military satellites is truly elementary compared to managing an attack on tens of thousands of nuclear warheads, dummy warheads, penetration aids, and other vehicles that would be part of a nuclear attack.

The BMD technologies which would qualify as Asat technologies are already well along in development and, in some cases, have been tested in limited environments. Ground-based lasers have been tested for pointing and tracking against a satellite target—the shuttle—and have been ground tested for lethality against aircraft and missiles, with great success. United States intelligence has had some suspicion that the Soviets may have already tested one of their high-powered ground-based lasers in an antisatellite mode. I have no doubt that a system of ground-based lasers adequate to blind, if not destroy, all low-orbiting enemy satellites, could be deployed in the United States, as well as on ships and on allied territory, within the same timeframe as the present MHV/Asat. My guess is that such a system would cost less and be more effective than the MHV.

Other BMD technologies that would have ASAT capability are charged and neutral particle beams, high-powered radio waves, and electromagnetic rail guns—which produce hypervelocity projectiles, which can have their own guidance systems. Systems employing these technologies can be ground based, deployed on high altitude aircraft, or satellite based.

The point that I am making is that when we have before us a veritable cornucopia of versatile Asat technologies emerging from the SDI Program, why waste $5 to $15 billion—GAO estimates—on a less-than-adequate technology from a prior generation of research? If we maintain an assured superiority in Asat R&D, which we surely will, the Soviets would have every incentive to adhere to an Asat treaty prohibiting the further testing or deployment of Asat systems on either side. Every competent defense analyst will agree that the United States benefits more than the Soviets from a threat-free satellite environment, because of our greater reliance on military space assets. They would likewise agree that practically all military satellites on both sides contribute to mutual security and stability of relationships between the superpowers. Threatening that system should only be done under the most extreme circumstances.

What I have suggested here is an interlocking set of short-range goals which include:

First, 50 percent, or more, overall reduction in stragetic nuclear weapons—warheads—distributed by categories, so as to maintain equivalent security on each side.

Second, renewed commitment to the ABM Treaty, with modernized language to clarify the limits on development and testing of all ABM systems, regardless of basing—Earth or space—or physical principles involved.

Third, specific treaty language permitting continued BMD research and defining the development parameters compatible with the modernized ABM Treaty.

Fourth, a continued mutual moratorium on Asat testing and deployment, leading to an Asat treaty paralleling the ABM Treaty.

It may be an overly ambitious goal, but I perceive all of the above as attainable at the June 1986 summit in the United States. Needless to say, such an achievement would go far to establish President Reagan's place in history, and might even help to avoid some of the Republican losses in the Senate and House of Representatives expected in the 1986 elections.

The final statement of the 1986 summit should also contain a commitment to pursue vigorously an additional agenda of problems, with the goal of attaining a further round of agreements at the Moscow summit in 1987. This agenda should include at least:

First, control or elimination of intermediate range nuclear missiles.

Second, control or elimination of nuclear cruise missiles.

Third, reduction in conventional forces.

Fourth, nuclear test ban treaty.

Fifth, chemical and biological warfare treaty.

Sixth, regional disputes agreement.

Seventh, human rights progress.

Eighth, further extension of exchange agreements.

Ninth, extension of crisis monitoring and other confidence building measures.

Tenth, extension of trade agreements to other areas of mutual benefit.

The mere listing of the possibilities for agreements with the Soviets over the next 2 years opens one up to criticism as a utopian dreamer, hopelessly removed from the real world of conflict between our opposing systems. I prefer to believe that pursuit of these possibilities represents the highest form of enlightened pragmatism. Achievement of agreements on all of the areas which I have listed will not change the reality of the differences between our two systems. It may affect the way in which those conflicts are ultimately resolved. In today's world, resolution of fundamental conflicts between great powers, the old-fashioned way, by victory or defeat in war, is no longer a viable option. The only remaining strategy is to resolve the conflicts by peaceful transformation. Human organizations and systems of values exist to achieve human purposes. They change when confronted with the reality that they do not achieve human purposes as effectively as alternatives available to them. Closed societies, by definition, are limited in their knowledge of, and ability to choose, alternate systems to their own. Open societies, by definition, are constantly seeking new and better ways to achieve their purposes, and can change more rapidly, than closed societies.

To move in the direction of limiting the arms buildup on both sides and lessening the possibility of resolving our conflicts by global nuclear war is the most effective strategy for an open society. It allows us to focus our efforts on seeking transformations in the closed society which will ultimately resolve the major conflicts between us to the mutual benefit of both societies, and to the remainder of human society as well. I consider that approach the essence of pragmatism.

Eisenhower, who stated that "Disarmament, with mutual honor and confidence, is a continuing imperative," was not the naive idealist that some liberals are accused of being. He described our situation in realistic terms:

We face a hostile ideology—global in scope, atheistic in character, ruthless in purpose, and insidious in method. Unhappily, the danger it poses promises to be of indefinite duration. To meet it successfully, there is called for, not so much for emotional and transitory sacrifices of crisis, but rather those which enable us to carry forward steadily, surely and without complaint the burdens of a prolonged and complex struggle—with liberty at stake. Only thus shall we remain, despite every provocation, on our charted course toward permanent peace and human betterment.

We should all be willing to "carry forward steadily, surely and without complaint the burdens of a prolonged and complex struggle," but a struggle with a hope of "permanent peace and human betterment," not nuclear oblivion, at the end of that struggle

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, since June I have spoken two times as a matter of prerogative under the special orders procedure. Both occasions were for 5 minutes. I rise again to resume what, over the course of the years and particularly this last year, I have entitled "My advice to the privileged orders."

It goes back, I will recapitulate a bit, to a theme that was developed in an address so entitled by a great American patriot, Joel Barlow, who was one of General Washington's chaplains for his troops, but he was also a great thinker, philosopher, writer, pamphleteer, together with Thomas Paine, or "Tom" Paine, as he was known, and addressed such a message to the privileged orders of Europe and elsewhere on the occasion of both the American Revolution and the French Revolution.

We live in similar times. In our country, though we still have yet to reach the bicentennial or the 200th anniversary of our form of government, which we will not reach until 1989, and I have said for years now that there is nothing that vouchsafes the safe and sustained effort, as we know our system of government, until that year. We take things for granted, but we have had very serious erosions, and we have created great privileged, powerful, domineering classes in our country. They are beyond accountability. In a most important area of endeavor and for the first time in the Nation's history, going back to the Continental Congresses, some segments of these privileged and potent powers, these barons of great wealth, these, in some instances, in the words of Franklin Roosevelt, malefactors of great wealth. So my appeal has been to call attention, and I include my colleagues in the Congress as members of a privileged group in this country because we are.

On the first occasion 2 months ago in which I utilized about 5 minutes, I pointed out that I was fearful because of the pattern of international acts of terrorism, and I might say to my colleagues I have been speaking out on this subject matter since 10 years ago, maybe a little better, beginning at the time of the massacre and horrible murder of the Israeli athletes in Germany, and then more particularly in my reports back to my district. I will announce to my colleagues that yesterday I recorded the 2,000th such report in English and Spanish to my district since I have been a Member of the House, on television and on radio.

For a period of time about 6 weeks in a row I urged my constituents and tried to arouse their interest in getting support by contacting other Members as to the need for the United States to take the lead in bringing about an international, a world consortium of nations, perhaps through the United Nations, that would bring forth a covenant of understanding among the sovereign powers as to the nature and extent of international acts of terrorism, defining the jurisdiction and sovereignty of the nations involved, the relinquishing in certain cases of jurisdiction, all of this at a time in which there was relative calm with respect to acts of international terrorism among the nations. Well, those cries have gone unheeded, but then more recently, with the more serious and what I consider to be ominous portents of what will increase, will not decrease, and in fact as we break up for this Christmas season here, and I know that my colleagues are anxious to terminate this 1st session of the 99th Congress, and I, with them, share that hope, that it will not take a prophet to say that while we are enjoying Christmas there are Americans again, once more, under what I consider to be a serious peril or shadow of death.

Beginning in 1982 and continuing through 1983 until the massacre of the 241 marines, I took this forum. I addressed myself to the President, I addressed myself to my colleagues, and to no avail. In fact, on the last meeting or session of the House for the week during the week terminating Sunday, on October 24, I warned, and I tried to call the attention by saying to the President: "Mr. President, tonight when you sit down for a good meal in the evening in the White House, and, my colleagues, as you depart tonight and unquestionably will sit in the safety and comfort of your families' environment and will enjoy a good steak or something, remember we have marines that are in the shadow of death.

"Every day, every night, they are in peril."

Well, everybody else knows the history of what happened. Two days after the death of the marines, the determination to invade Grenada.

Frankly, I am sure that the plans for such an incursion had been long in preparation, ever since the Grenadan leader Bishop was living. But that decision had been made on the basis that the invasion would take place later in the year, which would have been the Presidential year, a new year. Such was not the fate. I think our historical events in modern-day activity so telescope that what was a big deal just a month ago has receded back into the dust of the immediate past history.

I rise tonight because, as I said 2 months ago, there was little awareness that because of a congressional mandate, the first mandate of this nature in the history of the Congress since the first Congress in 1789, no such mandate had ever been approved.

That was to order up to about 2,000 of our troops, combat-equipped, into what was hoped would be a multinational peacekeeping effort in the Sinai so that in terms of the agreement between Egypt and Israel put together and in place at Camp David under the guidance and leadership of President Carter, would be honored.

Ordinarily, the Commander in Chief makes a decision and seeks approval from the Congress if such be needed. In this case, it was reversed. In December, if I recall correctly, somewhere around December 12, exactly 4 years ago, we were called to a session of the House, and there was very little interests in the matters. In fact, the pending issue was a resolution that immediately aroused my attention.

I asked questions. They were resented by the then chairman who asked me not to raise any questions because it would generate some opposition. They were hopeful that the bill could be passed without any kind of a vote other than a voice vote. And I could not help but raise questions, and I asked the then chairman and the subcommittee chairman if there was any precedent for that because the resolution was coming out the Committee on Foreign Affairs. It had not been jointly referred to the Committee on Foreign Affairs and the Committee on Armed Services. And the answer to my question became unresponsive.

I asked further if this was unprecedented. Finally they said they knew of no precedent.

I then said "Well, what brings this about?" They said because President Reagan is recommending that we do this in order to honor a promise or a commitment that had been made by President Carter in a letter subsequent to the Camp David agreements.

It did not amount to a side memorandum, as usually you might have some kind of an agreement between nations because the United States was not party signatory to Camp David. It was Israel and Egypt. So I asked the question: if they go there for peacekeeping questions and President Reagan has been so antagonistic to ev-

erything Jimmy Carter ever even thought of, much less did or recommended, why this? The question was never answered. But I got on the House floor, and I hastily prepared an amendment so I could be recognized to speak because I was denied any time delegated to me by those in control of the time.

My amendment was simple. It was hastily drawn but nevertheless meaningful. It was to the extent that insofar as any members of the American military component be concerned that at no time would any draftees or conscripts be included.

□ 1955

Now, mind you, I did this because I wanted 5 minutes in order to ask the pertinent questions on the record. Well, that is history. Everybody forgot about it. As far as I know, when I spoke out on the House floor 2 months ago, it was the first time anybody in or out of the Congress had made public allusion to the presence of about the fact that some 1,500, depending on the period of time, 1,500 to close to 2,000 American servicemen, military, equipped for combat are in the Sinai and have been.

Now, what multinational force was formed? I asked this question of the chairman. I said, "Do you have commitments from England? Do you have commitments from West Germany? France? Italy?"

"Well," they said, "the United States has to initiate it. We can't tell you that until we approve it in the Congress, as far as America is concerned, and then we will see."

Well, I want to report that as of this moment that I am speaking, the so-called multiforces and observers—they call that MFO—are now in the Sinai. The present total figure is 2,635, with the following breakdown: Australians, 100; British, 35; Colombians, 500.

Now, 2 years ago the Colombians had a thousand. Secretary of State Haig then—well, it was more than 2 years. It was 3 or so years ago—had picked up the phone, called the President of Colombia and said, "Well, you know, we could use a thousand of your men, but if you don't, well, we may not be able to give you as much aid as we have been giving you." So they sent a thousand. But they have been having trouble in Colombia lately, so they pulled half of them. So they now have 500.

Now, from Fiji Islands we have 500; from France, 40; Italy, 90; The Netherlands, 110; New Zealand, 35; Uruguay, 75, and the United States officially, the Library of Congress Research Service will tell you 1,200. I happen to know that it fluctuates and it is higher than that, depending on when you take the count. It is like our so-called military advisers in El Salvador. In 1981, I was told that the official count did not even reach 50. But I had constituents who were down there in uniform, in all 3 branches of the Service, and they reported to me a very different story. Then later, of course, it was discovered that it all depended on when you took the count and how many would move over to the next-door neighbor Honduras and then come back. I also was the first to rise here on the floor of the House and mention the fact that our military were involved in combat form in the actual civil war or wars raging both in El Salvador and Nicaragua.

Nobody ever challenged me, but nobody ever much wanted a report about it either. But the fact remains, and it has continued to be true.

I, therefore, introduced a resolution, both in the case of the marines in Beirut, as well as later—and, incidentally, I know of no other Member who did—in which I pointed out that the President was in clear and open violation of the War Powers Limitation Act both in Lebanon as well as in Central America.

Well, of course, I could not even get so much as a committee hearing. From the beginning, I was here when we debated what turned out to be the War Powers Limitation Act of 1974, and I tried to point out, even though I voted for it—the intention was great—and I had been declaimed against what I considered to be the unconstitutional impressing of unwilling conscripts into an undeclared war. It created a little bit of tension with some of President Johnson's advisers at the time, but I had raised the issue under President Kennedy in May 1963, so that any question of this being a sort of partisan-inspired thing, I think the record will show clearly that there is no validity to that kind of criticism or accusation.

Tonight I rise principally to point out that given the tensions that have arisen now—and they are very severe—you do not read about it now, the press in America is not reporting it, but it certainly is in Egypt, it certainly is in the Asia Minor sections of the world, it is certainly being reported in the European press. I read them. And the fact remains that tensions are great, there is a potential for a real catastrophe, given the fact that we still have a hot shooting war between Iraq and Iran that could trigger what perhaps could be quite uncontrollable and find us without any foresight or preparation involved in a pretty nasty situation or situations.

What I am saying is that, given the tensions that have arisen since the hijacking, the pirating of the Italian cruising ship, the subsequent forcible diversion of the Egyptian airliner compelled to land in Italy, the great resentment that arose in four sovereign nations and the absence of any kind of an international agreement has further created a tense, a potentially explosive situation, wherein those areas in which any conceivable vulnerability can be seen by those that want to capitalize on engendering conflicts in trying to appease revenge for ancient centuries-old hatreds is here, it is great, and in the case of our troops and their associates in the Sinai, I see great potential for great mischief.

The situation is tense once more in the Middle East, even between the party signatories to the Camp David agreements. This is the reason I asked the question on this floor at the time, exactly 4 years ago this month and this week. In fact, I rise almost exactly—maybe lacking a day or so—as I did 4 years ago, right here, and asked the question: Well, now, just what will be the nature of this force, since you say it must be a military force. You are not asking for a civilian force, as the one you had in the Sinai previously. You are asking for military.

Let us look into the future and say that, as unwelcome as it might be, pray as much against it as we might, that Egypt accuses Israel of violating Camp David, or vice versa, Israel accuses Egypt. What are these peacekeeping troops going to do? Are they going to march into Israel? Are they going to march into Egypt to compel observance? Just what will be the nature of the action taken then?

But things do not happen that way. I can see easily enough that if some party completely extraneous to either Israel or Egypt, seeing a great potential for mischief, would create an act of terrorism in which any of these Australians, Fijians, British or Colombians, let us not include American soldiers, let us just say that one of these or two or three of them were attacked and hurt, what would be our reaction? Are we going to rise to the defense of these non-American allies? Are we going to commit further troops in order to back up the 1,500 or so we have now?

But since this is a congressional mandate, I have asked the Members who are in charge of such committees as the Foreign Affairs Committee to have oversight. I have asked since 4 years ago the chairman of the Armed Services Committee then to give me his opinion about the military aspect and its potentials, insofar as the jurisdiction of the Armed Services Committee was concerned.

And, of course, it was considered a nonquestion or nonrequest, and we were then also very interested to get out of that session. But tonight, with a great deal of apprehension, I pray that I will be proven dead wrong—and nobody will be praying harder than I. I used to pray every day, in the case of Beirut and Lebanon and the Marines that I would be dead wrong.

I have always responded to accountability in communicating these apprehensions. I have made use of this great privilege, but always there has been an intent that coincides with my duties and the duties of my colleagues in this great hall of the House.

At the same time, I pick up and want to continue to offer my advice to the privileged orders and those who have the great power of decision about another area that I think will soon be in the headlines again, and that is the raging civil wars to the south of our border, the raging economic and social crises that are being faced by these countries to the south of us, some of them immediately to the south, and say that it is with a great deal of anguish that I see this President, and this Congress unfortunately, conducting a course of action that can be labeled only as catastrophic but, at best and most charitably, as bankrupt.

I predict we will see headlines about Mig's or some other aircraft in Nicaragua. That is not an effort to prophesize or predict. We overlook the glaring discrepancies. If we are worried about Russian-made craft, why are we not worried about the 20 or so that are now down in another South American country and have been there for more than a year? Nobody is raising a big todo about that because we tend to gravitate in our course of action not on the basis of a policy, not on the basis of a knowledgeable perception of this new world that now confronts us south of our border, a new world that as of some 15 years ago now exceeds us in population by over 70 million. That did not used to be the case. And in a world in which the whole world has shrunk, the oppressive, tyrannical, exploitative nature of these societies for 300 years will not endure any longer. I think this has been the plain, plain sign of the times that we should have read even before the so-called Cuban or Castroite revolution.

□ 2010

I believe that a word to the wise is ordinarily sufficient. But knowing full well and reminded by a recently published work by the historian, the great historian, Barbara Tuchman, which she entitles "The March of Folly," and in which remain pieces of a question, why has mankind and its rulers and the rulers of great nations since Troy in Ancient Greece clear to our day and time in Vietnam will persist in a calculated course of disaster, even despite the full panoply of array of facts of conditions obviously presenting the nation's leaders, and yet willfully, premeditatedly, calculatingly involving themselves in a course of action that seems to be inexorable like an ancient Greek tragedy, leading the nation to disaster, to the loss of blood and treasury?

It is my hope that our committee will take time during the break that has jurisdiction and review the status of our armed services personnel in the Sinai.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. MOAKLEY of the Committee on Rules, submitted a privileged report (Rept, 99-430) on the resolution (H. Res. 336) providing for the consideration of the bill (H.R. 3838) to reform the internal revenue laws of the United States, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1524, POLYGRAPH PROTECTION ACT OF 1985

Mr. MOAKLEY from the Committee on Rules, submitted a privileged report (Rept. 99-431) on the resolution (H. Res. 337) providing for the consideration of the bill (H.R. 1524) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR AMENDING SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 187, TO APPROVE THE "COMPACT OF FREE ASSOCIATION"

Mr. MOAKLEY from the Committee on Rules, submitted a privileged report (Rept. 99-432) on the resolution (H. Res. 338) providing for amending the Senate amendment to the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association," and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON HOUSE RESOLUTION 372

Mr. ROSTENKOWSKI submitted the following conference report and statement on the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt:

CONFERENCE REPORT

[To acccompany H.J. Res. 372]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House of Representatives to the amendments of the Senate numbered 1 and 2 to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment to part (2) of the amendment of the House to the amendment of the Senate numbered 1.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of inserting the matter proposed to be inserted by the Senate amendment, insert the following at the end of the joint resolution:

TITLE II—DEFICIT REDUCTION PROCEDURES

SEC. 200. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Balanced Budget and Emergency Deficit Control Act of 1985".

(b) TABLE OF CONTENTS.—

Sec. 200. Short title and table of contents.

PART A—CONGRESSIONAL BUDGET PROCESS

Subpart I—Congressional Budget

Sec. 201. Congressional budget.

Subpart II—Amendments to Title IV of the Congressional Budget Act of 1974

Sec. 211. New spending authority.
Sec. 212. Credit authority.
Sec. 213. Description by Congressional Budget Office.
Sec. 214. General Accounting Office study; off-budget agencies; member user group.

Subpart III—Additional Provisions to Improve Budget Procedures

Sec. 221. Congressional Budget Office.
Sec. 222. Current services budget for congressional budget purposes.
Sec. 223. Study of off-budget agencies.
Sec. 224. Changes in functional categories.
Sec. 225. Jurisdiction of Committee on Government Operations.
Sec. 226. Continuing study of congressional budget process.
Sec. 227. Early election of committees of the House.
Sec. 228. Rescissions and transfers in appropriation bills.

Subpart IV—Technical and Conforming Amendments

Sec. 231. Table of contents.
Sec. 232. Additional technical and conforming amendments.

PART B—BUDGET SUBMITTED BY THE PRESIDENT

Sec. 241. Submission of President's budget; maximum deficit amount may not be exceeded.
Sec. 242. Supplemental budget estimates and changes.

PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

Sec. 251. Reporting of excess deficits.
Sec. 252. Presidential order.
Sec. 253. Compliance report by Comptroller General.
Sec. 254. Congressional action.
Sec. 255. Exempt programs and activities.
Sec. 256. Exceptions, limitations, and special rules.
Sec. 257. Definitions.

PART D—BUDGETARY TREATMENT OF SOCIAL SECURITY TRUST FUNDS

Sec. 261. Treatment of trust funds.

PART E—MISCELLANEOUS AND RELATED PROVISIONS
Sec. 271. Waivers and suspensions; rulemaking powers.
Sec. 272. Restoration of trust fund investments.
Sec. 273. Revenue estimates.
Sec. 274. Judicial review.
Sec. 275. Effective dates.
PART A—CONGRESSIONAL BUDGET PROCESS
Subpart I—Congressional Budget
SEC. 201. CONGRESSIONAL BUDGET.

(a) DEFINITIONS.—

(1) Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(6) The term 'deficit' means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act (notwithstanding section 710(a) of the Social Security Act), for any fiscal year, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $108,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $72,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $36,000,000,000; and

"(F) with respect to the fiscal year beginning October 1, 1990, zero.

"(8) The term 'off-budget Federal entity' means any entity (other than a privately owned Government-sponsored entity)—

"(A) which is established by Federal law, and

"(B) the receipts and disbursements of which are required by law to be excluded from the totals of—

"(i) the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, or

"(ii) the budget adopted by the Congress pursuant to title III of this Act.

"(9) The term 'entitlement authority' means spending authority described by section 401(c)(2)(C).

"(10) The term 'credit authority' means authority to incur direct loan obligations or to incur primary loan guarantee commitments.".

(2) Paragraph (2) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting before the comma the following: "or to collect offsetting receipts.".

(b) CONGRESSIONAL BUDGET PROCESS.—Title III of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE III—CONGRESSIONAL BUDGET PROCESS

"TIMETABLE

"SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

"On or before:	Action to be completed:
First Monday after January 3.	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

"ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET

"SEC. 301. (a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year, and planning levels for each of the two ensuing fiscal years, for the following—

"(1) totals of new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments;

"(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

"(3) the surplus or deficit in the budget;

"(4) new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1); and

"(5) the public debt.

"(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—The concurrent resolution on the budget may—

"(1) set forth, if required by subsection (f), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved;

"(2) include reconciliation directives described in section 310;

"(3) require a procedure under which all or certain bills or resolutions providing new budget authority or new entitlement authority for such fiscal year shall not be enrolled until the Congress has completed action on any reconciliation bill or reconciliation resolution or both required by such concurrent resolution to be reported in accordance with section 310(b); and

"(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.

"(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE THE EFFECT OF CHANGING ANY RULE OF THE HOUSE OF REPRESENTATIVES.—If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

"(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—On or before February 25 of each year, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) which relate to matters within its jurisdiction or functions.

"(e) HEARINGS AND REPORT.—In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is rec-

ommending. The report accompanying such concurrent resolution shall include, but not be limited to—

"(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

"(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, total direct loan obligations, total primary loan guarantee commitments, as set forth in such concurrent resolution, with those estimated or requested in the budget submitted by the President;

"(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

"(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

"(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives which the committee considered;

"(6) projections (not limited to the following), for the period of five fiscal years beginning with such fiscal year, of the estimated levels of total budget outlays and total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

"(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

"(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution; and

"(9) allocations described in section 302(a).

"(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in subsection (a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

"(g) COMMON ECONOMIC ASSUMPTIONS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement is based.

"(h) BUDGET COMMITTEES CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees.

"(i) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—

"(1)(A) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under this section, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7).

"(B) In the House of Representatives the point of order established under subparagraph (A) with respect to the consideration of a conference report or with respect to the consideration of a motion to concur, with or without an amendment or amendments, in a Senate amendment, the stage of disagreement having been reached, may be waived only by a vote of three-fifths of the Members present and voting, a quorum being present.

"(2) Paragraph (1) of this subsection shall not apply if a declaration of war by the Congress is in effect.

"COMMITTEE ALLOCATIONS

"SEC. 302. (a) ALLOCATION OF TOTALS.—

"(1) For the House of Representatives, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority, total entitlement authority, and total credit authority among each committee of the House of Representatives which has jurisdiction over laws, bills and resolutions providing such new budget authority, such entitlement authority, or such credit authority. The allocation shall, for each committee, divide new budget authority, entitlement authority, and credit authority between amounts provided or required by law on the date of such conference report (mandatory or uncontrollable amounts), and amounts not so provided or required (discretionary or controllable amounts), and shall make the same division for estimated outlays that would result from such new budget authority.

"(2) For the Senate, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority and new credit authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

"(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

"(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays, new budget authority, and new credit authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

"(2) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

"(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

"(1) new budget authority for a fiscal year;

"(2) new spending authority as described in section 401(c)(2) for a fiscal year; or

"(3) new credit authority for a fiscal year;

within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to subsection (a) for such fiscal year, unless and until such committee makes the allocation or subdivisions required by subsection (b), in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

"(d) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304, the allocations under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

"(e) ALTERATION OF ALLOCATIONS.—At any time after a committee reports the allocations required to be made under subsection (b), such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

"(f) LEGISLATION SUBJECT TO POINT OF ORDER.—

"(1) IN THE HOUSE OF REPRESENTATIVES.—After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year, or any conference report on any such bill or resolution, if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the appropriate allocation made pursuant to subsection (a) for such fiscal year of new discretionary budget authority, new entitlement authority, or new credit authority to be exceeded.

"(2) IN THE SENATE.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 301(a) for a fiscal year, it shall not be in order in the Senate to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides for budget outlays or new budget authority in excess of the appropriate allocation of such outlays or authority reported under subsection (b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

"(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, NEW CREDIT AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

"SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) as reported to the House or Senate which provides—

"(1) new budget authority for a fiscal year;

"(2) an increase or decrease in revenues to become effective during a fiscal year;

"(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

"(4) new entitlement authority to become effective during a fiscal year; or

"(5) new credit authority for a fiscal year,

until the concurrent resolution on the budget for such fiscal year has been agreed to pursuant to section 301.

"(b) EXCEPTIONS.—Subsection (a) does not apply to any bill or resolution—

"(1) providing new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

"(2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

"(c) WAIVER IN THE SENATE.—

"(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

"(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

"(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

"PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

"SEC. 304. (a) IN GENERAL.—At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.

"(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—The provisions of section 301(i) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(i) (and amendments thereto and conference reports thereon).

"PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

"SEC. 305. (a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

"(1) When the Committee on the Budget of the House of Representatives has reported any concurrent resolution on the budget, it is in order at any time after the fifth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution by the Committee on the Budget has been available to Members of the House and, if applicable, after the first day (excluding Saturdays, Sundays, and legal holidays) following the day on which a report upon such resolution by the Committee on Rules pursuant to section 301(c) has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

"(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

"(6) Debate in the House of Representatives on the conference report on any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

"(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

"(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 304(a) all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

"(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

"(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

"(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

"(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

"(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

"(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

"(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

"(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

"(e) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

"(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

"(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

"LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

"SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

"HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BY JUNE 10

"SEC. 307. On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.

"REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

"SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY, OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

"(1) Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

"(A) comparing the levels in such measure to the appropriate allocations in the reports submitted under section 302(b) for the most recently agreed to concurrent resolution on the budget for such fiscal year;

"(B) including an identification of any new spending authority described in section 401(c)(2) which is contained in such measure and a justification for the use of such financing method instead of annual appropriations;

"(C) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, spending authority, revenues, tax expenditures, direct loan obligations, or primary loan guarantee commitments under existing law for such fiscal year and each of the four ensuing fiscal

years, if timely submitted before such report is filed; and

"(D) containing an estimate by the Congressional Budget Office of the level of new budget authority for assistance to State and local governments provided by such measure, if timely submitted before such report is filed.

"(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or provides an increase or decrease in revenues for a fiscal year, the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

"(b) UP-TO-DATE TABULATIONS OF CONGRESSIONAL BUDGET ACTION.—

"(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority, new spending authority described in section 401(c)(2), or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding such fiscal year.

"(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

"(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of the budget;

"(B) shall include, but are not limited to, summaries of tabulations provided under subsection (b)(1); and

"(C) shall be based on information provided under subsection (b)(1) without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker.

"(c) FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACTION.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

"(1) total new budget authority and total budget outlays for each fiscal year in such period;

"(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period;

"(3) tax expenditures for each fiscal year in such period;

"(4) entitlement authority for each fiscal year in such period; and

"(5) credit authority for each fiscal year in such period.

"HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

"SEC. 309. It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall periodically advise the Speaker as to changes in jurisdiction among its various subcommittees.

"RECONCILIATION

"SEC. 310. (a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

"(1) specify the total amount by which—

"(A) new budget authority for such fiscal year;

"(B) budget authority initially provided for prior fiscal years;

"(C) new entitlement authority which is to become effective during such fiscal year; and

"(D) credit authority for such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

"(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

"(3) specify the amounts by which the statutory limit on the public debt is to be changed and direct the committee having jurisdiction to recommend such change; or

"(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3).

"(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a), and—

"(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

"(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which, upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

"(c) COMPLIANCE WITH RECONCILIATION DIRECTIONS.—Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) with respect to laws within its jurisdiction, shall be deemed to have complied with such directions—

"(1) if—

"(A) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under such paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection, and

"(B) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; and

"(2) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

"(d) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

"(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

"(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in

outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

"(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

"(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

"(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

"(e) PROCEDURE IN THE SENATE.—

"(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) and conference reports thereon.

"(2) Debate in the Senate on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

"(f) COMPLETION OF RECONCILIATION PROCESS.—

"(1) IN GENERAL.—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (b) not later than June 15 of each year.

"(2) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

"(g) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

"NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

"SEC. 311. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—Except as provided by subsection (b), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, or any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution or, in the Senate, would otherwise result in a deficit for such fiscal year that exceeds the maximum deficit amount specified for such fiscal year in section 3(7) (except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection).

"(b) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a) shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report,

would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.

"(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.".

Subpart II—Amendments to Title IV of the Congressional Budget Act of 1974

SEC. 211. NEW SPENDING AUTHORITY.

Section 401 of the Congressional Budget Act of 1974 is amended to read as follows:

"BILLS PROVIDING NEW SPENDING AUTHORITY

"SEC. 401. (a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—It shall not be order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2)(A) or (B) is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

"(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

"(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

"(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

"(c) DEFINITIONS.—

"(1) For purposes of this section, the term 'new spending authority' means spending authority not provided by law on the effective date of this Act, including any increase in or addition to spending authority provided by law on such date.

"(2) For purposes of paragraph (1), the term 'spending authority' means authority (whether temporary or permanent)—

"(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

"(B) to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts;

"(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law;

"(D) to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and

"(E) to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by subparagraph (A), (B), (C), or (D), the budget authority for which is not provided in advance by appropriation Acts. Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

"(d) EXCEPTIONS.—

"(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

"(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

"(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

"(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

"(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

"(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act, as of the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.".

SEC. 212. CREDIT AUTHORITY.

Section 402 of the Congressional Budget Act of 1974 is amended to read as follows:

"LEGISLATION PROVIDING NEW CREDIT AUTHORITY

"SEC. 402. (a) CONTROLS ON LEGISLATION PROVIDING NEW CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report, as reported to its House, or any amendment which provides new credit authority described in subsection (b)(1), unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) DEFINITION.—For purposes of this Act, the term 'new credit authority' means credit authority (as defined in section 3(10) of this Act) not provided by law on the effective date of this section, including any increase in or addition to credit authority provided by law on such date.".

SEC. 213. DESCRIPTION BY CONGRESSIONAL BUDGET OFFICE.

(a) CONGRESSIONAL BUDGET OFFICE ANALYSIS.—Section 403(a) of the Congressional Budget Act of 1974 is amended by striking out "and" at the end of paragraph (2), by striking out the period and inserting "; and" at the end of paragraph (3), and by inserting at the end thereof the following new paragraph:

"(4) a description of each method for establishing a Federal financial commitment contained in such bill or resolution.".

(b) CONFORMING AMENDMENT.—The second sentence of section 403(a) of such Act is amended by striking out "estimates and comparison" and inserting in lieu thereof "estimates, comparison, and description".

SEC. 214. GENERAL ACCOUNTING OFFICE STUDY; OFF-BUDGET AGENCIES; MEMBER USER GROUP.

Title IV of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new sections:

"STUDY BY THE GENERAL ACCOUNTING OFFICE OF FORMS OF FEDERAL FINANCIAL COMMITMENT THAT ARE NOT REVIEWED ANNUALLY BY CONGRESS

"SEC. 405. The General Accounting Office shall study those provisions of law which provide spending authority as described by section 401(c)(2) and which provide permanent appropriations, and report to the Congress its recommendations for the appropriate form of financing for activities or programs financed by such provisions not later than eighteen months after the effective date of this section. Such report shall be revised from time to time.

"OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

"SEC. 406. (a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to the date of enactment of this section, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, shall be included in a budget submitted pursuant to section 1105 of title 31, United States Code, and in a concurrent resolution on the budget reported pursuant to section 301 or section 304 of this Act and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

"(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31, United States Code, and for purposes of this Act.

"MEMBER USER GROUP

"SEC. 407. The Speaker of the House of Representatives, after consulting with the Minority Leader of the House, may appoint a Member User Group for the purpose of reviewing budgetary scorekeeping rules and practices of the House and advising the Speaker from time to time on the effect and impact of such rules and practices.".

Subpart III—Additional Provisions to Improve Budget Procedures

SEC. 221. CONGRESSIONAL BUDGET OFFICE.

(a) REPORTING DATE.—Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by striking out "April 1" in the first sentence and inserting in lieu thereof "February 15".

(b) ADDITIONAL REPORTING REQUIREMENT.—Section 202(f) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) On or before January 15 of each year, the Director, after consultation with the appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing (A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year, but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.".

(c) STUDIES.—Section 202 of such Act is further amended by adding at the end thereof the following new subsection:

"(h) STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.".

SEC. 222. CURRENT SERVICES BUDGET FOR CONGRESSIONAL BUDGET PURPOSES.

(a) CURRENT SERVICES BUDGET.—The first sentence of section 1109(a) of title 31, United States Code, is amended by striking out "Before November 11 of each year" and inserting in lieu thereof "On or before the first Monday after January 3 of each year (on or before February 5 in 1986)".

(b) JOINT ECONOMIC COMMITTEE REVIEW.—Section 1109(b) of title 31, United States Code, is amended by striking out "January 1" and inserting in lieu thereof "March 1".

SEC. 223. STUDY OF OFF-BUDGET AGENCIES.

Section 606 of the Congressional Budget Act of 1974 is repealed.

SEC. 224. CHANGES IN FUNCTIONAL CATEGORIES.

Section 1104(c) of title 31, United States Code, is amended by adding at the end thereof the following new sentence: "Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.".

SEC. 225. JURISDICTION OF COMMITTEE ON GOVERNMENT OPERATIONS.

Clause 1(j) of Rule X of the Rules of the House of Representatives is amended by inserting after item (5) the following new item:

"(6) Measures providing for off-budget treatment of Federal agencies or programs.".

SEC. 226. CONTINUING STUDY OF CONGRESSIONAL BUDGET PROCESS.

Clause 3 of Rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following:

"(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House."

SEC. 227. EARLY ELECTION OF COMMITTEES OF THE HOUSE.

Clause 6(a)(1) of Rule X of the Rules of the House of Representatives is amended by striking out "at" and inserting in lieu thereof "within the seventh calendar day beginning after", and by adding at the end thereof the following new sentence: "It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.".

SEC. 228. RESCISSIONS AND TRANSFERS IN APPROPRIATION BILLS.

(a) RESCISSIONS.—Clause 2(b) of Rule XXI of the Rules of the House of Representatives is amended by inserting before the period at the end thereof the following: ", and except rescissions of appropriations contained in appropriation Acts".

(b) TRANSFERS.—Clause 6 of Rule XXI of the Rules of the House of Representatives is amended by inserting before the period at the end thereof the following: ", and shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, re-

ported by the Committee on Appropriations".

Subpart IV—Technical and Conforming Amendments

SEC. 231. TABLE OF CONTENTS.

The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 with respect to title III is amended to read as follows:

"TITLE III—CONGRESSIONAL BUDGET PROCESS

"Sec. 300. Timetable.
"Sec. 301. Annual adoption of concurrent resolution on the budget.
"Sec. 302. Committee allocations.
"Sec. 303. Concurrent resolution on the budget must be adopted before legislation providing new budget authority, new spending authority, new credit authority or changes in revenues or the public debt limit is considered.
"Sec. 304. Permissible revisions of concurrent resolutions on the budget.
"Sec. 305. Procedures relating to consideration of concurrent resolutions on the budget.
"Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
"Sec. 307. House committee action on all appropriation bills to be completed by June 10.
"Sec. 308. Reports, summaries, and projections of congressional budget actions.
"Sec. 309. House approval of regular appropriation bills.
"Sec. 310. Reconciliation.
"Sec. 311. New budget authority, new spending authority, and revenue legislation must be within appropriate levels.".

SEC. 232. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by striking out the item relating to section 402 and inserting in lieu thereof the following new item:

"Sec. 402. Legislation providing new credit authority.";

(2) by inserting after the item relating to section 404 the following new items:

"Sec. 405. Study by the General Accounting Office of forms of Federal financial commitment that are not reviewed annually by Congress.
"Sec. 406. Off-budget agencies, programs, and activities.
"Sec. 407. Member user group."; and

(3) by striking out the item relating to section 606.

(b) TECHNICAL AMENDMENT.—Paragraph (4) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by adding "and" after the semicolon at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) TECHNICAL AMENDMENT.—Subparagraph (2) of clause 4(b) of rule X of the Rules of the House of Representatives is amended by striking out "first concurrent resolution" and inserting in lieu thereof "concurrent resolutions".

(d) TECHNICAL AMENDMENT.—Clause 4(g) of rule X of the Rules of the House of Representatives is amended by striking out "March 15" and inserting in lieu thereof "February 25".

(e) TECHNICAL AMENDMENT.—Clause 2(l)(1) of rule XI of the Rules of the House of Representatives is amended—

(1) by striking out "(except as provided in subdivision (C))" in subparagraph (A) thereof; and

(2) by repealing subparagraph (C) thereof.

(f) TECHNICAL AMENDMENT.—Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is amended by inserting "(1)" after "section 308(a)", and by striking out "new budget authority or new or increased tax expenditures" and inserting in lieu thereof "new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures".

(g) TECHNICAL AMENDMENT.—Rule XLIX of the Rules of the House of Representatives is amended by striking out ", 304, or 310" in clause 1 and inserting in lieu thereof "or 304".

(h) TECHNICAL AMENDMENT.—Clause 1(e)(2) of Rule X of the Rules of the House of Representatives is amended by inserting before the period at the end thereof the following: ", and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Part B—Budget Submitted By The President

SEC. 241. SUBMISSION OF PRESIDENTS BUDGET; MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.

(a) SUBMISSION OF PRESIDENT'S BUDGET.—The first sentence of section 1105(a) of title 31, United States Code, is amended by striking out "During the first 15 days of each regular session of Congress" and inserting in lieu thereof the following: "On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)".

(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared on the basis of the best estimates then available, in such a manner as to ensure that the deficit for such fiscal year shall not exceed the maximum deficit amount for such fiscal year as determined under paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974.

"(2) The deficit set forth in the budget so transmitted for any fiscal year shall not exceed the maximum deficit amount for such fiscal year as determined under paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, with budget outlays and Federal revenues at such levels as the President may consider most desirable and feasible.

"(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.".

SEC. 242. SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.

(a) CHANGE IN DATE OF SUBMISSION.—The first sentence of section 1106(b) of title 31, United States Code, is amended by striking out "April 11 and".

(b) REVISIONS AND SUPPLEMENTAL SUMMARIES.—Section 1106 of title 31 of such Code is further amended by adding at the end thereof the following new subsection:

"(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.".

PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

SEC. 251. REPORTING OF EXCESS DEFICITS.

(a) INITIAL ESTIMATES, DETERMINATIONS, AND REPORT BY OMB AND CBO.—

(1) ESTIMATES AND DETERMINATIONS.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (in this part referred to as the "Directors") shall with respect to each fiscal year—

(A) estimate the budget base levels of total revenues and budget outlays that may be anticipated for such fiscal year as of August 15 of the calendar year in which such fiscal year begins (or as of January 10, 1986, in the case of the fiscal year 1986),

(B) determine whether the projected deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal years 1986 and 1991), and

(C) estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year.

(2) REPORT.—The Directors jointly shall report to the Comptroller General on August 20 of the calendar year in which such fiscal year begins (or on January 15, 1986, in the case of the fiscal year 1986), estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal years 1986 and 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative real economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal years 1986 and 1991), by account, for non-defense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year, in accordance with the succeeding provisions of this part, in order to eliminate such excess.

(3) DETERMINATION OF REDUCTIONS.—The amounts and percentages by which such accounts must be reduced during a fiscal year shall be determined as follows:

(A)(i) If the deficit excess for the fiscal year is greater than $10,000,000,000 (zero in the case of fiscal years 1986 and 1991), such deficit excess shall be divided into halves.

(ii) In the case of fiscal year 1986, the amount of such excess—

(I) shall be multiplied by seven twelfths before being divided into halves in accordance with clause (i), and

(II) shall not exceed $11,700,000,000.

(B) Subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in this section and in sections 255,

256, and 257, the reductions necessary to eliminate one-half of the deficit excess for the fiscal year (as adjusted under subparagraph (A)(ii) in the case of fiscal year 1986) shall be made in outlays under accounts within major functional category 050 (in this part referred to as outlays under "defense programs"), and the reductions necessary to eliminate the other half of the deficit excess (or the adjusted deficit excess, in the case of fiscal year 1986) shall be made in outlays under other accounts of the Federal Government (in this part referred to as outlays under "non-defense programs").

(C)(i) The total amount by which outlays for automatic spending increases scheduled to take effect during the fiscal year are to be reduced shall be determined in accordance with clause (ii) of this subparagraph.

(ii) Each such automatic spending increase shall be reduced—

(I) to zero (a uniform percentage reduction of 100 percent), or

(II) by a uniform percentage reduction of less than 100 percent calculated in a manner to reduce total outlays for the fiscal year by one-half of the deficit excess (or the adjusted deficit excess, in the case of fiscal year 1986), if the elimination of all such increases would reduce total outlays for the fiscal year by more than one-half of the deficit excess (or the adjusted deficit excess, in the case of fiscal year 1986) for the fiscal year.

(D) The total amount of the outlay reductions determined under subparagraph (C) shall be divided into two amounts:

(i) an amount equal to the outlay reductions attributable to programs specified in subparagraph (A) of section 257(1); and

(ii) an amount equal to the outlay reductions attributable to programs specified in subparagraph (B) of section 257(1).

(E)(i) For purposes of subparagraph (B), one-half of the amount of the reductions determined under clause (i) of subparagraph (D) shall be credited as reductions in outlays under defense programs, and the total amount of reductions in outlays under defense programs required under subparagraph (B) shall be reduced accordingly.

(ii) Sequestration of new budget authority and unobligated balances to achieve the remaining reductions in outlays under defense programs required under subparagraph (B) shall be determined as provided in subsection (d).

(F)(i) For purposes of subparagraph (B)—

(I) one-half of the amount of the reductions determined under clause (i) of subparagraph (D), and

(II) the amount of the reductions determined under clause (ii) of subparagraph (D),

shall be credited as reductions in outlays under non-defense programs, and the total amount of reductions in outlays under non-defense programs required under subparagraph (B) shall be reduced accordingly.

(ii) The maximum reduction permissible for each program to which an exception, limitation, or special rule set forth in subsection (c) or (f) of section 256 applies shall be determined, and the total amount of reductions in outlays under non-defense programs required under subparagraph (B) shall be reduced by the amount of the reduction determined with respect to each such program.

(iii)(I) Except as provided in subclause (II), the maximum reduction permissible for each of the programs to which the special rules set forth in sections 256(d) and 256(k) apply shall be determined, and the total amount of outlays under non-defense programs required under subparagraph (B) shall be reduced by the amount of the maximum reductions so determined.

(II) If the maximum reduction determined in accordance with subclause (I) with respect to the programs to which that subclause relates would reduce outlays for such programs by an amount in excess of the remaining amount of the reduction in outlays in non-defense programs required under subparagraph (B), outlays for such programs shall instead be reduced proportionately by such lesser percentage as will achieve such remaining required reductions.

(iv)(I) Sequestrations and reductions under the remaining non-defense programs shall be applied on a uniform percentage basis so as to reduce new budget authority, new loan guarantee commitments, new direct loan obligations, obligation limitations, and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 to the extent necessary to achieve any remaining required outlay reductions.

(II) For purposes of determining reductions under subclause (I), any reduction in outlays of the Commodity Credit Corporation under an order issued by the President under section 252 for a fiscal year, with respect to contracts entered into during that fiscal year, that will occur during the succeeding fiscal year, shall be credited as reductions in outlays for the fiscal year in which the order is issued.

The determination of which accounts are within major functional category 050 and which are not, for purposes of subparagraph (B), shall be made by the Directors in a manner consistent with the budget submitted by the President for the fiscal year 1986; except that for such purposes no part of the accounts entitled "Federal Emergency Management Agency, Salaries and expenses (58-0100-0-1-999)" and "Federal Emergency Management Agency, Emergency management planning and assistance (58-0101-01-999)" shall be treated as being within functional category 050.

(4) ADDITIONAL SPECIFICATIONS.—The report submitted under paragraph (2) must also specify (with respect to the fiscal year involved)—

(A) the amount of the automatic spending increase (if any) which is scheduled to take effect in the case of each program providing for such increases, the amount and percentage by which such increase is to be reduced, the amount by which the deficit excess (as adjusted under paragraph (3)(A)(ii), in the case of fiscal year 1986) will be reduced as a result of the elimination or reduction of automatic spending increases (stated separately for increases under programs listed in subparagraph (A) of section 257(1) and increases under programs listed in subparagraph (B) of that section), and the amount (if any) of each such increase, stated in terms of percentage points, which will take effect after reduction under this part;

(B) the amount of the savings (if any) to be achieved in the application of each of the special rules set forth in subsections (c) through (l) of section 256, along with a statement of (i) the new Federal matching rate resulting from the application of subsection (e) of that section, and (ii) the amount of the percentage reduction in payments to the States under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(C)(i) for defense programs, by account and by program, project, and activity within each account, the reduction (stated in terms of both percentage and amount) in new budget authority and unobligated balances, together with the estimated outlay reductions resulting therefrom; and

(ii) for non-defense programs, by account, the reduction, stated in terms of both percentage and amount, in new budget authority, new loan guarantee commitments, new direct loan obligations, obligation limitations, and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, together with the estimated outlay reductions resulting therefrom.

(5) BASIS FOR DIRECTORS' ESTIMATES, DETERMINATIONS, AND SPECIFICATIONS.—The estimates, determinations, and specifications of the Directors under the preceding provisions of this subsection and under subsection (c)(1) shall utilize the budget base, criteria, and guidelines set forth in paragraph (6) and in sections 255, 256, and 257. In the event that the Directors are unable to agree on any items required to be set forth in the report, they shall average their differences to the extent necessary to produce a single, consistent set of data that achieves the required deficit reduction. The report of the Directors shall also indicate the amount initially proposed for each averaged item by each Director.

(6) BUDGET BASE.—In computing the amounts and percentages by which accounts must be reduced during a fiscal year as set forth in any report required under this subsection for such fiscal year, the budget base shall be determined by—

(A) assuming (subject to subparagraph (C)) the continuation of current law in the case of revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974;

(B) assuming, in the case of all accounts to which subparagraph (A) does not apply, appropriations equal to the prior year's appropriations except to the extent that annual appropriations or continuing appropriations for the entire fiscal year have been enacted;

(C) assuming that expiring provisions of law providing revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 do expire, except that excise taxes dedicated to a trust fund and agricultural price support programs administered through the Commodity Credit Corporation are extended at current rates; and

(D) assuming (i) that Federal pay adjustments for statutory pay systems (I) will be as recommended by the President, but (II) will in no case result in a reduction in the levels of pay in effect immediately before such adjustments; and (ii) that medicare spending levels for inpatient hospital services will be based upon the regulations most recently issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act.

Deferrals proposed under section 1013 of the Impoundment Control Act of 1974 during the period beginning October 1 of such fiscal year (or the date of the enactment of this joint resolution in the case of fiscal year 1986) and ending with the date on which the final order is issued under section 252(b) for such fiscal year (or February 1, 1986, in the case of fiscal year 1986) shall not be taken into account in determining such budget base.

(b) REPORT TO PRESIDENT AND CONGRESS BY COMPTROLLER GENERAL.—

(1) REPORT TO BE BASED ON OMB-CBO REPORT.—The Comptroller General shall review and consider the report issued by the Directors for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on August 25 of the calendar year in which such fiscal year begins (or on January 20, 1986, in the case of the fiscal year 1986), estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year (adjusted in accordance with subsection (a)(3)(A)(ii), in the case of fiscal year 1986), stating whether such deficit excess (or adjusted deficit excess, in the case of fiscal year 1986) will be greater than $10,000,000,000 (zero in the case of fiscal years 1986 and 1991), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal years 1986 and 1991), by account, for nondefense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess (or adjusted deficit excess, in the case of fiscal year 1986). Such report shall be based on the estimates, determinations, and specifications of the Directors and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

(2) CONTENTS OF REPORT.—The report of the Comptroller General under this subsection shall—

(A) provide for the determination of reductions in the manner specified in subsection (a)(3); and

(B) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Directors under subsection (a).

Such report shall explain fully any differences between the contents of such report and the report of the Directors.

(c) REVISED ESTIMATES, DETERMINATIONS, AND REPORTS.—

(1) REPORT BY OMB AND CBO.—On October 5 of the fiscal year (except in the case of the fiscal year 1986), the Directors shall submit to the Comptroller General a revised report—

(A) indicating whether and to what extent, as a result of laws enacted and regulations promulgated after the submission of their initial report under subsection (a), the excess deficit (adjusted in accordance with subsection (a)(3)(A)(ii), in the case of fiscal year 1986) identified in the report submitted under such subsection has been eliminated, reduced, or increased, and

(B) adjusting the determinations made under subsection (a) to the extent necessary. The revised report submitted under this paragraph shall contain estimates, determinations, and specifications for all of the items contained in the initial report and authorized under subsection (d)(3)(D)(i) and shall be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget base and the same criteria and guidelines as those used in the report submitted by the Directors under subsection (a) (except that subdivision (II) of paragraph (6)(D)(i) of such subsection shall not apply), and shall provide for the determination of reductions in the manner specified in subsection (a)(3).

(2) REPORT BY COMPTROLLER GENERAL.—

(A) On October 10 of the fiscal year (except in the case of the fiscal year 1986), the Comptroller General shall submit to the President and the Congress a report revising the report submitted by the Comptroller General under subsection (b), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to him by the Directors under paragraph (1) of this subsection.

(B) The revised report of the Comptroller General under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3) and shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)) pursuant to subsection (b)(2)(B).

(d) SEQUESTRATION OF DEFENSE PROGRAMS.—

(1) DETERMINATION OF UNIFORM PERCENTAGE.—The total amount of reductions in outlays under defense programs required for a fiscal year under subsection (a)(3)(B) after the reduction under subsection (a)(3)(E)(i) shall be calculated as a percentage of the total amount of outlays for the fiscal year estimated to result from new budget authority and unobligated balances for defense programs.

(2) SEQUESTRATION OF NEW BUDGET AUTHORITY AND UNOBLIGATED BALANCES.—

(A) Sequestration to achieve the remaining reduction in outlays under defense programs shall be made by reducing new budget authority and unobligated balances (if any) in each program, project, or activity under accounts within defense programs by the percentage determined under paragraph (1), computed on the basis of the combined outlay rate for new budget authority and unobligated balances for such program, project, or activity determined under subparagraph (B).

(B)(i) The combined outlay rate for new budget authority and unobligated balances for a program, project, or activity shall be determined by the Directors from data then available to them as supplemented by additional data from the heads of the appropriate departments or agencies of the executive branch. If the outlay rate for unobligated balances is not available for any program, project, or activity, the outlay rate used shall be the outlay rate for new budget authority.

(ii) The weighted average (by budget authority) for the combined outlay rates so determined for all the programs, projects, and activities within an account shall be compared to the historical outlay rates for that account previously estimated by the Directors. If the Directors determine that it is necessary to make the combined outlay rate for a program, project, or activity as determined under the first sentence of this subparagraph consistent with the historical rates for such account, they may adjust the outlay rate for such program, project, or activity.

(C) For purposes of this paragraph:

(i) The term "outlay rate", with respect to any program, project, or activity, means—

(I) the ratio of outlays resulting in the fiscal year involved from new budget authority for such program, project, or activity to such new budget authority; or

(II) the ratio of outlays resulting in the fiscal year involved from unobligated balances for such program, project, or activity to such unobligated balances.

(ii) The term "combined outlay rate", with respect to any program, project, or activity, means the weighted average (by budget authority) of the ratios determined under subclauses (I) and (II) of clause (i) for such program, project, or activity.

(3) SEQUESTRATION FROM NATIONAL DEFENSE ACCOUNTS THROUGH TERMINATION OR MODIFICATION OF EXISTING CONTRACTS.—

(A)(i) Subject to the provisions of this paragraph, the President, with respect to any fiscal year, may provide for—

(I) the termination or modification of an existing contract within any program, project, or activity within an account within major functional category 050; and

(II) the crediting, to the amount of new budget authority and unobligated balances otherwise required to be reduced from such program, project, or activity, of the net reduction achieved for the appropriate fiscal year by such termination or modification, based upon the combined outlay rate for such program, project, or activity determined under paragraph (2)(B).

(ii) The remaining required outlay reductions in such program, project, or activity shall be achieved by sequestering new budget authority and unobligated balances based upon the combined outlay rate for such program, project, or activity determined under paragraph (2)(B).

(B) Not later than September 5 of the calendar year in which the fiscal year begins (January 15 in the case of fiscal year 1986), the President shall transmit to the Comptroller General and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives and make available to the Directors a report concerning the contracts proposed to be terminated or modified under this paragraph for such fiscal year. The report shall—

(i) identify the contracts proposed to be terminated or modified and the proposed date of termination or modification of each such contract;

(ii) identify the anticipated outlay savings for the fiscal year involved and the anticipated reduction in obligated balances with respect to each such proposed termination or modification, together with an explanation of the relationship between the obligated balances that could be cancelled and the estimated outlay savings resulting therefrom;

(iii) provide documentation of the anticipated savings in outlays and obligated balances; and

(iv) provide a complete rationale for the effect of each proposed termination or modification on the contract concerned and on the program, project, or activity involved.

(C) Not later than September 30 of the calendar year in which the fiscal year begins (February 15 in the case of fiscal year 1986), the Comptroller General shall certify to the President and the Congress, with respect to each contract which is proposed to be terminated or modified—

(i) whether the Comptroller General is able to verify that the estimated outlay savings for the fiscal year involved are achievable and would be achieved in that year; and

(ii) whether the ratio between the projected outlay savings and the anticipated reduction in obligated balances is reasonable.

(D)(i) In the case of a fiscal year other than fiscal year 1986, each proposed contract termination or modification described in subparagraph (A) with respect to which the certification by the Comptroller General under subparagraph (C) is affirmative (with respect to both clause (i) and clause (ii) of such subparagraph) shall be included in the report of the Directors under subsection (c)(1). The report shall include the information about each such contract described in subparagraph (B)(ii).

(ii) In the case of fiscal year 1986, each proposed contract termination or modification described in subparagraph (A) with respect to which the certification by the Comptroller General under subparagraph (C) is affirmative (with respect to both clause (i) and (ii) of such subparagraph) shall be included in the modification authorized by section 252(a)(6)(D)(iii) in the order issued by the President under section 252(a)(1) with respect to fiscal year 1986.

(iii) The authority of the President described in subparagraph (A) is not effective in the case of any proposed contract termination or modification with respect to which the certification by the Comptroller General under subparagraph (C) is not affirmative (with respect to both clause (i) and clause (ii) of such subparagraph).

(E) For any contract termination or modification proposed pursuant to this paragraph, the President shall certify to Congress, within thirty days after the effective date of the contract termination or modification, that the amounts proposed for deobligation under such contract have in fact been deobligated and cancelled.

(e) DATES FOR SUBMISSION OF REPORTS AND ISSUANCE OF ORDERS.—If the date specified for the submission of a report by the Directors or the Comptroller General under this section or for the issuance of an order by the President under section 252 falls on a Sunday or legal holiday, such report shall be submitted or such order issued on the following day.

(f) PRINTING OF REPORTS.—Each report submitted under this section shall be printed in the Federal Register on the date it is issued; and the reports of the Comptroller General submitted to the Congress under subsections (b) and (c)(2) shall be printed as documents of the House of Representatives and the Senate.

(g) EXCEPTION.—The preceding provisions of this section shall not apply if a declaration of war by the Congress is in effect.

SEC. 252. PRESIDENTIAL ORDER.

(a) ISSUANCE OF INITIAL ORDER.—

(1) IN GENERAL.—On September 1 following the submission of a report by the Comptroller General under section 251(b) which identifies an amount greater than $10,000,000,000 (zero in the case of fiscal years 1986 and 1991) by which the deficit for a fiscal year will exceed the maximum deficit amount for such fiscal year (or on February 1, 1986, in the case of the fiscal year 1986), the President, in strict accordance with the requirements of paragraph (3) and section 251(a)(3) and (4) and subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in sections 255, 256, and 257, shall eliminate the full amount of the deficit excess (as adjusted by the Comptroller General in such report in accordance with section 251(a)(3)(A)(ii), in the case of fiscal year 1986) by issuing an order that (notwithstanding the Impoundment Control Act of 1974)—

(A) modifies or suspends the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year, in such a manner as to prevent such increase from taking effect, or reduce such increase, in accordance with such report; and

(B) eliminates the remainder of such deficit excess (or adjusted deficit excess, in the case of fiscal year 1986) by sequestering new budget authority, unobligated balances, new loan guarantee commitments, new direct loan obligations, and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, and reducing obligation limitations, in accordance with such report—

(i) for funds provided in annual appropriation Acts, from each affected program, project, and activity (as set forth in the most recently enacted applicable appropriation Acts and accompanying committee reports for the program, project, or activity involved, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions), applying the same reduction percentage as the percentage by which the account involved is reduced in the report submitted under section 251(b), or from each affected budget account if the program, project, or activity is not so set forth, and

(ii) for funds not provided in annual appropriation Acts, from each budget account activity as identified in the program and financing schedules contained in the appendix to the Budget of the United States Government for that fiscal year, applying the same reduction percentage as the percentage by which the account is reduced in such report.

(2) SPECIAL SEQUESTRATION PROCEDURES FOR NATIONAL DEFENSE FOR FISCAL YEAR 1986.—

(A) IN GENERAL.—Notwithstanding subparagraph (B)(i) of paragraph (1), the order issued by the President under paragraph (1) with respect to fiscal year 1986 shall sequester, from each program, project, or activity within an account within major functional category 050, such amounts of new budget authority and unobligated balances as are specified (in accordance with section 251(a)(3)(E)(ii)) in the report submitted by the Comptroller General under section 251(b).

(B) FLEXIBILITY WITH RESPECT TO MILITARY PERSONNEL ACCOUNTS.—

(i) Notwithstanding subparagraph (B)(i) of paragraph (1), the order issued by the President under paragraph (1) with respect to fiscal year 1986 may, with respect to any military personnel account—

(I) exempt any program, project, or activity within such account from the order;

(II) provide for a lower uniform percentage to be applied to reduce any program, project, or activity within such account than would otherwise apply; or

(III) take actions described in both subclauses (I) and (II).

(ii) If the President uses the authority under clause (i), the total amount by which outlays are not reduced for fiscal year 1986 in military personnel accounts by reason of the use of such authority shall be determined. Reductions in outlays under defense programs in such total amount shall be achieved by a uniform percentage sequestration of new budget authority and unobligated balances in each program, project, and activity within each account within major functional category 050 other than those military personnel accounts for which the authority provided under clause (i) has been exercised, computed on the basis of the outlay rate for each such program, project, and activity determined under section 251(d).

(iii) The President may not use the authority provided by clause (i) unless he notifies the Comptroller General and the Congress on or before January 10, 1986, of the manner in which such authority will be exercised.

(C) FLEXIBILITY AMONG PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN ACCOUNTS.—

(i) New budget authority and unobligated balances for any program, project, or activity within an account within major functional category 050 may be reduced under an order issued by the President under paragraph (1) for fiscal year 1986, subject to clauses (ii) and (iii) of this subparagraph, by up to two times the percentage otherwise applicable to the program, project, or activity (determined after any reduction under subparagraph (B)). To the extent such reductions are made under such an order, the President may provide in the order for an increase in new budget authority and unobligated balances for another program, project, or activity within the same account within major functional category 050 for fiscal year 1986, but such program, project, or activity may not be increased above the level in the base set forth in such order.

(ii) No order issued by the President under paragraph (1) for fiscal year 1986 may result in a base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

(iii) New budget authority and unobligated balances for any program, project, or activity within major functional category 050 for fiscal year 1986 which is 10 percent (or more) greater than the amount requested in the budget submitted by the President under section 1105 of title 31, United States Code, for fiscal year 1986 may not be reduced by more than the percentage applicable to the program, project, or activity (determined after any reduction under subparagraph (B)).

(3) ORDER TO BE BASED ON COMPTROLLER GENERAL'S REPORT.—The order must provide for reductions in the manner specified in section 251(a)(3), must incorporate the provisions of the report submitted under section 251(b), and must be consistent with such report in all respects. The President may not modify or recalculate any of the estimates, determinations, specifications, bases, amounts, or percentages set forth in the report submitted under section 251(b) in determining the reductions to be specified in the order with respect to programs, projects, and activities, or with respect to budget activities, within an account, with the exception of the authority granted to the President for fiscal year 1986 with respect to defense programs pursuant to paragraph (2)(C).

(4) EFFECT OF SEQUESTRATION UNDER INITIAL ORDER.—Notwithstanding section 257(7), amounts sequestered under an order issued by the President under paragraph (1) for fiscal year 1987 or any subsequent fiscal year shall be withheld from obligation pending the issuance of a final order under subsection (b) and shall be permanently cancelled in accordance with such final order upon the issuance of such order.

(5) ACCOMPANYING MESSAGE.—At the time the actions described in the preceding provisions of this subsection with respect to any fiscal year are taken, the President shall transmit to both Houses of the Congress a message containing all the information required by section 251(a)(4) and further

specifying in strict accordance with paragraph (3)—

(A) within each account, for each program, project, and activity, or budget account activity, the base from which each sequestration or reduction is taken and the amounts which are to be sequestered or reduced for each such program, project, and activity or budget account activity; and

(B) such other supporting details as the President may determine to be appropriate. Upon receipt in the Senate and the House of Representatives, the message (and any accompanying proposals made under subsection (c)) shall be referred to all committees with jurisdiction over programs, projects, and activities affected by the order.

(6) EFFECTIVE DATE OF INITIAL ORDER.—

(A) FISCAL YEAR 1986.—The order issued by the President under paragraph (1) with respect to the fiscal year 1986 shall be effective as of March 1, 1986.

(B) FISCAL YEARS 1987-1991.—The order issued by the President under paragraph (1) with respect to the fiscal year 1987 or any subsequent fiscal year shall be effective as of October 1 of such fiscal year (and the President shall withhold from obligation as provided in paragraph (4), pending the issuance of his final order under subsection (b), any amounts that are to be sequestered or reduced under such order).

(C) TREATMENT OF AUTOMATIC SPENDING INCREASES.—

(i) FISCAL YEAR 1986.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the date of the enactment of this joint resolution and ending with the effective date of an order issued by the President under paragraph (1) for the fiscal year 1986 shall be suspended until such order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such order provides for the payment of automatic spending increases during such fiscal year in amounts that are less than would have been paid but for such order, or provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause.

(ii) FISCAL YEARS 1987-1991.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the first day of such fiscal year and ending with the date on which a final order is issued pursuant to subsection (b) shall be suspended until such final order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such final order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such final order provides for the payment of automatic spending increases during such fiscal year in amounts that are less than would have been paid but for such final order, or provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause.

(iii) PROHIBITION AGAINST RECOUPMENT.—Notwithstanding clauses (i) and (ii), if an amount required by either such clause to be withheld is paid, no recoupment shall be made against an individual to whom payment was made.

(iv) EFFECT OF LUMP-SUM PAYMENTS ON NEEDS-RELATED PROGRAMS.—Lump-sum payments made under the last sentence of clause (i) or clause (ii) shall not be considered as income or resources or otherwise taken into account in determining the eligibility of any individual for aid, assistance, or benefits under any Federal or federally-assisted program which conditions such eligibility to any extent upon the income or resources of such individual or his or her family or household, or in determining the amount or duration of such aid, assistance, or benefits.

(D) SPECIAL RULES FOR FISCAL YEAR 1986.—(i) For purposes of applying this section and section 251 with respect to the fiscal year 1986—

(I) the order issued by the President under paragraph (1) of this subsection shall be considered the final order of the President under this section; and

(II) the Committees on Appropriations of the House of Representatives and the Senate may, after consultation with each other, define the term "program, project, and activity", and report to their respective Houses, with respect to matters within their jurisdiction, and the order issued by the President shall sequester funds in accordance with such definition.

(ii) If the Comptroller General declares in the report issued under section 251(b) for fiscal year 1986 that as a result of laws enacted and regulations promulgated after the date of the enactment of this joint resolution and prior to the issuance of such report the excess deficit for the fiscal year (adjusted in accordance with section 251(a)(3)(A)(ii) has been eliminated, the order issued under this subsection for the fiscal year shall so state (and shall make available for obligation and expenditure any amounts withheld pursuant to subparagraph (C)(i) of this paragraph).

(iii) The order issued by the President under paragraph (1) with respect to fiscal year 1986 shall be modified before the effective date for such order prescribed under subparagraph (A) to include in the order the changes in budget authority and unobligated balances, and related changes in outlay reductions, authorized for such fiscal year under section 251(d)(3)(D)(ii).

(b) ISSUANCE OF FINAL ORDER.—

(1) IN GENERAL.—On October 15 of the fiscal year (except in the case of the fiscal year 1986), after the submission of the revised report submitted by the Comptroller General under section 251(c)(2), the President shall issue a final order under this section to eliminate the full amount of the deficit excess as identified by the Comptroller General in the revised report submitted under section 251(c)(2) but only to the extent and in the manner provided in such report. The order issued under this subsection—

(A) shall include the same reductions and sequestrations as the initial order issued under subsection (a), adjusted to the extent necessary to take account of any changes in relevant amounts or percentages determined by the Comptroller General in the revised report submitted under section 251(c)(2),

(B) shall make such reductions and sequestrations in strict accordance with the requirements of section 251(a)(3) and (4), and

(C) shall utilize the same criteria and guidelines as those which were used in the issuance of such initial order under subsection (a).

The provisions of subsection (a)(3) shall apply to the revised report submitted under section 251(c)(2) and to the order issued under this subsection in the same manner as such provisions apply to the initial report issued under section 251(b) and to the order issued under subsection (a).

(2) ORDER REQUIRED IF EXCESS DEFICIT IS ELIMINATED.—If the Comptroller General issues a revised report under section 251(c)(2) stating that as a result of laws enacted and regulations promulgated after the submission of the initial report of the Comptroller General under section 251(b) the excess deficit for a fiscal year (adjusted in accordance with section 251(a)(3)(A)(ii), in the case of fiscal year 1986) has been eliminated, the order issued under this subsection shall so state and shall make available for obligation and expenditure any amounts withheld pursuant to subsection (a)(4) or (a)(6)(C).

(3) EFFECTIVE DATE OF FINAL ORDER.—

(A) Except as provided in subsection (a)(6)(A), the final order issued by the President under paragraph (1) shall become effective on the date of its issuance, and shall supersede the order issued under subsection (a)(1).

(B) Any modification or suspension by such order of the operation of a provision of law that would (but for such order) require an automatic spending increase to take effect during the fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

(c) PROPOSAL OF ALTERNATIVES BY THE PRESIDENT.—A message transmitted pursuant to subsection (a)(5) with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year to an amount not greater than the maximum deficit amount for such fiscal year.

(d) EXISTING PROGRAMS, PROJECTS, AND ACTIVITIES NOT TO BE ELIMINATED.—No action taken by the President under subsection (a) or (b) of this section shall have the effect of eliminating any program, project, or activity of the Federal Government.

(e) RELATIVE BUDGET PRIORITIES NOT TO BE ALTERED.—Nothing in the preceding provisions of this section shall be construed to give the President new authority to alter the relative priorities in the Federal budget that are established by law, and no person who is or becomes eligible for benefits under any provision of law shall be denied eligibility by reason of any order issued under this part.

SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

On or before November 15 of each fiscal year (or on or before April 1, 1986, in the case of the fiscal year 1986), the Comptroller General shall submit to the Congress and

the President a report on the extent to which the President's order issued under section 252(b) for such fiscal year complies with all of the requirements contained in section 252, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not.

SEC. 254. CONGRESSIONAL ACTION.

(a) SPECIAL PROCEDURES IN THE EVENT OF A RECESSION.—

(1) IN GENERAL.—The Director of the Congressional Budget Office shall notify the Congress at any time if—

(A) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the four quarters following such notification, such Office or the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any two consecutive quarters within such period, or

(B) the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recent reported quarter and the immediately preceding quarter is less than one percent.

Upon such notification the Majority Leader of each House shall introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in this paragraph are met and suspending the relevant provisions of this title for the remainder of the current fiscal year or for the following fiscal year or both.

(2) FORM OF JOINT RESOLUTION.—

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: "That the Congress declares that the conditions specified in section 254(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met; and—

"(1) the provisions of sections 3(7), 301(i), 302(f), 304(b), and 311(a) of the Congressional Budget and Impoundment Control Act of 1974, section 1106(c) of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are suspended for the remainder of the current fiscal year, and

"(2) the provisions of sections 3(7), 301(i), 304(b), and 311(a) (insofar as it relates to section 3(7)) of the Congressional Budget and Impoundment Control Act of 1974, sections 302(f) and 311(a) (except insofar as it relates to section 3(7)) of that Act (but only if a concurrent resolution on the budget under section 301 of that Act, for the fiscal year following the current fiscal year, has been agreed to prior to the introduction of this joint resolution), sections 1105(f) and 1106(c) of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are suspended for the fiscal year following the current fiscal year.

This joint resolution shall not have the effect of suspending any final order which was issued for the current fiscal year under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 if such order was issued before the date of the enactment of this joint resolution.".

(B) The title of the joint resolution shall be "Joint resolution suspending certain provisions of law pursuant to section 254(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985."; and the joint resolution shall not contain any preamble.

(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the Committee on the Budget of the House involved; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

(4) CONSIDERATION OF JOINT RESOLUTION.—

(A) A vote on final passage of a joint resolution reported to a House of the Congress or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session of such House after the date on which the joint resolution is reported to such House or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

(B)(i) A motion in the House of Representatives to proceed to the consideration of a joint resolution under this paragraph shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the House of Representatives on a joint resolution under this paragraph shall be limited to not more than five hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to postpone, made in the House of Representatives with respect to the consideration of a joint resolution under this paragraph, and a motion to proceed to the consideration of other business, shall not be in order. A motion further to limit debate shall not be debatable. It shall not be in order to move to table or to recommit a joint resolution under this paragraph or to move to reconsider the vote by which the joint resolution is agreed to or disagreed to.

(iii) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a joint resolution under this paragraph shall be decided without debate.

(iv) Except to the extent specifically provided in the preceding provisions of this subsection or in subparagraph (D), consideration of a joint resolution under this subparagraph shall be governed by the Rules of the House of Representatives.

(C)(i) A motion in the Senate to proceed to the consideration of a joint resolution under this paragraph shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

(D) No amendment to a joint resolution considered under this paragraph shall be in order in either the House of Representatives or the Senate.

(b) CONGRESSIONAL RESPONSE TO PRESIDENTIAL ORDER.—

(1) REPORTING OF RESOLUTIONS, AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

(A) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.—Within two days after the submission of a report by the Comptroller General under section 251(c)(2), each standing committee of the Senate may submit to the Committee on the Budget of the Senate information of the type described in section 301(d) of the Congressional Budget Act of 1974 with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

(B) INITIAL BUDGET COMMITTEE ACTION.—Not later than two days after issuance of a final order by the President under section 252(b) with respect to a fiscal year, the Committee on the Budget of the Senate may report to the Senate a resolution. The resolution may affirm the impact of the order issued under such section, in whole or in part. To the extent that any part of the order is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

(C) RESPONSE OF COMMITTEES.—Committees instructed pursuant to subparagraph (B), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in subparagraph (B) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under subparagraph (B) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

(D) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in subparagraph (B), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in subparagraph (B) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

(E) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under subparagraph (D) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(i) the enactment of such bill or resolution as reported;

(ii) the adoption and enactment of such amendment; or

(iii) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless the report submitted under section 251(c)(1) projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

(F) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under subparagraph (B) an instruction of the type referred to in such subparagraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

(G) DEFINITION.—For purposes of subparagraphs (A), (B), and (C), the term "day" shall mean any calendar day on which the Senate is in session.

(2) PROCEDURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the Senate the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

(B) LIMIT ON DEBATE.—Debate in the Senate on any resolution reported pursuant to paragraph (1)(B), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

(C) LIMITATION ON AMENDMENTS.—Section 310(d)(2) of the Congressional Budget Act shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

(D) BILLS AND RESOLUTIONS RECEIVED FROM THE HOUSE.—Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

(E) DEFINITION.—For purposes of this subsection, the term "resolution" means a simple, joint, or concurrent resolution.

(c) CERTAIN RESOLUTIONS TREATED AS RECONCILIATION BILLS.—Resolutions described in subsection (b) of this section and bills reported as a result thereof shall be considered in the Senate to be reconciliation bills or resolutions for purposes of the Congressional Budget Act of 1974.

SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Increases in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or in benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall not be considered "automatic spending increases" for purposes of this title; and no reduction in any such increase or in any of the benefits involved shall be made under any order issued under this part.

(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Veterans' compensation (36-0153-0-1-701); and

Veterans' pensions (36-0154-0-1-701).

(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 shall be exempt from reduction under any order issued under this part.

(e) OFFSETTING RECEIPTS AND COLLECTIONS.—Offsetting receipts and collections shall not be reduced under any order issued under this part.

(f) CERTAIN PROGRAM BASES.—Outlays for programs specified in paragraph (1) of section 257 shall be subject to reduction only in accordance with the procedures established in section 251(a)(3)(C) and 256(b).

(g) OTHER PROGRAMS AND ACTIVITIES.—

(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Alaska Power Administration, Operations and maintenance (89-0304-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Bureau of Indian Affairs miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense (97-0102-0-1-051);

Claims, judgments, and relief acts (20-1895-0-1-806);

Coinage profit fund (20-5811-0-2-803);

Compensation of the President (11-0001-0-1-802);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Exchange stabilization fund (20-4444-0-3-155);

Federal payment to the railroad retirement account (60-0113-0-1-601);

Foreign military sales trust fund (11-8242-0-7-155);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75-4305-0-3-553);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payment to civil service retirement and disability fund (24-0200-0-1-805);

Payments to copyright owners (03-5175-0-2-376);

Payments to health care trust funds (75-0580-0-1-572);

Payments to military retirement fund (97-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-571);

Payments to state and local government fiscal assistance trust fund (20-2111-0-1-851);

Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Postal service fund (18-4020-0-3-372);

Salaries of Article III judges;

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705);

Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);

Southwestern Power Administration, Operations and maintenance (89-0303-0-1-271);

Tennessee Valley Authority fund, except non-power programs and activities (64-4110-0-3-999);

Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89-5068-0-2-271); and

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Agency for International Development, Housing, and other credit guarantee programs (72-4340-0-3-151);

Agricultural credit insurance fund (12-4140-0-3-351);

Biomass energy development (20-0114-0-1-271);

Check forgery insurance fund (20-4109-0-3-803);

Community development grant loan guarantees (86-0162-0-1-451);

Credit union share insurance fund (25-4468-0-3-371);

Economic development revolving fund (13-4406-0-3-452);

Employees life insurance fund (24-8424-0-8-602);

Energy security reserve (Synthetic Fuels Corporation) (20-0112-0-1-271);

Export-Import Bank of the United States, Limitation of program activity (83-4027-0-3-155);

Federal Aviation Administration, Aviation insurance revolving fund (69-4120-0-3-402);

Federal Crop Insurance Corporation fund (12-4085-0-3-351);

Federal Deposit Insurance Corporation (51-8419-0-8-371);

Federal Emergency Management Agency, National flood insurance fund (58-4236-0-3-453);

Federal Emergency Management Agency, National insurance development fund (58-4235-0-3-451);

Federal Housing Administration fund (86-4070-0-3-371);

Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371);

Federal ship financing fund (69-4301-0-3-403);

Federal ship financing fund, fishing vessels (13-4417-0-3-376);

Geothermal resources development fund (89-0206-0-1-271);

Government National Mortgage Association, Guarantees of mortgage-backed securities (86-4238-0-3-371);

Health education loans (75-4307-0-3-553);

Homeowners assistance fund, Defense (97-4090-0-3-051);

Indian loan guarantee and insurance fund (14-4410-0-3-452);

International Trade Administration, Operations and administration (13-1250-0-1-376);

Low-rent public housing, Loans and other expenses (86-4098-0-3-604);

Maritime Administration, War-risk insurance revolving fund (69-4302-0-3-403);

Overseas Private Investment Corporation (71-4030-0-3-151);

Pension Benefit Guaranty Corporation fund (16-4204-0-3-601);

Rail service assistance (69-0122-0-1-401);

Railroad rehabilitation and improvement financing fund (69-4411-0-3-401);

Rural development insurance fund (12-4155-0-3-452);

Rural electric and telephone revolving fund (12-4230-8-3-271);

Rural housing insurance fund (12-4141-0-3-371);

Small Business Administration, Business loan and investment fund (73-4154-0-3-376);

Small Business Administration, Lease guarantees revolving fund (73-4157-0-3-376);

Small Business Administration, Pollution control equipment contract guarantee revolving fund (73-4147-0-3-376);

Small Business Administration, Surety bond guarantees revolving fund (73-4156-0-3-376);

Veterans Administration, Loan guaranty revolving fund (36-4025-0-3-704);

Veterans Administration, National service life insurance fund (36-8132-0-7-701);

Veterans Administration, Service-disabled veterans insurance fund (36-4012-0-3-701);

Veterans Administration, Servicemen's group life insurance fund (36-4009-0-3-701);

Veterans Administration, United States Government life insurance fund (36-8150-0-7-701);

Veterans Administration, Veterans insurance and indemnities (36-0120-0-1-701);

Veterans Administration, Veterans reopened insurance fund (36-4010-0-3-701); and

Veterans Administration, Veterans special life insurance fund (36-8455-0-8-701).

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Aid to families with dependent children (75-0412-0-1-609);

Child nutrition (12-3539-0-1-605);

Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);

Grants to States for Medicaid (75-0512-0-1-55l);

Supplemental Security Income Program (75-0406-0-1-609); and

Women, infants, and children program (12-3510-0-1-605).

(i) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (g) and (h), programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

SEC. 256. EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.

(a) EFFECT OF REDUCTIONS AND SEQUESTRATIONS.—

(1) REDUCTIONS IN AUTOMATIC SPENDING INCREASES.—Notwithstanding any other provision of law, any change in the Consumer Price Index or any other index measuring costs, prices, or wages (or in any component of any such index), under a program listed in section 257(l), that is not taken into account for purposes of determining the amount of an automatic spending increase (if any) under such program for a fiscal year for which an order is issued under section 252 shall not be taken into account for purposes of determining any automatic spending increase during any fiscal year thereafter.

(2) SEQUESTRATIONS.—Any amount of new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974), or obligation limitations which is sequestered or reduced pursuant to an order issued under section 252 is permanently cancelled, with the exception of amounts sequestered in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act.

(b) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 252, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution.

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

(c) EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM.—(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965, as a consequence of an order issued pursuant to section 252, shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

(2) For any loan made during the period beginning on the date that an order issued under section 252 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

(A) 0.40 percent, or

(B) the percentage by which the rate specified in such section exceeds 3 percent.

(3) For any loan made during the period beginning on the date that an order issued under section 252 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

(1) MAXIMUM PERCENTAGE REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—The maximum permissible reduction for the health insurance programs under title XVIII of the Social Security Act for any fiscal year, pursuant to an order issued under section 252, consists only of a reduction of—

(A) 1 percent in the case of fiscal year 1986, and

(B) 2 percent in the case of any subsequent fiscal year,

in each separate payment amount otherwise made for a covered service under those programs without regard to this part.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

(C) EFFECTIVE PERIOD OF ORDER FOR FISCAL YEAR 1986.—For purposes of this paragraph, the effective period of a sequestration order for fiscal year 1986 is the period beginning on March 1, 1986, and ending on September 30, 1986.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(e) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Any order issued by the President under section 252 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(f) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 252 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State may, after the date of the enactment of this joint resolution, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

(g) FEDERAL PAY.—

(1) IN GENERAL.—For purposes of any order issued under section 252—

(A) Federal pay under a statutory pay system, and

(B) elements of military pay,

shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5305 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term "statutory pay system" shall have the meaning given that term in section 5301(c) of title 5, United States Code.

(B) The term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term "uniformed services" shall have the meaning given that term in section 101(3) of title 37, United States Code.

(h) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—(1) For purposes of section 252—

(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 252 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall be not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

(i) TREATMENT OF MINE WORKER DISABILITY COMPENSATION INCREASES AS AUTOMATIC SPENDING INCREASES.—An order issued by the President under section 252 may not result in eliminating or reducing an increase in disability benefits under the Federal Mine Safety and Health Act except in the manner provided for automatic spending increases under section 252(a)(1)(A), and no such increase may, pursuant to such section, be reduced below zero.

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 252 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation—

(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 252, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this joint resolution, if an order under section 252 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 252 with respect to a fiscal year—

(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

(i) uncertainty as to the scope of benefits under any such program is minimized;

(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

(5) NO DOUBLE REDUCTION.—No agricultural price support or income protection program that is subject to reduction under an order issued under section 252 for a fiscal year may be subject, as well, to modification or suspension under such order as an automatic spending increase.

(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

(k) COMMUNITY AND MIGRANT HEALTH CENTERS, INDIAN HEALTH SERVICES AND FACILITIES, AND VETERANS' MEDICAL CARE.—

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 252, shall be—

(A) 1 percent in the case of the fiscal year 1986, and

(B) 2 percent in the case of any subsequent fiscal year.

(2) The accounts referred to in paragraph (1) are as follows:

(A) Community health centers (75-0350-0-1-550).

(B) Migrant health centers (75-0350-0-1-550).

(C) Indian health facilities (75-0391-0-1-551)

(D) Indian health services (75-0390-0-1-551).

(E) Veterans' medical care (36-0160-0-1-703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government—Appendix.

(l) TREATMENT OF OBLIGATED BALANCES.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligated balances shall not be subject to reduction under an order issued under section 252.

(2) EXCEPTION.—Existing contracts in major functional category 050 (other than (A) those contracts which include a specified penalty for cancellation or modification by the Government and which if so cancelled or modified would result (due to such penalty) in a net loss to the Government for the fiscal year, and (B) those contracts the reduction of which would violate the legal obligations of the Government) shall be subject to reduction, in accordance with section 251(d)(3), under an order issued under section 252.

(3) DEFINITION.—For purposes of this subsection, the term "existing contracts" shall include all military and civilian contracts in major functional category 050 which exist at the time the order involved is issued under section 252.

SEC. 257. DEFINITIONS.

For purposes of this title:

(1) The term "automatic spending increase" (except as otherwise provided in sections 255 and 256) means—

(A) increases in budget outlays due to changes in indexes in the following Federal programs:

Black lung benefits (20-8144-0-7-601);

Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);

Civil service retirement and disability fund (24-8135-0-7-602);

Comptrollers general retirement system (05-0107-0-1-801);

Foreign service retirement and disability fund (19-8186-0-7-602);

Judicial survivors' annuities fund (10-8110-0-7-602);

Longshoremen's and harborworkers' compensation benefits (16-9971-0-7-601);

Military retirement fund (97-8097-0-7-602);

National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

Pensions for former Presidents (47-0105-0-1-802);

Railroad retirement tier II (60-8011-0-7-601);

Retired pay, Coast Guard (69-0241-0-1-403);

Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

Special benefits, Federal Employees' Compensation Act (16-1521-0-1-600);

Special benefits for disabled coal miners (75-0409-0-1-601); and

Tax Court judges survivors annuity fund (23-8115-0-7-602); and

(B) increases in budget outlays due to changes in indexes in the following Federal programs:

National Wool Act (12-4336-0-3-351);

Special milk program (12-3502-0-1-605); and

Vocational rehabilitation (91-0301-0-1-506).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

(2) The terms "budget outlays" and "budget authority" have the meaning given to such terms in sections 3(1) and 3(2), respectively, of the Congressional Budget and Impoundment Control Act of 1974.

(3) The term "concurrent resolution on the budget" has the meaning given to such term in section 3(4) of the Congressional Budget and Impoundment Control Act of 1974.

(4) The term "deficit" has the meaning given to such term in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974.

(5) The term "maximum deficit amount", with respect to any fiscal year, means the maximum deficit amount for such fiscal year determined under section 3(7) of the Congressional Budget and Impoundment Control Act of 1974.

(6) The term "real economic growth", with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(7) The terms "sequester" and "sequestration" (subject to section 252(a)(4)) refer to or mean the cancellation of new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, and the reduction of obligation limitations.

(8) The term "account" means an item for which appropriations are made in any appropriation Act used to determine the budget base, and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the Appendix to the President's budget.

PART D—BUDGETARY TREATMENT OF SOCIAL SECURITY TRUST FUNDS

SEC. 261. TREATMENT OF TRUST FUNDS.

(a) FISCAL YEARS 1986 THROUGH 1992.—

(1) IN GENERAL.—Section 710 of the Social Security Act (as added by paragraph (1) of subsection (a) of section 346 of the Social Security Amendments of 1983) is amended—

(A) by striking out all beginning with "the" the first place it appears down through "Disability Insurance Trust Fund, the" and inserting in lieu thereof "the";

(B) by striking out the comma after "Hospital Insurance Trust Fund";

(C) by striking out "sections 1401, 3101, and 3111" and inserting in lieu thereof "sections 1401(b), 3101(b), and 3111(b)";

(D) by redesignating all after the section designation as subsection (b);

(E) by inserting immediately after the section designation the following:

"(a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government."; and

(F) by adding at the end thereof the following new subsection:

"(c) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, or for payments from either such Trust Fund to the general fund of the Treasury.".

(2) APPLICATION.—The amendments made by paragraph (1) shall apply with respect to fiscal years beginning after September 30, 1985, and ending before October 1, 1992.

(b) FISCAL YEAR 1993 AND THEREAFTER.—Section 710(a) of the Social Security Act (42 U.S.C. 911 note), as amended by section 346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.".

PART E—MISCELLANEOUS AND RELATED PROVISIONS

SEC. 271. WAIVERS AND SUSPENSIONS; RULEMAKING POWERS.

(a) BUDGET ACT WAIVERS IN THE SENATE.—Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) Sections 305(b)(2) and 306 of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(b) OTHER WAIVERS AND SUSPENSIONS IN THE SENATE.—Sections 301(i), 302(f), 304(b), 310(d), 310(g), and 311(a) of the Congressional Budget Act of 1974 may be waived or

suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This subsection shall not apply to any joint resolution reported or discharged pursuant to section 254(a) of this joint resolution.

(c) RULEMAKING POWERS.—The provisions of this title, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

SEC. 272. RESTORATION OF TRUST FUND INVESTMENTS.

(a) RESTORATION OF SOCIAL SECURITY TRUST FUNDS AND CERTAIN OTHER FUNDS.—

(1) REISSUANCE OF OBLIGATIONS.—The Secretary of the Treasury shall immediately reissue to each fund listed in paragraph (3) obligations under chapter 31 of title 31, United States Code, which are identical, with respect to interest rate and maturity, to public debt obligations held by such fund which—

(A) were redeemed during the period beginning with September 1, 1985, and ending with September 29, 1985, and

(B) as determined by such Secretary on the basis of standard investment procedures for such fund in effect on September 1, 1985, would not have been redeemed if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985.

Such obligations shall be substituted for obligations which are held by such fund on the date of the enactment of this joint resolution in a manner which will ensure that, after such substitution, the holdings of such fund will replicate to the maximum extent practicable the holdings which would have been held by such fund on such date if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985.

(2) APPROPRIATION TO FUNDS OF INTEREST LOST ON OR AFTER SEPTEMBER 1, 1985.—The Secretary of the Treasury shall pay on the normal interest payment date to each fund listed in paragraph (3), from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by such Secretary to be equal to the excess of—

(A) the net amount of interest which would have been earned by such fund, during the period beginning with September 1, 1985, and ending with the date of the enactment of this joint resolution, if all noninvestments, redemptions, and disinvestments with respect to such fund which—

(i) occurred during such period, and

(ii) would not have occurred if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985,

had not occurred, over

(B) the net amount of interest actually earned by such fund during such period.

(3) FUNDS AFFECTED.—The funds referred to in paragraphs (1) and (2) are the following:

(A) the Federal Old-Age and Survivors Insurance Trust Fund,

(B) the Federal Disability Insurance Trust Fund,

(C) the Federal Hospital Insurance Trust Fund,

(D) the Federal Supplementary Medical Insurance Trust Fund,

(E) the Railroad Retirement Account,

(F) the Civil Service Retirement and Disability Fund, and

(G) all other funds (other than the funds referred to in subsection (b) or (c)) listed in Table III of the Monthly Statement of the Public Debt issued by the Department of the Treasury for November 30, 1985.

(b) RESTORATION OF DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND.—

(1) Issuance of obligations.—The Secretary of the Treasury shall immediately issue to the Department of Defense Military Retirement Fund obligations under chapter 31 of title 31, United States Code, which such Secretary, in consultation with the Secretary of Defense, determines would have been issued to such fund on October 1, 1985, if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985. Such obligations shall be market-based special obligations issued at prices, including accrued interest, prevailing for such obligations on October 1, 1985. Such obligations shall be substituted for all obligations which were purchased by such fund during the period beginning with October 1, 1985, and ending with November 14, 1985, with amounts which were transferred to such fund on October 1, 1985.

(2) APPROPRIATION TO FUND OF INTEREST LOST ON OR AFTER OCTOBER 1, 1985.—

(A) IN GENERAL.—The Secretary of the Treasury shall immediately pay to the Department of Defense Military Retirement Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by such Secretary, in consultation with the Secretary of Defense, to be equal to the excess of—

(i) the interest which would have been earned by such fund during the period beginning with October 1, 1985, and ending with November 14, 1985, if the obligations issued pursuant to paragraph (1) had been issued on October 1, 1985, over

(ii) the amount of interest actually collected by such fund during such period on obligations purchased by such fund with amounts which were transferred to such fund on October 1, 1985.

(B) INVESTMENT OF INTEREST RECEIPTS.—The Secretary of the Treasury shall immediately invest the amount paid to the Department of Defense Military Retirement Fund pursuant to subparagraph (A) in obligations designated by the Secretary of Defense. Such obligations shall be market-based special obligations issued with an issue date of November 15, 1985, and at prices, including accrued interest, prevailing for such obligations on November 15, 1985.

(c) APPROPRIATION TO CERTAIN FUNDS WITH RESPECT TO UNINVESTED BALANCES AFTER DECEMBER 6, 1985.—

(1) IN GENERAL.—The Secretary of the Treasury shall immediately pay, from amounts in the general fund not otherwise appropriated, to each fund which is listed in Table III of the Monthly Statement of the Public Debt issued by the Department of the Treasury for November 30, 1985, and which invests in market-based special obligations under chapter 31 of title 31, United States Code, an amount equal to the interest which would have been earned by such fund during the period beginning with December 7, 1985, and ending with the date of the enactment of this joint resolution, if the daily balance in such fund which the Secretary of the Treasury was requested to invest during such period but was unable to invest, because of the expiration of the temporary debt limit, had been invested each day during such period, overnight, in obligations under such chapter 31 earning interest at a rate determined by the Secretary of the Treasury in accordance with the standard practice of the Department of the Treasury.

(2) EXPIRATION OF TEMPORARY DEBT LIMIT DEFINED.—For purposes of paragraph (1), the term "expiration of the temporary debt limit" means the expiration of the period described in section 1 of the Act entitled "An Act to temporarily increase the limit on the public debt and to restore the investments of the Social Security Trust Funds and other trust funds", approved November 14, 1985 (Public Law 99-155).

(d) ADDITIONAL APPROPRIATION TO OASDI TRUST FUNDS OF INTEREST LOST FROM ACTIONS IN SEPTEMBER AND OCTOBER 1984.—

(1) IN GENERAL.—On December 31, 1985, the Secretary of the Treasury shall pay to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, amounts determined under this subsection.

(2) AMOUNT PAID TO EACH TRUST FUND.—The amount paid to each such Trust Fund pursuant to paragraph (1) shall be an amount determined jointly by the Secretary of the Treasury and the Secretary of Health and Human Services to be sufficient to fully compensate such Trust Fund for interest losses arising from the premature redemption, during the period beginning with September 1, 1984, and ending with October 31, 1984, of securities maturing during the period beginning with calendar year 1987 and ending with calendar year 1991.

(3) LIMITATION.—The total amount paid from the general fund of the Treasury pursuant to paragraph (1) shall not exceed $550,000,000.

(4) ADJUSTMENTS.—

(A) DETERMINATION OF SHORTFALLS AND EXCESSES IN PAYMENTS TO TRUST FUNDS.—As soon as practicable after May 31, 1986, the Secretary of the Treasury and the Secretary of Health and Human Services shall jointly determine any shortfall or excess in the amount paid to each Trust Fund pursuant to paragraph (1) caused by—

(i) the difference between actual interest rates and interest rates assumed for purposes of paragraph (1), and

(ii) the difference between the actual amount of securities redeemed in January 1986 for purposes of compliance with section 201(1)(3)(B) of the Social Security Act and the amount of securities assumed for purposes of paragraph (1) to be redeemed in such month for purposes of compliance with such section.

(B) PAYMENT OF SHORTFALLS AND EXCESSES.—On June 30,1986, the Secretary of the Treasury shall—

(i) in the case of a shortfall in the amount paid to either Trust Fund determined pursuant to subparagraph (A), pay to such Trust Fund, from amounts in the general fund of

the Treasury not otherwise appropriated, the amount of such shortfall, or

(ii) in the case of an excess in the amount paid to either Trust Fund determined pursuant to subparagraph (A), pay to the general fund of the Treasury, from such Trust Fund, the amount of such excess (but not to exceed the amount paid to such Trust Fund pursuant to paragraph (1)).

SEC. 273. REVENUE ESTIMATES.

For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committees of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this title and the Congressional Budget and Impoundment Control Act of 1974.

SEC. 274. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 52 violates the Constitution.

(2) Any Member of Congress, or any other person adversely affected by any action taken under this title, may bring an action, in the Untied States District Court for the District of Columbia, for declaratory judgment and injunctive relief concerning the constitutionality of this title.

(3) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory and injunctive relief on the ground that the terms of an order issued under section 252 do not comply with the requirements of this title.

(4) A copy of any complaint in an action brought under paragraph (1), (2), or (3) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(5) Any action brought under paragraph (1), (2), or (3) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1), (2), or (3) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL OF SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) NONCOMPLIANCE WITH SEQUESTRATION PROCEDURES.—

(1) If it is finally determined by a court of competent jurisdiction that an order issued by the President under section 252(b) for any fiscal year—

(A) does not reduce automatic spending increases under any program specified in section 257(1) to the extent that such increases are required to be reduced by part C of this title (or reduces such increases by a greater extent than is so required),

(B) does not sequester the amount of new budget authority, new loan guarantee commitments, new direct loan obligations, or spending authority which is required to be sequestered by such part (or sequesters more than that amount) with respect to any program, project, activity, or account, or

(C) does not reduce obligation limitations by the amount by which such limitations are required to be reduced under such part (or reduces such limitations by more than that amount) with respect to any program, project, activity, or account,

the President shall, within 20 days after such determination is made, revise the order in accordance with such determination.

(2) If the order issued by the President under section 252(b) for any fiscal year—

(A) does not reduce any automatic spending increase to the extent that such increase is required to be reduced by part C of this title,

(B) does not sequester any amount of new budget authority, new loan guarantee commitments, new direct loan obligations, or spending authority which is required to be sequestered by such part, or

(C) does not reduce any obligation limitation by the amount by which such limitation is required to be reduced under such part,

on the claim or defense that the constitutional powers of the President prevent such sequestration or reduction or permit the avoidance of such sequestration or reduction, and such claim or defense is finally determined by the Supreme Court of the United States to be valid, then the entire order issued pursuant to section 252(b) for such fiscal year shall be null and void.

(e) TIMING OF RELIEF.—No order of any court granting declaratory or injunctive relief from the order of the President issued under section 252, including but not limited to relief permitting or requiring the expenditure of funds sequestered by such order, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or, if appeal is taken, during the period before the court to which appeal is taken has entered its final order disposing of such action.

(f) ALTERNATIVE PROCEDURES FOR THE JOINT REPORTS OF THE DIRECTORS.—

(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Directors referred to in section 251(a) or (c)(1) shall be transmitted to the joint committee established under this subsection.

(2) Upon the invalidation of any such procedure there is established a Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the Budget Committees of the House of Representatives and the Senate. The Chairman of these two committees shall act as Co-Chairmen of the Joint Committee. Actions taken by the Joint Committee shall be determined by the majority vote of the members representing each House. The purposes of the Joint Committee are to receive the reports of the Directors as described in paragraph (1), and to report (with respect to each such report of the Directors) a joint resolution as described in paragraph (3).

(3) No later than 5 days after the receipt of a report of the Directors in accordance with paragraph (1), the Joint Committee shall report to the House of Representatives and the Senate a joint resolution setting forth the contents of the report of the Directors.

(4) The provisions relating to the consideration of a joint resolution under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to this subsection in the House of Representatives and the Senate, except that debate in each House shall be limited to two hours.

(5) Upon its enactment, the joint resolution shall be deemed to be the report received by the President under section 251(b) or (c)(2) (whichever is applicable).

(g) PRESERVATION OF OTHER RIGHTS.—The rights created by this section are in addition to the rights of any person under law, subject to subsection (e).

(h) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.—The economic data, assumptions, and methodologies used by the Comptroller General in computing the base levels of total revenues and total budget outlays, as specified in any report issued by the Comptroller General under section 251(b) or (c)(2), shall not be subject to review in any judicial or administrative proceeding.

SEC. 275. EFFECTIVE DATES.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2) and in subsections (b) and (c), this title and the amendments made by this title shall become effective on the date of the enactment of this title and shall apply with respect to fiscal years beginning after September 30, 1985.

(2)(A) The amendment made by section 201(a)(2), and the amendment made by section 201(b) insofar as it relates to subsections (c), (f), and (g) of section 302 of the Congressional Budget Act of 1974 and to subsections (c), (d), and (g) of section 310 of that Act, shall become effective April 15, 1986.

(B) The amendment made by section 212 shall become effective February 1, 1986.

(b) EXPIRATION.—

(1) Part C of this title, and the other provisions contained in or added by this title which are listed in paragraph (2), shall expire September 30, 1991.

(2) The other provisions referred to in paragraph (1) are as follows:

(A) section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution);

(B) sections 301(i) and 304(b) of the Congressional Budget Act of 1974 and the portion of section 311(a) of such Act which begins with "or, in the Senate" and ends with "paragraph (2) of such subsection)" (as added by section 201(b) of this joint resolution);

(C) sections 1105(f) and 1106(c) of title 31, United States Code (as added by sections

241(b) and 242(b) of this joint resolution); and

(D) section 271(b) of this joint resolution.

(c) OASDI TRUST FUNDS.—The amendments made by part D shall apply as provided in such part.

And the Senate agree to the same.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
JAMES JONES,
ED JENKINS,
RICHARD A. GEPHARDT,
MARTY RUSSO,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
BILL FRENZEL.

From the Committee on Appropriations:
JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
CARL PURSELL,
TOM LOEFFLER.

From the Committee on Rules:
CLAUDE PEPPER,
ANTHONY C. BEILENSON,
MARTIN FROST.

From the Committee on Government Operations:
DON FUQUA,
THOMAS N. KINDNESS.

From the Committee on the Budget:
GEO. MILLER,
MARVIN LEATH,
WILLIS GRADISON.

As additional conferees:
THOMAS S. FOLEY,
LES ASPIN,
MARY ROSE OAKAR,
LEON PANETTA,
VIC FAZIO,
ROBERT H. MICHEL,
DICK CHENEY,
LYNN MARTIN,
CONNIE MACK,

Managers on the Part of the House.

BOB PACKWOOD,
PETE V. DOMENICI,
JOHN C. DANFORTH,
W.L. ARMSTRONG,
PHIL GRAMM,
WARREN B. RUDMAN,
RUSSELL B. LONG,
LLOYD BENTSEN,
J. BENNETT JOHNSTON,
CARL LEVIN,
DAVID L. BOREN,
ERNEST F. HOLLINGS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 1 and 2 to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

PART A

1. PUBLIC DEBT LIMIT INCREASE

H.J. Res. 372, as originally passed by the House, provided for an increase of the permanent public debt limit to $2,078.7 billion. This debt limit level is the amount approved by the Congress in the conference report on the budget resolution for fiscal year 1986 (S. Con. Res. 32). The Senate agreed to the House language when it initially passed H.J. Res. 372. Thus, this provision was not in conference.

2. CORPORATE MINIMUM TAX

As initially passed by the Senate, H.J. Res. 372 contained an amendment directing the Committee on Finance to report minimum corporate tax legislation by July 1, 1986, to be effective on and after October 1, 1986, with revenues raised by this tax to be applied toward deficit reduction.

House Amendment

Directs the Committee on Ways and Means to report an alternative corporate minimum tax prior to October 1, 1986.

Senate Amendment

Directs the Senate Finance Committee and the House Ways and Means Committee to report, no later than April 15, 1986, an alternative corporate minimum tax to be effective not later than July 1, 1986, with revenues raised by such tax to be used to reduce the deficit.

Conference Agreement

The Senate recedes from its amendment and concurs in the House amendment.

The following summary table outlines the critical dates included in the conference agreement for implementing the legislation in Fiscal Year 1986, and for Fiscal Years 1987 through 1991:

TIMETABLE FOR FISCAL YEAR 1986

January 10—The "snapshot" of the dificit for FY 1986 is taken

January 15—OMB and CBO report to GAO

January 20—GAO issues the report to the President, based on the findings of CBO and OMB

January 21—Congress convenes

February 1—The Presidential order is issued based on the GAO report

February 5—The President submits his FY 87 budget

March 1—The order takes effect

August 15—The "snapshot" of the deficit is taken

August 20—OMB and CBO report to GAO

August 25—GAO issues the report to the President, based on the findings of OMB and CBO

September 1—The Presidential order is issued based on the GAO report

October 1—The order takes affect

October 5—OMB and CBO issue a revised report to reflect final congressional action

October 10—GAO issues a revised report to the President

October 15—The final order, based on the revised report, is effective

November 15—GAO Compliance report is issued.

I. TRIGGER MECHANISM

House Amendment

The House amendment establishes an emergency deficit reduction procedure which takes effect if the deficit exceeds specified levels. To determine whether this procedure is triggered, the House amendment requires the Director of CBO, in consultation with the Director of OMB, to make several determinations immediately prior to the start of a fiscal year. The House amendment specifies several assumptions to be used in making the determinations, particularly with regard to baseline assumptions.

The Director of CBO is to determine the amount by which his deficit estimate exceeds the maximum deficit amount for the fiscal year, decide whether the excess is greater than $10,000,000,000, and decide by program, project, activity or account the amount and method of reductions needed to eliminate any excess. The Director of CBO shall also determine whether the excess deficit would be eliminated by the enactment of reconciliation and appropriation bills completed by Congress as of August 15.

The Director of CBO shall also estimate real growth for the fiscal year and specify whether the estimate includes any two consecutive quarters of negative real growth.

The Director of CBO is to report his findings to the President and Congress.

Senate Amendment

The Senate amendment establishes an emergency deficit reduction procedure which takes effect if the deficit exceeds specified levels. To determine whether this procedure is triggered, the Senate amendment requires the Directors of OMB and CBO to determine the amount by which their deficit estimates exceed the maximum deficit amount, decide whether the excess is statistically significant, and decide the uniform percentage reductions in automatic spending increases and in controllable expenditures which are needed to eliminate the excess.

The Directors of OMB and CBO shall also estimate the real growth rate for the fiscal year and for each quarter in the year.

The Directors of OMB and CBO are to average their findings and report them to the Comptroller General and the public. The Comptroller General, with due regard for the OMB and CBO findings, shall report his findings to Congress and the President, using the same guidelines as the Directors of OMB and CBO and explaining any differences between his report and theirs.

Conference Agreement

The Conference Agreement requires the Directors of OMB and CBO to determine the amount by which their deficit estimates, exceed the maximum deficit amount for the fiscal year, to determine for Fiscal Year 1987-90 whether the excess is greater than $10,000,000,000, and to determine by calculations specified in the Act the amount and percentage by account of reductions needed to eliminate the excess. The Conference Agreement gives detailed specifications on how the Directors of OMB and CBO are to make these determinations.

The Directors of OMB and CBO shall also estimate the real growth rate for the fiscal year, for each quarter in it and for the two preceding quarters.

To the extent that the Directors are unable to agree on any items in their report, the Directors of OMB and CBO shall average their findings so as to report a single, consistent set of findings, along with each Director's own finding, to the Comptroller General.

It is the intent of the conferees that the averaging process between the Directors work in the following manner. For each report required from the Directors, the Directors would estimate the deficit independently. After consulting with each other, the Directors should first try to agree upon a deficit estimate. In the event that they

cannot agree, they should average their deficit estimates.

Using this agreed upon or averaged deficit estimate, the Directors should then determine whether the deficit estimates exceeds the maximum deficit amount by the amount specified in Section 251(a)(3)(A), thereby requiring a calculation of spending reductions to eliminate the excess deficit as provided in Section 251(a)(3) and (a)(4).

If such calculation of spending reductions is required, the Directors shall agree upon, if possible, or average, if necessary, the amounts of budget authority, outlays, loan levels, or spending authority, as applicable, that are available for reduction in each account or by program, project or activity or otherwise required for the calculation. They shall then proceed step-by-step through the calculations set forth in Section 251(a)(3) and (a)(4) to determine the amount and percentage spending reduction required for each account in order to achieve the required deficit reduction.

The above averaging procedures will produce the necessary reduction in spending without requiring the Directors to average their economic forecasts or other underlying assumptions required for their budget estimates. However, the Directors could, if they so chose, use common economic and estimating assumptions.

The Comptroller General shall in turn issue a report giving due regard to the report of the Directors of OMB and CBO making it public and sending it to the President. The conferees intend that the Comptroller General use the utmost discretion in the exercise of his authority to change from the contents of the report of the Directors. He shall use the same guidelines as the Directors of OMB and CBO used and shall explain any differences between his report and theirs. It is the intention of the conferees that it be the Comptroller General's report which requires the sequester order in the event that one is required.

The Directors of OMB and CBO are to revise their report October 5 (except in Fiscal Year 1986, when no revision is provided for). They are to make the same determinations and use the same methods and assumptions as in their first report, but they are to take into account laws enacted and regulations promulgated after that report was submitted. They are to alter their assumptions in one regard: whereas their first report was to assume that federal pay cannot be reduced below the levels in effect at the time of the determination, the revised report does not make this assumption.

Likewise, the Comptroller General is to issue a revised report on October 10 (except in Fiscal Year 1986, when no revision is provided for) based on the revised report of the Directors of OMB and CBO.

II. THE SEQUESTRATION AMOUNTS AND TIMETABLE

a. Maximum Deficit Amounts

House Amendment

The House amendment provides an automatic deficit reduction procedure in the event that the deficit in any fiscal year exceeds a maximum deficit amount. The House amendment provides that the determination of this maximum deficit amount be tied to the rate of economic growth projected for the relevant fiscal year. In the event CBO projects a 3 percent rate of economic growth in the relevant fiscal year, the deficit would be reduced below that of the prior year by 20 percent of the fiscal year 1985 deficit. This 20 percent reduction would be increased by 1 percent for each 0.1 percentage point the projected growth rate exceeds 3 percent and reduced by 1 percent for each 0.1 percentage point that the projected growth rate falls below 3 percent. Under this rule, there would be no deficit reduction in years in which CBO projected a growth rate of 1 percent or less. This formula provides maximum deficit amounts of $161.0 billion in FY 1986, $110.2 billion in FY 1987, $57.2 billion in FY 1988, and $4.2 billion in FY 1989 under the CBO economic assumptions contained in its August 1985 report.

Senate Amendment

The Senate amendment provides an automatic deficit reduction procedure which would require that the Presidential sequester order go into effect in the event that the maximum deficit targets listed below were exceeded for FY 1986 and by more than 5 percent of these amounts for FY 1987 through FY 1990. The maximum deficit amounts are:

FY 1986—$180.0 billion.
FY 1987—$144.0 billion.
FY 1988—$108.0 billion.
FY 1989—$72.0 billion.
FY 1990—$36.0 billion.
FY 1991—Zero.

Conference Agreement

The Conference Agreement provides the same fixed maximum deficit amounts contained in the Senate amendment for years after FY 1986. However, the conference agreement provides that these amounts may be exceeded by up to $10.0 billion in each year except FY 1986 and FY 1991 without the automatic deficit reductions contained in the Act being triggered. In FY 1986, the $171.9 billion maximum deficit amount, which is the same deficit level contained in the First Congressional budget resolution for FY 1986, is binding. Should the Comptroller General project an actual FY 1986 deficit which is more than $20.0 billion higher than $171.9 billion the FY 1986 sequester is limited to a maximum of $20.0 billion at an annual rate. The $20.0 billion maximum deficit reduction for FY 1986 will be prorated by 7/12 and take final effect as of March 1, 1986. For FY 1986, the maximum prorated sequester amount would be $11.7 billion. In 1991, the budget is to be balanced and the deficit is to be zero.

The maximum deficit amounts in the conference agreement are as follows:

FY 1986—$171.9 billion.
FY 1987—$144.0 billion.
FY 1988—$108.0 billion.
FY 1989—$72.0 billion.
FY 1990—$36.0 billion.
FY 1991—Zero.

b. Timetable

House Amendment

The House Amendment provides that after FY 1986 the Director of CBO report to the President and the Congress on August 20th of the calendar year in which the fiscal year begins total outlays, total revenues, and the extent to which the projected deficit exceeds the maximum deficit amount. For FY 1986, the House amendment provides that this report be made on the 9th day after the date of enactment. The House amendment further provides that the President issue an initial order, if required by the Director's report, on September 1st and that the Comptroller General report to the Congress on September 15th whether the Presidential Order is consistent with the Director's report and whether the reductions required under the Presidential Order are consistent with the provisions of the Act. For FY 1986, the President shall issue the initial order on the 14th day after enactment. The House amendment provides that on or before October 5th (December 15th in the case of 1986), the Director of the CBO revise the estimates and determinations contained in the initial report and indicate the extent to which legislation enacted after the submission of the initial report reduces or eliminates the excess deficit. The President then issues a final order on October 10th (December 20th in the case of 1986) on the basis of the Director's revised report.

Senate Amendment

The Senate amendment provides that the OMB and CBO jointly report to the Comptroller General on all matters required by the Act by September 15th (December 10th for FY 1986) and that the reports be made public. Not later than September 25th (December 15th for FY 1986) the Comptroller General shall issue its report to the President and the Congress. The President then is to issue the sequester order, in the event that one is required, by October 9th (October 25th if real growth is negative or less than one percent) and the order will become effective on November 8th (November 24th if the recession procedures in the Act are triggered. In the case of FY 1986, the President issues the sequester order 14 days after receipt of the Comptroller General's report and it becomes effective 30 days after the initial order is issued.

Conference Agreement

The Conference Agreement requires the Directors of OMB and CBO to determine the amount by which their deficit estimates exceed the maximum deficit amount for the fiscal year, to decide for Fiscal Year 1987-90 whether the excess is greater than $10,000,000,000, and to decide by account the amount and method of reductions needed to eliminate the excess. The Conference Agreement gives detailed specifications on how the Directors of OMB and CBO are to make these determinations.

The Directors of OMB and CBO shall also estimate the real growth rate for the fiscal year, for each quarter in it and for the two preceding quarters. They shall decide whether their estimates include any two consecutive quarters of negative real growth.

To the extent that the Directors are unable to agree on any items in their report, the Directors of OMB and CBO shall average their findings so as to report a single, consistent set of findings, along with each Director's own finding, to the Comptroller General. The Comptroller General shall consider this report, giving it due regard, then report his findings to Congress and the President. He shall use the same guidelines as the Directors of OMB and CBO used and shall explain any differences between his report and theirs. It is the intention of the conferees that it be the Comptroller General's report which triggers the sequester order in the event that one is required.

The Directors of OMB and CBO are to revise their report October 5 (except in Fiscal Year 1986). They are to make the same determinations and use the same methods and assumptions as in their first report, but they are to take into account laws enacted and regulations promulgated after the initial report was submitted. They are to alter their assumptions in one regard: whereas their first report was to assume that federal pay cannot be reduced below the levels in effect at the time of the deter-

mination, the revised report does not make this assumption.

Likewise, the Comptroller General is to issue a revised report on October 10 (except in Fiscal Year 1986) based on the revised report of the Directors of OMB and CBO.

The accelerated timetable for FY 1986 with Conference Agreement is as follows:

January 10—The "snapshot" of the deficit for FY 1986 is taken.

January 15—OMB and CBO report to GAO.

January 20—GAO issues the report to the President, based on the findings of CBO and OMB.

January 21—Congress convenes.

February 1—The Presidential Order is issued based on the GAO report.

February 5—The President submits his FY 87 budget.

March 1—The order takes effect.

Any cost of living allowance (COLA) scheduled to take effect on January 1 would be deferred beginning January 1, 1986, under this plan. If it is later determined that a sequestration order will not take effect, the COLAs would be restored retroactive to January 1.

The timetable for FY 1987 and beyond in the Conference Agreement is as follows:

August 15—The "snapshot" of the deficit is taken.

August 20—OMB and CBO report to GAO.

August 25—GAO issues the report to the President, based on the findings of OMB and CBO.

September 1—The Presidential Order is issued based on the GAO report.

October 1—The order takes effect.

October 5—OMB and CBO issue a revised report to reflect final Congressional action.

October 10—GAO issues a revised report to the President.

October 15—The final order, based on the revised report, is effective.

November 15—GAO compliance report is issued.

Under this timetable, the month of September would be set aside for a Congressional response to the sequestration order.

The conferees expect the CBO and OMB will take the final snapshot as close to October 5th as possible.

House Amendment

The House amendment provides that the calculation of the deficit during the five fiscal years of the Balanced Budget and Emergency Deficit Control Act of 1985 would be made taking into account the receipts and disbursements of the Federal Old-Age and Survivors and Disability Insurance Trust Funds each year during the 5-year period, notwithstanding Section 710(a) of the Social Security Act, which removes the operations of the Trust Funds from the Federal budget. This provision is intended to allow use of the social security income and outgo in the calculation of the deficit at all points in the enforcement of the budget process only for purposes of comparison with the maximum deficit amounts provided for in the Balanced Budget Act.

Senate Amendment

With respect to treatment of the social security trust funds, the Senate amendment is identical.

Conference Agreement

The conference agreement leaves unchanged from the House and Senate amendments the treatment of the social security trust funds. This provision allows the yearly income and outgo of the social security trust funds to be included in the Federal budget only for purposes of estimating the total deficit amount which must be addressed through sequester or Congressional action in order to reach the maximum deficit amount target. The scope of this provision is limited to that purpose of comparison with the maximum deficit amounts, and does not otherwise abrogate or contradict the effect of other amendments in this act that remove the operations of the social security trust funds from the unified budget. It is anticipated that the estimating agencies named in other provisions of this Act will in all other tasks related to the budget and legislative process adhere to the requirements of Section 261 of this Act, and remove the trust fund operations from the Federal budget as required.

III. THE PRESIDENTIAL ORDER

Conference Agreement and dollar reductions

The Presidential Order must strictly adhere to the determinations set forth in the GAO report and must be consistent with that report.

a. Calculation of Spending Reductions

The Conference Agreement provisions provides specific, detailed instructions determining how any outlay reductions that are required by the emergency deficit reduction procedures shall be applied. Outlay reductions are required if the deficit in the budget base exceeds the maximum deficit amount by more than $10 billion in Fiscal Year 1987-1990, and by any amount in Fiscal Years 1986 and 1991.

Three key provisions serve as general guides for the application of outlay reductions:

One-half of any required reduction shall be taken from Defense programs and one-half from non-Defense programs.

No more than one-half of any required reduction may be taken from "automatic spending increases" as described in Section 257(1).

Any reductions in automatic spending increases for federal retirement programs shall be applied equally to the Defense and non-Defense categories.

Given these three provisions, the Conference Agreement establishes the following steps to determine the application of the spending reductions:

1. The deficit excess is calculated by subtracting the maximum deficit amount from the deficit in the budget base. This is divided in half. One-half represents the outlay reduction required in Defense programs. The other half represents the outlay reduction required in non-Defense programs.

2. The total amount of outlay savings from automatic spending increases, as defined in Section 257(1), is calculated by reducing the automatic increases to zero or to levels consistent with a fifty percent reduction of the total deficit excess, whichever reduction is smaller. The actual reduction in the level of automatic spending increases must be made by applying the required uniform percentage reduction to the actual automatic increases which would be paid in the absence of a sequestration order, regardless of the level of increase which may have been estimated in the reports of CBO, OMB and the Comptroller General prior to the determination of the actual increase.

3. The total amount of outlay savings from automatic spending increases, as calculated in step 2 above, is divided into two parts: reductions in automatic spending increases for federal retirement programs as defined in Section 257(1)(A), and reductions in automatic spending increases for other programs as defined in Section 257(1)(B).

For the half of total outlay reduction that must come from Defense programs, the following steps ar established:

1. First, apply one-half of the reduction in automatic spending increases for federal retirement programs, as outlined above.

2. Then achieve the remaining required reduction by sequestering new budget authority, unobligated balances, and certain obligated balances so as to reduce outlays for each program, project, or activity by a uniform percentage.

For all years, the sequestration would be made at the program, project and activity (PPA) level. In the President's initial order issued on September 1 (February 1 in the case of FY 1986), new budget authority plus unobligated balances and outlays would be reduced at a uniform percentage across all PPAs to the extent necessary, to reach the defense outlay target for the year. Actual sequestration could apply to any combination of new BA and unobligated balances.

PPA blended outlay rates from new budget authority and unobligated balances would be derived by CBO and OMB from data then available to them as supplemented by additional data from DOD. The conferees recognize that outlay rates for new budget authority or unobligated balances may be unavailable for many programs, projects and activities within Function 050. To the extent necessary to carry out their reporting functions, specified in the bill, the Directors of the Congressional Budget Office and the Office of Management and Budget are expected to develop the necessary data bases to estimate these outlay rates. In any event, the conferees expect the Directors to meet the timetables specified in the bill. Where adequate data are not available the Directors should assume that the outlay rate for the account governs. The conferees expect that the weighted average of outlay rates for all programs, projects and activities within an account will be consistent with the historical account rates developed by the Directors, except where the deviation is appropriate.

It is the intent of the conferees that subsequent to the enactment of this legislation no defense contract will be written or modified which would exempt it from the provisions of sequestration contained in Section 251(d)(3)(A)(i).

In the President's final order becoming effective on October 15 (March 1 in the case of 1986), he could reduce the amount of Budget authority and unobligated balances sequestered in any PPA and the corresponding outlay reduction, to the extent he was able to achieve the same outlay savings by termination or modification of contracts within that PPA. To take credit for this reduction,

(i) The President would have to identify the contracts proposed to be so terminated or modified, together with the claimed outlay savings and reduction in obligated balances, no later than September 5 (January 15 in the case of 1986), and

(ii) The outlay savings, and the sequestration in obligated balances necessary to achieve them, would have to be verified by GAO no later than September 30 (February 15 in the case of 1986).

If GAO were unable to verify the savings for any contract, no credit could be taken. The President would also notify CBO, OMB, and the House and Senate Committees on Armed Services and Appropriations

of his proposed terminations or modifications.

For the half of total outlay reduction that must come from non-defense programs, the following steps are established:

1. First, apply one-half of the reduction in automatic spending increases for Federal retirement programs as outlined above.

2. Then apply the reduction in automatic spending increases in programs other than Federal retirement programs, as outlined above.

3. Then apply the amount of savings obtained from the application of special rules for the guaranteed student loan program, as stated in section 256(c), and for the foster care and adoption assistance programs, as stated in section 256(f).

4. Then apply the amount of savings obtained from the application of special rules for the medicare program as stated is section 256(d), and for community and migrant health centers, Indian health services and facilities, and Veterans' medical care as stated in section 256(k) (or a proportional lesser amount if the full reduction is not required).

5. Then sequester or reduce the remaining non-defense programs on a uniform percentage basis to the extent necessary to achieve any required remaining outlay reductions.

6. In calculating any remaining required savings, the savings for the Commodity Credit Corporation for the year in question shall be the savings in that year in the dairy program and the savings in the following year in all other farm price support programs.

b. The Base

The budget "base" level of federal revenues and outlays determines the size of the deficit excess and, thus, the amount by which spending must be reduced under the emergency deficit reduction procedures mandated by the Act. The budget base is thus a key ingredient in carrying out these emergency procedures.

The Conference Agreement, therefore, provides that the budget base be calculated on the basis of laws in effect at the time of the Presidential spending reduction order. For each of the Fiscal Years 1987-1991, an initial estimate of the budget base is made as of August 15 preceding the start of he fiscal year, with a subsequent update on October 5 reflecting additional laws and regulations that may have been enacted or issued between August 15 and about September 30. For Fiscal Year 1986, a single budget base estimate will be made as of January 10, 1986. In either case, this means the budget base will reflect the true status of the budget as of a date that is close to the date a Presidential spending reduction order is issued.

The revenue level in the budget base is calculated by assuming that current law continues through the fiscal year in question. Expiring revenue provisions are assumed to terminate as scheduled except in the case of excise taxes dedicated to a trust fund, which are assumed to be extended through the fiscal year at current rates.

The level of outlays in the budget base, in the case of annual discretionary appropriations, is determined by assuming the level in each regular appropriation bill that has been enacted for the fiscal year or the level contained in an enacted continuing resolution of a full twelve months' duration. Where neither of these exist, the base assumes appropriations equal to those enacted for the prior year. Continuing resolutions of shorter duration are not taken into account because they frequently reflect temporary budget levels that are not intended to continue for the entire fiscal year.

In the case of entitlements or permanent appropriations over which Congress does not exercise annual control, the base assumes the continuation of current law through the fiscal year. Expiring provisions in such programs are assumed to terminate as scheduled except for Commodity Credit Corporation price support programs which are extended at current rates, since budget levels upon expiration are not possible to determine with any reasonable accuracy.

Any deferrals of obligational authority proposed by the President under the Impoundment Control Act during the period October 1 through the issuance of the final Presidential spending reduction order on October 15 (or between the date of enactment of this Act and February 1, 1986, in the case of Fiscal year 1986) are not taken into account in determining the budget base. This assures that deferral procedures cannot be used to reduce budget levels temporarily in order to avoid a spending reduction order or to reduce its size.

Budget base estimates are made by the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General on the basis of economic forecasts developed by them and contained in reports which are described elsewhere in this report. Budget base estimates at the budget account level for federal spending are included in those reports, for use in determining the size and shape of a Presidential spending reduction order required by this Act.

In developing a spending reduction order pursuant to the emergency procedures in this Act, The President is required to use the budget base levels contained in the report or reports of the Comptroller General.

c. Presidential Flexibility for Defense in FY 1986

Conference Agreement

The conferees have included language which provides limited flexibility in regard to sequestration of defense spending for fiscal year 1986 only. This flexibility is not intended as a precedent for similar flexibility in future years in which sequestration might occur. The language allows the President to adjust, within a limited range the percentage reductions for particular programs, projects or activities within an account to limited extent. In only one circumstance, modification could be made among accounts within defense.

The LX flexibility language works as follows:

The 50 percent of total sequestered outlays to come from defense could not be modified.

Each defense account would be sequestered by a uniform percentage, subject to the exception for military personnel below;

Within an account, certain programs, projects, or activities could be sequestered by an amount up to two times the uniform percentage; and other programs, projects and activities within that same account could be spared from some or all the cut. No projects, programs, or activities could be increased above base levels. In applying this flexibility, the President could close no bases and could not sequester monies from items of congressional interest by more than the uniform percentage that is to be applied to the account as a whole. "Congressional interest" items are those projects, programs and activities that have been appropriated in the final defense appropriation conference report for FY 1986 at a level 110 percent higher than the President's request.

In the case of uniformed personnel military accounts, including reserves, the President is given the flexibility to protect all or part of such accounts entirely from sequestration. This "inter-account" flexibility, if used by the President, however, requires the President to increase the percentage sequester uniformly for programs, projects, and activities in any other defense accounts, including other personnel accounts, by an amount that will offset the exemptions sufficiently to yield the total savings requires for defense programs.

These two instances of limited flexibility give the President, authority in fiscal year 1986 to most prudently manage defense cuts due to potential sequester order in a year already almost half over. However, it is the managers' intention that the overall percentage reduction for defense will remain the same despite the grant of this limited flexibility.

d. Sequestration by Programs, Projects, and Activities

House Amendment

Section 252 of the House-passed bill defines and determines the procedures for the "Presidential Order": Paragraph C of that Section provides that sequestration for funds provided in annual appropriations acts shall be applied to "each affected program, project, and activity (as defined in the most recently enacted applicable appropriations acts and accompanying committee reports for the program, project, or activity in question—including joint resolutions providing continuing appropriations and committee reports accompanying acts referenced in such resolutions)."

Since most appropriations acts were already reported by the time this legislation was being developed, a provision was included to allow the Appropriations Committees to define for Fiscal Year 1986 "programs, projects, and activities." The provision is as follows: "For purposes of applying this Section and Section 251 with respect to the Fiscal Year 1986, the Committees on Appropriation of the House of Representatives and the Senate may define the term "program, project, and activity" with respect to matters within their jurisdiction, for purposes of implementing the provisions of this Section with respect to the Fiscal Year 1986. The order issued by the President shall sequester funds in accordance with such definitions."

Further language was also adopted in the House-passed bill that stated that sequestration order would have no effect unless it reduced all programs, projects, and activities proportionately.

Senate Amendment

The Senate amendment included language similar to the House, which provides for sequestration "from each affected program, project, or activity (as defined in the most recently enacted relevant appropriations acts and accompanying committee reports)."

Conference Agreement

The conference agreement provides that sequestration shall apply at the program, project, or activity level as set forth in the most recently enacted applicable appropriations acts and accompanying committee reports for the program, project, or activity involved, including joint resolutions providing continuing appropriations and committee reports accompanying acts referred to in

such resolutions. For programs which are not defined at the program, project, or activity level, the sequestration would be applied at the account level.

For FY 1986 a special provision is included, similar to the House provision which allows the Committees on Appropriations to define "program, project, and activity" and issue a report to their respective Houses. The Presidential sequestration order would have to be in accordance with such a definition.

In accordance with provisions in both the House and Senate bills, no action under sequestration can be taken by the President which would have the effect of eliminating any program, project, or activity of the Federal government.

e. GAO Compliance Reort Specifications

House Amendment

The House amendment provides for a report by GAO on or before September 15. This report shall identify the extent to which the President deals with this Act.

Senate Amendment

No provision.

Conference Agreement

The Conference Agreement requires the Comptroller General of the United States to submit a report to the Congress and the President reviewing a Presidential order for sequestration of spending and modification or suspension of automatic cost-of-living adjustments for programs indexed under current law for such increases. This report, referred to as a "Compliance Report by the Comptroller General," shall be issued on or before November 15 for fiscal years 1987-1991 and on or before April 1 in the case of 1986. The conferees intend that this report shall cover all elements in the order issued by the President under Section 252(b) of this Act. The report shall review each and every time in the Presidential order and compare those items to the same items contained in the General Accounting Office report to the President for Fiscal Year 1986 and the final GAO report in the case of Fiscal Years 1987-91.

In the case of fiscal year 1986, the compliance report shall fully and accurately report the extent to which the President transferred monies within or among national defense (major functional category 050) accounts, pursuant to section 252(a)(2).

All differences between the GAO report and the Presidential Order shall be noted precisely by the Comptroller General's Compliance Report. In addition, the Compliance Report shall review the operation of sequestration upon all programs, projects, and activities and detail whether such sequestration has been done strictly in compliance with the requirements of the GAO report.

It is the intention of the conferees that the Comptroller General fulfill the duties imposed by this act by utilizing the resources currently available to him. The Comptroller General currently has access to all data necessary to conduct the evaluation of and response to a report of the Directors. The conferees assume that the Comptroller General will not wait until the receipt of a report of the Directors to begin his independent analysis, but rather will monitor all relevant data on an on-going basis, so that the effort involved in evaluating a report of the Directors and in preparing his report to the President will be minimized.

IV. TREATMENT OF PROGRAMS

a. Low-Income Programs

House Amendment

The House amendment exempts from reduction the following programs: food stamps, supplemental security income, aid to families with dependent children, child nutrition, veterans compensation and pensions, community health centers, migrant health, and WIC.

Senate Amendment

No comparable provision.

Conference Agreement

The conference agreement exempts the following low-income programs: aid to families with dependent children, child nutrition, food stamp programs, medicaid, supplemental security income, and WIC. Special rules are established for certain health programs including community health centers, migrant health centers, Indian health facilities, Indian health services and Veterans' medical care (see discussion below).

b. General Exemptions

House Amendment

The House amendment exempts from any sequester order social security tier I railroad retirement COLA's; outlays for net interest; and payments for the earned income tax credit. The House version also exempts from reduction claims and judgement against the government; salaries of judges (except future increases); compensation of the President; any legal obligations of federal credit guarantee and insurance programs; payments to trust funds; funds held for other governments and entitles; federal financing operations, including offsetting receipts and collections; outlays resulting from private donations, bequests or voluntary contributions to the government; and intragovernmental funds.

Senate Amendment

The Senate amendment generally exempts the same list of programs and activities as the House amendment exempts. Additionally, the Senate specifies that programs are identified by the designated account number in the Budget of the United States Government, 1986—Appendix.

Conference Agreement

The conference agreement generally follows the House amendment but veterans' compensation and veterans' pensions are classified as general exemptions. It also identifies programs by the account number in the 1986 Budget Appendix as provided in the Senate amendment. In addition, the conference agreement exempts from sequester the base outlays for programs subject to reductions through the automatic spending increase provisions. Further, current judges salaries and future increases are exempt from sequestration.

c. Medicare

House Amendment

The House amendment treats medicare as an automatic increase program, but only for increases in hospital payment rates and in the index that limits physician payment increases. Thus, these increases can be reduced to zero, but not below. Other medicare payments are not reduced by a sequestration order.

Senate Amendment

The Senate amendment treats all medicare covered services, except clinical laboratory services, as controllable expenditures subject to reduction by the full sequestration percentage, thus permitting reductions below the previous year's payment levels. Clinical laboratory services, for which there is a statutory payment increase index, are treated under the rules applicable to automatic increase programs.

Conference Agreement

The reductions in the Medicare program are achieved through reductions in payment amounts for covered services. No changes in co-insurance or deductible obligations are made, and covered services are unaffected under a sequestration order.

Under such an order, each payment amount made under the Medicare program would be reduced by a specified percentage, which would be 1 percent for Fiscal Year 1986 and 2 percent for each subsequent year in which there is sequestration. (The reduction percentages would be proportionally reduced in any year in which the excess deficit is small enough to permit a smaller reduction.)

In any year for which there is sequestration, the reduction would be made from whatever level of payment would otherwise be provided under Medicare law and regulations. If hospital prospective payments were scheduled to increase by 4 percent, then a 2 percent reduction (that is, payment of 98 percent of the normal payment amount) would permit some increase to remain. On the other hand, if no hospital prospective payment increase were scheduled pursuant to Medicare law, then the sequestration reduction would reduce payments below the previous year's rates.

Where Medicare payment is based on discrete events or services such as hospital discharges or physician services rendered, the reduction factor would apply to those events or units. Where payment to providers is based on costs incurred over a period of time for an aggregation of services, the reduction would technically be calculated for the provider's cost reporting period. However, interim payments made throughout the cost reporting period would be appropriately adjusted.

The reduction would take effect as of a specific date (normally October 1). Where this date is not the beginning of a provider's cost reporting year, the requisite reduction would be prorated evenly over the months of the two cost reporting years to which it is applicable. For example, if a 2 percent reduction were applicable to 9 months of one cost reporting period and 3 months of another period, a 2 percent reduction would be applied to nine-twelfths of the provider's otherwise payable costs for the first cost reporting period and three-twelfths for the second cost reporting period.

Final determinations regarding sequestration may be made after the date sequestration is to begin. For example, the final determination is not required until October 15 regarding a sequestration that begins October 1. If payments made before the final determination differ from those allowed under the final order, the conferees expect that the Department of Health and Human Services will recover the overpayments or restore the underpayments.

The payment reductions made pursuant to a sequestration order would not affect the co-insurance and deductible amounts payable by Medicare beneficiaries. Thus, with respect to physicians' services furnished by a participating physician, or for which an assignment is agreed to, the beneficiary would continue to be liable only for 20 percent of the Medicare "reasonable charge" (plus any applicable deductible),

even though the amount paid to the physician is reduced by 1 or 2 percent. There would be no change in the fixed deductible and co-insurance amounts that hospitals and skilled nursing facilities are permitted to charge beneficiaries, even though the Medicare payments to these providers are reduced.

Medicare law determines payment amounts for health maintenance organizations (HMOs) through an estimate of what Medicare payments for all Medicare covered services will be in the HMO's service area in the HMO's forthcoming contract period. In making that estimate, Medicare payments previously made in that service area are taken into account. Since HMO payments will be directly reduced under a sequestration order, it would be inappropriate to build into the estimating process that determines HMO payments the Medicare payment reductions in the HMO's service area that are the result of sequestration reductions that have been or will be made. To do so would lead to reductions in HMO payments in excess of the reductions intended under sequestration. Accordingly, the effects of past or future sequestration reductions must be ignored in calculating normal HMO payment amounts; these normal payment amounts would then be reduced by the appropriate sequestration percentages.

d. Community and Migrant Health Centers, Indian Health Services and Facilities, and Veterans' Medical Care

House Amendment

The House amendment provides that Indian Health Services and Facilities, and Veterans' Medical Care would be fully available for sequestration. The Community and Migrant Health Center programs are exempt from any sequestration order.

Senate Amendment

The Senate amendment provides that these programs are fully available for sequestration.

Conference Agreement

In the conference agreement, reductions to Community and Migrant Health centers, Indian Health Services and Facilities, and Veterans' Medical Care are limited to one percent in Fiscal Year 1986 and two percent below the levels they would otherwise receive in any subsequent fiscal year.

e. Commodity Credit Corporation

House Amendment

The House amendment provides for special sequestration procedures as they affect loans made by the Commodity Credit Corporation (CCC) program and entities providing Federal guarantees for student loans. The House amendment contains three major provisions for the CCC program: (1) a statement of policy that the CCC not be restricted in the discharge of its responsibilities to buy and sell commodities in world trade as a result of this legislation; (2) that payments and loan eligibility under any contract entered into prior to a sequester order could not be reduced, but those contracts entered into following the sequester order could be reduced and (3) that reductions in commodity price support programs should not exceed a uniform percentage reduction.

Senate Amendment

The Senate-passed bill provides special provisions for handling a sequester order as it would affect the functioning of the Commodity Credit Corporation (CCC). The Senate, in an October 10, 1985, floor debate concerning CCC agriculture programs (*Congressional Record-Senate*, S13076–S13083) established the legislative intent that agricultural programs were not to be exempt from any sequester order. However, due to the differences and overlap of crop-years and fiscal years for most farm price-support and loan programs and, therefore, timing differences in the flow of CCC budget outlays, the Senate debate established a need for special treatment of CCC programs.

The Senate amendment contained provision to: (1) provide that CCC contracts entered into prior to the issuance of a sequester order (even though outlays from such contracts would occur in the year of the sequester order) would not be affected; (2) provide that CCC non-contract programs would be subject to sequestration; (3) provide that in meeting the sequester order the Secretary of Agriculture could adjust both loan and target prices; (4) provide that CCC administrative expenses would be defined as controllable expenditures; and (5) that all program reductions be at a uniform percentage rate.

Conference Agreement

The Conference Agreement reflects the explicit intent of the bill managers that agriculture programs funded through the CCC be treated similar to all other programs. As such, the conference agreement includes the provision of both the House and Senate amendment that payments and loan eligibility under any contract entered into after a sequester order had been issued for a fiscal year would be subject to a percentage reduction.

The managers of the bill also recognize the current economic difficulties facing some American farmers and ranchers. As such, the conference agreement includes the House provision as follows: that the CCC shall not be restricted in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

The Conference Agreement includes provisions of both the House and Senate amendments requiring that reductions for all commodities be made in a uniform manner and expands the uniform reduction to all non-contract programs, projects, activities, and accounts within CCC's jurisdiction.

The Conference Agreement clarifies that outlay reductions in the post-sequester year that are the result of contract adjustments in the sequester year, shall be counted toward the overall outlay reduction required in the sequester year.

The Conference Agreement provides that, in implementing a sequester order, it shall be done in such a manner so as to attempt to ensure that uncertainty in scope of benefits is minimized, market price instability is minimized, and normal production and marketing relationships are not distorted. In no case, however, is it the intent of the managers that sequestration not be implemented if ordered.

Finally, the managers of the bill recognize that funding for CCC net realized losses in any given year is a function of activities that have normally preceded that particular year. The Conference Agreement, therefore, makes it clear that appropriations for CCC net realized losses are not subject to sequestration. However, it is understood that the need for appropriations to restore CCC net realized losses in a given year is reduced as a result of actions from preceeding years when a sequester order was operative.

f. Guaranteed Student Loans

House Amendment

The House amendment requires savings under sequestration to be achieved equally from the following two measures: (1) the statutory special allowance factor for lenders can be reduced by up to 0.40 percentage points, but not below 3.00 percent, in the first year of the loan (during the remaining life of the loan, the special allowance reverts to the level specified in the Higher Education Act, as amended); and (2) a student's origination fee can be increased by not more than 0.50 percentage points. In both cases, sequestration affects only loans made *after* the order is issued and only in the *first* year of the loan.

Senate Amendment

The Senate amendment generally follows the House amendment. However, it would allow additional unspecified options to be used to achieve the savings.

Conference Agreement

The conference agreement requires two changes to the GSL program to occur automatically under sequestration. One, the special statutory allowance factor for lenders will be reduced by 0.40 percentage points, but not below 3.00 percent, in the first year of the loan. Two, a student's origination fee will increase by 0.50 percentage points. In both cases, sequestration affects only loans made during the applicable fiscal year but *after* the order is issued and only in the *first* year of the loan.

G. Social Security Trust Funds

House Amendment

The House amendment exempts Social Security from sequestration and amends Section 710 of the Social Security Act to provide, beginning with fiscal years beginning after September 30, 1985, that the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, and the Federal Disability Insurance Trust Fund, and the taxes imposed on employers, employees, and the self-employed would not be included in the totals of the Federal budget, either as submitted by the President or as stated in the Congressional budget. The amendment further provides that the receipts and disbursements of these funds shall be exempt from any general budget limitation imposed by statute on expenditures and net lending or budget outlays of the Federal government. This provision would expire on October 1, 1992, when the provision of current law removing the social security trust funds from the Federal budget takes effect.

The House amendment also provides that no provision of law enacted after the date of enactment of this Act, other than an appropriation to the trust funds already authorized under the Social Security Act as in effect on the date of enactment of this Act, may provide for payments from the general Treasury into the trust funds, or from the trust funds into the Treasury.

Senate Amendment

The Senate amendment is identical to the House amendment.

Conference Agreement

The Conference Agreement leaves unchanged from the House and Senate amendments the budgetary treatment of the Social Security trust funds. The conferees note that Section 201 includes the receipts

and disbursements of the trust funds in the Federal budget for Fiscal Year 1986 through 1991 only for the purpose of the deficit estimates required to determine whether the Federal deficit is within the maximum deficit amount targets required in the emergency balanced budget act.

h. Child Support Enforcement Program

House Amendment

The House amendment provides that outlays for the child support enforcement program are available for sequester only by reducing the Federal matching rate for State administrative expenses.

Senate Amendment

Same as the House amendment except for technical differences.

Conference Agreement

Same as the House amendment except for technical differences.

i. Foster Care and Adoption Assistance Programs

House Amendment

The House amendment limits the amount available for sequester in the foster care and adoption assistance programs: (1) to increases in foster care maintenance payment rates or adoption assistance payment rates; and (2) only to the extent that the reduction can be made by reducing Federal matching payments by a uniform percentage.

Senate Amendment

The Senate amendment makes amounts for these programs fully available for sequester. The Senate also provides that States may not alter payment timetables for the programs so as to change the fiscal year against which expenditures for the programs are charged.

Conference Agreement

The Conference Agreement follows the House amendment and adds the Senate prohibition against altering the payment timetable.

j. Unemployment Programs

House Amendment

The House amendment provides that regular State unemployment benefits, the State share of extended unemployment benefits, benefits paid to former Federal employees and former members of the armed services, and loans and advances to the State and Federal unemployment accounts are not available for sequester. The Federal share of extended benefits and Federally paid benefits and administrative expenses are fully available for sequester.

Senate Amendment

The Senate amendment follows the House amendment, but provides that benefits paid to former Federal employees and former members of the armed services are fully available for sequester.

Conference Agreement

The Conference Agreement follows the House amendment. It also provides that States may, without penalty, reduce their share of Federal-State extended unemployment benefits if the Federal share of benefits is reduced by a sequester order.

k. Mine Worker Disability

House Amendment

The House amendment provides that increases in black lung benefits and special benefits for disabled coal miners be treated in the same manner as automatic spending increases.

Senate Amendment

The Senate amendment follows the House amendment with technical differences.

Conference Agreement

The Conference Agreement follows the House amendment.

l. Federal Administrative Expenses

House Amendment

The House amendment exempts from reduction a number of programs and activities (including Social Security and railroad retirement benefits, Federal credit guarantee and insurance programs, and certain low income programs) without reference to administrative expenses.

Senate Amendment

The Senate amendment exempts programs and activities including Social Security (except administrative expenses), Federal disability insurance (except administrative expenses), and Federal credit guarantee and insurance programs (exempting only those outlays resulting from prior legal obligations of the government).

Conference Agreement

The Conference Agreement provides that Federal administrative expenses incurred in connection with any program, activity, or account shall be subject to reduction under a sequester order. Any exemption, exception, limitation, or special rule is not intended to include these Federal administrative or operating expenses unless it does so by specific reference.

Under this provision, administrative or operating expenses of all the departments and agencies of the Federal government, including independent agencies, would be subject to reduction unless specifically exempted. This provision includes programs and agencies that are self-financing and that do not receive appropriations.

The term administrative or operating expenses is intended to include obligations for items such as personnel compensation, travel, transportation, communication, equipment, supplies, materials, and other services. It is not the intent of the conferees to include payments, loans, or other benefits resulting from prior legal obligations under the term administrative or operating expenses.

For purposes of this section, payments made by the Federal government to reimburse or match administrative costs incurred by State or local governments, such as the Federal matching payments for State AFDC and Medicaid administrative expenses, shall not be considered administrative expenses.

M. Off-budget Entities

House Amendment

The House amendment required that off-budget activities be included in both the President's budget and concurrent budget resolutions. The House amendment also required that receipts and disbursements of the Federal Financing Bank (FFB) with respect to loan obligations of another Federal agency be included in the accounts of that agency.

Senate Amendment

The Senate amendment included substantially similar provisions.

Conference Agreement

Sections 201(a), 214, 223, and 261 of the conference agreement include language regarding the treatment of Federal agencies or accounts with "off-budget" status. In general, off-budget Federal entities are to be treated as on-budget for the purposes of this Act and the Congressional Budget Act.

Definition of Off-budget; past Budget treatment. Section 201(a) includes a definition of "off-budget", based upon Senate language. The definition is intended to conform with existing usage of the term. The term is not intended to cover Government-sponsored enterprises, which are privately owned and are therefore not part of the Federal Government.

Off-budget entities to be treated as on-budget entities. The deficit targets—the Maximum Deficit Amounts—are intended to include both on-budget and off-budget entities.

N. Treatment of the Federal Financing Bank (FFB)

Sections 201(a) and 214 require that FFB direct loans be accounted as loans of the agency in question. As a consequence, budget authority and outlays associated with those direct loans will be budget authority and outlays of that agency, rather than of the FFB.

O. Federal Pay

House Amendment

The House amendment provided that the rates of Federal pay to which an individual is entitled under statutory pay systems could not be reduced pursuant to a sequestration order issued by the President. Under the House amendment, if a pay increase were provided at any time for Federal employees, a sequestration order could not suspend or reduce the rate of pay to which an individual is entitled. Required sequestration savings in an account including salary expenses would have to be achieved without reducing an employee's rate of pay. Treatment of Federal pay pursuant to a sequestration order would be similar to other administrative expenses. Program managers would resort to furloughing personnel in order to achieve required sequestration savings only if other methods provided insufficient savings.

Senate Amendment

The Senate amendment provided that the rate of Federal pay of a civilian employee and the basic rate of pay of a member of the uniformed services to which an individual is entitled on the effective date of a sequestration order may not be reduced in order to achieve the savings required by the order. The intent of the Senate amendment regarding pay increases scheduled to take effect after the effective date of a sequestration order would reduce such increases (not below zero) by a percentage. For example, if a scheduled pay increase (expressed as a percentage) was less than the uniform percentage reduction amount, the scheduled pay increase could be reduced to zero.

Conference Agreement

The conference agreement provides that rates of pay for civilian employees (and rates of basic pay, basic subsistence allowances and basic quarters allowances for members of the uniformed services) may not be reduced pursuant to a sequestration order. The agreement retains the House position that a scheduled pay increase may not be reduced pursuant to an order and that Federal pay be treated as other components of administrative expenses. The conferees urge program managers to employ all other options available to them in order to achieve savings required under a sequestration order and resort to personnel furloughs only if other methods prove insufficient.

IV. N. LOANS

House Amendment

The House amendment provides that new direct loan obligations and new loan guarantee commitments would be subject to sequestration to the extent that such loan levels were limited in appropriation bills or substantive law; the limitations would be reduced by the general domestic sequestration percentage (the percentage applicable to domestic programs not exempt or covered by special rules).

Senate Amendment

The Senate amendment would reduce budgetary resources—including loans—to the extent necessary to reduce outlays by a uniform percentage. Because loan guarantees only result in outlays in the event of default, the Senate amendment probably would not result in the reduction of loan guarantee commitments. In addition, the Senate amendment would exempt outlays from legal obligations for numerous Federal loan programs.

Conference Agreement

The conference agreement follows the House position with regard to direct and guaranteed loans controlled through limitations. In addition, the conference agreement provides that, for new direct loan obligations and loan guarantee commitments *not* subject to limitation (and not a result of legal obligations of the government or otherwise covered by special rules—such as Guaranteed Student Loans), the estimated loan level is to be reduced by the general domestic sequestration percentage. The post-sequestration loan levels would be specified in the CBO/OMB reports and the GAO reports, and would constitute a de facto loan limitation.

This is analogous to the treatment of obligations from special, trust, and trust-revolving funds financed through permanent indefinite budget authority; the obligations from such funds (if not exempt or subject to special rule) would be reduced by the sequestration percentage, and the resulting level of estimated obligations would constitute a de facto obligation ceiling. Assets of such funds would remain in those funds.

In the case of loan programs financed by permanent indefinite budget authority, the post-sequestration loan level is intended to be controlling. In the case of loan programs for which an appropriation of definite budget authority exists, both the pre-sequestration loan level and the definite budget authority are reduced by the domestic sequestration percentage.

V. CONGRESSIONAL RESPONSE TO A PRESIDENTIAL ORDER

House Amendment

No Provision

Senate Amendment

The Senate amendment provides that not later than 10 days after the issuance of an order by the President, the Committees on the Budget of the House of Representatives and the Senate may report to their respective Houses a concurrent resolution affirming the order in whole or in part. To the extent that parts of the order are not affirmed, the concurrent resolutions shall contain reconciliation instructions to achieve the level of deficit reduction contained in those parts.

Committees instructed by the concurrent resolution have 10 days from the adoption in both Houses of the conference report on the concurrent resolution to respond to the instructions. The Committees on the Budget of the respective House would package the recommendations of the instructed committees without revision, except revisions could be made to bring a committee into compliance with the instructions. The Committees on the Budget would then report a reconciliation bill or resolution, or both, carrying out the recommendations of the committees and any revisions to bring committees into compliance.

Reconciliation bills and conference reports thereon in the Senate, but only conference reports in the House, which would breach the maximum deficit amount would not be in order.

In the House, any concurrent resolution, and any conference reports thereon would be considered in accordance with the applicable rules of the House, except that the concurrent resolution would be considered privileged for consideration on or after the third day that the report of the Budget Committee was available to Members. In the Senate, the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon apply to the consideration of concurrent resolutions, and reconciliation bills and reconciliation resolutions reported under this section, except that debate on the concurrent resolution is limited to 10 hours.

Conference Agreement

The conference agreement sets forth procedures for formulation of an alternative congressional deficit reduction plan in the Senate, as follows:

Within two days of the revised report issued by the Comptroller General (October 10; January 20 in 1986), Senate committees may submit views and estimates on an alternative congressional plan to the Senate Budget Committee.

Within 10 days of a final order by the President (October 15; March 1, in 1986—initial report deemed to be final in 1986), the Senate Budget Committee may report a resolution (simple or concurrent) to the Senate where it is to be considered under a 10 hour time limit and the provisions of section 305 of the Budget Act relating to consideration of budget resolutions. The resolution may affirm the presidential order in whole or part. To the extent that the order is not affirmed, the resolution shall contain reconciliation instructions to Senate Committees to achieve at least the amount of deficit reduction, attributable to the respective committees by jurisdiction, which was not affirmed.

On the basis of what is affirmed or not affirmed regarding the presidential order, even if a committee is not required to produce a specific amount of deficit reduction, it would still be in order to offer amendments to a congressional alternative plan resolution to instruct such a committee to produce a specific amount of deficit reduction.

Within 10 days after reconciliation instructions are issued pursuant to an alternative congressional plan resolution, reconciled committees must submit their responses to the Senate Budget Committee (or directly to the Senate if only one committee is reconciled) which packages the responses into a single bill for consideration by the Senate. A committee shall be considered to have complied with its reconciliation instructions if it reports out deficit reductions at least equal to the amount it was instructed to achieve. If a committee's reconciliation language falls short of the required deficit reduction, the Budget Committee must include in the reconciliation measure language within such committee's jurisdiction which brings the committee into compliance with its instructions.

The conference agreement includes several provisions relating to floor consideration of an alternative congressional reconciliation bill (or resolution). It would not be in order to consider such a reconciliation bill (or resolution), or amendment thereto, or conference report thereon, if it would cause the maximum deficit amount for a fiscal year to be exceeded, unless the economy is experiencing negative real growth. Debate on such a reconciliation measure would be limited to 20 hours and the provisions of section 305(b) relating to floor consideration of reconciliation measures would be made applicable.

VI. ECONOMIC CONDITIONS

House Amendment

The House amendment provides that if real GNP growth is projected to be one percent or less for the fiscal year there shall be no maximum deficit amount. It further provides that if real GNP growth has been negative, or is projected to be negative, for each of two consecutive quarters, the Budget Committees may report joint resolutions declaring the economy in recession and suspending or revising this law; and that if the average rate of unemployment for two consecutive months is one percent above the same two months for the previous year, points of order against legislation breaching the maximum deficit amount or budget resolution deficit would be removed.

Senate Amendment

The Senate amendment provides that if real GNP growth is projected to be negative for each of two consecutive quarters, or has been less then one percent for each of two consecutive quarters, the Budget Committees may report joint resolutions declaring the economy in recession and suspending or revising this law. Such joint resolutions would be considered under expedited procedures.

Conference Agreement

The conference agreement provides that the CBO Director shall notify Congress if, during a period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the four quarters following such notification, such Office or the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any two consecutive quarters within such period, or if the Department of Commerce preliminary report of actual real economic growth (or any subsequent revision thereof) indicates that the rate of real economic growth for each of the most recent reported quarters and the immediately preceding quarter is less than one percent.

Upon receiving such notification the Majority Leaders of both Houses shall introduce identical joint resolutions suspending the following provisions of the Balanced Budget and Emergency Deficit Reduction Act of 1985:

(1) the maximum deficit amount for the current fiscal year and the next fiscal year as it applies to Congressional budget resolutions and the President's budget submissions;

(2) points of order for the current fiscal year enforcing spending and revenue levels, and the maximum deficit amount in the

Senate, established in the budget resolution for such year;

(3) points of order for the next fiscal year enforcing spending and revenue levels established in the budget resolution for such fiscal, year, except that if a budget resolution for such year has not been agreed to before the introduction of the joint resolution, then these points of order will not be suspended. the points of order in the Senate for enforcing the maximum deficit level for the next fiscal year is suspended regardless of the status of the budget resolution for such fiscal year.

(4) the issue of any joint report by CBO and OMB and any report of the Comptroller General reporting excess deficits, the issue of any initial or final sequestration order by the President, and the operation of any initial sequestration order. However, a final sequestration order issued prior to enactment of the joint resolution is not suspended.

The joint resolution is referred to the Budget Committees, which must report it within five days without amendment or be automatically discharged. The resolution is considered under expedited procedures and may be not be amended on the floor.

VII. CONSTITUTIONAL ISSUES

House Amendment

The House amendment provides that within 60 days of the enactment of the bill, any Member of Congress may commence a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief on the ground that section 251 violates the Constitution. If the President issues an order under section 252, the House amendment provides that any Member of Congress or any other person adversely affected by such order may commence a civil action for declaratory and injunctive relief in the District Court for the District of Columbia on the ground that the order violates the Constitution and the court may issue a preliminary or permanent injunction suspending the order. In addition, in the case of an order issued under section 252, the House amendment provides that any Member of Congress may commence a civil action for declaratory and injunctive relief in the District Court for the District of Columbia on the grounds that the terms of the order do not comply with the Act.

Both Houses of Congress are granted the right to intervene in any of the above actions. All of the above actions are to be heard and determined by a three judge panel on an expedited basis. In all of the above actions, direct appeal to the Supreme Court is authorized and attorney's fees shall be recoverable by the prevailing party at a rate not to exceed $75.

The House amendment also contains a non-severability clause providing that if any of the provisions of the Act are found to be unconstitutional, the entire Act will fall.

Senate Amendment

The Senate amendment provides that any Member of Congress may bring an action for declaratory or injunctive relief concerning the constitutionality of the Act, or intervene in such action, in the United States District Court of Appeals for the District of Columbia, which will hear the matter sitting en banc. Any Member of Congress can bring a similar action in the same court on the ground of nonapplication of a sequestration order. The above actions would be reviewable by appeal directly to the Supreme Court. The amendment directs the Court of Appeals and the Supreme Court to expedite to the greatest possible extent an action brought by a Member of Congress challenging the constitutionality of the Act.

If the President fails to sequester funds on the claim that the constitutional powers of the President prevent such sequestration or permit its avoidance, and such claim is determined by the Supreme Court to be valid, then the entire sequestering order is null and void.

The Senate amendment provides that if the reporting procedures under 204(a)(1) of the amendment (the report of the Directors on OMB and CBO to the Comptroller General) are invalidated in a court action brought under this Act, the report of the Directors will be transmitted to a joint committee of the Congress made up of the entire membership of the House and Senate Budget Committees. The Joint Committee will report the contents of the report, in the form of a joint resolution, to both Houses, no later than 5 days after the receipt of the report. Expedited consideration of the joint resolution is provided in both the House and the Senate. Upon the enactment of the joint resolution, it would be deemed to be the report received by the President that triggers a sequestration order.

The Senate amendment provides that if any provision of the Act is held invalid, the remainder of the provisions will not be affected.

Conference Agreement

Both the House amendment language pertaining to nonseverability and the Senate amendment language pertaining to severability would be deleted.

Expedited judicial review would be provided for Members of Congress seeking anticipatory review of the constitutionality of a Presidential order issued under Section 252, for Members of Congress or other adversely affected persons challenging the constitutionality of the Act, and Members of Congress claiming that an order issued pursuant to Section 252 does not comply with the requirements of the Act. All of the above actions would be taken in the District Court for the District of Columbia and would be heard and determined by a three judge court.

Any order of the District Court issued pursuant to the above actions would be reviewable by appeal directly to the Supreme Court. Both the District Court and the Supreme Court are directed to expedite such actions to the greatest extent possible.

If a court determines that an order issued by the President did not reduce or sequester funds as required by the Act, the President would have 20 days to revise the order in accordance with such determination. If a Presidential order does not comply with the requirements of the Act on the claim or defense that the constitutional powers of the President allow for such avoidance, and such a claim or defense is finally determined by the Supreme Court to be valid, the entire order is null and void.

No declaratory or injunctive relief from an order issued by the President shall become effective until any appeals that are taken are exhausted and the court to which appeal has been taken has issued its final order, or mandate in the case of a Court of Appeals.

While the conferees believe all constitutional concerns have been successfully addressed, it is obvious that some controversy remains. The Conferees want any constitutional issues to be decided as promptly as possible. If any part of the Act is not constitutional, it is in the interest of everyone in the executive and legislative branches as well as the public in general, to know this as promptly as possible.

The purposes of section 274 (a)(1) is to ensure prompt resolution of any constitutional questions regarding the sequestration process and the mechanism by which sequestration is triggered. It should be noted that a member of Congress bringing an action under paragraph (a)(1) has a direct interest in the resolution of this constitutional question since the application of such an order would lead to a reduction in the funds available to such member to carry out his or her legislative functions.

The conferees, in agreeing to section 274 (a)(1), (a)(2), and (a)(3) took into account both Article III of the Constitution and applicable case law relating to standing and ripeness. The Conferees are agreed that the three paragraphs fit within those guidelines and any actions brought pursuant to these expedited review provisions should be reviewed by the courts.

The Conference Agreement adopts the Senate provision on the alternative procedures for the joint report of the Directors to the Congress. The Alternative procedures would be triggered if any of the reports of the Directors were invalidated. The Joint Committee on Deficit Reduction would be established only upon the invalidation of any of the reporting procedures.

Section 274(a)(4) provides for notice to the Secretary of the Senate and the Clerk of the House of legal actions brought pursuant to the provisions of Section 274. This subsection also provides for intervention by the Senate and the House in such actions. It is intended that each body may employ what have developed to be the regular procedures to initiate participation in cases of institutional interest as they have in litigation concerning the 1984 Bankruptcy Act Amendments and the Competition in Contracting Act Amendments.

The House amendment contained an attorneys' fee provision which was deleted. The conferees intend that existing statutes providing for attorneys' fees, including the Equal Access to Justice Act, cover actions brought under the judicial review provisions of this act. If the law is declared unconstitutional, reasonable attorneys' fees at the ordinary EAJA rates should be paid.

The conferees do not believe that any constitutional authority or requirement to avoid sequestration of any federal spending exists, but have included this provision as a "Fail Safe" mechanism against a successful contrary claim upsetting the balance provisions of the Act.

VIII. BUDGET ACT PROCEDURES AND CHANGES IN THE RULES OF THE HOUSE AND SENATE

The legislation adopts many of the congressional budget reforms proposed in the 98th Congress by the Task Force on the Budget Process, the Committee on Rules, which is commonly called "the Beilenson Task Force" in reference to its Chairman. (See House Report 98-1152, Part 1). Specifically, the legislation provides for an accelerated congressional and executive branch timetable, expands the application of the Budget Act to cover credit authority, includes off-budget programs in the congressional and executive budgets, and streamlines the congressional budget process by providing for an annual budget resolution and by removing unnecessary obstacles to the consideration of authorizations and appropriation bills.

Section 201. Congressional Budget

(a) Definitions

(1) Deficit.—The Congressional Budget and Impoundment Control Act of 1974 (hereinafter referred to as "current law") does not include a definition of the term "deficit".

The House amendment contained a definition of the term "deficit".

The Senate amendment contained a definition of the term "deficit".

The conference agreement contains a definition of the term "deficit" which is similar to that found in both amendments. "Deficit" is defined as the amount by which outlays exceed revenues for a fiscal year. The definition includes all off-budget Federal entities.

The definition also includes, for the purposes of the Balanced Budget and Emergency Deficit Reduction Act of 1985, receipts and disbursements of the Social Security trust funds.

The conferees are aware that this requirement conflicts with the mathematical consistency requirement for budget resolutions contained in the Congressional Budget Act and the House rules. The Balanced Budget and Emergency Deficit Control Act prohibits the budget resolution from setting forth social security spending and revenues. The mathematical consistency rule requires that the budget resolution therefore show a deficit which is computed without social security. The conferees intend that budget resolutions which are considered during the operation of the Balanced Budget and Emergency Deficit Control Act will contain two deficit computations: one will exclude social security so as to comply with the mathematical consistency rule. The other will include social security and will be the deficit level used for purposes of determining compliance with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act.

(2) Maximum Deficit Amount.—Current law does not contain a definition of "maximum deficit amount".

The House amendment contained a definition of "maximum deficit amount".

The Senate amendment contained a definition of "maximum deficit amount".

The conference agreement defines "maximum deficit amount" to mean $171.9 billion in fiscal year 1986, $144 billion in fiscal year 1987, $108 billion in fiscal year 1988, $72 billion in fiscal year 1989, $36 billion in fiscal year 1990, and zero in fiscal year 1991.

(3) Off-budget Federal entity.—Current law does not contain a definition of "off-budget Federal entity".

The House amendment did not define "off-budget Federal entity".

The Senate amendment did not define "off-budget Federal entity".

The conference agreement defines "off-budget Federal entity" as any entity (other than a privately-owned Government-sponsored entity) which is established by Federal law, and the budget receipts and disbursements of which would, but for this Act, be required to be excluded from the President's budget and the congressional budget. (See also discussion of "Off-Budget Federal Entities".

(4) Entitlement authority.—Current law does not contain an explicit definition of "entitlement authority".

The House amendment contained a definition of "entitlement authority".

The Senate amendment did not contain a definition of "entitlement authority".

The conference agreement contains the House provision defining "entitlement authority" so as to specifically reference spending authority as described in section 401(c)(2)(C) of the Budget Act, which is the working definition under current interpretation.

(5) Credit Authority.—Current law does not contain a definition of "credit authority".

The House amendment defined "credit authority" as authority to incur direct loan obligations or primary loan guarantee commitments.

The Senate amendment contained an identical provision.

The conference agreement incorporates this language.

(6) Budget Authority to include Offsetting Receipts.—Current law does not define "budget authority" as including the authority to collect offsetting receipts.

The House amendment defined "budget authority" to include the authority to collect offsetting receipts.

The Senate amendment did not include such a provision.

The conference agreement contains the House provision clarifying the definition of budget authority by specifically including the authority to collect offsetting receipts. Offsetting receipts are amounts deposited in receipt accounts. These amounts generally are deducted from budget authority by function and by agency. This provision would not change that scorekeeping practice. A reduction in offsetting receipts increases budget authority. Under the new definition, legislation that decreases offsetting receipts will be treated as legislation providing budget authority. The new definition does not affect the treatment of offsetting collections credited to an account, such as TVA power proceeds.

(b) Congressional Budget Process

The House amendment contained a complete substitute for Title III of the Congressional Budget Act.

The Senate amendment contained a series of amendments to that title.

The conference agreement contains a complete substitute for Title III, as follows:

Section 300 Timetable

This section displays the main steps in the congressional budget process by setting forth ten major dates for completion of budget related action.

"On or before:	Action to be completed:
First Monday after January 3*	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolutions on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

*February 5 for fiscal year 1987.

Section 301. Annual Adoption of Concurrent Resolution on the Budget

(a) Content of Concurrent Resolution on the Budget.—This subsection requires Congress to complete action by April 15 of each year on a concurrent budget resolution. The budget resolution sets forth appropriate budgetary levels for the coming fiscal year and planning levels for the two ensuing fiscal years, including aggregate levels for total new budget authority, budget outlays, direct loan obligations, primary loan guarantee commitments, revenues, the surplus or deficit and the public debt. The budget resolution also sets forth the recommended amount by which revenues should be changed and includes a distribution of total new budget authority, budget outlays, direct loan obligations and primary loan guarantees among functional categories representing major program areas of federal budgetary activity.

(b) Additional Matters in Concurrent Resolution on the Budget.—This subsection provides that the budget resolution may also include reconciliation directives, deferred enrollment of spending bills, other matters and procedures appropriate to carry out the purposes of the Budget Act, and may specify the calendar year in which Congress believes the unemployment goals of the Employment Act of 1946 should be achieved.

(c) Consideration of Procedures or Matters which have the Effect of Changing any Rule of the House of Representatives.—This subsection provides that a budget resolution reported by the House Budget Committee which has the effect of changing any rule of the House of Representatives shall be referred to the Committee on Rules. The Rules Committee then must report it within five calendar days during which the House is in session. The Committee on Rules has the authority to report that budget resolution with an amendment to strike or change the provisions affecting the rules.

(d) Views and Estimates of Other Committees.—This subsection requires each standing committee of the House or of the Senate having legislative jurisdiction to submit its views and estimates with regard to any matter in the budget resolution relating to its jurisdiction to its Budget Committee by February 25. All other committees of the House or of the Senate, and all joint committees may also submit such views and estimates. The Joint Economic Committee is required to submit to both Budget Committees its fiscal policy recommendations for achieving the goals of the Employment Act of 1946.

(e) Hearings and Report.—This subsection requires the Budget Committee of each House to hold hearings and receive testimony from Members of Congress and appropriate representatives of Federal departments and agencies, the general public, and national organizations. The report accompanying a budget resolution must include a comparison of the budget aggregates in the budget resolution with those requested by the President, an analysis for each functional category for spending for each program and of the controllability of such expenditures, an allocation of total revenues among major sources, a statement of economic assumptions and objectives, five year projections, a tax expenditures budget, an analysis of Federal assistance to State and local governments, information on how the Budget Committees determined the content of the budget resolution, and allocations pursuant to section 302(a). The Budget Committees may consider in developing their reports the recommendations of the Joint Economic Committee under subsection (d) and the Budget Committees may also include matters other than those required and listed above.

The House amendment would have required "a comparison of Federal priorities"

showing the levels of spending, credit activity and tax expenditures in each functional category. The conferees dropped this provision because of technical difficulties in making such a comparison. The conferees urge the Budget Committees to make every effort to overcome these difficulties and to include such comparisons as soon as practicable.

(f) Achievement of Goals for Reducing Unemployment.—This subsection is the same as of current law, except references in the Act to "the first concurrent resolution on the budget" are changed to "the concurrent resolution on the budget".

(g) Common Economic Assumptions.—This subsection creates a new requirement that the joint explanatory statement accompanying a conference report on a budget resolution include a statement of common economic assumptions on which it is based. This codifies existing practice.

(h) Budget Committees Consultation with Standing Committees.—This subsection is new. It requires the House Committee on the Budget to consult with its standing committees during the preparation, consideration and enforcement of the budget resolution.

(i) Maximium Deficit Amount may not be exceeded.—This provision creates a new point of order against the consideration of a budget resolution, amendments thereto, and conference report thereon, if the effect of such measure would be to produce a recommended level of deficit for a fiscal year which exceeds the maximum deficit amount for that year.

In the House, this point of order, insofar as it applies to conference reports and amendments in disagreement, can only be waived by a vote of three-fifths of the Members present and voting, a quorum being present.

Section 302 Committee Allocations

(a)(1) Allocations of Totals in the House of Representatives.—

Section 302(a)(1) of the Budget Act provides that the statement of managers accompanying a conference report on a budget resolution shall allocate the appropriate amounts of spending and credit contained in the resolution to the committees with jurisdiction over such spending and credit.

Amounts allocated to committees

The method for allocating budget resolution totals, pursuant to section 302(a)(1), reflects current House practice, with the inclusion of credit authority. New budget authority, outlays, entitlement authority, new direct loan obligations, and new loan guarantee commitments are allocated. All permanent appropriations of budget authority and/or outlays are allocated to the committee that wrote the permanent law. All "current" appropriations—amounts to be provided by appropriations bills—are allocated to the Appropriations Committee. Entitlement authority is also allocated to committees. All amounts associated with an existing entitlement law are allocated to the authorizing committee that wrote the law. This is the case whether the entitlement is funded by permanent or current appropriations. New credit authority is allocated to the Committee on Appropriations where that committee provides or limits such authority. Otherwise, new credit authority is allocated to the authorizing committee that wrote the law providing such authority.

Separation between current level and discretionary action

All amounts—new budget authority, outlays, entitlement authority, and new credit authority—are allocated in two separate components, "Current Level" and "Discretionary Action". Current level refers to amounts provided or required by law as a result of permanent appropriations, advance appropriations, existing entitlement authority, and "prior-year" outlays from discretionary appropriations. Some of these laws can also provide credit authority, which is allocated in the "current level" category, as are direct loans that result from defaults on guaranteed loans. Discretionary action refers to all amounts assumed in the budget resolution but not yet enacted into law for "direct spending" legislation and for discretionary appropriations for such fiscal year. There is only one target for discretionary action entitlement authority, applying to all entitlement legislation whether funded through Federal, revolving, or trust funds. The discretionary action allocation of budget authority, outlays, and entitlement authority would include any assumed legislative increase or decrease to existing permanent or entitlement law, and all new discretionary appropriations for such fiscal year. Such assumed action also includes new credit legislation and new loan limitations to be established by the Committee on Appropriations. The term "discretionary action" corresponds to "new discretionary budget authority" and to "new entitlement authority" as used in the Budget Act.

(2) Allocation of Totals in the Senate.—This subsection provides for allocations of budget totals in the joint explanatory statement accompanying a conference report to each of the Senate committees which have jurisdiction over legislation providing budget authority. It is identical to current law except that allocations are to include credit authority.

(b) Reports by Committees.—This subsection is identical to current law, which requires committees to subdivide their section 302(a) allocations.

(c) Legislation Subject to Point of Order.—This subsection creates a new point of order prohibiting consideration of any bill, resolution, amendment, or conference report providing new budget authority, new spending authority as defined in section 401(c)(2), or new credit authority until the committee of jurisdiction submits to its House the subdivisions required under section 302(b).

(d) Subsequent Concurrent Resolution.—This subsection provides that in the case of any subsequent budget resolution, the allocations and subdivisions described in subsections (a) and (b) are required only to the extent necessary to cover revisions in such subsequent budget resolution for a fiscal year.

(e) Alteration of Allocations.—This section codifies current practice and authority of committees to alter their subsection (b) suballocation.

(f) Legislation Subject to Point of Order.—302(f)—Legislation Subject to Point of Order.

(1) In the House of Representatives.—This subsection creates a new point of order in the House prohibiting the consideration of bills, amendments, or conference report providing new discretionary budget authority, new entitlement authority, or new credit authority for a fiscal year in excess of a committee's section 302(a) allocation of such authority. This point of order would make binding upon a committee its section 302(a) total allocation of new discretionary budget authority, new entitlement authority, and new credit authority. Any outlay allocation pursuant to section 302(a) is not relevant in determining the application of this point of order.

(2) In the Senate.—This subsection creates a new point of order in the Senate prohibiting the consideration of bills amendment and conference reports providing budget authority or outlays for a fiscal year in excess of a committee's section 302(b) suballocation of budget authority or outlays for such fical year.

(g) Determinations by Budget Committee. This subsection provides that estimates of spending and credit legislation are to be determined by the Budget Committees. This is consistent with the existing duties of the Budget Committees under section 311.

Section 303 Concurrent Resolution on the Budget Must be Adopted Before Legislation Providing New Budget Authority, New Spending Authority, New Credit Authority, or Changes in Revenues or the Public Debt Limit is Considered

(a) In General.—This subsection prohibits consideration in either House of any bill, resolution or amendment providing new budget authority, new credit authority, new entitlement authority, or providing for increases or decreases in revenues or the public debt for a fiscal year, until the budget resolution for that fiscal year has been adopted by Congress.

(b) Exceptions.—This subsection is identical to current law, except it adds a provision allowing regular appropriation bills to be considered in the House after May 15 of each calendar year.

(c) Waiver in the Senate.—This subsection is identical to current law to provide for Senate waivers of section 303(a).

Section 304 Permissible Revisions of Concurrent Resolutions on the Budget

(a) In General.—This subsection retains current law by providing that Congress may revise or reaffirm a budget resolution for a fiscal year at any time after the annual budget resolution required by section 301 is adopted.

(b) Maximum Deficit Amount May Not be Exceeded.—This subsection provides that the point of order established in section 301(i) regarding deficits in excess of the maximum deficit amount will also apply to a revised resolution.

Section 305 Provisions Relating to the Consideration of Concurrent Resolutions on the Budget

(a) Procedure in House of Representatives after Report of Committee.—This subsection established the procedure for consideration of budget resolutions in the House of Representatives. The conference agreement makes only two changes to section 305(a). The ten-day layover currently required for budget resolutions is reduced to a five-day required layover. This is consistent with the new accelerated timetable and with current practice.

The layover period is consistent with the possibility, under section 301(c), of a five-day referral of the resolution to the Committee on Rules. This allows Members an opportunity to see the Rules Committee report if such report is necessitated by new matters or procedures contained in a budget resolution which have the effect of changing the rules of the House.

(b) Procedure in Senate After Report of Committee.—This subsection establishing

procedures for consideration of budget resolutions in the Senate is identical to the language include in the Congressional Budget Act of 1974 for this purpose, with one addition: Subsection (b)(2)(B) provides a new point of order against an amendment which increases the deficit.

(c) Action on Conference Reports in the Senate.—This subsection is identical to current law.

(d) Required Action by Conference Committee.—This subsection is identical to current law.

(e) Concurrent Resolution Must Be Consistent in the Senate.—This subsection is identical to current law.

Section 306 Legislation Dealing with Congressional Budget Must Be Handled by Budget Committees

Section 306 is identical to current law.

Section 307 House Committee Action on All Appropriation Bills to be Completed by June 10

This section requires all annual appropriations bills for the coming fiscal year to be reported by the House Committee on Appropriations by June 10.

Section 308 Reports, Summaries, and Projections of Congressional Budget Action

(a) Reports on Legislation Providing New Budget Authority, New Spending Authority, or New Credit Authority, or Providing an Increase or Decrease in Revenues or Tax Expenditures.—This subsection provides that any report filed in either House on legislation providing new budget authority, new spending authority, new direct loan obligations, new primary loan guarantee commitments, or providing for an increase or decrease in revenues or tax expenditures shall include the following information prepared after consultation with the Director of the Congressional Budget Office: a comparison of the measure with the section 302(b) report submitted pursuant to the latest budget resolution; an identification and justification of any new spending authority (described in section 401(c)(2)), provided by the measure; a Congressional Budget Office five-year projection of how the measure will affect levels of budget authority, outlays, spending authority, revenues, tax expenditures, and credit authority available under existing law; and a Congressional Budget Office estimate of new budget authority provided for assistance to State and local governments. This subsection also requires, for the first time, that the same information as it pertains to conference reports or amendments in disagreement must be available to Members prior to consideration of such conference report or amendments in disagreement.

Section 308(a) as amended by the conference agreement expands the scope of those comparisons. In current law, only legislation providing budget authority and tax expenditures required this information. The conference agreement provides that reports on legislation providing new spending authority, new credit activity or changes in the levels of revenue would also be required to include information necessary for budget scorekeeping.

(b) Up-to-Date Tabulations of Congressional Budget Actions.—This subsection requires the Congressional Budget Office to issue monthly budget status reports to the committees of the House and the Senate on measures providing new budget authority, new spending authority, new direct loan obligations, new primary loan guarantee commitments, and making changes in revenues or tax expenditures. The Budget Committees are required to make available to members of their respective Houses summary scorekeeping reports based on the CBO tabulations. The Budget Committee summary scorekeeping reports must be made available frequently enough (at least monthly) to provide an up-to-date, accurate representation of congressional budget action. In the House, the Budget Committee summary scorekeeping reports must be submitted to the Speaker.

This provision does not preclude the ability to the Budget Committees and others to request scorekeeping reports on a more frequent basis than once a month.

(c) Five-year projection of Congressional Budget Action.—This subsection requires the Congressional Budget Office to issue at the start of each fiscal year a report projecting for each of the next five years new budget authority, outlays, revenues and their major sources, the surplus or deficit, tax expenditures, entitlement authority and credit authority.

Nothing in this section is intended to alter the Congressional Budget Office's current practice of consulting with the Joint Committee on Taxation in the preparation of tax expenditure estimates.

Section 309 Approval of Regular Appropriation Bills

Approval by the House.—This subsection prohibits the House form considering a resolution providing for an Independence Day district work resolution until the House has approved all the annual appropriation bills for the coming fiscal year.

Section 310 Reconciliation

(a) Inclusion on Reconciliation Directives in Concurrent Resolutions on the Budget.—This subsection requires a budget resolution, to the extent necessary to effectuate the resolution, to direct committees to recommend legislation that achieves specified changes in the amounts of new budget authority, prior-year budget authority, new entitlement authority, credit authority, revenues, or the public debt limit level contained in laws within its jurisdiction.

(b) Legislative Procedure.—In either House, if the changes specified by the budget resolution are within the jurisdiction of only one committee, that committee shall promptly report a reconciliation bill or resolution to its House. If more than one committee in either House has been directed to make changes in matters within its jurisdiction, then all such committees shall submit their recommendations to the Budget Committee of their House. The Budget Committee shall then report the reconciliation legislation, without substantive change. This subsection is substantially the same as current law.

(c) Compliance with Reconciliation Directions.—This subsection allows a committee which receives a reconciliation directive consisting of spending reductions and revenue increases to substitute up to 20% of its total amount of savings in spending reductions for revenue increases, and vice versa.

(d) Limitation on Amendments to Reconciliation Bills and Resolutions.—(1) In the House of Representatives this subsection creates a new point of order in the House against an amendment to a reconciliation bill or resolution if that amendment's net impact is to increase spending or to decrease revenues. A motion to strike provisions containing new budget authority or new entitlement authority may be allowed.

(2) In the Senate this paragraph provides a point of order against amendments to a reconciliation bill which would cause the bill to reduce the deficit less than was required by the instructions in the most recently agreed to resolution containing reconciliates instructions, unless that amendment is internally deficit neutral.

This subsection also states the existing authority of the House Committee on Rules to make in order amendments to reconciliation bills achieving deficit reduction for committees failing to respond to reconciliation instructions.

(e) Procedure in the Senate.—This subsection is identical to current law.

(f) Completion of Reconciliation Process in the House of Representatives and in the Senate.—This subsection establishes June 15 as the completion date for reconciliation and prohibits the House from considering a resolution providing for the Independence Day district work period until the House has completed action on reconciliation legislation for the coming fiscal year.

(g) Limitations on changes to the Social Security Act.—This subsection provides a point of order against the consideration of a reconciliation bill, amendment thereto, or conference report thereon which contains changes in Social Security benefits.

Section 311 New Budget Authority, New Spending Authority, and Revenue Legislation Must Be Within Appropriate Levels

(a) Legislation Subject to Point of Order.—This subsection prohibits consideration in the House or the Senate of legislation providing budget authority or entitlement authority, or reducing revenues for the fiscal year to which the most recently agreed to budget resolution applies if enactment of such legislation would cause the totals for such authorities, or for revenues, or the total for budget outlays set forth in such budget resolution to be breached. A point of order also lies in the Senate against legislation that would cause the maximum deficit amount to be exceeded.

Section 311(a) applies immediately upon adoption of the budget resolution.

(b) Exception.—This subsection provides that the point of order established by subsection (a) shall not apply in the House of Representatives to legislation if that legislation would not cause the committee's appropriate allocation of new discretionary budget authority, new entitlement authority, and new credit authority to be exceeded.

Under current law, there is no similar exception. However, pursuant to recent budget resolution if Congress has not completed action on a second resolution by the start of a new fiscal year and section 311(a) applies to the aggregates in the first resolution, then a similar exception applies.

The purpose of the exception is to maintain the principle of committee accountability. Committee accountability implies that if a committee lives within the limits set for it by Congress in a budget resolution, the committee should not face procedural impediments to the consideration of its legislation.

(c) Determination of Budget Levels.—This subsection provides that estimates prepared by the Budget Committees of the appropriate House shall be the basis for determining whether legislation is subject to the point of order established by subsection (a) or the exception pursuant to subsection (b).

Section 311(c) is similar to section 311(b) of current law.

Section 211 New Spending Authority

The House amendment contained a series of amendments to section 401 of the Congressional Budget Act.

The Senate amendment contained no amendments to section 401 of that Act.

The conference agreement contains a complete substitute for section 401, reflecting a large portion of the House language, as follows:

Section 401 Bills Providing New Spending Authority

(a) Controls on Legislation Providing Spending Authority.—This subsection provides a point of order against legislation providing contract or borrowing authority, unless such legislation contains a provision that such new authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. Current law applies the point of order to bills, resolutions, and amendments. The conference agreement extends the point of order to conference reports. This conforms with House precedents which apply this point of order to conference reports.

(b) Legislation Providing Entitlement Authority.—This subsection is identical to current law, and provides for referral to the Appropriations Committees of entitlement legislation that exceeds section 302(b) suballocations.

(c) Definitions.—This subsection defines the various types of back door spending authority. The conference agreement contains two new types of such authority: new subparagraph (D) covers proprietary receipts, including user fees, which are deposited in the general fund of the Treasury; new subparagraph (E) covers all other spending authority not subject to the annual review of the appropriations process, such as certain permanent appropriations, and which is not otherwise defined in subparagraphs (A) through (D).

With the addition of new subparagraphs (D) and (E), section 401 now covers all types of backdoor spending authority—that is, spending not subject to the annual control of the appropriations process.

(d) Exceptions.—This subsection is identical to current law except that section 401(d)(3)(A)(ii) will not apply to government corporations created after the date of enactment of this Act.

Section 212 Credit Authority

The House amendment contained a complete substitute for section 402 of the Congressional Budget Act.

The Senate amendment contained no amendments to section 402 of that Act.

The conference agreement contains a complete substitute for section 402, which is virtually identical to the House language, as follows:

Section 402. Legislation Providing New Credit Authority.

This section strikes the language of section 402 of the Budget Act and substitutes new provisions. Section 402 of the Act sets a deadline of May 15 before the start of a fiscal year for *reporting* measures making authorizations for that fiscal year. Section 402 also prohibits consideration of authorizing legislation if it is reported after the deadline and provided certain waiver procedures.

Subsections (a)-(e) of section 402 in the Act, which set a deadline for reporting authorizations, are counterproductive. The deadline encourages committees to report on or immediately before May 15, but this does not leave sufficient time for the authorization and appropriations processes. To provide a reporting deadline earlier than May 15 will result in the same clustering of reported authorizations around a single date and will not provide sufficient time for full consideration of them all. Instead, the deadline for action on appropriation measures will encourage the authorizing committees to set their own schedules to facilitate enactment of authorizations in a timely manner.

Section 402(f) of the Budget Act directed the Appropriations Committees to study provisions of law making permanent appropriations or providing spending authority and to report, from time to time, recommendations for terminating or modifying such provisions. New section 405 (explained below) requires GAO to study and make recommendations on these matters.

The new section 402(a) contained in the conference agreement creates a new point of order prohibiting consideration of legislation providing new credit authority unless that legislation also limits the use of such authority to the extent provided in appropriation acts. Subsection (b) of new section 402 references the definition of credit authority in new section 3(10) of the Budget Act, and limits the scope of new section 402 to new credit authority considered after the date of enactment, including any increase in or addition to existing credit authority.

Direct loans and loan guarantees are often efficient means to achieve useful public objectives. This section is not intended to, nor, in fact, would it, inhibit the use of credit instruments for public ends.

Section 213 Description by Congressional Budget Office

The House amendment contained amendments to section 403 of the Congressional Budget Act.

The Senate amendment contained no amendments to section 403 of the Act.

The conference agreement contains the House amendments to section 403 of the Budget Act. Section 403 currently requires the Congressional Budget Office to prepare cost analyses of all legislation "of public character" reported from committees other than the Committees on Appropriations. The conference agreement amends section 403 of the Act to require the Congessional Budget Office to also provide a description of each method for establishing a Federal financial commitment contained in that legislation. This new requirement is intended to provide information on backdoor financing mechanisms and to ensure that Members are aware that such mechanisms are contained in the legislation when the measure is under consideration.

Section 214 General Accounting Office Study; Off-Budget Agencies; Member User Group

The House amendment contained three new sections to be added to the end of title IV of the Budget Act.

The Senate amendment contained no such language.

The conference agreement contains three new sections, substantially similar to the House language, to be added to the end of title III, as follows:

Section 405. Study by the General Accounting Office of Forms of Federal Financial Commitment that are not Reviewed Annually by Congress.

This section requires the General Accounting Office to study all provisions of law providing permanent appropriations and providing spending authority described by section 401(c)(2) of the Congressional Budget Act (contract authority, borrowing authority, entitlement authority, off-setting receipts, and residual authority). The GAO must report to Congress within 18 months with its recommendations on the appropriate form of financing for all programs and activities financed by these provisions. The report shall be revised from time to time.

On the whole, there should be a presumption in favor of funding Federal activities through the annual appropriations process. In that way, all programs and activities are subject to regular review by authorizing and Appropriations committees and no programs and activities are granted special advantage by the congressional budget process. In certain cases, however, backdoor mechanisms are most appropriate to ensure the aims of the programs or activities being funded.

Section 406. Off-Budget Agencies, Programs, and Activities.

Section 406(a) provides that budgetary activities of federal agencies, including budget authority, credit authority, and estimates of outlays and receipts, which are off-budget immediately prior to enactment of this section, shall be included in the President's and the Congress' budgets.

Section 406(b) provides that all receipts and disbursements of the Federal Financing Bank with respect to any obligations issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency.

(See also discussion of the treatment of Social Security and "Off-Budget Federal Entities".)

Section 407. Member User Group.

This Section allows the Speaker, after consultation with the Minority Leader, to appoint a Member User Group, which shall review the scorekeeping rules and practices of the House and report to the Speaker from time to time on their effect and impact.

Section 221 Congressional Budget Office

The House amendment contained a series of amendments to section 202 of the Congressional Budget Act.

The Senate amendment also contained an amendment to section 202 of the Budget Act.

The conference agreement amends section 202 as follows:

(a) *Reporting Date.*—The conference agreement amends section 202(f)(1) of the Congressional Budget Act to require submission of the annual CBO reports to the Budget Committees by February 15 of each year.

(b) *Additional Reporting Requirement.*—The conference agreement amends section 202(f) of the Congressional Budget Act by adding paragraph (3). Paragraph (3) requires the Director to submit to the Congress on or before January 15 of each year a report listing unauthorized programs and programs whose authorizations expire in the coming fiscal year. The list should also include programs and activities for which authorizations of appropriations have already expired but for which appropriations were made in the current fiscal year.

The purpose of this requirement, in conjunction with the elimination of the May 5th deadline for reporting authorization bills, is to help Congress use the early months of the year to adopt authorizing legislation which must be in place before the

thirteen regular appropriation bills can be considered.

(c) *Studies.*—The conference agreement adds subsection (h) to section 202 of the Congressional Budget Act. Subsection (h) requires the Director of the Congressional Budget Office to conduct studies to enhance comparisons of budget outlays, credit activity, and tax expenditures.

The purpose of the requirement is to facilitate comparisons among programs with similar objectives but different forms of financing.

Section 222 Current Services Budget for Presidential Budget Purposes

The House amendment contained an amendment to section 1109(a) of title 31, United States Code.

The Senate amendment contained no such amendment.

The conference agreement contains the House language amending section 1109(a) of title 31, United States Code, to require the President to submit a current services budget concurrently with the annual budget submission on or before the first Monday following January 3 of each year, except for calendar year 1986 when the deadline is February 5.

The conference agreement also makes a corresponding change that the Joint Economic Committee submits its analysis of the current services budget on March 1.

Section 223 Study of Off-Budget Agencies

The House amendment repealed section 606 of the Congressional Budget Act.

The Senate amendment had no such amendment.

The conference agreement contains the House language repealing section 606 of the Congressional Budget Act. Section 606 required the Budget Committees to study provisions of law establishing off-budget status for agencies and to report recommendations to their respective Houses from time to time. Under section 214 of the conference agreement, all Federal entities currently off-budget are brought back on budget.

Section 224 Changes in Functional Categories

The House amendment contained an amendment to section 1104(c) of title 31, United States Code.

The Senate amendment contained no such amendment.

The conference agreement adds the House language to the end of section 1104(c) of title 31, United States Code. Under current law, the President may make changes in the functional categories of the Budget only in consultation with the Appropriations and Budget Committees of both Houses. The new sentence would require that all committees of the House and Senate receive prompt notification of changes in functional categories. Because Congress decides budget priorities by functional category it must have a voice in shaping those categories. The requirement added by the conference agreement ensures that all committees are promptly made aware of such changes.

Section 225 Jurisdiction of Committee on Government Operations

This section amends clause 1(j) of rule X of the Rules of the House of Representatives to include the budgetary treatment of agencies or programs in the jurisdiction of the Committee on Government Operations.

Section 226 Continuing Study of Congressional Budget Process

This section amends clause 3 of rule X of the House of Representatives. It includes among the functions of the Rules Committee the continuing study of the congressional budget process.

Section 227 Early Election of Committees of the House

This section amends clause 6(a)(1), rule X of the Rules of the House of Representatives, to require the election of committees of the House within 7 calendar days after a new Congress convenes. The new requirement is intended to facilitate early organization of the House and action by the committees in the first months of a new Congress. This requirement does not impede consideration of recommendations by party caucuses to change the composition of standing committees at a later date.

Section 228 Rescissions and Transfers in Appropriations Bill

This section amends the House rules to permit consideration of rescissions of appropriations and transfers of unexpended balances within the Department or agency for which they were originally appropriated which are included in a general appropriations bill.

Section 231 Table of Contents

This section of the conference agreement conforms the table of contents with respect to title III of the Congressional Budget Act with prior changes made by the conference agreement.

Section 232 Additional Technical and Conforming Amendment

This section changes the table of contents in the Act with respect to Title IV and strikes out a reference to the required second budget resolution in the definition section of the Act. It also makes five similarly technical changes in House Rules to conform with changes made by this conference agreement.

Section 241 Submission of President's Budget; Maximum Deficit Amount May Not Be Exceeded.

(a) Submission of President's Budget

The House amendment accelerated the deadline for transmittal of the President's budget to the first Monday after January 3.

The Senate amendment contained the same accelerated schedule.

The conference agreement changes current law, which requires transmittal of the President's budget during the first 15 days of each session to a deadline of the first Monday after January 3, except in calendar year 1986, when the deadline would be February 5.

(b) Maximum Deficit Amount May Not Be Exceeded

The House amendment contained substantially similar language.

The conference agreement adds a new subsection to section 1105 of title 31, United States Code. Paragraph (1) of the new subsection requires that the President's budget shall be prepared on the basis of the best estimates then available in such a manner as to ensure adherence to the maximum deficit levels set forth in section 3(7) of the Congressional Budget Act, as amended by this conference agreement. Paragraph (2) of the new subsection reiterates this requirement in strong terms by stating that the deficit level in the President's budget shall not exceed the maximum deficit amounts.

Section 242 Supplemental Budget Estimates and Changes.

(a) Change in Date of Submission

The House amendment eliminated the current law requirement for an April update of the President's budget.

The Senate amendment had no such provision.

The conference agreement includes the House provision, eliminating the requirement for an April update of the President's budget. Budget reestimates from the President in early April do not help the Congress meet its April 15 deadline. Requiring budget reestimates in March or earlier is too soon after the President originally submits the budget. Therefore, the spring deadline is dropped. Under this conference agreement, the President will still be required to submit mid-summer budget reestimates.

(b) Revisions and Supplemental Summaries

The House amendment contained an amendment to section 1106 of title 31, United States Code, adding a new subsection providing that revisions and supplemental summaries to the President's budget must adhere to the maximum deficit amounts.

The Senate amendment had identical language.

The conference agreement has identical language.

Section 271. Waivers and Suspensions; Rulemaking Powers.

The House amendment provided for a three-fifths duly chosen and sworn waiver in the Senate for sections 305(b)(2) and 306 of the Congressional Budget Act.

The Senate amendment provided for a three-fifths duly chosen and sworn waiver in the Senate for sections 301(c), 304(b)(2), 305(b)(2), 306, 310(c), and 311 of the Budget Act.

The conference agreement provides for the following:

(a) Budget Act waivers in the Senate.—Subsection (a) would amend section 904 of the Congressional Budget Act by redesignating subsection (c) of section 904 as 904(d) and inserting a new subsection (c), which provides for a three-fifths duly chosen and sworn waiver in the Senate for sections 305(b)(2) (relating to time and germaneness limitations in the Senate for consideration of budget resolutions and reconciliation bills) and section 306 (relating to legislation dealing with the congressional budget process). These super-majority requirements would be a permanent addition to the Budget Act.

(b) Other Waivers and Suspensions in the Senate.—The conference report provides for several other super-majority waivers to exist only during fiscal years 1986 through 1991. The following sections can only be waived by a three-fifths vote of Senators, duly chosen and sworn: section 301(i) (relating to a point of order against budget resolutions breaching a maximum deficit amount); section 302(f) (relating to a point of order against spending bills breaching committee allocations); section 304(b) (relating to a point of order against subsequent budget resolutions breaching maximum deficit amount; section 310(b) (relating a point of order against amendments to reconciliation bills which would increase the deficit); section 310(g) (relating to a point of order against reconciliation bills which include social security provisions); and section

311(a) (relating to a point of order against spending or revenue measures which would cause the aggregate spending and revenue levels in the budget resolution to be breached).

(c) Rulemaking Powers.—The House and Senate amendments included identical language providing that all provisions of this title, except those relating to the activities of the executive branch, are enacted by the Congress as an exercise of the rulemaking powers of the House and Senate and may be changed by either as it desires. The conference agreement includes identical language except that it applies to all provisions of this title excluding activities of the *judicial*, as well as executive branches.

The conference report adopts super-majority waiver requirements two (three-fifths, present and voting) for the House in two sections: 301(i) (relating to a point of order against budget resolution conference reports or amendments in disagreement breaching a maximum deficit amount; and 304(b) (relating to a point of order against subsequent budget resolution conference reports or amendments in disagreement breaching a maximum deficit amount).

IX. OTHER MATTERS

a. Restoration of Trust Fund Investments

House Amendment

The House amendment provides for restoration to the OASDI and other government trust funds of the securities cancelled since August 30, 1985 because of the failure to extend the debt ceiling limit by that date. Under the amendment, both principal and interest rate of these securities would be restored, as well as any interest payments lost to the various trust funds because of the failure to invest securities after August, 1985.

Senate Amendment

The Senate amendment generally follows the House amendment.

Conference Agreement

The conference revises the House and Senate amendments in order to complete the process begun in Public Law 99-155, the temporary debt limit increase enacted on November 14, 1985, of restoring various trust and retirement funds administered by the Secretary of the Treasury to the position in which they would have been if a debt limit increase had been enacted before September 3, 1985. In addition, an amount would be transferred to the Federal Old Age and Survivors Insurance Trust Fund ("OASI") and the Federal Disability Insurance Trust Fund ("DI") to compensate those funds for current and prospective losses arising from premature redemption of some long term securities when the debt limit was reached in September and October, 1984.

Subsection (a) makes whole, for 1985 transactions, all funds affected except the Department of Defense Military Retirement Fund, which is dealt with in subsection (b).

Paragraph (1) provides for the immediate reissuance to the trust funds of obligations prematurely redeemed during September, 1985. (Obligations prematurely redeemed during October and November, 1985 were restored as of November 14, 1985, as provided in the temporary debt limit increase, P.L. 99-155.) Although the bill covers all major trust funds, only OASI and DI were affected by premature redemptions in September, 1985 and only those two funds will be affected by this subsection. The conferees expect that the Treasury and the Department of Health and Human Services will work together to determine which securities would not have been redeemed during September, using standard Treasury investment practices, had an increased debt limit been in place on August 1. Treasury should then issue to the trust funds securities with identical maturities and interest rates to those that would not have been redeemed. On November 14, Treasury invested the then-uninvested balances in all the trust funds in short term securities. The restored securities will be substituted, dollar for dollar of principal amount, for securities in the funds on the date of enactment. The restoration should result, to the maximum extent practicable, in the funds' portfolios replicating the portfolios they would have had if the debt limit increase had been enacted on August 1. Upon completion of the restoration process, there will no longer be any possibility of prospective interest losses to the trust funds from the premature redemptions during 1985.

Paragraph (2) provides a general fund appropriation to all the major trust and retirement funds (except the Department of Defense Military Retirement Funds, which is covered in subsection (b)) for interest lost as a result of various non-standard trust fund transactions between September 1, 1985 and the date of enactment of the conference report. The amount to be paid to each fund will equal the difference between the net interest the fund would have earned in the period from September 1, 1985 to the date of enactment if an increased debt limit had been enacted on August 1, 1985, and net interest actually earned during that period. (The net amounts are to take into account the required repayment by OASI and DI to the general fund of excess interest earned in all months except October, 1985 as a result of the normalized tax transfer procedure.) Thus, interest earned since November 14 on securities restored as of that date pursuant to the temporary debt limit will not be paid twice. The payment will be made on December 31, 1985, the date on which the interest lost would normally have been credited to the accounts according to the standard semi-annual interest payment feature of Treasury obligations. The conferees intend that in determining the full extent of these losses, Treasury will consult with the appropriate program agencies.

With respect to the Civil Service Retirement and Disability Fund and the Federal Supplemental Medical Insurance Fund ("FSMI"), investments that were to be made on September 30 and on October 1 and November 1, respectively, were delayed, in some cases until November 14. These funds lost approximately $77.5 million and $17.2 million, respectively, from the delay. Civil Service, OASI, DI and the Railroad Retirement Account also suffered interest losses from the accelerated redemption in November that was necessary to assure the payment of benefits. The losses from this source were approximately $9 million for OASI and DI, combined, $404,000 for Civil Service, and $160,000 for the Railroad Retirement Account. Finally, OASI, DI and FSMI suffered some interest losses when high interest securities were prematurely redeemed. The funds will be made whole for all these losses.

Paragraph (3) lists the funds affected by paragraphs (a)(1) and (a)(2): OASI, DI FSMI, Civil Service, Railroad Retirement, and the Federal Hospital Insurance Trust Fund. The Treasury has assured the conferees that in fact the Federal Hospital Insurance Trust Fund was operated normally during this period and therefore did not suffer any non-investments, delayed investments, disinvestments, or accelerated or premature redemptions.

Subsection (b) concerned restoration of the Department of Defense Military Retirement Fund. This fund, unlike those dealt with in subsection (a), invests in market based special obligations. Therefore, because Treasury could not fully invest the fund's $10.5 billion credit on October 1, the fund suffered losses when interest rates subsequently declined.

Paragraph (1) provides for the immediate issuance to the fund of the securities it would have purchased on October 1, 1985. The securities are to carry the interest rates, and are to be purchased at the price (including accrued interest) that would have prevailed on October 1. To avoid a double investment of the October 1 credit, upon issuance of the new obligations, Treasury will cancel all obligations purchased by the fund with the October 1 credit. This will eliminate all prospective interest losses to the fund due to the decline in interest rates after October 1.

Paragraph (2) is a general fund appropriation to the Military Retirement Fund to cover interest losses arising from delayed investments. The Secretary of the Treasury, in consultation with the Secretary of Defense, will determine the amount of interest the fund would have earned between October 1 and November 14 if the fund had been able to fully invest on October 1. The amount of interest the fund actually collected on November 15 (the semi-annual interest payment date applicable to this fund's investments) on its limited investments of the October 1 credit will then be subtracted from the normal earnings and the difference paid to the fund. The interest collected on November 15 was invested on November 15 in new market based special obligations, in accordance with standard instructions of the Secretary of Defense. These investments have in turn been earning interest since November 15.

Paragraph (3) provides that the amount paid over in accordance with paragraph (2) will be invested in market based special obligations designated by the Secretary of Defense. These securities will have an issue date of November 15, 1985, and will be issued at prices, including accrued interest, prevailing on November 15. Thus, the shortfall in earnings due to late investment will earn interest from November 15, as would have been the case under normal circumstances.

Subsection (c) compensates a large number of funds for losses incurred because of their inability to invest receipts after December 7 due to the expiration of the temporary debt limit increase. Approximately 130 funds are potentially affected, almost all with respect to very small amounts not invested. In the past, these funds have not received any compensation when investment was prevented by the debt limit. Since these funds invest in market-based special obligations of many maturities and invest and redeem on a daily basis, it is virtually impossible to determine exactly what each would have earned if investments had been made. However, since the vast bulk of the investment would have been overnight, the conferees have determined that it would be appropriate to provide for compensation based on interest that would have earned had all uninvested balances of which Treasury was aware been invested overnight. The confer-

ees understand that the overnight rate is based on the overnight repurchase transaction rate calculated by the Federal Reserve Bank of New York.

Subsection (d) makes the OASI and DI funds whole for past and prospective interest losses arising from premature redemptions of long-term objections in September and October, 1984.

Paragraph (1) provides for a general fund appropriation of an amount necessary to eliminate prospective interest losses arising from the 1984 transactions and requires the Secretary of the Treasury immediately to pay over this amount.

Paragraph (2) states that the amount to be paid over is to be determined jointly by the Secretary of the Treasury and the Secretary of Health and Human Services and is to "fully compensate" the funds. The conferees understand that the two agencies have already discussed the calculation and intend to make it as follows. First, the interest that would have been earned on the prematurely redeemed securities on each interest payment date will be determined. From this will be subtracted, on a payment-date-by-payment-date basis, interest that has been and will be earned by the funds on investments made to replace the prematurely redeemed securities. The present value of this stream of payments (including presumed reinvestment of interest earned) will be determined using a discount rate of 9⅛%, which is the statutory investment rate determined according to the formula in section 201(d) of the Social Security Act for June, 1986, as projected in the President's Budget for fiscal year 1986. This section is based on the current law practice under which, in June of each year, all maturing securities are replaced with long-term securities of various maturities, all bearing the June statutory investment rate. The conferees intend that the payment made pursuant to paragraph (1) will be treated, as any other payment made to the funds. Thus, it will be invested immediately in short term securities maturing on June 30, 1986. To the extent these securities are not redeemed prior to that time to pay benefits, they will become part of the pool of securities reinvested in long term securities on June 30, 1986.

Paragraph (3) places a limitation on transfers under paragraph (1) of $550,000,000. This amount is in excess of all tentative calculations of the amount due under paragraph (1) made to date by the Secretaries of the Treasury and of Health and Human Services.

Paragraph (4) provides for adjustments in the payment after June, 1986 if the statutory interest rate for that month is other than 9⅛%. As soon a practicable after June 30, 1986, the Secretaries of the Treasury and Health and Human Services will determine whether any adjustment is necessary. In the event that the applicable interest rate is below 9⅛%, further payments will be due the fund, and an additional appropriation is provided for such adjustment. In the event that the applicable interest rate is above 9⅛, the adjustment will require that the funds repay to the general fund part or all of (but not more than) the amount transferred under paragraph (1).

SECTION 275

(a) Effective Dates.

Except as described below, the provisions of this Act are to become effective upon enactment, and shall apply with respect to fiscal year 1986 and beyond.

Certain provisions of this Act will not apply until the fiscal year 1987 congressional budget cycle. An effective date of April 15, 1986 has been specified for these provisions. This is the date by which Congress must complete action on the budget resolution for fiscal year 1987. These provisions are:

(1) Section 201(a)(2) of this Act, which expand the definition of "budget authority" to include the authority to collect offsetting receipts.

(2) Section 201(b) insofar as it relates to the following sections of the Budget Act: (A) section 302(c), providing a point of order against the consideration of a committee's legislation until that committee has filed its suballocations pursuant to section 302(b).

(3) Section 212 of this Act, which provides a point of order against the consideration of legislation providing new audit authority unless that authority is limited to amount provided—appropriation Acts.

(b) Expirated.

Except as described below, the provisions of this Act are permanent.

The following provisions will expire on September 30, 1991 (the end of fiscal year 1991);

(1) Part C of this Act, containing the emergency deficit control provides.

(2) Section 3(f) of the Budget Act, specifying the maximum deficit amounts for fiscal year 1986 through 1991.

(3) Sections 301(i) and 304(b) of the Congressional Budget Act, providing a point of order against budget resolutions with deficits in excess of the maximum deficit Act.

(4) The provision of section 311(a) of the Congressional Budget Act which enforces the maximum deficit level in the Senate.

(5) Sections 1105(f) and 1106(c) of Title 31, United States Code, which require that the President's budget submission and any revisions be consistent with the maximum deficit levels.

(6) Section 271(b) which requires a vote of three-fifths of the members duly chosen and sworn in the Senate of points of order enforcing the maximum deficit level, section 302(b) suballocations, requiring deficit neutral amendments to reconciliation legislation, prohibiting Social Security provisions in a reconciliation bill (or a bill considered pursuant to reconciliation procedures), and the total budget ceilings and revenue flow.

(7) Section 302(f), providing points of order against legislation in the House which exceeds section 302(a) allocations, and in the Senate which exceeds section 302(b) suballocations.

(8) Section 302(g), providing that the Budget Committees are responsible for determining levels for the purpose of section 302.

(9) Section 310(e), providing for some flexibility in the response to reconciliation instructions for those committees which are instructed to both decrease spending and increase revenues.

(10) Section 310(d), providing a point of order against amendments to reconciliation bills which are not deficit neutral.

(11) Section 310(g), providing a point of order against a reconciliation bill which recommends changes in Social Security.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
JAMES JONES,
ED JENKINS,
RICHARD A. GEPHARDT,
MARTY RUSSO,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,
BILL FRENZEL,

From the Committee on Appropriations:
JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
CARL PURSELL,
TOM LOEFFLER,

From the Committee on Rules:
CLAUDE PEPPER,
ANTHONY C. BEILENSON,
MARTIN FROST,

From the Committee on Government Operations:
DON FUQUA,
THOMAS N. KINDNESS,

From the Committee on the Budget:
GEO. MILLER,
MARVIN LEATH,
WILLIS GRADISON,

As additional conferees:
THOMAS S. FOLEY,
LES ASPIN,
MARY ROSE OAKAR,
LEON PANETTA,
VIC FAZIO,
ROBERT H. MICHEL,
DICK CHENEY,
LYNN MARTIN,
CONNIE MACK,
Managers on the Part of the House.

BOB PACKWOOD,
PETE V. DOMENICI,
JOHN C. DANFORTH,
W.L. ARMSTRONG,
PHIL GRAMM,
WARREN B. RUDMAN,
RUSSELL B. LONG,
LLOYD BENTSEN,
J. BENNETT JOHNSTON,
CARL LEVIN,
DAVID L. BOREN,
ERNEST F. HOLLINGS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BROOKS (at the request of Mr. WRIGHT) for today and the balance of the week, on account of illness.

Mr. MCKINNEY (at the request of Mr. MICHEL) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. SILJANDER, for 60 minutes, on December 10.

Mr. SILJANDER, for 60 minutes, on December 11.

Mr. SILJANDER, for 60 minutes, on December 12.

Mr. SILJANDER, for 60 minutes, on December 13.
Mr. BURTON of Indiana, for 60 minutes, on December 11.
Mr. BURTON of Indiana, for 60 minutes, on December 12.
Mr. BURTON of Indiana, for 60 minutes, on December 13.
(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)
Mr. FRANK, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. NELSON of Florida, for 5 minutes, today.
Mr. KLECZKA, for 5 minutes, today.
Mr. DERRICK, for 5 minutes, today.
Mr. BROWN of California, for 45 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)
Mr. ROGERS.
Mr. GILMAN in three instances.
Mr. KEMP in two instances.
Mr. SWINDALL.
Mr. WHITEHURST.
Mr. LAGOMARSINO.
Mr. JEFFORDS.
Mr. CONTE.
Mr. GINGRICH.
Mr. DORNAN of California.
Mr. GRADISON in two instances.
Mr. LIGHTFOOT in two instances.
Mr. LEWIS of California.
Mr. CAMPBELL.
Mr. HARTNETT.
Mr. HENRY.
Mr. PURSELL.
Mr. WEBER.
Mr. MCEWEN.
Mr. SILJANDER.
Mr. CARNEY.
(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)
Mr. STARK in two instances.
Mr. TALLON.
Mr. MAVROULES.
Mr. HALL of Ohio.
Mr. GAYDOS.
Mr. LEHMAN of Florida.
Mr. FAUNTROY.
Mr. SHELBY.
Mr. LOWRY of Washington.
Mrs. LLOYD.
Mr. FEIGHAN.
Mr. RANGEL.
Mr. ROYBAL.
Mr. GRAY of Pennsylvania.
Mr. FLORIO in two instances.
Mr. MARKEY.
Mr. WILLIAMS in two instances.
Mr. LELAND.
Mr. GARCIA.
Mr. ACKERMAN.
Mr. MILLER of California.
Mr. CHAPMAN.
Mr. KOSTMAYER.
Mr. WOLPE.
Mr. PEASE.
Mr. CARR.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, a bill of the House of the following title:

On December 9, 1985:

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1985, and for other purposes.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly, (at 8 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 11, 1985, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2363. A letter from the Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, transmitting the final policy in accordance with section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, pursuant to SWDA, section 2006 (90 Stat. 2805; 94 Stat. 2055); to the Committee on Agriculture.

2364. A letter from the Secretary of Energy, transmitting the 12th of semiannual reports on alternative fuels production, pursuant to Public Law 96-126, title II (93 Stat. 971); to the Committee on Appropriations.

2365. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting the required information concerning the Department of the Army's proposed letter's of offer to Korea for defense articles estimated to cost $50 million or more, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2366. A letter from the Principal Deputy, Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a planned study of various functions at the Naval Station, New York, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

2367. A letter from the Secretary of the Navy, transmitting a report justifying funds for naval strategic homeporting, pursuant to Public Law 99-167, section 205; to the Committee on Armed Services.

2368. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of intent to issue commercial export license for the export of major defense equipment sold to Portugal, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2369. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the report of political contributions for Margaret M. Heckler of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2370. A letter from the Secretary of Housing and Urban Development, transmitting a report on activities of the inspector general for the period April 1, 1985 through September 30, 1985, pursuant to Public Law 95-452, section 5(b); to the Committee on Government Operations.

2371. A letter from the Director, Administrative Office of the U.S. Courts, transmitting actuarial reports on the judicial survivors' annuities system and the judicial retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2372. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting a report on delinquent royalty accounts under leases for development of oil and gas on Federal lands, pursuant to 30 U.S.C. 237; to the Committee on Interior and Insular Affairs.

2373. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting the semiannual report on the civil misrepresentation activities of the U.S. Postal Service, pursuant to 39 U.S.C. 3013 (97 Stat. 1317); to the Committee on Post Office and Civil Service.

2374. A letter from the Acting Assistant Secretary of the Army for Civil Works, transmitting an engineers report on Mount St. Helens sediment control, pursuant to Public Law 89-789, section 209 (80 Stat. 1423); Public Law 90-483, section 219 (82 Stat. 749); Public Law 91-611, sections 216, 217 (84 Stat. 1830) (H. Doc. 99-135); to the Committee on Public Works and Transportation and ordered to be printed.

2375. A letter from the Administrator, General Services Administration, transmitting a building project survey for the city of Jasper, AL, pursuant to Public Law 86-249, section 11(b); to the Committee on Public Works and Transportation.

2376. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting an evaluation of adjustments made by the Secretary of HHS for fiscal year 1986 to the Medicare prospective payment system, pursuant to SSA, section 1886(d)(4)(D) (97 Stat. 157); to the Committee on Ways and Means.

2377. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the report on abnormal occurrences associated with any facility licensed or regulated under the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974, pursuant to Public Law 93-438, section 208; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2378. A letter from the Secretary of the Treasury, transmitting a draft of proposed

legislation to require the registration and regulation of brokers and dealers in government securities, and for other purposes; jointly, to the Committees on Energy and Commerce and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3302. A bill to designate certain national forest lands in the State of Nevada for inclusion in the National Wilderness Preservation System, and for other purposes; with an amendment (Rept. 99-427, Pt. 1). Ordered to be printed.

Mr. BONKER: Committee of conference. Conference report on S. 947 (Rept. 99-428). Ordered to be printed.

Mr. FOLEY: Committee on House Administration. Senate Concurrent Resolution 85. Concurrent resolution to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the United States Congress; with amendments (Rept. 99-429). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 336. Resolution providing for the consideration of H.R. 3838, a bill to reform the internal revenue laws of the United States. (Rept. 99-430). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 337. Resolution providing for the consideration of H.R. 1524, a bill to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce. (Rept. 99-431). Referred to the House Calendar.

Mrs. BURTON of California: Committee on Rules. House Resolution 338. Resolution providing for amending Senate amendment to House Joint Resolution 187, joint resolution to approve the "Compact of Free Association," and for other purposes. (Rept. 99-432). Referred to the House Calendar.

Mr. ROSTENKOWSKI. Committee of conference. Conference report on House Joint Resolution 372 (Rept. 99-433). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DIOGUARDI (for himself, and Mr. MONSON):

H.R. 3886. A bill to amend title 31, United States Code, to require that in the President's budget for a fiscal year the economic assumptions pertaining to inflation for major weapon system programs of the Department of Defense be the same as those for the rest of the budget; to the Committee on Government Operations.

By Mr. MONSON (for himself, and Mr. DIOGUARDI):

H.R. 3887. A bill to amend title 31, United States Code, to require the President, in the annual budget submitted by the President to the Congress, to include information on the accuracy of inflation estimates with respect to the budget for the prior year; to the Committee on Government Operations.

By Mr. FRANK:

H.R. 3888. A bill to amend the Rehabilitation Act of 1973 to modify the composition and administration of the Architectural and Transportation Barriers Compliance Board; to the Committee on Education and Labor.

H.R. 3889. A bill to amend title 23, United States Code, to provide for a uniform system for handicapped parking; to the Committee on Public Works and Transportation.

By Mr. GRAY of Illinois:

H.R. 3890. A bill to make permanent the requirements of the manufacturing clause of the copyright law; to the Committee on the Judiciary.

By Mr. ROBERT F. SMITH:

H.R. 3891. A bill to restore and protect interest earnings of the Social Security Trust Funds and other Federal trust funds; to the Committee on Ways and Means.

By Mr. WORTLEY:

H.R. 3892. A bill to amend title 31, United States Code, to strengthen certain currency reporting requirements, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COBEY:

H.R. 3893. A bill to provide for the disposition of unclaimed property in the custody of the United States; to the Committee on Government Operations.

By Mr. HALL of Ohio (for himself, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. LELAND, Mrs. ROUKEMA, Mr. ACKERMAN, Mr. BARNES, Mr. BERMAN, Mr. CONTE, Mr. DORGAN of North Dakota, Mr. DOWNEY of New York, Mr. MOORHEAD, Mr. PENNY, and Mr. WEISS):

H.R. 3894. A bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HUGHES:

H.R. 3895. A bill to amend the Delaware River Basin compact to allow the imposition of charges at fair and equitable rates for certain water withdrawals or diversions which previously were exempt from charges under the compact; to the Committee on the Judiciary.

By Mr. MICHEL:

H.J. Res. 471. Joint resolution to designate the American marigold as the national floral emblem of the United States; to the Committee on Post Office and Civil Service.

By Mr. RINALDO:

H.J. Res. 472. Joint resolution to designate February 10, 1986, as "Vocational Education for Women Day"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of House Joint Resolution 372; considered and passed.

By Mr. HALL of Ohio:

H. Con. Res. 244. Concurrent resolution to express the sense of Congress regarding East Timor, to the Committee on Foreign Affairs.

By Mr. BARNES:

H. Con. Res. 245. Concurrent resolution congratulating the President-elect of Guatemala, Marco VincioCerezo, on his election and expressing the support of the Congress for the new government of Guatemala that will be inaugurated on January 14, 1986; to the Committee on Foreign Affairs.

By Mr. LELAND:

H. Res. 334. Resolution expressing the sense of the House of Representatives that the Postal Service should notify the appropriate authorities in each State of the availability of postal lobbies for the display of voter registration materials, to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Res. 335. Resolution to express the sense of the House of Respresentatives with respect to the effective date of certain provisions of tax reform, to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. TALLON introduced a bill (H.R. 3896) for the relief of Marlboro County General Hospital Charity, of Bennetsville, SC; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. DENNY SMITH.

H.R. 77: Mr. MCCAIN.

H.R. 693: Mr. STRANG.

H.R. 747: Mrs. BOXER, Mr. DOWNEY of New York, and Mr. WISE.

H.R. 822: Mr. BRUCE.

H.R. 883: Mr. THOMAS of Georgia, Mr. RUDD, and Mr. HANSEN.

H.R. 979: Mr. PURSELL.

H.R. 1066: Mrs. LLOYD and Mr. LEVIN of Michigan.

H.R. 1309: Mr. MATSUI, Mr. MAVROULES, and Ms. MIKULSKI.

H.R. 1316: Mr. PURSELL.

H.R. 1458: Mr. DWYER of New Jersey.

H.R. 1579: Mr. YATES.

H.R. 1809: Mr. BATES.

H.R. 2440: Mr. DEWINE, Mr. FAZIO, Mr. FUQUA, Mr. RALPH M. HALL, Mr. LEVIN of Michigan, Mrs. LLOYD, Mr. MAVROULES, and Mr. WILSON.

H.R. 2578: Mr. ANDERSON, Mr. BARNARD, Mr. BIAGGI, Mr. KOSTMAYER, Mr. LOWERY of California, Mr. ROSE, and Mr. WHITLEY.

H.R. 2620: Mr. MARKEY and Mrs. JOHNSON.

H.R. 2815: Mr. WOLF.

H.R. 2957: Mr. DARDEN and Mr. SWINDALL.

H.R. 2958: Mr. DARDEN and Mr. SWINDALL.

H.R. 3006: Mr. ACKERMAN.

H.R. 3057: Mr. PORTER and Mr. GINGRICH.

H.R. 3090: Ms. MIKULSKI and Mr. MAVROULES.

H.R. 3102: Mr. BERMAN, Mr. BROWN of California, Mr. SEIBERLING, Mr. GEJDENSON, and Mr. BOEHLERT.

H.R. 3259: Mr. BOEHLERT.

H.R. 3298: Mr. THOMAS of Georgia.

H.R. 3442: Mr. MAVROULES, Mr. MORRISON of Connecticut, Mr. KILDEE, Mr. MOAKLEY, Mr. BONIOR of Michigan, Mr. TORRES, Mr. LEHMAN of California, Mr. MATSUI, Mr. WOLPE, Mr. SABO, Mr. PANETTA, Mr. WHEAT, and Mr. KOSTMAYER.

H.R. 3474: Mr. AUCOIN, Mr. GROTBERG, Mr. RITTER, and Mr. GLICKMAN.

H.R. 3522: Mrs. ROUKEMA.

H.R. 3564: Mr. MCKINNEY.

H.R. 3582: Mr. DAUB.

H.R. 3626: Mr. ST GERMAIN, Mr. LEWIS of Florida, Mr. CHAPPIE, Mr. THOMAS of Georgia, Mr. LIVINGSTON, Mr. SUNDQUIST, Mr. LOTT, Mr. BADHAM, Mr. KOLTER, and Mr. TAUKE.

H.R. 3654: Mr. OWENS.

H.R. 3661: Mr. BRYANT, Mr. DANIEL, Mr. LOEFFLER, Mr. MCEWEN, and Mr. TOWNS.

H.R. 3706: Mr. DE LUGO.

H.R. 3738: Mr. FAUNTROY, Mr. BEVILL, Mr. RAHALL, Mr. YOUNG of Missouri, Mr. NEAL, Mr. YATRON, Mr. GONZALEZ, Mr. DASCHLE, Mr. APPLEGATE, Mr. SHAW, Mr. VENTO, Mrs. BENTLEY, Mr. PORTER, Mr. PRICE, Ms. MIKULSKI, Mr. TOWNS, Mrs. BOXER, Mr. CROCKETT, and Mr. GILMAN.

H.R. 3755: Mr. ANDREWS.

H.R. 3776: Mr. BROOMFIELD and Mr. COATS.

H.R. 3845: Mr. BERMAN, Mrs. BOXER, Mr. CHAPPELL, Mr. FAUNTROY, Mr. GINGRICH, Mr. HAWKINS, Mr. KLECZKA, Mr. LELAND, Mr. MATSUI, Mr. MORRISON of Connecticut, Mr. STANGELAND, Mr. UDALL, and Mr. WORTLEY.

H.J. Res. 7: Mr. FRANKLIN and Mr. BEREUTER.

H.J. Res. 266: Mr. LIPINSKI, Mr. COURTER, Mr. ANDERSON, and Mr. DANNEMEYER.

H.J. Res. 345: Ms. SNOWE, Mr. COATS, Mr. ANDREWS, Mrs. HOLT, and Mr. WIRTH.

H.J. Res. 434: Mr. BEDELL, Mr. BENNETT, Mrs. BENTLEY, Mr. BEVILL, Mr. BONIOR of Michigan, Mrs. BOXER, Mr. CHANDLER, Mr. COELHO, Mr. CONTE, Mr. CROCKETT, Mr. DAUB, Mr. DE LA GARZA, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. FEIGHAN, Mr. FLORIO, Mr. GINGRICH, Mr. GREEN, Mr. HEFNER, Mr. HOWARD, Mr. HUBBARD, Mr. HUGHES, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. KINDNESS, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEVINE of California, Mr. MCDADE, Mr. MANTON, Mr. MARTINEZ, Ms. MIKULSKI, Mr. MINETA, Mr. MONSON, Mr. MORRISON of Connecticut, Mr. NATCHER, Mr. NICHOLS, Mr. REID, Mr. RICHARDSON, Mr. ROE, Mr. SMITH of Florida, Ms. SNOWE, Mr. SYNAR, Mr. VENTO, Mr. VOLKMER, Mr. WEISS, Mr. WHEAT, Mr. WILSON, and Mr. YATRON.

H.J. Res. 439: Mr. HARTNETT, Mr. HEFNER, Mr. ROE, Mr. BILIRAKIS, Mr. BEVILL, Mr. BARNARD, and Mr. MCEWEN.

H.J. Res. 447: Mr. BEDELL, Mr. BENNETT, Mr. BLAZ, Mr. BOUCHER, Mr. BROWN of California, Mr. BROYHILL, Mr. CHAPMAN, Mr. COLEMAN of Missouri, Mr. CONTE, Mr. DARDEN, Mr. DASCHLE, Mr. DE LA GARZA, Mr. DIOGUARDI, Mr. DORNAN of California, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. FISH, Mr. FROST, Mr. FUQUA, Mr. GEPHARDT, Mr. GILMAN, Mr. GRAY of Illinois, Mr. GREEN, Mr. HATCHER, Mr. HEFNER, Mr. HORTON, Mr. HOYER, Mr. HUGHES, Mr. KANJORSKI, Mr. KOSTMAYER, Mr. LAFALCE, Mr. MANTON, Mrs. MARTIN of Illinois, Mr. MCKERNAN, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. O'BRIEN, Mr. PACKARD, Mr. PEPPER, Mr. PRICE, Mr. QUILLEN, Mr. RAHALL, Mr. REID, Mr. ROE, Mr. ROSE, Mr. SMITH of Florida, Mr. SISISKY, Mr. SOLOMON, Mr. STANGELAND, Mr. TOWNS, Mr. VALENTINE, Mr. VOLKMER, Mr. WALKER, Mr. WHEAT, Mr. WHITLEY, Mr. WOLF, Mr. WORTLEY, Mr. YATRON, Mr. LANTOS, Mr. PORTER, Mr. TAUZIN, Mr. RICHARDSON, Mr. GROTBERG, Mr. ST GERMAIN, Mr. MARTINEZ, Mr. MOORHEAD, Mr. BIAGGI, Mr. SKELTON, Mr. BATEMAN, Mr. PURSELL, Mr. CLAY, Mr. BEVILL, Mr. BURTON of Indiana, Mr. MATSUI, Mr. JACOBS, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. JONES of North Carolina, Mr. GINGRICH, Mr. DAUB, Mr. DE LUGO, Mr. HOWARD, Mr. KOLTER, Mr. HAMILTON, Mr. KRAMER, Mr. BOLAND, and Mr. BRYANT.

H.J. Res. 463: Mr. SCHEUER and Ms. MIKULSKI.

H. Con. Res. 40: Mr. SWEENEY.

H. Res. 234: Mr. PORTER, Mr. SMITH of New Hampshire, and Mr. GINGRICH.

H. Res. 245: Mr. APPLEGATE, Mr. ARCHER, Mrs. BYRON, Mr. GROTBERG, Mr. HENRY, Mr. KASTENMEIER, Mr. KOSTMAYER, Mr. LOEFFLER, Mr. MINETA, Mr. MOORHEAD, Mr. RANGEL, Mr. WALGREN, Mr. WOLPE, Mr. PANETTA, Mr. SPRATT, Mr. BLAZ, Mr. CLAY, and Mr. IRELAND.

H. Res. 323: Mr. JONES of Oklahoma.

PETITIONS, ETC.

Under clause 1 of rule XXII,

260. The SPEAKER presented a petition of the council of the city of New York, City Hall, relative to AIDS; which was referred, jointly, to the Committees on Energy and Commerce and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3838

By Mr. KEMP:

—Subsection (a) of section 232 of the amendment (to section 1201 of the Internal Revenue Code of 1954) published on page 34897 of the Congressional Record of Friday, December 6, 1985, is amended by striking out "a tax of 20 percent of such net capital gain." and inserting in lieu thereof "a tax of 28 percent of such net capital gain.".

Subsection (a) of section 319 of the amendment (to section 280H of the Internal Revenue Code of 1954) published on page 34897 of the Congressional Record of Friday, December 6, 1985, is amended by striking out "in the case of a corporation, the section 312 earnings and profits of the corporation for such taxable year, and" and inserting in lieu thereof "in the case of a corporation, the section 312 earnings and profits of the corporation (as determined before applying this section) for such taxable year, and"

Section 501 of the amendment published on page 34898 of the Congressional Record of Friday, December 6, 1985, is amended by striking out subsection (d) and by redesignating the subsequent subsections accordingly.

Subsection (j) of section 501 of the amendment published on page 34898 of the Congressional Record of Friday, December 6, 1985, (as redesignated by the preceding technical correction) is amended by striking out "interest paid or incurred on obligations incurred" and inserting in lieu thereof "recovery property placed in service".

By Mr. MCHUGH:

—Page 43, strike out line 22 and all that follows through line 25, and insert in lieu thereof the following:

SEC. 112. CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.

(a) FULL CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS IN CERTAIN CIRCUMSTANCES; REPEAL OF CREDIT FOR CONTRIBUTIONS TO PRESIDENTIAL, STATE, AND LOCAL CANDIDATES, POLITICAL ACTION COMMITTEES, AND NEWSLETTER FUND CONTRIBUTIONS.—Section 24 (relating to contributions to candidates for public office) is amended to read as follows:

"SEC. 24. CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the full amount of all congressional candidate contributions, as defined in subsection (c)(1).

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

"(2) VERIFICATION.—The credit under subsection (a) shall not be allowed, with respect to any congressional candidate contribution, unless the person claiming the credit submits a signed statement attesting to the amount and date of said contribution, the office (House or Senate) sought by the recipient, and such other information as the Secretary may require by regulation, except that such other information shall not include the recipient's political affiliation, name, or other identifying information.

"(3) CONTRIBUTIONS MADE THROUGH INTERMEDIARY ORGANIZATIONS.—The credit under subsection (a) shall not be allowed, with respect to a congressional candidate contribution, if the contribution is transmitted to the candidate or a campaign committee of the candidate through an intermediary group, organization or committee.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONGRESSIONAL CANDIDATE CONTRIBUTION.—The term 'congressional candidate contribution' means a contribution or gift of money that—

"(A) is made during the taxable yer to an individual who is a candidate for nomination or election to the office of Senator or Representative in, or Delegate or Resident Commissoner to, the Congress of the United States in any primary, general, or special election;

"(B) is from a taxpayer (or either spouse in case of a joint return) who is a resident of the State in which the election is held; and

"(C) is solely for use by the recipient to further his candidacy for nomination or election to such office.

"(2) CANDIDATE.—The term 'candidate' means an individual who—

"(A) publicly announces before the close of the calendar year following the calendar year in which the contribution or gift is made that he is a candidate for nomination or election to one of the offices specified in paragraph (1); and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories of Guam, American Samoa, and the Virgin Islands.

"(d) CROSS REFERENCE.—

"For disallowance of credits to estates and trusts, see section 642(a)(2).".

Page 44, strike out line 17 and all that follows through line 25.

Page 45, line 1, strike out "(3)" and insert in lieu thereof "(2)".

Page 45, strike out lines 7 through 9, and insert in lieu thereof the following:

(3) The item relating to section 24 in the table of sections for subpart A of part IV of subchapter A of chapter 1 is amended to read as follows:

"Section 24. Contributions to candidates for Congress.".

Page 70, after line 11, insert the following new subsection:

(g) CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.—The amendments made by section 112 shall apply to contributions paid after December 31, 1986, in taxable years ending after that date.

In the table of contents of the bill, strike out the item relating to section 112 and insert in lieu thereof the following new item:

"Sec. 112. Credit for contributions to candidates for Congress."

By Mr. UDALL:

—Page 491, after line 19, insert the following:

SEC. 671A. REVENUES NOT TO DECREASE; NONDISCRIMINATORY TREATMENT REQUIRED.

(a) REVENUES NOT TO DECREASE.—The total amount of the revenue received by any possession referred to in section 671(a) pursuant to its tax laws during the implementation year and each of the 4 fiscal years thereafter shall not be less than the revenue (adjusted for inflation) which was received by such possession pursuant to tax laws for its last fiscal year before the implementation year.

(b) NONDISCRIMINATORY TREATMENT REQUIRED.—Nothing in any tax law of a possession referred to in section 671(a) may discriminate against any citizen or resident of the United States or of any other possession.

(c) ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary of the Treasury (after consultation with the Secretary of the Interior) determines that any possession has failed to comply with subsection (a) or (b), the Secretary of the Treasury shall so notify the Governor of such possession in writing. If such possession does not comply with subsection (a) or (b) (as the case may be) within 90 days of such notification, the Secretary of the Treasury shall notify the Congress of such noncompliances. Unless the Congress by law provides otherwise, the mirror system of taxation shall be reinstated in such possession and shall be in full force and effect for taxable years beginning after such notification to the Congress.

(2) SPECIAL RULE FOR REVENUE REQUIREMENTS.—If the failure to comply with subsection (a) is for good cause and does not jeopardize the fiscal integrity of the possession, the Secretary may waive the requirements of subsection (a) for such period as he determines appropriate.

(d) DEFINITIONS AND SPECIAL RULES.—

(1) IMPLEMENTATION YEAR.—For purposes of this section, the term "implementation year" means the first fiscal year of the possession in which the tax laws authorized by section 671(a) take effect.

(2) MIRROR SYSTEM.—For purposes of this section, the mirror system of taxation consists of the provisions of law (in effect on the day before the date of the enactment of this Act) which make the provisions of the income tax laws of the United States (as in effect from time to time) in effect in a possession of the United States.

(3) SPECIAL RULE FOR NORTHERN MARIANA ISLANDS.—Notwithstanding the provisions of the last clause of section 601(a) of Public Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to continue its mirror system of taxation without regard to whether Guam enacts tax laws under the authority provided in section 671(a).

Page 491, strike out lines 10 and 11.

Page 491, line 12, strike out "(4)" and insert in lieu thereof "(3)".

Page 491, line 15, strike out "(5)" and insert in lieu thereof "(4)".

Page 491, line 19, strike out "Treasury" and insert in lieu thereof "Treasury (after consultation with the Secretary of the Interior)".

Page 507, line 7, insert "AND EMPLOYEES OF THE UNITED STATES" after "MILITARY PERSONNEL".

Page 509, line 8, before the period insert ", after consultation with the Secretary of the Interior".

By Mr. WOLF:

—Page 836, strike out line 14 and all that follows down through line 11 on page 839.

Page 840, strike out line 23 and all that follows down through line 12 on page 841.

Page 841, line 13, strike out "(3)" and insert in lieu thereof "(2)".

Page 843, line 8, strike out "(4)" and insert in lieu thereof "(3)".

(Amendment to the Republican alternative appearing on page H11359 of part II of the CONGRESSIONAL RECORD for Friday, December 6, 1985.)

—strike out subsection (a) of section 1121 (relating to repeal of special rules for employees' annuities).

Redesignate subsection (b) of section 1121 as subsection (a).

Amend subsection (c) of section 1121 to read as follows:

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.

H.R. 3525

By Mr. FRENZEL:

(To the amendment offered by Mr. GREGG)

—Delete "with fewer than 1,000 voters".

—SEC. 4. FEDERAL REIMBURSEMENT TO STATES BY THE FEDERAL ELECTION COMMISSION.

(a) The Federal Election Commission shall certify to the Department of Treasury an amount equal to the additional costs incurred by each state as a result of extended voting hours under amendments made by this act.

(b) The appropriate state official shall submit itemized statement of expenditures related to expenses incurred to the Federal Election Commission no later than December 31 of the election year.

(c) The Federal Election Commission shall examine the expenses and certify the amount to the Department of Treasury no later than March 31 of the following year.

—On page 5, after line 16, insert the following new section:

SEC. 4. APPOINTMENT OF A PRESIDENTIAL COMMISSION TO STUDY THE FEASIBILITY OF MAKING GENERAL ELECTION DAY A LEGAL PUBLIC HOLIDAY.

That the President shall appoint a commission to study, with respect to Presidential general elections, the impact of declaring election day a legal public holiday. The study shall be conducted in the manner prescribed by the President and shall include—

(1) an examination and analysis of the effect of such availability on total voter participation;

(2) an examination and analysis of the costs of such availability on federal, state and local governments;

(3) an examination and analysis of the additional difficulties of administering an election.

Not later than December 31, 1986, the President shall report the results of the study to the Congress.

H.J. RES. 187

By Mr. UDALL:

(House amendment to Senate amendment.)

—In lieu of the matter proposed to be inserted by the Senate amendment to the test, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution, together with the Table of Contents in subsection (b) of this Section, may be cited as the "Compact of Free Association Act of 1985."

(b) Table of contents for this joint resolution is as follows:

TITLE I.—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

Sec. 101. Approval of Compact of Free Association
(a) Federated States of Micronesia.
(b) Marshall Islands.
(c) Reference to the Compact.
(d) Amendment, Change, or Termination in the Compact and Certain Agreements.
(e) Subsidiary Agreements Deemed Bilateral.
(f) Effective Date.
Sec. 102. Agreements with Federated States of Micronesia.
(a) Law Enforcement Assistance.
(b) Economic Development Plans Review Process.
(c) Agreement on Audits.
Sec. 103. Agreements With and Other Provisions Related to the Marshall Islands.
(a) Law Enforcement Assistance.
(b) Economic Development Plans Review Process.
(c) Ejit.
(d) Kwajalein Payments.
(e) Section 177 Agreement.
(f) Nuclear Test Effects.
(g) Espousal Provisions.
(h) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.
(i) Rongelap.
(j) Four Atoll Health Care Program.
(k) Enjebi Community Trust Fund.
(l) Bikini Atoll Cleanup.
(m) Agreement on Audits.
Sec. 104. Interpretation of and United States Policy Regarding Compact of Free Association.
(a) Human Rights.
(b) Immigration.
(c) Nonalienation of Lands.
(d) Nuclear Waste Disposal.
(e) Impact of Compact on U.S. Areas.
(f) Fisheries Management.
(g) Foreign Loans.
Sec. 105. Supplemental Provisions.
(a) Domestic Program Requirements.
(b) Relations With the Federated States of Micronesia and the Marshall Islands.
(c) Continuing Trust Territory Authorization.
(d) Medical Referral Debts.
(e) Survivability.
(f) Registration for Agents of Micronesian Governments.
(g) Noncompliance Sanctions.
(h) Continuing Programs and Laws.
(i) College of Micronesia; Education Programs.
(j) Trust Territory Debts to U.S. Federal Agencies.

(k) Use of DOD Medical Facilities.
(l) Technical Assistance.
(m) Prior Service Benefits Program.
(n) Indefinite Land Use Payments.
(o) Communicable Disease Control Program.
(p) Trust Funds.
(q) Annual Reports on Determinations Under Compact Section 313.
(r) User Fees.
Sec. 106. Construction Contract Assistance.
(a) Assistance to U.S. Firms.
(b) Authorization.
Sec. 107. Limitations.
(a) Prohibition.
(b) Termination.
Sec. 108. Transitional Immigration Rules.
(a) Citizen of Northern Mariana Islands.
(b) Termination.
Sec. 109. Timing.
Sec. 110. Implementation of Audit Agreements.
(a) Transmission of Annual Financial Statement.
(b) Annual Audits By the President.
(c) Authority of GAO.
Sec. 111. Compensatory Adjustments.

TITLE II—COMPACT OF FREE ASSOCIATION

Sec. 201. Compact of Free Association.
Title One. Governmental Relations.
Article I. Self-Government.
Article II. Foreign Affairs.
Article III. Communications.
Article IV. Immigration.
Article V. Representation.
Article VI. Environmental Protection.
Article VII. General Legal Provisions.
Title Two. Economic Relations.
Article I. Grant Assistance.
Article II. Program Assistance.
Article III. Administrative Provisions.
Article IV. Trade.
Article V. Finance and Taxation.
Title Three. Security and Defense Relations.
Article I. Authority and Responsibility.
Article II. Defense Facilities and Operating Rights.
Article III. Defense Treaties and International Security Agreements.
Article IV. Service in Armed Forces of the United States.
Article V. General Provisions.
Title Four. General Provisions.
Article I. Approval and Effective Date.
Article II. Conference and Dispute Resolution.
Article III. Amendment.
Article IV. Termination.
Article V. Survivability.
Article VI. Definition of Terms.
Article VII. Concluding Provisions.
Sec. 202. Jurisdiction.

TITLE III.—PACIFIC POLICY REPORTS

Sec. 301. Findings.
Sec. 302. Reports.
Sec. 303. Conference.
Sec. 304. Administrative Matters.

TITLE IV.—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT.

Sec. 401. Freely Associated States Tariff Treatment.
Sec. 402. Construction of Section 253 of the Compact.
Sec. 403. Construction of Section 254 of the Compact.
Sec. 404. Construction of Section 255 of the Compact.
Sec. 405. The Marshall Islands and the Federated States of Micronesia Treated as North American Area.
Sec. 406. Effective Date.
Sec. 407. Study of Tax Provisions.
Sec. 408. Coordination With Other Provisions.

TITLE V.—COMPACT OF FREE ASSOCIATION WITH PALAU

Sec. 501. Approval In Principle of the Compact.
Sec. 502. Modifications of the Compact.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

SECTION 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Federated States of Micronesia is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) MARSHALL ISLANDS.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Marshall Islands is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(c) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE COMPACT AND CERTAIN AGREEMENTS.—(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in the Agreement between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(j) of the Compact and the Agreement between the Government of the United States and the Government of the Marshall Islands Concerning Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(k) of the Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175, 177, and 221(a)(5), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article XI of the agreement referred to in section 462(e) of the Compact;

(iv) the agreement referred to in section 462(f) of the Compact;

(v) Articles III and IV of the agreement referred to in section 462(g) of the Compact;

(vi) Articles III and IV of the agreement referred to in section 462(h) of the Compact; and

(vii) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(e) SUBSIDIARY AGREEMENTS DEEMED BILATERAL.—For purposes of implementation of the Compact and this joint resolution, each of the subsidiary agreements referred to in subsections (a) and (b) (whether or not bilateral in form) shall be deemed to be bilateral agreements between the United States and each other party to such subsidiary agreement. The consent or concurrence of any other party shall not be required for the effectiveness of any actions taken by the United States in conjunction with either the Federated States of Micronesia or the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of any such subsidiary agreement (or any provision thereof) as regards the mutual responsibilities of the United States and the party in conjunction with whom the actions are taken.

(f) EFFECTIVE DATE.—(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to Congress that the agreements described in section 102 and section 103 of this title have been concluded.

(2) Any agreement concluded with the Federated States of Micronesia or the Marshall Islands pursuant to sections 102 and 103 of this title and any agreement which would amend, change, or terminate any subsidiary agreement or portion thereof as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreements or portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, X, and XI (except for Section 7 thereof) of the agreement referred to in section 462(e) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVIII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(g) of the Compact.

(E) Articles II, V, VI, and VIII of the agreement referred to in section 462(h) of the Compact.

(F) The Agreement set forth on pages 388 through 391 of House Document 98-192 of March 30, 1984.

(5) No agreement between the United States and the Government of either the Federated States of Micronesia or the Marshall Islands which would amend, change, or terminate any subsidiary agreement or portion thereof, other than those set forth in subsection (d) of this section or paragraph (4) of this subsection shall take effect until the President has transmitted such agreement to the President of the Senate and the Speaker of the House of Representatives together with an explanation of the agreement and the reasons therefore.

SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

(a) LAW ENFORCEMENT ASSISTANCE.—

(1) AGREEMENT.—The President of the United States shall negotiate with the Government of the Federated States of Micronesia an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated October 1, 1982, and transmitted to the Congress by the President on February 20, 1985. Such additional agreement shall provide as follows:

(A) MUTUAL ASSISTANCE IN LAW ENFORCEMENT.—The law enforcement agencies of the United States and the Federated States of Micronesia shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Federated States of Micronesia specified in subparagraph (C) of this paragraph. The United States and the Federated States of Micronesia will authorize mutual assistance with respect to investigations, inquiries, audits and related activities by the law enforcement agencies of both Governments in the United States and the Federated States of Micronesia. In conducting activities authorized in accordance with this section, the United States and the Federated States of Micronesia will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLEGAL SUBSTANCES.—The United States and the Federated States of Micronesia will take all reasonable and necessary steps, as mutually agreed based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Federated States of Micronesia for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter II of the Controlled Substances Act of the Federated States of Micronesia, or for the distribution of any such substance to or from the Federated States of Micronesia or to or from the United States or any of its territories or commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Federated States of Micronesia related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(l) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Federated States of Micronesia which have an impact upon United States jurisdictions, and propose measures which the United States and the Federated States of Micronesia should take in order better to prevent and prosecute violations of the laws of the United States and the Federated States of Micronesia. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Federated States of Micronesia.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.—

(1) SUBMISSION.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact pursuant to section 101(a) of this title if the Government of the Federated States of Micronesia agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until—

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Federated States of Micronesia may wish to have included.

(c) AGREEMENT ON AUDITS.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Federated States of Micronesia modifications to the "Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association", which shall provide as follows:

(1) GENERAL AUTHORITY OF THE GAO TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Federated States of Micronesia under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Federated States of Micronesia.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from

any other funds of the Government of the Federated States of Micronesia.

(3) REPRESENTATIVE STATUS FOR GAO REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) ANNUAL FINANCIAL STATEMENTS.—As part of the annual report submitted by the Government of the Federated States of Micronesia under section 211 of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) DEFINITION OF AUDITS.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Federated States of Micronesia has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Federated States of Micronesia pursuant to such grants or assistance.

(6) COOPERATION BY FEDERATED STATES OF MICRONESIA.—The Government of the Federated States of Micronesia will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE MARSHALL ISLANDS.

(a) LAW ENFORCEMENT ASSISTANCE.—

(1) AGREEMENT.—The President of the United States shall negotiate with the Government of the Marshall Islands an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated May 30, 1982, and transmitted to the Congress by the President on February 20, 1985. Such additional agreement shall provide as follows:

(A) MUTUAL ASSISTANCE IN LAW ENFORCEMENT.—The law enforcement agencies of the United States and the Marshall Islands shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Marshall Islands specified in subparagraph (C) of this paragraph. The United States and the Marshall Islands will authorize mutual assistance with respect to investigations, inquiries, audits and related activities by the law enforcement agencies of both Governments in the United States and the Marshall Islands. In conducting activities authorized in accordance with this section, the United States and the Marshall Islands will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLEGAL SUBSTANCES.—The United States and the Marshall Islands will take all reasonable and necessary steps, as mutually agreed based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Marshall Islands for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter II of the Controlled Substances Act of the Marshall Islands, or for the distribution of any such substance to or from the Marshall Islands or to or from the United States or any of its territories or commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Marshall Islands related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Marshall Islands to develop and adequately enforce laws of the Marshall Islands and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(1) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Marshall Islands which have an impact upon United States jurisdictions, and propose measures which the United States and the Marshall Islands should take in order better to prevent and prosecute violations of the laws of the United States and the Marshall Islands. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Marshall Islands.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.—

(1) SUBMISSION.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact pursuant to section 101(b) of this title if the Government of the Marshall Islands agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until—

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Marshall Islands may wish to have included.

(c) EJIT.—(1) The President of the United States shall negotiate with the Government of the Marshall Islands an agreement whereby, without prejudice as to any claims which have been or may be asserted by any party as to rightful title and ownership of any lands on Ejit, the Government of the Marshall Islands shall assure that lands on Ejit used as of January 1, 1985, by the people of Bikini, will continue to be available without charge for their use, until such time as Bikini is restored and inhabitable and the continued use of Ejit is no longer necessary, unless a Marshall Islands court of competent jurisdiction finally determines that there are legal impediments to continued use of Ejit by the people of Bikini.

(2) If the impediments described in paragraph (1) do arise, the United States will cooperate with the Government of the Marshall Islands in assisting any person adversely affected by such judicial determination to remain on Ejit, or in locating suitable and acceptable alternative lands for such person's use.

(3) Paragraph (1) shall not be applied in a manner which would prevent the Government of the Marshall Islands from acting in accordance with its constitutional processes to resolve title and ownership claims with respect to such lands or from taking substitute or additional measures to meet the needs of the people of Bikini with their democratically expressed consent and approval.

(d) KWAJALEIN PAYMENTS.—

(1) STATEMENT OF POLICY.—The Congress of the United States hereby declares that it is the policy of the United States that payment of funds by the Government of the Marshall Islands to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982, and the related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligations and responsibilities under Title Three of the Compact and the subsidiary agreements concluded pursuant thereto.

(2) FAILURE TO PAY.—In the event that the Government of the Marshall Islands fails to make payments in accordance with paragraph (1) of this subsection, the Government of the United States shall initiate procedures under Section 313 of the Compact

and consult with the Government of the Marshall Islands with respect to the basis for such non-payment of funds. The United States shall expeditiously resolve the matter of any non-payment of funds as described in paragraph (1) of this subsection pursuant to Section 313 of the Compact and the authority and responsibility of the Government of the United States for security and defense matters in or relating to the Marshall Islands. This paragraph shall be enforced, as may be necessary, in accordance with section 105(g)(2) of this joint resolution.

(3) ASSISTANCE.—The President is hereby authorized to make loans and grants to the Government of the Marshall Islands for the sole use of the Kwajalein Atoll Development Authority for the benefit of the Kwajalein landowners of amounts sought by such authority for development purposes, pursuant to a development plan for Kwajalein Atoll which such authority has adopted in accordance with applicable laws of the Marshall Islands. Such loans and grants shall be subject to such other terms and conditions as the President, in his discretion, may determine appropriate and necessary.

(e) SECTION 177 AGREEMENT.—(1) In furtherance of the purposes of Article I of the Subsidiary Agreement for Implementation of Section 177 of the Compact, the payment of the amount specified therein shall be made by the United States under Article I of the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") only after the Government of the Marshall Islands has notified the President of the United States as to which investment management firm has been selected by such Government to act as Fund Manager under Article I of the Section 177 Agreement.

(2) In the event that the President determines that an investment management firm selected by the Government of the Marshall Islands does not meet the requirements specified in Article I of the Section 177 Agreement, the United States shall invoke the conference and dispute resolution procedures of Article II of Title Four of the Compact. Pending the resolution of such a dispute and until a qualified Fund Manager has been designated, the Government of the Marshall Islands shall place the funds paid by the United States pursuant to Article I of the Section 177 Agreement into an interest-bearing escrow account. Upon designation of a qualified Fund Manager, all funds in the escrow account shall be transferred to the control of such Fund Manager for management pursuant to the Section 177 Agreement.

(3) If the Government of the Marshall Islands determines that some other investment firm should act as Fund Manager in place of the firm first (or subsequently) selected by such Government, the Government of the Marshall Islands shall so notify the President of the United States, identifying the firm selected by such Government to become Fund Manager, and the President shall proceed to evaluate the qualifications of such identified firm.

(4) At the end of 15 years after the effective date of the Compact, the firm then acting as Fund Manager shall transfer to the Government of the Marshall Islands, or to such account as such Government shall so notify the Fund Manager, all remaining funds and assets being managed by the Fund Manager under the Section 177 Agreement.

(5) An annual report concerning all actions of the Fund Manager pursuant to the Section 177 Agreement and this joint resolution, including information prepared by the Fund Manager, shall be transmitted by the Government of the Marshall Islands to the Congress. Such report shall include such information (whether received from the Fund Manager or any other source) as relates to the disbursements provided for in Article II of the Section 177 Agreement. Such report shall be made public.

(f) NUCLEAR TEST EFFECTS.—In approving the Compact, the Congress understands and intends that the peoples of Bikini, Enewetak, Rongelap, and Utrik, who were affected by the United States nuclear weapons testing program in the Marshall Islands, will receive the amounts of $75,000,000 (Bikini); $48,750,000 (Enewetak), $37,500,000 (Rongelap); and $22,500,000 (Utrik), respectively, which amounts shall be paid out of proceeds from the fund established under Article I, section 1 of the subsidiary agreement for the implementation of section 177 of the Compact. The amounts specified in this subsection shall be in addition to any amounts which may be awarded to claimants pursuant to Article IV of the subsidiary agreement for the implementation of Section 177 of the Compact.

(g) ESPOUSAL PROVISIONS.—(1) It is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

(2) In furtherance of the intention of Congress as stated in paragraph (1) of this subsection, the Section 177 Agreement is hereby ratified and approved. It is the explicit understanding and intent of Congress that the jurisdictional limitations set forth in Article XII of such Agreement are enacted solely and exclusively to accomplish the objective of Article X of such Agreement and only as a clarification of the effect of Article X, and are not to be construed or implemented separately from Article X.

(h) DOE RADIOLOGICAL HEALTH CARE PROGRAM; USDA AGRICULTURAL AND FOOD PROGRAMS.—

(1) MARSHALL ISLANDS PROGRAM.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining 174 members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermonuclear "Bravo" test, pursuant to Public Laws 95-134 and 96-205. Such medical care and its accompanying logistical support shall total $22,500,000 over the first 11 years of the Compact.

(2) AGRICULTURAL AND FOOD PROGRAMS.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first five years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall provide technical and other assistance—

(A) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak;

(B) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes.

(3) PAYMENTS.—Payments under this subsection shall be provided to such extent or in such amounts as are necessary for services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

(i) RONGELAP.—(1) Because Rongelap was directly affected by fallout from a 1954 United States thermonuclear test and because the Rongelap people remain unconvinced that it is safe to continue to live on Rongelap Island, it is the intent of Congress to take such steps (if any) as may be necessary to overcome the effects of such fallout on the habitability of Rongelap Island, and to restore Rongelap Island, if necessary, so that it can be safely inhabited. Accordingly, it is the expectation of the Congress that the Government of the Marshall Islands shall use such portion of the funds specified in Article II, section 1(e) of the subsidiary agreement for the implementation of section 177 of the Compact as are necessary for the purpose of contracting with a qualified scientist or group of scientists to review the data collected by the Department of Energy relating to radiation levels and other conditions on Rongelap Island resulting from the thermonuclear test. It is the expectation of the Congress that the Government of the Marshall Islands, after consultation with the people of Rongelap, shall select the party to review such data, and shall contract for such review and for submission of a report to the President of the United States and the Congress as to the results thereof.

(2) The purpose of the review referred to in paragraph (1) of this subsection shall be to establish whether the data cited in support of the conclusions as to the habitability of Rongelap Island, as set forth in the Department of Energy report entitled: "The Meaning of Radiation for Those Atolls in the Northern Part of the Marshall Islands That Were Surveyed in 1978," dated November 1982, are adequate and whether such conclusions are fully supported by the data. If the party reviewing the data concludes that such conclusions as to habitability are fully supported by adequate data, the report to the President of the United States and the Congress shall so state. If the party reviewing the data concludes that the data are inadequate to support such conclusions as to habitability or that such conclusions as to habitability are not fully supported by the data, the Government of the Marshall Islands shall contract with an appropriate scientist or group of scientists to undertake a complete survey of radiation and other ef-

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fects of the nuclear testing program relating to the habitability of Rongelap Island. Such sums as are necessary for such survey and report concerning the results thereof and as to steps needed to restore the habitability of Rongelap Island are authorized to be made available to the Government of the Marshall Islands.

(3) It is the intent of Congress that such steps (if any) as are necessary to restore the habitability of Rongelap Island and return the Rongelap people to their homeland will be taken by the United States in consultation with the Government of the Marshall Islands and, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(j) FOUR ATOLL HEALTH CARE PROGRAM—(1) Services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article II of the Agreement for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utrik who were affected by the consequences of the United States nuclear testing program, pursuant to the program described in Public Law 95-134 and Public Law 96-205 and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws). Nothing in this subsection shall be construed as prejudicial to the views or policies of the Government of the Marshall Islands as to the persons affected by the consequences of the United States nuclear testing program.

(2) At the end of the first year after the effective date of the Compact and at the end of each year thereafter, the providing agency or agencies shall return to the Government of the Marshall Islands any unexpended funds to be returned to the Fund Manager (as described in Article I of the Section 177 Agreement) to be covered into the Fund to be available for future use.

(3) The Fund Manager shall retain the funds returned by the Government of the Marshall Islands pursuant to paragraph (2) of this subsection, shall invest and manage such funds, and at the end of 15 years after the effective date of the Compact, shall make from the total amount so retained and the proceeds thereof annual disbursements sufficient to continue to make payments for the provision of health services as specified in paragraph (1) of this subsection to such extent as may be provided in contracts between the Government of the Marshall Islands and appropriate United States providers of such health services.

(k) ENJEBI COMMUNITY TRUST FUND.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish on the books of the Treasury of the United States a fund having the status specified in Article V of the subsidiary agreement for the implementation of Section 177 of the Compact, to be known as the "Enjebi Community Trust Fund" (hereafter in this subsection referred to as the "Fund"), and shall credit to the Fund the amount of $7,500,000. Such amount, which shall be ex gratia, shall be in addition to and not charged against any other funds provided for in the Compact and its subsidiary agreements, this joint resolution, or any other Act. Upon receipt by the President of the United States of the agreement described in this subsection, the Secretary of the Treasury, upon request of the Government of the Marshall Islands, shall transfer the Fund to the Government of the Marshall Islands, provided that the Government of the Marshall Islands agrees as follows:

(1) ENJEBI TRUST AGREEMENT.—The Government of the Marshall Islands and the Enewetak Local Government Council, in consultation with the people of Enjebi, shall provide for the creation of the Enjebi Community Trust Fund and the employment of the manager of the Enewetak Fund established pursuant to the Section 177 Agreement as trustee and manager of the Enjebi Community Trust Fund, or, should the manager of the Enewetak Fund not be acceptable to the people of Enjebi, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of 250 million dollars.

(2) MONITOR CONDITIONS.—Upon the request of the Government of the Marshall Islands, the United States shall monitor the radiation and other conditions on Enjebi and within one year of receiving such a request shall report to the Government of the Marshall Islands when the people of Enjebi may resettle Enjebi under circumstances where the radioactive contamination at Enjebi, including contamination derived from consumption of locally grown food products, can be reduced or otherwise controlled to meet whole body Federal radiation protection standards for the general population, including mean annual dose and mean 30-year cumulative dose standards.

(3) RESETTLEMENT OF ENJEBI.—In the event that the United States determines that the people of Enjebi can within 25 years of the date of the enactment of this joint resolution resettle Enjebi under the conditions set forth in paragraph (2) of this subsection, then upon such determination there shall be available to the people of Enjebi from the Fund such amounts as are necessary for the people of Enjebi to do the following, in accordance with a plan developed by the Enewetak Local Government Council and the people of Enjebi, and concurred with by the Government of the Marshall Islands to assure consistency with the government's overall economic development plan:

(A) Establish a community on Enjebi Island for the use of the people of Enjebi.

(B) Replant Enjebi with appropriate food-bearing and other vegetation.

(4) RESETTLEMENT OF OTHER LOCATION.—In the event that the United States determines that within 25 years of the date of the enactment of this joint resolution the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in paragraph (2) of this subsection, then the fund manager shall be directed by the trust instrument to distribute the Fund to the people of Enjebi for their resettlement at some other location in accordance with a plan, developed by the Enewetak Local Government Council and the people of Enjebi and concurred with by the Government of the Marshall Islands, to assure consistency with the government's overall economic development plan.

(5) INTEREST FROM FUND.—Prior to and during the distribution of the corpus of the Fund pursuant to paragraphs (3) and (4) of this subsection, the people of Enjebi may, if they so request, receive the interest earned by the Fund on no less frequent a basis than quarterly.

(6) DISCLAIMER OF LIABILITY.—Neither under the laws of the Marshall Islands nor under the laws of the United States, shall the Government of the United States be liable for any loss or damage to person or property in respect to the resettlement of Enjebi by the people of Enjebi, pursuant to the provision of this subsection or otherwise.

(l) BIKINI ATOLL CLEANUP.—

(1) DECLARATION OF POLICY.—The Congress hereby determines and declares that it is the policy of the United States, to be supported by the full faith and credit of the United States, that because the United States, through its nuclear testing and other activities, rendered Bikini Atoll unsafe for habitation by the people of Bikini, the United States will fulfill its responsibility for restoring Bikini Atoll to habitability, as set forth in paragraphs (2) and (3) of this subsection.

(2) CLEANUP FUNDS.—There are hereby authorized to be appropriated such sums as are necessary to implement the settlement agreement of March 15, 1985, in The People of Bikini, et al. against United States of America, et al., Civ. No. 84-0425 (D. Ha.).

(3) CONDITIONS OF FUNDING.—The funds referred to in paragraph (2) shall be made available pursuant to Article VI, Section 1 of the Compact Section 177 Agreement upon completion of the events set forth in the settlement agreement referred to in paragraph (2) of this subsection.

(m) AGREEMENT ON AUDITS.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Marshall Islands an agreement which shall provide as follows:

(1) GENERAL AUTHORITY OF THE GAO TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Marshall Islands under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Marshall Islands.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Marshall Islands.

(3) REPRESENTATIVE STATUS FOR GAO REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) ANNUAL FINANCIAL STATEMENTS.—As part of the annual report submitted by the Government of the Marshall Islands under section 211 of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) DEFINITION OF AUDITS.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Marshall Islands has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Marshall Islands pursuant to such grants or assistance.

(6) COOPERATION BY MARSHALL ISLANDS.—The Government of the Marshall Islands will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

(a) HUMAN RIGHTS.—In approving the Compact, the Congress notes the conclusion in the Statement of Intent of the Report of The Future Political Status Commission of the Congress of Micronesia in July, 1969, that "our recommendation of a free associated state is indissolubly linked to our desire for such a democratic, representative, constitutional government" and notes that such desire and intention are reaffirmed and embodied in the Constitutions of the Federated States of Micronesia and the Marshall Islands. The Congress also notes and specifically endorses the preamble to the Compact, which affirms that the governments of the parties to the Compact are founded upon respect for human rights and fundamental freedoms for all. The Secretary of State shall include in the annual reports on the status of internationally recognized human rights in foreign countries, which are submitted to the Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, a full and complete report regarding the status of internationally recognized human rights in the Federated States of Micronesia and the Marshall Islands.

(b) IMMIGRATION.—The rights of a bona fide naturalized citizen of the Marshall Islands or the Federated States of Micronesia to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(c) NONALIENATION OF LANDS.—The Congress endorses and encourages the maintenance of the policies of the Government of the Federated States of Micronesia and the Government of the Marshall Islands to regulate, in accordance with their Constitutions and laws, the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Federated States of Micronesia citizenship and Marshall Islands citizenship, respectively.

(d) NUCLEAR WASTE DISPOSAL.—In approving the Compact, the Congress understands that the Government of the Federated States of Micronesia and the Government of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the Compact.

(e) IMPACT OF COMPACT ON U.S. AREAS.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—In approving the Compact, it is not the intent of the Congress to cause any adverse consequences for the United States territories and commonwealths or the State of Hawaii.

(2) ANNUAL REPORTS AND RECOMMENDATIONS.—One year after the date of enactment of this joint resolution and at one year intervals thereafter, the President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii. Reports submitted pursuant to this paragraph (hereafter in this subsection referred to as "reports") shall identify any adverse consequences resulting from the Compact and shall make recommendations for corrective action to eliminate those consequences. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social systems and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report. With regard to trade, the reports shall include an analysis of the impact on the economy of American Samoa resulting from imports of canned tuna into the United States from the Federated States of Micronesia and the Marshall Islands.

(3) OTHER VIEWS.—In preparing the reports, the President shall request the views of the Government of the State of Hawaii, and the governments of each of the United States territories and commonwealths, the Federated States of Micronesia, the Marshall Islands, and Palau, and shall transmit the full text of any such views to the Congress as part of such reports.

(4) COMMITMENT OF CONGRESS TO REDRESS ADVERSE CONSEQUENCES.—The Congress hereby declares that, if any adverse consequences to United States territories and commonwealths or the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences.

(5) DEFINITION OF U.S. TERRITORIES AND COMMONWEALTHS.—As used in this subsection, the term "United States territories and commonwealths" means the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) IMPACT COSTS.—There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia, and any other adverse consequences resulting from the compact.

(f) FISHERIES MANAGEMENT.—In clarification of Title One, Article II, section 121(b)(1) of the Compact:

(1) Nothing in the Compact or this joint resolution shall be interpreted as recognition by the United States of any claim by the Federated States of Micronesia or by the Marshall Islands to jurisdiction or authority over highly migratory species of fish during the time such species of fish are found outside the territorial sea of the Federated States of Micronesia or the Marshall Islands.

(2) It is the understanding of Congress that none of the monies made available pursuant to the Compact or this joint resolution will be used by either the Federated States of Micronesia or the Marshall Islands for enforcement actions against any vessel of the United States on the basis of fishing by any such vessel for highly migratory species of fish outside the territorial sea of the Federated States of Micronesia or the Marshall Islands, respectively, in the absence of a licensing agreement.

(3) Appropriate United States officials shall apply the policies and provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) with regard to any action taken by the Federated States of Micronesia or the Marshall Islands affecting any vessel of the United States engaged in fishing for highly migratory species of fish in waters outside the territorial seas of the Federated States of Micronesia or the Marshall Islands, respectively. For the purpose of applying the provisions of section 5 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1975), monies made available to either the Federated States of Micronesia or the Marshall Islands pursuant to the provisions of the Compact or this joint resolution shall be treated as "assistance to the government of such country under the Foreign Assistance Act of 1961". For purposes of this Act only, certification by the President in accordance with such section 5 shall be accompanied by a report to Congress on the basis for such certification, and such certification shall have no effect if by law Congress so directs prior to the expiration of 60 days during which Congress is in continuous

session following the date of such certification.

(4) For the purpose of paragraphs (1) and (3) of this subsection—

(A) The term "vessel of the United States" has the same meaning as provided in the first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971).

(B) The terms "fishing" and "highly migratory species" have the same meanings as provided in paragraphs (10) and (14), respectively, of section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(10) and (14)).

(5)(A) It is the policy of the United States of America—

(i) to negotiate and conclude with the governments of the Central, Western, and South Pacific Ocean, including the Federated States of Micronesia and the Marshall Islands, a regional licensing agreement setting forth agreed terms of access for United States tuna vessels fishing in the region; and

(ii) that such an agreement should overcome existing jurisdictional differences and provide for a mutually beneficial relationship between the United States and the Pacific Island States that will promote the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean and the economic development of the region.

(B) At such time as an agreement referred to in subparagraph (A) is submitted to the Senate for advice and consent to ratification, the Secretary of State, after consultation with the Secretary of Commerce and other interested agencies and concerned governments, shall submit to the Congress a proposed long term regional fisheries development program which may include, but not be limited to—

(i) exploration for, and stock assessment of, tuna and other fish;

(ii) improvement of harvesting techniques;

(iii) gear development;

(iv) biological resource monitoring;

(v) education and training in the field of fisheries; and

(vi) regional and direct bilateral assistance in the field of fisheries.

(g) FOREIGN LOANS.—The Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the Governments of the Federated States of Micronesia and the Marshall Islands.

SEC. 105. SUPPLEMENTAL PROVISIONS.

(a) DOMESTIC PROGRAM REQUIREMENTS.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in the Federated States of Micronesia or the Marshall Islands are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

(b) RELATIONS WITH THE FEDERATED STATES OF MICRONESIA AND THE MARSHALL ISLANDS.—

(1) The United States representatives to the Federated States of Micronesia and the Republic of the Marshall Islands pursuant to Article V of title I of the Compact shall be appointed by the President with the advice and consent of the Senate, and shall be under the supervision of the Secretary of State, who shall have responsibility for government to government relations between the United States and the Government with respect to whom they are appointed, consistent with the authority of the Secretary of the Interior as set forth in this section.

(2) Appropriations made pursuant to the Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior, who shall coordinate and monitor any program or activity provided to the Federated States of Micronesia or the Republic of the Marshall Islands by departments and agencies of the Government of the United States and related economic development planning pursuant to the Compact or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact and the authorization of the President to agree to an effective date pursuant to this resolution. Funds appropriated to the Secretary of the Interior pursuant to this paragraph shall not be allocated to other departments or agencies.

(3) All programs and services provided to the Federated States of Micronesia and the Republic of the Marshall Islands by Federal agencies may be provided only after consultation with and under the supervision of the Secretary of the Interior, and the head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.

(4) Any United States Government personnel assigned, on a temporary or permanent basis, to either the Federated States of Micronesia or the Marshall Islands shall, during the period of such assignment, be subject to the supervision of the United States representative to that area.

(5) The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance to Federal departments and agencies. Such interagency group shall include the Secretary of the Interior and the Secretary of State.

(c) CONTINUING TRUST TERRITORY AUTHORIZATION.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or this joint resolution.

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) MEDICAL REFERRAL DEBTS.—

(1) FEDERATED STATES OF MICRONESIA.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Federated States of Micronesia, the United States shall make available to the Government of the Federated States of Micronesia such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, including any territories and commonwealths, by citizens of the Federated States of Micronesia before September 1, 1985.

(2) MARSHALL ISLANDS.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Marshall Islands, the United States shall make available to the Government of the Marshall Islands such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, its territories and commonwealths by citizens of the Marshall Islands before September 1, 1985.

(3) USE OF FUNDS.—In making funds available pursuant to this subsection, the President shall take such actions as he deems necessary to assure that the funds are used only for the payment of the medical expenses described in paragraph (1) or (2) of this subsection, as the case may be.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(e) SURVIVABILITY.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the Compact, any provisions of the Compact which remain effective after the termination of the Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(f) REGISTRATION FOR AGENTS OF MICRONESIAN GOVERNMENTS.—

(1) IN GENERAL.—Notwithstanding the provisions of Title One, Article V, section 153 of the Compact, after approval of the Compact any citizen of the United States who, without authority of the United States, acts as the agent of the Government of the Marshall Islands or the Federated States of Micronesia with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign Agents Registration Act of 1938, the Federated States of Micronesia and the Marshall Islands shall be considered to be foreign countries.

(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to a citizen of the United States employed by either the Government of the Marshall Islands or the Government of the Federated States of Micronesia with respect to whom the employing Government from time to time certifies to the Government of the United States that such citizen is an employee of the Government of the Marshall Islands or the Government of the Federated States of Micronesia (as the case may be) whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

(3) RESIDENT REPRESENTATIVE EXEMPTION.—Nothing in this subsection shall be construed as amending Section 152(b) of the Compact.

(g) NONCOMPLIANCE SANCTIONS.—

(1) AUTHORITY OF PRESIDENT.—The President of the United States shall have no au-

thority to suspend or withhold payments or assistance with respect to—

(A) section 177, 213, 216(a)(2), 216(a)(3), 221(b), or 223 of the Compact, or

(B) any agreements made pursuant to such sections of the Compact,

unless such suspension or withholding is imposed as a sanction due to noncompliance by the Government of the Federated States of Micronesia or the Government of the Marshall Islands (as the case may be) with the obligations and requirements of such sections of the Compact or such agreements.

(2) ACTIONS INCOMPATIBLE WITH UNITED STATES AUTHORITY.—The Congress expresses its understanding that the Governments of the Federated States of Micronesia and the Marshall Islands will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to the Federated States of Micronesia or the Marshall Islands pursuant to the Compact, including the agreements referred to in sections 462(j) and 462(k) thereof. The Congress further expresses its intention that any such act on the part of either such Government will be viewed by the United States as a material breach of the Compact. The Government of the United States reserves the right in the event of such a material breach of the Compact by the Government of the Federated States of Micronesia or the Government of the Marshall Islands to take action, including (but not limited to) the suspension in whole or in part of the obligations of the Government of the United States to that Government.

(h) CONTINUING PROGRAMS AND LAWS.—

(1) FEDERATED STATES OF MICRONESIA AND MARSHALL ISLANDS.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 224 of the Compact, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and to the Marshall Islands:

(A) the Legal Services Corporation;

(B) the Public Health Service ; and

(C) the Farmers Home Administration (in the Marshall Islands and each of the four States of the Federated States of Micronesia: *Provided*, that in lieu of continuation of the program in the Federated States of Micronesia, the President may agree to transfer to the Government of the Federated States of Micronesia without cost, the portfolio of the Farmers Home Loan Administration applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested by the Federated States of Micronesia).

(2) PALAU.—Upon the effective date of the Compact, the laws of the United States generally applicable to the Trust Territory of the Pacific Islands shall continue to apply to the Republic of Palau and the Republic of Palau shall be eligible for such proportion of Federal assistance as it would otherwise have been eligible to receive under such laws prior to the effective date of the Compact, as provided in appropriation Acts or other Acts of Congress.

(3) SECTION 219 DETERMINATION.—The determination by the Government of the United States under section 219 of the Compact shall be as provided in appropriation Acts.

(4) TORT CLAIMS.—(A) Effective on the date of enactment of this joint resolution, any employee of a federal agency of the United States Government who provides any service or carries out any function in the Trust Territory of the Pacific Islands pursuant to or in furtherance of applicable law, including this joint resolution, shall be deemed to be an employee of the Trust Territory Government, and the provisions of Title 6 of the Trust Territory Code (including section 251 thereof) shall apply with respect to actions and claims arising from activities of such employee. This subparagraph (A) shall expire with respect to the Federated States of Micronesia, the Marshall Islands, of Palau at such time as the Trusteeship Agreement is terminated with respect to such area or areas, but upon such expiration the provisions of Section 174 of the Compact (including subsections relating to claims and actions before a court of the Trust Territory of the Pacific Islands) shall apply to such employees in such area or areas.

(B) At such time as the Trusteeship Agreement ceases to apply to either the Federated States of Micronesia or the Marshall Islands, the provisions of Section 178 of the Compact regarding settlement and payment of tort claims shall apply to employees of any federal agency of the Government of the United States which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the Compact or this Act, except for provisions of Title Three of the Compact and of the subsidiary agreements related to such Title, in such area to which such Agreement formerly applied. For purposes of this subparagraph (B), persons providing such service or carrying out such function pursuant to a contract with a federal agency shall be deemed to be an employee of the contracting federal agency.

(C) For purposes of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), persons providing services to the people of the atolls of Bikini, Enewetak, Rongelap and Utrik as described in Public Law 95-134 and Public Law 96-205 pursuant to a contract with a Department or agency of the federal government shall be deemed to be an employee of the contracting Department or agency. This subparagraph (C) shall expire when the Trusteeship Agreement is terminated with respect to the Marshall Islands.

(i) COLLEGE OF MICRONESIA; EDUCATION PROGRAMS.—

(1) COLLEGE OF MICRONESIA.—Notwithstanding any other provision of law, all funds which as of the date of the enactment of this joint resolution were appropriated for the use of the College of Micronesia System shall remain available for use by such college until expended. Until otherwise provided by Act of Congress, or until termination of the Compact, such college shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(2) FEDERAL EDUCATION PROGRAMS.—Pursuant to section 224 of the Compact and upon the request of the affected Government, any Federal program providing financial assistance for education which, as of January 1, 1985, was providing financial assistance for education to the Federated States of Micronesia or the Marshall Islands or to any institution, agency, organization, or permanent resident thereof, including the College of Micronesia System, shall continue to provide such assistance to such institutions, agencies, organizations, and residents as follows:

(A) For the fiscal year in which the Compact becomes effective, not to exceed $13,000,000;

(B) For the fiscal year beginning after the end of the fiscal year in which the Compact becomes effective, not to exceed $8,700,000; and

(C) For the fiscal year immediately following the fiscal year described in subparagraph (B), not to exceed $4,300,000.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as are necessary for purposes of this subsection.

(j) TRUST TERRITORY DEBTS TO U.S. FEDERAL AGENCIES.—Neither the Government of the Federated States of Micronesia nor the Government of the Marshall Islands shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(k) USE OF DOD MEDICAL FACILITIES.—Following approval of the Compact, the Secretary of Defense shall make available the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia and the Marshall Islands who are properly referred to such facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia and the Marshall Islands. The Secretary of Defense is hereby authorized to cooperate with such authorities in order to permit use of such medical facilities for persons properly referred by such authorities. The Secretary of Health and Human Services is hereby authorized and directed to continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Marshall Islands to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(l) TECHNICAL ASSISTANCE.—Technical assistance may be provided pursuant to section 226 of the Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the Soil Conservation Service, the Fish and Wildlife Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470-470t), shall be on a nonreimbursable basis. During the period the Compact is in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the Federated States of Micronesia and the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Funds provided pursuant to sections 102(a), 103(a), 103(c), 103(h), 103(i), 103(j), 103(l), 105(c), 105(i), 105(j), 105(k), 105(l), 105(m), 105(n), and 105(o) of this joint resolution shall be in addition to and not charged against any amounts to be paid to either the Federated States of Micronesia or the Marshall Islands pursuant to the Compact or the subsidiary agreements.

(m) PRIOR SERVICE BENEFITS PROGRAM.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligi-

ble to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

(n) INDEFINITE LAND USE PAYMENTS.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(o) COMMUNICABLE DISEASE CONTROL PROGRAM.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia such sums as may be necessary for purposes of establishing or continuing programs for the control and prevention of communicable diseases, including (but not limited to) cholera and Hansen's Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia in designing and implementing such a program.

(p) TRUST FUNDS.—The responsibilities of the United States with regard to implementation of section 235 of the Compact shall be discharged by the Secretary of the Interior, who shall consult with the Government of the Marshall Islands and the designated beneficiaries of the funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands.

(q) ANNUAL REPORTS ON DETERMINATIONS UNDER COMPACT SECTION 313.—The President shall report annually to the Congress on determinations made by the United States in the exercise of its authority under section 313 of the Compact. Each such report shall describe the following, on a classified basis if necessary:

(1) The actions that the Government of the Federated States of Micronesia or the Government of the Marshall Islands were required to refrain from pursuant to the determinations of the United States.

(2) The justification for each determination by the United States, and the position of the other Government concerned with respect to such determination.

(3) The effect of the determination on the authority and responsibility of the other government to conduct foreign affairs in accordance with section 121 of the Compact.

(4) Any domestic effect in the Federated States of Micronesia or the Marshall Islands resulting from the determination, including any restriction on the civil and political rights of the citizens thereof.

(r) USER FEES.—Any person in the Federated States of Micronesia or the Marshall Islands shall be liable for a user fees, if any, for services provided in the Federated States of Micronesia or the Marshall Islands by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.

(a) ASSISTANCE TO U.S. FIRMS.—In order to assist the Governments of the Federated States of Micronesia and of the Marshall Islands through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within the Federated States of Micronesia or the Republic of the Marshall Islands, the President shall consult with the Governments of the Federated States of Micronesia and the Marshall Islands with respect to any such contracts, and the President shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments—

(1) to the maximum extent possible, employ citizens of the Federated States of Micronesia and the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Marshall Islands, provide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as "United States firms"). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of the Federated States of Micronesia or the Republic of the Marshall Islands if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 107. LIMITATIONS.

(a) PROHIBITION.—The provisions of Chapter 11 of title 18, United States Code, shall apply in full to any individual who has served as the President's Personal Representative for Micronesian Status Negotiations or who is or was an officer or employee of the Office for Micronesian Status Negotiations or who is or was assigned or detailed to that Office or who served on the Micronesia Interagency Group, except that for the purposes of this section, clauses (i) and (ii) of section 207(b) of such title shall read as follows: "(i) having been so employed, within three years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within three years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—".

(b) TERMINATION.—Effective upon the date of the termination of the Trust Territory of the Pacific Islands with respect to Palau, the Office for Micronesian Status Negotiations is abolished and no department, agency, or instrumentality of the United States shall thereafter contribute funds for the support of such Office.

SEC. 108. TRANSITIONAL IMMIGRATION RULES.

(a) CITIZEN OF NORTHERN MARIANA ISLANDS.—Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983 (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) TERMINATION.—The provisions of this section shall cease to be effective when section 301 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States (Public Law 94-241) becomes effective pursuant to section 1003(c) of the Covenant.

SEC. 109. TIMING.

No payment may be made pursuant to the Compact nor under any provision of this joint resolution prior to October 1, 1985.

SEC. 110. IMPLEMENTATION OF AUDIT AGREEMENTS.

(a) TRANSMISSION OF ANNUAL FINANCIAL STATEMENT.—Upon receipt of the annual financial statement described in sections 102(c)(4) and 103(m)(4), the President shall promptly transmit a copy of such statement to the Congress.

(b) ANNUAL AUDITS BY THE PRESIDENT.—(1) The President shall cause an annual audit to be conducted of the annual financial statements described in sections 102(c)(4) and 103(m)(4). Such audit shall be conducted in accordance with the Generally Accepted Government Auditing Standards promulgated by the Comptroller General of the United States. Such audit shall be submitted to the Congress not later than 180 days after the end of the United States fiscal year.

(2) The President shall develop and implement procedures to carry out such audits. Such procedures shall include the matters described in sections 102(c)(2) and 103(m)(2) of this title.

(c) AUTHORITY OF GAO.—The Comptroller General of the United States shall have the authority to conduct the audits referred to in sections 102(c)(1) and 103(m)(1) of this title.

SEC. 111 COMPENSATORY ADJUSTMENTS

(a) ADDITIONAL PROGRAMS AND SERVICES.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to Section 224 of the Compact, the services and programs of the following United States agencies shall be made available to the Federated States of Micronesia and the Marshall Islands: the Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, the Rural Electrification Administration, Job Partnership Training Act, Job Corps, and the Programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) INVESTMENT DEVELOPMENT FUNDS.—In order to further close economic and commercial relations between the United States and the Federated States of Micronesia and the Marshall Islands, and in order to encourage the presence of the United States private sector in such area, there are hereby created two U.S. Investment Development Funds, to be established and administered by the Federated States of Micronesia and the Marshall Islands respectively in consultation with the U.S. as follows:

(1) For the U.S. Investment Development Fund for the Federated States of Microne-

sia there is hereby authorized to be appropriated for fiscal 1986, $20 million, backed by the full faith and credit of the United States, of which $12 million shall be made available for obligation for the first full fiscal year after the effective date of the Compact, and of which $8 million shall be made available for obligation for the third full fiscal year after the effective date of the Compact.

(2) For the U.S. Investment Development Fund for the Marshall Islands there is hereby authorized to be appropriated $10 million for fiscal 1986, backed by the full faith and credit of the United States, of which $6 million for the first full fiscal year after the effective date of the Compact, and of which $4 million shall be made available for obligation for the third full fiscal year after the effective date of the Compact.

(c) the amounts specified in subsection (b) of this section shall be in addition to the sums and amounts specified in Articles I and III of Title Two of the Compact, and shall be deemed to be included in the sums and amounts referred to in section 236 of the Compact.

(c) BOARD OF ADVISORS.—To provide policy guidance for the Funds established by subsection (b) of this section, the President is hereby authorized to establish a Board of Advisors, pursuant to appropriate agreements between the United States and the Federated States of Micronesia and the Marshall Islands.

(d) FURTHER AMOUNTS.—The governments of the Federated States of Micronesia and the Marshall Islands may submit to Congress reports concerning the overall financial and economic impacts on such areas resulting from the effect of Title IV of this joint resolution upon Title Two of the Compact. There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as may be necessary, but not to exceed $40 million for the Federated States of Micronesia and $20 million for the Marshall Islands, as provided in appropriation acts, to further compensate the governments of such islands (in addition to the compensation provided in subsections (a) and (b) of this section) for adverse impacts, if any, on the finances and economies of such areas resulting from the effect of Title IV of this joint resolution upon Title Two of the Compact. At the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in this subsection not have been appropriated, such amount not yet appropriated may be appropriated, without regard to divisions between amounts authorized in this subsection for the Federated States of Micronesia and for the Marshall Islands, based on either or both such government's showing of such adverse impact, if any, as provided in this subsection.

TITLE II—COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION.

The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENTS OF THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationships as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through two free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted Constitutions appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish two new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationships of free association which provide a full measure of self-government for the peoples of the Marshall Islands and the Federated States of Micronesia; and

FURTHER AGREE that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

TITLE ONE
GOVERNMENTAL RELATIONS
Article I
Self-Government

Section 111

The peoples of the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

Article II
Foreign Affairs

Section 121

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall do so in their own name and right, except as otherwise provided in this Compact.

(b) The foreign affairs capacity of the Governments of the Marshall Islands and the Federated States of Micronesia includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

(c) The Government of the United States recognizes that the Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of their foreign affairs, the Governments of the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Governments of the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept for training and instruction at the Foreign Service Institute, established under 22 U.S.C. 4021, citizens of the Marshall Islands and the Federated States of Micronesia. The qualifications of candidates for such training and instruction and all other terms and conditions of participation by citizens of the Marshall Islands and the Federated States of Micronesia in Foreign Service Institute programs shall be as mutually agreed between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of the Marshall Islands and the Federated States of Micronesia shall consult, in the conduct of their foreign affairs, with the Government of the United States.

(b) In recognition of the respective foreign affairs capacities of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Marshall Islands or the Federated States of Micronesia on matters which the Government of the United States regards as relating to or affecting any such Government.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be re-

sponsible to third parties for the actions of the Government of the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Marshall Islands and the Federated States of Micronesia for travel outside the Marshall Islands and the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have full authority and responsibility to regulate their respective domestic and foreign communications, and the Government of the United States shall provide communications assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations respectively in the Marshall Islands and the Federated States of Micronesia; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations respectively in the Marshall Islands and the Federated States of Micronesia in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 *et seq.*, and the Communications Satellite Act of 1962, 47 U.S.C. 721 *et seq.*, over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in the Marshall Islands or the Federated States of Micronesia.

(b) The Government of the Marshall Islands or the Federated States of Micronesia may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the electing Government the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on Janaury 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia.

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may establish and maintain representative offices in the capital of the other for the purpose of maintaining close and regular consultations on matters arising in the course of the relationship of free association and conducting other government business. The Governments may establish and maintain additional offices on terms and in locations as may be mutually agreed.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Section 153

(a) Any citizen or national of the United States who, after consultation between the designating Government and the Government of the United States, is designated by the Government of the Marshall Islands or the Federated States of Micronesia as its agent, shall enjoy exemption from the requirements of the laws of the United States relating to the registration of foreign agents. The Government of the United States shall promptly comply with a request for consultation made by the prospective designating Government. During the course of the consultation, the Government of the United States may, in its discretion, and subject to the provisions of the Privacy Act, 5 U.S.C. 552a, transmit such information concerning the prospective designee as may be available to it to the prospective designating Government.

(b) Any citizen or national of the United States may be employed by the Government of the Marshall Islands or the Federated States of Micronesia to represent to foreign governments, officers or agents thereof the positions of the Government of the Marshall Islands or the Federated States of Micronesia, without regard to the provisions of 18 U.S.C. 953.

Article VI

Environmental Protection

Section 161

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Marshall Islands and the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

(1) shall continue to apply the environmental controls in effect on the day preceding the effective date of this Compact to those of its continuing activities subject to Section 161(a)(2), unless and until those controls are modified under Sections 161(a)(3) and 161(a)(4);

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*, to its activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States;

(3) shall comply also, in the conduct of any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), with standards substantively similar to those required by the following laws of the United States, taking into account the particular environments of the Marshall Islands and the Federated States of Micronesia: the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; the Clean Air Act, 77 Stat. 392, 42 U.S.C. Supp. 7401 *et seq.*; the Clean Water Act (Federal Water Pollution Control Act), 86 Stat. 896, 33 U.S.C. 1251 *et seq.*; the Ocean Dumping Act (Title I of the Marine Protection, Research and Sanctuaries Act of 1972), 86 Stat. 1053, 33 U.S.C. 1411 *et seq.*; the Toxic Substances Control Act, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*; the Resources Conservation and Recovery Act of 1976, 90 Stat. 2796, 42 U.S.C. 6901 *et seq.*; and such other environmental protection laws of the United States as may be mutually agreed from time to time with the Government of the Marshall Islands or the Federated States of Micronesia; and

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), appropriate mechanisms, including regulations or other judicially reviewable standards and procedures, to regulate its activities governed by Section 161(a)(3) in the Marshall Islands and the Federated States of Micronesia in a manner appropriate to the special governmental relationship set forth in this Compact. The agencies of the Government of the United States designated by law to administer the laws set forth in Section 161(a)(3) shall participate as appropriate in the development of any regulation, standard or procedure under this Section, and the Government of the United States shall provide the affected Government of the Marshall Islands or the Federated States of Micronesia with the opportunity to comment during such development.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia shall develop standards and procedures to protect their environments. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Governments of the Marshall Islands and the Federated States of Micronesia, taking into account their particular environments, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 161(a)(3) prior to their conducting activities in the Marshall Islands and the Federated States of Micronesia, respectively, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and Section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major federal actions significantly affecting the quality of the human environment, the regulatory regime established under Sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under Sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the affected Government of the Marshall Islands or the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the affected Government.

(f) The laws of the United States referred to in Section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact and its related agreements only to the extent provided for in this Section.

Section 162

The Government of the Marshall Islands or the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursu-

ant to Sections 161(a), 161(d) or 161(e) or for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by Section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this Section;

(b) Actions brought pursuant to this Section may be initiated only by the Government concerned;

(c) Administrative agency actions arising under Section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706;

(d) The District Court shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States;

(e) The judicial remedy provided for in this Section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by Section 161; and

(f) In actions pursuant to this Section, the Governments of the Marshall Islands and the Federated States of Micronesia shall be treated as if they were United States citizens.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Governments of the Marshall Islands and the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Marshall Islands and the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Marshall Islands or the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided those Governments under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Governments of the Marshall Islands and the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to the Marshall Islands and the Federated States of Micronesia as of the effective date of this Compact.

Section 172

(a) Every citizen of the Marshall Islands or the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia and every citizen of the Marshall Islands or the Federated States of Micronesia shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701–706, except that only the Government of the Marshall Islands or the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by Sections 161 and 162.

Section 173

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Marshall Islands and the Federated States of Micronesia pursuant to this Compact and its related agreements and by those Governments in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Governments of the Marshall Islands and the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia in any case in which the action is based on a commercial activity of the defendant Government where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188–3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100–4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Governments of the Marshall Islands and the Federated States of Micronesia confirm that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitution-

al power of the courts of the Marshall Islands and the Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia (or Palau) for loss or damage to property and person of the citizens of the Marshall Islands, or the Federated States of Micronesia, resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of $150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact.

Section 178

(a) The federal agencies of the Government of the United States which provide the services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Articles II and III of Title Two are authorized to settle and pay tort claims arising in the Marshall Islands or the Federated States of Micronesia from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 178(a) which cannot be settled under Section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall, in the separate agreements referred to in Section 232, provide for:

(1) the administrative settlement of claims referred to in Section 178(a), including designation of local agents in the Marshall Islands and each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in Section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 178(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

(a) In order to assist the Governments of the Marshall Islands and the Federated States of Micronesia in their efforts to advance the economic self-sufficiency of their peoples and in recognition of the special relationship that exists between them and the United States, the Government of the United States shall provide on a grant basis the following amounts:

(1) to the Government of the Marshall Islands, $26.1 million annually for five years commencing on the effective date of this Compact, $22.1 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $19.1 million annually for five years commencing on the tenth anniversary of this Compact. Over this fifteen-year period, the Government of the Marshall Islands shall dedicate an average of no less than 40 percent of these amounts to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b).

(2) to the Government of the Federated States of Micronesia, $60 million annually for five years commencing on the effective date of this Compact, $51 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $40 million annually for five years commencing on the tenth anniversary of the effective date of this Compact. Over this fifteen year period, the Government of the Federated States of Micronesia shall dedicate an average of no less than 40 percent of these amounts annually to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b). To take into account the special nature of the assistance, to be provided under this paragraph and Sections 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b), the division of these amounts among the national and state governments of the Federated States of Micronesia shall be certified to the Government of the United States by the Government of the Federated States of Micronesia.

(b) The annual expenditure of the grant amounts specified for the capital account in Section 211(a) by the Governments of the Marshall Islands and the Federated States of Micronesia shall be in accordance with official overall economic development plans provided by those Governments and concurred in by the Government of the United States prior to the effective date of this Compact. These plans may be amended from time to time by the Government of the Marshall Islands or the Federated States of Micronesia.

(c) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia recognize that the achievement of the goals of the plans referred to in Section 211(b) depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of the Marshall Islands and the Federated States of Micronesia, including the Government of the United States, and may, in addition, be affected by the impact of exceptional economically adverse circumstances. Each of the Governments of the Marshall Islands and the Federated States of Micronesia shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of the plans and on their use of the funds specified in this Article. These reports shall outline the achievements of the plans to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. It is understood that the Government of the United States cannot be committed by this Section to seek or support such additional economic assistance.

Section 212

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall provide to the Government of the Federated States of Micronesia $1 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact. This amount may be used by the Government of the Federated States of Micronesia to defray current account expenditures attendant to the operation of the United States military Civic Action Teams made available in accordance with the separate agreement referred to in Section 227.

Section 213

(a) The Government of the United States shall provide on a grant basis $1.9 million annually to the Government of the Marshall Islands in conjunction with Section 321(a). The Government of the Marshall Islands, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in the Kwajalein Atoll area of the Marshall Islands.

(b) The Government of the United States shall provide on a grant basis to the Government of the Federated States of Micronesia the sum of $160,000 in conjunction with Section 321(a). This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of the Federated States of Micronesia, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Yap State, Federated States of Micronesia.

Section 214

As a contribution to efforts aimed at achieving increased self-sufficiency in energy production, the Government of the United States shall provide on a current account grant basis for fourteen years commencing on the first anniversary of the effective date of this Compact the following amounts:

(a) To the Government of the Marshall Islands, $2 million annually; and

(b) To the Government of the Federated States of Micronesia, $3 million annually.

Section 215

(a) As a contribution to the current account operations and maintenance of communications systems, the Government of the United States shall provide on a grant

basis for fifteen years commencing on the effective date of this Compact the following amounts:

(1) to the Government of the Marshall Islands, $300,000 annually; and

(2) to the Government of the Federated States of Micronesia, $600,000 annually.

(b) For the purpose of acquiring such communications hardware as may be located within the Marshall Islands and the Federated States of Micronesia or for such other current or capital account activity as may be selected, the Government of the United States shall provide, concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact, the sum of $9 million to be allocated as follows:

(1) to the Government of the Marshall Islands, $3 million; and

(2) to the Government of the Federated States of Micronesia, $6 million.

Section 216

(a) The Government of the United States shall provide on a current account basis an annual grant of $5.369 million for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) $890,000 annually for the surveillance and enforcement by the Governments of the Marshall Islands and the Federated States of Micronesia of their respective maritime zones;

(2) $1.791 million annually for health and medical programs, including referrals to hospital and treatment centers; and

(3) $2.687 million annually for a scholarship fund or funds to support the post-secondary education of citizens of the Marshall Islands and the Federated States of Micronesia attending United States accredited, post-secondary institutions in the United States, its territories and possessions, the Marshall Islands or the Federated States of Micronesia. The curricula criteria for the award of scholarships shall be designed to advance the purposes of the plans referred to in Section 211(b).

(b) The Government of the United States shall provide the sum of $1.333 million as a contribution to the commencement of activities pursuant to Section 216(a)(1).

(c) The annual grants referred to in Section 216(a) and the sum referred to in Section 216(b) shall be made available by the Government of the United States promptly after it receives instruction for their distribution agreed upon by the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 217

Except as otherwise provided, the amounts stated in Sections 211, 212, 214, 215 and 231 shall be adjusted for each Fiscal Year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Section 218

If in any year the funds made available by the Government of the United States for that year pursuant to this Article or Section 231 are not completely obligated by the recipient Government, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Section 219

All funds previously appropriated to the Trust Territory of the Pacific Islands which are unobligated by the Government of the Trust Territory of the Pacific Islands as of the effective date of this Compact shall accrue to the Governments of the Marshall Islands and the Federated States of Micronesia for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia, in accordance with and to the extent provided in the separate agreements referred to in section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) of the United States Federal Emergency Management Agency;

(3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*;

(4) of the United States Federal Aviation Administration; and

(5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Marshall Islands and the Federated States of Micronesia particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of $10 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to the Marshall Islands and the Federated States of Micronesia.

Section 222

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall consult regularly or upon request regarding:

(a) The economic development of the Marshall Islands or the Federated States of Micronesia; or

(b) The services and programs referred to in this Article. These services and programs shall continue to be provided by the Government of the United States unless their modification is provided by mutual agreement or their termination in whole or in part is requested by any recipient Government.

Section 223

The citizens of the Marshall Islands and the Federated States of Micronesia who are receiving post-secondary educational assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the Laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

Section 225

The Governments of the Marshall Islands and the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Marshall Islands or the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact or as may be mutually agreed thereafter.

Section 226

The Governments of the Marshall Islands and the Federated States of Micronesia may request, from time to time, technical assistance from the federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws and which shall grant such technical assistance in a manner which gives priority consideration to the Marshall Islands and the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions. The Government of the United States shall coordinate the provision of such technical assistance in consultation with the respective recipient Government.

Section 227

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available United States military Civic Action Teams for use in the Federated States of Micronesia under terms and conditions specified in a separate agreement which shall come into effect simultaneously with this Compact.

Article III

Administrative Provisions

Section 231

Upon the thirteenth anniversary of the effective date of this Compact, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall commence negotiations regarding those provisions of this Compact which expire on the fifteenth anniversary of its effective date. If these negotiations are not concluded by the fifteenth anniversary of the effective date of this Compact, the period of negotiations shall extend for not more than two additional years, during which time the provisions of this Compact including Title Three shall remain in full force and effect. During this additional period of negotiations, the Government of the United States shall continue its assistance to the Governments with which it is negotiating pursuant to this Section at a level which is the average of the annual amounts granted pursuant to Sections 211, 212, 213, 214, 215 and 216

during the first fifteen years of this Compact. The average annual amount paid pursuant to Sections 211, 212, 214 and 215 shall be adjusted pursuant to Section 217.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Marshall Islands or the Federated States of Micronesia, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Such audits shall be conducted on an annual basis during the first five years following the effective date of this Compact and shall be at no cost to the Government of the Marshall Islands or the Federated States of Micronesia.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of the Marshall Islands and the Federated States of Micronesia as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of the Marshall Islands or the Federated States of Micronesia, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of the Marshall Islands and the Federated States of Micronesia that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Articles I and III of this Title. The obligation of the United States under Articles I and III of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

The Marshall Islands and the Federated States of Micronesia are not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on their products imported into the customs territory of the United States, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were insular possessions of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from the Marshall Islands or the Federated States of Micronesia.

Section 243

All products of the Marshall Islands or the Federated States of Micronesia imported into the customs territory of the United States which are not accorded the treatment set forth in Section 242 and all products of the United States imported into the Marshall Islands or the Federated States of Micronesia shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Marshall Islands and the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Marshall Islands or the Federated States of Micronesia may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Marshall Islands or the Federated States of Micronesia, domiciled therein, shall be exempt from:

(a) Income taxes imposed by the Government of the United States upon fixed or determinable annual income; and

(b) Estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Marshall Islands or the Federated States of Micronesia, those Governments shall have authority to impose tax upon income derived by a resident of the Marshall Islands or the Federated States of Micronesia from sources without the Marshall Islands and the Federated States of Micronesia, in the same manner and to the same extent as those Governments impose tax upon income derived from within their respective jurisdictions. If the Government of the Marshall Islands or the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of the Marshall Islands or the Federated States of Micronesia who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Marshall Islands or the Federated States of Micronesia shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of the Marshall Islands or the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Marshall Islands or the Federated States of Micronesia for a period of 183 or more days during any taxable year; provided, that as between the Government of the Marshall Islands and the Federated States of Micronesia, the authority to tax an individual resident of the Marshall Islands or the Federated States of Micronesia in respect of income from sources without the Marshall Islands and the Federated States of Micronesia as provided in this subsection may be exercised only by the Government in whose jurisdiction such individual was physically present for the greatest number of days during the taxable year.

(b) If the Government of the Marshall Islands or the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

Where not otherwise manifestly inconsistent with the intent of this Compact, provisions in the United States Internal Revenue Code that are applicable to possessions of the United States as of January 1, 1980 shall be treated as applying to the Marshall Islands and the Federated States of Micronesia. If such provisions of the Internal Revenue Code are amended, modified or repealed after that date, such provisions shall continue in effect as to the Marshall Islands and the Federated States of Micronesia for a period of two years during which time the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall negotiate an agreement which shall provide benefits substantially equivalent to those which obtained under such provisions.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

51-059 O-87-46 (Pt. 25)

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Marshall Islands and the Federated States of Micronesia, subject to the terms of the separate agreements referred to in Sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with Sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Marshall Islands and the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) The consultations referred to in this Section shall be conducted expeditiously at senior levels of the Governments concerned, and the subsequent determination by the Government of the United States referred to in this Section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this Section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Marshall Islands or the Federated States of Micronesia:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or over flight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by Section 314(b).

(d) No material or substance referred to in this Section shall be stored in the Marshall Islands or the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this Section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in Section 161(e) shall have no effect on the obligations of the Government of the United States under this Section or on the application of this subsection.

(f) The provisions of this Section shall apply in the areas in which the Government of the Marshall Islands or the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands or the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands or the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Marshall Islands or the Federated States of Micronesia are set forth in separate agreements which shall come into effect simultaneously with this Compact.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Marshall Islands or the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to Section 321(a), it may request the Government concerned to satisfy those requirements through leases or other arrangements. The Government of the Marshall Islands or the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Marshall Islands and the Federated States of Micronesia. In making any requests pursuant to Section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Marshall Islands and the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the

Marshall Islands and the Federated States of Micronesia, as may be nominated by their respective Governments, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall establish two Joint Committees empowered to consider disputes under the implementation of this Title and its related agreements.

(b) The membership of each Joint Committee shall comprise selected senior officials of each of the two participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of each Joint Committee. For the meetings of each Joint Committee, each of the two participating Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, each Joint Committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. A Joint Committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the Joint Committees so notified shall meet promptly in a combined session to consider matters within the jurisdiction of more than one Joint Committee. Each Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in each Joint Committee shall be referred to the Governments concerned for resolution, and the Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Governments of the Marshall Islands and the Federated States of Micronesia under Titles One, Two and Four and to their responsibility to assure the well-being of their peoples.

Section 353

(a) The Government of the United States shall not include any of the Governments of the Marshall Islands and the Federated States of Micronesia as named parties to a formal declaration of war, without their respective consent.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Marshall Islands or the Federated States of Micronesia, which arise out of armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) Notwithstanding any other provision of this Compact, the provisions of this Title are binding from the effective date of this Compact for a period of fifteen years between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia and thereafter as mutually agreed or in accordance with Section 231, unless earlier terminated by mutual agreement pursuant to Section 441, or amended pursuant to Article III of Title Four.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, and in view of the existence of separate agreements with each of them pursuant to Sections 321 and 323, that, even if this Title should terminate, any attack on the Marshall Islands or the Federated States of Micronesia during the period in which such separate agreements are in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Marshall Islands and the Federated States of Micronesia in accordance with its constitutional processes.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes;

(b) Conduct of the plebiscite referred to in Section 412; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Section 412

A plebiscite shall be conducted in each of the Marshall Islands and the Federated States of Micronesia for the free and voluntary choice by the peoples of the Trust Territory of the Pacific Islands of their future political status through informed and democratic processes. The Marshall Islands and the Federated States of Micronesia shall each be considered a voting jurisdiction, and the plebiscite shall be conducted under fair and equitable standards in each voting jurisdiction. The Administering Authority of the Trust Territory of the Pacific Islands, after consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall fix the date on which the plebiscite shall be called in each voting jurisdiction. The plebiscite shall be called jointly by the Administering Authority of the Trust Territory of the Pacific Islands and the other Signatory Government concerned. The results of the plebiscite in each voting jurisdiction shall be determined by a majority of the valid ballots cast in that voting jurisdiction.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title

One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article III

Amendment

Section 431

The provi may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Compact shall be notified promptly by the Government of the United States of any such amendment.

Article IV

Termination

Section 441

This Compact may be terminated as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government ofextended.

Section 443

This Compact shall be terminated, pursuant to their respective constitutional processes, by the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 453 if the people represented by such Government vote in a plebiscite to terminate. Such Government shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such Government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such Government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

(a) Should termination occur pursuant to Section 442, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Article I and Section 233 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) The Government of the United States shall also provide the Government as to which termination occurs pursuant to Section 442 with either the programs or services provided pursuant to Article II of Title Two as the time of termination, or their equivalent, as determined by the Government of the United States. Such assistance shall continue until the fifteenth anniversary of the effective date of this Compact, and thereafter as mutually agreed.

Section 453

(a) Should termination occur pursuant to Section 443, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Title Three; and

(3) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to Section 443, the Government of the United States and the Government so terminating shall promptly consult with regard to their future relationship. These consultations shall determine the level of economic assistance which the Government of the United States shall provide to the Government so terminating for the period ending on the fifteenth anniversary of the effective date of this Compact provided that the annual amounts specified in Sections 211, 212, 214, 215 and 216 shall continue without diminution. Such amounts, with the exception of those specified in Section 216, shall be adjusted according to the formula set forth in Section 217.

Section 454

Notwithstanding any other provision of this Compact:

(a) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia; and

(b) The separate agreements referred to in Article II of the Title Three shall remain in effect in accordance with their terms which shall also determine the duration of Section 213.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(e) The following terms shall be defined consistent with the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5) as follows:

(1) "Radio Communications" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radio communication service; each station shall be classified by the service in which it operates permanently or temporarily.

(3) "Broadcasting Service" means a radio communication service in which the transmissions are intended for direct reception by the general public, and which may include sound transmissions, television transmissions or other types of transmissions.

(4) "Broadcasting Station" means a station in the broadcasting service.

(f) "Frequency Assignment" means the same as 'Frequency Assignment' means in the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5).

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full-time studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands, or the Federated States of Micronesia for less than one year, or who is

a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(i) "Military Areas and Facilities" means those areas and facilities in the Marshall Islands or the Federated States of Micronesia reserved or acquired by the Government of the Marshall Islands or the Federated States of Micronesia for use by the Government of the United States, as set forth in the separate agreements referred to in Section 321.

(j) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(k) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(l) "Official Overall Economic Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of the Marshall Islands or the Federated States of Micronesia. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(m) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(n) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate, shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association;

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

Section 463

(a) Except as set forth in Section 463(b), any reference in this Compact to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as such provision was in force on January 1, 1980.

(b) Any reference in Article VI of Title One and Sections 131, 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act or the Administrative Procedure Act constitutes the incorporation of the language of such provision into this Compact as such provision is in force on the effective date of this Compact or as it may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that they have full authority under their respective Constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) Each of the Governments of the United States, the Marshall Islands and the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact.

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands, and the Government of the Federated States of Micronesia. Each Government accepting this Compact shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and each of the other Governments signatory to this Compact.

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

HONORABLE ANDON L. AMARAICH
CHAIRMAN, COMMISSION ON FUTURE
POLITICAL STATUS AND TRANSITION

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25TH DAY OF JUNE, ONE THOUSAND, NINE HUNDRED, EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25TH DAY OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE MARSHALL ISLANDS

PRESIDENT AMATA KABUA
PRESIDENT OF THE REPUBLIC
OF THE MARSHALL ISLANDS

SEC. 202. JURISDICTION.

(a) With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent resi-

dence who are in the Marshall Islands or the Federated States of Micronesia.

(b)(1) The defense sites of the United States established in the Marshall Islands or the Federated States of Micronesia in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

(2) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State of Hawaii by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(3) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall Islands or the Federated States of Micronesia by virtue of paragraph (2) of this subsection, committed by any person referred to in subsection (a) of this section.

(4) The United States District Court for the District of Hawaii may appoint one or more magistrates for the defense sites in the Marshall Islands. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

TITLE III—PACIFIC POLICY REPORTS

SEC. 301. FINDINGS.

The Congress finds that—

(1) the United States does not have a clearly defined policy for United States noncontiguous Pacific areas (including the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the State of Hawaii, and the State of Alaska) and for United States-associated noncontiguous Pacific areas (including the Federated States of Micronesia, the Marshall Islands, and Palau);

(2) the Federal Government has often failed to consider the implications for, effects on, and potential of noncontiguous Pacific areas in the formulation and conduct of foreign and domestic policy, to the detriment of both the attainment of the objectives of Federal policy and noncontiguous Pacific areas;

(3) policies and programs designed for the United States as a whole may impose inappropriate standards on noncontiguous Pacific areas because of their unique circumstances and needs; and

(4) the present Federal organizational arrangements for liaison with (and providing assistance to) the insular areas may not be adequate—

(A) to coordinate the delivery of Federal programs and services to noncontiguous Pacific areas;

(B) to provide a consistent basis for administration of programs;

(C) to adapt policy to the special requirements of each area and modify the application of Federal programs, laws, and regulations accordingly;

(D) to be responsive to the Congress in the discharge of its responsibilities; and

(E) to attain the international obligations of the United States.

SEC. 302. REPORTS.

(a) SUBMISSION.—Not later than one year after the date of the enactment of this joint resolution and each five years thereafter, the Secretary of the Interior, in consultation with the Secretary of State, shall submit to the Congress and the President a report on United States noncontiguous Pacific areas policy together with such recommendations as may be necessary to accomplish the objectives of such policy.

(b) CONTENTS.—The reports required in subsection (a) of this section shall set forth clearly defined policies regarding United States, and United States associated, noncontiguous Pacific areas, including—

(1) the role of and impacts on the noncontiguous Pacific areas in the formulation and conduct of foreign policy;

(2) the applicability of standards contained in Federal laws, regulations, and programs to the noncontiguous Pacific areas and any modifications which may be necessary to achieve the intent of such laws, regulations, and programs consistent with the unique character of the noncontiguous Pacific areas;

(3) the effectiveness of the Federal executive organizational arrangements for—

(A) providing liaison between the Federal Government and the governments of the noncontiguous Pacific areas;

(B) coordinating Federal actions in a manner which recognizes the unique circumstances and needs of the noncontiguous Pacific areas; and

(C) achieving the objective of Federal policy and ensuring that the Congress receives the information necessary to discharge its responsibilities; and

(4) actions which may be needed to facilitate the economic and social health and development of the noncontiguous Pacific areas, consistent with their self-determined objectives.

SEC. 303. CONFERENCE.

(a) MEETING.—Prior to submitting the reports required under section 302(b), the Secretary of the Interior, in consultation with the Secretary of State, shall convene a conference to obtain the views of the noncontiguous Pacific areas on the matters required to be addressed in such reports.

(b) PARTICIPANTS.—Representatives of each of the noncontiguous Pacific areas; and the heads of all executive departments and agencies, and other public and private organizations concerned with the noncontiguous Pacific areas as requested by the Secretary of the Interior shall be entitled to be participants in the conference.

(c) WRITTEN COMMENTS.—The Secretary of the Interior shall afford participants in the conference an opportunity to submit written comments for inclusion in the reports required under section 302.

SEC. 304. ADMINISTRATIVE MATTERS.

(a) ADMINISTRATIVE SUPPORT.—The Secretary of the Interior shall provide all necessary administrative support to accomplish the requirements of sections 302 and 303.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT

SEC. 401. FREELY ASSOCIATED STATES TARIFF TREATMENT.

(a) SECTION 242.—Section 242 of the Compact shall be construed and applied as if it read as follows:

"Section 242

"The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia or the Marshall Islands which shall apply during the period of effectiveness of this title:

"(1) Unless otherwise excluded, articles imported from the Federated States of Micronesia or the Marshall Islands, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 U.S.C. 2463(b); 2464(c)), shall be exempt from duty.

"(2) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia and the Marshall Islands during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

"(3) The duty-free treatment provided under paragraph (1) shall not apply to—

"(A) watches, clocks, and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

"(B) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

"(C) textile and apparel articles which are subject to textile agreements; and

"(D) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

"(4) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia or the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

(b) SECTION 243.—Section 243 of the Compact shall be construed and applied as if it read as follows:

"Section 243

"Articles imported from the Federated States of Micronesia or the Marshall Islands which are not exempt from duty under paragraphs (1), (2), (3), and (4) of section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States and all products of the United States imported into the Federated States of Micronesia or the Marshall Islands shall receive treatment no less favorable than that accorded like products

of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage, or use.".

SEC. 402. CONSTRUCTION OF SECTION 253 OF THE COMPACT.

(a) Subsection (a) of Section 253 of the Compact shall not apply.

(b) Subsection (b) of Section 253 of the Compact shall apply only to individuals who are nonresidents and not citizens of the United States.

SEC. 403. CONSTRUCTION OF SECTION 254 OF THE COMPACT.

The relief from liability referred to in the second sentence of section 254(a) of the Compact means only—

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1954.

SEC. 404. CONSTRUCTION OF SECTION 255 OF THE COMPACT.

Section 255 of the Compact shall be construed and applied as if it read as follows:

"Section 255

"(a) EXTENSION OF SECTION 936 TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA.—For purposes of section 936 of the Internal Revenue Code of 1954, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were possessions of the United States.

"(b) EXCHANGE OF INFORMATION.—Subsection (a) shall not apply to the Marshall Islands and the Federated States of Micronesia (as the case may be) for any period after December 31, 1986, during which there is not in effect between the appropriate government and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

"(c) PROCEDURE IF SECTION 936 INCENTIVES REDUCED.—If the tax incentives extended to the Marshall Islands and the Federated States of Micronesia under subsection (a) are, at any time during which the Compact is in effect, reduced the Secretary of the Treasury shall negotiate an agreement with the Marshall Islands and the Federated States of Micronesia under which, when such agreement is approved by law, they will be provided with benefits substantially equivalent to such reduction in benefits.

If, within the 1 year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to section 424 of the Compact. For purposes of Article V of Title Two of the Compact, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.".

SEC. 405. THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA TREATED AS NORTH AMERICAN AREA.

For purposes of section 274 (h) (3)(A) of the Internal Revenue Code of 1954, the term "North American Area" shall include the Marshall Islands and the Federated States of Micronesia.

SEC. 406. EFFECTIVE DATE.

This title shall apply to income earned, and transctions occurring, after September 30, 1985, in taxable years ending after such date.

SEC. 407. STUDY OF TAX PROVISIONS

The Secretary of the Treasury or his delegate—

(1) shall conduct a study of the effects of the tax provisions of the Compact (as clarified by the foregoing provisions of this title), and

(2) shall report the results of such study before October 1, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 408. COORDINATION WITH OTHER PROVISIONS.

Nothing in any provision of this joint resolution (other than this title) which is inconsistent with any provision of this title shall have any force or effect.

TITLE V—COMPACT OF FREE ASSOCIATION WITH PALAU

SEC. 501. APPROVAL IN PRINCIPLE.

(a) Subject to subsection (b) of this section, Congress expresses its approval in principle of the Compact of Free Association Between the Government of the United States of America and the Government of the Republic of Palau, the text of which was printed in the Congressional Record of November 14, 1985 on pages S. 15622 through S. 15628, inclusive, and which is also printed as Committee Print No. 4 of the Committee on Interior and Insular Affairs of the House of Representatives of the 99th Congress.

(b) A Compact with Palau after it is transmitted to Congress by the President shall take effect only upon—

(1) a certification by the President to the Congress no later than March 31, 1986 that the Republic of Palau has approved a Compact in accordance with section 411 of the Compact described in subsection (a) and that the President has determined that the United States will be able to carry out fully its rights and responsibiliities under Title Three of the Compact described in subsection (a) and the subsidiary agreements thereto; and

(2) enactment by the Congress of a joint resolution aproving a Compact and providing for its implementation.

SEC. 502. MODIFICATIONS OF COMPACT.

Title IV and sections 105(b), 105(c), 105(h)(1), 105(1), and 202 of this joint resolution shall apply to a compact with Palau, except that any reference in such sections to the Compact shall be treated as referring to the Compact described in section 501 of this joint resolution, and any reference in such Title and sections to the Federated States of Micronesia or the Marshall Islands shall be treated as referring to the Republic of Palau. For purposes of applying section 242(2) of the Compact, the annual 10 percent limitation on duty-free imports of canned tuna applies to imports from the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau.

EXTENSIONS OF REMARKS

CONGRESSMAN TONY P. HALL INTRODUCES RESOLUTION ON EAST TIMOR

HON. TONY P. HALL
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. HALL of Ohio. Mr. Speaker, today I am introducing a resolution which expresses the sense of the Congress concerning the situation in East Timor.

December 7, 1985, marks the 10th anniversary of the invasion and occupation of East Timor by neighboring Indonesia. This tragic event, which was carried out by an Indonesian Army equipped largely with American-supplied military equipment, continues to have serious consequences for the inhabitants of East Timor.

More than 5 years ago, it was widely acknowledged that at least 100,000 East Timorese out of a population of less than 700,000 had perished since the Indonesian invasion. Subsequent military operations and related hunger and disease have claimed the lives of thousands more in the ensuing years.

Today, armed conflict continues between the Indonesian Armed Forces and Timorese nationalists who have resisted the takeover of their homeland. International access has been restricted, and information about the situation in East Timor has continued to be difficult to obtain.

In June 1985, Amnesty International published a detailed study entitled, "East Timor, Violations of Human Rights: Extrajudicial Executions, 'Disappearances,' Torture and Political Imprisonment," which traced a pattern of widespread human rights violations in East Timor since the time of the invasion.

Statements by Pope John Paul II in July 1984, and the U.S. Catholic Conference in August 1985, have highlighted the growing concern of the international religious community about East Timor. In the United States, Christian Response International, an affiliate of the Zurich-based Christian Solidarity International, has maintained an active role in calling attention to the plight of the suffering Christians in East Timor.

It is also encouraging to note the strong congressional interest in the issue of East Timor. Bipartisan groups of 22 Senators and 123 Representatives in 1984, and 131 Representatives in 1985, signed letters to Secretary of State Shultz and to President Reagan in which they called attention to the plight of the people of East Timor and the need for urgent humanitarian measures, unrestricted access to the territory by qualified international observers, and efforts to achieve a peaceful settlement of this tragic conflict.

With respect to this last point, I commend to my colleagues attention the letter to U.N. Secretary General Perez de Cuellar originated by the gentleman from Pennsylvania [Mr. YATRON], the chairman of the Subcommittee on Human Rights and International Organizations of the House Committee on Foreign Affairs. Chairman YATRON is urging the United Nations to renew its interest in the situation in East Timor and to initiate actions to help the suffering people of that territory. I congratulate the gentleman from Pennsylvania for his letter and his leadership.

There is little doubt that the case of East Timor continues to have a claim on the attention of all those who support freedom, human rights, and human dignity. On the occasion of the 10th anniversary of the Indonesian invasion of East Timor, the international community should know that the plight of the people of East Timor has not been forgotten by the U.S. Congress and will not be forgotten in the future.

December 10 marks International Human Rights Day, the anniversary of the signing in 1948 of the Universal Declaration of Human Rights. It is clear that the rights set forth in that document today are being denied to the people of East Timor by the occupying forces of Indonesia. The universal declaration makes it clear that the denial of basic human rights anywhere in the world is a matter of concern to all civilized people.

As we reflect upon International Human Rights Day and the meaning of the Universal Declaration of Human Rights, we should keep in mind the suffering of East Timor. East Timor may be a small territory, far removed from us, but its burden truly must be our own. Let us bring to bear on the Timor tragedy the prestige and moral influence of the United States.

I urge my colleagues to join with me to cosponsor the East Timor resolution I am introducing today. I also ask my colleagues for their support in obtaining a hearing on the resolution and on recent developments in East Timor.

For the benefits of my colleagues, the text of the resolution follows, as well as the August 28, 1985, press release of the U.S. Catholic Conference on East Timor:

H. CON. RES. 244

Concurrent resolution to express the sense of Congress regarding East Timor

Whereas an estimated 100,000 East Timorese out of a population of less than 700,000 have died since the invasion and occupation of East Timor by the Government of Indonesia, which began on December 7, 1975;

Whereas armed conflict persists in East Timor;

Whereas threats of food shortages and medical problems persist in some areas of East Timor;

Whereas international access to and the free flow of information from East Timor remain restricted;

Whereas the Roman Catholic Church in East Timor is denied full freedom of expression and is subject to intimidation by Indonesian authorities;

Whereas Indonesian authorities have instituted a birth control program in East Timor without the full knowledge and consent of the people of the terrority and despite large-scale loss of life there since 1975;

Whereas Indonesian authorities have placed many East Timorese in resettlement areas against their wishes where many of them are prevented from raising crops;

Whereas Amnesty International issued a report in June 1985 which called attention to systematic violations of human rights in East Timor;

Whereas in a statement made in July 1984 Pope Paul II expressed concern over the human rights situation in East Timor and the need for international relief agencies to operate freely in the territory, and expressed the hope that particular consideration would be given to the ethnic, religious, and cultural identity of the people of East Timor;

Whereas in August 1985 the United States Catholic Conference called attention to a letter sent in June 1985 by Cardinal John O'Connor of New York to Msgr. Carlos Ximenes Belo, the head of the Roman Catholic Church in East Timor, which expressed support for the struggle to preserve and enhance the dignity of life of the East Timorese people and for their right to live in peace and freedom; and

Whereas 157 East Timorese political prisoners were tried in Indonesian tribunals between December 1983 and June 1985 without the presence of qualified international observers: Now, therefore, be it.

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President should take all appropriate measures to encourage the Government of Indonesia to—

(1) maintain and expand access to and guarantee freedom of movement in East Timor for humanitarian organizations so that such organizations can carry out their humanitarian operations to the fullest extent feasible.

(2) allow unhindered access to East Timor for journalists, church delegations, and human rights groups that seek to visit the territory;

(3) guarantee full freedom of expression for and end intimidation of the Roman Catholic Church in East Timor;

(4) allow an impartial international examination of population limitation measures instituted in East Timor and end all such measures that do not have the full consent and knowledge of those directly concerned;

(5) allow qualified international observers to be present at trial proceedings that involve East Timorese political prisoners;

(6) allow an impartial international investigation of the conditions that exist in areas of East Timor where East Timorese have been resettled by Indonesian authorities; and

(7) work with the Governments of Portugal and the United States to develop initiatives that address the sources of conflict in East Timor and that bring an authentic peace to East Timor.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.
Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CARDINAL VOICES SUPPORT FOR EAST TIMOR CATHOLICS

WASHINGTON.—Support for the "struggle to preserve and enhance the dignity of life" of Catholics in East Timor has been expressed by John Cardinal O'Connor of New York, on behalf of the United States Catholic Conference.

In a letter to Msgr. Carlos Filipe Ximeness Belo, Apostolic Administrator of Dili, East Timor, Cardinal O'Connor also assured his prayers for "the right of your people to live in peace and freedom."

The USCC is the public policy agency of Catholic bishops of the United States. Cardinal O'Connor is chairman of the USCC Social Development and World Peace committee.

The New York prelate addressed the letter to Monsignor Belo in June. Its content is being released now to coincide with Monsignor Belo's return to Dili from an extended European visit during which he explored ways to ease tension between the Timorese and Indonesian forces of occupation.

Among places Monsignor Belo visited in Europe was the Vatican, where he was received in private audience by Pope John Paul II.

East Timor was invaded and occupied by Indonesian military forces in 1975 when Portugal withdrew its administration. The largely Catholic population of East Timor, estimated at about 650,000 in 1975, has been decimated by military action, disease, and malnutrition.

The United States Government, which supplies Indonesia with most of its military equipment, has stated it acknowledges Indonesia's de facto rule over East Timor, while admitting that a valid act of self-determination by the Timorese has not taken place. Indonesia still lacks the approval of the United Nations for its actions in East Timor.

The text of Cardinal O'Connor's letter to Monsignor Belo follows:

Last summer, your predecessor, Monsignor Martinho da Costa Lopez, came to see me in New York. Over breakfast he recounted vividly the tribulations of the Church in East Timor. I promised him that we would try to provide you with as much support and encouragement as possible.

Since then I have been kept abreast of developments in East Timor by the staff of the Office of International Justice and Peace of this Conference. And we are not your only friends in the United States. You are probably aware of the interest of many members of the U.S. Congress and their repeated public expressions of support addressed to the Eexecutive branch of the United States Government.

In Europe too, interest and awareness has been stimulated by the statements and reports of various Catholic justice and peace commissions. Later this month, Amnesty International will release an exclusive and well documented report on the situation in East Timor.

We support the efforts being made in many quarters to encourage greater access to East Timor by journalists and human rights organizations. And we hope that the efforts of our Catholic Relief Services have contributed in some measure to the alleviation of the sufferings being endured by your people.

I hope that following your receipt of this letter, we can arrange to be in regular communication and that you will not hesitate to write to me with suggestions of ways in which we can be helpful.

Above all I want you to be assured of our constant prayers that God will strengthen you and the Church in East Timor in your struggle to preserve and enhance the dignity of life and the right of your people to live in peace and freedom.

EXPRESSING SOLIDARITY WITH THE POLISH PEOPLE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. KEMP. Mr. Speaker, On November 19, just before the summit meeting concluded, it was my pleasure and honor to join former Ambassador Richard Davies, Senator BILL BRADLEY, Andrew Czuma of the Polish underground, and Peter Mroczyk for the inauguration of the Solidarity Endowment. I was glad to have the opportunity, as cochairman of the Solidarity Endowment's advisory board, to express my personal solidarity with the men and women of Poland who continue to struggle so valiantly toward that day when freedom and independence will reign throughout the world. The people of western New York have long been advocates for the people of Poland. As citizens of the free world, it is our responsibility and privilege to defend the dignity of the individual and the right of self-determination for all the people of the world.

The Solidarity Endowment will play a pivotal role, as a charitable organization, in fostering and promoting the human, civil, and trade union rights and ideals of the Polish "Solidarnosc" trade union in Poland and around the world. Through educational, scientific, and cultural programs, the Solidarity Endowment will make a crucial contribution to the understanding that it is absolutely imperative that we resist totalitarian regimes wherever they may be.

As a cosponsor of the concurrent resolution calling on President Reagan to bring the rights of the Polish people to the attention of the Soviet Government, I think the formation of the Solidarity Endowment is very timely. We recognize that the repression of the natural rights of the people of Poland has been undertaken by successive governments of that country primarily because it is required by the police and military powers of the Soviet Union, and we believe that it is a topic of paramount importance.

We stand with the men and women of Poland who know that peace does not come from the orderly functioning of a police state. Peace only reigns when there is justice and liberty and the protection of human rights for all. I am proud to be a part of this effort, which is supported by all of those men and women black and white, liberal and conservative listed below and many more especially those in Buffalo and western New York who care about the course of human rights in Poland.

Advisory Committee:

Chairmen: Senator Bill Bradley (D-NJ); Representative Jack Kemp (R-NY).

Members: Stanton D. Anderson, Attorney, Washington, D.C.; Jacob Bean, Former U.S. Ambassador to Poland, and USSR; Robert Blair, Attorney, Washington, D.C.; Rev. James T. Burtchaell, University of Notre Dame; Midge Decter, Executive Director, Committee for the Free World; Jerzy Giedroyc, Editor-in-Chief, Kultura, Paris; Jean Kirkpatrick, American Enterprise Institute, and Leslie Lenkowsky, Executive Director, Institute for Educational Affairs.

Representative Robert Livingstone (R-LA); Susan Livingstone, Deputy Administrator, Veterans Administration; Most Rev. James W. Malone, Bishop of Youngstown, Aloysius A. Mazewski, President, Polish American Congress, Robert L. Pfaltzgraff, Jr., President, Institute for Foreign Analysis; Bayard Rustin, President, Philip Randolph Educational Fund; Gene Sharp, Director, Harvard University Program for Non-Violent Sanctions; Representative Stephen Solarz (D-NY); Walter J. Stoessel, Former U.S. Ambassador to Poland and USSR; Malcolm Toon, Former U.S. Ambassador to Czechoslovakia and USSR; Leonard Walentynowicz, Former Assistant Secretary of State; and Gregory Wierzynski, Journalist, Time Magazine.

Honorary committee:

Exiled Leaders of NSZZ Solidarnóé; Andrej Cholodecki, Jan Jalowiecki, Wojciech Sikora, Witold Sulkowski, Wiktor Szostallo, Marek Wach, and Leszek Waliszewski.

Board of Directors: Richard T. Davies, Chairman; Neil Livingstone, Vice President; Barry Schochet, Secretary/Treasurer; Peter Mroczyk, Executive Director; Thaddeus L. Kontek; Bill Livingstone; and Slawomir Suss.

"DUMPED" PATIENTS PAYING WITH THEIR LIVES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. STARK. Mr. Speaker, an estimated 200,000 patients are refused care at hospital emergency rooms each year because they cannot afford to pay. This is known as "dumping," which is the practice of transferring medically unstable indigent patients from private hospitals to local public hospitals. It is a growing problem with tragic results.

According to the National Public Radio, which conducted a study this summer, all too often, the first thing a patient now receives in the emergency room is an examination of their wallet. It's called a wallet biopsy. No money or insurance card in the wallet will often get an emergency patient dumped at the door with a map to the county hospital.

Mr. Speaker, the results of this practice have cost people their health and lives. In one case a patient who had been on a mechanical breathing device for 5 days, and was comatose, was transferred without the knowledge or consent of the county hospital. The patient had surgical incisions for brain operations on both sides of the head

with the brain bulging out of one of the incisions. This patient had a fever of 103 and was paralyzed on the left side of the body. Of course, the patient's condition had medically deteriorated as a result of the transfer. Only through heroic measures by the county hospital staff was this patient able to survive.

In another case in my district, in Alameda County CA, the refusal of two private hospitals to treat a desperate, pregnant woman who had no medical insurance resulted in the stillbirth of her baby. Even though she was in severe pain when she showed up at the first hospital, the hospital turned her away without letting her even see a doctor. At the second hospital a fetal monitor had detected irregularities in the baby's heart and a doctor at the hospital thought the baby's irregular heartbeat was a sign of fetal distress. Incredible as it may seem, she was told to go to the county hospital for care. By the time she arrived at the third hospital, the baby's heartbeat was barely detectable. Although the county hospital rushed to perform a caesarean section, the baby was stillborn.

These cases are medically indefensible. They are ethically indefensible. Clearly, if these patients had been middle class with health insurance they never would have faced the horrors that they encountered.

H.R. 3128, contains a provision which I sponsored to prevent this kind of dumping of indigent patients. It requires that any individual that comes to an emergency department for examination or treatment be provided with an appropriate medical screening. If an emergency medical condition is found then the person must be treated to at least stabilize the patient or treat the active labor. The patient could not be transferred unless the benefits of the transfer outweighed the risks or the patient was transferred in an appropriate manner.

The Senate has also passed a similar proposal in S. 1730, but its legislation doesn't have adequate enforcement provisions. The House bill not only denies Medicare participation to hospitals that fail to enforce these new requirements, but would subject the hospital and the responsible physician to fines of up to $25,000 for each such violation. Victims of dumping and hospitals that are routinely dumped on could also bring suit.

Mr. Speaker, I hope the Congress will support the penalties contained in H.R. 3128. Without sufficient penalties, the unnecessary pain and even death of Americans will continue.

IN RECOGNITION OF "BO" JACKSON

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. SHELBY. Mr. Speaker, I rise today to bring this Chamber's attention to a fine Alabamian, a young man who has combined his God-given talent with fierce determination and has been awarded the highest honor in college football—the Heisman Trophy. This young man is "Bo" Jackson, an Auburn University senior whose home is the Seventh District of Alabama. I join with Bo's mother, Mrs. Florence Bond, and his family, coaches, and friends in expressing my pride in what this young man has accomplished.

Vincent Jackson was born in Jefferson County, AL, on November 30, 1962. One of 10 children, Bo credits his family and the Lord with helping him to "get off a crooked road onto a straight road." Mr. Speaker, Bo Jackson is on a straight road, indeed—apparently to success in athletics, education, and his career goals.

As a student at McAdory High School in McCalla, AL, Jackson balanced an academically demanding course-load with active participation in athletics. Dick Atchison, Jackson's high school football coach, told me that Bo was one of those players who was always on the field—as a defensive end and running back; as a kicker and to return kickoffs and punts. During Jackson's 3 years on the team, McAdory's win/loss record was 27 to 4. As a senior, Jackson rushed 1,400 yards and scored 17 touchdowns. Jackson's athletic ability extends beyond the gridiron to track and baseball as well. Jackson won the high school State championship twice in the decathlon and broke State records in the 100-yard dash, triple jump, and high jump. As a baseball player, Jackson's batting average is over .400; he holds the national record at 20 home runs.

At Auburn University, Bo Jackson added to his athletic laurels. He has brought success to the Auburn Tigers and pride to our entire State of Alabama. Jackson holds several Auburn University records for rushing: the university's best single season rushing record, the first Auburn back to rush in excess of 4,000 yards in a career, and for rushing over 100 yards on 8 different occasions. He has been voted "All American" by coaches and sportwriters on several occasions. He has earned several SEC distinctions in 1985: Leading rusher at 162.4 yards per game, leading scorer at 9.4 points per game, and leading all-purpose runner at 169 yards per game. When the Southeastern Conference coaches voted for the 1985 all-SEC team, the Auburn tailback was the top total vote getter. Jackson led Auburn to two post-season bowl victories in 1983 and 1984 and was selected "Most Valuable Player" for the Sugar and Liberty Bowls, respectively. Jackson continued his interest in track at the college level, successfully participating in indoor and outdoor track and qualifying for the NCAA championship meet. Of course, football fans nationwide await Jackson's choice between athletic pursuits. I am sure the 1986 Auburn baseball season will include fine performances by the centerfielder who batted .401 last year with 17 home runs and 43 RBIs. Mr. Speaker, as you can see, Bo Jackson possesses fine athletic talent which enables him to excel in many areas.

In accepting the 1985 Heisman Trophy from the Downtown Athletic Club, Jackson has said that he hopes the award will lend him added credibility in practicing his chosen field of academic study—family and child development. Jackson accurately recognizes the respect the Heisman bestows on its winner and hopes to use that in helping his fellowman.

Mr. Speaker, I bring Bo Jackson to the attention of this Chamber not only because of his superb achievement in winning the 1985 Heisman Trophy, but because of the many fine accomplishments which reflect Bo Jackson's strength of character and spirit of determination. We should also recognize the positive influence of Bo Jackson's family, friends, teachers, and coaches in this young man's upbringing. He is a credit to Auburn University and to the people of the State of Alabama.

I would like to include for the RECORD an editorial which appeared in today's edition of the Birmingham News entitled "Bo Jackson No. 1." This newspaper clipping is an example of the widespread public appreciation for Bo Jackson's historic achievement.

[From the Birmingham News, Dec. 10, 1985]

BO JACKSON NO. 1

Congratulations, Bo Jackson. As the commercial says, you earned it; the Heisman Trophy, that is. And it could not have happened to a nicer guy.

The decision announced in the packed Heisman Room of the New York Athletic Club was a close one: 1,509 points for Bo and 1,464 for Chuck Long of Iowa, with a margin of only 45 points, the smallest in Heisman history.

Bo became the 50th football player to be honored with the Heisman by the Athletic Club. He was Auburn's second honoree. Former quarterback Pat Sullivan was named Heisman winner in 1971.

Bo is also a three-time consensus All-American running back. His talents are sure to make him a prime prospect for the professional football draft. Furthermore, he is a fine baseball player and may have a difficult time deciding which sport to follow as a career. Regardless of which he chooses, we are certain he will distinguish himself on the playing field.

Jackson has won one of the highest honors in college football. In the process he has honored Auburn University and the state of Alabama. And his behavior off the playing field has been as exemplary as on the field. He has refused to allow his successes to go to his head.

And despite the barbs some commentators fired at him this past season relating to injuries, he remained a gentleman throughout, apparently secure in the knowledge that he had done his best and put the interests of his ball club ahead of any selfish designs.

Again, congratulations, Bo. You have done yourself, your teammates, Auburn and Alabama proud.

A BILL FOR THE RELIEF OF MARLBORO COUNTY GENERAL HOSPITAL CHARITY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. TALLON. Mr. Speaker, today I am introducing legislation which would provide equitable relief to the Marlboro County General Hospital Charity (MCGHC). The purpose of this bill is to allow this charitable trust the opportunity to continue providing indigent health care to the citizens of one of the five most economically depressed counties in my State. According to recent statistics compiled by the South Carolina Development Board, the unemployment rate in Marlboro County ranges from 15 to 19 percent, and is the highest in the State. Depending on the month, it has either the lowest or next to the lowest per capita income of the 46 South Carolina counties.

Prior to its sale, Marlboro County General Hospital, Inc. (Marlboro General), a nonprofit corporation, provided health care services to poor citizens of Marlboro County. This corporation had received Hill-Burton construction funds in 1962 and 1968. Although the Federal Government no longer makes funds available through this program, Hill-Burton hospitals, like Marlboro General, remain subject to certain obligations. In exchange for the Hill-Burton construction funds, these hospitals promised to provide a reasonable volume of services to persons unable to pay. This is commonly known as the "free care" assurance. These hospitals also agreed to make their services available to all persons in their geographic areas. This is known as the "community service" assurance. For individuals who have no private health insurance and who do not qualify for Medicare or Medicaid, these guaranteed health services are an invaluable resource.

The obligation of Hill-Burton hospitals to provide free health care extends for a period of 20 years from the date the federally assisted project opened for service. If the Hill-Burton hospital is sold within this 20-year period to an entity which would not have been originally entitled to Hill-Burton funds (a for-profit corporation), then the Government can recover a percentage of the funds distributed based on a statutory formula. Current law provides that the recovery of these funds may be waived if the purchaser of the Hill-Burton hospital agrees to establish an irrevocable trust in twice the amount of money owed the Government. These trust funds must be used to provide indigent health care for area residents. The purchaser is the only party to the sale that may apply for such a waiver; however, there is no obligation for the purchaser to do so. Conversely, the seller may not apply even if it is willing to comply with the waiver provisions.

Marlboro County General Hospital Charity is a trust which was established from the proceeds of the sale of Marlboro General to the Hospital Corp. of America (HCA). In the sale agreement, HCA agreed not to turn away indigents. MCGHC agreed to pay for indigent health care with these trust funds. The Department of Health and Human Services maintains that this sale occurred within the 20-year period. Since HCA has refused to apply for a waiver, and would not have been entitled to Hill-Burton funds, the Department is seeking a recovery against Marlboro County General Hospital Charity of an undetermined amount between $350,000 and $500,000.

Mr. Speaker, Marlboro County General Hospital Charity deserves the relief this bill would provide because it is in total compliance with the basic policy behind the Hill-Burton waiver provisions. The trust has always provided funds for indigent health care services to deserving Marlboro County citizens. The trustees have always been willing to establish this trust in total compliance with the Hill-Burton waiver provisions. However, because they are the sellers and not the purchasers of the hospital, current law prohibits them from obtaining a waiver. Without the relief this bill provides, MCGHC will be forced to return funds which have been and continue to be used for their orginally intended purposes. This technical anomaly is clearly an extremely inequitable case of form prevailing over substance.

This bill mandates that the MCGH indigent health care trust be established in compliance with current law. It requires MCGHC to enter into an agreement with the Department of Health and Human Services whereby the trustees ensure future compliance with the free health care provisions. Relief from all liability is contingent on such compliance. Furthermore, the agreement with the Department would provide penalties for any noncompliance by MCGH.

In this bill, the interests of the Government are adequately served by ensuring that these funds are only used for indigent health care services. The interests of the many area citizens who are poor and/or unemployed, but still are ineligible for Medicare and Medicaid, are protected in that they will not be turned away from receiving the health care services provided by this hospital. Because this legislation equitably addresses these interests, I urge its expedient passage.

CIVIL RICO

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. MAVROULES. Mr. Speaker, there has been an ongoing debate over the past few months about the Racketeering Influenced and Corrupt Organizations Act [RICO], and the matter of how Congress should change the statute. As suggested by a recent Supreme Court opinion, civil RICO has evolved into something quite different than what its sponsors expected 15 years ago when it was enacted into law. The High Court concluded that the defects that allow these lawsuits are inherent in the statute as written, and therefore the corrections must lie with Congress.

A very thoughtful paper on this subject has been written by Arthur G. Koumantzelis, chairman of the RICO Subcommittee of the Massachusetts Society of Certified Public Accountants, Inc. I am pleased to share this article with my colleagues.

THE CIVIL "RICO" PROVISIONS SHOULD BE AMENDED TO REQUIRE A PRIOR CRIMINAL CONVICTION

Congress enacted RICO in 1970 in order to create a potent, new weapon for law enforcement officials to use in the war against organized crime. RICO, Title IX of the Organized Crime Control Act of 1970, made it a crime to engage in various kinds of activity through a "pattern of racketeering activity." The legislation broadly defined "racketeering activity" to include a variety of state and federal offenses, including not only such crimes as murder, arson and extortion, but also mail fraud, wire fraud and "fraud in the sale of securities." It was believed that Congress intended the Justice Department to exercise its prosecutorial discretion and use the Act only in cases that actually involved organized criminal activity, as experienced prosecutors identify such conduct. At the eleventh hour, however, Congress inserted a provision authorizing private civil suits for treble damages and recovery of attorneys' fees under this new RICO title.

Since enactment, civil RICO has been used not only against racketeers, but more often against the people it was presumably intended to protect—legitimate businessmen. As a special RICO Task Force of the American Bar Association recently concluded, only 9 percent of the reported civil RICO cases involve allegations of criminal activity normally associated with professional criminals. The remainder involve allegations of the kind of activity that regularly arise in commercial or business litigation. Businessmen are now being exposed in cases of traditional commercial disputes to treble damages, awards of attorneys' fees, and the label of "racketeer" simply through the use of the civil RICO provision by private parties. Civil RICO, it has been reported, is being utilized by private claimants and their lawyers to evade the carefully constructed federal system of rights and remedies, particularly in the area of securities regulation. In addition, civil RICO has been used to convert large areas of commercial law, traditionally governed by the states, into federal cases to be litigated in the overburdened federal courts. As the Supreme Court recently held, civil RICO has "evolved" into something quite different from what its sponsors expected. But, as the high court concluded, the defect that allows these lawsuits "is inherent in the statute as written, and its correction must lie with Congress."

A number of thoughtful Congressmen, members of the Bar, and others believe that the most simple and direct way to correct this misuse of the civil RICO provisions is to limit private civil suits by requiring as a condition to filing that a private plaintiff show that the injury claimed was caused by conduct that led to the defendant's conviction either of one of the predicate offenses listed in the statute or of a criminal violation of RICO itself. Civil RICO would then be used only against persons whom prosecu-

tors and juries have found to be engaged in actual criminal conduct. Such an amendment would protect the critical role that federal and local prosecutors and juries must play in determining whether a person is to be treated as a criminal offender and whether, as a consequence, he should properly be subject to RICO's special treble-damage liabilities.

On July 10, U.S. Representative Frederick C. Boucher, of the 9th District of Virginia, introduced H.R. 2942 which would amend the private treble-damage provision in precisely this manner. It would also establish a one-year statute of limitations for private actions, measured from the date of the latest pertinent criminal conviction. The proposed amendment would not have any effect on the Justice Department's powers to bring criminal prosecutions under RICO nor would it limit in any way the multitude of other federal and state remedies that private parties have available in seeking redress of claims for torts, commercial disputes, or violations of the various securities, commodities and anti-trust laws.

Support for H.R. 2943 would help end this costly, unintended, and disruptive abuse of civil RICO.

"BREADLINE SUNDAY" RAISES OVER $5,700 TO HELP NEEDY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. DURBIN. Mr. Speaker, I rise today in recognition of the successful "Breadline Sunday" project, in which 29 churches in my hometown of Springfield, IL, recently participated. I would like to commend this effort strongly to my colleagues.

On Sunday, November 24, these 29 churches sold loaves of cinnamon bread for $1 each to members as they left services. The money raised—$5,752.06 in all—will go to St. John's Breadline on Madison Street in Springfield. Every day, St. John's breadline provides two hot meals free of charge to the hungry in the Springfield community. At a time of economic hardship in our community, this service continues to be of crucial importance in meeting the needs of the poor and homeless.

Breadline Sunday was an extraordinary citywide effort which would not have been possible without the National Super Market, which donated 4,000 loaves of bread and transported them to Springfield free of charge. The many volunteers who worked on the program also deserve special recognition, as do the churches—both Catholic and Protestant—which joined in sponsoring the project.

Here are the local churches which participated:

Westside Baptist, Knox Presbyterian, St. Agnes Catholic, Bethel Assembly, First Evangelical Covenant, Evangel Christian, First Presbyterian, Harvard Park Baptist, Faith Christian, Clementine Memorial Presbyterian, St. John's Lutheran, Calvary Temple, Westminster Presbyterian, Christ Episcopal, and First Church of the Nazarene.

St. Aloysius Catholic, Christ the King Catholic, Cathedral Catholic, Reorganized Church of Jesus Christ of Latter Day Saints, SS. Peter and Paul Catholic, St. Patrick Catholic, Douglas Avenue United Methodist, St. Paul's Cathedral Episcopal, Elliott Avenue Baptist, St. Joseph Catholic, Unity Church of Practical Christianity, First Church of God, Central Baptist, and Fifth Presbyterian.

Mr. Speaker, during the holiday season, it is especially appropriate that we take time out to remember the needs of the poor and hungry in our own communities. Breadline Sunday was a first-time effort that accomplished two important purposes: First, it raised money to feed the hungry in Springfield, and may ultimately help St. John's Breadline reach its goal of expanding its service from two to three meals a day. Second, it made many church members across the city of Springfield more aware of the problem of hunger and the needs of our neighbors. I have just heard that Breadline Sunday will again be held next year, and that even more churches will be asked to participate. I invite my colleagues to take note of this significant project that embodies the true holiday spirit of giving.

A TRIBUTE TO ELIZABETH WITT

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. ROGERS. Mr. Speaker, with the Christmas holidays just ahead of us, it's times like these that bring out the best in people everywhere.

So too in my district, and I want to share with you the story of one such woman who gives so much each year to her community.

Elizabeth Witt of Irvine, KY, truly personifies the Christmas spirit. An article about her recently ran in the Louisville Courier-Journal, and I enclose it here as an example to all of us. Elizabeth Witt and others like her truly make Christmas a season of celebration.

[From the Louisville Courier-Journal, Dec. 9, 1985]

YES, KIDS, THERE IS A SANTA CLAUS, AND HER NAME IS ELIZABETH WITT

(By Byron Crawford)

IRVINE, KY.—Elizabeth Witt bought more than 4,500 Christmas presents this year—almost all of them for children she has never met.

The 84-year-old widow, who has no children of her own, invites infants through 12-year-old youngsters from Estill and surrounding counties in her house for Christmas gifts and candy each year.

"Before my husband died, we bought as many presents as I've bought any of the six years I've had the party," Mrs. Witt explained. "But then, we could distribute them wherever we wanted. We went to different churches in the county, and he was Santa."

Indeed, folks around Irvine still recall how Harry Witt loved children. some say he would often walk to the town square, one block from his home, and that he would buy sodas for every child he met on the street.

"Never, on our vacation, did we fail to take a carload of children with us to Gutlinburg in mid-August," Mrs. Witt said. "The most we ever took at one time was seven little children in the car with us.

"We were going through Corbin with the seven children—we two made nine—and Harry said, 'There's a policeman following us, and we've got too many in the car, some of you are going to have to . . .' I don't know whether he said 'duck' or not, and I couldn't keep from laughing.

"When the policeman passed us, he couldn't see but mine and Harry's heads. He looked and kind of shook his head . . . and I told the children. 'Honey, you all did a good job. He knew you were in here, but he knew you'd ducked, and he knew you were children, and he just passed us up.' "

After her husband, who was in the oil business, died 10 years ago, Mrs. Witt wanted to continue doing something for children at Christmas.

The Irvine-Ravenna Kiwanis Club's annual Christmas Parade, on the first Saturday in December, seemed the perfect occasion for a party.

"I'd rather spend what I have than to have it up here in the bank, drawing some cold, dollar interest," she said. "If you can live off the interest, live off of it, really live. Don't save it for more. This is living to me, and I mean that."

Mrs. Witt places an open invitation in the local newspapers for children to come to her house after the parade.

"And then, anytime I see children, I'll say, 'Oh, I want you to come to my Christmas party. Santa will be there, and he'll be looking for you.' "

Generally, about 700 show up, and each leaves with a sack of candy, cookies, caramel corn, balloons and four or five individually wrapped gifts, ranging from games, books and dolls to handpainted Christmas ornaments. It all costs about $2,000 to $3,000.

About 30 people, most of them Mrs. Witt's neighbors and friends, have pitched in without pay to help wrap and distribute presents, blow up balloons, make cookies and sack candy in the past few years, since Mrs. Witt's eyesight has deteriorated.

For weeks before the party, her large, two-story home at the corner of Main and Chestnut Streets in Irvine is abuzz with activity; cluttered with large red bags of gifts and goodies, waiting for the big day.

The Kiwanis Club provides a Santa Claus to greet children and help pass out the gifts, and the Lewis Funeral Home, across the street, donates a tent, which is set up in Mrs. Witt's front yard.

The parade stops in front of Mrs. Witt's home, as the Estill County High School band serenades the grand lady wearing the red apron and a tearful smile, surrounded by hundreds of excited children and grateful parents.

"It's just wonderful to be where those children are—their sweet little faces—and all my friends. You just cannot imagine how I feel," she said. "It's just a job to me. There isn't any part about this that I dread. I wish I could do more."

OSHA ACTION ON BENZENE AND FORMALDEHYDE ONLY A FIRST STEP

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GAYDOS. Mr. Speaker, last week, after interminable delays, considerable prodding by me as chairman of the Subcommittee on Health and Safety and court efforts by workers, the Occupational Safety and Health Administration [OSHA] published its proposed rules on exposures to two workplace substances—benzene and formaldehyde—that have threatened the health of too many American workers for too long.

The reduced exposure limits for these two known or suspected carcinogens, if adopted in final rules, would significantly reduce the incidences of leukemia and other cancers among workers who are exposed to them.

But before we cheer too loud and too long, we must note that it may take as much as another year before the agency completes the hearing process and promulgates its final rules on these two highly toxic substances.

I have no doubt that there will be those both inside and outside this administration who will attempt to block permanently or delay for as long as possible these proposed changes in exposure limits, arguing that the costs of such changes will be excessive for the businesses involved.

To my way of thinking, if businesses continue to use these and other substances that result in debilitating diseases and/or death among workers exposed to them, then businesses have a responsibility to both protect men and women, without whose work and effort there would be no business, from those excessive exposures and to assume the costs for preventative medical treatment for those likely to get a disease and disability pay for those who are unable to work because of the diseases.

Even OSHA agrees that benzene exposure at the current level presents a risk of death from leukemia of 44 to 156 workers out of each 1,000 and that the proposed change would reduce that risk by about 90 percent and that formaldehyde exposures at present levels present a risk of death due to cancer of 71 to 620 workers out of each 100,000 and that the proposed levels would significantly reduce that risk.

Isn't that incentive enough for action on at least these two substances?

This country produces some 50,000 chemical and toxic substances to which workers are exposed either during their manufacture or use. For too many, we have little information as to what safe exposure levels are and what we can expect from exposures to them. Unless we have more and better information, American working men and women will be faced with risks of which they are unaware.

The new hazard communication standard will help to some degree, provided information as to the long-term effects of exposures to these substances is available, but it will not tell workers what their risk of getting a specific disease is.

That is where H.R. 1309, the High Risk Occupational Disease Notification and Prevention Act of 1985, takes over. Under this measure, workers who would be at risk of a specific disease due to exposures to specific substances would be identified and individually notified of that risk. Under the terms of the bill, those workers would receive counseling and, if judged necessary, be placed in a medical monitoring program so that if the disease did begin to arise, treatments could start at the earliest possible stage, the time when intervention is most likely to be successful.

OSHA has taken a step forward with these proposed new standards for benzene and formaldehyde, but it has taken far too long to get to this point and we are still a ways from having these new exposure limits in place. We must continue to press OSHA and others in the Department of Labor and other administration agencies to speed up the process that will save lives among our workers.

HARRY COHEN: "MAN OF THE YEAR"

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LEHMAN of Florida. Mr. Speaker, on January 11, 1986, Temple Adath Yeshurun in North Miami Beach will honor as "Man of the Year" a truly outstanding member of our community, Harry Cohen.

For more than 30 years, Harry Cohen has contributed his talents and energy to dozens of civic and charitable organizations in Dade County, including the Lions Club, Boy Scouts, League of Cities, our symphony orchestra, the Epilepsy Foundation, Dade Criminal Justice Council, B'nai B'rith, and the Chamber of Commerce.

Whatever the community need, Harry Cohen is there time after time to find a solution and to get the job done. He can always be counted on to help raise a building, or care for needy children, or do whatever is necessary to help his neighbors. His success at these endeavors sets a high standard for others, and his unselfishness is an inspiration to us all.

For many years, Harry has served with distinction as a councilman for the city of North Miami Beach, a position for which he was well prepared by his involvement with and knowledge of our community. As a government leader, he has maintained the same high level of commitment and responsibility that has distinguished his career from the start.

Harry Cohen is an important community resource. I offer him my congratulations for a job well done and my best wishes for continued success in the future. Temple Adath Yeshurun has truly made a fine choice for its "Man of the Year."

IRVING L. BAUMWALD

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. DIOGUARDI. Mr. Speaker, on December 19, the New Rochelle community, on behalf of the Anti-Defamation League Appeal, will present the Wolfe Dubenstein Human Relations Award to Irving L. Baumwald.

I cannot believe that you could find an individual more deserving of this award than Irving. His list of accomplishments and community service are endless. Known as the dynamic partner of KMG Main Hurdman, the international accounting and consulting firm, Irving is deputy tax director of the firm's tax division in the New York office. In addition to being a CPA and an attorney, Irving also serves on the executive tax committee, and the New York division's development committee. However, these accomplishments pale in comparison to the dedication Irving has shown to the entire Westchester community.

As president of the Tom Paine Lodge of B'nai B'rith of New Rochelle, a post he previously held in 1977–78, Irving serves as a trustee of the Anti-Defamation League Appeal of Westchester County. He is also an active member of the Beth-El Synagogue, and his willingness to share his expertise has been a major support to numerous committees, including audit, youth activities, and cultural activities.

Irving truely symbolizes what I believe to be the greatest asset of Americans, voluntarism and the desire to help others. In a world in which anti-Semitism is spreading, it is comforting to know that individuals, like Irving, are dedicated to the goal of abolishing this repressive form of hate and discrimination. Because of Irving's efforts, the world is a better place for all of us.

The Westchester community should be proud of his efforts in abolishing anti-Semitism. As a personal friend, I would like to extend my deepest congratulations to Irving and wish him the best of success in all of his future endeavors.

INTERNATIONAL COOPERATION IN FUSION TECHNOLOGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. STARK. Mr. Speaker, I have been very encouraged by President Reagan's and Secretary Gorbachev's agreement to extend and strengthen the U.S. and U.S.S.R. 1973 agreement on scientific exchanges. In my own district I have seen how such an agreement has proven to be very beneficial. I am therefore sponsoring House Joint Resolution 155, a bill calling for formation of a national policy and renewal of national attention on the future of fusion energy re-

search and development and the possibilities of increased international cooperation in such efforts.

Currently two Soviet scientists are visiting the Lawrence Livermore National Laboratory in connection with the lab's tandem mirror experiment. The two, Yurii Belchenko of the Nuclear Physics Institute, Novosibirsk, and Dmitrii Pano of Moscow's Kurchatov Institute are visiting the lab under the 1973 agreement. The associate director for magnetic fusion energy at LLNL, Ken Fowler, has visited his Soviet counterparts both in Novosibirsk and Moscow, and has found that these exchanges have had a major and positive impact on the Livermore program.

In a recent news article, Fowler noted that since the joint U.S./U.S.S.R. Fusion Power Coordinating Committee was formalized in 1983, the Soviets have furnished pertinent data in at least three instances for projects at LLNL.

For example, in 1974, data provided by Soviet scientists helped stabilize the 2XIIB experiment. Results of the experiment were shared in turn with the Soviets at a meeting in Novosibirsk in 1975, and directly led to the tandem mirror concept in 1976.

Again in 1979, the Soviets provided information which led LLNL scientists to rearrange neutral beams which substantially increased the effectiveness of the end plugs in holding plasma. According to Fowler, this convinced Washington that the planned mirror fusion test facility should be reconfigured into a tandem mirror experiment. This facility, the MFTF-B, the largest tandem mirror experiment in the world should be completed by this February.

Fusion budgets have been cut in the United States, Japan, and in countries supporting the Joint European Torus. This, coupled with the soaring costs attached to proposed next-generation fusion machines led me to introduce House Joint Resolution 155. Given the valuable exchanges I have witnessed in my own district, President Reagan's and Secretary Gorbachev's recommitment to scientific exchanges and financial realities, I am moved to again call attention to my joint resolution. I hope other members will study the issue in light of these considerations and give House Joint Resolution 155 their support.

MOOSE LODGE ASSISTING FLOOD VICTIMS

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. BATEMAN. Mr. Speaker, I would like to take a moment to bring to the attention of my colleagues and the Nation the commendable work performed by the Virginia State Moose Association and especially the local members in my district, America's first, during the recent statewide flooding due to Hurricane Juan.

This group of exemplary Americans sponsored a drive to aid flood victims. They promoted their cause in the district and throughout Hampton Roads, with exuberance, and the local people rallied to the cause by providing eight truck loads of clothing, furniture, and bedding that were transported to flood victims hardest hit in the western part of the Commonwealth.

Many Hampton Roads residents brought their donations to the local Moose Lodges, but where transportation was a problem, local members of the Moose Association used their own vehicles and their time to pick up the items. Several moving companies in the area and the Virginia National Guard provided trucks and drivers to assist in the effort to move the items quickly and carefully to the cities of Roanoke and Glasgow located many hours away from home.

All of the people of Hampton Roads, and especially the local members of the Moose Association, should be commended for their efforts. These people went out of their way to help their fellow Virginians who had been struck by the devastating floods.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL: THE PLIGHT OF IDA NUDEL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. FAUNTROY. Mr. Speaker, as a participant in the Congressional Call to Conscience Vigil for Soviet Jewery, I, once again, bring before my colleagues the treatment of Ida Nudel. Her persecution by the Soviet authorities continues to be an outrage. Her situation, regardless of the smiles of the recent summit, again illustrates the callous disregard for human rights that characterizes life in the Soviet Union.

I am very concerned with the reported deterioration in Ida Nudel's condition. She is reported to be in very low spirits after years of internal exile and after almost 14 years of Soviet refusal to allow here to emigrate to Israel.

The Soviet refusal to allow Ms. Nudel to emigrate demonstrates the Soviet authorities repeated noncompliance with the Universal Declaration of Human Rights and the Helsinki Final Act. Article 13:2 of the Declaration of Human Rights states:

Everyone has the right to leave any country, including his own, and to return to his country.

The Helsinki Final Act requires that:

The participating states will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language, or religion.

The participation states recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all states.

The participating states make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions, and organizations of the participating states, and to contribute to the solution of the humanitarian problems that arise in that connection.

The participating states will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such requests submitted by persons who are ill or old.

The participating states, recognizing the contribution that national minorities or regional cultures can make to cooperation among them in various fields of culture intend when such minorities or cultures exist wthin their territory, to facilitate this contribution, taking into account the legitimate interests of their members.

If the Soviet Union wants our respect then they should let the Ida Nudels of the Soviet Union go.

Ida Nudel don't let them break your spirit! We will not forget you and we will continue to raise your case time and time again until you are free!

$1 TRILLION FOR DEFENSE BUT HOW MUCH FOR NATIONAL SECURITY?

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. ANDREWS. Mr. Speaker, as the crisis of growing Federal budget deficits continues to press upon our deliberations in this body, I would like to commend my colleagues for their actions this year to reform the command and procurement policies of the Department of Defense.

Like many Americans, we in Congress have lost our patience with the waste and inefficiency that exists in the Department of Defense. This troubling issue particularly concerns many Texans; I know because I have read the angry responses to reports of $9,600 Allen wrenches and $7,000 coffeepots being purchased by the Pentagon.

Such reports are particularly disturbing in light of the $1 trillion we have spent on defense in the last 5 years. In all, we spend $827 million every day on the defense budget. With the present need to cut the Federal deficit and trim spending, these flagrant abuses have strengthened Congress' resolve to return cost-effectiveness and accountability to the Department of Defense. We now have both the facts and the support to act.

While the crucial role of defense makes the task of eliminating waste a complex and difficult one, certain aspects of the problem can be isolated and addressed. This is the direction we in the House of Representatives are taking. As the following examples point out, this careful approach allows America to eliminate wasteful defense expenditures without sacrificing our national security.

For example, when the American forces landed on Grenada to rescue the endangered students 2 years ago, an Army officer

was temporarily unable to call in naval fire support from offshore. Why? Because his Army radio operated on a different frequency than their navy radios. Such duplication and lack of coordination between the services is all too common.

A second problem is that defense contractors, in lobbying for Federal contracts, often offer to employ Federal managers after their retirement in return for favorable treatment in the bidding process. This revolving door between Government employment and private employment seriously undermines the objectivity of Federal contract managers.

One major defense contractor recently included the cost of a country club membership, $18,650, and of flying the corporate chairman to his farm, $105,000, in its requests for reimbursement from the Government. Moreover, the Pentagon picks up the tab on $140 million in contractor public relations costs yearly.

Currently, there is little provision in Defense Department procurement policies for encouraging competition. By not exploring such options as dual competition and multiple sources of supply more fully, the Pentagon is letting the taxpayer pay for the excessive profits of defense contractors. In fact, the General Accounting Office recently reported that only 6 percent of the Pentagon's military contracts are fully competitive.

Each of these examples is disturbing, not just because of the waste of money, but also because they represent threats to our Nation's security. In response, this body has recently initiated several reform measures that I think are a good first step toward creating a rational defense posture.

The episode of the incompatible radios, for instance, demonstrates a problem that has been studied five times since World War II—the need to reorganize the military hierarchy of the United States.

Currently, the command of our Armed Forces begins with the President, who is advised by the Secretary of Defense and a committee, the Joint Chiefs of Staff. As many of us appreciate, command by committee is a contradiction in terms. Because the Chairman of the Joint Chiefs is severely constrained in mediating competition between the services, the result is wasteful duplication in procurement of weapons.

For example, the Army will agree to support funding of an Air Force missile development in return for their backing on a new Army antitank weapon. Such tactics lead to a subversion of national interests in favor of service rivalries and bureaucratic infighting—and incompatible radios. This creates waste, pure and simple.

To begin resolving this complex problem, the House recently took an important step by passing legislation to reorganize the military system of command. By a bipartisan majority, this House approved the Joint Chiefs of Staff Reorganization Act of 1985 which would give the chairman of the Joint Chiefs real power to oversee military spending and assert the priorities of our common defense over the separate desires of the services.

In two key provisions, the act designates the chairman as the President's principal military adviser after the Secretary of Defense and gives a greater voice to field commanders in overall budget and strategy decisions.

Together, these and other provisions streamline command of our armed forces and create an organization that plans cohesively and cost effectively.

On the employment incentives used by companies in the defense contracting game, the gross conflict-of-interest problems are obvious. To attack this persistent problem, the House passed in October a provision in the defense appropriations bill which would restrict for 2 years after retirement the ability of defense officials to move straight from contract management into a defense company. By removing such temptations, I am hopeful that we have shut this revolving door between the military and defense industries.

To prohibit taxpayers paying for country club memberships and entertainment for corporate executives, the House passed another provision barring the Defense Department from reimbursing contractors for irrelevant costs. An infamous cost that the Government has picked up in the past is the cost of lobbying the Congress for renewal of a company's contract: essentially using taxpayer's money to get more money.

Finally, the House has approved legislation to encourage greater competition among contractors who want to work for the Defense Department. Competition is truly the best way to assure that we get the most we can for the resources expended on our national defense.

Now these pieces of legislation await the action of the other body and the support of the President. I am hopeful that we can get that backing. On the drive to rationalize the military command system, I am encouraged by the fact that the Senate Armed Services Committee, under the leadership of Senators BARRY GOLDWATER and SAM NUNN, is seriously studying the need for reform and could come forward with their own measures next year.

In the interest of our Nation's security, I hope these reforms go forward and are successfully implemented. Such a new structure would make not only good budget sense, but good strategic sense as well. Once these changes are in place, we can all be more confident that our Armed Forces will go into combat equipped not only with bravery and dedication, but with common sense planning as well.

A DREAM DEFERRED

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I want to share with my colleagues an article by H. Patrick Swygert which appeared in the November 12, 1985 edition of the Philadelphia Inquirer. Mr. Swygert is the vice president for university administration and a professor of law at Temple University.

I certainly agree with this article. Young people are this country's greatest asset. Their education, therefore, should be a national priority. Unfortunately, the college dream for many minority students is just that, a dream.

The article follows:

[From the Philadelphia Inquirer, Nov. 12, 1985]

FOR SOME, COLLEGE DREAM ENDED . . .

("The proportion of entering medical students who are black has declined over the past decade, according to a new study, even though blacks have made up a larger part of the applicants and their admissions test scores have increased."—Associated Press)

(By H. Patrick Swygert)

The report on the declining number of black students in medical schools across the nation is one more piece of evidence that the tide is going out on the important gains made by blacks in higher education over the last decade.

According to the U.S. Census Bureau, the proportion of black high school graduates enrolling in colleges and universities has dropped from 34 percent in 1976 to 27 percent in 1983—even while the percentage of college-age blacks has been at an all-time high.

Translated into raw numbers, the statistics mean that 8,000 fewer blacks were enrolled in colleges in 1983, although there were a half-million more black high school graduates that year than in 1976.

At the graduate level, the situation is even grimmer. In 1983, the 325 institutions that award doctorates in the United States granted a total of 31,190 doctorates, but only 1,000 of these advanced degrees—less than 3 percent—went to black students. This discouraging statistic should be viewed against the stark backdrop of a precipitous 10 percent drop in the number of blacks receiving doctorate degrees in the three-year period from 1981 to 1983.

The reasons for these gloomy trends in higher education are not difficult to identify. Many colleges have cut back recruitment and remediation programs. The cost of attending colleges and graduate and professional schools has increased much more than the general rate of inflation, and government funds for financial aid have not kept pace.

At the same time, Washington continues to threaten less, not more, financial aid. Only five years ago, Temple University was able to meet almost 100 percent of the demonstrated need of all its students through a mix of federal and state funds and Temple grants. This year, only 56 percent of that need can be met, even though Temple has substantially increased its grants.

Although the financial aid problem affects all disadvantaged students, it falls more heavily on the black population because of the large gap between average black and white family incomes.

The decline in black access to higher learning could not come at a worse time. The nation's economy is being transformed rapidly. Almost all economic growth is in the service and high-tech areas. The number of jobs available to those without a college education—no matter how motivated—shrinks each year. The American dream is quickly becoming beyond the reach of

most young people who do not graduate from college or receive some form of specialized training beyond high school.

That is the bad news. Closer to home, there are a few rays of hope.

Some local colleges and universities are trying to reverse the decline. At Temple, for example, we launched a program that turned around the steady decline in the number of blacks attending our medical school. Because the School of Medicine has always had an effective recruitment program, the number of qualified blacks accepted by the school has remained high. However, the number of blacks actually enrolling in the medical school has steadily declined, due in large measure to the lack of financial resources.

The medical school responded by offering, on a racially nondiscriminatory basis, scholarships to the 25 most needy students accepted for admission. This program helped financially disadvantaged students of all races, but it also helped make possible an entering class this year with the most black students in a decade.

The commonwealth instituted a similar program following suggestions made by Temple in 1983. On the initiative of the state's secretary of education, the legislature this year is providing $360,000 in scholarship funds for graduates of Lincoln and Cheyney Universities who attend graduate or professional school at Temple, the University of Pittsburgh or Pennsylvania State University. This money serves the dual purpose of enhancing Lincoln and Cheyney and assisting qualified graduates in pursuing professional and graduate education.

These praiseworthy efforts are unfortunately too few in number. Twenty years ago, the Kerner Commission warned that we could become two nations, "one black and one white, separate and unequal." Despite the enormous advances of the last two decades, much remains to be done if our country is to avoid that ill-fated destiny.

The demography of higher education—particularly graduate and professional education—demands our attention now. Scholars receiving doctorate degrees in the near future will form the college faculties of the 1990s and into the 21st century. As a nation, we must move forcefully and fairly to ensure that America's great dream of educational opportunity will not be extinguished.

A SMALL STEP TOWARD PROTECTING FARM BORROWERS OF THE FARM CREDIT SYSTEM

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LIGHTFOOT. Mr. Speaker, I'd like to indicate my qualified support for legislation we're considering today to address problems within the farm credit system.

While this bill, H.R. 3792, is far from perfect, it provides some of the needed steps to protect farm borrowers of the system and ensure important reforms in the system's operations.

The House first began considering legislative remedies for the ailing farm credit system last July when the House Agriculture Subcommittee on Conservation, Credit and Rural Development started holding hearings, which I had requested that Chairman ED JONES do.

I was pleased that Chairman JONES provided the opportunity for many Members, including myself, to have input in shaping the legislation before us today. At the same time, I am pleased this bill does not prescribe specific funding for the farm credit system, as this particualr issue is a highly controversial one which needs further debate.

There are problems with this measure, nonetheless. For example, I would have preferred greater protections for local farm borrowers, such as our Iowa colleagues in the other body worked to achieve.

However, given the procedure under which we must consider this bill today, there is no opportunity for amendent. Furthermore, this particular bill is not a bailout—rather, it requires that every step be taken within the farm credit system to help itself before Federal financial aid is forthcoming. In any case, I do not intend to support financial aid to the system until the system has done what it can to help itself. Additionally, I will insist on changes in the system's top management prior to approving any bailout.

But we must put into place several mechanisms under which the farm credit system can begin to address its own problems. For one, the bill provides for an FDIC-type authority to ensure that the farm credit system is better regulated and can perhaps prevent future problems of the type we are presently experiencing.

Another important section of the bill mandates publication of borrower/stockholder information and system policies. This will prevent many of the types of abuses which have plagued my constituents up to this point.

While some individuals have opposed taking any action to aid the farm credit system, we must responsibly realize that with the large percentage of farm credit extended through the system, a great many farm borrowers and rural communities, as well as other sectors of our society would be adversely affected if the farm credit system did not remain viable as a lender. In lieu of an alternative system or lender of this size, we may as well work to restructure the system we have rather than trying to create an entirely new system.

Regardless, my first priority remains to my farm borrowers. This bill is the best opportunity offered, to date, to provide them some protections they do not presently have. Therefore, I lend the bill my support, while looking forward to the opportunity for further analysis of the system when Congress reconvenes in January.

AVITAL SHCHARANSKY SPEAKS OUT ON HUMAN RIGHTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GILMAN. Mr. Speaker, recently Avital Shcharansky, the courageous wife of Soviet Jewish prisoner of conscience, Anatoly Shcharansky, submitted a statement which was printed in the Wall Street Journal. Her remarks are particularly noteworthy today, as we commemorate International Human Rights Day.

On this day in 1948, the Universal Declaration of Human Rights was signed by a number of nations, including the United States and the Soviet Union. While it is important for us to acknowledge the 37-year history of this document, it is of greater urgency that we recognize that for all refuseniks and all prisoners of conscience and their families, every day is human rights day. Their actions and reactions are guided by Soviet bureaucrats, giving their lives a surreal quality. Avital Shcharansky has lived such a strained life for more than 8 years. Her words bespeak an insight so clear and riveting that I cannot forgo an opportunity to share her thoughts with my colleagues. Accordingly, I request that her recent article be reprinted at this point in the CONGRESSIONAL RECORD, in the hopes that we will all heed her remarks.

FREE MY HUSBAND, MY PEOPLE

(By Avital Shcharansky)

As the world wonders what the new faces and changed style of the Soviet leadership will mean at the summit meeting in Geneva, we should recall the one occasion on which Mikhail Gorbachev lost his temper during his recent state visit to France. Responding to a news conference question about the treatment of Jews and dissidents in the Soviet Union, the usually unflappable Mr. Gorbachev suddenly lost his composure and, pounding the table, shouted that no one had the right to interfere in the Soviet Union's internal affairs.

Unfortunately, none of the journalists followed up by asking how Mr. Gorbachev could reconcile his position with the fact that in 1975 his government signed the Helsinki accords, whose human-rights provisions stipulated that "everyone has a right to leave any country, including his own" and that "participating states will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with their family."

Like millions of freedom-loving people, my husband Anatoly saw in these accords a ray of hope. If indeed the Soviet Union, in exchange for the West's recognition of its hegemony in Eastern Europe, would allow the liberalization of contact and movement, perhaps "detente" would become not just another diplomatic cliche but truly a new era of hope and promise.

So Anatoly joined a Helsinki watch committee, one of the many that sprung up throughout the world to monitor compliance with the accords. Within months he was arrested, charged with espionage for the Central Intelligence Agency, and sentenced to three years in prison and 10 years of hard labor. After transfer to a work camp, he was placed in solitary confinement for 90 days as punishment for lighting Hanukkah candles and reciting the Hebrew Psalms. While there, he was kept alive on a diet of bread and water, the bread only every other day. A year ago, he was again put in isolation.

My husband's health has deteriorated dangerously. He suffers from severe pains in his chest and eyes. Months pass when he is not heard from, when no one is allowed to

visit him. In his last letter he says, "I would like to dream of our reuniting in Jerusalem but I need all my energies just to survive as a human being."

Since the signing of the accords, Soviet policy on Jewish emigration has been a roller coaster: from a peak of 50,000 visas in 1979, the year before the Moscow Olympics, to a trickle of a few hundred a year now. But there has been no inconsistency about suppressing any activity on behalf of the Helsinki accords. It is as if the Soviet Union recognizes what we too must understand—that there is more here than just a question of human rights. The Helsinki accords are an international contract that the Soviet government solemnly signed and that it has never shown the slightest intention of honoring. Living up to the Helsinki obligations, it should be noted, would entail no political or strategic risk for the U.S.S.R. One wonders how it would honor a treaty in which military and political compromises are involved.

Many hoped that the new leadership would bring change. If anything, the change has been for the worse. The treatment of dissidents is more brutal—beatings and solitary confinement are commonplace—and the charges ever more spurious and outlandish. Within the past weeks Roald Zelichonok of Leningrad, after corresponding with public officials in the West, was convicted of "defaming the Soviet state" and sentenced to three years in labor camp. After applying for permission to emigrate, cardiologist Vladimir Broadsky of Moscow was convicted of "hooliganism" and sentenced to three years in prison.

For appealing her husband's conviction on trumped up drug and weapon charges, Lydia Koifman was ordered confined to a mental hospital. For distributing Leon Uris's "Exodus," Leonid Volvovsky was convicted for slander and sentenced to three years in prison.

Shirley Williams, a leader in Britain's Social Democratic Party, recently asserted that, like most reasonable people, she was fully aware of the public-relations aspects of the Soviets' summit proposals, but that it was imperative they be given a chance to prove their sincerity. I can see no better way for them to do so than to live up to an accord they signed 10 years ago, and to let my husband and 400,000 other Jews who have expressed their desire to leave the U.S.S.R. join their families abroad.

THE SUGAR PROGRAM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GRADISON. Mr. Speaker, during floor consideration of H.R. 2100, the Food Security Act of 1985, Mr. DOWNEY and I offered an amendment which we felt was a reasonable, moderate, and rational approach to the domestic sugar program. Unfortunately, the House did not agree to adopt our approach for a gradual reduction of the floor in the nonrecourse loan rate for sugarcane to 15 cents over the next 4 years.

The New York Times made several observations on December 9 about the sugar provisions in the Senate's version of the farm bill. The Times makes several salient points. The current sugar support program is detrimental to consumers, destructive of jobs in the American refining industry, and harmful to our allies, particularly in the Caribbean and Latin America.

The sugar provisions in the bills that have emerged from both bodies would continue along this ruinous path. In the long run, the program will damage those it is designed to protect—the growers. I urge my colleagues, especially those who are conferees on the farm bill, to consider the arguments raised by the Times carefully.

THE SOUR PLAY OF THE SUGAR LOBBY

Quotas that limit America's sugar imports have had the effect of tripling the price of sugar for consumers. Yet this protectionism is backfiring on domestic growers because the main consumers, commerical buyers, are switching to cheaper corn sweeteners. So the sugar lobby has pressed Congress for even tighter quotas that would further raise supermarket bills and impoverish efficient sugar exporters in Latin America. Only a House-Senate conference committee can stop this madness.

America's sugar production is concentrated in a few states where it is a dominant economic interest. Their Congressmen know it and the growers, in Hawaii, Louisiana and Florida, usually get what they want despite the opposition of consumers, refiners and the State Department.

Under the current four-year-old program, the Government must maintain the domestic sugar price at 18 cents a pound. Since that's far above the world price of 6 cents, country-by-country quotas must be used to prevent a flood of imports that would force Washington to buy up the domestic surplus. Quotas have been adjusted periodically to keep the domestic price at about 21 cents a pound—just enough above the 18-cent floor to insure that the domestic crop is shipped to private refiners rather than dumped on Uncle Sam.

The unintended side effect has been to create a boom market for cheaper corn sweeteners. And as corn displaces sugar in processed foods, the Agriculture Department has been forced to reduce imports further from 2.9 to about 2 million tons a year.

Were there not some concern for friendly, sugar-producing nations abroad, the quota might have soon been cut to below one million tons. But in September, President Reagan held the line for foreign countries, including Brazil, El Salvador and the Dominican Republic; the sugar price slipped to 19 cents.

Now the growers have struck back. They bartered their support for the Senate Republicans' farm bill for a provision that prohibits our Government from buying surplus sugar. If that provision stands, the Administration would be forced to slash the import quotas to drive the price back to at least 21 cents a pound. That would rock the ailing economies of Latin America and also add $600 million to food prices at home. It is a costly treat that no self-respecting Congress should swallow.

ONE EFFECTIVE APPROACH TO REDUCING YOUTH UNEMPLOYMENT

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. NEAL. Mr. Speaker, at a time when youth unemployment in general and especially unemployment among young black people remains at unacceptably high levels, we need to explore some alternatives.

A friend of mine sent me the following article on the West German system of industrial apprenticeships that has helped combat the problem of high unemployment among youth. I do not know the source of the article, but it points to one success story that I believe we should study in depth here in this country. The article follows:

GERMANY'S JOBS FOR THE BOYS AND GIRLS

WEST GERMAN EMPLOYERS ARE OPERATING A TRAINING SCHEME THAT HAS SLASHED THE YOUTH UNEMPLOYMENT RATE

The spectacle of unemployed, underprivileged youths rioting in the streets of inner cities is one that West Germans, at any rate, regard as a thing of the past. For their system of industrial apprenticeships has been developed into a weapon against youth unemployment that is the envy of Western Europe.

Almost five years ago, in December 1980, the predominantly Turkish district of Kreuzberg in West Berlin erupted in violence. "After the barricades went up in flames," reported Die Zeit in language that could have described Toxteth in 1981 or Handsworth more recently, "supermarkets were plundered and police units were beaten into flight."

The foretaste of the effects of rising youth unemployment led to the expansion of the West German industrial training system that has in effect banned unemployment among West Germans of up to 20 years old.

Throughout Europe, as the "baby boom" generation has produced millions of extra job-seekers, governments have reacted in muddle and panic. EEC experts in Brussels believe that it was not until early 1984 that most of its members accepted that the youth unemployment problem was structural rather than temporary.

Called the Dualsystem, the West German scheme is chiefly funded by employers and combines, who organise training on the factory floor with two days a week in a vocational school. Most entrants are 16-year-old school leavers, although there is also a trend towards university graduates enrolling for Ausbildung—industrial training to improve job prospects. Even if proper jobs afterwards are much harder to come by, a qualified apprentice trained by Siemens, Daimler-Benz or any other of the golden names of West German industry is eagerly sought by employers.

For all that, West German industrialists and politicians today are no less anxious about the country's stubbornly high unemployment than they were two or even three years ago. With 2.2m people out of work, it hovers around 9-10 percent, in defiance of Bonn's investment spending and its abolition of rigid hiring laws. Yet the political

and social consequences of the jobs crisis have been defused in West Germany by the knowledge that most of its young are not affected.

The 1.4m apprenticeship places that were available in the Dualsystem in the early 1980s have been expanded to 1.7m, so that over 95 percent of all applicants are taken on quickly. With another 700,000 or so 18 to 20-year-olds doing their year of military service—or, in the case of conscientious objectors such as the Greens, their 18-month civil conscription—the effect on unemployment is dramatic. Among the under-20s it is about 7 percent and falling.

Not until West Germans reach their 20s do they have to compete for work in the labour market, and even then about 80 percent of graduates from the Ausbildung system find a job easily. The result is that unemployment among the under-25s in West Germany is about half that of the rest of the EEC. Of the 13m registered unemployed in the EEC, 5m are under 25. In Britain and France under-25s account for 38 percent of total unemployment, and in Italy 48 percent, but in West Germany the figure is less than 24 percent.

The West German system has become a model for the rest of Europe, although Eurocrats in Brussels searching for a common formula to combat youth unemployment doubt that it travels well. They point out that the fairly rigid apprenticeship system reflects the West German industrial ethic. "It's the industrial environment that makes the Dualsystem work so well," says Michael Laine of the EEC's employment policy division. "You can't just graft it on to society elsewhere in Europe."

Where the West German scheme has scored best has been in expanding to meet soaring demand. Three years ago it was geared to take about 630,000 school leavers, and now its yearly intake is nearly 750,000. In Britain 40,000 apprenticeship places are available every year, while many of the more sophisticated on-the-job training schemes operated elsewhere in Europe have dried up along with the jobs.

West German industry is, however, finding itself less able to expand to accommodate the young people graduating from the three-year training courses. Last month Herr Otto Esser, president of the BDA employers' federation, took the unusual step of appearing publicly for his members to keep their apprentices on in some capacity.

At the same time, West German companies are looking hard at means of streamlining the Dualsystem to make it less rigid and elaborate. Employers and trade unions have been discussing ways of reducing the cumbersome 453 different technical qualifications included in the system.

As industrialists contemplate the overhaul of a framework that has saved West Germany from rocketing youth unemployment, they seem torn between two considerations.

The first is that the industrial discipline inculcated by the system is what many employers prize most. Second, employers in West Germany are already suffering scarcities of sectoral skills as the country heads toward a predicted overall labour shortage in the 1990s.

TAX BILL WILL WORSEN TRADE DEFICIT

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. WEBER. Mr. Speaker, an important new study from the Institute for Political Economy shows that taxation plays a major role in our ability to compete in markets at home and abroad. The study, "The Cost of Corporate Capital in the United States and Japan," was conducted by Paul Craig Roberts, a former Assistant Secretary of the Treasury, by Gary Robbins, a former Treasury official, and by Aldona Robbins and David Brazell, former senior Treasury economists. The study examines the total effect of business and personal taxes and finds that the United States tax system results in a cost of capital that is 16 percent higher than under the Japanese tax system. This higher tax burden puts United States firms at a definite disadvantage compared to their Japanese competitors.

We should keep this very much in mind while considering the tax reform bill. An analysis of the Ways and Means bill by the same economists indicates that it would raise the cost of U.S. capital by 10 percent, which is twice as much as the 1981 tax cut lowered it. It is our manufacturing and agriculture industries that are suffering most from foreign competition. The Ways and Means bill would hit these industries the hardest and offset the protectionist and aid legislation that the Congress is considering. Unless we make the connection between taxation and the trade issue, we will create more problems for everyone. I believe most Members would agree that it would be a mistake to pass a tax bill that worsened the trade deficit. If we examine what the Ways and Means bill does to the cost of producing U.S. goods, we will find that we cannot support it.

HULSEY SERVES NEW JERSEY CITIZENS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. FLORIO. Mr. Speaker, on September 6, 1985, I was pleased to pay tribute to my special assistant, David J. Hulsey, for 10 years of uninterrupted voluntary service in my Gloucester County congressional district office.

Mr. David J. Hulsey is a retired master sergeant, having served in both World War II and the Korean conflict. He had a combination of 23 years service—active and Reserve time—in both Army and Air Force. A 100-percent disabled veteran, he is a member of the Air Force Sergeants Association, American Veterans, and the American Legion. He is also a lifetime member of the Disabled American Veterans and the Veterans of Foreign Wars, and has been awarded the Patriotic Citizens Award by the VFW Post 5579 of Gibbstown, NJ.

Mr. Hulsey also served as a member of the Gibbstown Library Council, and St. Michael's Church Council, and is a past president of St. Michael's Mutual Club of Gibbstown. He has recently helped organize a band in his community, which he manages. This band, "The Admirals," has contributed much of its time to community benefits.

Mr. Hulsey retired from Government service in 1975 after 35 years. He served such agencies as the Federal Power Commission, the Veterans' Administration, the Internal Revenue Service—where he received the Safety Honor Award in 1962 from the then Treasury Secretary, Douglas Dillon—and finally retired from the General Services Administration. He began his Government service, accepting this employment in Washington as his only means of obtaining Government employment at that time, went on to become a file clerk, then supervisor, manager, and finally held the position of Director of Communications in the General Services Administration Region II.

Immediately upon his retirement in 1975, Mr. Hulsey volunteered his services in my Glassboro district office. Extraordinarily productive and versatile, Mr. Hulsey has had a broad range of responsibilities as my assistant. Casework relating to military, immigration and naturalization, and internal revenue matters are included within his area of expertise. For the last 3 years he has served as the coordinator for academy appointments.

Mr. Hulsey's indefatigable spirit has neither gone unnoticed nor unappreciated. My constituents have freely expressed their thanks for Mr. Hulsey's professional delivery of services as evidenced in the following quotes:

I want to thank you for your efforts on my behalf for my Veterans' Administration disability benefits. This is the second time you have helped me. My wife and I are very grateful for this help.

I could not begin to express the gratitude that I feel for your help in solving the problem I was having with IRS. I have no doubt that it was only through your kind intercession that this matter was solved so quickly.

Mr. Speaker, with the completion of a decade of distinguished volunteer service comes the realization that Mr. Hulsey is truly voluntarism personified, having responded unhesitatingly to President Kennedy's call: "Ask what you can do for your country."

It is indeed a privilege to have Dave Hulsey as a volunteer member of my staff and I salute him on his accomplishments.

H.R. 3248

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. WILLIAMS. Mr. Speaker, several weeks ago the House passed H.R. 3248, to reauthorize the National Endowments for the Arts and Humanities, the Institute for Museum Services, and the Arts and Artifacts Indemnity Act. We then amended the Senate bill, S. 1264, with the House language and sent that bill back to the Senate. Now the Senate has amended the House bill, substituting a compromise version that has been worked out by committee members from both bodies.

This compromise bill makes several important changes while, at the same time, maintaining adherence to the endowments' reliance on standards of excellence in supporting the arts and humanities. First, the bill attempts to ensure that the endowments' programming reflects the full cultural diversity of our Nation. Second, the bill enhances the endowments' involvement in arts and humanities education in our public schools. Third, the bill resolves a variety of management problems which arose during the hearings including improving pre- and post-award evaluation, increasing the rotation of panel members on the peer review panels, ensuring the expertise and representativeness of the governing councils, and also increasing the number of Governors' appointees on State humanities councils. My colleagues may recall that the House accepted several amendments offered on the floor by Congressmen ARMEY and DELAY. With the exception of the length of reauthorization, all of their language is retained in the final version. Fourth, the bill creates a poet laureate consultant and a program designed to enhance schools' civic education programming. Finally, the bill reauthorizes the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute for Museum Services for 5 years at moderate funding levels.

Let me repeat, this bill reinforces the standards of quality and excellence which is the funding philosophy for the endowments—while seeking to make art and humanities available to the broadest range of artists, scholars, and audiences. We have sought at all times to maintain the administrative and programmatic flexibility of the endowments, which allow them to respond creatively to an ever changing world. At the same time we have sought to ensure that the endowments' funding and programs are equally available to all in our society. I would add also that I encourage the National Endowment for the Humanities, in conducting its state of the arts report mandated in this legislation, to also make recommendations on appropriate efforts to continue the international cultural exchange goals of UNESCO through alternative vehicles.

This year is the 20th anniversary of the National Endowment for the Arts and the National Endowment for the Humanities. It is an important time to reaffirm our commitment to this Federal, State, local, and private partnership which has contributed so much to the vitality and awareness of the arts and humanities in this country. I urge all my colleagues to support passage of this important legislation.

FRANK SINATRA: A GENUINE HUMANITARIAN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LEWIS of California. Mr. Speaker, I rise today to once again honor a man known to all Americans as a honest, giving, and caring individual: Mr. Frank Sinatra.

Not only has Mr. Sinatra graced us with the wonders of his musical talent, he has also been extremely active in humanitarian areas, giving of himself for the benefit of his fellowman. I have had the pleasure of representing Mr. Sinatra here in Congress and have always known this to be true.

I would like to commend Mr. Sinatra for his specific contributions to the Jewish Community Center, Temple Isaiha, in Palm Springs, CA, and for his general contributions to the community and mankind.

His dedication and commitment to his community have once again been demonstrated. I join with all those who will benefit from this new center in saying thank you to Frank Sinatra, an inspiration to all.

THE FEDERAL TECHNOLOGY TRANSFER ACT OF 1985 (H.R. 3773)

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mrs. LLOYD. Mr. Speaker, I support H.R. 3773, the Federal Technology Transfer Act of 1985, also known as amendments to the Stephenson-Wydler Act of 1980. I wish to commend my colleagues on the Committee on Science and Technology for drafting legislation that will indeed enhance the Federal Government's ability to move technology developed in our national laboratories into broader areas of the national economy. The elements of H.R. 3773 that are designed to enhance the implementation of the Stephenson-Wydler Act are, in my judgment, essential to assuring that the Government's continued involvement in the technology transfer process will be to the benefit of all our taxpayers.

As chairman of the Energy Research and Production Subcommittee, I have gone on record as a strong advocate of technology transfer activities at our national Government laboratories. The Oak Ridge National Laboratory, as well as the other nuclear facilities in the Oak Ridge area, has a longstanding involvement in the technology transfer process. This past summer, the Subcommittee on Science, Research, and Technology, and my subcommittee jointly held a hearing in Oak Ridge, TN, to review the status, problems, and developments in the technology transfer activities of that region. We also received testimony from other national laboratories and agencies that have strong commitments to Federal technology transfer programs. Indeed, both NASA and the Federal Laboratory Consortium participated in these hearings and provided valuable information on the accomplishments of their respective organizations in this crucial area of Federal research and development programs. It was clear from the testimony provided to us that the accomplishments of the Federal Technology Transfer Program are real, and must be continued in order to obtain the maximum return on Federal investment in technology development activities at our national laboratories.

I am pleased to note that the contractor who is responsible for operating the Oak Ridge National Laboratory and other Oak Ridge facilities, the Martin Marietta Corp.,, has made technology transfer an integral part of their contractural obligations to the Department of Energy. They have established a Technology Innovation Center responsible for establishing new businesses in the area based upon technology developed at the Oak Ridge facilities. They have also instituted programs to reward staff at the Oak Ridge facilities for their contributions to the Technology Transfer Program. These programs were put into place by the company without a specific legislative mandate to do so. Not all Government contractors are so aggressive at marketing technology, so I believe that H.R. 3773 would provide the basis for national laboratories to participate and implement dynamic activities related to technology transfer that may, under the present legislative directions, be vague or too restrictive.

The provisions that provide statutory authority to the Federal Laboratory Consortium will serve to strengthen that organization's role as coordinator and facilitator to the national laboratories' programs in technology transfer. The witnesses at our hearings in Oak Ridge representing this consortium suggested that such statutory authority would provide the basis the organization needs to certify its role as a focal point to user organizations for Federal technology developments. Presently this organization operates on volunteer participation which, although it has functioned adequately, lacks the full authority that a legislative commitment would bring to its programs. I, therefore, support H.R. 3773 to permit the continued strengthening of the Federal programs at our national laboratories directed toward technology transfer activities.

IN SUPPORT OF A VOTER REGISTRATION RESOLUTION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LELAND. Mr. Speaker, the right to vote is one of the freedoms we cherish most in this country. It is by voting that individual citizens make their voices heard, and it is Government's responsibility to assist them in exercising this most fundamental right. Unfortunately, too few of us exercise this right, and those who do frequently find obstacles that frustrate us in the process. According to Dr. Ray Wolfinger, of the University of California at Berkeley, in a report prepared by Dr. Wolfinger and his colleague, Dr. David Glass, "The key to increasing voter turnout is registering more people to vote. Lack of interest in politics or dissatisfaction with the political system does not explain why turnout in this country is so low. In fact, Americans are more satisfied with their political system and more interested in politics than are citizens of any other nation. People elsewhere vote at higher rates because of the difference in registration systems. Only in the United States is the entire burden of registration placed on the individual."

I am committed to improving America's poor voting record and getting all eligible voters to participate in our political system. To do this, Government must play a more active role in this effort and, according to Dr. Wolfinger, the place to start is with voter registration. It is in this spirit that I present this voter registration resolution today. This resolution calls upon the U.S. Postal Service to notify the appropriate authorities in each State of the availability of postal lobbies for the display of voter registration materials.

I believe this resolution recognizes the exigencies of our society. Post offices are local, easily accessible, and are frequented by most of us on a fairly regular basis. Having the necessary voter registration information at these locations would give citizens easy access to these materials, thereby greatly increasing the likelihood that they will register and, later, vote. If this measure is successful in the near future, the Postal Service and local elections officials can organize this "access effort" in time for the spring primaries. Should this be accomplished, I believe we will see positive results—that is, increased registration and voting—in the elections of 1986.

FEE CRAZY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GARCIA. Mr. Speaker, Manufacturers Hanover Trust created a big splash recently when they announced that they were lowering the interest rate on their credit cards. However, their recent announcement has not raised the same level of excitement, and in fact seems to have been ignored by most.

Manufacturers has announced a proposal whereby customers using a teller to conduct a transaction will be charged $1.50, if their balance is less than $20,000. The explanation for this is that they are trying to encourage lower balance customers to use automated teller machines [ATM] in order to reduce costs.

Low income customers are already being penalized by many banks because they are unable to maintain the high balances required to avoid paying fees on their accounts. Some banks charge fees on savings accounts, or require a minimum balance before interest is paid, or charge a fee if the account falls below the required minimum.

Unfortunately, this seems to be another example of banks' lack of interest in their low income savers. Understandably, high balance accounts are more attractive because they generate more income for the bank, although they cost the bank more in interest payments. The purpose of savings accounts, as the name implies, is for customers to save money. But with the requirements that many financial institutions are imposing, these accounts are for anything but savings, as the customer is paying the bank to "borrow" his money. This means the banks are using these low balance accounts as interest free loans to themselves.

These fees increase the burden of saving money, and work as a disincentive to those who already find it difficult to save.

I am including an article from today's American Banker that will be interesting (and amusing) reading for my colleagues.

THREE BRITISH BANKS FOLLOW MIDLAND IN ELIMINATING FEES

(By James H. O'Connor)

LONDON.—After losing thousands of personal banking customers in the last year, three of Britain's four biggest banks are following the lead of the fourth and introducing free banking to customers who maintain a positive balance.

Two of the big banks, National Westminster Bank and Barclays Bank, are eliminating fees as of today. The third, Lloyds Bank, said it will eliminate them in March.

All are following the lead of Midland Bank, which rescinded fees for customers last year amid competition from smaller savings institutions throughout the United Kingdom. Last week's announcements by the three other big banks that they would follow suit reflect what one bank spokesman called the power of this "competitive element" in personal banking.

A spokesman for National Westminster said it had lost 60,000 customers—40,000 of them to Midland—since Midland became the first large bank to offer free banking.

"You get a feel for where your customers are going, and obviously free banking has become a competitive element," said Colin Williams, the NatWest spokesman.

Though NatWest's fee-based income will drop, some will be made up through "increased activity," Mr. Williams said.

Barclays lost 60,000 customers and Lloyds lost 36,000 customers during the last year. Many of those were attracted by Midland, which says it gained 450,000 new customers since it began the free-banking offer last year.

The bulk of those were new customers—"seed corn" accounts that NatWest and the others failed to attract, Mr. Williams admitted.

The wisdom of Midland's move a year ago has been confirmed by their competitors' decisions to follow suit, said Lawrie Jefferies, a spokesman for Midland. "The other banks, particularly National Westminster, saw they were losing out on their quota of new customers," Mr. Jefferies said.

The charges to be dropped are for current accounts. Though Midland does not charge a maintenance fee, the other three will charge about $1 per month. At the same time, the banks are slightly increasing charges to customers whose accounts are overdrawn.

But the net effect will be a higher percentage of customers avoiding fees. For example, about 49 percent of NatWest's 5.1 million customers now pay charges. That percentage is expected to drop to about 37 percent, Mr. Williams said.

Midland's research that preceded its dropping of fees indicated the strongest objections to bank fees came from higher-income customers, Mr. Jefferies said. "You'd have thought that the ones further down the scale would complain more." • • •

THE RETIREMENT OF F.A. "BUD" STEWART, CITY MANAGER OF CONCORD, CA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. MILLER of California. Mr. Speaker, this week marks the end of an era for Concord, CA, in my Seventh Congressional District. F.A. "Bud" Stewart, who has been that city's manager since 1960, is going to retire. He will be sorely missed, and we are optimistic that he will remain active in Concord affairs.

All of us in Contra Costa County—indeed, in the entire east bay region—have come to rely on Bud, both for his professional expertise and his warm, welcome friendship. From a personal perspective, I in particular am going to miss his daily presence at city hall, and I intend to continue our close friendship and our warm regard for one another. And—with his permission—I'll continue to call upon him for his extensive knowledge and his always accurate perceptions about what's really happending on the local level. No one knows Concord better than Bud.

When he first came to Concord, the city had a grand total of about 15,000 residents, and a 5-person police force. Today, Concord has over 100,000 proud citizens. There were no parks, no city hall, no civic center, or pavilion in those days. Today, under Bud's guidance, the city of Concord has acquired the parks, the civic center, and the other necessary adjuncts for the residents of a rapidly growing, prosperous community.

Yet, with Bud as the guiding influence, the city has avoided many of the afflictions that plague other urban centers. The city has become a model of fiscal soundness and clean government. Bud has earned the well-deserved respect of his colleagues in the League of California Cities, of those of us who serve as elected officials on the State or Federal level, and—most importantly—of the average citizen who lives in or near Concord.

I wish him, his wife, and his five children much happiness. We are all very, very proud of Bud and very, very grateful to him and to his family.

PROPERTY-CASUALTY INSURANCE AND TAX REFORM

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. CAMPBELL. Mr. Speaker, the following Anderson Independent-Mail article, by Clemson University economist Cotton M. Lindsay, reveals why the tax proposals concerning the property-casualty insurance industry would be burdensome for both the companies and consumers.

As noted by Mr. Lindsay, property-casualty companies had a net operating loss of $3.8 billion last year, the worst underwriting year in the history of the industry. Implementing the onerous provisions contained in the Tax Reform Act of 1985 would aggravate other problems confronting the industry and consumers, such as the affordability and availability of certain lines of insurance.

The Republican Alternative Tax Reform proposal contains a property-casualty section that is: First, real reform; second, conforms to the revenue target set by the Ways and Means Committee; third, supported by the industry.

Mr. Speaker, I trust my colleagues will carefully consider the points raised in the following article and the resulting problems should the property-casualty provisions of H.R. 3838 be enacted.

[From the Anderson (SC) Independent-Mail, Nov. 17, 1985]

ONE TAX "REFORM" THREATENS HOME AND BUSINESS INSURANCE

(By Cotton M. Lindsay)

Few disagree with the broad aims of tax reform. Those aims are to reduce tax disincentives to improved productivity, to increase our international competitiveness, to make the American tax structure fairer, and to simplify the process of paying taxes. Unfortunately, some proposals offered in the name of tax reform achieve none of these aims and may make life difficult for many homeowners and small businessmen.

Among the many worthwhile provisions of the administration's tax reform proposal is a little noticed provision to modify the way that taxes are computed for property and casualty insurance companies. This industry is facing formidable challenges that are making it difficult to meet the needs of businessmen and professionals for coverage against liability and loss. Tax revision that increases the burden on these companies can be predicted to contribute substantially to the soaring inflation in insurance costs.

In fairness, tax proposals are still under discussion in the House Committee on Ways and Means, and it remains to be seen what the final recommendations will be. As it stands now, however, the proposed changes would set up a structure that would not only drive up the amount of tax paid by the industry, but would under one recommendation tax certain types of income twice. Already beset by soaring claims and record losses, insurance companies will have no choice but to pass these taxes along to you and me in the form of higher insurance premiums.

If the industry were in a firm economic position, such proposals would cause less alarm. The fact is that this industry is experiencing great uncertainty in trying to determine what the future costs of various risks might be. Insurance companies have borne the brunt of the highest liability awards ever granted in this country. According to Forbes magazine the average product liability award in the United States just last year was $1.07 million—about three times the amount of 10 years earlier. And medical malpractice awards last year averaged almost a million dollars each.

According to the Wall Street Journal, the industry had a net operating loss of $3.8 billion last year, the worst underwriting year in the history of the industry. And Forbes reports that companies will pay out $116.10 for every $100 received in premiums, the worst losses for the industry since the San Francisco earthquake and fire.

It is tempting to say that these awards are the insurance industry's problem: after all that is what we are paying for when we buy insurance. We pay them to worry about how much we might be sued for. On the other hand, as with any business venture, if the price doesn't cover cost of the product, the product will sooner or later cease to be available.

The property and casualty insurance industry is accustomed to lengthy cycles of loss and prosperity. However, experience in recent years has been unprecedented. In eight out of the last eleven years these insurers have paid out more in claims than they have collected in premiums. This extended period of deteriorating financial performance together with the uncertainties surrounding various liabilities presents a radically new economic picture—one in which people and businesses may no longer obtain insurance against serious loss.

Already the results of this situation are apparent, and the examples are troubling. A supermarket chain had its rate increase 500 percent per store and an asbestos removal firm went to over 30 insurance companies before it could get a policy, and then could only do so at a rate of three times what it had been paying for one-tenth of the coverage. In some cases, firms have found that they simply cannot afford certain types of insurance, or could not obtain them at any price. Businesses of all sizes are experiencing premium boosts ranging from 25 percent on up.

Enter into this environment an increased tax on insurance companies. Insurance companies can afford to absorb no further losses and must pass these taxes on to the customer. In effect, people will be taxed for buying insurance. What do we obtain in exchange for this insurance tax? In effect, we will be paying more to insure our lives and property as the result of a perceived need to raise tax revenue to offset planned reductions in other areas.

Is that justified or desirable in this case? Certainly not on the basis of the case presented by its advocates. It makes administration of the tax no less burdensome or more equitable. Indeed, by taxing a portion of the income of insurance companies twice, it places an additional burden on this industry not borne by others. It places our own insurors at a disadvantage compared to underwriters of other countries, leading to a worsening of our already bleak trade balance. Finally, there is reason to believe that this added tax on insurance will fall most heavily on lower and middle income citizens and smaller businesses. Large companies can and have gotten together to organize their own insurance pools. Wealthy individuals can self insure without fear of financial ruin.

There is a rather simple economic argument to be made here, and that is this: if we want the private sector to offer and manage insurance policies, we must enable it to earn a fair rate of return—and we must establish an appropriate tax policy. The need for a more practical and more equitable tax system is without question. Individuals and businesses have labored too long under a mercurial system that is more the result of a string of quick-fix amendments than a coherent plan. Still Congress should take cautious and intelligent steps in its consideration of "reform" before it enacts a package that its members—and millions of policyholders across the country will regret.

U.N. COMMISSION CONFIRMS WIDESPREAD HUMAN RIGHTS ABUSES IN AFGHANISTAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. KEMP. Mr. Speaker, a study prepared for the U.N. Commission on Human Rights by Felix Ermacora, an Austrian law professor, confirms that massive human rights abuses are occurring in Afghanistan. Much of this was known before, but perhaps the release of this United Nations study will add credibility to the cause and help open the eyes of the world to the terrible violations and repressions committed by the Soviet Union in Afghanistan.

I hope all my colleagues will read this New York Times article and the U.N. study. And I am certain that we will all agree with the report's conclusion that we have an "urgent responsibility to find ways and means to insure respect and guarantees of human rights" in Afghanistan.

REPORT FOR THE UNITED NATIONS DENOUNCES AFGHANS ON RIGHTS

(By Elaine Sciolino)

UNITED NATIONS, New York, December 2.—Violations of human rights have become widespread in Afghanistan since Soviet forces joined the fighting there nearly six years ago, according to a report presented today to the United Nations.

The report, prepared for the United Nations Commission on Human Rights, says that violations include indiscriminate mass bombings and killings of civilians; mutilations and routine torture; the forced evacu-

ation of rural areas; the imprisonment without trial of tens of thousands of political prisoners, and religious intolerance.

The report says the actions appear intended not only to destroy opposition to the Afghan Government, but to break the spirit of an independent people and destroy the traditional family and tribal structures.

"Every hour lost is detrimental to the population and to the human rights situation in the country," wrote Felix Ermacora, an Austrian law professor who prepared the report.

WAR CALLED INCREASINGLY CRUEL

It says that the Soviet-backed Afghan Government, "with heavy support from foreign troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights violations." It says that the increasingly cruel nature of the war has been endangering entire peoples and tribes.

Mr. Ermacora, who was not allowed by the Afghan Government to visit the Government side in the war, based his report largely on evidence collected from two visits to Pakistan, where he interviewed Afghan refugees and visited hospitals.

The Afghan delegate, Mohammed Farid Zarif, condemned the commission's investigation today as interference in Afghanistan's internal affairs. He called the report a "wild and worthless piece of trash" and labeled its charges "shallow and superfluous hallucinations."

Mr. Zarif accused Professor Ermacora of pro-Nazi activities and tendencies.

The United Nations committee currently debating Mr. Ermacora's report is expected to vote later this week on a resolution introduced by a number of Western countries commending him for his report and expressing "great concern" for the violations of rights in Afghanistan.

COMMISSION APPROVED REPORT

Last February, when Mr. Ermacora presented an earlier version, the United Nations Commission on Human Rights in Geneva voted 26 to 8 to urge a halt to "grave and massive human rights abuses."

Citing Afghan witnesses, the report lists purported abuses committed against civilians since the Soviet intervention, including hostage-taking, the rape of women, the plundering of houses, the wholesale destruction of crops and forced conscription of children.

"Mosques have been desecrated, religious books destroyed and in some cases even used as toilet paper, while members of the Islamic faith have been obliged to eat pork and to drink alcohol," Mr. Ermacora wrote. He added that rural populations suffered from starvation and disease because the Government withholds food and medicine."

The report says that toy bombs shaped like pens, birds, harmonicas, radios or matchbooks were being dropped from helicopters to maim children. Mr. Ermacora calls these actions "totally out of proportion to any military requirement."

Although the report does not specifically mention the estimated 115,000 Soviet troops stationed in Afghanistan, Western diplomats consider it the first major instance in which the United Nations has documented human rights violations committed by the Soviet Union.

The report concluded that international organizations have "an urgent responsibility to find ways and means to insure respect and guarantees of human rights" in Afghanistan, including the right of four million refugees to return home.

THE JOB TRAINING PARTNERSHIP ACT IS WORKING—RICHARD BUSSA AND COMMUNITY ACTION ORGANIZATION HONORED

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. McEWEN. Mr. Speaker, it is a pleasure to take this opportunity to bring to the attention of my colleagues the recent certificates of achievement presented to Richard Bussa, Director of the Community Action Organization of Scioto County, OH, and other outstanding community servants who administer the programs of the Job Training Partnership Act.

In an award ceremony held November 15, 1985, Mr. Bussa; Charles Blythe, director of the Adams-Brown County JTPA programs; Cindy Wise, assistant director of JTPA programs; Mike Yochum, vice chair of the Private Industry Council; and Marvin Keller, chair of the Chief Elected Officials for Service Delivery Area 18 were each honored in recognition of outstanding performance in the operation of two programs operated under the Job Training Partnership Act.

These programs, administered through the Community Action Organization, have outstanding success records for service to the Scioto County area. One program, designed to aid workers 55 years of age, is geared to employer need and applicant aptitude giving great consideration to individual needs. The older jobseeker is assessed for personal abilities and placed directly into employment opportunities or trained with new skills.

The Direct Care Aide Program has an equally outstanding success record. Forty-one JTPA sponsored trainees completed the 12-week course and have gone directly to work for various mental retardation and developmental disability facilities. Each of these 41 trainees came to the JTPA program economically disadvantaged; many are now commanding hourly wages of $7.50 or more in supervisory staff positions with full-time career opportunities. Others have gone on for further education and college credit.

I commend the successes of Mr. Richard Bussa, and all those who have contributed to the Job Training Partnership Act in southern Ohio, to my colleagues. The Congress approved the Job Training Partnership Act [JTPA] in 1982 with my support and was implemented in 1983. It is federally funded and administered by the States. During its first year, JTPA funneled more than $3 billion in Federal funds to local programs. The guiding philosophy behind JTPA is to permit local sponsors the widest possible latitude in determining the type of training needed and the target groups that should be served. This particular employment effort allows all age groups to participate and to acquire the necessary job skills.

On behalf of all those who have benefited from the wisdom and dedication of Mr. Bussa, Mr. Blythe, Ms. Wise, Mr. Yochum, and Mr. Keller—and all those who administer these important programs—we offer our sincerest thanks and congratulations.

THE REAL RAMBO IS ON THE BLACK WALL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. WILLIAMS. Mr. Speaker, recently the San Francisco Examiner printed a column by Mr. Rob Morse. The Arthur Rambo to whom he refers was a Montanan. Following is Mr. Morse's column:

[From the San Francisco Examiner, Oct. 9, 1985]

WAR IS SWELL?

(By Rob Morse)

TOYS ARE US: If you are a parent who wants to poison your child's mind, you probably are eagerly awaiting the release of Coleco's new Rambo doll. Well, "doll" is the wrong word. The company, which brought us the unRamboid Cabbage Patch Kids, describes its new product as "action figure, action figure accessories and other play items."

Of course, we civilized persons curse Coleco Industries Inc. of West Hartford, Conn. But Michael P. Felker, who served as a hospital corpsman with the Marine Corps in Vietnam, cursed them best. His letter to Coleco contained the following suggestions for marketing its new product: "The Rambo doll should have removable hands, feet, legs and arms, to be interchangeable with miniature prostheses—tiny mechanical hooks and limbs. As a 'play item,' Coleco should also manufacture a little electric wheelchair to move the Rambo doll from one room to another after he's been paralyzed from the waist down by a piece of 'play' shrapnel from 'friendly fire.'"

Felker also suggests that Coleco make spray cans of Agent Orange "enabling children to make an American back yard look like Vietnam in a matter of minutes," as well as a "Battered Barbie" doll, who would suffer the consequences of the Rambo doll's "flashbacks and bouts of rage from Post Traumatic Stress."

Really, Felker has more than a bitterly satiric point. If toymakers are going to have our children revisit Vietnam, why create them of the complexity of the real experience?

A Coleco spokeswoman replied to Felker's letter by saying that their Rambo ("a new American hero") would not portray the plot or actions of the film, but will encourage "imaginative and constructive play." With a little M-60 machine gun, no doubt. Rambo without an M-60 is like a Cabbage Patch Kid without adoption papers.

Felker ended his letter to Coleco with a mention of a real Rambo, Sgt. Arthur John Rambo. Nov. 26 will be the 16th anniversary of Rambo's death in combat in Vietnam. So come November, when your kid is bugging you for a Rambo doll, tell him about the Rambo whose name is up in black marble instead of bright lights.

JULIE BRENNER: SMALL BUSINESS PERSON OF THE YEAR

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. FEIGHAN. Mr. Speaker, each year, under the auspices of the Small Business Administration, the Nation recognizes its outstanding small business owners and operators with Small Business Person of the Year Awards. These entrepreneurs are recognized for their extraordinary personal achievements and for their contributions to their communities—the enrichment they bring by creating rewarding jobs, high-quality products and services, and imaginative leadership.

I am honored to be able to nominate Mr. Julius Brenner to receive the Small Business Person of the Year Award. As the chairman of the board of Ohio Diesel Technical Institute, I believe Mr. Brenner exemplifies the personal characteristics and business performance indicators that this award represents.

Mr. Brenner founded Ohio Diesel Technical Institute in 1969. It was accredited by the National Institute of Trade and Technical Schools in 1973. When the school received accreditation, it occupied about 1,000 square feet of a building in downtown Cleveland. After several expansions, Ohio Diesel moved into a building in 1976 previously occupied by White Motors. The building had about 225,000 square feet of space. This year, Ohio Diesel Technical found the need to expand by building an additional 25,000-square-foot structure on an adjoining parcel of property.

Today, the school has approximately 60 employees, a growth of over 100 percent since 1976. It has an enrollment of approximately 600 students who are involved in training programs ranging from 9 to 18 months in duration. Students are taught, through a hands-on method, diesel mechanic skills and auto mechanic skills with a specialization in electronic components.

Ohio Diesel Technical Institute has become a vital part of the economic growth of Greater Cleveland. Each year it brings approximately 500 out-of-State students to the school, located in the heart of Cleveland. The mere presence of these students lends itself to the economic stability of the area. In addition, the commitment of Ohio Diesel to expand its building and operation in an economically depressed area has become a confidence builder to other local firms.

Of last year's 547 graduates, 485 are reported to be working in promising careers throughout the United States. In a day and age when the skills level and commitment of the American workforce has been questioned, it is encouraging to read the many letters from employers hiring Ohio Diesel graduates. Mr. Brenner has provided an incubator where the skills requirements of private industry and the career training interest of students are allowed to mature to a perfect match. He has set a course for his school that thrives on productivity.

In addition to his successful business, Mr. Brenner participates in a wide variety of community activities. He is man who is driven to improve our community for future generations.

Mr. Brenner is certainly worthy of your consideration for this award. He exemplifies the high qualities and standards you have set for the recipient of the Small Business Person of the Year Award.

ECONOMIC POLICY IN THE REAGAN ADMINISTRATION

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. HARTNETT. Mr. Speaker, the Honorable James C. Miller, Director of the Office of Management and Budget, recently addressed the Strom Thurmond Institute at Clemson University, Clemson, SC, regarding the economic policy of the Reagan administration. I would like to share his comments with my colleagues by inserting his speech in the RECORD.

The speech follows:

ECONOMIC POLICY IN THE REAGAN ADMINISTRATION

(By James C. Miller III, Director, Office of Management and Budget)

Thank you very much. It's an honor to be with you. As you may know, I've only been Director of the Office of Management and Budget for five weeks. On taking this promotion, my hourly pay was cut in half, and I inherited a $200 billion deficit. It's a wonder the President would accept economic advice from a person who makes decisions like that!

Ladies and gentleman, all kidding aside, I'm delighted to be here to participate in this tremendous tribute to one of South Carolina's greatest ever political leaders—Senator Strom Thurmond. It has been my great honor and pleasure during the past four-and-a-half years to work closely with Senator Thurmond on a variety of issues, and I can tell you from personal experience: he is a man of integrity, of principle, and of undying loyalty to this country! The Free World is safer because of Strom Thurmond. And I'm proud to know him as my friend.

I'm also pleased to have a chance once again to visit this campus. I have lots of friends here—Bruce Yandle, Matt Lindsay, Ryan Amacher, Roger Meiners; I can't mention them all. But one special friend does deserve more than passing mention, and that is Horace Fleming, the distinguished Director of the Strom Thurmond Institute. I have known and admired Dr. Fleming for nearly a quarter of a century—most recently as a scholar and leader of the institute, and before that as an effective and thoughtful public servant working with Senator Thurmond in Washington. But I really got to know Dr. Fleming when we both played trumpet in the University of Georgia Redcoat Marching Band. All told, it certainly was best for the music profession that we both found other jobs.

Now, with your permission, ladies and gentlemen, let me turn to today's topic. What I'd like to talk about is this Administration's economic policy. As an economist, I have a great deal of pride in the Reagan Administration's economic accomplishments. I believe, moreover, that today's supposed "disarray" in the economics profession is hiding a very broad consensus. It is a consensus that is materially different from that which characterized the profession's attitude a decade earlier. And it is a consensus that is thoroughly consistent with—and in fact underlies—the Reagan Administration's economic agenda.[1] That agenda is based on what I call "real economics". It emphasizes the effects of government policies on incentives and the allocation of resources in a competitive marketplace. Thus, real economics is in sharp contrast with the demand-management, command-and-control approaches of decades past.

What does this renewed emphasis on supply-side fundamentals imply? Let me give you a few examples, beginning with fiscal policy.

Obviously, the Federal deficit can be "explained" as a matter of inadequate tax revenues. And some would have you believe the solution, therefore, is simply to raise taxes. But real economics reminds us that the challenge is not just to reduce the deficit, but to close the gap in a way that doesn't interfere with economic growth and prosperity. Once the problem is framed in this manner, we see that simply raising taxes is not an appropriate solution, however superficial its appeal. For one thing, every increase in taxes leads to a considerable waste of real resources because of distortions in the price mechanism. Experts peg this figure as high as 50 cents wasted for every dollar of additional tax revenue generated.[2,3] Political leaders can generate support by increasing expenditures or cutting taxes, creating many winners and few losers. Since every legislator is in a position to try to confer benefits on his or her favored constituencies, the incentive for any individual legislator to refrain from such behavior is virtually nonexistent. To do so would involve foregoing political support, without materially affecting the deficit. Moreover, because borrowing leads us to underestimate the costs of public services, we consume more of them than we othewise would—at the expense of unborn generations of taxpayers.

If the incentives for this kind of fiscal behavior are so strong, why haven't we always run large deficits? The answer seems to be that for most of our history government was constrained by a widely-held belief that it was bad policy—almost immoral—to finance government expenditures by borrowing on a routine basis. We restricted the use of borrowing to emergencies—wars and recessions—and retired much of the accumulated debt at other times. Following the

[1] See generally Stuart M. Butler, Michael Sanera, and W. Bruce Weinrod, *Mandate for Leadership II* (Washington: The Heritage Foundation, 1984), especially pp. 3-8.

[2] See, for example, Charles Stuart, "Welfare Costs Per Dollar of Additional Tax Revenue in the United States," "American Economic Review" (June 1984), pp. 352-362; "Economic Report of the President" (February 1985), pp. 72-73; and Charles L. Ballard, John B. Shoven, and John Whalley, "General Equilibrium Computations of the Marginal Welfare Costs of Taxes in the United States," "American Economic Review" (March 1985), pp. 3-8. Instead of raising taxes—which in my view is simply throwing in the towel—we need to revise a solution that addressed the fact that most modern democracies have strong incentives to engage in excessive deficit financing of public expenditures.

War Between the States, for example, we ran surpluses for 28 consecutive years; and after World War I we had 11 consecutive surpluses. Even as recently as the 1947-to-1960 period, when fiscal discipline was becoming harder to maintain, we had seven years of surplus and roughly balanced the budget over the entire period. Since 1961, however, we have run a surplus only once—in 1969.

I should note here for the record that the major problem has not been lack of income, for government revenues have risen in line with the economy. Rather, the problem has been that spending has outpaced the economy, although the growth of domestic spending has been slowed somewhat during the Reagan years.

It seems that over the last few decades, as the budget has come to be viewed as a tool for macroeconomic stabilization, deficits have become respectable. Since the old-time religion of fiscal responsibility is obviously no longer effective, we need something to replace it. Because, quite simply, without some sort of constraint—procedural, constitutional, or moral—large deficits and excessive spending are the logical outcome of people's pursuing their self-interest within the existing institutional framework.

This is why a new proposal now being widely debated on Capitol Hill is so important. That legislation, co-sponsored by Senator Gramm of Texas, Senator Rudman of New Hampshire, and Senator Hollings of your native South Carolina mandates that we move to a balanced budget gradually over the next five years. It provides a much-needed procedural mechanism to constrain our spending habits. After that, of course, we have hopes that one of Senator Thurmond's favorite goals—a balanced budget amendment to the U.S. Constitution—will finally be in place.

The most innovative feature of the Gramm-Rudman-Hollings deficit reduction plan is its "club in the closet"—its automatic provision that mandates across-the-board cuts in most areas if the normal political process does not achieve specified, declining levels of the deficit. That provision has caught the headlines. But both we in the Administration and the authors of the proposal in Congress believe that this club will itself induce discipline and thus need never be used. If enacted, Gramm-Rudman-Hollings would impose new constraints on the political system that did not exist before. There would be every incentive on both the President and Congress to achieve the necessary deficit reduction in a rational way and avoid the triggering of an automatic formula that treats every program alike.

What about the other side of the fiscal policy coin—taxes? The current push for tax reform stems from a recognition of how much harm is done by the current system's high marginal rates and its questionable preferences. That flat-tax proposals have been advanced by leaders of both major parties and at both ends of the political spectrum is, to my mind, a powerful confirmation of how firmly the perspective of real economics has taken root in Washington over the last few years.

Real economics is as relevant to regulatory policy as it is to fiscal policy. For example, the Department of Commerce recently estimated that private industry spent $60 billion complying with environmental regulations during 1981.[4] Now I ask you: are we really getting our money's worth from this vast commitment of resources?

While some might disagree over whether environmental regulations have been too strict or too lenient, almost everyone would agree we could be getting much more for our environmental dollar under a market-based system than under the inflexible command-and-control system mandated by Congress. As I have noted elsewhere, the task of developing a social contract that would enable us to move in the direction of much more cost-effective approaches based on real economics is one of the most important policy challenges we face today.[5]

Ladies and gentlemen, a year ago, President Reagan was reelected in one of the greatest landslides of American political history. Since then, we have heard endless speculation and debate on whether this was truly a "realigning election." Will future generations look back on the Reagan victories of 1980 and 1984 as we now look back on the Roosevelt landslides of 1932 and 1936—regarding them as decisive turning points in our political history?

I am not an expert in polls or public opinion. But having spent a good deal of time in Washington policy circles, it seems plain to me that we have, in fact, entered a decidedly new era in national policymaking in the years since 1980. It is easy to lose sight of this if you focus too much on Capitol Hill squabbles over the policy issue of the moment. It is even easier to lose sight if you fix all your attention on the intellectual sparring of Neo-Keynesians, Monetarists, and Supply-Siders in the rarefied heights of the academy. But if you step back from the daily wrangling of political leaders and look beyond the doctrinal disputes among the schools, you can see that, indeed, we have developed a surprisingly broad consensus on the proper direction of national economic policy. And I believe the recent election results have confirmed popular support for that direction and for the real economics on which it is based.

As I've tried to convey here today, real economics focuses on the actual incentives of actual people to invest, to supply work effort, and thus to enhance the production and delivery of goods and services. Real economics means not taking economic growth for granted. It means keeping uppermost in mind the effects of government policy on the suppliers of real goods and services in the economy, where the engines of growth are actually fueled and primed.

Why do I associate the emergence of this policy perspective with electoral realignment? Well, what was the realignment of the 1930s all about? It did not ensure that Democrats would always be elected to the White House or dominate the Congress thereafter—for, of course, they didn't. Nor did it ensure that every one of President Roosevelt's particular programs would remain a permanent fixture in government—for, in fact, Roosevelt abandoned many of them in short order. But it seems to me that Roosevelt's great electoral victories did cement the guiding themes of the New Deal into national policy: establishing a Federal responsibility to provide for those in desperate peril, a Federal responsibility to rescue the economy from a tailspin, and a Federal responsibility to preserve confidence in basic institutions. The New Deal established these broad policy legacies because it succeeded in rallying the overwhelming majority of Americans to its vision of an active Federal role in restoring confidence to the economy. And what made Roosevelt's electoral victories so decisive or realigning was that they forced his opponents to accept the broad outlines of this vision and fight out particular policy battles within its range.

By the 1970's the lessons of the New Deal had been overlearned in Washington, with Federal efforts to shelter and protect taken to quite bizarre extremes in some fields. The persistent stagflation generated perhaps even more anxiety and unease about the future than actual economic pain at the time—though there was certainly enough of that to rouse the voters. Ronald Reagan's landslide victory in 1980 was plainly a vote of no-confidence in the policies of the 1970s, just as Roosevelt's great victory of 1932 expressed public resentment at the failures of his predecessor. And it seems to me the restoration of confidence in public institutions and in ourselves was the crowning achievement of Ronald Reagan's first term, just as it was for Roosevelt.

Confidence was certainly the issue in 1984. President Reagan's Democratic challengers could not deny his success in powerfully curbing inflation and then restoring an impressive rate of growth to the economy. But they continually questioned whether this was not, after all, merely a fluke or a lucky break—with catastrophe just around the corner. The results of November 6th a year ago showed the voters, at least, did not think so. They may not have endorsed all the claims of the "supply-siders" or voted for any particular monetary strategy, but I do think they responded to the overall vision of the Reagan Administration, with its reemphasis on fundamentals. I think voters really were sold on the idea that while government can play a valuable role as a backstop for the economy, sustained growth comes only form the voluntary actions of private investors and producers, responding to real incentives.

In my view, it is not too much to claim that the 1984 landslide constituted a great popular endorsement of real economics. Accordingly, I believe we will continue to see most policy disputes occurring within the broad lines of this perspective over the next decade and beyond.

Let me say in closing that the intellectual revolution just described has been greatly facilitated by the dedicated efforts of scholars and policy analysts such as those associated with the Strom Thurmond Institute and Clemson University. Recall it was Lord Keynes who told us that "the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas."[6] With your help, real economics will continue to shape America's agenda for progress.

Thanks again!

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[3] See, for example, James M. Buchanan and Richard E. Wagner, "Democracy in Deficit: The Political Legacy of Lord Keynes" (New York: Academic Press, 1977); Richard E. Wagner, Robert D. Tolison, Alvin Rabushka, and John T. Noonan, Jr., "Balanced Budgets, Fiscal Responsibility, and the Constitution" (Washington, D.C.: Cato Institute, 1982); and James M. Buchanan, Charles K. Rowley, and Robert D. Tollison, eds., "Toward a Political Economy of the Deficit" (Oxford: Basil Blackwell, forthcoming).

[4] Gary L. Rutledge and Suzan Lease-Trevathan, "Pollultion Abatement and Control Expenditures, 1972-81," Survey of Current Business (February 1983), pp. 15-23.

[6] John Maynard Keynes, "The General Theory of Employment, Interest and Money" (London: Macmillan & Co., Ltd., 1936), p. 383.

A TRIBUTE TO DR. RALPH GUZMAN

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. ROYBAL. Mr. Speaker, I would like to extend a few remarks today in honor of my personal friend and colleague, Dr. Ralph Guzman, who passed away this October. Dr. Guzman's untimely death has deeply saddened his students at the University of California at Santa Cruz, where he taught political science and public policy, as well as his former colleagues at the Department of State where he served as special advisor on Central and South American affairs under President Carter.

Dr. Guzman, a native Californian, served as one of the finest role models in the Mexican-American community. Through his diligence and ambition, Ralph Guzman worked his way from agricultural field hand to foreign policy advisor to the President. Along the way, he contributed his knowledge, time, and compassion to the Peace Corps, the civil rights movement, his own community, and his country while serving 4 years in the Navy. He received his education through the California state university system, and became a published author and journalist.

Dr. Guzman carved a path of success for himself and other Hispanics when very few of those paths were even open to Hispanics. He was an idealist who did not believe, and would not accept, those divisions of race and economic class which had for so long subdued and crushed the American dream for many minority Americans. We will remember his achievements and attempt to emulate his accomplishments. Above all, we will miss Ralph Guzman, statesman, author, teacher, friend.

ETTIE ARAH McCARVER, CELEBRATES 100 YEARS

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. DOWDY of Mississippi. Mr. Speaker, I would like my colleagues in the House of Representatives to join me in extending best wishes to Mrs. Ettie Arah McCarver of Ecru, MS, on the occasion of her 100th birthday.

The Governor of Mississippi issued a proclamation setting aside December 14, 1985, as a day in honor of Mrs. McCarver.

Mrs. McCarver is the mother of nine children and also has several grandchildren and great-grandchildren. She is a life-long resident of Pontotoc County. I know that my colleagues in Congress join me in wishing Mrs. McCarver a very happy birthday, one which she will enjoy celebrating with her family and friends.

HUMAN RIGHTS IN NAMIBIA

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. SILJANDER. Mr. Speaker, the focus of human rights concern in southern Africa on Human Rights Day 1985, is, of course, chiefly on South Africa itself, where several hunderd persons have died over the past year in both black-on-black violence in most of the country's major urban areas and in clashes between urban black youths and the South Africa police. All Americans who care about the fate of South Africa's people pray that the Government of South Africa and the groups now challenging its authority will find common ground on which to build social, economic, and political structures providing for broader participation in the process of government in that country, which will end the violence and establish a new legitimate order founded on generally acceptable principles of human rights.

Lost in the welter of our concern about violations of human rights by all sides in the South African drama, are the impressive and encouraging steps taken in neighboring Namibia to found that country's political system on a bill of rights guaranteeing basic civil, political, and procedural rights to all its citizens, irrespective of race, sex, color, or creed, and setting social and economic goals for the Namibian Government consistent with the finest traditions of representative democracy. These steps, begun in the Multi-Party Conference's bill of fundamental rights and objectives, adopted in Windhoek on April 18, 1984, and embodied as the standard of legislative competence of the National Assembly of Namibia's Transitional Government of National Unity, inaugurated under Proclamation R-101, 1985 on June 17, 1985, offer hope to those of us who believe that bills of fundamental rights, responsive to humanity's consensus about the basic rights of all people, and carefully crafted to meet the special needs of each nation, are capable of providing a nationally acceptable and universally decent, normative standard for the governments of culturally heterogenous, developing societies. This brave experiment in providing for the underpinnings of representative democracy in Namibia as that country moves toward independence, deserves our enthusiastic support, both because of its intrinsic merit and because it offers the hope that a similar approach might, if successful in Namibia, be applied in South Africa as well.

It is also worth noting that the Cabinet of the Transitional Government of National Unity, consisting of the representatives of six major political groupings in Namibia, has, since its accession to power in June this year, sharply reduced the numbers of persons held in detention, despite a continuing guerrilla insurgency by the Soviet-backed South West Africa People's Organization, which is characterized by deeds of both rural and urban terrorism in northern Namibia. The Cabinet, moreover, recently announced the release of 22 Namibians who had been sentenced to prison by courts in South Africa and Namibia for acts motivated by their political beliefs.

These steps, together with the Cabinet's continuing efforts to provide national reconciliation in Namibia and to persuade SWAPO to abandon its attacks on Namibian civilians and join the movement toward reconciliation and independence for that country, show clearly that this transitional government is not merely paying lip service to human rights, but striving mightily to implement the principles it has espoused.

Mr. Speaker, with your permission I shall include with my statement the rest of the Multi-Party Conference's bill of fundamental rights and objectives, to give my colleagues an opportunity of studying this exemplary document.

MULTI-PARTY CONFERENCE OF SOUTH WEST AFRICA/NAMIBIA

NAMIBIA MULTI-PARTY CONFERENCE BILL OF FUNDAMENTAL RIGHTS AND OBJECTIVES, APRIL 1984

Preamble

Independence:

Whereas we the people of South West Africa/Namibia desire Independence free from outside domination and direction and wish to constitute our own government;

Peace Reconciliation:

Whereas we likewise urgently desire national Reconciliation and lasting Peace;

Individual Rights:

Whereas we are united in the belief that all men are born free and equal and endowed by their Creator with human dignity and inalienable Rights;

Diversity:

Whereas lasting peace, stability and progress depends on the recognition of and respect for the rights of all in the prevailing cultural, linguistic and religious Diversity of our society;

Unity:

Whereas it is the desire of the people to achieve Unity in that diversity with common loyalties to a single state;

Purpose and Powers of Government:

Whereas Governments are instituted among men for the Purpose of promoting the safety and welfare of the people, from whose consent those governments derive their Powers and capacities;

Now therefore, we, the people of South West Africa/Namibia, claim and reserve for ourselves and guarantee to our descendants the following Fundamental Rights which shall be respected and upheld by our successive governments and protected by entrenchment in the Constitution:

Fundamental Rights

Article 1. The Right to Life

Everyone has the right to life. No one shall be arbitrarily deprived of his life. The sentence of death may only be executed pursuant to a final judgment by a competent court in respect of the most serious crimes in accordance with the law. Nothing in this article shall be invoked to prevent the abolishing of capital punishment by any future Government should they decide to do so.

Article 2. The Right to Liberty, Security of Person and Privacy

No one shall be subject to arbitrary arrest or detention.

No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.

No one shall be detained for an indefinite period of time without a fair and proper trial by a Court. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

No one shall be subjected to arbitrary interference with his privacy, the privacy of his home, correspondence or communications. Everyone has the right to protection of the law against such interference.

Article 3. The Right to Equality Before the Law

Everyone shall be equal before the law and no branch or organ of government nor any public institution may prejudice nor afford any advantage to any person on the grounds of his ethnic or social origin, sex, race, language, color, religion, or political conviction.

Article 4. The Right to a Fair Trial

In the determination of his rights and obligations in a civil action and of any criminal charge against him, everyone is entitled to a fair and public hearing by an independent, impartial and competent court established by law; provided that such a court may exclude the press and the public for all or any part of the trial, for reasons of morals, the public order or national security. Any judgment rendered in a criminal or civil action shall be made public, except where the interest of juvenile persons otherwise requires. Everyone charged with an offense has the right to be presumed innocent until proven guilty according to law, after having had the opportunity of presenting witnesses in his favor and cross-examining those testifying against him. Everyone shall be afforded adequate time and facilities for the preparation and presentation of his defense, before the commencement of and during his trial. Everyone shall have the right of access to legal counsel in the event of charges being preferred against him.

No one shall be tried, convicted or punished again for an offense for which he has already been tried and convicted or acquitted in accordance with the law.

No one shall be tried or convicted for an offense on account of an act or omission which did not constitute an offense at the time at which it was committed, nor shall a penalty be imposed exceeding that which was applicable at the time when the offense was committed.

Article 5. The Right to Freedom of Expression

Everyone has the right to freedom of expression of opinion, conscience and religious belief, including freedom to seek, receive and impart information and ideas through the press and other media. This right shall be limited only by the obligation to ensure that such expression does not infringe upon the right of others, impair the public order or morals, or constitute a threat to national security.

Article 6. The Right to Peaceful Assembly

Everyone has the right to freedom of assembly for peaceful purposes. No restrictions shall be placed on this right except those which, being necessary for the protection of public order, health or morals or the rights of others, are properly prescribed by law.

Article 7. The Right to Freedom of Association

Everyone has the right to associate with any other person or group. No one may be compelled to or prevented from associating with others. Everyone has the right to form and to join trade unions for the protection of the interests of employees. No restrictions shall be placed on this right, except those which, being necessary in the interests of national security, public order, public health or morals, and the protection of rights of others, are properly prescribed by law.

Article 8. The Right to Participate in Political Activity and Government

Every citizen shall have the right to participate in peaceful political activity intended to influence the composition and policies of the government. Every citizen shall have the right to form and join political parties and, subject to proper qualifications prescribed by law, to participate in the conduct of public affairs, whether directly or through freely chosen representatives. The exercise of the right to participate in political activity shall be limited by the obligation to refrain from any advocacy of ethnic, racial or religious hatred and incitement to discrimination, hostility and violence.

Article 9. The Right to Enjoy, Practice, Profess, Maintain and Promote Culture, Language, Tradition and Religion

All ethnic, linguistic and religious groups and all persons belonging to such groups, shall have the right to enjoy, practice, profess, maintain and promote their cultures, languages, traditions and religions, insofar as these do not infringe upon the rights of others or the national interest.

Article 10. The Right to Freedom of Movement and Residence

Everyone lawfully present within the borders of the country shall have the right to freedom of movement and choice of residence subject to the obligation not to infringe upon the rights of others and to such provisions as are properly prescribed by law in the interests of public health and public order. No citizen shall have the right to leave the country in accordance with the procedures properly prescribed by law.

Article 11. The Right to Own Property

Everyone has the right to acquire, own and dispose of moveable, immoveable and immaterial property, alone or in association with others. Everyone shall have the right to leave his property to his heirs or legatees. No one shall be arbitrarily deprived of his property. Expropriation shall only be permitted in the public interest and if properly authorized by law. Fair compensation shall be payable in all cases of expropriation.

Article 12. Enforcement of Fundamental Rights

The enumeration, in this Bill, of certain specific rights, shall not be construed as denying, limiting or disparaging other rights retained by the people.

Any legislative, executive or judicial act at variance with the provisions of the Bill, may be declared null, void and of no effect by order of the Supreme Court and any person who may suffer any disadvantage as a consequence of such an act, shall be entitled to legal redress.

No fundamental right listed herein, may be repealed, excluded or modified in any way so as to affect its substance or intent.

Where any fundamental right is properly limited by legislation, such legislation must have a general character and not be limited to a single case.

All branches and organs of government shall conduct themselves in all their legislative, executive and judicial acts in accordance with the principles enshrined in this Bill.

All persons are entitled to the rights enumerated in this Bill, without distinction on the grounds of race, color, sex, language, political or other opinion, religion, ethnic or social origin, birth or other status.

Any person may apply to the Supreme Court by appropriate proceedings to enforce the rights conferred under the provisions of this Bill.

The Supreme Court shall have the power to make all such orders as may be necessary and appropriate to secure to the applicant the enjoyment of any rights conferred under the provisions of this Bill.

Any law in force on and continuing in force after the date on which the provisions of this Bill come into operation may be submitted by any governmental authority to the Supreme Court for a ruling on the compatibility of such law with the fundamental rights enumerated in this Bill, and if such a law has been so submitted for a ruling, no proceeding based on any provision of such law may be instituted under paragraph 7 of this article until the Supreme Court has given its ruling and a period of six months has elapsed after the date of the ruling.

For the purpose of the hearing and adjudication of any proceedings contemplated in this article, or otherwise based upon the provisions of this Bill, the Supreme Court shall be constituted and sit as a Constitutional Court in accordance with the provisions of the laws governing the Supreme Court.

An independent Parliamentary Commissioner (Ombudsman) shall be appointed by the Parliament for the investigation and settlement through negotiation and mediation of complaints by individuals of infringements of their fundamental rights, arising from administrative practices or actions, provided the infringement in question is not the subject of proceedings instituted in the Supreme Court as contemplated in this article. The Parliamentary Commissioner shall report annually in writing to Parliament and to such organs of government as are affected by his activities, and shall include in such reports those recommendations he may consider necessary.

Fundamental Objectives

We, the people of South West Africa/Namibia, further wish to record our determination, and to commit our Government to ensure:

(a) That every person within our country shall enjoy the opportunity to free and full development of his personality in the exercise of those duties and responsibilities which he owes to the community;

(b) That the family, as the natural and fundamental group unit of society, is afforded protection by society and the state;

(c) That in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, health and the general welfare and national security of a democratic society.

And, mindful of the existence of certain other social goals whose achievement is essential if we are to create the type of na-

tional and democratic society to which we aspire, we hereby require our Government to do all in its power to achieve;

1. The establishment and maintenance of a sound and dynamic economic system capable of providing for the needs of all in our society;

2. The opportunity to work, to exercise free choice of employment and to enjoy just and favorable conditions of work and employment; protection against unemployment; and equal pay for equal work;

3. A standard of living adequate for the health and well-being of each person and family unit, including food, housing, medical care and essential social services, and a measure of protection against the consequences of sickness, disability, widowhood and old age;

4. Access to education for all and the opportunity to attain the highest possible standard of education directed at the full development of the human personality and preparation of gainful employment; that higher education shall be equally accessible to all on the basis of merit; that elementary education shall be free and compulsory, the liberty of parents, and when applicable legal guardians, to choose for their children the type of schools and the direction of education will be protected.

5. The opportunity for all to participate fully in cultural activities, to enjoy the arts, and to share in scientific advancement and its benefits; and protection of the moral and material interest of authors in their scientific, literary and artistic productions.

CAPT. HENRY M. KLEEMANN, AMERICAN HERO

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. WHITEHURST. Mr. Speaker, I want to take a moment to remember a great American who, on December 3, 1985, gave his life while serving his country. Capt. Henry M. Kleeman of the U.S. Navy was killed in a tragic aircraft accident. At the time of his death he was the commanding officer of Air Test and Evaluation Squadron 4 located at NAS Point Mugu, CA.

Hank Kleemann was no ordinary individual. His untimely death shocked us. He devoted his entire life with boundless energy to this great land of ours—precious few have done as much. An outstanding graduate of the U.S. Naval Academy, Hank pursued a childhood dream—a longing to fly. After flight training he sought duty in Vietnam, where he distinguished himself and honored his country in combat, flying 128 combat missions in the F–4 Phantom fighter from the deck of the aircraft carrier U.S.S. *America*. Hank's career has been replete with individual honors and distinctions. Because of his immense insight, his extremely gifted flying skills, and his untiring conscientious manner, he became the Navy's lead test pilot for the F–14A Tomcat. This outstanding fighter is in part a tribute to Hank's selfless efforts. The major upgrade of this fighter plane, the F–14D, is perhaps due more to his individual efforts than to any other person.

Hank Kleemann will be remembered as an overachiever in a very quiet and unassuming way. He was a man of few words with great presence. He never took credit for his accomplishments; he repeatedly credited his successes to the efforts of others.

In August 1981 Hank's actions were heard around the world. He acted for his country in a flawless manner. As commanding officer of Fighter Squadron 41 aboard U.S.S. *Nimitz* he was on a routine training flight over the Gulf of Sidra when two Soviet-built fighter aircraft (SU–27 Fitters) flown by Libyan pilots made an unprovoked attack on Hank and his wingman. A short dogfight ensued. Hank and his wingman quickly saddled-in and disposed of the attackers. Thanks to Hank Kleemann, Americans stood proud. The score was America two, Libya zero! The motto on the Tomcat logo, "Anytime Baby," reflected American sentiment throughout the land. This single incident reinstilled pride in being American.

Hank was born in Bloomington, IL, and was graduated from high school in Clinton. He has maintained a home in Virginia Beach, VA, for a dozen years. His awards include the Distinguished Flying Cross, the Meritorious Service Medal, seven air medals, Navy Commendation Medal, Navy Achievement Medal and various campaign/service medals.

Hank is survived by his lovely wife, Carol. Their sons are Steven and Michael and their daughters are Susan and Katherine. Mr. and Mrs. Kleemann, his parents, reside in Clinton, IL.

From time to time Hank quoted President Theodore Roosevelt, and one of his favorite sayings was "You have never lived till you have almost died; for those who fight for it, life has a flavor that the protected will never know."

Dear friend, Hank, you knew the full flavor of life. God be with you till we meet again.

A TRIBUTE TO DOROTHY HEIGHT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Dorothy Height, a courageous and truly grand woman. She has been a crusader for equality and justice for more than 50 years. As chairwoman of the National Council of Negro Women, she remains at the forefront of the civil rights movement.

Few members of our community have so devoted themselves to bettering the lives of others as has Dorothy Height. She has been a central figure among the courageous black leaders of our time, counting Martin Luther King, Jr., Whitney Young, and Roy Wilkins among her peers and coworkers. Pioneers always stand apart from others, and Dorothy Height surely has been a pioneer.

I would hope, Mr. Speaker, that my colleagues will read the following article describing the accomplishments of Ms. Height. She is an inspiring symbol of the American spirit, and her compassion should be used as a model for our young people to follow. It is with great pride that I honor her today before my colleagues. She truly deserves our praise.

The article follows:

[From the Washington Post, Nov. 15, 1985]

CALL OF THE WOMAN WARRIOR

DOROTHY HEIGHT'S 50 YEARS AT THE FOREFRONT OF THE CIVIL RIGHTS BATTLE

(By Jacqueline Trescott)

A few weeks ago, Dorothy Irene Height, the 73-year-old grande dame of the civil rights movement, broke her hip and shattered her elbow and was forced to spend two weeks in the hospital. As she has with dining rooms, airport lounges and auditoriums for the past 50 years, Height turned her hospital room into a war room.

One morning after the insertion of a pin in her hip, she was sitting in a wheelchair and moving only slightly to answer the phone. Yet in a two-hour period she dictated a funeral appreciation for a friend, worked on an article about Dr. Martin Luther King Jr., and oversaw arrangements for the convention of the National Council of Negro Women (NCNW), which is celebrating its 50th anniversary here this week.

But perhaps more telling, the fall in her apartment elevator had not shaken her confidence or dignity. Looking better than she had in years and still imposing with a broad figure and a strong lyrical voice, she was enjoying the mini-havoc she was creating. The private room had four dozen baskets of flowers—including ones from Camille and Bill Cosby—and just as many had been given to other patients. She was on a first-name basis with the messengers. The doctors were dropping by to check on her, grab their lunch from her fruit baskets and check out her library. "They tell me there hasn't been this much activity since the president was here," said Height, clearly delighted.

Yesterday, dressed in a violet Ultra-Suede suit, she used a walker to approach the podium at the Hyatt Regency Hotel and a wheelchair to leave the room, where she addressed 700 delegates at the council's convention. She spoke for a full 62 minutes about her vision of black women.

"I used to hear the men in World War II say that on all the lists of names in the Army . . . beside all of those who were black they put an asterisk," she said. "They said every once in a while they would get all the asterisks together. That's what we have been so often.

"If the reports are about what is happening to the family, then there's an asterisk about the black family. When the report is about women, there's an asterisk about black women. We don't want and will not be asterisks, we will define ourselves."

Height's refusal to slow down is typical. For the last half-century, she has been at the call of the famous, like Mary McLeod Bethune and Eleanor Roosevelt; at the side of the famous, like King, Whitney Young, and Roy Wilkins; and at the forefront of women's rights through alliances with advocates ranging from Esther Peterson to Shirley Chisholm to Eleanor Smeal.

"She is the mother of us all," declares former congresswoman Chisholm. "She has

a great leavening influence. We know when Dorothy is going to say something she is going to put us back on track."

Height has been the woman with the gentle face and high cheekbones (often accented with a fashionable hat) pictured in all the photographs as the civil rights bills of the 1960s were signed into law.

Of all the "Big Six" civil rights leaders of the 1960s—King, Young, Wilkins, James Farmer, and John Lewis were the others—she alone still heads an organization. Today she is the senior member of the Black Leadership Forum and, again, one of the organization's few women. The group of 20 years ago, she says, didn't always see why she was linking desegregation with hunger and other issues, but "I had the feeling of operating with peers. There was never any condescension. I have to give the men credit."

Among the intramovement debates about leadership and image in those days, "there was always the thought [of being out front) and who's going to say, 'Let me go ahead of Martin Luther King.' But I think the competition was among them. I recognized the different roles and different leadership skills." And when she grew weary of their agitation, she would take out her knitting and sigh, "If you would take advice from a mere woman . . ."

For the last 28 years she has run the NCNW, the principal advocacy group for black women, and one which claims an outreach of 4 million members. The organization was started by Bethune in 1935 to give successful black women a hands-on way to help the less fortunate. Though always struggling for funds, the council has mothered dozens of successful projects ranging from swine "banks" for rural areas to career training to teen-age parent counseling.

These days both friends and potential rivals look for signs that Height, after so long at the helm, might be preparing to step aside, or grooming a successor. She herself shrugs off the question. A close friend says when succession is discussed even in a general way, Height inquires, "Who's getting old?"

Indeed, her experience remains among her most valuable assets. The day before the National Organization for Women called a press conference to endorse a candidate for president in 1984, Height chaired a meeting with many women leaders to stress that the white women's arm of the women's movement was repeating history. NOW had not given a hearing to the Rev. Jesse Jackson, and Height and others reminded the women of the split between Frederick Douglass and Susan B. Anthony almost a century earlier. "She was saying they were making the same mistake, they were excluding black women," says Donna Brazille, executive director of the National Black Women's Political Congress.

In the highly charged arguments during black leadership meetings over whether a black should run for president or trade votes for political leverage, some people were surprised that she supported black candidacy. "Her position was . . . 'What was the civil rights fight all about?' She would say, 'What are we saying to our children if we say a black man doesn't have a right to run?' " recalls M. Carl Holman, president of the National Urban Coalition.

In her childhood in Richmond where she was born, and Rankin, Pa., where she moved when she was 4, her parents set a standard of juggling timetables and meeting goals. Fannie Height worked as a nurse and active club woman and James Height was a building contractor. But they were much more.

"Both of them were active in the church. But my father had his own business, he was also a choirmaster and head of the Sunday-school union. So I grew up in an organizational family," says Height, who has three sisters.

Through an oratory contest (which she prepared for in two days, remembers her sister, Josephine Ryals), Height won a college scholarship and was turned down by her first choice, Barnard College, because it had its quota of two blacks. She went to New York University, where she finished in three years and earned a master's degree in an additional year.

Height stayed in New York, working as a caseworker for the welfare department and, through the Harlem Christian Youth Council and the influence of the Rev. Adam Clayton Powell Sr., got her first civil rights experiences lobbying merchants on 125th Street.

In 1937 her road to public service took an auspicious turn. Bethune was holding a meeting at the Harlem YWCA and Height, a junior staff member, was assigned to meet Eleanor Roosevelt at the door. But the president's wife parked her own car and came in a door that wasn't being watched. "Needless to say, I ran in right fast and I met her before she got to the auditorium," recalls Height. "As I was leaving Mrs. Bethune said to me, 'What is your name?' and I told her and she said, 'Well, you come back, we need you.' And I've been in it ever since."

At the Y, Height got involved with the American Youth Congress, a group that demonstrated and lobbied in Washington for improved economic distribution and racial equality. Molly Yard, the political director of NOW, says, "I remember her vividly from those days. She was one of the most beautiful people I ever saw. She had a beautiful smile, and when you saw it, it made you happy."

In 1939 Height joined the staff of the Phyllis Wheatley Y here and formed a working relationship with other young women like Bennetta Washington. "She was a role model. She came in well-educated, she was concerned about professionalism and she understood the issues black women were going to face," says Washington, who later got help from Height when Washington was associate director of the Jobs Corps. "She gave many of us ideas that we would have never had."

From 1946 until 1957 Height was president of the Delta Sigma Theta sorority. And during the early 1950s she worked on such diverse projects as unionization of the YWCA staff and social work in India. She became president of NCNW in 1958, but continued to work for the YWCA full time until 1975. Today she is widely praised for the leadership training workshops she instituted.

In the 1960s the NCNW followed its tradition of personal activism and moderate issue-oriented politics, sponsoring voter-registration drives and an education foundation that provided tuition funds for civil rights activists, such as Marion Barry (now mayor), who interrupted their education.

Height's personal favorite was the "Wednesdays in Mississippi" project, when interracial groups of women would help out at Freedom Schools. "One day we were in Hattiesburg, Miss., and a Molotov cocktail was thrown right through this church where we were holding a session. A young fellow from Oberlin went to the organ and played the "Hallelujah Chorus.' We were living the reality right there."

Because of her identification with women's issues, some of her experiences with younger black women in the late 1960s and 1970s were difficult. "It was not easy. I'll have to admit that. It was not easy because you tended to think you were either being co-opted by the white women's groups or playing down the severity of the [black] problems."

The council is an official observer at the United Nations, and Height has participated in all three meetings of the Decade of Women. At the 1980 meeting in Copenhagen, Alexis Herman, former director of the Labor Department's Women's Bureau, recalls that Height helped engineer a compromise over a resolution on racism—a compromise that averted a walkout by blacks in the U.S. delegation.

At last year's Democratic National Convention, Height, whose luggage was lost and who ended up wearing the same dress for several days, plunged right into the role of peacemaker. "We were angry," says Brazille. "White women were angry because we were angry. There was so much confussion, people screaming over one another. Then she spoke and was an incredible force. She picked up the phone and called Judy Goldsmith, Gloria Steinem and others. Most of us had stopped talking. She didn't stop."

Under the leadership of Height the NCNW achieved tax-exempt status; raised the money for a statue of Bethune, the first statue of a black woman erected in Washington; developed several model programs that have been replicated by other groups; and established the National Archives for Black Women's History and the Bethune Memorial Museum, the first institution devoted to black women's history.

The last five years have been ones of financial hardship for the council, which has 30 affilates and 200 local member organizations. Since 1980 the council's federal funding has been cut from $6 million to $1 million, but an increasing amount of money has been contributed by the private sector. Height remains one of the few traditional civil rights leaders with access to the White House.

It is undoubtedly Height's dominance, and her standing as an institution, that keeps NCNW a force. Some students of her career feel she demands personal deference; others feel she has earned it. Yet at the same time, "She rejects being out front," says John Jacobs, president of the National Urban League. "She has been resisting my suggestion that she run for president of the forum. Part of that is her own personality and part is her desire to stabilize NCNW."

Its programs have often set the pattern for other organizations. For 20 years NCNW has run a center for education and career advancement for minority women in New York. Next year that center is expected to receive accreditation as a separate educational institution, NCNW also ran a project in 10 cities to help girls in trouble with the law. The project was supported by $4 million from the Justice Department.

In 1968 NCNW sponsored a conference on the problems of teen pregnancy and teen parenting, which has become a priority for many groups. "We had to overcome a certain amount of resistance because there were those who thought that we would be adding a stigma to ourselves as women," says Height.

For the last 10 years NCNW has been involved in development projects in seven African countries. After the late King Sobhuza II of Swaziland saw a film of the coun-

cil's pig farms in Mississipi, he asked the group to help his citizens start a similar project. The success of the program, supported by the Agency for International Development, says Height, has led the Swazi people to feel "this may decrease their dependency on South African pork."

She says she doesn't feel bad that some other groups have come along, improved on the council's original idea and stolen the limelight. "You have to work cooperatively and collaboratively. That isn't easy to do because we've grown up in such a competitive climate," says Height. Yet, "the conditions of black people have been worsening. If we want to do anything about it we must work together and not worry about who is getting particular credit."

But some feel an even more critical problem is the future of black women's leadership. "It is a deep concern that persons like Dorothy Height and Shirley Chisholm must be able to push younger women on to do some of the works we did in our lifetime," says Chisholm. "This is a problem in our race—that we have not prepared younger people. This is a reality."

Yet some former NCNW staffers feel Height has groomed them well. "She gave you full responsibility and was not a person who would hover over you. She was a terrific teacher in how to manage a program, how to manage a staff. She was incredible at the board meetings. She would listen to everyone's ideas and then it would come out exactly like she wanted," says Alma Brown, a District official who directed three programs before the funds dried up.

Height's accident may have slowed her down physically, but it hasn't yet crimped her agenda. "My career is not just accidental, it is by choice. I simply try to respond as best I can to what is needed," says Height. "To learn to do and help others to do."

INTERNATIONAL HUMAN RIGHTS DAY

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LOWRY of Washington. First, let me express my sincere thanks to my colleagues who have joined in my efforts on behalf of the United States citizens held captive in Lebanon, the 2-year-old Estonian girl Kaisa Randpere, the Elbert family of Kiev, and so many others who have needed our help. In addition, as cochair of the Ad Hoc Congressional Committee on Southern Africa, I am very grateful for the support that the Ad Hoc Committee has received for letters and telegrams in opposition to South Africa's state of emergency and on behalf of Nelson and Winnie Mandela and the many South African prisoners of conscience.

Today is a day for sad reflection on the fact that we need to speak out on the subject of human rights. The world community has recognized the importance of human rights in documents such as the United Nations Charter, the Universal Declaration of Human Rights, and the Helsinki Final Act. Still, many countries that have endorsed these agreements routinely deny their citizens freedom of religion, freedom of expression, and other rights.

I believe that the United States ought to be the world's most ardent advocate of international law. Consistent with that position, we should support human rights everywhere in the world. The most immediate reason is to help people who are made to suffer for trying to exercise rights that their own governments claim to respect. But taking this stand on principle also benefits the United States. Our wholehearted support for human rights can capture the world's imagination. It is one of our greatest advantages in the competition for world influence. We should use this tool as effectively as possible, by expressing concern at violations wherever they occur and by consistently upholding the rule of international law.

DONALD GLEN LEADER

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. PURSELL. Mr. Speaker, it gives me great pleasure today to bring to my colleagues' attention, the good works and dedication of Donald Leader, a consultant with the Hillsdale County Cooperative Extension Service, community leader and a resident of Michigan's Second Congressional District.

Mr. Leader has had a long and successful history of contributions to his community, which includes a career both as a teacher and principal of Reading High School, Reading, MI; county vocational director at the intermediate school district, and also service as a Hillsdale County commissioner. In 1983, he became a consultant for the Hillsdale County Cooperative Extension Service, where he is recognized for the service, assistance and encouragement he has brought to distressed farmers in the county.

Mr. Leader is a member of the Reading Methodist Church and serves as lay reader and treasurer. The Distinguished Service Award of Reading City was awarded to Mr. Leader in 1974, and a scholarship in his name is awarded at the Reading High School.

Communities across the country have benefited from the contributions made by people like Don Leader. I am proud to recognize Mr. Leader as an outstanding citizen of his community and the United States.

MATT GOODALL, OUTSTANDING CITIZEN

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. DOWDY. Mr. Speaker, my hometown of McComb, MS, will be paying a special tribute to the memory of a very special person in our community, Mr. Matt Goodall.

Mr. Goodall, who was a resident of McComb from 1946 until his death in 1984, devoted his life to the service of those around him. He generously donated his time and talent over many years to the McComb Noon Lions Club. As chairman of the Mississippi Lions Youth Committee, he gave encouragement and guidance to the young people of our community. He was a man of high principles who is well-remembered for his kindness and good deeds.

It is appropriate that the McComb Noon Lions Club will honor the memory of Matt Goodall with a gift which will help others. The Lions will donate a piece of equipment known as a Crib-O-Gram to detect hearing impairments in infants to the Southwest Regional Medical Center. I know my colleagues in Congress join me in paying tribute to the memory of Mr. Matt Goodall and in extending our best wishes to his wife Helen and daughter DeVergne.

RUTH HATTEN RETIRES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. FLORIO. Mr. Speaker, I would like to pay tribute to Alma Ruth Hatten upon the occasion of her retirement as an employee of the city of Camden, NJ.

December 16, 1950 commenced a 35-year affair with Camden City. The counsel and guidance of the late R.J. Maurice Vaughan, the late Acting Chief Samuel Raymond Dobbs and Thomas L. Ford served as the core of Ruth's career skill development in the office of city properties.

Raised in Camden City, Ruth attended public schools and graduated from Camden High School. Her clerical training and real estate skills have made her invaluable to the city.

Ruth's warm personality, intelligence and infectious smile have endeared her to all. An ardent sports fan, choir member, piano player and church goer, Ruth will now have that much more time to spend on her favorate pastimes, and with her ever-patient husband, Will.

Ruth Hatten is a dedicated public servant and truly great lady who will be missed by all she has touched in Camden City Hall.

COMMENDING NAVY SECRETARY LEHMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LAGOMARSINO. Mr. Speaker, as President Reagan has stated, "America is back and we're standing tall." One extremely important factor in this result is the strengthening of America's Armed Forces and, particularly, the United States'

naval forces under the leadership of Navy Secretary John Lehman.

Secretary Lehman has been a strong advocate of rebuilding America's defenses, even prior to his coming onboard with the Reagan administration in 1981. Since assuming his current post, he has been an eloquent, straightforward, and effective spokesman for President Reagan's plans for modernizing our naval forces.

I commend to my colleagues the following article, from the Reader's Digest, entitled, "The Man Who Shaped Up the Navy." The article, I believe, accurately expresses the attitude of Secretary Lehman, which is, "Damn the Torpedoes and Full Speed Ahead!"

The article follows:

THE MAN WHO SHAPED UP THE NAVY

(By Trevor Armbrister)

On the USS *Constellation* off the California coast, the 43-year-old commander with an Irish choirboy's face climbed into the cockpit of an A-6 Intruder jet and catapulted from the deck to bomb a target 200 miles away. The airman: Secretary of the Navy John F. Lehman, Jr.

Back at the Pentagon, the Secretary received a report that one of the nation's leading defense contractors was billing the government for executives' country-club dues, the cost of lobbying, even kennel fees for one official's dog. "This is intolerable," he said angrily, whereupon he slapped the firm with a $676,000 fine, canceled contracts worth $22.5 million and froze up to $1 billion in new contracts until the company adopted a rigorous code of ethics.

On Capitol Hill, Rep. William J. Coyne (D., Pa.) complained about plans to name a new nuclear submarine the USS *Pittsburgh*. "If this Administration wants to do something for Pittsburgh," Coyne wrote the Secretary, "it could do so by taking steps to reduce the [area's] double-digit unemployment." The Administration, he went on, was "displaying insensitivity to the needs of the citizens."

"Fire back when fired upon" is Lehman's creed. "Thank you for your snide, tasteless letter," his reply begin. "As a fellow Pennsylvanian, I know your extremist views do not represent those of the people of Pennsylvania or of Pittsburgh."

Flying bombing missions, lowering the boom on defense contractors, and taking on members of Congress, Lehman is easily the most visible civilian service chief that the Pentagon has had in years. Even critics concede he has brought youthful energy, a keen intellect and personal panache to a job that other Administrations have viewed as a way station for political cronies. And he has been effective—reversing the Navy's decade-long decline, and reforming the way the service does business with civilian contractors.

OMNIBUS CHALLENGE

When John Lehman took over the helm five years ago, he inherited a Navy whose fleet had shrunk to 479 ships, its lowest level since 1939. Only 5 of the 12 remaining carriers could be deployed with enough personnel, planes and spare parts. Only 59 percent of Navy aircraft were "mission capable." Shortages of ammunition, missiles and torpedoes were grave. For years Navy officials had saluted and said, "We will do more with less."

Equally worrisome were the problems of procurement and personnel. Cost overruns and late deliveries by defense contractors were rampant, and fewer than 20 percent of all contracts were awarded through competitive bidding. In addition, pay freezes and benefit reductions had resulted in record-low retention rates.

Compounding these concerns were two other ominous developments. New commitments in the strategic Indian Ocean and oil-rich Persian Gulf made the United States even more dependent on secure sea lanes. And the greatly expanded Soviet fleet was challenging the United States everywhere.

During the 1980 campaign, Ronald Reagan vowed that he would put the Navy back in business. After the election, however, senior Reagan advisers argued that Lehman was too young to do the job. The President decided otherwise. John Lehman, though only 38, had been training for it since the early '70s and his naval heritage went back even further.

John's father, a plant manager, had skippered an amphibious ship at Okinawa during World War II. His mother was a Philadelphia Kelly; John's cousin Grace, later Princess of Monaco, was a flower girl at his parents' wedding. John attended Catholic schools and went on to St. Joseph's College in Philadelphia, where he rowed on the crew. At 21, even before earning his bachelor's degree, he had had the audacity to set up a Washington conference on arms control.

After earning a degree in international law and diplomacy on a fellowship at Cambridge University in England, Lehman joined the Foreign Policy Research Institute at the University of Pennsylvania. In 1969 he went to Washington to serve on Henry Kissinger's National Security Council staff.

There, Lehman saw firsthand how vital the Navy was as the linchpin of U.S. foreign policy. "Whenever there was a crisis," he recalls, "the first questions were: 'Where are our carriers? What naval forces can we deploy to the area?' "

At the same time, as a reservist, Lehman was going on active duty in Europe and Vietnam. "I was down on the deckplates and could see the terrible deterioration of the Navy," he says. "I felt a growing alarm that the government didn't understand the damage being done." Lehman decided then he would strive to become Secretary of the Navy and right those wrongs himself.

"SITTING DUCKS"

With this as his goal, over the next 6½ years he served as delegate to the Mutual Balanced Force Reduction Negotiations in Vienna, deputy director of the U.S. Arms Control and Disarmament Agency and president of a defense-oriented consulting firm. He also found time to earn his Ph.D., write or edit five books on defense issues, and marry and begin raising a family.

When President Reagan nominated Lehman to the job he'd coveted for years, he was ready. The new Secretary won Reagan's approval for a plan to expand the fleet to 600 ships by 1989—including two new carrier battle groups, four reactivated battleships, and 17 nuclear-powered attack submarines. The estimated $168-billion cost of the program was staggering, and Capitol Hill critics were sure they could chop it down to size. But Lehman was ready for them.

In 1982, for instance, critics cited the Falklands war as evidence that carriers would be "sitting ducks," vulnerable to missile or submarine attacks. Lehman reversed the argument: carriers were there to protect other ships in the battle force. "The most nonsensical Alice-in-Wonderland thinking persists in this town," he groused. "Big ships are faster, they're more heavily armored, they have more missiles and more F-14 interceptors, and they're more vulnerable? The logic escapes me." Lehman's logic prevailed in the Congressional votes.

GOING TO THE MAT

In January 1983 former LTV Corp. chairman Paul Thayer became Deputy Secretary of Defense—and Lehman's immediate boss. Thayer thought Lehman was spending too much money on the Navy at the expense of the other services, and proposed trimming back the Navy's budget.

Lehman counterattacked: "I'm sick and tired of spending 98 percent of my time undoing the damage that senior Defense officials are doing to the President's budget," he complained to the Washington Post. By the time the smoke cleared in 1984, Lehman's programs were still intact.

"It's no good to have a 600-ship Navy if you can man only 450 of them," says Edwin J. Feulner, Jr., president of the Heritage Foundation, a Washington think tank. "What Lehman has done on the personnel side is as big an accomplishment as what he's done with hardware."

In 1984, for the fourth year in a row, the Navy and Marine Corps met or exceeded their recruiting goals. Navy personnel-retention figures were up as well, and the Naval Selective Reserves had grown from 93,000 in 1982 to 102,000. Lehman does not claim sole credit for this turnaround. Yet by going to the mat with Congress, he has rammed through pay and benefit hikes of 26.3 percent.

BACK TO THE BRIG

His willingness to take on critics and stand up for what he believes has won Lehman high marks in a city where many appointees "go along to get along." In 1981, for example, he was alarmed by surveys which showed that 47 percent of Navy junior enlisted personnel were using drugs. He was even more upset to hear Pentagon officials say that if they took a hard line, they'd jeopardize recruiting and retention goals. Lehman exploded—and launched a program that told sailors, "If you don't want to be an upstanding member of the community, then we can do without you." Result: drug use dropped to less than 11 percent by 1984.

In a less important but characteristic move, Lehman decreed it was time to return to nautical terminology. There would be no more references to "unaccompanied enlisted personnel housing," "kitchens" or "enlisted dining facilities." Sailors and Marines would sleep in barracks, cook in galleys and eat on mess decks. If they disobeyed orders, they would be sent not a "correctional facility" but to the brig.

Today Lehman is jousting against what he calls "parlor Pershings" and micromanagers in Congress who, in the guise of reforming the joint chiefs, want to put a single military officer in charge of the entire U.S. armed forces. "A Prussian general staff has no place in our society," Lehman warns. "The President needs to hear different views when the issue is war and peace."

Others would have avoided locking horns with these reformers—many of whom are fellow conservatives and military partisans, but not Lehman. Explains Deputy Undersecretary of the Navy (Policy) Seth Cropsey, "John instinctively understands the dangers inherent in thrusting too much power in the hands of a single authority—

military or civilian—not accountable to the electorate."

THE RIGHT ARM

Of all the changes Lehman has made, none is more likely to have lasting results than the way he has reformed the Navy's relations with defense contractors. Prior to 1981, most shipbuilding contractors were awarded on a "cost plus" basis. This encouraged a shipyard to submit a bid that was unrealistically low and then, after it won the job, charge huge overruns to the Navy. Lehman said "no more," and most contracts are today awarded on a "firm fixed price" basis. He brought competition back as well. Just four years ago, only 26 percent of shipbuilding contractors were open to competitive bids. Today 85 percent are.

"He has a great drive to excel, in rowing, squash, tennis, skiing—or getting a ship built for the lowest price in the shortest possible time," says one friend about Lehman. And yet, unlike many officials in Washington, he does not work on weekends. He insists upon spending that time with his wife, Barbara, and their three young children.

"The Navy is the right arm of our country and is emphatically the Peacemaker," proclaimed Theodore Roosevelt, one of Lehman's heroes, in 1914. "Woe be unto our country if we permit our right arm to become palsied, flabby or inefficient."

That's not about to happen on John Lehman's watch.

A TRIBUTE TO ARCHBISHOP MOELLER HIGH SCHOOL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GRADISON. Mr. Speaker, I take this opportunity to note a significant accomplishment by Cincinnati's Archbishop Moeller High School.

In a state second to none in high school football, Moeller has won the State football championship by defeating Canton McKinley, 35–11.

Moeller is no stranger to winning football. Over the years, it has established a reputation for excellence that is known well beyond the Buckeye State.

I am especially pleased because Moeller is celebrating its 25th year of excellence and is located in the Second Congressional District which I am so proud to represent.

CONGRESSIONAL RECORD HONORING RABBI SOLOMON L. SILVERMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. ACKERMAN. Mr. Speaker, I rise today to call to attention of my colleagues in the House of Representatives the accomplishments of Rabbi Solomon L. Silverman on the occasion of his designation as "Man of the Year" by Congregation Ohr Yitzchok of Hillcrest, Queens County on December 21, 1985.

Since 1930, Rabbi Silverman has played an integral role in the education of American Jewish youth. He has served as principal of the Plainfield Hebrew Institute and the Hebrew Schools of the Young Israel of Newark, the Fresh Meadows Jewish Center, and the Malverne and West Hempstead Jewish Centers. His dedication, concern, and genuine love for his students have inspired three generations to appreciate both the beauty of their Torah heritage and the unique contribution American Jews can make to our Nation.

Rabbi Silverman has also been a leader in community affairs and his profession for more than half a century. A graduate of New York University and the Herzliah Hebrew Teachers Seminary, Rabbi Silverman has been designated as a Fellow in Jewish Culture and Education by the Hebrew University in Jerusalem. Among the many commendations he has received from the community and his peers are the Federation Jewish Philanthropies' Leo G. Goldberger Award and the "Principal of the Year" designation by the Hebrew Principals' Association of Greater New York. Today, he serves as Principal Emeritus of the Malverne and West Hempstead Hebrew School—the first in his profession to receive such an honor.

Throughout these many years of service and accomplishment Rabbi Silverman has been encouraged by his wife, Sadie, a veritable woman of valor. A master teacher in her own right, Sadie's efforts have complemented her husband's endeavors. Their marriage, truly a partnership, sets a standard to be emulated.

Mr. Speaker, the enthusiasm and dedication that Rabbi Silverman has given to our youth makes us in Queens very proud. We recognize that his efforts exemplify many of the characteristics which have built America into the greatest Nation in the world. I now call on all my colleagues in the U.S. House of Representatives to join me in congratulating Rabbi Silverman and his family on this joyous occasion. May he enjoy many years of health and renewed vigor to continue his important work for our community, State, and Nation.

LETTERS FROM MIDDLE SCHOOL STUDENTS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. WOLPE. Mr. Speaker, I would like to call the attention of my colleagues to the following letters I recently received from a class of middle school students in my district. It is so easy to get caught up in the rhetoric of our debates here on the floor of Congress. These straightforward messages from the children of our Nation—those who will inherit the legacy of our work here—are a moving and very compelling reminder of our grave responsibilities and the impact of our decisions.

The letters follow:

DEAR MR. WOLPE: I was sitting down and watching TV and all of a sudden they were talking about bombs. I think that we should not have bombs because it would not settle anything at all. I think we should make a peace treaty with Russia. Then we could use the money that we are using for bombs to make buildings, to keep kids off drugs, clean up towns and help the poor people in Ethiopia. I really don't want to have a war because I want to live for a very long time and have kids and watch them grow up. Well, this is all I have to say. Think about my letter.

Sincerely,

BOBBY DIXON.

DEAR MR. WOLPE: Hi, I'm writing about the nuclear arms race. It will just kill all of the innocent people around the world.

You should use the money for Ethiopia or all of the thousands of diseases that are killing people like AIDS, cancer, mono and starvation of the whole world.

We should let three people from America go over there. And three people from the U.S.S.R. or Russia can come over to see how America is. Can you please write back?

Sincerely,

LASHAWN JONES.

P.S. Stop Nuclear Arms.

DEAR MR. WOLPE: I believe in World peace. There should not be any more wars. Although I believe in the "star wars" defense system, there should be a world nuclear arms reduction or just do away with all nuclear arms. I think that war is very destructive and doesn't solve anything. All that's used for war could be used for other constructive things.

Sincerely,

ERIC KABEL.

DEAR MR. WOLPE, RONALD REAGAN: I wish to have peace on earth. I also don't believe in war. It doesn't make any sense to fight one another over nothing. We should have more schools and a better community in our land. Also, we could help out Ethiopia, give them more food. That's very rude what Reagan did when the stars tried to raise money with the album "We Are the World." All that money should have gone to Ethiopia. We should make a reduction in our armed forces. Don't make any more bombs because we shouldn't blow each other up. It's stupid. May I please have peace? I don't want to die before I am 20 years old.

Sincerely,

ANGELA MCINTOSH.

DEAR MR. WOLPE: I think you should be thinking about other people besides yourself. There are people in the United States that want to live, not die. I want peace. I think you should help the starving in Ethiopia. You should not destroy our community. We don't want our community destroyed. Thank you a lot.

Sincerely,

RONDA DARNER.

THE IMPACT OF THE CLEAN COAL TECHNOLOGIES INITIATIVE ON NEAR-TERM EMISSIONS REDUCTIONS

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mrs. LLOYD. Mr. Speaker, in a recent Science magazine editorial entitled, "Technologies for Clean Uses of Coal," Philip Abelson discusses emerging coal technologies in the context of their potential to reduce acid rain precursors and to enhance the substitution of our more abundant coal resources for oil in certain applications. As a legislator who has strongly supported the development and demonstration of improved coal technologies, I believe that Dr. Abelson's comments and his advocacy of Department of Energy support for full-scale demonstrations are quite timely. At present, a bill providing funding to DOE for cost-shared projects demonstrating clean coal technologies is nearing final congressional action and its passage, for which I urge support, seems probable. The potential impact of these projects in the context of current acid rain concerns, however, will depend on the nature of the industry responses to the DOE initiative.

The question of emissions controls remains a very complex one with an absence of adequate data to allow cost/benefit calculations. In spite of major unresolved technical issues regarding source/receptor relationships, damage mechanisms, and so forth, there is little question that rigorous emissions controls would be mandated for all coal-fired plants regardless of their relative contribution to the acid-rain problem if such controls were free of economic costs. It is the known high cost of controlling emissions from emplaced plants vis-a-vis the uncertainties in the benefits to be derived from a given level of control that makes acid rain an issue for responsible decisionmakers. My own position on this issue has been to support better definition of the "benefit side" of the control equation through such activities as the ongoing National Acid Precipitation Assessment Program [NAPAP], and simultaneous development and demonstration of advanced technologies to effectively reduce the cost side should the assessments warrant. It is important to recognize, however, that improved environmental performance is only one of the expected deployment benefits of the various technologies considered under the aegis of "Clean Coal" and indeed is one which is not equally shared among them. These technologies also offer benefits, to varying degrees, in their ability to provide lower energy production costs at given levels of environmental control and/or displace premium fuels for more critical applications. Finally, the technologies are not all equally applicable to both new plant requirements and to retrofit of existing plants.

The technologies which are primarily appropriate for new plant designs are anticipated to offer improved economic performance at emission control levels meeting or exceeding current new source standards. This improved economic performance could be expected to represent a relatively clear motivation for participation in cost-shared demonstration projects by prospective users. The possibility of improved enviromental performance is obviously relevant to the Nation's emissions burden in the long term.

On the other hand, it is clear that the major reduction in emissions from coal-fired plants will occur when existing uncontrolled plants become either effectively controlled or are retired. Whether their replacements have the equivalent of, for example, 95 percent rather than 90 percent SO_2 reduction, will be of secondary importance. There are current indications that retirement of many of these plants will be postponed well beyond the time when the implications of the NAPAP research and other assessments have become clear. What is not as clear is the motivation for potential users to participate in cost-shared demonstrations of retrofit control technologies. This uncertainty exists because a successful retrofit demonstration could be perceived as tantamount to a subsequent, self-imposed requirement for implementation of controls—albeit at lower costs than those associated with deploying current technology. Absent such retrofit projects, however, the capability for an effective and timely response to the results of the NAPAP assessment could be severely jeopardized as would the potential relevance of this initiative to the nearer-term aspects of the acid-rain issue.

The response of the potential user community to the "Clean Coal Technologies" initiative will reveal whether or not my concern about incentives for retrofit is justified. It is my hope that this retrofit responsibility has been accepted by industry and utilities and that demonstrations of appropriate technologies to reduce emissions from existing plants will be strongly represented.

TAX REFORM: WHAT'S IT ALL ABOUT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. STARK. Mr. Speaker, the average taxpayer in my congressional district will get a tax break of about $760 per year as a result of the tax reform bill.

A vote for the bill is a vote for this citizen taxpayer.

Who is against it? I guess it was well summarized for me by a telegram I got today. Let me quote from it:

"As an investment advisor and a fiduciary who represents a multi-billion dollar institutional real estate portfolio, I urge you to vote against H.R. 3838. . . . " Signed, Lazard Realty Inc., Lazard Freres & Co.

That says it: If you have billions of dollars in a sector rich in tax shelters, you are against the bill.

The choice, colleagues, is up to us.

IN MEMORY OF DOUG BREW

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. LEVINE of California. Mr. Speaker, some years ago I had the opportunity to meet, and work with, a young reporter named Doug Brew. At the time he was editor of a local newspaper, the Santa Monica Independent. I was immediately impressed with Doug's wit, sense of humor, and talent.

After he left the Independent, Doug became Time magazine's principal White House correspondent. Earlier this year, he was named Los Angeles Bureau Chief for Time.

I was deeply saddened to learn that Doug Brew died in October, at the age of 36, of lung cancer. While it is a tragedy when anyone dies of this dread disease, it is especially sad when it claims a victim as young and talented as Doug.

His death is a great loss not only to his wife and young son, but to the entire journalism profession. He will not easily be replaced.

Following are the texts of three touching remembrances of Doug recently printed in the Independent Journal. I join with his family, friends, and colleagues in recognizing his many achievements and mourning his passing.

REMEMBERING DOUG BREW

I have three shared memories of Doug Brew that will always be with me.

The first involves helping Doug at the I-J scoop the Evening Outlook and the Los Angeles Times with the news that Gov. Brown appointed my friend Ruth Galanter to the Regional Coastal Commission in 1977. The appointment was such a shock to the Santa Monica establishment that the headline read: "Brown Stuns S.M., Appoints Galanter."

The second took place four years later in the Hay-Adams Hotel across the street from the White House where Doug set up a meeting for me with David Stockman. This time there was no headline nor could there really have been one. The president was shot the day before.

It seems only yesterday that my family and Doug's were walking in Palisades Park looking confidently to the future. Doug had just been transferred out here to run Times's Los Angeles bureau. We had looked forward to sharing more memories. Now there will be none.—David Schulman

Doug loved to be in the presence of natural phenomena. Over our fifteen year friendship we shared many nature experiences from Santa Monica ocean swims to mid-night, mid-winter walks in Yosemite. This love for the outdoors, stemming from his boyhood days on a farm, helped make Doug the type of man and journalist he was—someone with his feet solidly on the ground who remained entirely professional

when interviewing the President of the United States or a Santa Monica city official. His lack of pretension caused him to always take the issues seriously as well as the players involved. All of which is to say that Doug had an incredible zest for life, as best evidenced by his choice for a marriage partner. Private time spent with him and his wife Jo Anne was time spent laughing at shared intimacies and generally celebrating life. This is what makes his absence keenly distressing.—Joe Davis

Few Westsiders ever knew the great achievements Doug Brew attained after leaving the editorship of "The Good Life" and the "Independent Journal Newspapers." (1972-1978). Doug had more charisma than anyone I have ever known. It helped him become Time Magazine's principal White House correspondent and, early this year, the Los Angeles Bureau chief with responsibilities for all editorials operations in the 11 Western states. Without such charisma and magnetism, how could a lifelong Democrat earn so much respect from the leadership in Santa Monica and in Washington where the government is headed by a conservative Republican. A quiet, low-key, honest, sincere, courageous reporter, Doug became a major force in the world of Journalism and we will miss him very much. Our heartfelt thanks to his widow, Jo Anne, and his son, Matthew, for sharing him with us.—Herb Chase, Jr.

HUMAN RIGHTS DAY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. OWENS. Mr. Speaker, today our attention is focused on human rights issues throughout the world. Experience tells us that it is far easier to deny the basic human rights of others when we consider them to be less than full human beings or when we can lump them into a category where they are labeled as being morally inferior. Statements like "they don't value human life" or "they are racists," or whatever other derogatory label one wishes to add, are merely the beginning of a process that allows us to judge others harshly and to condemn them en masse.

The labeling and discarding of whole groups of people as morally, intellectually, or physically inferior is the first step in denying human rights. It is for this reason that I am concerned about the U.N. resolution which equated Zionism with racism. It is that kind of thinking which allowed skyjackers in Malta to lead a 20-year-old Israeli woman outside the plane and proceed to shoot her at close range in the head. Fortunately, she survived her execution and did not die for the simple reason that she belonged to a group which was condemned by the skyjackers. However, this attitude still stands out as the underlying basis for denying the most basic rights to others solely because they were born into a disapproved group. It is this attitude which prompted me to make the following remarks at the 19th anniversary observance of the U.N. vote equating Zionism with racism.

SPEECH DELIVERED BY CONGRESSMAN MAJOR OWENS AT THE 10TH ANNIVERSARY OBSERVANCE OF THE U.N. VOTE EQUATING ZIONISM WITH RACISM

Today we are gathered for a necessary but negative observance. We are here to highlight and make the whole world remember an act of cowardice; an act of confusion; and an act of corruption. We are here to remind good men and women that there are certain evil forces in this world that are indeed powerful and dangerous.

Good men and women must understand that while we shall continue to advocate the way of love, foregiveness and conciliation which was so intensely advocated by Martin Luther King; at the same time we must not hold back our anger and righteous indignation when horrifying acts are committed.

To vote to equate Zionism with racism is to participate in the institutionalization of a monumental lie. A vote to equate Zionism with racism is an outrageous slander which throws a camouflaging curtain around the real racism which is rampant on this globe. Still more absurd and insulting is the fact that the authors of this action, the representatives who initiated this resolution, are the representatives of the nation's whose feudal governments still oppress the majority of their own citizens in additon to practicing a primitive intolerance of all outsiders.

The State of Israel is a true democracy and this is a fact which no one should be allowed to trivialize. Democratic nations of this globe are more rare than previous metals and jewels. And the numbers of the democratic nations continue to shrink each year. But despite an endless state of siege Israel's democratic institutions remain in place. The day to day existence of Israel is an answer to the smear charges of racism hurled against it.

Israel alone has offered the suffering people of Ethiopia more than mere food, medicine and technical assistance. Israel has offered black Ethiopian Jews a new home. Beyond the short term sympathy and emotions of the moment, Israel has taken unto its bosom a people who are Jews by religion but who are still Africans by race. No where in the world and at no time in history have racists ever been so compassionate and so generous. The murderous behavior of true racists has always been exactly the opposite.

One message of today's observance must be a reaffirmation of the fight against real racism. South African apartheid is real racism. The distorted and dangerous demagoguery of Minister Louis Farrakahn also distort facts and history. No black leader can ever proclaim Hitler a great man and remain true to his own people or true to history. Hitler was the racist who refused to shake hands with black Jesse Owens at the Berlin Olympics. Hitler was the racist who labeled all blacks as culture destroyers. There are no clarifying adjectives; there are no adverbs; and there is no context which can ever legitimitize the labeling of the racist, anti-Semitic Hitler as a great man.

Today's observance must also be a reaffirmation of the longstanding black and Jewish coalition in America. The partnership between blacks and Jews in this Nation must be held up as an example, a model for the people of the Third World in the United Nations. Farrakahn does not speak for the black masses of America. The black masses have already spoken for themselves. The black masses spoke with their votes in Michigan when they overwhelmingly voted to elect Jewish Senator Carl Levin. The black masses spoke for themselves when they united with Jews to insure the victory of Senator Paul Simon of Illinois. And, on the other hand, the black masses understand and appreciate the fact that large numbers of Jewish voters broke ranks with other whites and Jewish votes helped to elect Wilson Goode in Philadelphia and Harold Washington in Chicago.

In the spirit of Chaney, Goodman and Schwerner, two Jewish young men and one black young man who died together in the fight against real racism in Mississippi. In memory of all of those Jewish men and women, too numerous to name, who marched for civil rights and voting rights in Mississippi; in New York; and in Washington; in their spirit of enlightenment and coalition we must go forward to do even more against the real forces of racism and oppression.

Yes, blacks and Jews who have suffered from real and deadly racism and real anti-Semitism understand the horror and the danger of phony resolutions which equate Zionism with racism. Here at the place where it never should exist, we have found a great evil. Today and tomorrow, and for as long as it is necessary we must continue to expose this evil. We must continue to fight this evil. As an example to the world, let us blacks and Jews of America resolve to fight this hideous evil together.

A NEED FOR IMPROVING OUR NATION'S HEALTH CARE SYSTEM

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. KOSTMAYER. Mr. Speaker, the Congress continues to wrestle with the problem of how to contain health care costs without jeopardizing the quality of care. I have spoken to many physicians in my district about this problem, and a number of them have written to me to share their comments, ideas, and suggestions for improving our Nation's health care system.

Physicians in the Eighth District of Pennsylvania and throughout the Nation are concerned about medical malpractice insurance. This problem has reached crisis proportions. Both the number of malpractice suits and the cost of physician's liability insurance have increased dramatically in the past 10 years, but the number of successful claims has not.

According to the American Medical Association, in the past 2 years alone, malpractice premiums have increased by almost 45 percent. In the last decade premiums have increased by 236 percent. The premiums for highly specialized physicians are often astronomical, sometimes accounting for up to one-third of their gross incomes. One obstetrician-gynecologist in my district reports that malpractice premiums take 8 to 10 percent of his gross income. Another obstetrician pays 10 percent of his gross income in insurance premiums.

Although the figures for the high-risk specialties are more dramatic, there is also a great impact on general practitioners.

One family doctor in my district has seen his premium increase by over 500 percent in the past 5 years.

The frequency of malpractice suits has also increased dramatically. The physicians I have spoken to do not believe that all doctors are blameless, and they are willing to strengthen their own risk-management programs to ensure that incompetent doctors are penalized accordingly. They believe, however, that the many malpractice suits are unwarranted, and that the law must be changed to discourage frivolous suits.

Exorbitant malpractice premiums and awards affect us all in two ways: First, they raise the cost of health care; and second, they discourage many competent, caring men and women from practicing in high-risk specialties, or from entering the field of medicine at all.

When malpractice premiums are high, much of the additional cost is passed on to the patient. One doctor told me that he could reduce the price of an office visit by $12 if his insurance premium was reduced to a reasonable amount.

Many doctors also believe that the proliferation of malpractice suits leads to the practice of defensive medicine. In other words, some physicians are forced to administer duplicative and expensive tests to protect themselves from claims of negligence.

The physicians in my district seem to be divided on this issue. Some contend that defensive medicine is simply good medicine, but others cite examples of doctors ordering tests to safeguard against a malpractice suit.

One example is that of an orthopedic surgeon who treated a patient for a fracture. He explained that—

If a patient is taken from a cast after a fracture and has had adequate time for healing, I may feel fairly confident that the fracture has adequately healed and there is no deformity, simply by examining the patient. Yet, if the patient was to fall on the same day and a fracture occurs at or near the same previous fracture point, he or she could easily involve me in a negligence suit stating the fracture had not adequately healed and should have been casted longer.

The surgeon pointed out that the case would probably be thrown out of court, but at the needless expense of—

Tens of thousands of dollars. . . . For that reason, an x-ray will be obtained almost 100 percent of the time. This expense alone probably amounts to about $10,000 a year for my practice.

The AMA estimated the total cost of defensive medicine at $15.1 billion in 1983.

Perhaps an even more serious consequence of the malpractice problem is that it has forced some physicians to give up their practices in certain high-risk specialties such as neurosurgery and obstetrics. It may also discourage medical students from entering these fields.

Mr. Speaker, again, many physicians in my district have given me examples of highly qualified professionals who have been driven to an early retirement or into general practice by the malpractice problem. One physician spoke of "one of our best internal medicine physicians" who had decided to leave private practice and go to work for a Veterans' Administration hospital. He noted that—

This is a trend that is developing around the country. In the past we have had a doctor shortage and now when we do have an adequate number of physicians to treat the population many of these are leaving practices as early as possible to get away from the malpractice situation.

What can we do to solve these problems and avert a medical malpractice crisis? As one constituent physician noted,

Any solution to the malpractice issue is as complex as the answer to health care costs.

He urged that we—

Not perceive the malpractice issue as a physician/lawyer confrontation, but really as a social issue which we must all address before it is too late.

All the physicians I have spoken to or corresponded with believe that there are too many frivolous suits. The facts appear to bear them out. Most malpractice claims do not involve negligence. Less than half of the cases which go to trial result in an award to the plaintiff. A study conducted in 1973 by the Department of Health, Education, and Welfare [HEW] Commission on Malpractice found that 54 percent of closed malpractice claims were "not legally meritorious in terms of liability."

One physician in a letter to me called for end to—

The current method of one-way accountability. As a physician, I fully realize that I will be and should be accountable for my actions dealing with my patients. However, the current system provides no accountability for those people who choose to file malpractice suits against physicians . . . If I am sued and the plaintiff wins, both the plaintiff and all his representatives are fully compensated.

An overwhelming number of the physicians I have talked to believe that we need to limit the lawyer's contingency fee. They believe that this fee, which is designed to ensure that all citizens are able to file suit in cases of negligence, encourages frivolous suits. Another way to guard against frivolous suits would be to impose a penalty on those who bring irresponsible suits against physicians. The State of New York recently enacted legislation limiting the contingency fee, and assessing a penalty of up to $10,000 for frivolous suits.

The doctors in my district reacted favorably to proposals for alternative methods of resolving suits, such as pretrial screening panels or settlements in limiting awards for pain and suffering. They stressed, however, that any pretrial screening panel should include a representative experienced in the particular kind of treatment in question.

Periodic payment schedules and limits on awards for pain and suffering are two reforms which many physicians believe would help alleviate the malpractice problem. They believe that high awards for pain and suffering, added to awards for economic loss, are the main reason for exorbitant malpractice awards. Six States, including California, Texas, and Ohio currently limit awards for pain and suffering. In California the State court and Federal appeals court recently upheld the State's $250,000 cap on damages for pain and suffering.

A number of our colleagues have introduced legislation to address this problem in the 99th Congress. I want to commend Representatives MOORE, GEPHARDT, and MRAZEK, and Senators INOUYE and HATCH for bringing the malpractice issue to the attention of the Congress, and I look forward to working with them to resolve the problem.

GLOBAL IMMUNIZATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GILMAN. Mr. Speaker, today, I joined several of my colleagues in introducing the Child Immunization Act of 1986, legislation to ensure that the world's children are immunized by 1990. Our bill calls for a total of $100 million: $50 million for immunization programs and $50 million for child survival activities.

Most of the infant deaths in developing countries are caused by a combination of malnutrition and infection. Children weakened by measles and other infectious diseases become quickly malnourished which makes them susceptible to further infections.

Every minute, eight children under the age of 5 die in the developing world of six diseases: measles, tetanus, whooping cough, tuberculosis, diptheria, and polio. Eight other children are crippled or rendered deaf, blind, or mentally retarded. The World Health Organization [WHO] estimates that the present annual death toll among Third World children—due to these six diseases—is 3.6 million. A similar number are crippled or handicapped. Two children out of 10,000 die of measles in the United States, but in the developing world, measles kills 3 out of 100.

If we can prevent immunizable diseases, malnutrition will not be so severe.

Last month, the House Select Committee on Hunger, responding to a wave of public interest and concern, held hearings on the subject of global immunization. During our investigation we learned that Colombia, in just a few months, immunized three-quarters of its young children against five major diseases in a massive campaign spread over 3 national vaccination days, and that Niger and Sudan are also well on the road to complete immunization of their children.

In addition, it was brought to our attention that Rotary International plans to eradicate polio by commiting $120 million to a worldwide effort that it will help coordinate around the globe. The $50 million that our legislation would authorize, will help immunize all the world's children by 1990, and would place America in a leading role in this historic effort.

In early October, at the U.N.'s 40th anniversary, the world community went on record rising to the challenge of universal immunization by 1990.

As Dr. Stephen Joseph, of UNICEF put it:

What could be a more appropriate demonstration of the international solidarity aspired to by the United Nations on its 40th anniversary than to give this gift to our children? What could be a better starting point for our children's view of this one small planet than a world free of polio, of tetanus, and of measles? As we have the means within our grasp, we cannot afford not to reach for universal immunization by 1990.

Following is the text of the Child Immunization Act of 1986, which I commend to my colleague's attention:

H.R. 3894

A bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diptheria, tetanus, and tuberculosis;

(2) less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) it was determined at the 1984 "Bellagio Conference" that the goal of universal childhood immunization by 1990 is indeed achievable; and

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 2. UNITED STATES SUPPORT FOR A GLOBAL CHILDHOOD IMMUNIZATION EFFORT.

(a) UNITED STATES GOVERNMENT SUPPORT.—The Congress calls upon the President to direct the Agency for International Development, working through the Center for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of local sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) PUBLIC AND PRIVATE SECTOR SUPPORT.—In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 3. FUNDING FOR THE CHILD SURVIVAL FUND.

(a) FY 1987 AUTHORIZATION OF APPROPRIATIONS.—Section 104(c)(2)(B) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "for use in carrying out this paragraph" after "President"; and

(2) by striking out "$25,000,000 for fiscal year 1987 for use in carrying out this paragraph" and inserting in lieu thereof "$100,000,000 for fiscal year 1987 (not less than $50,000,000 of which shall be used to provide assistance to carry out paragraph (3) of this subsection, such assistance to be in addition to the level of assistance provided for that purpose in fiscal year 1986)".

(b) WAIVER OF HICKENLOOPER AMENDMENT.—Section 104(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Section 620(e) of this Act shall not apply to assistance to carry out paragraph (3) of this subsection.".

DIGNITY FOR DADS

HON. PAT SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. SWINDALL. Mr. Speaker, as we approach the holiday season, I'd like to share with my colleagues a new Christmas tradition that is currently used in Atlanta, GA. The Family Consultation Service in Atlanta has taken the "Toys for Tots" concept and created a program called "Dignity for Dads." The Family Consultation Service collects donated toys, but instead of offering free toys to children at Christmas time, the "Dignity for Dads" programs allows working parents to buy these toys for a small price.

If parents are unemployed, the service provides work in the community in exchange for vouchers so they, too, can Christmas shop for their children. All proceeds will provide training and jobs for parents who will work the shop.

It is my belief that this program offers an innovative approach to brightening the Christmas and holiday season for needy children and their parents. Parents can feel proud knowing that they truly earned the gifts their children receive on Christmas Day.

At this point I would like to enter into the RECORD the text of one of this organization's recent fliers that tells a story and explains this concept in more detail.

A NEW CHRISTMAS TRADITION

"Christmas again. Damn!" His words are barely audible but his wife knows well his feelings. She had seen the hurt come into his eyes when the kids came home from school talking about what they wanted for Christmas. It was the same expression she had seen on the faces of other unemployed fathers around the project. She knows, too, that this year will be no different from the last. All of his hustle, his day labor jobs, his pickup work, will not be enough to put presents under a tree. They will do well to have their heat still on. His confident, promising deceptions allow the children the luxury of their dreams a while longer. She will cover for him again for she knows he is a good man. His lies are his wishes—his flawed attempts to let his children know how much he loves them. Too soon the babies will know what the older ones know but never admit—the gifts are not from Daddy.

He will not go with her to stand in the "free toy" lines with all the others. He simply cannot bring himself to it. It is too stark a reminder of his own impotence. And if their home is blest again this year with a visit from a Christian family bearing food and beautifully wrapped presents for the kids, he will stay in the bedroom until they are gone. He will leave the smiling and the graciousness to his wife. His joy for the children will be genuine. And so will the heavy aching in his stomach as his image of himself as a provider is dealt another blow.

Christmas—that wonderful, awful time when giving hearts glow warm and bright, while fading embers of a poor man's pride are doused black.

Let's start a new tradition. Instead of "toys for tots" let's try "dignity for dads." After all, what every child needs more than toys is an effective father. Here's the plan: Instead of giving gifts this year directly to a poor child, bring them to the Family Store. Bring new and good used toys and clothes for children of all ages. We will *sell* them, not give them, to working dads who can afford a small price. And for those dads who are unemployed, we'll provide work in the community in exchange for vouchers so they too can Christmas shop for their children. The proceeds will provide training and jobs for parents who will work in the store.

This will not be accomplished without sacrifices for us who are givers. There is the cost of the gifts themselves. Perhaps the greater cost will come in relinquishing our joy of seeing a child's face when she opens the gift we have given. This joy we will offer as a gift, too—an anonymous Christmas present to the parents who will themselves be the beneficiaries of their children's squeals of delight on Christmas morning. Our toys and our joys given freely and anonymously to "the least of these"—are these not acceptable sacrifices to the Father who sees in secret?

Christmas—that wonderful time when giving hearts glow warm and bright, and a poor man's spririt ignites with joy.

HUMAN RIGHTS MUST REMAIN A NATIONAL PRIORITY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. OBERSTAR. Mr. Speaker, the powers of this deliberative body are great and many. We have the capacity to negotiate major changes in our Tax Code that will affect over 200 million citizens. We have the power to regulate foreign policy, defense, and our Treasury. At times it seems the U.S. Congress can intercede in any area it desires.

But unfortunately, this is not the case. Because if it were, today's special order on human rights would not be necessary. Human rights should be a condition of daily living for every citizen in each of the nations of the world; instead, we see widespread denial elsewhere of individual liberties we in America almost take for granted at home.

It has been several years now since I first traveled to El Salvador as a Member of Congress and witnessed the shameful denial of human rights. While years have passed, the anguished looks of the oppressed Salvadorans—their pain and suffering uncomfortably obvious—have not escaped my memory, and never will.

What I saw on that trip to El Salvador, and what I have seen on trips since that time, was a degree of helplessness and suffering that I as an American will never have to know. No American will ever be denied the right to possess a belief contrary to that of his Government. It is an outrage that there are people throughout the world who are forced to live in subhuman conditions because their government denies them freedom of expression and other basic human rights.

But we will never be able to comprehend the severity of human rights denial because it is so inconceivable to us who enjoy the freedoms of our U.S. Consititution. We can commit ourselves to seeking changes throughout the world, but until each leader in every oppressive nation recognizes the need for freedom, our most effective vehicle is the constant reminder to the U.S. Government that human rights must be a prerequisite to friendly relations.

As we mark this year's International Human Rights Day, let our thoughts turn to those individuals who share our love of freedom, but are forced to exist in oppressed, even subhuman conditions. I think of the Livshitz family of Leningrad who have been denied the right to emigrate to Israel to be with their family; of Joacquin Caceres who is being held in a San Salvadoran prison without charge because of his membership on the board of the Salvadoran Human Rights Commission; of people throughout the Third World who have never known the exaltation of national patriotism; I think of all of these people and reaffirm my commitment to the human rights crusade.

Many Members of this body can be proud of their accomplishments in making human rights available to people throughout the world. As we approach the new year I carry with me the hope that 1986 will enable us to share with the world the freedom Americans value so highly.

CALL TO CONSCIENCE FOR SOVIET JEWRY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. CARR. Mr. Speaker, I must, once again, speak out in behalf of Jews in the Soviet Union, who are unable to enjoy the basic freedoms that we have in the United States. On October 1, on the ABC News program "Nightline," Mikhail Gorbachev, General Secretary of the Communist Party in the Soviet Union, further distorted the record on the plight of Jews in his country. He challenged his interviewers to name a country where Jews enjoy greater political and cultural freedom than in the Soviet Union. Of course, he maintained that there existed no such country. I am obligated today to set the record straight. We cannot be silent and allow this false rhetoric to go unchallenged.

The Jewish people have enriched the cultural, scientific, and religious heritage of the world for thousands of years. They have been leaders in the expression of the human spirit and have advanced the cause of all humanity. In the Soviet Union today, Jews yearn to maintain and strengthen this heritage through the practice of their faith, the development of their language, and the promotion of their traditions. But in the Soviet Union today, Jews cannot do these things. Less than 60 synagogues exist in the Soviet Union in which Jews may worship. No educational facilities exist for the study of the Torah and the Talmud. The teaching of Hebrew is outlawed. Mr. Gorbachev, do you call this freedom?

To escape this repressive environment, many Jews hope to emigrate from the Soviet Union to countries where they may enjoy the freedoms that we cherish. However, in complete violation of the Helsinki accords, the Soviet Union restricts their human right to emigrate. If a Soviet Jew applies for an exit visa he or she faces the possible loss of a job, a home, even the stripping of academic degrees. During the 1970's the number of Soviet Jews granted exit visas rose to a high of 51,320 in 1979. Last year that number was only 896. Like the blacks of South Africa, the Jews of the Soviet Union have been labeled second-class citizens and face lives of great hardship.

In the face of this terrible situation, I join in a call to conscience to pressure the Soviet Union to end this denial of human rights for Soviet Jews. There are thousands of Jews like Andrei Sakharov and Anatoly Shcharansky who face repression and the breaking of the human spirit. We must oppose this treatment and push for greater Jewish emigration from the Soviet Union. I ask my colleagues to join me in this effort to fight for their freedom.

TAX REFORM AND TRADE DEFICITS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. GINGRICH. Mr. Speaker, many residents of my district are concerned about tax reform and its relationship to U.S. trade policy. Robert Akerman of the Atlanta Journal points out in a recent column that if Congress follows its present course, American businesses will be forced to seek Government subsidies to undo the negative impact tax reform will have on their ability to compete. I strongly urge my colleagues to take the time to read this enlightening column by Mr. Akerman.

OUR ECONOMIC THINKING BECOMING TOTALLY INCOHERENT

(By Robert Akerman)

Yes, I know it's too much to expect political leaders and the general public to be consistent on the economic principles they embrace. But even though it's a dirty job, somebody has to push people to think about what they are doing.

Therefore I ask you to consider the fact that President Reagan is now calling for export subsidies, including increasing those administered through the Export-Import Bank, in order to help overcome our deficit in international trade.

What you may not remember is that reduction of such subsidies, which go mostly to big businesses, was one of the proposals in the two big drives the Reagan administration has made to cut the federal budget deficit—the first one in 1981-82 and the one in the last few months which largely failed.

To the extent that leadership means doing the best you can under the circumstances, the administration's shift perhaps can be excused. Since the pressure for action to preserve American jobs has greatly increased in the last few months, a response which subsidizes exports may be viewed as a lesser evil than all-out protectionism which curbs imports. But there has been a change in economic principles here, and the first policy and the present policy cannot both be right.

It makes so much difference how things are labeled, and we are seldom aware that what we favor in one context is what we think we oppose in another. Take the policy of subsidizing big business to protect or create jobs, which many people now seem to think of as OK in the context of international trade competition, and relate it to what has been and is being said in the context of tax policy.

Did we not enact in 1981-82 an accelerated cost recovery program which gave tax reductions to firms which invested in new plant, equipment, research and development, and otherwise acted to create jobs? Yet, when all this resulted in some big firms paying no corporation income tax, some in the media and many in the opposition party acted as if they were scandalized.

But of course no firm got these tax breaks unless it actually did what the tax law was designed to encourage businesses to do—invest, and either create jobs or modernize for more successful international competition. And how many of the people who decried these tax breaks will now turn around and support export subsidies? Not only will these subsidies also amount to government favors designed to create or protect jobs, but in many cases they will go to the same firms whose tax breaks some people were screaming about. The difference in reaction will be purely a result of sudden concern about the trade deficit.

And then there's the final inconsistency—the president is now going around urging repeal of these corporate tax breaks in the name of tax reform. Well, perhaps the 1981-82 tax changes did go too far in certain directions and perhaps we should re-examine them, but if you take all the rhetoric seriously then you ought to ask if this is the time to end job-creating tax breaks in the name of simplicity—or are we just going to substitute the export subsidies for the tax breaks?

Does anybody in Washington really know what they are trying to do?

VOTING RECORD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 10, 1985

Mr. PEASE. Mr. Speaker, is has become my practice to insert periodically in the CONGRESSIONAL RECORD a list of key votes that I have cast in the U.S. House of Representatives.

The list is arranged in this manner: Each item begins with the rollcall vote number of the bill or resolution that the House was considering, followed by the bill number and a summary of the issue. This is followed by my own vote on the issue and the vote outcome.

This list of votes covers the period of February 26, 1985 through December 5, 1985:

KEY VOTES OF CONGRESSMAN DON J. PEASE

(18) H.R. 1035. Emergency Farm Credit Authorization providing emergency credit and debt relief to financially distressed farmers and ranchers. Authorizes $3 billion in Farmers Home Administration (FmHA) loan guarantees for restructured or new private loans to farmers. Yes. Passed 318-103.

(39) H.J. Res. 181. MX Missile Authorization, approving appropriation of $1.5 billion for the procurement of 21 MX missiles in fiscal year 1985. No. Passed 217-210.

(44) H.R. 1869. Automobile Record Keeping Requirements, repealing rules requiring detailed "contemporaneous" logs of business and personal use of automobiles and other equipment to qualify for business tax deductions. Yes. Passed 412-1.

(45) H. Con. Res. 107. Japan Trade Deficit, expressing the sense of the Congress that the President take action to reduce the growing U.S. merchandise trade deficit and respond to unfair international trade practices of Japan. Yes. Passed 394-19.

(50) H.R. 1714. NASA Authorization for fiscal year 1986, freezing spending at the fiscal 1985 level of ~~$7.5~~ billion. Yes. Passed 369-36.

(57) H.R. 1617. National Bureau of Standards Authorization for fiscal year 1986, freezing funding at the fiscal year 1985 level of $127.8 million. Yes. Passed 398-2.

(111) H.R. 1157. Maritime Programs Authorization for fiscal year 1986, cutting the authorization for the Maritime Administration and the Federal Maritime Commission by 10 percent. No. Failed 100-318.

(131) H. Con. Res. 152. First Budget Resolution of fiscal year 1986. Sets budget targets for the fiscal year ending Sept. 30, 1986 as follows: budget authority, $1051.5 billion; outlays, $959.1 billion; revenues, $794.1 billion; deficit, $165 billion. Yes. Passed 258-170.

(141) H.R. 1460. Anti-Apartheid Act, imposing sanctions immediately against South Africa, including a ban on bank loans to the South African government and prohibiting the sale of computer goods and nuclear power equipment and supplies to that country. Yes. Passed 295-127.

(152) H.R. 2577. Supplemental Appropriations for fiscal year 1985, cutting all supplemental appropriations for discretionary programs by 5 percent. Yes. Failed 190-226.

(154) H.R. 2577. Supplemental Appropriations for fiscal year 1985, continuing indefinitely the prohibition of any funding by U.S. intelligence agencies that would support, directly or indirectly, military or paramilitary operations in Nicaragua. Yes. Failed 196-232.

(158) H.R. 2577. Supplemental Appropriations for fiscal year 1985, providing $13.4 billion in supplemental appropriations for fiscal year 1985. No. Passed 271-156.

(165) H.R. 1872. Department of Defense Authorization for fiscal year 1986, reducing the amount authorized by the bill by $10 million to the level set by the House-passed budget resolution. Yes. Passed 301-115.

(172) H.R. 1872. Department of Defense Authorization for fiscal year 1986. Amendment authorizing $124 million to produce binary chemical weapons. No. Passed 223-196.

(176) H.R. 1872. Department of Defense Authorization for fiscal year 1986. Amendment to reduce from $2.5 billion to $954 million the authorization for the strategic defense initiative. Yes. Failed 102-320.

(190) H.R. 1872. Department of Defense Authorization for fiscal year 1986, requiring that future weapons projects be procured competitively, with provisions for exceptions. Yes. Passed 342-52.

(196) H.R. 1872. Department of Defense Authorization for fiscal year 1986, amendment barring any test of the anti-satellite (ASAT) missile against a target in space during fiscal year 1986 unless the president certifies to Congress that the Soviet Union has tested an ASAT. Yes. Passed 229-193.

(208) H.R. 1872. Fiscal year 1986 Department of Defense Authorization, authorizing $206 billion for weapons procurement, military research and operating costs of the Department of Defense. Yes. Passed 278-106.

(215) H.R. 1555. Fiscal year 1986 Foreign Assistance Authorization, amendment expressing the sense of Congress that China should cease the practice of systematic forced abortion and sterilization as a means of birth control. Yes. Passed 289-130.

(231) H.R. 2965. Commerce, Justice, State and the Judiciary Appropriations for fiscal year 1986, amendment cutting $95 million from the Business Loan and Investment Fund of the Small Business Administration. No. Passed 257-158.

(243) H.R. 2942. Legislative Branch Appropriations for fiscal year 1986, amendment eliminating a $106,000 increase in funds for the House Office Buildings for five new automatic-elevator operator positions. Yes. Failed 191-221.

(250) H.R. 8. Clean Water Act. Authorizing $21 billion for fiscal year 1986 water quality projects. Yes. Passed 340-83.

(254) H.R. 3037. Agriculture Appropriations for fiscal year 1986. Appropriating $36.4 billion for farm programs, rural development programs, child nutrition and food stamps, and foreign food assistance. Yes. Passed 354-7.

(257) H.R. 3038. Fiscal year 1986 HUD Appropriations. Amendment freezing at fiscal year 1985 levels fiscal year 1986 funding for new public housing construction and freezing the number of new public housing apartments constructed. Yes. Passed 213-204.

(273) H.R. 3067. Fiscal year 1986 District of Columbia Appropriations. Amendment barring use of any funds in the bill—either federal or local D.C. funds—to pay for abortion under any circumstances, including cases of rape, incest or where the mother's life is endangered. No. Passed 221-199.

(275) S. 960. Foreign Assistance Authorization for fiscal year 1986 and fiscal year 1987. Conference agreement authorizing $12.8 billion in each of fiscal year 1986 and fiscal year 1987 for foreign military, economic and development assistance. Yes. Passed 262-161.

(281) H.R. 3011. Fiscal year Interior Department and Related Agencies Appropriations. Amendment rescinding all the amounts avaialble to the Synthetic Fuel Corporation except for $500 million for administrative purposes and transfers to the Clean Coal Technology Reserve. No. Passed 312-111.

(290) S. Con. Res. 32. First Concurrent Budget Resolution. Agreeing to the conference report setting fiscal year 1986 budget targets, providing full cost-of-living adjustments for Social Security and other federal retirement programs, and providing a $10 billion increase in defense spending. No. Passed 309-119.

(308) H.J. Res. 388. Fiscal year 1986 Continuing Appropriations. Providing continued spending authority from October 1 through November 14, 1985, for programs and agencies for which regular appropriations bills had not been signed into law by October 1. Yes. Passed 272-156.

(312) H.R. 7. School Lunch and Child Nutrition Act. Authorizing $5.09 billion in fiscal year 1986-88 for five child nutrition programs. Yes. Passed 367-59.

(313) H.R. 2266. Fiscal year 1986 Amtrak Reauthorization. Authorizing $603.5 million in federal subsidies in fiscal year for Amtrak. Yes. Passed 290-128.

(318) H.R. 2100. Farm Programs Reauthorization. Amendment to lower the price-support level of sugar, which is frozen by the bill, beginning in fiscal 1968, by 1 cent a pound per year until it reaches 15 cents a pound and to eliminate the cost of transportation as one of the factors used in setting the market stabilization price of sugar. Yes. Failed 142-263.

(333) H.R. 2100. Farm Programs Reauthorization. Amendment to strike the wheat and feed grain farmer referendum section from the bill. Yes. Passed 251-174.

(334) H.R. 2100. Farm Programs Reauthorization. Amendment to phase out the price-support and national quota program for peanut producers by 1989. Yes. Failed 195-228.

(342) H.R. 2100. Farm Programs Reauthorization. Amendment to repeal tobacco price-support programs, effective in 1986. Yes. Failed 195-230.

(347) H.R. 2100. Farm Programs Reauthorization. Extending and revising agricultural price support programs; providing for agricultural export, soil conservation, farm credit and agricultural research programs; and to continue food assistance to low-income persons through fiscal 1990. Yes. Passed 282-141.

(352) H.R. 3008. Federal Pay Equity Study. Establishing a commission to oversee a study of the federal work force to determine whether differences in pay and classification have arisen because of discrimination on the basis of sex, race or national origin. Yes. Passed 259-162.

(354) H.R. 1562. Textile Import Quotas. Imposing new quota restrictions on textile imports. No. Passed 262-159.

(358) H.J. Res. 372. Public Debt Limit. Motion to instruct the House conferees on the joint resolution to raise the ceiling on the federal debt to report promptly amendments to the 1974 Congressional Budget and Impoundment Control Act that would provide mechanisms for reducing the federal budget deficit, including specific, mandatory goals for achieving a balanced budget in six years. Yes. Passed 354-15.

(372) H.R. 3500. Omnibus Budget Reconciliation for fiscal 1986. Making changes in the law to reduce spending by $60.9 billion over fiscal years 1986-88. Yes. Passed 228-199.

(383) H.R. 3128. Deficit-Reduction Amendments. Reducing the deficit $19.5 billion over fiscal 1986-88 through spending reductions. Yes. Passed 245-174.

(401) H.J. Res. 441. Further Continuing Appropriations, fiscal year 1986. Extends spending authority through Dec. 12, 1985, for programs and agencies for which regular fiscal year 1986 appropriations had not been signed into law. Yes. Passed 259-151.

(405) H.R. 3721. Temporary Public Debt Limit Increase. Temporarily raises the ceiling on the federal debt to no more than $1.904 trillion, and instructing the Secretary of Treasury to restore to the Social Security trust funds and other federal trust funds any securities disinvested since Sept. 30, 1985. Yes. Passed 300-121.

(406) H.R. 6. Water Resources Development. Authorizing appropriations for water resources development and conservation projects, including commercial improvements to the Lorain Harbor. Yes. Passed 358-60.

(409) H.R. 1616. Plant Closing Notification. Amendment deleting a provision requiring plant owners to consult with employees before closing a plant in an effort to find alternatives to the shutdown. No. Passed 215-193.

(416) H.R. 3622. Joint Chiefs of Staff Reorganization. Changing the system of the Joint Chiefs of Staff by strengthening the role of the chairman. Yes. Passed 383-27.

(421) H.R. 1616. Plant Closing Notification. Requiring employers of at least 50 full-time employees to give workers 90 days' notice of any plant shutdown or layoff involving at least 100 employees or 30 percent of the workforce. Yes. Failed 203-208.

(424) H.R. 1562. Textile Import Quotas. Concurring in the Senate amendment to limit textile, apparel and shoe imports and to call for negotiations leading to voluntary reductions in world copper production. No. Passed 255-161.

(429) H.R. 3700. Higher Education Amendments. Reauthorizing college student aid and other programs under the Higher Education Act of 1965 through fiscal year 1991. Yes. Passed 350-67.

(431) H.R. 3424. Labor, HHS and Education Appropriations, fiscal year 1986. Appropriates $94.8 billion in fiscal year 1986 funding and $11.7 billion in advance fiscal 1987-88 funding for the Departments of Labor, HHS and Education, and related agencies. Yes. Passed 356-54.

(432) H.R. 2817. Superfund Reauthorization, fiscal year 1986-90. Providing for House floor consideration of the bill to authorize $10 billion in fiscal year 1986-90 for the "Superfund" hazardous-waste cleanup program. Yes. Passed 376-33.